

**280-RICR-20-70-12**

## **TITLE 280 – DEPARTMENT OF REVENUE**

### **CHAPTER 20 – DIVISION OF TAXATION**

#### **SUBCHAPTER 70 – SALES AND USE TAX**

PART 12 – Record Requirements

#### **12.1 Purpose**

The purpose of this regulation is to implement R.I. Gen. Laws Chapters 44-18 and 44-19, which provide for Sales and Use Taxes Liability and Computation and Sales and Use Taxes Enforcement and Collection specifically regarding records requirements.

#### **12.2 Authority**

This regulation is promulgated pursuant to R.I. Gen. Laws §§ 44-1-1 *et seq.* and 44-19-33. This regulation has been prepared in accordance with the requirements of R.I. Gen. Laws § 42-35-1 *et seq.* of the Rhode Island Administrative Procedures Act.

#### **12.3 Application**

This regulation shall be liberally construed so as to permit the Division of Taxation the authority to effectuate the purposes of R.I. Gen. Laws Chapters 44-18 and 44-19 and other applicable state laws and regulations.

#### **12.4 Severability**

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

#### **12.5 Definitions**

- A. “Cloud computing” and/or “Cloud” means and includes any type of internet-based computing and/or remote server networking where computer services or resources such as servers, on-demand computing resources, data centers and processing tanks, centralized data storage and applications are networked and/or delivered to a business’s computers and devices through the internet.
- B. “Documents of entry” means and includes all initial source documents or papers that consummate the sale such as sales or purchase invoices or journals that would then flow to the income or deduction for reported tax purposes.

- C. “Legibility” means the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals.
- D. “Point of sale (POS) system” means and includes all hardware and software used at the point a retail sale is completed, Database Management Systems, EDI technology, Machine-sensible records and similar systems. POS systems may be integrated with accounting modules, including general ledgers, accounts receivable, accounts payable, purchasing, and inventory control systems. When using POS systems, all sales and transactions are made through a computer system. The system records what is being sold, the selling price, and the quantity sold. It then calculates the total due, including tax, and how much change is due.

## **12.6 General Requirements**

- A. As stated in R.I. Gen. Laws § 44-19-27(b), as amended, every person required to collect tax shall keep records of every sale or occupancy and of all amounts paid, charged, or due and of the tax payable, in forms the Tax Administrator may require. The records shall include a true copy of each sales slip, invoice, receipt, statement, or memorandum upon which R.I. Gen. Laws § 44-19-8 requires that the tax be stated separately.
- B. Each retailer as defined in R.I. Gen. Laws § 44-18-15 shall keep adequate and complete records of the business entity including but not limited to:
  - 1. The normal books of account ordinarily maintained by the business including all bills, receipts, invoices, cash register tapes, and all data collected by means of a POS system or magnetic media, and all Documents of Original Entry supporting the entries in the books of account and/or POS system;
  - 2. All schedules or working papers used in connection with the preparation of tax returns;
  - 3. The gross receipts from the sales of tangible personal property and services, including both taxable and nontaxable items and any services necessary to complete a sale;
  - 4. All deductions allowed by law and claimed in filing returns;
  - 5. The total purchase price of all tangible personal property or services purchased for resale and the total purchase price of all such property or services purchased for use or consumption in this state.
- C. These records shall be available for inspection and examination at any time, and they must be preserved for a period of at least three (3) years pursuant to R.I. Gen. Laws § 44-19-27.

## 12.7 Magnetic and Electronic Record Requirements

- A. To the extent a taxpayer maintains accounting records and information in magnetic or electronic format, through a POS system or otherwise, the taxpayer shall set forth in writing the procedures governing their magnetic or electronic system, and the individual(s) who are responsible for maintaining and operating the system with appropriate authorization from the Board of Directors, general partner(s), or owner, whichever is applicable.
1. These governing procedures shall establish:
    - a. Internal procedures for inspection and quality assurance of the records;
    - b. A method of documenting where, when, and by whom, the magnetic or electronic system was accessed at any given time including any third party involved in the maintenance and/or upkeep of said system either on or off the business's premises by any means of access either physical or remote including Cloud Computing;
    - c. Procedures to account for voids, cancellations, or other discrepancies in sequential numbering;
    - d. Procedures to account for documenting logging functionalities of the POS system so that any and all activity related to operating modes available in the system, such as training mode, and any and all changes in the set-up of the system are recorded;
    - e. A detailed index of all magnetic and electronic media data that is arranged in a manner that permits the immediate location of any particular record.
- B. If these governing procedures are not established, this is prima facie evidence of a lack of internal controls and may subject the taxpayer to sanctions outlined in § 12.8 of this Part.
- C. All magnetic and electronic media in regards to quality control, storage, identification, and inspection shall meet industry standards as set forth by the American National Standards Institute, Association for Information and Image Management, or National Institute of Standards and Technology.
- D. If a taxpayer chooses to use an electronic record keeping format such as a POS system, the POS system itself and such records must be made available for inspection and examination by the Tax Administrator and/or his or her agents in electronic format; hard copies may be requested by the Tax Administrator and/or his or her agents upon demand.

- E. When a display is required on a magnetic or electronic media reader (viewer) or reproduced on paper, the material shall exhibit a high degree of Legibility and Readability.
- F. Each POS system transaction record must provide enough detail to independently determine the taxability of each sale and the amount of tax due and collected. Detailed information required for each sales transaction includes, but is not limited to, the individual item(s) sold, selling price, tax due, invoice number, date of sale, method of payment, POS terminal number and POS transaction number.
- G. Summary documents alone are not acceptable. A business must keep any and all underlying documents (Documents of Original Entry), such as individual invoices and vouchers, to verify a POS system's summaries. In order to be considered complete, the electronic record must permit the direct reconciliation of receipts, invoices, and other source documents with the entries in the books and records and on the returns of a taxpayer. The records must provide the opportunity to trace a transaction back to the original source or forward to a final total.

## **12.8 Inadequate Records and/or Lack of Internal Controls**

- A. In a detailed audit, the Tax Administrator and/or his or her agents must be able to ensure the accuracy and completeness of the transaction records recorded in the taxpayer's record keeping system including magnetic or electronic POS systems.
- B. A taxpayer's records will be considered inadequate if:
  - 1. They do not verify sales receipts;
  - 2. They do not verify whether those receipts are subject to sales tax;
  - 3. They do not verify the taxable status of purchases;
  - 4. They do not show that a taxpayer's business purchases correlate to business sales;
  - 5. It is not possible to conduct a detailed audit using the taxpayer's records for whatever reason;
  - 6. The taxpayer fails to make records available to the Tax Administrator and/or his or her authorized agent(s);
  - 7. The records are not in a form that is both legible and readable that can be audited by the Tax Division, and/or
  - 8. An evaluation of the taxpayer's accounting of POS system discloses that the system does not provide adequate internal control procedures which

assure the accuracy and completeness of the transactions recorded in the books and records (e.g. the lack of sequentially numbered invoices or guest checks, or the lack of dates on receipts).

- C. If a taxpayer's records are considered inadequate or a taxpayer's POS system lacks internal controls, the taxpayer may be subject to an estimated methodology, based on best available information, to determine any additional tax due, be subject to penalties and interest if additional tax is found to be due, be subject to criminal penalties, and have his or her sales tax permit suspended or revoked.

## **12.9 Inspections and Examinations**

- A. Pursuant to R.I. Gen. Laws § 44-19-27(d), as amended, all records, including those kept by a magnetic or electronic system, shall be available for inspection and examination at any time upon demand by the Tax Administrator or his or her authorized agent or employee and preserved for a period of three (3) years, except that the Tax Administrator may consent to their destruction within that period or may require that they be kept longer.
- B. Inspections and examinations of records may include the Tax Administrator or his or her agents viewing and copying the normal books of account ordinarily maintained by the business including all bills, receipts, invoices, cash register tapes, and all data collected by means of a POS system or magnetic media, and all Documents of Original Entry supporting the entries in the books of account and/or POS system.
- C. The taxpayer shall make available upon the Division's request a reader/printer in good working order at the examination site for reading, locating, and reproducing any record maintained in the normal course of business.
- D. The Tax Administrator or his or her agents must have access to the POS system on site or in the Cloud for the purposes of verifying or evaluating the integrity and reliability of the system.
- E. The Tax administrator or his or her agents may make electronic copies of said POS system record by means of an electronic flash drive in order to review the records at the Tax Division.

## **12.10 Requirement for Record Retention**

- A. Records based on any of the above media shall be maintained for a period of at least three (3) years as provided in R.I. Gen. Laws § 44-19-27, as amended, unless the destruction or other disposal of the same is authorized by the Tax Administrator or his/her authorized representative in writing.

- B. Failure to maintain such records will be considered evidence of negligence or intent to evade the tax and will result in the imposition of appropriate penalties as provided by statute. See § 12.8 of this Part.

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