

280-RICR-20-70-20

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 – DIVISION OF TAXATION

SUBCHAPTER 70 – SALES AND USE TAX

PART 20 – Films Generally

20.1 Purpose

This regulation implements R.I. Gen. Laws Chapter 44-18. This regulation provides for Sales and Use Tax.

20.2 Authority

This regulation is promulgated pursuant to R.I. Gen. Laws Chapter 44-18.1 as amended, R.I. Gen. Laws §§ 44-1-4, 44-18.1-1 and 44-19-33. Additionally, these regulations have been prepared in accordance with the requirements of R.I. Gen. Laws Chapter 42-35, Rhode Island Administrative Procedures Act.

20.3 Application

The terms and provisions of these rules and regulations shall be liberally construed to permit the Department of Revenue to effectuate the purposes of R.I. Gen. Laws Chapter 44-18.1 and other applicable state laws and regulations.

20.4 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.

20.5 Direct Mail, Printing and Related Industries

- A. Generally - Tax applies to charges for printing, lithography, photolithography, rotogravure, gravure, silk screen printing, imprinting multilithing, multigraphing, mimeographing, photocopying, photostats, steel die engraving, and similar operations for consumers regardless of whether or not the paper and other materials are furnished by the consumer.
- B. Services and Direct Mail

1. Services - Tax applies to charges for services that are part of the sale of tangible personal property to consumers such as overtime and set-up charges and charges for die cutting, embossing, folding and other operations except as noted in § 20.5(B)(2) of this Part below. Tax applies regardless of whether or not the materials or any part thereof are furnished by the customer.
2. Direct Mail
 - a. "Direct mail" means printed material delivered or distributed by United States mail or other delivery service to a mass audience or to addressees on a mailing list provided by the purchaser or at the direction of the purchaser when the cost of the items are not billed directly to the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by the purchaser to the direct mail seller for inclusion in the package containing the printed material.
 - b. "Direct mail" does not include multiple items of printed material delivered to a single address.
 - c. Tax does not apply to the following direct mail charges provided such charges are stated separately on invoices and in the accounting records:
 - (1) Postage
 - (2) Addressing for the purpose of mailing (by hand or by mechanical means)
 - (3) Folding for the purpose of mailing
 - (4) Enclosing
 - (5) Sealing Preparing for mailing
 - (6) Mailing letters or other printed matters
 - d. Tax applies, however, to charges for envelopes.
- C. Printers are consumers of special printing aids such as electrotypes, stereotypes, photo engravings, silk screens, steel dies, cutting dies, lithographic plates, artwork, single color or multicolor separation negatives, flats or any other properties purchased for use in the preparation of printed matter to be sold.

1. Special printing aids purchased, or fabricated from raw materials purchased, that have a limited and sole intended function in the process of completing a specific printing order to be sold are exempt from the tax. All other printing aides are subject to the tax.

20.6 Processing of Films

Charges for processing of films are taxable, since under the provisions of the Rhode Island sales and use tax act, "sales" includes "the producing, fabricating, processing, printing or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing or imprinting."

20.7 Photographers and Photostat Producers: Photofinishers and Retouchers: X-Rays

- A. Photographers and Photostat Producers -- Tax applies to sales of photographs and photostat copies, whether or not produced to the special order of the customer, and to charges for the making of photographs or photostat copies out of materials furnished by the customer. No deduction is allowable on account of such expenses of the photographer as travel time, rental of equipment, or salaries or wages paid to assistants or models, whether or not such expenses are itemized in billings to customers.
 1. Tax does not apply to sales to photographers and photostat producers of tangible personal property which becomes an ingredient or component part of photographs or photostat copies sold, such as mounts, framers, and sensitized paper, nor does it apply to sales to the photographer or photostat producer of materials consumed directly in the process of making the photographs or photostat copies such as chemicals, films, plates, and proof paper. However, the tax does apply to such items as trays, cameras, and other equipment and supplies used but not directly consumed in the process of making the photographs or photostat copies; and the tax on such items must be paid by the photographer or producer.
- B. Photo Finishers and Retouchers -- Tax applies to charges for printing pictures or making enlargements from negatives furnished by the customer but not to charges for developing the negatives if such charges are separately stated. Tax does not apply to charges for retouching, tinting or coloring pictures furnished to the finisher by the customer.
 1. Tax applies to sales to photo finishers of all tangible personal property used by them in developing negatives, finishing pictures, and retouching, coloring or tinting pictures furnished by customers, except sensitized

paper upon which the prints are made, and frames and mounts sold along with the finished pictures.

- C. X-Rays -- Producers of X-ray film for the purpose of diagnosis of conditions of humans are the consumers of materials and supplies used in the production thereof. Thus, the tax applies to the sale of such materials and supplies to laboratories producing X-ray film for the purpose of such diagnosis. Producers of X-ray film for any other purpose such as inspection of metals and similar purposes are retailers of the film or pictures and the tax applies to the gross receipts from the retail sale thereof.

20.8 Producing, Fabricating and Processing Property Furnished by Consumers

- A. Tax applies to charges for producing, fabricating, processing, printing, or imprinting tangible personal property for consumers who furnish either directly or indirectly the materials used.
- B. "Producing," "fabricating" and "processing" include any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property.
- C. "Producing," "fabricating" and "processing" do not include operations which do not result in the creation or production of tangible personal property or which do not constitute a step in a process or series of operations resulting in the creation or production of tangible personal property, but which constitute merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced.

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