

**280-RICR-20-70-39**

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

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

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

##### **PART 39 – Tax Exempt Organizations and Areas**

### **39.1 Purpose**

This regulation implements R.I. Gen. Laws Chapter 44-18.1. This regulation provides for Exempt Organizations.

### **39.2 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.

### **39.3 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.

### **39.4 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.

### **39.5 Organized Nonprofit Golden Age and Senior Citizens Clubs**

Any club or organization seeking exemption as an organized nonprofit golden age or senior citizens club for men and women in accordance with R.I. Gen. Laws § 44-18-30(5) must be exclusively comprised of membership of persons age 62 years or older and/or persons under 62 years of age who are disabled and who reside in subsidized housing.

## **39.6 Nursing, Convalescent and Homes for the Elderly**

The tax does not apply to charges made by homes for aged and convalescents licensed by the State of Rhode Island, including nursing homes, assisted living facilities, rest homes and sanatoriums, which have in constant attendance at least one registered or practical nurse, for meals, rooms and other services which are comparable to services rendered by hospitals such as the furnishing of nursing care, supervision, custodial care, administering of special treatments or medications as prescribed by physicians and the supplying of special diets, etc.

## **39.7 Exempt Agencies, Organizations and Institutions - Sales To**

- A. Sales of tangible personal property to the Federal Government or to any of its agencies or instrumentalities, to the State of Rhode Island, or any of its cities or towns, and to any redevelopment agency created pursuant to R.I. Gen. Laws Chapter 45-31 are not subject to the tax.
  - 1. Such governmental agencies or instrumentalities are not required to furnish exemption certificates to their suppliers. However, the seller must make appropriate notations in his/her records covering his/her sales to such governmental agencies or instrumentalities.
- B. Sales to all other exempt organizations, including hospitals not operated for profit, educational institutions not operated for profit, churches, orphanages, and other institutions or organizations operated exclusively for religious or charitable purposes, interest free loan associations not operated for profit, nonprofit organized sporting leagues and associations and bands for boys and girls under the age of 19 years, the following vocational student organizations that are state chapters of national vocational students organizations: distributive education clubs of America, (DECA); future business leaders of America/Phi Beta Lambda (FBLA/PBL); future farmers of America (FFA); future homemakers of America/home economics related occupations (FHA/HERD); and organized nonprofit Golden Agers and senior citizens clubs for men and women, and parent-teacher associations are exempt from sales and use tax, but each such organization must file an application for and obtain from the Tax Administrator an exemption certificate covering such exempt organizations.
  - 1. The exemption applies only to such purchases as are made by the organization itself for its own purposes and not to purchases by any of its members individually. An individual member or group of members belonging to such an exempt organization must pay the tax when purchasing meals, or other tangible personal property for their individual or collective use or consumption.
- C. Exemption certificates issued by other states will not be recognized in this state; however, out-of-state exempt organizations of the same type may apply for an exemption certificate in the same manner as a Rhode Island organization. An

application form may be obtained from the Division of Taxation. No tax exempt purchases may be made by such organizations until an exemption certificate has been approved and issued to such organization. Each such certificate shall be identified by a certificate number.

1. Sales to exempt entities, other than the Federal government, the State government and municipal governments of this State, will be deemed to be taxable unless the retailer obtains a copy of the exemption certificate (issued by the RI Division of Taxation) or obtains a properly completed exemption certificate authorized by the Streamlined Sales and Use Tax Agreement.

### **39.8 Volunteer Fire Companies**

Inasmuch as incorporated volunteer fire companies are regarded as operating in a governmental capacity in the town in which they are located, the tax does not apply to sales made to such volunteer fire companies provided they have obtained a certificate of exemption from this office and furnish the vendor with their exemption number.

### **39.9 Educational Institutions**

#### **A. Definitions:**

1. "Educational institutions" means those institutions of learning which are engaged in giving courses of instruction to student bodies, i.e., schools, academies, colleges and universities. These, in turn, are regarded as institutions empowered by this state to confer diplomas, educational, literary or academic degrees, and which have a regular faculty, curriculum and organized body of pupils or students in attendance throughout the usual school year, and which keep and furnish to students and others records required and accepted for entrance to schools of secondary, collegiate or graduate rank.
2. A "textbook" means and includes books pertaining to educational course of instruction undertaken by students or faculty at elementary or secondary schools or at post-secondary institutions of higher education. "Textbooks" do not include such items as magazines, periodicals, pamphlets, circulars, audio or video cassettes, audio or video tapes, phonograph records or video or compact disks.
3. "Used textbooks" means and includes those textbooks previously purchased and/or used by students or faculty. As such "used textbooks" does not include textbooks which are damaged, shopworn or outdated or the subject matter of which may be obsolete.

#### **B. Sales to**

1. Sales of tangible personal property made to educational institutions not operated for profit are exempt from the sales or use tax.

C. Sales by

1. Educational institutions which make sales of new or used textbooks to members of their student and faculty bodies are not regarded as engaged in the business of making sales at retail within the meaning of the provisions of the Rhode Island sales and use tax act. Accordingly, sales by such institutions to students and faculty of textbooks and supplies used in connection with any of the courses offered by such institutions are not subject to the tax. However, the sale by such institutions of any other items of tangible personal property such as jewelry, china, pennants, candy and cosmetics are subject to the sales tax. The sale of such taxable items requires a permit to make sales at retail and the collection of the tax. The enumeration of the foregoing taxable items is made by way of illustration and not limitation.
2. Sales of used textbooks by any purveyor are exempt. Any vendor or purveyor selling used textbooks as exempt items must label the volumes "used textbooks" and must maintain adequate inventory and sales records to separate such items.

**39.10 Employees and Representatives of Exempt Organizations, or Federal, State or Local Governments - Sales and Rentals to**

- A. Whenever exemption from tax on purchases, rental charges or room rental charges is claimed by any employee, representative or other official of the United States Government, or of the State of Rhode Island or of any of its cities, towns or other political subdivisions, or of any exempt organization, such exemption will apply only if payment is made directly by such agency or organization.
- B. In case the official pays the bill (even though the bill be made out to the governmental agency or exempt organization by whom the official or employee is employed or which the official or employee represents) the tax applies. In such case, it is immaterial that such official is reimbursed or that the economic burden of the tax is passed on to the governmental agency or exempt organization.
- C. THE RETAILER MUST MAINTAIN RECORDS TO SUPPORT AND IDENTIFY ALL SUCH EXEMPT SALES OR RENTALS.

**39.11 Blind Persons -- Sales Made By -- When Exempt**

- A. Sales of tangible personal property sold by any blind person who conducts a retail business in a public building under the supervision of the Rhode Island Division of Services for the Blind and Visually Impaired are exempt from the Rhode Island sales tax. Included in exempt sales are sales made from vending

machines located in vending facilities licensed pursuant to R.I. Gen. Laws § 40-9-11.1 whether the licensee owns the vending machines or receives a percentage or commission of such sales from the owner of the vending machines.

- B. Accordingly, any such retailer shall not collect any sales tax on the amount charged by him or her for any tangible personal property which he or she sells in such a retail establishment. Moreover, the retailer is not required to file sales tax returns with the Division of Taxation.
- C. It is emphasized that the exemption is limited to blind persons who operate retail businesses in the manner and under the supervision referred to in the first paragraph of this regulation.

### **39.12 Sales by Rhode Island Non Profit Eleemosynary Organizations and Schools**

- A. Rhode Island nonprofit eleemosynary organizations formed to sponsor and support youth activities are exempted from the requirement to charge, collect and remit the sales tax on items sold for not more than twenty dollars (\$20.00) each when such items are sold for the purposes of supporting such youth activities.
- B. Such organizations are liable, except as otherwise provided by law, for the sales/use tax on all other items purchased by them. Similarly, such organizations are required to charge and collect the sales tax on items sold at more than twenty dollars (\$20.00) each and on all items sold for purposes other than the support of youth activities which such organization is formed to sponsor and support.
- C. Additionally, accredited elementary and secondary schools are relieved of the requirement to charge, collect and remit the sales tax on items sold for not more than twenty dollars (\$20.00) each when such items are sold for the purpose of such schools or for the organized activities of the students enrolled therein.
- D. Such schools are liable, except as otherwise provided by law, for the sales/use tax on all other items purchased by them. Similarly, such schools are required to charge and collect the sales tax on items sold at more than twenty dollars (\$20.00) each and on all items sold for purposes other than the purpose of such schools or of organized activities of the students enrolled therein.
- E. The special provisions described above may not be transferred, granted or delegated to other persons acting as agents for the organizations or schools or to private concessionaires.