

State of Rhode Island and Providence Plantations
Rhode Island Department of Revenue
Division of Taxation

Public Notice of Proposed Rule-Making

RULE IDENTIFIER: ERLID 196

REGULATION TITLE: Flea Market

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice Date: February 13, 2018

End of Comment Period Date: March 16, 2018

Pursuant to the provisions of R.I. Gen. Laws § 42-35-2(a)(1), and in accordance with the Administrative Procedures Act, R.I. Gen. Laws Chapter 42-35, the Division of Taxation hereby gives notice of its intent to repeal a regulation regarding Flea Markets.

The proposed regulation and concise summary of non-technical requirements and proposed new rules are available for public inspection at www.tax.ri.gov, in person at the Rhode Island Division of Taxation, or requested by e-mail at Michael.Taylor@tax.ri.gov or by calling Michael Taylor at (401) 574-8930.

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) whether the regulation, in and of itself, would have significant economic impact on small businesses. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Thursday, March 16, 2018 to Michael Taylor, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8930 or via e-mail at Michael.Taylor@tax.ri.gov.

This rule is not expected to be controversial and shall be submitted as a direct final rule pursuant to R.I. Gen. Laws § 42-35-2.11. The proposed rule takes effect thirty (30) days after publication if no objection is received. If no objection is received, the rule becomes final. If an objection to the rule is received from any person not later than thirty (30) days after publication of the notice of the proposed rule, the proposed rule does not become final.

Rhode Island Department of Revenue

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Concise summary of all non-technical requirements pursuant to R.I. Gen. Laws § 42-35-2(a)(1) for rules and regulations regarding Flea Markets.

The purpose of this regulation is repeal the regulation regarding Flea Markets. This regulation shall take effect March 16, 2018.

~~State of Rhode Island – Division of Taxation~~

~~Sales and Use Tax~~

~~Regulation SU 01-137~~

~~Flea Market~~

~~A. Definitions~~

~~"Flea market" is defined as a place of business that provides space more than six (6) times a year under a single promoter's permit at the same location to two (2) or more people to make retail sales of property, usually but not exclusively second hand property, that is not permanently displayed or stored at the flea market.~~

~~Excluded from this definition of flea market are shows such as art shows, card shows, antique shows, industry, trade, and professional shows.~~

~~B. Generally~~

~~Persons making sales of tangible personal property other than refreshments (food and drinks) at flea markets are required to register with the Division of Taxation and secure a Flea market Vendor's Permit.~~

~~Flea market vendors shall pay an annual registration fee of \$120; provided however, flea market vendors who do not operate on a permanent basis may, at their option, register on a quarterly basis for a fee of \$40 or on a thirty (30) day basis for \$10. A thirty (30) day permit shall only be valid at the location for which it is issued. Annual and quarterly permits shall be valid at any location.~~

~~Sales tax permits shall not be valid at flea markets other than for the sale of refreshments. Any other sales tax permit holder operating at a flea market must also be registered as a flea market vendor and pay the appropriate registration fee.~~

~~Flea market vendors selling only nontaxable items, such as clothing, are required to register for a special permit at no cost and shall display said special permit.~~

~~C. Collection of Tax~~

~~Flea market vendors must continue to collect a sales tax on all taxable sales but will only be required to file a sales tax return if their sales tax liability during the registration period exceeds the registration fee paid.~~

~~Flea market vendors registering on an annual basis whose tax liability exceeds \$120 in the calendar year shall file the annual return on or before January 20 of the subsequent calendar year. Flea market vendors registering on a quarterly or 30 day basis shall file quarterly returns if their tax liability exceeds the amount of registration fees paid for that registration period.~~

~~D. Purchases for Resale~~

~~Flea market vendors may not issue resale certificates. A flea market vendor holding an annual or quarterly permit may make extax purchases for resale by presenting the seller of tangible personal property with a copy of its permit. Holders of a thirty (30) day permit may not make extax purchases for resale.~~

~~E. Penalty for Failure to Register~~

~~All permits issued must be prominently displayed. In addition to the enforcement provisions set forth in Chapter 44-19, a penalty of \$10 per booth, per day shall be assessed against any flea market vendor operating without proper registration.~~

~~F. Flea Market Promoters~~

~~Flea market promoter's responsibility under the law is to ensure that all vendors operating at the promoter's place of business are properly registered. Promoter will have the authority to accept applications for registration on a 30 day basis only from vendors not otherwise registered.~~

~~Registration fees collected shall be submitted to the Division of Taxation within three (3) business days of fees on a form prepared and furnished by the Division of Taxation. Promoters shall continue to be registered with the Division of Taxation and file all reports as required.~~

~~A penalty of \$20 per booth per day, up to a maximum of \$200 per day may be imposed against any flea market promoter who is negligent in allowing vendors to operate without proper registration.~~

~~R. GARY CLARK~~

~~TAX ADMINISTRATOR~~

~~EFFECTIVE: JANUARY 1, 2001~~

~~CROSS REFERENCE: SU 88-124 GARAGE/YARD SALES & SU 96-95 RESALE
CERTIFICATE~~

~~THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 96-137~~

~~PROMULGATED JANUARY 1, 1996.~~