

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

Public Notice of Proposed Rule-Making

RULE IDENTIFIER: ERLID 250

REGULATION TITLE: Display Containers

TIMETABLE FOR ACTION ON THE PROPOSED RULE:

Public Notice Date: February 14, 2018

End of Comment Period Date: March 17, 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 Display Containers.

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 March 17, 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.

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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 Display Containers.

The purpose of this regulation is repeal the regulation regarding Display Containers.
This regulation shall take effect March 17, 2018.

State of Rhode Island—Division of Taxation

Sales and Use Tax

Regulation SU-87-38

Display Containers

Some manufacturers attach items which they manufacture for resale to various types of cards.

Some of these cards may contain the name of the manufacturer and/or printed advertising matter relating to the items so attached. Such cards usually have a capacity to hold six to a dozen items attached thereto; and each item is removed individually from such card when the retailer sells it to a customer.

For facility of shipment, these cards, with the items attached thereto, are sometimes placed in a box for delivery by the manufacturer (or by the wholesaler) to the retailer.

Such cards to which such items are thus attached are usually placed on a counter or shelf of the retailer in order to display the attached items of merchandise.

(a) Where title to such cards (some of which may be relatively expensive depending upon the nature and quality of the card) is retained by the manufacturer, so that the retailer may attach thereto items of merchandise to replace those previously sold, the sale of such cards by the card manufacturing company to the manufacturer of the items of merchandise thus sold is a taxable transaction.

(b) Where the manufacturer of such items of merchandise (for example pens, pencils, watchbands, razor blades, etc.) attaches them to such display cards, and title to the cards passes from the manufacturer of the merchandise to the retailer along with such merchandise, and such cards are discarded or thrown away by the retailer after the items attached thereto are sold to customers, then the initial sale of such cards by the card manufacturer to the manufacturer of the pens, pencils, etc., is regarded as a sale of a nonreturnable container, and the tax does not apply. Under (b) hereof, such type of card, even though it may contain the name of the manufacturer of the products which are attached thereto, will be regarded as constituting a means or device for packaging or containing the goods which are to be offered for sale at retail; whereas the cards of the type referred to under (a) above, will be regarded as constituting a form of "display

container" to which the tax shall apply.

~~R. GARY CLARK~~

~~TAX ADMINISTRATOR~~

~~DATE: May 1, 1987~~