

## State of Rhode Island and Providence Plantations

Rhode Island Department of Revenue  
Division of Taxation

### Public Notice of Proposed Rule-Making

Pursuant to the provisions of Rhode Island General Law §42-35-3(a)(1) and in accordance with the Administrative Procedures Act (Chapter 42-35 of the General Laws), the Division of Taxation hereby gives notice of its intent to amend regulation SU 95-114, “Use Tax – Payment by Purchasers.”

The purpose of this rule making process is to implements Chapters 44-18 and 44-19 of the Rhode Island General Laws. Specifically to include in use tax the purchase of prewritten computer software delivered electronically of by load and leave and package tour and scenic and sightseeing transportation services. Also, changes to the regulation in style and format. This regulation shall take effect on December 1, 2011 and shall amend and supersede regulation SU 95-114 promulgated January 1995.

The proposed rule to be adopted and a concise summary of non-technical requirements are available for public inspection at [www.tax.ri.gov](http://www.tax.ri.gov), in person at the Rhode Island Division of Taxation, or can be requested by e-mail at [mcanole@tax.ri.gov](mailto:mcanole@tax.ri.gov) or by calling Michael F. Canole at (401) 574-8729.

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) significant economic impact on small business. No alternative approach, duplication, or overlap, or significant economic impact on small business was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Friday, November 4, 2011, to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail: [mcanole@tax.ri.gov](mailto:mcanole@tax.ri.gov). A public hearing to consider the proposed regulation will be held on Friday, November 4, 2011, at 10:30 a.m., at the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing to Michael Canole at Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling (401) 574-8729.

**Rhode Island Department of Revenue**

**Division of Taxation**

**Concise Summary of ALL Non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) regarding Use – Tax Payment by Purchaser.**

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# ~~State of Rhode Island - Division of Taxation~~

## ~~Sales and Use Tax~~

### ~~Regulation SU 95-114~~

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### ~~Use Tax - Payment of by Purchasers~~

~~Purchasers of tangible personal property, the storage, use, or other consumption of which is subject to the use tax, must pay the tax:~~

#### ~~Business Purchases:~~

~~(1) to the person from whom such property is purchased if such person holds a seller's permit, or a certificate of authority to collect tax, under the Sales and Use Tax Act,~~

~~(2) directly to the Tax Administrator if the person from whom the tangible personal property is purchased does not hold such a permit or certificate.~~

#### ~~Individual Consumer Purchases:~~

~~Individual consumers may pay the tax when filing their personal income tax return by entering the amount of use tax due on the appropriate line on RI Form 1040.~~

~~Purchasers should not pay the tax to a person who does not hold a seller's permit or a certificate of authority to collect tax. Purchasers will be liable for payment of the tax to the Tax Administrator unless receipts are obtained from sellers holding a retailer's permit or a certificate of authority to collect tax.~~

~~R. GARY CLARK  
TAX ADMINISTRATOR~~

~~DATE: JANUARY 1, 1995~~

~~THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 87-114  
PROMULGATED MAY 1, 1987.~~

**State of Rhode Island - Division of Taxation**  
**Sales and Use Tax**

**Regulation SU 11-114**

**Use Tax – Payment by Purchasers**

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**RULE 1. PURPOSE**

This regulation implements Chapters 44-18 and 44-19 of the Rhode Island General Laws. These Chapters provide for Sales and Use Taxes Liability and Computation and Sales and Use Taxes Enforcement and Collection in regard to use tax – payment by purchasers.

**RULE 2. AUTHORITY**

This regulation is promulgated pursuant to RIGL Chapters 44-18 and 44-19 as amended. These rules have been prepared in accordance with the requirements of RIGL 44-1-1 et. seq. and 44-19-33.

### **RULE 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 RIGL Chapters 44-18 and 44-19 and other applicable state laws and regulations.

### **RULE 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.

### **RULE 5. DEFINITIONS**

“Use Tax” means - (a) An excise tax imposed on the storage, use, or other consumption in this state of tangible personal property, including a motor vehicle, or a trailer, purchased from any retailer, or prewritten computer software delivered electronically or by load and leave, and/or package tour and scenic and sightseeing transportation services at the rate of tax as provided in RIGL 44-18-20.

(b) An excise tax is imposed on the storage, use, or other consumption in this state of a motor vehicle, or a trailer purchased from other than a licensed motor vehicle dealer or other than a retailer of or trailers respectively, at the rate tax as provided in RIGL 44-18-20.

(c) "Trailer" as used in this section and in section 44-18-21 means and includes those defined in RIGL 31-1-5 and also includes boat trailers, camping trailers, house trailers, and mobile homes.

### **RULE 6. USE TAX – PAYMENT BY PURCHASERS**

(a) Business Purchases: (1) Payment of tax is made directly to the person from whom such property or taxable service is purchased if such person holds a seller’s permit, or a certificate of authority to collect tax, under the Sales and Use Tax Act; or (2) directly to the Tax Administrator if the person from whom the tangible personal property, or prewritten computer software delivered electronically or by load and leave, and/or package tour and scenic and sightseeing transportation services is purchased does not hold a permit to make sales at retail.

(b) Individual Consumer Purchases: when filing their personal income tax return by entering the amount of use tax due on the appropriate line on Form RI-1040 or Form RI-1040NR

(c) Purchasers should not pay the tax to a person who does not hold a seller's permit or a certificate of authority to collect tax. Purchasers will be liable for payment of the tax to the Tax Administrator unless receipts are obtained from sellers holding a retailer's permit or a certificate of authority to collect tax.

**RULE 7. EFFECTIVE DATE** This regulation shall take effect December 1, 2011 and shall amend and supercede regulation SU 95-114 promulgated January 1, 1995.

**RULE 8. CROSS REFERENCE**

CROSS REFERENCE: SU 07-17 "Casual Sales"

DAVID SULLIVAN  
TAX ADMINISTRATOR