

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 42-35-3(a)(1) of the General Laws of Rhode Island, 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 a regulation regarding Food Products.

The purpose of this rule making is to repeal regulation SU 87-50 Food Products also identified by ERLID 259. The content of regulation SU 87-50 has been merged into regulation SU 09-59 Food and Food Ingredients, Prepared Food/Meals, Candy, Soft Drinks, Dietary Supplements and Alcoholic Beverages, identified by ERLID 5995. The repeal of this regulation shall take effect May 1, 2013.

The proposed regulation and concise summary of non-technical requirements and proposed new rules 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 requested by e-mail at [Michael.Canole@tax.ri.gov](mailto:Michael.Canole@tax.ri.gov) or by calling Michael 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) whether the regulation, in and of itself, would have significant economic impact on small business. 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 Wednesday March 20, 2013 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail at [Michael.Canole@tax.ri.gov](mailto:Michael.Canole@tax.ri.gov). A public hearing to consider the proposed regulation will be held on Wednesday, March 20, 2013 at 1 p.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 the 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) for Rules and Regulations regarding Food Products SU 87-50.**

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

~~Regulation SU 87-50~~

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~~Food Products~~

~~In general, tax does not apply to sales of food products for home consumption by humans when sold by food stores and supermarkets.~~

~~Tax does apply to meals, food and drinks, including "take-out" orders sold by eating establishments. (Cross reference: Meals)~~

~~FOOD PRODUCTS DO NOT INCLUDE:~~

~~a. Food products do not include and the tax accordingly applies to receipts from the following retail sales: chewing gum, coloring extracts, dog, cat, bird and other animal foods, root beer and root beer extracts, malt, malt extracts, carbonated waters, ice, soda water, orangeade, lemonade, limeade, ginger ale, beer, wine and spirituous liquors.~~

~~Beverages which are made up of water and fruit juices or water and concentrated fruit juices are not regarded as "food products," and therefore taxable. EXCEPTION: CRANBERRY JUICE COCKTAIL.~~

~~These taxable beverages, even though referred to as "fruit drinks," may also contain other items such as sugar, corn syrup, citric acid, natural fruit flavors, artificial color, Vitamin A, B2 or C and other ingredients.~~

~~Examples of such taxable fruit drinks are: HI-C, Welchade, Mott's A.M. 5 Fruit Juice Drink, Bessey's, BC Cherry-Apple Juice Drink, Hawaiian Punch, and Del Monte Pineapple Grapefruit Juice Drink.~~

~~Accordingly, such "fruit drink" beverages are in the same taxable classification as orangeade, lemonade and limeade.~~

~~b. Candy, confectionery, etc. Tax applies to sales of candy and confectionery, which includes chocolate-coated nuts, candied fruits, crystallized fruits and glazed fruits.~~

~~Preparation of fruits, nuts or popcorn in combination with chocolate, sugar, honey, candy or other confectionery unless sold for cooking purposes, are not food products within the meaning of the exemption. The method used in packaging and distributing these preparations, including the kind and size of the container used, will be considered in determining the primary use for which these preparations are sold.~~

~~Cake or bar chocolate sold primarily for cooking purposes, is a food product within the meaning of the law. The method used in packaging and distributing the chocolate will be considered in determining the primary use for which it is sold.~~

~~R. GARY CLARK  
TAX ADMINISTRATOR~~

~~DATE: May 1, 1987~~