

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 regulation SU 07-13 regarding Clothing, Clothing Accessories, Sports or Recreational Equipment, and Protective Equipment.

The purpose of this regulation is to implement Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. Specifically, Section 44-18-30(27) which provides, effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including footwear, intended to be worn or carried on or about the human body up to two hundred and fifty dollars (\$250) of the sales price per item. This regulation shall take effect October 1, 2012 and amends and supersedes regulation SU 07-13 promulgated January 1, 2007.

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.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 August 23, 2012 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. A public hearing to consider the proposed regulation will be held on **August 23, 2012, at 9:30 am**, 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 Regulation SU 07-13 regarding Clothing, Clothing Accessories, Sports or Recreational Equipment, and Protective Equipment.

The purpose of this regulation is to implement Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. Specifically, Section 44-18-30(27) which provides, effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including footwear, intended to be worn or carried on or about the human body up to two hundred and fifty dollars (\$250) of the sales price per item.

This regulation shall take effect October 1, 2012 and amends and supersedes regulation SU 07-13 promulgated January 1, 2007.

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

~~Sales and Use Tax~~

~~Regulation SU-07-13~~

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~~Sales Tax Exemption – Clothing and Footwear~~

The Rhode Island sales and use tax law provides an exemption for clothing including footwear intended to be worn or carried on or about the human body.

The exemption does not include special clothing or footwear primarily designed for athletic activity or protective use and which is not normally worn except when so used.

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~~CLOTHING DEFINED~~

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“Clothing” means all human-wearing apparel suitable for general use. The following list contains examples and is not intended to be an all-inclusive list.

~~NONTAXABLE~~

“Clothing” shall include:

1. ~~Aprons, household and shop;~~
2. ~~Athletic supporters;~~
3. ~~Baby receiving blankets;~~
4. ~~Bathing suits and caps;~~
5. ~~Beach capes and coats;~~
6. ~~Belts and suspenders;~~
7. ~~Boots;~~
8. ~~Coats and jackets;~~
9. ~~Costumes;~~
10. ~~Diapers, children and adult, including disposable diapers;~~
11. ~~Ear muffs;~~
12. ~~Footlets;~~
13. ~~Formal wear;~~
14. ~~Garters and garter belts;~~
15. ~~Girdles;~~
16. ~~Gloves and mittens for general use;~~
17. ~~Hats and caps;~~
18. ~~Hosiery;~~

19. Insoles for shoes;
20. Lab coats;
21. Neckties;
22. Overshoes;
23. Pantyhose;
24. Rainwear;
25. Rubber pants;
26. Sandals;
27. Scarves;
28. Shoes and shoe laces;
29. Slippers;
30. Sneakers;
31. Socks and stockings;
32. Steel-toed shoes;
33. Underwear;
34. Uniforms, athletic and non-athletic; and
35. Wedding apparel.

TAXABLE

~~“Clothing” shall not include:~~

- ~~1. Belt buckles sold separately;~~
- ~~2. Costume masks sold separately;~~
- ~~3. Patches and emblems sold separately;~~
- ~~4. Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and~~
- ~~5. Sewing materials that become part of “clothing” including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.~~

~~“Clothing accessories or equipment” means incidental items worn on the person or in conjunction with “clothing. The following list contains examples and is not intended to be an all-inclusive list.~~

TAXABLE

~~“Clothing accessories or equipment” shall include:~~

- ~~1. Briefcases;~~
- ~~2. Cosmetics;~~
- ~~3. Hair notions, including, but not limited to, barrettes, hair bows, and hair nets;~~
- ~~4. Handbags;~~
- ~~5. Handkerchiefs;~~
- ~~6. Jewelry;~~
- ~~7. Sun glasses, non-prescription;~~
- ~~8. Umbrellas;~~

9. ~~Wallets;~~
10. ~~Watches; and~~
11. ~~Wigs and hair pieces.~~

~~“Protective equipment” means items for human wear and designed as protection of the wearer against injury or disease or as protections against damage or injury of other persons or property but not suitable for general use. The following list contains examples and is not intended to be an all-inclusive list.~~

~~TAXABLE~~

~~“Protective equipment” shall include:~~

1. ~~Breathing masks;~~
2. ~~Clean room apparel and equipment;~~
3. ~~Ear and hearing protectors;~~
4. ~~Face shields;~~
5. ~~Hard hats;~~
6. ~~Helmets;~~
7. ~~Paint or dust respirators;~~
8. ~~Protective gloves;~~
9. ~~Safety glasses and goggles;~~
10. ~~Safety belts;~~
11. ~~Tool belts; and~~
12. ~~Welders gloves and masks.~~

~~“Sport or recreational equipment” means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. The following list contains examples and is not intended to be an all-inclusive list.~~

~~TAXABLE~~

~~“Sport or recreational equipment” shall include:~~

1. ~~Ballet and tap shoes;~~
2. ~~Cleated or spiked athletic shoes;~~
3. ~~Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf;~~
4. ~~Goggles;~~
5. ~~Hand and elbow guards;~~
6. ~~Life preservers and vests;~~
7. ~~Mouth guards;~~
8. ~~Roller and ice skates;~~
9. ~~Shin guards;~~
10. ~~Shoulder pads;~~
11. ~~Ski boots;~~

- ~~12. Waders; and~~
- ~~13. Wetsuits and fins.~~

~~DAVID M. SULLIVAN
TAX ADMINISTRATOR~~

~~EFFECTIVE DATE: January 2007~~

~~THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 87-13
PROMULGATED MAY 1, 1987~~

State of Rhode Island – Division of Taxation

Sales and Use Tax

Regulation SU 12-13

**Clothing, Clothing Accessories, Sports or Recreational Equipment,
and Protective Equipment**

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RULE 1 PURPOSE

This regulation implements Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. These Chapters provide for Sales and Use Taxes Liability and Computation, and Sales and Use Taxes Enforcement and Collection in regard to the taxation of clothing and footwear.

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

“Clothing” means all human wearing apparel suitable for general use.

(a) The following list contains examples and is not intended to be an all-inclusive list. Examples of nontaxable items:

1. Aprons, household and shop;
2. Athletic supporters;
3. Baby receiving blankets;
4. Bathing suits and caps;
5. Beach capes and coats;
6. Belts and suspenders;
7. Boots;
8. Coats and jackets;
9. Costumes;
10. Diapers, children and adult, including disposable diapers;
11. Ear muffs;
12. Footlets;
13. Formal wear;
14. Garters and garter belts;
15. Girdles;
16. Gloves and mittens for general use;
17. Hats and caps;
18. Hosiery;
19. Insoles for shoes;
20. Lab coats;
21. Neckties;
22. Overshoes;
23. Pantyhose;

24. Rainwear;
25. Rubber pants;
26. Sandals;
27. Scarves;
28. Shoes and shoe laces;
29. Slippers;
30. Sneakers;
31. Socks and stockings;
32. Steel toed shoes;
33. Underwear;
34. Uniforms, athletic and non-athletic; and
35. Wedding apparel.

(b) "Clothing" shall not include the following taxable items:

1. Belt buckles sold separately;
2. Costume masks sold separately;
3. Patches and emblems sold separately;
4. Sewing equipment and supplies including, but not limited to, knitting needles, patterns, pins, scissors, sewing machines, sewing needles, tape measures, and thimbles; and
5. Sewing materials that become part of "clothing" including, but not limited to, buttons, fabric, lace, thread, yarn, and zippers.

"Clothing accessories or equipment," means incidental items worn on the person or in conjunction with "clothing." "Clothing accessories or equipment" does not include "clothing," "sports or recreational equipment," or "protective equipment."

The following list contains examples and is not intended to be an all-inclusive list. "Clothing accessories or equipment" shall include:

1. Briefcases;
2. Cosmetics;
3. Hair notions, including, but not limited to, barrettes, hair bows, and hairnets;
4. Handbags;
5. Handkerchiefs;
6. Jewelry;
7. Sun glasses, non-prescription;
8. Umbrellas;
9. Wallets;
10. Watches; and
11. Wigs and hairpieces.

"Essential clothing" means any article of "clothing" with a sales price below the dollar threshold set by the state that is taxed differently from "clothing."

"Protective equipment" means items for human wear and designed as protection of the wearer against injury or disease or as protection against damage or injury of other persons

or property but not suitable for general use. "Protective equipment" does not include "clothing," "clothing accessories or equipment," and "sport or recreational equipment."

The following list contains examples and is not intended to be an all-inclusive list. "Protective equipment" shall include:

1. Breathing masks;
2. Clean room apparel and equipment;
3. Ear and hearing protectors;
4. Face shields;
5. Hard hats;
6. Helmets;
7. Paint or dust respirators;
8. Protective gloves;
9. Safety glasses and goggles;
10. Safety belts;
11. Tool belts; and
12. Welders gloves and masks.

"Sports or recreational equipment" means items designed for human use and worn in conjunction with an athletic or recreational activity that are not suitable for general use. "Sports or recreational equipment" does not include "clothing," "clothing accessories or equipment," and "protective equipment."

The following list contains examples and is not intended to be an all-inclusive list. "Sports or recreational equipment" shall include:

1. Ballet and tap shoes;
2. Cleated or spiked athletic shoes;
3. Gloves, including, but not limited to, baseball, bowling, boxing, hockey, and golf;
4. Goggles;
5. Hand and elbow guards;
6. Life preservers and vests;
7. Mouth guards;
8. Roller and ice skates;
9. Shin guards;
10. Shoulder pads;
11. Ski boots;
12. Waders; and
13. Wetsuits and fins.

RULE 6 TAXATION OF CLOTHING AND ESSENTIAL CLOTHING

(a) For sales prior to October 1, 2012, the sales in this state of articles of clothing, essential clothing, and footwear, intended to be worn or carried on or about the human body are exempt from the Rhode Island sales and use tax.

(b) Effective October 1, 2012, the exemption will apply to the sales in this state of essential clothing, including footwear, intended to be worn or carried on or about the human body up to two-hundred fifty dollars (\$250.00) of the sales price per item.

Example: A retailer sells five (5) shirts at sixty dollars (\$60) each for a total of three-hundred dollars (\$300.00). Because the sale of each item is less than two-hundred fifty dollars (\$250.00), the sale of all five (5) shirts are exempt from the Rhode Island sales and use tax.

(c) Effective October 1, 2012, the portion of the sales price of clothing, including footwear, sold in this state greater than two-hundred fifty dollars (\$250.00) is subject to the Rhode Island sales and use tax.

Example: A retailer of clothing sells a suit with a sales price of two-hundred seventy-five dollars (\$275.00). The amount of sales tax that is charged and collected from the customer is one dollar and seventy-five cents (\$1.75) computed as follows: ($\$275.00$ less $\$250.00 = \$25.00 \times 7\% = \$1.75$).

RULE 7 TAXATION OF CLOTHING ACCESSORIES OR EQUIPMENT

Sales of clothing accessories or equipment in this state are subject to the Rhode Island sales and use tax.

RULE 8 TAXATION OF PROTECTIVE EQUIPMENT

Sales of protective equipment in this state are subject to the Rhode Island sales and use tax.

RULE 9 TAXATION OF SPORTS OR RECREATIONAL EQUIPMENT

Sales of sports or recreational equipment in this state are subject to the Rhode Island sales and use tax.

RULE 10 EFFECTIVE DATE

This regulation shall take effect on October 1, 2012 and shall amend and supersede regulation SU 07-13 promulgated on January 1, 2007.

David M. Sullivan
Tax Administrator