

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 repeal a regulation regarding farm equipment and farm structure construction materials.

The purpose of this rule making is to repeal regulation SU 87-36 “Farm Equipment and Farm Structure Construction Materials also identified by ERLID number 4306. The content of regulation SU 87-57 will be merged with Regulation SU 141-151 “Commercial Farming and Related Items” identified by RELID number 7691. Repeal of this regulation shall take effect June 1, 2014.

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 Wednesday, April 23, 2014 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 Wednesday, April 23, 2014 at 9:30 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 the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling (401) 574-8729.

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Concise summary of all non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) for Rules and Regulations regarding farm equipment and farm structure construction materials, feeds, fertilized, cattle bedding, chicken litter – livestock, and poultry.

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

~~Regulation SU-07-36~~

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~~Farm Equipment and Farm Structure Construction Materials~~

~~The exemption provided in Section 44-18-30(32) applies to the sale (including lease or rental) and to the storage, use or other consumption in this state of machinery and equipment which is used primarily and directly for commercial farming and agricultural production, including but not limited to tractors, plows, harrows, spreaders, seeders, milking machines, silage conveyors, balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment, greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and other farming equipment, including replacement parts, appurtenant to or used in connection with commercial farming, as well as tools and supplies used in the repair of such farm machinery and equipment.~~

~~The exemption applies if the farm equipment or machinery is used for ancillary uses or is temporarily used for non-farming or a non-agricultural purpose. However, in order to maintain the exemption, ancillary use or temporary non-farming or non-agricultural use of any farm equipment and machinery must be less than 50% of the use of the equipment or machinery.~~

~~"Machinery and equipment used directly" shall mean only that machinery and equipment (including replacement parts thereof) which is used during the agricultural process and not used solely prior to the start of this agricultural process nor solely after it has ended.~~

~~Also exempt is lumber, hardware and other materials used in the new construction of farm structures, including production facilities such as, but not limited to, farrowing sheds, free stall and stantion barns, milking parlors, silos, poultry barns, laying houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and trench silos, feed storage sheds, and any other structures used in connection with commercial farming.~~

~~"Commercial farming" means the keeping or boarding of five (5) or more horses or the production within this state of agricultural products, including but not limited to field or orchard crops, livestock, dairy, poultry or products thereof, where the keeping, boarding or production provides at least (\$2,500.00) in annual gross sales to the operator for exemptions issued prior to July 1, 2002.~~

~~For exemptions issued or renewed after July 1, 2002, there shall be two (2) levels. Level I shall be based on proof of annual gross sales from commercial farming of at least twenty five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption provided in this subdivision except for motor vehicles with an excise tax value of five thousand dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for purchases subject to the exemption provided in this subdivision including motor vehicles with an excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be required for the prior~~

~~year; for any renewal of an exemption granted in accordance with this subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at the requisite amount shall be required for each of the prior two (2) years. Certificates of exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption and be valid for four (4) years after the date of issue. This exemption shall not apply to motor vehicles acquired after July 1, 2002, unless the vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration displaying farm plates as provided for in section 31-3-31.~~

~~Application for this exemption must be made to the Tax Administrator on the following prescribed form which is approved by the Division of Taxation and may be reproduced.~~

~~DAVID SULLIVAN
TAX ADMINISTRATOR
EFFECTIVE: JANUARY 2007~~

~~THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU-01-36 PROMULGATED JANUARY 1, 2001.~~