

State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 96-17

Casual Sales

The tax does not apply to casual sales made by a person not regularly engaged in the business of selling tangible personal property. It is important to note, however, that the tax applies to the sale of a motor vehicle, airplane or trailer even though such sale be a casual sale, and whether or not it is in fact registered or required to be registered by the purchaser with the Registry of Motor Vehicles. Casual sales of house trailers and mobile homes of the type ordinarily used for residential purposes are exempt. Casual sales of all other trailers, including camping trailers, are taxable.

The term "casual" shall mean a sale made by a person other than a retailer, provided, however, that in the case of a sale of a motor vehicle, said term shall mean a sale made by a person other than a licensed motor vehicle dealer. Every person making more than five (5) retail sales of tangible personal property during any twelve-month period, including sales made in the capacity of assignee for the benefit of creditors or receiver or trustee in bankruptcy, shall be considered a retailer within the provisions of this regulation and Chapter 18 of Title 44 of the Rhode Island General Laws, as amended.

Casual sale includes a sale of tangible personal property not held or used by a seller in the course of activities for which the seller is required to hold a seller's permit(s) or would be required to hold a seller's permit(s) if the activities were conducted in this state. It is further provided such sale is not one of a series of sales sufficient in number, scope and character (more than five (5) in any twelve-month period) to constitute an activity for which the person is required to hold a seller's permit or would be required to hold a seller's permit if the activity were conducted in this state.

Examples of Exempt Casual Sales

- (1) A person selling household furniture, or an insurance agent selling a typewriter;
- (2) Sales by executors, administrators, trustees, receivers, other fiduciaries and other proper officers pursuant to a court order except when they continue the operation of the business of selling tangible personal property at retail;
- (3) Legal sales, executions, etc., under court order or by a proper officer;
- (4) Sales at bazaars, fairs, picnics or similar events by nonprofit organizations which are organized for charitable, educational, civic, religious, social, recreational, fraternal or literary purposes during two (2) events not to exceed a total of six (6) days during each calendar year. Such organization may, however, request of the tax administrator to have more than two (2) events in a calendar year so long as those events do not exceed, in total, six (6) days during such calendar year. Promoters of such events are required to apply to the Tax Division for a promoter's permit which permit shall be issued without cost to the applicant. All vendors at

such events, including nonprofit organizations, are required to have a valid permit to make sales at retail.

Provided, however, where sales are made at such events by a vendor or organization holding a permit to make sales at retail which is not a nonprofit organization organized for the purposes stated above or by a vendor or organization which is not a nonprofit organization organized for the purposes stated above and which is otherwise required to hold such a permit because its selling events are in excess of the number permitted, such sales constitutes sales in the regular course of business and are not exempted as casual sales.

- (5) A transfer of a motor vehicle, airplane or trailer upon which the transferor has paid the tax, in connection with the organization, reorganization, dissolution or partial liquidation of a business entity where no gain or loss is recognized for income tax purposes; or
- (6) Casual sales are exempt where the transferee is the spouse, mother, father, brother or sister of the transferor.

Examples of Nonexempt Casual Sales

- (1) Retail sales by an auctioneer under any of the examples of exempt sales given above;
- (2) Sales of motor vehicles, airplanes, or trailers (see 5 above);
- (3) Retail sales by manufacturers, wholesalers, processors, and jobbers even though such sales are infrequent and only comprise an insignificant fraction of their total business;
- (4) Sales which constitute an integral part of a business, such as the sale of repossessed fixtures, or other property by a finance company, even though the sale of tangible personal property is not the primary function of such business; or
- (5) A manufacturer who liquidates his or her business and sells the equipment in piecemeal fashion over a period of time to either the same or to different purchasers is regarded as a retailer within the meaning of the Rhode Island sales and use tax law. The equipment owned automatically becomes an inventory of goods held for sale at retail. The fact that such equipment might have been sold in one bulk sale without being required to charge the sales tax is beside the point. Where the facts assumed above clearly show that more than five (5) retail sales of tangible personal property during any twelve month period have been made, then the sales are not casual. Therefore, under the facts the liquidating manufacturer has become, although unwittingly, a retailer, even though he or she operates as such for a relatively short period of time.

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE DATE: JANUARY 1, 1996

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 94-17
PROMULGATED ON JANUARY 1, 1994.