

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 of the. These Chapters provide for Sales and Use Tax Liability and Computation and Sales and Use Tax Enforcement and Collection in regard to 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., 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," "sport 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 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.

"Essential clothing" means any article of "clothing" with a sales price at or 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 protections 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.

"Sales price" means:

(a) the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

(i) The seller's cost of the property sold;

(ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

(iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;

(iv) Delivery charges, as defined in § 44-18-7.1(i);

(v) Credit for any trade-in, as determined by state law;

(vi) The amount charged for services, as defined in RIGL 44-18-7.3.

(b) "Sales price" shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

(ii) The amount charged for labor or services rendered in installing or applying the property sold when the charge is separately stated by the retailer to the purchaser; provided that in transactions subject to the provisions of this chapter the retailer shall separately state such charge when requested by the purchaser and, further, the failure to separately state such charge when requested may be restrained in the same manner as other unlawful acts or practices prescribed in chapter 13.1 of title 6.

(iii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(iv) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

(v) Manufacturer rebates allowed on the sale of motor vehicles.

(c) "Sales price" shall include consideration received by the seller from third parties if:

(i) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the following criteria is met:

(A) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a "preferred customer" card that is available to any patron does not constitute membership in such a group), or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

"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. "Sport 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. "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.

RULE 6 TAXATION OF CLOTHING AND ESSENTIAL CLOTHING

(a) For sales, leases or rentals 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 from Rhode Island sales and use tax will apply to the sales, leases or rentals in this state of essential clothing, including footwear, intended to be worn or carried on or about the human body with a sales price of two-hundred fifty dollars (\$250.00) or less 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, leased or rented in this state greater than two-hundred fifty dollars (\$250.00) per item is subject to the Rhode Island sales and use tax.

Example 1: A retailer of clothing sells a suit with a sales price of two-hundred seventy-five dollars (\$275.00). The tax in this example is computed as follows:

Suit	\$275.00
Sales Tax: $(\$275.00 - 250.00) \times 7\%$	<u>1.75</u>
Total Invoice	\$276.75

Example 2: A retailer of clothing sells a suit with a sales price of two-hundred twenty-five dollars (\$225.00). Alterations are made to the suit to adjust the length of the sleeves and pants resulting an additional charge of sixty dollars (\$60.00) bringing the total sales price to two hundred eighty-five dollars (\$285.00). The tax in this example is computed as follows:

Suit	\$225.00
Alterations	<u>60.00</u>
Subtotal	\$285.00
Sales Tax:	
Suit and Alterations (\$285.00 - 250.00) x 7%	<u>2.45</u>
Total Invoice	\$287.45

Example 3: Same facts as Example 2, and the retailer also charges twenty dollars (20.00) for delivery of the suit to the customer bringing the total sales price to three-hundred five dollars (\$305.00). The tax in this example is computed as follows:

Suit	\$225.00
Alterations	60.00
Delivery Charge	<u>20.00</u>
Subtotal	\$305.00
Sales Tax:	
Suit, alterations & delivery (\$305.00 – 250.00) x 7%	<u>3.85</u>
Total Invoice	\$308.85

Example 4: A retailer of clothing sells two suits; one suit with a sales price of five-hundred dollars (\$500.00) and a second suit with a sales price of two-hundred fifty dollars (\$250.00) and the retailer also charges seventy-five dollars (\$75.00) for delivery of the suits to the customer bringing the total sales price to eight-hundred twenty-five dollars (\$825.00). The tax in this example is computed as follows:

	<u>Item 1</u>	<u>Item 2</u>	<u>Total</u>
Suit	\$500.00	\$250.00	\$750.00
Delivery	<u>50.00</u>	<u>25.00</u>	<u>75.00</u> **
Subtotal	\$550.00	\$275.00	\$825.00
Less Threshold	<u>(250.00)</u>	<u>(250.00)</u>	<u>(500.00)</u>
Taxable Amount	\$300.00	\$ 25.00	\$325.00
Rate	<u>x .07</u>	<u>x .07</u>	<u>x .07</u>
Tax	\$ 21.00	\$ 1.75	\$ 22.75

Example 5: A customer purchases a suit with a sales price of three-hundred dollars (\$300.00) and two (2) shirts with a sales price of fifty dollars (\$50.00) each, and the retailer also charges twenty dollars (\$20.00) for delivery of the merchandise to the customer bringing the total sales price to four-hundred twenty dollars (\$420.00). The tax in this example is computed as follows:

	<u>Item 1</u>	<u>Item 2</u>	<u>Item 3</u>	<u>Total</u>
Suit	\$300.00			\$300.00
Shirts @ \$50 each		50.00	50.00	100.00
Delivery Charge	<u>15.00</u>	<u>2.50</u>	<u>2.50</u>	<u>20.00**</u>
Subtotal	\$315.00	\$52.50	\$52.50	\$420.00
Less Threshold	<u>(250.00)</u>	<u>(250.00)</u>	<u>(250.00)</u>	
Taxable Amount	\$ 65.00	\$ 0.00	\$ 0.00	
Rate	<u>x .07</u>	<u>x .07</u>	<u>x .07</u>	<u> </u>
Tax	\$ 4.55	\$ 0.00	\$ 0.00	\$ 4.55

** Delivery Charge: If a shipment includes both taxable and exempt property, the seller should allocate the delivery charges by using a percentage based on the total sales prices of the taxable property compared to the total sales prices of all property in the shipment

(d) Articles of clothing that are normally sold as a single unit must continue to be sold in that manner; they cannot be separated and sold as individual items to qualify for the exemption.

Example: A suit normally sells for four-hundred dollars (\$400.00). The retailer cannot sell the pants for two-hundred dollars (\$200.00) and the suit coat for two-hundred dollars (\$200.00) in order to qualify for the exemption. However, if the pants and the coat are normally sold as separate items with separate price tags, the exemption may apply to each item sold.

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.

RULE 11 CROSS REFERENCES

Regulation SU 07-33 Delivery Charges

Regulation SU 07-140 Coupons – Discounted Selling Price - Buydowns

Regulation SU 12-62 Rentals and Leases of Tangible Personal Property

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