

State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 87-65

Motor Vehicles - Gifts of

Section 44-18-20 imposes a tax on the storage, use or other consumption in this state of tangible personal property purchased from any retailer at the current rate on the sale price of the property.

Section 44-18-21 provides that every person storing, using, or otherwise consuming in this state tangible personal property purchased from a retailer is liable for the use tax.

Where a person purchases an item of tangible personal property from an out-of-state retailer intending to make a gift thereof to another person to be stored, used or consumed in Rhode Island, the tax applies. If the property is a motor vehicle, the donor will be required to pay the use tax at the current rate on the sale price charged him or her by the out-of-state retailer, less any trade-in allowance where applicable, as a prerequisite to the donee's right to obtain registration plates.

For example, husband and wife go to Boston together; he buys a car from a Boston dealer; the bill of sale indicates that he is the purchaser; he thereupon (while in Boston) turns the keys over to his wife and makes a gift of the vehicle to her; the wife then attempts to register said vehicle in Rhode Island, claiming that because the car was the subject of a bona fide gift to her that the Rhode Island use tax does not apply.

Neither section 44-18-20 nor section 44-18-21 requires that the wife be the purchaser. Moreover, it is emphasized that the exercise of her dominion over said motor vehicle is consistent with the definition of "storage" and "use" as set forth under section 44-18-9 and 44-18-10.

The residence of the donor and his or her relationship to the donee is immaterial in cases involving newly acquired vehicles (new or used) given to the donee for registration in Rhode Island. Of course, any sales tax legally paid by the donor in the state of purchase may be credited against the Rhode Island use tax on such vehicle.

To arrive at a different conclusion would result in our countenancing a device which could be patently designed for the purpose of evading the provisions of the Rhode Island Sales and Use Tax Law.

Furthermore, it is important to note that under the provisions of section 44-18-25 there is a PRESUMPTION that

- (a) The use of all tangible personal property is subject to the use tax, and
- (b) All tangible personal property intended for delivery or delivered in this state is delivered for storage, use, or other consumption in Rhode Island.

Prior to obtaining a motor vehicle registration, the donee is required to:

(a) Furnish a notarized letter indicating the name and address of donor and donee, description of vehicle with Vehicle Identification No. and proof tax was previously paid on such vehicle; i.e., receipt, use tax return, etc.

(b) Complete Rhode Island Division of Taxation [Affidavit of Gift of Motor Vehicle](#).

If gift is between immediate family blood relatives, i.e., mother/father, husband/wife, sister/brother and children thereof, a gift letter showing names, addresses, relationship and description of vehicle with the Vehicle Identification Number along with proof that the tax was previously paid is required.

R. GARY CLARK
TAX ADMINISTRATOR

DATE: May 1, 1987