

State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 88-5

Auctioneers

Persons engaged in the business of making retail sales at auction of tangible personal property owned by such person or others are retailers, and are, therefore, required to hold retailers' permits and pay the tax measured by the gross receipts from such sales.

Auctioneers are obliged to add, collect and remit the tax even though they have been engaged by executors, administrators, trustees, receivers or other officers of a court to make sales of tangible personal property, even though such sales may be connected with liquidation or bankruptcy proceedings or made pursuant to court order.

Lump-sum charges. -- Real estate auctioneers selling real estate are retailers of the personal property contained therein. They must secure retailers' permits and pay tax on the selling price of the personal property included with the real property. If a lump-sum charge is made, it shall be deemed, unless established to the contrary in the manner described below, that 80% of the sales price was for personal property and 20% of the sales price was for real estate. In this case the auctioneer must collect and pay over tax on 80% of the lump-sum charge. However, if the purchaser gives to the auctioneer an affidavit (in duplicate) stating that the lump-sum charge is considered by him or her to be allocated differently than 80% personal and 20% real property, and the affidavit sets forth the different breakdown, then the auctioneer shall charge sales tax on only that amount which the purchaser's affidavit states to be personal property.

Such affidavit shall contain the names and addresses of the purchaser and the auctioneer, the date of the sale, a description of the property sold, the lump-sum sales price, and the percentage breakdown between real and personal property.

Upon receipt of such affidavit, the auctioneer shall forward the original to the Division of Taxation, Field Audit Section, and keep the duplicate for his or her files.

A purchaser, who for federal income tax purposes, subsequently allocates a higher amount of the sales price of the personal property than was stated in the affidavit, shall report and pay a use tax on such additional amount that was not subject to the tax at the time of the sale.

R. GARY CLARK
TAX ADMINISTRATOR

DATE FILED: December 9, 1988

EFFECTIVE DATE: December 31, 1988

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 87-5

PROMULGATED MAY 1, 1987.