

# **State of Rhode Island - Division of Taxation**

## **Sales and Use Tax**

### **Regulation SU 88-33**

#### **Delivery Charges**

##### **(A) Delivery by Carrier**

Generally, the tax does not apply to separately stated charges for transportation of property from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser, provided the transportation is by other than facilities of the retailer, i.e., independent contract or common carrier, United States mail. However, where, under the terms of the contract, title does not pass until actual delivery to the place specified by the buyer, the tax shall apply to any transportation charges for which the retailer bills the purchaser.

##### **(B) Delivery by Facilities of the Retailer**

Tax applies to charges for transportation of property to the purchaser by facilities of the retailer, unless the transportation occurs after title to the property has passed to the purchaser, the charges are separately stated, and are for transportation from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser.

(a) Waiting Time - Tax applies to charges for "waiting time" which occur during delivery of the property to the purchaser unless such charges are imposed after title to the property has passed to the purchaser.

##### **(C) Property Sold for a Delivered Price**

When property is sold for a delivered price, charges for transportation of the property to the purchaser are taxable unless the transportation occurs after title to the property has passed to the purchaser, the charges are separately stated, and are for transportation from the retailer's place of business or other point from which shipment is made directly to a place specified by the purchaser.

##### **(D) Determination of Place of Passage of Title**

When a retailer, by means of facilities operated or furnished by such retailer, delivers tangible personal property to a place specified by the purchaser, or the property is sold for a delivered price, title will not be considered as passing to the purchaser until the goods reach the place specified, in the absence of clear and convincing evidence that both retailer and buyer intended that title should pass at some other place. Oral declarations of the parties after the transaction is completed are of little value as evidence, because of their self-serving nature. The intention of the parties to transfer title to the buyer prior to delivery to the buyer by means of facilities operated or furnished by the seller should be clearly expressed in writing constituting a part of the contract of sale, entered into by both parties prior to the transportation for which the charge

in question takes place.

R. GARY CLARK  
TAX ADMINISTRATOR

DATE FILED: December 9, 1988

EFFECTIVE DATE: December 31, 1988

THIS REGULATION AMENDS AND SUPERCEDES REGULATION SU 87-33  
PROMULGATED MAY 1, 1987.