

State of Rhode Island and Providence Plantations

Rhode Island Department of Revenue
Division of Taxation

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Rhode Island General Law §42-35-3(a)(1) and in accordance with the Administrative Procedures Act (Chapter 42-35 of the General Laws), the Division of Taxation hereby gives notice of its intent to amend regulation SU 94-109, "Trade-in Deduction."

The purpose of this rule making process is to implement Chapters 44-18 and 44-19 of the Rhode Island General Laws. Specifically, RIGL §44-18-30(23) exempts from sales and use taxes the gross receipts from trade-in value of motor vehicles. Effective October 1, 2011 the exemption for insurance proceeds has been repealed and the credit will no longer be allowed. This regulation shall take effect October 1, 2011 and shall amend and supersede regulation SU 94-109 promulgated January 1, 1994.

The proposed rule to be amended, and a concise summary of non-technical requirements and proposed new rules are, available for public inspection at www.tax.ri.gov, in person at the Rhode Island Division of Taxation, or can be requested by e-mail at mcanole@tax.ri.gov or by calling Michael Canole at (401) 574-8729.

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap, or significant economic impact on small business was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Friday, September 2, 2011, to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail: mcanole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on Friday, September 2, 2011, at 10 a.m., at the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing to Michael Canole at Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling (401) 574-8729.

Rhode Island Department of Revenue

Division of Taxation

Concise Summary of ALL Non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) regarding trade-in deduction – Amended.

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~~State of Rhode Island - Division of Taxation~~

~~Sales and Use Tax~~

~~Regulation SU 94-109~~

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~~Trade-In Deduction~~

~~In general, deductions from the gross proceeds of a sale are not permitted for any credit allowed by the seller for a trade-in taken in exchange or part payment and the tax applies to the full selling price of the article sold.~~

~~However, the law does provide for the following to be excluded from the measure of the sales/use tax:~~

~~Automobiles:~~

~~1. The amount of the trade-in allowance of a private passenger automobile given in trade to the seller towards the purchase of a new or used private passenger automobile.~~

~~2. Insurance proceeds received from an insurance claim as a result of a stolen or damaged motor vehicle towards the purchase of a new or used private passenger automobile provided that the tax has not been reimbursed as part of the claim as well as proceeds received from the automobile manufacturer for repurchase.~~

~~Where a retailer purchases used items for resale, or where the retailer takes such items as traded-in property, the tax applies to the full selling price charged to customers upon the resale of such used or traded-in property.~~

~~Cross-Reference:: See "Motor Vehicle Trade-In Allowance."~~

~~R. GARY CLARK
TAX ADMINISTRATOR~~

~~DATE: January 1, 1994~~

~~THIS REGULATION AMENDS AND SUPERSEDES REGULATION SU 87-109
PROMULGATED DECEMBER 1, 1987.~~

State of Rhode Island - Division of Taxation

Sales and Use Tax

Regulation SU 11-109

TRADE IN DEDUCTION

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RULE 1. PURPOSE

This regulation implements Chapter 44-18 and 44-19 of the Rhode Island General Laws. These Chapters provide for Sales and Use Taxes Liability and Computation and Sales and Use Taxes Enforcement and Collection in regard to trade in deductions.

RULE 2. AUTHORITY

This regulation is promulgated pursuant to RIGL Chapter 44-18 and 44-19 as amended. These rules have been prepared in accordance with the requirements of RIGL Chapter 44-1-1 et. seq. and 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 Chapter 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

“Automobile” means a private passenger automobile not used for hire, and does not refer to any other type of motor vehicle.

“Truck” means every motor vehicle designed, used, or maintained primarily for the transportation of property. The administrator of the division of motor vehicles shall determine, in case of doubt, if a motor vehicle is subject to registration as a truck.

RULE 6. TRADE IN ALLOWANCE

In general, a deduction from the gross proceeds of a sale is not permitted for any credit allowed by the seller for a trade-in taken in exchange, or as a part payment, for the item sold. Tax applies to the full selling price of a taxable item sold regardless of any trade-in allowance.

RIGL 44-18-30(23) however does allow for a trade-in allowance on an automobile given by the buyer in trade to the seller of an automobile, towards the purchase of a new or used automobile. A motor home is treated as a private passenger vehicle which qualifies for the trade-in allowance.

Example #1

A customer purchases an automobile from a dealership and trades in an automobile to the dealer (seller). The trade in allowance is deducted from the sales price in determining the amount of the sale subject to tax.

Example #2

A customer purchases an automobile from a dealership and trades in a truck to the dealer (seller). A deduction for the trade in allowance is not allowed from the sales price in determining the amount of the sale subject to tax, since the vehicle traded in is a truck.

Example #3

A customer purchases an automobile from a dealership and trades in an automobile to the dealer (seller). In addition, the customer receives a manufacturer's rebate on the purchase of the automobile. Both the trade in allowance and the amount of the manufacturer's rebate are deducted from the sales price in determining the amount of the sale subject to tax.

RULE 7. INSURANCE PROCEEDS

Insurance proceeds received from an insurance claim as a result of a stolen or damaged motor vehicle towards the purchase of a new or used automobile provided that the tax has not been reimbursed as part of the claim are excluded from the sales price in determining the amount of the sale subject to tax.

Effective October 1, 2011 the exemption for insurance proceeds per RIGL 44-18-30(23) has been repealed, and credit will no longer be allowed.

RULE 8. EFFECTIVE DATE This regulation shall take effect on October 1, 2011 and shall amend and supercede regulation SU 94-109 promulgated January 1, 1994.

RULE 9. CROSS REFERENCES

CROSS REFERENCE: SU 03-72 "Motor Vehicles – Trade-In Allowance"

DAVID SULLIVAN
TAX ADMINISTRATOR