

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 42-35-3(a)(1) of the General Laws of Rhode Island, 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 repeal regulation SU 98-144 “Leases of Motor Vehicles.”

The purpose of this rule making is to repeal regulation SU 98-144, the content of which has been incorporated into regulation SU 12-62 “Rentals and Leases of Tangible Personal Property, (Including Motor Vehicles).” This repeal shall take effect July 1, 2012 and amends and supercedes regulation SU 98-144 promulgated January 1, 1998.

The proposed regulation and 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 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) whether the regulation, in and of itself, would have significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by May 15, 2012 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail at mcanole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on May 15, 2012 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)

Rules and Regulation regarding Rental and Leases of Motor Vehicles

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~~State of Rhode Island – Division of Taxation~~

~~Sales and Use Tax~~

~~Regulation SU 98-144~~

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~~Leases of Motor Vehicles~~

~~I. GENERAL~~

~~In many motor vehicle leasing transactions, the retail customer negotiates the terms and executes the lease contract with a motor vehicle dealer. In executing the lease, certain "Capitalization Cost Reductions" such as a cash down payments, are factored into the lease as they reduce the amount of the monthly payments due under the term of the lease. These Capitalization Cost Reductions are part of the lease charges and are subject to tax. Other charges, such as acquisition fees, origination fees, registration and title fees are also subject to tax under a lease.~~

~~The dealer, acting on behalf of the leasing company, generally collects the first month's lease payment and the leasing company subsequently collects the balance of the lease payments due under the contract. The leasing company is responsible for collecting and remitting the tax on all lease charges including the initial charges collected by the dealer. Therefore, if the dealer remits the tax it collects directly to the Division of Taxation and such collection or remittance is improper, the leasing company remains responsible for the remittance of the proper amount of the tax due.~~

~~II. LEASES OF MOTOR VEHICLES FOR USE OUTSIDE THE STATE~~

~~When a retail customer leases a motor vehicle for use outside the state, takes possession of the vehicle in Rhode Island, and the vehicle is to be registered and garaged in a state which imposes a tax on the lease charges of a motor vehicle leased to nonresidents, the dealer is required to collect the tax on the first month's lease payment, including the Capitalization Cost Reduction and or other charges as noted in paragraph I. In this instance, the dealer is required to collect the tax equal to the rate that would be imposed in the state where the leased vehicle is to be registered and garaged. However, the tax rate imposed shall not exceed the Rhode Island sales and use tax rate.~~

~~A vehicle is presumed to be leased for use, storage or consumption outside the state if the address where the vehicle will be registered and garaged is outside of Rhode Island and the lessee presents a valid out of state driver's license to the dealer listing said out of state address. The dealer is required to have the nonresident lessee sign the completed certificate of exemption, Form CE1-NR.~~

~~This presumption may be rebutted, however, by a showing that the vehicle is subsequently returned to the state by the lessee for use, storage or consumption in this state.~~

~~III. LEASE OF MOTOR VEHICLE FOR USE IN RHODE ISLAND FROM OUT-OF-STATE DEALERS~~

~~When a retail customer executes a lease with a dealer located out of state and the leased vehicle is to be registered and garaged in Rhode Island and the lessee is legally required to pay a tax to that state on the initial charges collected by the dealer, the leasing company must remit, in addition to the sales tax due on the subsequent lease charges, the difference in the tax rate, if any, between the tax imposed by this state and the state in which the dealer is located.~~

~~IV. TRADE-INS~~

~~(a) In-State Leases: When leasing a motor vehicle for use in this state, the amount of the trade-in allowance of a private passenger automobile given in trade to the dealer towards the lease of a private passenger automobile is excluded from the tax base.~~

~~(b) Out-of-State Leases: When leasing a motor vehicle for use and registration in a state that does not allow a like exemption to nonresidents, a dealer shall take into consideration the trade-in provisions of the state in which the motor vehicle is to be registered and garaged.~~

~~R. GARY CLARK
TAX ADMINISTRATOR
EFFECTIVE: January 1, 1998~~