

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 amend a regulation regarding farm equipment and farm structure construction materials - feeds, fertilized, plants and seeds, cattle bedding, chicken litter – livestock, and poultry.

The purpose of this rule making is to implement Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. Specifically, § 44-18-30(32), § 44-18-30(44), § 44-18-30(53), § 44-18-30(61) and § 44-18-30(63) which provides an exemption for farm equipment and farm structure construction materials – feeds, fertilizer, plants and seeds, cattle bedding, chicken litter – livestock, and poultry. This regulation shall take effect June 1, 2014.

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 Michael.Canole@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 Wednesday, April 23, 2014 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail at Michael.Canole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on Wednesday, April 23, 2014 at 9:30 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 the 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) for Rules and Regulations regarding farm equipment and farm structure construction materials, feeds, fertilized, cattle bedding, chicken litter – livestock, and poultry.

The purpose of this rule making is to implement Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. Specifically, § 44-18-30(32), § 44-18-30(44), § 44-18-30(53), § 44-18-30(61) and § 44-18-30(63) which provides an exemption for farm equipment and farm structure construction materials – feeds, fertilizer, plants and seeds, cattle bedding, chicken litter – livestock, and poultry.

This regulation shall take effect June 1, 2014.

State of Rhode Island – Division of Taxation

Commercial Farming and Related Items

Regulation SU 14-151

Table of Contents

Rule 1. Purpose

Rule 2. Authority

Rule 3. Application

Rule 4. Severability

Rule 5. Definitions

Rule 6. Exemption from Sales and Use Tax - Farm Equipment and Farm Structure Construction Materials

Rule 7. Exemption from Sales and Use Tax - Feeds, Fertilizer, Cattle Bedding, Chicken Litter

Rule 8. Exemption from Sales and Use Tax – Livestock and Poultry

Rule 9. Effective Date

Rule 1. Purpose

The purpose of this rule making is to implement Rhode Island General Laws (RIGL) Chapters 44-18 and 44-19. Specifically, § 44-18-30(32), § 44-18-30(44), § 44-18-30(53), § 44-18-30(61) and § 44-18-30(63), which provides an exemption for farm equipment and farm structure construction materials – feeds, fertilizer, plants and seeds, cattle bedding, chicken litter – livestock, and poultry.

Rule 2. Authority

These rules and regulations are promulgated pursuant to RIGL § 44-1-4 and § 44-19-33. These rules and regulations have been prepared in accordance with the requirements of RIGL chapter 42-35 of the Rhode Island Administrative Procedures Act.

Rule 3. Application

These rules and regulations shall be liberally construed so as to permit the Division of Taxation to effectuate the purpose of chapters 18 and 19 of title 44 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 circumstance, 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

“Agricultural products for human consumption” means livestock and poultry of the kinds of products of which ordinarily constitute food for human consumption and of livestock of the kind the products of which ordinarily constitute fibers for human use

"Commercial farming" means the keeping or boarding of five (5) or more horses or the production within this state of agricultural products, including, but not limited to, field or orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2) levels. Level I shall be based on proof of annual gross sales from commercial farming of at least twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption provided in this rule except for motor vehicles with an excise tax value of five thousand dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for purchases subject to the exemption provided in this subdivision including motor vehicles with an excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be required for the prior year; for any renewal of an exemption granted in accordance with this subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at the requisite amount shall be required for each of the prior two (2) years. Certificates of exemption issued or renewed after July 1, 2002, shall

clearly indicate the level of the exemption and be valid for four (4) years after the date of issue. This exemption applies even if the same equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the vehicle is a farm vehicle as defined pursuant to § 31-1-8 and is eligible for registration displaying farm plates as provided for in § 31-3-31.

“Farm equipment” means machinery and equipment used directly for commercial farming and agricultural production; including, but not limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors, balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment, greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and other farming equipment, including replacement parts, appurtenant to or used in connection with commercial farming and tools and supplies used in the repair and maintenance of farming equipment.

“Farm structure construction materials” means lumber, hardware and other materials used in the new construction of farm structures, including production facilities such as, but not limited to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and trench silos, feed storage sheds, and any other structures used in connection with commercial farming.

“Horse food products” means horse food products purchased by a person engaged in the business of the boarding of horses.

Rule 6. Exemption from Sales and Use Tax - Farm Equipment and Farm Structure Construction Materials

A. There is an exemption from sales and use tax as provided by RIGL §44-18-30(32) and §44-18-30(44) for:

(1) farm equipment used in connection with commercial farming and agricultural production, and;

(2) farm equipment or machinery that is used for ancillary uses or is temporarily used for non-farming or a non-agricultural purpose. However, in order to maintain the exemption, ancillary use or temporary non-farming or non-agricultural use of any farm equipment and machinery must be less than 50% of the total use of the equipment or machinery, and;

(3) farm structure construction materials used in connection with commercial farming and agricultural production.

B. Application for this exemption shall be made to the tax administrator on a Form prescribed by the tax administrator.

Rule 7. Exemption from Sales and Use Tax - Feeds, Fertilizer, Plants and Seeds, Cattle Bedding, Chicken Litter

A There is an exemption from sales and use tax as provided by RIGL § 44-18-30(53), § 44-18-30(61) and RIGL § 44-18-30(63) for:

(1) feed for livestock and poultry, fertilizer (including limestone), seeds and plants, insecticides and fungicides, seed inoculants and plant hormones, cattle bedding, chicken litter, and other supplies when used in commercial farming, and;

(2) horse food products purchased by a person engaged in the business of boarding five (5) or more horses.

Rule 8. Exemption from Sales and Use Tax – Livestock and Poultry

A There is an exemption from sales and use tax as provided by RIGL § 44-18-30(61) for livestock and poultry of the kinds of products of which ordinarily constitute food for human consumption and of livestock of the kind the products of which ordinarily constitute fibers for human use when used in commercial farming.

B Horses used in commercial farming such as to plough fields where such use is in accordance with the ancillary use percentage in rule 6(A)(2), are considered farm equipment and are not subject tax. Horses that are not used in commercial farming such as riding horses are subject to sales and use tax.

Rule 9. Effective Date

This regulation shall take effect June 1, 2014.

David M. Sullivan
Tax Administrator