



# Rhode Island Department of Revenue

## Division of Taxation

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February 24, 2021

The Honorable Marvin L. Abney  
Chair, House Committee on Finance  
Rhode Island State House  
Providence, RI 02903

**RE: Letter of Concern Regarding House Bill 5110 – Relating to Taxation – Sales and Use Taxes  
– Enforcement and Collection**

Dear Chairman Abney:

I am writing on behalf of the Rhode Island Department of Revenue, Division of Taxation, to express concerns regarding issues with proposed House Bill 5110 as currently drafted and to explain the current statutory context in order to clarify the intended and unintended consequences of this bill and to request your support in considering these issues.

As you know, the bill would remove the registration fee imposed by Rhode Island General Laws § 44-19-15.2 on “Flea markets,” as defined therein, for those entities that possess a valid retail sales permit pursuant to Rhode Island General Laws § 44-19-1.

In addition, the bill would remove the requirement for any person who possesses a valid and effective retail sales permit pursuant to Rhode Island General Laws § 44-19-1 to also obtain a flea market vendor’s permit to make sales at a flea market. The bill is currently scheduled for hearing on Wednesday, February 24, 2021.

### **Collecting and remitting**

Under current law, all persons making retail sales at a flea market must register with the Division of Taxation and pay the sales tax under Rhode Island General Laws § 44-19-15.2 (“Flea markets”). The cost of the registration is \$120 per year; registering and paying the fee authorizes the entity to make retail sales at a flea market. The registration fee is not refundable. However, the entity receives a credit of up to \$120 against sales tax liability, and as such must only file and remit sales tax for that year to the extent the liability is above \$120.

House Bill 5110 as currently drafted would change the current administration of the sales tax in such a way that those entities with retail sales permits would be allowed to sell the first \$1,714.29 (\$120 sales tax liability / 7% tax rate) of taxable tangible property at a flea market without the requirement to collect and remit sales tax on those taxable sales.

The Division of Taxation respectfully suggests that the drafters did not intend to exempt entities with retail sales permits from collecting and remitting Rhode Island sales tax on the first \$1,714.29 in taxable sales. Therefore, the Division respectfully suggests that the language be redrafted to make it clear that entities with retail sales permits would be required to collect and remit Rhode Island sales taxes on all taxable sales.

To avoid any possible misunderstanding, the Division respectfully requests that the language be amended as follows:

Existing language, § 44-19-15.2(b)(1):

“...provided, any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee required by this subsection, but that person shall not be required to pay all taxes due pursuant to this section.” *(emphasis added)*

Proposed language, § 44-19-15.2(b)(1):

“...provided, any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee required by this subsection, but that person shall ~~not~~ be required to pay all taxes due pursuant to this section.” *(strikethrough added)*

**References to ‘section’**

Additionally, with respect to references relating to the imposition of sales tax, House Bill 5110 as currently drafted employs the term “section”. The Division respectfully suggests that any such references be replaced with the term “title” so as to make it clear that the bill refers to Rhode Island sales tax under Title 44 of the Rhode Island General Laws.

To avoid any possible misunderstanding, the Division respectfully requests that the language be amended as follows, in three separate areas of the bill:

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Existing language, § 44-19-15.2(b)(1):

AREA 1

“...provided, any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee required by this subsection, but that person shall not be required to pay all taxes due pursuant to this section.” *(emphasis added)*

Proposed language, § 44-19-15.2(b)(1):

“...provided, any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee required by this subsection, but that person shall ~~not~~ be required to pay all taxes due pursuant to this ~~section~~ title.” *(strikethrough and proposed term added)*

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Existing language, § 44-19-15.2(c)(1)(iv):

AREA 2

“Any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee provided for by this subsection, but that person shall be required to pay all taxes due pursuant to this section.” *(emphasis added)*

Proposed language, § 44-19-15.2(c)(1)(iv):

“Any person who possesses a valid retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to pay the annual registration fee provided for by this subsection, but that person shall be required to pay all taxes due pursuant to this ~~section title.~~” *(strikethrough and proposed term added)*

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Existing language, § 44-19-15.2(i):

AREA 3

“Any person who possesses a retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to obtain a flea market vendor’s permit to make sales at the flea markets so long as the retail sales permit is in force and effect; provided, any person utilizing a retail sales permit in lieu of a flea market vendor’s permit shall be obligated to display the retail sales permit in the same manner as any other permit required by this section.” *(emphasis added)*

Proposed language, § 44-19-15.2(i):

“Any person who possesses a retail sales permit pursuant to the provisions of § 44-19-1 shall not be required to obtain a flea market vendor’s permit to make sales at the flea markets so long as the retail sales permit is in force and effect; provided, however, that any person utilizing a retail sales permit in lieu of a flea market vendor’s permit shall be obligated to display the retail sales permit in the same manner as any other permit required by this ~~section title.~~”  
*(strikethrough and proposed terms added)*

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Please note that if a flea market registrant is no longer required to register, and relies on a sales tax permit as authorization to participate in a flea market, the registrant will have to comply with all sales tax (and depending on what they are selling, potentially other licenses/permits, taxes/fees) filing requirements, including filing renewal applications for each location and monthly filings.

The Division takes no position with respect to the remainder of the proposed legislation. Rather, the Division is concerned solely with the issues as outlined above. The Division respectfully suggests that the bill be redrafted for clarity.

I look forward to working with you to address the issues raised in this letter and appreciate your consideration.

Very truly yours,



Neena S. Savage  
Tax Administrator

cc: The Honorable Members of the House Committee on Finance  
The Honorable Joseph M. McNamara  
The Honorable Thomas E. Noret  
The Honorable Julie A. Casimiro  
Jim Thorsen, Director, Department of Revenue