



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

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Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

Memorandum

To: The Honorable Helio Melo
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: April 13, 2011

Subject: Amendment to Article 26 – Relating to Sales Tax Modernization

The Governor requests that Sections 3 and 5 of Article 26 – Relating to Sales Tax Modernization, originally submitted on March 9, 2011, be replaced with a new Section 3 and new Section 5 attached hereto.

The changes to Section 3 include deletions and additions to the definitions of services proposed to be subject to taxation, in addition to adding language allowing the tax administrator to promulgate rules and regulations in order to carry out the provisions of the proposed chapter. The changes to Section 5 include addition of specified digital products and services in the definitions in RIGL 44-18-10, and enumerates the new tax rates and the implementation date for the various sections of RIGL 44-18 proposed to be amended. The entire, amended sections are attached to this letter.

If you have any questions or need any additional information concerning either of these articles, please feel free to contact me at 222-6300.

TAM:sma 11-47

Attachment

cc: Representative Robert A. Watson
Senator Dennis L. Algiere
Sharon Reynolds Ferland
Peter Marino
Christine Hunsinger
Elizabeth Leach

TDD#: 277-1227

Article 26

Amendments

SECTION 3. Chapter 44-18 of the General Laws entitled "Sales and Use Taxes – Liability and Computation" is hereby amended by adding thereto the following section:

§ 44-18-7.3 Services defined. – (a) "Services" means all activities engaged in for other persons for a fee, retainer, commission, or other monetary charge, which activities involve the performance of a service in this state as distinguished from selling property. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. For the purposes of this section, services rendered by an employee for his employer are not taxable.

(b) The following businesses and services performed in this state along with the applicable 2007 North American Industrial Classification System (NAICS) codes are included in the definition of services:

~~(1) Software publishers (511210) (delivered electronically).~~

~~(1) (2) Taxicab and limousine services including but not limited to:~~

~~(a) taxicab services including taxi dispatchers (485310); and~~

~~(b) limousine services (485320).~~

~~(2) (3) Other road transportation service including but not limited to:~~

~~(a) charter bus service (485510); and~~

~~(b) all other transit and ground passenger transportation (485999).~~

~~(3) (4) Moving, storage and freight services, including but not limited to:~~

~~(a) general freight services - local (484110);~~

~~(b) household and office goods moving services (484210);~~

~~(c) general warehousing and storage (493110);~~

~~(d) refrigerated warehousing and storage (493120);~~

~~(e) farm product warehousing and storage (493130);~~

~~(f) other warehousing and storage (493190); and~~

~~(g) mini-warehouses and self-storage units (531130).~~

(4) ~~(5)~~ Motion picture theaters (512131) and drive-in motion picture theaters (512132).

(5) ~~(6)~~ Photo studios and commercial photography including but not limited to:

(a) photo studios (541921); and

(b) commercial photography (541922).

(6) ~~(7)~~ Facilities support services (561210).

(7) ~~(8)~~ Employment services including but not limited to:

(a) employment placement agencies (561311);

(b) executive placement agencies (561312);

(c) temporary help services (561320); and

(d) professional employer organizations (561330).

(8) ~~(9)~~ Business support services including but not limited to:

(a) document preparation services (561410); and

(b) telephone call centers (561422);

(c) private mail centers (561431);

(d) other business service centers (including copy shops) (561439);

(e) collection agencies (561440);

(f) credit bureaus (561450);

(g) repossession services (561491);

(h) court reporting and stenotype services (561492); and

(i) all other business support services (561499).

(9) ~~(10)~~ Package tours and tour operators including but not limited to:

(a) package tours including travel agencies (561510); and

(b) tour operators (561520).

(10) ~~(11)~~ Investigation and security services including but not limited to:

(a) investigation (561611);

(b) security guard and patrol services (561612);

- (c) armored car services (561613);
- (d) security systems services (561621); and
- (e) locksmiths (561622).

(11) ~~(12)~~ Services to buildings and dwellings (excluding heavy and civil engineering construction (Major Sector 237) and residential maintenance and repair (Major Sector 238) including but not limited

to:

- (a) exterminating and pest control services (561710);
- (b) janitorial services (561720) (excluding residential);
- (c) landscaping services (561730);
- (d) carpet and upholstery cleaning services (561740); and
- (e) other services to buildings and dwellings (561790).

(12) ~~(13)~~ Other support services including but not limited to:

- (a) packaging and labeling services (561910); and
- (b) convention and trade show organizers (561920); and
- (c) all other support services (561990).

(13) ~~(14)~~ Waste management and remediation services including but not limited to:

- (a) solid waste collection, garbage and trash collection (562111);
- (b) hazard waste collection (562112);
- (c) other waste collection (562119);
- (d) hazardous waste treatment and disposal (562211);
- (e) solid waste landfill (562212);
- (f) solid waste combustors and incinerators (562213)
- (g) other nonhazardous waste treatment and disposal (562219);
- (h) remediation services (562910);
- (i) materials recovery facilities(562920);
- (j) septic tank and related services (562991); and

(k) all other miscellaneous waste management services (562998).

~~(15) Membership clubs and participant sports centers including but not limited to:~~

~~(a) membership clubs (813410);~~

~~(b) participant sports centers, including flight training schools (611512); and~~

~~(c) skiing facilities (713920).~~

~~(14) (16) Fitness and recreational sports centers (713940).~~

~~(15) (17) Amusement parks, campgrounds and related recreational services including but not limited~~

to:

(a) amusement parks (713110);

(b) arcades (713120);

(c) campgrounds (721211);

(d) providers of instruction or classes in dance, music, art and similar activities, except when provided by an accredited institution of higher education;

(e) sports and recreation instruction (611620);

(f) promoters or providers of performing arts, sports, and similar events (711310) and (711320);

~~(g) botanical or zoological gardens (712130);~~

~~(h) nature parks and reserves (712190); and~~

(g) ~~(i)~~ coin-operated amusement machines (713120).

~~(16) (18) Other amusement and recreational industries including but not limited to:~~

(a) golf courses and country clubs (713910);

(b) skiing facilities (713920);

(c) bowling centers (713950); and

(d) all other amusement and recreation industries (713990).

~~(17) (19) Automotive Repair and Maintenance including but not limited to:~~

(a) general automotive repair (811111);

(b) automotive exhaust system repair (811112);

- (c) automotive transmission repair (81113);
- (d) other automotive mechanical and electrical repair and maintenance (81118);
- (e) automotive body, paint, and interior repair and maintenance (81121);
- (f) automotive glass replacement shops (81122);
- (g) automotive oil change and lubrication shops (81191); and
- (h) all other automotive repair and maintenance (81198);;
- (i) repair and maintenance services provided by new car dealers; and
- (j) repair and maintenance services provided by other gasoline stations.

(18) ~~(20)~~ Electronic and precision equipment repair and maintenance including but not limited to:

- (a) consumer electronics repair and maintenance (81121);
- (b) computer and office machine repair and maintenance (81122);
- (c) communication equipment repair and maintenance (81123); and
- (d) other electronic and precision equipment repair and maintenance (81129);;
- (e) repair and maintenance services provided by radio, television, and other electronic stores (44312);
- (f) repair and maintenance services provided by computer and software stores (44320); and
- (g) repair and maintenance services provided by camera and photographic supplies stores (44330).

(19) ~~(21)~~ Commercial and industrial machinery and equipment repair and maintenance (811310).

(20) ~~(22)~~ Personal, furniture, and household goods repair and maintenance including but not limited

to:

- (a) home and garden equipment repair and maintenance (81141);
- (b) appliance repair and maintenance (81142);
- (c) reupholstery and furniture repair (811420);
- (d) footwear and leather goods repair (811430); and
- (e) other personal and household goods repair and maintenance (811490);;

- (f) repair and maintenance services provided by recreational vehicle dealers (441210);
- (g) repair and maintenance services provided by motorcycle, ATV, and personal watercraft dealers (441221);
- (h) repair and maintenance services provided by all other motor vehicles vehicles dealers (441229);
- (i) repair and maintenance services provided by household appliance stores (443111);
- (j) repair and maintenance services provided by outdoor power equipment stores (443210);
- (k) repair and maintenance services provided by men's clothing stores (448110);
- (l) repair and maintenance services provided by women's clothing stores (448120);
- (m) repair and maintenance services provided by children's and infant's clothing stores (448130);
- (n) repair and maintenance services provided by family clothing stores (448140);
- (o) repair and maintenance services provided by other clothing stores (448190); and
- (p) repair and maintenance services provided by formal wear and costume rental (532220).

(21) ~~(23)~~ Personal care services including but not limited to:

- (a) barber shops (812111);
- (b) beauty salons (812112);
- (c) nail salons (812113);
- (d) diet and weight reducing centers (812191); and
- (e) other personal care services (812199) including but not limited to tattoo parlors and body piercing establishments.

(22) ~~(24)~~ Laundry and dry cleaning services, including but not limited to:

- (a) Coin-operated laundry and dry cleaning (812310);
- (b) dry cleaning and laundry services (812320);
- (c) linen supply garments, flatwork, and linens rental (812331); and
- (d) industrial launderers (812332).

(23) ~~(25)~~ Other personal services including but not limited to:

- (a) pet care (812910) (except veterinary);
- (b) photofinishing laboratories (812921);
- (c) one-hour photofinishing (812922);
- (d) parking lots and garages (812930); and
- (e) all other personal services (812990).

(24) ~~(26)~~ Scenic and sightseeing transportation and support activities for transportation including but not limited to:

- (a) scenic and sightseeing transportation (Major Sector 487); and
- (b) support activities for transportation (Major Sector 488).

(25) ~~(27)~~ Couriers and messengers (Major Sector 492) including but not limited to:

- (a) couriers and express delivery services (492110); and
- (b) local messengers and local delivery (492210).

(26) ~~(28)~~ Data processing, hosting and related services (518210).

(27) ~~(29)~~ Performing arts companies and live entertainment services including but not limited to:

- (a) theater companies and dinner theaters (711110);
- (b) dance companies (711120);
- (c) musical groups and artists (711130);
- (d) cover charges at drinking establishments (722410) or other music/entertainment establishments; and
- (e) other performing arts companies (711190).

(28) ~~(30)~~ Spectator sports (except spectator sports involving primary and secondary educational institutions and youth organizations) including but not limited to:

- (a) sport teams and clubs (711211);
- (b) racetracks (711212); and
- (c) other spectator sports (711219);
- (d) admission to spectator sports offered by junior colleges (611210); and

(e) admission to spectator sports offered by colleges, universities and professional schools (611310).

(29) ~~(31)~~ Cultural facilities and similar institutions including but not limited to:

(a) museums (712110);

(b) libraries (519120);

(c) historical sites (712120);

(d) zoos and botanical gardens (712130); and

(e) nature parks and other similar institutions (712190).

(30) ~~(32)~~ Car washes (811192).

(31) ~~(33)~~ Civic, social, professional, and similar organizations:

(a) civic and social organizations (813410);

(b) business associations (813910);

(c) professional organizations (813920); and .

~~(d) other similar organizations (813990).~~

(c) The tax administrator is authorized to promulgate rules and regulations to carry out the provisions, policies, and purposes of this chapter including, but not limited to emergency rules and regulations pursuant to § 42-35-3(b).

SECTION 5. Sections 44-18-8, 44-18-10, 44-18-12, 44-18-15, 44-18-18, 44-18-18.1, 44-18-20, 44-18-21, 44-18-22, 44-18-23, 44-18-25, 44-18-30, 44-18-36.1, 44-18-40.1, of the General Laws in Chapter 44-18 entitled "Sales and Use Taxes – Liability and Computation" are hereby amended to read as follows:

§ 44-18-8 Retail sale or sale at retail defined. – A "retail sale" or "sale at retail" means any sale, lease or rentals of tangible personal property, specified digital products, and/or services as defined in § 44-18-7.3 for any purpose other than resale, sublease or subrent in the regular course of business. The sale of tangible personal property to be used for purposes of rental in the regular course of business is considered to be a sale for resale. In regard to telecommunications service as defined in § 44-18-7(9),

retail sale does not include the purchase of telecommunications service by a telecommunications provider from another telecommunication provider for resale to the ultimate consumer; provided, that the purchaser submits to the seller a certificate attesting to the applicability of this exclusion, upon receipt of which the seller is relieved of any tax liability for the sale.

§ 44-18-10 "Use" defined. – "Use" includes the exercise of any right or power over (i) tangible personal property incident to the ownership of that property, except that it does not include the sale of that property in the regular course of business-, (ii) specified digital products, and (iii) services as defined in § 44-18-7.3.

§ 44-18-12 "Sale price" defined. – (a) "Sales price" applies to the measure subject to sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented, valued in money, whether received in money or otherwise, without any deduction for the following:

- (i) The seller's cost of the property sold;
- (ii) The cost of materials used, labor or service cost, interest, losses, all costs of transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;
- (iii) Charges by the seller for any services necessary to complete the sale, other than delivery and installation charges;
- (iv) Delivery charges, as defined in § 44-18-7.1(i); ~~or~~
- (v) Credit for any trade-in, as determined by state law; or
- (vi) The amount charged for labor or services rendered in installing or applying the property sold.

(b) "Sales price" shall not include:

(i) Discounts, including cash, term, or coupons that are not reimbursed by a third party that are allowed by a seller and taken by a purchaser on a sale;

~~(ii) The amount charged for labor or services rendered in installing or applying the property sold when the charge is separately stated by the retailer to the purchaser; provided that in~~

~~transactions subject to the provisions of this chapter the retailer shall separately state such charge when requested by the purchaser and, further, the failure to separately state such charge when requested may be restrained in the same manner as other unlawful acts or practices prescribed in chapter 13.1 of title 6.~~

(~~iii~~) (ii) Interest, financing, and carrying charges from credit extended on the sale of personal property or services, if the amount is separately stated on the invoice, bill of sale or similar document given to the purchaser; and

(~~iv~~) (iii) Any taxes legally imposed directly on the consumer that are separately stated on the invoice, bill of sale or similar document given to the purchaser.

(~~v~~) (iv) Manufacturer rebates allowed on the sale of motor vehicles.

(c) "Sales price" shall include consideration received by the seller from third parties if:

(i) The seller actually receives consideration from a party other than the purchaser and the consideration is directly related to a price reduction or discount on the sale;

(ii) The seller has an obligation to pass the price reduction or discount through to the purchaser;

(iii) The amount of the consideration attributable to the sale is fixed and determinable by the seller at the time of the sale of the item to the purchaser; and

(iv) One of the following criteria is met:

(A) The purchaser presents a coupon, certificate or other documentation to the seller to claim a price reduction or discount where the coupon, certificate or documentation is authorized, distributed or granted by a third party with the understanding that the third party will reimburse any seller to whom the coupon, certificate or documentation is presented;

(B) The purchaser identifies himself or herself to the seller as a member of a group or organization entitled to a price reduction or discount (a "preferred customer" card that is available to any patron does not constitute membership in such a group), or

(C) The price reduction or discount is identified as a third party price reduction or discount on the invoice received by the purchaser or on a coupon, certificate or other documentation presented by the purchaser.

§ 44-18-15 "Retailer" defined. -- (a) "Retailer" includes:

(1) Every person engaged in the business of making sales at retail, specified digital products, and/or providing services as defined in § 44-18-7.3, including sales at auction of tangible personal property owned by the person or others.

(2) Every person making sales of tangible personal property, specified digital products, and/or providing services as defined in § 44-18-7.3, through an independent contractor or other representative, if the retailer enters into an agreement with a resident of this state, under which the resident, for a commission or other consideration, directly or indirectly refers potential customers, whether by a link on an Internet website or otherwise, to the retailer, provided the cumulative gross receipts from sales by the retailer to customers in the state who are referred to the retailer by all residents with this type of an agreement with the retailer, is in excess of five thousand dollars (\$5,000) during the preceding four (4) quarterly periods ending on the last day of March, June, September and December. Such retailer shall be presumed to be soliciting business through such independent contractor or other representative, which presumption may be rebutted by proof that the resident with whom the retailer has an agreement did not engage in any solicitation in the state on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution during such four (4) quarterly periods.

(3) Every person engaged in the business of making sales for storage, use, or other consumption, or the business of making sales at auction of tangible personal property, specified digital products and/or providing services as defined in § 44-18-7.3 owned by the person or others for storage, use, or other consumption.

(4) A person conducting a horse race meeting with respect to horses, which are claimed during the meeting.

(5) Every person engaged in the business of renting any living quarters in any hotel, rooming house, or tourist camp.

(6) Every person maintaining a business within or outside of this state who engages in the regular or systematic solicitation of sales of tangible personal property, specified digital products and/or services as defined in § 44-18-7.3, in this state by means of:

(i) Advertising in newspapers, magazines, and other periodicals published in this state, sold over the counter in this state or sold by subscription to residents of this state, billboards located in this state, airborne advertising messages produced or transported in the airspace above this state, display cards and posters on common carriers or any other means of public conveyance incorporated or operated primarily in this state, brochures, catalogs, circulars, coupons, pamphlets, samples, and similar advertising material mailed to, or distributed within this state to residents of this state;

(ii) Telephone;

(iii) Computer assisted shopping networks; and

(iv) Television, radio or any other electronic media, which is intended to be broadcast to consumers located in this state.

(b) When the tax administrator determines that it is necessary for the proper administration of chapters 18 and 19 of this title to regard any salespersons, representatives, truckers, peddlers, or canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of the dealers, distributors, supervisors, or employers, the tax administrator may so regard them and may regard the dealers, distributors, supervisors, or employers as retailers for purposes of chapters 18 and 19 of this title.

§ 44-18-18 Sales tax imposed. – A tax is imposed upon sales at retail in this state including charges for rentals of living quarters in hotels, rooming houses, or tourist camps, at the rate of six percent (6%) of the gross receipts of the retailer from the sales or rental charges; provided, that the tax imposed

on charges for the rentals applies only to the first period of not exceeding thirty (30) consecutive calendar days of each rental; provided, ~~further~~ however, that:

(i) for the period commencing July 1, 1990, the tax rate is seven percent (7%); and

(ii) for the period commencing July 1, 2011, the tax rate is six percent (6.0 %) which includes services as enumerated in § 44-18-7.3; provided however the tax rate is one percent (1.0%) for items as enumerated in § 44-18-12.2. The tax is paid to the tax administrator by the retailer at the time and in the manner provided. Excluded from this tax are those living quarters in hotels, rooming houses, or tourist camps for which the occupant has a written lease for the living quarters which lease covers a rental period of twelve (12) months or more.

§ 44-18-18.1 Local meals and beverage tax. – (a) There is hereby levied and imposed, upon every purchaser of a meal and/or beverage, in addition to all other taxes and fees now imposed by law, a local meals and beverage tax upon each and every meal and/or beverage sold within the state of Rhode Island in or from an eating and/or drinking establishment, whether prepared in the eating and/or drinking establishment or not and whether consumed at the premises or not, at a rate of one percent of the gross receipts, provided, further that for the period commencing July 1, 2011, the rate is two percent (2.0 %) of gross receipts. The tax shall be paid to the tax administrator by the retailer at the time and in the manner provided.

(b) All sums received by the division of taxation for sales prior to July 1, 2011 under this section as taxes, penalties or forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid by the state treasurer to the city or town where the meals and beverages are delivered.

(c) For sales on or after July 1, 2011, one percent (1.0%) of the two percent (2.0%) of the gross receipts paid under § 44-18-18.1(a) received by the division of taxation as taxes, penalties or forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid by the state treasurer to the city or town where the meals and beverages are delivered. The remaining one percent (1.0%) of the total received by the division of taxation under § 44-18-

18.1(a) as taxes, penalties or forfeitures, interest, costs of suit and fines shall be deposited in the Municipal Accountability Stability and Transparency Fund and shall be distributed pursuant to §45-13.2.

(e) (d) When used in this section, the following words have the following meanings:

(1) "Beverage" means all nonalcoholic beverages, as well as alcoholic beverages, beer, lager beer, ale, porter, wine, similar fermented malt or vinous liquor.

(2) "Eating and/or drinking establishments" mean and include restaurants, bars, taverns, lounges, cafeterias, lunch counters, drive-ins, roadside ice cream and refreshment stands, fish and chip places, fried chicken places, pizzerias, food and drink concessions, or similar facilities in amusement parks, bowling alleys, clubs, caterers, drive-in theatres, industrial plants, race tracks, shore resorts or other locations, lunch carts, mobile canteens and other similar vehicles, and other like places of business which furnish or provide facilities for immediate consumption of food at tables, chairs or counters or from trays, plates, cups or other tableware or in parking facilities provided primarily for the use of patrons in consuming products purchased at the location. Ordinarily, eating establishments do not mean and include food stores and supermarkets. Eating establishments do not mean "vending machines," a self-contained automatic device that dispenses for sale foods, beverages, or confection products. Retailers selling prepared foods in bulk either in customer-furnished containers or in the seller's containers, for example "Soup and Sauce" establishments, are deemed to be selling prepared foods ordinarily for immediate consumption and, as such, are considered eating establishments.

(3) "Meal" means any prepared food or beverage offered or held out for sale by an eating and/or drinking establishment for the purpose of being consumed by any person to satisfy the appetite and which is ready for immediate consumption. All such food and beverage, unless otherwise specifically exempted or excluded herein shall be included, whether intended to be consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack, dinner, supper or by some other name, and without regard to the manner, time or place of service.

(d) (e) This local meals and beverage tax shall be administered and collected by the division of taxation and unless provided to the contrary in this chapter, all of the administration, collection, and other provisions of chapters 18 and 19 of this article apply.

§ 44-18-20 Use tax imposed. – (a) An excise tax is imposed on the storage, use, or other consumption in this state of tangible personal property, including a motor vehicle, a boat, an airplane, or a trailer, specified digital products, and/or services as defined in §44-18-7.3, purchased from any retailer at the rate of six percent (6%) of the sale price of the property.

(b) An excise tax is imposed on the storage, use, or other consumption in this state of a motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

(c) The word "trailer" as used in this section and in § 44-18-21 means and includes those defined in § 31-1-5(a) – (e) and also includes boat trailers, camping trailers, house trailers, and mobile homes.

(d) Notwithstanding the provisions contained in this section and in § 44-18-21 relating to the imposition of a use tax and liability for this tax on certain casual sales, no tax is payable in any casual sale:

(1) Except as otherwise provided in § 44-18-12.2, ~~When~~ the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor or seller; or

(2) Except as otherwise provided in § 44-18-12.2, ~~When~~ the transfer or sale is made in connection with the organization, reorganization, dissolution, or partial liquidation of a business entity provided:

(i) The last taxable sale, transfer, or use of the article being transferred or sold was subjected to a tax imposed by this chapter;

(ii) The transferee is the business entity referred to or is a stockholder, owner, member, or partner; and

(iii) Any gain or loss to the transferor is not recognized for income tax purposes under the provisions of the federal income tax law and treasury regulations and rulings issued thereunder;

(3) When the sale or transfer is of a trailer, other than a camping trailer, of the type ordinarily used for residential purposes and commonly known as a house trailer or as a mobile home; or

(4) When the transferee or purchaser is exempt under the provisions of § 44-18-30 or other general law of this state or special act of the general assembly of this state.

(e) The term "casual" means a sale made by a person other than a retailer; provided, that in the case of a sale of a motor vehicle, the term means a sale made by a person other than a licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed under the provisions of subsections (a) and (b) of this section on the storage, use, or other consumption in this state of a used motor vehicle less than the product obtained by multiplying the amount of the retail dollar value at the time of purchase of the motor vehicle by the applicable tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar value, the tax is based on the sale price. The tax administrator shall use as his or her guide the retail dollar value as shown in the current issue of any nationally recognized used vehicle guide for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after payment of the tax, if the tax administrator determines that the retail dollar value as stated in this subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable opportunity to be heard, re-determine the tax.

(f) Every person making more than five (5) retail sales of tangible personal property during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors or receiver or trustee in bankruptcy, is considered a retailer within the provisions of this chapter.

(g) "Casual sale" includes a sale of tangible personal property not held or used by a seller in the course of activities for which the seller is required to hold a seller's permit or permits or would be required to hold a seller's permit or permits if the activities were conducted in this state; provided, that the sale is not one of a series of sales sufficient in number, scope, and character (more than five (5) in any twelve (12) month period) to constitute an activity for which the seller is required to hold a seller's permit or would be required to hold a seller's permit if the activity were conducted in this state.

(2) Casual sales also include sales made at bazaars, fairs, picnics, or similar events by nonprofit organizations, which are organized for charitable, educational, civic, religious, social, recreational, fraternal, or literary purposes during two (2) events not to exceed a total of six (6) days duration each

calendar year. Each event requires the issuance of a permit by the division of taxation. Where sales are made at events by a vendor, which holds a sales tax permit and is not a nonprofit organization, the sales are in the regular course of business and are not exempt as casual sales.

(h) The use tax imposed under this section for the period commencing July 1, 1990 is at the rate of seven percent (7%); provided, however, that:

(i) for the period commencing July 1, 1990, the tax rate is seven percent (7%); and

(ii) for the period commencing July 1, 2011, the tax rate is six percent (6.0%) which includes services as enumerated in § 44-18-7.3; provided however the tax rate is one percent (1.0%) for items as enumerated in § 44-18-12.2.

§ 44-18-21 Liability for use tax. – (a) Every person storing, using, or consuming in this state tangible personal property, including a motor vehicle, boat, airplane, or trailer, purchased from a retailer, and a motor vehicle, boat, airplane, or trailer, purchased from other than a licensed motor vehicle dealer or other than a retailer of boats, airplanes, or trailers respectively; or storing, using or consuming specified digital products, and/or services as defined in §44-18-7.3 is liable for the use tax. The person's liability is not extinguished until the tax has been paid to this state, except that a receipt from a retailer engaging in business in this state or from a retailer who is authorized by the tax administrator to collect the tax under rules and regulations that he or she may prescribe, given to the purchaser pursuant to the provisions of § 44-18-22, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

(b) Each person before obtaining an original or transferral registration for any article or commodity in this state, which article or commodity is required to be licensed or registered in the state, shall furnish satisfactory evidence to the tax administrator that any tax due under this chapter with reference to the article or commodity has been paid, and for the purpose of effecting compliance, the tax administrator, in addition to any other powers granted to him or her, may invoke the provisions of § 31-3-4 in the case of a motor vehicle. The tax administrator, when he or she deems it to be for the convenience of the general public, may authorize any agency of the state concerned with the licensing or registering of

these articles or commodities to collect the use tax on any articles or commodities which the purchaser is required by this chapter to pay before receiving an original or transferral registration. The general assembly shall annually appropriate a sum that it deems necessary to carry out the purposes of this section. Notwithstanding the provisions of §§ 44-18-19, 44-18-22, and 44-18-24, the sales or use tax on any motor vehicle and/or recreational vehicle requiring registration by the administrator of the division of motor vehicles shall not be added by the retailer to the sale price or charge but shall be paid directly by the purchaser to the tax administrator, or his or her authorized deputy or agent as provided in this section.

(c) In cases involving total loss or destruction of a motor vehicle occurring within one hundred twenty (120) days from the date of purchase and upon which the purchaser has paid the use tax, the amount of the tax constitutes an overpayment. The amount of the overpayment may be credited against the amount of use tax on any subsequent vehicle which the owner acquires to replace the lost or destroyed vehicle or may be refunded, in whole or in part.

§ 44-18-22 Collection of use tax by retailer. – Every retailer engaging in business in this state and making sales of tangible personal property or specified digital products for storage, use, or other consumption in this state, and/or providing services as defined in § 44-18-7.3, not exempted under this chapter shall, at the time of making the sales, or if the storage, use, or other consumption of the tangible personal property, specified digital products, and/or providing services as defined in § 44-18-7.3, is not then taxable under this chapter, at the time the storage, use, or other consumption or for providing services becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt in the manner and form prescribed by the tax administrator.

§ 44-18-23 "Engaging in business" defined. – As used in §§ 44-18-21 and 44-18-22 the term "engaging in business in this state" means the selling or delivering in this state, or any activity in this state related to the selling or delivering in this state of tangible personal property or specified digital products for storage, use, or other consumption in this state, as well as providing services in this state as defined in § 44-18-7.3. This term includes, but is not limited to, the following acts or methods of transacting business:

(1) Maintaining, occupying, or using in this state permanently or temporarily, directly or indirectly or through a subsidiary, representative, or agent by whatever name called and whether or not qualified to do business in this state, any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business;

(2) Having any subsidiary, representative, agent, salesperson, canvasser, or solicitor permanently or temporarily, and whether or not the subsidiary, representative, or agent is qualified to do business in this state, operate in this state for the purpose of selling, delivering, or the taking of orders for any tangible personal property, specified digital products, and/or services as defined in § 44-18-7.3;

(3) The regular or systematic solicitation of sales of tangible personal property, specified digital products, and/or services as defined in § 44-18-7.3, in this state by means of:

(i) Advertising in newspapers, magazines, and other periodicals published in this state, sold over the counter in this state or sold by subscription to residents of this state, billboards located in this state, airborne advertising messages produced or transported in the air space above this state, display cards and posters on common carriers or any other means of public conveyance incorporated or operating primarily in this state, brochures, catalogs, circulars, coupons, pamphlets, samples, and similar advertising material mailed to, or distributed within this state to residents of this state;

(ii) Telephone;

(iii) Computer-assisted shopping networks; and

(iv) Television, radio or any other electronic media, which is intended to be broadcast to consumers located in this state.

§ 44-18-25 Presumption that sale is for storage, use, or consumption – Resale certificate. –

It is presumed that all gross receipts are subject to the sales tax, and that the use of all tangible personal property, specified digital products and/or services provided as defined in § 44-18-7.3 are ~~is~~ subject to the use tax, and that all tangible personal property, specified digital products and/or services provided as defined in § 44-18-7.3 sold or in processing or intended for delivery or delivered in this state is sold or

delivered for storage, use, or other consumption in this state, until the contrary is established to the satisfaction of the tax administrator. The burden of proving the contrary is upon the person who makes the sale and the purchaser, unless the person who makes the sale takes from the purchaser a certificate to the effect that the purchase was for resale. The certificate shall contain any information and be in the form that the tax administrator may require.

§ 44-18-30 Gross receipts exempt from sales and use taxes. – ~~There are exempted from the taxes imposed by this chapter the following gross receipts:~~

Except as provided in § 44-18-12.2, the following gross receipts are exempted from the six percent (6.0%) tax imposed by this chapter:

(1) *Sales and uses beyond constitutional power of state.* From the sale and from the storage, use, or other consumption in this state of tangible personal property the gross receipts from the sale of which, or the storage, use, or other consumption of which, this state is prohibited from taxing under the Constitution of the United States or under the constitution of this state.

~~(2) Newspapers.~~

~~(i) From the sale and from the storage, use, or other consumption in this state of any newspaper.~~

~~(ii) "Newspaper" means an unbound publication printed on newsprint, which contains news, editorial comment, opinions, features, advertising matter, and other matters of public interest.~~

~~(iii) "Newspaper" does not include a magazine, handbill, circular, flyer, sales catalog, or similar item unless the item is printed for and distributed as a part of a newspaper.~~

~~(3)~~ (2) *School meals.* From the sale and from the storage, use, or other consumption in this state of meals served by public, private, or parochial schools, school districts, colleges, universities, student organizations, and parent teacher associations to the students or teachers of a school, college, or university whether the meals are served by the educational institutions or by a food service or management entity under contract to the educational institutions.

~~(4)~~ (3) *Containers.*

(i) From the sale and from the storage, use, or other consumption in this state of:

(A) Non-returnable containers, including boxes, paper bags, and wrapping materials which are biodegradable and all bags and wrapping materials utilized in the medical and healing arts, when sold without the contents to persons who place the contents in the container and sell the contents with the container.

(B) Containers when sold with the contents if the sale price of the contents is not required to be included in the measure of the taxes imposed by this chapter.

(C) Returnable containers when sold with the contents in connection with a retail sale of the contents or when resold for refilling.

(ii) As used in this subdivision, the term "returnable containers" means containers of a kind customarily returned by the buyer of the contents for reuse. All other containers are "non-returnable containers."

~~(5)~~ (4) *Charitable, educational, and religious organizations.* From the sale to as in defined in this section, and from the storage, use, and other consumption in this state or any other state of the United States of America of tangible personal property by hospitals not operated for a profit, "educational institutions" as defined in subdivision (18) not operated for a profit, churches, orphanages, and other institutions or organizations operated exclusively for religious or charitable purposes, interest free loan associations not operated for profit, nonprofit organized sporting leagues and associations and bands for boys and girls under the age of nineteen (19) years, the following vocational student organizations that are state chapters of national vocational students organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and women, and parent teacher associations.

(ii) In the case of contracts entered into with the federal government, its agencies or instrumentalities, this state or any other state of the United States of America, its agencies, any city, town, district, or other political subdivision of the states, hospitals not operated for profit, educational institutions not operated for profit, churches, orphanages, and other institutions or organizations operated exclusively for religious or charitable purposes, the contractor may purchase such materials and supplies (materials and/or supplies are defined as those which are essential to the project) that are to be utilized in the construction of the projects being performed under the contracts without payment of the tax.

(iii) The contractor shall not charge any sales or use tax to any exempt agency, institution, or organization but shall in that instance provide his or her suppliers with certificates in the form as determined by the division of taxation showing the reason for exemption; and the contractor's records must substantiate the claim for exemption by showing the disposition of all property so purchased. If any property is then used for a nonexempt purpose, the contractor must pay the tax on the property used.

~~(6)~~(5) *Gasoline.* From the sale and from the storage, use, or other consumption in this state of: (i) gasoline and other products taxed under chapter 36 of title 31, and (ii) fuels used for the propulsion of airplanes.

~~(7)~~ (6) *Purchase for manufacturing purposes.*

(i) From the sale and from the storage, use, or other consumption in this state of computer software, tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, and water, when the property or service is purchased for the purpose of being manufactured into a finished product for resale, and becomes an ingredient, component, or integral part of the manufactured, compounded, processed, assembled, or prepared product, or if the property or service is consumed in the process of manufacturing for resale computer software, tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

(ii) "Consumed" means destroyed, used up, or worn out to the degree or extent that the property cannot be repaired, reconditioned, or rendered fit for further manufacturing use.

(iii) "Consumed" includes mere obsolescence.

(iv) "Manufacturing" means and includes manufacturing, compounding, processing, assembling, preparing, or producing.

(v) "Process of manufacturing" means and includes all production operations performed in the producing or processing room, shop, or plant, insofar as the operations are a part of and connected with the manufacturing for resale of tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water and all production operations performed insofar as the operations are a part of and connected with the manufacturing for resale of computer software.

(vi) "Process of manufacturing" does not mean or include administration operations such as general office operations, accounting, collection, sales promotion, nor does it mean or include distribution operations which occur subsequent to production operations, such as handling, storing, selling, and transporting the manufactured products, even though the administration and distribution operations are performed by or in connection with a manufacturing business.

~~(8)~~ (7) *State and political subdivisions.* From the sale to, and from the storage, use, or other consumption by, this state, any city, town, district, or other political subdivision of this state. Every redevelopment agency created pursuant to chapter 31 of title 45 is deemed to be a subdivision of the municipality where it is located.

~~(9)~~ (8) *Food and food ingredients.* From the sale and storage, use, or other consumption in this state of food and food ingredients as defined in § 44-18-7.1(1).

For the purposes of this exemption "food and food ingredients" shall not include candy, soft drinks, dietary supplements, alcoholic beverages, tobacco, food sold through vending machines or prepared food (as those terms are defined in § 44-18-7.1, unless the prepared food is:

(i) Sold by a seller whose primary NAICS classification is manufacturing in sector 311, except sub-sector 3118 (bakeries);

(ii) Sold in an unheated state by weight or volume as a single item;

(iii) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries, donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and is not sold with utensils provided by the seller, including plates, knives, forks, spoons, glasses, cups, napkins, or straws.

~~(10)~~ (9) *Medicines, drugs and durable medical equipment.* From the sale and from the storage, use, or other consumption in this state, of;

(i) "Drugs" as defined in § 44-18-7.1(h)(i), sold on prescriptions, medical oxygen, and insulin whether or not sold on prescription, ~~and over the counter drugs as defined in § 44-18-7.1(h)(ii).~~ For purposes of this exemption, ~~over the counter~~ drugs shall not include over the counter drugs, and grooming and hygiene products as defined in § 44-18-7.1(h)(iii).

(ii) Durable medical equipment as defined in section 44-18-7.1(k) for home use only, including, but not limited to, syringe infusers, ambulatory drug delivery pumps, hospital beds, convalescent chairs, and chair lifts. Supplies used in connection with syringe infusers and ambulatory drug delivery pumps which are sold on prescription to individuals to be used by them to dispense or administer prescription drugs, and related ancillary dressings and supplies used to dispense or administer prescription drugs shall also be exempt from tax.

~~(11)~~ (10) *Prosthetic devices and mobility enhancing equipment.* From the sale and from the storage, use, or other consumption in this state, of prosthetic devices as defined in § 44-18-7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, ~~spectacles and eyeglasses,~~ and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on prescription and mobility enhancing equipment as defined in § 44-18-7.1(p) including wheelchairs, crutches and canes.

~~(12)~~ (11) *Coffins, caskets, and burial garments.* From the sale and from the storage, use, or other consumption in this state of coffins or caskets, and shrouds or other burial garments which are ordinarily sold by a funeral director as part of the business of funeral directing.

~~(13)~~ (12) *Motor vehicles sold to nonresidents.*

(i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide nonresident of this state who does not register the motor vehicle in this state, whether the sale or delivery of the motor vehicle is made in this state or at the place of residence of the nonresident. A motor vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption to its nonresidents is not exempt from the tax imposed under § 44-18-20. In that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the rate that would be imposed in his or her state of residence not to exceed the rate that would have been imposed under § 44-18-20. Notwithstanding any other provisions of law, a licensed motor vehicle dealer shall add and collect the tax required under this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and 19 of this title. When a Rhode Island licensed motor vehicle dealer is required to add and collect the sales and use tax on the sale of a motor vehicle to a bona fide nonresident as provided in this section, the dealer in computing the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of motor vehicles.

(ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may require any licensed motor vehicle dealer to keep records of sales to bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of state motor vehicle registration or a valid out of state driver's license.

(iii) Any nonresident who registers a motor vehicle in this state within ninety (90) days of the date of its sale to him or her is deemed to have purchased the motor vehicle for use, storage, or other consumption in this state, and is subject to, and liable for the use tax imposed under the provisions of § 44-18-20.

~~(14)~~ (13) *Sales in public buildings by blind people.* From the sale and from the storage, use, or other consumption in all public buildings in this state of all products or wares by any person licensed under § 40-9-11.1.

~~(15)~~ (14) *Air and water pollution control facilities.* From the sale, storage, use, or other consumption in this state of tangible personal property or supplies acquired for incorporation into or used and consumed in the operation of a facility, the primary purpose of which is to aid in the control of the pollution or contamination of the waters or air of the state, as defined in chapter 12 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for that purpose by the director of environmental management. The director of environmental management may certify to a portion of the tangible personal property or supplies acquired for incorporation into those facilities or used and consumed in the operation of those facilities to the extent that that portion has as its primary purpose the control of the pollution or contamination of the waters or air of this state. As used in this subdivision, "facility" means any land, facility, device, building, machinery, or equipment.

~~(16)~~ (15) *Camps.* From the rental charged for living quarters, or sleeping or housekeeping accommodations at camps or retreat houses operated by religious, charitable, educational, or other organizations and associations mentioned in subdivision (5), or by privately owned and operated summer camps for children.

~~(17)~~ (16) *Certain institutions.* From the rental charged for living or sleeping quarters in an institution licensed by the state for the hospitalization, custodial, or nursing care of human beings.

~~(18)~~ (17) *Educational institutions.* From the rental charged by any educational institution for living quarters, or sleeping or housekeeping accommodations or other rooms or accommodations to any student or teacher necessitated by attendance at an educational institution. "Educational institution" as used in this section means an institution of learning not operated for profit which is empowered to confer diplomas, educational, literary, or academic degrees, which has a regular faculty, curriculum, and organized body of pupils or students in attendance throughout the usual school year, which keeps and furnishes to students

and others records required and accepted for entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which inures to the benefit of any individual.

~~(19)~~ (18) *Motor vehicle and adaptive equipment for persons with disabilities.*

(i) From the sale of: (A) special adaptations, (B) the component parts of the special adaptations, or (C) a specially adapted motor vehicle; provided, that the owner furnishes to the tax administrator an affidavit of a licensed physician to the effect that the specially adapted motor vehicle is necessary to transport a family member with a disability or where the vehicle has been specially adapted to meet the specific needs of the person with a disability. This exemption applies to not more than one motor vehicle owned and registered for personal, noncommercial use.

(ii) For the purpose of this subsection the term "special adaptations" includes, but is not limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand controls; steering devices; extensions, relocations, and crossovers of operator controls; power-assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling devices to auditory signals.

(iii) From the sale of: (a) special adaptations, (b) the component parts of the special adaptations, for a "wheelchair accessible taxicab" as defined in § 39-14-1 and/or a "wheelchair accessible public motor vehicle" as defined in § 39-14.1-1.

(iv) For the purpose of this subdivision the exemption for a "specially adapted motor vehicle" means a use tax credit not to exceed the amount of use tax that would otherwise be due on the motor vehicle, exclusive of any adaptations. The use tax credit is equal to the cost of the special adaptations, including installation.

~~(20)~~ (19) *Heating fuels.* From the sale and from the storage, use, or other consumption in this state of every type of fuel used in the heating of homes and residential premises.

~~(21)~~ (20) *Electricity and gas.* From the sale and from the storage, use, or other consumption in this state of electricity and gas furnished for domestic use by occupants of residential premises.

~~(22)~~ (21) *Manufacturing machinery and equipment.*

(i) From the sale and from the storage, use, or other consumption in this state of tools, dies, and molds, and machinery and equipment (including replacement parts), and related items to the extent used in an industrial plant in connection with the actual manufacture, conversion, or processing of tangible personal property, or to the extent used in connection with the actual manufacture, conversion or processing of computer software as that term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the technical committee on industrial classification, office of statistical standards, executive office of the president, United States bureau of the budget, as revised from time to time, to be sold, or that machinery and equipment used in the furnishing of power to an industrial manufacturing plant. For the purposes of this subdivision, "industrial plant" means a factory at a fixed location primarily engaged in the manufacture, conversion, or processing of tangible personal property to be sold in the regular course of business;

(ii) Machinery and equipment and related items are not deemed to be used in connection with the actual manufacture, conversion, or processing of tangible personal property, or in connection with the actual manufacture, conversion or processing of computer software as that term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the technical committee on industrial classification, office of statistical standards, executive office of the president, United States bureau of the budget, as revised from time to time, to be sold to the extent the property is used in administration or distribution operations;

(iii) Machinery and equipment and related items used in connection with the actual manufacture, conversion, or processing of any computer software or any tangible personal property which is not to be sold and which would be exempt under subdivision (7) or this subdivision if purchased from a vendor or machinery and equipment and related items used during any manufacturing, converting or processing function is exempt under this subdivision

even if that operation, function, or purpose is not an integral or essential part of a continuous production flow or manufacturing process;

(iv) Where a portion of a group of portable or mobile machinery is used in connection with the actual manufacture, conversion, or processing of computer software or tangible personal property to be sold, as previously defined, that portion, if otherwise qualifying, is exempt under this subdivision even though the machinery in that group is used interchangeably and not otherwise identifiable as to use.

~~(23)~~ (22) *Trade-in value of motor vehicles.* From the sale and from the storage, use, or other consumption in this state of so much of the purchase price paid for a new or used automobile as is allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller ~~or of the proceeds applicable only to the motor vehicle as are received from an insurance claim as a result of a stolen or damaged motor vehicle,~~ or of the proceeds applicable only to the automobile as are received from the manufacturer of automobiles for the repurchase of the automobile whether the repurchase was voluntary or not towards the purchase of a new or used automobile by the buyer; ~~provided, that the proceeds from an insurance claim or repurchase is in lieu of the benefit prescribed in § 44-18-21 for the total loss or destruction of the automobile; and provided, further, that the tax has not been reimbursed as part of the insurance claim or repurchase.~~ For the purpose of this subdivision, the word "automobile" means a private passenger automobile not used for hire and does not refer to any other type of motor vehicle.

~~(24)~~ (23) *Precious metal bullion.* (i) From the sale and from the storage, use, or other consumption in this state of precious metal bullion, substantially equivalent to a transaction in securities or commodities.

(ii) For purposes of this subdivision, "precious metal bullion" means any elementary precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum, rhodium, and chromium, and which is in a state or condition that its value depends upon its content and not upon its form.

(iii) The term does not include fabricated precious metal which has been processed or manufactured for some one or more specific and customary industrial, professional, or artistic uses.

~~(25)~~ (24) *Commercial vessels.* From sales made to a commercial ship, barge, or other vessel of fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and from the repair, alteration, or conversion of the vessels, and from the sale of property purchased for the use of the vessels including provisions, supplies, and material for the maintenance and/or repair of the vessels.

~~(26)~~ (25) *Commercial fishing vessels.* From the sale and from the storage, use, or other consumption in this state of vessels and other water craft which are in excess of five (5) net tons and which are used exclusively for "commercial fishing", as defined in this subdivision, and from the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of property purchased for the use of those vessels and other watercraft including provisions, supplies, and material for the maintenance and/or repair of the vessels and other watercraft and the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat license issued by the department of environmental management pursuant to § 20-2-27.1 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii) U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be able to demonstrate that at least fifty percent (50%) of its annual gross income derives from charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v) the vessel must have a valid Rhode Island party and

charter boat license. The tax administrator shall implement the provisions of this subdivision by promulgating rules and regulations relating thereto.

~~(27)~~ (26) *Clothing and footwear.* From the sales of articles of clothing, including footwear, intended to be worn or carried on or about the human body. For the purposes of this section, "clothing or footwear" does not include clothing accessories or equipment or special clothing or footwear primarily designed for athletic activity or protective use as these terms are defined in § 44-18-7.1(f).

~~(28)~~ (27) *Water for residential use.* From the sale and from the storage, use, or other consumption in this state of water furnished for domestic use by occupants of residential premises.

~~(29)~~ (28) *Bibles.* [Unconstitutional; see *Ahlburn v. Clark*, 728 A.2d 449 (R.I. 1999); see Notes to Decisions.] From the sale and from the storage, use, or other consumption in the state of any canonized scriptures of any tax-exempt nonprofit religious organization including, but not limited to, the Old Testament and the New Testament versions.

~~(30)~~ (29) *Boats.*

(i) From the sale of a boat or vessel to a bona fide nonresident of this state who does not register the boat or vessel in this state, or document the boat or vessel with the United States government at a home port within the state, whether the sale or delivery of the boat or vessel is made in this state or elsewhere; provided, that the nonresident transports the boat within thirty (30) days after delivery by the seller outside the state for use thereafter solely outside the state.

(ii) The tax administrator, in addition to the provisions of §§ 44-19-17 and 44-19-28, may require the seller of the boat or vessel to keep records of the sales to bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption provided in this subdivision, including the affidavit of the seller that the buyer represented himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a nonresident of this state.

~~(31)~~ (30) *Youth activities equipment.* From the sale, storage, use, or other consumption in this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island eleemosynary organizations, for the purposes of youth activities which the organization is formed to sponsor and

support; and by accredited elementary and secondary schools for the purposes of the schools or of organized activities of the enrolled students.

~~(32)~~ (31) *Farm equipment.* From the sale and from the storage or use of 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. "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 subdivision 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.

~~(33)~~ (32) *Compressed air*. From the sale and from the storage, use, or other consumption in the state of compressed air.

~~(34)~~ (33) *Flags*. From the sale and from the storage, consumption, or other use in this state of United States, Rhode Island or POW-MIA flags.

~~(35)~~ (34) *Motor vehicle and adaptive equipment to certain veterans*. From the sale of a motor vehicle and adaptive equipment to and for the use of a veteran with a service-connected loss of or the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee, whether service connected or not. The motor vehicle must be purchased by and especially equipped for use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is granted under rules or regulations that the tax administrator may prescribe.

~~(36)~~ (35) *Textbooks*. From the sale and from the storage, use, or other consumption in this state of textbooks by an "educational institution" as defined in subdivision (18) of this section and as well as any educational institution within the purview of § 16-63-9(4) and used textbooks by any purveyor.

~~(37)~~ (36) *Tangible personal property and supplies used in on-site hazardous waste recycling, reuse, or treatment*. From the sale, storage, use, or other consumption in this state of tangible personal property or supplies used or consumed in the operation of equipment, the exclusive function of which is the recycling, reuse, or recovery of materials (other than precious metals, as defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as defined in § 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely by the same taxpayer and where the personal property is located at, in, or adjacent to a generating facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of the department of environmental management certifying that the equipment and/or supplies as used, or consumed, qualify for the exemption under this subdivision. If

any information relating to secret processes or methods of manufacture, production, or treatment is disclosed to the department of environmental management only to procure an order, and is a "trade secret" as defined in § 28-21-10(b), it is not open to public inspection or publicly disclosed unless disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

~~(38)~~ (37) *Promotional and product literature of boat manufacturers.* From the sale and from the storage, use, or other consumption of promotional and product literature of boat manufacturers shipped to points outside of Rhode Island which either: (i) accompany the product which is sold, (ii) are shipped in bulk to out of state dealers for use in the sale of the product, or (iii) are mailed to customers at no charge.

~~(39)~~ (38) *Food items paid for by food stamps.* From the sale and from the storage, use, or other consumption in this state of eligible food items payment for which is properly made to the retailer in the form of U.S. government food stamps issued in accordance with the Food Stamp Act of 1977, 7 U.S.C. § 2011 et seq.

~~(40)~~ (39) *Transportation charges.* From the sale or hiring of motor carriers as defined in § 39-12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight tariff filed with the Rhode Island public utilities commission on the number of miles driven or by the number of hours spent on the job.

~~(41)~~ (40) *Trade-in value of boats.* From the sale and from the storage, use, or other consumption in this state of so much of the purchase price paid for a new or used boat as is allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen or damaged boat, towards the purchase of a new or used boat by the buyer.

~~(42)~~ (41) *Equipment used for research and development.* From the sale and from the storage, use, or other consumption of equipment to the extent used for research and development purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a business for which the use of research and development equipment is an integral part of its operation, and "equipment" means scientific equipment, computers, software, and related items.

~~(43)~~ (42) *Coins.* From the sale and from the other consumption in this state of coins having numismatic or investment value.

~~(44)~~ (43) *Farm structure construction materials.* 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.

~~(45)~~ (44) *Telecommunications carrier access service.* Carrier access service or telecommunications service when purchased by a telecommunications company from another telecommunications company to facilitate the provision of telecommunications service.

~~(46)~~ (45) *Boats or vessels brought into the state exclusively for winter storage, maintenance, repair or sale.* Notwithstanding the provisions of §§ 44-18-10, 44-18-11, 44-18-20, the tax imposed by § 44-18-20 is not applicable for the period commencing on the first day of October in any year to and including the 30th day of April next succeeding with respect to the use of any boat or vessel within this state exclusively for purposes of: (i) delivery of the vessel to a facility in this state for storage, including dry storage and storage in water by means of apparatus preventing ice damage to the hull, maintenance, or repair; (ii) the actual process of storage, maintenance, or repair of the boat or vessel; or (iii) storage for the purpose of selling the boat or vessel.

~~(47)~~ (46) *Jewelry display product.* From the sale and from the storage, use, or other consumption in this state of tangible personal property used to display any jewelry product; provided, that title to the jewelry display product is transferred by the jewelry manufacturer or seller and that the jewelry display product is shipped out of state for use solely outside the state and is not returned to the jewelry manufacturer or seller.

~~(48)~~ (47) *Boats or vessels generally.* Notwithstanding the provisions of this chapter, the tax imposed by §§ 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the storage, use, or

other consumption in this state of any new or used boat. The exemption provided for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the federal ten percent (10%) surcharge on luxury boats is repealed.

~~(49)~~ (48) *Banks and Regulated investment companies interstate toll-free calls.* Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to the furnishing of interstate and international, toll-free terminating telecommunication service that is used directly and exclusively by or for the benefit of an eligible company as defined in this subdivision; provided, that an eligible company employs on average during the calendar year no less than five hundred (500) "full-time equivalent employees", as that term is defined in § 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. § 1 et seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or a state chartered bank.

~~(50)~~ (49) *Mobile and manufactured homes generally.* From the sale and from the storage, use, or other consumption in this state of mobile and/or manufactured homes as defined and subject to taxation pursuant to the provisions of chapter 44 of title 31.

~~(51)~~ (50) *Manufacturing business reconstruction materials.*

(i) From the sale and from the storage, use or other consumption in this state of lumber, hardware, and other building materials used in the reconstruction of a manufacturing business facility which suffers a disaster, as defined in this subdivision, in this state. "Disaster" means any occurrence, natural or otherwise, which results in the destruction of sixty percent (60%) or more of an operating manufacturing business facility within this state. "Disaster" does not include any damage resulting from the willful act of the owner of the manufacturing business facility.

(ii) Manufacturing business facility includes, but is not limited to, the structures housing the production and administrative facilities.

(iii) In the event a manufacturer has more than one manufacturing site in this state, the sixty percent (60%) provision applies to the damages suffered at that one site.

(iv) To the extent that the costs of the reconstruction materials are reimbursed by insurance, this exemption does not apply.

~~(52) (51) Tangible personal property and supplies used in the processing or preparation of floral products and floral arrangements. From the sale, storage, use or other consumption in this state of tangible personal property or supplies purchased by florists, garden centers, or other like producers or vendors of flowers, plants, floral products, and natural and artificial floral arrangements which are ultimately sold with flowers, plants, floral products, and natural and artificial floral arrangements or are otherwise used in the decoration, fabrication, creation, processing, or preparation of flowers, plants, floral products, or natural and artificial floral arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower food, insecticide and fertilizers.~~

~~(53) (51) Horse food products. From the sale and from the storage, use, or other consumption in this state of horse food products purchased by a person engaged in the business of the boarding of horses.~~

~~(54) (52) Non-motorized recreational vehicles sold to nonresidents.~~

(i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to a bona fide nonresident of this state who does not register the non-motorized recreational vehicle in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this state or at the place of residence of the nonresident; provided, that a non-motorized recreational vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption to its nonresidents is not exempt from the tax imposed under § 44-18-20; provided, further, that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal to the rate that would be imposed in his or her state of residence not to exceed the rate that would have been imposed under § 44-18-20. Notwithstanding any other provisions of law, a licensed non-motorized recreational vehicle dealer shall add and collect the tax required under this subdivision

and remit the tax to the tax administrator under the provisions of chapters 18 and 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle dealer is required to add and collect the sales and use tax on the sale of a non-motorized recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of motor vehicles.

(ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption provided in this subdivision, including the affidavit of a licensed non-motorized recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle registration or a valid out-of-state driver's license.

(iii) Any nonresident who registers a non-motorized recreational vehicle in this state within ninety (90) days of the date of its sale to him or her is deemed to have purchased the non-motorized recreational vehicle for use, storage, or other consumption in this state, and is subject to, and liable for the use tax imposed under the provisions of § 44-18-20.

(iv) "Non-motorized recreational vehicle" means any portable dwelling designed and constructed to be used as a temporary dwelling for travel, camping, recreational, and vacation use which is eligible to be registered for highway use, including, but not limited to, "pick-up coaches" or "pick-up campers," "travel trailers," and "tent trailers" as those terms are defined in chapter 1 of title 31.

~~(55)~~ (53) *Sprinkler and fire alarm systems in existing buildings.* From the sale in this state of sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the sale of the materials necessary and attendant to the installation of those systems, that are required in buildings and occupancies existing therein in July 2003, in order to comply with any additional requirements for such buildings arising directly from the enactment of the Comprehensive Fire Safety Act of 2003, and that are

not required by any other provision of law or ordinance or regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire on December 31, 2008.

~~(56)~~ (54) *Aircraft*. Notwithstanding the provisions of this chapter, the tax imposed by §§ 44-18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or other consumption in this state of any new or used aircraft or aircraft parts.

~~(57)~~ (55) *Renewable energy products*. Notwithstanding any other provisions of Rhode Island general laws the following products shall also be exempt from sales tax: solar photovoltaic modules or panels, or any module or panel that generates electricity from light; solar thermal collectors, including, but not limited to, those manufactured with flat glass plates, extruded plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with utility power lines; manufactured mounting racks and ballast pans for solar collector, module or panel installation. Not to include materials that could be fabricated into such racks; monitoring and control equipment, if specified or supplied by a manufacturer of solar thermal, solar photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is not exempt from state sales tax.

~~(58)~~ (56) *Returned property*. The amount charged for property returned by customers upon rescission of the contract of sale when the entire amount exclusive of handling charges paid for the property is refunded in either cash or credit, and where the property is returned within one hundred twenty (120) days from the date of delivery.

~~(59)~~ (57) *Dietary Supplements*. From the sale and from the storage, use or other consumption of dietary supplements as defined in § 44-18-7.1(1)(v), sold on prescriptions.

~~(60)~~ (58) *Blood*. From the sale and from the storage, use or other consumption of human blood.

~~(61)~~ ~~*Prewritten computer software delivered electronically*~~. From the sale and from the storage, use or other consumption of ~~prewritten computer software delivered electronically or by load and leave~~.

~~(62)~~ (59) *Agricultural products for human consumption*. From the sale and from the storage, use or other consumption of 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.

~~(63)~~ (60) *Diesel emission control technology*. From the sale and use of diesel retrofit technology that is required by § 31-47.3-4 of the general laws.

§ 44-18-30.B Exemption from sales tax for sales by writers, composers, artists – Findings.

(a) The general assembly makes the following findings of facts:

(1) The downtown area of the city of Providence has been characterized by blighted areas, and dilapidated and abandoned structures;

(2) As a result, the downtown area has been designated an economic development zone in order to stop the deterioration and stimulate economic activity;

(3) The capitol center area of the city of Providence has become an attractive location, especially with the construction of the Providence Place Mall;

(4) In order to promote, revitalize and redevelop the "Old Downtown" area of the city of Providence it is necessary to provide tax exemptions to this area as it has been designated as an economic development zone;

(5) In order to promote, revitalize, and redevelop the "Downtown or other industrial or manufacturing buildings" located in the City of Pawtucket, it is necessary to provide tax exemptions to this area as it has been designated as an economic development zone;

(6) The development of an active artistic community, including "artists in residence", in this area would promote economic development, revitalization, tourism, employment opportunities, and encourage

business development by providing alternative commercial enterprises while in Providence creating a link between the Old Downtown and the Capital Center Area;

(7) There is a separate artistic community in the town of Westerly which is important to preserve, promote, and revitalize, and which is distinct from that in the city of Providence;

(8) There is a separate artistic community in the city of Woonsocket which is important to promote and revitalize and which is distinct from that in the cities of Providence and Pawtucket and the town of Westerly;

(9) There is a separate artistic community in the city of Warwick which is important to preserve, promote, and revitalize and which is distinct from that in the cities of Providence, Pawtucket, Woonsocket and the town of Westerly;

(10) There are separate artistic communities in the city of Newport and in the town of Tiverton which are important to promote and revitalize and which are distinct from those in the cities of Providence, Pawtucket, Warwick and Woonsocket and the towns of Westerly and Little Compton;

(11) There is a separate artistic community in the town of Warren which is important to promote and revitalize and which is distinct from that in the cities of Providence, Pawtucket, Newport, Warwick and Woonsocket and the towns of Westerly and Tiverton.

(b) This section only applies to sales by writers, composers and artists residing in and conducting a business within a section of the defined economic development zone in the cities of Providence or Pawtucket, or the defined economic development zone in the town of Westerly or the defined economic zone in the city of Woonsocket, or the defined economic zone in the city of Warwick, or in those areas within the city of Newport, and the town of Little Compton, which are zoned "general business," "waterfront business," or "limited business" or have been designated by the city of Newport as part of the arts district, or in those areas of the town of Warren which are zoned "waterfront district," "special district," "village business district," "manufacturing district," "business district" or "Warren historic district," or in those areas of the town of Tiverton which are zoned "business commercial," "business waterfront" or "village commercial." For the purposes of this section, a "work" means an original and

creative work, whether written, composed or executed for "one-of-a-kind limited" production and which falls into one of the following categories:

- (i) A book or other writing;
- (ii) A play or the performance of said play;
- (iii) A musical composition or the performance of said composition;
- (iv) A painting or other like picture;
- (v) A sculpture;
- (vi) Traditional and fine crafts;
- (vii) The creation of a film or the acting within the film;
- (viii) The creation of a dance or the performance of the dance.

(2) For the purposes of this section, a "work" includes any product generated as a result of any of the above categories.

(3) For the purposes of this section, a "work" does not apply to any piece or performance created or executed for industry oriented or related production.

(c) This section applies to sales by any individual:

(i) Who is a resident of and has a principal place of business situated in the section of the economic development zone designated as the arts and entertainment district in the downtown area of the city of Providence or in the city of Pawtucket, or the defined economic development zone in the town of Westerly or the defined economic zone in the city of Woonsocket, or the defined economic zone in the city of Warwick, or who is a resident of and has a principal place of business situated in those areas within the city of Newport or the town of Little Compton, which are zoned "general business," "waterfront business," or "limited business," or have been designated by the city of Newport as part of the arts district, or who is a resident of and has a principal place of business situated in those areas within the town of Warren which are zoned "waterfront district," "special district," "village business district," "manufacturing district," "business district" or "Warren historic district," or who is a resident or has a principal place of

business situated in those areas within the town of Tiverton which are zoned "business commercial," "business waterfront" or "village commercial." For the purposes of this section, the Providence arts and entertainment district in Providence is defined as the area bounded by Pine Street to the southeast, Dorrance Street to the northeast, Sabin Street to the northwest and Empire Street to the southwest. Said Providence arts and entertainment district also includes the area beginning at the point of intersection of Acorn Street and Harris Avenue, then turning east onto Atwells Avenue to Service Road 7, then turning southerly onto Service Road 7 to Westminster Street, then turning westerly onto Westminster Street, continuing until Bridgham, then turning south onto Bridgham to Cranston Street, then turning southwesterly onto Cranston Street, then continuing to Messer Street, then turning north onto Messer Street to Westminster Street, turning west onto Westminster Street to US Hwy 6 off ramp, then heading west on US Hwy 6 to Sheridan Street, then heading northeast on Sheridan Street to Aleppo Street, then turning southeast along Aleppo Street to Pelham Street, then heading northeast on Pelham Street to Manton Avenue, then continuing southeast on Manton Avenue until Delaine Street, then heading northeast on Delaine Street until Appleton Street, then continuing northwesterly on Appleton Street until Bowdoin Street, then heading north on Bowdoin Street until Barstow Street, then heading east on Barstow until Valley Street, then heading northeast on Valley Street to Hemlock Street, then turning southeast on Hemlock Street until Promenade Street, then heading east on Promenade Street to Acorn Street, then heading south on Acorn Street to the intersection of Acorn Street and Harris Avenue. The named streets are included in the Providence district; and in Pawtucket is defined as the area beginning at the point of intersection of Dexter Street and the Central Falls line, then east along the Central Falls line to the Blackstone River, then north along the city boundary on the Blackstone River to the Cumberland line, then west along the Pawtucket city boundary line to I-95, then south along I-95 to Pine Street, then north on Pine Street to AMTRAK Right of Way, then northwest along the AMTRAK Right of Way to Dexter Street, then north on Dexter Street to the Central Falls line. The named streets are included in the district. The Westerly arts and

entertainment district is defined as assessor's plat 56, lots 1 through 24, lot 48, lots 50 through 62, and lots 71 through 82, and assessors plat 66, lots 22 through 26, and lots 29 through 36 the Woonsocket arts and entertainment district is defined as the area beginning at a point of land on the southwest bank of the Blackstone River abutting the bridge for the Providence & Worcester Railroad and proceeding northerly to a point at the intersection of Worrall Street, Clinton Street and Harry S. Truman Drive, then proceeding northwesterly along Worrall Street to its intersection with Social Street, then turning westerly on Social Street proceeding to its intersection with Main Street, Blackstone Street and North Main Street, then turning northwesterly and proceeding along Blackstone Street to its intersection with River Street, then turning northerly and proceeding along River Street to its intersection with the north/east bank of Blackstone River, then following the riverbank southerly to the bridge at Bernon Street and turning easterly crossing the Blackstone River via Bernon Street and proceeding to its intersection with Front Street, then turning northeasterly on Front Street and proceeding to its intersection with Hamlet Avenue, and to include the former courthouse on the southerly side of Front Street at its intersection with Hamlet Avenue, then turning easterly on Hamlet Avenue and proceeding to its intersection with Manville Road, then turning southeasterly on Manville Road and proceeding to its intersection with Davison Avenue, then turning northeasterly on Davison Avenue and proceeding to a point on the south/west bank of the Blackstone River, then turning northerly, following the southerly riverbank to the point of beginning. The abovementioned streets are included in the district. The Warwick arts district is defined as that area known as Pontiac Village, beginning on Route 5 at the Warwick/Cranston municipal boundary, then south to the intersection of Route 5 and the Pawtuxet River, then following the Pawtuxet River in an easterly and northerly direction to the municipal boundary in the vicinity of Knight Street, then from the intersection of Knight Street and the municipal boundary westerly along the Warwick/Cranston municipal boundary to the intersection of Route 5 and Greenwich Avenue. The above named streets are included in the district.

(ii) Who is determined by the tax administrator, after consideration of any evidence he or she deems necessary or which is submitted to him or her by the individual, to have written, composed, or executed, either solely or jointly, a work or works which would fall into one of the categories listed in subsection (b)(1).

(2) This section also applies to sales by any other gallery located in the arts and entertainment district described in subsection (c)(1)(i) as well as any other arts and entertainment district designated by the general assembly, as well as to sales by any other gallery located in those areas within the city of Newport, or the town of Little Compton, which are zoned "general business," "waterfront business," or "limited business" or have been designated by the city of Newport as part of the arts district, as well as to sales by any other gallery located in those areas within the town of Warren which are zoned "waterfront district," "special district," "village business district," "manufacturing district," "business district" or "Warren historic district," as well as to sales by any other gallery located in those areas within the town of Tiverton which are zoned "business commercial," "business waterfront" or "village commercial."

(3) The tax administrator shall not make a determination unless:

(i) The individual(s) concerned duly make(s) an application to the tax administrator for the sales tax exemption which applies to the works defined in this section; and

(ii) The individual has complied and continues to comply with any and all requests made by the tax administrator.

(d) Except as otherwise provided in § 44-18-12.2, Any individual to whom this section applies and who makes an application to the tax administrator is entitled to a sales tax exemption for the sale of a work or works sold from the individual's business located in the economic development zone which would, apart from this section, be subject to the tax rate imposed by the state of Rhode Island.

(e) When an individual makes a request for the exemption, the tax administrator is entitled to all books, documents, or other evidence relating to the publication, production or creation of the works that may be deemed necessary by the tax administrator for the purposes of the exemption. The time period in

which to provide this information is in the sole discretion of the tax administrator and specified in the notice.

(f) In addition to the information required in subsection (e), the tax administrator may require the individual(s) to submit an annual certified accounting of the numbers of works sold, the type of work sold, and the date of the sale. Failure to file this report may, in the sole discretion of the tax administrator, terminate the individual's eligibility for the exemption under this section.

(g) Except as otherwise provided in § 44-18-12.2, Any person storing, using, or otherwise consuming in this state any work or works which is deemed to be exempt from the sales tax pursuant to this section is not liable for the use tax on the work or works.

(h) Notwithstanding the provisions of this section, any individual to whom this section may apply shall comply with all the administration, collection, and other provisions of chapters 18 and 19 of this title.

§ 44-18-30.C Exemption from or stabilization of sales and use taxes for municipal economic development zones – West Warwick. – (a) *Findings*. The general assembly makes the following findings of fact:

(1) Various sections of several towns in the state, including, but not limited to, the town of West Warwick, are deteriorated, blighted areas which have created very difficult challenges to economic development;

(2) Several areas of the state are in a distressed financial condition as defined by § 45-13-12(b) and cannot finance economic development projects on its own without the participation of private enterprise;

(3) The general assembly has found that it is nearly impossible for private enterprise alone to meet these challenges;

(4) In certain sections of financially distressed communities, the serious challenges of economic development and/or redevelopment have not been met by private enterprise alone and the impact is being felt throughout the community;

(5) Legislation enacted to encourage redevelopment of the deteriorated, blighted areas through the formation of local redevelopment agencies has had very limited success;

(6) Various states, such as New Jersey, Pennsylvania and Michigan have had a great deal of success in generating economic development by exercising the authority to exempt and/or stabilize taxes;

(7) The state of Rhode Island has generated economic growth by redirecting and/or exempting certain commercial and retail activity from the imposition of sales, use and income taxes with recent examples being the Providence Place Mall, the Arts Districts in the cities of Providence, Pawtucket and Westerly, and financial services and aquaculture industries;

(8) Most recently, municipalities in our state have had great success in attracting large commercial development, including financial services, manufacturing, and major energy facilities, due in large part to the authority to exempt and/or stabilize property, tangible and/or inventory taxes;

(9) Attracting large non-residential developments or encouraging expansion of existing commercial entities can be extremely important to municipalities, where the quality of public education is largely dependent on the local tax base, thereby expanding the commercial tax base and reducing reliance upon the residential tax base;

(10) The ability to attract this development and increase the non-residential tax base, in turn, improves municipalities' ability to finance school systems, municipal services and infrastructure, thereby improving the quality of life;

(11) In addition to increasing the local non-residential tax base, this development creates construction jobs, permanent jobs, and spurs additional investment by private enterprises; and

(12) Providing authority to offer tax exemptions from, or to stabilize, the imposition of sales and use taxes will attract and assist in expanding, revitalizing and redeveloping the tax base in our municipalities, thereby providing long-term economic benefits and development.

(1) In order to attract new construction and development in a municipal economic development zone (MED) as provided in this section, upon the designation of such a zone as set forth in subsection (c) of this section, except as otherwise provided in § 44-18-12.2, all businesses engaging in qualifying sales

and located in new construction in a MED zone (a MED zone business) shall be exempt from the requirement to charge and collect fifty percent (50%) of the current sales and use tax pursuant to §§ 44-18-18 and 44-18-20 for a period of ten (10) years. Sales and use taxes collected in a MED zone shall be returned to the same MED zone in accordance with the provisions of this section. The ten (10) year exemption period for all MED zone businesses shall begin to run from the latest to occur of: (i) the date that is three (3) years from the effective date of the January session 2003 amendments [July 17, 2003]; or (ii) the date that is two (2) years from the date upon which the city or town council designates the MED zone for its municipality; or (iii) the date the first MED zone business obtains a certification of exemption as set forth in subdivision (c)(6) of this section.

(2) For purposes of this section, "qualifying sales" for a MED zone business shall not include gambling activities, or the retail sales of motor vehicles, furniture, home furnishings including mattresses and oriental rugs, tobacco products, or packaged alcoholic beverages.

(3) "Qualifying sales" shall be sales at which the point of sale is located within the same MED zone and point of delivery is located within the same MED zone.

(1) The city or town council of a financially distressed community may designate in accordance with the provisions of this section one MED zone in the municipality, provided that the municipality is:

(i) A financially distressed community as defined by § 45-13-12(b), using the criteria set forth in § 45-13-12(b)(1) through (4);

(ii) Has a population less than fifty thousand (50,000) persons; and

(iii) The MED zone shall be a parcel of or contiguous parcels of land consisting in total of not less than ten (10) acres, but not more than thirty (30) acres in the area served by adequate utilities and transportation facilities.

(2) The city or town council of any financially distressed city or town, as set forth in subdivision (1) of this subsection, in creating a MED zone, shall have the power and authority of a redevelopment agency, as provided in chapter 32 of title 45, to undertake the redevelopment of a MED zone.

(3) The city or town council, in designating a MED zone, shall after public notice, hearing and vote as provided by § 45-32-4, comply with the plan requirements of § 45-32-8 and shall be responsible for carrying on the plan. The city or town council in implementing the MED zone plan shall have the power of eminent domain as set forth in § 45-32-24, and the provisions of §§ 45-32-25 – 45-32-41 shall apply to all such condemnations.

(4) All sales and use taxes collected within a MED zone shall be reimbursed to the municipality in which the MED zone is located, and may be expended by the municipality to implement the capital improvement component of the MED zone plan for MED zone property or for property located within one mile of the MED zone or for such other capital improvements as the municipality may determine are required to mitigate MED zone impacts.

(5) *West Warwick.* The following area or portions of them of the town of West Warwick may be designated as the town's municipal economic development zone by the town council of the town of West Warwick after public notice, hearing and vote as provided in § 45-32-4: The area bounded generally by the East Coast Bike Path in the east, Archambault and Gardner Avenue in the north, Payan Street to Curson Street, Curson Street to McNiff, McNiff to Barnes Street, Barnes Street to Nowicki Street to East Street, East Street to Blanchard Street, Blanchard Street to West Street in the west, West Street to Washington Street, Washington Street to Nolan Street, Nolan Street to the East Coast Bike Path in the south, all as more particularly described on the West Warwick municipal economic development zone map on file with the town clerk.

(6) The tax administrator shall issue a certification of exemption to the MED zone business at the time the business applies for its permit to make sales at retail and provides the tax administrator with a MED zone business certificate issued by the town clerk stating that the business is located in new construction in the MED zone. The duration of the certificate shall be determined in accordance with subdivision (b)(1) of this section.

(7) No business shall be permitted to become a MED zone business or to receive a certificate of exemption pursuant to subdivision (6) of this subsection by relocating from any area within the state of

Rhode Island but outside the MED zone to new construction within the MED zone, unless the relocation results in the creation of new permanent employment positions that increase the total employment of the business by not less than fifty percent (50%) of its average total employment for the two (2) year period immediately preceding the year in which it applies for its certificate of exemption. Any business that expands its operations by adding a new location within the MED zone and then ceases to operate any of its locations within the state of Rhode Island that existed prior to the establishment of the MED zone location shall immediately have its certificate of exemption for the MED zone location revoked.

§ 44-18-36.1 Hotel tax. – (a) There is imposed a hotel tax of five percent (5%) upon the total consideration charged for occupancy of any space furnished by any hotel in this state. The hotel tax is in addition to any sales tax imposed. This hotel tax is administered and collected by the division of taxation and unless provided to the contrary in this chapter, all the administration, collection, and other provisions of chapters 18 and 19 of this title apply. Nothing in this chapter shall be construed to limit the powers of the convention authority of the city of Providence established pursuant to the provisions of chapter 84 of the public laws of 1980, except that distribution of hotel tax receipts shall be made pursuant to chapter 63.1 of title 42 rather than chapter 84 of the public laws of 1980.

(b) There is hereby levied and imposed, upon the total consideration charged for occupancy of any space furnished by any hotel in this state, in addition to all other taxes and fees now imposed by law, a local hotel tax at a rate of one percent (1.0%), provided, however for the period commencing July 1, 2011, the rate is two percent (2.0%). The local hotel tax shall be administered and collected in accordance with subsection (a).

(c) All sums received by the division of taxation for sales prior to July 1, 2011 under this section as taxes, penalties or forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid by the state treasurer to the city or town where the space for occupancy that is furnished by the hotel is located. Unless provided to the contrary in this chapter, all of the administration, collection, and other provisions of chapters 18 and 19 of this title shall apply.

(d) For sales on or after July 1, 2011, one percent (1.0%) of the two percent (2.0%) of the gross receipts paid under § 44-18-36.1(b) received by the division of taxation as taxes, penalties or forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid by the state treasurer to the city or town where the space for occupancy that is furnished by the hotel is located. The remaining one percent (1.0%) of the total received by the division of taxation under this section as taxes, penalties or forfeitures, interest, costs of suit and fines shall be deposited in the Tourism Asset Protection Fund which shall be dedicated to capital projects to preserve and enhance state owned assets which are directly related to tourism. Such funds shall be allocated in the annual capital budgeting pursuant §35-4-24.

~~(d)~~ (e) Notwithstanding the provisions of subsection (a) of this section, the city of Newport shall have the authority to collect from hotels located in the city of Newport the tax imposed by subsection (a) of this section.

(1) Within ten (10) days of collection of the tax, the city of Newport shall distribute the tax as provided in § 42-63.1-3. No later than the first day of March and the first day of September in each year in which the tax is collected, the city of Newport shall submit to the division of taxation a report of the tax collected and distributed during the six (6) month period ending thirty (30) days prior to the reporting date.

(2) The city of Newport shall have the same authority as the division of taxation to recover delinquent hotel taxes pursuant to chapter 44-19, and the amount of any hotel tax, penalty and interest imposed by the city of Newport until collected constitutes a lien on the real property of the taxpayer

§ 44-18-40.1 Exemption for certain energy products. – Except as provided in § 44-18-12.2 or ~~Notwithstanding~~ any other provision of the general laws to the contrary, the gross receipts from the sale, storage, use or other consumption of electricity, steam and thermal energy which is produced, transmitted and/or sold by the Rhode Island economic development corporation are exempt from the taxes imposed by this chapter.

