Memorandum

To: The Honorable Raymond Gallison
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

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

Date: April 3, 2014

Subject: Amendments to the FY 2015 Appropriations Act (13-H-7133)

The Governor requests that Article 14 – Relating to Marketplace Fairness Act be amended as reflected in the attached version. The requested changes are shaded in grey and explained below.

Add a new Section 1 amending section 42-64.5-3 to hold eligible companies under the Jobs Development Act harmless if the Marketplace Fairness Act is approved by Congress and the corporate tax rate is reduced from 9.0 percent to 6.0 percent.

Add 44-18-36.1, Hotel Tax, to new section 3 and strikeout the language that would increase the tax from 1.0 percent to 1.5 percent if the Marketplace Fairness Act is approved by Congress and Rhode Island begins to require remote sellers to collect and remit sales and use taxes. Under the Governor’s proposal, the overall sales tax rate would not decline from 7.0 percent to 6.5 percent upon enactment of the Marketplace Fairness Act and thus the increase to the local share of the hotel tax as contained in current law would result in an increase to this tax. This amendment corrects for this oversight in the original article.

If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM:14-Amend-14
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Steve Hartford, Director of Policy
Richard Licht, Director of Administration
Peter Marino, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst

TDD#: 277-1227
ARTICLE 14

RELATING TO MARKETPLACE FAIRNESS ACT

SECTION 1. Section 42-64.5-3 of the General Laws in Chapter 42-64.5 entitled "Jobs Development Act" is hereby amended to read as follows:

§ 42-64.5-3 Tax rate reduction. — (a) The rate of tax payable by an eligible company and each of its eligible subsidiaries for any taxable year ending on or after July 1, 1995, on its net income pursuant to the applicable income tax provisions of the general laws, including the provisions of §§ 44-11-2(a), 44-14-3(a), 44-14-4 and 44-17-1, or on its gross earnings pursuant to § 44-13-4(4), shall be reduced by the amount specified in § 42-64.5-4; this rate reduction shall be applied annually once to those eligible companies which are permitted by law to file a consolidated state tax return and in the case of eligible companies not permitted by law to file consolidated state tax returns, then the rate reduction shall be applied annually to each eligible company and its eligible subsidiaries; provided, however, except as provided in § 42-64.5-7, should any eligible company fail to maintain in any taxable year after 1997 or, if applicable, the third taxable year following the base employment period election set forth in § 42-64.5-5, the number of units of new employment it reported for its 1997 tax year or, if applicable, the third taxable year following the base employment period election set forth in § 42-64.5-5; the rate reduction provided for in this chapter shall expire permanently.

(b) In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage of any federal law which authorizes states to require remote sellers defined in § 44-18-15.2, to collect and remit sales and use taxes under chapters 18 and 19 of this title 44, and when the rate imposed under § 44-11-2 shall be reduced from nine percent...
(9.0%) to six percent (6.0%) is effective, an eligible company subject to tax under § 44-11-2 shall calculate the rate payable by subtracting the amount specified in § 42-64.5-4 from nine percent (9.0%). The total rate reduction under this section shall be effective for tax years beginning on or after the date the state requires remote sellers to collect and remit sales and use tax.

SECTION 42. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business Corporation Tax" is hereby amended to read as follows:

44-11-2. Imposition of tax. -- (a) Each corporation shall annually pay to the state a tax equal to nine percent (9.0%) of net income, as defined in § 44-11-11, qualified in § 44-11-12, and apportioned to this state as provided in §§ 44-11-13 – 44-11-15, for the taxable year. In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage of any federal law which authorizes states to require remote sellers defined in § 44-18-15.2, to collect and remit sales and use taxes under chapters 18 and 19 of this title, the rate imposed under section 44-11-2 shall be reduced from nine percent (9.0%) to six percent (6.0%). The six percent (6.0%) rate shall take effect for tax years beginning on or after the date the state requires remote sellers to collect and remit sales and use tax.

(b) A corporation shall pay the amount of any tax as computed in accordance with subsection (a) of this section after deducting from "net income," as used in this section, fifty percent (50%) of the excess of capital gains over capital losses realized during the taxable year, if for the taxable year:

(1) The corporation is engaged in buying, selling, dealing in, or holding securities on its own behalf and not as a broker, underwriter, or distributor;
(2) Its gross receipts derived from these activities during the taxable year amounted to at least ninety percent (90%) of its total gross receipts derived from all of its activities during the year. "Gross receipts" means all receipts, whether in the form of money, credits, or other valuable consideration, received during the taxable year in connection with the conduct of the taxpayer's activities.

(c) A corporation shall not pay the amount of the tax computed on the basis of its net income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten cents ($0.10) for each one hundred dollars ($100) of gross income for the taxable year or a tax of one hundred dollars ($100), whichever tax shall be the greater, if for the taxable year the corporation is either a "personal holding company" registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-1 et seq., "regulated investment company", or a "real estate investment trust" as defined in the federal income tax law applicable to the taxable year. "Gross income" means gross income as defined in the federal income tax law applicable to the taxable year, plus:

(1) Any interest not included in the federal gross income; minus

(2) Interest on obligations of the United States or its possessions, and other interest exempt from taxation by this state; and minus

(3) Fifty percent (50%) of the excess of capital gains over capital losses realized during the taxable year.

(d) A small business corporation having an election in effect under subchapter S, 26 U.S.C. § 1361 et seq., shall not be subject to the Rhode Island income tax on corporations, except that the corporation shall be subject to the provisions of subsection (a), to the extent of the income that is subjected to federal tax under subchapter S.
(2) The shareholders of the corporation who are residents of Rhode Island shall include in their income their proportionate share of the corporation's federal taxable income.

(3) [Deleted by P.L. 2004, ch. 595, art. 29, § 1.]

(4) [Deleted by P.L. 2004, ch. 595, art. 29, § 1.]

(e) Minimum tax. The tax imposed upon any corporation under this section shall not be less than five hundred dollars ($500).


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 as defined in § 42-63.1-2, 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, that for the period commencing July 1, 1990, the tax rate is seven percent (7%). 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. In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage any federal law which authorizes states to require remote sellers to collect and remit sales and use taxes, the rate imposed under § 44-18-18 shall be reduced from seven percent (7%) to six and one-half percent (6.5%). The six and one-half
percent (6.5%) rate shall take effect on the date that the state requires remote sellers to collect and remit sale and use taxes.

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. 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 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) 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) 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.

In recognition of the work being performed by the Streamlined Sales and Use Tax
Governing Board, upon passage of any federal law which authorizes states to require remote
sellers to collect and remit sales and use taxes, the rate imposed under § 44-18-18.1 shall be
increased from one percent (1%) to one and one-half percent (1.5%). The one and one-half
percent (1.5%) rate shall take effect on the date that the state requires remote sellers to collect
and remit sales and use taxes.
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, prewritten computer software delivered electronically or by load and leave or services as defined in § 44-18-7.3; including a motor vehicle, a boat, an airplane, or a trailer, 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) When the transferee or purchaser is the spouse, mother, father, brother, sister, or child of the transferor or seller;

(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 or prewritten computer software delivered electronically or by load and leave, or services as defined in § 44-18-7.3 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%). In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage of any federal law which authorizes states to require remote sellers to collect and remit sales and use taxes, effective the first (1st) day of the first (1st) state fiscal quarter following the change, the rate imposed under § 44-18-18 shall be reduced from seven percent (7.0%) to six and one-half percent (6.5%). The six and one-half
percent (6.5%) rate shall take effect on the date that the state requires remote sellers to collect
and remit sales and use taxes:

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:

(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) 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) 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) 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) 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) 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) 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) 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(l).

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) 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. For purposes of this exemption 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) *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) *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) *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) *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) *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) 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) 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) 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) 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) 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) 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) 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) 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 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. 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) 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) 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) Commercial fishing vessels. From the sale and from the storage, use, or other
consumption in this state of vessels and other watercraft 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) 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 sales prior to October 1, 2012.
Effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including
footwear, intended to be worn or carried on or about the human body up to two hundred and fifty
dollars ($250) of the sales price per item. 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 section 44-18-7.1(f).
In recognition of the work being performed by the Streamlined Sales and Use Tax Governing
Board, upon passage of any federal law which authorizes states to require remote sellers to
collect and remit sales and use taxes, this unlimited exemption will apply as it did prior to
October 1, 2012. The unlimited exemption on sales of clothing and footwear shall take effect on
the date that the state requires remote sellers to collect and remit sales and use taxes.
(28) 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) 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) 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) 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) 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) Compressed air. From the sale and from the storage, use, or other consumption in the state of compressed air.

(34) 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) 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) 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) 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) 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) 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) *Transportation charges.* From the sale or hiring of motor carriers as defined in § 39-12-2(l) 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) *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) *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) *Coins.* From the sale and from the other consumption in this state of coins having numismatic or investment value.

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

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

(61) 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.

(62) 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.
(63) *Feed for certain animals used in commercial farming.* From the sale of feed for animals as described in subsection 44-18-30(61).

(64) *Alcoholic beverages.* From the sale and storage, use, or other consumption in this state by a Class A licensee of alcoholic beverages, as defined in § 44-18-7.1, excluding beer and malt beverages from December 1, 2013 through March 31, 2015; provided, further, notwithstanding § 6-13-1 or any other general or public law to the contrary, alcoholic beverages, as defined in § 44-18-7.1, shall not be subject to minimum markup from December 1, 2013 through March 31, 2015.

(65) *Electricity and gas.* In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage of any federal law which authorizes states to require remote sellers defined in § 44-18-15.2, to collect and remit sales and use taxes under chapters 18 and 19 of this title, the sale and storage, use, or other consumption in this state of electricity and gas furnished to any business shall be exempted from the taxes imposed by this chapter. This exemption shall take effect on the date that the state requires remote sellers to collect and remit sales and use tax.

§ 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%). The local hotel tax shall be administered and collected in accordance with subsection (a).

(c) All sums received by the division of taxation from the local hotel tax, 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) 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.
In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon any federal law which requires remote sellers to collect and remit taxes, effective the first (1st) day of the first (1st) state fiscal quarter following the change, the rate imposed under § 44-18-36.1(b) shall be one and one-half percent (1.5%).

SECTION 3. This article shall take effect upon passage.
ARTICLE 12

RELATING TO REVENUES

SECTION 1. Chapter 31-3-6.1 of the General Laws entitled “Registration of Vehicles” is hereby amended by adding thereto the following section:

§ 31-3-6.1.1 Denial of registration- Denial of transfer of registration—Failure to file tax returns and/or pay taxes.-

(a) On or before October 31 in each year and at least quarterly thereafter, the tax administrator shall furnish the division of motor vehicles, with a list the names, addresses and social security numbers of persons who have neglected or refused to file a tax return(s) and/or to pay any tax administered by the tax administrator and that there is no administrative or appellate review pending regarding such tax matter.

(b) Thereafter, the tax administrator, at the times and in the manner mutually agreed to by the tax administrator and the administrator of the division of motor vehicles, shall furnish to the division of motor vehicles the names, addresses and social security numbers of those persons whose names appear on that list but who have subsequently filed all required returns and paid all required taxes, interest and attendant penalties in full or entered into a time payment agreement satisfactory to the tax administrator. Upon receipt of said information, said names, addresses and social security numbers of said persons shall be removed from the list.

(c) The administrator of the division of motor vehicles shall not register any motor vehicle or transfer the registration of any motor vehicle for any person whose name appears on a list provided by the tax administrator pursuant to subsection (a) above until all state taxes, interest and attendant penalties have been paid in full and the payment has been certified to the division of motor vehicles by the tax administrator.

(d) If the person thereafter files an overdue return and/or remits past taxes due or enters into a satisfactory time payment agreement with respect to any and all returns due and taxes payable, the tax administrator shall, within five (5) business days of the person’s request, provide the division of motor
vehicles with a certificate of good standing specified in § 5-76-5. Within five (5) business days of receiving such a certificate, the division of motor vehicles shall register or transfer the person’s registration.

(c) If a person files an overdue return and/or remits past due taxes in order to register a motor vehicle or transfer the registration of a motor vehicle, said late filing and/or payment shall not be an admission of a violation of any criminal tax statute regarding late filing and/or late payment. The tax administrator shall not refer such person to the Attorney General for prosecution based solely upon said late filing and/or payment of past due taxes.

SECTION 2. Chapter 44-1 of the General Laws entitled “State Tax Officials” is hereby amended by adding thereto the following section:

§ 44-1-31.2 Charges of Electronic Filing of Tax Returns. - (a) For the purpose of this chapter, the following terms have the specified meanings:

(1)“Authorized tax document” means a document which the tax administrator has authorized to be filed electronically.

(2)“Software Company” means a developer of tax software.

(3)“Tax Return Preparer” means any person who prepares for compensation, or who employs or engages one or more persons to prepare for compensation, any authorized tax document. For the purpose of this section, the term “tax return preparer” also includes a payroll service.

(4)“Tax Software” means any computer software program intended for tax return preparation purposes. For purposes of this section, the term “tax software” includes, but is not limited to, an off-the-shelf software program loaded onto a tax return preparer’s or taxpayer’s computer, or an online tax preparation application.

(b) It shall be unlawful for a tax return preparer or a software company to charge a separate fee for the electronic filing of authorized tax documents. It shall also be unlawful for a software company to offer a version of its tax software that charges a separate fee for the electronic filing of authorized tax documents and a version of the same tax software that does not.
(c) Any tax return preparer or software company violating this section shall be liable for a civil penalty of five hundred dollars ($500.00) for the first violation and on thousand dollars ($1,000.00) for each succeeding violation. The civil penalties imposed by this section shall be paid to the tax administrator upon notice and demand, and will be assessed, collected and paid in the same manner as taxes under this title.


§ 44-18-7 Sales defined. – "Sales" means and includes:

(1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means of tangible personal property for a consideration. "Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator to be in lieu of a transfer of title, exchange, or barter.

(2) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(3) The furnishing and distributing of tangible personal property for a consideration by social, athletic, and similar clubs and fraternal organizations to their members or others.

(4) The furnishing, preparing, or serving for consideration of food, meals, or drinks, including any cover, minimum, entertainment, or other charge in connection therewith.

(5) A transaction whereby the possession of tangible personal property is transferred, but the seller retains the title as security for the payment of the price.

(6) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate commerce, of tangible personal property from the place where it is located for delivery to a point in this state for the purpose of the transfer of title or possession, exchange, barter, lease, or rental, conditional or otherwise, in any manner or by any means whatsoever, of the property for a consideration.
(7) A transfer for a consideration of the title or possession of tangible personal property, which
has been produced, fabricated, or printed to the special order of the customer, or any publication.

(8) The furnishing and distributing of electricity, natural gas, artificial gas, steam, refrigeration,
and water.

(9) The furnishing for consideration of intrastate, interstate and international telecommunications
service sourced in this state in accordance with subsections 44-18.1(15) and (16) and all ancillary
services, any maintenance services of telecommunication equipment other than as provided for in
subdivision 44-18-12(b)(ii). For the purposes of chapters 18 and 19 of this title only, telecommunication
service does not include service rendered using a prepaid telephone calling arrangement.

(ii) Notwithstanding the provisions of paragraph (i) of this subdivision, in accordance with the
Mobile Telecommunications Sourcing Act (4 U.S.C. §§ 116 – 126), subject to the specific exemptions
described in 4 U.S.C. § 116(c), and the exemptions provided in §§ 44-18-8 and 44-18-12, mobile
telecommunications services that are deemed to be provided by the customer's home service provider are
subject to tax under this chapter if the customer's place of primary use is in this state regardless of where
the mobile telecommunications services originate, terminate or pass through. Mobile telecommunications
services provided to a customer, the charges for which are billed by or for the customer's home service
provider, shall be deemed to be provided by the customer's home service provider.

(10) The furnishing of service for transmission of messages by telegraph, cable, or radio and the
furnishing of community antenna television, subscription television, and cable television services.

(11) The rental of living quarters in any hotel, as defined in § 42-63.1-2, rooming house, or tourist
camp.

(12) The transfer for consideration of prepaid telephone calling arrangements and the recharge of
prepaid telephone calling arrangements sourced to this state in accordance with §§ 44-18.1-11 and 44-
18.1-15. "Prepaid telephone calling arrangement" means and includes prepaid calling service and prepaid
wireless calling service.
(13) The sale, storage, use or other consumption of over-the-counter drugs as defined in paragraph 44-18-7.1(h)(ii).

(14) The sale, storage, use or other consumption of prewritten computer software delivered electronically or by load and leave as defined in paragraph 44-18-7.1(v).

(15) The sale, storage, use or other consumption of medical marijuana as defined in § 21-28.6-3.

(16) The furnishing of services in this state as defined in § 44-18-7.3

§ 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.

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

(i) Taxicab services including taxi dispatchers (485310); and

(ii) Limousine services (485320).

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

(i) Charter bus service (485510); and

(ii) All other transit and ground passenger transportation (485999).

(3) Pet care services (812910) except veterinary and testing laboratories services.

(e)(1) "Room reseller" or "Reseller." Room reseller or reseller shall mean any person having any right, permission, license, or other authority from or through a hotel, as defined in § 42-63.1-2, to reserve or arrange the transfer of occupancy of, accommodations, the reservation or transfer of which is subject to this chapter, such that the occupant pays all or a portion of the rental and other fees to the reseller. Room reseller or reseller shall include, but not be limited to, sellers of travel packages as defined in this section. Notwithstanding the provisions of any other law, where said reservation or transfer of occupancy is made using a room reseller, the application of the sales and use under §§ 44-18-18 and 44-18-20, and the hotel tax under §44-18-36.1 shall be as follows: The room reseller is required to register with and shall collect
and pay to the tax administrator the sales and use and hotel taxes with said taxes being calculated upon the amount of rental and other fees paid by the occupant to the room reseller, less the amount of any rental and other fees paid by the reseller to the hotel. The hotel shall collect and pay to the tax administrator said taxes upon the amount of rental and other fees paid to the hotel by the reseller and/or the occupant. No assessment shall be made by the tax administrator against a hotel because of an incorrect remittance of the taxes under this chapter by a room reseller. No assessment shall be made by the tax administrator against a room reseller because of an incorrect remittance of the taxes under this chapter by a hotel. If the hotel has paid the taxes imposed under this chapter, the occupant and/or room reseller shall reimburse the hotel for said taxes. If the reseller has paid said taxes, the occupant shall reimburse the reseller for said taxes. Each hotel and room reseller shall add and collect from the occupant or the room reseller the full amount of the taxes imposed on the rental and other fees. When added to the rental and other fees, the taxes shall be a debt owed by the occupant to the hotel or room reseller, as applicable, and shall be recoverable at law in the same manner as other debts. The amount of the taxes collected by the hotel and/or room reseller from the occupant under this chapter shall be stated and charged separately from the rental and other fees, and shall be shown separately on all records thereof, whether made at the time the transfer of occupancy occurs and made on valid evidence of the transfer, issued or used by the hotel or the room reseller. A room reseller shall not be required to disclose to the occupant the amount of tax charged by the hotel; provided, however, the reseller shall represent to the occupant that the separately stated taxes charged by the reseller include taxes charged by the hotel. No person shall operate a hotel in this state, or act as a room reseller for any hotel in the state, unless the tax administrator has issued a permit pursuant to R.I. Gen. Laws § 44-19-1.

(2) "Travel package" means a room or rooms bundled with one or more other, separate components of travel such as air transportation, car rental or similar items, which travel package is charged to the customer or occupant for a single retail price. When the room occupancy is bundled for a single consideration, with other property, services, amusement charges, or any other items, the separate sale of which would not otherwise be subject to tax under this chapter, the entire single consideration
shall be treated as rent, subject to tax under this chapter; provided, however, that where the amount of the rental or other fees for room occupancy is stated separately from the price of such other property, services, amusement charges, or other items, on any sales slip, invoice, receipt, or other statement given the occupant, and such rental and other fees are determined by the tax administrator to be reasonable in relation to the value of such other property, services, amusement charges or other items, only such separately stated rental and other fees will be subject to tax under this chapter. The value of the transfer of any room or rooms bundled as part of a travel package may be determined by the tax administrator from the room reseller's and/or hotel's books and records kept in the regular and ordinary course of business.

(e)(d) The tax administrator is authorized to promulgate rules and regulations in accordance with the provisions of chapter 42-35 to carry out the provisions, policies, and purposes of this chapter.

§ 44-18-12.1 "Additional measure subject to tax". – Also included in the measure subject to tax under this chapter is the total amount charged for the furnishing or distributing of electricity, natural gas, artificial gas, steam, refrigeration, water, telecommunications, telegraph, cable, and radio message service, community antenna television, subscription television, and cable television service; provided, that the measure of tax in regard to telecommunications service is the total consideration received for the service as defined in § 44-18-7(9); provided, that in order to prevent multistate taxation of all telecommunications service, any taxpayer is allowed a credit or refund of sales tax upon presenting proof that a tax has been paid to another state to which the tax is properly due for the identical service taxed under this chapter. Furthermore, included in the measure of tax is the total amount charged for the rental of living quarters in any hotel as defined in § 42-63.1-2, rooming house, or tourist camp.

§ 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, as defined in § 42-63.1-2, or room reseller, as defined in § 44-18-7.3(c), 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, as defined in § 42-63.1-2, or room reseller as defined in § 44-18-7.3(c),
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%). The local hotel tax shall be administered and collected in accordance with subsection (a).

(c) All sums received by the division of taxation from the local hotel tax, 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) Notwithstanding the provisions of subsection (a) of this section, the city of Newport shall
have the authority to collect from hotels, as defined in § 42-63.1-2, or room reseller as defined in § 44-18-
7.3(c), 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.

In recognition of the work being performed by the Streamlined Sales and Use Tax Governing
Board, upon passage of any federal law which authorizes states to requires remote sellers to collect and
remit taxes, effective the first (1st) day of the first (1st) state fiscal quarter following the change; the rate imposed under § 44-18-36.1(b) shall be one and one-half percent (1.5%); effective on the same date this state requires remote sellers to collect and remit sales and use taxes.

SECTION 4. Section 42-63.1-2 of the General Laws in Chapter 42-63.1 entitled "Tourism and Development" is hereby amended to read as follows:

§ 42-63.1-2 Definitions. – For the purposes of this chapter:

(1) "Consideration" means the monetary charge for the use of space devoted to transient lodging accommodations.

(2) "Corporation" means the Rhode Island Economic Development Corporation Rhode Island Commerce Corporation.

(3) "District" means the regional tourism districts set forth in § 42-63.1-5.

(4) "Hotel" means any facility offering a minimum of three (3) one (1) rooms for which the public may, for a consideration, obtain transient lodging accommodations. The term "hotel" shall include hotels, motels, bed and breakfasts (B&B’s), time shares as defined in §34-41-1.02(13), tourist homes, tourist camps, lodging houses, and inns and shall exclude schools, hospitals, sanitariums, nursing homes, and chronic care centers.

(5) "Occupancy" means a person, firm or corporation's use of space ordinarily used for transient lodging accommodations not to exceed thirty (30) days. Excluded from "occupancy" is the use of space for which the occupant has a written lease for the space, which lease covers a rental period of twelve (12) months or more, as well as the right of a time-share owner, as defined in § 34-41-1.02(19), or a time-share exchange guest to make personal use of a time-share property, as defined in § 34-41-1.02(20).

(6) "Tax" means the hotel tax imposed by subsection 44-18-36.1(a).

SECTION 5. Chapter 44-30 entitled "Personal Income Tax" is hereby amended by adding thereto the following section:

§44-30-100. Lookup Table to Report Use Tax on Personal Income Tax Return. (a) When reporting the amount of use tax obligation on the Rhode Island personal income return, the taxpayer shall
list either the actual amount (from books, records, and other sources), or an amount using a lookup table established by the tax administrator.

(b) Establishment of lookup table. (1) The tax administrator shall create the lookup table with reference to a taxpayer's federal adjusted gross income (AGI) as listed on the Rhode Island personal income tax return before modifications, adjustments, or other changes. To determine the amount of use tax from the lookup table, the taxpayer shall multiply 0.0008 by the amount of the taxpayer’s federal AGI as listed on the Rhode Island personal income tax return before modifications, adjustments, or other changes.

(2) The AGI income ranges within the lookup table shall be adjusted by the tax administrator by December 31 of each calendar year by the percentage, if any, by which the Consumer Price Index for All Urban Consumers (CPI-U) as of the close of the 12-month period ending on August 31 of that year, exceeds the CPI-U as of the close of the 12-month period ending on August 31 of the immediately preceding year. For purposes of the annual calculation, the tax administrator shall be free to substitute an inflation index which is substantially similar to the CPI-U.

(3) If a taxpayer uses the lookup table, the taxpayer shall list on the return not only the result from the lookup table, but also the actual amount of each single purchase whose purchase price equals or exceeds $1,000.

(4) Instructions for the personal income tax form shall indicate that the use of the lookup table as described in this section is, for the taxpayer, a “safe harbor” alternative to listing the actual amount of the taxpayer’s use tax obligation.

(c) When completing and filing a Rhode Island personal income tax return, the taxpayer shall check a box attesting to the amount of use tax listed on the return. The tax administrator shall direct computer software providers to require the taxpayer or the taxpayer’s preparer to proactively check the box; software providers shall not program an automatically checked attestation box.

(d) The tax administrator shall make clear on personal income tax forms and instructions that use tax is typically due on internet, mail-order, and catalog out-of-state purchases.
SECTION 6. Sections 44-20-1 and 44-20-13.2 of the General Laws in Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

§ 44-20-1 Definitions. – Whenever used in this chapter, unless the context requires otherwise:

(1) "Administrator" means the tax administrator;

(2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette form, and each sheet of cigarette rolling paper;

(3) "Dealer" means any person whether located within or outside of this state, who sells or distributes cigarettes to a consumer in this state;

(4) "Distributor" means any person:

(A) Whether located within or outside of this state, other than a dealer, who sells or distributes cigarettes within or into this state. Such term shall not include any cigarette manufacturer, export warehouse proprietor, or importer with a valid permit under 26 U.S.C. § 5712, if such person sells or distributes cigarettes in this state only to licensed distributors, or to an export warehouse proprietor or another manufacturer with a valid permit under 26 U.S.C. § 5712;

(B) Selling cigarettes directly to consumers in this state by means of at least twenty-five (25) cigarette vending machines;

(C) Engaged in this state in the business of manufacturing cigarettes or any person engaged in the business of selling cigarettes to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent (75%) of all cigarettes sold by that person in this state are sold to dealers or other persons for resale and selling cigarettes directly to at least forty (40) dealers or other persons for resale;

(D) Maintaining one or more regular places of business in this state for that purpose; provided, that seventy-five percent (75%) of the sold cigarettes are purchased directly from the manufacturer and selling cigarettes directly to at least forty (40) dealers or other persons for resale;

(5) "Electronic cigarette", commonly known as "E-Cigarette", means a personal vaporizer, electronic nicotine delivery system or an electronic inhaler, which generally utilizes a heating element that vaporizes a liquid solution containing nicotine or nicotine derivative.
"Importer" means any person who imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution;

"Licensed", when used with reference to a manufacturer, importer, distributor or dealer, means only those persons who hold a valid and current license issued under § 44-20-2 for the type of business being engaged in. When the term "licensed" is used before a list of entities, such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be deemed to apply to each entity in such list;

"Manufacturer" means any person who manufactures, fabricates, assembles, processes, or labels a finished cigarette;

"Person" means any individual, including an employee or agent, firm, fiduciary, partnership, corporation, trust, or association, however formed;

"Place of business" means and includes any place where cigarettes are sold or where cigarettes are stored or kept for the purpose of sale or consumption, including any vessel, vehicle, airplane, train, or vending machine;

"Sale" or "sell" includes and applies to gifts, exchanges, and barter;

"Stamp" means the impression, device, stamp, label, or print manufactured, printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a sale or distribution in this state that is exempt from state tax under the provisions of state law; and also includes impressions made by metering machines authorized to be used under the provisions of this chapter.

§ 44-20-13.2 Tax imposed on smokeless tobacco, cigars, and pipe tobacco products. – (a) A tax is imposed on all smokeless tobacco, electronic cigarettes, cigars, and pipe tobacco products sold or held for sale in the state by any person, the payment of the tax to be accomplished according to a mechanism established by the administrator, division of taxation, department of administration. Any tobacco product on which the proper amount of tax provided for in this chapter has been paid, payment
being evidenced by a stamp, is not subject to a further tax under this chapter. The tax imposed by this section shall be as follows:

(1) At the rate of eighty percent (80%) of the wholesale cost of cigars, pipe tobacco products and smokeless tobacco other than snuff.

(2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of cigars, the tax shall not exceed fifty cents ($0.50) for each cigar.

(3) At the rate of one dollar ($1.00) per ounce of snuff, and a proportionate tax at the like rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight as listed by the manufacturer, provided, however, that any product listed by the manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2 ounces.

(b) Any dealer having in his or her possession any tobacco, cigars, and pipe tobacco products with respect to the storage or use of which a tax is imposed by this section shall, within five (5) days after coming into possession of the tobacco, cigars, and pipe tobacco in this state, file a return with the tax administrator in a form prescribed by the tax administrator. The return shall be accompanied by a payment of the amount of the tax shown on the form to be due. Records required under this section shall be preserved on the premises described in the relevant license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the administrator.

(c) The proceeds collected are paid into the general fund.

SECTION 7. Title 44 of the General Laws entitled "Taxation" is hereby amended by adding thereto the following chapter:

CHAPTER 69

COMPLIANCE OF STATE EMPLOYEES WITH STATE INCOME TAX ACT

§44-69-1. Short title. — This chapter shall be known as the "State Employee Tax Compliance Act".

(a) "Appointing Authority" means the person or group of persons having the power by virtue of the constitution, a state statute, or lawfully delegated authority to make appointments.

(b) "Employee" or "State Employee" means an appointed officer or employee of a state agency; provided, the term employee or state employee shall not include an elected official or an employee of a local governmental entity.

(c) "State Agency" means any office, department, board, commission or institution of the executive, legislative, higher education or judicial branch of state government.

§44-68-3. Administration.

(a) The department of administration shall, not later than August 1, 2014, and August 1 of each year thereafter, provide to the tax administrator a list of all state employees as of the preceding July 1 and such identifying information as may be required by the Tax Administrator. Such list and information shall be used by the Tax Administrator exclusively for the purpose of collection of income taxes due to the State of Rhode Island.

(b) The Tax Administrator shall, not later than December 1, 2014, and December 1 of each year thereafter, notify any state employee who is not in compliance with the income tax laws of this state. Such notification shall include:

(1) A statement that the employee will be subject to mandatory garnishment of wages by the state controller, unless the taxpayer is deemed by the Tax Administrator to be in compliance with the income tax laws of this state;

(2) The reasons that the taxpayer is considered to be out of compliance with the income tax laws of this state, including a statement of the amount of any tax, penalties and interest due, or a list of the tax years for which income tax returns have not been filed, as required by law;

(3) An explanation of the rights of the taxpayer and the procedures which must be followed by the taxpayer in order to come into compliance with the income tax laws of this state; and

(4) Such other information as may be deemed necessary by the Tax Administrator.
(c) A state employee who has entered into and is abiding by a payment agreement, or who has
requested relief as an innocent spouse, which request is pending or has been granted, shall be deemed to
be in compliance with the state income tax laws for purposes of this section.

(d) If the Tax Administrator notifies a state employee who is not in compliance with the income
tax laws of this state as required in this section and such state employee does not respond to such
notification or fails to come into compliance with the income tax laws of this state after an assessment has
been made final or after the Tax Administrator determines that every reasonable effort has been made to
assist the state employee to come into compliance with the income tax laws of this state, the Tax
Administrator shall so notify the state controller, who shall commence mandatory garnishment of the state
employee’s wages and shall notify the state employee of the reason for such action. If a state employee,
who has been previously reported by the Tax Administrator to a state agency as being out of compliance,
comes into compliance, the Tax Administrator shall immediately notify the state controller. Neither a
state agency nor an appointing authority shall be held liable for any action with respect to a state
employee pursuant to the provisions of this section.

SECTION 8. Chapter 44-19 entitled “Sales and Use Taxes – Enforcement and Collection” is
hereby amended by adding thereto the following section:

§ 44-19-42. Sales Suppression Devices – Definitions and Applicability. (a) As used in this
section:

(1) “Automated sales suppression device,” also known as a “zapper,” means a software program,
carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed
through any other means, that falsifies transaction data, transaction reports, or any other electronic records
of electronic cash registers and other point-of-sale systems.

(2) “Electronic cash register” means a device that keeps a register or supporting documents
through the means of an electronic device or computer system designed to record transaction data for the
purpose of computing, compiling, or processing retail sales transaction data in any manner.
(3) "Phantom-ware" means a hidden programming option, whether preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that:

(A) can be used to create a virtual second till; or

(B) may eliminate or manipulate transaction records.

(4) "Transaction data" includes items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address, and identification number of the vendor, and the receipt or invoice number of the transaction.

(5) "Transaction reports" means a report documenting, but not limited to, the sales, taxes collected, media totals, and discount voids at an electronic cash register that is printed on cash register tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is stored electronically.

(b) A person shall not knowingly sell, purchase, install, transfer or possess an automated sales suppression device or phantom-ware.

(c) Any person who violates subdivision (b) of this section shall be guilty of a felony and, upon conviction, shall be subject to a fine not exceeding fifty-thousand dollars ($50,000) or imprisonment not exceeding five (5) years, or both.

(d) In addition, a person who violates subdivision (b) of this section shall be liable to the State for:

(1) all taxes, interest, and penalties due as the result of the person's use of an automated sales suppression device or phantom-ware; and

(2) all profits associated with the person's sale of an automated sales suppression device or phantom-ware.
(e) An automated sales suppression device or phantom-ware and any device containing such
device or software shall be deemed contraband and shall be subject to seizure by the tax administrator or
by a law enforcement officer when directed to do so by the tax administrator.

(f) Safe Harbor. A person shall not be subject to prosecution under Rhode Island General Laws
§ 44-19-42, if by October 1, 2014 the person:

(1) notifies the division of taxation of the person’s possession of an automated sales suppression
device;

(2) provides any information requested by the division of taxation, including transaction records,
software specifications, encryption keys, passwords, and other data; and

(3) corrects any underreported sales tax records and fully pays the division of taxation any
amounts previously owed.

(g) This section shall not be construed to limit the person’s civil or criminal liability under any
other provision of law.

SECTION 9. This article shall take effect as of July 1, 2014.