Memorandum

To: The Honorable Raymond Gallison  
Chairman, House Finance Committee  

The Honorable Daniel DaPonte  
Chairman, Senate Finance Committee  

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

Date: April 23, 2014  

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

In addition to the amendment submitted on April 3, 2014, the Governor requests that Article 12 – Relating to Revenues be further amended as reflected in the attached version, with the amended sections shaded in grey for your review.  

The new changes include clarification of the definition of room resellers and removal of references to and definition of travel packages. The changes also include new definitions of “tour operators” and “tour operator package”.  

These proposed changes will have no impact on the revenues estimated in the Governor’s recommended budget as a result of this article.  

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

TAM:14-Amend-12rev  
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 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 one 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) Taxi cab and limousine services including but not limited to:
   (i) Taxi cab 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.

(c) "Room reseller" or "Reseller." Room reseller or reseller shall mean any person, except a tour operator as defined in § 44-63.1-2(7), 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 hotel 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 to 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 require 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).

(7) "Tour Operator" means a travel supplier who derives a majority of its revenue by providing tour operator packages.
(8) "Tour Operator Package" means a travel package that includes the service of tour guide and
an itinerary which encompasses five (5) or more consecutive days.

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.

"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; or
(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.

(6) "Importer" means any person who imports into the United States, either directly or indirectly, a finished cigarette for sale or distribution;

(7) "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;

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

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

(10) "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;

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

(12) "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.