



# Rhode Island Department of Revenue

## Division of Taxation

*Via Electronic Mail*

May 6, 2025

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

**RE: Letter Regarding House Bill 6097 – An Act Relating to State Affairs and Government – Rhode Island Commerce Corporation – Qualified Data Centers Location Incentive**

Dear Chair Abney:

I am writing on behalf of the Rhode Island Department of Revenue, Division of Taxation ("Division"), to: i) express concerns regarding issues with proposed House Bill 6097 as currently drafted; ii) explain the background and current statutory context in order to clarify the intended and unintended consequences of this bill; and iii) make recommendations and request your support in implementing those recommendations.

This letter is not intended as a position in support of or opposition to the bill, but only as recommendations on drafting to provide clarity in the bill and to aid tax administration and compliance.

As you know, this bill would amend R.I. Gen. Laws § 42-64-3, entitled "Rhode Island Commerce Corporation – Definitions" as well as amend Chapter 42-64 by adding a new R.I. Gen. Laws § 42-64-43 entitled "Qualified data center location incentive." The proposed bill, as set forth in its legislative explanation, would create qualified data centers, as defined in the bill, and establish tax exemptions for those data centers, to be approved by the commerce corporation. The bill is set to be effective upon passage.

There are several potential issues with the bill that impact tax administration, including, but not limited to:

- As the bill is currently drafted, there are no job creation requirements that would tie directly to jobs created in Rhode Island subject to taxation by Rhode Island. Data centers traditionally employ primarily remote workers that would not necessarily be located in Rhode Island or subject to Rhode Island tax. This means that income from wages paid, and the business income, may not be "from" the data center in Rhode Island, which would result in the sales tax exemption simply increasing profits for an out of state company.
- It appears that the bill is written with the expectation that the servers, platform, and software are tangible property; however, in general, data centers are moving to virtualization technology, increasingly available by subscription, and virtualization of maintenance. As a result, the definitions would need to include the virtual substitute for each tangible item and ensure that definitions and provisions in the bill incorporate

Software as a Service, Infrastructure as a Service, and Platform as a Service.

- “Eligible qualified data center costs” means “expenditures made on or after July 1, 2025,” which would allow for retroactive inclusion of costs for agreements executed in the future – potentially many years in the future.
- As drafted, “Qualified data center equipment” is defined too broadly as it is not restricted to equipment at the “qualified data center.”
- The definition for “Qualified investment” appears to mean only those costs, as defined, “expended” by all three entities collectively, “owner, operator and colocation tenant” and “expended” is ambiguous because it may be interpreted to include costs not actually incurred and paid.
- In proposed § 44-64-43(b)(1)(ii), “on or before the fifth anniversary of the date an agreement entered into pursuant to this section becomes effective[.]” is ambiguous because it is not clear by which date the qualified investment must occur and the “effective” date of an agreement is subject to change based on negotiated terms – there are additional provisions that reference “effective date,” which result in the same ambiguity;
- In proposed §§ 44-64-43(b)(1)(ii)(B) and 44-64-43(b)(3)(ii), “enterprise zone” and “federal qualified opportunity zone” should include the same qualifications in §§ 44-64-43(b)(1)(ii)(A) and 44-64-43(b)(3)(i);
- In proposed § 44-64-43(b)(2)(v)(D), the agreement is to include a provision that if Commerce Corporation determines specified requirements are not met, the exempted taxes must be assessed and paid, but there is no clarity on who would assess the tax, who the payments would be made to, whether the assessment would include interest and/or penalty, or further that the agreement would be terminated and/or the exemption certificate issued would be revoked;
- In proposed § 44-64-43(c)(1), it appears that reference to “section” should be “chapter” and the provision of an exemption certificate to a person that has entered into an agreement, “and any contractor or subcontractor of [such] person” is too broad, is not related to the chapter, and is not authorized by the law;
- In proposed § 44-64-43(c)(2), application of the certificate “during the time period the agreement is effective” is not clear or clearly authorized by the proposed statute and there is the same issue with a similar provision in § 44-64-43(d)(2);
- Proposed § 44-64-43(e)(3) is internally inconsistent, does not provide clarity as to what is to be collected and/or what is authorized, is inconsistent with the Division’s existing process for imposing liens, and is unclear as to the intent of the provision;
- Provisions relating to notification to the tax administrator and/or the Division should include those items needed for purposes of proper administration, including termination of the agreement and/or revocation of the exemption certificate, and be provided within certain timeframes;
- Electricity already is exempt from sales and use tax pursuant to R.I. Gen. Laws § 44-18-



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- Due to the breadth of the tax exemption, which includes in proposed § 42-64-43(b)(4) exemption “from any financial transactions tax or fee that may be imposed by the state on trades of stocks, bonds, derivatives and other financial products[,]” and the fifty (50) year period of the exemption with potential extensions, there are constitutionality concerns pursuant to the nondelegation doctrine; and
- The proposed sales tax exemption is broadly drafted and may have unintended consequences, e.g., by reference to Chapter 18 of Title 44, the exemption would include local meals and beverage tax imposed pursuant to § 44-18-18.1.

The Division takes no position with respect to the remainder of the proposed legislation. Rather, the Division is concerned solely with the issues of clarity, tax compliance, and tax administration. As such, the Division respectfully suggests that the bill be redrafted for clarity.

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

Very truly yours,

Neena S. Savage  
Tax Administrator

cc: The Honorable Members of the House Committee on Finance (via:  
[HouseFinance@rilegislature.gov](mailto:HouseFinance@rilegislature.gov))  
The Honorable Alex S. Finkelman (via: [rep-finkelman@rilegislature.gov](mailto:rep-finkelman@rilegislature.gov))  
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House  
Lynne Urbani, Director of House Policy  
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