

Date of State Budget Office Approval: Tuesday, February 09, 2016

Date Requested: Tuesday, January 19, 2016

Date Due: Friday, January 29, 2016

<i>Impact on Expenditures</i>		<i>Impact on Revenues</i>	
FY 2016	n/a	FY 2016	n/a
FY 2017	Unknown > 0	FY 2017	\$(3,207,799)
FY 2018	n/a	FY 2018	n/a

Explanation by State Budget Office:

This bill would amend Rhode Island General Law Chapter 44-18 entitled "Sales and Use Taxes – Liability and Computation" by adding Rhode Island General Law Section 44-18-18.2 titled "Annual Sales Tax Holiday". The annual sales tax holiday would provide an exemption from the 7.0 percent sales and use tax for "certain purchases made by individuals for personal use." The exemption only applies to sales of tangible personal property bought for personal use and purchases made by corporations or individuals for business use would remain taxable. The sales tax holiday excludes all sales of motor vehicles, motorboats, meals, telecommunications services, gas, steam, electricity, tobacco products, and any single item whose sales price is in excess of \$2,500. When the sales price of a single item exceeds \$2,500, sales and/or use tax is due on the full amount charged for the item, the sale price is not reduced by the threshold amount.

The bill designates the sales tax holiday occur on Saturday, August 6, 2016. The General Assembly is required to "review the fiscal impact of the sales tax holiday and determine whether to renew or continue the holding of a sales tax holiday."

Comments on Sources of Funds:

All sales and use taxes are considered to be general revenues.

Summary of Facts and Assumptions:

*******REVISED 2/29/2016** BY THE DIVISION OF TAXATION. THE ESTIMATED FISSCAL IMPACT OF THE HOLIDAY IS UNCHANGED *****

This bill takes effect upon passage and expires on September 1, 2016.

new information

* Rhode Island is a signatory to the Streamlined Sales Tax Agreement (SSUTA) pursuant to Rhode Island General Law § 44-18.1-1 et seq. entitled "Adoption of the Streamlined Sales and Tax Agreement". This statute reflects the requirements in the SSUTA. Any sales tax holiday must comply with Section 322 of the SSUTA. The pertinent requirements are: (i) exempting part of the price of an item below a threshold is not allowed under Rhode Island General Law section 44-18.1-23(B) titled "Sales tax holiday"; (ii) thresholds are allowed under Rhode Island General Law section 44-18.1-23(B) but only for items specifically defined in Rhode Island General Law Section 44-18.1-23(A)(1) titled "Sales tax holidays", however, the Streamlined Sales Tax Governing Board, Inc. will work with the State to define a particular category and will do so, but the State needs to have that definition finalized by March; and (iii) the Streamlined Sales Tax Governing Board and the

*new
infusion*

Certified Service Providers need 60 days notice prior to the first day of the calendar quarter in which the proposed sales tax holiday is anticipated so that retailers and certified service providers can program their systems to comply with the terms of the holiday (see Rhode Island General Law section 44-18.1-23(A)(2) titled "Sales tax holiday). Based on the proposed date of the sales tax holiday, the 60 days notification would be May 1, 2016

The fiscal impact of the bill as estimated by the Department of Revenue's Office of Revenue Analysis (ORA) is based on an analysis done by the Massachusetts Department of Revenue on sales tax holidays that have occurred in the state of Massachusetts. The last Massachusetts sales tax holiday occurred on August 15th and 16th of 2015 and waived the sales tax on tangible personal property except on purchases of telecommunication services, tobacco products, gas, steam, electricity, motor vehicles, motorboats, meals, and any single item the price of which was in excess of \$2,500.

The proposed sales tax holiday excludes "all sales of motor vehicles, motorboats, meals, telecommunications services, gas, steam, electricity, tobacco products and of any single item whose price is in excess of \$2,500." In order to derive a comparable base upon which to determine the fiscal impact of the proposed sales tax holiday, ORA deducted from the estimate of sales and use tax revenues adopted at the November 2015 Revenue Estimating Conference estimates of the use taxes paid on motor vehicles and the sales taxes paid on meals and beverages, telecommunications services and tobacco products. It should be noted that the exclusion of motorboats and gas, steam, and electricity from the sales tax holiday is unnecessary since these items are already exempt from state sales and use taxes. Further, the definition of the items excluded from the proposed sales tax holiday should be expanded to include beverages consumed away from home, the rental of lodging, and alcohol to the extent that alcohol is subject to the state sales and use tax. ORA assumed in the fiscal impact that these items would be excluded from the sales tax holiday.

At the November 2015 Revenue Estimating Conference, a total sales and use tax revenue estimate of \$1,015,000,000 for FY 2017 was adopted. ORA estimated the amount of total sales and use tax revenues that would be attributable to motor vehicles by taking the five fiscal year average of the percent of total sales and use tax revenues that were derived from the use tax received when a motor vehicle is newly registered as provided by the Department of Revenue's Division of Taxation (Taxation). Based on these figures, ORA estimated that an average of 10.3836 percent of total sales and use tax revenues were the result of the use tax paid when a motor vehicle is newly registered. This percentage was applied to the FY 2017 sales and use tax revenue estimate of \$1,015,000,000 to derive an estimate of \$909,606,367 in sales and use tax revenues net of use taxes paid on newly registered motor vehicles (i.e., \$1,015,000,000 $(\$1,015,000,000 * 0.103836)$).

ORA then estimated the amount of sales and use tax revenues that would be generated from the consumption of meals and beverages away from home and the rental of lodging. ORA provides the Department of Revenue's Division of Municipal Finance with forecasts of local 1.0 percent hotel tax revenues and local 1.0 percent meal and beverage tax revenues for inclusion in the Governor's budget.



exempt.) In order to account for the difference between beer and malt sales taxes remitted in calendar year 2014 and beer and malt sales tax collections in fiscal year 2014, ORA took data on beer and malt excise taxes in fiscal year 2014 and beer and malt excise taxes in calendar year 2014 to calculate the percentage needed to adjust calendar year beer and malt sales taxes to fiscal year beer and malt excise taxes. Based on information provided by Taxation, FY 2014 beer and malt excise taxes totaled \$2,123,828. The comparable figure for CY 2014 was \$2,044,610. Thus, the ratio of FY 2014 beer and malt excise taxes to CY 2014 beer and malt excise taxes was 1.03874 (i.e., \$2,123,828 / \$2,044,610). Applying this ratio to CY 2014 beer and malt sales tax data yields FY 2014 beer and malt sales tax collections of \$9,926,525 (i.e., \$9,556,269 * 1.03874). Subtracting sales taxes received from beer and malt from the above sales and use taxes estimate results in \$589,596,204 (i.e., \$599,522,728 - \$9,926,525).

Given that the sales tax holiday is to take place on August 6, 2016, ORA used the five fiscal year average percentage of total sales and use tax revenues that are generated in August of a given fiscal year. This percentage, 8.6580 percent, was applied to the estimated sales and use tax base revenues that would be subject to the sales tax holiday of \$589,596,204 to arrive at the total FY 2017 sales and use tax revenues base subject to the sales tax holiday of \$51,047,087 (i.e., \$589,596,204 * 0.08658). Taking the estimated total August sales and use taxes subject to the sales tax holiday exemption of \$51,047,087 and dividing it by the tax rate of 7.0 percent yields \$729,244,099 as the estimate for the total taxable sales subject to the sales tax holiday exemption for the month of August (i.e., \$51,047,099 / 0.07).

The Massachusetts Department of Revenue uses two methodologies to calculate the impact of their sales tax holidays. The first method uses credit card data from 2005 to obtain a high point estimate for the amount of total sales that would occur over a two day sales tax holiday period at 10.11 percent. The Massachusetts Department of Revenue considers this to be a high estimate due to the fact that the credit card data includes both tax exempt and non-tax exempt sales. ORA used 80 percent of this estimate because the Massachusetts sales tax holiday was over two days whereas Rhode Island's sales tax holiday is for one day. This resulted in an estimated 8.0880 percent of total August sales that would occur on a one day sales tax holiday in Rhode Island (i.e., 0.1011*0.80). Using this estimate ORA calculated that \$58,981,623 worth of taxable sales would occur on the sales tax holiday (i.e., \$729,244,099 * 0.080880). To determine the amount of revenue foregone from a one-day sales tax holiday in Rhode Island on August 6, 2016 this figure was multiplied by the Rhode Island sales and use tax rate of 7.0 percent to yield total foregone sales and use tax revenues of \$4,128,688.

The second methodology uses Massachusetts's estimate of sales and use tax foregone over the total retail sales in August reported in the Massachusetts Blue Book report. The Massachusetts Blue Book reports on taxes and other revenue collected monthly by the Massachusetts Department of Revenue. Massachusetts considers this approach a low estimate as the Blue Book report focuses on a broad category of retailers based on their NAICS code which leaves out some retail sales made by other businesses. To find the amount of sales and use tax foregone as a result of the sales tax holiday using this method, Massachusetts DOR took sales tax



ORA used these forecasted 1.0 percent values and scaled them to the state sales and use tax 7.0 percent rate to arrive at estimated meals and beverages sales tax revenues of \$194,169,123 and estimated lodging sales tax revenues of \$33,841,484 in FY 2017. These amounts were subtracted from the FY 2017 sales and use tax revenue estimate adjusted for use taxes paid on newly registered motor vehicles of \$909,606,367 to yield net sales and use tax revenues of \$681,595,760 as the base for the sales tax holiday fiscal impact (i.e., \$909,606,367 - \$194,169,123 - \$33,841,484).

The next item ORA accounted for was sales and use taxes on tobacco. First, ORA used data provided by Taxation on the prepayment of sales taxes on cigarettes by cigarette wholesalers. In order to account for smokeless tobacco, ORA calculated the percentage of smokeless tobacco sales to cigarette sales for FY 2011 – FY 2015 and applied this percentage to the prepayment of sales taxes on cigarettes for FY 2011 – 2015. The FY 2011 – FY 2015 totals for these prepaid sales taxes on cigarettes and smokeless tobacco are divided by total sales and use tax receipts less sales and use taxes for newly registered vehicles, for FY 2011 – FY 2015 to get the average percentage of sales and use taxes generated from sales of cigarettes and smokeless tobacco. This percentage was 2.7049 percent and results in estimated sales and use tax revenues from the sale of cigarettes and smokeless tobacco for FY 2017 of \$24,603,520. Subtracting this amount from the estimate of sales and use tax revenues less registry use tax receipts and sales and use taxes on meals and beverages and lodging rentals reduces base sales and use tax revenues to \$656,992,239 (i.e., \$681,595,760 - (\$909,606,367*0.027049)).

At the November 2015 Revenue Estimating Conference, the Division of Taxation reported revenues of \$40,460,000 in FY 2014 and \$39,730,000 in FY 2015 from the 5.0 percent gross earnings tax on telecommunications services. ORA calculated the average of the percentage of telecommunication services public utilities gross earnings tax revenues to total public utilities gross earnings tax revenues for FY 2014 and FY 2015 to be 39.2820 percent. This percentage was then applied to the adopted estimate of total public utilities gross earnings tax revenues for FY 2017 to obtain an estimate for FY 2017 telecommunication services gross earnings tax revenues of \$41,049,651 (i.e., \$104,500,000 * 0.392820). Dividing this estimate by the 5.0 percent gross earnings tax rate for telecommunications services yields the taxable sales base for telecommunications services of \$820,993,010 (i.e., \$41,049,651 / 0.05). Multiplying the estimated taxable sales base for telecommunications services by the 7.0 percent sales and use tax rate yielded estimated FY 2017 sales and use tax revenues from telecommunication services of \$57,469,511 (i.e., \$820,993,010 * 0.07). Subtracting this amount from the estimate of adjusted sales and use taxes subject to the sales tax holiday yields a revised sales and use tax holiday base of \$599,522,728 (i.e., \$656,992,239 - \$57,469,511).

To determine the amount of alcohol sales and use tax revenues that ORA exempted from the sales tax holiday, ORA consulted the Tax Administrator's Report Sales and Taxation of Alcoholic Beverages in Rhode Island that was published on May 1, 2015. The report shows that \$136,518,129 of beer and malt sales were made in calendar year 2014 yielding \$9,556,269 of sales and use taxes. (It should be noted that wine and spirits were exempt from the sales and use tax in CY 2014 and remain



return data categorized as "Sales for Resale/Exempt Sales or Other Adjustments" by the retailer's NAICS code as a measure of exempt sales that occurred in the month of August. To control for increases in taxes foregone in 2015 not due to the sales tax holiday, Massachusetts DOR compared 2015 data on the retailers to data from 2009, a year when the sales tax holiday was not in effect. Due to the fact that many retailers went into and out of business between 2009 and 2015 and the number of matched retailers might decline over time, instead of matching retailers directly Massachusetts DOR matched data on the retailers for consecutive years from 2009 to 2015 and added the incremental changes from 2010 to 2015. This resulted in a Massachusetts DOR sale and use tax revenue foregone estimate of \$16.88 million. Dividing this by the total sales tax revenue reported in the Massachusetts Blue Book of \$303,701,077 produces an estimate of the percentage of exempt sales that occurred on the Massachusetts sales tax holiday of 5.5581 percent (i.e., \$16,880,000 / \$303,701,077).

This results in a low point estimate of the amount of sales that would occur over a two day sales tax holiday. ORA again used 80 percent of this estimate to come to an estimated 4.4465 percent of total August sales that would occur on a one day sales tax holiday in Rhode Island (i.e., $0.055581 * 0.80$). Using this estimate ORA calculates that \$32,670,136 worth of sales would occur on the sales tax holiday (i.e., $\$729,244,099 * 0.044465$). Multiplying this by the Rhode Island tax rate of 7.0 percent, the one day sales tax holiday would result in a total of \$2,286,909 of sales and use taxes foregone. ORA took the average of the estimates from both methodologies to get a midpoint estimate of \$3,207,799 (i.e., $(\$4,128,688 + \$2,286,909) / 2$).

The Governor's FY 2017 Recommended Budget projects a closing surplus of \$519,565 in FY 2017. Passage of this bill would put the Governor's FY 2017 Recommended Budget out of balance.

*Summary of Fiscal
Impact:*

FY 2016: Not applicable given the sales tax holiday occurs on August 6, 2016.

FY 2017: A revenue loss of \$3,207,799 is forecast.

FY 2018: Not applicable given the act shall expire on September 1, 2016

Budget Office Signature:

Fiscal Advisor Signature: