

2011 -- S 0560

LC01391

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2011

A N A C T

RELATING TO TAXATION -- SALES AND USE TAXES--LIABILITY AND
COMPUTATION

Introduced By: Senators Pichardo, Metts, Kettle, Felag, and Tassoni

Date Introduced: March 10, 2011

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and
2 Use Taxes - Liability and Computation" is hereby amended to read as follows:

3 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
4 the taxes imposed by this chapter the following gross receipts:

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

9 (2) Newspapers.

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

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

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

17 (3) School meals. - From the sale and from the storage, use, or other consumption in this
18 state of meals served by public, private, or parochial schools, school districts, colleges,

1 universities, student organizations, and parent teacher associations to the students or teachers of a
2 school, college, or university whether the meals are served by the educational institutions or by a
3 food service or management entity under contract to the educational institutions.

4 (4) Containers.

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

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

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

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

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

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

30 (ii) In the case of contracts entered into with the federal government, its agencies or
31 instrumentalities, this state or any other state of the United States of America, its agencies, any
32 city, town, district, or other political subdivision of the states, hospitals not operated for profit,
33 educational institutions not operated for profit, churches, orphanages, and other institutions or
34 organizations operated exclusively for religious or charitable purposes, the contractor may

1 purchase such materials and supplies (materials and/or supplies are defined as those which are
2 essential to the project) that are to be utilized in the construction of the projects being performed
3 under the contracts without payment of the tax.

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

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

13 (7) Purchase for manufacturing purposes.

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

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

23 (iii) "Consumed" includes mere obsolescence.

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

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

31 (vi) "Process of manufacturing" does not mean or include administration operations such
32 as general office operations, accounting, collection, sales promotion, nor does it mean or include
33 distribution operations which occur subsequent to production operations, such as handling,
34 storing, selling, and transporting the manufactured products, even though the administration and

1 distribution operations are performed by or in connection with a manufacturing business.

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

6 (9) Food and food ingredients. - From the sale and storage, use, or other consumption in
7 this state of food and food ingredients as defined in section 44-18-7.1(l).

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

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

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

15 (iii) Bakery items, including bread, rolls, buns, biscuits, bagels, croissants, pastries,
16 donuts, danish, cakes, tortes, pies, tarts, muffins, bars, cookies, tortillas; and

17 is not sold with utensils provided by the seller, including plates, knives, forks, spoons,
18 glasses, cups, napkins, or straws.

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

21 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,
22 and insulin whether or not sold on prescription, and over-the-counter drugs as defined in section
23 44-18-7.1(h)(ii). For purposes of this exemption over-the-counter drugs shall not include
24 grooming and hygiene products as defined in section 44-18-7.1(h)(iii).

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

31 (11) Prosthetic devices and mobility enhancing equipment. - From the sale and from the
32 storage, use, or other consumption in this state, of prosthetic devices as defined in section 44-18-
33 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
34 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on

1 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including
2 wheelchairs, crutches and canes.

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

6 (13) Motor vehicles sold to nonresidents.

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

21 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
22 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
23 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
24 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
25 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
26 state motor vehicle registration or a valid out of state driver's license.

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

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

34 (15) Air and water pollution control facilities. - From the sale, storage, use, or other

1 consumption in this state of tangible personal property or supplies acquired for incorporation into
2 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
3 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
4 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
5 that purpose by the director of environmental management. The director of environmental
6 management may certify to a portion of the tangible personal property or supplies acquired for
7 incorporation into those facilities or used and consumed in the operation of those facilities to the
8 extent that that portion has as its primary purpose the control of the pollution or contamination of
9 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
10 device, building, machinery, or equipment.

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

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

17 (18) Educational institutions. - From the rental charged by any educational institution for
18 living quarters, or sleeping or housekeeping accommodations or other rooms or accommodati ons
19 to any student or teacher necessitated by attendance at an educational institution. "Educational
20 institution" as used in this section means an institution of learning not operated for profit which is
21 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
22 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
23 school year, which keeps and furnishes to students and others records required and accepted for
24 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
25 inures to the benefit of any individual.

26 (19) Motor vehicle and adaptive equipment for persons with disabilities.

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

34 (ii) For the purpose of this subsection the term "special adaptations" includes, but is not

1 limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand
2 controls; steering devices; extensions, relocations, and crossovers of operator controls; power-
3 assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling
4 devices to auditory signals.

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

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

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

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

16 (22) Manufacturing machinery and equipment.

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

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

1 time to time, to be sold to the extent the property is used in administration or distribution
2 operations;

3 (iii) Machinery and equipment and related items used in connection with the actual
4 manufacture, conversion, or processing of any computer software or any tangible personal
5 property which is not to be sold and which would be exempt under subdivision (7) or this
6 subdivision if purchased from a vendor or machinery and equipment and related items used
7 during any manufacturing, converting or processing function is exempt under this subdivision
8 even if that operation, function, or purpose is not an integral or essential part of a continuous
9 production flow or manufacturing process;

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

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

27 (24) Precious metal bullion.

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

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

34 (iii) The term does not include fabricated precious metal which has been processed or

1 manufactured for some one or more specific and customary industrial, professional, or artistic
2 uses.

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

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

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

1 section 44-18-7.1(f).

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

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

9 (30) Boats.

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

15 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
16 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
17 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
18 provided in this subdivision, including the affidavit of the seller that the buyer represented
19 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
20 nonresident of this state.

21 (31) Youth activities equipment. - From the sale, storage, use, or other consumption in
22 this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
23 eleemosynary organizations, for the purposes of youth activities which the organization is formed
24 to sponsor and support; and by accredited elementary and secondary schools for the purposes of
25 the schools or of organized activities of the enrolled students.

26 (32) Farm equipment. - From the sale and from the storage or use of machinery and
27 equipment used directly for commercial farming and agricultural production; including, but not
28 limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
29 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
30 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
31 other farming equipment, including replacement parts, appurtenant to or used in connection with
32 commercial farming and tools and supplies used in the repair and maintenance of farming
33 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
34 the production within this state of agricultural products, including, but not limited to, field or

1 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or
2 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
3 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
4 prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2)
5 levels. Level I shall be based on proof of annual gross sales from commercial farming of at least
6 twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption
7 provided in this subdivision except for motor vehicles with an excise tax value of five thousand
8 dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from
9 commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for
10 purchases subject to the exemption provided in this subdivision including motor vehicles with an
11 excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the
12 exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be
13 required for the prior year; for any renewal of an exemption granted in accordance with this
14 subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at
15 the requisite amount shall be required for each of the prior two (2) years. Certificates of
16 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
17 and be valid for four (4) years after the date of issue. This exemption applies even if the same
18 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
19 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
20 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration
21 displaying farm plates as provided for in section 31-3-31.

22 (33) Compressed air. - From the sale and from the storage, use, or other consumption in
23 the state of compressed air.

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

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

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

1 by any purveyor.

2 (37) Tangible personal property and supplies used in on-site hazardous waste recycling,
3 reuse, or treatment. - From the sale, storage, use, or other consumption in this state of tangible
4 personal property or supplies used or consumed in the operation of equipment, the exclusive
5 function of which is the recycling, reuse, or recovery of materials (other than precious metals, as
6 defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as
7 defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely
8 by the same taxpayer and where the personal property is located at, in, or adjacent to a generating
9 facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of
10 the department of environmental management certifying that the equipment and/or supplies as
11 used, or consumed, qualify for the exemption under this subdivision. If any information relating
12 to secret processes or methods of manufacture, production, or treatment is disclosed to the
13 department of environmental management only to procure an order, and is a "trade secret" as
14 defined in section 28-21-10(b), it is not open to public inspection or publicly disclosed unless
15 disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

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

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

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

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

34 (42) Equipment used for research and development. - From the sale and from the

1 storage, use, or other consumption of equipment to the extent used for research and development
2 purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a
3 business for which the use of research and development equipment is an integral part of its
4 operation, and "equipment" means scientific equipment, computers, software, and related items.

5 (43) Coins. - From the sale and from the other consumption in this state of coins having
6 numismatic or investment value.

7 (44) Farm structure construction materials. - Lumber, hardware and other materials used
8 in the new construction of farm structures, including production facilities such as, but not limited
9 to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns, laying
10 houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses, packing
11 rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker and
12 trench silos, feed storage sheds, and any other structures used in connection with commercial
13 farming.

14 (45) Telecommunications carrier access service. - Carrier access service or
15 telecommunications service when purchased by a telecommunications company from another
16 telecommunications company to facilitate the provision of telecommunications service.

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

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

31 (48) Boats or vessels generally. - Notwithstanding the provisions of this chapter, the tax
32 imposed by sections 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the
33 storage, use, or other consumption in this state of any new or used boat. The exemption provided
34 for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the

1 federal ten percent (10%) surcharge on luxury boats is repealed.

2 (49) Banks and Regulated investment companies interstate toll-free calls. -
3 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
4 the furnishing of interstate and international, toll-free terminating telecommunication service that
5 is used directly and exclusively by or for the benefit of an eligible company as defined in this
6 subdivision; provided, that an eligible company employs on average during the calendar year no
7 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
8 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
9 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
10 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
11 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
12 a state chartered bank.

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

16 (51) Manufacturing business reconstruction materials.

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

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

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

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

29 (52) Tangible personal property and supplies used in the processing or preparation of
30 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this
31 state of tangible personal property or supplies purchased by florists, garden centers, or other like
32 producers or vendors of flowers, plants, floral products, and natural and artificial floral
33 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
34 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,

1 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
2 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
3 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
4 food, insecticide and fertilizers.

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

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

9 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
10 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
11 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
12 state or at the place of residence of the nonresident; provided, that a non-motorized recreational
13 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
14 to its nonresidents is not exempt from the tax imposed under section 44-18-20; provided, further,
15 that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal
16 to the rate that would be imposed in his or her state of residence not to exceed the rate that would
17 have been imposed under section 44-18-20. Notwithstanding any other provisions of law, a
18 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
19 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
20 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle
21 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
22 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
23 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
24 of motor vehicles.

25 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
26 28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to
27 bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
28 exemption provided in this subdivision, including the affidavit of a licensed non-motorized
29 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
30 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle
31 registration or a valid out-of-state driver's license.

32 (iii) Any nonresident who registers a non-motorized recreational vehicle in this state
33 within ninety (90) days of the date of its sale to him or her is deemed to have purchased the non-
34 motorized recreational vehicle for use, storage, or other consumption in this state, and is subject

1 to, and liable for the use tax imposed under the provisions of section 44-18-20.

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

7 (55) Sprinkler and fire alarm systems in existing buildings. - From the sale in this state of
8 sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the sale of the
9 materials necessary and attendant to the installation of those systems, that are required in
10 buildings and occupancies existing therein in July 2003, in order to comply with any additional
11 requirements for such buildings arising directly from the enactment of the Comprehensive Fire
12 Safety Act of 2003, and that are not required by any other provision of law or ordinance or
13 regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire
14 on December 31, 2008.

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

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

34 (58) Returned property. - The amount charged for property returned by customers upon

1 rescission of the contract of sale when the entire amount exclusive of handling charges paid for
2 the property is refunded in either cash or credit, and where the property is returned within one
3 hundred twenty (120) days from the date of delivery.

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

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

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

11 (62) Agricultural products for human consumption and use. - From the sale and from the
12 storage, use or other consumption of livestock and poultry of the kinds of products of which
13 ordinarily constitute food for human consumption and of livestock of the kind the products of
14 which ordinarily constitute fibers for human use and horses used in commercial farming
15 operations as defined in subdivision 44-18-30(32).

16 (63) Diesel emission control technology. - From the sale and use of diesel retrofit
17 technology that is required by section 31-47.3-4 of the general laws.

18 (64) Feed for animals used in commercial farming. - From the sale of feed for animals
19 described in subdivision 44-18-30(62).

20 SECTION 2. This act shall take effect upon passage.

=====
LC01391
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TAXATION -- SALES AND USE TAXES--LIABILITY AND
COMPUTATION

1 This act would amend the definition of “commercial farming” by eliminating from the
2 definition the requirement of keeping or boarding five (5) or more horses to be exempted from
3 sales and use taxes, and by exempting the sale of feed for horses used in commercial farming
4 from the sales and use tax.

5 This act would take effect upon passage.

=====
LC01391
=====