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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

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

Introduced By: Senators Pichardo, DiPalma, Ciccone, and Perry

Date Introduced: February 11, 2010

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-18-18, 44-18-19, 44-18-20 and 44-18-30 of the General Laws
2 in Chapter 44-18 entitled "Sales and Use Taxes - Liability and Computation" are hereby amended
3 to read as follows:

4 **44-18-18. Sales tax imposed.** -- A tax is imposed upon sales at retail in this state
5 including charges for rentals of living quarters in hotels, rooming houses, or tourist camps, at the
6 rate of six percent (6%) of the gross receipts of the retailer from the sales or rental charges;
7 provided, that the tax imposed on charges for the rentals applies only to the first period of not
8 exceeding thirty (30) consecutive calendar days of each rental; provided, further, that for the
9 period commencing July 1, 1990, the tax rate is seven percent (7%); provided, further, that for the
10 period commencing July 1, 2010, the tax rate is five percent (5%). The tax is paid to the tax
11 administrator by the retailer at the time and in the manner provided. Excluded from this tax are
12 those living quarters in hotels, rooming houses, or tourist camps for which the occupant has a
13 written lease for the living quarters which lease covers a rental period of twelve (12) months or
14 more.

15 **44-18-19. Collection of sales tax by retailer.** -- The retailer shall add the tax imposed by
16 this chapter to the sale price or charge, and when added the tax constitutes a part of the price or
17 charge, is a debt from the consumer or user to the retailer, and is recoverable at law in the same
18 manner as other debts; provided, that the amount of tax that the retailer collects from the

1 consumer or user is as follows:

2	Amount of Sale	Amount of Tax
3	\$0.01 to \$.08 inclusive	No Tax
4	.09 to .24 inclusive	.01
5	.25 to .41 inclusive	.02
6	.42 to .58 inclusive	.03
7	.59 to .74 inclusive	.04
8	.75 to .91 inclusive	.05
9	.92 to 1.08 inclusive	.06

10 and where the amount of the sale is more than one dollar and eight cents (\$1.08) the
11 amount of the tax is computed at the rate of six percent (6%); provided, that the amount of tax
12 that the retailer collects from the consumer or user for the period commencing July 1, 1990 is as
13 follows:

14	Amount of Sale	Amount of Tax
15	\$ 0.01 to \$.07 inclusive	No Tax
16	.08 to .21 inclusive	.01
17	.22 to .35 inclusive	.02
18	.36 to .49 inclusive	.03
19	.50 to .64 inclusive	.04
20	.65 to .78 inclusive	.05
21	.79 to .92 inclusive	.06
22	.93 to 1.07 inclusive	.07

23 and where the amount of the sale is more than one dollar and seven cents (\$1.07) the
24 amount of the tax is computed at the rate of seven percent (7%); provided, that the amount of tax
25 that the retailer collects from the consumer or user for the period commencing July 1, 2010 is as
26 follows:

27	<u>Amount of Sale</u>	<u>Amount of Tax</u>
28	<u>\$0.01 to \$.08 inclusive</u>	<u>No Tax</u>
29	<u>.11 to .29 inclusive</u>	<u>.01</u>
30	<u>.30 to .49 inclusive</u>	<u>.02</u>
31	<u>.50 to .69 inclusive</u>	<u>.03</u>
32	<u>.70 to .89 inclusive</u>	<u>.04</u>
33	<u>.90 to 1.09 inclusive</u>	<u>.05</u>

34 and where the amount of the sale is more than one dollar and nine cents (\$1.09) the

1 amount of the tax is computed at the rate of five percent (5%).

2 **44-18-20. Use tax imposed.** -- (a) An excise tax is imposed on the storage, use, or other
3 consumption in this state of tangible personal property, including a motor vehicle, a boat, an
4 airplane, or a trailer, purchased from any retailer at the rate of six percent (6%) of the sale price of
5 the property.

6 (b) An excise tax is imposed on the storage, use, or other consumption in this state of a
7 motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle
8 dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent
9 (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

10 (c) The word "trailer" as used in this section and in section 44-18-21 means and includes
11 those defined in section 31-1-5(a) -- (e) and also includes boat trailers, camping trailers, house
12 trailers, and mobile homes.

13 (d) Notwithstanding the provisions contained in this section and in section 44-18-21
14 relating to the imposition of a use tax and liability for this tax on certain casual sales, no tax is
15 payable in any casual sale:

16 (1) When the transferee or purchaser is the spouse, mother, father, brother, sister, or
17 child of the transferor or seller;

18 (2) When the transfer or sale is made in connection with the organization, reorganization,
19 dissolution, or partial liquidation of a business entity; provided:

20 (i) The last taxable sale, transfer, or use of the article being transferred or sold was
21 subjected to a tax imposed by this chapter;

22 (ii) The transferee is the business entity referred to or is a stockholder, owner, member,
23 or partner; and

24 (iii) Any gain or loss to the transferor is not recognized for income tax purposes under
25 the provisions of the federal income tax law and treasury regulations and rulings issued
26 thereunder;

27 (3) When the sale or transfer is of a trailer, other than a camping trailer, of the type
28 ordinarily used for residential purposes and commonly known as a house trailer or as a mobile
29 home; or

30 (4) When the transferee or purchaser is exempt under the provisions of section 44-18-30
31 or other general law of this state or special act of the general assembly of this state.

32 (e) The term "casual" means a sale made by a person other than a retailer; provided, that
33 in the case of a sale of a motor vehicle, the term means a sale made by a person other than a
34 licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed

1 under the provisions of subsections (a) and (b) of this section on the storage, use, or other
2 consumption in this state of a used motor vehicle less than the product obtained by multiplying
3 the amount of the retail dollar value at the time of purchase of the motor vehicle by the applicable
4 tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar
5 value, the tax is based on the sale price. The tax administrator shall use as his or her guide the
6 retail dollar value as shown in the current issue of any nationally recognized used vehicle guide
7 for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after
8 payment of the tax, if the tax administrator determines that the retail dollar value as stated in this
9 subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable
10 opportunity to be heard, re-determine the tax.

11 (f) Every person making more than five (5) retail sales of tangible personal property
12 during any twelve (12) month period, including sales made in the capacity of assignee for the
13 benefit of creditors or receiver or trustee in bankruptcy, is considered a retailer within the
14 provisions of this chapter.

15 (g) (1) "Casual sale" includes a sale of tangible personal property not held or used by a
16 seller in the course of activities for which the seller is required to hold a seller's permit or permits
17 or would be required to hold a seller's permit or permits if the activities were conducted in this
18 state; provided, that the sale is not one of a series of sales sufficient in number, scope, and
19 character (more than five (5) in any twelve (12) month period) to constitute an activity for which
20 the seller is required to hold a seller's permit or would be required to hold a seller's permit if the
21 activity were conducted in this state.

22 (2) Casual sales also include sales made at bazaars, fairs, picnics, or similar events by
23 nonprofit organizations, which are organized for charitable, educational, civic, religious, social,
24 recreational, fraternal, or literary purposes during two (2) events not to exceed a total of six (6)
25 days duration each calendar year. Each event requires the issuance of a permit by the division of
26 taxation. Where sales are made at events by a vendor, which holds a sales tax permit and is not a
27 nonprofit organization, the sales are in the regular course of business and are not exempt as casual
28 sales.

29 (h) The use tax imposed under this section for the period commencing July 1, 1990 is at
30 the rate of seven percent (7%); provided, further, that for the period commencing July 1, 2010,
31 the tax imposed under this section is at the rate of four percent (4%).

32 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
33 the taxes imposed by this chapter the following gross receipts:

34 (1) Sales and uses beyond constitutional power of state. - From the sale and from the

1 storage, use, or other consumption in this state of tangible personal property the gross receipts
2 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
3 from taxing under the Constitution of the United States or under the constitution of this state.

4 (2) Newspapers.

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

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

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

12 (3) School meals. - From the sale and from the storage, use, or other consumption in this
13 state of meals served by public, private, or parochial schools, school districts, colleges,
14 universities, student organizations, and parent teacher associations to the students or teachers of a
15 school, college, or university whether the meals are served by the educational institutions or by a
16 food service or management entity under contract to the educational institutions.

17 (4) Containers.

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

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

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

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

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

30 (5) (i) Charitable, educational, and religious organizations. - From the sale to as in
31 defined in this section, and from the storage, use, and other consumption in this state or any other
32 state of the United States of America of tangible personal property by hospitals not operated for a
33 profit, "educational institutions" as defined in subdivision (18) not operated for a profit, churches,
34 orphanages, and other institutions or organizations operated exclusively for religious or charitable

1 purposes, interest free loan associations not operated for profit, nonprofit organized sporting
2 leagues and associations and bands for boys and girls under the age of nineteen (19) years, the
3 following vocational student organizations that are state chapters of national vocational students
4 organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of
5 America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers
6 of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial
7 Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and
8 women, and parent teacher associations.

9 (ii) In the case of contracts entered into with the federal government, its agencies or
10 instrumentalities, this state or any other state of the United States of America, its agencies, any
11 city, town, district, or other political subdivision of the states, hospitals not operated for profit,
12 educational institutions not operated for profit, churches, orphanages, and other institutions or
13 organizations operated exclusively for religious or charitable purposes, the contractor may
14 purchase such materials and supplies (materials and/or supplies are defined as those which are
15 essential to the project) that are to be utilized in the construction of the projects being performed
16 under the contracts without payment of the tax.

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

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

26 (7) Purchase for manufacturing purposes.

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

34 (ii) "Consumed" means destroyed, used up, or worn out to the degree or extent that the

1 property cannot be repaired, reconditioned, or rendered fit for further manufacturing use.

2 (iii) "Consumed" includes mere obsolescence.

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

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

10 (vi) "Process of manufacturing" does not mean or include administration operations such
11 as general office operations, accounting, collection, sales promotion, nor does it mean or include
12 distribution operations which occur subsequent to production operations, such as handling,
13 storing, selling, and transporting the manufactured products, even though the administration and
14 distribution operations are performed by or in connection with a manufacturing business.

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

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

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

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

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

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

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

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

34 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,

1 and insulin whether or not sold on prescription, and over-the-counter drugs as defined in section
2 44-18-7.1(h)(ii). For purposes of this exemption over-the-counter drugs shall not include
3 grooming and hygiene products as defined in section 44-18-7.1(h)(iii).

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

10 (11) Prosthetic devices and mobility enhancing equipment. - From the sale and from the
11 storage, use, or other consumption in this state, of prosthetic devices as defined in section 44-18-
12 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
13 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
14 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including
15 wheelchairs, crutches and canes.

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

19 (13) Motor vehicles sold to nonresidents.

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

34 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-

1 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
2 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
3 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
4 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
5 state motor vehicle registration or a valid out of state driver's license.

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

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

13 (15) Air and water pollution control facilities. - From the sale, storage, use, or other
14 consumption in this state of tangible personal property or supplies acquired for incorporation into
15 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
16 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
17 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
18 that purpose by the director of environmental management. The director of environmental
19 management may certify to a portion of the tangible personal property or supplies acquired for
20 incorporation into those facilities or used and consumed in the operation of those facilities to the
21 extent that that portion has as its primary purpose the control of the pollution or contamination of
22 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
23 device, building, machinery, or equipment.

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

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

30 (18) Educational institutions. - From the rental charged by any educational institution for
31 living quarters, or sleeping or housekeeping accommodations or other rooms or accommodations
32 to any student or teacher necessitated by attendance at an educational institution. "Educational
33 institution" as used in this section means an institution of learning not operated for profit which is
34 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular

1 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
2 school year, which keeps and furnishes to students and others records required and accepted for
3 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
4 inures to the benefit of any individual.

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

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

13 (ii) For the purpose of this subsection the term "special adaptations" includes, but is not
14 limited to: wheelchair lifts; wheelchair carriers; wheelchair ramps; wheelchair securements; hand
15 controls; steering devices; extensions, relocations, and crossovers of operator controls; power-
16 assisted controls; raised tops or dropped floors; raised entry doors; or alternative signaling
17 devices to auditory signals.

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

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

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

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

29 (22) Manufacturing machinery and equipment.

30 (i) From the sale and from the storage, use, or other consumption in this state of tools,
31 dies, and molds, and machinery and equipment (including replacement parts), and related items to
32 the extent used in an industrial plant in connection with the actual manufacture, conversion, or
33 processing of tangible personal property, or to the extent used in connection with the actual
34 manufacture, conversion or processing of computer software as that term is utilized in industry

1 numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the
2 technical committee on industrial classification, office of statistical standards, executive office of
3 the president, United States bureau of the budget, as revised from time to time, to be sold, or that
4 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
5 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
6 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
7 be sold in the regular course of business;

8 (ii) Machinery and equipment and related items are not deemed to be used in connection
9 with the actual manufacture, conversion, or processing of tangible personal property, or in
10 connection with the actual manufacture, conversion or processing of computer software as that
11 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
12 manual prepared by the technical committee on industrial classification, office of statistical
13 standards, executive office of the president, United States bureau of the budget, as revised from
14 time to time, to be sold to the extent the property is used in administration or distribution
15 operations;

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

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

28 (23) Trade-in value of motor vehicles. - From the sale and from the storage, use, or other
29 consumption in this state of so much of the purchase price paid for a new or used automobile as is
30 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller or of
31 the proceeds applicable only to the motor vehicle as are received from an insurance claim as a
32 result of a stolen or damaged motor vehicle, or of the proceeds applicable only to the automobile
33 as are received from the manufacturer of automobiles for the repurchase of the automobile
34 whether the repurchase was voluntary or not towards the purchase of a new or used automobile

1 by the buyer; provided, that the proceeds from an insurance claim or repurchase is in lieu of the
2 benefit prescribed in section 44-18-21 for the total loss or destruction of the automobile; and
3 provided, further, that the tax has not been reimbursed as part of the insurance claim or
4 repurchase. For the purpose of this subdivision, the word "automobile" means a private passenger
5 automobile not used for hire and does not refer to any other type of motor vehicle.

6 ~~(24) Precious metal bullion.~~

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

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

13 ~~(iii) The term does not include fabricated precious metal which has been processed or~~
14 ~~manufactured for some one or more specific and customary industrial, professional, or artistic~~
15 ~~uses.~~

16 ~~(25)~~(24) Commercial vessels. - From sales made to a commercial ship, barge, or other
17 vessel of fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and
18 from the repair, alteration, or conversion of the vessels, and from the sale of property purchased
19 for the use of the vessels including provisions, supplies, and material for the maintenance and/or
20 repair of the vessels.

21 ~~(26)~~(25) Commercial fishing vessels. - From the sale and from the storage, use, or other
22 consumption in this state of vessels and other water craft which are in excess of ~~five (5)~~ fifty (50)
23 net tons and which are used exclusively for "commercial fishing", as defined in this subdivision,
24 and from the repair, alteration, or conversion of those vessels and other watercraft, and from the
25 sale of property purchased for the use of those vessels and other watercraft including provisions,
26 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
27 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
28 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the
29 taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of
30 disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does
31 not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
32 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
33 license issued by the department of environmental management pursuant to section 20-2-27.1
34 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry

1 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
2 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island
3 boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a
4 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
5 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from
6 charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v)
7 the vessel must have a valid Rhode Island party and charter boat license. The tax administrator
8 shall implement the provisions of this subdivision by promulgating rules and regulations relating
9 thereto.

10 ~~(27)~~(26) Clothing and footwear. - From the sales of articles of clothing, including
11 footwear, costing one hundred and seventy-five dollars (\$175) or less per item, intended to be
12 worn or carried on or about the human body. For the purposes of this section, "clothing or
13 footwear" does not include clothing accessories or equipment or special clothing or footwear
14 primarily designed for athletic activity or protective use as these terms are defined in section 44-
15 18-7.1(f).

16 ~~(28)~~(27) Water for residential use. - From the sale and from the storage, use, or other
17 consumption in this state of water furnished for domestic use by occupants of residential
18 premises.

19 ~~(29)~~(28) Bibles. - [Unconstitutional; see Ahlburn v. Clark, 728 A.2d 449 (R.I. 1999); see
20 Notes to Decisions.]From the sale and from the storage, use, or other consumption in the state of
21 any canonized scriptures of any tax-exempt nonprofit religious organization including, but not
22 limited to, the Old Testament and the New Testament versions.

23 ~~(30)~~(29) Boats.

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

29 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
30 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
31 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
32 provided in this subdivision, including the affidavit of the seller that the buyer represented
33 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
34 nonresident of this state.

1 ~~(31)~~(30) Youth activities equipment. - From the sale, storage, use, or other consumption
2 in this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
3 eleemosynary organizations, for the purposes of youth activities which the organization is formed
4 to sponsor and support; and by accredited elementary and secondary schools for the purposes of
5 the schools or of organized activities of the enrolled students.

6 ~~(32)~~(31) Farm equipment. - From the sale and from the storage or use of machinery and
7 equipment used directly for commercial farming and agricultural production; including, but not
8 limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
9 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
10 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
11 other farming equipment, including replacement parts, appurtenant to or used in connection with
12 commercial farming and tools and supplies used in the repair and maintenance of farming
13 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
14 the production within this state of agricultural products, including, but not limited to, field or
15 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or
16 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
17 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
18 prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2)
19 levels. Level I shall be based on proof of annual gross sales from commercial farming of at least
20 twenty-five hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption
21 provided in this subdivision except for motor vehicles with an excise tax value of five thousand
22 dollars (\$5,000) or greater; Level II shall be based on proof of annual gross sales from
23 commercial farming of at least ten thousand dollars (\$10,000) or greater and shall be valid for
24 purchases subject to the exemption provided in this subdivision including motor vehicles with an
25 excise tax value of five thousand dollars (\$5,000) or greater. For the initial issuance of the
26 exemptions, proof of the requisite amount of annual gross sales from commercial farming shall be
27 required for the prior year; for any renewal of an exemption granted in accordance with this
28 subdivision at either Level I or Level II, proof of gross annual sales from commercial farming at
29 the requisite amount shall be required for each of the prior two (2) years. Certificates of
30 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
31 and be valid for four (4) years after the date of issue. This exemption applies even if the same
32 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
33 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
34 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration

1 displaying farm plates as provided for in section 31-3-31.

2 ~~(33)~~(32) Compressed air. - From the sale and from the storage, use, or other consumption
3 in the state of compressed air.

4 ~~(34)~~(33) Flags. - From the sale and from the storage, consumption, or other use in this
5 state of United States, Rhode Island or POW-MIA flags.

6 ~~(35)~~(34) Motor vehicle and adaptive equipment to certain veterans. - From the sale of a
7 motor vehicle and adaptive equipment to and for the use of a veteran with a service-connected
8 loss of or the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee,
9 whether service connected or not. The motor vehicle must be purchased by and especially
10 equipped for use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is
11 granted under rules or regulations that the tax administrator may prescribe.

12 ~~(36)~~(35) Textbooks. - From the sale and from the storage, use, or other consumption in
13 this state of textbooks by an "educational institution" as defined in subdivision (18) of this section
14 and as well as any educational institution within the purview of section 16-63-9(4) and used
15 textbooks by any purveyor.

16 ~~(37)~~(36) Tangible personal property and supplies used in on-site hazardous waste
17 recycling, reuse, or treatment. - From the sale, storage, use, or other consumption in this state of
18 tangible personal property or supplies used or consumed in the operation of equipment, the
19 exclusive function of which is the recycling, reuse, or recovery of materials (other than precious
20 metals, as defined in subdivision (24)(ii) of this section) from the treatment of "hazardous
21 wastes", as defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode
22 Island solely by the same taxpayer and where the personal property is located at, in, or adjacent to
23 a generating facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the
24 director of the department of environmental management certifying that the equipment and/or
25 supplies as used, or consumed, qualify for the exemption under this subdivision. If any
26 information relating to secret processes or methods of manufacture, production, or treatment is
27 disclosed to the department of environmental management only to procure an order, and is a
28 "trade secret" as defined in section 28-21-10(b), it is not open to public inspection or publicly
29 disclosed unless disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

30 ~~(38)~~(37) Promotional and product literature of boat manufacturers. - From the sale and
31 from the storage, use, or other consumption of promotional and product literature of boat
32 manufacturers shipped to points outside of Rhode Island which either: (i) accompany the product
33 which is sold, (ii) are shipped in bulk to out of state dealers for use in the sale of the product, or
34 (iii) are mailed to customers at no charge.

1 ~~(39)~~(38) Food items paid for by food stamps. - From the sale and from the storage, use,
2 or other consumption in this state of eligible food items payment for which is properly made to
3 the retailer in the form of U.S. government food stamps issued in accordance with the Food
4 Stamp Act of 1977, 7 U.S.C. section 2011 et seq.

5 ~~(40)~~(39) Transportation charges. - From the sale or hiring of motor carriers as defined in
6 section 39-12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight
7 tariff filed with the Rhode Island public utilities commission on the number of miles driven or by
8 the number of hours spent on the job.

9 ~~(41)~~(40) Trade-in value of boats. - From the sale and from the storage, use, or other
10 consumption in this state of so much of the purchase price paid for a new or used boat as is
11 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
12 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
13 or damaged boat, towards the purchase of a new or used boat by the buyer.

14 ~~(42)~~(41) Equipment used for research and development. - From the sale and from the
15 storage, use, or other consumption of equipment to the extent used for research and development
16 purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a
17 business for which the use of research and development equipment is an integral part of its
18 operation, and "equipment" means scientific equipment, computers, software, and related items.

19 ~~(43) Coins.— From the sale and from the other consumption in this state of coins having~~
20 ~~numismatic or investment value.~~

21 ~~(44)~~(42) Farm structure construction materials. - Lumber, hardware and other materials
22 used in the new construction of farm structures, including production facilities such as, but not
23 limited to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns,
24 laying houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses,
25 packing rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker
26 and trench silos, feed storage sheds, and any other structures used in connection with commercial
27 farming.

28 ~~(45)~~(43) Telecommunications carrier access service. - Carrier access service or
29 telecommunications service when purchased by a telecommunications company from another
30 telecommunications company to facilitate the provision of telecommunications service.

31 ~~(46)~~(44) Boats or vessels brought into the state exclusively for winter storage,
32 maintenance, repair or sale. - Notwithstanding the provisions of sections 44-18-10, 44-18-11, 44-
33 18-20, the tax imposed by section 44-18-20 is not applicable for the period commencing on the
34 first day of October in any year to and including the 30th day of April next succeeding with

1 respect to the use of any boat or vessel within this state exclusively for purposes of: (i) delivery of
2 the vessel to a facility in this state for storage, including dry storage and storage in water by
3 means of apparatus preventing ice damage to the hull, maintenance, or repair; (ii) the actual
4 process of storage, maintenance, or repair of the boat or vessel; or (iii) storage for the purpose of
5 selling the boat or vessel.

6 ~~(47) Jewelry display product. — From the sale and from the storage, use, or other~~
7 ~~consumption in this state of tangible personal property used to display any jewelry product;~~
8 ~~provided, that title to the jewelry display product is transferred by the jewelry manufacturer or~~
9 ~~seller and that the jewelry display product is shipped out of state for use solely outside the state~~
10 ~~and is not returned to the jewelry manufacturer or seller.~~

11 ~~(48)~~(45) Boats or vessels generally. - Notwithstanding the provisions of this chapter, the
12 tax imposed by sections 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the
13 storage, use, or other consumption in this state of any new or used boat. The exemption provided
14 for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the
15 federal ten percent (10%) surcharge on luxury boats is repealed.

16 ~~(49)~~(46) Banks and Regulated investment companies interstate toll-free calls. -
17 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
18 the furnishing of interstate and international, toll-free terminating telecommunication service that
19 is used directly and exclusively by or for the benefit of an eligible company as defined in this
20 subdivision; provided, that an eligible company employs on average during the calendar year no
21 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
22 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
23 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
24 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
25 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
26 a state chartered bank.

27 ~~(50)~~(47) Mobile and manufactured homes generally. - From the sale and from the
28 storage, use, or other consumption in this state of mobile and/or manufactured homes as defined
29 and subject to taxation pursuant to the provisions of chapter 44 of title 31.

30 ~~(51)~~(48) Manufacturing business reconstruction materials.

31 (i) From the sale and from the storage, use or other consumption in this state of lumber,
32 hardware, and other building materials used in the reconstruction of a manufacturing business
33 facility which suffers a disaster, as defined in this subdivision, in this state. "Disaster" means any
34 occurrence, natural or otherwise, which results in the destruction of sixty percent (60%) or more

1 of an operating manufacturing business facility within this state. "Disaster" does not include any
2 damage resulting from the willful act of the owner of the manufacturing business facility.

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

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

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

9 ~~(52) Tangible personal property and supplies used in the processing or preparation of
10 floral products and floral arrangements. From the sale, storage, use, or other consumption in this
11 state of tangible personal property or supplies purchased by florists, garden centers, or other like
12 producers or vendors of flowers, plants, floral products, and natural and artificial floral
13 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
14 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
15 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
16 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
17 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
18 food, insecticide and fertilizers.~~

19 ~~(53)~~(49) Horse food products. - From the sale and from the storage, use, or other
20 consumption in this state of horse food products purchased by a person engaged in the business of
21 the boarding of horses.

22 ~~(54)~~(50) Non-motorized recreational vehicles sold to nonresidents.

23 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
24 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
25 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
26 state or at the place of residence of the nonresident; provided, that a non-motorized recreational
27 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
28 to its nonresidents is not exempt from the tax imposed under section 44-18-20; provided, further,
29 that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal
30 to the rate that would be imposed in his or her state of residence not to exceed the rate that would
31 have been imposed under section 44-18-20. Notwithstanding any other provisions of law, a
32 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
33 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
34 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle

1 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
2 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
3 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
4 of motor vehicles.

5 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
6 28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to
7 bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
8 exemption provided in this subdivision, including the affidavit of a licensed non-motorized
9 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
10 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle
11 registration or a valid out-of-state driver's license.

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

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

21 ~~(55)~~(51) Sprinkler and fire alarm systems in existing buildings. - From the sale in this
22 state of sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the
23 sale of the materials necessary and attendant to the installation of those systems, that are required
24 in buildings and occupancies existing therein in July 2003, in order to comply with any additional
25 requirements for such buildings arising directly from the enactment of the Comprehensive Fire
26 Safety Act of 2003, and that are not required by any other provision of law or ordinance or
27 regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire
28 on December 31, 2008.

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

32 (57)(52) Renewable energy products. - Notwithstanding any other provisions of Rhode
33 Island general laws the following products shall also be exempt from sales tax: solar photovoltaic
34 modules or panels, or any module or panel that generates electricity from light; solar thermal

1 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
2 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
3 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if
4 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
5 utility power lines; manufactured mounting racks and ballast pans for solar collector, module or
6 panel installation. Not to include materials that could be fabricated into such racks; monitoring
7 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
8 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
9 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
10 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage
11 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
12 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
13 not exempt from state sales tax.

14 ~~(58)~~(53) Returned property. - The amount charged for property returned by customers
15 upon rescission of the contract of sale when the entire amount exclusive of handling charges paid
16 for the property is refunded in either cash or credit, and where the property is returned within one
17 hundred twenty (120) days from the date of delivery.

18 ~~(59)~~(54) Dietary Supplements. - From the sale and from the storage, use or other
19 consumption of dietary supplements as defined in section 44-18-7.1(l)(v), sold on prescriptions.

20 ~~(60)~~(55) Blood. - From the sale and from the storage, use or other consumption of human
21 blood.

22 ~~(61) Prewritten computer software delivered electronically. - From the sale and from the~~
23 ~~storage, use or other consumption of prewritten computer software delivered electronically or by~~
24 ~~load and leave.~~

25 ~~(62)~~(56) Agricultural products for human consumption. - From the sale and from the
26 storage, use or other consumption of livestock and poultry of the kinds of products of which
27 ordinarily constitute food for human consumption and of livestock of the kind the products of
28 which ordinarily constitute fibers for human use.

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

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LC01779
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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 lower the sales tax rate to four percent (4%) and reduce the items exempt
- 2 from the tax.
- 3 This act would take effect upon passage.

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