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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

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

Introduced By: Representative Arthur J. Corvese

Date Introduced: January 31, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-18-7.1 and 44-18-30 of the General Laws in Chapter 44-18
2 entitled "Sales and Use Taxes - Liability and Computation" are hereby amended to read as
3 follows:

4 **44-18-7.1. Additional definitions.** -- (a) "Agreement" means the Streamlined Sales and
5 Use Tax Agreement.

6 (b) "Alcoholic Beverages" means beverages that are suitable for human consumption and
7 contain one-half of one percent (.5%) or more of alcohol by volume.

8 (c) "Bundled Transaction" is the retail sale of two or more products, except real property
9 and services to real property, where (1) the products are otherwise distinct and identifiable, and
10 (2) the products are sold for one non-itemized price. A "bundled transaction" does not include the
11 sale of any products in which the "sales price" varies, or is negotiable, based on the selection by
12 the purchaser of the products included in the transaction.

13 (i) "Distinct and identifiable products" does not include:

14 (A) Packaging -- such as containers, boxes, sacks, bags, and bottles -- or other materials -
15 - such as wrapping, labels, tags, and instruction guides -- that accompany the "retail sale" of the
16 products and are incidental or immaterial to the "retail sale" thereof. Examples of packaging that
17 are incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags and
18 express delivery envelopes and boxes.

1 (B) A product provided free of charge with the required purchase of another product. A
2 product is "provided free of charge" if the "sales price" of the product purchased does not vary
3 depending on the inclusion of the products "provided free of charge."

4 (C) Items included in the member state's definition of "sales price," pursuant to
5 Appendix C of the Agreement.

6 (ii) The term "one non-itemized price" does not include a price that is separately
7 identified by product on binding sales or other supporting sales-related documentation made
8 available to the customer in paper or electronic form including, but not limited to, an invoice, bill
9 of sale, receipt, contract, service agreement, lease agreement, periodic notice of rates and
10 services, rate card, or price list.

11 (iii) A transaction that otherwise meets the definition of a "bundled transaction" as
12 defined above, is not a "bundled transaction" if it is:

13 (A) The "retail sale" of tangible personal property and a service where the tangible
14 personal property is essential to the use of the service, and is provided exclusively in connection
15 with the service, and the true object of the transaction is the service; or

16 (B) The "retail sale" of services where one service is provided that is essential to the use
17 or receipt of a second service and the first service is provided exclusively in connection with the
18 second service and the true object of the transaction is the second service; or

19 (C) A transaction that includes taxable products and nontaxable products and the
20 "purchase price" or "sales price" of the taxable products is de minimis.

21 1. De minimis means the seller's "purchase price" or "sales price" of the taxable products
22 is ten percent (10%) or less of the total "purchase price" or "sales price" of the bundled products.

23 2. Sellers shall use either the "purchase price" or the "sales price" of the products to
24 determine if the taxable products are de minimis. Sellers may not use a combination of the
25 "purchase price" and "sales price" of the products to determine if the taxable products are de
26 minimis.

27 3. Sellers shall use the full term of a service contract to determine if the taxable products
28 are de minimis; or

29 (D) The "retail sale" of exempt tangible personal property and taxable tangible personal
30 property where:

31 1. the transaction includes "food and food ingredients", "drugs", "durable medical
32 equipment", "mobility enhancing equipment", "over-the-counter drugs", "prosthetic devices" (all
33 as defined in section 44-18-7.1) or medical supplies; and

34 2. where the seller's "purchase price" or "sales price" of the taxable tangible personal

1 property is fifty percent (50%) or less of the total "purchase price" or "sales price" of the bundled
2 tangible personal property. Sellers may not use a combination of the "purchase price" and "sales
3 price" of the tangible personal property when making the fifty percent (50%) determination for a
4 transaction.

5 (d) "Certified Automated System (CAS)" means software certified under the Agreement
6 to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to
7 remit to the appropriate state, and maintain a record of the transaction.

8 (e) "Certified Service Provider (CSP)" means an agent certified under the Agreement to
9 perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on
10 its own purchases.

11 (f) Clothing and Related Items

12 (i) "Clothing" means all human wearing apparel suitable for general use.

13 (ii) "Clothing accessories or equipment" means incidental items worn on the person or in
14 conjunction with "clothing." "Clothing accessories or equipment" does not include "clothing,"
15 "sport or recreational equipment," or "protective equipment."

16 (iii) "Protective equipment" means items for human wear and designed as protection of
17 the wearer against injury or disease or as protections against damage or injury of other persons or
18 property but not suitable for general use. "Protective equipment" does not include "clothing,"
19 "clothing accessories or equipment," and "sport or recreational equipment."

20 (iv) "Sport or recreational equipment" means items designed for human use and worn in
21 conjunction with an athletic or recreational activity that are not suitable for general use. "Sport or
22 recreational equipment" does not include "clothing," "clothing accessories or equipment," and
23 "protective equipment."

24 (g) Computer and Related Items

25 (i) "Computer" means an electronic device that accepts information in digital or similar
26 form and manipulates it for a result based on a sequence of instructions.

27 (ii) "Computer software" means a set of coded instructions designed to cause a
28 "computer" or automatic data processing equipment to perform a task.

29 (iii) "Delivered electronically" means delivered to the purchaser by means other than
30 tangible storage media.

31 (iv) "Electronic" means relating to technology having electrical, digital, magnetic,
32 wireless, optical, electromagnetic, or similar capabilities.

33 (v) "Load and leave" means delivery to the purchaser by use of a tangible storage media
34 where the tangible storage media is not physically transferred to the purchaser.

1 (vi) "Prewritten computer software" means "computer software," including prewritten
2 upgrades, which is not designed and developed by the author or other creator to the specifications
3 of a specific purchaser. The combining of two (2) or more "prewritten computer software"
4 programs or prewritten portions thereof does not cause the combination to be other than
5 "prewritten computer software." "Prewritten computer software" includes software designed and
6 developed by the author or other creator to the specifications of a specific purchaser when it is
7 sold to a person other than the specific purchaser. Where a person modifies or enhances
8 "computer software" of which the person is not the author or creator, the person shall be deemed
9 to be the author or creator only of such person's modifications or enhancements. "Prewritten
10 computer software" or a prewritten portion thereof that is modified or enhanced to any degree,
11 where such modification or enhancement is designed and developed to the specifications of a
12 specific purchaser, remains "prewritten computer software;" provided, however, that where there
13 is a reasonable, separately stated charge or an invoice or other statement of the price given to the
14 purchaser for such modification or enhancement, such modification or enhancement shall not
15 constitute "prewritten computer software."

16 (h) Drugs and Related Items

17 (i) "Drug" means a compound, substance or preparation, and any component of a
18 compound, substance or preparation, other than "food and food ingredients," "dietary
19 supplements" or "alcoholic beverages:"

20 (A) Recognized in the official United States Pharmacopoeia, official Homeopathic
21 Pharmacopoeia of the United States, or official National Formulary, and supplement to any of
22 them; or

23 (B) Intended for use in the diagnosis, cure, mitigation, treatment, or prevention of
24 disease; or

25 (C) Intended to affect the structure or any function of the body.

26 "Drug" shall also include insulin and medical oxygen whether or not sold on
27 prescription.

28 (ii) "Over-the-counter-drug" means a drug that contains a label that identifies the product
29 as a drug as required by 21 C.F.R. section 201.66. The "over-the-counter-drug" label includes:

30 (A) A "Drug Facts" panel; or

31 (B) A statement of the "active ingredient(s)" with a list of those ingredients contained in
32 the compound, substance or preparation.

33 "Over-the-counter-drug" shall not include "grooming and hygiene products."

34 (iii) "Grooming and hygiene products" are soaps and cleaning solutions, shampoo,

1 toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the
2 items meet the definition of "over-the-counter-drugs."

3 (iv) "Prescription" means an order, formula or recipe issued in any form of oral, written,
4 electronic, or other means of transmission by a duly licensed practitioner authorized by the laws
5 of the member state.

6 (i) "Delivery charges" means charges by the seller of personal property or services for
7 preparation and delivery to a location designated by the purchaser of personal property or services
8 including, but not limited to, transportation, shipping, postage, handling, crating, and packing.

9 "Delivery charges" shall not include the charges for delivery of "direct mail" if the
10 charges are separately stated on an invoice or similar billing document given to the purchaser.

11 (j) "Direct mail" means printed material delivered or distributed by United States mail or
12 other delivery service to a mass audience or to addressees on a mailing list provided by the
13 purchaser or at the direction of the purchaser when the cost of the items are not billed directly to
14 the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by
15 the purchaser to the direct mail seller for inclusion in the package containing the printed material.
16 "Direct mail" does not include multiple items of printed material delivered to a single address.

17 (k) "Durable medical equipment" means equipment including repair and replacement
18 parts for same which:

- 19 (i) Can withstand repeated use; and
- 20 (ii) Is primarily and customarily used to serve a medical purpose; and
- 21 (iii) Generally is not useful to a person in the absence of illness or injury; and
- 22 (iv) Is not worn in or on the body.

23 Durable medical equipment does not include mobility enhancing equipment.

24 (l) Food and Related Items

25 (i) "Food and food ingredients" means substances, whether in liquid, concentrated, solid,
26 frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are
27 consumed for their taste or nutritional value. "Food and food ingredients" does not include
28 "alcoholic beverages," "tobacco," "candy," "dietary supplements" and "soft drinks."

29 (ii) "Prepared food" means:

30 (A) Food sold in a heated state or heated by the seller;

31 (B) Two (2) or more food ingredients mixed or combined by the seller for sale as a
32 single item; or

33 (C) Food sold with eating utensils provided by the seller, including plates, knives, forks,
34 spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used

1 to transport the food.

2 "Prepared food" in (B) does not include food that is only cut, repackaged, or pasteurized
3 by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring
4 cooking by the consumer as recommended by the Food and Drug Administration in chapter 3,
5 part 401.11 of its Food Code so as to prevent food borne illnesses.

6 (iii) "Candy" means a preparation of sugar, honey, or other natural or artificial
7 sweeteners in combination with chocolate, fruits, nuts or other ingredients or flavorings in the
8 form of bars, drops, or pieces. "Candy" shall not include any preparation containing flour and
9 shall require no refrigeration.

10 (iv) "Soft drinks" means non-alcoholic beverages that contain natural or artificial
11 sweeteners. "Soft drinks" do not include beverages that contain milk or milk products, soy, rice
12 or similar milk substitutes, or greater than fifty percent (50%) of vegetable or fruit juice by
13 volume.

14 (v) "Dietary supplement" means any product, other than "tobacco," intended to
15 supplement the diet that:

16 (A) Contains one or more of the following dietary ingredients:

17 1. A vitamin;

18 2. A mineral;

19 3. An herb or other botanical;

20 4. An amino acid;

21 5. A dietary substance for use by humans to supplement the diet by increasing the total
22 dietary intake; or

23 6. A concentrate, metabolite, constituent, extract, or combination of any ingredient
24 described in above; and

25 (B) Is intended for ingestion in tablet, capsule, powder, softgel, gelcap, or liquid form, or
26 if not intended for ingestion in such a form, is not represented as conventional food and is not
27 represented for use as a sole item of a meal or of the diet; and

28 (C) Is required to be labeled as a dietary supplement, identifiable by the "Supplemental
29 Facts" box found on the label and as required pursuant to 21 C.F.R. section 101.36.

30 (m) "~~Food~~ Items sold through vending machines" means food, snacks, beverages or
31 other items dispensed from a machine or other mechanical device that accepts payment.

32 (n) "Hotel" means every building or other structure kept, used, maintained, advertised as
33 or held out to the public to be a place where living quarters are supplied for pay to transient or
34 permanent guests and tenants and includes a motel.

1 (i) "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations,
2 or any other room or accommodation in any part of the hotel, rooming house or tourist camp
3 which is available for or rented out for hire in the lodging of guests.

4 (ii) "Rooming house" means every house, boat, vehicle, motor court or other structure
5 kept, used, maintained, advertised or held out to the public to be a place where living quarters are
6 supplied for pay to transient or permanent guests or tenants, whether in one or adjoining
7 buildings.

8 (iii) "Tourist camp" means a place where tents or tent houses, or camp cottages, or
9 cabins or other structures are located and offered to the public or any segment thereof for human
10 habitation.

11 (o) "Lease or rental" means any transfer of possession or control of tangible personal
12 property for a fixed or indeterminate term for consideration. A lease or rental may include future
13 options to purchase or extend. Lease or rental does not include:

14 (i) A transfer of possession or control of property under a security agreement or deferred
15 payment plan that requires the transfer of title upon completion of the required payments;

16 (ii) A transfer or possession or control of property under an agreement that requires the
17 transfer of title upon completion of required payments and payment of an option price does not
18 exceed the greater of one hundred dollars (\$100) or one percent of the total required payments; or

19 (iii) Providing tangible personal property along with an operator for a fixed or
20 indeterminate period of time. A condition of this exclusion is that the operator is necessary for
21 the equipment to perform as designed. For the purpose of this subsection, an operator must do
22 more than maintain, inspect, or set-up the tangible personal property.

23 (iv) Lease or rental does include agreements covering motor vehicles and trailers where
24 the amount of consideration may be increased or decreased by reference to the amount realized
25 upon sale or disposition of the property as defined in 26 U.S.C. section 7701(h)(1).

26 (v) This definition shall be used for sales and use tax purposes regardless if a transaction
27 is characterized as a lease or rental under generally accepted accounting principles, the Internal
28 Revenue Code, the Uniform Commercial Code, or other provisions of federal, state or local law.

29 (vi) This definition will be applied only prospectively from the date of adoption and will
30 have no retroactive impact on existing leases or rentals. This definition shall neither impact any
31 existing sale-leaseback exemption or exclusions that a state may have, nor preclude a state from
32 adopting a sale-leaseback exemption or exclusion after the effective date of the Agreement.

33 (p) "Mobility enhancing equipment" means equipment including repair and replacement
34 parts to same, which:

1 (i) Is primarily and customarily used to provide or increase the ability to move from one
2 place to another and which is appropriate for use either in a home or a motor vehicle; and

3 (ii) Is not generally used by persons with normal mobility; and

4 (iii) Does not include any motor vehicle or equipment on a motor vehicle normally
5 provided by a motor vehicle manufacturer.

6 Mobility enhancing equipment does not include durable medical equipment.

7 (q) "Model 1 Seller" means a seller that has selected a CSP as its agent to perform all the
8 seller's sales and use tax functions, other than the seller's obligation to remit tax on its own
9 purchases.

10 (r) "Model 2 Seller" means a seller that has selected a CAS to perform part of its sales
11 and use tax functions, but retains responsibility for remitting the tax.

12 (s) "Model 3 Seller" means a seller that has sales in at least five member states, has total
13 annual sales revenue of at least five hundred million dollars (\$500,000,000), has a proprietary
14 system that calculates the amount of tax due each jurisdiction, and has entered into a performance
15 agreement with the member states that establishes a tax performance standard for the seller. As
16 used in this definition, a seller includes an affiliated group of sellers using the same proprietary
17 system.

18 (t) "Prosthetic device" means a replacement, corrective, or supportive devices including
19 repair and replacement parts for same worn on or in the body to:

20 (i) Artificially replace a missing portion of the body;

21 (ii) Prevent or correct physical deformity or malfunction; or

22 (iii) Support a weak or deformed portion of the body.

23 (u) "Purchaser" means a person to whom a sale of personal property is made or to whom
24 a service is furnished.

25 (v) "Purchase price" applies to the measure subject to use tax and has the same meaning
26 as sales price.

27 (w) "Seller" means a person making sales, leases, or rentals of personal property or
28 services.

29 (x) "State" means any state of the United States and the District of Columbia.

30 (y) "Telecommunications" tax base/exemption terms

31 (i) Telecommunication terms shall be defined as follows:

32 (A) "Ancillary services" means services that are associated with or incidental to the
33 provision of "telecommunications services", including, but not limited to, "detailed
34 telecommunications billing", "directory assistance", "vertical service", and "voice mail services".

1 (B) "Conference bridging service" means an "ancillary service" that links two (2) or
2 more participants of an audio or video conference call and may include the provision of a
3 telephone number. "Conference bridging service" does not include the "telecommunications
4 services" used to reach the conference bridge.

5 (C) "Detailed telecommunications billing service" means an "ancillary service" of
6 separately stating information pertaining to individual calls on a customer's billing statement.

7 (D) "Directory assistance" means an "ancillary service" of providing telephone number
8 information, and/or address information.

9 (E) "Vertical service" means an "ancillary service" that is offered in connection with one
10 or more "telecommunications services", which offers advanced calling features that allow
11 customers to identify callers and to manage multiple calls and call connections, including
12 "conference bridging services".

13 (F) "Voice mail service" means an "ancillary service" that enables the customer to store,
14 send or receive recorded messages. "Voice mail service" does not include any "vertical services"
15 that the customer may be required to have in order to utilize the "voice mail service".

16 (G) "Telecommunications service" means the electronic transmission, conveyance, or
17 routing of voice, data, audio, video, or any other information or signals to a point, or between or
18 among points. The term "telecommunications service" includes such transmission, conveyance,
19 or routing in which computer processing applications are used to act on the form, code or
20 protocol of the content for purposes of transmission, conveyance or routing without regard to
21 whether such service is referred to as voice over Internet protocol services or is classified by the
22 Federal Communications Commission as enhanced or value added. "Telecommunications
23 service" does not include:

24 (1) Data processing and information services that allow data to be generated, acquired,
25 stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where
26 such purchaser's primary purpose for the underlying transaction is the processed data or
27 information;

28 (2) Installation or maintenance of wiring or equipment on a customer's premises;

29 (3) Tangible personal property;

30 (4) Advertising, including, but not limited to, directory advertising.

31 (5) Billing and collection services provided to third parties;

32 (6) Internet access service;

33 (7) Radio and television audio and video programming services, regardless of the
34 medium, including the furnishing of transmission, conveyance and routing of such services by the

1 programming service provider. Radio and television audio and video programming services shall
2 include, but not be limited to, cable service as defined in 47 U.S.C. section 522(6) and audio and
3 video programming services delivered by commercial mobile radio service providers, as defined
4 in 47 CFR 20.3;

5 (8) "Ancillary services"; or

6 (9) Digital products "delivered electronically", including, but not limited to, software,
7 music, video, reading materials or ring tones.

8 (H) "800 service" means a "telecommunications service" that allows a caller to dial a
9 toll-free number without incurring a charge for the call. The service is typically marketed under
10 the name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers
11 designated by the Federal Communications Commission.

12 (I) "900 service" means an inbound toll "telecommunications service" purchased by a
13 subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded
14 announcement or live service. "900 service" does not include the charge for: collection services
15 provided by the seller of the "telecommunications services" to the subscriber, or service or
16 product sold by the subscriber to the subscriber's customer. The service is typically marketed
17 under the name "900 service," and any subsequent numbers designated by the Federal
18 Communications Commission.

19 (J) "Fixed wireless service" means a "telecommunications service" that provides radio
20 communication between fixed points.

21 (K) "Mobile wireless service" means a "telecommunications service" that is transmitted,
22 conveyed or routed regardless of the technology used, whereby the origination and/or termination
23 points of the transmission, conveyance or routing are not fixed, including, by way of example
24 only, "telecommunications services" that are provided by a commercial mobile radio service
25 provider.

26 (L) "Paging service" means a "telecommunications service" that provides transmission of
27 coded radio signals for the purpose of activating specific pagers; such transmissions may include
28 messages and/or sounds.

29 (M) "Prepaid calling service" means the right to access exclusively "telecommunications
30 services", which must be paid for in advance and which enables the origination of calls using an
31 access number or authorization code, whether manually or electronically dialed, and that is sold
32 in predetermined units or dollars of which the number declines with use in a known amount.

33 (N) "Prepaid wireless calling service" means a "telecommunications service" that
34 provides the right to utilize "mobile wireless service" as well as other non-telecommunications

1 services including the download of digital products "delivered electronically", content and
2 "ancillary services" which must be paid for in advance that is sold in predetermined units of
3 dollars of which the number declines with use in a known amount.

4 (O) "Private communications service" means a telecommunications service that entitles
5 the customer to exclusive or priority use of a communications channel or group of channels
6 between or among termination points, regardless of the manner in which such channel or
7 channels are connected, and includes switching capacity, extension lines, stations, and any other
8 associated services that are provided in connection with the use of such channel or channels.

9 (P) "Value-added non-voice data service" means a service that otherwise meets the
10 definition of "telecommunications services" in which computer processing applications are used
11 to act on the form, content, code, or protocol of the information or data primarily for a purpose
12 other than transmission, conveyance or routing.

13 (ii) "Modifiers of Sales Tax Base/Exemption Terms" -- the following terms can be used
14 to further delineate the type of "telecommunications service" to be taxed or exempted. The terms
15 would be used with the broader terms and subcategories delineated above.

16 (A) "Coin-operated telephone service" means a "telecommunications service" paid for by
17 inserting money into a telephone accepting direct deposits of money to operate.

18 (B) "International" means a "telecommunications service" that originates or terminates in
19 the United States and terminates or originates outside the United States, respectively. United
20 States includes the District of Columbia or a U.S. territory or possession.

21 (C) "Interstate" means a "telecommunications service" that originates in one United
22 States state, or a United States territory or possession, and terminates in a different United States
23 state or a United States territory or possession.

24 (D) "Intrastate" means a "telecommunications service" that originates in one United
25 States state or a United States territory or possession, and terminates in the same United States
26 state or a United States territory or possession.

27 (E) "Pay telephone service" means a "telecommunications service" provided through any
28 pay telephone.

29 (F) "Residential telecommunications service" means a "telecommunications service" or
30 "ancillary services" provided to an individual for personal use at a residential address, including
31 an individual dwelling unit such as an apartment. In the case of institutions where individuals
32 reside, such as schools or nursing homes, "telecommunications service" is considered residential
33 if it is provided to and paid for by an individual resident rather than the institution.

34 The terms "ancillary services" and "telecommunications service" are defined as a broad

1 range of services. The terms "ancillary services" and "telecommunications service" are broader
2 than the sum of the subcategories. Definitions of subcategories of "ancillary services" and
3 "telecommunications service" can be used by a member state alone or in combination with other
4 subcategories to define a narrower tax base than the definitions of "ancillary services" and
5 "telecommunications service" would imply. The subcategories can also be used by a member
6 state to provide exemptions for certain subcategories of the more broadly defined terms.

7 A member state that specifically imposes tax on, or exempts from tax, local telephone or
8 local telecommunications service may define "local service" in any manner in accordance with
9 section 44-18.1-28, except as limited by other sections of this Agreement.

10 (z) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item that
11 contains tobacco.

12 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
13 the taxes imposed by this chapter the following gross receipts:

14 (1) Sales and uses beyond constitutional power of state. - From the sale and from the
15 storage, use, or other consumption in this state of tangible personal property the gross receipts
16 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
17 from taxing under the Constitution of the United States or under the constitution of this state.

18 (2) Newspapers.

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

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

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

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

31 (4) Containers.

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

33 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials
34 which are biodegradable and all bags and wrapping materials utilized in the medical and healing

1 arts, when sold without the contents to persons who place the contents in the container and sell
2 the contents with the container.

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

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

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

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

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

31 (iii) The contractor shall not charge any sales or use tax to any exempt agency,
32 institution, or organization but shall in that instance provide his or her suppliers with certificates
33 in the form as determined by the division of taxation showing the reason for exemption; and the
34 contractor's records must substantiate the claim for exemption by showing the disposition of all

1 property so purchased. If any property is then used for a nonexempt purpose, the contractor must
2 pay the tax on the property used.

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

6 (7) Purchase for manufacturing purposes.

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

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

16 (iii) "Consumed" includes mere obsolescence.

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

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

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

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

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

1 For the purposes of this exemption "food and food ingredients" shall not include candy,
2 soft drinks, dietary supplements, alcoholic beverages, tobacco, ~~food~~ items sold through vending
3 machines priced at or above three dollars and fifty cents (\$3.50) or prepared food (as those terms
4 are defined in section 44-18-7.1, unless the prepared food is:

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

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

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

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

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

14 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,
15 and insulin whether or not sold on prescription. For purposes of this exemption drugs shall not
16 include over-the-counter drugs and grooming and hygiene products as defined in section 44-18-
17 7.1(h)(iii).

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

24 (11) Prosthetic devices and mobility enhancing equipment. - From the sale and from the
25 storage, use, or other consumption in this state, of prosthetic devices as defined in section 44-18-
26 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
27 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
28 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including
29 wheelchairs, crutches and canes.

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

33 (13) Motor vehicles sold to nonresidents.

34 (i) From the sale, subsequent to June 30, 1958, of a motor vehicle to a bona fide

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

14 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
15 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
16 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
17 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
18 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
19 state motor vehicle registration or a valid out of state driver's license.

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

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

27 (15) Air and water pollution control facilities. - From the sale, storage, use, or other
28 consumption in this state of tangible personal property or supplies acquired for incorporation into
29 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
30 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
31 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
32 that purpose by the director of environmental management. The director of environmental
33 management may certify to a portion of the tangible personal property or supplies acquired for
34 incorporation into those facilities or used and consumed in the operation of those facilities to the

1 extent that that portion has as its primary purpose the control of the pollution or contamination of
2 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
3 device, building, machinery, or equipment.

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

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

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

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

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

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

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

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

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

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

9 (22) Manufacturing machinery and equipment.

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

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

30 (iii) Machinery and equipment and related items used in connection with the actual
31 manufacture, conversion, or processing of any computer software or any tangible personal
32 property which is not to be sold and which would be exempt under subdivision (7) or this
33 subdivision if purchased from a vendor or machinery and equipment and related items used
34 during any manufacturing, converting or processing function is exempt under this subdivision

1 even if that operation, function, or purpose is not an integral or essential part of a continuous
2 production flow or manufacturing process;

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

8 (23) Trade-in value of motor vehicles. - From the sale and from the storage, use, or other
9 consumption in this state of so much of the purchase price paid for a new or used automobile as is
10 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller, or of
11 the proceeds applicable only to the automobile as are received from the manufacturer of
12 automobiles for the repurchase of the automobile whether the repurchase was voluntary or not
13 towards the purchase of a new or used automobile by the buyer. For the purpose of this
14 subdivision, the word "automobile" means a private passenger automobile not used for hire and
15 does not refer to any other type of motor vehicle.

16 (24) Precious metal bullion.

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

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

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

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

31 (26) Commercial fishing vessels. - From the sale and from the storage, use, or other
32 consumption in this state of vessels and other water craft which are in excess of five (5) net tons
33 and which are used exclusively for "commercial fishing", as defined in this subdivision, and from
34 the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of

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

20 (27) Clothing and footwear. - From the sales of articles of clothing, including footwear,
21 intended to be worn or carried on or about the human body for sales prior to October 1, 2012.
22 Effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including
23 footwear, intended to be worn or carried on or about the human body up to two hundred and fifty
24 dollars (\$250) of the sales price per item. For the purposes of this section, "clothing or footwear"
25 does not include clothing accessories or equipment or special clothing or footwear primarily
26 designed for athletic activity or protective use as these terms are defined in section 44-18-7.1(f).
27 In recognition of the work being performed by the Streamlined Sales and Use Tax Governing
28 Board, upon any federal law which requires remote sellers to collect and remit taxes, effective the
29 first (1st) day of the first (1st) state fiscal quarter following the change, this exemption will apply
30 as it did prior to October 1, 2012.

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

34 (29) Bibles. - [Unconstitutional; see Ahlburn v. Clark, 728 A.2d 449 (R.I. 1999); see

1 Notes to Decisions.]From the sale and from the storage, use, or other consumption in the state of
2 any canonized scriptures of any tax-exempt nonprofit religious organization including, but not
3 limited to, the Old Testament and the New Testament versions.

4 (30) Boats.

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

10 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
11 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
12 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
13 provided in this subdivision, including the affidavit of the seller that the buyer represented
14 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
15 nonresident of this state.

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

21 (32) Farm equipment. - From the sale and from the storage or use of machinery and
22 equipment used directly for commercial farming and agricultural production; including, but not
23 limited to, tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
24 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
25 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
26 other farming equipment, including replacement parts, appurtenant to or used in connection with
27 commercial farming and tools and supplies used in the repair and maintenance of farming
28 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or
29 the production within this state of agricultural products, including, but not limited to, field or
30 orchard crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or
31 production provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to
32 the operator, whether an individual, a group, a partnership, or a corporation for exemptions issued
33 prior to July 1, 2002; for exemptions issued or renewed after July 1, 2002, there shall be two (2)
34 levels. Level I shall be based on proof of annual gross sales from commercial farming of at least

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

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

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

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

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

31 (37) Tangible personal property and supplies used in on-site hazardous waste recycling,
32 reuse, or treatment. - From the sale, storage, use, or other consumption in this state of tangible
33 personal property or supplies used or consumed in the operation of equipment, the exclusive
34 function of which is the recycling, reuse, or recovery of materials (other than precious metals, as

1 defined in subdivision (24)(ii) of this section) from the treatment of "hazardous wastes", as
2 defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode Island solely
3 by the same taxpayer and where the personal property is located at, in, or adjacent to a generating
4 facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the director of
5 the department of environmental management certifying that the equipment and/or supplies as
6 used, or consumed, qualify for the exemption under this subdivision. If any information relating
7 to secret processes or methods of manufacture, production, or treatment is disclosed to the
8 department of environmental management only to procure an order, and is a "trade secret" as
9 defined in section 28-21-10(b), it is not open to public inspection or publicly disclosed unless
10 disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

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

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

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

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

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

34 (43) Coins. - From the sale and from the other consumption in this state of coins having

1 numismatic or investment value.

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

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

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

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

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

31 (49) Banks and Regulated investment companies interstate toll-free calls. -
32 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
33 the furnishing of interstate and international, toll-free terminating telecommunication service that
34 is used directly and exclusively by or for the benefit of an eligible company as defined in this

1 subdivision; provided, that an eligible company employs on average during the calendar year no
2 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
3 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
4 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
5 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
6 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
7 a state chartered bank.

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

11 (51) Manufacturing business reconstruction materials.

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

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

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

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

24 (52) Tangible personal property and supplies used in the processing or preparation of
25 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this
26 state of tangible personal property or supplies purchased by florists, garden centers, or other like
27 producers or vendors of flowers, plants, floral products, and natural and artificial floral
28 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
29 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
30 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
31 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
32 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
33 food, insecticide and fertilizers.

34 (53) Horse food products. - From the sale and from the storage, use, or other

1 consumption in this state of horse food products purchased by a person engaged in the business of
2 the boarding of horses.

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

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

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

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

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

1 of title 31.

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

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

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

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

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

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

3 (61) Agricultural products for human consumption. - From the sale and from the storage,
4 use or other consumption of livestock and poultry of the kinds of products of which ordinarily
5 constitute food for human consumption and of livestock of the kind the products of which
6 ordinarily constitute fibers for human use.

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

9 (63) Feed for certain animals used in commercial farming. - From the sale of feed for
10 animals as described in subsection 44-18-30(61).

11 [\(64\) Items sold through vending machines. Items sold through vending machines that are](#)
12 [priced below three dollars and fifty cents \(\\$3.50\).](#)

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

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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 impose a sales tax on vending machine items which are sold for three
- 2 dollars and fifty cents (\$3.50) or more.
- 3 This act would take effect upon passage.

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LC00347
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