

2017 -- H 5359

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO TAXATION -- SALES AND USE TAXES

Introduced By: Representatives Roberts, Price, Morgan, Nardolillo, and Giarrusso

Date Introduced: February 02, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-18-18 and 44-18-20 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 **44-18-18. Sales tax imposed.**

5 A tax is imposed upon sales at retail in this state including charges for rentals of living
6 quarters in hotels as defined in § 42-63.1-2, rooming houses, or tourist camps, at the rate of six
7 percent (6%) of the gross receipts of the retailer from the sales or rental charges; provided, that
8 the tax imposed on charges for the rentals applies only to the first period of not exceeding thirty
9 (30) consecutive calendar days of each rental; provided, further, that for the period commencing
10 July 1, 1990, the tax rate is seven percent (7%); provided, further, for the period commencing
11 January 1, 2018, the tax rate is five percent (5%). The tax is paid to the tax administrator by the
12 retailer at the time and in the manner provided. Excluded from this tax are those living quarters in
13 hotels, rooming houses, or tourist camps for which the occupant has a written lease for the living
14 quarters which lease covers a rental period of twelve (12) months or more. In recognition of the
15 work being performed by the streamlined sales and use tax governing board, upon passage of any
16 federal law that authorizes states to require remote sellers to collect and remit sales and use taxes,
17 the rate imposed under this section shall be reduced from seven percent (7%) to six and one-half
18 percent (6.5%). The six and one-half percent (6.5%) rate shall take effect on the date that the state
19 requires remote sellers to collect and remit sale and use taxes.

1 **44-18-20. Use tax imposed.**

2 (a) An excise tax is imposed on the storage, use, or other consumption in this state of
3 tangible personal property; prewritten computer software delivered electronically or by load and
4 leave; or services as defined in § 44-18-7.3, including a motor vehicle, a boat, an airplane, or a
5 trailer, purchased from any retailer at the rate of six percent (6%) of the sale price of 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 § 44-18-21, means and includes those
11 defined in § 31-1-5(a) -- (e) and also includes boat trailers, camping trailers, house trailers, and
12 mobile homes.

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

16 (1) When the transferee or purchaser is the spouse, mother, father, brother, sister, or child
17 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, or
23 partner; and

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

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

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

31 (e) The term "casual" means a sale made by a person other than a retailer, provided, that
32 in the case of a sale of a motor vehicle, the term means a sale made by a person other than a
33 licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed
34 under the provisions of subsections (a) and (b) of this section on the storage, use, or other

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

10 (f) Every person making more than five (5) retail sales of tangible personal property or
11 prewritten computer software delivered electronically or by load and leave, or services as defined
12 in § 44-18-7.3 during any twelve-month (12) period, including sales made in the capacity of
13 assignee for the benefit of creditors or receiver or trustee in bankruptcy, is considered a retailer
14 within the 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-month (12) 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, that 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 that 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, for the period commencing January 1, 2018, the tax rate
31 is five percent (5%). In recognition of the work being performed by the streamlined sales and use
32 tax governing board, upon passage of any federal law that authorizes states to require remote
33 sellers to collect and remit sales and use taxes, effective the first (1st) day of the first (1st) state
34 fiscal quarter following the change, the rate imposed under § 44-18-18 shall be reduced from

1 seven percent (7.0%) to six and one-half percent (6.5%). The six and one- half percent (6.5%)
2 rate shall take effect on the date that the state requires remote sellers to collect and remit sales and
3 use taxes.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO TAXATION -- SALES AND USE TAXES

- 1 This act would lower the sales and use tax rates from seven percent (7%) to five percent
- 2 (5%) effective January 1, 2018.
- 3 This act would take effect upon passage.

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