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## ARTICLE 4

### RELATING TO TAXES AND REVENUE

SECTION 1. Sections 42-61-4 and 42-61-15 of the General Laws in Chapter 61 entitled “State Lottery” are hereby amended to read as follows:

**42-61-4. Powers and duties of director.**

The director shall have the power and it shall be his or her duty to:

(1) Supervise and administer the operation of lotteries in accordance with this chapter, chapter 61.2 of this title and with the rules and regulations of the division;

(2) Act as the chief administrative officer having general charge of the office and records and to employ necessary personnel to serve at his or her pleasure and who shall be in the unclassified service and whose salaries shall be set by the director of the department of revenue, pursuant to the provisions of § 42-61-3.

(3) In accordance with this chapter and the rules and regulations of the division, license as agents to sell lottery tickets those persons, as in his or her opinion, who will best serve the public convenience and promote the sale of tickets or shares. The director may require a bond from every licensed agent, in an amount provided in the rules and regulations of the division. Every licensed agent shall prominently display his or her license, or a copy of their license, as provided in the rules and regulations of the committee;

(4) Confer regularly as necessary or desirable, and not less than nine (9) times per year, with the permanent joint committee on state lottery on the operation and administration of the lotteries; make available for inspection by the committee, upon request, all books, records, files, and other information, and documents of the division; advise the committee and recommend those matters that he or she deems necessary and advisable to improve the operation and administration of the lotteries;

(5) Suspend or revoke any license issued pursuant to this chapter, chapter 61.2 of this title or the rules and regulations promulgated under this chapter and chapter 61.2 of this title;

(6) Enter into contracts for the operation of the lotteries, or any part of the operation of the lotteries, and into contracts for the promotion of the lotteries;

(7) Ensure that monthly financial reports are prepared providing gross monthly revenues, prize disbursements, other expenses, net income, and the amount transferred to the state general

1 fund for keno and for all other lottery operations; submit this report to the state budget officer, the  
2 auditor general, the permanent joint committee on state lottery, the legislative fiscal advisors, and  
3 the governor no later than the twentieth business day following the close of the month; the monthly  
4 report shall be prepared in a manner prescribed by the members of the revenues estimating  
5 conference; at the end of each fiscal year the director shall submit an annual report based upon an  
6 accrual system of accounting which shall include a full and complete statement of lottery revenues,  
7 prize disbursements and expenses, to the governor and the general assembly, which report shall be  
8 a public document and shall be filed with the secretary of state;

9 (8) Carry on a continuous study and investigation of the state lotteries throughout the state,  
10 and the operation and administration of similar laws, which may be in effect in other states or  
11 countries; and the director shall continue to exercise his authority to study, evaluate and where  
12 deemed feasible and advisable by the director, implement lottery-related initiatives, including but  
13 not limited to, pilot programs for limited periods of time, with the goal of generating additional  
14 revenues to be transferred by the Lottery to the general fund pursuant to R.I. Gen. Laws §42-61-  
15 15(3). Each such initiative shall be subjectively evaluated from time to time using measurable  
16 criteria to determine whether the initiative is generating revenue to be transferred by the Lottery to  
17 the general fund. Nothing herein shall be deemed to permit the implementation of an initiative that  
18 would constitute an expansion of gambling requiring voter approval under applicable Rhode Island  
19 law.

20 (9) Implement the creation and sale of commercial advertising space on lottery tickets as  
21 authorized by § 42-61-4 of this chapter as soon as practicable after June 22, 1994;

22 (10) Promulgate rules and regulations, which shall include, but not be limited to:

23 (i) The price of tickets or shares in the lotteries;

24 (ii) The number and size of the prizes on the winning tickets or shares;

25 (iii) The manner of selecting the winning tickets or shares;

26 (iv) The manner of payment of prizes to the holders of winning tickets or shares;

27 (v) The frequency of the drawings or selections of winning tickets or shares;

28 (vi) The number and types of location at which tickets or shares may be sold;

29 (vii) The method to be used in selling tickets or shares;

30 (viii) The licensing of agents to sell tickets or shares, except that a person under the age of  
31 eighteen

32 (18) shall not be licensed as an agent;

33 (ix) The license fee to be charged to agents;

34 (x) The manner in which the proceeds of the sale of lottery tickets or shares are maintained,

1 reported, and otherwise accounted for;

2 (xi) The manner and amount of compensation to be paid licensed sales agents necessary to  
3 provide for the adequate availability of tickets or shares to prospective buyers and for the  
4 convenience of the general public;

5 (xii) The apportionment of the total annual revenue accruing from the sale of lottery tickets  
6 or shares and from all other sources for the payment of prizes to the holders of winning tickets or  
7 shares, for the payment of costs incurred in the operation and administration of the lotteries,  
8 including the expense of the division and the costs resulting from any contract or contracts entered  
9 into for promotional, advertising, consulting, or operational services or for the purchase or lease of  
10 facilities, lottery equipment, and materials, for the repayment of moneys appropriated to the lottery  
11 fund;

12 (xiii) The superior court upon petition of the director after a hearing may issue subpoenas  
13 to compel the attendance of witnesses and the production of documents, papers, books, records,  
14 and other evidence in any matter over which it has jurisdiction, control or supervision. If a person  
15 subpoenaed to attend in the proceeding or hearing fails to obey the command of the subpoena  
16 without reasonable cause, or if a person in attendance in the proceeding or hearing refuses without  
17 lawful cause to be examined or to answer a legal or pertinent question or to exhibit any book,  
18 account, record, or other document when ordered to do so by the court, that person may be punished  
19 for contempt of the court;

20 (xiv) The manner, standards, and specification for the process of competitive bidding for  
21 division purchases and contracts; and

22 (xv) The sale of commercial advertising space on the reverse side of, or in other available  
23 areas upon, lottery tickets provided that all net revenue derived from the sale of the advertising  
24 space shall be deposited immediately into the state's general fund and shall not be subject to the  
25 provisions of § 42-61-15.

26 **42-61-15. State lottery fund.**

27 (a) There is created the state lottery fund, into which shall be deposited all revenues  
28 received by the division from the sales of lottery tickets and license fees. The fund shall be in the  
29 custody of the general treasurer, subject to the direction of division for the use of the division, and  
30 money shall be disbursed from it on the order of the controller of the state, pursuant to vouchers or  
31 invoices signed by the director and certified by the director of administration. The moneys in the  
32 state lottery fund shall be allotted in the following order, and only for the following purposes:

33 (1) Establishing a prize fund from which payments of the prize awards shall be disbursed  
34 to holders of winning lottery tickets on checks signed by the director and countersigned by the

1 controller of the state or his or her designee.

2 (i) The amount of payments of prize awards to holders of winning lottery tickets shall be  
3 determined by the division, but shall not be less than forty-five percent (45%) nor more than sixty-  
4 five percent (65%) of the total revenue accruing from the sale of lottery tickets.

5 (ii) For the lottery game commonly known as "Keno", the amount of prize awards to  
6 holders of winning Keno tickets shall be determined by the division, but shall not be less than forty-  
7 five percent (45%) nor more than seventy-two percent (72%) of the total revenue accruing from  
8 the sale of Keno tickets.

9 (2) Payment of expenses incurred by the division in the operation of the state lotteries  
10 including, but not limited to, costs arising from contracts entered into by the director for  
11 promotional, consulting, or operational services, salaries of professional, technical, and clerical  
12 assistants, and purchases or lease of facilities, lottery equipment, and materials; provided however,  
13 solely for the purpose of determining revenues remaining and available for transfer to the state's  
14 general fund, ~~beginning in fiscal year 2015~~ expenses incurred by the division in the operation of  
15 state lotteries shall reflect (i) beginning in fiscal year 2015, the actuarially determined employer  
16 contribution to the Employees' Retirement System consistent with the state's adopted funding  
17 policy and (ii) beginning in fiscal year 2018, the actuarially determined employer contribution to  
18 the State Employees and Electing Teachers' OPEB System consistent with the state's adopted  
19 funding policy. For financial reporting purposes, the state lottery fund financial statements shall be  
20 prepared in accordance with generally accepted accounting principles as promulgated by the  
21 Governmental Accounting Standards Board; and

22 (3) Payment into the general revenue fund of all revenues remaining in the state lottery  
23 fund after the payments specified in subdivisions (a)(1) – (a)(2) of this section.

24 (b) The auditor general shall conduct an annual post audit of the financial records and  
25 operations of the lottery for the preceding year in accordance with generally accepted auditing  
26 standards and government auditing standards. In connection with the audit, the auditor general may  
27 examine all records, files, and other documents of the division, and any records of lottery sales  
28 agents that pertain to their activities as agents, for purposes of conducting the audit. The auditor  
29 general, in addition to the annual post audit, may require or conduct any other audits or studies he  
30 or she deems appropriate, the costs of which shall be borne by the division.

31 (c) Payments into the state's general fund specified in subsection (a)(3) of this section shall  
32 be made on an estimated quarterly basis. Payment shall be made on the tenth business day following  
33 the close of the quarter except for the fourth quarter when payment shall be on the last business  
34 day.

1 SECTION 2. Chapter 42-61.2 of the General Laws entitled "Video-Lottery Terminal" is  
2 hereby amended by adding thereto the following section:

3 **42-61.2-2.4. State to conduct sports wagering hosted by Twin River and the Tiverton**  
4 **Gaming Facility. –**

5 (a) Article VI, Section 22 of the Rhode Island Constitution provides that "[n]o act  
6 expanding the types or locations of gambling permitted within the state or within any city or town  
7 . . . shall take effect until it has been approved by the majority of those electors voting in a statewide  
8 referendum and by the majority of those electors voting in said referendum in the municipality in  
9 which the proposed gambling would be allowed . . ."

10 (b) In the 2012 general election, a majority of Rhode Island voters statewide and in the  
11 Town of Lincoln approved the following referendum question (among others):

12 "Shall an act be approved which would authorize the facility known as "Twin River" in  
13 the town of Lincoln to add state-operated casino gaming, such as table games, to the types of  
14 gambling it offers?"

15 (c) Similarly, in the 2016 general election, a majority of Rhode Island voters statewide and  
16 in the Town of Tiverton approved the following referendum question (among others):

17 "Shall an act be approved which would authorize a facility owned by Twin River-Tiverton,  
18 LLC, located in the Town of Tiverton at the intersection of William S. Canning Boulevard and  
19 Stafford Road, to be licensed as a pari-mutuel facility and offer state-operated video-lottery games  
20 and state-operated casino gaming, such as table games?"

21 (d) In the voter information handbooks setting forth and explaining the question in each  
22 instance, "casino gaming" was defined to include games "within the definition of Class III gaming  
23 as that term is defined in section 2703(8) of Title 25 of the United States Code and which is  
24 approved by the State of Rhode Island through the Lottery Division." "Casino gaming" is also  
25 defined to include games within the definition of class III gaming in section 42-61.2-1 of the general  
26 laws.

27 (e) Section 2703(8) of Title 25 US Code (part of the Indian Gaming Regulatory Act, or  
28 "IGRA") provides that the term "class III gaming" means "all forms of gaming that are not class I  
29 gaming or class II gaming." The regulations promulgated under IGRA (25 CFR 502.4) expressly  
30 state that Class III gaming includes sports wagering.

31 (f) Thus, voters state-wide and locally approved state-operated sports wagering to be  
32 offered by the Twin River and Tiverton gaming facilities. Voter approval of sports wagering shall  
33 be implemented by providing an infrastructure for state-operated sports wagering offered by the  
34 Twin River gaming facilities in Lincoln and Tiverton, by authorizing necessary amendments to

1 certain contracts and by authorizing the division of lotteries to promulgate regulations to direct and  
2 control state-operated sports wagering, such infrastructure and authorizations to become effective  
3 when federal law is enacted or repealed or the United States Supreme Court affirms the authority  
4 of states to regulate sports wagering within their respective borders.

5 (g) State operated sports wagering shall be operated by the state through the division of  
6 lotteries. Sports wagering may be conducted at (i) the Twin River Gaming Facility, located in  
7 Lincoln at 100 Twin River Road and owned by UTGR, Inc., a licensed video lottery and table game  
8 retailer, and at (ii) the Tiverton Gaming Facility, located in Tiverton at the intersection of William  
9 S. Canning Boulevard and Stafford Road, and owned by Twin River-Tiverton, once Twin River-  
10 Tiverton is licensed as a video lottery and table game retailer, provided that a federal law has been  
11 enacted or repealed or a United States Supreme Court decision affirms the authority of states to  
12 regulate sports wagering within their respective borders.

13 (h) Subject to the change in federal law referenced in subsection (a) above, the state through  
14 the division of lotteries shall exercise its existing authority to implement, operate, conduct and  
15 control sports wagering at the Twin River gaming facility and the Twin River-Tiverton gaming  
16 facility in accordance with the provisions of this chapter and the rules and regulations of the division  
17 of lotteries.

18 (i) Notwithstanding the provisions of this section, sports wagering shall be prohibited in  
19 connection with any collegiate sports or athletic event that takes place in Rhode Island or a sports  
20 contest or athletic event in which any Rhode Island college team participates, regardless of where  
21 the event takes place.

22 (j) No other law providing any penalty or disability for conducting, hosting, maintaining,  
23 supporting or participating in sports wagering, or any acts done in connection with sports wagering,  
24 shall apply to the conduct, hosting, maintenance, support or participation in sports wagering  
25 pursuant to this chapter.

26 SECTION 3. Sections 42-142-1 and 42-142-2 of the General Laws in Chapter entitled  
27 “Department of Revenue” are hereby amended to read as follows:

28 **42-142-1. Department of revenue.**

29 (a) There is hereby established within the executive branch of state government a  
30 department of revenue.

31 (b) The head of the department shall be the director of revenue, who shall be appointed by  
32 the governor, with the advice and consent of the senate, and shall serve at the pleasure of the  
33 governor.

34 (c) The department shall contain the division of taxation (chapter 1 of title 44), the division

1 of motor vehicles (chapter 2 of title 31), the division of state lottery (chapter 61 of title 42), the  
2 office of revenue analysis (chapter 142 of title 42), the division of municipal finance (chapter 142  
3 of title 42), [and a collection unit \(chapter 142 of title 42\)](#). Any reference to the division of property  
4 valuation, division of property valuation and municipal finance, or office of municipal affairs in  
5 the Rhode Island general laws shall mean the division of municipal finance.

6 **42-142-2. Powers and duties of the department.**

7 The department of revenue shall have the following powers and duties:

- 8 (a) To operate a division of taxation-;
- 9 (b) To operate a division of motor vehicles;
- 10 (c) To operate a division of state lottery;
- 11 (d) To operate an office of revenue analysis; ~~and~~
- 12 (e) To operate a division of property valuation- ~~and~~;
- 13 [\(f\) To operate a collection unit.](#)

14 SECTION 4. Chapter 42-142 of the General Laws entitled "Department of Revenue" is  
15 hereby amended by adding thereto the following section:

16 **42-142-8. Collection unit.**

17 [\(a\) The director of the department of revenue is authorized to establish within the](#)  
18 [department of revenue a collections unit for the purpose of assisting state agencies in the collection](#)  
19 [of debts owed to the state. The director of the department of revenue may enter into an agreement](#)  
20 [with any state agency\(ies\) to collect any delinquent debt owed to the state.](#)

21 [\(b\) The director of the department of revenue shall initially implement a pilot program to](#)  
22 [assist the agency\(ies\) with the collection of delinquent debts owed to the state.](#)

23 [\(c\) The agency\(ies\) participating in the pilot program shall refer to the collection unit](#)  
24 [within department of revenue, debts owed by delinquent debtors where the nature and amount of](#)  
25 [the debt owed has been determined and reconciled by the agency and the debt is \(i\) the subject of](#)  
26 [a written settlement agreement and/or written waiver agreement and the delinquent debtor has](#)  
27 [failed to timely make payments under said agreement and/or waiver and is therefore in violation of](#)  
28 [the terms of said agreement and/or waiver; \(ii\) the subject of a final administrative order or decision](#)  
29 [and the debtor has not timely appealed said order or decision; \(iii\) the subject of final order,](#)  
30 [judgement or decision of a court of competent jurisdiction and the debtor has not timely appealed](#)  
31 [said order, judgement or decision. The collections unit shall not accept a referral of any delinquent](#)  
32 [debt unless it satisfies \(c\)\(i\), \(ii\) or \(iii\) above.](#)

33 [\(d\) Any agency\(ies\) entering into an agreement with the department of revenue to allow](#)  
34 [the collection unit of the department to collect a delinquent debt owed to the state shall indemnify](#)

1 the department of revenue against injuries, actions, liabilities, or proceedings arising from the  
2 collection, or attempted collection, by the collection unit of the debt owed to the state.

3 (e) Before referring a delinquent debt to the collection unit, the agency(ies) must (i) notify  
4 the debtor of its intention to submit the debt to the collection unit for collection and of the debtor's  
5 right to appeal that decision not less than thirty (30) days before the debt is submitted to the  
6 collection unit.

7 (f) At such time as the agency(ies) refers a delinquent debt to the collection unit, the agency  
8 shall (i) represent in writing to the collection unit that it has complied with all applicable state and  
9 federal laws and regulations relating to the collection of the debt, including, but not limited to, the  
10 requirement to provide the debtor with the notice of referral to the collection unit under section (e)  
11 above; and (ii) provide the collection unit personnel with all relevant supporting documentation  
12 including, not limited to notices, invoices, ledgers, correspondence, agreements, waivers, decisions,  
13 orders and judgements necessary for the collection unit to attempt to collect the delinquent debt.

14 (g) The referring agency(ies) shall assist the collection unit by providing any and all  
15 information, expertise and resources deemed necessary by the collection unit to collect the  
16 delinquent debts referred to the collection unit.

17 (h) Upon receipt of a referral of a delinquent debt from an agency(ies), the amount of the  
18 delinquent debt shall accrue interest at an annual rate with such rate determined by adding two (2)  
19 percent to the prime rate which was in effect on October 1 of the preceding year; provided however,  
20 in no event shall the rate of interest exceed twenty-two (21%) per annum nor be less than eighteen  
21 percent (18%) per annum.

22 (i) Upon receipt of a referral of a delinquent debt from the agency(ies), the collection unit  
23 shall provide the delinquent debtor with a "Notice of Referral" advising the debtor that: (i) the  
24 delinquent debt has been referred to the collection unit for collection; (ii) if payment in full of the  
25 delinquent debt has not been received by the collection unit within thirty (30) days of the date of  
26 the Notice of Referral, the debtor will be responsible to pay a fee of twelve percent (12%) of the  
27 amount of the outstanding delinquent debt, with such fee to be applied to the costs and expenses of  
28 the collection unit, including costs and expenses incurred to take further collection efforts; this fee  
29 shall be in addition to any principal and interest owed; and (iii) the collection unit will initiate, in  
30 its names, any action that is available under state law for the collection of the delinquent debt,  
31 including, but not limited to, referring the debt to a third party to initiate said action.

32 (j) In the event that the delinquent debtor has not paid the delinquent debt in full within  
33 thirty (30) days of the issuance of a "Notice of Referral" pursuant to subsection (i) above, the  
34 collection unit shall impose upon each delinquent debtor a fee equal to twelve percent (12%) of the

1 amount of the outstanding delinquent debt.

2 (k) Upon receipt of a referral of a delinquent debt from an agency(ies), the collection unit  
3 shall have the authority to institute, in its name, any action(s) that are available under state law for  
4 collection of the delinquent debt and interest, penalties and/or fees thereon and to, with or without  
5 suit, settle the delinquent debt.

6 (l) In exercising its authority under this section, the collection unit shall comply with all  
7 state and federal laws and regulations related to the collection of debts.

8 (m) The director of the department may enter into contracts with any person or entity to be  
9 paid on a contingent or fee or other basis, for services rendered to the collection unit where the  
10 contract is for the collection of delinquent debt, interest, penalty and/or fee owed by the debtor.  
11 Under such contracts, the contingent fee shall be based on the actual amount of the debt, interest,  
12 penalties or fee collected.

13 (n) Upon of the receipt of payment from a delinquent debtor, whether a full or partial  
14 payment, the collection unit shall disburse/deposit the proceeds of said payment in the following  
15 order:

16 (i) to any person or entity owed for services under a contract entered into pursuant to section  
17 (m) above;

18 (ii) to the appropriate federal account to reimburse the federal government funds owed to  
19 them by the state from funds recovered;

20 (iii) into a restricted receipt account in the department of revenue, twelve percent (12%) of  
21 the total amount collected from the delinquent debtor to be used to help defray the costs and  
22 expenses of operating the collection unit; and

23 (iv) the balance of the amount collected to the referring agency.

24 (o) Notwithstanding the above, the establishment of a collection unit within the department  
25 of revenue shall be contingent upon an annual appropriation by the general assembly of amounts  
26 necessary and sufficient to cover the costs and expenses to establish, maintain and operate the  
27 collection unit including, but not limited, computer hardware and software, maintenance of the  
28 computer system to manage the system and personnel perform work within the collection unit. In  
29 the event that the amount of the annual appropriation was sufficient to fund the costs and expenses  
30 of operating the collection unit in any year, the amount in the restricted receipt at the end of that  
31 fiscal year shall be deposited into the general fund or credited against any future appropriation by  
32 the general assembly.

33 (p) In addition to the implementation of any pilot program, the collection unit shall comply  
34 with the provisions of this section in the collection of all delinquent debts under to this section.

1 [\(q\) The department of revenue is authorized to promulgate rules and regulations as it deems](#)  
2 [appropriate with respect to the collection unit.](#)

3 SECTION 5. Sections 44-18-7, 44-18-7.1, 44-18-7.3, 44-18-8, 44-18-15, 44-18-20, 44-18-  
4 21, 44-18-22, 44-18-23, 44-18-25, and 44-19-7 of the General Laws in Chapter 44-18 entitled  
5 “Sales and Use Taxes – Liability and Computation” are hereby amended to read as follows:

6 **44-18-7. Sales defined.**

7 "Sales" means and includes:

8 (1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or  
9 otherwise, in any manner or by any means of tangible personal property for a consideration.

10 "Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator  
11 to be in lieu of a transfer of title, exchange, or barter.

12 (2) The producing, fabricating, processing, printing, or imprinting of tangible personal  
13 property for a consideration for consumers who furnish either directly or indirectly the materials  
14 used in the producing, fabricating, processing, printing, or imprinting.

15 (3) The furnishing and distributing of tangible personal property for a consideration by  
16 social, athletic, and similar clubs and fraternal organizations to their members or others.

17 (4) The furnishing, preparing, or serving for consideration of food, meals, or drinks,  
18 including any cover, minimum, entertainment, or other charge in connection therewith.

19 (5) A transaction whereby the possession of tangible personal property is transferred, but  
20 the seller retains the title as security for the payment of the price.

21 (6) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate  
22 commerce, of tangible personal property from the place where it is located for delivery to a point  
23 in this state for the purpose of the transfer of title or possession, exchange, barter, lease, or rental,  
24 conditional or otherwise, in any manner or by any means whatsoever, of the property for a  
25 consideration.

26 (7) A transfer for a consideration of the title or possession of tangible personal property,  
27 which has been produced, fabricated, or printed to the special order of the customer, or any  
28 publication.

29 (8) The furnishing and distributing of electricity, natural gas, artificial gas, steam,  
30 refrigeration, and water.

31 (9)(i) The furnishing for consideration of intrastate, interstate and international  
32 telecommunications service sourced in this state in accordance with subsections 44-18.1(15) and  
33 (16) and all ancillary services, any maintenance services of telecommunication equipment other  
34 than as provided for in subdivision 44-18-12(b)(ii). For the purposes of chapters 18 and 19 of this

1 title only, telecommunication service does not include service rendered using a prepaid telephone  
2 calling arrangement.

3 (ii) Notwithstanding the provisions of paragraph (i) of this subdivision, in accordance with  
4 the Mobile Telecommunications Sourcing Act (4 U.S.C. §§ 116 – 126), subject to the specific  
5 exemptions described in 4 U.S.C. § 116(c), and the exemptions provided in §§ 44-18-8 and 44-18-  
6 12, mobile telecommunications services that are deemed to be provided by the customer's home  
7 service provider are subject to tax under this chapter if the customer's place of primary use is in this  
8 state regardless of where the mobile telecommunications services originate, terminate or pass  
9 through. Mobile telecommunications services provided to a customer, the charges for which are  
10 billed by or for the customer's home service provider, shall be deemed to be provided by the  
11 customer's home service provider.

12 (10) The furnishing of service for transmission of messages by telegraph, cable, or radio  
13 and the furnishing of community antenna television, subscription television, and cable television  
14 services.

15 (11) The rental of living quarters in any hotel, rooming house, or tourist camp.

16 (12) The transfer for consideration of prepaid telephone calling arrangements and the  
17 recharge of prepaid telephone calling arrangements sourced to this state in accordance with §§ 44-  
18 18.1-11 and 44-18.1-15. "Prepaid telephone calling arrangement" means and includes prepaid  
19 calling service and prepaid wireless calling service.

20 (13) The sale, storage, use or other consumption of over-the-counter drugs as defined in  
21 paragraph 44-18-7.1(h)(ii).

22 (14) The sale, storage, use or other consumption of prewritten computer software delivered  
23 electronically or by load and leave as defined in paragraph 44-18-7.1(g)(v).

24 [\(15\) The sale, storage, use or other consumption of vendor-hosted prewritten computer](#)  
25 [software as defined in paragraph 44-18-7.1\(g\)\(vii\).](#)

26 (16) The sale, storage, use or other consumption of medical marijuana as defined in § 21-  
27 28.6-3. (17) The furnishing of services in this state as defined in § 44-18-7.3.

28 **44-18-7.1. Additional Definitions.**

29 (a) "Agreement" means the streamlined sales and use tax agreement.

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

32 (c) "Bundled transaction" is the retail sale of two or more products, except real property  
33 and services to real property, where (1) The products are otherwise distinct and identifiable, and  
34 (2) The products are sold for one non-itemized price. A "bundled transaction" does not include the

1 sale of any products in which the "sales price" varies, or is negotiable, based on the selection by  
2 the purchaser of the products included in the transaction.

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

4 (A) Packaging – such as containers, boxes, sacks, bags, and bottles – or other materials –  
5 such as wrapping, labels, tags, and instruction guides – that accompany the "retail sale" of the  
6 products and are incidental or immaterial to the "retail sale" thereof. Examples of packaging that  
7 are incidental or immaterial include grocery sacks, shoeboxes, dry cleaning garment bags, and  
8 express delivery envelopes and boxes.

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

12 (C) Items included in the member state's definition of "sales price," pursuant to appendix  
13 C of the agreement.

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

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

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

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

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

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

31 2. Sellers shall use either the "purchase price" or the "sales price" of the products to  
32 determine if the taxable products are de minimis. Sellers may not use a combination of the  
33 "purchase price" and "sales price" of the products to determine if the taxable products are de  
34 minimis.

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

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

5           1. The transaction includes "food and food ingredients", "drugs", "durable medical  
6 equipment", "mobility enhancing equipment", "over-the-counter drugs", "prosthetic devices" (all  
7 as defined in this section) or medical supplies; and

8           2. Where the seller's "purchase price" or "sales price" of the taxable tangible personal  
9 property is fifty percent (50%) or less of the total "purchase price" or "sales price" of the bundled  
10 tangible personal property. Sellers may not use a combination of the "purchase price" and "sales  
11 price" of the tangible personal property when making the fifty percent (50%) determination for a  
12 transaction.

13           (d) "Certified automated system (CAS)" means software certified under the agreement to  
14 calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit  
15 to the appropriate state, and maintain a record of the transaction.

16           (e) "Certified service provider (CSP)" means an agent certified under the agreement to  
17 perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on  
18 its own purchases.

19           (f) *Clothing and Related Items*

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

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

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

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

32           (g) *Computer and Related Items*

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

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

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

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

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

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

24 (vii) "Vendor-hosted prewritten computer software" means prewritten computer software  
25 that is accessed through the Internet and/or a vendor-hosted server regardless of whether the access  
26 is permanent or temporary and regardless of whether any downloading occurs.

27 *(h) Drugs and Related Items*

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

31 (A) Recognized in the official United States Pharmacopoeia, official Homeopathic  
32 Pharmacopoeia of the United States, or official National Formulary, and supplement to any of them;  
33 or

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

1 or

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

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

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

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

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

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

10 (iii) "Grooming and hygiene products" are soaps and cleaning solutions, shampoo,  
11 toothpaste, mouthwash, antiperspirants, and suntan lotions and screens, regardless of whether the  
12 items meet the definition of "over-the-counter drugs."

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

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

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

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

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

29 (i) Can withstand repeated use; and

30 (ii) Is primarily and customarily used to serve a medical purpose; and

31 (iii) Generally is not useful to a person in the absence of illness or injury; and

32 (iv) Is not worn in or on the body.

33 Durable medical equipment does not include mobility enhancing equipment.

34 (l) *Food and Related Items*

1 (i) "Food and food ingredients" means substances, whether in liquid, concentrated, solid,  
2 frozen, dried, or dehydrated form, that are sold for ingestion or chewing by humans and are  
3 consumed for their taste or nutritional value ~~and seeds and plants used to grow food and food~~  
4 ~~ingredients~~. "Food and food ingredients" does not include "alcoholic beverages", "tobacco",  
5 "candy", "dietary supplements", and "soft drinks.", ~~or "marijuana seeds or plants."~~

6 (ii) "Prepared food" means:

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

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

10 (C) Food sold with eating utensils provided by the seller, including: plates, knives, forks,  
11 spoons, glasses, cups, napkins, or straws. A plate does not include a container or packaging used to  
12 transport the food.

13 "Prepared food" in (B) does not include food that is only cut, repackaged, or pasteurized  
14 by the seller, and eggs, fish, meat, poultry, and foods containing these raw animal foods requiring  
15 cooking by the consumer as recommended by the Food and Drug Administration in chapter 3, part  
16 401.11 of its Food Code so as to prevent food borne illnesses.

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

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

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

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

27 1. A vitamin;

28 2. A mineral;

29 3. An herb or other botanical;

30 4. An amino acid;

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

33 6. A concentrate, metabolite, constituent, extract, or combination of any ingredient  
34 described above; and

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

4 (C) Is required to be labeled as a dietary supplement, identifiable by the "supplemental  
5 facts" box found on the label and as required pursuant to 21 C.F.R. § 101.36.

6 (m) "Food sold through vending machines" means food dispensed from a machine or other  
7 mechanical device that accepts payment.

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

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

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

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

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

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

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

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

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

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

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

8 (p) "Mobility enhancing equipment" means equipment, including repair and replacement  
9 parts to same, that:

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

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

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

15 Mobility enhancing equipment does not include durable medical equipment.

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

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

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

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

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

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

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

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

34 (v) "Purchase price" applies to the measure subject to use tax and has the same meaning as

1 sales price.

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

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

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

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

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

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

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

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

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

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

25 (G) "Telecommunications service" means the electronic transmission, conveyance, or  
26 routing of voice, data, audio, video, or any other information or signals to a point, or between or  
27 among points. The term "telecommunications service" includes such transmission, conveyance, or  
28 routing in which computer processing applications are used to act on the form, code, or protocol of  
29 the content for purposes of transmission, conveyance, or routing without regard to whether such  
30 service is referred to as voice over internet protocol services or is classified by the Federal  
31 Communications Commission as enhanced or value added. "Telecommunications service" does not  
32 include:

33 (1) Data processing and information services that allow data to be generated, acquired,  
34 stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where

1 such purchaser's primary purpose for the underlying transaction is the processed data or  
2 information;

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

4 (3) Tangible personal property;

5 (4) Advertising, including, but not limited to, directory advertising;

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

7 (6) Internet access service;

8 (7) Radio and television audio and video programming services, regardless of the medium,  
9 including the furnishing of transmission, conveyance, and routing of such services by the  
10 programming service provider. Radio and television audio and video programming services shall  
11 include, but not be limited to, cable service as defined in 47 U.S.C. § 522(6) and audio and video  
12 programming services delivered by commercial mobile radio service providers as defined in 47  
13 C.F.R. § 20.3;

14 (8) "Ancillary services"; or

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

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

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

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

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

34 (L) "Paging service" means a "telecommunications service" that provides transmission of

1 coded radio signals for the purpose of activating specific pagers; such transmissions may include  
2 messages and/or sounds.

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

7 (N) "Prepaid wireless calling service" means a "telecommunications service" that provides  
8 the right to utilize "mobile wireless service", as well as other non-telecommunications services,  
9 including the download of digital products "delivered electronically", content and "ancillary  
10 services" which must be paid for in advance that is sold in predetermined units of dollars of which  
11 the number declines with use in a known amount.

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

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

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

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

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

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

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

1 (E) "Pay telephone service" means a "telecommunications service" provided through any  
2 pay telephone.

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

8 The terms "ancillary services" and "telecommunications service" are defined as a broad  
9 range of services. The terms "ancillary services" and "telecommunications service" are broader  
10 than the sum of the subcategories. Definitions of subcategories of "ancillary services" and  
11 "telecommunications service" can be used by a member state alone or in combination with other  
12 subcategories to define a narrower tax base than the definitions of "ancillary services" and  
13 "telecommunications service" would imply. The subcategories can also be used by a member state  
14 to provide exemptions for certain subcategories of the more broadly defined terms.

15 A member state that specifically imposes tax on, or exempts from tax, local telephone or  
16 local telecommunications service may define "local service" in any manner in accordance with §  
17 44-18.1-28, except as limited by other sections of this Agreement.

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

20 **44-18-7.3. Services defined.**

21 (a) "Services" means all activities engaged in for other persons for a fee, retainer,  
22 commission, or other monetary charge, which activities involve the performance of a service in this  
23 state as distinguished from selling property.

24 (b) The following businesses and services performed in this state, along with the applicable  
25 2007 North American Industrial Classification System (NAICS) codes, are included in the  
26 definition of services:

27 (1) Taxicab and limousine services including but not limited to:

28 (i) Taxicab services including taxi dispatchers (485310); and

29 (ii) Limousine services (485320).

30 (2) Other road transportation service including but not limited to:

31 (i) Charter bus service (485510);

32 (ii) "Transportation network companies" (TNC) defined as an entity that uses a digital  
33 network to connect transportation network company riders to transportation network operators who  
34 provide prearranged rides. Any TNC operating in this state is a retailer as provided in § 44-18-15

1 and is required to file a business application and registration form and obtain a permit to make sales  
2 at retail with the tax administrator, to charge, collect, and remit Rhode Island sales and use tax; and  
3 (iii) All other transit and ground passenger transportation (485999).  
4 (3) Pet care services (812910) except veterinary and testing laboratories services.  
5 (4)(i) "Room reseller" or "reseller" means any person, except a tour operator as defined in  
6 § 42-63.1-2, having any right, permission, license, or other authority from or through a hotel as  
7 defined in § 42-63.1-2, to reserve, or arrange the transfer of occupancy of, accommodations the  
8 reservation or transfer of which is subject to this chapter, such that the occupant pays all or a portion  
9 of the rental and other fees to the room reseller or reseller, room reseller or reseller shall include,  
10 but not be limited to, sellers of travel packages as defined in this section. Notwithstanding the  
11 provisions of any other law, where said reservation or transfer of occupancy is done using a room  
12 reseller or reseller, the application of the sales and use tax under §§ 44-18-18 and 44-18-20, and  
13 the hotel tax under § 44-18-36.1 shall be as follows: The room reseller or reseller is required to  
14 register with, and shall collect and pay to, the tax administrator the sales and use and hotel taxes,  
15 with said taxes being calculated upon the amount of rental and other fees paid by the occupant to  
16 the room reseller or reseller, less the amount of any rental and other fees paid by the room reseller  
17 or reseller to the hotel. The hotel shall collect and pay to the tax administrator said taxes upon the  
18 amount of rental and other fees paid to the hotel by the room reseller or reseller and/or the occupant.  
19 No assessment shall be made by the tax administrator against a hotel because of an incorrect  
20 remittance of the taxes under this chapter by a room reseller or reseller. No assessment shall be  
21 made by the tax administrator against a room reseller or reseller because of an incorrect remittance  
22 of the taxes under this chapter by a hotel. If the hotel has paid the taxes imposed under this chapter,  
23 the occupant and/or room reseller or reseller, as applicable, shall reimburse the hotel for said taxes.  
24 If the room reseller or reseller has paid said taxes, the occupant shall reimburse the room reseller  
25 or reseller for said taxes. Each hotel and room reseller or reseller shall add and collect, from the  
26 occupant or the room reseller or the reseller, the full amount of the taxes imposed on the rental and  
27 other fees. When added to the rental and other fees, the taxes shall be a debt owed by the occupant  
28 to the hotel or room reseller or reseller, as applicable, and shall be recoverable at law in the same  
29 manner as other debts. The amount of the taxes collected by the hotel and/or room reseller or  
30 reseller from the occupant under this chapter shall be stated and charged separately from the rental  
31 and other fees, and shall be shown separately on all records thereof, whether made at the time the  
32 transfer of occupancy occurs, or on any evidence of the transfer issued or used by the hotel or the  
33 room reseller or the reseller. A room reseller or reseller shall not be required to disclose to the  
34 occupant the amount of tax charged by the hotel; provided, however, the room reseller or reseller

1 shall represent to the occupant that the separately stated taxes charged by the room reseller or  
2 reseller include taxes charged by the hotel. No person shall operate a hotel in this state, or act as a  
3 room reseller or reseller for any hotel in the state, unless the tax administrator has issued a permit  
4 pursuant to § 44-19-1.

5 (ii) "Travel package" means a room, or rooms, bundled with one or more other, separate  
6 components of travel such as air transportation, car rental, or similar items, which travel package  
7 is charged to the customer or occupant for a single, retail price. When the room occupancy is  
8 bundled for a single consideration, with other property, services, amusement charges, or any other  
9 items, the separate sale of which would not otherwise be subject to tax under this chapter, the entire  
10 single consideration shall be treated as the rental or other fees for room occupancy subject to tax  
11 under this chapter; provided, however, that where the amount of the rental, or other fees for room  
12 occupancy is stated separately from the price of such other property, services, amusement charges,  
13 or other items, on any sales slip, invoice, receipt, or other statement given the occupant, and such  
14 rental and other fees are determined by the tax administrator to be reasonable in relation to the  
15 value of such other property, services, amusement charges, or other items, only such separately  
16 stated rental and other fees will be subject to tax under this chapter. The value of the transfer of any  
17 room, or rooms, bundled as part of a travel package may be determined by the tax administrator  
18 from the room reseller's and/or reseller's and/or hotel's books and records that are kept in the regular  
19 course of business.

20 [\(5\) Investigation, Guard, and Armored Car Services \(56161\).](#)

21 (c) All services as defined herein are required to file a business application and registration  
22 form and obtain a permit to make sales at retail with the tax administrator, to charge, collect, and  
23 remit Rhode Island sales and use tax.

24 (d) The tax administrator is authorized to promulgate rules and regulations in accordance  
25 with the provisions of chapter 42-35 to carry out the provisions, policies, and purposes of this  
26 chapter.

27 **44-18-8. Retail sale or sale at retail defined.**

28 A "retail sale" or "sale at retail" means any sale, lease or rentals of tangible personal  
29 property, prewritten computer software delivered electronically or by load and leave, [vendor-hosted](#)  
30 [prewritten computer software](#), or services as defined in § 44-18-7.3 for any purpose other than  
31 resale, sublease or subrent in the regular course of business. The sale of tangible personal property  
32 to be used for purposes of rental in the regular course of business is considered to be a sale for  
33 resale. In regard to telecommunications service as defined in § 44-18-7(9), retail sale does not  
34 include the purchase of telecommunications service by a telecommunications provider from

1 another telecommunication provider for resale to the ultimate consumer; provided, that the  
2 purchaser submits to the seller a certificate attesting to the applicability of this exclusion, upon  
3 receipt of which the seller is relieved of any tax liability for the sale.

4 **44-18-15. "Retailer" defined.**

5 (a) "Retailer" includes:

6 (1) Every person engaged in the business of making sales at retail including prewritten  
7 computer software delivered electronically or by load and leave, vendor-hosted prewritten  
8 computer software, sales of services as defined in § 44-18-7.3, and sales at auction of tangible  
9 personal property owned by the person or others.

10 (2) Every person making sales of tangible personal property including prewritten computer  
11 software delivered electronically or by load and leave, or vendor-hosted prewritten computer  
12 software, or sales of services as defined in § 44-18-7.3, through an independent contractor or other  
13 representative, if the retailer enters into an agreement with a resident of this state, under which the  
14 resident, for a commission or other consideration, directly or indirectly refers potential customers,  
15 whether by a link on an Internet website or otherwise, to the retailer, provided the cumulative gross  
16 receipts from sales by the retailer to customers in the state who are referred to the retailer by all  
17 residents with this type of an agreement with the retailer, is in excess of five thousand dollars  
18 (\$5,000) during the preceding four (4) quarterly periods ending on the last day of March, June,  
19 September and December. Such retailer shall be presumed to be soliciting business through such  
20 independent contractor or other representative, which presumption may be rebutted by proof that  
21 the resident with whom the retailer has an agreement did not engage in any solicitation in the state  
22 on behalf of the retailer that would satisfy the nexus requirement of the United States Constitution  
23 during such four (4) quarterly periods.

24 (3) Every person engaged in the business of making sales for storage, use, or other  
25 consumption of: (i) tangible personal property, (ii) sales at auction of tangible personal property  
26 owned by the person or others, (iii) prewritten computer software delivered electronically or by  
27 load and leave, (iv) vendor-hosted prewritten computer software, and (v) services as defined in §  
28 44-18-7.3.

29 (4) A person conducting a horse race meeting with respect to horses, which are claimed  
30 during the meeting.

31 (5) Every person engaged in the business of renting any living quarters in any hotel as  
32 defined in § 42-63.1-2, rooming house, or tourist camp.

33 (6) Every person maintaining a business within or outside of this state who engages in the  
34 regular or systematic solicitation of sales of tangible personal property, prewritten computer

1 software delivered electronically or by load and leave, [vendor-hosted prewritten computer](#)  
2 [software](#):

3 (i) Advertising in newspapers, magazines, and other periodicals published in this state, sold  
4 over the counter in this state or sold by subscription to residents of this state, billboards located in  
5 this state, airborne advertising messages produced or transported in the airspace above this state,  
6 display cards and posters on common carriers or any other means of public conveyance  
7 incorporated or operated primarily in this state, brochures, catalogs, circulars, coupons, pamphlets,  
8 samples, and similar advertising material mailed to, or distributed within this state to residents of  
9 this state;

10 (ii) Telephone;

11 (iii) Computer assisted shopping networks; and

12 (iv) Television, radio or any other electronic media, which is intended to be broadcast to  
13 consumers located in this state.

14 (b) When the tax administrator determines that it is necessary for the proper administration  
15 of chapters 18 and 19 of this title to regard any salespersons, representatives, truckers, peddlers, or  
16 canvassers as the agents of the dealers, distributors, supervisors, employers, or persons under whom  
17 they operate or from whom they obtain the tangible personal property sold by them, irrespective of  
18 whether they are making sales on their own behalf or on behalf of the dealers, distributors,  
19 supervisors, or employers, the tax administrator may so regard them and may regard the dealers,  
20 distributors, supervisors, or employers as retailers for purposes of chapters 18 and 19 of this title.

21 **44-18-20. Use tax imposed.**

22 (a) An excise tax is imposed on the storage, use, or other consumption in this state of  
23 tangible personal property; prewritten computer software delivered electronically or by load and  
24 leave; [vendor-hosted prewritten computer software](#); or services as defined in § 44-18-7.3, including  
25 a motor vehicle, a boat, an airplane, or a trailer, purchased from any retailer at the rate of six percent  
26 (6%) of the sale price of the property.

27 (b) An excise tax is imposed on the storage, use, or other consumption in this state of a  
28 motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle  
29 dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent  
30 (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

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

34 (d) Notwithstanding the provisions contained in this section and in § 44-18-21 relating to

1 the imposition of a use tax and liability for this tax on certain casual sales, no tax is payable in any  
2 casual sale:

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

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

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

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

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

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

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

18 (e) The term "casual" means a sale made by a person other than a retailer, provided, that in  
19 the case of a sale of a motor vehicle, the term means a sale made by a person other than a licensed  
20 motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed under the  
21 provisions of subsections (a) and (b) of this section on the storage, use, or other consumption in  
22 this state of a used motor vehicle less than the product obtained by multiplying the amount of the  
23 retail dollar value at the time of purchase of the motor vehicle by the applicable tax rate; provided,  
24 that where the amount of the sale price exceeds the amount of the retail dollar value, the tax is  
25 based on the sale price. The tax administrator shall use as his or her guide the retail dollar value as  
26 shown in the current issue of any nationally recognized, used-vehicle guide for appraisal purposes  
27 in this state. On request within thirty (30) days by the taxpayer after payment of the tax, if the tax  
28 administrator determines that the retail dollar value as stated in this subsection is inequitable or  
29 unreasonable, he or she shall, after affording the taxpayer reasonable opportunity to be heard, re-  
30 determine the tax.

31 (f) Every person making more than five (5) retail sales of tangible personal property or  
32 prewritten computer software delivered electronically or by load and leave, or vendor-hosted  
33 prewritten computer software, or services as defined in § 44-18-7.3 during any twelve-month (12)  
34 period, including sales made in the capacity of assignee for the benefit of creditors or receiver or

1 trustee in bankruptcy, is considered a retailer within the provisions of this chapter.

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

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

16 (h) The use tax imposed under this section for the period commencing July 1, 1990, is at  
17 the rate of seven percent (7%). In recognition of the work being performed by the streamlined sales  
18 and use tax governing board, upon passage of any federal law that authorizes states to require  
19 remote sellers to collect and remit sales and use taxes, effective the first (1st) day of the first (1st)  
20 state fiscal quarter following the change, the rate imposed under § 44-18-18 shall be reduced from  
21 seven percent (7.0%) to six and one-half percent (6.5%). The six and one-half percent (6.5%) rate  
22 shall take effect on the date that the state requires remote sellers to collect and remit sales and use  
23 taxes.

24 **44-18-21. Liability for use tax.**

25 (a) Every person storing, using, or consuming in this state tangible personal property,  
26 including a motor vehicle, boat, airplane, or trailer, purchased from a retailer, and a motor vehicle,  
27 boat, airplane, or trailer, purchased from other than a licensed motor vehicle dealer or other than a  
28 retailer of boats, airplanes, or trailers respectively; or storing, using or consuming specified  
29 prewritten computer software delivered electronically or by load and leave, or vendor-hosted  
30 prewritten computer software, or services as defined in § 44-18-7.3 is liable for the use tax. The  
31 person's liability is not extinguished until the tax has been paid to this state, except that a receipt  
32 from a retailer engaging in business in this state or from a retailer who is authorized by the tax  
33 administrator to collect the tax under rules and regulations that he or she may prescribe, given to  
34 the purchaser pursuant to the provisions of § 44-18-22, is sufficient to relieve the purchaser from

1 further liability for the tax to which the receipt refers.

2 (b) Each person before obtaining an original or transferral registration for any article or  
3 commodity in this state, which article or commodity is required to be licensed or registered in the  
4 state, shall furnish satisfactory evidence to the tax administrator that any tax due under this chapter  
5 with reference to the article or commodity has been paid, and for the purpose of effecting  
6 compliance, the tax administrator, in addition to any other powers granted to him or her, may invoke  
7 the provisions of § 31-3-4 in the case of a motor vehicle. The tax administrator, when he or she  
8 deems it to be for the convenience of the general public, may authorize any agency of the state  
9 concerned with the licensing or registering of these articles or commodities to collect the use tax  
10 on any articles or commodities which the purchaser is required by this chapter to pay before  
11 receiving an original or transferral registration. The general assembly shall annually appropriate a  
12 sum that it deems necessary to carry out the purposes of this section. Notwithstanding the  
13 provisions of §§ 44-18-19, 44-18-22, and 44-18-24, the sales or use tax on any motor vehicle and/or  
14 recreational vehicle requiring registration by the administrator of the division of motor vehicles  
15 shall not be added by the retailer to the sale price or charge but shall be paid directly by the  
16 purchaser to the tax administrator, or his or her authorized deputy or agent as provided in this  
17 section.

18 (c) In cases involving total loss or destruction of a motor vehicle occurring within one  
19 hundred twenty (120) days from the date of purchase and upon which the purchaser has paid the  
20 use tax, the amount of the tax constitutes an overpayment. The amount of the overpayment may be  
21 credited against the amount of use tax on any subsequent vehicle which the owner acquires to  
22 replace the lost or destroyed vehicle or may be refunded, in whole or in part.

23 **44-18-22. Collection of use tax by retailer.**

24 Every retailer engaging in business in this state and making sales of tangible personal  
25 property or prewritten computer software delivered electronically or by load and leave, [or vendor-](#)  
26 [hosted prewritten computer software](#), or services as defined in § 44-18-7.3, for storage, use, or other  
27 consumption in this state, not exempted under this chapter shall, at the time of making the sales, or  
28 if the storage, use, or other consumption of the tangible personal property, prewritten computer  
29 software delivered electronically or by load and leave, [vendor-hosted prewritten computer](#)  
30 [software](#), or services as defined in § 44-18-7.3, is not then taxable under this chapter, at the time  
31 the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give  
32 to the purchaser a receipt in the manner and form prescribed by the tax administrator.

33 **44-18-23. "Engaging in business" defined.**

34 As used in §§ 44-18-21 and 44-18-22 the term "engaging in business in this state" means

1 the selling or delivering in this state, or any activity in this state related to the selling or delivering  
2 in this state of tangible personal property or prewritten computer software delivered electronically  
3 or by load and leave, [or vendor-hosted prewritten computer software](#), for storage, use, or other  
4 consumption in this state; or services as defined in § 44-18-7.3 in this state. This term includes, but  
5 is not limited to, the following acts or methods of transacting business:

6 (1) Maintaining, occupying, or using in this state permanently or temporarily, directly or  
7 indirectly or through a subsidiary, representative, or agent by whatever name called and whether or  
8 not qualified to do business in this state, any office, place of distribution, sales or sample room or  
9 place, warehouse or storage place, or other place of business;

10 (2) Having any subsidiary, representative, agent, salesperson, canvasser, or solicitor  
11 permanently or temporarily, and whether or not the subsidiary, representative, or agent is qualified  
12 to do business in this state, operate in this state for the purpose of selling, delivering, or the taking  
13 of orders for any tangible personal property, or prewritten computer software delivered  
14 electronically or by load and leave, [or vendor-hosted prewritten computer software](#), or services as  
15 defined in § 44-18-7.3;

16 (3) The regular or systematic solicitation of sales of tangible personal property, or  
17 prewritten computer software delivered electronically or by load and leave, [or vendor-hosted](#)  
18 [prewritten computer software](#), or services as defined in § 44-18-7.3, in this state by means of:

19 (i) Advertising in newspapers, magazines, and other periodicals published in this state, sold  
20 over the counter in this state or sold by subscription to residents of this state, billboards located in  
21 this state, airborne advertising messages produced or transported in the air space above this state,  
22 display cards and posters on common carriers or any other means of public conveyance  
23 incorporated or operating primarily in this state, brochures, catalogs, circulars, coupons, pamphlets,  
24 samples, and similar advertising material mailed to, or distributed within this state to residents of  
25 this state;

26 (ii) Telephone;

27 (iii) Computer-assisted shopping networks; and

28 (iv) Television, radio or any other electronic media, which is intended to be broadcast to  
29 consumers located in this state.

30 **44-18-25. Presumption that sale is for storage, use, or consumption – Resale**  
31 **certificate.**

32 It is presumed that all gross receipts are subject to the sales tax, and that the use of all tangible  
33 personal property, or prewritten computer software delivered electronically or by load and leave,  
34 [or vendor-hosted prewritten computer software](#), or services as defined in § 44-18-7.3, are subject

1 to the use tax, and that all tangible personal property, or prewritten computer software delivered  
2 electronically or by load and leave, [or vendor-hosted prewritten computer software](#), or services as  
3 defined in § 44-18-7.3, sold or in processing or intended for delivery or delivered in this state is  
4 sold or delivered for storage, use, or other consumption in this state, until the contrary is established  
5 to the satisfaction of the tax administrator. The burden of proving the contrary is upon the person  
6 who makes the sale and the purchaser, unless the person who makes the sale takes from the  
7 purchaser a certificate to the effect that the purchase was for resale. The certificate shall contain  
8 any information and be in the form that the tax administrator may require.

9 **44-19-7. Registration of retailers.**

10 Every retailer selling tangible personal property or prewritten computer software delivered  
11 electronically or by load and leave [or vendor-hosted prewritten computer software](#) for storage, use,  
12 or other consumption in this state, as well as services as defined in § 44-18-7.3, in this state, or  
13 renting living quarters in any hotel as defined in § 42-63.1-2, rooming house, or tourist camp in  
14 this state must register with the tax administrator and give the name and address of all agents  
15 operating in this state, the location of all distribution or sales houses or offices, or of any hotel as  
16 defined in § 42-63.1-2, rooming house, or tourist camp or other places of business in this state, and  
17 other information that the tax administrator may require.

18 SECTION 6. Sections 44-20-1, 44-20-8.2, 44-20-12, 44-20-13 and 44-20-13.2 of the  
19 General Laws in Chapter 44-20 entitled “Cigarette and Other Tobacco Products Tax” are hereby  
20 amended to read as follows:

21 **44-20-1. Definitions.** Whenever used in this chapter, unless the context requires otherwise:

22 (1) "Administrator" means the tax administrator;

23 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette form,  
24 and each sheet of cigarette rolling paper, including but not limited to, paper made into a hollow  
25 cylinder or cone, made with paper or any other material, with or without a filter suitable for use in  
26 making cigarettes;

27 (3) "Dealer" means any person whether located within or outside of this state, who sells or  
28 distributes cigarettes and/or other tobacco products to a consumer in this state;

29 (4) "Distributor" means any person:

30 (A) Whether located within or outside of this state, other than a dealer, who sells or  
31 distributes cigarettes and/or other tobacco products within or into this state. Such term shall not  
32 include any cigarette or other tobacco product manufacturer, export warehouse proprietor, or  
33 importer with a valid permit under 26 U.S.C. § 5712, if such person sells or distributes cigarettes  
34 and/or other tobacco products in this state only to licensed distributors, or to an export warehouse

1 proprietor or another manufacturer with a valid permit under 26 U.S.C. § 5712;

2 (B) Selling cigarettes and/or other tobacco products directly to consumers in this state by  
3 means of at least twenty-five (25) vending machines;

4 (C) Engaged in this state in the business of manufacturing cigarettes and/or other tobacco  
5 products or any person engaged in the business of selling cigarettes and/or other tobacco products  
6 to dealers, or to other persons, for the purpose of resale only; provided, that seventy-five percent  
7 (75%) of all cigarettes and/or other tobacco products sold by that person in this state are sold to  
8 dealers or other persons for resale and selling cigarettes and/or other tobacco products directly to  
9 at least forty (40) dealers or other persons for resale; or

10 (D) Maintaining one or more regular places of business in this state for that purpose;  
11 provided, that seventy-five percent (75%) of the sold cigarettes and/or other tobacco products are  
12 purchased directly from the manufacturer and selling cigarettes and/or other tobacco products  
13 directly to at least forty (40) dealers or other persons for resale;

14 (5) "Electronic cigarette" means: (i) a personal vaporizer, electronic nicotine delivery  
15 system or an electronic inhaler which generally utilizes a heating element that vaporizes a liquid  
16 solution containing nicotine or nicotine derivative; (ii) the liquid solution containing nicotine or  
17 nicotine derivative; or, (iii) any combination thereof.

18 ~~(5)~~ (6) "Importer" means any person who imports into the United States, either directly or  
19 indirectly, a finished cigarette or other tobacco product for sale or distribution;

20 ~~(6)~~ (7) "Licensed", when used with reference to a manufacturer, importer, distributor or  
21 dealer, means only those persons who hold a valid and current license issued under § 44-20-2 for  
22 the type of business being engaged in. When the term "licensed" is used before a list of entities,  
23 such as "licensed manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be  
24 deemed to apply to each entity in such list;

25 ~~(7)~~ (8) "Manufacturer" means any person who manufactures, fabricates, assembles,  
26 processes, or labels a finished cigarette and/or other tobacco products;

27 ~~(8)~~ (9) "Other tobacco products" (OTP) means any cigars (excluding Little Cigars, as  
28 defined in § 44-20.2-1, which are subject to cigarette tax), cheroots, stogies, smoking tobacco  
29 (including granulated, plug cut, crimp cut, ready rubbed and any other kinds and forms of tobacco  
30 suitable for smoking in a otherwise), chewing tobacco (including Cavendish, twist, plug, scrap and  
31 any other kinds and forms of tobacco suitable for chewing), any and all forms of hookah, shisha  
32 and "mu'assel" tobacco, snuff, Electronic cigarettes, and shall include any other articles or products  
33 made of or containing tobacco, in whole or in part, or any tobacco substitute, except cigarettes;

34 ~~(9)~~ (10) "Person" means any individual, including an employee or agent, firm, fiduciary,

1 partnership, corporation, trust, or association, however formed;

2 ~~(10)~~ (11) "Pipe" means an apparatus made of any material used to burn or vaporize products  
3 so that the smoke or vapors can be inhaled or ingested by the user;

4 ~~(11)~~ (12) "Place of business" means any location where cigarettes and/or other tobacco  
5 products are sold, stored, or kept, including, but not limited to; any storage room, attic, basement,  
6 garage or other facility immediately adjacent to the location. It also includes any receptacle, hide,  
7 vessel, vehicle, airplane, train, or vending machine;

8 ~~(12)~~ (13) "Sale" or "sell" means gifts, exchanges, and barter of cigarettes and/or other  
9 tobacco products. The act of holding, storing, or keeping cigarettes and/or other tobacco products  
10 at a place of business for any purpose shall be presumed to be holding the cigarettes and/or other  
11 tobacco products for sale. Furthermore, any sale of cigarettes and/or other tobacco products by the  
12 servants, employees, or agents of the licensed dealer during business hours at the place of business  
13 shall be presumed to be a sale by the licensee;

14 ~~(13)~~ (14) "Stamp" means the impression, device, stamp, label, or print manufactured,  
15 printed, or made as prescribed by the administrator to be affixed to packages of cigarettes, as  
16 evidence of the payment of the tax provided by this chapter or to indicate that the cigarettes are  
17 intended for a sale or distribution in this state that is exempt from state tax under the provisions of  
18 state law; and also includes impressions made by metering machines authorized to be used under  
19 the provisions of this chapter.

20 **44-20-8.2. Transactions only with licensed manufacturers, importers, distributors,**  
21 **and dealers.**

22 A manufacturer or importer may sell or distribute cigarettes [and/or other tobacco products](#)  
23 to a person located or doing business within this state, only if such person is a licensed importer or  
24 distributor. An importer may obtain cigarettes [and/or other tobacco products](#) only from a licensed  
25 manufacturer. A distributor may sell or distribute cigarettes [and/or other tobacco products](#) to a  
26 person located or doing business within the state, only if such person is a licensed distributor or  
27 dealer. A distributor may obtain cigarettes [and/or other tobacco products](#) only from a licensed  
28 manufacturer, importer, or distributor. A dealer may obtain cigarettes [and/or other tobacco products](#)  
29 only from a licensed distributor.

30 **44-20-13.2. Tax imposed on other tobacco products, smokeless tobacco, cigars, and**  
31 **pipe tobacco products.**

32 (a) A tax is imposed on all other tobacco products, smokeless tobacco, cigars, [electronic](#)  
33 [cigarettes](#), and pipe tobacco products sold, ~~or~~ held for sale in the state by any person, the payment  
34 of the tax to be accomplished according to a mechanism established by the administrator, division

1 of taxation, department of revenue. The tax imposed by this section shall be as follows:

2 (1) At the rate of eighty percent (80%) of the wholesale cost of other tobacco products,  
3 cigars, pipe tobacco products and smokeless tobacco other than snuff.

4 (2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of  
5 cigars, the tax shall not exceed ~~fifty cents (\$.50)~~ eighty cents (\$.80) for each cigar.

6 (3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like  
7 rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight  
8 as listed by the manufacturer; provided, however, that any product listed by the manufacturer as  
9 having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2  
10 ounces.

11 (b) Any dealer having in his or her possession any other tobacco, cigars, and pipe tobacco  
12 products with respect to the storage or use of which a tax is imposed by this section shall, within  
13 five (5) days after coming into possession of the other tobacco, cigars, and pipe tobacco in this  
14 state, file a return with the tax administrator in a form prescribed by the tax administrator. The  
15 return shall be accompanied by a payment of the amount of the tax shown on the form to be due.  
16 Records required under this section shall be preserved on the premises described in the relevant  
17 license in such a manner as to ensure permanency and accessibility for inspection at reasonable  
18 hours by authorized personnel of the administrator.

19 (c) The proceeds collected are paid into the general fund.

20 SECTION 7. Sections 44-20-12 and 44-20-13 of the General Laws in Chapter 44-20  
21 entitled "Cigarette and Other Tobacco Products Tax" are hereby amended to read as follows:

22 **44-20-12. Tax imposed on cigarettes sold.**

23 A tax is imposed on all cigarettes sold or held for sale in the state. The payment of the tax  
24 to be evidenced by stamps, which may be affixed only by licensed distributors to the packages  
25 containing such cigarettes. Any cigarettes on which the proper amount of tax provided for in this  
26 chapter has been paid, payment being evidenced by the stamp, is not subject to a further tax under  
27 this chapter. The tax is at the rate of ~~two hundred twelve and one half (212.5)~~ two hundred twenty-  
28 five (225) mills for each cigarette.

29 **44-20-13. Tax imposed on unstamped cigarettes.**

30 A tax is imposed at the rate of ~~two hundred twelve and one half (212.5)~~ two hundred  
31 twenty-five (225) mills for each cigarette upon the storage or use within this state of any cigarettes  
32 not stamped in accordance with the provisions of this chapter in the possession of any consumer  
33 within this state.

34 SECTION 8. Chapter 44-20 of the General Laws entitled "Cigarette and Other Tobacco

1 Products Tax” is hereby amended by adding thereto the following section:

2 **44-20-12.7. Floor stock tax on cigarettes and stamps.**

3 (a) Each person engaging in the business of selling cigarettes at retail in this state shall pay  
4 a tax or excise to the state for the privilege of engaging in that business during any part of the  
5 calendar year 2018. In calendar year 2018, the tax shall be measured by the number of cigarettes  
6 held by the person in this state at 12:01 a.m. on August 1, 2018 and is computed at the rate thirty-  
7 seven and one-half (37.5) mills for each cigarette on August 1, 2018.

8 (b) Each distributor licensed to do business in this state pursuant to this chapter shall pay a  
9 tax or excise to the state for the privilege of engaging in that business during any part of the calendar  
10 year 2018. The tax is measured by the number of stamps, whether affixed or to be affixed to  
11 packages of cigarettes, as required by § 44-20-28. In calendar year 2018 the tax is measured by the  
12 number of stamps), whether affixed or to be affixed, held by the distributor at 12:01 a.m. on August  
13 1, 2018, and is computed at the rate of thirty-seven and one-half mills per cigarette in the package  
14 to which the stamps are affixed or to be affixed.

15 (c) Each person subject to the payment of the tax imposed by this section shall, on or before  
16 August 15, 2018, file a return, under oath or certified under the penalties of perjury, with the tax  
17 administrator on forms furnished by him or her, showing the amount of cigarettes and the number  
18 of stamps in that person's possession in this state at 12:01 a.m. on August 1, 2018, as described in  
19 this section above, and the amount of tax due, and shall at the time of filing the return pay the tax  
20 to the tax administrator. Failure to obtain forms shall not be an excuse for the failure to make a  
21 return containing the information required by the tax administrator.

22 (d) The tax administrator may prescribe rules and regulations, not inconsistent with law,  
23 with regard to the assessment and collection of the tax imposed by this section.

24 SECTION 9. This Article shall take effect as of July 1, 2018, except for Section 7 and  
25 Section 8, which will take effect on August 1, 2018.