

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

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

Introduced By: Representatives Baginski, Noret, Solomon, Casey, Casimiro, Dawson,
O'Brien, and Finkelman

Date Introduced: February 03, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **44-18-7.1. Additional definitions.**

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

5 (b) "Alcoholic beverages" means beverages, including, without limitation, beer and malt
6 beverages, that are suitable for human consumption and contain one-half of one percent (.5%) or
7 more of alcohol by volume.

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

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

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

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

4 (C) Items included in the member state’s definition of “sales price,” pursuant to appendix
5 C of the agreement.

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

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

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

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

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

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

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

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

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

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

34 2. Where the seller’s “purchase price” or “sales price” of the taxable tangible personal

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

5 (d) “Certified automated system (CAS)” means software certified under the agreement to
6 calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to remit
7 to the appropriate state, and maintain a record of the transaction.

8 (e) “Certified service provider (CSP)” means an agent certified under the agreement to
9 perform all the seller’s sales and use tax functions, other than the seller’s obligation to remit tax on
10 its own purchases.

11 (f) Clothing and related items.(i) “Clothing” means all human wearing apparel suitable for
12 general use.

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

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

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

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

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

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

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

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

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

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

19 (h) Drugs and related items. (i) "Drug" means a compound, substance, or preparation, and
20 any component of a compound, substance, or preparation, other than "food and food ingredients,"
21 "dietary supplements" or "alcoholic beverages":

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 (i) Can withstand repeated use; and

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

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

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

24 Durable medical equipment does not include mobility enhancing equipment.

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

29 (ii) "Prepared food" means:

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

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

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

1 to transport the food.

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

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

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

13 (v) “Dietary supplement” means any product, other than “tobacco,” intended to supplement
14 the diet that:

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

16 1. A vitamin;

17 2. A mineral;

18 3. An herb or other botanical;

19 4. An amino acid;

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

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

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

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

29 (m) “Food sold through vending machines” means food dispensed from a machine or other
30 mechanical device that accepts payment.

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

34 (i) “Living quarters” means sleeping rooms, sleeping or housekeeping accommodations, or

1 any other room or accommodation in any part of the hotel, rooming house, or tourist camp that is
2 available for or rented out for hire in the lodging of guests.

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

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

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

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

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

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

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

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

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

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

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

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

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

4 Mobility enhancing equipment does not include durable medical equipment.

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

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

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

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

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

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

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

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

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

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

27 (x) Specified digital products.(i) "Specified digital products" means electronically
28 transferred:

29 (A) "Digital audio-visual works" which means a series of related images which, when
30 shown in succession, impart an impression of motion, together with accompanying sounds, if any;

31 (B) "Digital audio works" which means works that result from the fixation of a series of
32 musical, spoken, or other sounds, including ringtones; and/or

33 (C) "Digital books" which means works that are generally recognized in the ordinary and
34 usual sense as "books."

1 (ii) For purposes of the definition of “digital audio works,” “ringtones” means digitized
2 sound files that are downloaded onto a device and that may be used to alert the customer with
3 respect to a communication.

4 (iii) For purposes of the definition of “specified digital products,” “transferred
5 electronically” means obtained by the purchaser by means other than tangible storage media.

6 (iv) For the purposes of “specified digital products,” “end user” includes any person other
7 than a person who receives by contract a product “transferred electronically” for further broadcast,
8 rebroadcast, transmission, retransmission, licensing, relicensing, distribution, redistribution, or
9 exhibition of the product, in whole or in part, to another person or persons. A person who purchases
10 products “transferred electronically” or the code for “specified digital products” for the purpose of
11 giving away such products or code shall not be considered to have engaged in the distribution or
12 redistribution of such products or code and shall be treated as an end user.

13 (v) For the purposes of “specified digital products,” “permanent” means perpetual or for
14 an indefinite or unspecified length of time.

15 (y) “State” means any state of the United States and the District of Columbia.

16 (z) **“Telecommunications” tax base/exemption terms.**

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

18 (A) “Ancillary services” means services that are associated with or incidental to the
19 provision of “telecommunications services,” including, but not limited to, “detailed
20 telecommunications billing,” “directory assistance,” “vertical service,” and “voice mail services.”

21 (B) “Conference bridging service” means an “ancillary service” that links two (2) or more
22 participants of an audio or video conference call and may include the provision of a telephone
23 number. “Conference bridging service” does not include the “telecommunications services” used
24 to reach the conference bridge.

25 (C) “Detailed telecommunications billing service” means an “ancillary service” of
26 separately stating information pertaining to individual calls on a customer’s billing statement.

27 (D) “Directory assistance” means an “ancillary service” of providing telephone number
28 information, and/or address information.

29 (E) “Vertical service” means an “ancillary service” that is offered in connection with one
30 or more “telecommunications services,” which offers advanced calling features that allow
31 customers to identify callers and to manage multiple calls and call connections, including
32 “conference bridging services.”

33 (F) “Voice mail service” means an “ancillary service” that enables the customer to store,
34 send, or receive recorded messages. “Voice mail service” does not include any “vertical services”

1 that the customer may be required to have in order to utilize the “voice mail service.”

2 (G) “Telecommunications service” means the electronic transmission, conveyance, or
3 routing of voice, data, audio, video, or any other information or signals to a point, or between or
4 among points. The term “telecommunications service” includes such transmission, conveyance, or
5 routing in which computer processing applications are used to act on the form, code, or protocol of
6 the content for purposes of transmission, conveyance, or routing without regard to whether such
7 service is referred to as voice over internet protocol services or is classified by the Federal
8 Communications Commission as enhanced or value added. “Telecommunications service” does
9 not include:

10 (1) Data processing and information services that allow data to be generated, acquired,
11 stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where
12 such purchaser’s primary purpose for the underlying transaction is the processed data or
13 information;

14 (2) Installation or maintenance of wiring or equipment on a customer’s premises;

15 (3) Tangible personal property;

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

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

18 (6) Internet access service;

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

25 (8) “Ancillary services”; or

26 (9) Digital products “delivered electronically,” including, but not limited to: software,
27 music, video, reading materials, or ring tones.

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

32 (I) “900 service” means an inbound toll “telecommunications service” purchased by a
33 subscriber that allows the subscriber’s customers to call in to the subscriber’s prerecorded
34 announcement or live service. “900 service” does not include the charge for: collection services

1 provided by the seller of the “telecommunications services” to the subscriber, or service or product
2 sold by the subscriber to the subscriber’s customer. The service is typically marketed under the
3 name “900 service,” and any subsequent numbers designated by the Federal Communications
4 Commission.

5 (J) “Fixed wireless service” means a “telecommunications service” that provides radio
6 communication between fixed points.

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

11 (L) “Paging service” means a “telecommunications service” that provides transmission of
12 coded radio signals for the purpose of activating specific pagers; such transmissions may include
13 messages and/or sounds.

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

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

23 (O) “Private communications service” means a telecommunications service that entitles
24 the customer to exclusive or priority use of a communications channel or group of channels between
25 or among termination points, regardless of the manner in which such channel or channels are
26 connected, and includes switching capacity, extension lines, stations, and any other associated
27 services that are provided in connection with the use of such channel or channels.

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

32 (ii) “Modifiers of Sales Tax Base/Exemption Terms” — the following terms can be used
33 to further delineate the type of “telecommunications service” to be taxed or exempted. The terms
34 would be used with the broader terms and subcategories delineated above.

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

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

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

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

12 (E) "Pay telephone service" means a "telecommunications service" provided through any
13 pay telephone.

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

19 The terms "ancillary services" and "telecommunications service" are defined as a broad
20 range of services. The terms "ancillary services" and "telecommunications service" are broader
21 than the sum of the subcategories. Definitions of subcategories of "ancillary services" and
22 "telecommunications service" can be used by a member state alone or in combination with other
23 subcategories to define a narrower tax base than the definitions of "ancillary services" and
24 "telecommunications service" would imply. The subcategories can also be used by a member state
25 to provide exemptions for certain subcategories of the more broadly defined terms.

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

29 (aa) "Tobacco" means cigarettes, cigars, chewing, or pipe tobacco, or any other item that
30 contains tobacco.

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

33 **44-18-30. Gross receipts exempt from sales and use taxes.**

34 There are exempted from the taxes imposed by this chapter the following gross receipts:

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

5 (2) Newspapers.

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

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

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

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

17 (4) Containers.

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

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

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

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

27 (D) Keg and barrel containers, whether returnable or not, when sold to alcoholic beverage
28 producers who place the alcoholic beverages in the containers.

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

32 (5)(i) Charitable, educational, and religious organizations. From the sale to, as in defined
33 in this section, and from the storage, use, and other consumption in this state, or any other state of
34 the United States of America, of tangible personal property by hospitals not operated for a profit;

1 “educational institutions” as defined in subdivision (18) not operated for a profit; churches,
2 orphanages, and other institutions or organizations operated exclusively for religious or charitable
3 purposes; interest-free loan associations not operated for profit; nonprofit, organized sporting
4 leagues and associations and bands for boys and girls under the age of nineteen (19) years; the
5 following vocational student organizations that are state chapters of national vocational student
6 organizations: Distributive Education Clubs of America (DECA); Future Business Leaders of
7 America, Phi Beta Lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers
8 of America/Home Economics Related Occupations (FHA/HERD); Vocational Industrial Clubs of
9 America (VICA); organized nonprofit golden age and senior citizens clubs for men and women;
10 and parent-teacher associations; and from the sale, storage, use, and other consumption in this state,
11 of and by the Industrial Foundation of Burrillville, a Rhode Island domestic nonprofit corporation.

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

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

26 (6) Gasoline. From the sale and from the storage, use, or other consumption in this state
27 of: (i) Gasoline and other products taxed under chapter 36 of title 31 and (ii) Fuels used for the
28 propulsion of airplanes.

29 (7) Purchase for manufacturing purposes.

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

1 service is consumed in the process of manufacturing for resale computer software, tangible personal
2 property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

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

5 (iii) "Consumed" includes mere obsolescence.

6 (iv) "Manufacturing" means and includes: manufacturing, compounding, processing,
7 assembling, preparing, or producing.

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

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

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

22 (9) Food and food ingredients. From the sale and storage, use, or other consumption in this
23 state of food and food ingredients as defined in § 44-18-7.1().

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

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

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

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

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

34 (10) Medicines, drugs, and durable medical equipment. From the sale and from the storage,

1 use, or other consumption in this state, of:

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

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

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

17 (12) Coffins, caskets, urns, shrouds and burial garments. From the sale and from the
18 storage, use, or other consumption in this state of coffins, caskets, burial containers, urns, urn liners,
19 urn vaults, grave liners, grave vaults, burial tent setups, prayer cards, shrouds, and other burial
20 garments that are ordinarily sold by a funeral director as part of the business of funeral directing.

21 (13) Motor vehicles sold to nonresidents.

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

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

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

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

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

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

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

31 (18) Educational institutions. From the rental charged by any educational institution for
32 living quarters, or sleeping, or housekeeping accommodations or other rooms or accommodations
33 to any student or teacher necessitated by attendance at an educational institution. "Educational
34 institution" as used in this section means an institution of learning not operated for profit that is

1 empowered to confer diplomas, educational, literary, or academic degrees; that has a regular
2 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
3 school year; that keeps and furnishes to students and others records required and accepted for
4 entrance to schools of secondary, collegiate, or graduate rank; and no part of the net earnings of
5 which inures to the benefit of any individual.

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

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

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

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

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

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

27 (21) Electricity and gas. From the sale and from the storage, use, or other consumption in
28 this state of electricity and gas.

29 (22) Manufacturing machinery and equipment.

30 (i) From the sale and from the storage, use, or other consumption in this state of tools, dies,
31 molds, machinery, equipment (including replacement parts), and related items to the extent used in
32 an industrial plant in connection with the actual manufacture, conversion, or processing of tangible
33 personal property, or to the extent used in connection with the actual manufacture, conversion, or
34 processing of computer software as that term is utilized in industry numbers 7371, 7372, and 7373

1 in the standard industrial classification manual prepared by the Technical Committee on Industrial
2 Classification, Office of Statistical Standards, Executive Office of the President, United States
3 Bureau of the Budget, as revised from time to time, to be sold, or that machinery and equipment
4 used in the furnishing of power to an industrial manufacturing plant. For the purposes of this
5 subdivision, "industrial plant" means a factory at a fixed location primarily engaged in the
6 manufacture, conversion, or processing of tangible personal property to be sold in the regular
7 course of business;

8 (ii) Machinery and equipment and related items are not deemed to be used in connection
9 with the actual manufacture, conversion, or processing of tangible personal property, or in
10 connection with the actual manufacture, conversion, or processing of computer software as that
11 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
12 manual prepared by the Technical Committee on Industrial Classification, Office of Statistical
13 Standards, Executive Office of the President, United States Bureau of the Budget, as revised from
14 time to time, to be sold to the extent the property is used in administration or distribution operations;

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

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

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

1 (24) Precious metal bullion.

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

4 (ii) For purposes of this subdivision, “precious metal bullion” means any elementary
5 precious metal that has been put through a process of smelting or refining, including, but not limited
6 to: gold, silver, platinum, rhodium, and chromium, and that is in a state or condition that its value
7 depends upon its content and not upon its form.

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

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

15 (26) Commercial fishing vessels. From the sale and from the storage, use, or other
16 consumption in this state of vessels and other watercraft that are in excess of five (5) net tons and
17 that are used exclusively for “commercial fishing,” as defined in this subdivision, and from the
18 repair, alteration, or conversion of those vessels and other watercraft, and from the sale of property
19 purchased for the use of those vessels and other watercraft including provisions, supplies, and
20 material for the maintenance and/or repair of the vessels and other watercraft and the boats nets,
21 cables, tackle, and other fishing equipment appurtenant to or used in connection with the
22 commercial fishing of the vessels and other watercraft. “Commercial fishing” means taking or
23 attempting to take any fish, shellfish, crustacea, or bait species with the intent of disposing of it for
24 profit or by sale, barter, trade, or in commercial channels. The term does not include subsistence
25 fishing, i.e., the taking for personal use and not for sale or barter; or sport fishing; but shall include
26 vessels and other watercraft with a Rhode Island party and charter boat license issued by the
27 department of environmental management pursuant to § 20-2-27.1 that meet the following criteria:

28 (i) The operator must have a current United States Coast Guard (U.S.C.G.) license to carry
29 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
30 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island boat
31 registration to prove Rhode Island home port status; and (iv) The vessel must be used as a
32 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
33 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from charters
34 or provides documentation of a minimum of one hundred (100) charter trips annually; and (v) The

1 vessel must have a valid Rhode Island party and charter boat license. The tax administrator shall
2 implement the provisions of this subdivision by promulgating rules and regulations relating thereto.

3 (27) Clothing and footwear. From the sales of articles of clothing, including footwear,
4 intended to be worn or carried on or about the human body for sales prior to October 1, 2012.
5 Effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including
6 footwear, intended to be worn or carried on or about the human body up to two hundred and fifty
7 dollars (\$250) of the sales price per item. For the purposes of this section, "clothing or footwear"
8 does not include clothing accessories or equipment or special clothing or footwear primarily
9 designed for athletic activity or protective use as these terms are defined in § 44-18-7.1(f). In
10 recognition of the work being performed by the streamlined sales and use tax governing board,
11 upon passage of any federal law that authorizes states to require remote sellers to collect and remit
12 sales and use taxes, this unlimited exemption will apply as it did prior to October 1, 2012. The
13 unlimited exemption on sales of clothing and footwear shall take effect on the date that the state
14 requires remote sellers to collect and remit sales and use taxes.

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

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

21 (30) Boats.

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

27 (ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may
28 require the seller of the boat or vessel to keep records of the sales to bona fide nonresidents as the
29 tax administrator deems reasonably necessary to substantiate the exemption provided in this
30 subdivision, including the affidavit of the seller that the buyer represented himself or herself to be
31 a bona fide nonresident of this state and of the buyer that he or she is a nonresident of this state.

32 (31) Youth activities equipment. From the sale, storage, use, or other consumption in this
33 state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
34 eleemosynary organizations, for the purposes of youth activities that the organization is formed to

1 sponsor and support; and by accredited elementary and secondary schools for the purposes of the
2 schools or of organized activities of the enrolled students.

3 (32) Farm equipment. From the sale and from the storage or use of machinery and
4 equipment used directly for commercial farming and agricultural production; including, but not
5 limited to: tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
6 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
7 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and
8 other farming equipment, including replacement parts appurtenant to or used in connection with
9 commercial farming and tools and supplies used in the repair and maintenance of farming
10 equipment. "Commercial farming" means the keeping or boarding of five (5) or more horses or the
11 production within this state of agricultural products, including, but not limited to, field or orchard
12 crops, livestock, dairy, and poultry, or their products, where the keeping, boarding, or production
13 provides at least two thousand five hundred dollars (\$2,500) in annual gross sales to the operator,
14 whether an individual, a group, a partnership, or a corporation for exemptions issued prior to July
15 1, 2002. For exemptions issued or renewed after July 1, 2002, there shall be two (2) levels. Level I
16 shall be based on proof of annual, gross sales from commercial farming of at least twenty-five
17 hundred dollars (\$2,500) and shall be valid for purchases subject to the exemption provided in this
18 subdivision except for motor vehicles with an excise tax value of five thousand dollars (\$5,000) or
19 greater. Level II shall be based on proof of annual gross sales from commercial farming of at least
20 ten thousand dollars (\$10,000) or greater and shall be valid for purchases subject to the exemption
21 provided in this subdivision including motor vehicles with an excise tax value of five thousand
22 dollars (\$5,000) or greater. For the initial issuance of the exemptions, proof of the requisite amount
23 of annual gross sales from commercial farming shall be required for the prior year; for any renewal
24 of an exemption granted in accordance with this subdivision at either level I or level II, proof of
25 gross annual sales from commercial farming at the requisite amount shall be required for each of
26 the prior two (2) years. Certificates of exemption issued or renewed after July 1, 2002, shall clearly
27 indicate the level of the exemption and be valid for four (4) years after the date of issue. This
28 exemption applies even if the same equipment is used for ancillary uses, or is temporarily used for
29 a non-farming or a non-agricultural purpose, but shall not apply to motor vehicles acquired after
30 July 1, 2002, unless the vehicle is a farm vehicle as defined pursuant to § 31-1-8 and is eligible for
31 registration displaying farm plates as provided for in § 31-3-31.

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

34 (34) Flags. From the sale and from the storage, consumption, or other use in this state of

1 United States, Rhode Island or POW-MIA flags.

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

8 (36) Textbooks. From the sale and from the storage, use, or other consumption in this state
9 of textbooks by an “educational institution,” as defined in subsection (18) of this section, and any
10 educational institution within the purview of § 16-63-9(4), and used textbooks by any purveyor.

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

25 (38) Promotional and product literature of boat manufacturers. From the sale and from the
26 storage, use, or other consumption of promotional and product literature of boat manufacturers
27 shipped to points outside of Rhode Island that either: (i) Accompany the product that is sold; (ii)
28 Are shipped in bulk to out-of-state dealers for use in the sale of the product; or (iii) Are mailed to
29 customers at no charge.

30 (39) Food items paid for by food stamps. From the sale and from the storage, use, or other
31 consumption in this state of eligible food items payment for which is properly made to the retailer
32 in the form of U.S. government food stamps issued in accordance with the Food Stamp Act of 1977,
33 7 U.S.C. § 2011 et seq.

34 (40) Transportation charges. From the sale or hiring of motor carriers as defined in § 39-

1 12-2(12) to haul goods, when the contract or hiring cost is charged by a motor freight tariff filed
2 with the Rhode Island public utilities commission on the number of miles driven or by the number
3 of hours spent on the job.

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

9 (42) Equipment used for research and development. From the sale and from the storage,
10 use, or other consumption of equipment to the extent used for research and development purposes
11 by a qualifying firm. For the purposes of this subsection, “qualifying firm” means a business for
12 which the use of research and development equipment is an integral part of its operation and
13 “equipment” means scientific equipment, computers, software, and related items.

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

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

22 (45) Telecommunications carrier access service. Carrier access service or
23 telecommunications service when purchased by a telecommunications company from another
24 telecommunications company to facilitate the provision of telecommunications service.

25 (46) Boats or vessels brought into the state exclusively for winter storage, maintenance,
26 repair, or sale. Notwithstanding the provisions of §§ 44-18-10, 44-18-11 and 44-18-20, the tax
27 imposed by § 44-18-20 is not applicable for the period commencing on the first day of October in
28 any year up to and including the 30th day of April next succeeding with respect to the use of any
29 boat or vessel within this state exclusively for purposes of: (i) Delivery of the vessel to a facility in
30 this state for storage, including dry storage and storage in water by means of apparatus preventing
31 ice damage to the hull, maintenance, or repair; (ii) The actual process of storage, maintenance, or
32 repair of the boat or vessel; or (iii) Storage for the purpose of selling the boat or vessel.

33 (47) Jewelry display product. From the sale and from the storage, use, or other
34 consumption in this state of tangible personal property used to display any jewelry product;

1 provided that title to the jewelry display product is transferred by the jewelry manufacturer or seller
2 and that the jewelry display product is shipped out of state for use solely outside the state and is not
3 returned to the jewelry manufacturer or seller.

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

9 (49) Banks and regulated investment companies interstate toll-free calls. Notwithstanding
10 the provisions of this chapter, the tax imposed by this chapter does not apply to the furnishing of
11 interstate and international, toll-free terminating telecommunication service that is used directly
12 and exclusively by or for the benefit of an eligible company as defined in this subdivision; provided
13 that an eligible company employs on average during the calendar year no less than five hundred
14 (500) "full-time equivalent employees" as that term is defined in § 42-64.5-2. For purposes of this
15 section, an "eligible company" means a "regulated investment company" as that term is defined in
16 the Internal Revenue Code of 1986, 26 U.S.C. § 851, or a corporation to the extent the service is
17 provided, directly or indirectly, to or on behalf of a regulated investment company, an employee
18 benefit plan, a retirement plan or a pension plan, or a state-chartered bank.

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

22 (51) Manufacturing business reconstruction materials.

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

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

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

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

1 (52) Tangible personal property and supplies used in the processing or preparation of floral
2 products and floral arrangements. From the sale, storage, use, or other consumption in this state of
3 tangible personal property or supplies purchased by florists, garden centers, or other like producers
4 or vendors of flowers, plants, floral products, and natural and artificial floral arrangements that are
5 ultimately sold with flowers, plants, floral products, and natural and artificial floral arrangements
6 or are otherwise used in the decoration, fabrication, creation, processing, or preparation of flowers,
7 plants, floral products, or natural and artificial floral arrangements, including descriptive labels,
8 stickers, and cards affixed to the flower, plant, floral product, or arrangement, artificial flowers,
9 spray materials, floral paint and tint, plant shine, flower food, insecticide, and fertilizers.

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

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

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

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

1 a valid out-of-state driver's license.

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

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

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

18 (56) Aircraft. Notwithstanding the provisions of this chapter, the tax imposed by §§ 44-
19 18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or other
20 consumption in this state of any new or used aircraft or aircraft parts.

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

1 it shall also be tax exempt, but a standard hot water tank is not exempt from state sales tax.

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

6 (59) Dietary supplements. From the sale and from the storage, use, or other consumption
7 of dietary supplements as defined in § 44-18-7.1(v), sold on prescriptions.

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

9 (61) Agricultural products for human consumption. From the sale and from the storage,
10 use, or other consumption of livestock and poultry of the kinds of products that ordinarily constitute
11 food for human consumption and of livestock of the kind the products of which ordinarily constitute
12 fibers for human use.

13 (62) Diesel emission control technology. From the sale and use of diesel retrofit
14 technology that is required by § 31-47.3-4.

15 (63) Feed for certain animals used in commercial farming. From the sale of feed for
16 animals as described in subsection (61) of this section.

17 (64) Alcoholic beverages. From the sale and storage, use, or other consumption in this
18 state by a Class A licensee of alcoholic beverages, as defined in § 44-18-7.1, ~~excluding beer and~~
19 ~~malt beverages~~; provided, further, notwithstanding § 6-13-1 or any other general or public law to
20 the contrary, alcoholic beverages, as defined in § 44-18-7.1, shall not be subject to minimum
21 markup.

22 (65) Seeds and plants used to grow food and food ingredients. From the sale, storage, use,
23 or other consumption in this state of seeds and plants used to grow food and food ingredients as
24 defined in § 44-18-7.1(i). “Seeds and plants used to grow food and food ingredients” shall not
25 include marijuana seeds or plants.

26 (66) Feminine hygiene products. From the sale and from the storage, use, or other
27 consumption of tampons, panty liners, menstrual cups, sanitary napkins, and other similar products
28 the principal use of which is feminine hygiene in connection with the menstrual cycle.

29 (67) “Breast pump collection and storage supplies” means items of tangible personal
30 property used in conjunction with a breast pump to collect milk expressed from a human breast and
31 to store collected milk until it is ready for consumption. “Breast pump collection and storage
32 supplies” include, but are not limited to, breast shields and breast shield connectors; breast pump
33 tubes and tubing adaptors; breast pump valves and membranes; backflow protectors and backflow
34 protector adaptors; bottles and bottle caps specific to the operation of the breast pump; breast milk

1 storage bags; and related items sold as part of a breast pump kit pre-packaged by the breast pump
2 manufacturer. “Breast pump collection and storage supplies” does not include: bottles and bottle
3 caps not specific to the operation of the breast pump; breast pump travel bags and other similar
4 carrying accessories, including ice packs, labels, and other similar products, unless sold as part of
5 a breast pump kit pre-packed by the breast pump manufacturer; breast pump cleaning supplies,
6 unless sold as part of a breast pump kit pre-packaged by the breast pump manufacturer; nursing
7 bras, bra pads, breast shells, and other similar products; and creams, ointments, and other similar
8 products that relieve breastfeeding-related symptoms or conditions of the breasts or nipples.

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

17 SECTION 3. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

- 1 This act would exempt from the sales and use tax the sale of beer and malt beverages at
- 2 retail.
- 3 This act would take effect upon passage.

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LC000809
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