

2021 -- H 5109

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

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

Introduced By: Representative Deborah A. Fellela

Date Introduced: January 22, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

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

9 (b) An excise tax is imposed on the storage, use, or other consumption in this state of a
10 motor vehicle, a boat, an airplane, or a trailer purchased from other than a licensed motor vehicle
11 dealer or other than a retailer of boats, airplanes, or trailers respectively, at the rate of six percent
12 (6%) of the sale price of the motor vehicle, boat, airplane, or trailer.

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

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

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

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

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

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

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

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

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

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

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

1 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%).

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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- 1 This act would add mileage of a motor vehicle to be considered by the tax administrator in
- 2 defining the value of a motor vehicle for the purposes of the "casual" tax.
- 3 This act would take effect upon passage.

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