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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TAXATION - SALES TAX

Introduced By: Senators Felag, Sosnowski, Lombardi, DiPalma, and Lombardo

Date Introduced: February 13, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-18-7.3 of the General Laws in Chapter 44-18 entitled "Sales and
2 Use Taxes - Liability and Computation" is hereby repealed.

3 ~~44-18-7.3. Services defined. — (a) "Services" means all activities engaged in for other~~
4 ~~persons for a fee, retainer, commission, or other monetary charge, which activities involve the~~
5 ~~performance of a service in this state as distinguished from selling property.~~

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

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

10 ~~(i) Taxicab services including taxi dispatchers (485310); and~~

11 ~~(ii) Limousine services (485320).~~

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

13 ~~(i) Charter bus service (485510); and~~

14 ~~(ii) All other transit and ground passenger transportation (485999).~~

15 ~~(3) Pet care services (812910) except veterinary and testing laboratories services.~~

16 ~~(c) The tax administrator is authorized to promulgate rules and regulations in accordance~~
17 ~~with the provisions of chapter 42-35 to carry out the provisions, policies, and purposes of this~~
18 ~~chapter.~~

19 SECTION 2. Section 44-18-30 of the General Laws in Chapter 44-18 entitled "Sales and

1 Use Taxes - Liability and Computation" is hereby amended to read as follows:

2 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
3 the taxes imposed by this chapter the following gross receipts:

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

8 (2) Newspapers.

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

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

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

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

21 (4) Containers.

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

23 (A) Non-returnable containers, including boxes, paper bags, and wrapping materials
24 which are biodegradable and all bags and wrapping materials utilized in the medical and healing
25 arts, when sold without the contents to persons who place the contents in the container and sell
26 the contents with the container.

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

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

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

34 (5) (i) Charitable, educational, and religious organizations. - From the sale to as in

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

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

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

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

30 (7) Purchase for manufacturing purposes.

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

1 integral part of the manufactured, compounded, processed, assembled, or prepared product, or if
2 the property or service is consumed in the process of manufacturing for resale computer software,
3 tangible personal property, electricity, natural gas, artificial gas, steam, refrigeration, or water.

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

6 (iii) "Consumed" includes mere obsolescence.

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

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

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

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

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

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

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

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

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

34 is not sold with utensils provided by the seller, including plates, knives, forks, spoons,

1 glasses, cups, napkins, or straws.

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

4 (i) "Drugs" as defined in section 44-18-7.1(h)(i), sold on prescriptions, medical oxygen,
5 and insulin whether or not sold on prescription. For purposes of this exemption drugs shall not
6 include over-the-counter drugs and grooming and hygiene products as defined in section 44-18-
7 7.1(h)(iii).

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

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

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

23 (13) Motor vehicles sold to nonresidents.

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

1 motor vehicle to a bona fide nonresident as provided in this section, the dealer in computing the
2 tax takes into consideration the law of the state of the nonresident as it relates to the trade-in of
3 motor vehicles.

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

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

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

17 (15) Air and water pollution control facilities. - From the sale, storage, use, or other
18 consumption in this state of tangible personal property or supplies acquired for incorporation into
19 or used and consumed in the operation of a facility, the primary purpose of which is to aid in the
20 control of the pollution or contamination of the waters or air of the state, as defined in chapter 12
21 of title 46 and chapter 25 of title 23, respectively, and which has been certified as approved for
22 that purpose by the director of environmental management. The director of environmental
23 management may certify to a portion of the tangible personal property or supplies acquired for
24 incorporation into those facilities or used and consumed in the operation of those facilities to the
25 extent that that portion has as its primary purpose the control of the pollution or contamination of
26 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
27 device, building, machinery, or equipment.

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

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

34 (18) Educational institutions. - From the rental charged by any educational institution for

1 living quarters, or sleeping or housekeeping accommodations or other rooms or accommodations
2 to any student or teacher necessitated by attendance at an educational institution. "Educational
3 institution" as used in this section means an institution of learning not operated for profit which is
4 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
5 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
6 school year, which keeps and furnishes to students and others records required and accepted for
7 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
8 inures to the benefit of any individual.

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

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

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

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

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

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

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

33 (22) Manufacturing machinery and equipment.

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

1 dies, and molds, and machinery and equipment (including replacement parts), and related items to
2 the extent used in an industrial plant in connection with the actual manufacture, conversion, or
3 processing of tangible personal property, or to the extent used in connection with the actual
4 manufacture, conversion or processing of computer software as that term is utilized in industry
5 numbers 7371, 7372, and 7373 in the standard industrial classification manual prepared by the
6 technical committee on industrial classification, office of statistical standards, executive office of
7 the president, United States bureau of the budget, as revised from time to time, to be sold, or that
8 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
9 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
10 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
11 be sold in the regular course of business;

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

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

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

32 (23) Trade-in value of motor vehicles. - From the sale and from the storage, use, or other
33 consumption in this state of so much of the purchase price paid for a new or used automobile as is
34 allocated for a trade-in allowance on the automobile of the buyer given in trade to the seller, or of

1 the proceeds applicable only to the automobile as are received from the manufacturer of
2 automobiles for the repurchase of the automobile whether the repurchase was voluntary or not
3 towards the purchase of a new or used automobile by the buyer. For the purpose of this
4 subdivision, the word "automobile" means a private passenger automobile not used for hire and
5 does not refer to any other type of motor vehicle.

6 (24) Precious metal bullion.

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

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

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

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

21 (26) Commercial fishing vessels. - From the sale and from the storage, use, or other
22 consumption in this state of vessels and other water craft which are in excess of five (5) net tons
23 and which are used exclusively for "commercial fishing", as defined in this subdivision, and from
24 the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
25 property purchased for the use of those vessels and other watercraft including provisions,
26 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
27 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
28 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the
29 taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of
30 disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does
31 not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
32 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
33 license issued by the department of environmental management pursuant to section 20-2-27.1
34 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry

1 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
2 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island
3 boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a
4 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
5 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from
6 charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v)
7 the vessel must have a valid Rhode Island party and charter boat license. The tax administrator
8 shall implement the provisions of this subdivision by promulgating rules and regulations relating
9 thereto.

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

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

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

28 (30) Boats.

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

34 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-

1 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
2 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
3 provided in this subdivision, including the affidavit of the seller that the buyer represented
4 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
5 nonresident of this state.

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

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

1 exemption issued or renewed after July 1, 2002, shall clearly indicate the level of the exemption
2 and be valid for four (4) years after the date of issue. This exemption applies even if the same
3 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
4 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
5 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration
6 displaying farm plates as provided for in section 31-3-31.

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

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

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

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

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

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

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

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

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

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

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

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

33 (45) Telecommunications carrier access service. - Carrier access service or
34 telecommunications service when purchased by a telecommunications company from another

1 telecommunications company to facilitate the provision of telecommunications service.

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

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

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

21 (49) Banks and Regulated investment companies interstate toll-free calls. -
22 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
23 the furnishing of interstate and international, toll-free terminating telecommunication service that
24 is used directly and exclusively by or for the benefit of an eligible company as defined in this
25 subdivision; provided, that an eligible company employs on average during the calendar year no
26 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
27 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
28 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
29 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
30 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
31 a state chartered bank.

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

1 (51) Manufacturing business reconstruction materials.

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

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

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

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

14 (52) Tangible personal property and supplies used in the processing or preparation of
15 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this
16 state of tangible personal property or supplies purchased by florists, garden centers, or other like
17 producers or vendors of flowers, plants, floral products, and natural and artificial floral
18 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
19 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
20 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
21 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
22 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
23 food, insecticide and fertilizers.

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

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

28 (i) From the sale, subsequent to June 30, 2003, of a non-motorized recreational vehicle to
29 a bona fide nonresident of this state who does not register the non-motorized recreational vehicle
30 in this state, whether the sale or delivery of the non-motorized recreational vehicle is made in this
31 state or at the place of residence of the nonresident; provided, that a non-motorized recreational
32 vehicle sold to a bona fide nonresident whose state of residence does not allow a like exemption
33 to its nonresidents is not exempt from the tax imposed under section 44-18-20; provided, further,
34 that in that event the bona fide nonresident pays a tax to Rhode Island on the sale at a rate equal

1 to the rate that would be imposed in his or her state of residence not to exceed the rate that would
2 have been imposed under section 44-18-20. Notwithstanding any other provisions of law, a
3 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
4 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
5 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle
6 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
7 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
8 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
9 of motor vehicles.

10 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
11 28, may require any licensed non-motorized recreational vehicle dealer to keep records of sales to
12 bona fide nonresidents as the tax administrator deems reasonably necessary to substantiate the
13 exemption provided in this subdivision, including the affidavit of a licensed non-motorized
14 recreational vehicle dealer that the purchaser of the non-motorized recreational vehicle was the
15 holder of, and had in his or her possession a valid out-of-state non-motorized recreational vehicle
16 registration or a valid out-of-state driver's license.

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

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

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

34 (56) Aircraft. - Notwithstanding the provisions of this chapter, the tax imposed by

1 sections 44-18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or
2 other consumption in this state of any new or used aircraft or aircraft parts.

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

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

23 (59) Dietary Supplements. - From the sale and from the storage, use or other
24 consumption of dietary supplements as defined in section 44-18-7.1(1)(v), sold on prescriptions.

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

27 (61) Agricultural products for human consumption. - From the sale and from the storage,
28 use or other consumption of livestock and poultry of the kinds of products of which ordinarily
29 constitute food for human consumption and of livestock of the kind the products of which
30 ordinarily constitute fibers for human use.

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

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

1 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 TAX

- 1 This act would repeal the sales tax on certain services and clothing.
- 2 This act would take effect upon passage.

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LC01378
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