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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TAXATION

Introduced By: Representatives Malik, Hull, Morgan, McNamara, and Morin

Date Introduced: April 09, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-13-4 and 44-13-10 of the General Laws in Chapter 44-13
2 entitled "Public Service Corporation Tax" are hereby amended to read as follows:

3 **44-13-4. Rate of taxation.** -- The tax imposed will be at the following rates:

4 (1) In the case of every corporation whose principal business is a steamboat or ferryboat
5 business as a common carrier, every common carrier steam or electric railroad corporation, every
6 street railway corporation, every common carrier dining, sleeping, chair, or parlor car
7 corporation, every corporation whose principal business is selling and distributing water to the
8 public, and every toll bridge corporation, one and one-fourth percent (1.25%) of its gross
9 earnings;

10 (2) In the case of every corporation whose principal business is manufacturing, selling,
11 distributing and/or transmitting currents of electricity to be used for light, heat, or motive power,
12 four percent (4%) of its gross earnings, but deductions shall be made of gross earnings from the
13 transmission or sale of electricity to other public utility corporations, non-regulated power
14 producers, or municipal utilities for resale, whether within or outside of this state; provided, that
15 the tax measured by the portion of the utility's gross earnings as is derived from the manufacture
16 and sale of illuminating and heating gas and its by-products and the merchandising of gas
17 appliances shall be computed at the rate of three percent (3%);

18 (3) In the case of every express corporation carrying on its business on steamboats,
19 steam or electric railroads, or street railways and of every public service corporation whose

1 principal business is that of a telegraph corporation, four percent (4%) of its gross earnings;

2 ~~(4) In the case of every telecommunications corporation providing telecommunications~~
3 ~~service, ten percent (10%) of its gross earnings; provided, that the rate shall be nine percent (9%)~~
4 ~~effective July 1, 1985, eight percent (8%) effective July 1, 1986, seven percent (7%) effective~~
5 ~~July 1, 1987, six percent (6%) effective July 1, 1988, and five percent (5%) effective July 1,~~
6 ~~1997. For purposes of this chapter, "telecommunications service" means the transmission of any~~
7 ~~interactive two-way electromagnetic communications including voice, image, data, and other~~
8 ~~information, by means of wire, cable, including fiber optical cable, microwave, and radio wave,~~
9 ~~or any combinations of these media. This definition does not include value added non-voice~~
10 ~~services in which computer processing applications are used to act on the form, content, code, and~~
11 ~~protocol of the information to be transmitted;~~

12 ~~(5)~~(4) In the case of every public service cable corporation, eight percent (8%) of its
13 gross earnings;

14 ~~(6)~~(5) In the case of every corporation whose principal business is manufacturing, selling
15 and/or distributing to the public illuminating or heating gas, three percent (3%) of its gross
16 earnings.

17 **44-13-10. Apportionment of earnings from business partially within state. --** In the
18 case of every corporation carrying on business both within and outside of this state, its entire
19 gross earnings from its operation for the preceding calendar year, or for the portion of the year
20 that the corporation has carried on business within this state, shall be apportioned to this state as
21 follows:

22 (1) In the case of an express corporation carrying on its business on steamboats, steam or
23 electric railroads, or street railways, and in the case of a corporation whose principal business is a
24 steamboat or ferryboat business as a common carrier, the total amount of gross earnings from all
25 sources within this state for the calendar year or portion thereof next preceding;

26 (2) In the case of a common carrier steam or electric railroad or street railway
27 corporation a proportion as the total mileage of tracks operated by the corporation for steam or
28 electric railroad or street railway purposes within this state, exclusive of sidings and turnouts, on
29 December 31 next preceding, bears to the total mileage of tracks then operated by the corporation
30 for these purposes, both within and outside of this state;

31 (3) In the case of any corporation operating as a common carrier dining, sleeping, chair,
32 or parlor car corporation, but not in the case of a public steam or electric railroad or street railway
33 corporation operating cars as a part of or incidental to its railroad or railway business within this
34 state, a proportion as the number of miles the cars were operated in this state during the year

1 ending December 31 next preceding bears to the total number of miles the cars were then
2 operated for these purposes both within and outside of this state;

3 (4) In the case of a public service telegraph, ~~or cable, or telecommunications~~ corporation,
4 or corporation which is manufacturing, selling, distributing and/or transmitting to the public
5 currents of electricity to be used for light, heat, or motive power, the total amount of gross
6 earnings within this state for the calendar year; ~~provided, however, that gross earnings from~~
7 ~~providing mobile telecommunications services shall be apportioned to this state where the~~
8 ~~customer's primary place of use, as determined in accordance with the mobile~~
9 ~~Telecommunications Sourcing Act (4 U.S.C. sections 116 -- 126), is within this state.~~

10 (5) In the case of a corporation whose principal business is manufacturing, selling and/or
11 distributing to the public illuminating or heating gas or water, a proportion as the total miles of
12 mains operated by the corporation within this state on December 31 next preceding bears to the
13 total mileage of mains or wires operated by the corporation both within and outside of this state;

14 (6) In any case to which these proportions are not equitably applicable, in the proportion
15 that is equitable.

16 SECTION 2. Sections 44-18-7, 44-18-7.1, 44-18-7.3, 44-18-8, 44-18-12, 44-18-12.1, 44-
17 18-18, 44-18-18.1, 44-18-19, 44-18-20, 44-18-21 and 44-18-30 of the General Laws in Chapter
18 44-18 entitled "Sales and Use Taxes - Liability and Computation" are hereby amended to read as
19 follows:

20 **44-18-7. Sales defined.** -- "Sales" means and includes:

21 (1) Any transfer of title or possession, exchange, barter, lease, or rental, conditional or
22 otherwise, in any manner or by any means of tangible personal property for a consideration.
23 "Transfer of possession", "lease", or "rental" includes transactions found by the tax administrator
24 to be in lieu of a transfer of title, exchange, or barter.

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

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

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

32 ~~(5)~~(4) A transaction whereby the possession of tangible personal property is transferred,
33 but the seller retains the title as security for the payment of the price.

34 ~~(6)~~(5) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or

1 interstate commerce, of tangible personal property from the place where it is located for delivery
2 to a point in this state for the purpose of the transfer of title or possession, exchange, barter, lease,
3 or rental, conditional or otherwise, in any manner or by any means whatsoever, of the property
4 for a consideration.

5 ~~(7)~~(6) A transfer for a consideration of the title or possession of tangible personal
6 property, which has been produced, fabricated, or printed to the special order of the customer, or
7 any publication.

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

10 ~~(9) (i) The furnishing for consideration of intrastate, interstate and international
11 telecommunications service sourced in this state in accordance with subsections 44-18.1(15) and
12 (16) and all ancillary services, any maintenance services of telecommunication equipment other
13 than as provided for in subdivision 44-18-12(b)(ii). For the purposes of chapters 18 and 19 of this
14 title only, telecommunication service does not include service rendered using a prepaid telephone
15 calling arrangement.~~

16 ~~(ii) Notwithstanding the provisions of paragraph (i) of this subdivision, in accordance
17 with the Mobile Telecommunications Sourcing Act (4 U.S.C. sections 116—126), subject to the
18 specific exemptions described in 4 U.S.C. section 116(c), and the exemptions provided in
19 sections 44-18-8 and 44-18-12, mobile telecommunications services that are deemed to be
20 provided by the customer's home service provider are subject to tax under this chapter if the
21 customer's place of primary use is in this state regardless of where the mobile
22 telecommunications services originate, terminate or pass through. Mobile telecommunications
23 services provided to a customer, the charges for which are billed by or for the customer's home
24 service provider, shall be deemed to be provided by the customer's home service provider.~~

25 ~~(10)~~(7) The furnishing of service for transmission of messages by telegraph, cable, or
26 radio and the furnishing of community antenna television, subscription television, and cable
27 television services.

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

29 ~~(12) The transfer for consideration of prepaid telephone calling arrangements and the
30 recharge of prepaid telephone calling arrangements sourced to this state in accordance with
31 sections 44-18.1-11 and 44-18.1-15. "Prepaid telephone calling arrangement" means and includes
32 prepaid calling service and prepaid wireless calling service.~~

33 ~~(13)~~(8) The sale, storage, use or other consumption of over-the-counter drugs as defined
34 in paragraph 44-18-7.1(h)(ii).

1 ~~(14)~~(9) The sale, storage, use or other consumption of prewritten computer software
2 delivered electronically or by load and leave as defined in paragraph 44-18-7.1(v).

3 ~~(15)~~(10) The sale, storage, use or other consumption of medical marijuana as defined in
4 section 21-28.6-3.

5 ~~(16)~~(11) The furnishing of services in this state as defined in section 44-18-7.3.

6 **44-18-7.1. Additional definitions.** -- (a) "Agreement" means the Streamlined Sales and
7 Use Tax Agreement.

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

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

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

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

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

24 (C) Items included in the member state's definition of "sales price," pursuant to
25 Appendix C of the Agreement.

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

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

33 (A) The "retail sale" of tangible personal property and a service where the tangible
34 personal property is essential to the use of the service, and is provided exclusively in connection

1 with the service, and the true object of the transaction is the service; or

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

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

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

9 2. Sellers shall use either the "purchase price" or the "sales price" of the products to
10 determine if the taxable products are de minimis. Sellers may not use a combination of the
11 "purchase price" and "sales price" of the products to determine if the taxable products are de
12 minimis.

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

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

17 1. the transaction includes "food and food ingredients", "drugs", "durable medical
18 equipment", "mobility enhancing equipment", "over-the-counter drugs", "prosthetic devices" (all
19 as defined in section 44-18-7.1) or medical supplies; and

20 2. where the seller's "purchase price" or "sales price" of the taxable tangible personal
21 property is fifty percent (50%) or less of the total "purchase price" or "sales price" of the bundled
22 tangible personal property. Sellers may not use a combination of the "purchase price" and "sales
23 price" of the tangible personal property when making the fifty percent (50%) determination for a
24 transaction.

25 (d) "Certified Automated System (CAS)" means software certified under the Agreement
26 to calculate the tax imposed by each jurisdiction on a transaction, determine the amount of tax to
27 remit to the appropriate state, and maintain a record of the transaction.

28 (e) "Certified Service Provider (CSP)" means an agent certified under the Agreement to
29 perform all the seller's sales and use tax functions, other than the seller's obligation to remit tax on
30 its own purchases.

31 (f) Clothing and Related Items

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

33 (ii) "Clothing accessories or equipment" means incidental items worn on the person or in
34 conjunction with "clothing." "Clothing accessories or equipment" does not include "clothing,"

1 "sport or recreational equipment," or "protective equipment."

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

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

10 (g) Computer and Related Items

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

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

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

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

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

21 (vi) "Prewritten computer software" means "computer software," including prewritten
22 upgrades, which is not designed and developed by the author or other creator to the specifications
23 of a specific purchaser. The combining of two (2) or more "prewritten computer software"
24 programs or prewritten portions thereof does not cause the combination to be other than
25 "prewritten computer software." "Prewritten computer software" includes software designed and
26 developed by the author or other creator to the specifications of a specific purchaser when it is
27 sold to a person other than the specific purchaser. Where a person modifies or enhances
28 "computer software" of which the person is not the author or creator, the person shall be deemed
29 to be the author or creator only of such person's modifications or enhancements. "Prewritten
30 computer software" or a prewritten portion thereof that is modified or enhanced to any degree,
31 where such modification or enhancement is designed and developed to the specifications of a
32 specific purchaser, remains "prewritten computer software;" provided, however, that where there
33 is a reasonable, separately stated charge or an invoice or other statement of the price given to the
34 purchaser for such modification or enhancement, such modification or enhancement shall not

1 constitute "prewritten computer software."

2 (h) Drugs and Related Items

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

6 (A) Recognized in the official United States Pharmacopoeia, official Homeopathic
7 Pharmacopoeia of the United States, or official National Formulary, and supplement to any of
8 them; or

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

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

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

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

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

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

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

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

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

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

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

31 (j) "Direct mail" means printed material delivered or distributed by United States mail or
32 other delivery service to a mass audience or to addressees on a mailing list provided by the
33 purchaser or at the direction of the purchaser when the cost of the items are not billed directly to
34 the recipients. "Direct mail" includes tangible personal property supplied directly or indirectly by

1 the purchaser to the direct mail seller for inclusion in the package containing the printed material.

2 "Direct mail" does not include multiple items of printed material delivered to a single address.

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

5 (i) Can withstand repeated use; and

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

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

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

9 Durable medical equipment does not include mobility enhancing equipment.

10 (l) Food and Related Items

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

15 (ii) "Prepared food" means:

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

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

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

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

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

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

34 (v) "Dietary supplement" means any product, other than "tobacco," intended to

1 supplement the diet that:

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

3 1. A vitamin;

4 2. A mineral;

5 3. An herb or other botanical;

6 4. An amino acid;

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

9 6. A concentrate, metabolite, constituent, extract, or combination of any ingredient
10 described in above; and

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

14 (C) Is required to be labeled as a dietary supplement, identifiable by the "Supplemental
15 Facts" box found on the label and as required pursuant to 21 C.F.R. section 101.36.

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

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

21 ~~(i) "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations,
22 or any other room or accommodation in any part of the hotel, rooming house or tourist camp
23 which is available for or rented out for hire in the lodging of guests.~~

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

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

31 ~~(n)~~ (n) "Lease or rental" means any transfer of possession or control of tangible personal
32 property for a fixed or indeterminate term for consideration. A lease or rental may include future
33 options to purchase or extend. Lease or rental does not include:

34 (i) A transfer of possession or control of property under a security agreement or deferred

1 payment plan that requires the transfer of title upon completion of the required payments;

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

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

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

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

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

19 ~~(p)~~(o) "Mobility enhancing equipment" means equipment including repair and
20 replacement parts to same, which:

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

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

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

26 Mobility enhancing equipment does not include durable medical equipment.

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

30 ~~(s)~~(q) "Model 2 Seller" means a seller that has selected a CAS to perform part of its sales
31 and use tax functions, but retains responsibility for remitting the tax.

32 ~~(s)~~(r) "Model 3 Seller" means a seller that has sales in at least five member states, has
33 total annual sales revenue of at least five hundred million dollars (\$500,000,000), has a
34 proprietary system that calculates the amount of tax due each jurisdiction, and has entered into a

1 performance agreement with the member states that establishes a tax performance standard for
2 the seller. As used in this definition, a seller includes an affiliated group of sellers using the same
3 proprietary system.

4 ~~(+)~~(s) "Prosthetic device" means a replacement, corrective, or supportive devices
5 including repair and replacement parts for same worn on or in the body to:

- 6 (i) Artificially replace a missing portion of the body;
- 7 (ii) Prevent or correct physical deformity or malfunction; or
- 8 (iii) Support a weak or deformed portion of the body.

9 ~~(u)~~(t) "Purchaser" means a person to whom a sale of personal property is made or to
10 whom a service is furnished.

11 ~~(v)~~(u) "Purchase price" applies to the measure subject to use tax and has the same
12 meaning as sales price.

13 ~~(w)~~(v) "Seller" means a person making sales, leases, or rentals of personal property or
14 services.

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

16 ~~(y)~~ "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
22 more participants of an audio or video conference call and may include the provision of a
23 telephone number. "Conference bridging service" does not include the "telecommunications
24 services" used 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,~~
5 ~~or routing in which computer processing applications are used to act on the form, code or~~
6 ~~protocol of the content for purposes of transmission, conveyance or routing without regard to~~
7 ~~whether such service is referred to as voice over Internet protocol services or is classified by the~~
8 ~~Federal Communications Commission as enhanced or value added. "Telecommunications~~
9 ~~service" does 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~~
20 ~~medium, 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. section 522(6) and audio and~~
23 ~~video programming services delivered by commercial mobile radio service providers, as defined~~
24 ~~in 47 CFR 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~~
29 ~~toll free number without incurring a charge for the call. The service is typically marketed under~~
30 ~~the 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~~
2 ~~product sold by the subscriber to the subscriber's customer. The service is typically marketed~~
3 ~~under the name "900 service," and any subsequent numbers designated by the Federal~~
4 ~~Communications 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~~
10 ~~only, "telecommunications services" that are provided by a commercial mobile radio service~~
11 ~~provider.~~

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

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

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

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

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

33 ~~(ii) "Modifiers of Sales Tax Base/Exemption Terms" the following terms can be used~~
34 ~~to further delineate the type of "telecommunications service" to be taxed or exempted. The terms~~

1 ~~would be used with the broader terms and subcategories delineated above.~~

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

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

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

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

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

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

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

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

30 ~~(z)(x) "Tobacco" means cigarettes, cigars, chewing or pipe tobacco, or any other item~~
31 ~~that contains tobacco.~~

32 **44-18-7.3. Services defined.** -- (a) "Services" means all activities engaged in for other
33 persons for a fee, retainer, commission, or other monetary charge, which activities involve the
34 performance of a service in this state as distinguished from selling property.

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

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

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

6 (ii) Limousine services (485320).

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

8 (i) Charter bus service (485510); and

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

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

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

14 **44-18-8. Retail sale or sale at retail defined.** -- A "retail sale" or "sale at retail" means
15 any sale, lease or rentals of tangible personal property, prewritten computer software delivered
16 electronically or by load and leave, or services as defined in section 44-18-7.3 for any purpose
17 other than resale, sublease or subrent in the regular course of business. The sale of tangible
18 personal property to be used for purposes of rental in the regular course of business is considered
19 to be a sale for resale. ~~In regard to telecommunications service as defined in section 44-18-7(9),
20 retail sale does not include the purchase of telecommunications service by a telecommunications
21 provider from another telecommunication provider for resale to the ultimate consumer; provided,
22 that the purchaser submits to the seller a certificate attesting to the applicability of this exclusion,
23 upon receipt of which the seller is relieved of any tax liability for the sale.~~

24 **44-18-12. "Sale price" defined.** -- (a) "Sales price" applies to the measure subject to
25 sales tax and means the total amount of consideration, including cash, credit, property, and
26 services, for which personal property or services are sold, leased, or rented, valued in money,
27 whether received in money or otherwise, without any deduction for the following:

28 (i) The seller's cost of the property sold;

29 (ii) The cost of materials used, labor or service cost, interest, losses, all costs of
30 transportation to the seller, all taxes imposed on the seller, and any other expense of the seller;

31 (iii) Charges by the seller for any services necessary to complete the sale, other than
32 delivery and installation charges;

33 (iv) Delivery charges, as defined in section 44-18-7.1(i);

34 (v) Credit for any trade-in, as determined by state law; or

1 (vi) The amount charged for services, as defined in section 44-18-7.3.

2 (b) "Sales price" shall not include:

3 (i) Discounts, including cash, term, or coupons that are not reimbursed by a third party
4 that are allowed by a seller and taken by a purchaser on a sale;

5 (ii) The amount charged for labor or services rendered in installing or applying the
6 property sold when the charge is separately stated by the retailer to the purchaser; provided that in
7 transactions subject to the provisions of this chapter the retailer shall separately state such charge
8 when requested by the purchaser and, further, the failure to separately state such charge when
9 requested may be restrained in the same manner as other unlawful acts or practices prescribed in
10 chapter 13.1 of title 6.

11 (iii) Interest, financing, and carrying charges from credit extended on the sale of personal
12 property or services, if the amount is separately stated on the invoice, bill of sale or similar
13 document given to the purchaser; and

14 (iv) Any taxes legally imposed directly on the consumer that are separately stated on the
15 invoice, bill of sale or similar document given to the purchaser.

16 ~~(v) Manufacturer rebates allowed on the sale of motor vehicles.~~

17 (c) "Sales price" shall include consideration received by the seller from third parties if:

18 (i) The seller actually receives consideration from a party other than the purchaser and
19 the consideration is directly related to a price reduction or discount on the sale;

20 (ii) The seller has an obligation to pass the price reduction or discount through to the
21 purchaser;

22 (iii) The amount of the consideration attributable to the sale is fixed and determinable by
23 the seller at the time of the sale of the item to the purchaser; and

24 (iv) One of the following criteria is met:

25 (A) The purchaser presents a coupon, certificate or other documentation to the seller to
26 claim a price reduction or discount where the coupon, certificate or documentation is authorized,
27 distributed or granted by a third party with the understanding that the third party will reimburse
28 any seller to whom the coupon, certificate or documentation is presented;

29 (B) The purchaser identifies himself or herself to the seller as a member of a group or
30 organization entitled to a price reduction or discount (a "preferred customer" card that is available
31 to any patron does not constitute membership in such a group), or

32 (C) The price reduction or discount is identified as a third party price reduction or
33 discount on the invoice received by the purchaser or on a coupon, certificate or other
34 documentation presented by the purchaser.

1 **44-18-12.1. "Additional measure subject to tax".** -- Also included in the measure
2 subject to tax under this chapter is the total amount charged for the furnishing ~~or distributing~~ of
3 ~~electricity, natural gas, artificial gas, steam, refrigeration, water, telecommunications, telegraph,~~
4 ~~cable, and~~ radio message service, community antenna television, subscription television, and
5 cable television service; ~~provided, that the measure of tax in regard to telecommunications service~~
6 ~~is the total consideration received for the service as defined in section 44-18-7(9); provided, that~~
7 ~~in order to prevent multistate taxation of all telecommunications service, any taxpayer is allowed~~
8 ~~a credit or refund of sales tax upon presenting proof that a tax has been paid to another state to~~
9 ~~which the tax is properly due for the identical service taxed under this chapter. Furthermore,~~
10 ~~included in the measure of tax is the total amount charged for the rental of living quarters in any~~
11 ~~hotel, rooming house, or tourist camp.~~

12 **44-18-18. Sales tax imposed.** -- A tax is imposed upon sales at retail in this state
13 ~~including charges for rentals of living quarters in hotels as defined in section 42-63.1-2, rooming~~
14 ~~houses, or tourist camps,~~ at the rate of six percent (6%) of the gross receipts of the retailer ~~from~~
15 ~~the sales or rental charges; provided, that the tax imposed on charges for the rentals applies only~~
16 ~~to the first period of not exceeding thirty (30) consecutive calendar days of each rental; provided,~~
17 further, that for the period commencing July 1, 1990, the tax rate is seven percent (7%). The tax is
18 paid to the tax administrator by the retailer at the time and in the manner provided; provided,
19 further, that for the period commencing July 1, 2014, the tax rate is six percent (6%). ~~Excluded~~
20 ~~from this tax are those living quarters in hotels, rooming houses, or tourist camps for which the~~
21 ~~occupant has a written lease for the living quarters which lease covers a rental period of twelve~~
22 ~~(12) months or more. In recognition of the work being performed by the Streamlined Sales and~~
23 ~~Use Tax Governing Board, upon passage any federal law which authorizes states to require~~
24 ~~remote sellers to collect and remit sales and use taxes, the rate imposed under section 44-18-18~~
25 ~~shall be reduced from seven percent (7%) to six and one half percent (6.5%). The six and one-~~
26 ~~half percent (6.5%) rate shall take effect on the date that the state requires remote sellers to collect~~
27 ~~and remit sale and use taxes.~~

28 **44-18-18.1. Local meals and beverage tax.** -- (a) ~~There is hereby levied and imposed,~~
29 ~~upon every purchaser of a meal and/or beverage, in addition to all other taxes and fees now~~
30 ~~imposed by law, a local meals and beverage tax upon each and every meal and/or beverage sold~~
31 ~~within the state of Rhode Island in or from an eating and/or drinking establishment, whether~~
32 ~~prepared in the eating and/or drinking establishment or not and whether consumed at the premises~~
33 ~~or not, at a rate of one percent of the gross receipts. The tax shall be paid to the tax administrator~~
34 ~~by the retailer at the time and in the manner provided.~~

1 ~~(b) All sums received by the division of taxation under this section as taxes, penalties or~~
2 ~~forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid~~
3 ~~by the state treasurer to the city or town where the meals and beverages are delivered.~~

4 ~~(c) When used in this section, the following words have the following meanings:~~

5 ~~(1) "Beverage" means all nonalcoholic beverages, as well as alcoholic beverages, beer,~~
6 ~~lager beer, ale, porter, wine, similar fermented malt or vinous liquor.~~

7 ~~(2) "Eating and/or drinking establishments" mean and include restaurants, bars, taverns,~~
8 ~~lounges, cafeterias, lunch counters, drive-ins, roadside ice cream and refreshment stands, fish and~~
9 ~~chip places, fried chicken places, pizzerias, food and drink concessions, or similar facilities in~~
10 ~~amusement parks, bowling alleys, clubs, caterers, drive-in theatres, industrial plants, race tracks,~~
11 ~~shore resorts or other locations, lunch carts, mobile canteens and other similar vehicles, and other~~
12 ~~like places of business which furnish or provide facilities for immediate consumption of food at~~
13 ~~tables, chairs or counters or from trays, plates, cups or other tableware or in parking facilities~~
14 ~~provided primarily for the use of patrons in consuming products purchased at the location.~~
15 ~~Ordinarily, eating establishments do not mean and include food stores and supermarkets. Eating~~
16 ~~establishments do not mean "vending machines," a self-contained automatic device that dispenses~~
17 ~~for sale foods, beverages, or confection products. Retailers selling prepared foods in bulk either in~~
18 ~~customer furnished containers or in the seller's containers, for example "Soup and Sauce"~~
19 ~~establishments, are deemed to be selling prepared foods ordinarily for immediate consumption~~
20 ~~and, as such, are considered eating establishments.~~

21 ~~(3) "Meal" means any prepared food or beverage offered or held out for sale by an eating~~
22 ~~and/or drinking establishment for the purpose of being consumed by any person to satisfy the~~
23 ~~appetite and which is ready for immediate consumption. All such food and beverage, unless~~
24 ~~otherwise specifically exempted or excluded herein shall be included, whether intended to be~~
25 ~~consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack,~~
26 ~~dinner, supper or by some other name, and without regard to the manner, time or place of service.~~

27 ~~(d) This local meals and beverage tax shall be administered and collected by the division~~
28 ~~of taxation and unless provided to the contrary in this chapter, all of the administration,~~
29 ~~collection, and other provisions of chapters 18 and 19 of this article apply.~~

30 ~~In recognition of the work being performed by the Streamlined Sales and Use Tax~~
31 ~~Governing Board, upon passage of any federal law which authorizes states to require remote~~
32 ~~sellers to collect and remit sales and use taxes, the rate imposed under section 44-18-18.1 shall be~~
33 ~~increased from one percent (1%) to one and one half percent (1.5%). The one and one half~~
34 ~~percent (1.5%) rate shall take effect on the date that the state requires remote sellers to collect and~~

1 ~~remit sales and use taxes.~~

2 **44-18-19. Collection of sales tax by retailer.** -- The retailer shall add the tax imposed by
3 this chapter to the sale price or charge, and when added the tax constitutes a part of the price or
4 charge, is a debt from the consumer or user to the retailer, and is recoverable at law in the same
5 manner as other debts; provided, that the amount of tax that the retailer collects from the
6 consumer or user is as follows:

| 7 | Amount of Sale | Amount of Tax |
|----|----------------------------|---------------|
| 8 | \$0.01 to \$.08 inclusive | No Tax |
| 9 | .09 to .24 inclusive | .01 |
| 10 | .25 to .41 inclusive | .02 |
| 11 | .42 to .58 inclusive | .03 |
| 12 | .59 to .74 inclusive | .04 |
| 13 | .75 to .91 inclusive | .05 |
| 14 | .92 to 1.08 inclusive | .06 |

15 and where the amount of the sale is more than one dollar and eight cents (\$1.08) the
16 amount of the tax is computed at the rate of six percent (6%); provided, that the amount of tax
17 that the retailer collects from the consumer or user for the period commencing July 1, 1990 is as
18 follows:

| 19 | Amount of Sale | Amount of Tax |
|----|-----------------------------|---------------|
| 20 | \$ 0.01 to \$.07 inclusive | No Tax |
| 21 | .08 to .21 inclusive | .01 |
| 22 | .22 to .35 inclusive | .02 |
| 23 | .36 to .49 inclusive | .03 |
| 24 | .50 to .64 inclusive | .04 |
| 25 | .65 to .78 inclusive | .05 |
| 26 | .79 to .92 inclusive | .06 |
| 27 | .93 to 1.07 inclusive | .07 |

28 and where the amount of the sale is more than one dollar and seven cents (\$1.07) the
29 amount of the tax is computed at the rate of seven percent (7%). Provided, that effective July 1,
30 2014, the amount of the tax shall be computed at the rate of six percent (6%).

31 **44-18-20. Use tax imposed.** -- (a) An excise tax is imposed on the storage, use, or other
32 consumption in this state of tangible personal property, prewritten computer software delivered
33 electronically or by load and leave or services as defined in section 44-18-7.3; including ~~a motor~~
34 ~~vehicle~~, a boat, an airplane, or a trailer, purchased from any retailer at the rate of six percent (6%)

1 of the sale price of the property.

2 (b) An excise tax is imposed on the storage, use, or other consumption in this state of a
3 ~~motor vehicle~~, a boat, an airplane, or a trailer purchased from other than a ~~licensed motor vehicle~~
4 ~~dealer or other than~~ a retailer of boats, airplanes, or trailers respectively, at the rate of six percent
5 (6%) of the sale price of the ~~motor vehicle~~, boat, airplane, or trailer.

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

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

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

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

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

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

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

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

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

28 (e) The term "casual" means a sale made by a person other than a retailer; ~~provided, that~~
29 ~~in the case of a sale of a motor vehicle, the term means a sale made by a person other than a~~
30 ~~licensed motor vehicle dealer or an auctioneer at an auction sale. In no case is the tax imposed~~
31 ~~under the provisions of subsections (a) and (b) of this section on the storage, use, or other~~
32 ~~consumption in this state of a used motor vehicle less than the product obtained by multiplying~~
33 ~~the amount of the retail dollar value at the time of purchase of the motor vehicle by the applicable~~
34 ~~tax rate; provided, that where the amount of the sale price exceeds the amount of the retail dollar~~

~~value, the tax is based on the sale price. The tax administrator shall use as his or her guide the retail dollar value as shown in the current issue of any nationally recognized used vehicle guide for appraisal purposes in this state. On request within thirty (30) days by the taxpayer after payment of the tax, if the tax administrator determines that the retail dollar value as stated in this subsection is inequitable or unreasonable, he or she shall, after affording the taxpayer reasonable opportunity to be heard, re-determine the tax.~~

(f) Every person making more than five (5) retail sales of tangible personal property or prewritten computer software delivered electronically or by load and leave, or services as defined in section 44-18-7.3 during any twelve (12) month period, including sales made in the capacity of assignee for the benefit of creditors or receiver or trustee in bankruptcy, is considered a retailer within the provisions of this chapter.

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

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

(h) The use tax imposed under this section for the period commencing July 1, 1990 is at the rate of seven percent (7%). ~~In recognition of the work being performed by the Streamlined Sales and Use Tax Governing Board, upon passage of any federal law which authorizes states to require remote sellers to collect and remit sales and use taxes, effective the first (1st) day of the first (1st) state fiscal quarter following the change, the rate imposed under section 44-18-18 shall be reduced from seven percent (7.0%) to six and one half percent (6.5%). The six and one half percent (6.5%) rate shall take effect on the date that the state requires remote sellers to collect and remit sales and use taxes. Provided, that effective July 1, 2014, the amount of the tax shall be computed at the rate of six percent (6%).~~

1 **44-18-21. Liability for use tax.** -- (a) Every person storing, using, or consuming in this
2 state tangible personal property, including a ~~motor vehicle~~, boat, airplane, or trailer, purchased
3 from a retailer, and a ~~motor vehicle~~, boat, airplane, or trailer, purchased from ~~other than a~~
4 ~~licensed motor vehicle dealer or~~ other than a retailer of boats, airplanes, or trailers respectively; or
5 storing, using or consuming specified prewritten computer software delivered electronically or by
6 load and leave, or services as defined in section 44-18-7.3 is liable for the use tax. The person's
7 liability is not extinguished until the tax has been paid to this state, except that a receipt from a
8 retailer engaging in business in this state or from a retailer who is authorized by the tax
9 administrator to collect the tax under rules and regulations that he or she may prescribe, given to
10 the purchaser pursuant to the provisions of section 44-18-22, is sufficient to relieve the purchaser
11 from further liability for the tax to which the receipt refers.

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

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

33 **44-18-30. Gross receipts exempt from sales and use taxes.** -- There are exempted from
34 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
2 storage, use, or other consumption in this state of tangible personal property the gross receipts
3 from the sale of which, or the storage, use, or other consumption of which, this state is prohibited
4 from taxing 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, which contains
9 news, editorial comment, opinions, features, advertising matter, and other matters of public
10 interest.

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

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

18 (4) Containers.

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

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

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

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

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

31 (5) (i) Charitable, educational, and religious organizations. - From the sale to as in
32 defined in this section, and from the storage, use, and other consumption in this state or any other
33 state of the United States of America of tangible personal property by hospitals not operated for a
34 profit, "educational institutions" as defined in subdivision (18) not operated for a profit, churches,

1 orphanages, and other institutions or organizations operated exclusively for religious or charitable
2 purposes, interest free loan associations not operated for profit, nonprofit organized sporting
3 leagues and associations and bands for boys and girls under the age of nineteen (19) years, the
4 following vocational student organizations that are state chapters of national vocational students
5 organizations: Distributive Education Clubs of America, (DECA); Future Business Leaders of
6 America, phi beta lambda (FBLA/PBL); Future Farmers of America (FFA); Future Homemakers
7 of America/Home Economics Related Occupations (FHA/HERD); and Vocational Industrial
8 Clubs of America (VICA), organized nonprofit golden age and senior citizens clubs for men and
9 women, and parent teacher associations.

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

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

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

27 (7) Purchase for manufacturing purposes.

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

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

3 (iii) "Consumed" includes mere obsolescence.

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

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

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

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

20 (9) Food and food ingredients. - From the sale and storage, use, or other consumption in
21 this state of food and food ingredients as defined in section 44-18-7.1(1).

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

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

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

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

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

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

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

5 (ii) Durable medical equipment as defined in section 44-18-7.1(k) for home use only,
6 including, but not limited to, syringe infusers, ambulatory drug delivery pumps, hospital beds,
7 convalescent chairs, and chair lifts. Supplies used in connection with syringe infusers and
8 ambulatory drug delivery pumps which are sold on prescription to individuals to be used by them
9 to dispense or administer prescription drugs, and related ancillary dressings and supplies used to
10 dispense or 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 section 44-18-
13 7.1(t), sold on prescription, including but not limited to, artificial limbs, dentures, spectacles and
14 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
15 prescription and mobility enhancing equipment as defined in section 44-18-7.1(p) including
16 wheelchairs, crutches and canes.

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

20 (13) Motor vehicles sold to nonresidents.

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

1 (ii) The tax administrator, in addition to the provisions of sections 44-19-27 and 44-19-
2 28, may require any licensed motor vehicle dealer to keep records of sales to bona fide
3 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption
4 provided in this subdivision, including the affidavit of a licensed motor vehicle dealer that the
5 purchaser of the motor vehicle was the holder of, and had in his or her possession a valid out of
6 state motor vehicle 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
8 of the date of its sale to him or her is deemed to have purchased the motor vehicle for use,
9 storage, or other consumption in this state, and is subject to, and liable for the use tax imposed
10 under the provisions of section 44-18-20.

11 (14) Sales in public buildings by blind people. - From the sale and from the storage, use,
12 or other consumption in all public buildings in this state of all products or wares by any person
13 licensed under section 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 25 of title 23, respectively, and which has been certified as approved for
19 that purpose by the director of environmental management. The director of environmental
20 management may certify to a portion of the tangible personal property or supplies acquired for
21 incorporation into those facilities or used and consumed in the operation of those facilities to the
22 extent that that portion has as its primary purpose the control of the pollution or contamination of
23 the waters or air of this state. As used in this subdivision, "facility" means any land, facility,
24 device, building, 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
27 other organizations and associations mentioned in subdivision (5), or by privately owned and
28 operated 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 which is

1 empowered to confer diplomas, educational, literary, or academic degrees, which has a regular
2 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
3 school year, which keeps and furnishes to students and others records required and accepted for
4 entrance to schools of secondary, collegiate, or graduate rank, no part of the net earnings of which
5 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
9 tax 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
12 applies to not more than one motor vehicle owned and registered for personal, noncommercial
13 use.

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

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

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

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

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

30 (22) Manufacturing machinery and equipment.

31 (i) From the sale and from the storage, use, or other consumption in this state of tools,
32 dies, and molds, and machinery and equipment (including replacement parts), and related items to
33 the extent used in an industrial plant in connection with the actual manufacture, conversion, or
34 processing of tangible personal property, or to the extent used in connection with the actual

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

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

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

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

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

1 ~~subdivision, the word "automobile" means a private passenger automobile not used for hire and~~
2 ~~does not refer to any other type of motor vehicle.~~

3 ~~(24)~~(23) Precious metal bullion.

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

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

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

13 ~~(25)~~(24) Commercial vessels. - From sales made to a commercial ship, barge, or other
14 vessel of fifty (50) tons burden or over, primarily engaged in interstate or foreign commerce, and
15 from the repair, alteration, or conversion of the vessels, and from the sale of property purchased
16 for the use of the vessels including provisions, supplies, and material for the maintenance and/or
17 repair of the vessels.

18 ~~(26)~~(25) Commercial fishing vessels. - From the sale and from the storage, use, or other
19 consumption in this state of vessels and other water craft which are in excess of five (5) net tons
20 and which are used exclusively for "commercial fishing", as defined in this subdivision, and from
21 the repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
22 property purchased for the use of those vessels and other watercraft including provisions,
23 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
24 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
25 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means the
26 taking or the attempting to take any fish, shellfish, crustacea, or bait species with the intent of
27 disposing of them for profit or by sale, barter, trade, or in commercial channels. The term does
28 not include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
29 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
30 license issued by the department of environmental management pursuant to section 20-2-27.1
31 which meet the following criteria: (i) the operator must have a current U.S.C.G. license to carry
32 passengers for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii)
33 U.S.C.G. vessel documentation as to proof of Rhode Island home port status or a Rhode Island
34 boat registration to prove Rhode Island home port status; (iv) the vessel must be used as a

1 commercial passenger carrying fishing vessel to carry passengers for fishing. The vessel must be
2 able to demonstrate that at least fifty percent (50%) of its annual gross income derives from
3 charters or provides documentation of a minimum of one hundred (100) charter trips annually; (v)
4 the vessel must have a valid Rhode Island party and charter boat license. The tax administrator
5 shall implement the provisions of this subdivision by promulgating rules and regulations relating
6 thereto.

7 ~~(27)~~(26) Clothing and footwear. - From the sales of articles of clothing, including
8 footwear, intended to be worn or carried on or about the human body for sales prior to October 1,
9 2012. Effective October 1, 2012, the exemption will apply to the sales of articles of clothing,
10 including footwear, intended to be worn or carried on or about the human body up to two hundred
11 and fifty dollars (\$250) of the sales price per item. For the purposes of this section, "clothing or
12 footwear" does not include clothing accessories or equipment or special clothing or footwear
13 primarily designed for athletic activity or protective use as these terms are defined in section 44-
14 18-7.1(f). In recognition of the work being performed by the Streamlined Sales and Use Tax
15 Governing Board, upon passage of any federal law which authorizes states to require remote
16 sellers to collect and remit sales and use taxes, this unlimited exemption will apply as it did prior
17 to October 1, 2012. The unlimited exemption on sales of clothing and footwear shall take effect
18 on the date that the state requires remote sellers to collect and remit sales and use taxes.

19 ~~(28)~~(27) Water for residential use. - From the sale and from the storage, use, or other
20 consumption in this state of water ~~furnished for domestic use by occupants of residential~~
21 ~~premises.~~

22 ~~(29)~~(28) Bibles. - [Unconstitutional; see Ahlburn v. Clark, 728 A.2d 449 (R.I. 1999); see
23 Notes to Decisions.]From the sale and from the storage, use, or other consumption in the state of
24 any canonized scriptures of any tax-exempt nonprofit religious organization including, but not
25 limited to, the Old Testament and the New Testament versions.

26 ~~(30)~~(29) Boats.

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

32 (ii) The tax administrator, in addition to the provisions of sections 44-19-17 and 44-19-
33 28, may require the seller of the boat or vessel to keep records of the sales to bona fide
34 nonresidents as the tax administrator deems reasonably necessary to substantiate the exemption

1 provided in this subdivision, including the affidavit of the seller that the buyer represented
2 himself or herself to be a bona fide nonresident of this state and of the buyer that he or she is a
3 nonresident of this state.

4 ~~(31)~~(30) Youth activities equipment. - From the sale, storage, use, or other consumption
5 in this state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island
6 eleemosynary organizations, for the purposes of youth activities which the organization is formed
7 to sponsor and support; and by accredited elementary and secondary schools for the purposes of
8 the schools or of organized activities of the enrolled students.

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

1 equipment is used for ancillary uses, or is temporarily used for a non-farming or a non-
2 agricultural purpose, but shall not apply to motor vehicles acquired after July 1, 2002, unless the
3 vehicle is a farm vehicle as defined pursuant to section 31-1-8 and is eligible for registration
4 displaying farm plates as provided for in section 31-3-31.

5 ~~(33)~~(32) Compressed air. - From the sale and from the storage, use, or other consumption
6 in the state of compressed air.

7 ~~(34)~~(33) Flags. - From the sale and from the storage, consumption, or other use in this
8 state of United States, Rhode Island or POW-MIA flags.

9 ~~(35)~~(34) Motor vehicle and adaptive equipment to certain veterans. - From the sale of a
10 motor vehicle and adaptive equipment to and for the use of a veteran with a service-connected
11 loss of or the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee,
12 whether service connected or not. The motor vehicle must be purchased by and especially
13 equipped for use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is
14 granted under rules or regulations that the tax administrator may prescribe.

15 ~~(36)~~(35) Textbooks. - From the sale and from the storage, use, or other consumption in
16 this state of textbooks by an "educational institution" as defined in subdivision (18) of this section
17 and as well as any educational institution within the purview of section 16-63-9(4) and used
18 textbooks by any purveyor.

19 ~~(37)~~(36) Tangible personal property and supplies used in on-site hazardous waste
20 recycling, reuse, or treatment. - From the sale, storage, use, or other consumption in this state of
21 tangible personal property or supplies used or consumed in the operation of equipment, the
22 exclusive function of which is the recycling, reuse, or recovery of materials (other than precious
23 metals, as defined in subdivision (24)(ii) of this section) from the treatment of "hazardous
24 wastes", as defined in section 23-19.1-4, where the "hazardous wastes" are generated in Rhode
25 Island solely by the same taxpayer and where the personal property is located at, in, or adjacent to
26 a generating facility of the taxpayer in Rhode Island. The taxpayer shall procure an order from the
27 director of the department of environmental management certifying that the equipment and/or
28 supplies as used, or consumed, qualify for the exemption under this subdivision. If any
29 information relating to secret processes or methods of manufacture, production, or treatment is
30 disclosed to the department of environmental management only to procure an order, and is a
31 "trade secret" as defined in section 28-21-10(b), it is not open to public inspection or publicly
32 disclosed unless disclosure is required under chapter 21 of title 28 or chapter 24.4 of title 23.

33 ~~(38)~~(37) Promotional and product literature of boat manufacturers. - From the sale and
34 from the storage, use, or other consumption of promotional and product literature of boat

1 manufacturers shipped to points outside of Rhode Island which either: (i) accompany the product
2 which is sold, (ii) are shipped in bulk to out of state dealers for use in the sale of the product, or
3 (iii) are mailed to customers at no charge.

4 ~~(39)~~[\(38\)](#) Food items paid for by food stamps. - From the sale and from the storage, use,
5 or other consumption in this state of eligible food items payment for which is properly made to
6 the retailer in the form of U.S. government food stamps issued in accordance with the Food
7 Stamp Act of 1977, 7 U.S.C. section 2011 et seq.

8 ~~(40)~~[\(39\)](#) Transportation charges. - From the sale or hiring of motor carriers as defined in
9 section 39-12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight
10 tariff filed with the Rhode Island public utilities commission on the number of miles driven or by
11 the number of hours spent on the job.

12 ~~(41)~~[\(40\)](#) Trade-in value of boats. - From the sale and from the storage, use, or other
13 consumption in this state of so much of the purchase price paid for a new or used boat as is
14 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
15 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
16 or damaged boat, towards the purchase of a new or used boat by the buyer.

17 ~~(42)~~[\(41\)](#) Equipment used for research and development. - From the sale and from the
18 storage, use, or other consumption of equipment to the extent used for research and development
19 purposes by a qualifying firm. For the purposes of this subdivision, "qualifying firm" means a
20 business for which the use of research and development equipment is an integral part of its
21 operation, and "equipment" means scientific equipment, computers, software, and related items.

22 ~~(43)~~[\(42\)](#) Coins. - From the sale and from the other consumption in this state of coins
23 having numismatic or investment value.

24 ~~(44)~~[\(43\)](#) Farm structure construction materials. - Lumber, hardware and other materials
25 used in the new construction of farm structures, including production facilities such as, but not
26 limited to, farrowing sheds, free stall and stanchion barns, milking parlors, silos, poultry barns,
27 laying houses, fruit and vegetable storages, rooting cellars, propagation rooms, greenhouses,
28 packing rooms, machinery storage, seasonal farm worker housing, certified farm markets, bunker
29 and trench silos, feed storage sheds, and any other structures used in connection with commercial
30 farming.

31 ~~(45)~~[\(44\)](#) Telecommunications carrier access service. - Carrier access service or
32 telecommunications service when purchased by a telecommunications company from another
33 telecommunications company to facilitate the provision of telecommunications service.

34 ~~(46)~~[\(45\)](#) Boats or vessels brought into the state exclusively for winter storage,

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

9 ~~(47)~~(46) Jewelry display product. - From the sale and from the storage, use, or other
10 consumption in this state of tangible personal property used to display any jewelry product;
11 provided, that title to the jewelry display product is transferred by the jewelry manufacturer or
12 seller and that the jewelry display product is shipped out of state for use solely outside the state
13 and is not returned to the jewelry manufacturer or seller.

14 ~~(48)~~(47) Boats or vessels generally. - Notwithstanding the provisions of this chapter, the
15 tax imposed by sections 44-18-20 and 44-18-18 shall not apply with respect to the sale and to the
16 storage, use, or other consumption in this state of any new or used boat. The exemption provided
17 for in this subdivision does not apply after October 1, 1993, unless prior to October 1, 1993, the
18 federal ten percent (10%) surcharge on luxury boats is repealed.

19 ~~(49)~~(48) Banks and Regulated investment companies interstate toll-free calls. -
20 Notwithstanding the provisions of this chapter, the tax imposed by this chapter does not apply to
21 the furnishing of interstate and international, toll-free terminating telecommunication service that
22 is used directly and exclusively by or for the benefit of an eligible company as defined in this
23 subdivision; provided, that an eligible company employs on average during the calendar year no
24 less than five hundred (500) "full-time equivalent employees", as that term is defined in section
25 42-64.5-2. For purposes of this section, an "eligible company" means a "regulated investment
26 company" as that term is defined in the Internal Revenue Code of 1986, 26 U.S.C. section 1 et
27 seq., or a corporation to the extent the service is provided, directly or indirectly, to or on behalf of
28 a regulated investment company, an employee benefit plan, a retirement plan or a pension plan or
29 a state chartered bank.

30 ~~(50)~~(49) Mobile and manufactured homes generally. - From the sale and from the
31 storage, use, or other consumption in this state of mobile and/or manufactured homes as defined
32 and subject to taxation pursuant to the provisions of chapter 44 of title 31.

33 ~~(51)~~(50) Manufacturing business reconstruction materials.

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

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

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

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

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

12 ~~(52)~~(51) Tangible personal property and supplies used in the processing or preparation of
13 floral products and floral arrangements. - From the sale, storage, use, or other consumption in this
14 state of tangible personal property or supplies purchased by florists, garden centers, or other like
15 producers or vendors of flowers, plants, floral products, and natural and artificial floral
16 arrangements which are ultimately sold with flowers, plants, floral products, and natural and
17 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
18 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
19 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
20 product or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine, flower
21 food, insecticide and fertilizers.

22 ~~(53)~~(52) Horse food products. - From the sale and from the storage, use, or other
23 consumption in this state of horse food products purchased by a person engaged in the business of
24 the boarding of horses.

25 ~~(54)~~(53) Non-motorized recreational vehicles sold to nonresidents.

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

1 licensed non-motorized recreational vehicle dealer shall add and collect the tax required under
2 this subdivision and remit the tax to the tax administrator under the provisions of chapters 18 and
3 19 of this title. Provided, that when a Rhode Island licensed non-motorized recreational vehicle
4 dealer is required to add and collect the sales and use tax on the sale of a non-motorized
5 recreational vehicle to a bona fide nonresident as provided in this section, the dealer in computing
6 the tax takes into consideration the law of the state of the nonresident as it relates to the trade-in
7 of motor vehicles.

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

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

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

24 ~~(55)~~(54) Sprinkler and fire alarm systems in existing buildings. - From the sale in this
25 state of sprinkler and fire alarm systems, emergency lighting and alarm systems, and from the
26 sale of the materials necessary and attendant to the installation of those systems, that are required
27 in buildings and occupancies existing therein in July 2003, in order to comply with any additional
28 requirements for such buildings arising directly from the enactment of the Comprehensive Fire
29 Safety Act of 2003, and that are not required by any other provision of law or ordinance or
30 regulation adopted pursuant to that Act. The exemption provided in this subdivision shall expire
31 on December 31, 2008.

32 ~~(56)~~(55) Aircraft. - Notwithstanding the provisions of this chapter, the tax imposed by
33 sections 44-18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or
34 other consumption in this state of any new or used aircraft or aircraft parts.

1 ~~(57)~~(56) Renewable energy products. - Notwithstanding any other provisions of Rhode
2 Island general laws the following products shall also be exempt from sales tax: solar photovoltaic
3 modules or panels, or any module or panel that generates electricity from light; solar thermal
4 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
5 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
6 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if
7 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
8 utility power lines; manufactured mounting racks and ballast pans for solar collector, module or
9 panel installation. Not to include materials that could be fabricated into such racks; monitoring
10 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
11 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
12 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
13 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage
14 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
15 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
16 not exempt from state sales tax.

17 ~~(58)~~(57) Returned property. - The amount charged for property returned by customers
18 upon rescission of the contract of sale when the entire amount exclusive of handling charges paid
19 for the property is refunded in either cash or credit, and where the property is returned within one
20 hundred twenty (120) days from the date of delivery.

21 ~~(59)~~(58) Dietary Supplements. - From the sale and from the storage, use or other
22 consumption of dietary supplements as defined in section 44-18-7.1(l)(v), sold on prescriptions.

23 ~~(60)~~(59) Blood. - From the sale and from the storage, use or other consumption of human
24 blood.

25 ~~(61)~~(60) Agricultural products for human consumption. - From the sale and from the
26 storage, use or other consumption of livestock and poultry of the kinds of products of which
27 ordinarily constitute food for human consumption and of livestock of the kind the products of
28 which ordinarily constitute fibers for human use.

29 ~~(62)~~(61) Diesel emission control technology. - From the sale and use of diesel retrofit
30 technology that is required by section 31-47.3-4 of the general laws.

31 ~~(63)~~(62) Feed for certain animals used in commercial farming. - From the sale of feed
32 for animals as described in subsection 44-18-30(61).

33 ~~(64)~~(63) Alcoholic beverages. - From the sale and storage, use, or other consumption in
34 this state by a Class A licensee of alcoholic beverages, as defined in section 44-18-7.1, excluding

1 beer and malt beverages ~~from on and after~~ December 1, 2013 ~~through March 31, 2015~~; provided,
2 further, notwithstanding section 6-13-1 or any other general or public law to the contrary,
3 alcoholic beverages, as defined in section 44-18-7.1, shall not be subject to minimum markup
4 ~~from on and after~~ December 1, 2013 ~~through March 31, 2015~~.

5 SECTION 3. Section 44-18-36.1 of the General Laws in Chapter 44-18 entitled "Sales
6 and Use Taxes - Liability and Computation" is hereby repealed.

7 ~~**44-18-36.1. Hotel tax.** -- (a) There is imposed a hotel tax of five percent (5%) upon the~~
8 ~~total consideration charged for occupancy of any space furnished by any hotel in this state. The~~
9 ~~hotel tax is in addition to any sales tax imposed. This hotel tax is administered and collected by~~
10 ~~the division of taxation and unless provided to the contrary in this chapter, all the administration,~~
11 ~~collection, and other provisions of chapters 18 and 19 of this title apply. Nothing in this chapter~~
12 ~~shall be construed to limit the powers of the convention authority of the city of Providence~~
13 ~~established pursuant to the provisions of chapter 84 of the public laws of 1980, except that~~
14 ~~distribution of hotel tax receipts shall be made pursuant to chapter 63.1 of title 42 rather than~~
15 ~~chapter 84 of the public laws of 1980.~~

16 ~~(b) There is hereby levied and imposed, upon the total consideration charged for~~
17 ~~occupancy of any space furnished by any hotel in this state, in addition to all other taxes and fees~~
18 ~~now imposed by law, a local hotel tax at a rate of one percent (1%). The local hotel tax shall be~~
19 ~~administered and collected in accordance with subsection (a).~~

20 ~~(c) All sums received by the division of taxation from the local hotel tax, penalties or~~
21 ~~forfeitures, interest, costs of suit and fines shall be distributed at least quarterly, credited and paid~~
22 ~~by the state treasurer to the city or town where the space for occupancy that is furnished by the~~
23 ~~hotel is located. Unless provided to the contrary in this chapter, all of the administration,~~
24 ~~collection, and other provisions of chapters 18 and 19 of this title shall apply.~~

25 ~~(d) Notwithstanding the provisions of subsection (a) of this section, the city of Newport~~
26 ~~shall have the authority to collect from hotels located in the city of Newport the tax imposed by~~
27 ~~subsection (a) of this section.~~

28 ~~(1) Within ten (10) days of collection of the tax, the city of Newport shall distribute the~~
29 ~~tax as provided in section 42-63.1-3. No later than the first day of March and the first day of~~
30 ~~September in each year in which the tax is collected, the city of Newport shall submit to the~~
31 ~~division of taxation a report of the tax collected and distributed during the six (6) month period~~
32 ~~ending thirty (30) days prior to the reporting date.~~

33 ~~(2) The city of Newport shall have the same authority as the division of taxation to~~
34 ~~recover delinquent hotel taxes pursuant to chapter 44-19, and the amount of any hotel tax, penalty~~

1 ~~and interest imposed by the city of Newport until collected constitutes a lien on the real property~~
2 ~~of the taxpayer.~~

3 ~~In recognition of the work being performed by the Streamlined Sales and Use Tax~~
4 ~~Governing Board, upon any federal law which requires remote sellers to collect and remit taxes,~~
5 ~~effective the first (1st) day of the first (1st) state fiscal quarter following the change, the rate~~
6 ~~imposed under section 44-18-36.1(b) shall be one and one half percent (1.5%).~~

7 SECTION 4. Sections 44-18.1-15 and 44-18.1-16 of the General Laws in Chapter 44-
8 18.1 entitled "Adoption of the Streamlined Sales and Use Tax Agreement" are repealed:

9 ~~**44-18.1-15. Telecommunication sourcing rule.** --- (A) Except for the defined~~
10 ~~telecommunication services in subsection (C), the sale of telecommunication service sold on a~~
11 ~~call-by-call basis shall be sourced to (i) each level of taxing jurisdiction where the call originates~~
12 ~~and terminates in that jurisdiction or (ii) each level of taxing jurisdiction where the call either~~
13 ~~originates or terminates and in which the service addressed is also located.~~

14 ~~(B) Except for the defined telecommunication services in subsection (C), a sale of~~
15 ~~telecommunications services sold on a basis other than a call-by-call basis, is sourced to the~~
16 ~~customer's place of primary use.~~

17 ~~(C) The sale of the following telecommunication services shall be sourced to each level~~
18 ~~of taxing jurisdiction as follows:~~

19 ~~(1) A sale of mobile telecommunications services other than air-to-ground~~
20 ~~radiotelephone service and prepaid calling service, is sourced to the customer's place of primary~~
21 ~~use as required by the Mobile Telecommunications Sourcing Act.~~

22 ~~(2) A sale of post-paid calling service is sourced to the origination point of the~~
23 ~~telecommunications signal as first identified by either (i) the seller's telecommunications system,~~
24 ~~or (ii) information received by the seller from its service provider, where the system used to~~
25 ~~transport such signals is not that of the seller.~~

26 ~~(3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is~~
27 ~~sourced in accordance with section 44-18.1-11. Provided however, in the case of a sale of a~~
28 ~~prepaid wireless calling service, the rule provided in section 44-18.1-11, subsection (A)(5) shall~~
29 ~~include as an option the location associated with the mobile telephone number.~~

30 ~~(4) A sale of a private communication service is sourced as follows:~~

31 ~~(a) Service for a separate charge related to a customer channel termination point is~~
32 ~~sourced to each level of jurisdiction in which such customer channel termination point is located.~~

33 ~~(b) Service where all customer termination points are located entirely within one~~
34 ~~jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel~~

1 ~~termination points are located.~~

2 ~~(c) Service for segments of a channel between two customer channel termination points~~
3 ~~located in different jurisdictions and which segment of channel are separately charged is sourced~~
4 ~~fifty percent in each level of jurisdiction in which the customer channel termination points are~~
5 ~~located.~~

6 ~~(d) Service for segments of a channel located in more than one jurisdiction or levels of~~
7 ~~jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on~~
8 ~~the percentage determined by dividing the number of customer channel termination points in such~~
9 ~~jurisdiction by the total number of customer channel termination points.~~

10 ~~**44-18.1-16. Telecommunication sourcing definitions.**~~ For the purpose of sections 44-
11 ~~18.1-15 and 44-18-7, the following definitions apply:~~

12 ~~(A) "Air to Ground Radiotelephone service" means a radio service, as that term is~~
13 ~~defined in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio~~
14 ~~telecommunications service for hire to subscribers in aircraft.~~

15 ~~(B) "Call by call Basis" means any method of charging for telecommunications services~~
16 ~~where the price is measured by individual calls.~~

17 ~~(C) "Communications Channel" means a physical or virtual path of communications~~
18 ~~over which signals are transmitted between or among customer channel termination points.~~

19 ~~(D) "Customer" means the person or entity that contracts with the seller of~~
20 ~~telecommunications services. If the end user of telecommunications services is not the~~
21 ~~contracting party, the end user of the telecommunications service is the customer of the~~
22 ~~telecommunication service, but this sentence only applies for the purpose of sourcing sales of~~
23 ~~telecommunications services under section 44-18.1-15. "Customer" does not include a reseller of~~
24 ~~telecommunications service or for mobile telecommunications service of a serving carrier under~~
25 ~~an agreement to serve the customer outside the home service provider's licensed service area.~~

26 ~~(E) "Customer Channel Termination Point" means the location where the customer either~~
27 ~~inputs or receives the communications.~~

28 ~~(F) "End user" means the person who utilizes the telecommunication service. In the case~~
29 ~~of an entity, "end user" means the individual who utilizes the service on behalf of the entity.~~

30 ~~(G) "Home service provider" means the same as that term is defined in Section 124(5) of~~
31 ~~Public Law 106-252 (Mobile Telecommunications Sourcing Act).~~

32 ~~(H) "Mobile telecommunications service" means the same as that term is defined in~~
33 ~~Section 124(7) of Public Law 106-252 (Mobile Telecommunications Sourcing Act).~~

34 ~~(I) "Place of primary use" means the street address representative of where the~~

1 ~~customer's use of the telecommunications service primarily occurs, which must be the residential~~
2 ~~street address or the primary business street address of the customer. In the case of mobile~~
3 ~~telecommunications services, "place of primary use" must be within the licensed service area of~~
4 ~~the home service provider.~~

5 ~~(J) "Post paid calling service" means the telecommunications service obtained by~~
6 ~~making a payment on a call by call basis either through the use of a credit card or payment~~
7 ~~mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a~~
8 ~~telephone number which is not associated with the origination or termination of the~~
9 ~~telecommunications service. A post paid calling service includes a telecommunications service,~~
10 ~~except a prepaid wireless calling service, that would be a prepaid calling service except it is not~~
11 ~~exclusively a telecommunication service.~~

12 ~~(K) "Service address" means:~~

13 ~~(1) The location of the telecommunications equipment to which a customer's call is~~
14 ~~charged and from which the call originates or terminates, regardless of where the call is billed or~~
15 ~~paid.~~

16 ~~(2) If the location in subsection (K)(1) is not known, service address means the~~
17 ~~origination point of the signal of the telecommunications services first identified by either the~~
18 ~~seller's telecommunications system or in information received by the seller from its service~~
19 ~~provider, where the system used to transport such signals is not that of the seller.~~

20 ~~(3) If the location in subsection (K)(1) and subsection (K)(2) are not known, the service~~
21 ~~address means the location of the customer's place of primary use.~~

22 SECTION 5. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
23 adding thereto the following chapters:

24 CHAPTER 69

25 MEAL AND BEVERAGE TAX

26 **44-69-1. Definitions.** -- When used in this section, the following words shall have the
27 following meanings:

28 (1) "Beverage" means all nonalcoholic beverages, as well as alcoholic beverages, beer,
29 lager beer, ale, porter, wine, similar fermented malt or vinous liquor.

30 (2) "Eating and/or drinking establishments" means and includes restaurants, bars, taverns,
31 lounges, cafeterias, lunch counters, drive-ins, roadside ice cream and refreshment stands, fish and
32 chip places, fried chicken places, pizzerias, food and drink concessions, or similar facilities in
33 amusement parks, bowling alleys, clubs, caterers, drive-in theatres, industrial plants, race tracks,
34 shore resorts or other locations, lunch carts, mobile canteens and other similar vehicles, and other

1 like places of business which furnish or provide facilities for immediate consumption of food at
2 tables, chairs or counters or from trays, plates, cups or other tableware or in parking facilities
3 provided primarily for the use of patrons in consuming products purchased at the location.
4 Ordinarily, eating establishments does not mean and include food stores and supermarkets. Eating
5 establishments does not mean "vending machines," a self-contained automatic device that
6 dispenses for sale foods, beverages, or confection products. Retailers selling prepared foods in
7 bulk either in customer-furnished containers or in the seller's containers, for example "Soup and
8 Sauce" establishments, are deemed to be selling prepared foods ordinarily for immediate
9 consumption and, as such, are considered eating establishments.

10 (3) "Meal" means any prepared food or beverage offered or held out for sale by an eating
11 and/or drinking establishment for the purpose of being consumed by any person to satisfy the
12 appetite and which is ready for immediate consumption. All such food and beverage, unless
13 otherwise specifically exempted or excluded herein shall be included, whether intended to be
14 consumed on the seller's premises or elsewhere, whether designated as breakfast, lunch, snack,
15 dinner, supper or by some other name, and without regard to the manner, time or place of service.

16 **44-69-2. Meal and beverage tax imposed.** -- There is hereby levied and imposed, upon
17 every purchaser of each and every meal and/or beverage sold in or from an eating and/or drinking
18 establishment within this state, a meal and beverage tax on the furnishing, preparing, or serving
19 for consideration of food, meals, or beverages, including any cover, minimum, entertainment, or
20 other charge in connection therewith at the rate of eight percent (8%) of the gross receipts of the
21 eating and/or drinking establishment.

22 **44-69-3. Disposition of Revenue.** -- Twelve and one-half percent (12.5%) of the revenue
23 generated under § 44-69-2 shall be allocated and distributed at least quarterly by the general
24 treasurer to the locality in which the meal or beverage is served or delivered, and the remainder
25 deposited as general revenues in the general fund.

26 **44-69-4. Administration.** -- The meal and beverage tax shall be administered and
27 collected by the division of taxation and shall be paid to the tax administrator by the eating and/or
28 drinking establishment at the time and in the same manner provided in chapters 18 and 19 of this
29 title.

30 CHAPTER 70

31 LODGING TAX

32 **44-70-1. Definitions.** -- When used in this section, the following words shall have the
33 following meanings:

34 (1) "Hotel" means every building or other structure kept, used, maintained, advertised as

1 or held out to the public to be a place where living quarters are supplied for pay to transient or
2 permanent guests and tenants and includes a motel; and also includes the meaning as defined in §
3 42-63.1-2.

4 (2) "Living quarters" means sleeping rooms, sleeping or housekeeping accommodations,
5 or any other room or accommodation in any part of the hotel, rooming house or tourist camp
6 which is available for or rented out for hire in the lodging of guests.

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

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

14 **44-70-2. Lodging tax imposed. --** There is hereby levied and imposed a tax upon the
15 total consideration charged for the rental of living quarters in any hotel as defined in § 42-63.1-2,
16 rooming houses, or tourist camps, located in this state, at the rate of thirteen percent (13%) of the
17 gross receipts of the retailer from the sales or rental charges; provided, that the tax imposed on
18 charges for the rentals applies only to the first period of not exceeding thirty (30) consecutive
19 calendar days of each rental. Excluded from this tax are those living quarters in hotels, rooming
20 houses, or tourist camps for which the occupant has a written lease for the living quarters which
21 lease covers a rental period of twelve (12) months or more.

22 **44-70-3. Disposition of Revenue --** Seven and seven tenths percent (7.7%) of the
23 revenue generated under § 44-70-2 shall be allocated and distributed at least quarterly by the
24 general treasurer to the locality in which the living quarters are rented; thirty eight and one half
25 percent (38.5%) of the revenue generated shall be distributed in accordance with Rhode Island
26 General Law Chapter 42-63.1 entitled "Tourism and Development", and the remainder deposited
27 as general revenues in the general fund.

28 **44-70-4. Administration. --** The lodging tax shall be administered and collected by the
29 division of taxation and shall be paid to the tax administrator by the hotel, rooming houses or
30 tourist camp at the time and in the same manner provided in chapters 18 and 19 of this title.

31 CHAPTER 71

32 TELECOMMUNICATIONS SERVICES TAX

33 **44-71-1. Definitions. --** (a) Telecommunications terms shall be defined as follows:

34 (1) "Ancillary services" means services that are associated with or incidental to the

1 provision of "telecommunications services", including, but not limited to, "detailed
2 telecommunications billing", "directory assistance", "vertical service", and "voice mail services".

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

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

9 (4) "Directory assistance" means an "ancillary service" of providing telephone number
10 information, and/or address information.

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

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

18 (7) "Telecommunications service" means the electronic transmission, conveyance, or
19 routing of voice, data, audio, video, or any other information or signals to a point, or between or
20 among points. The term "telecommunications service" includes such transmission, conveyance,
21 or routing in which computer processing applications are used to act on the form, code or
22 protocol of the content for purposes of transmission, conveyance or routing without regard to
23 whether such service is referred to as voice over Internet protocol services or is classified by the
24 Federal Communications Commission as enhanced or value added. "Telecommunications
25 service" does not include:

26 (i) Data processing and information services that allow data to be generated, acquired,
27 stored, processed, or retrieved and delivered by an electronic transmission to a purchaser where
28 such purchaser's primary purpose for the underlying transaction is the processed data or
29 information;

30 (ii) Installation or maintenance of wiring or equipment on a customer's premises;

31 (iii) Tangible personal property;

32 (iv) Advertising, including, but not limited to, directory advertising.

33 (v) Billing and collection services provided to third parties;

34 (vi) Internet access service;

1 (vii) Radio and television audio and video programming services, regardless of the
2 medium, including the furnishing of transmission, conveyance and routing of such services by the
3 programming service provider. Radio and television audio and video programming services shall
4 include, but not be limited to, cable service as defined in 47 U.S.C. 522(6) and audio and video
5 programming services delivered by commercial mobile radio service providers, as defined in 47
6 CFR 20.3;

7 (viii) "Ancillary services"; or

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

10 (8) "800 service" means a "telecommunications service" that allows a caller to dial a toll-
11 free number without incurring a charge for the call. The service is typically marketed under the
12 name "800", "855", "866", "877", and "888" toll-free calling, and any subsequent numbers
13 designated by the Federal Communications Commission.

14 (9) "900 service" means an inbound toll "telecommunications service" purchased by a
15 subscriber that allows the subscriber's customers to call in to the subscriber's prerecorded
16 announcement or live service. "900 service" does not include the charge for: collection services
17 provided by the seller of the "telecommunications services" to the subscriber, or service or
18 product sold by the subscriber to the subscriber's customer. The service is typically marketed
19 under the name "900 service," and any subsequent numbers designated by the Federal
20 Communications Commission.

21 (10) "Fixed wireless service" means a "telecommunications service" that provides radio
22 communication between fixed points.

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

28 (12) "Paging service" means a "telecommunications service" that provides transmission
29 of coded radio signals for the purpose of activating specific pagers; such transmissions may
30 include messages and/or sounds.

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

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

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

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

15 (b) "Modifiers of Sales Tax Base/Exemption Terms". The following terms can be used to
16 further delineate the type of "telecommunications service" to be taxed or exempted. The terms
17 would be used with the broader terms and subcategories delineated above.

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

20 (2) "International" means a "telecommunications service" that originates or terminates in
21 the United States and terminates or originates outside the United States, respectively. United
22 States includes the District of Columbia or a U.S. territory or possession.

23 (3) "Interstate" means a "telecommunications service" that originates in one United States
24 state, or a United States territory or possession, and terminates in a different United States state or
25 a United States territory or possession.

26 (4) "Intrastate" means a "telecommunications service" that originates in one United States
27 state or a United States territory or possession, and terminates in the same United States state or a
28 United States territory or possession.

29 (5) "Pay telephone service" means a "telecommunications service" provided through any
30 pay telephone.

31 (6) "Residential telecommunications service" means a "telecommunications service" or
32 "ancillary services" provided to an individual for personal use at a residential address, including
33 an individual dwelling unit such as an apartment. In the case of institutions where individuals
34 reside, such as schools or nursing homes, "telecommunications service" is considered residential

1 if it is provided to and paid for by an individual resident rather than the institution.

2 **44-71-2. Telecommunications services tax imposed.** -- (a) There is hereby levied and
3 imposed a tax at the rate of twelve percent (12%) upon the total consideration charged for the
4 furnishing for consideration of intrastate, interstate and international telecommunications service
5 sourced in this state in accordance with §§ 44-71-3 and 44-71-4 and all ancillary services, any
6 maintenance services of telecommunications equipment other than as provided for in § 44-18-
7 12(b)(ii). For the purposes of chapter 71 of this title only, telecommunications service does not
8 include service rendered using a prepaid telephone calling arrangement, and does not include the
9 purchase of telecommunications service by a telecommunications provider from another
10 telecommunications provider for resale to the ultimate consumer; provided, that the purchaser
11 submits to the seller a certificate attesting to the applicability of this exclusion, upon receipt of
12 which the seller is relieved of any tax liability for the sale.

13 (b) Notwithstanding the provisions of subsection (a) of this section, in accordance with
14 the Mobile Telecommunications Sourcing Act (4 U.S.C. 116 through 126), subject to the specific
15 exemptions described in 4 U.S.C. 116(c), and the exemptions provided in subsection (a) of this
16 section, mobile telecommunications services that are deemed to be provided by the customer's
17 home service provider are subject to tax under this chapter if the customer's place of primary use
18 is in this state regardless of where the mobile telecommunications services originate, terminate or
19 pass through. Mobile telecommunications services provided to a customer, the charges for which
20 are billed by or for the customer's home service provider, shall be deemed to be provided by the
21 customer's home service provider.

22 (c) The transfer for consideration of prepaid telephone calling arrangements and the
23 recharge of prepaid telephone calling arrangements sourced to this state in accordance with §§
24 44-18.1-11 and 44-71-3. "Prepaid telephone calling arrangement" means and includes prepaid
25 calling service and prepaid wireless calling service.

26 **44-71-3. Telecommunication sourcing rule.** -- (a) Except for the defined
27 telecommunication services in subsection (c) of this section, the sale of telecommunications
28 service sold on a call-by-call basis shall be sourced to: (i) Each level of taxing jurisdiction where
29 the call originates and terminates in that jurisdiction; or (ii) Each level of taxing jurisdiction
30 where the call either originates or terminates and in which the service addressed is also located.

31 (b) Except for the defined telecommunications services in subsection (c) of this section, a
32 sale of telecommunications services sold on a basis other than a call-by-call basis, is sourced to
33 the customer's place of primary use.

34 (c) The sale of the following telecommunications services shall be sourced to each level

1 of taxing jurisdiction as follows:

2 (1) A sale of mobile telecommunications services other than air-to-ground radiotelephone
3 service and prepaid calling service, is sourced to the customer's place of primary use as required
4 by the Mobile Telecommunications Sourcing Act.

5 (2) A sale of post-paid calling service is sourced to the origination point of the
6 telecommunications signal as first identified by either: (i) The seller's telecommunications
7 system; or (ii) Information received by the seller from its service provider, where the system used
8 to transport such signals is not that of the seller.

9 (3) A sale of prepaid calling service or a sale of a prepaid wireless calling service is
10 sourced in accordance with § 44-18.1-11. Provided, however, in the case of a sale of a prepaid
11 wireless calling service, the rule provided in § 44-18.1-11(A)(5) shall include as an option the
12 location associated with the mobile telephone number.

13 (4) A sale of a private telecommunications service is sourced as follows:

14 (i) Service for a separate charge related to a customer channel termination point is
15 sourced to each level of jurisdiction in which such customer channel termination point is located;

16 (ii) Service where all customer termination points are located entirely within one
17 jurisdiction or levels of jurisdiction is sourced in such jurisdiction in which the customer channel
18 termination points are located;

19 (iii) Service for segments of a channel between two (2) customer channel termination
20 points located in different jurisdictions and which segment of channel are separately charged is
21 sourced fifty percent (50%) in each level of jurisdiction in which the customer channel
22 termination points are located; or

23 (iv) Service for segments of a channel located in more than one jurisdiction or levels of
24 jurisdiction and which segments are not separately billed is sourced in each jurisdiction based on
25 the percentage determined by dividing the number of customer channel termination points in such
26 jurisdiction by the total number of customer channel termination points.

27 **44-71-4. Telecommunication sourcing definitions. --** For the purpose of §§ 44-71-1 and
28 44-71-3, the following definitions apply:

29 (1) "Air-to-Ground Radiotelephone service" means a radio service, as that term is defined
30 in 47 CFR 22.99, in which common carriers are authorized to offer and provide radio
31 telecommunications service for hire to subscribers in aircraft.

32 (2) "Call-by-call Basis" means any method of charging for telecommunications services
33 where the price is measured by individual calls.

34 (3) "Communications Channel" means a physical or virtual path of communications over

1 which signals are transmitted between or among customer channel termination points.

2 (4) "Customer" means the person or entity that contracts with the seller of
3 telecommunications services. If the end user of telecommunications services is not the
4 contracting party, the end user of the telecommunications service is the customer of the
5 telecommunications service, but this sentence only applies for the purpose of sourcing sales of
6 telecommunications services under § 44-18.1-15. "Customer" does not include a reseller of
7 telecommunications service or for mobile telecommunications service of a serving carrier under
8 an agreement to serve the customer outside the home service provider's licensed service area.

9 (5) "Customer Channel Termination Point" means the location where the customer either
10 inputs or receives the communications.

11 (6) "End user" means the person who utilizes the telecommunications service. In the case
12 of an entity, "end user" means the individual who utilizes the service on behalf of the entity.

13 (7) "Home service provider" means the same as that term is defined in Section 124(5) of
14 Pub. L. 106-252 (Mobile Telecommunications Sourcing Act).

15 (8) "Mobile telecommunications service" means the same as that term is defined in
16 Section 124(7) of Pub. L. 106-252 (Mobile Telecommunications Sourcing Act).

17 (9) "Place of primary use" means the street address representative of where the
18 customer's use of the telecommunications service primarily occurs, which must be the residential
19 street address or the primary business street address of the customer. In the case of mobile
20 telecommunications services, "place of primary use" must be within the licensed service area of
21 the home service provider.

22 (10) "Post-paid calling service" means the telecommunications service obtained by
23 making a payment on a call-by-call basis either through the use of a credit card or payment
24 mechanism such as a bank card, travel card, credit card, or debit card, or by charge made to a
25 telephone number which is not associated with the origination or termination of the
26 telecommunications service. A post-paid calling service includes a telecommunications service,
27 except a prepaid wireless calling service, that would be a prepaid calling service except it is not
28 exclusively a telecommunications service.

29 (11) "Service address" means:

30 (i) The location of the telecommunications equipment to which a customer's call is
31 charged and from which the call originates or terminates, regardless of where the call is billed or
32 paid.

33 (ii) If the location in subdivision (11)(i) is not known, service address means the
34 origination point of the signal of the telecommunications services first identified by either the

1 seller's telecommunications system or in information received by the seller from its service
2 provider, where the system used to transport such signals is not that of the seller.

3 (iii) If the location in subdivision (11)(i) and subdivision (11)(ii) are not known, the
4 service address means the location of the customer's place of primary use.

5 **44-71-5. Disposition of Revenue --** The revenue generated under § 44-70-2 shall be
6 deposited as general revenues in the general fund.

7 **44-71-6. Administration. --** The telecommunications services tax shall be administered
8 and collected by the division of taxation and shall be paid to the tax administrator by the retailer
9 at the time and in the same manner provided in chapters 18 and 19 of this title.

10 CHAPTER 72

11 MOTOR VEHICLE PURCHASE AND USE TAX

12 **44-72-1. Definitions. --** When used in this section, the following words shall have the
13 following meanings:

14 (1) "Casual" means a sale made by a person other than a retailer; provided, that in the
15 case of a sale of a motor vehicle, the term means a sale made by a person other than a licensed
16 motor vehicle dealer or an auctioneer at an auction sale.

17 (2) "Motor vehicle" means every vehicle which is self-propelled or propelled by electric
18 power obtained from overhead trolley wires, but not operated upon rails.

19 (3) "Person" means any individual, partnership, association, corporation, estate, trust,
20 fiduciary, limited liability company, limited liability partnership, or any other legal entity.

21 (4) "Purchase price" means the measure subject to the motor vehicle purchase and use tax
22 and means the total amount of consideration, including cash, credit, property, and services, for
23 which a motor vehicle is purchased, leased, or rented, valued in money, whether received in
24 money or otherwise.

25 Purchase price shall not include:

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

33 (ii) Manufacturer rebates allowed on the sale of motor vehicles.

34 (5) "Purchaser" means a person to whom a sale is made.

1 **44-72-2. Motor vehicle purchase and use tax imposed.** -- (a) There is hereby levied and
2 imposed an excise tax on the purchase, lease, rental, or other storage, use, or consumption in this
3 state of a motor vehicle, from a licensed motor vehicle dealer or from other than a licensed motor
4 vehicle dealer, at the rate of seven percent (7%) of the purchase price.

5 (b) In no case is the tax imposed under the provisions of subsections (a) of this section on
6 the storage, use, or other consumption in this state of a used motor vehicle less than the product
7 obtained by multiplying the amount of the retail dollar value at the time of purchase of the motor
8 vehicle by the applicable tax rate; provided, that where the amount of the sale price exceeds the
9 amount of the retail dollar value, the tax is based on the sale price. The tax administrator shall use
10 as his or her guide the retail dollar value as shown in the current issue of any nationally
11 recognized used vehicle guide for appraisal purposes in this state. On request within thirty (30)
12 days by the taxpayer after payment of the tax, if the tax administrator determines that the retail
13 dollar value as stated in this subsection is inequitable or unreasonable, he or she shall, after
14 affording the taxpayer reasonable opportunity to be heard, redetermine the tax.

15 (c) Notwithstanding the provisions contained in this section and in § 44-72-2 relating to
16 the imposition of the motor vehicle purchase and use tax and liability for this tax on certain casual
17 sales, no tax is payable in any casual sale:

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

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

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

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

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

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

30 **44-72-3. Liability for motor vehicle purchase and use tax.** -- (a) Every person
31 purchasing, leasing, renting or otherwise storing, using, or consuming in this state a motor vehicle
32 from a licensed motor vehicle dealer or from other than a licensed motor vehicle dealer, the
33 person's liability is not extinguished until the tax has been paid to the tax administrator under
34 rules and regulations that he or she may prescribe.

1 **(b) The motor vehicle purchase and use tax of any motor vehicle requiring registration by**
2 **the administrator of the division of motor vehicles shall not be added by the retailer to the sale**
3 **price or charge but shall be paid directly by the purchaser to the tax administrator, or his or her**
4 **authorized deputy or agent as provided in this section.**

5 **(c) Each person before obtaining an original or transferral registration for a motor**
6 **vehicle in this state, which is required to be licensed or registered in the state, shall furnish**
7 **satisfactory evidence to the tax administrator that any tax due under this chapter with reference to**
8 **the motor vehicle has been paid, and for the purpose of effecting compliance, the tax**
9 **administrator, in addition to any other powers granted to him or her, may invoke the provisions of**
10 **§ 31-3-4 in the case of a motor vehicle. The tax administrator, when he or she deems it to be for**
11 **the convenience of the general public, may authorize any agency of the state concerned with the**
12 **licensing or registering of these articles or commodities to collect the use tax on any articles or**
13 **commodities which the purchaser is required by this chapter to pay before receiving an original or**
14 **transferral registration. The general assembly shall annually appropriate a sum that it deems**
15 **necessary to carry out the purposes of this section.**

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

21 **44-72-4. Disposition of Revenue -- The revenue generated under § 44-72-2 shall be**
22 **deposited as general revenues in the general fund.**

23 **44-72-5 Administration. -- The motor vehicle purchase and use tax shall be due and**
24 **payable by the purchaser to the tax administrator on or before the twentieth (20th) day of the**
25 **month next succeeding the month for which the purchase or use of a motor vehicle was made on a**
26 **form that the tax administrator may prescribe and shall be administered in the same manner as**
27 **provided in chapters 18 and 19 of this title.**

28 SECTION 6. This act shall take effect upon passage.

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LC005270
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION

- 1 This act would restructure the sales and use tax base and reduce the general sales tax rate.
- 2 This act would take effect upon passage.

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