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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

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A N A C T

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

Introduced By: Representatives McNamara, Corvese, Jackson, McLaughlin, and Fellela

Date Introduced: January 10, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-18-7.3 of the General Laws in Chapter 44-18 entitled "Sales and
2 Use Taxes - Liability and Computation" is hereby amended to read as follows:

3 **44-18-7.3. Services defined.**

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

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

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

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

12 (ii) Limousine services (485320).

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

14 (i) Charter bus service (485510);

15 (ii) "Transportation network companies" (TNC) defined as an entity that uses a digital
16 network to connect transportation network company riders to transportation network operators
17 who provide prearranged rides. Any TNC operating in this state is a retailer as provided in § 44-
18 18-15 and is required to file a business application and registration form and obtain a permit to

1 make sales at retail with the tax administrator, to charge, collect, and remit Rhode Island sales
2 and use tax; and

3 (iii) All other transit and ground passenger transportation (485999).

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

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

1 tax charged by the hotel; provided, however, the room reseller or reseller shall represent to the
2 occupant that the separately stated taxes charged by the room reseller or reseller include taxes
3 charged by the hotel. No person shall operate a hotel in this state, or act as a room reseller or
4 reseller for any hotel in the state, unless the tax administrator has issued a permit pursuant to §
5 44-19-1.

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

21 (5) Investigation, Guard, and Armored Car Services (56161).

22 (c) All services as defined herein are required to file a business application and
23 registration form and obtain a permit to make sales at retail with the tax administrator, to charge,
24 collect, and remit Rhode Island sales and use tax, except self-employed sole practicing
25 investigators operating independent of any employment relationship, partnership, corporation,
26 limited liability company or association, shall be exempt from the requirements of this section.

27 (d) The tax administrator is authorized to promulgate rules and regulations in accordance
28 with the provisions of chapter 35 of title 42 to carry out the provisions, policies, and purposes of
29 this chapter.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would exempt self-employed sole practicing investigators operating
2 independently from any partnership, corporation, limited liability company or association from
3 the sale tax imposed on services.

4 This act would take effect upon passage.

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