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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

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

Introduced By: Representatives Azzinaro, Edwards, McLaughlin, Vella-Wilkinson, and
Kennedy

Date Introduced: January 30, 2019

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-18-30 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 **44-18-30. Gross receipts exempt from sales and use taxes.**

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

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

9 (2) Newspapers.

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

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

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

16 (3) School meals. From the sale and from the storage, use, or other consumption in this
17 state of meals served by public, private, or parochial schools, school districts, colleges,
18 universities, student organizations, and parent-teacher associations to the students or teachers of a

1 school, college, or university whether the meals are served by the educational institutions or by a
2 food service or management entity under contract to the educational institutions.

3 (4) Containers.

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

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

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

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

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

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

18 (5)(i) Charitable, educational, and religious organizations. From the sale to, as in defined
19 in this section, and from the storage, use, and other consumption in this state, or any other state of
20 the United States of America, of tangible personal property by hospitals not operated for a profit;
21 "educational institutions" as defined in subdivision (18) not operated for a profit; churches,
22 orphanages, and other institutions or organizations operated exclusively for religious or charitable
23 purposes; interest-free loan associations not operated for profit; nonprofit, organized sporting
24 leagues and associations and bands for boys and girls under the age of nineteen (19) years; the
25 following vocational student organizations that are state chapters of national vocational student
26 organizations: Distributive Education Clubs of America (DECA); Future Business Leaders of
27 America, Phi Beta Lambda (FBLA/PBL); Future Farmers of America (FFA); Future
28 Homemakers of America/Home Economics Related Occupations (FHA/HERD); Vocational
29 Industrial Clubs of America (VICA); organized nonprofit golden age and senior citizens clubs for
30 men and women; and parent-teacher associations; and from the sale, storage, use, and other
31 consumption in this state, of and by the Industrial Foundation of Burrillville, a Rhode Island
32 domestic nonprofit corporation.

33 (ii) In the case of contracts entered into with the federal government, its agencies, or
34 instrumentalities, this state, or any other state of the United States of America, its agencies, any

1 city, town, district, or other political subdivision of the states; hospitals not operated for profit;
2 educational institutions not operated for profit; churches, orphanages, and other institutions or
3 organizations operated exclusively for religious or charitable purposes, the contractor may
4 purchase such materials and supplies (materials and/or supplies are defined as those that are
5 essential to the project) that are to be utilized in the construction of the projects being performed
6 under the contracts without payment of the tax.

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

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

16 (7) Purchase for manufacturing purposes.

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

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

26 (iii) "Consumed" includes mere obsolescence.

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

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

34 (vi) "Process of manufacturing" does not mean or include administration operations such

1 as general office operations, accounting, collection, or sales promotion, nor does it mean or
2 include distribution operations that occur subsequent to production operations, such as handling,
3 storing, selling, and transporting the manufactured products, even though the administration and
4 distribution operations are performed by, or in connection with, a manufacturing business.

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

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

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

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

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

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

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

21 (10) Medicines, drugs, and durable medical equipment. From the sale and from the
22 storage, use, or other consumption in this state, of:

23 (i) "Drugs" as defined in § 44-18-7.1(h)(i), sold on prescriptions, medical oxygen, and
24 insulin whether or not sold on prescription. For purposes of this exemption drugs shall not
25 include over-the-counter drugs and grooming and hygiene products as defined in § 44-18-
26 7.1(h)(iii).

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

33 (11) Prosthetic devices and mobility enhancing equipment. From the sale and from the
34 storage, use, or other consumption in this state, of prosthetic devices as defined in § 44-18-7.1(t),

1 sold on prescription, including, but not limited to: artificial limbs, dentures, spectacles,
2 eyeglasses, and artificial eyes; artificial hearing devices and hearing aids, whether or not sold on
3 prescription; and mobility enhancing equipment as defined in § 44-18-7.1(p), including
4 wheelchairs, crutches, and canes.

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

8 (13) Motor vehicles sold to nonresidents.

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

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

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

33 (14) Sales in public buildings by blind people. From the sale and from the storage, use, or
34 other consumption in all public buildings in this state of all products or wares by any person

1 licensed under § 40-9-11.1.

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

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

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

19 (18) Educational institutions. From the rental charged by any educational institution for
20 living quarters, or sleeping, or housekeeping accommodations or other rooms or accommodations
21 to any student or teacher necessitated by attendance at an educational institution. "Educational
22 institution" as used in this section means an institution of learning not operated for profit that is
23 empowered to confer diplomas, educational, literary, or academic degrees; that has a regular
24 faculty, curriculum, and organized body of pupils or students in attendance throughout the usual
25 school year; that keeps and furnishes to students and others records required and accepted for
26 entrance to schools of secondary, collegiate, or graduate rank; and no part of the net earnings of
27 which inures to the benefit of any individual.

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

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

1 use.

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

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

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

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

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

18 (22) Manufacturing machinery and equipment.

19 (i) From the sale and from the storage, use, or other consumption in this state of tools,
20 dies, molds, machinery, equipment (including replacement parts), and related items to the extent
21 used in an industrial plant in connection with the actual manufacture, conversion, or processing of
22 tangible personal property, or to the extent used in connection with the actual manufacture,
23 conversion, or processing of computer software as that term is utilized in industry numbers 7371,
24 7372, and 7373 in the standard industrial classification manual prepared by the Technical
25 Committee on Industrial Classification, Office of Statistical Standards, Executive Office of the
26 President, United States Bureau of the Budget, as revised from time to time, to be sold, or that
27 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
28 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
29 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
30 be sold in the regular course of business;

31 (ii) Machinery and equipment and related items are not deemed to be used in connection
32 with the actual manufacture, conversion, or processing of tangible personal property, or in
33 connection with the actual manufacture, conversion, or processing of computer software as that
34 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification

1 manual prepared by the Technical Committee on Industrial Classification, Office of Statistical
2 Standards, Executive Office of the President, United States Bureau of the Budget, as revised from
3 time to time, to be sold to the extent the property is used in administration or distribution
4 operations;

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

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

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

25 (24) Precious metal bullion.

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

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

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

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

6 (26) Commercial fishing vessels. From the sale and from the storage, use, or other
7 consumption in this state of vessels and other watercraft that are in excess of five (5) net tons and
8 that are used exclusively for "commercial fishing", as defined in this subdivision, and from the
9 repair, alteration, or conversion of those vessels and other watercraft, and from the sale of
10 property purchased for the use of those vessels and other watercraft including provisions,
11 supplies, and material for the maintenance and/or repair of the vessels and other watercraft and
12 the boats nets, cables, tackle, and other fishing equipment appurtenant to or used in connection
13 with the commercial fishing of the vessels and other watercraft. "Commercial fishing" means
14 taking or attempting to take any fish, shellfish, crustacea, or bait species with the intent of
15 disposing of it for profit or by sale, barter, trade, or in commercial channels. The term does not
16 include subsistence fishing, i.e., the taking for personal use and not for sale or barter; or sport
17 fishing; but shall include vessels and other watercraft with a Rhode Island party and charter boat
18 license issued by the department of environmental management pursuant to § 20-2-27.1 that meet
19 the following criteria: (i) The operator must have a current U.S.C.G. license to carry passengers
20 for hire; (ii) U.S.C.G. vessel documentation in the coast wide fishery trade; (iii) U.S.C.G. vessel
21 documentation as to proof of Rhode Island home port status or a Rhode Island boat registration to
22 prove Rhode Island home port status; and (iv) The vessel must be used as a commercial passenger
23 carrying fishing vessel to carry passengers for fishing. The vessel must be able to demonstrate
24 that at least fifty percent (50%) of its annual gross income derives from charters or provides
25 documentation of a minimum of one hundred (100) charter trips annually; and (v) The vessel
26 must have a valid Rhode Island party and charter boat license. The tax administrator shall
27 implement the provisions of this subdivision by promulgating rules and regulations relating
28 thereto.

29 (27) Clothing and footwear. From the sales of articles of clothing, including footwear,
30 intended to be worn or carried on or about the human body for sales prior to October 1, 2012.
31 Effective October 1, 2012, the exemption will apply to the sales of articles of clothing, including
32 footwear, intended to be worn or carried on or about the human body up to two hundred and fifty
33 dollars (\$250) of the sales price per item. For the purposes of this section, "clothing or footwear"
34 does not include clothing accessories or equipment or special clothing or footwear primarily

1 designed for athletic activity or protective use as these terms are defined in section 44-18-7.1(f).
2 In recognition of the work being performed by the streamlined sales and use tax governing board,
3 upon passage of any federal law that authorizes states to require remote sellers to collect and
4 remit sales and use taxes, this unlimited exemption will apply as it did prior to October 1, 2012.
5 The unlimited exemption on sales of clothing and footwear shall take effect on the date that the
6 state requires remote sellers to collect and remit sales and use taxes.

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

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

14 (30) Boats.

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

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

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

30 (32) Farm equipment. From the sale and from the storage or use of machinery and
31 equipment used directly for commercial farming and agricultural production; including, but not
32 limited to: tractors, ploughs, harrows, spreaders, seeders, milking machines, silage conveyors,
33 balers, bulk milk storage tanks, trucks with farm plates, mowers, combines, irrigation equipment,
34 greenhouses and greenhouse coverings, graders and packaging machines, tools and supplies and

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

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

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

30 (35) Motor vehicle and adaptive equipment to certain veterans. From the sale of a motor
31 vehicle and adaptive equipment to and for the use of a veteran with a service-connected loss of or
32 the loss of use of a leg, foot, hand, or arm, or any veteran who is a double amputee, whether
33 service connected or not. The motor vehicle must be purchased by and especially equipped for
34 use by the qualifying veteran. Certificate of exemption or refunds of taxes paid is granted under

1 rules or regulations that the tax administrator may prescribe.

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

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

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

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

29 (40) Transportation charges. From the sale or hiring of motor carriers as defined in § 39-
30 12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight tariff filed
31 with the Rhode Island public utilities commission on the number of miles driven or by the
32 number of hours spent on the job.

33 (41) Trade-in value of boats. From the sale and from the storage, use, or other
34 consumption in this state of so much of the purchase price paid for a new or used boat as is

1 allocated for a trade-in allowance on the boat of the buyer given in trade to the seller or of the
2 proceeds applicable only to the boat as are received from an insurance claim as a result of a stolen
3 or damaged boat, towards the purchase of a new or used boat by the buyer.

4 (42) Equipment used for research and development. From the sale and from the storage,
5 use, or other consumption of equipment to the extent used for research and development purposes
6 by a qualifying firm. For the purposes of this subsection, "qualifying firm" means a business for
7 which the use of research and development equipment is an integral part of its operation and
8 "equipment" means scientific equipment, computers, software, and related items.

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

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

18 (45) Telecommunications carrier access service. Carrier access service or
19 telecommunications service when purchased by a telecommunications company from another
20 telecommunications company to facilitate the provision of telecommunications service.

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

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

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

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

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

19 (51) Manufacturing business reconstruction materials.

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

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

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

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

32 (52) Tangible personal property and supplies used in the processing or preparation of
33 floral products and floral arrangements. From the sale, storage, use, or other consumption in this
34 state of tangible personal property or supplies purchased by florists, garden centers, or other like

1 producers or vendors of flowers, plants, floral products, and natural and artificial floral
2 arrangements that are ultimately sold with flowers, plants, floral products, and natural and
3 artificial floral arrangements or are otherwise used in the decoration, fabrication, creation,
4 processing, or preparation of flowers, plants, floral products, or natural and artificial floral
5 arrangements, including descriptive labels, stickers, and cards affixed to the flower, plant, floral
6 product, or arrangement, artificial flowers, spray materials, floral paint and tint, plant shine,
7 flower food, insecticide, and fertilizers.

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

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

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

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

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

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

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

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

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

comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is not exempt from state sales tax.

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

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

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

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

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

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

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

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

(66) Leased motor vehicles. Notwithstanding any provision of this chapter or any provision of the general or public laws to the contrary, no sales or use tax shall be collected on any portion of any lease payment for a motor vehicle which comprises the amount of any tangible personal property tax, municipal property or excise tax, or any other tax that may be assessed to the lessor.

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

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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

- 1 This act would prohibit the collection of a sales or use tax on that portion of a motor
- 2 vehicle lease payment representing taxes payable by the lessor on the leased motor vehicle.
- 3 This act would take effect upon passage.

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