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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 - COMPUTATION AND
LIABILITY

Introduced By: Senators DiPalma, Felag, Euer, Seveney, and Coyne

Date Introduced: March 14, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-18-26 and 44-18-30 of the General Laws in Chapter 44-18
2 entitled "Sales and Use Taxes - Liability and Computation" are hereby amended to read as
3 follows:

4 **44-18-26. Tax on retailer's use of merchandise.**

5 If a person who gives a certificate consumes or makes any storage or use of purchased
6 property other than retention, demonstration, or display, [or charitable donation to nonprofit tax](#)
7 [exempt entities pursuant to § 44-18-30](#) while holding it for sale in the regular course of business,
8 the storage, use, or consumption is subject to the sales or use tax, as the case may be, as of the
9 time the property is first stored, used, or consumed, and the cost of the property to the purchaser
10 is the measure of the tax.

11 **44-18-30. Gross receipts exempt from sales and use taxes.**

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

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

17 (2) Newspapers.

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

1 newspaper.

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

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

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

11 (4) Containers.

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

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

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

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

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

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

26 (5)(i) Charitable, educational, and religious organizations. From the sale to, as in defined
27 in this section, and from the storage, use, and other consumption in this state, or any other state of
28 the United States of America, of tangible personal property by hospitals not operated for a profit;
29 "educational institutions" as defined in subdivision (18) not operated for a profit; churches,
30 orphanages, and other institutions or organizations operated exclusively for religious or charitable
31 purposes; interest-free loan associations not operated for profit; nonprofit, organized sporting
32 leagues and associations and bands for boys and girls under the age of nineteen (19) years; the
33 following vocational student organizations that are state chapters of national vocational student
34 organizations: Distributive Education Clubs of America (DECA); Future Business Leaders of

1 America, Phi Beta Lambda (FBLA/PBL); Future Farmers of America (FFA); Future
2 Homemakers of America/Home Economics Related Occupations (FHA/HERD); Vocational
3 Industrial Clubs of America (VICA); organized nonprofit golden age and senior citizens clubs for
4 men and women; and parent-teacher associations; and from the sale, storage, use, and other
5 consumption in this state, of and by the Industrial Foundation of Burrillville, a Rhode Island
6 domestic nonprofit corporation.

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

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

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

24 (7) Purchase for manufacturing purposes.

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

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

34 (iii) "Consumed" includes mere obsolescence.

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

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

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

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

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

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

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

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

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

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

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

31 (i) "Drugs" as defined in § 44-18-7.1(h)(i), sold on prescriptions, medical oxygen, and
32 insulin whether or not sold on prescription. For purposes of this exemption drugs shall not
33 include over-the-counter drugs and grooming and hygiene products as defined in § 44-18-
34 7.1(h)(iii).

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

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

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

16 (13) Motor vehicles sold to nonresidents.

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

31 (ii) The tax administrator, in addition to the provisions of §§ 44-19-27 and 44-19-28, may
32 require any licensed motor vehicle dealer to keep records of sales to bona fide nonresidents as the
33 tax administrator deems reasonably necessary to substantiate the exemption provided in this
34 subdivision, including the affidavit of a licensed motor vehicle dealer that the purchaser of the

1 motor vehicle was the holder of, and had in his or her possession a valid out-of-state motor
2 vehicle registration or a valid out-of-state driver's license.

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

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

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

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

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

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

1 which inures to the benefit of any individual.

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

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

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

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

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

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

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

26 (22) Manufacturing machinery and equipment.

27 (i) From the sale and from the storage, use, or other consumption in this state of tools,
28 dies, molds, machinery, equipment (including replacement parts), and related items to the extent
29 used in an industrial plant in connection with the actual manufacture, conversion, or processing of
30 tangible personal property, or to the extent used in connection with the actual manufacture,
31 conversion, or processing of computer software as that term is utilized in industry numbers 7371,
32 7372, and 7373 in the standard industrial classification manual prepared by the Technical
33 Committee on Industrial Classification, Office of Statistical Standards, Executive Office of the
34 President, United States Bureau of the Budget, as revised from time to time, to be sold, or that

1 machinery and equipment used in the furnishing of power to an industrial manufacturing plant.
2 For the purposes of this subdivision, "industrial plant" means a factory at a fixed location
3 primarily engaged in the manufacture, conversion, or processing of tangible personal property to
4 be sold in the regular course of business;

5 (ii) Machinery and equipment and related items are not deemed to be used in connection
6 with the actual manufacture, conversion, or processing of tangible personal property, or in
7 connection with the actual manufacture, conversion, or processing of computer software as that
8 term is utilized in industry numbers 7371, 7372, and 7373 in the standard industrial classification
9 manual prepared by the Technical Committee on Industrial Classification, Office of Statistical
10 Standards, Executive Office of the President, United States Bureau of the Budget, as revised from
11 time to time, to be sold to the extent the property is used in administration or distribution
12 operations;

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

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

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

33 (24) Precious metal bullion.

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

1 metal bullion, substantially equivalent to a transaction in securities or commodities.

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

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

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

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

1 implement the provisions of this subdivision by promulgating rules and regulations relating
2 thereto.

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

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

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

22 (30) Boats.

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

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

33 (31) Youth activities equipment. From the sale, storage, use, or other consumption in this
34 state of items for not more than twenty dollars (\$20.00) each by nonprofit Rhode Island

1 eleemosynary organizations, for the purposes of youth activities that the organization is formed to
2 sponsor and support; and by accredited elementary and secondary schools for the purposes of the
3 schools or of organized activities of the enrolled students.

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

34 (33) Compressed air. From the sale and from the storage, use, or other consumption in the

1 state of compressed air.

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

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

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

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

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

33 (39) Food items paid for by food stamps. From the sale and from the storage, use, or
34 other consumption in this state of eligible food items payment for which is properly made to the

1 retailer in the form of U.S. government food stamps issued in accordance with the Food Stamp
2 Act of 1977, 7 U.S.C. § 2011 et seq.

3 (40) Transportation charges. From the sale or hiring of motor carriers as defined in § 39-
4 12-2(1) to haul goods, when the contract or hiring cost is charged by a motor freight tariff filed
5 with the Rhode Island public utilities commission on the number of miles driven or by the
6 number of hours spent on the job.

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

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

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

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

26 (45) Telecommunications carrier access service. Carrier access service or
27 telecommunications service when purchased by a telecommunications company from another
28 telecommunications company to facilitate the provision of telecommunications service.

29 (46) Boats or vessels brought into the state exclusively for winter storage, maintenance,
30 repair, or sale. Notwithstanding the provisions of §§ 44-18-10, 44-18-11 and 44-18-20, the tax
31 imposed by § 44-18-20 is not applicable for the period commencing on the first day of October in
32 any year up to and including the 30th day of April next succeeding with respect to the use of any
33 boat or vessel within this state exclusively for purposes of: (i) Delivery of the vessel to a facility
34 in this state for storage, including dry storage and storage in water by means of apparatus

1 preventing ice damage to the hull, maintenance, or repair; (ii) The actual process of storage,
2 maintenance, or repair of the boat or vessel; or (iii) Storage for the purpose of selling the boat or
3 vessel.

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

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

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

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

27 (51) Manufacturing business reconstruction materials.

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

34 (ii) Manufacturing business facility includes, but is not limited to, the structures housing

1 the production and administrative facilities.

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

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

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

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

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

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

1 vehicles.

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

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

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

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

26 (56) Aircraft. Notwithstanding the provisions of this chapter, the tax imposed by §§ 44-
27 18-18 and 44-18-20 shall not apply with respect to the sale and to the storage, use, or other
28 consumption in this state of any new or used aircraft or aircraft parts.

29 (57) Renewable energy products. Notwithstanding any other provisions of Rhode Island
30 general laws, the following products shall also be exempt from sales tax: solar photovoltaic
31 modules or panels, or any module or panel that generates electricity from light; solar thermal
32 collectors, including, but not limited to, those manufactured with flat glass plates, extruded
33 plastic, sheet metal, and/or evacuated tubes; geothermal heat pumps, including both water-to-
34 water and water-to-air type pumps; wind turbines; towers used to mount wind turbines if

1 specified by or sold by a wind turbine manufacturer; DC to AC inverters that interconnect with
2 utility power lines; and manufactured mounting racks and ballast pans for solar collector, module,
3 or panel installation. Not to include materials that could be fabricated into such racks; monitoring
4 and control equipment, if specified or supplied by a manufacturer of solar thermal, solar
5 photovoltaic, geothermal, or wind energy systems or if required by law or regulation for such
6 systems but not to include pumps, fans or plumbing or electrical fixtures unless shipped from the
7 manufacturer affixed to, or an integral part of, another item specified on this list; and solar storage
8 tanks that are part of a solar domestic hot water system or a solar space heating system. If the tank
9 comes with an external heat exchanger it shall also be tax exempt, but a standard hot water tank is
10 not exempt from state sales tax.

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

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

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

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

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

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

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

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

1 include marijuana seeds or plants.

2 (66) Donations to nonprofit tax exempt entities for charitable purposes: From the sale and
3 from the storage, use, or other consumption in this state of tangible personal property, prewritten
4 computer software delivered electronically or by load and leave, vendor-hosted prewritten
5 computer software, or serviced defined in § 44-18-7.3 if donated for a charitable purpose to a
6 nonprofit organization that is deemed tax-exempt by both the federal government and this state or
7 any other state of the United States of America. The nonprofit status of the organization may be
8 confirmed by the tax administrator in consultation with the office of the secretary of state or by
9 any other reasonable means allowed by law. The term "charitable purpose" has the same meaning
10 as the term defined in § 5-53.1-1. The term "nonprofit organization" has the same meaning as the
11 term defined in section 501 (c)(3) of the Internal Revenue Code, as amended. Sales to, and
12 storage, use, or other consumption by, organizations that are deemed tax-exempt for the purposes
13 of this state are as specified in §§ 44-18-30(5) and 44-18-30(8). The taxpayer must provide
14 documentary evidence to the tax administrator's satisfaction that it has complied with the
15 requirements of this exemption.

16 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 - COMPUTATION AND
LIABILITY

1 This act would exempt from the sales and use taxes tangible personal property donated
2 for a charitable purpose to nonprofit organizations deemed tax-exempt by both the federal
3 government, this state, or any state government of the United States of America.

4 This act would take effect upon passage.

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LC001822
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