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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

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

Introduced By: Representative Joseph M. McNamara

Date Introduced: January 22, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

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

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

7 (b) The following businesses and services performed in this state, along with the applicable  
8 2017 North American Industrial Classification System (NAICS) codes, are included in the  
9 definition of services:

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

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

12 (ii) Limousine services (485320).

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

14 (i) Charter bus service (485510);

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

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

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

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

4 (4)(i) "Room reseller" or "reseller" means any person, except a tour operator as defined in

5 § 42-63.1-2, having any right, permission, license, or other authority from or through a hotel as

6 defined in § 42-63.1-2, to reserve, or arrange the transfer of occupancy of, accommodations the

7 reservation or transfer of which is subject to this chapter, such that the occupant pays all or a portion

8 of the rental and other fees to the room reseller or reseller. Room reseller or reseller shall include,

9 but not be limited to, sellers of travel packages as defined in this section. Notwithstanding the

10 provisions of any other law, where said reservation or transfer of occupancy is done using a room

11 reseller or reseller, the application of the sales and use tax under §§ 44-18-18 and 44-18-20, and

12 the hotel tax under § 44-18-36.1 shall be as follows: The room reseller or reseller is required to

13 register with, and shall collect and pay to, the tax administrator the sales and use and hotel taxes,

14 with said taxes being calculated upon the amount of rental and other fees paid by the occupant to

15 the room reseller or reseller, less the amount of any rental and other fees paid by the room reseller

16 or reseller to the hotel. The hotel shall collect and pay to the tax administrator said taxes upon the

17 amount of rental and other fees paid to the hotel by the room reseller or reseller and/or the occupant.

18 No assessment shall be made by the tax administrator against a hotel because of an incorrect

19 remittance of the taxes under this chapter by a room reseller or reseller. No assessment shall be

20 made by the tax administrator against a room reseller or reseller because of an incorrect remittance

21 of the taxes under this chapter by a hotel. If the hotel has paid the taxes imposed under this chapter,

22 the occupant and/or room reseller or reseller, as applicable, shall reimburse the hotel for said taxes.

23 If the room reseller or reseller has paid said taxes, the occupant shall reimburse the room reseller

24 or reseller for said taxes. Each hotel and room reseller or reseller shall add and collect, from the

25 occupant or the room reseller or the reseller, the full amount of the taxes imposed on the rental and

26 other fees. When added to the rental and other fees, the taxes shall be a debt owed by the occupant

27 to the hotel or room reseller or reseller, as applicable, and shall be recoverable at law in the same

28 manner as other debts. The amount of the taxes collected by the hotel and/or room reseller or

29 reseller from the occupant under this chapter shall be stated and charged separately from the rental

30 and other fees, and shall be shown separately on all records thereof, whether made at the time the

31 transfer of occupancy occurs, or on any evidence of the transfer issued or used by the hotel or the

32 room reseller or the reseller. A room reseller or reseller shall not be required to disclose to the

33 occupant the amount of tax charged by the hotel; provided, however, the room reseller or reseller

34 shall represent to the occupant that the separately stated taxes charged by the room reseller or

1 reseller include taxes charged by the hotel. No person shall operate a hotel in this state, or act as a  
2 room reseller or reseller for any hotel in the state, unless the tax administrator has issued a permit  
3 pursuant to § 44-19-1.

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

19 (5) Investigation, Guard, and Armored Car Services (561611, 561612 & 561613).

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

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

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

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

4           This act would take effect upon passage.

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