



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE

One Capitol Hill

Providence, R.I. 02908-5886

Memorandum

To: The Honorable Raymond Gallison
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: April 3, 2014

Subject: Amendments to the FY 2015 Appropriations Act (13-H-7133)

The Governor requests that Article 12 – Relating to Revenues be amended to include the use of timeshares by owners under the occupancy definition through the inclusion of the following language.

On page 111, line 6 insert after the word “more”, “as well as the right of a time-share owner, as defined in 34-41-1.02 (19), or a time-share exchange guest to make personal use of a time-share property, as defined in 34-41-1.02 (20).”

A revised version of this article, with the amended section shaded in grey is attached for your review.

If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM:14-Amend-12

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Steve Hartford, Director of Policy
Richard Licht, Director of Administration
Peter Marino, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst

1 vehicles with a certificate of good standing specified in § 5-76-5. Within five (5) business days of
2 receiving such a certificate, the division of motor vehicles shall register or transfer the person's
3 registration.

4 (e) If a person files an overdue return and/or remits past due taxes in order to register a motor
5 vehicle or transfer the registration of a motor vehicle, said late filing and/or payment shall not be an
6 admission of a violation of any criminal tax statute regarding late filing and/or late payment. The tax
7 administrator shall not refer such person to the Attorney General for prosecution based solely upon said
8 late filing and/or payment of past due taxes.

9 SECTION 2. Chapter 44-1 of the General Laws entitled "State Tax Officials" is hereby amended by
10 adding thereto the following section:

11 **§ 44-1-31.2 Charges of Electronic Filing of Tax Returns.** - (a) For the purpose of this chapter,
12 the following terms have the specified meanings:

13 (1) "Authorized tax document" means a document which the tax administrator has authorized to
14 be filed electronically.

15 (2) "Software Company" means a developer of tax software.

16 (3) "Tax Return Preparer" means any person who prepares for compensation, or who employs or
17 engages one or more persons to prepare for compensation, any authorized tax document. For the purpose
18 of this section, the term "tax return preparer" also includes a payroll service.

19 (4) "Tax Software" means any computer software program intended for tax return
20 preparation purposes. For purposes of this section, the term "tax software" includes, but is not limited to,
21 an off-the-shelf software program loaded onto a tax return preparer's or taxpayer's computer, or an online
22 tax preparation application.

23 (b) It shall be unlawful for a tax return preparer or a software company to charge a separate fee
24 for the electronic filing of authorized tax documents. It shall also be unlawful for a software company to
25 offer a version of its tax software that charges a separate fee for the electronic filing of authorized tax
26 documents and a version of the same tax software that does not.

1 (c) Any tax return preparer or software company violating this section shall be liable for a civil
2 penalty of five hundred dollars (\$500.00) for the first violation and on thousand dollars (\$1,000.00) for
3 each succeeding violation. The civil penalties imposed by this section shall be paid to the tax
4 administrator upon notice and demand, and will be assessed, collected and paid in the same manner as
5 taxes under this title.

6 SECTION 3. Sections 44-18-7, 44-18-7.3, 44-18-12.1, and 44-18-36.1 of the General Laws in
7 Chapter 44-18 entitled "Sales and Use Tax – Liability and Computation" are hereby amended to read as
8 follows:

9 **§ 44-18-7 Sales defined.** – "Sales" means and includes:

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

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

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

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

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

23 (6) Any withdrawal, except a withdrawal pursuant to a transaction in foreign or interstate
24 commerce, of tangible personal property from the place where it is located for delivery to a point in this
25 state for the purpose of the transfer of title or possession, exchange, barter, lease, or rental, conditional or
26 otherwise, in any manner or by any means whatsoever, of the property for a consideration.

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

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

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

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

18 (10) The furnishing of service for transmission of messages by telegraph, cable, or radio and the
19 furnishing of community antenna television, subscription television, and cable television services.

20 (11) The rental of living quarters in any hotel, as defined in § 42-63.1-2, rooming house, or tourist
21 camp.

22 (12) The transfer for consideration of prepaid telephone calling arrangements and the recharge of
23 prepaid telephone calling arrangements sourced to this state in accordance with §§ 44-18.1-11 and 44-
24 18.1-15. "Prepaid telephone calling arrangement" means and includes prepaid calling service and prepaid
25 wireless calling service.

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

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

5 (15) The sale, storage, use or other consumption of medical marijuana as defined in § 21-28.6-3.

6 (16) The furnishing of services in this state as defined in § 44-18-7.3

7 **§ 44-18-7.3 Services defined.** – (a) "Services" means all activities engaged in for other persons
8 for a fee, retainer, commission, or other monetary charge, which activities involve the performance of a
9 service in this state as distinguished from selling property.

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

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

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

14 (ii) Limousine services (485320).

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

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

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

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

19 (c)(1) "Room reseller" or "Reseller." Room reseller or reseller shall mean any person having any
20 right, permission, license, or other authority from or through a hotel, as defined in § 42-63.1-2, to reserve,
21 or arrange the transfer of occupancy of, accommodations, the reservation or transfer of which is subject to
22 this chapter, such that the occupant pays all or a portion of the rental and other fees to the reseller. Room
23 reseller or reseller shall include, but not be limited to, sellers of travel packages as defined in this section.
24 Notwithstanding the provisions of any other law, where said reservation or transfer of occupancy is made
25 using a room reseller, the application of the sales and use under §§ 44-18-18 and 44-18-20, and the hotel
26 tax under §44-18- 36.1 shall be as follows: The room reseller is required to register with and shall collect

1 and pay to the tax administrator the sales and use and hotel taxes with said taxes being calculated upon
2 the amount of rental and other fees paid by the occupant to the room reseller, less the amount of any
3 rental and other fees paid by the reseller to the hotel. The hotel shall collect and pay to the tax
4 administrator said taxes upon the amount of rental and other fees paid to the hotel by the reseller and/or
5 the occupant. No assessment shall be made by the tax administrator against a hotel because of an
6 incorrect remittance of the taxes under this chapter by a room reseller. No assessment shall be made by
7 the tax administrator against a room reseller because of an incorrect remittance of the taxes under this
8 chapter by a hotel. If the hotel has paid the taxes imposed under this chapter, the occupant and/or room
9 reseller shall reimburse the hotel for said taxes. If the reseller has paid said taxes, the occupant shall
10 reimburse the reseller for said taxes. Each hotel and room reseller shall add and collect from the occupant
11 or the room reseller the full amount of the taxes imposed on the rental and other fees. When added to the
12 rental and other fees, the taxes shall be a debt owed by the occupant to the hotel or room reseller, as
13 applicable, and shall be recoverable at law in the same manner as other debts. The amount of the taxes
14 collected by the hotel and/or room reseller from the occupant under this chapter shall be stated and
15 charged separately from the rental and other fees, and shall be shown separately on all records thereof,
16 whether made at the time the transfer of occupancy occurs and made on valid evidence of the transfer,
17 issued or used by the hotel or the room reseller. A room reseller shall not be required to disclose to the
18 occupant the amount of tax charged by the hotel; provided, however, the reseller shall represent to the
19 occupant that the separately stated taxes charged by the reseller include taxes charged by the hotel. No
20 person shall operate a hotel in this state, or act as a room reseller for any hotel in the state, unless the tax
21 administrator has issued a permit pursuant to R.I. Gen. Laws § 44-19-1.

22 (2) "Travel package" means a room or rooms bundled with one or more other, separate
23 components of travel such as air transportation, car rental or similar items, which travel package is
24 charged to the customer or occupant for a single retail price. When the room occupancy is bundled for a
25 single consideration, with other property, services, amusement charges, or any other items, the separate
26 sale of which would not otherwise be subject to tax under this chapter, the entire single consideration

1 shall be treated as rent, subject to tax under this chapter; provided, however, that where the amount of the
2 rental or other fees for room occupancy is stated separately from the price of such other property,
3 services, amusement charges, or other items, on any sales slip, invoice, receipt, or other statement given
4 the occupant, and such rental and other fees are determined by the tax administrator to be reasonable in
5 relation to the value of such other property, services, amusement charges or other items, only such
6 separately stated rental and other fees will be subject to tax under this chapter. The value of the transfer
7 of any room or rooms bundled as part of a travel package may be determined by the tax administrator
8 from the room reseller's and/or hotel's books and records kept in the regular and ordinary course of
9 business.

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

12 **§ 44-18-12.1 "Additional measure subject to tax".** – Also included in the measure subject to
13 tax under this chapter is the total amount charged for the furnishing or distributing of electricity, natural
14 gas, artificial gas, steam, refrigeration, water, telecommunications, telegraph, cable, and radio message
15 service, community antenna television, subscription television, and cable television service; provided, that
16 the measure of tax in regard to telecommunications service is the total consideration received for the
17 service as defined in § 44-18-7(9); provided, that in order to prevent multistate taxation of all
18 telecommunications service, any taxpayer is allowed a credit or refund of sales tax upon presenting proof
19 that a tax has been paid to another state to which the tax is properly due for the identical service taxed
20 under this chapter. Furthermore, included in the measure of tax is the total amount charged for the rental
21 of living quarters in any hotel as defined in § 42-63.1-2, rooming house, or tourist camp.

22 **§ 44-18-36.1 Hotel tax.** – (a) There is imposed a hotel tax of five percent (5%) upon the total
23 consideration charged for occupancy of any space furnished by any hotel, as defined in § 42-63.1-2, or
24 room reseller, as defined in § 44-18-7.3(c), in this state. The hotel tax is in addition to any sales tax
25 imposed. This hotel tax is administered and collected by the division of taxation and unless provided to
26 the contrary in this chapter, all the administration, collection, and other provisions of chapters 18 and 19

1 of this title apply. Nothing in this chapter shall be construed to limit the powers of the convention
2 authority of the city of Providence established pursuant to the provisions of chapter 84 of the public laws
3 of 1980, except that distribution of hotel tax receipts shall be made pursuant to chapter 63.1 of title 42
4 rather than chapter 84 of the public laws of 1980.

5 (b) There is hereby levied and imposed, upon the total consideration charged for occupancy of
6 any space furnished by any hotel, as defined in § 42-63.1-2, or room reseller as defined in § 44-18-7.3(c),
7 in this state, in addition to all other taxes and fees now imposed by law, a local hotel tax at a rate of one
8 percent (1%). The local hotel tax shall be administered and collected in accordance with subsection (a).

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

14 (d) Notwithstanding the provisions of subsection (a) of this section, the city of Newport shall
15 have the authority to collect from hotels, as defined in § 42-63.1-2, or room reseller as defined in § 44-18-
16 7.3(c), located in the city of Newport the tax imposed by subsection (a) of this section.

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

22 (2) The city of Newport shall have the same authority as the division of taxation to recover
23 delinquent hotel taxes pursuant to chapter 44-19, and the amount of any hotel tax, penalty and interest
24 imposed by the city of Newport until collected constitutes a lien on the real property of the taxpayer.

25 In recognition of the work being performed by the Streamlined Sales and Use Tax Governing
26 Board, upon passage of any federal law which authorizes states to requires remote sellers to collect and

1 remit taxes, ~~effective the first (1st) day of the first (1st) state fiscal quarter following the change,~~ the rate
2 imposed under § 44-18-36.1(b) shall be one and one-half percent (1.5%); effective on the same date this
3 state requires remote sellers to collect and remit sales and use taxes.

4 SECTION 4. Section 42-63.1-2 of the General Laws in Chapter 42-63.1 entitled "Tourism and
5 Development" is hereby amended to read as follows:

6 **§ 42-63.1-2 Definitions.** – For the purposes of this chapter:

7 (1) "Consideration" means the monetary charge for the use of space devoted to transient lodging
8 accommodations.

9 (2) "Corporation" means the ~~Rhode Island economic development corporation~~ Rhode Island
10 Commerce Corporation.

11 (3) "District" means the regional tourism districts set forth in § 42-63.1-5.

12 (4) "Hotel" means any facility offering a minimum of ~~three (3)~~ one (1) rooms for which the
13 public may, for a consideration, obtain transient lodging accommodations. The term "hotel" shall include
14 hotels, motels, bed and breakfasts (B&B's), time shares as defined in §34-41-1.02(13), tourist homes,
15 tourist camps, lodging houses, and inns and shall exclude schools, hospitals, sanitariums, nursing homes,
16 and chronic care centers.

17 (5) "Occupancy" means a person, firm or corporation's use of space ordinarily used for transient
18 lodging accommodations not to exceed thirty (30) days. Excluded from "occupancy" is the use of space
19 for which the occupant has a written lease for the space, which lease covers a rental period of twelve (12)
20 months or more, as well as the right of a time-share owner, as defined in § 34-41-1.02(19), or a time-share
21 exchange guest to make personal use of a time-share property, as defined in § 34-41-1.02(20).

22 (6) "Tax" means the hotel tax imposed by subsection 44-18-36.1(a).

23 SECTION 5. Chapter 44-30 entitled "Personal Income Tax" is hereby amended by adding
24 thereto the following section:

25 **§44-30-100. Lookup Table to Report Use Tax on Personal Income Tax Return.** (a) When
26 reporting the amount of use tax obligation on the Rhode Island personal income return, the taxpayer shall

1 list either the actual amount (from books, records, and other sources), or an amount using a lookup table
2 established by the tax administrator.

3 (b) Establishment of lookup table. (1) The tax administrator shall create the lookup table with
4 reference to a taxpayer's federal adjusted gross income (AGI) as listed on the Rhode Island personal
5 income tax return before modifications, adjustments, or other changes. To determine the amount of use
6 tax from the lookup table, the taxpayer shall multiply 0.0008 by the amount of the taxpayer's federal AGI
7 as listed on the Rhode Island personal income tax return before modifications, adjustments, or other
8 changes.

9 (2) The AGI income ranges within the lookup table shall be adjusted by the tax administrator by
10 December 31 of each calendar year by the percentage, if any, by which the Consumer Price Index for All
11 Urban Consumers (CPI-U) as of the close of the 12-month period ending on August 31 of that year,
12 exceeds the CPI-U as of the close of the 12-month period ending on August 31 of the immediately
13 preceding year. For purposes of the annual calculation, the tax administrator shall be free to substitute an
14 inflation index which is substantially similar to the CPI-U.

15 (3) If a taxpayer uses the lookup table, the taxpayer shall list on the return not only the result from
16 the lookup table, but also the actual amount of each single purchase whose purchase price equals or
17 exceeds \$1,000.

18 (4) Instructions for the personal income tax form shall indicate that the use of the lookup table as
19 described in this section is, for the taxpayer, a "safe harbor" alternative to listing the actual amount of the
20 taxpayer's use tax obligation.

21 (c) When completing and filing a Rhode Island personal income tax return, the taxpayer shall
22 check a box attesting to the amount of use tax listed on the return. The tax administrator shall direct
23 computer software providers to require the taxpayer or the taxpayer's preparer to proactively check the
24 box; software providers shall not program an automatically checked attestation box.

25 (d) The tax administrator shall make clear on personal income tax forms and instructions that use
26 tax is typically due on internet, mail-order, and catalog out-of-state purchases.

1 SECTION 6. Sections 44-20-1 and 44-20-13.2 of the General Laws in Chapter 44-20 entitled
2 "Cigarette Tax" are hereby amended to read as follows:

3 **§ 44-20-1 Definitions.** – Whenever used in this chapter, unless the context requires otherwise:

4 (1) "Administrator" means the tax administrator;

5 (2) "Cigarettes" means and includes any cigarettes suitable for smoking in cigarette form, and
6 each sheet of cigarette rolling paper;

7 (3) "Dealer" means any person whether located within or outside of this state, who sells or
8 distributes cigarettes to a consumer in this state;

9 (4) "Distributor" means any person:

10 (A) Whether located within or outside of this state, other than a dealer, who sells or distributes
11 cigarettes within or into this state. Such term shall not include any cigarette manufacturer, export
12 warehouse proprietor, or importer with a valid permit under 26 U.S.C. § 5712, if such person sells or
13 distributes cigarettes in this state only to licensed distributors, or to an export warehouse proprietor or
14 another manufacturer with a valid permit under 26 U.S.C. § 5712;

15 (B) Selling cigarettes directly to consumers in this state by means of at least twenty-five (25)
16 cigarette vending machines;

17 (C) Engaged in this state in the business of manufacturing cigarettes or any person engaged in the
18 business of selling cigarettes to dealers, or to other persons, for the purpose of resale only; provided, that
19 seventy-five percent (75%) of all cigarettes sold by that person in this state are sold to dealers or other
20 persons for resale and selling cigarettes directly to at least forty (40) dealers or other persons for resale; or

21 (D) Maintaining one or more regular places of business in this state for that purpose; provided,
22 that seventy-five percent (75%) of the sold cigarettes are purchased directly from the manufacturer and
23 selling cigarettes directly to at least forty (40) dealers or other persons for resale;

24 (5) "Electronic cigarette", commonly known as "E-Cigarette", means a personal vaporizer,
25 electronic nicotine delivery system or an electronic inhaler, which generally utilizes a heating element
26 that vaporizes a liquid solution containing nicotine or nicotine derivative.

1 ~~(5)~~ (6) "Importer" means any person who imports into the United States, either directly or
2 indirectly, a finished cigarette for sale or distribution;

3 ~~(6)~~ (7) "Licensed", when used with reference to a manufacturer, importer, distributor or dealer,
4 means only those persons who hold a valid and current license issued under § 44-20-2 for the type of
5 business being engaged in. When the term "licensed" is used before a list of entities, such as "licensed
6 manufacturer, importer, wholesale dealer, or retailer dealer," such term shall be deemed to apply to each
7 entity in such list;

8 ~~(7)~~ (8) "Manufacturer" means any person who manufactures, fabricates, assembles, processes, or
9 labels a finished cigarette;

10 ~~(8)~~ (9) "Person" means any individual, including an employee or agent, firm, fiduciary,
11 partnership, corporation, trust, or association, however formed;

12 ~~(9)~~ (10) "Place of business" means and includes any place where cigarettes are sold or where
13 cigarettes are stored or kept for the purpose of sale or consumption, including any vessel, vehicle,
14 airplane, train, or vending machine;

15 ~~(10)~~ (11) "Sale" or "sell" includes and applies to gifts, exchanges, and barter;

16 ~~(11)~~ (12) "Stamp" means the impression, device, stamp, label, or print manufactured, printed, or
17 made as prescribed by the administrator to be affixed to packages of cigarettes, as evidence of the
18 payment of the tax provided by this chapter or to indicate that the cigarettes are intended for a sale or
19 distribution in this state that is exempt from state tax under the provisions of state law; and also includes
20 impressions made by metering machines authorized to be used under the provisions of this chapter.

21 **§ 44-20-13.2 Tax imposed on smokeless tobacco, cigars, and pipe tobacco products.** – (a) A
22 tax is imposed on all smokeless tobacco, electronic cigarettes, cigars, and pipe tobacco products sold or
23 held for sale in the state by any person, the payment of the tax to be accomplished according to a
24 mechanism established by the administrator, division of taxation, department of administration. Any
25 tobacco product on which the proper amount of tax provided for in this chapter has been paid, payment

being evidenced by a stamp, is not subject to a further tax under this chapter. The tax imposed by this section shall be as follows:

(1) At the rate of eighty percent (80%) of the wholesale cost of cigars, pipe tobacco products and smokeless tobacco other than snuff.

(2) Notwithstanding the eighty percent (80%) rate in subsection (a) above, in the case of cigars, the tax shall not exceed fifty cents (\$.50) for each cigar.

(3) At the rate of one dollar (\$1.00) per ounce of snuff, and a proportionate tax at the like rate on all fractional parts of an ounce thereof. Such tax shall be computed based on the net weight as listed by the manufacturer, provided, however, that any product listed by the manufacturer as having a net weight of less than 1.2 ounces shall be taxed as if the product has a net weight of 1.2 ounces.

(b) Any dealer having in his or her possession any tobacco, cigars, and pipe tobacco products with respect to the storage or use of which a tax is imposed by this section shall, within five (5) days after coming into possession of the tobacco, cigars, and pipe tobacco in this state, file a return with the tax administrator in a form prescribed by the tax administrator. The return shall be accompanied by a payment of the amount of the tax shown on the form to be due. Records required under this section shall be preserved on the premises described in the relevant license in such a manner as to ensure permanency and accessibility for inspection at reasonable hours by authorized personnel of the administrator.

(c) The proceeds collected are paid into the general fund.

SECTION 7. Title 44 of the General Laws entitled "Taxation" is hereby amended by adding thereto the following chapter:

CHAPTER 69

COMPLIANCE OF STATE EMPLOYEES WITH STATE INCOME TAX ACT

§44-69-1. Short title. – This chapter shall be known as the "State Employee Tax Compliance Act".

§44-69-2. Definitions.

1 (a) "Appointing Authority" means the person or group of persons having the power by virtue of
2 the constitution, a state statute, or lawfully delegated authority to make appointments.

3 (b) "Employee" or "State Employee" means an appointed officer or employee of a state agency;
4 provided, the term employee or state employee shall not include an elected official or an employee of a
5 local governmental entity.

6 (c) "State Agency" means any office, department, board, commission or institution of the
7 executive, legislative, higher education or judicial branch of state government.

8 **§44-68-3. Administration.**

9 (a) The department of administration shall, not later than August 1, 2014, and August 1 of each
10 year thereafter, provide to the tax administrator a list of all state employees as of the preceding July 1 and
11 such identifying information as may be required by the Tax Administrator. Such list and information shall
12 be used by the Tax Administrator exclusively for the purpose of collection of income taxes due to the
13 State of Rhode Island.

14 (b) The Tax Administrator shall, not later than December 1, 2014, and December 1 of each year
15 thereafter, notify any state employee who is not in compliance with the income tax laws of this state. Such
16 notification shall include:

17 (1) A statement that the employee will be subject to mandatory garnishment of wages by the state
18 controller, unless the taxpayer is deemed by the Tax Administrator to be in compliance with the income
19 tax laws of this state;

20 (2) The reasons that the taxpayer is considered to be out of compliance with the income tax laws
21 of this state, including a statement of the amount of any tax, penalties and interest due, or a list of the tax
22 years for which income tax returns have not been filed, as required by law;

23 (3) An explanation of the rights of the taxpayer and the procedures which must be followed by
24 the taxpayer in order to come into compliance with the income tax laws of this state; and

25 (4) Such other information as may be deemed necessary by the Tax Administrator.

1 (c) A state employee who has entered into and is abiding by a payment agreement, or who has
2 requested relief as an innocent spouse, which request is pending or has been granted, shall be deemed to
3 be in compliance with the state income tax laws for purposes of this section.

4 (d) If the Tax Administrator notifies a state employee who is not in compliance with the income
5 tax laws of this state as required in this section and such state employee does not respond to such
6 notification or fails to come into compliance with the income tax laws of this state after an assessment has
7 been made final or after the Tax Administrator determines that every reasonable effort has been made to
8 assist the state employee to come into compliance with the income tax laws of this state, the Tax
9 Administrator shall so notify the state controller, who shall commence mandatory garnishment of the state
10 employee's wages and shall notify the state employee of the reason for such action. If a state employee,
11 who has been previously reported by the Tax Administrator to a state agency as being out of compliance,
12 comes into compliance, the Tax Administrator shall immediately notify the state controller. Neither a
13 state agency nor an appointing authority shall be held liable for any action with respect to a state
14 employee pursuant to the provisions of this section.

15 SECTION 8. Chapter 44-19 entitled "Sales and Use Taxes – Enforcement and Collection" is
16 hereby amended by adding thereto the following section:

17 § 44-19-42. Sales Suppression Devices – Definitions and Applicability. (a) As used in this
18 section:

19 (1) "Automated sales suppression device," also known as a "zapper," means a software program,
20 carried on a memory stick or removable compact disc, accessed through an Internet link, or accessed
21 through any other means, that falsifies transaction data, transaction reports, or any other electronic records
22 of electronic cash registers and other point-of-sale systems.

23 (2) "Electronic cash register" means a device that keeps a register or supporting documents
24 through the means of an electronic device or computer system designed to record transaction data for the
25 purpose of computing, compiling, or processing retail sales transaction data in any manner.

1 (3)“Phantom-ware” means a hidden programming option, whether preinstalled or installed at a
2 later time, embedded in the operating system of an electronic cash register or hardwired into the
3 electronic cash register that:

4 (A) can be used to create a virtual second till; or

5 (B) may eliminate or manipulate transaction records.

6 (4)“Transaction data” includes items purchased by a customer, the price for each item, a
7 taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of
8 cash or credit tendered, the net amount returned to the customer in change, the date and time of the
9 purchase, the name, address, and identification number of the vendor, and the receipt or invoice number
10 of the transaction.

11 (5)“Transaction reports” means a report documenting, but not limited to, the sales, taxes
12 collected, media totals, and discount voids at an electronic cash register that is printed on cash register
13 tape at the end of a day or shift, or a report documenting every action at an electronic cash register that is
14 stored electronically.

15 (b) A person shall not knowingly sell, purchase, install, transfer or possess an automated sales
16 suppression device or phantom-ware.

17 (c)Any person who violates subdivision (b) of this section shall be guilty of a felony and, upon
18 conviction, shall be subject to a fine not exceeding fifty-thousand dollars (\$50,000) or imprisonment not
19 exceeding five (5) years, or both.

20 (d) In addition , a person who violates subdivision (b) of this section shall be liable to the State
21 for:

22 (1) all taxes, interest, and penalties due as the result of the person’s use of an automated sales
23 suppression device or phantom-ware; and

24 (2) all profits associated with the person’s sale of an automated sales suppression device or
25 phantom-ware.

1 (e) An automated sales suppression device or phantom-ware and any device containing such
2 device or software shall be deemed contraband and shall be subject to seizure by the tax administrator or
3 by a law enforcement officer when directed to do so by the tax administrator.

4 (f) Safe Harbor. A person shall not be subject to prosecution under Rhode Island General Laws
5 § 44-19-42, if by October 1, 2014 the person:

6 (1) notifies the division of taxation of the person's possession of an automated sales suppression
7 device;

8 (2) provides any information requested by the division of taxation, including transaction records,
9 software specifications, encryption keys, passwords, and other data; and

10 (3) corrects any underreported sales tax records and fully pays the division of taxation any
11 amounts previously owed.

12 (g) This section shall not be construed to limit the person's civil or criminal liability under any
13 other provision of law.

14 SECTION 9. This article shall take effect as of July 1, 2014.

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