



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

Memorandum

To: The Honorable Steven M. Costantino
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Rosemary Booth Gallogly
Executive Director/State Budget Officer *R.B. Gallogly*

Date: January 12, 2009

Subject: Revised Article 5 and Article 11 for the FY 2009 Supplemental Appropriation Act (09-H-5019)

The Governor requests that Article 5 and Article 11 of the FY 2009 Supplemental Appropriations Act (09-H-5019) be replaced with the new versions attached to this memorandum. Also attached are revised memos explaining each section of the article. The revised version of Article 5, Relating to Unemployment Insurance Benefits, provides an exception to the 75-day rule for former DLT employees proficient in processing unemployment claims. The new Section 2 added to Article 5 allows retired employees with extensive experience in the administration of the unemployment insurance program to be employed or reemployed by the Department of Labor and Training for the purpose of processing claims for not more than 75 working days, or 150 half days, without any forfeiture of, or reduction of, any retirement benefits or allowances through June 30, 2011. No additional contributions or service credits would accrue, compensation would be at the amounts provided for by the collective bargaining agreement, and monthly notice of such employment by the employee and the employer shall be sent to the retirement board. The Governor recommends passage of the 75-day rule exception due to the most recent surge of unemployment applications.

The original Article 11, Relating to Cigarette Tax, contained the incorrect cigarette excise tax rates (165 mills per cigarette instead of 173 mills per cigarette), failed to include language that repealed the minimum price mark-up provisions for wholesalers and retailers of tobacco products, and omitted language that defined a retailer's presumptive cost of selling cigarettes. The attached new version of Article 11 corrects these errors and some other minor deficiencies.

Also, when the Budget Office proof read the printed version of the bill introduced to the General Assembly, it was determined that some formatting errors were made by our office when the fifty individual articles were merged into one file for transmittal. The corrections that are required to make clear the proposed changes to current law requested by the Governor are

shown below by the underlining and strike outs. We also request a minor changed to Article 1 and 13 as shown below.

Amendments to FY 2009 Supplemental Appropriations Act, 09-H-5019

**ARTICLE 1, RELATING TO MAKING REVISED APPROPRIATIONS IN SUPPORT OF
FY 2009**

Page 33, insert after line 18 the following:

No agency or department may employ contracted employees or employee services where the contracted employees would work under state employee supervisors without determination of need by the Director of Administration acting upon the positive recommendations of the Budget Officer and the Personnel Administrator and 15 days after a public hearing.

Nor may any agency or department contract for services replacing work done by state employees at that time without determination of need by the Director of Administration acting upon the positive recommendations of the Budget Officer and the Personnel Administrator and 30 days after a public hearing.

State employees whose funding is from non-state general revenue funds that are time limited shall receive limited term appointment with the term limited to the availability of the non state general revenue funding source.

Page 35, strike through line 9

~~Provided further that, as of October 1, 2008, the total filled positions shall not exceed 14,958.6.~~

ARTICLE 2, RELATING TO GUBERNATORIAL AUTHORITY

Page 36, line 20, strike through the following:

~~and/or~~

**ARTICLE 6, RELATING TO EMPLOYMENT SECURITY FUND – LOANS AND
INTEREST**

Page 40, line 20, underline the following:

(a)

Page 42, line 10, underline the following:

Disbursements – Unexpended balance.

ARTICLE 7, RELATING TO STATE AID

Page 47, line 34, strike through the following after June 30, 2009:

the

ARTICLE 18, Relating to School Bus Monitors

Page 72, strike through on line 6 the following:

(a)

Page 73, underline the following:

(a)

ARTICLE 24, RELATING TO DISMISSAL OF TEACHERS

Page 88, strike through the following:

~~Special rules as to Woonsocket and Cumberland.~~

**ARTICLE 29, RELATING TO SCHOOL COMMITTEES AND SUPERINTENDENTS –
MANAGEMENT RIGHTS OF SCHOOL COMMITTEE**

Page 103, the following after “class sizes,” should not be underlined:

text books

ARTICLE 33, 32 RELATING TO MEDICAL ASSISTANCE RECIPIENTS

Page 134, underline lines 20 and 21

(1) Pursuant to the agreement of the individual or pursuant to a court order on account of benefits incorrectly paid on behalf of such individual, or

Page 135, Underline lines 13 through 15

(c) If the property against which the department has placed a lien in accordance with this section is sold or transferred during the medical assistance recipient's lifetime, the department may recover all payment for services provided to the individual on or after the April 1, 2009.

ARTICLE 45, RELATING TO MUNICIPAL RETIREMENT

Page 165, Inert title after line 24 as follows:

MUNICIPAL EMPLOYEES RETIREMENT REFORM

ARTICLE 13, RELATING TO UNDERGROUND STORAGE TANK REVIEW BOARD

Page 62, line 34

Page 4
January 9, 2009

Change the words "general fund" to Intermodal Surface Transportation Fund.

Please accept my apology for any inconvenience this may have caused you or your staff. If you have any questions regarding the Cigarette Tax article, feel free to call me at 222-2194, or Paul L. Dion, Ph.D. of the Department of Revenue at 574-8943. If you have any questions regarding the Unemployment Insurance article, feel free to call me, or Sandra Powell at 462-8870.

RBG: sm 09-92

cc: Michael O'Keefe
Peter Marino
Brian Stern
Gregory Stack
Mike Cronan
Tim Costa



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

To: Rosemary Booth Gallogly
Executive Director/State Budget Officer

From: Bill Golas

Date: January 12, 2009

Subject: **Article 5, Relating to Unemployment Insurance Benefits (Revised)**

Summary

This article provides that the one week waiting period for unemployment benefits claims will not be in effect from passage through June 30, 2009, that severance pay from passage will no longer be allocated entirely to the last day of work, but prorated on a weekly basis beginning with the individual's first week of unemployment, and that any retired member with extensive experience working in the administration of the unemployment insurance program may be employed or reemployed by the department for the purpose of processing claims for not more than 75 working days, or 150 half days without any forfeiture of or reduction of any retirement benefits or allowances received through June 30, 2011. No additional contributions or service credits will accrue, compensation will be at the collective bargaining agreement salary, and monthly notice of such employment by both the employee and the employer shall be sent to the retirement board.

Explanation of Sections

Section 1.

This section amends RIGL 28-44-14 Waiting period so that the one week waiting period for unemployment benefits is eliminated upon passage through June 30, 2009. It also amends RIGL 28-44-19 Receipt of compensation so that severance pay from the last employer is prorated on weekly basis beginning the individual's first week of unemployment, rather than be allocated in lump sum to the last day of work.

Section 2.

This section amends RIGL 36-10-36 Post retirement employment so that employees with extensive unemployment claims insurance experience may be hired a year for up to 75 days (150 half days) without any reductions from retirement pensions nor any future service credit benefits. This amendment would expire on June 30, 2011 unless extended.

Section 3.

This section provides that the act shall take effect upon passage.

Background

Temporary suspension of the one-week waiting period for unemployment benefits for which the claimant is usually without pay will provide faster first payments for benefits and increase dollars available to stimulate the Rhode Island economy. The Department states that a recent study indicated that each additional unemployment insurance (UI) dollar generates \$1.63 in economic activity. It would could an estimated \$1.1 million a month in additional UI benefits paid from the RI Employment Security (ES) fund.

Proration on a weekly basis of severance pay beginning with the first week of unemployment, rather than lump sum allocation of severance pay to the last day of work will save the fund expenditures of benefits in any given fiscal year unless most employers do away with such programs.

Clearly the Rhode Island Unemployment Call Center for filing or refilling unemployment claims has become almost impossible on occasion to reach. The Department states it handles at least 24,000 calls each week, with an average wait time of up to 2 hours. This is a doubling of the workload in the last year. Usually the workload peaks any year from December to March. The current Call Center staff is down to 73 employees with retirements (30 on average are answering the phone). This work needs training and a trained temporary workforce as soon as possible to help with handling handle the huge increase in unemployment in Rhode Island. UI retirees could fit this employment bill quite nicely since they are trained, and available immediately. This waiver of any pension benefits would be necessary to accomplish satisfying their need to return part-time to work without loss of benefits. The temporary amendment would expire June 30, 2011 unless extended.

Other Information:

The RI ES Fund will likely need a temporary cash flow loan of around \$3.0 million this April in order to continue paying benefits. The waiver of the one-week waiting period would increase the amount needed to be borrowed, approximately \$2.3 million more with an April 1, 2009 effective date of passage. However, the Department states there would be no interest cost if repaid before September 30 and there were no additional borrowing needed in the last quarter of 2009.

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REVISED ARTICLE 5

RELATING TO UNEMPLOYMENT INSURANCE BENEFITS

SECTION 1. Sections 28-44-14 and 28-44-19 of the General Laws in Chapter 28-44 entitled "Employment Security – Benefits" are hereby amended to read as follows:

§ 28-44-14 Waiting period. – (a) Subject to the provisions of subsection (e) of this section, the waiting period of any individual shall be either:

(1) Seven (7) consecutive days, commencing with the Sunday of the week in which the claimant filed a claim for benefits, during which that individual is totally unemployed due to lack of work; or

(2) Seven (7) consecutive days, commencing with the Sunday of the week in which the claimant filed a claim for benefits, during which that individual is employed less than full time due to lack of work and during which he or she has earned remuneration for services performed in an amount less than his or her weekly benefit rate; provided, that no waiting period credit can be given in either case if a disqualification has been imposed with respect to the whole or any portion of that seven (7) day period under § 28-44-12 or §§ 28-44-16 – 28-44-21.

(b) No waiting period shall be given to any individual unless he or she has filed a valid claim in accordance with regulations adopted as prescribed.

(c) Benefits shall be payable to an eligible individual only for those weeks of his or her unemployment within a benefit year which occur subsequent to one waiting period, which shall be served at any time during the benefit year.

(d) No period of total or partial unemployment shall be counted towards an individual's required waiting period if, with respect to any portion of that period of unemployment, benefits have been paid under the employment security or temporary disability insurance acts of any other state or of any similar acts of any foreign government, or if benefits have been paid under

1 the Temporary Disability Insurance Act of this state or under any similar acts of the United
2 States.

3 (e) In the event that an individual's unemployment is due to a natural disaster or state of
4 emergency, there shall be no waiting period.

5 (f) Notwithstanding the provisions of this section, no waiting period shall be in effect
6 from the date of enactment of this article through June 30, 2009.

7 **§ 28-44-19 Receipt of compensation.** – (a) An individual shall be disqualified from
8 receiving benefits for any week of his or her unemployment occurring within any period with
9 respect to which that individual is currently receiving, or has received, remuneration in the
10 form of:

11 (1) Compensation for temporary partial disability under a workers' compensation law of
12 any state or under a similar law of the United States; or

13 (2) Benefits under an unemployment compensation law of any state or of the United
14 States; or

15 (3) Severance pay from his or her last employer prorated on a weekly basis beginning
16 the individual's first week of unemployment.

17 (b) If the remuneration designated in subsection (a) of this section is less than the
18 benefits which would otherwise be due under chapters 42 – 44 of this title, he or she shall be
19 entitled to receive for that week, if otherwise eligible, benefits reduced by the amount of that
20 remuneration.

21 SECTION 2. Section 36-10-36 of the General Laws in Chapter 36-10 entitled
22 “Retirement System – Contributions and Benefits” is hereby amended to read as follows:

23 **§ 36-10-36 Post retirement employment.** – (a) On and after July 7, 1994, no member
24 who has retired under the provisions of titles 16, 36, or 45 may be employed or reemployed by
25 any state agency or department unless any and all retirement benefits to which he or she may be

1 entitled by virtue of the provisions of titles 16, 36 or 45 are suspended for the duration of any
2 employment or reemployment. No additional service credits shall be granted for any post-
3 retirement employment or reemployment and no deductions shall be taken from an individual's
4 salary for retirement contribution. Notice of any such post-retirement employment or
5 reemployment shall be sent monthly to the retirement board by the employing agency or
6 department and by the retired member.

7 (b) Any member who has retired under the provisions of titles 16, 36, or 45 may be
8 employed or reemployed by any municipality within the state, which municipality has accepted
9 the provisions of chapter 21 of title 45 and which participates in the municipal employees'
10 retirement system for a period of not more than seventy-five (75) working days or one hundred
11 fifty (150) half days with half day pay in any one calendar year without any forfeiture of or
12 reduction of any retirement benefits and allowances the member is receiving or may receive as
13 a retired member. Pension payments shall be suspended whenever this period is exceeded. No
14 additional contributions shall be taken and no additional service credits shall be granted for this
15 service. Notice of this employment or re-employment shall be sent monthly to the retirement
16 board by the employer and by the retired member.

17 (c) Any member who has retired under the provisions of title 16, 36, or 45 may be
18 employed or re-employed by any municipality within the state which has not accepted the
19 provisions of chapter 21 of title 45 and which does not participate in the municipal employees'
20 retirement system.

21 (d) Notwithstanding the provisions of this section:

22 (1) Any retired member of the system shall be permitted to serve as an elected mayor,
23 the town administrator, the city administrator, the town manager, the city manager, the chief
24 administrative officer or the chief executive officer of any city or town, city or town council
25 member, school committee member, or unpaid member of any part-time state board or

1 commission or member of any part-time municipal board or commission, and shall continue to
2 be eligible for and receive the retirement allowance for service other than that as a mayor,
3 administrator, council member, school committee member, or member of any state board or
4 commission or member of any part-time municipal board or commission; provided, however,
5 that no additional service credits shall be granted for any service under this subsection;

6 (2) Any retired member who retired from service at any state college, university, state
7 school, or who retired from service as a teacher under the provisions of title 16, or who retired
8 from service under title 36 or title 45, may be employed or reemployed, on a part-time basis,
9 by any state college, university or state school for the purpose of providing classroom
10 instruction, academic advising of students and/or coaching. Compensation shall be provided at
11 a level not to exceed the salary provided to other faculty members employed under a collective
12 bargaining agreement at the institution. In no event shall "part-time" mean gross pay of more
13 than fifteen thousand dollars (\$15,000) in any one calendar year. Any retired member who
14 provides such instruction or service shall do so without forfeiture or reduction of any retirement
15 benefit or allowance; and provided, however, that no additional service credits shall be granted
16 for any service under this subsection;

17 (3) Any retired member who retired from service as a teacher under the provisions of
18 title 16, or as a state employee who while an active state employee was certified to teach driver
19 education by the department of elementary and secondary education or by the board of
20 governors for higher education, may be employed or reemployed, on a part-time basis, by the
21 department of elementary and secondary education or by the board of governors for higher
22 education for the purpose of providing classroom instruction in driver education courses in
23 accordance with § 31-10-19 and/or motorcycle driver education courses in accordance with §
24 31-10.1-1.1. In no event shall "part-time" mean gross pay of more than fifteen thousand dollars
25 (\$15,000) in any one calendar year. Any retired teacher who provides that instruction shall do

1 so without forfeiture or reduction of any retirement benefit or allowance the retired teacher is
2 receiving as a retired teacher; provided, however, that no additional service credits shall be
3 granted for any service under this subsection; and

4 (4) Any retired member who retired from service as a registered nurse may be
5 employed or reemployed, on a per diem basis, for the purpose of providing professional
6 nursing care and/or services at a state operated facility in Rhode Island. In no event shall "part-
7 time" mean gross pay of more than twelve thousand dollars (\$12,000) in any one calendar year.
8 Any retired nurse who provides such care and/or services shall do so without forfeiture or
9 reduction of any retirement benefit or allowance the retired nurse is receiving as a retired
10 nurse; provided, however, that no additional service credits shall be granted for any service
11 under this subsection.

12 (5)(a) Any retired member who retired from service with the department of labor and
13 training, is proficient in the processing of unemployment insurance claims, as established by the
14 department, and has extensive experience working in the administration of the unemployment
15 insurance program may be employed or reemployed by the department for the purpose of
16 processing unemployment insurance claims. In no event shall any member work for a period of
17 more than seventy-five (75) working days, or one hundred fifty (150) half days with half day
18 pay, in any one fiscal year without any forfeiture of or reduction of any retirement benefits and
19 allowances that he or she is receiving or may receive. Pension payments shall be suspended
20 whenever such periods are exceeded. Compensation shall be provided at a level not to exceed
21 the salary provided to others covered by the collective bargaining agreement. No additional
22 contributions shall be taken and no additional service credits shall be granted for this service.
23 Notice of this employment or re-employment shall be sent monthly to the retirement board by
24 the employer and by the retired member.

1 (b) The provisions of § 36-10-36(d)(5)(a) shall expire on June 30, 2011, unless
2 otherwise extended.

3 SECTION 3. This article shall take effect upon passage.



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
Providence, R.I. 02908-5886

To: Rosemary Booth Gallogly
Executive Director/State Budget Officer

From: Paul L. Dion, Ph.D., Chief
Office of Revenue Analysis

Date: December 30, 2008

Subject: Article 11, Relating to Cigarette Tax (Revised)

Summary

This article provides for the repeal of minimum pricing for the wholesale and retail sale of cigarettes and related tobacco products. The article also increases the state cigarette excise tax from 123 mills per cigarette, \$2.46 per pack of 20 cigarettes, to 173 mills per cigarette, \$3.46 per pack of 20 cigarettes. This increase in the cigarette excise tax will result in an estimated final Rhode Island price to consumers, including sales tax, of \$6.67, forty-five cents (\$0.45) less than the estimated Massachusetts final price to consumers. In addition, this article imposes a floor stock tax on cigarettes and cigarette tax stamps. Finally, this article reduces the stamping discount for cigarette distributors from one and one-quarter percent (1.25%) to one percent (1.0%) of the face value of the cigarette excise stamps purchased.

Explanation of Sections

Section 1.

This section repeals the provisions in current law that requires distributors and retailers to impose a minimum price mark up to the cost of cigarettes and related tobacco products prior to final sale to the consumer. Current law requires distributors to apply a two percent (2.0%) minimum price mark up to the cost of cigarettes and related tobacco products prior to wholesale to retailers. This mark up is in addition to the cartage markup of three quarters of one percent (0.75%) that distributors add to base cost of cigarettes and related tobacco products. Retailers are then required to apply a six percent (6.0%) minimum price mark up to the cost of cigarettes and related tobacco products received from distributors.

Section 2.

This section repeals statutory language that imposes higher fines and penalties on Class A and Class B cigarette distributors that sold cigarettes at prices below the state minimum price. It also exempts the sale of cigarettes and tobacco products from Rhode Island General Law § 6-13-3 titled "Penalty for advertising or sale to injure competitors or destroy competition".

Section 3.

This section applies the increased cigarette excise tax (see Section 4 below) to the prepayment of the sales tax on cigarettes by distributors where the sales tax is applied to "the retailers' presumptive cost of selling cigarettes" rather than the minimum price as mandated by states law. This section also extends the floor stock tax to inventory held in house by distributors and/or retailers as of 12:01 am on February 3, 2009.

Section 4.

This section defines "the retailers' presumptive cost of selling cigarettes" as "the average retail price as determined by the tax administrator." This section also increases the cigarette excise tax from one hundred and twenty-three (123) mills per cigarette, or \$2.46 per pack of 20 cigarettes, to one hundred and seventy-three (173) mills per cigarette, or \$3.46 per pack of 20 cigarettes. Further, it extends the cigarette excise tax of one hundred seventy-three mills per cigarette to unstamped cigarettes. Finally, it reduces the stamping discount for distributors from one and one-quarter percent (1.25%) to one percent (1.0%).

Section 5.

This section imposes a 50 mill per cigarette levy on the stock of cigarettes held in inventory by distributors and retailers as of 12:01 am on February 3, 2009.

Section 6.

This section sets the effective date of the article as February 3, 2009.

Background

Effective July 1, 2008, Massachusetts raised its cigarette excise tax \$1.00 per pack of 20 cigarettes (from \$1.51 per pack of 20 cigarettes to \$2.51 per pack of 20 cigarettes). Massachusetts minimum price mark-up provisions are greater than Rhode Island's and the

increase in the Massachusetts cigarette tax resulted in an estimated state minimum price for brand cigarettes of \$7.12 in Massachusetts. Under current law Rhode Island's estimated state minimum price for brand cigarettes is \$6.09. The increase in the Rhode Island cigarette excise tax from \$2.46 per pack of 20 cigarettes to \$3.46 per pack of 20 cigarettes and the elimination of Rhode Island's minimum price mark-up provisions will result in an estimated price for brand cigarettes of \$6.67, or six and four-tenths percent (6.4%) less than the estimated Massachusetts minimum price for brand cigarettes.

Other Information:

Revenue Impact: This article is expected to increase cigarette tax revenues by \$17,401,703 in FY 2009 assuming an effective date of February 3, 2009 and \$40,094,503 in FY 2010.

1 ~~for a second offense, and a fine of not more than twenty thousand dollars (\$20,000) and a license~~
2 ~~suspension or revocation for a third offense.~~

3 **§ 6-13-5 Sales exempt from chapter.** – This chapter shall not apply with respect to advertising
4 or offering to sell or selling, at retail or at wholesale, as the case may be, if done:

5 (1) In an isolated transaction and not in the usual course of business;

6 (2) Where merchandise is sold in bona fide clearance sales, if advertised or offered for sale as
7 such or marked and sold as such, or where merchandise is marked down in an effort to sell the
8 merchandise after bona fide efforts to sell the merchandise prior to the markdown;

9 (3) Where perishable merchandise must be sold promptly in order to forestall loss;

10 (4) Where merchandise is imperfect or damaged or its sale is being discontinued, if advertised or
11 offered for sale as such or marked and sold as such;

12 (5) Where merchandise is advertised or offered for sale or sold upon the final liquidation of any
13 business;

14 (6) Where merchandise is advertised or offered for sale or sold for charitable purposes or to relief
15 agencies;

16 (7) Where merchandise is sold on contract to any department, board, or commission of this state
17 or of any of its political subdivisions, or to any institution maintained thereby;

18 (8) Where merchandise is advertised or offered for sale or sold by any fiduciary or other officer
19 acting under the order or direction of any court;

20 (9) Where the merchandise being advertised or offered for sale or sold are cigarettes or tobacco
21 products subject to taxation under chapter 20 of title 44 of the general laws.

22 SECTION 3. Sections 44-19-10.1 and 44-19-10.2 of the General Laws in Chapter 44-19 entitled
23 “Sales and Use Taxes: Enforcement & Collection” are hereby amended to read as follows:

24 **§ 44-19-10.1 Prepayment of sales tax on cigarettes.** – (a) Every distributor and dealer licensed
25 pursuant to chapter 20 of this title shall pay, as a prepayment for the taxes imposed by chapter 18 of this
26 title, a tax on cigarettes possessed for sale or use in this state and upon which the distributor or dealer is

1 required to affix cigarette stamps pursuant to chapter 20 of this title. The tax shall be computed annually
2 by multiplying the ~~minimum price~~ retailer's presumptive cost of selling cigarettes, as defined in § 44-20-1
3 ~~(12), of standard brands of cigarettes in effect as of April 1, 2005 and each April 1 thereafter,~~ by the tax
4 rate imposed by §§ 44-18-18 and 44-18-20. ~~The minimum price of standard brands of cigarettes shall be~~
5 ~~determined in accordance with chapter 6 of title 13 and the regulations promulgated by the tax~~
6 ~~administrator.~~ The tax shall be prepaid at the time the distributor or dealer purchases such stamps from the
7 tax administrator. However, the tax administrator may, in his or her discretion, permit a licensed
8 distributor or licensed dealer to pay for the prepayment within thirty (30) days after the date of purchase,
9 provided that a bond satisfactory to the tax administrator in an amount not less than the prepayment due
10 shall have been filed with the tax administrator conditioned upon payment for the prepayment of sales
11 tax. The tax administrator shall keep accurate records of all stamps sold to each distributor and dealer.

12 (b) The provisions of § 44-20-12 relating to the use of stamps to evidence payment of the tax
13 imposed by chapter 20 of this title shall be applicable to the prepayment requirement of the sales/use tax
14 imposed by this section. Provided, however, no sales/use tax is required to be prepaid on sales of
15 cigarettes sold to the United States, its agencies and instrumentalities or the armed forces of the United
16 States, this state (including any city, town, district or other political subdivision) and any other
17 organization qualifying as exempt under § 44-18-30(5).

18 (c) Except as otherwise provided in this section, all other provisions of chapters 18 and 19 of this
19 title applicable to administration and collection of sales/use tax shall apply to the prepayment requirement
20 pursuant to this section.

21 (d) All taxes paid pursuant to this section are conclusively presumed to be a direct tax on the
22 retail consumer, precollected for the purpose of convenience and facility only.

23 **§ 44-19-10.2 Floor stock tax on inventory.** – (a) A floor tax is imposed on the
24 inventory of stamped packages of cigarettes held for sale in this state at 12:01 A.M. on ~~July 1,~~
25 ~~2005, other than the inventory of cigarettes offered for sale to a consumer at retail~~ February 3,

1 2009. The floor tax will apply to the stamped cigarette inventory of distributors, ~~and dealers but~~
2 ~~not to the inventory of retail sellers to the extent the inventory is held for retail sale. If a~~
3 ~~distributor or dealer also sells at the retail level, the stamped inventory held for sale at a retail~~
4 ~~location shall not be included in the inventory subject to the floor tax.~~ In addition, the floor tax
5 will apply to any unaffixed tax stamps in the possession of a distributor ~~or dealer~~ at 12:01 A.M.
6 on ~~July 1, 2005~~ February 3, 2009 that had been issued prior to that date. The inventory necessary
7 to account for the floor tax must be taken as of the close of business on ~~June 30, 2005~~ February
8 2, 2009.

9 (b) The floor tax shall be computed in the same manner as the prepayment of sales tax on
10 cigarettes as set forth in subsection 44-19-10.1(a); provided that credit shall be allowed for any
11 sales tax paid on said cigarettes or unaffixed tax stamps prior to February 3, 2009.

12 SECTION 4. Sections 44-20-1, 44-20-12, 44-20-13 and 44-20-19 of the General Laws in
13 Chapter 44-20 entitled "Cigarette Tax" are hereby amended to read as follows:

14 **§ 44-20-1 Definitions.** – Whenever used in this chapter, unless the context requires otherwise:

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

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

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

20 (4) "Distributor" means any person:

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

1 (B) Selling cigarettes directly to consumers in this state by means of at least twenty-five (25)
2 cigarette vending machines.

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

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

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

12 (8) "Person" means any individual, firm, fiduciary, partnership, corporation, trust, or association,
13 however formed;

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

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

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

23 (12) "Retailer's Presumptive Cost of Selling Cigarettes" means average retail price as determined
24 by the tax administrator. The tax administrator shall prescribe rules and regulations, not inconsistent with
25 law, with regards to the retailer's presumptive cost of selling cigarettes.

1 **§ 44-20-12 Tax imposed on cigarettes sold.** – A tax is imposed on all cigarettes sold or held for
2 sale in the state. The payment of the tax to be evidenced by stamps, which may be affixed only by
3 licensed distributors to the packages containing such cigarettes. Any cigarettes on which the proper
4 amount of tax provided for in this chapter has been paid, payment being evidenced by the stamp, is not
5 subject to a further tax under this chapter. The tax is at the rate of ~~one hundred twenty-three (123)~~ one
6 hundred seventy-three (173) mills for each cigarette.

7 **§ 44-20-13 Tax imposed on unstamped cigarettes.** - A tax is imposed at the rate of ~~one~~
8 ~~hundred twenty-three (123)~~ one hundred seventy-five (173) mills for each cigarette upon the storage or
9 use within this state of any cigarettes not stamped in accordance with the provisions of this chapter in the
10 possession of any consumer within this state.

11 **§ 44-20-19 Sales of stamps to distributors.** – The tax administrator shall sell stamps only to
12 licensed distributors at a discount. The distributor remits to the division of taxation ~~ninety-eight and three-~~
13 ~~fourths percent (98.75%)~~ ninety-nine percent (99.00%) of the face value of the stamps thereby receiving a
14 discount of ~~one and one-quarter percent (1.25%)~~ one percent (1.00%) of the face value of the stamps. The
15 ~~ninety-eight and three-fourths percent (98.75%)~~ ninety-nine percent (99.00%) remitted to the tax
16 administrator is paid over to the general revenue. The tax administrator may, in his or her discretion,
17 permit a licensed distributor to pay for the stamps within thirty (30) days after the date of purchase;
18 provided, that a bond satisfactory to the tax administrator in an amount not less than the sale price of the
19 stamps has been filed with the tax administrator conditioned upon payment for the stamps. The tax
20 administrator shall keep accurate records of all stamps sold to each distributor.

21 SECTION 5. Chapter 44-20 of the General Laws entitled “Cigarette Tax” is hereby amended by
22 adding thereto the following section:

23 **§ 44-20-12.3 Floor stock tax on cigarettes and stamps.** – (a) Whenever used in this section,
24 unless the context requires otherwise:

25 (1) “Cigarette” means and includes any cigarette as defined in § 44-20-1(2);

1 (2) "Person" means and includes each individual, firm, fiduciary, partnership, corporation, trust,
2 or association, however formed.

3 (b) Each person engaging in the business of selling cigarettes at retail in this state shall pay a tax
4 or excise to the state for the privilege of engaging in that business during any part of the calendar year
5 2009. In calendar year 2009, the tax shall be measured by the number of cigarettes held by the person in
6 this state at 12:01 a.m. on February 3, 2009 and is computed at the rate of fifty (50.0) mills for each
7 cigarette on February 3, 2009.

8 (c) Each distributor licensed to do business in this state pursuant to this chapter shall pay a tax or
9 excise to the state for the privilege of engaging in business during any part of the calendar year 2009. The
10 tax is measured by the number of stamps, whether affixed or to be affixed to packages of cigarettes, as
11 required by § 44-20-28. In calendar year 2009 the tax is measured by the number of stamps, as defined in
12 § 44-20-1(10), whether affixed or to be affixed, held by the distributor at 12:01 a.m. on February 3, 2009,
13 and is computed at the rate of fifty (50.0) mills per cigarette in the package to which the stamps are
14 affixed or to be affixed.

15 (d) Each person subject to the payment of the tax imposed by this section shall, on or before
16 February 15, 2009, file a return, under oath or certified under the penalties of perjury, with the tax
17 administrator on forms furnished by him or her, showing the amount of cigarettes or stamps in that
18 person's possession in this state at 12:01 a.m. on February 3, 2009, and the amount of tax due, and shall at
19 the time of filing the return pay the tax to the tax administrator. Failure to obtain forms shall not be an
20 excuse for the failure to make a return containing the information required by the tax administrator.

21 (e) The tax administrator may prescribe rules and regulations, not inconsistent with law, with
22 regard to the assessment and collection of the tax imposed by this section.

23 SECTION 5. This article shall take effect on February 3, 2009.