



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
BUDGET OFFICE
One Capitol Hill
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MEMORANDUM

To: The Honorable Marvin L. Abney
Chairman, House Finance Committee

The Honorable William J. Conley, Jr.
Chairman, Senate Finance Committee

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

Date: May 25, 2017

Subject: Amendments to Article 9 of the FY 2018 Appropriations Act
(17-H-5175)

The Governor requests that Article 9 entitled "Relating to Remote Sellers Sales Tax Collection" submitted with the FY 2018 budget on January 19, 2017 be replaced with the attached version. Compared to the original version of the article, the new version:

- Imposes the customer notice requirements and the attestation requirement only upon the noncollecting retailer (not on all covered entities which previously also included marketplace providers, and referrers);
- Clarifies the definitions of noncollecting retailer, retail sale facilitator, and referrer;
- Imposes separate duties upon the retail sale facilitator and referrer; and,
- Amends the penalty range by increasing the per transaction penalty from \$5 per violation to \$10 per violation, but reducing the minimum penalty per calendar year from \$20,000 to \$10,000.

Also attached is a detailed explanation of the revised article from Tax Administrator, Neena Savage that describes the statutory changes in each section of the article.

If you have any questions regarding this amendment, please feel free to call me at 222-6300 or Neena Savage, the State Tax Administrator, at 574-8889.

TAM:sma 18-Amend-21

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
Gregory Stack, Supervising Budget Analyst
Neena Savage, Tax Administrator

To: Thomas A. Mullaney
Executive Director/State Budget Officer

From: Neena S. Savage
Tax Administrator

Date: May 24, 2017

Subject: **Article 9— Relating to Sales and Use Tax-Noncollecting Retailers, Referrers, and Retail Sale Facilitators**

Summary

This article adds a new statutory scheme to capture the sales tax on goods or services sold to Rhode Islanders from remote sellers located outside the state. This statute will: i) increase Rhode Island sales and use tax revenue by encouraging remote sellers (or noncollecting retailers) to register, collect, and remit the tax; ii) modernize the state sales and use tax statutes to ensure collection of the taxes across an expanding variety of remote marketplace/retailer models; iii) promote the education of Rhode Islanders regarding their use tax obligations by requiring remote sellers to send liability notifications annually and during the sale to relevant online shoppers; and, iv) imposes penalties on certain online retailers, facilitators, referrers who fail to comply.

The material ways in which this new version of the Article is different from the prior version of Article 9 is that this version: i) imposes the customer notice requirements and the attestation requirement only upon the noncollecting retailer (not on all covered entities which previously also included marketplace providers, and referrers); ii) clarifies the definitions of noncollecting retailer, retail sale facilitator, and referrer; iii) imposes separate duties upon the retail sale facilitator and referrer; and, iv) amends the penalty range by increasing the per transaction penalty from \$5 per violation to \$10 per violation but reducing the minimum penalty per calendar year \$20,000 to \$10,000.

The applicability of the notice or collection/remittance requirements apply only to noncollecting retailers who have over \$100,000 in annual gross RI sales or have conducted more than 200 separate annual RI sales transactions and requires them to either: i) register, collect, and remit the sales tax on behalf of customers in the state; or ii) provide notices to RI

customers annually of their sales/use tax liability and during the online sale via pop-up notice and email, and attest annually to their compliance with the terms and conditions of the law.

The \$100,000 annual gross RI sales and 200 separate annual RI sales transactions thresholds are also applicable to retail sale facilitators and referrers. Retail sale facilitators, if they meet the definitional and threshold requirements, have to annually provide the Division of Taxation with a list of names/addresses of retailers for which they collect and do not collect Rhode Island Sales and Use Tax. Referrers, if they meet the definitional and threshold requirements, have to provide all Rhode Island retailers notice of a duty to possibly collect and remit sales/use tax within 30 days of receiving more than ten thousand dollars in fees or commissions from referral activity in Rhode Island.

Explanation of Sections

Section 1: **44-18.2-1. Legislative Findings:** This section articulates the rationale for the legislative proposal by recognizing the limits of the constitutional commerce clause prohibition but articulating the reduced burdens on compliance for remote sellers due to Rhode Island's participation in the Streamlined Sales and Use Tax Agreement and the growth of the online marketplace aided by more sophisticated technology which has aided the expansion of the online marketplace and will also aid compliance. This section also states that the existence and/or presence of a noncollecting retailer's, referrer's, or retail sale facilitator's software in Rhode Island constitutes physical presence and that the use of that software for the purpose of engaging in a significant number of transactions with in-state customers or receiving significant revenue from such transactions also evidences an intent to establish and maintain a market in this state for its sales.

44-18.2. Definitions: This section provides definitions for key terms including, but not limited to, noncollecting retailer, referrer, and retail sale facilitator.

44-18.2-3. Requirements for Noncollecting Retailers, Referrers, and Retail Sale Facilitators: This section provides that Noncollecting Retailers, Referrers, and Retail Sale Facilitators that have gross revenue in Rhode Island that meets or exceeds \$100,000 or two hundred or more separate transactions must meet specific compliance requirements. Noncollecting Retailers must either: register, collect or remit sales/use tax or for each transaction: i) post a conspicuous notice on its website that informs Rhode Island purchasers that sales or use tax is due on certain purchases; ii) at the time of purchase notify Rhode Island purchasers that sales and use tax is due; iii) email Rhode Island purchasers that sales or use tax is due, iv) send Rhode Island purchasers a notice annually which details their cumulative annual taxable purchases from the covered entity of \$100 or more; and, v) beginning February 15, 2018 and annually thereafter, if it has not registered to collect and remit sales tax, file an attestation with the Division of Taxation that it has complied with the four notice requirements in this subsection.

This section also requires Referrers, who at any time during the calendar year, receive more than ten thousand dollars (\$10,000) from fees/commissions or other compensation from retailers, must provide notice within 30 days to all such retailers that the retailer's sales may be subject to this state's sales and use tax.

This section also requires Retail Sale Facilitators to, beginning January 15, 2018 and each year thereafter, to provide the Division of Taxation with a list of names and addresses of the retailers for whom the Retail Sale Facilitator collected Rhode Island sales and use tax and a list of names and addresses of the retailers for whom the Retail Sale Facilitators did not collect Rhode Island sales and use tax.

44-18.2-4. Exceptions for referrers and retail sale facilitators. This section provides an exception from compliance with 44-18.2-3 for Referrers, and Retail Sale Facilitators if they facilitate a sale from a seller or retailer that is registered to collect and remit sales and use tax in Rhode Island and provides a copy of that permit before the facilitation of the sale.

44-18.2-5. Penalties. This section provides penalties for failure to comply with 44-70-3 of ten dollars for each such failure but no less than a total penalty of \$10,000 per calendar year. This penalty is in addition to any other penalties that may be imposed under Title 44.

44-18.2-6. Other Obligations. This section clarifies that nothing in this statute is intended to alleviate any duty upon Rhode Island purchasers from remitting sales/use tax and that if the statute is determined to be unlawful, no remote seller, marketplace provider, or referrer who has remitted sales/use tax under this chapter may be held liable to a purchaser who claims that the sales tax should not have been collected.

44-18.2-7. Rules and Regulations. This section provides the tax administrator with authority to promulgate regulations.

44-18.2-8. Enforcement. This section provides the tax administrator with authority to enforce the statute and provides authority to examine books and records.

44-18.2-9. Appeal. This section provides an appeal process for any determinations.

Section 2: Unless otherwise specified in the article, the article shall take effect upon passage. There are specific dates for compliance in Section 44-18.2-3.

ARTICLE 9

RELATING TO SALES AND USE TAX – NONCOLLECTING RETAILERS, REFERRERS,
AND RETAIL SALE FACILITATORS

SECTION 1. Title 44 of the general laws entitled "Taxation" is hereby amended by adding thereto the following chapter:

CHAPTER 18.2

SALES AND USE TAX - NONCOLLECTING RETAILERS, REFERRERS, AND RETAIL SALE
FACILITATORS ACT

44-18.2-1. Legislative findings. --- The general assembly finds and declares that:

(1) The commerce clause of the United States Constitution prohibits states from imposing an undue burden on interstate commerce.

(2) There has been an exponential expansion of online commerce and related technology, and due to the ready availability of sales and use tax collection software and Rhode Island’s status as a signatory to the Streamlined Sales and Use Tax Agreement under which there is an existing compliance infrastructure in place to facilitate the collection and remittance of sales tax by noncollecting retailers, it is no longer an undue burden for noncollecting retailers to accurately compute, collect and remit and/or report with respect to their sales and use tax obligations to Rhode Island.

(3) The existence and/or presence of a noncollecting retailer’s, referrer’s, or retail sale facilitator’s in-state software on the devices of in-state customers constitutes physical presence of the noncollecting retailer, referrer, or retail sale facilitator in Rhode Island under *Quill Corp. v. North Dakota*, 504 U.S. 298 (U.S. 1992).

(4) While such a physical presence of the noncollecting retailer, referrer, or retail sale facilitator may not be “presence” in the traditional sense, a noncollecting retailer, referrer, or retail sale facilitator who uses in-state software and engages in a significant number of transactions with in-state customers in a calendar year or receives significant revenue from internet sales to in-state customers in a given calendar year evidences an intent to establish and maintain a market in this state for its sales.

1 **44-18.2-2. Definitions.** --- For the purposes of this chapter:

2 (1) “Division of taxation” means the Rhode Island department of revenue, division of taxation.
3 The division may also be referred to in this chapter as the “division of taxation,” “tax division”, or
4 “division.”

5 (2) “In-state customer” means a person or persons who makes a purchase of tangible personal
6 property, prewritten computer software delivered electronically or by load and leave as defined in 44-18-
7 7.1(g)(v), and/or taxable services as defined under § 44-18-1 et seq. for use, storage, and/or other
8 consumption in this state.

9 (3) “In-state software” means software used by in-state customers on their computers, smartphones,
10 and other electronic and/or communication devices, including information or software such as cached files,
11 cached software, or ‘cookies’, or other data tracking tools, that are stored on property in this state or
12 distributed within this state, for the purpose of purchasing tangible personal property, prewritten computer
13 software delivered electronically or by load and leave, and/or taxable services.

14 (4) “Noncollecting retailer” means any person or persons who meets at least one of the following
15 criteria:

16 (A) Uses in-state software to make sales at retail of tangible personal property, prewritten computer
17 software delivered electronically or by load and leave, and/or taxable services; or

18 (B) Sells, leases, or delivers in this state, or participates in any activity in this state in connection
19 with the selling, leasing, or delivering in this state, of tangible personal property, prewritten computer
20 software delivered electronically or by load and leave, and/or taxable services for use, storage, distribution,
21 or consumption within this state. This includes, but shall not be limited to, any of the following acts or
22 methods of transacting business:

23 (i) Engaging in, either directly or indirectly through a referrer, retail sale facilitator, or other third
24 party, direct response marketing targeted at in-state customers. For purposes of this subsection, direct
25 response marketing includes, but is not limited to, sending, transmitting, or broadcasting via flyers,
26 newsletters, telephone calls, targeted electronic mail, text messages, social media messages, targeted

1 mailings; collecting, analyzing and utilizing individual data on in-state customers; using information or
2 software, including cached files, cached software, or 'cookies', or other data tracking tools, that are stored
3 on property in or distributed within this state; or taking any other action(s) that use persons, tangible
4 property, intangible property, digital files or information, or software in this state in an effort to enhance
5 the probability that the person's contacts with a potential in-state customer will result in a sale to that in-
6 state customer;

7 (ii) Entering into one or more agreements under which a person or persons who has physical
8 presence in this state refers, either directly or indirectly, potential in-state customers of tangible personal
9 property, prewritten computer software delivered electronically or by load and leave, and/or taxable
10 services to the noncollecting retailer for a fee, commission, or other consideration, whether by an internet-
11 based link or an internet web site or otherwise. An agreement under which a noncollecting retailer purchases
12 advertisements from a person or persons in this state, to be delivered in this state on television, radio, in
13 print, on the internet, or by any other medium in this state, shall not be considered an agreement under this
14 subsection (ii), unless the advertisement revenue or a portion thereof paid to the person or persons in this
15 state consists of a fee, commission, or other consideration that is based in whole or in part upon sales of
16 tangible personal property, prewritten computer software delivered electronically or by load and leave,
17 and/or taxable services; or

18 (iii) Using a retail sale facilitator to sell, lease, or deliver in this state, or participate in any activity
19 in this state in connection with the selling, leasing, or delivering in this state, of tangible personal property,
20 prewritten computer software delivered electronically or by load and leave, and/or taxable services for use,
21 storage, or consumption in this state.

22 (C) Uses a sales process that includes listing, branding, or selling tangible personal property,
23 prewritten computer software delivered electronically or by load and leave, and/or taxable services for sale,
24 soliciting, processing orders, fulfilling orders, providing customer service and/or accepting or assisting with
25 returns or exchanges occurring in this state, regardless of whether that part of the process has been
26 subcontracted to an affiliate or third party. The sales process for which the in-state customer is charged not

1 more than the basic charge for shipping and handling as used in this subsection shall not include shipping
2 via a common carrier or the United States mail;

3 (D) Offers its tangible personal property, prewritten computer software delivered electronically or
4 by load and leave, and/or taxable services for sale through one or more retail sale facilitators that has
5 physical presence in this state;

6 (E) Is related to a person that has physical presence in this state, and such related person with a
7 physical presence in this state;

8 (i) Sells tangible personal property, prewritten computer software delivered electronically or by
9 load and leave, and/or taxable services that are the same or substantially similar to that sold by a
10 noncollecting retailer under a business name that is the same or substantially similar to that of the
11 noncollecting retailer;

12 (ii) Maintains an office, distribution facility, salesroom, warehouse, storage place, or other similar
13 place of business in this state to facilitate the delivery of tangible personal property, prewritten computer
14 software delivered electronically or by load and leave, and/or taxable services sold by the noncollecting
15 retailer;

16 (iii) Uses, with consent or knowledge of the noncollecting retailer, trademarks, service marks, or
17 trade names in this state that are the same or substantially similar to those used by the noncollecting retailer;

18 (iv) Delivers or has delivered (except for delivery by common carrier or United States mail for
19 which the in-state customer is charged not more than the basic charge for shipping and handling), installs,
20 or assembles tangible personal property in this state, or performs maintenance or repair services on tangible
21 personal property in this state, which tangible personal property is sold to in-state customers by the
22 noncollecting retailer;

23 (v) Facilitates the delivery of tangible personal property purchased from a noncollecting retailer
24 but delivered in this state by allowing an in-state customer to pick up the tangible personal property at an
25 office distribution facility, salesroom, warehouse, storage place, or other similar place of business
26 maintained in this state; or

1 (vi) Shares management, business systems, business practices, computer resources, communication
2 systems, payroll, personnel, or other such business resources and activities with the noncollecting retailer,
3 and/or engages in intercompany transactions with the noncollecting retailer, either or both of which relate
4 to the activities that establish or maintain the noncollecting retailer's market in this state.

5 (F) Any person or persons who meets at least one (1) of the criteria in § 44-18.2-2(4)(A) through §
6 44-18.2-2(4)(E) above shall be presumed to be a noncollecting retailer.

7 (5) "Person" means person as defined in section § 44-18-6 of the general laws.

8 (6) "Referrer" means every person who:

9 (A) Contracts or otherwise agrees with a retailer to list and/or advertise for sale in this state tangible
10 personal property, prewritten computer software delivered electronically or by load and leave, and/or
11 taxable services in any forum, including, but not limited to, a catalog or internet website;

12 (B) Receives a fee, commission, and/or other consideration from a retailer for the listing and/or
13 advertisement;

14 (C) Transfers, via in-state software, internet link, or otherwise, an in-state customer to the retailer
15 or the retailer's employee, affiliate, or website to complete a purchase; and

16 (D) Does not collect payments from the in-state customer for the transaction.

17 (F) A person or persons who engages in the activity set forth in all of the activities set forth in §
18 44-18.2-2(6)(A) through § 44-18.2-2(6)(D) above shall be presumed to be a referrer.

19 (7) "Related" means:

20 (A) Having a relationship with the noncollecting retailer within the meaning of the internal revenue
21 code of 1986 as amended; or

22 (B) Having one or more ownership relationships and a purpose of having the ownership relationship
23 is to avoid the application of this chapter.

24 (8) A "retail sale" or "sale at retail" means any retail sale or sale at retail as defined in § 44-18-8 of
25 the general laws.

1 (9) “Retail sale facilitator” means any person or persons that facilitates a sale by a retailer by
2 engaging in the following types of activities:

3 (A) Using in-state software to make sales at retail of tangible personal property, prewritten
4 computer software delivered electronically or by load and leave, and/or taxable services; or

5 (B) Contracting or otherwise agreeing with a retailer to list and/or advertises for sale tangible
6 personal property, prewritten computer software delivered electronically or by load and leave, and/or
7 taxable services in any forum, including, but not limited to, a catalog or internet website; and

8 (C) Either directly or indirectly through agreements or arrangements with third parties, collecting
9 payments from the in-state customer and transmitting those payments to a retailer. A person or persons may
10 be a retail sale facilitator regardless of whether they deduct any fees from the transaction. The division may
11 define in regulation circumstances under which a retail sale facilitator shall be deemed to facilitate a retail
12 sale.

13 (D) A person or persons who engages in the type of activity set forth in § 44-18.2-2(9)(A) above
14 or both of the types of activities set forth in § 44-18.2-2(9)(B) and § 44-18.2-2(9)(C) above shall be
15 presumed to be a retail sale facilitator.

16 (10) A “retailer” means retailer as defined in section § 44-18-15 of the general laws.

17 (11) “State” means the State of Rhode Island and Providence Plantations.

18 (12) “Streamlined agreement” means the Streamlined Sales and Use Tax Agreement as referenced
19 in § 44-18.1-1 *et seq* of the general laws.

20 **44-18.2-3. Requirements for noncollecting retailers, referrers, and retail sale facilitators. (A)**

21 Except as otherwise provided below in § 44-18.2-4, beginning on the later of July 15, 2017 or two weeks
22 after the enactment of this chapter, and for each tax year thereafter, any noncollecting retailer, referrer, or
23 retail sale facilitator, as defined in this chapter, that in the immediately preceding calendar year either (i)
24 has gross revenue from the sale of tangible personal property, prewritten computer software delivered
25 electronically or by load and leave, and/or has taxable services delivered into this state equal to or exceeding
26 one hundred thousand dollars (\$100,000), or (ii) has sold tangible personal property, prewritten computer

1 software delivered electronically or by load and leave, and/or taxable services for delivery into this state in
2 two hundred (200) or more separate transactions shall comply with the requirements in subsections § 44-
3 18.2-3(E), (F), and (G) as applicable.

4 (B) A noncollecting retailer, as defined in this chapter, shall comply with § 44-18.2-3(E) below if
5 it meets the criteria of either § 44-18.2-3(A)(i) or (ii) above.

6 (C) A referrer, as defined in this chapter, shall comply with § 44-18.2-3(F) below if it meets the
7 criteria of either § 44-18.2-3(A)(i) or (ii) above.

8 (D) A retail sale facilitator, as defined in this chapter, shall comply with § 44-18.2-3(G) below if it
9 meets the criteria of either § 44-18.2-3(A)(i) or (ii) above.

10 (E) **Noncollecting retailer.** A noncollecting retailer shall either register in this state for a permit to
11 make sales at retail and collect and remit sales and use tax on all taxable sales into the state or:

12 (1) Post a conspicuous notice on its website that informs in-state customers that sales or use tax is
13 due on certain purchases made from the noncollecting retailer and that this state requires the in-state customer
14 to file a sales or use tax return;

15 (2) At the time of purchase, notify in-state customers that sales or use tax is due on taxable purchases
16 made from the noncollecting retailer and that the state of Rhode Island requires the in-state customer to file
17 a sales or use tax return;

18 (3) Within forty-eight (48) hours of the time of purchase, notify in-state customers in writing that
19 sales or use tax is due on taxable purchases made from the noncollecting retailer and that this state requires
20 the in-state customer to file a sales or use tax return reflecting said purchase;

21 (4) On or before January 31 of each year, including January 31, 2018 for purchases made in calendar
22 year 2017, send a written notice to all in-state customers who have cumulative annual taxable purchases from
23 the noncollecting retailer totaling one hundred dollars (\$100) or more for the prior calendar year. The
24 notification shall show the name of the noncollecting retailer, the total amount paid by the in-state customer
25 to the noncollecting retailer in the previous calendar year, and, if available, the dates of purchases, the dollar
26 amount of each purchase, and the category or type of the purchase, including, whether the purchase is exempt

1 or not exempt from taxation in Rhode Island. The notification shall include such other information as the
2 division may require by rule and regulation. The notification shall state that the state of Rhode Island requires
3 a sales or use tax return to be filed and sales or use tax to be paid on certain categories or types of purchases
4 made by the in-state customer from the noncollecting retailer. The notification shall be sent separately to all
5 in-state customers by first-class mail and shall not be included with any other shipments or mailings. The
6 notification shall include the words “Important Tax Document Enclosed” on the exterior of the mailing; and

7 (5) Beginning on February 15, 2018 and not later than each February 15 thereafter, a noncollecting
8 retailer that has not registered in this state for a permit to make sales at retail and collect and remit sales and
9 use tax on all taxable sales into the state for any portion of the prior calendar year, shall file with the division
10 on such form and/or in such format as the division prescribes an attestation that the noncollecting retailer has
11 complied with the requirements of § 44-18.2-3(E)(1)-(4) herein.

12 (F) Referrer. At such time during any calendar year, or any portion thereof, that a referrer receives
13 more than ten thousand dollars (\$10,000) from fees, commissions, and/or other compensation paid to it by
14 retailers with whom it has a contract or agreement to list and/or advertise for sale tangible personal property,
15 prewritten computer software delivered electronically or by load and leave, and/or taxable services, said
16 referrer shall within thirty (30) days provide written notice to all such retailers that the retailers’ sales may
17 be subject to this state’s sales and use tax.

18 (G) Retail sale facilitator. Beginning January 15, 2018, and each year thereafter, a retail sale
19 facilitator shall provide the division of taxation with (i) a list of names and addresses of the retailers for
20 whom during the prior calendar year the retail sale facilitator collected Rhode Island sales and use tax and
21 (ii) a list of names and addresses of the retailers who during the prior calendar year used the retail sale
22 facilitator to serve in-state customers but for whom the retail sale facilitator did not collect Rhode Island
23 sales and use tax.

24 (H) Any person or entity that engages in any activity or activities of a noncollecting retailer,
25 referrer, and/or retail sale facilitator as defined herein shall be presumed to be a noncollecting retailer,

1 referrer, and/or retail sale facilitator as applicable even if referred to by another name or designation. Said
2 person or entity shall be subject to the terms and conditions set forth in this chapter.

3 **44-18.2-4. Exceptions for referrers, and retail sale facilitators. --- (A)(i) Notwithstanding the**
4 provisions of § 44-18.2-3, no retail sale facilitator shall be required to comply with the provisions of § 44-
5 18.2-3(G), for any sale where the retail sale facilitator within ninety (90) days of the date of the sale has
6 been provided either (1) a copy of the retailer's Rhode Island sales tax permit to make sales at retail in this
7 state or its resale certificate as applicable, or (2) evidence of a fully completed Rhode Island or Streamlined
8 agreement sales and use tax exemption certificate.

9 (ii) Notwithstanding the provisions of § 44-18.2-3, no referrer shall be required to comply with the
10 provisions of § 44-18.2-3(F) for any referral where the referrer within ninety (90) days of the date of the
11 sale has been provided either (1) a copy of the retailer's Rhode Island sales tax permit to make sales at retail
12 in this state or its resale certificate as applicable, or (2) evidence of a fully completed Rhode Island or
13 Streamlined agreement sales and use tax exemption certificate.

14 (B) Nothing in this section shall be construed to interfere with the ability of a noncollecting retailer,
15 referrer, or retail sale facilitator and a retailer to enter into agreements with each other; provided, however,
16 the terms of said agreements shall not in any way be inconsistent with or contravene the requirements of
17 this chapter.

18 **44-18.2-5. Penalties. --- Any noncollecting retailer, referrer, or retail sale facilitator that fails to**
19 comply with any of the requirements of this chapter shall be subject to a penalty of ten dollars (\$10.00) for
20 each such failure, but not less than a total penalty of ten thousand dollars (\$10,000) per calendar year. Each
21 instance of failing to comply with the requirements of this chapter shall constitute a separate violation for
22 purposes of calculating the penalty under this section. This penalty shall be in addition to any other applicable
23 penalties under title 44 of the general laws.

24 **44-18.2-6. Other obligations. --- (A) Nothing in this section affects the obligation of any in-state**
25 customer to remit use tax as to any applicable transaction in which the seller, noncollecting retailer, or
26 retail sale facilitator has not collected and remitted the sales tax for said transaction.

1 (B) Nothing in this chapter shall be construed as relieving any other person or entity otherwise
2 required to collect and remit sales and use tax under applicable Rhode Island law from continuing to do so.

3 (C) In the event that any section of this chapter is later determined to be unlawful, no person,
4 persons, or entity shall have a cause of action against the person that collected and remitted the sales and
5 use tax pursuant to this chapter.

6 **44-18.2-7. Rules and regulations --- forms.** The tax administrator may promulgate rules and
7 regulations, not inconsistent with law, to carry into effect the provisions of this chapter.

8 **44-18.2-8. Enforcement --- (A) General.** The tax administrator shall administer and enforce this
9 chapter and may require any facts and information to be reported, that he or she may deem necessary to
10 enforce the provisions of this chapter.

11 (B) Examination of books and witnesses. For the purpose of ascertaining the correctness of any
12 filing or notice or for the purpose of compliance with the terms of this chapter, the tax administrator shall
13 have the power to examine or to cause to have examined, by any agent or representative designated by the
14 tax administrator for that purpose, any books, papers, records, or memoranda bearing upon said matters and
15 may require the attendance of the person rendering the return or any officer or employee of the person, or
16 the attendance of any other person having knowledge of the correctness of any filing or notice or compliance
17 with the terms of this chapter, and may take testimony and require proof material for its information, with
18 power to administer oaths to the person or persons.

19 **44-18.2-9. Appeal.** --- If the tax administrator issues a final determination hereunder, an appeal
20 may be made pursuant to the provisions of chapter 19 of title 44 of the general laws.

21 **44-18.2-10. Severability.** --- If any provision of this chapter or the application thereof is held
22 invalid, such invalidity shall not affect the provisions or applications of this chapter which can be given
23 effect without the invalid provisions or applications.

24 SECTION 2. Unless otherwise specified herein, this article shall take effect upon passage.