

DOR Rhode Island Department of Revenue
Division of Taxation

October 16, 2015

Mr. Craig Johnson
Executive Director
Streamlined Sales Tax Governing Board
100 Majestic Drive – Suite 400
Westby, WI 54667

RE: Preliminary Report - Rhode Island's 2015 Annual Recertification

Dear Mr. Johnson:

In response to the comments related to Rhode Island's compliance with the requirements of the Streamlined Sales and Use Tax Agreement included in the initial report, the following responses are hereby provided:

Report Issue 1: Prepared food as defined in R.I.Gen. Laws § 44-18-7.1(I)(i) and (ii) and Regulation 09-59 Rule (G) is taxable. The definition of "Prepared Food" in R.I.Gen. Laws § 44-18-7.1(I)(i) and (ii) and Regulation 09-59 Rule 5(G) specifically excludes food items that ordinarily require cooking and include raw animal foods (eggs, fish, meat, poultry). Only items that fall under the category of Food items containing pre-cooked meats that do not require cooking are considered to be "Prepared Food" under RIGL 44-18-7.1(I)(i) and (ii) and Regulation 09-59. Therefore, item 41040 on the Rhode Island Taxability Matrix correctly indicates that food sold without eating utensils that ordinarily requires cooking prior to consumption is excluded from "Prepared Food" and is exempt from taxation.

Report Issue 2: Section 323 Caps & Thresholds of the SSUTA- There has been no change to the statute. The statute provides that upon passage of any federal law which requires remote sellers to collect and remit taxes, the full exemption for clothing will apply once again, and the threshold will expire.

In addition, Section 323 of the SSUTA provides “No member state may have caps or thresholds on the application of state sales or use tax rates or exemptions that are based on the value of the transaction or item or have caps that are based on the application of the rates unless the member state assumes the administrative responsibility in a manner that places no additional burden on the retailer.” Rhode Island is not out of compliance with the SSUTA based on the language of Section 323A. There has been no additional burden on the retailer as a result of this legislation, i.e. caps and thresholds are allowed during authorized sales tax holidays.

If you have any questions or need additional information please let me know.

Sincerely,



Neena S. Savage, Esq.

Associate Director, Revenue Services (Tax)

(401) 574-8922

Neena.SinhaSavage@tax.ri.gov

cc: David Sullivan, Tax Administrator
Donald Englert, Chief Revenue Agent, Excise Tax
Patrick Gengarella, Chief Revenue Agent, Field Audit