



Rhode Island Department of Revenue

Division of Taxation

October 22, 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 Craig:

I am writing to clarify and modify the response mailed to you on October 15, 2015. Specifically, you indicated that Reference Number 41040 on the Taxability Matrix is intended to include only those items such as “take and bake pizza” that are ordinarily cooked but not intended to included food items mandated to be cooked by the FDA because they contain raw animal foods.

Based on that distinction, Rhode Island intends to modify its Taxability Matrix to confirm that the category of items in Reference Number 41040 will be treated as “Prepared Food” and therefore be taxable. Based on this clarification, Rhode Island modifies its response to the Preliminary Report as follows:

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) confirms that foods without eating utensils that ordinarily require cooking prior to consumption are included in the definition of Prepared Food. 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) state that food items that are a result of the combination of two or more food ingredients by the seller to make single items are “Prepared Foods.”

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,



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