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Testimony on 2025 –H 5786 Sales and Use Tax Liability and Computation

April 10, 2025

Mr. Chairman & Members of the House Finance Committee:

My name is Paul Caranci. I am a part-time author and member of the Association of Rhode Island Authors (ARIA). I am offering this testimony in support of H-5786.

By way of background, the legislature created artist enterprise zones and passed other legislation intended to stimulate the sales of local artists. In so doing, the state legislature passed legislation allowing the sales of artistic works at fairs and festivals without the imposition of a sales tax and authorized the Division of Taxation, in conjunction with the RI State Council on the Arts (RISCA), to develop rules and regulations governing the act. In their regulations, RISCA and the Division of Taxation determined that non-fiction books were not works of art and excluded them from the act.

ARIA protested the exclusion noting that a non-fiction book is, in fact, an artistic work and that their action violated the law. The ACLU agreed to represent ARIA and, after much discussion, entered into a settlement agreement with the Division of Taxation in an effort to avoid litigation. The Division of Taxation and the ACLU agreed that any rules and regulations developed by the Division of Taxation would treat all books equally under the law. That agreement lasted for about two years. At that point, the Division once again began to deny the exemption to all authors if the author's work was sold on-line or if total sales exceeded the production of three hundred books, an arbitrary definition of "limited works".

These issues were used by the Division of Taxation to deny the exemption to authors even though no official rules and regulations to that effect had been enacted under the APA. Recently, the Division formally enacted those rules and regulations despite objections from ARIA and the ACLU.

In imposing such restrictions, the Division of Taxation and RISCA have demonstrated a complete lack of understanding of how the book industry works, and how that industry impacts book sales and production. Their rules and regulations effectively eliminate books from the law in possible violation of the spirit and intent of the law and the will of the legislature.

The new rules and regulations require that production be limited to 300 copies or less in order for a work to be considered "limited". While this standard may work for other works of art, it does not work for the written word.

Unlike paintings and sculptures, which are generally limited to one original piece that sells for hundreds or even thousands of dollars, books are produced in large print runs. The History Press and Arcadia, for example, the publisher of my first two books, are national publishing houses

that impose first print runs of 1,000 books. The author has no voice in the number of books published. Any of the "Big Five" publishing houses produce first runs in the tens of thousands of copies. Again, the author has no voice in that decision. Only if a book is self-published using print-on-demand can an author limit the number of copies produced, but as you will read, the KDP self-publishing option requires the author to sell the book on Amazon.com.

As noted above, a single work of art (painting or sculpture) can sell for hundreds or thousands of dollars. Consequently, the sculptor or artist needs to produce only one original copy (which in the case of a painting may take only a week or two to produce) to earn a substantial income. A book, on the other hand, may take a year or more to produce and typically sells for only \$15.00 or \$20.00. Unlike a painting, in which only the cost of a canvass, paint and a frame are needed to produce a finished product, a self-published book will cost the author between \$1,000.00 and \$1,500.00 to produce and publish. The author must then pay approximately \$5.00 (depending on size, word count, and other features) for each copy of the book ordered.

Clearly, just breaking even on such a venture will take the sale of about one hundred books. Limiting sales to 300 copies as proposed by the Division of Taxation would limit the author's annual income to the sale of the remaining 200 copies. The cost of printing 200 books is \$1,000. The sale of those books at \$20.00 per copy is \$4,000. The author, therefore, would receive only \$3,000 for the year's work.

The Division's rules and regulations also prevent the sale of artwork on the Internet via Amazon, Barnes&Noble.com, Kobo, etc. Artists of a painted work or a sculpture do not sell their artwork in these venues. They may utilize the services of an auctioneer or an art museum to sell their artwork. Authors do not sell books this way. They rely on Amazon.com for sales. In fact, books self-published through Amazon's KDP, the largest self-publishing tool available, require authors to list their books on Amazon.com. (Please note that books sold in bookstores are not subject to this act. It covers only books personally sold by the author.)

Since the author cannot control the number of books produced by the "Big Five publishing houses" or a Small Press publisher, and because the on-line sale of KDP self-published books is required, the combination of these two rules essentially eliminates an author from consideration under the sales tax exemption act.

Most authors practice their art part time as sales generally are not sufficient to provide an income meritorious of full-time work. To most, the benefit of being exempt from sales tax levels the playing field when competing with other artists for sales at fairs and shows such as the Scituate Art Festival. Eliminating this advantage for writers, which, as I pointed out, this bill will essentially do, will cause a hardship for authors that will be unfair and contrary to the legislative intent of the act.

The Division of Taxation and RISCA have demonstrated a lack of good faith and an intent to eliminate the written work from the definition of artistic works under the legislative act. This discriminatory and unfair practice can be resolved only through an amendment to the enabling legislation, and that is what this bill does.

Thank you for your time and consideration of this very important matter.

Sincerely,

Paul F. Caranci