

2013 -- S 0245

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TAXATION

Introduced By: Senator Michael J. McCaffrey

Date Introduced: February 13, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 7-12-60 of the General Laws in Chapter 7-12 entitled  
2 "Partnerships" is hereby amended to read as follows:

3 **7-12-60. Filing of returns with the tax administrator -- Annual charge. --** (a) For tax  
4 years beginning on or after January 1, 2012 a limited liability partnership registered under section  
5 7-12-56, shall file a return in the form and containing the information as prescribed by the tax  
6 administrator as follows:

7 (1) If the fiscal year of the limited liability partnership is the calendar year, on or before  
8 the fifteenth (15th) day of April in the year following the close of the fiscal year; and

9 (2) If the fiscal year of the limited liability partnership is not a calendar year, on or  
10 before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year.

11 ~~(b) An annual charge, equal to the minimum tax imposed upon a corporation under~~  
12 ~~subsection 44-11-2(e), shall be due on the filing of the limited liability partnership's return filed~~  
13 ~~with the tax administrator and shall be paid to the division of taxation.~~

14 ~~(c) The annual charge is delinquent if not paid by the due date for the filing of the return~~  
15 ~~and an addition of one hundred dollars (\$100) to the charge is then due.~~

16 SECTION 2. Section 7-13-69 of the General Laws in Chapter 7-13 entitled "Limited  
17 Partnerships" is hereby amended to read as follows:

18 **7-13-69. Filing of returns with the tax administrator -- Annual charge. --** (a) For tax  
19 years beginning on or after January 1, 2012 a limited partnership certified under this chapter shall

1 file a return in the form and containing the information as prescribed by the tax administrator as  
2 follows:

3 (1) If the fiscal year of the limited partnership is the calendar year, on or before the  
4 fifteenth (15th) day of April in the year following the close of the fiscal year; and

5 (2) If the fiscal year of the limited partnership is not a calendar year, on or before the  
6 fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year.

7 ~~(b) An annual charge, equal to the minimum tax imposed upon a corporation under  
8 subsection 44-11-2(e), shall be due on the filing of the limited partnership's return filed with the  
9 tax administrator and shall be paid to the division of taxation.~~

10 ~~(c) The annual charge is delinquent if not paid by the due date for the filing of the return  
11 and an addition of one hundred dollars (\$100) to the charge is then due.~~

12 SECTION 3. Section 7-16-67 of the General Laws in Chapter 7-16 entitled "The Rhode  
13 Island Limited Liability Company Act" is hereby amended to read as follows:

14 **7-16-67. Filing of returns with the tax administrator -- Annual charge.** -- (a) A return  
15 in the form and containing the information as the tax administrator may prescribe shall be filed  
16 with the tax administrator by the limited liability company:

17 (1) In case the fiscal year of the limited liability company is the calendar year, on or  
18 before the fifteenth day of March in the year following the close of the fiscal year; and

19 (2) In case the fiscal year of the limited liability company is not a calendar year, on or  
20 before the fifteenth day of the third month following the close of the fiscal year.

21 (b) An annual charge shall be due on the filing of the limited liability company's return  
22 filed with the tax administrator and shall be paid to the Division of Taxation as follows:

23 (1) If the limited liability company is treated as a corporation for purposes of federal  
24 income taxation, it shall pay the taxes as provided in chapters 11 and 12 of title 44. ~~or~~

25 ~~(2) If the limited liability company is not treated as a corporation for purposes of federal  
26 income taxation, it shall pay a fee in an amount equal to the minimum tax imposed upon a  
27 corporation under section 44-11-2(e). The due date for a limited liability company that is not  
28 treated as a corporation for purposes of federal income taxation shall be on or before the fifteenth  
29 (15th) day of the fourth (4th) month following the close of the fiscal year.~~

30 (c) The annual charge is delinquent if not paid by the due date for the filing of the return  
31 and an addition of one hundred dollars (\$100.00) to the charge is then due.

32 SECTION 4. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business  
33 Corporation Tax" is hereby amended to read as follows:

34 **44-11-2. Imposition of tax.** -- (a) Each corporation shall annually pay to the state a tax

1 equal to nine percent (9%) of net income, as defined in section 44-11-11, qualified in section 44-  
2 11-12, and apportioned to this state as provided in sections 44-11-13 -- 44-11-15, for the taxable  
3 year.

4 (b) A corporation shall pay the amount of any tax as computed in accordance with  
5 subsection (a) of this section after deducting from "net income," as used in this section, fifty  
6 percent (50%) of the excess of capital gains over capital losses realized during the taxable year, if  
7 for the taxable year:

8 (1) The corporation is engaged in buying, selling, dealing in, or holding securities on its  
9 own behalf and not as a broker, underwriter, or distributor;

10 (2) Its gross receipts derived from these activities during the taxable year amounted to at  
11 least ninety percent (90%) of its total gross receipts derived from all of its activities during the  
12 year. "Gross receipts" means all receipts, whether in the form of money, credits, or other valuable  
13 consideration, received during the taxable year in connection with the conduct of the taxpayer's  
14 activities.

15 (c) A corporation shall not pay the amount of the tax computed on the basis of its net  
16 income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten  
17 cents (\$.10) for each one hundred dollars (\$100) of gross income for the taxable year or a tax of  
18 one hundred dollars (\$100), whichever tax shall be the greater, if for the taxable year the  
19 corporation is either a "personal holding company" registered under the federal Investment  
20 Company Act of 1940, 15 U.S.C. section 80a-1 et seq., "regulated investment company", or a  
21 "real estate investment trust" as defined in the federal income tax law applicable to the taxable  
22 year. "Gross income" means gross income as defined in the federal income tax law applicable to  
23 the taxable year, plus:

24 (1) Any interest not included in the federal gross income; minus

25 (2) Interest on obligations of the United States or its possessions, and other interest  
26 exempt from taxation by this state; and minus

27 (3) Fifty percent (50%) of the excess of capital gains over capital losses realized during  
28 the taxable year.

29 (d) (1) A small business corporation having an election in effect under subchapter S, 26  
30 U.S.C. section 1361 et seq., shall not be subject to the Rhode Island income tax on corporations,  
31 except that the corporation shall be subject to the provisions of subsection (a), to the extent of the  
32 income that is subjected to federal tax under subchapter S.

33 (2) The shareholders of the corporation who are residents of Rhode Island shall include  
34 in their income their proportionate share of the corporation's federal taxable income.

1 (3) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

2 (4) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

3 ~~(e) Minimum tax. The tax imposed upon any corporation under this section shall not be~~  
4 ~~less than five hundred dollars (\$500).~~

5 SECTION 5. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION

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- 1           This act would repeal the five hundred dollar (\$500) minimum tax on corporations,
- 2 limited liability companies and partnerships.
- 3           This act would take effect upon passage.

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