

2016 -- H 7732

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TAXATION

Introduced By: Representatives Morgan, Filippi, Giarrusso, Price, and Chippendale

Date Introduced: February 24, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 44-22-1 of the General Laws in Chapter 44-22 entitled "Estate and  
2   Transfer Taxes - Liability and Computation" is hereby amended to read as follows:  
3           **44-22-1. Tax on net estate of decedents -- Additional tax on postponed enjoyment --**  
4   **Deductions -- Marital deduction. --** (a) A tax is imposed upon the transfer of the net estate of  
5   every resident or nonresident decedent as a tax upon the right to transfer. The tax is imposed at  
6   the rate of two percent (2%) upon all amounts not in excess of twenty-five thousand dollars  
7   (\$25,000); at the rate of three percent (3%) upon all amounts in excess of twenty-five thousand  
8   dollars (\$25,000) and not exceeding fifty thousand dollars (\$50,000); at the rate of four percent  
9   (4%) upon all amounts in excess of fifty thousand dollars (\$50,000) and not exceeding one  
10   hundred thousand dollars (\$100,000); at the rate of five percent (5%) upon all amounts in excess  
11   of one hundred thousand dollars (\$100,000) and not exceeding two hundred fifty thousand dollars  
12   (\$250,000); at the rate of six percent (6%) upon all amounts in excess of two hundred fifty  
13   thousand dollars (\$250,000) and not exceeding five hundred thousand dollars (\$500,000); at the  
14   rate of seven percent (7%) upon all amounts in excess of five hundred thousand dollars  
15   (\$500,000) and not exceeding seven hundred fifty thousand dollars (\$750,000); at the rate of eight  
16   percent (8%) upon all amounts in excess of seven hundred fifty thousand dollars (\$750,000) and  
17   not exceeding one million dollars (\$1,000,000); at the rate of nine percent (9%) upon all amounts  
18   in excess of one million dollars (\$1,000,000). An additional tax is imposed at the rate of two  
19   percent (2%) upon all or any part of each estate devised, bequeathed, or conveyed in such manner

1 that it becomes necessary to postpone the assessment of taxes imposed by this chapter until the  
2 person entitled to the estate comes into beneficial enjoyment or possession of the estate; and  
3 provided, further, that an additional tax is not assessed and collected, as provided in §§ 44-23-9 --  
4 44-23-12, in case a settlement of taxes is effected under the provisions of § 44-23-25.

5 (b) In computing the value of the net estate in subsection (a) of this section, there is  
6 deducted from the estate and exempted from the tax twenty-five thousand dollars (\$25,000).

7 (c) In computing the value of the net estate in subsection (a) of this section, there is  
8 deducted from the estate and exempted from the tax all property or interests transferred to any  
9 corporation, association, or institution located in Rhode Island which is exempt from taxation by  
10 charter or under the laws of this state; or to any corporation, association, or institution located  
11 outside of this state, which if located within this state, would be exempt from taxation; provided,  
12 that the state of domicile of the corporation, association, or institution allows a reciprocal  
13 exemption to any similar Rhode Island corporation, association, or institution; or to any person in  
14 trust for the same or for use by the same for charitable purposes; or to any city or town in this  
15 state for public purposes.

16 (d) In computing the value of the net estate in subsection (a) of this section, there is  
17 deducted from the estate and exempted from the tax United States civil and federal military  
18 service annuity payments.

19 (e) In computing the value of the net estate in subsection (a) of this section, there is  
20 deducted from the estate and exempted from the estate tax a marital deduction, as defined in 26  
21 U.S.C. § 2056, in the amount of one hundred seventy-five thousand dollars (\$175,000), from  
22 property or beneficial interests which pass or have passed from the decedent to the surviving  
23 spouse, but only to the extent that the interests are included in determining the value of the gross  
24 estate.

25 (f) (1) In computing the value of the net estate in subsection (a) of this section, there is  
26 deducted from the estate and exempted from the estate tax, an orphan's deduction, provided, that:  
27 (i) the decedent does not have a surviving spouse, and (ii) the decedent is survived by a minor  
28 child who, immediately after the death of the decedent, has no known parent, an amount equal to  
29 the value of any interest in property which passes or has passed from the decedent to the child,  
30 but only to the extent that the interest is included in determining the value of the gross estate. The  
31 aggregate amount of the deductions allowed under this section (computed without regard to this  
32 subsection) with respect to interests in property passing to any minor child shall not exceed an  
33 amount equal to five thousand dollars (\$5,000) multiplied by the excess of twenty-one (21) over  
34 the age (in years) which the child has attained on the date of the decedent's death.

1 (2) For purposes of this subsection, any term used in the subsection has the same  
2 meaning as when used in a comparable context in 26 U.S.C. § 2057 unless a different meaning is  
3 clearly required.

4 (1) A transfer of a qualified small business interest to one or more qualified transferees is  
5 exempt from estate tax, if the qualified small business interest:

6 (i) Continues to be owned by a qualified transferee for a minimum of five (5) years after  
7 the decedent's date of death; and

8 (ii) Is reported on a timely filed tax return.

9 (2) A qualified small business interest exempted from estate tax hereunder that is no  
10 longer owned by a qualified transferee at any time within five (5) years after the decedent's date  
11 of death shall be subject to estate tax under this chapter.

12 (3) Each owner of a qualified family-owned business interest exempted from estate tax  
13 hereunder shall certify to the department, on an annual basis, for five (5) years after the  
14 decedent's date of death, that the qualified small business interest continues to be owned by a  
15 qualified transferee, and shall notify the department within thirty (30) days of any transaction, or  
16 occurrence causing the qualified small business interest to fail to qualify for the exemption. Each  
17 year, the department shall inform all owners of a qualified small business interest exempted from  
18 estate tax of their obligation to provide an annual certification under this subsection. The  
19 certification and notification shall be completed in the form and manner as provided by the  
20 department. An owner's failure to comply with the certification or notification requirements shall  
21 result in the loss of the exemption and the qualified small business interest shall be subject to  
22 estate tax due under this chapter.

23 (4) For purposes of this subsection, the following terms shall have the following  
24 meanings:

25 (i) "Qualified transferee" means a decedent's:

26 (A) Husband or wife;

27 (B) Lineal descendants; and

28 (C) Siblings and the sibling's lineal descendants.

29 (ii) "Qualified small business interest" means an ownership interest in a trade or business  
30 if the business has a net book value of assets totaling an amount not greater than five million  
31 dollars (\$5,000,000) as of the date of the decedent's death.

32 (g) Notwithstanding any other provisions of this chapter, the total estate tax payment on  
33 account of the estate of a decedent whose death occurs on or after January 1, 1986, is that  
34 percentage of the estate tax which would be payable under this chapter determined in accordance

1 with the following schedule:

2 (1) Death prior to January 1, 1987. - Ninety percent (90%) in the case of decedents  
3 whose deaths occur on or after January 1, 1986, and prior to January 1, 1987;

4 (2) Death prior to January 1, 1988. - Eighty percent (80%) in the case of decedents  
5 whose deaths occur on or after January 1, 1987, and prior to January 1, 1988;

6 (3) Death prior to January 1, 1989. - Sixty percent (60%) in the case of decedents whose  
7 deaths occur on or after January 1, 1988, and prior to January 1, 1989;

8 (4) Death prior to January 1, 1990. - Forty percent (40%) in the case of decedents whose  
9 deaths occur on or after January 1, 1989, and prior to January 1, 1990;

10 (5) Death prior to June 1, 1990. - Twenty percent (20%) in the case of decedents whose  
11 deaths occur on or after January 1, 1990, and prior to June 1, 1990;

12 (6) Death prior to January 1, 1992. - Forty percent (40%) in the case of decedents whose  
13 deaths occur on or after June 1, 1990, and prior to January 1, 1992.

14 (7) Death on or after January 1, 1992. - The estate tax payable on or account of the estate  
15 of a decedent whose death occurs on or after January 1, 1992, is determined in accordance with §  
16 44-22-1.1.

17 (h) The estate tax payable under this section shall in no event be less than the estate tax  
18 due under § 44-22-1.1, computed without regard to the date of death.

19 (i) In computing the value of the net estate in subsection (a) of this section, there is  
20 deducted from the estate and exempted from the tax, the value of a qualified small business.

21 SECTION 2. 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 exempt from the estate tax the value of a qualified small business valued
- 2           at an amount not greater than \$5,000,000.
- 3           This act would take effect upon passage.

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