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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TAXATION

Introduced By: Representatives Melo, Valencia, Gallison, Ferri, and Blazejewski

Date Introduced: April 12, 2012

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-1 of the General Laws entitled "State Tax Officials" is hereby
2 amended by adding thereto the following section:

3 **44-1-35. Tax return preparer due diligence and penalties.** – (a) For the purpose of this
4 section a "tax return preparer" is an individual who prepares a substantial portion of any return
5 for compensation. Tax return preparers include any individual required to register with the
6 Internal Revenue Service as a tax return preparer and having a preparer tax identification number
7 (PTIN).

8 (b) For the purpose of this section the following individuals shall not be considered tax
9 return preparers:

10 (1) Volunteer tax return preparers; or

11 (2) Employees of a tax return preparer or a commercial tax return preparation business
12 who provide only clerical, administrative or other similar services.

13 (c) A tax return preparer must sign all returns prepared and include their federal PTIN on
14 all returns prepared.

15 (d) Failure to be diligent in determining eligibility for earned income credit. Any tax
16 return preparer who prepares any return or claim for refund and fails to comply with due
17 diligence requirements imposed by regulations issued by the tax administrator with respect to
18 determining eligibility for, or the amount of, the credit allowable by subparagraph 44-30-
19 2.6(c)(2)(N) shall pay a penalty of five hundred dollars (\$500) for each such return.

1 (e) Failure to be diligent in determining eligibility for property tax relief credit. Any tax
2 return preparer who prepares any return or claim for refund and fails to comply with due
3 diligence requirements imposed by regulations issued by the tax administrator with respect to
4 determining eligibility for, or the amount of, the credit allowable by section 44-33-1 et seq., shall
5 pay a penalty of five hundred dollars (\$500) for each such return.

6 (f) Tax return preparer civil penalties. Any tax return preparer who willfully prepares,
7 assists in preparing, or causes a preparation of a return or claim for a refund filed with the
8 division of taxation with fraudulent intent or the intent to evade taxes shall pay a penalty of five
9 thousand dollars (\$5,000), or five hundred (\$500) for each such return, whichever is greater.

10 (g) The tax administrator may suspend or revoke the privilege of a tax return preparer to
11 prepare and/or file returns with the division of taxation for failure to comply with any provision
12 of this section or with any provision of any other law relative to the preparation of tax returns.
13 Any tax return preparer aggrieved by the suspension or revocation may apply, within thirty (30)
14 days of such suspension or revocation, to the tax administrator for a hearing. If the tax return
15 preparer is aggrieved by the decision of the tax administrator (or his or her designated hearing
16 officer) may, within thirty (30) days after notice of the decision is sent to the tax return preparer
17 by certified or registered mail, directed to their last known address, petition the sixth division of
18 the district court pursuant to chapter 8 of title 8 setting forth the reasons why the decision is
19 alleged to be erroneous and praying relief therefrom.

20 (h) Tax return preparer criminal penalties. Any tax return preparer who willfully
21 prepares, assists in preparing, or causes a preparation of a false tax return or claim for refund filed
22 with the division of taxation with fraudulent intent or the intent to evade taxes who has previously
23 been penalized under this section shall be guilty of a felony and, on conviction, shall be subject to
24 a fine not exceeding fifty thousand dollars (\$50,000) or imprisonment not exceeding five (5)
25 years, or both.

26 (i) The tax administrator shall promulgate rules and regulations to carry out the
27 provisions, policies, and purposes of this chapter.

28 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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- 1 This act would set forth the due diligence with which a tax return preparer must act. It
- 2 would establish civil penalties for the first offense and criminal penalties for repeated offenses.
- 3 This act would take effect upon passage.

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