

2012 -- S 2045

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LC00270  
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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 - BUSINESS CORPORATION TAX AND FRANCHISE TAX

Introduced By: Senators Kettle, Pinga, Ottiano, Shibley, and Algieri

Date Introduced: January 11, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business  
2 Corporation Tax" is hereby amended to read as follows:

3 **44-11-2. Imposition of tax.** -- (a) Each corporation shall annually pay to the state a tax  
4 equal to nine percent (9%) of net income, as defined in section 44-11-11, qualified in section 44-  
5 11-12, and apportioned to this state as provided in sections 44-11-13 -- 44-11-15, for the taxable  
6 year.

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

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

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

18 (c) A corporation shall not pay the amount of the tax computed on the basis of its net  
19 income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten

1 cents (\$.10) for each one hundred dollars (\$100) of gross income for the taxable year or a tax of  
2 one hundred dollars (\$100), whichever tax shall be the greater, if for the taxable year the  
3 corporation is either a "personal holding company" registered under the federal Investment  
4 Company Act of 1940, 15 U.S.C. section 80a-1 et seq., "regulated investment company", or a  
5 "real estate investment trust" as defined in the federal income tax law applicable to the taxable  
6 year. "Gross income" means gross income as defined in the federal income tax law applicable to  
7 the taxable year, plus:

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

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

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

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

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

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

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

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

23 SECTION 2. Section 44-12-1 of the General Laws in Chapter 44-12 entitled "Franchise  
24 Tax" is hereby amended to read as follows:

25 **44-12-1. Tax imposed -- Corporations liable -- Credit for tax on income -- Reduced**  
26 **rate where no business done. --** (a) Every corporation, joint-stock company, or association  
27 incorporated in this state or qualified to do business in this state, whether or not doing business  
28 for profit, all referred to in this section under the term "corporation", except those enumerated in  
29 section 44-12-11, shall pay an annual franchise tax to the state upon its authorized capital stock of  
30 two dollars fifty cents (\$2.50) for each ten thousand dollars (\$10,000) of such stock or fractional  
31 part, ~~or the sum of five hundred dollars (\$500), whichever is greater.~~ thereof.

32 (b) In the case of corporations liable to a tax under chapter 11 of this title, only the  
33 amount by which the franchise tax exceeds the tax payable under that chapter shall be assessed.

34 (c) If a corporation shall show by supplemental affidavit attached to the prescribed return

1 and signed in the manner provided for each return that it has not, at any time during its preceding  
2 taxable year, been engaged within the state in any business activities, it shall only pay an annual  
3 franchise tax upon its authorized capital stock at the ~~following rates: five hundred dollars (\$500)~~  
4 ~~where the stock does not exceed one million dollars (\$1,000,000); and the further sum~~ rate of  
5 twelve dollars fifty cents (\$12.50) for each ~~additional~~ one million dollars (\$1,000,000) or  
6 fractional part of the stock.

7 SECTION 3. This act shall take effect upon passage and shall apply to all returns and  
8 payments which would otherwise be required for the calendar year 2012 and thereafter.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF

A N A C T

RELATING TO TAXATION - BUSINESS CORPORATION TAX AND FRANCHISE TAX

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1           This act would repeal the minimum business corporation tax and the minimum franchise  
2 tax.

3           This act would take effect upon passage and would apply to all returns and payments  
4 which would otherwise be required for the calendar year 2012 and thereafter.

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