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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 - PERSONAL INCOME TAX

Introduced By: Senator Walter S. Felag

Date Introduced: January 18, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-87 of the General Laws in Chapter 44-30 entitled "Personal  
2 Income Tax" is hereby amended to read as follows:

3 **44-30-87. Limitations on credit or refund.** -- (a) General. - Claim for credit or refund of  
4 an overpayment of tax shall be filed by the taxpayer within three (3) years from the time the  
5 return was filed or ~~two (2)~~ three (3) years from the time the tax was paid, whichever of these  
6 periods expires the later, or if no return was filed by the taxpayer, within ~~two (2)~~ three (3) years  
7 from the time the tax was paid. If the claim is filed within the three (3) year period, the amount of  
8 the credit or refund shall not exceed the portion of the tax paid within the three (3) year period. If  
9 the claim is not filed within the three (3) year period, but is filed within the two (2) year period,  
10 the amount of the credit or refund shall not exceed the portion of the tax paid during the two (2)  
11 years immediately preceding the filing of the claim. Except as otherwise provided in this section,  
12 if no claim is filed, the amount of a credit or refund shall not exceed the amount which would be  
13 allowable if a claim has been filed on the date the credit or refund is allowed.

14 (b) Extension of time by agreement. - If an agreement under section 44-30-83(b)(2)  
15 extending the period for assessment of tax is made within the period prescribed in subsection (a)  
16 of this section for the filing of a claim for credit or refund, the period for filing a claim for credit  
17 or refund, or for making credit or refund if no claim is filed, shall not expire prior to six (6)  
18 months after the expiration of the period within which an assessment may be made pursuant to  
19 the agreement or any extension of it thereof. The amount of the credit or refund shall not exceed

1 the portion of the tax paid after the execution of the agreement and before the filing of the claim  
2 or the making of the credit or refund, as the case may be, plus the portion of the tax paid within  
3 the period which would be applicable under subsection (a) of this section if a claim had been filed  
4 on the date the agreement was executed.

5 (c) Notice of change or correction of federal income. - If a taxpayer is required by  
6 section 44-30-59 to file a report of a change or correction or amended return decreasing the  
7 federal taxable income reported on his or her federal income tax return, or to report a change or  
8 correction which is treated in the same manner as if it were an overpayment for federal income  
9 tax purposes, claim for credit or refund of an overpayment of tax shall be filed by the taxpayer  
10 within two (2) years from the time the report of the change or correction or the amended return  
11 was required to be filed. If a report or amended return required by section 44-30-59 is not filed  
12 within the ninety (90) day period specified in that section, interest on any resulting refund or  
13 credit shall cease to accrue on the ninetieth day. The amount of the credit or refund shall not  
14 exceed the amount of the reduction in Rhode Island personal income tax attributable to the  
15 federal change, correction, or items amended on the taxpayer's amended federal income tax  
16 return. This subsection shall not affect the time within which or the amount for which a claim for  
17 credit or refund may otherwise be filed.

18 (d) Overpayment attributable to net operating loss carryback. - If an overpayment is  
19 attributable to the application to the taxpayer of a net operating loss carryback, a claim for credit  
20 or refund shall be filed within three (3) years from the time the return was due for the taxable year  
21 of the loss.

22 (e) Failure to file claim within prescribed period. - No credit or refund shall be allowed  
23 or made, except as provided in subsection (f) of this section, after the expiration of the applicable  
24 period of limitation unless a claim for credit or refund is filed by the taxpayer within that period  
25 or unless the tax administrator determines under subsection (f) of this section that the taxpayer  
26 has made an overpayment. Any later credit shall be void and any later refund erroneous. No  
27 period of limitations specified in any other law shall apply to the recovery by a taxpayer of  
28 moneys paid in respect of Rhode Island personal income tax.

29 (f) Effect of filing administrative petition. - If a notice of deficiency for a taxable year  
30 has been mailed to the taxpayer under section 44-30-81 and if the taxpayer files a timely petition  
31 with the tax administrator, the tax administrator may determine that the taxpayer has made an  
32 overpayment for that year, whether or not a deficiency is also determined for that year, and no  
33 separate claim for credit or refund for that year shall be filed and no separate credit or refund for  
34 that year shall be allowed or made, except:

1 (1) As to overpayment determined by a decision of the tax administrator which has  
2 become final;

3 (2) As to any amount collected in excess of an amount computed in accordance with the  
4 decision of the tax administrator which has become final;

5 (3) As to any amount collected after the period of limitation upon the making of levy for  
6 collection has expired; and

7 (4) As to any amount claimed as a result of a change or correction described in  
8 subsection (c) of this section.

9 (g) Limit on amount of credit or refund. - The amount of overpayment determined under  
10 subsection (f) of this section shall, when the decision of the tax administrator has become final, be  
11 credited or refunded in accordance with section 44-30-86(a) and shall not exceed the amount of  
12 tax which the tax administrator determines as part of his or her decision was paid:

13 (1) After the mailing of the notice of deficiency; or

14 (2) Within the period which would be applicable under subsection (a), (b), or (c) of this  
15 section, if on the date of the mailing of the notice of deficiency a claim had been filed, whether or  
16 not filed, stating the grounds upon which the tax administrator finds that there is an overpayment.

17 (h) Early return. - For purposes of this section, any return filed before the last day  
18 prescribed for the filing of the return is considered as filed on that last day, determined without  
19 regard to any extension of time granted the taxpayer.

20 (i) Prepaid income tax. - For purposes of this section, any income tax withheld from the  
21 taxpayer during any calendar year and any amount paid as estimated income tax for a taxable year  
22 is deemed to have been paid by the taxpayer on the fifteenth day of the fourth month following  
23 the close of his or her taxable year with respect to which the amount constitutes credit or  
24 payment.

25 (j) Return and payment of withholding tax. - Notwithstanding subsection (h) of this  
26 section, for purposes of this section with respect to any withholding tax:

27 (1) If a return for any period ending with or within a calendar year is filed before April  
28 15 of the succeeding calendar year, the return is considered filed on April 15 of the succeeding  
29 calendar year; and

30 (2) If a tax with respect to remuneration paid during any period ending with or within a  
31 calendar year is paid before April 15 of the succeeding calendar year, the tax is considered paid  
32 on April 15 of the succeeding calendar year.

33 (k) Cross reference. - See section 44-30-86(c), barring refund of overpayment credited  
34 against tax of a succeeding year.

1 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 - PERSONAL INCOME TAX

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- 1           This act would expand the time period for requesting a state tax refund from two to three
- 2 years from the time the tax was paid.
- 3           This act would take effect upon passage.

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