

2013 -- H 5168

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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 -- PERSONAL INCOME TAX

Introduced By: Representatives Gallison, Azzinaro, Messier, Marshall, and Fellela

Date Introduced: January 24, 2013

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-12 of the General Laws in Chapter 44-30 entitled "Personal  
2 Income Tax" is hereby amended to read as follows:

3 **44-30-12. Rhode Island income of a resident individual. --** (a) General. - The Rhode  
4 Island income of a resident individual means his or her adjusted gross income for federal income  
5 tax purposes, with the modifications specified in this section.

6 (b) Modifications increasing federal adjusted gross income. - There shall be added to  
7 federal adjusted gross income:

8 (1) Interest income on obligations of any state, or its political subdivisions, other than  
9 Rhode Island or its political subdivisions;

10 (2) Interest or dividend income on obligations or securities of any authority, commission,  
11 or instrumentality of the United States, but not of Rhode Island or its political subdivisions, to the  
12 extent exempted by the laws of the United States from federal income tax but not from state  
13 income taxes;

14 (3) The modification described in section 44-30-25(g);

15 (4) (i) The amount defined below of a nonqualified withdrawal made from an account in  
16 the tuition savings program pursuant to section 16-57-6.1. For purposes of this section, a  
17 nonqualified withdrawal is:

18 (A) A transfer or rollover to a qualified tuition program under Section 529 of the Internal  
19 Revenue Code, 26 U.S.C. section 529, other than to the tuition savings program referred to in

1 section 16-57-6.1; and

2 (B) A withdrawal or distribution which is:

3 (I) Not applied on a timely basis to pay "qualified higher education expenses" as defined  
4 in section 16-57-3(12) of the beneficiary of the account from which the withdrawal is made;

5 (II) Not made for a reason referred to in section 16-57-6.1(e); or

6 (III) Not made in other circumstances for which an exclusion from tax made applicable  
7 by Section 529 of the Internal Revenue Code, 26 U.S.C. section 529, pertains if the transfer,  
8 rollover, withdrawal or distribution is made within two (2) taxable years following the taxable  
9 year for which a contributions modification pursuant to subdivision (c)(4) of this section is taken  
10 based on contributions to any tuition savings program account by the person who is the  
11 participant of the account at the time of the contribution, whether or not the person is the  
12 participant of the account at the time of the transfer, rollover, withdrawal or distribution;

13 (ii) In the event of a nonqualified withdrawal under subparagraphs (i)(A) or (i)(B) of this  
14 subdivision, there shall be added to the federal adjusted gross income of that person for the  
15 taxable year of the withdrawal an amount equal to the lesser of:

16 (A) The amount equal to the nonqualified withdrawal reduced by the sum of any  
17 administrative fee or penalty imposed under the tuition savings program in connection with the  
18 nonqualified withdrawal plus the earnings portion thereof, if any, includible in computing the  
19 person's federal adjusted gross income for the taxable year; and

20 (B) The amount of the person's contribution modification pursuant to subdivision (c)(4)  
21 of this section for the person's taxable year of the withdrawal and the two (2) prior taxable years  
22 less the amount of any nonqualified withdrawal for the two (2) prior taxable years included in  
23 computing the person's Rhode Island income by application of this subsection for those years.  
24 Any amount added to federal adjusted gross income pursuant to this subdivision shall constitute  
25 Rhode Island income for residents, nonresidents and part-year residents; and

26 (5) The modification described in section 44-30-25.1(d)(3)(i).

27 (6) The amount equal to any unemployment compensation received but not included in  
28 federal adjusted gross income.

29 (7) The amount equal to the deduction allowed for sales tax paid for a purchase of a  
30 qualified motor vehicle as defined by the Internal Revenue Code section 164(a)(6).

31 (c) Modifications reducing federal adjusted gross income. - There shall be subtracted  
32 from federal adjusted gross income:

33 (1) Any interest income on obligations of the United States and its possessions to the  
34 extent includible in gross income for federal income tax purposes, and any interest or dividend

1 income on obligations, or securities of any authority, commission, or instrumentality of the  
2 United States to the extent includible in gross income for federal income tax purposes but exempt  
3 from state income taxes under the laws of the United States; provided, that the amount to be  
4 subtracted shall in any case be reduced by any interest on indebtedness incurred or continued to  
5 purchase or carry obligations or securities the income of which is exempt from Rhode Island  
6 personal income tax, to the extent the interest has been deducted in determining federal adjusted  
7 gross income or taxable income;

8 (2) A modification described in section 44-30-25(f) or section 44-30-1.1(c)(1);

9 (3) The amount of any withdrawal or distribution from the "tuition savings program"  
10 referred to in section 16-57-6.1 which is included in federal adjusted gross income, other than a  
11 withdrawal or distribution or portion of a withdrawal or distribution that is a nonqualified  
12 withdrawal;

13 (4) Contributions made to an account under the tuition savings program, including the  
14 "contributions carryover" pursuant to paragraph (iv) of this subdivision, if any, subject to the  
15 following limitations, restrictions and qualifications:

16 (i) The aggregate subtraction pursuant to this subdivision for any taxable year of the  
17 taxpayer shall not exceed five hundred dollars (\$500) or one thousand dollars (\$1,000) if a joint  
18 return;

19 (ii) The following shall not be considered contributions:

20 (A) Contributions made by any person to an account who is not a participant of the  
21 account at the time the contribution is made;

22 (B) Transfers or rollovers to an account from any other tuition savings program account  
23 or from any other "qualified tuition program" under section 529 of the Internal Revenue Code, 26  
24 U.S.C. section 529; or

25 (C) A change of the beneficiary of the account;

26 (iii) The subtraction pursuant to this subdivision shall not reduce the taxpayer's federal  
27 adjusted gross income to less than zero (0);

28 (iv) The contributions carryover to a taxable year for purpose of this subdivision is the  
29 excess, if any, of the total amount of contributions actually made by the taxpayer to the tuition  
30 savings program for all preceding taxable years for which this subsection is effective over the  
31 sum of:

32 (A) The total of the subtractions under this subdivision allowable to the taxpayer for all  
33 such preceding taxable years; and

34 (B) That part of any remaining contribution carryover at the end of the taxable year

1 which exceeds the amount of any nonqualified withdrawals during the year and the prior two (2)  
2 taxable years not included in the addition provided for in this subdivision for those years. Any  
3 such part shall be disregarded in computing the contributions carryover for any subsequent  
4 taxable year;

5 (v) For any taxable year for which a contributions carryover is applicable, the taxpayer  
6 shall include a computation of the carryover with the taxpayer's Rhode Island personal income  
7 tax return for that year, and if for any taxable year on which the carryover is based the taxpayer  
8 filed a joint Rhode Island personal income tax return but filed a return on a basis other than  
9 jointly for a subsequent taxable year, the computation shall reflect how the carryover is being  
10 allocated between the prior joint filers; and

11 (5) The modification described in section 44-30-25.1(d)(1).

12 (6) Amounts deemed taxable income to the taxpayer due to payment or provision of  
13 insurance benefits to a dependent, including a domestic partner pursuant to chapter 12 of title 36  
14 or other coverage plan.

15 (7) Modification for organ transplantation. - (i) An individual may subtract up to ten  
16 thousand dollars (\$10,000) from federal adjusted gross income if he or she, while living, donates  
17 one or more of his or her human organs to another human being for human organ transplantation,  
18 except that for purposes of this subsection, "human organ" means all or part of a liver, pancreas,  
19 kidney, intestine, lung, or bone marrow. A subtract modification that is claimed hereunder may be  
20 claimed in the taxable year in which the human organ transplantation occurs.

21 (ii) An individual may claim that subtract modification hereunder only once, and the  
22 subtract modification may be claimed for only the following unreimbursed expenses that are  
23 incurred by the claimant and related to the claimant's organ donation:

24 (A) Travel expenses.

25 (B) Lodging expenses.

26 (C) Lost wages.

27 (iii) The subtract modification hereunder may not be claimed by a part-time resident or a  
28 nonresident of this state.

29 (8) Military retirement income, including retirement income from the regular armed  
30 forces, reserves and national guard, paid by the United States or by this state to persons sixty-five  
31 (65) years and older, commencing January 1, 2013 including any survivorship annuities.

32 (d) Modification for Rhode Island fiduciary adjustment. - There shall be added to or  
33 subtracted from federal adjusted gross income (as the case may be) the taxpayer's share, as  
34 beneficiary of an estate or trust, of the Rhode Island fiduciary adjustment determined under

1 section 44-30-17.

2 (e) Partners. - The amounts of modifications required to be made under this section by a  
3 partner, which relate to items of income or deduction of a partnership, shall be determined under  
4 section 44-30-15.

5 SECTION 2. This act shall take effect upon passage and be retroactive to January 1,  
6 2013.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would exclude, for the purposes of Rhode Island state income taxes, any military  
2 retirement income paid by the state or federal government to persons sixty-five (65) years or  
3 older.

4           This act would take effect upon passage and be retroactive to January 1, 2013.

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