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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES--LIABILITY AND
COMPUTATION

Introduced By: Representatives P. Morgan, Fenton-Fung, Nardone, Roberts, Rea, Serpa,
and Kennedy

Date Introduced: February 15, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Chapter 44-22 of the General Laws entitled "Estate and Transfer Taxes —
2 Liability and Computation" is hereby repealed in its entirety.

3 ~~CHAPTER 44-22~~

4 ~~Estate and Transfer Taxes — Liability and Computation~~

5 ~~44-22-1. Tax on net estate of decedents — Additional tax on postponed enjoyment —~~

6 ~~Deductions — Marital deduction.~~

7 ~~(a) A tax is imposed upon the transfer of the net estate of every resident or nonresident~~
8 ~~decedent as a tax upon the right to transfer. The tax is imposed at the rate of two percent (2%) upon~~
9 ~~all amounts not in excess of twenty five thousand dollars (\$25,000); at the rate of three percent~~
10 ~~(3%) upon all amounts in excess of twenty five thousand dollars (\$25,000) and not exceeding fifty~~
11 ~~thousand dollars (\$50,000); at the rate of four percent (4%) upon all amounts in excess of fifty~~
12 ~~thousand dollars (\$50,000) and not exceeding one hundred thousand dollars (\$100,000); at the rate~~
13 ~~of five percent (5%) upon all amounts in excess of one hundred thousand dollars (\$100,000) and~~
14 ~~not exceeding two hundred fifty thousand dollars (\$250,000); at the rate of six percent (6%) upon~~
15 ~~all amounts in excess of two hundred fifty thousand dollars (\$250,000) and not exceeding five~~
16 ~~hundred thousand dollars (\$500,000); at the rate of seven percent (7%) upon all amounts in excess~~
17 ~~of five hundred thousand dollars (\$500,000) and not exceeding seven hundred fifty thousand dollars~~
18 ~~(\$750,000); at the rate of eight percent (8%) upon all amounts in excess of seven hundred fifty~~

1 ~~thousand dollars (\$750,000) and not exceeding one million dollars (\$1,000,000); at the rate of nine~~
2 ~~percent (9%) upon all amounts in excess of one million dollars (\$1,000,000). An additional tax is~~
3 ~~imposed at the rate of two percent (2%) upon all or any part of each estate devised, bequeathed, or~~
4 ~~conveyed in such manner that it becomes necessary to postpone the assessment of taxes imposed~~
5 ~~by this chapter until the person entitled to the estate comes into beneficial enjoyment or possession~~
6 ~~of the estate; and provided, further, that an additional tax is not assessed and collected, as provided~~
7 ~~in §§ 44-23-9—44-23-12, in case a settlement of taxes is effected under the provisions of § 44-~~
8 ~~23-25.~~

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

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

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

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

29 ~~(f)(1) In computing the value of the net estate in subsection (a) of this section, there is~~
30 ~~deducted from the estate and exempted from the estate tax, an orphan's deduction, provided, that:~~
31 ~~(i) the decedent does not have a surviving spouse, and (ii) the decedent is survived by a minor child~~
32 ~~who, immediately after the death of the decedent, has no known parent, an amount equal to the~~
33 ~~value of any interest in property which passes or has passed from the decedent to the child, but only~~
34 ~~to the extent that the interest is included in determining the value of the gross estate. The aggregate~~

1 amount of the deductions allowed under this section (computed without regard to this subsection)
2 with respect to interests in property passing to any minor child shall not exceed an amount equal to
3 five thousand dollars (\$5,000) multiplied by the excess of twenty one (21) over the age (in years)
4 which the child has attained on the date of the decedent's death.

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

8 (g) Notwithstanding any other provisions of this chapter, the total estate tax payment on
9 account of the estate of a decedent whose death occurs on or after January 1, 1986, is that percentage
10 of the estate tax which would be payable under this chapter determined in accordance with the
11 following schedule:

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

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

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

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

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

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

24 (7) Death on or after January 1, 1992. The estate tax payable on or account of the estate of
25 a decedent whose death occurs on or after January 1, 1992, is determined in accordance with § 44-
26 22-1.1.

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

29 **44-22-1.1. Tax on net estate of decedent.**

30 (a)(1) For decedents whose death occurs on or after January 1, 1992, but prior to January
31 1, 2002, a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent
32 as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for state death
33 taxes allowed by 26 U.S.C. § 2011.

34 (2) For decedents whose death occurs on or after January 1, 2002, but prior to January 1,

1 ~~2010, a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent~~
2 ~~as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for state death~~
3 ~~taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided, however,~~
4 ~~that the tax shall be imposed only if the net taxable estate shall exceed six hundred seventy five~~
5 ~~thousand dollars (\$675,000). Any scheduled increase in the unified credit provided in 26 U.S.C. §~~
6 ~~2010 in effect on January 1, 2001, or thereafter, shall not apply.~~

7 ~~(3) For decedents whose death occurs on or after January 1, 2010, and prior to January 1,~~
8 ~~2015, a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent~~
9 ~~as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for state death~~
10 ~~taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided, however,~~
11 ~~that the tax shall be imposed only if the net taxable estate shall exceed eight hundred and fifty~~
12 ~~thousand dollars (\$850,000); provided, further, beginning on January 1, 2011, and each January 1~~
13 ~~thereafter until January 1, 2015, said amount shall be adjusted by the percentage of increase in the~~
14 ~~Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States~~
15 ~~Department of Labor Statistics determined as of September 30 of the prior calendar year; said~~
16 ~~adjustment shall be compounded annually and shall be rounded up to the nearest five dollar (\$5.00)~~
17 ~~increment. Any scheduled increase in the unified credit provided in 26 U.S.C. § 2010 in effect on~~
18 ~~January 1, 2003, or thereafter, shall not apply.~~

19 ~~(4) For decedents whose death occurs on or after January 1, 2015, a tax is imposed upon~~
20 ~~the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to~~
21 ~~transfer. The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C.~~
22 ~~§ 2011, as it was in effect as of January 1, 2001; provided, however, that a Rhode Island credit shall~~
23 ~~be allowed against any tax so determined in the amount of sixty four thousand four hundred~~
24 ~~(\$64,400). Any scheduled increase in the unified credit provided in 26 U.S.C. § 2010 in effect on~~
25 ~~January 1, 2003, or thereafter, shall not apply; provided, further, beginning on January 1, 2016, and~~
26 ~~each January 1 thereafter, said Rhode Island credit amount under this section shall be adjusted by~~
27 ~~the percentage of increase in the Consumer Price Index for all Urban Consumers (CPI-U) as~~
28 ~~published by the United States Department of Labor Statistics determined as of September 30 of~~
29 ~~the prior calendar year; said adjustment shall be compounded annually and shall be rounded up to~~
30 ~~the nearest five dollar (\$5.00) increment.~~

31 ~~(b) If the decedent's estate contains property having a tax situs not within the state, then~~
32 ~~the tax determined by this section is reduced to an amount determined by multiplying the tax by a~~
33 ~~fraction whose numerator is the gross estate excluding all property having a tax situs not within the~~
34 ~~state at the decedent's death and whose denominator is the gross estate. In determining the fraction,~~

1 ~~no deductions are considered and the gross estate is not reduced by a mortgage or other~~
2 ~~indebtedness for which the decedent's estate is not liable.~~

3 ~~(c)(1) The terms "gross taxable estate," "federal gross estate" or "net taxable estate" used~~
4 ~~in this chapter or chapter 23 of this title has the same meaning as when used in a comparable context~~
5 ~~in the laws of the United States, unless a different meaning is clearly required by the provisions of~~
6 ~~this chapter or chapter 23 of this title. Any reference in this chapter or chapter 23 of this title to the~~
7 ~~Internal Revenue Code or other laws of the United States means the Internal Revenue Code of~~
8 ~~1954, 26 U.S.C. § 1 et seq.~~

9 ~~(2) For decedents whose death occurs on or after January 1, 2002, the terms "gross taxable~~
10 ~~estate" "federal gross estate" or "net taxable estate" used in this chapter or chapter 23 of this title~~
11 ~~has the same meaning as when used in a comparable context in the laws of the United States, unless~~
12 ~~a different meaning is clearly required by the provisions of this chapter or chapter 23 of this title.~~
13 ~~Any reference in this chapter or chapter 23 of this title to the Internal Revenue Code or other laws~~
14 ~~of the United States means the Internal Revenue Code of 1954, 26 U.S.C. § 1 et seq., as they were~~
15 ~~in effect as of January 1, 2001, unless otherwise provided.~~

16 ~~(d) All values are as finally determined for federal estate tax purposes.~~

17 ~~(e) Property has a tax situs within the state of Rhode Island:~~

18 ~~(1) If it is real estate or tangible personal property and has actual situs within the state of~~
19 ~~Rhode Island; or~~

20 ~~(2) If it is intangible personal property and the decedent was a resident.~~

21 ~~**44-22-2. Exemption—Missing persons in military action.**~~

22 ~~An estate of a serviceman or servicewoman who has been classified by the armed forces~~
23 ~~of the United States as missing in action is exempt from provisions of this chapter pertaining to~~
24 ~~taxation.~~

25 ~~**44-22-3—44-22-7. Repealed.**~~

26 ~~**44-22-8—44-22-11. Repealed.**~~

27 ~~**44-22-12—44-22-20. Repealed.**~~

28 ~~**44-22-21. Repealed.**~~

29 ~~**44-22-22—44-22-24. Repealed.**~~

30 ~~**44-22-25. Repealed.**~~

31 ~~**44-22-26. [Renumbered.]**~~

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

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES--LIABILITY AND
COMPUTATION

- 1 This act would eliminate the estate tax in Rhode Island.
- 2 This act would take effect upon passage.

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