

2023 -- H 6209

LC002626

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TAXATION -- BUSINESS CORPORATION TAX

Introduced By: Representatives Slater, and O'Brien

Date Introduced: March 24, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **44-11-11. "Net income" defined.**

4 (a)(1) "Net income" means, for any taxable year and for any corporate taxpayer, the taxable  
5 income of the taxpayer for that taxable year under the laws of the United States, plus:

6 (i) Any interest not included in the taxable income;

7 (ii) Any specific exemptions;

8 (iii) The tax imposed by this chapter;

9 (iv) For any taxable year beginning on or after January 1, 2020, the amount of any Paycheck  
10 Protection Program loan forgiven for federal income tax purposes as authorized by the Coronavirus  
11 Aid, Relief, and Economic Security Act and/or the Consolidated Appropriations Act, 2021 and/or  
12 any other subsequent federal stimulus relief packages enacted by law, to the extent that the amount  
13 of the loan forgiven exceeds \$250,000; and minus:

14 (v) Interest on obligations of the United States or its possessions, and other interest exempt  
15 from taxation by this state; and

16 (vi) The federal net operating loss deduction.

17 (2) All binding federal elections made by or on behalf of the taxpayer applicable either  
18 directly or indirectly to the determination of taxable income shall be binding on the taxpayer except  
19 where this chapter or its attendant regulations specifically modify or provide otherwise. Rhode

1 Island taxable income shall not include the “gross-up of dividends” required by the federal Internal  
2 Revenue Code to be taken into taxable income in connection with the taxpayer’s election of the  
3 foreign tax credit.

4 (b) A net operating loss deduction shall be allowed, which shall be the same as the net  
5 operating loss deduction allowed under 26 U.S.C. § 172, except that:

6 (1) Any net operating loss included in determining the deduction shall be adjusted to reflect  
7 the inclusions and exclusions from entire net income required by subsection (a) of this section and  
8 § 44-11-11.1;

9 (2) The deduction shall not include any net operating loss sustained during any taxable year  
10 in which the taxpayer was not subject to the tax imposed by this chapter; and

11 (3) The deduction shall not exceed the deduction for the taxable year allowable under 26  
12 U.S.C. § 172; provided, that the deduction for a taxable year may not be carried back to any other  
13 taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the  
14 five (5) succeeding taxable years.

15 (c) “Domestic international sales corporations” (referred to as DISCs), for the purposes of  
16 this chapter, will be treated as they are under federal income tax law and shall not pay the amount  
17 of the tax computed under § 44-11-2(a). Any income to shareholders of DISCs is to be treated in  
18 the same manner as it is treated under federal income tax law as it exists on December 31, 1984.

19 (d) A corporation that qualifies as a “foreign sales corporation” (FSC) under the provisions  
20 of subchapter N, 26 U.S.C. § 861 et seq., and that has in effect for the entire taxable year a valid  
21 election under federal law to be treated as a FSC, shall not pay the amount of the tax computed  
22 under § 44-11-2(a). Any income to shareholders of FSCs is to be treated in the same manner as it  
23 is treated under federal income tax law as it exists on January 1, 1985.

24 (e) For purposes of a corporation’s state tax liability, any deduction to income allowable  
25 under 26 U.S.C. § 1400Z-2(c) may be claimed in the case of any investment held by the taxpayer  
26 for at least seven years. The division of taxation shall promulgate, in its discretion, rules and  
27 regulations relative to the accelerated application of deductions under 26 U.S.C. § 1400Z-2(c).

28 (f) For purposes of a corporation's state tax liability, any deduction to income allowable  
29 under the laws of the United States but for 26 U.S.C. § 280E, may be claimed in the case of any  
30 cannabis establishment defined pursuant to § 21-28.11-3.

31 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 allow cannabis establishments, as defined pursuant to § 21-28.11-3, to claim  
2 any deduction to income that would be allowable under the laws of the United States but for 26  
3 U.S.C. § 280E.

4           This act would take effect upon passage.

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