



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS

Department of Administration
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Memorandum

To: The Honorable Raymond E. Gallison, Jr.
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: April 6, 2015

Subject: Amendments to the FY 2016 Appropriations Act (15-H-5900)

The Governor requests that several amendments be made to Article 11 entitled "Relating to Revenues", including changes to sections 3, 8 and 15. The changes requested are listed and explained below. Also provided below is a revised version of Section 15 with the revised language indicated with shading.

In Section 3, the definition of "Hotel" is changed from any facility offering a minimum of three rooms for rent to any facility offering a minimum of one room for rent.

In Section 8, RIGL 44-18-36.1 has been amended to include travel packages under the hotel tax imposed in this section and to exclude vacation homes rented in its entirety from the 5.0 percent hotel tax.

In Section 15, several amendments are requested. RIGL 44-70-2 has been amended to clarify the purpose of this chapter. RIGL 44-70-3 has been amended to reference "tax year" under the definition of non-owner occupied property and also to add a definition of "residential property". RIGL 44-70-4 has been amended to clarify the imposition of the tax. RIGL 44-70-11 has been amended to clarify the hearing process. RIGL 44-70-12 has been amended to clarify the appeals process.

If you have any questions regarding this amendment, please feel free to call me or my staff at 222-6300.

TAM:15-Amend-07

Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Stephen Whitney, Senate Fiscal Advisor
Michael DiBiase, Director of Administration
Jonathan Womer, Director, Office of Management and Budget
David Sullivan, Acting Director of Revenue
Paul Dion, Chief, Office of Revenue Analysis
Gregory Stack, Supervising Budget Analyst

Amendments to Article 11

Section 3

Page 161, line 4: Strike the words “~~three (3) rooms~~” and replace with underlined words “one (1) room”

Section 8

Page 185, line 29: Insert underlined words “travel packages” after the word “hotel”

Page 185, line 30: Changes “§ 44-18-7(c)” to “§ 44-18-7(b)”

Page 185, line 30: Insert the following new, underlined sentence after the word “state.”: A house, condominium, or other resident dwelling shall be exempt from the five percent (5%) hotel tax under this subsection if the house, condominium, or other resident dwelling is rented in its entirety.

Section 15

Page 207, lines 26-31: Delete new, underlined language in lines 26 through 31

Page 207, line 32: Renumber underlined subsection from “(k)” to “(i)”

Page 208, line 1: Renumber underlined subsection from “(l)” to “(j)”

Page 208, line 13: Replace the underlined word “privilege” with the underlined word “tax”

Page 208, insert after line 17: “(f) “Residential property” means residential property with five (5) or less units, estates, residential condominium, time shared condominium, dockominium, mobile home or vacant land zoned as residential.”

Page 208, line 18: Renumber underlined subsection from “(f)” to “(g)”

Page 208, line 18: Change the underlined word “taxable” to “tax”

Page 208, line 20: Replace underlined words “upon the privilege of utilizing property as” with “on”

Page 208, line 21: In both instances on line 21, replace the underlined word “privilege” with the underlined word “tax”

Page 210, line 5: Replace underlined word “action” with the underlined words “final decision”

Page 210, line 5: Replace underlined word “action” with the underlined words “final decision”

Page 210, line 15: Replace the underlined word “privilege” with the underlined word “tax”

Page 210, line 19 Replace the underlined words “administrative orders or” with the underlined word “final”

Page 210, line 19 Insert after underlined word “decisions” the underlined phrase “of the tax administrator”

Page 210, line 22 Replace the underlined word “surcharges” with the underlined word “taxes”

Page 211, line 7 Replace “§ 44-65-15” with § 44-70-15”

Revised Version of Section 15

SECTION 15. Title 44 of the General Laws entitled “Taxation” is hereby amended by adding thereto the following chapter:

CHAPTER 70

THE NON-OWNER OCCUPIED PROPERTY TAX

§ 44-70-1 Short title. – This chapter shall be known as “The Non-Owner Occupied Property Tax.”

§ 44-70-2 Purpose. – (a) The state funds cities and towns pursuant to chapter § 45-13.

(b) There is a compelling state interest in protecting the tax base of its cities and towns.

(c) There are numerous non-owner occupied residential properties throughout the cities and towns of Rhode Island assessed at values over \$1 million dollars (\$1,000,000).

(d) The existence of such properties within a city or town has an impact on the value of real property within the cities and towns and the tax base within these cities and towns.

(e) Non-owner occupied properties sometimes place a greater demand on essential state, city or town services such as police and fire protection than do occupied properties comparably assessed for real estate tax purposes.

(f) The residents of non-owner occupied properties are not vested with a motive to maintain such properties.

(g) The owners of non-owner occupied properties do not always contribute a fair share of the costs of providing the foregoing essential state, city or town services financed in part by real estate tax revenues, which revenues are solely based on the assessed value of properties.

(h) Some properties are deliberately left vacant by their owners in the hope that real estate values will increase, thereby enabling the owners to sell these properties at a substantial profit without making any of the necessary repairs or improvements to the property.

(i) Owners of non-owner occupied properties must be required, through a state's power to tax, to pay a fair share of the cost of providing certain essential state services to protect the public health, safety, and welfare.

(j) For all of the reasons stated within this section, the purpose of this chapter is to impose a state-wide tax upon non-owner occupied residential property assessed at a value of one million dollars (\$1,000,000) or more.

§ 44-70-3 Definitions. – The following words and phrases as used in this chapter have the following meaning:

(a) "Administrator" means the tax administrator within the department of revenue.

(b) "Assessed value" means the assessed value of the real estate as returned by the tax assessor of the city or town where the property is located.

(c) "Person" means any individual, corporation, company, association, partnership, joint stock association, and the legal successor thereof or any other entity or group organization against which a tax may be assessed.

(d) "Non-owner occupied" means that the residential property is not occupied by the owner of the property for a majority of the tax year. A seasonal or vacation occupancy is deemed non-owner occupied residency for the purposes of this chapter.

(e) "Non-owner occupied tax" means the assessment imposed upon the non-owner occupied residential property assessed at one million dollars (\$1,000,000) or more pursuant to this chapter.

(f) "Residential property" means residential property with five (5) or less units, estates, residential condominium, time shared condominium, dockominium, mobile home or vacant land zoned as residential.

(g) "Tax year" means July 1 through June 30.

§ 44-70-4 Imposition of Tax. –(a) The tax administrator of the state of Rhode Island is empowered to impose a tax on non-owner occupied residential property within the state during any tax year commencing with the tax year beginning July 1, 2015 and every tax year thereafter. The non-owner occupied tax shall be in addition to any other taxes authorized by the general or public laws.

§ 44-70-5 Exemptions: This act does not supersede any applicable exemption in the general or public laws; provided, however, that the tax administrator shall be provided with the alleged basis for that exemption in writing and may reject said alleged exemption if he/she deems said exemption is not applicable.

§ 44-70-6 Rate of tax. – The tax authorized by this chapter shall be measured by the assessed value of the real estate at the rate two dollars and fifty cents (\$2.50) for each one thousand dollars (\$1,000) or fractional part of the assessed value.

§ 44-70-7 Returns. – (a) The tax imposed under authority of this chapter shall be due and payable in four (4) equal installments. The first installment shall be paid on or before September 15 of the taxable year, the second installment shall be paid on or before December 15 of the taxable year, the third installment shall be paid on or before March 15 of the taxable year, and fourth installment shall be paid on or before June 15 of the taxable year.

(b) The tax administrator is authorized to adopt rules, pursuant to this chapter, relative to the form of the return and the data that it must contained on the return for the correct computation of the imposed tax. All returns shall be signed by the taxpayer or by its authorized representative, subject to the pains and penalties of perjury. If a return shows an overpayment of the tax due, the tax administrator shall refund or credit the overpayment to the taxpayer.

(c) The tax administrator, for good cause shown, may extend the time within which a taxpayer is required to file a return, and if the return is filed during the period of extension. No penalty or late filing charge may be imposed for failure to file the return at the time required by

this chapter, but the taxpayer shall be liable for interest as prescribed in this chapter. Failure to file the return during the period for the extension shall void the extension.

§ 44-70-8 Set-off for delinquent payment of tax. – If a taxpayer shall fail to pay a tax within thirty (30) days of its due date, the tax administrator may request any agency of state government making payments to the taxpayer to set-off the amount of the delinquency against any payment due the taxpayer from the agency of state government and remit the sum to the tax administrator. Upon receipt of the set-off request from the tax administrator, any agency of state government is authorized and empowered to set-off the amount of the delinquency against any payment or amounts due the taxpayer. The amount of set-off shall be credited against the tax due from the taxpayer.

§ 44-70-9 Tax on available information – Interest on delinquencies – Penalties – Collection powers. – If any taxpayer shall fail to file a return within the time required by this chapter, or shall file an insufficient or incorrect return, or shall not pay the tax imposed by this chapter when it is due, the tax administrator shall assess the tax upon the information as may be available, which shall be payable upon demand and shall bear interest at the annual rate provided by § 44-1-7 of the Rhode Island general laws, as amended, from the date when the tax should have been paid. If any part of the tax made is due to negligence or intentional disregard of the provisions of this chapter, a penalty of ten percent (10%) of the amount of the determination shall be added to the tax. The tax administrator shall collect the tax with interest in the same manner and with the same powers as are prescribed for collection of taxes in this title.

§ 44-70-10 Claims for refund – Hearing upon denial. – (a) Any taxpayer subject to the provisions of this chapter, may file a claim for refund with the tax administrator at any time within two (2) years after the tax has been paid. If the tax administrator determines that the tax has been overpaid, he or she shall make a refund with interest from the date of overpayment.

(b) Any taxpayer whose claim for refund has been denied may, within thirty (30) days from the date of the mailing by the administrator of the notice of the decision, request a hearing

and the administrator shall, as soon as practicable, set a time and place for the hearing and shall notify the taxpayer.

§ 44-70-11 Hearing by tax administrator on application. – Any taxpayer aggrieved by the final decision of the tax administrator in determining the amount of any tax or penalty imposed under the provisions of this chapter may apply to the tax administrator, within thirty (30) days after the notice of the final decision is mailed to it, for a hearing relative to the tax or penalty. The tax administrator shall fix a time and place for the hearing and shall so notify the taxpayer. Upon the hearing the tax administrator shall correct manifest errors, if any, disclosed at the hearing and thereupon assess and collect the amount lawfully due together with any penalty or interest thereon.

§ 44-70-12 Appeals. – (a) In any appeal from the imposition of the tax set forth in this chapter, the tax administrator shall find in favor of an appellant who shows that the property assessed:

(1) Was actively occupied by the owner during the tax year for more than six (6) months;

or

(2) Was exempt pursuant to the Rhode Island General or Public laws from the imposition of the tax set forth in that section.

(b) Appeals from final decisions of the tax administrator made pursuant to any provisions of this chapter shall be to the sixth division district court pursuant to chapter 8 of title 8 of the Rhode Island general laws, as amended. The taxpayer's right to appeal under this section shall be expressly made conditional upon prepayment of all taxes, interest, and penalties unless the taxpayer moves for and is granted an exemption from the prepayment requirement pursuant to § 8-8-26 of the Rhode Island general laws, as amended. If the court, after appeal, holds that the taxpayer is entitled to a refund, the taxpayer shall also be paid interest on the amount at the rate provided in § 44-1-7.1 of the Rhode Island general laws, as amended.

§ 44-70-13 Taxpayer records. – Every taxpayer shall:

(1) Keep records as may be necessary to determine the amount of its liability under this chapter, including, but not limited to: rental agreements, payments for rent, bank statements for payment of residential expenses, utility bills, and any other records establishing residency or non-residency.

(2) Preserve those records for the period of three (3) years following the date of filing of any return required by this chapter, or until any litigation or prosecution under this chapter is finally determined.

(3) Make those records available for inspection by the administrator or his/her authorized agents, upon demand, at reasonable times during regular business hours.

§ 44-70-14 Rules and regulations. – The tax administrator is authorized to make and promulgate rules, regulations, and procedures not inconsistent with state law and fiscal procedures as he or she deems necessary for the proper administration of this chapter and to carry out the provisions, policies, and purposes of this chapter.

§ 44-70-15 Severability. – If any provision of this chapter or the application of this chapter to any person or circumstances is held invalid, that invalidity shall not affect other provisions or applications of the chapter that can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable. It is declared to be the legislative intent that this chapter would have been adopted had those provisions not been included or that person, circumstance, or time period been expressly excluded from its coverage.