

2014 -- H 7139

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO TAXATION -- BUSINESS CORPORATION TAX

Introduced By: Representatives Ruggiero, Gallison, Craven, Serpa, and Trillo

Date Introduced: January 21, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **44-11-2. Imposition of tax.** -- (a) Each corporation shall annually pay to the state a tax
4 equal to nine percent (9%) of net income, as defined in section 44-11-11, qualified in section 44-
5 11-12, and apportioned to this state as provided in sections 44-11-13 -- 44-11-15, for the taxable
6 year.

7 (b) A corporation shall pay the amount of any tax as computed in accordance with
8 subsection (a) of this section after deducting from "net income," as used in this section, fifty
9 percent (50%) of the excess of capital gains over capital losses realized during the taxable year, if
10 for the taxable year:

11 (1) The corporation is engaged in buying, selling, dealing in, or holding securities on its
12 own behalf and not as a broker, underwriter, or distributor;

13 (2) Its gross receipts derived from these activities during the taxable year amounted to at
14 least ninety percent (90%) of its total gross receipts derived from all of its activities during the
15 year. "Gross receipts" means all receipts, whether in the form of money, credits, or other valuable
16 consideration, received during the taxable year in connection with the conduct of the taxpayer's
17 activities.

18 (c) A corporation shall not pay the amount of the tax computed on the basis of its net
19 income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten

1 cents (\$.10) for each one hundred dollars (\$100) of gross income for the taxable year or a tax of
2 one hundred dollars (\$100), whichever tax shall be the greater, if for the taxable year the
3 corporation is either a "personal holding company" registered under the federal Investment
4 Company Act of 1940, 15 U.S.C. section 80a-1 et seq., "regulated investment company", or a
5 "real estate investment trust" as defined in the federal income tax law applicable to the taxable
6 year. "Gross income" means gross income as defined in the federal income tax law applicable to
7 the taxable year, plus:

8 (1) Any interest not included in the federal gross income; minus

9 (2) Interest on obligations of the United States or its possessions, and other interest
10 exempt from taxation by this state; and minus

11 (3) Fifty percent (50%) of the excess of capital gains over capital losses realized during
12 the taxable year.

13 (d) (1) A small business corporation having an election in effect under subchapter S, 26
14 U.S.C. section 1361 et seq., shall not be subject to the Rhode Island income tax on corporations,
15 except that the corporation shall be subject to the provisions of subsection (a), to the extent of the
16 income that is subjected to federal tax under subchapter S.

17 (2) The shareholders of the corporation who are residents of Rhode Island shall include
18 in their income their proportionate share of the corporation's federal taxable income.

19 (3) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

20 (4) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

21 (e) Minimum tax. - The tax imposed upon any corporation under this section shall not be
22 less than five hundred dollars (\$500); [provided, however, that a corporation shall not be subject to](#)
23 [the minimum tax for the first three \(3\) years following the date of incorporation.](#)

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

26 **44-12-1. Tax imposed -- Corporations liable -- Credit for tax on income -- Reduced**
27 **rate where no business done. --** (a) Every corporation, joint-stock company, or association
28 incorporated in this state or qualified to do business in this state, whether or not doing business
29 for profit, all referred to in this section under the term "corporation", except those enumerated in
30 section 44-12-11, shall pay an annual franchise tax to the state upon its authorized capital stock of
31 two dollars fifty cents (\$2.50) for each ten thousand dollars (\$10,000) or fractional part, or the
32 sum of five hundred dollars (\$500), whichever is greater; [provided, however, that a corporation](#)
33 [shall not be subject to the minimum tax for the first three \(3\) years following the date of](#)
34 [incorporation.](#)

1 (b) In the case of corporations liable to a tax under chapter 11 of this title, only the
2 amount by which the franchise tax exceeds the tax payable under that chapter shall be assessed.

3 (c) If a corporation shall show by supplemental affidavit attached to the prescribed return
4 and signed in the manner provided for each return that it has not, at any time during its preceding
5 taxable year, been engaged within the state in any business activities, it shall only pay an annual
6 franchise tax upon its authorized capital stock at the following rates: five hundred dollars (\$500)
7 where the stock does not exceed one million dollars (\$1,000,000); and the further sum of twelve
8 dollars fifty cents (\$12.50) for each additional one million dollars (\$1,000,000) or fractional part
9 of the stock.

10 SECTION 3. This act shall take effect upon passage and shall apply to all tax years
11 beginning on or after January 1, 2014.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would provide that only corporate entities in existence for three (3) years or
2 greater be taxed under this section.

3 This act would take effect upon passage and would apply to all tax years beginning on or
4 after January 1, 2014.

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