

2014 -- H 8084

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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 - FRANCHISE TAX

Introduced By: Representatives Tomasso, Phillips, Morin, and Giarrusso

Date Introduced: April 30, 2014

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **44-12-1. Tax imposed -- Corporations liable -- Credit for tax on income -- Reduced**
4 **rate where no business done.** -- (a) Every corporation, joint-stock company, or association
5 incorporated in this state or qualified to do business in this state, whether or not doing business
6 for profit, all referred to in this section under the term "corporation", except those enumerated in
7 section 44-12-11, shall pay an annual franchise tax to the state upon its authorized capital stock of
8 two dollars fifty cents (\$2.50) for each ten thousand dollars (\$10,000) or fractional part, or the
9 sum of ~~five hundred dollars (\$500)~~ two hundred fifty dollars (\$250), whichever is greater.

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

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

19 SECTION 2. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business

1 Corporation Tax" is hereby amended to read as follows:

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

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

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

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

17 (c) A corporation shall not pay the amount of the tax computed on the basis of its net
18 income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten
19 cents (\$.10) for each one hundred dollars (\$100) of gross income for the taxable year or a tax of
20 one hundred dollars (\$100), whichever tax shall be the greater, if for the taxable year the
21 corporation is either a "personal holding company" registered under the federal Investment
22 Company Act of 1940, 15 U.S.C. section 80a-1 et seq., "regulated investment company", or a
23 "real estate investment trust" as defined in the federal income tax law applicable to the taxable
24 year. "Gross income" means gross income as defined in the federal income tax law applicable to
25 the taxable year, plus:

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

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

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

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

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

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

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

5 (e) Minimum tax. - The tax imposed upon any corporation under this section shall not be
6 less than ~~five hundred dollars (\$500)~~ two hundred fifty dollars (\$250).

7 SECTION 3. 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 reduce the annual minimum franchise, business corporation, and limited
- 2 liability company tax from five hundred dollars (\$500) to two hundred fifty dollars (\$250).
- 3 This act would take effect upon passage.

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