

2019 -- S 0422

LC001890

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2019

A N A C T

RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES

Introduced By: Senators Morgan, and Raptakis

Date Introduced: February 27, 2019

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-22-1 and 44-22-1.1 of the General Laws in Chapter 44-22
2 entitled "Estate and Transfer Taxes - Liability and Computation" are hereby repealed.

3 ~~44-22-1. Tax on net estate of decedents -- Additional tax on postponed enjoyment --~~
4 ~~Deductions -- Marital deduction.~~

5 (a) ~~A tax is imposed upon the transfer of the net estate of every resident or nonresident~~
6 ~~decedent as a tax upon the right to transfer. The tax is imposed at the rate of two percent (2%)~~
7 ~~upon all amounts not in excess of twenty five thousand dollars (\$25,000); at the rate of three~~
8 ~~percent (3%) upon all amounts in excess of twenty five thousand dollars (\$25,000) and not~~
9 ~~exceeding fifty thousand dollars (\$50,000); at the rate of four percent (4%) upon all amounts in~~
10 ~~excess of fifty thousand dollars (\$50,000) and not exceeding one hundred thousand dollars~~
11 ~~(\$100,000); at the rate of five percent (5%) upon all amounts in excess of one hundred thousand~~
12 ~~dollars (\$100,000) and not exceeding two hundred fifty thousand dollars (\$250,000); at the rate of~~
13 ~~six percent (6%) upon all amounts in excess of two hundred fifty thousand dollars (\$250,000) and~~
14 ~~not exceeding five hundred thousand dollars (\$500,000); at the rate of seven percent (7%) upon~~
15 ~~all amounts in excess of five hundred thousand dollars (\$500,000) and not exceeding seven~~
16 ~~hundred fifty thousand dollars (\$750,000); at the rate of eight percent (8%) upon all amounts in~~
17 ~~excess of seven hundred fifty thousand dollars (\$750,000) and not exceeding one million dollars~~
18 ~~(\$1,000,000); at the rate of nine percent (9%) upon all amounts in excess of one million dollars~~
19 ~~(\$1,000,000). An additional tax is imposed at the rate of two percent (2%) upon all or any part of~~

1 ~~each estate devised, bequeathed, or conveyed in such manner that it becomes necessary to~~
2 ~~postpone the assessment of taxes imposed by this chapter until the person entitled to the estate~~
3 ~~comes into beneficial enjoyment or possession of the estate; and provided, further, that an~~
4 ~~additional tax is not assessed and collected, as provided in §§ 44-23-9—44-23-12, in case a~~
5 ~~settlement of taxes is effected under the provisions of § 44-23-25.~~

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

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

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

20 ~~(e) 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 estate tax a marital deduction, as defined in 26~~
22 ~~U.S.C. § 2056, in the amount of one hundred seventy five thousand dollars (\$175,000), from~~
23 ~~property or beneficial interests which pass or have passed from the decedent to the surviving~~
24 ~~spouse, but only to the extent that the interests are included in determining the value of the gross~~
25 ~~estate.~~

26 ~~(f)(1) In computing the value of the net estate in subsection (a) of this section, there is~~
27 ~~deducted from the estate and exempted from the estate tax, an orphan's deduction, provided, that:~~
28 ~~(i) the decedent does not have a surviving spouse, and (ii) the decedent is survived by a minor~~
29 ~~child who, immediately after the death of the decedent, has no known parent, an amount equal to~~
30 ~~the value of any interest in property which passes or has passed from the decedent to the child,~~
31 ~~but only to the extent that the interest is included in determining the value of the gross estate. The~~
32 ~~aggregate amount of the deductions allowed under this section (computed without regard to this~~
33 ~~subsection) with respect to interests in property passing to any minor child shall not exceed an~~
34 ~~amount equal to five thousand dollars (\$5,000) multiplied by the excess of twenty one (21) over~~

1 ~~the age (in years) which the child has attained on the date of the decedent's death.~~

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

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

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

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

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

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

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

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

21 ~~(7) Death on or after January 1, 1992. The estate tax payable on or account of the estate~~
22 ~~of a decedent whose death occurs on or after January 1, 1992, is determined in accordance with §~~
23 ~~44-22-1.1.~~

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

26 ~~**44-22-1.1. Tax on net estate of decedent.**~~

27 ~~(a)(1) For decedents whose death occurs on or after January 1, 1992, but prior to January~~
28 ~~1, 2002, a tax is imposed upon the transfer of the net estate of every resident or nonresident~~
29 ~~decedent as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for~~
30 ~~state death taxes allowed by 26 U.S.C. § 2011.~~

31 ~~(2) For decedents whose death occurs on or after January 1, 2002, but prior to January 1,~~
32 ~~2010, a tax is imposed upon the transfer of the net estate of every resident or nonresident~~
33 ~~decedent as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for~~
34 ~~state death taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided,~~

1 ~~however, that the tax shall be imposed only if the net taxable estate shall exceed six hundred~~
2 ~~seventy five thousand dollars (\$675,000). Any scheduled increase in the unified credit provided~~
3 ~~in 26 U.S.C. § 2010 in effect on January 1, 2001, or thereafter, shall not apply.~~

4 ~~(3) For decedents whose death occurs on or after January 1, 2010, and prior to January 1,~~
5 ~~2015, a tax is imposed upon the transfer of the net estate of every resident or nonresident~~
6 ~~decedent as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for~~
7 ~~state death taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided,~~
8 ~~however, that the tax shall be imposed only if the net taxable estate shall exceed eight hundred~~
9 ~~and fifty thousand dollars (\$850,000); provided, further, beginning on January 1, 2011, and each~~
10 ~~January 1 thereafter until January 1, 2015, said amount shall be adjusted by the percentage of~~
11 ~~increase in the Consumer Price Index for all Urban Consumers (CPI-U) as published by the~~
12 ~~United States Department of Labor Statistics determined as of September 30 of the prior calendar~~
13 ~~year; said adjustment shall be compounded annually and shall be rounded up to the nearest five~~
14 ~~dollar (\$5.00) increment. Any scheduled increase in the unified credit provided in 26 U.S.C. §~~
15 ~~2010 in effect on January 1, 2003, or thereafter, shall not apply.~~

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

28 ~~(b) If the decedent's estate contains property having a tax situs not within the state, then~~
29 ~~the tax determined by this section is reduced to an amount determined by multiplying the tax by a~~
30 ~~fraction whose numerator is the gross estate excluding all property having a tax situs not within~~
31 ~~the state at the decedent's death and whose denominator is the gross estate. In determining the~~
32 ~~fraction, no deductions are considered and the gross estate is not reduced by a mortgage or other~~
33 ~~indebtedness for which the decedent's estate is not liable.~~

34 ~~(c)(1) The terms "gross taxable estate", "federal gross estate" or "net taxable estate" used~~

1 ~~in this chapter or chapter 23 of this title has the same meaning as when used in a comparable~~
2 ~~context in the laws of the United States, unless a different meaning is clearly required by the~~
3 ~~provisions of this chapter or chapter 23 of this title. Any reference in this chapter or chapter 23 of~~
4 ~~this title to the Internal Revenue Code or other laws of the United States means the Internal~~
5 ~~Revenue Code of 1954, 26 U.S.C. § 1 et seq.~~

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

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

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

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

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

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

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LC001890
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES

- 1 This act would repeal the state estate tax.
- 2 This act would take effect upon passage.

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