

2023 -- H 6171

LC002562

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2023

A N A C T

RELATING TO TAXATION -- PERSONAL INCOME TAX -- CAPITAL GAINS

Introduced By: Representatives Ajello, Kislak, Speakman, Alzate, Potter, and Cruz

Date Introduced: March 17, 2023

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-30-2.6 and 44-30-2.7 of the General Laws in Chapter 44-30
2 entitled "Personal Income Tax" are hereby amended to read as follows:

3 **44-30-2.6. Rhode Island taxable income — Rate of tax.**

4 (a) "Rhode Island taxable income" means federal taxable income as determined under the
5 Internal Revenue Code, 26 U.S.C. § 1 et seq., not including the increase in the basic, standard-
6 deduction amount for married couples filing joint returns as provided in the Jobs and Growth Tax
7 Relief Reconciliation Act of 2003 and the Economic Growth and Tax Relief Reconciliation Act of
8 2001 (EGTRRA), and as modified by the modifications in § 44-30-12.

9 (b) Notwithstanding the provisions of §§ 44-30-1 and 44-30-2, for tax years beginning on
10 or after January 1, 2001, a Rhode Island personal income tax is imposed upon the Rhode Island
11 taxable income of residents and nonresidents, including estates and trusts, at the rate of twenty-five
12 and one-half percent (25.5%) for tax year 2001, and twenty-five percent (25%) for tax year 2002
13 and thereafter of the federal income tax rates, including capital gains rates and any other special
14 rates for other types of income, except as provided in § 44-30-2.7, which were in effect immediately
15 prior to enactment of the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA);
16 provided, rate schedules shall be adjusted for inflation by the tax administrator beginning in taxable
17 year 2002 and thereafter in the manner prescribed for adjustment by the commissioner of Internal
18 Revenue in 26 U.S.C. § 1(f). However, for tax years beginning on or after January 1, 2006, a
19 taxpayer may elect to use the alternative flat tax rate provided in § 44-30-2.10 to calculate his or

1 her personal income tax liability.

2 (c) For tax years beginning on or after January 1, 2001, if a taxpayer has an alternative
3 minimum tax for federal tax purposes, the taxpayer shall determine if he or she has a Rhode Island
4 alternative minimum tax. The Rhode Island alternative minimum tax shall be computed by
5 multiplying the federal tentative minimum tax without allowing for the increased exemptions under
6 the Jobs and Growth Tax Relief Reconciliation Act of 2003 (as redetermined on federal form 6251
7 Alternative Minimum Tax-Individuals) by twenty-five and one-half percent (25.5%) for tax year
8 2001, and twenty-five percent (25%) for tax year 2002 and thereafter, and comparing the product
9 to the Rhode Island tax as computed otherwise under this section. The excess shall be the taxpayer's
10 Rhode Island alternative minimum tax.

11 (1) For tax years beginning on or after January 1, 2005, and thereafter, the exemption
12 amount for alternative minimum tax, for Rhode Island purposes, shall be adjusted for inflation by
13 the tax administrator in the manner prescribed for adjustment by the commissioner of Internal
14 Revenue in 26 U.S.C. § 1(f).

15 (2) For the period January 1, 2007, through December 31, 2007, and thereafter, Rhode
16 Island taxable income shall be determined by deducting from federal adjusted gross income as
17 defined in 26 U.S.C. § 62 as modified by the modifications in § 44-30-12 the Rhode Island
18 itemized-deduction amount and the Rhode Island exemption amount as determined in this section.

19 **(A) Tax imposed.**

20 (1) There is hereby imposed on the taxable income of married individuals filing joint
21 returns and surviving spouses a tax determined in accordance with the following table:

22 If taxable income is:	The tax is:
23 Not over \$53,150	3.75% of taxable income
24 Over \$53,150 but not over \$128,500	\$1,993.13 plus 7.00% of the excess over \$53,150
25 Over \$128,500 but not over \$195,850	\$7,267.63 plus 7.75% of the excess over \$128,500
26 Over \$195,850 but not over \$349,700	\$12,487.25 plus 9.00% of the excess over \$195,850
27 Over \$349,700	\$26,333.75 plus 9.90% of the excess over \$349,700

28 (2) There is hereby imposed on the taxable income of every head of household a tax
29 determined in accordance with the following table:

30 If taxable income is:	The tax is:
31 Not over \$42,650	3.75% of taxable income
32 Over \$42,650 but not over \$110,100	\$1,599.38 plus 7.00% of the excess over \$42,650
33 Over \$110,100 but not over \$178,350	\$6,320.88 plus 7.75% of the excess over \$110,100
34 Over \$178,350 but not over \$349,700	\$11,610.25 plus 9.00% of the excess over \$178,350

1 Over \$349,700 \$27,031.75 plus 9.90% of the excess over \$349,700

2 (3) There is hereby imposed on the taxable income of unmarried individuals (other than
3 surviving spouses and heads of households) a tax determined in accordance with the following
4 table:

5 If taxable income is:	6 The tax is:
6 Not over \$31,850	3.75% of taxable income
7 Over \$31,850 but not over \$77,100	\$1,194.38 plus 7.00% of the excess over \$31,850
8 Over \$77,100 but not over \$160,850	\$4,361.88 plus 7.75% of the excess over \$77,100
9 Over \$160,850 but not over \$349,700	\$10,852.50 plus 9.00% of the excess over \$160,850
10 Over \$349,700	\$27,849.00 plus 9.90% of the excess over \$349,700

11 (4) There is hereby imposed on the taxable income of married individuals filing separate
12 returns and bankruptcy estates a tax determined in accordance with the following table:

13 If taxable income is:	14 The tax is:
14 Not over \$26,575	3.75% of taxable income
15 Over \$26,575 but not over \$64,250	\$996.56 plus 7.00% of the excess over \$26,575
16 Over \$64,250 but not over \$97,925	\$3,633.81 plus 7.75% of the excess over \$64,250
17 Over \$97,925 but not over \$174,850	\$6,243.63 plus 9.00% of the excess over \$97,925
18 Over \$174,850	\$13,166.88 plus 9.90% of the excess over \$174,850

19 (5) There is hereby imposed a taxable income of an estate or trust a tax determined in
20 accordance with the following table:

21 If taxable income is:	22 The tax is:
22 Not over \$2,150	3.75% of taxable income
23 Over \$2,150 but not over \$5,000	\$80.63 plus 7.00% of the excess over \$2,150
24 Over \$5,000 but not over \$7,650	\$280.13 plus 7.75% of the excess over \$5,000
25 Over \$7,650 but not over \$10,450	\$485.50 plus 9.00% of the excess over \$7,650
26 Over \$10,450	\$737.50 plus 9.90% of the excess over \$10,450

27 (6) Adjustments for inflation.

28 The dollars amount contained in paragraph (A) shall be increased by an amount equal to:

29 (a) Such dollar amount contained in paragraph (A) in the year 1993, multiplied by;

30 (b) The cost-of-living adjustment determined under section (J) with a base year of 1993;

31 (c) The cost-of-living adjustment referred to in subparagraphs (a) and (b) used in making
32 adjustments to the nine percent (9%) and nine and nine tenths percent (9.9%) dollar amounts shall
33 be determined under section (J) by substituting "1994" for "1993."

34 (B) **Maximum capital gains rates.**

1 (1) ~~In general.~~

2 ~~If a taxpayer has a net capital gain for tax years ending prior to January 1, 2010, the tax~~
3 ~~imposed by this section for such taxable year shall not exceed the sum of:~~

4 ~~(a) 2.5% of the net capital gain as reported for federal income tax purposes under section~~
5 ~~26 U.S.C. § 1(h)(1)(a) and 26 U.S.C. § 1(h)(1)(b).~~

6 ~~(b) 5% of the net capital gain as reported for federal income tax purposes under 26 U.S.C.~~
7 ~~§ 1(h)(1)(c).~~

8 ~~(c) 6.25% of the net capital gain as reported for federal income tax purposes under 26~~
9 ~~U.S.C. § 1(h)(1)(d).~~

10 ~~(d) 7% of the net capital gain as reported for federal income tax purposes under 26 U.S.C.~~
11 ~~§ 1(h)(1)(e).~~

12 (2) For tax years beginning on or after January 1, ~~2010~~ 2024, ~~the a tax in addition to the~~
13 ~~income tax otherwise imposed shall be imposed~~ on net capital ~~gain gains shall be determined under~~
14 ~~in accordance with the provisions of subdivision 44-30-2.6(e)(2)(A) § 44-30-2.7.~~

15 **(C) Itemized deductions.**

16 (1) In general.

17 For the purposes of section (2), “itemized deductions” means the amount of federal
18 itemized deductions as modified by the modifications in § 44-30-12.

19 (2) Individuals who do not itemize their deductions.

20 In the case of an individual who does not elect to itemize his deductions for the taxable
21 year, they may elect to take a standard deduction.

22 (3) Basic standard deduction.

23 The Rhode Island standard deduction shall be allowed in accordance with the following
24 table:

Filing status	Amount
Single	\$5,350
Married filing jointly or qualifying widow(er)	\$8,900
Married filing separately	\$4,450
Head of Household	\$7,850

30 (4) Additional standard deduction for the aged and blind.

31 An additional standard deduction shall be allowed for individuals age sixty-five (65) or
32 older or blind in the amount of \$1,300 for individuals who are not married and \$1,050 for
33 individuals who are married.

34 (5) Limitation on basic standard deduction in the case of certain dependents.

1 In the case of an individual to whom a deduction under section (E) is allowable to another
2 taxpayer, the basic standard deduction applicable to such individual shall not exceed the greater of:

- 3 (a) \$850;
- 4 (b) The sum of \$300 and such individual's earned income;
- 5 (6) Certain individuals not eligible for standard deduction.

6 In the case of:

- 7 (a) A married individual filing a separate return where either spouse itemizes deductions;
- 8 (b) Nonresident alien individual;
- 9 (c) An estate or trust;

10 The standard deduction shall be zero.

- 11 (7) Adjustments for inflation.

12 Each dollar amount contained in paragraphs (3), (4) and (5) shall be increased by an amount
13 equal to:

- 14 (a) Such dollar amount contained in paragraphs (3), (4) and (5) in the year 1988, multiplied
15 by
- 16 (b) The cost-of-living adjustment determined under section (J) with a base year of 1988.

17 **(D) Overall limitation on itemized deductions.**

- 18 (1) General rule.

19 In the case of an individual whose adjusted gross income as modified by § 44-30-12
20 exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the
21 taxable year shall be reduced by the lesser of:

- 22 (a) Three percent (3%) of the excess of adjusted gross income as modified by § 44-30-12
23 over the applicable amount; or
- 24 (b) Eighty percent (80%) of the amount of the itemized deductions otherwise allowable for
25 such taxable year.

- 26 (2) Applicable amount.

- 27 (a) In general.

28 For purposes of this section, the term "applicable amount" means \$156,400 (\$78,200 in the
29 case of a separate return by a married individual)

- 30 (b) Adjustments for inflation.

31 Each dollar amount contained in paragraph (a) shall be increased by an amount equal to:

- 32 (i) Such dollar amount contained in paragraph (a) in the year 1991, multiplied by
- 33 (ii) The cost-of-living adjustment determined under section (J) with a base year of 1991.
- 34 (3) Phase-out of Limitation.

1 (a) In general.

2 In the case of taxable year beginning after December 31, 2005, and before January 1, 2010,
3 the reduction under section (1) shall be equal to the applicable fraction of the amount which would
4 be the amount of such reduction.

5 (b) Applicable fraction.

6 For purposes of paragraph (a), the applicable fraction shall be determined in accordance
7 with the following table:

8 For taxable years beginning in calendar year	The applicable fraction is
9 2006 and 2007	$\frac{2}{3}$
10 2008 and 2009	$\frac{1}{3}$

11 **(E) Exemption amount.**

12 (1) In general.

13 Except as otherwise provided in this subsection, the term “exemption amount” means
14 \$3,400.

15 (2) Exemption amount disallowed in case of certain dependents.

16 In the case of an individual with respect to whom a deduction under this section is allowable
17 to another taxpayer for the same taxable year, the exemption amount applicable to such individual
18 for such individual's taxable year shall be zero.

19 (3) Adjustments for inflation.

20 The dollar amount contained in paragraph (1) shall be increased by an amount equal to:

21 (a) Such dollar amount contained in paragraph (1) in the year 1989, multiplied by

22 (b) The cost-of-living adjustment determined under section (J) with a base year of 1989.

23 (4) Limitation.

24 (a) In general.

25 In the case of any taxpayer whose adjusted gross income as modified for the taxable year
26 exceeds the threshold amount shall be reduced by the applicable percentage.

27 (b) Applicable percentage.

28 In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the
29 threshold amount, the exemption amount shall be reduced by two (2) percentage points for each
30 \$2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year
31 exceeds the threshold amount. In the case of a married individual filing a separate return, the
32 preceding sentence shall be applied by substituting “\$1,250” for “\$2,500.” In no event shall the
33 applicable percentage exceed one hundred percent (100%).

34 (c) Threshold Amount.

1 For the purposes of this paragraph, the term “threshold amount” shall be determined with
2 the following table:

3 Filing status	Amount
4 Single	\$156,400
5 Married filing jointly of qualifying widow(er)	\$234,600
6 Married filing separately	\$117,300
7 Head of Household	\$195,500

8 (d) Adjustments for inflation.

9 Each dollar amount contained in paragraph (b) shall be increased by an amount equal to:

10 (i) Such dollar amount contained in paragraph (b) in the year 1991, multiplied by

11 (ii) The cost-of-living adjustment determined under section (J) with a base year of 1991.

12 (5) Phase-out of limitation.

13 (a) In general.

14 In the case of taxable years beginning after December 31, 2005, and before January 1,
15 2010, the reduction under section 4 shall be equal to the applicable fraction of the amount which
16 would be the amount of such reduction.

17 (b) Applicable fraction.

18 For the purposes of paragraph (a), the applicable fraction shall be determined in accordance
19 with the following table:

20 For taxable years beginning in calendar year	The applicable fraction is
21 2006 and 2007	$\frac{2}{3}$
22 2008 and 2009	$\frac{1}{3}$

23 **(F) Alternative minimum tax.**

24 (1) General rule. There is hereby imposed (in addition to any other tax imposed by this
25 subtitle) a tax equal to the excess (if any) of:

26 (a) The tentative minimum tax for the taxable year, over

27 (b) The regular tax for the taxable year.

28 (2) The tentative minimum tax for the taxable year is the sum of:

29 (a) 6.5 percent of so much of the taxable excess as does not exceed \$175,000, plus

30 (b) 7.0 percent of so much of the taxable excess above \$175,000.

31 (3) The amount determined under the preceding sentence shall be reduced by the alternative
32 minimum tax foreign tax credit for the taxable year.

33 (4) Taxable excess. For the purposes of this subsection the term “taxable excess” means so
34 much of the federal alternative minimum taxable income as modified by the modifications in § 44-

1 30-12 as exceeds the exemption amount.

2 (5) In the case of a married individual filing a separate return, subparagraph (2) shall be
3 applied by substituting “\$87,500” for \$175,000 each place it appears.

4 (6) Exemption amount.

5 For purposes of this section "exemption amount" means:

6 Filing status	Amount
7 Single	\$39,150
8 Married filing jointly or qualifying widow(er)	\$53,700
9 Married filing separately	\$26,850
10 Head of Household	\$39,150
11 Estate or trust	\$24,650

12 (7) Treatment of unearned income of minor children

13 (a) In general.

14 In the case of a minor child, the exemption amount for purposes of section (6) shall not
15 exceed the sum of:

16 (i) Such child's earned income, plus

17 (ii) \$6,000.

18 (8) Adjustments for inflation.

19 The dollar amount contained in paragraphs (6) and (7) shall be increased by an amount
20 equal to:

21 (a) Such dollar amount contained in paragraphs (6) and (7) in the year 2004, multiplied by

22 (b) The cost-of-living adjustment determined under section (J) with a base year of 2004.

23 (9) Phase-out.

24 (a) In general.

25 The exemption amount of any taxpayer shall be reduced (but not below zero) by an amount
26 equal to twenty-five percent (25%) of the amount by which alternative minimum taxable income
27 of the taxpayer exceeds the threshold amount.

28 (b) Threshold amount.

29 For purposes of this paragraph, the term “threshold amount” shall be determined with the
30 following table:

31 Filing status	Amount
32 Single	\$123,250
33 Married filing jointly or qualifying widow(er)	\$164,350
34 Married filing separately	\$82,175

1	Head of Household	\$123,250
2	Estate or Trust	\$82,150

3 (c) Adjustments for inflation

4 Each dollar amount contained in paragraph (9) shall be increased by an amount equal to:

5 (i) Such dollar amount contained in paragraph (9) in the year 2004, multiplied by

6 (ii) The cost-of-living adjustment determined under section (J) with a base year of 2004.

7 **(G) Other Rhode Island taxes.**

8 (1) General rule. There is hereby imposed (in addition to any other tax imposed by this
9 subtitle) a tax equal to twenty-five percent (25%) of:

10 (a) The Federal income tax on lump-sum distributions.

11 (b) The Federal income tax on parents' election to report child's interest and dividends.

12 (c) The recapture of Federal tax credits that were previously claimed on Rhode Island
13 return.

14 **(H) Tax for children under 18 with investment income.**

15 (1) General rule. There is hereby imposed a tax equal to twenty-five percent (25%) of:

16 (a) The Federal tax for children under the age of 18 with investment income.

17 **(I) Averaging of farm income.**

18 (1) General rule. At the election of an individual engaged in a farming business or fishing
19 business, the tax imposed in section 2 shall be equal to twenty-five percent (25%) of:

20 (a) The Federal averaging of farm income as determined in IRC section 1301 [26 U.S.C. §
21 1301].

22 **(J) Cost-of-living adjustment.**

23 (1) In general.

24 The cost-of-living adjustment for any calendar year is the percentage (if any) by which:

25 (a) The CPI for the preceding calendar year exceeds

26 (b) The CPI for the base year.

27 (2) CPI for any calendar year.

28 For purposes of paragraph (1), the CPI for any calendar year is the average of the consumer
29 price index as of the close of the twelve (12) month period ending on August 31 of such calendar
30 year.

31 (3) Consumer price index.

32 For purposes of paragraph (2), the term "consumer price index" means the last consumer
33 price index for all urban consumers published by the department of labor. For purposes of the
34 preceding sentence, the revision of the consumer price index that is most consistent with the

1 consumer price index for calendar year 1986 shall be used.

2 (4) Rounding.

3 (a) In general.

4 If any increase determined under paragraph (1) is not a multiple of \$50, such increase shall
5 be rounded to the next lowest multiple of \$50.

6 (b) In the case of a married individual filing a separate return, subparagraph (a) shall be
7 applied by substituting “\$25” for \$50 each place it appears.

8 (K) **Credits against tax.** For tax years beginning on or after January 1, 2001, a taxpayer
9 entitled to any of the following federal credits enacted prior to January 1, 1996, shall be entitled to
10 a credit against the Rhode Island tax imposed under this section:

11 (1) [Deleted by P.L. 2007, ch. 73, art. 7, § 5.]

12 (2) Child and dependent care credit;

13 (3) General business credits;

14 (4) Credit for elderly or the disabled;

15 (5) Credit for prior year minimum tax;

16 (6) Mortgage interest credit;

17 (7) Empowerment zone employment credit;

18 (8) Qualified electric vehicle credit.

19 (L) **Credit against tax for adoption.** For tax years beginning on or after January 1, 2006,
20 a taxpayer entitled to the federal adoption credit shall be entitled to a credit against the Rhode Island
21 tax imposed under this section if the adopted child was under the care, custody, or supervision of
22 the Rhode Island department of children, youth and families prior to the adoption.

23 (M) The credit shall be twenty-five percent (25%) of the aforementioned federal credits
24 provided there shall be no deduction based on any federal credits enacted after January 1, 1996,
25 including the rate reduction credit provided by the federal Economic Growth and Tax
26 Reconciliation Act of 2001 (EGTRRA). In no event shall the tax imposed under this section be
27 reduced to less than zero. A taxpayer required to recapture any of the above credits for federal tax
28 purposes shall determine the Rhode Island amount to be recaptured in the same manner as
29 prescribed in this subsection.

30 (N) **Rhode Island earned-income credit.**

31 (1) In general.

32 For tax years beginning before January 1, 2015, a taxpayer entitled to a federal earned-
33 income credit shall be allowed a Rhode Island earned-income credit equal to twenty-five percent
34 (25%) of the federal earned-income credit. Such credit shall not exceed the amount of the Rhode

1 Island income tax.

2 For tax years beginning on or after January 1, 2015, and before January 1, 2016, a taxpayer
3 entitled to a federal earned-income credit shall be allowed a Rhode Island earned-income credit
4 equal to ten percent (10%) of the federal earned-income credit. Such credit shall not exceed the
5 amount of the Rhode Island income tax.

6 For tax years beginning on or after January 1, 2016, a taxpayer entitled to a federal earned-
7 income credit shall be allowed a Rhode Island earned-income credit equal to twelve and one-half
8 percent (12.5%) of the federal earned-income credit. Such credit shall not exceed the amount of the
9 Rhode Island income tax.

10 For tax years beginning on or after January 1, 2017, a taxpayer entitled to a federal earned-
11 income credit shall be allowed a Rhode Island earned-income credit equal to fifteen percent (15%)
12 of the federal earned-income credit. Such credit shall not exceed the amount of the Rhode Island
13 income tax.

14 (2) Refundable portion.

15 In the event the Rhode Island earned-income credit allowed under paragraph (N)(1) of this
16 section exceeds the amount of Rhode Island income tax, a refundable earned-income credit shall
17 be allowed as follows.

18 (i) For tax years beginning before January 1, 2015, for purposes of paragraph (2) refundable
19 earned-income credit means fifteen percent (15%) of the amount by which the Rhode Island earned-
20 income credit exceeds the Rhode Island income tax.

21 (ii) For tax years beginning on or after January 1, 2015, for purposes of paragraph (2)
22 refundable earned-income credit means one hundred percent (100%) of the amount by which the
23 Rhode Island earned-income credit exceeds the Rhode Island income tax.

24 (O) The tax administrator shall recalculate and submit necessary revisions to paragraphs
25 (A) through (J) to the general assembly no later than February 1, 2010, and every three (3) years
26 thereafter for inclusion in the statute.

27 (3) For the period January 1, 2011, through December 31, 2011, and thereafter, "Rhode
28 Island taxable income" means federal adjusted gross income as determined under the Internal
29 Revenue Code, 26 U.S.C. § 1 et seq., and as modified for Rhode Island purposes pursuant to § 44-
30 30-12 less the amount of Rhode Island Basic Standard Deduction allowed pursuant to subparagraph
31 44-30-2.6(c)(3)(B), and less the amount of personal exemption allowed pursuant to subparagraph
32 44-30-2.6(c)(3)(C).

33 (A) **Tax imposed.**

34 (I) There is hereby imposed on the taxable income of married individuals filing joint

1 returns, qualifying widow(er), every head of household, unmarried individuals, married individuals
 2 filing separate returns and bankruptcy estates, a tax determined in accordance with the following
 3 table:

4 RI Taxable Income			5	6 RI Income Tax
7 Over	8 But not over	9 Pay + % on Excess	10	11 on the amount over
12 \$ 0 -	13 \$ 55,000	14 \$ 0 + 3.75%	15	16 \$ 0
17 55,000 -	18 125,000	19 2,063 + 4.75%	20	21 55,000
22 125,000 -	23	24 5,388 + 5.99%	25	26 125,000

9 (II) There is hereby imposed on the taxable income of an estate or trust a tax determined in
 10 accordance with the following table:

11 RI Taxable Income			12	13 RI Income Tax
14 Over	15 But not over	16 Pay + % on Excess	17	18 on the amount over
19 \$ 0 -	20 \$ 2,230	21 \$ 0 + 3.75%	22	23 \$ 0
24 2,230 -	25 7,022	26 84 + 4.75%	27	28 2,230
29 7,022 -	30	31 312 + 5.99%	32	33 7,022

16 **(B) Deductions:**

17 (I) Rhode Island Basic Standard Deduction.

18 Only the Rhode Island standard deduction shall be allowed in accordance with the
 19 following table:

20	21 Filing status:	22 Amount
23	24 Single	25 \$7,500
26	27 Married filing jointly or qualifying widow(er)	28 \$15,000
29	30 Married filing separately	31 \$7,500
32	33 Head of Household	34 \$11,250

25 (II) Nonresident alien individuals, estates and trusts are not eligible for standard
 26 deductions.

27 (III) In the case of any taxpayer whose adjusted gross income, as modified for Rhode Island
 28 purposes pursuant to § 44-30-12, for the taxable year exceeds one hundred seventy-five thousand
 29 dollars (\$175,000), the standard deduction amount shall be reduced by the applicable percentage.
 30 The term “applicable percentage” means twenty (20) percentage points for each five thousand
 31 dollars (\$5,000) (or fraction thereof) by which the taxpayer’s adjusted gross income for the taxable
 32 year exceeds one hundred seventy-five thousand dollars (\$175,000).

33 **(C) Exemption Amount:**

34 (I) The term “exemption amount” means three thousand five hundred dollars (\$3,500)

1 multiplied by the number of exemptions allowed for the taxable year for federal income tax
2 purposes. For tax years beginning on or after 2018, the term “exemption amount” means the same
3 as it does in 26 U.S.C. § 151 and 26 U.S.C. § 152 just prior to the enactment of the Tax Cuts and
4 Jobs Act (Pub. L. No. 115-97) on December 22, 2017.

5 (II) Exemption amount disallowed in case of certain dependents. In the case of an
6 individual with respect to whom a deduction under this section is allowable to another taxpayer for
7 the same taxable year, the exemption amount applicable to such individual for such individual’s
8 taxable year shall be zero.

9 (III) Identifying information required.

10 (1) Except as provided in § 44-30-2.6(c)(3)(C)(II) of this section, no exemption shall be
11 allowed under this section with respect to any individual unless the Taxpayer Identification Number
12 of such individual is included on the federal return claiming the exemption for the same tax filing
13 period.

14 (2) Notwithstanding the provisions of § 44-30-2.6(c)(3)(C)(I) of this section, in the event
15 that the Taxpayer Identification Number for each individual is not required to be included on the
16 federal tax return for the purposes of claiming a personal exemption(s), then the Taxpayer
17 Identification Number must be provided on the Rhode Island tax return for the purpose of claiming
18 said exemption(s).

19 (D) In the case of any taxpayer whose adjusted gross income, as modified for Rhode Island
20 purposes pursuant to § 44-30-12, for the taxable year exceeds one hundred seventy-five thousand
21 dollars (\$175,000), the exemption amount shall be reduced by the applicable percentage. The term
22 “applicable percentage” means twenty (20) percentage points for each five thousand dollars
23 (\$5,000) (or fraction thereof) by which the taxpayer’s adjusted gross income for the taxable year
24 exceeds one hundred seventy-five thousand dollars (\$175,000).

25 (E) **Adjustment for inflation.** The dollar amount contained in subparagraphs 44-30-
26 2.6(c)(3)(A), 44-30-2.6(c)(3)(B) and 44-30-2.6(c)(3)(C) shall be increased annually by an amount
27 equal to:

28 (I) Such dollar amount contained in subparagraphs 44-30-2.6(c)(3)(A), 44-30-2.6(c)(3)(B)
29 and 44-30-2.6(c)(3)(C) adjusted for inflation using a base tax year of 2000, multiplied by;

30 (II) The cost-of-living adjustment with a base year of 2000.

31 (III) For the purposes of this section, the cost-of-living adjustment for any calendar year is
32 the percentage (if any) by which the consumer price index for the preceding calendar year exceeds
33 the consumer price index for the base year. The consumer price index for any calendar year is the
34 average of the consumer price index as of the close of the twelve-month (12) period ending on

1 August 31, of such calendar year.

2 (IV) For the purpose of this section the term “consumer price index” means the last
3 consumer price index for all urban consumers published by the department of labor. For the purpose
4 of this section the revision of the consumer price index that is most consistent with the consumer
5 price index for calendar year 1986 shall be used.

6 (V) If any increase determined under this section is not a multiple of fifty dollars (\$50.00),
7 such increase shall be rounded to the next lower multiple of fifty dollars (\$50.00). In the case of a
8 married individual filing separate return, if any increase determined under this section is not a
9 multiple of twenty-five dollars (\$25.00), such increase shall be rounded to the next lower multiple
10 of twenty-five dollars (\$25.00).

11 **(F) Credits against tax.**

12 (I) Notwithstanding any other provisions of Rhode Island Law, for tax years beginning on
13 or after January 1, 2011, the only credits allowed against a tax imposed under this chapter shall be
14 as follows:

15 (a) Rhode Island earned-income credit: Credit shall be allowed for earned-income credit
16 pursuant to subparagraph 44-30-2.6(c)(2)(N).

17 (b) Property Tax Relief Credit: Credit shall be allowed for property tax relief as provided
18 in § 44-33-1 et seq.

19 (c) Lead Paint Credit: Credit shall be allowed for residential lead abatement income tax
20 credit as provided in § 44-30.3-1 et seq.

21 (d) Credit for income taxes of other states. Credit shall be allowed for income tax paid to
22 other states pursuant to § 44-30-74.

23 (e) Historic Structures Tax Credit: Credit shall be allowed for historic structures tax credit
24 as provided in § 44-33.2-1 et seq.

25 (f) Motion Picture Productions Tax Credit: Credit shall be allowed for motion picture
26 production tax credit as provided in § 44-31.2-1 et seq.

27 (g) Child and Dependent Care: Credit shall be allowed for twenty-five percent (25%) of
28 the federal child and dependent care credit allowable for the taxable year for federal purposes;
29 provided, however, such credit shall not exceed the Rhode Island tax liability.

30 (h) Tax credits for contributions to Scholarship Organizations: Credit shall be allowed for
31 contributions to scholarship organizations as provided in chapter 62 of title 44.

32 (i) Credit for tax withheld. Wages upon which tax is required to be withheld shall be taxable
33 as if no withholding were required, but any amount of Rhode Island personal income tax actually
34 deducted and withheld in any calendar year shall be deemed to have been paid to the tax

1 administrator on behalf of the person from whom withheld, and the person shall be credited with
2 having paid that amount of tax for the taxable year beginning in that calendar year. For a taxable
3 year of less than twelve (12) months, the credit shall be made under regulations of the tax
4 administrator.

5 (j) Stay Invested in RI Wavemaker Fellowship: Credit shall be allowed for stay invested in
6 RI wavemaker fellowship program as provided in § 42-64.26-1 et seq.

7 (k) Rebuild Rhode Island: Credit shall be allowed for rebuild RI tax credit as provided in
8 § 42-64.20-1 et seq.

9 (l) Rhode Island Qualified Jobs Incentive Program: Credit shall be allowed for Rhode
10 Island new qualified jobs incentive program credit as provided in § 44-48.3-1 et seq.

11 (m) Historic homeownership assistance act: Effective for tax year 2017 and thereafter,
12 unused carryforward for such credit previously issued shall be allowed for the historic
13 homeownership assistance act as provided in § 44-33.1-4. This allowance is for credits already
14 issued pursuant to § 44-33.1-4 and shall not be construed to authorize the issuance of new credits
15 under the historic homeownership assistance act.

16 (2) Except as provided in section 1 above, no other state and federal tax credit shall be
17 available to the taxpayers in computing tax liability under this chapter.

18 **44-30-2.7. Capital gains rates for assets held more than five (5) years. Capital gains**
19 **rates for assets held more than one year.**

20 (a) All capital assets purchased prior to ~~January 1, 2002 and sold on or after January 1,~~
21 ~~2007~~ the effective date of this section, shall be deemed to have a holding period ~~beginning January~~
22 ~~1, 2002~~ greater than one year. For tax years beginning in ~~2007 and ending prior to January 1, 2010~~
23 2024, the capital gains rate for assets held more than ~~five (5) years~~ one year shall be as follows:

24 (i) ~~0.83%~~ 0.00% of the net capital gain as reported for federal income tax purposes under
25 26 U.S.C. § 1(h)(1)(a) and 26 U.S.C. § 1(h)(1)(b).

26 (ii) ~~1.67%~~ 0.00% of the net capital gain as reported for federal income tax purposes under
27 26 U.S.C. § 1(h)(1)(c).

28 (iii) ~~2.08%~~ two percent (2.0%) of the net capital gain as reported for federal income tax
29 purposes under 26 U.S.C. § 1(h)(1)(d).

30 (iv) ~~2.33%~~ two percent (2.0%) of the net capital gain as reported for federal income tax
31 purposes under 26 U.S.C. § 1(h)(1)(e).

32 SECTION 2. Chapter 44-30 of the General Laws entitled "Personal Income Tax" is hereby
33 amended by adding thereto the following section:

34 **44-30-2.7.1. Capital gains rates for investment management services interest.**

1 (a) For purposes of this section:

2 (1) "Investment management services" means providing a substantial quantity of any of
3 the following services, directly or indirectly, to a partnership, S corporation or any type of business
4 entity:

5 (i) Advising the partnership, S corporation, or business entity as to the advisability of
6 investing in, purchasing, or selling any specified asset;

7 (ii) Managing, acquiring, or disposing of any specified asset;

8 (iii) Arranging financing with respect to acquiring specified assets; or

9 (iv) Any activity in support of any service described in this section.

10 (2) "Specified asset" means securities (as defined in 26 U.S.C. §1061(c)(3) of the Internal
11 Revenue Code, as amended), real estate held for rental or investment, interests in partnerships,
12 commodities (as defined in 26 U.S.C. §1061(e)(2) of the Internal Revenue Code, as amended), or
13 options or derivative contracts with respect to any of the foregoing.

14 (b) Income from investment management services shall be subject to a nineteen percent
15 (19%) "carried interest fairness fee" payable to the State of Rhode Island until such time as the
16 department of revenue has notified the general assembly that the United States Congress has passed
17 and the President of the United States has signed legislation having an identical effect with this
18 section applicable to such income earned in all of the states and territories.

19 (c) A partner or shareholder shall not be deemed to be providing investment management
20 services if at least eighty percent (80%) of the average fair market value of the specified assets of
21 the partnership, S corporation or other business entity during the taxable year consists of real estate.

22 (d) This section shall take effect upon enactment by the states of Connecticut, New Jersey
23 and Massachusetts of legislation having an identical effect with this section. If the states of
24 Connecticut, New Jersey and Massachusetts shall have already enacted such legislation, this section
25 shall take effect upon passage; provided that, the department of revenue shall notify the general
26 assembly of the enactment of such legislation by the states of Connecticut, New Jersey and
27 Massachusetts in furtherance of effectuating the provisions of this section.

28 SECTION 3. Title 44 of the General Laws entitled "TAXATION" is hereby amended by
29 adding thereto the following chapter:

30 CHAPTER 71

31 THE NON-OWNER OCCUPIED PROPERTY TAX

32 **44-71-1. Short title.**

33 This chapter shall be known and may be cited as the "Non-Owner Occupied Property Tax".

34 **44-71-2. Purpose.**

- 1 (a) The state funds cities and towns pursuant to chapter 13 of title 45.
- 2 (b) There is a compelling state interest in protecting the tax base of its cities and towns.
- 3 (c) There are numerous non-owner occupied residential properties throughout the cities
4 and towns of Rhode Island assessed at values over one million dollars (\$1,000,000).
- 5 (d) The existence of such properties within a city or town has an impact on the value of
6 real property within the cities and towns and the tax base within these cities and towns.
- 7 (e) Non-owner occupied properties sometimes place a greater demand on essential state,
8 city or town services such as police and fire protection than do occupied properties comparably
9 assessed for real estate tax purposes.
- 10 (f) The residents of non-owner occupied properties are not vested with a motive to maintain
11 such properties.
- 12 (g) The owners of non-owner occupied properties do not always contribute a fair share of
13 the costs of providing the foregoing essential state, city or town services financed in part by real
14 estate tax revenues, which revenues are solely based on the assessed value of properties.
- 15 (h) Some properties are deliberately left vacant by their owners in the hope that real estate
16 values will increase, thereby enabling the owners to sell these properties at a substantial profit
17 without making any of the necessary repairs or improvements to the property.
- 18 (i) The non-owner occupation of such property whether for profit speculation, tax benefit,
19 or any other purposes is the making use of that property and as such, is a privilege incident to the
20 ownership of the property.
- 21 (j) Owners of non-owner occupied properties must be encouraged to use the properties in
22 a positive manner to stop the spread of deterioration, to increase the stock of viable real estate
23 within a city or town, and to maintain real estate values within communities.
- 24 (k) Owners of non-owner occupied properties must be required, through a state's power to
25 tax, to pay a fair share of the cost of providing certain essential state services to protect the public
26 health, safety, and welfare.
- 27 (l) For all of the reasons stated within this section, the purpose of this chapter is to impose
28 a statewide tax upon non-owner occupied residential property assessed at a value of one million
29 dollars (\$1,000,000) or more.

30 **44-71-3. Definitions.**

31 The following words and phrases as used in this chapter have the following meanings:

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

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

1 (3) “Non-owner occupied” means that the residential property is not occupied by the owner
2 of the property for a majority of the privilege year. A seasonal or vacation occupancy is deemed
3 non-owner occupied residency for the purposes of this chapter.

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

7 (5) “Person” means any individual, corporation, company, association, partnership, joint
8 stock association, and the legal successor thereof or any other entity or group organization against
9 which a tax may be assessed.

10 (6) “Taxable year” means July 1 through June 30.

11 **44-71-4. Imposition of tax.**

12 The tax administrator is empowered to impose a tax upon the privilege of utilizing property
13 as non-owner occupied residential property within the state during any privilege year commencing
14 with the privilege year beginning July 1, 2023 and every tax year thereafter. The non-owner
15 occupied tax shall be in addition to any other taxes authorized by the general or public laws.

16 **44-71-5. Exemptions.**

17 This act does not supersede any applicable exemption in the general or public laws;
18 provided, however, that the tax administrator shall be provided with the alleged basis for that
19 exemption in writing and may reject said alleged exemption if he/she deems said exemption is not
20 applicable.

21 **44-71-6. Rate of tax.**

22 The tax authorized by this chapter shall be measured by the assessed value of the real estate:

23 (1) At the rate of five dollars (\$5.00) for each one thousand dollars (\$1,000) or fractional
24 part of the assessed value on properties worth at least one million dollars (\$1,000,000) but less than
25 two million dollars (\$2,000,000);

26 (2) At the rate of six dollars (\$6.00) for each one thousand dollars (\$1,000) or fractional
27 part of the assessed value on properties worth at least two million dollars (\$2,000,000).

28 **44-71-7. Returns.**

29 (a) The tax imposed by this chapter shall be due and payable in four (4) equal installments.
30 The first installment shall be paid on or before September 15 of the taxable year, the second
31 installment shall be paid on or before December 15 of the taxable year, the third installment shall
32 be paid on or before March 15 of the taxable year, and fourth installment shall be paid on or before
33 June 15 of the taxable year.

34 (b) The tax administrator is authorized to adopt rules, pursuant to this chapter, relative to

1 the form of the return and the data that it shall contain for the correct computation of the imposed
2 tax. All returns shall be signed by the taxpayer or by its authorized representative, subject to the
3 pains and penalties of perjury. If a return shows an overpayment of the tax due, the tax administrator
4 shall refund or credit the overpayment to the taxpayer.

5 (c) The tax administrator, for good cause shown, may extend the time within which a
6 taxpayer is required to file a return. If the return is filed during the period of extension, no penalty
7 or late filing charge shall be imposed for failure to file the return at the time required by this chapter;
8 however, the taxpayer shall be liable for interest as prescribed in this chapter. Failure to file the
9 return during the period for the extension shall void the extension.

10 **44-71-8. Set-off for delinquent payment of tax.**

11 If a taxpayer shall fail to pay a tax within thirty (30) days of its due date, the tax
12 administrator may request any agency of state government making payments to the taxpayer to set-
13 off the amount of the delinquency against any payment due the taxpayer from the agency of state
14 government and remit the sum to the tax administrator. Upon receipt of the set-off request from the
15 tax administrator, any agency of state government is authorized and empowered to set-off the
16 amount of the delinquency against any payment or amounts due the taxpayer. The amount of set-
17 off shall be credited against the tax due from the taxpayer.

18 **44-71-9. Tax on available information – Interest on delinquencies – Penalties –**
19 **Collection powers.**

20 If any taxpayer shall fail to file a return within the time required by this chapter, or shall
21 file an insufficient or incorrect return, or shall not pay the tax imposed by this chapter when it is
22 due, the tax administrator shall assess the tax upon the information as may be available, which shall
23 be payable upon demand and shall bear interest at the annual rate provided by § 44-1-7, from the
24 date when the tax should have been paid. If any part of the tax not paid is due to negligence or
25 intentional disregard of the provisions of this chapter, a penalty of ten percent (10%) of the amount
26 of the determination shall be added to the tax. The tax administrator shall collect the tax with
27 interest in the same manner and with the same powers as are prescribed for collection of taxes in
28 this title.

29 **44-71-10. Claims for refund – Hearing upon denial.**

30 (a) Any taxpayer subject to the provisions of this chapter, may file a claim for refund with
31 the tax administrator at any time within two (2) years after the tax has been paid. If the tax
32 administrator determines that the tax has been overpaid, he or she shall make a refund with interest
33 from the date of overpayment.

34 (b) Any taxpayer whose claim for refund has been denied may, within thirty (30) days from

1 the date of the mailing by the administrator of the notice of the decision, request a hearing and the
2 administrator shall, as soon as practicable, set a time and place for the hearing and shall notify the
3 taxpayer.

4 **44-71-11. Hearing by tax administrator on application.**

5 Any taxpayer aggrieved by the action of the tax administrator in determining the amount
6 of any tax or penalty imposed under the provisions of this chapter may apply to the tax
7 administrator, within thirty (30) days after the notice of the action is mailed to the taxpayer, for a
8 hearing relative to the tax or penalty. The tax administrator shall fix a time and place for the hearing
9 and shall so notify the taxpayer. Upon the hearing, the tax administrator shall correct manifest
10 errors, if any, disclosed at the hearing and thereupon assess and collect the amount lawfully due
11 together with any penalty or interest thereon.

12 **44-71-12. Appeals.**

13 (a) In any appeal from the imposition of the tax set forth in this chapter, the tax
14 administrator shall find in favor of an appellant who shows that the property assessed:

15 (1) Was actively occupied by the owner during the privilege year for more than six (6)
16 months; or

17 (2) Was exempt pursuant to the general laws or public laws from the imposition of the tax
18 set forth in this chapter.

19 (b) Appeals from administrative orders or decisions made pursuant to any provisions of
20 this chapter shall be to the sixth division district court pursuant to chapter 8 of title 8. The taxpayer's
21 right to appeal under this section shall be expressly made conditional upon prepayment of all
22 surcharges, interest, and penalties unless the taxpayer moves for and is granted an exemption from
23 the prepayment requirement pursuant to § 8-8-26. If the court, after appeal, holds that the taxpayer
24 is entitled to a refund, the taxpayer shall also be paid interest on the amount at the rate provided in
25 § 44-1-7.1.

26 **44-71-13. Taxpayer records.**

27 Every taxpayer shall:

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

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

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

3 **44-71-14. Rules and regulations.**

4 The tax administrator is authorized to make and promulgate rules, regulations, and
5 procedures not inconsistent with state law and fiscal procedures as he or she deems necessary for
6 the proper administration of this chapter and to carry out the provisions, policies, and purposes of
7 this chapter.

8 **44-71-15. Severability.**

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

15 SECTION 4. All sections of this act, except for Section 2, shall take effect on January 1,
16 2024, and Section 2 shall take effect on July 1, 2023.

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LC002562
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION -- PERSONAL INCOME TAX -- CAPITAL GAINS

1 This act would change the capital gain tax rates and reduce the holding period of assets
2 from five (5) years to one year. This act would also impose capital gains tax rates for investment
3 management services interest as well as a non-owner occupied property tax on residential properties
4 assessed in excess of one million dollars (\$1,000,000).

5 All Sections of this act, except for Section 2, would take effect on January 1, 2024, and
6 Section 2 would take effect on July 1, 2023.

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