

2024 -- S 2813 AS AMENDED

LC004533

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2024

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE ISLAND BUSINESS CORPORATION ACT

Introduced By: Senators Britto, Tikoian, Lawson, DiPalma, LaMountain, Ciccone, and Burke

Date Introduced: March 22, 2024

Referred To: Senate Finance

(Dept. of Revenue)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-11-7.1 and 44-11-29 of the General Laws in Chapter 44-11
2 entitled "Business Corporation Tax" are hereby amended to read as follows:

3 **44-11-7.1. Limitations on assessment.**

4 (a) General. Except as provided in this section, the amount of the Rhode Island corporate
5 income tax shall be assessed within three (3) years after the return was filed, whether or not the
6 return was filed on or after the prescribed date. For this purpose, a tax return filed before the due
7 date shall be considered as filed on the due date.

8 (b) Exceptions.

9 (1) The tax may be assessed at any time if:

10 (i) No return is filed.

11 (ii) A false or fraudulent return is filed with intent to avoid tax.

12 (2) Where, before the expiration of the time prescribed in this section for the assessment of
13 tax, or before the time as extended, both the tax administrator and the taxpayer have consented, in
14 writing, to its assessment after that time, the tax may be assessed at any time prior to the expiration
15 of the agreed upon period.

16 (3) If a taxpayer's deficiency is attributable to an excessive net operating loss carryback
17 allowance, it may be assessed at any time that a deficiency for the taxable year of the loss may be
18 assessed.

1 (4) An erroneous refund shall be considered to create an underpayment of tax on the date
2 made. An assessment of a deficiency arising out of an erroneous refund may be made at any time
3 within three (3) years thereafter, or at any time if it appears that any part of the refund was induced
4 by fraud or misrepresentation of a material fact.

5 (c) Notwithstanding the provisions of this section, the tax may be assessed at any time
6 within six (6) years after the return was filed if a taxpayer omits from its Rhode Island income an
7 amount properly includable therein that is in excess of twenty-five percent (25%) of the amount of
8 Rhode Island income stated in the return. For this purpose there shall not be taken into account any
9 amount that is omitted in the return if the amount is disclosed in the return, or in a statement attached
10 to the return, in a manner adequate to apprise the tax administrator of the nature and amount of the
11 item.

12 (d) The running of the period of limitations on assessment or collection of the tax or other
13 amount, or of a transferee's liability, shall, after the mailing of a notice of deficiency, be suspended
14 for any period during which the tax administrator is prohibited from making the assessment or from
15 collecting by levy, and for sixty (60) days thereafter.

16 (e) No period of limitations specified in any other law shall apply to the assessment or
17 collection of Rhode Island corporate income tax. Under no circumstances shall the tax
18 administrator issue any notice of deficiency determination for Rhode Island business corporation
19 tax due and payable more than ten (10) years after the date upon which the return was filed ~~or due~~
20 ~~to be filed~~, nor shall the tax administrator commence any collection action for any business
21 corporation tax due and payable unless the collection action is commenced within ten (10) years
22 after a notice of deficiency determination became a final collectible assessment; provided however,
23 that the tax administrator may renew a statutory lien that was initially filed within the ten-year (10)
24 period for collection actions. Both of the aforementioned ten-year (10) periods are tolled for any
25 period of time the taxpayer is in federal bankruptcy or state receivership proceedings. "Collection
26 action" refers to any activity undertaken by the division of taxation to collect on any state tax
27 liabilities that are final, due, and payable under Rhode Island law. "Collection action" may include,
28 but is not limited to, any civil action involving a liability owed under chapter 11 of title 44.

29 (f) The ten-year (10) limitation shall not apply to the renewal or continuation of the state's
30 attempt to collect a liability that became final, due, and payable within the ten-year (10) limitation
31 periods set forth in this section.

32 **44-11-29. Notice to tax administrator of sale of assets — Tax due.**

33 (a) The sale or transfer of the major part in value of the assets of a domestic corporation,
34 domestic limited liability company, domestic limited partnership, or any other domestic business

1 entity, or of the major part in value of the assets situated in this state of a foreign corporation,
2 foreign limited liability company, foreign limited partnership, or any other foreign business entity,
3 other than in the ordinary course of trade and in the regular and usual prosecution of business by
4 said corporation, limited liability company, limited partnership, or any other business entity
5 whether domestic or foreign, and the sale or transfer of the major part in value of the assets of a
6 domestic corporation, domestic limited liability company, domestic limited partnership, or any
7 other domestic corporation business entity, or of the major part in value of the assets situated in
8 this state of a foreign corporation, foreign limited liability company, foreign limited partnership, or
9 any other foreign business entity that is engaged in the business of buying, selling, leasing, renting,
10 managing, or dealing in real estate, shall be fraudulent and void as against the state unless the
11 corporation, limited liability company, limited partnership, or any other business entity, whether
12 domestic or foreign, at least five (5) business days before the sale or transfer, notifies the tax
13 administrator of the proposed sale or transfer and of the price, terms, and conditions of the sale or
14 transfer and of the character and location of the assets by requesting a letter of good standing from
15 the tax division [that shall be received by the tax division at least five \(5\) business days before the](#)
16 [sale or transfer](#). Whenever a corporation, limited liability company, limited partnership, or any
17 other business entity, whether domestic or foreign, makes such a sale or transfer, any and all tax
18 returns required to be filed under this title must be filed and any and all taxes imposed under this
19 title shall become due and payable at the time when the tax administrator is so notified of the sale
20 or transfer, or, if he or she is not so notified, at the time when he or she should have been notified
21 of the sale or transfer.

22 (b) This section shall not apply to sales by receivers, assignees under a voluntary
23 assignment for the benefit of creditors, trustees in bankruptcy, debtors in possession in bankruptcy,
24 or public officers acting under judicial process.

25 SECTION 2. Section 44-19-13 of the General Laws in Chapter 44-19 entitled "Sales and
26 Use Taxes — Enforcement and Collection" is hereby amended to read as follows:

27 **44-19-13. Notice of determination.**

28 (a) The tax administrator shall give to the retailer or to the person storing, using, or
29 consuming the tangible personal property a written notice of his or her determination. Except in the
30 case of fraud, intent to evade the provisions of this article, failure to make a return, or claim for
31 additional amount pursuant to §§ 44-19-16 — 44-19-19, every notice of a deficiency determination
32 shall be mailed within three (3) years after the fifteenth (15th) day of the calendar month following
33 the month for which the amount is proposed to be determined or within three (3) years after the
34 return is filed, whichever period expires later, unless a longer period is agreed upon by the tax

1 administrator and the taxpayer.

2 (b) Notwithstanding the provisions of subsection (a) of this section, under no circumstances
3 shall the tax administrator issue a notice of a deficiency determination for any sales or use tax
4 determined to be due and payable more than ten (10) years after the return is filed ~~or was due to be~~
5 ~~filed~~, nor shall the tax administrator commence any collection action for any tax that is due and
6 payable unless the collection action is commenced within ten (10) years after a notice of a
7 deficiency determination becomes a final collectible assessment; provided, however, that the tax
8 administrator may renew a statutory lien that was initially filed within the ten-year (10) period for
9 collection actions. Both of the aforementioned ten-year (10) periods are tolled for any period of
10 time the taxpayer is in federal bankruptcy or state receivership proceedings. "Collection action"
11 refers to any activity undertaken by the division of taxation to collect on any state tax liabilities that
12 are final, due, and payable under Rhode Island law. "Collection action" may include, but is not
13 limited to, any civil action involving a liability owed under chapters 18, 18.1, 18.2, and 19 of title
14 44. This section excludes any sales and use tax liabilities that are deemed trust funds as defined in
15 § 44-19-35, as well as any meals and beverage tax liabilities that are collected pursuant to § 44-18-
16 18.1, and any hotel tax liabilities that are collected pursuant to § 44-18-36.1.

17 (c) The ten-year (10) limitation shall not apply to the renewal or continuation of the state's
18 attempt to collect a liability that became final, due, and payable within the ten-year (10) limitation
19 periods set forth in this section.

20 SECTION 3. Section 44-23-9 of the General Laws in Chapter 44-23 entitled "Estate and
21 Transfer Taxes — Enforcement and Collection" is hereby amended to read as follows:

22 **44-23-9. Assessment and notice of estate tax — Collection powers — Lien.**

23 (a) The tax imposed by § 44-22-1.1 shall be assessed upon the full and fair cash value of
24 the net estate determined by the tax administrator as provided in this chapter. Notice of the amount
25 of the tax shall be mailed to the executor, administrator, or trustee, but failure to receive the notice
26 does not excuse the nonpayment of or invalidate the tax. The tax administrator shall receive and
27 collect the assessed taxes in the same manner and with the same powers as are prescribed for and
28 given to the collectors of taxes by chapters 7 — 9 of this title. The tax shall be due and payable as
29 provided in § 44-23-16, shall be paid to the tax administrator, and shall be and remain a lien upon
30 the estate until it is paid. All executors, administrators, and trustees are personally liable for the tax
31 until it is paid.

32 (b) Notwithstanding the provisions of subsection (a) of this section, under no circumstances
33 shall the tax administrator issue any notice of deficiency determination for the amount of the estate
34 tax due more than ten (10) years after the return was filed ~~or should have been filed~~, nor shall the

1 tax administrator commence any collection action for any estate tax due and payable unless the
2 collection action is commenced within ten (10) years after the date a notice of deficiency
3 determination became a final collectible assessment. "Collection action" refers to any activity
4 undertaken by the division of taxation to collect on any state tax liabilities that are final, due, and
5 payable under Rhode Island law. "Collection action" may include, but is not limited to, any civil
6 action involving a liability owed under chapters 22 and 23 of title 44.

7 (c) The ten-year (10) limitation shall not apply to the renewal or continuation of the state's
8 attempt to collect a liability that became final, due, and payable within the ten-year (10) limitation
9 periods set forth in this section.

10 SECTION 4. Section 44-30-83 of the General Laws in Chapter 44-30 entitled "Personal
11 Income Tax" is hereby amended to read as follows:

12 **44-30-83. Limitations on assessment.**

13 (a) General. Except as otherwise provided in this section the amount of the Rhode Island
14 personal income tax shall be assessed within three (3) years after the return was filed, whether or
15 not the return was filed on or after the prescribed date. For this purpose a tax return filed before the
16 due date shall be considered as filed on the due date; and a return of withholding tax for any period
17 ending with or within a calendar year filed before April 15 of the succeeding calendar year shall be
18 considered filed on April 15 of the succeeding calendar year.

19 (b) Exceptions.

20 (1) *Assessment at any time.* The tax may be assessed at any time if:

21 (i) No return is filed;

22 (ii) A false or fraudulent return is filed with intent to evade tax; or

23 (iii) The taxpayer fails to file a report, pursuant to § 44-30-59, of a change, correction, or
24 amended return, increasing his or her federal taxable income as reported on his or her federal
25 income tax return or to report a change or correction that is treated in the same manner as if it were
26 a deficiency for federal income tax purposes.

27 (2) *Extension by agreement.* Where, before the expiration of the time prescribed in this
28 section for the assessment of tax, or before the time as extended pursuant to this section, both the
29 tax administrator and the taxpayer have consented in writing to its assessment after that time, the
30 tax may be assessed at any time prior to the expiration of the period agreed upon.

31 (3) *Report of changed or corrected federal income.* If the taxpayer shall, pursuant to § 44-
32 30-59, file an amended return, or report a change or correction increasing his or her federal taxable
33 income or report a change or correction that is treated in the same manner as if it were a deficiency
34 for federal income tax purposes, an assessment may be made at any time prior to two (2) years after

1 the report or amended return was filed. This assessment of Rhode Island personal income tax shall
2 not exceed the amount of the increase attributable to the federal change, correction, or items
3 amended on the taxpayer's amended federal income tax return. The provisions of this paragraph
4 shall not affect the time within which or the amount for which an assessment may otherwise be
5 made.

6 (4) *Deficiency attributable to net operating loss carryback.* If a taxpayer's deficiency is
7 attributable to an excessive net operating loss carryback allowance, it may be assessed at any time
8 that a deficiency for the taxable year of the loss may be assessed.

9 (5) *Recovery of erroneous refund.* An erroneous refund shall be considered to create an
10 underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous
11 refund may be made at any time within three (3) years thereafter, or at any time if it appears that
12 any part of the refund was induced by fraud or misrepresentation of a material fact.

13 (6) *Armed forces relief.* For purposes of this tax, the date appearing in 26 U.S.C. § 692(a)
14 shall be January 1, 1971.

15 (c) Omission of income on return. Notwithstanding the foregoing provisions of this section,
16 the tax may be assessed at any time within six (6) years after the return was filed if an individual
17 omits from his or her Rhode Island income an amount properly includible therein which is in excess
18 of twenty-five percent (25%) of the amount of Rhode Island income stated in the return. For this
19 purpose there shall not be taken into account any amount that is omitted in the return if the amount
20 is disclosed in the return, or in a statement attached to the return, in a manner adequate to apprise
21 the tax administrator of the nature and amount of the item.

22 (d) Suspension of limitation. The running of the period of limitations on assessment or
23 collection of tax or other amount (or of a transferee's liability) shall, after the mailing of a notice
24 of deficiency, be suspended for the period during which the tax administrator is prohibited under §
25 44-30-81(c) from making the assessment or from collecting by levy, and for sixty (60) days
26 thereafter.

27 (e) Limitations exclusive. No period of limitations specified in any other law shall apply to
28 the assessment or collection of Rhode Island personal income tax. Under no circumstances shall
29 the tax administrator issue any notice of a deficiency determination for Rhode Island personal
30 income tax due or payable more than ten (10) years after the date upon which the return was filed
31 ~~or due to be filed~~, nor shall the tax administrator commence any collection action for any personal
32 income tax due and payable unless the collection action is commenced within ten (10) years after
33 a notice of deficiency determination became a final collectible assessment; provided however, that
34 the tax administrator can renew a statutory lien that was initially filed within the ten-year (10)

1 period for collection actions. Both of the aforementioned ten-year (10) periods are tolled for any
2 period of time the taxpayer is in federal bankruptcy or state receivership proceedings. "Collection
3 action" refers to any activity undertaken by the division of taxation to collect on any state tax
4 liabilities that are final, due, and payable under Rhode Island law. "Collection action" may include,
5 but is not limited to, any civil action involving a liability owed under chapter 30 of title 44. This
6 section excludes any liabilities that are deemed trust funds as defined in § 44-30-76, as amended.

7 (f) The ten-year (10) limitation shall not apply to the renewal or continuation of the state's
8 attempt to collect a liability that became final, due, and payable within the ten-year (10) limitation
9 periods set forth in this section.

10 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS -- RHODE
ISLAND BUSINESS CORPORATION ACT

- 1 This act would make numerous technical amendments to the statutes on taxes and
- 2 corporations, associations and partnerships.
- 3 This act would take effect upon passage.

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