

2021 -- S 0225

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO TAXATION -- DEFINITION OF CORPORATE NET INCOME

Introduced By: Senators Bell, and Mendes

Date Introduced: February 10, 2021

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

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

3 **44-11-11. "Net income" defined.**

4 (a)(1) "Net income" means, for any taxable year and for any corporate taxpayer, the taxable
5 income of the taxpayer for that taxable year under the laws of the United States, plus:

6 (i) Any interest not included in the taxable income;

7 (ii) Any specific exemptions;

8 (iii) The tax imposed by this chapter; and minus:

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

11 (v) The federal net operating loss deduction.

12 (2) All binding federal elections made by or on behalf of the taxpayer applicable either
13 directly or indirectly to the determination of taxable income shall be binding on the taxpayer except
14 where this chapter or its attendant regulations specifically modify or provide otherwise. Rhode
15 Island taxable income shall not include the "gross-up of dividends" required by the federal Internal
16 Revenue Code to be taken into taxable income in connection with the taxpayer's election of the
17 foreign tax credit.

18 (b) A net operating loss deduction shall be allowed, which shall be the same as the net
19 operating loss deduction allowed under 26 U.S.C. § 172, except that:

1 (1) Any net operating loss included in determining the deduction shall be adjusted to reflect
2 the inclusions and exclusions from entire net income required by subsection (a) of this section and
3 § 44-11-11.1;

4 (2) The deduction shall not include any net operating loss sustained during any taxable year
5 in which the taxpayer was not subject to the tax imposed by this chapter; and

6 (3) The deduction shall not exceed the deduction for the taxable year allowable under 26
7 U.S.C. § 172; provided, that the deduction for a taxable year may not be carried back to any other
8 taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the
9 five (5) succeeding taxable years.

10 (c) "Domestic international sales corporations" (referred to as DISCs), for the purposes of
11 this chapter, will be treated as they are under federal income tax law and shall not pay the amount
12 of the tax computed under § 44-11-2(a). Any income to shareholders of DISCs is to be treated in
13 the same manner as it is treated under federal income tax law as it exists on December 31, 1984.

14 (d) A corporation that qualifies as a "foreign sales corporation" (FSC) under the provisions
15 of subchapter N, 26 U.S.C. § 861 et seq., and that has in effect for the entire taxable year a valid
16 election under federal law to be treated as a FSC, shall not pay the amount of the tax computed
17 under § 44-11-2(a). Any income to shareholders of FSCs is to be treated in the same manner as it
18 is treated under federal income tax law as it exists on January 1, 1985.

19 ~~(e) For purposes of a corporation's state tax liability, any deduction to income allowable~~
20 ~~under 26 U.S.C. § 1400Z-2(e) may be claimed in the case of any investment held by the taxpayer~~
21 ~~for at least seven years. The division of taxation shall promulgate, in its discretion, rules and~~
22 ~~regulations relative to the accelerated application of deductions under 26 U.S.C. § 1400Z-2(e).~~

23 SECTION 2. 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 repeal a state corporate income tax deduction to allowable income for
- 2 federal tax purposes for investment property held for at least seven (7) years.
- 3 This act would take effect upon passage.

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