

LC01220

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2002

A N A C T

RELATING TO TAXATION – PERSONAL INCOME TAX

Introduced By: Senators Celona, Irons, DaPonte, Bates, and Felag

Date Introduced: February 07, 2002

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 44-30-12, 44-30-17, 44-30-32 and 44-30-36 of the General Laws
2 in Chapter 44-30 entitled "Personal Income Tax" are hereby amended to read as follows:

3 **44-30-12. Rhode Island income of a resident individual.** -- (a) General. - The Rhode
4 Island income of a resident individual means his or her adjusted gross income for federal income
5 tax purposes, with the modifications specified in this section.

6 (b) Modifications increasing federal adjusted gross income. - There shall be added to
7 federal adjusted gross income:

8 (1) Interest income on obligations of any state, or its political subdivisions, other than
9 Rhode Island or its political subdivisions;

10 (2) Interest or dividend income on obligations or securities of any authority, commission,
11 or instrumentality of the United States, but not of Rhode Island or its political subdivisions, to the
12 extent exempted by the laws of the United States from federal income tax but not from state
13 income taxes.

14 (3) The modification described in section 44-30-25(g); and

15 (4) The amount defined below of a nonqualified withdrawal made from an account in the
16 tuition savings program pursuant to section 16-57-6.1. For purposes of this section, a nonqualified
17 withdrawal is:

18 (i) a transfer or rollover to a qualified tuition program under section 529 of the internal
19 revenue code, other than to the tuition savings program referred to in section 16-57-6.1; and

1 (ii) a withdrawal or distribution which is:

2 (A) not applied on a timely basis to pay "qualified higher education expenses" as defined
3 in section 16-57-3(12) of the beneficiary of the account from which the withdrawal is made;

4 (B) not made for a reason referred to in subsection 16-57-6.1(e); or

5 (C) not made in other circumstances for which an exclusion from tax made applicable by
6 section 529 of the internal revenue code pertains if such transfer, rollover, withdrawal or
7 distribution is made within two (2) taxable years following the taxable year for which a
8 contributions modification pursuant to subsection 44-30-12(c)(4) is taken based on contributions
9 to any tuition savings program account by the person who is the participant of the account at the
10 time of the contribution, whether or not such person is the participant of the account at the time of
11 the transfer, rollover, withdrawal or distribution.

12 In the event of a nonqualified withdrawal under (i) or (ii) above, there shall be added to
13 the federal adjusted gross income of that person for the taxable year of the withdrawal an amount
14 equal to the lesser of:

15 (I) the amount equal to the nonqualified withdrawal reduced by the sum of any
16 administrative fee or penalty imposed under the tuition savings program in connection with the
17 nonqualified withdrawal plus the earnings portion thereof, if any, includible in computing the
18 person's federal adjusted gross income for such taxable year; and

19 (II) the amount of the person's contribution modification pursuant to subsection 44-30-
20 12(c)(4) for the person's taxable year of the withdrawal and the two (2) prior taxable years less
21 the amount of any nonqualified withdrawal for the two (2) prior taxable years included in
22 computing such person's Rhode Island income by application of this subsection for those years.
23 Any amount added to federal adjusted gross income pursuant to subsection 44-30-12(b)(4) shall
24 constitute Rhode Island income for residents, nonresidents and part-year residents.

25 (c) Modifications reducing federal adjusted gross income. - There shall be subtracted
26 from federal adjusted gross income:

27 (1) Any interest income on obligations of the United States and its possessions to the
28 extent includible in gross income for federal income tax purposes, and any interest or dividend
29 income on obligations, or securities of any authority, commission, or instrumentality of the
30 United States to the extent includible in gross income for federal income tax purposes but exempt
31 from state income taxes under the laws of the United States; provided that the amount to be
32 subtracted shall in any case be reduced by any interest on indebtedness incurred or continued to
33 purchase or carry obligations or securities the income of which is exempt from Rhode Island
34 personal income tax, to the extent the interest has been deducted in determining federal adjusted

gross income or taxable income;

(2) A modification described in section 44-30-25(f) or section 44-30-1.1(C)(1); and

(3) The amount of any withdrawal or distribution from the "tuition savings program" referred to in section 16-57-6.1 which is included in federal adjusted gross income, other than a withdrawal or distribution or portion of a withdrawal or distribution which is a nonqualified withdrawal. ~~As used in this section, a "nonqualified withdrawal" is a withdrawal or distribution which either is:~~

~~(i) Not applied on a timely basis to pay "qualified higher education expenses" as defined in section 16-57-3(12) of the beneficiary of the account from which the withdrawal is made;~~

~~(ii) Not made for a reason referred to in section 16-57-6.1(e); or~~

~~(iii) Not made in other circumstances for which an exclusion from the tax made applicable by section 529 of the internal revenue code pertains.~~

(4) Contributions made to an account under the tuition savings program, including the "contributions carryover" pursuant to subsection 44-30-12(4)(c)(iv), if any, subject to the following limitations, restrictions and qualifications:

(i) The aggregate subtraction pursuant to subsection 44-30-12(c)(4) for any taxable year of the taxpayer shall not exceed five hundred dollars (\$500) or one thousand dollars (\$1,000) if a joint return;

(ii) The following shall not be considered contributions:

(A) contributions made by any person to an account who is not a participant of the account at the time the contribution is made;

(B) transfers or rollovers to an account from any other tuition savings program account or from any other "qualified tuition program" under section 529 of the internal revenue code; or

(C) a change of the beneficiary of the account.

(iii) The subtraction pursuant to subsection 44-30-12(c)(4) shall not reduce the taxpayer's federal adjusted gross income to less than zero (0).

(iv) The contributions carryover to a taxable year for purpose of subsection 44-30-12(c)(4) is the excess, if any, of the total amount of contributions actually made by the taxpayer to the tuition savings program for all preceding taxable years for which this subsection is effective over the sum of:

(A) the total of the subtractions under subsection 44-30-12(c)(4) allowable to the taxpayer for all such preceding taxable years; and

(B) that part of any remaining contribution carryover at the end of the taxable year which exceeds the amount of any nonqualified withdrawals during such year and the prior two (2)

1 taxable years not included in the addition provided for in subsection 44-30-12(b)(4) for those
2 years. Any such part shall be disregarded in computing the contributions carryover for any
3 subsequent taxable year.

4 (v) For any taxable year for which a contributions carryover is applicable, the taxpayer
5 shall include a computation of the carryover with the taxpayer's Rhode Island personal income
6 tax return for that year, and if for any taxable year on which the carryover is based the taxpayer
7 filed a joint Rhode Island personal income tax return but filed a return on a basis other than
8 jointly for a subsequent taxable year, the computation shall reflect how the carryover is being
9 allocated between the prior joint filers.

10 (d) Modification for Rhode Island fiduciary adjustment. -- There shall be added to or
11 subtracted from federal adjusted gross income (as the case may be) the taxpayer's share, as
12 beneficiary of an estate or trust, of the Rhode Island fiduciary adjustment determined under
13 section 44-30-17.

14 (e) Partners. -- The amounts of modifications required to be made under this section by a
15 partner, which relate to items of income or deduction of a partnership, shall be determined under
16 section 44-30-15.

17 **44-30-17. Share of a resident estate, trust, or beneficiary in Rhode Island fiduciary**
18 **adjustment.** -- (a) General. - An adjustment shall be made in determining Rhode Island income
19 of a resident estate or trust under section 44-30-16, or Rhode Island income of a resident
20 beneficiary of any estate or trust under subsection (d) of section 44-30-12, in the amount of the
21 share of each in the Rhode Island fiduciary adjustment as determined in this section.

22 (b) Definition. -- The Rhode Island fiduciary adjustment shall be the net amount of the
23 modifications described in section 44-30-12 (excluding ~~subdivision~~ subdivisions (b)(4), (c)(3)
24 and (c)(4) of that section) and including subsection (d) of that section if the estate or trust is a
25 beneficiary of another estate or trust), which relates to items of income or deduction of an estate
26 or trust.

27 (c) Shares of Rhode Island fiduciary adjustment. -- (1) The respective shares of an estate
28 or trust and its beneficiaries (including, solely for the purpose of this allocation, nonresident
29 beneficiaries) in the Rhode Island fiduciary adjustment shall be in proportion to their respective
30 shares of federal distributable net income of the estate or trust.

31 (2) If the estate or trust has no federal distributable net income for the taxable years, the
32 share of each beneficiary in the Rhode Island fiduciary adjustment shall be in proportion to his or
33 her share of the estate or trust income for that year, under the law governing the instrument,
34 which is required to be distributed currently and any other amounts of that income distributed in

1 that year. Any balance of the Rhode Island fiduciary adjustment shall be allocated to the estate or
2 trust.

3 (d) Alternate attribution of modifications. - The tax administrator may by regulation
4 authorize the use of such other methods of determining to whom the items comprising the
5 fiduciary adjustment shall be attributed, as may be appropriate and equitable, on such terms and
6 conditions as the tax administrator may require.

7 **44-30-32. Rhode Island income of a nonresident individual.** -- (a) General. - The
8 Rhode Island income of a nonresident individual shall be the sum of the following:

9 (1) The net amount of items of income and deduction entering into his or her federal
10 adjusted gross income derived from or connected with Rhode Island sources, including:

11 (i) His or her distributive share of partnership income and deductions, determined under
12 section 44-30-34; and

13 (ii) His or her share of estate or trust income and deductions, determined under section
14 44-30-36; and

15 (2) The portion of the modifications described in subsections (b) and (c) of section 44-
16 30-12 which relate to income derived from Rhode Island sources, including any modifications
17 attributable to the individual as a partner.

18 (3) The portion of the modifications described in subsections 44-30-12(b) and 44-30-
19 12(c) which relate to the tuition savings plan program referred to in section 16-57-6.1.

20 (b) Income and deductions from Rhode Island sources. -- (1) Items of income and
21 deduction derived from or connected with Rhode Island sources shall be those items attributable
22 to:

23 (i) The ownership or disposition of any interest in real or tangible personal property in
24 this state; or

25 (ii) A business, trade, profession, or occupation carried on in this state.

26 (iii) Gambling winnings from the state lottery and gambling winnings from pari-mutuel
27 betting events conducted or operated by a licensee within this state.

28 (2) Income from intangible personal property, including annuities, dividends, interest,
29 and gains from the disposition of intangible personal property, shall constitute income derived
30 from Rhode Island sources only to the extent that the intangible personal property is employed in
31 a business, trade, profession, or occupation carried on in this state.

32 (3) Deductions with respect to capital losses, net long-term capital gains, and net
33 operating losses shall be based solely on income and deductions derived from or connected with
34 Rhode Island sources, under regulations of the tax administrator, but otherwise shall be

determined in the same manner as the corresponding federal deductions.

(c) Income and deductions partly from Rhode Island sources. -- If a business, trade, profession, or occupation is carried on partly within and partly without this state, the items of income and deduction derived from or connected with Rhode Island sources shall be determined by apportionment and allocation under regulations to be promulgated by the tax administrator.

(d) Military pay. - Compensation paid by the United States for service in the armed forces of the United States, performed by an individual not domiciled in this state, shall not constitute income derived from Rhode Island sources.

44-30-36. Share of a nonresident estate, trust, or beneficiary in income from Rhode Island sources. -- (a) General. -- The share of a nonresident estate or trust under section 44-30-35(a)(1) and the share of a nonresident beneficiary of any estate or trust under section 44-30-32(a) in estate or trust income and deduction from Rhode Island sources shall be determined as follows:

(1) Items of distributable net income from Rhode Island sources. -- There shall be determined the items of income and deduction, derived from or connected with Rhode Island sources, which enter into the definition of "federal distributable net income" of the estate or trust for the taxable year, including the items from another estate or trust of which the first estate or trust is a beneficiary. The determination of source shall be made under regulations of the tax administrator in keeping with the applicable rules of section 44-30-32 as if the estate or trust were a nonresident individual.

(2) Addition or subtraction of modifications. -- There shall be added to or subtracted, as the case may be, the modifications described in section 44-30-12(b) and (c) (excluding subdivisions (b)(4), (c)(3) and (c)(4) of that section) to the extent relating to items of income and deduction, derived from or connected with Rhode Island sources, which enter into the definition of "federal distributable net income", including the items from another estate or trust of which the first estate or trust is a beneficiary. No modification shall be made under this subsection which has the effect of duplicating an item already reflected in the definition of "federal distributable net income".

(3) Allocation among estate or trust and beneficiaries. - (i) The amounts determined under subdivisions (1) and (2) shall be allocated among the estate or trust and its beneficiaries, including, solely for the purpose of this allocation, resident beneficiaries, in proportion to their respective shares of federal distributable net income.

(ii) The amounts so allocated shall have the same character as for federal income tax purposes. Where an item entering into the computation of the amounts is not characterized for

1 federal income tax purposes, it shall have the same character as if realized directly from the
2 source from which realized by the estate or trust, or incurred in the same manner as incurred by
3 the estate or trust.

4 (b) Alternate methods of determining shares. - (1) If the estate or trust has no federal
5 distributable net income for the taxable year, the share of each beneficiary, including, solely for
6 the purpose of this allocation, resident beneficiaries, in the net amount determined under
7 subdivisions (1) and (2) of subsection (a) shall be in proportion to his share of the estate of trust
8 income for that year, under local law or the governing instrument, which is required to be
9 distributed currently and any other amounts of the income distributed in that year. Any balance of
10 the net amount shall be allocated to the estate or trust.

11 (2) The tax administrator may by regulation authorize the use of such other methods of
12 determining the respective shares of the beneficiaries and of the estate or trust in its income
13 derived from Rhode Island sources, and the modification related thereto, as may be appropriate
14 and equitable, on such terms and conditions as the tax administrator may require.

15 SECTION 2. This act shall take effect upon passage and shall apply to the taxable year
16 beginning January 1, 2002.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION – PERSONAL INCOME TAX

1 This act would allow a limited Rhode Island tax deduction for contributions to Rhode
2 Island's tuition savings program.

3 This act would take effect upon passage and would apply to the taxable year beginning
4 January 1, 2002.

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