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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO TAXATION -- PERSONAL INCOME TAX

Introduced By: Senators Felag, DiPalma, Shibley, Kettle, and Ottiano

Date Introduced: January 11, 2012

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-12 of the General Laws in Chapter 44-30 entitled "Personal  
2 Income Tax" is 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);

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

18 (A) A transfer or rollover to a qualified tuition program under Section 529 of the Internal  
19 Revenue Code, 26 U.S.C. section 529, other than to the tuition savings program referred to in

1 section 16-57-6.1; and

2 (B) A withdrawal or distribution which is:

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

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

6 (III) Not made in other circumstances for which an exclusion from tax made applicable  
7 by Section 529 of the Internal Revenue Code, 26 U.S.C. section 529, pertains if the transfer,  
8 rollover, withdrawal or distribution is made within two (2) taxable years following the taxable  
9 year for which a contributions modification pursuant to subdivision (c)(4) of this section is taken  
10 based on contributions to any tuition savings program account by the person who is the  
11 participant of the account at the time of the contribution, whether or not the person is the  
12 participant of the account at the time of the transfer, rollover, withdrawal or distribution;

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

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

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

26 (5) The modification described in section 44-30-25.1(d)(3)(i).

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

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

1 purchase or carry obligations or securities the income of which is exempt from Rhode Island  
2 personal income tax, to the extent the interest has been deducted in determining federal adjusted  
3 gross income or taxable income;

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

5 (3) The amount of any withdrawal or distribution from the "tuition savings program"  
6 referred to in section 16-57-6.1 which is included in federal adjusted gross income, other than a  
7 withdrawal or distribution or portion of a withdrawal or distribution that is a nonqualified  
8 withdrawal;

9 (4) Contributions made to an account under the tuition savings program, including the  
10 "contributions carryover" pursuant to paragraph (iv) of this subdivision, if any, subject to the  
11 following limitations, restrictions and qualifications:

12 (i) The aggregate subtraction pursuant to this subdivision for any taxable year of the  
13 taxpayer shall not exceed five hundred dollars (\$500) or one thousand dollars (\$1,000) if a joint  
14 return;

15 (ii) The following shall not be considered contributions:

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

18 (B) Transfers or rollovers to an account from any other tuition savings program account  
19 or from any other "qualified tuition program" under section 529 of the Internal Revenue Code, 26  
20 U.S.C. section 529; or

21 (C) A change of the beneficiary of the account;

22 (iii) The subtraction pursuant to this subdivision shall not reduce the taxpayer's federal  
23 adjusted gross income to less than zero (0);

24 (iv) The contributions carryover to a taxable year for purpose of this subdivision is the  
25 excess, if any, of the total amount of contributions actually made by the taxpayer to the tuition  
26 savings program for all preceding taxable years for which this subsection is effective over the  
27 sum of:

28 (A) The total of the subtractions under this subdivision allowable to the taxpayer for all  
29 such preceding taxable years; and

30 (B) That part of any remaining contribution carryover at the end of the taxable year  
31 which exceeds the amount of any nonqualified withdrawals during the year and the prior two (2)  
32 taxable years not included in the addition provided for in this subdivision for those years. Any  
33 such part shall be disregarded in computing the contributions carryover for any subsequent  
34 taxable year;

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

7 (5) The modification described in section 44-30-25.1(d)(1).

8 (6) Amounts deemed taxable income to the taxpayer due to payment or provision of  
9 insurance benefits to a dependent, including a domestic partner pursuant to chapter 12 of title 36  
10 or other coverage plan.

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

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

18 (f) Military retirement income, including retirement income from the regular armed  
19 forces, reserves and national guard, paid by the United States or by this state to persons sixty-five  
20 (65) years and older, commencing January 1, 2012 including any survivorship annuities.

21 SECTION 2. This act shall take effect upon passage and be retroactive to January 1,  
22 2012.

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

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1           This act would modify federal adjusted gross income by including military retirement  
2 income from the regular armed forces, reserves, and national guard paid by the United States or  
3 the state of Rhode Island to persons sixty-five (65) years and older for the purposes of the Rhode  
4 Island state income tax.

5           This act would take effect upon passage and be retroactive to January 1, 2012.

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