

2013 -- S 0443 SUBSTITUTE A AS AMENDED

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LC00880/SUB A
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

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A N A C T

RELATING TO TAXATION - PROPERTY SUBJECT TO TAXATION

Introduced By: Senator Maryellen Goodwin

Date Introduced: February 28, 2013

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-3-3 of the General Laws in Chapter 44-3 entitled "Property
2 Subject to Taxation" is hereby amended to read as follows:

3 **44-3-3. Property exempt.** -- The following property is exempt from taxation.

4 (1) Property belonging to the state except as provided in section 44-4-4.1;

5 (2) Lands ceded or belonging to the United States;

6 (3) Bonds and other securities issued and exempted from taxation by the government of
7 the United States, or of this state;

8 (4) Real estate, used exclusively for military purposes, owned by chartered or
9 incorporated organizations approved by the adjutant general, and composed of members of the
10 national guard, the naval militia, or the independent chartered military organizations;

11 (5) Buildings for free public schools, buildings for religious worship, and the land upon
12 which they stand and immediately surrounding them, to an extent not exceeding five (5) acres so
13 far as the buildings and land are occupied and used exclusively for religious or educational
14 purposes;

15 (6) Dwellings houses and the land on which they stand, not exceeding one acre in size,
16 or the minimum lot size for zone in which the dwelling house is located, whichever is the greater,
17 owned by or held in trust for any religious organization and actually used by its officiating clergy;
18 provided, further that in the town of Charlestown, where the property previously described in this
19 paragraph is exempt in total, along with dwelling houses and the land on which they stand in

1 Charlestown, not exceeding one acre in size, or the minimum lot size for zone in which the
2 dwelling house is located, whichever is the greater, owned by or held in trust for any religious
3 organization and actually used by its officiating clergy, or used as a convent, nunnery, or retreat
4 center by its religious order.

5 (7) Intangible personal property owned by, or held in trust for, any religious or charitable
6 organization, if the principal or income is used or appropriated for religious or charitable
7 purposes;

8 (8) Buildings and personal estate owned by any corporation used for a school, academy,
9 or seminary of learning, and of any incorporated public charitable institution, and the land upon
10 which the buildings stand and immediately surrounding them to an extent not exceeding one acre,
11 so far as they are used exclusively for educational purposes, but no property or estate whatever is
12 hereafter exempt from taxation in any case where any part of its income or profits or of the
13 business carried on there is divided among its owners or stockholders;

14 (9) Estates, persons, and families of the president and professors for the time being of
15 Brown University for not more than ten thousand dollars (\$ 10,000) for each officer, the officer's
16 estate, person, and family included, but only to the extent that any person had claimed and
17 utilized the exemption prior to, and for a period ending either on or after December 31, 1996;

18 (10) Property especially exempt by charter unless the exemption has been waived in
19 whole or in part.

20 (11) Lots of land exclusively for burial grounds;

21 (12) Property, real and personal, held for or by an incorporated library, society, or any
22 free public library, or any free public library society, so far as the property is held exclusively for
23 library purposes, or for the aid or support of the aged poor, or poor friendless children, or the poor
24 generally, or for a hospital for the sick or disabled;

25 (13) Real or personal estate belonging to or held in trust for the benefit of incorporated
26 organizations of veterans of any war in which the United States has been engaged, the parent
27 body of which has been incorporated by act of congress, to the extent of four hundred thousand
28 dollars (\$ 400,000) if actually used and occupied by the association; provided, that the city
29 council of the city of Cranston may by ordinance exempt the real or personal estate as previously
30 described in this subdivision located within the city of Cranston to the extent of five hundred
31 thousand dollars (\$500,000);

32 (14) Property, real and personal, held for or by the fraternal corporation, association, or
33 body created to build and maintain a building or buildings for its meetings or the meetings of the
34 general assembly of its members, or subordinate bodies of the fraternity, and for the

1 accommodation of other fraternal bodies or associations, the entire net income of which real and
2 personal property is exclusively applied or to be used to build, furnish, and maintain an asylum or
3 asylums, a home or homes, a school or schools, for the free education or relief of the members of
4 the fraternity, or the relief, support, and care of worthy and indigent members of the fraternity,
5 their wives, widows, or orphans, and any fund given or held for the purpose of public education,
6 almshouses, and the land and buildings used in connection therewith;

7 (15) Real estate and personal property of any incorporated volunteer fire engine
8 company or incorporated volunteer ambulance or rescue corps in active service;

9 (16) The estate of any person who in the judgment of the assessors is unable from
10 infirmity or poverty to pay the tax; providing, that in the town of Burrillville the tax shall
11 constitute a lien for five (5) years on the property where the owner is entitled to the exemption. At
12 the expiration of five (5) years, the lien shall be abated in full. Provided, if the property is sold or
13 conveyed or if debt secured by the property is refinanced during the five (5) year period, the lien
14 immediately becomes due and payable; any person claiming the exemption aggrieved by an
15 adverse decision of an assessor shall appeal the decision to the local board of tax review, and
16 thereafter according to the provisions of section 44-5-26;

17 (17) Household furniture and family stores of a housekeeper in the whole, including
18 clothing, bedding, and other white goods, books, and all other tangible personal property items
19 which are common to the normal household;

20 (18) Improvements made to any real property to provide a shelter and fallout protection
21 from nuclear radiation, to the amount of one thousand five hundred dollars (\$ 1,500); provided,
22 that the improvements meet applicable standards for shelter construction established from time to
23 time by the Rhode Island emergency management agency. The improvements are deemed to
24 comply with the provisions of any building code or ordinance with respect to the materials or the
25 methods of construction used and any shelter or its establishment is deemed to comply with the
26 provisions of any zoning code or ordinance;

27 (19) Aircraft for which the fee required by section 1-4-6 has been paid to the tax
28 administrator;

29 (20) Manufacturer's inventory

30 (i) For the purposes of sections 44-4-10, 44-5-3, 44-5-20, and 44-5-38, a person is
31 deemed to be a manufacturer within a city or town within this state if that person uses any
32 premises, room, or place in it primarily for the purpose of transforming raw materials into a
33 finished product for trade through any or all of the following operations: adapting, altering,
34 finishing, making, and ornamenting; provided, that public utilities, non-regulated power

1 producers commencing commercial operation by selling electricity at retail or taking title to
2 generating facilities on or after July 1, 1997, building and construction contractors, warehousing
3 operations including distribution bases or outlets of out-of-state manufacturers, and fabricating
4 processes incidental to warehousing or distribution of raw materials such as alteration of stock for
5 the convenience of a customer, are excluded from this definition.

6 (ii) For the purposes of sections 44-3-3, 44-4-10, and 44-5-38, the term "manufacturer's
7 inventory" or any similar term means and includes the manufacturer's raw materials, the
8 manufacturer's work in process, and finished products manufactured by the manufacturer in this
9 state, and not sold, leased, or traded by the manufacturer or its title or right to possession
10 divested; provided, that the term does not include any finished products held by the manufacturer
11 in any retail store or other similar selling place operated by the manufacturer whether or not the
12 retail establishment is located in the same building in which the manufacturer operates the
13 manufacturing plant.

14 (iii) For the purpose of section 44-11-2, a "manufacturer" is a person whose principal
15 business in this state consists of transforming raw materials into a finished product for trade
16 through any or all of the operations described in paragraph (i) of this subdivision. A person will
17 be deemed to be principally engaged if the gross receipts which that person derived from the
18 manufacturing operations in this state during the calendar year or fiscal year mentioned in section
19 44-11-1 amounted to more than fifty percent (50%) of the total gross receipts which that person
20 derived from all the business activities in which that person engaged in this state during the
21 taxable year. For the purpose of computing the percentage, gross receipts derived by a
22 manufacturer from the sale, lease, or rental of finished products manufactured by the
23 manufacturer in this state, even though the manufacturer's store or other selling place may be at a
24 different location from the location of the manufacturer's manufacturing plant in this state, are
25 deemed to have been derived from manufacturing.

26 (iv) Within the meaning of the preceding paragraphs of this subdivision, the term
27 "manufacturer" also includes persons who are principally engaged in any of the general activities
28 coded and listed as establishments engaged in manufacturing in the standard industrial
29 classification manual prepared by the technical committee on industrial classification, office of
30 statistical standards, executive office of the president, United States bureau of the budget, as
31 revised from time to time, but eliminating as manufacturers those persons, who, because of their
32 limited type of manufacturing activities, are classified in the manual as falling within the trade
33 rather than an industrial classification of manufacturers. Among those thus eliminated, and
34 accordingly also excluded as manufacturers within the meaning of this paragraph, are persons

1 primarily engaged in selling, to the general public, products produced on the premises from which
2 they are sold, such as neighborhood bakeries, candy stores, ice cream parlors, shade shops, and
3 custom tailors, except, that a person who manufactures bakery products for sale primarily for
4 home delivery, or through one or more non-baking retail outlets, and whether or not retail outlets
5 are operated by person, is a manufacturer within the meaning of this paragraph.

6 (v) The term "Person" means and includes, as appropriate, a person, partnership, or
7 corporation.

8 (vi) The department of revenue shall provide to the local assessors any assistance that is
9 necessary in determining the proper application of the definitions in this subdivision.

10 (21) Real and tangible personal property acquired to provide a treatment facility used
11 primarily to control the pollution or contamination of the waters or the air of the state, as defined
12 in chapter 12 of title 46 and chapter 25 of title 23, respectively, the facility having been
13 constructed, reconstructed, erected, installed, or acquired in furtherance of federal or state
14 requirements or standards for the control of water or air pollution or contamination, and certified
15 as approved in an order entered by the director of environmental management. The property is
16 exempt as long as it is operated properly in compliance with the order of approval of the director
17 of environmental management; provided, that any grant of the exemption by the director of
18 environmental management in excess of ten (10) years is approved by the city or town in which
19 the property is situated. This provision applies only to water and air pollution control properties
20 and facilities installed for the treatment of waste waters and air contaminants resulting from
21 industrial processing; furthermore, it applies only to water or air pollution control properties and
22 facilities placed in operation for the first time after April 13, 1970;

23 (22) New manufacturing machinery and equipment acquired or used by a manufacturer
24 and purchased after December 31, 1974. Manufacturing machinery and equipment is defined as:

25 (i) Machinery and equipment used exclusively in the actual manufacture or conversion
26 of raw materials or goods in the process of manufacture by a manufacturer as defined in
27 subdivision (20) of this section, and machinery, fixtures, and equipment used exclusively by a
28 manufacturer for research and development or for quality assurance of its manufactured products;

29 (ii) Machinery and equipment which is partially used in the actual manufacture or
30 conversion of raw materials or goods in process of manufacture by a manufacturer as defined in
31 subdivision (20) of this section, and machinery, fixtures, and equipment used by a manufacturer
32 for research and development or for quality assurance of its manufactured products, to the extent
33 to which the machinery and equipment is used for the manufacturing processes, research and
34 development or quality assurance. In the instances where machinery and equipment is used in

1 both manufacturing and/or research, and development, and/or quality assurance activities and
2 non-manufacturing activities, the assessment on machinery and equipment is prorated by
3 applying the percentage of usage of the equipment for the manufacturing, research, and
4 development and quality assurance activity to the value of the machinery and equipment for
5 purposes of taxation, and the portion of the value used for manufacturing, research, and
6 development, and quality assurance is exempt from taxation. The burden of demonstrating this
7 percentage usage of machinery and equipment for manufacturing and for research, and
8 development and/or quality assurance of its manufactured products rests with the manufacturer;
9 and

10 (iii) Machinery and equipment described in section 44-18-30(7) and (22) that was
11 purchased after July 1, 1997; provided that the city or town council of the city or town in which
12 the machinery and equipment is located adopts an ordinance exempting the machinery and
13 equipment from taxation. For purposes of this subsection, city councils and town councils of any
14 municipality may by ordinance wholly or partially exempt from taxation the machinery and
15 equipment discussed in this subsection for the period of time established in the ordinance and
16 may by ordinance establish the procedures for taxpayers to avail themselves of the benefit of any
17 exemption permitted under this section; provided, that the ordinance does not apply to any
18 machinery or equipment of a business, subsidiary or any affiliated business which locates or
19 relocates from a city or town in this state to another city or town in the state.

20 (23) Precious metal bullion, meaning any elementary metal which has been put through a
21 process of melting or refining, and which is in a state or condition that its value depends upon its
22 content and not its form. The term does not include fabricated precious metal which has been
23 processed or manufactured for some one or more specific and customary industrial, professional,
24 or artistic uses;

25 (24) Hydroelectric power generation equipment, which includes, but is not limited to,
26 turbines, generators, switchgear, controls, monitoring equipment, circuit breakers, transformers,
27 protective relaying, bus bars, cables, connections, trash racks, headgates, and conduits. The
28 hydroelectric power generation equipment must have been purchased after July 1, 1979, and
29 acquired or used by a person or corporation who owns or leases a dam and utilizes the equipment
30 to generate hydroelectric power;

31 (25) Subject to authorization by formal action of the council of any city or town, any real
32 or personal property owned by, held in trust for, or leased to an organization incorporated under
33 chapter 6 of title 7, as amended, or an organization meeting the definition of "charitable trust" set
34 out in section 18-9-4, as amended, or an organization incorporated under the not for profits

1 statutes of another state or the District of Columbia, the purpose of which is the conserving of
2 open space, as that term is defined in chapter 36 of title 45, as amended, provided the property is
3 used exclusively for the purposes of the organization;

4 (26) Tangible personal property, the primary function of which is the recycling, reuse, or
5 recovery of materials (other than precious metals, as defined in section 44-18-30(24)(ii) and (iii)),
6 from or the treatment of "hazardous wastes", as defined in section 23-19.1-4, where the
7 "hazardous wastes" are generated primarily by the same taxpayer and where the personal property
8 is located at, in, or adjacent to a generating facility of the taxpayer. The taxpayer may, but need
9 not, procure an order from the director of the department of environmental management
10 certifying that the tangible personal property has this function, which order effects a conclusive
11 presumption that the tangible personal property qualifies for the exemption under this
12 subdivision. If any information relating to secret processes or methods of manufacture,
13 production, or treatment is disclosed to the department of environmental management only to
14 procure an order, and is a "trade secret" as defined in section 28-21-10(b), it shall not be open to
15 public inspection or publicly disclosed unless disclosure is otherwise required under chapter 21 of
16 title 28 or chapter 24.4 of title 23;

17 (27) Motorboats as defined in section 46-22-2 for which the annual fee required in
18 section 46-22-4 has been paid;

19 (28) Real and personal property of the Providence performing arts center, a non-business
20 corporation as of December 31, 1986;

21 (29) Tangible personal property owned by, and used exclusively for the purposes of, any
22 religious organization located in the city of Cranston;

23 (30) Real and personal property of the Travelers Aid Society of Rhode Island, a
24 nonprofit corporation, the Union Mall Real Estate Corporation, and any limited partnership or
25 limited liability company which is formed in connection with, or to facilitate the acquisition of,
26 the Providence YMCA Building; and

27 (31) Real and personal property of Meeting Street Center or MSC Realty, Inc., both not-
28 for-profit Rhode Island corporations, and any other corporation, limited partnership, or limited
29 liability company which is formed in connection with, or to facilitate the acquisition of, the
30 properties designated as the Meeting Street National Center of Excellence on Eddy Street in
31 Providence, Rhode Island.

32 (32) The buildings, personal property and land upon which the buildings stand, located
33 on Pomham Island, East Providence, currently identified as Assessor's Map 211, Block 01, Parcel
34 001.00, which consists of approximately twenty-one thousand three hundred (21,300) square feet

1 and is located approximately eight hundred sixty feet (860'), more or less, from the shore, and
2 limited exclusively to these said buildings personal estate and land, provided that said property is
3 owned by a qualified 501(c)(3) organization, such as the American Lighthouse Foundation, and is
4 used exclusively for a lighthouse.

5 [\(44\) Real and personal property of the Rhode Island Philharmonic Orchestra and Music](#)
6 [School; provided, that the organization is qualified as a tax exempt corporation under section](#)
7 [501\(c\)\(3\) of the United States Internal Revenue Code.](#)

8 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO TAXATION - PROPERTY SUBJECT TO TAXATION

1 This act would exempt from taxation the real and personal property held by nonprofit
2 performing and visual arts organizations which are qualified as tax exempt organizations under
3 section 501 (c)(3) of the United States Internal Revenue Code. This exemption would be
4 retroactive to December 31, 2011.

5 This act would take effect upon passage and would be retroactive to December 31, 2011.

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