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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

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A N A C T

RELATING TO STATE AFFAIRS AND GOVERNMENT - TAXATION

Introduced By: Senators DaPonte, Paiva Weed, Ruggerio, Algieri, and Walaska

Date Introduced: May 07, 2014

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 42-64.5-3 and 42-64.5-4 of the General Laws in Chapter 42-64.5
2 entitled "Jobs Development Act" are hereby amended to read as follows:

3 **42-64.5-3. Tax rate reduction.** -- The rate of tax payable by an eligible company and
4 each of its eligible subsidiaries for any taxable year ending on or after July 1, 1995, on its net
5 income pursuant to the applicable income tax provisions of the general laws, including the
6 provisions of sections 44-11-2(a), 44-14-3(a), 44-14-4 and 44-17-1, or on its gross earnings
7 pursuant to section 44-13-4(4), shall be reduced by the amount specified in section 42-64.5-4; this
8 rate reduction shall be applied annually once to those eligible companies which are permitted by
9 law to file a consolidated state tax return or as part of a combined group and in the case of eligible
10 companies not ~~permitted~~ required by law to file as part of a combined group ~~consolidated state~~
11 ~~tax returns~~, then the rate reduction shall be applied annually to each eligible company and its
12 eligible subsidiaries; provided, however, except as provided in section 42-64.5-7, should any
13 eligible company fail to maintain in any taxable year after 1997 or, if applicable, the third taxable
14 year following the base employment period election set forth in section 42-64.5-5, the number of
15 units of new employment it reported for its 1997 tax year or, if applicable, the third taxable year
16 following the base employment period election set forth in section 42-64.5-5; the rate reduction
17 provided for in this chapter shall expire permanently.

18 **42-64.5-4. Reduction rate schedule.** -- (a) (i) The amount of the rate reduction specified
19 in section 42-64.5-3 for any eligible company that is not a telecommunications company for each

1 taxable year ending on or after July 1, 1995, shall be based upon the aggregate amount of new
2 employment of the eligible company and its eligible subsidiaries for each taxable year, and shall
3 be determined by multiplying the numerical equivalent of one-quarter of one percent (.25%) by
4 the number of units of new employment for each taxable year through the taxable year ending in
5 1997 or, if applicable, the third taxable year following the base employment period election set
6 forth in section 42-64.5-5; and for each taxable year thereafter, the number of units of new
7 employment reported for the taxable year 1997 or, if applicable, the third taxable year following
8 the base employment period election set forth in section 42-64.5-5; provided, however, the
9 amount of each rate reduction shall in no event be greater than six percent (6%).

10 (ii) For the tax years beginning on or after January 1, 2015, the amount of the rate
11 reduction specified in § 42-64.5-3 for any eligible company required to file and pay taxes
12 pursuant to § 44-11-2, shall be based upon the aggregate amount of new employment of the
13 eligible company and its eligible subsidiaries for each taxable year, and shall be determined by
14 multiplying the numerical equivalent of two tenths of one percent (.20%) by the number of units
15 of new employment for each taxable year through the taxable year ending in 1997 or, if
16 applicable, the third taxable year following the base employment period election set forth in § 42-
17 64.5-5; and for each taxable year thereafter, the number of units of new employment reported for
18 the taxable year 1997 or, if applicable, the third taxable year following the base employment
19 period election set forth in § 42-64.5-5; provided, however, the amount of each rate reduction
20 shall in no event be greater than four percent (4.0%).

21 (b) The amount of the rate reduction specified in section 42-64.5-3 for any eligible
22 company that is a telecommunications company shall be based upon the aggregate amount of new
23 employment of the eligible company and its eligible subsidiaries for each taxable year and shall
24 be determined in the same manner as set forth in subsection (a) of this section, except that it shall
25 be determined by multiplying the numerical equivalent of one-hundredth of one percent (.01%)
26 by the number of units of new employment and the amount of each rate reduction shall in no
27 event be greater than one percent (1%).

28 (c) Notwithstanding any of the provisions of this chapter, where an eligible
29 telecommunications company has one or more affiliated entities that is an eligible company, the
30 eligible company entitled to a rate reduction may assign its rate reduction, to be determined in the
31 manner as provided in subsection (b) of this section, to the eligible telecommunications company.
32 An entity that assigns the rate reduction shall not be eligible for the rate reduction.

33 SECTION 2. Sections 42-64.14-10 and 42-64.14-11 of the General Laws in Chapter 42-
34 64.14 entitled "The I-195 Redevelopment Act of 2011" are hereby amended to read as follows:

1 **42-64.14-10. Life sciences tax rate reduction.** -- The rate of tax payable by an eligible
2 life sciences company and each of its eligible subsidiaries for any taxable year beginning on or
3 after January 1, 2011, on its net income pursuant to the provisions of subsection 44-11-2(a), shall
4 be reduced by the amount specified in section 42-64.14-11; this rate reduction shall be applied
5 annually once to those eligible life sciences companies which are permitted by law to file a
6 consolidated state tax return or as part of a combined group and in the case of eligible companies
7 not ~~permitted~~ required by law to file consolidated state tax returns or as part of a combined group,
8 then the rate reduction shall be applied annually to each eligible life sciences company and its
9 eligible subsidiaries; provided, however, should any eligible life sciences company fail to
10 maintain in any taxable year after 2014 or, if applicable, the third taxable year following the base
11 employment period election set forth in section 42-64.14-12, the number of units of new
12 employment it reported for its 2014 tax year or, if applicable, the third taxable year following the
13 base employment period election set forth in section 42-64.14-12, the rate reduction provided for
14 in this chapter shall expire permanently.

15 **42-64.14-11. Reduction rate schedule.** -- (a) The amount of the rate reduction specified
16 in section 42-64.14-10 for any eligible life sciences company for each taxable year beginning on
17 or after January 1, 2012, shall be based upon the aggregate amount of new employment of the
18 eligible life sciences company and its eligible subsidiaries for each taxable year, and shall be
19 determined by multiplying the numerical equivalent of one-quarter of one percent (.25%) by the
20 number of units of new employment for each taxable year through the taxable year ending in
21 2014 or, if applicable, the third taxable year following the base employment period election set
22 forth in section 42-64.14-12; and for each taxable year thereafter, the number of units of new
23 employment reported for the taxable year 2014 or, if applicable, the third taxable year following
24 the base employment period election set forth in section 42-64.14-12; ~~provided, however, the~~
25 ~~amount of each rate reduction shall in no event be lower than three percent (3%).~~ provided,
26 however, the amount of each rate reduction shall in no event be greater than six percent (6%).

27 (b) For tax years beginning on or after January 1, 2015, the amount of the rate reduction
28 specified in § 42-64.14-10 for any eligible company required to file and pay taxes pursuant to §
29 44-11-2, shall be based upon the aggregate amount of new employment of the eligible company
30 and its eligible subsidiaries for each taxable year, and shall be determined by multiplying the
31 numerical equivalent of two tenths of one percent (.20%) by the number of units of new
32 employment for each taxable year through the taxable year ending in 1997 or, if applicable, the
33 third taxable year following the base employment period election set forth in § 42-64.14-12; and
34 for each taxable year thereafter, the number of units of new employment reported for the taxable

1 [year 1997 or, if applicable, the third taxable year following the base employment period election](#)
2 [set forth in § 42-64.14-12; provided, however, the amount of each rate reduction shall in no event](#)
3 [be greater than four percent \(4.0%\).](#)

4 SECTION 3. Sections 44-11-1, 44-11-2 and 44-11-4 of the General Laws in Chapter 44-
5 11 entitled "Business Corporation Tax" are hereby amended to read as follows:

6 **44-11-1. Definitions.** -- For the purpose of this chapter:

7 (1) (a) "Captive REIT" means a corporation, trust or association:

8 (i) That is considered a real estate investment trust for the taxable year under section 856
9 of the Internal Revenue Code;

10 (ii) That is not regularly traded on an established securities market; and

11 (iii) More than fifty percent (50%) of the voting power or value of the beneficial interests
12 or shares of which at any time during the last half of the taxable year, is owned or controlled,
13 directly or indirectly, by a single entity that is subject to the provisions of Subchapter C of
14 Chapter 1 of the Internal Revenue Code; and

15 (b) "Captive REIT" does not include:

16 (i) A corporation, trust or association more than fifty percent (50%) of the voting power
17 or value of the beneficial interests or shares of which, at any time during which the corporation,
18 trust or association satisfies item (1)(iii) of this subsection, is owned or controlled, directly or
19 indirectly, by:

20 (A) A real estate investment trust other than a real estate investment trust described in
21 item (i) of this subsection; or

22 (B) A person exempt from taxation under section 501(a) of the Internal Revenue Code;

23 or

24 (C) A listed Australian Property Trust; and

25 (ii) Subject to regulations that the tax administrator adopts, a real estate investment trust
26 that is intended to become regularly traded on an established securities market and that satisfies
27 the requirements of section 865(A)(5) and (6) of the Internal Revenue Code by reason of section
28 856(h)(2) of the Internal Revenue Code; and

29 (c) For purposes of this section, the constructive ownership rules prescribed under
30 section 318(a) of the Internal Revenue Code, as modified by section 856(d)(5) of the Internal
31 Revenue Code, shall apply in determining the ownership of stock, assets or net profits of any
32 person.

33 [\(2\) "Combined group" means a group of two or more corporations in which more than](#)
34 [fifty percent \(50%\) of the voting stock of each member corporation is directly or indirectly owned](#)

1 by a common owner or owners, either corporate or non-corporate, or by one or more of the
2 member corporations, and that are engaged in a unitary business.

3 (3) "Common ownership: means more than fifty percent (50%) of the voting control of
4 each member of the group is directly or indirectly owned by a common owner or owners, either
5 corporate or non-corporate, whether or not owner or owners are members of the combined group.

6 ~~(2)~~(4) "Corporation" means every corporation, joint-stock company, or association,
7 wherever incorporated, a real estate investment trust, a regulated investment company, a personal
8 holding company registered under the Federal Investment Company Act of 1940, 15 U.S.C.
9 section 80a-1 et seq., and also a trustee or trustees conducting a business where interest or
10 ownership is evidenced by certificates or other written instruments, deriving any income from
11 sources within this state or engaging in any activities or transactions within this state for the
12 purpose of profit or gain, whether or not an office or place of business is maintained in this state,
13 or whether or not the income, activities, or transactions are connected with intrastate, interstate, or
14 foreign commerce, except:

15 (i) State banks, mutual savings banks, federal savings banks, trust companies, national
16 banking associations, building and loan associations, credit unions, and loan and investment
17 companies;

18 (ii) Public service corporations included in chapter 13 of this title, except as otherwise
19 provided in section 44-13-2.2;

20 (iii) Insurance and surety companies;

21 (iv) Corporations specified in section 7-6-4, incorporated hospitals, schools, colleges,
22 and other institutions of learning not organized for business purposes and not doing business for
23 profit and no part of the net earnings of which inures to the benefit of any private stockholder or
24 individual, whether incorporated under any general law of this state or by any special act of the
25 general assembly of this state;

26 (v) Fraternal beneficiary societies as set forth in section 27-25-1;

27 (vi) Any corporation expressly exempt from taxation by charter;

28 (vii) Corporations which together with all corporations under direct or indirect common
29 ownership that satisfies the other requirements of this paragraph employ not less than five (5)
30 full-time equivalent employees in the state; which maintain an office in the state; and activities
31 within the state which are confined to the maintenance and management of their intangible
32 investments or of the intangible investments of corporations or business trusts registered as
33 investment companies under the Investment Company Act of 1940, 15 U.S.C. section 80a-1 et
34 seq., and the collection and distribution of the income from those investments or from tangible

1 property physically located outside the state. For purposes of this paragraph, "intangible
2 investments" includes, without limitation, investments in stocks, bonds, notes, and other debt
3 obligations, including debt obligations of affiliated corporations, patents, patent applications,
4 trademarks, trade names, copyrights, and similar types of intangible assets.

5 ~~(3)~~(5) "Fiscal year" means an accounting period of twelve (12) months ending on the last
6 day of any month other than December.

7 (6) "Member" means a corporation included in a unitary business.

8 ~~(4)~~(7) "Place of business" means a regular place of business, which, in turn, means any
9 bona fide office, other than a statutory office, factory, warehouse, or other space which is
10 regularly used by the taxpayer in carrying on its business. Where, as a regular course of business,
11 property of the taxpayer is stored by it in a public warehouse until it is shipped to customers, the
12 warehouse is considered a regular place of business of the taxpayer and, where as a regular course
13 of business, raw material or partially furnished goods of a taxpayer are delivered to an
14 independent contractor to be converted, processed, finished, or improved and the finished goods
15 remain in the possession of the independent contractor until shipped to customers, the plant of the
16 independent contractor is considered a regular place of business of the taxpayer. The mere
17 consignment of goods by the taxpayer to an independent factor outside this state for sale at the
18 consignee's discretion does not constitute the taxpayer as having a regular place of business
19 outside this state.

20 (8) Tax haven" means a jurisdiction that, during the tax year in question has no or
21 nominal effective tax on the relevant income and;

22 (i) has laws or practices that prevent effective exchange of information for tax purposes
23 with other governments on taxpayers benefiting from the tax regime;

24 (ii) Has a tax regime which lacks transparency. A tax regime lacks transparency if the
25 details of legislative, legal or administrative provisions are not open and apparent or are not
26 consistently applied among similarly situated taxpayers, or if the information needed by tax
27 authorities to determine a taxpayer's correct tax liability, such as accounting records and
28 underlying documentation is not adequately available;

29 (iii) Facilitates the establishment of foreign-owned entities without the need for a local
30 substantive presence or prohibits these entities from having any commercial impact on the local
31 economy;

32 (iv) explicitly or implicitly excluded the jurisdictions resident taxpayers from taking
33 advantage of the tax regime benefits or prohibits enterprisers that benefit from the regime from
34 operating in the jurisdiction's domestic market; or

1 (v) Has created a tax regime which is favorable for tax avoidance, based upon an overall
2 assessment of relevant factors, including whether the jurisdiction has a significant untaxed
3 offshore financial/other services sector relative to its overall economy.

4 ~~(5)~~(9) "Taxable year" means the calendar year or the fiscal year ending during the
5 calendar year upon the basis of which the net income is computed under this chapter. "Taxable
6 year" means, in the case of a return made for a fractional part of a year under the provisions of
7 this chapter or under regulations prescribed by the tax administrator, the period for which the
8 return is made.

9 ~~(6)~~(10) "Taxpayer" means and includes any corporation subject to the provisions of this
10 chapter.

11 (11) "Unitary business" means the activities of a group of two (2) or more corporations
12 under common ownership that are sufficiently interdependent, integrated or interrelated through
13 their activities so as to provide mutual benefit and produce a significant sharing or exchange of
14 value among them or a significant flow of value between the separate parts. The term unitary
15 business shall be construed to the broadest extent permitted under the United States Constitution.

16 (12) "United States" means the fifty (50) states of the United States, the District of
17 Columbia, the United States' territories and possessions.

18 **44-11-2. Imposition of tax. --** (a) Each corporation shall annually pay to the state a tax
19 equal to nine percent (9%) of net income, as defined in section 44-11-11, qualified in section 44-
20 11-12, and apportioned to this state as provided in sections 44-11-13 -- 44-11-15, for the taxable
21 year. For tax years beginning on or after January 1, 2015, each corporation shall annually pay to
22 the state a tax equal to seven percent (7.0%) of net income, as defined in § 44-11-13 – 44-11-15,
23 for the taxable year.

24 (b) A corporation shall pay the amount of any tax as computed in accordance with
25 subsection (a) of this section after deducting from "net income," as used in this section, fifty
26 percent (50%) of the excess of capital gains over capital losses realized during the taxable year, if
27 for the taxable year:

28 (1) The corporation is engaged in buying, selling, dealing in, or holding securities on its
29 own behalf and not as a broker, underwriter, or distributor;

30 (2) Its gross receipts derived from these activities during the taxable year amounted to at
31 least ninety percent (90%) of its total gross receipts derived from all of its activities during the
32 year. "Gross receipts" means all receipts, whether in the form of money, credits, or other valuable
33 consideration, received during the taxable year in connection with the conduct of the taxpayer's
34 activities.

1 (c) A corporation shall not pay the amount of the tax computed on the basis of its net
2 income under subsection (a) of this section, but shall annually pay to the state a tax equal to ten
3 cents (\$.10) for each one hundred dollars (\$100) of gross income for the taxable year or a tax of
4 one hundred dollars (\$100), whichever tax shall be the greater, if for the taxable year the
5 corporation is either a "personal holding company" registered under the federal Investment
6 Company Act of 1940, 15 U.S.C. section 80a-1 et seq., "regulated investment company", or a
7 "real estate investment trust" as defined in the federal income tax law applicable to the taxable
8 year. "Gross income" means gross income as defined in the federal income tax law applicable to
9 the taxable year, plus:

10 (1) Any interest not included in the federal gross income; minus

11 (2) Interest on obligations of the United States or its possessions, and other interest
12 exempt from taxation by this state; and minus

13 (3) Fifty percent (50%) of the excess of capital gains over capital losses realized during
14 the taxable year.

15 (d) (1) A small business corporation having an election in effect under subchapter S, 26
16 U.S.C. section 1361 et seq., shall not be subject to the Rhode Island income tax on corporations,
17 except that the corporation shall be subject to the provisions of subsection (a), to the extent of the
18 income that is subjected to federal tax under subchapter S. [Effective for tax years beginning on or
19 after January 1, 2015, a small business corporation having an election in effect under subchapter
20 S, 26 U.S.C. § 1261 et seq., shall be subject to the minimum tax under § 44-11-2\(e\).](#)

21 (2) The shareholders of the corporation who are residents of Rhode Island shall include
22 in their income their proportionate share of the corporation's federal taxable income.

23 (3) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

24 (4) [Deleted by P.L. 2004, ch. 595, art. 29, section 1.]

25 (e) Minimum tax. - The tax imposed upon any corporation under this section, [including a
26 small business corporation having an election in effect under subchapter S, 26 U.S.C. § 1361 et
27 seq.](#), shall not be less than five hundred dollars (\$500).

28 **44-11-4. Returns of affiliated groups of corporations.** - [For tax years beginning before
29 January 1, 2015, ~~An~~ an](#) affiliated group of corporations may file a consolidated return for the
30 taxable year in lieu of separate returns; provided, that all the corporations which constitute the
31 affiliated group at any time during the period for which the return is made and which are subject
32 to taxation under this chapter shall consent to the making of the consolidated return. The tax
33 administrator may prescribe rules and regulations as he or she may deem necessary in order that
34 the tax liability of any affiliated group of corporations making a consolidated return and of each

1 corporation in the group, liable to taxation under this chapter, both during and after the period of
2 affiliation, may be determined, computed, assessed, collected, and adjusted in a manner as clearly
3 to reflect the net income and the corporate excess and to prevent avoidance of tax liability.

4 SECTION 4. Chapter 44-11 of the General Laws entitled "Business Corporation Tax" is
5 hereby amended by adding thereto the following section:

6 **44-11-4.1. Combined reporting.** -- (a) For tax years beginning on or after January 1,
7 2015, each C corporation which is part of a unitary business with one or more other corporations
8 must file a return, in a manner prescribed by the tax administrator, for the combined group,
9 determined under § 44-11-1(2) or subsection (b) of this section, containing the combined income
10 of the combined group.

11 (b) An affiliated group of C corporations, as defined in section 1504 of the Internal
12 Revenue Code, may elect to make a consolidated return with respect to the combined reporting
13 requirement imposed by § 44-11-4.1(a) for the taxable year in lieu of a unitary business group.
14 The making of a consolidated return shall be upon the condition that all eligible corporations
15 which, at any time during the taxable year, have been members of the affiliated group consent to
16 be included in such return. The making of a consolidated return shall be considered as such
17 consent. Such election may not be revoked in less than five (5) years unless approved by the tax
18 administrator.

19 (c) The use of a combined report does not disregard the separate identities of the taxpayer
20 members of the combined group. Each taxpayer member is responsible for tax based on its
21 taxable income or loss apportioned to this state.

22 (d) Members of a combined group shall exclude as a member and disregard the income
23 and apportionment factors of any corporation not incorporated in the United States (a "non US
24 corporation") if the sales factors outside the United States is eighty percent (80%) or more. If a
25 non US Corporation is includible as a member in the combined group, to the extent that such non
26 US Corporation's income is subject to the provisions of a federal income tax treaty, such income
27 is not includible in the combined group net income. Such member shall also not include in the
28 combined report any expenses or apportionment factors attributable to income that is subject to
29 the provisions of a federal income tax treaty. For purposes of this chapter, "federal income tax
30 treaty" means a comprehensive income tax treaty between the United States and a foreign
31 jurisdiction, other than a foreign jurisdiction which is defined as a tax haven; provided, however,
32 that if the tax administrator determines that a combined group member non US corporation is
33 organized in a tax haven that has a federal income treaty with the United States, its income
34 subject to a federal income tax treaty, and any expenses or apportionment factors attributable to

1 such income, shall not be included in the combined group net income or combined report if: (i)
2 The transactions conducted between such non US corporation and other members of the
3 combined group are done on an arm's length basis and not with the principal purpose to avoid the
4 payment of taxes due under this chapter; or (ii) The member establishes that the inclusion of such
5 net income in combined group net income is unreasonable.

6 (e) Net operating losses. A tracing protocol shall apply to net operating losses created
7 before January 1, 2015. Such net operating losses shall be allowed to offset only the income of the
8 corporation that created the net operating loss; the net operating loss cannot be shared with other
9 members of the combined group. No deduction is allowable for a net operating loss sustained
10 during any taxable year in which a taxpayer was not subject to Rhode Island business corporation
11 tax. For net operating losses created in tax years beginning on or after January 1, 2015 such loss
12 allowed shall be the same as the net operating loss deduction allowed under section 172 of the
13 Internal Revenue Code for the combined group, except that:

14 (1) Any net operating loss included in determining the deduction shall be adjusted to
15 reflect the inclusions and exclusions from entire net income required by § 44-11-11 (a) and § 44-
16 18 11-11.1;

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

19 (3) The deduction shall not exceed the deduction for the taxable year allowable under
20 section 172 of the Internal Revenue Code; provided that the deduction for a taxable year may not
21 be carried back to any other taxable year for Rhode Island purposes but shall only be allowable
22 on a carry forward basis for the five (5) succeeding taxable years.

23 (f) Tax credits and tax rate reduction.

24 (1) A tracing protocol shall apply to Rhode Island tax credits earned before tax years
25 beginning on or before January 1, 2015. Such Rhode Island tax credits shall be allowed to offset
26 only the tax liability of the corporation that earned the credits; the Rhode Island tax credits cannot
27 be shared with other members of the combined group. Rhode Island tax credits earned in tax
28 years beginning on or after January 1, 2015, may be applied to other members of the group.

29 (2) The tax rate reductions authorized under § 42-64.5 (Jobs Development Act) and § 42-
30 64.14 (I-195 Redevelopment Act of 2011) shall be allowed against the net income of the entire
31 combined group.

32 (g) The tax administrator shall prescribe and amend, from time to time, rules and
33 regulations as he or she may deem necessary in order that the tax liability of any group of
34 corporations filing as a combined group and each corporation in the combined group, liable to

1 taxation under this chapter, may be determined, computed, assessed, collected, and adjusted in a
2 manner as to clearly reflect the combined income of the combined group and the individual
3 income of each member of the combined group. Such rules and regulations, shall include but are
4 not be limited to, issues such as the inclusion or exclusion of a corporation in the combined
5 group, the characterization and sourcing of each member's income, and whether certain common
6 activities constitute the conduct of a unitary business.

7 (h) The tax administrator shall on or before March 15, 2018, based upon the actual tax
8 filings of companies under this act for a two year period, submit a report to the chairperson of the
9 house finance committee and the senate finance committee and the house fiscal advisor and the
10 senate fiscal advisor analyzing the policy and fiscal ramifications of the changes enacted to
11 business corporations tax statutes, as enacted in budget article 12 of the fiscal year 2015
12 appropriations act. The report shall include but not be limited to the impact upon categories of
13 business, size of business and similar information as contained in § 44-11-45, which required the
14 original report.

15 SECTION 5. Sections 44-11-11 and 44-11-14 of the General Laws in Chapter 44-11
16 entitled "Business Corporation Tax" are hereby amended to read as follows:

17 **44-11-11. "Net income" defined.** -- (a) (1) "Net income" means, for any taxable year
18 and for any corporate taxpayer, the taxable income of the taxpayer for that taxable year under the
19 laws of the United States, plus:

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

21 (ii) Any specific exemptions;

22 ~~(iii) For a captive REIT, an amount equal to the amount of the dividends paid deduction~~
23 ~~allowed under the Internal Revenue Code for the taxable year;~~

24 ~~(iv)~~(iii) The tax imposed by this chapter; and minus

25 ~~(v) Any deductions required to be added back to net income under the provisions of~~
26 ~~paragraph (f) of this section, and minus~~

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

29 ~~(vii)~~(v) The federal net operating loss deduction.

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

1 of the foreign tax credit.

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

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

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

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

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

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

23 ~~(e) As used in this section:~~

24 ~~(1) "Affiliated group" has the same meaning as in section 1504 of the Internal Revenue~~
25 ~~Code.~~

26 ~~(2) "Intangible expenses and costs" includes: (A) expenses, losses and costs for, related~~
27 ~~to, or in connection directly or indirectly with the direct or indirect acquisition, use, maintenance~~
28 ~~or management, ownership, sale, exchange, or any other disposition of intangible property to the~~
29 ~~extent such amounts are allowed as deductions or costs in determining taxable income before~~
30 ~~operating loss deduction and special deductions for the taxable year under the Internal Revenue~~
31 ~~Code; (B) losses related to or incurred in connection directly or indirectly with factoring~~
32 ~~transactions or discounting transactions; (C) royalty, patent, technical and copyright fees; (D)~~
33 ~~licensing fees; and (E) other similar expenses and costs.~~

34 ~~(3) "Intangible property" means patents, patent applications, trade names, trademarks,~~

1 ~~service marks, copyrights and similar types of intangible assets.~~

2 ~~(4) "Interest expenses and costs" means amounts directly or indirectly allowed as~~
3 ~~deductions under section 163 of the Internal Revenue Code for purposes of determining taxable~~
4 ~~income under the Internal Revenue Code to the extent such expenses and costs are directly or~~
5 ~~indirectly for, related to, or in connection with the direct or indirect acquisition, maintenance,~~
6 ~~management, ownership, sale, exchange or disposition of intangible property.~~

7 ~~(5) "Related member" means a person that, with respect to the taxpayer during all or any~~
8 ~~portion of the taxable year, is a related entity, as defined in this subsection, a component member~~
9 ~~as defined in section 1563(b) of the Internal Revenue Code, or is a person to or from whom there~~
10 ~~is attribution of stock ownership in accordance with section 1563(e) of the Internal Revenue~~
11 ~~Code.~~

12 ~~(6) "Related entity" means: (A) a stockholder who is an individual, or a member of the~~
13 ~~stockholder's family enumerated in section 318 of the Internal Revenue Code, if the stockholder~~
14 ~~and the members of the stockholder's family own directly, indirectly, beneficially or~~
15 ~~constructively, in the aggregate, at least fifty percent (50%) of the value of the taxpayer's~~
16 ~~outstanding stock; (B) a stockholder, or a stockholder's partnership, limited liability company,~~
17 ~~estate, trust or corporation, if the stockholder and the stockholder's partnership, limited liability~~
18 ~~companies, estates, trusts and corporations own directly, indirectly, beneficially or constructively,~~
19 ~~in the aggregate, at least fifty percent (50%) of the value of the taxpayer's outstanding stock; or~~
20 ~~(C) a corporation, or a party related to the corporation in a manner that would require an~~
21 ~~attribution of stock from the corporation to the party or from the party to the corporation under~~
22 ~~the attribution rules of section 318 of the Internal Revenue Code, if the taxpayer owns, directly,~~
23 ~~indirectly, beneficially or constructively, at least fifty percent (50%) of the value of the~~
24 ~~corporation's outstanding stock. The attribution rules on section 318 of the Internal Revenue Code~~
25 ~~shall apply for purposes of determining whether the ownership requirements of this subdivision~~
26 ~~have been met.~~

27 ~~(f) For purposes of computing its net income under this section, a corporation shall add~~
28 ~~back otherwise deductible interest expenses and costs and intangible expenses and costs directly~~
29 ~~or indirectly paid, accrued or incurred to, or in connection directly or indirectly with one or more~~
30 ~~direct or indirect transactions with, one or more related members.~~

31 ~~(1) The adjustments required in subsection (f) of this section shall not apply if the~~
32 ~~corporation establishes by clear and convincing evidence that the adjustments are unreasonable,~~
33 ~~as determined by the tax administrator or the corporation and the tax administrator agree in~~
34 ~~writing to the application or use of an alternative method of apportionment under section 44-11-~~

1 ~~15. Nothing in this subsection shall be construed to the limit or negate the tax administrator's~~
2 ~~authority to otherwise enter into agreements and compromises otherwise allowed by law.~~

3 ~~(2) The adjustments required in subsection (f) of this section shall not apply to such~~
4 ~~portion of interest expenses and costs and intangible expenses and costs that the corporation can~~
5 ~~establish by the preponderance of the evidence meets both of the following: (A) the related~~
6 ~~member during the same income year directly or indirectly paid, accrued or incurred such portion~~
7 ~~to a person who is not a related member; and (B) the transaction giving rise to the interest~~
8 ~~expenses and costs or the intangible expenses and costs between the corporation and the related~~
9 ~~member did not have as a significant purpose the avoidance of any portion of the tax due under~~
10 ~~chapter 44-11.~~

11 ~~(3) The adjustments required in subsection (f) shall not apply if the corporation~~
12 ~~establishes by clear and convincing evidence, as determined by the tax administrator, that: (i) a~~
13 ~~principal purpose of the transaction giving rise to the payment of interest was not to avoid~~
14 ~~payment of taxes due under this chapter; (ii) the interest is paid pursuant to a contract that reflects~~
15 ~~an arm's length rate of interest and terms; and (iii) (A) the related member was subject to tax on~~
16 ~~its net income in this state or another state or possession of the United States or a foreign nation;~~
17 ~~(B) a measure of said tax included the interest received from the taxpayer; and (C) the effective~~
18 ~~rate of tax applied to the interest received by the related member is no less than the effective rate~~
19 ~~of tax applied to the taxpayer under this chapter minus 3 percentage points.~~

20 ~~(4) Partial Adjustments.—The add back required in subsection (f) shall not be required in~~
21 ~~part if a portion of the add back would be unreasonable. A portion of the add back will be~~
22 ~~considered unreasonable to the extent that the taxpayer establishes to the tax administrator by~~
23 ~~clear and convincing evidence that interest or intangible expense was paid, accrued or incurred to~~
24 ~~a related member that is taxed on the corresponding income by a state, U.S. possession or foreign~~
25 ~~jurisdiction. An adjustment to the add back will be allowed based on a factor determined by the~~
26 ~~apportioned tax rate of the related member in the other jurisdiction compared to the apportioned~~
27 ~~tax rate of the taxpayer in this state. A taxpayer that seeks to claim this adjustment must file a~~
28 ~~schedule that sets forth the information required by the tax administrator.~~

29 ~~(g) Nothing in this section shall require a corporation to add to its net income more than~~
30 ~~once any amount of interest expenses and costs or intangible expenses and costs that the~~
31 ~~corporation pays, accrues or incurs to a related member described in subsection (b) of this~~
32 ~~section.~~

33 ~~(h) Any taxpayer required to make an adjustment required in subsection (f) for tax years~~
34 ~~beginning on or after January 1, 2008, is additionally required to report to the tax administrator,~~

1 ~~on forms required by him, the amount of any adjustments that would have been required if the~~
2 ~~law applied to tax years beginning on or after January 1, 2007.~~

3 ~~(i) Nothing in this section shall be construed to limit or negate the tax administrator~~
4 ~~authority to make adjustments under section 44-11-15.~~

5 **44-11-14. Allocation of income from business partially within state.** -- (a) In the case
6 of a taxpayer deriving its income from sources both within and outside of this state or engaging in
7 any activities or transactions both within and outside of this state for the purpose of profit or gain,
8 its net income shall be apportioned to this state by means of an allocation fraction to be computed
9 as a simple arithmetical mean of three (3) fractions:

10 (1) The first of these fractions shall represent that part held or owned within this state of
11 the average net book value of the total tangible property (real estate and tangible personal
12 property) held or owned by the taxpayer during the taxable year, without deduction on account of
13 any encumbrance thereon;

14 (2) The second fraction shall represent that part of the taxpayer's total receipts from sales
15 or other sources during the taxable year which is attributable to the taxpayer's activities or
16 transactions within this state during the taxable year; meaning and including within that part, as
17 being thus attributable, receipts from:

18 (i) Gross sales of its tangible personal property (inventory sold in the ordinary course of
19 business) where:

20 (A) Shipments are made to points within this state; or

21 (B) Shipments are made from an office, store, warehouse, factory or other place of
22 storage in this state and the taxpayer is not taxable in the state of the purchase.

23 (ii) Gross income from services performed within the state;

24 (iii) Gross income from rentals from property situated within the state;

25 (iv) Net income from the sale of real and personal property, other than inventory sold in
26 the ordinary course of business as described in paragraph (i) of this subdivision, or other capital
27 assets located in the state;

28 (v) Net income from the sale or other disposition of securities or financial obligations;

29 and

30 (vi) Gross income from all other receipts within the state;

31 (3) The third fraction shall represent that part of the total wages, salaries, and other
32 compensation to officers, employees, and agents paid or incurred by the taxpayer during the
33 taxable year which is attributable to services performed in connection with the taxpayer's
34 activities or transactions within this state during the taxable year.

1 (b) For tax years beginning on or after January 1, 2015, all taxpayers organized under
2 subchapter C of the Internal Revenue Code deriving income from sources both within and outside
3 of this state, or engaging in any activities or transactions both within and outside of this state for
4 the purpose of profit or gain, its net income shall be apportioned to this state by means of an
5 allocation fraction to be computed as a simple arithmetical of the following factors:

6 (1) The factor shall represent that part of the taxpayer's total receipts from sales or other
7 sources during the taxable year which is attributable to the taxpayer's activities or transactions
8 within this state during the taxable year; meaning and including within that part, as being thus
9 attributable, receipts from:

10 (i) Gross sales of its tangible personal property (inventory sold in the ordinary course of
11 business) where:

12 (A) Shipments are made to points within this state; or

13 (B) Shipments are made from an office, store, warehouse, factory or other place of
14 storage in this state and the taxpayer is not taxable in the state of the purchase.

15 (ii) Gross income from the performance of services where the recipient of the service
16 receives all of the benefit of the service in this state. If the recipient of the service receives some
17 of the benefit of the service in this state, gross income which shall be included in the numerator of
18 the apportionment factor in proportion to the extent the recipient receives benefit of the service in
19 this state;

20 (iii) Gross income from rentals from property situated within the state;

21 (iv) Net income from the sale of real and personal property, other than inventory sold in
22 the ordinary course of business as described in subsection (b)(1)(i) of this section, or other capital
23 assets located in the state;

24 (v) Net income from the sale or other disposition of securities or financial obligations;
25 and

26 (vi) Gross income from all other receipts within the state.

27 (vii) Except as otherwise provided under this section, each unitary business group
28 member shall include all receipts in this state without regard to whether the member has nexus in
29 this state. Receipts between members included in a unitary business group must be eliminated in
30 calculating the receipts factor.

31 ~~(b)~~(c) Notwithstanding any of the provisions of this section, revenue and expenses
32 subject to the gross earnings tax pursuant to chapter 13 of this title shall not be included in the
33 calculation described in this section.

34 SECTION 6. Section 44-11-45 of the General Laws in Chapter 44-11 entitled "Business

1 Corporation Tax" is hereby repealed.

2 ~~44-11-45. Combined reporting study.~~ (a) For the purpose of this section:

3 ~~(1) "Common ownership" means more than fifty percent (50%) of the voting control of~~
4 ~~each member of the group is directly or indirectly owned by a common owner or owners, either~~
5 ~~corporate or non-corporate, whether or not owner or owners are members of the combined group.~~

6 ~~(2) "Member" means a corporation included in a unitary business.~~

7 ~~(3) "Unitary business" means the activities of a group of two (2) or more corporations~~
8 ~~under common ownership that are sufficiently interdependent, integrated or interrelated through~~
9 ~~their activities so as to provide mutual benefit and produce a significant sharing or exchange of~~
10 ~~value among them or a significant flow of value between the separate parts. The term unitary~~
11 ~~business shall be construed to the broadest extent permitted under the United States Constitution.~~

12 ~~(4) "United States" means the fifty (50) states of the United States, the District of~~
13 ~~Columbia, the United States' territories and possessions.~~

14 ~~(b) Combined reporting.~~

15 ~~(1) As part of its tax return for a taxable year beginning after December 31, 2010 but~~
16 ~~before January 1, 2013, each corporation which is part of an unitary business must file a report, in~~
17 ~~a manner prescribed by the tax administrator, for the combined group containing the combined~~
18 ~~net income of the combined group. The use of a combined report does not disregard the separate~~
19 ~~identities of the members of the combined group. The report shall include, at minimum, for each~~
20 ~~taxable year the following:~~

21 ~~(i) The difference in tax owed as a result of filing a combined report compared to the tax~~
22 ~~owed under the current filing requirements;~~

23 ~~(ii) The difference in tax owed as a result of using the single sales factor apportionment~~
24 ~~method under this paragraph as compared to the tax owed using the current three (3) factor~~
25 ~~apportionment method under section 44-11-14;~~

26 ~~(iii) Volume of sales in the state and worldwide; and~~

27 ~~(iv) Taxable income in the state and worldwide.~~

28 ~~(2) The combined reporting requirement required pursuant to this section shall not~~
29 ~~include any persons that engage in activities enumerated in sections 44-13-4, 44-14-3, 44-14-4 or~~
30 ~~44-17-1, whether within or outside this state. Neither the income or loss nor the apportionment~~
31 ~~factors of such a person shall be included, directly or indirectly, in the combined report.~~

32 ~~(3) Members of a combined group shall exclude as a member and disregard the income~~
33 ~~and apportionment factors of any corporation incorporated in a foreign jurisdiction (a "foreign~~
34 ~~corporation") if the average of its property, payroll and sales factors outside the United States is~~

1 ~~eighty percent (80%) or more. If a foreign corporation is includible as a member in the combined~~
2 ~~group, to the extent that such foreign corporation's income is subject to the provisions of a federal~~
3 ~~income tax treaty, such income is not includible in the combined group net income. Such member~~
4 ~~shall also not include in the combined report any expenses or apportionment factors attributable~~
5 ~~to income that is subject to the provisions of a federal income tax treaty. For purposes of this~~
6 ~~chapter, "federal income tax treaty" means a comprehensive income tax treaty between the United~~
7 ~~States and a foreign jurisdiction, other than a foreign jurisdiction which the organization for~~
8 ~~economic co-operation and development has determined has not committed to the internationally~~
9 ~~agreed tax standard, or has committed to the international agreed tax standard but has not yet~~
10 ~~substantially implemented that standard, as identified in the then current organization for~~
11 ~~economic co-operation and development progress report.~~

12 ~~(c) Any corporation which is required to file a report under this section which fails to file~~
13 ~~a timely report or which files a false report shall be assessed a penalty not to exceed ten thousand~~
14 ~~dollars (\$10,000). The penalty may be waived for good cause shown for failure to timely file.~~

15 ~~(d) The tax administrator shall on or before March 15, 2014, based on the information~~
16 ~~provided in income tax returns and the data submitted under this section, submit a report to the~~
17 ~~chairpersons of the house finance committee and senate finance committee, and the house fiscal~~
18 ~~advisor and the senate fiscal advisor analyzing the policy and fiscal ramifications of changing the~~
19 ~~business corporation tax statute to a combined method of reporting.~~

20 SECTION 7. Section 44-26-2.1 of the General Laws in Chapter 44-26 entitled
21 "Declaration of Estimated Tax by Corporations" is hereby amended to read as follows:

22 **44-26-2.1. Declaration -- Due date -- Payment -- Interest.** -- (a) Notwithstanding any
23 general or specific statute to the contrary, every corporation having a taxable year ending
24 December 31, 1990, or thereafter, shall file a declaration of its estimated tax for the taxable year
25 ending December 31, 1990, or thereafter, if its estimated tax can reasonably be expected to
26 exceed five hundred dollars (\$500). The declaration, sworn to by the officer of the corporation
27 who is required to sign its return under any of the chapters and section mentioned in section 44-
28 26-1 shall contain the pertinent information and be in the form that the tax administrator may
29 prescribe. The entire amount of the estimated tax shall constitute the amount of the advance
30 required to be paid. (b) (1) Except as provided in subdivision (2) of this subsection, the
31 declaration of estimated tax required of corporations by subsection (a) of this section shall be
32 filed as follows:

33 If the requirements of subsection (a) are first met: The declaration shall be filed on
34 or before:

1 before the first day of the of the third month of
2 the taxable year the fifteenth day of the third
3 month of the taxable year;
4 after the first day of the third month and before the fifteenth day of the sixth
5 the first day of the sixth month of the taxable year..... month of the taxable year.

6 (2) The declaration of estimated tax required of corporations subject to section 27-3-38
7 relating to surplus line brokers premium tax or under any special act or acts in lieu of the
8 provisions of that section or in amendment of or in addition to that section shall be filed as
9 follows:

10 If the requirements of subsection (a) are first met: The declaration shall be filed on
11 or before:

12 Before the first day of the fourth month of the thirtieth day of the fourth month
13 of the taxable year

14 After the first day of the fourth month and
15 before the first day of the sixth month of the
16 taxable year the thirtieth day of the sixth
17 month of the taxable year

18 After the first day of the sixth month and before the thirtieth day of the tenth
19 the first day of the tenth month of the taxable year month of the taxable year

20 After the first day of the tenth month and before
21 the first day of the twelfth month of the taxable the thirty-first day of the twelfth
22 year month of the taxable year

23 (c) An amendment of a declaration may be filed in any interval between installment dates
24 prescribed for the taxable year, but only one amendment may be filed in each interval.

25 (d) The tax administrator may grant a reasonable extension of time, not to exceed thirty
26 (30) days, for filing a declaration.

27 (e) (1) The amount of the advance based on the estimated tax declared under subsection
28 (a) of this section by corporations described in subdivision (b)(1) of this section shall be paid as
29 follows:

30 (i) If the declaration is filed on or before the fifteenth (15th) day of the third (3rd) month
31 of the taxable year, the advance shall be paid in two (2) installments. The first installment in the
32 amount of forty percent (40%) of the estimated tax shall be paid at the time of the filing of the
33 declaration. The second and last installment in the amount of sixty percent (60%) of the estimated
34 tax shall be paid on or before the fifteenth (15th) day of the sixth (6th) month of the taxable year.

1 (ii) If the declaration is filed after the fifteenth (15th) day of the third (3rd) month of the
2 taxable year and is not required by subsection (b) of this section to be filed on or before the
3 fifteenth (15th) day of the third (3rd) month of the taxable year, but is required to be filed on or
4 before the fifteenth (15th) day of the sixth (6th) month, the advance shall be paid in full at the
5 time of filing.

6 (2) The amount of the advance based in the estimated tax declared under subsection (a) of
7 this section by corporations listed in subdivision (b)(2) of this section shall be paid as follows:

8 (i) If the declaration is filed on or before the thirtieth (30th) day of the fourth (4th) month
9 of the taxable year, the advance shall be paid in four (4) equal installments. The first installment
10 shall be paid on or before the thirtieth (30th) day of the fourth (4th) month of the taxable year,
11 and the second (2nd), third (3rd), and fourth (4th) installments shall be paid on or before the
12 thirtieth (30th) day of the sixth (6th) month, the thirtieth (30th) day of the tenth (10th) month, and
13 the thirty-first (31st) day of the twelfth (12th) month of the taxable year, respectively.

14 (ii) If the declaration is filed before the thirtieth (30th) day of the sixth (6th) month of the
15 taxable year, the advance shall be paid in three (3) equal installments. The first installment shall
16 be paid on or before the thirtieth (30th) day of the sixth (6th) month of the taxable year and the
17 second (2nd) and third (3rd) installments shall be paid on or before the thirtieth (30th) day of the
18 tenth (10th) month and the thirty-first (31st) day of the twelfth (12th) month of the taxable year
19 respectively.

20 (iii) If the declaration is filed on or before the thirtieth (30th) day of the tenth (10th)
21 month of the taxable year, the advance shall be paid in two (2) equal installments. The first
22 installment shall be paid on or before the thirtieth (30th) day of the tenth (10th) month of the
23 taxable year and the second installment shall be paid on or before the thirty-first (31st) day of the
24 twelfth (12th) month of the taxable year.

25 (iv) If the declaration is filed after the time prescribed in subdivision (b)(2) of this
26 section, including cases in which an extension of time for filing the declaration has been granted,
27 there shall be paid at the time of the filing all installments of the advance which would have been
28 payable on or before that time if the declaration had been filed within the time prescribed in
29 subdivision (b)(2) of this section.

30 (f) If the declaration is filed after the time prescribed in subsection (b) of this section
31 including cases in which an extension of time for filing the declaration has been granted,
32 paragraph (e)(1)(ii) of this section does not apply, and there shall be paid at the time of the filing
33 all installments of the advance which would have been payable on or before that time if the
34 declaration had been filed within the time prescribed in subsection (b).

1 (g) If any amendment of a declaration is filed, the installment payable on or before the
2 fifteenth (15th) day of the sixth (6th) month, if any, or in the case of corporations licensed as
3 surplus line brokers under section 27-3-38, the installments payable on or before the thirtieth
4 (30th) days of the sixth (6th) or tenth (10th) month and thirty-first (31st) day of the twelfth (12th)
5 month are ratably increased or decreased, as the case may be, to reflect the increase or decrease,
6 as the case may be, in the estimated tax by reason of the amendment.

7 (h) At the election of the corporation, any installment of the advance may be paid prior to
8 the date prescribed for payment.

9 (i) In the case of any underpayment of the advance by a corporation, except as provided
10 in this section, there is added to the tax due under chapters 11 -- 15 and 17 of this title, or section
11 27-3-38, for the taxable year an amount determined at the rate described in section 44-1-7 upon
12 the amount of the underpayment for the period of the underpayment. For the purpose of this
13 subsection, the "amount of the underpayment" is the excess of the amount of the installment or
14 installments which would be required to be paid if the advance payments were equal to eighty
15 percent (80%) of the tax shown on the return for the taxable year. For the purposes of this
16 subsection, the "period of the underpayment" is the period from the date the installment was
17 required to be paid to the date prescribed under any of the chapters previously mentioned in this
18 section for the payment of the tax for the taxable year or, with respect to any portion of the
19 underpayment, the date on which the portion is paid, whichever date is the earlier. A payment of
20 the advance on the fifteenth (15th) day of the sixth (6th) month, or for section 27-3-38 on the
21 thirtieth (30th) day of the sixth (6th) month, of the taxable year is considered a payment of any
22 previous underpayment only to the extent that the payment exceeds the amount of the installment
23 due on the fifteenth (15th) day of the sixth (6th) month, or for section 27-3-38 on the thirtieth
24 (30th) day of the sixth (6th) month, of the taxable year.

25 (j) Notwithstanding the provisions of this section, the addition to the tax with respect to
26 any underpayment of any installment is not imposed if the total amount of all payments of the
27 advance made on or before the last date prescribed for payment of the installment equals or
28 exceeds the amount which would have been required to be paid on or before that date if the
29 amount of the advance was an amount equal to one hundred percent (100%) of the tax computed
30 at the rates applicable to the taxable year but otherwise on the basis of the fact shown on the
31 return of the corporation for and the law applicable to the preceding taxable year.

32 (k) This section is effective for estimated payments being made by corporations for
33 taxable years ending on or after December 31, 1990.

34 (l) Notwithstanding any other provisions of this section any taxpayer required to make an

1 adjustment in accordance with section 44-11-11(f) in a tax year beginning in calendar year 2008
2 shall compute estimated payments for that tax year as follows:

3 (1) The installments must equal 100% of the tax due for the prior year plus any additional
4 tax due for the current year adjustment under section 44-11-11(f), or

5 (2) That installments must equal 100% of the current year tax liability.

6 (m) Notwithstanding any other provisions of this section any taxpayer required to file a
7 combined report in accordance with § 44-11-4.1 in a tax year beginning on or after January 1,
8 2015, shall compute estimated payments for that tax year as follows:

9 (1) The installments must equal one hundred percent (100%) of the tax due for the prior
10 year plus any additional tax due to the combined report provisions under § 44-1-4.1; or

11 (2) The installments must equal one hundred percent (100%) of the current year tax
12 liability.

13 SECTION 8. Chapter 44-12 of the General Laws entitled "Franchise Tax" is hereby
14 repealed in its entirety.

15 ~~CHAPTER 44-12~~

16 ~~Franchise Tax~~

17 ~~**44-12-1. Tax imposed -- Corporations liable -- Credit for tax on income -- Reduced**~~
18 ~~**rate where no business done. --** (a) Every corporation, joint-stock company, or association~~
19 ~~incorporated in this state or qualified to do business in this state, whether or not doing business~~
20 ~~for profit, all referred to in this section under the term "corporation", except those enumerated in~~
21 ~~section 44-12-11, shall pay an annual franchise tax to the state upon its authorized capital stock of~~
22 ~~two dollars fifty cents (\$2.50) for each ten thousand dollars (\$10,000) or fractional part, or the~~
23 ~~sum of five hundred dollars (\$500), whichever is greater.~~

24 ~~(b) In the case of corporations liable to a tax under chapter 11 of this title, only the~~
25 ~~amount by which the franchise tax exceeds the tax payable under that chapter shall be assessed.~~

26 ~~(c) If a corporation shall show by supplemental affidavit attached to the prescribed return~~
27 ~~and signed in the manner provided for each return that it has not, at any time during its preceding~~
28 ~~taxable year, been engaged within the state in any business activities, it shall only pay an annual~~
29 ~~franchise tax upon its authorized capital stock at the following rates: five hundred dollars (\$500)~~
30 ~~where the stock does not exceed one million dollars (\$1,000,000); and the further sum of twelve~~
31 ~~dollars fifty cents (\$12.50) for each additional one million dollars (\$1,000,000) or fractional part~~
32 ~~of the stock.~~

33 ~~**44-12-2. Filing of returns -- Contents. --** Every corporation shall, on or before the date~~
34 ~~fixed for filing returns under section 44-11-3, file with the tax administrator as of the last day of~~

1 ~~its next preceding taxable year a return, under oath or affirmation, signed by its treasurer or by an~~
2 ~~authorized officer or agent of the corporation, if organized, and if not organized, under oath of~~
3 ~~some one authorized to act by the incorporators, containing information as the tax administrator~~
4 ~~may require, including:~~

5 ~~(1) The name of the corporation and the location of its principal office.~~

6 ~~(2) The amount of its capital stock authorized, and the par value thereof.~~

7 ~~(3) The amount of its capital stock authorized, without par value.~~

8 ~~**44-12-3. Valuation of no-par stock.** -- In the case of corporations having capital stock of~~
9 ~~no-par value, one hundred dollars (\$100) per share shall be deemed to be the par value for the~~
10 ~~purposes of this chapter.~~

11 ~~**44-12-4. Assessment of tax -- Notice of amount.** -- The tax administrator, as soon as~~
12 ~~possible after the filing of the return, shall assess, as of the last day of its next preceding taxable~~
13 ~~year, a tax upon each corporation as provided in this chapter and shall mail a notice of the amount~~
14 ~~of the tax to each corporation, but failure to receive the notice shall not invalidate the tax or~~
15 ~~excuse the nonpayment of the tax.~~

16 ~~**44-12-4.1. Hearing by tax administrator on application.** -- Any corporation aggrieved~~
17 ~~by the action of the tax administrator in determining the amount of any tax or penalty imposed~~
18 ~~under the provisions of this chapter may apply to the tax administrator, in writing, within thirty~~
19 ~~(30) days after the notice of the action is mailed to it, for a hearing relative thereto. The tax~~
20 ~~administrator shall fix a time and place for the hearing and shall so notify the applicant. At the~~
21 ~~hearing the tax administrator shall correct manifest errors, if any, disclosed at the hearing and~~
22 ~~assess and collect the lawfully due tax together with any penalty or interest on the tax.~~

23 ~~**44-12-5. Payment of tax -- Collection powers.** -- The tax shall be payable within fifteen~~
24 ~~(15) days after its assessment and, if not paid when due, shall bear interest from the date of its~~
25 ~~assessment at the annual rate provided by section 44-1-7 until paid. The tax administrator shall~~
26 ~~receive and collect the taxes so assessed in the same manner and with the same powers as are~~
27 ~~prescribed for, and given to, collectors of taxes by chapters 7--9 of this title.~~

28 ~~**44-12-5.1. Claims for refund -- Hearing upon denial.** -- (a) Any corporation subject to~~
29 ~~the provisions of this chapter may file a claim for refund with the tax administrator at any time~~
30 ~~within two (2) years after the tax has been paid. If the tax administrator shall determine that the~~
31 ~~tax has been overpaid, he or she shall make a refund with interest at the annual rate provided by~~
32 ~~section 44-1-7.1 from the date of overpayment.~~

33 ~~(b) Any corporation whose claim for refund has been denied may, within thirty (30) days~~
34 ~~from the date of the mailing by the tax administrator of the notice of the decision, request a~~

1 ~~hearing, and the tax administrator shall, as soon as practicable, set a time and place for the~~
2 ~~hearing and shall notify the applicant.~~

3 ~~**44-12-6. Penalty for failure to make return.** -- If the return that is required to be made~~
4 ~~by section 44-12-2 is not made within the time fixed by this chapter, the officer or agent~~
5 ~~neglecting or refusing to make the return shall be fined not exceeding five hundred dollars (\$500).~~

6 ~~**44-12-7. Lien on real estate.** -- The tax shall from the date of assessment become a lien~~
7 ~~upon the real estate of the corporation liable for the tax until the tax is collected.~~

8 ~~**44-12-8. Forfeiture of charter or articles for nonpayment of tax.** -- The tax~~
9 ~~administrator may, after July 15 of each year, make up a list of all corporations which have failed~~
10 ~~to pay any franchise tax assessed for two (2) years after the tax became due and payable, shall~~
11 ~~certify to the correctness of the list, and shall file the list as a public record in the office of the~~
12 ~~secretary of state. Upon the filing of the certified list, the charter or articles of association of each~~
13 ~~of the corporations shall become forfeited by reason of the failure to pay the tax, and all the~~
14 ~~corporations shall cease to be bodies corporate, except as provided in section 7-1.2-1324. The~~
15 ~~secretary of state shall mail a notice of the forfeiture of charter or articles of association to each~~
16 ~~corporation at its last known address, but failure to receive the notice shall not invalidate the~~
17 ~~forfeiture. Any corporation or any stockholder, officer, or agent of the corporation, continuing to~~
18 ~~act thereafter under any forfeited charter or articles of association, except as provided in section~~
19 ~~7-1.2-1324, or pending an appeal from the forfeiture as provided, shall be deemed guilty of a~~
20 ~~misdemeanor and upon conviction shall be fined not less than fifty dollars (\$50.00) nor more than~~
21 ~~one thousand dollars (\$1,000) for each offense.~~

22 ~~**44-12-9. Publication of forfeitures -- Vacation on payment of tax.** -- The secretary of~~
23 ~~state shall publish in one or more of the daily public newspapers printed in the city of Providence~~
24 ~~the names of all corporations whose charters or articles of association have been forfeited. The~~
25 ~~forfeiture shall be vacated as to any corporation, which shall pay all taxes and all interest then due~~
26 ~~to the tax administrator within sixty (60) days of the date of the publication.~~

27 ~~**44-12-10. Appeal of forfeitures.** -- Any corporation, by any stockholder or officer of the~~
28 ~~corporation, aggrieved by the forfeiture of the charter or articles of association of the corporation~~
29 ~~may appeal from the forfeiture, within thirty (30) days from the date of the publication, to the~~
30 ~~sixth (6th) division of the district court, and the court shall proceed as soon as possible to hear the~~
31 ~~appeal after the manner of equitable causes. If the appellant shall show to the satisfaction of the~~
32 ~~court that the forfeiture of the charter or articles of association of the corporation was erroneous~~
33 ~~under the provisions, or that the tax assessed was improper or erroneous in whole or in part, and~~
34 ~~in that case if the appellant shall pay all taxes and all interest then due under this chapter, then the~~

1 court shall sustain the appeal and shall vacate the forfeiture as to the appellant corporation. Upon
2 failure to show error in the forfeiture under the provisions, or to pay all taxes and all interest due,
3 the court shall dismiss the appeal and confirm the forfeiture. Upon the sustaining of the appeal of
4 any corporation, the clerk of the district court shall, within ten (10) days, file with the secretary of
5 state and with the division of taxation an attested copy of the decree vacating the forfeiture as to
6 the appellant corporation. A party aggrieved by a final order of the court may seek review in the
7 supreme court by writ of certiorari in accordance with the procedures contained in section 42-35-
8 16.

9 ~~**44-12-11. Corporations exempt.**~~ The provisions of this section shall not apply to the
10 following corporations: Roger Williams General Hospital, Women and Infants Hospital of Rhode
11 Island, Rhode Island Hospital, St. Joseph's Hospital, Butler Hospital, Cranston General Hospital...
12 Osteopathic, the Woonsocket Hospital, Newport Hospital, South County Hospital, Lincoln
13 School, St. George's School, the Mary C. Wheeler School, Incorporated, insurance or surety
14 companies, corporations mentioned in sections 7-6-4, 27-25-1, and 44-13-4, and all corporations
15 exempt by charter or by the law of this state.

16 ~~**44-12-12. Declarations under penalty of perjury.**~~ The oath or affirmation required by
17 this chapter as to any report or written statement shall not be required if the report or statement to
18 be sworn to contains or is verified by a written declaration that it is made under the penalties of
19 perjury; and whoever signs or issues any report or statement containing or verified by a written
20 declaration shall, if the report or statement is willfully false, be guilty of perjury.

21 ~~**44-12-13. Appeals -- Interest on refunds.**~~ Appeals from administrative orders or
22 decisions made pursuant to any provisions of this chapter shall be to the sixth (6th) division
23 district court pursuant to chapter 8 of title 8. The taxpayer's right to appeal shall be expressly
24 made conditional upon prepayment of all taxes, interest, and penalties unless the taxpayer moves
25 for and is granted an exemption from the prepayment requirement pursuant to section 8-8-26. If
26 the court, after appeal, holds that the taxpayer is entitled to a refund, the taxpayer shall also be
27 paid interest on the amount at the rate provided in section 44-1-7.1.

28 SECTION 9. Section 44-11-15 of the General Laws in Chapter 44-11 entitled "Business
29 Corporation Tax" is hereby amended to read as follows:

30 **44-11-15. Variation of method of allocating income.** -- If at any time the tax
31 administrator, on his or her own motion or acting upon a complaint by a taxpayer, determines that
32 the methods of allocation provided are inequitable either to the state or to the taxpayer, the tax
33 administrator, after affording the taxpayer reasonable opportunity to be heard, may apply any
34 other method of allocation that is equitable and, if necessary, shall redetermine the tax.

1 The division of taxation shall establish an independent appeals process to attempt to
2 resolve disputes between the tax administrator and the taxpayer with respect to the method of
3 allocation applied. The decision resulting from the independent appeals process shall not prohibit
4 either party from pursuing any legal remedy otherwise available if the issue is not resolved as a
5 result of the appeal process. The decision resulting from the independent appeals process can be
6 used a evidence.

7 SECTION 10. This act shall take effect upon passage and shall apply to tax years
8 beginning January 1, 2015.

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LC005614/SUB A/4
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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO STATE AFFAIRS AND GOVERNMENT - TAXATION

1 This act would reduce the annual business corporation tax from nine percent (9%) to
2 seven percent (7%) for tax years commencing on or after January 1, 2015. The act would also
3 revise the reporting requirements and procedures for corporations affiliated or involved in a
4 combined group or a unitary business, which terms are defined in the act.

5 This act would take effect upon passage and would apply to tax years beginning January
6 1, 2015.

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LC005614/SUB A/4
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