

2015 -- S 0546

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2015

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS - TAXATION

Introduced By: Senators McCaffrey, Conley, Lombardi, and Walaska

Date Introduced: March 03, 2015

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 7-12-60 of the General Laws in Chapter 7-12 entitled
2 "Partnerships" is hereby amended to read as follows:

3 **7-12-60. Filing of returns with the tax administrator -- Annual charge. --** (a) For tax
4 years beginning on or after January 1, 2012 a limited liability partnership registered under § 7-12-
5 56, shall file a return in the form and containing the information as prescribed by the tax
6 administrator as follows:

7 (1) If the fiscal year of the limited liability partnership is the calendar year, on or before
8 the fifteenth (15th) day of April in the year following the close of the fiscal year; and

9 (2) If the fiscal year of the limited liability partnership is not a calendar year, on or
10 before the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year.

11 ~~(b) An annual charge, equal to the minimum tax imposed upon a corporation under~~
12 ~~subsection 44-11-2(e), shall be due on the filing of the limited liability partnership's return filed~~
13 ~~with the tax administrator and shall be paid to the division of taxation.~~

14 ~~(c) The annual charge is delinquent if not paid by the due date for the filing of the return~~
15 ~~and an addition of one hundred dollars (\$100) to the charge is then due.~~

16 SECTION 2. Section 7-13-69 of the General Laws in Chapter 7-13 entitled "Limited
17 Partnerships" is hereby amended to read as follows:

18 **7-13-69. Filing of returns with the tax administrator -- Annual charge. --** (a) For tax
19 years beginning on or after January 1, 2012 a limited partnership certified under this chapter shall

1 file a return in the form and containing the information as prescribed by the tax administrator as
2 follows:

3 (1) If the fiscal year of the limited partnership is the calendar year, on or before the
4 fifteenth (15th) day of April in the year following the close of the fiscal year; and

5 (2) If the fiscal year of the limited partnership is not a calendar year, on or before the
6 fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year.

7 ~~(b) An annual charge, equal to the minimum tax imposed upon a corporation under
8 subsection 44-11-2(e), shall be due on the filing of the limited partnership's return filed with the
9 tax administrator and shall be paid to the division of taxation.~~

10 ~~(c) The annual charge is delinquent if not paid by the due date for the filing of the return
11 and an addition of one hundred dollars (\$100) to the charge is then due.~~

12 SECTION 3. Section 7-16-67 of the General Laws in Chapter 7-16 entitled "The Rhode
13 Island Limited Liability Company Act" is hereby amended to read as follows:

14 **7-16-67. Filing of returns with the tax administrator -- Annual charge.** -- (a) A return
15 in the form and containing the information as the tax administrator may prescribe shall be filed
16 with the tax administrator by the limited liability company:

17 (1) In case the fiscal year of the limited liability company is the calendar year, on or
18 before the fifteenth day of March in the year following the close of the fiscal year; and

19 (2) In case the fiscal year of the limited liability company is not a calendar year, on or
20 before the fifteenth day of the third month following the close of the fiscal year.

21 (b) An annual charge shall be due on the filing of the limited liability company's return
22 filed with the tax administrator and shall be paid to the Division of Taxation as follows:

23 (1) If the limited liability company is treated as a corporation for purposes of federal
24 income taxation, it shall pay the taxes as provided in chapters 11 and 12 of title 44; or

25 ~~(2) If the limited liability company is not treated as a corporation for purposes of federal
26 income taxation, it shall pay a fee in an amount equal to the minimum tax imposed upon a
27 corporation under § 44-11-2(e). The due date for a limited liability company that is not treated as
28 a corporation for purposes of federal income taxation shall be on or before the fifteenth (15th) day
29 of the fourth (4th) month following the close of the fiscal year.~~

30 (c) The annual charge is delinquent if not paid by the due date for the filing of the return
31 and an addition of one hundred dollars (\$100.00) to the charge is then due.

32 SECTION 4. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business
33 Corporation Tax" is hereby amended to read as follows:

34 **44-11-2. Imposition of tax.** -- (a) Each corporation shall annually pay to the state a tax

1 equal to nine percent (9%) of net income, as defined in § 44-11-11, qualified in § 44-11-12, and
2 apportioned to this state as provided in §§ 44-11-13 -- 44-11-15, for the taxable year. For tax
3 years beginning on or after January 1, 2015, each corporation shall annually pay to the state a tax
4 equal to seven percent (7.0%) of net income, as defined in § 44-11-13 - 44-11-15, for the taxable
5 year.

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

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

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

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

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

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

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

31 (d) (1) A small business corporation having an election in effect under subchapter S, 26
32 U.S.C. § 1361 et seq., shall not be subject to the Rhode Island income tax on corporations, except
33 that the corporation shall be subject to the provisions of subsection (a), to the extent of the income
34 that is subjected to federal tax under subchapter S. Effective for tax years beginning on or after

1 January 1, 2015, a small business corporation having an election in effect under subchapter S, 26
2 U.S.C. § 1261 et seq., shall be subject to the minimum tax under § 44-11-2(e).

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

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

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

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

10 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO CORPORATIONS, ASSOCIATIONS, AND PARTNERSHIPS - TAXATION

1 This act would repeal the five hundred dollar (\$500) minimum tax on corporations,
2 limited liability companies and limited partnerships.

3 This act would take effect upon passage.

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