

2016 -- S 2038

LC003709

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

A N A C T

RELATING TO TAXATION - BUSINESS CORPORATION TAX AND FRANCHISE TAX

Introduced By: Senators Kettle, E O'Neill, Algieri, Cote, and Gee

Date Introduced: January 13, 2016

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

SECTION 1. Section 44-11-2 of the General Laws in Chapter 44-11 entitled "Business Corporation Tax" is hereby amended to read as follows:

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

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

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

(2) Its gross receipts derived from these activities during the taxable year amounted to at least ninety percent (90%) of its total gross receipts derived from all of its activities during the year. "Gross receipts" means all receipts, whether in the form of money, credits, or other valuable consideration, received during the taxable year in connection with the conduct of the taxpayer's 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. § 80a-1 et seq., "regulated investment company", or a "real
7 estate investment trust" as defined in the federal income tax law applicable to the taxable year.
8 "Gross income" means gross income as defined in the federal income tax law applicable to the
9 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. § 1361 et seq., shall not be subject to the Rhode Island income tax on corporations, except
17 that the corporation shall be subject to the provisions of subsection (a), to the extent of the income
18 that is subjected to federal tax under subchapter S. Effective for tax years beginning on or after
19 January 1, 2015, a small business corporation having an election in effect under subchapter S, 26
20 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, § 1.]

24 (4) [Deleted by P.L. 2004, ch. 595, art. 29, § 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 four hundred fifty dollars (\$450).~~

28 SECTION 2. This act shall take effect upon passage and shall apply to all returns and
29 payments which would otherwise be required for the calendar year 2016 and thereafter.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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1 This act would repeal the minimum business tax for corporations including small
2 business corporations having an election under subchapter S, 26 U.S.C. §1361.

3 This act would take effect upon passage and shall apply to all returns and payments
4 which would otherwise be required for the calendar year 2016 and thereafter.

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