

2017 -- H 5784

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LC001542  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

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A N A C T

RELATING TO TAXATION

Introduced By: Representatives O'Brien, Williams, Almeida, McKiernan, and Slater

Date Introduced: March 01, 2017

Referred To: House Finance

It is enacted by the General Assembly as follows:

1           SECTION 1. Chapter 44-11 of the General Laws entitled "Business Corporation Tax" is  
2 hereby amended by adding thereto the following section:

3           **44-11-46. Endowment investment gain surtax.**

4           (a) As used in this section:

5           (1) "Taxpayer" means any organization which is exempt from taxation in accordance with  
6 any of the provisions of Section 501 of the Internal Revenue Code and which, notwithstanding  
7 the provisions of Section 501, is subject to taxation under the code on unrelated business taxable  
8 income attributable to a trade or business carried on in this state.

9           (2) "Unrelated business taxable income" means income as defined and determined in  
10 accordance with Section 512 of the Internal Revenue Code and subsection (b) of this section.

11           (3) "Taxable year" means the calendar year upon the basis of which the taxpayer's  
12 unrelated business taxable income is computed provided if a fiscal year other than a calendar year  
13 has been established for purposes of the Internal Revenue Code "taxable year" means such fiscal  
14 year.

15           (4) "Internal Revenue Code" means the Internal Revenue Code of 1986 or any subsequent  
16 corresponding Internal Revenue Code of the United States as from time to time amended.

17           (5) "Director" means the director of the department of revenue.

18           (6) "Organization" means an organization described in Section 511 (a)(2)(A) of the  
19 Internal Revenue Code or a trust described in Section 511(b)(2) of the Internal Revenue Code.

1           **(b) The unrelated business taxable income of a taxpayer subject to tax shall be such**  
2 **taxpayer's federal unrelated business taxable income as determined under the Internal Revenue**  
3 **Code for the taxable year with the following modifications:**

4           **(1) There shall be added to federal unrelated business taxable income the amount of any**  
5 **tax imposed and paid during such taxable year;**

6           **(2) There shall be added to federal unrelated business taxable income any increase in the**  
7 **taxpayer's endowment fund(s) for such taxable year; and**

8           **(3) There shall be subtracted from federal unrelated business taxable income the amount**  
9 **of any refund or credit for overpayment of the tax imposed during such taxable year.**

10           **(c) Any terms used in this section shall have the same meaning as when used in a**  
11 **comparable context in the Internal Revenue Code unless a different meaning is clearly required.**

12           **(d)(i) Notwithstanding anything contained in the general laws pertaining to the taxation**  
13 **of an organization, in addition to any applicable tax related to unrelated business taxable income**  
14 **each taxpayer that is an independent institution of higher education having one or more**  
15 **endowment funds valued at one billion dollars (\$1,000,000,000) or more in the aggregate at the**  
16 **end of the taxable year shall be assessed a surtax at the rate of six percent (6%) of the annual**  
17 **interest and gains earned on any endowment fund. If the taxpayer has more than one endowment**  
18 **fund, the amount by which the taxpayer's endowment fund increases from the preceding taxable**  
19 **year to the current taxable year shall be measured by the amount of the increase of the total of all**  
20 **endowment funds combined.**

21           **(ii) Decreases in the taxpayer's endowment funds shall not be subtracted from federal**  
22 **unrelated business taxable income.**

23           **(e) Each taxpayer shall include on the tax return filed with the department of revenue:**

24           **(i) The amount of its endowment fund for the end of the taxable year, and for the**  
25 **preceding taxable year and if the taxpayer has more than one endowment fund the taxpayer shall**  
26 **state such amounts separately; and**

27           **(ii) All additions to such endowment fund(s), including donations and contributions, in**  
28 **cash or in kind and realized and unrealized appreciation of assets and investment gains.**

29           **(f) Each taxpayer shall file a tax return with the department of revenue, in such form and**  
30 **containing such information as may be prescribed, which return shall be due on the same day**  
31 **such taxpayer's return for federal tax on unrelated business income shall be due without regard to**  
32 **extensions to file. The surtax imposed by this section shall be due and payable to the department**  
33 **of revenue on or before the date prescribed herein for the filing of the return.**

34           SECTION 2. This act shall take effect on January 1, 2018 and be applicable to taxable

1 years commencing on or after January 1, 2018.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would impose a six percent (6%) surtax on investment gains earned by  
2 endowment funds of independent institutions of higher education valued at or greater than one  
3 billion dollars.

4           This act would take effect on January 1, 2018 and be applicable to taxable years  
5 commencing on or after January 1, 2018.

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