

2017 -- S 0465

LC001406

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2017

A N A C T

RELATING TO CORPORATION, ASSOCIATIONS AND PARTNERSHIPS -- TAXATION

Introduced By: Senators McCaffrey, and Lombardi

Date Introduced: March 02, 2017

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.**

4 (a) For tax years beginning on or after January 1, 2012, a limited liability partnership  
5 registered under § 7-12-56, shall file a return in the form and containing the information as  
6 prescribed by the tax 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 before  
10 the fifteenth (15th) day of the fourth (4th) month following the close of the fiscal year.

11 (b) For tax years beginning after December 31, 2015, a limited liability partnership  
12 registered under § 7-12-56, shall file a return, in the form and containing the information as  
13 prescribed by the tax administrator, and shall be filed on or before the date a federal tax return is  
14 due to be filed, without regard to extension.

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

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

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

3 **7-13-69. Filing of returns with the tax administrator -- Annual charge.**

4 (a) For tax years beginning on or after January 1, 2012, a limited partnership certified  
5 under this chapter shall file a return, in the form and containing the information as prescribed by  
6 the tax administrator, as follows:

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

11 (b) For tax years beginning after December 31, 2015, a limited partnership certified under  
12 this chapter shall file a return, in the form and containing the information as prescribed by the tax  
13 administrator, and shall be filed on or before the date a federal tax return is due to be filed,  
14 without regard to extension.

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

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

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

22 **7-16-67. Filing of returns with the tax administrator -- Annual charge.**

23 (a) A return, in the form and containing the information as the tax administrator may  
24 prescribe, shall be filed with the tax administrator by the limited liability company:

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

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

29 (b) For tax years on or after January 1, 2016, a return, in the form and containing the  
30 information as the tax administrator may prescribe, shall be filed with the tax administrator by the  
31 limited liability company and shall be filed on or before the date a federal tax return is due to be  
32 filed, without regard to extension.

33 (c) An annual charge shall be due on the filing of the limited liability company's return  
34 filed with the tax administrator and shall be paid to the division of taxation ~~as follows: (1) If~~ if the

1 limited liability company is treated as a corporation for purposes of federal income taxation, it  
2 shall pay the taxes as provided in chapters 11 and 12 of title 44; ~~or.~~

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

8 (d) For tax years on or after January 1, 2016, a return, in the form and containing the  
9 information as the tax administrator may prescribe, shall be filed with the tax administrator by the  
10 limited liability company and shall be filed on or before the date a federal tax return is due to be  
11 filed, without regard to extension.

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

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

16 **44-11-2. Imposition of tax. [Effective January 1, 2017.]**

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

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

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

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

33 (c) A corporation shall not pay the amount of the tax computed on the basis of its net  
34 income under subsection (a), but shall annually pay to the state a tax equal to ten cents (\$.10) for

1 each one hundred dollars (\$100) of gross income for the taxable year or a tax of one hundred  
2 dollars (\$100), whichever tax shall be the greater, if for the taxable year the corporation is either a  
3 "personal holding company" registered under the federal Investment Company Act of 1940, 15  
4 U.S.C. § 80a-1 et seq., "regulated investment company", or a "real estate investment trust" as  
5 defined in the federal income tax law applicable to the taxable year. "Gross income" means gross  
6 income as defined in the federal income tax law applicable to the taxable year, plus:

- 7 (1) Any interest not included in the federal gross income; minus
- 8 (2) Interest on obligations of the United States or its possessions, and other interest  
9 exempt from taxation by this state; and minus
- 10 (3) Fifty percent (50%) of the excess of capital gains over capital losses realized during  
11 the taxable year.

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

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

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

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

22 (e) ~~Minimum tax. The tax imposed upon any corporation under this section, including a~~  
23 ~~small business corporation having an election in effect under subchapter S, 26 U.S.C. § 1361 et~~  
24 ~~seq., shall not be less than four hundred fifty dollars (\$450). For tax years beginning on or after~~  
25 ~~January 1, 2017, the tax imposed shall not be less than four hundred dollars (\$400).~~

26 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 CORPORATION, ASSOCIATIONS AND PARTNERSHIPS -- TAXATION

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1           This act would repeal the minimum tax on corporations, limited liability companies and  
2 limited partnerships.

3           This act would take effect upon passage.

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