

2018 -- H 8258

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

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A N A C T

RELATING TO TAXATION - BUSINESS CORPORATION AND PERSONAL INCOME TAX

Introduced By: Representative Robert B. Lancia

Date Introduced: May 30, 2018

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-11-7.1 of the General Laws in Chapter 44-11 entitled "Business  
2 Corporation Tax" is hereby amended to read as follows:

3 **44-11-7.1. Limitations on assessment.**

4 (a) General. Except as provided in this section, the amount of the Rhode Island corporate  
5 income tax shall be assessed within three (3) years after the return was filed, whether or not the  
6 return was filed on or after the prescribed date. For this purpose, a tax return filed before the due  
7 date shall be considered as filed on the due date. In the event that no return is filed, the amount of  
8 the Rhode Island corporate income tax shall be subject to assessment within seven (7) years after  
9 the date the return was due to be filed.

10 (b) Exceptions. (1) The tax may be assessed at any time if:

11 (i) ~~No return is filed.~~ The state taxation division estimates a return;

12 (ii) A false or fraudulent return is filed with intent to avoid tax.

13 (2) Where, before the expiration of the time prescribed in this section for the assessment  
14 of tax, or before the time as extended, both the tax administrator and the taxpayer have consented,  
15 in writing, to its assessment after that time, the tax may be assessed at any time prior to the  
16 expiration of the agreed upon period.

17 (3) If a taxpayer's deficiency is attributable to an excessive net operating loss carryback  
18 allowance, it may be assessed at any time that a deficiency for the taxable year of the loss may be  
19 assessed.

1 (4) An erroneous refund shall be considered to create an underpayment of tax on the date  
2 made. An assessment of a deficiency arising out of an erroneous refund may be made at any time  
3 within three (3) years thereafter, or at any time if it appears that any part of the refund was  
4 induced by fraud or misrepresentation of a material fact.

5 (c) Notwithstanding the provisions of this section, the tax may be assessed at any time  
6 within six (6) years after the return was filed if a taxpayer omits from its Rhode Island income an  
7 amount properly includable therein which is in excess of twenty-five percent (25%) of the amount  
8 of Rhode Island income stated in the return. For this purpose there shall not be taken into account  
9 any amount which is omitted in the return if the amount is disclosed in the return, or in a  
10 statement attached to the return, in a manner adequate to apprise the tax administrator of the  
11 nature and amount of the item.

12 (d) The running of the period of limitations on assessment or collection of the tax or other  
13 amount, or of a transferee's liability, shall, after the mailing of a notice of deficiency, be  
14 suspended for any period during which the tax administrator is prohibited from making the  
15 assessment or from collecting by levy, and for sixty (60) days thereafter.

16 (e) No period of limitations specified in any other law shall apply to the assessment or  
17 collection of Rhode Island corporate income tax.

18 SECTION 2. Section 44-30-83 of the General Laws in Chapter 44-30 entitled "Personal  
19 Income Tax" is hereby amended to read as follows:

20 **44-30-83. Limitations on assessment.**

21 (a) General. Except as otherwise provided in this section the amount of the Rhode Island  
22 personal income tax shall be assessed within three (3) years after the return was filed, whether or  
23 not the return was filed on or after the prescribed date. For this purpose a tax return filed before  
24 the due date shall be considered as filed on the due date; and a return of withholding tax for any  
25 period ending with or within a calendar year filed before April 15 of the succeeding calendar year  
26 shall be considered filed on April 15 of the succeeding calendar year. In the event that no return is  
27 filed, the amount of the Rhode Island personal income tax subject to assessment shall be within  
28 seven (7) years after the date the return was due to be filed.

29 (b) Exceptions.

30 (1) Assessment at any time. The tax may be assessed at any time if:

31 (i) ~~No return is filed~~ The state division estimates a return;

32 (ii) A false or fraudulent return is filed with intent to evade tax; or

33 (iii) The taxpayer fails to file a report, pursuant to § 44-30-59, of a change, correction, or  
34 amended return, increasing his or her federal taxable income as reported on his or her federal

1 income tax return or to report a change or correction which is treated in the same manner as if it  
2 were a deficiency for federal income tax purposes.

3 (2) Extension by agreement. Where, before the expiration of the time prescribed in this  
4 section for the assessment of tax, or before the time as extended pursuant to this section, both the  
5 tax administrator and the taxpayer have consented in writing to its assessment after that time, the  
6 tax may be assessed at any time prior to the expiration of the period agreed upon.

7 (3) Report of changed or corrected federal income. If the taxpayer shall, pursuant to § 44-  
8 30-59, file an amended return, or report a change or correction increasing his or her federal  
9 taxable income or report a change or correction which is treated in the same manner as if it were a  
10 deficiency for federal income tax purposes, an assessment may be made at any time prior to two  
11 (2) years after the report or amended return was filed. This assessment of Rhode Island personal  
12 income tax shall not exceed the amount of the increase attributable to the federal change,  
13 correction, or items amended on the taxpayer's amended federal income tax return. The  
14 provisions of this paragraph shall not affect the time within which or the amount for which an  
15 assessment may otherwise be made.

16 (4) Deficiency attributable to net operating loss carryback. If a taxpayer's deficiency is  
17 attributable to an excessive net operating loss carryback allowance, it may be assessed at any time  
18 that a deficiency for the taxable year of the loss may be assessed.

19 (5) Recovery of erroneous refund. An erroneous refund shall be considered to create an  
20 underpayment of tax on the date made. An assessment of a deficiency arising out of an erroneous  
21 refund may be made at any time within three (3) years thereafter, or at any time if it appears that  
22 any part of the refund was induced by fraud or misrepresentation of a material fact.

23 (6) Armed forces relief. For purposes of this tax, the date appearing in 26 U.S.C. § 692(a)  
24 shall be January 1, 1971.

25 (c) Omission of income on return. Notwithstanding the foregoing provisions of this  
26 section, the tax may be assessed at any time within six (6) years after the return was filed if an  
27 individual omits from his or her Rhode Island income an amount properly includible therein  
28 which is in excess of twenty-five percent (25%) of the amount of Rhode Island income stated in  
29 the return. For this purpose there shall not be taken into account any amount which is omitted in  
30 the return if the amount is disclosed in the return, or in a statement attached to the return, in a  
31 manner adequate to apprise the tax administrator of the nature and amount of the item.

32 (d) Suspension of limitation. The running of the period of limitations on assessment or  
33 collection of tax or other amount (or of a transferee's liability) shall, after the mailing of a notice  
34 of deficiency, be suspended for the period during which the tax administrator is prohibited under

1 § 44-30-81(c) from making the assessment or from collecting by levy, and for sixty (60) days  
2 thereafter.

3 (e) Limitations exclusive. No period of limitations specified in any other law shall apply  
4 to the assessment or collection of Rhode Island personal income tax.

5 SECTION 3. Chapter 44-1 of the General Laws entitled "State Tax Officials" is hereby  
6 amended by adding thereto the following section:

7 **44-1-40. Statute of limitations.**

8 The state taxation division and the tax administrator shall not commence any collection  
9 actions to recover unpaid tax liability from ten (10) years from the date upon which the balance  
10 was assessed, subject to the following exceptions by which the statute of limitations is tolled:

11 (1) The filing of an offer in compromise;

12 (2) The filing of an appeal;

13 (3) The filing of bankruptcy under any chapter of the federal laws; and

14 (4) The filing of a tax related lawsuit against the state of Rhode Island concerning any  
15 state tax matter.

16 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION - BUSINESS CORPORATION AND PERSONAL INCOME TAX

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1           This act would limit to seven (7) years the period within which the business corporation  
2 tax and the personal income tax may be assessed for taxpayers who fail to file returns on the date  
3 the return was due to be filed, and limit to ten (10) years the period within which the state may  
4 commence tax collection activities from the date upon which the balance was assessed except  
5 when there is:

- 6           (1) The filing of an offer in compromise;
- 7           (2) The filing of an appeal;
- 8           (3) The filing of bankruptcy under any chapter of the federal laws; and
- 9           (4) The filing of a tax related lawsuit against the state of Rhode Island concerning any  
10 state tax matter.

11           This act would take effect upon passage.

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