

2020 -- S 2358

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LC003483
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2020

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A N A C T

RELATING TO TAXATION -- PERSONAL INCOME TAX

Introduced By: Senators Lombardi, Conley, Lynch Prata, McCaffrey, and Goodwin

Date Introduced: February 13, 2020

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-83 of the General Laws in Chapter 44-30 entitled "Personal
2 Income Tax" is hereby amended to read as follows:

3 **44-30-83. Limitations on assessment.**

4 (a) General. Except as otherwise provided in this section the amount of the Rhode Island
5 personal income tax shall be assessed within three (3) years after the return was filed, whether or
6 not the return was filed on or after the prescribed date. For this purpose a tax return filed before
7 the due date shall be considered as filed on the due date; and a return of withholding tax for any
8 period ending with or within a calendar year filed before April 15 of the succeeding calendar year
9 shall be considered filed on April 15 of the succeeding calendar year.

10 (b) Exceptions.

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

12 (i) No return is filed;

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

14 (iii) The taxpayer fails to file a report, pursuant to § 44-30-59, of a change, correction, or
15 amended return, increasing his or her federal taxable income as reported on his or her federal
16 income tax return or to report a change or correction that is treated in the same manner as if it
17 were a deficiency for federal income tax purposes.

18 (2) Extension by agreement. Where, before the expiration of the time prescribed in this
19 section for the assessment of tax, or before the time as extended pursuant to this section, both the

1 tax administrator and the taxpayer have consented in writing to its assessment after that time, the
2 tax may be assessed at any time prior to the expiration of the period agreed upon.

3 (3) Report of changed or corrected federal income. If the taxpayer shall, pursuant to § 44-
4 30-59, file an amended return, or report a change or correction increasing his or her federal
5 taxable income or report a change or correction that is treated in the same manner as if it were a
6 deficiency for federal income tax purposes, an assessment may be made at any time prior to two
7 (2) years after the report or amended return was filed. This assessment of Rhode Island personal
8 income tax shall not exceed the amount of the increase attributable to the federal change,
9 correction, or items amended on the taxpayer's amended federal income tax return. The
10 provisions of this paragraph shall not affect the time within which or the amount for which an
11 assessment may otherwise be made.

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

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

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

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

28 (d) Suspension of limitation. The running of the period of limitations on assessment or
29 collection of tax or other amount (or of a transferee's liability) shall, after the mailing of a notice
30 of deficiency, be suspended for the period during which the tax administrator is prohibited under
31 § 44-30-81(c) from making the assessment or from collecting by levy, and for sixty (60) days
32 thereafter.

33 (e)(1) Limitations exclusive. No period of limitations specified in any other law shall
34 apply to the assessment or collection of Rhode Island personal income tax. Under no

1 circumstances shall the tax administrator issue any notice of a deficiency determination for Rhode
2 Island personal income tax due or payable more than ten (10) years after the date upon which the
3 return was filed or due to be filed, nor shall the tax administrator commence any collection action
4 for any personal income tax due and payable unless the collection action is commenced within
5 ten (10) years after a notice of deficiency determination became a final collectible assessment;
6 provided however, that the tax administrator can renew a statutory lien that was initially filed
7 within the ten-year (10) period for collection actions. Both of the aforementioned ten-year (10)
8 periods are tolled for any period of time the taxpayer is in federal bankruptcy or state receivership
9 proceedings. "Collection action" refers to any activity undertaken by the division of taxation to
10 collect on any state tax liabilities that are final, due, and payable under Rhode Island law.
11 "Collection action" may include, but is not limited to, any civil action involving a liability owed
12 under chapter 30 of title 44. This section excludes any liabilities that are deemed trust funds as
13 defined in § 44-30-76, as amended.

14 (2) Any collection action by the tax administrator for personal income tax due and
15 payable must be commenced within ten (10) years of the year the tax return was or should have
16 been filed.

17 (f) The ten-year (10) limitation shall not apply to the renewal or continuation of the state's
18 attempt to collect a liability that became final, due, and payable within the ten-year (10) limitation
19 periods set forth in this section.

20 SECTION 2. This act shall take effect on January 1, 2021.

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

1 This act would require the tax administrator to commence any action for collection of
2 personal income tax due and payable within ten (10) years of the year the tax return was or would
3 have been filed.

4 This act would take effect on January 1, 2021.

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