

2021 -- H 5797

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LC001846  
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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

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A N A C T

RELATING TO TAXATION - BUSINESS CORPORATION TAX

Introduced By: Representatives Fenton-Fung, Casimiro, and Shallcross Smith

Date Introduced: February 24, 2021

Referred To: House Finance

It is enacted by the General Assembly as follows:

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

3 **44-11-2. Imposition of tax.**

4 (a) Each corporation shall annually pay to the state a tax equal to nine percent (9%) of net  
5 income, as defined in § 44-11-11, qualified in § 44-11-12, and apportioned to this state as provided  
6 in §§ 44-11-13 -- 44-11-15, for the taxable year. For tax years beginning on or after January 1,  
7 2015, each corporation shall annually pay to the state a tax equal to seven percent (7.0%) of net  
8 income, as defined in § 44-11-13 -- 44-11-15, for the taxable year.

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

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

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

19 (c) A corporation shall not pay the amount of the tax computed on the basis of its net

1 income under subsection (a), but shall annually pay to the state a tax equal to ten cents (\$.10) for  
2 each one hundred dollars (\$100) of gross income for the taxable year or a tax of one hundred dollars  
3 (\$100), whichever tax shall be the greater, if for the taxable year the corporation is either a "personal  
4 holding company" registered under the federal Investment Company Act of 1940, 15 U.S.C. § 80a-  
5 1 et seq., "regulated investment company," or a "real estate investment trust" as defined in the  
6 federal income tax law applicable to the taxable year. "Gross income" means gross income as  
7 defined in the federal income tax law applicable to the taxable year, plus:

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

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

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

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

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

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

27 (f) For tax year 2021 only, the tax imposed by this section on small businesses with less  
28 than fifty (50) full-time employees provided the small business shall return to and maintain, for the  
29 last three (3) months of 2021, staffing levels at eighty percent (80%) or above of their full-time  
30 employee staffing levels as of December 31, 2019 shall be reduced by fifty percent (50%),  
31 including the minimum tax imposed by subsection (e) of this section. If the small business was not  
32 operational during 2019, the staffing level requirement would be calculated based on eighty percent  
33 (80%) of the maximum full-time employee staffing level as of March 1, 2021.

1 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
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1           This act would reduce the tax liability of a small business with less than fifty (50) full-time  
2 employees by fifty percent (50%) if the small business returns to and maintains for the last three  
3 (3) months of 2021 staffing levels of eighty percent (80%) of the full-time employee staffing level  
4 employed as of December 31, 2019. This act would also provide the fifty percent (50%) reduction  
5 to a small business not operational during 2019 who returns to and maintains a staffing level of  
6 eighty percent (80%) of their maximum staffing level as of March 1, 2021.

7           This act would take effect upon passage.

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