

2010 -- H 7429

LC00716

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TAXATION - ESTATE AND TRANSFER TAXES - ENFORCEMENT AND COLLECTION

Introduced By: Representatives M Rice, Pollard, Naughton, and Newberry

Date Introduced: February 09, 2010

Referred To: House Small Business

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-23-5 of the General Laws in Chapter 44-23 entitled "Estate and
2 Transfer Taxes - Enforcement and Collection" is hereby amended to read as follows:

3 **44-23-5. Appraisal of estate.** – (a) If any statement filed in accordance with the
4 provisions of this chapter is considered to be an erroneous or incomplete statement of the
5 property, real, tangible personal, intangible personal, or of any part of the property, of the
6 decedent, the tax administrator shall give notice to the executor, administrator, heir-at-law,
7 beneficiary, or trustee filing the statement, to appear before the tax administrator for the purpose
8 of examination of and concerning the statement, and concerning all matters appertaining to the
9 estate and the value of the estate of the decedent; and if the executor, administrator, heir-at-law,
10 beneficiary, or trustee fails to appear after due notice, or if after appearance and examination of
11 the executor, administrator, heir-at-law, beneficiary, or trustee the tax administrator still considers
12 the statement to be an erroneous or incomplete statement, or if the executor, administrator, heir-
13 at-law, beneficiary, or trustee refuses or neglects to answer the questions propounded in reference
14 to the statement, the tax administrator may appraise the estate. The tax administrator shall give
15 notice by mail to the executor, administrator, heir-at-law, beneficiary, or trustee and to all persons
16 known to have a claim or interest in the estate or property to be appraised, of the time and place
17 of the appraisal, and the tax administrator or his or her authorized agent shall at that time and
18 place appraise the estate or property at its full and fair cash value as prescribed in this section; and

1 for that purpose the tax administrator is authorized to issue subpoenas and to compel the
2 attendance of witnesses and to take the evidence of the witnesses under oath if necessary,
3 concerning the estate or property and the value of the estate, and the witnesses shall receive the
4 same fees as those now paid to witnesses subpoenaed to attend the superior court. From the
5 appraisal and other proof relating to the estate or property, the tax administrator determines the
6 full and fair cash value of the estate or property upon which all taxes imposed by chapter 22 of
7 this title are computed and the amount of taxes to which it is liable. If no appraisal is made as
8 provided in this section, the tax administrator may determine the value of the property upon
9 which all the taxes are computed and the amount of taxes to which it is liable.

10 (b) Real property held by small businesses, as defined by the United States Small
11 Business Administration, at least five (5) years prior to an exchange, shall be appraised at its use
12 value rather than its full and fair cash value. Said properties must remain in the small business for
13 at least five (5) more years or may be assessed a tax at the full and fair cash value of the estate at
14 the time of an exchange.

15 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 provide that real property held by small businesses (as defined by the
2 United States Small Business Administration) for at least five (5) years prior to an exchange
3 would be appraised at its use value rather than full and fair cash value, and that said properties
4 must remain in the small business for five (5) more years or be assessed a tax at the full and fair
5 cash value at the time of exchange.

6 This act would take effect upon passage.

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