

2016 -- H 7463

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2016

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A N A C T

RELATING TO TAXATION -- ESTATE AND TRANSFER TAXES--LIABILITY AND
COMPUTATION

Introduced By: Representatives Marshall, Costantino, Craven, Naughton, and Ucci

Date Introduced: February 04, 2016

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-22-1.1 of the General Laws in Chapter 44-22 entitled "Estate
2 and Transfer Taxes - Liability and Computation" is hereby amended to read as follows:

3 **44-22-1.1. Tax on net estate of decedent.** -- (a) (1) For decedents whose death occurs on
4 or after January 1, 1992, but prior to January 1, 2002, a tax is imposed upon the transfer of the net
5 estate of every resident or nonresident decedent as a tax upon the right to transfer. The tax is a
6 sum equal to the maximum credit for state death taxes allowed by 26 U.S.C. § 2011.

7 (2) For decedents whose death occurs on or after January 1, 2002, but prior to January 1,
8 2010 a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent
9 as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for state death
10 taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided, however,
11 that the tax shall be imposed only if the net taxable estate shall exceed six hundred seventy-five
12 thousand dollars (\$675,000). Any scheduled increase in the unified credit provided in 26 U.S.C. §
13 2010 in effect on January 1, 2001, or thereafter, shall not apply.

14 (3) For decedents whose death occurs on or after January 1, 2010, and prior to January 1,
15 2015 a tax is imposed upon the transfer of the net estate of every resident or nonresident decedent
16 as a tax upon the right to transfer. The tax is a sum equal to the maximum credit for state death
17 taxes allowed by 26 U.S.C. § 2011 as it was in effect as of January 1, 2001; provided, however,
18 that the tax shall be imposed only if the net taxable estate shall exceed eight hundred and fifty

1 thousand dollars (\$850,000); provided, further, beginning on January 1, 2011 and each January 1
2 thereafter until January 1, 2015, said amount shall be adjusted by the percentage of increase in the
3 Consumer Price Index for all Urban Consumers (CPI-U) as published by the United States
4 Department of Labor Statistics determined as of September 30 of the prior calendar year; said
5 adjustment shall be compounded annually and shall be rounded up to the nearest five dollar
6 (\$5.00) increment. Any scheduled increase in the unified credit provided in 26 U.S.C. § 2010 in
7 effect on January 1, 2003, or thereafter, shall not apply.

8 (4) For decedents whose death occurs on or after January 1, 2015, a tax is imposed upon
9 the transfer of the net estate of every resident or nonresident decedent as a tax upon the right to
10 transfer. The tax is a sum equal to the maximum credit for state death taxes allowed by 26 U.S.C.
11 Section 2011, as it was in effect as of January 1, 2001; provided, however, that a Rhode Island
12 credit shall be allowed against any tax so determined in the amount of sixty-four thousand four
13 hundred (\$64,400). Any scheduled increase in the unified credit provided in 26 U.S.C. Section
14 2010 in effect on January 1, 2003, or thereafter, shall not apply; provided, further, beginning on
15 January 1, 2016 and each January 1 thereafter, said Rhode Island credit amount under this section
16 shall be adjusted by the percentage of increase in the Consumer Price Index for all Urban
17 Consumers (CPI-U) as published by the United States Department of Labor Statistics determined
18 as of September 30 of the prior calendar year; said adjustment shall be compounded annually and
19 shall be rounded up to the nearest five dollar (\$5.00) increment.

20 (5) For purposes of this section an additional credit against the tax computed under
21 subsection (a)(4) of this section shall be allowed with respect to a surviving spouse of a deceased
22 spouse whose death occurs after December 31, 2015. Such additional credit shall be designated as
23 the "deceased spousal unused credit amount," and shall be equal to the lesser of:

24 (i) The credit amount provided in subsection (a)(4) of this section; or

25 (ii) The excess of:

26 (A) The credit amount of the last such deceased spouse of such surviving spouse; or

27 (B) The amount of such credit amount with respect to which the tax is determined under
28 subsection (4) on the estate of such deceased spouse.

29 (iii) A deceased spousal unused credit amount may not be taken by a surviving spouse
30 under subsection (a)(5) of this section unless the executor of the estate of the deceased spouse
31 files a Rhode Island estate tax return on which such amount is computed, and unless the executor
32 makes an election on such return that such amount may be taken into account. Such election, once
33 made, shall be irrevocable. No election may be made under this subsection if such return is filed
34 after the time prescribed by law (including extensions) for filing such return.

1 (b) If the decedent's estate contains property having a tax situs not within the state, then
2 the tax determined by this section is reduced to an amount determined by multiplying the tax by a
3 fraction whose numerator is the gross estate excluding all property having a tax situs not within
4 the state at the decedent's death and whose denominator is the gross estate. In determining the
5 fraction, no deductions are considered and the gross estate is not reduced by a mortgage or other
6 indebtedness for which the decedent's estate is not liable.

7 (c) (1) The terms "gross taxable estate", "federal gross estate" or "net taxable estate" used
8 in this chapter or chapter 23 of this title has the same meaning as when used in a comparable
9 context in the laws of the United States, unless a different meaning is clearly required by the
10 provisions of this chapter or chapter 23 of this title. Any reference in this chapter or chapter 23 of
11 this title to the Internal Revenue Code or other laws of the United States means the Internal
12 Revenue Code of 1954, 26 U.S.C. § 1 et seq.

13 (2) For decedents whose death occurs on or after January 1, 2002, the terms "gross
14 taxable estate" "federal gross estate" or "net taxable estate" used in this chapter or chapter 23 of
15 this title has the same meaning as when used in a comparable context in the laws of the United
16 States, unless a different meaning is clearly required by the provisions of this chapter or chapter
17 23 of this title. Any reference in this chapter or chapter 23 of this title to the Internal Revenue
18 Code or other laws of the United States means the Internal Revenue Code of 1954, 26 U.S.C. § 1
19 et seq., as they were in effect as of January 1, 2001, unless otherwise provided.

20 (d) All values are as finally determined for federal estate tax purposes.

21 (e) Property has a tax situs within the state of Rhode Island:

22 (1) If it is real estate or tangible personal property and has actual situs within the state of
23 Rhode Island; or

24 (2) If it is intangible personal property and the decedent was a resident.

25 SECTION 2. This act shall take effect upon passage and shall apply to the estates of
26 decedents whose death occurs after December 31, 2015.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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1 This act would establish portability of the estate tax credit and allow a deceased spousal
2 unused credit against the Rhode Island estate tax of a surviving spouse for the unused estate tax
3 credit of the first spouse to die.

4 This act would take effect upon passage, and it would apply to the estates of decedents
5 whose death occurs after December 31, 2015.

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