

2018 -- S 2065

LC003849

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2018

A N A C T

RELATING TO TAXATION - SALES AND USE TAXES - ENFORCEMENT AND
COLLECTION

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

Date Introduced: January 18, 2018

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-19-13 of the General Laws in Chapter 44-19 entitled "Sales and
2 Use Taxes - Enforcement and Collection" is hereby amended to read as follows:

3 **44-19-13. Notice of determination.**

4 (a) The tax administrator shall give to the retailer or to the person storing, using, or
5 consuming the tangible personal property a written notice of his or her determination. Except in
6 the case of fraud, intent to evade the provisions of this article, failure to make a return, or claim
7 for additional amount pursuant to §§ 44-19-16 -- 44-19-19, every notice of a deficiency
8 determination shall be mailed within three (3) years after the fifteenth (15th) day of the calendar
9 month following the month for which the amount is proposed to be determined or within three (3)
10 years after the return is filed, whichever period expires later, unless a longer period is agreed
11 upon by the tax administrator and the taxpayer.

12 (b) Notwithstanding the provisions of subsection (a) of this section, under no
13 circumstances shall the tax administrator issue a notice of a deficiency determination for any sales
14 or use tax determined to be due and payable or commence any collection action for any tax unless
15 the action is commenced within ten (10) years after the return is filed or was due to be filed.

16 SECTION 2. Section 44-23-9 of the General Laws in Chapter 44-23 entitled "Estate and
17 Transfer Taxes - Enforcement and Collection" is hereby amended to read as follows:

18 **44-23-9. Assessment and notice of estate tax -- Collection powers -- Lien.**

1 (a) The tax imposed by § 44-22-1.1 shall be assessed upon the full and fair cash value of
2 the net estate determined by the tax administrator as provided in this chapter. Notice of the
3 amount of the tax shall be mailed to the executor, administrator, or trustee, but failure to receive
4 the notice does not excuse the nonpayment of or invalidate the tax. The tax administrator shall
5 receive and collect the assessed taxes in the same manner and with the same powers as are
6 prescribed for and given to the collectors of taxes by chapters 7 -- 9 of this title. The tax shall be
7 due and payable as provided in § 44-23-16, shall be paid to the tax administrator, and shall be and
8 remain a lien upon the estate until it is paid. All executors, administrators, and trustees are
9 personally liable for the tax until it is paid.

10 **(b) Notwithstanding the provisions of subsection (a) of this section, under no**
11 **circumstances shall the tax administrator issue any notice of the amount of the tax nor commence**
12 **any collection action for any tax due and payable unless the action is commenced within ten (10)**
13 **years after the date the notice of the amount of tax was sent or should have been sent.**

14 SECTION 3. Section 44-30-83 of the General Laws in Chapter 44-30 entitled "Personal
15 Income Tax" is hereby amended to read as follows:

16 **44-30-83. Limitations on assessment.**

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

23 (b) Exceptions.

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

25 (i) No return is filed;

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

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

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

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

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

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

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

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

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

31 (e) Limitations exclusive. ~~No period of limitations specified in any other law shall apply~~
32 ~~to the assessment or collection of Rhode Island personal income tax.~~ Under no circumstances
33 shall the tax administrator issue any assessment for Rhode Island personal income tax due or
34 commence any collection action for any personal income tax due and payable pursuant to the

1 [provisions of this chapter or chapter 30.1 of title 44 unless the matter is issued or commenced](#)
2 [within ten \(10\) years after the date upon which the return was filed or due to be filed.](#)

3 SECTION 4. Section 44-11-7.1 of the General Laws in Chapter 44-11 entitled "Business
4 Corporation Tax" is hereby amended to read as follows:

5 **44-11-7.1. Limitations on assessment.**

6 (a) General. Except as provided in this section, the amount of the Rhode Island corporate
7 income tax shall be assessed within three (3) years after the return was filed, whether or not the
8 return was filed on or after the prescribed date. For this purpose, a tax return filed before the due
9 date shall be considered as filed on the due date.

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

11 (i) No return is filed.

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.

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

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

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

1 (e) ~~No period of limitations specified in any other law shall apply to the assessment or~~
2 ~~collection of Rhode Island corporate income tax.~~ Under no circumstances shall the tax
3 administrator issue any assessment for Rhode Island business corporation tax due or commence
4 any collection action for any business corporation tax due and payable pursuant to the provisions
5 of this chapter unless the action is commenced within ten (10) years after the date upon which the
6 return was filed or due to be filed.

7 SECTION 5. This act shall take effect on July 1, 2018.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO TAXATION - SALES AND USE TAXES - ENFORCEMENT AND
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1 This act would enact a ten (10) year statute of limitations on any assessment of tax due
2 and payable or commencement of any collection action for any tax due and payable by the tax
3 administrator for the sales and use tax, the estate tax, the personal income tax, and business
4 corporation tax.

5 This act would take effect on July 1, 2018.

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