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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TAXATION – POLITICAL ORGANIZATIONS

Introduced By: Senators Jabour, DiPalma, and Pichardo

Date Introduced: February 11, 2010

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 44 of the General Laws entitled "TAXATION" is hereby amended by  
2 adding thereto the following chapter:

3 CHAPTER 11.1

4 POLITICAL ORGANIZATION TAX

5 **44-11.1-1. Definitions.** – For the purpose of this chapter:

6 (1) "Political organization" means a political organization as defined under section 527 of  
7 the Internal Revenue Code;

8 (2) "Taxpayer" means and includes any political organization subject to the provisions of  
9 this chapter.

10 **44-11.1-2. Imposition of tax.** – Each political organization shall annually pay to the state  
11 a tax equal to seven and one-half percent (7.5%) of political organization taxable income, as  
12 defined under section 527(c) of the Internal Revenue Code; provided, that no tax shall be payable  
13 or a tax return filed under this section unless the political organization has at least one hundred  
14 dollars (\$100) or more of political organization taxable income under section 527(c) of the  
15 Internal Revenue Code.

16 **44-11.1-3. Filing of tax returns – Due date.** – A tax return in the form and containing  
17 the information that the tax administrator may prescribe shall be filed with the tax administrator  
18 by the political organization:

19 (1) In case the taxable year of the taxpayer is the calendar year, on or before March 15 in

1 the year following the close of the taxable year; and

2 (2) In case the taxable year of the taxpayer is a fiscal year, on or before the fifteenth (15<sup>th</sup>)  
3 day of the third (3<sup>rd</sup>) month following the close of the fiscal year.

4 **44-11.1-4. Extension of time for filing of returns.** – The tax administrator may grant  
5 reasonable extensions of time for filing returns under rules and regulations as he or she shall  
6 prescribe.

7 **44-11.1-5. Determination and payment of tax due – Hearings and redeterminations.**

8 – (a) At the time of the filing of the return, the taxpayer shall pay to the tax administrator the  
9 amount of the tax as computed by it on the basis of its political organization taxable income under  
10 section 527 of the Internal Revenue Code or other provision as applicable. As soon as possible  
11 after the filing of the return, the tax administrator shall determine the correct tax payable under  
12 this chapter by the taxpayer, and if the tax determined shall exceed the amount which the  
13 taxpayer has paid at the time of filing its return, the tax administrator shall mail to the taxpayer a  
14 notice of the additional tax due indicating the basis on which the tax was determined.

15 (b) If any taxpayer is not satisfied with the amount of tax determined, the tax  
16 administrator, upon being notified, in writing, within thirty (30) days from the date of the mailing  
17 of the notice, shall fix an early date at his or her office when the taxpayer can be heard to show  
18 cause why the tax should be changed, and after which the tax administrator may redetermine the  
19 amount of that tax.

20 (c) If it shall appear subsequent to the mailing of any notice that the amount of the tax  
21 was erroneously stated, the tax administrator shall mail a corrected notice and fix a day when the  
22 taxpayer can be heard.

23 (d) The additional tax required to be paid by any taxpayer shall be due and payable within  
24 thirty (30) days after the mailing of the notice or corrected notice by the tax administrator.

25 **44-11.1-6. Interest on delinquency payments.** – If any tax imposed by this chapter is  
26 not paid when due, a taxpayer shall be required to pay as part of the tax interest on the tax at the  
27 annual rate provided by section 44-1-7 from that time.

28 **44-11.1-7. Lien on real estate.** – The amount of any tax, penalty, and interest charge  
29 imposed upon any political organization under the provisions of this chapter shall, until collected,  
30 constitute a lien upon the political organization's real estate located in this state, and this lien  
31 shall take precedence over any other lien or encumbrance on the real estate.

32 **44-11.1-8. Records, statements, and rules and regulations.** – Each taxpayer shall keep  
33 records, render statements, make returns, and comply with rules and regulations, not inconsistent  
34 with law, as the tax administrator may from time to time prescribe to carry into effect the

1 provisions of this chapter.

2 **44-11.1-9. Returns and statements required to show whether political organization is**  
3 **liable.** – The tax administrator may, whenever in his or her judgment if it is necessary, require  
4 any political organization, by notice served upon it, to make a return, render statements, or keep  
5 records as the tax administrator deems sufficient to show whether or not the political organization  
6 is liable for any tax under this chapter.

7 **44-11.1-10. Supplemental returns – Additional tax or refund.** – (a) Any taxpayer  
8 which fails to include in its return any items of income or assets or any other information required  
9 by this chapter or by regulations prescribed in pursuance of this chapter shall make a  
10 supplemental return disclosing these facts. Any taxpayer whose return to the collector of internal  
11 revenue, or whose net income returned, shall be changed or corrected by any official of the  
12 United States government in any respect affecting a tax imposed by this chapter shall, within  
13 sixty (60) days after receipt of a notification of the final adjustment and determination of the  
14 change or correction, make the supplemental return required by this section.

15 (b) Upon the filing of a supplemental return the tax administrator shall examine the return  
16 and shall determine any additional tax or refund that may be due and shall notify the taxpayer.  
17 Any additional tax shall be paid within fifteen (15) days after the notification together with  
18 interest at the annual rate provided by section 44-1-7 from the original due date of the return for  
19 the taxable year to the date of payment of the additional tax. Any refund shall be made by the tax  
20 administrator together with interest at the annual rate provided by section 44-1-7.1 from the date  
21 of payment of the tax to the date of the refund.

22 **44-11.1-11. Claims for refund – Hearing upon denial.** – (a) Any taxpayer may file a  
23 claim for refund with the tax administrator at any time within three (3) years after the tax has  
24 been paid, or in the case of a change or correction of its taxable income by any official of the  
25 United States government, within three (3) years after receiving notice of the change or  
26 correction. If the tax administrator determines that the tax has been overpaid, he or she shall make  
27 a refund with interest at the annual rate provided by section 44-1-7.1 from the date of payment.

28 (b) Any taxpayer whose claim for refund has been denied may, within thirty (30) days  
29 from the date of the mailing by the tax administrator of the notice of the decision, request a  
30 hearing and the tax administrator shall, as soon as practicable, set a time and place for the hearing  
31 and shall so notify the applicant.

32 **44-11.1-12. Information confidential – Types of disclosure authorized-Penalties for**  
33 **unauthorized disclosure.** – (a) It is unlawful for any state official or employee to divulge or to  
34 make known to any person in any manner not provided by law the amount or source of income,

1 profits, losses, expenditures, or any particular set forth or disclosed in any return, or to permit any  
2 return or copy or any book containing any abstract or particulars to be seen or examined by any  
3 person except as provided by law. It is unlawful for any person to print or publish in any manner  
4 not provided by law any return or any part or source of income, profits, losses, or expenditures  
5 appearing in any return.

6 (b) Any offense against this provision is punishable by a fine not exceeding one thousand  
7 dollars (\$1,000) or by imprisonment not exceeding one year, or both, at the discretion of the  
8 court. If the offender is an officer or employee of the state of Rhode Island, he or she may be  
9 dismissed from office or discharged from employment; provided, that the tax administrator may  
10 authorize examination of the return by the tax officials regularly in the employ of another state or  
11 of the federal government if a reciprocal arrangement exists.

12 **44-11.1-13. Tax administrator's power to summon witnesses and evidence.** – The tax  
13 administrator may summon any political organization, or officer, agent, or employee of any  
14 political organization, or any other person, to appear before him or her and produce records and  
15 documents at a time and place named in the summons and to give testimony and to answer  
16 interrogatories, under oath, respecting any matter which the tax administrator deems pertinent or  
17 material to the administration of this chapter.

18 **44-11.1-14. Service of summons.** – The summons may be sent by registered or certified  
19 mail to the political organization, or to any officer, agent, or employee of the political  
20 organization, or to any other person, or may be left by any authorized agent of the tax  
21 administrator with the political organization, or with any officer, agent, or employee of the  
22 political organization, or any other person, or left at his or her last and usual place of abode.  
23 When the summons requires the production of records or documents, it shall be sufficient if the  
24 records and documents are described with reasonable certainty.

25 **44-11.1-15. Enforcement of summons.** – Whenever any person or political organization  
26 summoned under the provision of sections 44-11.1-13 and 44-11.1-14 neglects or refuses to obey  
27 the summons or to give testimony or to answer interrogatories as required, the tax administrator  
28 may apply to the sixth division of the district court for a citation against that person or political  
29 organization as for a contempt. Any judge of the court may hear the application and, if  
30 satisfactory proof is made, shall issue a citation for the arrest of the person, or of any officer of  
31 the political organization, and upon the person or officer being brought before the judge, he or she  
32 shall proceed to a hearing of the case; and upon the hearing the judge shall have power to make  
33 an order that he or she deems proper. A party aggrieved by an order of the court may appeal the  
34 order to the supreme court in accordance with the procedures contained in the rules of appellate

1 procedure of the supreme court.

2 **44-11.1-16. Determination of tax without return.** – If any political organization fails to  
3 file a return at the time and as prescribed by law, the tax administrator shall proceed to determine  
4 the tax from any information he or she can obtain.

5 **44-11.1-17. Pecuniary penalty for failure to file return or to pay tax or for**  
6 **negligence.** – (a) In the case of any failure to file a return within the time prescribed by law, there  
7 shall be added to the tax five percent (5%) if the failure is for not more than one month, with an  
8 additional five percent (5%) for each additional month or fraction of a month during which the  
9 failure continues, not exceeding twenty-five percent (25%) in the aggregate, except that when a  
10 return is filed after the time prescribed by law and it is shown that the failure to file the return at  
11 the prescribed time was due to reasonable cause and not due to willful neglect, no addition to the  
12 tax shall be made.

13 (b) In the case of any failure to pay the tax as imposed by this chapter with the return on  
14 or before the date prescribed by law (determined with regard to any extension of time for  
15 payment), there shall be added to the amount shown as tax on the return five-tenths percent  
16 (0.5%) of the amount of the tax if the failure is for not more than one month, with an additional  
17 five-tenths percent (0.5%) for each additional month or fraction of a month during which the  
18 failure continues, not exceeding twenty-five percent (25%) in the aggregate, except that when the  
19 failure is due to reasonable cause and not to willful neglect, no addition to the tax shall made.

20 (c) In the case of any failure to pay any amount in respect of any tax required to be shown  
21 on a return, which is not shown, including an assessment made as a result of mathematical error,  
22 within thirty (30) days of the date of the notice and demand, there shall be added to the amount of  
23 tax stated in the notice and demand five-tenths percent (0.5%) of the amount of the tax if the  
24 failure is for not more than one month, with an additional five-tenths percent (0.5%) for each  
25 additional month or fraction of a month during which the failure continues, not exceeding twenty-  
26 five percent (25%) in the aggregate, except that when the failure is due to reasonable cause and  
27 not to willful neglect, no addition to the tax shall be made.

28 (d) If any part of a deficiency is due to negligence or intentional disregard of the Rhode  
29 Island political organization tax law or rules or regulations hereunder, but without intent to  
30 defraud, five percent (5%) of that part of the deficiency shall be added to the tax. This amount  
31 shall be in lieu of any other additional amount imposed by subsection (b) of this section.

32 **44-11.1-18. Pecuniary penalty for fraud.** – In case a false or fraudulent return is made  
33 with intent to evade any tax imposed by this chapter, the tax administrator shall add to the tax  
34 fifty percent (50%) of its amount.

1           **44-11.1-19. Collection of pecuniary penalties.** – The amount added to any tax under  
2 sections 44-11.1-17 and 44-11.1-18 shall be collected as a part of and at the same time and in the  
3 same manner as the tax, unless the tax has been paid before the discovery of the neglect, falsity,  
4 or fraud, in which case the amount so added shall be collected in the same manner as the tax.

5           **44-11.1-20. Examination of taxpayer's records -- Witnesses.** – The tax administrator,  
6 for the purpose of ascertaining the correctness of any return or for the purpose of determining the  
7 amount of any tax imposed by this chapter, may, by any of his or her officers or employees  
8 designated by him or her for that purpose, examine any books, papers, records, or memoranda  
9 bearing upon the matters required to be included in the return, and may require the attendance of  
10 the person executing the return or of any officer or employee of any political organization, or the  
11 attendance of any other person, and may examine him or her under oath respecting any matter  
12 which the tax administrator deems pertinent or material in determining the liability of any  
13 political organization to a tax imposed by this chapter.

14           **44-11.1-21. Violations by political organizations.** – Whenever any political  
15 organization delivers or discloses or causes to be delivered or disclosed to the tax administrator  
16 any false or fraudulent return, account, or statement, with intent to defeat or evade any tax  
17 imposed under this chapter, or being summoned to appear to testify or to appear and produce  
18 books as required under this chapter, neglects to appear or to produce books, the corporation is  
19 guilty of a felony and upon conviction shall be fined not exceeding ten thousand dollars  
20 (\$10,000).

21           **44-11.1-22. Violations by individuals.** – Whenever any person delivers or discloses or  
22 causes to be delivered or disclosed to the tax administrator any false or fraudulent return, account,  
23 or statement, with intent to defeat or evade any tax imposed under this chapter, or being  
24 summoned to appear to testify or to appear and produce books as required under this chapter,  
25 neglects to appear or to produce books, the person is guilty of a felony and upon conviction  
26 thereof shall be fined not exceeding ten thousand dollars (\$10,000), or be imprisoned not  
27 exceeding one year, or both.

28           **44-11.1-23. Criminal penalty for failure to file return.** – Any taxpayer, or any officer  
29 or agent of the taxpayer, who willfully fails to file any return or statement, including a  
30 supplemental return, required to be made under the provisions of this chapter within the time  
31 fixed or extended is guilty of a felony and upon conviction shall be fined not exceeding ten  
32 thousand dollars (\$10,000), or be imprisoned not exceeding one year, or both.

33           **44-11.1-24. Appeals.** – Appeals from administrative orders or decision made pursuant to  
34 any provisions of this chapter shall be to the sixth division district court pursuant to chapter 8 of

1 title 8. The taxpayer's right to appeal shall be expressly made conditional upon prepayment of all  
2 taxes, interest, and penalties unless the taxpayer moves for and is granted an exemption from the  
3 prepayment requirement pursuant to section 8-8-26. If the court, after appeal, holds that the  
4 taxpayer is entitled to a refund, the taxpayer shall also be paid interest on the amount at the rate  
5 provided in section 44-1-7.1

6 **44-11.1-25. General collection powers.** – The tax administrator shall receive and collect  
7 any tax imposed under this chapter in the same manner and with the same powers as are  
8 prescribed for and given to collectors of taxes by chapters 7 through 9 of this title.

9 **44-11.1-26. Collection by writ of execution.** – If any tax or penalty imposed by this  
10 chapter is not paid within thirty (30) days after the tax or penalty shall become due and payable,  
11 the tax administrator, in addition to any other powers provided by law, may petition the sixth  
12 division of the district court for a writ of execution, setting forth the nonpayment of the tax or  
13 penalty. The court shall appoint a time for a hearing and shall cause a reasonable notice to be  
14 given to the adverse party, and at the time and place of the return of the notice shall summarily  
15 proceed to hear the parties. If upon the hearing it shall appear that the tax or penalty is unpaid, the  
16 court shall issue an execution for the collection of the tax or penalty, which shall run to the  
17 sheriffs, or their deputies, of the several counties of this state, and in which the officer making  
18 service of the execution shall be commanded to levy upon the property of the political  
19 organization as may be taken on execution, and the officer charged with the service of the  
20 execution shall serve the execution as commanded, and shall sell the property seized as property  
21 is sold when taken on execution in actions at law, or the court shall take any other action as it  
22 may deem proper to enforce the payment of the tax by the appointment of a receiver of the  
23 property of the political organizational or otherwise. A party aggrieved by a final order of the  
24 court may seek review of the order in the supreme court by writ of certiorari in accordance with  
25 the procedures contained in section 42-35-16.

26 **44-11.1-27. Tax as debt to state.** – Any tax imposed under the provisions of this chapter,  
27 together with all increases, penalties, charges, and interest, shall also become, from the time the  
28 same are due and payable, a debt due to the state of Rhode Island from the political organization  
29 liable for the payment of the tax.

30 **44-11.1-28. Severability.** – If any provision of this chapter or the application of this  
31 chapter to any corporation or circumstances is held invalid, the remainder of this chapter and the  
32 application of the provisions to the other corporations or circumstances shall not be affected.

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

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO TAXATION – POLITICAL ORGANIZATIONS

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1           This act would impose a state tax of seven and one-half percent (7.5%) on the taxable  
2 income over one hundred dollars (\$100) of each political organization.

3           This act would take effect upon passage.

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