

2010 -- H 7134

LC00321

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO TAXATION - ALTERNATIVE FLAT TAX

Introduced By: Representatives Guthrie, Segal, Williams, Fierro, and Melo

Date Introduced: January 19, 2010

Referred To: House Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 44-30-2.6 and 44-30-2.10 of the General Laws in Chapter 44-30
2 entitled "Personal Income Tax" is hereby amended to read as follows:

3 **44-30-2.6. Rhode Island taxable income -- Rate of tax.** -- (a) "Rhode Island taxable
4 income" means federal taxable income as determined under the Internal Revenue Code, 26 U.S.C.
5 section 1 et seq., not including the increase in the basic standard deduction amount for married
6 couples filing joint returns as provided in the Jobs and Growth Tax Relief Reconciliation Act of
7 2003 and the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), and as
8 modified by the modifications in section 44-30-12.

9 (b) Notwithstanding the provisions of sections 44-30-1 and 44-30-2, for tax years
10 beginning on or after January 1, 2001, a Rhode Island personal income tax is imposed upon the
11 Rhode Island taxable income of residents and nonresidents, including estates and trusts, at the rate
12 of twenty-five and one-half percent (25.5%) for tax year 2001, and twenty-five percent (25%) for
13 tax year 2002 and thereafter of the federal income tax rates, including capital gains rates and any
14 other special rates for other types of income, except as provided in section 44-30-2.7, which were
15 in effect immediately prior to enactment of the Economic Growth and Tax Relief Reconciliation
16 Act of 2001 (EGTRRA); provided, rate schedules shall be adjusted for inflation by the tax
17 administrator beginning in taxable year 2002 and thereafter in the manner prescribed for
18 adjustment by the commissioner of Internal Revenue in 26 U.S.C. section 1(f). However, for tax
19 years beginning on or after January 1, 2006 and ending before January 1, 2009, a taxpayer may

1 elect to use the alternative flat tax rate provided in section 44-30-2.10 to calculate his or her
2 personal income tax liability.

3 (c) For tax years beginning on or after January 1, 2001, if a taxpayer has an alternative
4 minimum tax for federal tax purposes, the taxpayer shall determine if he or she has a Rhode
5 Island alternative minimum tax. The Rhode Island alternative minimum tax shall be computed by
6 multiplying the federal tentative minimum tax without allowing for the increased exemptions
7 under the Jobs and Growth Tax Relief Reconciliation Act of 2003 (as redetermined on federal
8 form 6251 Alternative Minimum Tax-Individuals) by twenty-five and one-half percent (25.5%)
9 for tax year 2001, and twenty-five percent (25%) for tax year 2002 and thereafter, and comparing
10 the product to the Rhode Island tax as computed otherwise under this section. The excess shall be
11 the taxpayer's Rhode Island alternative minimum tax.

12 (1) For tax years beginning on or after January 1, 2005 and thereafter the exemption
13 amount for alternative minimum tax, for Rhode Island purposes, shall be adjusted for inflation by
14 the tax administrator in the manner prescribed for adjustment by the commissioner of Internal
15 Revenue in 26 U.S.C. section 1(f).

16 (2) For the period January 1, 2007 through December 31, 2007, and thereafter, Rhode
17 Island taxable income shall be determined by deducting from federal adjusted gross income as
18 defined in 26 U.S.C. section 62 as modified by the modifications in section 44-30-12 the Rhode
19 Island itemized deduction amount and the Rhode Island exemption amount as determined in this
20 section.

21 (A) Tax imposed.

22 (1) There is hereby imposed on the taxable income of married individuals filing joint
23 returns and surviving spouses a tax determined in accordance with the following table:

24 If taxable income is:	The tax is:
25 Not over \$53,150	3.75% of taxable income
26 Over \$53,150 but not over \$128,500	\$1,993.13 plus 7.00% of the excess over 27 \$53,150
28 Over \$128,500 but not over \$195,850	\$7,267.63 plus 7.75% of the excess over 29 \$128,500
30 Over \$195,850 but not over \$349,700	\$12,487.25 plus 9.00% of the excess over 31 \$195,850
32 Over \$349,700	\$26,333.75 plus 9.90% of the excess over 33 \$349,700

34 (2) There is hereby imposed on the taxable income of every head of household a tax

1 determined in accordance with the following table:

2	If taxable income is:	The tax is:
3	Not over \$42,650	3.75% of taxable income
4	Over \$42,650 but not over \$110,100	\$1,599.38 plus 7.00% of the excess over
5		\$42,650
6	Over \$110,100 but not over \$178,350	\$6,320.88 plus 7.75% of the excess over
7		\$110,100
8	Over \$178,350 but not over \$349,700	\$11,610.25 plus 9.00% of the excess over
9		\$178,350
10	Over \$349,700	\$27,031.75 plus 9.90% of the excess over
11		\$349,700

12 (3) There is hereby imposed on the taxable income of unmarried individuals (other than
13 surviving spouses and heads of households) a tax determined in accordance with the following
14 table:

15	If taxable income is:	The tax is:
16	Not over \$31,850	3.75% of taxable income
17	Over \$31,850 but not over \$77,100	\$1,194.38 plus 7.00% of the excess over
18		\$31,850
19	Over \$77,100 but not over \$160,850	\$4,361.88 plus 7.75% of the excess over
20		\$77,100
21	Over \$160,850 but not over \$349,700	\$10,852.50 plus 9.00% of the excess over
22		\$160,850
23	Over \$349,700	\$27,849.00 plus 9.90% of the excess over
24		\$349,700

25 (4) There is hereby imposed on the taxable income of married individuals filing separate
26 returns and bankruptcy estates a tax determined in accordance with the following table:

27	If taxable income is:	The tax is:
28	Not over \$26,575	3.75% of taxable income
29	Over \$26,575 but not over \$64,250	\$996.56 plus 7.00% of the excess over \$26,575
30	Over \$64,250 but not over \$97,925	\$3,633.81 plus 7.75% of the excess over
31		\$64,250
32	Over \$97,925 but not over \$174,850	\$6,243.63 plus 9.00% of the excess over
33		\$97,925
34	Over \$174,850	\$13,166.88 plus 9.90% of the excess over

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\$174,850

(5) There is hereby imposed a taxable income of an estate or trust a tax determined in accordance with the following table:

If taxable income is:	The tax is:
Not over \$2,150	3.75% of taxable income
Over \$2,150 but not over \$5,000	\$80.63 plus 7.00% of the excess over \$2,150
Over \$5,000 but not over \$7,650	\$280.13 plus 7.75% of the excess over \$5,000
Over \$7,650 but not over \$10,450	\$485.50 plus 9.00% of the excess over \$7,650
Over \$10,450	\$737.50 plus 9.90% of the excess over \$10,450

(6) Adjustments for inflation. The dollars amount contained in paragraph (A) shall be increased by an amount equal to:

- (a) Such dollar amount contained in paragraph (A) in the year 1993, multiplied by;
- (b) The cost-of-living adjustment determined under section (J) with a base year of 1993;
- (c) The cost-of-living adjustment referred to in subparagraph (a) and (b) used in making adjustments to the nine percent (9%) and nine and nine tenths percent (9.9%) dollar amounts shall be determined under section (J) by substituting "1994" for "1993."

(B) Maximum capital gains rates

(1) In general

If a taxpayer has a net capital gain for ~~any taxable year~~, tax years ending prior to January 1, 2010, the tax imposed by this section for such taxable year shall not exceed the sum of:

- (a) 2.5 % of the net capital gain as reported for federal income tax purposes under section 26 U.S.C. 1(h)(1)(a) and 26 U.S.C. 1(h)(1)(b).
- (b) 5% of the net capital gain as reported for federal income tax purposes under 26 U.S.C. 1(h)(1)(c).
- (c) 6.25% of the net capital gain as reported for federal income tax purposes under 26 U.S.C. 1(h)(1)(d).
- (d) 7% of the net capital gain as reported for federal income tax purposes under 26 U.S.C. 1(h)(1)(e).

(2) For tax years beginning on or after January 1, 2010 the tax imposed on net capital gain shall be determined under subdivision 44-30-2.6(C)(2)(A).

(C) Itemized deductions.

(1) In general

For the purposes of section (2) "itemized deductions" means the amount of federal itemized deductions as modified by the modifications in section 44-30-12.

1 (2) Individuals who do not itemize their deductions

2 In the case of an individual who does not elect to itemize his deductions for the taxable
3 year, they may elect to take a standard deduction.

4 (3) Basic standard deduction. The Rhode Island standard deduction shall be allowed in
5 accordance with the following table:

6 Filing status	Amount
7 Single	\$5,350
8 Married filing jointly or qualifying widow(er)	\$8,900
9 Married filing separately	\$4,450
10 Head of Household	\$7,850

11 (4) Additional standard deduction for the aged and blind. An additional standard
12 deduction shall be allowed for individuals age sixty-five (65) or older or blind in the amount of
13 \$1,300 for individuals who are not married and \$1,050 for individuals who are married.

14 (5) Limitation on basic standard deduction in the case of certain dependents. In the case
15 of an individual to whom a deduction under section (E) is allowable to another taxpayer, the basic
16 standard deduction applicable to such individual shall not exceed the greater of:

- 17 (a) \$850;
- 18 (b) The sum of \$300 and such individual's earned income;
- 19 (c) Certain individuals not eligible for standard deduction.

20 In the case of:

- 21 (a) A married individual filing a separate return where either spouse itemizes deductions;
- 22 (b) Nonresident alien individual;
- 23 (c) An estate or trust;

24 The standard deduction shall be zero.

- 25 (7) Adjustments for inflation.

26 Each dollars amount contained in paragraphs (3), (4) and (5) shall be increased by an
27 amount equal to:

- 28 (a) Such dollar amount contained in paragraphs (3), (4) and (5) in the year 1988,
29 multiplied by
- 30 (b) The cost-of-living adjustment determined under section (J) with a base year of 1988.

31 (D) Overall Limitation on Itemized Deductions

- 32 (1) General rule.

33 In the case of an individual whose adjusted gross income as modified by section 44-30-12
34 exceeds the applicable amount, the amount of the itemized deductions otherwise allowable for the

1 taxable year shall be reduced by the lesser of:

2 (a) Three percent (3%) of the excess of adjusted gross income as modified by section 44-
3 30-12 over the applicable amount; or

4 (b) Eighty percent (80%) of the amount of the itemized deductions otherwise allowable
5 for such taxable year.

6 (2) Applicable amount.

7 (a) In general.

8 For purposes of this section, the term "applicable amount" means \$156,400 (\$78,200 in
9 the case of a separate return by a married individual)

10 (b) Adjustments for inflation.

11 Each dollar amount contained in paragraph (a) shall be increased by an amount equal to:

12 (i) Such dollar amount contained in paragraph (a) in the year 1991, multiplied by

13 (ii) The cost-of-living adjustment determined under section (J) with a base year of 1991.

14 (3) Phase-out of Limitation.

15 (a) In general.

16 In the case of taxable year beginning after December 31, 2005, and before January 1,
17 2010, the reduction under section (1) shall be equal to the applicable fraction of the amount which
18 would be the amount of such reduction.

19 (b) Applicable fraction.

20 For purposes of paragraph (a), the applicable fraction shall be determined in accordance
21 with the following table:

22 For taxable years beginning in calendar year	The applicable fraction is
23 2006 and 2007	2/3
24 2008 and 2009	1/3

25 (E) Exemption Amount

26 (1) In general.

27 Except as otherwise provided in this subsection, the term "exemption amount" mean
28 \$3,400.

29 (2) Exemption amount disallowed in case of certain dependents. In the case of an
30 individual with respect to whom a deduction under this section is allowable to another taxpayer
31 for the same taxable year, the exemption amount applicable to such individual for such
32 individual's taxable year shall be zero.

33 (3) Adjustments for inflation.

34 The dollar amount contained in paragraph (1) shall be increased by an amount equal to:

- 1 (a) Such dollar amount contained in paragraph (1) in the year 1989, multiplied by
- 2 (b) The cost-of-living adjustment determined under section (J) with a base year of 1989.
- 3 (4) Limitation.

4 (a) In general.

5 In the case of any taxpayer whose adjusted gross income as modified for the taxable year
6 exceeds the threshold amount shall be reduced by the applicable percentage.

7 (b) Applicable percentage.

8 In the case of any taxpayer whose adjusted gross income for the taxable year exceeds the
9 threshold amount, the exemption amount shall be reduced by two (2) percentage points for each
10 \$2,500 (or fraction thereof) by which the taxpayer's adjusted gross income for the taxable year
11 exceeds the threshold amount. In the case of a married individual filing a separate return, the
12 preceding sentence shall be applied by substituting "\$1,250" for "\$2,500." In no event shall the
13 applicable percentage exceed one hundred percent (100%).

14 (c) Threshold Amount.

15 For the purposes of this paragraph, the term "threshold amount" shall be determined with
16 the following table:

17 Filing status	Amount
18 Single	\$156,400
19 Married filing jointly of qualifying widow(er)	\$234,600
20 Married filing separately	\$117,300
21 Head of Household	\$195,500

22 (d) Adjustments for inflation.

23 Each dollars amount contain in paragraph (b) shall be increased by an amount equal to:

- 24 (i) Such dollar amount contained in paragraph (b) in the year 1991, multiplied by
- 25 (ii) The cost-of-living adjustment determined under section (J) with a base year of 1991.

26 (5) Phase-out of Limitation.

27 (a) In general.

28 In the case of taxable years beginning after December 31, 2005, and before January 1,
29 2010, the reduction under section 4 shall be equal to the applicable fraction of the amount which
30 would be the amount of such reduction.

31 (b) Applicable fraction.

32 For the purposes of paragraph (a), the applicable fraction shall be determined in
33 accordance with the following table:

34 For taxable years beginning in calendar year The applicable fraction is

1 2006 and 2007 2/3

2 2008 and 2009 1/3

3 (F) Alternative Minimum Tax

4 (1) General rule. - There is hereby imposed (in addition to any other tax imposed by this
5 subtitle) a tax equal to the excess (if any) of:

6 (a) The tentative minimum tax for the taxable year, over

7 (b) The regular tax for the taxable year.

8 (2) The tentative minimum tax for the taxable year is the sum of:

9 (a) 6.5 percent of so much of the taxable excess as does not exceed \$175,000, plus

10 (b) 7.0 percent of so much of the taxable excess above \$175,000.

11 (3) The amount determined under the preceding sentence shall be reduced by the
12 alternative minimum tax foreign tax credit for the taxable year.

13 (4) Taxable excess. - For the purposes of this subsection the term "taxable excess" means
14 so much of the federal alternative minimum taxable income as modified by the modifications in
15 section 44-30-12 as exceeds the exemption amount.

16 (5) In the case of a married individual filing a separate return, subparagraph (2) shall be
17 applied by substituting "\$87,500" for \$175,000 each place it appears.

18 (6) Exemption amount. For purposes of this section "exemption amount" means:

19 Filing status	Amount
20 Single	\$39,150
21 Married filing jointly or qualifying widow(er)	\$53,700
22 Married filing separately	\$26,850
23 Head of Household	\$39,150
24 Estate or trust	\$24,650

25 (7) Treatment of unearned income of minor children

26 (a) In general.

27 In the case of a minor child, the exemption amount for purposes of section (6) shall not
28 exceed the sum of:

29 (i) Such child's earned income, plus

30 (ii) \$6,000.

31 (8) Adjustments for inflation.

32 The dollar amount contained in paragraphs (6) and (7) shall be increased by an amount
33 equal to:

34 (a) Such dollar amount contained in paragraphs (6) and (7) in the year 2004, multiplied

1 by

2 (b) The cost-of-living adjustment determined under section (J) with a base year of 2004.

3 (9) Phase-out.

4 (a) In general.

5 The exemption amount of any taxpayer shall be reduced (but not below zero) by an
6 amount equal to twenty-five percent (25%) of the amount by which alternative minimum taxable
7 income of the taxpayer exceeds the threshold amount.

8 (b) Threshold amount.

9 For purposes of this paragraph, the term "threshold amount" shall be determined with the
10 following table:

11 Filing status	Amount
12 Single	\$123,250
13 Married filing jointly or qualifying widow(er)	\$164,350
14 Married filing separately	\$82,175
15 Head of Household	\$123,250
16 Estate or Trust	\$82,150

17 (c) Adjustments for inflation

18 Each dollar amount contained in paragraph (9) shall be increased by an amount equal to:

19 (i) Such dollar amount contained in paragraph (9) in the year 2004, multiplied by

20 (ii) The cost-of-living adjustment determined under section (J) with a base year of 2004.

21 (G) Other Rhode Island Taxes

22 (1) General rule. - There is hereby imposed (in addition to any other tax imposed by this
23 subtitle) a tax equal to twenty-five percent (25%) of:

24 (a) The Federal income tax on lump-sum distributions.

25 (b) The Federal income tax on parents' election to report child's interest and dividends.

26 (c) The recapture of Federal tax credits that were previously claimed on Rhode Island
27 return.

28 (H) Tax for children under 18 with investment income

29 (1) General rule. - There is hereby imposed a tax equal to twenty-five percent (25%) of:

30 (a) The Federal tax for children under the age of 18 with investment income.

31 (I) Averaging of farm income

32 (1) General rule. - At the election of an individual engaged in a farming business or
33 fishing business, the tax imposed in section 2 shall be equal to twenty-five percent (25%) of:

34 (a) The Federal averaging of farm income as determined in IRC section 1301.

1 (J) Cost-of-Living Adjustment

2 (1) In general. The cost-of-living adjustment for any calendar year is the percentage (if
3 any) by which:

4 (a) The CPI for the preceding calendar year exceeds

5 (b) The CPI for the base year.

6 (2) CPI for any calendar year. For purposes of paragraph (1), the CPI for any calendar
7 year is the average of the Consumer Price Index as of the close of the twelve (12) month period
8 ending on August 31 of such calendar year.

9 (3) Consumer Price Index

10 For purposes of paragraph (2), the term "consumer price index" means the last consumer
11 price index for all urban consumers published by the department of labor. For purposes of the
12 preceding sentence, the revision of the consumer price index which is most consistent with the
13 consumer price index for calendar year 1986 shall be used.

14 (4) Rounding.

15 (a) In general.

16 If any increase determined under paragraph (1) is not a multiple of \$50, such increase
17 shall be rounded to the next lowest multiple of \$50.

18 (b) In the case of a married individual filing a separate return, subparagraph (a) shall be
19 applied by substituting "\$25" for \$50 each place it appears.

20 (K) Credits against tax. - For tax years beginning on or after January 1, 2001, a taxpayer
21 entitled to any of the following federal credits enacted prior to January 1, 1996 shall be entitled to
22 a credit against the Rhode Island tax imposed under this section:

23 (1) [Deleted by P.L. 2007, ch. 73, art. 7, section 5.

24 (2) Child and dependent care credit;

25 (3) General business credits;

26 (4) Credit for elderly or the disabled;

27 (5) Credit for prior year minimum tax;

28 (6) Mortgage interest credit;

29 (7) Empowerment zone employment credit;

30 (8) Qualified electric vehicle credit.

31 (L) Credit Against Tax for Adoption. - For tax years beginning on or after January 1,
32 2006, a taxpayer entitled to the federal adoption credit shall be entitled to a credit against the
33 Rhode Island tax imposed under this section if the adopted child was under the care, custody, or
34 supervision of the Rhode Island department of children, youth and families prior to the adoption.

1 (M) The credit shall be twenty-five percent (25%) of the aforementioned federal credits
2 provided there shall be no deduction based on any federal credits enacted after January 1, 1996,
3 including the rate reduction credit provided by the federal Economic Growth and Tax
4 Reconciliation Act of 2001 (EGTRRA). In no event shall the tax imposed under this section be
5 reduced to less than zero. A taxpayer required to recapture any of the above credits for federal tax
6 purposes shall determine the Rhode Island amount to be recaptured in the same manner as
7 prescribed in this subsection.

8 (N) Rhode Island Earned Income Credit

9 (1) In general. A taxpayer entitled to a federal earned income credit shall be allowed a
10 Rhode Island earned income credit equal to twenty-five percent (25%) of the federal earned
11 income credit. Such credit shall not exceed the amount of the Rhode Island income tax.

12 (2) Refundable portion. In the event the Rhode Island earned income credit allowed
13 under section (J) exceeds the amount of Rhode Island income tax, a refundable earned income
14 credit shall be allowed.

15 (a) For purposes of paragraph (2) refundable earned income credit means fifteen percent
16 (15%) of the amount by which the Rhode Island earned income credit exceeds the Rhode Island
17 income tax.

18 (O) The tax administrator shall recalculate and submit necessary revisions to paragraphs
19 (A) through (J) to the general assembly no later than February 1, 2010 and every three (3) years
20 thereafter for inclusion in the statute.

21 **44-30-2.10. Alternative flat tax rate.** -- (a) For tax years beginning on or after January
22 1, 2006, a taxpayer may elect to compute his or her Rhode Island personal income tax liability as
23 provided in this section. If no election is made, the taxpayer's personal income tax liability shall
24 be computed as otherwise provided in this chapter.

25 (b) For purposes of this section, "alternative Rhode Island taxable income" shall mean
26 federal adjusted gross income as determined for federal income tax purposes as modified by
27 sections 44-30-12 and 44-30-32 for residents and nonresidents, respectively. No other state or
28 federal deductions or adjustments to income shall be available to the taxpayer.

29 (c) For purposes of this section, the "alternative tax rate" shall be eight percent (8.0%)
30 for the tax year 2006; seven and one-half percent (7.5%) for tax year 2007; seven percent (7%)
31 for tax year 2008; ~~six and one-half percent (6.5%) for tax year 2009; six percent (6%) for tax year~~
32 ~~2010; and five and one-half percent (5.5%) for tax years 2011~~ and thereafter;

33 (d) The alternative personal income tax shall be determined by multiplying the taxpayer's
34 alternative Rhode Island taxable income by the alternative tax rate, less the following credits:

- 1 (1) Credit for income taxes paid to other states as provided for in section 44-30-18;
- 2 (2) Credit for Rhode Island personal income tax withheld as provided in section 44-30-
- 3 74;
- 4 (3) Credit for Rhode Island payments of estimated tax as provided in section 44-30-56(e)
- 5 and RI Reg. Sec. PIT 90-17;
- 6 (4) Credit for Rhode Island overpayment of taxes as provided in section 44-30-86(a); and
- 7 (5) Credit for Rhode Island amount remitted by a limited liability company on behalf of
- 8 a nonresident member as provided in section 7-16-73(4).

9 No other state or federal tax credits shall be available to the taxpayer in computing the

10 alternative personal income tax liability.

11 (e) The provisions of this section may apply regardless of the taxpayer's filing status.

12 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 - ALTERNATIVE FLAT TAX

- 1 This act would set the alternative minimum tax rate at 7 percent.
- 2 This act would take effect upon passage.

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