Via Electronic Mail

May 2, 2024

The Honorable Marvin L. Abney
Chair, House Committee on Finance
Rhode Island State House
Providence, RI 02903

RE: Letter Regarding House Bill 7929 – An Act Relating to Taxation – Personal Income Tax

Dear Chair Abney:

I am writing on behalf of the Rhode Island Department of Revenue, Division of Taxation ("Division"), to: a) express concerns regarding issues with proposed House Bill 7929 as currently drafted; b) explain the background and current statutory context in order to clarify the intended and unintended consequences of this bill; and, c) make recommendations and request your support in implementing those recommendations.

This letter is not intended as a position in support of or opposition to the bill, but only as recommendations on drafting to provide clarity in the bill and to aid tax administration and compliance.

As you know, the bill would amend R.I. Gen. Laws § 44-30-2.6 ("Rhode Island taxable income - - Rate of tax") to allow a retroactive manufacturers investment tax credit for Tax Year 2022, and thereafter, pursuant to R.I. Gen. Laws § 44-31-1(b) for personal income tax of eligible Sub-S corporation shareholders and limited liability company members meeting certain criteria. The bill's effective date is upon passage but applies retroactively to tax years beginning on or after January 1, 2022.

There are several potential issues with the bill that impact tax administration, including, but not limited to:

- This bill would have a significant impact on the Division as it would be difficult, if not impossible, to administer the retroactive changes proposed. For example, the Division would be tasked with creating amended Tax Year 2022 forms, which would result in two different forms for that tax year, as well as for Tax Year 2023. This would result in non-processible forms, substantially reducing resources devoted to revenue producing activities, and complicating the ability to detect potential fraudulent filings. Additionally, retroactive tax year changes are generally not supported by software vendors, which would require taxpayers to assume the burden of determining how the changes impact them, calculating tax due, and filing the return via paper.

- The bill, as currently drafted, would allow a "below the line" credit that could result in duplicative deductions/credits and likely is not intended.

- The bill indicates that these investment tax credits are "issued pursuant to § 44-31-1(b);" however, tax credits are claimed and allowed, not issued.

- Again, this bill has a retroactive effect; however, the Division respectfully requests that the effective date be prospective and for tax years beginning on or after January 1, 2025, to allow time for implementation of the changes, which will require form and system updates.

This letter is not intended as a position in support of, or opposition to, the bill, but only as recommendations on drafting to provide clarity in the bill and to aid tax administration and compliance.

I look forward to working with you to address the issues raised in this letter and appreciate your consideration.

Very truly yours,

Neena S. Savage
Tax Administrator

cc: The Honorable Members of the House Committee on Finance (via: HouseFinance@rilegislature.gov)
The Honorable Stephen M. Casey (via: rep-casey@rilegislature.gov)
Nicole McCarty, Esquire, Chief Legal Counsel to the Speaker of the House
Lynne Urbani, Director of House Policy
Thomas A. Verdi, Director, Department of Revenue