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ACLU OF RI POSITION: AMEND

TESTIMONY ON 22-H 7774,
RELATING TO RHODE ISLAND BUSINESS CORPORATION TAX
May 11, 2022

This bill makes numerous changes to the state's tax laws. While the explanation describes the changes as "technical," the amendments, in at least one key respect, appear to make a sea change in tax law that should be rejected.

We refer specifically to language that appears on Pages 9, 11, 12 and 31 of the bill, amending four sections of the General Laws dealing with the statute of limitations (SOL) for the tax administrator to issue notices of deficiency. The four statutes cover the business corporation tax, sales and use tax, estate tax, and personal income tax. The effect of the proposed amendments would be to effectively eliminate the statute of limitations that currently exists for alleged tax deficiencies.

Each of the four sections being amended has virtually identical language. To use the "personal income tax" statute, R.I.G.L. § 44-30-83(e), as an example, that law currently provides that:

> Under no circumstances [with some exceptions listed later] shall the tax administrator issue any notice of a deficiency determination for Rhode Island personal **income tax due or payable more than ten (10) years after the date upon which the return was filed or due to be filed**, nor shall the tax administrator commence any collection action for any personal income tax due and payable unless the collection action is commenced within ten (10) years after a notice of deficiency determination became a final collectible assessment…"

This legislation would amend that sentence so that the 10-year statute of limitations would only begin to run after "a complete, accurate and proper return was filed." But that makes the SOL practically meaningless, since virtually the only time a notice of deficiency would need to be sent is on occasions when a "complete, accurate and proper return" was ***not*** filed.

Put another way, the amendments basically appear designed to replace a 10-year SOL – which is triggered by the filing of the return or the date it was due – into one that may never be triggered because Taxation can claim that the return that was filed was not accurate or complete, and therefore will be able to suspend the start of the clock indefinitely.

But statutes of limitation serve an important purpose. They prevent government overreach and ensure some level of finality to prevent stale investigations by public officials into alleged violations of the law. As time passes, it becomes much harder for a person to mount a defense to allegations of civil or criminal misdeeds or mistakes. Memories fade, and exculpatory evidence ceases to exist. The failure to have a meaningful SOL in this particular context is especially troubling as it could create chaos in various scenarios, such as the closing of estates and for businesses and individuals where certainty in concluding financial transactions is essential.

We therefore urge that the amendments being proposed in these four sections of the bill be rejected. Thank you for considering these concerns.