

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

JANUARY/FEBRUARY/MARCH 2021

WHAT'S NEW FOR TAX YEAR 2021

The threshold for Rhode Island's estate tax has increased for 2021. As a result, fewer estates

will be subject to the tax, leaving more assets available for heirs and other beneficiaries.

Four Rhode Island tax credit, incentive, and related programs were scheduled to sunset late last year.

However, because of recently enacted legislation, the sunset for each has been extended by six months, to June 30, 2021.

The taxable wage base for Rhode Island's temporary disability insurance (TDI) program has been set for 2021, as has been the base for Rhode Island's unemployment insurance tax.

These are among the topics covered in this issue of *Rhode Island Tax News*.



State House: Legislation approved by the Rhode Island General Assembly in 2020 included several changes to Rhode Island's tax laws, some of which are now in effect and summarized in this edition of *Rhode Island Tax News*.

USE PORTAL TO MAKE PAYMENTS

The Rhode Island Division of Taxation reminds taxpayers – individuals and businesses – and tax preparers that they may use the Division's taxpayer portal to make online payments.

The taxpayer portal is easy, convenient, and quick. There is no charge for using

it. Just go to the portal, log in, and make your payment.

If you are a first-time user, you must register first, but even that is convenient: Just go to the portal's home page and click the "Create a New User" link on the portal homepage to create a new user account. Once you receive a PIN from the

Division, you can then use the username and password you created to log in.

Payments for nearly all Rhode Island state taxes – including individual taxes and business taxes – can be made via the portal. Use the following link: <https://taxportal.ri.gov>

(Please turn to page 2)



ABOUT THIS ISSUE

This edition of *Rhode Island Tax News* focuses on what's new for the 2021 tax year (and some other matters).

For the separate edition involving filing season:

<https://go.usa.gov/xsn9V>

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USE TAXPAYER PORTAL TO MAKE PAYMENTS (CONTINUED FROM PAGE 1)

For example, you can make your quarterly estimated payments of Rhode Island personal income tax via the Division's taxpayer portal (*see screenshot at right*).

The same is true for your estimated payments of Rhode Island business taxes. In fact, since the Division's taxpayer portal launched in June 2019, more than 18,000 businesses have registered to use the portal, and more than \$416 million in tax payments have been made via the portal.

Filing returns

The Division's taxpayer portal isn't just a convenient method for making online tax payments; it is also a way to file many types of tax returns.

In fact, the only filings that cannot be made via the portal are those that are done via the modernized e-file (MeF) system:

- ◇ Form RI-1040 (resident personal income tax return);
- ◇ Form RI-1040NR (nonresident personal income tax return);
- ◇ Form RI-1120C (corporate income tax return);
- ◇ Form RI-1120S (subchapter S corporation return);
- ◇ Form RI-1065 (mainly for partnerships, LLCs); and
- ◇ Form RI-1041 (estate and trust income tax return)

Put another way, the Divi-

sion's taxpayer portal can be used for nearly all filings except those that are not currently processed through the Internal Revenue Service interface (MeF).

To date, more than 73,000 returns have been filed through the Division's taxpayer portal. For example: You can file your sales tax returns via the portal. The Division's taxpayer portal also accepts the filing of annual reconciliation returns involving sales/use tax, and surplus lines annual tax returns.

Compliance check

You can use the Division's taxpayer portal to check compliance on your account.

Individuals and businesses use the "compliance check" feature of the Division's taxpayer portal to see if there are any outstanding tax debts on record at the Division or any periods for which they have not filed the required returns. A "Smart Application" feature helps

you navigate the compliance check and correctly fill out the application.

Doing a compliance check on the Division's taxpayer portal can also help ensure smooth processing of your letter of good standing application (assuming you file a complete and accurate application).

More options

The Division's taxpayer portal also allows users to submit requests for:

- ◇ Power of Attorney;
- ◇ Updating the status/address of an account;
- ◇ Report identity theft; and
- ◇ Provide additional information for an open application for a letter of good standing.

Renew a license

In addition, you can use the Division's taxpayer portal to renew certain licenses, such as a sales tax permit.

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Did you know?

- ✓ You can use the Rhode Island Division of Taxation's taxpayer portal to make final payments, estimated payments, extension payments, and bill payments – for all tax types, including individual and business taxes.
- ✓ You can make a payment up to 11:59 p.m. of the payment date – and still have it count for that date.
- ✓ You can schedule payments in advance – up to 364 days before the due date.
- ✓ You can transfer payment from your bank or credit union account to the Division (by authorizing the Division to "debit" your account, through what's known as automated clearing house (ACH) debit).

USE TAXPAYER PORTAL TO MAKE PAYMENTS (CONTINUED FROM PREVIOUS PAGE)

If a license is available to be renewed, a single “renew” button prompts the taxpayer to make a payment for automatic renewal.

Furthermore, you can find out from the landing page if there are outstanding tax debts that may prevent your license from being renewed.

Preparer advantages

The Division’s taxpayer portal also provides a number of advantages for preparers. For example:

- ◇ You can customize detailing of all payments, regardless of filing source, along with related information (such as effective dates);
- ◇ You can view a taxpayer’s payment history -- regardless of the payment type and payment source. (Viewing a taxpayer’s payment history helps preparers ensure that the taxpayer’s returns are correctly completed with respect to such areas as estimated payments, extension payments, and carryforwards, for example.); and
- ◇ You can export data.

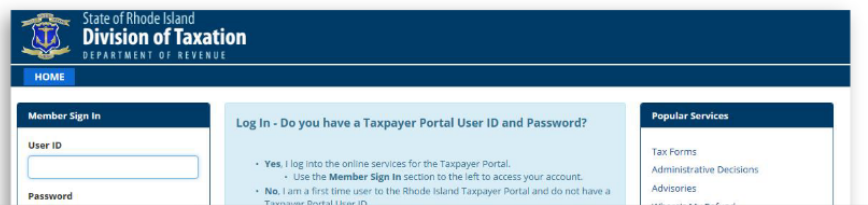
Get started

If you’re not already using the Division’s taxpayer portal, get started at <https://taxportal.ri.gov> to create a username and password, right from the homepage. The Division will mail you a PIN.

Getting Around

Portal Home Page

1. The home tab is the public site for the portal and will contain general information that does not require you to log in. Frequently asked questions are available on the left side of the page. Users can also select an item from the “Popular Services” box on the right side of the page. The news section in the center of the page will provide news or informational updates. A non-registered user who wants to create an account can create an account using the “New User” portlet on the left side of the page.
2. Registered business portal users can log in to their account in the “Member Sign” portlet on the left side of the page.



User Guide: To learn more about the Rhode Island Division of Taxation’s taxpayer portal, view the “User Guide” (see screenshot above) through this link: <https://go.usa.gov/xsDd5>.

Once you receive a PIN from the Division, you’ll be able to log in using the username and password you originally created. (Note: As a security precaution, the taxpayer will have to authorize you before you, the preparer, can be granted access to the taxpayer’s online account.)

More information

For more information about the Division’s taxpayer portal, see the handy links in the box on this page. If you still have questions, call the Division at (401) 574-8484, or email:

taxportal@tax.ri.gov.

Taxpayer portal: handy links

- ◆ Direct link to portal: <https://taxportal.ri.gov>
- ◆ First-time users: <https://go.usa.gov/xsDd9>
- ◆ Portal user guide: <https://go.usa.gov/xsDd5>
- ◆ Link tax entity to your portal account: <https://go.usa.gov/xsDdR>
- ◆ View approved certificates of good standing for liquor license renewals: <https://go.usa.gov/xsDdQ>

TAX YEAR 2021: ESTATE TAX THRESHOLD INCREASE

The Rhode Island estate tax credit amount and the estate tax threshold has increased for the estates of decedents dying on or after January 1, 2021.

The Rhode Island estate tax credit amount is now \$70,490 for decedents dying on or after January 1, 2021, up from last year’s credit amount of \$69,515 (which applied for decedents dying in calendar year 2020).

As a result, the Rhode Island estate tax threshold will be \$1,595,156 for decedents dying on or after January 1, 2021, up from last year’s threshold of \$1,579,922.

Thus, in general, for a decedent dying in 2021, a net taxable estate valued at \$1,595,156 or less will not be subject to Rhode Island’s estate tax.

(In certain circumstances, the Rhode Island estate tax will not apply regardless of the estate’s size: Rhode Island General Laws Chapters 44-22 and 44-23 provide full details on the computation of the tax, including such factors as the marital and charitable deductions, and a related matters.)

For estate tax forms, use the following link:

<http://www.tax.ri.gov/taxforms/estate.php>



Forum: On November 18, 2020, Rhode Island Tax Administrator Neena Savage (above, top left) was a featured speaker at the New England State and Local Tax Forum. The annual event provides an update on significant state and local tax developments from across the nation, with a particular focus on New England. This year, the event was held via webinar due to the coronavirus (COVID-19) pandemic. The screenshot above shows Savage taking part in the forum’s popular New England “State of the States” session, during which leading tax officials from each of the New England states provide an update, moderated by Joe Huddleston, former Executive Director of the Multistate Tax Commission.

Estate tax threshold amount	
For decedent whose death occurs in:	Estate tax threshold amount is:
2021	\$1,595,156
2020	1,579,922
2019	1,561,719
2018	1,537,656
2017	1,515,156
2016	1,500,000
2015	1,500,000
2014	921,655
2013	910,725
2012	892,865
2011	859,350
2010	850,000
2009	675,000

Estate tax credit	
For decedent whose death occurs in:	Estate tax credit amount is:
2021	\$70,490
2020	69,515
2019	68,350
2018	66,810
2017	65,370
2016	64,400
2015	64,400

TAX YEAR 2021: EMPLOYER WITHHOLDING TAX

The Rhode Island Division of Taxation reminds employers about changes involving employer withholding tax which took effect January 1, 2020.

Rhode Island reduced the number of filing frequencies for certain taxpayers, and mandated electronic filings for certain taxpayers.

The changes, which also apply for 2021 and later calendar years, are intended to more closely align Rhode Island's withholding regime with that of the Internal Revenue Service and some states, thus simplifying the process for employers, payroll service providers, bookkeepers, and others.

Frequency

To simplify the requirements concerning large withholding taxpayers, effective January 2020, the "weekly" payment frequency for submitting withheld tax to the Division of Taxation has replaced the old "quarter-monthly" and "daily" frequencies.

Under the "weekly" filing frequency, withheld tax for all payroll occurring in a given week is now due on the business day following the end of the week. In other words, the withheld tax must be remitted on the Monday (or Tuesday, if the Monday is a recognized holiday) of the following week. (See table nearby, which shows certain holidays in 2021. When those

Certain holidays in 2021

(For employers on the weekly payment frequency schedule for withholding purposes, payments are normally due on following Monday. If payment date falls on a federal or Rhode Island holiday, due date moves to next business day, as shown below.)

HOLIDAY	DUE DATE
Monday, January 18 <i>(Dr. Martin Luther King, Jr. Day)</i>	01/19/2021
Monday, February 15 <i>(Washington's Birthday)</i>	02/16/2021
Monday, May 31 <i>(Memorial Day)</i>	06/01/2021
Sunday, July 4 <i>(Independence Day, celebrated by State on Monday, July 5)</i>	07/06/2021
Monday, August 9 <i>(Victory Day)</i>	08/10/2021
Monday, September 6 <i>(Labor Day)</i>	09/07/2021
Monday, October 11 <i>(Columbus Day)</i>	10/12/2021
Saturday, December 25 <i>(Christmas Day, celebrated by State on Monday, December 27)</i>	12/28/2021

To view full schedule for all payment frequencies: <http://www.tax.ri.gov/forms/2020/DRAFTS/Withholding/VH%20Payment%20Calendar%202021.pdf>

Monday holidays occur, withholding is due the following day.)

There is no change in the remittance schedule for those that remit monthly and those that remit quarterly.

Paying electronically

Beginning in January 2020, every employer that's re-

quired to deduct and withhold Rhode Island personal income tax – and that had an average tax amount of \$200 or more per month for the previous calendar year – must file a return and remit the payments by electronic funds transfer (or by other electronic means as defined by the Division of Taxation).

To pay via the Division's portal, click <https://taxportal.ri.gov>

Starting in 2020, the withholding tax return that employers file with the Division is Form RI-941 ("Employer's Quarterly Tax Return and Reconciliation"). All employers – regardless of how often they must remit withholding – must submit Form RI-941 once a quarter. Form RI-941 is due on the last day of the month following each quarter.

To view employer withholding forms, instructions, booklets, calendars, and other information:

<http://www.tax.ri.gov/taxforms/withholding.php>

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TAX YEAR 2021: TEMPORARY DISABILITY INSURANCE (TDI)

The taxable wage base for Rhode Island’s temporary disability insurance (TDI) tax is \$74,000 for calendar year 2021, compared with \$72,300 for 2020, an increase of \$1,700, or 2.35%

The “taxable wage base” is the amount of an employee’s wages to which the TDI tax is applied.

For 2021, the TDI tax rate is 1.3%, the same as it was for 2020.

Thus, the maximum TDI tax will be \$962.00 for 2021, up from \$939.90 for 2020, an increase of \$22.10, or 2.35%.

(Whether the amount of TDI tax goes up or down -- or stays the same -- for any particular individual will generally depend on how much the individual earns.)

In general, TDI tax is paid by private-sector workers

Year	Tax rate	Wage base	Max. tax
2021	1.3%	\$74,000	\$962.00
2020	1.3%	\$72,300	\$939.90
2019	1.1%	\$71,000	\$781.00
2018	1.1%	\$69,300	\$762.30
2017	1.2%	\$68,100	\$817.20
2016	1.2%	\$66,300	\$795.60
2015	1.2%	\$64,200	\$770.40
2014	1.2%	\$62,700	\$752.40
2013	1.2%	\$61,400	\$736.80
2012	1.2%	\$60,000	\$720.00
2011	1.3%	\$58,400	\$759.20
2010	1.2%	\$57,900	\$694.80
2009	1.5%	\$56,000	\$840.00
2008	1.3%	\$54,400	\$707.20

who work in Rhode Island. The TDI program is administered by the Rhode Island Department of Labor and Training; the tax is collected

by the Rhode Island Division of Taxation.

TDI taxes paid by workers are deposited in a trust fund, from which TDI benefits are

paid. The TDI program generally pays benefits for unemployment caused by injury or illness unrelated to work.

A related program, also funded through TDI, is temporary caregivers insurance (TCI).

In general, TCI can provide eligible claimants with up to four weeks of caregiver benefits to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent, or to bond with a newborn child, newly adopted child, or new foster-care child.

To learn more about the TDI program, see the [DLT website](#).

Employers can learn more about employer taxes at the [Division of Taxation website](#).

EXTENSION FOR TAX CREDIT PROGRAMS

As a result of Rhode Island legislation enacted in December 2020, several Rhode Island tax credit, incentive, and related programs have been extended by six months.

Under former law, the sunset was December 31, 2020. Under the new law, it is June 30, 2021. The programs whose sunsets have been extended to June 30, 2021, include the following:

- ♦ The “Rhode Island Qualified Jobs Incentive Act of 2015” program, under Rhode Island General Laws Chapter 44-48.3.
- ♦ The “Rebuild Rhode Island Tax Credit” program, under Rhode Island General Laws Chapter 42-64.20.
- ♦ The “Rhode Island Tax Increment Financing” program, under Rhode Island General Laws Chapter 42-64.21.

- ♦ The “Stay Invested in RI Wavemaker Fellowship” program, under Rhode Island General Laws Chapter 42-64.26.

For more details: <https://go.usa.gov/xAUHg>

More information about the programs is available on the Rhode Island Commerce Corporation website:

<https://commerceri.com/>

Reminder



First-quarter estimated payments of Rhode Island personal income tax — for the 2021 tax year — are due on or before April 15, 2021.

TAX YEAR 2021: UNEMPLOYMENT INSURANCE TAX

The taxable wage base for Rhode Island’s state unemployment insurance tax (UI) will be \$24,600 for calendar year 2021 for most employers, compared with \$24,000 in 2020, an increase of \$600, or approximately 2.5%.

(“Taxable wage base” generally means the amount of an employee’s wages to which the tax rate applies.)

Tax rate schedule

The tax rate schedule employers will use in their calculations will change, ushering in a somewhat higher range of tax rates: In 2020, employers used Schedule F. In 2021, employers will use Schedule H.

Thus, the experience rating schedules, which ranged from 0.69% to 9.19% in 2020 under schedule F, will be increased to 0.99% to 9.59% in 2021 under schedule H.

(Note: These rate ranges are for the employment security tax (ES) only and do not in-

Rhode Island unemployment insurance (UI) tax at a glance		
	2020	2021
Taxable wage base	\$24,000	\$24,600
Tax rate schedule	F	H
Tax rate range*	0.69% to 9.19%	0.99% to 9.59%

* Tax rate ranges do not include the 0.21% assessment for the Job Development Fund, which is the same for 2021 as it was for 2020.

clude the additional Job Development Fund (JDF) assessment of 0.21%.)

The schedule change has been made in response to a reduction in the State’s unemployment insurance trust fund.

The trust fund balance declined in response to an increase in claims for unemployment benefits amid the global coronavirus (COVID-19) pandemic.

Separate wage base

A separate, higher taxable wage base applies for employers who have experienced considerable unemployment – and who therefore have used the UI sys-

tem’s resources the most and are taxed at the highest state UI tax rate of 9.59%. For those employers, the taxable wage base will be \$26,100 for 2021, up from \$25,500 for 2020, an increase of \$600, or 2.35%. In general, the higher wage base is intended to help offset the large impact that these employers have on the State’s unemployment insurance trust fund.

The job development assessment will remain at 0.21% for 2021.

MORE INFORMATION

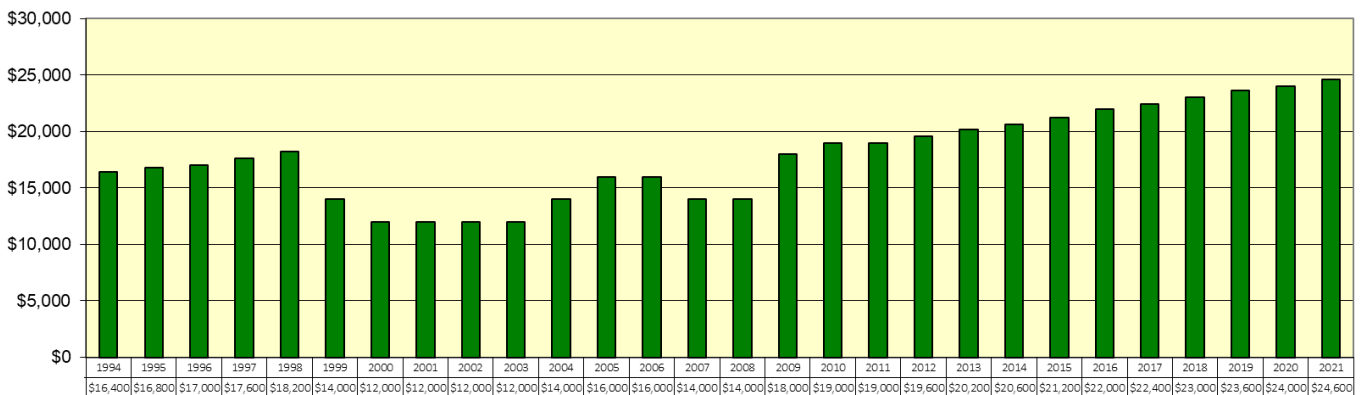
For more about the Rhode Island unemployment insurance tax, the job development assessment, and the temporary disability insurance (TDI) tax:

<http://www.uitax.ri.gov/>

For more information about Rhode Island unemployment benefits, and benefits under the Rhode Island TDI and TCI programs:

<https://dlt.ri.gov/>

Rhode Island unemployment insurance - taxable wage base



TAX YEAR 2021: INTEREST RATES SET FOR THE YEAR

Interest Rates

Personal Income Tax Assessments

From	To	Rate
10/01/06	Present	18.00%
01/01/94	09/30/06	12.00%
01/01/93	12/31/93	8.00%
01/01/92	12/31/92	10.00%
01/01/91	12/31/91	12.00%
01/01/90	12/31/90	12.50%
01/01/89	12/31/89	12.00%
01/01/88	12/31/88	10.75%
01/01/87	12/31/87	9.50%
01/01/86	12/31/86	11.50%
01/01/85	12/31/85	14.75%
03/16/82	12/31/84	20.00%
06/01/81	03/15/82	12.00%
05/16/74	05/31/81	8.00%
01/01/71	05/15/74	6.00%

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2021 to overpayments and delinquencies.

Interest on underpayments

The interest rate on delinquent tax payments has been set at 18 percent per annum for calendar year 2021, the same as it was for 2020. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.

Interest on overpayments

The interest rate on overpayments (refunds) for calendar year 2021 has been set at 3.25%, down from 5.00% for 2020. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.1.

Prior years

Taxpayers and tax professionals sometimes need to compute interest on underpayments or overpayments for prior years. The table at right shows interest paid on overpayments since 1971, when the personal income tax was enacted. The table at left shows interest rates charged on underpayments since 1971.

Interest Rates

Personal Income Tax Refunds

From	To	Rate
01/01/21	12/31/21	3.25%
01/01/20	12/31/20	5.00%
01/01/19	12/31/19	5.25%
01/01/18	12/31/18	4.25%
01/01/17	12/31/17	3.50%
01/01/10	12/31/16	3.25%
01/01/09	12/31/09	5.00%
01/01/08	12/31/08	7.75%
01/01/07	12/31/07	8.25%
10/01/06	12/31/06	6.75%
01/01/94	09/30/06	12.00%
01/01/93	12/31/93	8.00%
01/01/92	12/31/92	10.00%
01/01/91	12/31/91	12.00%
01/01/90	12/31/90	12.50%
01/01/89	12/31/89	12.00%
01/01/88	12/31/88	10.75%
01/01/87	12/31/87	9.50%
01/01/86	12/31/86	11.50%
01/01/85	12/31/85	14.75%
05/16/82	12/31/84	14.00%
01/01/71	05/12/82	6.00%

RHODE ISLAND TAX NEWS IN BRIEF

Inflation adjustments

The Rhode Island Division of Taxation has posted inflation-adjusted numbers for the personal income tax for tax years beginning on or after January 1, 2021.

Included are the adjusted amounts for the standard deduction, personal exemption, and other areas. To learn more:

<https://go.usa.gov/xA3Hg>

Withholding

The Division has also posted the new version of Form RI W-4, "Employee's Withholding Allowance Certificate" (which an employee may use to adjust the amount of Rhode Island personal income tax withheld from the employee's paycheck).

To view or download:

<http://www.tax.ri.gov/forms/2021/Withholding/RI%20W-4%202021.pdf>



Social media

Want to keep up with the latest developments from the Rhode Island Division of Taxation? Look to social media. To see what the Division has been posting on

Twitter: <https://twitter.com/>

To see the Division's blog (and to sign up for the blog): <http://rhodeislandtax.blogspot.com/>

REMINDER ABOUT LETTERS OF GOOD STANDING

The Rhode Island Division of Taxation reminds taxpayers, tax professionals, and others about certain statutory changes regarding letters of good standing.

Legislation enacted by the General Assembly in 2017 involved a number of changes involving letters of good standing. The changes have taken effect over time, but are posted on this page as a helpful reminder.

For example, under Rhode Island General Laws section § 7-1.2-1003 (“Articles of merger”), effective July 1, 2020, a

corporation is no longer required to obtain a letter of good standing from the Division of Taxation when articles of merger are involved.

Also, under Rhode Island General Laws § 7-16-5.2, a letter of good standing is no longer required when a limited liability company (LLC) converts to another entity.

The changes are summarized in the table below and the Division will update its letter-of-good-standing application accordingly.

Note: The plain-language summary in the table is for general information purposes only. It is not a substitute for Rhode Island General Laws, or for Rhode Island Division of Taxation regulations, rulings, or notices.

Also, despite the changes enacted in 2017, letters of good standing are still needed in some contexts.

For example, while the table below shows that a letter of good standing is not needed in certain circumstances related to an entity’s dissolution, a letter of good

standing is still required when an entity liquidates. Furthermore, entities that are no longer required to file an application for a letter of good standing still must be in compliance regarding filings and tax payments. You may email the Division’s Collections unit at tax.collections@tax.ri.gov to verify compliance.

For more information about the changes in the law, see the article that begins on page 7 of the Division’s first-quarter 2018 newsletter: <https://go.usa.gov/x7k6S>

CERTAIN CHANGES INVOLVING LETTERS OF GOOD STANDING AND CORPORATIONS, LLCs

TOPIC (INCLUDES RHODE ISLAND GENERAL LAWS CITATION, ENTITIES AFFECTED, AND SUMMARY OF CHANGE)	EFFECTIVE DATE:
<p>§ 7-1.2-1003. Articles of merger. (Corporations)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement 	July 1, 2020
<p>§ 7-1.2-1008. Conversion of a domestic corporation to other entities. (Corporations)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement. 	July 1, 2020
<p>§ 7-1.2-1301. Voluntary dissolution by incorporators. (Corporations)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement. 	July 1, 2020
<p>§ 7-1.2-1309. Filing of articles of dissolution. (Corporations)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement. 	July 1, 2020
<p>§ 7-1.2-1413. Filing of application for withdrawal. (Foreign Corporations)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement. 	July 1, 2020
<p>§ 7-16-5.2. Approval of conversion of a limited-liability company. (LLCs)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement. 	July 1, 2020
<p>§ 7-16-8. Filing. (LLCs)</p> <ul style="list-style-type: none"> □ Amended to eliminate letter-of-good-standing requirement 1.) for filing any article of dissolution, cancellation of registration, or article of merger, and 2.) filing a certificate of conversion to a non-Rhode Island entity. Retains letter-of-good standing requirement for reinstatement of LLC’s certificate of organization or registration. 	July 1, 2020

Source: Rhode Island General Laws; Rhode Island General Assembly 2017 session.

Legal Corner

RECENT STATE TAX CASES IN SUMMARY

Following is a summary of tax-related cases in which final decisions were made after administrative hearings. By law, decisions are public information, but taxpayer information cannot be disclosed.

LLC

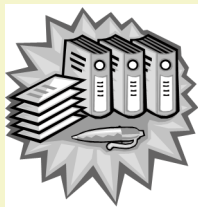
At issue is whether the taxpayer -- a limited liability company (LLC) -- owes the annual charge (equivalent to the annual corporate minimum tax) for the calendar years 2008 through 2015.

The taxpayer was organized in May 2008 and filed annual reports for the years 2009 to 2015. Its articles of organization were revoked by the Department of State (Secretary of State) in 2017.

The taxpayer did not file annual returns with the Division, and did not pay the annual charge to the Division, for the years 2008 through 2015, so the Division sent the taxpayer a notice of deficiency -- for the annual charge and for late-payment penalties. The taxpayer requested a hearing.

A hearing was held. The taxpayer did not appear at the hearing. The Division, represented by its lawyer, rested on the record.

Under Rhode Island General Laws § 7-16-67(c)(2) ("Filing of returns with the tax administrator – Annual charge"), an LLC that is not treated as a corporation for federal in-



Rhode Island Tax News provides only summaries of some recent tax-case decisions, which are based on specific facts and circumstances.

The summaries are merely informative and provide general information. To determine how state tax laws and regulations apply to your particular circumstances, please consult your tax professional.

come tax purposes must pay a fee in an amount equal to the annual corporate minimum tax under Rhode Island General Laws § 44-11-2(e).

(Although the amount of the annual charge has changed over the years, it was \$500 per year for 2008 through 2015.)

Hearing Officer Catherine R. Warren determined that, under the law, the taxpayer owes the annual charge plus a \$100 penalty for each of the years in question

On October 8, 2020, she recommended a finding that the taxpayer owes the tax and penalty assessed by the Divi-

sion. On December 12, 2020, Tax Administrator Neena S. Savage adopted the hearing officer's decision and recommendation.

[- Final Decision and Order No. 2020-08](#)

Refund

The issue in this case is whether the taxpayers' refund claim for 2015 should have been denied by the Division.

The taxpayers, a married couple, made estimated payments of Rhode Island personal income tax during 2015. After calculating those estimated payments, as well as withholding, and comparing the total to the couple's tax liability for the 2015, the Division determined that the couple had overpaid their 2015 tax.

However, the couple did not file their 2015 return until December 19, 2019, when they claimed a refund for overpayment of tax.

Because the return was filed more than two years after the April 2016 due date, the Division denied the couple's request for refund.

The couple appealed and a hearing was held in December 2020, with the parties resting on the record.

(Please turn to next page)



Tax hearings

Any taxpayer aggrieved by the action of the Tax Division in determining the amount of tax, surcharge, or penalty, may make written request for a formal hearing.

The taxpayer is first afforded an opportunity to have a preliminary review. Should the matter not be resolved, it may then proceed to formal hearing under the terms of the state Administrative Procedures Act (RIGL § 42-35-1 et seq) and Tax Division regulation 280-RICR-20-00-2.

If not satisfied with the outcome, the taxpayer may appeal to Sixth Division District Court (RIGL § 8-8-24 et seq).

Legal Corner

RECENT STATE TAX CASES IN SUMMARY (CONTINUED FROM PRIOR PAGE)

The agency cited the refund provisions set forth under Rhode Island General Laws § 44-30-87.

The statute provides two different time periods within which a refund is allowed.

In essence, a refund claim must be filed within three years from the time the return was filed or two years from the time the tax was paid, whichever of these periods expires the later. (Please see table on this page.)

◇ Two-year rule: If the claim for refund is made within the two-year period, the amount of refund cannot exceed the portion of tax paid during the two years preceding the filing of the claim.

◇ Three-year rule: If the refund claim is made within the three-year period, the amount of the credit cannot exceed the amount of tax paid within that three-year period.

(Note: Rhode Island laws regarding refunds are not the same as federal laws when it comes to refunds.)

In this case, the taxpayer’s 2015 tax was deemed paid in mid-April 2016. The taxpayer’s request failed the two-year test because they filed their 2015 return in December 2019 -- which is beyond the two-year period from the

date the tax was deemed paid that is allowed for requesting a refund.

What about the three-year test? The taxpayers did file their refund request within three years of filing their return.

However, regarding the three-year rule, the statute also says that the amount of the refund

(credit) cannot exceed the amount of tax paid within that three-year period. In this case, the taxpayer had not paid any tax (related to the 2015 tax year) from December 2019 to the present. Therefore, the taxpayers also did not pass the three-year test.

(Note: It was asserted at the hearing that the taxpayers had an accountant prepare their 2015 return in August 2016, and that the couple signed the return and mailed it to the

Division that same month. However, the taxpayers did not have any documentary proof that their 2015 return had been received by the Division in 2016.)

At the hearing, the taxpayers felt that the Division’s denial of their refund claim was unfair, because they have always paid their taxes, and asserted that they mailed their 2015 return on time.

(Please turn to next page)



Statute of limitations for Rhode Island personal income tax refunds [Rhode Island General Laws § 44-30-87]

A claim for credit or refund of an overpayment of tax must be filed within three years from the time the return was filed or two years from the time the tax was paid, whichever of the periods expires the later.

Three-year rule	If the claim is filed within the three-year period, the amount of the credit or refund cannot exceed the amount of the tax paid within the three-year period.
Two-year rule	If the claim is not filed within the three-year period, but is filed within the two-year period, the amount of the credit or refund cannot exceed the amount of the tax paid during the two years immediately preceding the filing of the claim.

Note: Any income tax withheld from the taxpayer during any calendar year, and any amount paid as estimated income tax for a taxable year, is deemed to have been paid on the fifteenth day of the fourth month following the close of the taxable year for which the payments were being made.

Example of how the rules apply

Maria’s 2012 return was due on April 15, 2013. She actually filed the return on July 1, 2015. As a result, July 1, 2015, becomes the starting date for the three-year rule. The three-year period thus runs from July 1, 2015, to July 1, 2018. Were there any Rhode Island income tax payments attributable to 2012 during this three-year period? No.

When Maria worked in 2012, Rhode Island personal income tax was withheld from her wages each week for 52 weeks. By statute, the wage withholding was deemed paid on April 15, 2013. Maria then had two years from the April 15, 2013, payment date to file a 2012 return. Was the return filed within the two-year period? No. Maria does not pass either the three-year rule or the two-year rule. Her refund claim is therefore denied.

PRAISE FOR SIU IN CASE ENTAILING CONTRABAND CIGARETTES

Rhode Island Tax Administrator Neena Savage has praised the work of the Rhode Island Division of Taxation and others in shutting down an illegal scheme to import contraband cigarettes from China in an attempt to evade State excise and sales taxes.

The Division of Taxation, the Rhode Island Attorney General's Office, the Rhode Island State Police, and the United States Postal Service worked together in the case, which led to the conviction of a Cranston man, who was ordered to pay more than \$13,000 to the State for selling contraband cigarettes.

"This is a prime example of teamwork -- of government agencies working together and going the extra mile to ensure that the law is upheld and that everybody plays by the rules," she said.

"The Division of Taxation's Special Investigation Unit (SIU) played a key role investigating this criminal enterprise. Law enforcement was able to rely on the expertise that the SIU has developed in

these matters. I applaud the determined effort and collaboration of SIU and of all our law enforcement partners," Savage said.

Details of case

Rhode Island Attorney General Peter F. Neronha in November announced that Xi Chen, 36, pleaded *nolo contendere* in Providence County Superior Court to one count of importing cigarettes with intent to evade tax.

At a hearing on November 17, 2020, before Superior Court Associate Justice Luis M. Matos, Chen was given a three-year suspended sentence with probation and ordered to pay \$13,186 in restitution to the State.

Had the case proceeded to trial, the State was prepared to prove beyond a reasonable doubt that in September 2019, Chen attempted to receive illegal shipments of contraband cigarettes totaling 273 cartons, or 54,600 cigarettes, at a private mailbox store in Cranston.

On September 19, 2019, an inspector from the United States Postal Inspection Service alerted the Rhode Island State Police to 39 suspicious packages originating from China that were being held at a private mailbox store in Cranston. Chen had attempted to retrieve the packages, labeled as towels, but was turned away because he was not an authorized recipient. The Rhode Island State Police subsequently seized the packages and discovered 273 cartons of cigarettes of various brands.

In 2018, Chen was assessed \$19,805 by the Rhode Island Division of Taxation after executing a similar scheme where he imported 562 cartons of cigarettes from China and attempted to avoid paying State excise and sales taxes. As a result, Chen signed a statement of voluntary discontinuance, acknowledging he would no longer receive overseas shipments of cigarettes.

Trooper Kyle Denniston of the Rhode Island State Police, United States Postal

Inspector Michael Maccarone, and SIU Investigators Gerald Driscoll and Daniel Salzillo coordinated the investigation. Assistant Attorney General Peter Roklan prosecuted the case on behalf of the Office of the Attorney General.

The SIU is a dedicated tax unit within the Division of Taxation. Members of its staff have extensive experience in law enforcement. "The SIU is an impressive asset for the State of Rhode Island to have," Savage said.

The SIU continues to tackle investigations of this nature to send a message to dishonest business owners that siphoning taxpayer dollars for personal gain will have consequences. "It's very important to have a level playing field for all taxpayers so that honest businesses can thrive," Savage said.



Tax tip line

If you have information about wrongdoing involving Rhode Island state taxes, call the tax fraud tip line at (401) 574-TIPS or (401) 574-8477 and leave a message. The line is staffed by the Rhode Island Division of Taxation's Special Investigation Unit, which follows up on all tips. Callers can leave their names and contact information or remain anonymous. To use the online fraud-reporting form:

<https://rigov.wufoo.com/forms/report-rhode-island-tax-fraud/>

Legal Corner

RECENT STATE TAX CASES IN SUMMARY (CONTINUED FROM PRIOR PAGE)

However, questions of fairness ("equity") are not applicable to administrative proceedings; such proceedings must stick to the law as written.

On December 29, 2020, the hearing officer determined that the taxpayers were not entitled to the claimed refund and that the Division properly denied the claim.

On December 29, 2020, the tax administrator adopted the hearing officer's decision and recommendation.

[- Final Decision and Order No. 2020-09](#)

Practitioners' Corner**QUESTIONS AND ANSWERS ABOUT STATE TAXES**

Q: Is a Rhode Island non-profit required to file an annual report with the Rhode Island Division of Taxation?

A nonprofit is not generally required to file an annual report with us. In general, a nonprofit would only need to file with us (Form RI-1120C) if the nonprofit had unrelated business income which resulted in a federal taxable income amount.

For information about a nonprofit's annual report filing requirement with the Rhode Island Secretary of State:

http://business.sos.ri.gov/loginsystem/login_form.asp

You may also find the following links to be helpful:

<https://dbr.ri.gov/divisions/charitable/>

and

<http://www.riag.ri.gov/CivilDivision/CharitableTrustUnit.php>

Q: The Internal Revenue Service recently issued guidance with respect to States with elective entity

-level taxes on pass-through entities. For those who made payments in December 2020 related to the Rhode Island elective entity-level tax on pass-through entities, will there be a penalty?

As a result of the guidance from the IRS (Notice 2020-75) late last year, and the impact of that guidance on Rhode Island taxpayers as it relates to the pass-through entity election, we will not -- pursue-

ant to Rhode Island General Laws § 44-1-10 and Regulation 280-RICR-20-55-1 -- assess underestimated payment interest for those entities that make the pass-through entity election for the first time in the 2020 tax year and have not made estimated payments throughout the 2020 tax year.

Please note: If a taxpayer made the election in 2019 and 2020 and failed to make sufficient estimated payments in 2020, then that taxpayer would be subject to the underestimated payment interest, as the late guidance

from the IRS did not impact that taxpayer.

Q: Can the Rhode Island Form 1041 be filed electronically?

We accept electronically filed Form RI-1041 ("Fiduciary Income Tax Return").

However, preparers should check with their software provider to determine whether their software allows for it.

Q: After a long and fruitful life of doing business in Rhode Island, I'm planning to retire. I may sell my business or simply close it down. Is there a form I should file with the Division of Taxation?

Yes. File Form RI-2625 ("Account Cancellation Form"). Here's the link:

<https://go.usa.gov/xAdpa>

The instructions and mailing address are on the form. Keep in mind that the filing of the form is subject to review by us and does not eliminate the requirement of filing all tax returns up to the effective date of the cancellation notice and paying all liabilities, including interest and penalty.

Additional requirements may apply in order to cancel some account types.

(Please turn to next page)

About 'Practitioners' Corner'

The "Practitioners' Corner" feature provides general answers to some of the questions that the Tax Division encounters through the normal course of business.

The answers are intended solely to provide general information. They do not represent formal guidance, and are not substitutes for Rhode Island General Laws, Tax Division regulations, or Tax Division rulings.

Form RI-1040H

Q: Are federal stimulus payments considered income when calculating the statewide property-tax relief credit on Form RI-1040H?

The federal stimulus payments (also known as economic impact payments, COVID-19 payments, or recovery rebates) are not considered income for purposes of calculating the property tax relief credit, and therefore should not be included on Form RI-1040H. In other words, the federal stimulus payments received in the 2020 calendar year are not treated as a person's household income for purposes of the property-tax relief credit and should not be entered anywhere on that person's Form RI-1040H.



Practitioners' Corner**QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PREVIOUS PAGE)

Also, the IRS has a webpage with information on the federal steps involved in closing a business:

<https://go.usa.gov/xAdpr>

Q: The Division asked my client for additional information last year, either a copy of his Form W-2 or his Form 1099. Why is that?

First, when someone files a return, we always reserve the right to request additional information. Sometimes it's to substantiate what the taxpayer has reported on his or her return. At other times, we may need it to help resolve a discrepancy between what was reported to us by the taxpayer and what was reported to us by the employer. Note: If filing a return on paper, always remember to attach all Forms W-2 and 1099s that show Rhode Island withholding.

Q: Sometimes there is a difference between what my client tells me she paid in for the tax year through estimated taxes and what she actually paid. This generates a Notice to the client. What can be done to avoid that?

Individuals, businesses, tax professionals, and others may use the Division of Taxation's taxpayer portal to make online payments. It's easy, convenient, and quick. There is no charge for this service. Just go to the portal, log in, and make your payment: <https://taxportal.ri.gov>

(If you are a first-time user, register first. Click on the "Create a New User" link on the portal homepage to create a new user account.) Payments for individual and business taxes can be made via the portal. Also, if a tax professional follows the required

steps, the tax professional can use the portal to view all of the taxpayers that the tax professional is authorized to view -- including payment and other details. See:

<https://go.usa.gov/xAdpK>

Q: Is there an extension for form RI-PTE ("Pass-through Entity Election Tax Return")?

Yes, please use the BUS-EXT form ("Business Tax Automatic Extension Request"), checking the box for the RI PTE. Here's a link to forms and instructions involving the pass-through entity election, including the extension:

http://www.tax.ri.gov/taxforms/pte_election.php

Q: Regarding the new health insurance mandate: Does Form RI-1040 have a spot to indicate whether a dependent can be claimed on someone else's return?

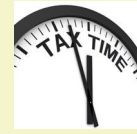
Simply check the box for having full coverage, even if covered under someone else's plan. The dependent would also be listed on our Form IND-HEALTH ("Individual Health Insurance Mandate Form"), or included as having full coverage on the return filed by the person(s) claiming the dependent.

Q: If my client's loan under the federal Paycheck Protection Program (PPP) is forgiven, what's the Rhode Island tax treatment?

The General Assembly's 2021 session has just begun. Whether the General Assembly will make any changes to Rhode Island tax law -- on this or any other matter -- is up to the General Assembly.

The Internal Revenue Service has announced that PPP loan forgiveness is not treated as income for federal tax purposes. Thus, under current Rhode Island law, it would not be treated as income for Rhode Island tax purposes.

Also, under current Rhode Island law, expenses paid with PPP loan proceeds

**Newsletter archive**

The Rhode Island Division of Taxation posts newsletters that contain information of interest to taxpayers, tax preparers, and others. An archive of the newsletters is available on the Division's website:

<http://www.tax.ri.gov/newsletter/index.php>

would be deductible for federal tax purposes, so they would be deductible for Rhode Island purposes, too. However, that is based on current law. Each year, the General Assembly decides which laws to keep and which to change, so be sure to keep up with legislative developments each year.

Also note that the federal tax treatment involving PPP loans is a federal matter, not a Rhode Island Division of Taxation matter. The information described here is merely a plain-language summary, so be sure to check federal sources to determine the federal tax treatment of PPP loans. Start with the following links:

<https://go.usa.gov/xAFXd>

and:

<https://go.usa.gov/xAFXS>

REMINDERS FOR LIMITED LIABILITY COMPANIES (LLCs)

Limited liability companies (LLCs) are required under Rhode Island law to file an annual return with the Rhode Island Division of Taxation and pay an annual tax or fee.

Which form to file and which tax/fee to pay depends on the LLC.

If the LLC is treated as a pass-through entity and not as a corporation for federal tax purposes, it must file Form RI-1065 and pay an annual charge.

If the LLC is treated as a corporation for federal tax purposes, it must file Form RI-1120C each year and pay the Rhode Island corporate income tax.

Filing deadlines

In general, the annual tax filing deadline is March 15 for an LLC treated as a pass-through entity, while the deadline is April 15 for an LLC treated as a corporation for federal tax purposes.

A single-member LLC (also known as a SMLLC) uses the same filing deadline as its owner. For example, if the owner is an individual, the SMLLC return and payment are due April 15.

The Rhode Island filing and payment requirements summarized here also apply for any full or partial year in which the business is in existence, including the year in

which the business is formed and the year in which the business dissolves.


For more information, see the applicable form and related instructions by clicking [here](#).

An LLC whose members include one or more nonresidents generally must withhold and remit Rhode Island tax and file RI-1096PT each year reporting the income flowing through and the amount of nonresident Rhode Island tax withheld. (If the entity elects to pay Rhode Island's new entity-level tax, the entity is not required to comply with the provisions of Rhode Island General Laws § 44-11-2.2 regarding withholding on nonresident owners.)

Nonresident individuals and entities are required to file the appropriate Rhode Island tax returns reporting the pass-through income and any pass-through withheld tax. In some instances, Form RI-1040C may be filed.

For forms and information related to pass-through income and pass-through withheld tax, click [here](#) and [here](#). For employer tax information (in case the LLC has employees and has employer tax obligations), click [here](#).

In general, for an LLC treated as a corporation for federal tax purposes, for tax



Rhode Island Department of Revenue
Division of Taxation

NOTICE 2020-03
SEPTEMBER 2, 2020

**Rhode Island tax obligations for LLCs:
What you need to know, in summary**

Limited liability companies (LLCs) are required under Rhode Island law to file an annual return with the Rhode Island Division of Taxation and pay an annual tax or fee. Which form to file, and which tax/fee to pay, depends upon the LLC.

More Information: *The Rhode Island Division of Taxation recently posted a notice describing State tax and filing obligations for limited liability companies (LLCs), including single-member LLCs (SMLLCs). The Division also recently posted a notice describing State tax and filing obligations for all entities, including corporations and partnerships. See:*

<http://www.tax.ri.gov/notice/>

years beginning on or after January 1, 2015, the tax is 7 percent of net income, or the minimum tax, whichever amount is greater. For prior years, corporations paid the Rhode Island corporate income tax or the franchise tax, whichever amount was greater. (For rates and other information, please see the applicable tax form.)

Sale or transfer

Keep in mind that an LLC must notify the Division at least five business days before the sale or transfer of a major part in value of the LLC's assets.

The notification must be made by requesting a letter of good standing from the Division.

All required tax returns must be filed and all Rhode

Island state taxes paid when the Tax Administrator is notified of the sale or transfer.

Annual charge

The annual charge – sometimes called the annual fee, filing fee, or filing charge – is as follows:

- ◆ \$400 for tax years beginning on or after January 1, 2017;
- ◆ \$450 for tax years beginning on or after January 1, 2016, but before January 1, 2017;
- ◆ \$500 for tax years beginning on or after January 1, 2004, but before January 1, 2016; and
- ◆ \$250 for tax years beginning before January 1, 2004.

∞ A MESSAGE FOR TAXPAYERS ∞



HEALTH INSURANCE MANDATE

Special
Notice

*A message for taxpayers from the
Rhode Island Division of Taxation*

Rhode Island's mandate involving health-care coverage was part of the [fiscal year 2020 budget bill](#) enacted on July 5, 2019.

- ◆ The mandate to have sufficient health-care coverage (also known as “minimum essential coverage”) took effect January 1, 2020.
- ◆ If you fail to have sufficient health-care coverage or qualify for an exemption, you will have to pay a penalty on your Rhode Island personal income tax return.
- ◆ Most people have minimum essential coverage (through employer-sponsored health insurance, Medicaid, Medicare, TRICARE, or some other means) and will not have to pay the penalty.
- ◆ Don't have health insurance? Contact Rhode Island's health insurance exchange, HealthSource RI, at 1-855-840-4774, or online: <https://healthsourceri.com/>



As of January 1, 2020, Rhode Island requires its residents to maintain health-care coverage.

The Rhode Island law requires you and your family to have minimum essential health-care coverage throughout 2020 and beyond, unless you qualify for an exemption.

Failure to have health coverage or qualify for an exemption will result in a “shared responsibility payment” (in other words, a penalty) when you file your Rhode Island personal income tax return.

◆ **Need Health Coverage?** If you just learned about Rhode Island's mandate, you may be eligible to sign up for health insurance via a special enrollment period (SEP). Go to www.healthsourceri.com/mandate for more information or call 1-855-840-HSRI. Eligible low-income families can enroll in Medicaid at any time.

◆ **Note:** If you are not required to file a Rhode Island personal income tax return, you will be exempt from the mandate for that year. The new Rhode Island law is similar to the federal health insurance mandate in effect on December 15, 2017, prior to enactment of the federal Tax Cuts and Jobs Act.



Rhode Island Department of Revenue Division of Taxation

NEWSLETTER POLICY

Rhode Island Tax News is a newsletter from the Rhode Island Department of Revenue's Division of Taxation. It is typically published each quarter. Its purpose is to provide taxpayers and tax professionals with general information regarding Rhode Island tax laws, regulations, and rulings, and procedures. It is neither designed nor intended to address complex issues in detail. Nothing contained in this newsletter in any way alters or otherwise changes any provisions of the Rhode Island General Laws, regulations of the Tax Division, or formal rulings. The Tax Division is at One Capitol Hill, Providence, RI 02908. Its website is www.tax.ri.gov.

HOW TO SUBSCRIBE

Rhode Island Tax News is distributed free, by e-mail, to those who have joined our listserv. If you are not on our listserv but would like to join, send an email to Neil.Downing@tax.ri.gov with the word SUBSCRIBE in uppercase in the subject block.

COMMENTS AND SUGGESTIONS

If you have comments or suggestions for *Rhode Island Tax News*, please e-mail its editor, Neil Downing: Neil.Downing@tax.ri.gov

BACK ISSUES

Rhode Island Tax News back issues are on the Tax Division website: www.tax.ri.gov

How to contact us

Taxpayers may contact the Division of Taxation online, by phone, by letter, or in person. (Hours of operation are typically 8:30 a.m. to 3:30 p.m. business days.)

Website

www.tax.ri.gov

(For numbers and e-mail addresses for specific sections, click the "Contact us" link.)

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The Division also thanks Hearing Officer Catherine Warren for her assistance. Notes: Certain images in this newsletter are used under [Creative Commons license](https://creativecommons.org/licenses/by/4.0/). Cover photo of State House was taken by the Division of Taxation in March 2019.