

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PREPARERS

JULY/AUGUST/SEPTEMBER 2014

## MAJOR CHANGES TO CORPORATE TAX

The Rhode Island General Assembly has approved the most sweeping changes to the corporate tax

structure in nearly 70 years. The Assembly in June voted overwhelmingly in favor of far-reaching legislation that

will make Rhode Island's corporate tax rate the lowest in New England.

*(Please turn to page 2)*



**Bill Signing:** The budget bill for fiscal 2015 -- with major changes in the corporate tax -- was signed into law on June 19, 2014, at the State House. At the ceremony were (from left to right): Sen. Daniel Da Ponte, chairman of the Senate Finance Committee; Senate President M. Teresa Paiva Weed; Rep. Marvin L. Abney, House Finance Committee member; Governor Lincoln D. Chafee (seated); House Speaker Nicholas A. Mattiello, and Rep. Raymond E. Gallison Jr., chairman of the House Finance Committee. Photo by Ryan Crowley, Governor's Office

### Inside:

### MORE TAX CHANGES

The General Assembly this session made changes that affect individuals as well as businesses. For example, there are changes to the:

- estate tax;
- property-tax relief credit;
- earned income credit;
- gasoline tax; and
- real estate conveyance tax.

*(Please see page 8 for details.)*

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## NEW COMPUTER SYSTEM GOES LIVE

The Rhode Island Division of Taxation's new agency-wide computer system went "live" in mid-July 2014.

As a result, more than 30 different types of taxes and fees that are administered

by the agency are now being processed by the new system. It is the first time that the new system — known as an integrated tax system — has been used to process tax returns and other forms on

a real-time basis. The new system is being phased in over several years. The July 2014 launch is the first phase, for a limited number of taxes and fees.

*(Please turn to page 7)*

# MAJOR CHANGES TO CORPORATE TAX (CONTINUED FROM PAGE 1)

The measure, which was signed into law by Governor Lincoln D. Chafee on June 19, 2014, also will usher in combined reporting, change the corporate tax apportionment formula, and change a key component that's used to help determine the sales factor in apportionment.

## Significant overhaul

Taken together, the changes represent the most significant overhaul of Rhode Island's corporate tax regime since 1947, when Rhode Island's corporate income tax as currently configured was established.

"These changes will modernize Rhode Island's corporate tax structure and make Rhode Island far more competitive with other states from a tax standpoint," said Tax Administrator David M. Sullivan.

The changes will also make Rhode Island "an even more appealing place to do business – whether you're here already, or planning to relocate here," Sullivan added.

## Implementing changes

The Division of Taxation has already begun taking steps to implement the changes, Sullivan said. "The General Assembly's leadership team and Governor Chafee's team have given us a most helpful roadmap, as well as funding for training, preparation, and staffing. We will work to implement these changes as promptly,

smoothly, and seamlessly as possible." The changes will take effect for tax years beginning on or after January 1, 2015 – in other words, just several months from now. They include the following:

- ◆ A reduction in the 9 percent corporate tax rate, to 7 percent.
- ◆ Implementation of mandatory unitary combined re-

porting -- for C corporations that are part of a combined group and are engaged in a single business enterprise.

- ◆ Institution of single sales factor apportionment for C corporations in place of the standard three-factor apportionment formula.
- ◆ Implementation of market-based sourcing for purposes of calculating the sales

factor, replacing the cost-of-performance system currently in place.

Rhode Island's corporate income tax rate is 9.0 percent for 2014. In 2015, the rate will drop to 7.0 percent. As a result, Rhode Island will have the lowest corporate income tax rate of all six New England states.

"As a whole, this budget focuses on strategies that send a clear and consistent message that the leadership in Rhode Island is doing all that it can to make this state better," Governor Chafee said, referring to the budget bill which carried the tax changes.

House Speaker Nicholas A. Mattiello said, "This is a very responsible budget that focuses on the economy and the jobs development that we need in Rhode Island, and I am confident that it will help move our state in the right direction going forward."

Senate President M. Teresa Paiva Weed said, "This is a budget that reflects our firm commitment to improving our economy, encouraging business growth and jobs development. It reduces the corporate tax, while maintaining the safety net that protects those in need."

*(Some other measures involving business taxation were enacted recently. Please see page 3 for a summary. Each section in the summary is followed by a House and/or Senate bill number.)*

## Corporate income tax rates

<b>Connecticut</b>	<b>9.00%</b>
<b>Maine</b>	<b>8.93%</b>
<b>New Hampshire</b>	<b>8.50%</b>
<b>Vermont</b>	<b>8.50%</b>
<b>Massachusetts</b>	<b>8.00%</b>
<b>Rhode Island</b>	<b>7.00%</b>

Rhode Island has a single rate: 9.00% for 2014, 7.00% for 2015 and later years. Table lists 2015 rate for Rhode Island, 2014 rates for other states. For states with range of rates, table lists only top rate. Some states have different tax treatment for financial institutions or certain other categories of businesses. Annual corporate minimum tax varies by state.

**Connecticut's** tax is the greater of 7.5% of net income, a 0.31% tax on capital stock and surplus (maximum tax of \$1 million), or \$250 (the minimum tax). An additional 20% surtax applies to 2014 and 2015 income years.

**Maine** has four brackets, ranging from 3.5% to 8.93%.

**Massachusetts'** corporate excise is the combination of a property/net worth levy and a net income levy of 8%, or the minimum corporate excise, whichever is greater.

**New Hampshire's** 8.5% business profits tax is imposed on both corporations and unincorporated associations with gross income over \$50,000. In addition, New Hampshire levies a business enterprise tax of 0.75% on the enterprise base (total compensation, interest and dividends paid) for businesses with gross income over \$150,000 or base over \$75,000.

**Vermont** has three brackets, ranging from 6.0% to 8.5%.

Source: Federation of Tax Administrators, February 2014; "Report of the Tax Fairness Commission," Massachusetts, March 1, 2014; Tax Foundation, March 22, 2013.

# CHANGES IN BUSINESS TAXATION (CONTINUED FROM PAGE 2)

## Franchise tax repeal

The franchise tax is repealed effective for tax years beginning on or after January 1, 2015.



Under current law, corporations

pay either the corporate income tax or the franchise tax, whichever is higher. The franchise tax is equal to \$2.50 per \$10,000 of a corporation's authorized capital stock. For corporations that have capital stock listing no par value, the deemed value by statute is \$100 per share. The annual minimum tax is \$500.

- H 7133Aaa

## S corporations

Subchapter S corporations ("S corps") are currently taxed under the franchise tax; most pay the minimum annual franchise tax of \$500. But the franchise tax will no longer be in effect for tax years beginning on or after January 1, 2015.

As a result, subchapter S corporations will be subject to the annual minimum tax under the corporate income tax statute, instead of under the franchise tax statute.

For most S corps, there will be no change: they will continue to pay the annual minimum tax of \$500.

*But some S corps, because of the way they were organized, paid more than the minimum under the franchise tax statute. For tax years beginning on or after January 1, 2015, those S corps will pay the annual minimum tax of \$500 under the corporate tax statute.*

- H 7133Aaa

## Combined reporting

For tax years beginning on or after January 1, 2015, a business which is organized as a C corporation – and which is part of a combined group engaged in a single business enterprise – will have to file a combined report with Rhode Island.



Under former law, for purposes of Rhode Island's corporate income tax, a corporation had to file its return as a single entity – a separate entity – taking into account its own income, no matter if the corporation was part of a broader group of corporations, under common ownership, engaged in a common business enterprise – a "unitary business."

Under mandatory unitary combined reporting for tax years beginning on or after January 1, 2015, and later, a corporation will have to report on its Rhode Island re-

turn not only its own income, but also the combined income of the other corporations, or affiliates, that are under common ownership and part of a unitary business. Thus, a corporation will generally have to treat all of its affiliates as if they were a single company, and combine all of their taxable income in a single pool. A formula will then be used to apportion the amount of the combined income to Rhode Island for tax purposes.

The new law involving combined reporting:

- ◆ requires "water's edge" treatment;
  - ◆ mandates the "Finnigan" method for purposes of computing the sales factor in apportionment;
  - ◆ includes certain tax haven language; and
  - ◆ allows a combined group, if certain conditions are met, to elect to file based on its federal consolidated group. (Such an election cannot be revoked for five years.)
- The new law repeals a provision that requires the add-back of related party interest and intangibles; payments to combined group members will be eliminated through combined reporting.

*Many corporations are accustomed to filing combined reports; they were required to file pro forma combined reports for tax years 2011 and 2012 for*

*purposes of the Division of Taxation study of combined reporting.*

- H 7133Aaa

## Estimated tax

For tax years beginning on or after January 1, 2015, Rhode Island will apply special rules regarding payments of estimated tax for any taxpayer required to file a combined report. To meet "safe harbor"



provisions:

- ◆ The installments must equal 100 percent of the tax due for the prior year plus any additional tax that is due to the combined reporting provisions; or
- ◆ The installments must equal 100 percent of the current year tax liability.

- H 7133Aaa

## Apportionment

In general, for corporate income tax purposes, effective for tax years beginning on or after January 1, 2015, all entities organized as C corporations and subject to tax under the Rhode Island business corporation tax (RIGL Chapter 44-11) must use single sales factor apportionment – whether or not they are part of a combined group.

*(Please turn to page 4)*

# CHANGES IN BUSINESS TAXATION (CONTINUED FROM PAGE 3)

Other business entities – in other words, those not organized as C corporations, including subchapter S corporations, partnerships, and limited liability companies (LLCs) that are taxed as pass-through entities – will continue to use the traditional equal-weighted, three-factor apportionment formula (which includes sales, payroll, and property).

*The new apportionment formula – known as single sales factor apportionment – will apply to all taxpayers organized under subchapter C of the Internal Revenue Code deriving income from sources both within and outside of Rhode Island, or engaging in any activities or transactions both within and outside Rhode Island for the purpose of profit or gain. The Division of Taxation plans to issue regulations to provide guidance.*

- H 7133Aaa

## Sourcing

For corporate income tax purposes, effective for tax years beginning on or after January 1, 2015, Rhode Island will use market-based sourcing instead of cost-of-performance sourcing, but market-based sourcing will apply only to

business entities that are organized as C corporations – and will apply whether or not a C corporation is part of a combined group.

Under current law, in effect for tax year 2014, when a corporation calculates the sales factor for apportionment purposes, it assigns the sale of its services to the state in which the income-producing activity was actually performed – known as the cost-of-performance (COP) method. If the corporation performs activity in



multiple states, the corporation assigns the sale to the state in

which the corporation performed a greater proportion of the activity than in any other state – based on the cost of performance.

However, for tax years beginning on or after January 1, 2015, Rhode Island will use a market-based sourcing approach, which generally says that receipts from transactions (other than sales of tangible personal property) are sourced to the market state – that is, the state where the recipient of the service receives benefit from the service.

- H 7133Aaa

## Employer assessment

The new law makes clear

that the state's 0.51 percent job development assessment will be reduced by 0.21 percentage point for tax years beginning on or after January 1, 2015.

The assessment is a payroll tax paid by employers. In general, the tax applies to the first \$20,600 in wages of each employee.

In 2011, the state's job development assessment increased to 0.51 percent of an employer's taxable payroll, from 0.21 percent.

The difference – of 0.30 percentage point – went to pay the interest on federal loans and to help repay borrowings from the federal government. (Proceeds of the loans had been used to cover benefit payments to the unemployed.)

- H 7133Aaa

## Employer tax rate

For purposes of state unemployment insurance tax, the new law generally will allow a new employer to be taxed



at the new employer rate when taking over an existing business that's in insolvency

proceedings - provided that there is no common ownership, management, or control of the two employers.

The new law will also allow

existing employers to maintain their current tax rate when taking over an existing business that's in insolvency proceedings -- provided that there is no common ownership, management, or control of the two employers. (If the insolvent business has a better UI tax rate, that rate does not transfer to the acquiring business.)



-- H 8206, S 3117

## Jobs Development Act

For tax years beginning on or after January 1, 2015, the amount of the Jobs Development Act rate reduction cannot exceed 4 percentage points. (The cap was 6 percentage points under the old law.) Thus, the eligible corporation's tax rate cannot be less than 3 percent as a result of the Jobs Development Act rate reduction.

In addition, the new law makes clear that the corporate income tax rate reduction available to eligible corporations shall also apply to each eligible corporation that files a Rhode Island income tax return as part of a combined group.

- H 7133Aaa

(Please turn to page 5)

# CHANGES IN BUSINESS TAXATION (CONTINUED FROM PAGE 4)

## Life sciences rate

For tax years beginning on or after January 1, 2015, an eligible life sciences company's tax rate reduction cannot exceed 4 percentage points. Thus, the eligible life sciences company's tax rate cannot be lower than 3 percent as a result of the life sciences rate reduction.

The new law also makes clear that the corporate income tax rate reduction available to eligible life sciences companies shall



also apply to eligible life sciences companies that file Rhode Island income tax returns as part of a combined group.

- H 7133Aaa

## Contraband cigarettes

The new law increases the penalties for violating state laws regarding the illicit sale of cigarettes. For example, anyone who imports cigarettes to Rhode Island with the intent to evade tax may be fined \$100,000 (which is 10 times greater than the amount under the old law) and imprisoned for up to 15 years (which is three times more than the current limit), or both.

-- H 7762A, S 2380A

## Appeals process

For tax years beginning on or after January 1, 2015, the Division of Taxation must establish an independent appeals process to attempt



to resolve disputes between the Tax Administrator and the taxpayer with

respect to the method of apportionment applied regarding the corporate income tax under RIGL Chapter 44-11.

The decision resulting from the independent appeals process shall not prohibit either party from pursuing any legal remedy otherwise available if the issue is not resolved as a result of the appeal process. The decision resulting from the independent appeals process can be used as evidence.

- H 7133Aaa

## Division employees

To assist the Division of Taxation in preparing for, implementing, and enforcing combined reporting and other changes to the corporate tax, the General Assembly has authorized the Division of Taxation to add to its staff the equivalent of seven full-time employees. The budget also provides funding

for related education, training, and other aid for the Division of Taxation.

- H 7133Aaa

## Administrator's report

The new law requires the Tax Administrator to develop a report analyzing the policy and fiscal ramifications of all the changes to the business corporation tax statutes outlined in Article 12 of the fiscal 2015 budget bill – including combined reporting, single sales factor apportionment, and market-based sourcing.

The report is due on or before March 15, 2018, to the chairs of the House Finance Committee and Senate Finance Committee, and to the House Fiscal Advisor and Senate Fiscal Advisor.

- H 7133Aaa

## Motor fuel

The new law eliminates the requirement that motor fuel distributors post a surety



bond -- if the distributor has paid all taxes assessed for a

period of three consecutive years and remains in good standing with the Division of Taxation.

- H 7971A, S 2869aa

## Enterprise zone

The new law confirms the boundaries of the enterprise zone in Portsmouth under the Distressed Areas Economic Revitalization Act. The enterprise zone program is intended to stimulate economic revitalization, promote employment opportunities, and encourage business development and expansion in distressed areas. In general, businesses in enterprise zones may be eligible for certain tax breaks. For example, a business in an enterprise zone that



hires new employees may qualify for a credit against

the corporate income tax.

- H 7210, S 2343

## E-cigarettes

This new law amends the definition of "tobacco products" to include electronic nicotine delivery systems and other such products, and prohibits the sale of such products and systems to persons under 18.

The new law contains a number of other provisions involving oversight.

*(Please turn to page 6)*

# CHANGES IN BUSINESS TAXATION (CONTINUED FROM PAGE 5)

For example, it requires a business that is selling, dealing, or distributing an electronic nicotine delivery



system to obtain a license from the Department of Health. No license

may be granted, maintained, or renewed if the applicant is delinquent in any tax filings for one month or more.

- H 7021Aaa, S 3095Aaa

## Misclassification

Among several provisions in a new law is an increase in the penalty for violating any provision of RIGL Chapter 28-14, which generally deals with the payment of wages -- including the misclassification of workers.

Under the new law, if someone is convicted and imprisoned, the prison term will be capped at one year, up from 90 days under former law.

*(Another new law creates a task force to study employee misclassification and other subjects. Please see page 10.)*

- H 7624, S 2673

## Tax credit - musicals

The new law lowers the number of seats a theater must have in order for a musical or theatrical production



to qualify for a special tax credit.

Under former law, only venues with 1,500 seats or more were eligible. The new law lowers that threshold to 1,000 or more seats. The change will expand the number of facilities eligible to host musical and theatrical productions for purposes of the credit.

- H 8246, S 3130

## Hospital license fee

The chief changes to the hospital license fee are broken up into two years:

◆ For all hospitals except

those located in Washington County, Rhode Island, the hospital licensing fee rate will be 5.418 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2012. (The rate was formerly 5.246 percent.) The license fee for all hospitals located in Washington County, Rhode Island, is discounted by 37 percent. Every hospital must pay the licensing fee to the Division of Taxation on or before July 14, 2014.

◆ For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate will be 5.703 percent of the net patient services revenue based on the hospital's



first fiscal year ending on or after January 1, 2013. The license fee for all hospitals located in Washington County, Rhode Island, is discounted by 37 percent. Every hospital must pay the licensing fee to the Division

of Taxation on or before July 13, 2015.

- H 7133Aaa

## Health services

In general, each insurer will be required to pay a "healthcare services funding contribution" for each insured individual. Starting January 1, 2016, the Rhode Island Secretary of Health and Human Services will set the healthcare services



funding contribution each fiscal year. The Rhode Island Secretary of Health and Human Services may ask the Division of Taxation or any other agency to assist in the collection of delinquencies, with interest, in the same manner and with the same powers as are prescribed for the collection of taxes under RIGL Title 44.

- H 7133Aaa

# EMPLOYER TAX DEADLINE IS JULY 31

July 31 is the deadline for employers to file their second wage and tax report for 2014 and pay the



tax due.

About 32,000 employers have until midnight on July 31, 2014, to file and pay their state unemployment insurance tax (also known as the employment security, or

ES, tax) and job development fund tax, and to file and remit the amount of Rhode Island temporary disability insurance (TDI) tax withheld from employees' wages.

*(The recently enacted budget bill will bring change to the job development fund assessment and to certain rules governing employer tax rates when a business in insolvency is taken over. Please see page 4.)*



## NEW COMPUTER SYSTEM GOES LIVE (CONTINUED FROM PAGE 1)

“We spent many hours of planning, testing, and re-testing over multiple months leading up to the launch” of this phase, said Rhode Island Tax Administrator David M. Sullivan. “With this launch, we are using the system in real time.”

Among the levies and programs now being handled by the new system are the bank excise tax, public service gross earnings tax, and beverage container tax. (For a few months, the Division of Taxation will run its old system in tandem with the new, as a back-up, Sullivan said.)

In general, the more than 30 taxes and fees were formerly handled on spreadsheets or on Microsoft Access databases (mainly because the number of returns was so small).

But now that the new system has gone live, the more than 30 tax types and fees are now being handled by the new system, Sullivan said.

Returns and forms associated with those tax types and fees that are filed on paper, instead of e-filed, are being processed through the

### Key benefits of new computer system

- ◆ The **high-speed scanning and imaging system** will ensure that returns -- and refunds -- are processed more quickly. The **faster processing of returns** -- and of payments -- means that taxpayer accounts will be updated more quickly.
- ◆ Eventually, all information about a taxpayer will be contained in one place. So if a taxpayer or preparer calls, the Division of Taxation employee can easily and quickly pull up the taxpayer's account to **view all of the account activity on one screen** -- such as payments, notices, letters, and other items.
- ◆ There will now be **consistent business rules** across all tax types -- for the application of interest and penalties, and for filing requirements, for example.
- ◆ The single location for taxpayer information should eventually result in **faster processing of requests for letters of good standing**. To fulfill such requests, the Division of Taxation must check its records to determine if the taxpayer is current on taxes. But under the current system, that process can take time; a taxpayer's sales tax account, withholding account, and corporate account are all in different locations.
- ◆ Faster processing of returns will also result in **more timely review** of those returns and their related accounts, which should lower the turnaround time for billing. More timely review and faster and more accurate billing can improve collection on delinquent accounts -- which helps all taxpayers.

agency's new high-speed imaging and scanning machine.

In addition, some forms have been redesigned and some have been consolidated in preparation for the

official launch of the new system.

The July 2014 launch, known as “Release 1,” is focused on tax types and fees used by a limited number of taxpayers.

Returns involving the personal income tax, fiduciary income tax, and property-tax relief claims are scheduled to move to the new system in fall 2015 (in time to process certain returns for tax year 2014 that are on extension).

Returns involving the corporate income tax, franchise tax, sales and use tax, estate tax, and some other levies are to move to the new system in fall 2016. At that point, taxpayers and practitioners will also be able to use a variety of new online tools.

The new system -- known internally as the State Tax Administration and Revenue System (STAARS) -- is the result of legislation in 2012 approved by the General Assembly and signed into law by Governor Lincoln D. Chafee, appropriating \$25 million for the project.

The vendor is Revenue Solutions Inc. (RSI), of Pembroke, Mass., which was the successful bidder. The Division is using RSI's Revenue Premier system.

# TAX CHANGES THAT AFFECT INDIVIDUALS

*Some tax changes affecting individuals were recently approved by the General Assembly and signed into law by Governor Lincoln D. Chafee. Following is a summary of some of the changes. Each section in the summary is followed by a House and/or Senate bill number.*

## Estate tax

Starting next year, fewer estates will be subject to the Rhode Island estate tax, leaving more money avail-

able for heirs and other beneficiaries. It's because the new law will have the effect of raising the Rhode Island estate tax threshold, so more estates will be shielded from the tax.

Under current law, for decedents dying in calendar year 2014, the threshold is \$921,655. Under the new law, for decedents dying on or after January 1, 2015, the Rhode Island estate tax system will, in effect, have a threshold of \$1.5 million.

Thus, in general, for a decedent dying in 2015, a net taxable estate valued at \$1.5 million or less will not be subject to Rhode Island's estate tax. (In certain circumstances, the Rhode Island estate tax will not apply no matter the estate's

size: RIGL Chapter 44-22 provides full details on the computation of the tax, including such factors as the marital and charitable deductions.)

Technically, the new law establishes a Rhode Island credit of \$64,400, for application against the tax. That credit essentially will shield \$1.5 million in assets from the tax. Starting January 1, 2016, the credit will be adjusted with inflation.

- H 7133Aaa

## Property-tax relief

Only those 65 or older, and the disabled, may claim a credit under the statewide property tax relief program (on Form RI-1040H). Thus, applicants who are younger than 65 and not disabled no longer qualify. The change is retroactive to January 1, 2014, so it will be reflected in forms to be issued starting in January 2015, covering the 2014 tax year.

*Other provisions for eligibility remain the same. For example, for 2014, an applicant's household income must be \$30,000 or less, and the credit cannot exceed \$300.*

- H 7133Aaa

## Earned income credit

Some taxpayers will be eligible to receive more money from the earned income credit for tax years beginning on or after January 1, 2015.

Currently, the Rhode Island earned income credit is equal to 25 percent of the federal earned income credit, and the "refundable" portion is 15 percent. Under the new law, the Rhode Island credit will equal only 10 percent of the federal credit, but the Rhode Island credit will be fully refundable.

- H 7133Aaa

## Real estate

The real estate conveyance tax, which is generally triggered when real estate changes hands, has increased 15 percent, effective for real estate closings on and after July 1, 2014.

The new law increased the tax by 30 cents, to \$2.30, for each \$500 (or fractional part thereof) which is paid for the purchase of real estate.

Revenue from the increase goes to a restricted receipts account to help pay for the lead hazard abatement program, as well as a housing rental subsidy, homeless prevention assistance, and housing retention assistance. The tax was last raised in 2002, when it went to \$2.00 from \$1.40. The tax is collected and remitted by cities and towns.

- H 7133Aaa

## Use tax lookup

A taxpayer will soon be able to use a lookup table to report on the Rhode Island personal income tax return the amount of the taxpayer's Rhode Island use tax. The lookup table will be available beginning with forms issued in January 2015, covering tax year 2014.

Normally, a taxpayer must keep all relevant receipts and calculate use tax based on the receipts. But the lookup table makes the process more con-

venient: A taxpayer may enter a "safe harbor" amount from the



lookup table, thus generally eliminating the need to keep receipts. The term "safe harbor" in this context generally means that the Division of Taxation will not later pursue the taxpayer for that tax year for use tax uncovered through audits or other procedures.

The taxpayer will therefore have three options when it comes to use tax:

- ◆ enter the actual amount on the Rhode Island personal income tax return, based on actual receipts;
- ◆ use the lookup table; or
- ◆ use Form T-205.

*(Please turn to page 9)*



# TAX CHANGES AFFECT INDIVIDUALS (CONTINUED FROM PAGE 8)

(If a taxpayer has no use tax to report, the taxpayer will enter a zero on the appropriate line of the return. If a taxpayer uses the lookup table, the taxpayer must list not only the amount from that table, but also the actual amount of each single purchase whose purchase price equals or exceeds \$1,000. The use tax lookup table is for individual purchases; business purchases subject to use tax should be entered on [Form T-205](#).)

- H 7133Aaa

## Tax on wine, spirits

The temporary sales tax break on wine and spirits purchased from liquor stores is extended by three months.



Legislation enacted on July 3, 2013, temporarily exempted -- from Rhode Island sales and use tax -- wine and spirits sold at liquor stores ("Class A" licenses). But the exemption was only for a 16-month period -- from December 1, 2013, through March 31, 2015. The new law extends the exemption for three months, through June 30, 2015.

Thus, the exemption will remain in place for all of fiscal year 2015. (Beer and

other malt beverages will continue to be subject to the sales and use tax.)

- H 7133Aaa

## Alcoholic beverages

The temporary increase in excise tax on a number of categories of alcoholic beverages is extended by three months.

Legislation enacted on July 3, 2013, temporarily increased excise taxes on a number of categories of alcoholic beverages -- effective July 1, 2013, through March 31, 2015.

Among the categories affected by the increase are malt beverages (including beer), a number of still wines, and spirits such as whiskey, gin, rum, and brandy containing alcohol measuring more than 30 proof. (The excise tax applies to manufacturers; wholesalers/distributors pay a fee equal to the tax.) Under the new law, the increases are extended through June 30, 2015. As of July 1, 2015, the excise taxes are scheduled to return to their former levels.



- H 7133Aaa

## Gasoline tax

Starting July 1, 2015, and every other year thereafter, the gasoline tax will be in-



dexed to inflation. The inflation adjustment will be made based on the percentage of increase in the consumer price index for all urban consumers (CPI-U)

determined as of September 30 of the prior calendar year. Each such adjustment will be rounded to the nearest one-cent increment (provided that the total tax is not less than 32 cents a gallon, as listed in Rhode Island General Laws (RIGL) § 31-36-7(a)).

*As of June 1, 2014, the total levy on gasoline broke down this way: a Rhode Island excise tax of 32 cents a gallon, an environmental protection regulatory fee of 1 cent a gallon, and a federal excise tax of 18.4 cents a gallon, for an overall total of 51.4 cents a gallon.*

- H 7133Aaa

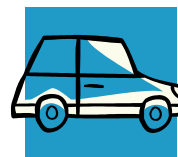
## Car registrations

Someone who is delinquent on Rhode Island state taxes will soon be unable to register any motor vehicle, or transfer the registration of any motor vehicle, through the Rhode Island Division of Motor Vehicles (DMV).

To implement the new law, the Division of Taxation -- on or before October 31 of each year, and at least quarterly thereafter -- must furnish the DMV with a list

of the names, addresses, and Social Security numbers of those who have neglected or refused to file a Rhode Island state income tax return and/or pay state tax (and who do not have an administrative or appellate review pending regarding such a tax matter).

The Division of Taxation also must provide the DMV with the names, addresses, and Social Security numbers of those who are on the list but who have subsequently filed all required Rhode Island state



income tax returns and paid all required taxes, interest, and penalties in full (or who have entered into *bona fide* agreements to pay what they owe in installments).

- H 7133Aaa

## Government workers

State and local government employees in Rhode Island -- including elected officials, appointed officials, and employees -- who are delinquent on their Rhode Island state taxes will face wage garnishment.

- H 7133Aaa

*(Please turn to page 10)*

# TAX CHANGES AFFECT INDIVIDUALS (CONTINUED FROM PAGE 9)

## Underground economy

A task force will be established to coordinate joint efforts to combat the underground economy and em-



ployee misclassification. The task force will foster voluntary compliance with

the law by educating business owners and employees about applicable requirements; protect the health, safety, and benefit rights of workers; and restore competitive equality for law-abiding businesses.

The task force will include the Tax Administrator, the director of the Department of Labor and Training (DLT), the director of the

Department of Business Regulation, the head of the DLT's Workforce Regulation and Safety Division, the Attorney General, the Commissioner of the State Department of Public Safety, and the chief judge of the Workers' Compensation Court, or their designees. The task force will be chaired by the DLT director.

The task force must submit a report – to the Governor and to the chairs of the House Finance Committee and Senate Finance Committee – summarizing the task force's activities during each preceding calendar year. The first such report is due on or before March 15, 2015. An annual report must be submitted on or before March 15 of each year thereafter.

- H 7133Aaa

## Zappers

Automated sales suppression devices, sometimes called zappers, are now outlawed in Rhode Island. In



general, a zapper is a software program that is often carried on a memory stick

or CD, or accessed through an Internet link that is then installed onto an electronic cash register or point-of-sale system.

Zappers may also be installed through phantomware software, a hidden programming option embedded into the operating system of an electronic cash register. The program manipulates transaction records, allowing businesses to

underreport the amount of sales collected for the purposes of avoiding sales or individual taxes.

The new law forbids anyone to sell, buy, install, transfer, or possess an automated sales suppression device or phantomware. Anyone who violates the law will be guilty of a felony and, upon conviction, will be subject to a fine of up to \$50,000, or imprisonment for up to five years, or both.

*If, by October 1, 2014, someone notifies the Division of Taxation of his or her possession of such a device or program, fully pays any tax and related amounts owed, and takes certain other steps, the person will not be subject to prosecution under the anti-zapper law.*

- H 7133Aaa

## RHODE ISLAND TAX NEWS IN BRIEF

### Beverages report

The Division of Taxation on May 1, 2014, posted on its website [a report about the sale and taxation of alcoholic beverages in Rhode Island](#).

A state law enacted in 2012 -- and amended in 2013 -- requires the Tax Administrator to provide such a report by May 1 of each year to the chairs of the House and Senate Finance Committees.

### Incentive deadline

Business entities that have received certain tax credits or incentives must complete and file a disclosure form with the Rhode Island Division of Taxation on or before August 15, 2014. They also must complete and file an annual report on or before September 2, 2014.

### Third-quarter payments

Third-quarter estimated payments of personal income tax are due on or before September 15, 2014.

### E-filing

More Rhode Island personal income tax returns were filed electronically this past filing season than at any point since e-filing began.

When e-file started in 1995, for tax year 1994, a total of 1,810 Rhode Island personal income tax returns were e-filed. That represented a tiny fraction of all returns filed.

As of the end of April 2014, a total of 474,570

Rhode Island personal income tax returns were e-filed for tax year 2013, representing approximately 87 percent of all returns filed.

"Tax preparers and taxpayers have embraced the many benefits of e-filing," said Rhode Island Tax Administrator David M. Sullivan. E-filing saves time and money, and results in fewer errors and faster processing, said Peter McVay, associate director of revenue services.

## NEW CHIEF OF REVENUE ACCOUNTING APPOINTED

Kristin L. Ross has been named chief revenue agent in charge of the Rhode Island Division of Taxation's Revenue Accounting section.

She formerly served as principal revenue agent in that section.

"In her role, Kristin works with a team that accounts for every dollar received by the Division of Taxation," said Rhode Island Tax Administrator David M. Sullivan. (The agency collects about \$2.65 billion a year in taxes and related fees.)

### Steering committee

Ross is also part of a six-member internal steering committee hand-picked by Sullivan to oversee the installation and implementation of a new agency-wide computer system.

"She's an extremely hard-working, knowledgeable individual -- about the system and about our account-



**New Chief:** *Kristin L. Ross is now chief of the Rhode Island Division of Taxation's Revenue Accounting section.*

ing processes," Sullivan said. "Kristin has literally risen through the ranks

here, taking on new tasks and duties through the years, aided by her strong work

ethic and her sharp mind," Sullivan said. Ross was born and raised in Warwick, graduated from Toll Gate High School, and has taken numerous accounting and other courses at a number of colleges and universities.

She joined the Division of Taxation in 1990 as a data entry operator in the Processing section, beginning her 24-year career at the agency.

### Promotion

She worked in the Accounting section for a number of years before leaving for a brief stint at the student loan office at Rhode Island College. Upon her return, Ross worked in a section dealing with electronic funds transfer (EFT), then returned to Accounting, where she worked as a revenue agent and senior revenue agent. In 2010, she was promoted to the rank of principal revenue agent.

## REQUESTS FOR LETTERS OF GOOD STANDING

The Division of Taxation reminds practitioners and taxpayers that requests for letters of good standing are now being handled by the Division of Taxation's Compli-



ance & Collections section.

Requests filed before April 21, 2014, will continue to be processed by the Division of Taxation's Office Audit and Discovery section.

Requests filed on or after April 21, 2014, are being processed by Compliance & Collections, which can be

reached at (401) 574-8941 from 8:30 a.m. to 4:00 p.m. business days.

Taxpayers make requests for letters of good standing for a variety of reasons.

For instance, a letter of good standing is required if a liquor license is being transferred or if certain

other events occur involving the license.

A letter of good standing is also required if a corporation is selling or transferring a major part of its Rhode Island assets.

The request form -- Form LOGS -- includes details and is available on the Division of Taxation's website.

**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.

**Claim for a refund**

At issue is whether a claim for a personal income tax refund was filed on time.

A married couple's 2010 Rhode Island personal income tax return was due by April 15, 2011. The couple filed the return more than two years later, on August 19, 2013.

The husband argued in part that Rhode Island should follow federal law regarding the time periods within which claims for personal income tax refunds must be filed.

The Division of Taxation argued in part that federal law does not apply in this matter because state tax refunds are at issue. The agency also argued that the taxpayers failed to file their refund claim in time. According to Rhode Island General Laws (RIGL) § 44-30-87(a):

◆ A refund may be claimed within three years of filing a return. If a claim is made within the three-year period, the amount of credit cannot exceed the amount of tax paid within that three-year period. In this case, the taxpayers were within the three-year period – but the statute limits



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.

the amount of the refund to the portion of tax paid within the three-year period, and the taxpayers had not paid any tax from August 19, 2013 to the present.

◆ A claim for refund may be filed within two years from the time the tax was deemed paid. If a claim 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. In this case, the couple filed the return on August 19, 2013, which is past the two-year period from the date the taxes were deemed paid that is allowed for requesting a refund.

Hearing Officer Catherine

R. Warren determined on April 28, 2014, that the taxpayers were not entitled to the refund claimed for 2010 and that the Division of Taxation properly denied the taxpayers' claim for a refund.

Tax Administrator David M. Sullivan on May 8, 2014, adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2014-10](#)

**Liquor store**

A liquor store, organized as a corporation, was audited by the Division of Taxation for the period of January 2007 to October 2011, when the business was sold. (The parties agreed that the president of the corporation would serve as the responsible officer for any tax assessed.)

Because the corporation's records were in poor shape, with neither cash register receipts nor invoices to review, the Tax Division's senior revenue agent testified that he had to rely on available bank records. He concluded, based on informed estimates, that the corporation owed sales tax.

The taxpayer argued in part that the Tax Division's calculations were wrong. But according to Warren, "There has been no showing by the taxpayer that the methodology used by the Division was improper or incorrect."

(Please turn to page 13)

**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 [AHP 97-01](#).

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** (CONTINUED FROM PAGE 12)

Warren determined that the Division correctly assessed the tax plus interest – and a 50 percent penalty on the basis of fraud or the intent to evade payment of tax. She also determined that the responsible officer was liable for any tax assessments against the taxpayer corporation.

Warren made her conclusions of law on May 6, 2014.

Sullivan on May 15, 2014, adopted the hearing officer's decision and recommendation.

[-- Final Decision and Order No. 2014-11](#)

**Refund claim**

At issue is whether the taxpayers' claim for a refund for 2010 was timely filed under RIGL § 44-30-87. The taxpayers, a married couple, filed a 2010 personal income tax return in December 2011. They filed an amended return in August 2013.

Warren used a timeline to summarize the facts and circumstances of the case and how the law applies:

◆ The taxpayers' 2010 tax was deemed paid April 15, 2011.

◆ The taxpayers filed their 2010 Rhode Island return on December 16, 2011, and made a payment with it.

◆ The taxpayers filed an amended 2010 return on August 9, 2013, and requested a

refund. But for purposes of the two-year rule regarding refund claims, August 9, 2013, is past the two-year period from the date the taxes were deemed paid.

◆ The statute also allows a claim for a refund to be filed within three years from the date of the return being filed. In this case, the taxpayers filed their return on December 16, 2011; when they filed their amended return and refund claim on August 9, 2013, they were within the three-year period. However, the taxpayers' refund request is limited to the amounts paid in the three-year period (from December 16, 2011, to December 16, 2014) – so it would be limited in this case to the amount that the couple actually paid on December 16, 2011.

Warren concluded that the couple were entitled to only a partial refund. And given that the partial refund has been paid by the Division of Taxation to the couple, the

couple's request for a full refund is denied. Warren on May 27, 2014, issued her decision and recommendation; Sullivan on June 13, 2014, adopted her decision and recommendation.

[-- Final Decision and Order No. 2014-12](#)

**Contraband cigarettes**

The Division of Taxation seized contraband cigarettes from a retailer. No Rhode Island tax had been paid on the cigarettes, which were found hidden underneath a counter. The Division assessed tax owed on the seized cigarettes, which carried counterfeit Rhode Island tax stamps. The Division also assessed penalties.

A hearing was held. The taxpayer was notified about the hearing but did not attend. Warren on May 27, 2014, concluded that the Division properly assessed the tax owed and penalties. She recommended that the taxpayer's license be suspended for 30 days. Sullivan on June 18, 2014, adopted her decision and recommendation.

[-- Final Decision and Order No. 2014-13](#)

**Refund claim**

At issue is whether the refund claims filed by the taxpayers – a married couple – for 2009 and 2010

were filed on time.

*Tax Year 2009:* The taxpayers' tax payment for 2009 was deemed paid on April 15, 2010. They filed the actual return on April 8, 2013, which was past the two-year period (from the date the tax was deemed paid). It was within the three-year period, but the statute says refunds under the three-year rule are limited to the portion of tax paid within the three-year period – and in this case, the couple had not paid any tax from April 8, 2013, to the present.

*Tax Year 2010:* The taxpayers' tax payment for 2010 was deemed paid on April 15, 2011. They filed the actual return on May 13, 2013, which was past the two-year period (from the date the tax was deemed paid). It was within the three-year period, but the couple had not paid any tax from May 13, 2013, to the present.

Warren on June 16, 2014, concluded that the taxpayers were not entitled to the refunds claimed for 2009 and 2010, and that the Division of Taxation had properly denied their refund claims. Sullivan on June 18, 2014, adopted her decision and recommendation.

[-- Final Decision and Order No. 2014-14](#)

(Please turn to page 14)



**Legal Corner:****RECENT STATE TAX CASES** (CONTINUED FROM PAGE 13)**Property tax relief**

At issue, in part, is whether a taxpayer was eligible for Rhode Island's statewide property tax relief credit under RIGL § 44-33-1 *et seq.* for the 2008 tax year. The taxpayer asserted, in part, that he was a full-time resident of Rhode Island in 2008 so he was eligible for the credit (which is claimed on Form RI-1040H).

The Division of Taxation asserted, in part, that the person filed a Massachusetts resident return for 2008 and could not be eligible for Rhode Island's property tax relief credit because he was not domiciled in Rhode Island for the entire year.

Warren wrote that a claimant for the property tax relief credit must be domiciled in Rhode Island for the entire year – and this taxpayer was not. Therefore, the Division of Taxation properly assessed the taxpayer as a part-time Rhode Island resident for that year.

In conclusion, Warren's recommendation on June 16, 2014, was that the taxpayer was not eligible for the credit for 2008 and

owes the amount that the Division of Taxation assessed. Sullivan on June 23, 2014, adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2014-15](#)

**Application denied**

The Division of Taxation in 2013 received an application from a convenience store for a sales tax permit, a cigarette dealer's license, and a litter permit.

The application was signed by the

taxpayer's wife, who was listed as the owner of the business. The application was delivered to the Division by the taxpayer himself, who owns another convenience store which had been caught with contraband tobacco, assessed tax, had not made full payment, and went out of business.

The Division of Taxation denied the application, arguing that the husband was using the wife as a straw owner; the husband had not applied under his own name because he had outstanding tax liabilities for various entities. Warren found that the husband has a direct and indirect interest in the business – and also owns other

entities that have failed to make various tax filings with the Division of Taxation and that owe various Rhode Island state taxes and fees. Based on her analysis, she recommended on June 23, 2014, that the application be denied. Sullivan on June 25, 2014, adopted her decision and recommendation.

-- [Final Decision and Order No. 2014-16](#)

**Property tax relief**

A taxpayer applied for the statewide property-tax relief credit, but did not count a nontaxable annuity payment as income for credit purposes. Had she included the payment, it would have pushed her income over the credit program's \$30,000 threshold, making her ineligible for the credit.

The Division pointed to the definition of "income,"

which includes taxable and nontaxable income – and specifically includes "the gross amount of any pension or annuity". The taxpayer argued in part that the Division was incorrectly counting her return of capital.

Warren pointed out that the property-tax relief program's threshold encompasses a household's actual income, not merely federal AGI, and also specifically includes nontaxable annuity benefits. She concluded on June 24, 2014, that the taxpayer was not eligible for the credit she received for 2012. Thus, Warren said, the Division of Taxation properly issued a Notice of Deficiency for the repayment of the erroneously granted credit for 2012. Sullivan on June 26, 2014, adopted her decision and recommendation.

-- [Final Decision and Order No. 2014-17](#)


**DECISIONS ONLINE**

The Division of Taxation's website shows all Administrative Decisions since early 2011. (See screenshot above.) To view, use the following link <http://www.tax.ri.gov/AdministrativeDecisions/>

## Practitioners' Corner:

## QUESTIONS AND ANSWERS ABOUT STATE TAXES

**Q: One of our clients received a notice from the State of Rhode Island that their Massachusetts personal income tax return was not furnished to the State of Rhode Island. We had e-filed the client's returns. In such a situation, must I attach the out-of-state return? And if I don't, will we always receive a request from the Division of Taxation for a copy of the other state's return – and will the client's Rhode Island resident return automatically be set aside for review?**

A: If you file a paper Rhode Island return, you must attach a copy of the out-of-state return(s).

If you e-file a Rhode Island return, you need not attach a copy of the out-of-state return(s); the e-filing process typically provides us with the information we need -- including information about the out-of-state return(s). And we won't automatically set aside for review your client's e-filed return solely because you did not attach a copy of the out-of-state return(s).

Whether a return is e-filed or filed on paper, we expect

preparers and software providers to perform due diligence in the calculation of the credit for income tax paid to another state. However, the Division of Taxation always reserves the right to request a copy of the out-of-state return(s) – or any other documentation – involving a

Rhode Island personal income tax return.

For example, a Rhode Island resident who works for a Massachusetts

company e-filed a Rhode Island resident return earlier this year.

According to the return, the taxpayer's Massachusetts employer had withheld a substantial amount of Rhode Island tax, and the taxpayer had made a substantial amount of quarterly estimated payments of Massachusetts personal income tax.

Also, the taxpayer sought a substantial Rhode Island refund. Because of these and other factors, the return was set aside for review.

(The return had been e-filed, and a copy of the other state's return was not attached. But neither of those factors influ-

enced our decision to set the return aside for review.)

**Q: Can you confirm that there is no one-month additional extension available for the 2013 Form RI-1120C?**

A: Yes. Beyond the regular six-month extension, there is no one-month additional extension.

We had the additional month in place to accommodate those who filed Schedule CRS (*pro forma* combined reporting) with Form RI-1120C. But Schedule CRS is not included with Form RI-1120C for tax year 2013, so there's no need for the extra month.

Of course, filers of Form RI-1120C still are eligible for the usual six-month extension. So, for example, a calendar-year C corporation filing Form RI-1120C for 2013 would face a deadline of September 15, 2014.

**Q: My client has been granted the exemption from charging sales tax on certain artwork in Rhode Island. It's her only business and she does have a sales tax permit. Is she still required to file quarterly sales and use tax returns – as well as the annual sales tax reconciliation return?**

A: Yes. As a holder of a sales tax permit, she still must file the quarterly sales tax return – even if her only sales consist

### 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.

of exempt artwork. If that's the case, she should enter "0" on the line which says "Net Sales and Use Tax Due and Paid." If she fails to file, she'll receive automatic delinquency notices. She must also file the annual sales and use tax reconciliation return. One reason for all of the filings in such circumstances: they help the State determine the efficacy of the state tax law change involving art.

**Q: I'd like to check on the status of the Division of Taxation's integrated tax system as it relates to withholding tax.**

A: Our new integrated tax system went "live" in mid-July 2014, but that was only for certain tax types and fees, not for withholding.

(Please turn to page 16)



**Practitioners' Corner:****QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PAGE 15)

We are scheduled to go live for withholding tax in the fall of 2016.

**Q: My client needs a transcript of his 2012 Rhode Island return. How can he go about obtaining that?**

A: Your client should file Form RI-4506. If you seek a certified copy of your tax return, or a photocopy, you will be charged a nominal amount. But if you request a transcript of your account, there is no charge. And a transcript is often all a taxpayer needs. (Please note that we send transcripts to taxpayers themselves, not to third parties.)

**Q: I have a new client who just learned about Rhode Island's fairly new law involving a sales tax exemption for the sale of limited-edition and one-of-a-kind works of art. She plans to file soon the Division of Taxation's "Application for Sales Tax Exemption for Artistic Works." Can customers apply for a refund if they have purchased art from her since the tax break took effect on December 1, 2013? Or does the tax break kick in only after her application has been processed and she receives her exemption number?**

A: The sales tax exemption will take effect only after we've processed and approved her application and she receives from us her ex-

emption number. Once she receives the number, she must enter it on each bill of sale (as applicable) so that the customer has a record. That way, the customer is covered should we audit the customer.

To learn more about the exemption and the process involved, please review our regulation, "[Exemption of Sales by Writers,](#)

[Composers and Artists.](#)"

Please also see the [Rhode Island State Council on Arts website](#) for more information.

**Q: I have been preparing a client's personal income tax return for many years. The client is now moving to another state. Does he have to contact you to provide his new address? Is there a form for doing this?**

A: There's no requirement to send a change of address to us, but it's good for us to have a current address on record in case we need to reach the taxpayer. (For instance, if you're due a refund, it's best for us to be able to send it to your current address. Otherwise, it might go astray.)

We have a regular change-of-address form:

[http://www.tax.ri.gov/forms/2013/Misc/COI\\_h.pdf](http://www.tax.ri.gov/forms/2013/Misc/COI_h.pdf)

We also have one you can fill in, print out, and send in:

[http://www.tax.ri.gov/forms/2013/Misc/COI\\_m.pdf](http://www.tax.ri.gov/forms/2013/Misc/COI_m.pdf)

Please send the completed form to us at the following address: Rhode Island Division of Taxation, One Capitol Hill, Providence R.I. 02908



**Q: We are about to prepare our 2012 Rhode Island corporate income tax return. I notice that you have issued the final report on the combined reporting study. Given the report has been issued, does it really make sense for us to report our pro forma combined return results on our 2012 filing?**

A: Yes. The Rhode Island Division of Taxation continues to receive and process returns for tax years 2011 and 2012 that were filed by corporations subject to Rhode Island's *pro forma* combined reporting requirement under Rhode Island General Laws § [44-11-45](#). Such returns include a completed Schedule CRS, "Required Data for Combined Reporting Study."

In March 2014, the Division

**Archives online**

Previous issues of the Rhode Island Division of Taxation's newsletter, *Rhode Island Tax News*, are available for viewing or for download at the agency's website:

[www.tax.ri.gov/newsletter/index.php](http://www.tax.ri.gov/newsletter/index.php)

largely finished its study and filed its [report on pro forma combined reporting](#), based in part on the data that corporations filed on Schedule CRS. However, the Division continues to refine its data -- and must also be prepared to provide updated information to the General Assembly upon the General Assembly's request. Such updated information would include data from returns of taxpayers that were not filed in time to be included in the March 2014 study. Therefore, corporations subject to Rhode Island's *pro forma* combined reporting requirement that have yet to file their returns for tax years 2011 and/or 2012 should still complete Schedule CRS and file it with their returns.

(Please turn to page 17)



**Practitioners' Corner:****QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PAGE 16)

Likewise, fiscal-year corporations subject to Rhode Island's *pro forma* combined reporting requirement that have yet to file their returns for tax year 2012 should still complete Schedule CRS and file it with their returns.

There is a [regulation](#) that contains more information about *pro forma* combined reporting.

**Q: I lease a car, and my lease payment includes local property tax. But the State of Rhode Island charges me a sales tax on the lease -- including the portion that represents local property tax. Why is that?**

A: Following are the general

rules:

- ◆ The owner of a vehicle pays the local property tax.
- ◆ Because the owner of a leased vehicle is typically the leasing company, it's the leasing company that pays the local property tax.
- ◆ The leasing company is free to pass along that charge to you, the lessee.



How does Rhode Island's sales and use tax apply? Rhode Island levies sales and use tax on the sales price, the gross proceeds, as many other states do – and that includes

motor vehicle excise tax (in other words, local property tax).

As RIGL § 44-18-12 puts it, the term "sales price" applies to the measure subject to

sales tax and means the total amount of consideration, including cash, credit, property, and services, for which personal property or services are sold, leased, or rented,

valued in money, whether received in money or otherwise, without any deduction for . . . taxes imposed on the seller . . . ." For the regulation on this general issue, click [here](#).

**TAX ADMINISTRATOR ISSUES FRAUD ALERT**

Rhode Island Tax Administrator David M. Sullivan in May 2014 warned taxpayers to be on the alert for a fraudulent e-mail scheme in which someone claiming to be from the Rhode Island Department of Revenue appears to be billing recipients for corporate tax.

**Links and attachments**

"Those who send such e-mails may be trying to steal a recipient's money, identity, or both," Sullivan said. "Do not open such e-mails. If you open one by accident, do not respond – and especially do not open any links or attachments," Sullivan said.

In the e-mail, the subject of

which is "Payment notice," someone claiming to be "Head of Rhode Island Department of Revenue" tells the recipient, "Good afternoon! You has the penalties for corporate tax."

**Possible virus**

The e-mail (which contains numerous grammatical errors) includes an attachment. The attachment may contain a computer virus of some kind, or a link that will prompt the recipient to disclose personal information. "The best way to deal with such e-mails is to delete them as quickly as possible," Sullivan said.

Sullivan also reminded taxpayers that the Rhode Island

Division of Taxation sends its billings to taxpayers only through the U.S. Postal Service, not by e-mail.

**Other states**

The fraudulent e-mail scheme has been found in Vermont and some other states, often using the name of other states' tax and revenue agencies, Sullivan said. "If you come upon suspicious e-mails, it's best to delete them," Sullivan said. If you are in doubt about any communication you receive from the Rhode Island Division of Taxation, please call the agency at (401) 574-8829 between 8:30 a.m. and 4:00 p.m. business days.

**BEYOND APRIL 15**

A number of volunteer tax preparation sites remain open throughout the year -- and continue preparing returns well after the April 15 deadline.

For information on sites near you, call the Internal Revenue Service about its VITA program toll-free at 1-800-906-9887, or use the agency's website: [www.irs.gov](http://www.irs.gov)

Also, eligible taxpayers may use the State Free File program through the October 15 extended due date to prepare and file their federal and Rhode Island returns online at no charge. The links are available at:

[www.tax.ri.gov/misc/efile.php](http://www.tax.ri.gov/misc/efile.php)

# DIVISION OF TAXATION REGULATORY UPDATE

The Rhode Island Division of Taxation has taken a number of steps in recent weeks regarding tax regulations. Following is a summary.

## Farming

The Division of Taxation in April held a public hearing on regulations related to commercial farming.

In essence, the agency created a regulation dealing with commercial farm-related items, SU 14-153, "Commercial Farming and Related Items."

The new regulation, now posted as final, includes material that was in three other regulations, since repealed:

◆ SU 07-36, "Farm Equipment and Farm Structure Construction Materials";

◆ SU 01-44, "Feeds, Fertilizer, Plants and Seeds, Cattle Bedding, Chicken Litter"; and

◆ SU 87-57, "Livestock and Poultry".

The Division of Taxation also repealed Regulation SU 87-11, "Boarding of

Animals", which is outdated.

## Tobacco

The Division of Taxation in February 2014 held a public hearing on a proposed regulation involving tobacco products other than cigarettes (sometimes called "other tobacco products," or

cuses on guidance regarding record-keeping and other requirements.

The Division of Taxation in early July was in the process of mailing a Notice to all Rhode Island cigarette distributors and dealers, and taxpayers filing tobacco

tion EFT 00-01, which involves electronic funds transfer; a more recent regulation covering the same subject is available.

The agency also formally repealed Regulation CR 02-12, which deals with a credit for expenses related to quality standard certificates; the underlying statute has been repealed.

## What's ahead

The Division of Taxation continues to work on proposed regulations involving preparer penalties, corporate tax changes, the tax credit for musical and theatrical productions, and other topics.

## Regs online

The Rhode Island Secretary of State's website serves as a repository for Division of Taxation regulations, including proposed and final regulations -- as well as regulations that have been repealed.

To view the section of the Secretary of State's website dealing with regulations, click [here](#).



**Hearing:** A public hearing on commercial farm regulations was attended by Alfred R. Bettencourt, Jr., executive director of the Rhode Island Farm Bureau, which is an independent, non-governmental, voluntary organization of farm and ranch families.

"OTP"). Based on comments at that hearing from convenience store owners and others, the agency withdrew and rewrote the regulation, held another public hearing in June, and posted the regulation as final, OTP 14-01.

The regulation mainly fo-

product tax returns. The Notice summarized the requirements of the new Regulation and explained the August 1, 2014, effective date.

## Other repeals

The Division of Taxation recently repealed Regula-

## SULLIVAN RE-ELECTED FTA PRESIDENT

Rhode Island Tax Administrator David M. Sullivan has been re-elected by his peers as president of the Federation of Tax Administrators (FTA).

Sullivan was elected president in November 2013 to



David M. Sullivan

fill an unexpired term, through June 2014.

At a meeting of the FTA board of trustees in June 2014, members elected Sullivan to a full-year term, to serve through June 2015 in the volunteer position. (He remains Rhode Island Tax Administrator.)

"I am honored by the board's decision and will continue to do my best for the FTA, which is a well-respected organization with an international reputation," Sullivan said.

The FTA, organized in 1937, is an association which



serves the principal tax collection agencies of the 50 states, the

District of Columbia, Philadelphia, and New York City. Its aim is to improve the quality of state tax administration by providing services to state tax authorities and administrators.

The FTA's services include research and information exchange, training, and intergovernmental and interstate coordination. The Federation also represents the interests of state tax administrators before federal policymakers where appropriate.



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## NEWSLETTER POLICY

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