



RHODE ISLAND TAX NEWS

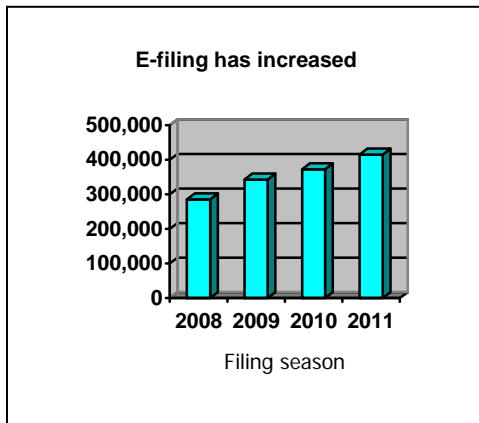
FOR TAXPAYERS AND THEIR PRACTITIONERS
FROM THE RHODE ISLAND DIVISION OF TAXATION

JULY/AUGUST/SEPTEMBER 2011

Sharp increase in e-filing

Electronic filing of Rhode Island personal income tax returns has jumped 11.4 percent so far this year.

The number of e-filed returns totaled 415,367 as of June 1, 2011, up from 372,834 at June 2, 2010. E-filing is up 45.4 percent from June 3, 2008, when there were 285,660 e-filed returns.



Electronic filing is also accounting for a greater and greater portion of the overall number of returns filed each year.

In the 2008 filing season, for example, 53.45 percent of Rhode Island personal income tax returns were e-filed. By 2011 the figure had risen to 74.15 percent.

The numbers make it clear that, as each tax-filing season passes, more and more taxpayers and preparers are using e-file, and taking advantage of its benefits – which include prompt and accurate processing, faster issuing of refunds, and the option to have a Rhode Island refund deposited directly into the taxpayer's bank or credit union account.

E-filing mandate

For many practitioners, e-filing is not an option – it's required under Rhode Island General Laws § 44-1-31.1. The Tax Administrator implemented provisions of the law in early 2009 by issuing Reg. ELF 09-01. *(Please turn to page 2)*

Welcome to *Rhode Island Tax News*, a quarterly newsletter from the Rhode Island Department of Revenue's Division of Taxation. Through this newsletter, we intend to keep you posted on recent developments and what's on the horizon. We'll also include some key dates and other reminders. The newsletter is distributed at no charge, 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 Susan.Galvin@tax.ri.gov with the word SUBSCRIBE in uppercase in the subject block.

The mandate applies to paid preparers of Rhode Island personal and corporate income tax returns and other types of Rhode Island tax returns.

The regulation generally says that paid preparers who prepare more than 100 Rhode Island tax returns in the prior year must file Rhode Island tax returns for their clients electronically with the Division of Taxation.

The federal mandate will soon implement a stricter standard. For this year, the federal mandate generally applies to practitioners filing more than 100 returns. Next year, however, it will generally apply to practitioners filing more than 10 returns.

- ❖ *The Rhode Island e-file regulation:* <http://go.usa.gov/ZqP>
- ❖ *The federal e-file regulation:* www.irs.gov/pub/irs-utl/td9518.pdf

E-file for business soars

The Division of Taxation launched its e-file program for corporate tax returns late last year, as a kind of dry run. At the time, one tax preparation software company participated, and only 127 returns were filed.

This season – the first full season for corporate e-file – the numbers have skyrocketed.

A total of 6,179 business corporation tax returns were e-filed as of June 18, and four software companies are taking part.

Thus, of the estimated 20,422 corporate returns filed so far this year, more than 30 percent have been e-filed. The Division expects the number of e-filed corporate returns to keep rising - as more practitioners learn of the advantages, and more practitioners urge their software

Filing season	Total individual returns	Number of returns e-filed	Portion e-filed
2011	552,810	415,367	75.14%
2010	554,870	372,834	67.19%
2009	536,175	343,181	64.00%
2008	534,433	285,660	53.45%

Data as of early June for each year.

providers to offer corporate e-file for Rhode Island.

With corporate e-filing, practitioners get an immediate response that the return has been accepted. The overall system is faster, more efficient, and cuts down on errors.

Keep in mind, too, that corporate e-file can be used for returns showing a balance due,

a refund, or no change.

- ❖ *Of the 6,179 corporate returns e-filed so far this year, 4,265 returns – about 70 percent of the total – had a balance due.*

E-filing attachments

Practitioners will soon be able to scan documents and attach them, as PDFs, to a variety of electronically filed returns.

It's the result of a new IRS e-file system, known as Modernized e-File, or MeF.

Modernized e-File is a web-based system that provides electronic filing and payment options for individuals and businesses.

The Internal Revenue Service, which is phasing in MeF, describes it as the next generation of electronic filing:

- acknowledgements will be sent within minutes instead of 48 hours;
- if a return is rejected, a detailed message will let taxpayers quickly fix errors and resend the return; and
- MeF uses a transactional based platform that allows for the frequent transmission of returns (whereas legacy e-file is based on batch processing that required many returns to be sent all at once several times a day).

Because Rhode Island has been a long-time participant in the federal/state e-file program, Rhode Island is keeping up with the MeF changes at the federal level.

One result is that preparers (and others) will soon be able to attach PDF documents – such as detailed statements or spreadsheets – to a taxpayer's electronically filed federal and Rhode Island returns.

Modernized e-File has been in development for several years at the federal level, but will be expanding for the filing season that starts in January – covering far more forms than it does now.

More forms and schedules

For example, for the 2011 filing season, Modernized e-File supported 23 federal forms and schedules. For the 2012 filing season, it is to support an additional 128 forms and schedules, for a total of 151. That will expand the program's reach to the entire e-file population of individual filers, the IRS says.

The joint federal/state e-file program allows for the electronic filing of both federal and state income tax returns at the same time. The software places the federal and state return data in separate packets. The packets are transmitted to the IRS in one taxpayer "envelope." The IRS functions as an electronic post office for the participating state, which receives and processes the state electronic return.

As of December 31, 2010, Rhode Island was one of 37 states (plus the District of Columbia) taking part in the program. Other New England participants include Connecticut and Vermont.

❖ *Don't forget that you can now e-file Form 1065, the Rhode Island partnership income information return.*

Electronic payments

E-filing? You can e-pay, too. And the Division of Taxation allows for the electronic payment of many different types of taxes, including withholding tax, sales and use tax, business corporation tax, fuel tax, hotel tax, and the meals and beverage tax. EFT allows business taxpayers to make payments electronically using the Automated Clearing House (ACH) system.

Tax Administrator prevails in medical surcharge case

A Rhode Island district court judge has denied and dismissed an appeal by several medical providers involving certain surcharges.

At issue is a law enacted in 2007 establishing a 2 percent surcharge on the net patient services revenue of outpatient health care facilities – generally ambulatory surgery centers (RIGL § 44-64) -- and on imaging services, such as x-rays, ultrasounds, CT scans, and MRIs (RIGL § 44-65).

The medical practices paid the required tax, but also filed claims for refunds. The Division of Taxation denied the claims in 2008 and the medical practices filed for an administrative appeal. Later that year, the Tax Administrator denied the appeal, and the medical providers appealed in District Court, Sixth Division.

The plaintiffs asserted that the surcharges were unconstitutional. They said in part that the surcharges were vague and ambiguous and failed to provide adequate notice to affected taxpayers.

The Tax Administrator asserted that the surcharges are constitutional, are neither vague nor ambiguous, and have terms that can be reasonably understood.

A judge ruled in November 2010 that the plaintiffs "failed to meet their burden to prove that either of the medical surcharge acts is repugnant to the state or federal constitution." The plaintiffs did not appeal.

Read the decision:
<http://go.usa.gov/Wly>

Other medical providers whose claims for refund have been held in abeyance pending the outcome of the case are being contacted by the Tax Division to let them know how the case turned out and to see how they want to proceed.

With ACH debit, the taxpayer authorizes the electronic withdrawal of a prearranged



sum from the taxpayer's bank or credit union account. With ACH credit, the taxpayer authorizes the bank or credit union to send the payment electronically to the state's accounts.

For more information, contact the Division's EFT section by phone at (401) 574-8484 or by email: daniel.clemence@tax.ri.gov.

- ❖ Learn more: <http://www.tax.ri.gov/eft/>
- ❖ Sign up: <http://go.usa.gov/ZqE>
- ❖ Taxes you can pay electronically: <http://go.usa.gov/Zqm>

Changes on the way for sales tax coupons

If you're a retailer, you typically receive your new sales and use tax permit by July 1 every year, along with a booklet of payment coupons (technically known as sales and use tax returns).

But this time around, there'll be a difference. You'll still receive your sales tax permit. But you'll receive, at a later date, a supply of temporary payment coupons instead of the usual booklet.

The reason has to do with uncertainty over what will happen in the current legislative session regarding the rate and reach of Rhode Island's sales tax.

This year's General Assembly session is coming to a close. If the Division of Taxation were to distribute the usual coupon booklets now – covering the full year which starts July 1, 2011 – and state law is changed, the Tax Division would

have to spend money and time preparing and distributing replacement booklets.

As a result, the Tax Division will soon mail out your sales tax permit and, at a later date, a supply of coupons.

Furthermore, the Tax Division will not mail the usual payment coupon booklets for the year which starts July 1.

- ❖ *If you have questions about these changes, call us at (401) 574-8955.*
- ❖ *Please note that the Tax Division will not be mailing out the usual coupon booklet for the year which starts July 1.*
- ❖ *For updates on this and other tax issues, be sure to check our website: www.tax.ri.gov*



Sales tax payment via EFT

If you remit sales tax via EFT, you will not be affected by the changes outlined above.

You should receive your permit(s) on schedule by mail by the end of June 2011, ready for display July 1, 2011.

PERMIT NUMBER:	State of Rhode Island and Providence Plantations DEPARTMENT OF REVENUE DIVISION OF TAXATION	
	Permit to Make Sales at Retail UNDER THE SALES AND USE TAX ACT JULY 1, 2011 - JUNE 30, 2012	
<small>NAME AND LOCATION OF BUSINESS (IF NOT SAME AS PERMIT)</small>		

How retailers pay R.I. sales taxes

Method:	Sales tax permits:	% of permits:
Electronic payment	16,930	55%
Coupon booklet	14,070	45%
Total:	31,000	100%

'Blocks' on sales tax permits

The overwhelming majority of retailers are current on their taxes and receive the annual sales tax permit, ready for posting July 1.

But a comparatively small number of retailers – about 1,500 overall – will not receive their permits: A "block" has been placed on their accounts, preventing renewal of their sales tax permits, because they are delinquent in certain state taxes – sales, meals and beverage, hotel and/or withholding tax – and have not made arrangements to pay.

If you're delinquent on taxes and your account has been blocked, contact your revenue officer at the Tax Division.

❖ *The main number for the Tax Division's collections area is (401) 574-8941.*

Missing permits

If you applied for renewal of your sales tax permit, but have not received your permit by July 1 – and you're not delinquent on taxes and your account hasn't been blocked – call the Tax Division's main number at (401) 574-8829 and choose option 7.



Fireworks and taxes

Independence Day and other seasonal holidays usually spark some fireworks. And this is the first full year in which certain fireworks can be legally sold in Rhode Island.

So if you are involved in the retail sale of fireworks, remember that fireworks are subject to Rhode Island's 7 percent sales tax.

No matter when they are sold, and no matter where they are sold – at roadside stands or in big-box stores, for example – legal fireworks are now taxable; illegal fireworks remain taxable.

Legal fireworks include:

- ground-based and hand-held sparkling devices, including cylindrical fountains, cone fountains, illuminating torches, wheels, ground spinners, flitter sparklers, and sparkers; and
- novelties, including party poppers, snappers, toy smoke devices, snakes, toy caps, glow worms, wire sparklers and dipped sticks.

Illegal fireworks include:

- Firecrackers
- Rockets
- Mortars
- Other such devices that launch a projectile and/or make a "bang" or detonation or report.

Source: RIGL § 11-13-1; R.I. State Fire Marshal

Tax Administrator's committee posts report

Months of work at the federal level by Rhode Island Tax Administrator David M. Sullivan have now borne fruit: The committee on which he serves – the Electronic Tax Administration Advisory Committee (ETAAC) – issued its "Annual Report to Congress" on June 15.

Sullivan was appointed to the committee in November. He is one of 14 people nationwide serving on the panel, which was established in 1998 as a result of the IRS Restructuring and Reform Act of 1998 (Public Law 105-206). The report is the result of research and analysis as well as meetings with senior IRS executives.

The report includes recommendations regarding standards for security and accuracy for the electronic tax community; the Modernized e-file (MeF) platform; barriers to e-filing employment tax returns; tax filing simplification; and collaboration and partnership with the electronic filing community.

Sullivan was appointed state tax administrator in July 2006 and oversees the Rhode Island Department of Revenue's Division of Taxation.

- ❖ *The report:* <http://go.usa.gov/WIn>
- ❖ *The statement:* <http://go.usa.gov/WIP>

Scholarship credit

Business entities seeking a state tax credit for contributions they make to qualified scholarship organizations in Rhode Island must file their applications with the Tax Division starting July 1.

The program (RIGL § 44-62) is generally intended to encourage businesses to make voluntary cash contributions to qualified scholarship organizations, which use the funds to help pay tuition for needy students attending non-public elementary or secondary schools in Rhode Island. The contributing businesses may be eligible for

a state tax credit (to a maximum of \$100,000 per business per tax year).

Among the businesses that may be eligible for the credit are banks, insurance companies and public service corporations. Also on the list are pass-throughs, such as S corporations, limited liability companies and limited liability partnerships. (The credit is allowed on the individual return of a shareholder, member or partner.)

The Tax Division will distribute the credits on a first-come, first-serve basis. Because there is an overall limit on the amount of credits the Tax Division may distribute under the program, the agency may have to hold a lottery – probably in July – if the credits are oversubscribed. Applicants will be notified.



- ❖ *Learn more:* <http://go.usa.gov/ZqF>

Litter control permits

If you hold a Rhode Island sales tax permit, and sales relate in whole or in part to the taxable sales of food and/or beverages, you must apply for a litter control participation permit on or before August 1. The permit fee depends on the gross receipts at each location for the prior calendar year. If you do not pay the fee, you will not be able to renew the sales tax permit. There are about 6,000 applicants each year for the litter control permit.

- ❖ *Learn more:* <http://go.usa.gov/Zqy>

Tax credit report due

A business must report to the Division of Taxation by August 15 the source and amount of any bonds, grants, loans, loan guarantees, matching funds or tax credits that the business received from any state governmental entity, state agency or public agency (RIGL § 37-2-7) for the fiscal year ended June 30, 2011.

The reporting requirement is the result of disclosure and accountability legislation approved by the General Assembly and

signed into law by then-Gov. Donald L. Carcieri in July 2008.

❖ *To report, use R.I. Form TC-100.*

Letters of good standing

Requests for letters of good standing are no longer handled by the Tax Division's Corporate Tax section. They are now handled by the Office Audit section.

Click here to select the form that applies to your situation: <http://go.usa.gov/Zqp>

The forms include mailing and other instructions. For more information, call us at (401) 574-8756.

Reminder: A domestic company that is dissolving, or a foreign company that is withdrawing from Rhode Island, must formally notify the Rhode Island Secretary of State's Office – and must obtain a letter of good standing in advance of the filing with the Secretary of State.

Until you formally dissolve or withdraw, the business will still be subject to the corporate minimum tax or fee, or the franchise tax.

New option for insurers

Insurance companies and surplus lines licensees can now file their tax returns and make tax payments – including estimated payments – electronically using a system called Online Premium Tax for Insurance, or *OPTins*, developed by the National Association of Insurance Commissioners.

OPTins is an ideal way to comply with RIGL § 44-1-31, which requires that any tax payment exceeding \$10,000 be made electronically, via EFT.

Nearly 3,000 entities file to Rhode Island the Form T-71, "Insurance Company Gross Premiums Return," and the Form T-71A, "Surplus Line Broker Return of Gross Premiums."

So far, about 1,100 gross-premiums filers, and about 130 surplus-lines filers, are participating in *OPTins*. Thus, about one-third of filers overall are taking advantage

of *OPTins* for filing annual returns, or estimated returns, or both.

❖ *Learn more:* <http://go.usa.gov/Zqv>

❖ *See also:* <http://www.optins.org/>

Tax Division on facebook

The Rhode Island Division of Taxation has reserved its own facebook page.



For now, it includes just the basics. In time, we plan to use it as a means to convey basic information as well as some news and updates.

❖ *See our page:* <http://tinyurl.com/6allcm5>

R.I. Form 1040 revisions

The Tax Division is in the process of updating personal income tax forms to reflect changes to the personal income tax under RIGL § 44-30-2.6. The changes are the result of legislation approved by the General Assembly and signed into law by then-Governor Donald L. Carcieri last year.

The changes took effect January 1, 2011, and could have an impact this year, for tax-planning and other reasons.

Following is a summary of some of the changes that are now in effect:

Brackets: There are now three brackets. (The old system had five.) All taxpayers use the same set of brackets, no matter their filing status.

Tax rates: There are three rates: 3.75 percent, 4.75 percent, and 5.99 percent. (Under the old system, there were five rates, ranging from 3.75 percent to 9.90 percent.)

Top tax rate: Under the new system, the top rate has fallen, to 5.99 percent from 9.90 percent, for 2011 and later tax years.

Standard deduction: Standard deduction amounts for 2011 are greater

than they were for 2010 (although a phase-out applies; see below for details).

R.I. standard deduction

Filing status:	TY 2010:	TY 2011:
Single	\$5,700	\$7,500
Married filing jointly or qualifying widow(er)	\$9,550	\$15,000
Head of household	\$8,400	\$11,250
Married filing separately	\$4,750	\$7,500

Special standard deduction: A special standard deduction amount was formerly available for a taxpayer 65 or older or blind. The amount was determined by using a special Rhode Island deduction schedule. But the special standard deduction does not apply for 2011 or later tax years.

Itemized deductions: Itemized deductions are no longer allowed.

Exemptions: Each personal and dependency exemption amount for 2011 is \$3,500, compared with \$3,650 for 2010 (although a phase-out applies for 2011 and later years; see below).

Phase-outs: The standard deduction and personal and dependency exemption amounts are phased out for any taxpayer whose modified adjusted gross income (MAGI) for Rhode Island purposes exceeds \$175,000. The standard deduction and exemption amounts are reduced by 20 percent for each \$5,000 (or fraction thereof) by which MAGI exceeds \$175,000.

❖ *Neither the standard deduction nor the personal/dependency exemption is allowed when MAGI exceeds \$195,000.*

Federal credits: The only federal credit that Rhode Island now allows is the credit for child and dependent care expenses.

Capital gains: Capital gains continue to be treated as ordinary income for state tax purposes.

State credits: The list of state credits allowed to be applied against the personal income tax is now limited to the following:

- Rhode Island earned income credit;
- statewide property tax relief credit;
- lead paint credit;
- credit for income taxes paid to other states;
- historic structures tax credit;
- motion picture production tax credit;
- credits for contributions to qualified scholarship organizations; and
- credit for tax withheld.

❖ *Learn more: <http://go.usa.gov/ZqW>*

TDI refunds

If you worked more than one job last year, and paid more than \$694.80 in tax to Rhode Island's Temporary Disability Insurance (TDI) program, you may be eligible for a TDI tax refund. (The TDI tax rate for 2010 was 1.2 percent, applied to a taxable wage base of \$57,900.)

Instructions for claiming a refund are included on the refund claim form, TX-16: <http://go.usa.gov/ZqL>



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Legal corner

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.)

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Sales tax

The taxpayer, a software retailer, had sales of software, consulting charges related to the sales of software, maintenance contracts for software leasing, and other items.

The Tax Division said that the taxpayer's sales of software and related services were interwoven and could not be separated out; all were subject to the state's 7 percent sales and use tax under RIGL § 44-18.

Hearing Officer Catherine R. Warren concluded that the taxpayer owed the assessed sales tax, plus interest and penalties. Tax Administrator David M. Sullivan on May 27 adopted the hearing officer's decision and recommendation.
- Case No. 10-T-0006

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Income tax

The taxpayer filed a Rhode Island nonresident return for two separate years, each time well past the due date. The taxpayer claimed a refund for both years, but was denied.

Rhode Island has strict rules governing the time periods within which a refund may be claimed. In this regard, state law does not follow the Internal Revenue Code in its entirety. Based on RIGL § 44-30-87, the Tax Division denied the taxpayer's refund claims because the claims were made out of time. Warren determined that the taxpayer is not entitled to the refunds

claimed, and that the Tax Division properly denied the taxpayer's claims. Sullivan on May 27 adopted the hearing officer's decision and recommendation.

- Case No. 10-T-0021

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Litter permit fee

Those who sell beverage containers (and certain other items) must apply each year for a permit. The permit fee depends on the applicant's gross receipts.

The taxpayer – who ran a gas station, car wash and small retail operation – asserted that, under RIGL § 44-44-1 *et seq.*, the definition of "gross receipts" does not include any items that are exempt from state sales tax, such as gasoline.

The Tax Division said that the definition includes items that are exempt from state sales tax, so gasoline sales should be counted toward gross receipts. The hearing officer concluded that gasoline sales should be counted, the Tax Division properly calculated the taxpayer's permit fee, and that the Tax Division properly assessed a 10 percent penalty plus interest. Sullivan on May 31 adopted the hearing officer's decision and recommendation.
- Case No. 10-T-0024

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Trust fund

Following a special investigation field audit, the Tax Division determined that the taxpayer had collected sales tax on some items but had not remitted the tax.

In addition, the taxpayer – incorporated in Massachusetts, with a place of business in Rhode Island – did not properly charge sales tax on some taxable items.

Citing RIGL § 44-18-1 *et seq.*, and RIGL § 44-19-1 *et seq.*, Warren determined that the taxpayer owed the trust fund assessment, the additional sales tax assessment, plus interest and penalties. Sullivan on June 15 adopted the hearing officer's decision and recommendation.
- Case No. 11-T-0004



Domicile

The main issue was whether the taxpayer was a Rhode Island resident for state tax purposes under RIGL § 44-30-5, subject to Rhode Island personal income tax.

The Tax Division asserted that he owned a house in Rhode Island and another in New York, changed his driver's license to Rhode Island, and voted in Rhode Island.

The taxpayer asserted that he bought the Rhode Island house as part of an effort to launch a farm in the state, but that the New York house was larger than the Rhode Island house and was the center for family events.

Warren determined that the taxpayer was a domiciliary of Rhode Island for 2006, and owes personal income tax to Rhode Island for that year, plus interest and penalties. Sullivan on June 13 adopted the hearing officer's decision and recommendation.

- Case No. 11-T-0010

Calendar: key dates

July 31: Due date for quarterly reports on sales and use tax (for taxpayers given special written permission from Tax Administrator to file quarterly).

July 31: Due date for employers to file their next quarterly tax and wage report – reflecting state unemployment insurance tax, the job development tax, and TDI tax. For the unemployment insurance tax, there are 31,519 “contributory” employers (mainly businesses), and 1,161 “reimbursable” employers (mainly cities, towns and some nonprofits).

Contributions

The following Division of Taxation staff members contributed to this issue of *Rhode Island Tax News*:

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Comments

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

September 15: Third installment due for quarterly estimated payments of personal income tax.

September 15: Filing deadline for calendar year corporate taxpayers on extension.

❖ *This deadline involves the Form 1120C and 1120S (though the agency will accept the Form 1120S as late as late as Oct. 17 this year).*

Notice to readers

The purpose of this newsletter is to provide tax professionals with general information regarding Rhode Island tax laws, regulations 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 Division of Taxation or formal rulings.

-- Tax Administrator David M. Sullivan