



Rhode Island Department of Revenue

Division of Taxation

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TAX ADMINISTRATION

ADVISORY FOR TAX PROFESSIONALS
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Guidance on new law for pass-through entities

Details about September estimated payments for those electing to pay entity-level tax

PROVIDENCE – The Rhode Island Division of Taxation today offered estimated-tax guidance for pass-through entities that elect to pay Rhode Island’s new entity-level tax enacted in House Bill 5151Aaa, Article 5, Section 8.

The guidance focuses on estimated payments due September 16, 2019, and assumes that the partnership, subchapter S corporation, or other pass-through entity is electing to pay the entity-level tax for the 2019 tax year.¹

If entity owners are all Rhode Island residents

Under the old law, if the partnership, S corporation, or other pass-through entity had only Rhode Island residents as owners, the entity generally would not have been required to make an estimated payment in mid-September.

Under the new law, such an entity – which elects to pay the entity-level tax – may opt to make a September estimated payment and, for that purpose, will use Form BUS-EST (“Business Tax Estimated Payment Form”), which the Division recently revised (click [here](#) to view). On the form, the entity will check the “Pass-Through Entity Election” box.

More information

To learn more about Rhode Island’s entity-level tax, see the Rhode Island Division of Taxation’s “Summary of Legislative Changes” publication posted August 5. To view, click [here](#) and see summary on page 7 of that publication .

If entity owners include nonresidents

Under the old law, if the owners of a partnership, S corporation, or other pass-through entity included nonresidents, the entity would have used RI-1096PT-ES (“Pass-through Withholding Estimated Payment Voucher”) to make estimated payments on behalf of the nonresident owners.

Under the new law, such an entity – which elects to pay the entity-level tax – may opt to make a September estimated payment of entity-level tax and, for that purpose, will use Form BUS-EST, which the Division recently revised (click [here](#) to view). On the form, the entity will check the “Pass-Through Entity Election” box.²

¹ For calendar-year entities, payments of the entity-level tax must be made on or before December 31, 2019, in order to count toward the 2019 tax year. (For the most part, information in this Advisory applies to calendar-year taxpayers.)

² The new law applies to pass-through entities that elect to pay the entity-level tax – and, therefore, to the entity’s resident and nonresident owners. Thus, if an electing pass-through entity has resident and nonresident owners, the entity is, in essence, paying the entity-level tax on behalf of its resident and nonresident owners.

Additional information for a pass-through entity, with one or more nonresident owners, which elects to pay the entity-level tax:

- Payments of withholding for nonresident owners have typically been made on Form RI-1096PT-ES. However, for purposes of payments made on or after July 1, 2019, a pass-through entity electing to pay the entity-level tax should no longer use Form RI-1096PT-ES but should instead use Form BUS-EST (see screenshot below).
- Payments of withholding for nonresident owners, made on Form RI-1096PT-ES, and made on or before June 30, 2019, will continue to be treated as withholding. Such payments will not be counted as payment of entity-level tax.

If entity is a sole proprietorship

For purposes of the entity-level tax under the new law, the definition of a “pass-through entity” includes a single-member limited liability company (LLC) and a sole proprietorship (reporting, for example, on Schedule C, Schedule C-EZ, or Schedule E of the U.S. Form 1040).

Under the new law, such an entity – which elects to pay the entity-level tax – may opt to make a September estimated payment of entity-level tax and, for that purpose, will use Form BUS-EST, which the Division recently revised (click [here](#) to view). On the form, the entity will check the “Pass-Through Entity Election” box. (The same principle applies for a trust electing to pay the entity-level tax.)

Screenshot below is a sample for illustration purposes only and is not to be used for filing.

State of Rhode Island and Providence Plantations
Form BUS-EST
Business Tax Estimated Payment Form

Name _____ Federal employer identification number _____
Address _____ For the period ending: _____
Address 2 _____
City, town or post office _____ State _____ ZIP code _____ E-mail address _____

Estimates are due by the 15th day of the fourth, sixth, ninth and twelfth months of the taxable year

Additional information

- **SEPTEMBER DEADLINE:** Ordinarily, the due date for estimated payments is September 15. But that date falls on a Sunday this year. Therefore, the deadline has been moved to the next business day, which is Monday, September 16, 2019.
- **UNDERPAYMENT CHARGE:** If a pass-through entity did not, or does not, make estimated payments this year with regard to the new entity-level tax, or fails to pay a sufficient amount, the Division of Taxation will not impose a charge for underpayment of estimated tax involving the entity-level tax for the 2019 tax year.
- **FORM REVISIONS:** The Division recently revised Form BUS-EST and is in the process of revising several forms and any related instructions so that they are fully updated to reflect the new law regarding Rhode Island's new entity-level tax. For example, a checkbox is being added to the business tax automated extension request form (Form BUS-EXT) and the business tax payment voucher form (Form BUS-V).

Background

Under legislation approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Gina M. Raimondo on July 5, 2019, pass-through entities – including sole proprietorships – may elect to pay an entity-level Rhode Island tax on net income at the rate of 5.99%.³

If the election is made, the entity will show the resulting *pro rata* share of the tax paid at the entity level on the Schedule K-1 for each owner, member, partner, shareholder, or principal.

When figuring one's federal adjusted gross income for Rhode Island tax purposes, the pass-through entity's owner, member, partner, shareholder, or principal will add back his or her share of the entity-level tax by which net income was reduced.⁴

Once Rhode Island tax liability is determined, the pass-through entity's owner, member, partner, shareholder, or principal will receive a Rhode Island credit equal to his or her share of the tax payment made by the pass-through entity.

The election applies to tax years beginning on or after January 1, 2019.

The Rhode Island Division of Taxation office is at One Capitol Hill in Providence, R.I., diagonally across from the Smith Street entrance of the State House, and is open to the public 8:30 a.m. to 3:30 p.m. business days. To learn more, see the agency's website: www.tax.ri.gov.

³ Rhode Island Public Law 2019, chapter 88, article 5, section 8, which established Rhode Island General Laws § 44-11-2.3 ("Pass-through entities -- Election to pay state income tax at the entity level").

⁴ Accordingly, the Division is updating Schedule M ("RI Modifications to Federal AGI").