Rhode Island Division of Taxation

Rhode Island Tax news

A newsletter for tax professionals January/February/March 2017

New Tax Administrator appointed

Robert S. Hull, Director of the Rhode Island Department of Revenue, has announced the appointment of Neena S. Savage to serve as Rhode Island Tax Administrator, overseeing the Rhode Island Division of Taxation.

"Neena has served as the interim Tax Administrator and is well-versed in all aspects of Rhode Island tax functions," Hull said. "She is committed to continuous improvements, having overseen the successful implementation of a new tax system, which was completed both on schedule and on budget."

Neena S. Savage

An attorney with over 25 years of legal experience in the non-profit, public, and private sectors, she became Acting Tax Administrator in December 2015, succeeding David M. Sullivan, who stepped down to take a job in the private sector.

She joined the Division of Taxation in February 2015 as Associate Director of Revenue Services and Assistant Tax Administrator.

(Please turn to page 2)

What's new for tax year 2017

Rhode Island's annual corporate minimum tax has dropped by 11 percent for 2017 and later years.

In addition, pass-through entities are seeing a reduction in their annual filing charge for 2017 and later years.

Those are just two of the changes for tax years beginning on or after January 1, 2017.

Rhode Island's state unemployment insurance tax system has moved to a new tax rate schedule starting January 1, 2017. As a result, employers will save an estimated $30 million in the aggregate for 2017.

Earned income credit

Meanwhile, Rhode Island's earned income credit – a tax break for the working poor – has increased for 2017. Last year, the Rhode Island credit was 12.5 percent of the federal credit. For 2017, however, it will be 15 percent of the federal credit. Also new for 2017 is an increase in the interest rate on overpayments (refunds) -- reflecting an increase in the prime rate.

Estate tax

The Rhode Island estate tax threshold has increased somewhat for calendar year 2017. As a consequence, fewer estates potentially will be subject to the tax.

Full coverage of changes affecting tax year 2017 begins on page 3.

New tax break on income from pensions, annuities, 401(k) plans

A new Rhode Island personal income tax modification has taken effect, applying to income from such sources as pensions, annuities, military retirement pay, 401(k) plans, and 403(b) plans.

The tax break will apply on returns filed in early 2018, covering the 2017 tax year.

(For details, see page 9.)

Inside this issue:

New Rhode Island tax administrator appointed

She holds a Bachelor of Science degree from Texas A&M University and a Juris Doctorate from the Washington College of Law of the American University.

She lives in Warwick with her husband, Bob, and has two children, Nicholas and Natasha.

After graduating from law school in 1990, she worked for two years in Peace Dale for Rhode Island Legal Services, which helps low-income people with civil legal problems. She later worked as a litigation associate at the Edwards & Angell law firm (now Locke Lord LLP) in Providence.

State service

She entered State service in 1997 at the Rhode Island Department of Business Regulation (DBR), where she held a number of positions in her 18-year career, eventually becoming Acting Deputy Director and Executive Counsel.

While at DBR, she became experienced in all facets of regulatory enforcement and in the ever-increasing and dynamic pace at which commerce, and especially ecommerce, presents unique governmental challenges and opportunities.

In addition to her regulatory enforcement work, she worked on the implementation of online insurance and banking licensing systems and collaborated with key public and private sector banking representatives to tackle emerging cybersecurity challenges in the banking sector.

Tax Administrator: *Neena S. Savage has been appointed as Rhode Island Tax Administrator, overseeing the Rhode Island Division of Taxation. An attorney with over 25 years of legal experience in the non-profit, public, and private sectors, she had served as Acting Tax Administrator since December 2015.*

"Rhode Island is at a critical moment in its history," Savage said. "We are aligning the efforts of the government, business, and nonprofit sectors to spark an economic resurgence. I am excited and honored for the opportunity to help strengthen and improve the way the Division serves Rhode Islanders."

Guidance, direction

As Tax Administrator, she is responsible for providing the overall guidance and direction of the Division of Taxation, which has approximately 230 employees and an expenditure budget of $23.7 million for the current fiscal year.

The Division administers more than 50 tax types and fees and is projected to collect approximately $3.2 billion in revenue for the current fiscal year.

The Division of Taxation is part of the Rhode Island Department of Revenue.

Special edition focuses on current tax-filing season

The Rhode Island Division of Taxation recently posted a special edition of its newsletter.

The special edition focuses on what's new for the 2017 tax-filing season, covering tax year 2016 returns. For example, it includes information about the April filing deadline for personal income tax returns, and outlines the new original due dates and new extended due dates for business entities. In addition, the special edition describes efforts by state and federal authorities and tax industry professionals to combat tax refund fraud and refund-related identity theft.

Also included are details about the increase in the earned income credit and property-tax relief credit. The special edition is available online:

http://go.usa.gov/x9mzc

Tax Seminar: *Daniel T. Clemence (left, at lectern), chief revenue agent, Tax Processing Services, Project Oversight & Development, talked about e-filing and other topics during a presentation at the Division of Taxation's "Seminar for Tax Preparers" held at the Community College of Rhode Island campus in Warwick in November.*

TAX YEAR 2017: REDUCTION IN CORPORATE MINIMUM TAX

More tax relief has arrived for business entities.

The annual corporate minimum tax, under Rhode Island General Laws § 44-11-2(e), had long been set at $500, but dropped by 10 percent, to $450, for the 2016 tax year.

However, for tax years beginning on or after January 1, 2017, the tax has dropped again, by another $50, to $400.

Pass-through entities

Pass-through entities also obtain relief. They pay an annual filing fee, or annual filing charge. It is equivalent to the annual corporate minimum tax, and it, too, had long been set at $500.

But it dropped by $50, to $450, for 2016. And it has fallen again, by another $50, to $400 for tax years beginning on or after January 1, 2017.

20% drop overall

Thus, the annual corporate minimum tax, and the annual filing charge for pass-through entities, have each been reduced by a total of $100 per entity, or 20 percent overall, over the last two years.

The latest reduction in the annual corporate minimum tax, and in the annual filing charge for pass-through entities, will appear on tax forms in early 2018.

The latest reduction is the result of legislation approved by the General Assembly and signed into law by Governor Gina M. Raimondo in June 2016.

Subchapter S

The overall reduction applies not only to C corporations, but also to subchapter S corporations, limited liability companies, limited partnerships, limited liability partnerships, and other such entities that are treated as pass-through entities for federal income tax purposes.

Because the annual filing charge also applies to single-member LLCs, the reductions apply to them, as well.

At a glance: Minimum annual tax	
C corporations	$400
S corporations	$400
Limited liability companies	$400
Limited partner-	$400
Limited liability partnerships	$400
Pass-through entities, including single-member LLCs, pay an annual charge, or annual filing fee, equivalent to annual corpo-	

More information

The "Practitioners' Corner" feature, which starts on page 13, includes some Q&As about tax year 2016 and 2017.

TAX YEAR 2017: TDI TAX RATE AND WAGE BASE SET

The maximum tax under Rhode Island's temporary disability insurance (TDI) program will be $817.20 for calendar year 2017, up from $795.60 for calendar year 2016, an increase of 2.7 percent, or $21.60.

The TDI tax has two main components: one is the tax rate itself, the other is the amount of your wages to which that tax rate applies.

The maximum amount of wages to which the TDI tax rate applies will be $68,100 for 2017, compared with $66,300 for 2016, an increase of 2.7 percent, or $1,800.

The TDI tax rate is 1.2 percent for 2017 -- the same as it has been since 2012. (The tax rate, also known as the contribution rate, is calculated by dividing total adjusted fund disbursements for a 12-month period by taxable wages for a 12-month period.)

As a result, the maximum TDI tax will be $817.20 for 2017 (the tax rate of 1.2 percent applied to the first $68,100 of one's wages).

Year	Tax rate	Wage base	Max. tax
2017	1.2%	$68,100	$817.20
2016	1.2%	$66,300	$795.60
2015	1.2%	$64,200	$770.40
2014	1.2%	$62,700	$752.40
2013	1.2%	$61,400	$736.80
2012	1.2%	$60,000	$720.00
2011	1.3%	$58,400	$759.20
2010	1.2%	$57,900	$694.80
2009	1.5%	$56,000	$840.00
2008	1.3%	$54,400	$707.20

The maximum TDI tax was $795.60 for 2016 (the tax rate of 1.2 percent applied to the first $66,300 of one's wages).

Whether the amount of your TDI tax goes up or down will generally depend on how much you earn.

For 2016, TDI tax was paid by more than 400,000 private-sector workers.

The TDI program is administered by the Rhode Island Department of Labor and Training; the tax is collected by the Rhode Island Division of Taxation.

The TDI program generally pays benefits for unemployment caused by injury or illness unrelated to work. A related program, funded through TDI, is temporary caregivers insurance, also known as TCI.

To learn more about TDI:: www.dlt.ri.gov

Employers may learn more about TDI tax at the Tax Division website: www.tax.ri.gov

How the TDI wage base is calculated

The wage base for Rhode Island's temporary disability insurance (TDI) program is equal to the annual earnings needed by an individual to qualify for the TDI maximum weekly benefit rate ($817).

This is determined by multiplying the maximum rate ($817) by the maximum TDI benefit duration (30 weeks) and then dividing by the percent of wages replaced (0.36 percent).

Thus: $817 x 30/.36 = $68,083 (which by law is rounded up to next higher multiple of $100, or $68,100).

About TCI

Rhode Island's temporary caregiver insurance program (TCI) is not a separate state program; TCI is part of the TDI program and can be considered to be TDI for TCI purposes. (See article at lower left of this page.)

Most private-sector workers pay for TDI as a tax, through payroll withholding. (TDI taxes are deductible at the federal level for those who itemize their deductions.)

TEMPORARY CAREGIVER INSURANCE (TCI) PROGRAM

Rhode Island's temporary caregiver insurance (TCI) program can provide eligible claimants with up to four weeks of caregiver benefits to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent, or to bond with a newborn child, newly adopted child, or new foster-care child.

TCI is part of the TDI program; it is paid for through TDI taxes.

TCI benefits are subject to federal and Rhode Island income taxes, according to the DLT; beneficiaries are issued a Form 1099 each year for tax purposes, showing the amount of benefits received in the prior year. Through October 2016, the DLT said it handled 34,932 TDI applications, of which 8,202 — about one of every four — were initial claims for TCI.

TDI payments averaged approximately $482 per week in 2016 and TCI payments have averaged $532 per week.

TAX YEAR 2017: INCREASE IN EARNED INCOME CREDIT

Rhode Island is making available a more generous earned income credit for the 2017 tax year.

The earned income credit, or EIC, is a special tax break for the working poor. It is available under federal and Rhode Island law, and is sometimes referred to as the earned income tax credit, or EITC. Eligible taxpayers may claim a federal earned income credit and a Rhode Island earned income credit.

Seminar: *Theriza Iafrate, chief revenue agent in the Rhode Island Division of Taxation's Excise Tax section, addressed more than 100 tax professionals at the agency's "Seminar for Tax Preparers" held in December at the Community College of Rhode Island campus in Newport.*

For tax year 2015, the Rhode Island credit was 10 percent of the federal credit.

For tax year 2016, -- which taxpayers and preparers are focusing on this filing season -- the Rhode Island credit was 12.5 percent of the federal credit – and was fully refundable.

For tax year 2017, however, the Rhode Island credit has increased to 15 percent of the federal earned income credit -- and will continue to be fully refundable. As a result, a claimant whose circumstances for 2017 are the same as in 2016 could receive a 20 percent higher Rhode Island earned income credit.

Standard deduction

The Rhode Island Division of Taxation has made inflation adjustments for tax year 2017.

The new figures will show up on tax returns in the 2018 filing season, for tax year 2017. Nevertheless, they are important this year for tax-planning purposes.

Following are standard deduction amounts:

- ♦ For someone filing as single, the standard deduction increases from $8,300 for 2016 to $8,375.
- ♦ For a married couple filing jointly (or qualifying widow or widower), the standard deduction increases from $16,600 to $16,750.
- ♦ For someone filing as head of household, the standard deduction increases from $12,450 to $12,550.
- ♦ For someone filing as married filing separately, the standard deduction increases from $8,300 to $8,375.

Rhode Island earned income credit – Example 1

	Tax year 2016	Tax year 2017
Rhode Island tax	$0.00	$0.00
Federal EIC	$1,000.00	$1,000.00
Rhode Island % (% of federal EIC)	12.50%	15.00%
Rhode Island EIC	$125.00	$150.00

Rhode Island earned income credit – Example 2

	Tax year 2016	Tax year 2017
Rhode Island tax	$700.00	$700.00
Federal EIC	$5,000.00	$5,000.00
Rhode Island % (% of federal EIC)	12.50%	15.00%
Rhode Island EIC	$625.00	$750.00

TAX YEAR 2017: RHODE ISLAND UI TAX RATES REDUCED

Rhode Island Governor Gina M. Raimondo announced on January 9 that employers will see a significant reduction in their state unemployment insurance (UI) tax rate for the first time in 25 years.

Collectively, Rhode Island employers will save about $30 million annually starting in 2017. "Since my first day in office, my goal has been to make Rhode Island work again by supporting existing businesses, attracting new business to Rhode Island and fostering a climate where employers can create jobs for Rhode Islanders at all rungs of the economic ladder," Raimondo said.

Photo by Catherine Rolfe / Governor's Office

Bill Signing: *The budget bill for fiscal year 2017, which included UI tax changes, was signed into law on June 24, 2016, at the State House in Providence. At the ceremony were (from left to right): Rep. Samuel A. Azzinaro; Senate President M. Teresa Paiva Weed; Sen. Juan M. Pichardo; Gov. Gina M. Raimondo (seated); Rep. Marvin L. Abney, House Finance Committee chairman; and House Speaker Nicholas A. Mattiello.*

"Working together with the General Assembly, we have lowered the Unemployment Insurance tax for the first time since 1992 and put $30 million back on the books of companies. I will continue to fight for reforms that strengthen Rhode Island and give Rhode Islanders from all walks of life the chances they need and deserve," she said.

In 2016, the Rhode Island General Assembly approved Governor Raimondo's proposal to revise the antiquated UI rate schedule and bring the state's average per-employee tax liability closer in line with neighboring states. This resulted in an average tax cut of $77 per employee for businesses and improved the fairness of the system.

"Unemployment Insurance rates are a significant obstacle to Main Street's growth, which we needed to address to improve the fundamentals of our business climate," said Speaker of the House Nicholas A. Mattiello.

"I am proud that we listened to the small business community and were able to provide meaningful relief on this cost driver. The House's primary focus for the last two years has been to make Rhode Island's business costs and tax structure regionally competitive and this is another step in the right direction," he said.

President of the Senate M. Teresa Paiva Weed said, "The reduction of the Unemployment Insurance tax is an important part of our work to improve Rhode Island's economic competitiveness through lower business and personal taxes and reduced regulatory burdens. Our state's turnaround is gaining momentum thanks to sustained investments in our economic future."

"In order to have an economy that works for everyone, we need to have a stable and efficient Unemployment Insurance program," said Scott Jensen, Director of the Rhode Island Department of Labor and Training. "This announcement today shows that we're making progress," he said.

Unemployment insurance provides temporary income support to workers who have lost their jobs through no fault of their own and meet the monetary requirements. It is funded entirely from state and federal UI taxes paid by Rhode Island's 33,000 employers.

The rate reduction for 2017 was accomplished by switching to a different UI tax rate schedule. Schedule I, the highest tax rate schedule, had been in effect since 1992. For 2017, Schedule H is now in effect.

First-quarter tax bills reflecting the new tax rates will be due on or before May 1, 2017. For details on changes to the state UI taxable wage base, *please see following page.*

TAX YEAR 2017: RHODE ISLAND UI WAGE BASE SET

For most Rhode Island employers, the taxable wage base for calculating the state's unemployment insurance (UI) tax will be $22,400 for 2017, compared with $22,000 for 2016, an increase of $400, or 1.82 percent.

However, the tax rate range will be lower for 2017, at 0.99 percent to 9.59 percent, compared with a minimum of 1.69 percent to a maximum of 9.79 percent for 2016.

Thus, many employers will see an overall reduction in state unemployment insurance tax in 2017. (For more information, see previous page.)

Which rate in that range will apply to a specific employer depends on the employer's experience with the UI system. The lower an employer's "experience rate," the less tax the employer pays. Notices of individual tax rates were mailed to employers starting in early January.

Wage base

The state unemployment insurance system's taxable wage base represents the maximum amount of an employee's wages that are subject to the state UI tax. The taxable wage base is set by law at 46.5 percent of the average annual wage in Rhode Island.

A separate, higher taxable wage base applies for employers who have experienced considerable unemployment – and who therefore have used the system's resources the most and are taxed at the highest state UI tax rate. For those employers, the taxable wage base will be $23,900 for 2017, compared with $23,500 for 2016.

In general, the higher wage base is intended to help offset the large drain that these employers have on the state's unemployment insurance trust fund.

A separate state UI tax rate applies for new employers. The Rhode Island UI tax rate for new employers is 1.83 percent for 2017, down from 2.27 percent for 2016.

In general, assessments on approximately 33,000 employers in the state go into the state's unemployment insurance trust fund, which is used to pay unemployment insurance benefits for jobless workers.

Changes in Rhode Island General Laws, enacted in 2011, altered some of the key elements in the state's unemployment insurance tax formula for 2012 and later years.

The changes were part of a broader effort to restore the state's unemployment insurance trust fund, which became insolvent during the most recent recession.

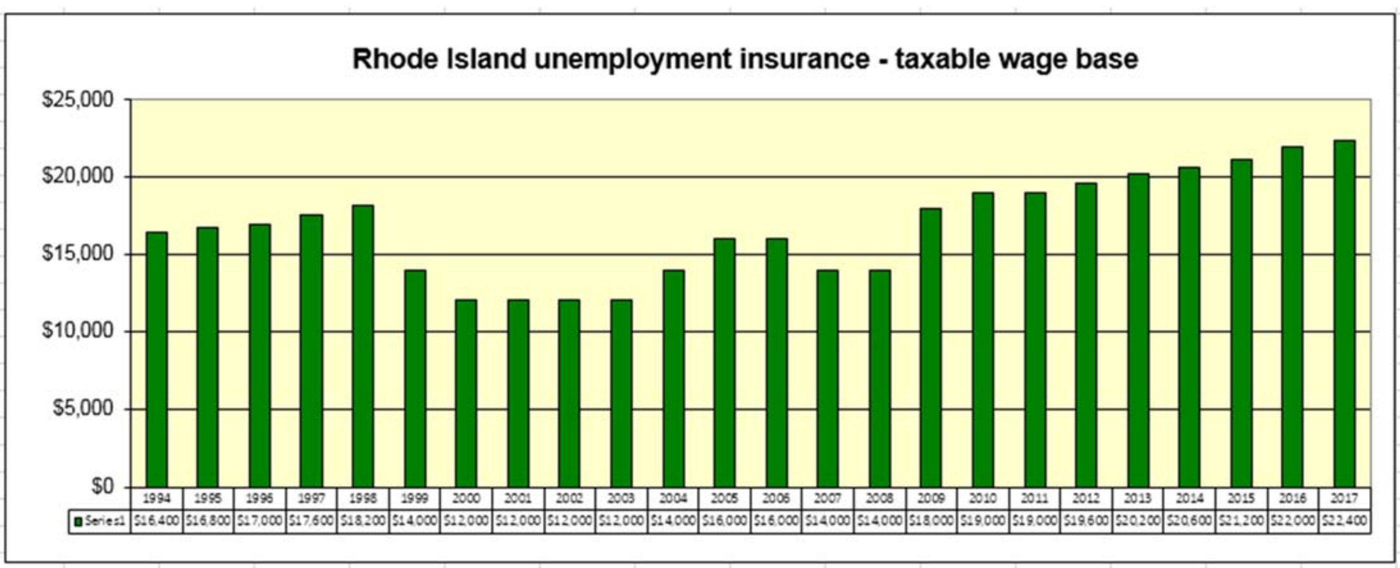
For example, as a result of a 1998 state law, the taxable wage base was tied to the balance of the state's unemployment insurance trust fund.

Under the changes enacted in 2011, the wage base is tied to the statewide average annual wage, as the formula was before the 1998 law took effect.

In addition, the changes enacted in 2011 ushered in the higher taxable wage base for those employers who have had the greatest negative effect on the state's unemployment insurance trust fund.

The state UI tax rates mentioned above do not include the job development assessment, which is the same for 2017 as it was for 2016: 0.21 percent of the taxable wage base.

Employer taxes are administered by the Division of Taxation and are overseen by the Department of Labor and Training.



TAX YEAR 2017: INTEREST RATES SET FOR THE YEAR

Interest Rates		
Personal Income Tax Refunds		
From	To	Rate
01/01/17	Present	3.50%
01/01/10	12/31/16	3.25%
01/01/09	12/31/09	5.00%
01/01/08	12/31/08	7.75%
01/01/07	12/31/07	8.25%
10/01/06	12/31/06	6.75%
01/01/94	09/30/06	12.00%
01/01/93	12/31/93	8.00%
01/01/92	12/31/92	10.00%
01/01/91	12/31/91	12.00%
01/01/90	12/31/90	12.50%
01/01/89	12/31/89	12.00%
01/01/88	12/31/88	10.75%
01/01/87	12/31/87	9.50%
01/01/86	12/31/86	11.50%
01/01/85	12/31/85	14.75%
05/16/82	12/31/84	14.00%
01/01/71	05/12/82	6.00%

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2017 to overpayments and delinquencies.

Interest on underpayments

The interest rate on delinquent tax payments has been set at 18 percent per annum for calendar year 2017, the same as it was for 2016. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.

Interest on overpayments

Interest on overpayments (refunds) for calendar year 2017 has been set at 3.50 percent, up from 3.25 percent for 2016. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.1.

Prior years

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

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

RHODE ISLAND TAX NEWS IN BRIEF

Inflation adjustments

The Division of Taxation recently posted an Advisory showing inflation-adjusted numbers for the 2017 tax year. The Advisory is available online:

http://go.usa.gov/x8vCd

Surplus lines

The Division of Taxation in December posted a guide to help surplus lines brokers/licensees meet their Rhode Island tax filing and tax payment obligations. The guide is available online:

http://go.usa.gov/x8mYW

Regulatory update

The Rhode Island Division of Taxation is in the process of consolidating a number of tobacco tax regulations into a single regulation.

It is part of the agency's ongoing effort to streamline its regulations.

The agency also is also in the process of updating outdated regulations.

Contact information

The Division of Taxation's website lists contact information for each section in the agency, including phone numbers and email addresses:

http://www.tax.ri.gov/contact/

Tax Forum: *Michael J. Heffernan (left), commissioner of the Massachusetts Department of Revenue, and Michael F. Canole (right), chief of examinations at the Rhode Island Division of Taxation, took part in the 2016 New England State and Local Tax Forum. The event, held on November 16, 2016, at the Boston Marriott Newton hotel in Newton, Massachusetts, included a session which brought together leading tax officials from all six New England states.*

TAX YEAR 2017: BREAK FOR PENSION, ANNUITY, 401(K)

A Rhode Island personal income tax break for income from pensions, annuities, 401(k) plans, and other such sources, has taken effect for tax years beginning on or after January 1, 2017.

It is the result of legislation approved by the Rhode Island General Assembly and signed into law in June 2016 by Rhode Island Governor Gina M. Raimondo.

The new tax break is in the form of a modification reducing one's federal adjusted gross income (AGI) for Rhode Island tax purposes.

It will first appear on returns early in calendar year 2018, covering the 2017 tax year. Nevertheless, it is important to know about now, for tax-planning purposes, said Rhode Island Tax Administrator Neena S. Savage.

In general, a taxpayer will qualify for the tax break if the taxpayer meets all three of the following conditions:

♦ The taxpayer has income from pensions, annuities, 401(k) plans, 403(b) plans, military retirement pay, or other such sources, and at least some of it is taxed federally;

♦ The taxpayer has reached "full retirement age" as defined by Social Security Administration rules; and

♦ The taxpayer's federal adjusted gross income is below a certain amount

Tax Tips: *Leo Lebeuf (above), chief revenue agent in the Rhode Island Division of Taxation's Personal Income Tax section, talked about tax changes at the agency's Seminar for Tax Preparers" held at the Community College of Rhode Island's Newport County campus in December 2016.*

($80,000 for someone who is single, $100,000 for a married couple filing a joint return).

Up to $15,000

Assuming the taxpayer qualifies, up to $15,000 of the taxpayer's federally taxable income from pensions, annuities, 401(k) plans and other such sources will escape Rhode Island tax.

Under the new law, any taxable income that is properly and accurately included on the "Pensions and annuities" line of the taxpayer's federal return will count.

(For example, for tax year 2016, "Pensions and annuities" income is shown on lines 16a and 16b of the U.S. Form 1040, or lines 12a and 12b of the U.S. Form 1040A.)

What counts?

What counts as "pension and annuity income" for purposes of the new Rhode Island tax break? The following counts: taxable distributions from pensions, annuities, 401(k) plans, 403(b) plans, governmental 457(b) plans, military retirement pay, and other income that the taxpayer properly and accurately includes in the "taxable amount" box of the "pensions and annuities" line of the taxpayer's federal return -- which, for tax year 2016, was line 16b of U.S. Form 1040, line 12b of U.S. Form 1040A. (Taxable IRA distributions don't count for purposes of the new Rhode Island tax break.)

To accommodate the new modification, the Division of Taxation will amend its tax form instructions.

Two tax breaks

The modification for 2017 and later tax years involving taxable income from pensions, annuities, 401(k) plans and other such sources is separate and apart from the modification for 2016 and later tax years involving taxable Social Security benefits. Thus, for 2017 and later tax years, a taxpayer may qualify for both tax breaks.

Personal income-tax reminder

Payments of first-quarter estimated tax for tax year 2017 are due on or before Tuesday, April 18, 2017.

TAX YEAR 2017: INCREASE IN ESTATE TAX THRESHOLD

The Rhode Island estate tax threshold has increased somewhat for calendar year 2017.

As a result, fewer estates potentially will be subject to the tax.

The Rhode Island estate tax credit amount will be $65,370 for decedents dying on or after January 1, 2017.

That compares with the credit amount of $64,400 for decedents who died in calendar year 2016.

As a result, the Rhode Island estate tax threshold will be $1,515,156 for decedents dying on or after January 1, 2017, up from the threshold of $1,500,000 for calendar year 2016.

Inflation adjustment

Legislation enacted in 2014 requires that, beginning on January 1, 2016, the Rhode Island credit amount be adjusted by the percentage increase in the consumer price index for all urban consumers (CPI-U) determined as of September 30 of the prior calendar year.

The U.S. Department of Labor's Bureau of Labor Statistics (BLS) announced on October 15, 2015, that the index was unchanged.

On October 18, 2016, the BLS announced that the index had increased. Accordingly, for decedents dying on or after January 1, 2017, the credit amount will be $65,370, shielding from taxation the first $1,515,156 of an estate.

Tax Talk: *After the Division of Taxation's "Seminar for Tax Preparers", at the Community College of Rhode Island's Newport County campus in December, some tax preparers met one-on-one with Division officials, including Marlen Bautista (center), chief revenue agent in the Division's Corporate Tax section, and Michael F. Canole (right), the Division's chief of examinations.*

Thus, in general, for a decedent dying in 2017, a net taxable estate valued at $1,515,156 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: Rhode Island General Laws Chapter 44-22 provides full details on the computation of the tax, including such factors as the marital and charitable deductions.)

Revised forms

The Division of Taxation has posted revised forms for estate tax filings.

The forms have a new, streamlined appearance and are designed so that they can be more readily processed through the Division's new agency-wide computer and high-speed scanning system.

Although the Division's Estate Tax section will not be converting over to the new computer system until sometime this calendar year, the Division is urging taxpayers and tax professionals to begin using the forms now, so that they can become familiar with them in advance.

The Division is also providing the new forms to software providers so that they can be included in tax preparation software packages.

The updated package of forms includes a new payment voucher, which taxpayers and tax professionals should use when making payments involving the estate tax or estate tax-related lien releases.

After the Division's Estate Tax section is converted to the Division's new computer system, the voucher will have to be used for all filing-fee payments and will need to accompany any estate tax return filed with the Division.

Check the Division's website for updated forms:

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

The Rhode Island Division of Taxation's Estate Tax section is available by phone from 8:30 a.m. to 3:30 p.m. business days at (401) 574-8900.

The Rhode Island State Council on the Arts is spreading the word (see above) about Rhode Island's statewide sales tax exemption on the sale of original and limited edition works of art.

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.

Sales tax audit

At issue is whether a gas station convenience store owes sales tax as assessed by the Division of Taxation.

A revenue agent performed an audit of the store for the period of April 2011 through March 2014. For the audit, the store provided its general ledger, bank statement, purchase invoices, and federal tax returns -- but did not have any original sales records.

So the agent performed the audit on the best available evidence, and applied an industry standard as a taxable measure of sales. The tax rate was then applied. But after giving credit for any sales tax paid, the agent found that the store still owed tax.

The Division issued a Notice of Deficiency for the tax owed, plus penalty and interest.

Under Rhode Island General Laws § 44-18-25, there is a presumption that all gross receipts are subject to sales tax and that the burden of proving otherwise falls on the taxpayer.

A hearing was held to provide the taxpayer with an opportunity to rebut the presumption of taxability, using a preponderance of the evidence.

However, although the taxpayer argued that the Division's assessment was too high, the taxpayer offered no testimony or evidence that the agent's methodology was incorrect or that another method could have been used instead. (When a taxpayer cannot produce records demonstrating its sales and/or taxes collected, the Division uses the available evidence to make an assessment -- as provided by statute.)

On October 7, 2016, Hearing Officer Catherine R. Warren found that the taxpayer was unable to overcome the presumption of taxability as provided in statute.

Thus, the taxpayer owes the tax, interest, and penalty as assessed, Warren determined. On October 12, 2016, Acting Tax Administrator Neena S. Savage (now Tax Administrator) adopted Warren's decision and recommendation.

-- Final Decision and Order No. 2016-23

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.

Tax on car

A taxpayer bought a car in Portland, Oregon, in July 2015. Oregon does not levy a sales tax. When he registered the car in Rhode Island, the Division assessed the state's 7 percent use tax.

The taxpayer filed a request for a refund of the use tax, asserting that he was a *bona fide* nonresident of Rhode Island in 2015.

Under Rhode Island General Laws § 44-18-30(13), a *bona fide* nonresident of Rhode Island does not have to pay Rhode Island tax on the purchase of a vehicle.

At a hearing, it emerged that the taxpayer filed a 2015 Rhode Island personal income tax return and owned a house in Rhode Island in 2015 with his wife.

(Please turn to page 12)

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 IN SUMMARY (CONTINUED FROM PAGE 11)

He said he had earned income in Rhode Island for the first five months of 2015, so he filed a Rhode Island return for that year, but moved to Oregon in July 2015 with the intention of living there permanently with his family (but that it did not work out). He testified that he:

♦ registered to vote in Oregon;

♦ signed leases to rent a residence in Oregon;

♦ bought the car in Oregon; and

♦ held an Oregon driver's license.

He acknowledged that he moved back to Rhode Island in June 2016.

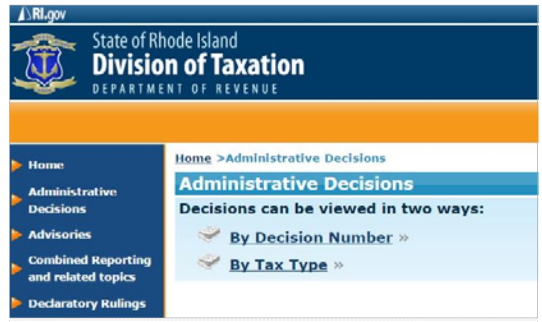
The Division argued that, while the taxpayer lived in Oregon from mid-July 2015 to June 2016, he maintained a house in Rhode Island, filed a 2015 Rhode Island return, and paid Rhode Island personal income tax.

The Division also argued the standard for taxing for purposes of the use tax differs from the standard for personal income tax or domicile.

The Division asserted that, applying the use tax standard, the evidence showed that the taxpayer was not a *bona fide* nonresident of Rhode Island, and had sufficient contacts with Rhode Island so as not to be deemed a *bona fide* nonresident of Rhode Island.

On December 15, 2016, the hearing officer found that the taxpayer was not a *bona fide* nonresident of Rhode Island and that the Division properly denied the taxpayer's request for a refund of the tax paid when he registered the car in Rhode Island. On December 29, 2016, the tax administrator adopted the hearing officer's decision and recommendation.

-- Final Decision and Order No. 2016-24



Decisions online

The Division of Taxation's website shows all Administrative Decisions since early 2011. (See screenshot above.) To view, see www.tax.ri.gov

TAX DIVISION COMPUTER-CONVERSION PROJECT MOVES AHEAD

The Rhode Island Division of Taxation is engaged in a multi-year project involving the acquisition, installation, and implementation of a new agency-wide computer system -- an integrated tax system.

There have been three main phases. The first phase of the project, which occurred in summer 2014, mainly involved converting account records and other information involving bank, insurance, and certain other tax types and fees from the old system into the new system.

In the second phase, which occurred late in 2015, the personal income tax, estate and trust income tax, composite income tax, and pass-through withholding were migrated onto the new system.

In the third major phase, completed in November 2016, the Division converted over to the new system its corporate income tax, withholding, and sales and use taxes.

Future plans include migrating estate tax records and the agency's revenue accounting system over to the new system, and constructing a taxpayer portal, which would, among other things, allow for the online filing of applications for letters of good standing and of returns involving surplus lines tax.

Tax tip line

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

Practitioners' Corner

QUESTIONS AND ANSWERS ABOUT STATE TAXES

Q: To be eligible for the new tax break on Social Security benefits, the taxpayer must have reached full retirement age (generally age 66), as defined by the Social Security Administration. Can you give an example of how the tax break works for a married couple when one spouse has reached full retirement age but the other has not?

A: Suppose that Tom and Tammy Taxpayer both collect Social Security retirement benefits. He is 68; she is 63.

He had $25,000 in Social Security benefits for 2016, while she had $15,000 in Social Security benefits, for a combined total of $40,000. So, Tom has 62.5 percent of the couple's combined total of Social Security benefits.

Let's suppose that the couple's federal adjusted gross income is below the required threshold and that line 20b of the couple's U.S. Form 1040 shows $20,000 in taxable Social Security benefits. How much of that $20,000 is eligible for the Rhode Island tax break? To find the answer, the couple uses the "Taxable Social Security Income Worksheet" of their Rhode Island return. On the worksheet, they apply Tom's eligible percentage (62.5 percent) to the total amount of federally taxable Social Security benefits. The answer is $12,500 (or 0.625 times $20,000). That amount is carried over from the worksheet onto page 1, line 1u, of Schedule M of the couple's Rhode Island return to ensure that their income is reduced by $12,500 for Rhode Island tax purposes.

Q: For single member LLCs, do we have to attach a schedule to the Form RI-1065? For example, if the individual has income and expenses from the business activity shown on Schedule C or Schedule E of his or her Form U.S. 1040, must the taxpayer attach that schedule to the Form RI-1065? Also, do we still have to complete the full return, including depreciable assets, total assets, gross receipts, federal taxable income, and the like?

Q: You'll use information from U.S. Form 1040 to prepare the Form RI-1065. As a convenience to taxpayers and tax preparers, the Division no longer requires you to attach, to the Form RI-1065, either the taxpayer's U.S. Form 1040 or any of its schedules.

Advise the taxpayer to keep his U.S. Form 1040 on file and readily accessible should the Division of Taxation need to examine it. Also explain the penalties and interest that apply for underreporting income. Further, remind the taxpayer that the Division of Taxation and the Internal Revenue Service regularly share taxpayer information and offset refunds for one another when appropriate.

Also let the taxpayer know that a single-member LLC's failure to file complete and accurate Form RI-1065 returns each year, and pay the associated annual filing charges, can delay the issuing of a letter of good standing.

Regarding your other question, we continue to require all of the other information that single-member LLCs (and others) must provide on the Form RI-1065, such as federal taxable income, total deductions, total additions, and the Rhode Island apportionment computation -- including inventory, depreciable assets, gross receipts, and all other items. This information is needed for audit and reporting purposes.

(Please turn to page 14)

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.

Practitioners' Corner

Questions and answers about state taxes (continued from page 13)

Q: I noticed a new check box on the Rhode Island Form RI-1120C (for C corporations), Form RI-1120S (for subchapter S corporations), and Form RI-1065 (for partnerships and LLCs). It says "Pro Forma" – and I wondered what that's about.

A: If you file an application with the Division for a letter of good standing, you may have to file a *pro forma* tax return (in other words, a draft return) for the entity or entities involved. The new check box lets our high-speed scanning and imaging equipment know that it's a *pro forma* return that's being filed, not an actual annual return. By checking the box, you let us know that you're filing what amounts to an information return, not the return itself. This makes processing more effective and efficient.

Q: I noticed there are two new check boxes on the estate tax Form 100, one box for "Pro Forma Return" and the other box for "Amended Return" -- and I wondered which box I should select if I am filing an original, final non-taxable return?

A: If the estate tax return is neither amending a previous estate tax return, nor a draft return, then do not select either box. The *pro forma* return is appropriate only for estates that are not yet finalized, but need to file an early return in order to request documentation from the Division. If the "Pro Forma" box is selected, the estate must submit a final estate tax return at a later date.

Q: When filing a Rhode Island estate tax return, must we include a certified copy of the death certificate, or will a photocopy suffice?

A: A photocopy is sufficient.

Q: Is the Division of Taxation's self-audit program still available?

A: Yes. The program generally works as follows:

You perform an audit of your books and records to see if you owe Rhode Island's 7 percent use tax.

You submit the results of your audit, along with payment for the tax due, to us.

If your self-audit meets all of the program's requirements and is approved by us, and you pay the tax due, we will waive all penalties – and forgive two-thirds of the interest. Furthermore, we will agree not to audit you for the period and tax type involved in your self-audit. The "self-audit" section of our website contains more information, including the program's application, FAQs, and other documents:

http://go.usa.gov/3JexQ

Q: My client's small business in Rhode Island pays a fee each month to a well-known Internet domain registrar and web hosting company. The company provides the small business with a template, which the small business uses to display its services and products. Is that monthly fee subject to Rhode Island sales and use tax?

A: No.

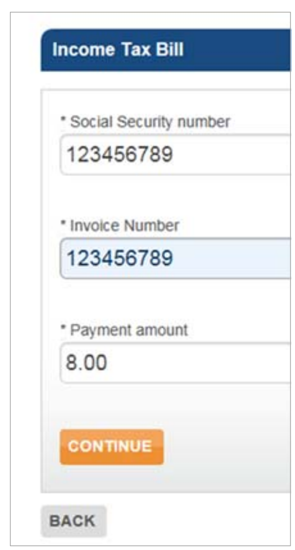
Q: Can my client file its annual sales tax reconciliation online?

A: In general, your client can file its annual sales tax reconciliation online with us, but only if that client filed its regular sales tax returns online and remitted sales tax payments online for the year in question. (For instance, if your client files online its monthly sales tax returns with us throughout calendar year 2017, and remits its sales tax to us online throughout calendar year 2017, the client will generally be able to file its annual reconciliation online with us in early 2018, covering calendar year 2017. However, due to system requirements, the annual reconciliation for liquor stores, and for writers, composers, and artists, must still be filed on paper, even if they file their regular returns with us online throughout the year and remit sales tax to us online throughout the year.

Q: My client wants to use her credit card or debit card to pay her Rhode Island personal income tax debt. But your online screen asks for an "invoice number" (see screenshot below). Where can she find that?

A: The invoice number is located on the bill that she received from the Division of Taxation. If she lost her bill, she may contact our Collections section, at (401) 574-8941 between 8:30 a.m. and 3:30 p.m. business days. To learn more:

http://www.tax.ri.gov/misc/creditcard.php



Rhode Island Department of Revenue
Division of Taxation

NEWSLETTER POLICY

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

HOW TO SUBSCRIBE

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

COMMENTS AND SUGGESTIONS

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

BACK ISSUES

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

How to contact us

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

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

Mailing address
Rhode Island Division of Taxation
One Capitol Hill
Providence, R.I. 02908

Telephone
Phone: (401) 574-8829
Fax: (401) 574-8917

NEWSLETTER CONTRIBUTORS

The following Division of Taxation personnel provided information or other assistance for this edition of Rhode Island Tax News*:*

Marlen Bautista
Michael Canole
Daniel Clemence
Richard Coia
Philip D'Ambra
Donna Dube
Theriza Iafrate
William Kaniecki
Meaghan Kelly
Matthew Lawlor
Leo Lebeuf
Neena Savage

(The Division also thanks Susan Galvin, former chief revenue agent, who contributed to this issue before her retirement.)