

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

APRIL/MAY/JUNE 2019

TIPS FOR LAST-MINUTE TAX FILERS

The Rhode Island Division of Taxation has issued a number of reminders and tips for preparers and taxpayers.

Deadline

This season, the deadline

for Rhode Island personal income tax filings and payments is Monday, April 15, 2019.

All resident and nonresident Rhode Island personal income tax returns and re-

lated payments for tax year 2018 must be e-filed or postmarked on or before April 15, 2019.

How to pay

If your Rhode Island return shows a balance due, and you e-file or have your return e-filed for you, you typically can authorize the Division to withdraw the required amount directly from your bank or credit union account.

(Try to schedule the withdrawal, or “direct debit,” several business days in advance of the deadline, to avoid delays.)

(Please turn to page 2)



RHODE ISLAND ENACTS REMOTE-SELLER LAW

Rhode Island has enacted a law that requires remote sellers, including out-of-state online retailers, to collect and remit Rhode Island sales and use tax effective July 1, 2019.

The legislation ([Senate Bill 251A](#) and [House Bill](#)

[5278A](#)) was approved by the Rhode Island General Assembly, and was then signed into law by Rhode Island Governor Gina M. Raimondo on March 29, 2019. It essentially adopts the provisions of a landmark U.S. Supreme Court case decided on June 21, 2018.

Under that court decision, known as [South Dakota v. Wayfair, Inc., et al.](#), a state may require retailers to collect and remit the state’s sales and use tax even if the retailers have no physical presence in that state.

(Please turn to page 7)

FILING DEADLINE IS APRIL 15, 2019

April 15, 2019, is the deadline for filing Rhode Island resident and nonresident personal income tax returns.

It is also the deadline for returns for calendar-year C corporations, and for a number of other tax filings and payments.

For an at-a-glance table, please see page 2.

INSIDE THIS ISSUE:

10-DAY RULE	9
TDI REFUNDS	10
FREE FILE	11
‘LEGAL CORNER’	12
‘PRACTITIONERS’ CORNER’	13

TIPS FOR LAST-MINUTE TAX FILERS (CONTINUED FROM PAGE 1)

◆ “Bill pay”: To pay a balance due, your bank or credit union may allow you to use its online “bill pay” feature, which generates a check that your bank or credit union mails to the Division of Taxation.

However, if you use the “bill pay” feature, please include as much information as possible so that the Division can promptly and properly credit your account.

When using your bank or credit union’s “bill pay” feature, be sure to complete the transaction several business days in advance of the deadline, so that the amount can be promptly and properly credited to your account. That way, you can avoid incurring interest and penalty charges.

Also, when using “bill pay,” make sure that the payment goes to the following address, not to a post office box: Rhode Island Division of Taxation, One Capitol Hill, Providence, R.I. 02908.

◆ Debit card, credit card: You may pay your balance due by credit card or debit card. For more information, including details on fees, click [here](#).

◆ Payment voucher: If you pay by check, be sure that your check is accompanied by a payment voucher. That way, your payment will be properly and promptly credited to your account. If you use tax preparation software, or your preparer does, you may use the voucher provided by the soft-

The April 15, 2019, tax filing deadline

This filing season, the deadline is April 15, 2019, for:

- Resident and nonresident personal income tax returns and payments
- Calendar-year C corporations that file their return on Form RI-1120C
- Public service corporation tax filers
- Bank excise tax filers
- Insurance gross premiums tax filers
- A single-member limited liability company (LLC) owned by individual
- Fiduciary returns, using a calendar year, on Form RI-1041
- Property-tax relief claims on Form RI-1040H
- Residential lead abatement credit claims on Form RI-6238
- First-quarter estimated payment of 2019 Rhode Island personal income tax
- First estimated payment for 2019 for calendar-year entities subject to corporate income tax or certain other levies (in other words, first-quarter business estimates)

Note: Single-member limited liability company (SMLLC) uses same due date as its owner; table assumes owner is calendar-year individual.

ware program. You may also use the Division’s voucher (click [here](#)).

Extensions

You may file for an automatic extension, which will give you six more months to file your return; the extended due date this year is October 15, 2019.

If you use tax-preparation software, or your preparer does, you may use the extension request form provided by the software program. You may also use the Division’s extension form, which includes instructions (click [here](#)). For information about

how to make a proper estimate when filing for an extension, click [here](#).

Note: If you are not required to make a payment by April 15, 2019 – because your calculations show that you paid in a sufficient amount last year, for example – don’t file the Rhode Island extension form, but when you file your Rhode Island return by the October extended due date, attach a copy of your federal extension application.

Also, note that if you have a balance due, you still must pay what you owe by April 15 or face penalty and interest charges. Remember: It’s an

extension of the time to file, not of the time to pay. If you’ll have a balance due, file Form RI-4868 on paper. If you can’t pay what you owe by April 15, file anyway to avoid the failure-to-file penalty – and enter into an agreement to pay over time, in installments. To learn more about such payment plans, call the Division of Taxation’s Compliance & Collections section, at (401) 574-8941 from 8:30 a.m. to 3:30 p.m. business days. (Have a copy of your return handy when you call.)

(Please turn to next page)



Free File: State and federal officials joined private-sector representatives at an event in February to promote the Rhode Island Free File program. Among those attending the event, held at the Johnston Senior Center, were (from left) Rhode Island Tax Administrator Neena Savage; Bernie McKay, of the Intuit Financial Freedom Foundation; Ray Gorman, Rhode Island state coordinator for the AARP Foundation Tax-Aide Program; U.S. Rep. Jim Langevin; Johnston Mayor Joseph Polisena; AARP Rhode Island State Director Kathleen Connell; AARP Rhode Island State President Vincent Marzullo; and Rhode Island General Treasurer Seth Magaziner.

Photo Credit: Office of U.S. Rep. Jim Langevin

TIPS FOR LAST-MINUTE TAX FILERS (CONTINUED FROM PREVIOUS PAGE)

Schedule E

Don't forget Schedule E. You must include it when filing Rhode Island personal income tax returns on Form RI-1040 (including resident and nonresident returns).

New for this season, Schedule E -- "Exemption Schedule for RI-1040 and RI-1040NR" -- is mainly for entering information for all the individuals that you can claim as a dependent.

During the last tax-filing season, the Rhode Island Form RI-1040 did not require a separate listing of each dependent and each dependent's Social Security number.

Instead, the form instructed taxpayers to enter, in a box on the Rhode Island form, the number of federal exemptions.

But because of changes in the law at the federal and Rhode Island level, the Division of Taxation has created Schedule E, which must be used by taxpayers and tax preparers beginning with this filing season (covering returns for the 2018 tax year).

On Schedule E, check a box for you, check another box for your spouse (if applicable), and list the required information for all individuals you can claim as a dependent. The completed

Schedule E is used to help compute the overall number of exemptions on page 1 of your Form RI-1040.

(Note: If you use tax-preparation software, you need not worry about Schedule E; the software will include the completed Schedule E automatically. However, to be extra careful, check that the completed Schedule E is included before you wrap up work on the return.)

Pension tax break

The Division of Taxation has posted an updated version of its guide to the personal income tax modification involving income from 401(k) plans,

403(b) plans, profit-sharing plans, private-sector pensions, government pensions, military retirement pay, annuities, and other such sources.

The 27-page guide is intended as an aid to taxpayers and tax preparers during the 2019 tax-filing season, covering tax year 2018 returns. The guide can also be used for future tax-filing seasons. For more information, click [here](#).

Wavemaker

Here's how to treat the Wavemaker for Rhode Island tax purposes.

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TIPS FOR LAST-MINUTE TAX FILERS (CONTINUED FROM PREVIOUS PAGE)

As you may recall, the “Stay Invested in RI Wavemaker Fellowship” program is aimed at graduates working at jobs in science, technology, engineering, mathematics, and certain design fields.

Applicants selected as Wavemaker Fellows may receive an annual award to help defray the cost of student loan repayments. The award can reach as high as \$6,000 per year for up to four years, and may be issued as a refund, a tax credit certificate, or a combination of the two.

If you meet all of the program’s requirements and receive an award under the Wavemaker program, the Division of Taxation reports the amount of the award as a “taxable grant” in Box 6 of Form 1099-G.

Assuming that the amount of the award you received is included in your federal adjusted gross income (AGI), it will be included in your income as a starting point for computing your Rhode Island personal income tax.

However, if you receive your Wavemaker award in the form of a refund, it is not taxable for Rhode Island purposes. So treat your Wavemaker Fellowship income attributable to your refund as a modification decreasing your federal adjusted gross income for Rhode Island purposes.

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Q&A: Reminder notice for corporations

Q: In February of this year, I filed a Form RI-1120C for a calendar-year C corporation. The return is not due until April 15, 2019. The corporation will pay its balance due at that time. However, the corporation recently received a Notice of Deficiency in the mail. Why?

A: Although the Notice is titled “Notice of Deficiency”, it is really being used by us to provide a reminder to the corporation that it has a balance due for 2018; it has until April 15, 2019, to pay that balance; and if it fails to pay by the deadline, it will be subject to interest and penalty. Please consider telling the corporation that if it receives the Notice from us, it is not a bill; it is simply a reminder.

Q&A: Reminder notice for individuals

Q: My client has a balance due on her Rhode Island personal income tax for 2018. She asked me to e-file her return in early March, but arrange things so that payment from her bank account to the Division of Taxation won’t be made until April 15, or a few days before that date. Will the Division mail her a Notice in the meantime?

A: Yes. Although the Notice is titled “Notice of Deficiency”, it is really being used by us to provide a reminder to the taxpayer that she has a balance due for 2018; she has until April 15, 2019, to pay that balance; and if she fails to pay by the deadline, she will be subject to interest and penalty. It is also a reminder that if she has arranged to make payment via automatic withdrawal on a certain date, we will make the withdrawal on that date. Please consider telling your client that if she receives the Notice from us, it is not a bill; it is simply a reminder.

TIPS FOR LAST-MINUTE TAX FILERS (CONTINUED FROM PREVIOUS PAGE)

Do this by entering your Wavemaker Fellowship income on Schedule M of your Form RI-1040, on line 1n, "Tax Credit income reported on Federal return exempt for Rhode Island purposes..."

Farmers, fishermen

For tax year 2018, an individual who received at least two-thirds of his or her total gross income from farming or fishing during either 2017 or 2018 qualifies as a "farmer" or "fisherman" for federal tax purposes.

Qualifying farmers and fishermen who did not make the required estimated tax installment payment by January 15, 2019, are not subject to an addition to tax for failing to pay estimated income tax if they filed their returns and paid the full amount of tax reported on the return by March 1, 2019.

The Internal Revenue Service recently announced that it will waive the tax-related penalty for any qualifying farmer or fisherman who files his or her 2018 federal income tax return and pays any tax due on or before April 15, 2019.

The IRS said it is providing the penalty relief because, due to certain rule changes, many farmers and fishermen may have had difficulty accurately determining their tax liability by the March 1, 2019, deadline that usually applies to them.

If you were unable to file

Free File - Rhode Island



your Rhode Island return and pay the tax due by the usual deadline, but file and pay on or before April 15, 2019, will you be eligible for penalty relief from the Rhode Island Division of Taxation?

The Division will make the determination on a case-by-case basis. To request penalty relief in such circumstances, write a letter to: Rhode Island Division of Taxation, Attn: Farmer/Fisherman Penalty Relief, Personal Income Tax, One Capitol Hill, 1st Floor, Providence, R.I. 02908.

E-file

Make sure to file electronically. E-filed returns are processed more quickly than paper returns. There are fewer errors.

Also, e-filing is the only way to have your Rhode Island personal income tax refund deposited directly into your bank account (assuming a complete and accurate return is filed). Direct deposit is not available for returns filed on paper.

Free File

For those who cannot afford a paid preparer, one option is the Rhode Island Free File program, which lets you prepare your own federal and Rhode Island returns online, and e-file them, at no charge. The Rhode Island Free File program is available only through the Rhode Island Division of Taxation website. Many, but not all, taxpayers qualify for the free programs. Review terms and conditions [here](#).

Paper returns

Paper returns take the longest to process. Part of the reason is that paper returns generate the most errors. So, when you prepare your return, make sure your math is correct.

- ◆ Be sure to sign and date the return.
- ◆ If Rhode Island personal income tax was withheld from your paycheck, pension, or other source of income last year, make sure you include a complete and accurate Schedule W with your return.

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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. Or [leave your tip online](#).

TIPS FOR LAST-MINUTE TAX FILERS (CONTINUED FROM PREVIOUS PAGE)

◆ Attach all Form W-2 wage statements and other required documentation as outlined in the instructions.

◆ Don't use staples or sticky tape, which slow down processing. Remember: Paper returns must be run through the Division of Taxation's high-speed scanning and imaging equipment. Staples and sticky tape clog up the works. So, for any required attachments to your return, use paper clips, binder clips, or even rubber bands.

◆ Include your Social Security number (or ITIN). If you're married, include the Social Security number (or ITIN) of your spouse, too. Remember to fill out and file Schedule E along with your return.

◆ Include all pages of the return. Use a standard-size envelope, and keep folding of the return to a minimum, to ease in processing.

◆ Include with the return only the required documents as shown in the instructions. (For example, do not include birth certificates.)

Forms and instructions

Forms, instructions, schedules, and other items are available online around the clock at [the Division's website](#). Forms, instructions, and related items can also be picked up at the Division of Taxation office. The office, located at One Capitol Hill (diagonally across from the Smith Street entrance to the

State House), is open to the public from 8:30 a.m. to 3:30 p.m. business days.

Contributions

Rhode Island's personal income tax form includes a list of organizations to which taxpayers may voluntarily contribute money.

The list is included in the "Checkoff Contributions Schedule" on the form. Starting with the current filing season, there is now a checkoff for the Substance Use and Mental Health Leadership Council of Rhode Island. (It occupies the same line as the Childhood Disease Victim's Fund.) For more information, see the instructions for Form RI-1040.

Notices

Many taxpayers received notices from certain retailers in early 2019 regarding the taxpayers' obligation involving Rhode Island's sales and use tax. Because of a Rhode Island law enacted in August 2017, many "non-collecting retailers" -- including a number of out-of-state websites that do not collect Rhode Island sales tax on taxable purchases -- must mail their customers a notice.

Under the law, a noncollecting retailer must send the customer, who had \$100 or more in cumulative annual purchases for 2018, a notice by January 31, 2019.

In general, the notice lets the customer know that use tax may be due on some or all of the purchases that the customer made during 2018.

Using this information, the customer must file a signed use tax return, Form T-205, which is available on the Rhode Island Division of Taxation's website, or the customer must include the use tax from such purchases when computing overall use tax due on his or her Rhode Island personal income tax return for the 2018 tax year.

Personal estimates

Don't forget that April 15 is the deadline for first-quarter payments of quarterly estimated personal income tax for the 2019 tax year.

Corporate estimates

The old rules regarding corporate estimated payments are long gone: A corporation now makes four payments of Rhode Island estimated tax, in equal installments of 25 percent apiece.

The first such payment is due on the 15th day of the fourth month of the tax year. Thus, for a calendar-year C corporation this year, the first payment is due on or before April 15, 2019.

**BUY ART
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ANCHOR ARTS.RI.GOV

RHODE ISLAND ENACTS REMOTE-SELLER LAW (CONTINUED FROM PAGE 1)

(Earlier court decisions had said that a state could require a retailer to collect and remit the state's sales and use tax only if the retailer had a physical presence.)

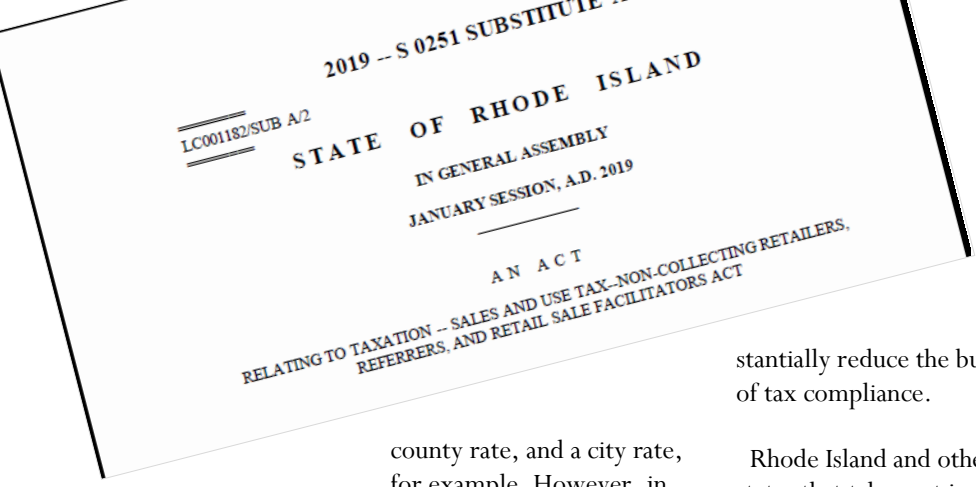
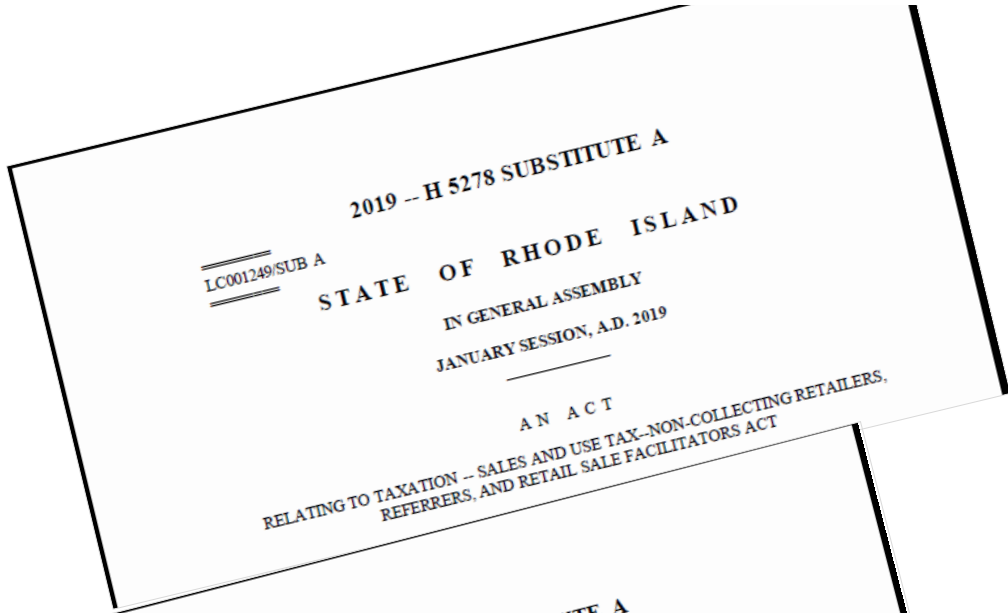
Under Rhode Island's new law, remote sellers and certain other entities must register with the Rhode Island Division of Taxation for a permit to make sales at retail and collect and remit sales and use tax on all taxable sales into Rhode Island beginning on July 1, 2019.

Entities that have already registered with the Rhode Island Division of Taxation and are already collecting and remitting Rhode Island sales and use tax should continue to do so.

Entities that have chosen not to register, collect, and remit, but instead provide notices to consumers about their use tax obligation under [Rhode Island's non-collecting retailer law](#), should continue to meet the notice-and-reporting requirements of that law through June 30, 2019.

Beginning July 1, 2019, they must register with the Division and collect and remit Rhode Island sales and use tax.

(They may also have notice-and-reporting requirements to meet in early 2020, having to do with taxable transactions within the first six



months of calendar year 2019.)

Remote sellers that have yet to register, collect, and remit, will find that Rhode Island has made the process more convenient for businesses from a sales tax compliance standpoint.

For example, in some states, remote sellers must deal with multiple tax rates in multiple jurisdictions: There may be a state rate, a

county rate, and a city rate, for example. However, in Rhode Island, there is only one statewide sales-and-use tax rate (currently 7 percent).

Furthermore, in some states, the definition of a taxable (or nontaxable) item may be different depending on where it is sold. However, Rhode Island is a party to the [Streamlined Sales and Use Tax Agreement](#), whose aim is to simplify and modernize sales and use tax administration in order to sub-

stantially reduce the burden of tax compliance.

Rhode Island and other states that take part in the Streamlined project use common definitions.

Also, with a single online application via the [Streamlined Sales Tax Registration System](#), a remote seller may register for sales and use tax accounts in all of the Streamlined states or just in the states that the business selects.

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RHODE ISLAND ENACTS REMOTE-SELLER LAW (CONTINUED FROM PREVIOUS PAGE)

Also via Streamlined, a remote seller has the option to outsource most of its sales tax administration responsibilities by using a [Certified Service Provider \(CSP\)](#).

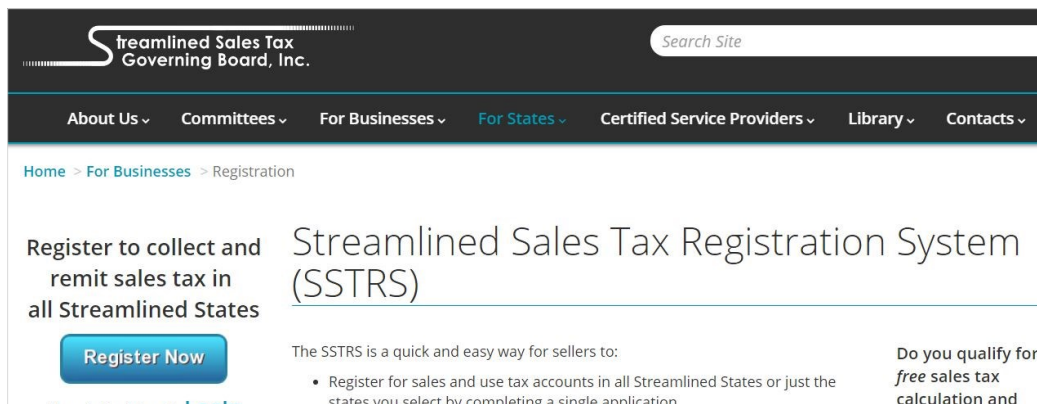
A CSP is an agent certified under the Streamlined Sales and Use Tax Agreement to perform all the seller's sales and use tax functions (other than the seller's obligation to remit tax on its own purchases).

In addition, CSP services are provided free to sellers in Rhode Island and other Streamlined member states in which the seller meets the definition of "volunteer seller" (see [the Streamlined web site](#) for more information).

Rather than go through Streamlined or a CSP, a remote seller seeking to register directly with Rhode Island may [register online](#) or register by completing and submitting [a form](#) which is available on the Division's website.

Once registered, a business will be advised by the Division how often to remit Rhode Island sales and use tax to the Division (it's typically done monthly – and the Division each year posts on its website [a due date calendar for sales and use tax](#)).

Keep in mind that remote sellers are not required to comply with the new Rhode Island law if their taxable transactions in Rhode Island



in the previous calendar year totaled less than \$100,000 or fewer than 200 separate transactions. (This provision is commonly referred to in the industry as a "small seller" exception.)

Thus, with this new law, Rhode Island affords small merchants a reasonable degree of protection: The new law requires a merchant to collect the tax only if it does a considerable amount of business in Rhode Island; the law is not retroactive; and Rhode Island is a party to the Streamlined Sales and Use Tax Agreement.

Marketplace

Marketplace facilitators also must register with the Division of Taxation for a permit to make sales at retail, and collect and remit Rhode Island sales and use tax starting July 1, 2019.

The new law requires the marketplace facilitator, not the seller, to collect and

remit the tax on all sales made through the marketplace to purchasers in Rhode Island. (That's the case even if the seller already has a Rhode Island sales permit.)

The requirement applies only if the marketplace facilitator (or seller) exceeds at least one of the two thresholds mentioned above (\$100,000 in transactions, or 200 separate transactions).

(More details about the rights and responsibilities of marketplace facilitators and referrers under the new law can be found in the House bill and Senate bill as enacted.)

Rhode Island's new law reflects a number of key provisions in the South Dakota law as set forth in the *Wayfair* decision and relies in part on guidance developed by the Multistate Tax Commission's Marketplace Facilitator Work Group.

Those with questions about Rhode Island sales and use tax may call the Division's Excise & Estate Tax unit at (401) 574-8955, which is typically staffed from 8:30 a.m. to 3:30 p.m. business days, or email: Tax.Excise@tax.ri.gov.

Rhode Island businesses that remotely sell into other states are not affected by Rhode Island's new law – but they may need to start collecting sales tax in those other states. Check with those other states for details.

Keep in mind that this article is a plain-language summary of Rhode Island's new law as enacted this year and is intended only as a brief guide for the layperson.

It is not a substitute for the law itself, or for Rhode Island Division of Taxation regulations, rulings, or other official guidance.

RHODE ISLAND TAX TREATMENT OF MILITARY SPOUSES

The Rhode Island Division of Taxation will follow a new federal law when it comes to the tax treatment of military spouses.

It has long been held that a member of the armed services declares a “home of record” on paperwork upon entering the military. The “home of record” designation may be kept or changed to any other eligible state as often as desired.

Thus, a member of the military who has been posted to a state with no income tax, or a low income tax, can update the “home of record” to the new state. The servicemember then would be subject only to that state’s tax laws for the remainder of active duty.

For example, suppose that Joe, a lifelong Rhode Island resident, joins the military and is assigned to a location in Florida (which has no state income tax).

Joe can update the “home of record” to the new state, Florida. Joe then will be subject only to Florida’s state tax laws for the remainder of his active duty.

But what about Joe’s wife, Mary, who is a lifelong Rhode Island resident and has moved to Florida with Joe?

Under the new federal law, a spouse may now adopt the “home of record” legal resi-

dence of the servicemember. Thus, continuing with the example above, Mary may now adopt Florida and will generally be subject only to that state’s tax laws.

Furthermore, the spouse may elect to use the same legal residence as the servicemember during any taxable year of the marriage. This is the case even if the spouse has never been in the “home of record” state, and even if the spouse and the servicemember are not living together.

Under prior law, a spouse could pay taxes to the same

legal state of residence as the servicemember, but had to establish legal residence by actually living in that state, according to MilitaryTimes.com, which provides news and information for the military.

The new federal law was approved by Congress and signed into law by President Donald Trump on December 31, 2018. It is known as the “Veterans Benefits and Transition Act of 2018” and became [Public Law 115-407](#).

According to a summary

provided by the U.S. Senate Committee on Veterans’ Affairs, the new federal law allows the spouse of a servicemember “to elect to use the same state of residence as the servicemember for state or local tax purposes regardless of when or where the two individuals were married.

“These changes would apply with respect to any return of state or local income tax filed for any taxable year beginning with the taxable year that includes enactment”, according to [the summary](#).

Don’t forget the 10-day rule involving software updates and e-filing

Rhode Island, like many other states, has adopted the 10-day rule for tax returns this season. In essence, the rule means this: If a tax-preparation software provider makes available an update, the preparer must download the update within 10 days of the update going into production.



Software providers must agree with the Division of Taxation that preparers who use their software products and who attempt to e-file 10 or more business days after a production release will be required to download and apply the product updates.

A goal of the rule is to ensure that returns calculated on an older version of the software aren’t transmitted when there is a newer (updated) version of the software available. This will cut down on errors, which will benefit preparers, their clients, and the Division of Taxation.

Some software programs automatically download and install updates in the background, or require the preparer to download at regular intervals -- for instance, each time the preparer logs in. Still, preparers with such software must beware of the 10-day rule if only for timing issues. For example, a preparer may send a return to a client for review, awaiting the client’s approval. If the client is slow in responding, the return may have to be recalculated because a software update arrived in the meantime.

FILING FOR REFUND OF RHODE ISLAND TDI TAX

If you worked for a single employer last year, chances are that the employer withheld the proper amount in Rhode Island temporary disability insurance (TDI) tax.

But if you worked for two or more employers last year – at the same time, or in succession – you may have overpaid in TDI tax.

That's because there's no way for one employer to know how much in TDI tax the other employer withheld.

So check for yourself: If you paid more than the maximum of \$762.30 in TDI tax last year, you paid too much and should therefore file for a refund.

Although the TDI program is generally overseen by the Rhode Island Department of Labor and Training, TDI taxes – and refunds – are handled by the Rhode Island Division of Taxation.

To claim your refund, use [Form TX-16, "Claim for Refund of Temporary Disability Insurance Tax"](#) (see screenshot nearby). Instructions are on the form.

Following are some points to keep in mind as you fill it out:

- ◆ TDI applies to each person, individually. So if you're married and trying to figure out if you're owed a TDI tax refund, count only the TDI tax that you yourself paid. Your spouse will have to do a separate calculation.

TX-16 (Rev 1/2/19)

**STATE OF RHODE ISLAND
DIVISION OF TAXATION - EMPLOYER TAX SECTION**
1 Capitol Hill - Suite 36
Providence, Rhode Island 02908
(401) 574-8700 (Option 2) or WWW.UITAX.RI.GOV

CLAIM FOR REFUND OF TEMPORARY DISABILITY INSURANCE TAX

IMPORTANT - Please read instructions before completing

1. Enter your Name, Social Security Number, and Address.

YOUR NAME (First, Middle Initial and Last)	SOCIAL SECURITY NUMBER
NO. AND STREET	

- ◆ If you're married, each spouse must file a separate form for a TDI tax refund. (Remember: TDI applies to each person, individually.)

- ◆ Claims for TDI tax refunds can be filed only on paper, not electronically. The mailing address is in the instructions. (TDI tax refunds are issued only by check, not electronically.)

- ◆ For each employer you list on the claim form, you must attach a copy of the Form W-2 wage statement you received from that employer.

- ◆ You may request TDI refunds only for 2016, 2017, and 2018. You must use a separate Form TX-16 for each year for which you claim a refund.

- ◆ For more information on TDI refunds, call (401) 574-8700 (choose option # 2) from 8:30 a.m. to 3:30 p.m. business days. (The "Where's My Refund?" online tool is only for personal income tax refunds, not for TDI refunds.)

- ◆ The TDI refund will be based on the amount of wages in excess of the taxable wage base. Those wage bases are as follows: \$66,300 for 2016, \$68,100 for 2017, and \$69,300 for 2018.

Don't expect to receive your TDI refund immediately after you file for it. There are reasons it could be delayed.

For example, TDI refunds for 2018 can't be processed until the Tax Division has received and processed employers' tax and wage reports for late 2018.

It can take until sometime in April, depending on the year, to start processing all those employer reports. Depending on when you file your claim for a refund, it could take up to 12 weeks until you receive your refund check.

For more information, see <http://www.uitax.ri.gov/> or call (401) 574-8700 and choose option 2.



E-file reminder

The Rhode Island Division of Taxation this year accepts the following returns under its electronic filing program (e-file):

- ◆ Form RI-1040
- ◆ Form RI-1040NR
- ◆ Form RI-1120C
- ◆ Form RI-1120S
- ◆ Form RI-1065

RHODE ISLAND FREE FILE PROGRAM IS ADVOCATED



Kick-Off: Rhode Island Tax Administrator Neena Savage (above) was among several federal and state officials who attended a gathering in February in Johnston to highlight the benefits of the Rhode Island Free File program. Taxpayers who meet the rules may use the program to prepare and electronically file their federal and Rhode Island personal income tax returns at no charge.

Photo Credit: Office of U.S. Rep. Jim Langevin

TAX ADMINISTRATOR HAILS RHODE ISLAND FREE FILE

Rhode Island Tax Administrator Neena Savage visited the Johnston Senior Center in February to talk about the benefits of the Rhode Island Free File program.

Other key speakers at the event included U.S. Rep. Jim Langevin; Johnston Mayor Joseph Polisena; Rhode Island General Treasurer Seth Magaziner; David Macklin, representing the Computer &

Communications Industry Association; Bernie McKay of the Intuit Financial Freedom Foundation; Rhode Island Lieutenant Governor Dan McKee; and Ray Gorman, Rhode Island state coordinator for the AARP Foundation Tax-Aide Program.

The Rhode Island Free File program generally allows qualifying taxpayers to use a participating tax preparation

software program to prepare and file their federal and Rhode Island personal income tax returns online at no charge.

The IRS and Rhode Island Free File programs make it easier for eligible taxpayers to fill out their federal and state tax returns online and save money in the process.

The Free File program saves taxpayers money, Savage

said. First, the program is free to the eligible taxpayer, and second, processing electronic returns is less expensive. That means that the IRS and the State of Rhode Island spend less on processing costs and avoid the heavy expense of building their own tax preparation systems, she said.

To view the Rhode Island Free File page, click [here](#).

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.

Income tax

The Division of Taxation received information from the federal government that the taxpayer had Rhode Island income in 2011 but did not file a 2011 Rhode Island personal income tax return.

So the Division sent the taxpayer a notice, showing the tax, penalty, and interest owed. The taxpayer requested a hearing; the hearing was held in January 2019, but the taxpayer did not show up.

On January 18, 2019, Hearing Officer Catherine R. Warren concluded that the



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.

Division had properly assessed the taxpayer for tax owed, interest, late-payment

penalty, and late-filing penalty for 2011.

On January 22, 2019, Tax Administrator Neena S. Savage adopted the hearing officer’s decision and recommendation.

-- [Final Decision and Order No. 2019-01](#)

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Note: The Division posted one recent Administrative Decision, which is summarized above. Summaries of additional Administrative Decisions will be included in the newsletter when available.

WHERE’S MY TAX REFUND?

If you are owed a Rhode Island personal income tax refund, you can check the status of your refund by using the “Where’s my tax refund?” interactive tool on the Rhode Island Division of Taxation’s website.




Enter the required information as shown on the screen -- including your Social Security number, filing status (whether you

file your return as “married” or “single”, for

example), and the amount of your expected refund. Assuming that all data has been correctly entered, the tool should offer a prompt response to your query.

The Division updates the online tool almost every business day during filing season. What if your refund is not available? The tool has a number of separate messages to give taxpayers and tax preparers a better idea of any issue that may be delaying the processing of the return and any associated refund. The “Where’s my tax refund?” tool can be accessed [directly](#).



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 (Rhode Island General Laws § 42-35-1 et seq.) and Tax Division regulation 280-RICR-20-00-2.

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

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

Q: Could you please confirm that, for the 2018 tax year, Rhode Island has not decoupled from the IRS regarding the Section 179 depreciation deduction? Thus, the increased federal deduction is also allowed for Rhode Island in 2018?



A: Yes. Rhode Island decoupled from federal law involving Section 179 in 2003. As a result, the Section 179 deduction for Rhode Island tax purposes was limited.

However, as a result of legislation enacted in Rhode Island in 2013, Rhode Island once again followed federal law for Section 179 purposes. Thus, a taxpayer was generally able to follow federal law when electing to treat the cost of any Section 179 property as a current-year expense. That Rhode Island legislation took effect on January 1, 2014, and it remains the law today.

Therefore, because the provisions of Section 179 were expanded by federal law enacted in December 2017 (the Tax Cuts and Jobs Act, or TCJA), Rhode Island follows suit.

Background: A taxpayer generally must capitalize the cost

of property used in a trade or business or held for the production of income and recover such cost over time through annual deductions for depreciation or amortization.

However, under Internal Revenue Code § 179, a taxpayer generally may elect

to deduct -- to "expense" -- the cost of qualifying property all at once, rather than recover such costs through depreciation deductions over time.

Under the old rules, the maximum amount a taxpayer could expense was \$500,000 of the cost of qualifying property placed in service for the taxable year. The \$500,000 amount was reduced by the amount by which the cost of qualifying property placed in service during the taxable year exceeded \$2,000,000.

The Tax Cuts and Jobs Act increased those dollar amounts to \$1 million and \$2.5 million respectively, and made other changes, for tax years beginning after 2017, according to a summary of the law by Congress's Joint Committee on Taxation. Rhode Island law

conforms to federal law in this regard. (See [Rhode Island General Laws § 44-61-1.1](#), "Expensing in lieu of depreciation of assets").

Q: When we attended the annual tax seminar a few years back, it was indicated that the Division of Taxation no longer required us to attach federal Schedule C or federal Schedule E to single-member LLC Rhode Island returns. However, when we recently applied for a letter of good standing, the revenue officer indicated that we must provide a federal Schedule C or Schedule E. Could you please let me know what the proper protocol is?

A: It is true that we do not require a single-member LLC to attach the federal supporting schedule, such as federal Schedule C or federal Schedule E, to Form RI-1065 when filing the annual Form RI-1065.

However, the Division may require the Schedule C or Schedule E as back-up when the taxpayer is seeking a letter of good standing and there's a single-member LLC involved. Also, even when the annual Form RI-1040 or the annual Form RI-1065 is involved, the Division reserves the right to request documentation, including federal schedules.

(Please turn to next page)

About 'Practitioners' Corner'

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

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

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

Q: I recently went online to buy an ordinary hat, for every-day use, for \$22. The retailer charged me sales tax -- on the hat, as well as on the shipping. I thought there was no tax. What do I do?

A: Clothing is not subject to Rhode Island sales/use tax, unless the item of clothing is priced at more than \$250.

Rhode Island General Laws § 44-18-30 says: "Effective October 1, 2012, the [sales/use tax] exemption will apply to the sales of articles of clothing, including footwear, intended to be worn or carried on or about the human body up to two hundred and fifty dollars (\$250) of the sales price per item."

Thus, in general, a routine article of clothing, such as a \$22 hat, is not taxable -- whether purchased at a local store or online.

How to obtain a refund if the tax has been charged? By law, the tax, when added to the price, constitutes a part of the price or charge -- and is a debt from the consumer or user to the retailer.

Rhode Island General Laws § 44-18-19 says: "The retailer shall add the tax imposed by

this chapter to the sale price or charge, and when added the tax constitutes a part of the price or charge, is a debt from the consumer or user to the retailer, and is recoverable at law in the same manner as other debts . . ."



If the debt has been paid by the consumer, but part of that debt should not have been paid (the sales tax part), the consumer must ask the retailer for a refund.

The retailer, in turn, will file with the Division for a refund (or ask the Division for a credit against the retailer's overall sales tax obligation).

Q: Suppose that a client has income from the Civil Service Retirement System (CSRS), or the Federal Employees Retirement System (FERS), or from the federal Thrift Savings Plan, or from some combination of those plans. Suppose that income is included on line 4b of the client's U.S. Form 1040. Does that income count for purposes of Rhode Island's personal income tax modification for income from pensions, 401(k) plans, 403(b) plans, and other such sources?

A: Yes, it does. But keep in mind that there are several requirements to meet before you can actually claim the tax break on your Rhode Island return. For example, you must be of full retirement age based on Social Security Administration rules. Also, your income must be below a certain threshold (see the Form RI-1040 instructions for details).

Q: My client had a small pension. During 2018, she promptly rolled it over to a traditional IRA. The amount of the rollover was included on line 4a of the U.S. Form 1040, but not on line 4b, because it's not a taxable rollover. My client typically qualifies each year for the Rhode Island statewide property-tax relief credit on Form RI-1040H. However, for purposes of line 20 on Form RI-1040H, the software wants to include the amount of the pension-to-IRA rollover. Are you folks treating the rollover as income for purposes of the property-tax relief credit?

A: No, we're not. Assuming that the rollover truly was not taxable at the federal level, and is not income to your client, it will not count against her for purposes of the property-tax relief credit's \$30,000 annual income threshold. So you'll have to

**Gas tax reminder**

The Rhode Island Division of Taxation reminds taxpayers, tax preparers, and others about the Rhode Island gasoline tax inflation adjustment that the Division announced in December 2018.

As a result of the adjustment, the gas tax will increase by 1 cent per gallon effective July 1, 2019. See [the December 2018 announcement](#) for more details.

do a manual override on your software to make sure that the nontaxable pension-to-IRA rollover is not picked up for purposes of line 20 of Form RI-1040H.

(Please turn to next page)

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

Q: I am retired and prepare returns on a part-time basis. I used software this season to do the returns for my cousin and his wife for the first time. I noticed something unusual on their return: They were given credit by the State for that portion of their Social Security benefits that were taxed at the federal level. They were also given a partial credit for their work-related pensions. After doing research, I found that my relatives qualified for the credits last year, too, but did not claim them. Can I file an amended Rhode Island return for them for the 2017 tax year, even though there are no changes to be made on the federal returns?



A: Yes. We no longer use Form RI-1040X. Instead, use the form for the tax year in question and make sure you check the "Amended Return?" box toward the top of the form.

Find prior-year personal income tax forms on our website by clicking [here](#).

Your software may also allow you to prepare a prior-year Rhode Island return.

(However, you'll have to print it out and mail it; we do not accept e-filed amended returns.)

By the way, the "credits" you mentioned are actually modifications that can reduce your federal adjusted gross income for Rhode Island tax purposes, so they must go on a schedule that accompanies the return: Schedule M.

For more information about the modifications and how they work, see the instructions to the Rhode Island Form RI-1040. Also see our filing-season newsletter, posted for the 2019 filing season. (Click [here](#) to view.) Also see our publication, which focuses mainly on the modification on pension and related income, but also discusses the Social Security modification. (Click [here](#) to view).

Q: If a Rhode Island limited liability company switches from being a single-member LLC to a multi-member LLC during a year, must one Form RI-1065 be filed, or two? And must one annual \$400 filing fee be paid, or two?

A: File one Form RI-1065 for the period of the year that the entity was a single-member LLC (SMLLC), and a sepa-

rate Form RI-1065 for the period of the year that it was a multi-member LLC.

So, to answer your question, file two forms -- but pay only one \$400 fee for the year, not two.

Make sure to pay that \$400 fee by the usual due date.

Q: I have a subchapter S corporation. The annual return and \$400 payment for the 2018 tax year were due on March 15. So I filed the return early, on Form RI-1120S, and planned to write the check on March 15, as always. However, in late February or early March, I received a Notice from the Division that was labeled "Notice of Deficiency" in bold, black letters at the top. Why did I receive such a Notice, when the payment wasn't due until March 15? Also, the Notice said that the due date of the payment was April 3, even though it was actually March 15.

A: As a general rule, when someone files a return early (well in advance of the deadline), but does not make a payment, we automatically send out a Notice. Although the notice is titled "Notice of Deficiency", it is really being used by us to provide a reminder that you have a bal-

ance due; that you have until a certain date to pay that balance (in your case, March 15, 2019; the April 3 date in the Notice was incorrect); and that if you fail to pay by the deadline, you will be subject to interest and penalty. So if you receive such a Notice from us, it is not a bill; it is simply a reminder.

Q: I received a Form 1099-G in the mail from the Division of Taxation. Is that a bill?

A: No, it's not a bill. It's an information statement.

We must report to the Internal Revenue Service any refund or overpayment credit amount issued to individuals who claimed itemized deductions on their federal income tax returns. We report that information on Form 1099-G; we send a copy of the form not only to the IRS, but also to you.

As for what to do with the information you receive on the Form 1099-G you receive from us, review federal return instructions for reporting state income tax refunds, or see [the IRS website](#) for more information. Also, [a Q&A that we posted](#) several years ago can give you an idea of the principles involved. (Note: See the main article in this newsletter for information about the Wavemaker program and Form 1099-G.)

QUICK LINK TO DIVISION OF TAXATION REGULATIONS

Searching for the latest tax regulations from the Rhode Island Division of Taxation?

Simply click on the “Regulations” link on the Division of Taxation’s home page (see *highlighted portion of screenshot on right side of this page*).

You will then be taken directly to the section of the Rhode Island Department of State website that hosts Division of Taxation regulations (see *screenshot on bottom of this page*).

The Division of Taxation last year substantially completed a months-long effort to streamline and re-codify its regulations.

The effort included modifying the format of many regulations in accordance with the new Rhode Island Code of Regulations (a uniform state code).

All Division of Taxation regulations are available for viewing on the user-friendly Department of State (Secretary of State) website.

The “Regulations” link on the Division of Taxation website provides quick, one-click access to those regulations. The home page of the Division of Taxation website is at www.tax.ri.gov.





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.

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COMMENTS AND SUGGESTIONS

Unless otherwise indicated, all articles and photos in this issue are by the newsletter's editor, Neil Downing. If you have comments or suggestions for *Rhode Island Tax News*, please email: 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.)

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www.tax.ri.gov

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

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