

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

JANUARY/FEBRUARY/MARCH 2016

WHAT'S NEW FOR TAX YEAR 2016

Rhode Island's annual corporate minimum tax has dropped by 10 percent for 2016 and later years. In addition, pass-through entities are seeing a reduction in their annual filing charge for 2016 and later years.

Those are just two of the changes for tax years beginning on or after January 1, 2016. Also, Rhode Island's earned income credit is 12.5 percent of the federal credit for 2016, up from 10 percent for 2015, and many taxpayers will benefit.

More than 120 tax preparers previewed the tax changes at the Division of Taxation's seminar in November (see photo below) at the Community College of Rhode Island in Warwick. In this edition of the newsletter, coverage of tax year 2016 starts on page 2.



WHAT'S NEW FOR TAX YEAR 2016

- Annual corporate minimum tax (page 2)
- Temporary disability insurance (page 3)
- Increase in earned income credit (page 4)
- Unemployment insurance wage base (page 5)
- Interest rates set for 2016 (page 6)

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LEADERSHIP CHANGES AT TAX DIVISION

The Rhode Island Division of Taxation has a new leader. Tax Administrator David M. Sullivan stepped down in December to take a job in the private

sector. He had served as tax administrator since 2006.

Governor Gina M. Raimondo in December named Neena S. Savage as acting

tax administrator. Savage, an attorney, was assistant tax administrator.

(For more information, please turn to page 7.)



Tax Seminar: More than 100 tax preparers attended the Division of Taxation’s “Seminar for Tax Preparers” held at the Community College of Rhode Island’s Newport County campus in December. The event focused on what’s new for filing season, what’s new for tax year 2016, and other topics.

TAX YEAR 2016: REDUCTION IN CORPORATE MINIMUM TAX

A tax break has arrived for corporations and pass-through entities.

Effective for tax years beginning on or after January 1, 2016, the annual corporate minimum tax is reduced by 10 percent.

The tax, under Rhode Island General Laws (RIGL) § 44-11-2(e), had been set at \$500 since 2004. However, effective for tax years beginning on or after January 1, 2016, the

tax has dropped to \$450.

The tax cut is the result of legislation approved by the General Assembly and signed into law by Governor Gina M. Raimondo in June 2015.

Pass-through entities

For pass-through entities, the tax under RIGL § 44-11-2(e) is known as an annual charge, annual filing fee, or annual fee.

Therefore, the 10 percent reduction (to \$450 for 2016 and later years) applies 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. (The reduction also applies to single-member LLCs, which are also subject to the annual fee.)

At a glance: Minimum annual tax for 2016	
C corporations	\$450
S corporations	\$450
limited liability companies	\$450
limited partnerships	\$450
limited liability partnerships	\$450

Pass-through entities pay an annual charge, or annual filing fee, equivalent to annual corporate minimum tax.

WITHHOLDING TABLES FOR 2016

The Rhode Island Division of Taxation has posted on its website the booklet of income tax withholding tables for tax year 2016.

Employers use the tables to calculate how much to withhold from an employee’s pay for Rhode Island personal income tax purposes. The

booklet also includes a copy of the 2016 version of Form RI W-4, “Employee’s Withholding Allowance Certificate.”

More information

The “Practitioners’ Corner” feature, which starts on page 13, includes some Q&As about tax year 2015 and 2016.

TAX YEAR 2016: TDI TAX RATE AND WAGE BASE SET

The maximum tax under Rhode Island’s temporary disability insurance (TDI) program will be \$795.60 for calendar year 2016, compared with \$770.40 for 2015, an increase of 3.3 percent, or \$25.20.

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 \$66,300 for 2016, compared with \$64,200 for 2015, an increase of 3.3 percent, or \$2,100.

The TDI tax rate is 1.2 percent for 2016 -- the same as it has been since 2012.

As a result, the maximum TDI tax will be \$795.60 for 2016 (the tax rate of 1.2 percent applied to the first \$66,300 of one’s wages).

The maximum TDI tax was \$770.40 for 2015 (the tax rate of 1.2 percent applied to the first \$64,200 of one’s wages).

Year	Tax rate	Wage base	Max. tax
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

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

For 2015, TDI tax was paid by an estimated 415,000 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. (For details, please see bottom of page.)

Workers can learn more about the TDI program at the DLT website: www.dlt.ri.gov

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

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

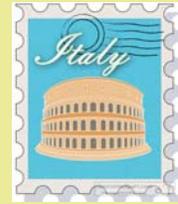
a newborn child, newly adopted child, or new foster-care child.

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.

To learn more about TCI: www.dlt.ri.gov/tdi



Use tax due on overseas purchases

The Rhode Island Division of Taxation reminds those traveling abroad about their Rhode Island use tax obligations:

If you buy something in another country, something that would be subject to sales tax if purchased in Rhode Island, you must pay Rhode Island’s 7 percent use tax. The tax is applied to the sales price, including all services necessary to make the sale (such as maintenance and delivery charges).

For instance, suppose you traveled to another country last year, bought a computer for \$1,000, and brought it home. You would owe Rhode Island’s 7 percent use tax on that purchase, for a total of \$70 in this example. (No credit is allowed for sales tax, VAT tax, or other such tax paid in another country.)

Purchases of taxable items in other countries may be reported on Form RI T-205, “Consumer’s Use Tax Return,” which is available online at the Division of Taxation website: www.tax.ri.gov (They may also be reported on your personal income tax return.)

Please note: Like many other states, Rhode Island receives information from the U.S. Department of Homeland Security on items that consumers purchase in other countries.

TAX YEAR 2016: INCREASE IN EARNED INCOME CREDIT

Rhode Island is making available a more generous earned income credit for the 2016 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 in-

come tax credit, or EITC.

Eligible taxpayers may claim a federal earned income credit and a Rhode Island earned income credit.

For tax year 2015 -- which taxpayers and preparers are focusing on this filing season -- the Rhode Island credit was 10 percent of the federal credit.

For tax year 2016, however, the Rhode Island credit will be 12.5 percent of the federal credit -- and will continue to be fully refundable.

As a result, a claimant whose circumstances for 2016 are the same as in 2015 could receive a 25 percent higher Rhode Island earned income credit.

Suppose a family receives a \$5,000 federal earned income credit this year and the same next year. Their Rhode Island credit could be \$500 for the 2015 tax year, but \$625 for the 2016 tax year. (See tables below.)



Tax Details: Theriza Iafrate, principal 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.

Standard deduction

The Rhode Island Division of Taxation has made inflation adjustments for tax year 2016.

The new figures will show up on tax returns in the 2017 filing season, for tax year 2016. 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 \$8,275 for 2015 to \$8,300 for 2016.
- ◆ For a married couple filing jointly (or qualifying widow or widower), the standard deduction increases from \$16,550 to \$16,600.
- ◆ For someone filing as head of household, the standard deduction increases from \$12,400 to \$12,450.
- ◆ For someone filing as married filing separately, the standard deduction increases from \$8,275 to \$8,300

Rhode Island earned income credit – Example 1		
	Tax year 2015	Tax year 2016
Rhode Island tax	\$0	\$0
Federal EIC	\$1,000	\$1,000
Rhode Island % (% of federal EIC)	10%	12.50%
Rhode Island EIC	\$100	\$125

Rhode Island earned income credit – Example 2		
	Tax year 2015	Tax year 2016
Rhode Island tax	\$700	\$700
Federal EIC	\$5,000	\$5,000
Rhode Island % (% of federal EIC)	10%	12.50%
Rhode Island EIC	\$500	\$625

TAX YEAR 2016: 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 \$22,000 for 2016, compared with \$21,200 for 2015, an increase of \$800, or 3.8 percent.

The tax rate range for 2016 will be the same as it was for 2015, from a minimum of 1.69 percent to a maximum of 9.79 percent.

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 sub-

ject 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 (9.79 percent). For those employers, the taxable wage base will be \$23,500 for 2016, up from \$22,700 for 2015, an increase of \$800, or 3.5 percent.

In general, the higher wage base impacts about 15 percent of Rhode Island experience-rated employers. It is intended to help offset the large drain that these employers have on the state’s unemployment insurance trust fund. For example, last year, 37.5 percent of all UI benefit payments were at-

tributed to the top 15 percent of Rhode Island experience-rated employers.

A separate state UI tax rate applies for new employers. The Rhode Island UI tax rate for new employers in 2016 will be 2.27 percent, compared with 2.74 percent in 2015, a decrease of nearly half a percentage point.

In general, assessments on 31,400 businesses 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.

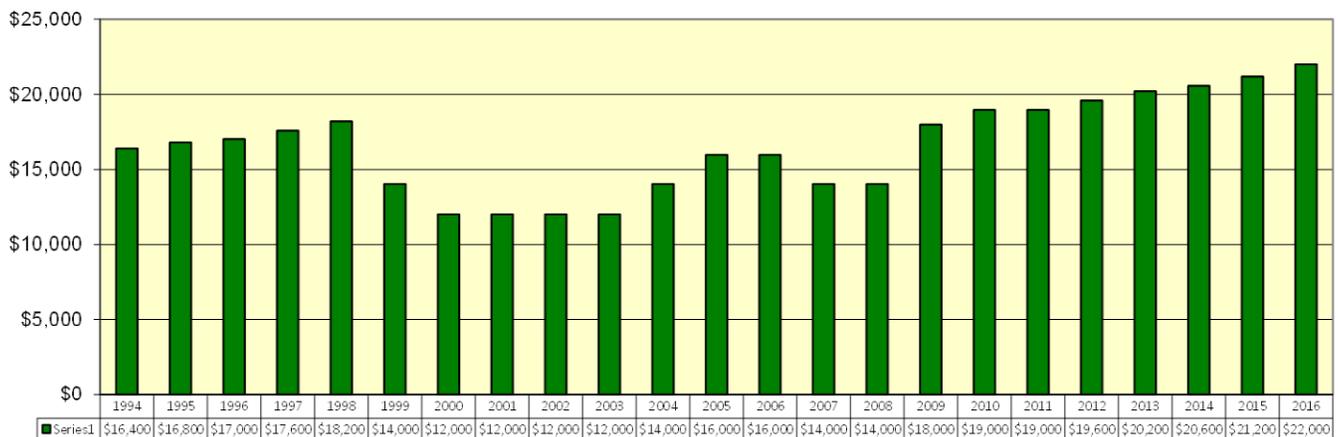
For example, as a result of a 1998 state law, the taxable wage base was tied to the balance of the state’s unemployment insurance trust fund.

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 2016 as it was for 2015: 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.

Rhode Island unemployment insurance - taxable wage base



TAX YEAR 2016: INTEREST RATES SET FOR THE YEAR

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

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2016 to overpayments and delinquencies.

The rates are the same as those that applied for 2015.

Interest on underpayments

The interest rate on delinquent tax payments has been set at 18 percent per annum for calendar year 2016.

Interest on overpayments

Interest on overpayments for calendar year 2016 will be at the rate of 3.25 percent per annum.

A look back

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

TAX BRACKET SET FOR TAX YEAR 2016

The Rhode Island Division of Taxation has recalculated tax bracket ranges for tax year 2016, as required by statute.

The changes were made to the Rhode Island personal income tax's uniform tax rate schedule – which is used by all filers.

Inflation adjustment

If the dollar figures in tax brackets remained constant, a taxpayer might be bumped into a higher bracket solely because of an annual wage increase that is intended to help the worker keep pace with inflation -- an outcome

Rhode Island personal income tax: uniform tax rate schedule for 2016				
Taxable income:				
Over	But not over	Pay	+ percent on excess	of the amount over
\$ 0	\$ 60,850	\$ --	3.75%	\$ 0
60,850	138,300	2,281.88	4.75%	60,850
138,300	--	5,960.75	5.99%	138,300

often referred to as bracket creep. To help offset the effects of bracket creep, the General Assembly adopted a provision that requires the tax

brackets to be adjusted annually with inflation. Standard deduction and exemption amounts are adjusted in similar fashion.

GOVERNOR NAMES ACTING TAX ADMINISTRATOR

Neena S. Savage, Rhode Island's Associate Director of Revenue Services and Assistant Tax Administrator, has been named as Acting Tax Administrator.

She succeeds David M. Sullivan, who stepped down as Tax Administrator in December for a private-sector job. The appointment of Savage was announced by Governor Gina M. Raimondo, who also appointed Marilyn Shannon McConaghy, Department of Revenue (DOR) Administrative and Legal Support Services Administrator, to serve as Acting DOR Director.

"We have in place a team of professionals at the DOR and at Taxation who will keep the agencies running well while the transition takes place and we engage in a search for permanent replacements," Governor Raimondo said in a statement on November 25, 2015.

The Tax Division has more than 200 employees, oversees more than 50 taxes and fees, and collects more than \$2.8 billion in annual revenue.

A 1990 graduate of American University's Washington College of Law, in Washington, D.C., Savage held a number of posts before entering State service in 1997, initially as a hearing officer at the Rhode Island Department of Business Regulation (DBR).

She held a number of positions at the DBR, eventually becoming acting deputy director and executive counsel.



Neena S. Savage, Esq.

She joined the Division of Taxation in February 2015.

While at the Division of Taxation, she has helped to oversee the agency's conversion to a new

computer system and has also helped to oversee the agency's Collections section.

Sullivan was appointed Rhode Island Tax Administrator for the Rhode Island Division of Taxation in July 2006, and Acting DOR Director in April 2015.

He previously worked for the State of Delaware Division of Revenue for 10 years, serving as a manager in the Business Tax Section and as Deputy Director of Revenue

for the last five years.

As Rhode Island Tax Administrator, Sullivan spearheaded the acquisition and implementation of an agency-wide computer system (integrated tax system); helped to implement sweeping changes to the personal income tax and corporate income tax; created the agency's Special Investigation Unit; improved accountability and transparency by publicly posting administrative decisions and other documents on the agency's website; groomed a new generation of managers to replace the many supervisors who have retired; and established the Tax Division's seminar for tax preparers.

All the while, he has held numerous regional and national posts. He is a past president of the Federation of Tax Administrators' Board and has served as Treasurer for the North Eastern States Tax Officials Association.

In 2015, he helped implement a nationwide anti-fraud effort in collaboration with the Internal Revenue Service, other states, and the tax preparation and software industry.

In recognition of his accomplishments, the Rhode Island Public Expenditure Council named Sullivan the 2011 winner of its prestigious Gary S. Sasse Distinguished Public Service Award.



National leader: David M. Sullivan (at lectern above) became a national leader in state tax matters, serving as president of the Federation of Tax Administrators (FTA) and holding a number of other national roles. In Washington, D.C., in November with Internal Revenue Service Commissioner John Koskinen (far left) and others, Sullivan represented the states at a security summit to combat tax refund fraud. Sullivan stepped down from his post as Rhode Island Tax Administrator in December to take a job in the private sector.

Photo by Julianne Fisher Breitbell / Internal Revenue Service

RHODE ISLAND WINS AWARD FOR UI TAX OPERATIONS

The State of Rhode Island has been recognized for running one of the nation's best unemployment insurance (UI) tax operations.

The Rhode Island Division of Taxation and the Rhode Island Department of Labor and Training (DLT) received a State Performance Excellence Award as the top-performing small state in UI tax operations. The award was presented in October at a conference of the National Association of State Workforce Agencies (NASWA) in Albuquerque, N.M.

DLT Assistant Director of Income Support Robert Langlais, who heads the state UI program, and Chief Revenue Agent Philip D'Ambra, head of the Division of Taxation's Employer Tax section, accepted the NASWA award.

It was the sixth straight year that Rhode Island has won in the small state category. The DLT and the Division of Taxation's Employer Tax section have long collaborated on running this key area of the state UI system.

"For Rhode Island to be recognized by its peers for running high-quality UI tax operations is gratifying and I congratulate the Division of Taxation and DLT for their efforts," Governor Gina M. Rai-mondo said. "My administration is committed to continuous improvement in rethinking the way we work and becoming more customer-friendly to make it easier for



Photo by Julie Squire for NASWA

Award Winners: Philip D'Ambra (left), chief of the Rhode Island Division of Taxation's Employer Tax section, and Robert Langlais (center), assistant director of income support for the Rhode Island Department of Labor and Training, accept award from Gay Gilbert of the U.S. Department of Labor. The award recognizes Rhode Island for running one of the nation's best state unemployment insurance (UI) tax operations. The award was presented in October at a conference of the National Association of State Workforce Agencies (NASWA) in Albuquerque, N.M.

Rhode Islanders to do business with government," she said.

Rhode Island Acting Tax Administrator Neena S. Savage said, "This award recognizes the high standards of the Division of Taxation's Employer Tax section and of the Department of Labor and Training. It also recognizes the hard work that the Division of Taxation and the Department of Labor and Training do, day in and day out, as a team." She added, "Their work reflects well on the Department of Revenue's Division of Taxation, the Department of Labor and Training, and on the State of Rhode Island. We are all very proud

of their accomplishments."

DLT Director Scott Jensen said, "Along with the U.S. Department of Labor, the National Association of State Workforce Agencies sets the standard for best practices in our field. For this reason, I'm especially proud of our UI tax team's accomplishment." He added, "Our goal is to continue to innovate to deliver excellent customer service to both the workers who rely on UI and the employers who pay for UI. Doing this will help Rhode Island preserve a skilled workforce that's ready to meet the challenges of our competitive economy."



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.

Utilities

At issue were certain sales of gas made by a utility. Did those sales qualify for a sales and use tax exemption?

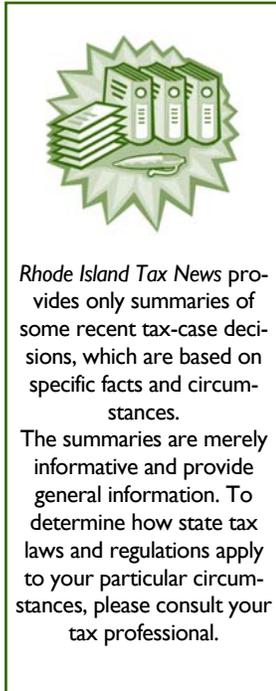
Rhode Island imposes a 7 percent sales and use tax. Certain items are exempt. At the time the issue arose, exemptions included the following:

- ◆ heating fuel used in the heating of homes and residential premises.
- ◆ electricity and gas furnished for domestic use by occupants of residential premises.

[Editor's Note: Please see "New Law" at bottom of this page.]

After a field audit of the utility, the Division of Taxation issued a Notice of Deficiency. The utility appealed and a hearing was held.

The Division of Taxation argued, in part, that the exemp-



tions mentioned above did not apply in this case. The utility argued, in part, that under Rhode Island General Laws (RIGL) § 44-18-30(20) and § 44-18-30(21), the exemptions apply.

Hearing Officer Catherine R. Warren found that the utility's sale of gas for heating purposes made to residential

premises was tax-exempt. She cited RIGL § 44-18-30 (20), which exempts the sale, storage, use, or other consumption of every type of fuel used in the heating of homes and residential premises.

Warren also found that the sale of gas used for non-heating purposes was exempt from tax in certain circumstances but not in others. She cited RIGL § 44-18-30(21), which exempts the sale, storage, use, or other consumption of electricity and gas furnished for domestic use by occupants of residential premises.

Warren in May 2015 recommended that the Tax Division's Notice of Deficiency be upheld in part and that the Division recalculate the tax and interest owed by the utility. In October 2015, David M. Sullivan, who was tax administrator at the time, adopted her decision and recommendation.

-- Final Decision and Order
No. 2015-24

(Please turn to page 10)

**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).

NEW LAW BROADENS EXEMPTIONS FOR HEATING FUEL, ELECTRICITY, GAS

Rhode Island Governor Gina M. Raimondo on June 30, 2015, signed into law a bill approved by the General Assembly that made changes in the sales and use tax law effective July 1, 2015. The Administrative Decision (above) re-

fers to the law prior to the changes.

Heating fuel: Under prior law, the exemption applied to heating fuel used in the heating of homes and residential premises, and to heating fuel used in the manufacturing process.

Under the new law, the exemption applies to heating fuel in any type of use, including any type of business use.

Electricity, Gas: Under prior law, the exemption applied only to electricity and gas furnished for domestic use by

occupants of residential premises, and to electricity and gas used in the manufacturing process. Under the new law, the exemption applies to electricity and any type of gas furnished for any type of use, including business use.

Legal Corner

RECENT STATE TAX CASES IN SUMMARY (CONTINUED FROM PAGE 9)

Responsible officer

At issue is whether a taxpayer was a “responsible officer” for his company and was therefore liable for the withholding tax assessed by the Rhode Island Division of Taxation.



In an audit of the company, the Division of Taxation found discrepancies between its Forms W-2, showing wages paid to employees and taxes withheld from them, and its Forms W-3, showing reconciliations of tax payments made by the company to the Division of Taxation.

The Division of Taxation issued a Notice of Deficiency to a man who was listed as company president and to a woman who was listed as the company’s 100 percent shareholder.

At a hearing, she testified that she had been married to the company president; she was not aware that she had been listed on the business’s tax return as the 100 percent shareholder; he was responsible for the business’s day-to-day operations; she was not responsible for payments or payroll; and she had no authority to file tax returns on behalf of the company.

She entered into a settlement agreement with the Tax Division. He did not.

Warren, citing Rhode Island General Laws (RIGL) § 44-30-76 (among other things), found that the company president had the responsibility to withhold tax, as evidenced by his signing of quarterly withholding tax returns filed with the Tax Division.

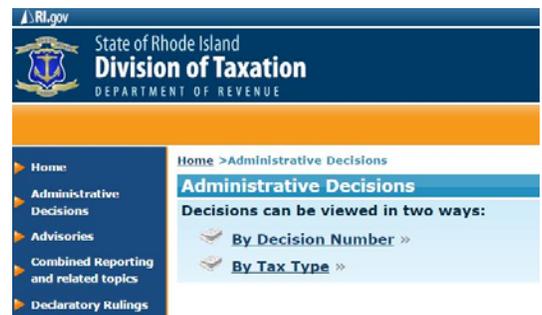
In addition, undisputed evi-

dence at the hearing (which he did not attend) showed that he exercised day-to-day control over the company.

On October 16, 2015, Warren concluded that the company president was a responsible officer and was therefore liable for the assessment of withholding tax, plus interest and penalty.

On December 11, 2015, Sullivan adopted her decision and recommendation.

-- Final
Decision and Order No.
2015-25



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.

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.

Later this year, major elements of the project will be completed: The Tax Division will launch a new website and taxpayer portal, and a number of other taxes and fees will be converted, including the corporate income tax and the sales and use tax. (The final migration, involving the accounting function, will take place in 2017.)

TAX DIVISION, POLICE INVESTIGATE UNTAXED TOBACCO

The Rhode Island Division of Taxation was involved in two joint investigations with police that led to arrests regarding untaxed tobacco products.

Months of effort

The first investigation unfolded as follows, according to the Rhode Island State Police:

In May of 2015, members of the Rhode Island Department of Revenue's Division of Taxation advised members of the Rhode Island State Police Intelligence Unit of a possible operation involving the distribution of untaxed "other tobacco products".

(The term "other tobacco products" -- also known as "OTP" -- typically refers to tobacco products other than cigarettes. The category includes smoking tobacco, chewing tobacco, hookah and other items.)

A four-month investigation followed, during which authorities gathered evidence indicating that a Pawtucket man was illegally distributing OTP to various convenience stores throughout Rhode Island.

The Pawtucket man was observed visiting a moving and storage facility in Fall River, Massachusetts, where he obtained the tobacco products that he later distributed.

From October 14 to October 15, members of the Rhode Island State Police, with the

assistance of members of the Massachusetts State Police, Rhode Island Division of Taxation, and Rhode Island Department of Corrections, executed nine search warrants at a number of locations, including the Pawtucket man's residence and his vehicle, and the storage facility in Fall River.

Overall, authorities wound up seizing about \$1.5 million worth of OTP; \$12,500 in cash; two laptop computers; and video surveillance equipment.

The Rhode Island State Police arrested the Pawtucket man at his home on October 14; he was arraigned the next day in Sixth Division District Court in Providence on charges that included importation of cigarettes with intent to evade tax, perjury, and laundering of monetary instruments.

He pleaded not guilty and the case was continued.

If he is convicted of the charges against him, he could face fines and imprisonment.

David M. Sullivan, who was Rhode Island's tax administrator and acting director of the Department of Revenue at the time, praised the work of the Division of Taxation's Special Investigation Unit (SIU), the Rhode Island State Police, and others involved in the case.



Untaxed: Investigators found what they described as boxes of untaxed tobacco products at a storage facility in Fall River, Massachusetts, last fall. The products were part of an illegal distribution scheme which led to the arrest of a Pawtucket man.

Photo by Daniel Satzillo / Rhode Island Division of Taxation - Special Investigation Unit

'Teamwork'

"This is a good example of teamwork -- of government agencies working together and going the extra mile to make sure that the law is upheld and that everybody plays by the rules," Sullivan said.

"Their concerted effort and determined investigative work led to the demise of an alleged criminal enterprise that the police say was illegally siphoning taxpayer dollars," he said.

"This sends a message to dishonest dealers that they will be caught. It also sends a message to honest distributors and retailers that we are working hard to maintain a level playing field for them." Sullivan said that the seizure and arrest resulted from an investigation into

the illegal distribution of untaxed rolling papers, chewing tobacco, roll-your-own tobacco, and other items. Under Rhode Island law, such items cannot be sold in the state unless the required taxes have been paid, he said.

"It was the Division of Taxation's Special Investigation Unit staff who got the ball rolling in this case. The Special Investigation Unit earlier this year advised the Rhode Island State Police Intelligence Unit of a possible operation involving the distribution of untaxed tobacco products. I am extremely proud of the SIU -- and of their professionalism and dedication," Sullivan said.

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TAX DIVISION, POLICE INVESTIGATE (CONTINUED FROM PAGE 11)

In the second case, details of which emerged in December, a joint investigation by the Providence Police Department and the Rhode Island Division of Taxation into the illegal distribution of untaxed tobacco products resulted in an arrest and in the seizure of more than \$20,000 in cash and contraband tobacco.

The case was the result of a weeks-long joint investigation by the Providence Police Department's Intelligence and Organized Crime Unit and the License Enforcement Unit, along with the assistance of the Rhode Island Division of Taxation's Special Investigation Unit.

Through surveillance and a lengthy investigation, law enforcement determined that a Providence man had been storing suspected contraband tobacco products at a moving and storage facility in Providence and was also observed delivering tobacco products. (He did not have a license for such activity and has never submitted to the Tax Division any related filings, returns, or remittances.)

with intent to evade tax, operating without a dealer license, and selling unstamped cigarettes, among other things. He pleaded not guilty and the case was continued.

Lengthy record

The authorities also determined that the man had a lengthy criminal record with charges including multiple arrests and convictions for possession of untaxed tobacco products.



Storage: Rhode Island State Police, in a joint investigation with the Rhode Island Division of Taxation's Special Investigation Unit and others, uncovered untaxed tobacco products in a recent case.

Photo by Daniel Salzillo / Rhode Island Division of Taxation -Special Investigation Unit

Counterfeit stamps

He was placed in police custody and a search warrant was executed for his home in Providence as well as for his moving and storage locker elsewhere in Providence.

Authorities found numerous tobacco products, including untaxed counterfeit stamped cigarettes, suspected synthetic marijuana, counterfeit tax stamps, and about \$20,088 in cash.

The man was charged with importation of cigarettes



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.

SELF-AUDIT PROGRAM FOR USE TAX

The Rhode Island Division of Taxation is offering a self-audit program involving Rhode Island's use tax.

It is an opportunity for taxpayers, especially businesses, to clear their books of a use tax liability and get a significant break in the form of a

penalty waiver and interest forgiveness.

Clients may benefit

Practitioners may have clients who would benefit, and the Division of Taxation invites practitioners to encourage them to apply.

The program has its own webpage, which includes the program application, FAQs, and other information. It is on the agency's website: www.tax.ri.gov

Information about the self-audit program is also available by calling the Division of

Taxation's Field Audit section at (401) 574-8962 from 8:30 a.m. to 3:30 p.m. business days.

Legislation authorizing the program -- also known as the managed audit program -- was enacted in June 2015.

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

Q: Should we still use Form RI-1120X for amended corporate returns?

A: It depends upon the year involved. Use Form RI-1120X for amended returns involving tax year 2014 or prior years.

However, for amended returns involving tax year 2015 and future tax years, use Form RI-1120C (for C corporations) or Form RI-1120S (for S corporations) and check the "Amended Return" or "Amended" box located on page one of the form, at the top left. (Form RI-1120X has been discontinued starting for tax year 2015.)

What if you're amending Form RI-1065? There's no change – just check the "Amended" box at the top left of the first page.

Note: If you are filing an amended Rhode Island business tax return due to federal changes, follow the steps noted above. Do not use the outdated Rhode Island Form T-70C (even if your software tells you to).

Q: If our firm does not e-file a client's federal per-

sonal income tax return, for whatever reason, can we still e-file that client's Rhode Island personal income tax return?

A: Yes. You may recall that, at one time, the federal and state return had to be e-filed together, as a package. Nowadays, however, they need not be e-filed together; you can e-file the Rhode Island return on its own (assuming that your software allows for it).

Q: My client has a fiscal year and will file its annual return to Rhode Island soon. We cannot file the return electronically for the most recent tax year because Rhode Island shut down e-filing for the most recent tax year in late November 2015. So we have to file the return on paper. Will we be penalized for failing to abide by the e-file mandate?

A: No. But to be on the safe side, when you file your client's paper return, include a cover letter explaining the circumstances.

We began enforcing the mandate to e-file corporate tax returns beginning with the filing season that started January 1, 2013.

However, the mandate does not apply if we are not accepting e-filed returns. Each year, we temporarily close our system to e-filing in order to prepare the system for the upcoming filing season, just as the Internal Revenue Service and many other jurisdictions do.

We scheduled our most recent annual electronic filing shutdown and switchover for November 21, 2015.

For e-file purposes, Rhode Island accepts only current-year returns.

Thus, November 21, 2015, was the deadline for e-filing Rhode Island personal and business tax returns for the 2014 tax year.

The Division's current-year rule means some fiscal-year filers can e-file only if they are willing to e-file early.

For example, a taxpayer with a September 30 fiscal year-end waiting to the original due date in December to file would have to file a paper return.

E-filing instead? That taxpayer would have to e-file by the late November shutdown and switchover date.

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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: Can I e-file my client's Form RI-1096PT?**

A: Form RI-1096PT, "Pass-through Withholding Return and Transmittal," is used to report the amount of Rhode Island personal income tax that a pass-through entity has withheld from its nonresident partners, members, beneficiaries, and shareholders.

The form cannot be e-filed at this time. However, the Division of Taxation is in the process of implementing a new agency-wide computer system. The second phase of the project was just completed; the third and final phase is scheduled for late this year.

It is possible that e-filing of Form RI-1096PT will be allowed once the third phase is completed.

Q: My clients will be eligible this season for the full amount of the lead paint credit. Will they actually receive the full amount?

A: Rhode Island allows for a refundable credit against the personal income tax for expenses related to residential lead paint removal or reduction.

The maximum credit is \$1,500 for reduction or mitigation, \$5,000 for removal or abatement.

(There are numerous rules and restrictions; details are in Form RI-6238.)

But keep in mind that there are typically more claimants than there is money to distribute. (The overall program is capped at a flat \$250,000 a year.) There is an order of distribution (see the form for details).

As a result, some claimants may receive far less than they claimed. Last year, for example, some received only about 10 percent of what they were expecting to get, due to the high volume of applicants.

Q: My client has a qualified subchapter S subsidiary. Should this be included on the Rhode Island Form 1120S?

A. If your client has a qualified subchapter S subsidiary – also known as a "Qsub" or "Q-sub" – check the box located on the front page of the return (top left corner), and also complete Schedule G, the "Q-Sub Schedule."

Q: My client plans to claim the statewide property-tax relief credit on Form RI-1040H, and I plan to e-file her return, but my software won't let me attach copies of rent receipts or other required documentation. What will happen?

A: Such documents must be

attached to a paper return, but if you e-file and your software won't let you attach the documentation, go ahead and e-file the return anyway – we will accept such a return, but we reserve the right to ask for the supporting documentation, so advise your client to keep it on file just in case.

Q: My client is 64 years old, single, and collecting Social Security retirement benefits or survivor benefits. Can he qualify for the credit on Form RI-1040H?

A: No. There are a number of rules involving the program.

One is that the taxpayer must be 65 or older or disabled – and collecting Social Security disability benefits or receiving Supplemental Security Income (SSI) benefits.

Q: My client has not filed since 2008. I've just finished her 2009 return and it shows a refund. I realize that the refund claim is out of time, but can we apply it against the balances due?

A: No. If the refund claim were timely, you could apply it against the tax owed. But in this case, the refund claim is not timely. (For more about refund rules, see page 8 of the fourth-quarter 2015 edition of this newsletter.)

**Social Security tax break**

For tax years beginning on or after January 1, 2016, a Rhode Island personal income tax modification is allowed for certain beneficiaries of the federal Social Security program.

If you are eligible based on income and some other factors, the amount of your income taxed by Rhode Island will be reduced by the amount of your Social Security benefits taxed at the federal level.

The Division of Taxation continues to study certain aspects of the statute as amended. When those deliberations are complete, the agency plans to post information about how the tax break applies.



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

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.)

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