

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PREPARERS

OCTOBER/NOVEMBER/DECEMBER 2013

## A DEADLINE FOR HISTORIC TAX CREDITS

For applicants in Rhode Island's newly re-opened historic tax credit program, one deadline is over, but another looms.

Applicants who were tentatively awarded credits at the Rhode Island Division of Taxation's public drawing in late August were sent a letter of notification shortly afterward by the Division of Taxation. The applicants generally have 90 days from the date of that

letter to submit their applications (technically, Parts 1 and 2) with the Rhode Island Historical Preservation



**Observers:** A conference room at the Powers Building in Providence was crowded on August 27, 2013, when the Rhode Island Division of Taxation held a drawing involving historic preservation tax credits.

& Heritage Commission. The commission then has 90 days from the submission date to decide whether or

not to approve Parts 1 and 2. Applicants who clear these hurdles (and meet certain other requirements)

may qualify for the tax credits once their projects are completed. But if they fail to obtain approval within the required time limit, they will have to forfeit their right to the credits.

Those rights will then be passed along to others in the historic tax credit queue.

*(Please turn to page 3)*

## SPECIAL INVESTIGATIONS UNIT IS LAUNCHED

The Rhode Island Division of Taxation is beefing up enforcement of state tax laws by expanding and centralizing enforcement activities under a newly created Special Investigations Unit (SIU).

The unit will serve as the Division's primary criminal tax enforcement unit.

Its formation signals that the Division of Taxation is bolstering its crackdown on tax refund fraud – and on

other violations of state tax law. "Tax refund fraud is a cancer that is spreading across the nation," Rhode Island Tax Administrator David M. Sullivan said.

*(Please turn to page 2)*

### Inside:

#### FREE SEMINAR FOR PRACTITIONERS

- Focus includes 'what's new for filing season'
- Penalties for paid preparers also on agenda
- Will cover basics of Form 1040H and EITC
- One session to be held at CCRI in Newport
- Another session to be at CCRI in Warwick
- [See page 4](#) for details

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# INVESTIGATIONS UNIT LAUNCHED (CONTINUED FROM PAGE 1)

The Internal Revenue Service and many states, including Rhode Island, have reported a sharp increase in recent years in the filing of income tax returns that claim potentially fraudulent tax refunds, often employing identity theft.

## ‘Wreaks havoc’

The National Taxpayer Advocate, Nina E. Olson,



NINA E. OLSON

told Congress recently that the problem of tax refund fraud

and identity theft “wreaks havoc on our tax system.”

At the state level, the Rhode Island Division of Taxation has seen explosive growth in the number of fraudulent claims for refunds – and in other types of criminal and fraudulent activity, including the smuggling of contraband cigarettes.

## Increased staff

To help combat tax fraud and other tax crimes, the Division of Taxation has increased staff and reallocated current resources.

During the past two years, the Division of Taxation was able to stop 3,783 fraudulent refunds, saving the State more than \$1.2 million in revenue.

In November 2011, the Division teamed with the Rhode Island State Police to successfully stop a multi-state cigarette trafficking ring; more than 100,000 packs of contraband cigarettes were seized.

## Hard-working team

“In recent years, as we added several members to the staff, we’ve had a team of hard-working investigators working under the umbrella of our Excise Tax section to combat illegal sales of contraband cigarettes,” Sullivan said.

Now the time has come for the Division of Taxation to expand and centralize investigative activities under a new Special Investigations Unit – which will stand as an independent unit within the Division of Taxation.

“The unit will allow the Division to more efficiently and effectively identify, monitor, and quantify tax fraud and related activity, and better position the Divi-



Image courtesy of Simon Howden / FreeDigitalPhotos.net

sion to assist law enforcement agencies in criminal prosecution,” Sullivan said.

The new unit will also look into other areas of potential fraud and abuse, such as misclassification of workers (as independent contractors instead of employees), trust fund tax fraud, other business tax fraud, and refund fraud – including, but not limited to, earned income tax credit fraud, property tax relief fraud, and identity theft, Sullivan said.

The SIU will review alleged violations of the tax laws, investigate those violations, and recommend criminal prosecutions as warranted.

In carrying out its role to identify willful noncompliance with the state’s tax laws, the unit will rely on

referrals from other sections within the Division of Taxation, as well as information from other governmental agencies and the public.

“The overwhelming majority of taxpayers are honest and pay what they owe,” Sullivan said. “This new unit will help us enforce state tax laws as effectively as we can – thus ensuring that honest taxpayers are not overburdened – and pay no more than their fair share.”

## Nine-person team

The unit will report directly to the Tax Administrator and consist of nine positions overall, including seven existing positions and two new positions: a chief revenue agent and a revenue agent. The chief will be a licensed attorney with investigative experience.

## DIVISION OF TAXATION REMINDER ON E-FILING FOR RI-1041

The Rhode Island Division of Taxation plans to begin accepting electronically filed fiduciary income tax returns on Form RI-1041 starting in January 2014 --

for tax year 2013. Thus, practitioners should be able to e-file their federal and Rhode Island fiduciary income

tax returns. Those practitioners who can’t -- due to software limitations -- may wish to ask their software

providers to allow for e-filing of the forms, or consider switching to another software provider.



# A DEADLINE FOR HISTORIC TAX CREDITS (CONTINUED FROM PAGE 1)

Rhode Island enacted a historic tax credit program in 2001. At the time, the General Assembly found that Rhode Island's historic structures experienced high vacancy rates and physical

deterioration. Without adding economic incentive, the General Assembly concluded, the structures would not be viable for redevelopment and reuse – and they would continue to deteriorate.

rate.

The tax credit program was popular, but as the recession gained hold, the program was generally closed in 2008. Certain projects were essentially grandfathered. But some other projects were “abandoned” – leaving about \$34.5 million in credits available but unclaimed as of May 15, 2013.

## Program reopens

It was those unused credits that became available to qualified applicants through a reopened program authorized by legislation approved by the General Assembly and signed into law by Governor Lincoln D. Chafee on July 3, 2013.

The reopened tax credit program – which uses the term “historic preservation tax credits” – is intended to encourage the redevelopment and reuse of historic buildings and help spur economic growth.

On August 1, 2013 – the first day that the Division of Taxation began accepting applications for the credits – the credits were immediately oversubscribed: the agency received requests for \$54.5 million in credits, which is about \$20 million more than were available.

## Entered in drawing

As a result, all of the 41 applications received on or before August 1 were entered into the drawing. Each

applicant was assigned a number. During the drawing, the agency pulled each number to establish a queue. In general, those at the front of the queue tentatively obtained the right to claim available credits at a later date (if their completed applications were approved and they meet certain other requirements).

Of the 41 applicants in the drawing, 32 were tentatively allocated credits; the other nine are in queue in case someone ahead of them drops out. (Seven others whose applications were received after August 1, 2013, were placed at the end of the queue in the order in which they were received.)

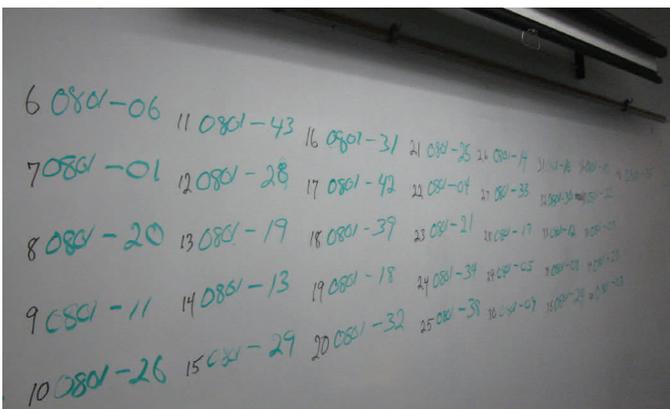
So if any of those at the front of the queue fail to meet the deadline, their credits will be forfeited to those who remain in queue – hoping to be tentatively awarded credits of their own.

*The deadline described at the beginning of this article is the one currently in use. A stricter deadline was originally established, but the Division of Taxation has since modified it to make things more convenient for all involved.*

Click [here](#) for program background and other information from the Rhode Island Historical Preservation & Heritage Commission. Click [here](#) for the Division of Taxation's emergency regulation.



**Transparency:** *Rhode Island Tax Administrator David M. Sullivan (right) ordered that the historic tax credit drawing be held in a public forum. Numbers assigned to projects were placed in sealed envelopes and the envelopes inserted in a clear drum, which Sullivan spun. Michael F. Canole (left), the agency's chief of examinations, withdrew one envelope at a time at random, read the number, then wrote it on a board (see below). Dorothy Z. Pascale, CPA, CFF, chief of the Rhode Island State Bureau of Audits, observed the drawing and certified its results.*



**Outreach:****TAX DIVISION OFFERS SEMINAR FOR PREPARERS**

The Rhode Island Division of Taxation will hold a free seminar for tax preparers. The chief focus will be what's new for the coming filing season and what's new in state tax law -- including preparer penalties, tax form changes, and updates for sales and use tax and corporate tax.

The seminar will also include a primer on the property-tax relief credit (Form RI-1040H), the Rhode Island earned income credit, Schedule W, and Schedule M -- including how they work, and what issues might result in problems.

The agency will hold the seminar at the Community College of Rhode Island campus in Newport on November 14, 2013. For those unable to attend that session, the Division of Taxation will offer the same agenda in a meeting at CCRI's Warwick campus December 4, 2013.

**Pre-registration**

The seminar is free, but pre-registration is required. (Please see box at right for details.) Preparers should sign up for whichever session is most convenient for their schedules and locations, said Tax Administrator David M. Sullivan.

"We want to give preparers a chance to meet with us, get their questions answered, and be briefed on changes -- all in advance of the coming filing season," Sullivan said.

The Division of Taxation, prior to each filing season, typically sends representatives to meetings sponsored by trade associations whose members



**Seminar:** *The Division of Taxation will hold a seminar for practitioners in November at the Community College of Rhode Island (CCRI) campus in Newport. The seminar will be repeated in December at the CCRI campus in Warwick.*

are preparers. Such presentations are typically only for members of a particular trade association and are sponsored by that group.

The seminar at CCRI is sponsored by the Division of Taxation and is open to any preparer. "With this free seminar, we hope to reach those who are registered tax return preparers or others employed by national or regional tax preparation firms, as well as those who prepare returns seasonally and may be self-employed and not part of a professional association," said Peter McVay, associate director of revenue services. CPAs, EAs, PAs, and other preparers are welcome to attend, too, Sullivan said.

"The seminar at CCRI is intended to supplement -- not to replace -- our regularly scheduled presentations to practitioner groups," Sullivan said. "We value those professional groups and the work they do, and the members of those groups are of course welcome to register for the CCRI seminar, too," he said.

"CCRI is an invaluable re-

source for Rhode Island, and we are delighted and appreciative that CCRI has made available its resources to us for this important seminar," Sullivan added.

**Newport campus**

◆ The first session will be held at the CCRI Newport County Campus, in Newport, on November 14 from 9:00 a.m. to 11:30 a.m. Click [here](#) for directions.

**Warwick campus**

◆ The seminar will be repeated at CCRI's Knight Campus in Warwick on December 4 from 9:00 a.m. to 11:30 a.m. Click [here](#) for directions.

**Pre-register online**

*The Rhode Island Division of Taxation is sponsoring a seminar for preparers. It will be held on two separate dates -- you can pick one that best suits your schedule and location.*

*To pre-register for a session, [click here](#) and use the "Seminar for Preparers" link.*

*(The online pre-registration tool was put together by the experts at RI.gov, which is the official government Web portal for the State of Rhode Island.)*

**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.*

**Refund denial**

A married couple claimed a carryover for the 2008 return, and a refund for the 2009 return. But the Division of Taxation turned them down, saying they had not met the time-related requirements.

At a hearing, the wife testified that the Division of Taxation took 15 months to notify the couple that their 2008 claim for carryover was denied, which was too long a delay and created a hardship. She also asserted that Rhode Island law should be read the same as the federal statute.

The couple's 2008 tax was deemed paid April 15, 2009. The taxpayers were able to request a refund (carryover) two years from that date. Any claim for a refund filed in the two-year period would be limited to amounts paid in the preceding two years. The problem is that the couple filed their 2008 return on June 16, 2011 -- which is past the two-year period (from the date the taxes were deemed paid) in which a refund request may be made. Taxpayers also may request a refund within three years of filing the return -- but the statute limits



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.*

the amount of the refund to the portion of tax paid "within the three-year period," and the couple had not paid any tax from June 16, 2011, to the present.

As for the couple's 2009 tax, it was deemed paid April 15, 2010. They filed their return January 8, 2013 -- but that's not in keeping with the two-year rule, which says that refund claims may be filed within two years from the date the taxes were deemed paid. What about the three-year rule? The couple has not paid any tax from the filing date to the present.

Thus, Hearing Officer Catherine R. Warren determined that the couple was not entitled to the claimed refunds

(carryover). She also reiterated that federal and Rhode Island law work differently when it comes to how long taxpayers have to claim refunds.

Warren on June 25 ruled that the Division of Taxation had properly denied the couple's claim for the refund (carryover). Tax Administrator David M. Sullivan on June 26 adopted the hearing officer's decision and recommendation.

[- Final Decision and Order No. 2013-03](#)

**Historic tax credits**

At issue is whether a development fee counted as a qualified rehabilitation expenditure (QRE) under the state's historic tax credit program -- as set forth in Rhode Island General Laws (RIGL) § 44-33.2-1 *et seq.* (In general, the credit is calculated based on a percentage of QREs.)

The taxpayer argued that it had been assigned to pay the development fee within a certain number of years, based on an agreement that represented a binding obligation. Although the fee had not actually been paid, the taxpayer argued that, under the accrual method of accounting, an expense counts when incurred (regardless of when actually paid).

*(Please turn to page 6)*

**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.*)

## RHODE ISLAND TAX NEWS IN BRIEF

### Tax amnesty

The Multistate Tax Commission's website lists tax amnesties throughout the country that are currently being held or that will be held soon. Click [here](#) to see the latest list.

One amnesty that may be of special interest to practitioners in Rhode Island and surrounding areas is the Connecticut tax amnesty.

The Connecticut Department of Revenue Services (DRS) launched the amnesty on September 16, 2013. The program will run through November 15, 2013.

The amnesty is for all taxes except motor carrier road taxes. It applies for any tax period ending on or before November 30, 2012.

Under the program, if a taxpayer pays tax and interest, Connecticut agrees not to collect any civil penalties that would have been applicable, and agrees not to seek

criminal prosecution. Furthermore, program applicants may qualify for a 75 percent reduction in the amount of interest they owe. (If a taxpayer fails to come forward, the taxpayer may face a 25 percent special penalty under certain conditions.) Click [here](#) for the Connecticut amnesty site.



### Personal income tax

The deadline earlier this year for personal income tax returns was April 15.

If you obtained a six-month extension, your new deadline is October 15, 2013.

### Employer tax

October is the deadline for employers to file their third wage and tax report for 2013 and pay the tax due.

About 32,000 employers have until midnight on October 31 to file and pay their state unemployment insur-

ance tax (also known as the employment security, or ES, tax) and job development fund tax, and to file and remit the amount of Rhode Island temporary disability insurance (TDI) tax withheld from employees' wages. Click [here](#) for more details.

### Corporate tax

For some calendar-year C corporations, a deadline looms.

C corps that are subject to *pro forma* combined reporting, obtained a six-month extension earlier this year, then opted for an additional one-month extension, now face a filing deadline of October 15, 2013.

### Division posts guidance

The Division of Taxation on September 6, 2013, posted [tax guidance involving Rhode Island's same-sex marriage law](#).

The guidance -- in the form of an Advisory and 15 pages of FAQs - focuses on filing status, employee benefits, amended returns, and other items.

### Refund tool update

A special edition of the Rhode Island Division of Taxation's newsletter, *Rhode Island Tax News*, said in January 2013 that the "Where's My Refund?" tool on the agency's website would, in certain situations, provide taxpayers by late February with more information as to the status of the taxpayer's refund -- and provide guidance on what steps to take to resolve any issues.

Unfortunately, the upgrade was stalled by technical issues. However, many of those issues have now been resolved. As a result, it's possible that the tool will be upgraded in time for the coming filing season, which starts in January 2014.

## RECENT STATE TAX CASES IN SUMMARY (CONTINUED FROM PAGE 5)

The Division of Taxation argued that, at the time of audit, the purported developer had no employees, and because of other factors, the fee was essentially being paid by the taxpayer to the taxpayer. The agency also argued that, according to documents, the fee was to be paid from



available cash flow -- with no binding obligation to pay until the 12th year.

The agency also argued that QREs are for costs actually incurred and paid, not for accrued costs that exist between companies and might never be paid.

Warren determined that the

statute clearly provides for credits to be determined on "amounts expended" rather than on amounts billed or to be paid. She also wrote, "The statute does not provide that tax credits are to be given for liabilities. Rather, tax credits are to be given for actual expenditures."



After a hearing, Warren recommended on July 22, 2013, that the credit be denied. Sullivan on July 23, 2013, adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2013-04](#)

# STATEWIDE ARTS DISTRICT STARTS DECEMBER 1

The Rhode Island Division of Taxation recently posted a proposed regulation to help implement a new state law that establishes a statewide arts district for sales and use tax purposes.

As a result, starting December 1, 2013, sales of certain works of art sold by Rhode Island artists anywhere in the state will be exempt from the state's 7 percent sales and use tax.

## General Assembly

When the General Assembly [first established an arts district in August 1996](#), effective January 1, 1997, it was restricted largely to downtown Providence.

The law was changed over the years to include additional municipalities -- or areas within those municipalities -- including Providence, Pawtucket, Westerly, Woonsocket, Tiverton, Little Compton, Newport, Warwick, and Warren.

However, legislation approved by the General Assembly and signed into law by Governor Lincoln D. Chafee in July 2013 broadens the program to include the entire state.

As a result, in general, works of art sold in Rhode Island starting December 1, 2013, will be free of the state's 7 percent sales and use tax.

## Increased presence

What prompted the expansion? In a kind of preamble to the new law, the General Assembly said that the original community-based arts districts -- where "one-of-a-kind limited production" works of art may be sold exempt from state sales tax -- resulted in an increased presence for the arts in designated cities and towns, with benefits to those communities and to the state.

Since the establishment of arts districts, many communities have sought legislation to expand the program to their city or town, the General Assembly found.

"There is value in expanding the arts district program statewide, providing incentives for the sale and purchase of art," the General Assembly found.

## Making history

Establishing an arts district covering the entire state represents "a unique opportunity for Rhode Island to shape history, and gain an advantage over other states, by becoming the first and only state in the country to declare a statewide sales tax exemption on art," the General Assembly said. This will strengthen Rhode Island's identity as an arts-friendly destination and "State of the Arts".

Starting December 1,



**Fine arts:** Works of art by current and retired state employees are displayed periodically in the Atrium Gallery (pictured above and below) of the Powers Building in Providence in an exhibit sponsored by the Rhode Island State Council on the Arts



Photos courtesy of Rhode Island State Council on the Arts

2013, the sales tax exemption will apply to sales by writers, composers, and artists residing in and conducting a business anywhere within the state of Rhode Island.

In general, the exemption applies only to original and

creative works by such writers, composers, and artists -- whether the works are written, composed, or executed for "one-of-a-kind limited" production.

*(Please turn to page 8)*

# SINGLE FORM AVAILABLE FOR LIQUOR LICENSE TRANSFERS

The Rhode Island Division of Taxation has created a consolidated form that's mainly for those involved in the transfer of liquor licenses.

Under the old system, someone seeking to transfer a liquor license had to file two forms: a request for a certificate of good standing, as well as a request for a letter of good standing.

In the name of efficiency, the agency's Office Audit and Discovery section expanded the letter-of-good-standing application form to also serve those who need a certificate of good standing. As a result, if you now need to transfer a liquor license, you'll use a single form -- saving



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS  
 DEPARTMENT OF REVENUE  
 DIVISION OF TAXATION – OFFICE AUDIT SECTION  
 ONE CAPITOL HILL  
 PROVIDENCE, RI 02908

## REQUEST FOR LETTER OF GOOD STANDING

A \$50.00 FEE MUST BE SUBMITTED BEFORE REQUEST MAY BE PROCESSED  
 (Make check payable to the RI Division of Taxation)

Contact Name at Business:	
Name of Business:	

you the time and effort of filing two separate forms.

You'll use the single consolidated form if you sell, transfer, or are seeking a new liquor license. You'll also use it if you're changing the location of the liquor license within the same community, changing the name of the liquor licensee, changing the ownership, or in certain other situations.

(A screenshot of the single

consolidated form -- as of September 25, 2013 -- is shown above.)

While the main point of creating a single consolidated form was to make things less complicated for liquor license holders, the Division of Taxation also took the opportunity to modify and add to the instructions to make them clearer.

In addition, as a conven-

ience and help for taxpayers, the single consolidated form now includes a page which explains filing requirements for business owners.

### Note: License renewals

If you are renewing your liquor license, nothing has changed: continue to file a request for a certificate of good standing.

## STATEWIDE ARTS DISTRICT (CONTINUED FROM PAGE 7)

Among the works that are eligible for the sales tax exemption starting December 1, 2013, under the statewide arts district are:

- ◆ A book or other writing;
- ◆ A play;
- ◆ A musical composition;
- ◆ A painting, print, photograph or other like picture;
- ◆ A sculpture;
- ◆ Traditional and fine crafts;
- ◆ The creation of a film;
- ◆ The creation of a dance.

The new law generally means no sales tax will be due on the sale of such works by any individual who is a resident of Rhode Island and who has a principal place of business in Rhode Island. The sales tax exemption also applies to the sales of works by such artists at art galleries in Rhode Island -- including "pop-up" galleries and art festivals.

### Apply for certificate

Artists, legal entities, or galleries who want to take advantage of the new law

must apply to the Division of Taxation for a certificate of exemption -- before the sale takes place. (As of September 24, 2013, the certificate could be viewed or downloaded [here](#).)

### Reapply

Individuals, legal entities, or galleries that already have an exemption for artistic works granted prior to December 1, 2013, must reapply to the Division of Taxation for the exemption. For more information, call the Division of Taxation's Excise Tax section at (401)

574-8955 from 8:30 a.m. to 3:30 p.m. business days.

*Note: Rhode Island law has not changed regarding a special personal income tax break for artists under certain conditions. That break is only for income derived from the sale of works created within a specified municipal district by writers, composers, and artists who live and work within those districts. In other words, the new law established a statewide arts district for purposes of the sales tax, but not for purposes of the income tax; the income tax rules remain the same.*

## NEW CHIEF OF E-GOVERNMENT APPOINTED

**D**aniel T. Clemence has been appointed chief of the Rhode Island Division of Taxation's E-Government section.

He will oversee electronic filing and electronic payments and will also work with software vendors.

"Dan's promotion represents a formal recognition of the depth and breadth of his knowledge and experience, his solid work ethic, and his ability to master new skills," said Rhode Island Tax Administrator David M. Sullivan.

"He is extremely knowledgeable about the area of e-government, which is an important focus of the Division of Taxation. He is also playing a key role for us in implementing our new



**New Chief:** Daniel T. Clemence is now chief of the Division of Taxation's E-Government section.

agency-wide computer system."

Clemence was recently named to serve as a member of the Federal-State Tactical Advisory Group (TAG),

which is a national committee that focuses on electronic tax initiatives, including e-filing.

Born and raised in North Scituate, Clemence gradu-

ated from the University of Rhode Island in 1998 with a bachelor of science degree in accounting. He joined the Division of Taxation in 1998 as a revenue officer in the Compliance & Collections section, and later worked as a revenue agent in Field Audit. In 2001, he worked for American Power Conversion Corp. as a desktop computer support analyst before returning to the Division of Taxation later that year as a tech support specialist in Processing.

In 2004, Clemence was promoted to the rank of principal revenue agent in the electronic funds transfer unit of Processing. He resides in North Scituate with his wife and their three children.

## MAJOR REVISION OF TAX FORMS UNDER WAY

The Rhode Island Division of Taxation has begun revising all of its tax forms -- mainly to accommodate a new agency-wide computer system that is now being implemented.

Part of that new system will involve installing and implementing a state-of-the-art scanning and imaging system, which will allow the agency to scan in returns and other forms that some taxpayers file on paper. That, in turn, will eventually allow for faster and more efficient and effective processing and analysis of returns. To get the most of the new scanning system, the Di-

vision of Taxation is revising all forms to make them uniform in size and appearance. "The changes will be rolled out gradually. We want to go at this carefully and methodically," said Rhode Island Tax Administrator David M. Sullivan. "But starting late this year -- and certainly in the filing season that starts in January 2014 -- taxpayers, practitioners, and software providers will begin to notice the changes. Our forms will

be sleeker, cleaner, and more compact in appearance," Sullivan said. "Also, even if you prepare returns on your computer, when you print out the

form it will look different.

And preparers will have to include their PTINs and contact information on the return," he said. The changes will also encourage software providers to make more Rhode Island forms available for e-file, he said. Each form will carry a bar code, dis-

played prominently toward the top right of the first page. The bar code will contain key information that the scanner will use to properly sort returns and forms. (See *excerpt of draft form at left.*)

Revised forms will be posted on the Division of Taxation's website periodically. The revision process will also allow for a general sprucing up of some forms and instructions. "For taxpayers, practitioners, and other stakeholders, we ask your patience -- and we believe that you will appreciate the end result," Sullivan said.

 A sample of a revised Rhode Island tax form, Form BCT-1, Beverage Container Tax Return. The form features a prominent bar code at the top right. Below the bar code, there are fields for "Name", "Address", and "Federal employer identification number". The form is titled "State of Rhode Island and Providence Plantations Form BCT-1 Beverage Container Tax Return" and includes a reference number "11120199992101".

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

**Q: A client read in *Rhode Island Tax News* that their restaurant is no longer required to file an annual report for liquor sales. Is that true? The client is a small restaurant that sells alcohol for consumption to patrons.**

A: Yes. As you know, retailers each year must file a sales tax reconciliation – in essence, an annual return.

The question is, do they file the regular annual

sales tax reconciliation or the special one that is geared toward sellers of alcoholic beverages?

Under the old law, each licensee authorized to sell intoxicating beverages at wholesale or retail in Rhode Island was required to file the special one, listing total sales of alcoholic beverages as well as sales tax and excise tax collections on those sales for the immediately preceding calendar year.

Under the new law, only Class A licensees – essentially liquor stores and package stores – must file the special annual reconciliation. The next one is due on or before February 3, 2014.

All other retailers -- including restaurants, whether or not they sell alcoholic beverages - - must file the regular annual sales tax reconciliation, which is due on or before January 31, 2014.

**Q: Some clients who applied for the property-tax relief on Form RI-1040H, or for the Rhode Island earned income credit, or both, have received notices because**



**they e-filed their returns electronically through our firm. I have found out . . . that this issue could be fixed if all the e-filed Rhode Island returns with credits had copies of their federal tax returns attached to enable the Division of Taxation to see that most of the people claiming these credits are self-employed and have adjustments to their total income to arrive at AGI. Can't we get the federal 1040 to attach to the RI-1040 through the tax software?**

A: We take part in the advanced federal electronic filing system known as Modernized e-File, or MeF. As a result, we already have access

to the federal tax return information that you mention, so there's no need for you to take the additional step of attaching the federal return to your e-filed Rhode Island return.

But there is a broader issue involved: fraud.

At the Division of Taxation, we face a balancing act: we must promptly process claims for tax credits from taxpayers who are eligible for those credits, but we must also do as much as we can to prevent fraud in order to safeguard taxpayer dollars.

That's where income verification comes in: a taxpayer who claims the Rhode Island earned income credit, for example, must have earned income.

We have measures in place that are designed to verify the income that the taxpayer reports on the return -- as an effort to prevent fraud.

Our verification checks can take time -- and the processing of some returns can be delayed temporarily as a result.

But we feel these checks are an important way to help guard against fraud -- and to safeguard taxpayer dollars.

**Q: I e-file my client's corporate return, then my client mails in the paper return. That way, we figure, you guys will be sure to get the return -- one way or the other. Is that**

**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.

**a good idea?**

A: No. When we receive an e-filed return and a paper return for the same taxpayer for the same tax year, our computer system automatically enters an "error code" for the paper filing.

As a result, processing of that taxpayer's return slows dramatically, and staff time must be set aside to resolve the error.

So, what may seem like a valid belt-and-suspenders approach for you and your client ends up bogging down the system.

*(Please turn to page 11)*

**Practitioners' Corner:****QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PAGE 10)

Your client's return could remain in limbo in our system, marked "error," for some time. And while staff are trying to resolve that and other errors, there is slower resolution of taxpayer problems, and fewer staff available to answer phones and other inquiries, among other issues.

So your best bet is to e-file the return; you and your client should keep the paper return on file but don't send it to us.

Remember: when you e-file, the acknowledgement you receive electronically is confirmation that we have received the return. Please let your client know about the acknowledgement so that the client will not file the return on paper.

**Q: Regarding the corporate e-file mandate, does it apply to returns filed on or after January 1, 2013, or to tax years beginning on or after January 1, 2013?**

A: It applies for current-year returns filed on or after January 1, 2013.

Thus, the first time that the corporate e-file mandate applied was for returns filed in calendar year 2013 for returns covering tax year 2012.

In calendar year 2014, the mandate will apply for tax year 2013 returns.

In calendar year 2015, the

mandate will apply for tax year 2014 returns.

(In general, our system cannot accept e-filed prior-year returns, so the corporate e-file mandate does not apply to prior-year returns.)

Click [here](#) for the statute regarding the e-file mandate. Click [here](#) for the regulation.



**Q: Our corporate tax return preparer has indicated that the professional tax preparation software that their firm uses is not equipped for electronic filing for Rhode Island. Accordingly, we plan on filing a paper version of the return despite the corporate electronic filing mandate. Will this pose any problems?**

A: The corporate e-file mandate applies to paid preparers, not to the taxpayers themselves, so you're all set. But you might suggest that your preparer contact us to learn more about the mandate and to provide us with details about the software provider. Oftentimes, software providers agree to provide e-filing after we contact them. E-mail the Rhode Island Division of Taxation's Daniel Clemence: [Daniel.Clemence@tax.ri.gov](mailto:Daniel.Clemence@tax.ri.gov).

**Q: Our firm is based outside of Rhode Island and provides tax preparation services. But our software does not support e-file for Rhode Island corporate returns. What can we do?**

A: Let us know the name of the software provider and the name of the software. As noted above, software providers often agree to provide Rhode Island e-file for their clients after we contact the provider.

**Q: We are an accounting firm in New York City. We will e-file our client's Rhode Island corporate income tax return on Form RI-1120C for the first time this year. Do we need to file a signature authorization form, too? Some states require it.**

A: Rhode Island does not have its own e-file signature authorization form for purposes of e-filing Rhode Island partnership or corporate returns. However, we will rely on a copy of the applicable federal form from the U.S. Form 8879 series. In other words, we'll accept the federal form, so be sure to keep it on file.

**Q: Did Rhode Island implement a \$500 tax on all partnership tax filings for 2012? I have a client that just received a bill for the**

**Archives online**

Previous issues of the Rhode Island Division of Taxation's newsletter, *Rhode Island Tax News*, are available for viewing or for download at the agency's website:

[www.tax.ri.gov/newsletter/index.php](http://www.tax.ri.gov/newsletter/index.php)

**\$500 tax on their limited partnership - which we never paid a tax on before. Did this just start in 2012 and is it for all partnerships?**

A: All partnerships – except general partnerships – must each pay the \$500 a year. The law was enacted in 2011, for tax years beginning on or after January 1, 2012.

Click [here](#) and turn to page 5 of one of our earlier newsletters for more details.

(Please turn to page 12)

**Practitioners' Corner:****QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PAGE 11)

And click [here](#) to view pages 1 and 2 of our summary of legislative changes for 2011.

**Q: I'm a practitioner in Pennsylvania. I'm planning to e-file a Form RI-1065 next year for a Rhode Island partnership. Do I have to register to e-file?**

A: No. In olden days, many state tax agencies required out-of-state practitioners to register in advance in order to e-file. We did the same. The point, mainly, was so that we'd know whom to contact if something went wrong with the e-file process.

Nowadays, however, we participate in the IRS's modernized e-file (MeF) system. We're able to obtain a sufficient amount of contact information through that system. So go ahead and e-file the return; you need not register with us in advance.

**Q: My client is a nonresident owner of a Rhode Island subchapter S corporation. Her refund has been held up. The Division of Taxation says it's a routine delay; they must manually check the Form RI-1099PT. Can you explain what that's about?**

A: On Schedule W of the Form RI-1040 (resident or nonresident), you must list the amount of Rhode Island personal income tax that was withheld on your behalf, as shown on Forms W-2 and

Forms 1099 -- including Forms RI-1099PT.

Form RI-1099PT is used to report Rhode Island income tax withheld by a subchapter S corporation, limited liability company (LLC), partnership, or other such pass-through entity. A copy is sent to the nonresident entity's partners, members, beneficiaries, or shareholders.

When we receive your client's Form RI-1040, we perform a number of checks -- to ensure accuracy and prevent fraud. For example, if you list amounts withheld from a Form W-2, we check to ensure that the entity you say withheld money from your paycheck actually exists.

What about when amounts from Form RI-1099PT are listed on Schedule W? We perform accuracy and fraud-prevention checks, too. The problem is that the very first such check, done automatically, typically looks in one system for the entity information -- and doesn't find it. That's because the entity information is in a separate computer system -- and the two silos aren't connected.

That's exactly the sort of issue the General Assembly had in mind when it approved spending on a new integrated tax system for the Division of

Taxation. Once installed and up and running, the new system will integrate -- unite -- on a single system all of the tax information that now exists on separate systems.

What happens in the meantime? As a general rule, processing of a Form RI-1040 which contains information involving one or more Forms RI-1099PT may be delayed until we can manually attend to the matter.

Your best bet is to e-file such 1040s -- and attach the Forms RI-1099PT as PDFs. (Our new e-file process, now in use, allows for attaching a

wide range of documents as PDFs.) That way, when we do our manual checks, we'll at least have the Forms RI-1099PT at hand; we won't have to mail out a request.

**Q: One of our clients received a bill from the Division of Taxation related to amounts owed for 1994, 1995, and 1996. Isn't there a statute of limitations on collections in Rhode Island?**

A: There are too many variables to provide an answer that applies to your client's particular circumstances. But here is the general rule: There is no statute of limitations on collections in Rhode



### Decisions online

The Division of Taxation's Administrative Decisions are posted online and offer a wealth of information on state tax laws and related matters:

[www.tax.ri.gov/  
AdministrativeDecisions/](http://www.tax.ri.gov/AdministrativeDecisions/)

Island. So if you owe back taxes, it's best to pay up.

If you don't, we could block the renewal of your driver's license, motor vehicle registration, and professional license -- and reduce the amount of your refund.

Keep in mind, too, that as a general rule, interest accrues -- at the rate of 18 percent a year -- on unpaid balances.

You may contact our Compliance & Collections section by calling (401) 574-8941 from 8:30 a.m. to 3:30 p.m. business days.



## 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 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](http://www.tax.ri.gov).

## HOW TO SUBSCRIBE

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

## COMMENTS AND SUGGESTIONS

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

## BACK ISSUES

*Rhode Island Tax News* back issues are on the Tax Division website: [www.tax.ri.gov](http://www.tax.ri.gov)

### Regulatory Update:

## HEARING SET ON FILM TAX CREDIT

The Division of Taxation on September 18, 2013, posted a proposed regulation involving the motion picture production tax credit (sometimes called the film tax credit).



The proposal is intended to update the existing regulation to reflect changes in state law enacted in June 2012.

A public hearing will be held at 9:30 a.m. on Tuesday, October 22, 2013, at One Capitol Hill (the Powers Building) in Providence, near the State House.

### Arts district

The Division of Taxation on September 23, 2013, proposed a regulation involving the establishment of a statewide arts district for purposes of Rhode Island's 7 percent sales and use tax. A public hearing is to be held at 9:30 a.m. on Thursday, October 24, 2013, in the Powers Building.

### Other regulations

The Division of Taxation as of late September 2013 was continuing its internal review of a proposed regulation involving the musical and theatrical production tax credit, and was also con-

sidering:

- ◆ revising a regulation to provide guidance on the sales and use tax exemption for farmers;
- ◆ repealing a regulation involving feeds, fertilizer, and other items;
- ◆ revising a regulation to provide guidance on the filing of a personal income tax extension – and making a proper estimate when filing; and
- ◆ revising a regulation to require qualified subchapter S subsidiary corporations to obtain a federal EIN.



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