



Summary of Legislative Changes

Rhode Island Division of Taxation

July 3, 2013

Following is a summary of tax law changes in the FY 2014 budget bill enacted July 3, 2013.

Historic tax credits

The new law essentially reopens the state's historic tax credit program, with certain limits, to encourage redevelopment and reuse of historic buildings.

The program has generally been closed since 2008. Certain projects were essentially grandfathered and continue. However, some other projects have been "abandoned" – leaving about \$34.5 million in credits available but unclaimed as of May 15, 2013. It is those unused credits that will be available to qualified applicants.

The enabling legislation establishes a new and separate chapter of state law, using the term "historic preservation tax credits," along with some provisions and limitations that were not present under the old program. In summary, the new program generally provides a Rhode Island tax credit of 20 percent of qualified rehabilitation expenditures (25 percent in certain circumstances). The maximum project credit is \$5 million. No building to be completed in phases or in multiple projects may exceed the maximum project credit of \$5 million for all phases or projects involved in the rehabilitation of the building.

The credits may be applied against the state business corporation tax, franchise tax, public service corporation tax, tax on banks, tax on insurance companies, and personal income tax. Credits may be assigned.

- By August 15 of each year, the Division of Taxation must publicly report the name, address, and amount of tax credit received for each recipient during the previous state fiscal year.
- By September 1 of each year, the Division of Taxation must publicly report in the aggregate certain information regarding the credits, such as the number of jobs created, the number of Rhode Island businesses retained for work, the total amount of qualified rehabilitation expenditures, and other items.
- By September 1, 2018, and biennially thereafter, the Division of Taxation must report in the aggregate the total number of approved projects, project costs, and associated amount of tax credits.

Effective: July 3, 2013

Citation: Rhode Island General Laws (RIGL) Chapter 44-33.2; new chapter planned

Section 179 expensing

Rhode Island law will conform to federal law with respect to the Internal Revenue Code (IRC) § 179 deduction – better known as the Section 179 deduction.

Rhode Island decoupled in 2003 when a federal law significantly expanded the deduction. As a result, the Section 179 deduction for Rhode Island tax purposes has been limited to \$25,000 in any taxable year.

However, as a result of the new Rhode Island law, Rhode Island will once again follow federal law in this regard. Thus, a taxpayer will generally be able to follow federal law when electing to treat the cost of any Section 179 property as a current-year expense. Under the new law, any cost so treated shall be allowed as a deduction for the taxable year in which the Section 179 property is placed in service.

The expense deduction may be applied for purposes of the corporate income tax, tax on banks, and personal income tax. The new Rhode Island law takes effect on January 1, 2014, and applies to all qualified assets placed in service on or after January 1, 2014.

Effective: Applies to qualified assets placed in service on or after January 1, 2014

Citation: RIGL Chapter 44-61

Domestic production activities deduction

Starting January 1, 2014, corporations will no longer be able to obtain a Rhode Island tax benefit for the federal domestic production activities deduction (also known as the “production deduction” or “DPAD” under IRC § 199).

Thus, corporations will have to add back into their taxable income for Rhode Island purposes any amount they have deducted at the federal level through the production deduction.

Effective: Applies to tax years beginning on or after January 1, 2014

Citation: RIGL Chapter 44-55

Statewide arts district – sales tax exemption

The new law will treat the entire state as an arts district. As a result, the sale of original and creative works created by – and sold by – writers, composers, and artists residing in and conducting a business within the state of Rhode Island will be exempt from the state’s 7 percent sales and use tax. This exemption will also apply to sales by any other gallery located in the state of Rhode Island.

Under former law, the exemption generally applied only to sales by writers, composers, and artists residing in and conducting a business in designated areas in certain municipalities in the state, including Providence, Pawtucket, Newport, Warwick, Woonsocket, and Westerly.

The Tax Administrator, in cooperation with the Rhode Island Council on the Arts, must issue an annual report including, but not limited to, the impact of the tax exemption on employment, tourism, sales and spending within the arts sector and adjacent businesses, and any other factors that describe the impact of the program. The statewide arts district provisions take effect December 1, 2013.

Effective: December 1, 2013

Citation: RIGL Chapter 44-18

Liquor stores – sales tax exemption

For a 16-month period – from December 1, 2013, through March 31, 2015 -- Rhode Island's sales and use tax will not apply to wine and spirits sold at package stores and liquor stores ("Class A" licensees under RIGL Title 3).

Also during that period, no alcoholic beverages sold at retail will be subject to the state's minimum markup.

However, beer and other malt beverages will continue to be subject to the sales and use tax.

Effective: Exemption applies from December 1, 2013, through March 31, 2015

Citation: RIGL Chapter 44-18

Alcoholic beverages excise tax

Excise taxes on a number of categories of alcoholic beverages temporarily increase – effective July 1, 2013, through March 31, 2015. Among the categories affected by the increase are malt beverages (including beer), a number of still wines, and spirits such as whiskey, gin, rum, and brandy containing alcohol measuring more than 30 proof. The excise tax applies to manufacturers; wholesalers/distributors pay a fee equal to the tax. (Please see table below.)

Excise tax per gallon on wholesalers/distributors and manufacturers		
	Previous tax rate	New tax rate
Still wines	\$0.60	\$1.40
Still wines (Rhode Island fruit)	\$0.30	\$0.30
Sparkling wines	\$0.75	\$0.75
Whiskey, other distilled spirits	\$3.75	\$5.40
Low proof distilled spirits	\$1.10	\$1.10
Ethyl alcohol (for beverage purposes)	\$7.50	\$7.50
Ethyl alcohol (for non-beverage use)	\$0.08	\$0.08
Malt beverages, including beer	\$3.00	\$3.30

* All taxes are per gallon, except tax on malt beverages, which is per barrel (a barrel equals 31 gallons).
* "Previous tax rate" in effect through June 30, 2013. "New tax rate" took effect July 1, 2013, and expires on March 31, 2015.
* Still wines made entirely from fruit grown in Rhode Island shall continue to be taxed at 30 cents a gallon.
* "Low proof" spirits contain alcohol measuring 30 proof or less.
* Tax applies to manufacturers; wholesalers/distributors pay fee equal to applicable tax rate.
* Beer brewed in-state and meeting certain other conditions may qualify for limited tax exemption.

Effective: The changes apply July 1, 2013, through March 31, 2015.

Citation: RIGL Chapter 3-10.

Liquor licensee filing

Under the old law, each licensee authorized to sell intoxicating beverages at wholesale or retail in Rhode Island was required to file an annual report, on or before February 1, with the Division of Taxation 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 provide such annual reports. The Division of Taxation will compile the information for an annual report due the House and Senate Finance Committee chairs on or before May 1. Also, other licensees will continue to be subject to the usual sales and use tax reporting requirements.

Effective: July 3, 2013

Citation: RIGL Chapter 3-10

Estate tax on farmland

For purposes of calculating Rhode Island's estate tax, farmland shall now be appraised at its use value, not at its full and fair cash value (fair market value). In many cases, use value is less than fair market value. Other provisions involving the Rhode Island estate tax remain in place.

Effective: July 3, 2013

Citation: RIGL Title 44

Paid preparer penalties

The new law establishes specific penalties – criminal and civil – for paid preparers who prepare Rhode Island returns with the intent to wrongfully evade or reduce a tax obligation.

Civil penalties

- Paid preparers who fail to be diligent in determining eligibility for, or the amount of, Rhode Island's earned income credit shall be fined \$500 for each such return or claim.
- Paid preparers who fail to be diligent in determining eligibility for, or the amount of, Rhode Island's statewide property tax relief credit (Form RI-1040H) shall be fined \$500 for each such return.
- Paid preparers who willfully prepare a return with the intent to wrongfully obtain a statewide property tax relief credit (RI-1040H), or with the intent to evade or reduce a tax obligation, shall be liable for a penalty of \$1,000, or of \$500 per return so filed, whichever amount is greater.

Criminal penalties

The new law generally says that any paid preparer who has previously been assessed a tax return preparer civil penalty by the Tax Administrator and who is found by a court to have thereafter willfully prepared a false tax return or claim for refund with the intent to wrongfully obtain a statewide property tax relief credit (RI-1040H) or with the intent to wrongfully evade or

reduce a tax obligation shall be guilty of a felony and, on conviction, subject to imprisonment for up to five years, a fine of up to \$50,000, or both.

Suspensions; PTINs; 'preparer' definition

The new law also gives the Tax Administrator the power to suspend or revoke a paid preparer's privilege to file returns with the Division of Taxation if that preparer has failed to comply with or has violated tax regulations or other laws or provisions related to tax preparation. (The new law also sets forth appeal procedures.)

Paid preparers are also now required to sign – and include their Internal Revenue Service-issued preparer tax identification number (PTIN) – on all returns prepared and filed with the Division of Taxation.

A "tax return preparer" is generally defined as someone who prepares a substantial portion of any return for compensation. The new law excludes from that definition volunteer tax return preparers, and employees of either a tax return preparer or a commercial tax return preparation business who provide only clerical, administration, or other similar services. The Tax Administrator must develop regulations to implement the new law and give guidance to practitioners and others.

Effective: July 3, 2013

Citation: RIGL Title 44

Division of Taxation – enforcement

The Division of Taxation plans to beef up enforcement of state tax laws by expanding and centralizing enforcement activities under a new Special Investigations Unit (SIU).

The SIU will serve as the Division of Taxation's primary criminal tax enforcement unit. It will report directly to the Tax Administrator, and will have nine positions overall, including seven existing positions and two new positions: a chief revenue agent and a revenue agent.

The unit's function will include reviewing alleged violations of tax law, investigating those violations, and recommending criminal prosecutions as warranted.

The SIU will also focus on trust fund violations and potential refund fraud – such as earned income tax credit fraud, property tax relief credit fraud, and identity fraud.

Effective: July 3, 2013

Citation: Budget bill: H 5127 Aaa

Scholarship credit

The aggregate amount of tax credits that the Division of Taxation may approve under the Credit for Contributions to Scholarship Organizations program, formerly \$1 million, increases to \$1.5 million for fiscal year 2014 and later fiscal years.

The program generally is intended to provide tax credits to business entities that make contributions to certain scholarship organizations.

Although the contribution must be made by a business entity, the credit can be used against a variety of taxes, including the business corporation tax, the public service corporation tax, the tax

on banks, the bank deposits tax, the tax on insurance companies, and the personal income tax. (Owners, shareholders, and partners of pass-through entities generally can claim their share of the credit on their Rhode Island personal income tax returns.) The scholarships are generally for students at nonpublic elementary or secondary schools in Rhode Island.

Effective: July 3, 2013

Citation: RIGL Chapter 44-62

Remote seller language

The new law makes clear that if the federal government enacts a law allowing states to require remote sellers to collect and remit the state's sales and use tax (such as the Marketplace Fairness Act), Rhode Island will take advantage of the opportunity by requiring remote sellers to pay, collect, and remit Rhode Island sales and use tax.

The new law also makes it clear that if the federal government enacts a law such as the Marketplace Fairness Act, the following changes would take place on the date that the state requires remote sellers to collect and remit sales and use taxes:

- Rhode Island's 7 percent sales and use tax rate would drop to 6.5 percent;
- Rhode Island's 1 percent local meals and beverage tax would increase to 1.5 percent; and
- retail sales of clothing and footwear would be fully exempt from sales and use tax. (Under current law, the 7 percent sales and use tax applies to articles of clothing, including footwear, with a sales price of more than \$250 per item – with only the incremental amount above the \$250 threshold subject to the tax.)

The new law also defines the terms "remote seller" and "remote sale."

Effective: July 3, 2013

Citation: RIGL Chapter 44-18

Outside collection agencies

To help in the collection of delinquent taxes, the Tax Administrator now has the authority to hire collection agencies – whether licensed under Rhode Island law or the laws of another state or the District of Columbia.

The Tax Administrator would use such outside collection agencies to collect – from sources outside the state – taxes, interest, and penalties owed to Rhode Island. The agencies would pursue nonresident individuals and businesses. About 11,554 nonresidents owe Rhode Island about \$28.9 million.

Effective: July 3, 2013

Citation: RIGL Chapter 44-1

Hospital licensing fee

For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate will be 5.246 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2012. (The rate was formerly 5.35 percent.)

For hospitals located in Washington County, Rhode Island, the rate is discounted by 37 percent, to 3.305 percent – subject to approval by the Secretary of the U.S. Department of Health and Human Services.

Every hospital must pay the applicable fee to the Tax Administrator on or before July 14, 2014.

Effective: July 1, 2013

Citation: RIGL Chapter 23-17

Newport Grand

The rate of net terminal income payable to slot parlor Newport Grand LLC will increase by 2.25 percentage points effective July 1, 2013, through June 30, 2015. At the same time, the state's share will drop by 2.25 percentage points during that period. (Under RIGL § 42-61.2-1, "net terminal income" means currency placed into a video lottery terminal, less credits redeemed for cash by players.)

- As of June 30, 2013, Newport Grand's share equals 27.80 percent. Effective July 1, 2013, through June 30, 2015, it will be 30.05 percent. As of July 1, 2015, it is scheduled to drop back to 27.80 percent.
- As of June 30, 2013, the state's share equals 61.80 percent. Effective July 1, 2013, through June 30, 2015, it will be 59.55 percent. As of July 1, 2015, it is scheduled to return to 61.80 percent.

Effective: New rates effective July 1, 2013, through June 30, 2015

Citation: RIGL Chapter 42-61.2

Employer tax – hazardous substances fee

Employers no longer must pay a \$42 annual assessment – essentially a fee, or tax – to the Department of Labor and Training for aiding in the implementation of the state's Hazardous Substances Right-to-Know Act. Employers are still subject to the reporting and other provisions of the law.

Effective: July 3, 2013

Citation: RIGL Chapter 28-21

Employer tax – job development assessment

In 2011, the state's job development assessment, which is paid by employers, increased to fifty-one hundredths of one percent (0.51%) of an employer's taxable payroll, from 0.21 percent. The difference – of 0.3 percent percentage point – went to pay the interest on federal loans and to help repay borrowings from the federal government. (Proceeds of the loans had been used to cover benefit payments to the unemployed.)

The new law sunsets that 0.3 percent assessment, in tax year 2015, dropping the job development assessment to its pre-2011 level of 0.21 percent. The sunset depends on whether the loans from the federal government are paid off in full. (As of June 21, 2013, Rhode Island had

a \$152.15 million loan outstanding from the Federal Unemployment Account. A total of 20 states – including Rhode Island – and the Virgin Islands owe a combined total of \$20.7 billion.)

Effective: July 3, 2013

Citation: RIGL Chapters 28-42, 28-43



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-- David M. Sullivan
Rhode Island Tax Administrator