

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PREPARERS

JANUARY/FEBRUARY/MARCH 2013

WHAT'S NEW FOR TAX YEAR 2013

Standard deduction and exemption amounts have increased for tax year 2013.

So, too, has the deduction/exemption phase-out range, and tax bracket amounts.

It's all the result of the Rhode Island Division of Taxation's annual inflation adjustment procedure.

When the General Assembly in 2010 approved sweeping changes to Rhode Island's personal income tax law, legislators required that key figures be adjusted each year to help taxpayers keep up with inflation.

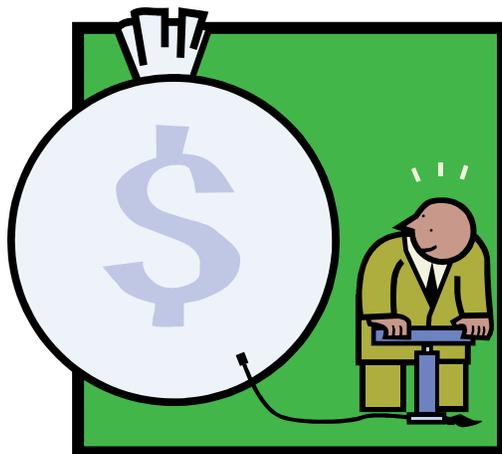
So when the U.S. Depart-

ment of Labor issued its cost-of-living figures in the fall of 2012, the Tax Division adjusted key figures for tax year 2013 – including standard deduction amounts, personal exemption amounts, dependency exemption amounts, the phase-out range for standard deductions and ex-

emptions, and tax brackets.

The numbers are helpful to taxpayers and practitioners who like to plan ahead. They are important for a number of reasons – including the calculation of quarterly estimated tax payments.

(Please turn to page 2)



HIGHLIGHTS:

- *Rhode Island's 75-day tax amnesty netted more than \$22 million. (Details on [page 4](#).)*
- *Rhode Island's estate tax threshold has now exceeded the \$900,000 level for the first time. (Details on [page 5](#).)*
- *The Rhode Island Division of Taxation's effort to crack down on sales of contraband cigarettes was the focus of a feature article in the Providence Journal. (Reprint on [page 10](#).)*

TAX DIVISION'S NEW COMPUTER SYSTEM

The Rhode Island Division of Taxation is in the process of making sweeping changes to its computer system – which will also change the way it does business.

As a result of the budget bill recently approved by the General Assembly and

signed into law by Governor Lincoln D. Chafee, the Tax Division will acquire a computer system known as an "integrated tax system" (ITS) – along with software, hardware, and related implementation, maintenance, and support services. The Tax Division,

part of the Department of Revenue, is the State's primary revenue collecting agency. It administers more than 50 different types of state taxes and fees, and collects nearly \$3 billion a year - money that helps pay for vital public services.

(Please turn to page 3)

INSIDE THIS ISSUE:

REMINDER FOR LLCs	5
UNEMPLOYMENT TAX FOR 2013	6
TDI TAX	7
LEGAL CORNER	8
PRACTITIONERS' CORNER	12
INTEREST RATES	13



Reaching out

Donald Englert, chief of the Rhode Island Division of Taxation's Excise Tax section, was among a number of speakers who provided a Tax Division update at the Rhode Island Society of Certified Public Accountants' meeting at the Providence Marriott Downtown hotel in December.

WHAT'S NEW FOR TAX YEAR 2013 (CONTINUED FROM PAGE 1)

Standard deduction amounts have increased about 2.6 percent for 2013. For example:

- ◆ If you're single, your standard deduction amount is \$8,000 for 2013, up from \$7,800 for 2012.
- ◆ If you're married and filing a joint return, your standard deduction is \$16,000 for 2013, up from \$15,600 for 2012.
- ◆ If your filing status is "head of household," your standard deduction is \$12,000 for 2013, up from \$11,700 for 2012.

Exemption amounts

In addition, the value of each personal and dependency exemption has climbed by about 2.7 percent, to \$3,750 for 2013, up from \$3,650 for 2012.

The Division of Taxation has

also increased the phase-out range that involves limits on the standard deduction and exemptions based on income.

Income limits

Before tax year 2011, the amount of your exemptions and itemized deductions was limited based on your income.

Under the new system, for 2011 and later tax years, the amount of your exemptions and standard deduction is also limited based on your income. (Itemized deductions are no longer allowed.)

For 2012, the phase-out started at \$181,900 of modified federal adjusted gross income (AGI). If modified federal AGI exceeded \$202,700, you were ineligible for a standard deduction as well as personal and dependency exemptions.

But for 2013, the phase-out range has been adjusted upward to reflect inflation. As a result, fewer taxpayers will be subject to the phase-out. The new phase-out range is \$186,550 to \$207,950.

The Tax Division has also issued [a new uniform Rhode Island personal income tax rate schedule for 2013](#).

Tax brackets

The new schedule shows higher income ranges within each of the state's three tax brackets (3.75 percent, 4.75 percent, and 5.99 percent).

For 2012, for example, only your first \$57,150 in Rhode Island taxable income was taxed at the state's lowest personal income tax rate of 3.75 per-

cent.

For 2013, your first \$58,600 in Rhode Island taxable income qualifies for the lowest tax rate. In other words, for 2013, more of your income will be taxed at the lowest rate, of 3.75 percent, instead of at the next highest rate, of 4.75 percent.

Also, the highest rate – of 5.99 percent – kicked in last year at above \$129,900 of Rhode Island taxable income.

For 2013, the top rate won't kick in until your Rhode Island taxable income exceeds \$133,250.

Please note: This article applies to tax year 2013. For information about tax year 2012 and the current filing season, please [click here](#).

TAXATION'S NEW COMPUTER SYSTEM (CONTINUED FROM PAGE 1)

The agency's new computer system will provide a full suite of processing and administrative functionality for the taxes and fees that the agency oversees. In addition, taxpayers and tax practitioners will gain secure online access to an array of services on the agency's website.

Improvements

"This new system will result in system-wide changes within the Division of Taxation," said Tax Administrator David M. Sullivan, who oversees the agency. "When the changes are fully implemented, taxpayers and tax practitioners will notice significant improvements. We appreciate the support for this project that we have received from the General Assembly and from Governor Chafee," he said.

The Tax Division needs the new system so it can consolidate tax information, which is now dispersed across a number of different platforms -- some antiquated and ill-suited for the agency's requirements.

For example, the Tax Division has a mainframe computer system that holds information related to five major tax types: corporate income, personal income, withholding, sales, and health care provider taxes. The system is decades old and is written in the COBOL language, which is ancient by current computer standards and is also costly to maintain and modify.

Other taxes and fees are processed using either Microsoft Access databases or Microsoft Excel spreadsheets. Altogether, the Division of Taxation maintains about 80 of such "offline" tax information storage sites in-house.

The new system will also help make processing more effective and efficient -- thereby aiding taxpayers and tax practitioners alike. For example, although the Tax Division receives many tax returns electronically, and actively encourages e-filing, thousands of business and personal returns continue to be filed on paper.

Manual data entry

Data from the paper returns must be entered into the Division of Taxation's computer systems by hand, through data-entry operators, a process that can take time and occasionally result in errors.

With the ITS project, the Tax Division plans to procure and implement a front-end imaging and data-entry

State of Rhode Island - Division of Taxation
Integrated Tax System
RFP # 7458282
November 14, 2012
Solicitation Information

RFP # 7458282
TITLE: Integrated Tax System
Submission Deadline: Tuesday, January 15, 2013 at 2PM
Date: December 10, 2012 Time: 10:00 AM

PRE-BID/ PROPOSAL CONFERENCE: Yes
Mandatory: No
Location: Department of Administration / Division of Purchases, One Capitol Hill, Providence, RI - Conference Room A

Questions concerning this solicitation must be received by the Division of Purchases at info.questions@purchasing.ti.gov no later than December 13, 2012. Questions should be submitted in a Microsoft Word attachment. Please reference the RFP# in the subject of all correspondence. Questions received, if any, will be posted on the Internet as an addendum to this solicitation. It is the responsibility of all interested parties to monitor the website and download this information.

SURETY REQUIRED: No
BOND REQUIRED: Yes (Please refer to Section 1.6 for performance bond requirements upon award)

system. When complete, the new system will allow staff to scan returns and related documents into the agency's computer system.

In the end, the Tax Division expects to replace all of its current processing systems -- including all of its mainframe and offline systems -- while upgrading its data-entry systems and adding a fully integrated imaging system. The project will be implemented in phases, over a four- to five-year period.

Bidding materials

As part of the process, the Tax Division in November 2012 issued materials for potential project vendors; the materials were posted in the form of a request for propos-

als (RFP) on the Rhode Island Division of Purchasing website (see excerpts above). At the bid opening January 15, 2013, four bidders emerged: Fast Enterprises, Intrasoft International USA, Revenue Solutions Inc., and TATA Consultancy Services. The Tax Division expects a contract will be awarded in March 2013, and a project start date set in May 2013.

Under the legislation enacted in June 2012, the Tax Division received an appropriation for the project of \$25 million for fiscal years 2013 through 2017 to procure and implement the ITS, including the front-end imaging and data entry system.

STRONG FINISH FOR TAX AMNESTY: \$22M

A strong finish helped Rhode Island's tax amnesty program collect a grand total of \$22.38 million.

That is more than twice what the agency collected in the last state tax amnesty program, in 2006 (\$9.88 million). It is more than double the amnesty's original budgeted estimate for the current fiscal year (\$10.94 million).

Details were contained in the tax [amnesty program's final report](#), which Tax Administrator David M. Sullivan supplied on December 31, 2012, to the chairpersons of the House Finance Committee and Senate Finance Committee, as well as members of the state's Revenue Estimating Conference.

The amnesty was the result of legislation approved by the General Assembly and signed into law

in June 2012 by Governor Lincoln D. Chafee.

The law gave the Tax Division special instructions with respect to interest and penalties owed by taxpayers who applied for amnesty and whose applications were approved.

In such cases, the law directed the Tax Division to waive penalties, and to reduce interest by 25 percent. To obtain the penalty waiver and interest reduction, a taxpayer had to pay all outstanding state tax debts, plus 75 percent of interest owed.

Based on those terms, the Division of Taxation reduced interest by a total of about \$2.4 million and waived \$4.8 million in penalties. Thus, the agency forgave a total of about \$7.2 million but generated \$22.38 million. [Click here](#) to read the final report.



Photo by Susan Breen/Rhode Island Society of Certified Public Accountants

Amnesty outreach

Officials from the Rhode Island Division of Taxation traveled to various locations in the state in the summer and fall to spread the word about amnesty. Among them was Jacques Moreau (above, right), chief of the agency's Compliance & Collections section, at the Rhode Island Society of Certified Public Accountants' office in Providence.

NEW WEB PAGE FOR TAX CREDITS, INCENTIVES

The Rhode Island Division of Taxation has created a [new section of its website](#) where taxpayers may find analytical reports related to recipients of certain state tax credit and incentive programs.

On the section, launched in the fall of 2012, the Tax Division posts information about applicants for, and recipients of, certain tax cred-

its and other incentives for business. (A screenshot of part of the new website section appears below.)

For example, before a company may be deemed eligible for a tax rate reduction under the Jobs Development Act, the Rhode Island Economic Development Corporation (EDC) must make a determination regarding the

company's job creation plans and efforts. The EDC cannot make such a determination until it has first prepared and publicly released an analysis of the impact that the proposed investment may have on the state. That is the sort of detailed analysis that will be appearing on the [new website section](#).

[Home](#) > [Reports](#) > [Tax Credits and Incentives Reports](#)

Tax Credits and Incentives Reports:

Rhode Island General Law requires the Division of Taxation to make available to the public the analysis and follow-up reports for any recipient of the following tax credits and incentive programs.

-  **Rhode Island Economic Development Corporation Project Status (RIGL 42-64-10) - Under construction**
-  **Incentive for Innovation and Growth (RIGL 44-63-3) - Under construction**
-  **[Jobs Development Act \(RIGL 42-64.5\)](#)**

ESTATE TAX THRESHOLD NOW EXCEEDS \$900K

Rhode Island's estate tax threshold has risen above \$900,000 for the first time.

Using an inflation-indexing formula set forth in state law, the Tax Division set the threshold at \$910,725 for decedents dying in 2013. The figure is 2 percent higher than the threshold that applied for 2012.

The threshold generally indicates the point at which someone's net taxable estate may trigger the Rhode Island estate tax (also known as the death tax).

In general, for 2013, if your net taxable estate -- in other words, your assets minus final expenses and certain debts -- is \$910,725 or less, your estate won't be subject to the tax.

If your estate exceeds \$910,725, it may trigger the tax - depending on your estate plans and other issues. (In certain circumstances, the Rhode Island estate tax will not apply no matter the estate's size: Rhode Island General Laws Chapter 44-22 provides full details on the computation of the tax, including such

For decedent whose death occurs in:	Rhode Island estate tax threshold amount:
2009	\$ 675,000
2010	\$ 850,000
2011	\$ 859,350
2012	\$ 892,865
2013	\$ 910,725

factors as the marital and charitable deductions.)

A state law enacted in 2009 raised the threshold to \$850,000, from \$675,000, effective for decedents dying in 2010.

(Recently enacted changes in federal tax law have affected the federal estate tax for those dying in 2013 and later years.)

The Tax Division's Estate Tax section can be reached at (401) 574-8900.

REMINDER FOR LLCs ON FORMS AND FEE

Many limited liability companies (LLCs) must file a different form starting this filing season.

For tax years beginning on or after January 1, 2012, many LLCs must file Form RI-1065, (instead of Form RI-1120S.)

The change applies to LLCs that are treated either as partnerships or as part of the owner's tax return (a "disregarded entity"). In other words, it applies to LLCs that are not taxed as corporations. Thus, a single-member LLC which does not elect to be treated as a corporation -- and which is therefore deemed to be a "disregarded entity" -- will file the Form RI-1065.

The new Form RI-1065

will also be filed by limited liability partnerships (LLPs), as well as by limited partnerships (LPs) and general partnerships.

A state law enacted in June 2011 required that LLPs and LPs pay an annual charge -- a filing fee -- equal to the corporate minimum tax, currently \$500, for tax years beginning on or after January 1, 2012. The charge is due upon filing of the LLP's or LP's return.

The law also reemphasized a longstanding Tax Division position: any LLC that is not taxed as a corporation for federal and Rhode Island purposes continues to be subject to the annual charge -- the filing fee -- which is currently \$500. The principle applies to single-member LLCs, too. The charge (now \$500) is due upon filing of the LLC's return.

Revised form
The revised Form RI-1065 (excerpted at right) is for most LLCs, as well as for LLPs, LPs, general partnerships, and single-member LLCs (listed in the excerpt as "SMLLC").

RI-1065

Amended	<input type="checkbox"/>
Initial Return	<input type="checkbox"/>
Final Return	<input type="checkbox"/>
Short Year	<input type="checkbox"/>
Address Change	<input type="checkbox"/>
LLC	<input type="checkbox"/>
LLP	<input type="checkbox"/>
LP	<input type="checkbox"/>
Partnership	<input type="checkbox"/>
SMLLC	<input type="checkbox"/>



UNEMPLOYMENT INSURANCE TAX CHANGES: 2013

Changes to Rhode Island's unemployment insurance tax system have been set for 2013. The changes took effect in January 2013, and will be reflected in first-quarter returns due on or before April 30, 2013.

For most employers, the taxable wage base will increase by about 3 percent, to \$20,200 for 2013 from \$19,600 in 2012.

The taxable wage base is the amount of an employee's wages to which the unemployment insurance tax rate applies. By law, the base must equal 46.5 percent of the average annual wage in Rhode Island.

A separate, higher taxable wage base applies to employers who have experienced considerable unemployment – and who therefore have used the system's resources the most. For those employers, the taxable wage base will increase by about 2.8

percent, to \$21,700 for 2013, from \$21,100 for 2012.

In general, the separate, higher taxable wage base applies to about 18.2 percent of employers, according to figures from the Rhode Island Department of Labor and Training. (Last year, 43.4 percent of all unemployment insurance benefit payments were attributed to the top 18.2 percent of Rhode Island experience-rated employers, according to the DLT.)

Overall, the range of state unemployment insurance tax rates will stay the same for 2013 – from a minimum of 1.69 percent to a maximum of 9.79 percent.

A separate tax rate applies to new employers: For 2013, it is 2.83 percent, up from 2.64 percent for 2012, an increase of about 7.2 percent.

Changes approved by the General Assembly and signed into law by Governor Lincoln

Rhode Island employer tax: key figures

Number of employers:	32,915
Number of employees:	554,657
Source: Tax Division data for calendar year 2012, second quarter.	

D. Chafee 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 pays unemployment benefits and became insolvent during the recession.

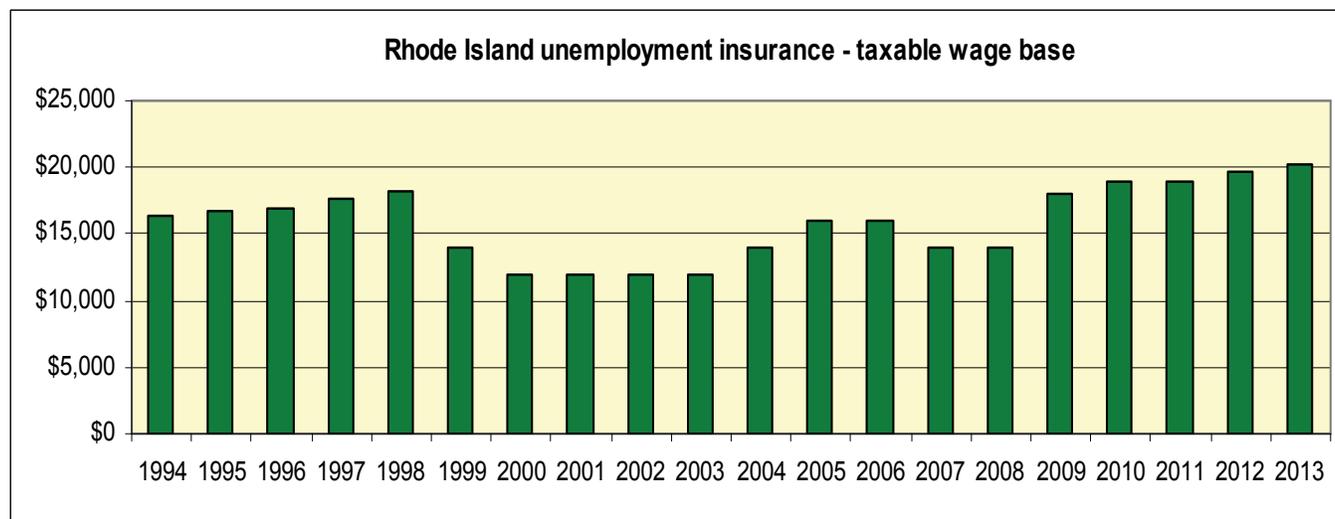
For example, as a result of a 1998 state law, the taxable wage base was tied to the balance of the state's unemployment insurance trust fund. Under the new law, the wage base is tied to the statewide average annual wage, as it was before the

1998 law took effect.

In addition, the 2011 law ushered in a higher taxable wage base for those employers who have had the greatest negative effect on the state's unemployment insurance trust fund. For them, the taxable wage base is \$1,500 higher than it is for other employers.



The tax is administered by the Division of Taxation. Rhode Island's unemployment insurance system is overseen by DLT.



Figures are from Rhode Island Division of Taxation's Employer Tax section and do not reflect separate taxable wage bases for 2012 and 2013 for high-experience employers.

MAXIMUM TDI TAX RISES 2.3% FOR 2013

The maximum tax under Rhode Island's temporary disability insurance (TDI) program will increase 2.3 percent, to \$736.80 for 2013.

Thus, the maximum tax will increase by \$16.80 over last year's maximum of \$720.

The TDI tax has two main components: The first is the tax rate itself; the second is the amount of your wages to which that tax rate applies.

- ◆ For 2013, the amount of wages to which the TDI tax rate applies will increase \$1,400, or 2.3 percent, to \$61,400.
- ◆ The TDI tax rate will stay the same, at 1.2 percent.

As a result, the maximum

TDI tax for 2013 will increase to \$736.80 (the tax rate of 1.2 percent applied to \$61,400 of wages). For 2012, the maximum TDI tax was \$720 (the tax rate of 1.2 percent applied to \$60,000 of wages).

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

In general, the tax is paid by private-sector workers -- about 393,300 of them.

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 unemploy-

TDI: By the numbers

Year	Tax rate	Wage base	Max. tax
2008	1.3%	\$54,400	\$707.20
2009	1.5%	\$56,000	\$840.00
2010	1.2%	\$57,900	\$694.80
2011	1.3%	\$58,400	\$759.20
2012	1.2%	\$60,000	\$720.00
2013	1.2%	\$61,400	\$736.80

ment caused by injury or illness unrelated to work.

[You can learn more about the TDI program at the DLT website.](#)

Employers may learn more about TDI tax [at the Tax Division's website.](#)



Note to Practitioners

How to contact the Tax Division

If you're a tax practitioner and need to contact the Tax Division, simply go to the home page of the agency's website and click on "[Contact Us](#)" toward the top of the page, next to the Twitter logo.

There you'll find a helpful list of e-mail addresses and phone numbers for various sections within the agency, including Sales and Use Tax, Employer Tax, and Corporate Tax.

◇◇◇

INCOME TAX ON TRUSTS, ESTATES FOR 2013

The Rhode Island Division of Taxation has updated its income tax rate schedules for estates and trusts for 2013.

The schedules -- updated to reflect inflation -- will be helpful to fiduciaries who are planning ahead.

The income tax rate schedule (excerpted below) applies to non-grantor trusts and non-bankruptcy estates. In other words, it applies to most trusts and estates. It shows how the tax rates apply to various levels of income.

(The income tax rate schedule for grantor trusts and bankruptcy estates is the same as that for the individual income tax.)

The Tax Division's Personal Income Tax section, which handles income tax returns from trusts and estates, can be reached at (401) 574-8829, option 3.

Trusts and estates: Income tax rate schedule for 2013			
Over	But not over	pay dollar amount shown, plus percent on excess	Of the amount over...
\$ 0	\$ 2,350	\$ 0 + 3.75%	\$ 0
2,350	7,450	\$ 88.13 + 4.75%	2,350
7,450	----	\$ 330.38 + 5.99%	7,450

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.

Personal income tax

At issue is whether the taxpayers -- a married couple -- filed requests on time in order to obtain refunds of personal income tax.

Under Rhode Island General Laws (RIGL) [§ 44-30-87](#), there are two basic rules governing refunds:

◆ A refund may be claimed within three years of filing a return. If it is, the amount of credit cannot exceed the amount of tax paid within that three-year period.

◆ A refund may be claimed within two years from the time the tax was paid. If the claim is made within the two-year period, the amount of the refund may not exceed the portion of tax paid during the two years preceding the filing of the claim.

In this case, the taxpayers filed their 2006 return on November 7, 2007. Their tax for 2006 was deemed paid on the date it was due, April 15, 2007.

Because they did not file their claim for refund until April 2011, they were ineligible under the three-year rule (because April 2011 is more than three years after the return was filed, in November 2007).



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.

They were also ineligible under the two-year rule (because April 2011 is past the two-year period from the date the taxes were deemed paid).

Hearing Officer Catherine R. Warren on September 26 determined that the taxpayers were not entitled to the refund claimed for tax year 2006 (and for another year that was also in question).

Tax Administrator David M. Sullivan on September 28 adopted the hearing officer's decision and recommendation.

[- Final Decision and Order](#)

[No. 2012-12](#)

Corporate income tax

At issue is whether the taxpayer – a Rhode Island corporation – filed its request for refund of Rhode Island corporate income tax on time under RIGL [§ 44-11-20](#).

The taxpayer, a Rhode Island corporation, files as a fiscal year taxpayer, with a fiscal year ending June 30.

In this case, the taxpayer's return was due September 15, 2005, for the year ended June 30, 2005. But the taxpayer instead filed for an automatic six-month extension – and at the same time made an extension payment.

In March 2006, the taxpayer filed its return for the year ended June 30, 2005, and made a payment with the return.

Fast forward to February 2009, when the taxpayer filed an amended return for the year ended June 30, 2005, requesting a refund.

RIGL [§ 44-11-20](#) essentially says that a corporate taxpayer has three years – from the time the tax was paid – to claim a refund. Both sides disagreed on the interpretation.

The taxpayer asserted that the payment made with the extension in June 2005 was essentially an estimate, and was not technically “paid” until the return was filed in March 2006 – which is when the three-year clock should start ticking in this case.

[\(Please turn to page 9\)](#)

**Tax Hearings**

Any taxpayer aggrieved by the action of the Tax Division in determining the amount of tax, surcharge, or penalty, may make written request for a formal hearing.

The taxpayer is first afforded an opportunity to have a preliminary review. Should the matter not be resolved, it may then proceed to formal hearing under the terms of the state Administrative Procedures Act (RIGL [§ 42-35-1 et seq](#)) and Tax Division regulation [AHP 97-01](#).

If not satisfied with the outcome, the taxpayer may appeal to Sixth Division District Court (RIGL [§ 8-8-24 et seq](#)).

LEGAL CORNER:

RECENT STATE TAX CASES (CONTINUED FROM PAGE 8)

The Tax Division allowed a refund of the amount that the business had paid with its return in March 2006.

But the agency did not allow a refund of the September 2005 extension payment because the refund claim for that amount was not filed on time.

Warren on September 28 sided with the Tax Division, saying that the taxpayer missed the three-year limit on the first payment but not on the second. Sullivan on October 4 adopted the hearing officer's decision and recommendation.

[- Final Decision and Order No. 2012-13](#)

Sales tax on tips

Suppose that a hotel or

other big facility provides a banquet for a large group. On the bill, the facility applies a mandatory tip, a forced gratuity.

In that case, should the state's 7 percent sales tax apply to the entire amount (including the forced tip), or only to the food and drink itself (not counting the forced tip)?

Under Rhode Island General Laws (RIGL) [§ 44-18-18](#), sales tax applies to the retailer's gross receipts.

RIGL [§ 44-18-12](#) says "sales price" means the total amount of consideration, including services.

And Rhode Island sales tax [Regulation 09-59](#) says the following:

When a retailer bills a customer for the rental of a public room or for gratui-

ties, service charges, cover charges, or entertainment charges (including charges for bands or orchestras) in connection with the serving of meals or soft/alcoholic drinks, the amount billed or received by the retailer will be considered as part of the gross receipts from the sale of the meal or soft/alcoholic drinks and must be included in the measure of tax. Amounts designated as service charges, added to the price of meals, are a part of the selling price of the meals and, accordingly must be included in the retailer's gross sales subject to tax.

The taxpayer in this case was a hotel which had restaurant and function services.

The taxpayer apparently took the position that Rhode Island tax Regulation 09-59 is invalid because it treats

voluntary tips differently from mandated tips.

But the hearing officer, Catherine R. Warren, determined that mandated tips are taxed because they are part of the sales price -- they are included in the price.

What about voluntary tips? They are not included in the sales price and are not taxed. "The taxpayer's arguments are without merit," Warren wrote.

Warren on December 20 concluded that the Tax Division properly assessed tax on the forced gratuities (and certain other items involved in the case), and must pay the tax plus interest.

Sullivan on December 21 adopted the hearing officer's decision and recommendation.

[- Final Decision and Order 2012-14](#)



SERIES OF TAX DIVISION MAILINGS IS COMPLETE

The Tax Division in late December completed the mailing of nearly 40,000 Forms RI-1040ES. Taxpayers use the form to make quarterly estimated payments of personal income tax.

Each coupon packet has a table on which you can keep a record of your payments. That can be a helpful tool when it comes time to filing your annual income tax re-

turn.

Keep in mind that you have the option to [download a copy from the Tax Division website](#).

Forms 1099

Also in late December, the Tax Division completed the mailing of about 7,000 Forms 1099-INT. The form shows how much interest a taxpayer received in 2012 on

a Rhode Island income tax refund. (It's an information statement, not a bill.)

In January, the Tax Division completed the mailing of about 216,500 Forms 1099-G.

Form 1099-G shows the

amount of a taxpayer's overpayment -- which a taxpayer received in the form of a refund in 2012, or applied against future taxes. (It, too, is an information statement, not a bill.)



TOBACCO TAX ENFORCEMENT:

SNUFFING OUT TAX CHEATERS

At one store, they were behind the baseboard, tucked into a compartment that opened with a remote control.

At others, they were in unmarked drawers under the front counter, hidden in walls or dropped into bags, disguised to look like trash.

The product in question: cigarettes, all of them for sale, all of them stored with great care, and all of them smuggled in to avoid the state tax.

Until recently, hiding places such as these might have remained a secret. But since October, when the Rhode Island Division of Taxation hired four investigators to crack down on sales of illegal cigarettes, the list of stores caught selling them has been growing at a rate of about two per day.

According to the division's tally, the newly hired investigators visited 477 stores during October and November. At 69 - nearly 15 percent - they found cigarettes and related products that were seized and classified as contraband.

State Tax Administrator David M. Sullivan says he's not surprised that in a state with the second-highest cigarette tax in the country, behind only to



Photo by Sandor Bodo/Providence Journal

Chief enforcer

James M. Galvin, special investigation unit supervisor in the Rhode Island Division of Taxation's Excise Tax section, stands in the vault where confiscated cigarettes and tobacco products are kept. In the field just 14 days in October, investigators seized more than 5,400 packs of cigarettes or cigarette tubes and about 1,000 packs of rolling papers.

New York, some merchants might buy from suppliers who haven't paid the \$3.50-per-pack tax and had the packs properly stamped.

But he said he's been taken aback by the elaborate hiding places, and the lengths to which merchants will go to avoid getting caught.

"We went into a couple of establishments, we could tell that there was a drawer there, and we couldn't open it. We would ask them to turn the electricity off and it still wouldn't open," he said.

"We said 'Look, we're either going to rip this off the wall, or you can open it,' and the guy would just reach up and grab a remote control."

The state has good reason to be concerned. In October alone, the newly trained inspectors - in the field just 14 days - seized more than 5,400 packs of cigarettes or cigarette tubes into which a smoker can insert tobacco, and about 1,000 packs of rolling papers, which are also subject to the tax.

With the taxes and penalties calculated, those stores were billed \$313,627.

The November inspections

added to that tally, resulting in another \$127,800 in taxes and penalties owed.

The payments are due within 30 days. The division, however, would not say how much had been paid to date.

The illegal sales cut the state out of a lucrative stream of tax dollars, one that brings about \$130 million a year into state coffers.

When the system works, cigarette manufacturers sell to licensed distributors who pay the state tax and obtain rolls of tax stamps.

(Please turn to page 11)

TOBACCO TAX ENFORCEMENT:

SNUFFING OUT TAX CHEATERS

(CONTINUED FROM PAGE 10)

The distributors run the cigarettes through machines that open each carton, affix stamps onto each pack, and reseal the cartons.

Then they sell to stores, marking up the price to cover the tax.

Unlicensed suppliers typically buy cigarettes in lower-cost states such as Virginia, where the tax is less than one-tenth of Rhode Island's - just 30 cents per pack. Then, they sell the cigarettes to Rhode Island stores at a fraction of the typical cost.

Sometimes the illicit supplier will try to remove the stamps affixed in another state, or even attach false Rhode Island stamps, which investigators can detect with a small hand-held device that reads the stamps colors and substances.

The consumer typically has no idea the cigarettes are illegal, because the store still charges the going rate of about \$8 per pack and then pockets the difference.

"They're making a profit of like six or seven bucks a pack," Sullivan said.

This is not the first time Rhode Island has gone after cigarette tax cheats. But until October the tax division had only one investigator, and with other responsibilities, such as checking on stores that have changed hands and reviewing tobacco dealer license applications, there wasn't much time for inspections.

Sullivan said the goal with the new investigators is to visit, within the next few months, all 1,400 stores that



Photo by Sandor Bodo/Providence Journal

Lock box

James M. Galvin, special investigation unit supervisor in the Rhode Island Division of Taxation's Excise Tax section, at a Tax Division vault used to store contraband cigarettes and other items.

sell cigarettes and then keep inspecting on a regular basis.

The new hires are former police officers, all of them experienced in looking for those sophisticated stashes.

"You know that they're hiding them," said James M. Galvin, the veteran investigator, who supervises the new hires. "So you poke around."

They do not need a search warrant to rummage through a store. State law allows them to "enter and inspect, without a warrant during normal business hours . . . the facilities and records of any manufacturer, importer, distributor or dealer" and seize "contraband goods."

They carry away any illegal items and the state follows up with an assessment of taxes and penalties owed. Subsequent offenses can lead to a suspension of the store's license to sell cigarettes, or a revocation.

So far, none of the recent inspections have led to arrests, but state police Supt. Steven G. O'Donnell said his department communicates regularly with the Division of Taxation and pursues charges against suppliers and sellers in the more serious cases.

"We'll continue to prosecute them as needed," he said.

Sullivan declined to identify or characterize the stores that have been caught and stressed that most are following the law.

Likewise, Stephen Ryan, executive director of the New England Convenience Store Association, said his organization expects its members "to comply with the law and compete fairly." But he said illegal sales are probably more common in a state such as Rhode Island, where the tax is high. Raised from \$2.46 per pack to \$3.46 per pack in 2009 to help close a state budget hole, Rhode Island's cigarette tax was at one point the

highest in the nation. The tax rose again [in 2012], by 4 cents per pack, but New York's is now the highest, at \$4.35 per pack.

The items seized by the investigators are eventually destroyed, but as cases are pending they are stored in a walk-in closet at the tax division office in Providence.

Inside what is known as "the vault" are shelves lined with hundreds of cartons of cigarettes, as well as cigarette tubes and rolling papers. Some of the cigarette packs have the blue Virginia stamp - the most common out-of-state stamp found in Rhode Island - but in some instances, the portion saying "Virginia" is missing, so that all a buyer would see are the words "TAX PAID."

Sullivan said he hopes the level of compliance will rise, allowing his new employees to move on to other areas. Meanwhile, he said he's pleased that the taxes and penalties billed for October alone more than cover the added cost for salaries and benefits, which totals about \$220,000.

He also said his office is looking for a bigger vault.

Editor's Note

This article by Randal Edgar, and photos by Sandor Bodo, were published on page one of the Providence Journal on December 22, 2012.

Randal Edgar, "Snuffing out tax cheaters," *The Providence Journal*, December 22, 2012. Copyright © 2012 The Providence Journal. Reproduced by permission.

PRACTITIONERS' CORNER:

QUESTIONS & ANSWERS ON STATE TAXES

Q: Can the property-tax relief claim, Form RI-1040H, be e-filed, or must it be paper-filed? It is my understanding that it is paper-filed only, with supporting documentation attached, and is essentially treated as separate from the regular RI-1040 income tax return.

A: If you can e-file a Form RI-1040H, we can accept it. In other words, if your software provider allows for it – and most do – we will accept it. However, it must be as part of a regular Form RI-1040 – even if it's just a minimally completed 1040 (with name, address, SSN, AGI, etc.).

Q: Can I attach copies of rent receipts to an e-filed Form RI-1040H?

A: Yes. Regarding Form RI-1040H documentation, the preparer should scan the documentation and attach it to the RI-1040. The taxpayer should keep the documentation on file along with the return itself and other associated paperwork, should he or she be asked for it.

Q: Can we e-file a Rhode Island personal income tax extension, and later on e-file the return itself?

A: Based on its current design, our system cannot accept both an e-filed extension form and an e-filed return for the same taxpayer for the same year. We hope that situation will change when our new integrated tax system is up and running in a few years. What to do in the

meantime? Mail in a paper extension, then e-file the actual return. By the way: If your extension payment is done electronically, using the

[credit card payment option described on the Division of Taxation's website](#), you won't also have to file the extension form itself. (A third-party fee applies for using the credit card payment option.)

Q: What is the cut-off for e-filing calendar-year and prior-year returns?

A: Approximately mid-November for calendar-year returns. Our current system does not allow for e-filed prior-year returns (or e-filed amended returns).

Q: I have a restaurant as a client. The restaurant sells food and beverages – including beer and wine. Does the restaurant fill out the regular annual sales tax

reconciliation, or the annual reconciliation for retailers of alcoholic beverages, or both?

A: If you're a retailer who sells alcoholic beverages -- no matter if that's your main business or just a piece of your business – file only the annual sales tax reconciliation for retailers of alcoholic beverages.

If you're a retailer who does not sell alcoholic beverages, fill out only the regular annual sales tax reconciliation.

The annual reconciliation is due by January 31, 2013. That deadline applies to both the regular and the one for alcoholic beverages – both of which are eligible for e-file ([click here for details](#)).

Q: I was hoping you could answer a question regarding the applicability of the one-month extension for filers of Form CRS to fiscal-year taxpayers. Could you confirm whether the one-month extension is only applicable to calendar-year taxpayers, or whether it may also be claimed by fiscal-year corporations?

A: It's for calendar-year and fiscal-year taxpayers. But please note: the additional one-month extension is only if you must complete more than the minimum part of the Schedule CRS. For instance, the first question on Schedule CRS says, "Is this company a member of a combined group of companies?" If your an-

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.

swer is "No," you don't complete the rest of Schedule CRS. In that case, you don't qualify for the one-month extension.

Q: My client, a widow, just passed away. She left a small estate. Do we have to file a Rhode Island estate tax form?

A: In general, someone who dies in 2013 and is a widow or widower is not subject to the tax if the decedent's net taxable estate is [less than or equal to \\$910,725](#).

Although you may not be subject to the tax, you still may have to file a form. That's mainly because, by law, a lien is automatically placed on a decedent's real estate.

[\(Please turn to page 13\)](#)



TAX DIVISION SETS INTEREST RATES FOR 2013

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	12/31/10	3.25%
01/01/11	12/31/11	3.25%
01/01/12	12/31/12	3.25%
01/01/13	12/31/13	3.25%

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2013 on overpayments and delinquencies.

The rates are the same as those that applied for 2012.

The interest rate on delinquent tax payments has been set at 18 percent per annum for calendar year 2013.

Interest on overpayments for the calendar year 2013 shall be at the rate of 3.25 percent per annum.

For taxpayers and practitioners who are dealing with prior years (and for history buffs), this issue of *Rhode Island Tax News* presents two tables:

The first table (on the left side of the page) shows interest paid on overpayments since 1971, when the personal income tax was enacted.

The second table (on the right side of the page) 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%

PRACTITIONERS' CORNER:

QUESTIONS & ANSWERS (CONTINUED FROM PAGE 12)

So here's the general rule for the estates of those dying in 2013:

If the net taxable estate is less than or equal to \$910,725, prepare and file [Form RI-100](#) in order to get the lien released.

If the net taxable estate exceeds \$910,725 – or if the gross estate exceeds that figure, but the net estate is less – file [Form RI-100A](#).

(Note that a lien may apply

if the decedent owned Rhode Island investment securities. To get the lien released, prepare and file [Form RI T-79](#).)



Q: My client is a general partnership. Are they subject to that \$500 annual charge, or filing fee?

A: No. Limited partnerships (LPs) and limited liability partnerships (LLPs) must now pay an annual charge, or filing fee, equal to the minimum corporate tax, currently \$500. General partnerships are not subject to that annual charge. However, general partnerships still must file Form RI-

1065.

Q: Can I e-file the Form RI-1065?

A: Yes. This season, we've begun enforcing the corporate e-file mandate.

As a result, some practitioners who did not e-file business tax returns before will be pleased to learn that most software providers are on board this season for e-filing of a number of different types of forms – including Form RI-1065, RI-1120C, and RI-1120S.

Q: What annual return should my LLC file?

A: If it has elected to be taxed as a subchapter C corporation and files as a "U.S. Corporation Income Tax Return" on U.S. Form 1120 for federal purposes, file Form RI-1120C.

If it has elected to be taxed as a subchapter S corporation and files a U.S. Form 1120S for federal purposes, file Form RI-1120S.

If it files a U.S. Form 1065 for federal purposes, file Form RI-1065.

A return for a single-member LLC goes on Form RI-1065.



Seized loot

Donald Englert (left), chief of the Tax Division's Excise Tax section, and Marc Levasseur, principal revenue agent in the Excise Tax section, display some of the items that were sold illegally at a store on Aquidneck Island -- and that were later seized by the Tax Division's newly expanded investigative team. (Please see page 10 for details on the crackdown.)

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.

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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

Back issues of *Rhode Island Tax News* are archived on the Tax Division website:

<http://www.tax.ri.gov/newsletter/index.php>



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