

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PRACTITIONERS

OCTOBER/NOVEMBER/DECEMBER 2011

VOLUNTARY DISCLOSURES YIELD \$1 MILLION

An out-of-state practitioner contacts the Rhode Island Division of Taxation on behalf of an unidentified, out-of-state corporate client. The client has recently become aware that he should have been filing and paying tax to Rhode Island.

If the client agrees to file returns for certain past tax periods and pay all the tax that's due, the practitioner asks, would the Tax Division waive penalties?

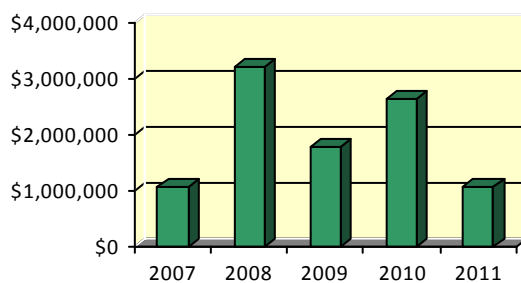
Such a scenario plays out often as part of the Tax Division's Voluntary Disclosure Program – which has generated at least \$1 million a year in revenue in recent years (please see the chart at right).

Under the program, the Tax Division encourages businesses and individuals who are not in compliance with Rhode Island tax laws to come forward voluntarily to pay Rhode Island taxes.

At issue may be any in a range of Rhode Island taxes — such as corporate, public service, personal income,

withholding or sales/use tax. The goal is to ensure that taxpayers with a filing requirement in Rhode Island or doing business in this state are registered and collecting and paying the taxes they are obligated to pay.

(Please turn to page 9)



KEY POINTS:

The Rhode Island Division of Taxation's Voluntary Disclosure Program is generally open to any taxpayer who:

- has not been previously contacted by the Tax Division;
- was not registered for the tax type involved for the disclosure period; and
- has not collected any taxes included in the disclosure.

[Click here](#) for more details about the program.

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SALES TAX CHANGES NOW IN EFFECT

Key changes to Rhode Island's sales and use tax took effect on October 1.

Because of a new state law, the 7 percent sales and use tax now officially applies to non-prescription drugs, also known as over-the-counter drugs.

In addition, the sales tax now applies to pre-written computer software delivered electronically, or by "load and leave," including applications ("apps") for smartphones and similar devices; the furnishing of certain package tours and scenic and sightseeing trans-

portation; and marijuana for medical use.

Another provision involves insurance proceeds that result from the total loss or destruction of a motor vehicle — and the interaction with the state's sales tax.


(Please turn to page 2)

SALES TAX CHANGES NOW IN EFFECT (CONTINUED FROM PAGE 1)

In general, if a motorist uses the proceeds to buy an automobile, the portion of the acquisition price attributable to the insurance proceeds was exempt from Rhode Island sales tax. Effective October 1, the sales tax generally applies to the entire sales price, without an allowance for an exemption for insurance proceeds.

“The new sales tax provisions are taking effect,” Rhode Island Tax Administrator David M. Sullivan said in a recent message to practitioners.

“We’re trying to ensure that retailers and others are aware of the new law and its provisions. We would appreciate your help in spreading the word – to your clients, col-



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BUSINESS APPLICATION and REGISTRATION

To obtain a state sales tax permit, you must file a [Form BAR, “Business Application and Registration Form.”](#) (shown above), available on the Tax Division website.

“WE’RE TRYING TO ENSURE THAT RETAILERS AND OTHERS ARE AWARE OF THE NEW LAW AND ITS PROVISIONS.”

-DAVID SULLIVAN
TAX ADMINISTRATOR

leagues, customers, and members of your professional, business or trade organization. We’re trying to make sure that everyone has the information they need to comply with the law.”

The Tax Division has held public hearings throughout the state in recent weeks to

explain how the new provisions work, and to draft regulations to help implement the new law, said Peter McVay, associate director of revenue services.

Note: Because of the changes, some businesses and individuals will now have to collect and remit

Rhode Island sales tax.

If that includes you, file the state’s [business application and registration form](#) to obtain a sales tax permit. (See snapshot above.)

For more information, please see articles below.

LEARN MORE ABOUT SALES TAX CHANGES

To learn more about the sales tax changes that took effect October 1, [click here to read a notice for retailers.](#)

Summary of changes

The sales tax changes were part of a law enacted on June 30. [Click here](#) for a summary of key tax provisions, including the sales tax changes.

OTC Drugs

For information about the taxation of over-the-counter drugs and medical marijuana, [click here](#) to read the regula-

tion.

Computer software

To learn about the taxation of pre-written computer software, including smartphone apps, [click here](#) to read the regulation.

Package tours

Wondering how Rhode Island’s 7 percent sales tax now applies to certain packaged tours and scenic and sightseeing transportation services? [Click here](#) to read the full regulation — which includes

examples showing how the law applies.

Trade-in deduction

You can learn more about the change in the rules regarding the vehicle trade-in deduction by [clicking here.](#)

Compassion centers

For information about the surcharge on compassion centers, [click here.](#)

For more information, call the Excise Tax section at (401) 574-8955.



PRESCRIPTIONS & TAXES

Over-the-counter drugs, such as aspirin and allergy pills, are now taxed. What if your doctor writes a prescription for such an item? It’s *not* taxed. Any item that meets [the definition of “drug” in this new Tax Division regulation](#) and is sold on prescription is 100 percent tax exempt. (Keep in mind that regular prescriptions remain tax-exempt.)

RHODE ISLAND WINS RESTITUTION IN FRAUD CASE

A federal judge has ordered a man from Israel to pay more than \$10 million in restitution in a tax case. Rhode Island will receive a portion of the proceeds.

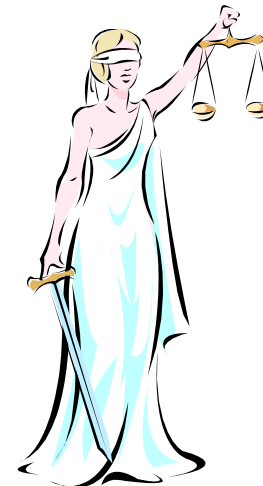
Marvin Berkowitz [pleaded guilty, in a federal court in Chicago, to charges](#) that included mail fraud, wire fraud, and conspiring to impede the functions of the Internal Revenue Service. The government alleged that he had filed, or caused to be filed, thousands of fraudulent state and federal income tax returns. U.S. District Judge Virginia M. Kendall ordered

Berkowitz this summer to pay \$10.2 million in restitution. Of that, the IRS is to receive \$3.7 million. The remainder will be carved up by a total of 39 states, plus the District of Columbia and certain government agencies. Rhode Island's share is about \$23,200. Berkowitz will also be imprisoned for more than 18 years.

The U.S. Department of Justice alleged that, from 2003 to 2009, Berkowitz directed a conspiracy in which he and others used the names and Social Security numbers of at least 2,900 decedents and federal prisoners to file

fraudulent state and federal income tax returns.

Refunds were then mailed to conspirators or electronically transferred to their bank accounts. [Berkowitz arranged for at least some of the refunds to be mailed to him in Israel, the Justice Department said.](#) Berkowitz, formerly from Chicago, moved to Israel in 2003 in order to avoid prosecution related to a separate tax fraud scheme, the Justice Department said. He was arrested in Jerusalem by Israeli authorities in 2009, the Justice Department said.



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DIVISION OF TAXATION STOPS \$75,000 IN FRAUDULENT REFUNDS

The Rhode Island Division of Taxation in mid-September stopped more than \$75,000 in refunds before they could be issued after the agency determined that the individual income tax returns on which the refunds were claimed were fraudulent.

At issue were 36 returns that had all been filed electronically. Through a series of internal processes, the Tax Division's e-government unit determined that all of the

returns were filed by the same preparer, in New Jersey, and that many of the returns listed the same or similar names and Social Security numbers. The agency then halted the refunds before they could be issued.

For tax year 2009, the Tax Division stopped \$1.5 million in fraudulent refunds before they could be issued. (Figures for tax year 2010 are not available; returns are still being processed.)

As e-filing has grown nationwide, so has fraudulent e-filing.

In response, the Tax Division has tightened internal controls, beefed up its computer systems, and obtained specialized computer databases and other tools — including a master file of Social Security numbers of decedents — all enlisted in the battle against fraud.

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“FOR TAX YEAR 2009, THE TAX DIVISION STOPPED \$1.5 MILLION IN FRAUDULENT REFUNDS BEFORE THEY COULD BE ISSUED.”

ESTATE FILING FEE INCREASES; FORMS AND INSTRUCTIONS UPDATED

The state budget legislation enacted June 30 set the estate filing fee at \$50. (The

old charge was \$25 and had not been updated since 1993.)

The Tax Division has also updated the [Form 100](#), the [Form 100 instructions](#), the

[Form 100A](#), and the [Form 100 A instructions](#).

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NEW REGULATIONS ON SALES TAX, COMBINED REPORTING

Following is a summary of—and a tentative schedule for—regulations that are now being drafted:

Corporate tax

A team within the Tax Division has been meeting with stakeholders on a regulation to implement *pro forma* combined reporting for corporations, in response to RIGL § 44-11-45. The agency expects to post the regulation in October or November for a public hearing in December.

Streamlined

The Tax Division is working on a new regulation involving the [Streamlined Sales and Use Tax Agreement](#). Regulation SST 11-01, “Streamlined Sales and Use Tax Agreement,” will provide guidance on the implementation of, and compliance with, the streamlined agreement. The new regula-

tion is to be posted in October, for a public hearing some time in November.

Retailers

Regulation SU 90-20, “Out-of-State Retailers – Registration,” is to be repealed and replaced by a new regulation, SU 11-20, “Registration of Retailers,” which will provide better definitions. It will also include style and format changes. The regulation is to be posted in October for a public hearing in November.

Use tax

Regulation SU 95-114, “Use Tax – Payment by Purchasers,” is to be repealed and replaced by a new regulation, “SU 11-114, also titled “Use Tax – Payment by Purchasers.” It will include style and format changes. The new regulation is to be posted in October for a public hearing

some time in November.

Sales tax

Regulation SU 87-21, “Collection of Tax by Retailers,” is to be repealed and replaced by a new regulation, SU 11-21, also titled “Collection of Tax by Retailers.” The new one will include additional definitions as well as some style and format changes, and is to be posted in October for a public hearing some time in November.



The Tax Division will be scheduling public hearings for some new and revised tax regulations.

Records

A regulation dealing with recordkeeping requirements for retailers – Regulation SU 89-91, “Records” — is to be repealed and replaced by a new regulation, SU 11-91, also titled “Records.” The new one will include definitions and some other changes, and is to be posted in October for a hearing in November.

RI-4768 Application for Automatic 6 Month Extension of Time to File Rhode Island Estate Tax

NAME AND ADDRESS	Decedent's first name and middle initial	Decedent's last name	Date of death
	Name of executor	Name of application filer (if other than the executor)	Decedent's social security number

NEW FORM UNVEILED FOR RHODE ISLAND ESTATE TAX EXTENSIONS

The Tax Division now has its own extension application form for estate tax purposes. Form RI-4768 (a portion of which is shown above) is [available online](#).

Formerly, someone who sought a Rhode Island filing extension had to send in a copy of the federal extension request form, or send a letter of re-

quest to the Tax Division. Rhode Island Form RI-4768, created in response to requests from practitioners, will make the process a bit easier. The Tax Division designed the form so that the taxpayer or taxpayer’s representative can fill in the fields online, then print out the form for filing purposes. (When filing,

don’t forget to attach a copy of the death certificate.)

The Tax Division will continue to accept a copy of the federal extension request form, or a formal letter of request for an extension. However, the Tax Division prefers that the taxpayer use the Rhode Island form — especially if tax is owed.

PERSONAL INCOME TAX MARKS 40TH ANNIVERSARY

Don't let the year end without reflecting on a little bit of Rhode Island tax history: the state's personal income tax was born 40 years ago.

In 1971, in a preamble to the enabling legislation, the General Assembly said the following:

"The need of the state for additional revenues to attain the objects for which the state exists, and to maintain vital state services, while distributing fairly the burdens of providing that revenue through

creation of a more equitable tax structure, can best be met by adopting a statewide tax on personal incomes, as such incomes may ordinarily be determined for purposes of the United States federal tax on incomes, at the rates herein provided, thereby also (1) permitting convenient preparation of Rhode Island income tax returns by taxpayers, (2) aiding enforcement of the Rhode Island income tax through a full use of information available from federal income tax audits, and (3) aiding interpretation of the Rhode Island income tax law through a full use of federal judicial and administrative determinations and precedents."

The General Assembly approved the legislation, H 1026A, on February 26, 1971; it was signed into law by then-Governor Frank Licht.

And so it was that Title 44 of the Rhode Island General Laws was amended by adding Chapter 30, titled, "Personal income tax."

By the way: The same law that established the income tax repealed the state's "unincorporated business tax" and "investment tax."

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RI-1040 A		RHODE ISLAND	
1971		INDIVIDUAL INCOME TAX	
<small>(To be used by residents having no modifications to R.I. income)</small>			
Your Social Security Number	---	1	1971 federal income tax - (Federal Form 1040 Line 21 plus Lines 56 & 57 if applicable)
Spouse's Social Security Number	---	2	Rhode Island income tax - 17.5% of amount on Line 1. (See instructions and tax table)
First Name & Initial (If joint return use First Name & Initials of both)	Last Name	3	Rhode Island income tax withheld (R.I. State W-2) <small>Attach to return</small>
Present Home Street Address (Apartment No.)	Rural Route	3A	
City/Town	Post Office	3B	1971 Rhode Island estimated income tax payments
State	Zip Code	3C	TOTAL: (Add Lines 3A and 3B)
City or Town of Legal Residence		4	IF LINE 2 IS LARGER THAN LINE 3C ENTER BALANCE DUE. PAY IN FULL WITH RETURN.
PLEASE SIGN: Under Penalties of perjury, I declare that I have examined this return, and to the best of my knowledge and belief, it is true, correct and complete.		5	If Line 3C is larger than Line 2 enter Overpayment.
Your Signature	Date	6	Amount of overpayment to be REFUNDED
Spouse's Signature	Date	7	Amount of overpayment to be credited to 1972 estimated tax.
Signature & Address of Preparer if other than taxpayer			FOR OFFICE USE ONLY
IMPORTANT: COMPLETE REVERSE SIDE OF FORM			

For the tax's inaugural year, in 1971, taxpayers used either the "short form" pictured above, or a one-page "long form."

RETURNS ON EXTENSION DUE OCTOBER 17

If you obtained an automatic six-month filing extension in April for your Rhode Island individual income tax return, don't forget that the new deadline is on Monday, October 17, 2011.

That's because the usual October 15 deadline falls on a Saturday this year. As a result, the Tax Division has switched the deadline to the next business day, October 17, as provided for under

[Regulation PIT 98-7.](#)

And don't forget to e-file. It's quick, reduces the chances for error, and generates refunds more quickly. For many practitioners, e-filing isn't an option — it's required.



For personal income tax returns on extension, the filing deadline is October 17, not October 15.

LEGAL CORNER: RECENT STATE TAX CASES

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.)

Use tax

The taxpayer, a used-car dealer, bought a new truck, then sold it several weeks later. At issue was whether the taxpayer owed a use tax.

The taxpayer asserted that he had held the truck as inventory, personally used his inventory to ensure that it worked, used the truck solely for demonstration and advertising purposes, and held the truck for less than 30 days before selling it.

The Tax Division asserted that the taxpayer used personal checks to buy the truck, received consumer rebates on the purchase, and drove the vehicle about 2,500 miles; the truck was not part of his inventory.

Hearing Officer Catherine R. Warren concluded that the taxpayer owes the use tax, as well as interest and penalty. RIGL § 44-18-26 provides that if a taxpayer holds property for sale, but uses the property other than for retention, demonstration, or display, the taxpayer is subject to use or sales tax. The statute – and Rhode Island Regulation SU 87-34 – forbid personal use of a vehicle while it is being held for resale. (The

taxpayer failed to meet the requirements that would have exempted the purchase from use tax.) Tax Administrator David M. Sullivan on June 28 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-12

Domicile

At issue is whether the taxpayer was a Rhode Island domiciliary in 2005 and 2006 and thus subject to Rhode Island personal income tax under RIGL § 44-30-5. The Tax Division said yes, partly because the taxpayer at the time had a Rhode Island driver's license and was registered to vote in Rhode Island.

The taxpayer's mother testified that the taxpayer long ago moved to Asia, now lives and works in Japan, usually visits the mother once a year (at Christmas), and uses the mother's Rhode Island address for convenience.

The taxpayer acknowledged that she returned to the U.S. temporarily, but it was to study in New York for an advanced degree.

Warren, the hearing officer, cited the 2001 Rhode Island Supreme Court case *DeBlois v. Clark*, which she called "the seminal Rhode Island case on domiciliary for tax purposes." In *DeBlois*, the court ruled that "an individual may retain contacts to Rhode Island,

where he or she may spend significant time, but become domiciled in another state, provided the prerequisites of domicile are met."

In the 2011 case, Warren said that just because the taxpayer lived in New York while studying for a graduate degree did not mean that the taxpayer was a Rhode Island resident for state tax purposes.

Warren also said there was a "preponderance of evidence" that the taxpayer was not a domiciliary of Rhode Island for 2005 or 2006 and does not owe Rhode Island personal income tax. Sullivan on July 20 adopted the hearing officer's decision and recommendation.

-Final Decision and Order No. 2011-13

Sales tax

As part of a special investigation audit of a convenience store, the Tax Division found that the store's records were incomplete for some years, nonexistent for another.

The auditor used a prescribed method to estimate sales and use tax owed, and the taxpayer did not challenge the method.

Warren found that the taxpayer owed sales and use tax under RIGL §§ 44-18-18 and 44-18-20. She also found that the taxpayer owed interest and penalties.

(please turn to page 7)



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 provides only summaries of some recent tax-case decisions. Please refer to the actual decisions for details.

LEGAL CORNER (CONTINUED FROM PAGE 6)

Sullivan on July 28 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-14

Refund

The taxpayers – a husband and wife – were Florida residents, filing Rhode Island nonresident returns. They requested refunds in February 2008, involving a tax return that was due April 15, 2005. They argued that the law allows them three years from the time their tax return was due to claim a refund. They asserted that federal and Rhode Island laws are similar in this regard.

In fact, Rhode Island has strict rules governing the time periods within which a refund may be claimed; Rhode Island law does not follow the Internal Revenue Code in its entirety. Based on RIGL [§ 44-30-87\(a\)](#), the Tax Division denied the taxpayer's refund claims because the claims were made out of time. Warren determined that the taxpayers are not entitled to the refunds and that the Tax Division properly denied their request for a refund. Sullivan on August 2 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-15

Motor fuel tax

The Tax Division audited a

fuel dealer and found that the dealer had purchased untaxed heating oil, then resold it for vehicle use. When such resale occurs, the state motor fuel tax must be added to the sales price and remitted to the state.

After auditing the dealer, the Tax Division asserted that the taxpayer had sold fuel to motorists without collecting and remitting the required tax, and without filing the required [Form T-12](#), "Motor Fuel Special Distributor Tax Report." The taxpayer essentially asserted that the Tax Division was not properly calculating his business's purchase and use of fuel.

Warren found that, under RIGL [§ 31-36-1 et seq](#), the taxpayer owes the motor fuel tax deficiency and, under RIGL [§ 31-36-9](#), owes interest and penalty, too. Sullivan on August 3 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-16

Claim for refund

The nonresident taxpayer, based in Brooklyn, N.Y., sold real estate in Westerly in January 2003. Personal income tax was withheld from the net proceeds of the sale. The taxpayer filed a nonresident Rhode Island personal income tax return in March 2007, on which the taxpayer requested a refund. The Tax Division rejected the request

because it wasn't filed in time. The taxpayers said that, Rhode Island does not make available to taxpayers basic information about refund requests. Such information is especially hard to obtain for nonresidents, they said. And such information is not easily found.

Warren found that, under RIGL [§ 44-30-87](#), the taxpayers are not entitled to a refund and that the Tax Division properly denied their claim for a refund. Sullivan on August 8 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-17

Request for rehearing

A case earlier this year involved a New York resident and domicile. After the case was decided at the administrative appeal level, the taxpayer requested a rehearing, focusing mainly on credit against his Rhode Island tax for tax he paid to New York.

But the documents filed on his behalf showed he actually sought to re-litigate his case, citing the well-known domicile case, [DeBlois v. Clark](#). As a result, Warren recommended that the taxpayer's request for a rehearing be denied, and Sullivan on September 8 adopted the hearing officer's decision and recommendation.

- Final Decision and Order No. 2011-11

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

STATE UNEMPLOYMENT TAX CHANGES ON WAY FOR 2012

Many of Rhode Island's 32,000 employers will pay more in state unemployment insurance tax starting in January.

It's the result of changes in state law enacted in June.

The changes to the tax—and to unemployment benefits—are intended to help restore the state's unemployment insurance trust fund to solvency.

For about 75 percent of employers, the taxable wage base – which generally means the maximum amount of wages to which the state's unemployment insurance tax rate applies – will rise about 3 percent, to \$19,600

next year from \$19,000 this year.

For about 25 percent of employers, the taxable wage base will increase about 11 percent, to \$21,100. The \$21,100 taxable wage base will apply to those employers who are the greatest users of unemployment insurance benefits – and who pay at the highest tax rate, of 9.79 percent. Thus, the maximum state unemployment insurance tax for those employers will be about \$2,066 per worker next year, up from about \$1,860 now.

(The maximum state unemployment insurance tax rate will remain at 9.79 percent.)

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DLT posts notice

The Rhode Island Department of Labor and Training website has [a comprehensive notice for employers](#) that provides a full explanation of the changes to Rhode Island and federal unemployment insurance taxes.

The DLT website also has [a detailed list of questions and answers](#) for employers.

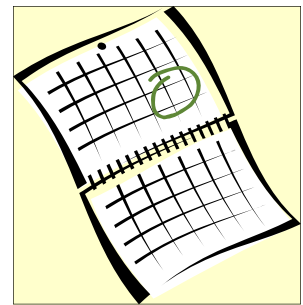
SCHEDULE W

Still working on your personal income tax return for 2010, or gearing up for the coming tax-filing season? Don't forget Schedule W.

Early this year, the Tax Division introduced [Schedule W for returns covering tax year 2010](#). On the schedule, tax-

payers must list Forms W-2 and 1099 on which Rhode Island income tax was withheld. (Those forms also must be attached to the front of the return.) Perhaps because the schedule was so new, about 17,000 taxpayers who should have completed Schedule W

and filed it with their returns earlier this year did not do so. As a result, those returns had to be set aside for staff review, resulting in delays until the taxpayers could be contacted. Completing Schedule W can help prevent such snags.



April Deadline

Planning ahead for the 2012 filing season? Here's something to keep in mind: the deadline will be midnight on Tuesday, April 17.

Normally, the deadline would be April 15. But that falls on a Sunday. The following day is Emancipation Day in Washington, D.C., which the IRS will observe. So the federal filing deadline will be April 17, 2012 – and Rhode Island will follow suit.

RHODE ISLAND FORM 1040 - UPDATE

Sweeping changes to Rhode Island's personal income tax law took effect in January 2011.

From a tax return standpoint, those changes will first appear on forms for the coming tax-filing season, which starts in January 2012.

In preparation, the Tax Division has been in the process of revising the resident and non-resident Rhode Island Forms

1040 to make sure they reflect provisions of the new law.

Among the changes that must be incorporated in the forms and instructions are a lower top tax rate (now 5.99 percent, down from 9.90 percent); fewer brackets; higher standard deduction amounts (with a phase-out, depending on income); lower personal and dependency exemption

amounts (with a phase-out, depending on income); fewer state credits; and fewer allowable federal credits.

The result will be a form that is shorter and more straightforward — and should be easier to complete.

The Tax Division is continuing to work on revisions and should have the final forms posted on its website in late December.



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NEWSLETTER POLICY

Rhode Island Tax News is a quarterly newsletter from the Rhode Island Department of Revenue's Division of Taxation. 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.

VOLUNTARY DISCLOSURE PROGRAM PROCESS (CONTINUED FROM PAGE 1)

The process is fairly straightforward. Typically, the taxpayer's representative, such as a lawyer or accountant, sends a letter to Assistant Tax Administrator Peter McVay, who oversees the program.

The letter spells out the tax type that the taxpayer is seeking to disclose, an estimate of the tax liability, and certain other information. The Tax Division responds by letter, outlining its position. The taxpayer then decides whether or not to disclose.

The taxpayer's representative can write to the Division about the circumstances without identifying the client—thus letting the taxpayer remain anonymous in the early stages.

If the offer is approved, the taxpayer can avoid penalties. Also, the audit-related "look-back" period may be limited.

The program has generated \$1 million or more in each of the last five fiscal years. For fiscal 2011, the Division ob-

tained a total of about \$1.06 million from about 100 agreements.

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To learn more about the program, write Peter McVay, As-

sistant Tax Administrator, Rhode Island Division of Taxation, One Capitol Hill, Providence RI 02908, call (401) 574-8922, or e-mail:

Peter.McVay@tax.ri.gov

Voluntary Disclosure agreements

	Amount	Agreements	Average (per agreement)
2007	\$ 1,061,032	64	\$ 16,579
2008	3,211,152	70	45,874
2009	1,780,304	68	26,181
2010	2,646,489	99	26,732
2011	1,059,489	98	10,811

Number of agreements and associated dollar amounts traditionally vary by year based on numerous factors.

From the Case Files ...

The following cases were recently proposed under the Rhode Island Division of Taxation's Voluntary Disclosure Program. The agency accepted the offers and agreed to waive penalties:

- After an internal review, an out-of-state corporation determined it had nexus in Rhode Island, mainly having to do with its sales force. Through its accountant in Michigan, the corporation offered to file a Rhode Island Form 1120C for three recent tax periods.
- An out-of-state corporation has sales offices in Rhode Island, but no taxable sales here. Still, the corporation became aware it owed Rhode Island use tax for purchases of items for those offices. Through its lawyer in Indiana, the business offered to pay its use tax.
- A Rhode Island manufacturer had taken the position that it was not liable for either Rhode Island sales, use, or corporate income tax. After hiring an accounting firm in California to perform a review, the manufacturer offered to file returns and pay all taxes due.

In each case, the identity of the taxpayer was withheld until the voluntary disclosure agreement was reached and the taxpayer filed the necessary returns and paid the tax due. Penalties were waived, but interest still applied.