

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

JANUARY/FEBRUARY/MARCH 2019

## WHAT'S NEW FOR TAX YEAR 2019

Employers will once again use a new, lower rate schedule to determine the amount of Rhode Island

unemployment insurance tax they owe.

Meanwhile, the Rhode

Island estate tax threshold has increased for 2019. As a consequence, fewer estates will wind up subject to the tax.

And the maximum amount of wages to which Rhode Island's temporary disability insurance (TDI) tax applies is up for 2019, but the tax rate remains the same as in 2018. Therefore, the increase in the maximum TDI tax will be limited.

These are among the changes, updates, and reminders included in this issue of *Rhode Island Tax News*, focusing mainly on the 2019 tax year. Coverage begins below.



**Business:** Marlen Bautista, chief of the Tax Assessment & Review section at the Rhode Island Division of Taxation, talked about what's new for 2019 during a presentation to tax preparers in December, held at the Community College of Rhode Island's Knight Campus in Warwick.

## CORPORATE ESTIMATED PAYMENTS: 2019

The Rhode Island Division of Taxation reminds corporations and their tax advisors about estimated payments of tax during 2019.

During 2018, new due dates and a new formula applied.

Those new due dates and the new formula will also apply for the 2019 tax year,

said Rhode Island Tax Administrator Neena Savage.

"The changes that took effect in 2018 brought relief to a number of corporations, whose estimated tax liability is now spread out evenly throughout the year," she said.

"Most businesses and preparers were fully aware of the changes and embraced

them, but some were not. We want to remind all corporations and their preparers to be aware of the new regime when it comes to estimated payments," she said.

Under former law, a corporation was required to make two Rhode Island payments of estimated tax.

(Please turn to page 2)



### ABOUT THIS ISSUE

This issue of *Rhode Island Tax News* focuses on what's new for the 2019 tax year, and also includes regular features, such as "Practitioners' Corner".

(The Division recently posted a special edition of its newsletter to provide information about the current filing season, covering the 2018 tax year.)

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# TAX YEAR 2019: ESTIMATED TAX PAYMENTS (CONTINUED FROM PAGE 1)

The first such payment, for 40 percent of the total, was due on the 15th day of the third month of the tax year.

The second such payment, for 60 percent of the total, was due on the 15th day of the sixth month of the tax year.

Thus, for a calendar-year C corporation, the first payment, of 40 percent, was due March 15. The second payment, of 60 percent, was due June 15.

Thus, under the old law, payments were front-loaded: They had to be made within the first six months of the year. Also, under the old law, the payments were uneven: a smaller amount early in the year, and a larger amount mid-year.

Under the new law, which applies for tax years beginning after December 31, 2017, a corporation now makes four payments of Rhode Island estimated tax, not two.

Also, the payments under the new law are made in equal installments of 25 percent apiece, spread out over the year.

- ◆ The first payment is due on the 15th day of the fourth month of the tax year.
- ◆ The second payment is due on the 15th day of the sixth month of the tax year.

Reminder on corporate estimated tax – due dates and amounts					
OLD SYSTEM: (Two installments, front-loaded)			NEW SYSTEM: (Four equal installments, spread out)		
	DUE DATE	AMOUNT		DUE DATE	AMOUNT
1 <sup>st</sup> payment	March 15	40%	1 <sup>st</sup> payment	April 15	25%
2 <sup>nd</sup> payment	June 15	60%	2 <sup>nd</sup> payment	June 15	25%
			3 <sup>rd</sup> payment	Sept. 15	25%
			4 <sup>th</sup> payment	Dec. 15	25%

For illustration purposes, table assumes filer is calendar-year C corporation. New system applies for tax years beginning after December 31, 2017. Dates in table do not take into account weekends, holidays.

- ◆ The third payment is due on the 15th day of the ninth month of the tax year.
- ◆ The fourth payment is due on the 15th day of the twelfth month of the tax year.

Thus, for a calendar-year C corporation in 2019, the first payment will be due on April 15, the second on June 17, the third on September 16, and the fourth on De-

ember 16. (The 15th of the month for the last three payments in calendar year 2019 falls on a weekend, so the due date moves to the next business day.)

- ◆ The new law specifically notes that if a due date falls on a Saturday, Sunday, or Rhode Island legal holiday, the installment will be due on the next regular business day.

- ◆ For estimated tax purposes, surplus lines filers will follow the same schedule shown above: payments in mid-April, mid-June, mid-September, and mid-December.

A table on this page offers an at-a-glance look at the due dates and formula for corporate estimated payments.

## SUNSET DATE EXTENDED FOR SOME TAX CREDITS

Several Rhode Island tax credit, incentive, and related programs were scheduled to sunset on December 31, 2018.

However, as a result of legislation approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor

Gina M. Raimondo, the sunset for each of the following has been extended to June 30, 2020.

- ◆ The “Rebuild Rhode Island Tax Credit” program.
- ◆ The “Rhode Island Tax Increment Financing” program.

- ◆ The “Stay Invested in RI Wavemaker Fellowship” program.

- ◆ The “Rhode Island New Qualified Jobs Incentive Act 2015” program.

The programs were extended by legislation enacted last year.

## TAX YEAR 2019: TEMPORARY DISABILITY INSURANCE (TDI)

The maximum tax under Rhode Island’s temporary disability insurance (TDI) program will be \$781.00 for calendar year 2019, up from \$762.30 for calendar year 2018, an increase of \$18.70.

The TDI tax has two main components: one is the tax rate itself, the other is the amount of your wages to which that tax rate applies.

The maximum amount of wages to which the TDI tax rate applies will be \$71,000 for 2019, compared with \$69,300 for 2018, an increase of 2.45 percent, or \$1,700.

However, the TDI tax rate will be 1.1 percent for 2019, the same as it was for 2018. As a result of the unchanged tax rate, the maximum TDI tax for 2019 will be \$781.00 (the tax rate of 1.1 percent applied to the first \$71,000 of

Year	Tax rate	Wage base	Max. tax
2019	1.1%	\$71,000	\$781.00
2018	1.1%	\$69,300	\$762.30
2017	1.2%	\$68,100	\$817.20
2016	1.2%	\$66,300	\$795.60
2015	1.2%	\$64,200	\$770.40
2014	1.2%	\$62,700	\$752.40
2013	1.2%	\$61,400	\$736.80
2012	1.2%	\$60,000	\$720.00
2011	1.3%	\$58,400	\$759.20
2010	1.2%	\$57,900	\$694.80
2009	1.5%	\$56,000	\$840.00
2008	1.3%	\$54,400	\$707.20

one’s wages).

The maximum TDI tax for 2018 was \$762.30 (the tax rate of 1.1 percent applied to the first \$69,300 of one’s wages).

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

The TDI program is administered by the Rhode Island Department of Labor and

Training; the tax is collected by the Rhode Island Division of Taxation. The TDI program generally pays benefits for unemployment caused by injury or illness unrelated to work. A related program, funded through TDI, is temporary caregivers insurance, also known as TCI. (see below). TCI is not a separate state program; TCI is part of the TDI program. Most private-sector workers pay for TDI as a tax, through payroll withholding.

## TEMPORARY CAREGIVER INSURANCE (TCI)

Rhode Island’s temporary caregiver insurance (TCI) program can provide eligible claimants with up to four weeks of caregiver benefits to care for a seriously ill child, spouse, domestic partner, parent, parent-in-law, or grandparent, or to bond with a newborn child, newly adopted child, or new foster-care child.

TCI is part of the TDI program; it is paid for through

TDI taxes.

TCI benefits are subject to federal and Rhode Island income taxes, according to the Rhode Island Department of Labor and Training; beneficiaries are issued a Form 1099 each year for tax purposes, showing the amount of benefits received in the prior year.

Through October 2018, the DLT said it processed 38,904 TDI applications, of

which 10,457 were initial claims for TCI.

Through late 2018, payments of TDI benefits averaged \$497 a week, while payments of TCI benefits averaged \$522 a week.

To learn more about TCI or TDI, click [here](#).

For information on UI, click [here](#).



### Tax tip line

If you have information about wrongdoing involving state taxes, call the tax fraud tip line at (401) 574-TIPS or (401) 574- 8477 and leave a message. The line is staffed by the Rhode Island Division of Taxation’s Special Investigation Unit, which follows up on all tips.

Callers can leave their names and contact information or remain anonymous. To use the online fraud-reporting form, click [here](#).

# TAX YEAR 2019: UNEMPLOYMENT INSURANCE TAX

For most Rhode Island employers, the taxable wage base for calculating the Rhode Island unemployment insurance (UI) tax is \$23,600 for 2019, compared with \$23,000 for 2018, an increase of \$600, or 2.61 percent.

The State of Rhode Island will continue to use the same tax rate schedule as last year - Schedule G. Therefore, the tax rate range will stay the same for 2019, at 1.1 percent to 9.7 percent (including the assessment and adjustment for the Job Development Fund).

Thus, many employers will see only a modest increase in Rhode Island unemployment insurance tax in 2019.

Which rate in that range will apply to a specific employer depends on the employer's experience with the UI system. The lower an employer's "experience rate," the less tax the employer pays. Notices of individual tax rates

were mailed to employers starting in early January.

### Revisions

In June 2016, the Rhode Island General Assembly approved legislation which included a proposal by Rhode Island Governor Gina M. Raimondo to revise downward the unemployment insurance trust fund's reserve ratio.

That change saved Rhode Island employers about \$30 million a year in the aggregate for 2017 and later years. The policy change also made the overall UI tax structure fairer by ensuring that companies with the lowest experience ratings pay the lowest tax.

The state unemployment insurance system's taxable wage base represents the maximum amount of an employee's wages that are subject to the state UI tax. The taxable wage base is set

by law at 46.5 percent of the average annual wage in Rhode Island.

A separate, higher taxable wage base applies for employers who have experienced considerable unemployment – and who therefore have used the system's resources the most and are taxed at the highest state UI tax rate. For those employers, the taxable wage base is \$25,100 for 2019, compared with \$24,500 for 2018.

In general, the higher wage base is intended to help offset the large drain that these employers have on the state's unemployment insurance trust fund.

In general, assessments on employers in the state go into the state's unemployment insurance trust fund, which is used to pay unemployment insurance benefits for jobless workers.

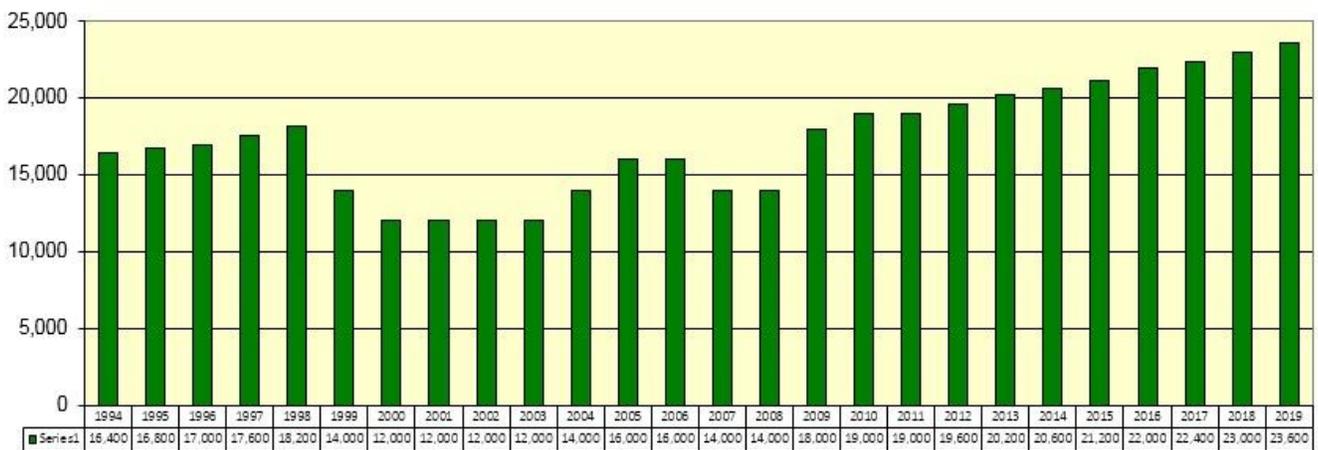
*The state UI tax rates mentioned here include the Job Development Assessment, which is the same for 2019 as it was for 2018: 0.21 percent of the taxable wage base.*

*Proceeds from the assessment go to the Job Development Fund (JDF), which is administered by the Governor's Workforce Board and is focused on improving the skills and employability of Rhode Island's workforce.*

*For 2019, a little less of each employer's contribution will go to the Rhode Island unemployment insurance trust fund while a little more will go to Rhode Island's Job Development Fund.*

*However, employers will be held harmless. That's because, under the law, any increase in the overall levy that an employer pays for the JDF is offset by a corresponding reduction in the employer's Rhode Island unemployment insurance tax rate.*

**Rhode Island unemployment insurance - taxable wage base**



# TAX YEAR 2019: ESTATE TAX THRESHOLD INCREASES

Because of an inflation adjustment prescribed by statute, the Rhode Island estate tax credit amount is now \$68,350 for decedents dying on or after January 1, 2019, up from the credit amount of \$66,810 that applied for 2018.

As a result, the Rhode Island estate tax threshold is now \$1,561,719 for decedents dying on or after January 1, 2019, up from the threshold of \$1,537,656 that applied for 2018.

Thus, in general, for a decedent dying in 2019, a net taxable estate valued at \$1,561,719 or less will not be subject to Rhode Island’s estate tax.

Due to the inflation adjustment, fewer estates will be subject to Rhode Island’s estate tax in 2019.

(In certain circumstances, the Rhode Island estate tax will not apply regardless of the estate’s size: Rhode Island General Laws Chapter 44-22 provides full details on the computation of the tax, including such factors as the marital and charitable deductions.)



**Protection:** *The Internal Revenue Service, the Rhode Island Division of Taxation, and other partners in the Security Summit urged taxpayers in December to protect their tax and financial data from identity thieves. In Rhode Island, Tax Administrator Neena Savage (above) and then-Attorney General Peter Kilmartin helped launch the start of National Tax Security Awareness Week by taking part in a news conference in Cranston co-hosted by the IRS and the Rhode Island Society of Certified Public Accountants.*

Rhode Island estate tax credit	
For decedent whose death occurs in:	Estate tax credit amount is:
2019	\$ 68,350
2018	66,810
2017	65,370
2016	64,400
2015	64,400

Rhode Island estate tax threshold amount	
For decedent whose death occurs in:	Estate tax threshold amount is:
2019	\$ 1,561,719
2018	1,537,656
2017	1,515,156
2016	1,500,000
2015	1,500,000
2014	921,655
2013	910,725
2012	892,865
2011	859,350
2010	850,000
2009	675,000

## TAX YEAR 2019: INTEREST RATES SET FOR THE YEAR

Interest Rates		
Personal Income Tax Refunds		
From	To	Rate
01/01/19	12/31/19	5.25%
01/01/18	12/31/18	4.25%
01/01/17	12/31/17	3.50%
01/01/10	12/31/16	3.25%
01/01/09	12/31/09	5.00%
01/01/08	12/31/08	7.75%
01/01/07	12/31/07	8.25%
10/01/06	12/31/06	6.75%
01/01/94	09/30/06	12.00%
01/01/93	12/31/93	8.00%
01/01/92	12/31/92	10.00%
01/01/91	12/31/91	12.00%
01/01/90	12/31/90	12.50%
01/01/89	12/31/89	12.00%
01/01/88	12/31/88	10.75%
01/01/87	12/31/87	9.50%
01/01/86	12/31/86	11.50%
01/01/85	12/31/85	14.75%
05/16/82	12/31/84	14.00%
01/01/71	05/12/82	6.00%

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2019 to overpayments and delinquencies.

### Interest on underpayments

The interest rate on delinquent tax payments has been set at 18 percent per annum for calendar year 2019, the same as it was for 2018. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.

### Interest on overpayments

Interest on overpayments (refunds) for calendar year 2019 has been set at 5.25 percent, up from 4.25 percent for 2018. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.1.

### Prior years

*Tax practitioners sometimes need to compute interest on underpayments or overpayments for prior years. The table at left shows interest paid on overpayments since 1971, when the personal income tax was enacted. The table at right shows interest rates charged on underpayments since 1971.*

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

## RHODE ISLAND TAX NEWS IN BRIEF

### Inflation adjustments

The Rhode Island Division of Taxation has posted inflation-adjusted numbers for the personal income tax for tax years beginning on or after January 1, 2019.

Included are the adjusted amounts for the standard deduction, personal exemption, and other areas. To learn more, click [here](#).

### Sales tax calendar

The Rhode Island Division of Taxation has posted the

2019 version of its sales tax filing calendar.

Geared mainly to businesses, the calendar shows due dates in 2019 for remitting not just sales tax, but also meals and beverage tax; hotel tax; tax on short-term residential rentals (such as beach cottages); tax on prepaid wireless; real estate conveyance tax, and other levies. To view or download, click [here](#).

### Withholding

The Rhode Island Division of Taxation has posted the with-

holding tax filing due date calendar for 2019. It is for employers (or their agents) to remit to the Division the amount of Rhode Island personal income tax withheld from employees. To view or download, click [here](#).

The new booklet of Rhode Island income tax withholding tables is now available. It is used by employers and others to calculate how much to withhold from an employee's pay for Rhode Island personal income tax purposes. Click [here](#).

The new version of Form RI W-4, "Employee's Withholding Allowance Certificate", is now available. An employee may use it to adjust the amount of Rhode Island personal income tax withheld from the employee's paycheck. Click [here](#).

### Gas tax

The Division has adjusted the motor fuel tax ("gas tax") for inflation. The tax as adjusted will take effect on July 1, 2019. Click [here](#) to learn more.

## Legal Corner

### RECENT STATE TAX CASES IN SUMMARY

*Following is a summary of tax-related cases in which final decisions were made after administrative hearings. By law, decisions are public information, but taxpayer information cannot be disclosed.*

#### Refund claim

At issue is whether a married couple's claim for refund for two tax years should have been denied by the Division.

The taxpayers filed their 2013 and 2014 returns on October 17, 2017. The Division denied the refund claims on those returns, saying they were not filed on time. The taxpayers disagreed, and a hearing was held. The Division and the taxpayers were represented by counsel.

Under the law, a claim for credit or refund of an overpayment of tax must be filed within two years of the time the tax was paid, or within three years of the time the return was filed, whichever of the periods expires the later.

In other words, there's a two-year rule and a three-year rule. *(Please see table on next page.)*

◆ **Tax Year 2013 Return:** In this case, the taxpayers' 2013 tax was deemed paid April 15, 2014. They were able to request a refund two years from that date. But the return for the 2013 tax year was filed in October 2017, well



*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.*

past the two-year limit. What about the three-year rule?

The taxpayers return for the 2013 tax year was filed within the three-year limit. However, refunds under the three-year rule are limited to the amount of tax paid within the three-year period -- and in this case, the taxpayers had not paid any tax from October 17, 2017, to the present.

◆ **Tax Year 2014 Return:** In this case, the taxpayers' 2014 tax was deemed paid April 15, 2015. They were able to request a refund two years from that date. But the return for the 2014 tax year was filed in October 2017, which is past the time at which the

tax for that year was deemed paid (in other words, well past the two-year limit). What about the three-year rule? The taxpayers return for the 2014 tax year was filed within the three-year limit. However, refunds under the three-year rule are limited to the amount of tax paid within the three-year period -- and in this case, the taxpayers had not paid any tax from October 17, 2017, to the present.

The taxpayers asserted that because they did not owe tax for those years, there was no overpayment -- so the statute of limitation regarding refund requests does not apply.

However, under Rhode Island General Laws § 44-30-86(b), a payment for a year of no tax liability is considered an overpayment.

On September 20, 2018, Hearing Officer Catherine R. Warren -- citing Rhode Island General Laws 44-30-87(a) -- concluded that the taxpayers are not entitled to the refund claimed and that the Division properly denied the taxpayers' claim for refund.

On September 24, 2018, Tax Administrator Neena S. Savage adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2018-10](#)

*(please turn to next page)*



#### 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 280-RICR-20-00-2.

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 IN SUMMARY** (CONTINUED FROM PRIOR PAGE)

**Nexus**

Editor’s Note: At issue, in this case involving sales and use tax, is whether there was substantial nexus between a Rhode Island retail store and an online store.

This matter stems from a June 2013 Notice of Deficiency issued by the Division for unreported sales tax, covering the audit period February 9, 2009, through June 30, 2011.

The hearing was held in April and June of 2016. Briefs were submitted January 2017, and the hearing officer issued her recommendation in March 2017.

Therefore, it should be noted that this Administrative Decision is based on and limited to the specific facts in the case prior to the enactment in August 2017 of Rhode Island’s law on non-collecting retailers, and before the U.S. Supreme Court’s decision in June 2018 on *Wayfair*.

Due chiefly to its length, [Final Decision and Order No. 2018-11](#) is not summarized in this newsletter. Readers are advised to view or download a copy of the 50-page document, which is available on the Division’s website. Click [here](#).



**Depreciation**

At issue is the proper method of determining accumulated depreciation under the personal property tax imposed on telecommunications companies.

Under Rhode Island General Laws § 44-13-13, there’s a

tangible personal property tax on public service corporations (utilities). It’s a local property tax, but it’s administered, assessed, and collected jointly by the Division of Taxation and Division of Municipal Finance. The revenue is then distributed back to local municipalities.

*(Please turn to next page)*

**Statute of limitations for Rhode Island personal income tax refunds** [Rhode Island General Laws § 44-30-87]

A claim for credit or refund of an overpayment of tax must be filed within three years from the time the return was filed or two years from the time the tax was paid, whichever of the periods expires the later.

Three-year rule	If the claim is filed within the three-year period, the amount of the credit or refund cannot exceed the amount of the tax paid within the three-year period.
Two-year rule	If the claim is not filed within the three-year period, but is filed within the two-year period, the amount of the credit or refund cannot exceed the amount of the tax paid during the two years immediately preceding the filing of the claim.

**Note:** Any income tax withheld from the taxpayer during any calendar year, and any amount paid as estimated income tax for a taxable year, is deemed to have been paid on the fifteenth day of the fourth month following the close of the taxable year for which the payments were being made.

**Example of how the rules apply**

Maria’s 2012 return was due on April 15, 2013. She actually filed the return on July 1, 2015. As a result, July 1, 2015, becomes the starting date for the three-year rule. The three-year period thus runs from July 1, 2015, to July 1, 2018. Were there any Rhode Island income tax payments attributable to 2012 during this three-year period? No. Thus, Maria does not pass the test under the three-year rule.

When Maria worked in 2012, Rhode Island personal income tax was withheld from her wages each week for 52 weeks. By statute, the wage withholding was deemed paid on April 15, 2013. Maria then had two years from the April 15, 2013, payment date to file a 2012 return. Was the return filed within the two-year period? No. Maria does not pass either the three-year rule or the two-year rule. Her refund claim is therefore denied.

⇒ *When it comes to taxation, federal and state laws are often different – no matter which state is involved. For example, Rhode Island laws and federal laws are not the same when it comes to personal income tax refunds.*

**Decisions online**

The Division of Taxation’s website shows all Administrative Decisions since early 2011. (See screenshot above.) To view, click [here](#).

## Legal Corner

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

In this case, the taxpayer was engaged in the business of providing telecommunications services and products in Rhode Island and was subject to the tangible personal property tax imposed on cable, telecommunications, and other companies under the law.



The taxpayer -- chartered in another state and qualified to do business in Rhode Island -- challenged the amounts of accumulated depreciation used by the State for six years (calendar years 2009 through 2014).

The taxpayer asserted that, because of the method the State uses to calculate depreciation, the tangible personal property assessment for calendar years 2009 through 2014 are excessive and re-

quested a partial refund for each of those years.

The Division of Taxation denied the request, and the taxpayer timely requested a hearing.

The taxpayer contended that accumulated depreciation of its assessed tangible personal property should

take into account all forms of depreciation, including physical depreciation, functional obsolescence, and economic obsolescence.

The Division said there's no statutory basis for the taxpayer's legal interpretation; the Division's interpretation is correct; and the refund claims should be denied.

The Division said that the statute does not define de-

preciation, so the plain or commonly understood meaning is to be applied. The economic obsolescence or functional obsolescence as proposed by the taxpayer were not included in the definition at the time in a recognized dictionary.

The Division argued that the simple definition is the reasonable, plain, and ordinary meaning, and that the taxpayer's position seeks to expand the statutory language.

(There was no hearing in this case; the parties agreed that the decision be based on the agreed statement of facts and written briefs.)

On October 19, 2018, the hearing officer concluded that depreciation for purposes of this case is to be given its plain and ordinary meaning as used by the Division. Therefore, she recommended that the

Division's assessments be upheld and that the taxpayer's refund requests for those years be denied. On November 23, 2018, the tax administrator adopted the hearing officer's final decision and order.

-- [Final Decision and Order No. 2019-12](#)



*The Rhode Island State Council on the Arts is spreading the word (see above) about Rhode Island's statewide sales tax exemption on the sale of original and limited edition works of art.*

### TAX CASE DECIDED IN DISTRICT COURT; DECLARATORY RULING POSTED

#### Court ruling

At issue was whether the taxpayers' claim for a personal income tax refund for 2004 should have been allowed.

The Division of Taxation had denied the refund request, citing (among other things) the limitations prescribed in statute.

Hearing Officer Catherine R. Warren determined in July 2011 that the taxpayers were not entitled to the refund claimed and that the Division

properly denied their claim.

David Sullivan (tax administrator at the time) in August 2011 adopted the hearing officer's decision and recommendation. The taxpayers appealed to the local District Court.

On October 29, 2018, Associate Judge Anthony Capraro affirmed the Division of Taxation's decision in the matter.

Judge Capraro upheld the

Division's interpretation of the relevant statute (Rhode Island General Laws § 44-30-87) on the same basis that was decided in the Administrative Decision.

*(The Division's interpretation of the statute is also reflected in the box on page 8 of this newsletter.)*

Judge Capraro's ruling was not appealed.

#### Declaratory Ruling

The Division of Taxation

recently posted its latest Declaratory Ruling.

In Ruling Request No. 2018-01, the owner of a solar power project asks whether a number of items purchased/used for a solar photovoltaic system will be exempt from Rhode Island sales and use tax.

To view the Ruling and its detailed findings, click [here](#).

**Practitioners' Corner**

**QUESTIONS AND ANSWERS ABOUT STATE TAXES**

**Q: When completing Form RI-2220, "Underpayment of Estimated Tax by Corporate Filers", may I use the annualization of income method?**

A: Yes. New for this filing season, covering the 2018 tax year, the form has been revised to give taxpayers the option to use the annualization of income method.

To use the method, check the box on the form (see red circle on screenshot below) and fill out Part 5, "Annualized

Income Installment Worksheet" (as well as any other required lines).

In effect, the method recognizes that one or more installment payments during the year may have been less

than the required installments under the regular method (perhaps because income fluctuated during the year, in-

stead of being earned steadily during the year). Using the method can reduce interest for the periods involved.



**Q: My client holds rental real estate in a single-member LLC, which is disregarded as separate from its owner for federal income tax purposes. He uses the calendar year as his tax year, files a U.S. Form 1040, and enters business income and expenses involving his rental real estate on Schedule E. On behalf of the single-member LLC, he files Form RI-1065 each year, and checks the "SMLLC" box to indicate it's a filing on behalf of a single-member LLC. Must he attach a copy of the Schedule E to the LLC's Form RI-1065?**

*(Please see next page)*

**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.



**State of Rhode Island and Providence Plantations**  
**2018 Form RI-2220**  
Underpayment of Estimated Tax by Corporate Filers



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Name shown on Form RI-1120C, RI-1120S or RI-1065	Federal employer identificati
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**CHECK THE BOX IF THE BELOW APPLIES:**

TAXPAYER IS USING THE ANNUALIZATION OF INCOME METHOD

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

A: He must use information from his U.S. Form 1040 to prepare his Form RI-1065.

He is not required to attach, to his Form RI-1065, either his U.S. Form 1040 or any of its schedules. Thus, he is not required to attach his Schedule E.

However, as his preparer, you should advise him to keep his complete U.S. Form 1040 on file and readily accessible should we need to examine it.

You should also explain the penalties and interest that apply for underreporting income. Further, you should remind your client that the Division of Taxation and the IRS regularly share taxpayer information and offset refunds for one another, and that a single-member LLC's failure to file complete and accurate Rhode Island returns and pay the associated filing charges can delay the issuing of a letter of good standing.

**Q: I use an online database that I pay to access from time to time. Is that subject to Rhode Island sales and use tax?**

A: Yes. It is deemed to be "software as a service" (SaaS) and is subject to the 7 percent sales and use tax. If the

vendor does not charge you the sales tax, you are obligated to pay it to us in the form of a use tax.

**Q: I am a Rhode Island artist and would like to obtain a sales tax exemption. Someone told me I must register first. Is that true?**

A: Yes. You must register with us by filling out a Business Application and Registration (BAR) form (as someone who "makes sales at retail") and pay the \$10 fee. Once you have a sales permit, you may apply for the exemption. Links to the registration process are available on the home page of our website:

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

**Q: When is the due date for a single-member LLC?**

A: The due date of the single-member LLC's annual return on Form RI-1065 is the same as that of the owner.

For example, if the single-member LLC is owned by an individual, the single-member LLC's Form RI-1065 is due on or before April 15 -- because April 15 is the filing deadline for the individual's Form RI-1040.

If the single-member LLC is owned by a calendar-year subchapter S corporation, the single-member LLC's Form RI-1065 is due on or before March 15 -- because March 15 is the filing deadline for a calendar-year subchapter S corporation's Form RI-1120S. A few other important points:

- A single-member LLC must file an annual return on Form RI-1065 and pay the related annual filing charge, which is currently \$400. The single-member LLC must check the "SMLLC" box on the cover of the form.
- If the single-member LLC does not have a federal employer identification number (EIN), it must obtain one from the IRS and use that number when filing.
- The single-member LLC need not attach any schedules to its Form RI-1065 (such as an individual owner's Schedule C or Form U.S. 1040)

**Q: Can you deduct TDI tax?**

A: The amount withheld from your paycheck for Rhode Island's temporary disability insurance program, can be claimed as an itemized deduction on your federal

income tax return (assuming you itemize; most taxpayers do not). Following are some other points to keep in mind about TDI:

- TDI benefits are not included in federal adjusted gross income and are not taxable at the federal or at the Rhode Island level.
- The TDI tax you pay cannot be included as Rhode Island withholding on your Rhode Island return. So do not include it on Schedule W. Do not include it on line 14a of the Rhode Island resident return (Form RI-1040). Do not include it on line 17a of the Rhode Island nonresident return (Form RI-1040NR).
- For those who pay TDI tax and file a Massachusetts personal income tax return, click [here](#) to learn about the treatment of TDI tax for Massachusetts purposes.



### Personal income-tax reminder

Payments of first-quarter estimated tax for tax year 2019 are due on or before April 15, 2019.

## REMINDERS FOR LIMITED LIABILITY COMPANIES (LLCs)

Limited liability companies (LLCs) are required under Rhode Island law to file an annual return with the Rhode Island Division of Taxation and pay an annual tax or fee.

Which form to file and which tax/fee to pay depends on the LLC.

If the LLC is treated as a pass-through entity and not as a corporation for federal tax purposes, it must file Form RI-1065 and pay an annual charge (see table below).

If the LLC is treated as a corporation for federal tax purposes, it must file Form RI-1120C each year and pay the Rhode Island corporate income tax.

### Filing deadlines

In general, the annual tax filing deadline is March 15 for an LLC treated as a pass-through entity, while the deadline is April 15 for an LLC treated as a corporation for federal tax purposes.

A single-member LLC (also known as a SMLLC) uses the same filing deadline as its owner. For example, if the owner is an individual, the

SMLLC return and payment are due April 15.

The Rhode Island filing and payment requirements summarized here also apply for any full or partial year in which the business is in existence, including the year in which the business is formed and the year in which the business dissolves.

For more information, see the applicable form and related instructions by clicking [here](#).

An LLC whose members include one or more nonresidents generally must withhold and remit Rhode Island tax and file RI-1096PT each year reporting the income flowing through and the amount of nonresident Rhode Island tax withheld.

Nonresident individuals and entities are required to file the appropriate Rhode Island tax returns reporting the pass-through income and any pass-through withheld tax. In some instances, Form RI-1040C may be filed.

For forms and information related to pass-through income and pass-through withheld tax, click [here](#) and



**Tax Talk:** Leo Lebeuf (left), chief revenue agent at the Rhode Island Division of Taxation, talks with tax preparers at the Division’s “Seminar for Tax Preparers” held at the Community College of Rhode Island’s Knight Campus in Warwick in December.

[here](#). For employer tax information, click [here](#).

In general, for an LLC treated as a corporation for federal tax purposes, for tax years beginning on or after January 1, 2015, the tax is 7 percent of net income, or the minimum tax, whichever amount is greater. For prior years, corporations paid the Rhode Island corporate income tax or the franchise tax, whichever amount was greater. (For rates and other information, please see the applicable tax form.)

### Sale or transfer

Keep in mind that an LLC must notify the Division at least five business days before the sale or transfer of a major part in value of the LLC’s assets.

The notification must be made by requesting a letter of good standing from the Division.

All required tax returns must be filed and all Rhode Island state taxes paid when the Tax Administrator is notified of the sale or transfer.

TAX YEAR	ANNUAL CHARGE
2017 (and later years)	\$400
2016	\$450
2015	\$500

The annual charge – sometimes called the annual fee, filing fee, or filing charge – is \$400 for tax years beginning on or after January 1, 2017; \$450 for tax years beginning on or after January 1, 2016, but before January 1, 2017; \$500 for tax years beginning on or after January 1, 2004, but before January 1, 2016; \$250 for 2003 and prior.



## Rhode Island Department of Revenue Division of Taxation

### NEWSLETTER POLICY

*Rhode Island Tax News* is a newsletter from the Rhode Island Department of Revenue's Division of Taxation. It is typically published each quarter. Its purpose is to provide taxpayers and tax professionals with general information regarding Rhode Island tax laws, regulations, and rulings, and procedures. It is neither designed nor intended to address complex issues in detail. Nothing contained in this newsletter in any way alters or otherwise changes any provisions of the Rhode Island General Laws, regulations of the Tax Division, or formal rulings. The Tax Division is at One Capitol Hill, Providence, RI 02908. Its website is [www.tax.ri.gov](http://www.tax.ri.gov).

### HOW TO SUBSCRIBE

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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](mailto:Neil.Downing@tax.ri.gov)

### BACK ISSUES

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

#### *How to contact us*

Taxpayers may contact the Division of Taxation online, by phone, by letter, or in person. (Hours of operation are typically 8:30 a.m. to 3:30 p.m. business days.)

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

(For numbers and e-mail addresses for specific sections, click the "Contact us" link.)

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