

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

JANUARY/FEBRUARY/MARCH 2020

## WHAT'S NEW FOR TAX YEAR 2020

There is a new health insurance mandate now in effect in Rhode Island (see article below).

The year 2020 has also ushered in some changes involving withholding — including a reduction in the

number of filing frequencies and mandatory electronic filing for a number of employers.

In addition, the taxable wage base for Rhode Island's temporary disability insurance (TDI) program has been set, as has been the base for the unemployment insurance tax.

Meanwhile, the threshold for Rhode Island's estate tax has increased for 2020, meaning that fewer estates will be subject to the tax, leaving more assets available for heirs and other beneficiaries. These are among the topics covered in this issue of *Rhode Island Tax News*.



**State House:** Legislation approved by the Rhode Island General Assembly in 2019 included many changes to Rhode Island's tax laws, some of which are now in effect and summarized in this edition of *Rhode Island Tax News*.

## HEALTH INSURANCE MANDATE IN EFFECT

The Rhode Island Division of Taxation reminds tax professionals and taxpayers that Rhode Island's new health insurance mandate is now in effect.

It is the result of a proposal by Governor Gina M. Raimondo, approved by the General Assembly, and signed into law in July

2019. Under the legislation as enacted, all Rhode Islanders as of January 1, 2020, must have sufficient health coverage (also known as "minimum essential coverage"). Otherwise, they face a penalty.

Most people have minimum essential coverage -- through employer-

sponsored health insurance, Medicaid, Medicare, TRICARE, or some other means -- and will not have to pay the penalty.

If you do not have such coverage in 2020, and do not have an exemption, you will face a Rhode Island personal income tax penalty in 2021.

(Please turn to page 2)



### ABOUT THIS ISSUE

This issue of *Rhode Island Tax News* focuses on what's new for the 2020 tax year, and also includes regular features, such as "Practitioners' Corner" and "Legal Corner."

### INSIDE THIS ISSUE:

EMPLOYER WITHHOLDING	4
NEW CHIEF	5
TDI	6
UI	7
ESTATE TAX	8
'LEGAL CORNER'	10
'PRACTITIONERS' CORNER'	12

## TAX YEAR 2020: HEALTH INSURANCE MANDATE (CONTINUED FROM PAGE 1)

The penalty is payable when you file your Rhode Island return for the 2020 tax year.

The penalty is calculated as either 2.5% of your yearly household income or \$695 per person and an additional \$347.50 per child under age 18, whichever amount is higher.

♦ Using the percentage method, only the part of your household income that's above the yearly tax filing requirement (as defined below) is counted.

♦ Using the per-person method, you pay only for people in your household who don't have insurance coverage.

If the income percentage method is higher, the maximum penalty can be no more than the cost of the total annual premium for an average bronze plan sold through Rhode Island's health insurance exchange, known as HealthSource RI.

If you have coverage for part of the year, the penalty is one-twelfth of the annual amount for each month that you (or your tax dependents) don't have coverage. (One short gap in coverage does not count against you. If you're uninsured only one or two consecutive months, you don't have to pay the penalty at all.)



*Interview: On January 2, 2020, Rhode Island Tax Administrator Neena Savage (above, left) was interviewed by Bill Rappleye (above, right), a reporter at the time for WJAR-TV (NBC 10), regarding the health insurance mandate which had just taken effect.*

Please keep the following points in mind:

♦ What happens if you do not file a Rhode Island personal income-tax return but your income exceeds the tax filing threshold? If you fail to file and you owe tax, you will be subject to a late-filing penalty, late-payment penalty, and interest that currently accrues at a rate of 18%. The Division of Taxation will issue a bill.

♦ If your household income is lower than the tax filing threshold, your household is not required to pay a penalty for not having health coverage. The tax-filing threshold is the standard deduction for your filing status plus \$4,150 per exemption for the 2020 tax year. As an example, a married couple

filing jointly with two children (or dependents) would have a standard deduction of \$17,800 plus \$16,600 in exemptions (\$4,150 times 4 exemptions). Thus, the tax-filing threshold for this family would be \$34,400.

The mandate applies only to Rhode Island residents and part-year residents, not to nonresidents.

To learn more about health insurance options, contact Rhode Island's health insurance exchange -- [HealthSource RI](#).

To learn more about Rhode Island's new health coverage mandate (sometimes called the health insurance mandate or individual mandate), click [here](#).

### Exemptions

Under Rhode Island's new law, if you don't have sufficient health coverage, and you don't have an exemption, you face a penalty when you file your Rhode Island personal income tax return.

The information on this page provides a brief, general summary of the health insurance mandate, the penalty, and related topics.

A table on the following page provides preliminary information about the exemption. Please note that the details about exemptions and the exemption process are still being worked out. Also please note that the penalty is not payable until early 2021.

## FOR PLANNING PURPOSES:

**EXEMPTIONS TO THE HEALTH INSURANCE MANDATE\***

<i>Exemption:</i>	<i>Description:</i>	<i>How to claim or apply for exemption in 2021 (for 2020 tax year)*</i>
Hardship	You experienced a hardship that prevented you from obtaining coverage under a qualified health plan.	Apply through HealthSource RI in 2021
Members of certain religious sects	You are a member of a recognized religious sect.	Apply through HealthSource RI in 2021
Coverage considered unaffordable based on projected income	HealthSource RI determined that you didn't have access to coverage that is considered affordable based on your projected household income.	Apply through HealthSource RI in 2021
Certain Medicaid programs that are not minimum essential coverage	You were (1) enrolled in Medicaid coverage provided to a pregnant woman that isn't recognized as minimum essential coverage; (2) enrolled in Medicaid coverage provided to a medically needy individual that isn't recognized as minimum essential coverage; or (3) enrolled in Medicaid coverage provided to a medically needy individual and were without coverage for other months because the spend-down had not been met.	Apply through HealthSource RI in 2021
Part-year Rhode Island Resident	You were a <i>bona fide</i> resident of another state for part of the year and are exempt for months in which you were not a Rhode Island resident.	Claimed on Rhode Island personal income tax return in 2021
Members of a health care sharing ministry	You were a member of a health care sharing ministry.	Claimed on Rhode Island personal income tax return in 2021
Members of Indian tribes	You were either a member of a federally recognized Indian tribe, including an Alaska Native Claims Settlement Act (ANCSA) Corporation Shareholder (regional or village), or you were otherwise eligible for services through an Indian health care provider or the Indian Health Service.	Claimed on Rhode Island personal income tax return in 2021
Incarceration	You were in a jail, prison, or similar penal institution or correctional facility after the disposition of charges.	Claimed on Rhode Island personal income tax return in 2021
Aggregate self-only coverage considered unaffordable	Two or more family members' aggregate cost of self-only employer-sponsored coverage was more than 8.24% of household income for 2020 (indexed annually by federal regulation), as was the cost of any available employer-sponsored coverage for the entire family.	Claimed on Rhode Island personal income tax return in 2021
Member of tax household born or adopted during the year	The months before and including the month that an individual was added to your tax household by birth or adoption. You should claim this exemption only if you also are claiming another exemption on your Rhode Island personal income tax return.	Claimed on Rhode Island personal income tax return in 2021
Member of tax household died during the year	The months after the month that a member of your tax household died during the year. You should claim this exemption only if you also are claiming another exemption on your Rhode Island personal income tax return.	Claimed on Rhode Island personal income tax return in 2021

\* This table is adapted from the individual mandate FAQs on the HealthSource RI website and is provided here merely for planning purposes. Keep in mind that the penalty and exemption rules apply for the 2020 tax year. Thus, the penalty will not appear on Rhode Island personal income tax returns until early 2021, covering the 2020 tax year.

## TAX YEAR 2020: EMPLOYER WITHHOLDING TAX

The Rhode Island Division of Taxation reminds employers about changes involving employer withholding tax which took effect January 1, 2020.

Rhode Island reduced the number of filing frequencies for certain taxpayers, and mandated electronic filings for certain taxpayers.

The changes are intended to more closely align Rhode Island's withholding regime with that of the Internal Revenue Service and some states, thus simplifying the process for employers, payroll service providers, bookkeepers, and others.

### Frequency

To simplify the requirements concerning large withholding taxpayers, effective January 2020, the "weekly" payment frequency for submitting withheld tax to the Division of Taxation has replaced the current "quarter-monthly" and "daily" frequencies.

Under the "weekly" filing frequency, all payroll occurring in a given week is now due on the business day following the end of the week. In other words, the withheld tax must be remitted on the Monday (or Tuesday, if the Monday is a recognized holiday) of the following week. (See table nearby, which shows Monday holidays in

### Certain holidays in 2020

*(For employers on the weekly payment frequency schedule for withholding purposes, payments are normally due on following Monday. If payment date falls on a federal or Rhode Island holiday, due date moves to next business day, as shown below.)*

HOLIDAY	DUE DATE
Monday, January 20 <i>(Dr. Martin Luther King, Jr. Day)</i>	Tuesday, January 21
Monday, February 17 <i>(Washington's Birthday)</i>	Tuesday, February 18
Monday, May 25 <i>(Memorial Day)</i>	Tuesday, May 26
Saturday, July 4 <i>(Independence Day, celebrated by State on Monday, July 6)</i>	Tuesday, July 7
Monday, August 10 <i>(Victory Day)</i>	Tuesday, August 11
Monday, September 7 <i>(Labor Day)</i>	Tuesday, September 8
Monday, October 12 <i>(Columbus Day)</i>	Tuesday, October 13

To view full schedule for all payment frequencies, click [here](#).

2020. When those Monday holidays occur, withholding is due the following day.)

There is no change in the remittance schedule for those that remit monthly and those that remit quarterly.

### Paying electronically

Beginning in January 2020, every employer that's required to deduct and with-

hold Rhode Island personal income tax –and that had an average tax amount of \$200 or more per month for the previous calendar year – must file a return and remit the payments by electronic funds transfer (or by other electronic means as defined by the Division of Taxation). To pay via the Division's portal, click [here](#).

Starting in 2020, the withholding tax return that employers file with the Division -- Form RI-941 ("Employer's Quarterly Tax Return and Reconciliation") -- is due on a quarterly basis.

All employers – regardless of how often they must remit withholding – must submit Form RI-941 once a quarter.

Form RI-941 will be due on the last day of the month following each quarter, with the first due date of April 30, 2020.



### Tax tip line

If you have information about wrongdoing involving Rhode Island 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](#).

## NEW CHIEF NAMED FOR PERSONAL & CORPORATE TAX

Carlita Annicelli has been promoted at the Rhode Island Division of Taxation to the rank of chief revenue agent of the Division's Personal & Corporate Income Tax unit.

She formerly served as a supervising revenue officer in the Division's Compliance & Collections unit.

"Carlita's experience, professionalism, and dedication to the Division of Taxation's mission are the basis for her promotion," said Rhode Island Tax Administrator Neena Savage.

"She has consistently taken on more responsibility and worked collaboratively with her peers to improve the Division. I look forward to Carlita's expanded leadership role and the impact it will have on our team," Savage said.

### First generation

Carlita (Amorita) Annicelli was born and raised in Pawtucket, Rhode Island, and is a first-generation American: her father is a native of Panama and her mother, of Cape Verdean descent, was born in Senegal. She grew up speaking English in a household where Spanish and French were also spoken.

She attended St. Mary Academy-Bay View, in Riverside, Rhode Island, graduating in 2001. During her senior year, as part of Bay View's "school-to-career" program, she took



*Promotion: Pawtucket native Carlita Annicelli has been promoted at the Rhode Island Division of Taxation to the rank of chief revenue agent of the Division's Personal & Corporate Income Tax unit.*

classes four days a week and worked the fifth day as a clerk in the legal department at Textron Financial Corp.'s Providence office. In addition, she worked as a part-time cashier for Honey Dew Donuts, mainly at the store on Atwood Avenue in Cranston, Rhode Island.

From the fall of 2001 to the spring of 2002, she studied at Roger Williams University in Bristol, Rhode Island, while

continuing to work at Textron Financial and at Honey Dew. She then left school to work full-time as a Honey Dew manager. In 2005, she married Paul Annicelli. In 2006, she gave birth to their daughter and left work to spend time raising her at home.

### VITA volunteer

In 2007, she returned to school, studying full-time at Johnson & Wales University

in Providence, from which she graduated in 2011 with a bachelor's degree in accounting. While there, she worked with the Internal Revenue Service's Volunteer Income Tax Assistance program, also known as VITA.

Shortly thereafter, she joined the Division of Taxation, first as a revenue officer in the Compliance & Collections unit, then as a revenue agent in what is now the Personal & Corporate Income Tax unit.

### Further studies

It was during her early years at the Division that she furthered her studies at Johnson & Wales, graduating in 2013 with a master's degree in business administration with a concentration in accounting.

At the Division, she was promoted to supervising revenue officer in the Compliance & Collections unit and led the unit's sales block program. In November 2019, she was promoted to her current post, where she reports to Leo Lebeuf, chief, Tax Assessment & Review.

A Pawtucket resident, she has been a member of the parent teacher association at Bay View for the past 10 years. She has also served as president of her daughter's Greater Providence Youth Hockey team.

## TAX YEAR 2020: TEMPORARY DISABILITY INSURANCE (TDI)

The taxable wage base for Rhode Island's temporary disability insurance (TDI) tax will be \$72,300 for 2020, compared with \$71,000 for 2019, an increase of \$1,300, or 1.83%.

The "taxable wage base" is the amount of an employee's wages to which the TDI tax is applied.

For 2020, the TDI tax rate will be 1.3%, compared with 1.1% for 2019.

Thus, the maximum TDI tax will be \$939.90 for 2020, compared with \$781 for 2019, an increase of \$158.90, or 20.35%.

(Whether the amount of TDI tax goes up or down—or stays the same—for any particular individual will generally depend on how much the individual earns.)

Year	Tax rate	Wage base	Max. tax
2020	1.3%	\$72,300	\$939.90
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

In general, TDI tax is paid by private-sector workers who work in Rhode Island. 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.

TDI taxes paid by workers

are deposited in a trust fund, from which TDI benefits are paid.

The TDI program generally pays benefits for unemployment caused by injury or illness unrelated to work.

A related program, also funded through TDI, is temporary caregivers insurance (TCI).

In general, TCI 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.

To learn more about the TDI program, see the [DLT website](#).

Employers can learn more about employer taxes at the [Division of Taxation website](#).

## EXTENSION FOR TAX CREDIT PROGRAMS

As a result of legislation approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Gina M. Raimondo in July 2019, several Rhode Island tax credit, incentive, and related programs that were scheduled to sunset on June 30, 2020, have been extended by six months.

The programs whose sunsets have been extended out

to December 31, 2020, include the following:

- ♦ The "Rhode Island Tax Increment Financing" program, under Rhode Island General Laws Chapter 42-64.21.
- ♦ The "Stay Invested in RI Wavemaker Fellowship" program, under Rhode Island General Laws Chapter 42-64.26.

- ♦ The "Rhode Island New Qualified Jobs Incentive" program under Rhode Island General Laws Chapter 44-48.3.

More information about the programs is available on the Rhode Island Commerce Corporation website. To view, click [here](#).

### Reminder



First-quarter estimated payments of Rhode Island personal income tax — for the 2020 tax year — are due on or before April 15, 2020.

# TAX YEAR 2020: UNEMPLOYMENT INSURANCE TAX

The taxable wage base for Rhode Island’s state unemployment insurance tax (UI) is \$24,000 for 2020 for most employers, compared with \$23,600 in 2019, an increase of \$400, or approximately 1.7 percent.

(“Taxable wage base” generally means the amount of an employee’s wages to which the tax rate applies.)

However, the tax rate schedule which employers will use in their calculations will change, ushering in a reduced range of tax rates:

In 2019, employers used Schedule G. In 2020, employers will use Schedule F. Thus, the experience rating schedules, previously ranging from 1.1% to 9.7% in 2019 under schedule G (including the assessment and adjustment for the Job Development Fund), will be reduced to 0.9% to 9.4% in 2020 under schedule F.

A separate, higher taxable wage base applies for employ-

Rhode Island unemployment insurance (UI) tax at a glance		
	2019	2020
Taxable wage base	\$23,600	\$24,000
Tax rate schedule	G	F
Tax rate range	1.1% to 9.7%	0.9% to 9.4%

Tax rate ranges include the 0.21% assessment for Job Development Fund. The 0.08% Job Development Adjustment was in effect for 2019 but not for 2020.

ers who have experienced considerable unemployment –and who therefore have used the UI system’s resources the most and are taxed at the highest state UI tax rate. For those employers, the taxable wage base will be \$25,500 for 2020, up from \$25,100 for 2019, an increase of \$400, or 1.59%.

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.

The job development assessment will remain at 0.21% for 2020.

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. 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.

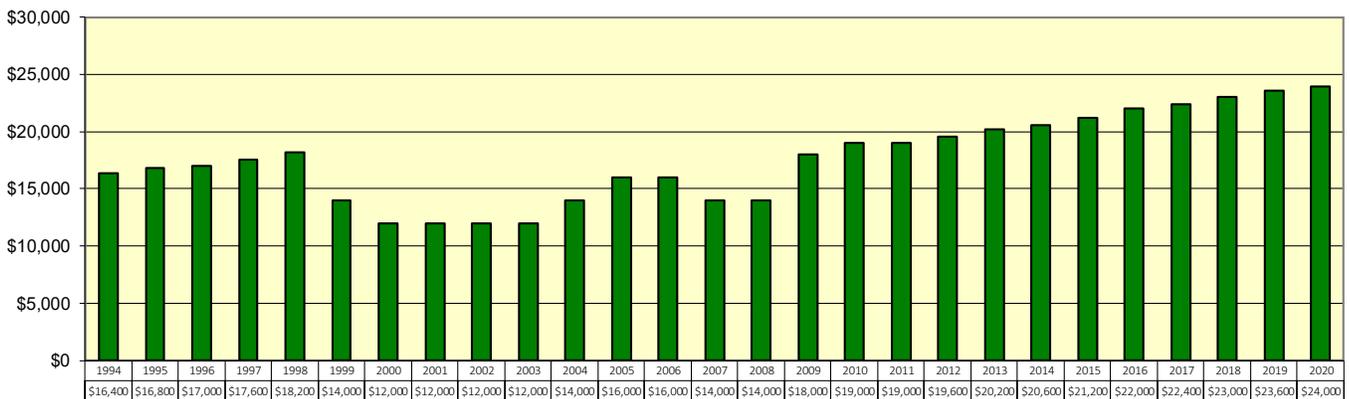
**MORE INFORMATION**

For more about the Rhode Island unemployment insurance tax, the job development assessment, and the temporary disability insurance (TDI) tax, click [here](#).

For more information about Rhode Island unemployment benefits, click [here](#).

For more information about benefits under the Rhode Island TDI and TCI programs, click [here](#).

Rhode Island unemployment insurance - taxable wage base



## TAX YEAR 2020: ESTATE TAX THRESHOLD INCREASES

Because of an inflation adjustment prescribed by statute, the Rhode Island estate tax credit amount is now \$69,515 for decedents dying on or after January 1, 2020, up from the credit amount of \$68,350 that applied for 2019.

As a result, the Rhode Island estate tax threshold is now \$1,579,922 for decedents dying on or after January 1, 2020, up from the threshold of \$1,561,719 that applied for 2019.

Thus, in general, for a decedent dying in 2020, a net taxable estate valued at \$1,579,922 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 2020.

(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.)



**Forum:** Rhode Island Tax Administrator Neena Savage (right) took part in the New England State and Local Tax Forum, a conference in November 2019 in Newton, Mass., involving significant state and local tax developments. She was on a panel of representatives from each of the six New England state tax agencies, including John Biello (left), who is tax division chief, Audit and Compliance Bureau, at the Connecticut Department of Revenue Services, and Craig Bolio (center), commissioner at the Vermont Department of Taxes.

Rhode Island estate tax threshold amount	
For decedent whose death occurs in:	Estate tax threshold amount is:
2020	\$ 1,579,922
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

Rhode Island estate tax credit	
For decedent whose death occurs in:	Estate tax credit amount is:
2020	\$ 69,515
2019	68,350
2018	66,810

# TAX YEAR 2020: INTEREST RATES SET FOR THE YEAR

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%

The Rhode Island Division of Taxation has posted the interest rates that will apply in 2020 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 2020, the same as it was for 2019. 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 5.00%, down from 5.25% for 2019. The rate per annum is set by statute, under Rhode Island General Laws § 44-1-7.1.

### Prior years

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

Interest Rates		
Personal Income Tax Refunds		
From	To	Rate
01/01/20	12/31/20	5.00%
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%

## 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, 2020.

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

### Withholding

The Division of Taxation has posted the new booklet of

income tax withholding tables (used by employers and others to calculate how much to withhold from an employee's pay in 2020 for Rhode Island personal income tax purposes). Click [here](#) to view.

The Division has also posted the new version of Form RI W-4, "Employee's Withholding Allowance Certificate" (which an employee may use to adjust the amount of Rhode Island personal income tax withheld from the em-

ployee's paycheck). Click [here](#) to view.

In addition, the Division has posted the 2020 withholding tax payment calendar (which shows payment deadlines for various payment frequencies). Click [here](#) to view.



### Social media

Don't forget to follow the Rhode Island Division of Taxation on social media. To see what the Division has been posting on Twitter, click [here](#). For the Division's blog, click [here](#).



## 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.*

#### Sales and use tax

At issue is whether the taxpayer owes the Rhode Island sales and use tax assessed on the tangible personal property that the taxpayer invoiced to a company.

The taxpayer operates as a subchapter S corporation for tax purposes. It repairs, leases, and sells large construction equipment and accessories -- mainly for drilling, pile driving, and ground improvement.

The company, meanwhile, is a Rhode Island limited liability company (LLC) treated as a partnership for tax purposes.

In June 2015, the Division began a sales and use tax re-audit of the taxpayer. The auditor found sales invoices for tangible property from the taxpayer to the company:

- ♦The taxpayer did not charge sales or use tax to the company for the equipment.
- ♦The taxpayer counted the sales as part of its gross receipts on its 2014 federal and Rhode Island corporate income tax returns.
- ♦The taxpayer did not declare



*Rhode Island Tax News provides only summaries of some recent tax-case decisions, which are based on specific facts and circumstances.*

*The summaries are merely informative and provide general information. To determine how state tax laws and regulations apply to your particular circumstances, please consult your tax professional.*

the equipment for purposes of municipal tax.

- ♦The company depreciated the equipment on its 2014 and 2015 federal corporate returns.
- ♦The company was assessed for municipal taxes on the equipment.
- ♦The company did not issue a resale certificate to the taxpayer for the equipment. (By law, there is a presumption that all gross receipts are subject to sales tax. A seller may overcome that presumption if the seller obtains from the buyer a resale certificate showing that the purchase is

exempt from sales tax.)

A hearing was held and the parties were represented by counsel.

The taxpayer argued that there was no sale because, among other things, there was no transfer of title, and no transfer of possession, no rental or lease of the equipment.

The taxpayer also asserted that in other jurisdictions, transactions between related parties are exempt from tax.

The Division argued that, among other things, there was a transfer of title from the taxpayer to the company, as evidenced by invoices, depreciation, gross-receipts treatment, lack of a resale certificate, the municipal tax treatment, and other factors.

The taxpayer asserted that invoices were not evidence of sale. Rather, the invoices were created for asset protection and that the original intent was for protection in case of a lawsuit.

Hearing Officer Catherine R. Warren determined that the transactions fell under the statutory definition of a sale. The taxpayer recorded -- as part of its gross receipts -- the amount charged the company on its invoices; the company depreciated the assets.

*(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)

The hearing officer also determined that the company paid municipal taxes on the equipment.

“If one entity records as part of its gross receipts the amount of money that another entity was invoiced and



that other entity then depreciates those items on its tax returns and declares them for municipal tax purposes, it follows that the items were sold,” the hearing officer wrote.

On September 19, 2019, the hearing officer recommended a finding that the transactions represented a sale under the statute and that the taxpayer owes the sales tax on the sale of the equipment as well as the assessed interest. She also recommended a finding that a 10% penalty be added to the tax owed, as provided under

Rhode Island General Laws § 44-19-12.

On September 24, 2019, Tax Administrator Neena S. Savage adopted the hearing officer’s decision and recommendation.

[- Final Decision and Order No. 2019-06](#)

### JUDGE RULES IN FAVOR OF DIVISION IN OTP CASE

The District Court in Providence recently ruled in favor of the Rhode Island Division of Taxation in a case involving tobacco tax.

The case has its roots in an inspection of a smoking bar in Providence by the Division of Taxation in December 2016.

The inspection involved “other tobacco products” tax. (“Other tobacco products,” also known as OTP, generally refers to the tax on tobacco products other than cigarettes. The term generally refers to cigars, cheroots, stogies, pipe tobacco, chewing tobacco, hookah and shisha tobacco, snuff, and certain other items.)

After the inspection, the Division issued a Notice of Deficiency in the amount of approximately \$22,902, as well as a notice of a 30-day license suspension.

The Division received copies of the invoices for the taxpayer’s purchase of OTP from an out-of-state distributor which

was not licensed as a tobacco distributor in Rhode Island. The taxpayer had not remitted any tax for its OTP purchases prior to the inspection.

After the inspection, the taxpayer filed three remittances; the Division assessed the taxpayer the difference between the amount of tax owed based on the purchase invoices, and the amount of tax actually remitted.

The Division’s assessments covered 2012 through 2016. The taxpayer agreed that it owed tax for 2015 and 2016.

The taxpayer requested a hearing, asserting that the Division can go back only 24 months prior to inspection.

However, according to the District Court, Hearing Officer Catherine R. Warren determined in a decision issued in October 2017 that the Division

could go back six years when assessing the taxpayer because the taxpayer had failed to file records; penalties were appropriate; and the Division was legally required to assess additional penalties. The hearing officer also suspended the taxpayer’s license for 30 days in late 2017.

Tax Administrator Neena Savage adopted the hearing officer’s decision and recommendation (see [Final Decision and Order No. 2017-13](#)).

As a result of the decision, the Division increased the \$22,902 assessment to \$66,293.

The taxpayer appealed the decision to the Sixth Division District Court in Providence. The taxpayer asserted, among other things, that the Division’s assessment of fines and penalties was not appropriate and that the statutory provisions that the Division relied on were not applicable.

In her decision in the case, dated December 9, 2019,

District Court Associate Judge Christine S. Jabour determined that, among other things, the Division appropriately assessed fines and penalties against the taxpayer based on the law in effect at the time.

Jabour also agreed with the Division that the taxpayer’s failure to file certain forms with the Division was an aggravating factor in the case.

“Accordingly, the Division imposed the appropriate sanctions based on the taxpayer’s history and nonpayment of taxes, and failure to comply with its regulatory requirement,” Jabour wrote in her decision, which affirmed the tax administrator’s decision.

#### Decisions online

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

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

*Editor's Note: The questions below all have to do with Rhode Island's new entity-level tax that a pass-through entity may elect to pay.*

**Q: If my pass-through entity elects to pay Rhode Island's new entity-level tax, where on the Form RI-1040 would I, as one of the partners in the entity, report my *pro rata* share of the entity-level?**

You will report your *pro rata* share of the entity-level tax by using Schedule W of the Form RI-1040 or Form RI-1040NR.

That's the same schedule on which you would normally report the amount of Rhode Island personal income tax withheld from a paycheck or the like.

(Please note, however, that when you report on Schedule W your *pro rata* share of the entity-level tax, use the correct code -- enter letter code E in column B. Please see Schedule W and instructions for more information.)

You will also report your *pro rata* share of the entity-level tax on line 2h of Schedule M

of the Form RI-1040 or Form RI-1040NR. Please see Schedule M and instructions.

**Q: Will any unused entity-level tax credit be refundable?**

It is refundable.

**Q: If my pass-through entity elected to pay Rhode Island's new entity-level tax, and a refund results, and the resulting refund in-**

**cludes some or all of the entity-level tax credit, can I apply all of the refund forward to the next year to**

**fulfill my individual estimated tax payment requirements?**

Assuming that you have a Rhode Island personal income tax overpayment, you may receive it in the form of a refund, or apply it to next year's tax, or split it (with some of it as a refund and the remainder of it applied to next year's tax).

**Q: Can a sole proprietor, filing on Schedule C or Schedule E of his or her**

**U.S. Form 1040, take advantage of Rhode Island's new entity-level tax on pass-through entities?**

Rhode Island's new law allows sole proprietors, filing on federal Schedule C or Schedule E, to elect to pay Rhode Island's new entity-level tax on pass-through entities.

However, we recommend that such sole proprietors (and their tax advisors) make their own determination as to whether and how Rhode Island's new entity-level tax will be deductible for them at the federal level; that's something to do with the U.S. Treasury/IRS, not with the Rhode Island Division of Taxation.

**Q: If a partner in a partnership receives a guaranteed payment, does that guaranteed payment count for purposes of Rhode Island's entity-level tax on pass-through entities?**

A: Yes.

In 2019, the Rhode Island General Assembly passed legislation that has since been codified at Rhode Island General Laws § 44-11-2.3 ("Pass-through entities -- Election to pay state income tax at the entity level").

*(Please turn to 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.



**Practitioners' Corner**

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

That law authorizes pass-through entities to pay an entity-level tax if they so choose.

If the entity elects to pay the tax, it pays at a rate of 5.99% of its net income.

The new law specifically notes that the term "net income" includes guaranteed payments.

So, when it comes to Rhode Island's new entity-level tax on pass-through entities, guaranteed payments count as income for purposes of your computation.



**Q: If a subchapter S corporation sells a building at a capital gain, does the capital gain constitute "other business income" for purposes of Rhode Island's entity-level tax on pass-through entities?**

**A:** When it comes to the computation of Rhode Island's new entity-level tax on pass-through entities, include capital gains as income for purposes of your computation.

For example, if the S corporation has \$100,000 in income from its day-to-day operations, let's say, but it also has a \$25,000 capital gain from the sale of a building, its overall income for the purposes of the pass-through entity tax is \$125,000.

If you are wondering what to include and what not to include as income for purposes of the computation, please see the instructions to the Division's [Form RI-PTE \("Pass-Through Entity Election Tax Return"\)](#). A handy table in the instructions provides some helpful guidance. (See screenshot below.)

**Q: On the individual's Form RI-1040, will the Rhode Island credit that the individual is claiming for having paid his or her share of the entity-level tax be utilized after other available credits, such as taxes paid to other states and the film tax credit?**

Yes. On Schedule W of your Rhode Island personal income tax return, include your share of the entity-level tax paid.

Carry over that sum (along with the rest of your Schedule W sums) to line 14a of your Form RI-1040 or line 17a of your Form RI-1040NR.

Thus, on the main part of your return, the credit for your portion of entity-level tax will appear near the top of page 2. The film tax credit (also known as the motion picture production tax credit) appears on page 1, along with some other credits. But



**Newsletter for tax-filing season**

The Rhode Island Division of Taxation recently posted a separate newsletter which focuses entirely on this tax-filing season (involving returns for the 2019 tax year).

To view the filing-season newsletter, click [here](#).

you probably aren't much interested in the design of the return. Rather, you probably want to know what's limited and what isn't. The film tax credit, and others like it, are limited — in other words, they are not refundable. The credit for the entity-level tax is refundable.

**SPECIFIC LINE INSTRUCTIONS**

**Line 1 – Pass-through Entity income:** Enter your Total Pass-through Entity Income apportioned to Rhode Island. By way of example, see table below.

Entity Type	Form/Line Reference
LLC	Apportioned Rhode Island taxable income from RI-1065, Line 6
LLP	Apportioned Rhode Island taxable income from RI-1065, Line 6
LP	Apportioned Rhode Island taxable income from RI-1065, Line 6
Partnership	Apportioned Rhode Island taxable income from RI-1065, Line 6
SMLLC	Apportioned Rhode Island taxable income from RI-1065, Line 6
S-Corp	Apportioned Rhode Island taxable income from RI-1120S, Line 6
Trust	Allocated Rhode Island taxable income from RI-1041, multiply line 7 by line 9

## 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.

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. (If the entity elects to pay Rhode Island's new entity-level tax, the entity is not required to comply with the provisions of Rhode Island General Laws § 44-11-2.2 regarding withholding on nonresident owners.)

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 [here](#). For employer tax information (in case the LLC has employees and has employer tax obligations), 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



**Excise & Estate:** *Theriza Iafrate (right), chief of the Division of Taxation's Excise & Estate Tax unit, fielded questions from tax preparers after the Division's "Seminar for Tax Preparers" held at the Community College of Rhode Island's Knight campus in Warwick in December.*

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.

### Annual charge

The annual charge – sometimes called the annual fee, filing fee, or filing charge – is as follows:

- ◆ \$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; and
- ◆ \$250 for 2003 and earlier.

☞ A MESSAGE FOR TAXPAYERS ☞



# HEALTH INSURANCE MANDATE

Special  
Notice

*A message for taxpayers from the  
Rhode Island Division of Taxation*

Rhode Island's new mandate involving health-care coverage was part of the [fiscal year 2020 budget bill](#) proposed by Rhode Island Governor Gina M. Raimondo, approved by the Rhode Island General Assembly, and enacted on July 5, 2019.

- ◆ The mandate to have sufficient health-care coverage (also known as “minimum essential coverage”) took effect January 1, 2020.
- ◆ If you fail to have sufficient health-care coverage or qualify for an exemption, you will have to pay a penalty on your Rhode Island personal income tax return, starting in early 2021 (for the 2020 tax year).
- ◆ Most people have minimum essential coverage (through employer-sponsored health insurance, Medicaid, Medicare, TRICARE, or some other means) and will not have to pay the penalty.



**A**s of January 1, 2020, Rhode Island requires its residents to maintain health-care coverage.

The new Rhode Island law requires you and your family to have minimum essential health-care coverage throughout 2020 and beyond, unless you qualify for an exemption.

Failure to have health coverage or qualify for an exemption will result in a “shared responsibility payment” (in other words, a penalty) when you file your 2020 Rhode Island personal income tax return in early 2021.

◆ **Need Health Coverage?** If you just learned about Rhode Island's mandate during the tax season in 2020, you may be eligible to sign up via a special enrollment period (SEP). Go to [www.healthsourceri.com/mandate](http://www.healthsourceri.com/mandate) for more information or call 1-855-840-HSRI. Eligible low-income families can enroll in Medicaid at any time.

◆ **Note:** If you are not required to file a 2020 Rhode Island personal income tax return, you will be exempt from the mandate for that year. The new Rhode Island law is similar to the federal health insurance mandate in effect on December 15, 2017, prior to enactment of the federal Tax Cuts and Jobs Act.



## 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

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

### COMMENTS AND SUGGESTIONS

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

### BACK ISSUES

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

#### *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.)

##### Website

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

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

##### Mailing address

Rhode Island Division of Taxation  
One Capitol Hill  
Providence, R.I. 02908

##### Telephone

Phone: (401) 574-8829  
Fax: (401) 574-8917



#### NEWSLETTER CONTRIBUTORS

*The following Division of Taxation personnel provided information or other assistance for this edition of Rhode Island Tax News:*

Carlita Annicelli  
Michael Canole  
Philip D'Ambra  
Donna Dube

Leo Lebeuf  
Bernard Lemos  
Neena Savage  
Bethany Whitmarsh

*The Division also thanks Hearing Officer Catherine Warren for her assistance, and the staff at HealthSource RI for their assistance. Note: The image of a clock and the image of a chalkboard in this newsletter are used under Creative Commons license.*