



Rhode Island Department of Revenue Division of Taxation

Summary of Legislative Changes

July 12, 2018

Following is a summary of tax law changes in the FY 2019 budget bill enacted June 22, 2018.¹

Deduction for personal exemptions

Federal legislation enacted in December 2017 suspended the deduction for personal exemptions – for taxpayers as well as their dependents.² Under Rhode Island law at the time, the number of exemptions allowed for purposes of Rhode Island’s personal income tax was tied to the number of federal exemptions.

Therefore, if Rhode Island law had stayed as it was, taxpayers would have lost the ability to claim personal and dependency exemptions on their Rhode Island personal income tax returns.

However, legislation proposed by Rhode Island Governor Gina M. Raimondo and approved by the Rhode Island General Assembly has modified Rhode Island law in a way that preserves the exemptions.

Thus, personal and dependency exemptions will continue to be reflected on Rhode Island personal income forms.

EXEMPTION AMOUNTS

The Rhode Island personal exemption amount is set by statute and can increase each year depending on inflation:

- 2018: \$4,000
- 2017: \$3,900
- 2016: \$3,900
- 2015: \$3,850
- 2014: \$3,800

¹ This publication is an informal summary of recently enacted legislation (House Bill 7200, Substitute A as amended) and is for general information purposes only. It is not a substitute for Rhode Island General Laws, or for Rhode Island Division of Taxation regulations, rulings, or notices.

² United States Public Law 115-97, known as the Tax Cuts and Jobs Act, enacted on December 22, 2017, suspended the deduction for taxable years beginning after December 31, 2017, and before January 1, 2026. See Internal Revenue Code § 151 (“Allowance of deductions for personal exemptions”), which, as amended, reduced the exemption amount to zero for that time period.

Taxpayers will continue to be able to claim personal and dependency exemptions on their Rhode Island personal income tax returns for 2018 and future tax years.³

The exemption amount is potentially valuable. For example, assuming (for convenience) a tax rate of 3.75 percent for 2018, one exemption claimed on the Rhode Island return can shield up to \$4,000 of income from tax, resulting in a savings of up to \$150 in tax. A married couple with two dependent children can shield up to \$16,000 of income from tax, resulting in a tax savings of up to \$600.

‣ *For the 2014 tax year, Rhode Island resident taxpayers claimed 878,121 exemptions in the aggregate. That reduced the amount of their income subject to Rhode Island tax by approximately \$3.15 billion in the aggregate. (Assuming, for convenience, a 3.75 percent tax rate, the deduction for exemptions saved Rhode Island resident filers approximately \$118.2 million in Rhode Island tax for that year.)*

‣ *The new Rhode Island law says that, for tax years beginning on or after 2018, the term “exemption amount” means the same as it does in Internal Revenue Code § 151 and § 152 just prior to the enactment of the federal Tax Cuts and Jobs Act.*

Effective: For tax years beginning on or after January 1, 2018
Citation: Rhode Island General Laws § 44-30-2.6

Exemptions and TINs

Under the new law, no personal or dependency exemption is allowed under the Rhode Island personal income tax for any individual unless the taxpayer identification number (TIN) for that individual is included on the federal return claiming the exemption for the same tax-filing period.

If the TIN for each individual is not required to be included on the federal return for purposes of claiming a personal or dependency exemption, the TIN must be provided on the Rhode Island return for the purpose of claiming the exemption.

‣ *For the 2017 tax year, the Rhode Island Form RI-1040 (individual income tax return) did not require a separate listing of each dependent and each dependent’s TIN. Instead, the form instructed taxpayers to enter, in a box on the Rhode Island form, the number of federal exemptions. However, personal and dependency exemptions for federal income tax purposes have been suspended under the federal Tax Cuts and Jobs Act. It is not clear whether, or to what extent, the name and TIN of each dependent will be required to be listed on the finalized U.S. Form 1040 for 2018 and future tax years. The new Rhode Island law is intended to ensure that if such information is not included on the federal*

³ Rhode Island’s personal and dependency exemptions continue to be adjusted each year based on inflation. For the 2018 tax year, the exemption amount is \$4,000, up from \$3,900 for 2017. Also, most taxpayers are able to claim the full amount of their exemptions. However, if a taxpayer’s federal adjusted gross income falls within a certain range, the exemption amount is reduced. If income exceeds the range, the taxpayer cannot claim exemptions. The income range -- known as the phase-out range -- is \$199,000 to \$221,800 for 2018.

form, it must be included on the Rhode Island form (and the Rhode Island form will be revised accordingly).

➤ For most people, the TIN is the same as the Social Security number.

Effective: Tax years beginning on or after January 1, 2018
Citation: Rhode Island General Laws § 44-30-2.6

Sports wagering

The new law makes it clear that prizes, including payoffs, received under Rhode Island General Laws Chapter 42-61.2, “Video-Lottery Games, Table Games and Sports Wagering”, are exempt from Rhode Island sales and use tax, but are subject to Rhode Island personal income tax.

Effective: Upon passage
Citation: Rhode Island General Laws § 42-61.2-10

Tax Administrator’s authority

To preserve the Rhode Island tax base under Rhode Island law prior to last year’s enactment of the federal Tax Cuts and Jobs Act,⁴ the new law authorizes the Tax Administrator, upon prior written notice to the House speaker, Senate president, and chairs of the House and Senate Finance Committees, to amend tax forms and related instructions in response to any changes the Internal Revenue Service makes to its forms, regulations, and/or processing which will materially impact state revenues, to the extent that impact is measurable.

Furthermore, the new law says that any Internal Revenue Service changes to forms, regulations and/or processing which go into effect during the current tax year or within six months of the beginning of the next tax year and which will materially impact state revenue will be deemed grounds for the promulgation of emergency rules and regulations under Rhode Island General Laws § 42-35-2.10.

➤ The provisions described here, regarding the Tax Administrator’s authority, will sunset on December 31, 2021.

Effective: July 1, 2018
Citation: Rhode Island General Laws § 44-1-2

⁴ United States Public Law 115-97, enacted December 22, 2017.

Sales taxes

Investigation, guard, and armored car services

Investigation, guard, and armored car services are added to the list of services that are subject to Rhode Island's 7 percent sales and use tax.

Thus, as of July 1, 2018, providers of the services must register with the Division of Taxation; pay the annual \$10 sales tax permit fee; collect and remit Rhode Island sales/use tax on transactions; remit the sales/use tax to the Division of Taxation on a monthly or quarterly basis (depending on volume; the Division will advise); and file an annual reconciliation each January.

All investigation, guard, and armored car services listed under North American Industry Classification System (NAICS) umbrella code 56161 are included for purposes of the tax.⁵ The list includes, but is not limited to, the services shown in the table below.

Services subject to tax starting July 1, 2018, include the following:	
Armored car services	Background check services
Bodyguard services	Bounty hunting services
Guard dog services	Detective agencies
Guard services	Fingerprint services
Parking security services	Investigation services
Patrol services, security	Private investigators
Personal protection services	Lie detection services
Property protection services	Missing person tracing services
Protection services	Polygraph services
Protective guard services	Private detective services
Security guard services	Private investigation services
Security patrol services	Skip tracing services

Effective: July 1, 2018

Citation: Rhode Island General Laws § 44-18-7.3

⁵ The NAICS is the standard used by federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy. In general, corporations are required to list their principal business activities and their associated codes (based on the NAICS system) on their federal tax returns. The NAICS was developed under the auspices of the U.S. Office of Management and Budget, and adopted in 1997 to replace the Standard Industrial Classification (SIC) system. In general, the codes from both systems identify a firm's primary business activity.

Software as a Service (SaaS)

Vendor-hosted prewritten computer software – also known as software as a service (SaaS) – will become subject to Rhode Island’s 7 percent sales and use tax as of October 1, 2018.⁶

Thus, the sale, storage, use, or other consumption of vendor-hosted prewritten computer software will soon be subject to Rhode Island sales and use tax. The new law makes it clear that the tax will apply regardless of whether the access to the software is permanent or temporary, and regardless of whether any downloading occurs.

Under SaaS, in general, software may be licensed on a subscription basis and may be hosted at a central location – “in the cloud” (cloud computing). Examples of types of SaaS platforms are software for accounting and invoicing, human resource functions, payroll, tracking sales, planning, and performance monitoring.

‣ A taxpayer who buys office software off-the-shelf at a local store, perhaps on a compact disc, is subject to sales tax. Under the new law, a taxpayer who buys office software online and uses it online, “in the cloud”, will be subject to the tax.

‣ A taxpayer who buys tax preparation software off-the-shelf at a local store, perhaps on a compact disc, is subject to sales tax. Also, a taxpayer who buys tax preparation software via download from a website is subject to sales tax.⁷ Under the new law, a taxpayer who goes online to use a tax program to prepare his return – who prepares his return “in the cloud” – will be subject to the tax.

‣ Under the new law, the purchase of e-books, digital videos, and/or digital music products – whether by download or by stream – will continue to be tax-free.

Effective: October 1, 2018

Citation: Rhode Island General Laws § 44-18-7 and other sections

Seeds and plants

Under legislation enacted last year, the sale, storage, use, or other consumption in Rhode Island of seeds and plants used to grow food and food ingredients became exempt from Rhode Island sales and use tax, effective July 1, 2017.⁸ That legislation amended Rhode Island

⁶ For additional information on SaaS, see NIST Special Publication 500-322 – from U.S. Department of Commerce’s National Institute of Standards and Technology (NIST): <https://nvlpubs.nist.gov/nistpubs/SpecialPublications/NIST.SP.500-322.pdf>.

⁷ Under legislation enacted in 2011, the sale of prewritten computer software, including application software, delivered electronically or by load and leave, became taxable effective October 1, 2011. See Rhode Island Public Law 2011, chapter 151, article 19, §§ 23, 24, and 25, and associated regulations.

⁸ Rhode Island Public Law 2017, chapter 302, article 8, section 10.

General Laws § 44-18-30, which involves gross receipts that are exempt from sales and use taxes.

However, the 2017 legislation as enacted also inadvertently added substantially the same language as an amendment to the definition of “food and food ingredients” under Rhode Island General Laws § 44-18-7.1, which involves definitions under the Streamlined Sales and Use Tax Agreement.⁹

The new law essentially repeals last year’s amendment to the definition of “food and food ingredients” under Rhode Island General Laws § 44-18-7.1.

▷ The sale, storage, use, or other consumption in Rhode Island of seeds and plants used to grow food and food ingredients remains exempt from Rhode Island sales and use tax. In addition, the new law makes it clear that marijuana seeds and plants continue to be subject to the sales and use tax.

Effective: July 1, 2018

Citation: Rhode Island General Laws § 44-18-7.1

Kegs and alcoholic beverage producers

The new law adds the following to the list of sales and use tax exemptions under Rhode Island General Laws § 44-18-30: “Keg and barrel containers, whether returnable or not, when sold to alcoholic beverage producers who place the alcoholic beverages in the containers.”

Effective: July 1, 2018

Citation: Rhode Island General Laws § 44-18-30

Regulated investment companies

Rhode Island General Laws § 44-18-30 (“Gross receipts exempt from sales and use taxes”) lists approximately 65 categories of goods and services that are exempt from sales and use tax – including toll-free calls for certain banks and regulated investment companies (commonly known as mutual funds).

For the definition of “regulated investment company”, former law made general reference to the Internal Revenue Code (IRC). Under the new law, that general reference is replaced with a specific reference: IRC § 851, “Definition of regulated investment company.”

Effective: July 1, 2018

Citation: Rhode Island General Laws § 44-18-30

⁹ The Streamlined Sales and Use Tax Agreement, adopted by Rhode Island in 2006, is a cooperative effort of a number of states, the District of Columbia, businesses, and certain local governments to simplify and make more uniform the sales and use tax collection and administration by retailers and states.

Employer tax

The Job Development Fund, which is administered by the Rhode Island Department of Labor and Training, is used to provide job-training services, boost the competitiveness of Rhode Island businesses, and stimulate economic development. The JDF is paid for through a tax on employers, known as the Job Development Assessment (JDA), which is collected by the Division of Taxation.

The JDA is levied on employers at the rate of 0.21 percent of a certain amount of each employee's taxable wages (currently \$23,000). The JDA is deducted from an employer's total state unemployment insurance (UI) tax liability. Thus, the 0.21 percent JDA tax rate is part of an employer's overall UI tax rate.

The new law authorizes, under certain conditions, an increase in the JDA. (The JDA tax rate will change depending on how healthy the state unemployment insurance trust fund is, and how much interest that fund generates.) However, any such increase in the JDA would not increase the average employer tax per employee. For example, if the JDA were increased, approximately \$4.50 more of the average employer tax per employee would go to the JDF, while approximately \$4.50 less would go to the trust fund.

‣ *The tax rates that apply to employers under Rhode Island's UI tax, which had ranged from 0.99 percent to 9.59 percent in 2017, dropped to a range of 0.89 percent to 9.49 percent for 2018. As a result, employers -- who saved about \$30 million in the aggregate in 2017 because of a previous change -- will save about \$10 million more in the aggregate in 2018.*

‣ *For most Rhode Island employers, the taxable wage base for calculating the state's UI tax is \$23,000 for 2018, compared with \$22,400 for 2017. However, because the State of Rhode Island is using a different rate schedule for 2018 (Schedule G, instead of Schedule H), the tax rate range is lower for 2018. Thus, many employers will see an overall reduction in state unemployment insurance tax in 2018.*

‣ *Which tax 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. However, the rates in the range above already include the JDA. Should the JDA rate increase for 2019, the UI rate would, in effect, decrease. Thus, an increase in the JDA for 2019 would have no net effect on an employer from an employer tax standpoint.*

EMPLOYERS HELD HARMLESS

Even if the Job Development Assessment increases, employers would be held harmless.

That's because any increase in the Job Development Assessment that an employer pays will be offset by a corresponding reduction in the employer's Rhode Island unemployment insurance tax rate.

Effective: Upon passage

Citation: Rhode Island General Laws Chapters 28-42 and 28-43

Jobs Training Tax Credit

Under the Jobs Training Tax Credit Act, enacted in 1996, a qualifying employer is generally allowed a credit against the corporate income tax (and certain other tax types) for the qualifying expenses of offering training and/or retraining to qualifying employees.

The new law establishes a sunset retroactively: No credits shall be awarded for tax years beginning on or after January 1, 2018.

Effective: Upon passage

Citation: Rhode Island General Laws § 42-64.6-9

Miscellaneous

Film tax credit

The new law makes a number of changes to the motion picture production tax credit, also known the film tax credit. For example, the new law:

- Sets the credit amount per production at 30 percent of State-certified production costs, up from 25 percent under the former law;
- Caps the maximum credit per production at \$7 million, up from \$5 million under former law;
- Allows the Tax Administrator to waive the \$7 million per-production cap for any feature-length film or TV series (up from a cap of \$5 million under former law), up to the remaining funds available under the program for a given year;
- Continues to cap the overall program – including films and musical and theatrical productions¹⁰ – at \$15 million in the aggregate each year; and
- Bans “reality TV” shows from qualifying for credits.

‣ *The new law also makes it clear that the Rhode Island Film and Television Office is under the Rhode Island Council on the Arts, not the Department of Administration. Thus, it will be the director of the Rhode Island Council on the Arts, in consultation as needed with the Tax Administrator, who will promulgate such rules and regulations as are necessary regarding the certification of a production and any related tax credit.*

Effective: Upon passage

Citation: Rhode Island General Laws Chapter 44-31.2

¹⁰ For the musical and theatrical production tax credit, see Rhode Island General Laws Chapter 44-31.3

Tax credits: Accountability, sunset dates

The new law requires the Rhode Island Commerce Corporation to report quarterly to the House and Senate, starting January 1, 2019, summarizing details of a number of its programs, including tax credits, loans, and loan guarantees. Each such report must include any modifications, adjustments, clawbacks, reallocations, alterations or other changes, made from the close of the prior fiscal quarter, and include comparison data to certain other reports.

The new law also changes the sunset date to June 30, 2020, from December 31, 2018, for a number of tax credit, incentive, and related programs, including the following:

- The “Rebuild Rhode Island Tax Credit” program (Rhode Island General Laws Chapter 42-64.20);
- The “Rhode Island Tax Increment Financing” program (Rhode Island General Laws Chapter 42-64.21);
- The “Stay Invested in RI Wavemaker Fellowship” program (Rhode Island General Laws Chapter 42-64.26); and
- The “Rhode Island New Qualified Jobs Incentive Act 2015” (Rhode Island General Laws Chapter 44-48.3).

Effective: Upon passage

Citation: Rhode Island General Laws Chapter 42-64 (and specific citations listed above)

Hospital licensing fee

For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate is 5.856 percent of the net patient services revenue based on the hospital’s first fiscal year ending on or after January 1, 2016. (There’s a 37 percent discount for hospitals located in Washington County.) Every hospital must pay the licensing fee to the Division of Taxation on or before July 10, 2018.

Under the new law, for all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate is increased to 6.0 percent of the net patient services revenue based on the hospital’s first fiscal year ending on or after January 1, 2017. (There’s a 37 percent discount for hospitals located in Washington County.) Every hospital must pay the licensing fee to the Division of Taxation on or before July 10, 2019.

Effective: July 1, 2018

Citation: Rhode Island General Laws Chapter 23-17

Hotel tax

The new law changes the distribution formula involving revenue from the 5 percent state hotel tax. Overall, and in general, the new law increases the distribution to local tourism organizations while reducing the distribution of hotel tax revenue to the Rhode Island Commerce Corporation.

Distribution of revenue from 5% State hotel tax (For returns and tax payments received on or after July 1, 2018; does not include revenue from hosting platforms)		
<i>District:</i>	<i>Distribution under old law:</i>	<i>Distribution under new law:</i>
Aquidneck Island district	<ul style="list-style-type: none"> ▪ 42% to district ▪ 25% to city/town where hotel is located ▪ 5% to GPWCVB* ▪ 28% Commerce Corporation 	<ul style="list-style-type: none"> ▪ 45% to district ▪ 25% to city/town where hotel is located ▪ 5% to GPWCVB ▪ 25% Commerce Corporation
Providence district	<ul style="list-style-type: none"> ▪ 28% to district ▪ 25% to city/town where hotel is located ▪ 23% to GPWCVB ▪ 24% to Commerce Corporation 	<ul style="list-style-type: none"> ▪ 30% to district ▪ 25% to city/town where hotel is located ▪ 24% to GPWCVB ▪ 21% to Commerce Corporation
Warwick district	<ul style="list-style-type: none"> ▪ 28% to district ▪ 25% to city/town where hotel is located ▪ 23% to GPWCVB ▪ 24% to Commerce Corporation 	<ul style="list-style-type: none"> ▪ 30% to district ▪ 25% to city/town where hotel is located ▪ 24% to GPWCVB ▪ 21% to Commerce Corporation
Statewide district	<ul style="list-style-type: none"> ▪ 25% to city/town where hotel is located ▪ 5% to GPWCVB ▪ 70% to Commerce Corporation 	<ul style="list-style-type: none"> ▪ 25% to city/town where hotel is located ▪ 5% to GPWCVB ▪ 70% to Commerce Corporation
Other districts	<ul style="list-style-type: none"> ▪ 42% to regional tourism district where hotel located ▪ 25% to city/town where hotel located ▪ 5% to GPWCVB ▪ 28% to Commerce Corporation 	<ul style="list-style-type: none"> ▪ 45% to regional tourism district where hotel located ▪ 25% to city/town where hotel located ▪ 5% to GPWCVB ▪ 25% to Commerce Corporation
Hotels connected to Rhode Island Convention Center	<ul style="list-style-type: none"> ▪ 28% to Providence Convention Authority ▪ 12% to GPWCVB ▪ 60% to Commerce Corporation 	<ul style="list-style-type: none"> ▪ 30% to Providence Convention Authority ▪ 20% to GPWCVB ▪ 50% to Commerce Corporation
<p>* Greater Providence-Warwick Convention and Visitors Bureau Table does not include 1% local hotel tax</p>		

Effective: July 1, 2018

Citation: Rhode Island General Laws § 42-63.1-3, § 42-63.1-12

E-911

The new law changes a number of references to the E-911 emergency telephone system. For example, the title of Rhode Island General Laws § 39-1-62, formerly “E-911 Geographic Information System (GIS) and Technology Fund,” has been changed to “Geographic Information System (GIS) and Technology Fund.”

(The Division of Taxation collects a related surcharge monthly from wireless telecommunications service providers.)

Effective: July 1, 2018

Citation: Rhode Island General Laws Chapter 39-1 and related chapters



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-- Neena S. Savage, Esq.
Rhode Island Tax Administrator