

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAX PROFESSIONALS

JULY/AUGUST/SEPTEMBER 2019

## REMOTE SELLER LAW TAKES EFFECT

Rhode Island's new law involving remote sellers, such as online-only retailers, is now in full effect.

Therefore, remote sellers, marketplace facilitators, and referrers are required to register with the Rhode

Island Division of Taxation and collect and remit Rhode Island's 7% sales and use tax effective July 1, 2019, if they meet or exceed certain thresholds involving sales.

The new law "levels the playing field" -- sellers in other states that have no

physical presence in Rhode Island must now collect and remit Rhode Island sales and use tax, just as local sellers do.

The Division of Taxation has made it easy for out-of-state sellers to comply with the new law.

Out-of-state sellers may register and remit online through the Division website if they choose, or use paper forms and coupons if they prefer.

Also, Rhode Island is a member of the Streamlined Sales and Use Tax Agreement.

*(Please turn to page 2)*



## TAX-RELATED LEGISLATION IS NOW LAW

Most legislation involving Rhode Island state taxes is contained in each year's budget bill.

However, usually there are several separate bills approved in each General Assembly session that also relate to Rhode Island state taxes. Following is a summary of a few of them.

### Sale of real estate

When Rhode Island real estate is sold by a nonresident, a certain amount of tax must be withheld by the buyer, as a percentage of the total payment.

In the case of nonresident individuals, estates, partnerships, and trusts, the rate is

6%, which approximates the top personal income tax rate of 5.99%.

In the case of nonresident corporations, it was 9% -- because the corporate income tax rate used to be 9%.

*(Please turn to page 3)*

## 'SUMMARY OF LEGISLATIVE CHANGES'

The Division's publication summarizes tax changes in budget bill for FY 2020. Topics include:

- Partnership audits
- Entity-level tax
- Electronic deposits

For further information, please see page 4.

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## REMOTE SELLER LAW TAKES EFFECT (CONTINUED FROM PAGE 1)

The Streamlined agreement is intended to simplify and modernize sales and use tax administration in order to substantially reduce the burden of tax compliance (see screenshot on this page of the [Streamlined website](#)).

Out-of-state sellers may [register with the Division](#) online, or register by completing and submitting the Business Application and Registration (BAR) form, or register online through the Streamlined website.

The Streamlined option lets a remote seller register with any or all of 24 Streamlined member states all at once, including Rhode Island.

Once an out-of-state seller is registered with the Division of Taxation, the seller may pay online: Payment made online represents the sales and use tax return for the applicable period. Or the seller may file and pay using Rhode Island sales and use tax coupons. (Blank forms are on the Division's website.)

Alternatively, a seller may register with Rhode Island (and other states that are members of the Streamlined Sales and Use Tax Agreement) through the Streamlined website.

If an out-of-state seller uses a certified service provider (CSP) through Streamlined, the CSP will handle filings and payments for the seller. (Depending on the circumstances, the seller may not be

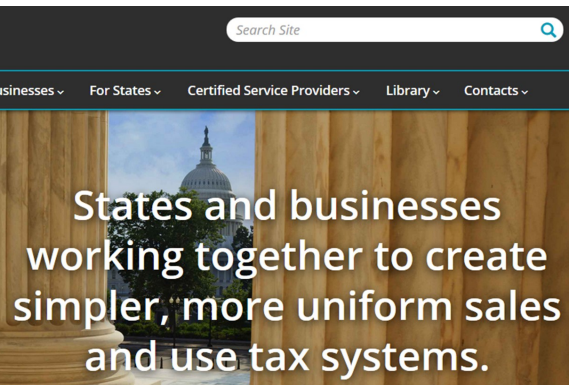
charged for the CSP's service.)

### Thresholds

The requirements of the new law apply to remote sellers with no physical presence in Rhode Island who sell products/services into Rhode Island, marketplace facilitators with no physical presence in Rhode Island who facilitate the sale of products/services into Rhode Island, and referrers with no physical presence in Rhode Island who refer the sale of products/services into Rhode Island, if:

- ◆ The remote seller, marketplace facilitator, or referrer in calendar year 2018 had gross revenue from sales into Rhode Island of \$100,000 or more, or
- ◆ The remote seller, marketplace facilitator, or referrer in calendar year 2018 had sales into Rhode Island in 200 or more separate transactions.

At one time, a state could require an out-of-state seller to collect its sales and use tax only if the retailer had a physical presence in the state.



However, in June 2018, in a case known as *South Dakota v. Wayfair, Inc., et. al.*, the U.S. Supreme Court decided that a state could require an out-of-state seller to collect and remit the state's sales and use tax even if the seller has no physical presence in the taxing state.

In response, many states have enacted laws that require out-of-state sellers with no physical presence to collect and remit state sales and use tax. Rhode Island's legislation – in the form of two identical bills, [Senate Bill 251A](#) and [House Bill 5278A](#) – was approved by the General Assembly and signed into law by Governor Gina M. Raimondo on March 29, 2019.

What if a business has a physical presence in Rhode Island? Nothing has changed; the seller must continue to be registered with the Rhode Island Division of Taxation and collect and remit Rhode Island sales and use tax.

(Local retailers: Please see page 8 for more information.)



### 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

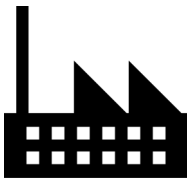
Island Division of Taxation's Special Investigation Unit, which follows up on all tips. Callers can leave their names and contact information or remain anonymous. You may also [leave your tip online](#).

## TAX-RELATED LEGISLATION IS NOW LAW (CONTINUED FROM PAGE 1)

Legislation enacted in 2014 lowered the corporate tax rate to 7% for tax years beginning on or after January 1, 2015. But the withholding tax rate was never adjusted accordingly for the sale of Rhode Island real estate by a nonresident corporation.

The new law sets, at 7%, the withholding rate on the sale of Rhode Island real estate by a nonresident corporation, so that the rate is consistent with the rate for the corporate income tax (sometimes called the business corporation tax).

The legislation was approved by the Rhode Island General Assembly and signed into law by Rhode Island Governor Gina M. Raimondo on July 15, 2019.



-- H 5189, S 134

### Musical/theatrical

In general, a tax credit under the musical and theatrical production tax credit program can now be equal to 30% of the total production and performance expenses and transportation expenses for the accredited theater production. (Under former law, the limit was 25%.)

Also, the program's sunset has been extended by five years. Under former law, in general, no credits could be

issued on or after July 1, 2019, unless the production received initial certification prior to July 1, 2019.



Under the new law, in general, no credits can be issued on or after July 1, 2024, unless the production has received initial certification prior to July 1, 2024.

The legislation was approved by the General Assembly and signed into law by Governor Raimondo on June 28, 2019.

-- S 203, H 5381

### Pawtucket districts

In general, the new law allows incremental tax revenue generated in the Pawtucket arts district, growth center district, and ballpark district to be allocated to finance improvements in the districts.

Specifically, the State of Rhode Island, through the Department of Revenue, is authorized to enter into an economic activity taxes agreement with the Pawtucket Redevelopment Agency and the City of Pawtucket for purposes of financing projects and bonding costs.

Upon execution of such an agreement, economic activity taxes must be segregated by the Division of Taxation

and deposited each month into a restricted account -- the "downtown Pawtucket redevelopment economic activity taxes fund."

(If such an agreement has not been signed by June 30, 2020, incremental tax revenue realized in the arts district, the growth center district, and the ballpark district in Pawtucket must be segregated by the Division of Taxation and deposited into the fund.)

Money from the fund may be applied to the payment of debt service on the bonds; to fund debt service reserves; to the costs of infrastructure improvements in and around the ballpark district, arts district, and growth center district; to fund future debt service on the bonds; and to fund a redevelopment revolving fund.

No later than September 30, 2019, the Department of Revenue must establish the baseline to be used in the calculation of State revenues in the economic

activity tax agreement. By that date, the Department of Revenue, in consultation with the Rhode Island Commerce Corporation, must develop a template of an economic activity tax agreement to be executed between the City of Pawtucket, the Pawtucket Redevelopment Agency, and the State.



The legislation was approved by the General Assembly and signed into law by Governor Raimondo on July 8, 2019.

-- H 6153Aaa, S 673aa

### Travel insurance

The legislation, as enacted, repeals Rhode Island General Laws Chapter 27-79 ("Limited Lines Travel Insurance Act") and establishes Rhode Island General Laws Chapter 27-79.1 ("Travel Insurance Act").



The new law creates a legal framework within which travel insurance may be sold in Rhode Island, according to a General Assembly legislative summary.

The new law makes it clear that a travel insurer must pay a gross premiums tax under Rhode Island General Laws § 44-17-2 on travel insurance premiums paid by any of the following:

- ◆ an individual primary policyholder who's a resident of Rhode Island;
- ◆ a "primary certificate holder" who's a resident of Rhode Island and who elects coverage under a group travel insurance policy; or
- ◆ a blanket travel insurance policyholder in certain circumstances.

(Please turn to next page)

## TAX-RELATED LEGISLATION IS NOW LAW (CONTINUED FROM PREVIOUS PAGE)

The legislation was approved by the General Assembly and signed into law by Governor Raimondo on June 28, 2019.

-- H 5207A, S 256A

### Historic tax credits

Under the legislation as enacted, projects that have been approved for historic preservation tax credits; that have been funded through the cultural arts and the economy grant program; and whose contract for tax credits would expire on December 31, 2019, are not subject to the provisions of Rhode

Island General Laws § 44-33.6-7 ("Timing and reapplication") and shall remain in full force and effect until December 31, 2022.

The legislation also makes it clear that the statutory sunset for the 2013 historic preservation tax credit program has been extended by one year.

Under the old law, no credits could be authorized to be reserved on or after June 30, 2019. Under the new law, no credits can be authorized to be reserved on or after June 30, 2020.

The legislation was approved by the General Assembly and became law

without the Governor's signature on July 19, 2019.

-- S 980A

### Earlier in session

Earlier in its 2019 session, the General Assembly approved two identical bills involving remote sellers and the sales and use tax.

The bills were signed into law by Governor Raimondo on March 29, 2019. (*For more information, see page 1 article on remote sellers.*)

-- S 251A, H 5278A



### Change of address, change of name

Have you changed your name or address? Don't forget to let the Rhode Island Division of Taxation know. That way, you'll be sure to receive any refunds, notices, or other mailings in your correct name and at your correct address.

Whether you're an individual, a married couple, a business, or other entity, let the Division know if you've changed your name or address (or both) by using Form RI-COI, "Change of Name or Address Form", available on the Division's website:

- [One version of the form](#) can be printed out and then filled in.
- [The other version](#) is known as a "fillable" form and can be filled in on your computer, then printed out.

## SUMMARY OF LEGISLATIVE CHANGES

The Rhode Island Division of Taxation recently posted its "Summary of Legislative Changes" publication (see screenshot below). It provides a brief look at some of the key tax changes contained in the recently enacted budget bill for the 2020 fiscal year.

Topics include the following:

- ◆ Partnership audits;
- ◆ Entity-level tax;
- ◆ Lists of licenses;
- ◆ Background checks;
- ◆ New sales tax exemptions;

◆ Electronic deposit of withholding; and

◆ A health-care coverage requirement.

The 27-page summary was recently posted on the Division's website and is available via the following link:

<https://go.usa.gov/xyu8G>



### Summary of Legislative Changes

August 5, 2019

Legislation containing the State of Rhode Island's budget for the year ending June 30, 2020 – the fiscal 2020 "budget bill" – included numerous changes involving taxes and fees administered by the Rhode Island Division of Taxation.



## NEW CHIEF APPOINTED TO LEAD PROJECT OVERSIGHT UNIT

**K**imberly Del Gallo has been promoted at the Rhode Island Division of Taxation to the rank of chief revenue agent of the Project Oversight & Analytics unit within the agency's Operations section.

She formerly served as programming services officer in the Processing unit of the Operations section.

"I am pleased to formally announce Kim's promotion," said Rhode Island Tax Administrator Neena Savage.

"She was chosen from a very strong field of candidates through a competitive process. Her education, work experience, and abilities involving our new computer system all make her an ideal candidate to lead our Project Oversight & Analytics unit," Savage said.

### Cranston native

Born and raised in Cranston, Rhode Island, and a graduate of Cranston High School West (also known as Cranston West), she studied accounting at Roger Williams University.

While at Roger Williams, she served as a student admissions assistant, leading tours for, and answering questions from, prospective students and their families.

She graduated from Roger Williams in May 2008, *summa cum laude*, with a bachelor's degree in accounting.



**Promoted:** *Kimberly Del Gallo has been promoted at the Rhode Island Division of Taxation to the rank of chief revenue agent of the Project Oversight & Analytics unit within the agency's Operations section. A native of Cranston, Rhode Island, and a graduate of Roger Williams University, she joined the Division in 2009.*

She worked at BankNewport as a teller for a brief time before joining the Division of Taxation in July 2009 as a revenue officer in the Division's Compliance & Collections section.

In 2010, she was promoted to the rank of revenue agent, working in what is now the Personal & Corporate Income Tax unit of the Tax

Assessment & Review section, as well as the Office Audit unit of the Audit & Investigation section.

It was in her second tour of duty in the unit involving the personal income tax that she took on additional duties related to the Division's new agency-wide computer system known as STAARS.

For approximately two years, through the end of 2016, she was involved in testing and preparing new phases of the system for operational use. For example, she oversaw the testing of the personal income tax and certain other tax types.

In January 2017, she was promoted to the rank of programming services officer in Processing & Customer Service. In that role, she has helped to oversee data entry, the processing of tax returns and payments, and the agency's new high-speed scanning equipment, among other things.

In a ceremony at the State House in August 2017, the Division was officially named by Rhode Island Governor Gina M. Raimondo as a recipient of the 2017 Executive Branch Employee Recognition Award for Outstanding Government Service.

Savage formally accepted the award on behalf of a Division team, including Del Gallo, which led the installation and implementation of the new computer system.

In her new role in Project Oversight & Analytics, Del Gallo will be involved in computer system testing, software deployment, and other duties.

Del Gallo is a resident of Cranston, her hometown.

## NEW STATUTES OF LIMITATION APPLY AFTER JULY 1, 2019

*The following article is a general, plain-language summary of recently enacted legislation. The article is not a substitute for Rhode Island General Laws or for Rhode Island Division of Taxation rulings, regulations, notices, or other official guidance.*

### Collections

A key part of recently enacted legislation puts a limit on when the Division of Taxation may commence a collection activity against a taxpayer.

The issue has to do with what happens when a Rhode Island state tax debt becomes final, due, and payable – in other words, once the taxpayer has exhausted all administrative and judicial remedies (such as court appeals).

Under the old law, once a tax debt became final, due, and payable, the Division could commence a collection activity against the taxpayer at any time; no outside time limit applied.

Under the new law, once a tax debt becomes final, due,

and payable, the Division will have only 10 years to commence a collection activity against the taxpayer.

After the 10-year period is up, the Division will be prohibited from commencing collection activities. (Examples of collection activities include refund offsets, wage garnishment, and blocks for the renewal of licenses and/or permits.)

This provision of the new law will provide some measure of certainty for taxpayers and tax professionals.

Keep in mind, however, that the new law took effect July 1, 2019, and applies only to State tax liabilities that became or become final, due, and payable after July 1, 2019.

The overwhelming majority of current State tax liabilities became final, due, and payable prior to July 1, 2019. For them, the old rules apply.

Also note that the following time periods do not count against the 10-year limita-



tion:

- ◆The 30-day period from the date the bill/notice is mailed to the taxpayer.
- ◆The period during which the taxpayer is in federal bankruptcy or state receivership proceedings.
- ◆The period during the taxpayer is pursuing administrative and judicial remedies, such as administrative hearings and court proceedings.

### Other key points

Following are several other key points to keep in mind on this topic:

- ◆The Division may renew a statutory lien that was or will be initially filed within the 10-year period.
- ◆The 10-year limitation does not apply to the renewal or the continuation of the State's attempt to collect a liability that became final, due, and payable within the

10-year limitation period. (Thus, for example, if a taxpayer begins paying the tax debt on an installment plan during the 10-year period, the payment plan does not stop at the end of 10 years but can continue beyond the 10-year period.)

◆The new 10-year limitation does not apply to "trust funds". Examples of trust funds include sales and use tax collected by a retailer, an employee's personal income tax withholding held by an employer, and an employee's temporary disability insurance (TDI) tax withholding held by an employer.

◆The new 10-year limitation does not apply to meals-and-beverage tax liabilities collected under Rhode Island General Laws § 44-18-18.1 ("Local meals and beverage tax").

*(Please turn to next page)*

***This provision of the new law will provide some measure of certainty for taxpayers and tax professionals.***

## NEW STATUTES OF LIMITATION (CONTINUED FROM PREVIOUS PAGE)

◆The new 10-year limitation does not apply to hotel tax liabilities collected under Rhode Island General Laws § 44-18-36.1 (“hotel tax”).

◆The 10-year limitation described in this article applies only to the following Rhode Island state taxes: sales and use tax, estate tax, personal income tax, and corporate income tax (also known as the business corporation tax).



Rhode Island State House, Providence

### Billing

Another part of the new law involves the statute of limitation on billing.

When the Division of Taxation determines that a taxpayer owes tax, the Division sends out a bill.

(The bill is technically known as a Notice of Deficiency Determination – or

“Notice of Deficiency” for short. It represents the Division’s assessment of the tax due.)

By law, the Division is allowed a certain period of time to send out the bill after the return is filed (or should have been filed).

If the Division fails to send out the bill within that peri-

od of time, the taxpayer cannot later be billed for taxes due beyond that period. (This is important to note because, in general, the Division cannot collect on a tax liability that was not billed in the first place.)

To learn more about the part of the legislation involving billing, or about other elements in the legislation,

please see the [Rhode Island General Assembly website](#).

Two identical bills were enacted, so you can read either or both on the General Assembly website.

Please see [Senate Bill 74A](#) or [House Bill 5590Aaa](#), which were approved by the General Assembly and signed into law by Governor Gina M. Raimondo on July 15, 2019.

*Taxpayers are encouraged to consult their tax advisors before attempting to apply the provisions of the new law to their particular circumstances.*

*Note: This article is a plain-language summary of certain aspects of the new law. This article is not a substitute for Rhode Island General Laws or for Rhode Island Division of Taxation rulings, regulations, notices, or other official guidance.*

## TAX NEWS ITEMS IN BRIEF

### Tax-related scam returns

Rhode Island Tax Administrator Neena Savage recently [reminded taxpayers, businesses, and tax professionals to be on guard](#) against a scam from someone who calls on the phone, claiming to be from the Rhode Island Division of Taxation.

“The caller, under false pretenses, probably wants to gain access to your home or

your office to obtain personal information, money, or both,” she said.

“If you receive this sort of call, don’t provide any information. Write down the caller’s name and contact information, if available. Then hang up and contact the appropriate agency to let them know what happened,” she said.

### Praise for Division

Rhode Island Director of Revenue Mark A. Furcolo recently [praised the work of the Rhode Island Division of Taxation and others in shutting down a multi-million-dollar tax evasion scheme](#) involving the sale of untaxed tobacco products in Massachusetts.

The successful joint investigation culminated recently

when the person charged in the case pleaded guilty in Massachusetts Superior Court to charges of tax evasion, money laundering, and conspiracy.

### Sales tax report

On May 1, 2019, the Division of Taxation posted [the latest version of its annual report about the sales tax on alcoholic beverages](#).



# LOCAL RETAILERS CAN FIND HELP THROUGH STREAMLINED

Suppose your business is based in Rhode Island. You are registered with the Rhode Island Division of Taxation and you collect and remit Rhode Island sales and use tax.

What if you make sales at retail remotely into other states, perhaps through your website? How does Rhode Island’s new law -- involving remote sellers, marketplace facilitators, and referrers -- affect you?

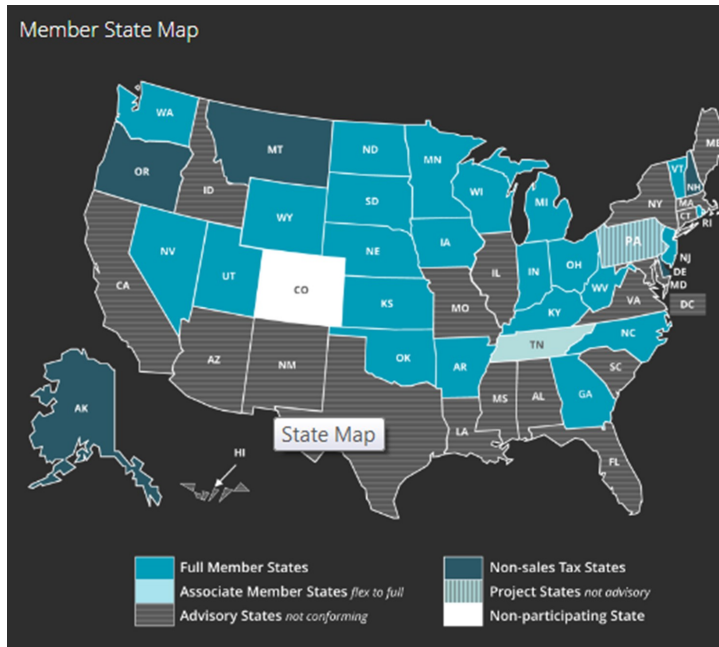
It doesn’t directly. But many other states are adopting similar laws -- and, as a result, you may be required to collect and remit sales and use taxes for those other states.

It’s the result of a U.S. Supreme Court case decided in June 2018 that overturned a long-standing physical presence requirement related to sales and use tax collection.

In its place, the court used an “economic and virtual presence” test. As a result, states are now allowed to require “remote sellers” (in other words, retailers with no physical presence in a particular state) to collect and remit that state’s sales and use tax if:

- ◆The seller meets or exceeds certain thresholds of activity (such as a minimum number of transactions or certain dollar volume of sales into the state), and

- ◆The state has enacted provi-



sions that prevent discrimination against, or undue burdens upon, interstate commerce.

Rhode Island is a member of [the 24-state Streamlined Sales Tax Governing Board](#), which has been working for nearly 20 years to make the sales and use tax systems throughout the United States simpler, more uniform, and more efficient for sellers (and states) to administer. *(The map on this page shows the Streamlined states.)*

Tools are available for you through Streamlined to help you comply with other states’ laws. To help you comply with the registration, collection, and remittance requirements you may encounter in other states, Streamlined has:

- ◆Developed a [central regis-](#)

[tration system](#) that lets you register with any or all of the 24 Streamlined states, by completing one simple online application. There is no cost to complete and submit this registration for any of the Streamlined states. Once you are registered in a state, you are expected to collect and remit the appropriate sales or use taxes for that state and file the required returns.

- ◆Entered into contracts with [certified service providers](#) (CSPs) and agreed to compensate the CSPs for the Streamlined states in which you are a “volunteer seller” to handle your sales and use tax collection, reporting, and remittance requirements. Under these contracts, the CSPs will provide the software and services necessary to set-up and integrate their tax calculation software with

your system, calculate the amount of tax due on a transaction at the time of the sale, generate and file the required sales and use tax returns for each of these states, make the required remittances to each of the states, respond to notices and audits, and protect the privacy of your information.

- ◆Completed a [taxability matrix](#) that helps determine the taxability of various categories of products in a given state.

- ◆Developed [rate and jurisdiction databases](#) that identify the state and local tax rates that apply to a given address based on the street address and ZIP code.

- ◆Adopted a [uniform Sales and Use Tax Exemption Certificate](#) that can be used to claim applicable exemptions from sales tax in the Streamlined states.

The Streamlined website includes a [chart of other state’s requirements](#), as well as other information.

*If you have questions regarding the tools available through Streamlined, please contact the [Streamlined Sales Tax Governing Board](#). If you have questions regarding a particular state’s requirements, please contact that [state](#) directly.*



## 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.*

#### Single-member LLC

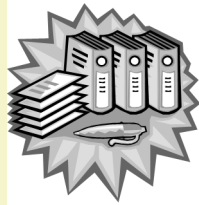
At issue in this case is whether the taxpayer -- a single-member limited liability company (LLC) -- was obligated to pay the annual filing charge for tax years 2000 through 2013.

By statute, an entity such as a partnership or LLC that's treated as a pass-through for federal tax purposes must file an annual Rhode Island return on Form RI-1065 and pay the annual charge as required under Rhode Island General Laws § 7-16-67. (The statute also refers to the charge as a "fee".)

The amount of the annual charge for any given year is the same as the annual corporate minimum tax under Rhode Island General Laws § 44-11-2(e).

For the periods in question in this case, the tax was \$250 a year until 2004, when it doubled to \$500 a year.

*(Note: The General Assembly amended the statute in 2016 to*



*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.*

*reduce the tax to \$400 for tax years beginning on or after January 1, 2017. See table on next page for additional information.)*

In this case, the taxpayer did not pay the annual charge for the years in question. The Division of Taxation issued a Notice of Deficiency, showing that the taxpayer not only owed the annual charge for all of the years in question, but also was liable for the \$100 penalty for late filing as prescribed under Rhode Island General Laws § 7-16-67.

The taxpayer requested a hearing, but did not appear at the hearing. The Division was represented by counsel, who rested on the record.

The taxpayer was organized in 2000 but did not file any returns and did not pay the annual charge for calendar years 2000 through 2013, according to the Administrative Decision.

On May 30, 2019, Hearing Officer Catherine R. Warren recommended a finding that the taxpayer owes the annual charge and the penalty as assessed by the Division. The annual charge in this case amounted to \$6,000, which includes the \$250 annual charge for the years 2000 through 2003, and the \$500 annual charge for the years 2004 through 2013. The penalty totaled \$1,400, which includes \$100 for each year of the assessment.

On May 31, 2019, Tax Administrator Neena S. Savage adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2019-02](#)

*(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 (Rhode Island General Laws § 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 (Rhode Island General Laws § 8-8-24 et seq.).

**Legal Corner**

RECENT STATE TAX CASES IN SUMMARY (CONTINUED FROM PREVIOUS PAGE)

**Single-member LLC**

This case also involves a single-member LLC, but focuses on whether the taxpayer owed the annual charge for calendar years 2000, 2001, 2003, and 2004.

The taxpayer, organized in 2000, had not filed any returns and had not paid the annual charge for the calendar years 2000, 2001, 2003, and 2004.

The Division issued a Notice of Deficiency -- for the tax, and also for the applicable \$100 penalty for each year, as prescribed under Rhode Island General Laws § 7-16-67(e).

The taxpayer requested a hearing but did not attend the hearing.

On May 30, 2019, the hearing officer recommended a



finding that the taxpayer owes the annual charge and the penalty as assessed by the Division.

The annual charge in this case amounted to \$1,250, which includes the \$250 annual charge for the years 2000, 2001, and 2003, and the \$500 annual


charge for 2004. The penalty totaled \$400, which includes \$100 for each year of the assessment. Therefore, the overall total owed was \$1,650.

On May 31, 2019, the tax administrator adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2019-03](#)

Annual corporate minimum tax	
YEAR OF ENACTMENT	AMOUNT
2016	\$400
2015	\$450
2004	\$500
1992	\$250
1977	\$100

"Year of enactment" in first column means year in which dollar amount in column two was set by the General Assembly under the "business corporation tax" at Rhode Island General Laws § 44-11-2(e). Franchise tax applied until its repeal was enacted in 2014. In general, entities treated as pass-through entities for federal tax purposes pay annual charge (annual fee) equal to tax under § 44-11-2(e).



**E-file reminder**

The Rhode Island Division of Taxation this year accepts the following returns under its electronic filing program (e-file):

- ◆ Form RI-1040
- ◆ Form RI-1040NR
- ◆ Form RI-1120C
- ◆ Form RI-1120S
- ◆ Form RI-1065

REMINDER ABOUT FORM ASSOCIATED WITH E-FILING

The Rhode Island Division of Taxation has discontinued Form RI-8453, "R.I. Individual Income Tax Declaration for Electronic Filing".

Form RI-8453 formerly was associated with an e-filed return. The form was used by a taxpayer to for-

mally give consent for the direct deposit of a refund or the electronic payment of tax. The form was not submitted to the Tax Division; a copy was kept by the taxpayer and his or her preparer.

Effective for the filing season that began in January 2013,

the form has been retired. The Rhode Island Division of Taxation will recognize the federal Form 8879, "IRS e-file Signature Authorization", or its equivalent, as a substitute. (Do not file it with the Division, but keep it on hand should the Division need to inspect it.)

**Practitioners' Corner**

**QUESTIONS AND ANSWERS ABOUT STATE TAXES**

**Q: I represent a nonprofit, tax-exempt entity in the Providence, Rhode Island, area. We host a local event each year, to which we invite participants from around the country. We pay a local hotel to put them up, and the local hotel invoices us. This year, the local hotel told us it must charge us the Rhode Island hotel and sales taxes. This has never happened before. Is the hotel correct about the tax? If we're right, what can we do about it?**

If a tax-exempt, nonprofit organization pays a hotel directly for rooms that will be used by the tax-exempt, non-

profit organization, the hotel should not collect the taxes.

This answer assumes that payment for the lodging is made directly by the nonprofit to the hotel. (If your participants are paying the hotel themselves, up front, then seeking reimbursement from you, the hotel must collect and

remit the taxes on those sales.) This answer also assumes that you have obtained from us a Rhode Island sales tax exemption certificate for an exempt organization -- and provided a copy of it to the hotel. The certificate will provide an exemption from sales and

use tax, hotel tax, and meals and beverage tax.

If the hotel has collected the taxes and shouldn't have, ask the hotel for a refund. (When seeking such refunds, don't contact the Division. Instead, contact the hotel itself.) If the hotel refuses to refund you, contact our Excise & Estate Tax unit at (401) 574-8955. The line is staffed from 8:30 a.m. to 3:30 p.m. business days. We can let the hotel know what the law is and how it works.

**Q: Is there a website that I can view that lists sales tax regulations, including new ones?**

Yes. All Rhode Island Division of Taxation regulations, including all sales and use tax regulations, are on the Rhode Island Department of State (Secretary of State) website (see screenshot on this page).

*(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's also the place to look if the Division promulgates new regulations involving sales and use tax, or amends existing regulations involving sales and use tax.

Get started by going to the Division of Taxation website: [www.tax.ri.gov](http://www.tax.ri.gov). Once there, look at the column of links on the left side of the page and click on the one labeled "Regulations". That will take you to the Department of State webpage that contains all of the Division of Taxation regulations. Click the plus sign next to Subchapter 70 to view all sales and use tax regulations.



**Q: We have a client who is stating that no Rhode Island wages or tax should calculate for Rhode Island residents who work out of state. In this scenario, the employee works in Massachusetts. I was hoping you could clarify what exactly should be happening in this scenario. It was my understanding that Rhode Island taxes all of your income no matter where you earn it.**

Under Rhode Island General Laws § 44-30-12 ("Rhode Island income of a resident individual"), the Rhode Island income of a resident individual means his or her adjusted gross income for federal in-

come tax purposes.

The wages of a Rhode Island resident who works in Massachusetts would be included in that person's federal AGI. Thus, they would automatically be included for purposes of computing that person's Rhode Island personal income tax.

However, Rhode Island does allow a credit for taxes paid to other jurisdictions, to prevent double-taxation. So any personal income tax that the person pays to Massachusetts on those wages will be taken into account for purposes of computing Rhode Island personal income tax on those wages.

As a practical matter, during filing season, the Rhode Island resident will first compute his or her Massachusetts personal income tax (as a nonresident), then will compute his or her Rhode Island personal income tax (as a resident) – and Rhode Island will give credit for the tax paid to Massachusetts.

**Q: Regarding taxpayers who are delinquent on State of Rhode Island taxes, does the Division of Taxation block the renewal of professional licenses, or just the renewal of driver's licens-**

**es and motor vehicle registrations?**

Professional licenses are included. Here's why:

Most taxpayers pay what they owe in full and on time. However, some do not. That failure to comply with the law places an unfair burden on those who do comply.

To urge tax delinquents to comply, the General Assembly approved laws over the years that authorize us to block the renewal of driver's licenses, motor vehicle registrations, and many professional licenses.

We work with other State agencies, which issue licenses, to ensure that the blocks are enforced (and promptly lifted after satisfactory payment of tax debts). The list of professional licenses is long and includes funeral directors, dentists, pipefitters, electricians, physicians, hairdressers, barbers, midwives, nurses, and EMTs, to name a few.

When it comes to license blocks, we are governed by the law, which spells out our obligations and responsibilities in this regard. For example, a person who is delinquent on taxes must be given ample notice before we block the renewal of their license(s) and has the opportunity to challenge.



*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.*





**Free File Event:** Rhode Island Tax Administrator Neena Savage (right) visited the Town of Johnston Senior Center in February to talk about the benefits of the Rhode Island Free File program. Other speakers at the event included Rhode Island General Treasurer Seth Magaziner (seated, left) and David Macklin, representing the Computer & Communications Industry Association (seated, center).

Photo Credit: Office of U.S. Rep. Jim Langevin

## RHODE ISLAND FREE FILE PROGRAM STILL AVAILABLE

Are you filing your Rhode Island personal income tax return on extension? In that case, your deadline is October 15, 2019.

One option is to use the Rhode Island Free File program, which lets you prepare your own federal and Rhode Island returns online, and e-file them, at no charge.

The Rhode Island Free File program is available only through the Rhode Island

Division of Taxation website.

Many, but not all, taxpayers qualify for the free programs. Review terms and conditions of the Rhode Island Free File program by clicking [here](#).

The free service is made possible from Free File, which is a partnership between the Internal Revenue Service, the Rhode Island Division of Taxation, a number of other states, and the Free File Alliance.

The Free File Alliance is a group of industry-leading private-sector tax preparation companies that have agreed to provide free commercial online tax preparation and electronic filing to those taxpayers who qualify.

### Thanks to partners

“We appreciate the effort and generosity of our Free File partners in making their software available online at no charge to many taxpay-

ers,” said Rhode Island Tax Administrator Neena Savage. The partners -- as shown on [the Division website](#) -- include H&R Block FreeFile, FreeTaxUSA, OnLine Taxes at OLT.com, TaxAct Free File, 1040NOW, and the TurboTax Free File Program (from Intuit).

☞ A MESSAGE FOR TAX PROFESSIONALS ☞



# HEALTH INSURANCE MANDATE

Special  
Notice

*A message for tax professionals 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 (known as “minimum essential coverage”) takes 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.



Beginning January 1, 2020, Rhode Island will require 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.

[HealthSource RI](#), the [Rhode Island Division of Taxation](#), and the [Office of the Health Insurance Commissioner](#) will be providing further details about the mandate in the months ahead.

*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

Unless otherwise indicated, all articles and photos in this issue are by the newsletter's editor, Neil Downing. If you have comments or suggestions for *Rhode Island Tax News*, please email: [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

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*The Division also thanks Hearing Officer Catherine R. Warren for her assistance, as well as Marlen Bautista, who formerly served as chief of the Division's Tax Assessment & Review section, for her assistance in this issue of the newsletter. The Division is also grateful for the assistance of the Streamlined Sales Tax Governing Board and HealthSource RI.*

*Note: Several illustrations in this issue of the newsletter are used under [Creative Commons licenses](https://creativecommons.org/licenses/).*