



## Summary of Legislative Changes

Rhode Island Department of Revenue

Division of Taxation

June 27, 2014

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*Following is a summary of tax law changes in the FY 2015 budget bill enacted June 19, 2014.*

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### Corporate income tax

The Rhode Island General Assembly has approved a far-reaching package of changes to the corporate income tax structure. The package will reduce the corporate income tax rate, repeal the franchise tax, institute combined reporting, implement single sales factor apportionment, and usher in market-based sourcing for purposes of calculating the sales factor.

The changes were part of the budget bill for fiscal year 2015 that was signed into law by Governor Lincoln D. Chafee on June 19, 2014.<sup>1</sup>

#### ■ Corporate income tax rate cut

The corporate income tax rate under Rhode Island General Laws (RIGL) § 44-11-2 will be 7 percent,<sup>2</sup> down from the current 9 percent.

The rate reduction of 2 percentage points will take effect for tax years beginning on or after January 1, 2015. For some taxpayers, the actual rate could be lower, depending on certain factors (such as the Jobs Development Act rate reduction). The annual corporate minimum tax remains at \$500.

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL 44-11

#### ■ Franchise tax repeal

The new law repeals the franchise tax, effective for tax years beginning on or after January 1, 2015.

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<sup>1</sup> House Bill H 7133 Substitute A as amended.

<sup>2</sup> Tax rate on net income as defined in RIGL § 44-11-11, qualified in RIGL § 44-11-12, and apportioned to Rhode Island as provided under RIGL §§ 44-11-13 through 44-11-15.

Under current law, at RIGL § 44-12-1 *et seq.*, the franchise tax is equal to \$2.50 per \$10,000 of a corporation's authorized capital stock. For corporations that have capital stock listing no par value, the deemed value by statute is \$100 per share. The annual minimum tax is \$500. The franchise tax generally applies to every corporation, joint-stock company, or association incorporated in Rhode Island or qualified to do business in Rhode Island (although certain corporations are exempt, mainly a number of hospitals and schools).

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 44-12

## ■ Combined reporting

Rhode Island has adopted combined reporting for corporate income tax purposes. As a result, for tax years beginning on or after January 1, 2015, a business which is organized as a C corporation – and which is part of a combined group engaged in a single business enterprise – will have to file a combined report with Rhode Island.

Under former law, for purposes of Rhode Island's corporate income tax, a corporation had to file its return as a single entity – a separate entity – taking into account its own income, no matter if the corporation was part of a broader group of corporations, under common ownership, engaged in a common business enterprise – a “unitary business.”

Under combined reporting for tax years beginning January 1, 2015, and later, a corporation will have to report on its Rhode Island return not only its own income, but also the combined income of the other corporations, or affiliates, that are under common ownership and part of a unitary business.<sup>3</sup>

Thus, a corporation will generally have to treat all of its affiliates as if they were a single company, and combine all of their taxable income in a single pool. A formula will then be used to apportion the amount of the combined income to Rhode Island for tax purposes.

The new law involving combined reporting:

- requires “water’s edge” treatment;
- mandates the “Finnigan” method for purposes of computing the sales factor in apportionment;
- includes certain tax haven language; and
- allows a combined group, if certain conditions are met, to elect to file based on its federal consolidated group. (Such an election cannot be revoked for five years.)

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Title 44

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<sup>3</sup> Certain entities generally will not be subject to combined reporting, including subchapter S corporations, partnerships, disregarded entities, banks, credit unions, insurance companies, and public service corporations. Proposed regulations will be forthcoming providing further details on combined reporting.

## ■ Combined reporting: estimated tax

For tax years beginning on or after January 1, 2015, Rhode Island will apply special rules regarding payments of estimated tax for any taxpayer required to file a combined report. To meet “safe harbor” provisions, such taxpayers will have to compute estimated payments for that tax year as follows:

- The installments must equal 100 percent of the tax due for the prior year plus any additional tax that is due to the combined reporting provisions; or
- The installments must equal 100 percent of the current year tax liability.

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Title 44

## ■ Single sales factor apportionment

For tax years beginning on or after January 1, 2015, Rhode Island will use a single factor – sales – for apportionment purposes, in lieu of the standard three-factor apportionment formula (which includes sales, payroll, and property).

The new apportionment formula – known as single sales factor apportionment – will apply to all taxpayers organized under subchapter C of the Internal Revenue Code deriving income from sources both within and outside of Rhode Island, or engaging in any activities or transactions both within and outside Rhode Island for the purpose of profit or gain.

- In general, for corporate income tax purposes,<sup>4</sup> effective for tax years beginning on or after January 1, 2015, all entities that are organized as C corporations and that are subject to tax under the Rhode Island business corporation tax (RIGL Chapter 44-11) must use single sales factor apportionment – whether or not they are part of a combined group.
- Other business entities – in other words, those not organized as C corporations, including subchapter S corporations, partnerships, and limited liability companies (LLCs) that are taxed as pass-through entities – will continue to use the standard, equal-weighted, three-factor apportionment formula.<sup>5</sup>

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 44-11

## ■ Market-based sourcing

Rhode Island will soon change how it will treat a corporation’s sale of services for purposes of corporate income tax apportionment. Under current law, in effect for tax year 2014, when a corporation calculates the sales factor for apportionment purposes, it assigns the sale of its services to the state in which the income-producing activity was actually performed – known as the cost-of-performance (COP) method. If the corporation performs activity in multiple states,

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<sup>4</sup> RIGL Chapter 44-11.

<sup>5</sup> Proposed regulations will be forthcoming providing further details on apportionment.

the corporation assigns the sale to the state in which the corporation performed a greater proportion of the activity than in any other state – based on the cost of performance. However, for tax years beginning on or after January 1, 2015, Rhode Island will use a market-based sourcing approach, which says that receipts from transactions (other than sales of tangible personal property) are sourced to the market state – that is, the state where the recipient of the service receives benefit from the service.

- For corporate income tax purposes,<sup>6</sup> effective for tax years beginning on or after January 1, 2015, market-based sourcing will apply only to business entities that are organized as C corporations – and will apply whether or not a C corporation is part of a combined group.<sup>7</sup>

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 44-11

### ■ Jobs Development Act

The new law makes clear that the corporate income tax rate reduction available to eligible corporations under RIGL § 42-64.5-3 shall also apply to each eligible corporation that files a Rhode Island income tax return as part of a combined group.

Also for tax years beginning on or after January 1, 2015, the amount of the Jobs Development Act rate reduction cannot exceed 4 percentage points. Thus, the eligible corporation's tax rate cannot be less than 3 percent as a result of the Jobs Development Act rate reduction.

In addition, for tax years beginning on or after January 1, 2015, the amount of the rate reduction under RIGL § 42-64.5-4(a) will be determined by multiplying 0.20 percent by the number of units of new employment for each taxable year (down from 0.25 percent under former law).

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 42-64.5

### ■ Life sciences rate reduction

The new law makes clear that the corporate income tax rate reduction available to eligible life sciences companies in RIGL § 42-64.14-10 shall also apply to eligible life sciences companies that file Rhode Island income tax returns as part of a combined group.

Also for tax years beginning on or after January 1, 2015, an eligible life sciences company's tax rate reduction cannot exceed 4 percentage points. Thus, the eligible life sciences company's tax rate cannot be lower than 3 percent as a result of the life sciences rate reduction.

Also for tax years beginning on or after January 1, 2015, the amount of the rate reduction will be determined by multiplying 0.20 percent by the number of units of new employment for each taxable year (down from 0.25 percent under former law).

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 42-64.14<sup>8</sup>

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<sup>6</sup> RIGL Chapter 44-11.

<sup>7</sup> Proposed regulations will be forthcoming providing further details on market-based sourcing.

<sup>8</sup> Also known as the "The I-195 Redevelopment Act of 2011."

## ■ Subchapter S corporations

Under current law, in general, a corporation is taxed under the corporate income tax system<sup>9</sup> and the franchise tax system.<sup>10</sup> The corporation pays whichever amount is highest. The minimum annual tax under the corporate income tax system is currently \$500, the same as under the franchise tax.<sup>11</sup>

Under the new law, the franchise tax has been repealed for tax years beginning on or after January 1, 2015. As a result, subchapter S corporations will be subject to the annual minimum tax under the corporate income tax statute, instead of under the franchise tax statute. In practice, however, there will be no change: an S corporation will continue to pay the annual minimum tax of \$500.

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL Chapter 44-11

## ■ Corporate tax: special appeals process

Under current law, if the Tax Administrator – on his or her own motion, or acting upon a complaint by a taxpayer – determines that the methods of apportionment provided are inequitable either to the State or to the taxpayer, the Tax Administrator, after affording the taxpayer reasonable opportunity to be heard, may apply any other method of apportionment that is equitable and, if necessary, shall re-determine the tax.

For tax years beginning on or after January 1, 2015, the Division of Taxation must establish an independent appeals process to attempt to resolve disputes between the Tax Administrator and the taxpayer with respect to the method of apportionment applied regarding the corporate income tax under RIGL Chapter 44-11.

The decision resulting from the independent appeals process shall not prohibit either party from pursuing any legal remedy otherwise available if the issue is not resolved as a result of the appeal process. The decision resulting from the independent appeals process can be used as evidence.

**Effective:** Tax years beginning on or after January 1, 2015

**Citation:** RIGL § 44-11-15

## ■ Corporate tax changes and personnel

As a result of the new law, the Division of Taxation will be implementing the most sweeping changes to the Rhode Island corporate tax structure in 67 years.<sup>12</sup> To assist the Division of Taxation in preparing for, implementing, and enforcing combined reporting and other changes to

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<sup>9</sup> RIGL Chapter 44-11.

<sup>10</sup> RIGL Chapter 44-12.

<sup>11</sup> Under certain circumstances, a subchapter S corporation might have had to pay more than the minimum under the franchise tax.

<sup>12</sup> The version of Rhode Island's corporate income tax that is in effect for 2014 was established in 1947 (see Public Laws of Rhode Island 1947, Chapter 1887).

the corporate tax, the General Assembly has authorized the Division of Taxation to add to its staff the equivalent of seven full-time employees. The budget also provides funding for related education, training, and other aid for the Division of Taxation.

**Effective:** Fiscal year 2015

**Citation:** Budget bill: H 7133Aaa

### ■ Corporate tax: Tax Administrator's report

The new law requires the Tax Administrator to develop a report analyzing the policy and fiscal ramifications of all the changes to the business corporation tax statutes outlined in Article 12 of the fiscal 2015 budget bill<sup>13</sup> – including combined reporting, single sales factor apportionment, and market-based sourcing.

The report must be based on actual tax filings of companies for a two-year period, and must include the impact based on business category, business size, and other information – using information similar to the report on *pro forma* combined reporting that the Tax Administrator filed in March 2014.

The report is due on or before March 15, 2018, to the chairs of the House Finance Committee and Senate Finance Committee, and to the House Fiscal Advisor and Senate Fiscal Advisor.

**Effective:** Report due on or before March 15, 2018

**Citation:** RIGL Chapter 44-11

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## Estate tax

The new law will, in effect, raise the Rhode Island estate tax threshold, thus shielding more estates from the tax. Under current law, for decedents dying in calendar year 2014, the threshold is \$921,655. Under the new law, for decedents dying on or after January 1, 2015, the Rhode Island estate tax threshold will be \$1.5 million.

Thus, in general, for a decedent dying in 2015, a net taxable estate valued at \$1.5 million or less will not be subject to Rhode Island's estate tax. (In certain circumstances, the Rhode Island estate tax will not apply no matter the estate's size: RIGL Chapter 44-22 provides full details on the computation of the tax, including such factors as the marital and charitable deductions.)

Technically, the new law establishes a Rhode Island credit of \$64,400, for application against the tax. That credit essentially shields \$1.5 million in assets from the tax. Starting January 1, 2016, the credit will be adjusted by the percentage of increase in the consumer price index for all urban consumers (CPI-U) determined as of September 30 of the prior calendar year. The inflation adjustment will be compounded annually and rounded up to the nearest \$5 increment.

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<sup>13</sup> House Bill 7133 Substitute A as amended.

The new law also changes the “cliff” provision. In general, prior law provided that once the estate exceeded the threshold, the entire estate was subject to tax. Under the new law, only the portion over the threshold will be subject to the tax.

**Effective:** For decedents dying on or after January 1, 2015

**Citation:** RIGL Chapter 44-22

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## Gasoline tax

Starting July 1, 2015, and every other year thereafter, the gasoline tax will be indexed to inflation. The inflation adjustment will be made based on the percentage of increase in the consumer price index for all urban consumers (CPI-U) determined as of September 30 of the prior calendar year. Each such adjustment will be rounded to the nearest one-cent increment (provided that the total tax is not less than 32 cents a gallon as listed in RIGL § 31-36-7(a)).<sup>14</sup>

**Effective:** Starting July 1, 2015

**Citation:** RIGL Chapter 31-36

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## Real estate conveyance tax

In general, the real estate conveyance tax applies when real estate changes hands.<sup>15</sup> The new law increases that tax by 30 cents, to \$2.30, for each \$500 (or fractional part thereof) which is paid for the purchase of real estate.

The increase will go to a restricted receipts account to help pay for the lead hazard abatement program, as well as a housing rental subsidy, homeless prevention assistance, and housing retention assistance. The tax was last raised in 2002, when it went to \$2.00 from \$1.40. The tax is collected and remitted by cities and towns.

**Effective:** Applies to real estate closings on or after July 1, 2014

**Citation:** Mainly RIGL Chapter 44-25

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<sup>14</sup> As of June 1, 2014, the total levy on gasoline broke down this way: a Rhode Island excise tax of 32 cents a gallon, an environmental protection regulatory fee of 1 cent a gallon, and a federal excise tax of 18.4 cents a gallon, for an overall total of 51.4 cents a gallon.

<sup>15</sup> The tax is imposed on each deed, instrument, or writing by which any lands, tenements, or other realty sold is granted, assigned, transferred, or conveyed to, or vested in, the purchaser or purchasers, or any other person or persons, by his or her or their direction, when the consideration paid exceeds \$100. See RIGL § 44-25-1 *et seq.*

## Motor vehicle registrations and tax delinquents

Rhode Island state tax delinquents will be prohibited from registering motor vehicles or transferring motor vehicle registrations.

The Rhode Island Division of Motor Vehicles (DMV) shall not register any motor vehicle, or transfer the registration of any motor vehicle, if the DMV has been advised by the Rhode Island Division of Taxation that the person is delinquent on state taxes.

In general, the person will be cleared to register a motor vehicle, or transfer registration of a motor vehicle, once the person has paid all state taxes, interest, and penalties – or enters into a *bona fide* agreement to pay in installments.

On or before October 31 of each year, and at least quarterly thereafter, the Division of Taxation must furnish the DMV with a list of the names, addresses, and Social Security numbers of those who have neglected or refused to file a Rhode Island state income tax return and/or pay state tax (and that there is no administrative or appellate review pending regarding such a tax matter).

The Division of Taxation also must provide the DMV with the names, addresses, and Social Security numbers of those whose names appear on the list but who have subsequently filed all required Rhode Island state income tax returns and paid all required taxes, interest, and penalties in full (or who have entered into *bona fide* agreements to pay what they owe in installments).

**Effective:** July 1, 2014

**Citation:** RIGL Chapter 31-3

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## Earned income credit

Eligible taxpayers may claim a federal earned income credit and a Rhode Island earned income credit.<sup>16</sup> Under current law, the Rhode Island credit is equal to 25 percent of the federal credit. Under the new law, the Rhode Island credit will equal only 10 percent of the federal credit. Also under current law, only 15 percent of the Rhode Island credit is refundable. Under the new law, the Rhode Island credit will be fully refundable.

For example, suppose that a taxpayer has a \$2,000 federal earned income credit. Suppose, too, that the taxpayer's Rhode Island tax liability is \$100.

- Under the old system, the taxpayer's Rhode Island earned income credit would be \$500. Of that, \$100 would be used to cover the Rhode Island tax liability. Fifteen percent of the remaining \$400 would be refundable, so the taxpayer would receive \$60 in pocket.
- Under the new system, effective for tax years beginning on or after January 1, 2015, the taxpayer's Rhode Island earned income credit would be \$200. Of that, \$100 would be used to cover the Rhode Island tax liability. One hundred percent of the remaining \$100 would be refundable, so the taxpayer would receive \$100 in pocket.

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<sup>16</sup> See Internal Revenue Code (IRC) § 32(a) *et seq.*, and RIGL § 44-30-2.6.

**Effective:** Tax years starting on or after January 1, 2015

**Citation:** RIGL Chapter 44-30

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## Statewide property-tax relief program (1040H)

Effective for the 2014 and later tax years, the statewide property tax relief program (Form RI-1040H) is solely for those 65 and older and/or disabled.<sup>17</sup>

When the General Assembly approved the establishment of a statewide property-tax relief program in 1977, it said that the purpose of the program was “to provide relief, through a system of tax credits and refunds and appropriations from the general fund, to elderly persons who own or rent their homes.”<sup>18</sup> The program was broadened by a 1988 law to include disabled persons (elderly or not). It was not until 1997 that the program was expanded to non-disabled people younger than 65.

The new law means that only those 65 or older, and/or disabled, will be eligible for the credit, which equals up to \$300 per household.<sup>19</sup>

**Effective:** Tax years beginning on or after January 1, 2014

**Citation:** RIGL Chapter 44-33

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## Public employee tax compliance

Public employees in Rhode Island who are delinquent on their Rhode Island state taxes will face wage garnishment. In other words, some portion of the tax delinquent’s wages will be withheld by the employer to help to pay off the person’s tax debt.

This provision of the new law applies to all state or public employees in Rhode Island – whether state government or local government employees, including elected officials, appointed officials, and employees of the State of Rhode Island or any of its political subdivisions.

So the provision extends to any office, department, board, commission, or institution of the executive, legislative, higher education, or judicial branch of State government.

It also extends to any office, department, board, commission, or institution of the executive, legislative, education, public safety, or judicial branch of any city, town, or school district with the State.

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<sup>17</sup> Under RIGL § 44-33-3(2), the term “disabled” means those persons who are receiving a Social Security disability benefit.

<sup>18</sup> See Rhode Island Public Law 1977, ch. 237, § 1

<sup>19</sup> See RIGL § 44-33-1 *et seq.*

On or before August 1, 2014, and each August 1 thereafter, State and local government agencies must provide the Division of Taxation with a list of all public employees as of the preceding July 1.

The Division of Taxation will then have until December 1 of each year to send a notice to each public employee who is not in compliance with Rhode Island income tax law. If the employee fails to pay what's owed, or fails to enter into a *bona fide* agreement to pay in installments over time, the employer will begin mandatory garnishment of the employee's wages.

**Effective:** July 1, 2014

**Citation:** RIGL Title 44

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## Use tax lookup table

A taxpayer will be able use a lookup table to report on the Rhode Island personal income tax return the amount of the taxpayer's Rhode Island use tax.<sup>20</sup>

The Division of Taxation will create the lookup table for returns covering tax year 2014 and later. Thus, the table will first appear in the instructions for the Rhode Island personal income tax form in early 2015.

If a taxpayer has no use tax to report, the taxpayer will enter a zero on the appropriate line of the return. However, if a taxpayer does owe use tax – which is often the case – the taxpayer will enter on the return either the actual amount (relying on the taxpayer's own books and records), or the amount from the lookup table.

If a taxpayer uses the lookup table, the taxpayer must list not only the amount from that table, but also the actual amount of each single purchase whose purchase price equals or exceeds \$1,000.

The use tax lookup table is for individual purchases. Business purchases subject to use tax should be entered on [Form T-205](#). Individuals will still have the option to pay use tax on Form T-205.

**Effective:** For 2014 and later tax years

**Citation:** RIGL Chapter 44-30

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<sup>20</sup> "Use tax" refers to excise tax which is imposed on the storage, use, or other consumption in this state of tangible personal property, including a motor vehicle, or a trailer, purchased from any retailer, or prewritten computer software delivered electronically or by load and leave. Any resident or nonresident individual who purchased an item delivered to Rhode Island or used in Rhode Island that is subject to the Rhode Island 7 percent sales tax for which sales tax was not paid, or less than a 7 percent sales tax was paid, is required to pay Rhode Island's 7 percent use tax. In general, the Rhode Island use tax is 7 percent of the sales price. (See RIGL § 44-18-20.) The use tax is paid directly to the State of Rhode Island by the purchaser. For example, if someone buys a computer or a piece of furniture from an out-of-state retailer and pays no Rhode Island sales tax, that person must pay the 7 percent Rhode Island use tax. (The use tax applies in such a situation because the computer or piece of furniture was not subject to a sales tax in the other state and because it is for use in Rhode Island.) In general, all states that levy a sales tax also have a use tax.

## Liquor stores – sales tax exemption

Legislation enacted on July 3, 2013, temporarily exempted -- from Rhode Island sales and use tax -- wine and spirits sold at package stores and liquor stores ("Class A" licensees under RIGL Title 3).

The exemption was for a 16-month period – from December 1, 2013, through March 31, 2015.

The new law extends the exemption for three months, through June 30, 2015. Thus, the exemption will remain in place for all of fiscal year 2015.

(Beer and other malt beverages will continue to be subject to the sales and use tax.)

**Effective:** Exemption extended through June 30, 2015

**Citation:** RIGL Chapter 44-18

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## Alcoholic beverages excise tax

Legislation enacted on July 3, 2013, temporarily increased excise taxes on a number of categories of alcoholic beverages – effective July 1, 2013, through March 31, 2015.

Among the categories affected by the increase were malt beverages (including beer), a number of still wines, and spirits such as whiskey, gin, rum, and brandy containing alcohol measuring more than 30 proof. (The excise tax applied to manufacturers; wholesalers/distributors paid a fee equal to the tax.)

Under the new law, the increases are extended through June 30, 2015. As of July 1, 2015, the excise taxes return to their former levels. (Please see table below.)

Excise tax per gallon on wholesalers/distributors and manufacturers		
	Current tax rate (took effect July 1, 2013)	Future tax rate (effective July 1, 2015)
Still wines	\$ 1.40	\$ 0.60
Still wines (Rhode Island fruit)	0.30	0.30
Sparkling wines	0.75	0.75
Whiskey, other distilled spirits	5.40	3.75
Low proof distilled spirits	1.10	1.10
Ethyl alcohol (for beverage purposes)	7.50	7.50
Ethyl alcohol (for non-beverage use)	0.08	0.08
Malt beverages, including beer	3.30	3.00

- All taxes are per gallon, except tax on malt beverages, which is per barrel (a barrel equals 31 gallons).
- Starting July 1, 2015, some taxes will remain as they were, while others will drop.
- "Low proof" spirits contain alcohol measuring 30 proof or less.
- Tax applies to manufacturers; wholesalers/distributors pay fee equal to applicable tax rate.
- Beer brewed in-state and meeting certain other conditions may qualify for limited tax exemption.

**Effective:** Current tax rate extended through June 30, 2015

**Citation:** RIGL Chapter 3-10

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## Zappers

The new law outlaws automated sales suppression devices, sometimes called zappers. In general, a zapper is a software program that is often carried on a memory stick or CD, or accessed through an Internet link that is then installed onto an electronic cash register or point-of-sale system.

Zappers may also be installed through phantom-ware software, a hidden programming option embedded into the operating system of an electronic cash register. The program manipulates transaction records, allowing businesses to underreport the amount of sales collected for the purposes of avoiding sales or individual taxes.

The new law forbids anyone to sell, buy, install, transfer, or possess an automated sales suppression device or phantom-ware. Anyone who violates the law will be guilty of a felony and, upon conviction, will be subject to a fine of up to \$50,000, or imprisonment for up to five years, or both.

A person convicted under the law will also be liable to the State for all taxes, interest, and penalties relating to the person's use of such a device or program, and will also have to disgorge all associated profits.

But the new law also provides a "safe harbor" provision: If, by October 1, 2014, someone notifies the Division of Taxation of his or her possession of such a device or program, provides the agency with all related information that the agency requires, corrects any underreported sales tax records, and fully pays any amounts previously owed, the person will not be subject to prosecution under the anti-zapper law.

**Effective:** July 1, 2014

**Citation:** RIGL Chapter 44-19

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## Underground economy; employee misclassification

A task force will be established to coordinate joint efforts to combat the underground economy and employee misclassification.<sup>21</sup> The task force will:

- foster voluntary compliance with the law by educating business owners and employees about applicable requirements;
- protect the health, safety, and benefit rights of workers; and
- restore competitive equality for law-abiding businesses.

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<sup>21</sup> Business owners must correctly determine whether individuals who provide services are employees or independent contractors. The term "employee misclassification" typically refers to workers who should be classified as employees but are instead improperly classified as independent contractors. In general, an employer that classifies a worker as an independent contractor, but who has no reasonable basis for doing so, may be held liable for federal and state employment taxes.

The task force will facilitate timely sharing of information among task force members, including the establishment of protocols by which participating agencies will advise or refer to other agencies matters of potential interest.

The task force must submit a report – to the Governor and to the chairs of the House Finance Committee and Senate Finance Committee –summarizing the task force’s activities during each preceding calendar year.

The first such report is due on or before March 15, 2015. An annual report must be submitted on or before March 15 of each year thereafter. The report must:

- describe the task force’s efforts and accomplishments during the year;
- identify any administrative or legal barriers impeding the most effective operation of the task force, including any barriers to information sharing or joint action; and
- propose appropriate administrative, legislative, or regulatory changes to strengthen the task force’s operations and reduce or eliminate any barriers to those efforts.

The task force will include the Tax Administrator, the director of the Department of Labor and Training (DLT), the director of the Department of Business Regulation, the head of the DLT’s Workforce Regulation and Safety Division, the Attorney General, the Commissioner of the State Department of Public Safety, and the chief judge of the Workers’ Compensation Court, or their designees. The task force will be chaired by the DLT director.

In establishing the task force, the General Assembly said that the state’s economy, its workers, and its businesses are harmed by the existence of an illegal underground economy “in which individuals and businesses conceal their activities from government licensing, regulatory, and taxing authorities.”

The General Assembly found that the underground economy – and, in particular, the practice of employee misclassification:

- exploits vulnerable workers and deprives them of legal benefits and protections;
- gives unlawful businesses an unfair competitive advantage over lawful businesses by illegally driving down violators’ taxes, wages, and other overhead costs;
- defrauds the government of substantial tax revenues; and
- harms consumers who suffer at the hands of unlicensed businesses that fail to maintain minimum levels of skills and knowledge.

**Effective:** Upon passage

**Citation:** RIGL Title 42

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## **Employer tax – job development assessment**

In 2011, the state’s job development assessment, which is paid by employers, increased to 0.51 percent of an employer’s taxable payroll, from 0.21 percent.

The difference – of 0.3 percentage point – went to pay the interest on federal loans and to help repay borrowings from the federal government. (Proceeds of the loans had been used to cover benefit payments to the unemployed.)

The new law makes clear that the 0.3 percent additional assessment will end on December 31, 2014, dropping the job development assessment to its pre-2011 level of 0.21 percent.

**Effective:** Additional assessment ends on December 31, 2014

**Citation:** RIGL Chapter 28-43

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### **Hospital licensing fee**

For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate will be 5.418 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2012. (The rate was formerly 5.246 percent.) The license fee for all hospitals located in Washington County, Rhode Island, is discounted by 37 percent. Every hospital must pay the licensing fee to the Division of Taxation on or before July 14, 2014.

For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate will be 5.703 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2013. The license fee for all hospitals located in Washington County, Rhode Island, is discounted by 37 percent. Every hospital must pay the licensing fee to the Division of Taxation on or before July 13, 2015.

**Effective:** Upon passage

**Citation:** RIGL Chapter 23-17

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### **Healthcare services funding plan**

In general, each insurer will be required to pay a "healthcare services funding contribution" for each insured individual. Starting January 1, 2016, the Rhode Island Secretary of Health and Human Services will set the healthcare services funding contribution each fiscal year. In general, the contribution will be equal to the cost of the Department of Health's child immunization and adult immunization programs, as well as a children's health services program under the state Department of Human Services, divided by the number of insured individuals. The Rhode Island Secretary of Health and Human Services may request the Division of Taxation or any other agency to assist in the collection of delinquencies, with interest, in the same manner and with the same powers as are prescribed for the collection of taxes under RIGL Title 44.

**Effective:** January 1, 2016

**Citation:** RIGL Title 42

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-- David M. Sullivan  
Rhode Island Tax Administrator