

Summary of Legislative Changes

July 11, 2016

Following is a summary of tax law changes in the FY 2017 budget bill enacted June 24, 2016.¹

Business taxes

State unemployment insurance tax: reduction

Rhode Island employers in the aggregate will save money through lower Rhode Island unemployment insurance taxes starting January 1, 2017. It is the result of a fiscal 2017 budget proposal by Governor Gina M. Raimondo, which was approved by the General Assembly and signed into law on June 24.

The amount of state unemployment insurance tax that a particular employer pays depends on several factors, including the number of its employees, the taxable wage base, and the tax rate that's assigned to that particular employer.

Rhode Island has a system of nine unemployment insurance tax schedules, each named for a letter of the alphabet (A through I). Which tax schedule is in effect for any given calendar year depends, in part, on the level of reserves in Rhode Island's unemployment insurance trust fund.

The new law reduces the level of reserves that the trust fund must have before Rhode Island can move to a lower tax schedule. In general, the greater the amount available in the fund to pay unemployment benefits, the more generous the tax rate schedule can be.

Rhode Island has been on Schedule I – the highest tax rate schedule – since 1992. However, as a result of the new law, it is expected that the level of reserves in the unemployment insurance trust fund will be sufficient as of September 30, 2016, to allow Rhode Island to move to a lower tax schedule starting January 1, 2017 (preliminary plans are to use Schedule H).

¹ This publication is an informal summary of recently enacted legislation (House Bill 7454 Aaa) 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.

Tax rates, which now range from 1.69% to 9.79%, are to drop to a range of 0.99% to 9.59%, starting January 1, 2017. As a result, it is estimated that employers, in the aggregate, will save approximately \$30 million in 2017.

› *Employers are to receive a mailing in December 2016 to let them know about their new tax rate, which will apply beginning with the first quarter of 2017. First-quarter tax bills, reflecting the new tax rates, will be due on or before May 1, 2017.*

Effective: Employer tax rate reductions to take effect January 1, 2017

Citation: RIGL § 28-43-8

Annual corporate minimum tax: 11% reduction

The annual corporate minimum tax, now \$450, will drop by \$50, or 11.11 percent, to \$400, effective for tax years beginning on or after January 1, 2017.

The tax, under Rhode Island General Laws (RIGL) § 44-11-2(e), had been set at \$500 since 2004. However, under legislation approved by the General Assembly in June 2015, the tax dropped to \$450, for tax years beginning on or after January 1, 2016. Under the new law, for tax years beginning on or after January 1, 2017, the tax will be \$400.

Subchapter S corporations became subject to the annual minimum tax under RIGL § 44-11-2(e) effective for tax years beginning on or after January 1, 2015. Because the annual minimum tax under RIGL § 44-11-2(e) will be reduced to \$400, subchapter S corporations will also see a reduction, to \$400, for their annual minimum tax, effective for tax years beginning on or after January 1, 2017.

› *The annual corporate minimum tax has now been reduced in two consecutive legislative sessions, by a total of \$100, or 20 percent, per entity.*

Annual corporate minimum tax			
	2015	2016	2017
Tax per entity	\$500	\$450	\$400
<small>Reduction as shown for 2016 applies for tax years beginning on or after January 1, 2016, but before January 1, 2017. Reduction as shown for 2017 applies for tax years beginning on or after January 1, 2017.</small>			

Effective: Latest reduction applies for tax years beginning on or after January 1, 2017

Citation: RIGL § 44-11-2(e)

Annual filing charge: 11% reduction

The annual filing fee, or filing charge, which applies to entities treated as pass-through entities for federal tax purposes, is now \$450. It will drop by \$50, or 11.11 percent, to \$400, effective for tax years beginning on or after January 1, 2017.

The annual filing fee is tied to the annual corporate minimum tax under RIGL § 44-11-2(e). As a result, it had been set at \$500, but under legislation approved by the General Assembly in June 2015, the fee dropped to \$450, for tax years beginning on or after January 1, 2016. Under the

new law, for tax years beginning on or after January 1, 2017, the charge will be \$400. The reduction will apply to:

- limited partnerships;
- limited liability partnerships;
- limited liability companies; and
- single-member limited liability companies.

› *The annual filing charge has now been reduced in two consecutive legislative sessions, by a total of \$100, or 20 percent, per entity.*

Annual filing charge for partnerships, LLCs			
	2015	2016	2017
Charge per entity	\$500	\$450	\$400
<small>Filing charge applies to entities treated as pass-through entities for federal tax purposes. Reduction in filing charge (filing fee) for 2016, as shown above, applies for tax years beginning on or after January 1, 2016, but before January 1, 2017. Reduction shown for 2017 applies for tax years beginning on or after January 1, 2017.</small>			

Effective: Reduction applies for tax years beginning on or after January 1, 2017

Citation: RIGL § 44-11-2(e)

Business filing deadlines

The Rhode Island filing deadlines for corporations and pass-through entities will be the same as the federal deadlines for tax years beginning on or after January 1, 2016. Thus, most preparers will first encounter the new Rhode Island deadlines during the 2017 filing season (which begins in approximately six months).

Legislation (Public Law 114-41) approved by Congress and signed into law by President Barack H. Obama on July 31, 2015, changed the original due dates for C corporations and partnerships.

In general, the original federal due date for a C corporation is now 3 ½ months after the close of the tax year. Thus, the federal deadline for a calendar-year C corporation is mid-April, which is one month *later* than under prior law.

The original federal due date for a partnership is now 2 ½ months after the close of the entity's tax year. Thus, the federal deadline for a calendar-year partnership is now mid-March, which is one month *earlier* than under prior law.

The new federal filing dates generally apply for federal returns filed for tax years beginning after December 31, 2015. The Rhode Island General Assembly, in passing the budget bill, has conformed Rhode Island filing deadlines to the new federal filing deadlines.

Following are some highlights:

- The original Rhode Island due date for a calendar-year C corporation, filing on Form RI-1120C, will be mid-April, instead of mid-March under former law.

- The original Rhode Island due date for a calendar-year entity treated as a partnership for federal tax purposes, filing on Form RI-1065, will be mid-March, instead of mid-April under former law.
- The original Rhode Island due date for a calendar-year limited liability company (LLC) treated as a pass-through entity for federal tax purposes, filing on Form RI-1065, will be mid-March, instead of mid-April under former law.
- The original Rhode Island due date for a calendar-year subchapter S corporation, filing on Form RI-1120S, will continue to be mid-March, the same as under former law.

Selected Rhode Island filing deadlines (for calendar-year filers)		
Tax/entity type	Old deadline	New deadline
C corporation <small>(including those subject to business corporation tax, public service corporation tax, taxation of banks, and taxation of insurance companies)</small>	March 15	April 15
Partnership <small>(including LP, LLP)</small>	April 15	March 15
Limited liability company (LLC) <small>(including single-member LLCs)</small>	April 15	March 15
S corporation	March 15	March 15

Dates are for calendar-year filers, for tax years beginning on or after January 1, 2016, and do not take into account the impact of weekends or holidays, including Emancipation Day. Deadlines for C corporations include those taxed under Rhode Island's corporate income tax, public service tax, bank tax, and insurance tax, and also entities subject to mandatory unitary combined reporting. Deadlines listed above for partnerships, LLCs, and S corps assume that they are treated as pass-through entities for federal tax purposes.

▪ **ESTIMATED PAYMENTS:**

The new Rhode Island law does not change the deadlines for, or the formulas for computing, estimated payments. Those deadlines remain the same as under former law.

▪ **EXTENSIONS:**

The Division of Taxation is examining its 2017 schedule of extended due dates and will advise practitioners about any changes as the filing season draws near.

▪ **INSURANCE GROSS PREMIUMS, SURPLUS LINES:**

For entities subject to the insurance gross premiums tax, the original due date for the annual return is now mid-April; the old March 1 deadline no longer applies. However, the deadline has not changed for tax returns from surplus lines brokers/licensees: they will continue to be due to the Division of Taxation on or before April 1.

▪ **MORE INFORMATION:**

Expanded tables, showing filing deadlines for a number of different business entities and different fiscal years, will be included in the Division of Taxation's quarterly newsletter, *Rhode Island Tax News*, to be posted later this month.

Effective: For tax years beginning on or after January 1, 2016
Citation: H 7454Aaa

Sales tax: ride-sharing companies

Transportation network companies – sometimes called ride-sharing, ridesharing, ride-sourcing, or ridesourcing companies – are added to the statutory list of services that are subject to Rhode Island’s 7 percent sales and use tax, effective July 1, 2016.

A “transportation network company” means an entity that uses a digital network to connect transportation network company riders to transportation network operators who provide prearranged rides.

The new law makes clear that any transportation network company operating in Rhode Island is a retailer as provided in RIGL § 44-18-15 and is required to:

- file a business application and registration form with the Division of Taxation;
- obtain a permit from the Division of Taxation to make sales at retail; and
- charge, collect, and remit sales and use tax to the Division of Taxation.

Effective: July 1, 2016
Citation: RIGL § 44-18-7.3

“Rebuild Rhode Island” tax credit

This program, enacted in 2015, generally offers tax credits for certain developments that have a financing gap. The credit cannot exceed \$15 million for any qualified development project. Also, no building or qualified development project to be completed in phases or in multiple projects can exceed the \$15 million cap for all phases or projects involved.

Under the new law, an exception to certain program limitations will be allowed – no more than once in a given fiscal year – to the development of land and buildings by developers and tenants on the former Route I-195 land in Providence. Also, the new law caps, at \$150 million, the aggregate sum of credits that can be issued under the overall program.

The new law gives the Commerce Corporation the right to make a loan – or an equity investment – as an alternative incentive in lieu of the provision of tax credits.

Effective: Upon passage
Citation: H 7454Aaa

Film tax credit

The motion picture production tax credit program (also known as the film tax credit program), formerly scheduled to sunset in 2019, is now extended by two years, through June 30, 2021.

Thus, no film tax credits can be issued on or after July 1, 2021, unless the production has received initial certification under RIGL § 44-31.2-6(a) prior to July 1, 2021.

Effective: July 1, 2016
Citation: RIGL § 44-31.2-11

Historic tax credits

The 2013 historic preservation tax credit program, formerly scheduled to sunset in 2016, is now extended by one year, to June 30, 2017.

Thus, no credits can be authorized to be reserved on or after June 30, 2017, or upon the exhaustion of the maximum aggregate credits, whichever comes first.

Effective: July 1, 2016
Citation: RIGL § 44-33.6-11

Transfer pricing; nexus

The budget authorizes two new revenue-enhancing initiatives for the Division of Taxation:

▪ TRANSFER PRICING:

In general, the term “transfer price” refers to the price which is charged between related parties, such as a parent company and a subsidiary, for a product or a service. Tax agencies typically look to see whether transactions involving transfer prices are done at arm’s length and accurately reflect income (instead of providing for a shifting of income with the goal of avoiding tax). The Division of Taxation plans to identify, as candidates for audit, certain entities that have intercompany transactions between related companies.

Prior to Rhode Island’s implementation of mandatory unitary combined reporting for tax years beginning on or after January 1, 2015, companies generally could shift revenues between related entities to avoid taxation in certain states. The Division’s audit program will have a three-year lookback period to capture underpaid or unpaid taxes with regard to transfer pricing.

Also, although combined reporting is now in effect, a corporation still may have intercompany transactions with an entity which, for a variety of reasons, is not part of the combined group for purposes of Rhode Island’s combined reporting regime.

▪ NEXUS PROGRAM:

The Division of Taxation expects to identify and register out-of-state entities that legally do business in Rhode Island, but have not paid appropriate corporate, withholding, and/or sales and use taxes. Establishing nexus generally means that a business has sufficient connection or presence in Rhode Island for the State to have taxing authority. To help implement its nexus program, the Division intends to rely, in part, on its new regulation on nexus for corporate income tax purposes. The effective date of Regulation CT 15-02, “Business Corporation Tax: Corporate Nexus,” was January 12, 2016.

Effective: H 7454Aaa
Citation: July 1, 2016

Distillery annual fee (“Manufacturer’s license”)

Under RIGL Chapter 3-6, “Manufacturing and Wholesale Licenses,” a manufacturer’s license authorizes the holder to establish and operate a brewery, distillery, or winery at the place described in the license for the manufacture of beverages within Rhode Island.

For a distillery, the annual fee for the license was \$3,000. Under the new law, the annual license fee remains at \$3,000 for a distillery producing more than 50,000 gallons a year, but is \$500 for a distillery producing less than or equal to 50,000 gallons per year.

Effective: July 1, 2016

Citation: RIGL § 3-6-1

Alcoholic beverages excise tax

RIGL § 3-10-1 sets forth tax rates on alcoholic beverages. The taxes apply to manufacturers; wholesalers/distributors pay a fee equal to the applicable tax rate

Under the statute, a brewer that brews beer in Rhode Island and that is actively and directly owned, managed, and operated by an authorized legal entity that has owned, managed, and operated a brewery in Rhode Island for at least 12 consecutive months receives a tax exemption on the first 100,000 barrels of beer that it produces and distributes in Rhode Island in any calendar year.

The new law provides a similar tax break for distillers. Under the new provision, a distiller that distills spirits in Rhode Island and that is actively and directly owned, managed, and operated by an authorized legal entity that has owned, managed, and operated a distillery in Rhode Island for at least 12 consecutive months will receive a tax exemption on the first 50,000 gallons of distilled spirits that it produces and distributes in Rhode Island in any calendar year.

Effective: July 1, 2016

Citation: RIGL § 3-10-1

Personal income tax

Tax break for pension/annuity income

The calculation of Rhode Island’s personal income tax begins with your federal adjusted gross income (AGI). Under the new law, for tax years beginning on or after January 1, 2017, you will be allowed a modification for up to \$15,000 of taxable pension and/or annuity income that is included in your federal AGI for the taxable year.

In other words, if your federal AGI includes taxable pension and/or annuity income, up to \$15,000 of that income will escape Rhode Island’s personal income tax, assuming that you meet the requirements of the new provision.

Thus, assuming that you are in the 3.75 percent Rhode Island personal income tax bracket, the provision could result in annual Rhode Island tax savings of up to approximately \$563. (The example does not take into account other factors that could affect your Rhode Island tax, such as other modifications that could decrease or increase income; the Rhode Island standard deduction; personal exemptions; tax credits; and use tax.)

To qualify for Rhode Island’s new modification regarding taxable pension and/or annuity income, you must clear three main hurdles:

- At least some of your pension and/or annuity income must be taxed at the federal level;
- You must have reached “full retirement age” based on Social Security Administration rules; and
- Your federal adjusted gross income must be below a certain amount (see table below).

Income threshold	
<i>You may qualify for the modification if your income falls below a certain amount . . .</i>	
You file your return as:	Your federal AGI is:
▪ single, head of household, or married filing separately	Less than \$80,000
▪ married filing jointly, or qualifying widow, or qualifying widower	Less than \$100,000
Note: First column refers to filing status on your Rhode Island personal income tax return. For a married couple filing a joint Rhode Island return, income threshold applies to couple’s combined federal adjusted gross income (AGI). Income thresholds will be adjusted annually for inflation for tax years beginning on or after January 1, 2018. Filing status on your Rhode Island return must be the same as filing status on your federal return.	

Effective: For tax years beginning on or after January 1, 2017
Citation: RIGL § 44-30-12

Earned income credit

The earned income credit, or EIC, is a special tax break for the working poor. It is available under federal and Rhode Island law. It is sometimes referred to as the earned income tax credit, or EITC. Eligible taxpayers may claim a federal earned income credit and a Rhode Island earned income credit.

For tax year 2015, the Rhode Island credit was 10 percent of the federal credit, and was fully refundable. For tax year 2016, the Rhode Island credit is 12.5 percent of the federal credit, and is fully refundable.

For tax years beginning on or after January 1, 2017, the Rhode Island credit will increase to 15 percent of the federal credit. (The refundable portion will continue to be 100 percent of the amount by which the Rhode Island earned income credit exceeds the Rhode Island income tax.)

Rhode Island earned income credit: % of federal credit			
Tax year:	2015	2016	2017
Percentage of federal EIC:	10%	12.5%	15%
Rhode Island credit is fully refundable for each year shown.			

Effective: For tax years beginning on or after January 1, 2017

Citation: RIGL § 44-30-2.6

Miscellaneous tax matters

Hospital licensing fee

For all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate is 5.862 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2014. (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 11, 2016.

Under the new law, for all hospitals except those located in Washington County, Rhode Island, the hospital licensing fee rate is 5.652 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2015. (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, 2017.

Effective: July 1, 2016

Citation: RIGL § 23-17-38.1.

Offsets for cities and towns

Under existing statute -- RIGL § 45-13-12, "Distressed communities relief fund" -- a fund is available to provide state assistance to those cities and towns which have the highest property tax burdens relative to the wealth of taxpayers.

Under the new law, in a section titled, "Mandatory Participation for Collection of Debts," once a community is determined to be a distressed community, it will have three months to notify the Tax Administrator to allow the Tax Administrator to collect outstanding liabilities owed to that community (including refund offsets, as provided under RIGL § 42-142-7, "Collections of debts"). The Rhode Island Division of Municipal Finance will determine which liabilities will be subject to collection by the Tax Administrator.

Effective: Upon passage

Citation: RIGL § 45-13-12

Proceeds from fuel use tax

All money collected from the fuel use tax on motor carriers under RIGL Chapter 31-36.1, which formerly went to the general fund, must – under the new law – go instead to the State’s Intermodal Surface Transportation Fund under RIGL § 31-36-20.

Effective: July 1, 2016
Citation: RIGL § 31-36.1-18

Proceeds from hotel tax

For fiscal year 2017 only, proceeds of the hotel tax – but not the portion of the hotel tax collected from residential units offered for tourist or transient use through a hosting platform – must be distributed in accordance with the distribution percentages established in RIGL § 42-63.1-3(a)(1) through § 42-63.1-3(a)(3) by the Division of Taxation and the City of Newport.

The provision applies for returns and tax payments received on or after July 1, 2016, and on or before June 30, 2017, except as provided in RIGL § 42-63.1-12, “Distribution of tax to Rhode Island Convention Center Authority.”

Effective: Upon passage
Citation: RIGL § 42-63.1-3



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