

State of Rhode Island and Providence Plantations
Rhode Island Department of Revenue
Division of Taxation

Public Notice of Proposed Rule-Making

Pursuant to the provisions of 42-35-3(a)(1) of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Division of Taxation hereby gives notice of its intent to issue a regulation regarding limited liability partnerships and limited partnerships.

The purpose of this regulation is to implement Rhode Island General Laws (RIGL) §§ 7-12-60 and 7-13-69, which imposes on Limited Liability Partnerships and Limited Partnerships a filing requirement and an annual charge equal to the minimum tax imposed upon a corporation under RIGL § 44-11-2(e) and the filing requirements of their partners. This regulation shall take effect July 1, 2012.

The proposed regulation and concise summary of non-technical requirements and proposed new rules are available for public inspection at www.tax.ri.gov, in person at The Rhode Island Division of Taxation, or requested by e-mail at mcanole@tax.ri.gov or by calling Michael Canole at (401) 574-8729.

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) whether the regulation, in and of itself, would have significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by May 15, 2012 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail at mcanole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on May 15, 2012 at the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing to Michael Canole at Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling 401 574-8729.

Rhode Island Department of Revenue

Division of Taxation

Concise Summary of ALL Non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) for Rules and Regulation regarding Limited Liability Partnerships and Limited Partnerships: CT 12-16

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This regulation shall take effect July 1, 2012.

State of Rhode Island - Division of Taxation

Business Corporation Tax

Limited Liability Partnerships and Limited Partnerships

Regulation CT 12-16

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RULE 1. PURPOSE

The purpose of these rules and regulations is to implement Rhode Island General Laws (RIGL) §§ 7-12-60 and 7-13-69 , which imposes on Limited Liability Partnerships and Limited Partnerships a filing requirement and an annual charge equal to the minimum tax imposed upon a corporation under RIGL § 44-11-2(e) and the filing requirements of their partners.

RULE 2. AUTHORITY

These rules and regulations are promulgated pursuant to RIGL §44-1-4. The rules and regulations have been prepared in accordance with the requirements of RIGL §§42-35-1 et. seq. of the Rhode Island Administrative Procedures Act.

RULE 3. APPLICATION

These rules and regulations shall be liberally construed so as to permit the Division of Taxation to effectuate the purpose of RIGL §§7-12-60 and 7-13-69 and other applicable state laws and regulations.

RULE 4. SEVERABILITY

If any provision of these rules and regulations, or the application thereof to any person or circumstances, is held invalid by a court of competent jurisdiction, the validity of the remainder of the rules and regulations shall not be affected thereby.

RULE 5. FILING OF RETURNS

A. Every limited liability partnership (LLP) and limited partnership (LP) which has elected to be treated as a corporation for federal income tax purposes shall for Rhode Island purposes be subject to the Rhode Island corporate income tax and file a Form RI-1120C with the Division of Taxation annually as follows:

1. If the tax year of the LLP or LP is a calendar year filer, the return shall be filed on or before the fifteenth day of March in the year following the close of the calendar year.
2. If the tax year of the LLP or LP is a fiscal year filer, the return shall be filed on or before the fifteenth day of the third month following the close of the fiscal year.

B. Every LLP and LP which has not elected to be treated as a corporation for federal income tax purposes shall file Form RI-1065 with the Division of Taxation annually as follows:

1. If the tax year of the LLP or LP is a calendar year, the return shall be filed on or before the fifteenth day of April in the year following the close of the calendar year.
2. If the tax year of the LLP or LP is fiscal year, the return shall be filed on or before the fifteenth day of the fourth month following the close of the fiscal year.

C. When filing the annual return the LLP or LP shall attach a copy of their federal Form 1065 or federal *pro forma* return for that fiscal or calendar year.

RULE 6. ANNUAL CHARGE

An annual charge shall be due upon the filing of the LLP's and LP's return with the Division of Taxation. The annual charge shall be a fee in an amount equal to the minimum tax imposed upon a corporation under RIGL §44-11-2(e).

RULE 7. FILING REQUIREMENTS FOR PARTNERS

If a domestic or foreign LLP or LP is not treated as a corporation for federal income tax purposes, any partner of the LLP or LP during any part of the entity's taxable year shall file a Rhode Island income tax return and shall include in Rhode Island gross income that portion of the LLP's or LP's Rhode Island income allocable to such partner.

RULE 8. PASS-THROUGH WITHHOLDING REQUIREMENTS

A. Any LLP or LP with a nonresident partner(s) shall withhold income taxes on the income that is being passed through to the nonresident partners. The Form RI-1096PT shall be filed reporting these withholding payments. The nonresident partner(s) shall be provided a Form RI-1099PT in order to claim these withholding payments on their income tax return. If the nonresident partner is another pass-through entity, that entity shall also be required to file a Form RI-1096PT to pass-through the withholding payments to their member(s). The "Bulletin on Passthrough Entities to Non-resident Taxpayers"¹ may be consulted for further information.

B. Any LLP or LP with nonresident partner(s) may file Form RI-1040C composite tax return instead of filing Form RI-1096PT. Each nonresident partner shall complete Form RI- 1040C-NE and file it with the entity. The "Bulletin on Passthrough Entities to Non-resident Taxpayers" may be consulted for further information.

C. If the nonresident withholding tax liability of an LLP or LP can reasonably be expected to exceed \$250 for the taxable year, then estimated payments are required on the 15th day of the 4th month, the 15th day of the 6th month, the 15th day of the 9th month and the 15th day of the first month of the entity's next succeeding taxable year. For a calendar year taxpayer, that would be April 15th, June 15th, September 15th and January 15th of the entity's next succeeding taxable year. LLPs and LPs are covered by the "safe harbor" provisions (80% of the current year tax liability or 100% of the prior year's tax liability at the current year rates) for the requirements of estimated tax payments as well as calculating underestimated interest. The appropriate estimated tax payment coupons for Form RI-1096PT-ES or Form RI-1040C-ES, as the case may be, shall be used to make these estimated payments.

RULE 9. EFFECTIVE DATE

This Regulation shall take effect July 1, 2012.

David M. Sullivan
TAX ADMINISTRATOR

¹ This bulletin can be found at <http://www.tax.ri.gov/misc/passthrough-entities.php>