

RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PREPARERS

JULY/AUGUST/SEPTEMBER 2012

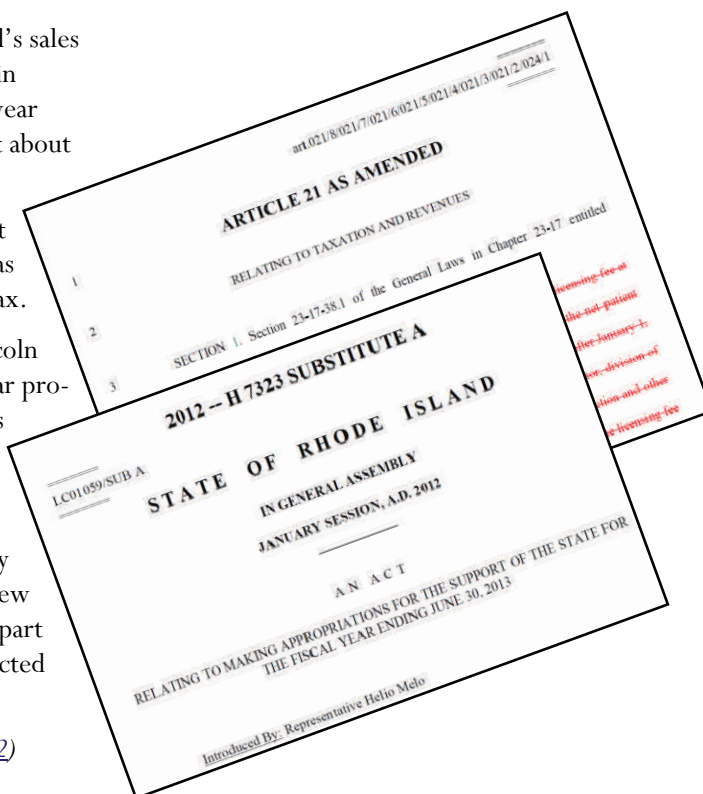
TAX CHANGES SIGNED INTO LAW

When Rhode Island's sales tax was enacted in 1947, clothing and footwear was taxed along with just about everything else.

It wasn't until 1977 that clothing and footwear was made exempt from the tax.

So when Governor Lincoln D. Chafee earlier this year proposed extending the sales tax to clothing and footwear, and the General Assembly in June approved the proposal, they were not establishing a new tax; they were restoring part of a tax that was first enacted 65 years ago.

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KEY POINTS:

- Tourism tax repealed
- Tax Amnesty starts on September 2, 2012
- Rental car surcharge increased
- Cigarette tax hike
- Rules change for 'little cigars'
- Sales tax extends to taxi, limo, charter bus services
- Sales tax extends to certain pet-care services

SHIFTS IN STORE AT TAX DIVISION

A new computer system, a greater emphasis on enforcement, and elimination of walk-in tax-preparation service.

Those are among the changes at the Rhode Island Division of Taxation that resulted from the recently enacted state budget for the year that began July 1, 2012.

Following is a summary:

Computer system

The Tax Division has been appropriated a total of \$25 million over five years to acquire and implement a new enterprise computer system, called an integrated tax system, or ITS.

The Tax Division currently administers 57 different tax/

fee types and collects about \$2.7 billion per year. But the agency must use an assortment of software systems, the most critical of which was built on 40-year old technology that is increasingly difficult and expensive to use and maintain (it uses COBOL language).

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TAX CHANGES SIGNED INTO LAW (CONTINUED FROM PAGE 1)

The tax treatment of clothing and footwear was just one of a number of tax changes that were approved by the General Assembly and became law this year.

The changes have far-reaching effects on individuals and businesses, and take effect at different times.

Following is a summary of some tax-related measures enacted this year. (Each is followed by the applicable House and/or Senate bill number.)



Tour tax repeal

The sales tax on package tour and scenic and sightseeing transportation services is now repealed.

A law enacted in June 2011 broadened the sales and use tax to include package tour and scenic and sightseeing transportation services. It took effect October 1, 2011.

However, under legislation approved by the General Assembly and signed into law by Governor Chafee on June 15, 2012, the tax no longer applies, effective July 1, 2012.

- H 7323Aaa

Tax Amnesty

A 75-day tax amnesty kicks in on September 2, 2012, and runs through November 15, 2012. It'll be open to all



taxpayers who are delinquent on any state taxes – such as personal income tax, sales and use tax, corporate income tax, or unemployment insurance tax.

For taxpayers whose amnesty applications are accepted, the Tax Administrator generally will waive all related penalties – and reduce the applicable interest rate by 25 percent. Thus, the interest rate of 18 percent that applied for 2011, for example, would be reduced to 13.5 percent.

The amnesty will be open to any taxpayer who pays the tax and interest due upon filing the amnesty tax return, or who enters into a *bona fide* installment payment agreement for reasons of financial hardship.

The Tax Division will develop and post the form to be used by amnesty applicants. The agency also will hire a firm to help promote the amnesty.

The Tax Administrator must provide a written analysis of the amnesty program by January 1, 2013, to the chairs of the House and Sen-

ate Finance Committees, with copies to the members of the revenue estimating conference.

- H 7323Aaa

Rental car surcharge

The state surcharge on rental vehicles is now 8 percent, up from 6 percent, effective July 1, 2012. The surcharge is collected by the rental company at the time a motor vehicle is rented in Rhode Island.

The surcharge on each rental contract is applied to the gross receipts per vehicle on all rentals for each of the first 30 consecutive days of rental.

The surcharge is computed before the assessment of sales tax, and is itself subject to the sales tax.

The new law also allows 60 percent of the entire surcharge to be retained by the rental company; the re-

maining 40 percent goes to the state. Under the old law, the split was 50-50.

(The rental company may use the amount it retains to reimburse itself for various licensing, registration, and transfer fees and excise taxes it has paid.)

- H 7721; S 2465

Hospital licensing fee

For fiscal year 2013, a two-tier system is established for the hospital licensing fee, which is applied to net patient services revenue.



For all hospitals except those located in Washington County, the rate shall be 5.35 percent of the net patient services revenue based on the hospital's first fiscal year ending on or after January 1, 2011.

For hospitals located in Washington County, the rate shall be 3.37 percent -- subject to approval by the Secretary of the U.S. Department of Health and Human Services.

Every hospital must pay the fee to the Tax Administrator on or before July 15, 2013. Each hospital's return is due to the Tax Administrator on or before June 17, 2013.

- H 7323Aaa

Cigarettes

The cigarette excise tax increases to \$3.50 per pack of 20 cigarettes, from \$3.46, effective July 1, 2012.

In addition, a tax applies to the cigarette inventory of each cigarette retailer in the state.

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TAX CHANGES SIGNED INTO LAW (CONTINUED FROM PAGE 2)

The tax – known as a “floor tax” – will be measured by the number of cigarettes held by the retailer as of 12:01 a.m. on July 1, 2012. The tax rate is 4 cents a pack.



Similarly, a tax at the same rate applies to the inventory of cigarette tax stamps – whether affixed or not – that are held by each distributor as of 12:01 a.m. on July 1, 2012. Those subject to the floor tax on cigarettes or the floor tax on cigarette tax stamps must file a return with the Tax Administrator by midnight on July 10, 2012.

More cigars are now treated as “little cigars” for tax purposes due to a change in the definition of “little cigars” brought about by a new law. And because little cigars are treated the same as cigarettes, they are now taxed at \$3.50 per pack of 20, up 4 cents (as of July 1).

- H 7323Aaa

Beverage containers tax

The Rhode Island beverage containers tax is expanded to include all non-alcoholic drinks for human consumption, except milk, but including beer and other malt beverages.

The tax formerly applied only to carbonated soft drinks, soda water, mineral water, bottled water, and beer and other malt beverages. The new law expands the tax to include sports drinks, iced teas, iced coffees, and the like, effective July 1, 2012.

The tax remains at 4 cents per case, is levied on each case of beverage containers sold by a beverage wholesaler, and is collected and remitted to the Tax Division by the wholesaler.

- H 7323Aaa

Health tax study

The Executive Office of Health and Human Services, along with the Department of Revenue, must draft an implementation plan for transitioning the current assessments levied on health insurance premiums to a surcharge based on health care claims. The report is due to the Senate president, House speaker, and chairs of the House and Senate Finance Committees no later than February 15, 2013.

- H 7410A; S 2362A

Liquor licensee filing

Each licensee authorized to sell alcoholic beverages at wholesale or retail in Rhode Island must now file an annual report with the Tax Division by February 1.

Each such report must include total sales of alcoholic

beverages, as well as sales tax and excise tax collections on such sales.

Using the information in those reports, the Tax Administrator must prepare and submit a report on or before May 1 each year, including a compilation of total sales of alcoholic beverages, and sales tax and excise tax collections by county. The Tax Administrator’s report is due to the chairs of the House and Senate Finance Committees.

- H 7323Aaa

Film tax credit

A number of changes are made to the film tax credit, also known as the Motion Picture Production Tax Credits, effective July 1, 2012.

For example, documentary productions are now eligible for the credit. In addition:

- ◆ The Rhode Island Film and Television Office, formerly within the Rhode Island State Council on the Arts, is shifted to the Department of Administration;

- ◆ The minimum total production budget used in calculating the amount of the credit, formerly \$300,000, is lowered to \$100,000;

- ◆ The total credit for a given production – which formerly could be as much as the amount of the total production budget itself – is now

capped at \$5 million (and the program’s overall, annual cap is unchanged, at \$15 million); and

- ◆ Under a sunset provision, no film tax credits can be issued on or after July 1, 2019.

Also, musical and theatrical productions are now eligible for a tax credit based on provisions that are similar to those that apply to the film tax credit.

The film tax credit program’s \$15 million overall, annual calendar-year cap is to be equally available to motion picture productions and musical and theatrical productions. (No specific amount will be set aside for either type of production.) The sunset provision is the same as the one that applies to the motion picture credit.

- H 7323Aaa

Tax on clothing and footwear

State sales and use tax will apply to each sale of clothing and footwear with a sales price of more than \$250, but the tax will apply only to the portion of the sales price of an individual item of clothing or footwear that exceeds \$250.

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TAX CHANGES SIGNED INTO LAW (CONTINUED FROM PAGE 3)

The tax is effective October 1, 2012.

Should a federal law be enacted to require remote sellers, such as Internet-only retailers, to collect and remit sales and use tax for states,

the sale of clothing and footwear in Rhode Island will become fully exempt from tax, as it was prior to October 1, 2012.

- H 7323Aaa

Taxi, limo services

Starting October 1, 2012, Rhode Island's 7 percent sales and use tax will generally apply to the following services:

- ◆ Taxicab services, including taxi dispatchers;
- ◆ Limousine services;
- ◆ Charter bus service; and
- ◆ All other transit and ground passenger transportation.

- H 7323Aaa

Pet care services

Starting October 1, 2012, Rhode Island's 7 percent sales and use tax applies to pet care services -- such as grooming, training, and boarding, but not including veterinary and testing laboratories services.

A vendor of such services performed in Rhode Island shall be deemed to be a re-

tailer -- and shall therefore be required to register with the Tax Division, obtain a sales tax permit, and collect and remit sales tax.

- H 7323Aaa

Interstate buses

The purchase, rental, or lease of a bus is now exempt from Rhode Island's 7 percent sales and use tax on the condition that the bus is used 80 percent or more of the time in interstate commerce. Under the old law, the bus had to be used 100 percent in interstate commerce to qualify for the exemption.

The new law also says that, to qualify for the exemption,

the bus company must provide an affidavit attesting

that the bus is used no less than 80 percent of the time in interstate commerce. The new law is effective immediately.

- H 7640A; S 2241A

Mobile home parks

Certain sales of mobile homes and manufactured homes are now exempt from the state's real estate conveyance tax that would otherwise be levied under RIGL Chapter 44-25. In general, the exemption is allowed only for the sale of a mobile home park or manufactured home park to a resident organization or resident-

owned community (such as a nonprofit corporation or cooperative) with the goal of resident ownership by at least 51 percent of the homeowner households residing in the park.

- H 7726A; S 2754

Animal feed

An exemption from Rhode Island's 7 percent sales and use tax is now allowed for the sale of animal feed for certain animals used in commercial farming -- generally, livestock and poultry as described in RIGL § 44-18-30 (61).

- H 7157A; S 2283aa

Revenue Protection Act

If voters authorize table games at the state's two gambling facilities -- Twin River, in Lincoln, and Newport Grand, in Newport -- a recently enacted law "will provide the necessary tax and regulatory framework to quickly implement these games to help mitigate the negative impact of Massachusetts casino gaming," according to a statement issued by the General Assembly.



At issue, in general, is a type of casino gambling in which table games are played for cash, or for chips representing cash, using cards, dice, or other items.

Under the new law, called

the "Revenue Protection Act," the state's share of table game proceeds would generally be 18 percent. The law also includes, among other things, certain provisions for adjustments to the tax rate should revenue decline.

-- S 3001A; H 8213Aaa

Misclassification

The Tax Administrator must provide to the state Department of Labor and Training (DLT) any state tax information, state records, or state documents necessary to assist the agency in efforts to investigate suspected misclassification involving employees (such as employee status, wage and hour violations, or prevailing wage violations).

The new law also requires the DLT to provide the state Department of Administration with any information, records, or documents necessary to investigate suspected misclassification of employees.

The new law includes various data confidentiality and certification provisions.

- H 7564A; S 3039

Regulatory review

A new law requires all state agencies to review all agency rules with an eye toward minimizing the economic impact of the rules on small businesses.

- H 8024A



NEW CHIEF FOR PERSONAL INCOME TAX

Leo R. Lebeuf has been promoted to the rank of chief of the Rhode Island Division of Taxation's Personal Income Tax section.

He succeeds Linda C. Riendeau, who retired as of June 22.

The changes were announced in June by Tax Administrator David M. Sullivan.

"We are fortunate to have had Linda's expertise. She developed a broad knowledge of tax issues, and we thank her for her many years of service," Sullivan said.

"I am pleased to welcome Leo as her successor. He was chosen from among a very strong field of candidates. He brings with him experience in both the private and public sectors," Sullivan said.

Lebeuf formerly served as principal revenue agent in

the Tax Division's Corporate Tax section.

Bryant graduate

Lebeuf worked his way through college, managing a local McDonald's restaurant. After graduating in 1996 from Bryant University, with a degree in accounting, he continued managing for McDonald's before joining the Tax Division in October 1996 as a revenue officer in the Compliance & Collections section.

Lebeuf took a job in Field Audit in 1998 as a revenue agent, then moved to Corporate Tax in May 2008 as a principal revenue agent.

While there, he worked with that section's chief, Charles J. Larocque, to oversee business taxation, and helped to craft the Tax Division's regulation on combined reporting.



Promoted

Leo R. Lebeuf is promoted to chief of the Rhode Island Division of Taxation's Personal Income Tax section. He was principal revenue agent in Corporate Tax. He joined the Tax Division in 1996 after graduating from Bryant University.

"Leo's strong work ethic, tax knowledge, and his ability to work in collaboration with others to get the job done will serve him well in Personal Income Tax," Sullivan said.

Years of service

Riendeau's retirement capped 34 years of state service, including 28 with the Tax Division.

After working six years with the state Department of Human Services, she joined the Tax Division in 1984, and worked in several sections at the agency, including Compliance & Collections and Personal Income Tax.

She held various positions, including revenue officer, revenue officer - special investigations, and supervising

revenue officer.

She served as chief of the Personal Income Tax section since officially assuming that role in January 2009.

TV appearances

In that role, she became more widely known in the tax community -- through speeches she delivered to tax practitioner groups, and through her appearances on tax programs broadcast on Rhode Island public television's Channel 36.

She also oversaw the Tax Division's implementation of the sweeping changes to the personal income tax system that took effect in January 2011.



Farewell

Linda C. Riendeau, chief of the Rhode Island Division of Taxation's Personal Income Tax section, retired in June after 28 years with the agency. She joined the Tax Division in 1984, and rose up through the ranks to become chief in January 2009.

LEGAL CORNER: RECENT STATE TAX CASES

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.

Sales tax

At issue is the application of [Rhode Island General Laws \(RIGL\) § 44-18-40](#) and [Rhode Island Division of Taxation Regulation SU 99-111](#). In general, they say that the purchase, rental or lease of a bus, truck, or trailer by a bus or trucking company is not subject to sales and use taxes – if the bus, truck, or trailer is used exclusively in interstate commerce.

In this case, the Tax Division determined, after an audit, that the taxpayer is not a trucking company – in other words, it is not for hire to carry the goods of others. Rather, the taxpayer is a retailer which has arrangements with its own stores, and hauls its own goods to its own stores, and uses its own em-



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.

ployees and its own vehicles.

The taxpayer's chief financial officer testified, in part, that each of the stores is a legally distinct entity which pays the taxpayer to haul goods.

The taxpayer's trucking

component acts as its own division, with its own books and records, its own employees, and its own federal license to haul goods as an inter-corporate hauling company.

But the Tax Division argued that while the stores may be separate legal entities, the stores are really shells – they cannot make their own decisions, and the taxpayer has the authority, common ownership of the stores, and carries its own goods.

Hearing Officer Catherine R. Warren determined that the taxpayer is not a trucking company for hire – as defined by state law and regulation, and as understood in court cases and Administrative Decisions. Thus, the taxpayer owes the assessed taxes, interest, and penalty on the purchase of its trailers. Tax Administrator David M. Sullivan on April 10 adopted the hearing officer's decision and recommendation.



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 ([RIGL § 42-35-1 et seq](#)) and Tax Division regulation [AHP 97-01](#).

If not satisfied with the outcome, the taxpayer may appeal to Sixth Division District Court ([RIGL § 8-8-24 et seq](#)).

DELL PREVAILS IN RHODE ISLAND SALES TAX CASE

A Rhode Island Superior Court judge has [ruled in favor of Dell Computer Corp. in a case involving sales taxes](#).

At issue was the Rhode Island sales tax that Dell charged on a service contract for a Dell computer. A consumer who bought a Dell computer in 2000 was charged sales tax on the service contract. As a plaintiff in the court case, the consumer essentially argued that the service contract was

not subject to tax, that Dell improperly charged the tax, and that there was a violation of the Rhode Island Deceptive Trade Practices Act. The consumer also wanted the case to be certified as a class action.

Superior Court Judge Michael A. Silverstein found that Dell had, in fact, improperly charged sales tax on the service contract, but there was "no evidence of intent to mislead the consumers to pay a tax

they do not have to pay and no evidence of immoral, unethical, oppressive, or unscrupulous behavior." Although the purchaser was improperly charged the tax on the service contract portion of her computer purchase, "this court does not find that Dell's conduct rose to the level of a deceptive practice" under the law, Silverstein wrote. Dell's actions "did not constitute negligence or violate" the deceptive trade prac-

tices law, he wrote. Silverstein granted Dell's motion for summary judgment.

(The case, C.A. No. PB 03-2636, focuses on state tax law and regulations -- and Dell practices -- in force at the time of the purchase by the plaintiff. Dell has not charged the tax on the optional service contracts since 2005, according to court documents. In addition, state sales tax law has changed since then. Also, this case is currently on appeal.)

SUPREME COURT UPHOLDS TAX ADMINISTRATOR

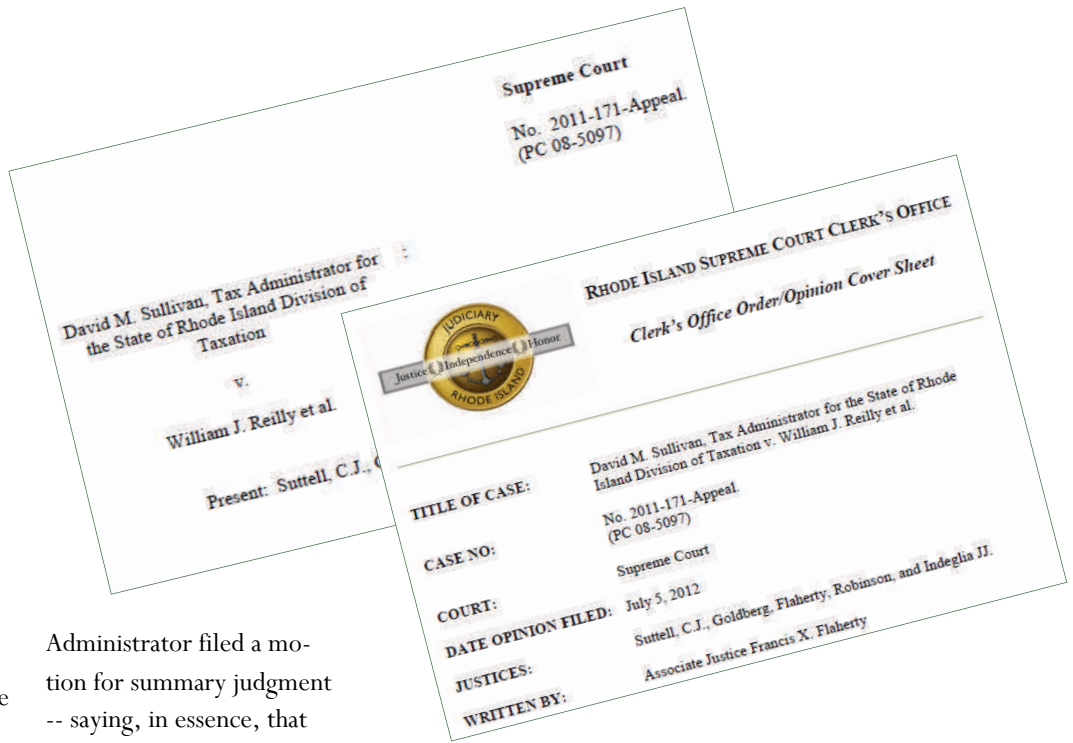
The Rhode Island Supreme Court on July 5 upheld the Tax Administrator in a longstanding case involving unpaid personal income tax.

At issue is personal income tax, penalty, and interest owed by William J. and Marielle Reilly, a married couple with an address of Boca Raton, Florida.

In August 2008, the Tax Administrator filed a complaint in Superior Court, Providence, alleging that the defendants had failed to pay Rhode Island personal income taxes for tax years 1994, 1996, 1997, 1998, and 1999 - and therefore owed tax, penalty, and interest.

The defendants denied that they had any outstanding tax liability, and further denied that they had received any notices of deficiency from the Tax Administrator. (The issue involving prior notice was not “genuinely disputed in the record,” the court said. The court further noted that the taxpayers had received collection notices from the Tax Division and had not responded to them.)

In December 2009, the Tax



Administrator filed a motion for summary judgment -- saying, in essence, that there was enough evidence to rule, without a trial, in favor of the Tax Administrator.

The defendants argued that they had relocated to Florida and were therefore “exempt from Rhode Island tax,” according to the Supreme Court’s opinion, written by Associate Justice Francis X. Flaherty. They conceded that there is no limitation, in Rhode Island General Laws, on the collection of assessed personal income taxes, but they asserted that it is “only fair and equitable that a sunset on collection efforts be imposed . . . particularly when

the taxpayers are domiciled in another state and collection efforts but for the instant matter were nonexistent.”

In the decision issued July 5, 2012, the Supreme Court said the defendants are not entitled to judicial review of the Tax Administrator’s assessment because they failed to exhaust their administrative remedies. In conclusion, the Supreme Court said that the Superior Court judge “did not err when he granted summary judgment in favor of the plaintiff.”

- Case No. 2011-171-Appeal

(As of July 5, 2012, the defendants in the case were listed at the top of the Tax Division’s “Top 100” list of tax delinquents, with a total delinquency of more than \$1.37 million.)



Rhode Island Supreme Court



“As Benjamin Franklin once opined, ‘nothing in this world is certain except death and taxes.’ Unfortunately for the defendants, the latter is undeniably true in this case.”

- Rhode Island Supreme Court - Case No. 2011-171 - Appeal

KEY FIGURE SENTENCED IN CIGARETTE CASE

A Massachusetts resident charged last year in a [widely publicized case involving importing and selling contraband cigarettes in Rhode Island](#) has been sentenced to five years' probation and ordered to spend one year in a halfway house.

Mohamad Mohamad, 35, of Cambridge, Mass., was sentenced on June 28 in U.S. District Court in Providence by Chief Judge Mary M. Lisi.

Mohamad, a Syrian national, had pleaded guilty earlier this

year to federal charges of knowingly transporting, receiving, possessing, selling, and distributing in excess of 10,000 contraband cigarettes - which bore no evidence of the payment of applicable Rhode Island state cigarette taxes.

Mohamad traveled regularly to North Carolina, South Carolina, and Virginia to buy large quantities of cigarettes from retailers and wholesalers, and smuggled the contraband cigarettes into Rhode Island for resale to convenience stores and independent salespersons, investigators said after his arrest last fall. Although Rhode Island state law requires a valid tax stamp be affixed to each package of cigarettes sold in the state, none of those that Mohamad resold contained Rhode Island tax stamps, the investigators said. He was arrested in a multi-state case that included federal, state, and local authorities -- including the Tax Division.

At the June 28 hearing, the prosecution recommended 27 months' imprisonment; the defense asked for home confinement and probation. In the end,

Mohamad was sentenced to five years' probation, ordered to serve one year in a community confinement center, commonly known as a halfway house, and fined \$5,000. Among those who addressed the court was Bernard J. Lemos, a lawyer and

deputy chief of legal services for the state Department of Revenue, who spoke on behalf of the Tax Division.

Four others arrested at about the same time as Mohamad last fall face state criminal charges.



Contraband

Rhode Island State Police investigators seized thousands of contraband cigarettes in the case.



On the case

James M. Galvin (left), Special Investigation Unit Supervisor in the Rhode Island Division of Taxation's Excise Tax section, and Tax Administrator David M. Sullivan confer with others at Rhode Island State Police headquarters in Scituate last fall after a news conference about the contraband cigarette case. In the background of the photo is State Police Colonel Steven G. O'Donnell, who played a vital role in the case.

CHANGE IN IRS OFFER-IN-COMPROMISE PROGRAM

If you want to make an offer in compromise to the Internal Revenue Service, you may be able to pay your delinquent Rhode Island tax as part of the deal. It's the result of [a change that the IRS announced in May](#).

In general, an offer in compromise is an agreement between a taxpayer and the IRS that settles the taxpayer's tax liabilities for less than the full amount owed.

An offer in compromise is

generally not accepted if the IRS believes the liability can be paid in full as a lump sum or a through payment agreement.

The IRS looks at the taxpayer's income and assets to make a determination of the taxpayer's reasonable collection potential. As part of the process, the IRS looks at the applicant's ability to pay. Under the new policy, you may now be allowed under certain circumstances to continue paying on your state and local

tax delinquencies without having it count against you for purposes of your federal offer in compromise application.

The IRS said it recognizes that many taxpayers are still struggling to pay their bills, so the agency has been working to put in place common-sense changes to its OIC program to more closely reflect real-world situations. The change is part of the IRS's "Fresh Start" initiative, offering more flexible terms to

its offer in compromise program, the agency said.

Rhode Island

The Rhode Island Division of Taxation offers its own offer in compromise program, operated by the Compliance & Collections section. For more information, call the agency's Compliance & Collections section at (401) 574-8941 from 8:30 a.m. to 4 p.m. business days.

Tax Basics:**FILING REQUIREMENTS FOR BUSINESS ENTITIES**

Every entity registered with the Rhode Island Secretary of State may have filing requirements with the Rhode Island Division of Taxation, even if no business is conducted within Rhode Island for a particular year.

The following is a summary of business entity filing requirements by Charles J. Larocque, CPA, who is chief of the Tax Division's Corporate Tax section.

- ◆ An entity treated as a C corporation for federal tax purposes shall be required to file Form RI-1120C and pay the greater of the business corporation tax or the franchise tax. Note that there is a minimum tax, currently \$500 per year.
- ◆ An entity treated as an S corporation for federal tax purposes shall be required to

file Form RI-1120S and pay the franchise tax. Note that there is a minimum tax, currently \$500 per year.

◆ Any limited liability company (LLC) not treated as a corporation for federal tax

purposes shall pay an annual charge equal to the minimum business corporation tax, currently \$500 per year. This includes an LLC treated as a disregarded entity for federal tax purposes. Form RI-1065 shall be filed for any tax year beginning on or after January 1, 2012. For tax

years prior to 2012, Form RI-1120S shall be filed to pay the annual charge. (See [Regulation CT 12-14.](#))

◆ Entities treated as partnerships for federal tax purposes shall file Form RI-1065. Any limited liability partnership (LLP) and any limited partnership (LP) for tax years

beginning on or after January 1, 2012 shall be subject to an annual charge equal to the minimum business corporation tax, currently \$500 per year. (See [Regulation CT 12-16.](#))

Pass-through entities with members, partners, etc., who are nonresidents of

Rhode Island, shall also file Form RI-1096PT, reporting the income flowing through and the amount of tax to be withheld for the nonresidents. Nonresident individuals and entities shall be required to file the appropriate Rhode Island tax returns reporting the pass-through income and any pass-through withheld tax. In some instances, Form RI-1040C, "Rhode Island Composite Income Tax Return," may be filed. (See the [bulletin about pass-through entities and nonresident taxpayers.](#))

For corporation tax, partnership, and individual income tax returns, there is no registration requirement; the filing of the first return is sufficient.

While extensive, this list is not all-inclusive. Please contact the Rhode Island Division of Taxation at (401) 574-8829 if you have any questions.

**SHIFTS IN STORE AT TAX DIVISION** (CONTINUED FROM PAGE 1)

The ITS will help the Tax Division meet its goals of increasing revenue collections, improving taxpayer service, promoting better taxpayer compliance, and improving operational efficiency and transparency.

The system will let taxpayers and advisers take more actions online, including registration, filing, payment, account inquiry, and access to taxpayer documents.

In addition, it will result in processing efficiencies, stronger enforcement capa-

bilities, improved reconciliation of receipts, improved taxpayer compliance, and improved collections. Over the five years that it will take to get the system installed and fully operational, the expected new revenue will exceed the project's cost.

Tobacco tax enforcement

The Tax Division will hire four tax investigators to fully staff its tobacco tax enforcement task force. They will supplement the agency's existing tax investigator; the team will be responsible for enforc-

ing the state's cigarette and tobacco tax laws.

Walk-in service

As a result of the recent budget legislation passed by the General Assembly and signed into law by the Governor, staff in the Personal Income Tax section who formerly prepared income tax returns and property-tax relief claims will be assigned to other tasks, including enforcement - with an emphasis on combating fraud. Taxpayers who formerly used the agency's "walk-in" service to

get their returns prepared by the agency at no charge will be urged to take advantage of the many volunteer tax preparation services, or the many paid preparers, in the region. The changes take effect in January 2013.

Although the Tax Division will no longer prepare taxpayers' tax returns, the agency will continue to provide certain taxpayer services on a walk-in basis, including disbursing tax forms, answering questions, and accepting payments.

REGULATORY UPDATE:**NEW REGULATIONS ISSUED ON BUSINESS, SALES TAXES**

The Rhode Island Division of Taxation posted final regulations recently related mostly to business taxes and sales taxes:

◆ [Regulation CT 12-14](#) implements provisions of Rhode Island General Laws (RIGL) §§ [7-16-67](#) and [7-16-73](#), imposing an annual filing fee on limited liability companies (LLCs) and setting forth LLC filing requirements. It amends and supersedes Regulation [CT 98-14](#).

◆ [Regulation CT 12-16](#) is a new regulation and implements provisions of RIGL §§ [7-12-60](#) and [7-13-69](#), imposing an annual filing fee and filing requirement on limited liability partnerships (LLPs) and limited partnerships (LPs) and their partners.

◆ [Regulation CT 12-03](#) implements RIGL §§ [44-11-29](#) and [44-11-29.1](#), generally requiring a corporation to file a request for a Letter of

**Presiding**

Michael F. Canole, the Rhode Island Division of Taxation's chief of examinations, is shown presiding at public hearings in May on proposed tax regulations mainly involving business and sales tax.

Good Standing with the Tax Division in certain circumstances, and also setting forth the amount of the fee. This regulation amends and supersedes Regulation [CT 03-03](#).

◆ [Regulation CT 12-10](#) amends and supersedes Regulation [CT 01-10](#), which essentially deals with the schedule of estimated tax payments by corporations.

The revisions include an easy-to-read table format.

◆ [Regulation SU 12-62](#) amends and supersedes Regulation [SU 09-62](#), which has to do with the taxation of rentals and leases of tangible personal property. The regulation expands to include rentals and leases of motor vehicles.

◆ [Regulation SU 98-144](#), involving application of tax on the lease of motor vehicles, is repealed. Its content has been incorporated into Regulation SU 12-62, above.

◆ [Regulation SU 12-150](#) would have amended [Regulation 11-150](#), which deals with sales and use tax on package tours and scenic and sightseeing transportation services. But the Tax Division set it aside while the General Assembly deliberated the fate of the tax itself. Ultimately, the tax was repealed. The Tax Division therefore plans to repeal Regulation 11-150.

MASSACHUSETTS' FURTHER GUIDANCE ON TDI TAX

The Massachusetts Department of Revenue (DOR) on June 15 provided helpful guidance to practitioners regarding claims for abatement involving Rhode Island's Temporary Disability Insurance (TDI) tax.

The guidance will be helpful to Rhode Island practitioners who have clients that are Massachusetts residents, work in the private sector in Rhode Island, and pay TDI tax. Excerpts follow:

Since the issuance of [Revised DD 12-1](#), on [March 15, 2012](#), G.L. c. 62, s. 6(a) Credit for Taxes Paid to Another Jurisdiction: Insurance Fund Payments Made Pursuant to Rhode Island Law, the Massachusetts Department of Revenue has received over 30,000 abatement claims on this issue.

As the Department works on this backlog, we have found some common errors. In many cases, the credit has been calculated incorrectly by claiming the amount paid to the RISDI fund as the amount of

the requested abatement. This is not a refundable credit. If your Massachusetts income tax for the period was zero there is no allowable credit for taxes paid to another jurisdiction. The allowable credit is the lesser of the Massachusetts income tax on the income reported to Rhode Island compared with the actual income tax paid to Rhode Island plus the RISDI.

Based upon the significant number of abatements and the amount of time needed for our staff to recalculate the allowable credit for

all applicable tax years, the length of time to process these abatements has significantly increased. To help address this backlog and time delay, DOR has reassigned staff to assist in working these abatement cases. The Department processes and completes abatement claims on a first-in, first-out basis. Based upon the high volume of claims received, our processing time is approximately six months. We appreciate your patience in this matter and apologize for any inconvenience this may cause.

PRACTITIONERS' CORNER:**QUESTIONS AND ANSWERS ABOUT RHODE ISLAND TAX****Q: Does Rhode Island's tax amnesty cover all years?**

A: Yes. The amnesty is open to all taxpayers who are delinquent on any state taxes, such as personal income tax, sales and use tax, corporate income tax, or unemployment insurance tax, and covers all years, up to and including tax year 2011. Amnesty runs from September 2 through November 15, 2012.



Q: The point of the new Form RI-7004-CRS is to request an additional one-month extension for purposes of *pro forma* combined reporting. Is that just for the designated agent, or can each member of the combined group file its own Form RI-7004-CRS?

A: Each member can file it.

Normally, only the designated agent would need the additional one-month extension in order to complete the full Schedule CRS and file it along with its Form RI-1120C; other members of the combined group would not need the extra month because they would typically only fill out only a portion of Form RI-7004-CRS, at the very top, through Section 1C.

But if all members of the

combined group want to file for the additional one-month extension, that's okay, too.

Q: When I filled out the new Rhode Island sales and use tax reconciliation form, I noticed that there was no place on the form to include credits.

A: The Tax Division is in the process of revising a number of forms, including that one. When the revised version is finished,

there will be a place on it to claim appropriate credits.

Q: I couldn't e-file my client's Rhode Island extension request this filing season.

A: Due to limitations in the Tax Division's current processing systems, the Tax Division has never been able to offer e-filing of the Rhode Island extension request. However, you can e-file the actual return that's on extension.

Q: My client has tax credit carry forwards that he wanted to use this past filing season, on his Rhode Island personal income tax return for tax year 2011. The Tax Division told us we couldn't. Why?

A: A number of tax credits,

and other tax benefits and incentives remain in place for manufacturers that are organized as C corporations.

However, most of the tax credits and other such provisions that are available for C corporations are not available for owners of pass-through entities. That is because of a sweeping reform to the state's personal income tax system enacted in June 2010 and effective in January 2011.

The credits were eliminated as part of a broader effort to streamline and simplify Rhode Island's personal income tax, and to make it more appealing for business owners in and outside of Rhode Island. For example, the top personal income tax rate was lowered to 5.99 percent from 9.90 percent. In other words, as a result of the reform, Rhode Island's top tax rate fell by 40 percent.

Please note that a number of business-related tax benefits continue to be available to owners of pass-through entities, including the opportunity to claim depreciation deductions.

Q: I itemized deductions on my federal return for tax year 2011, but could not itemize on my Rhode Island return due to a change in state law. I received a Rhode Island personal income tax refund this year. Early in 2013, I'll have to count that refund as income on my federal and Rhode

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.

Island returns. Will the Division of Taxation allow a modification or adjustment so that I won't be taxed on the refund?

A: There is no provision in Rhode Island General Laws allowing such a modification or adjustment. And so, two general rules:

◆ If you itemized for federal purposes, you must include your refund in income for federal and state purposes.

◆ If, like most taxpayers, you claimed the standard deduction at the federal level, don't count the refund as income at the federal or state level.

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 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.

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COMMENTS AND SUGGESTIONS

If you have comments or suggestions for *Rhode Island Tax News*, please e-mail its editor, Neil Downing: Neil.Downing@tax.ri.gov

BACK ISSUES

Back issues of *Rhode Island Tax News* are archived on the Tax Division website:

<http://www.tax.ri.gov/newsletter/index.php>

WAGE AND TAX REPORTS:

EMPLOYER TAX DEADLINE IS JULY 31

July 31 is the deadline for employers to file their second wage and tax report for 2012 and pay the tax due.

About 32,000 employers have until midnight on July 31, 2012, to file and pay their state unemployment insurance tax (also known as the Employment Security, or ES, tax) and Job Development Fund tax, and to file and remit the amount

of Rhode Island Temporary Disability Insurance (TDI) tax withheld from employees' wages.

New wage base

This will be the second payment of state unemployment insurance tax using [the new taxable wage base that applies for 2012](#).

To file employer tax reports, tax payments, and wage reports, some

employers will use the paper version of [Form TX-17](#) as updated for 2012. For more information about filing and paying online, [click here](#).

Electronic submission

Employers with 25 or more employees must submit wage data electronically. For more information, call the Tax Division's Employer Tax section at (401) 574-8700 (select option 2).



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