

# RHODE ISLAND TAX NEWS

A NEWSLETTER FOR TAXPAYERS AND PREPARERS

OCTOBER/NOVEMBER/DECEMBER 2014

## ASSISTANT TAX ADMINISTRATOR RETIRES

**P**eter J. McVay is retiring from his post as associate director of revenue services and assistant tax administrator, capping a 36-year career at the Rhode Island Division of Taxation.

“Peter has been an essential part of this organization for as long as I’ve been here,” said Rhode Island Tax Administrator David M. Sullivan.

“The work that he has done, often unsung and behind-the-scenes, has been vital to the successful operation of this agency,” Sullivan said.

“Peter has served us well, and served taxpayers well, and he will be sorely missed. He has an extraor-



**Retiring:** Peter J. McVay, associate director of revenue services, will retire on October 31, 2014.

ordinary depth and breadth of knowledge and experience in the complex world of taxation and tax administration, and it will be a chal-

lenge to find someone to replace him. He has been a great worker – and a great friend,” Sullivan said.

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## SEMINAR SCHEDULED FOR TAX PREPARERS

**T**he Rhode Island Division of Taxation has scheduled a free seminar for tax preparers.

The chief focus of the sessions will be on what’s new for the coming filing season and what’s new in state tax law -- including the property-tax relief program

(Form RI-1040H), the estate tax, corporate taxes, and notices from the agency’s Office Audit section, among other things.

The agency will hold the seminar at the Community College of Rhode Island campus in Newport on November 6, 2014. For

those unable to attend that session, the Division of Taxation will offer the same agenda in a meeting at CCRI’s Warwick campus on December 3, 2014.

The seminar is free, but preregistration is required.

*(Please turn to page 3)*

### Inside:

#### **PROPERTY-TAX RELIEF**

*Tax preparers will encounter two key changes to Rhode Island’s statewide property-tax relief program (Form RI-1040H) in the filing season that starts in January 2015:*

- *A higher credit amount; and*
- *Tighter eligibility rules*

*(Please see page 9 for details)*

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# ASSISTANT TAX ADMINISTRATOR RETIRES (CONTINUED FROM PAGE 1)

McVay has served as second-in-command at the Division of Taxation since 2008, a post he attained after a lengthy career in multiple roles at the agency.

### Pawtucket native

Born in Pawtucket, and raised in Pawtucket and later in Cumberland, McVay graduated from Bryant University in 1975 with a bachelor of science degree in accounting.

He then went to work as an accountant for General Dynamics in Groton, Conn. Among other things, he worked as an accounting representative for the company at Naval Station Rota, in Spain.

In November 1978, McVay joined the Division of Taxation as a revenue officer in the agency's Collections section. He later moved to the Field Audit section as a revenue agent, and rose through the ranks there, holding positions as multistate tax auditor, principal revenue agent, and ultimately chief revenue

agent.

While at the Division of Taxation, McVay went to school nights, studying law from 1983 to 1986 at what is now the University of Massachusetts School of Law in Dartmouth, Mass.

### Streamlined Board

As associate director of revenue services at the Division, McVay represents the agency on the Streamlined Sales Tax Governing Board and on its related State and Local Advisory Council. He has also served on the Streamlined Board's finance committee and on its nominating committee.

McVay also oversees the agency's Voluntary Disclosure Agreement program, tracks tax-related legislation at the federal and state levels, and serves as a governmental lobbyist – representing the Division of Taxation before the General Assembly.

“Working for the Division of Taxation has always been interesting and challenging.



**Technology:** Peter J. McVay, associate director of revenue services, has helped to implement a new computer system at the Division of Taxation.

State taxation is constantly changing as each year comes and goes, and with the advancement of technology, many new issues are coming to the forefront,” McVay said. “I’ve been very fortunate to have worked with so many extraordinary people over the years. That has meant so much to me, and I will miss the daily interaction and exchange of ideas,” McVay added.

### Computer system

When he joined the agency, “We worked with pencils and 12-column spreadsheets,” he said. Today, McVay is helping to implement the agency’s new integrated tax system. The multi-year project -- funded by the General Assembly – will replace the Division’s multiple computer systems, many of them outdated, with a

single enterprise-wide system.

One of the key issues McVay has been tracking lately involves sales-tax related legislation now being considered by Congress. Often referred to as the Marketplace Fairness Act, the legislation generally would require remote sellers – in other words, retailers with no physical presence in a state – to collect a state’s sales tax, a proposal he supports. “It’s a fairness issue, and I think it’s a local jobs issue, too,” McVay said.

He and his wife, Patricia, live in Cranston.

*(McVay’s last day on the job will be October 31, 2014. The Division of Taxation has begun the process of finding a successor. The job posting closed on September 27, 2014; candidates are to be interviewed.)*

## OCTOBER FILING DEADLINE

The Rhode Island Division of Taxation reminds taxpayers that the extended due date for Rhode Island personal income tax returns is Wednesday, October 15, 2014. Returns and payments must be postmarked or e-filed on or before 11:59 p.m. on October 15.

The deadline applies for tax year 2013 returns which would normally be due April 15, 2014, but which are being filed on extension.

*October 15 is also the filing deadline for LLCs, LPs, and LLPs that are treated as pass-through entities.*

# SEMINAR FOR PAID PREPARERS (CONTINUED FROM PAGE 1)

Preparers should sign up for whichever session is most convenient for their schedules and locations, said Tax Administrator David M. Sullivan.

*(For registration details, please see the box on the bottom right of this page.)*

“As we did in last year’s seminar, we want to give preparers a chance to meet with us, get their questions answered, and be briefed on changes – all well in advance of the coming filing season,” Sullivan said. “We have some significant changes that we are working to implement for the coming season, and we want to give preparers a heads up,” he said.

The Division of Taxation, prior to each filing season, typically sends representatives to meetings sponsored by trade associations whose members are preparers. Such presentations are typically only for members of a particular trade association and are sponsored by that group.

The seminar at CCRI is sponsored by the Division of Taxation and is open to any preparer. “With this free seminar, we hope to reach those who are registered tax return preparers or others employed by national or regional tax preparation firms, as well as those who prepare returns seasonally and may be self-employed and not part of a professional associa-

tion,” said Peter McVay, associate director of revenue services. CPAs, EAs, PAs, and other preparers are welcome to attend, too, Sullivan said.

### Supplement

“The seminar at CCRI is intended to supplement – not to replace – our regularly scheduled presentations to practitioner groups,” Sullivan said. “We value those professional groups and the important work they do, and the members of those groups are of course welcome to register for the CCRI seminar, too,” he said.

### For paid preparers

The CCRI seminars are primarily for paid preparers. The Division of Taxation typically meets separately with organizations of volunteer preparers.

“CCRI is an invaluable resource for Rhode Island, and we are delighted and appreciative that CCRI has

made available its resources to us for this important seminar,” Sullivan added.

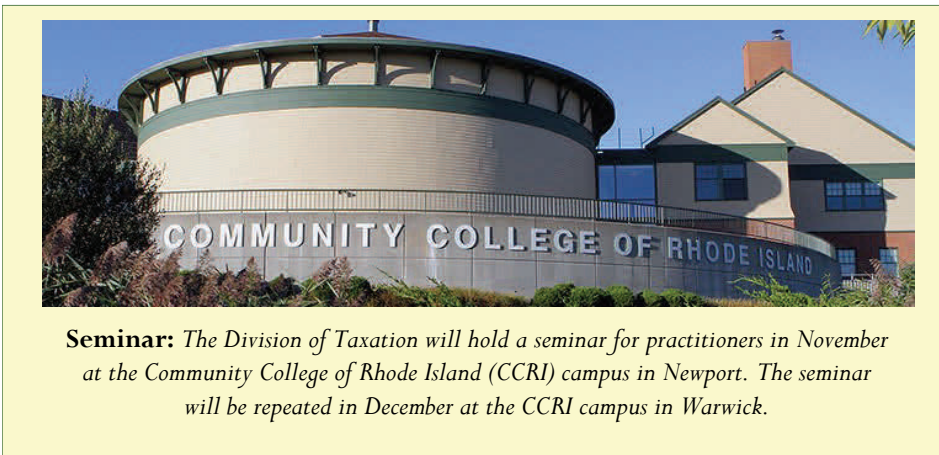
### Newport campus

◆ The first session will be held at the CCRI Newport County Campus, in Newport, on November 6, 2014, from 9:00 a.m. to noon, in Auditorium No. 134. Click [here](#) for directions.



### Warwick campus

◆ The seminar will be repeated at CCRI’s Knight Campus in Warwick on December 3, 2014, from 9:00 a.m. to noon, in Presentation Room 408 on the fourth floor. Click [here](#) for directions.



**Seminar:** The Division of Taxation will hold a seminar for practitioners in November at the Community College of Rhode Island (CCRI) campus in Newport. The seminar will be repeated in December at the CCRI campus in Warwick.

### Pre-register online

The Rhode Island Division of Taxation is sponsoring a seminar for paid preparers of personal income tax returns.

The seminar will be held on two separate dates -- you pick the one that best suits your schedule and location. (Please do not register for both.) To pre-register for a session, please click [here](#).

*(The online pre-registration tool was put together by the experts at RI.gov, which is the official government Web portal for the State of Rhode Island.)*

## NEW CHIEF NAMED FOR FIELD AUDIT SECTION

**P**atrick M. Gengarella has been promoted to the rank of chief of the Rhode Island Division of Taxation's Field Audit section.

He succeeds William J. Lynch, who has retired.

The changes were announced by Rhode Island Tax Administrator David M. Sullivan.

"We are fortunate to have had Bill's expertise, as well as his intelligence and his 37 years of experience. He was a gentleman who guided Field Audit with a steady, firm, and fair hand. He was also well-respected in the tax community, and we thank him for his many years of service," Sullivan said.

"I am pleased to welcome Pat as Bill's successor. We selected him from a very strong field of candidates. His knowledge of tax matters, coupled with his 22 years of experience at the Division of Taxation – all of them in Field Audit – will serve us well, especially at this challenging time: state tax agencies throughout the country are seeing a 'silver tsunami' as many veteran tax officials retire; people of Pat's experience are vital in filling key management roles and helping to move us forward," Sullivan added.

### Field Audit's function

Field Audit serves as the Division's primary unit for examining taxpayers, including businesses and individu-



**New Chief:** Patrick M. Gengarella is now chief of the Rhode Island Division of Taxation's Field Audit section.



**Retired Chief:** William J. Lynch has retired as chief revenue agent of the Rhode Island Division of Taxation's Field Audit section. He continues teaching at the college level.

als. Through this process, the Field Audit section – with a staff of approximately 40 – helps to ensure that taxpayers' records and returns clearly reflect income, that taxpayers are paying their fair share of tax – no more, no less – and that sales and use tax and other levies are properly collected and remitted, Sullivan said. A number of Field Audit personnel travel to businesses throughout the country to conduct their examinations.

### URI graduate

Gengarella, who was born and raised in Westerly, graduated from the University of Rhode Island with a bachelor of science degree in

business administration, with a concentration in accounting, in 1992. Later that year, he joined the Division of Taxation, starting as a revenue agent in Field Audit.

In his lengthy career in Field Audit, Gengarella moved progressively up the ranks, serving as senior revenue agent, senior multistate tax auditor, and most recently as principal revenue agent.

### Motor fuel tax

Gengarella specialized in, among things, auditing major oil companies regarding Rhode Island motor fuel tax. He took over as chief revenue agent in Field Audit on September 22, 2014.

*(Please turn to page 5)*

# PADDLEBOARDS EXEMPT FROM SALES AND USE TAX

Paddleboards may now be sold free of Rhode Island sales and use tax -- a change compared with the old rules.

The general rule is that the sale and the storage, use, or other consumption in this state of any new or used boat is exempt from Rhode Island's 7 percent sales and use tax. (See Rhode Island General Laws § 44-18-30, "Boats or vessels generally".)

In general, for a boat or vessel to qualify for the exemption, the item must have a hull identification number, as required by the U.S. Coast Guard. Therefore, Rhode Island's sales and use tax *does* apply to boats and watercraft without a hull. And so, the Division of Taxation formerly applied the sales tax to paddle-



By watarepaisstaff (WEPaddleboard) uploaded by Albert Herrig via Wikimedia Commons

boards. However, under a new interpretation of the law, the Division of Taxation has determined that paddleboards are exempt from Rhode Island's 7 percent sales and use tax. (Broadly speaking, a paddleboard is a long, narrow buoyant board that's often used for pad-

dling across a body of water.) The reason? The Division of Taxation found that the Coast Guard considers a stand-up paddleboard to be a vessel when the paddleboard is used beyond the narrow limits of a swimming, surfing, or bathing area. In other words, a paddleboard is

deemed to be a vessel when used to travel long distances, for point-to-point travel. Thus, in almost all cases, the sale of a paddleboard is now exempt from Rhode Island sales and use tax. Consumers may save as a result. For example, if a paddleboard retails for \$500, the buyer could save \$35 in sales tax.

The Rhode Island Division of Taxation's new interpretation applies as of the start of the current fiscal year – July 1, 2014.

*If a consumer purchased a paddleboard since the change took effect, and paid the sales or use tax, the most direct way to obtain a refund is to ask the retailer. The retailer may then claim a credit on the retailer's sales and use tax return. Those with questions may contact the Division of Taxation's Excise Tax section, at (401) 574-8955.*

## NEW CHIEF FOR FIELD AUDIT (CONTINUED FROM PAGE 4)

Gengarella and his wife, Jackie, who are the parents of four children, reside in Hopkinton. A longtime volunteer, he is the president of the Hopkinton Recreation Commission.

### Retired chief

Lynch, the retired chief, was born and raised in Providence, and received a bachelor of arts degree in political science from Providence College in 1973. After working for a finance company and a credit union, he joined the Division of Taxation in May of 1977 as a tax collection interviewer in

the Collections section. A few years later, he was promoted to revenue officer.

Lynch moved to Field Audit as a revenue agent in 1984, and was promoted to senior revenue agent in 1990. He became a principal revenue agent in Field Audit in 2005, and chief revenue agent in 2008.

During his 30-year tenure in Field Audit, Lynch helped to integrate a number of technology enhancements and upgrades. He also helped the section assume responsibility for auditing historic, film, and theater

credits, as well as annual sales tax reconciliations, and worked with other sections on special investigations involving cigarettes and tobacco products. It was also under Lynch's watch that the audit function of the agency's Employer Tax section was merged with, and became the responsibility of, Field Audit. "I enjoyed working with so many dedicated professionals within the Division in my 37 years," Lynch said.

While at the agency, Lynch took college courses at night -- earning a bachelor of science degree in accounting

from Providence College in 1984, and a master of science degree in taxation from Bryant University in 1987.

He has taught college courses for 26 years, primarily at Bryant and P.C. And although Lynch retired from the Tax Division on August 29, 2014, he continues his longtime work in education: He is currently an instructor and adjunct faculty member in the Accounting Department at Bryant, where he teaches accounting and tax courses. He and his wife, Diane, live in Woonsocket.

## KEY CHANGES IN STORE FOR EMPLOYER TAXES

Rhode Island Tax Administrator David M. Sullivan is urging employers to make note of two changes that are just around the corner and that could save them money.

“The recent recession is generally viewed as the worst since the Great Depression,” Sullivan said. “It had a far-reaching impact on many people, families, and businesses. One result was that unemployment increased sharply in Rhode Island, and Rhode Island – and many other states – had to borrow money from the federal government to help pay unemployment benefits,” he said. “Because of the way the system works throughout the country, many employers wound up paying more in taxes to help pay off the debt to the federal government that was incurred as a direct result of the recession,” Sullivan said.

“Thanks to the efforts of Governor Chafee with the support of the General Assembly, along with extraordinary work by the Rhode Island Department of Labor and Training, and the hard work of Rhode Island employers and their employees, those loans are about to be paid off, and that will mean employer-tax savings for Rhode Island employers,” Sullivan said.

### Job development

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.)

However under a budget article proposed by Governor Chafee and approved by the General Assembly which took effect on June 19, 2014, 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, Sullivan said. “As a result, employers will see some welcome tax relief,” he said.

### FUTA tax

Because of money borrowed from the federal government during the recession, employers in Rhode Island and many other states have had to pay higher-than-usual taxes under the Federal Unemployment Tax Act (FUTA) until the federal loans are paid off.

Normally, an employer’s FUTA tax equals 6 percent of the first \$7,000 of each employee’s taxable wages. But an employer who pays state unemployment taxes on a timely basis gets to claim a credit to offset the FUTA tax.

The credit is 5.4 percent. Thus, the actual FUTA tax – after taking the special credit into account – is normally 0.6 percent of the first \$7,000 of an employee’s taxable wages.

The formula is normally 6.0 percent less the 5.4 percent credit, for a maximum FUTA tax of \$42.00 per employee, per year ( $0.006 \times \$7,000 = \$42.00$ ). But if a state has outstanding loan balances for a certain period of time, the special credit is reduced until the

federal loan is repaid. The reduction schedule is 0.3 percent for the first year the state is considered to be a “credit reduction” state, another 0.3 percent for the second year, and an additional 0.3 percent for each year thereafter that the state has not repaid its loan in full.

Rhode Island employers faced a total credit reduction of 0.3 percent for calendar year 2011, 0.6 percent for 2012, and 0.9 percent for 2013. And so, for the return that had to be filed on or before January 31, 2014, Rhode Island employers had a special credit of 4.5 percent, instead of 5.4 percent.

In other words, Rhode Island employers wound up paying a net FUTA tax of 1.5 percent (the 6.0 percent FUTA tax rate minus the 4.5 percent credit = 1.5 percent) instead of the 0.6

percent rate which would have otherwise applied if the federal loan had been paid off (the 6.0 percent FUTA tax rate minus the normal 5.4 percent credit = 0.6 percent). Put another way, for the return that was due in January 2014, a Rhode Island employer had to pay a FUTA tax of \$105 per employee, instead of the normal \$42 per employee.

But because Rhode Island plans to pay off its federal loan soon, it is likely that the FUTA tax that Rhode Island employers will have to pay -- on the returns they file on or before January 31, 2015 -- will be \$42 per employee, instead of the \$105 tax per employee they had to pay on the return that was due in January 2015.

Balances outstanding on federal loans	
Arizona	\$43,940,112
Arkansas	\$2,982,067
California	\$8,018,569,435
Connecticut	\$432,627,820
Delaware	\$10,628,197
Indiana	\$861,245,007
Kentucky	\$358,614,560
New York	\$1,443,962,416
North Carolina	\$630,764,768
Ohio	\$1,379,841,685
Rhode Island	\$52,643,818
South Carolina	\$270,490,527
Virgin Islands	\$76,948,384
<b>Total</b>	<b>\$13,583,258,795</b>
Outstanding loans from the Federal Unemployment Account. Balances as of September 29, 2014. Data from U.S. Department of Labor. Some figures are rounded. Rhode Island plans to pay off its entire loan balance soon.	

**Legal Corner:**

# RECENT STATE TAX CASES IN SUMMARY

*Following is a summary of tax-related cases in which final decisions were made after administrative hearings. By law, decisions are public information, but taxpayer information cannot be disclosed.*

## Domicile

At issue is whether the taxpayer was a domiciliary of Rhode Island for purposes of Rhode Island personal income tax during tax years 2005 through 2008.

During that time, the taxpayer's wife filed Rhode Island resident returns and paid Rhode Island personal income tax, but he filed in other states.

The Division of Taxation argued that although he resided in Georgia or Texas during the years in question, he failed to establish by a preponderance of the evidence that he possessed the requisite intent to establish a domicile in another state for those years.

The Division of Taxation relied on *Flather v. Norberg* (119 R.I. 276 (1977)), which found that in order to establish domicile, a person must have an actual abode in the state with the intention in good faith to live there permanently and without any present intention of changing the home in the future. The Division argued that residence without intent is not sufficient to establish domicile.



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.

The taxpayers argued that the husband's employment took him to Georgia, where he intended to move, but he subsequently took a job in Texas. The couple argued that the husband maintained residences in Texas and Georgia. They also argued that the husband had obtained a Georgia driver's license, purchased and registered a car in Georgia, and registered to vote in Georgia.

Hearing Officer Catherine R. Warren pointed out that the seminal Rhode Island case on domiciliary for tax purposes is *DeBlois v. Clark*. The 2001 Rhode Island Supreme Court case says, in part, that the determination of domicile must be made on a case-by-case basis upon consideration

of all the evidence.

"A person's intent with respect to domicile may be evidenced by his or her testimony and may – and often as a practical matter, must – also be evidenced by objective manifestations of that intent," the court said.

Warren found that the husband had indeed moved to Georgia and Texas for jobs, but when the jobs ended, he returned to Rhode Island. Although he established some connections to Georgia, his contacts with Georgia overall "were limited to his job and there was no good faith to live there permanently," Warren wrote in her decision. Also, the husband had fewer contacts with Texas than he did with Georgia.

Warren also found that while the husband was in Georgia and Texas, he owned a house in Rhode Island with his wife and their minor children and they filed joint federal income tax returns using their Rhode Island address. He returned to Rhode Island on weekends, especially for special events.

"Based on the totality of objective manifestations of intent and testimony and considering them in this matter, the husband has not demonstrated by a preponderance of the evidence that he was not a domiciliary of Rhode Island" for the years in question, Warren wrote.

*(Please turn to page 8)*



## 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*).

**Legal Corner:**

# RECENT STATE TAX CASES (CONTINUED FROM PAGE 7)

Thus, because the husband was a domiciliary of Rhode Island for 2005 through 2008 (pursuant to Rhode Island General Laws § 44-30-5), Warren determined on August 7, 2014, that the taxpayers owe Rhode Island personal income tax for those years, plus interest and penalties.

Tax Administrator David M. Sullivan on September 12, 2014, adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2014-18](#)

### Refund claim

Did the taxpayer – a Rhode Island resident – file his refund claim on time?

His Rhode Island personal income tax return for tax year 2010 was filed with the Division of Taxation on July 5, 2013. Shortly thereafter, the Division denied his request for a refund.

Why? Under Rhode Island General Laws (RIGL) § 44-30-87, a claim for credit or refund of an overpayment of tax must be filed by the taxpayer within three years from the time the return was filed or two years from the time the tax was paid,

whichever of these periods expires the later.



◆ If the claim is filed within the three-year period, the amount of the credit or refund cannot exceed the portion of the tax paid

within the three-year period.

◆ If the claim is not filed within the three-year period, but is filed within the two-year period, the amount of the credit or refund cannot exceed the portion of the tax paid during the two years immediately preceding the filing of the claim.

In this case, the tax for 2010 was deemed paid on the date it was due: April 15, 2011. He was able to request a refund two years from that date. But his refund request was made on the return filed July 5, 2013, so it failed to meet the two-year rule. What about the three-year rule? The taxpayer's request was made within the three-year period – but no tax was paid from July 5, 2013, to the present, so no refund was available under that rule.

Warren on September 11, 2014, determined that the taxpayer is not entitled to the claimed refund; she found that the Division

properly denied the taxpayer's claim for a refund. Sullivan on September 16, 2014, adopted the hearing officer's decision and recommendation.

-- [Final Decision and Order No. 2014-19](#)

### Circumstances

A nonresident married couple had Rhode Island source income for tax year 2010 and filed a Rhode Island personal income tax return for that year, requesting a refund. The return was filed on September 3, 2013.

The taxpayers acknowledged that the refund request was out-of-time. They argued that, due to extenuating circumstances, they should receive the refund.

A daughter was diagnosed with cancer in 2009 and, despite various treatments, she died and her funeral was on July 28, 2012.

Also in 2012, the taxpayer-husband had surgery for an aneurism, collapsed the day of his daughter's funeral, and died the next day. The taxpayers, through their representative, argued that they did not know about the deadline for filing a refund. In light of their devastating losses, the taxpayers argued that an exception should be made.

The hearing officer denied the taxpayers' refund claim because it was not filed in a timely manner. (The rules are described above, in Final Decision and Order No. 2014-19).

“While there is no dispute that the taxpayers suffered terrible losses from the death of their daughter and the husband, there are no provisions in the statute that provide for any exemptions from the time limits set by statute,” Warren wrote. She noted that the statute has built-in extensions for requesting refunds. She also pointed out that an administrative proceeding “is not an equitable proceeding and there is no equitable jurisdiction.”

Warren on September 9, 2014, determined that the taxpayers were not entitled to the claimed refund and that the Division of Taxation properly denied the refund claim. Sullivan shortly afterward adopted Warren's decision and recommendation.

-- [Final Decision and Order No. 2014-20](#)

### Refund claim

At issue is whether the taxpayers filed on time a request for a refund of personal income tax for tax year 2010.

The resident couple filed their 2010 return on May 13, 2013, seeking a refund.

*(Please turn to page 9)*



## KEY CHANGES FOR PROPERTY-TAX RELIEF CREDIT

Rhode Island Tax Administrator David M. Sullivan is advising tax preparers about two key changes to Rhode Island's property-tax relief tax credit program -- changes that tax preparers will first see during the filing season that starts in January 2015.

The dollar amount of the credit will increase, and the credit's eligibility rules will be tightened. Preparers use Form RI-1040H to compute the credit; the form and instructions will be updated for the filing season.

### Outreach planned

"We will be reaching out in a number of ways to preparers and to taxpayers themselves to let them know of these important changes. Filing season is just about three months away, and we

want to make the season go as smoothly as possible for everyone," Sullivan said.

### Credit increase

The maximum credit will be \$305, up from \$300, for tax year 2014. Thus, the first time that preparers will encounter the higher credit will be during the coming filing season.

The maximum annual credit has long been \$300. But the General Assembly changed the law in 2006. Under that change, the credit can increase based on net terminal income generated by State-authorized video lottery games.

Although such increases have been possible since July 2007, it turns out that tax year 2014 is the first time that an increase can occur based on the limits of

the formula. (See Rhode Island General Laws § 44-33-9.)

### Eligibility

Effective for the 2014 and later tax years, the statewide property tax relief program is solely for those 65 and older and/or disabled. (The term "disabled" means those persons who are receiving a Social Security disability benefit.)

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."

The program was broad-

ened 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.

### Earned income credit

The new eligibility requirement involving Form RI-1040H was enacted by the General Assembly in June 2014 -- at the same time that the Assembly approved changes that will broaden the Rhode Island earned income credit for many low-income workers starting in 2015. (The changes to the earned income credit are for tax year 2015, so preparers will see the impact on returns that are prepared in early 2016.)

### Legal Corner:

## RECENT STATE TAX CASES (CONTINUED FROM PAGE 8)

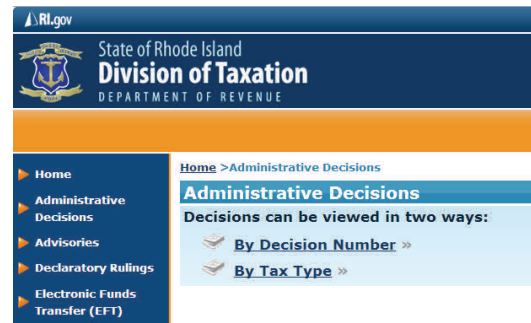
Shortly afterward, the Division of Taxation denied the claim, saying that the request was not timely filed (based on the rules as described above, in Final Decision and Order No. 2014-19).



Warren, citing RIGL § 44-30-87(a), Warren on September 8, 2014, determined that the taxpayers were not entitled to the claimed refund. Sullivan on September 17, 2014, adopted the hearing officer's decision and recommendation.

Warren, citing RIGL § 44-30-87(a), Warren on Sep-

-- [Final Decision and Order No. 2014-21](#)



### DECISIONS ONLINE

The Division of Taxation's website shows all Administrative Decisions since early 2011. (See screenshot above.) To view, use the following link <http://www.tax.ri.gov/AdministrativeDecisions/>

**Practitioners' Corner:**

## QUESTIONS AND ANSWERS ABOUT STATE TAXES

**Q: I read something about a Rhode Island tax credit for first-time homebuyers. Can my clients apply that against their Rhode Island personal income tax?**

A: It's a federal credit, not a Rhode Island one. Assuming that your clients meet the requirements, they may be able to claim the federal credit against their federal income tax. But that federal credit is not allowed against the Rhode Island personal income tax.

In general, your clients may claim the credit if they were issued a qualified Mortgage Credit Certificate (MCC) by a state or local governmental unit or agency under a qualified mortgage credit certificate program.

Rhode Island Housing offers such a program, known as the "FirstHomes Tax Credit program." It provides qualified first-time Rhode Island homebuyers and those buying in targeted areas of the state with a mortgage credit certificate which can be used as a dollar-for-dollar tax credit of up to \$2,000 against their federal tax liability for the life of their loan. Click [here](#) for

general information about the program, [here](#) for further details.

**Q: My client plans to sell some taxable items at a home-and-garden type of show in Rhode Island. Does he have to register with the Rhode Island Division of Taxation and collect and remit sales tax?**

A: The promoter of a show is responsible for providing temporary sales

tax permits to exhibitors who do not have a Rhode Island sales tax permit and for arranging for sales tax to be collected and remitted. So have your client contact the promoter directly. If the promoter says that your client is responsible for registering, collecting, and remitting the tax, please contact our Excise Tax section, at (401) 574-8955 from 8:30 a.m. to 3:30 p.m. business days.

**Q: Our business, which was located in another state (not Rhode Island) sold product to Rhode Island customers. We had a Rhode Island sales tax permit, regularly filed Rhode Island sales and use tax returns, and filed the**

**Rhode Island annual sales tax reconciliation. But we have now closed the business. How do we let the Division of Taxation know about that?**

A: Please fill out our "Final Return Form" for sales tax purposes and mail it in. Click [here](#) for the form. Also, it's helpful to include a cover letter of explanation.

**Q: I'm told that a letter of good standing is good for 30 days. Is that true?**

A: A letter of good standing issued by us does not have an expiration date.

However, for corporate reinstatement or other such purposes, the Rhode Island Secretary of State will not honor the letter of good standing after 30 days from the date of issue.

By the way, the process at the Division of Taxation typically works this way: When you file a *request* for a letter of good standing along with payment of the \$50 filing fee, we will process your request in as timely a manner as possible. (We've been swamped with such requests lately.)

However, in the event that we contact you for payments or for additional information, and you fail to respond within 60 days, the request will no longer be considered valid and you will have to submit a new request with an additional \$50 filing fee.

**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.

For the version of the application form that allows you to print and fill in the blanks by hand, click [here](#). For the other version -- a "fillable" version -- which can be filled in on-screen, then printed and mailed in, click [here](#).

*(Please turn to page 11)*



**Practitioners' Corner:**

**QUESTIONS AND ANSWERS ABOUT STATE TAXES** (CONTINUED FROM PAGE 10)

**Q: Hopefully you can clear up some confusion our staff is having regarding the e-filing mandate of the 2013 corporate tax returns. After reading the mandate, some thought that it only applied to paid preparers that file over 100 Rhode Island returns, while others thought that it applied to corporate tax filers and they would be mandated to e-file their own returns. Can you please confirm if a single corporate filer is mandated to e-file its corporate tax return or is it still optional?**

A: The corporate e-file mandate applies only to paid preparers above a certain filing threshold.

By statute, paid preparers of

Rhode Island corporate tax returns must file Rhode Island tax returns for their clients electronically. The provision applies to each preparer who prepared more than 100 Rhode Island returns in the prior year. The mandate requires paid preparers to e-file returns on Form RI-1120C, Form RI-1120S, and Form RI-1065.

The corporate e-file mandate does not apply to the taxpayers themselves.

Thus, the corporate e-file mandate does not apply to a single corporate filer. A single corporate

filer, filing its own return, continues to have the option to file electronically or on paper.

(Keep in mind that Rhode Island's corporate e-file mandate does not apply to extension requests – whether filed by paid preparers or by the corporations themselves. Requests for an automatic six-month filing extension are made on Form RI-7004. But the Division of Taxation does

not accept e-filed extensions; Form RI-7004 must be filed on paper.)



**Archives online**

Previous issues of the Rhode Island Division of Taxation's newsletter, *Rhode Island Tax News*, are available for viewing or for download at the agency's website:

[www.tax.ri.gov/newsletter/index.php](http://www.tax.ri.gov/newsletter/index.php)

**DIVISION OF TAXATION REGULATORY UPDATE**

The Rhode Island Division of Taxation in September 2014 held a public hearing on its

proposed regulation involving paid preparer regulations.

Regulation PIT 14-23 would help to implement a state law enacted in June 2013 that established specific penalties -- civil and criminal -- for paid preparers who prepare Rhode Island returns with the intent to wrongfully evade or reduce a tax obligation. The regulation spells out penalties that may be imposed on paid tax preparers who fail to comply

with due diligence requirements.

Based on comments from practitioners and others, the Division made certain revisions and prepared to post the regulation as final.

The Division is also working on a number of other regulations, including regulations to implement changes to the corporate income tax that were enacted in June 2014. In the months ahead, the Division plans to post regulations involving mandatory unitary combined reporting, apportionment, and other topics.

**Works of art**

*Tax Administrator David M. Sullivan reminds consumers and artists that the entire state of Rhode Island is deemed to be an arts district. As a result, since December 1, 2013, original and creative works by writers, composers, and artists that are sold in Rhode Island – whether at galleries or elsewhere – are exempt from Rhode Island sales and use tax. For more information, see the [Division of Taxation's Advisory](#) and the [Rhode Island State Council on the Arts special website](#) on the topic.*



**Public Hearing:** Chief Revenue Agent Charles Larocque (left) and Chief of Examinations Michael Canole (right) presided at a Division of Taxation public hearing in September.

# TAX DIVISION TO PROCESS FUEL TAX RETURNS

The Rhode Island Division of Taxation is taking steps to assume sole responsibility for the processing of returns by Rhode Island-based motor carrier operators involving the International Fuel Tax Agreement (IFTA).

At issue are fuel taxes that must be paid by motor carriers (mainly big trucks) that meet certain specifications. Under IFTA, a motor carrier files a quarterly fuel tax report, which is used to determine the net tax or refund due and to redistribute taxes from collecting states to states where the tax is due.

IFTA is an agreement among 48 states (including Rhode Island) and 10 Canadian provinces. IFTA simplifies the reporting of fuel that's used by interstate motor carriers. The fuel taxes they pay help to fund infrastructure in the cooperating states. Vehicles must may have a valid IFTA license and display decals issued by their base jurisdiction in order to travel in any other jurisdiction.

## Regional center

Currently, Rhode Island is a participating member (along with about 11 other jurisdictions) in a regional processing center in Albany, N.Y., which is hosted by the State of New York. The regional center processes, calculates, and col-



FEMA Photo/Mark Wolfe

**Motor Carriers:** Trucks like those pictured above that are driven on roads and highways are subject to motor fuel tax.

lects the tax revenues.

But in 2012, New York said it would discontinue managing the database for the regional center and end its IFTA tax-processing relationship with Rhode Island and a number of other states by December 31, 2014.

## Old system

About 950 motor carrier operators file returns out of Rhode Island. So under the old system, a Rhode Island-based operator would send its return to an address in Albany, N.Y., for processing; the results would be shared with the Rhode Island Division of Taxation and other IFTA jurisdictions.

However, by December 31, 2014, Rhode Island will leave the multi-state consortium that's now run by New York. Instead, Rhode Island will process its own returns; the 950 Rhode Island-based motor carrier operators will

send their returns directly to the Rhode Island Division of Taxation.

## New address

IFTA returns beginning with the period October 1, 2014, through December 31, 2014, will now be mailed to the following address: Rhode Island Division of Taxation, One Capitol Hill, Providence, R.I. 02908. The Division of Taxation will receive and process all IFTA returns and payments.

In preparation for the switch, the Rhode Island IFTA forms have been given a new format and have been updated. However, neither the tax rates nor the underlying law has changed.

The Division of Taxation received a federal grant to pay for the implementation of the new system.

Carriers will still file re-

turns on paper, sending them to the Rhode Island Division of Taxation. However, the Division will make preparations that will eventually allow for the electronic filing of IFTA returns by carriers based in Rhode Island.

## EIN required

Any carriers currently using a Social Security number for purposes of IFTA returns and payments will soon have to obtain a federal Employer Identification Number (EIN) from the Internal Revenue Service by calling 1-800-829-1040 or visiting [www.irs.gov](http://www.irs.gov).

After the filing of the fourth-quarter return (October 1, 2014, through December 31, 2014), IFTA returns and decal renewals will no longer be accepted without a proper federal EIN.

*Those with questions may contact the Division of Taxation's Excise Tax section at (401) 574-8934 or (401) 574-8788 between 8:30 a.m. and 4:00 p.m. business days.*

*(IFTA technically is the International Fuel Tax Association, Inc., more commonly known as IFTA, Inc. It's an Arizona not-for-profit corporation that was formed to manage and administer the International Fuel Tax Agreement.)*



## Rhode Island Department of Revenue Division of Taxation

### NEWSLETTER POLICY

*Rhode Island Tax News* is a newsletter from the Rhode Island Department of Revenue's Division of Taxation. It is typically published each quarter. Its purpose is to provide taxpayers and tax professionals with general information regarding Rhode Island tax laws, regulations and procedures. It is neither designed nor intended to address complex issues in detail. Nothing contained in this newsletter in any way alters or otherwise changes any provisions of the Rhode Island General Laws, regulations of the Tax Division, or formal rulings. The Tax Division is at One Capitol Hill, Providence, RI 02908. Its website is [www.tax.ri.gov](http://www.tax.ri.gov).

### HOW TO SUBSCRIBE

*Rhode Island Tax News* is distributed free, by e-mail, to those who have joined our listserv. If you are not on our listserv but would like to join, send an email to [Susan.Galvin@tax.ri.gov](mailto:Susan.Galvin@tax.ri.gov) with the word SUBSCRIBE in uppercase in the subject block.

### 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](mailto:Neil.Downing@tax.ri.gov)

### BACK ISSUES

*Rhode Island Tax News* back issues are on the Tax Division website: [www.tax.ri.gov](http://www.tax.ri.gov)

#### *How to contact us*

Taxpayers may contact the Division of Taxation online, by phone, by letter, or in person. (Hours of operation are typically 8:30 a.m. to 4:00 p.m. business days.)

#### Website

[www.tax.ri.gov](http://www.tax.ri.gov)

(For numbers and e-mail addresses for specific sections, click the "[Contact us](#)" link.)

#### Mailing address

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