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TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 - DIVISION OF TAXATION

SUBCHAPTER 55 - PERSONAL INCOME TAX

PART 10 – Employers' Withholding

10.1 Purpose

These rules and regulations implement R.I. Gen. Laws §§ 44-30-71, 44-30-75, ~~and~~ 44-30-78, and 44-30-85.1. These sections outline employers' withholdings.

10.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-30-95(a) and 44-1-4. These rules and regulations have been prepared in accordance with the requirements of R.I. Gen. Laws § 42-35-1 et seq. of the Rhode Island Administrative Procedures Act.

10.3 Application

These rules and regulations shall be liberally construed so as to permit the Division of Taxation the authority to effectuate the purpose of R.I. Gen. Laws §§ 44-30-71, 44-30-75, 44-30-78, 44-30-85.1, and other applicable state laws and regulations.

10.4 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 hereby.

10.5 General Information

A. Under the Rhode Island personal income tax system, as under the Federal system, employers are required to withhold a portion of each employee's wages and to periodically remit these funds withheld to the Division of Taxation.

B. Withholding Registration and Number

1. A special registration of employers ~~is not~~may be required for Rhode Island purposes.

2. The employer's identification number used for Rhode Island income tax is the same identification number currently issued to the employer by the Internal Revenue Service.

3. If an employer has not applied for or received a Federal employer's identification number, the employer should apply to the Division of Taxation for a special, assigned number.

C. Employees' Exemptions

1. Employers must have employees complete the RI-W4 to determine each employee's number of dependents, other personal exemptions, and additional Rhode Island withholding.~~Rhode Island does not require employers to get a separate certificate showing the number of dependents or other personal exemptions claimed by an employee.~~

~~2. In computing the state withholding for employees, the employer may rely on the Federal withholding exemption certificates (Federal form W-4) given the employer by the employee.~~

~~3. Employees electing additional federal withholding may elect additional Rhode Island withholding. Employees electing additional Rhode Island withholding should do so on Form RI W-4.~~

10.6 Employees' Wages and Withholding

A. Generally, Rhode Island withholding is required to be withheld from the wages of an employee by a Rhode Island employer.

B. "Rhode Island employer" means an employer maintaining an office or transacting business within this state.

C. Withholding Required

1. A Rhode Island employer must withhold Rhode Island income tax from the wages of an employee if:

   a. The employees' wages are subject to Federal income tax withholding, and

   b. Any part of the wages were for services performed in Rhode Island.

D. Convenience Withholding

1. An employer may withhold Rhode Island~~'s~~ personal income tax at the request of the employee even though the employee's wages are not subject to Federal income tax withholding.

2. Additionally, employers in other states may wish to withhold Rhode Island personal income taxes from wages of their Rhode Island employees as a convenience to those employees.

3. Additional information regarding convenience withholding may be requested from the Division of Taxation.

10.7 Computation of Withholding

A. An employer shall withhold using the current Rhode Island withholding rate which is set by the Tax Administrator and apply it to the employee's Federal taxable incomewages for each payroll period.

1. A table or percentage method of withholding similar to that allowed by Federal law may be periodically provided by the Division of Taxation for the employers wishing to use such a method.

B. Bonuses, Commissions and Special Situations.

1. If supplemental wages, such as bonuses, commissions, overtime pay or back pay are paid, the employer should follow the Federal method for determining the additional withholding tax.

2. The employer should apply the current Rhode Island withholding rate to the employee's additional Federal taxable incomewages for each payroll period.

10.8 Reporting and Remitting Taxes Withheld

A. Employers withholding Rhode Island personal income tax from employees' wages must reportelectronically file and/or pay the taxes withheld to the Division of Taxation on a periodic basis in the following situationsdepending upon the amount of withholding made from employees' wages.:

1. Per R.I. Gen. Laws § 44-30-71(c), electronic payment of withholding tax is required for employers who are required to withhold and remit the tax by law and the employer has ten (10) or more employees.

2. Per R.I. Gen. Laws § 44-30-85.1, electronic submission of withholding tax and tax return(s) is required for employers who withheld $200 or more per month on average for the prior calendar year.

B. The following bases are those on which the employer must remit and reportfile and pay to the Division of tTaxation:

1. Daily: If the employer withholds $24,000 or more for any calendar month during the year from employees' wages, the employer must remit the taxes withheld on a daily basis. A form RI-941D must accompany the

payment. The returns are due on the next banking day after the date the payroll is paid.

a. Consecutive returns for each payroll paid where Rhode Island income tax is withheld during the year must be filed. If no tax was withheld for any particular pay period, the return for that period must still be filed with the Division of Taxation, unless otherwise allowed, and the reason for nonwithholding must be clearly stated on the face of the return.

b. Change from a daily basis to a less frequent basis may be permitted only at the beginning of a calendar year.

12. Weekly Quarter-Monthly: If the employer withholds $600 or more but less than $24,000 for any calendar month during the year from employees' wages, the employer must remit the taxes withheld on a weekly quarter-monthly basis. A form RI-941QM must accompany the payment. The returns are due within three (3) banking days after the last day of the quarter-monthly period. The submission is due on the next banking day following the end of the week. The due date would generally be Monday unless Monday is a banking holiday or state holiday, in which case the due date would be Tuesday.

a. The term "Quarter-monthly weekly basis" means the week that begins on Sunday and ends on Saturday. first seven (7) days of a calendar month, the 8th day through the 15th days of a calendar month, the 16th day through the 22nd day of a calendar month and the 23rd day through the last day of the month.

b. Consecutive returns for each quarter monthly period accounting for all taxes withheld during the year must be filed. If no tax was withheld during any particular quarter-monthly period, the return for that period must still be filed with the Division of Taxation, unless otherwise allowed, and the reason for nonwithholding must be clearly stated on the face of the return. If there was no payroll for a given week, a payment filing is not required.

c. In addition to the weekly payment filing requirement above, a reconciliation form, Form RI-941 is due on or before the last day of the month following the close of the quarter.

dc. Change from a quarter-monthly weekly basis to a less frequent basis another payment frequency may be permitted only at the beginning of a calendar year.

23. Monthly: If an employer withholds $50 or more but less than $600 for any calendar month from employees' wages, the employer must report and remit the taxes withheld on a monthly basis. A form RI-941M must

~~accompany the payment and the form and payment are due~~The submission is due within twenty (20) days after the close of the month.

a. ~~Returns for the months of March, June, September and December should be filed on or before the last day of the following month. Consecutive returns for each calendar month accounting for all taxes withheld during the year must be filed by an employer required to report monthly.~~If there was no payroll for a given month, a payment filing is not required.

b. ~~If no tax was withheld during a particular month, the return must still be filed, and the reason for nonwithholding must be clearly stated on the fact of the return.~~In addition to the monthly payment filing requirement above, a reconciliation form, Form RI-941 is due on or before the last day of the month following the close of the quarter.

c. Change from a monthly return to ~~a less frequent basis~~another payment frequency ~~of filing will~~may be permitted only at the beginning of a calendar year. ~~If an employer's withholding reached or exceeds $600, during any one month, then the employer must begin to file on the basis of a quarter-monthly period in accordance with the instructions for quarter-monthly filing.~~

3~~4~~. Quarterly: If an employer withholds less than $50 for any calendar month from employees' wages, the employer must report and remit taxes withheld on a quarterly basis. A form RI-941~~Q~~ must accompany the payment and the form and payment are due on or before the last day of the month following the close of the quarter.

a. Consecutive returns for each calendar quarter accounting for all taxes withheld during the year must be filed by an employer required to report quarterly.

b. Change from a quarterly return to ~~a less frequent filing basis~~another payment frequency will be permitted only at the beginning of a calendar year. ~~If the amount withheld by the employer reaches or exceeds $50 for any one month the employer must begin to file on a more frequent basis depending on the amount of the withholding and in accordance with the requirements for either monthly or quarter-monthly filing.~~

4~~5~~. Error Correction: If an error has been made on a withholding tax return and that error results in an overpayment or underpayment of tax for that period, then the employer should make the necessary adjustment on the subsequent withholding tax report. Forms are available on the Division of Taxation's website.

10.9 Annual Reconciliation

A. On or before January 31 of each year (or at the termination of business), each employer must file a Rhode Island reconciliation return (RI W-3) for the preceding year ~~or periods showing reconciliation of all quarter-monthly, monthly, quarterly returns~~ of Rhode Island income tax withheld with all individuals and tax statements.

1. The total income tax withheld shown on the reconciliation return should equal the total payments made to the Division of Taxation for that year and should also equal the total amount of Rhode Island income tax withheld as shown on all the W-2 forms the employer furnished to its employees and ~~is~~ submitted with the W-3 form.

B. The state copy of the W-2 form(s) must accompany the reconciliation form (RI W-3). Information concerning electronic reporting is available in the "W-2 Electronic Filing Requirements" document on the Division of Taxation's website.

10.10 Forms

A. The ~~Rhode Island~~ Division of Taxation does not supply Federal forms W-2 or W-4. These forms must be obtained from the Internal Revenue Service.

1. Rhode Island form W-4 is available on the Division of Taxation's website.

B. Insofar as possible, forms (other than W-2 and W-4 forms) needed for compliance with the withholding provisions of Rhode Island personal income tax ~~will~~may be automatically mailed to employers prior to due dates. However, employers ~~that~~who file electronically, or are required to file electronically, will not receive withholding forms. Employers ~~which~~who do not receive any necessary forms should contact the Division of Taxation for any appropriate requests.

C. Wage and Tax Statements (Optional W-2)

1. Compliance with Federal requirements for furnishing W-2 forms to employees will satisfy state requirements. Employers should be sure to use the six-part optional Federal form or any other form which has been previously approved by the Division of Taxation for this purpose.