

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 - DIVISION OF TAXATION

SUBCHAPTER 55 - PERSONAL INCOME TAX

PART 2 – Extension of Time to File

2.1 Purpose

These rules and regulations implement R.I. Gen. Laws § 44-30-57 regarding the Tax Administrator's right to grant a reasonable extension of time to file a personal income tax return.

2.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-30-57, 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.

2.3 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 § 44-30-57 and other applicable state laws and regulations including, but not limited to, R.I. Gen. Laws §§ 44-30-55, 44-30-56, 44-30-84, and 44-30-85.

2.4 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.

2.5 Definitions

- A. "Proper estimate" means a Rhode Island extension form filed by the regular due date which declares at least eighty percent (80%) of the tax due for the taxable year.
- B. "Reasonable cause" means a taxpayer exercised ordinary business care and prudence and was nevertheless unable to file the return within the prescribed time.

- C. “Regular due date” means the fifteenth day of the fourth month following the close of a taxable year (for calendar year filers this would be April 15th).
- D. “Rhode Island extension,” for purposes of this regulation, means Form RI-4868 or Form RI-8736, whichever is applicable.
- E. “Willful neglect” means a conscious, intentional failure or reckless indifference or failure to exercise ordinary business care and prudence.

2.6 Extension of Time

- A. An individual, partnership or fiduciary required to file a Rhode Island income tax return may be granted an extension of time to file any return, declaration, statement, or other required document for Rhode Island income tax purposes. Pursuant to R.I. Gen. Laws § 44-30-57, as amended, no extension for filing shall exceed six (6) months, except for taxpayers outside of the United States.
- B. If a taxpayer (individual, fiduciary or partnership) meets all the following tests, the Rhode Island extension form RI-4868 (individual income tax returns) or RI-8736 (fiduciary income tax returns) need not be filed:
 - 1. The taxpayer is not required to make payment with Rhode Island extension form; and
 - 2. The taxpayer files a proper Federal extension form; and
 - 3. The taxpayer's request for extension covers the same time period for both Rhode Island and Federal purposes.
- C. If the taxpayer meets the criteria above, the taxpayer must attach a copy of either the Federal form 4868 or the Federal form 7004 to the Rhode Island return when it is filed.
- D. If a taxpayer does not meet the test in § 2.6(B) of this Part and is required to file a Rhode Island request for extension, the taxpayer shall:
 - 1. Prepare the Rhode Island extension form (either RI-4868 or RI-8736); and
 - 2. Show the full amount properly estimated as Rhode Island tax for that tax year;
 - a. Example: A taxpayer files an extension form on April 15th reporting a tax liability of \$15,000 and prepayment of employer withholding tax in the amount of \$12,000 and a payment with the extension of \$3,000. The taxpayer files a return on the extended due date reporting a tax in the amount of \$20,000. Since the amount reported on the application for extension of time to file was less than 80% of the total liability, there is no presumption of a proper

estimate. The extension will be void and the addition to the tax (penalty) will be assessed unless the taxpayer can demonstrate reasonable cause.

3. File the extension form with the Rhode Island Division of Taxation on or before the due date for filing Rhode Island income tax returns; and
4. Pay the amount of Rhode Island tax due as calculated on the RI-4868 or RI-8736 form.
5. Be sure to attach a copy of the RI-4868 or RI-8736 to the Rhode Island return when it is filed.

2.7 Taxpayers Outside the United States

- A. Taxpayers outside the United States on the due date for filing will be accorded special status for extension of time for filing their Rhode Island personal income tax returns only if they have applied for and been granted the special federal extension; and further, only if the taxpayer complies with other state and federal requirements for extension.
- B. Taxpayers claiming the special federal extension for being outside the United States on the due date must attach all state and federal extension documents in support of their claim.
- C. Extensions for members of the armed services and other individuals serving in a combat zone will be allowed in accordance with the federal provisions.

2.8 Payment

- A. The filing or granting of an extension of time to file does not extend the time for payment of tax due on the return.
- B. Pursuant to R.I. Gen. Laws § 44-30-84, if you do not pay the amount due by the regular due date, you will owe interest on the amount of tax due.
 1. In accordance with R.I. Gen. Laws § 44-1-7, as amended, interest is assessed at 18% per annum and accrues until the date you pay the tax. Interest may not be abated.
- C. Pursuant to R.I. Gen. Laws § 44-30-85, you may also be assessed a late filing addition to the tax (penalty) and/or a late payment addition to the tax (penalty).
 1. The late filing addition to the tax is generally 5% (.05) of the amount of tax due for each month or part of a month your return is late.

2. The late payment addition to the tax is generally $\frac{1}{2}$ of 1% (.005) of the amount of tax due for each month or part of the month your payment is late.

2.9 Waiver of Late Filing Addition to the Tax

A. Showing of Reasonable Cause

1. Pursuant to R.I. Gen. Laws § 44-30-85, a taxpayer who wishes to avoid the addition to the tax for failure to file a tax return or pay tax must make an affirmative showing of all facts alleged as reasonable cause for his failure to file such return or pay such tax on time in the form of a written statement containing a declaration that is made under the penalties of perjury. This statement should be filed with the tax administrator.
2. If the tax administrator determines that the delinquency was due to reasonable cause and not willful neglect, the addition to the tax will not be assessed.

B. Reasonable cause will be presumed for the period of the extension of time to file with respect to any underpayment of tax if:

1. The amount of tax shown on the individual income tax return minus the amount of tax paid on or before the regular due date of the return (by virtue of the tax withheld by the employer, estimated tax payments, and any payment with an application for extension of time to file pursuant to R.I. Gen. Laws § 44-30-57) is less than or equal to twenty percent (20%) of the amount of tax shown on the individual income tax return; and
2. Any balance due shown on the individual income tax return is remitted with the return.

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Type of Filing: Refile Capabilities

Department of State

Regulation Effective Date

Original Signing Date

Department of State Initials

Department of State Date