

280-RICR-20-55-10

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, 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 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.

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 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 tax 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 wages 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 wages for each payroll period.

10.8 Reporting and Remitting Taxes Withheld

- A. Employers withholding Rhode Island personal income tax from employees' wages must electronically file and/or pay the taxes withheld to the Division of Taxation on a periodic basis in the following situations:
 - 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 file and pay to the Division of Taxation:
 - 1. Weekly: If the employer withholds \$600 or more for any calendar month during the year from employees' wages, the employer must remit the taxes withheld on a weekly basis. 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 "weekly basis" means the week that begins on Sunday and ends on Saturday.
 - b. 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.
 - d. Change from a weekly basis to another payment frequency may be permitted only at the beginning of a calendar year.
- 2. Monthly: If an employer withholds \$50 or more but less than \$600 for any calendar month from employees' wages, the employer must remit the taxes withheld on a monthly basis. The submission is due within twenty (20) days after the close of the month.
 - a. If there was no payroll for a given month, a payment filing is not required.
 - b. 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 another payment frequency may be permitted only at the beginning of a calendar year.
- 3. 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 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 another payment frequency will be permitted only at the beginning of a calendar year.
- 4. 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 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 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.

10.10Forms

- A. The 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 may be automatically mailed to employers prior to due dates. However, employers who file electronically, or are required to file electronically, will not receive withholding forms. Employers 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.

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