

Tax Alert

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State of Rhode Island 2012 Budget Highlights

June 30, 2011

Governor Lincoln Chafee signed the fiscal year 2012 budget on June 30, 2011. The \$7.7 billion plan begins to address the state's structural deficits and includes expense reductions, revenue increases (rather than tax increases) and repays the rainy day fund. Highlights of the budget are as follows:

1. Limited liability partnerships and limited partnerships are required to file an annual return and pay the minimum corporate tax. The return is due on April 15th for calendar year partnerships and the 15th day of the fourth month following the close of the year for fiscal year partnerships. This is effective for tax years beginning on or after January 1, 2012.
2. Each corporation which is part of a unitary business must file a report, in a manner prescribed by the tax administrator, for the combined group containing the combined net income of the combined group. The report will include, among other items, the following:
 - The difference in tax owed as a result of filing a combined report compared to the tax owed under the current filing requirements;
 - The difference in tax owed as a result of using the single sales factor apportionment method under this paragraph as compared to the tax using the current three factor apportionment;
 - Volume of sales in the state and worldwide; and
 - Taxable income in the state and worldwide.

When calculating the sales factor for the unitary group, the report will include a set of calculations using the Joyce¹ approach and a second set of calculations using the Finnigan² approach.

A unitary business means the activities of a group of two or more corporations under common ownership

¹ *Appeal of Joyce, Inc.*, California State Board of Equalization, 66-SBE-070, November 23, 1966.

² *Appeal of Finnigan Corp.*, California State Board of Equalization, 88-SBE-022, August 25, 1988.

that are sufficiently interdependent, integrated or interrelated through their activities as to provide mutual benefit and produce a significant sharing or exchange of value amount them or a significant flow of value between the separate parts. The term unitary business will be construed to the broadest extent permitted under the United States Constitution.

Common ownership means more than 50% of the voting control of each member of the group is directly or indirectly owned by a common owner or owners, either corporate or non-corporate, whether or not owner or owners are members of the combined group.

Member means a corporation included in a unitary business.

Persons engaged in the following activities, whether in or out of Rhode Island, are not required to be part of the combined reporting:

- Activities of a Public Service corporation as defined in 44-13-4
- Activities of state banking institutions as defined in 44-14-3
- Activities of national banking associations as defined in 44-14-4 or
- Activities of insurance companies as defined in 44-17-1.

Corporations incorporated in a foreign jurisdiction (foreign corporation) are excluded from the combined group if the average of its property, payroll and sales factors outside the United States is 80% or more. Foreign corporations included as a member in the combined group whose income is subject to a provision of a federal income tax treaty will not be required to include its income in the combined group net income. The foreign corporation's expenses or apportionment factors relating to the excluded income will also be excluded from the combined reporting.

The penalty, not to exceed \$10,000, will apply for non-compliance with the combined reporting provision or the filing of a false report. The penalty may be waived if it can be shown there was good cause for failing to timely file.

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The provision is effective for tax years beginning after December 31, 2010 and before January 1, 2013.

3. Certain tax credit recipients will be required to file an information report annually with the tax administrator. The report will include certain information relating to its employees. The first report will be due on or before September 1, 2011.
4. The hospital licensing fee has been lowered to 5.43% of net patient revenue for the hospital's first fiscal year ending on or after January 1, 2010. This payment is due July 16, 2012 and must be paid electronically.
5. The licensing fee for a security sales representative has increased to \$75 from \$60.
6. The licensing fee for a federal covered adviser has increased to \$300 from \$250.
7. The lottery director has the ability to offset an individual's prize winnings if he/she has outstanding tax debts in excess of \$600, child support arrearages or certain other benefit payments.
8. The Rhode Island estate tax filing fee is increased to \$50 from \$25.
9. The letter of good standing filing fee is increased to \$50 from \$25.
10. A surcharge of 4% of net patient revenue will be assessed to compassion centers. Payment is due electronically.
11. An additional list of the top 100 delinquent taxpayers who owe the largest amount of state taxes under 44-11 (business corporate tax), 44-12 (franchise tax), 44-13 (public service corporation tax), 44-14 (taxation of banks), 44-15 (tax on bank deposits), 44-17 (insurance company tax), 44-18 (sales and use taxes), and 44-20 (cigarette tax) and whose taxes have been unpaid for a period in excess of 90 days following the tax due date. This will be in addition to the top 100 delinquent individual taxpayers.
12. The division of motor vehicles is authorized to impose a fee of up to \$50 on returned checks.
13. Any governmental agency may contract with the tax administrator to collect an outstanding liability owed to the governmental agency. For example, a municipal tax collector may send a list of delinquent taxpayers to the tax administrator and if the delinquent taxpayer has a tax overpayment, the tax administrator will send the refund, net of a fee, to the municipality as payment on the outstanding debt.
14. Sales tax benefits granted certain projects as designated by the Rhode Island Economic Development Corporation under 42-64-20(c) shall only apply to projects approved prior to July 1, 2011.
15. Sales tax base has been expanded starting July 1, 2011 to include the following sales:
 - Package tour and travel agency services,
 - Over the counter drugs
 - Prewritten computer software delivered electronically or by load and leave, including applications for smartphones and similar devices and
 - Medical marijuana
16. If federal law requires remote sellers to collect and remit taxes, the sales tax rate will be reduced to 6.5% and the local meals and beverage tax and the hotel tax will be reduced to 1.5% effective the first day of the first state fiscal quarter following the change.
17. New longevity payments for all state employees effective July 1, 2011 or upon the expiration of any current collective bargained contract are ended.
18. Four revenue agent positions in the audit and compliance field were approved at a cost of \$260,400. Two million dollars in revenue is expected to be collected from these new positions.
19. The state's unemployment insurance system changes the method of determining the taxable wage base and increases it from \$19,000 to an estimated amount of \$19,600, starting in the tax year beginning January 1, 2012. In addition, this new wage base is increased by \$1,500 for employers who have the highest negative reserve account balances. Benefit rates will also be reduced starting in benefit years on or after July 1, 2012.
20. Individuals receiving post-employment benefits offered by the state must enroll in Medicare as soon as he or she is eligible in order to continue to receive the state provided post-employment benefits.
21. There will be a \$30 surcharge payable on each biennial registration of each passenger car and light truck. The surcharge will be phased in at a rate of \$10 each year starting July 1, 2013.
22. There will be a \$15 surcharge payable on each annual registration of each car and truck. The surcharge will be phased in at a rate of \$5 each year starting July 1, 2013.
23. Vehicle license renewals will increase by \$30 paid every five years, phased in at a rate of \$10 each year starting July 1, 2013.