

State of Rhode Island - Division of Taxation

Personal Income Tax

Regulation PIT 97-15

Employers' Withholding

I. GENERAL INFORMATION

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.

A. **Withholding Registration and Number:** A special registration of employers is not required for Rhode Island purposes. 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. 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.

B. **Employees' Exemptions:** Rhode Island does not require employers to get a separate certificate showing the number of dependents or other personal exemptions claimed by an employee. In computing the state withholding for employees, the employer should rely on the Federal withholding exemption certificates (Federal Form W-4) given the employer by the employee. Rhode Island law does not permit an employee to claim a different number of withholding exemptions for the purposes of Rhode Island's personal income tax.

II. EMPLOYEES' WAGES AND WITHHOLDING

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

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

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

1. The employees' wages are subject to Federal income tax withholding, and
2. Any part of the wages were for services performed in Rhode Island.

B. **Convenience Withholding:** 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. Additionally, employers in other states may wish to withhold Rhode Island income taxes from wages of their Rhode Island employees as a convenience to those employees. Additional information regarding convenience withholding may be requested from the Division.

III. COMPUTATION OF WITHHOLDING

A. Generally: An employer shall withhold using the current Rhode Island withholding rate which is set by the Tax Administrator and apply it to the amount currently being withheld from each employee's wages for Federal income tax purposes.

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

B. Bonuses, Commissions and Special Situations: 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. The employer should apply the current Rhode Island withholding rate to the additional Federal income taxes withheld on the supplemental wages.

IV. REPORTING AND REMITTING TAXES WITHHELD

Employers withholding Rhode Island personal income tax from employees' wages must report and pay the taxes withheld to the Division of Taxation on a periodic basis depending upon the amount of withholding made from employees' wages. The following basis are those on which the employer must remit and report to the Division of taxation:

A. 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.

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.

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

B. Quarter-Monthly: If the employer withholds \$600 or more but less than \$23,999 for any calendar month during the year from employees' wages, the employer must remit the taxes withheld on a 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 term "Quarter-monthly period" means the 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.

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.

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

C. 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 taxes withheld on a monthly basis. A form RI-941M must accompany the payment and the form and payment are due within twenty (20) days after the close of the month.

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 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.

Change from a monthly return to a less frequent basis of filing will 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.

D. 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-941Q 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.

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

Change from a quarterly return to a less frequent filing basis 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.

E. Annually: If the wages paid to employees during the calendar year did not require tax to be withheld, an employer's annual return on a form RI-941A must be filed on or before January 31 of the following calendar year. This annual return also serves as the transmittal form for all Rhode Island Division of Taxation copies of the forms W-2 furnished to the employer's employees.

F. Error Correction: If an error has been made on a withholding tax return and that error results in an overpayment of tax for that period, then the employer should make the necessary adjustment on the subsequent withholding tax report.

If the error results in an underpayment, then a photocopy of the report in error should be made. The necessary adjustments should be made on the photocopy. The photocopy, as corrected, along with the additional payment should then be sent into the Rhode Island Division of Taxation.

Any such adjustment must be accompanied by a clearly stated explanation for the adjustment being made.

G. Exceptions: For an employer whose payroll is paid on a less frequent basis than the reporting

requirements, an exception may be requested and granted for the filing of the reports for the period in which no payroll has been paid.

The employer should submit a written request to the Division of Taxation stating that as the payroll withholding exceeds (the specific dollar amount for a particular type of remittance) but that the employees are paid on a different basis than the remittance requires and therefore, the employer requests the ability to file reports and pay the withholding taxes on the same basis as the payroll is paid.

If the request is granted, the employer will receive a written reply detailing how the reporting and payment of taxes should be made.

V. ANNUAL RECONCILIATION

On or before February 28 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. 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 forms W-2 the employer furnished to its employees and is submitted with the W-3 form.

The state copy of the W-2 form(s) must accompany the reconciliation form (RI-W-3). Information concerning reporting on magnetic tape is available by special request at the Division of Taxation. Employers seeking magnetic tape reporting must contact the Division and execute any appropriate agreements prior to any such reporting.

VI. FORMS

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

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 be automatically mailed to employers prior to due dates. Employers which do not receive any necessary forms should contact the Division for any appropriate requests.

B. Wage and Tax Statements (Optional W-2): Compliance with Federal requirements for furnishing forms W-2 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.

SEE ALSO: FORMS RI-941D, RI-941QM, 941M, 941Q, 941A AND RI-W-3

R. GARY CLARK
TAX ADMINISTRATOR

EFFECTIVE: January 1, 1997

THIS REGULATION AMENDS AND SUPERCEDES REGULATION PIT 90-15
PROMULGATED MAY 1, 1990 and PIT 90-15 PROMULGATED NOVEMBER 21, 1991

AND PIT 91-15 PROMULGATED JANUARY 1, 1992.