



March 28, 2024

Honorable Marvin Abney
Chairperson, House Finance Committee
Rhode Island State House
82 Smith Street
Providence, RI 02903

Re: HB7996 - AN ACT RELATING TO TAXATION -- STATE TAX OFFICIALS

Dear Chairperson Abney:

On behalf of the Rhode Island Society of CPAs, we would like to express overwhelming support for the passage of H.7996, An Act Relating to Taxation – State Tax Officials. We have worked closely with Representative McEntee because of the numbers of members and their clients who have pushed for this change; we are very grateful for her support and assistance. We recognize the legislation as written needs to be amended to accomplish the goal of reducing the interest rate on delinquent payments.

H.7996 marks a significant stride by reducing the interest rate applied to delinquent payments from 18% to 12%. While many states levy a 6% interest rate on such accounts, this proposal to transition to 12% signifies a commendable move forward. In 2022 we worked with this committee, Senate and the Administration on legislation to reduce the rate from the highest in the U.S. Unfortunately, there were numerous issues with that legislation that we are before you to address with two important amendments to consider. The original intent of lowering the interest rate from 18% to 12% was to encompass all audits commencing on or after January 1, 2024, irrespective of the audit period's duration. Yet, there's a risk of misinterpretation, allowing the Division to potentially apply the higher 18% rate to all previous tax years if an audit initiated today spans those years. Further, trust funds should not be excluded from the lower interest rate assessment for the same reasons.

Back in the 1970's when interest rates were high, the 18% floor and a 21% cap made sense. This is 2024 – the prime rate is 8.5%. The language is *prime plus 2%*, so why is the floor at 18%? This is why asking for 12% (which was passed but with the language added at the 11th hour carved out the majority of taxes including sales, meals and beverage taxes) is more than reasonable. The floor should be closer to 8% with an all-inclusive cap of 12%; even with this change, we remain among the highest in the U.S.

Secondly, while the federal Internal Revenue Service (IRS) typically conducts tax audits within a three-year timeframe, extending to seven years in cases of suspected fraud, we have taxpayers every week who have been audited by the Rhode Island Division of Taxation surpassing this seven-year limit. This discrepancy places Rhode Island businesses in jeopardy, especially if they have disposed of old documents assuming compliance with federal guidelines. Our members also feel that interest should be assessed prospectively from the date the liability is incurred – in theory, if you send a tax audit bill after this legislation takes effect, it should be at the new rate, not the year of the tax liability – unless there is

fraud or failure to file. Implementing these adjustments would provide relief to taxpayers burdened by exorbitant interest payments, often surpassing the actual delinquent tax owed. I am submitting some examples of redacted notices illustrating this (please add these examples to my testimony as Schedule A and Schedule B documents).

The change would incentivize the Division of Taxation to expedite the resolution of delinquent taxes. We urge the committee to include the necessary amendments as requested in a SubA version and allow this legislation to pass to restore equity in the tax payment process. The proposed legislation aligns Rhode Island's penalty assessment more closely with other states, addressing the disproportionality of the current 18% rate, which stands as one of the highest nationwide. Even with the proposed adjustment, Rhode Island's rate remains notably elevated, serving as a deterrent to non-compliance. And to be clear, we exempt from this testimony cases of fraud or other illegal activity.

Rhode Island businesses across industries have suffered due to penalties imposed for inadvertent errors, compounded by the complexity of tax regulations. In numerous instances, audit findings diverge from professional assessments, yet avenues for appeal remain arduous, particularly for small businesses. Retroactive penalty interest often surpasses the initial tax liability, exacerbating financial strain. It is not widely understood that Rhode Island's small businesses typically file business through their personal taxes. We see cases almost daily where someone had what is commonly known today as a second job (or "side hustle") and fifteen years or

The national average of penalty interest is less than 8% - including what is known as trust fund taxes (meals, beverage and sales tax). In contrast, Rhode Island's longstanding 18% rate stands as an outlier, posing a severe burden on struggling businesses. This overdue adjustment is not only revenue neutral because as the current Administration is aware, the change would serve as a catalyst to obtain overdue tax payments (the amount owed in back taxes to the state is staggering); it would ensure Rhode Island's smallest and most vulnerable businesses – and taxpayers in general - don't throw in the towel and either close or move out of state.

On behalf of RISCPA and its members, we implore immediate action on this critical matter. Thank you for your leadership and dedication to addressing this pressing issue.

Sincerely,

Melissa Travis

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President/CEO
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