State of Rhode Island Division of Taxation DEPARTMENT OF REVENUE

May 2021 REC Follow-Up

May 5th, 2021

STATE OF RHODE ISLAND DOR DEPARTMENT OF REVENUE

Contents

QUESTION 10, page 16: Unused amount for "90% redemption" of Rebuild RI Credits

Revenue Estimating Question: Q10C

Issue raised:

How is there an unused amount listed as "90% redemption"?

Division of Taxation Response:

The "Redemption 90%" (listed under "Tax Type" on Question 10c) with the value of $5,163,339, which is the full (100%) amount of Rebuild Tax Credits either submitted for redemption or permitted to be redeemed pursuant to R.I. Gen. Laws § 42-64.20-5(p). These credits ($5,163,339) are eligible for redemption at 90% but not all have been redeemed at 90% yet. Rebuild Credits under R.I. Gen. Laws § 42-64.20-5(j) are required to be used in 5 year annual increments.

The $5,163,339 is listed under "Tax Type" in question 10c because this amount is the full (100%) value of the tax credit certificates issued by Taxation and that have been identified as eligible to be redeemed by the taxpayer at the 90% redemption amount. As noted, the fiscal year (18-21) usage is the actual amount of tax credit certificates that have been redeemed at 90%.

The asterisk on the row for "Redemption 90%" next to "Unused Amount" of $941,306 denotes the 10% difference for actual usage across prior fiscal years (the total of the second from bottom row titled "10% Reduction on Redemption") plus any amount for which a taxpayer has confirmed they are seeking the 90% redemption for future years but has not redeemed the issued credit at 90%.

QUESTION 12: Unemployment Compensation without withholding impact on Refunds

Revenue Estimating Question: Q12
Issue raised:
We know that not all taxpayers receiving unemployment compensation elected to withhold taxes. Are we able to determine any correlation between this and the lower amount of refunds issued at this time?

Division of Taxation Response:

At this time, we are unable to determine the impact of not withholding when receiving unemployment compensation on a reduction in the amount of refund issued to a taxpayer. We are unable to determine this for two primary reasons: TY20 due date postponement and increased potential fraud returns due to fraudulent UI claims

With the postponement of the personal income due date from April 15 to May 17th, 2021, we do not yet have returns that traditionally would have been filed by April 15. When comparing previous tax years at this point in the calendar year, we had received 609,643 returns for tax year 2018, whereas this year we have only received 497,490 returns for tax year 2020. Comparably, by May 1, 2019, we had issued 421,730 refunds whereas this year we have issued 326,732. We are unable to estimate how many less refunds we currently have based on the 100,00+ fewer returns. Additionally, we do not know how many of those unfiled returns will be impacted by the lack of withholding on unemployment compensation.

Additionally, due to the large amount of fraudulent unemployment compensation claims requested in tax year 2020, there are substantially increased fraud detection measures in place, resulting in a higher percentage of refunds marked for review for taxpayers with unemployment compensation. Thus, the impact of unemployment compensation on any given refund is skewed as less refunds for taxpayers with this income have been issued as a percentage of all refunds.

QUESTION 38: PIT / SALE / CORP Report

Revenue Estimating Question: Q38
Issue raised:
Please provide the Pit/Sale/Corp Report when it is available.

Division of Taxation Response:

Please see attached excel workbook for PIT / Sale / Corp Report.

QUESTION 49, page 94: CAA/ARPA Impact of extra year for excess business losses

Revenue Estimating Question: Q49

Issue raised:

It is stated that the cumulative impact of the CAA/ARPA allows for an extra year in which to use excess business losses. What is the fiscal impact of this additional year?

Office of Revenue Analysis Response:

TCJA limited active business losses to $250,000 per year for individual filers and $500,000 per year for joint filers. This took effect with tax years beginning on or after December 31, 2017 and remained in effect for tax years ending on or before December 31, 2025. The estimated impact of this provision was provided at the May 2018 Revenue Estimating Conference.

The CARES Act suspended the active business loss limitation for TY 2018, TY 2019, and TY 2020. ORA estimated personal income tax refunds of $18,787,024 for taxpayers that would file amended TY 2018 and TY 2019 returns to take advantage of the elimination of the limitation on active business losses. Accounts and Controls booked a payable for this amount in FY 2020. For TY 2020, ORA estimated forgone personal income tax revenues of $10,299,317 for FY 2021. Accounts and Controls has indicated that they will be booking a payable in this amount in FY 2021 since many of the returns which would make use of the suspension of the active business loss limitation for TY 2020 will be filing on extension.

ARPA extended the limitation on business losses to $250,000 for individual filers and $500,000 for joint filers to tax years beginning after December 31, 2025 and ending on or before December 31, 2026 (i.e., TY 2026). The revenue gain ORA estimates from extending this provision one additional year is $9,493,309 in FY 2025, $9,583,970 in FY 2026 and $7,633,470 in FY 2027. As a note, because the financial impact was limited to out years and would not impact FY22/23, the estimate remained unchanged in the testimony concerning FY22/23 on question 49.

QUESTION 49, Page 96, PPP loss estimate revision

Revenue Estimating Question: Q49

Issue raised:

Compared to previous estimates, why did the projected loss from the PPP provision get reduced due to the inclusion of SBA data from April 2021? Why did the allocation of these losses to a given fiscal year change?

Office of Revenue Analysis Response:

The original estimate for the impact of allowing the deductibility of expenses paid for with tax exempt PPP loan proceeds against other taxable revenue contained in the CAA was based on data provided by the SBA for first round PPP loans as of January 26, 2021. The total amount of first round PPP loans that were in this data was $1,904,197,068. ORA determined that $192,891,967 of this amount was made to (self-identified) non-profits leaving a total of $1,711,305,101 of PPP loans made to for-profit businesses as of January 26, 2021. The CAA authorized a second round of PPP loans under different conditions at US aggregate amount of $284.0 billion. ORA took the percentage of Rhode Island first round PPP loans out of the total U.S. first round PPP loans made of $ 521,483,817,756 to estimate how much of the authorized US second round PPP loans would go to Rhode Island entities. This estimate was $1,031,176,878 in second round PPP loans taken by Rhode Island entities. ORA assumed that the same percentage of first round PPP loans that went to nonprofits would go to nonprofits in the second round leaving total second round PPP loans made to for-profit entities of $926,618,461. Based on calculations of effective tax rates made by ORA this yielded a revenue loss from the CAA's expense deductibility provision of $133,266,066 (a loss of $86,278,801 in TY 2020 (FY 2021) when the expenses paid for with first round PPP loans were incurred and a loss of $46,987,366 in TY 2021 (FY 2022) when the expenses paid for with second round PPP loans would be realized).

ORA then applied the Governor's proposal to tax the amount of a forgiven PPP loan in excess of $150,000 to realize revenues of $67,678787 (a gain of $43,751,362 from first round PPP loans made in TY 2020 and $23,927,425 from second round PPP loans made in TY 2021). To allocate these two tax year amounts between FY 2021 and FY 2022, ORA looked at the first round PPP loans that had been "paid in full" (i.e. forgiven) as of January 26, 2021 and allocated the revenue from these forgiven loans to FY 2021 with the remainder of the revenue being realized in FY 2022 since the remainder of the loans would be forgiven in TY 2021. ORA assumed that all the estimated second round PPP loans would also be forgiven in TY 2021. Thus, based on the same effective tax rate calculations, ORA estimated FY 2021 revenues from the Governor's proposal of $3,599,993 and for FY 2022, $64,078,794.

ORA realized, upon receiving the SBA data on first and second round PPP loans as of April 13, 2021, that an error had been made in allocating the revenue in the Governor's proposal between FY 2021 and FY 2022. Specifically, the FY 2021 figure of $3,599,993 included first round PPP loans that had been forgiven after December 31, 2020 and on or before January 26, 2021. Since the event that triggers the taxability of more than $150,000 of a forgiven PPP loan is when the forgiveness is received, the revenue from these forgiven PPP loans should have been allocated to FY 2022 and not FY 2021. Thus, based on the SBA data on first round PPP loans as of January 26, 2021, the revenue breakdown should have been $2,137,049 in FY 2021 and $65,541,738 in FY 2022.

The SBA data for first round PPP loans as of April 13, 2021 showed a total of 21,214 loans vs. 17,870 using the SBA data as of January 26, 2021. In addition, the first round PPP loan volume as of April 13, 2021 was $1,972,069,929 vs. $1,904,197,068 as of January 26, 2021, After netting out the nonprofit recipients, the SBA first round PPP loan data as of April 13, 2021 showed total loans to for-profit~~s~~ entities of $1,769,128,171 vs $1,711,305,101 as of January 26, 2021. In addition, the April 13, 2021 SBA data included information on the actual amount of second round PPP loans. Whereas ORA estimated that $926,618,461 of second round PPP loans would be made to for-profit entities based on the SBA first round PPP loan data as of January 26, 2021, the actual amount as of April 13, 2021 was $762,738,007, a difference of $(163,880,454) or 17.7% less than originally estimated. Using the same effective tax rates, ORA estimated that the revenue loss from the CAA's expense deductibility provision would be $127,403,643, a loss of $86,569,726 in TY 2020 when the expenses paid for with first round PPP loans were incurred and a loss of $40,833,916 in TY 2021 when the expenses paid for with first and second round PPP loans would be realized (some first round PPP loans were made after January 26, 2021 and on or before April 13, 2021 so these loans would cover expenses incurred in TY 2021).

ORA then applied the Governor's proposal to tax the amount of a forgiven PPP loan in excess of $150,000 to realize revenues of $60,563,187 (a gain of $44,136,427 in TY 2020 from first round PPP loans and $16,426,760 in TY 2021 from second round PPP loans). To allocate these two tax year amounts between FY 2021 and FY 2022, ORA looked at the first round PPP loans that had been "paid in full" (i.e. forgiven) in 2020 as of April 13, 2021 and allocated the revenue from these forgiven loans to FY 2021 with the remainder of the revenue being realized in FY 2022 since the remainder of the loans would be forgiven in TY 2021. Thus, based on the same effective tax rate calculations, ORA estimated FY 2021 revenues from the Governor's proposal of $2,137,049 and for FY 2022, $58,426,138.

Impact:
FY 2021: $(86,569,726)
PIT: $(28,950,521)
Bus Corp: $(57,619,205)

FY 2022: $(40,833,916)
PIT: $(14,751,271)
Bus Corp: $(26,082,646)

The figures provided by the Division of Taxation in question 49, as provided by ORA, were erroneous. ORA mistakenly used the PPP loan forgiveness date to allocate the revenue loss from allowing the deduction of expenses paid for with tax exempt PPP loans rather than the PPP loan approval date. PPP loans approved in TY 2020 were used for expenses in TY 2020 and these expenses would be deducted against other taxable revenues in TY 2020 and thereby impact Rhode Island personal income and business corporation tax revenues in FY 2021 (TY 2020 returns are generally due in FY 2021). Using the PPP loan forgiveness date is what shifted the revenue losses so sharply. The figures immediately preceding this paragraph properly use the PPP loan approval date to allocate the revenues losses between FY 2021 and FY 2022.

Revised Slide for PPP:

State of Rhode Island Division of Taxation Department of Revenue

FY 21 and 22 IMPACTS ON TAX COLLECTIONS DUE TO THE CARES ACT/CAA 2021 PROVISIONS RELATED TO PPP LOANS/EXPENSE DEDUCTIBILITY

State of Rhode Island DOR Department of Revenue

The CARES Act created PPP loans, which under certain circumstances may be forgiven and the cancellation of debt is not included in taxable income. The CAA 2021 determined that if PPP loan amounts are used to pay qualified business expenses, those expenses would be deductible from income—further reducing the tax amount due.

Under current law, Rhode Island's rolling conformity would result in:

CARES ACT/CAA PROVISION	FISCAL YEAR 2021	FISCAL YEAR 2022
PPP Loan Forgiveness/Expense Deductibility/Fiscal Impact	~~($3,490,381)~~ ($86,569,726)	~~($123,912,662)~~ ($40,833,916)

Source: Office of Revenue Analysis- Updated SBA Data as of 4/13/21

Article 2 of House Bill 6121 proposes legislation to add the amount forgiven in PPP Loans, for amounts over $150,000, to RI taxable income.

The updated impact of this provision by fiscal year is:

H 6122 Proposal to Tax PPP Loans over $150K	FISCAL YEAR 2021	FISCAL YEAR 2022
Fiscal impact	($2,137,049)	($58,426,138)

Source: Office of Revenue Analysis- Updated SBA Data as of 4/13/2021

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QUESTION 50: DLT Unemployment compensation with and without WH

Revenue Estimating Question: Q50
Issue raised:
Beginning in March 2020, how much was paid per month in unemployment compensation where there was withholding of RI taxes and where there was not withholding of RI taxes?

Department of Labor and Training Response:

The Division of Taxation received the following response from DLT:

From: Paquet, Denise (DLT) <Denise.Paquet@dlt.ri.gov>
Sent: Wednesday, May 5, 2021 3:47 PM
To: Savage, Neena (DOR) <neena.savage@tax.ri.gov>; Weldon, Matthew (DLT) <Matthew.Weldon@dlt.ri.gov>
Cc: McQuade, Abby (DLT) <Abby.E.McQuade@dlt.ri.gov>; Sarathy, Rahul (DOR) <rahul.sarathy@tax.ri.gov>; Cipriano, Kristin (DOR) <Kristin.Cipriano@tax.ri.gov>
Subject: RE: Follow-up from Revenue Estimating Conference Testimony today

Hi Neena.

This information is not readily available. It is not a regular data element that we receive or track. We have total benefits paid and total taxes withheld but not the population of benefits paid that have taxes withheld versus those that do not.

Denise M. Paquet, CPA, CGMA

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QUESTION 46: CCU General Revenue Collections

Revenue Estimating Question: Q46
Issue raised:
How much of revenue collected will go to General Revenue fund for each agency?

Central Collections Unit Response:
During the Revenue Estimating Conference, CCU was asked what portion of the cases referred would result in General Revenue being brought in. We have reached out to the agencies and got the following responses:

DEM – 100% Restricted Receipt Revenue
DLT – 100% General Revenue
Board of Elections – 100% General Revenue
Ethics - 100% General Revenue
Center for Human Rights – 100% General Revenue
Tax – 100% General Revenue
RITT – 73% General Revenue 20% Escrow 5% Other 2% Restricted Receipt (see note)
DMV – 100% General Revenue
EOHHS – 100% Federal (Cares Act)

We are reaching out to the remaining agencies but these are the agencies we've received information from and represent the largest debts we are currently working on and/or have already collected. We will make sure to collect this data from all agencies going forward.

NOTE: The breakdown of percentages for RITT debt is based on all Traffic Tribunal receipts as they don't specifically track the debt source referred to CCU. They are working to have a report accessible that will track this in the future. That said, they refer over all past due balances so it's reasonable to assume that the split is consistent.

QUESTION 47: DMV New Transactions by Month

Revenue Estimating Question: Q47

Issue raised:

Please provide the breakout by month of how many New Transactions were process. How might that compare to previous Real ID deadlines?

Department of Motor Vehicles Response:

The DMV has sent the conferees the response to this question on May 3, 2021.