

**280-RICR-20-55-3**

## **TITLE 280 - DEPARTMENT OF REVENUE**

### **CHAPTER 20 - DIVISION OF TAXATION**

#### **SUBCHAPTER 55 - PERSONAL INCOME TAX**

##### **PART 3 - Credit for Income Taxes of Other States**

### **3.1 Purpose**

These rules and regulations implement R.I. Gen. Laws § 44-30-18, as amended. That section outlines credits for income taxes of other states.

### **3.2 Authority**

These rules and regulations are promulgated pursuant to R.I. Gen. Laws § 44-1-4. The 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.

### **3.3 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 § 44-30-18, as amended, and other applicable state laws and regulations.

### **3.4 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.

### **3.5 Credit for Income Taxes of other States**

#### **A. General**

##### **1. Credit and Limitation**

- a. Rhode Island personal income tax law, in R.I. Gen. Laws § 44-30-18, generally provides that a resident will be allowed a credit against his/her Rhode Island personal income tax due for the taxable year for the aggregate of the net income taxes imposed on him/her for the taxable year by other

states (including the District of Columbia) of the United States. In other words, any resident of Rhode Island required to report and pay personal income taxes to another state(s) would be allowed a credit on his/her Rhode Island personal income tax return.

- b. This credit cannot exceed the proportion of the taxpayer's Rhode Island personal income tax that the taxpayer's Rhode Island income derived from the other taxing states bears to his or her entire Rhode Island income for the same taxable year.

## 2. Terminology

- a. R.I. Gen. Laws § 44-30-6, as amended, generally provides that any term used in Rhode Island personal income tax law shall have the same meaning as when used in a comparable context in the laws of the United States relating to Federal income taxes, unless a different meaning is clearly required.

## B. Out of State Adjusted Gross Income

### 1. General

- a. Regardless of terminology used by the statutes of the other taxing state(s), the adjusted gross income for another state to be used in the calculation of the credit is determined in the same manner as adjusted gross income used on the taxpayer's Federal income tax return and includes computation of gross income less any adjustments that would be comparable to Federal adjustments available to the taxpayer for the same tax year.

### 2. Gross Income

- a. Out-of-state gross income is determined in the same manner as that which would be used for Federal purposes and generally include the net amounts of income that appear on the face of the other state's return or what would be comparable to the face of the Federal Income Tax Return.
- b. When income is first reported on a supporting schedule and a lesser or different amount is carried forward to the face of the return, the amount on the face (or comparable to the face) of the return is what is used to arrive at the adjusted gross income.

## C. Rhode Island Adjusted Gross Income

1. General Definition

- a. The Rhode Island income of a resident individual is his/her adjusted gross income for Federal income tax purposes for the tax year plus or minus any allowable modifications.

2. Zero or Negative Amounts

- a. A Rhode Island resident who has a zero or negative Federal adjusted gross income, after any allowable modifications, and a positive Federal income tax liability (such as would result from an alternative minimum tax) and is required to report and pay a personal income tax to another state would not be entitled to any Rhode Island out-of-state tax credit since the proper computation of the credit would result in zero or a number less than zero.

D. Calculation of Out-of-State Tax Credit with More Than One State

1. General

- a. A taxpayer who has properly allowable credits for personal income taxes paid by him or her to more than one state shall calculate each out-of-state credit separately (including the limitations provided by law) and then total the credits. This total is then applied as credit for out-of-state taxes paid.
- b. Taxpayers calculating the out-of-state credit for personal income taxes for more than one state should do so using form RI 1040MU and must attach a signed copy of each out-of-state tax return for which credit is claimed.

2. Computation

- a. As an example of the computation of out-of-state credit for personal income taxes properly paid to more than one state, the following facts are assumed:

(1) The taxpayer:

(AA) is a full-year resident of Rhode Island

(BB) has federal adjusted gross income of \$34,469

(CC) has no modifications either increasing or decreasing federal adjusted gross income for Rhode Island purposes; and

(DD) has Rhode Island personal income tax of \$626.

- (2) Additionally, the taxpayer has adjusted gross income from State A of \$15,983 on which personal income taxes of \$653 were paid; and
- (3) Adjusted gross income from State B of \$12,919 on which personal income taxes of \$99 were paid.
- (4) Calculation of out-of-state credit for State A:

Federal AGI (RIAGI)	\$34,469.
RI Tax	\$626.
State 'A' AGI	\$15,983.
Percentage:	
State 'A' AGI/Federal AGI	0.4637
Limitation:	
Percentage x RI Tax	$0.4637 \times \$626 = \$291$
Personal Income Tax - State 'A'	\$653.
Out-of-State Credit - State 'A'	
Smallest of RI tax, limitation, or tax paid to State A	\$291.

- (5) Calculation of out-of-state credit for State B:

Federal AGI (RIAGI)	\$34,469.
RI Tax	\$626.
State 'B' AGI	\$12,919.

Percentage:	
State 'B' AGI/Federal AGI	0.3748
Limitation:	
Percentage x RI Tax	0.3748 X \$626. = \$235.
Personal Income Tax - State 'B'	\$99.
Out-of-State Credit - State 'B'	
Smallest of RI tax, limitation, or tax paid to State B	\$99.

- (6) In the example cited above, the out-of-state credit to be applied is \$390 (\$291 from State A and \$99 from State B).

E. Partial Year Resident with a Rhode Island Out-of-State Tax Credit

1. General

- a. Those taxpayers who are filing as a partial year resident and have to report and pay taxes to another state for the period of time they were (or are) residents of Rhode Island are entitled to the out-of-state tax credit.

2. Computation

- a. In order to compute the out-of-state credit in this case, refer to the instructions for the RI-1040NR form.

F. The Tax Due and Payable from the Other State

1. The net amount of taxes as shown on the other state's return shall be comparable to the net tax after credits as shown on the Rhode Island return and/or on the Federal return.

G. Recomputation of an Out-of-State Tax Credit

1. The Rhode Island taxpayer should file an amended Rhode Island return claiming an increase or decrease in the out-of-state tax credit

regardless of any other applicable Rhode Island statute of limitations which would appear to limit or prevent filing of the amended Rhode Island return:

- a. When the other taxing state audits, corrects or changes the personal income tax return filed with that state; or
- b. When the other taxing state changes or corrects the tax due and payable on that state's tax return; or
- c. When the other taxing state notifies the Rhode Island taxpayer of a personal income tax due and payable to that state where no return had been previously filed.

### **3.6 Double Resident**

#### **A. General**

1. A Rhode Island resident may be allowed a credit for taxes due and paid to another state. Taxpayers claiming this credit must file the RI-1040 Rhode Island resident return.

#### **B. Double Resident**

1. A person may be considered a resident of this state for tax purposes even though maintaining a domicile in another state.
2. A person acquires "double residence" status when he/she is not domiciled in Rhode Island and is living in a home they maintain in this state for more than 183 days of the tax year and, therefore, meets the residency requirements of this state.
3. Rules for days within and without Rhode Island:
  - a. In counting the number of days spent within and without Rhode Island, a day spent within Rhode Island includes any part of a day, except for a part of a day during which an individual is present solely while in transit to a destination outside Rhode Island.
  - b. An individual claiming to be a nonresident who is not domiciled in Rhode Island but who has a permanent place of abode in this state shall have records available for examination by the Division of Taxation to substantiate the fact that such individual spent 183 days or less within Rhode Island.

#### **C. Out-of-State Tax Credit for "Double Resident"**

1. A taxpayer who meets the qualifications above and is therefore a "double resident" for both Rhode Island and another state should complete computations of both states' tax liabilities (before credits) and then follow these steps to determine the out-of-state credit to be used on the Rhode Island return:
  - a. Add together the Rhode Island tax liability (before withholding and credits) and the other state tax liability (before withholding and credits).
  - b. Divide the Rhode Island tax liability by the total tax liability from § 3.6(C)(1)(a) of this Part above.
  - c. Multiply the percentage from § 3.6(C)(1)(b) of this Part by the lower state's tax. The resulting amount is the limitation of the out-of-state credit.
  - d. The actual amount of out-of-state tax credit will then be the smaller of the tax liability of the other state or the amount of credit for taxes due and paid to the other state as calculated in § 3.6(C)(1)(c) of this Part above.
2. This special treatment and calculation of out-of-state tax credit for "double residents" is only allowed if the other state also allows a similar reduction in its tax for "double residents."
3. Example:

- a. A person is domiciled outside Rhode Island but is living in a home maintained by him in Rhode Island for more than 183 days of the tax year and, therefore, is considered a resident for the personal income tax purposes of this state. The Rhode Island tax liability before any withholding or credits is \$800 and his tax liability to State X before withholding or credits is \$500. Computation of the credit to be allowed on the Rhode Island filing for out-of-state taxes due and paid is as follows:

Rhode Island Tax Liability	
State X Tax Liability	\$800.00
Total Tax Liability	\$500.00
Rhode Island Tax Liability	\$1,300.00

Total Tax Liability	\$ 800.00
\$1,300.00 =	61.5%
61.5% x \$500 (the lower tax amount)=	\$307.50
This is the limitation on out-of-state credit.	
The out-of-state credit = the smaller of \$307.50 (calculated above) or \$500 (the tax liability to State X). In this case the actual out-of-state credit to be used by the taxpayer is \$307.50.	



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