

**280-RICR-20-55-11**

## **TITLE 280 – DEPARTMENT OF REVENUE**

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

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

##### **PART 11 – Taxation of Nonresident Professional Athletes**

### **11.1 Purpose**

These rules and regulations implement R.I. Gen. Laws § 44-30-1 *et seq.* This section outlines the taxation of nonresident professional athletes.

### **11.2 Authority**

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-30-95(a) and 44-1-4. These 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.

### **11.3 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 § 44-30-1 *et seq.* and other applicable state laws and regulations.

### **11.4 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.

### **11.5 Definitions**

- A. "Bonuses" includes performance bonuses received during the season, including bonuses paid for championship, playoff or "bowl" games played by a team, or for selection to all-star league or other honorary positions, and signing bonuses, unless:
  - 1. the payment of the signing bonus is not conditional upon the signee playing any games for the team, or performing any subsequent services for the teams, or even making the team;
  - 2. the signing bonus is payable separately from the salary and any other compensation; and

3. the signing bonus is nonrefundable.

B. "Duty days" include:

1. All days during the taxable year from the beginning of the professional athletic team's official pre-season training period through the last game in which the team competes or is scheduled to compete;
2. Days that do not fall within § 11.5(B)(1) of this Part on which the team member renders services for a team (e.g., participation in instructional leagues, the "Pro Bowl" or promotional "caravans"). "Renders services" includes conducting training and rehabilitation activities, but only if conducted at the facilities of the team; and
3. Game days, practice days, days spent at team meetings, promotional caravans and preseason training camps, and days served with the team through all post-season games in which the team competes or is scheduled to compete.
4. Example 1: Player A, a member of a professional athletic team, is a nonresident of Rhode Island. Player A's contract for such team requires A to report to such team's training camp and to participate in all exhibition, regular season, and playoff games. Player A has a contract which covers seasons that occur during yr.1/yr.2 and yr.2/yr.3. Player A's contract provides that A receive \$500,000 for the yr.1/yr.2 season and \$600,000 for the yr.2/yr.3 season. Assuming player A receives \$550,000 from such contract during taxable year 2 (\$250,000 for one-half the yr.1/yr.2 season and \$300,000 for one-half the yr.2/yr.3 season), the portion of such compensation received by player A for taxable year 2, attributable to Rhode Island, is determined by multiplying the compensation player A receives during the taxable year (\$550,000) by a fraction, the numerator of which is the total number of duty days player A spends rendering services for the team in Rhode Island during taxable year 2 (attributable to both the yr.1/yr.2 season and the yr.2/yr.3 season) and the denominator of which is the total number of player A's duty days spent both within and without Rhode Island for the entire taxable year.
5. Example 2: Player D, a member of a professional athletic team, is a nonresident of Rhode Island. During the season, D travels to Rhode Island to participate in the annual all-star game as a representative of D's team. The number of days D spends in Rhode Island for practice, the game, meetings, etc., shall be considered to be duty days spent in Rhode Island for player D for that taxable year, as well as included within total duty days spent both within and without Rhode Island.
  - a. Travel days that do not involve a game, practice, team meeting, promotional caravan or other similar team event are not considered

duty days spent in Rhode Island, but are included in the total duty days spent both within and without Rhode Island.

6. Example 3: Assume the same facts as given in the prior example, except that player D is not participating in the all-star game and is not rendering services for D's team in any manner. Player D is instead traveling to and attending such game solely as a spectator. The number of days player D spends in Rhode Island for such game shall not be considered to be duty days spent in Rhode Island. However, such days are considered to be included within total duty days spent both within and without Rhode Island.
  - a. Duty days for a person who joins a team between the beginning of the team's official pre-season training period and the last game in which the team competes, or is scheduled to compete, begin on the day that he or she joins the team. Duty days for a person who leaves a team during the same period end on the day that he or she leaves the team. Separate duty day calculation must be made if a person switches teams during the taxable year.
  - b. Days on which a team member is not compensated and does not render services for the team in any manner (for example, days during which a team member is suspended without pay and prohibited from performing team services) are not treated as duty days.
  - c. Days on which a team member voluntarily participates in an exhibition game against a farm team affiliate located in this state and does not receive compensation for participation in the exhibition game against the farm team affiliate are not treated as duty days.
  - d. Days during which a team member is on the disabled list, and does not (a) conduct rehabilitation activities at facilities of the team or (b) otherwise render services for the team in Rhode Island, are not considered duty days spent in Rhode Island. However, days on the disability list are included in total duty days spent both within and without Rhode Island.
7. Example 4: Player B, a member of a professional athletic team, is a nonresident of Rhode Island. During the season, B is injured and is unable to render services for B's team. While B is undergoing medical treatment at a clinic, which is not a facility of the team, but is located in Rhode Island, B's team travels to Rhode Island for a game. The number of days B's team spends in Rhode Island for practice, games, meetings, etc., while B is present at such clinic, shall not be considered duty days spent in Rhode Island for player B for that taxable year, but such days are

considered to be included within total duty days spent both within and without Rhode Island.

8. Example 5: Player C, a member of a professional athletic team, is a nonresident of Rhode Island. During the season, C is injured and is unable to render services for C's team. C performs rehabilitation exercises at the facilities of C's team in Rhode Island as well as at personal facilities in Rhode Island. The days C performs rehabilitation exercises in the facilities of C's team are considered duty days spent in Rhode Island for player C for that taxable year. However, days player C spends at personal facilities in Rhode Island shall not be considered duty days spent in Rhode Island for player C for that taxable year, but such days are considered to be included within total duty days spent both within and without Rhode Island.
  - a. Days on which a team member is sent from a parent club to a farm team affiliate located in this state for rehabilitation for a period of thirty (30) days or less are not considered duty days.
- C. "Member of a professional athletic team" includes employees who are active players, players on the disabled list, and any other persons required to travel and who travel with and perform services on behalf of the team on a regular basis (e.g., coaches, managers, trainers, etc.).
- D. "Professional athletic team" includes, but is not limited to, any professional baseball, basketball, football, soccer or hockey team.
- E. "Total compensation for services rendered as a member of a professional athletic team" means the total compensation received during the taxable year for services rendered from the beginning of the official pre-season training period through the last game in which the team competes or is scheduled to compete during the taxable year and during the taxable year on a date which does not fall within the aforementioned period (e.g., participation in instructional leagues, the "Pro Bowl" or promotional "caravans"). Compensation includes salaries, wages, and bonuses for services performed during the year, but does not include strike benefits, severance pay, termination pay, contract or option year buy-out payments, expansion or relocation payments, or any other payments not related to services rendered for the team.

## **11.6 General**

For taxable years beginning on or after January 1, 1997, the Rhode Island source income of nonresident members of professional athletic teams includes their total compensation for services rendered as team members during the taxable year, multiplied by a fraction, the numerator of which is the number of "duty days" spent within Rhode Island rendering services for the team in any manner during the taxable year, and the denominator of which is the total

number of duty days spent both within and without Rhode Island during the taxable year.

## **11.7 Alternative Method of Apportionment**

- A. This regulation is designed to apportion to Rhode Island, in a fair and equitable manner, a nonresident member of a professional athletic team's total compensation for services rendered as a member of a professional athletic team.
  - 1. It is presumed that application of the foregoing provisions of this section will result in a fair and equitable apportionment of such compensation.
  - 2. Where it is demonstrated that the method provided under this section does not fairly and equitably apportion such compensation, the Tax Administrator may require such member of a professional athletic team to apportion such compensation under such method as the Tax Administrator prescribes, as long as the prescribed method results in a fair and equitable apportionment.
  - 3. A nonresident member of a professional athletic team may submit a proposal for an alternative method to apportion such compensation, where they demonstrate that the method provided under this section does not fairly and equitably apportion such compensation.
    - a. If approved, the proposed method must be fully explained in the nonresident member of a professional athletic team's nonresident personal income tax return for Rhode Island.

## **11.8 Withholding/Composite Returns**

- A. Any "professional athletic team" as defined in § 11.5 of this Part which pays compensation to a nonresident member of a professional athletic team for services rendered to the team within Rhode Island shall be deemed to be an "employer" and is required to withhold a portion of such members' compensation attributable to "duty days" spent in Rhode Island, as defined in § 11.5 of this Part.
- B. Every professional athletic team whose members have played games or performed services in this state (as defined under "Duty Days") may file an annual composite Rhode Island personal income tax return on behalf of nonresident team members.
  - 1. The composite return shall contain such information required by the Tax Administrator including the total income of each team member, the amount of income subject to tax under the apportionment formula, and the amount of tax due.
  - 2. The team must obtain approval from the tax administrator before filing a composite return and it shall obtain written authorization on a year-to-year

basis from each team member who elects to participate in the composite return.

3. The team must maintain powers of attorney from participating team members that authorize the team to represent them in the event of a protest or other appeal; the team and participating team members must agree that the team is responsible for any deficiencies, including penalties.
  4. To participate in the composite return, a team member's compensation from the team must be the only source of income attributable to the state.
    - a. The participating team members must acknowledge through their election that the composite return constitutes an irrevocable filing and that they may not file an individual income tax return in the taxing state.
  5. If the team elects to file a composite return, it shall be responsible for withholding tax from the compensation of its members and remitting said tax to this state upon the filing of the composite return.
  6. In filing a composite return a team member's compensation shall be subject to withholding at the highest marginal tax rate and no deductions, exemptions or exclusions shall be permitted.
  7. If in the first year of filing the composite return the team has already withheld and remitted tax on a team member's compensation, the team may take a credit for the tax remitted against the initial filing under this method.
- C. If a team member leaves the team during the applicable year, the team remains responsible for remitting the appropriate tax and may either collect the tax paid from the team member or absorb the cost itself.

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