

280-RICR-20-55-12

TITLE 280 – DEPARTMENT OF REVENUE

CHAPTER 20 - DIVISION OF TAXATION

SUBCHAPTER 55 - PERSONAL INCOME TAX

PART 12 – Net Operating Loss Limitation

12.1 Purpose

These rules and regulations implement R.I. Gen. Laws § 44-30-87.1. This section outlines the net operating loss limitation for Rhode Island purposes.

12.2 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.

12.3 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 § 44-30-87.1 and other applicable state laws and regulations.

12.4 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.

12.5 Net Operating Loss Limitation

- A. R.I. Gen. Laws § 44-30-87.1 places a limitation on refunds or credits resulting from net operating loss deductions.
- B. Under Rhode Island law, a net operating loss deduction shall be allowed which shall be the same as the net operating loss deduction allowed under 26 U.S.C. § 172, except that:
 - 1. any net operating loss included in determining such deduction shall be adjusted to reflect the modifications increasing and decreasing adjusted gross income required by R.I. Gen. Laws §§ 44-30-12 and 44-30-32;

2. such deduction shall not include any net operating loss sustained during any taxable year beginning in which the taxpayer was not subject to the tax imposed by this chapter; and
3. such deduction shall not exceed the deduction for the taxable year allowable under 26 U.S.C. § 172, provided, however, notwithstanding any other provision of law such deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the number of succeeding taxable years allowed under 26 U.S.C. § 172.

C. Examples of the three (3) exceptions/limitations noted above are as follows:

1. Any net operating loss included in determining such deduction shall be adjusted to reflect the modifications increasing and decreasing adjusted gross income as required by R.I. Gen. Laws §§ 44-30-12 and 44-30-32. Examples of the modifications would be interest on US government obligations taxable on the federal level but exempt from state taxation or interest on non Rhode Island municipal bonds exempt from federal taxation but taxable on the state level.
2. A loss sustained in a year prior to becoming a Rhode Island resident and being carried forward for federal purposes will not be allowed for Rhode Island purposes. An example of this limitation would be an instance where a Massachusetts resident sustains a net operating loss, which is carried forward for federal purposes, and in a subsequent year changes his residents to Rhode Island. Such a loss would not be allowed for Rhode Island purposes.
3. A net operating loss deduction, for Rhode Island purposes, cannot exceed the deduction for the taxable year allowable under 26 U.S.C. § 172, provided, however, notwithstanding any other provision of law such deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes. An example of this limitation would be an instance where a Rhode Island resident sustains a net operating loss and for federal purposes the allowable deduction is utilized in full by being carried back to a prior year. For Rhode Island purposes, no deduction is allowed for net loss carry back. Further, since the Rhode Island net operating loss deduction cannot exceed the federal net operating loss carry forward in this instance, there is no Rhode Island net operating loss carry forward allowed in subsequent years.

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