

Declaratory Ruling 2019-01

Request for Ruling Regarding the Application of the Federal Capital Construction Fund (“CCF”) Program to Rhode Island Personal Income Taxes

Request for Ruling

The Taxpayer requested a declaratory order (“Ruling Request”) to determine whether Rhode Island will continue to allow the CCF deduction for currently filed and future Rhode Island income tax returns.

Facts

The facts set forth below are taken from the statement of facts presented in the Ruling Request received by the Tax Division on December 24, 2018.

The Taxpayer took a deduction of taxable income pursuant to IRS Publication 595 for CCF contributions for commercial fishermen on his 2017 federal personal income tax return. The Taxpayer reported the same amount as a decreasing modification to federal adjusted gross income (“AGI”) on RI Schedule M of his 2017 Rhode Island personal income tax return. The Tax Division has not challenged the Taxpayer’s past practice of reporting CCF contributions on income tax returns for prior years since acquiring certain fishing vessels. The Taxpayer was advised by the Tax Division in past years that the CCF contribution should be reflected as a modification to federal AGI on RI Schedule M.

Ruling Requested

The Tax Division will disallow CCF deductions on Rhode Island returns for tax year 2019 forward but will continue to honor qualifying CCF deductions on Rhode Island returns taken prior to tax year 2019.

Pertinent Statutory and Regulatory Law

The CCF is a special investment program that was created by the Merchant Marine Act of 1936¹ and is currently codified in 46 U.S.C. §§ 53501-53517, as amended. The program is administered by the National Marine Fisheries Service and the IRS.² A CCF allows fishermen to defer paying income tax on certain income they invest in a CCF account and later use to acquire,

¹ NOAA, Capital Construction Fund Program, <https://www.fisheries.noaa.gov/national/funding-and-financial-services/capital-construction-fund-program>. Accessed 18 Feb 2019.

² IRS Publication 595 (2018) at 1.

build, or rebuild fishing vessels.³ The United States Government recovers the taxes by reducing the depreciable cost of the vessels.⁴

There is no Rhode Island statutory or regulatory authority allowing the CCF to be used against Rhode Island tax liabilities. However, since at least 2000 the Tax Division has allowed qualifying participants in the federal CCF program to apply CCF modifications to their Rhode Island income tax returns. Specifically, the CCF modification is reflected on RI Schedule M. The CCF deduction was allowed for Rhode Island income taxes because the Rhode Island income tax rate was originally a percentage of the federal income tax rate. Since 2001, however, Rhode Island has maintained its own income tax rates independent of the federal rates based on federal AGI. The CCF deduction on Rhode Island personal income tax returns was allowed as a past practice despite Rhode Island's change in income tax rates.

Discussion

The Taxpayer argues that the Tax Division should continue to allow CCF deductions for current and future income tax filings based on the Tax Division's past practice and IRS Publication 595. There is no dispute that Rhode Island's tax statutes are silent on the CCF deduction since it is a federal tax benefit that does not exist in Rhode Island statute or regulation. However, for more than nineteen years the Tax Division has allowed qualifying taxpayers to take the CCF deduction on Rhode Island income tax returns and follow federal guidance regarding its application.

The Tax Division agrees that the CCF deduction should not be retroactively disallowed for taxpayers who have already planned on taking the deduction for years prior to 2019. Although there is no state statutory or regulatory authority that allows taxpayers to take the CCF deduction for state tax liabilities, the Tax Division administratively allowed qualifying taxpayers to use the CCF deduction based on past practice. At the time this practice began, the Rhode Island personal income tax rates were a percentage of the federal tax rates. Since 2001, the Rhode Island personal income tax rates are no longer tied to the federal income tax rates, and there is no Rhode Island statutory authority allowing the CCF deductions. For these reasons, the Tax Division will not allow CCF deductions beginning with returns filed for the 2019 tax year.

Ruling

The Tax Division will disallow CCF deductions on Rhode Island returns for tax year 2019 forward but will continue to honor qualifying CCF deductions on Rhode Island returns taken prior to tax year 2019.

This ruling is limited to the facts stated herein and may be relied upon by the Taxpayer and shall be valid unless expressly revoked because (1) the applicable statutory provisions of law are

³ *Id.*

⁴ NOAA, Capital Construction Fund Program, <https://www.fisheries.noaa.gov/national/funding-and-financial-services/capital-construction-fund-program>. Accessed 18 Feb 2019.

amended in a manner that requires a different result; (2) the underlying facts described herein materially change; or (3) a decision on point has been issued by the Rhode Island or Federal courts.

Neena S. Savage
Tax Administrator
February 28, 2019