

Recodified from N.J.A.C. 18:35-1.12 by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Amended by R.2003 d.285, effective July 21, 2003.

See: 35 N.J.R. 1384(a), 35 N.J.R. 3386(a).

Rewrote the section.

Amended by R.2008 d.186, effective July 7, 2008.

See: 40 N.J.R. 874(a), 40 N.J.R. 4225(a).

Added (a)3ii(2) and (a)3ii(3); in (a)6i, inserted a comma following "income" in the first sentence and inserted the last sentence; added (a)6iv and (a)6v; in the introductory paragraph of (a)9, inserted a comma following "partnership"; rewrote (a)9i; in (a)9ii, substituted "any other information the Director may require" for "the taxpayer's share of tax paid"; in the introductory paragraph of (a)10, inserted a comma following the first occurrence of "income"; added (a)10i; in (a)11i, substituted "must retain" for "shall file with the New Jersey tax return," and inserted "and must make it available at the Division's request"; rewrote (a)12vi; and added (a)12viii(1) and (a)12xii.

Case Notes

Rule upheld against equal protection challenge; credit for New York state personal income tax found to have exhausted New Jersey tax on taxpayer's New York income, notwithstanding that the taxpayer was also subject to New York City earnings tax. *Jenkins v. Taxation Div. Director*, 4 N.J.Tax 127, 184 N.J.Super 402, 446 A.2d 217 (Tax Ct.1982).

Rule interpreting "resident credit" as requiring exclusion for income which is excluded or deducted from taxable gross income by another jurisdiction held valid; application of 1979 rule to 1976 tax return held proper. *Sorensen v. Director, Div. of Taxation*, 2 N.J.Tax 470, 184 N.J.Super 393, 446 A.2d 213 (Tax Ct.1981).

Net gain from partnership activities taxed by foreign jurisdictions but completely offset by allowable partnership loss deductions in state; not included in numerator of tax credit fraction. *Kanarek v. Director, Div. of Taxation*, 14 N.J.Tax 589 (1995).

In calculating credit fraction numerator, gross income subject to tax in other jurisdiction would be reduced by taxpayers' capital loss, which was deductible in New Jersey but not in other state but not by additional lesser amount of taxpayers' rental loss, which was deductible in other state but not in New Jersey. *Allen v. Director Div. of Taxation*, 14 N.J.Tax 385 (1994).

Instructions on computing resident credit for income tax purposes were not erroneous. *Widder v. Director, Div. of Taxation*, 14 N.J.Tax 349 (1994).

Income not actually taxed by another state, but which was used by that state in calculating applicable tax rate for income from that state, would not be included in numerator of resident credit fraction. *Chin v. Director, Div. of Taxation*, 14 N.J.Tax 304 (1994).

Credit for foreign income tax; loss disallowed by New Jersey tax statute. *Berlin v. New Jersey Div. of Taxation*, 13 N.J.Tax 405 (1993).

Resident credit was properly calculated separately for each New York City and state tax. *Willett v. Director, Div. of Taxation*, 10 N.J.Tax 402 (1989).

Only income subject to tax by another state also taxed by New Jersey could be used to determine maximum gross income tax credit. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Foreign city income tax that did not exceed minimum credit available could be credited against New Jersey income tax. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Since alimony paid by taxpayers residing in New Jersey but working in New York was a deduction in New York, Director held to have properly excluded alimony payments from the numerator of the fraction used to calculate the credit for tax paid to New York. *Nielson v. Taxation Div. Director*, 4 N.J.Tax 438 (Tax Ct.1982).

18:35-4.2 Credit for excess contributions

(a) Credit for excess amounts deducted and withheld as worker contributions for unemployment, disability insurance, Workforce Development Partnership Fund and Health Care Subsidy Fund shall be treated as follows:

1. Employers issuing a W-2 form to employees shall include on it:

- i. The amount of New Jersey unemployment insurance contributions withheld;
- ii. The amount withheld for New Jersey disability benefits fund contributions or for a private plan;
- iii. The combined total amount withheld for Workforce Development Partnership Fund and Health Care Subsidy Fund contributions or, in the alternative, the separate amounts contributed to these funds;
- iv. The New Jersey unemployment number; and
- v. The New Jersey private plan number, if any.

(b) The latter two numbers referred to in (a)iv and v above are assigned by the New Jersey Division of Unemployment and Disability Insurance in the Department of Labor.

(c) An individual claiming a credit against gross income tax for overpayment of unemployment, disability insurance, Workforce Development Partnership Fund or Health Care Subsidy Fund contributions shall claim such credit by including with his New Jersey 1040 or New Jersey 1040-NR a completed New Jersey Form 2450. A claim not received within two years after the end of the calendar year in which the contributions were deducted is void. Such claims are not applicable to withholdings made during calendar years prior to 1983.

Example 1: During 1983, A, who is divorced, worked for two employers in New Jersey. The first withheld the maximum of \$44.00 for unemployment insurance contributions and \$44.00 disability benefits fund contributions from A's salary, as required by law. The second employer withheld \$30.00 from A's wages as contributions to each fund for the total of \$60.00. A files his 1983 Gross Income Tax Return and pays the tax on February 14, 1984 but fails to make claim for the \$60.00 excess contributions withheld during 1983 or qualifying alimony payments made in that year.