



STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS
DEPARTMENT OF REVENUE
DIVISION OF TAXATION

To: Tax Preparers
From: David M. Sullivan, Tax Administrator
Re: Responses to Questions from Preparers
Date: December 31, 2013

[Revised January 31, 2014. Revised answers are marked in red.]

We recently offered a seminar for paid tax preparers; one session was held in Newport, the other in Warwick. Some of our staff members have been guest speakers recently at meetings for volunteer preparers. At the seminar and at the meetings, we answered many of your questions. For other questions, we promised to provide our written responses. Please find below our answers to those questions, and thank you for your continuing interest.

- Q:** If a client receives money from a reverse mortgage, should that be counted as household income for purposes of the Rhode Island property-tax relief credit on Form RI-1040H?
- No.
- Q:** If a client receives money from a home equity loan, a home equity line of credit, or another such *bona fide* loan, should that be counted as household income for purposes of the Rhode Island property-tax relief credit on Form RI-1040H?
- No.
- Q:** If a client withdraws money from a savings account or other such account, should that be counted as household income for purposes of the Rhode Island property-tax relief credit on Form RI-1040H?
- No.

Q: If a client receives money from a reverse mortgage, a home equity loan, a home equity line of credit, or another such *bona fide* loan, or through withdrawals from a savings account or other such account, will the client's return be set aside for review?

It depends on the circumstances. For example, when a taxpayer's total household income is less than the person's rent or property tax expense for the year, that person's return will be set aside for review until the discrepancy can be accounted for.

A reason for the discrepancy may be that the taxpayer has "income" from a reverse mortgage, a home equity loan, a home equity line of credit, or another such *bona fide* loan, or from withdrawals from a savings account or other such account. In that case, we will ask for supporting documentation. Such documentation may include account statements, copies of passbooks, or withdrawal slips.

Q: My client was liable for a debt that was canceled, forgiven, or discharged. The client received a Form 1099-C, "Cancellation of Debt." Does that income count as household income for purposes of Rhode Island's property-tax relief credit on Form RI-1040H?

Yes. In general, such income is part of federal adjusted gross income (AGI) and must be included as household income for purposes of Rhode Island's property-tax relief credit on Form RI-1040H. In certain circumstances, cancellation-of-debt income is not treated as part of federal AGI, perhaps because an exception or exclusion is allowed under federal law. In that case, the income may or may not have to be included in household income for purposes of Rhode Island's property-tax relief credit on Form RI-1040H; we will make a determination on a case-by-case basis.

The following are examples of canceled debt that qualifies for an exception to inclusion in gross income under federal law:

- amounts specifically excluded from income by law such as gifts or bequests
- cancellation of certain qualified student loans
- canceled debt which, if paid by a cash-basis taxpayer, would be deductible
- a qualified purchase price reduction given by a seller
- a Pay-for-Performance Success Payment that reduces the principal balance of your home mortgage under the Home Affordable Modification Program

The following are examples of canceled debt that qualify for an exclusion from gross income under federal law:

- debt canceled in a Title 11 bankruptcy case
- debt canceled during insolvency
- cancellation of qualified farm indebtedness
- cancellation of qualified real property business indebtedness
- cancellation of qualified principal residence indebtedness

For more information about canceled debts and related topics, see Internal Revenue Service Publication 4681, Publication 544, and Publication 523.

Q: Do nursing home residents qualify for the property-tax relief credit on Form RI-1040H?

A: No. To qualify for the credit, you must meet several requirements. Under one such requirement, you generally must reside in a homestead, a dwelling unit. The Division of Taxation takes the position that a room in a nursing home is not a “dwelling unit” for purposes of the credit because it typically does not include a separate kitchen, bathroom, and bedroom for the individual.

Q: My client lived at home for a portion of the year then moved to a nursing home – which is where the client lived as of the end of the calendar year. Would that client qualify for property tax relief on Form RI-1040H?

A: The person may qualify if the person meets the requirements set forth on the form and instructions. Under “household income” on the form, the person should include all household income for the entire calendar year. Under the section for renters/homeowners, include only the property tax or rent that was paid for the portion of the year the person lived at home. If the resulting calculation produces a property-tax relief credit, that credit will be allowed.

Q: If my client is claiming a credit on the Rhode Island resident personal income tax return for income taxes paid to another state, must I attach the out-of-state return? And if I don't, will the client's Rhode Island resident return be set aside for review?

If you file a paper return, you must attach a copy of the out-of-state return(s).

If you e-file, you need not attach a copy of the out-of-state return(s); the e-filing process typically provides us with the information we need -- including information about the out-of-state return(s). And we won't set aside for review your client's e-filed return solely because you did not attach a copy of the out-of-state return(s).

Whether you e-file or file on paper, we expect preparers and software providers to perform due diligence in the calculation of the credit for income tax paid to another state. However, the Division of Taxation always reserves the right to request a copy of the out-of-state return(s) – or any other documentation – involving a Rhode Island personal income tax return.

Q: If we e-file a return for a client, but we receive in response an electronic filing (ELF) reject and corresponding code, to whom at the Division of Taxation should we direct calls?

Contact Dan Clemence at (401) 574-8732 or Kyle Evans at (401) 574-8791 business days between 8:30 a.m. and 3:30 p.m.