

280-RICR-20-05-1

## TITLE 280 – DEPARTMENT OF REVENUE

### CHAPTER 20 – DIVISION OF TAXATION

#### SUBCHAPTER 05 – BANKS

##### Part 1 – Bank Deposits Tax

### 1.1 Purpose

The purpose of these rules and regulations is to implement R.I. Gen. Laws Chapter 44-15 regarding the tax filing and payment requirements for credit unions.

### 1.2 Authority

These rules and regulations are promulgated pursuant to R.I. Gen. Laws §§ 44-15-17 and 44-1-4. The 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.

### 1.3 Application

These rules and regulations shall be liberally construed so as to permit the Division of Taxation to effectuate the purpose of R.I. Gen. Laws Chapter 44-15 and other applicable state laws and regulations.

### 1.4 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 thereby.

### 1.5 Incorporated Materials

- A. These regulations hereby adopt and incorporate 12 C.F.R. § 204.8(1) (1996) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.
- B. These regulations hereby adopt and incorporate 12 C.F.R. § 700.2 (2013) by reference, not including any further editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these regulations.

## 1.6 Definitions

- A. "Deposits" for institutions other than credit unions means:
1. In the case of a national banking association, state bank, trust company, or savings bank: savings deposits, participation deposits, or time deposits of any kind which bear interest or which are entitled to dividends.
  2. In the case of a building and loan association or a savings and loan association: outstanding shares of stock of every class and howsoever designated plus dividend earnings applicable to such stock, or time deposits of any kind, but shall not include shares of stock and the dividend earnings applicable thereto, or time deposits of any kind pledged as collateral to secure mortgage loans on real estate.
  3. In the case of a loan and investment company: deposits or time deposits of any kind, which bear interest; also fully paid or partly paid certificates of investment not including, however, payments made on investment certificates hypothecated as collateral against loans.
  4. The terms "deposits" and "time deposits" as used in §§ 1.6(A)(1) through (3) of this Part mean and include deposits or savings made under any type of deposits or savings plan represented by certificates of deposit, savings bonds, or income certificates issued by any banking institution, or howsoever such or similar time deposits or savings plan may otherwise be designated.
- B. "Deposits" for credit unions means shares of stock, either fully or partly paid, plus deposits, or time deposits of any kind which bear interest or which are entitled to dividends and also mean deposits or savings made under any type of deposits or savings plan represented by certificates of deposit, savings bonds, or income certificates issued by any institution, or howsoever such or similar time deposits or savings plan may otherwise be designated, provided however that deposits in Federally chartered credit unions are not included.
- C. "International banking facility" means a facility, as defined in Regulation D, Reserve Requirements of Depository Institutions incorporated above at § 1.5(A), of the taxpayer-institution filing the report/return.
- D. "International credit union facility" means a facility, as defined in regulations of the National Credit Union Administration incorporated above at § 1.5(B), of the taxpayer-credit union filing the report/return.
- E. "Daily average" means a simple, unweighted average calculated each business day.
- F. "Business day" shall mean a day in which the institution's deposits are available for withdrawal from a facility that is owned and maintained by the institution as

part of its overall business practice, which would include an automatic teller machine.

- G "Book value of investments in exempt obligations" means only such investments as are owned by the taxpayer-institution or credit union and includes the amortization or accretion for such investments as are reflected on the taxpayer's books, records and statements of condition for the same periods. Exemption for Federal obligations are only valid for instruments which are fully backed by an obligation of the United States.
- H. "Book value of total assets" means only such assets which are owned by the taxpayer-institution or credit union and includes such valuation accounts as are reflected on the taxpayer's books, records and statements of condition for the same periods.
- I The terms "deposits" or "time deposits" shown in §§ 1.6(A) and (B) of this Part (above) do not include any deposits of a branch or office of any banking institution or credit union located outside of this state, whether it is established de novo or acquired pursuant to an interstate merger, consolidation or acquisition, provided that such deposits are made at a branch or office outside of this state, or an international banking facility or an international credit union facility, or which are payable only at an office located outside of the United States.

### 1.7 Specific Exclusions

- A. Banking institutions and credit unions may exclude from taxation a percentage of deposits equal to the percentage of the daily average of book value of total assets of the taxpayer for the calendar year as are invested in the book value of obligations of the United States, its territories and possessions and of any authority, commission or instrumentality of the United States exempt from state taxation under the laws of the United States.
- B. The formula for this exclusion may be stated as follows:

EXCLUSION =

$$\frac{\text{Daily Average Book Value of Exempt Obligations}}{\text{Daily Average Book Value of Total Assets}} \times \frac{\text{DAILY AVERAGE DEPOSITS}}{\text{OF}}$$

### 1.8 Reporting

- A. Banking Institution or credit union are required to file proper returns/reports twice each year. On or before January 15 following the close of the taxable year, banking institutions or credit unions shall file a report containing the information the Tax Administrator shall prescribe. No payment is required with the January

15 report. The June 15 filing is not an estimate and the amount reflected on it and those shown on the report filed on January 15 should be identical. In the case of mathematical and/or other errors and/or omissions which are discovered after the filing of the January report and prior to the filing of the June return, full and complete disclosure of the differences must be submitted with the June return and payment.

- B. Each banking institution or credit union, on or before June 15 in each year, shall file a return with the tax administrator in the form and containing the information as he or she shall prescribe, and shall at the same time pay the tax imposed under R.I. Gen. Laws Chapter 44-15.
- C. Institutions and credit unions reducing deposits for amounts shown in §§ 1.6(H) or 1.7(A) of this Part must attach schedules to reports/returns filed showing the nature, extent of loans to numbers, deposits in other Rhode Island credit unions and the relationship and location of each branch, facility or office.
- D. Calculations of daily averages of deposits, book values of investments and assets, and other data used in the preparation of reports/returns required by this Chapter should be easily traceable to the institution or credit union's books, records and statements of condition. Reports to the Federal Deposit Insurance Corporation of the branch or branches within the State of Rhode Island may be used to verify such books, records and statements of condition.

## **1.9 Rate of Tax**

- A. Credit Unions – An annual tax is imposed on every credit union with total deposits in excess of one hundred fifty million dollars (\$150,000,000) at a rate of six and ninety-five one hundredths cents (\$.0695) on each one hundred dollars (\$100) of the daily average of the deposits with the credit union during the calendar year. For those credit unions with total deposits of one hundred fifty million dollars (\$150,000,000) or less the rate shall be six and one-quarter cents (\$.0625) on each one hundred dollars (\$100) of the daily average of deposits with the credit union during the calendar year.
- B. Banking Institutions – For the period beginning January 1, 1998, and thereafter the tax rate shall be zero for all deposits.
- C. Estimated Payments – Estimated payments are required in accordance the requirements of R.I. Gen. Laws Chapter 44-26.