

State of Rhode Island - Division of Taxation

Bank Excise Tax

Regulation BE 95-01

Apportionment of Net Income or Loss

I. General:

Every banking institution subject to tax pursuant to Title 44, Chapter 14, Section 3 of the Rhode Island General Laws 1956, as amended, which is not organized or incorporated under the laws of this state but having its principal place of business or branch thereof located within the limits of this state, shall apportion its net income to this state by means of an arithmetical mean of three factors consisting of salaries and wages, gross receipts and deposits.

II. Definitions:

A. A "branch" means a physical presence of the taxpayer in this state subject to review of the banking division of the Department of Business Regulation. The presence within this state of electronic devices and machines standing alone shall not constitute a "branch" for the purposes of this regulation.

B. "Arithmetical mean" means the sum of the factors available to the taxpayer divided by the number of fractions used. Factors to be used are those factors which are positive numbers or zero. Factors cannot be negative numbers.

C. Rhode Island "net income" T-74 shall be the same amount as shown as "taxable income" on the Federal income tax return.

III. Method:

The taxpayer's income or loss for the taxable year shall be apportioned to Rhode Island in accordance with a fraction, the numerator of which is the sum of the salaries and wages factor, the receipts factor and the deposits factor, and the denominator of which is three.

If there are three denominators and only two numerators in the three factors, the taxpayer would still divide by three (3). Also, in the event that one of the factors is a negative number the taxpayer will divide by two (2).

A. Salaries and Wages Factor: That part of total wages, salaries and other compensation to officers, employees, and agents paid or incurred by the taxpayer during the taxable year which is attributable to services performed in connection with the taxpayer's services or transactions within this state during the taxable year divided by the total for such services everywhere.

B. Receipts Factor: That part of the taxpayer's total receipts from all sources during the taxable year which is attributable to the taxpayer's activities or transactions within this state during the taxable year divided by the total of all receipts everywhere. Receipts mean and include, but are

not limited to:

1. Receipts from loan activities of any nature, or description whether or not collateralized and whether or not subordinated;
2. Receipts from services regardless of to whom rendered;
3. Receipts from rentals or leases;
4. Receipts from interest or service charges from credit, travel and entitlement or other card based receivables and card holders' fees;
5. Receipts from interest, dividends and other income from intangibles;
6. Net gains and losses from the sale or disposition of securities;
7. Receipts from fees or charges for the issuance of travelers checks and money orders;
8. Receipts from intercompany transactions between the taxpayer and its parent or other affiliate whether shown as income or as reimbursement of expenses paid or incurred by the taxpayer on behalf of its parent or affiliate; and
9. Receipts from all other sources.

Receipts do not include principal repayments on loans or credit. Receipts do not include gains or losses from the sale or disposition of any property other than securities.

The receipts are attributed as follows:

1. Receipts from loans are attributed to the state in which the institution maintains a branch which treats the receivables as assets on its branch books and records and to which branch the institution accords the income from such loans for branch evaluation or profitability purposes. In the event that the institution does not maintain such branch record, the receipts from loans will be attributable to the state indicated as the debtor's address on the federal 1098 form for the year.
2. All receipts from performance of services are attributed to a state to the extent the services are performed in the state.
3. Receipts from transactions involving the rental or lease of the institution's realty, tangible personalty, copyrights or other assets are attributed to the state in which the institution maintains a branch which treats the rented or leased property as an asset belonging to it (the branch) on its branch books and records and to which the branch accords the income from such rentals or leases for branch evaluation or profitability purposes.
4. Interest or service charges from credit, travel and entertainment or other card based receivables and card holders' fees are attributed to the state in which the institution maintains a branch which treats such receivables as assets on its branch books and records and to which branch the institution accords the interest or service charge income for branch evaluation or profitability purposes.

In the event that the institution does not maintain such branch records, the receipts from card receivables and fees will be attributable to the state indicated as the card holder/debtor's address on the federal 1098 form for the year and, in the event of lack of a 1098, to the state to which the depositor's periodic statements of account are mailed.

5. Interest, dividends and net gains and bases from the sale or disposition of securities, exclusive of those receipts described elsewhere in this regulation, are attributed to the state in which the

institution has its principal place of business.

6. Fees or charges from the issuance of travelers checks and money orders are attributed to the state in which such travelers checks or money orders are issued.

C. Deposits Factor:

Computed on an unweighted average quarterly basis, that part of deposits on the books and records of the taxpayer attributable to this state during the taxable year divided by the total for such deposits everywhere.

"Deposits" mean and include all time and demand deposits on the books and records of the taxpayer and, as such, include (but are not limited to): checking accounts, negotiable order of withdrawal accounts, fund accounts with checkwriting privileges, savings deposits, participation deposits, or time deposits or demand deposits of any kind regardless of whether such deposits bear interest or are entitled to dividends; and shall also mean and include deposits or savings made under any type of deposit or savings plan represented by certificates of deposit, savings bonds, or income certificates issued by the taxpayer, or howsoever such or similar time deposits, savings plans or demand deposits may otherwise be designated.

The deposits are attributed as follows:

1. Deposits are attributed to the state in which the institution maintains an office which treats the deposits as liabilities on its branch books and records and to which branch the institution accords the deposit for branch evaluation or profitability purposes. In the event that the institution does not maintain such branch record, the deposits will be attributable to the state indicated as the depositor's on the federal 1099 form for the year and, in the event of lack of a 1099, to the state to which the depositor's periodic statements of account are mailed.

2. Intercompany deposits of the taxpayer with other financial institutions or with other organizations including the taxpayer's affiliates or parent company are not to be "netted" from the calculation of deposits. Likewise, deposits of other financial institutions or of other organizations including the taxpayer's affiliates or parent company are to be included in accordance with the provisions concerning attribution above.

R. GARY CLARK TAX ADMINISTRATOR

EFFECTIVE DATE: JANUARY 1, 1995

THIS REGULATION AMENDS AND SUPERCEDES REGULATION BE 90-1
PROMULGATED MAY 1, 1990.