State of Rhode Island - Division of Taxation

Business Corporation Tax

Regulation CT 94-06

Net Operating Loss Deductions

I. A deduction similar to that allowed under section 172 of the Internal Revenue Code, except as provided in subdivisions (a) and (b) and (c) of this section, may be allowable in computing entire net income for the purposes of Section 44-11-11 of the Rhode Island business corporation tax law. The Rhode Island net operating loss deduction is the same as that allowed for federal tax purposes subject to limitations:

(a) One of these limitations is that any net operating loss which may be carried forward for federal tax purposes must be adjusted to reflect the inclusions and exclusions from entire net income required by 44-11-11(a) and 44-11-11.1.

Example 1 - For the calendar year 1983, a taxpayer has federal gross income of $400,000, including $100,000 dividends from corporations qualifying for the 85% dividend exclusion and has deductible operating expenses of $400,000, including $5,000 Rhode Island corporation tax. Its federal net operating loss is $85,000 and its Rhode Island net operating loss is $80,000, computed as follows:

Federal

Gross Income	$400,000
Less Operating Expense	(400,000)
Taxable Income before Special Deductions	-0-
Less Special Dividends Received Deduction	(85,000)
Net Operating Loss	$(85,000)

Rhode Island

Federal Taxable Income	$(85,000)
Add: Amount of Federal Deduction for Rhode Island Business Corporation Tax	5,000
Rhode Island Net Operating Loss	$(80,000)

(b) The second limitation is that in any year the Rhode Island net operating loss deduction may not exceed the deduction allowable for that year for federal tax purposes under Section 172 of the Internal Revenue Code.

Example 2 - If the dividends in example 1 were from corporations subject to tax under 44-11, the Rhode Island net operating loss would be $95,000 computed as follows:

Federal Taxable Income Before Special Deductions	$ -0-
Less: Special Deductions	(85,000)
Less: Exempt Dividends & Interest from Line 7, Schedule F of RI 1120	(15,000)
Subtotal	$(100,000)
Add: Amount of Federal Deduction for Rhode Island Business Corporation Tax	5,000
Rhode Island Operating Loss	$(95,000)
Maximum Rhode Island Operating Loss {Limitation Section(b)}	$(85,000)

Example 3 - If the taxpayer in Example 2 in 1984 had federal gross income of $300,000, including $100,000 of dividends from corporations subject to Rhode Island corporation tax and expenses of $100,000 including Rhode Island corporation taxes of $5,000, its federal and state net operating loss deduction will be computed as follows:

Federal

Gross Income	$300,000
Expenses	(100,000)
Subtotal	$200,000
Net Operating Loss Deduction from 1983 (See Example 2 - Assume only as a Carryforward)	(85,000)
Federal Taxable Income Before Special Deduction	$115,000
Less: Special Dividends Received Deduction (Current Year)	(85,000)
Federal Taxable Income	$30,000

Rhode Island

Federal Taxable Income Before Special Deductions	$115,000
Add: Amount of Federal Deduction for Rhode Island Business Corporation Tax	5,000
Less: Special Dividends Received Deduction	(85,000)
Less: Exempt Dividends & Interest from Line 7, Schedule F from this RI 1120	(15,000)
Rhode Island Taxable Income	$20,000

(c) The third limitation is that no deduction is allowable for a loss sustained during any taxable year in which a taxpayer was not subject to tax under 44-11.

Example 4 - A corporation incorporated in Pennsylvania in January 1982. During the taxable year 1982 it sustained an operating loss of $10,000. In January 1983, it began to do business in Rhode Island. For the taxable year it had entire net income of $10,000. No deduction is allowed for any part of the loss sustained in 1982, since the corporation was not subject to Rhode Island business corporation tax in 1982.

(d) The fourth limitation is that such deduction for a taxable year may not be carried back to any other taxable year for Rhode Island purposes but shall only be allowable on a carry forward basis for the five (5) succeeding taxable years.

Example 5 - YEAR END 4/15/92 AND THEREAFTER

Federal

Gross Income	$100,000
Expenses	(125,000)
Federal Taxable Income (NOL)	$(25,000)

Rhode Island

Federal Taxable Income (NOL)	$(25,000)
Add: Amount of Federal Deduction for Rhode Island Business Corporation Tax	1,000
Rhode Island Taxable Income	$(24,000)

--If the $25,000 Federal Net Operating Loss is carried forward, then the Rhode Island Net Operating Loss of $24,000 would also be allowed to be carried forward.

--If the Federal carry forward remains to be used for a sixth year then there would be no further

Rhode Island carryforward because of the limitation of Rhode Island carryforward for five (5) succeeding taxable years.

--If the Federal Net Operating Loss is carried back, there is no Rhode Island Net Operating Loss (except to the extent any unused Federal NOL is carried forward) to be used as either a carryback or carryforward since the Rhode Island NOL is limited to a carryforward only and may not exceed the deduction allowable for that year for federal tax purposes.

II. Consolidated Net Operating Losses

Each corporation within the consolidated return shall compute its own net operating loss as outlined in Section I, except that:

(a) A corporation which reports as part of a consolidated group for federal income tax purposes but on a separate basis for purposes of Rhode Island, computes its net operating loss deduction as if it were filing on a separate basis for federal income tax purposes.

(b) Any carryforward for a year for which a Rhode Island consolidated return was filed must be based upon the combined net operating loss of the group of companies filing such return.

The portion of the combined loss attributable to any member of the group which files a separate return for a preceding or succeeding taxable year will be an amount bearing the same relation to the combined loss as the net operating loss of such corporation bears to the total net operating losses of all members of the group having such losses, to the extent that they are taken into account in computing consolidated net operating losses.

Example 5 - In the taxable year 1983, the X corporation filed a separate Rhode Island return showing net income of $20,000 and also filed a separate federal return showing federal taxable income in the same amount. In 1985, it filed a separate federal return showing a net operating loss of $10,000 but joined with W Corporation, Y Corporation and Z Corporation in filing a consolidated Rhode Island return showing the following:

W Corporation - Net Income	$7,500
X Corporation - Net Operating Loss	(10,000)
Y Corporation - Net Operating Loss	(20,000)
Z Corporation - Net Income	7,500
Combined - Net Operating Loss	$(15,000)

For Rhode Island purposes the deduction allowable to X Corporation against its 1983 income must be based upon the combined net operating loss shown above. The portion of the combined loss attributable to X Corporation is one-third [$10,000/($10,000 + $20,000)]. Therefore, the deduction allowable to X Corporation against its 1983 income would be ($5,000), i.e., [1/3 x ($15,000)].

R. GARY CLARK TAX ADMINISTRATOR

DATE: January 1, 1994

THIS REGULATION AMENDS AND SUPERCEDES REGULATION CT86-6 ENTITLED "NET OPERATING LOSS DEDUCTIONS" PROMULGATED JANUARY 20, 1977.