

State of Rhode Island and Providence Plantations

Rhode Island Department of Revenue
Division of Taxation

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Rhode Island General Law §42-35-3(a)(1) and in accordance with the Administrative Procedures Act (Chapter 42-35 of the General Laws), the Division of Taxation hereby gives notice of its intent to amend regulation, CR 95-08 “Residential Lead Hazard Removal.”

The purpose of this rule making process is to implement chapter 44-30.3 of the Rhode Island General Laws regarding the residential lead hazard removal. This regulation shall take effect on July 1, 2013 and shall amend and supersede regulation CR 95-08 promulgated January 1, 1995.

The proposed rule to be adopted and a concise summary of non-technical requirements are available for public inspection at www.tax.ri.gov, in person at the Rhode Island Division of Taxation, or can be requested by e-mail at michael.canole@tax.ri.gov or by calling Michael F. Canole at (401) 574-8729.

In the development of the proposed regulation, consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap, or significant economic impact on small business was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Wednesday, May 22, 2013 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via e-mail: michael.canole@tax.ri.gov. A public hearing to consider the proposed regulation will be held on Wednesday, May 22, 2013, at 9:30 a.m., at the Rhode Island Division of Taxation, One Capitol Hill, Providence, RI, at which time and place all persons interested therein will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing to Michael Canole at Rhode Island Division of Taxation, One Capitol Hill, Providence, RI 02908 or by calling (401) 574-8729.

Rhode Island Department of Revenue

Division of Taxation

Concise summary of all non-technical requirements pursuant to RIGL Section 42-35-3(a)(1) regarding residential lead hazard removal – Amended.

The purpose of this rule making process is to implement chapter 44-30.3 of the Rhode Island General Laws regarding the residential lead hazard removal. This regulation shall take effect on July 1, 2013 and shall amend and supersede regulation CR 95-08 promulgated January 1, 1995.

~~State of Rhode Island – Division of Taxation~~

~~Tax Credits/Deductions~~

~~Regulation CR-95-08~~

~~Residential Lead Hazard Removal~~

~~I. GENERAL:~~

~~An individual is entitled to a credit against his or her Rhode Island personal income tax liability for residential lead removal if he or she:~~

- ~~1. obtains written certification by an environmental lead inspector, certified pursuant to chapter 23-24.6 of the general laws, that lead removal or lead hazard reduction for his/her dwelling unit in Rhode Island is required by rules or regulations issue pursuant to authority conferred under chapter 23-24.6 of the general laws;~~
- ~~2. has the required lead removal or lead hazard reduction performed by a lead hazard reduction contractor licensed pursuant to chapter 23-24.6 of the general laws;~~
- ~~3. pays for the lead removal or lead hazard reduction; and~~
- ~~4. obtains written certification by an environmental lead inspector, certified pursuant to chapter 23-24.6 of the general laws, that the required lead removal or lead hazard reduction for the dwelling unit has been completed in accordance with all applicable requirements and that the dwelling is acceptable for re-occupancy.~~

~~THE TAXPAYER MUST COMPLETE ALL 4 STEPS ABOVE TO BE ELIGIBLE FOR THE CREDIT.~~

~~II. CALCULATION:~~

~~The tax credit is equal to the amount actually paid for the required lead removal or lead hazard reduction up to a maximum of one thousand dollars (\$1,000) per dwelling unit. "A dwelling unit" includes by way of examples an apartment, a condominium, or a single family home.~~

~~III. DIVISION OF THE CREDIT:~~

~~In the event that (a) multiple owners of the dwelling unit or (b) owners(s) and renter(s)/Lessee(s) of the dwelling unit have jointly incurred costs and paid for the lead removal/lead hazard reduction, the one thousand dollar (\$1,000) credit shall be divided proportionally among such persons based on their respective contributions to the cost of lead removal/lead hazard reduction.~~

~~IV. CARRYOVERS AND LIMITATIONS:~~

~~Any amount of tax credit not used may be carried forward for five (5) tax years. The credit may not be applied until all other credits available to the taxpayer for that taxable year have been applied.~~

~~V. DOCUMENTATION AND CERTIFICATES REQUIRED:~~

~~Taxpayers seeking the credit must complete form RI-6238 and attach copies of the certificates referenced above from:~~

- ~~1. an environmental lead inspector, certified pursuant to chapter 23-24.6 of the general laws, that lead removal or lead hazard reduction for his/her dwelling unit in Rhode Island is required by rules or regulations issue pursuant to authority conferred under chapter 23-24.6 of the general laws; and~~
- ~~2. an environmental lead inspector, certified pursuant to chapter 23-24.6 of the general laws, that the required lead removal or lead hazard reduction for the dwelling unit has been completed in accordance with all applicable requirements and that the dwelling is acceptable for re-occupancy.~~

~~Taxpayers must retain payment documentation to substantiate the amounts paid for lead removal/reduction.~~

~~Documentation concerning the division of the credit should be attached to the tax returns of all parties to whom a share of the credit is being given.~~

~~R. GARY CLARK TAX ADMINISTRATOR~~

~~DATE: JANUARY 1, 1995~~

State of Rhode Island - Division of Taxation

Personal Income Tax

Tax Credits/Deductions - Residential Lead Abatement Income Tax Credit

Regulation CR 13-08

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Rule 1. Purpose

These rules and regulations implement chapter 44-30.3 of the Rhode Island General Laws (RIGL). That chapter allows a refundable credit against Rhode Island personal income taxes due for residential lead paint removal or reduction.

Rule 2. Authority

These rules and regulations are promulgated pursuant to RIGL §44-1-4 and 44-30.3-8. The rules and regulations have been prepared in accordance with the requirements of RIGL Chapter 42-35 of the Rhode Island Administrative Procedures Act.

Rule 3. Application

These rules and regulations shall be liberally construed so as to permit the Division of Taxation to effectuate the purpose of Chapter 30.3 of Title 44 and other applicable state laws and regulations.

Rule 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.

Rule 5. Definitions

"Claimant" means a property owner or lessee, who has filed a claim and was domiciled in this state for the entire calendar year for which he or she files a claim for relief. In the case of a claim for rented or leased residential premises, the claimant shall have rented property during the preceding year for which he or she files for relief. Claimant does not mean or include any person claimed as a dependent by any taxpayer under the Internal Revenue Code. When two (2) individuals of a household are able to meet the qualifications for a claimant, they may determine between themselves as to who the claimant is. If they are unable to agree, the matter is referred to the tax administrator and his or her decision is final. If a property is owned by two (2) or more individuals, and more than one individual is able to qualify as a claimant and some or all of the qualified individuals are not related, the individuals may determine among themselves as to who the claimant is. If they are unable to agree, the matter is referred to the tax administrator, and his or her decision is final.

"Dwelling unit" means and includes by way of examples an apartment, a condominium, or a single family home.

"Household" means one or more persons occupying a dwelling unit and living as a single nonprofit housekeeping unit. "Household" does not include bona fide lessees, tenants, or roomers and boarders on contract.

"Household income" means all income received by all persons of a household in a calendar year while members of the household.

Income" means the sum of federal adjusted gross income as defined in the Internal Revenue Code of the United States, 26 U.S.C. § 1 et seq., and all nontaxable income including, but not limited to, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief (not including relief granted under this chapter), the gross amount of any pension or annuity (including Railroad Retirement

Act (see 45 U.S.C. § 231 et seq.) benefits, all payments received under the federal Social Security Act, 42 U.S.C. § 301 et seq., state unemployment insurance laws, and veterans' disability pensions (see 38 U.S.C. § 301 et seq.), nontaxable interest received from the federal government or any of its instrumentalities, workers' compensation, and the gross amount of "loss of time" insurance. It does not include gifts from nongovernmental sources, or surplus foods or other relief in kind supplied by a public or private agency.

“Lead hazard reduction” means any action or actions designed to reduce exposure to toxic levels of lead which impose an unacceptable risk of exposure in any dwelling or dwelling unit, where a child under the age of six (6) years, with environmental intervention blood lead level or greater resides, or on any premises and may include, but is not limited to: repair, enclosure, encapsulation, or removal of lead based paint and/or lead contaminated dust, soil or drinking water; relocation of occupants; and cleanup measures or ongoing maintenance measures, which may include activities and/or measures that do not present an undue risk to children under age six (6) and can be performed by, or on behalf of, the property owner, without the person performing such activities being licensed or certified.

“Residential Premises” - shall include single-family homes, individual condominiums, and individual units in either apartment buildings or multi-family homes.

Rule 6. Due Date and Extension of Time to File Claims

A. All claims shall be filed with and in the possession of Division of Taxation on or before April 15th of the year in which the credit is applied or rebate issued.

B. In cases of sickness, absence, other disability, or in the tax administrator’s judgment, good cause exists, an extension not to exceed six (6) months may be granted. Such extension shall be filed in the form of a letter to the tax administrator including documentation for the good cause. Such request shall be filed by on or before April 15th of the year in which the credit is applied or rebate issued.

Rule 7. Residential Lead Abatement Tax Relief Limitation

A. A. RIGL 44-30-30.1 appropriates two hundred and fifty thousand dollars (\$250,000) per fiscal year to be distributed in the following manner:

B. An individual is entitled to a credit against his or her Rhode Island personal income tax liability for residential lead removal or lead hazard reduction if he or she:

1. obtains a housing resources commission regulated certificate of conformance for mitigation, pursuant to chapter 23-24.6 of the general laws; or

2. obtains a department of health regulated lead safe certificate for abatement pursuant to chapter 23-24.6 of the general laws; and

3. lead paint relief shall only apply to residential premises.

Rule 8. Credit Calculation

A. The tax credit is equal to the amount actually paid for the required lead removal or lead hazard reduction up to a maximum of one thousand five hundred dollars (\$1,500) per dwelling unit for mitigation and up to five thousand dollars (\$5,000) for abatement.

B. In the event that multiple owners and/or renter(s)/Lessee(s) of the dwelling unit have jointly incurred costs and paid for the lead abatement or /lead hazard Mitigation, each individual must apply for relief as a separate claimant, and must include al required proof of payment and certifications, based on their respective contributions to the cost of lead abatement or lead hazard mitigation.

C. Only one claim for relief can be filed per dwelling unit.

D. Each Claimant may only claim relief for mitigation or abatement efforts for three (3) separate dwelling units.

E. Credit applications (Form RI 6238) shall have copies of all receipts and other documents representing the total expenses claimed attached.

Rule 9. Income Eligibility

A. Claims shall be paid based on the following requirements:

1. Distributions will be provided first to claimants with a household income of thirty-five thousand two-hundred dollars (\$35,200) or less during the year for which the claim was filed. The household income amount will be increased July 1st of each year by a percentage equal to the cost of living adjustment provided for social security recipients.

2. Secondly, distributions will be provided to claimants who rent or lease dwelling units to individuals whose household income was thirty-five thousand two-hundred dollars (\$35,200) or less during the year for which the claim was filed. The household income amount will be increased July 1st of each year by a percentage equal to the cost of living adjustment provided for social security recipients.

3. All other claims will be paid once all applicants under (a) and (b) of this rule have been paid. However, if insufficient funds exist to pay the claims of this category in full, then payments will be made proportionately for the remaining claims. No payment shall exceed one hundred percent (100%) of the amount claimed.

4. The statute states that no interest is allowed on any payment made to a claimant.

Rule 10 Claim is personal

The right to file a claim under this chapter is personal to the claimant and shall not survive his or her death, but the right may be exercised on behalf of a claimant by his or her legal guardian or attorney-in-fact. If a claimant dies after having filed a timely claim, the amount of the claim is disbursed to another member of the household as determined by the tax administrator. If the claimant was the only member of his or her household, the claim may be paid to his or her

executor or administrator, but if neither is appointed and qualified within two (2) years of the filing of the claim, the amount of the claim escheats to the state.

Rule 11 Appeals

Any person aggrieved by the decision of the tax administrator denying, in whole or in part, relief claimed under RIGL chapter § 44-30.3, except when the denial is based upon late filing of claim for relief, may appeal the decision of the tax administrator to the sixth (6th) division of the district court by filing a petition within thirty (30) days after the denial.

Rule 12. Effective Date

This Regulation shall take effect July 1, 2013 and shall amend and supercede CR 95-08.

David M. Sullivan
TAX ADMINISTRATOR