

**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 RIGL §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 repeal regulation PIT 90-11 Shareholders of Subchapter S Corporations with Rhode Island Source Income.

The purpose of this rule making process is to implement Rhode Island Public Law 2004, Chapter 595, Articles 29 that provided for the repeal of RIGL §44-11-2(d)(3) and §44-11-2(d)(4). This repeal shall take effect January 1, 2011.

The proposed rule to be repealed and concise summary of non-technical requirements and proposed new rules are available for public inspection at [www.tax.ri.gov](http://www.tax.ri.gov), in person at The Rhode Island Division of Taxation, or requested by e-mail at [mcanole@tax.ri.gov](mailto:mcanole@tax.ri.gov) or by calling Michael 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 was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the proposed regulations by Wednesday, November 24, 2010 to Michael Canole, Rhode Island Division of Taxation, One Capitol Hill, Providence, RI – telephone number (401) 574-8729 or via, e-mail at [mcanole@tax.ri.gov](mailto:mcanole@tax.ri.gov). A public hearing to consider the proposed regulation will be held on Wednesday, November 24, 2010 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)**

**Rules and Regulation on Shareholders of Subchapter S Corporations with Rhode Island Source Income.**

**The purpose of this rule making process is to implement Rhode Island Public Law 2004, Chapter 595, Articles 29 that provided for the repeal of RIGL §44-11- 2(d)(3) and §44-11-2(d)(4). This repeal shall take effect January 1, 2011.**

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

## ~~Personal Income Tax~~

### ~~Regulation PIT 90-11~~

## ~~Shareholders of Subchapter S Corporations with Rhode Island Source Income~~

### ~~I. IN GENERAL~~

~~Rhode Island General Laws section 44-11-2(d) generally allows a small business corporation which has made an election under subchapter S of the Internal Revenue Code tax treatment similar to Federal if certain conditions are met. The section also delineates the Rhode Island personal income treatment to be given the shareholder's proportionate share of subchapter S income.~~

### ~~II. RESIDENT SHAREHOLDERS~~

~~Subchapter S corporation shareholders who are Rhode Island residents must include their proportionate share of the corporation's Federal taxable income. Since residents of Rhode Island are required to include all income, less any modifications, in their Rhode Island personal income tax computations, the income from a subchapter S corporation received by a shareholder who is a resident of Rhode Island for the same taxable year would include 100% of such income.~~

### ~~III. NONRESIDENT SHAREHOLDERS~~

#### ~~A. Requirements~~

~~In order to allow the corporation tax treatment similar to Federal, two of the conditions which must be met involve actions by nonresident shareholders. These conditions apply to shareholders of the corporation if they were nonresidents during any part of the corporation's taxable year.~~

~~1. Agreement: Each year before the original due date of the Rhode Island corporate return, each nonresident shareholder must execute an agreement that he/she will file a Rhode Island personal income tax return and pay any necessary income tax on all income derived from or connected with sources in Rhode Island. The agreement must be forwarded to the corporation to be attached to the corporation's Rhode Island return for that taxable year.~~

~~2. Filing: Each nonresident shareholder is required to file a Rhode Island return and to include in Rhode Island adjusted gross income that portion of the corporation's Rhode Island income allocable to his/her interest in the corporation.~~

#### ~~IV. MISCELLANEOUS PROVISIONS~~

~~A. If a nonresident shareholder agreement is not attached to the corporate return or if a nonresident shareholder does not file a timely Rhode Island personal income tax return as agreed, special procedures allow tax to be assessed and collected to and from the subchapter S corporation.~~

~~B. Income Source: If the corporation has a regular place of business outside Rhode Island and therefore would normally apportion its net income in accordance with 44-11-14, then the determination of the corporation's income attributable to Rhode Island sources for the purposes of computing the amount of remittance is made using 44-11-14 and any attendant regulations. Otherwise, all corporate income is considered attributable to Rhode Island sources.~~

~~C. Application of Tax Remitted: Amounts of tax paid on behalf of the shareholder by the corporation will be credited against the nonresident shareholder's Rhode Island personal income tax liability including any applicable interest and/or penalties at such time as the nonresident files.~~

~~D. Filing Requirement: An assessment notice to the subchapter S corporation and its subsequent remittance do not relieve the nonresident shareholder of his/her requirement to file a prior and timely Rhode Island personal income tax.~~

#### ~~IV. OTHER STATES' TAXES PAID~~

~~Only those out-of-state personal income taxes actually paid by the Rhode Island resident shareholder of the subchapter S corporation are included in the individual calculation of the credit for income taxes paid to other states. Thus, taxes paid by the corporation to other jurisdictions are not allowed to be included in the application of 44-30-18.~~

#### ~~V. RHODE ISLAND BUSINESS CORPORATION TAX PAID~~

~~Amounts of Rhode Island franchise tax or business corporation tax required to be paid by the subchapter S corporation under 44-11-2(d)(1) are not payments by the shareholders and, as such, are not credited toward the shareholders' Rhode Island personal income tax liabilities.~~

~~CROSS REFERENCE: PIT 90-13; SEE ALSO FORM RHODE ISLAND  
NONRESIDENT INCOME TAX AGREEMENT~~

~~R. GARY CLARK TAX ADMINISTRATOR~~

~~DATE FILED: MAY 1, 1990~~