

# **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 a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation.

"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 15<sup>th</sup> 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 15<sup>th</sup> 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) for the year commencing on July 1, 2004, and for each subsequent fiscal year.

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 Rhode Island General Laws; or
2. obtains a department of health regulated lead safe certificate for abatement pursuant to chapter 23-24.6 of the Rhode Island 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 all 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. If a mitigation claim has previously been filed for the same dwelling unit, the amount of the abatement claim will be reduced by the amount of the mitigation claim already paid for the dwelling unit, even if the dwelling unit has been transferred to another owner or lessee.

Example: A claimant, in year one, can perform lead mitigation and file for a credit up to \$1,500 per dwelling unit. In a subsequent year a claimant may perform lead abatement work and claim an additional credit for the difference between \$1,500 and \$5,000, up to \$3,500 per dwelling unit. The total cannot exceed \$5,000 per dwelling unit.

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

Example 1: A claimant, in year one, can perform lead mitigation in three separate dwelling units in one building and file for a credit up to \$1,500 per dwelling unit. In a subsequent year that claimant may perform lead abatement work in three different dwelling units in a separate building and claim an additional credit for \$5,000 per dwelling unit.

Example 2: A claimant is the owner of multiple apartment houses. The owner files a claim in year one for the abatement work performed in year one and may claim the lead paint credit up to the maximum of three (3) dwelling units. In year two the owner continues with the lead abatement efforts in a separate apartment house. The owner may file a claim for the work performed in year two up to the maximum of three (3) additional dwelling units.

Example 3: A claimant is the owner of one apartment house which contains six (6) dwelling units. In year one the owner may submit a claim up to the maximum of three (3) dwelling units for work performed in year one. In year two, the owner may claim a credit for work performed in year two for three (3) additional dwelling units.

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

Example 1: Claimant had lead paint abatement performed and upon completion pays the contractor in December of year one. The claimant obtains lead paint certification in February of year two. The claim for credit is made in year one; the year in which the work was performed and payment remitted. However, the certification of conformance

for mitigation or lead safe certificate for abatement must be attached to the claim for credit.

- F. The lead credit is applied after any other grants, credits or reimbursements attributable to the lead mitigation or abatement.

Example: Claimant files for a lead abatement credit and is reimbursed through a third party for \$1,000 for expenses. Total expenses are \$3,000 which is reduced by the \$1,000 reimbursement. The net expense of \$2,000 is the amount eligible for lead paint credit.

## **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 1<sup>st</sup> 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 (6<sup>th</sup>) 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