

**CHAPTER 111. CREDITS AGAINST TAX**

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**§ 111.1. Tax withheld.**

A credit will be allowed to a taxpayer for any amounts of tax withheld from compensation by an employer under this chapter.

**Cross References**

This section cited in Pa. Code § 111.3 (relating to income taxes imposed by other states).

**§ 111.2. Tax paid under previous act.**

A credit is to be allowed to a taxpayer for any amounts of tax withheld by an employer and paid to the Commonwealth or paid as estimated tax to the Commonwealth pursuant to the invalid Article III of the Tax Reform Code of 1971 (72 P. S. §§ 7301—7361).

**§ 111.3. Income taxes imposed by other states.**

Before the allowance of any credit under § 111.1 (relating to tax withheld), a resident taxpayer will be allowed a credit against tax otherwise due under this chapter for amounts paid to another state for any income tax, wage tax, or other tax on or measured by gross or net earned or unearned income imposed upon income which is also subject to tax under this article. For example, if a resident taxpayer earns wages in Delaware and pays an income tax thereon to the State of Delaware, he shall be entitled to a credit against the Commonwealth income tax liability imposed upon wages.

**§ 111.4. Limitation on credit.**

(a) *Credit allowed.* The credit allowed shall be limited to that portion of tax due under this chapter determined by applying to the total of such tax a fraction, the numerator of which shall be the amount of the taxable income of the taxpayer subject to tax in the other jurisdiction and the denominator of which is the entire taxable income of the taxpayer.

(b) *Example of limitation on credit.* A resident taxpayer earns \$10,000 of wages in New York State on or after June 1, 1971. New York State permits him deductions after that date totaling \$2,000, and he pays after that date a total tax of \$500. In addition, he has intangible capital gains of \$5,000. His total Commonwealth taxable income is \$15,000 (\$10,000 in wages and \$5,000 in capital gains) and his total Commonwealth income tax liability is \$330 (2.2% of

\$15,000). The credit of the taxpayer for New York income tax paid is limited to \$220 (10,000/15,000 x 330). The deductions permitted in New York State have no effect upon the credit allowed in this Commonwealth. No credit will be permitted for tax withheld or paid to another state on income earned before June 1, 1971. In addition, no credit will be permitted for tax withheld or previously paid to another state which is subsequently determined an overpayment and which is then refunded.

#### Source

The provisions of this § 111.4 amended December 29, 1978, 8 Pa.B. 3825. Immediately preceding text appears at serial page (36040).

#### Notes of Decisions

##### *Income Subject to Tax in Another Jurisdiction*

Where taxpayers filed both Delaware and Pennsylvania personal tax returns, the taxpayers' entire Pennsylvania income was not subject to tax by Delaware, since the Delaware system, like those systems in other graduated income tax states, uses out-of-state income merely as a measure of the tax rate, rather than actually taxing that income. *Peet v. Commonwealth*, 705 A.2d 497 (Pa. Cmwlth. 1998); exceptions overruled, decision adhered to by 719 A.2d 828 (Pa. Cmwlth. 1998).

#### Cross References

This section cited in 61 Pa. Code § 105.5 (relating to special rules).

### § 111.5. Proof required to establish credit.

Credit will not be allowed under this section unless the taxpayer has proved to the satisfaction of the Department the amount of tax paid to the other state. A Form W-2 indicating income tax withheld for another state will not be sufficient to establish credit under this section. The mere fact that tax was withheld does not establish the fact that a taxpayer has been liable for the payment of tax to another state. Therefore, when claiming a credit for taxes paid to another state, a taxpayer shall file with his Pennsylvania tax return a copy of the tax return filed with the other state. The return will be considered as prima facie evidence of the amount of income tax, if any, paid to the other state.

#### Authority

The provisions of this § 111.5 amended under section 354 of the Tax Reform Code of 1971 (72 P. S. § 7354).

#### Source

The provisions of this § 111.5 adopted October 24, 1975, 5 Pa.B. 2844; amended February 17, 2006, effective February 18, 2006, 36 Pa.B. 822. Immediately preceding text appears at serial page (247468).

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