

Maryland Income Tax ADMINISTRATIVE RELEASE

Administrative Release No. 42

Subject: 502CR Part A – Claiming Credit for State and Local Taxes Paid to Other States

I. General

A resident taxpayer is entitled to claim a credit for income tax paid to another state if the income is subject to tax in both Maryland and another jurisdiction. The credit is claimed on the Maryland Form 502 or Maryland Form 504. Each form requires completion of Form 502CR with required documentation to claim the credit. A separate Form 502CR should be completed for each state for which the taxpayer is claiming a credit. This administrative release contains general information on how to correctly claim the credit and common errors encountered when completing Form 502CR. The purpose of this administrative release is to facilitate the processing of returns and minimize adjustments and notices to taxpayers.

In this Release the following words have the following meanings:

Pass through entity (PTE): an entity whose income is passed through and taxed to its members, i.e. a Partnership, S-Corporation, or Limited Liability Company (LLC).

Composite Return: a single return filed by a PTE, that reports the tax information for multiple members of the PTE in place of each member filing his/her own individual nonresident tax return in the state.

Composite statement: a statement prepared by a PTE and provided to each of its members (partners/shareholders/members) to report the taxable incomes and tax liabilities attributable to the individual member for all of the states in which the PTE filed a composite return that included that individual member. The composite statement should be attached to the form 502CR as substitute for the other states' nonresident individual returns that are otherwise required for support for the credit claimed. See APPENDIX B for examples of acceptable formats for a composite statement. These are merely examples; other formats complying with the requirements outlined in this release will be accepted.

Composite statements must contain the name, title, and phone number for the person responsible for the accuracy of the information on the statement or be signed by the individual responsible for providing the information necessary to prepare the composite statement. An electronic signature or copied, executed signature is acceptable.

II. Who is eligible for the credit?

You must be a Maryland resident filing Form 502 or 504 to qualify for the credit. If you are a part year Maryland resident that paid taxes to another state or locality, you may also qualify for the credit.

- A person who is domiciled in Maryland and who pays income tax for any of the states identified in the chart in Appendix A may claim a credit on the Maryland return (Form 502) using Part A of Form 502CR.
- A person domiciled in any state that is not Maryland but who must file a resident return with Maryland must take the credit in the state of his or her domicile.
- Nonresidents are not eligible for this credit.

III. How to File

A. If you are an individual and not a pass-through entity member or if you are a pass-through entity member but a composite return is not filed on your behalf:

- i. If you are an individual claiming the credit and are not a partner, shareholder or member of an entity that files a composite return on your behalf, please see Appendix A. You must complete a 502CR Part A for each state or locality for which you are claiming the credit. Please find the state in which you paid income taxes to see what form must be attached to the 502CR Part A. An

official state transcript issued by the state in which the taxes were paid will also be accepted as proof of the credit claimed.

- ii. If you are claiming state and local taxes paid from only one state, complete one Form 502CR Part A for state and local taxes paid on the same income. However, if the income is derived from multiple sources, you must complete a separate 502CR Part A for each source of income subject to taxation in both Maryland and the other jurisdiction.
- iii. If you are claiming credit for taxes paid to multiple states, a separate Form 502CR Part A must be completed for each state. If you have multiple Forms 502CR Part A, include only one summary Form 502CR recording the total amount from line 13 of the separate Forms 502CR Part A on line 1, Part K of the summary form, and the total amount from line 14 of the separate Forms 502CR Part A, on line 1, Part L of the summary Form 502CR.
- iv. If you filed a local income tax return to a municipality of another State, attach a copy of that return to the Form 502CR Part A. See Section V. Local Taxes for instructions on calculating and reporting the credit for the local tax portion.
- v. Do not include the entire Form 502CR if you are only claiming credit on Part A. Do not include pages 2 through 3 of Form 502CR unless you are claiming a credit applicable to those pages. Do not attach the instructions for Form 502CR.

B. If you are a member of a pass-through entity that files a composite return on your behalf in other states:

- i. If you are a partner, shareholder or member of a partnership, S corporation, limited liability company or business that files a composite return on your behalf, you may attach a copy of the composite statement provided to you by the business. The composite statement must show your share of the **tax liability** in each of the other states. (This is your final tax expense

after all credits and not the cash payments for withholding or estimated taxes.) See Appendix B for samples of accepted composite statements. While composite statements are preferred, copies of composite returns are also accepted to verify the credits claimed.

- ii. Composite statements identifying “tax withheld” or “tax paid” are insufficient to claim the credit unless you are claiming withholding for Nebraska, North Carolina, Illinois, Connecticut, and/or Utah (because these states treat the withholding payments as the final tax liability). A statement relating to any other state must identify the **tax liability**. See Appendix B for examples of a composite statement that will be accepted.
- iii. You must complete a separate Form 502CR Part A for each state, entering your share of the taxable net income on line 2 and your share of the tax liability of line 11. Taxes paid to localities within each state should be included on the state Form 502CR. For example, taxes paid to the Commonwealth of Pennsylvania and taxes paid to the City of Philadelphia should be reported on the same Form 502CR Part A. See Section V. Local Taxes for instructions.
- iv. Due to nonconformity across K-1s issued to members and the administrative burden associated with verifying such inconsistencies, **K-1s will not be accepted as proof of the claimed credit.**

C. Source of Income

- Complete one 502CR for state and local taxes paid on the same income. If income is derived from multiple sources, complete a separate 502CR for each source of income subject to taxation in both Maryland and the other jurisdiction. See Section V. Local Taxes for more information.

IV. S Corporations

- To claim the credit for tax imposed directly on the S-Corporation (see further discussion below) a separate form 502CR should be completed for each state

showing the following information:

$$\frac{\text{Stock Ownership Percentage}}{\text{Stock Ownership Percentage}} \times \frac{\text{Corporation Taxable Income}}{\text{Corporation Tax}} = \frac{\text{Part A, Line 2}}{\text{Part A, Line 11}}$$

- **Not all states recognize federal S corporation treatment. Addback required in some circumstances.**

Maryland resident shareholders can claim a credit for taxes paid by an S corporation to a state that does not recognize federal S corporation treatment. However, the amount of the credit must first be added to the resident’s federal adjusted gross income (in order to remove the deduction that is now creating a credit). Under Maryland law, the amount of the credit claimed that is based on a tax paid by an S corporation to a state that does not recognize the federal tax treatment of an S corporation must be added to adjusted gross income. A copy of the corporation return filed in the other state is required to be attached to the 502CR or have the taxable income and tax liability information included on the composite statement provided to the member by the S-corporation.

- Add Back Required:

- i. District of Columbia

- The District of Columbia does not recognize the federal S corporation election and does not require a state-level S corporation election. For state purposes, the corporation will be treated as a C corporation. The credit may be claimed, but the add back is required.

- ii. New Hampshire

- New Hampshire does not recognize the federal S corporation election and treats these entities as C corporations. The credit may be claimed, but the add back is required.

- iii. South Dakota

- South Dakota imposes a Franchise Tax that is calculated in the same manner as income tax. If an S

corporation is subject to this tax, it may claim the credit, but the add back is required.

- iv. Tennessee

- Tennessee does not recognize the federal S corporation election and treats S corporations as C corporations. The credit may be claimed, but the add back is required.

- v. Texas

- Texas imposes the Texas Gross Margin Tax which is calculated in the same manner as an income tax. If an S corporation is subject to this tax, the credit may be claimed but the add back is required.

- vi. Louisiana

- Louisiana allows shareholders that are nonresidents the ability to file a nonresident return to report their portion of the income derived from the S corporation or to allow the corporation to pay the tax at the corporate income tax rate on their portion of the income. If the shareholder elects to have the corporation pay the tax, the add back is required to claim the credit.

- Separate Election Forms

- i. Arkansas

- Arkansas previously required the filing of a separate form for the election to be recognized, but effective August 1, 2017, the law has been changed and Arkansas now recognizes the federal S corporation election.

- ii. New Jersey

- New Jersey requires a corporation to file a separate election to be a New Jersey S corporation. The election at the state level must only be filed once. **The addback is presumed necessary unless documentation is provided.**

- iii. New York

- New York requires a corporation to file a separate election to be a New York S corporation. **The addback is presumed necessary unless**

documentation is provided.

iv. Georgia

- Georgia generally recognizes the federal S corporation election and a separate state election is not required. However, nonresident shareholders of an S corporation must file an agreement of consent to pay Georgia income tax on their share of the corporation's taxable income. If the consent agreement is not executed, the S corporation election is not recognized. **The addback is presumed necessary unless documentation is provided.**

v. Mississippi

- Mississippi requires nonresident shareholders of an S corporation to file an agreement to timely pay all taxes imposed on the shareholder for the corporation's taxable income. **The addback is presumed necessary unless documentation is provided.**

V. Local Taxes

- If the local tax is not reflected on the state nonresident tax return, you must attach a copy of the local tax return filed. If the local tax is paid by a PTE with a composite return on behalf of the PTE members, the taxable income and tax liability information attributable to a member should be included on the composite statement provided to the member by the PTE. W-2s will not be accepted except in specific circumstances described below. The credit may be claimed for taxes based on income paid to cities, counties, townships, etc.
- When a resident pays state and local tax within the same jurisdiction, the resident should complete line 2 of the 502CR by entering the taxable net income in the other state. The amount on line 2 should be the highest amount of income subject to tax among the state and the localities. For example, if the resident has \$150,000 of income subject to state income tax and the amount of tax paid is \$10,000 and \$155,000 of income subject to local income tax and the amount of tax paid is \$3,000, line 2 should show \$155,000 in income, not \$305,000. The creditable tax

paid is reported as \$13,000.

- California Mental Health Services Tax (MHST) – MHST is a tax based on income. Maryland residents who pay the MHST are entitled to claim a credit on Form 502CR when both the California and Maryland taxable net incomes exceed \$1 million.
- City of Philadelphia Business Income and Receipts Tax (BIRT) – Maryland residents who pay the BIRT are entitled to claim a credit on Form 502CR to the extent that the credit is attributable to the amount of income tax paid, and not the receipts tax.
- City of Philadelphia Net Profits Tax – Philadelphia imposes a city tax on non-resident wages and salaries earned within city limits. The tax is a percentage of income and is non-refundable. There is no return filed for this tax; therefore, you may attach a copy of your W-2 as substantiation of taxes paid.
- City of Wilmington Delaware Earnings Tax – Wilmington imposes a flat city income tax of 1.25% on earned income. This tax is eligible to be claimed as a credit on Form 502CR. If you filed a return with Delaware, you must attach a copy of the return; otherwise, attach a copy of your W-2 showing the tax withheld.
- Illinois Replacement Tax – The Illinois Replacement Tax is a tax of 1.5% of the taxable net income apportioned to Illinois and may be claimed as a credit of Form 502CR.
- New York Metropolitan Commuter Transportation Mobility Tax (MCTMT) and Unincorporated Business Tax (UBT) - New York is unique in the fact that taxpayers are subject to numerous taxes outside of the typical state and locality tax. This includes the UBT and the MCTMT which are eligible for the credit. Please note that the MCTMT is not eligible to be claimed as a credit for income taxes paid when the taxpayer is an employer as an employer is taxed on payroll expenses and not income. However, if the tax is imposed due to self-employment, the tax is eligible.
- New York General Business Corporation

- MTA Surcharge – This is not eligible for the credit.
- Ohio Commercial Activity Tax (CAT) – This is not eligible for the credit.
- York and Adams Counties – Pennsylvania counties York and Adams have passed ordinances not to impose withholding tax against Maryland residents; therefore no credit may be claimed for taxes paid to these localities.
- Pennsylvania – Jurisdictions other than York and Adams counties may impose tax based on earnings or gross income, such taxes are creditable.

VI. States With No Income Tax

- The following states do not have state income tax; therefore, no credit is allowed on the 502CR Part A. You must report income from these states on your Maryland resident return. Except for the exclusions outlined under the Part IV, a credit cannot be claimed for income earned in the following states because there is no income tax liability.

Alaska – AK	Florida – FL
Nevada – NV	South Dakota – SD
New Hampshire – NH	Tennessee – TN
Texas – TX	Washington – WA
Wyoming – WY	

VII. Reciprocal Agreements

- The following states have reciprocal agreements with Maryland for wages, salaries, tips and commission income.

Pennsylvania – PA	Washington, D.C. - DC
Virginia – VA	West Virginia – WV

The reciprocity agreements do not apply to business income, farm income, rental income, gain from the sale of tangible property, etc. If you had this type of income subject to tax in these states, complete Form 502CR Part A and attach a copy of the nonresident income tax return for that jurisdiction.

VIII. DC Unincorporated Business Franchise Tax

- Self-employed individuals and partners in a partnership who are subject to the DC unincorporated business franchise tax may claim a credit on Form 502CR.
- How to claim the credit:

- A copy of the DC return must be attached to the 502CR. If you are a partner, a statement from the partnership showing the partner’s share of income and the partner’s share of DC tax must also be attached.
- To correctly claim the credit, you must identify your share of the tax liability owed (Line 37 of D-30 Unincorporated Business Franchise Tax Return), not the amount of gross receipts.

IX. Common Mistakes

- Relying on income or withholding tax reported on the wage and tax statement (W-2 Form) issued by your employer or K-1 statement showing withholding or tax paid. You must show the tax liability for the jurisdiction outside of Maryland in which you paid income taxes.
 - Redacted Forms – All forms and information submitted should contain complete social security numbers for the individual and/or Federal Employer Identification Numbers for the entity that paid tax on behalf of an individual.
 - Do not include the entire Form 502CR if credit is being claimed on Part A only. Pages 2-3 of the Form 502CR **must not** be attached unless credits on these pages apply.
 - Composite Statements - when a partnership, S corporation, limited liability company, or business trust files a composite return on behalf of its partners, shareholders, or members, the composite statement provided to the member reflecting all of the states in which composite returns were filed must clearly identify the **tax liability** for the individual. Composite statements that identify the “tax withheld” or “tax paid” on behalf of the member will not be accepted.**
- ** Composite statements may refer to “taxes withheld” in instances where taxes withheld are the tax liability. Refer to III. How to File, Section B, Subsections i and iii.

Appendix A

State/Jurisdiction	Required Documentation
1. Alabama	Form 40NR
2. Arizona	Form 140NR
3. Arkansas	Form AR1000NR
4. California	Form 540NR
5. Colorado	Forms 104 and 104PN
6. Connecticut	Form CT-1040NR/PY
7. Delaware	Form 200-02
8. Georgia	Form 500
9. Hawaii	Form N-15
10. Idaho	Form 43
11. Illinois	Form IL-1040 and Schedule NR
12. Indiana	Form IT-40PNR
13. Iowa	Forms IA-1040 and IA-126
14. Kansas	Form K-40
15. Kentucky	Form 740-NP
16. Louisiana	Form IT-540B
17. Maine	Form 1040ME
18. Massachusetts	Form 1-NR/PY
19. Michigan	Form MI-1040 w Schedule NR
20. Minnesota	Form M1 w Schedule M1NR
21. Mississippi	Form 80-205
22. Missouri	Forms MO-1040
23. Montana	Form 2
24. Nebraska	Form 1040N, with Schedule III
25. New Jersey	Form NJ-1040NR
26. New Mexico	Form PIT-1
27. New York	Form IT-203
28. North Carolina	Form D-400
29. North Dakota	Form ND-1 and Schedule ND-1NR
30. Ohio	Form IT 1040
31. Oklahoma	Form 511NR
32. Oregon	Form 40N
33. Pennsylvania	Form PA-40
34. Rhode Island	Form RI-1040NR
35. South Carolina	Form SC 1040 w Schedule NR
36. Utah	Form TC-40 and Schedule TC-40B (nonresident income schedule); No local governments in Utah assess an income tax.
37. Vermont	Form IN-111 with Schedule IN-113
38. Virginia	Form 763
39. West Virginia	Form IT-140
40. Wisconsin	Form 1NPR

Appendix B

Big Law Firm
EIN: 33-3333333
123 ABC Street
Washington DC 20005

To: Partner John Doe
SSN: 123-45-6789
Date: March 11, 2019
Re: Replacement for Firm's Composite Returns and Mandatory Withholding Tax Returns

This letter certifies you have been included in the Firm's composite tax returns and/or mandatory withholding tax returns for the jurisdictions list below. The use of this letter, in lieu of signed copies of the composite and/or mandatory withholding returns filed under Partner's name, has been negotiated with each identified taxing authority as an acceptable alternative to a signed tax return. Therefore, this letter should be attached to your individual state tax return whenever a signed return is required. Because you were included in the composite, there is no signed individual return for you.

Identified below is the amount of income for the Firm's fiscal year ended 9/30/17 subject to nonresident tax in each applications jurisdiction and the resulting tax liability, net of available state tax credits, paid on your behalf by the Firm and charged to your account. These numbers can be verified against the Firm's composite tax return on file with the respective tax authority.

Jurisdiction	Income Subject to Tax	Composite Tax Liability
California	0	0
Delaware	500	25
Kentucky	300	17
Massachusetts	47205	2312
Pennsylvania	85987	2658
Virginia	525	35

Identified below is the amount of income for the Firm's fiscal year ended 9/30/17 subject to mandatory nonresident withholding in each applications jurisdiction and the resulting tax liability, net of available state tax credits, paid on your behalf by the Firm and charged to your account. These numbers can be verified against the Firm's mandatory withholding tax return on file with the respective tax authority.

Jurisdiction	Income Subject to Tax	Withholding Tax Liability
Connecticut	4000	275
Illinois	22589	855

[signature]

Large Accounting Firm
EIN: 22-2222222
410-555-1212
Year ended: 9/30/17

State Tax Liability Summary

Partner Name: John Doe

SSN: 123-45-6789

This statement is provided to certify that Large Accounting Firm has made payments on your behalf to fulfill tax liabilities with the taxing authorities of the jurisdictions noted below for the year ended 9/30/17. Your state income tax liabilities listed below may be creditable on your state tax return as a credit for income taxes paid to another state. You may need to include this statement to substantiate your credit.

Signature of Authorized Officer: [Signature]

Printed name and title of authorized officer

Jurisdiction	Income	Tax Liability
Alabama	1005	55
California	N/A	N/A
Colorado	400	55
New Jersey	800	83
New York	112250	9700
New York MCTMT	118800	402
Pennsylvania	652	22
South Carolina	425	33

STATE TAX CREDIT ADJUSTMENT

Partner Name: John Smith
SSN: 123-45-5678

Large Accounting Firm, a District of Columbia partnership, EIN 11-1111111, filed a New York City Unincorporated Business Tax return for the fiscal year ended September 30, 2017.

The partner's share of New York City taxable income is: 125,905
The above named partner's share of the tax liability shown on that tax return is: 5,002

If you claim a tax credit on your resident tax return, a copy of this statement must be attached to your return as proof of tax liability. Please consult your tax advisor.

EIN: 22-2222222

Partner Name: John Doe
 SSN: 123-45-6789

Nonresident State Information Statement

This statement has been prepared assuming you are a tax resident of the state you have indicated to the partnership. If you are included in composite returns for 2018, the following summarizes your share of income, tax liability, and tax paid in 2018. Your tax liability may be creditable on your resident state tax return as a credit for income taxes paid to other states. You may need to include this attachment with your resident state tax return to substantiate your credit. Please consult your tax advisor.

Jurisdiction	Composite Election	Composite Taxable Income	Composite Tax Liability
California	N/A	N/A	N/A
Illinois	Yes	152,258	6,485
Indiana	Yes	1,700	65
Michigan	Yes	5	-
New York State	Yes	456,876	45,857
New York MCTMT	Yes	429,952	1,625
Ohio	Yes	5,922	391

Acme Partnership has filed Form NYC-204, Unincorporated Business Tax Return for 2018. Your share of the partnership’s total New York City Unincorporated Business Tax is: 34,556

Acme Partnership has filed a composite nonresident income tax return or withheld income tax on your behalf with the states shown above. Your income and related liability or withholding are the amount shown.

Authorized officer: Jane Smith
 Chief Tax Officer
 301-555-1212