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## **State Tax Return Preparation Guide For All States' INDIVIDUAL State Tax Returns Common problems and unique tax issues for each state**

American Institute of Certified Public Accountants. State and Local Taxation Committee

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# **State Tax Return Preparation Guide For All States' INDIVIDUAL State Tax Returns**

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## **Common problems and unique tax issues for each state**

**Prepared by  
AICPA State & Local Taxation Committee**

### **Introduction**

This *State Tax Return Preparation Guide* covers individual state tax returns. For each of the fifty states, this guide identifies the most common problems or unique issues concerning each of the states' individual state tax returns. It should provide tax practitioners with the items they should be aware of and consider when preparing individual state tax returns for each state. The laws and policies of each state should be verified for application to specific cases. It is not authoritative and should not be relied upon for a specific taxpayer. Practitioners need to research issues identified in this checklist. Also refer to the [\*State Individual Income Tax Return Checklist\*](#) (also included in this *AICPA Tax Practice Guides and Checklists* publication package) for state tax return issues and concerns applicable to all states in general.

### **Acknowledgements**

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We hope this publication is informative. If you have any comments or additional items or suggestions for next year's state tax return preparation guide/checklist, please fax your comments to Eileen Sherr at 202-638-4512, or send an e-mail message to [Esherr@AICPA.org](mailto:Esherr@AICPA.org).

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## **ALABAMA**

1. An Alabama resident who is a 100% shareholder of a foreign S corporation does not have to report the earnings from the S corp on the Alabama return; however, any dividend/distribution from the foreign S corp is taxable to the shareholder on the Alabama return.
2. Alabama allows an itemized deduction for federal FICA tax paid during the year.

## **ALASKA**

1. Alaska does not impose an individual income tax.

## **ARIZONA**

1. For multiple state tax returns, determine the proper amount of income taxed by all states, since this is the amount used in calculating the credit for taxes paid to other states.
2. For multiple state tax returns, determine the proper credit for taxes paid to other states. For example, AZ residents cannot take a tax credit for taxes paid to CA on their AZ return; instead, the credit for AZ taxes paid must be claimed on their nonresident CA return.
3. Nonresidents with capital gain on AZ real property must report that gain to AZ.
4. Nonresident partners and S corp shareholders of entities doing business in AZ are required to file a nonresident return and report their portion of the AZ sourced income.
5. A nonresident beneficiary of a trust must report any income, distributed or distributable, from the trust generated from sources within AZ.
6. AZ residents receiving private pensions from employment in other states are taxable on the full pension income.
7. Installment sale income originating from a non-AZ source at a time when the taxpayer was a nonresident is taxable to AZ when the taxpayer becomes an AZ resident.
8. NOLs incurred by a nonresident from activities occurring outside AZ are not deductible in arriving at AZ income after the taxpayer becomes an AZ resident. If these NOLs were included in federal adjusted gross income, the taxpayer must add the amount of the NOL back to AZ income.
9. Being a community property state, a problem arises when one spouse is an AZ resident and the other spouse is a resident of another community property state. At issue is what income is reported to each state; what deductions are allowed by each state; and on which return should credits be claimed. All of the AZ source income must be reported to AZ along with half of all other income.

## **ARKANSAS**

1. No checklist information is available on this state.

## **CALIFORNIA**

1. Gross income of nonresidents includes only the gross income from sources within California (see R&TC; § 17951). Nonresidents are taxed as though they were residents, however, the tax is computed according to a ratio of California-adjusted gross income to total income.
2. A part-year resident is taxed on income regardless of source during the period of California residence.
3. Income of nonresidents from stocks, bonds, notes, or other intangible personal property is not income from sources within California unless the property has acquired a business situs in the State. A business situs is acquired in this State if the property is employed as capital in California. Generally, the situs of an intangible asset is the state of residence of the owner (see R&TC; § 17952).

## **COLORADO**

1. The definition of a resident vs. nonresident is based on the intent of the individual. (Sec. 39-22-103(8))
2. The filing status for the Colorado return must conform to the federal filing status. (Sec. 39-22-107)

## **CONNECTICUT**

1. Dividends from mutual funds comprised of U.S. Treasury interest are deducted from Connecticut adjusted gross income only if the fund contains greater than 50% U.S. Treasury obligations.
2. Connecticut AGI is reduced by gain/increased by loss from sale of a Connecticut municipal bond, including sales of CT muni bond funds.
3. The property tax credit against the personal income tax is available only to residents, not nonresidents.
4. For tax years beginning January 1, 1997, underpayment of estimated tax interest charges will not be applied to underpayments less than \$500. The prior threshold was \$200.
5. S corporation loss (income) is added back to (subtracted from) AGI to the extent apportioned to CT and to the extent of percentage taxed at the corporate level.
6. An alternative minimum tax applies ONLY IF federal AMT is incurred and is the lesser of 19% of adjusted federal tentative minimum tax or 5% of adjusted federal AMTI.
7. Taxable lump sum distributions not included in federal AGI is an addback.
8. Beginning 1/1/97, statutory residents (non-domiciliaries spending 183 days or more in CT) are entitled to credit for taxes paid to other state(s) on any type of income.
9. If one spouse is not a CT resident, resident spouse may file a separate CT return, OR both spouses are also allowed to file jointly if joint federal return was filed.
10. An entry must be made for individual use tax, even if zero.
11. Use CT AGI, not source income, unless source income is greater. For nonresidents or part-year residents, CT income tax is calculated on the higher of CT AGI or CT source income.

## **DELAWARE**

1. The income tax addback does not include city taxes, but includes only state taxes for which a credit is claimed. (Instructions - Line 50)
2. There are deduction limitations for IRAs. (Instructions - Line 30)
3. There are three limitations for the credit for taxes paid to other states. (Tax Newsgram 72-31)

4. Self-employed health insurance deduction - allowed 100%; additional 70% is itemized deduction. (Tit. 30, §1109(b))
5. If filing a joint federal return but separate Delaware returns, be sure to recompute your itemized deductions for state purposes using the phase-out rules "as if" separate federal returns had been filed.
6. If federal itemized deductions were subject to phase-out, Delaware itemized deductions should only be reduced by the pro- rata amount of state taxes that was not disallowed by the federal phase-out.
7. If filing a joint federal return but separate Delaware returns, the \$25,000 rental real estate allowance under the passive loss limitation rules must be recomputed for state purposes "as if" separate federal returns had been filed.
8. If a part-year resident, the taxpayer can elect to file as either a full year non-resident, or a full year resident.
9. An IRA deduction for a non-working spouse is not allowed if separate Delaware returns are being filed.
10. An IRA deduction for a working spouse is not allowed when separated Delaware returns are filed and the spouse's AGI is over \$10,000. A phase-out is computed for AGI between \$0 and \$10,000.

## **DISTRICT OF COLUMBIA**

1. DC does not require that interest earned on other states' obligations be included in DC taxable income. (DC Code Sec. 47-1803.2(1))
2. Married couples filing separately on a combined return must report income as if separate returns were being filed. However, the deductions may be apportioned in whatever way the couple mutually agrees. (Per the DC Department)
3. Individuals that are part of an unincorporated business are allowed to subtract on DC Form D-line 52 their share of income reported and taxed on a DC franchise or fiduciary tax return. (DC Code Sec. 47-1803.2(a)(2)(B); Instructions to DC Form D-40)
4. Individuals that are part of an unincorporated business must add back on DC Form D-40, line 46 their respective share of deductions (i.e. salary expense) taken by the unincorporated business in calculating its franchise tax. (Instructions to DC Form D-40)
5. DC imposes a franchise (income) tax on unincorporated businesses (DC Code Sec. 47-1810.1(a)(2)). Members and partners are required to report their portion of the unincorporated business' net income on DC Form D20, line 9 (Per the DC Department). The members and partners are allowed a deduction on DC Form D20, line 24 for their portion of the unincorporated business' income that was subject to DC franchise taxation. (Per the DC Department regarding the line for the deduction)
6. The salary expense deduction on DC Form D30, line 30 cannot be in excess of 30% of the unincorporated business' net income not including the salary expense deduction.
7. DC does not impose a personal income tax on nonresident individuals.

## **FLORIDA**

1. Florida does not impose an individual income tax, but does impose an intangibles tax.

## **GEORGIA**

1. Georgia allows for a different residing status for a husband and wife. Separate tax returns can be filed with Georgia.
2. Georgia taxpayers must attach pages 1 & 2 of their federal returns to Georgia IT-500 if AGI is greater than \$40,000.
3. Georgia taxpayers must add back the state income tax deduction for taxes paid to states other than Georgia. An adjustment is allowed for the effect of the 3% AGI limitation.
4. Georgia allows taxpayers age 62 and older to exclude up to \$12,000 of retirement income.
5. Social Security is not taxable for Georgia purposes.
6. A part year resident has the option of either using the Sch. 3 ratio or a time ratio in computing the Georgia portion of his exemption amount and standard deduction. A nonresident must use the Sch. 3 ratio. A part year resident who itemizes may claim either a percentage of total itemized deductions or the Georgia itemized deductions actually paid while a Georgia resident.
7. Lottery prizes from the Georgia Lottery Corp. are taxable to nonresidents as well as residents of Georgia.
8. Prior year tax exception does not apply if the prior year tax was zero. The prior year exception is based on 70% of the prior year tax. If the 70% test is failed, the underpayment penalty is based on current year tax.
9. Georgia considers interest and dividend income from a Georgia partnership as "business income" subjecting nonresident partners to Georgia filing requirements. In addition, the partnership must generally withhold on distributions to nonresidents.
10. For years after 1991, gain may be deferred on the sale of a principal residence as long as the replacement residence is located in the United States.

## **HAWAII**

1. Certain expenses can be deducted 100% vs. proration for nonresident tax returns. (HRS'235-5 & Administrative Rule 18-235-5-01)
2. Taxes paid to other states or foreign countries can be taken as a deduction as well as a credit (after federal limitation). (HRS '235-55)
3. If the taxpayer owns a business in Hawaii, verify filing of Hawaii general excise and use tax returns.

## **IDAHO**

1. No checklist information is available on this state.

## ILLINOIS

1. Compute the new property tax credit which replaced the property tax double subtraction modification from previous years (on the backside of the form).
2. Subtract eligible income streams from qualified plans, retirement income which is not taxed by Illinois.
3. Correctly compute limitations on Schedule CR, which does not allow adjusting from AGI states (like Illinois) to Taxable Income states.
4. Individuals with businesses often miss credits (e.g., inadvertent contributions, federal-state comparison errors, etc.).
5. Illinois does not tax any federally taxed portion of retirement pensions or annuities, which include payments from qualified employee benefit plans, social security, IRAs, Keogh plans, etc. Early distributions from qualified plans and IRAs are also exempt from Illinois income tax.
6. Do not subtract total military pay. Subtract only the amount of military pay received while an Illinois resident on active duty in the U.S. Armed Forces or Illinois National Guard.
7. Subtract only federally taxed Illinois state income tax refunds on this line. Refunds received from other states are not allowed as a subtraction.
8. If subtracting income from U.S. government obligations received from a money market or mutual fund, attach a copy of the statement received from the mutual fund along with any worksheet showing the calculation of the subtraction for U.S. government interest received from the fund.
9. Income from U.S. government obligations received from a partnership, an S corporation, an estate, or a trust should be reported on line 9 of Form IL-1040, not line 8. Attach to the return a copy of the notification furnished to the taxpayer (Form K-1, etc.) that specifically identifies and details the amount of the subtraction being claimed.
10. Specifically identify the name of the state or local government obligation(s) and the amount of interest received from the obligation for all tax-exempt interest being subtracted on this line. Any tax-exempt income received from a mutual fund is not exempt from Illinois tax. Illinois, with few exceptions, taxes interest received from Illinois municipal obligations.
11. The credit for Illinois Property Tax is allowed only if the taxpayer's principal residence during the prior year was in Illinois. Review the instructions for Form IL-1040, line 20 carefully to ensure that the taxpayer qualifies for this credit.
12. Review the list of required attachments to the return listed on page 2 (back side) of Form IL-1040. If you do not attach the required supporting documents, the entry will be disallowed.

## INDIANA

1. Real estate taxes deducted in computing federal AGI must be added back in computing Indiana taxable income.
2. Take the tax credit available for contributions to Indiana colleges/universities.
3. Social Security income which was taxable for federal purposes is not taxable for Indiana purposes.

## **IOWA**

1. Properly allocate income and deductions between spouses on a combined return (a combined return allows each spouse to utilize the Iowa progressive rates).
2. Include the Iowa tuition credit (the income limitation has now been removed).
3. Because Iowa tax is calculated utilizing the same rate table regardless of filing status, it is generally more beneficial for married taxpayers to use "married filing separately on combined return" rather than "married filing jointly".
4. Iowa allows a deduction for 100% of federal income taxes paid during the year.
5. Federal income tax refunds received during the year are taxable.
6. As Iowa does not allow a deduction for federal self-employment taxes paid, any such amounts included in a taxpayer's total federal tax liability must be added back when calculating Iowa taxable income.
7. If utilizing the filing status "married filing separately on a combined return", an allocation must be made between spouses to calculate the proper deduction for federal taxes paid (utilizing federal taxes withheld and the ratio of each spouse's income not subject to withholding) and federal tax refunds received (based upon prior year Iowa net income).
8. Iowa allows a deduction for 100% of health insurance premiums paid; any premiums deducted in full (on the first page of the return) can not be included in medical expenses deducted as an itemized deduction.
9. Many taxpayers may be able to itemize deductions for Iowa purposes, even though not itemizing on the federal return, due to Iowa's small standard deduction.
10. Iowa allows an exclusion for pension income of \$3,000. for individuals or \$6,000 for married couples filing jointly.
11. Iowa will only tax 50% of social security benefits, not the 85% taxed on the federal return.
12. Iowa allows a greater deduction for charitable mileage than is allowed on the federal return.

## **KANSAS**

1. A nonresident who receives income from Kansas sources must file a Kansas individual income tax return regardless of the amount of Kansas source income.
2. A part-year resident has the option of filing as a resident or a nonresident. Complete the part-year residency dates at the top of the K-40. Use the most beneficial method. If

filing as a resident all income is taxed as Kansas and then a credit can be taken for taxes paid to another state. A nonresident will complete Schedule S, Part B to determine the nonresident allocation percentage to compute nonresident tax.

3. A military person stationed in Kansas (if not a Kansas resident) needs to file a nonresident Kansas return only if the person (or spouse if filing jointly) received income from Kansas sources.
4. A nonresident reports income from Kansas sources. This does not include interest, dividends, annuities or gains from the sales or exchange of intangible property (such as bank accounts, stocks or bonds) unless earned by a business, trade, profession or occupation carried on in Kansas.
5. A part-year resident filing as a nonresident includes income, gain, loss or deduction received while a Kansas resident (whether or not from Kansas sources), unemployment compensation derived from sources in Kansas, and any income from Kansas sources while a nonresident of Kansas.
6. Adjustments and modifications to Kansas source income on Schedule S, Part B are allowed only as they apply to income related to Kansas.
7. When there is a deceased taxpayer for which a refund is due, documentation must be attached depending if a surviving spouse is requesting a refund of less than \$100; if a surviving spouse requesting a refund of over \$100 and if a refund of any amount is being requested by someone other than the surviving spouse.
8. Have you considered items for which tax treatment varies between the federal return and the state return?
  - I. State and municipal interest is not exempt from Kansas tax?
  - II. Contributions to KPERS?
  - III. Differences between Federal and Kansas NOL carryovers?
  - IV. Interest from U.S. Government obligations? (Note: Dividend income from mutual funds could include U.S. Treasury interest that needs to be excluded.)
  - V. Federal civil service annuity?
  - VI. Kansas pension plans exempt from Kansas tax?
  - VII. Railroad retirement benefits?
9. Does client live in an area subject to the intangible tax? (There is a Senior Citizen exemption).
10. Have you determined the applicability of Kansas Tax Credits?

## **KENTUCKY**

1. Retirement and pension income is partially or fully excludable for KY income tax purposes.
2. The KY estimated tax payment statutes do not appear to strictly require quarterly payments, although they are recommended. It may be possible to avoid estimated tax penalty to the extent the total estimated tax payments are made by January 15 for calendar year filers.

3. Although the foreign tax credit is not available, KY permits a deduction of foreign taxes paid by individuals.
4. KY has a reciprocity system that exempts compensation income earned in certain neighboring states from KY income tax. This exemption does not apply to income other than compensation.
5. KY credit for taxes paid to other states is available to Kentucky full-year and part-year residents but is applicable only to tax paid on income that is taxed in both KY and another state. When KY law exempts income from KY taxable income but another state does not exempt the income, no credit is available for the income tax paid to the other state that was excluded from KY taxable income.
6. Municipal interest income for sources outside of KY is taxable to KY residents.

## **LOUISIANA**

1. Consider deducting the optional federal income tax deduction which is increased by the amount of the foreign tax credit, rather than taking the credit on the Louisiana return (which will be limited to \$25).

## **MAINE**

1. The statutory requirement to add back to federal AGI research expenses included in the basis for the Research Expense Tax Credit has been repealed.

## **MARYLAND**

1. Consider the application of IRC '911 - Foreign earned income and housing exclusions for expatriates.
2. Consider the non-applicability of the annualization method for estimated tax payments.
3. Review the domicile rules and the definition of a Maryland resident.
4. Consider the electronic funds transfer (EFT) payment requirements.
5. Consider the nonresident withholding requirements for partners, S-Corporation shareholders, and LLC members.

## **MASSACHUSETTS**

1. With limited exceptions, there are no itemized deductions available for individuals (e.g., certain medical expenses).
2. Ordinary business gains (Part A income) cannot be offset by capital (Part C) losses, even if generated by the same trade or business.
3. The IRC is adopted as of January 1, 1988, so later occurring changes to the IRC are not followed by the commonwealth. For example, the depreciation expense for

individual income recipients of flow through entities is limited to \$10,000 in MA, under an older version of the IRC, despite the fact that the current IRC '179 limit is \$17,500. Another example is the deduction for meals, which for federal purposes is limited to 50%, but 80% is allowed in MA.

4. Interest from Massachusetts banks is taxed at the rate of 5.95%, while all other interest is taxed at 12%.
5. There is no deduction or credit available for foreign taxes. However, a credit is allowed for taxes paid to other states or Canada.
6. A taxpayer who maintains a permanent place of abode in MA and spends 183 days or more in MA will be taxed as if they were a resident. This includes students who rent off-campus.
7. Sec. 1231 property is included as MA capital asset and is taxed on a sliding percentage based on holding period after January 1, 1995. The longer the property has been held the lower the percentage of tax. Also, the lower the allowable percentage of usable loss.
8. MA gross income is any income effectively connected with any trade or business including employment carried on in MA, the MA lottery, and ownership of real and tangible property in MA.
9. A nonresident does not have a trade or business in MA including employment if their presence in MA is casual, isolated, or inconsequential, defined as (1) presence does not exceed 10 days (unless gross income exceeds \$6,000.), (2) gross income from presence does not exceed \$6,000., (3) the presence is ancillary to the primary business (i.e., an occasional presence for training, conferences, planning, etc.) Note: The business of the partnership is the business of the partner.
10. MA does not allow carryforward of NOLs. Carryforward of suspended passive activity losses are allowed and are computed using the federal rules as if the MA passive activities were the taxpayer's only passive activities. Thus the MA suspended passive activity losses can be greater or lesser for a nonresident than the federal amount.
11. MA does recognize LLCs and S corps as flow through entities. MA also recognizes the new S corps formed under the federal law changes of 1996.

## **MICHIGAN**

1. In order for tuition paid to qualify for the college tuition credit, the school must be a Michigan institution of higher education which certifies that tuition will not increase by more than 3% in the next academic year, and the taxpayer must be a Michigan resident with household income less than \$200,000.
2. One-half of the self-employment tax that was subtracted from federal taxable income must be added back.
3. Income from private pensions or qualifying IRAs are deductible, but limited. In addition, benefits received from retirement annuity policies are deductible up to specified amounts if the payments are made for life to a senior citizen or spouse. However, pension benefits received from public sources are totally deductible.

4. Part year residents are required to pay Michigan income tax on wages earned while a Michigan resident. Deferred compensation and pensions are allocated to the state lived in when received, interest and dividends are allocated to the state of residence regardless of where earned, and moving expenses are allocated to the state of destination.
5. The taxpayer must own and occupy the property on which he claims a homestead property tax credit. A credit may be claimed only for one, primary property.
6. Income not subject to tax such as social security and disability income is included in household income when computing the allowable homestead property tax credit.
7. Contributions made to a homeless shelter or food bank only qualify for the credit if the payment is made in cash, and the primary purpose is to provide overnight accommodations or food to indigent persons.

## **MINNESOTA**

1. No checklist information is available on this state.

## **MISSISSIPPI**

1. No checklist information is available on this state.

## **MISSOURI**

1. Missouri is a low tax state that allows at least a partial tax deduction. If you have a choice (i.e., part year who resided in the state for more than 30 days) and the other state is not a no income tax state like Texas or Florida, it is usually an advantage to claim Missouri as your resident state.
2. The starting point for the Missouri individual return is federal adjusted gross income. Thus, the lower the federal AGI, the lower the Missouri tax.
3. Missouri avoids the marriage penalty by permitting spouses to apportion income. It is to your advantage to allocate as much income as possible to the spouse who did not have income from the state in the case of a nonresident return or to the spouse with the lower income in the case of a resident return. Investment income from jointly owned property is divided equally.
4. Like most other states, federal AGI is increased for state and local government bond interest (other than Missouri source) and decreased by state income tax refunds. Interest income from certain federal obligations such as U.S. Savings Bonds and U.S Treasury Bills is not taxable. This modification also applies to interest income from federal obligations passing through mutual funds. Be sure to attach federal interest 1099s and mutual fund year-end statements. Otherwise, Missouri will disallow the modification.
5. In calculating your Missouri itemized deductions, Missouri allows the deduction of Social Security and Medicare withholdings, Railroad retirement tax, and self-

employment tax (less the federal deduction of one-half the self-employment tax). A taxpayer cannot itemize on the Missouri return unless they itemized on the federal return. Because of this sizable deduction, it sometimes makes sense to itemize on the federal return even though they would normally claim the standard deduction.

6. Missouri allows a deduction for federal income tax reported on the federal return, including alternative minimum tax and excise taxes on retirement plan distributions. This deduction is limited to \$5,000 (\$10,000 for married filing jointly filers).
7. Nonresidents may reduce their Missouri-source income by an allocable portion of federal adjustments, such as IRA and Keogh contributions and alimony paid.
8. Taxpayers amending Missouri returns should use the regular MO-1040 form for the year being amended. There is no MO-1040X form.

## **MONTANA**

1. Currently, the Dept. of Revenue allows considerable flexibility when allocating itemized deductions between spouses filing separately on a single form. Preparers should consider appropriate allocations that minimize the tax liabilities of married couples. (See generally ARM 42.15.322 and form instructions)
2. Taxpayers are allowed a deduction in arriving at Montana AGI for all health insurance premiums paid by an employer if reported as income to an employee under federal law. Thus, insurance amounts included in the wages of 2% or greater S Corporation shareholders reduce Montana AGI. (MCA 15-30-111(2)(h))
3. Elderly taxpayers (62 years or older) are entitled to a refundable credit related to property taxes or rent paid if certain conditions are met. (MCA 15-30-172)
4. Montana allows an itemized deduction for one-half of the health insurance premiums paid and all long term care insurance premiums for Montana resident beneficiaries without application of the percentage limitation on medical expenses. (MCA 15-30-121(7))
5. Montana allows an itemized deduction for federal income taxes paid (excluding self-employment tax) in arriving at taxable income. (MCA 15-30-121(2))
6. Montana residents may claim a credit for income taxes paid to another state or foreign country. (MCA 15-30-124)

## **NEBRASKA**

1. If the taxpayer is subject to federal alternative minimum tax, lump sum distributions, or has paid tax on early distributions, the taxpayer may also be subject to Nebraska minimum tax on these items.
2. Consider claiming Nebraska AMT credits.
3. Nebraska statute provides for a special capital gains exclusion relating to gains on sale of stock of a Nebraska corporation with more than five shareholders, two of which must be unrelated and each holding at least 10 percent of the outstanding stock.

4. Nebraska allows for the deduction of U.S. interest, including that derived for regulated investment companies (mutual funds).
5. Nebraska allows for the exclusion of all non-Nebraska S corporation income.
6. If the taxpayer has a refund from a prior year Nebraska return shown as income on the federal return, the amount can be deducted on the Nebraska return. If the taxpayer has no other adjustments increasing or decreasing its Federal AGI, it can deduct this amount on Line 13 of the Form 1040N (and check the box next to it), resulting in not having to attach Sch. 1 to their return.
7. If the client has a business, consider if LB270 or LB775 credits have been earned and, if so, Form 3800N should be filed.
8. Railroad Tier 1 and Tier 2 benefits are allowed as a deduction decreasing federal AGI on the Nebraska return.
9. Total Nebraska tax liability is limited to the federal income tax liability. If federal and Nebraska income taxes are zero, check the box between line 4 & 5, attach a copy of page 1 & 2 of Form 1040 & do not complete Form 1040N line by line.
10. Nebraska standard & itemized deductions are limited when federal AGI is over \$117,950 (or \$58,975 for married filing separately). There is also an additional tax to be calculated when AGIs are over these amounts.
11. Nebraska personal exemption credits are subject to an income phase out. Nebraska residents may elect to deduct from their AGI capital gains on the sale of stock of a qualified corporation acquired either because of employment by the corporation or while the employee was employed by the qualified corporation. This is a one time election during their lifetime for stock of the one qualified corporation that can be used on all sales of that corporation's stock.
12. If the child care credit is claimed on the federal return, a Nebraska credit of 25% of the federal credit is allowed.

## **NEVADA**

1. Nevada does not impose an individual income tax.

## **NEW HAMPSHIRE**

1. Although no traditional individual income tax is imposed in NH, NH imposes an Interest and Dividends Tax. As a result of recent litigation, all bank interest is now taxable (prior to the litigation NH would exempt interest from NH and Vermont banks from this tax).
2. No deduction, other than a flat \$2,400 personal exemption, is available to individuals or partnerships.
3. The term "proprietorship" includes individuals.
4. LLCs are subject to the Interest and Dividends tax at the entity level; individuals are not subject to tax on dividends received from an LLC

## **NEW JERSEY**

1. Consider the calculation of a property tax deduction or credit.
2. Consider the proper determination of the tax exempt portion of income from regulated investment companies.
3. Consider including the pro-rata share of a non-New Jersey S corporation's income allocated outside of New Jersey on the resident's tax return.

## **NEW MEXICO**

1. Determine the proper treatment of Partnership and S corporation income. New Mexico apportions the income at the entity level.
2. Individuals may be required to file a return in the year they move from the state.
3. Taxpayers (who are a resident for 6 months or more) may be eligible for a credit equal to 3% of the taxpayer's unreimbursed in-state purchases of prescription drugs.
4. Depending on income level, taxpayers who are 65 years old or more may be eligible for a deduction from taxable income of up to \$8,000 per taxpayer. Lower-income taxpayers may also qualify for a property tax rebate, even if they rent their primary residence.
5. Consider how the NOL rules apply in New Mexico.
6. Individual returns can take a credit for taxes paid to another state, or allocate income to another state, but not both for the same income.
7. Limited partners may be liable for NM tax if the business activity is located in NM.
8. In NM, individuals can only be a resident or nonresident, which is determined by the state of residence at year end.
9. NM has restrictive rules for what cannot be allocated out-of-state on individual returns for full year residents.
10. Military personnel may need to file in NM, or their spouses may need to, if they derive income from NM.
11. There is no NM partnership return, but all partners that derive income from NM sources are required to file NM returns.
12. The NM Tax Dept. is tying Sch. C gross receipts to NM gross receipts tax reports.

## **NEW YORK**

1. NYS/C generally imposes tax on retirement payments received by nonresidents to the extent the payments are allocable to NYS/C sources. However, the following types of retirement benefits received by nonresidents cannot be taxed: 401(k) plans, annuity plans, IRAs, deferred compensation plans under IRC Sec. 457, certain executive retirement plans, and nonqualified deferred compensation plans under IRC '3121. (See P.L. 104-95)

2. Nonresident individuals must adopt the same filing status for NYS/C as was used for federal purposes when filing a nonresident return (Form IT-203). Specifically when a "married filing jointly" nonresident return is filed in NYS/C, even if only one spouse had NYS/C source income, total spousal income must be reported. (Brady v. State of New York, (Ct. of Appeals, December 22, 1992))
3. A nonresident individual must allocate compensation based on the ratio of days worked in NYS/C to total days worked everywhere. Any allowance for days worked outside NYS/C must be based upon necessity and not out of convenience to the employee. (20 NYCRR Reg. Sec. 132.18)
4. An individual who is domiciled in NYS/C must file a NYS/C resident return (Form IT-201). NY Tax Law Sec. 605(b). Domicile is the place that an individual intends to be a permanent home and return to whenever absent. Once established, a domicile continues until the person moves to a new location with the intention of making the new location a fixed and permanent home. Thus, both physical presence as well as intention are required to establish a new place of abode. (20 NYCRR Sec. 102.2(d))
5. The statutory definition of resident requires that a taxpayer spend over 183 days in NYS/C and maintain a permanent place of abode in NYS/C for "substantially all of the taxable year". 20 NYCRR Sec. 105.20-21. NYS/C Nonresident Audit Guidelines define "substantially all" as a period exceeding 11 months. Thus, even if a taxpayer spends over 183 days in NYS/C and owns a permanent place of abode in NYS/C, if the abode was not maintained in excess of 11 months, the taxpayer is not a NYS/C resident.

## **NORTH CAROLINA**

1. Married nonresidents may not file jointly unless both spouses have income in NC. The spouse with the NC income must calculate his/her federal taxable income as a married person filing a separate federal return and use this as the starting point for the NC return.
2. Individuals are eligible for a tax credit for investing in business machinery and equipment placed in service in NC after 8/1/96.
3. Effective 1/1/98 a taxpayer may get a valid extension without paying the full amount of the tax due with the return. This now conforms to federal treatment.
4. Effective 1/1/97 taxpayers who claim the standard deduction are eligible for a credit for charitable contributions.
5. Nonresident partners and shareholders of S corporations may claim a credit for tax withheld as an "Other Tax Payment" on the return. They must include the information furnished by the partnership or S corporation with the return to verify the amount paid.
6. NC allows a deduction from federal taxable income for retirement benefits including IRA withdrawals. A person need not be retired to qualify for the deduction.

## **NORTH DAKOTA**

1. No checklist information is available on this state.

## **OHIO**

1. Resident credit for taxes paid to other state tax jurisdictions: Tax must have been paid in other state in the year the credit is being taken and income included in the AGI. In addition, the tax paid in other jurisdiction must be a state income tax (net worth, franchise, MI SBT taxes are all not considered as creditable taxes).
2. Nonresident tax credit: Methodology in calculating income earned within Ohio is based on a single weighted sales factor vs. a 60% weighted sales factor for the corporate tax.
3. Consider utilization of a business income v. non business income analysis in determining the methodology of situsing income.
4. Residency is determined based upon a bright line test of contact periods within Ohio during the tax year. Status is only an issue if during the tax year the taxpayer maintains more than one domicile.
5. The state filing status is determined based on the federal return filed. As a significant marriage penalty may exist, a state return should always be filed to determine the net tax benefit of filing joint v. separate returns.

## **OKLAHOMA**

1. Social Security income is not taxable in Oklahoma.
2. Out-of-state income is not taxable in Oklahoma. However, out-of-state losses must be added back to Oklahoma income.
3. Consider the Oklahoma interest income exclusion for interest from Oklahoma financial institutions or credit unions. (\$200 - joint, \$100 - single).
4. Consider the \$5,500 exclusion on certain retirement benefits for U.S. and Oklahoma retired employees.
5. The underpayment penalty is computed on full underpayment if the prior year's tax is not paid timely. This penalty is not limited to the prior year amount that should have been paid in. This could be very detrimental if the tax goes up significantly and the individual has underpaid by a small amount.

## **OREGON**

1. Review how the credit for taxes paid to other states and the reverse credits apply.
2. Determine whether the taxpayer is qualified to take the special Oregon Medical deduction.
3. Review the new Oregon deferral of reinvested gain, and determine what gains are subject to deferral, when that deferred gain is recognized, and qualified investments for the deferral.

## **PENNSYLVANIA**

1. Gains in one class of income cannot be offset with losses in another class of income. (61 PA Code '121.13(a), (b))
2. Losses cannot be carried back or forward from year to year. (61 PA Code '103.1, 103.2)
3. Employee contributions to retirement plans (e.g., 401(k)) are not excluded from taxation.
4. No rollover of gain is permitted on the sale of a personal residence.
5. The PA "55 and over" exclusion of gain on the sale of a principal residence differs slightly from the federal. Have all the PA qualifications been met? (Note that this does not take the Taxpayer Relief Act of 1997 into consideration).
6. Moving Expense Deduction. Did the taxpayer work for the same employer both before and after the move? Was the move required by the employer? Did the employer request the move?
7. Taxpayers may deduct meals and entertainment expenses at 100%.
8. Determine whether new residents have included all their installment sale income, including any sales initiated prior to PA residency?
9. Determine whether income items from any out-of-state partnership or S corps were reported in the correct income classes on the return. In the absence of a PA Sch. K-1, the tax preparer must determine the appropriate classes of income.
10. Determine whether a deduction for unreimbursed direct business expenses incurred by partners or S corp shareholders is appropriate.
11. On a joint return, compute the gains/losses of each spouse separately because the gains of one spouse cannot be offset with the losses from the other spouse.
12. Determine whether a "SP" tax credit for low income taxpayers is appropriate. Part year and nonresidents are permitted to claim this credit but they must use gross and/or annualized income in determining their eligibility.

## **RHODE ISLAND**

1. Nonresident partners should be aware that certain provisions of partnership agreements which decrease RI sourced income will be disregarded. ('44-30-34)
2. Federal income tax credits enacted after January 1, 1996 may not be deducted from federal income tax liability for purposes of calculating RI personal income tax. ('44-30-2(b))
3. Individual business owners who are domiciled in, and operate a business in an enterprise zone are eligible for a \$50,000 deduction. ('42-64.3-7)

## **SOUTH CAROLINA**

1. Check into capital gain items that qualify for the 44% net capital gain deduction.

2. If the client has retirement income, consider making election as to treatment, but beware that election is irrevocable.
3. Determine the client's eligibility for various SC tax credits.
4. Individuals moving into SC need to calculate tax two ways: a) calculate income on all SC income and take credit for tax paid to other state; and b) calculate tax only on SC income. Use the calculation which produces lesser tax.
5. Schedule TC can be confusing if other state does not follow same rules in calculating taxable income.

## **SOUTH DAKOTA**

1. South Dakota does not impose an individual income tax.

## **TENNESSEE**

1. Taxpayers should be aware that Tennessee does have an individual interest and dividends tax. (T.C.A. ' 67-2-101,et.seq.)
2. Taxpayers should be aware that the income tax applies to partnerships. (T.C.A. ' 67-2-102)

## **TEXAS**

1. Texas does not impose an individual income tax.

## **UTAH**

1. Determine whether the deduction for adoption expenses applies to the taxpayer.
2. Determine whether the deduction for 1/2 federal tax liability applies to the taxpayer.
3. Determine whether the deduction for retirement income applies to the taxpayer.

## **VERMONT**

1. Vermont has a simple piggyback system (percentage of federal tax), must recompute federal tax (and attach recomputations) for non-Vermont municipal bond interest.
2. Taxpayers may either recompute federal tax to exclude U.S. Government Interest or use the percentage method. Taxpayers must attach documentation to support the U.S. Government Interest excluded.
3. Where estimated tax payments do not equal lesser of 90% of current year tax or 100% of prior year tax, penalty is 5% per month up to a maximum of 25%.
4. Vermont residents may qualify for a rebate of property tax paid on homestead. The rebate claim form must be filed separately from the individual income tax return for

claimants under age 62. Claimants age 62 and older may transfer rebate claim to the individual income tax return. This return is due June 1 for the previous tax year.

5. Vermont residents are required to disclose the property tax paid on their homestead, and up to two acres of land, on their Vermont income tax return.
6. Income from intangibles is deemed to be sourced in the state of a taxpayer's domicile. The domicile state may tax the income and Vermont will give the taxpayer a credit for tax paid on that income to the other state (but only if that state provides a similar credit to its residents for income sourced to and taxed by Vermont). This implements an agreement among eleven northeast states and the District of Columbia. (H. 539. Effective 6/26/97)
7. Partnerships and LLCs are required to make mandatory payments of income tax on behalf of nonresident partners and members only. (H. 539)

## **VIRGINIA**

1. The credit for taxes paid to other states by resident individuals is limited to earned or business income, or the gain on sale of a principal residence. No credit is available for franchise, license, excise, or unincorporated business taxes. ('58.1-332)
2. Virginia may not allow a credit for taxes paid to Arizona, California, Oregon, and the District of Columbia (see tax return instructions). The sale of investment property having a situs outside of VA does not generate an out of state tax credit in VA.
3. Resident S corporation shareholders include their entire distributive share of S corporation income in their Virginia taxable income. Relief from multiple taxation is provided through the credit for taxes paid to other states. (Resident shareholders of S-Corporations do not determine their Virginia taxable income by allocation or apportionment of the S Corporation's income.) ("58.1-322, 58.1-325, 58.1-332)
4. No Virginia partnership tax return is required. ('58.1-392)
5. The Virginia foreign source income subtraction is limited to certain passive types of income (interest, dividends, rents, royalties, etc.). Earned or business income does not qualify for the subtraction. However, the federal exclusion for foreign earned income is deducted in determining federal AGI, and thus allowed in determining the starting point for Virginia AGI. ("58.1-322, 58.1-325, 58.1-332)
6. If an individual itemizes deductions for federal purposes, he or she must itemize deductions for Virginia purposes. Because state income taxes are not allowed as a deduction in Virginia, itemizers who have a large deduction for state income taxes may pay more overall federal and Virginia taxes by itemizing, than if he or she had claimed the standard deduction. You must supply a copy of your federal schedule A with your state return. ('58.1-322)
7. Part Year Residents: Virginia source income of a part year resident is determined on a cash basis. Thus, if a new Virginia resident receives distributions from a retirement plan, vacation or severance pay, or other types of income after moving to Virginia, such income is taxable in Virginia even though it may have been earned or accrued prior to moving to Virginia.

8. VA does not have a separate Net Operating Loss. VA follows the federal rules and a federal NOL carryback adjusts federal AGI which as adjusted, is the starting point for VA taxable income.
9. VA has completely revamped it's Business, Professional and Occupational License Tax effective for 1997. Any entity doing business in VA should review these BPOL tax changes.

## **WASHINGTON**

1. Washington does not impose an individual income tax.

## **WEST VIRGINIA**

1. Consider certain credits that may be available to West Virginia noncorporate taxpayers (e.g., Military Incentive Credit, Qualified Rehabilitated Buildings Investment Credit, Capital Company Credit, Business Investment and Jobs Expansion Credit, etc.)
2. Interest or dividend income on state and local bonds other than bonds from West Virginia sources is not exempt from state tax.
3. Interest or dividends received on United States or West Virginia obligations includable in federal adjusted gross income are exempt from state tax.
4. Up to \$2,000 in benefits received from certain West Virginia, federal, or military retirement systems may be exempt from state tax.
5. Refunds of state and local income taxes received and reported as income to the IRS may be exempt from state tax.
6. There may be deductions available for senior citizens (age 65 or older), individuals with disabilities, and surviving spouses.

## **WISCONSIN**

1. The Temporary Recycling Surcharge does not apply to an individual who has less than \$4,000 of gross receipts (review other exceptions as well). In addition, if an individual is subject to the surcharge, the minimum amount the individual should pay is \$25 (regardless of whether the calculation of the surcharge is less than \$25). (See WI Form 1 instructions, p. 15)
2. Interest income which is exempt for both state and federal tax purposes should not be included in Wisconsin income. (See WI Form 1 instructions, p.6 for examples)
3. Wisconsin limits combined net losses from farming if nonfarm Wisconsin AGI is greater than \$55,000 (Married filing jointly). (See WI Form 1 instructions, p. 6)
4. Self-employed medical insurance is 40% deductible for federal purposes and 100% deductible for Wisconsin purposes. (See WI Law Section 71.05)
5. Taxpayers may have a different amount of social security benefits taxable for Wisconsin and federal purposes. (See WI Form 1 instructions, p. 8)

6. Nonresident - Amounts received while a nonresident of Wisconsin from a nonqualified retirement plan or a nonqualified deferred compensation plan must be included in Wisconsin income to the extent attributable to personal services performed in Wisconsin unless distribution is paid out in annuity form over life expectancy of individual or a period of not less than 10 years, or distribution is paid in either an annuity or lump sum from arrangements known as "mirror" plans. (See P.L. 104-95)
7. Nonresident - Any interest or dividends passed through from an S corporation on a WI 5K-1 must be included on the nonresident return (even though there is a general exception to not include any interest/dividends in Wisconsin income).

## WYOMING

1. Wyoming does not impose an individual income tax.

## COMMENTS OR EXPLANATIONS:

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