

STATE OF DELAWARE
DEPARTMENT OF FINANCE
DIVISION OF REVENUE
601 DELAWARE AVENUE
WILMINGTON, DELAWARE 19899

TAX NEWSGRAM 73-5

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PERSONAL INCOME TAX

- Non residents and Part-year residents -- Computation of Proration percentage.

QUESTION: What is the proper method of computing the proration percentage by a non-resident or part-year resident who has included in his Federal Adjusted Gross Income refunds of State Income taxes?

Assume a non-resident or part-year resident was employed in Delaware for the entire year or part of the year. In the prior year he deducted both Delaware and Maryland Income taxes actually paid during that year as part of the itemized deductions on his Federal return. Refund of state taxes is received from both states during the current year; such refund must be reported on the Federal return as other income.

The taxpayer did not receive any tax benefit on his Delaware tax return in the prior year (since the state taxes are not deductible for state purposes), and therefore ordinarily an adjustment would be made on Line 36 of the Delaware return to eliminate this item from Federal Adjusted Gross Income in determining Delaware Adjusted Gross Income. However, in this instance if an adjustment is made on Line 36 the resultant proration percentage would be incorrect.

It is held that in order to compute the correct proration percent in this situation, the non-resident or part-year resident should reduce Federal Adjusted Gross Income by eliminating the state tax refunds, which had been included on the Federal tax return. Taxpayers should attach an explanatory statement to the Delaware return to explain the reason for the elimination.



J. H. Kennedy
Director of Revenue

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