



STATE OF DELAWARE  
DEPARTMENT OF FINANCE  
DIVISION OF REVENUE  
CARVEL STATE BUILDING  
820 N. FRENCH STREET  
WILMINGTON, DELAWARE 19801

DIVISION OF REVENUE

TECHNICAL INFORMATION MEMORANDUM 91-5

December 26, 1991

SUBJECT: State Taxes Paid Modification to Itemized Deductions  
Reduced by Virtue of Federal Law.

CODE SECTION AFFECTED: 30 Del. C. §§ 1109(a)(1)a. and b.

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Questions have arisen concerning proper application of the phase-out of federal itemized deductions for Delaware purposes, with particular regard to the amount of State taxes to be included in the further reduction of itemized deductions as reflected on line 35 of the resident return and lines 35 and 36 of the non-resident return. Line 35 of the resident return provides for the reduction of itemized deductions by:

"The amount [of federal itemized deductions] representing income taxes imposed by this State."  
30 Del. C. § 1109(a)(1)a.

and

"The amount of any income tax imposed on [the taxpayer] by another state of the United States or a political subdivision thereof or the District of Columbia on income derived from sources therein if he elects to take such amount as a credit. . . ."  
30 Del. C. § 1109(a)(1)b.

The latter is reflected separately as line 36 of the non-resident return.

In this Memorandum, these two items are referred to collectively as the "state taxes paid modification."

If the amount of a taxpayer's total federal itemized deductions is reduced by virtue of the taxpayer having adjusted gross income in excess of \$50,000 and filing separate or combined separate Delaware returns or in excess of \$100,000 and filing joint returns, then the possibility exists (generally only for extremely

high income taxpayers) that his allowed federal itemized deductions will be less than the amount of state taxes paid.

The federal reduction is based on income and operates to reduce itemized deductions (and increase taxable income) by a fixed dollar amount in most cases irrespective of the nature of the itemized deductions against which the reduction is required. The Division interprets the operation of the federal reduction (as applied to Delaware) to reduce Delaware itemized deductions in the same amount. Therefore, it is also the Division of Revenue's interpretation that the only adjustment needed to the state taxes paid modification is to assure that the amount of the modification not exceed the federal itemized deductions appearing on line 31 of the return. This Memorandum specifically does not authorize pro-rata adjustments based on state taxes paid as a proportion of total itemized deductions.

The amount of tax credit available for taxes paid other states is unaffected by the fact that the amount to be entered on line 35 (line 36 of the non-resident return) may have been reduced in accordance with this Memorandum below the amount of taxes actually paid.

Worksheets for these lines are attached to this Memorandum. The fundamental purpose of these worksheets is to preclude Delaware itemized deductions from being entered as a negative number by virtue of the federal reduction.

This Memorandum (including the worksheet) is intended to serve as the Division of Revenue's regulations on the subject matter of this Memorandum in accordance with 30 Del.C. § 354.



Robert W. Chastant  
Director of Revenue

**LINE 35 WORKSHEET (FULL YEAR RESIDENTS):**

**A.** Amount of Delaware Income Tax, and amount of taxes paid to other states for which credit is claimed on Page 1, Line 10, which were used in computing the amount on Line 5 of the Schedule A for Delaware purposes. (For discussion of "Schedule A for Delaware purposes," see Line 31 Instructions on page 6 of the Instruction booklet.)

	Column A	Column B
<b>A.</b>		

**B.** Enter amount from Line 31 of the Delaware return.

<b>B.</b>		
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**C.** Enter the lesser of Lines A & B here and on Line 35 of the back of the Delaware return.

<b>C.</b>		
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**LINES 35 & 36 WORKSHEET (NON-RESIDENTS/PART YEAR RESIDENTS):**

**A.** Amount of Delaware Income Tax used in computing the amount on Line 5 of the Schedule A for Delaware purposes.

	Column A	Column B
<b>A.</b>		

**B.** Part-year residents only: Amount of taxes paid to other states for which credit is claimed on Page 1, Line 10 of the Delaware return, and which was used in computing the amount on Line 5 of the Schedule A for Delaware purposes.

<b>B.</b>		
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**C.** Enter the total of Lines A & B.

<b>C.</b>		
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**D.** Enter the amount from Line 31 of the Delaware return.

<b>D.</b>		
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**E.** If line D is greater than or equal to Line C, enter the amount from Line A on Line 35 of the Delaware return and the amount from Line B on Line 36 of the Delaware return and STOP HERE. If line C is greater than Line D, subtract Line B from Line D and enter here.

<b>E.</b>		
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**F.** If Line E is zero or greater, enter that number on Line 35 of the Delaware return and the number from Line B on Line 36 the Delaware return.

<b>F.</b>		
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**G.** If Line E is less than zero, enter zero on Line 35 and subtract Line E (ignoring the negative sign) from Line B and enter the result on Line 36 of the back of the Delaware return.

<b>G.</b>		
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