



MASSACHUSETTS DEPARTMENT OF REVENUE
PERSONAL INCOME TAX
NON-RESIDENT TAXPAYERS; MASSACHUSETTS AND U.S. TOTAL
INCOME; DIFFERENCES FOR TAX YEAR 1988

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ISSUE: Why do instructions for the non-resident tax form (Form 1-NR) indicate that the amount of a non-resident's U.S. total income in item 2 of the form (for tax year 1988) may not be the same amount as the taxpayer enters in item 14(f)?

DISCUSSION: A non-resident taxpayer is required to provide U.S. total income on Form 1-NR. In addition, the non-resident taxpayer must indicate on the form the sum of Massachusetts 5% income, 10% income and the additional income that would have been reported as Massachusetts income had the taxpayer been a Massachusetts resident. Due to the differences between Massachusetts and federal tax laws, however, these two amounts may not be the same. For tax year 1988, these differences include:

Differences	Federal Tax Treatment	Mass Tax Treatment
Social Security and Tier 1 Railroad Retirement	Taxable when income above certain level, I.R.C. § 86.	Exempt, G.L. c. 62, § 2(a)(2)(H).
Distributions from contributory retirement plans of the U.S. Massachusetts and other states that do not tax such income	Generally taxable, I.R.C. § 402.	Exempt, G.L. c. 62, §§ 2(a)(2)(E), 3(B)(4).
U.S. bond interest	Taxable, I.R.C. § 103.	Exempt, G.L. c. 62, § 2(a)(2)(A).
Bond interest from other states	Exempt, I.R.C. § 103.	Taxable, G.L. c. 62, § 2(a)(1)(A).
Foreign earned income	\$70,000 exempt, I.R.C. § 911.	Fully taxable, G.L. c. 62, § 2(a)(1)(C).
IRA distributions	Generally taxable, I.R.C. § 408(d).	Taxable after contributions are recovered, G.L. c. 62, § 2(a)(2)(F).
Voluntary § 403(b) annuity contributions	Exempt, I.R.C. § 403(b).	Taxable, G.L. c. 62, § 2(a)(1)(D).
Employee contributions to qualified state and local government pension plan	Exempt, I.R.C. §§ 404(b), 414(h)(2).	Taxable, G.L. c. 62, § 2(a)(1)(I).
Net capital gain deduction	None.	50%, G.L. c. 62, § 2(c)(3).

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State tax refunds	Taxable to itemizers, I.R.C. § 111.	Exempt (no prior deduction under G.L. c. 62, § 2(d)).
Net operating loss carry forward	Deduction allowed, I.R.C. § 172.	Deduction disallowed, G.L. c. 62, § 2(d)(1)(C).

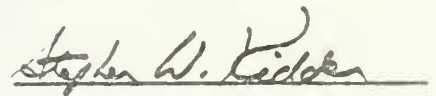
Additional Difference for Shareholders of Federal S Corporations

There will also be a difference for shareholders of a federal S corporation which because its total receipts exceed \$6,000,000 is required to be treated as a regular business corporation under G.L. c. 63, § 32(d). This difference is:

Income from an S corporation	Undistributed income taxable, I.R.C. § 1366.	Actual distributions taxable as dividends, G.L. c. 62, § 1(e).
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DIRECTIVE: Such differences often result in a discrepancy between a non-resident taxpayer's U.S. total income and the sum of 5% total income, 10% income and the additional income that would have been reported as Massachusetts income had the taxpayer been a Massachusetts resident. Thus the amount of U.S. total income in Item 2 of the Form 1-NR may not be the same as the amount in Item 14(f).

December 31, 1988



Stephen W. Kidder
Commissioner of Revenue

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This Directive represents the official position of the Department of Revenue on the application of the law to the facts as stated. The Department and its personnel will follow this Directive, and taxpayers may rely upon it, unless it is revoked or modified pursuant to 830 CMR 62C.01(5)(e). In applying this Directive, however, the effect of subsequent legislation, regulations, court decisions, Directives, and TIRs must be considered, and Department personnel and taxpayers may rely upon this Directive only if the facts, circumstances and issues presented in other cases are substantially the same as those set forth in this Directive.