



# Rhode Island Department of Revenue Division of Taxation

February 24, 2021

The Honorable Marvin L. Abney  
Chair, House Committee on Finance  
Rhode Island State House  
Providence, RI 02903

**RE: Letter of Concern Regarding House Bill 5121 – Relating to Taxation**

Dear Chairman Abney:

I am writing on behalf of the Rhode Island Department of Revenue, Division of Taxation, to express concerns regarding issues with proposed House Bill 5121 as currently drafted and to explain the current statutory context in order to clarify the intended and unintended consequences of this bill and to request your support in considering these issues.

As you know, the bill as drafted would add a section to Rhode Island General Laws Chapter 44-30 to create a state personal income tax credit for community service volunteerism hours. In addition, the bill as drafted would amend an existing section of Rhode Island General Laws Chapter 44-30 by adding a modification decreasing federal adjusted gross income for state community service volunteerism hours.

The bill is currently scheduled for hearing on Wednesday, February 24, 2021.

### Double tax benefit

Under current law, the computation of Rhode Island personal income tax begins with one's federal adjusted gross income. Certain modifications, prescribed by statute, increase or decrease one's federal adjusted gross income for Rhode Island tax purposes. After accounting for the standard deduction and exemptions allowed by statute, the taxpayer determines his or her Rhode Island taxable income.

The Rhode Island tax liability is then calculated, using rates (and certain other factors) prescribed by statute. The taxpayer may then claim certain federal and/or Rhode Island credits to reduce the amount of the taxpayer's Rhode Island tax liability. These steps are summarized in the following table.

<b>Computation of one's Rhode Island personal income tax, in summary</b>	
<i>Starting point:</i>	<i>Federal adjusted gross income</i>
Increase federal adjusted gross income by:	Modifications (if applicable)
Decrease federal adjusted gross income by:	Modifications (if applicable)
Decrease federal adjusted gross income by:	Standard deduction (if eligible)
Decrease federal adjusted gross income by:	Exemptions (if eligible)
<i>Result:</i>	<i>Rhode Island taxable income</i>
Calculate Rhode Island tax on taxable income	
Reduce Rhode Island tax by credits	
<i>Result:</i>	<i>Rhode Island tax liability</i>

House Bill 5121, as currently drafted, would provide a double tax benefit for volunteer hours as described in the proposed legislation. The bill would:

- a) Create a modification that would decrease one's federal adjusted gross income for Rhode Island tax purposes, based on volunteer hours, and
- b) Create a tax credit, reducing Rhode Island personal income tax based on volunteer hours.

The explanation of House Bill 5121, provided by the Legislative Council, suggests that the bill is intended solely to create a tax credit based on volunteer hours (see letter "b" above), not to also create a modification decreasing one's federal adjusted gross income based on volunteer hours (please see letter "a" above). As a convenience, the Legislative Council's explanation is included below:

"This act would provide a tax credit for state community service hours provided by state residents to certain not-for-profit entities and municipal departments that are certified by the department of administration to issue credits for state community service volunteerism hours. The total amount of the credits would not exceed five hundred dollars (\$500) for an individual, or up to one thousand dollars (\$1,000) for a joint return, per year."

Section 1 of House Bill 5121, as currently drafted, would amend Rhode Island General Laws § 44-30-12 ("Rhode Island income of a resident individual") by adding a new subsection, Rhode Island General Laws § 44-30-12(c)(11) ("Modifications for state community service volunteerism").

The Division of Taxation respectfully suggests that Section 1 of the bill, which includes the proposed Rhode Island General Laws § 44-30-12(c)(11) ("Modifications for state community service volunteerism"), be stricken, given that it does not appear to be the intent of the legislation, based on the Legislative Council's explanation, and would also represent a double tax benefit.

### **Tax credit**

#### **Tax credit: Reference within § 44-30-2.6**

Assuming that the intent of House Bill 5121 is to establish a tax credit, not a modification, as summarized in the Legislative Council explanation, the Division of Taxation would respectfully suggest that Section 2 of the bill be changed.

Section 2 of the bill, as currently drafted, would amend Chapter 44-30 of the General Laws ("Personal Income Tax") by adding § 44-30-27.1 ("Credit for state community service volunteerism hours").

However, for the convenience of taxpayers, tax professionals, and others, the General Assembly has codified Rhode Island personal income tax credits in a single location: § 44-30-2.6 ("Rhode Island taxable income – Rate of tax").

Specifically, the credits against the Rhode Island personal income tax are enumerated at § 44-30-2.6(c)(3)(F) ("Credits against tax"). These include:

- Rhode Island earned income credit
- Property tax relief credit
- Lead paint credit
- Credit for income taxes of other states

- Historic structures tax credit
- Motion picture productions tax credit
- Child and dependent care credit
- Tax credits for contributions to scholarship organizations
- Credit for tax withheld
- Stay Invested in RI Wavemaker Fellowship
- Rebuild Rhode Island credit
- Rhode Island Qualified Jobs Incentive Program
- Historic homeownership assistance act

Most of the above credits are housed in other sections of the Rhode Island General Laws. For example, the property tax relief credit is detailed at § 44-33-1 *et seq.* However, each such credit is also listed under § 44-30-2.6(c)(3)(F), as described above.

Should House Bill 5121 retain Section 2, which houses the tax credit under proposed § 44-30-27.1 (“Credit for state community service volunteerism hours”), the Division would respectfully suggest that a new Section be added to House Bill 5121, perhaps using language similar to the following:

“SECTION [insert section number]. Chapter 44-30 of the General Laws entitled “Personal Income Tax” is hereby amended as follows:

The list of allowed credits against the personal income tax in § 44-30-2.6(c)(3)(F) (“Credits against tax”) shall include the following under § 44-30-2.6(c)(3)(F)(1)(n): Credit for state community service volunteerism hours as provided § 44-30-27.1.”

#### Tax credit: Different location in code

In addition, should the Committee decide to provide a tax credit in lieu of a modification, the Division would respectfully request that the tax credit be placed in a different section of the Rhode Island General Laws. As noted above, House Bill 5121, as currently drafted, would amend Chapter 44-30 of the General Laws (“Personal Income Tax”) by creating § 44-30-27.1 (“Credit for state community service volunteerism hours”).

However, Rhode Island General Laws § 44-30-27 (“Farm to school income tax credit”) describes an income tax credit for the purchase of produce grown in the state and furnished to a local education agency. In effect, House Bill 5121 would create its proposed tax credit for state community service volunteerism hours beneath the statutory umbrella of a credit involving home-grown produce. This could result in confusion for taxpayers, tax professionals, legal scholars, and others.

To avoid any possible confusion, the Division would respectfully request that the proposed credit for state community service volunteerism hours be placed in its own, separate section within Chapter 44-30 (such as § 44-30-103).

#### Tax credit: Clarification on certification year

Section 2 of House Bill 5121, as currently drafted, states the following:

“Any amount of income tax credit not deductible or not deducted for the taxable year of certification shall not be carried over to the following year.”

The Division respectfully requests that the language above, from proposed § 44-30-27.1(b), be redrafted to make it clear whether it is the taxable year the certification is issued for, or the taxable year the certification is issued in.

#### Tax credit: Regulations

Section 2 of House Bill 5121, as currently drafted, directs the Rhode Island Department of Administration to promulgate rules and regulations to implement the provisions of the tax credit. However, the Division has concerns about certain operational matters related to the credit.

For example, the Division would need to make sure that the certificates described in proposed § 44-30-27.1(b) provide sufficient information to allow the Division's systems to tie the certified credit to the tax return. This matter would likely be addressed in regulations, but under the bill as drafted, only the Department of Administration would oversee the promulgation of regulations.

The Division would respectfully request that Section 2 of the bill be redrafted to provide a clear role for the Division in the process for promulgating the regulations related to this proposed credit.

#### **Modification**

Should the Committee determine that the intent of House Bill 5121 is to establish a modification, not a tax credit, the Division respectfully suggests that Section 2 of the bill as currently drafted, which incorporates the proposed tax credit, be deleted.

Thus, the Division would propose deleting § 44-30-27.1 ("Credit for state community service volunteerism hours"), and all references to a credit, and place the pertinent language (i.e., regarding the mechanism for certification, etc.) within the modification provision in Section 1 of the bill, which would establish a modification under § 44-30-12(c)(11) ("Modifications for state community service volunteerism").

Given that the proposed modification would serve as a reduction to income (not a credit against tax liability), the Division would, from an operations standpoint, require that the taxpayer provide supporting documentation when the return is filed, as the Division would with any other modification.

The revenue effect of the modification would be minimal, because the maximum tax reduction under the modification for a married couple filing a joint return would be approximately \$60.00 ( $0.0599 * \$1,000$ ) at the highest income tax rate of 5.99%.

In addition, the Division would respectfully propose amending the modification language related to the tax year, for purposes of clarity.

#### Existing language:

"For any taxable year of the taxpayer, an individual may subtract up to five hundred dollars (\$500), or up to one thousand dollars (\$1,000) if a joint return, for approved state community service volunteerism hours, as described in § 44-30-27.1."

#### Proposed language:

"For ~~any taxable year of the taxpayer~~ tax years beginning on or after January 1, 2022, an individual a taxpayer may subtract up to five hundred dollars (\$500), if filing an individual return, or up to one thousand dollars (\$1,000), if filing a joint return, for approved state community service volunteerism hours...". (*deletions and insertions added*)

The Division takes no position with respect to the remainder of the proposed legislation. Rather, the Division is concerned solely with the issues as outlined above. The Division respectfully suggests that the bill be redrafted for clarity.

I look forward to working with you to address the issues raised in this letter and appreciate your consideration.

Very truly yours,



Neena S. Savage  
Tax Administrator

cc: The Honorable Members of the House Committee on Finance  
The Honorable David A. Bennett  
Jim Thorsen, Director, Department of Revenue