

N.J.A.C. 18:35-4.1

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TITLE 18. TREASURY -- TAXATION
CHAPTER 35. NEW JERSEY GROSS INCOME TAX
SUBCHAPTER 4. CREDITS AGAINST TAX

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N.J.A.C. 18:35-4.1 (2017)

§ 18:35-4.1 Computation of credit for taxes paid to other jurisdictions

(a) The following provisions shall govern the computation of the tax credit by reason of any income or wage tax paid to another state or political subdivision of such state under the New Jersey Gross Income Tax Act (Act).

1. N.J.S.A. 54A:4-1 provides for a credit against the New Jersey gross income tax as follows: Resident credit for tax of another state.

i. A resident taxpayer shall be allowed a credit against the tax otherwise due under this Act for the amount of any income tax or wage tax imposed for the taxable year by another state of the United States or political subdivision of such state, or by the District of Columbia, with respect to income which is also subject to tax under this Act, except as provided by (a)3 below.

ii. The credit provided under this section shall not exceed the proportion of the tax otherwise due under this Act that the amount of the taxpayer's income subject to tax by the other jurisdiction bears to his or her entire New Jersey income.

2. The credit against the New Jersey tax applies with respect to the income tax or wage tax paid in the other state or political subdivision thereof on income which is also subject to tax under the New Jersey Act. Therefore, there shall be excluded from the income in the other state any income which is not subject to tax under the New Jersey law.

3. N.J.S.A. 54A:4-1(b), (c), and (d) provide for a limitation on the credit for tax paid to another state or political subdivision. The amount of the resident taxpayer credit for tax paid to another state or political subdivision shall not exceed the percentage derived by dividing income subject to tax in the other jurisdiction by the taxpayer's entire New Jersey income multiplied by the tax otherwise due under the New Jersey Gross Income Tax Act.

i. No credit shall be allowed for any income tax or wage tax imposed on S corporation income allocated to this State as determined in accordance with N.J.S.A. 54A:5-10.

(1) When the New Jersey corporation business tax allocation factor is 100 percent but the S corporation in fact pays tax to another state based on or measured by income, the amount of income taxed, which qualifies for a reduction on the New Jersey corporation business tax return, is deemed S corporation income allocated outside of New Jersey. This S corporation income is subject to the gross income tax. In addition, if the taxpayer is required to file a personal income tax return in the other jurisdiction reporting the S corporation income, the taxpayer would be eligible for credit for taxes paid to another jurisdiction.

(2) Payment of a minimum tax to another state by an S corporation does not fulfill the criteria of (a)3i(1) above. Therefore, income is not deemed to be S corporation income allocated outside of New Jersey for gross income tax purposes. If the taxpayer is required to file a personal income tax return in the other jurisdiction reporting S corporation income, the taxpayer is not eligible for a credit for taxes paid to the other jurisdiction.

(3) When an S corporation with a New Jersey corporation business tax allocation factor of 100 percent reports entire net income that is subject to Federal corporate income taxation on the New Jersey corporation business tax return and the corporate tax return of another state and the tax paid to the other state qualifies for a reduction on the New Jersey corporation business tax return, the amount of income taxed by both jurisdictions is deemed S corporation income allocated outside of New Jersey. If the taxpayer is required to file a personal income tax return in the other jurisdiction reporting the S corporation income, the taxpayer is eligible for a credit for taxes paid to another jurisdiction, subject to statutory limitations, including those in N.J.S.A. 54A:4-1(b), (c), and (d).

ii. No credit shall be allowed for the amount of any taxes paid or accrued for the taxable year on or measured by profits or income imposed on or paid on behalf of a person other than the taxpayer, whether or not the taxpayer may be liable for the tax.

4. For the purpose of calculating the resident credit for taxes of another state, "taxpayer" means any individual, estate or trust required to report or pay taxes, interest and penalties under the Gross Income Tax Act, or whose income in whole or part is subject to the tax imposed by the Gross Income Tax Act.

5. If the tax of another state or political subdivision is readjusted for more or less of the tax of another state or political subdivision than taxpayer is finally required to pay, the taxpayer shall send notice of the difference to the Director who shall redetermine the tax liability for any years affected, regardless of any otherwise applicable statute of limitations, provided that:

i. The taxpayer is allowed a credit under this section;

ii. The taxpayer has filed a return with the other jurisdiction prior to the readjustment; and

iii. The taxpayer claimed a credit for taxes paid to that other jurisdiction on the original New Jersey tax return.

6. For purposes of determining the percentage, as provided in (a)3 above, for limitation of the tax credit:

i. Income subject to tax by the other jurisdiction means those items of income that are taxed by another jurisdiction before the allowance for personal exemptions and standard and/or other itemized deductions and which are also subject to tax under the New Jersey Gross Income Tax Act. "Subject to tax" is defined as income actually taxed.

ii. Entire New Jersey income means the New Jersey gross income subject to tax before allowances for personal exemptions and deductions.

iii. Adjustment must be made in the numerator for taxpayers who claim credit for income in the numerator which has been only partially taxed by the other jurisdiction.

iv. The actual tax paid to the other jurisdiction is the amount of tax that is due after deduction of all tax credits allowed by that jurisdiction (for example, child and dependent care, new job, research and development), but before the deduction of any payments made by the taxpayer, whether made as withholdings, estimated payments, extension payments, or an overpayment from a prior year.

v. Where there is a reduction in the numerator of the credit fraction for the allowable credit, there must be a corresponding reduction in the allowable tax paid.

7. As a result of the Reciprocal Personal Income Tax Agreement between the Commonwealth of Pennsylvania and the State of New Jersey, wages, salaries, and other compensation paid to New Jersey residents employed in Pennsylvania are not subject to Pennsylvania income tax. Thus, a New Jersey resident may not claim a credit for taxes paid to Pennsylvania on employee compensation.

8. Taxes paid on income by a resident taxpayer to any municipality of Pennsylvania are eligible for the resident tax credit. For example, taxes paid under the City of Philadelphia Wage Tax would be eligible.

i. A W-2 Form must be attached to the New Jersey Gross Income Tax Resident Return (Form NJ-1040) to indicate the name of the municipality, the amount subject to the municipal Wage Tax, and the amount of tax withheld.

9. The New Jersey tax on gross income does not tax partnerships directly. See N.J.S.A. 54A:2-2. Income taxes measured by profits or income, and paid by a partnership to another jurisdiction are deemed taxes paid by the individual partner and as such are eligible for the resident credit. For example, the New York City Unincorporated Business Tax, the Philadelphia Business Privilege Tax and Net Profits Tax are taxes paid by the partnership, which are eligible for the resident credit. The Texas Margin Tax is not an income tax and, therefore, a credit is not allowed.

i. The partner must retain adequate records, to be submitted upon request to the Division, to substantiate the credit claimed, such as a copy of the partnership's tax return indicating the amount of the profits or income subject to tax and the amount of tax paid; or

ii. A statement on the partnership's letterhead listing the jurisdiction, the taxpayer's share of gross income taxed by the other jurisdiction, and any other information the Director may require is considered prima facie evidence of such amount of tax paid to the taxing jurisdiction and/or political subdivision.

10. Any income that has been excluded or deducted from taxable gross income of another jurisdiction or which has not been taxed by another jurisdiction shall not be included in the numerator of the credit fraction. Example: If a portion of long-term capital gains from the sale of property in State A is excluded from taxable income in that state, such excluded portion shall not be included in the numerator of the credit fraction. In addition, income that is not included in entire New Jersey income shall not be included in the numerator.

i. A partner must adjust his or her share of the distributive share of partnership income in the numerator of the credit calculation for adjustments allowed by New Jersey but not other jurisdictions. This section also applies to composite returns.

11. When determining the resident credit allowed, as defined in this section, a New Jersey resident taxpayer shall not combine in the numerator (Schedule A, Line 1, NJ-1040) the same income subject to tax by the jurisdiction and/or its political subdivision. The amount of income or wage tax during the tax year shown on Schedule A, Box B, NJ-1040) for the taxpayer paying both a tax to another state and to a political subdivision of such state would be the total amount of state income tax and income tax or wage tax paid to the other state and political subdivision of such state, where the same amount of income is subject to tax in both the other state and political subdivision of such state. If the income subject to tax in both the other state and political subdivision of such state is not equal, a separate calculation shall be made of the excess income to arrive at the limitation of the credit for the income tax or wage tax paid to the other state and political subdivision of such state.

i. When claiming a credit for the taxes paid to another jurisdiction and/or political subdivision, the taxpayer must retain a signed copy of the tax return filed with the other jurisdiction and/or political subdivision showing the amount of the tax paid and must make it available at the Division's request.

(1) Taxpayers filing electronically with New Jersey must retain a copy of such signed return filed with the other jurisdiction and all supporting schedules and must make them available at the Division's request.

(2) If the taxpayer filed electronically in the other jurisdiction, a copy of the electronically filed income tax return(s) alone is not sufficient. Electronic filers must also submit schedules, worksheets, etc., which document the income, by nature and source, being taxed by the other jurisdiction.

(3) A W-2 form or its equivalent which indicates the withholding of income tax in another jurisdiction and/or political subdivision is considered prima facie evidence of such amount of tax paid only if the taxing jurisdiction and/or political subdivision imposing an income tax or wage tax does not have a tax return.

(4) If the taxpayer is a member of a group which files a composite return with another jurisdiction, a statement on the filing entity's letterhead listing the jurisdiction, the taxpayer's share of gross income taxed by the other taxing jurisdiction, and the taxpayer's share of tax paid is considered prima facie evidence of such amount of tax paid to the taxing jurisdiction and/or political subdivision.

ii. If a taxpayer claims credit for taxes paid to more than one state on income earned in that state, a separate computation for the proportional credit limitation shall be made for each such state.

iii. If a taxpayer claims credit for taxes paid to one jurisdiction for different amounts of income taxed at different tax rates, a separate computation for the proportional credit limitation shall be made for each different amount of income.

12. The credit for tax paid to other jurisdictions must be determined in accordance with the following examples:

i. Example 1--Determining the denominator of the credit calculation fraction.

INCOME SUBJECT TO TAX BY NEW JERSEY		
	Taxpayer A Without Pension	Taxpayer B With Pension Less Exclusion(s)
Wages	\$ 70,000	
Interest	\$ 250	\$ 4,000
Dividends	\$ 400	\$ 2,500
Gains		\$ 1,525
Pension/Annuity/IRA	0	\$ 30,000
Pension Exclusion	0	(\$ 15,000)
Taxable Pension		\$ 15,000
S Corporation Income	\$ 21,000	0
Income Subject to Tax Before Exemptions and Deductions	\$ 91,650	\$ 23,025

ii. Example 2--Determining the credit for income taxed both by another state and by a city within that state when the state and city are taxing the same amount of income.

	INCOME SUBJECT TO TAX		
	New Jersey	Other State	Other City
Wages	\$ 45,000	\$ 30,000	\$ 30,000
Income Subject to Tax Before Exemptions and Deductions	\$ 45,000	\$ 30,000	\$ 30,000
Less Exemptions	(\$ 2,000)		
New Jersey Taxable Income	\$ 43,000		
Tax	\$ 683	\$ 1,600	\$ 135
Numerator of the Credit Calculation			\$ 30,000

iii. Example 3--Determining the credit when income is taxed by two different states outside of New Jersey.

	INCOME SUBJECT TO TAX		
	New Jersey	New York	Delaware
Wages	\$ 20,000	\$ 12,000	\$ 8,000
Interest	\$ 1,000		
Dividends	\$ 2,000		
New York Adjustments		(\$ 1,500)	
Income Subject to Tax Before Exemptions and Deductions	\$ 23,000	\$ 10,500	\$ 8,000
Less Exemptions	(\$ 2,000)		
New Jersey Taxable Income	\$ 21,000		
Tax	\$ 298	\$ 600	\$ 130
Numerator of the Credit Calculation	(\$ 10,500)	(\$ 8,000)	

iv. Example 4--Determining the numerator of the credit calculation fraction when the taxpayer allocates his income in the other jurisdiction.

	INCOME SUBJECT TO TAX		
	New Jersey	Other Jurisdiction	Both
Wages	\$ 125,000	\$ 100,000	\$ 100,000
Income Subject to Tax Before Exemptions and Deductions	\$ 125,000	\$ 100,000	\$ 100,000
Less Exemptions	(\$ 1,000)		

New Jersey Taxable Income	\$ 124,000		
Tax	\$ 5,773	\$ 4,800	
Numerator of the Credit Calculation			\$ 100,000

v. Example 5--Determining the numerator of the credit calculation fraction when part of New Jersey income is taxed by the other jurisdiction.

	INCOME SUBJECT TO TAX		
	New Jersey	Other Jurisdiction	Both
Wages	\$ 12,500	\$ 12,500	\$ 12,500
Interest	\$ 2,000		
Dividends	\$ 3,000		
Capital Gains	\$ 21,000		
Income Subject to Tax Before Exemptions and Deductions	\$ 38,500	\$ 12,500	\$ 12,500
Less Exemptions	(\$ 2,500)		
New Jersey Taxable Income	\$ 36,000		
Tax	\$ 560	\$ 400	
Numerator of the Credit Calculation			\$ 12,500

vi. Example 6--Determining the credit for wage income earned in another jurisdiction if wages were reduced by allowable deductions for New Jersey tax purposes. Determining the actual tax paid to the other jurisdiction on wages taxed by both New Jersey and the other jurisdiction.

	INCOME SUBJECT TO TAX		
	New Jersey	Philadelphia	Both
Wages	\$ 500,000	\$ 500,000	
Less 401(k) Contributions	(\$ 30,000) \$ 470,000		\$ 470,000
Interest	\$ 100,000		
Dividends	\$ 200,000		
Income Subject to Tax Before Exemptions and Deductions	\$ 770,000	\$ 500,000	\$ 470,000
Less Exemptions Medical Deduction	(\$ 1,000) (\$ 5,000)		
New Jersey Taxable	\$ 764,000		

Income			
Tax	\$ 51,488	\$ 18,858	
Numerator of Credit			\$ 470,000
Calculation	\$ 470,000		

Calculation of tax paid to other jurisdiction on wages taxed by both New Jersey and other jurisdiction.

Wages taxed by both jurisdictions	\$ 470,000 = 94% of wages are allowable in numerator
Wages taxed by Philadelphia	\$ 500,000
Tax paid to Philadelphia	\$ 18,858
Adjustment %	x 94%
Actual tax paid on wages allowable in numerator	\$ 17,727

Calculation of Maximum Credit Allowable

\$ 470,000 X \$ 51,488 = 31,428
 maximum credit allowable
 \$ 770,000

Actual tax paid on wages allowable in numerator \$ 17,727

Credit allowed is \$ 17,727, the lower of the maximum credit allowable or the actual tax paid to the other jurisdiction on income taxed by both New Jersey and the other jurisdiction.

vii. Example 7--Determining the credit when there is partnership income earned in two different jurisdictions outside New Jersey and a separate New Jersey partnership which has a loss.

	INCOME SUBJECT TO TAX		
	New Jersey	State 1	State 2
Wages	\$ 100,000		
Interest	\$ 200		
Partnership Income			
Partnership ABC	10,000	\$ 10,000	
Partnership XYZ	5,000		\$ 5,000
Partnership KLM	7,000		
Partnership GSS	(12,000)	\$ 10,000	
Income Subject to Tax	\$ 110,200	\$ 10,000	\$ 5,000
Before Exemptions and Deductions			
Less Exemptions	(\$ 1,000)		
New Jersey Taxable Income	\$ 109,200		
Tax	\$ 4,830	\$ 650	\$ 150
Effective Tax Rate		6.50%	3.00%
Numerator of Credit		\$ 10,000	\$ 0

Calculation

viii. Example 8--Determining the credit for income taxed by New York State and New York City Unincorporated Business Tax (UBT).

	INCOME SUBJECT TO TAX		
	New Jersey	New York	UBT
Wages	\$ 25,000		
Interest	\$ 15,000		
Dividends	\$ 10,000		
Capital Gains	\$ 25,000		
Net Profits			
from Business	\$ 100,000	\$ 75,000	\$ 100,000
Income Subject	\$ 175,000	\$ 75,000	\$ 100,000
to Tax Before			
Exemptions and			
Deductions			
Less Exemptions	(\$ 2,000)		
New Jersey	\$ 173,000		
Taxable Income			
Tax	\$ 6,978	\$ 6,600	\$ 4,000
Numerator of the Credit		\$ 75,000	\$ 25,000
Calculation			

(1) Example 8a--Determining the credit for income taxed by New York State and New York City Unincorporated Business Tax (UBT) when there is income taxed by New York City, which is not taxed by New Jersey.

	New Jersey	New York	UBT
Wages	\$ 50,000	\$ 25,000	
Interest	\$ 10,000		
Dividends	\$ 20,000		
Capital Gains	\$ 15,000		
Partnership Income	\$ 200,000*	\$ 100,000**	\$ 110,000***
Keogh deduction		(\$ 10,000)	
Income subject to tax Before	\$ 285,000	\$ 115,000	\$ 110,000
Exemptions and			
Deductions			
Exemptions	(\$ 2,000)		
New Jersey Taxable income	\$ 283,000		
	283,000		
Tax	\$ 16,980	\$ 7,475	\$ 4,400
Numerator of		\$ 115,000	\$ 10,000****

the Credit
Calculation

*	Partnership Income per Federal K-1 Ordinary Income	\$ 200,000
**	50% of partnership income allocated to New York State	\$ 100,000
***	UBT partnership Income 50% of Ordinary Income	\$ 100,000
	UBT adjustments not required for Federal or New Jersey purposes	\$ 10,000
	Total UBT	\$ 110,000
****	UBT Credit Numerator Total Partnership Income	\$ 110,000
	Amount used in determining New York State credit	(\$ 90,000)
	Income not taxed by New Jersey	(\$ 10,000)
	Allowable Numerator	\$ 10,000

ix. Example 9--Determining the credit when S corporation income is reported on the other jurisdiction's return in separate categories.

INCOME SUBJECT TO TAX			
	New Jersey	Other Jurisdiction	Both
Wages	\$ 100,000		
Interest			
Personal Interest	\$ 200		
S Corporation Interest		\$ 2,500	\$ 2,500
S Corporation Income			
Ordinary	35,000	\$ 35,000	\$ 35,000
Interest	2,500	\$ 37,500	
Income Subject to Tax	\$ 137,700	\$ 37,500	\$ 37,500
Before Exemptions and Deductions			
Less Exemptions	(\$ 1,000)		
New Jersey Taxable Income	\$ 136,700		
Tax	\$ 6,582	\$ 2,625	
Numerator of the Credit Calculation			\$ 37,500

x. Example 10--Schedule C adjustments to income which are also taxable to New Jersey are

included in the numerator of the credit calculation fraction.

	INCOME SUBJECT TO TAX		
	New Jersey	Other Jurisdiction	Both
Wages	\$ 100,000	\$ 100,000	\$ 100,000
Interest	\$ 200		
Net Profits from Business	35,000	\$ 25,000	\$ 25,000
Taxes Based on Income	1,000	\$ 1,000	\$ 1,000
Income Subject to Tax Before Exemptions and Deductions	\$ 136,200	\$ 126,000	\$ 126,000
Less Exemptions	(\$ 1,000)		
New Jersey Taxable Income	\$ 135,200		
Tax	\$ 6,486	\$ 8,820	
Numerator of the Credit Calculation			\$ 126,000

xi. Example 11--Determining the credit for Philadelphia partnerships subject to the Philadelphia Business Privilege Tax (BPT), Philadelphia Net Profits Tax (NPT), and the Pennsylvania Income Tax.

	INCOME SUBJECT TO TAX			
	New Jersey	PA Income	Phila BPT	Phila NPT
Wages	\$ 100,000			
Interest	\$ 200			
Partnership ABC	\$ 500,000	\$ 225,000	\$ 275,000	\$ 275,000
Income Subject to Tax Before Exemptions and Deductions	\$ 600,200	\$ 225,000	\$ 275,000	\$ 275,000
Less Exemptions	(\$ 1,000)			
New Jersey Taxable Income	\$ 599,200			
Tax Liability	\$ 36,043	\$ 6,300	\$ 17,875	\$ 10,909
Less BPT Credit (17,875 x 60%)				(\$ 10,725)
Tax	\$ 36,043	\$ 6,300	\$ 17,875	\$ 184
Effective Tax Rate		2.80%	6.50%	0.067%
Actual tax paid to other jurisdiction				
PA State Tax	\$ 6,300			
Phila BPT	\$ 17,875			

Phila NPT	\$ 184	
	\$ 24,359	
Numerator of Credit Calculation		\$ 275,000

xii. Example 12--Determining the credit when there is a loss useable in the other jurisdiction and there is business income allocated to New Jersey and another jurisdiction and New Jersey allows expenses/adjustments the other jurisdiction does not. Determining the actual tax paid to the other jurisdiction on business income taxed by both New Jersey and the other jurisdiction.

	New Jersey	New York	Both
Wages	\$ 140,000	\$ 80,000	\$ 80,000
Interest	\$ 80,000		
Dividends	\$ 20,000		
Capital gains	\$ 10,000	(\$ 3,000)*	(\$ 3,000)
Partnership Income	\$ 340,000*	\$ 200,000	\$ 170,000**
Other Deductions		\$ 25,000***	(\$ 10,000)****
Less Exemptions	\$ 2,000		
Medical deduction	\$ 8,000		
Taxable Income	\$ 580,000	\$ 255,000	
Tax	\$ 34,983	\$ 15,300	
Numerator of Credit Calculation			\$ 237,000
Credit Allowed	\$ 14,052		

* Partnership Income per Federal K-1 \$ 400,000
 Additional expenses/deductions allowed:
 401(k) deduction \$ 30,000
 Excess meals & entertainment \$ 10,000
 Club dues \$ 10,000
 Miscellaneous partner expenses \$ 10,000
 New Jersey partnership income \$ 340,000 - 50% allocated to New Jersey

** New York allocated share of partnership income \$ 340,000 X 50% = \$ 170,000

*** New York other deductions
 401(k) \$ 15,000
 Keogh \$ 10,000

**** Other deductions used in determining the numerator New York Keogh adjustment of \$ 10,000.
 The New York 401(k) deduction of \$ 15,000 was used in arriving at the New York partnership adjusted income of \$ 170,000
 Maximum Credit Allowable:
 $(\$ 240,000 \times \$ 34,983) / \$ 580,000 = \$ 14,476$

Tax paid to New York on \$ 255,000 of income \$ 15,300
Tax paid to New York on \$ 240,000 of income same as taxed by
New Jersey \$ 14,400, calculated as follows:
 $(\$ 240,000 \times \$ 15,300) / \$ 255,000 = \$ 14,400$
Credit allowed is the lower of the allocation formula or the tax
paid to the other jurisdiction on the same income taxed by New
Jersey, \$ 14,000.

HISTORY:

R.1979 d.433, effective October 26, 1979.

See: 11 N.J.R. 525(b), 11 N.J.R. 650(b).

As amended, R.1983 d.618, effective January 17, 1984.

See: 15 N.J.R. 1566(a), 16 N.J.R. 149(a).

Section substantially amended.

Recodified from N.J.A.C. 18:35-1.12 by R.1998 d.195, effective April 20, 1998.

See: 30 N.J.R. 612(a), 30 N.J.R. 1428(a).

Amended by R.2003 d.285, effective July 21, 2003.

See: 35 N.J.R. 1384(a), 35 N.J.R. 3386(a).

Rewrote the section.

Amended by R.2008 d.186, effective July 7, 2008.

See: 40 N.J.R. 874(a), 40 N.J.R. 4225(a).

Added (a)3ii(2) and (a)3ii(3); in (a)6i, inserted a comma following "income" in the first sentence and inserted the last sentence; added (a)6iv and (a)6v; in the introductory paragraph of (a)9, inserted a comma following "partnership"; rewrote (a)9i; in (a)9ii, substituted "any other information the Director may require" for "the taxpayer's share of tax paid"; in the introductory paragraph of (a)10, inserted a comma following the first occurrence of "income"; added (a)10i; in (a)11i, substituted "must retain" for "shall file with the New Jersey tax return," and inserted "and must make it available at the Division's request"; rewrote (a)12vi; and added (a)12viii(1) and (a)12xii.

Amended by R.2016 d.017, effective February 16, 2016.

See: 47 N.J.R. 2445(a), 48 N.J.R. 295(a).

Rewrote the section.

CASE NOTES:

Rule upheld against equal protection challenge; credit for New York state personal income tax found to have exhausted New Jersey tax on taxpayer's New York income, notwithstanding that the taxpayer was also subject to New York City earnings tax. *Jenkins v. Taxation Div. Director*, 4 N.J.Tax 127, 184 N.J.Super 402, 446 A.2d 217 (Tax Ct.1982).

Rule interpreting "resident credit" as requiring exclusion for income which is excluded or deducted from taxable gross income by another jurisdiction held valid; application of 1979 rule to 1976 tax return held proper. *Sorensen v. Director, Div. of Taxation*, 2 N.J.Tax 470, 184 N.J.Super 393, 446 A.2d 213 (Tax Ct.1981).

New Jersey gross income tax credit established in N.J.S.A. 54A:4-1 for taxes paid by residents to other jurisdictions was not available to a New Jersey couple who paid income taxes to Pennsylvania on wages earned there in 2003, even though Pennsylvania ceded its authority to collect tax from New Jersey residents on employee compensation for the tax year in question, as the credit was not available in such circumstances because income taxes paid to a State that has relinquished its right to collect those taxes have not been imposed by a foreign jurisdiction within the meaning of the statute. *Vassilidze v. Director, Div. of Taxation*, 24 N.J. Tax 278, 2008 N.J. Tax LEXIS 21 (Tax Ct. 2008).

Net gain from partnership activities taxed by foreign jurisdictions but completely offset by allowable partnership loss deductions in state; not included in numerator of tax credit fraction. *Kanarek v. Director, Div. of Taxation*, 14 N.J.Tax 589 (1995).

In calculating credit fraction numerator, gross income subject to tax in other jurisdiction would be reduced by taxpayers' capital loss, which was deductible in New Jersey but not in other state but not by additional lesser amount of taxpayers' rental loss, which was deductible in other state but not in New Jersey. *Allen v. Director Div. of Taxation*, 14 N.J.Tax 385 (1994).

Instructions on computing resident credit for income tax purposes were not erroneous. *Widder v. Director, Div. of Taxation*, 14 N.J.Tax 349 (1994).

Income not actually taxed by another state, but which was used by that state in calculating applicable tax rate for income from that state, would not be included in numerator of resident credit fraction. *Chin v. Director, Div. of Taxation*, 14 N.J.Tax 304 (1994).

Credit for foreign income tax; loss disallowed by New Jersey tax statute. *Berlin v. New Jersey Div. of Taxation*, 13 N.J.Tax 405 (1993).

Resident credit was properly calculated separately for each New York City and state tax. *Willett v. Director, Div. of Taxation*, 10 N.J.Tax 402 (1989).

Only income subject to tax by another state also taxed by New Jersey could be used to determine maximum gross income tax credit. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Foreign city income tax that did not exceed minimum credit available could be credited against New Jersey income tax. *Stiber v. Director, Div. of Taxation*, 9 N.J.Tax 623 (1988).

Since alimony paid by taxpayers residing in New Jersey but working in New York was a deduction in New York, Director held to have properly excluded alimony payments from the numerator of the fraction used to calculate the credit for tax paid to New York. *Nielson v. Taxation Div. Director*, 4 N.J.Tax 438 (Tax Ct.1982).

