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## WHO MUST FILE

Every resident, part-year resident or nonresident individual must file a Pennsylvania Income Tax Return (PA-40) when he or she realizes income generating \$1 or more in tax, even if no tax is due (*e.g.*, when an employee receives compensation where tax is withheld). Refer to the below section on TAXATION, for additional information.

**Note:** A taxpayer is required to file a return, even if he or she ultimately qualifies for special tax forgiveness (SP). A filed, signed tax return is necessary so that the department can verify whether a claimant meets SP eligibility standards. Refer to PA-40 Schedule SP and PA Personal Income Tax Guide - Tax Forgiveness, for additional information.

In addition, the filing of a return benefits the commonwealth in other ways. The information from a return is statutorily permitted to be used to determine school funding for commonwealth school districts as well as to provide information to local tax collection districts for local tax collection compliance, to the Pennsylvania Higher Education Assistance Agency for grant application verification, and to Pharmaceutical Assistance Contract for the Elderly (PACE) for income verification. Failure to provide a return prevents specific information to be available for accurate school funding, local tax collection enforcement and income verification.

## RESIDENCY STATUS

### Resident and Nonresident Defined

An individual is considered a Pennsylvania resident for personal income tax purposes if he or she either is domiciled in Pennsylvania, or is a statutory resident. Pennsylvania residents are subject to Pennsylvania personal income tax on all Pennsylvania taxable income classes, both Pennsylvania and non-Pennsylvania source income, though they may qualify for a resident credit for tax paid to other states on income earned outside of Pennsylvania.

Individuals who do not have either their domicile or statutory residence in Pennsylvania are considered nonresidents for personal income tax purposes. Nonresidents are taxed only on the income they receive from sources within Pennsylvania, and cannot qualify for the credit for taxes paid to other states.

### Pennsylvania Resident

A Pennsylvania resident is either domiciled in Pennsylvania or domiciled in another state or country but qualifies as a statutory resident.

- **Domicile**

"Domicile" is the place where an individual, by present and voluntary intention, establishes his true, fixed and permanent home or home for the indefinite future. Domicile is the place where an individual intends to return whenever absent. Domicile is a matter of intent and fact. Domicile once established continues until a person abandons his existing domicile and establishes a new domicile. A person asserting a change of domicile has the burden to prove the change.

A person may have more than one residence but may have only one place of domicile at a time.

Some factors to consider in determining an individual's place of domicile are:

- Where does the taxpayer spend the greatest amount of time during the taxable year;
- Where does the taxpayer support his or her spouse and children;
- Where does the taxpayer purchase the necessities of life;
- Where does the taxpayer have doctors, lawyers, and accountants;

- Where does the taxpayer house his or her pets;
- Where does the taxpayer have active banking accounts;
- Where does the taxpayer worship regularly;
- Where does the taxpayer participate in social, fraternal, or athletic organizations, lodges, or country clubs;
- Where does the taxpayer have works of art, expensive furniture, family portraits, or heirlooms;
- Where does the taxpayer fulfill local tax obligations;
- Where is the taxpayer employed;
- Where does the taxpayer own real estate fit for year-round living;
- Where does the taxpayer maintain a driver's license and vehicle registration;
- Where does the taxpayer maintain professional licenses;
- Where does the taxpayer maintain union membership;
- Where does the taxpayer declare residency for fishing or hunting licenses, income tax returns, or school tuition;
- Where does the taxpayer conduct his business;
- Where does the taxpayer receive mail;
- Where does the taxpayer receive unemployment income;
- Where does the taxpayer record his or her address for insurance policies, deeds, mortgages, leases, passport, federal and local tax returns, etc;
- Where was the taxpayer domiciled at birth;
- Where does the taxpayer maintain safe deposit boxes;
- Where does the taxpayer own a cemetery plot;
- Where has the taxpayer applied for and received a homestead exemption;
- Where is the taxpayer listed in the telephone directory;
- Where has the taxpayer obtained a homestead exemption (Note: The homestead exemption may not be claimed by nonresidents for any residence maintained in Pennsylvania.);
- Where does the taxpayer gather for family and social events;
- Where does the taxpayer maintain TV or Internet connections; and/or
- Where is the taxpayer registered to vote?

A person's domicile does not change until he or she moves to another state or country with the sincere intention of making his or her permanent home there and abandoning his or her previous domicile. If a person moves to another state or foreign country but intends to stay there only for a fixed or limited time (no matter how long), his or her domicile does not change.

- **Conditions Required to Establish a New Domicile**

You can have only one domicile at any given time. Your domicile does not change until you move to another state or country with the sincere intention of making your "new" permanent home there and abandoning your previous domicile.

If an individual moved to another state or country, but intended to stay there only for a fixed or limited time (no matter how long), the domicile does not change. Once established in a locality or state, your domicile continues there until you establish a new domicile. It is not dependent upon continuous physical presence. It is not abandoned by absence or even by presence in a former domicile, no matter how long continued, if, in leaving and during the absence, there is no firm, sincere, unconditional intention of remaining in the other jurisdiction for an indefinite and uncertain period.

For example, temporary absence from a new domicile with presence in a former domicile for the purpose of transacting business or for the sake of health, pleasure, or education, with a definite intention of returning to the new domicile does not affect a person's domiciliary status. If a person left their domicile to seek new employment intending to remain in the other location only if they find employment, they did not change their domicile.

In order to establish a new domicile, the following three conditions must be met:

- There must be evidence of a firm and definite present intention to discontinue making the former domicile your primary base of operations;
- There must be evidence of a firm and definite present intention to make the new domicile your primary base of operations; and
- There must be evidence of actual physical presence and actual abode (transient, temporary, or permanent) in the new location.

If all three requirements are met, the date of the change is the first day of actual physical presence in the new location.

For example, a retired couple with a permanent summer home inside Pennsylvania and a permanent winter home outside of Pennsylvania can only have one state of domicile at any given time. Their determination as to the state of domicile should be made based on the factors provided in the definition of domicile. The location of your domicile is where you have the greatest connection.

After you determine the location with the greatest connection, you should determine if you have taken the necessary steps to establish a new domicile outside of Pennsylvania. Have you moved your church membership, vehicle registration and driver's license, voter registration, bank accounts, etc.? No one item determines your domicile. Instead, it is the weight of all facts that determines in which state you are domiciled.

- **Statutory Residency**

A person who has a domicile outside the commonwealth can still be considered a resident of Pennsylvania for personal income tax purposes. Such a person is called a "statutory resident." Statutory residency is established if a person domiciled outside the commonwealth:

- Has a permanent place of abode in Pennsylvania; and
- Spends more than 183 days (midnight to midnight) of the taxable year in Pennsylvania.

A permanent place of abode is a house, apartment, dwelling place, or other residence that can be maintained as a household for an indefinite period, whether it is owned by the occupants or not. An abode is not permanent if it is occupied only during a fixed or limited period of time for a particular purpose. Barracks, bachelor officer's quarters, quarters on ships, and other living accommodations provided by an employer for a definite period do not qualify as a permanent place of abode. College dormitories, fraternity houses, sorority houses, and off-campus rentals by students enrolled in college or universities do not qualify as a permanent place of abode.

### **Pennsylvania Nonresident**

An individual is a nonresident for Pennsylvania personal income tax purposes if he is a domiciliary of another state or country unless he qualifies a statutory resident as explained above.

A Pennsylvania domiciliary can also be considered a non-resident for a taxable year if he meets the criteria of a "statutory non-resident," as follows: the person does not maintain a permanent place of abode (defined above) in Pennsylvania at any time during the tax year; maintains a permanent place of abode elsewhere; and spends no more than thirty days of the tax year in Pennsylvania.

### **Persons in the Military or Foreign Service**

Unless there is an intention to change his or her domicile, a person generally does not acquire a new domicile by entering the armed forces, or lose the domicile that the person had upon entering. A person on military duty is not precluded, however, from acquiring a new domicile where his or her family is stationed. A person in the military and Foreign Service, or a person living in a foreign country for other than a temporary or transitory purpose while a lawful permanent resident or citizen of the country, is treated as a domiciliary of that country if the person:

- Is not an employee of the U.S. government, its agencies or instrumentalities (including members of the armed forces and career appointees in the U.S. Foreign Service); and
- Does not hold an appointive office in the executive branch of the U.S. government.

However, special rules may apply if the employee or officer maintains a permanent place of abode at that location. An individual who has a domicile in Pennsylvania is considered a nonresident if meeting all three of the requirements listed under Pennsylvania Resident above.

### **College Student**

Generally, a child has the same domicile as his or her parents or legal custodian. Becoming a legal adult does not by itself separate a child from the parents' or legal custodian's domicile. The child merely acquires the power to establish a separate or new domicile.

### **Minor Child**

The domicile of a minor child is the same as the domicile of the child's parents. If the parents are separated, then the child's domicile is the domicile of the parent with whom the child resides or the domicile of the child's legal custodian.

### **Dual Residency (NESTOA Agreement)**

Pennsylvania entered into the North Eastern States Tax Officials Association Cooperative Agreement (NESTOA Agreement) along with Connecticut, Delaware, the District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island and Vermont. This agreement addresses the taxation of dual residents (that is, taxpayers who are residents of more than one state due to domicile in one state and statutory residency in another).

The NESTOA Agreement provides that in a dual residency situation, the state to which earned income is sourced gets to tax the income. For non-sourced income, such as income from intangible assets, the state of domicile gets to tax the income.

For purposes of applying the resident credit in dual residency situations, the state of domicile must give a resident credit for earned income sourced to the state of statutory residence. For non-sourced income, the state of statutory residence must give the resident credit.

If earned income is sourced to a state other than the state of domicile and state of statutory residence, then the state of domicile gets to tax the income, not the state of statutory residence. If the state to which the income is sourced imposes an income tax, then the state of domicile would give the resident credit.

**Note:** The reciprocal agreements are not applicable in cases of a dual resident of the reciprocal agreement states. In such cases, the NESTOA Agreement applies.

### **Example:**

Dan is a domiciliary resident of Pennsylvania for the entire taxable year. He leases an apartment in Maryland and works 230 days in Maryland. Maryland considers Dan to be a Maryland statutory resident for income tax purposes. He earns \$50,000 in compensation while working in Maryland. Dan also receives \$5,000 of interest income. Because Dan is a domiciliary resident of Pennsylvania, Dan must report his compensation and interest income as Pennsylvania-taxable income. Dan may claim the Pennsylvania resident credit on PA-40 Schedule G-L, Credit for taxes Paid by PA Resident Individuals, Estates or Trusts to Other States, for the Maryland tax he paid on his compensation. However, he may not claim a resident credit on his Pennsylvania return on the interest income. He must claim a resident credit for tax paid to Pennsylvania on his Maryland return on the interest income. Refer to PA Personal Income Tax Guide – Deductions and Credits, for additional information.

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**Who is a Part-Year Resident**

A part-year resident is a person who is a resident for part of the tax year and a non-resident for another part of the year. This usually occurs when someone changes their domicile during the taxable year.

**TYPE FILER/FILING STATUS****Single - Filing Status "S"**

A taxpayer must file as "single" if unmarried on the last day of the tax year. This includes those who have been divorced during the tax year. It also includes surviving spouses in the year of death unless the return can be filed jointly as explained below regarding joint returns.

**Married, Filing Joint Return - Filing Status "J"**

A taxpayer and spouse, even though living apart, whether or not under a separate maintenance agreement, may file a joint return for convenience.

A surviving spouse may file a joint return with the deceased spouse (if no other limitations exist for filing a joint return) for the year of the death if no fiduciary has been appointed for the estate or, if a fiduciary has been appointed, the fiduciary agrees to file a joint return with the surviving spouse. If a fiduciary for the decedent is appointed after the surviving spouse files a joint tax return and the fiduciary supersedes the joint return by filing a separate return on behalf of the deceased spouse, the surviving spouse must file an amended, separate, "single" return within 90

days of the filing of the separate return for the decedent. In addition, a joint return may be filed for the year of death if both taxpayer and spouse are deceased and both fiduciaries agree to file a joint return.

When filing a joint return, both spouses are fully liable for its accuracy and each is jointly responsible for any liabilities. To file jointly, taxpayers must meet all of the following conditions:

- Both spouses' taxable years end on the same date (except for deceased taxpayers);
- Both spouses elect to have the same residency period (earliest starting date if you moved into Pennsylvania and latest ending date if you moved out of Pennsylvania) if you are part-year residents;
- If a PA Schedule OC is included with the return, no credit other than the Educational Improvement Tax Credit or Opportunity Scholarship Tax Credit is claimed on the return;
- Neither spouse is individually claiming the PA KOZ/KOEZ Credit;
- The fiduciary for a deceased taxpayer's estate does not file a separate return;
- Neither spouse is individually liable for the payment under a court order for support and maintenance of a child or of a child and the parent with whom the child is living if the same support order includes support for the child and the parent; and
- Neither spouse is individually liable for the payment of a court ordered obligation arising from a criminal prosecution or proceeding.

If you and your spouse made your estimated payments jointly, you should file a joint tax return. However, if you and your spouse made estimated payments jointly and because of Pennsylvania guidelines you must file separate tax returns, you must allocate the payments by completing form REV-459B, Consent to Transfer, Adjust or Correct PA Estimated Personal Income Tax Account. The form must be completed in its entirety, showing the total number of payments made for the year and the amount of the payments to be transferred to the spouse. Both individuals must sign the form. This form can be sent to the address shown on the form prior to filing the return or a copy of the form can be submitted with both returns when filing. This avoids processing delays and correspondence from the department.

If you and your spouse jointly own income-producing property, you must each report your share of the income (loss). Income-producing property includes savings accounts, businesses, securities, and real estate. Spouses usually equally divide income from jointly owned property. The income and losses of a taxpayer and spouse must be determined separately. You may not off-set the income of the taxpayer with a loss from the spouse and vice versa.

**Married, Filing Separate Returns - Filing Status "M"**

Spouses may each file separate returns instead of a joint return. Income derived from jointly owned assets must be allocated between the spouses. Some interest and dividend statements show only one name on the account even if jointly owned.

Married taxpayers must file separate returns if:

- One spouse is a resident and the other a nonresident, unless both spouses elect to be taxed as resident taxpayers; or
- The taxpayer and or spouse (decedent) died on or before the last day of the tax year and the fiduciary of the decedent did not give permission to file a joint return or the fiduciary of the decedent filed a return on behalf of the decedent after the filing of a joint return by the surviving spouse; or
- If one spouse's taxable year begins or ends on a different date; or
- If either spouse is liable for the payment of spousal and dependent support; or
- The taxpayer or spouse claims any restricted credit listed on PA-40 Schedule OC, Other Credits, other than the Educational Improvement Tax Credit or the Opportunity Scholarship Tax Credit. Refer to PA-40 Schedule OC, Other Credits, for additional information; or
- The taxpayer and/or spouse lives in or has a business or rental property located within a Keystone Opportunity Zone or Keystone Opportunity Expansion Zone (KOZ) and claims a credit on PA Schedule KOZ, PA Keystone Opportunity Zone Credit. Refer to PA Schedule KOZ, PA Keystone Opportunity Zone Credit, for additional information; or
- The taxpayer or spouse is individually liable for the payment of a court ordered obligation arising from a criminal prosecution or proceeding.

**Deceased - Filing Status "D"**

The fiduciary (executor, administrator, or other person charged with caring for the decedent's property) must file the tax return for an individual who died during the tax year. The fiduciary files the return as "Deceased," and reports all income the decedent received from the beginning of the tax year to the date of death. Any return filed for a deceased individual must show the date of death on the appropriate line.

**Note:** If a taxpayer dies after the close of the tax year but before the return for that year is filed, the decedent's personal representative must file two tax returns for the decedent: (1) the return for the year before death, and (2) the decedent's final return for the year in which death occurred. The return for the year before death is considered a regular return. The return for the year of death is the decedent's final return.

For tax years beginning on or after Jan. 1, 2013, a joint return may be filed with the final return of a decedent under several circumstances.

- **Joint Return with Personal Representative**  
A surviving spouse may file a joint return with the final return of the deceased spouse with the decedent's personal representative if:
  - A joint return could have been filed if both spouses had survived for the entire taxable year; and

- The decedent did not have a return filed for the tax year.
- **Joint Return with no Personal Representative**  
A surviving spouse may file a joint return with the final return of the deceased spouse, and sign the return for both spouses, without a personal representative if:
  - A Joint return could have been filed if both spouses had survived the entire taxable year;
  - The decedent did not have a return filed for the tax year; and
  - A personal representative has not been appointed for the decedent by the time the joint return is filed.

**Note:** A personal representative who is appointed after the filing of a joint return may supersede the joint return by filing a return for the decedent. A surviving spouse must file a separate return within 90 days of the filing of the decedent's return by the personal representative.

- **Joint Returns when Both Taxpayer and Spouse are Deceased**  
A joint return may also be filed when a taxpayer and spouse both die during the tax year if:
  - Both taxpayers die during the same tax year;
  - A Joint return could have been filed if both taxpayers had survived the entire taxable year;
  - The personal representatives consent to filing a joint return; and
  - The joint return is signed by both personal representatives.

For tax years beginning before Jan. 1, 2013, joint returns with a deceased spouse are not permitted. If the deceased was married at the time of death, a separate return for the surviving spouse must be filed with the filing status "single" unless he or she remarried before the end of the taxable year.

Jointly owned income, such as interest, must be apportioned between the decedent and the survivor from the beginning of the tax year to date of death. After the date of death, all taxable income derived from jointly held property is attributable to the surviving owner.

### **Final Return - Filing Status "F"**

A person who lived in Pennsylvania during the tax year but permanently moved from Pennsylvania files a final return unless the individual will receive income from sources within Pennsylvania in succeeding years. A final return must also be filed for a deceased taxpayer.

- **Change in Residency**  
When a resident of Pennsylvania establishes a new domicile and/or residency outside of Pennsylvania during the tax year or, conversely, when a nonresident establishes a new domicile and/or residency within Pennsylvania during the tax year, the taxpayer files a PA-40 Individual Income Tax return using the part-year resident filing status.
- **Decedent**  
For a deceased taxpayer, the filing due date is generally the same as the filing date would have been had the person lived until the end of his or her tax year. A calendar year taxpayer is required to file a tax return for the taxable year no later than the following April 15th, unless that date falls on a Saturday or Sunday. In such cases, the tax return must be filed by the next business day after April 15th.

#### **Example:**

If a calendar year taxpayer dies on Aug. 15th, then his or her final return for the period Jan. 1 through Aug. 15 is required to be filed no later than April 15th of the following year.

A final return may also be extended by the fiduciary of an estate. However, an extension to file the final return does not extend the due date for payment of any balance due on the final return. All taxes due must be paid no later than April 15th of the following year.

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## CLASSES OF INCOME

### Overview

Pennsylvania personal income tax (PA PIT) is levied against the taxable income of resident and nonresident individuals, estates and trusts, partnerships, S corporations, business trusts and limited liability companies that are not taxed as corporations for federal income tax purposes. Pennsylvania taxes eight classes of income. Some items of federal income may not be taxable for Pennsylvania personal income tax purposes if they cannot be determined to be taxable one of Pennsylvania's eight classes of income.

A loss in one class of income may not be offset against income in another class, nor may gains or losses be carried backward or forward from year-to-year. A loss by the taxpayer in the filing of a joint return may not offset the income of the spouse on the same joint return and vice versa.

Pennsylvania personal income tax does not provide for a standard deduction or personal exemption. However, individuals are able to reduce their tax liabilities through allowable deductions, credits and exclusions.

### Eight Classes of Income

Pennsylvania Taxes the following eight classes of income:

- Compensation
- Interest
- Dividends
- Net profits from the operation of a business, profession or farm
- Net gains or income from the dispositions of property
- Net gains or income from rents, royalties, patents and copyrights
- Income derived through estates or trusts
- Gambling and lottery winnings

## TAX RATE

Refer to the specific tax year's tax return for the tax rate in effect.

## TAXATION

### How Residents are Taxed

A resident is taxed on all of his or her taxable income whether it is received from sources inside or outside Pennsylvania.

A resident taxpayer is allowed a resident credit for income taxes imposed by and paid to other states based upon income that is subject to Pennsylvania personal income tax. Such taxpayers should complete PA-40 Schedule G-L, Credit for Taxes Paid by PA Resident Individuals, Estates or Trusts to other States. PA-40 Schedule G-L must include a copy of the tax return filed with the other state.

**Note:** For tax years beginning before Jan. 1, 2014, a "state" means any U.S. state or commonwealth, the District of Columbia, the Commonwealth of Puerto Rico, any U.S. territory or possession and any foreign country. For tax years beginning on or after Jan. 1, 2014, a "state" does not include a foreign country. Refer to PA Personal Income Tax Guide – Deductions and Credits, for additional information.

**How Nonresidents are Taxed**

Nonresidents are subject to tax only on income from the eight enumerated classes of income earned, received or acquired from Pennsylvania sources. The eight classes of income are: compensation; net income (loss) from the operation of a business, profession, or farm; net gains (loss) from the sale, exchange, or disposition of property; net income (loss) from rents, royalties, copyrights, and patents; interest; dividends; estate or trust income; and gambling or lottery winnings. Refer to the appropriate chapter of the PA Personal Income Tax Guide for detailed guidance regarding each specific class of income.

Nonresidents are not subject to Pennsylvania tax on ordinary interest and dividends from investments, or gains realized on the sale, exchange, or disposition of intangible property derived from sources within Pennsylvania. Losses on the sale of intangible property may not be used to offset any taxable gains. Refer to PA Personal Income Tax Guide - Interest; Dividends; Net Gains (Losses) From the Sale, Exchange or Disposition of Property; or Personal Income Tax Bulletin 2005-02, Gain or Loss Derived From the Disposition Of A Going Concern, for additional information.

Nonresidents are subject to tax on interest and dividends from investments and gains realized on the sale, exchange, or disposition of intangible property derived from sources within Pennsylvania when employed in the operation of a business, profession, or farm. Refer to PA Personal Income Tax Guide - Net Income (Loss) From the Operation of a Business, Profession or Farm.

**How Part-Year Residents are Taxed**

A part-year resident is subject to the Pennsylvania personal income tax as a resident for the portion of the year the individual was a resident of Pennsylvania. The same taxpayer is subject to the Pennsylvania personal income tax as a nonresident for the remaining portion of the year.

For the portion of the year the person did not reside in Pennsylvania, a part-year resident is not subject to Pennsylvania tax on ordinary interest, dividends, gains from intangible property and any other intangible income.

**DEDUCTIONS, EXEMPTIONS NOT ALLOWED IN COMPUTING PENNSYLVANIA INCOME TAX**

Refer to PA Personal Income Tax Guide – Deductions and Credits for information regarding deductions.

**EXPENSES ALLOWED UNDER PENNSYLVANIA PERSONAL INCOME TAX**

- Unreimbursed Business Expenses  
Refer to PA Personal Income Tax Guide – Gross Compensation for additional information.
- Net Income or Loss from the Operation of a Business, Profession or Farm  
Refer to PA Personal Income Tax Guide - Net Income (Loss) from the Operation of a Business, Profession, or Farm for additional information.
- Net Income or Loss from Rents, Royalties, Patents and Copyrights  
Refer to PA Personal Income Tax Guide - Net Income (Loss) from Rents, Royalties, Copyrights and Patents Chapter 13 for additional information.
- Net Gain or Loss from the Sale, Exchange or Disposition of Property  
Refer to PA Personal Income Tax Guide - Net Gains (Losses) from the Sale, Exchange, or Disposition of Property for additional information.

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**WHEN TO FILE****Deadline to File Return**

A taxpayer must report all taxable income received or accrued during the calendar year (from Jan. 1 through Dec. 31) tax period. The Pennsylvania Department of Revenue follows the Internal Revenue Service (IRS) due date for filing returns. You must file before midnight, April 15 or the next business day if April 15 falls on a Saturday, Sunday or IRS recognized holiday. The U. S. Postal Service postmark date on your envelope is proof of timely filing for paper returns. For padirectfile returns, the confirmation number that the department issued at the time of filing is proof of timely filing. For PA/IRS e-File returns, the date the return was acknowledged as accepted by the IRS is proof of timely filing. A late filing can result in the imposition of penalty and interest.

**Extension of Time to File the PA-40 Individual Income Tax Return**

The department will grant a reasonable extension of time for filing a *PA-40, Individual Income Tax return*. Unless a taxpayer is outside the U.S., the department will not grant an extension for more than six months. People who are outside the country are granted an automatic two-month extension to file until June 15.

Effective for taxable years beginning after Dec. 31, 2001, Act 46 of 2003, amends Pennsylvania's Tax Reform Code of 1971 Section 330(b) 1 to conform with Section 7508 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7508), as amended. Members of the U.S. Armed Forces serving in qualified Hazardous Duty Areas that are deemed Combat Zones will have the same additional time to file and pay Pennsylvania personal income tax (PA PIT) and take other actions concerning the tax that they have for federal purposes. This section now mirrors federal law. The deadline is automatically extended for 180 days from the last day of combat or hazardous duty service or the last day of any continuous hospitalization for injury incurred in one of the zones or areas.

- **An extension of time for filing will not extend the time for the payment of tax**  
Any tax, which could reasonably be expected to be due, must be paid with *REV-276, Application for Extension of Time to File*, before the original return due date. No underpayment of tax penalty will be charged if at least 90 percent of the total tax liability was paid by the original due date and all additional tax is paid with the extension on or before the extended due date. However, interest will be imposed on the amount that was not paid by the original due date of the return.
- **Procedures When Applying For An Extension Of Time To File**  
If a taxpayer has an approved extension to file the federal income tax return and does not owe Pennsylvania personal income tax on the PA-40, Individual Income Tax return, the department will grant the taxpayer an equivalent period to file the PA-40, Individual Income Tax return. In such an instance, the taxpayer does not have to submit *REV-276, Application for Extension of Time to File* or federal Form 4868 before the due date.

If a taxpayer owes income tax on the PA-40, Individual Income Tax return the payment must be submitted with a timely filed *REV-276, Application for Extension of Time to File*. If the taxpayer pays by credit/debit card on or before the original due date of the return, an automatic six-month extension will be granted without having to mail the *REV-276, Application for Extension of Time to File*, to the department. Select one of these options to pay using your credit/debit card:

- Internet: Go to Official Payments Corporation at [www.officialpayments.com](http://www.officialpayments.com); or
- Telephone: Call 1-800-2PayTAX (1-800-272-9829)

If the taxpayer does not have an extension to file the federal income tax return, the *REV-276, Application for Extension of Time to File*, must be submitted before the original return due date.

The mailing address for *REV-276, Application for Extension of Time to File*, and any applicable payment is:

PENNSYLVANIA DEPARTMENT OF REVENUE  
BUREAU OF INDIVIDUAL TAXES  
PO BOX 280504  
HARRISBURG PA 17128-0504

- **Procedures for Filing a PA-40 Individual Income Tax Return with an Extension of Time to File**
  - Fill in the extension request oval at the top of the PA-40, Individual Income Tax return.
  - If the taxpayer did not file a *REV-276, Application for Extension of Time to File*, a copy of the federal extension Form 4868 must be submitted with the PA-40, Individual Income Tax return.
  - If the taxpayer electronically filed the federal extension, submit a statement explaining that an electronic extension was filed with the IRS and include the federal confirmation number.
  - If the taxpayer filed *REV-276, Application for Extension of Time to File* or automatically extended the PA-40, Individual Income Tax return with a credit/debit card payment, **do not submit REV-276, Application for Extension of Time to File**, with the return.

### Amended Returns

- **Important Note**

Filing an amended return does not stop the statute of limitations for filing tax refund petitions. If an amended return seeking a refund is denied or not acted upon by the department, a petition for a refund will only be considered by the Board of Appeals so long as it is filed within three years of the payment due date.

To pursue a personal income tax refund near the end of the three-year period from the payment due date or in a more complex scenario – any involving complicated factual, legal or policy issues that may require further documentation – taxpayers are encouraged to timely file a petition for refund with the Board of Appeals instead of an amended return. A petition for refund must be filed within three years of the date the tax was paid, (generally the original due date of the return, unless tax was paid with a late filing or paid with the extended filing of the return) in order to be considered.

You may order a Board of Appeals petition form, *REV-65*, by calling the Forms Ordering Message Service 1-800-362-2050. See Pennsylvania Department of Revenue e-Services – Board of Appeals Online Petition Center for additional information or to file a petition electronically at [www.boardofappeals.state.pa.us](http://www.boardofappeals.state.pa.us). Refer to Miscellaneous Tax Bulletin 2008-01 Practice before the Board of Appeals (Board) pursuant to Article 27 of the Tax Reform Code (Act 119 of 2006).

- **When a Taxpayer May Not File an Amended Return**

A taxpayer may not file an amended return after the department issued an assessment if the amendment relates to the same taxable year and the same item of income or gain, deduction or loss involved in the assessment. In this case, you must either:

  - File a timely petition for reassessment with the Board of Appeals within 60 days of the mailing date of the assessment, or
  - Pay the assessment and file a petition for refund with the Board of Appeals within six months of the payment date of the notice of assessment, billing notice, or other departmental document.

Additionally, a taxpayer may not file an amended return challenging the department's policy, its interpretation or the constitutionality of the Commonwealth's statutes. A challenge of the Department's policy, its interpretation of the statutes or the constitutionality of the Commonwealth's statutes must be made by filing a petition for reassessment or a petition for refund.

- **Amended Return to Report Underreported Income**

If after a return is filed a taxpayer discovers the income was underreported, credits were erroneously claimed or deductions were not allowed, the taxpayer must correct the error within 30 days by completing and filing an

amended return and paying the additional tax, applicable penalty, and interest. A summary of interest rates is available on *REV-1611, Notice of Interest Calculations*.

- **Amended Return to Request a Refund**

A taxpayer may file an amended return in order to request a refund if a taxpayer over-reported income or did not claim allowable credits or deductions. The taxpayer must complete and file an amended return within three years from the original due date or extended due date.

- **How to File and Amended Return**

To file an amended Pennsylvania personal income tax return use the appropriate return for the tax year you are correcting and clearly print "*AMENDED RETURN*" at the top. Be sure to fill-in the amended oval at the top of the front side of the *PA-40, Individual Income Tax return* or *PA-40 EZ, Individual Income Tax return*.

For all tax years, amended returns can be filed using a paper *PA-40, Individual Income Tax return*, regardless of the method used for filing the original return. However, for current tax years, amended returns can also be filed using

padirectfile or state only e-file through the date of the October filing deadline regardless of the method of filing the original return. After the October filing deadline, all amended returns must be filed using a paper *PA-40, Individual Income Tax return*, regardless of the method of filing the original return until the next tax year's returns are able to be received by the department.

*Schedule PA-40X*, must be submitted with an amended *PA-40, Individual Income Tax return*. *Schedule PA-40X* provides the taxpayer and the department with information about the amended return including the specific line changes, amounts of the changes and reason for the changes. *Schedule PA-40X* is not a return and cannot be filed without the amended *PA-40, Individual Income Tax return*.

The instructions to file an amended return are as follows:

- Fill in the Amended Return oval, and write "*AMENDED RETURN*" at the top of the Pennsylvania tax return.
- Complete the *Schedule PA-40X*. Enter the amended amounts from *Schedule PA-40X* per the *PA-40X* instructions.
- Calculate Line 11 amended total Pennsylvania-taxable income.
- Calculate Line 12 amended Pennsylvania tax liability.
- Enter Line 24 amended total payments and credits.
- Complete Line 27 to report any adjusted penalty and interest to be included on the return.
- DO NOT complete Lines 28 and 29. The department will properly calculate your amended total payment due or overpayment.
- Complete Lines 30 through 36 to notify the department how to disperse your overpayment.

The department will take your original refund or payment into account when reviewing the amended *PA-40, Individual Income Tax return*. Be sure to sign your amended return and mail it with all explanations and attachments. Include only those schedules or statements that were amended. Do not include the original return or original schedules.

Amended returns should be mailed to one of the following addresses depending upon the type of return:

**If you owe tax:**  
PA DEPT OF REVENUE  
PAYMENT ENCLOSED  
1 REVENUE PLACE  
HARRISBURG PA 17129-0001

**If you overpaid:**  
PA DEPT OF REVENUE  
REFUND OR CREDIT REQUESTED  
3 REVENUE PLACE  
HARRISBURG PA 17129-0003

**If you neither owe nor overpaid:**  
PA DEPT OF REVENUE  
NO PAYMENT OR NO REFUND  
2 REVENUE PLACE  
HARRISBURG PA 17129-0002

## RECORD RETENTION

All amounts reported on the PA-40, PA-41, or other return or scheduled filed with the department are subject to verification and audit by the department. A taxpayer must retain books and records for as long as they are relevant. For example, if the taxpayer has an investment in a partnership or S corporation, he or she must retain indefinitely all tax returns and schedules RK-1 and/or NRK-1 to substantiate its basis.

## PENALTIES AND INTEREST

### Penalties for Not Filing or Filing a Late Return

The department imposes the penalty from the original due date of the return until the date the taxpayer files the return when:

- A taxpayer does not file the required Pennsylvania personal income tax return on or before the due date; and
- A taxpayer does not file the required Pennsylvania personal income tax return on or before the date to which the department recognized or granted an extension of time to file.

For each month or fraction of a month the return is late, the department imposes a penalty of 5 percent of the unpaid tax unless the taxpayer can prove reasonable cause for late filing. The maximum penalty is 25 percent of the unpaid or late-paid tax. The minimum penalty that the department will impose is \$5. Any person who attempts to evade or defeat the tax may be prosecuted.

### Penalties for Nonpayment or for Late Payment of the Tax

If you do not pay the full amount of your tax due with your return, a 5 percent underpayment penalty will be imposed.

If you fail to report an amount of taxable income that is more than 25 percent of the taxable income shown on your return, an additional penalty of 25 percent of the tax due on the unreported income will be imposed.

These penalties will be imposed if the underpayment of tax is due to negligence or intentional disregard of rules and regulations but without intent to defraud. If any part of any underpayment of the tax is due to fraud, 50 percent of the underpayment will be added to the tax.

Any taxpayer, who files a return which does not contain sufficient information on which to determine the correct liability or which contains information which indicates the liability is significantly incorrect and the return is filed frivolously or in a manner to delay or impede the administration of the tax law, shall pay a \$500 penalty.

Any person required to furnish an information return who furnishes a false or fraudulent return shall be subject to a penalty of \$250 for each failure.

You may be assessed both a late filing and underpayment penalty if you file your return after the due date (or extended due date) and do not pay your tax liability with your return.

**Interest**

If you do not pay the tax due on or before the original due date, interest will be calculated from the date the tax was due and payable to the date of actual payment. The annual interest rate is that rate established by the U.S. Secretary of the Treasury and which is in effect on Jan. 1 of each calendar year. A summary of interest rates is available on *REV-1611, Notice of Interest Calculations*. The Act 46 of 2003 change that pays interest on overpayments on business taxes equal to the rate calculated for underpayments minus 2 percent does not apply to Article III of the Tax Reform Code of 1971. Article III applies to individuals, estates, trusts, partnerships (and their partners' Pennsylvania personal income tax), PA S corporations (and their shareholders' Pennsylvania personal income tax), and employer withholding of Pennsylvania personal income tax.

**CRIMINAL PENALTIES**

In addition to civil penalties, a taxpayer may be subject to criminal prosecution for actions such as:

- Tax evasion;
- Willful failure to file a return, supply information, or pay any tax due;
- Fraud and false statements; or
- Preparing, aiding, and/or assisting in the filing of a fraudulent return.