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SPECIAL TAX PROVISIONS FOR POVERTY – OVERVIEW

In 1974, the Pennsylvania General Assembly determined that certain citizens in the Commonwealth, because of poverty, needed special tax provisions. The General Assembly decided that the imposition of the personal income tax on such persons would deprive them and their dependents of the basic necessities of life. Since poverty is a relative concept, which considers actual income and the number of persons dependent on such income, the General Assembly provided special tax provisions for eligible individuals to relieve their economic burden.

Tax forgiveness is a credit that allows eligible taxpayers to reduce all or part of their Pennsylvania personal income tax liability. Tax forgiveness:

- Provides a reduction in tax liability, and
- Forgives some taxpayers of their liabilities even if they have not paid their Pennsylvania personal income tax.

CLAIMANT

Eligible Claimant

An eligible claimant is a person:

- Who is subject to the Pennsylvania personal income tax, and
- Who is not a dependent of another person for the purpose of Internal Revenue Code (IRC) § 151 of the IRC of 1986, except as explained in [Part II, Section C](#) of this chapter, and
- Whose poverty income does not exceed certain eligibility amounts.
- Who is not a ward of a federal, state or local prison, a patient in a federal or state hospital or student at a federal, state or local residential school for ½ year or more.

Nonresident or Part-Year Resident Claimant

Nonresidents and part-year residents of Pennsylvania meeting all of the eligibility requirements described in this chapter may claim tax forgiveness. Such claimants must include in their poverty (eligibility) income all income as described in [Part IV](#) of this chapter, whether earned within or outside Pennsylvania. Nonresident and part-year resident claimants who file paper copies of the *PA-40 Individual Income Tax* return must also include a copy of page one of their federal income tax return along with their completed *PA-40 Schedule SP*.

A resident of a reciprocal agreement state with Pennsylvania-taxable income in classes other than compensation must include all Pennsylvania nontaxable income (including the compensation not taxable to Pennsylvania as a resident of a reciprocal agreement state) earned outside Pennsylvania on *PA-40 Schedule SP*.

Dependent Child as a Claimant

A dependent child may be eligible to claim tax forgiveness only if he or she is a dependent on the *PA-40 Schedule SP* of his or her parents, grandparents, or foster parents and the child's parents, grandparents, or foster parents are eligible for tax forgiveness. Dependent children whose parents, grandparents, etc. are not required to file a *PA-40 Individual Income Tax Return* but would qualify for tax forgiveness if they were required to file are also eligible for tax forgiveness. The department's instructions allow dependent children to claim tax forgiveness because as the 1974 law identifies the intent of the General Assembly as described above recognized that persons were in need of special provisions because of poverty. Therefore, to impose the Pennsylvania personal income tax on the children of parents that are, because of poverty, eligible for tax forgiveness contradicts the legislative intent. The dependent child with taxable income in excess of \$33 must file a *PA-40 Individual Income Tax Return* and a *PA-40 Schedule SP*. The child must also include any child support paid to his/her parent in his/her eligibility income.

Deceased Claimant

Pennsylvania law does not specifically exclude a decedent from qualifying for tax forgiveness. The department's instructions allow the executor or other person responsible for the affairs of the decedent to submit a claim on behalf of the decedent. The law does require that the claimant calculate eligibility (poverty) income for an entire taxable year; therefore, the instructions require that the person filing for the decedent with a taxable year of less than twelve months annualize the decedent's income.

Annualization of Income

The purpose of the annualization is to ensure that only those decedents who would have qualified for forgiveness had they lived for the entire taxable year, receive tax forgiveness. To that end, the department requires the executor or other person responsible for the affairs of the decedent to annualize decedent's eligibility (poverty) income by determining the amount of income the decedent would likely have earned, received or realized during the entire taxable year had decedent not died and had instead carried on his or her affairs in the ordinary course.

In order to do this, the claimant must first determine the amount of actual, recurring daily/weekly/monthly income the decedent earned, received, or realized during decedent's taxable year for each income class and then multiply each amount by 365/52/12, respectively. If there were any one-time transactions, such as the sale of stock or real property, these amounts should not be considered when determining the daily or monthly income for the decedent when annualizing the income.¹

The claimant must then add decedent's actual income that was not earned ratably for each class of income.

Finally, the claimant must add the income that decedent would have earned, received, or realized for each income class had decedent lived the entire taxable year and carried on his or her affairs in the ordinary course. For example, if decedent would have been entitled to receive a dividend during the taxable year, but after his or her death, as a result of stock owned by decedent at the time of his death, the dividend income must be included in decedent's annualized income.

Do not include the surviving spouse's income (including one-half of any joint income received prior to the decedent's date of death) in the calculation of the decedent's eligibility income. Likewise, surviving spouses should not include any income in respect of a decedent, income that should be included on the *PA-41 Fiduciary Income Tax* return (estate tax return), or any income of the deceased taxpayer (including the decedent's half of any joint income received prior to the decedent's date of death) in the taxable income or in the calculation of the eligibility income of the surviving spouse.

Report the difference between the total annualized taxable income and the taxable income reported on the tax return on Part C Line 2 of the *PA-40 Schedule SP*.

The following items of income are considered to be earned ratably by day/week/month for number of days/weeks/months during decedent's taxable year unless evidence contra-indicates that the income is not earned ratably.

- **Compensation** – Exceptions include, but are not limited to, large quarterly, mid-year, or year-end bonuses, new employment at higher pay, loss of employment, or seasonal nature of employment.
- **Unreimbursed Business Expenses** – Exceptions include, but are not limited to, large one-time expenses incurred during a period.
- **Interest** – Exceptions include, but are not limited to, large first-time investments made during periods with earnings paid during periods or prior to year end. Income from S corporations and partnerships is reported

¹ The department accepts any reasonable calculation to determine a decedent's eligibility (poverty) income for the entire taxable year, including the prior year's eligibility income, or determining the actual daily/weekly/monthly income the decedent earned, received, or realized while living during the taxable year and multiplying by 365/52/12.

using the methodology described under net income (loss) from a business, profession or farm for those respective entity types.

- **Dividends** – Exceptions include, but are not limited to, large first-time investments made during periods with earnings paid during periods or prior to year end or for year-end mutual fund distributions. Income from S corporations and partnerships is reported using the methodology described under net income (loss) from a business, profession or farm for those respective entity types.
- **Net Income/Loss from a Business, Profession or Farm** – Consideration must be given to the type of entity earning the income in order to determine the annualized income methodology. Entities and their methodologies are as follows:
 - **Sole Proprietorship (Schedule C)** – Exceptions include, but are not limited to, large jobs at particular points in periods, seasonal nature of certain businesses, increases in capacity due to expansion, decreases in capacity due to contraction or lay-offs, or sale or discontinuance of business.
 - **Farm (Schedule F)** – Exceptions include, but are not limited to, sales of crops or livestock in specific periods, seasonal nature of crop or livestock sales, increases in capacity due to expansion, decreases in capacity due to contraction, or sale or discontinuance of farm operations.
 - **S-Corporation (PA Schedule RK-1 or NRK-1)** – Considered to be earned/allowable ratably for full-year residents by day for number of days during decedent's taxable year. Part-year residents are required to report income (loss) from a PA Schedule RK-1 for their increment of residency and from a PA Schedule NRK-1 for their increment of non-residency based upon the number of days during the period depending upon their residency status during that period.
- **Net Income/Loss from Rents, Royalties, Patents and Copyrights** – Exceptions include, but are not limited to, investment in rental property during a period, sales of rental property during a period, or periods of vacancy. Income/loss from S corporations and partnerships is reported using the methodology described under net income (loss) from a business, profession or farm for those respective entity types.
- **Other Deductions** – Exceptions include, but are not limited to, expenses incurred for one time investments or large amounts paid into a tuition account program in one specific period.

One Spouse a Dependent (of a Parent, Grandparent, etc.)

Even though married taxpayers meet the income requirements for claiming tax forgiveness when one spouse is a dependent on another person's federal income tax return, they may not claim tax forgiveness jointly. The dependent spouse is not an eligible claimant. The other spouse is eligible, and should complete *PA-40 Schedule SP*. The eligible spouse may not claim his or her spouse as a dependent, because only children are dependents. The eligible spouse must include his or her spouse's eligibility income when calculating total eligibility income on *PA-40 Schedule SP*. In this case, each spouse must file separately.

Example: Scott is a dependent on his parents' federal income tax return and is not eligible for tax forgiveness. His wife, Paula, is not a dependent, and may complete *PA-40 Schedule SP*. Paula may not claim Scott as a dependent, but must include his eligibility income when calculating her total eligibility income. Additionally, if Scott's parents qualify for tax forgiveness, Scott may also qualify if he includes Paula's income in his total eligibility income.

DEPENDENT CHILD OF A CLAIMANT

Definitions

- **Dependent** - The definition of dependent is a minor or adult natural child, adopted child, grandchild, or foster child of a claimant who is the dependent of a claimant for purposes of IRC § 151. The department follows the requirements of the IRC.

- **Federal Qualifying Child and Qualifying Relative** - For federal income tax purposes, a taxpayer is allowed to claim an exemption amount for each individual who is a qualifying child or qualifying relative. The federal tests for being considered a qualifying child or qualifying relative are inapplicable for Pennsylvania personal income tax purposes.

An individual must satisfy a two-step test for a dependent child to be claimed:

- **Is the individual a child of the claimant?**

The individual must bear one of the following relationships:

- Claimant is a parent or grandparent of the natural child, adopted child, or step-child, or
- Claimant has a foster child placed with them by an authorized placement agency or by a decree issued by a court.

The relationship test includes a child legally adopted by an eligible claimant or placed with an eligible claimant pending a final adoption order transferring the rights and responsibilities of the birth parents to the claimant as adoptive parent.

It does not, however, include a birth parent's child if the child is legally placed for adoption where the rights and responsibilities of the birth parents are transferred to an adoption agency pending a final adoption order or to an adoptive parent under a final adoption order.

- **Can the claimant claim the child as a dependent for federal tax purposes?**

- A dependent child for PA-40 Schedule SP purposes is a minor or adult child claimed as a dependent on a federal income tax return. If the dependent child cannot be claimed on the federal tax return by the claimant, they cannot be claimed on PA-40 Schedule SP. A claimant should refer to IRC § 151 regarding the federal requirements.
- A dependent child may not be claimed on PA-40 Schedule SP if:
 - The dependent is not your child, as defined above, or
 - You cannot claim the child on your federal income tax return, or
 - You are unmarried for tax forgiveness purposes, and your former spouse by agreement or court decree can claim your child as a dependent for federal and PA-40 Schedule SP purposes.

You cannot claim any other child or adult as a dependent, even if doing so on a federal income tax return.

POVERTY (ELIGIBILITY) INCOME

Poverty (eligibility) income includes all income, whether or not it is taxable for Pennsylvania personal income tax purposes that an unmarried claimant or married claimants earn, receive, or realize during the taxable year unless specifically excluded below.

Eligibility income is the total of the taxable income received in the form of cash and property reported on the *PA-40, Individual Income Tax* return and all other income received in the form of cash and property from any other source, unless specifically excluded below. Eligibility income must include the following kinds of income that is not taxable or reportable for Pennsylvania purposes:

- Interest, dividend, and gain income from exempt direct obligations of the Commonwealth of Pennsylvania
- Interest, dividend, and gain income from exempt direct obligations of political subdivisions of the Commonwealth of Pennsylvania
- Interest, dividend, and gain income from direct obligations of the U.S. government
- The value of employer-paid benefits not included on federal Form W-2

- The amount paid for benefits that Pennsylvania law excludes from taxable income such as employee payments to the employer's cafeteria plan for hospitalization, sickness, disability, or death, supplemental unemployment, or strike benefits
- Payments as a foster parent for providing in-home care for foster children
- The value of government education grants
- Gain excluded from the sale of a personal residence
- Gain attributable to the sale of property obtained before June 1, 1971
- Alimony
- Insurance proceeds
- Inheritances, including the value of property inherited
- Distributions reported on federal Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc., with a distribution code 4 (death benefit) in Box 7
- Gifts of cash and property
- Awards of cash and property
- Noncash prizes from the Pennsylvania Lottery
- Eligibility income earned, received, or realized by nonresidents or part-year residents while residing outside Pennsylvania that is not taxable for Pennsylvania personal income tax purposes
- Military pay earned while on federal active duty and federal active duty for training outside Pennsylvania
- Cash and property received for a claimant's personal use from family and unrelated persons that live outside the household
- Support, but not child support, from a spouse or former spouse that does not live in your household
- Educational assistance such as the total value of nontaxable scholarships, fellowships and stipends received unless in the name of the dependent child

Exclusions From Poverty (Eligibility) Income

Poverty (eligibility) income does not include:

- Periodic payments for sickness and disability received during a period of sickness or disability, other than regular wages
- Disability, retirement, or other payments arising under workers' compensation acts, occupational disease acts, and similar legislation by any government
- Payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment
- Payments commonly known as public assistance, or unemployment compensation payments by any governmental agency
- Payments to reimburse actual allowable expenses
- Payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement
- Any compensation received by members of the Armed Forces serving in a combat or hazardous duty zone, including military differential pay
- Civil Service Annuity
- Payments for injuries received while working, and damages received, whether by suit or otherwise, for personal injuries
- Damage awards and settlements from physical injury or sickness – pain and suffering, emotional distress
- Personal use of an employer's owned or leased property and/or services, at no cost or at a reduced cost
- Income from contracts of insurance for long-term care that do not have accumulated refundable reserves payable upon lapse or surrender
- Economic Stimulus Act of 2008 federal rebates/payments
- Any income not consisting of cash or property. Taxable income includes the following items which may not be considered money (cash) or property under state law:
 - Recapture on the sale of property;
 - Phantom gain upon the sale of property securing non-recourse debt;
 - Income recognized upon lapse of substantial risks of forfeiture, where under state property law the taxpayer already has a fixed or vested interest in the property and therefore money or property was

- considered received in a prior tax year under state property law (*i.e.*, anytime there is a difference in tax law and state property law rights);
- Partners, limited liability company members, beneficiaries, and other persons receiving income from a pass-through entity may receive income based on their distributive share, but may not actually receive money or property in the year the income is recognized;
 - Service sharing-type agreements where the taxpayer receives value of services;
 - Cancellation of indebtedness;
 - Installment sale income where a person recognizes income on the entire amount of the obligation received for Pennsylvania personal income tax purposes, but where the person does not actually receive all payments under the obligation in the year of recognition;
 - Constructive dividends where a person has the use of company services or the use of company property;
 - Income accrued to an accrual basis taxpayer for which the taxpayer will receive money or property in a subsequent tax year; or
 - The income reported by the settlor of a revocable trust who is taxed as the owner on any income, yet who may not actually receive the income in the form of money or property from the trust.

Deductions From Poverty (Eligibility) Income

A claimant may deduct allowable business expenses that are usual, customary and reasonable in amount. In determining eligibility income a claimant may deduct:

- Costs and expenses not previously allowed in determining taxable income for producing dividends, interest, gambling and lottery winnings; or
- Costs and expenses for producing nontaxable eligibility income.

Any additional costs and expenses noted above that are in excess of the income to which they are associated may not be used to reduce eligibility income.

Poverty (Eligibility) Income Determines Amount of Tax Forgiveness

A claimant's poverty (eligibility) income when compared to statutory income limitations determines the amount of tax forgiveness to which the claimant is entitled. The income limits are based upon whether a claimant is single or married and the number of the claimant's dependents. See the [Eligibility Income Tables](#). For a single claimant, only the claimant's eligibility income is considered to determine the claimant's tax forgiveness.

For a married claimant, the eligibility income of both the claimant and the claimant's spouse are considered to determine the claimant's tax forgiveness.

Even though a married claimant uses the joint eligibility income of the claimant and the claimant's spouse to determine tax forgiveness, any tax forgiveness to which the claimant is entitled is applied only against the claimant's tax liability. Each spouse's tax forgiveness, if any, must be determined separately.

- **Single Claimant**

A claimant is considered single in the following situations:

- The claimant was unmarried for the entire taxable year.
- The claimant is married but the claimant and the claimant's spouse file separate income tax returns.
- The claimant is married but at the end of the taxable year is separated from spouse pursuant to a written agreement.
- The claimant is married but the claimant and the claimant's spouse lived apart at all times for the last six months of the taxable year.
- Is divorced or widowed and unmarried at the end of the taxable year.

- **Married Claimant**

A claimant is considered married at the end of the taxable year if the claimant is married and is not considered a single claimant.

PROOF OF ELIGIBILITY

Forms

Claimants must file a *PA-40, Individual Income Tax* return and *PA-40 Schedule SP*. Claimants must submit all required forms, schedules and statements to report Pennsylvania-taxable income on the income tax return. Claimants do not have to submit evidence or supporting documents for income that Pennsylvania law does not tax. However, claimants must maintain sufficient records and evidence to support all the information reported on *PA-40 Schedule SP*. Such records include the claimants' federal income tax returns, federal Forms W-2, W-2P, 1099 and Schedule K-1 or other information returns, and broker statements that evidence income that is not taxable for Pennsylvania purposes.

Dependents

If claiming an adult child, adopted child, foster child, or a child with a different last name than the claimant or claimants, the department may ask for a copy of Page 1 of the federal income tax return that the claimant or claimants filed with the Internal Revenue Service.

CLAIMING TAX FORGIVENESS

To claim tax forgiveness, the claimant or claimants must complete and submit *PA-40 Schedule SP* with the *PA-40, Individual Income Tax* return. On *PA-40 Schedule SP*, the claimant or claimants must:

- Determine the amount of Pennsylvania-taxable income. A single or unmarried claimant determines only his or her own amount of taxable income. Married claimants must determine their own taxable income separately, when filing separately.
- Determine the claimant's status, single or married, for filing *PA-40 Schedule SP*.
- Determine the qualifying dependent or dependents that the claimant or claimants may report.
- Determine the amount of eligibility income by itemizing the amounts of nontaxable and non-reportable income that the claimant or claimants earned, received, or realized during the entire taxable year. Married claimants must report each spouse's eligibility income, whether filing jointly or separately.
- Determine the applicable eligibility income limitation table based on the type filer, the number of qualifying dependents, and the eligibility income of the claimant or claimants.
- Determine the percentage and amount of forgiveness.
- Properly complete the *PA-40, Individual Income Tax* return.

ELIGIBILITY INCOME TABLES

Eligibility Income Tables for Tax Years 2004 and later for Unmarried, Separated, or Deceased Taxpayers.

Eligibility Income Tables										
Eligibility Income Table 1. Unmarried, Separated or Deceased Taxpayers										
If your Eligibility Income from PA-40 Schedule SP, Line 11 does not exceed:										
You ⇨	\$6,500	\$6,750	\$7,000	\$7,250	\$7,500	\$7,750	\$8,000	\$8,250	\$8,500	\$8,750
⇩ Dependent Children										
1	\$16,000	\$16,250	\$16,500	\$16,750	\$17,000	\$17,250	\$17,500	\$17,750	\$18,000	\$18,250
2	\$25,500	\$25,750	\$26,000	\$26,250	\$26,500	\$26,750	\$27,000	\$27,250	\$27,500	\$27,750
3	\$35,000	\$35,250	\$35,500	\$35,750	\$36,000	\$36,250	\$36,500	\$36,750	\$37,000	\$37,250
4	\$44,500	\$44,750	\$45,000	\$45,250	\$45,500	\$45,750	\$46,000	\$46,250	\$46,500	\$46,750
5	\$54,000	\$54,250	\$54,500	\$54,750	\$55,000	\$55,250	\$55,500	\$55,750	\$56,000	\$56,250

6	\$63,500	\$63,750	\$64,000	\$64,250	\$64,500	\$64,750	\$65,000	\$65,250	\$65,500	\$65,750
7	\$73,000	\$73,250	\$73,500	\$73,750	\$74,000	\$74,250	\$74,500	\$74,750	\$75,000	\$75,250
8	\$82,500	\$82,750	\$83,000	\$83,250	\$83,500	\$83,750	\$84,000	\$84,250	\$84,500	\$84,750
9	\$92,000	\$92,250	\$92,500	\$92,750	\$93,000	\$93,250	\$93,500	\$93,750	\$94,000	\$94,250
Then your Percentage of TAX BACK and the Decimal Equivalent is:										
	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%
	1.0	.90	.80	.70	.60	.50	.40	.30	.20	.10

Eligibility Income Tables for Tax Years 2004 and later for Married Taxpayers.

Eligibility Income Tables										
Eligibility Income Table 2. Married Taxpayers										
If your Eligibility Income from PA-40 Schedule SP, Line 11 does not exceed:										
You & ⇨ Spouse	\$13,000	\$13,250	\$13,500	\$13,750	\$14,000	\$14,250	\$14,500	\$14,750	\$15,000	\$15,250
⇩ Dependent Children										
1	\$22,500	\$22,750	\$23,000	\$23,250	\$23,500	\$23,750	\$24,000	\$24,250	\$24,500	\$24,750
2	\$32,000	\$32,250	\$32,500	\$32,750	\$33,000	\$33,250	\$33,500	\$33,750	\$34,000	\$34,250
3	\$41,500	\$41,750	\$42,000	\$42,250	\$42,500	\$42,750	\$43,000	\$43,250	\$43,500	\$43,750
4	\$51,000	\$51,250	\$51,500	\$51,750	\$52,000	\$52,250	\$52,500	\$52,750	\$53,000	\$53,250
5	\$60,500	\$60,750	\$61,000	\$61,250	\$61,500	\$61,750	\$62,000	\$62,250	\$62,500	\$62,750
6	\$70,000	\$70,250	\$70,500	\$70,750	\$71,000	\$71,250	\$71,500	\$71,750	\$72,000	\$72,250
7	\$79,500	\$79,750	\$80,000	\$80,250	\$80,500	\$80,750	\$81,000	\$81,250	\$81,500	\$81,750
8	\$89,000	\$89,250	\$89,500	\$89,750	\$90,000	\$90,250	\$90,500	\$90,750	\$91,000	\$91,250
9	\$98,500	\$98,750	\$99,000	\$99,250	\$99,500	\$99,750	\$100,000	\$100,250	\$100,500	\$100,750
Then your Percentage of TAX BACK and the Decimal Equivalent is:										
	100%	90%	80%	70%	60%	50%	40%	30%	20%	10%
	1.0	.90	.80	.70	.60	.50	.40	.30	.20	.10

Note: Add \$9,500 for each additional dependent in Tables A and B.

Eligibility income tables for each taxable year may be found in the *PA-40 Individual Income Tax* return instructions booklet available at www.revenue.state.pa.us.