

## CORPORATION TAX BULLETIN 2008-01

Issued: January 11, 2008

### DUE DATE FOR THE ELECTION NOT TO BE TAXED AS A PA S CORPORATION

Act 67 of 2006 amended the Tax Reform Code of 1971 by eliminating the requirement for Federal Subchapter "S" Corporations to file the *Pennsylvania "S" Corporation Election and Shareholders' Consent (REV-1640)* in order to be granted Pennsylvania "S" Corporation status. Effective for tax years beginning after Dec. 31, 2005, any corporation with a valid Federal Subchapter "S" Corporation election will automatically be a Pennsylvania "S" Corporation.

Act 67 also provides that any Federal Subchapter "S" Corporation that does not desire to be a Pennsylvania "S" Corporation must file an *Election Not To Be Taxed As A Pennsylvania "S" Corporation (REV-976)*. This election must be filed on or before the due date, or extended due date, of the report for the **first** tax period in which the election is to be in effect. This election must be signed by 100 percent of the shareholders of the "S" Corporation and once made cannot be revoked for five years.

Any Federal Subchapter "S" Corporation not making this election will be considered a Pennsylvania S Corporation and each resident shareholder will be subject to Pennsylvania Personal Income Tax on their pro rata share of the "S" Corporation income, whether distributed or not. Each nonresident shareholder is subject to tax on the shareholder's personal income from sources within Pennsylvania.

### DATE AND METHOD FOR MAKING THE ELECTION

For a Federal Subchapter S Corporation that is conducting business in Pennsylvania and is required to file a *PA Corporate Tax Report, RCT-101*: The due date for filing the *Election Not To Be Taxed As A Pennsylvania "S" Corporation (REV-976)* is the due date, or the extended due date, of the PA Corporate Tax Report for the **first** period for which the election is to be in effect.

For a Federal Subchapter S Corporation that is not required to file a *PA Corporate Tax Report, RCT-101* (*i.e.*, does not do business in PA and is not registered to do business in PA): The due date for filing the *Election Not To Be Taxed As a Pennsylvania S Corporation (REV-976)* is thirty days **after** the due date or extended due date of the federal return. These corporations must check the box indicating **"Corporation is not subject to PA Corporate Taxes; election is for PA Resident Shareholder purposes only."**

The *Election Not To Be Taxed As A Pennsylvania "S" Corporation (REV-976)* must be signed by all shareholders on the date of the election and sent via **Certified Mail** to:

PA DEPARTMENT OF REVENUE  
BUREAU OF CORPORATION TAXES  
PA "S" UNIT  
PO BOX 280705  
HARRISBURG PA 17128-0705