

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part I. Department of Revenue, Subpart B. General Fund Revenues, Article V. Personal Income Tax, Chapter 117. Return and Payment of Tax.

§ 117.9. Form of return.

(a) Required form. A return of tax must be in processible form. To be in processible form, a return must satisfy each of the following requirements:

(1) It shall be filed on the form prescribed by instructions of the Department or transmitted electronically or telephonically in a manner authorized by the Department in instructions.

(2) The taxpayer's name, filing status, postal address, and taxpayer identification number must be set forth in the form or transmittal.

(3) The form or transmittal must show, for the reportable period, the self-assessed amounts of the taxpayer's income by class and tax liability before credits and payments and contain the required information (whether on the return or on required attachments or return

schedules) sufficient to permit the mathematical verification of the liability.

(4) The form or transmittal shall be verified by a signed declaration that the taxpayer, to the best of the taxpayer's knowledge and belief, believes the information submitted thereon to be true, correct, and complete.

(5) The form or transmittal, on its face, must plausibly purport to be in compliance with the tax laws of the Commonwealth and to show an honest and genuine attempt to satisfy the laws.

(6) The form or transmittal may not contain information that, on its face, indicates that:

(i) The self-assessment is substantially incorrect.

(ii) Information required by the form or transmittal or on a required attachment or return schedule has been omitted.

(iii) A required attachment, notice or schedule has been omitted.

(b) Filing processible returns. The filing of a processible return is required to:

(1) Commence the running of the statute of limitations for the assessment of the tax shown as due on the return or the assessment of a deficiency.

(2) Commence the running of interest on overpayments of tax showing on the return.

(3) Obtain credit or refund of the overpayment showing on the return under section 347 of the Tax Reform Code of 1971 (72 P.S. § 7347).

(c) Request for forms. [Persons filing returns should use the envelopes and preaddressed prescribed forms furnished to them by the Department.] A taxpayer [shall] will not be excused from making a return [, however,] by the fact that no return form has been furnished to him or the one that was furnished becomes lost or damaged. Taxpayers not supplied with or in possession of the proper form should [make application therefore] apply therefore to the Department listing their name, address, and identification number and sending [such] the request to the Department of Revenue[, the Personal Income Tax Bureau, Harrisburg, Pennsylvania 17127]. The application must be made in the manner prescribed by instructions of the Department in effect at the time of application. [Such] The request should be made in ample time to have their returns prepared, certified[,] and filed on or before the due date. [Each taxpayer should carefully prepare his return and set forth fully and clearly the information required to be included therein. Returns which have not

been so prepared will not be accepted as meeting the requirements of this article.]

(d) Incomplete forms or transmittals. Except as provided in subsection (e), an incomplete form or transmittal will be treated as filed only when it is completed.

(e) Exception. Required details as to a particular item of gross income or deduction may be omitted only if the taxpayer attaches a statement that he is under investigation and can validly assert that the details might incriminate the taxpayer.

(f) Partners and Pennsylvania S corporation shareholders. If a complete partnership or Pennsylvania S corporation return of income for the enterprise's taxable year ending with or within a partner's or shareholder's taxable year has not been filed with the Department, a copy of the Pennsylvania Schedule RK-1 "Resident Shareholder's Share of Income, Loss and Credits" or NRK-1 "Nonresident Shareholder's Share of Income, Loss and Credits" furnished to the partner by the partnership and the Federal Schedule K-1 "Shareholder's Share of Income, Deductions, Credits, etc." furnished to the partner by the partnership or Pennsylvania Schedule RK-1 or NRK-1 furnished to the partner by the Pennsylvania S corporation and Federal

Schedule K-1 furnished to the partner by the Pennsylvania S corporation respectively is a required attachment for purposes of this section.

(g) Notice. Promptly after the date of a determination by the Department that an incomplete or otherwise non-processible return has been filed, the Department will supply the taxpayer with a written statement setting forth in reasonable detail the basis of its determination.

(h) Deductions, losses or credits. A taxpayer who fails or refuses to make a required processible return or who makes a false or fraudulent return shall be presumed to have failed to have maintained adequate records to substantiate any amount of deduction, loss or credit.

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§ 117.9b. Consistent positions.

(a) In general. A taxpayer shall take consistent positions with respect to the facts asserted in a prior taxable year. For example, a taxpayer may not treat the receipt of cash as a loan while the statute of limitations is open and declare it to be a dividend once the statute expires.

(b) Partners and Pennsylvania S corporation shareholders. Partners of partnerships and shareholders of

Pennsylvania S corporations shall report each partnership or Pennsylvania S corporation item consistently with the way it is reported on the entity's return under this article, unless it is reported incorrectly and the Department and the partnership are notified of the correction.

§ 117.9c. Execution of return by Secretary of Revenue.

(a) Authority of Secretary to make and subscribe return. If a person fails to make a required processible return at the time prescribed therefore, or makes, willfully or otherwise, a false or fraudulent return, the Secretary or deputy may make the return from his own knowledge and from information obtained through testimony or otherwise.

(b) Status of return. A return so made and subscribed shall be prima facie good and sufficient for all legal purposes.

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