

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.

§ 117.1. General requirements of a return.

Every taxpayer having an item of income or loss within the meaning of this article for the taxable year shall file a tax return on or before the date when the Federal income tax return of the taxpayer is due or would be due if the taxpayer were required to file a Federal income tax return under the Internal Revenue Code. Consequently, returns are due on or before April 15 for the calendar year taxpayers and on or before the 15th day of the fourth month following the close of the fiscal year for fiscal year taxpayers[, but in any event for the first reporting period no earlier than April 15, 1972].

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§ 117.7. Time for filing returns and paying tax.

All persons required to make and file returns under § 117.1 (relating to general requirements of a return)

shall, without assessment, notice[,] or demand, pay [any tax due thereon on the same due date fixed for filing the return] the tax required to be reported as due on a return at the time prescribed in § 117.1 for filing a return, determined without regard to any extension of time for filing the return. Payment of [the balance of any tax due thereon] the tax should accompany the return when filed.

**CHAPTER 119. LIABILITIES AND ASSESSMENT - PROCEDURE
AND ADMINISTRATION**

§ 119.13. Restrictions on refunds.

(a) General rule. Except as provided in subsection (b), [no] the Department will make a credit or refund [will be made] under § 119.12 (relating to refund or credit of overpayment) [without the approval of the Board of Finance and Revenue] only pursuant to a petition for refund. See Chapter 7 (relating to Board of Appeals).

(b) Exceptions. [Credits or refunds may be made without application to the Board of Finance and Revenue if one of the following occurs] The Department will make a credit or refund if the credit or refund arises as a result of:

(1) The [credit or refund arises by reason of the] overpayment of an installment of estimated tax.

(2) [Such credit or refund arises upon the] The filing of a final return showing less tax due after the application of the allowable credits than the amount of tax withheld from the compensation of the taxpayer or the amount of tax paid by him as estimated tax under this article [or pursuant to Article III of the act of March 4, 1971 (P. L. 6, No. 2) (72 P. S. §§ 7301-7361)].

(3) The filing of an amended return showing an overpayment of tax.

(4) A petition for reassessment. The credit or refund will only be for amounts paid by reason of the assessment.

(5) A Departmental audit.

[(c) Form of claims for credit or refund. Credits or refunds of overpayments may not be allowed or made after the expiration of the statutory period of limitation properly applicable unless, before the expiration of such period, a claim therefor has been filed by the taxpayer. The following requirements apply:

(1) No refund or credit will be allowed after the expiration of the statutory period of limitation applicable to the filing of a claim therefor except upon one or more of the grounds set forth in a claim filed

before the expiration of such period. The claim shall set forth in detail each ground upon which a credit or refund is claimed and facts sufficient to apprise the Department of the exact basis thereof. The statement of the grounds and facts shall be verified by a written declaration that it is made under the penalties of perjury. A claim which does not comply with this paragraph will not be considered for any purpose as a claim for refund or credit.

(2) In the case of any tax imposed by this article, a separate claim shall be made for each type of tax for each taxable year or period.

(3) If a return is filed by an individual and, after his death, a refund claim is filed by a legal representative, certified copies of the letters testamentary, letters of administration, or other similar evidence shall be annexed to the claim to show the authority of the legal representative to file the claim. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary need not accompany this claim, if a statement is made in the claim showing that the return was filed by the fiduciary and that

the latter is still acting. In such cases, if a refund is to be paid, letters testamentary, letters of administration, or other evidence may be required but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim. A claim may be executed by an agent of the person assessed, but in such case a power of attorney shall accompany the claim.

(4) Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and may be sent directly to the claimant or to such person in care of an attorney or agent who has filed a power of attorney specifically authorizing him to receive such checks.]

Editor's Note: The text inserted in §§ 119.13a and 119.13b is being moved from paragraphs 119.13(c)(3) and (4).

§ 119.13a. Refund claim filed by a legal representative or other fiduciary.

If a return is filed by an individual and, after his death, a refund claim is filed by a legal representative, certified copies of the letters testamentary, letters of administration, or other similar evidence shall be annexed

to the claim to show the authority of the legal representative to file the claim. If an executor, administrator, guardian, trustee, receiver, or other fiduciary files a return and thereafter a refund claim is filed by the same fiduciary, documentary evidence to establish the legal authority of the fiduciary does not need to accompany this claim if a statement is made in the claim showing that the return was filed by the fiduciary and that the latter is still acting. In these cases, if a refund is to be paid, letters testamentary, letters of administration, or other evidence may be required but should be submitted only upon the receipt of a specific request therefor. If a claim is filed by a fiduciary other than the one by whom the return was filed, the necessary documentary evidence should accompany the claim. A claim may be executed by an agent of the person assessed, but in this case a power of attorney shall accompany the claim.

§ 119.13b. Checks in payment of claims.

Checks in payment of claims allowed will be drawn in the names of the persons entitled to the money and may be sent directly to the claimant or to a person in care of an attorney or agent who has filed a power of attorney specifically authorizing him to receive checks.

§ 119.18. Limitations on refund or credit.

Any [application] petition for refund shall be filed [with the Board of Finance and Revenue within three years from the time the return is required to be filed] in accordance with Chapter 7 (relating to Board of Appeals) and within applicable limitation periods.

CHAPTER 121. FINAL RETURNS

§ 121.1. Filing tax return.

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(f) A return need not be filed by an individual whose tax liability is less than \$1.

(g) A return filed before the due date or extended due date will be considered to be filed on the due date or extended due date.

Editor's note: The proposed text in § 121.1(g) is being moved from § 121.25(b).

§ 121.25. Amended return.

* * *

(b) [If the error discovered results in a refund of tax, the amended Form PA-40 shall be filed within 3 years from the date the original return was due in order to receive a refund. A return filed before the due date or extended due date will be considered to be filed on the due

date or extended due date.] The Department will review an amended return if the following apply:

(1) The amended return is filed within three years of the due date or extended due date of the original return.

(2) The amendments shown on the amended return involve issues other than those under appeal.

(3) The Taxpayer is not 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.

(c) If a tax payment was made with the original return, the amount of this payment shall be included on the amended return in the manner prescribed by instructions of the Department. [This can be done by entering between lines 15 and 16 in the "Tax Credit" section of Form PA-40 the words "Amount paid with original return." The dollar amount shall be entered directly below line 15 and included in "Total Credits" (line 16).]

(d) If a refund was received or is expected to be received from the original return, the amount of this refund shall be shown on the amended return in the manner prescribed by instructions of the Department. [Between line 15 and 16 in the "Tax Credit" section of Form PA-40 the words, "Refund shown on original return" shall be entered. The dollar amount shall be entered directly below line 15 and this amount subtracted from the other credits to arrive at the proper amount to be shown as "Total Credits" (line 16).]

(e) Effect of an amended return on petition rights.

(1) An amended return does not replace the filing of a petition for reassessment or a petition for refund.

(2) The filing of an amended return does not extend the time limits for a taxpayer to file a petition for reassessment or a petition for refund.

(f) Review of amended return.

(1) The Department is not obligated to revise the tax due the Commonwealth upon review of an amended return. The Department's failure to revise the tax due the Commonwealth is not appealable and does not change existing appeal rights of the taxpayer.

(2) If the Department determines an adjustment of the taxpayer's account is appropriate, it will adjust the Department's records to conform to the revised tax as determined and will credit the taxpayer's account to the extent of an overpayment resulting from the adjustment or assess the taxpayer's unpaid tax and unreported liability for tax, interest or penalty due the Commonwealth, whichever is applicable.

(g) An amended return filed with the Department must contain the following:

(1) The calculation of the amended tax liability.

(2) Revised Pennsylvania supporting schedules, if applicable.

(3) A complete explanation of the changes being made and the reason for those changes.

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