

PREAMBLE

The Department of Revenue (Department), under authority in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354), proposes to amend 61 Pa. Code, Chapters 117, 119 and 121 (relating to return and payment of tax; liabilities and assessment-procedure and administration; and final returns) to read as set forth in Annex A.

Purpose of Regulation

This proposed regulation change will clarify the Department's policy on amended returns for Pennsylvania Personal Income Tax and replace outdated language. In addition, the proposed regulation will provide clear instructions for taxpayers regarding petitions for refunds.

Explanation of Regulatory Requirements

Amendments to §§ 117.1 and 117.7 (relating to general requirements of a return; and time for filing returns and paying tax) delete out-of-date language and add clarifying language.

Amendments to § 119.13 (relating to restrictions on refunds) delete outdated references to the Board of Finance and Revenue and replace them with an updated reference to Chapter 7 (relating to Board of Appeals). Amendments to subsection (b) delete minor language and add paragraphs (3)--(5) for more details on exceptions. Subsection (c), including paragraphs (1) and (2), is proposed to be deleted. The text in subsection (c)(3) is proposed

as new § 119.13a (relating to refund claim filed by a legal representative or other fiduciary). The text in subsection (c)(4) is proposed as new § 119.13b (relating to checks in payment of claims).

Amendments to § 119.18 (relating to limitations on refund or credit) delete outdated references to the Board of Finance and Revenue and replace them with an updated reference to Chapter 7.

Amendments to § 121.1 (relating to filing tax return) add subsection (g). This language is currently in § 121.25(b) (relating to amended return).

Amendments to § 121.25 (relating to amended return) delete outdated language, amend subsection (b) and add subsections (e)-(g) to provide uniformity and guidance on amended returns to Pennsylvania taxpayers. It is important to note the amendments to subsection (b)(1) explain that a Personal Income Tax amended return may be filed within 3 years from the original or extended due date of the return. This marks a change in current policy and practice. The policy change will benefit taxpayers by giving additional time to file an amended return in cases where a taxpayer has been granted an extension to file the original return.

Affected Parties

Pennsylvania taxpayers and tax practitioners may be affected by the regulation.

Comment and Response Summary

Notice of proposed rulemaking was published at 42 Pa.B. 2381 (May 5, 2012). This proposal is being adopted to read as set forth in Annex A.

The Department received no comments from the public during the public comment period. The Independent Regulatory Review Commission submitted a letter to the Department advising "no objections, comments or recommendations to offer on this regulation." No comments were received from either the House Finance Committee or the Senate Finance Committee. Therefore, the final regulation mirrors the regulation that was published in the May 5, 2012 *Pennsylvania Bulletin*.

Fiscal Impact

The Department has determined that the proposed amendment will have minimal fiscal impact on the Commonwealth.

Paperwork

The proposed amendment will not create additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for

review within five years of final publication. No sunset date has been assigned.

Contact Person

The contact person for an explanation of the amendments is Mary R. Sprunk, Office of Chief Counsel, PA Department of Revenue, P.O. Box 281061, Harrisburg, Pennsylvania 17128-1061.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on April 25, 2012, the Department submitted a copy of the notice of proposed rulemaking, published at 42 Pa.B. 2381 (May 5, 2012) to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance for review and comment. No comments were received from the public. Therefore, compliance with section 5(c) of the Regulatory Review Act, which requires the Department to provide IRRC and the Committees with copies of all comments received, was not required.

These final-form regulations were deemed approved by the Committees on _____ and were deemed approved by IRRC on _____, in accordance with section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

Findings

The Department finds that:

(1) Public notice of intention to amend the regulations has been duly given under sections 201 and 202 of the act of July 31, 1968 (P.L. 769, No. 240) (45 P.S. §§ 1201 and 1202) and the regulations thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) The amendments are necessary and appropriate for the administration and enforcement of the authorizing statute.

Order

The Department, acting under the authorizing statute, orders that:

(a) The regulations of the Department, 61 Pa. Code Chapters 117, 119 and 121 are amended to read as set forth in Annex A.

(b) The Secretary of the Department shall submit this order and Annex A to the Office of General Counsel and the Office of Attorney General for approval as to form and legality as required by law.

(c) The Secretary shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(d) This order shall take effect upon publication in the Pennsylvania Bulletin.

DANIEL MEUSER
SECRETARY OF REVENUE

07/18/12