AMENDMENTS TO CHAPTER 117. RETURN AND PAYMENT OF TAX - PERSONAL INCOME TAX
61 Pa. Code, §§ 117.9, 117.9b & 117.9c

DEPARTMENT OF REVENUE REGULATION
#15-449

COMMENT AND RESPONSE DOCUMENT

Department of Revenue Regulation #15-449
AMENDMENTS TO CHAPTER 117 -
PERSONAL INCOME TAX
61 PA. CODE, §§ 117.9, 117.9b & 117.9c

This is a list of organizations and interested parties from whom the Department of Revenue has received comments regarding the above-referenced regulation.

ID #	Name/Address
(1)	Kim Kaufman, Executive Director Independent Regulatory Review Commission (IRRC) 14th Floor 333 Market Street Harrisburg, PA 17101
(2)	Peter N. Calcara, Vice President Government Relations Pennsylvania Institute of Certified Public Accountants (PICPA) 500 N. 3rd Street, Suite 600A Harrisburg, PA 17101

Department of Revenue Regulation # 15-449
61 Pa. Code, §§ 117.9, 117.9b & 117.9c
Amendments to Chapter 117 - Personal Income Tax

COMMENTS AND RESPONSES

Amendments to Chapter 117 - General

1. Comment - Determining whether the regulation is in the public interest:

"The explanation of the regulatory requirements contained in the Preamble states that the amendments provide uniformity and guidance to taxpayers in the Commonwealth. The Preamble also states that the purpose of the rulemaking is to reflect and clarify the Department's policy regarding the form of Personal Income Tax (PIT) returns. These statements do not provide this Commission with the necessary information to determine if the regulation is in the public interest." **(1)**

Response:

It is imperative in the context of the proposed regulation to consider the purpose for requiring returns to be filed. The General Assembly could have required taxpayers only to provide the Department of Revenue whatever tax information is readily available to them at little or no cost; or it could have imposed on the Department the duty to make the inquiries and determinations of taxpayers' taxes entirely at public expense. The General Assembly, however, has given discretion to the Department of Revenue to prescribe, by regulation, forms of returns and has made it the duty of the taxpayer to comply. It thus implements the system of self-assessment which is so largely the basis of our American scheme of income taxation. The purpose is not alone to get tax information in some form but also to get it with such uniformity, completeness, and arrangement that the physical task of handling and verifying returns may be readily accomplished without undue additional cost to the public.

The Tax Court of the United States uses the following test for treating a document as a return:

(1) There must be sufficient data to calculate tax liability;

1. Comment - Determining whether the regulation is in the public interest:

Response (Cont'd):

(2) The document must purport to be a return;

(3) There must be an honest and reasonable attempt to satisfy the law; and

(4) the taxpayer must sign the return under penalty of perjury.

WG&L TAX DICTIONARY, 691 (2004-2005).

More specifically, to qualify as a return, a document must "on its face plausibly purport to be in compliance" with the law and there must be "an honest and genuine endeavor" to satisfy the requirements of a return. *Badaracco v. Commissioner*, 464 U.S. 386 (1984); *Zellerbach Paper Co. v. Helvering*, 293 U.S. 172, 180 (1934); *Florsheim Bros. Drygoods Co. v. United States*, 280 U.S. 453, 462 (1930); *United States v. Moore*, 627 F.2d 830, 834-835 (7th Cir. 1980); *Franklin v. Commissioner*, T.C. Memo 1984-278.

The Department believes most taxpayers understand that they should at least appear to have made an honest and genuine attempt to satisfy filing requirements.

Amendments to Chapter 117 - General

2. Comment - Preamble:

"In the Preamble included with the final-form regulation, we ask the Department to include a more detailed explanation of the policy that is the basis for this rulemaking, especially the provisions that require taxpayers to take consistent positions with respect to the facts asserted in a prior taxable year and the provision that allows the Secretary of the Department, or a deputy, to make a return for a person that fails to file a return." **(1)**

Response:

As requested by IRRC, the Department has added more detailed explanations of these matters under the "Comment and Response Summary" of the Preamble.

Section 117.9. Form of return.

Subsection (a) Required form.

3. Comment - § 117.9. Subsection (a)(4) Signed Declaration:

"Subsection (a)(4) requires a transmittal to be verified by a 'signed declaration.' When a taxpayer transmits a return electronically or telephonically, how would the requirement for a 'signed declaration' be met? We recommend that the final-form regulation specify how this obligation can be met." **(1)**

Response:

Currently, there are four different virtual signature methodologies. For Federal/State *e-file* purposes, the Department accepts the federal self-select personal identification number (PIN) when it is entered as a signature, provided the IRS accepts the PIN. If the IRS does not accept the PIN, the taxpayer must complete and sign Form PA-8453. Conversely, for TeleFile returns, the taxpayer individually signs his or her return by entering his or her Social Security Number after listening to the taxpayer's oath.

The fourth method applies to a first-time direct filer. A first-time direct filer may select a PIN using Form PA-8879, "Pennsylvania *e-file* Signature Authorization," and enter it as a signature. The "e-Signature Agreement" is a prerequisite to obtaining a User ID and password for the purpose of conducting transactions by electronic means. By clicking on the "I agree" button, the taxpayer agrees that his or her User ID and password will be an electronic signature that identifies the record or transaction as his or hers and will be kept secure.

Regardless of which method is used, the requirement for a "signed declaration" is automatically met if the return can be transmitted electronically or telephonically. The "send button" cannot work unless and until the return is "signed" in accordance with the foregoing. Accordingly, no revisions to the final rulemaking have been made concerning these comments.

Section 117.9. Form of return.

4. Comment - § 117.9. Subsections (a)(5) & (a)(6) - language:

"The phrases 'plausibly purport to be in compliance' and 'honest and genuine attempt' need to be defined. The Department should consider changing 'honest and genuine' to 'good faith.'" **(2)**

"The phrase 'substantially incorrect' is vague and should be clarified." **(2)**

"Section 117.9 (a) includes the following phrases: 'must plausibly purport;' 'honest and genuine;' and 'substantially incorrect.' These phrases lack clarity and do not establish a binding norm, as regulations are intended to do. Therefore, the phrases should be replaced or deleted from the final-form regulation." **(1)**

Response:

See Response to Comment #1. There are numerous federal and state court cases that clarify what can and cannot be plausibly considered to be intended to have the appearance of conforming to return filing requirements.

The terminology "substantially incorrect" is statutory. See 72 P.S. § 7352 (i).

No revisions to the final rulemaking have been made concerning these comments.

Section 117.9. Form of return.

5. Comment - § 117.9. Subsection (a)(6)(ii) - too broad:

"This provision is too broad. 'Information required . . . has been omitted' should only make a return not processible if the information affects the ability of the Department to review the return. For example, if a taxpayer fails to place his telephone number or school code on his tax return, it would not be a processible return under the proposed regulation." **(2)**

Response:

Although the omission of a school district identification number from a return form or transmittal does not affect the ability of the Department to examine the return, the Secretary of Revenue is required under the Public School Code of 1949 to make a determination of the valuation of total taxable income to be certified to the Secretary of Education on the basis of school district identification numbers designated on State income tax returns. 24 P.S. § 25-2514.1. From a tax compliance perspective, the school district identification number also allows the Department more readily to share tax return information with school districts.

The Department is also required, subject to budgetary constraints, to make the inquiries of all taxes imposed by Article III of the TRC. 72 P.S. § 7338 (a). Omissions of telephone numbers not only limit the Department's ability to verify returns within the assessable period but also increase the costs of government. Moreover, many taxpayers do not have their telephone numbers listed in a phone directory.

No revisions to the final rulemaking have been made concerning this comment.

Section 117.9. Form of return.

Subsection (b) Filing processible returns.

6. Comment - Improve clarity:

"We suggest that the appropriate statutory references for the other two events [(b)(1) and (b)(2)] that commence with the filing of a processible return also be included in the final-form regulation." **(1)**

Response:

Except as otherwise provided, 72 P.S. § 7348 commences the running of the statute of limitations for the assessment of (1) the tax shown as due on the return or the assessment of a deficiency on the date "the return is filed." 72 P.S. § 806.1 commences the running of interest on overpayments of tax showing on a return as set forth in the next response. Each of these provisions assumes that what is filed is consistent with Departmental regulations. 72 P.S. § 7335.

The Department has provided the references in the Preamble included with the final-form regulation.

Section 117.9. Form of return.

7. Comment - § 117.9.(b)(2) Interest on overpayments:

"The proposed regulation does not accurately reflect 72 P.S. § 806.1(a)(5). In general, there would be no interest on an overpayment if a refund is paid within 75 days after a final return or report is filed. However, if the Department does not pay the refund within 75 days, it would appear that interest would begin running from the original due date of the return, as per similar language in IRC § 6011(e) has been interpreted. The proposed regulation should be amended to read "[c]ommence the running of interest . . . on the return, *pursuant to 72 P.S. § 806.1(a)(5).*" **(2)**

Response:

72 P.S. § 806.1 which relates to interest on overpayments addresses several different situations. One situation is where a tax return is required to be filed and a "complete" final return of tax is filed on or before the last date prescribed for filing the return (determined without regard to any extension of time for filing). In this instance, unless the overpayment is refunded or credited within 75 days of such last date, interest begins running from such date on any overpayment of tax actually deducted and withheld at the source, any amount overpaid as estimated tax, and any payment made on or before such date. Interest on payments made after such date, however, only runs from the date received by the Department.

Another situation is where a tax return is required, a "complete" final tax return is filed after the last date prescribed for filing the return (determined without regard to any extension of time for filing), and no overpayment of tax is refunded or credited within 75 days of the date the Department received the return. In this instance, as in the first situation, interest begins running from the last date prescribed for filing the return (determined without regard to any extension of time for filing) on any overpayment of tax actually deducted and withheld at the source, any amount overpaid as estimated tax, and any payment made on or before such last date. Interest is allowed on overpayments made after such date only for the period during which the Commonwealth retained the overpayment, beginning with the date of the overpayment.

Section 117.9. Form of return.

7. Response - § 117.9.(b)(2) Interest on overpayments: (Cont'd)

The third situation is where a tax return is required but only an "incomplete form or transmittal" is received by the Department. 72 P.S. § 806.1 (a)(5) provides that a "final return" of tax shall be deemed to have been filed when it is received by the Department only if it has been submitted on a permitted form containing–

- The taxpayer's name, address and identifying number,
- The required signature, and
- Sufficient required information, either on the permitted form or attachments thereto, to permit the verification of the tax liability shown on the return.

If the form or transmittal has not been submitted on a permitted form or the form fails to contain the foregoing listed items, it is nothing more than an incomplete form or transmittal. Under 72 P.S. § 806.1(a)(5), the 75-day period in which an overpayment may be refunded without interest only begins when the "complete" final return is filed.

It is the position of the Department that–

- To constitute the submission of a return, the requirements of proposed § 117.9 (a)(6) must be met,
- To satisfy the signature requirement, the form or transmittal must 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, and
- To satisfy the "sufficient required information" requirement of 72 P.S. § 806.1 (a)(5),--
  - The form 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
  - Those self-assessed amounts must mathematically verify.

7. Response - § 117.9.(b)(2) Interest on overpayments: (Cont'd)

The latter requirement is met even if the return shows payments or credits without any required supporting documentation.

The essential point of 72 P.S. § 806.1 (a)(5) is that, for purposes of computing the 75-day period, a "final return" is not deemed "filed" on the day when it is received by the Department if it does not contain all of the above-listed items, because what has been received by the Department is nothing more than an "incomplete form or transmittal." It would, however, be deemed "filed" for purposes of 72 P.S. § 806.1 (a)(5) on the day "when it *is* completed."

The tax liability shown on a tax return may, of course, be less than the tax imposed by Article III of the TRC, and the tax return, *on its face*, may contain no information that indicates that a required attachment, notice or schedule has been omitted. However, the return may nonetheless be incomplete because a required attachment, notice or schedule has in fact been omitted.

For purposes of § 806.1 (a)(5) and the proposed regulation, there is *no* requirement that a final return contain sufficient information to establish the proper amount of the tax or the amount of tax due with the return. There is also no requirement that a return supply the information required to claim tax credits. What is required is only that the form or transmittal contain sufficient information to establish the *self-assessed* amounts of income by class and resulting tax.

No revisions to the final rulemaking have been made concerning this comment.

Section 117.9. Form of return.

8. Comment - § 117.9 (c) Request for forms - add language:

"Add to the last sentence '[r]eturns which have not been so prepared . . . article '*if they do not contain information sufficient for the Department to review a taxpayer's self-assessed tax liability.*' As drafted, the omission of *de minimis* information would be basis for the Department not to accept a return." **(2)**

Response:

The sentence that commentator is suggesting revisions to is being deleted in this rulemaking.

No revisions to the final rulemaking have been made concerning this comment.

9. Comment - § 117.9 (d) Incomplete forms or transmittals - add language.

"For consistency purposes, 'return,' should be added before 'form or transmittal' and 'completed' should be changed to 'processible.'" **(2)**

Response:

See Response to Comment #7. No revisions to the final rulemaking have been made concerning this comment.

Section 117.9. Form of return.

10. Comment - Subsection (e) Exception - vague language:

"Under this subsection, if a taxpayer is 'under investigation,' that person may be allowed to omit certain information from a tax return. The phrase 'under investigation' is vague. Does this phrase refer to an investigation by the Department, or can it refer to an investigation by another party, such as the Internal Revenue Service? The final-form regulation should clarify what this phrase means." **(1)**

Response:

The Department cannot constitutionally require a taxpayer to report information that would implicate the taxpayer's involvement in a crime. This constitutional protection is not limited to information that reasonably could be used in a criminal prosecution under the Tax Reform Code of 1971 or could reasonably lead to other evidence that might be so used in such a criminal prosecution. It also applies to any information that may be so used in a criminal prosecution under the Crimes Code of the Commonwealth, under Federal law or under the laws of other jurisdictions. Accordingly, a taxpayer is allowed to omit such information from a tax return without regard to who may be conducting the criminal investigation or even if there has been no investigation.

The right to "plead the fifth amendment," however, is not self-executing. Consequently, a taxpayer who is desirous of claiming the right must assert the claim in a timely manner; and the Department has an obligation to verify that the taxpayer is reasonable in believing that the omitted disclosure is liable to be incriminating. The only ways to verify a claim without infringing the right against self-incrimination are to—

- Determine if the taxpayer is "under investigation" by the Department's Office of Criminal Tax Investigations or by the Pennsylvania State Police or other law enforcement agency, or
- Investigate tips received from informants who are thought to have access to special or inside sources of information.

10. Comment - Subsection (e) Exception - vague language:

Response (Cont'd):

In either case, the taxpayer would be "under investigation."

No revisions to the final rulemaking have been made concerning this comment.

Section 117.9. Form of return.

11. Comment - Subsection (f) Partners and Pennsylvania S corporation shareholders:

"The Department should incorporate into the proposed regulations guidance on how a resident and nonresident partner that owns a *de minimis* interest in a partnership may file a processible return through the use of information on his federal Schedule K-1 or other information in instances where the partnership refuses to provide him with a PA Schedule RK-1 or NRK-1. The adoption of these procedures would save both taxpayers and the Commonwealth scarce resources." **(2)**

"A commentator has asked the Department to provide direction on how a taxpayer that owns a *de minimis* interest in a partnership may file a processible return when the partnership refuses to provide the necessary documentation. We believe such direction would assist a taxpayer with complying with the regulation and suggest that it be included in the final-form regulation." **(1)**

Response:

The federal income tax is, in effect, imposed on twenty-two discrete categories of partnership income computed in accordance with Federal tax principles and Federal tax accounting rules. Conversely, the Pennsylvania Personal Income Tax is imposed on eight separate and discrete categories of partnership income computed in accordance with acceptable accounting principles and practices; and PA courts operate on the basis that Federal tax provisions are not incorporated into the personal income tax.

Section 117.9. Form of return.

11. Comment - Subsection (f) Partners and Pennsylvania S corporation shareholders:

Response (Cont'd):

As none of the twenty-two federal income categories is exactly the same as any of the eight PIT income classes and none is computed in exactly the same manner, a taxpayer's personal income in respect of partnerships ordinarily can only be "guesstimated" solely from the information appearing on his federal Schedule K-1s. Moreover, the physical task of handling and verifying returns is made substantially more burdensome if each of the partners of a partnership make a different guesstimate.

For the above reasons, the statute requires every partnership having either a resident partner or any personal income derived from sources within this Commonwealth to make and file a partnership return for each taxable year of the partnership setting forth such partnership items of personal income, loss, and deduction, and other pertinent information as the Department may be regulation prescribe. 72 P.S. § 7335 (c). The law also requires every partnership engaged in a trade or business within this Commonwealth to make and file such a return, notwithstanding that it has no resident partners and incurred only losses. 61 Pa. Code § 117.17 (b).

If the General Assembly had intended that resident and nonresident partners use only the information on their federal Schedule K-1 to compute their distributive shares of the income of a partnership, it simply could have made the income of partnerships as returned to and as ascertained by the Federal Government a taxable category of personal income. Instead, it required and authorized the partners of "every partnership . . . having any income derived from sources within this Commonwealth" to—

- Make a return of that income,
- Exercise ordinary business care and prudence in obtaining necessary records and retaining a competent tax adviser in the making of that return, and
- Authorize at least one of the partners to sign the return and certify that, to the best of that partner's

Section 117.9. Form of return.

11. Comment - Subsection (f) Partners and Pennsylvania S corporation shareholders:

Response (Cont'd):

(or partners') knowledge and belief, the partnership return is true, correct, and complete.

72 P.S. §§ 7333 and 7335 (c); 61 Pa. Code § 117.17. The General Assembly also imposed the same obligations on the partners of partnerships that are engaged in a trade or business in Pennsylvania with operating losses; and if the partnership has neither income from sources within this Commonwealth nor engages in a trade or business within Pennsylvania, under Pennsylvania law, the duty to make and file a partnership return, to exercise ordinary business care and prudence in obtaining necessary records and retaining a competent tax adviser in the making of that return, and to sign the return devolves to the partners who are Pennsylvania residents. 61 Pa. Code § 117.17.

Under current law, a resident who is a sole proprietor with more than $1 of net profits is required to file a tax return with accompanying schedules and to exercise ordinary business care and prudence in obtaining necessary records and retaining a competent tax adviser in the making of that return. There is nothing in the personal income tax that suggests that a partner who only owns a *de minimis* partnership interest has no legal obligation to make and file a partnership return and no personal responsibility to exercise ordinary business care and prudence in obtaining necessary records and retaining a competent tax advisor in the making of the partnership return. There is also nothing in the personal income tax or any other law that suggests that a partner who only owns a *de minimis* partnership interest is not entitled to complete access to, and to inspect and copy, all of the partnership's books and records and all of the books and records of any lower tier partnerships in which the partnership is a partner and retain a tax advisor in the making of such a return.

It can, therefore, hardly be considered to be unfair punishment to have a partner who fails or refuses to file a partnership return suffer the same consequences as a sole proprietor who fails or refuses to file a complete return.

No revisions to the final rulemaking have been made concerning these comments.

Section 117.9b. Consistent positions.

12. Comment - Subsection (a) In general - statutory authority:

"A taxpayer should not be required to take consistent positions with respect to the facts asserted in a prior taxable year in instances where he discovers that the prior tax treatment of a transaction was erroneous. This rule should apply whether the statute of limitations for the prior year is still open. . . . In order to address the underlying issue raised in the regulation, the Department should seek legislation to amend the PIT statute to include the provisions similar to IRC §§ 1311 - 1314 (statutory mitigation provisions), and/or incorporate the judicial doctrines of estoppel, recoupment and setoff into the PIT though statute or regulation." **(2)**

"A commentator believes this type of regulatory requirement would require a statutory change. What is the Department's specific statutory authority for this provision? In addition, the facts surrounding a particular position may change from one year to another. If a taxpayer can demonstrate that the facts supporting a prior year's position have changed, we assume that the taxpayer would be permitted to change their position. We suggest that the final-form regulation include language that reflects that fact." **(1)**

Response:

Section 117.9b is not intended to address the subjects covered by IRC §§ 1311 through 1314. It addresses instead the situation where a taxpayer would deny the truth of facts that the taxpayer certified to be true in his tax returns for prior taxable years after the Commonwealth has justifiably acted in reliance of such certifications to its detriment. In this situation, a taxpayer has the duty of consistency and should not be permitted to deny the misrepresented facts, even in situations where there is not intentional falsehood or wrongful misleading silence.

> In income taxation what is done in one tax year is sometimes projected into another where the same fact must govern. There being continuity, there ought to be consistency in treatment.

Section 117.9b. Consistent positions.

12. Comment - Subsection (a) In general - statutory authority:

Response (Cont'd):

Alamo Nat. Bank of San Antonio v. Commissioner, 95 F.2d 622 (5th Cir. Tex. 1938); Writ of certiorari denied 304 U.S. 577 (1938).

It is the position of the Department that the proposed regulation is consistent not only with the duty of consistency but also with the laws of this Commonwealth relating to estoppel by matter of record. Moreover, 72 P.S. § 7333 (c) would serve little purpose if there were no duty of consistency.

The alternative is to allow taxpayers, without any adverse legal or equitable consequence, to adopt inconsistent positions as to factual matters while retaining the tax benefits of any erroneous assertions of fact.

No revisions to the final rulemaking have been made concerning these comments.

Section 117.9b. Consistent positions.

13. Comment - Subsection (b) Partners and Pennsylvania S corporation shareholders - form request:

"The proposed regulation needs to explain what constitutes notice to the Department and the partnership of a correction. The Department may want to consider adopting a form similar to federal Form 8082 for reporting the inconsistent treatment of an item from a pass-through entity. The use of a form similar to federal Form 8082 would provide the Department with sufficient information to review a return." **(2)**

Response:

Parts II and III of Federal form 8082 "Notice of Inconsistent Treatment or Administrative Adjustment Request," are illustrative of the information that is needed. The Department, however, does not anticipate that a special form would be needed.

The Department will address notice requirements in its instructional publications.

No revisions to the final rulemaking have been made concerning this comment.

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

14. Comment - Subsection (a) Authority of Secretary to make and subscribe return:

"The PIT statute needs to be amended to give the Secretary the authority to make and subscribe a return. . . . Assuming that there is statutory support for the proposed regulation, due process requires that the Department provide a taxpayer notice prior to making and subscribing a return on behalf of a taxpayer. It is unclear whether proposed § 117.9(g) would also cover this situation. In addition, the Department should be required to provide a taxpayer with a copy of that return in a timely manner." The commentator provided recommended language. **(2)**

"We have three concerns. First, what is the Department's specific statutory authority for this provision? Second, how will the provision be implemented? Will the taxpayer be notified of the Secretary's action and provided a copy of the return? Will the return made by the Secretary be considered a processible return under § 117.9, pertaining to form of return? Third, which deputy within the Department can make a return? These issues should be clarified in the Preamble and in the final-form regulation." **(1)**

Response:

The Department is expressly authorized and required to make the determinations of all unpaid or unreported taxes imposed under Article III of the TRC. 72 P.S. § 7338 (a). More specifically, the Department is expressly authorized to make an estimated assessment based on information available of the proper amount of tax owing by a taxpayer in the event the taxpayer fails to file. 72 P.S. § 7338 (c). It is also expressly required to provide a basis for any such assessment. 72 P.S. § 7338 (d).

The mode of an estimated assessment is not provided for. Accordingly, the Department is expressly authorized to establish by regulations the manner in which they are made. 72 P.S. § 7338 (b).

Under the proposed regulation, the first step in making an estimated assessment is the execution of a return by the Secretary or his deputy. If the amount shown as due on the

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

14. Comment - Subsection (a) Authority of Secretary to make and subscribe return:

Response (Cont'd):

return is not paid upon notice and demand, it is assessed in the amount shown as due on the return signed by the Secretary or his deputy.

The second step is to provide notice of, and the basis for, the assessment to the person against whom the assessment was made. A copy of the return could accompany the notice and basis of assessment. However, as all of the return information has to be disclosed in the basis for the assessment, that would seem to be unnecessarily duplicative.

The Department believes it best to vest discretion in each Secretary of Revenue to designate who within the Department can make a return.

No revisions to the final rulemaking have been made concerning these comments.

Miscellaneous clarity.

15. Comment - § 117.9c (b) Status of return - clarity:

"Assuming that the Secretary has the legal authority to make and subscribe a return, the proposed regulation needs to explain what is meant by 'all legal purposes.'" **(2)**

Response:

The phrase "all legal purposes" is used in IRC § 6020(b)(2). The same wording is used so that any return made by the Secretary of Revenue or his deputy has the same status as a federal return prepared for and signed by the Secretary of the Treasury of the United States.

It should be noted that, as there is no provision comparable to IRC § 6501(b)(3) in the personal income tax, the signing of the personal income tax return by the Secretary of Revenue would start the running of the period of limitations on assessment and collection of the tax shown as due on the return and on assessments of deficiencies. For federal tax purposes, the signing of a return by the Secretary of the Treasury would not start the running of the period of limitations.

08/24/10