INSTRUCTIONS FOR WITHHOLDING PA PERSONAL INCOME TAX FROM NONRESIDENT OWNERS BY PARTNERSHIPS AND PA S CORPORATIONS

PART 1. GENERAL INSTRUCTIONS

Partnerships and PA S corporations with taxable PA-source income are:

- Jointly liable with their nonresident partners and shareholders for payment of tax on such income to the extent allocable to the nonresidents; and
- Authorized and required to collect such tax from their nonresident owners and remit the tax to Pennsylvania.

The imposition of the tax against the partnership or PA S corporation does not change the filing requirements or the tax liability of its nonresident owners.

The nonresidents take credit for the tax withheld on their annual returns and treat their income from the partnership or PA S corporation as income subject to withholding in calculating any other personal estimated taxes. The nonresidents may not deduct their personal estimated tax payments from the tax imposed on the partnership or PA S corporation.

NONRESIDENT PARTNER OR SHAREHOLDER

The terms nonresident partner and nonresident PA S corporation shareholder include owners that are nonresident individuals, nonresident inter vivos or testamentary trusts or nonresident decedents' estates.

The entity may rely on its business records to determine the identity, the place of residence and the distributive share of income and losses of each partner or shareholder. The entity may rely on such records, unless and until the entity receives a notice furnished under federal temporary regulation § 1.6031(c)-1t.

PART 2. PAYMENT OF NONRESIDENT WITHHOLDING TAX

All partnerships and PA S corporations must collect and pay nonresident quarterly withholding tax. Use Part A and Part B of Form REV-414(P/S), Partnerships and PA S Corporations Withholding Tax Worksheet, to figure the correct amount of 2011 nonresident quarterly withholding tax. If the aggregate 2011 nonresident quarterly withholding tax will be less than $500, the entity must pay within 30 days of the close of the taxable year.

If the aggregate 2011 nonresident quarterly withholding tax will be $500 or more, the entity may either pay all of the nonresident tax with the first payment or pay in installments when due. Use this table to determine the amount and due date for each installment of nonresident tax. If the due date falls on a Saturday, Sunday or legal holiday, the due date is the next business workday. Interest on underpayments of nonresident quarterly withholding tax shall run from the due date to the 30th day following the close of the taxable year.

FINAL CATCH-UP PAYMENT OF NONRESIDENT WITHHOLDING TAX

If the tax of the nonresident owners exceeds the nonresident quarterly withholding tax payments, the partnership or PA S corporation must pay the deficiency by the date prescribed for filing the entity's PA-20S/PA-65 Information Return.

When submitting the final nonresident withholding tax (catch-up) payment for nonresident owners that are individuals, estates, or trusts, print the last four digits of the entity's federal employer identification number (FEIN) and 2011 Final Nonresident Withholding on the check or money order made payable to the PA Dept. of Revenue.

When using approved software, submit the 2011 Nonresident Withholding Payment substitute voucher with a check or money order and submit with the PA-20S/PA-65 Information Return, PA-40 NRC or extension request.

Federal/State e-File

The final nonresident withholding tax (catch-up) payment can only be filed electronically when submitted with the return. Visit www.revenue.state.pa.us for more information.

COLLECTION OF NONRESIDENT WITHHOLDING TAX

If the partnership or PA S corporation maintains a drawing account for, or makes distributions or guaranteed payments to its nonresident partner or shareholder and the withdrawals or distributions are sufficient to cover the tax, PA law authorizes and requires the entity to deduct the tax from the drawing account or distribution when credited. Otherwise, the time and manner of collection of the tax shall be a matter of settlement between the partnership or PA S corporation and its partners or shareholders.

PART 3. STATEMENT OF NONRESIDENT WITHHOLDING TAX

Each entity with income from sources within Pennsylvania must provide each of its nonresident owners with a PA-20S/PA-65 Schedule NRK-1 showing the owner's income, credits and tax withheld.

PART 4. FORMS COMPLETION INSTRUCTIONS

Use the Partnerships and PA S Corporations Withholding Tax Worksheet (REV-414(P/S)) to determine the nonresident quarterly withholding amount. Use Form PA-40ES (P/S) or Form PA-40ESR (F/C), Declaration of Estimated Personal Income Tax, to pay the 2011 nonresident quarterly withholding tax.

Use Part A and Part B of Form REV-414(P/S) to figure the correct amount of 2011 nonresident quarterly withholding tax to pay. Keep a record of nonresident quarterly withholding tax payments made and the amount of remaining nonresident quarterly payments on the Record of Withholding Tax Payments. Use Part D of Form REV-414(P/S) to figure the correct balance of nonresident quarterly withholding tax due when filing the 2011 PA-20S/PA-65 Information Return. Use Form PA-40ES (P/S) or Form PA-40ESR (F/C) forms for properly paying the nonresident quarterly withholding tax.

If the partnership or PA S corporation does not receive its preprinted Forms PA-40ES (P/S) or the forms are damaged, use Form PA-40ESR (F/C). See Forms Ordering in Part 7. Failure to receive department-provided forms does not relieve a partnership or PA S corporation from filing and paying the tax.

If the entity can reasonably determine that its aggregate nonresident withholding tax will exceed $500 for the taxable year:	The required number of withholding tax installments is:	The entity should pay the following percentages of the withholding tax by the date shown or the next business day if the due date falls on a Saturday, Sunday or legal holiday.			
		By the 15th day of the 4th month	By the 15th day of the 7th month	By the 15th day of the 10th month	By the 15th day of the 1st month after the close of the tax year
Before the 1st day of the 4th month	4	25%	25%	25%	25%
After the last day of the 3rd month-before the 1st of the 7th month	3		50%	25%	25%
After the last day of the 6th month-before the 1st of the 10th month	2			75%	25%
After the last day of the 9th month	1				100%

FORM PA-40ESR (F/C) DECLARATION OF ESTIMATED PERSONAL INCOME TAX

Partnerships or PA S corporations filing a nonresident quarterly withholding tax return for the first time should use Forms PA-40ESR (F/C). Thereafter, the department will provide preprinted Forms PA-40ES (P/S).

IMPORTANT:

When filing Form PA-40ESR (F/C), enter the Federal Employer Identification Number (FEIN) of the partnership or PA S corporation; never use the Social Security number of an owner.

Complete the other identification information on the left-hand side of the coupon. In the middle column, fill in the oval to indicate the account is for a partnership, association, or PA S corporation. In the right-hand column, enter the fiscal year information if applicable, as well as the amount of payment or declaration of tax (see instructions under Part 5 for specific information about how to complete these lines).

PART 5. HOW TO COMPLETE AND USE THE DECLARATION OF NONRESIDENT WITHHOLDING TAX FORM

There is a separate Form PA-40ES (P/S) for each period. Submit the form only when a payment is due, and:

- Enter the amount calculated on Line 4, Part A of Form REV-414 (P/S), Partnerships and PA S Corporations Withholding Tax Worksheet, in the Declaration of Nonresident Withholding Tax Block;
- Enter the payment in the Amount of Your Payment area;
- Make the check or money order payable to PA Dept. of Revenue, printing the last four digits of the entity's FEIN and Nonresident Tax Payment on the check or money order;
- Do not staple or attach the payment to Form PA-40ES (P/S);
- Mail Form PA-40ES (P/S) and check in the envelope provided;
- Fill in the record of nonresident tax payments in Part C of the 2011 Withholding Tax Worksheet.

Do not use Form PA-40ESR (F/C) form or any other facsimile form when you can use a preprinted Form PA-40ES (P/S).

Use only the properly dated Form PA-40ES (P/S) for each nonresident quarterly withholding payment.

IMPORTANT:

The department personalizes each Form PA-40ES (P/S) form with the partnership or PA S corporation identification information, including an encrypted version of the entity's federal EIN in the unique line of information that the department uses to post the payments. DO NOT GIVE THESE FORMS TO ANY OTHER TAXPAYER. THIS MAY CAUSE THE ENTITY'S PAYMENT TO BE APPLIED TO AN INCORRECT ACCOUNT.

DO NOT MAKE CORRECTIONS ON YOUR FORMS PA-40ES (P/S). IF THE PREPRINTED INFORMATION IS INCORRECT, COMPLETE A PA-40ES CORRECTION FORM, (FORM REV-459) and mail it to:

PA DEPARTMENT OF REVENUE
BUREAU OF INDIVIDUAL TAXES
PIT DELINQUENT TAX DIVISION
PO BOX 280510
HARRISBURG PA 17128-0510

DO NOT USE THIS ADDRESS TO SEND PAYMENTS.

The department will only provide new forms when you make a change to your tax identification number or name. The department will make address changes for the next year's nonresident quarterly withholding tax forms.

PART 6. AMENDING NONRESIDENT QUARTERLY WITHHOLDING TAX PAYMENTS

The partnership or PA S corporation may have a change in income or credits during the year that would require it to change or amend its nonresident quarterly payments. To amend, refigure the nonresident tax using Form REV-414(P/S). Then subtract the payments made to date. Make the remaining payments using the table.

PART 7. PENALTY FOR FAILURE TO WITHHOLD

PA law imposes a 5 percent penalty for failure to pay on or before the due date the quarterly withholding tax on the distributive PA taxable income of nonresident partners and shareholders. The penalty is 5 percent per month or fraction thereof, to a maximum of 50 percent, of the nonresident quarterly withholding tax due.

SAFE HARBOR RULES

The department will not impose the penalty when:

1. The total timely nonresident withholding tax payments and credits are at least equal to an amount calculated using the current year's tax rate times the net taxable income of nonresident partners or shareholders on its prior year's information return (this exception does not apply if no return was filed in the prior year); or
2. For each installment period, the timely nonresident withholding tax payments and credits are at least 90 percent of the actual tax due on the income earned or received by the nonresident partners or shareholders for each installment period.

PART 8. FORMS ORDERING

If the partnership or PA S corporation did not receive its preprinted forms or they were damaged or lost, order Forms PA-40ESR (F/C). For answers to common questions and to obtain other tax forms, schedules and instructions from the department, you may:

- Call 1-888-PATAXES (1-888-728-2937) -- Within the local Harrisburg area, call (717) 425-2533;
- Visit the department's website at www.revenue.state.pa.us;
- Send e-mail requests for forms to the department at ra-forms@state.pa.us; or

Send written requests for Form PA-40ESR (F/C) to:

PA DEPARTMENT OF REVENUE
TAX FORMS SERVICE UNIT
711 GIBSON BOULEVARD
HARRISBURG PA 17104-3200

DO NOT USE THIS ADDRESS TO SEND PAYMENTS.

Send written requests for preprinted Form PA-40ES (P/S) to:

PA DEPARTMENT OF REVENUE
BUREAU OF INDIVIDUAL TAXES
PIT DELINQUENT TAX DIVISION
PO BOX 280510
HARRISBURG PA 17128-0510

DO NOT USE THIS ADDRESS TO SEND PAYMENTS.

You may also contact a Revenue district office for forms or assistance. These offices are listed on the reverse side of the Partnerships and PA S Corporations Withholding Tax Worksheet, Form REV-414 (P/S).