pennsylvania
DEPARTMENT OF REVENUE

PENNSYLVANIA PERSONAL INCOME TAX GUIDE

CHAPTER 5: WHEN TO FILE

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CHAPTER 5: WHEN TO FILE

I. DEADLINE

You must report all taxable income received or accrued during the calendar year (from Jan. 1 through Dec. 31) tax period. The Pennsylvania Department of Revenue follows the Internal Revenue Service (IRS) due date for filing returns. You must file before midnight, April 15 or the next business day if April 15 falls on a Saturday, Sunday or IRS recognized holiday. The U. S. Postal Service postmark date on your envelope is proof of timely filing for paper returns. For TeleFile and padirectfile returns, the confirmation number that the department issued at the time of filing is proof of timely filing. For PA/IRS e-File returns, the date the return was acknowledged as accepted by the IRS is proof of timely filing. A late filing can result in the imposition of penalty and interest.

II. EXTENSION OF TIME TO FILE THE PA–40 INDIVIDUAL INCOME TAX RETURN

The department will grant a reasonable extension of time for filing a *PA-40, Individual Income Tax return*. Unless a taxpayer is outside the U.S. the department will not grant an extension for more than six months. People who are outside the country are granted an automatic two-month extension to file until June 15.

Effective for taxable years beginning after Dec. 31, 2001, Act 46 of 2003, amends Pennsylvania's Tax Reform Code of 1971 Section 330(b) 1 to conform with Section 7508 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7508), as amended. Members of the U.S. Armed Forces serving in qualified Hazardous Duty Areas that are deemed Combat Zones will have the same additional time to file and pay Pennsylvania personal income tax (PA PIT) and take other actions concerning the tax that they have for federal purposes. This section now mirrors federal law. The deadline is automatically extended for 180 days from the last day of combat or hazardous duty service or the last day of any continuous hospitalization for injury incurred in one of the zones or areas.

A. An extension of time for filing will not extend the time for the payment of tax

Any tax, which could reasonably be expected to be due, must be paid with *REV–276, Application for Extension of Time to File*, before the original return due date. No underpayment of tax penalty will be charged if at least 90 percent of the total tax liability was paid by the original due date and all additional tax is paid with the extension on or before the extended due date. However, interest will be imposed on the amount that was not paid by the original due date of the return.

B. Procedures When Applying For An Extension Of Time To File

If a taxpayer has an approved extension to file the federal income tax return and does not owe Pennsylvania personal income tax on the PA-40, Individual Income Tax return, the department will grant the taxpayer an equivalent period to file the PA-40, Individual Income Tax return. In such an instance, the taxpayer does not have to submit *REV–276, Application for Extension of Time to File* or federal Form 4868 before the due date.

If a taxpayer owes income tax on the PA-40, Individual Income Tax return the payment must be submitted with a timely filed *REV–276, Application for Extension of Time to File*. If the taxpayer pays by credit/debit card on or before the original due date of the return, an automatic six-month extension will be granted without having to mail the *REV–276, Application for Extension of Time to File*, to the department. Select one of these options to pay using your credit/debit card:

1. Internet: Go to Official Payments Corporation at www.officialpayments.com; or

2. Telephone: Call 1-800-2PayTAX (1-800-272-9829)

If the taxpayer does not have an extension to file the federal income tax return, the *REV–276, Application for Extension of Time to File,* must be submitted before the original return due date.

The mailing address for *REV–276, Application for Extension of Time to File,* and any applicable payment is:

PENNSYLVANIA DEPARTMENT OF REVENUE
BUREAU OF INDIVIDUAL TAXES
PO BOX 280504
HARRISBURG PA 17128-0504

C. Procedures for Filing a PA–40 Individual Income Tax Return with an Extension of Time to File

- Fill in the extension request oval at the top of the PA–40, Individual Income Tax return.

- If the taxpayer did not file a *REV–276, Application for Extension of Time to File*, a copy of the federal extension Form 4868 must be submitted with the PA-40, Individual Income Tax return.

- If the taxpayer electronically filed the federal extension, submit a statement explaining that an electronic extension was filed with the IRS and include the federal confirmation number.

- If the taxpayer filed *REV–276, Application for Extension of Time to File* or automatically extended the PA-40, Individual Income Tax return with a credit/debit card payment, **do not submit** *REV–276, Application for Extension of Time to File,* with the return.

III. AMENDED RETURN

A. How To File An Amended Return

To file an amended Pennsylvania personal income tax return use the appropriate return for the tax year you are correcting and clearly print *"AMENDED RETURN"* at the top. For the year 1997 and later, be sure to fill-in the amended oval at the top of the front side of the *PA-40, Individual Income Tax return* or *PA-40 EZ, Individual Income Tax return*.

For all tax years, amended returns can be filed using a paper *PA-40, Individual Income Tax return*, regardless of the method used for filing the original return. However, for current tax years, amended returns can also be filed using padirectfile or state only e-file through the date of the October filing deadline regardless of the method of filing the original return. After the October filing deadline, all amended returns must be filed using a paper *PA-40, Individual Income Tax return*, regardless of the method of filing the original return until the next tax year's returns are able to be received by the department.

Beginning with tax year 2011, *Schedule PA-40X,* must be submitted with an amended PA-40, Individual Income Tax return. Schedule PA-40X provides the taxpayer and the department with information about the amended return including the specific line changes, amounts of the changes and reason for the changes. Schedule PA-40X is not a return and cannot be filed without the amended PA-40, Individual Income Tax return.

As a result of the new schedule, the instructions for filing an amended return are different than those for earlier tax years. The instructions to file an amended return for tax years beginning in 2011 are as follows -

1. Fill in the Amended Return oval, and write *"AMENDED RETURN"* at the top of the Pennsylvania tax return.

2. Complete the Schedule PA-40X. Enter the amended amounts from Schedule PA-40X per the PA-40X instructions.

3. Calculate Line 11 amended total Pennsylvania-taxable income.

4. Calculate Line 12 amended Pennsylvania tax liability.

5. Enter Line 24 amended total payments and credits.

6. Complete Line 27 to report any adjusted penalty and interest to be included on the return.

7. DO NOT complete Lines 28 and 29. The department will properly calculate your amended total payment due or overpayment.

8. Complete Lines 30 through 36 to notify the department how to disperse your overpayment.

The department will take your original refund or payment into account when reviewing the amended PA-40, Individual Income Tax return. Be sure to sign your amended return and mail it with all explanations and attachments. Include only those schedules or statements that were amended. Do not include the original return or original schedules.

The instructions to file an amended return for tax years 2010 and prior are as follows -

1. Enter the amounts from the original return that you are not amending.

2. Enter the amended amounts. Explain the reason an amended return is being filed and include only the amended forms or schedules supporting the amended amounts.

3. Calculate the amended total Pennsylvania-taxable income.

4. Calculate the Pennsylvania tax liability. If a refund was received on the original return, add that amount to the Pennsylvania tax liability.

5. Calculate the total credits and payments. If tax was paid with the original return, add that payment to the total credits and payments.

6. Calculate the amended tax due or overpayment. If an overpayment, be sure to complete the lines designating the application of said overpayment.

The department will take the original refund or payment into account when reviewing the amended return. The amended return must be signed.

Refer to PA PIT Guide Chapter 21, Amended Returns.

Amended returns should be mailed to one of the following addresses depending upon the type of return it is -

If you owe tax:
PA DEPT OF REVENUE
PAYMENT ENCLOSED
1 REVENUE PLACE
HARRISBURG PA 17129-0001

If you overpaid:
PA DEPT OF REVENUE
REFUND OR CREDIT REQUESTED
3 REVENUE PLACE
HARRISBURG PA 17129-0003

If you neither owe nor overpaid:
PA DEPT OF REVENUE
NO PAYMENT OR NO REFUND
2 REVENUE PLACE
HARRISBURG PA 17129-0002

B. Underreported Income

If after a return is filed a taxpayer discovers the income was underreported, credits were erroneously claimed or deductions were not allowed, the taxpayer must correct the error within 30 days by completing and filing an amended return and paying the additional tax, applicable penalty, and interest. A summary of interest rates is available on *REV–1611, Notice of Interest Calculations*.

C. Who May Not File an Amended Return

You may not file an amended return after the department issued an assessment if the amendment relates to the same taxable year and the same item of income or gain, deduction or loss involved in the assessment. In this case, you must either -

- File a timely petition for reassessment with the Board of Appeals within 90 days of the mailing date of the assessment, or

- Pay the assessment and file a petition for refund with the Board of Appeals within six months of the mailing date of the notice of assessment, billing notice, or other departmental document.

- You may order the petition, *REV–65*, by calling the Forms Ordering Message Service 1-800-362-2050. See Pennsylvania Department of Revenue e-Services – Board of Appeals Online Petition Center for additional information or to file a petition electronically at **www.boardofappeals.state.pa.us**.

Refer to Miscellaneous Tax Bulletin 2008-01 Practice before the Board of Appeals (Board) pursuant to Article 27 of the Tax Reform Code (Act 119 of 2006).

D. Refunds

If a taxpayer over-reported income or is entitled to credits or deductions not claimed and seeks a refund, the taxpayer must complete and file an amended return within three years from the original or extended due date. Filing an amended return to seek a personal income tax refund is appropriate in situations where a taxpayer is simply correcting a routine error, and when the three-year deadline for filing the amended return is not imminent. Additionally, filing an amended return does not stop the statute of limitations for filing tax refund petitions. If an amended return seeking a refund is denied or not acted upon by the department, a petition for a refund will only be considered by the Board of Appeals so long as it is filed within three years of the payment due date.

To pursue a personal income tax refund near the end of the three-year period from the payment due date or in a more complex scenario – any involving complicated factual, legal or policy issues that may require further documentation – taxpayers are encouraged to timely file a petition for refund with the Board of Appeals. A petition for refund must be filed within three years of the date the tax was paid, (generally the original due date of the return, unless tax was paid with a late filing or paid with the extended filing of the return) in order to be considered. See Pennsylvania Department

of Revenue e-Services – Board of Appeals Online Petition Center for additional information or to file a refund petition electronically at **http://boardofappeals.state.pa.us**.

Refer to Miscellaneous Tax Bulletin 2008-01 Practice before the Board of Appeals (Board) pursuant to Article 27 of the Tax Reform Code (Act 119 of 2006).

IV. PENALTY AND INTEREST

A. Penalties for Not Filing or Filing a Late Return

The department imposes the penalty from the original due date of the return until the date the taxpayer files the return when -

1. A taxpayer does not file the required Pennsylvania personal income tax return on or before the due date, and

2. A taxpayer does not file the required Pennsylvania personal income tax return on or before the date to which the department recognized or granted an extension of time to file.

For each month or fraction of a month the return is late, the department imposes a penalty of 5 percent of the unpaid tax unless the taxpayer can prove reasonable cause for late filing. The maximum penalty is 25 percent of the unpaid or late-paid tax. The minimum penalty that the department will impose is $5. Any person who attempts to evade or defeat the tax may be prosecuted.

B. Interest and Penalties for Nonpayment or for Late Payment of the Tax

If you do not pay the tax due on or before the original due date, interest will be calculated from the date the tax was due and payable to the date of actual payment. The annual interest rate is that rate established by the U.S. Secretary of the Treasury and which is in effect on Jan. 1 of each calendar year. For 2011, the interest rate on both underpayments and overpayments was 3 percent. A summary of interest rates is available on *REV–161, Notice of Interest Calculations*. The Act 46 of 2003 change that pays interest on overpayments on business taxes equal to the rate calculated for underpayments minus 2 percent does not apply to Article III of the Tax Reform Code of 1971. Article III applies to individuals, estates, trusts, partnerships (and their partners' Pennsylvania personal income tax), PA S corporations (and their shareholders' Pennsylvania personal income tax), and employer withholding of Pennsylvania personal income tax.

If you do not pay the full amount of your tax due with your return, a 5 percent underpayment penalty will be imposed.

If you fail to report an amount of taxable income that is more than 25 percent of the taxable income shown on your return, an additional penalty of 25 percent of the tax due on the unreported income will be imposed.

These penalties will be imposed if the underpayment of tax is due to negligence or intentional disregard of rules and regulations but without intent to defraud. If any part of any underpayment of the tax is due to fraud, 50 percent of the underpayment will be added to the tax.

Any taxpayer, who files a return which does not contain sufficient information on which to determine the correct liability or which contains information which indicates the liability is significantly incorrect and the return is filed frivolously or in a manner to delay or impede the administration of the tax law, shall pay a $500 penalty.

Any person required to furnish an information return who furnishes a false or fraudulent return shall be subject to a penalty of $250 for each failure.

You may be assessed both a late filing and underpayment penalty if you file your return after the due date (or extended due date) and do not pay your tax liability with your return.

V. CRIMINAL PENALITIES

A. Criminal Prosecution

In addition to civil penalties you may be subject to criminal prosecution for actions such as -

- Tax evasion;
- Willful failure to file a return, supply information, or pay any tax due;
- Fraud and false statements; or
- Preparing, aiding, and/or assisting in the filing of a fraudulent return.

B. Illegal Income

Illegal income that falls within any of the eight classes of income is subject to Pennsylvania personal income tax. The character or type of income relates where the income will be reported. For instance, a kickback would be identified under compensation while the illegal sale of a drug would either be reported under *PA-40 Schedule C, Profit or Loss from Business or Profession* or *PA-40 Schedule D*, Sale, Exchange or Disposition of Property.

Refer to PA PIT Guide Chapter 11, Net Income (Loss) from the Operation of a Business, Profession or Farm and PA PIT Guide Chapter 12, Net Gains (Losses) from the Sale, Exchange or Disposition of Property.