

# RULES AND REGULATIONS

## Title 4—ADMINISTRATION

### DEPARTMENT OF GENERAL SERVICES

#### [4 PA. CODE CHS. 51, 53 AND 55]

#### Distribution of Federally-Donated Foods to Needy Households

The Department of General Services (Department), acting under sections 506 and 2402.2 of The Administrative Code of 1929 (71 P. S. §§ 186 and 631.1) and section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), rescinds Chapters 51, 53 and 55 to read as set forth in Annex A.

#### *Omission of Proposed Rulemaking*

Public notice of intention to rescind the regulations under the procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) has been omitted for good cause as authorized under section 204(3) of the CDL because the Department finds that these procedures are, under the circumstances, unnecessary. The continuing presence of these obsolete regulations serves no purpose and may, in fact, confuse the public.

#### *Purpose*

Chapters 51, 53 and 55 addressed the procedures and guidelines for the distribution of Federally-donated foods to needy households. The chapters are being rescinded because they are obsolete. The regulations were promulgated in 1964 under the authority of sections 301 and 401 of the County Institution District Law (62 P. S. §§ 2251 and 2301). The responsibility for this program was transferred to the Department of Agriculture under 71 P. S. § 751-28 (Reorganization Plan No. 1 of 1981).

#### *Background*

After the transfer of responsibility under the Reorganization Plan, the Department of Agriculture continued the program of distribution of Federally-donated foods to needy households. The Department used grant agreements with individual county governments (or with designated lead agencies) to prescribe how grant funds were to be used and to define the responsibilities of the parties.

In 1992, the General Assembly formalized the program by enacting the State Food Purchase Program Act (act) (62 P. S. §§ 4041—4049). The act directed the Department of Agriculture to develop rules and regulations. The Department of Agriculture published a proposed rulemaking at 24 Pa.B. 358 (January 15, 1994) and a final-form rulemaking at 24 Pa.B. 5412 (October 29, 1994). See 7 Pa. Code Chapter 160 (relating to State food purchase program).

The 1992 legislation and the 1994 regulations now govern the program transferred to the Department of Agriculture in 1981. Accordingly, the Department rescinds its regulations on the subject.

#### *Fiscal Impact*

There will be no fiscal impact.

#### *Paperwork Requirements*

The final-omitted rulemaking will impose no new or different paperwork requirements.

#### *Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on October 5, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the Senate and House Committees on State Government. On the same date, the final-form rulemaking was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on November 15, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. On October 11, 2006, the Attorney General approved the final-omitted rulemaking. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 16, 2006, and approved the final-omitted rulemaking.

#### *Additional Information*

Individuals interested in further information should contact Mary Benefield Seiverling, Assistant Chief Counsel, Department of General Services, 603 North Office Building, Harrisburg, PA 17125, (717) 772-2749.

#### *Findings*

The Department finds that:

(1) Public notice of intention to rescind the regulations adopted by this order under the procedure in sections 201 and 202 of the CDL was omitted for good cause under the authority in section 204(3) of the CDL because notice, under the circumstances, is unnecessary. The continuing presence of these obsolete regulations served no purpose and may, in fact, have confused the public.

(2) The rescission of the regulations in the manner provided in this order is necessary and appropriate.

#### *Order*

The Department, acting under its statutory authority, orders that:

(a) The regulations of the Department, 4 Pa. Code Chapters 51, 53 and 55, are amended by deleting §§ 51.1—51.7, 53.1, 53.11—53.16, 53.21—53.25, 55.1, 55.2, 55.11—55.15, 55.21, 55.22, 55.31—55.33, 55.41—55.49, 55.51, 55.52, 55.61, 55.62, 55.71—55.73 and 55.81—55.85 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 the Attorney General and the Office of the General Counsel for approval as to the legality and form as required by law.

(c) The Secretary of the Department 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 final publication in the *Pennsylvania Bulletin*.

JAMES P. CREEDON,  
*Secretary*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7353 (December 2, 2006).)

**Fiscal Note:** 8-11. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 4. ADMINISTRATION

## PART III. DEPARTMENT OF GENERAL SERVICES

## Subpart B. (Reserved)

## CHAPTER 51. (Reserved)

## §§ 51.1—51.7. (Reserved).

## CHAPTER 53. (Reserved)

## § 53.1. (Reserved).

## §§ 53.11—53.16. (Reserved).

## §§ 53.21—53.25. (Reserved).

## CHAPTER 55. (Reserved)

## § 55.1. (Reserved).

## § 55.2. (Reserved).

## §§ 55.11—55.15. (Reserved).

## § 55.21. (Reserved).

## § 55.22. (Reserved).

## §§ 55.31—55.33. (Reserved).

## §§ 55.41—55.49. (Reserved).

## § 55.51. (Reserved).

## § 55.52. (Reserved).

## § 55.61. (Reserved).

## § 55.62. (Reserved).

## §§ 55.71—55.73. (Reserved).

## §§ 55.81—55.85. (Reserved).

[Pa.B. Doc. No. 06-2337. Filed for public inspection December 1, 2006, 9:00 a.m.]

## Title 31—INSURANCE

## INSURANCE DEPARTMENT

## [31 PA. CODE CH. 84d]

### Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and the 2001 CSO Preferred Class Structure Mortality Table for Use in Determining Minimum Reserve Liabilities

The Insurance Department (Department) amends Chapter 84d (relating to recognition of the 2001 CSO mortality table for use in determining minimum reserve liabilities and nonforfeiture benefits and the 2001 CSO preferred class structure mortality table for use in determining minimum reserve liabilities) to read as set forth in Annex A. This final-omitted rulemaking is adopted under the authority of sections 206, 506, 1501 and 1502 of The Administrative Code of 1929 (71 P. S. §§ 66, 186, 411 and 412), section 301(c)(1) of The Insurance Department Act of 1921 (40 P. S. § 71(c)(1)) and § 84c.5(a) and (b) (relating to general requirements for basic reserves and premium deficiency reserves).

Notice of proposed rulemaking is omitted in accordance with section 204(3) of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204(3)), known as the Commonwealth Documents Law (CDL). Under section 204(3) of the CDL, notice of proposed rulemaking may be omitted

when the agency for good cause finds that public notice of its intention to amend an administrative regulation is, under the circumstances, impracticable and unnecessary.

#### Purpose

Section 301(c)(1) of The Insurance Department Act of 1921 and § 84c.5(a) and (b) authorize the Commissioner to promulgate regulations specifying new mortality tables adopted after 1980 by the National Association of Insurance Commissioners (NAIC) for use in determining minimum valuation standards. The purpose of this final-omitted rulemaking is to amend Chapter 84d to specify the 2001 CSO Preferred Class Structure Mortality Table as a mortality table that may be used, at the option of the insurer, instead of the 2001 CSO Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007.

The 2001 CSO Preferred Class Structure Mortality Table is a split of the 2001 CSO Mortality Table to separate preferred and standard tables. The table was adopted by the NAIC in September, 2006.

#### Explanation of Regulatory Requirements

The following is a description of the amendments in this final-omitted rulemaking.

The heading of Chapter 84d is amended to read "Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits and the 2001 CSO Preferred Class Structure Mortality Table for Use in Determining Minimum Reserve Liabilities."

Section 84d.2 (relating to definitions) is amended to add definitions of "2001 CSO Preferred Class Structure Mortality Table" and "statistical agent." Various editorial changes were also made to clearly identify the applicable mortality tables.

Section 84d.3 (relating to 2001 CSO mortality table) is amended to clearly identify the applicable mortality table.

Section 84d.3a (relating to 2001 CSO preferred class structure mortality table) is added to allow for the optional use of the 2001 CSO Preferred Class Structure Mortality Table as a minimum valuation standard. Conditions for the use of the table are established. In addition, a requirement for filing statistical reports is added.

#### Affected Parties

This final-omitted rulemaking applies to insurers issuing life insurance coverage in this Commonwealth.

#### Fiscal Impact

*State government.* There will be no increase in cost to the Department due to the use of the new mortality table since the extent of the analysis performed by the Department is not affected by the mortality table used in the calculation of reserves.

*General public.* It is possible that the cost of insurance will be reduced for consumers who purchase life insurance coverage due to improved mortality recognized by the 2001 CSO Preferred Class Structure Mortality Table.

*Political subdivisions.* There will be no fiscal impact on political subdivisions as insurers will continue to maintain adequate reserves. Adequate reserves have the potential to minimize insurer insolvencies that could result in less erosion of the tax base since insurers pay premium taxes on premium income and pay salaries that are taxed.

*Private sector.* The use of the 2001 CSO Preferred Class Structure Mortality Table generally will reduce the reserve liabilities of an insurance company. In addition, the use of the table is optional.

*Paperwork*

The final-omitted rulemaking will not impose additional paperwork on the Department. An insurance company that elects to use the 2001 CSO Preferred Class Structure Mortality Table as the minimum valuation standard will be required to submit an election and annually thereafter a certification to the Commissioner that the conditions for use of the table are satisfied.

*Effectiveness/Sunset Date*

The final-omitted rulemaking will become effective January 1, 2007. No sunset date has been assigned.

*Contact Person*

Questions or comments regarding the final-omitted rulemaking should be addressed in writing to Peter J. Salvatore, Regulatory Coordinator, Insurance Department, 1326 Strawberry Square, Harrisburg, PA 17120, fax (717) 772-1969, psalvatore@state.pa.us.

*Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on October 13, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Insurance and the Senate Committee on Banking and Insurance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on November 15, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. The Attorney General approved the final-omitted rulemaking on October 27, 2006. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 16, 2006, and approved the final-omitted rulemaking.

*Findings*

The Insurance Commissioner finds that:

(1) There is good cause to amend Chapter 84d effective upon publication of this final-omitted rulemaking. Deferral of the effective date of these amendments would be impractical and not serve the public interest. Under section 204(3) of the CDL, there is no purpose to be served by deferring the effective date.

(2) There is good cause to forego public notice of the intention to amend Chapter 84d because notice of the amendments under the circumstances is unnecessary and impractical under section 204(3) of the CDL for the following reasons:

(i) Section 301(c)(1) of The Insurance Department Act of 1921 allows an ordinary mortality table adopted after 1980 by the NAIC, which is approved by regulation promulgated by the Insurance Commissioner, to be used when determining the minimum standard of valuation for policies.

(ii) Public comment is unnecessary because the purpose of this final-omitted rulemaking is to merely recognize a division within an existing and previously promulgated mortality table by preferred and standard categories. Because these tables have already been promulgated, because the life insurance industry is supportive of this division and because the division will benefit both insurance companies (by requiring lower reserve levels) and insurance consumers (by possibly lowering insurance

premiums), public notice of the intention to amend Chapter 84d is unnecessary and impractical.

(iii) In the interest of uniformity with the NAIC's adoption of the divided 2001 CSO Mortality Tables and the NAIC's intent to have these tables be available for the valuation of life insurance policies issued on or after January 1, 2007, there is an immediacy for the need to promulgate this regulation prior to that date.

*Order*

The Insurance Commissioner, acting under the authority in sections 206, 506, 1501 and 1502 of The Administrative Code of 1929, orders that:

(1) The regulations of the Department, 31 Pa Code, Chapter 84d, are amended by amending §§ 84d.2 and 84d.3 and by adding § 84d.3a to read as set forth in Annex A.

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

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

(4) This order shall take effect upon its publication in the *Pennsylvania Bulletin*.

M. DIANE KOKEN,  
*Insurance Commissioner*

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7353 (December 2, 2006).)

**Fiscal Note:** 11-236. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 31. INSURANCE**

**PART VI. LIFE INSURANCE**

**CHAPTER 84d. RECOGNITION OF THE 2001 CSO MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES AND NONFORFEITURE BENEFITS AND THE 2001 CSO PREFERRED CLASS STRUCTURE MORTALITY TABLE FOR USE IN DETERMINING MINIMUM RESERVE LIABILITIES**

**§ 84d.2. Definitions.**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Act*—The Insurance Department Act of 1921 (40 P. S. §§ 1—324).

*Actuarial Standards Board*—The board established by the American Academy of Actuaries, or a successor thereto, to develop and promulgate standards of actuarial practice.

*Commissioner*—The Insurance Commissioner of the Commonwealth.

*2001 CSO Composite Mortality Tables*—The 2001 CSO Mortality Tables with rates of mortality that do not distinguish between smokers and nonsmokers.

*Law*—The Insurance Company Law of 1921 (40 P. S. §§ 341—991)

*NAIC*—The National Association of Insurance Commissioners.

*2001 CSO Smoker and Nonsmoker Mortality Tables*—The 2001 CSO Mortality Tables with separate rates of mortality for smokers and nonsmokers.

*2001 CSO Mortality Table*—The mortality table, consisting of separate rates of mortality for male and female lives, developed by the American Academy of Actuaries CSO Task Force from the Valuation Basic Mortality Table developed by the Society of Actuaries Individual Life Insurance Valuation Mortality Task Force, and adopted by the NAIC in December 2002. The 2001 CSO Mortality Table is included in the *Proceedings of the NAIC (2nd Quarter 2002)*. Unless the context indicates otherwise, the 2001 CSO Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table and includes both the smoker and nonsmoker mortality tables and the composite mortality tables. It also includes both the age-nearest-birthday and age-last-birthday bases of the mortality tables.

*2001 CSO Mortality Table (F)*—The mortality table consisting of the rates of mortality for female lives from the 2001 CSO Mortality Table.

*2001 CSO Mortality Table (M)*—The mortality table consisting of the rates of mortality for male lives from the 2001 CSO Mortality Table.

*2001 CSO Preferred Class Structure Mortality Table*—The mortality tables with separate rates of mortality for Super Preferred Nonsmoker, Preferred Nonsmoker, Residual Standard Nonsmoker, Preferred Smoker and Residual Standard Smoker splits of the 2001 CSO Nonsmoker and Smoker Mortality Tables as adopted by the NAIC at the September 2006 meeting and published in the NAIC minutes for that meeting. Unless the context indicates otherwise, the 2001 CSO Preferred Class Structure Mortality Table includes both the ultimate form of that table and the select and ultimate form of that table. The table includes both the male and female mortality tables and also includes both the age-nearest-birthday and age-last-birthday bases of the mortality table.

*Statistical agent*—An entity with proven systems for protecting the confidentiality of individual insured and company information, demonstrated resources for and history of ongoing electronic communications and data transfer ensuring data integrity with insurance companies, which are its members or subscribers, and a history of and means for aggregation of data and accurate promulgation of the experience modifications in a timely manner.

#### **§ 84d.3. 2001 CSO Mortality Table.**

(a) At the election of the company for any one or more specified plans of insurance and subject to the conditions stated in this chapter, the 2001 CSO Mortality Table may be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on or after January 1, 2004, and before the date specified in subsection (b). If the company elects to use the 2001 CSO Mortality Table, it shall do so for both nonforfeiture and valuation purposes.

(b) Subject to the conditions stated in this chapter, the 2001 CSO Mortality Table shall be used as the minimum nonforfeiture standard and the minimum valuation standard for policies issued on and after January 1, 2009.

(c) For each policy form with separate rates for smokers and nonsmokers a company may use the 2001 CSO Mortality Tables in one of the following ways:

(1) The 2001 CSO Composite Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(2) The 2001 CSO Composite Mortality Tables as the minimum nonforfeiture standard and to determine the minimum reserves required by section 301 of the act (40 P. S. § 71) and the 2001 CSO Smoker and Nonsmoker Mortality Tables as the minimum valuation standard to determine the additional minimum reserves, if any, required by section 303 of the act (40 P. S. § 73).

(3) The 2001 CSO Smoker and Nonsmoker Mortality Tables as the minimum nonforfeiture standard and the minimum valuation standard.

(d) For each policy form without separate rates for smokers and nonsmokers the 2001 CSO Composite Mortality Tables shall be used as the minimum nonforfeiture standard and the minimum valuation standard.

(e) Subject to the restrictions of § 84d.4 (relating to applicability of the 2001 CSO Mortality Table to Chapter 84c (relating to valuation of life insurance policies)) and Chapter 84c (relating to valuation of life insurance policies), the 2001 CSO Mortality Table may, at the option of the company for each policy form, be used in its ultimate or select and ultimate form as the minimum nonforfeiture standard and the minimum valuation standard.

(f) When the 2001 CSO Mortality Table is the minimum reserve standard for any policy form for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Chapter 84b (relating to actuarial opinion and memorandum). The Commissioner may exempt a company from this requirement if it only does business in this Commonwealth.

#### **§ 84d.3a. 2001 CSO Preferred Class Structure Mortality Table.**

(a) At the election of the company, for each calendar year of issue, for any one or more specified plans of insurance and subject to satisfying the conditions stated in this chapter, the 2001 CSO Preferred Class Structure Mortality Table may be substituted in place of the 2001 CSO Smoker or Nonsmoker Mortality Table as the minimum valuation standard for policies issued on or after January 1, 2007. Prior to that election, the company shall demonstrate to the satisfaction of the Commissioner that at least 20% of the business to be valued on this table is in one or more of the preferred classes.

(b) For each policy form with separate rates for preferred and standard nonsmokers, a company may use the Super Preferred Nonsmoker, Preferred Nonsmoker, and Residual Standard Nonsmoker Tables to substitute for the 2001 CSO Nonsmoker Mortality Tables as the minimum valuation standard. At the time of election and annually thereafter, except for business valued using the Residual Standard Nonsmoker Table, the company shall provide the Commissioner a certification from the appointed actuary of the following:

(1) For each class, the present value of death benefits over the next 10 years after the valuation date using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the valuation table used for that class.

(2) For each class, the present value of death benefits over the future life of the contracts using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the valuation table used for that class.

(c) For each policy form with separate rates for preferred and standard smokers, a company may use the Preferred Smoker and Residual Standard Smoker Tables to substitute for the 2001 CSO Smoker Mortality Tables as the minimum valuation standard. At the time of election and annually thereafter for business valued using the Preferred Smoker Table, the company shall provide the Commissioner a certification from the appointed actuary of the following:

(1) The present value of death benefits over the next 10 years after the valuation date using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the Preferred Smoker Table.

(2) The present value of death benefits over the future life of the contracts using anticipated mortality experience without recognition of mortality improvement beyond the valuation date is less than the present value of death benefits using the valuation basic table corresponding to the Preferred Smoker Table.

(d) When the 2001 CSO Preferred Class Structure Mortality Table is the minimum reserve standard for any policy form for a company, the actuarial opinion in the annual statement filed with the Commissioner shall be based on an asset adequacy analysis as specified in Chapter 84b (relating to actuarial opinion and memorandum). The Commissioner may exempt a company from this requirement if it only does business in this Commonwealth.

(e) Unless exempted by the Commissioner, every authorized company using the 2001 CSO Preferred Class Structure Mortality Table shall annually file with the Commissioner, with the NAIC, or with a statistical agent designated by the NAIC and acceptable to the Commissioner, statistical reports showing mortality and such other information as the Commissioner may deem necessary or expedient for the administration of the provisions of this chapter. The form of the reports shall be established by the Commissioner or the Commissioner may require the use of a form established by the NAIC or by a statistical agent designated by the NAIC and acceptable to the Commissioner.

[Pa.B. Doc. No. 06-2338. Filed for public inspection December 1, 2006, 9:00 a.m.]

## Title 49—PROFESSIONAL AND VOCATIONAL STANDARDS

STATE BOARD OF COSMETOLOGY

[49 PA. CODE CH. 7]

### Removal of Term “Manager”

The State Board of Cosmetology (Board) amends Chapter 7. This final-form rulemaking removes the term “manager” and all references to a cosmetology shop manager license from the Board’s regulations to conform them to the changes made to the act of May 3, 1933 (P. L. 242, No. 86) (Act 86) by the act of June 29, 2002 (P. L. 645, No. 98) (Act 98).

#### A. *Effective Date*

This final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin*.

#### B. *Statutory Authority*

Section 11 of Act 86 (63 P. S. § 517) authorizes the Board to promulgate regulations generally for the conduct of persons, copartnerships, associations or corporations affected by Act 86.

#### C. *Background and Need for Final-Form Rulemaking*

The Board’s existing regulations were promulgated under prior language of section 4.4 of Act 86 (63 P. S. § 510.4), dating back to 1976, that required either an owner or a licensed manager employed by the owner to manage a shop. Accordingly, the existing regulations include a manager license classification as well as related provisions addressing licensure and management issues. These regulations consistently refer to the manager and to the prior language of section 4.4 of Act 86 regarding management of shops.

Section 4.4 of Act 86 was amended by the act of October 18, 2000 (P. L. 607, No. 81) to, among other things, limit the need for a licensed shop manager in some circumstances, but that amendment did not eliminate the manager license classification. Subsequently, Act 98 amended section 4.4 of Act 86 again, entirely removing the requirement that a cosmetology shop be managed by the shop’s owner, a licensed manager or a licensed cosmetology teacher. In its place, Act 98 established the requirements that every shop owner designate a person in charge of the shop in the owner’s absence, that the name of the owner or designated person in charge be posted in a conspicuous place in the shop and that the owner or designated person in charge be readily available to Bureau of Professional and Occupational Affairs inspectors during business hours.

Upon implementation of Act 98, the Board eliminated the license category of manager and no longer enforced the provisions of its regulations referring to the manager or the manager license classification. This final-form rulemaking deletes the now obsolete references and addresses the new requirements regarding oversight of a shop by the owner or the designated person in charge.

#### D. *Description of Amendments*

The amendments to §§ 7.1, 7.11(2), 7.12, 7.31(a), 7.32g(c) and 7.128(b) delete the term “manager” or “manager’s.” Similarly, §§ 7.13 and 7.32c and § 7.129(d) (relating to curriculum requirements) are rescinded, as is the second sentence of § 7.45 (related to reexamination if the license is not current for 5 or more years), because these provisions are now obsolete.

In §§ 7.51(a)(2), 7.64(a) and (b) and 7.111(a)(2)(ii)(B) (relating to application for a shop license; responsibilities of shop owner or designated person in charge; and application for a school license), the phrase “the designated person in charge of the shop in the owner’s absence” is substituted for either the term “manager” or for a reference to the individual “managing the shop.” Additionally, in § 7.62 (related to management of cosmetology shop), the final-form rulemaking adds language to subsection (a) establishing the need for the designated person in charge of the shop in the owner’s absence to be a licensee; deletes an obsolete portion of subsection (b); and adds subsections (c) and (d) that vest certain responsibilities in both the owner and the designated person in charge of the shop in the owner’s absence.

### E. Summary of Comments and Responses to Proposed Rulemaking

Proposed rulemaking was published at 36 Pa.B. 1231 (March 18, 2006) followed by a 30-day public comment period. The Board did not receive comments from the general public or from the Senate Consumer Protection and Professional Licensure Committee (SCP/PLC), the House Professional Licensure Committee (HPLC) or the Independent Regulatory Review Commission (IRRC).

### F. Fiscal Impact and Paperwork Requirements

There is no adverse fiscal impact or paperwork requirement imposed on the Commonwealth, political subdivisions or the private sector.

### G. Sunset Date

The Board continuously monitors its regulations. Therefore, no sunset date has been assigned.

### H. Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P. S. § 745.5(a)), on March 8, 2006, the Board submitted a copy of the notice of proposed rulemaking, published at 36 Pa.B. 1231, to IRRC and to the Chairpersons of the HPLC and the SCP/PLC for review and comment.

Under section 5(c) of the Regulatory Review Act, IRRC and the HPLC and the SCP/PLC were provided with copies of the comments received during the public comment period, as well as other documents when requested. In preparing the final-form rulemaking, the Department has considered all comments from IRRC, the HPLC, the SCP/PLC and the public.

Under section 5.1(j.2) of the Regulatory Review Act (71 P. S. § 745.5a(j.2)), on October 3, 2006, the final-form rulemaking was approved by the HPLC. On October 18, 2006, the final-form rulemaking was deemed approved by the SCP/PLC. Under section 5(g) of the Regulatory Review Act, the final-form rulemaking was deemed approved by IRRC, effective October 18, 2006.

### I. Contact Person

Further information may be obtained by contacting Hilarene Staller, Board Administrator, State Board of Cosmetology, P. O. Box 2649, Harrisburg, PA 17105-2649, (717) 783-7130.

### J. Findings

The Board finds that:

(1) Public notice of proposed rulemaking was 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 promulgated thereunder, 1 Pa. Code §§ 7.1 and 7.2.

(2) A public comment period was provided as required by law and no comments were received.

(3) The final-form rulemaking does not enlarge the purpose of the proposed rulemaking published at 36 Pa.B. 1231.

(4) This final-form rulemaking is necessary and appropriate for administering and enforcing the authorizing act identified in this preamble.

### K. Order

The Board, acting under its authorizing statute, orders that:

(a) The regulations of the Board, 49 Pa. Code Chapter 7, are amended by amending §§ 7.1, 7.2, 7.11, 7.12, 7.31, 7.32g, 7.45, 7.51, 7.62, 7.64, 7.111, 7.128 and 7.129 and by deleting §§ 7.13, 7.32c and 7.63 to read as set forth at 36 Pa.B. 1231.

(b) The Board shall submit this order and 36 Pa.B. 1231 to the Office of General Counsel and the Office of Attorney General as required by law.

(c) The Board shall certify this order and 36 Pa.B. 1231 and deposit them with the Legislative Reference Bureau as required by law.

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

SUSAN E. RINEER,  
Chairperson

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 6742 (November 4, 2006).)*

**Fiscal Note:** Fiscal Note 16A-4513 remains valid for the final adoption of the subject regulations.

[Pa.B. Doc. No. 06-2339. Filed for public inspection December 1, 2006, 9:00 a.m.]

## Title 58—RECREATION

### GAME COMMISSION

#### [58 PA. CODE CH. 135]

#### Lands and Buildings

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, adopted an amendment to § 135.107 (relating to Middle Creek Wildlife Management Area).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 36 Pa.B. 3275 (July 1, 2006).

#### 1. Purpose and Authority

Since September goose hunting was initiated, the resident Canada goose population on and in the vicinity of the Middle Creek Wildlife Management Area has declined dramatically. As added evidence of the population decline, hunter success rates in the controlled area at Middle Creek have dropped from 57% in 1996 to 16% in 2005. The Commission believes that it is absolutely necessary to reduce the harvest of resident geese at the Middle Creek Wildlife Management Area to sustain and recover Canada goose populations in the area and preserve the quality of the waterfowl hunting experience in the controlled management area.

An interdisciplinary group met and recommended several administrative and regulatory changes to reduce goose harvests and improve hunting on the controlled area at Middle Creek. Enhanced hunter education and

changes in the management of hunting blinds on the area will be part of the changes implemented for the 2006 season. Also recommended was a reduction from 4 to 3 days in the number of waterfowl shooting days at Middle Creek, eliminating Mondays. Therefore, the Commission has amended § 135.107 to redress evidence of dramatic Canada goose population declines on and in the vicinity of the Middle Creek Wildlife Management Area by reducing the number of waterfowl shooting days at Middle Creek from 4 to 3 days by eliminating Monday hunts.

Section 721(a) of the code (relating to control of property) provides "The administration of all lands and waters owned, leased or otherwise controlled by the commission shall be under the sole control of the Director, and the commission shall promulgate regulations...for its use and protection as necessary to properly manage these lands or waters." Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 135.107 was adopted under this authority.

2. *Regulatory Requirements*

This final-form rulemaking amends § 135.107 to redress evidence of dramatic Canada goose population declines on and in the vicinity of the Middle Creek Wildlife Management Area by reducing the number of waterfowl shooting days at Middle Creek from 4 to 3 days by eliminating Monday hunts.

3. *Persons Affected*

Persons wishing to hunt waterfowl at the Middle Creek Wildlife Management Area on Mondays will be affected by this final-form rulemaking.

4. *Comment and Response Summary*

There were no official comments received regarding this final-form rulemaking.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been 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 adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 135, are amended by amending § 135.107 to read as set forth at 36 Pa.B. 3275.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 3275 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-233 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-2340. Filed for public inspection December 1, 2006, 9:00 a.m.]

**GAME COMMISSION**

**[58 PA. CODE CH. 141]**

**Hunting and Trapping; Protective Material Required**

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, adopted an amendment to § 141.20 (relating to protective material required).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 36 Pa.B. 5783 (September 16, 2006).

1. *Purpose and Authority*

On April 18, 2006, the Commission adopted the seasons and bag limits for the 2006-2007 hunting license year, which includes the much anticipated archery bear season scheduled to take place during the week prior to the traditional Statewide bear season. Despite the successful creation of the archery bear season, the Commission recognizes the need to amend § 141.20 to specifically except the bear archery season from certain fluorescent orange requirements. The Commission intends to treat the archery bear season in a manner similar to the archery deer season. Fluorescent orange is generally not required during the archery deer season. Without this amendment, archery bear hunters will be required to comply with default fluorescent orange requirements, which call for a minimum of 250 square inches of daylight fluorescent orange-colored material on the head, chest and back combined so that it is visible in a 360° arc at all times while hunting. Therefore, the Commission amended § 141.20 to create and accommodate fluorescent orange requirements for the newly created archery bear season. The Commission also took the opportunity to reorganize and reword a few of the subparagraphs in § 141.20 to improve clarity in the regulation.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth." The amendment to § 141.20 was adopted under this authority.

## 2. Regulatory Requirements

The final-form rulemaking amends § 141.20 to create and accommodate fluorescent orange requirements for the newly created archery bear season.

## 3. Persons Affected

Persons wishing to hunt bear in this Commonwealth during the newly created archery bear season will be affected by this final-form rulemaking.

## 4. Comment and Response Summary

There were no official comments received regarding this final-form rulemaking.

## 5. Cost and Paperwork Requirements

The final-form rulemaking should not result in additional cost or paperwork.

## 6. Effective Date

The final-form rulemaking will be effective upon publication in the *Pennsylvania Bulletin* and will remain in effect until changed by the Commission.

## 7. Contact Person

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

## Findings

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been 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 adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

## Order

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.20 to read as set forth at 36 Pa.B. 5783.

(b) The Executive Director of the Commission shall certify this order and 36 Pa.B. 5783 and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective upon final-form publication in the *Pennsylvania Bulletin*.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-234 remains valid for the final adoption of the subject regulation.

[Pa.B. Doc. No. 06-2341. Filed for public inspection December 1, 2006, 9:00 a.m.]

## GAME COMMISSION

### [58 PA. CODE CH. 141]

## Hunting and Trapping; Special Regulations Areas

To effectively manage the wildlife resources of this Commonwealth, the Game Commission (Commission), at its October 3, 2006, meeting, adopted an amendment to § 141.1 (relating to special regulations areas).

The final-form rulemaking will have no adverse impact on the wildlife resources of this Commonwealth.

The authority for the final rulemaking is 34 Pa.C.S. (relating to Game and Wildlife Code) (code).

Notice of proposed rulemaking was published at 36 Pa.B. 5784 (September 16, 2006).

### 1. Purpose and Authority

The Commission is directed by law to use hunting in managing white-tailed deer. The Commission has encouraged and supported hunting as the primary means of managing deer populations by annually making hunting opportunities available, increasing hunter opportunities and providing deer hunters with tools to increase their success. With the recent creation of the "Plan to Reduce Human-Deer Conflicts in Developed Areas," also known as the Urban Deer Management Strategy, this same approach will be used when safe and appropriate in developed areas.

Strategy 1.1.3 of the Urban Deer Management Strategy calls for the use of regulated baiting to increase hunter harvest in developed wildlife management units. In 2004, the Legislature authorized the Commission to regulate the use of bait for deer removal in special regulations areas in southeastern Pennsylvania. While traditional hunting, that is, hunting without bait, is the most economical way to manage deer populations, by allowing the use of bait while hunting there is a potential to increase harvest, hunter success and hunter opportunity in developed areas. Providing this tool in the most developed areas will be beneficial to hunters, urban residents and the Commission's deer management program. Therefore, the Commission amended § 141.1 to permit hunters to use or take advantage of bait while hunting deer within the southeast special regulations area of this Commonwealth.

Section 2102(a) of the code (relating to regulations) provides that "The commission shall promulgate such regulations as it deems necessary and appropriate concerning game or wildlife and hunting or furtaking in this Commonwealth, including regulations relating to the protection, preservation and management of game or wildlife and game or wildlife habitat, permitting or prohibiting hunting or furtaking, the ways, manner, methods and



means of hunting or furtaking, and the health and safety of persons who hunt or take wildlife or may be in the vicinity of persons who hunt or take game or wildlife in this Commonwealth.” The amendment to § 141.1 was adopted under this authority.

2. *Regulatory Requirements*

The final-form rulemaking amends § 141.1 to permit hunters to use or take advantage of bait while hunting deer within the southeast special regulations area of this Commonwealth.

3. *Persons Affected*

Persons wishing to hunt deer within the southeast special regulations area of this Commonwealth may be affected by this final-form rulemaking.

4. *Comment and Response Summary*

Out of a total of 18 comments received concerning this topic, 9 support the lawful use of bait in the southeast special regulations area, 8 oppose the lawful use of bait in the southeast special regulations area and 1 supports limiting the lawful use of bait for the hunting of antlerless deer only.

5. *Cost and Paperwork Requirements*

The final-form rulemaking should not result in additional cost or paperwork.

6. *Effective Date*

The final-form rulemaking will become effective December 26, 2006, and expire on March 31, 2010.

7. *Contact Person*

For further information regarding the final-form rulemaking, contact Richard A. Palmer, Acting Director, Bureau of Wildlife Protection, 2001 Elmerton Avenue, Harrisburg, PA 17110-9797, (717) 783-6526.

*Findings*

The Commission finds that:

(1) Public notice of intention to adopt the administrative amendment adopted by this order has been 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 adoption of the amendment of the Commission in the manner provided in this order is necessary and appropriate for the administration and enforcement of the authorizing statute.

*Order*

The Commission, acting under authorizing statute, orders that:

(a) The regulations of the Commission, 58 Pa. Code Chapter 141, are amended by amending § 141.1 to read as set forth in Annex A.

(b) The Executive Director of the Commission shall certify this order and Annex A and deposit them with the Legislative Reference Bureau as required by law.

(c) This order shall become effective December 26, 2006, and expire March 31, 2010.

CARL G. ROE,  
*Executive Director*

**Fiscal Note:** Fiscal Note 48-235 remains valid for the final adoption of the subject regulation.

**Annex A**

**TITLE 58. RECREATION**

**PART III. GAME COMMISSION**

**CHAPTER 141. HUNTING AND TRAPPING**

**Subchapter A. GENERAL**

**§ 141.1. Special regulations areas.**

(a) *Name.* The areas shall be known and referred to as special regulations areas.

(b) *Descriptions.*

(1) *Southwest area.* Includes the County of Allegheny.

(2) *Southeast area.* Includes the Counties of Bucks, Montgomery, Chester, Delaware and Philadelphia and also includes Tyler and Ridley Creek State Parks and other publicly-owned lands therein.

(c) *Prohibitions.*

(1) Except as provided in subsection (d), it is unlawful to take, kill or attempt to take or kill wildlife through the use of a firearm of any description which discharges single-projectile ammunition, or, while hunting for wild birds or wild animals, to possess single-projectile ammunition, except for employees of political subdivisions and other persons who have a valid deer control permit issued under the authority of Chapter 29 of the act (relating to special licenses and permits).

(2) It is unlawful to use buckshot in Allegheny or Philadelphia Counties without specific authorization of the Director.

(d) *Permitted acts.* It is lawful to:

(1) Except in Philadelphia County, Ridley Creek State Park, Delaware County and Tyler State Park, Bucks County, hunt and kill deer through the use of a muzzleloading long gun or a shotgun, at least .410 gauge (rifled barrels permitted), including semiautomatics which, upon discharge, propel a single projectile.

(2) Take deer with a shotgun 20 gauge or larger—including semiautomatic—using buckshot in the Southeast area only.

(3) Take small game, furbearing animals, crows or wildlife with a manually operated rimfire rifle or handgun .22 caliber or less.

(4) Kill an animal legally caught in a trap with a manually operated rimfire rifle or handgun .22 caliber or less while trapping.

(5) Hunt or take deer on private lands only in the southeast area through the use of or by taking advantage of bait.

(i) Bait may be placed or distributed 2 weeks prior to the opening of the first deer season through the close of the last deer season in each wildlife management unit.

Bait accumulation in any one location may not exceed 5 gallons total volume at a given time.

(ii) This paragraph became effective December 26, 2006, and expires March 31, 2010, unless the Commission authorizes its continued legal effectiveness prior to March 31, 2010.

[Pa.B. Doc. No. 06-2342. Filed for public inspection December 1, 2006, 9:00 a.m.]

## Title 61—REVENUE

### DEPARTMENT OF REVENUE

#### [61 PA. CODE CH. 11]

#### Organ and Bone Marrow Donor Tax Credit

The Secretary of Revenue (Secretary), under section 506 of The Administrative Code of 1929 (71 P. S. § 186) and sections 3 and 4 of the Organ and Bone Marrow Donor Act (act) (35 P. S. §§ 6120.3 and 6120.4), adds Chapter 11 (relating to organ and bone marrow donor tax credit) to read as set forth in Annex A. The Department of Revenue (Department) is adopting this final-omitted rulemaking to facilitate its responsibilities under sections 3(b)(1) and 4 of the act.

Because of time constraints associated with this statutory change for Pennsylvania taxpayers in the current fiscal year, the Department, under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), and the regulation thereunder, 1 Pa. Code § 7.4 (relating to omission of notice of proposed rulemaking), finds that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

The Department's justification for utilizing the final-omitted rulemaking process is that it is in the public interest to implement by January 1, 2007, the regulation for the organ and bone marrow donor tax credit. The timely adoption of this regulation will provide multistate taxpayers a method to apportion the credit available to be applied against their 2006 tax liabilities.

#### *Purpose of Final-Omitted Rulemaking*

This final-omitted rulemaking implements a regulation to reflect a statutory change made by the Legislature that created the organ and bone marrow donor tax credit.

#### *Explanation of Regulatory Requirements*

The Department is adding Chapter 11 to implement the organ and bone marrow donor tax credit under section 4 of the act.

#### *Fiscal Impact*

The Department has determined that the final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth.

#### *Paperwork*

The final-omitted rulemaking will not generate substantial paperwork for the public or the Commonwealth.

#### *Effectiveness/Sunset Date*

The final-omitted rulemaking will be effective upon publication in the *Pennsylvania Bulletin*. The regulation is scheduled for review within 5 years of publication. No sunset date has been assigned.

#### *Contact Person*

The contact person for an explanation of the final-omitted rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

#### *Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on October 18, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulation was submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on November 15, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 16, 2006, and approved the final-omitted rulemaking.

#### *Findings*

The Department finds that the regulation is necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the CDL, the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this regulation that reduces the burden to the taxpayer.

#### *Order*

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

(a) The regulations of the Department, 61 Pa. Code, are amended by adding § 11.1 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and 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*.

GREGORY C. FAJT,  
*Secretary*

*(Editor's Note: For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7358 (December 2, 2006).)*

**Fiscal Note:** 15-440. No fiscal impact; (8) recommends adoption.

**Annex A**

**TITLE 61. REVENUE**

**PART I. DEPARTMENT OF REVENUE**

**Subpart A. GENERAL PROVISIONS**

**CHAPTER 11. ORGAN AND BONE MARROW  
DONOR TAX CREDIT**

Sec.  
11.1. Organ and bone marrow donor tax credit.

**§ 11.1. Organ and bone marrow donor tax credit.**

(a) *Applicable taxes.* The Organ and Bone Marrow Donor Act (35 P. S. §§ 6120.1—6120.6) provides for an organ or bone marrow donor tax credit to be claimed by a business firm against the taxes imposed under Article III, IV, VI, VII, VIII or XV of the Tax Reform Code of 1971.

(b) *Apportionment of credit of multistate business firms.* The organ or bone marrow donor tax credit that may be claimed against the taxes in subsection (a) by a business firm subject to tax in more than one state shall be apportioned to Pennsylvania by multiplying the credit by a fraction, the numerator of which is the total amount paid in this Commonwealth during the tax period by the business firm for compensation and the denominator of which is the total compensation paid everywhere during the tax period.

[Pa.B. Doc. No. 06-2343. Filed for public inspection December 1, 2006, 9:00 a.m.]

**DEPARTMENT OF REVENUE  
[61 PA. CODE CHS. 141—148]**

**School District Personal Income Tax**

The Department of Revenue (Department), under section 5004.1 of the Taxpayer Relief Act (act) (53 P. S. § 6296.5004.1), adds Article V-A (relating to school district personal income tax) to read as set forth in Annex A. The act went into effect June 27, 2006, and requires that the regulations be adopted before a board of school directors can submit a referendum question regarding the implementation of a personal income tax for voter approval at the primary election of 2007. See section 331.2 of the act (53 P. S. § 6926.331.2).

*Purpose of Final-Omitted Rulemaking*

The act requires the Department to adopt a final-omitted rulemaking necessary for the implementation of a school district personal income tax by school districts in this Commonwealth.

*Explanation of Regulatory Requirements*

Article V-A establishes uniform rules for the levy, implementation, administration, assessment and collection of the school district personal income tax.

*Fiscal Impact*

The Department has determined that the final-omitted rulemaking will have no adverse fiscal impact on the Commonwealth.

*Paperwork*

The final-omitted rulemaking will not generate substantial paperwork for the public or the Commonwealth.

*Effectiveness/Sunset Date*

The final-omitted rulemaking will become effective upon publication in the *Pennsylvania Bulletin*. The final-omitted rulemaking is scheduled for review within 5 years of publication. No sunset date has been assigned.

*Contact Person*

The contact person for an of the final-omitted rulemaking is Mary R. Sprunk, Office of Chief Counsel, Department of Revenue, Dept. 281061, Harrisburg, PA 17128-1061.

*Regulatory Review*

Under section 5.1(a) of the Regulatory Review Act (71 P. S. § 745.5a(a)), on October 11, 2006, the Department submitted a copy of the final-omitted rulemaking and a copy of a Regulatory Analysis Form to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. On the same date, the regulations were submitted to the Office of Attorney General for review and approval under the Commonwealth Attorneys Act (71 P. S. §§ 732-101—732-506).

Under section 5.1(j.2) of the Regulatory Review Act, on November 15, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act, IRRC met on November 16, 2006, and approved the final-omitted rulemaking.

*Findings*

The Department finds that the regulations are necessary and appropriate for the administration and enforcement of the authorizing statute. Under section 204 of the act of July 31, 1968 (P. L. 769, No. 240) (45 P. S. § 1204), known as the Commonwealth Documents Law (CDL), the Department also finds that the proposed rulemaking procedures in sections 201 and 202 of the CDL (45 P. S. §§ 1201 and 1202) are unnecessary because it is in the public interest to expedite this final-omitted rulemaking that reduces the burden to the taxpayer.

*Order*

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

(a) The regulations of the Department, 61 Pa. Code, are amended by adding §§ 141.1, 141.2, 142.1, 142.2, 143.1—143.7, 144.1—144.3, 145.1—145.6, 146.1—146.3, 147.1—147.3 and 148.1 to read as set forth in Annex A.

(b) The Secretary shall submit this order and Annex A to the Office of General Counsel and 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*.

GREGORY C. FAJT,  
Secretary

*(Editor's Note:* For the text of the order of the Independent Regulatory Review Commission, relating to this document, see 36 Pa.B. 7353 (December 2, 2006).)

**Fiscal Note:** 15-439. No fiscal impact; (8) recommends adoption.

## Annex A

## TITLE 61. REVENUE

## PART I. DEPARTMENT OF REVENUE

## Subpart B. GENERAL FUND REVENUES

## ARTICLE V-A. SCHOOL DISTRICT PERSONAL INCOME TAX

Chap.	
141.	GENERAL PROVISIONS
142.	TAX, IMPOSITION AND RATE
143.	TAX PAYMENTS
144.	TAX CREDITS
145.	TAX RETURNS
146.	ADMINISTRATION AND COLLECTION
147.	INTEREST, PENALTIES AND COSTS OF COLLECTION
148.	TAX APPEALS

## CHAPTER 141. GENERAL PROVISIONS

Sec.	
141.1.	Scope.
141.2.	Definitions.

## § 141.1. Scope.

The Department promulgates this article for the purpose of providing uniform rules for the levy, implementation, administration, assessment and collection of the school district personal income tax authorized by the act. This article applies to any school district imposing a school district personal income tax and other persons subject to the act.

## § 141.2. Definitions.

The following words and terms, when used in this article, have the following meanings, unless the context clearly indicates otherwise.

*Act*—The Taxpayer Relief Act (53 P. S. §§ 6926.101—6926.5006).

*Adjusted Pennsylvania taxable personal income*—The sum of a taxpayer's Pennsylvania personal income, taking into account allowable statutory reductions, required to be reported to the Department on the taxpayer's Pennsylvania Personal Income Tax return for a taxable year.

*Allowable statutory reduction*—Any item of loss used to compute a net class of Pennsylvania personal income or a deduction authorized under section 303 of the TRC (72 P. S. § 7303) or other law that reduces Pennsylvania personal income.

*Board*—A "board of school directors" as defined in section 302 of the act (53 P. S. § 6926.302).

*Compensation*—Compensation as defined in section 303 of the TRC and this title.

*Department regulations or regulations*—Regulations promulgated by the Department and published under this title.

*Individual*—

- (i) A natural person.
- (ii) The term does not include a trust or decedent's estate.

*Local Tax Enabling Act*—53 P. S. §§ 6901—6923.

*Payroll period*—A period of service for which a payment of compensation is ordinarily made. The period may be daily, weekly, biweekly, semimonthly, monthly, quarterly, semiannually or annually.

*Pennsylvania Personal Income Tax*—The tax imposed under Article III of the TRC (72 P. S. §§ 7301—7359).

*Pennsylvania Personal Income Tax return*—The return that is required to be made and filed with the Department under section 330 of the TRC (72 P. S. § 7330).

*Pennsylvania personal income*—The classes of income enumerated in section 303 of the TRC and defined in Article III of the TRC and applicable Department regulations from whatever source derived, including any income of members or shareholders of partnerships, associations or Pennsylvania S corporations as provided under sections 306 and 307.8 of the TRC (72 P. S. §§ 7306 and 7307.8) and applicable Department regulations, but not including income taxable to a trust or estate as provided for under Chapter 105 (relating to estates and trusts).

*Resident individual*—

(i) An individual domiciled in a school district during the individual's taxable year.

(ii) The term excludes a statutory resident and includes a statutory nonresident.

*School district*—A "school district" as defined in section 302 of the act.

*School district personal income tax*—A tax that a board of a school district levies under section 321(c) of the act (53 P. S. § 6926.321), regarding general tax authorization.

*Statutory resident*—An individual who is not domiciled in this Commonwealth but is considered a resident of this Commonwealth for Pennsylvania Personal Income Tax purposes because the individual maintains a permanent place of abode in this Commonwealth and spends in the aggregate more than 183 days of the taxable year in this Commonwealth.

*Statutory nonresident*—An individual who is domiciled in this Commonwealth but for Pennsylvania Personal Income Tax purposes is considered a nonresident of this Commonwealth because the individual maintains no permanent place of abode in this Commonwealth but maintains a permanent place of abode elsewhere and spends in the aggregate not more than 30 days of the taxable year in this Commonwealth.

*Tax collector*—A person that the board of a school district designates as the collector of any school district personal income tax imposed by the school district.

*Taxable year*—A taxable year as defined in the TRC.

*Taxpayer*—A person that is subject to a school district personal income tax.

## CHAPTER 142. TAX, IMPOSITION AND RATE

Sec.	
142.1.	Tax and imposition.
142.2.	Tax rate.

## § 142.1. Tax and imposition.

(a) The school district personal income tax is a tax at the rate prescribed in § 142.2 (relating to tax rate) levied on the income as described in subsection (b) that a resident individual receives during the resident individual's taxable year. A taxpayer who is a resident individual of more than one school district that imposes a school district personal income tax during the taxpayer's taxable year is subject to the school district personal income tax of each school district.

(b) A taxpayer's income subject to tax under subsection (a) is the taxpayer's adjusted Pennsylvania taxable personal income, subject to the provisions of subsection (c).

(c) The income subject to tax of a taxpayer who is a resident individual of a school district for only a portion of the taxpayer's taxable year shall be an amount equal to the taxpayer's adjusted Pennsylvania taxable personal income multiplied by a fraction the numerator of which is the number of calendar months during the taxable year that the individual is a resident individual of the school district and the denominator of which shall be 12. A taxpayer shall include in the numerator any calendar month during which the taxpayer is a resident individual for more than half the calendar month. A day that a taxpayer's domicile changes shall be included as a day the individual is in the new domicile and not the old domicile. If the number of days that a taxpayer is a resident of the new domicile and a resident of the old domicile in a calendar month are equal, the calendar month shall be included in calculating the number of months in the new domicile.

*Example 1.* A calendar year taxpayer changes domicile from one Commonwealth school district to another on September 20th. September is a month during the calendar year containing 30 days. Because the taxpayer changed domicile on the 20th day of the calendar month, the day is included as a day in the new domicile instead of the old domicile. Therefore, taxpayer was domiciled in the old domicile for 19 days and the new domicile for 11 days. Because the taxpayer was in the old domicile for more than half the month of September, the taxpayer is considered a resident individual of the old domicile during September. For purposes of calculating the fraction numerator, taxpayer is a resident individual of the old domicile from January to September (9 months) and the new domicile from October to December (3 months).

*Example 2.* The facts in this example are the same as Example 1, except the taxpayer changes his domicile on September 16. Because September 16 is included as a day in the new domicile, the taxpayer was a resident individual for 15 days in both the old and new domicile during September. Therefore, September is included as a calendar month in the new domicile. For purposes of calculating the fraction numerator, taxpayer is a resident individual of the old domicile from January to August (8 months) and the new domicile from September to December (4 months).

**§ 142.2. Tax rate.**

(a) The board shall establish for its fiscal year the school district personal income tax rate under the provisions of and subject to the limitations contained in the act.

(b) If the tax rate changes during a taxpayer's taxable year, the taxpayer's income subject to tax as determined under § 142.1 (relating to tax and imposition) shall be apportioned by multiplying the income by a fraction, the numerator of which must be the number of months in taxpayer's taxable year prior to the effective date of the tax rate change and the denominator of which must be the number of month's in the taxpayer's taxable year. The product must be the taxpayer's income subject to the tax rate before the rate change. The difference between the product and the taxpayer's income subject to tax as determined under § 142.1 must be the income subject to the tax rate after the rate change.

**CHAPTER 143. TAX PAYMENTS**

Sec.	
143.1.	Liability for payment.
143.2.	Payment.
143.3.	Receipt of payments.
143.4.	Tax due date.
143.5.	Employer withholding.
143.6.	Estimated tax declarations and installment payments.
143.7.	Overpayment carryover.

**§ 143.1. Liability for payment.**

Each taxpayer subject to a school district personal income tax is liable for and responsible to pay the tax.

**§ 143.2. Payment.**

(a) *Location.* The payment of any school district personal income tax shall be made to the tax collector for the school district imposing the tax.

(b) *Types of payments.* The board of a school district may prescribe the means by which a school district personal income tax payment may be made, including cash, check, draft, money order, certified or cashier's check, credit or debit card or electronic funds transfer.

(c) *Conditional payments.* Acceptance of a check, draft, money order, certified check or cashier's check is a conditional payment until honored by the drawee.

(d) *Returned or rejected payments.* If a taxpayer or other person makes what purports to be a payment of school district personal income tax with a check, money order, cashier's check (or other guaranteed draft), credit card or debit card or by other means and the amount of the liability is not paid, or is paid and subsequently charged back to the payee, the taxpayer shall remain liable for the obligation due the school district to the same extent as if the payment had not been tendered.

**§ 143.3. Receipt of payments.**

For purposes of determining when a school district personal income tax payment is made and credited to a taxpayer's account, a tax payment is deemed to be made on the date the tax collector responsible for collecting the tax receives the payment or the due date for the payment, whichever is later.

**§ 143.4. Tax due date.**

The school district personal income tax of each taxpayer for the taxable year shall be due on the date that taxpayer is required to file the return for the personal income subject to tax, without regard to any extensions.

**§ 143.5. Employer withholding.**

(a) An employer who maintains an office or transacts business within a school district shall deduct and withhold school district personal income tax from the compensation of each employee of the employer under the following conditions:

- (1) The employee is a resident individual of the school district.
- (2) The employee provides services to the employer within the school district.
- (3) The employer is required under section 316 of the TRC (72 P. S. § 7316) to deduct and withhold Pennsylvania Personal Income Tax from the compensation of the employee.

(b) The school district personal income tax required to be deducted and withheld under subsection (a) shall be deducted and withheld for each payroll period in an amount equal to the product of the following:

(1) The school district personal income tax rate for the school district where the employer maintains an office or transacts business that is in effect during the payroll period, which rate can be found on the Department of Community and Economic Development's Local Tax Withholding Register as established under section 351(c)—(e) of the TRC (72 P. S. § 7351(c)—(e)), regarding tax registers and local tax withholding registers.

(2) The compensation paid for the payroll period.

(c) Every employer required to deduct and withhold from compensation under subsection (a) who has not previously registered, shall within 15 days after becoming an employer, register with the tax collector for the school district where the employer maintains an office or transacts business, the name and address and other information the tax collector may require.

(d) Every employer required to deduct and withhold from the compensation of a person under subsection (a) shall on or before April 30, July 31, October 31 and January 31, file a return for and remit to the tax collector for the school district where the employer maintains an office or transacts business the amount of school district personal income tax deducted and withheld during the preceding 3-month periods ending March 31, June 30, September 30, and December 31, respectively. The information to be provided on the return must include:

(1) The name and Social Security number of each person from whose compensation withholding was made.

(2) The compensation subject to withholding during the preceding 3-month period.

(3) The amount of withholding.

(4) The school districts imposing the school district personal income tax on the compensation.

(5) The total compensation of all persons from whom the employer is required to withhold during the preceding 3-month period.

(6) The total school district personal income tax withheld and remitted with the return.

(e) The tax collector may require any employer who for two of the preceding four quarterly periods has failed to deduct and withhold the proper school district personal income tax, or any part thereof, or has failed to remit the proper amount of the school district personal income tax, to file a return and remit the withheld school district personal income tax monthly. In that case, the school district personal income tax to be withheld shall be made to the tax collector on or before the last day of the month succeeding the month for which the tax was withheld.

(f) On or before February 28, of the succeeding year, every employer required to withhold school district personal income tax under subsection (a) shall file the following with the tax collector:

(1) An annual return showing:

(i) The total amount of compensation paid and subject to withholding.

(ii) The total amount of school district personal income tax deducted and withheld from the compensation.

(iii) The total amount of school district personal income tax remitted to the tax collector for the period beginning January 1, of the current year, and ending December 31, of the current year.

(2) A return withholding statement for each person whose compensation was subject to withholding during all or any part of the period beginning January 1, of the current year, and ending December 31, of the current year, setting forth the name, address and Social Security number, the amount of compensation paid to the person during the period, the amount of school district personal income tax deducted and withheld, the political subdivisions imposing the tax upon the person and the amount of tax remitted to the tax collector. Every employer shall furnish two copies of the individual return to the person for whom it is filed.

(g) Every employer who discontinues business prior to December 31, of the current year, shall within 30 days after the discontinuance of business, file the returns and withholding statements required under this section and remit the tax due.

(h) An employer who willfully or negligently fails to deduct, withhold and remit the school district personal income tax as required under this section shall be liable for payment of the school district personal income tax that the employer was required to withhold to the extent that the taxes have not been recovered from the person from whom the withholding was to be made.

(i) Notwithstanding the provisions of this section, an employer may deduct and withhold school district personal income tax at the most recently available school district personal income tax rate on the Department of Community and Economic Development's Tax Register as established under section 351(b) of the act (53 P. S. § 6926.351(b)). Further, an employer is not required to deduct and withhold school district personal income tax from the compensation of a resident individual or make reports of compensation deducted and withheld in connection with a school district personal income tax that is not officially released on the Department of Community and Economic Development's Local Withholding Tax Register as prescribed in section 351 of the act.

(j) The failure or omission of an employer to deduct, withhold and remit the school district personal income tax required under this section does not relieve any person from the payment of the school district personal income tax or from complying with the filing requirements of this article.

(k) Nothing in this section shall be construed to prohibit an employer from voluntarily deducting and withholding school district personal income tax from the compensation of a person who is subject to school district personal income tax but is not a resident individual of the school district in which the employer maintains an office or transacts business and to which the person reports to work. If an employer voluntarily deducts and withholds school district personal income tax from a person, the employer shall remit the tax and file the returns and reports required under subsections (d) and (f) with the tax collector for the school district where the person is a resident individual.

#### **§ 143.6. Estimated tax declarations and installment payments.**

(a) Every taxpayer shall make a declaration and installment payments of estimated school district personal income tax if the taxpayer's estimated school district personal income tax exceeds the dollar limitation contained in section 325 of the TRC (72 P. S. § 7325) for making a declaration of Pennsylvania Personal Income Tax.

(b) Estimated school district personal income tax means a taxpayer's school district personal income tax liability as prescribed under Chapter 142 (relating to tax, imposition and rate), less any credit to which the taxpayer may be entitled under § 144.3 (relating to employer withholding credit), that the taxpayer reasonably estimates to be due for the taxable year.

(c) The declaration and installment payments of estimated school district personal income tax shall be made to the tax collector for the school district at the time prescribed for the declaration and payment of earned income tax not subject to withholding under section 13-III of The Local Tax Enabling Act (53 P. S. § 6913-III).

(d) The board of a school district that imposes a school district personal income tax shall prescribe the information to be reported on the declaration required under this section and the means by which installment payments are to be made, provided that if an amended declaration is filed, any remaining unpaid installments shall be ratably increased or decreased to reflect the increase or decrease on the amended declaration. The board or its designee shall determine the format for the declaration and make necessary arrangements for the production of the declaration and dissemination to taxpayers.

(e) Notwithstanding the provisions of subsection (c), estimated school district personal income tax installment payments are payments of school district personal income tax to which § 143.3 (relating to receipt of payments) applies.

**§ 143.7. Overpayment carryover.**

(a) A taxpayer who has overpaid the school district personal income tax for a taxable year may have the overpayment carried forward and credited against the school district personal income tax liability for the following taxable year.

(b) The overpayment that is credited under this section is considered a payment of tax under this chapter as opposed to a tax credit and may be refunded as provided under § 146.3 (relating to refunds).

(c) An overpayment that is credited under this section may be used to satisfy a taxpayer's estimated school district personal income tax liability under § 143.6 (relating to estimated tax declarations and installment payments).

**CHAPTER 144. TAX CREDITS**

Sec.	
144.1.	Payment of tax to other political subdivisions or states.
144.2.	Poverty credit.
144.3.	Employer withholding credit.

**§ 144.1. Payment of tax to other political subdivisions or states.**

(a) A taxpayer is entitled to a credit against the school district personal income tax as prescribed under section 14 of The Local Tax Enabling Act (53 P. S. § 6914), regarding payment of tax to other political subdivisions or states as credit or deduction and withholding tax.

(b) Notwithstanding subsection (a), a taxpayer will not be allowed a credit against the school district personal income tax for any tax imposed by any state or political subdivision located outside this Commonwealth.

**§ 144.2. Poverty credit.**

A taxpayer may claim the same percentage of tax forgiveness that a taxpayer is entitled to claim as a credit against the Pennsylvania Personal Income Tax liability as provided for under section 304 of the TRC (72 P. S. § 7304) against the school district personal income tax.

*Example.* If a taxpayer is eligible to claim 90% tax forgiveness of his Pennsylvania Personal Income Tax, the taxpayer is eligible to claim 90% tax forgiveness against his school district personal income tax.

**§ 144.3. Employer withholding credit.**

Any amount actually withheld under § 143.5 (relating to employer withholding) shall be allowed to the recipient of the compensation subject to withholding as a credit against the school district personal income tax liability for the taxable year in which the withholding is made.

**CHAPTER 145. TAX RETURNS**

Sec.	
145.1.	Date and place of filing.
145.2.	Extensions.
145.3.	Form.
145.4.	Joint returns.
145.5.	Returns by persons other than taxpayer.
145.6.	Amended returns.

**§ 145.1. Date and place of filing.**

(a) A taxpayer who during any part of a taxable year is a resident individual of a school district imposing a school district personal income tax shall file a school district personal income tax return with the tax collector for the school district on or before the date when the taxpayer is required to file the taxpayer's Pennsylvania Personal Income Tax return.

(b) A taxpayer who during the taxpayer's taxable year is a resident individual of more than one school district that imposes a school district personal income tax shall comply with subsection (a) for each school district.

**§ 145.2. Extensions.**

(a) A taxpayer who has an extension for filing the Pennsylvania Personal Income Tax return shall have a commensurate extension for filing a school district personal income tax return. To be entitled to the extension under this section, a taxpayer is required to provide proof of the Pennsylvania extension to the tax collector. Adequate proof includes a copy of the completed Pennsylvania application for extension of time to file, or in the event a taxpayer has an extension to file a Pennsylvania Personal Income Tax return based upon an approved extension for filing a Federal Income Tax return, a copy of the completed Federal extension request form.

(b) If a taxpayer has been denied or does not have an extension to file the taxpayer's Pennsylvania Personal Income Tax return, a tax collector may grant an extension for the filing of a school district personal income tax return upon written request from the taxpayer. The tax collector shall establish the form, if any, required for the submission of a request for an extension. The tax collector shall give a taxpayer written notice of the approval or denial of the extension request. An extension may not be longer than 6 months.

**§ 145.3. Form.**

(a) The board or a designee shall determine the format for the return and make necessary arrangements for the production of the return and dissemination to taxpayers.

(b) The board of the school district imposing a school district personal income tax shall prescribe the information to be included on the school district personal income tax return and the manner and place for filing. At a minimum, the return must contain the following information:

- (1) The taxpayer's personal information including:
    - (i) Name.
    - (ii) Address.
    - (iii) Social Security number.
  - (2) The taxpayer's income as described in § 142.1(b) (relating to tax and imposition).
  - (3) A calculation of the school district personal income tax.
  - (4) The tax credits as provided in Chapter 144 (relating to tax credits).
  - (5) The tax payments made before or with the filing of the return, including estimated installment payments as described in § 143.6 (relating to estimated tax declarations and installment payments).
  - (6) A calculation of the balance of tax due after credits and payments, including a tax underpayment or overpayment.
  - (7) An overpayment to be refunded or credited.
  - (8) The signature of the taxpayer filing the return, or the person filing a return in the case of returns filed by persons other than the taxpayer under § 145.5 (relating to returns by persons other than taxpayer).
  - (9) The name, address and telephone number of any person preparing the return on behalf of the taxpayer.
- (c) A return must allow for the filing of a joint return so that each taxpayer filing the joint return can return the information required in subsection (a) separately. See § 145.4 (relating to joint returns) for joint return requirements.
- (d) A return must allow a taxpayer to apportion personal income during different parts of the taxable year so that the different tax rates may be applied as provided in § 142.2(b) (relating to tax rate).

#### § 145.4. Joint returns.

The board of the school district imposing a school district personal income tax may authorize spouses to file joint returns under rules the board prescribes, subject to the following requirements:

- (1) If spouses file a joint return, their tax liability shall be joint and several.
- (2) Spouses filing a joint return may not offset one spouse's losses in a taxable class of income with the gain of the other spouse from any taxable class of income.
- (3) Spouses with different taxable years or who reside in different school districts may not file a joint return.

#### § 145.5. Returns by persons other than taxpayer.

Department regulations relating to Pennsylvania Personal Income Tax returns filed on behalf of deceased individuals, minors and taxpayers with disabilities and returns made by agents apply for purposes of the return for school district personal income tax. See §§ 117.3, 117.4 and 117.6 (relating to deceased individuals; minor or other disability; and returns made by agents).

#### § 145.6. Amended returns.

(a) Subject to the provisions of subsection (b), a taxpayer may file an amended school district personal income tax return to correct errors contained in an original return or amended return. A board shall prescribe rules relating to filing amended returns.

(b) A taxpayer's adjusted Pennsylvania taxable personal income as reported to, determined, adjusted or assessed by the Department is within the jurisdiction of the Department and cannot be affected by the filing of an amended school district personal income tax return. Amendments to adjusted Pennsylvania taxable personal income shall be made to the Department on an amended Pennsylvania Personal Income Tax return as prescribed for the returns by Department regulation.

### CHAPTER 146. ADMINISTRATION AND COLLECTION

Sec.	
146.1.	Tax collector powers and duties.
146.2.	Access to Department returns and records.
146.3.	Refunds.

#### § 146.1. Tax collector powers and duties.

(a) The tax collector is responsible to administer, receive, assess and collect the school district personal income tax levied by a board under the act.

(b) Subject to subsection (c), a tax collector shall have all the same powers, rights, responsibilities and duties for the collection of the school district personal income tax that are available for the collection of municipal taxes that may be imposed by law, including taxes imposed under the following:

- (1) The Local Tax Enabling Act.
- (2) Title 53 of *Pennsylvania Consolidated Statutes* §§ 8421—8438 (relating to the Local Taxpayer Bill of Rights Act).
- (3) As otherwise provided by law.

(c) A tax collector is required to accept a taxpayer's adjusted Pennsylvania taxable personal income subject to timely Department determination and adjustment or assessment for which all appeals have been exhausted.

(d) A tax collector may disclose to or allow the Department to examine school district personal income tax returns, records, documents or information of a taxpayer within the tax collector's possession, whether obtained through audit or otherwise, for purposes of carrying out the tax collector's powers and duties under this section. Any disclosures under this subsection qualify as a disclosure for official purposes under 53 Pa.C.S. § 8347 (relating to confidentiality of tax information).

#### § 146.2. Access to Department returns and records.

(a) The Department will use the Department of Community and Economic Development's Local Withholding Tax Register as prescribed under section 351 of the act (53 P. S. § 6926.351), regarding tax register and local tax withholding register, to determine the official tax collectors for a school district.

(b) Upon request, the Department may provide a tax collector by electronic transmittal an abstract of a current or former resident individual taxpayer's Pennsylvania Personal Income Tax return for purposes of the tax collector administering and collecting the school district's school district personal income tax. The Department may provide or make available for inspection and duplication, in a format determined by the Department, other tax-



payer returns, records and information that the Department deems necessary for a tax collector to administer a school district personal income tax.

(c) A tax collector shall execute a confidentiality agreement as prescribed by the Department before the Department will disclose tax information under subsection (b).

(d) A tax collector shall reimburse the Department for the costs associated with the disclosure of tax information under subsection (b). The Department will prescribe a fee schedule outlining the costs. The Department will deny any request without payment of the fee.

(e) Federal Income Tax returns, records or information in the Department's possession are strictly confidential and will not be disclosed to a tax collector. Federal tax returns, records and information within the possession of the Internal Revenue Service shall be obtained directly from the Internal Revenue Service, subject to Federal law applicable to disclosure of Federal tax returns, records and information.

**§ 146.3. Refunds.**

Title 53 of the *Pennsylvania Consolidated Statutes* § 8425 (relating to refunds of overpayments) applies to refunds for overpayments of any personal income tax.

**CHAPTER 147. INTEREST, PENALTIES AND COSTS OF COLLECTION**

Sec.	
147.1.	Interest.
147.2.	Penalties.
147.3.	Costs of collection.

**§ 147.1. Interest.**

A board may determine the rate for and the tax collector may assess and collect interest on a delinquent school district personal income tax liability in the manner provided for the determination and collection of interest on tax claims under the act of May 16, 1923 (P. L. 207, No. 153) known as the Municipal Claim and Tax Lien Law. See 53 P. S. § 7143.

**§ 147.2. Penalties.**

Under the authority of section 22 of The Local Tax Enabling Act (53 P. S. § 6922), the board may prescribe reasonable penalties for a taxpayer's nonpayment of school district personal income tax when due and for a person's failure to comply with this article.

**§ 147.3. Costs of collection.**

Under the authority of section 22.1 of The Local Tax Enabling Act (53 P. S. § 6922.1), the board may prescribe the reasonable costs of collection incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer. The costs may be retained by the tax collector with the approval of the board of the school district.

**CHAPTER 148. TAX APPEALS**

Sec.	
148.1.	Appeal process.

**§ 148.1. Appeal process.**

(a) Subject to subsection (b), each board levying a school district personal income tax shall establish an administrative process for taxpayers to appeal assessments, determinations, adjustments or refunds of the school district personal income tax as prescribed for eligible taxes under 53 Pa.C.S. §§ 8421—8438 (relating to the Local Taxpayer Bill of Rights Act). The provisions related to tax appeals under the Local Taxpayer Bill of Rights Act apply to appeals related to the school district personal income tax.

(b) Issues related to a taxpayer's Pennsylvania personal income, adjusted Pennsylvania taxable personal income or the Pennsylvania Personal Income Tax that affects the calculation of a taxpayer's school district personal income tax shall be raised as part of an appeal of his Pennsylvania Personal Income Tax and may not be raised as part of an appeal under this section.

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