

CHAPTER 115. ESTIMATED TAX

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§ 115.1. Purpose of declaration of estimated tax.

The declaration of estimated tax provides a taxpayer a means of paying Commonwealth personal income tax on a current basis if the taxpayer has taxable income not subject to withholding.

§ 115.2. Persons required to file a declaration.

(a) Except as provided in subsections (b) and (c), every resident and nonresident individual shall file a declaration of estimated tax together with payment of such tax, if he expects his income or income from sources within this Commonwealth, other than compensation on which Commonwealth personal income tax is withheld, to exceed \$1,000 during the taxable year. An individual means a natural person and shall include members of a partnership or association. An estate or trust shall not be required to file a declaration. Estimated tax is the amount which an individual estimates to be his tax due, less the amount which he estimates to be the sum of any credits allowable under the act.

(b) An individual having a total estimated tax for the taxable year of \$50 or less may, if he elects, file his declaration of estimated tax together with payment of such tax at any time on or before January 15 of the succeeding year.

(c) An individual having an estimated taxable income from farming which is at least $\frac{2}{3}$ of his total estimated taxable income for the period may, if he elects, file his annual income tax return with full remittance of tax due at any time up to March 1 of that year. Such payment shall be considered as his declaration due on or before January 15 of that year.

§ 115.3. Computing the estimated tax for residents and nonresidents.

(a) Effective January 1, 1978, resident individuals shall be required to file a declaration of estimated tax and pay at the rate prescribed in Article III of the TRC of 1971 (72 P. S. §§ 7301—7370) of their income. Income means the same as compensation; net profits, net gains or income from the disposition of property, net gains or income derived from or in the form of rents, royalties, patents

and copyrights, dividends, interest, gambling and lottery winnings, net gains or income derived through estates or trusts.

(b) Effective January 1, 1978, nonresident individuals shall be required to file a declaration of estimated tax and pay tax at the rate prescribed in Article III of the TRC of 1971 (72 P. S. §§ 7301—7370) of their income from sources within this Commonwealth. Income means the same as those items listed in subsection (a) derived from sources within this Commonwealth.

(1) By reason of ownership or disposition of any interest in real or tangible personal property in this Commonwealth. Income from intangible personal property shall constitute income from sources within this Commonwealth only to the extent that such income is from property employed in a trade, profession, occupation or business carried on in this Commonwealth.

(2) In connection with a trade, profession or occupation carried on in this Commonwealth or for the rendition of personal services performed in this Commonwealth.

(3) As a distributive share of the income of an unincorporated business, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in this Commonwealth.

(c) For purposes of computing a declaration of estimated tax an individual's income shall be included only once in the enumerated categories in subsection (a) even though in fact such income may fall within two categories.

(d) For purposes of computing a declaration of estimated tax an individual may not offset a gain in one of the enumerated classes of income with a loss in another class of income. A loss may be used to offset a gain in the same class of income up to the amount of the gain, but only if the class of income is one in which net income is to be reported.

Source

The provisions of this § 115.3 amended through January 20, 1984, effective January 21, 1984, 14 Pa.B. 222. Immediately preceding text appears at serial pages (40479) to (40480).

§ 115.4. Tax year of less than 12 months.

(a) If a taxpayer has an interim tax year of less than 12 months (for example, a fiscal year taxpayer in the year 1971 or taxpayers changing over to a different accounting tax year), he shall file a declaration within the time period specified in subsection (b) if he expects his total Commonwealth taxable income to exceed \$1,000. No declaration of estimated tax shall be required if the short taxable year is one of the following:

(1) A period of less than 4 months.

(2) A period of at least 4 months but less than 6 months, and the basic tax requirements are met after the first day of the fourth month.

(3) A period of at least 6 months but less than 9 months, and the requirements for filing of estimated tax are met after the first day of the 6th month.

- (4) A period of 9 months or more, and the requirements for filing of estimated tax are first met after the first day of the ninth month.
- (b) A declaration of estimated tax shall be filed as follows, if the requirements for filing a declaration of estimated tax are met:
- (1) Prior to the first day of the fourth month of the short taxable year, the declaration shall be filed on or before the 15th day of the fourth month of such short taxable year.
- (2) After the first day of the fourth month but before the second day of the sixth month, the declaration shall be filed on or before the 15th day of the sixth month.
- (3) After the first day of the sixth month but before the second day of the ninth month, the declaration shall be filed on or before the 15th day of the ninth month.

§ 115.5. Joint declaration of husband and wife.

- (a) A husband and wife may make a joint declaration of estimated tax as if they were one taxpayer, even though one spouse is expected to have no income during the taxable year. A joint declaration shall show the social security number and full name of each spouse.
- (b) If a husband and wife make a joint declaration, their liability with respect to the estimated tax shall be joint and several.
- (c) The fact that a joint declaration of estimated income tax is made by a husband and wife shall not preclude them from filing separate final returns. In case a joint declaration is made but a joint return is not filed for the same taxable year, the estimated income tax payments for such year may be treated as payments on account of the tax liability of either the husband or wife for the taxable year or may be divided between them in such manner as they may agree.
- (d) A spouse shall not offset a gain in one class of income with a loss of income of the other spouse in another class of income. A spouse shall not offset a gain in the same class of income with a loss of income of the other spouse in the same class of income.

§ 115.6. Minors, incompetents or other persons under disability.

The declaration of estimated tax for an individual who is unable to make a declaration by reason of minority or other disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property, or by his duly authorized agent.

§ 115.7. Amended declarations.

- (a) If, after a declaration is filed, the estimated tax is substantially increased or decreased by a change in income, an amended declaration shall be filed on or before the next date for payment of an installment of estimated tax. The remain-

ing unpaid installments shall be proportionately increased or decreased as the case may be, to reflect any increase or decrease in the estimated tax by reason of such change.

(b) If an amended declaration is filed after September 15 and on or before the following January 15 and shows an increase in estimated tax, the increase shall be paid at the time of filing such an amended declaration. However, if such taxpayer files his annual income tax return with full remittance of tax due by January 31, he shall be relieved from filing such an amended declaration.

§ 115.8. Filing and payment of estimated tax for 1971.

(a) If he meets the requirements, a calendar year taxpayer shall file a declaration no later than November 15 and pay his estimated tax in full or 50% of the tax due when filing his declaration and the remaining 50% on or before January 15, 1972. An individual whose total estimated tax is \$50 or less may, if he elects, file his declaration at any time up to January 15 of the following calendar year. Payment of the estimated tax may thereafter also be made up to January 15 of the following year.

(b) A fiscal year taxpayer who might normally file prior to November 15, 1971 may delay his filing until November 15. However, all payments due to that date shall be paid on or before November 15. A fiscal year taxpayer shall adapt his declaration periods to the calendar year provisions.

(c) Every taxpayer required to file a declaration of estimated tax shall file a completed, signed deposit statement (Return Form RIT-1040ES).

(d) Remittance for the estimated tax due, plus interest if applicable, made payable to the Department shall accompany the deposit statement.

(1) Taxpayers shall use the envelopes and preaddressed forms (Return Form RIT-PA40ES) furnished them for this purpose.

(2) If the packet of preaddressed forms of the taxpayer is lost or damaged, a request for duplicate forms listing the name, address, and social security number of the taxpayer shall be sent to the Department.

(3) A taxpayer required to file a declaration of estimated tax who has never received a preaddressed form shall request a return form by writing to the Department of Revenue, Personal Income Tax Bureau, Harrisburg, Pennsylvania 17129.

(e) Remittances and deposit statements shall be forwarded to Commonwealth P.O. Box 3800 Harrisburg, Pennsylvania 17129.

§ 115.9. Filing and payments of estimated tax for years beginning 1972.

(a) A calendar year taxpayer shall file a declaration and pay his estimated tax as follows:

(1) If he first meets the requirement for filing of estimated tax on or before April 1, he shall file a declaration no later than April 15 and pay his estimated tax in full with his declaration; or in four equal installments. The first install-

ment on filing the declaration, and the second, third, and fourth installments on or before the succeeding June 15, September 15, and January 15, respectively.

(2) If he first meets the requirement for filing of estimated tax after the first of April but before June 2, he shall file by June 15 and pay his estimated tax in full with his declaration; or in three equal installments. The first installment on filing the declaration, and the second and third installments on or before the succeeding September 15 and January 15, respectively.

(3) If he first meets the requirement for filing of estimated tax after the first of June but before September 2, he shall file no later than September 15 and pay his estimated tax in full with his declaration; or in two equal installments. The first installment on filing the declaration, and the balance by the succeeding January 15.

(4) If he first meets the requirement for filing of estimated tax after the first of September, he shall file by the succeeding January 15 and pay the estimated amount in full with his declaration. However, if such taxpayer files his annual income tax return with full remittance of tax due by January 31, he shall be excused from filing January 15 estimated declaration.

(b) A fiscal year taxpayer shall adapt his declaration period to the calendar year provisions herein contained. For example, if the fiscal year begins on February 1, 1972, the declaration together with the first payment shall be due May 15, 1972. The remaining installments shall be due on or before July 18, 1972, October 15, 1972, and February 15, 1973.

(c) Every taxpayer required to file a declaration of estimated tax shall file a completed, signed deposit statement (Return Form RIT-PA40ES).

(d) Remittance for the estimated tax due, plus interest if applicable, made payable to the Department shall accompany the deposit statement. Taxpayers shall use the envelopes and pre-addressed forms. (Return Form RIT-PA40ES) furnished them for this purpose. If the packet of preaddressed forms of the taxpayer is lost or damaged a request for duplicate forms listing the name, address, and social security number of the taxpayer should be sent to the Department. A taxpayer required to file a declaration of estimated tax who has never received a pre-addressed form should request a Return Form by writing to the Department of Revenue, Personal Income Tax Bureau, Harrisburg, Pennsylvania 17129.

(e) Remittances and deposit statements shall be forwarded to Commonwealth P.O. Box 3800, Harrisburg, Pennsylvania 17129.

§ 115.10. Use of prescribed forms.

(a) A taxpayer shall not be excused from filing a declaration of estimated tax under this regulation by reason of the fact that no return form (RIT-PA40ES) has been furnished to him. Copies of the prescribed return forms so far as possible will be regularly furnished taxpayers by the Department without application therefor. Taxpayers not so supplied with the proper forms should make applica-

tion therefor to the Department in ample time to have the declaration prepared, verified, and filed on or before the due date.

(b) If, through no fault of the taxpayer, the prescribed form is not available, a signed statement by the taxpayer disclosing the amount of estimated tax due together with remittance thereof, if filed within the prescribed time, may be accepted as a tentative declaration, so as to relieve the taxpayer from liability for additions, if without unnecessary delay such tentative declaration is supplemented by a declaration made on the proper form.

§ 115.11. Final return.

Every individual who files declarations of estimated income tax shall file a final return at the close of his taxable year.

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