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Regulatory Analysis Form

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(1) Agency

Revenue

REVIEW COMMISSION

(2) I.D. Number (Governor's Office Use)

15-414

IRRC Number: 2111

(3) Short Title

Supplemental Unemployment Benefit Plan

(4) PA Code Cite

61 Pa. Code §§ 101.1 and 101.6

(5) Agency Contacts & Telephone Numbers

Primary Contact: Anita M. Doucette (717) 787-1382

Secondary Contact: Douglas A. Berguson (717) 787-1382

(6) Type of Rulemaking (check one)

- Proposed Rulemaking
- Final Order Adopting Regulation
- Final Order, Proposed Rulemaking Omitted

(7) Is a 120-Day Emergency Certification Attached?

- No
- Yes: By the Attorney General
- Yes: By the Governor

(8) Briefly explain the regulation in clear and nontechnical language.

This regulatory amendment will provide an explanation of the meaning and scope of the exclusion from compensation in the Pennsylvania Income Tax law (72 P.S. § 7301(d)(vi)) for employer or labor union payments for supplemental unemployment benefits. The proposed changes will address the tax treatment of plans offered to provide supplemental benefits to employees terminated from service as a result of layoff, workforce reduction, plant closings or other involuntary terminations.

(9) State the statutory authority for the regulation and any relevant state or federal court decisions.

Statutory authority for the regulation is contained in section 354 of the TRC (72 P.S. § 7354).

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(10) Is the regulation mandated by any federal or state law or court order, or federal regulation? If yes, cite the specific law, case or regulation, and any deadlines for action.

The regulation is not mandated by Federal or state law, court order or Federal regulations.

(11) Explain the compelling public interest that justifies the regulation. What is the problem it addresses?

The regulation is necessary to provide an explanation of the meaning and scope of the exclusion from compensation for employer or labor union payments for supplemental unemployment benefits.

(12) State the public health, safety, environmental or general welfare risks associated with nonregulation.

There are no public health, safety, environmental or general welfare risks associated with nonregulation.

(13) Describe who will benefit from the regulation. (Quantify the benefits as completely as possible and approximate the number of people who will benefit.)

Taxpayers and tax practitioners will benefit from an explanation of the meaning and scope of the exclusion set forth at 72 P.S. § 7301(d)(vi).

Regulatory Analysis Form

(14) Describe who will be adversely affected by the regulation. (Quantify the adverse effects as completely as possible and approximate the number of people who will be adversely affected.)

No parties should be adversely affected by the regulation.

(15) List the persons, groups or entities that will be required to comply with the regulation. (Approximate the number of people who will be required to comply.)

Persons receiving employer or labor union payments for supplemental unemployment benefits may be affected by this regulation.

(16) Describe the communications with and input from the public in the development and drafting of the regulation. List the persons and/or groups who were involved, if applicable.

A copy of the regulation was forwarded to the Pennsylvania Bar Association; the Pennsylvania Institute of Certified Public Accountants and the Pennsylvania Chamber of Business and Industry. The regulation will be listed in the Department's next Agenda of Regulations and forwarded to interested parties upon request.

(17) Provide a specific estimate of the costs and/or savings to the regulated community associated with compliance, including any legal, accounting or consulting procedures which may be required.

There are no specific costs and/or savings to the regulated community associated with compliance with this regulation. No legal, accounting or consulting procedures are required by the regulation.

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(18) Provide a specific estimate of the costs and/or savings to local governments associated with compliance, including any legal, accounting or consulting procedures which may be required.

This regulation does not increase costs or savings to local governments. No legal, accounting or consultant procedures are required by the regulation.

(19) Provide a specific estimate of the costs and/or savings to state government associated with the implementation of the regulation, including any legal, accounting, or consulting procedures which may be required.

This regulation does not increase costs or savings to state government. No legal, accounting or consultant procedures are required by the regulation.

Regulatory Analysis Form

(20) In the table below, provide an estimate of the fiscal savings and costs associated with implementation and compliance for the regulated community, local government, and state government for the current year and five subsequent years.

	Current FY Year	FY +1 Year	FY +2 Year	FY +3 Year	FY +4 Year	FY +5 Year
SAVINGS:	\$	\$	\$	\$	\$	\$
Regulated Community						
Local Government						
State Government						
Total Savings	N/A					
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs	N/A					
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses	N/A					

(20a) Explain how the cost estimates listed above were derived.

The regulation provides clarification of existing policy and therefore has no fiscal impact.

Regulatory Analysis Form

(20b) Provide the past three year expenditure history for programs affected by the regulation.

Program	FY -3	FY -2	FY -1	Current FY
N/A	N/A	N/A	N/A	N/A

(21) Using the cost-benefit information provided above, explain how the benefits of the regulation outweigh the adverse effects and costs.

This regulation will facilitate compliance by providing clarification of existing Departmental policy.

(22) Describe the nonregulatory alternatives considered and the costs associated with those alternatives. Provide the reasons for their dismissal.

There are no nonregulatory alternatives associated with the regulation.

(23) Describe alternative regulatory schemes considered and the costs associated with those schemes. Provide the reasons for their dismissal.

There are no alternative regulatory schemes associated with the regulation.

Regulatory Analysis Form

(24) Are there any provisions that are more stringent than federal standards? If yes, identify the specific provisions and the compelling Pennsylvania interest that demands stronger regulation.

There are no provisions in the regulation that are more stringent than Federal standards.

(25) How does this regulation compare with those of other states? Will the regulation put Pennsylvania at a competitive disadvantage with other states?

Generally, other states tax supplemental unemployment benefit plans. The regulation will not put Pennsylvania at a competitive disadvantage with other states.

(26) Will the regulation affect existing or proposed regulations of the promulgating agency or other state agencies? If yes, explain and provide specific citations.

This regulation does not affect any other existing or proposed regulations of the Department or any other state agency. The numbering of the new paragraph being added to § 101.6(c) will change upon the Department's adoption of Regulation 15-402, relating to payments for employee welfare benefit plans and cafeteria plans.

(27) Will any public hearings or informational meetings be scheduled? Please provide the dates, times, and locations, if available.

The regulation will be presented to the House and Senate Finance Committees and the Independent Regulatory Review Commission. The Committees may hold public hearings or informational meetings to consider the regulation. The date, time and location of such hearings or meetings can be ascertained by contacting the Committee. The Commission may hold informational meetings to consider the regulation. The date, time and location of such meetings can be ascertained by contacting the Commission. At the same time the regulation is presented to the Committees and the Commission, the regulation will be published in the Pennsylvania Bulletin and the public will be invited to comment.

Regulatory Analysis Form

(28) Will the regulation change existing reporting, record keeping, or other paperwork requirements? Describe the changes and attach copies of forms or reports which will be required as a result of implementation, if available.

This regulation does not change existing reporting, record keeping or other paperwork requirements.

(29) Please list any special provisions which have been developed to meet the particular needs of affected groups or persons including, but not limited to, minorities, elderly, small businesses, and farmers.

No special groups are affected by the regulation.

(30) What is the anticipated effective date of the regulation; the date by which compliance with the regulation will be required; and the date by which any required permits, licenses or other approvals must be obtained?

This regulation will be effective upon final publication in the Pennsylvania Bulletin. Compliance with the regulation is required upon publication. There are no permits, licenses or other approvals required by this regulation.

(31) Provide the schedule for continual review of the regulation.

This regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

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2000 APR 26 PM 2:18

REVIEW COMMISSION

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④

DO NOT WRITE IN THIS SPACE

3/16/00

2111

Copy below is hereby approved as to form and legality. Attorney General

By: [Signature]
(DEPUTY ATTORNEY GENERAL)

APR 12 2000

DATE OF APPROVAL

Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:

PA Department of Revenue

(Agency)

Document/Fiscal Note No. 15-414

Date of Adoption: _____

By: [Signature]
Robert A. Judge, Sr.
Secretary of Revenue

Title: _____
(Executive Officer, Chairman or Secretary)

Copy below is hereby approved as to form and legality. Executive or Independent Agencies.

By: [Signature]

3/20/00

Date of Approval

(Deputy General Counsel)
(~~Chief Counsel, Independant Agency~~)
(Strike inapplicable title)

Check if applicable
Copy not approved. Objections attached.

Check if applicable. No Attorney General approval or objection within 30 days after submission

NOTICE OF PROPOSED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 101.1 and 101.6

Personal Income Tax

Supplemental Unemployment Benefit Plan

PREAMBLE

The Department of Revenue (Department), under authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354), proposes an amendment to 61 Pa. Code Chapter 101. General Provisions, sections 101.1 and 101.6, (relating to definitions and compensation) to read as set forth in Annex A.

Purpose of Regulation

This regulatory amendment will provide an explanation of the meaning and scope of the exclusion from compensation in the Pennsylvania income tax law (72 P.S. § 7301(d)(vi)) for employer or labor union payments for supplemental unemployment programs. The proposed changes will address the tax treatment of programs offered to provide supplemental benefits to employees terminated from service as a result of layoff, workforce reduction, plant closings or other involuntary terminations.

Explanation of Regulatory Requirements

Section 101.1 (relating to definitions) is amended by adding the definition of "supplemental unemployment benefit plan." Section 101.6 (relating to compensation) is amended by adding a new paragraph (9) relating to benefits payable under a supplemental unemployment benefit plan, under subsection (c) which enumerates what compensation does not mean or include. The numbering of this new paragraph will change upon the Department's adoption of Regulation 15-402, relating to payments for employee welfare benefit plans and cafeteria plans.

Affected Parties

Persons receiving employer or labor union payments for supplemental unemployment programs may be affected by this regulation.

Fiscal Impact

The Department has determined that the proposed amendment will have no fiscal impact on the Commonwealth.

Paperwork

The proposed amendment will not require additional paperwork for the public or the Commonwealth.

Effectiveness/Sunset Date

The regulation will become effective upon final publication in the Pennsylvania Bulletin. The regulation is scheduled for review within five years of final publication. No sunset date has been assigned.

Contact Person

Interested persons are invited to submit in writing any comments, suggestions, or objections regarding the proposed amendment to Anita M. Doucette, Office of Chief Counsel, PA Department of Revenue, Dept. 281061, Harrisburg, Pennsylvania 17128-1061, within thirty (30) days after the date of the publication of this notice in the Pennsylvania Bulletin.

Regulatory Review

Under section 5(a) of the Regulatory Review Act (71 P.S. § 745.5(a)), on *April 26, 2000* the Department submitted a copy of this proposed amendment to the Independent Regulatory Review Commission (IRRC) and to the Chairpersons of the House Committee on Finance and the Senate Committee on Finance. In addition to submitting the amendment, the Department has provided IRRC and the Committees with a copy of a detailed Regulatory Analysis Form prepared by the Department in compliance with Executive Order 1996-1, "Regulatory Review and Promulgation." A copy of this material is available to the public upon request.

If IRRC has objections to any portion of the proposed rulemaking, it will notify the Department within 10 days of the close of the Committees' review period. The notification shall specify the regulatory review criteria which have not been met by that portion. The Regulatory Review Act specifies detailed procedures for review of objections raised, prior to final publication of the amendments, by the Department, the General Assembly and the Governor.

ROBERT A. JUDGE, SR.
SECRETARY OF REVENUE

01/19/00

CONTINUATION SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU
(Pursuant to Commonwealth Documents Law)

ANNEX A

Title 61. Revenue, Part I. Department of Revenue, Subpart B.
General Fund Revenues, Article V. Personal Income Tax, Chapter
101. General Provisions.

§ 101.1. Definitions.

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

* * *

Supplemental unemployment benefit plan - A plan established
or maintained by an employer or by an employee organization, or
by both, that has both of the following attributes:

(i) Under the plan, no benefit is payable to, or subject in
any manner to anticipation, assignment or pledge by, any plan
participant except upon lay-off or involuntary separation from
the employment of the employer (whether or not such separation is
temporary) resulting directly from:

(A) A permanent reduction in force.

(B) Plant closing.

(C) Change in organizational structure.

(D) Discontinuance of an operation.

(E) The participant's failure to meet or maintain
standards of performance for the position due to inability to

carry out the responsibilities of the position, health, obsolescence, failure to meet the changed responsibilities of the position or similar circumstance beyond the control of the participant.

(ii) Under the plan, no benefit is payable to, or subject in any manner to anticipation, assignment or pledge by, any plan participant who either:

(A) Voluntarily separates from service.

(B) Is separated or discharged from service for any of the following reasons:

(I) Refusal to accept another position with reasonably comparable compensation.

(II) The commission of illegal acts.

(III) Insubordination, failure or refusal to comply with rules or regulations or similar acts within the control of the participant.

* * *

§ 101.6. Compensation.

* * *

(c) Compensation does not mean or include any of the following:

* * *

(9) Benefits payable under a supplemental unemployment

benefit plan, whether payable on a periodic basis or in the form of cash, services or property.

* * *

01/19/00

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE
REGULATORY REVIEW ACT

RECEIVED

I.D. NUMBER: 15-414
SUBJECT: Supplement Unemployment Benefit Plan
AGENCY: DEPARTMENT OF REVENUE

2000 APR 26 PM 2:18

INDEPENDENT REGULATORY
REVIEW COMMISSION

TYPE OF REGULATION

- X Proposed Regulation
Final Regulation
Final Regulation with Notice of Proposed Rulemaking Omitted
120-day Emergency Certification of the Attorney General
120-day Emergency Certification of the Governor
Delivery of Tolled Regulation
a. With Revisions b. Without Revisions

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
4/26	<i>[Signature]</i>	HOUSE COMMITTEE ON FINANCE
4/26	<i>[Signature]</i>	SENATE COMMITTEE ON FINANCE
4-26-00	<i>Jessica Villacourt</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
		ATTORNEY GENERAL
4/26	<i>[Signature]</i>	LEGISLATIVE REFERENCE BUREAU

April 14, 2000