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INDEPENDENT REGULATORY REVIEW COMMISSION
333 MARKET STREET, 14TH FLOOR, HARRISBURG, PA 17101

July 6, 2000

Honorable Robert A. Judge, Sr., Secretary
Department of Revenue
Strawberry Square, 11th Floor
Harrisburg, PA 17128

Re: IRRC Regulation #15-414 (#2111)
Department of Revenue
Personal Income Tax

Dear Secretary Judge:

Enclosed are our Comments on the subject regulation. They are also available on our website at <http://www.irrc.state.pa.us>.

Our Comments list objections and suggestions for consideration when you prepare the final version of this regulation. We have also specified the regulatory criteria which have not been met. These Comments are not a formal approval or disapproval of the proposed version of this regulation.

If you would like to discuss these Comments, please contact Mary Lou Harris at 772-1284.

Sincerely,

Robert E. Nyce
Executive Director

wbg
Enclosure
cc: Anita Doucette
Douglas Berguson
Office of General Counsel
Office of Attorney General
Lee Ann Labecki

Comments of the Independent Regulatory Review Commission

on

Department of Revenue Regulation No. 15-414

Personal Income Tax

July 6, 2000

We submit for your consideration the following objections and recommendations regarding this regulation. Each objection or recommendation includes a reference to the criteria in the Regulatory Review Act (71 P.S. § 745.5a(h) and (i)) which has not been met. The Department of Revenue (Department) must respond to these Comments when it submits the final-form regulation. If the final-form regulation is not delivered by June 5, 2002, the regulation will be deemed withdrawn.

1. Section 101.1 Definitions. – Consistency with statute; Clarity

Supplemental unemployment benefit plan

The definition includes the phrase “established or maintained by an employer or by an employee organization, or by both.” Section 7301(d)(vi) of the Act (72 P.S. § 7301(d)(vi)) uses the phrase “payments made by employers or labor unions.” The Department should explain how the phrase in the definition is consistent with 72 P.S. § 7301(d)(vi).

Subsections (i) and (ii)

In Subsections (i) and (ii), why is the phrase “Under the plan” needed, since the definition states these are attributes of the plan? In Subsections (i) and (ii) what is meant by the phrase, “or subject in any manner to anticipation, assignment or pledge by”? Finally, why is the phrase “(whether or not the separation is temporary)” needed in Subsection (i)? The Department should delete these phrases or explain why they are necessary.

Subsection (i)(A)

Paragraph (A) references a “permanent” reduction in work force. The Department should explain how “permanent” is determined, and how “permanent” relates to the phrase “(whether or not the separation is temporary)” in Subsection (i).

Subsections (i)(E) and (ii)(B)

Subsections (i)(E) and (ii)(B)(III) use the phrases “similar circumstances” and “similar acts.” What criteria will the Department use to determine similarity?

2. Section 101.6 Compensation. – Duplication; Clarity

In subsection (c) “supplemental unemployment benefits” is referenced and included in existing Paragraph (6). Under the proposed amendments, supplemental unemployment benefits would also be listed in Paragraph (9). For clarity, the Department should incorporate the provisions for supplemental unemployment benefits under one paragraph.

Given the definition of “supplemental unemployment benefit plan” in Section 101.1, the Department should explain why the qualifying phrase “whether payable on a periodic basis or in the form of cash, services or property” is needed in Section 101.6(c).