

11/07/05

# Regulatory Analysis Form

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DEPARTMENT REGULATORY REVIEW COMMISSION

(1) Agency

Revenue

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

15-431

IRRC Number: 2514

(3) Short Title

Proof Required to Establish Credit

(4) PA Code Cite

61 Pa. Code § 111.5

(5) Agency Contacts & Telephone Numbers

Primary Contact: Mary R. Sprunk (717) 783-7524

Secondary Contact: Douglas A. Berguson (717) 346-4633

(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.

The amendment of Chapter 111 reflects a policy change made by the Department. The Department is removing language in § 111.5 that requires a taxpayer to file with their Pennsylvania tax return a "signed" copy of an out-of-state tax return in order to claim a credit for taxes paid to another state. The only deletion in this regulation will be the word "signed."

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

Statutory authority for the regulation is set forth in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354).

## Regulatory Analysis Form

(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 regulation.

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

This amendment to Chapter 111 is in the public interest to eliminate by January 1, 2006, the regulatory requirement that, in order to claim credit for income taxes imposed by other states, a taxpayer must file with their Pennsylvania tax return a copy of the tax return filed with the other state that is signed. There is no legal requirement that the copy be signed. (72 P.S. § 7333(c)). The signature requirement also is an inconvenience to taxpayers and tax practitioners in completing tax returns. This amendment will relieve taxpayers from the burden of providing a "signed" out-of-state tax return.

(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 as a result of the amended regulation.

## 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.)

Taxpayers and tax practitioners will be required to comply with the 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; the Pennsylvania Society of Public Accountants and the Pennsylvania Chamber of Business and Industry. The regulation is listed on the Department's 4th Quarter, 2005 Regulatory Report posted on the Department's website and will be 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 costs and/or savings to the regulated community associated with this regulation.

## Regulatory Analysis Form

(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. The regulation will save as much as \$200,000 per tax year. This regulation will eliminate the postage for notices sent to taxpayers with an unsigned copy of an out of state tax return. It will also save administrative expenses for the Department to process about 8,900 requests for signed copies of out of state tax returns or denials for out-of-state tax credits not filed with a copy of a signed tax return.

## 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
<b>SAVINGS:</b>	\$Mil	\$Mil	\$Mil	\$Mil	\$Mil	\$Mil
Regulated Community						
Local Government						
State Government						
<b>Total Savings</b>						
<b>COSTS:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Costs</b>						
<b>REVENUE LOSSES:</b>						
Regulated Community						
Local Government						
State Government						
<b>Total Revenue Losses</b>						

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

The costs associated with this regulation are minimal. The regulation will save as much as \$200,000 per tax year. This regulation will eliminate the postage for notices sent to taxpayers with an unsigned copy of an out of state tax return. It will also save administrative expenses for the Department to process about 8,900 requests for signed copies of out of state tax returns or denials for out-of-state tax credits not filed with a copy of a signed tax return.



## 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

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

The costs associated with this regulation are minimal. The regulation will save as much as \$200,000 per tax year. This regulation will eliminate the postage for notices sent to taxpayers with an unsigned copy of an out of state tax return. It will also save administrative expenses for the Department to process about 8,900 requests for signed copies of out of state tax returns or denials for out-of-state tax credits not filed with a copy of a signed tax return.

(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 federal standards associated with this regulation.

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

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.

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

The Department has not scheduled any public hearings or informational meetings to discuss the regulation.

## 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. There are no permits, licenses or other approvals required by the 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.



FACE SHEET  
FOR FILING DOCUMENTS  
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

11/07/05

#2514

RECEIVED

2005 DEC 13 AM 11:06

INDEPENDENT REGULATORY  
REVENUE  
DO NOT WRITE IN THIS SPACE

<p>Copy below is hereby approved as to form and legality. Attorney General</p> <p>By: _____ (Deputy Attorney General)</p> <p>DATE OF APPROVAL _____</p>	<p>Copy below is hereby certified to be true and correct copy of a document issued, prescribed or promulgated by:</p> <p>PA Department of Revenue _____ (AGENCY)</p> <p>DOCUMENT/FISCAL NOTE NO. <u>15-931</u></p> <p>DATE OF ADOPTION _____</p> <p>BY: <u>Gregory C. Fajt</u> _____ TITLE <u>Secretary of Revenue</u> (Executive Officer, Chairman or Secretary)</p>	<p>Copy below is hereby approved as to form and legality. Executive or Independent Agencies</p> <p>BY: <u>David J. Devries</u> _____ <u>DAVID J. DEVRIES</u></p> <p><u>DEC 06 2005</u> _____ DATE OF APPROVAL <u>EXECUTIVE</u> (Deputy General Counsel) (<del>Chief Counsel-Independent Agency</del>) (Strike inapplicable title)</p> <p><input type="checkbox"/> Check if applicable. No Attorney General Approval or objection within 30 days after submission.</p>
<p><input type="checkbox"/> Check if applicable Copy not approved. Objections attached.</p>		

NOTICE OF FINAL-OMITTED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code § 111.5

Proof Required to Establish Credit

PREAMBLE

The Secretary of Revenue (Secretary), under the authority contained in section 354 of the Tax Reform Code of 1971 (TRC) (72 P.S. § 7354), by this notice of proposed rulemaking omitted, amends Chapter 111. Credits Against Tax, section 111.5 (relating to proof required to establish credit).

Because of time constraints associated with the policy change for personal income tax in the current fiscal year, the Department of Revenue (Department), under section 204 of the act of July 31, 1968 (P.L. 769, No. 240) (CDL) (45 P.S. § 1204) and the regulation thereunder, 1 Pa. Code § 7.4, finds that notice of proposed rulemaking is under the circumstances impracticable and, therefore, may be omitted.

The Department's justification for utilizing the proposed rulemaking omitted process is that it is in the public interest to eliminate by January 1, 2006, the regulatory requirement that, in order to claim credit for income taxes imposed by other states, a taxpayer must file with his Pennsylvania tax return a copy of the tax return filed with the other state that is signed. There is no legal requirement that the copy be signed. 72 P.S. § 7333(c). The signature requirement also is an inconvenience to taxpayers and tax practitioners in completing Pennsylvania tax returns.

### Purpose of Regulation

To revise the regulation to reflect a policy change made by the Department, which eliminates the need for a "signed" copy of the tax return filed with another state for proof required to establish credit.

### Explanation of Regulatory Requirements

The Department is removing language in § 111.5 that requires a taxpayer to file with his Pennsylvania tax return a "signed" copy of a tax return with other states in order to claim a credit for taxes paid to another state. The only deletion in this regulation will be the word "signed."

### Fiscal Impact

The Department of Revenue has determined that the regulations will have no adverse fiscal impact on the Commonwealth.

### Paperwork

The regulations will not generate substantial paperwork for the public or the Commonwealth.

### Effectiveness/Sunset Date

The regulations will become effective upon 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

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

### Regulatory Review

Under section 5.1(c) of the Regulatory Review Act (71 P.S. § 745.5a(c)), on December 13, 2005, the Department submitted a copy of the regulations with proposed rulemaking omitted 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). In accordance with section 5.1(j.1) of the Regulatory Review Act (71 P.S. § 745.5a(j.1)), the regulations were (deemed) approved by the Committees on . IRRC met on and (deemed) approved the regulations under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)).

### 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 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 amended 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 amending Chapter 111 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 OF REVENUE

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  
111. Credits Against Tax.

§ 111.5. Proof required to establish credit.

No credit shall be allowed under this section unless the taxpayer has proved to the satisfaction of the Department the amount of tax paid to the other state. A Form W-2 indicating income tax withheld for another state shall not be sufficient to establish credit under this section. The mere fact that tax was withheld does not establish the fact that a taxpayer has been liable for the payment of tax to another state. Therefore, when claiming a credit for taxes paid to another state, a taxpayer must file with his Pennsylvania tax return a [signed] copy of the tax return filed with the other state. Such return shall be considered as prima facie evidence of the amount of income tax, if any, paid to the other state.



Department of Revenue - Notice of Final-Omitted Rulemaking

61 Pa. Code § 111.5

Proof Required to Establish Credit

15-431

SECRETARY'S CERTIFICATION

I, Gregory C. Fajt, do hereby certify that I have reviewed this regulation and determined that the regulation is consistent with the principles outlined in Executive Order 1996-1.

  
\_\_\_\_\_  
Gregory C. Fajt  
Secretary of Revenue

Department of Revenue - Notice of Final-Omitted Rulemaking

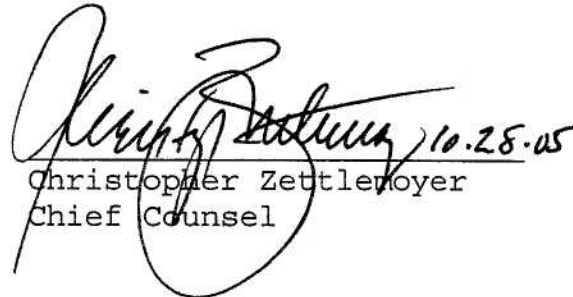
61 Pa. Code § 111.5

Proof Required to Establish Credit

15-431

FORM AND LEGALITY

I certify that I have reviewed this regulation for form and legality, that I have discussed any legal and policy issues with the attorneys responsible for this regulation, that I have made all appropriate revisions and that all information contained in the Preamble and Annex A is current and accurate.

  
Christopher Zettleroyer  
Chief Counsel

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE  
REGULATORY REVIEW ACT

RECEIVED

2005 DEC 13 AM 11:06  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

I.D. NUMBER: 15-431  
SUBJECT: Proof Required to Establish Credit  
AGENCY: DEPARTMENT OF REVENUE

**TYPE OF REGULATION**

Proposed Regulation

Final Regulation

X 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 Tolerated Regulation

a. With Revisions

b.

Without Revisions

**FILING OF REGULATION**

DATE	SIGNATURE	DESIGNATION
12/13/05	<i>J. J. J.</i>	HOUSE COMMITTEE ON FINANCE
12/13/05	<i>R. J. J.</i>	
12/13/05	<i>Kristi Kreiser</i>	SENATE COMMITTEE ON FINANCE
12/13/05	<i>J. J. J.</i>	
12/13/05	<i>St. Helmut</i>	INDEPENDENT REGULATORY REVIEW COMMISSION
12-13-05	<i>Mary Mummert</i>	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)