9-18-06

Regulatory Analysis Form

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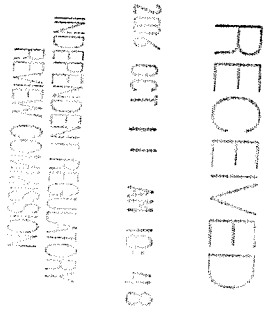

IRRC Number: 2575

(1) Agency

Revenue

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

15-439

(3) Short Title

School District Personal Income Tax

(4) PA Code Cite

61 Pa. Code § 141.1 – 148.1

(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 Department is promulgating a new Article V-A, School District Personal Income Tax, to provide uniform rules for the levy, implementation, administration, assessment and collection of the School District Personal Income Tax authorized by the Taxpayer Relief Act, act of June 27, 2006, Special Session (P.L. ____, No. 1). This article applies to any school district imposing a School District Personal Income Tax under the act and any other person subject to the provisions of the act.

(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).

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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 law, court order or federal regulation. See answer to (8) above for Pennsylvania state law requirement.

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

This addition of Article V-A., School District Personal Income Tax is in the public interest and will implement the administration and collection of the School District Personal Income Tax levied by a board of a school district under the Taxpayer Relief Act.

(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 will benefit as a result of the new 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, tax practitioners, school districts, employers and local tax collectors 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, the Pennsylvania Chamber of Business and Industry, the Pennsylvania Association of School and Business Officials, the Pennsylvania School Administration, the Pennsylvania School Board Association, and PEITOAC. In addition, the regulation was posted on the Department's website with a 30-day public outreach comment period. The regulation is listed on the Department's 4th Quarter, 2006 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 this 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 by any significant amount.

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:	$Mil	$Mil	$Mil	$Mil	$Mil	$Mil
Regulated Community						
Local Government						
State Government						
Total Savings						
COSTS:						
Regulated Community						
Local Government						
State Government						
Total Costs						
REVENUE LOSSES:						
Regulated Community						
Local Government						
State Government						
Total Revenue Losses						

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

Since it cannot be estimated how many school districts will adopt these regulations, associated administrative costs cannot be projected. The savings from implementing this regulation are insignificant. The costs of implementing this regulation are minimal.

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.

Since the amendments do not fundamentally alter existing law, this regulation generally provides uniform regulations concerning the School District Personal Income Tax for local school districts. It is not expected to have a significant fiscal impact.

(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.

CDL-1

FACE SHEET
FOR FILING DOCUMENTS
WITH THE LEGISLATIVE REFERENCE BUREAU

(Pursuant to Commonwealth Documents Law)

9-18-06

DO NOT WRITE IN THIS SPACE

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INDEPENDENT REGULATORY REVIEW COMMISSION

Copy below is hereby approved as to form and legality. Attorney General By: _____ (Deputy Attorney General) DATE OF APPROVAL ☐ Check if applicable Copy not approved. Objections attached.	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. 15-439 DATE OF ADOPTION _____ BY _____ Gregory C. Fajt TITLE Secretary of Revenue (Executive Officer, Chairman or Secretary)	Copy below is hereby approved as to form and legality. Executive or Independent Agencies BY _____ Andrew C. Clark OCT - 6 2006 DATE OF APPROVAL (Deputy General Counsel) ~~(Chief Counsel-Independent Agency)~~ (~~Strike inapplicable title~~) ☐ Check if applicable. No Attorney General Approval or objection within 30 days after submission.

NOTICE OF FINAL-OMITTED RULEMAKING

DEPARTMENT OF REVENUE

61 Pa. Code §§ 141.1 - 148.1

School District Personal Income Tax

PREAMBLE

The Department of Revenue (Department) is adopting final-omitted regulations under section 5004.1 of the Taxpayer Relief Act (act) (___ P.S. ____)(relating to regulations). The Department proposes to add 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 (relating to 2007 referendum).

Purpose of Regulation

The Taxpayer Relief Act requires the Department to adopt final-omitted regulations necessary for the implementation of a School District Personal Income Tax by Pennsylvania school districts.

Explanation of Regulatory Requirements

The addition of 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 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 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. A copy of this material is available to the public upon request. On the same date, the

final-omitted 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.1) of the Regulatory Review Act (71 P.S. § 745.5a(j.1), on _____, 2006, the final-omitted rulemaking was deemed approved by the House and Senate Committees. Under section 5.1(e) of the Regulatory Review Act (71 P.S. § 745.5a(e)), IRRC met on _____, 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 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 new 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 Article V-A 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

8/04/06

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-A. School District Personal Income Tax, Chapter 141. General Provisions.

Chapter 141. GENERAL PROVISIONS

§ 141.1. Scope.

The Department promulgates this article for purposes of providing uniform rules for the levy, implementation, administration, assessment and collection of the School District Personal Income Tax authorized by the Taxpayer Relief Act. This article applies to any school district imposing a School District Personal Income Tax and any other person subject to the provisions of the act.

§ 141.2. Definitions.

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

Act - The Taxpayer Relief Act of June 27, 2006, Special Session (Act 1) (____P.S. §§____).

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 Code or other law that reduces Pennsylvania personal income.

Board - A "board of school directors" as defined in section 302 of the act (relating to definitions).

Code - The Tax Reform Code of 1971 (72 P.S. §§ 7101 - 7004).

Compensation - Compensation as defined in section 303 of the Code and Department regulations.

Department - The Department of Revenue of the Commonwealth of Pennsylvania.

Department regulations or regulations - Regulations promulgated by the Department and published under Title 61 of the Pennsylvania Code.

Individual - A natural person. The term does not include a trust or decedent's estate.

Local Tax Enabling Act - The Local Tax Enabling Act (53 P.S. §§ 6901 - 6923).

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

Pennsylvania Personal Income Tax - The tax imposed under Article III of the Code.

Pennsylvania Personal Income Tax return - The return that is required to be made and filed with the Department under section 330 of the Code.

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

Resident individual - An individual domiciled in a school district during the individual's taxable year. This 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 (relating to general tax authorization).

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

Statutory nonresident - An individual who is domiciled in the Commonwealth but for Pennsylvania Personal Income Tax purposes is considered a nonresident of the Commonwealth because he maintains no permanent place of abode in the Commonwealth but maintains a permanent place of abode elsewhere and spends in the aggregate not more than thirty 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 Code.

Taxpayer - A person that is subject to a School District Personal Income Tax.

Chapter 142. TAX, IMPOSITION, AND RATE.

§ 142.1. Tax and imposition.

(a) The School District Personal Income Tax is a tax at the rate prescribed in section 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 all 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 section 142.1 (relating to tax and imposition) shall be apportioned by multiplying the income by a fraction, the numerator of which shall 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 shall be the number of month's in

the taxpayer's taxable year. The product shall 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 section 142.1 shall be the income subject to the tax rate after the rate change.

Chapter 143. TAX PAYMENTS.

§ 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 duly 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 such 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 Code to deduct and withhold Pennsylvania Personal Income Tax from the compensation of 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, subsections (c)--(e) of the act (relating to tax register and local tax withholding register).

(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, his name and address and such other information as 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 three-month periods ending March 31, June 30, September 30, and December 31, respectively. The information to be provided on the return shall include the name and social security number of each person from whose compensation withholding was made, the compensation subject to withholding during such preceding three-month period, the amount of withholding, the school districts imposing the School District Personal Income Tax on the compensation, the total compensation of all persons from whom the employer is required to withhold during such preceding three-month period, and 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 his return and remit the withheld School District Personal Income Tax monthly. In such cases, 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 with the tax collector:

(1) An annual return showing the total amount of compensation paid and subject to withholding, the total amount of School District Personal Income Tax deducted and withheld from the compensation, and 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 thirty days after the discontinuance of business, file the returns and withholding statements required under this section and remit the tax due.

(h) Every 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 he was required to withhold to the extent that such 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 pursuant to section 351, subsection (b) of the act. 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 any employer to deduct, withhold and remit the School District Personal Income Tax required under this section shall 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 Code (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, less any credit to which the taxpayer may be entitled under section 144.3 (relating to employer withholding credit), that the taxpayer reasonably estimates to be due for his 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 section 143.3 (relating to receipt of payments) is applicable.

§ 143.7. Overpayment carryover.

(a) A taxpayer who has overpaid his School District Personal Income Tax for a taxable year may have the overpayment carried forward and credited against his 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 section 146.3 (relating to refunds).

(c) Any overpayment that is credited under this section may be used to satisfy a taxpayer's estimated School District Personal Income Tax liability under section 143.6 (relating to estimated tax declarations and installment payments).

Chapter 144. TAX CREDITS.

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

(a) A taxpayer is entitled to a credit against his School District Personal Income Tax as prescribed under the provisions of section 14 of The Local Tax Enabling Act (relating to payment of tax to other political subdivisions or states as credit or deduction; withholding tax).

(b) Notwithstanding subsection (a), a taxpayer shall not be allowed a credit against his School District Personal Income Tax for any tax imposed by any state or political subdivision located outside the 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 his Pennsylvania Personal Income Tax liability as provided for under

Section 304 of the Code against his 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 section 143.5 (relating to employer withholding) shall be allowed to the recipient of the compensation subject to withholding as a credit against his School District Personal Income Tax liability for the taxable year in which such withholding is made.

Chapter 145. TAX 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 his 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 the provisions of subsection (a) for each school district.

§ 145.2. Extensions.

(a) A taxpayer who has an extension for filing his Pennsylvania Personal Income Tax return shall have a commensurate extension for filing a School District Personal Income Tax return. In order 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 shall include 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 his Pennsylvania Personal Income Tax return, a tax collector in his discretion 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 shall not be longer than six months.

§ 145.3. Form.

(a) The Board or its 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 shall 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 section 142.1, subsection (b) (relating to tax and imposition).

(3) Calculation of the School District Personal Income Tax.

(4) Tax credits as provided in Chapter 144 (relating to tax credits).

(5) Tax payments made before or with the filing of the return, including estimated installment payments as described in section 143.6 (relating to estimated tax declarations and installment payments).

(6) Calculation of the balance of tax due after credits and payments, including a tax underpayment or overpayment.

(7) Overpayment to be refunded or credited.

(8) 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 section 145.5 (relating to returns by persons other than taxpayer).

(9) Name, address, telephone number of any person preparing the return on behalf of the taxpayer.

(c) A return shall 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 section 145.4 (relating to joint returns) for joint return requirements.

(d) A return shall allow a taxpayer to apportion his personal income during different parts of the taxable year so that the different tax rates may be applied as provided in section 142.2, subsection (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 shall prescribe, 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 are applicable for purposes of the return for School District Personal Income Tax. *See* 61 Pa. Code §§ 117.3, 117.4 and 117.6.

§ 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 of a school district 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. All amendments to adjusted Pennsylvania taxable personal income shall be made to the Department on an amended Pennsylvania Personal Income Tax return as prescribed for such returns by Department regulation.

Chapter 146. ADMINISTRATION AND COLLECTION.

§ 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 of a school district 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 Pa.C.S. §§ 8421-8438 (relating to the Local Taxpayer Bill of Rights).

(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 his powers and duties under this section. Any disclosure under this subsection shall qualify as a disclosure for official purposes under section 8347 of the Local Taxpayers Bill of Rights Act (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 (relating to 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 in its discretion may provide or make available for inspection and duplication, in a format determined by the Department, other taxpayer 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 any 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 such costs. The Department will deny any request without payment of the fee.

(e) All Federal income tax returns, records or information in the Department's possession are strictly confidential and will not be disclosed to a tax collector. All Federal tax returns, records and information within the possession of the

Internal Revenue Service must be obtained directly from the Internal Revenue Service, subject to all Federal law applicable to disclosure of Federal tax returns, records and information.

§ 146.3. Refunds.

Title 53 Pa.C.S. § 8425 (relating to refunds of overpayments) shall apply to refunds for overpayments of any personal income tax.

Chapter 147. INTEREST, PENALTIES AND COSTS OF COLLECTION.

§ 147.1. Interest.

A Board of a school district 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), as amended, known as the Municipal Claims and Tax Liens Act. *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 of a school district 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 the provisions of 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 of a school district 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, which costs may be retained by the tax collector with the approval of the Board of the school district.

Chapter 148. TAX APPEALS.

§ 148.1. Appeal process.

(a) Subject to subsection (b), each Board of a school district 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). All provisions related to tax appeals under the Local Taxpayer Bill of Rights are applicable to appeals related to the School District Personal Income Tax.

(b) All issues related to a taxpayer's Pennsylvania personal income, adjusted Pennsylvania taxable personal income or his Pennsylvania Personal Income Tax that affects the calculation of a taxpayer's School District Personal Income Tax must 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.

9/12/06

Department of Revenue - Notice of Final-Omitted Rulemaking

61 Pa. Code §§ 141.1 - 148.1

School District Personal Income Tax

15-439

SECRETARY'S CERTIFICATION

I, Gregory C. Fajt, do hereby certify that I have reviewed this final-omitted regulation and determined that the final-omitted 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 §§ 141.1 - 148.1

School District Personal Income Tax

15-439

FORM AND LEGALITY

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

Christopher Zettlemoyer
Chief Counsel

TRANSMITTAL SHEET FOR REGULATIONS SUBJECT TO THE REGULATORY REVIEW ACT

I.D. NUMBER:	15-439
SUBJECT:	SCHOOL DISTRICT PERSONAL INCOME TAX
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 Tolled Regulation
a. With Revisions b. Without Revisions

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2006 OCT 11 AM 9:48
INDEPENDENT REGULATORY REVIEW COMMISSION

FILING OF REGULATION

DATE	SIGNATURE	DESIGNATION
10/11/06	Nancy Cole	HOUSE COMMITTEE ON FINANCE
10/11/06	Joe DiCello	
10/11/06	Kristi Knecht	SENATE COMMITTEE ON FINANCE
10/11/06		
10/11/06	Kathy Cooper	INDEPENDENT REGULATORY REVIEW COMMISSION
10-11-06	M Mummert	ATTORNEY GENERAL (for Final Omitted only)
		LEGISLATIVE REFERENCE BUREAU (for Proposed only)

October 6, 2006