

DRAFT FINAL FORM REGULATION

**DEPARTMENT OF REVENUE #15-445 (IRRC #2750)
AMENDED REPORT – CORPORATION TAXES**



2750

RE

December 2, 2009

Via Electronic and U.S. Mail

Mary R. Sprunk, Regulatory Coordinator
Office of Chief Counsel
Department of Revenue
P.O. Box 281061
Harrisburg, PA 17128-1061

RE: Amended Report—Corporation Taxes

Dear Ms. Sprunk:

On behalf of the Pennsylvania Institute of Certified Public Accountants (PICPA), thank you for the opportunity to comment on the Department of Revenue's draft final rulemaking relating to Amended Report—Corporation Taxes (61 Pa. Code, § 151.14, 153.54, and 153.66). We commend the Department for addressing many of the concerns regarding the proposed regulation as outlined in our letter dated April 3, 2009.

Below are additional areas PICPA believes need further clarification or additional guidance that will assist our members and taxpayers with compliance.

1. **61 Pa. Code § 151.14(b)(2)** – Clarification as to what types of “additional information” will require the filing of an amended report. The Department will only consider additional information if it is submitted with an amended report, even if the additional information submitted will not affect the self-assessed tax reported on the original report.

Example: On review of ABC Corp.'s 2007 Capital Stock Tax Report, the Department of Revenue requests a copy of the corporation's consolidated balance sheet. The Department of Revenue assesses additional tax after ABC Corp. fails to comply with the request. The assessment only relates to an adjustment of ABC Corp.'s net worth. ABC Corp. will need to file an amended report along with the consolidated balance sheet in order for the Department of Revenue to *consider* adjusting the corporation's net worth and Capital Stock Tax liability.

2. **61 Pa. Code § 151.14(e)** – The regulations should require the Department to notify a taxpayer within a certain period of time after receiving an amended report or Report of Change as to whether, or not, it accepts the amended report or Report of Change. Historically, the Department has resettled/adjusted Reports of Change in a timely manner. However, there have been instances in which it has taken the Department of Revenue years to look at amended reports. These amended reports appeared to have slipped through the cracks. The amended regulation should require the Department of Revenue to notify the taxpayer of acceptance within 12 months after the filing of the amended report or Report of Change.

3. **61 Pa. Code §§ 153.54(g)(2) and (h)** – Clarification as to whether these provisions will be applied prospectively to reports not settled prior to January 7, 2008. As two years have lapsed since Act 119 has gone into effect, a corporation may have filed an amended report to report the filing of an amended federal income tax return. As drafted, the amendments to the regulation appear to require the corporation also file a Report of Change. The amendments should only apply to amended federal income tax returns filed within 30 days before the date the amended regulation is published in the PA Bulletin.

Example (1): DEF Corp. filed an amended 2007 federal income tax return on November 29, 2009. The amended regulation was published in the PA Bulletin on January 1, 2010. DEF Corp. would be required to file an amended report.

Example (2): GHI Corp. filed an amended 2007 federal income tax return on December 15, 2009. The amended regulation was published in the PA Bulletin on January 1, 2010. GHI Corp. would be required to file a Report of Change.

4. **61 Pa. Code §§ 153.54(a)** – Although not previously addressed, the Department of Revenue should consider amending this subsection to provide that a change or correction of taxable income includes an increase or decrease in net operating loss. As the issue arises quite frequently, the Department should consider providing guidance.

PICPA represents more than 19,000 CPAs in business and industry, public practice, government, and education. Our members provide auditing, accounting, and tax services to individuals, not-for-profit organizations, and employers of all sizes; advise clients on state, federal, and international tax matters; and prepare income and other tax returns for an extensive number of state taxpayers.

Thank you and please do not hesitate to contact me with questions.

Sincerely,



Peter N. Calcara, Vice President
Government Relations Team

Cc: The Honorable Patrick Browne, Chair, Senate Finance Committee
The Honorable James Ferlo, Democratic Chair, Senate Finance Committee
The Honorable David Levdansky, Chair, House Finance Committee
The Honorable Samuel Rohrer, Republican Chair, House Finance Committee
The Honorable Arthur Coccodrilli, Chair, IRRC