

Individual Taxes

1. Is Pennsylvania intending to require driver's license numbers on electronically filed returns? If so, when?

Answer

In 2016, the PA Department of Revenue began requesting taxpayers to provide their Driver's License Number when filing Pennsylvania personal income tax returns (PA PIT) electronically. As a fraud prevention measure, this was done by numerous other states as well who had not already been requesting this information. The entry of the Driver's License Number is optional.

2. (a) Can you provide guidelines and limitations for making a contribution to a PA 529 college plan?

Answer

A contribution to a PA 529 college plan is deductible from taxable income for PA PIT purposes for each beneficiary up to the annual limitation not to exceed the threshold for exclusion from gifts as provided in section 2503(b) of the Internal Revenue Code of 1986, as amended. The deduction cannot result in taxable income being less than zero. The current threshold for the federal gift tax exclusion is \$14,000. There is no carryover of unused contributions and only contributions made during a tax year are deductible.

A taxpayer who files a single return may deduct contributions up to the lesser of \$14,000 per beneficiary or the amount of taxable income. A taxpayer and spouse filing a joint return may make deduct contributions up to the lesser of \$14,000 per beneficiary, per taxpayer or the amount of taxable income per taxpayer. If a spouse has no income, no deduction may be taken on the return for the spouse.

Contributions to and deduction limits for PA 529 plans are reported and calculated on PA Schedule O, Other Deductions.

- (b) Regarding 529 Plan withdrawals that are not used for education, which part is taxable?

For contributions made on or before Dec. 31, 2005 (contributions made prior to the allowance of the tax deduction for contributions to a PA 529 plan), taxpayers may use the cost recovery method to determine which part of a withdrawal not used for educational purpose is taxable for PA PIT purposes. For contributions made on or after Jan. 1, 2016, the entire withdrawal not used for educational purposes which was permitted as a deduction to income is subject to tax for PA PIT purposes. For accounts with contributions made during both periods, the department applies the first-in-first-out method to determine what amount of the withdrawal is taxable for PA PIT purposes. If any part of a contribution made on or after Jan. 1, 2006 was not deductible, the cost recovery method is be used to determine the amount subject to tax for PA PIT purposes.

3. (a) Do you accept all software generated vouchers for estimated tax payments?

Answer

Yes

(b) Do you accept handwritten vouchers?

Yes

(c) Pennsylvania Department of Revenue sends 2nd 3rd and 4th quarter vouchers when computer generated vouchers were used the first quarter or the prior year, why?

Please provide examples of the taxpayers where this is occurring. The computer program to determine who is to receive vouchers is not supposed to select those taxpayers for coupon printing and mailing.

4. Which utilities may be subject to use tax if a home office deduction is being utilized?

Answer

Electricity, natural gas, propane/bottled gas, fuel oil, kerosene or steam are subject to use tax if being included in the calculation of the home office deduction and the utility company or provider does not charge sales tax for a mixed use property or to residential customer.

5. How is cancellation of debt for Pennsylvania purposes taxed according to classes of income -specifically medical expenses and student loan debt?

Answer

Cancellation of debt (COD) income will be taxable income for PA PIT purposes only when it can be associated with a class of income and the taxpayer for whom the debt was forgiven is solvent or was rendered solvent by the cancellation of the debt. COD income sometimes occurs with a quid pro quo arrangement or incentive where a COD occurs in lieu of a payment of cash or property. If a student loan is forgiven as an incentive to work for the commonwealth, the loan amount forgiven is taxable compensation to the employee. If a student loan is forgiven because of a bankruptcy, the loan amount forgiven would not be income for PA PIT purposes. Medical expenses are usually personal expenses and unless the COD is related to an exchange for services rendered, the COD would not be taxable income for PA PIT purposes.

6. Has there been a change in the Department's interpretation regarding taxation of inherited annuities?

Answer

No. The department is now able to determine what annuities are not retirement annuities as a result of the Affordable Care Act requiring Code D in Box 7 of federal Form 1099-R for annuities that are purchased from insurance companies. With additional information now available and many of these annuities now able to be identified, the department included additional information in its instructions with respect to the taxability of these distributions.

7. For 1099 R with either a code 4D or 7D, where on the PA return are these items reported? Please provide an answer for both non-qualified and qualified annuities.

Answer

Distributions from annuities with Code D in Box 7 are taxable as interest income for PA PIT purposes to the extent there is an amount taxable for federal income tax purposes.

8. Does Pennsylvania follow or have plans to follow federal law allowing postponement of a gain from a business casualty loss if the property is replaced within the two year period?

Answer

If a transaction qualifies for IRC Section 1033 gain postponement, any gain on the transaction will not be required to be reported for PA PIT purposes if the involuntary conversion event occurs on or after Sept. 12, 2016. Gains on events occurring prior to Sept. 12, 2016 must be reported.

9. If a residential rental property has always had a loss and therefore never had the loss recognized for PA, which would include the depreciation, is the new basis at the time of sale still the amount after the depreciation for Pennsylvania? Which portion of unused losses (including depreciation and expenses) get to be added back to basis?

Answer

Yes, none of the unused losses are added back to basis.

10. With respect to the timeline involved, what is the Department's policy on responding and/or issuing a refund to a taxpayer who has provided documents requested on a prior notice?

Answer

The Department reviews correspondence and responds on a first in first out basis. The timeline for the completion of that process varies throughout the tax year based on the volume of correspondence the Department receives. We strive to have responses issued within 12 weeks of receipt of the correspondence.

Information requested during mid- to late-February through July and August can take up to two or three months to be posted to our system if the information is sent via the US Postal Service. It is recommended that correspondence be sent via fax to ensure a quicker turnaround time for response.

11. Does a non Pennsylvania resident (such as a Maryland resident) who has a residential rental property in Pennsylvania which are showing losses have to file a PA return IF there is no other Pennsylvania income?

Answer

Yes. If the department became aware of a rental property for a taxpayer that is not filing a return, a notice could be generated requiring a response or an assessment may be issued requiring a response.

12. How are lottery proceeds being paid out in an annuity taxed for inheritance tax purposes?

Answer

The total taxable value would be calculated based on the 'present value calculation' for Inheritance Tax purposes.

13. Does Pennsylvania have any pending reciprocity terminations?

Answer

On November 22, the state of New Jersey notified Pennsylvania that it was withdrawing its previous notice of termination of the Reciprocal Personal Income tax agreement. There are currently no pending reciprocity terminations.

14. Now that PA is taxing lottery winnings and cash prizes, what type of expenses can be deducted against winnings and where is the activity reported for personal income tax purposes?

Answer

The cost of PA lottery tickets purchased on or after Jan. 1, 2016 and all other costs for wagers (incurred during a tax year) made on other gambling and lottery activities may be deducted against PA Lottery cash prize winnings or other gambling and lottery activity winnings.

15. Does PA enforce court orders against refunds?

Answer

The department currently enforces Department of Human Services' orders that may be received from the courts regarding nonpayment of spousal and child support. As a result of Act 93 of 2016, the department will begin offsetting refunds for court ordered obligations arising from a criminal prosecution or proceeding.

16. How is PA combating taxpayer identity theft?

Answer

Within the last 4 years, the Department has implemented decision analytics to determine refund returns that may have been filed fraudulently. Within the last year, the Department established a new Fraud Investigation Unit that now handles all taxpayer identity theft cases. The unit is also charged with working with other states and the IRS to identify and deter tax fraud and identity theft. In addition, this Department may send letters to taxpayers requesting they verify their identity with department. Based upon multiple sources of information and various return or tax filing input factors, the department sent out about 30,000 letters on 2015 tax returns requesting taxpayers verify their identity with us.

17. When will the PA-1000 (Property Tax & Rent Rebate) be able to electronically file?

Answer

The department does not expect this to be forthcoming in the immediate future. The department will be converting its personal income tax and property tax rent rebate processing system from its current COBOL based legacy systems to a new system in the next few years. We expect the option of filing the PA-1000 electronically to be available with the conversion to the new system.

18. Is the department contacting individuals regarding the status of PA-1000 processing?

Answer

If a telephone number was provided with the PA-1000 claim form, the department contacted some claimants if their rebate claim was processed and ready for payment with the July 1, 2016 payments. The department will begin making telephone calls to claimants in 2017 notifying them that their claim has been received and will make a second call to let them know if it has been processed for payment if it is approved for the July 1, 2017 payment date.

19. Why does the department cap section 179 depreciation at \$25,000 for married individuals?

Answer

The department does not cap the Section 179 depreciation expense amount at \$25,000 for married individuals but does enforce the tax law in Article III, Section 303 (a.3) of the Tax Reform Code which provides the limit is according to the version of Section 179 of the Internal Revenue Code of 1986. The department's Informational Notice Personal Income Tax 2012-05 provides additional information regarding the application of the amount spouses may deduct per the 1986 IRC version of Section 179.

Trust Fund Taxes

1. Which entities must file PA-100 to register with PA DOR? If they are not subject to tax because they are disregarded entities and they are not subject to other taxes must they still register? Some of the frequently asked questions on the website were written when the capital stock tax filing was required.

Answer

Regardless of business structure, any business entity that is or will become subject to any of the taxes included on the PA100 form must file a PA100 to register with the Department.

2. Is it correct that a PA-100 is not required (and cannot even be prepared online) if an LLC or self-employed taxpayer is not subject to payroll taxes or any of the other taxes listed online? Can the system be changed so that someone applying can be initially asked if he/she is subject to any of the taxes before filling the form out. It currently allows for the completion of the form before telling the individual it cannot be completed online.

Answer

If a business is not subject to payroll taxes or any of the other taxes listed online, then it is not necessary for a PA100 to be completed and submitted. The online PA100 homepage lists the taxes that are included in the PA100 form.

3. Is the Department planning to allow preparers to correct W-2 filings submitted through e-tides? If so, when

Answer

The Department has recently initiated a review of our existing electronic W-2 filing options, shortcoming and opportunities for improvement. Several back end systems and processes need to be modified to allow for the electronic submission of corrected W-2 filings. Changes will not be place for the 2016-17 filing season but we are hopeful for the development of additional functionality in preparation for the 2017-18 filing season.

4. With the new "document center" within e-tides, will all notices issued such as filing frequency changes be made available through this portal?

Answer

Yes, the Department intends to expand the functionality of the e-TIDES document center to include other notices such as licenses and filing/payment frequency changes.

5. How will the department handle processing the gross receipts tax payments for Medical Marijuana?

Answer

At this point in time, a decision has yet to be made regarding the receipt and processing of gross receipts tax payments for Medical Marijuana. Prior to the issuance of permits by the Department of Health, the Department will provide additional information regarding the Medical Marijuana Act, including tax returns and instructions, payment methods, and frequently asked questions.

Corp Tax

1. Have the due dates for 2016 business tax returns changed to match the federal due dates? What about the extension deadline dates?

Answer

Act 84 established the due date of the RCT-101 as 30 days after the due date of the federal return, regardless of the end of the period being reported. Prior to this change a report with a December year end was April 15, 2015.

The extension to file the RCT-101 remains 30 days after the extension of time to file the Federal Income Tax Return.

2. Does Pennsylvania Department of Revenue enforce a penalty for corporate tax payments made via check that exceed \$1,000?

Answer

Yes we do.

3. In a corporate stock sale, what does the seller need to do to be relieved of any type of future tax obligations after the date of sale?

Answer

This is a question of contract law. The parties to the transaction should consult their attorneys when preparing the sales agreement.

4. (a) How should an S-Corp marked as “final” in 2015 that became subject to a built-in-gains tax in 2016 complete the RCT-101?

Answer

On the front page indicate the IRS filing type as 1120S. Step B should be checked as First Report, and S Corp Taxable Built-in Gains. Section C must then be marked Final Report.

(b) What is the proper procedure to notify the bureau of corporations that an entity is no longer subject to an RCT-101 filing requirement if the 2015 RCT-101 was not marked “final”?

Answer

If the taxpayer does not indicate that 2015 is the final report, then a fax must be sent to the Bureau of Compliance at 717-783-8265. This should include the name of the entity, PA Account ID and EIN along with a statement “Report marked final due to corporation not being subject to CNI tax due to (reason), and no longer subject to Capital Stock/Franchise as of 2016”. If estimated payments were made or if credit carried into the current year and are to be refunded, this should also be stated. Do not file an amended report to simply inform the department that the company is no longer required to file the RCT-101.

4. (c) Now that entities not subject to Capital Stock Tax no longer will be filing Form RCT-101, should practitioners revert to Form REV- 1605 to report corporate officers? What is the procedure for filing this information? Is this available for LLC’s or do only corporations file the officer listing?

Answer

The taxpayer has 2 options to provide Corporation Officer Information either using E-Tides or by sending the REV-1605 to the address on the coupon.

Other

1. Can Corporate Officer information be updated via e-TIDES?

Answer

While e-TIDES has an Enterprise Maintenance option to allow for an update to the Corporate Officers, the information is not passed to the BTS. Corp tax updates the officers via the tax report or form REV-1605.