

GENERAL INSTRUCTIONS

ELECTION TO BE TAXED AS A PENNSYLVANIA “S” CORPORATION

The shareholders of a corporation which qualifies as a “small corporation” may elect to be taxed as a Pennsylvania S Corporation. The shareholders’ election of Pennsylvania S Corporation status is valid only if all of the shareholders of the corporation sign a consent to the election. If an election is made, each shareholder will be subject to Pennsylvania Personal Income Tax on each shareholder’s pro rata share of the S Corporation income, whether distributed or not.

A Pennsylvania S Corporation with taxable income from sources within PA are jointly liable with their nonresident shareholders for payment of tax on such income and are authorized and required to collect such tax from nonresident shareholders and remit the tax to the PA Department of Revenue. To register for estimated Personal Income Tax Withholding, contact the PA Department of Revenue, Bureau of Individual Taxes, Document Control Division, Dept. 280510, Harrisburg, PA 17128-0510.

WHO MAY ELECT

A Pennsylvania S Corporation election may be made by the shareholders of any small corporation that is subject to the Pennsylvania corporate net income tax or that owns one hundred percent (100%) of the stock of a qualified Subchapter S subsidiary that is subject to the Pennsylvania corporate net income tax. A corporation is a small corporation, if it meets the following requirements:

(1) The corporation has a valid election in effect under Subchapter S of the Internal Revenue Code of 1986 (26 U.S.C.A. §§ 1361-1379) as amended to January 1, 1997.

(2) The corporation would qualify as a Federal S Corporation under Subchapter S of the Internal Revenue Code of 1986, as amended to January 1, 1997.

(3) The corporation does not have passive investment income in excess of 25% of its gross receipts.

PASSIVE INVESTMENT INCOME

Passive investment income means gross receipts derived from royalties, rents, dividends, interest, annuities and sales or exchanges of stock or securities. Gross receipts from the sale or exchange of stock or securities are taken into account only to the extent of gains therefrom. For purposes of the passive investment income limitation, a qualified Subchapter S subsidiary owned by a small corporation shall not be treated as a separate entity. All gross receipts and passive investment income of a qualified Subchapter S subsidiary shall be treated as earned by the parent corporation. In addition, all payments or distributions between the parent corporation and the qualified Subchapter S subsidiary shall be eliminated for purposes of the passive investment income limitation.

FORM AND METHOD OF ELECTION

Except as noted below, a Pennsylvania S Corporation election shall be filed with the PA Department of Revenue on form REV-1640 on or before the 15th day of the third month of the current taxable year to be effective for that year. All of the shareholders of the corporation shall consent to the election by signing either form REV-1640 or a separate statement of consent, which may be attached to the Pennsylvania form.

The corporation shall attach a schedule to the Pennsylvania S Corporation election identifying the name, address, Pennsylvania Corporation Tax box number and federal employer identification number of each qualified Subchapter S subsidiary owned by the corporation.

The Pennsylvania S Corporation election with the federal notice of acceptance shall be filed with the Department by mailing the original executed form

REV-1640 to the Department by certified mail. The election shall be deemed filed on the date the envelope transmitting the election is postmarked by the United States Postal Service.

For purposes of implementing the Pennsylvania S Corporation amendments of the Act of May 7, 1997 that are retroactive in effect to taxable year beginning on or after January 1, 1997, a Pennsylvania S Corporation election may be filed with the Department on or before September 15, 1997, to be effective for taxable years beginning on or after January 1, 1997 through July 1, 1997. Elections filed with the Department after September 15, 1997, for a corporation that has a taxable year beginning on or after January 1, 1997 through July 1, 1997, shall be effective for the following taxable year.

A newly formed corporation may elect Pennsylvania S Corporation tax treatment for its first taxable year in Pennsylvania by filing a Pennsylvania S Corporation election within 75 days of incorporation or date of first activity.

A foreign corporation may elect Pennsylvania S Corporation tax treatment for its first taxable year in Pennsylvania by filing a Pennsylvania S Corporation election with the Department within 75 days of its first taxable year in Pennsylvania. A foreign corporation's first taxable year in Pennsylvania commences on the date the corporation begins doing business in Pennsylvania and becomes subject to the corporate net income tax.

A corporation which has filed a Federal S Corporation election, but has not yet received approval, may still file the Pennsylvania S Corporation election, indicating that federal approval is pending, and shall submit a copy of the federal approval to the Department within 30 days of receipt.

The Pennsylvania S Corporation election must be submitted to:

PA Department of Revenue
Bureau of Corporation Taxes
Specialty Taxes S Corp
Dept. 280704
Harrisburg, PA 17128-0704

QUALIFIED SUBCHAPTER S SUBSIDIARIES

A Pennsylvania S Corporation election filed by the parent Federal S Corporation of a qualified Subchapter S subsidiary shall be effective for the qualified Subchapter S subsidiary. A qualified Subchapter S subsidiary is not required to file a separate Pennsylvania S Corporation election.

A qualified Subchapter S subsidiary is not eligible to elect Pennsylvania S Corporation tax treatment independent of its parent Federal S Corporation. A qualified Subchapter S subsidiary of a Federal S Corporation that does not have a valid Pennsylvania S Corporation election in effect shall not receive Pennsylvania S Corporation tax treatment.

ACKNOWLEDGMENT OF RECEIPT OF ELECTION

Within approximately ninety (90) days from the receipt of this election, the Department of Revenue will issue a confirmation of approval granting Pennsylvania S status. The confirmation will be mailed to the taxpayer. If the confirmation is not received within this time, the taxpayer should call the Bureau of Corporation Taxes at (717) 783-6035 to verify if the election was received. It is the exclusive responsibility of the taxpayer to provide timely proof of mailing, preferably a certified mail receipt.

Pennsylvania S Corporation Tax Report Instructions provide further explanations for the taxation of Pennsylvania S Corporations and their shareholders.

When filing the first tax report that S status is effective, include a copy of the Pennsylvania and federal notice of acceptance letters.

Please complete the REV-1640 in duplicate. A copy of the REV-1640 will be returned upon approval.

