

GENERAL INSTRUCTIONS ELECTION NOT TO BE TAXED AS A PENNSYLVANIA S CORPORATION

Federal subchapter S corporations are no longer required to file the REV-1640, Pennsylvania S Corporation Election and Shareholders' Consent, in order to be granted Pennsylvania S corporation status. Effective for tax years beginning after Dec. 31, 2005, any corporation with a valid federal subchapter S corporation election will automatically be a Pennsylvania S corporation. Any federal subchapter S corporation that does not desire to be a Pennsylvania S corporation must file REV-976, Election Not to be Taxed as a Pennsylvania S Corporation, on or before the due date or extended due date of the RCT-101 for the first tax period in which the election is to be in effect. This election must be signed by 100 percent of the shareholders of the S corporation and once made cannot be revoked for five years. RCT-101 is due 30 days after the federal return. **CAUTION:** Note change in the due date of the federal return. Therefore, RCT-101 and REV-976 are due on the 30th day following the due date of the federal return.

In the case of a federal subchapter S corporation not required to file RCT-101, does not do business in PA and is not registered to do business in PA, the REV-976, Election Not to be Taxed as a Pennsylvania S Corporation, must be filed 30 days after the due date of the federal return (the due date of RCT-101 if the corporation is required to file this report). **Note:** Subchapter S corporations are only required to file RCT-101 for tax years when they have built-in gains.

Any federal subchapter S corporation doing business in Pennsylvania or registered to do business in PA that does not make this election will be taxed as a Pennsylvania S corporation and will be required to file the PA-20S/PA-65, PA S Corporation/Partnership Information Return. In addition, each resident shareholder is subject to Pennsylvania personal income tax on each shareholder's pro rata share of the S corporation income, whether distributed or not. Each nonresident shareholder is subject to tax on the shareholder's personal income from sources within PA. Filing of the RCT-101, PA Corporate Net Income Tax Report, is not required unless the corporation has federal taxable built-in gains.

A Pennsylvania S corporation with taxable income from sources within PA is jointly liable with its nonresident shareholders for personal income tax on this income. It is authorized and required to collect this tax from its nonresident shareholders and remit the tax to the PA Department of Revenue. Use PA-40ESR (F/C) to make the first nonresident withholding payment. Thereafter, the department will provide pre-printed PA-40ES (P/S) forms. The PA-40ESR (F/C) form can be downloaded from the department's website at www.revenue.pa.gov or ordered by telephone at 1-888-PATAXES (728-2937).

Qualified Subchapter S Subsidiaries

If a qualified subchapter S subsidiary and/or parent of a qualified subchapter S subsidiary, does not desire to be taxed as a Pennsylvania S corporation, the parent must file an election not to be taxed as a Pennsylvania S corporation for itself and all qualified subchapter S subsidiaries. The corporation must include a schedule with the election identifying the name, address, Revenue ID and federal employer identification number of each qualified subchapter S subsidiary owned by the corporation and doing business in Pennsylvania.

PA Resident Shareholders of Subchapter S Corporations in Another State

Any federal subchapter S corporation that does not make this election, and which does not do business nor is registered to do business in PA but has a PA resident shareholder, will be taxed as a Pennsylvania S corporation and will be required to file the PA-20S/PA-65, PA S Corporation/Partnership Information Return. In addition, each resident 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.

Filing the Election

For a federal subchapter S corporation conducting business in Pennsylvania that is required to file RCT-101: The due date for filing the REV-976, Election Not to be Taxed as a Pennsylvania S Corporation, is the due date or the extended due date of RCT-101 for the first year for which the election is to be in effect.

For a federal subchapter S corporation that is not required to file RCT-101, (does not do business in PA and is not registered to do business in PA): The due date for filing the REV-976, Election Not to be Taxed as a Pennsylvania S Corporation, is 30 days after the due date or the extended due date of the federal return. These corporations must check the box indicating "Corporation is not subject to PA Corporate Net Income Tax; election is for PA resident Shareholder purposes only".

The REV-976, Election Not to be Taxed as a Pennsylvania S Corporation, must be signed by 100 percent of the shareholders on the date of the election and sent via Fax or Email to:

Fax: 717-787-3708

Email: ra-btftregisfax@pa.gov

**DO NOT SEND WITH THE PA CORPORATE
NET INCOME TAX REPORT**