

Effective: September 9, 2024

72 P.S. § 7303

§ 7303. Classes of income

Currentness

(a) The classes of income referred to above are as follows:

(1) Compensation.

(i) All salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered whether directly or through an agent and whether in cash or in property except income derived from the United States Government for active duty outside the Commonwealth of Pennsylvania as a member of its armed forces and income from the United States Government or the Commonwealth of Pennsylvania for active State duty for emergency within or outside the Commonwealth of Pennsylvania, including duty ordered pursuant to 35 Pa.C.S. Ch. 76 (relating to Emergency Management Assistance Compact).

(ii) Compensation of a cash-basis taxpayer shall be considered as received if the compensation is actually or constructively received for Federal income tax purposes as determined consistent with the United States Treasury regulations and rulings under the Internal Revenue Code of 1986, as amended, except that, for purposes of computing tax under this article:

(A) Amounts lawfully deducted, not deferred, and withheld from the compensation of employees shall be considered to have been received by the employee as compensation at the time the deduction is made.

(B) Contributions to an employees' trust, pooled fund or other arrangement which is not subject to the claims of creditors of the employer made by an employer on behalf of an employee or self-employed individual at the election of the employee or self-employed individual pursuant to a cash or deferred arrangement or salary reduction agreement shall be deemed to have been received by the employee or individual as compensation at the time the contribution is made, regardless of when the election is made or a payment is received.

(C) Any contribution to a plan by, on behalf of or attributable to a self-employed person shall be deemed to have been received at the time the contribution is made.

(D) Employer contributions to a Roth IRA custodial account or employee annuity shall be deemed received, earned or acquired only when distributed, when the plan fails to meet the requirements of section 408A of the Internal Revenue Code of 1986 (26 U.S.C. § 408A), as amended, or when the plan is not operated in accordance with such requirements.

(E) Employee contributions to an employees' trust or pooled fund or custodial account or contract or employee annuity shall not be deducted or excluded from compensation.

(iii) For purposes of determining when deferred compensation of employees other than employees of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83 and 451 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 83 and 451), as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986 (26 U.S.C. § 409A), as amended, shall apply.

(iv) For purposes of determining when deferred compensation of employees of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83, 451 and 457 of the Internal Revenue Code of 1986, as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986, as amended, shall apply.

(2) Net profits. The net income from the operation of a business, profession, or other activity, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with accepted accounting principles and practices but without deduction of taxes based on income. For purposes of calculating net income under this paragraph, to the extent a taxpayer properly deducts an amount under section 195(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. § 195(b)(1)(A)), as amended, and the regulations promulgated under section 195(b)(1)(A) of the Internal Revenue Code of 1986, the taxpayer shall be permitted a deduction in equal amount in the same taxable year.

(3) Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real property, tangible personal property, intangible personal property or obligations issued on or after the effective date of this amendatory act by the Commonwealth; any public authority, commission, board or other agency created by the Commonwealth; any political subdivision of the Commonwealth or any public authority created by any such political subdivision; or by the Federal Government as determined in accordance with accepted accounting principles and practices. For the purpose of this article:

(i) For the determination of the basis of any property, real and personal, if acquired prior to June 1, 1971, the date of acquisition shall be adjusted to June 1, 1971, as if the property had been acquired on that date. If the property was acquired after June 1, 1971, the actual date of acquisition shall be used in determination of the basis.

(ii) Deleted by 1998, April 23, P.L. 239, No. 45, § 6, imd. effective.

(iii) The term “**net gains or income**” and “**net losses**” shall not include gains or income or loss derived from obligations which are statutorily free from State or local taxation under the act of August 31, 1971 (P.L. 395, No. 94),¹ entitled “An act exempting from taxation for State and local purposes within the Commonwealth certain obligations, their transfer and the income therefrom (including any profits made on the sale thereof), issued by the Commonwealth, any public authority, commission, board or other agency created by the Commonwealth, any political subdivision of the Commonwealth or any public authority created by any such political subdivision,” or under the laws of the United States.

(iv) The term “**sale, exchange or other disposition**” shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. The following shall apply:

(A) For purposes of this subparagraph (iv), stock or securities issued for services shall not be considered as issued in return for property.

(B) For purposes of this subparagraph (iv), the term “**reorganization**” means any of the following:

(I) A statutory merger or consolidation.

(II) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition).

(III) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded.

(IV) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred.

(V) A recapitalization.

(VI) A mere change in identity, form, or place of organization however effected.

(C) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this clause (C) as “controlling corporation”) which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under clause (B)(I) if such transaction would have qualified under clause (B)(I) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction.

(D) A transaction otherwise qualifying under clause (B)(I) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this clause (D) as the “controlling corporation”) which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(E) For purposes of this subparagraph (iv):

(I) The term “**control**” means the ownership of stock possessing at least eighty per cent of the total combined voting power of all classes of stock entitled to vote and at least eighty per cent of the total number of shares of all other classes of stock of the corporation.

(II) The term “**a party to a reorganization**” includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under clause (B)(I) by reason of clause (C) the term “a party to a reorganization” includes the controlling corporation referred to in clause (C).

(F) Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's base for the stock or securities received shall be the same as the taxpayer's actual or attributed base for the stock, securities or property surrendered in exchange therefor.

(v) The term **“sale, exchange or other disposition”** shall not include a transfer by a common trust fund described in section 584 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 584) of all or substantially all of its assets to one or more companies described in section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 851) in exchange for stock or units of beneficial interest in the company or companies to which such assets are transferred and the distribution of such stock or units by the fund to its participants in exchange for their interest in the fund, if no gain or loss is recognized on the transfer or distribution for Federal income tax purposes. Upon every such exchange, the taxpayer's base for the stock or units or assets received shall be the same as the taxpayer's actual or attributed base for the assets, stock, units or interest surrendered in exchange therefor.

(vi) The term **“sale, exchange or other disposition”** shall not include a transfer of an interest in an enterprise treated as a partnership for purposes of this article in exchange for an interest in any other enterprise treated as a partnership for purposes of this article, a liquidation made in connection therewith or an exchange made pursuant to a statutory merger, consolidation or division of enterprises so treated unless taxable income or gain is recognized for Federal income tax purposes. Upon every such exchange, the taxpayer's base for the interest received shall be the same as the taxpayer's actual or attributed base for the interest surrendered in exchange therefor.

(vii) The term **“net gains or net income, less net losses,”** shall not include any gain or loss from the sale, exchange or other disposition of the taxpayer's principal residence.

(A) For purposes of this subparagraph, the term **“principal residence”** shall mean the property that has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more during the five-year period ending on the date of the sale, exchange or disposition: Provided, however, That the following shall apply:

(I) In the case of property only a portion of which, during the five-year period ending on the date of the sale, exchange or disposition, has been owned or used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more, this subparagraph shall apply with respect to so much of the gain from the sale, exchange or disposition of such property as is determined under regulations prescribed by the department to be attributable to that portion.

(II) In the case of a principal residence only a portion of which has never been subject to the allowance for depreciation, this subparagraph shall apply with respect to so much of the gain from the sale, exchange or disposition of such property as is determined under regulations prescribed by the department to be attributable to that portion.

(B) The provisions of this subparagraph shall not apply to a sale, exchange or disposition if, during the two-year period ending upon the date of the sale, exchange or disposition, there was a prior sale, exchange or disposition by the taxpayer of a principal residence unless the sale, exchange or disposition is by reason of a change in employment, health or, to the extent provided in regulations, unforeseen circumstances.

(C) The provisions of this subparagraph shall not apply to any sale, exchange or disposition made prior to January 1, 1998.

(viii) The term **“net gains or income”** and **“net losses”** shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1400Z-2), as amended. Net gains or net income, less net losses, which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses.

(4) Net gains or income derived from or in the form of rents, royalties, patents and copyrights.

(5) Dividends. The term **“dividends”** shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986, as amended. Gains or income or losses which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses.

(6) Interest derived from obligations which are not statutorily free from State or local taxation under any other act of the General Assembly of the Commonwealth of Pennsylvania or under the laws of the United States, any amount paid under contract of life insurance or endowment or annuity contract which is includable in gross income for Federal income tax purposes and any amount paid out of the Archer Medical Savings Account (Archer MSA) or health savings account that is includable in the gross income of an account beneficiary for Federal income tax purposes.

(7) Gambling and lottery winnings other than noncash prizes of the Pennsylvania State Lottery.

(8) Net gains or income derived through estates or trusts.

To the extent that income or gain is subject to tax under one of the classes of income enumerated in this section such income or gain shall not be subject to tax under another of such enumerated classes.

(a.1) Income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes income in keeping the taxpayer's books. If the department determines that no method has been regularly used or the method used does not clearly reflect income, the computation of income shall be made under a method which, in the opinion of the department, clearly reflects income.

(a.2) In computing income, a depreciation deduction shall be allowed for the exhaustion, wear and tear and obsolescence of property being employed in the operation of a business or held for the production of income. The deduction must be reasonable and shall be computed in accordance with the property's adjusted basis at the time placed in service, reasonably estimated useful life and net salvage value at the end of its reasonably estimated useful economic life under the straight-line method or other method prescribed by the department, except a taxpayer may use any depreciation method, recovery method or convention that is also used by the taxpayer in determining Federal net taxable income if, when placed in service, the property has the same adjusted basis for Federal income tax purposes and the method or convention is allowable for Federal income tax purposes at the time the property is placed in service or under the Internal Revenue Code of 1986, whichever is earlier. The basis of property shall be reduced, but not below zero, for depreciation by the greater of:

- (1) The amount deducted on a return and not disallowed, but only to the extent the deduction results in a reduction of income; and
- (2) The amount allowable using the straight-line method of depreciation computed on the basis of the property's adjusted basis at the time placed in service, reasonably estimated useful life and net salvage value at the end of its reasonably estimated useful economic life, regardless of whether the deduction results in a reduction of income.

<Section 24(1) of Act 2022, July 8, P.L. 513, No. 53, provides that the amendment of subsec. (a.3) by that Act shall apply to property placed in service in tax years beginning after December 31, 2022.>

(a.3) The cost of property commonly referred to as Section 179 Property may be treated as a deductible expense only to the extent allowable under the version of section 179 of the Internal Revenue Code in effect at the time the property is placed in service. The basis of Section 179 Property shall be reduced, but not below zero, for costs treated as a deductible expense. The amount of the reduction shall be the amount deducted on a return and not disallowed, regardless of whether the deduction results in a reduction of income.

(a.4) This article shall be subject to applicable Federal limitations on state income taxation.

<Section 24(2) of Act 2022, July 8, P.L. 513, No. 53, provides that the amendment of subsec. (a.5) by that Act shall apply to transactions occurring in tax years beginning after December 31, 2022.>

(a.5) The requirements of sections 1031 and 1035 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 1031 and 1035), as amended, shall be applicable.

(a.6) Except as provided in this article and without regard to sections 220(f)(4) and 223(f)(4) of the Internal Revenue Code of 1986, the requirements of sections 106(b) and (d), 220 and 223 of the Internal Revenue Code of 1986 shall be applicable.

(a.7) The following apply:

(1) An amount paid as a contribution into a qualified tuition program shall be deductible from taxable income on the annual personal income tax return. The amount paid as a contribution to a qualified tuition program allowable as a deduction under this subsection shall be subject to an 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, per designated beneficiary. The deduction shall not result in taxable income being less than zero.

(2)(i) The following shall not be subject to tax under this article:

(A) Any amount distributed from a qualified tuition program that is excludable from tax under section 529(c)(3)(B) of the Internal Revenue Code of 1986, as amended.

(B) Any distribution that is excludable from tax under section 529 of the Internal Revenue Code of 1986, as amended.

(C) Undistributed earnings on a qualified tuition program.

(D) The value of a medal awarded by or prize money received from the United States Olympic Committee on account of competition in the Olympic Games or Paralympic Games.

(E) Any amount received by an employee through an employer's matching contribution to an account as defined under Article XIX-J.²

(ii) A change in designated beneficiaries under section 529(c)(3)(C) of the Internal Revenue Code of 1986, as amended, shall not constitute a taxable event under this article.

(3) Any amount distributed from a qualified tuition program that is not described under paragraph (2) shall be taxable under this article.

(4) For purposes of this subsection:

(i) The term “**designated beneficiary**” shall have the same meaning as provided in section 529(e)(1) of the Internal Revenue Code of 1986, as amended.

(ii) The term “**qualified tuition program**” shall have the same meaning as provided in section 529(b)(1) of the Internal Revenue Code of 1986, as amended.

(5) As follows:

(i) The classes of income under this section shall not include any amount which is excluded from Federal gross income under sections 276 and 278(a) of the COVID-Related Tax Relief Act of 2020, enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260, 134 Stat. 1182).

(ii) No deduction may be disallowed from an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan under subparagraph (i).

(6) The classes of income under this section shall not include a payment received by an individual from the United States under section 2201 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, 134 Stat. 281) or sections 272 and 273 of the Consolidated Appropriations Act, 2021.

<Section 30(3) of Act 2024, July 11, P.L. 674, No. 56, provides that the addition by that Act of 72 P.S. § 7303(a.7)(7) shall apply to taxable years commencing after December 31, 2022.>

(7) An amount received from the Federal or State Government or Norfolk Southern Railway, or an agent thereof, as a result of the train derailment that occurred in East Palestine, Ohio, on February 3, 2023, shall not be considered income subject to the tax imposed by this article.

(a.8) A person who incurs intangible drilling and development costs as defined in section 263(c) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, is required to capitalize the costs and recover them over a ten-year period in the taxable year the costs are incurred; or a person may elect to currently expense up to one-third of the costs in the taxable year in which the costs are incurred and recover the remaining costs over a ten-year period beginning in the taxable year the costs are incurred.

(a.9) The provisions of section 1033 of the Internal Revenue Code of 1986 (26 U.S.C. § 1033), as amended, shall be applicable.

(a.10) The provisions of section 451(f) of the Internal Revenue Code of 1986, as amended, shall be applicable.

<Section 30(4) of Act 2024, July 11, P.L. 674, No. 56, provides that the addition by that Act of 72 P.S. § 7303(a.11) shall apply to taxable years commencing after December 31, 2024.>

(a.11) The amount of student loan interest paid during a taxable year by a resident individual shall be deductible from taxable income on the annual personal income tax return, provided that the deduction may not:

(1) exceed two thousand five hundred dollars (\$2,500) per taxable year; and

(2) result in taxable income being less than zero.

<Section 30(5) of Act 2024, July 11, P.L. 674, No. 56, provides that the addition by that Act of 72 P.S. § 7303(a.12) shall apply to taxable years commencing after December 31, 2023.>

(a.12) A person may claim a deduction for depletion of a mine, oil and gas well and other natural deposit in accordance with the provisions of sections 611, 612, 613, 613A, 614, 616 and 617 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 611 et seq.) in effect on the effective date of this subsection.

(b) It is hereby declared to be the intent of the General Assembly that if one or more or part of one or more of the classes of income enumerated in subsection (a) of this section are, for any reason, held to be unconstitutional by a final decision of a court of last resort, said unconstitutional class or classes or part of a class or classes of income shall be deemed severable, and the tax imposed by this article shall apply with respect to all the remaining classes of income or parts thereof enumerated in subsection (a) of this section as if the unconstitutional class or classes of income or part or parts thereof had not been included therein.

Credits

1971, March 4, P.L. 6, No. 2, art. III, § 303, added 1971, Aug. 31, P.L. 362, No. 93, § 4. Amended 1972, May 9, P.L. 273, No. 66, § 3; 1974, March 13, P.L. 179, No. 32, § 3, imd. effective; 1974, June 17, P.L. 325, No. 105, § 1, imd. effective; 1983, July 21, P.L. 63, No. 29, § 3, imd. effective; 1986, July 2, P.L. 318, No. 77, § 4, effective July 1, 1987; 1987, July 13, P.L. 325, No. 59, § 1, imd. effective; 1993, Dec. 3, P.L. 473, No. 68, § 3, effective in 60 days; 1997, May 7, P.L. 85, No. 7, § 6; 1998, April 23, P.L. 239, No. 45, § 6, imd. effective; 2002, June 29, P.L. 559, No. 89, § 9, effective July 1, 2002; 2005, July 7, P.L. 149, No. 40, § 3, imd. effective; 2006, July 6, P.L. 319, No. 67, § 3, imd. effective; 2006, Nov. 29, P.L. 1613, No. 182, § 1, imd. effective; 2009, Oct. 9, P.L. 451, No. 48, § 4, imd. effective; 2013, July 9, P.L. 270, No. 52, § 7, imd. effective; 2016, July 13, P.L. 526, No. 84, § 7; 2019, June 28, P.L. 50, No. 13, § 10; 2021, June 30, P.L. 124, No. 25, § 3, imd. effective; 2022, July 8, P.L. 513, No. 53, § 4, imd. effective; 2024, July 11, P.L. 674, No. 56, § 3.

Footnotes

1 72 P.S. § 4752-1 et seq.

[2](#) 72 P.S. § 8901-J et seq.
72 P.S. § 7303, PA ST 72 P.S. § 7303