

PA-41 (2014)

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We have just completed an exhaustive analysis of the PA-41 for 2014, especially the surprisingly intricate new versions of Schedules A and B. This analysis included over 75 e-mails traded back and forth during the past six weeks with an extremely helpful PA Department of Revenue.

Note also the new Schedule N, which provides for mandatory income tax withholding on all distributions to nonresident beneficiaries. There are new penalties for the following:

- 1) \$250 penalty to estate/trust for failure to file a PA-41.
- 2) \$250 penalty to estate/trust for **each** failure to provide an appropriate RK-1 or NRK-1.
- 3) Tax, interest, and penalty (unspecified amount) to **fiduciary** for each NRK-1 that was provided when an RK-1 should have been provided. The opposite scenario is not explicitly covered in the instructions (providing an RK-1 when an NRK-1 should have been provided). Presumably there are penalties for failure to withhold the tax that would be calculated on the NRK-1 for nonresident beneficiaries.

Also, here are additional requirements that have been in effect for at least several years:

- 4) Part-year individual beneficiary: the fiduciary must provide both an RK-1 and an NRK-1.
- 5) Non-individual beneficiary (resident or nonresident, including partnerships, S corporations, estates, and trusts): provide both an RK-1 and an NRK-1 (but withhold tax only for nonresidents).

Thus, the fiduciary or trustee must keep an accurate list of beneficiaries including their applicable residency status.

Additional wrinkles:

- 6) Unless a gross distribution to a beneficiary is reduced by the tax withheld on that distribution, the remittance of the tax itself by the estate or trust will constitute a distribution for purposes of the 2015 return.
- 7) A PA election to treat distributions made within the first 65 days of 2015 (i.e., through 3/6/2015) as if they were made in 2014 is irrevocable and applies to every year thereafter. A 663(b) election made for 1041 purposes, however, applies only to the year of the election.
- 8) RK-1s should be provided to all resident individual beneficiaries, and NRK-1s to all nonresident individual beneficiaries, even if they report zero amounts.

Clearly, one of the big challenges with the PA-41 is the layer upon layer upon layer of nuance and detail. This has been built up in the instructions and personal income tax guide over the past several decades (or more). Department personnel are apparently not authorized to rewrite (or "re-imagine") the instructions from the ground up, but this is clearly what should be done in the long run.