

## Answers to Commonly Asked Questions Regarding the Resource Enhancement and Protection (REAP) Tax Credit

*If my REAP credit exceeds my PA personal income tax liability, may I receive a refund of the excess credit?*

No, REAP tax credits are not refundable. The credit amount cannot exceed the taxpayer's liability on Line 12 of Form PA-40. Further, resident credit for taxes paid to other states and the Tax Forgiveness credit must be applied to the liability before the REAP credit claimed on Line 23 of Form PA-40. The total of the amounts of resident credit, Tax Forgiveness credit, and REAP tax credit may not exceed the amount of the tax liability. As long as the individual claiming the credit is the original applicant and the credit has not been sold, assigned, or passed through from an awardee, the unused portion of the REAP tax credit may be carried forward to future tax years or sold or assigned to another taxpayer.

However, any credits that represent actual payments can be refunded after the REAP tax credit has been applied. These credits include voucher or estimated payments, carryover estimated payments from the previous tax year, extension payments or tax withheld by an employer or pass-through entity.

- **Example A:** A \$5,000 REAP tax credit is granted in March 2009 for Sam Johnson, an individual farmer. In February 2010, Sam files a PA personal income tax return for a tax liability of \$4,000. He receives a \$1,000 resident credit from Maryland because he sold property he owned in Maryland in 2009. Sam's 2009 net liability to which he may apply the REAP credit is \$3,000. The unused \$2,000 REAP credit may then be sold or assigned in 2010 or carried forward for future use.
- **Example B:** A \$2,000 REAP tax credit is granted in March 2009 for Michael Simmons, an individual farmer. Michael's total tax liability on his 2009 PA tax return is \$1,800. He is eligible for 50 percent Tax Forgiveness, so he applies the \$900 Tax Forgiveness credit to his account and may also apply \$900 in REAP tax credit to his 2009

liability. The unused \$1,100 REAP tax credit may then be sold or assigned in 2010 or carried forward for future use.

- **Example C:** A \$6,000 REAP tax credit is granted in April 2009 for Jim Evans, an individual farmer. He also has compensation of \$8,500 from a part-time job and has \$261 tax withheld from his wages. In April 2010, Jim files a personal income tax return showing a liability of 1,013. He is eligible for 60% Tax Forgiveness, so he applies \$608 Tax Forgiveness to his liability, as well as \$405 REAP credit. Jim may sell or assign the unused \$5,595 REAP tax credit in 2010 or carry it forward for future use. The \$261 tax withheld exceeds his tax liability and is refunded to him.

***After I am notified of my REAP tax credit, how soon may I claim it?***

A REAP credit is available to the awardee for the tax year during which the credit is granted.

- If the credit is awarded to an individual during calendar year 2009, he/she may claim the credit on his/her 2009 tax return. The awardee may carry over unused credit for 15 years but may not carry it back to prior years.
- If the credit is awarded to a partnership or corporation and passed through to an individual, the individual must use the credit in the year it is passed through. Any unused credit passed through to an individual is lost; it cannot be carried over, carried back, sold, assigned or passed through to any other entity or individual.

***Must I claim the REAP credit against liabilities generated by farming income, or may I use it to offset tax liabilities incurred from other forms of income?***

The REAP credit may be offset against tax liabilities from any income listed on your individual income tax return. Even if you have a loss from business and farming activities but have income from compensation, interest, or any other income category listed on Form PA-40, you can claim the REAP credit against your tax liability.

- **Example:** A \$3,000 REAP credit is granted to Clarence Porter in March 2009. He has a farming loss of \$2,000 for 2009 but has interest,

dividend and rental income totaling \$10,000, which generates a \$307 tax liability. Clarence claims \$307 of REAP credit on his 2009 return. The unused \$2,693 REAP credit may be sold or assigned, or Clarence may use it in future tax years.

### ***How soon may an awardee sell or assign a credit?***

An awardee must wait one year from the date the credit is granted to sell or assign a credit, and any returns filed before the end of the one-year period must claim as much of the REAP tax credit as possible. Only an awardee of a REAP credit may sell it.

- **Example:** A \$10,000 REAP tax credit is granted on March 20, 2009 for George Martin, an individual farmer. He files his PA personal income tax return on March 1, 2010, and he must claim the REAP tax credit on this return. If George's total 2009 tax liability is \$1,000, he must apply \$1,000 of his REAP tax credit on Line 23 of Form PA-40 and on PA Schedule OC, even though he has made estimated payments totaling \$1,500. The total credits claimed on his return will be \$2,500, so he will receive a refund or carry-over as an estimated tax credit of \$1,500. He can sell the unused \$9,000 of REAP tax credit as of March 20, 2010.

### ***If an individual or entity purchases or is assigned a REAP tax credit from an awardee, are there any additional restrictions on the usage of the purchased or assigned credit?***

Purchased or assigned credits may only be applied to 75 percent of the purchaser's or assignee's tax liability for the tax year of the purchase. The credits cannot be carried forward, carried back, sold, assigned or refunded. However, there is no limit to the amount of credits that may be purchased or assigned.

- **Example:** Susan Mellon, an individual taxpayer, determines her 2010 tax liability will be at least \$7,000. She is interested in buying a REAP tax credit. She knows she must use the entire purchased credit in tax year 2010 and any credit in excess of \$5,250 – 75 percent of her \$7,000 liability – will be lost. She decides to buy a \$5,000 REAP tax credit on June 20, 2010, from a credit broker. The purchase price of

the credit is \$4,500, which includes a \$300 commission for the broker, so the purchase of the tax credit saves Susan \$500.

***Are there any additional tax consequences from the purchase or sale of REAP Tax Credits?***

Yes, both buyers and sellers must report gains from the sale of REAP credits.

- An individual seller of a REAP tax credit must report the sale and any gain on PA-40 Schedule D. The basis is zero, so the gain is the same as the gross sales price, less expenses of sale. The seller of the credit in the last example must report a gain of \$4,200: \$5,000 - \$500 - \$300.
- An individual buyer of a REAP tax credit must also use PA-40 Schedule D to report use of the credit. The basis is the buyer's purchase price, and the sales price is the value of the credit. The gain will equal the discount on the credit. Susan Mellon, the buyer of the credit in the last example, must report a gain of \$500: \$5,000 - \$4,500.

***May I file a joint PA personal income tax return with my spouse when I claim the REAP tax credit?***

Married individuals claiming a REAP tax credit may not file jointly and must file separate income tax returns. The only exception to this rule applies to a REAP claimant who uses his/her Social Security number as the primary number and whose spouse reports no PA-taxable income for the tax year.

There are no tax consequences to filing separately for PA personal income tax purposes. The tax liability of married taxpayers filing separately is the same as it would be if the taxpayers filed jointly.

Married taxpayers who submitted joint estimated payments to the department should complete Form REV-459B, Consent to Transfer, Adjust or Correct PA Personal Income Tax Account.