

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 309 Session of
1995

INTRODUCED BY FARMER, FARGO, GEIST, BAKER, PETTIT, HERSHEY,
FLEAGLE, COWELL, SAYLOR, WOZNIAK, MILLER, LAUGHLIN, ITKIN,
SCHULER, NICKOL, ROBERTS, STABACK, CIVERA, TIGUE,
E. Z. TAYLOR, HERMAN, PETRONE, SATHER AND MARKOSEK,
JANUARY 25, 1995

REFERRED TO COMMITTEE ON FINANCE, JANUARY 25, 1995

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for income tax returns of
11 married individuals.

12 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 Section 1. Section 331(b) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
16 August 31, 1971 (P.L.362, No.93), is amended and the section is
17 amended by adding a subsection to read:

18 Section 331. Returns of Married Individuals, Deceased or
19 Disabled Individuals and Fiduciaries.--* * *

20 (b) [If] Except as otherwise provided in subsection (b.1),
21 if the income tax liabilities of husband and wife are determined

on a joint return, their tax liabilities shall be joint and several.

(b.1) (1) The joint and several liability imposed by subsection (b) upon a husband and wife who file a joint return shall not apply if:

(i) a joint return has been made under this article for a taxable year;

(ii) on the return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse;

(iii) the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such substantial understatement; and

(iv) taking into account all the facts and circumstances, it would be inequitable to hold the other spouse liable for the deficiency in tax for the taxable year attributable to the substantial understatement.

(2) If the criteria enumerated in clause (1) exist, then the other spouse shall be relieved of liability for tax, including interest, penalties and other amounts, for the taxable year to the extent that the liability is attributable to the substantial understatement.

(3) For purposes of this subsection, the term "grossly erroneous item" means with respect to any spouse:

(i) any item of gross income attributable to such spouse which is omitted from gross income; and

(ii) any claim of a deduction, credit or basis by such spouse in an amount for which there is no basis in fact or law.

(4) For purposes of this subsection, the term "substantial understatement" means any understatement of taxable income as defined in section 303 which exceeds five hundred dollars

1 (\$500).

2 (5) The department may promulgate rules and regulations to
3 administer and enforce the provisions of this subsection.

4 * * *

5 Section 2. (1) This act shall apply to returns filed on or
6 after April 15, 1995.

7 (2) This act shall not be applied to a return for any
8 tax year where the tax year has been closed by the statute of
9 limitations, a court decision or otherwise.

10 Section 3. This act shall take effect immediately.