

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 1487 Session of
1975

INTRODUCED BY MESSRS. BRUNNER, DeMEDIO, MILLIRON AND
O'KEEFE, JUNE 16, 1975

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, OCTOBER 15, 1975

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," EXPRESSLY PROVIDING FOR THE APPEAL PERIOD TO <—
11 CONFORM TO THE APPELLATE COURT JURISDICTION ACT OF 1970 AND
12 reducing the amount of time the department is required to
13 wait before collecting taxes after a decision of the Board of
14 Finance and Revenue.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 235, act of March 4, 1971 (P.L.6, No.2),
18 known as the "Tax Reform Code of 1971," amended July 18, 1974
19 (P.L.466,No.165), is amended to read: <—

20 Section 235. Appeal to Commonwealth Court.--Any person
21 aggrieved by the decision of the Board of Finance and Revenue or
22 by the board's failure to act upon a petition for review within
23 six months may appeal to the Commonwealth Court from the

1 decision of the board or of the department, as the case may be,
2 within [the time] thirty days and in the manner now or
3 hereafter provided by law for appeals in the case of tax
4 settlements.

5 Section 2. Clause (3) of section 241 of the act, amended
6 September 9, 1971 (P.L.437, No.105), is amended to read:

7 Section 241. Collection upon Failure to Request
8 Reassessment, Review or Appeal.--The department may collect any
9 tax:

10 * * *

11 (3) Within [sixty] thirty days from the date of the decision
12 of the Board of Finance and Revenue upon a petition for review,
13 or of the expiration of the board's time for acting upon such
14 petition, if no appeal has been made; and

15 * * *

16 Section 3. Sections 255 AND 342 ~~and subsection (c) of~~ <—
17 ~~section 407~~ of the act, amended July 18, 1974 (P.L.466, No.165), <—
18 ~~and section 342 added August 31, 1971 (P.L.362, No.93),~~ are <—
19 amended to read:

20 Section 255. Appeal to the Commonwealth Court.--Any person
21 aggrieved by the decision of the Board of Finance and Revenue
22 under section 254, or by the board's failure to act upon a
23 petition for review within six months may appeal to the
24 Commonwealth Court from the decision of the board or of the
25 department, as the case may be, within [the time] thirty days
26 and in the manner now or hereafter provided for by law for
27 appeals in the case of tax settlements.

28 Section 342. Appeal to the Commonwealth Court.--Any person,
29 or the Commonwealth, aggrieved by the decision of the Board of
30 Finance and Revenue may appeal to the Commonwealth Court from

1 the decision of the Board of Finance and Revenue within [the
2 time] thirty days and in the manner now or hereafter provided by
3 law for appeals from decisions of said board in tax cases.

4 SECTION 4. SECTION 344 OF THE ACT, ADDED AUGUST 31, 1971 <—
5 (P.L.362, NO.93), IS AMENDED TO READ:

6 SECTION 344. COLLECTION UPON FAILURE TO REQUEST
7 REASSESSMENT, REVIEW OR APPEAL.--THE DEPARTMENT MAY COLLECT ANY
8 TAX:

9 (1) AFTER NINETY DAYS FROM THE DATE OF MAILING OF A COPY OF
10 THE NOTICE OF ASSESSMENT, IF NO PETITION FOR REASSESSMENT HAS
11 BEEN FILED;

12 (2) AFTER NINETY DAYS FROM THE DATE OF MAILING OF NOTICE OF
13 THE DEPARTMENT'S ACTION THEREON, IF NO PETITION FOR REVIEW HAS
14 BEEN FILED;

15 (3) WITHIN [SIXTY] THIRTY DAYS FROM THE DATE OF MAILING OF
16 NOTICE OF THE DECISION OF THE BOARD OF FINANCE AND REVENUE UPON
17 A PETITION FOR REVIEW OR FROM THE EXPIRATION OF THE BOARD'S TIME
18 FOR ACTING UPON SUCH PETITION, IF NO DECISION HAS BEEN MADE; OR

19 (4) IMMEDIATELY, IN ALL CASES OF JUDICIAL SALES,
20 RECEIVERSHIPS, ASSIGNMENTS OR BANKRUPTCIES.

21 IN ANY SUCH PROCEEDING FOR THE COLLECTION OF THE TAX IMPOSED
22 BY THIS ARTICLE, THE PERSON AGAINST WHOM THE ASSESSMENT WAS MADE
23 SHALL NOT BE PERMITTED TO SET UP ANY GROUND OF DEFENSE THAT
24 MIGHT HAVE BEEN PRESENTED TO THE DEPARTMENT, THE BOARD OF
25 FINANCE AND REVENUE OR THE COMMONWEALTH COURT IF SUCH PERSON HAD
26 PROPERLY PURSUED HIS ADMINISTRATIVE REMEDIES UNDER THIS ARTICLE.

27 SECTION 5. SUBSECTION (C) OF SECTION 407 OF THE ACT, AMENDED
28 JULY 18, 1974 (P.L.466, NO.165), IS AMENDED TO READ:

29 Section 407. Settlement and Resettlement.--* * *

30 (c) Promptly after the date of any such settlement, the

1 department shall send, by mail or otherwise, a copy thereof to
2 such corporation. The tax, interest, and penalty imposed by this
3 article shall be subject to the right of resettlement, review,
4 AND refund[, and appeal] within ~~the time~~ ~~thirty days~~ and in <—
5 the manner now or hereafter provided for by law for petitions
6 for resettlement, review and refund and TO THE RIGHT OF APPEAL <—
7 WITHIN THIRTY DAYS AND IN THE MANNER NOW OR HEREAFTER PROVIDED
8 FOR BY LAW for appeals in the case of tax settlements.

9 * * *