

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 533

Session of  
1983

INTRODUCED BY LAUGHLIN, BURNS, MANDERINO, CLARK, OLASZ,  
ALDERETTE, LESCOVITZ, F. E. TAYLOR, COLAFELLA, SWEET,  
PISTELLA, COWELL, PRESTON, GAMBLE, VAN HORNE, TRELLO,  
McVERRY, FISCHER, STAIRS, KUKOVICH AND MICHLOVIC, MARCH 21,  
1983

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, SEPTEMBER 19, 1983

## 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 ~~interest and~~ penalties on <—  
11 the utilities gross receipts tax.

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

14 ~~Section 1. Section 1101(e) of the act of March 4, 1971 <—~~  
15 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, amended~~  
16 ~~December 11, 1979 (P.L.499, No.107), is amended to read:~~

17 ~~Section 1101. Imposition of Tax. \* \* \*~~

18 ~~(c) Time to File Reports. The time for filing annual~~  
19 ~~reports may be extended[, ] and estimated settlements may be made~~  
20 ~~by the Department of Revenue if reports are not filed[, and the~~

1 ~~penalties for failing to file reports and pay the taxes imposed~~  
2 ~~under subsections (a) and (b) shall be] as prescribed by the~~  
3 ~~laws defining the powers and duties of the Department of~~  
4 ~~Revenue. In any case where the works of any corporation,~~  
5 ~~company, copartnership, association, joint stock association,~~  
6 ~~limited partnership, person or persons are operated by another~~  
7 ~~corporation, company, copartnership, association, joint stock~~  
8 ~~association, limited partnership, person or persons, the taxes~~  
9 ~~imposed under subsections (a) and (b) shall be apportioned~~  
10 ~~between the corporations, companies, copartnerships,~~  
11 ~~associations, joint stock associations, limited partnerships,~~  
12 ~~person or persons in accordance with the terms of their~~  
13 ~~respective leases or agreements, but for the payment of the said~~  
14 ~~taxes the Commonwealth shall first look to the corporation,~~  
15 ~~company, copartnership, association, joint stock association,~~  
16 ~~limited partnership, person or persons operating the works, and~~  
17 ~~upon payment by the said company, corporation, copartnership,~~  
18 ~~association, joint stock association, limited partnership,~~  
19 ~~person or persons of a tax upon the receipts, as herein~~  
20 ~~provided, derived from the operation thereof, no other~~  
21 ~~corporation, company, copartnership, association, joint stock~~  
22 ~~association, limited partnership, person or persons shall be~~  
23 ~~held liable for any tax imposed under subsections (a) and (b)~~  
24 ~~upon the proportion of said receipts received by said~~  
25 ~~corporation, company, copartnership, association, joint stock~~  
26 ~~association, limited partnership, person or persons for the use~~  
27 ~~of said works.~~

28       \* \* \*

29       Section 2 1. Section 1102 of the act OF MARCH 4, 1971  
30       (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, is amended

<—

1 to read:

2 Section 1102. Procedure; Enforcement; Interest; and <—  
3 Penalties.~~---(a) Procedure and Enforcement.~~ Parts III, IV, VI, <—  
4 and VII of Article IV are incorporated by reference into this  
5 article in so far as they are consistent with this article and  
6 applicable to the tax imposed hereunder.

7 ~~(b) Applicability of Provisions. Notwithstanding the~~ <—  
8 ~~provisions of sections 403, 406, 407 and 408, interest and~~  
9 ~~penalties on unpaid taxes imposed under this article shall be as~~  
10 ~~provided in subsections (c) and (d).~~

11 ~~(c) Interest. If any amount of the tax imposed by this~~  
12 ~~article is not paid on or before the last date prescribed for~~  
13 ~~payment, interest on such amount at the rate of eight per cent~~  
14 ~~per annum shall be paid for the period from such last date to~~  
15 ~~the date paid. For purposes of this subsection, the last date~~  
16 ~~prescribed for payment shall be the due date of the return and~~  
17 ~~shall be determined without regard to any extension of time for~~  
18 ~~payment.~~

19 ~~(d) Penalties.~~

20 ~~(1) In the case of failure to make or file a required return~~  
21 ~~of the tax imposed by this article, unless it is shown that such~~  
22 ~~failure is due to reasonable cause and not due to willful~~  
23 ~~neglect, there shall be added to the amount required to be shown~~  
24 ~~as tax on such return, a penalty of five per cent of the amount~~  
25 ~~of such tax if the failure is for more than one month, with an~~  
26 ~~additional five per cent for each additional month or fraction~~  
27 ~~thereof during which such failure continues, not exceeding~~  
28 ~~twenty five per cent in the aggregate. This penalty shall be~~  
29 ~~imposed only on the net amount of tax due.~~

30 ~~(2) In the case of failure to pay the amount shown as tax on~~

~~any required return of the tax imposed by this article on or before the date prescribed for payment of such tax (determined with regard to any extension of time for payment), unless it is shown that such failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on such return a penalty of one half of one per cent of the amount of such tax if the failure is for not more than one month, with an additional one half of one per cent for each additional month or fraction thereof during which such failure continues, not exceeding twenty five per cent in the aggregate. This penalty shall be imposed only on the net amount of tax due.~~

~~(3) In computing penalties under clauses (1) and (2), only one of those clauses shall be applicable to any one taxable period. If the correct amount of tax due is less than the amount shown on the return, clauses (1) and (2) shall apply only to the lower amount.~~

~~(4) In the case of underpayment of the tax imposed by this article which is due to negligence or intentional disregard of rules and regulations (but without intent to defraud), there shall be added to the amount of tax due a penalty of five per cent of the amount of such tax if the underpayment due to negligence or intentional disregard of rules and regulations is for more than one month, with an additional five per cent for each additional month or fraction thereof during which such underpayment continues, not exceeding twenty five per cent in the aggregate. These penalties shall be imposed only on the net amount of tax due and shall be in lieu of the penalties provided for in clauses (1) and (2).~~

~~Section 3. This act shall apply to taxes due on and after the effective date of this act.~~

1     ~~Section 4. This act shall take effect in 90 days.~~

2     HOWEVER, NOTWITHSTANDING THE PROVISIONS OF SUBSECTION (D) OF  
3     SECTION 403 OF THIS ACT, IF THE OFFICERS OF ANY CORPORATION  
4     SUBJECT TO TAX UNDER THIS ARTICLE SHALL NEGLECT OR REFUSE TO  
5     MAKE ANY REPORT AS HEREIN REQUIRED OR SHALL KNOWINGLY MAKE ANY  
6     FALSE REPORT, THERE SHALL BE ADDED BY THE DEPARTMENT TO THE TAX  
7     DETERMINED TO BE DUE A PENALTY OF FIVE PER CENT OF THE AMOUNT OF  
8     TAX DUE FOR EACH MONTH OR FRACTION THEREOF UNTIL THE PENALTY HAS  
9     REACHED TWENTY-FIVE PER CENT, AND THEREAFTER AT THE RATE OF ONE  
10    PER CENT PER MONTH. NO SUCH AMOUNTS ADDED TO THE TAX SHALL BEAR  
11    ANY INTEREST WHATSOEVER.

12     SECTION 2. THIS ACT SHALL APPLY TO TAXES DUE AND PAYABLE ON  
13     AND AFTER THE EFFECTIVE DATE OF THIS ACT. NOTHING IN THIS ACT  
14     SHALL BE CONSTRUED TO OVERRIDE THE PROVISIONS OF SECTION 806 OF  
15     THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL  
16     CODE.

17     SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.

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