

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**HOUSE BILL**  
**No. 2043** Session of  
1987

INTRODUCED BY HASAY, JAROLIN AND BLAUM, DECEMBER 7, 1987

REFERRED TO COMMITTEE ON FINANCE, DECEMBER 7, 1987

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 providing for the payment of interest when earned income tax  
23 is overpaid.

24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 Section 1. Division VIII of section 13 of the act of  
27 December 31, 1965 (P.L.1257, No.511), known as The Local Tax  
28 Enabling Act, amended July 9, 1987 (P.L.203, No.30), is amended

1 to read:

2 Section 13. Earned Income Taxes.--On and after the effective  
3 date of this act the remaining provisions of this section shall  
4 be included in or construed to be a part of each tax levied and  
5 assessed upon earned income by any political subdivision levying  
6 and assessing such tax pursuant to this act. The definitions  
7 contained in this section shall be exclusive for any tax upon  
8 earned income and net profits levied and assessed pursuant to  
9 this act, and shall not be altered or changed by any political  
10 subdivision levying and assessing such tax.

11 \* \* \*

12 VIII. Interest and Penalties

13 (a) If for any reason the tax is not paid when due, interest  
14 at the rate of six percent per annum on the amount of said tax,  
15 and an additional penalty of one-half of one percent of the  
16 amount of the unpaid tax for each month or fraction thereof  
17 during which the tax remains unpaid, shall be added and  
18 collected. Where suit is brought for the recovery of any such  
19 tax, the person liable therefor shall, in addition, be liable  
20 for the costs of collection and the interest and penalties  
21 herein imposed.

22 (b) Notwithstanding the provisions of subsection (a), the  
23 governing body may, by ordinance or resolution, establish a one-  
24 time period during which interest or interest and penalties that  
25 would otherwise be imposed for the nonreporting or  
26 underreporting of earned income tax liabilities or for the  
27 nonpayment of earned income taxes previously imposed and due  
28 shall be waived in total or in part if the taxpayer voluntarily  
29 files delinquent returns and pays the taxes in full during the  
30 period so established. Each governing body may adopt regulations

1 to implement the provisions of this subsection.

2 (c) The provisions of subsection (b) shall not affect or  
3 terminate any petitions, investigations, prosecutions or other  
4 proceedings pending under the provisions of this act, or prevent  
5 the commencement or further prosecution of any proceedings by  
6 the proper authorities for violations of this act. No  
7 proceedings shall, however, be commenced on the basis of  
8 delinquent returns filed pursuant to subsection (b) if the  
9 returns are determined to be substantially true and correct and  
10 the taxes are paid in full within the prescribed time.

11 (d) Simple interest shall be allowed and paid by the income  
12 tax officer on behalf of the appropriate political subdivision  
13 upon any overpayment of any tax. "Overpayment" shall mean any  
14 payment of tax which is determined in the manner provided by law  
15 not to be legally due. The interest shall be allowed and paid  
16 for the period during which the income tax officer retained the  
17 overpayment, beginning with the date of the overpayment, except  
18 that:

19 (1) Any tax actually deducted and withheld at the source  
20 shall be deemed to have been overpaid on the last day prescribed  
21 for filing the return or report for the taxable year (determined  
22 without regard to any extension of time for filing).

23 (2) Any amount overpaid as estimated tax, tentative tax or  
24 installment payment for a taxable year shall be deemed to have  
25 been overpaid on the last day prescribed for filing the final  
26 return or report for the taxable year (determined without regard  
27 to any extension of time for filing).

28 (3) Any overpayment made before the last day prescribed for  
29 payment shall be considered made on the last day.

30 (4) Any amount claimed to be overpaid with respect to which

1 review or appellate procedure is initiated in the manner  
2 provided by law by the taxpayer shall be deemed to have been  
3 overpaid sixty days following the date of initiation of said  
4 review or procedure.

5 (5) If any overpayment of tax is refunded within sixty days  
6 after the last date prescribed for filing the final return or  
7 report of the tax (determined without regard to any extension of  
8 time for filing) or, in case the final return or report is filed  
9 after the last day, and is refunded within sixty days after the  
10 date the final return or report is filed, no interest shall be  
11 allowed on the overpayment. A final return or report shall be  
12 deemed to have been filed only if, when it is received by the  
13 income tax officer, it has been submitted on a permitted form  
14 containing (i) the taxpayer's name, address and identifying  
15 number and the required signature; and (ii) sufficient required  
16 information, either on the permitted form or attachments  
17 thereto, to permit the verification of tax liability shown on  
18 the return.

19 (6) No overpayment of interest or penalty shall bear any  
20 interest whatsoever.

21 (e) Interest on overpayments shall be allowed and paid at  
22 the same rate as is prescribed for underpayments of Commonwealth  
23 taxes under section 806 of the act of April 9, 1929 (P.L.343,  
24 No.176), known as "The Fiscal Code."

25 (f) Interest on overpayments shall be allowed and paid as  
26 follows:

27 (1) In the case of a cash refund, from the date of the  
28 overpayment to a date preceding the date of the refund check by  
29 not more than ten days.

30 (2) In the case of a credit for an overpayment, from the

1 date of the overpayment to the date of the notice to the  
2 taxpayer of the final determination of the credit.

3 (g) The taxpayer's acceptance of the check under subsection  
4 (f) shall be without prejudice to any right of the taxpayer to  
5 claim any additional overpayment and interest thereon.

6 (h) Responsibility for interest on overpayments shall be  
7 borne by the political subdivision imposing the tax which was  
8 overpaid, unless the taxes of the political subdivision are  
9 collected pursuant to the appointment of or contracting with a  
10 for-profit entity, in which case such for-profit tax collection  
11 entity shall bear the responsibility for such interest.

12 \* \* \*

13 Section 2. This act shall take effect January 1, 1988.