

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1255 Session of
2010

INTRODUCED BY BROWNE, SCARNATI, ERICKSON, GORDNER, ORIE, WAUGH,
ALLOWAY, MENSCH, BAKER, M. WHITE, GREENLEAF, WARD, PIPPY,
EICHELBERGER, VOGEL, D. WHITE, EARLL, BOSCOLA, TARTAGLIONE
AND WOZNIAK, MARCH 4, 2010

SENATOR BROWNE, FINANCE, AS AMENDED, JUNE 30, 2010

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," in sales and use tax, further providing for time
11 for filing returns and for time of payment.

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

14 Section 1. Sections 217 and 222 of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 October 9, 2009 (P.L.451, No.48), are amended to read:

17 Section 217. Time for Filing Returns.--(a) Quarterly[, and
18 Monthly [and Semi-monthly] Returns:

19 (1) For the year in which this article becomes effective and
20 in each year thereafter a return shall be filed quarterly by
21 every licensee on or before the twentieth day of April, July,

1 October and January for the three months ending the last day of
2 March, June, September and December.

3 (2) For the year in which this article becomes effective,
4 and in each year thereafter, subject to subclause (2.1), a
5 return shall be filed monthly with respect to each month by
6 every licensee whose total tax reported, or in the event no
7 report is filed, the total tax which should have been reported,
8 for the third calendar quarter of the preceding year equals or
9 exceeds six hundred dollars (\$600) and is less than twenty-five
10 thousand dollars (\$25,000). Such returns shall be filed on or
11 before the twentieth day of the next succeeding month with
12 respect to which the return is made. Any licensee required to
13 file monthly returns hereunder shall be relieved from filing
14 quarterly returns.

15 (2.1) On and after the effective date of this subclause and
16 before June 1, 2011, every licensee whose total tax reported or
17 required to be reported for the third calendar quarter of the
18 preceding calendar year equals or exceeds twenty-five thousand
19 dollars (\$25,000) shall file returns as provided in subclause
20 (2).

21 (3) After May 31, 2011, [a return shall be filed semi-
22 monthly with respect to each month by every licensee whose total
23 tax reported, or in the event no report is filed, the total tax
24 which should have been reported, for the third calendar quarter
25 of the preceding year equals or exceeds twenty-five thousand
26 dollars (\$25,000). For the period from the first day of the
27 month to the fifteenth day of the month, the returns shall be
28 filed on or before the twenty-fifth day of the month. For the
29 period from the sixteenth day of the month to the last day of
30 the month, the returns shall be filed on or before the tenth day

1 of the next succeeding month with respect to which the return is
2 made. Any licensee required to file semi-monthly returns under
3 this section shall be relieved from filing monthly or quarterly
4 returns.] with respect to every licensee whose total tax
5 reported or required to be reported for the third calendar
6 quarter of the preceding year equals or exceeds twenty-five
7 thousand dollars (\$25,000), the licensee shall, on or before the
8 twentieth day of each month, file a single return consisting of
9 all of the following:

10 ~~(A) An amount equal to fifty per centum of the licensee's~~ ←
11 ~~total reported tax liability for the same month in the preceding~~
12 ~~calendar year or, for licensees that were not in business during~~
13 ~~the same month in the preceding calendar year or were in~~
14 ~~business for only a portion of that month, fifty per centum of~~
15 ~~the average total reported tax liability for each full month the~~
16 ~~licensee has been in business.~~

17 (A) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II), AN AMOUNT ←
18 EQUAL TO FIFTY PER CENTUM OF THE LICENSEE'S TOTAL REPORTED TAX
19 LIABILITY FOR THE SAME MONTH IN THE PRECEDING CALENDAR YEAR IF
20 THEY WERE A MONTHLY FILER OR, IF THE LICENSEE WAS A QUARTERLY OR
21 SEMI-ANNUAL FILER, FIFTY PER CENTUM OF THE LICENSEE'S AVERAGE
22 TOTAL REPORTED TAX LIABILITY FOR THAT TAX PERIOD IN THE
23 PRECEDING CALENDAR YEAR. THE AVERAGE TAX LIABILITY SHALL BE THE
24 REPORTED TAX LIABILITY FOR THE TAX PERIOD DIVIDED BY THE NUMBER
25 OF MONTHS IN THAT TAX PERIOD. FOR LICENSEES THAT WERE NOT IN
26 BUSINESS DURING THE SAME MONTH IN THE PRECEDING CALENDAR YEAR OR
27 WERE IN BUSINESS FOR ONLY A PORTION OF THAT MONTH, FIFTY PER
28 CENTUM OF THE AVERAGE TOTAL REPORTED TAX LIABILITY FOR EACH TAX
29 PERIOD THE LICENSEE HAS BEEN IN BUSINESS. IF THE LICENSEE IS
30 FILING A TAX LIABILITY FOR THE FIRST TIME WITH NO PRECEDING TAX

1 PERIODS, THE AMOUNT SHALL BE ZERO.

2 (II) FOR THE RETURN DUE JUNE 20, 2011, THE PERCENTAGE USED
3 IN THIS CALCULATION SHALL BE FIFTY-FIVE PER CENTUM.

4 (III) THE AMOUNT DUE UNDER THIS PARAGRAPH SHALL BE DUE THE
5 SAME DAY AS THE PRECEDING MONTH'S TAX LIABILITY.

6 (B) An amount equal to the taxes due for the preceding
7 month, less any amounts paid in the preceding month as required
8 by paragraph (A).

9 (C) THE DEPARTMENT SHALL DETERMINE WHETHER THE AMOUNTS
10 REPORTED UNDER PARAGRAPHS (A) AND (B) SHALL BE REMITTED AS ONE
11 COMBINED PAYMENT OR AS TWO SEPARATE PAYMENTS.

12 (D) THE DEPARTMENT MAY REQUIRE THE FILING OF THE RETURNS AND
13 THE PAYMENTS FOR THESE TYPES OF FILERS BY ELECTRONIC MEANS
14 APPROVED BY THE DEPARTMENT.

15 (4) Any licensee filing returns under subclause (3) shall be
16 relieved of filing quarterly returns.

17 (5) If a licensee required to remit payments under subclause
18 (3)(A) fails to make a timely payment or makes a payment which
19 is less than the required amount, the department may, in
20 addition to any applicable penalties, impose an additional
21 penalty equal to five per centum of the amount due under
22 subclause (3)(A) which was not timely paid. THE PENALTY UNDER
23 THIS SUBCLAUSE SHALL BE DETERMINED WHEN THE TAX RETURN IS FILED
24 FOR THE TAX PERIOD.

25 (b) Annual Returns. For the calendar year 1971, and for each
26 year thereafter, no annual return shall be filed, except as may
27 be required by rules and regulations of the department
28 promulgated and published at least sixty days prior to the end
29 of the year with respect to which the returns are made. Where
30 such annual returns are required licensees shall not be required

1 to file such returns prior to the twentieth day of the year
2 succeeding the year with respect to which the returns are made.

3 (c) Other Returns. Any person, other than a licensee, liable
4 to pay to the department any tax under this article, shall file
5 a return on or before the twentieth day of the month succeeding
6 the month in which such person becomes liable for the tax.

7 (d) Small Taxpayers. The department, by regulation, may
8 waive the requirement for the filing of quarterly return in the
9 case of any licensee whose individual tax collections do not
10 exceed seventy-five dollars (\$75) per calendar quarter and may
11 provide for reporting on a less frequent basis in such cases.

12 Section 222. Time of Payment.--(a) Monthly[, Semi-monthly]
13 and Quarterly Payments. The tax imposed by this article and
14 incurred or collected by a licensee shall be due and payable by
15 the licensee on the day the return is required to be filed under
16 the provisions of section 217 and such payment must accompany
17 the return [for such preceding period].

18 (b) Annual Payments. If the amount of tax due for the
19 preceding year as shown by the annual return of any taxpayer is
20 greater than the amount already paid by him in connection with
21 his monthly[, semi-monthly] or quarterly returns he shall send
22 with such annual return a remittance for the unpaid amount of
23 tax for the year.

24 (c) Other Payments. Any person other than a licensee liable
25 to pay any tax under this article shall remit the tax at the
26 time of filing the return required by this article.

27 Section 2. This act shall take effect immediately.