

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 17 Session of 2019

INTRODUCED BY RYAN, GROVE, JAMES, KAUFFMAN, KEEFER, SAYLOR, SIMMONS, STAATS, WALSH, LAWRENCE, F. KELLER, JONES, GILLEN, COX, GABLER AND JOZWIAK, JANUARY 28, 2019

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 15, 2019

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 personal income tax, further providing for <--
11 collection of tax and for limitations on assessment and <--
12 collection. IN GENERAL PROVISIONS, PROVIDING FOR STATUTE OF <--
13 LIMITATION FOR COLLECTION OF ASSESSED TAXES AND FOR PERIOD OF
14 LIMITATIONS ON CRIMINAL TAX PROSECUTIONS.

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

17 Section 1. Sections 343 and 348(c) of the act of March 4, <--
18 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are
19 amended to read:

20 Section 343. Collection of Tax. (a) The department shall
21 collect the taxes imposed by this article in the manner provided
22 by law for the collection of taxes imposed by the laws of this
23 Commonwealth.

1 ~~(b) The following apply:~~

2 ~~(1) except as provided under paragraph (2), where the~~
3 ~~assessment of a tax imposed by this article has been made within~~
4 ~~the applicable period of limitation, the tax shall be collected~~
5 ~~by the department within ten years after the date the return was~~
6 ~~first due; and~~

7 ~~(2) where the taxpayer willfully files a false or fraudulent~~
8 ~~return with the intent to evade the tax imposed by this article,~~
9 ~~the amount of tax due may be assessed and collected at any time.~~

10 ~~Section 348. Limitations on Assessment and Collection. * *~~

11 ~~*~~

12 ~~(c) Where no return is filed, or if a taxpayer shall fail,~~
13 ~~when required, to file an amended return, the amount of the tax~~
14 ~~due may be assessed at any time not exceeding ten years from the~~
15 ~~date the return was first due or any extension thereof.~~

16 ~~* * *~~

17 ~~Section 2. This act shall take effect in 60 days.~~

18 SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS <--
19 THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING SECTIONS TO
20 READ:

21 SECTION 3003.23. STATUTE OF LIMITATION FOR COLLECTION OF
22 ASSESSED TAXES.--(A) THE FOLLOWING SHALL APPLY:

23 (1) FOR A TAX ADMINISTERED BY THE DEPARTMENT OF REVENUE,
24 EXCEPT UNDER ARTICLE XXI, THE DEPARTMENT OF REVENUE MAY COLLECT
25 THE TAX OWED IF COLLECTION COMMENCES WITHIN TEN YEARS OF THE
26 DATE THE SETTLEMENT, DETERMINATION OR ASSESSMENT OF THE TAX
27 BECOMES FINAL. FOR NONFILED RETURNS, THE DEPARTMENT OF REVENUE
28 SHALL INDUCE THE FILING OF A RETURN OR SETTLE, DETERMINE OR
29 ASSESS THE TAX LIABILITY OF A NONFILED TAX PERIOD WITHIN TEN
30 YEARS OF THE TAX RETURN DUE DATE. THE FILING OF A TAX LIEN SHALL

1 NOT EXTEND THE TEN-YEAR PERIOD TO COLLECT A TAX.

2 (2) PARAGRAPH (1) SHALL NOT AFFECT THE DEPARTMENT OF
3 REVENUE'S ABILITY TO SET OFF TAX OVERPAYMENTS BY THE TAXPAYER
4 AGAINST ANY TAXES AND OTHER OBLIGATIONS OWING THE COMMONWEALTH
5 BY THE TAXPAYER OR TO SET OFF TAX LIABILITIES OWED TO THE
6 COMMONWEALTH WITH MONEYS OWED THE TAXPAYER BY THE COMMONWEALTH
7 WITHIN THE APPLICABLE COLLECTION PERIOD.

8 (B) THE FOLLOWING SHALL APPLY:

9 (1) THE DEPARTMENT OF REVENUE SHALL HAVE NO TIME LIMITATION
10 TO COLLECT TAXES IN THE FOLLOWING CASES:

11 (I) FOR TRUST FUND TAX LIABILITIES A TAXPAYER EITHER
12 COLLECTED OR WITHHELD, AS AN AGENT OF OR IN TRUST FOR THE
13 COMMONWEALTH, BUT WILFULLY FAILED, GROSSLY NEGLECTED OR REFUSED
14 TO REMIT TO THE COMMONWEALTH NOTWITHSTANDING WHETHER THE
15 TAXPAYER FILED A RETURN.

16 (II) IF A TAXPAYER FILES A FALSE AND FRAUDULENT TAX RETURN
17 OR REPORT.

18 (III) IF A TAXPAYER WILFULLY FAILS TO FILE A TAX RETURN OR
19 REPORT AS REQUIRED BY LAW.

20 (IV) IF A TAXPAYER ATTEMPTS TO EVADE OR DEFEAT A TAX.

21 (V) FOR A TAX OFFENSE FOR WHICH A TAXPAYER HAS BEEN
22 CRIMINALLY CHARGED AND CONVICTED IN WHICH TAX LIABILITIES REMAIN
23 UNPAID.

24 (VI) FOR LIABILITIES OF ELIGIBLE TAXES UNKNOWN TO THE
25 DEPARTMENT OF REVENUE THAT HAVE NOT BEEN EXTINGUISHED UNDER
26 SUBSECTION (A) PRIOR TO THE COMMENCEMENT OF THE TAX AMNESTY
27 PERIOD OF A SUBSEQUENTLY ENACTED OR APPROVED TAX AMNESTY PROGRAM
28 ADMINISTERED BY THE DEPARTMENT OF REVENUE.

29 (2) THE COLLECTION EXPIRATION DATE SHALL BE TOLLED FOR THE
30 TIME WHEN ANY OF THE FOLLOWING EVENTS ARE PENDING, PLUS ONE

1 YEAR:

2 (I) DURING A BANKRUPTCY OR PROCEEDING DURING WHICH THE
3 TAXPAYER'S ASSETS ARE IN THE CONTROL OR CUSTODY OF AN
4 ADMINISTRATIVE BODY, COURT OR DULY APPOINTED GUARDIAN, RECEIVER
5 OR TRUSTEE.

6 (II) THE PERIOD DURING WHICH A TAXPAYER'S OFFER-IN-
7 COMPROMISE IS UNDER CONSIDERATION BY THE DEPARTMENT OF REVENUE.

8 (III) THE DURATION OF AN INSTALLMENT AGREEMENT OR DEFERRED
9 PAYMENT PLAN BETWEEN THE TAXPAYER AND THE DEPARTMENT OF REVENUE.

10 (IV) THE DURATION, FROM COMMENCEMENT THROUGH FINAL
11 DETERMINATION, OF A PROCEEDING WHICH CONSTITUTES A TAX APPEAL OR
12 WHICH OPPOSES A COLLECTION ACTION BEFORE AN ADMINISTRATIVE
13 TRIBUNAL OR COURT OF LAW OR IN WHICH THE TAXPAYER HAS FILED A
14 LAWSUIT OR BROUGHT A CAUSE OF ACTION AGAINST THE DEPARTMENT OF
15 REVENUE.

16 (V) THE DURATION OF A TAXPAYER'S MILITARY SERVICE FOR WHICH
17 THE TAXPAYER IS ELIGIBLE FOR AND HAS RECEIVED A FEDERAL
18 EXTENSION.

19 (VI) FOR A PERIOD OF TIME AS THE TAXPAYER AND THE DEPARTMENT
20 OF REVENUE MAY AGREE, IN WRITING, TO EXTEND THE COLLECTION
21 EXPIRATION DATE.

22 (C) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES
23 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION:

24 "TAX." A TAX, INTEREST, ADDITION TO TAX, PENALTY, FEE AND
25 OTHER COST, INCLUDING THE COST OF COLLECTION.

26 SECTION 3003.24. PERIOD OF LIMITATIONS ON CRIMINAL TAX
27 PROSECUTIONS.-- (A) A PERSON SHALL NOT BE PROSECUTED, TRIED OR
28 PUNISHED FOR AN OFFENSE UNDER A TAX STATUTE ADMINISTERED BY THE
29 DEPARTMENT OF REVENUE EXCEPT IF PROSECUTION IS INSTITUTED WITHIN
30 THREE YEARS AFTER THE COMMISSION OF THE OFFENSE.

1 (B) IF THE PERIOD UNDER SUBSECTION (A) HAS EXPIRED, A
2 PROSECUTION MAY BE INSTITUTED FOR:

3 (1) AN OFFENSE A MATERIAL ELEMENT OF WHICH IS EITHER FRAUD
4 OR A BREACH OF FIDUCIARY OBLIGATION WITHIN ONE YEAR AFTER THE
5 DISCOVERY OF THE OFFENSE. THIS PARAGRAPH SHALL NOT EXTEND THE
6 PERIOD OF LIMITATION OTHERWISE APPLICABLE BY MORE THAN TWO
7 YEARS.

8 (2) THE OFFENSE OF WILFULLY ATTEMPTING TO EVADE OR DEFEAT A
9 TAX OR THE PAYMENT OF A TAX WITHIN ONE YEAR AFTER THE DISCOVERY
10 OF THE OFFENSE. THIS PARAGRAPH SHALL NOT EXTEND THE PERIOD OF
11 LIMITATION OTHERWISE APPLICABLE BY MORE THAN THREE YEARS.

12 (C) IN ADDITION TO A CRIMINAL OFFENSE IDENTIFIED IN THE TAX
13 STATUTES ADMINISTERED BY THE DEPARTMENT OF REVENUE, A PERSON MAY
14 BE PROSECUTED FOR AN OFFENSE PROVIDED FOR UNDER 18 PA.C.S.
15 (RELATING TO CRIMES AND OFFENSES), RELATING TO MISCONDUCT UNDER
16 THE TAX STATUTES, IF THE PROSECUTION IS INSTITUTED WITHIN FIVE
17 YEARS AFTER THE COMMISSION OF THE OFFENSE.

18 (D) IN ADDITION TO THE IMPOSITION OF A FINE AND IMPRISONMENT
19 AND IF A TAXPAYER HAS BEEN CONVICTED OF A TAX-RELATED OFFENSE
20 UNDER A STATUTORY PROVISION, THE DEFENDANT TAXPAYER SHALL BE
21 ORDERED AND REQUIRED TO PAY THE DEPARTMENT OF REVENUE
22 RESTITUTION OF EACH TAX LIABILITY FOR WHICH A CONVICTION HAS
23 BEEN ENTERED. THE AMOUNT OF RESTITUTION SHALL BE THE TAXES,
24 INTEREST AND PENALTIES ACCRUED THROUGH THE DATE OF PAYMENT.

25 SECTION 2. THE FOLLOWING APPLY:

26 (1) THE ADDITION OF SECTIONS 3003.23 AND 3003.24 OF THE
27 ACT SHALL NOT RELIEVE A PERSON OF A TAX, INTEREST, ADDITION
28 TO A TAX, PENALTY, FEE AND OTHER COST PAYABLE BY THE PERSON
29 ON THE EFFECTIVE DATE OF THIS SECTION.

30 (2) IF A COURT OF COMPETENT JURISDICTION HOLDS THAT A

1 TAX, INTEREST, ADDITION TO TAX, PENALTY, FEE AND OTHER COST
2 OR MONEY PAYABLE TO THE COMMONWEALTH, OR ANY OFFICER OR
3 AGENCY OF THE COMMONWEALTH, CANNOT BE SETTLED, ASSESSED OR
4 COLLECTED UNDER THE PROCEDURE PROVIDED BY THE ADDITION OF
5 SECTIONS 3003.23 AND 3003.24 OF THE ACT, THE MATTERS SHALL
6 CONTINUE TO BE SETTLED OR ASSESSED AND COLLECTED UNDER THE
7 LAWS IN FORCE PRIOR TO THE EFFECTIVE DATE OF THIS SECTION.

8 (3) THE FOLLOWING APPLY TO THE ADDITION OF SECTION
9 3003.23 OF THE ACT:

10 (I) FOR A SETTLEMENT, DETERMINATION OR ASSESSMENT
11 ISSUED BEFORE THE EFFECTIVE DATE OF THIS SECTION, THE
12 TEN-YEAR COLLECTION PERIOD SHALL BEGIN ON THE EFFECTIVE
13 DATE OF THIS SECTION OR WHEN THE SETTLEMENT,
14 DETERMINATION OR ASSESSMENT BECOMES FINAL, WHICHEVER IS
15 LATER.

16 (II) FOR A TAX RETURN DUE AND NOT FILED AS OF THE
17 EFFECTIVE DATE OF THIS SECTION, THE TEN-YEAR STATUTE
18 APPLICABLE TO A NONFILED RETURN SHALL BEGIN ON THE
19 EFFECTIVE DATE OF THIS SECTION.

20 (III) FOR A TAX RETURN DUE AND NOT FILED BEFORE OR
21 ON THE EFFECTIVE DATE OF THIS SECTION, THE TEN-YEAR
22 STATUTE APPLICABLE TO A NONFILED RETURN SHALL BEGIN ON
23 THE EFFECTIVE DATE OF THIS SECTION.

24 (4) A TAX LIEN CREATED PRIOR TO JANUARY 1, 2021, SHALL
25 NOT BE IMPAIRED, SHALL REMAIN IN FULL FORCE AND EFFECT AND
26 SHALL RETAIN THE PRIORITY UNDER THE PROVISION IMPOSING THE
27 TAX LIEN, WITHOUT THE NECESSITY OF REFILEING OR REVIVAL, UNTIL
28 JANUARY 1, 2031.

29 SECTION 3. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

30 (1) THE ADDITION OF SECTION 3003.23 OF THE ACT SHALL

1 TAKE EFFECT JANUARY 1, 2021.

2 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
3 IMMEDIATELY.