

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 277 Session of 2017

INTRODUCED BY GORDNER, FOLMER, BREWSTER, SCHWANK, COSTA AND RAFFERTY, JANUARY 31, 2017

REFERRED TO FINANCE, JANUARY 31, 2017

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," in
 22 local taxes, further providing for limitation on assessment;
 23 and, in consolidated collection of local income taxes,
 24 further providing for powers and duties of tax officer.

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

27 Section 1. Sections 319 and 509(h) of the act of December
 28 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling
 29 Act, are amended to read:

1 Section 319. Limitation on Assessment.--[No] (a) Except as
2 otherwise provided in subsection (b), no assessment may be made
3 of any tax imposed under this chapter more than five years after
4 the date on which such tax should have been paid [except where a
5 fraudulent return or no return has been filed].

6 (b) Where a fraudulent return or no return has been filed,
7 no assessment may be made of any tax imposed under this chapter
8 more than ten years after the date on which such tax should have
9 been paid.

10 Section 509. Powers and duties of tax officer.

11 * * *

12 (h) Actions for collection of income taxes.--The tax officer
13 may file an action in the name of a political subdivision within
14 the tax collection district for the recovery of income taxes due
15 to the political subdivision and unpaid. Nothing in this
16 subsection shall affect the authority of a political subdivision
17 to file an action in its own name for collection of income taxes
18 under this chapter. This subsection shall not be construed to
19 limit a tax officer, a tax collection district or political
20 subdivision from recovering delinquent income taxes by any other
21 means provided by this act. Actions for collection of income
22 taxes shall be subject to the following:

23 (1) Except as set forth in paragraph (2) or (4), an
24 action brought to recover income taxes must be commenced
25 within three years of the later of the date:

- 26 (i) the income taxes are due;
27 (ii) the declaration or return has been filed; or
28 (iii) of a redetermination of compensation or net
29 profits by the Department of Revenue.

30 (2) If there is substantial understatement of income tax

1 liability of 25% or more and there is no fraud, an action
2 must be commenced within six years.

3 (3) Except as set forth in paragraph (4) (ii), (iii) or
4 (iv), an action by a tax officer for recovery of an erroneous
5 refund must be commenced as follows:

6 (i) Except as set forth in subparagraph (ii), within
7 two years after making the refund.

8 (ii) If it appears that any part of the refund was
9 induced by fraud or misrepresentation of material fact,
10 within five years after making the refund.

11 (4) [There is no limitation of action] An action by a
12 tax officer must be commenced within ten years of the date on
13 which the tax should have been paid if any of the following
14 apply:

15 (i) A taxpayer fails to file a declaration or return
16 required under this act.

17 (ii) An examination of a declaration or return or of
18 other evidence in the possession of the tax officer
19 relating to the declaration or return reveals a
20 fraudulent evasion of income taxes.

21 (iii) An employer has deducted income taxes under
22 section 512 and has failed to pay the amount deducted to
23 the tax officer.

24 (iv) An employer has intentionally failed to make
25 deductions required by this act.

26 * * *

27 Section 2. This act shall take effect in 60 days.