

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1792

Session of
1985

INTRODUCED BY ITKIN, McVERRY, YANDRISEVITS, JOHNSON, WIGGINS,
MICHLOVIC, MRKONIC, PETRONE, DORR, SERAFINI, PISTELLA,
KOSINSKI, MORRIS, VAN HORNE, PRESTON, CARN AND VEON,
OCTOBER 15, 1985

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, MARCH 17, 1986

AN ACT

1 Amending the act of May 21, 1943 (P.L.349, No.162), entitled, as
2 amended, "An act requiring political subdivisions to refund
3 certain taxes, license fees, penalties, fines or moneys paid
4 thereto, and providing procedure for obtaining such refunds,"
5 requiring interest to be paid on certain overpayments of tax.

6 The General Assembly of the Commonwealth of Pennsylvania
7 hereby enacts as follows:

8 Section 1. Sections 1 and 2 of the act of May 21, 1943
9 (P.L.349, No.162), entitled, as amended, "An act requiring
10 political subdivisions to refund certain taxes, license fees,
11 penalties, fines or moneys paid thereto, and providing procedure
12 for obtaining such refunds," amended June 21, 1957 (P.L.381,
13 No.204), are amended to read:

14 Section 1. (a) Whenever any person or corporation of this
15 Commonwealth has paid or caused to be paid, or hereafter pays or
16 causes to be paid, into the treasury of any political
17 subdivision, directly or indirectly, voluntarily or under
18 protest, any taxes of any sort, license fees, penalties, fines

1 or any other moneys to which the political subdivision is not
2 legally entitled; then, in such cases, the proper authorities of
3 the political subdivision, upon the filing with them of a
4 written and verified claim for the refund of the payment, are
5 hereby directed to make, out of budget appropriations of public
6 funds, refund of such taxes, license fees, penalties, fines or
7 other moneys to which the political subdivision is not legally
8 entitled. Refunds of said moneys shall not be made, unless a
9 written claim therefor is filed, with the political subdivision
10 involved, within [two] THREE years of payment thereof. <—

11 (b) The right to a refund afforded by this act may not be
12 resorted to in any case in which the taxpayer involved had or
13 has available under any other statute, ordinance or resolution,
14 a specific remedy by way of review, appeal, refund or otherwise,
15 for recovery of moneys paid as aforesaid, unless the claim for
16 refund is for the recovery of moneys paid under a provision of a
17 statute, ordinance or resolution subsequently held, by final
18 judgment of a court of competent jurisdiction, to be
19 unconstitutional, or under an interpretation of such provision
20 subsequently held by such court, to be erroneous.

21 (c) (1) Any taxpayer who has paid any tax money to which
22 the political subdivision is not legally entitled shall receive
23 interest on such sum of money. Interest shall begin to accrue on
24 any tax refund which is not paid by a political subdivision
25 within forty five (45) days of receipt of a tax return form or a <—
26 written request for such refund. SEVENTY-FIVE (75) DAYS AFTER <—
27 THE LAST DATE PRESCRIBED FOR FILING THE FINAL RETURN OR, IN CASE
28 THE FINAL RETURN IS FILED AFTER THE LAST DAY FOR SUCH FILING,
29 WITHIN SEVENTY-FIVE (75) DAYS OF THE FILING OF SUCH RETURN OR,
30 IN THE CASE WHERE NO FINAL RETURN IS REQUIRED, WITHIN SEVENTY-

1 FIVE (75) DAYS FOLLOWING RECEIPT OF A WRITTEN REQUEST FOR SUCH
2 REFUND. NO INTEREST SHALL BE PAID WITHOUT A TAX RETURN BEING
3 FILED OR A WRITTEN REQUEST FOR SUCH REFUND BEING MADE. The
4 political subdivision shall pay interest on such sums at the
5 same rate as the Commonwealth is required to pay pursuant to
6 section 806.1 of the act of April 9, 1929 (P.L.343, No.176),
7 known as "The Fiscal Code."

8 (2) For purposes of this subsection, the term "political
9 subdivision" means a county, city, borough, incorporated town,
10 township, home rule municipality, school district, vocational
11 school district and county institution district.

12 Section 2. In the event of refusal or failure on the part of
13 authorities of the political subdivision involved to make any
14 such refund of taxes, license fees, penalties, fines or other
15 moneys to which the political subdivision is not legally
16 entitled, or refusal or failure to pay interest as required by
17 section 1, then the aggrieved person or corporation shall have
18 the right to bring suit for and recover any such taxes,
19 interest, license fees, penalties, fines or other moneys to
20 which the political subdivision is not legally entitled, subject
21 to the limitation herein provided, by instituting an action in
22 assumpsit in the court of common pleas of the county wherein
23 such political subdivision is located.

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