

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 849 Session of
1995

INTRODUCED BY PHILLIPS, McCALL, ALLEN, GEIST, FICHTER, FARGO,
FAIRCHILD, STISH, BELFANTI AND TRELLO, FEBRUARY 14, 1995

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 14, 1995

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," further providing for the resettlement date for
11 certain corporate taxes.

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

14 Section 1. Section 407 of the act of March 4, 1971 (P.L.6,
15 No.2), known as the Tax Reform Code of 1971, amended August 4,
16 1991 (P.L.97, No.22), is amended to read:

17 Section 407. Settlement and Resettlement.--(a) All taxes
18 due under this article shall be settled by the department, and
19 such settlement shall be subject to audit and approval by the
20 Department of the Auditor General, and shall, so far as
21 possible, be made so that notice thereof may reach the taxpayer
22 within eighteen months after the tax report was required to be

1 made. The Secretary of Revenue, after consultation with the
2 Auditor General, may develop and implement procedures for the
3 settlement of taxes employing, among other means, automatic data
4 processing, statistical analysis, computer analysis, mechanical
5 handling and issuance of settlement documents, including
6 documents without original signatures, such that will facilitate
7 what he determines to be the most efficient and productive use
8 of the resources within his control required to adequately and
9 reasonably ensure the proper collection of taxes. The Secretary
10 of Revenue shall provide documentation of such procedures to the
11 chairmen of the Appropriations Committee and the Finance
12 Committee of the Senate and of the House of Representatives.

13 (b) (1) If, within a period of three years [after the date
14 of any settlement] from the due date of the return, the
15 department is not satisfied with such settlement, or if at any
16 time the net income as returned by any corporation to the
17 Federal Government is finally changed or corrected by the
18 Commissioner of Internal Revenue or by any other agency or court
19 of the United States with the result that tax, in addition to
20 the amount paid, is due under this article, the department is
21 hereby authorized and empowered to make a resettlement of the
22 tax due by such corporation, based upon the facts contained in
23 the report, or upon any information within its possession or
24 that shall come into its possession.

25 (2) Whenever a resettlement shall have been made hereunder,
26 the department shall resettle the account according to law and
27 shall credit or charge, as the case may be, the amount resulting
28 from such resettlement upon the current accounts of the
29 corporation with which it is made.

30 (3) The resettlement shall be subject to audit and approval

1 by the Department of the Auditor General as in the case of
2 original settlement, and in case of the failure of the two
3 departments to agree, the resettlement shall be submitted to the
4 Board of Finance and Revenue as in the case of original
5 settlements.

6 (c) Promptly after the date of any such settlement, the
7 department shall send, by mail or otherwise, a copy thereof to
8 such corporation. The tax, interest, and penalty imposed by this
9 article shall be subject to the right of resettlement, review,
10 and refund within the time and in the manner now or hereafter
11 provided for by law for petitions for resettlement, review and
12 refund and to the right of appeal in the manner now or hereafter
13 provided for by law for appeals in the case of tax settlements.

14 (d) If any corporation shall neglect or refuse to make any
15 report and payment of tax required by this article, the
16 department shall estimate the tax due by such corporation and
17 subject to audit and approval by the Department of the Auditor
18 General, settle the amount due by it for taxes, penalties, and
19 interest thereon as prescribed herein, from which settlement
20 there shall be no right of review or appeal, but the department,
21 with the approval of the Department of the Auditor General, may
22 require a report to be filed, and thereupon make a settlement
23 based upon such report and cancel the estimated settlement.

24 (e) If any taxpayer, pursuant to petition or appeal, is
25 granted a resettlement or issued an order of court or a judgment
26 basing the taxpayer's tax for any taxable year upon the
27 principles of multifactority or unrelated assets resulting from a
28 final decision upon the taxpayer's petition or appeal, or any
29 stipulation for judgment in settlement of litigation thereon,
30 then any taxable year of the taxpayer within a three-year period

1 prior to the taxable year in issue or any taxable year
2 thereafter may be resettled consistent with such principles
3 within one year of such resettlement, order of court or
4 judgment.

5 Section 2. This act shall take effect immediately.