

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1066 Session of
2009

INTRODUCED BY SMUCKER, PILEGGI, ORIE, BAKER, GREENLEAF, PIPPY,
ROBBINS, BOSCOLA, EICHELBERGER, YAW, ARGALL AND PICCOLA,
JULY 31, 2009

REFERRED TO FINANCE, JULY 31, 2009

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," providing for tax amnesty program for fiscal year
11 2009-2010; and making a related repeal.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

ARTICLE XXIX-D

TAX AMNESTY PROGRAM FOR

FISCAL YEAR 2009-2010

20 Section 2901-D. Definitions.

21 The following words, terms and phrases, when used in this
22 article, shall have the meanings ascribed to them in this

1 section, except where the context clearly indicates a different
2 meaning:

3 "Amnesty period." The time period of 90 consecutive days
4 established by the Governor during the fiscal year beginning
5 July 1, 2009, and ending May 15, 2010, and subsequent to the
6 publishing of guidelines and estimates under section 2910-D(a).

7 "Department." The Department of Revenue of the Commonwealth.

8 "Eligible tax." Any tax imposed by the Commonwealth for
9 deposit in the General Fund, the Motor License Fund or the
10 Liquid Fuels Tax Fund for taxes delinquent as of June 30, 2008.
11 The term includes any interest or penalty on an eligible tax.
12 The term excludes any tax imposed by a political subdivision.

13 "Program." The tax amnesty program as provided for in this
14 article.

15 "Taxpayer." Any person, association, fiduciary, partnership,
16 corporation or other entity required to pay or collect any of
17 the eligible taxes. The term shall not include a taxpayer who,
18 prior to the amnesty period, has received notice that the
19 taxpayer is the subject of a criminal investigation for an
20 alleged violation of any law imposing an eligible tax or who,
21 prior to the amnesty period, has been named as a defendant in a
22 criminal complaint alleging a violation of any law imposing an
23 eligible tax or is a defendant in a pending criminal action for
24 an alleged violation of any law imposing an eligible tax.

25 Section 2902-D. Establishment of program.

26 (a) Program established.--There is established a tax amnesty
27 program which shall be administered by the department.

28 (b) Applicability.--The program shall apply to a taxpayer
29 who is delinquent on payment of a liability for an eligible tax
30 as of June 30, 2008, including a liability for returns not

1 filed, liabilities according to records of the department as of
2 June 30, 2008, liabilities not reported, underreported or not
3 established, but delinquent as of June 30, 2008.

4 (c) Future amnesty program participation.--A taxpayer who
5 participates in the program shall not be eligible to participate
6 in a future tax amnesty program.

7 (d) Deferred payment plan agreement.--Existing deferred
8 payment plan agreements between a taxpayer and the department
9 where the agreement applies to a tax liability for which amnesty
10 is sought by the taxpayer for amounts remaining on the tax
11 liability, the taxpayer, as a condition of receiving amnesty,
12 shall pay the liability, notwithstanding terms of the the
13 agreement to the contrary, in full by May 15, 2010, or the date
14 stated on a bill issued by the department, whichever is later.
15 Section 2903-D. Required payment.

16 (a) Taxpayer requirements.--Subject to section 2904-D, all
17 taxpayers who participate in the program shall comply with all
18 of the following:

19 (1) During the amnesty period, file a tax amnesty return
20 in such form and containing such information as the
21 department shall require. A tax amnesty return shall be
22 considered to be timely filed if it is postmarked during the
23 amnesty period.

24 (2) During the amnesty period, make payment of all taxes
25 and one-half of the balance of interest due to the
26 Commonwealth in accordance with the tax amnesty return that
27 is filed.

28 (3) File complete tax returns for all years for which
29 the taxpayer previously has not filed a tax return and file
30 complete amended returns for all years for which the taxpayer

1 underreported eligible tax liability.

2 (b) Prohibitions.--The department shall not collect the
3 penalties or interest owed by a taxpayer to which amnesty
4 applies under subsection (a) (2). The department shall not pursue
5 any administrative or judicial proceeding against a taxpayer
6 with respect to any eligible tax that is disclosed on a tax
7 amnesty return.

8 (c) Financial hardship.--A taxpayer otherwise eligible for
9 amnesty, who certifies on an amnesty return, that making payment
10 of the full amount of the liability for which amnesty is sought
11 at the time such return is made would create a severe financial
12 hardship for such taxpayer, shall retain eligibility for amnesty
13 if:

14 (1) Fifty percent or more of the amount due as computed
15 is paid with the amnesty return or within the time stated on
16 a bill issued by the department.

17 (2) The balance due, including interest under subsection
18 (a) (2), is paid, in no more than two installments on or
19 before the earlier of May 15, 2010, or the date stated on a
20 bill issued by the department.

21 Section 2904-D. Amnesty contingent on continued compliance.

22 Notwithstanding any other provision of this article, the
23 department may assess and collect from a taxpayer all penalties
24 and interest foregone through the tax amnesty program
25 established in this article if, within two years after the end
26 of the program, either of the following occurs:

27 (1) the taxpayer granted amnesty under this article
28 becomes delinquent for three consecutive periods in payment
29 of taxes due or filing of returns required on a semimonthly,
30 monthly, quarterly or other basis and the taxpayer has not

1 contested the tax liability through a timely valid
2 administrative or judicial appeal; or

3 (2) the taxpayer granted amnesty under this article
4 becomes delinquent and is eight or more months late in
5 payment of taxes due or filing of returns on an annual basis
6 and the taxpayer has not contested the liability through a
7 timely valid administrative or judicial appeal.

8 Section 2905-D. Limitation of deficiency assessment.

9 If, subsequent to the amnesty period, the department issues a
10 deficiency assessment with respect to a tax amnesty return, the
11 department shall have the authority to impose penalties and to
12 pursue a criminal action only with respect to the difference
13 between the amount shown on that tax amnesty return and the
14 current amount of tax.

15 Section 2906-D. Overpayment of tax.

16 Notwithstanding any other provisions of this article or any
17 other act, if an overpayment of eligible tax is refunded or
18 credited within 180 days after the tax amnesty return is filed,
19 no interest shall be allowed on the overpayment.

20 Section 2907-D. Previously paid interest and penalties.

21 No refund or credit shall be allowed for any interest or
22 penalty on eligible taxes paid to the department prior to the
23 amnesty period.

24 Section 2908-D. Proceedings relating to tax amnesty return
25 barred.

26 Participation in the program is conditioned upon the
27 taxpayer's agreement that the right to protest or pursue an
28 administrative or judicial proceeding with regard to tax amnesty
29 returns filed under the program or to claim any refund of money
30 paid under the program is barred.

1 Section 2909-D. Undisclosed liabilities.

2 Nothing in this article shall be construed to prohibit the
3 department from instituting civil or criminal proceedings
4 against any taxpayer with respect to any amount of tax that is
5 not disclosed on the tax amnesty return.

6 Section 2910-D. Duties of department.

7 (a) Guidelines.--The department shall develop guidelines to
8 implement the provisions of this article. The guidelines must be
9 published in the Pennsylvania Bulletin within 45 days of the
10 effective date of this article and shall contain, but not be
11 limited to, the following information:

12 (1) An explanation of the program and the requirements
13 for eligibility for the program.

14 (2) The dates during which a tax amnesty return may be
15 filed.

16 (3) A specimen copy of the tax amnesty return.

17 (4) The amnesty revenue estimates required under section
18 2912-D(b).

19 (b) Publicity.--The department shall publicize the program
20 to maximize public awareness of and participation in the
21 program. The department shall coordinate to the highest degree
22 possible its publicity efforts and other actions taken to
23 implement this article.

24 (c) Reports.--The department shall issue reports to the
25 General Assembly detailing program implementation. The reports
26 shall contain the following information:

27 (1) Within 30 days after the end of the amnesty period:

28 (i) A detailed breakdown of the department's
29 administrative costs in implementing the program.

30 (ii) The total dollar amount of revenue collected by

1 the program.

2 (2) Within 180 days after the end of the amnesty period:

3 (i) The number to tax amnesty returns filed and a
4 breakdown of the number and dollar amount of revenue
5 raised for each tax by calendar year during which the tax
6 period ended. In addition, the gross revenues shall be
7 broken down in the following categories:

8 (A) Amounts represented by assessments
9 receivable established by the department on or before
10 the first day of the amnesty period.

11 (B) All other amounts.

12 (ii) The total dollar amount of penalties and
13 interest forgiven under the program.

14 (iii) The demographic characteristics of tax amnesty
15 participants, including North American Industry
16 Classification System codes of participants, type of
17 taxpayer, consisting of individual, partnership,
18 corporation or other entity, size of tax liability and
19 geographical location.

20 (d) Notification.--The department shall notify in writing
21 all known tax delinquents at the taxpayers' last known address
22 of the existence of the tax amnesty program. The sole purpose of
23 the letter sent by the department to taxpayers must be
24 notification of the program.

25 Section 2911-D. Method of payment.

26 All tax payments under the program shall be made by certified
27 check, money order, electronic transfer, cash or its equivalent.

28 Section 2912-D. Use of revenue.

29 (a) Restricted revenue account.--Except as set forth in
30 subsection (c), all revenue generated by this article shall be

1 deposited into a restricted revenue account in the General Fund.
2 Revenue from the restricted revenue account shall be distributed
3 as follows:

4 (1) All money from General Fund sources shall be
5 deposited in the General Fund no later than June 30, 2010,
6 less repayment of any costs for administration of the program
7 to the department.

8 (2) All revenue from Motor License Fund sources shall be
9 deposited in the Motor License Fund no later than June 30,
10 2010.

11 (3) All revenue from Liquid Fuels Tax Fund sources shall
12 be deposited in the Liquid Fuels Tax Fund no later than June
13 30, 2010.

14 (b) Revenue estimates.--

15 (1) The department shall submit for publication in the
16 Pennsylvania Bulletin:

17 (i) A separate amnesty revenue estimate for revenue
18 generated by this article from General Fund, Motor
19 License Fund, and Liquid Fuels Tax Fund sources.

20 (ii) The methodology used to develop the estimate.

21 (2) All amnesty revenue estimates shall be submitted for
22 publication pursuant to section 2910-D(a)(4).

23 (c) Budget Stabilization Reserve Fund.--All revenue
24 generated by this article in excess of the amnesty revenue
25 estimates under subsection (b) and the cost of administration of
26 this article shall be deposited into the Budget Stabilization
27 Reserve Fund.

28 Section 2913-D. Additional penalty.

29 (a) Penalty.--Subject to the limitations provided under
30 subsection (b), a penalty of 5% of the unpaid tax liability and

penalties and interest shall be levied against a taxpayer
subject to an eligible tax if the taxpayer had failed to remit
an eligible tax due or had an unreported or underreported
liability for an eligible tax on or after the first day
following the end of the amnesty period.

(b) Nonapplicability.--The penalty provided in this section
shall not apply to a taxpayer who:

(1) has paid the liability in full or entered into a
duly approved and executed deferred payment plan on or before
the last day of the amnesty period; or

(2) has filed a timely and valid administrative or
judicial appeal contesting the liability on or before the
last day of the amnesty period.

(c) Penalty in addition.--The penalty provided by this
section shall be in addition to all other penalties provided by
law.

Section 2914-D. Construction.

Except as expressly provided in this article, this article
shall not:

(1) be construed to relieve any person, corporation or
other entity from the filing of returns or from any taxes,
penalties or interest imposed by the provisions of any laws;

(2) affect or terminate any petitions, investigations,
prosecutions, legal or otherwise, or other proceedings
pending under the provisions of any such laws; or

(3) prevent the commencement or further prosecution of
any proceedings by the proper authorities of the Commonwealth
for violation of any such laws or for the assessment,
settlement, collection or recovery of taxes, penalties or
interest due to the Commonwealth under any such laws.

1 Section 2915-D. Suspension of inconsistent acts.

2 All acts or parts of acts inconsistent with the provisions of
3 this article are suspended to the extent necessary to carry out
4 the provisions of this article.

5 Section 2. Repeals are as follows:

6 (1) The General Assembly declares that the repeal under
7 paragraph (2) is necessary to effectuate the addition of
8 Article XXIX-D of the act.

9 (2) Article XXIX-A of the act is repealed.

10 Section 3. This act shall take effect immediately.