

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1541 Session of 2012

INTRODUCED BY BROWNE, MAY 31, 2012

REFERRED TO FINANCE, MAY 31, 2012

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 tax for education, further providing for
11 licenses; in payment of tax, further providing for discount;
12 in assessment and collection of tax, further providing for
13 assessment; in interest, additions, penalties and crimes,
14 providing for failure to timely remit tax collected; in
15 personal income tax, further providing for definitions and
16 for taxability of partners, providing for tax treatment
17 determined at partnership level and for tax imposed at
18 partnership level, further providing for income of a
19 Pennsylvania S corporation, for tax withheld and for
20 requirement of withholding tax, providing for requirement of
21 withholding tax for nonemployers, further providing for
22 information statement, providing for information statement
23 for nonemployer payors and for information statement for
24 nonemployer payees, further providing for time for filing
25 employers' returns, for payment of taxes withheld, for
26 employers liability for withheld taxes, for employer's
27 failure to withhold, for designation of third parties to
28 perform acts required of employers, for general rule, for
29 amount of withholding tax and for treatment of nonresident
30 partners, members or shareholders, providing for withholding
31 on income from oil and gas interests and for annual
32 withholding statement, further providing for return of
33 Pennsylvania S corporation, for requirements concerning
34 returns, notices, records and statements, for assessment, for
35 additions, penalties and fees and providing for failure to

1 timely remit tax withheld; in corporate net income tax,
2 further providing for assessments; in realty transfer tax,
3 further providing for assessment and notice of tax and
4 review; in cigarette tax, further providing for disposition
5 of certain funds; in malt beverage tax, further providing for
6 assessment by department; in general provisions, providing
7 for administrative bank attachment for accounts of obligors
8 to the Commonwealth, for tax delinquent placard and for
9 additional citation authority; and providing for
10 applicability.

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

13 Section 1. Section 208(b.1) and (c) of the act of March 4,
14 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
15 amended December 23, 2003 (P.L.250, No.46), are amended to read:

16 Section 208. Licenses.--* * *

17 (b.1) If an applicant for a license or any person holding a
18 license has not filed all required State tax reports and paid
19 any State taxes not subject to a timely perfected administrative
20 or judicial appeal or subject to a duly authorized deferred
21 payment plan, the department may refuse to issue, may suspend or
22 may revoke said license. The department shall notify the
23 applicant or licensee of any refusal, suspension or revocation.
24 Such notice shall contain a statement that the refusal,
25 suspension or revocation may be made public. Such notice shall
26 be made by first class mail. An applicant or licensee aggrieved
27 by the determination of the department may file an appeal
28 pursuant to the provisions for administrative appeals in this
29 article, except the appeal must be filed within fifteen days of
30 the date of notice. In the case of a suspension or revocation
31 which is appealed, the license shall remain valid pending a
32 final outcome of the appeals process. Notwithstanding sections
33 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the act or
34 any other provision of law to the contrary, if no appeal is
35 taken or if an appeal is taken and denied at the conclusion of

1 the appeal process, the department may disclose, by publication
2 or otherwise, the identity of a person and the fact that the
3 person's license has been refused, suspended or revoked under
4 this subsection. Disclosure may include the basis for refusal,
5 suspension or revocation.

6 (c) A person that maintains a place of business in this
7 Commonwealth for the purpose of selling or leasing services or
8 tangible personal property, the sale or use of which is subject
9 to tax, without having [first been licensed by the department] a
10 valid license at the time of the sale or lease shall be guilty
11 of a summary offense and, upon conviction thereof, be sentenced
12 to pay a fine of not less than three hundred dollars (\$300) nor
13 more than one thousand five hundred (\$1,500) and, in default
14 thereof, to undergo imprisonment of not less than five days nor
15 more than thirty days. The penalties imposed by this subsection
16 shall be in addition to any other penalties imposed by this
17 article. For purposes of this subsection, the offering for sale
18 or lease of any service or tangible personal property, the sale
19 or use of which is subject to tax, during any calendar day shall
20 constitute a separate violation. The Secretary of Revenue may
21 designate employees of the department to enforce the provisions
22 of this subsection. The employees shall exhibit proof of and be
23 within the scope of the designation when instituting proceedings
24 as provided by the Pennsylvania Rules of Criminal Procedure.

25 * * *

26 Section 1.1. Section 227 of the act is amended to read:

27 Section 227. Discount.--(a) If a return is filed by a
28 licensee and the tax shown to be due thereon less any discount
29 is paid all within the time prescribed, the licensee shall be
30 entitled to credit and apply against the tax payable by [him]

1 the licensee a discount of one per cent of the amount of the tax
2 collected by [him] the licensee on and after the effective date
3 of this article, as compensation for the expense of collecting
4 and remitting the [same] tax due by the licensee and as a
5 consideration of the prompt payment thereof.

6 (b) The discount under subsection (a) shall be limited to
7 the following:

8 (1) Two hundred fifty dollars (\$250) per return.

9 (2) Only State and local sales tax discounts.

10 Section 1.2. Section 230 of the act, amended July 25, 2007
11 (P.L.373, No.55), is amended to read:

12 Section 230. Assessment.--(a) The department is authorized
13 and required to make the inquiries, determinations and
14 assessments of the tax (including interest, additions and
15 penalties) imposed by this article. A notice of assessment and
16 demand for payment shall be mailed to the taxpayer. The notice
17 shall set forth the basis of the assessment.

18 [(b) The notice required by subsection (a) shall be mailed
19 by certified mail if the assessment is for \$300 or more.]

20 Section 2. The act is amended by adding a section to read:

21 Section 268.1. Failure to Timely Remit Tax Collected.--(a)
22 Penalties. If a person wilfully fails to timely remit tax
23 collected under this article and:

24 (1) The amount of the tax is one thousand dollars (\$1,000)
25 or less, the person commits a misdemeanor of the second degree
26 and, upon conviction, shall be sentenced to pay a fine of one
27 thousand dollars (\$1,000) or to imprisonment for not more than
28 two years, or both.

29 (2) Except as set forth in subclause (3), the amount of the
30 tax exceeds one thousand dollars (\$1,000), the person commits a

misdemeanor of the first degree and, upon conviction, shall be sentenced to pay a fine of not more than five thousand dollars (\$5,000) or to imprisonment for not more than five years, or both.

(3) The amount of the tax exceeds two thousand dollars (\$2,000), the person commits a felony of the third degree and, upon conviction, shall be sentenced to pay a fine of not more than twenty-five thousand dollars (\$25,000) or to imprisonment for not more than seven years, or both.

(b) Requirement. The penalties imposed by this section shall be in addition to other penalties imposed by a provision of this article.

Section 3. Section 301(n.1) of the act, amended July 6, 2006 (P.L.319, No.67), is amended and the section is amended by adding subsections to read:

Section 301. Definitions.--Any reference in this article to the Internal Revenue Code of 1986 shall mean the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended to January 1, 1997, unless the reference contains the phrase "as amended" and refers to no other date, in which case the reference shall be to the Internal Revenue Code of 1986 as it exists as of the time of application of this article. The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning:

* * *

(d.2) "Corporate item" means any item, including income, gain or loss, determined at the Pennsylvania S corporation level, which is required to be taken into account for a Pennsylvania S corporation's taxable year.

* * *

(1.3) "Nonemployer payee" means an individual who receives payments under section 316.1(a)(1).

(1.4) "Nonemployer payor" means a person subject to nonemployer withholding under section 316.1.

* * *

(n.1) "Partnership item" means any item, including income, gain or loss, determined at the partnership level, which is required to be taken into account for a partnership's taxable year.

[(n.1)] (n.2) "Pennsylvania S corporation" means any small corporation as defined in section 301(s.2) which does not have a valid election under section 307 in effect. A qualified Subchapter S subsidiary owned by a Pennsylvania S corporation shall be treated as a Pennsylvania S corporation without regard to whether an election under section 307 has been made with respect to the subsidiary.

* * *

Section 4. Section 306 of the act, amended June 22, 2001 (P.L.353, No.23), is amended to read:

Section 306. Taxability of Partners.--[A] Except as provided in section 306.2, a partnership as an entity shall not be subject to the tax imposed by this article, but the income or gain of a member of a partnership in respect of said partnership shall be subject to the tax and the tax shall be imposed on his share, whether or not distributed, of the income or gain received by the partnership for its taxable year ending within or with the member's taxable year.

Section 5. The act is amended by adding sections to read:

Section 306.1. Tax Treatment Determined at Partnership

1 Level.--The tax treatment of a partnership item and the
2 applicability of a penalty, addition of tax or additional amount
3 that relates to an adjustment to a partnership item must be
4 determined at the partnership level.

5 Section 306.2. Tax Imposed at Partnership Level.--A
6 partnership underreporting income by more than one hundred
7 thousand dollars (\$100,000) shall be jointly liable with each
8 partner for any part of a deficiency resulting from the
9 treatment of a partnership item by any partner on that partner's
10 return in a manner that is consistent with the treatment of that
11 partnership item on the partnership return. If the tax is paid
12 by the partner, it may not be collected from the partnership.

13 Section 6. Section 307.8(a) of the act, amended May 7, 1997
14 (P.L.85, No.7), is amended and the section is amended by adding
15 a subsection to read:

16 Section 307.8. Income of a Pennsylvania S Corporation.--(a)
17 A Pennsylvania S corporation shall not be subject to the tax
18 imposed by this article, except as provided in subsection (f),
19 but the shareholders of the Pennsylvania S corporation shall be
20 subject to the tax imposed under this article as provided in
21 this article.

22 * * *

23 (f) A Pennsylvania S corporation underreporting income by
24 more than one hundred thousand dollars (\$100,000) shall be
25 jointly liable with each shareholder for any part of a
26 deficiency resulting from the treatment of a corporate item by
27 any shareholder on the shareholder's return in a manner that is
28 consistent with the treatment of that corporate item on the
29 return of the Pennsylvania S corporation. If the tax is paid by
30 the shareholder, it may not be collected from the corporation.

Section 7. Sections 312 and 316 of the act, added August 31, 1971 (P.L.362, No.93), are amended to read:

Section 312. Tax Withheld.--(a) The amount withheld under section 316 shall be allowed to the recipient of the compensation as a credit against the tax imposed on him by this article.

(b) The amount withheld under section 316.1 shall be allowed to the recipient of the Pennsylvania sourced income as a credit against the tax imposed on the recipient by this article.

(c) The amount withheld under section 324.4 shall be allowed to the lessor as a credit against the tax imposed on the lessor by this article. For the purposes of this subsection, the term "lessor" shall have the same meaning as given to it in section 324.4(d).

Section 316. Requirement of Withholding Tax for Employers.-- Every employer maintaining an office or transacting business within this Commonwealth and making payment of compensation (i) to a resident individual, or (ii) to a nonresident individual taxpayer performing services on behalf of such employer within this Commonwealth, shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employee's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. The method of determining the amount to be withheld shall be prescribed by regulations of the department.

Section 8. The act is amended by adding a section to read:

Section 316.1. Requirement of Withholding Tax for Nonemployers.--(a) This section applies as follows:

1 (1) Except as set forth in clause (2), to a person that
2 meets all of the following subclauses:

3 (i) Makes payments of income from sources within this
4 Commonwealth under section 303(a)(1) or (2) to:

5 (A) a nonresident individual; or

6 (B) an entity:

7 (I) which is disregarded under section 307.21; and

8 (II) the single owner of which is a nonresident individual.

9 (ii) Is required by section 335(g) to file a copy of form
10 1099-MISC with the department with respect to payments under
11 subclause (i).

12 (2) This section does not apply to payments made by any of
13 the following:

14 (i) The United States of America. This subclause includes a
15 Federal agency, authority and instrumentality.

16 (ii) The Commonwealth. This subclause includes a
17 Commonwealth agency, authority and instrumentality.

18 (iii) A political subdivision. This subclause includes a
19 municipal authority and instrumentality.

20 (b) A person subject to subsection (a), to the extent not
21 already required by section 316 to withhold on payments under
22 subsection (a)(1)(i), shall deduct and withhold from those
23 payments an amount obtained by multiplying:

24 (1) the net amount of the payments; by

25 (2) the tax rate specified in section 302(b).

26 (c) The department may promulgate regulations to implement
27 and clarify the withholding requirement set forth in subsection
28 (b).

29 (d) As used in this section, "payments" does not include a
30 partner's or shareholder's distributive share of income from a

1 partnership or Pennsylvania S corporation.

2 Section 9. Section 317 of the act, amended December 20, 1985
3 (P.L.489, No.115), is amended to read:

4 Section 317. Information Statement.--Every employer required
5 to deduct and withhold tax under [this article] section 316
6 shall furnish to each such employe to whom the employer has paid
7 compensation during the calendar year a written statement in
8 such manner and in such form as may be prescribed by the
9 department showing the amount of compensation paid by the
10 employer to the employe, the amount deducted and withheld as
11 tax[, pursuant to this article,] and such other information as
12 the department shall prescribe. Each statement required by this
13 section for a calendar year shall be furnished to the employe on
14 or before January 31 of the year succeeding such calendar year.
15 If the employe's employment is terminated before the close of
16 such calendar year, the employer, at his option, shall furnish
17 the statement to the employe at any time after the termination
18 but no later than January 31 of the year succeeding such
19 calendar year. However, if an employe whose employment is
20 terminated before the close of such calendar year requests the
21 employer in writing to furnish him the statement at an earlier
22 time, and, if there is no reasonable expectation on the part of
23 both employer and employe of further employment during the
24 calendar year, then the employer shall furnish the statement to
25 the employe on or before the later of the 30th day after the day
26 of the request or the 30th day after the day on which the last
27 payment of wages is made.

28 Section 10. The act is amended by adding sections to read:

29 Section 317.1. Information Statement for Nonemployer
30 Payors.--A nonemployer payor shall furnish to each nonemployer

1 payee during a calendar year a copy of form 1099-MISC required
2 by section 335(g). The copy of form 1099-MISC required by this
3 section for a calendar year shall be forwarded to the
4 nonemployer payee by March 1 of the next year.

5 Section 317.2. Information Statement for Nonemployer
6 Payees.--A nonemployer payee receiving a copy of form 1099-MISC
7 from a nonemployer payor under section 317.1 shall file a
8 duplicate of the form with the nonemployer payee's tax return
9 under section 330.

10 Section 11. Section 318 of the act, added August 31, 1971
11 (P.L.362, No.93), is amended to read:

12 Section 318. Time for Filing Employers' and Nonemployer
13 Payors' Returns.--(a) Every employer required to deduct and
14 withhold tax under [this article] section 316 shall file a
15 quarterly withholding return on or before the last day of April,
16 July, October and January for the three months ending the last
17 day of March, June, September and December. Such quarterly
18 returns shall be filed with the department at its main office or
19 at any branch office which it may designate for filing returns.

20 (b) A nonemployer payor shall file a quarterly withholding
21 return by the last day of April, July, October and January for
22 the three months ending the last day of March, June, September
23 and December. The quarterly return shall be filed with the
24 department in the manner promulgated by regulation.

25 Section 12. Section 319 of the act, amended October 9, 2009
26 (P.L.451, No.48), is amended to read:

27 Section 319. Payment of Taxes Withheld.--Every employer
28 withholding tax under [this article] section 316 and every
29 nonemployer payor shall pay over to the department or to a
30 depository designated by it the tax required to be deducted and

1 withheld under this article.

2 (1) Where the aggregate amount required to be deducted and
3 withheld [by any employer] for a calendar year can reasonably be
4 expected to be less than twelve hundred dollars (\$1,200), such
5 employer or nonemployer payor shall file a return and pay the
6 tax on or before the last day for filing a quarterly return
7 under section 318.

8 (2) Where the aggregated amount required to be deducted and
9 withheld [by any employer] for a calendar year can reasonably be
10 expected to be twelve hundred dollars (\$1,200) or more but less
11 than four thousand dollars (\$4,000), such employer or
12 nonemployer payor shall pay the tax monthly, on or before the
13 fifteenth day of the month succeeding the months of January to
14 November, inclusive, and on or before the last day of January
15 following the month of December.

16 (3) Where the aggregated amount required to be deducted and
17 withheld [by any employer] for a calendar year can reasonably be
18 expected to be four thousand dollars (\$4,000) or more but less
19 than twenty thousand dollars (\$20,000), such employer or
20 nonemployer payor shall pay the tax semi-monthly, within three
21 banking days after the close of the semi-monthly period.

22 (4) Where the aggregated amount required to be deducted and
23 withheld [by any employer] for a calendar year can reasonably be
24 expected to be twenty thousand dollars (\$20,000) or more, such
25 employer or nonemployer payor shall pay the tax on the Wednesday
26 after payday if the payday falls on a Wednesday, Thursday or
27 Friday and on the Friday after payday if the payday falls on a
28 Saturday, Sunday, Monday or Tuesday.

29 Notwithstanding anything in this section to the contrary,
30 whenever any employer or nonemployer payor fails to deduct or

1 truthfully account for or pay over the tax withheld or file
2 returns as prescribed by this article, the department may serve
3 a notice on such [employer] person requiring him to withhold
4 taxes which are required to be deducted under this article and
5 deposit such taxes in a bank approved by the department in a
6 separate account in trust for and payable to the department, and
7 to keep the amount of such tax in such account until payment
8 over to the department. Such notice shall remain in effect until
9 a notice of cancellation is served on the [employer] person by
10 the department.

11 Section 13. Sections 320, 321 and 322 of the act, added
12 August 31, 1971 (P.L.362, No.93), are amended to read:

13 Section 320. [Employer's] Liability for Withheld Taxes.--
14 Every employer required to deduct and withhold tax under [this
15 article] section 316 and every nonemployer payor is hereby made
16 liable for [such] tax deducted and withheld. For purposes of
17 assessment and collection, any amount required to be withheld
18 and paid over to the department and any additions to tax
19 penalties and interest with respect thereto, shall be considered
20 the tax of the employer or nonemployer payor. All taxes deducted
21 and withheld from employees pursuant to [this article] section
22 316 or nonemployer payees pursuant to section 316.1 or under
23 color of [this article] section 316 or 316.1 shall constitute a
24 trust fund for the Commonwealth and shall be enforceable against
25 such employer or nonemployer payor, his representative or any
26 other person receiving any part of such fund.

27 Section 321. [Employer's] Failure to Withhold.--If an
28 employer or nonemployer payor fails to deduct and withhold tax
29 as prescribed herein and thereafter the tax against which such
30 tax may be credited is paid, the tax which was required to be

deducted and withheld shall not be collected from the employer
or nonemployer payor, but the employer or nonemployer payor
shall not be relieved of the liability for any penalty,
interest, or additions to the tax imposed with respect to such
failure to deduct and withhold.

Section 322. Designation of Third Parties to Perform Acts
Required of Employers or Nonemployer Payors.--(a) In case a
fiduciary, agent or other person has the control, receipt,
custody or disposal of, or pays the compensation of an employee
or a group of employees, employed by one or more employers, the
department is authorized to designate such fiduciary, agent, or
other person to perform such acts as are required of employers
under this article as the department may by regulation
prescribe. Except as may be otherwise prescribed by the
department, all provisions of this article which are applicable
to an employer shall be applicable to a fiduciary, agent or
other person.

(b) In case a fiduciary, agent or other person has the
control, receipt, custody or disposal of, or pays income to a
nonemployer payee or a group of nonemployer payees on behalf of
a nonemployer payor, the department is authorized to designate
such fiduciary, agent or other person to perform such acts as
are required of nonemployer payors under this article as the
department may promulgate by regulation. Except as may be
otherwise prescribed by the department, all provisions of this
article which are applicable to a nonemployer payor shall be
applicable to a fiduciary, agent or other person.

Section 14. Section 324 of the act, amended June 22, 2001
(P.L.353, No.23), is amended to read:

Section 324. General Rule.--(a) When a partnership, estate,

1 trust or Pennsylvania S corporation receives income from sources
2 within this Commonwealth for any taxable year and any portion of
3 the income is allocable to a nonresident partner, beneficiary,
4 member or shareholder thereof, the partnership, estate, trust or
5 Pennsylvania S corporation shall pay a withholding tax under
6 this section at the time and in the manner prescribed by the
7 department; however, notwithstanding any other provision of this
8 article, all such withholding tax shall be paid over on or
9 before the fifteenth day of the fourth month following the end
10 of the taxable year.

11 (b) This section shall not apply to any publicly traded
12 partnership as defined under section 7704 of the Internal
13 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7704) with
14 equity securities registered with the Securities and Exchange
15 Commission under section 12 of the Securities Exchange Act of
16 1934 (48 Stat. 881, 15 U.S.C. § 78a).

17 Section 15. Section 324.1 of the act, added August 4, 1991
18 (P.L.97, No.22), is amended to read:

19 Section 324.1. Amount of Withholding Tax.--(a) The amount
20 of tax withheld from nonresidents and the amount of the
21 withholding tax payable under section 324 shall be equal to the
22 income from sources within this Commonwealth of the partnership,
23 association or Pennsylvania S corporation which is allocable to
24 nonresident partners, members or shareholders multiplied by the
25 tax rate specified in section 302(b).

26 (b) There shall not be taken into account any item of
27 income, gain, loss or deduction to the extent allocable to any
28 partner, member or shareholder who is not a nonresident.

29 (c) There shall not be taken into account any allocable
30 share of income of a nonresident partner, member or shareholder

1 from sources within this Commonwealth to the extent:

2 (1) the amount was subject to withholding under section
3 324.4; and

4 (2) withholding actually occurred under section 324.4 by the
5 time withholding is required to be made by the partnership,
6 association or Pennsylvania S corporation under section 324.

7 Section 16. Section 324.2 of the act, amended May 7, 1997
8 (P.L.85, No.7), is amended to read:

9 Section 324.2. Treatment of [Nonresident] Partners, Members
10 or Shareholders.--(a) Each nonresident partner, member,
11 shareholder or holder of a beneficial interest shall be allowed
12 a credit for such partner's, member's, shareholder's or holder
13 of a beneficial interest's share of the withholding tax paid by
14 the partnership, association or Pennsylvania S corporation.
15 [Such credit shall be allowed for the partner's, member's,
16 shareholder's or holder of a beneficial interest's taxable year
17 in which, or with which, the partnership, association or
18 Pennsylvania S corporation taxable year (for which such tax was
19 paid) ends.]

20 (b) Each resident and nonresident partner, member,
21 shareholder or holder of a beneficial interest shall be allowed
22 a credit for the partner's, member's, shareholder's or holder of
23 a beneficial interest's share of the withholding tax paid by the
24 lessee under section 324.4.

25 (c) The credits under this section shall be allowed for the
26 partner's, member's, shareholder's or holder of a beneficial
27 interest's taxable year in which, or with which, the
28 partnership, association or Pennsylvania S corporation taxable
29 year for which the tax was paid ends.

30 Section 17. The act is amended by adding sections to read:

1 Section 324.4. Withholding on Income from Oil and Gas
2 Interests.--(a) Every lessee who makes payments to a lessor
3 under a lease for oil and gas interests located in this
4 Commonwealth for any taxable year shall pay a withholding tax in
5 the manner determined by the department.

6 (b) Every lessee under subsection (a) shall withhold from
7 each payment made to a lessor an amount equal to the net amount
8 payable to the lessor multiplied by the tax rate specified under
9 section 302(b).

10 (c) This section shall not apply to:

11 (1) Payments made by a lessee to a lessor if the lessor is:

12 (i) The United States or an agency of the Federal
13 Government.

14 (ii) The Commonwealth or a political subdivision of the
15 Commonwealth.

16 (iii) A publicly traded partnership as defined under section
17 7704 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
18 U.S.C. § 7704) with equity securities registered with the
19 Securities and Exchange Commission under section 12 of the
20 Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a
21 et seq.).

22 (2) Any lessee that has twenty thousand dollars (\$20,000) or
23 less in Pennsylvania taxable income in any taxable year from
24 Pennsylvania-sourced oil and gas interests.

25 (d) For purposes of this section, the term "lessor" shall
26 include an individual, estate, trust, partnership, association
27 or Pennsylvania S corporation.

28 Section 324.5. Annual Withholding Statement.--(a) Every
29 lessee shall furnish to each lessor an annual statement in the
30 manner determined by the department showing the total payments

1 made by the lessee to the lessor during the preceding taxable
2 year and the amount of the tax deducted and withheld from the
3 payments under section 324.4.

4 (b) Every lessee shall file with the department an annual
5 statement in the manner determined by the department showing the
6 total payments made to each lessor subject to withholding during
7 the preceding taxable year or any portion of the preceding
8 taxable year and the total amount of tax deducted and withheld
9 under section 324.4.

10 (c) Every lessor shall file a duplicate of the annual
11 statement furnished by the lessee under this section with the
12 lessor's State income tax return.

13 Section 18. Section 330.1 of the act, amended or added
14 December 23, 1983 (P.L.370, No.90) and July 13, 1987 (P.L.325,
15 No.59), is amended to read:

16 Section 330.1. Return of Pennsylvania S Corporation.--(a)
17 Every Pennsylvania S corporation shall make a return for each
18 taxable year, stating specifically all items of gross income and
19 deductions, the names and addresses of all persons owning stock
20 in the corporation at any time during the taxable year, the
21 number of shares of stock owned by each shareholder at all times
22 during the taxable year, the amount of money and other property
23 distributed by the corporation during the taxable year to each
24 shareholder, the date of each distribution, each shareholder's
25 pro rata share of each item of the corporation for the taxable
26 year and such other information as the department may require.

27 (b) The return shall be filed on or before thirty days after
28 the date when the corporation's Federal income tax return is
29 due.

30 (c) Every Pennsylvania S corporation shall also submit to

1 the department a true copy of the income tax return filed with
2 the Federal Government at the time the return required under
3 subsection (a) is filed.

4 (d) Each Pennsylvania S corporation required to file a
5 return under subsection (a) for any taxable year shall, on or
6 before the day on which the return for the taxable year was
7 filed, furnish to each person who is a shareholder at any time
8 during the taxable year a copy of the Resident Schedule of
9 Shareholder/Partner/Beneficiary Pass Through Income, Loss and
10 Credits (Schedule RK-1) or the Nonresident Schedule of
11 Shareholder/Partner/Beneficiary Pass Through Income, Loss and
12 Credits (Schedule NRK-1) form showing their share of income and
13 any other information as may be required by the department.

14 Section 19. Section 335 of the act, amended or added August
15 31, 1971 (P.L.362, No.93) and December 23, 2003 (P.L.250,
16 No.46), is amended to read:

17 Section 335. Requirements Concerning Returns, Notices,
18 Records and Statements.--(a) The department may prescribe by
19 regulation for the keeping of records, the content and form of
20 returns, declarations, statements and other documents and the
21 filing of copies of Federal income tax returns and
22 determinations. The department may require any person, by
23 regulation or notice served upon such person, to make such
24 returns, render such statements, or keep such records, as the
25 department may deem sufficient to show whether or not such
26 person is liable for tax under this article.

27 (b) (1) When required by regulations prescribed by the
28 department:

29 (i) Any person required under the authority of this article
30 to make a return, declaration, statement, or other document

1 shall include in such return, declaration, statement or other
2 document such identifying number as may be prescribed for
3 securing proper identification of such person.

4 (ii) Any person with respect to whom a return, declaration,
5 statement, or other document is required under the authority of
6 this article to make a return, declaration, statement, or other
7 document with respect to another person, shall request from such
8 other person, and shall include in any such return, declaration,
9 statement, or other document, such identifying number as may be
10 prescribed for securing proper identification of such other
11 person.

12 (2) For purposes of this section, the department is
13 authorized to require such information as may be necessary to
14 assign an identifying number to any person.

15 (c) (1) Every partnership having a resident partner or
16 fiduciary of an estate or trust having a resident partner or
17 beneficiary or having any income derived from sources within
18 this Commonwealth shall make a return for the taxable year
19 setting forth all items of income, loss and deduction, and such
20 other pertinent information as the department may by regulations
21 prescribe. Such return shall be filed on or before the fifteenth
22 day of the fourth month following the close of each taxable
23 year. For purposes of this subsection, "taxable year" means year
24 or period which would be a taxable year of the partnership if it
25 were subject to tax under this article.

26 (2) Every partnership or fiduciary required to file a return
27 under paragraph (1) shall also file with the department a true
28 copy of the income tax return filed with the Federal Government
29 at the time the return required under paragraph (1) is filed.

30 (3) Every partnership or fiduciary required to file a return

1 under paragraph (1) for any taxable year shall, on or before the
2 day the return is filed, furnish to each partner or nominee for
3 another person or to each beneficiary to whom the income or
4 gains of the estate or trust is taxable, whichever is
5 applicable, a copy of the Resident Schedule of
6 Shareholder/Partner/Beneficiary Pass Through Income, Loss and
7 Credits (Schedule RK-1) or the Nonresident Schedule of
8 Shareholder/Partner/Beneficiary Pass Through Income, Loss and
9 Credits (Schedule NRK-1) form showing their share of income and
10 any information as may be required by the department.

11 (4) Failure to file a timely return as required under
12 paragraph (2) and failure to furnish a copy of the returns
13 required under paragraph (3) shall result in a penalty of fifty
14 dollars (\$50) for each individual return or individual copy
15 required.

16 (d) The department may prescribe regulations requiring
17 returns of information to be made and filed on or before
18 February 28 of each year as to the payment or crediting in any
19 calendar year of amounts of ten dollars (\$10) or more to any
20 taxpayer. Such returns may be required of any person, including
21 lessees or mortgagors of real or personal property, fiduciaries,
22 employers and all officers and employees of this Commonwealth, or
23 of any municipal corporation or political subdivision of this
24 Commonwealth having the control, receipt, custody, disposal or
25 payment of interest, rents, salaries, wages, premiums,
26 annuities, compensations, remunerations, emoluments or other
27 fixed or determinable gains, profits or income, except interest
28 coupons payable to bearer. A duplicate of the statement as to
29 tax withheld on compensation required to be furnished by an
30 employer to an employee, shall constitute the return of

1 information required to be made under this section with respect
2 to such compensation.

3 (e) Any person who is required to make a form W-2G return to
4 the Secretary of the Treasury of the United States in regard to
5 taxable gambling or lottery winnings from sources within this
6 Commonwealth shall file a copy of the form with the department
7 by March 1 of each year or, if filed electronically, by March 31
8 of each year.

9 (f) (1) Every partnership, estate, trust or Pennsylvania S
10 corporation shall maintain an accurate list of partners,
11 members, beneficiaries or shareholders. The list shall include
12 current address and tax identification number and shall be
13 updated to include new and withdrawing partners, members,
14 beneficiaries or shareholders, including date of withdrawal and
15 admittance.

16 (2) If the partnership, estate, trust or Pennsylvania S
17 corporation does not maintain an accurate list as required under
18 paragraph (1), the tax, penalty and interest with respect to the
19 partner, member, beneficiary or shareholder shall be considered
20 the tax, penalty and interest of the partnership, estate, trust
21 or Pennsylvania S corporation and the general partner, tax
22 matters partner, corporate officer or trustee.

23 (g) (1) Any person who:

24 (i) makes payments of income from sources within this
25 Commonwealth that fall within any of the eight classes of income
26 enumerated under section 303(a) (1), (2), (3), (4), (5), (6), (7)
27 and (8);

28 (ii) makes payments under subparagraph (i) to an individual,
29 an entity treated as a partnership for tax purposes or a single
30 member limited liability company; and

1 (iii) is required to make a form 1099-MISC return to the
2 Secretary of the Treasury of the United States with respect to
3 the payments, shall file a copy of form 1099-MISC with the
4 department and send a copy of form 1099-MISC to the payee by
5 March 1 of each year or, if filed electronically, by March 31 of
6 each year. If form 1099-MISC filed by a payor with the Secretary
7 of the Treasury of the United States is not completed in a
8 manner that State income and State tax withheld information is
9 reflected on the form, the payor shall update the copies of form
10 1099-MISC required to be provided under this section to reflect
11 the information prior to filing it with the department and
12 sending it to the payee.

13 (2) If the payor is required to perform electronic filing
14 for Pennsylvania employer withholding purposes, the form 1099-
15 MISC shall be filed electronically with the department.

16 Section 19.1. Section 338 of the act, amended July 25, 2007
17 (P.L.373, No.55), is amended to read:

18 Section 338. Assessment.--(a) The department is authorized
19 and required to make the inquiries, determinations and
20 assessments of all taxes imposed by this article.

21 (b) If the mode or time for the assessment of any tax is not
22 otherwise provided for, the department may establish the same by
23 regulations.

24 (c) In the event that any taxpayer fails to file a return
25 required by this article, the department may make an estimated
26 assessment (based on information available) of the proper amount
27 of tax owing by the taxpayer. A notice of assessment in the
28 estimated amount shall be sent to the taxpayer. The tax shall be
29 paid within ninety days after a notice of such estimated
30 assessment has been mailed to the taxpayer, unless within such

1 period the taxpayer has filed a petition for reassessment in the
2 manner prescribed by Article XXVII.

3 (d) A notice of assessment issued by the department pursuant
4 to this article shall be mailed to the taxpayer. The notice
5 shall set forth the basis of the assessment.

6 [(e) The notice required by subsection (d) shall be mailed
7 by certified mail if the assessment is for \$300 or more.]

8 Section 20. Section 352(j) of the act, added May 7, 1997
9 (P.L.85, No.7), is amended and subsection (f) is amended by
10 adding paragraphs to read:

11 Section 352. Additions, Penalties and Fees.--* * *

12 (f) * * *

13 (4) Any person required to file an annual statement with the
14 department under the provisions of section 324.5 who wilfully
15 furnishes a false or fraudulent statement or who wilfully fails
16 to file the statement in the manner, at the time and showing the
17 information required under section 324.5 and the regulations
18 prescribed thereunder shall, for each such failure, be subject
19 to a penalty of fifty dollars (\$50).

20 (5) Any person required under the provisions of section
21 324.5 to furnish an annual statement to a lessor who wilfully
22 furnishes a false or fraudulent statement or who wilfully fails
23 to furnish a statement in the manner, at the time and showing
24 the information required by section 324.5 and the regulations
25 prescribed thereunder shall, for each such failure, be subject
26 to a penalty of fifty dollars (\$50).

27 (6) Any person required to file a copy of form 1099-MISC
28 with the department under the provisions of section 317.2 or
29 335(g) who wilfully furnishes a false or fraudulent form or who
30 wilfully fails to file the form in the manner, at the time and

1 showing the information required under section 335(g) and the
2 regulations prescribed thereunder shall, for each such failure,
3 be subject to a penalty of fifty dollars (\$50).

4 (7) Any person required under the provisions of section
5 317.1 or 335(g) to furnish a copy of form 1099-MISC to a payee
6 who wilfully furnishes a false or fraudulent form or who
7 wilfully fails to furnish a form in the manner, at the time and
8 showing the information required by section 317.1 or 335(g) and
9 the regulations prescribed thereunder shall, for each such
10 failure, be subject to a penalty of fifty dollars (\$50).

11 * * *

12 (j) If any amount of tax required to be withheld by a
13 partnership, association [or], Pennsylvania S corporation or
14 lessee and paid over to the department under section 324 or
15 324.4 is not paid on or before the date prescribed therefor,
16 there shall be added to the tax and paid to the department each
17 month five per cent of such underpayment for each month or
18 fraction thereof from the due date, for the period from the due
19 date to the date paid; but the underpayment shall, for purposes
20 of computing the addition for any month, be reduced by the
21 amount of any part of the tax which is paid by the beginning of
22 that month. The total of such additions shall not exceed fifty
23 per cent of the amount of such tax.

24 Section 21. The act is amended by adding a section to read:

25 Section 353.1. Failure to Timely Remit Tax Withheld.--(a) If
26 a person wilfully fails to timely remit tax withheld under this
27 article, the grading for the offense is as follows:

28 (1) If the amount of the tax is one thousand dollars
29 (\$1,000) or less, the person commits a misdemeanor of the second
30 degree and, upon conviction, shall be sentenced to pay a fine

not exceeding one thousand dollars (\$1,000) or to imprisonment for not more than two years, or both.

(2) Except as set forth in paragraph (3), if the amount of the tax exceeds one thousand dollars (\$1,000), the person commits a misdemeanor of the first degree and, upon conviction, shall be sentenced to pay a fine not exceeding five thousand dollars (\$5,000) or to imprisonment for not more than five years, or both.

(3) If the amount of the tax exceeds two thousand dollars (\$2,000), the person commits a felony of the third degree and, upon conviction, shall be sentenced to pay a fine not exceeding twenty-five thousand dollars (\$25,000) or to imprisonment for not more than seven years, or both.

(b) The penalties imposed by this section shall be in addition to any other penalties imposed by any provision of this article.

Section 21.1. Sections 407.1 and 1111-C of the act, amended July 25, 2007 (P.L.373, No.55), are amended to read:

Section 407.1. Assessments.--(a) If the department determines that unpaid or unreported tax is due the Commonwealth, the department shall issue an assessment under this section and sections 407.2, 407.3, 407.4 and 407.5. Such an assessment is not subject to the settlement procedure in the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) A notice of assessment and demand for payment shall be mailed to the taxpayer. The notice shall set forth the basis of the assessment. The assessment shall be paid to the department upon receipt of the notice of assessment. Payment of the assessment shall be without prejudice to the right of the taxpayer to file a petition for reassessment in the manner

1 prescribed by Article XXVII.

2 (c) In the event that a taxpayer fails to file a report for
3 a tax governed by this article, the department may issue an
4 estimated assessment based upon the records and information
5 available or that may come into the department's possession. If
6 prior to the filing of a report the department estimates that
7 additional unpaid or unreported tax is due the Commonwealth, the
8 department may issue additional estimated assessments.

9 (d) A notice of estimated assessment and demand for payment
10 shall be mailed to the taxpayer. The assessment shall be paid to
11 the department upon receipt of the notice of assessment. Payment
12 of the estimated assessment does not eliminate the taxpayer's
13 obligation to file a report.

14 (e) A taxpayer shall have no right to petition for
15 reassessment, petition for refund or otherwise appeal a notice
16 of estimated assessment except as provided in subsection (f).

17 (f) The department shall remove an estimated assessment
18 within ninety days of the filing of a report and other
19 information required to determine the tax due the Commonwealth,
20 whereupon the department may issue an assessment as provided in
21 subsection (a). Any tax due the Commonwealth that is included in
22 an estimated assessment shall retain its lien priority as of the
23 date of the estimated assessment to the extent such amount is
24 included with an assessment issued upon the review of the filed
25 report.

26 [(g) The notice required by subsections (b) and (d) shall be
27 mailed by certified mail if the assessment is for \$300 or more.]

28 Section 1111-C. Assessment and Notice of Tax; Review.--(a)
29 If any person shall fail to pay any tax imposed by this article
30 for which he is liable, the department is hereby authorized and

empowered to make an assessment of additional tax and interest due by such person based upon any information within its possession or that shall come into its possession. All of such assessments shall be made within three years after the date of the recording of the document, subject to the following:

(1) If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.

(2) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

(b) Promptly after the date of such assessment, the department shall send a copy thereof, including the basis of the assessment, to the person against whom it was made. Any taxpayer against whom an assessment is made may petition the department for a reassessment pursuant to Article XXVII.

[(d) The notice required by subsection (b) shall be sent by certified mail if the assessment is for \$300 or more.]

Section 21.2. Section 1296 of the act, amended June 29, 2002 (P.L.559, No.89), is amended to read:

Section 1296. Disposition of Certain Funds.--Receipts from the tax imposed by this article shall be deposited into the General Fund. [Twenty million four hundred eighty-five thousand dollars (\$20,485,000) of the receipts deposited into the General Fund in accordance with this section shall be transferred annually to the Agricultural Conservation Easement Purchase Fund.] Thirty million seven hundred thirty thousand dollars (\$30,730,000) of the receipts deposited into the General Fund in accordance with this section shall be transferred annually to

1 the Children's Health Fund for health care for indigent
2 children. The transfers required by this section shall be made
3 in two equal payments by July 15 and January 15.

4 Section 21.3. Section 2005 of the act, amended July 25, 2007
5 (P.L.373, No.55), is amended to read:

6 Section 2005. Assessment by Department.--(a) If any person
7 shall fail to pay any tax imposed by this article for which he
8 is liable, the department is hereby authorized and empowered to
9 make an assessment of additional tax due by such person, based
10 upon any information within its possession, or that shall come
11 into its possession.

12 (b) Promptly after the date of such assessment, the
13 department shall send a copy of the assessment, including the
14 basis of the assessment, to the person against whom it was made.
15 Within ninety days after the date upon which the copy of any
16 such assessment was mailed, such person may file with the
17 department a petition for reassessment of such taxes. Every
18 petition for reassessment shall state specifically the reasons
19 which the petitioner believes entitle him to such reassessment,
20 and it shall be supported by affidavit that it is not made for
21 the purpose of delay, and that the facts set forth therein are
22 true. It shall be the duty of the department, within six months
23 after the date of any assessment, to dispose of any petition for
24 reassessment. Notice of the action taken upon any petition for
25 reassessment shall be given to the petitioner promptly after the
26 date of reassessment by the department.

27 [(b.1) The notice required by subsection (b) shall be sent
28 by certified mail if the assessment is for \$300 or more.]

29 (c) Within ninety days after the date of mailing of notice
30 by the department of the action taken on any petition for

1 reassessment filed with it, the person against whom such
2 assessment was made, may, by petition, request the Board of
3 Finance and Revenue to review such action. Every petition for
4 review filed hereunder shall state specifically the reason upon
5 which the petitioner relies, or shall incorporate by reference
6 the petition for reassessment in which such reasons shall have
7 been stated. The petition shall be supported by affidavit that
8 it is not made for the purpose of delay, and that the facts
9 therein set forth are true. If the petitioner be a corporation,
10 joint-stock association or limited partnership, the affidavit
11 must be made by one of the principal officers thereof. A
12 petition for review may be amended by the petitioner at any time
13 prior to the hearing, as hereinafter provided. The Board of
14 Finance and Revenue shall act finally in disposition of such
15 petitions filed with it within six months after they have been
16 received, and, in the event of the failure of said board to
17 dispose of any such petition within six months, the action taken
18 by the department upon the petition for reassessment shall be
19 deemed sustained. The Board of Finance and Revenue may sustain
20 the action taken on the petition for reassessment, or it may
21 reassess the tax due upon such basis as it shall deem according
22 to law and equity. Notice of the action of the Board of Finance
23 and Revenue shall be given by mail, or otherwise, to the
24 department and to the petitioner.

25 (d) In all cases of petitions for reassessment, review or
26 appeal, the burden of proof shall be upon the petitioner or
27 appellant, as the case may be.

28 (e) Whenever any assessment of additional tax is not paid
29 within ninety days after the date of the assessment, if no
30 petition for reassessment has been filed, or within ninety days

1 from the date of reassessment, if no petition for review has
2 been filed, or within thirty days from the date of the decision
3 of the Board of Finance and Revenue upon a petition for review,
4 or the expiration of the board's time for acting upon such
5 petition, if no appeal has been made, and in all cases of
6 judicial sales, receiverships, assignments or bankruptcies, the
7 department may call upon the Office of Attorney General to
8 collect such assessment. In such event, in a proceeding for the
9 collection of such taxes, the person against whom they were
10 assessed shall not be permitted to set up any ground of defense
11 that might have been determined by the department, the Board of
12 Finance and Revenue or the courts. The department may also
13 certify to the Liquor Control Board, for such action as the
14 board may deem proper, the fact that any person has failed to
15 pay or duly appeal from such assessment of additional tax. The
16 department may also provide, adopt, promulgate and enforce such
17 rules and regulations, as may be appropriate, to prevent further
18 shipment or transportation of malt or brewed beverages into this
19 Commonwealth by any person against whom such unpaid assessment
20 shall have been made.

21 Section 21.4. The act is amended by adding sections to read:

22 Section 3003.22. Administrative Bank Attachment for Accounts
23 of Obligors to the Commonwealth.--(a) The department may order
24 the attachment and seizure of funds in an obligor's account that
25 the department reasonably believes to hold property subject to a
26 lien in favor of the Commonwealth. Upon receiving seized funds,
27 the department shall apply the amount seized to the obligor's
28 lien obligation.

29 (b) (1) If the department has a reasonable belief that an
30 obligor's account holds property subject to a lien in favor of

1 the Commonwealth, the department may order the attachment of
2 funds in the obligor's account by sending a notice to the
3 financial institution.

4 (2) The notice shall be sent by an electronic format or any
5 other reasonable manner as agreed to by the department and the
6 financial institution.

7 (3) The notice shall include all of the following:

8 (i) The name of the obligor.

9 (ii) The amount of the Commonwealth's lien, including
10 interest and penalty accrued up to forty-five days after the
11 date of notice.

12 (iii) The current or last known address of the obligor.

13 (iv) The Social Security number, Federal employer
14 identification number or other taxpayer identification number of
15 the obligor.

16 (v) An order to immediately attach one or more accounts held
17 by the financial institution in the name of the obligor for an
18 aggregate amount equal to the lesser of the amounts in all
19 accounts or the Commonwealth's lien.

20 (c) (1) Upon receipt of the notice described in subsection
21 (b), the financial institution shall promptly attach one or more
22 of the accounts of the obligor held by the financial institution
23 for an aggregate amount equal to the lesser of:

24 (i) the total of the amounts in all the accounts of the
25 obligor held by the financial institution; or

26 (ii) the amount stated in the notice.

27 Upon the attachment and until the financial institution receives
28 further notice from the department, as provided in this section,
29 the financial institution may not allow any activity to occur in
30 any of the accounts attached up to the amount of the attachment.

1 (2) Within twenty days after the financial institution
2 receives the notice described in subsection (b), the financial
3 institution shall inform the department that the financial
4 institution has complied with the attachment order and shall
5 specify the aggregate amount attached pursuant to the order.

6 (3) (i) The financial institution may assess a reasonable
7 administrative fee against the accounts or the obligor in
8 addition to the amount attached.

9 (ii) In the case of insufficient funds to cover both the fee
10 authorized by subparagraph (i) and the amount identified in the
11 notice under subsection (b), the financial institution may first
12 deduct the fee from the amount attached and retain it from the
13 amount seized and forwarded to the department as provided in
14 this section.

15 (d) (1) Except as otherwise provided in paragraph (3),
16 within ten business days after the department has received
17 notice from the financial institution under subsection (c)(2) of
18 compliance with the order to attach the obligor's account, the
19 department shall send a notice to the obligor by first class
20 mail to the obligor's current or last known address.

21 (2) The notice shall contain the following information:

22 (i) The address of the department.

23 (ii) The telephone number, address and name of a contact
24 person at the department.

25 (iii) The name and Social Security number, Federal employer
26 identification number or other taxpayer identification number of
27 the obligor.

28 (iv) The current or last known address of the obligor.

29 (v) The total amount of the Commonwealth's lien owed by the
30 obligor, including interest and penalty accrued up to forty-five

days after the date of notice.

(vi) The date the notice is being sent.

(vii) A statement informing the obligor that the department has ordered the financial institution to attach the amount of the Commonwealth's lien owed by the obligor from one or more of the accounts of the obligor.

(viii) For each account of the obligor, the name of the financial institution that has attached amounts as required by this section.

(ix) A statement that the order may be challenged in accordance with subsection (e).

(x) A statement informing the obligor that unless a timely challenge is made by the obligor or an account holder of interest under subsection (e), the department shall notify the financial institution to seize the amount attached by the financial institution and forward it to the department.

(3) The department shall not be required to send the notice described under this subsection if, prior to the time that the notice must be sent, the department and the obligor agree to an arrangement under which the obligor will pay amounts owed under the Commonwealth's lien.

(e) (1) An obligor or an account holder of interest may challenge the actions of the department under this section by filing a motion with the court of common pleas within ten days of the date of the notice sent under subsection (d).

(2) An obligor or an account holder of interest may challenge the actions of the department based on:

(i) a mistake as to any of the following:

(A) The identity of the obligor.

(B) The ownership of the account.

1 (C) The contents of the account.

2 (D) The amount of the lien obligation due.

3 (ii) a request for spousal relief from joint liability; or

4 (iii) any other good cause.

5 (3) An obligor or an account holder of interest may not
6 challenge the actions of the department based on a mistake or
7 error in the original assessment underlying a lien against the
8 obligor.

9 (f) (1) If a timely challenge is not made by the obligor or
10 an account holder of interest under subsection (e), the
11 department shall direct the financial institution to:

12 (i) seize the amount attached by the financial institution
13 and forward it to the department;

14 (ii) reduce the amount attached by the financial institution
15 to a revised amount as stated by the department, seize the
16 revised amount and forward it to the department and release the
17 balance of the account; or

18 (iii) release the amount attached by the financial
19 institution.

20 (2) The department may direct a financial institution to
21 seize and forward attached funds before the time for filing a
22 timely challenge under subsection (e) upon agreement among the
23 department, the obligor and, in cases where the department is
24 aware of an account holder of interest, the account holder of
25 interest.

26 (g) (1) If a determination is made by the court, pursuant
27 to a challenge under subsection (e), that the account of the
28 obligor should not have been attached, the department shall
29 notify the financial institution, in the manner specified in
30 subsection (b) (2), to release the amount attached by the

1 financial institution.

2 (2) If a determination is made by the court, pursuant to a
3 challenge under subsection (e), to reduce the amount attached by
4 the financial institution, the department shall notify the
5 financial institution, in the manner specified in subsection
6 (b) (2), to revise the amount as stated by the department, to
7 seize and forward the revised amount to the department and to
8 release the balance of the account attached by the financial
9 institution.

10 (3) If a determination is made by the court, pursuant to a
11 challenge made under subsection (e), that the attachment by the
12 financial institution was proper, the department shall notify
13 the financial institution, in the manner specified in subsection
14 (b) (2), to seize the amount attached by the financial
15 institution and forward it to the department.

16 (h) A financial institution that complies with an order and
17 notice from the department under this section is not liable to
18 any person, including the department, the obligor or any account
19 holder of interest, for any of the following:

20 (1) disclosing information to the department under this
21 section;

22 (2) sending any amount seized to the department;

23 (3) wrongful dishonor or any other claim relating to the
24 attachment and seizure of any account as ordered by the
25 department; or

26 (4) any other action taken in good faith to comply with the
27 requirements of this section.

28 (i) A financial institution shall not be required to
29 reimburse fees assessed against an account or an obligor as a
30 result of the department instituting an action under this

section or as otherwise permitted by law or authorized by
contract.

(j) (1) If, under the provisions of this section, a
financial institution fails to attach accounts as required in a
timely manner or fails to forward the proper amount of funds
attached to the department in a timely manner, the financial
institution shall be subject to a penalty of five per cent of
the amount of funds which should have been attached or forwarded
for each month or fraction thereof from the date the funds
should have been attached or forwarded to the date the funds are
attached or forwarded. The total amount of the penalty shall not
exceed fifty per cent of the proper amount of funds which should
have been attached or forwarded.

(2) The penalty imposed by this section shall be assessed,
enforced, administered or collected under the provisions of
Article II.

(k) This section shall not be construed to prohibit the
department or any other Commonwealth agency from collecting
obligations due from an obligor in any other manner authorized
by law.

(1) As used in this section, the following words and phrases
shall have the meanings given to them in this subsection:

"Account." (1) Any of the following:

(i) Funds from a demand deposit account, checking account,
negotiable order of withdrawal account, savings account, time
deposit account, money market mutual fund account or certificate
of deposit account.

(ii) Funds paid toward the purchase of shares or other
interest in an entity as described in paragraphs (1) and (2) of
the definition of "financial institution."

1 (iii) Funds or property held by a depository institution as
2 described in paragraph (3) of the definition of "financial
3 institution."

4 (2) The term shall not include any of the following:

5 (i) An account that an obligor does not have access due to a
6 pledge of the funds as security for a loan or other obligation.

7 (ii) Funds or property deposited to an account after the
8 time that a financial institution initially attaches the
9 account.

10 (iii) An account that a financial institution has a present
11 right to exercise a right of setoff.

12 (iv) An account that has an account holder of interest named
13 as an owner on the account.

14 (v) An account that an obligor does not have an
15 unconditional right of access.

16 "Account holder of interest." A person, other than an
17 obligor of an account, who asserts an ownership interest in an
18 account.

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

20 "Financial institution." Any of the following:

21 (1) A depository institution, as defined in section 3(c) of
22 the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. §
23 1813(c)).

24 (2) A Federal credit union or State credit union, as defined
25 in section 1752(1) of the Federal Credit Union Act (48 Stat.
26 1216, 12 U.S.C. § 1752(1)).

27 (3) A benefit association, insurance company, safe deposit
28 company, money market mutual fund or similar entity doing
29 business in this Commonwealth that holds property or maintains
30 accounts reflecting property belonging to others.

1 "Obligor." Any of the following:

2 (1) An entity engaged in a business whose property is
3 subject to a Commonwealth tax lien or liens totaling at least
4 one thousand dollars (\$1,000).

5 (2) An individual operating as a sole proprietor whose
6 property is subject to a Commonwealth tax lien or liens totaling
7 at least one thousand dollars (\$1,000).

8 (3) A shareholder, member or partner of a pass-through
9 entity whose property is subject to a Commonwealth tax lien or
10 liens totaling at least one thousand dollars (\$1,000).

11 (4) A corporate officer or other responsible individual who
12 has been assessed pursuant to the provisions of section 225 or
13 320 and whose property is subject to a Commonwealth tax lien or
14 liens totaling at least one thousand dollars (\$1,000).

15 "Pass-through entity." A partnership as defined in section
16 301(n.0) or a Pennsylvania S corporation as defined in section
17 301(n.2).

18 Section 3003.23. Tax Delinquent Placard.--(a)
19 Notwithstanding any other provision of this act, the department
20 shall have the authority to attach a removable, damage-proof
21 placard as specified in subsection (b) to a conspicuous position
22 on the exterior of a person's place of business if any of the
23 following apply:

24 (1) The person fails to pay a State tax within ninety days
25 after the due date and the tax liability has not been timely
26 appealed or subject to a duly authorized deferred payment plan.

27 (2) The person fails to file a State tax return or report
28 within ninety days after the due date of the applicable return
29 or report.

30 (b) The placard may list the following information:

1 (1) "TAX DELINQUENT" at the top of the placard.

2 (2) The person's name, business name or trade name.

3 (3) The address of the person or business.

4 (4) The type of tax delinquent and the specifics of the
5 delinquencies, including the amount of tax due, if applicable.

6 (5) "THE PENNSYLVANIA DEPARTMENT OF REVENUE" at the bottom
7 of the placard.

8 (6) Any other information the department deems necessary.

9 (c) The placard shall not be removed until all State taxes
10 are paid in full, including interest and penalty, or all State
11 tax returns or reports are filed. The placard shall be removed
12 by the department or the person upon written authorization from
13 the department.

14 (d) Anyone who defaces, covers or removes the placard
15 without prior approval of the department shall be guilty of a
16 summary offense and, upon conviction thereof, be sentenced to
17 pay a fine of not less than three hundred dollars (\$300) nor
18 more than one thousand five hundred dollars (\$1,500) and, in
19 default thereof, to undergo imprisonment of not less than five
20 days nor more than thirty days.

21 (e) The penalties imposed by this subsection shall be in
22 addition to any other penalties imposed by this article. The
23 Secretary of Revenue may designate employees of the department to
24 enforce the provisions of this section. The employees shall
25 exhibit proof of and be within the scope of the designation when
26 instituting proceedings as provided by the Pennsylvania Rules of
27 Criminal Procedure.

28 (f) For purposes of administering the provisions of this
29 section, an employe designated by the Secretary of Revenue is
30 authorized to place the placard on the exterior of the place of

business at reasonable times to enforce the provisions of this
section subject to constitutional restrictions on unreasonable
searches or seizures.

(g) As used in this section, the following words and phrases
shall have the meanings given to them in this section:

"Person." Any association, joint venture or joint-stock
company, partnership, limited partnership association, limited
liability company, business corporation, nonprofit corporation,
sole proprietor or any other group of individuals, however
organized.

Section 3003.24. Additional Citation Authority.--
Notwithstanding any other provision of this act, any person who:

(1) does not pay any State tax, interest or penalty within
ninety days after the due date and the tax liability due has not
been timely appealed or subject to a duly authorized deferred
payment plan;

(2) underpays any State tax, interest or penalty within
ninety days after the due date and the tax liability due has not
been timely appealed or subject to a duly authorized deferred
payment plan; or

(3) fails to file a tax return or report or any other
reporting document within ninety days after the due date of the
applicable payment or return, report or any other reporting
document;

shall be guilty of a summary offense and, upon conviction
thereof, be sentenced to pay a fine of not less than three
hundred dollars (\$300) nor more than one thousand five hundred
dollars (\$1,500) and, in default thereof, to undergo
imprisonment of not less than five days nor more than thirty
days. The penalties imposed by this subsection shall be in

addition to any other penalties imposed by this article. For purposes of this subsection, the offering for sale or lease of any service or tangible personal property, the sale or use of which is subject to tax, during any calendar day shall constitute a separate violation. The Secretary of Revenue may designate employees of the department to enforce the provisions of this subsection. The employees shall exhibit proof of and be within the scope of the designation when instituting proceedings as provided by the Pennsylvania Rules of Criminal Procedure.

Section 22. This act shall apply as follows:

(1) The addition of sections 268.1 and 353.1 of the act shall apply to tax due on or after July 1, 2012.

(2) The amendment of section 227 of the act shall apply to returns due on or after July 1, 2012.

(3) The amendment of sections 230, 338, 407.1, 1111-C and 2005 of the act shall apply to all assessments issued on or after June 30, 2012.

Section 23. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The amendment of section 208 of the act.

(ii) The amendment of section 230 of the act.

(iii) The amendment of section 338 of the act.

(iv) The amendment of section 407.1 of the act.

(v) The amendment of section 1111-C of the act.

(vi) The amendment of section 2005 of the act.

(vii) The addition of section 3003.23 of the act.

(viii) The addition of section 3003.24 of the act.

(ix) This section.

(2) The addition of section 3003.22 of the act shall

1 take effect in 60 days.

2 (3) The amendment of section 1296 of the act shall take
3 effect July 1, 2012.

4 (4) The remainder of this act shall take effect January
5 1, 2013.