

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL****No. 491** Session of  
2013

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INTRODUCED BY FOLMER, EICHELBERGER, VOGEL, WHITE, PILEGGI,  
ALLOWAY, HUTCHINSON AND BROWNE, FEBRUARY 13, 2013

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SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,  
MARCH 17, 2014

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## AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 providing for the definition of "farming"; and further  
23 providing for declaration and payment of income taxes and for  
24 withholding and remittance.

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

27 Section 1. Section 501 of the act of December 31, 1965  
28 (P.L.1257, No.511), known as The Local Tax Enabling Act, is

1 amended by adding a definition to read:

2 Section 501. Definitions.

3 The following words and phrases when used in this chapter  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 \* \* \*

7 "Farming." Includes all activities that are farming for  
8 purposes of section 325 of the act of March 4, 1971 (P.L.6,  
9 No.2), known as the Tax Reform Code of 1971.

10 \* \* \*

11 Section 2. Section 502(c) of the act, added July 2, 2008  
12 (P.L.197, No.32), is amended and the section is amended by  
13 adding subsections to read:

14 Section 502. Declaration and payment of income taxes.

15 \* \* \*

16 (c) Declaration and payment.--Except as provided in  
17 [subsection (a) (2)] subsections (a) (2) and (d), taxpayers shall  
18 declare and pay income taxes as follows:

19 (1) Every taxpayer shall, on or before April 15 of the  
20 succeeding year, make and file with the resident tax officer,  
21 a final return showing the amount of taxable income received  
22 during the period beginning January 1 of the current year and  
23 ending December 31 of the current year, the total amount of  
24 tax due on the taxable income, the amount of tax paid, the  
25 amount of tax that has been withheld under section 512 and  
26 the balance of tax due. All amounts reported shall be rounded  
27 to the nearest whole dollar. At the time of filing the final  
28 return, the taxpayer shall pay the resident tax officer the  
29 balance of the tax due or shall make demand for refund or  
30 credit in the case of overpayment. Taxpayers may use the

1 Annual Local Earned Income Tax Return form available from the  
2 department's Internet website to file the final return.

3 (2) (i) Every taxpayer making net profits shall, by  
4 April 15 of the current year, make and file with the  
5 resident tax officer a declaration of the taxpayer's  
6 estimated net profits during the period beginning January  
7 1 and ending December 31 of the current year, and shall  
8 pay to the resident tax officer in four equal quarterly  
9 installments the tax due on the estimated net profits.  
10 The first installment shall be paid at the time of filing  
11 the declaration, and the other installments shall be paid  
12 on or before [June] July 15 of the current year,  
13 [September] October 15 of the current year and January 15  
14 of the succeeding year, respectively.

15 (ii) Any taxpayer who first anticipates any net  
16 profit after April 15 of the current year shall make and  
17 file the declaration required on or before [June] July 15  
18 of the current year, [September] October 15 of the  
19 current year or [December 31 of the current year] January  
20 15 of the succeeding year, whichever date next follows  
21 the date on which the taxpayer first anticipates such net  
22 profit, and shall pay to the resident tax officer in  
23 equal installments the tax due on or before the quarterly  
24 payment dates that remain after the filing of the  
25 declaration.

26 (ii.1) A taxpayer will be considered to have met the  
27 requirements for declaration and minimum payment of  
28 estimated tax for any year in which the taxpayer timely  
29 declares and makes quarterly payments of estimated tax in  
30 amounts that equal at least one-fourth of the total

1 income and net profits tax due and not withheld under <--  
2 section 512 in the previous year, provided that the  
3 taxpayer can show through the taxpayer's annual earned <--  
4 income tax return filed for the previous year that tax  
5 liability was incurred.

6 (iii) Every taxpayer shall, on or before April 15 of  
7 the succeeding year, make and file with the resident tax  
8 officer a final return showing the amount of net profits  
9 earned or received based on the method of accounting used  
10 by the taxpayer during the period beginning January 1 of  
11 the current year, and ending December 31 of the current  
12 year, the total amount of tax due on the net profits and  
13 the total amount of tax paid. At the time of filing the  
14 final return, the taxpayer shall pay to the resident tax  
15 officer the balance of tax due or shall make demand for  
16 refund or credit in the case of overpayment. Any taxpayer  
17 may, in lieu of paying the fourth quarterly installment  
18 of the estimated tax, elect to make and file with the  
19 resident tax officer on or before January 31 of the  
20 succeeding year, the final return.

21 (iv) The department, in consultation with the  
22 Department of Revenue, shall provide by regulation for  
23 the filing of adjusted declarations of estimated net  
24 profits and for the payments of the estimated tax in  
25 cases where a taxpayer who has filed the declaration  
26 required under this subsection anticipates additional net  
27 profits not previously declared or has overestimated  
28 anticipated net profits.

29 (v) Every taxpayer who discontinues business prior  
30 to December 31 of the current year, shall, within 30 days

1 after the discontinuance of business, file a final return  
2 as required under this paragraph and pay the tax due.

3 (3) Every taxpayer who receives any other taxable income  
4 ~~or net profits~~ not subject to withholding under section <--  
5 512(3) shall make and file with the resident tax officer  
6 a quarterly return on or before April 15 of the current  
7 year, [June] July 15 of the current year, [September]  
8 October 15 of the current year, and January 15 of the  
9 succeeding year, setting forth the aggregate amount of  
10 taxable income not subject to withholding by the taxpayer  
11 during the three-month periods ending March 31 of the  
12 current year, June 30 of the current year, September 30  
13 of the current year, and December 31 of the current year,  
14 respectively, and subject to income tax, together with  
15 such other information as the department may require.  
16 Every taxpayer filing a return shall, at the time of  
17 filing the return, pay to the resident tax officer the  
18 amount of income tax due. The department shall establish  
19 criteria under which the tax officer may waive the  
20 quarterly return and payment of the income tax and permit  
21 a taxpayer to file the receipt of taxable income on the  
22 taxpayer's annual return and pay the income tax due on or  
23 before April 15 of the succeeding year.

24 (4) If any date prescribed in this section for filing or  
25 payment of tax should fall on a Saturday, Sunday or legal  
26 holiday, the taxpayer may file or make payment on the next  
27 business day.

28 (d) Filing of estimated tax by taxpayers whose major source  
29 of gross income is from farming.--Notwithstanding any other  
30 provision of this section, a declaration of estimated tax of an

1 individual having an estimated gross income from farming for the  
2 taxable year which is at least two-thirds of his total estimated  
3 gross income for the taxable year may be filed at any time on or  
4 before January 15 of the succeeding year, but if the farmer  
5 files a final return and pays the entire tax by March 1, the  
6 return may be considered as his declaration due on or before  
7 January 15.

8 (e) Restrictions.--In administering the provisions of this  
9 section, no political subdivision, tax collection committee or  
10 tax officer may:

11 (1) Prohibit a taxpayer from filing any return or  
12 declaration required under this section in person or by first  
13 class mail.

14 (2) Prohibit a taxpayer from ~~using or~~ filing any local <--  
15 income tax return form, estimated tax return form or other  
16 form related to any filing required under this section that  
17 has been posted by the department on its Internet website.

18 (3) Impose a penalty for failing to timely file a  
19 quarterly estimated tax return for which no payment of  
20 estimated tax was due, as shown in the taxpayer's annual  
21 earned income tax return. <--

22 Section 3. Section 512 of the act, added July 2, 2008  
23 (P.L.197, No.32), is amended ~~and the section is amended by~~ <--  
24 ~~adding paragraphs~~ to read:

25 Section 512. Withholding and remittance.

26 (a) General rule.--For taxable years commencing on and after  
27 January 1, 2012, or earlier taxable years if specified by a tax  
28 collection district, income taxes shall be withheld, remitted  
29 and reported as follows:

30 (1) Every employer having an office, factory, workshop,

1 branch, warehouse or other place of business within a tax  
2 collection district who employs one or more persons, other  
3 than domestic servants, for a salary, wage, commission or  
4 other compensation, who has not previously registered, shall,  
5 within 15 days after becoming an employer, register with the  
6 tax officer the name and address of the employer and such  
7 other information as the department may require.

8 (2) An employer shall require each new employee to  
9 complete a certificate of residency form, which shall be an  
10 addendum to the Federal Employee's Withholding Allowance  
11 Certificate (Form W-4). An employer shall also require any  
12 employee who changes their address or domicile to complete a  
13 certificate of residency form. Upon request, certificate of  
14 residency forms shall be provided by the department. The  
15 certificate of residency form shall provide information to  
16 help identify the political subdivisions where an employee  
17 lives and works.

18 (3) Every employer having an office, factory, workshop,  
19 branch, warehouse or other place of business within a tax  
20 collection district that employs one or more persons, other  
21 than domestic servants, for a salary, wage, commission or  
22 other compensation, shall, at the time of payment, deduct  
23 from the compensation due each employee employed at such  
24 place of business the greater of the employee's resident tax  
25 or the employee's nonresident tax as released in the official  
26 register under section 511.

27 (4) Except as set forth in paragraph (5), [within 30  
28 days] by the last day of the month following the end of each  
29 calendar quarter, every employer shall file a quarterly  
30 return and pay the amount of income taxes deducted during the

1 preceding calendar quarter to the tax officer for the place  
2 of employment of each employee. The form shall show the name,  
3 address and Social Security number of each employee, the  
4 compensation of the employee during the preceding three-month  
5 period, the income tax deducted from the employee, the  
6 political subdivisions imposing the income tax upon the  
7 employee, the total compensation of all employees during the  
8 preceding calendar quarter, the total income tax deducted  
9 from the employees and paid with the return and any other  
10 information prescribed by the department.

11 (5) Notwithstanding paragraph (4), the provisions of  
12 this paragraph shall apply if an employer has more than one  
13 place of employment in more than one tax collection district.

14 [~~Within 30 days following~~ ~~By~~ the last day of each month] <--

15 ~~following the end of each calendar month~~ ON OR BEFORE THE <--

16 LAST DAY OF THE MONTH SUCCEEDING THE MONTH FOR WHICH THE

17 RETURN REQUIRED BY PARAGRAPH (4) IS DUE, the employer may

18 file the return [required by paragraph (4)] and pay the total <--

19 amount of income taxes deducted from employees in all work  
20 locations during the preceding month to the tax officer for

21 either the tax collection district in which the employer's  
22 payroll operations are located or as determined by the

23 department. The return and income taxes deducted shall be

24 filed and paid electronically. The employer must file a

25 notice of intention to file combined returns and make

26 combined payments with the tax officer for each place of

27 employment at least one month before filing its first

28 combined return or making its first combined payment. This

29 paragraph shall not be construed to change the location of an

30 employee's place of employment for purposes of nonresident

1 tax liability.

2 (6) Any employer who, for two of the preceding four  
3 quarterly periods, has failed to deduct the proper income  
4 tax, or any part of the income tax, or has failed to pay over  
5 the proper amount of income tax as required by paragraph (3)  
6 to the tax collection district, may be required by the tax  
7 officer to file returns and pay the income tax monthly. In  
8 such cases, payments of income tax shall be made to the tax  
9 officer on or before the last day of the month succeeding the  
10 month for which the income tax was withheld.

11 (7) On or before February 28 of the succeeding year,  
12 every employer shall file with the tax officer where income  
13 taxes have been deducted and remitted pursuant to paragraph  
14 (3):

15 (i) An annual return showing, for the period  
16 beginning January 1 of the current year and ending  
17 December 31 of the current year, the total amount of  
18 compensation paid, the total amount of income tax  
19 deducted, the total amount of income tax paid to the tax  
20 officer and any other information prescribed by the  
21 department.

22 (ii) An individual withholding statement, which may  
23 be integrated with the Federal Wage and Tax Statement  
24 (Form W-2), for each employee employed during all or any  
25 part of the period beginning January 1 of the current  
26 year and ending December 31 of the current year, setting  
27 forth the address and Social Security number, the amount  
28 of compensation paid to the employee during the period,  
29 the amount of income tax deducted, the amount of income  
30 tax paid to the tax officer, the numerical code

1           prescribed by the department representing the tax  
2           collection district where the payments required by  
3           paragraphs (4) and (5) were remitted and any other  
4           information required by the department. Every employer  
5           shall furnish one copy of the individual withholding  
6           statement to the employee for whom it is filed.

7           (8) Any employer who discontinues business prior to  
8           December 31 of the current year shall, within 30 days after  
9           the discontinuance of business, file returns and withholding  
10          statements required under this section and pay the income tax  
11          due.

12          (9) Except as otherwise provided in section 511, an  
13          employer who willfully or negligently fails or omits to make  
14          the deductions required by this subsection shall be liable  
15          for payment of income taxes which the employer was required  
16          to withhold to the extent that the income taxes have not been  
17          recovered from the employee. The failure or omission of any  
18          employer to make the deductions required by this section  
19          shall not relieve any employee from the payment of the income  
20          tax or from complying with the requirements for filing of  
21          declarations and returns.

22          (b) Date of filing.--If any date prescribed in this section  
23          for filing or payment of tax should fall on a Saturday, Sunday  
24          or legal holiday, the filing or payment may be performed on the  
25          next business day.

26          (c) Forms.--In administering the provisions of this section,  
27          no political subdivision, tax collection committee or tax  
28          officer may prohibit the use or filing of any applicable form  
29          posted by the department on its Internet website to meet the  
30          requirements of this section.

1 Section 4. The amendment or addition of sections 501, 502(c)  
2 and 512 of the act shall apply to taxable years beginning after  
3 the effective date of this section.

4 Section 5. This act shall take effect in 180 days.