

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 397

Session of
1977

INTRODUCED BY MR. BRUNNER, MARCH 1, 1977

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, MARCH 15, 1977

AN ACT

1 Amending the act of May 23, 1945 (P.L.893, No.360), entitled "An
2 act to provide revenue for State purposes by imposing an
3 excise tax on the net income of co-operative agricultural
4 associations having capital stock, in lieu of all other
5 taxes, except tax on real estate; providing for the
6 assessment, collection, settlement and resettlement of tax,
7 and reviews and appeal there from; conferring powers and
8 imposing duties on certain persons, co-operative agricultural
9 associations having capital stock, State and county officers,
10 boards and departments; and providing penalties," providing
11 for an increase in the amount of interest assessed against
12 unpaid taxes AND PROVIDING FOR THE PAYMENT OF INTEREST ON
13 OVERPAID TAXES. <—

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 4, act of May 23, 1945 (P.L.893, No.360),
17 known as the "Co-operative Agricultural Association Corporate
18 Net Income Tax Act," is amended to read:

19 Section 4. Report and Payment of Tax.--For the purpose of
20 ascertaining the amount of tax payable under this act, it shall
21 be the duty of every association liable to pay tax under this
22 act, on or before the fifteenth day of April of each year, to
23 transmit to the department upon a form prescribed, prepared and

1 furnished by the department, a report under oath or affirmation,
2 of its president, vice-president or other principal officer and
3 of its treasurer or assistant treasurer of net income taxable
4 under the provisions of this act.

5 The failure of any association liable to pay tax under this
6 act to procure or receive any report form shall not excuse it
7 from making a report. Every association, upon the date its
8 report is required herein to be made, shall pay to the
9 department the tax due to the Commonwealth by it for the
10 preceding year.

11 The amount of the tax imposed under this act not paid on or
12 before the time, as above provided, shall bear interest at the
13 rate of [six per centum (6%) per annum] three quarters of one
14 per centum per month for each month or fraction thereof, from
15 the date it is due and payable until paid: Provided, however,
16 That any association may pay the full amount of such tax, or any
17 part thereof, together with interest due to the date of payment,
18 without prejudice to its right to present and prosecute a
19 petition for resettlement, a petition for review, or an appeal
20 to court. If it be thereafter determined that such taxes were
21 overpaid the department shall enter a credit to the account of
22 such association which may be used by it in the manner
23 prescribed by law.

24 If the officers of any association shall neglect or refuse to
25 make any report, as herein required, or shall knowingly make any
26 false report, an additional ten per centum (10%) of the amount
27 of the tax shall be added by the department to the tax
28 determined to be due.

29 If any association closes its fiscal year not upon the
30 thirty-first day of December, but upon some other date, such

1 association shall certify such fact to the Department of Revenue
2 and shall make the report herein required on or before the
3 fifteenth day of the fourth month after the close of its fiscal
4 year.

5 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

6 SECTION 4.1. INTEREST ON TAXES OVERPAID TO THE
7 COMMONWEALTH.--(A) INTEREST SHALL BE ALLOWED AND PAID BY THE
8 COMMONWEALTH UPON ANY OVERPAYMENT OF THE TAX IMPOSED BY THIS
9 ACT, INCLUDING INTEREST, PENALTIES AND ADDITIONS WITH RESPECT TO
10 SUCH TAX, PAID TO THE COMMONWEALTH AT A RATE FOR THE PERIOD OF
11 THE OVERPAYMENT WHICH IS EQUAL TO THE RATE OF INTEREST IMPOSED
12 BY THE COMMONWEALTH ON UNDERPAYMENTS OF THE SAME TAX FOR THE
13 SAME PERIOD.

14 (B) SUCH INTEREST SHALL BE ALLOWED AND PAID AS FOLLOWS:

15 (1) IN THE CASE OF A CREDIT, FROM THE DATE OF THE
16 OVERPAYMENT TO (I) THE DATE OF NOTICE TO THE ASSOCIATION OF THE
17 FINAL DETERMINATION OF THE CREDIT OR (II) THE DATE AS OF WHICH
18 THE CREDIT IS APPLIED, WHICHEVER FIRST OCCURS.

19 (2) IN THE CASE OF A CASH REFUND OF PREVIOUSLY DETERMINED
20 CREDIT, INTEREST SHALL BE ALLOWED AND PAID ON THE AMOUNT OF SUCH
21 CREDIT AND INTEREST THEREON, AS DETERMINED UNDER SUBSECTION (A),
22 FROM A DATE NINETY (90) DAYS AFTER THE FILING OF A PETITION FOR
23 A CASH REFUND OF THE CREDIT TO DATE PRECEDING THE DATE OF THE
24 REFUND CHECK BY NOT MORE THAN THIRTY (30) DAYS, WHETHER OR NOT
25 SUCH REFUND CHECK IS ACCEPTED BY THE ASSOCIATION AFTER TENDER OF
26 SUCH CHECK TO THE ASSOCIATION. THE ACCEPTANCE OF SUCH CHECK
27 SHALL BE WITHOUT PREJUDICE TO ANY RIGHT OF THE ASSOCIATION TO
28 CLAIM ANY ADDITIONAL OVERPAYMENT AND INTEREST THEREON.

29 (3) IN THE CASE OF A CASH REFUND, FROM THE DATE OF THE
30 OVERPAYMENT TO A DATE PRECEDING THE DATE OF THE REFUND CHECK BY

1 NOT MORE THAN THIRTY (30) DAYS, WHETHER OR NOT SUCH REFUND CHECK
2 IS ACCEPTED BY THE ASSOCIATION AFTER TENDER OF SUCH CHECK TO THE
3 ASSOCIATION. THE ACCEPTANCE OF SUCH CHECK SHALL BE WITHOUT
4 PREJUDICE TO ANY RIGHT OF THE ASSOCIATION TO CLAIM ANY
5 ADDITIONAL OVERPAYMENT AND INTEREST THEREON.

6 (C) IF ANY OVERPAYMENT OF TAX IS REFUNDED OR CREDITED WITHIN
7 NINETY (90) DAYS AFTER THE LAST DATE PRESCRIBED FOR FILING THE
8 RETURN OF SUCH TAX (DETERMINED WITHOUT REGARD TO ANY EXTENSION
9 OF TIME FOR FILING THE RETURN) OR, IN CASE THE RETURN IS FILED
10 AFTER SUCH LAST DAY, IS REFUNDED OR CREDITED WITHIN NINETY (90)
11 DAYS AFTER THE DATE THE RETURN IS FILED, NO INTEREST SHALL BE
12 ALLOWED UNDER SUBSECTION (A) ON SUCH OVERPAYMENT.

13 Section 2 3. This act shall take effect immediately and
14 shall apply to the tax year beginning January 1, 1978.

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