

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 346 Session of  
1991

INTRODUCED BY ARMSTRONG, DAWIDA, BRIGHTBILL, TILGHMAN, MADIGAN,  
ROBBINS, SHAFFER, PUNT, LEMMOND, FISHER, SCHWARTZ, FUMO AND  
SHUMAKER, JANUARY 29, 1991

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, MARCH 12, 1991

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," extending certain personal income tax deadlines  
11 for certain ~~members of the armed forces~~ INDIVIDUALS. <—

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

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

17 ~~Section 335.1. Time for Performing Certain Acts Postponed by~~  
18 ~~Reason of Service in Combat Zone. (a) In the case of an~~  
19 ~~individual serving in the Armed Forces of the United States, in~~  
20 ~~an area designated by the President of the United States by~~

~~Executive order as a "combat zone," and at any time during the period designated by the President by Executive order as the period of combatant activities in such zone, or hospitalized outside the United States as a result of injury received while serving in such an area during that time, the period of service in that area, plus the period of continuous hospitalization outside the United States attributable to such injury, and the next one hundred eighty days thereafter, shall be disregarded in determining, in respect of any tax liability (including any interest, penalty, additional amount or addition to the tax) of such individual, any of the following:~~

~~(1) Whether any of the following acts were performed within the time prescribed therefor:~~

~~(i) Filing any return of income tax (except income tax withheld at source).~~

~~(ii) Payment of any income tax (except income tax withheld at source), installment thereof or any other liability to the Commonwealth in respect thereof.~~

~~(iii) Filing a petition for reassessment or review.~~

~~(iv) Allowance of a credit or refund of any tax.~~

~~(v) Filing a claim for credit or refund of any tax.~~

~~(vi) Assessment of any tax.~~

~~(vii) Giving or making any notice or demand for the payment of any tax, or with respect to any liability to the Commonwealth in respect of any tax.~~

~~(viii) Collection, by the department, by levy or otherwise, of the amount of any liability in respect of any tax.~~

~~(ix) Any other act required or permitted under this article.~~

~~(2) The amount of any credit or refund (including interest).~~

~~(b) The provisions of this section shall apply to the spouse~~

~~of any individual entitled to the benefits of subsection (a), if  
their income tax liabilities are determined on a joint return.  
The preceding sentence shall not cause this section to apply for  
any spouse for any taxable year beginning:~~

~~(1) more than one year after the commencement of any period  
during which an individual is in a missing in action status; or~~

~~(2) after the date designated by the President by Executive  
order as the date of termination of combatant activities in a  
combat zone.~~

~~(c) The period of service in the area referred to in  
subsection (a) shall include the period during which an  
individual entitled to benefits under subsection (a) is in a  
missing in action status.~~

~~(d) (1) Notwithstanding the provisions of subsection (a),  
any action or proceeding authorized by section 339 (regardless  
of the taxable year for which the tax arose), as well as any  
other action or proceeding authorized by law in connection  
therewith, may be taken, begun or prosecuted. In any other case  
in which the department determines that collection of the amount  
of any assessment would be jeopardized by delay, the provisions  
of subsection (a) shall not operate to stay collection of such  
amount by levy or otherwise as authorized by law. There shall be  
excluded from any amount assessed or collected pursuant to this  
paragraph the amount of interest, penalty, additional amount and  
addition to the tax, if any, in respect of the period  
disregarded under subsection (a). In any case to which this  
paragraph relates, if the department is required to give any  
notice to or make any demand upon any person, such requirement  
shall be deemed to be satisfied if the notice or demand is  
prepared and signed, in any case in which person last known to~~

~~the secretary is in an area for which United States post offices under instructions of the Postmaster General are not, by reason of the combatant activities, accepting mail for delivery at the time the notice or demand is signed. In such case, the notice or demand shall be deemed to have been given or made upon the date it is signed.~~

~~(2) The assessment or collection of tax or of any liability in respect of any tax or of any liability to the Commonwealth in respect of any tax, or any action or proceeding by or on behalf of the Commonwealth in connection therewith, may be made, taken, begun or prosecuted in accordance with law, without regard to the provisions of subsection (a), unless prior to such assessment, collection, action or proceeding it is ascertained that the person concerned is entitled to the benefits of subsection (a).~~

~~Section 2. This act shall be retroactive to January 1, 1991.~~

~~Section 3. This act shall take effect immediately.~~

SECTION 1. SECTION 330 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ADDED AUGUST 31, 1971 (P.L.362, NO.93), IS AMENDED TO READ:

SECTION 330. RETURNS AND LIABILITY.--(A) ON OR BEFORE THE DATE WHEN THE TAXPAYER'S FEDERAL INCOME TAX RETURN IS DUE OR WOULD BE DUE IF THE TAXPAYER WERE REQUIRED TO FILE A FEDERAL INCOME TAX RETURN, UNDER THE INTERNAL REVENUE CODE OF 1954, A TAX RETURN UNDER THIS ARTICLE SHALL BE MADE AND FILED BY OR FOR EVERY TAXPAYER HAVING INCOME FOR THE TAXABLE YEAR.

(B) (1) IN THE CASE OF AN INDIVIDUAL SERVING IN THE ARMED FORCES OF THE UNITED STATES, IN AN AREA DESIGNATED BY THE PRESIDENT OF THE UNITED STATES BY EXECUTIVE ORDER AS A "COMBAT ZONE," AT ANY TIME DURING THE PERIOD DESIGNATED BY THE PRESIDENT

1 BY EXECUTIVE ORDER AS THE PERIOD OF COMBATANT ACTIVITIES IN THE  
2 COMBAT ZONE OR HOSPITALIZED AS A RESULT OF INJURY RECEIVED WHILE  
3 SERVING IN THE COMBAT ZONE DURING SUCH TIME, OR AN INDIVIDUAL  
4 SERVING IN A MILITARY CAPACITY AS A RESULT OF A FEDERAL CALLUP  
5 TO ACTIVE DUTY OR CIVILIAN CAPACITY OUTSIDE THE BOUNDARY OF THIS  
6 COMMONWEALTH IN SUPPORT OF SUCH ARMED FORCES, THE PERIOD OF  
7 SERVICE IN SUCH AREA, PLUS THE PERIOD OF QUALIFIED CONTINUOUS  
8 HOSPITALIZATION ATTRIBUTABLE TO SUCH INJURY, AND THE NEXT ONE  
9 HUNDRED EIGHTY DAYS THEREAFTER, SHALL BE DISREGARDED IN  
10 DETERMINING, UNDER THIS ARTICLE, IN RESPECT OF ANY TAX  
11 LIABILITY, INCLUDING ANY INTEREST, PENALTY, ADDITIONAL AMOUNT,  
12 OR ADDITION TO THE TAX, OF SUCH INDIVIDUAL:

13 (I) WHETHER ANY OF THE FOLLOWING ACTS WERE PERFORMED WITHIN  
14 THE TIME PRESCRIBED THEREFOR:

15 (A) FILING ANY RETURN OF INCOME TAX, EXCEPT INCOME TAX  
16 WITHHELD AT SOURCE;

17 (B) PAYMENT OF ANY INCOME TAX, EXCEPT INCOME TAX WITHHELD AT  
18 SOURCE OR ANY INSTALLMENT THEREOF OR OF ANY OTHER LIABILITY TO  
19 THE COMMONWEALTH IN RESPECT THEREOF;

20 (C) FILING A PETITION FOR REDETERMINATION OF A DEFICIENCY,  
21 OR FOR REVIEW OF A DECISION RENDERED BY THE DEPARTMENT;

22 (D) ALLOWANCE OF A CREDIT OR REFUND OF ANY TAX;

23 (E) FILING A CLAIM FOR CREDIT OR REFUND OF ANY TAX;

24 (F) BRINGING SUIT UPON ANY SUCH CLAIM FOR CREDIT OR REFUND;

25 (G) ASSESSMENT OF ANY TAX;

26 (H) GIVING OR MAKING ANY NOTICE OR DEMAND FOR THE PAYMENT OF  
27 ANY TAX, OR WITH RESPECT TO ANY LIABILITY TO THE COMMONWEALTH IN  
28 RESPECT OF ANY TAX;

29 (I) COLLECTION, BY THE DEPARTMENT, BY LEVY OR OTHERWISE, OF  
30 THE AMOUNT OF ANY LIABILITY IN RESPECT OF ANY TAX;

1     (J) BRINGING SUIT BY THE COMMONWEALTH, OR ANY OFFICER ON ITS  
2 BEHALF, IN RESPECT OF ANY LIABILITY IN RESPECT OF ANY TAX; AND

3     (K) ANY OTHER ACT REQUIRED OR PERMITTED UNDER THIS ARTICLE  
4 SPECIFIED IN REGULATIONS PRESCRIBED BY THE DEPARTMENT;

5     (II) THE AMOUNT OF ANY CREDIT OR REFUND, INCLUDING INTEREST.

6     (2) THE PROVISIONS OF THIS SUBSECTION SHALL APPLY TO THE  
7 SPOUSE OF ANY INDIVIDUAL ENTITLED TO THE BENEFITS OF PARAGRAPH  
8 (1). THIS PARAGRAPH SHALL NOT CAUSE THIS SUBSECTION TO APPLY FOR  
9 ANY SPOUSE FOR ANY TAXABLE YEAR BEGINNING MORE THAN ONE YEAR  
10 AFTER THE DATE OF TERMINATION OF COMBATANT ACTIVITIES IN A  
11 COMBAT ZONE.

12     (3) THE PERIOD OF SERVICE IN THE AREA REFERRED TO IN THIS  
13 SUBSECTION SHALL INCLUDE THE PERIOD DURING WHICH AN INDIVIDUAL  
14 ENTITLED TO BENEFITS UNDER THIS SUBSECTION IS IN A MISSING  
15 STATUS.

16     (4) IN THE EVENT THAT ANY QUALIFIED INDIVIDUAL UNDER  
17 PARAGRAPH (1) IS KILLED WHILE SERVING IN THE COMBAT ZONE, THE  
18 TAX LIABILITY OF THAT DECEDENT FOR BOTH THE YEAR OF DEATH AND  
19 THE IMMEDIATE PRIOR YEAR SHALL BE WAIVED BY THE COMMONWEALTH.

20     (5) FOR PURPOSES OF PARAGRAPH (1), THE PHRASE "PERIOD OF  
21 QUALIFIED CONTINUOUS HOSPITALIZATION" SHALL MEAN:

22     (I) ANY HOSPITALIZATION OUTSIDE THE UNITED STATES; AND

23     (II) ANY HOSPITALIZATION INSIDE THE UNITED STATES.

24     SECTION 2. THIS ACT SHALL BE RETROACTIVE TO AUGUST 2, 1990.

25     SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.