

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1059 Session of
1991

INTRODUCED BY FISHER, TILGHMAN, GREENLEAF, LOEPER, HART,
SALVATORE, PETERSON, SHUMAKER, CORMAN, BELL, JUBELIRER,
HELFRICK, ARMSTRONG, ROBBINS, LEMMOND, RHOADES, REIBMAN,
LAVALLE, BELAN, STEWART, WENGER, MELLOW, LEWIS, AFFLERBACH,
SCHWARTZ, SCANLON AND STOUT, MAY 13, 1991

AS AMENDED ON THIRD CONSIDERATION, AUGUST 1, 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," providing an amnesty program for the payment of~~
11 ~~delinquent taxes.~~

12 AMENDING THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), ENTITLED, <—
13 AS AMENDED, "AN ACT RELATING TO THE FINANCES OF THE STATE
14 GOVERNMENT; PROVIDING FOR THE SETTLEMENT, ASSESSMENT,
15 COLLECTION, AND LIEN OF TAXES, BONUS, AND ALL OTHER ACCOUNTS
16 DUE THE COMMONWEALTH, THE COLLECTION AND RECOVERY OF FEES AND
17 OTHER MONEY OR PROPERTY DUE OR BELONGING TO THE COMMONWEALTH,
18 OR ANY AGENCY THEREOF, INCLUDING ESCHEATED PROPERTY AND THE
19 PROCEEDS OF ITS SALE, THE CUSTODY AND DISBURSEMENT OR OTHER
20 DISPOSITION OF FUNDS AND SECURITIES BELONGING TO OR IN THE
21 POSSESSION OF THE COMMONWEALTH, AND THE SETTLEMENT OF CLAIMS
22 AGAINST THE COMMONWEALTH, THE RESETTLEMENT OF ACCOUNTS AND
23 APPEALS TO THE COURTS, REFUNDS OF MONEYS ERRONEOUSLY PAID TO
24 THE COMMONWEALTH, AUDITING THE ACCOUNTS OF THE COMMONWEALTH
25 AND ALL AGENCIES THEREOF, OF ALL PUBLIC OFFICERS COLLECTING
26 MONEYS PAYABLE TO THE COMMONWEALTH, OR ANY AGENCY THEREOF,
27 AND ALL RECEIPTS OF APPROPRIATIONS FROM THE COMMONWEALTH,
28 AUTHORIZING THE COMMONWEALTH TO ISSUE TAX ANTICIPATION NOTES
29 TO DEFRAY CURRENT EXPENSES, IMPLEMENTING THE PROVISIONS OF
30 SECTION 7(A) OF ARTICLE VIII OF THE CONSTITUTION OF
31 PENNSYLVANIA AUTHORIZING AND RESTRICTING THE INCURRING OF

1 CERTAIN DEBT AND IMPOSING PENALTIES; AFFECTING EVERY
2 DEPARTMENT, BOARD, COMMISSION, AND OFFICER OF THE STATE
3 GOVERNMENT, EVERY POLITICAL SUBDIVISION OF THE STATE, AND
4 CERTAIN OFFICERS OF SUCH SUBDIVISIONS, EVERY PERSON,
5 ASSOCIATION, AND CORPORATION REQUIRED TO PAY, ASSESS, OR
6 COLLECT TAXES, OR TO MAKE RETURNS OR REPORTS UNDER THE LAWS
7 IMPOSING TAXES FOR STATE PURPOSES, OR TO PAY LICENSE FEES OR
8 OTHER MONEYS TO THE COMMONWEALTH, OR ANY AGENCY THEREOF,
9 EVERY STATE DEPOSITORY AND EVERY DEBTOR OR CREDITOR OF THE
10 COMMONWEALTH," PROVIDING AN AMNESTY PROGRAM FOR THE PAYMENT
11 OF DELINQUENT TAXES.

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

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

17 ARTICLE XXX A

18 SECTION 1. THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN <—
19 AS THE FISCAL CODE, IS AMENDED BY ADDING AN ARTICLE TO READ:

20 ARTICLE II-A

21 TAX AMNESTY PROGRAM

22 Section 3001-A 201-A. Definitions.--The following words, <—
23 terms and phrases, when used in this article, shall have the
24 meanings ascribed to them in this section, except where the
25 context clearly indicates a different meaning:

26 "Amnesty period" means January 1, 1992, through 12 midnight
27 March 31, 1992.

28 "Department" means the Department of Revenue of the
29 Commonwealth.

30 "Eligible tax" means any tax imposed by this act or 72
31 Pa.C.S. Ch. 17 (relating to inheritance and estate taxes).

32 "Program" means the tax amnesty program as provided for in
33 this article.

34 "Taxpayer" means any person, association, fiduciary,
35 partnership, corporation or other entity required to pay or

collect any of the taxes imposed by this act or 72 Pa.C.S. Ch. 17 (relating to inheritance and estate taxes). The term shall not include a taxpayer who, as of December 31, 1991, has received notice that he is the subject of a criminal investigation for an alleged violation of this act or 72 Pa.C.S. Ch. 17, has been named as a defendant in a criminal complaint alleging a violation of this act or 72 Pa.C.S. Ch. 17 or is a defendant in a pending criminal action for an alleged violation of this act or 72 Pa.C.S. Ch. 17.

~~Section 3002-A~~ 202-A. Establishment of Amnesty Program.--(a) There is hereby established a tax amnesty program which shall be administered by the department.

(b) The amnesty program shall apply to a taxpayer who is delinquent on payment of an eligible tax as of December 31, 1991, including tax on returns not filed, tax liabilities according to records of the department as of December 31, 1991, tax liabilities not reported, underreported or not established, but delinquent as of December 31, 1991.

~~Section 3003-A~~ 203-A. Required Payment.--(a) All taxpayers who participate in the program shall make payment of all taxes due the Commonwealth as of December 31, 1991, plus fifty per cent of the total amount of interest due within the amnesty period. The department shall not seek to collect the remaining fifty per cent of the total amount of interest due and any penalties owed by the taxpayer.

(b) In addition to filing an amnesty tax return, a taxpayer must file complete tax returns for all years for which the taxpayer previously has not filed a tax return and file complete amended returns for all years for which the taxpayer underreported income.

1 (c) The department shall not pursue an administrative or
2 judicial proceeding against a taxpayer with respect to any tax
3 that is disclosed on an amnesty tax return.

4 ~~Section 3004-A~~ 204-A. Installment Payment Agreement.--The <—
5 department may enter into an installment payment agreement in
6 the cases of severe financial hardship, as determined by the
7 department, in lieu of complete payment of all taxes due and
8 fifty per cent of the total amount of interest. Failure by the
9 taxpayer to fully comply with the terms of the installment
10 payment agreement shall terminate the taxpayer's participation
11 in the amnesty program and all taxes due the Commonwealth and
12 the total amount of interest and penalties due the Commonwealth
13 shall be considered to be delinquent and shall be immediately
14 due and payable.

15 ~~Section 3005-A~~ 205-A. Limitation of Deficiency Assessment.-- <—
16 If subsequent to March 31, 1992, the department issues a
17 deficiency assessment upon a return filed pursuant to this
18 article, the department shall have the authority to impose
19 penalties and to pursue a criminal action only with respect to
20 the difference between the amount shown on that return and the
21 current amount of tax.

22 ~~Section 3006-A~~ 206-A. Overpayment of Tax.--Notwithstanding <—
23 any other provisions of this or any other act, if an overpayment
24 of tax is refunded or credited within one hundred eighty days
25 after the return is filed under this article, no interest shall
26 be allowed on the overpayment.

27 ~~Section 3007-A~~ 207-A. Previously Paid Interest and <—
28 Penalties.--No refund or credit shall be allowed for any
29 interest and penalty paid to the department prior to December
30 31, 1991.

1 ~~Section 3008-A~~ 208-A. Proceedings Relating to Amnesty Return <—
2 Barred.--Participation in the amnesty program is conditioned
3 upon the taxpayer's agreement that the right to protest or
4 pursue an administrative or judicial proceeding with regard to
5 returns filed under the amnesty program or to claim any refund
6 of money paid under the amnesty program is barred.

7 ~~Section 3009-A~~ 209-A. Undisclosed Liabilities.--Nothing in <—
8 this article shall be construed to prohibit the department from
9 instituting civil or criminal proceedings against any taxpayer
10 with respect to any amount of tax that is not disclosed on the
11 amnesty return.

12 ~~Section 3010-A~~ 210-A. Duties of Department.--(a) The <—
13 department shall develop regulations to implement the provisions
14 of this article. The regulations must be published in the
15 Pennsylvania Bulletin within sixty days of the effective date of
16 this article and shall contain, but not be limited to, the
17 following information:

18 (1) An explanation of the tax amnesty program and the
19 requirements for eligibility for the program.

20 (2) The dates during which a tax amnesty return may be
21 filed.

22 (3) An explanation of the procedure for obtaining an
23 installment payment agreement.

24 (4) A specimen copy of the tax amnesty return.

25 (b) The department shall publicize the tax amnesty program
26 to maximize public awareness of and participation in the
27 program. The department shall coordinate to the highest degree
28 possible its publicity efforts and other actions taken to
29 implement this article.

30 (c) The department shall issue a report to the General

Assembly by June 1, 1992, detailing the implementation of the program. The report shall contain, but not be limited to, the following information:

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

(2) The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue raised for each tax.

(3) The total dollar amount of revenue raised by the program.

(4) The number of amnesty returns for which an installment payment agreement was authorized and the guidelines under which the department authorized the installment payment agreements.

(d) The department shall notify in writing all taxpayers who owe taxes in excess of four thousand dollars (\$4,000) to the Commonwealth of the amnesty program established under this article. The sole purpose of the letter sent by the department to taxpayers must be notification of the amnesty program.

Section ~~3011-A~~ 211-A. Method of Payment.--All tax payments under the amnesty program shall be made by certified check or money order.

Section ~~3012-A~~ 212-A. Feasibility Study.--The department shall study and report to the General Assembly concerning the feasibility of acquiring the services of private collection agencies in a competitive bid process for collecting delinquent tax payments that remain outstanding at the close of the amnesty period. Items to be considered in the study include:

(1) Maintenance of taxpayer confidentiality.

(2) The effect of private collection process on future criminal and/or judicial proceedings.

(3) The savings in personnel and other resources from

1 privatizing the collection process.

2 (4) Identification of delinquent tax accounts that are
3 appropriate for collection by private collection agencies.

4 Section ~~3013-A~~ 213-A. Exemption from Review Process.-- <—
5 Notwithstanding any law to the contrary the regulations issued
6 by the department for the amnesty program shall be exempt from
7 the regulatory review process provided in the act of June 25,
8 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

9 Section ~~3014-A~~ 214-A. Use of Revenue.--All revenue generated <—
10 by this article shall be deposited into the General Fund.

11 Section ~~3015-A~~ 215-A. Funding.--The department shall receive <—
12 an increase in its 1992-1993 fiscal year appropriation equal to
13 the cost of administering the provisions of this article.

14 Section 2. This act shall take effect immediately.