

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 428 Session of
1999

INTRODUCED BY SALVATORE, FEBRUARY 22, 1999

REFERRED TO FINANCE, FEBRUARY 22, 1999

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," further providing for the imposition of penalties
11 relating to capital stock tax and corporate net income tax.

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

14 Section 1. Section 3003.3 of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
16 7, 1997 (P.L.85, No.7), is amended to read:

17 Section 3003.3. Underpayment of Estimated Tax.--(a) [In]
18 Except as provided in subsection (f), in case of any
19 underpayment of an installment of estimated tax by a taxpayer,
20 there shall be imposed interest for the taxable year in an
21 amount determined at the annual rate as provided by law upon the
22 amount of the underpayment for the period of the underpayment,

1 except that, in case of any substantial underpayment of
2 estimated tax by a taxpayer, such interest for the taxable year
3 shall be imposed in an amount determined at one hundred twenty
4 per cent of the annual rate as provided by law upon the entire
5 underpayment for the period of the substantial underpayment. For
6 the purpose of this subsection, a substantial underpayment shall
7 be deemed to exist for any period during which the amount of the
8 underpayment equals or exceeds twenty-five per cent of the
9 cumulative amount of installments of estimated tax which would
10 be required to be paid if the estimated tax were equal to the
11 amount as determined in subsection (b)(1).

12 (b) (1) For purposes of this section, the amount of the
13 underpayment, if any, shall be the excess of:

14 (i) the cumulative amount of installments which would be
15 required to be paid as of each installment date as defined in
16 section 3003.2(c) if the estimated tax were equal to ninety per
17 cent of the tax shown on the report for the taxable year, except
18 that, if the settled tax or, if the tax is resettled, the
19 resettled tax exceeds the tax shown on the report by ten per
20 cent or more, the amount of the underpayment shall be based on
21 ninety per cent of the amount of such settled or resettled tax;
22 over

23 (ii) the cumulative amount of installments paid on or before
24 the last date prescribed for payment.

25 (2) If the settled or resettled tax is used in calculating
26 the amount of underpayment, the amount of tax as settled or
27 resettled shall be utilized in determining the amount of
28 underpayment without the necessity of the filing of any petition
29 by the department or by the taxpayer.

30 (c) The period of the underpayment shall run from the date

1 the installment was required to be paid to whichever of the
2 following dates is the earlier:

3 (1) The fifteenth day of the fourth month following the
4 close of the taxable year.

5 (2) With respect to any portion of the underpayment, the
6 date on which such portion is paid.

7 (d) Notwithstanding the provisions of the preceding
8 subsections, interest with respect to any underpayment of any
9 installment of estimated tax shall not be imposed if the total
10 amount of all payments of estimated tax made on or before the
11 last date prescribed for the payment of such installment equals
12 or exceeds the amount which would have been required to be paid
13 on or before such date if the estimated tax were an amount equal
14 to the tax computed at the rates applicable to the taxable year,
15 including any minimum tax imposed, but otherwise on the basis of
16 the facts shown on the report of the taxpayer for, and the law
17 applicable to, the safe harbor base year, adjusted for any
18 changes to sections 401, 601 and 602 enacted for the taxable
19 year, if a report showing a liability for tax was filed by the
20 taxpayer for the safe harbor base year. If the total amount of
21 all payments of estimated tax made on or before the last date
22 prescribed for the payment of such installment does not equal or
23 exceed the amount required to be paid per the preceding
24 sentence, but such amount is paid after the date the installment
25 was required to be paid, then the period of underpayment shall
26 run from the date the installment was required to be paid to the
27 date the amount required to be paid per the preceding sentence
28 is paid. Provided, that if the settled tax for the safe harbor
29 base year exceeds the tax shown on such report by ten per cent
30 or more, the settled tax adjusted to reflect the current tax

1 rate shall be used for purposes of this subsection, except that,
2 if the settled tax is subsequently resettled, the amount of tax
3 as resettled shall be utilized in the application of this
4 subsection without the necessity of the filing of any petition
5 by the department or by the taxpayer. In the event that the
6 settled or resettled tax for the safe harbor base year exceeds
7 the tax shown on the report by ten per cent or more, interest
8 resulting from the utilization of such settled or resettled tax
9 in the application of the provisions of this subsection shall
10 not be imposed if, within forty-five days of the mailing date of
11 such settlement or resettlement, payments are made such that the
12 total amount of all payments of estimated tax equals or exceeds
13 the amount which would have been required to be paid on or
14 before such date if the estimated tax were an amount equal to
15 such settled or resettled tax adjusted to reflect the current
16 tax rate. In any case in which the taxable year for which an
17 underpayment of estimated tax may exist is a short taxable year,
18 in determining the tax shown on the report or the settled or
19 resettled tax for the safe harbor base year, the tax will be
20 reduced by multiplying it by the ratio of the number of
21 installment payments made in the short taxable year to the
22 number of installment payments required to be made for the full
23 taxable year.

24 (f) Notwithstanding any provision of this act to the
25 contrary, all penalties, except for substantial underpayments,
26 of estimated corporate net income tax and capital stock
27 franchise tax shall be assessed and computed only from the date
28 of the new assessment and not from the original due date of the
29 tax.

30 Section 2. This act shall take effect in 60 days.