

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2348 Session of  
2012

INTRODUCED BY MILNE, CALTAGIRONE, GIBBONS, GROVE, HARHART,  
HARPER, MILLER, PICKETT, ROCK, TAYLOR AND VULAKOVICH,  
MAY 7, 2012

REFERRED TO COMMITTEE ON FINANCE, MAY 7, 2012

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 extension of time to file  
11 reports, for changes made by Federal Government, for petition  
12 for reassessment, for petition procedure and for petitions  
13 for refunds.

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

16 Section 1. Section 405 of the act of March 4, 1971 (P.L.6,  
17 No.2), known as the Tax Reform Code of 1971, is amended to read:

18 Section 405. Extension of Time to File Reports.--The  
19 department may, upon application made to it, in such form as it  
20 shall prescribe, on or prior to the last day for filing any  
21 annual report, and upon proper cause shown, grant to the  
22 corporation, required to file such report, an extension of not  
23 more than sixty days within which such report may be filed[, and

1 in case the Federal income tax authorities at any time grant a  
2 longer extension of time for filing such reports with the  
3 Federal Government, the department may grant an additional  
4 extension of time for filing the annual report under this  
5 article of not more than]. If the Federal income tax authorities  
6 grant an extension of time for filing the reports with the  
7 Federal Government, the department shall automatically grant an  
8 extension of time for filing the annual report under this  
9 article of thirty days after the termination of the Federal  
10 extension, but the amount of tax due shall, in such cases,  
11 nevertheless, be subject to interest from the due dates and at  
12 the rates fixed by this article.

13 Section 2. Section 406 of the act, amended October 18, 2006  
14 (P.L.1149, No.119), is amended to read:

15 Section 406. Changes Made by Federal Government.--(a) If  
16 the amount of the taxable income, as returned by any corporation  
17 to the Federal Government, is finally changed or corrected by  
18 the Commission of Internal Revenue or by any other agency or  
19 court of the United States, such corporation, within [thirty  
20 days] six months after the receipt of such final change or  
21 correction, shall make a report of change, under oath or  
22 affirmation, to the department showing such finally changed or  
23 corrected taxable income, upon which the tax is required to be  
24 paid to the United States. In case a corporation fails to file a  
25 report of change, which results in an increase in taxable income  
26 within the time prescribed, there shall be added to the tax, a  
27 penalty of five dollars (\$5) for every day during which such  
28 corporation is in default, but the department may abate any such  
29 penalty in whole or in part.

30 (b) If, as a result of such final change or correction, a

1 corporation should report any change in the amount of the  
2 taxable income of any corporation upon which tax is imposed by  
3 this article, the department shall adjust the corporation's tax  
4 on the department's records to conform to the revised tax as  
5 reported and shall credit the taxpayer's account to the extent  
6 of any overpayment resulting from the adjustment. The department  
7 shall then have the power, and its duty shall be, to determine  
8 and assess the taxpayer's unpaid and unreported liability for  
9 tax, interest or penalty due the Commonwealth, or to credit the  
10 taxpayer's account.

11 (c) Where a report of change, of Federal income, or Federal  
12 tax, has been filed after an administrative or judicial appeal  
13 has been taken, the report shall be deemed a part of the  
14 original annual report upon petition of the taxpayer at any  
15 subsequent proceeding as though it had been filed with the  
16 original report, and no separate appeal from an assessment  
17 resulting from the report of change, correction, or  
18 redetermination shall be necessary to the extent the identical  
19 issues for the taxable year have been raised in the appeal.

20 (d) The provisions of this section shall not be construed so  
21 as to permit an assessment based upon the allowance of any  
22 deduction on account of net operating losses, sustained in other  
23 fiscal or calendar years, that are not allowed as deductions  
24 under the definition of "taxable income" as contained in this  
25 article.

26 (e) The provisions of this section shall apply to every  
27 corporation which was doing business in Pennsylvania in the year  
28 for which the Federal income has been changed, irrespective of  
29 whether or not such corporation has thereafter merged,  
30 consolidated, withdrawn or dissolved. Any clearance certificate

1 issued by the department shall be conditioned upon the  
2 requirement that in the event of a change in Federal income for  
3 any year for which taxes have been paid to the Commonwealth, the  
4 corporation or its successor or its officers or its directors  
5 shall file with the department a report of change and pay any  
6 additional State tax resulting therefrom.

7 Section 3. Sections 2702 and 2703 of the act are amended by  
8 adding subsections to read:

9 Section 2702. Petition for reassessment.

10 \* \* \*

11 (a.1) Petition requesting a review.--

12 (1) A petition for reassessment under subsection (a)  
13 shall include a petition requesting a review of the  
14 department's adjustment of a tax item reported by the  
15 taxpayer if the adjustment did not result in a tax increase  
16 in the current year because the taxpayer's determined tax  
17 liability was zero, but may increase the tax due in a  
18 subsequent tax year. A petition under this paragraph may  
19 include any of the following:

20 (i) A petition requesting recalculation of the  
21 taxpayer's corporate net income tax net loss under  
22 Article IV as adjusted by the department.

23 (ii) A petition requesting recalculation of the  
24 taxpayer's capital stock franchise tax average net income  
25 under Article VI as adjusted by the department.

26 (iii) A petition requesting recalculation of the  
27 personal income tax basis of an asset under Article III  
28 as adjusted by the department.

29 (2) A petition for reassessment made under this  
30 subsection shall be filed within 90 days of the mailing date

1 of the department's notice of adjustment. A taxpayer's  
2 failure to file a petition for reassessment under this  
3 subsection shall not prejudice the taxpayer's right to file a  
4 petition in a subsequent tax year if the adjustment results  
5 in a tax increase.

6 \* \* \*

7 Section 2703. Petition procedure.

8 \* \* \*

9 (a.1) Bifurcation of petition.--If a petition for  
10 reassessment raises issues outside of the assessment, the  
11 department, upon notification to the taxpayer, shall divide the  
12 issues into a separate petition for reassessment addressing  
13 issues raised by the assessment and a separate petition for  
14 refund. The petition for refund must include all issues not  
15 properly before the department in a petition for reassessment as  
16 permitted under this section. The petition for refund must  
17 satisfy the statute of limitations for refunds to be considered  
18 timely.

19 \* \* \*

20 Section 4. Section 3003.1 of the act, amended May 7, 1997  
21 (P.L.85, No.7) and repealed in part June 29, 2002 (P.L.559,  
22 No.89), is amended to read:

23 Section 3003.1. Petitions for Refunds.--(a) For a tax  
24 collected by the Department of Revenue, a taxpayer who has  
25 actually paid tax, interest or penalty to the Commonwealth or to  
26 an agent or licensee of the Commonwealth authorized to collect  
27 taxes may petition the Department of Revenue for refund or  
28 credit of the tax, interest or penalty. Except as otherwise  
29 provided by statute, a petition for refund must be made to the  
30 department within three years of actual payment of the tax,

1 interest or penalty.

2 (b) The department may grant a refund or credit to a  
3 taxpayer for all tax periods covered by a departmental audit. If  
4 a credit is not granted by the department in the audit report,  
5 the taxpayer must file a petition for refund for taxes paid with  
6 respect to the audit period within six months of the mailing  
7 date of the notice of assessment, determination or settlement or  
8 within three years of actual payment of the tax, whichever is  
9 later.

10 (d) In the case of amounts paid as a result of an  
11 assessment, determination, settlement or appraisement, a  
12 petition for refund must be filed with the department within six  
13 months of the [mailing date of the notice of assessment,  
14 determination, settlement or appraisement] actual payment of the  
15 tax.

16 (e) A taxpayer may petition the Board of Finance and Revenue  
17 to review the decision and order of the department on a petition  
18 for refund. The petition for review must be filed with the board  
19 within ninety days of the mailing date of a decision and order  
20 of the department upon a petition for refund.

21 Section 5. This act shall take effect immediately.