

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2274 Session of 2022

INTRODUCED BY C. WILLIAMS, MIZGORSKI, RYAN, STAATS, SAPPEY,
PICKETT, SILVIS, ROWE, DeLUCA, NEILSON AND MOUL,
JANUARY 24, 2022

REFERRED TO COMMITTEE ON FINANCE, JANUARY 24, 2022

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," in tax amnesty program for fiscal year 2009-2010,
11 further providing for establishment of program; in tax
12 amnesty program for fiscal year 2016-2017, further providing
13 for establishment of program; and providing for 2021 tax
14 penalty forgiveness program.

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

17 Section 1. Sections 2902-F(c) and 2902-G(c) of the act of
18 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
19 1971, are amended to read:

20 Section 2902-F. Establishment of program.

21 * * *

22 (c) Future [amnesty] tax penalty forgiveness program
23 participation.--[A] Except for the tax penalty forgiveness

1 program under Article XXIX-G.1, a taxpayer who participates in
2 the program shall not be eligible to participate in a future tax
3 [amnesty] penalty forgiveness program.

4 * * *

5 Section 2902-G. Establishment of program.

6 * * *

7 (c) Future [amnesty] penalty forgiveness program
8 participation.--[A] Except for the tax penalty forgiveness
9 program under Article XXIX-G.1, a taxpayer who participates in
10 the program shall not be eligible to participate in a future tax
11 [amnesty] penalty forgiveness program.

12 * * *

13 Section 2. The act is amended by adding an article to read:

14 ARTICLE XXIX-G.1

15 2021 TAX PENALTY FORGIVENESS PROGRAM

16 Section 2901-G.1. Definitions.

17 The following words and phrases when used in this article
18 shall have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Department." The Department of Revenue of the Commonwealth.

21 "Eligible tax." Any tax administered by the Department of
22 Revenue delinquent as of December 31, 2021. The term includes
23 any interest, penalty or fees on an eligible tax. For an unknown
24 liability, the term shall only include taxes due within five
25 years prior to December 31, 2021. For purposes of taxes
26 collected under the International Fuel Tax Agreement, the term
27 shall apply only to taxes, interest and penalties owed to the
28 Commonwealth, not to other states or Canadian provinces.

29 "Program." The tax penalty forgiveness program established
30 under section 2902-G.1 as provided for in this article.

1 "Tax penalty forgiveness period." The time period of 60
2 consecutive days established by the Governor ending no later
3 than June 30, 2022.

4 "Taxpayer." Any person, association, fiduciary, partnership,
5 corporation or other entity required to pay or collect any of
6 the eligible taxes. The term shall not include a taxpayer who,
7 prior to the tax penalty forgiveness period, has received notice
8 that the taxpayer is the subject of a criminal investigation for
9 an alleged violation of any law imposing an eligible tax or who,
10 prior to the tax penalty forgiveness period, has been named as a
11 defendant in a criminal complaint alleging a violation of any
12 law imposing an eligible tax or is a defendant in a pending
13 criminal action for an alleged violation of any law imposing an
14 eligible tax.

15 "Unknown liability." A liability for an eligible tax for
16 which either:

17 (1) no return or report has been filed, no payment has
18 been made and the taxpayer has not been contacted by the
19 department concerning the unfiled returns or reports or
20 unpaid tax; or

21 (2) a return or report has been filed, the tax was
22 underreported and the taxpayer has not been contacted by the
23 department concerning the underreported tax and is not
24 already under audit when the tax penalty forgiveness period
25 begins.

26 Section 2902-G.1. Establishment of program.

27 (a) General rule.--A tax penalty forgiveness program is
28 established and shall be administered by the department.

29 (b) Applicability.--The program shall apply to a taxpayer
30 who is delinquent on payment of a liability for an eligible tax

1 as of December 31, 2020, including a liability for returns not
2 filed, liabilities according to records of the department as of
3 December 31, 2020, liabilities not reported, underreported or
4 not established, but delinquent as of December 31, 2020.

5 (c) Deferred payment plan agreement.--Existing deferred
6 payment plan agreements between a taxpayer and the department
7 where the agreement applies to a tax liability for which tax
8 penalty forgiveness is sought by the taxpayer for amounts
9 remaining on the tax liability, the taxpayer, as a condition of
10 receiving tax penalty forgiveness, shall pay the liability,
11 notwithstanding terms of the agreement to the contrary, in full
12 during the tax penalty forgiveness period.

13 (d) Participation not prohibited.--Notwithstanding the
14 provisions of the former section 2902-A(c), a taxpayer who
15 participated in the program under the former Article XXIX-A
16 shall not be prohibited from participation in the program due to
17 participation in the program under the former Article XXIX-A.
18 Section 2903-G.1. Required payment.

19 (a) Taxpayer requirements.--Subject to section 2904-G.1, all
20 taxpayers who participate in the program shall comply with all
21 of the following:

22 (1) During the tax penalty forgiveness period, file a
23 tax penalty forgiveness return in such form and containing
24 such information as the department shall require. A tax
25 penalty forgiveness return shall be considered to be timely
26 filed if it is postmarked during the tax penalty forgiveness
27 period or timely electronically or otherwise filed.

28 (2) During the tax penalty forgiveness period, make
29 payment of all taxes and one-half of the interest due to the
30 Commonwealth in accordance with the tax penalty forgiveness

1 return that is filed. The taxpayer shall not be required to
2 pay any penalty or fees applicable to an eligible tax. Except
3 as provided under paragraph (3), the taxpayer shall not be
4 required to pay any penalty or fees applicable to an eligible
5 tax. A tax penalty or fee waived under this paragraph shall
6 not include the following:

7 (i) An additional penalty under the former section
8 2916-A.

9 (ii) An additional penalty under section 2913-F.

10 (iii) An additional penalty under section 2913-G.

11 (iv) A fee under section 3003.7.

12 (v) A fee under section 3003.9.

13 (3) File complete tax returns for all required years for
14 which the taxpayer previously has not filed a tax return and
15 file complete amended returns for all required years for
16 which the taxpayer underreported eligible tax liability.

17 (b) Prohibitions.--

18 (1) The department may not collect the penalties or fees
19 waived under subsection (a) (2). Except as otherwise provided
20 in this article, the department shall not pursue
21 administrative or judicial proceeding against a taxpayer with
22 respect to an eligible tax that is disclosed on a tax penalty
23 forgiveness return.

24 (2) A taxpayer with unknown liabilities reported and
25 paid under the program and who complies with all other
26 requirements of this article shall not be liable for any
27 taxes of the same type due prior to January 1, 2021. A
28 taxpayer shall not be owed a refund under this article.

29 Section 2904-G.1. Tax penalty forgiveness contingent on
30 continued compliance.

1 Notwithstanding any other provision of this article, the
2 department may assess and collect from a taxpayer all penalties
3 waived through the program if, within two years after the end of
4 the program, either of the following occurs:

5 (1) the taxpayer granted tax penalty forgiveness under
6 this article becomes delinquent for three consecutive periods
7 in payment of taxes due or filing of returns required on a
8 semimonthly, monthly, quarterly or other basis, and the
9 taxpayer has not contested the tax liability through a timely
10 valid administrative or judicial appeal; or

11 (2) the taxpayer granted tax penalty forgiveness under
12 this article becomes delinquent and is eight or more months
13 late in payment of taxes due or filing of returns on an
14 annual basis, and the taxpayer has not contested the
15 liability through a timely valid administrative or judicial
16 appeal.

17 Section 2905-G.1. Limitation of deficiency assessment.

18 If, subsequent to the tax penalty forgiveness period, the
19 department issues a deficiency assessment with respect to a tax
20 penalty forgiveness return, the department may impose penalties
21 and pursue a criminal action only with respect to the difference
22 between the amount shown on that tax penalty forgiveness return
23 and the current amount of tax.

24 Section 2906-G.1. Overpayment of tax.

25 Notwithstanding any other provisions of this article or any
26 other act, if an overpayment of eligible tax is refunded or
27 credited within 180 days after the tax penalty forgiveness
28 return is filed or the eligible tax is paid, whichever is later,
29 no interest shall be allowed on the overpayment.

30 Section 2907-G.1. Previously paid interest and penalties.

1 No refund or credit shall be allowed for any interest or
2 penalty on eligible taxes paid to the department prior to the
3 tax penalty forgiveness period.

4 Section 2908-G.1. Proceedings relating to tax penalty
5 forgiveness return barred.

6 Participation in the program shall be conditioned upon the
7 taxpayer's agreement that the right to protest or pursue an
8 administrative or judicial proceeding with regard to tax penalty
9 forgiveness returns filed under the program or to claim any
10 refund of money paid under the program is barred.

11 Section 2909-G.1. Undisclosed liabilities.

12 Nothing in this article shall be construed to prohibit the
13 department from instituting civil or criminal proceedings
14 against a taxpayer with respect to an amount of tax that is not
15 disclosed on the tax penalty forgiveness return or an amount
16 disclosed on the tax penalty forgiveness return that is not
17 paid.

18 Section 2910-G.1. Duties of department.

19 (a) Guidelines.--The department shall develop guidelines to
20 implement the provisions of this article. The guidelines shall
21 be published in the Pennsylvania Bulletin within 60 days of the
22 effective date of this section and shall contain, but not be
23 limited to, the following information:

24 (1) An explanation of the program and the requirements
25 for eligibility for the program.

26 (2) The dates during which a tax penalty forgiveness
27 return may be filed.

28 (3) A specimen copy of the tax penalty forgiveness
29 return.

30 (4) The tax penalty forgiveness revenue estimates

1 required under section 2912-G.1(b).

2 (b) Publicity.--The department shall publicize the program
3 to maximize public awareness of and participation in the
4 program. The department shall coordinate to the highest degree
5 possible its publicity efforts and other actions taken to
6 implement this article.

7 (c) Reports.--The department shall issue reports to the
8 General Assembly detailing program implementation. The reports
9 shall contain the following information:

10 (1) Within 30 days after the end of the tax penalty
11 forgiveness period:

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

14 (ii) The total dollar amount of revenue collected by
15 the program.

16 (2) Within 180 days after the end of the tax penalty
17 forgiveness period:

18 (i) The number of tax penalty forgiveness returns
19 filed and a breakdown of the number and dollar amount of
20 revenue raised for each tax by calendar year during which
21 the tax period ended. In addition, the gross revenues
22 shall be broken down in the following categories:

23 (A) Amounts represented by assessments
24 receivable established by the department on or before
25 the first day of the tax penalty forgiveness period.

26 (B) All other amounts.

27 (ii) The total dollar amount of penalties and
28 interest waived under the program.

29 (iii) The demographic characteristics of tax penalty
30 forgiveness participants, including North American

1 Industry Classification System codes of participants,
2 type of taxpayer, consisting of individual, partnership,
3 corporation or other entity, size of tax liability and
4 geographical location.

5 (d) Notification.--The department shall notify in writing
6 all known tax delinquents at the taxpayers' last known valid
7 addresses of the existence of the program. The sole purpose of
8 the letter sent by the department to taxpayers shall be
9 notification of the program.

10 Section 2911-G.1. Method of payment.

11 All tax payments under the program shall be made by certified
12 check, money order, electronic transfer, credit card or other
13 financial instrument acceptable to the department.

14 Section 2912-G.1. Use of revenue.

15 (a) Restricted revenue account.--All revenue generated by
16 this article shall be deposited into a restricted revenue
17 account in the General Fund. Revenue from the restricted revenue
18 account shall be distributed as follows:

19 (1) All money from General Fund sources shall be
20 deposited in the General Fund no later than June 30, 2022,
21 less repayment of any costs for administration of the program
22 to the department.

23 (2) All revenue from Motor License Fund sources shall be
24 deposited in the Motor License Fund no later than June 30,
25 2022.

26 (3) All revenue from Liquid Fuels Tax Fund sources shall
27 be deposited in the Liquid Fuels Tax Fund no later than June
28 30, 2022.

29 (b) Revenue estimates.--

30 (1) The department shall submit, for publication in the

1 Pennsylvania Bulletin:

2 (i) a separate tax penalty forgiveness revenue
3 estimate for revenue generated under this article from
4 the following sources:

5 (A) The General Fund.

6 (B) The Motor License Fund.

7 (C) The Liquid Fuels Tax Fund.

8 (ii) The methodology used to develop the estimate.

9 (2) All tax penalty forgiveness revenue estimates shall
10 be submitted for publication pursuant to section 2910-G.1(a)
11 (4).

12 Section 2913-G.1. Construction.

13 Except as expressly provided in this article, this article
14 shall not:

15 (1) be construed to relieve a person, corporation or
16 other entity from the filing of a return or from a tax,
17 penalty or interest imposed by the provisions of any law;

18 (2) affect or terminate a petition, investigation,
19 prosecution, legal or otherwise, or other proceeding pending
20 under the provisions of any such law; or

21 (3) prevent the commencement or further prosecution of a
22 proceeding by the proper authorities of the Commonwealth for
23 violation of any such law or for the assessment, settlement,
24 collection or recovery of tax, penalty or interest due to the
25 Commonwealth under any such law.

26 Section 2914-G.1. Suspension of inconsistent acts.

27 All acts or parts of acts inconsistent with the provisions of
28 this article are suspended to the extent necessary to carry out
29 the provisions of this article.

30 Section 3. This act shall take effect in 60 days.