

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1059 Session of 2021

INTRODUCED BY HICKERNELL, BROOKS, CIRESI, DUNBAR, FREEMAN, GREINER, JAMES, JOZWIAK, MENTZER, MILLARD, PICKETT, RYAN, SAINATO, SAYLOR, THOMAS, ZIMMERMAN AND RADER, MARCH 31, 2021

AS AMENDED, COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, MAY 26, 2021

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 personal income tax, further providing for <--
11 declarations of estimated tax. IN PERSONAL INCOME TAX, <--
12 FURTHER PROVIDING FOR WITHHOLDING TAX REQUIREMENT FOR
13 NONEMPLOYER PAYORS, FOR INFORMATION STATEMENT FOR NONEMPLOYER
14 PAYORS, FOR INFORMATION STATEMENT FOR PAYEES AND FOR
15 DECLARATIONS OF ESTIMATED TAX, PROVIDING FOR ELECTRONIC
16 PAYMENT AND FURTHER PROVIDING FOR REQUIREMENTS CONCERNING
17 RETURNS, NOTICES, RECORDS AND STATEMENTS AND FOR ADDITIONS,
18 PENALTIES AND FEES.

19 The General Assembly of the Commonwealth of Pennsylvania
20 hereby enacts as follows:

21 Section 1. Section 325(d) of the act of March 4, 1971 <--
22 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
23 to read:

24 SECTION 1. SECTIONS 316.2(A), 317.1, 317.2 AND 325(D) OF THE <--
25 ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE

1 OF 1971, ARE AMENDED TO READ:

2 SECTION 316.2. WITHHOLDING TAX REQUIREMENT FOR NONEMPLOYER
3 PAYORS.--(A) TO THE EXTENT NOT ALREADY REQUIRED TO WITHHOLD TAX
4 ON PAYMENTS UNDER SECTION 316.1, A PERSON THAT:

5 (1) MAKES PAYMENTS OF INCOME FROM SOURCES WITHIN THIS
6 COMMONWEALTH DESCRIBED IN SECTION 303(A) (1) OR (2) TO EITHER A
7 NONRESIDENT INDIVIDUAL OR AN ENTITY THAT IS DISREGARDED UNDER
8 SECTION 307.21 THAT HAS A NONRESIDENT MEMBER; AND

9 (2) IS REQUIRED UNDER SECTION 335(F) (1) TO FILE A COPY OF
10 FORM [~~1099-MISC~~] 1099-NEC WITH THE DEPARTMENT REGARDING THE
11 PAYMENTS;

12 SHALL DEDUCT AND WITHHOLD FROM THE PAYMENTS AN AMOUNT EQUAL TO
13 THE NET AMOUNT OF THE PAYMENTS MULTIPLIED BY THE TAX RATE
14 SPECIFIED UNDER SECTION 302(B).

15 * * *

16 SECTION 317.1. INFORMATION STATEMENT FOR NONEMPLOYER
17 PAYORS.--EVERY PAYOR REQUIRED TO DEDUCT AND WITHHOLD TAX UNDER
18 SECTION 316.2 SHALL FURNISH TO A PAYEE TO WHOM THE PAYOR HAS
19 PAID INCOME FROM SOURCES WITHIN THIS COMMONWEALTH DURING THE
20 CALENDAR YEAR A COPY OF FORM [~~1099-MISC~~] 1099-NEC REQUIRED UNDER
21 SECTION 335(F) (1). THE COPY OF FORM [~~1099-MISC~~] 1099-NEC
22 REQUIRED BY THIS SECTION FOR EACH CALENDAR YEAR SHALL BE
23 FORWARDED TO THE PAYEE ON OR BEFORE MARCH 1 OF THE YEAR
24 SUCCEEDING THE CALENDAR YEAR.

25 SECTION 317.2. INFORMATION STATEMENT FOR PAYEES.--EVERY
26 PAYEE RECEIVING A COPY OF FORM [~~1099-MISC~~] 1099-NEC FROM A PAYOR
27 UNDER SECTION 317.1 SHALL FILE A DUPLICATE OF SUCH INFORMATION
28 RETURN WITH THE PAYEE'S STATE INCOME TAX RETURN.

29 Section 325. Declarations of Estimated Tax.--* * *

30 (d) Except as hereinafter provided, the date for filing a

1 declaration of estimated tax shall depend upon when the resident
2 or nonresident individual, trust or estate determines that his
3 or its income on which no tax has been withheld under this
4 article can reasonably be expected to exceed [eight thousand
5 dollars (\$8,000)] twenty thousand dollars (\$20,000) in the
6 taxable year, as follows:

7 (1) If the determination is made on or before April 1 of the
8 taxable year, a declaration of estimated tax shall be filed no
9 later than April 15 of the taxable year.

10 (2) If the determination is made after April 1 but before
11 June 2 of the taxable year, the declaration shall be filed no
12 later than June 15 of such year.

13 (3) If the determination is made after June 1 but before
14 September 2 of the taxable year, the declaration shall be filed
15 no later than September 15 of such year.

16 (4) If the determination is made after September 1 of the
17 taxable year, the declaration shall be filed no later than
18 January 15 of the year succeeding the taxable year.

19 * * *

20 ~~Section 2. Applicability.~~ <--

21 ~~The amendment of section 325 of the act shall apply to~~
22 ~~taxable years beginning after December 31, 2021.~~

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

24 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <--

25 SECTION 332.1. ELECTRONIC PAYMENT.--ANY PAYMENT IN THE
26 AMOUNT OF \$5,000 OR MORE REMITTED TO THE DEPARTMENT FOR THE TAX
27 IMPOSED UNDER THIS ARTICLE SHALL BE REMITTED ELECTRONICALLY AS
28 PRESCRIBED BY THE DEPARTMENT. THIS SECTION SHALL NOT APPLY TO
29 EMPLOYER WITHHOLDING PAYMENTS UNDER PART VII OF THIS ARTICLE AND
30 SECTION 9 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN

1 AS THE FISCAL CODE, SHALL CONTINUE TO APPLY TO EMPLOYER
2 WITHHOLDING PAYMENTS.

3 SECTION 3. SECTIONS 335(F)(1) AND (2) OF THE ACT ARE AMENDED
4 TO READ:

5 SECTION 335. REQUIREMENTS CONCERNING RETURNS, NOTICES,
6 RECORDS AND STATEMENTS.--* * *

7 (F) THE FOLLOWING APPLY:

8 (1) ANY PERSON WHO:

9 (I) MAKES PAYMENTS OF PENNSYLVANIA SOURCE INCOME THAT FALL
10 WITHIN ANY OF THE EIGHT CLASSES OF INCOME ENUMERATED IN SECTION
11 303(A);

12 (II) MAKES SUCH PAYMENTS TO AN INDIVIDUAL, AN ENTITY TREATED
13 AS A PARTNERSHIP FOR TAX PURPOSES OR A SINGLE MEMBER LIMITED
14 LIABILITY COMPANY; AND

15 (III) IS REQUIRED TO MAKE A FORM [1099-MISC] 1099-NEC RETURN
16 TO THE SECRETARY OF THE TREASURY OF THE UNITED STATES WITH
17 RESPECT TO SUCH PAYMENTS, SHALL FILE A COPY OF SUCH FORM [1099-
18 MISC] 1099-NEC WITH THE DEPARTMENT [AND SEND A COPY OF SUCH FORM
19 1099-MISC TO THE PAYEE BY MARCH 1 OF EACH YEAR OR, IF FILED
20 ELECTRONICALLY, BY MARCH 31 OF EACH YEAR] ON THE DUE DATE OF THE
21 FORM 1099-NEC. IF THE FORM [1099-MISC] 1099-NEC FILED BY A PAYOR
22 WITH THE SECRETARY OF THE TREASURY OF THE UNITED STATES [IS NOT
23 COMPLETED IN SUCH A MANNER THAT] DOES NOT INCLUDE THE STATE
24 INCOME AND STATE TAX WITHHELD [INFORMATION, CURRENTLY BOXES 16
25 THROUGH 18 ON FEDERAL FORM 1099-MISC, IS REFLECTED THEREON] AS
26 REQUIRED UNDER SECTION 316.2, THE PAYOR SHALL UPDATE THE COPIES
27 OF FORM [1099-MISC] 1099-NEC TO BE PROVIDED PURSUANT TO THIS
28 SECTION TO REFLECT SUCH INFORMATION PRIOR TO FILING IT WITH THE
29 DEPARTMENT AND SENDING IT TO THE PAYEE.

30 (2) IF THE PAYOR IS REQUIRED TO PERFORM ELECTRONIC FILING

1 FOR PENNSYLVANIA EMPLOYER WITHHOLDING PURPOSES, THE FORM [1099-
2 MISC] 1099-NEC SHALL BE FILED ELECTRONICALLY WITH THE
3 DEPARTMENT.

4 * * *

5 SECTION 4. SECTION 352(F) (4) AND (5) OF THE ACT ARE AMENDED
6 AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

7 SECTION 352. ADDITIONS, PENALTIES AND FEES.--* * *

8 (F) * * *

9 (4) ANY PERSON REQUIRED TO FILE A COPY OF FORM [1099-MISC]
10 1099-NEC WITH THE DEPARTMENT UNDER THE PROVISIONS OF SECTION
11 335(F) WHO WILFULLY FURNISHES A FALSE OR FRAUDULENT FORM OR WHO
12 WILFULLY FAILS TO FILE THE FORM IN THE MANNER, AT THE TIME AND
13 SHOWING THE INFORMATION REQUIRED UNDER SECTION 335(F) SHALL, FOR
14 EACH SUCH FAILURE, BE SUBJECT TO A PENALTY OF FIFTY DOLLARS
15 (\$50).

16 (5) ANY PERSON REQUIRED UNDER THE PROVISIONS OF SECTION
17 335(F) TO FURNISH A COPY OF FORM [1099-MISC] 1099-NEC TO A PAYEE
18 WHO WILFULLY FURNISHES A FALSE OR FRAUDULENT FORM OR WHO
19 WILFULLY FAILS TO FURNISH A FORM IN THE MANNER, AT THE TIME AND
20 SHOWING THE INFORMATION REQUIRED BY SECTION 335(F) SHALL, FOR
21 EACH SUCH FAILURE, BE SUBJECT TO A PENALTY OF FIFTY DOLLARS
22 (\$50).

23 * * *

24 (K) IF A TAX PAYMENT IS MADE AND THE PAYMENT DOES NOT COMPLY
25 WITH SECTION 332.1 WHEN REQUIRED, THE TAXPAYER WHO IS LIABLE FOR
26 THE TAX SHALL, IN ADDITION TO ANY OTHER PENALTY, INTEREST OR
27 ADDITION PROVIDED BY LAW, BE LIABLE FOR A PENALTY OF THREE PER
28 CENT OF THE PAYMENT REMITTED NOT TO EXCEED FIVE HUNDRED DOLLARS
29 (\$500).

30 SECTION 5. THE AMENDMENT OF SECTION 325(D) OF THE ACT SHALL

1 APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2021.

2 SECTION 6. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.