

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

SENATOR TILGHMAN, APPROPRIATIONS, RE-REPORTED, AS AMENDED,
AUGUST 1, 1991

AN ACT

1 ~~Authorizing the Secretary of Revenue to establish a period~~ <—
2 ~~during which interest and penalties on certain unpaid taxes~~
3 ~~will be waived if the taxes are paid in full; authorizing~~
4 ~~political subdivisions to adopt similar provisions; and~~
5 ~~providing for penalties.~~
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 The General Assembly of the Commonwealth of Pennsylvania
13 hereby enacts as follows:

14 ~~Section 1. Establishment of amnesty period.~~ <—
15 ~~(a) Authority of Secretary of Revenue. In order to~~
16 ~~encourage the voluntary disclosure and payment of taxes owed to~~
17 ~~the Commonwealth and its political subdivisions, the Secretary~~
18 ~~of Revenue is hereby authorized to establish a six month period~~

~~within the 18 month period of January 1, 1991, to June 30, 1992, during which all interest and civil penalties which would otherwise be imposed for the nonreporting or underreporting of tax liabilities or for the nonpayment of taxes previously imposed and due shall be waived if the taxpayer voluntarily files delinquent returns and pays the taxes in full within the six month period so established.~~

~~(b) Regulations. The Secretary of Revenue shall have the authority to promulgate any regulations deemed necessary to administer this act, including, but not limited to, the following requirements:~~

~~(1) A taxpayer who applies for amnesty shall do so in writing on a special request for amnesty form and make full payment of all taxes owed.~~

~~(2) All amnesty payments shall be made by certified check or money order.~~

~~(3) Amnesty shall not be available to any person who is the subject of a criminal investigation or court prosecution for violation of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.~~

~~(c) Notice. When the dates of the six month period have been determined as provided in subsection (a), the Secretary of Revenue shall give notice thereof, at least 90 days prior to the period so determined, by causing the dates of that period and any regulations deemed necessary to administer the program to be published in the Pennsylvania Bulletin. Upon publication, the program shall be deemed established as to taxes imposed by the Commonwealth. The Secretary of Revenue shall notify in writing all taxpayers who owe taxes in excess of \$4,000 to the Commonwealth of the six month amnesty period established under~~

1 ~~this act.~~

2 ~~Section 2. Authority of political subdivisions.~~

3 ~~Any county, city, borough, incorporated town, township or~~
4 ~~school district may, by ordinance or resolution, establish the~~
5 ~~same six month period as is established under section 1, as a~~
6 ~~period during which all interest and penalties which would~~
7 ~~otherwise be imposed for the nonreporting or underreporting of~~
8 ~~tax liabilities or for the nonpayment of taxes previously~~
9 ~~imposed by the political subdivision shall be waived if the~~
10 ~~taxpayer voluntarily files delinquent returns and pays the taxes~~
11 ~~owed in full within the six month period so established. Each~~
12 ~~taxing authority may adopt regulations deemed necessary to~~
13 ~~administer this act, including, but not limited to, the~~
14 ~~following requirements:~~

15 ~~(1) A taxpayer who applies for amnesty shall do so in~~
16 ~~writing on a special request for amnesty form and make full~~
17 ~~payment of all taxes owed.~~

18 ~~(2) All amnesty payments shall be made by certified~~
19 ~~check or money order.~~

20 ~~(3) Amnesty shall not be available to anyone who is the~~
21 ~~subject of a criminal investigation or court prosecution for~~
22 ~~violation of the act of March 4, 1971 (P.L.6, No.2), known as~~
23 ~~the Tax Reform Code of 1971.~~

24 ~~Section 3. Failure to pay tax.~~

25 ~~(a) Taxes, interest and penalties. If the full amount of~~
26 ~~the taxes due is not paid within the six month period~~
27 ~~established in this act, the total amount of the waived interest~~
28 ~~and penalties shall be revived and added to the unpaid taxes~~
29 ~~with the same force and effect as if the interest and civil~~
30 ~~penalties had never been waived and the taxpayer shall not be~~

1 ~~entitled to any benefits or privileges under this act.~~

2 ~~(b) Sentence of imprisonment for tax evasion.~~

3 ~~(1) A person who, at the end of the six month amnesty~~
4 ~~period established under this act, fails to pay in full taxes~~
5 ~~owed to the Commonwealth and in an amount which is \$4,000 or~~
6 ~~less, commits a misdemeanor of the third degree and shall,~~
7 ~~upon conviction, be sentenced to a term of imprisonment for~~
8 ~~not more than one year.~~

9 ~~(2) A person who, at the end of the six month amnesty~~
10 ~~period established under this act, fails to pay in full taxes~~
11 ~~owed to the Commonwealth in an amount which is greater than~~
12 ~~\$4,000, commits a misdemeanor of the first degree and shall,~~
13 ~~upon conviction, be sentenced to a term of imprisonment for~~
14 ~~not more than five years.~~

15 ~~(c) Private collection agencies. At the end of the six~~
16 ~~month amnesty period established under this act, the Department~~
17 ~~of Revenue shall, through the competitive bidding process,~~
18 ~~obtain a minimum of two private bill collection agencies to~~
19 ~~collect all delinquent accounts.~~

20 ~~(d) Limitation of actions. An action for collection must be~~
21 ~~commenced within 20 years of the last day of the six month~~
22 ~~amnesty period established under this act.~~

23 ~~(e) Professional licenses. At the end of the six month~~
24 ~~amnesty period established under this act, any Commonwealth,~~
25 ~~professional, trade or business license shall be suspended or~~
26 ~~revoked by the Department of Revenue, if the holder fails to~~
27 ~~file or pay taxes owed to the Commonwealth.~~

28 ~~(f) Vendors. At the end of the six month amnesty period~~
29 ~~established under this act, the renewal of any contract to~~
30 ~~supply goods or services to State or local governments shall be~~

~~denied, upon the request of the Department of Revenue, if the
vendor fails to file or pay taxes owed to the Commonwealth.~~

~~Section 4. Construction.~~

~~This act shall not be construed to relieve any person,
corporation or other entity from the filing of returns or from
any taxes, penalties or interest imposed by the provisions of
any laws, ordinances or resolutions, except as to interest and
civil penalties expressly provided for in this act, nor shall
this act affect or terminate any petitions, investigations,
prosecutions, legal or otherwise, or other proceedings pending
under the provisions of any laws, ordinances or resolutions, or
prevent the commencement or further prosecution of any
proceedings by the proper authorities of the Commonwealth or any
political subdivision under any laws, ordinances or resolutions.
However, no proceedings shall be commenced on the basis of
delinquent returns filed under this act if the returns are
determined to be substantially true and correct and the taxes
are paid in full within the prescribed time.~~

~~Section 5. Suspension of inconsistent acts, ordinances and
resolutions.~~

~~All acts and parts of acts and all ordinances and resolutions
or parts thereof inconsistent with the provisions of this act
are suspended to the extent necessary to carry out the
provisions of this act.~~

~~Section 6. Effective date.~~

~~This act shall take effect immediately.~~

~~SECTION 1. THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS <—
THE TAX REFORM CODE OF 1971, IS AMENDED BY ADDING AN ARTICLE TO
READ:~~

ARTICLE XXX-A

1 TAX AMNESTY PROGRAM

2 SECTION 3001-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
3 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
4 ASCRIED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
5 CLEARLY INDICATES A DIFFERENT MEANING:

6 "AMNESTY PERIOD" MEANS JANUARY 1, 1992, THROUGH 12 MIDNIGHT
7 MARCH 31, 1992.

8 "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OF THE
9 COMMONWEALTH.

10 "ELIGIBLE TAX" MEANS ANY TAX IMPOSED BY THIS ACT OR 72
11 PA.C.S. CH. 17 (RELATING TO INHERITANCE AND ESTATE TAXES).

12 "PROGRAM" MEANS THE TAX AMNESTY PROGRAM AS PROVIDED FOR IN
13 THIS ARTICLE.

14 "TAXPAYER" MEANS ANY PERSON, ASSOCIATION, FIDUCIARY,
15 PARTNERSHIP, CORPORATION OR OTHER ENTITY REQUIRED TO PAY OR
16 COLLECT ANY OF THE TAXES IMPOSED BY THIS ACT OR 72 PA.C.S. CH.
17 17 (RELATING TO INHERITANCE AND ESTATE TAXES). THE TERM SHALL
18 NOT INCLUDE A TAXPAYER WHO, AS OF DECEMBER 31, 1991, HAS
19 RECEIVED NOTICE THAT HE IS THE SUBJECT OF A CRIMINAL
20 INVESTIGATION FOR AN ALLEGED VIOLATION OF THIS ACT OR 72 PA.C.S.
21 CH. 17, HAS BEEN NAMED AS A DEFENDANT IN A CRIMINAL COMPLAINT
22 ALLEGING A VIOLATION OF THIS ACT OR 72 PA.C.S. CH. 17 OR IS A
23 DEFENDANT IN A PENDING CRIMINAL ACTION FOR AN ALLEGED VIOLATION
24 OF THIS ACT OR 72 PA.C.S. CH. 17.

25 SECTION 3002-A. ESTABLISHMENT OF AMNESTY PROGRAM.--(A)
26 THERE IS HEREBY ESTABLISHED A TAX AMNESTY PROGRAM WHICH SHALL BE
27 ADMINISTERED BY THE DEPARTMENT.

28 (B) THE AMNESTY PROGRAM SHALL APPLY TO A TAXPAYER WHO IS
29 DELINQUENT ON PAYMENT OF AN ELIGIBLE TAX AS OF DECEMBER 31,
30 1991, INCLUDING TAX ON RETURNS NOT FILED, TAX LIABILITIES

1 ACCORDING TO RECORDS OF THE DEPARTMENT AS OF DECEMBER 31, 1991,
2 TAX LIABILITIES NOT REPORTED, UNDERREPORTED OR NOT ESTABLISHED,
3 BUT DELINQUENT AS OF DECEMBER 31, 1991.

4 SECTION 3003-A. REQUIRED PAYMENT.--(A) ALL TAXPAYERS WHO
5 PARTICIPATE IN THE PROGRAM SHALL MAKE PAYMENT OF ALL TAXES DUE
6 THE COMMONWEALTH AS OF DECEMBER 31, 1991, PLUS FIFTY PER CENT OF
7 THE TOTAL AMOUNT OF INTEREST DUE WITHIN THE AMNESTY PERIOD. THE
8 DEPARTMENT SHALL NOT SEEK TO COLLECT THE REMAINING FIFTY PER
9 CENT OF THE TOTAL AMOUNT OF INTEREST DUE AND ANY PENALTIES OWED
10 BY THE TAXPAYER.

11 (B) IN ADDITION TO FILING AN AMNESTY TAX RETURN, A TAXPAYER
12 MUST FILE COMPLETE TAX RETURNS FOR ALL YEARS FOR WHICH THE
13 TAXPAYER PREVIOUSLY HAS NOT FILED A TAX RETURN AND FILE COMPLETE
14 AMENDED RETURNS FOR ALL YEARS FOR WHICH THE TAXPAYER
15 UNDERREPORTED INCOME.

16 (C) THE DEPARTMENT SHALL NOT PURSUE AN ADMINISTRATIVE OR
17 JUDICIAL PROCEEDING AGAINST A TAXPAYER WITH RESPECT TO ANY TAX
18 THAT IS DISCLOSED ON AN AMNESTY TAX RETURN.

19 SECTION 3004-A. INSTALLMENT PAYMENT AGREEMENT.--THE
20 DEPARTMENT MAY ENTER INTO AN INSTALLMENT PAYMENT AGREEMENT IN
21 THE CASES OF SEVERE FINANCIAL HARDSHIP, AS DETERMINED BY THE
22 DEPARTMENT, IN LIEU OF COMPLETE PAYMENT OF ALL TAXES DUE AND
23 FIFTY PER CENT OF THE TOTAL AMOUNT OF INTEREST. FAILURE BY THE
24 TAXPAYER TO FULLY COMPLY WITH THE TERMS OF THE INSTALLMENT
25 PAYMENT AGREEMENT SHALL TERMINATE THE TAXPAYER'S PARTICIPATION
26 IN THE AMNESTY PROGRAM AND ALL TAXES DUE THE COMMONWEALTH AND
27 THE TOTAL AMOUNT OF INTEREST AND PENALTIES DUE THE COMMONWEALTH
28 SHALL BE CONSIDERED TO BE DELINQUENT AND SHALL BE IMMEDIATELY
29 DUE AND PAYABLE.

30 SECTION 3005-A. LIMITATION OF DEFICIENCY ASSESSMENT.--IF

1 SUBSEQUENT TO MARCH 31, 1992, THE DEPARTMENT ISSUES A DEFICIENCY
2 ASSESSMENT UPON A RETURN FILED PURSUANT TO THIS ARTICLE, THE
3 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE PENALTIES AND TO
4 PURSUE A CRIMINAL ACTION ONLY WITH RESPECT TO THE DIFFERENCE
5 BETWEEN THE AMOUNT SHOWN ON THAT RETURN AND THE CURRENT AMOUNT
6 OF TAX.

7 SECTION 3006-A. OVERPAYMENT OF TAX.--NOTWITHSTANDING ANY
8 OTHER PROVISIONS OF THIS OR ANY OTHER ACT, IF AN OVERPAYMENT OF
9 TAX IS REFUNDED OR CREDITED WITHIN ONE HUNDRED EIGHTY DAYS AFTER
10 THE RETURN IS FILED UNDER THIS ARTICLE, NO INTEREST SHALL BE
11 ALLOWED ON THE OVERPAYMENT.

12 SECTION 3007-A. PREVIOUSLY PAID INTEREST AND PENALTIES.--NO
13 REFUND OR CREDIT SHALL BE ALLOWED FOR ANY INTEREST AND PENALTY
14 PAID TO THE DEPARTMENT PRIOR TO DECEMBER 31, 1991.

15 SECTION 3008-A. PROCEEDINGS RELATING TO AMNESTY RETURN
16 BARRED.--PARTICIPATION IN THE AMNESTY PROGRAM IS CONDITIONED
17 UPON THE TAXPAYER'S AGREEMENT THAT THE RIGHT TO PROTEST OR
18 PURSUE AN ADMINISTRATIVE OR JUDICIAL PROCEEDING WITH REGARD TO
19 RETURNS FILED UNDER THE AMNESTY PROGRAM OR TO CLAIM ANY REFUND
20 OF MONEY PAID UNDER THE AMNESTY PROGRAM IS BARRED.

21 SECTION 3009-A. UNDISCLOSED LIABILITIES.--NOTHING IN THIS
22 ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM
23 INSTITUTING CIVIL OR CRIMINAL PROCEEDINGS AGAINST ANY TAXPAYER
24 WITH RESPECT TO ANY AMOUNT OF TAX THAT IS NOT DISCLOSED ON THE
25 AMNESTY RETURN.

26 SECTION 3010-A. DUTIES OF DEPARTMENT.--(A) THE DEPARTMENT
27 SHALL DEVELOP REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
28 ARTICLE. THE REGULATIONS MUST BE PUBLISHED IN THE PENNSYLVANIA
29 BULLETIN WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS ARTICLE
30 AND SHALL CONTAIN, BUT NOT BE LIMITED TO, THE FOLLOWING

1 INFORMATION:

2 (1) AN EXPLANATION OF THE TAX AMNESTY PROGRAM AND THE
3 REQUIREMENTS FOR ELIGIBILITY FOR THE PROGRAM.

4 (2) THE DATES DURING WHICH A TAX AMNESTY RETURN MAY BE
5 FILED.

6 (3) AN EXPLANATION OF THE PROCEDURE FOR OBTAINING AN
7 INSTALLMENT PAYMENT AGREEMENT.

8 (4) A SPECIMEN COPY OF THE TAX AMNESTY RETURN.

9 (B) THE DEPARTMENT SHALL PUBLICIZE THE TAX AMNESTY PROGRAM
10 TO MAXIMIZE PUBLIC AWARENESS OF AND PARTICIPATION IN THE
11 PROGRAM. THE DEPARTMENT SHALL COORDINATE TO THE HIGHEST DEGREE
12 POSSIBLE ITS PUBLICITY EFFORTS AND OTHER ACTIONS TAKEN TO
13 IMPLEMENT THIS ARTICLE.

14 (C) THE DEPARTMENT SHALL ISSUE A REPORT TO THE GENERAL
15 ASSEMBLY BY JUNE 1, 1992, DETAILING THE IMPLEMENTATION OF THE
16 PROGRAM. THE REPORT SHALL CONTAIN, BUT NOT BE LIMITED TO, THE
17 FOLLOWING INFORMATION:

18 (1) A DETAILED BREAKDOWN OF THE DEPARTMENT'S ADMINISTRATIVE
19 COSTS IN IMPLEMENTING THE PROGRAM.

20 (2) THE NUMBER OF TAX AMNESTY RETURNS FILED AND A BREAKDOWN
21 OF THE NUMBER AND DOLLAR AMOUNT OF REVENUE RAISED FOR EACH TAX.

22 (3) THE TOTAL DOLLAR AMOUNT OF REVENUE RAISED BY THE
23 PROGRAM.

24 (4) THE NUMBER OF AMNESTY RETURNS FOR WHICH AN INSTALLMENT
25 PAYMENT AGREEMENT WAS AUTHORIZED AND THE GUIDELINES UNDER WHICH
26 THE DEPARTMENT AUTHORIZED THE INSTALLMENT PAYMENT AGREEMENTS.

27 (D) THE DEPARTMENT SHALL NOTIFY IN WRITING ALL TAXPAYERS WHO
28 OWE TAXES IN EXCESS OF FOUR THOUSAND DOLLARS (\$4,000) TO THE
29 COMMONWEALTH OF THE AMNESTY PROGRAM ESTABLISHED UNDER THIS
30 ARTICLE. THE SOLE PURPOSE OF THE LETTER SENT BY THE DEPARTMENT

1 TO TAXPAYERS MUST BE NOTIFICATION OF THE AMNESTY PROGRAM.

2 SECTION 3011-A. METHOD OF PAYMENT.--ALL TAX PAYMENTS UNDER
3 THE AMNESTY PROGRAM SHALL BE MADE BY CERTIFIED CHECK OR MONEY
4 ORDER.

5 SECTION 3012-A. FEASIBILITY STUDY.--THE DEPARTMENT SHALL
6 STUDY AND REPORT TO THE GENERAL ASSEMBLY CONCERNING THE
7 FEASIBILITY OF ACQUIRING THE SERVICES OF PRIVATE COLLECTION
8 AGENCIES IN A COMPETITIVE BID PROCESS FOR COLLECTING DELINQUENT
9 TAX PAYMENTS THAT REMAIN OUTSTANDING AT THE CLOSE OF THE AMNESTY
10 PERIOD. ITEMS TO BE CONSIDERED IN THE STUDY INCLUDE:

11 (1) MAINTENANCE OF TAXPAYER CONFIDENTIALITY.

12 (2) THE EFFECT OF PRIVATE COLLECTION PROCESS ON FUTURE
13 CRIMINAL AND/OR JUDICIAL PROCEEDINGS.

14 (3) THE SAVINGS IN PERSONNEL AND OTHER RESOURCES FROM
15 PRIVATIZING THE COLLECTION PROCESS.

16 (4) IDENTIFICATION OF DELINQUENT TAX ACCOUNTS THAT ARE
17 APPROPRIATE FOR COLLECTION BY PRIVATE COLLECTION AGENCIES.

18 SECTION 3013-A. EXEMPTION FROM REVIEW PROCESS.--
19 NOTWITHSTANDING ANY LAW TO THE CONTRARY THE REGULATIONS ISSUED
20 BY THE DEPARTMENT FOR THE AMNESTY PROGRAM SHALL BE EXEMPT FROM
21 THE REGULATORY REVIEW PROCESS PROVIDED IN THE ACT OF JUNE 25,
22 1982 (P.L.633, NO.181), KNOWN AS THE "REGULATORY REVIEW ACT."

23 SECTION 3014-A. USE OF REVENUE.--ALL REVENUE GENERATED BY
24 THIS ARTICLE SHALL BE DEPOSITED INTO THE GENERAL FUND.

25 SECTION 3015-A. FUNDING.--THE DEPARTMENT SHALL RECEIVE AN
26 INCREASE IN ITS 1992-1993 FISCAL YEAR APPROPRIATION EQUAL TO THE
27 COST OF ADMINISTERING THE PROVISIONS OF THIS ARTICLE.

28 SECTION 2. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.