

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 886 Session of  
1993

INTRODUCED BY PHILLIPS, GORDNER, FAIRCHILD, CESSAR, TIGUE,  
S. H. SMITH, BARLEY, LAUB, GODSHALL, ARMSTRONG, ADOLPH,  
CLYMER, SEMMEL, STERN, KENNEY, SAURMAN, ROHRER, KING, MILLER,  
ALLEN, B. SMITH, GEIST, LEH, HARLEY AND FARGO, MARCH 24, 1993

REFERRED TO COMMITTEE ON FINANCE, MARCH 24, 1993

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 resettlement date for  
11 certain corporate taxes.

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

14 Section 1. Section 407 of the act of March 4, 1971 (P.L.6,  
15 No.2), known as the Tax Reform Code of 1971, amended August 4,  
16 1991 (P.L.97, No.22), is amended to read:

17 Section 407. Settlement and Resettlement.--(a) All taxes  
18 due under this article shall be settled by the department, and  
19 such settlement shall be subject to audit and approval by the  
20 Department of the Auditor General, and shall, so far as  
21 possible, be made so that notice thereof may reach the taxpayer

1 within eighteen months after the tax report was required to be  
2 made. The Secretary of Revenue, after consultation with the  
3 Auditor General, may develop and implement procedures for the  
4 settlement of taxes employing, among other means, automatic data  
5 processing, statistical analysis, computer analysis, mechanical  
6 handling and issuance of settlement documents, including  
7 documents without original signatures, such that will facilitate  
8 what he determines to be the most efficient and productive use  
9 of the resources within his control required to adequately and  
10 reasonably ensure the proper collection of taxes. The Secretary  
11 of Revenue shall provide documentation of such procedures to the  
12 chairmen of the Appropriations Committee and the Finance  
13 Committee of the Senate and of the House of Representatives.

14 (b) (1) If, within a period of three years [after the date  
15 of any settlement] from the due date of the return, the  
16 department is not satisfied with such settlement, or if at any  
17 time the net income as returned by any corporation to the  
18 Federal Government is finally changed or corrected by the  
19 Commissioner of Internal Revenue or by any other agency or court  
20 of the United States with the result that tax, in addition to  
21 the amount paid, is due under this article, the department is  
22 hereby authorized and empowered to make a resettlement of the  
23 tax due by such corporation, based upon the facts contained in  
24 the report, or upon any information within its possession or  
25 that shall come into its possession.

26 (2) Whenever a resettlement shall have been made hereunder,  
27 the department shall resettle the account according to law and  
28 shall credit or charge, as the case may be, the amount resulting  
29 from such resettlement upon the current accounts of the  
30 corporation with which it is made.

1       (3) The resettlement shall be subject to audit and approval  
2 by the Department of the Auditor General as in the case of  
3 original settlement, and in case of the failure of the two  
4 departments to agree, the resettlement shall be submitted to the  
5 Board of Finance and Revenue as in the case of original  
6 settlements.

7       (c) Promptly after the date of any such settlement, the  
8 department shall send, by mail or otherwise, a copy thereof to  
9 such corporation. The tax, interest, and penalty imposed by this  
10 article shall be subject to the right of resettlement, review,  
11 and refund within the time and in the manner now or hereafter  
12 provided for by law for petitions for resettlement, review and  
13 refund and to the right of appeal in the manner now or hereafter  
14 provided for by law for appeals in the case of tax settlements.

15       (d) If any corporation shall neglect or refuse to make any  
16 report and payment of tax required by this article, the  
17 department shall estimate the tax due by such corporation and  
18 subject to audit and approval by the Department of the Auditor  
19 General, settle the amount due by it for taxes, penalties, and  
20 interest thereon as prescribed herein, from which settlement  
21 there shall be no right of review or appeal, but the department,  
22 with the approval of the Department of the Auditor General, may  
23 require a report to be filed, and thereupon make a settlement  
24 based upon such report and cancel the estimated settlement.

25       (e) If any taxpayer, pursuant to petition or appeal, is  
26 granted a resettlement or issued an order of court or a judgment  
27 basing the taxpayer's tax for any taxable year upon the  
28 principles of multifactority or unrelated assets resulting from a  
29 final decision upon the taxpayer's petition or appeal, or any  
30 stipulation for judgment in settlement of litigation thereon,

1 then any taxable year of the taxpayer within a three-year period  
2 prior to the taxable year in issue or any taxable year  
3 thereafter may be resettled consistent with such principles  
4 within one year of such resettlement, order of court or  
5 judgment.

6 Section 2. This act shall take effect immediately.