
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2478 Session of
2006

INTRODUCED BY CALTAGIRONE, BEBKO-JONES, BELFANTI, CAWLEY, COSTA,
FABRIZIO, JAMES, MARKOSEK, MYERS, PISTELLA, THOMAS AND
YOUNGBLOOD, APRIL 3, 2006

REFERRED TO COMMITTEE ON FINANCE, APRIL 3, 2006

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 classes of income.

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

13 Section 1. Section 303(a)(1) of the act of March 4, 1971
14 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
15 July 7, 2005 (P.L.149, No.40), is amended to read:

16 Section 303. Classes of Income.--(a) The classes of income
17 referred to above are as follows:

18 (1) Compensation.

19 (i) All salaries, wages, commissions, bonuses and incentive
20 payments whether based on profits or otherwise, fees, tips and
21 similar remuneration received for services rendered whether

1 directly or through an agent and whether in cash or in property
2 except income derived from [the] any of the following:

3 (A) The United States Government for active duty outside the
4 Commonwealth of Pennsylvania as a member of its armed forces.

5 (B) Overtime pay for utility repair work performed in
6 response to a natural disaster or other emergency.

7 (ii) Compensation of a cash-basis taxpayer shall be
8 considered as received if the compensation is actually or
9 constructively received for Federal income tax purposes as
10 determined consistent with the United States Treasury
11 regulations and rulings under the Internal Revenue Code of 1986,
12 as amended, except that, for purposes of computing tax under
13 this article:

14 (A) Amounts lawfully deducted, not deferred, and withheld
15 from the compensation of employes shall be considered to have
16 been received by the employe as compensation at the time the
17 deduction is made.

18 (B) Contributions to an employes' trust, pooled fund or
19 other arrangement which is not subject to the claims of
20 creditors of the employer made by an employer on behalf of an
21 employe or self-employed individual at the election of the
22 employe or self-employed individual pursuant to a cash or
23 deferred arrangement or salary reduction agreement shall be
24 deemed to have been received by the employe or individual as
25 compensation at the time the contribution is made, regardless of
26 when the election is made or a payment is received.

27 (C) Any contribution to a plan by, on behalf of or
28 attributable to a self-employed person shall be deemed to have
29 been received at the time the contribution is made.

30 (D) Employer contributions to a Roth IRA custodial account

1 or employe annuity shall be deemed received, earned or acquired
2 only when distributed, when the plan fails to meet the
3 requirements of section 408A of the Internal Revenue Code of
4 1986 (26 U.S.C. § 408A), as amended, or when the plan is not
5 operated in accordance with such requirements.

6 (E) Employe contributions to an employes' trust or pooled
7 fund or custodial account or contract or employe annuity shall
8 not be deducted or excluded from compensation.

9 (iii) For purposes of determining when deferred compensation
10 of employes other than employes of exempt organizations and
11 State and local governments is required to be included in
12 income, the following apply:

13 (A) The rules of sections 83 and 451 of the Internal Revenue
14 Code of 1986 (26 U.S.C. §§ 83 and 451), as amended, shall apply.

15 (B) The rules of section 409A of the Internal Revenue Code
16 of 1986 (26 U.S.C. § 409A), as amended, shall apply.

17 (iv) For purposes of determining when deferred compensation
18 of employes of exempt organizations and State and local
19 governments is required to be included in income, the following
20 apply:

21 (A) The rules of sections 83, 451 and 457 of the Internal
22 Revenue Code of 1986, as amended, shall apply.

23 (B) The rules of section 409A of the Internal Revenue Code
24 of 1986, as amended, shall apply.

25 * * *

26 Section 2. The amendment of section 303(a)(1) of the act
27 shall apply to tax years beginning after December 31, 2005.

28 Section 3. This act shall take effect immediately.