

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 664 Session of 2007

INTRODUCED BY GEORGE, BAKER, BELFANTI, BENNINGTON, BIANCUCCI, BOYD, CALTAGIRONE, CLYMER, CURRY, DALEY, DeLUCA, DePASQUALE, ELLIS, EVERETT, FABRIZIO, FRANKEL, FREEMAN, GINGRICH, GRUCELA, HANNA, HARHAI, HENNESSEY, HERSHEY, HESS, HORNAMAN, JAMES, M. KELLER, KULA, LEACH, MAHONEY, McGEEHAN, McILHATTAN, MELIO, NAILOR, M. O'BRIEN, PEIFER, PETRARCA, PHILLIPS, REICHLEY, RUBLEY, SCAVELLO, SCHRODER, SOLOBAY, STABACK, STAIRS, SURRA, SWANGER, J. TAYLOR, WALKO, YUDICHAK, WANSACZ, CONKLIN AND MURT, MARCH 9, 2007

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 24, 2008

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," creating a sales and use tax exemption for
11 biomass products used for home heating purposes and
12 agricultural products sold by the original producer for the
13 production of fuel; AND FURTHER PROVIDING FOR THE PROCEDURE
14 FOR CLAIMING SPECIAL TAX PROVISIONS AND FOR PROOF OF
15 ELIGIBILITY.

<—

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

18 Section 1. Section 201 of the act of March 4, 1971 (P.L.6,
19 No.2), known as the Tax Reform Code of 1971, is amended by
20 adding a clause to read:

1 Section 201. Definitions.--The following words, terms and
2 phrases when used in this Article II shall have the meaning
3 ascribed to them in this section, except where the context
4 clearly indicates a different meaning:

5 * * *

6 (eee) "Biomass." Organic, nonfossil plant-derived material.

7 Section 2. Section 204(5) of the act, amended June 30, 1995
8 (P.L.139, No.21), is amended and the section is amended by
9 adding a clause to read:

10 Section 204. Exclusions from Tax.--The tax imposed by
11 section 202 shall not be imposed upon any of the following:

12 * * *

13 (5) The sale at retail or use of steam, natural and
14 manufactured and bottled gas, fuel oil, raw biomass, electricity
15 or intrastate subscriber line charges, basic local telephone
16 service or telegraph service when purchased directly by the user
17 thereof solely for his own residential use and charges for
18 telephone calls paid for by inserting money into a telephone
19 accepting direct deposits of money to operate.

20 * * *

21 (67) The sale at retail or use of any agricultural product
22 or byproduct sold by the original producer, or by a cooperative
23 organization or business agent representing such producer for
24 the purposes of an original sale, for the production of fuel for
25 home heating, combustion engines or lubricants for machinery and
26 engines.

27 ~~Section 3. This act shall take effect in 60 days.~~ <—

28 SECTION 3. SECTIONS 336.1 AND 336.2 OF THE ACT, ADDED MARCH <—
29 13, 1974 (P.L.179, NO.32), ARE AMENDED TO READ:

30 SECTION 336.1. PROCEDURE FOR CLAIMING SPECIAL TAX

1 PROVISIONS.--[THE] (A) WITH THE EXCEPTION OF THE EXPEDITED
2 CLAIM PROCEDURE AS PROVIDED FOR UNDER SUBSECTION (B), THE
3 FOLLOWING PROCEDURES SHALL BE EMPLOYED FOR CLAIMING THE SPECIAL
4 TAX PROVISIONS:

5 (1) THE CLAIMANT MAY CLAIM THE SPECIAL TAX PROVISIONS UPON
6 THE EXPIRATION OF HIS TAXABLE YEAR IN CONNECTION WITH HIS FILING
7 OF AN ANNUAL RETURN UNDER THE PROVISIONS OF THIS ARTICLE.

8 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE TO THE
9 CONTRARY, THE DEPARTMENT SHALL HAVE THE POWER TO PROMULGATE SUCH
10 RULES OR REGULATIONS AS IT MAY DEEM NECESSARY TO FAIRLY AND
11 REASONABLY IMPLEMENT THE PROVISIONS OF THIS SECTION.

12 (2) IF THE CLAIMANT RECEIVES INCOME AS DEFINED IN THIS
13 ARTICLE, OTHER THAN COMPENSATION FROM AN EMPLOYER, HE MAY CLAIM
14 THE SPECIAL TAX PROVISIONS IN CONNECTION WITH HIS FILING OF
15 ESTIMATED TAX RETURNS.

16 (B) (1) THE CLAIMANT MAY CLAIM THE SPECIAL TAX PROVISIONS
17 UPON THE EXPIRATION OF THE CLAIMANT'S TAXABLE YEAR BY FILING A
18 CERTIFICATION OF NO TAX LIABILITY IN LIEU OF FILING A TAX
19 RETURN, PROVIDED ALL OF THE FOLLOWING APPLY:

20 (I) THE POVERTY INCOME OF THE CLAIMANT, OR THE JOINT POVERTY
21 INCOME OF THE CLAIMANT AND CLAIMANT'S SPOUSE, FOR THE TAXABLE
22 YEAR, DOES NOT EXCEED THE POVERTY INCOME LIMITATIONS PRESCRIBED
23 BY SECTION 304(D)(1).

24 (II) THE CLAIMANT IS ENTITLED TO ONE HUNDRED PER CENT TAX
25 FORGIVENESS FOR THE TAXABLE YEAR UNDER SECTION 304.

26 (III) THE CLAIMANT WAS NOT SUBJECT TO TAX WITHHOLDING
27 PURSUANT TO THIS ARTICLE IN THE TAXABLE YEAR.

28 (IV) NO TAX WAS WITHHELD ON ACCOUNT OF THE CLAIMANT PURSUANT
29 TO THIS ARTICLE IN THE TAXABLE YEAR.

30 (V) THE CLAIMANT WAS NOT SUBJECT TO THE ESTIMATED TAX

1 PAYMENT REQUIREMENTS UNDER THIS ARTICLE IN THE TAXABLE YEAR.

2 (VI) THE CLAIMANT MADE NO ESTIMATED TAX PAYMENTS IN THE
3 TAXABLE YEAR.

4 (VII) THE CLAIMANT IS NOT ENTITLED TO A TAX REFUND FOR THE
5 TAXABLE YEAR.

6 (VIII) THE FILING STATUS OF THE CLAIMANT HAS NOT CHANGED
7 FROM THE PRECEDING TAX YEAR.

8 (IX) THE CLAIMANT INCURRED NO PERSONAL INCOME TAX LIABILITY
9 AND WAS ENTITLED TO ONE HUNDRED PER CENT TAX FORGIVENESS FOR THE
10 PRECEDING TAX YEAR UNDER SECTION 304 AND CLAIMED SUCH TAX
11 FORGIVENESS BY FILING THE APPROPRIATE TAX SCHEDULE FOR THE TAX
12 YEAR.

13 (2) THE FURNISHING OF FALSE INFORMATION ON THE CERTIFICATION
14 BY THE CLAIMANT SHALL CONSTITUTE A VIOLATION OF 18 PA.C.S. §
15 4904 (RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES). ANY
16 PERSON WHO WILFULLY AIDS OR ASSISTS IN, OR PROCURES, COUNSELS OR
17 ADVISES THE PREPARATION OR PRESENTATION OF A CERTIFICATION WHICH
18 IS FRAUDULENT OR IS FALSE AS TO ANY MATERIAL MATTER, COMMITS A
19 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
20 FINE NOT EXCEEDING FIVE THOUSAND DOLLARS (\$5,000) OR TO UNDERGO
21 IMPRISONMENT NOT EXCEEDING TWO YEARS, OR BOTH.

22 (3) THE DEPARTMENT SHALL ESTABLISH THE FORM OF THE
23 CERTIFICATION THAT MAY BE FILED IN LIEU OF A TAX RETURN UNDER
24 THIS SUBSECTION. THE DEPARTMENT SHALL DEVELOP RULES, REGULATIONS
25 AND PROCEDURES AS IT DEEMS NECESSARY TO FAIRLY AND REASONABLY
26 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION IN A SIMPLE AND
27 EXPEDITIOUS FASHION. IN ESTABLISHING AND DEVELOPING THE
28 CERTIFICATION FORM AND RULES, REGULATIONS AND PROCEDURES, THE
29 DEPARTMENT SHALL NOT REQUIRE THE SUBMISSION OF ANY ADDITIONAL
30 FORM, RETURN, REPORT OR SCHEDULE AS A PREREQUISITE OR CONDITION

1 TO UTILIZATION OF THIS EXPEDITED PROCEDURE FOR CLAIMING SPECIAL
2 TAX FORGIVENESS.

3 (4) NOTHING IN THIS SUBSECTION SHALL BE CONSTRUED TO LESSEN
4 OR CURTAIL THE POWER OF THE DEPARTMENT TO CONDUCT EXAMINATIONS
5 UNDER SECTION 355 WHENEVER SUCH EXAMINATIONS ARE DEEMED
6 WARRANTED IN APPROPRIATE CIRCUMSTANCES TO ENSURE COMPLIANCE WITH
7 THIS ARTICLE.

8 SECTION 336.2. PROOF OF ELIGIBILITY.--THE DEPARTMENT OF
9 REVENUE SHALL ESTABLISH SUCH RULES, REGULATIONS, SCHEDULES OR
10 OTHER PROCEDURES AS MAY BE NECESSARY FOR THE SUBMISSION AND
11 ESTABLISHMENT OF PROOF OF THE ELIGIBILITY OF PERSONS FOR THE
12 SPECIAL TAX PROVISIONS OR OTHER MATTERS RELATING TO THE
13 PROVISIONS OF THIS ACT. [SUCH] EXCEPT AS LIMITED BY THE
14 PROVISIONS OF SECTION 336.1(B)(3), THE PROCEDURES MAY INCLUDE,
15 BUT NOT BE LIMITED TO, THE SUBMISSION OF REQUISITE INFORMATION
16 AND CERTIFICATIONS UPON FORMS PROVIDED BY THE DEPARTMENT,
17 INCLUDING SUCH SPECIAL TAX RETURN OR REPORT FORMS AS MAY BE
18 NECESSARY.

19 SECTION 4. THE AMENDMENT OF SECTIONS 336.1 AND 336.2 OF THE
20 ACT SHALL APPLY TO TAX YEARS COMMENCING AFTER DECEMBER 31, 2007.

21 SECTION 5. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

22 (1) THE AMENDMENT OR ADDITION OF SECTIONS 201(EEE) AND
23 204(5) AND (67) OF THE ACT SHALL TAKE EFFECT IN 60 DAYS.

24 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
25 IMMEDIATELY.