

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1334 Session of 2011

INTRODUCED BY HESS, GEIST, STERN, FLECK, METZGAR, AUMENT, BAKER, BLOOM, BOYD, CALTAGIRONE, COHEN, D. COSTA, COX, CREIGHTON, GILLESPIE, GINGRICH, GRELL, HUTCHINSON, M. K. KELLER, KILLION, LONGIETTI, MASSER, MICOZZIE, MILLARD, MILLER, MILNE, MUSTIO, O'NEILL, PYLE, REICHLEY, ROAE, SWANGER, VULAKOVICH AND WATSON, APRIL 12, 2011

REFERRED TO COMMITTEE ON FINANCE, APRIL 12, 2011

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 sales and use tax, further providing for time
 11 for filing returns and for time of payment.

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

14 Section 1. Sections 217 and 222 of the act of March 4, 1971
 15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
 16 October 9, 2009 (P.L.451, No.48), are amended to read:

17 Section 217. Time for Filing Returns.--(a) Quarterly[,] and
 18 Monthly [and Semi-monthly] Returns:

19 (1) For the year in which this article becomes effective and
 20 in each year thereafter a return shall be filed quarterly by

1 every licensee on or before the twentieth day of April, July,
2 October and January for the three months ending the last day of
3 March, June, September and December.

4 (2) For the year in which this article becomes effective,
5 and in each year thereafter, a return shall be filed monthly
6 with respect to each month by every licensee whose total tax
7 reported, or in the event no report is filed, the total tax
8 which should have been reported, for the third calendar quarter
9 of the preceding year equals or exceeds six hundred dollars
10 (\$600) and is less than twenty-five thousand dollars (\$25,000).
11 Such returns shall be filed on or before the twentieth day of
12 the next succeeding month with respect to which the return is
13 made. Any licensee required to file monthly returns hereunder
14 shall be relieved from filing quarterly returns.

15 (2.1) On and after the effective date of this subclause and
16 before June 1, 2011, every licensee whose total tax reported or
17 required to be reported for the third calendar quarter of the
18 preceding calendar year equals or exceeds twenty-five thousand
19 dollars (\$25,000) shall file returns as provided in subclause
20 (2).

21 (3) After May 31, 2011, [a return shall be filed semi-
22 monthly with respect to each month by every licensee whose total
23 tax reported, or in the event no report is filed, the total tax
24 which should have been reported, for the third calendar quarter
25 of the preceding year equals or exceeds twenty-five thousand
26 dollars (\$25,000). For the period from the first day of the
27 month to the fifteenth day of the month, the returns shall be
28 filed on or before the twenty-fifth day of the month. For the
29 period from the sixteenth day of the month to the last day of
30 the month, the returns shall be filed on or before the tenth day

1 of the next succeeding month with respect to which the return is
2 made. Any licensee required to file semi-monthly returns under
3 this section shall be relieved from filing monthly or quarterly
4 returns.] with respect to every licensee whose total tax
5 reported or required to be reported for the third calendar
6 quarter of the preceding year equals or exceeds twenty-five
7 thousand dollars (\$25,000), the licensee shall, on or before the
8 twentieth day of each month, file a single return consisting of
9 all of the following:

10 (i) (A) Except as provided in paragraph (B), an amount
11 equal to fifty per centum of the licensee's total reported tax
12 liability for the same month in the preceding calendar year if
13 they were a monthly filer or, if the licensee was a quarterly or
14 semi-annual filer, fifty per centum of the licensee's average
15 total reported tax liability for that tax period in the
16 preceding calendar year. The average total tax liability shall
17 be the total reported tax liability for the tax period divided
18 by the number of months in that tax period. For licensees that
19 were not in business during the same month in the preceding
20 calendar year or were in business for only a portion of that
21 month, fifty per centum of the average total reported tax
22 liability for each tax period the licensee has been in business.
23 If the licensee is filing a tax liability for the first time
24 with no preceding tax periods, the amount shall be zero.

25 (B) For the return due June 20, 2011, the percentage used in
26 this calculation shall be fifty-five per centum.

27 (C) The amount due under this paragraph shall be due the
28 same day as the remainder of the preceding month's tax.

29 (ii) An amount equal to the taxes due for the preceding
30 month, less any amounts paid in the preceding month as required

1 by subparagraph (i).

2 (iii) The department shall determine whether the amounts
3 reported under subparagraphs (i) and (ii) shall be remitted as
4 one combined payment or as two separate payments.

5 (iv) The department may require the filing of the returns
6 and the payments for these types of filers by electronic means
7 approved by the department.

8 (4) Any licensee filing returns under subclause (3) shall be
9 relieved of filing quarterly returns.

10 (5) If a licensee required to remit payments under subclause
11 (3)(i) fails to make a timely payment or makes a payment which
12 is less than the required amount, the department may, in
13 addition to any applicable penalties, impose an additional
14 penalty equal to five per centum of the amount due under
15 subclause (3)(i) which was not timely paid. The penalty under
16 this subclause shall be determined when the tax return is filed
17 for the tax period.

18 (b) Annual Returns. For the calendar year 1971, and for each
19 year thereafter, no annual return shall be filed, except as may
20 be required by rules and regulations of the department
21 promulgated and published at least sixty days prior to the end
22 of the year with respect to which the returns are made. Where
23 such annual returns are required licensees shall not be required
24 to file such returns prior to the twentieth day of the year
25 succeeding the year with respect to which the returns are made.

26 (c) Other Returns. Any person, other than a licensee, liable
27 to pay to the department any tax under this article, shall file
28 a return on or before the twentieth day of the month succeeding
29 the month in which such person becomes liable for the tax.

30 (d) Small Taxpayers. The department, by regulation, may

1 waive the requirement for the filing of quarterly return in the
2 case of any licensee whose individual tax collections do not
3 exceed seventy-five dollars (\$75) per calendar quarter and may
4 provide for reporting on a less frequent basis in such cases.

5 Section 222. Time of Payment.--(a) Monthly[, Semi-monthly]
6 and Quarterly Payments. The tax imposed by this article and
7 incurred or collected by a licensee shall be due and payable by
8 the licensee on the day the return is required to be filed under
9 the provisions of section 217 and such payment must accompany
10 the return [for such preceding period].

11 (b) Annual Payments. If the amount of tax due for the
12 preceding year as shown by the annual return of any taxpayer is
13 greater than the amount already paid by him in connection with
14 his monthly[, semi-monthly] or quarterly returns he shall send
15 with such annual return a remittance for the unpaid amount of
16 tax for the year.

17 (c) Other Payments. Any person other than a licensee liable
18 to pay any tax under this article shall remit the tax at the
19 time of filing the return required by this article.

20 Section 2. This act shall take effect immediately.