

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2000 Session of 2012

INTRODUCED BY QUINN, OBERLANDER, BENNINGHOFF, ADOLPH, SAYLOR, REED, AUMENT, BLOOM, BOYD, BROOKS, R. BROWN, CALTAGIRONE, CLYMER, CREIGHTON, GIBBONS, GINGRICH, GOODMAN, GRELL, GROVE, HENNESSEY, HORNAMAN, M. K. KELLER, KILLION, KOTIK, LAWRENCE, LONGIETTI, MALONEY, MILLER, MUNDY, O'NEILL, PASHINSKI, PEIFER, PETRI, PICKETT, RAPP, READSHAW, ROSS, STEPHENS, STEVENSON, STURLA, SWANGER, TAYLOR, TRUITT, VULAKOVICH, WATSON, MILNE AND DONATUCCI, JANUARY 26, 2012

REFERRED TO COMMITTEE ON FINANCE, JANUARY 26, 2012

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

1 in each year thereafter a return shall be filed quarterly by  
2 every licensee on or before the twentieth day of April, July,  
3 October and January for the three months ending the last day of  
4 March, June, September and December.

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

16 (2.1) On and after the effective date of this subclause and  
17 before June 1, 2011, every licensee whose total tax reported or  
18 required to be reported for the third calendar quarter of the  
19 preceding calendar year equals or exceeds twenty-five thousand  
20 dollars (\$25,000) shall file returns as provided in subclause  
21 (2).

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

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

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

30 (B) For the return due June 20, 2011, the percentage used in

1 this calculation shall be fifty-five per centum.

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

4 (ii) An amount equal to the taxes due for the preceding  
5 month, less any amounts paid in the preceding month as required  
6 by subparagraph (i).

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

10 (iv) The department may require the filing of the returns  
11 and the payments for these types of filers by electronic means  
12 approved by the department.

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

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

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

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

5 (d) Small Taxpayers. The department, by regulation, may  
6 waive the requirement for the filing of quarterly return in the  
7 case of any licensee whose individual tax collections do not  
8 exceed seventy-five dollars (\$75) per calendar quarter and may  
9 provide for reporting on a less frequent basis in such cases.

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

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

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

25 Section 2. Repeals are as follows:

26 (1) The General Assembly declares that the repeal under  
27 paragraph (2) is necessary to effectuate the amendment of  
28 sections 217 and 222 of the act.

29 (2) Section 202.2 of the act of April 9, 1929 (P.L.343,  
30 No.176), known as The Fiscal Code, is repealed.

1       Section 3. This act shall apply retroactively to returns  
2 required to be filed after May 30, 2011.

3       Section 4. This act shall take effect immediately.