

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, DONATUCCI, DALEY, GEIST, MICCARELLI AND KAMPF, JANUARY 26, 2012

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES,
MAY 8, 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:

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

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

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

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

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

12 (i) ~~(A)~~ Except as provided in paragraph (B), the amount of ←
13 tax collected for the period from the first day of the current
14 calendar month through the fifteenth day of the current calendar
15 month, or an CLAUSE (4), EITHER OF THE FOLLOWING: ←

16 (A) AN amount equal to fifty per centum of the licensee's
17 total reported tax liability or required to be reported for the
18 same month in the preceding calendar year if they were a monthly
19 filer or, if the licensee was a quarterly or semi-annual filer,
20 fifty per centum of the licensee's average total reported tax
21 liability or required to be reported for that tax period in the
22 preceding calendar year. The average total tax liability shall
23 be the total reported tax liability or required to be reported
24 for the tax period divided by the number of months in that tax
25 period. For licensees that were not in business during the same
26 month in the preceding calendar year or were in business for
27 only a portion of that month, fifty per centum of the average
28 total reported tax liability for each tax period the licensee
29 has been in business. If the licensee is filing a tax liability
30 for the first time with no preceding tax periods, the amount

1 shall be zero.

2 ~~(B) For the return due June 20, 2011, the percentage used in~~ ←
3 ~~this calculation shall be fifty five per centum.~~

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

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

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

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

15 ~~(4) Any licensee filing returns under subclause (3) shall be~~
16 ~~relieved of filing quarterly returns.~~

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

24 ~~(B) AN AMOUNT EQUAL TO OR GREATER THAN FIFTY PER CENTUM OF~~ ←
25 ~~THE LICENSEE'S TOTAL TAX LIABILITY REQUIRED TO BE REPORTED FOR~~
26 ~~THE SAME MONTH.~~

27 ~~(II) AN AMOUNT EQUAL TO THE TAXES DUE FOR THE PRECEDING~~
28 ~~MONTH, LESS ANY AMOUNTS PAID IN THE PRECEDING MONTH AS REQUIRED~~
29 ~~BY SUBCLAUSE (I).~~

30 ~~(4) FOR THE RETURN DUE JUNE 20, 2011, THE PERCENTAGE USED IN~~

1 THE CALCULATION UNDER CLAUSE (3) (I) SHALL BE FIFTY-FIVE PER
2 CENTUM.

3 (5) THE AMOUNT DUE UNDER CLAUSE (3) (I) SHALL BE DUE THE SAME
4 DAY AS THE REMAINDER OF THE PRECEDING MONTH'S TAX.

5 (6) THE DEPARTMENT SHALL DETERMINE WHETHER THE AMOUNTS
6 REPORTED UNDER CLAUSE (3) SHALL BE REMITTED AS ONE COMBINED
7 PAYMENT OR AS TWO SEPARATE PAYMENTS.

8 (7) THE DEPARTMENT MAY REQUIRE THE FILING OF THE RETURNS AND
9 THE PAYMENTS FOR THESE TYPES OF FILERS BY ELECTRONIC MEANS
10 APPROVED BY THE DEPARTMENT.

11 (8) ANY LICENSEE FILING RETURNS UNDER CLAUSE (3) SHALL BE
12 RELIEVED OF FILING QUARTERLY RETURNS.

13 (9) IF A LICENSEE REQUIRED TO REMIT PAYMENTS UNDER CLAUSE
14 (3) FAILS TO MAKE A TIMELY PAYMENT OR MAKES A PAYMENT WHICH IS
15 LESS THAN THE REQUIRED AMOUNT, THE DEPARTMENT MAY, IN ADDITION
16 TO ANY APPLICABLE PENALTIES, IMPOSE AN ADDITIONAL PENALTY EQUAL
17 TO FIVE PER CENTUM OF THE AMOUNT DUE UNDER CLAUSE (3) WHICH WAS
18 NOT TIMELY PAID. THE PENALTY UNDER THIS CLAUSE SHALL BE
19 DETERMINED WHEN THE TAX RETURN IS FILED for the tax period.

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

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

1 the month in which such person becomes liable for the tax.

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

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

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

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

22 Section 2. Repeals are as follows:

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

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

28 SECTION 3. NOTWITHSTANDING SECTION 4 OF THIS ACT, THE
29 ADDITION OF SECTION 217(A) (3) (I) (B) OF THE ACT SHALL APPLY TO
30 TAX RETURNS DUE AFTER MAY 31, 2012.



1 Section ~~3.~~ This 4. EXCEPT AS SET FORTH IN SECTION 3, THIS ←
2 act shall apply retroactively to returns required to be filed
3 after May 30, 2011.

4 SECTION 5. THE AMENDMENT OF SECTIONS 217 AND 222 OF THE ACT ←
5 IS A CONTINUATION OF SECTION 202.2 OF THE ACT OF APRIL 9, 1929
6 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE. THE FOLLOWING
7 APPLY:

8 (1) EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 217 AND 222
9 OF THE ACT, ALL ACTIVITIES INITIATED UNDER SECTION 202.2 OF
10 THE FISCAL CODE SHALL CONTINUE AND REMAIN IN FULL FORCE AND
11 EFFECT AND MAY BE COMPLETED UNDER SECTIONS 217 AND 222 OF THE
12 ACT. ORDERS, REGULATIONS, RULES AND DECISIONS WHICH WERE MADE
13 UNDER SECTION 202.2 OF THE FISCAL CODE AND WHICH ARE IN
14 EFFECT ON THE EFFECTIVE DATE OF THE AMENDMENT OF SECTIONS 217
15 AND 222 OF THE ACT SHALL REMAIN IN FULL FORCE AND EFFECT
16 UNTIL REVOKED, VACATED OR MODIFIED UNDER SECTION 217 OR 222
17 OF THE ACT.

18 (2) EXCEPT AS SET FORTH IN PARAGRAPH (3), ANY DIFFERENCE
19 IN LANGUAGE BETWEEN SECTIONS 217 AND 222 OF THE ACT AND
20 SECTION 202.2 OF THE FISCAL CODE IS NOT INTENDED TO CHANGE OR
21 AFFECT THE LEGISLATIVE INTENT, JUDICIAL CONSTRUCTION OR
22 ADMINISTRATION AND IMPLEMENTATION OF SECTION 202.2 OF THE
23 FISCAL CODE.

24 (3) PARAGRAPH (2) DOES NOT APPLY TO THE ADDITION OF
25 SECTION 217(A) (3) (I) (B) .

26 Section ~~4~~ 6. This act shall take effect immediately. ←