

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 245 Session of 2015

INTRODUCED BY DUNBAR, BARRAR, COHEN, EVANKOVICH, GODSHALL,  
A. HARRIS, LAWRENCE, MILLARD, MURT, PICKETT AND SACCONI,  
JANUARY 28, 2015

REFERRED TO COMMITTEE ON FINANCE, JANUARY 28, 2015

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court," in  
22 local taxes, further providing for definitions, for payroll  
23 tax and for payment of tax to other political subdivisions or  
24 states as credit or deduction and withholding tax; in  
25 consolidated collection of local income taxes, further  
26 providing for definitions, for declaration and payment of  
27 income taxes, for tax collection committees, for powers and  
28 duties of Department of Community and Economic Development,  
29 for powers and duties of tax officer and for withholding and  
30 remittance; and, in collection of delinquent taxes, further  
31 providing for penalties and for costs of collection of  
32 delinquent per capita, occupation, occupational privilege,  
33 emergency and municipal services, local services and income

1 taxes.

2 The General Assembly of the Commonwealth of Pennsylvania  
3 hereby enacts as follows:

4 Section 1. Section 301(a) of the act of December 31, 1965  
5 (P.L.1257, No.511), known as The Local Tax Enabling Act, is  
6 amended by adding definitions to read:

7 Section 301. Definitions.--(a) The following words and  
8 phrases when used in this chapter shall have the meanings given  
9 to them in this section unless the context clearly indicates  
10 otherwise:

11 "Contingent fee audit" means an audit of a taxpayer's books  
12 and records for which the collection fee is based on a  
13 percentage of tax assessed or collected, or both.

14 \* \* \*

15 "Private collection agency" means a business entity or person  
16 appointed to audit taxpayers and collect delinquent taxes.

17 \* \* \*

18 Section 2. Sections 303(g) and 317 of the act, amended July  
19 2, 2008 (P.L.197, No.32), are amended to read:

20 Section 303. Payroll Tax.--\* \* \*

21 (g) A city of the second class may bring suit for the  
22 recovery of taxes due and unpaid under this section. Any suit  
23 brought to recover the tax imposed by this section shall be  
24 commenced within three years after such tax is due or within  
25 three years after the declaration or return has been filed,  
26 whichever is later: Provided, however, That this limitation  
27 shall not prevent the institution of a suit for the collection  
28 of any tax due or determined to be due in the following cases:

29 (1) Where no declaration or return was filed by any person  
30 although a declaration or return was required to be filed by him

1 under provisions of this section, there shall be no limitation.

2 (2) Where an examination of the declaration or return filed  
3 by any person or of other evidence relating to such declaration  
4 or return in the possession of the city of the second class  
5 reveals a fraudulent evasion of taxes, there shall be no  
6 limitation.

7 (3) In the case of substantial understatement of tax  
8 liability of twenty-five percent or more and no fraud, suit  
9 shall be begun within six years.

10 (4) This section shall not be construed to limit the  
11 governing body from recovering delinquent taxes by any other  
12 means provided by law, with the exception of contingent fee  
13 audits by a private collection agency, which shall be  
14 prohibited.

15 \* \* \*

16 Section 317. Payment of Tax to Other Political Subdivisions  
17 or States as Credit or Deduction; Withholding Tax.--(a) Payment  
18 of any tax to any political subdivision pursuant to an ordinance  
19 or resolution passed or adopted prior to the effective date of  
20 this act shall be credited to and allowed as a deduction from  
21 the liability of taxpayers for any like tax respectively on  
22 salaries, wages, commissions, other compensation or on net  
23 profits of businesses, professions or other activities and for  
24 any income tax imposed by any other political subdivision of  
25 this Commonwealth under the authority of this chapter.

26 (b) Payment of any tax on salaries, wages, commissions,  
27 other compensation or on net profits of business, professions or  
28 other activities to a political subdivision by residents thereof  
29 pursuant to an ordinance or resolution passed or adopted under  
30 the authority of this chapter, including any change in rates

1 thereto made by any other State law or any other earned income  
2 or net profits tax assessed under any other State law, shall be  
3 credited to and allowed as a deduction from the liability of  
4 such persons for any other like tax respectively on salaries,  
5 wages, commissions, other compensation or on net profits of  
6 businesses, professions or other activities imposed by any other  
7 political subdivision of this Commonwealth under the authority  
8 of this chapter.

9 (c) Payment of any tax on income to any political  
10 subdivision by residents thereof pursuant to an ordinance or  
11 resolution passed or adopted under the authority of this  
12 chapter, including any change in rates thereto made by any other  
13 State law or any other earned income or net profits tax assessed  
14 under any other State law, shall, to the extent that such income  
15 includes salaries, wages, commissions, other compensation or net  
16 profits of businesses, professions or other activities, but in  
17 such proportion as hereinafter set forth, be credited to and  
18 allowed as a deduction from the liability of such persons for  
19 any other tax on salaries, wages, commissions, other  
20 compensation or on net profits of businesses, professions, or  
21 other activities imposed by any other political subdivision of  
22 this Commonwealth under the authority of this chapter.

23 (d) Payment of any tax on income to any state or to any  
24 political subdivision thereof by residents thereof, pursuant to  
25 any State or local law, may, at the discretion of the  
26 Pennsylvania political subdivision imposing such tax, to the  
27 extent that such income includes salaries, wages, commissions,  
28 or other compensation or net profits of businesses, professions  
29 or other activities but in such proportions as hereinafter set  
30 forth, be credited to and allowed as a deduction from the

1 liability of such person for any other tax on salaries, wages,  
2 commissions, other compensation or net profits of businesses,  
3 professions or other activities imposed by any political  
4 subdivision of this Commonwealth under the authority of this  
5 chapter, including any change in rates thereto made by any other  
6 State law or any other earned income or net profits tax assessed  
7 under any other State law, if residents of the political  
8 subdivision in Pennsylvania receive credits and deductions of a  
9 similar kind to a like degree from the tax on income imposed by  
10 the other state or political subdivision thereof.

11 (e) Payment of any tax on income to any State other than  
12 Pennsylvania or to any political subdivision located outside the  
13 boundaries of this Commonwealth, by residents of a political  
14 subdivision located in Pennsylvania shall, to the extent that  
15 such income includes salaries, wages, commissions, or other  
16 compensation or net profits of businesses, professions or other  
17 activities but in such proportions as hereinafter set forth, be  
18 credited to and allowed as a deduction from the liability of  
19 such person for any other tax on salaries, wages, commissions,  
20 other compensation or net profits of businesses, professions or  
21 other activities imposed by any political subdivision of this  
22 Commonwealth under the authority of this chapter[.], including  
23 any change in rates thereto made by any other State law or any  
24 other earned income or net profits tax assessed under any other  
25 State law.

26 (f) Where a credit or a deduction is allowable in any of the  
27 several cases hereinabove provided, it shall be allowed in  
28 proportion to the concurrent periods for which taxes are imposed  
29 by the other state or respective political subdivisions, but not  
30 in excess of the amount previously paid for a concurrent period.

1     (g) No credit or deduction shall be allowed against any tax  
2 on earned income imposed under authority of this chapter to the  
3 extent of the amount of credit or deduction taken for the same  
4 period by the taxpayer against any income tax imposed by the  
5 Commonwealth of Pennsylvania under section 314 of the act of  
6 March 4, 1971 (P.L.6, No.2) known as the "Tax Reform Code of  
7 1971," on account of taxes imposed on income by other states or  
8 by their political subdivisions.

9     Section 3. The definitions of "nonresident," "nonresident  
10 tax" and "taxpayer" in section 501 of the act, added July 2,  
11 2008 (P.L.197, No.32), are amended to read:

12 Section 501. Definitions.

13     The following words and phrases when used in this chapter  
14 shall have the meanings given to them in this section unless the  
15 context clearly indicates otherwise:

16     \* \* \*

17     "Nonresident." A person or business domiciled outside the  
18 political subdivision levying the tax and performing services  
19 within the political subdivision levying the tax for at least 90  
20 or more consecutive days.

21     "Nonresident tax." An income tax levied by a municipality on  
22 a nonresident who has performed services within the political  
23 subdivision levying the tax for at least 90 or more consecutive  
24 days.

25     \* \* \*

26     "Taxpayer." A person or business required under this act to  
27 file a return of an income tax or to pay an income tax. The term  
28 does not include a person or business with no taxable income;  
29 such person or business may not be required to file a return of  
30 income or to pay an income tax under this act.

1 \* \* \*

2 Section 4. Section 502(c) of the act is amended by adding a  
3 paragraph to read:

4 Section 502. Declaration and payment of income taxes.

5 \* \* \*

6 (c) Declaration and payment.--Except as provided in  
7 subsection (a) (2), taxpayers shall declare and pay income taxes  
8 as follows:

9 \* \* \*

10 (4) Every taxpayer subject to the declaration and  
11 payment provisions under this section shall be deemed to have  
12 met the requirements and therefore not be subject to a  
13 penalty so long as one of the following safe harbor  
14 exceptions is met:

15 (i) Make four equal, timely estimated payments equal  
16 to 100% of the prior year's tax less any earned income  
17 tax withheld for the current year.

18 (ii) Make four equal, timely estimated payments  
19 equal to 90% of the current year's tax less any earned  
20 income tax withheld for the current year.

21 Section 5. Section 505(a.1) (7) and (h) (1) and (2) of the  
22 act, added July 2, 2008 (P.L.197, No.32), are amended to read:

23 Section 505. Tax collection committees.

24 \* \* \*

25 (a.1) Duties.--A tax collection committee has the following  
26 duties:

27 \* \* \*

28 (7) To adopt, amend and repeal policies and procedures  
29 consistent with the regulations under section 508 for the  
30 administration of income taxes within the tax collection

1 district. The procedures shall supersede any contrary  
2 resolutions or ordinances adopted by a political subdivision  
3 and no additional forms, policies or procedures may be  
4 adopted other than those promulgated by the department. This  
5 authority shall not be construed to permit a tax collection  
6 committee to change the rate or subject of any tax.

7 \* \* \*

8 (h) Audits of taxes received and disbursed.--

9 (1) By the end of each calendar year, the tax collection  
10 committee shall provide for at least one examination for each  
11 calendar year of the books, accounts, financial statements,  
12 compliance reports and records of the tax officer by a  
13 certified public accountant or public accountant approved by  
14 the tax collection committee. The examination shall be  
15 conducted on a calendar year basis. An examination conducted  
16 on any other basis shall not be accepted by the department  
17 and failure to comply with this requirement shall be  
18 considered noncompliance with the act resulting in the  
19 imposition of penalties under section 510. The examination  
20 shall include an audit of all records relating to the cash  
21 basis receipt and disbursement of all public money by the tax  
22 officer, a reconciliation of the monthly reports required by  
23 section 509(b), an analysis of the bond amount under section  
24 509(d) and an analysis of the collection fees charged to the  
25 tax collection committee. In the case of a private agency,  
26 the examination shall not include payroll and other  
27 proprietary information. The examination shall be conducted  
28 according to generally accepted governmental auditing  
29 standards.

30 (2) The certified public accountant or public accountant



1 shall issue a report, on a calendar year basis and in a  
2 format prescribed by the department, to the tax collection  
3 committee, which shall include an auditor's opinion letter, a  
4 financial statement for the year ending December 31, a  
5 reconciliation of the monthly reports required by section  
6 509(b) with the receipts and disbursements on a calendar year  
7 basis, a summary of collection fees charged to the tax  
8 collection committee on a calendar year basis, a report on  
9 the tax officer's compliance with this act, a list of any  
10 findings of noncompliance with this act and a copy of a  
11 management letter if one is issued by the auditor. If there  
12 are findings of noncompliance, a copy of the report shall be  
13 filed with the Department of the Auditor General and the  
14 department. A copy of the report shall be filed with all  
15 political subdivisions within the tax collection district and  
16 the department on or before September 1 of the succeeding  
17 year. The department may make available on its Internet  
18 website summary data from the reports filed under this  
19 subsection. The department may reject any report which is not  
20 in the proper format and does not meet the requirements of  
21 this paragraph. Failure to correct the submission within 30  
22 days of the rejection shall constitute noncompliance with the  
23 act and result in the imposition of penalties under section  
24 510.

25 \* \* \*

26 Section 6. Section 508 of the act is amended by adding a  
27 subsection to read:

28 Section 508. Powers and duties of the department.

29 \* \* \*

30 (g) Oversight.--The department shall oversee all tax

1 collection committees, tax collectors and tax collection  
2 offices. In exercising this duty the department shall:

3 (1) Provide the public with a method to report tax  
4 collection issues.

5 (2) Enforce the fines and penalties promulgated under  
6 section 510.

7 (3) Ensure that all ordinances, rules, regulations and  
8 forms adopted in the collection of the earned income and net  
9 profits taxes are consistent with those promulgated by the  
10 department.

11 Section 7. Sections 509(b), 512(3) and (7) and 706 of the  
12 act, amended or added July 2, 2008 (P.L.197, No.32), are amended  
13 to read:

14 Section 509. Powers and duties of tax officer.

15 \* \* \*

16 (b) Monthly reports.--

17 (1) The tax officer shall, within 20 days after the end  
18 of each month, provide a written report, on forms prescribed  
19 by the department, to the secretary of the tax collection  
20 committee and to the secretary of each political subdivision  
21 in the tax collection district for which taxes were collected  
22 during the previous month.

23 (2) The report shall include a breakdown of all income  
24 taxes, income generated from investments under subsection (a)  
25 (6), penalties, costs and other money received, collected,  
26 expended and distributed for each political subdivision  
27 served by the tax officer and of all money distributed to tax  
28 officers for other tax collection districts.

29 (3) The report shall also include a calendar year-to-  
30 date total column of all the items enumerated in paragraph

1     (2).

2             (4) In addition to the duty imposed under paragraph (1),  
3     a copy of the December monthly report shall be filed with the  
4     department.

5             \* \* \*

6 Section 512. Withholding and remittance.

7             For taxable years commencing on and after January 1, 2012, or  
8 earlier taxable years if specified by a tax collection district,  
9 income taxes shall be withheld, remitted and reported as  
10 follows:

11            \* \* \*

12            (3) Every employer having an office, factory, workshop,  
13 branch, warehouse or other place of business within a tax  
14 collection district that employs one or more persons, other  
15 than domestic servants, for a salary, wage, commission or  
16 other compensation, shall, at the time of payment, deduct  
17 from the compensation due each employee employed at such  
18 place of business the greater of the employee's resident tax  
19 or the employee's nonresident tax as released in the official  
20 register under section 511. In the case of employees with  
21 temporary job assignments, the employer shall withhold and  
22 remit the following taxes:

23            (i) Employees working for less than 90 consecutive  
24 days at a job location, the greater of the employee's  
25 resident tax or the employee's nonresident tax based on  
26 the location of the permanent home office of the  
27 employer.

28            (ii) Employees working for 90 or more consecutive  
29 days at a job location, the greater of the employee's  
30 resident tax or the employee's nonresident tax based on

1           the job location.

2           (iii) Employees working in the City of Philadelphia  
3           shall be exempt from the provisions of this section and  
4           the act of August 5, 1932 (Sp.Sess., P.L.45, No.45),  
5           referred to as the Sterling Act.

6           \* \* \*

7           (7) On or before February 28 of the succeeding year,  
8           every employer shall file with the tax officer where income  
9           taxes have been deducted and remitted pursuant to paragraph  
10          (3):

11           (i) An annual return showing, for the period  
12           beginning January 1 of the current year and ending  
13           December 31 of the current year, the total amount of  
14           compensation paid, the total amount of income tax  
15           deducted, the total amount of income tax paid to the tax  
16           officer and any other information prescribed by the  
17           department.

18           (ii) An individual withholding statement, which may  
19           be integrated with the Federal Wage and Tax Statement  
20           (Form W-2), for each employee employed during all or any  
21           part of the period beginning January 1 of the current  
22           year and ending December 31 of the current year, setting  
23           forth the address and Social Security number, the amount  
24           of compensation paid to the employee during the period,  
25           the amount of income tax deducted, [the amount of income  
26           tax paid to the tax officer,] the numerical code  
27           prescribed by the department representing the [tax  
28           collection district where the payments required by  
29           paragraphs (4) and (5) were remitted] political  
30           subdivision of the employee's work location, and, in the

1 case where an employer has made an election under  
2 paragraph (5) to file with a single tax collector, the  
3 two-digit code representing the tax collection district  
4 to whose tax collector the withheld taxes were remitted  
5 in the format of xxxxxx-xx and any other information  
6 required by the department. Every employer shall furnish  
7 one copy of the individual withholding statement to the  
8 employee for whom it is filed.

9 \* \* \*

10 Section 706. Penalties.--(a) Except as otherwise provided  
11 in the case of any tax levied and assessed upon income, any such  
12 political subdivision shall have power to prescribe and enforce  
13 reasonable penalties for the nonpayment, within the time fixed  
14 for their payment, of taxes imposed under authority of this act  
15 [and for the violations of the provisions of ordinances or  
16 resolutions passed under authority of this act].

17 (b) If for any reason any tax levied and assessed upon  
18 income by any such political subdivision is not paid when due,  
19 interest and penalties as provided in section 509(i) shall be  
20 added and collected. When suit is brought for the recovery of  
21 any such tax, the person liable therefor shall, in addition, be  
22 liable for the costs of collection and the interest and  
23 penalties herein imposed.

24 (c) In addition to any other power provided by this act, a  
25 tax collector may abate any penalty imposed under any provision  
26 of this act.

27 Section 8. Section 707 of the act is amended by adding a  
28 subsection to read:

29 Section 707. Costs of Collection of Delinquent Per Capita,  
30 Occupation, Occupational Privilege, Emergency and Municipal

1 Services, Local Services and Income Taxes.--\* \* \*

2 (d) A contingent fee audit may not be conducted in the  
3 collection of delinquent taxes.

4 Section 9. This act shall take effect in 60 days.