

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1198 Session of 2015

INTRODUCED BY DUNBAR, BARRAR, GROVE, LAWRENCE, MILLARD, MURT, MUSTIO, PEIFER, PETRI AND REESE, MAY 13, 2015

REFERRED TO COMMITTEE ON FINANCE, MAY 13, 2015

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 corporate net income tax, providing for
 11 amended reports.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
 15 the Tax Reform Code of 1971, is amended by adding a section to
 16 read:

17 Section 406.1. Amended Reports.--(a) Except in instances
 18 where either section 406 or subsection (b) applies, a taxpayer
 19 may file an amended report on a form prescribed by the
 20 department and under oath or affirmation to bring to the
 21 attention of the department a correction to the original report
 22 and provide additional information that the taxpayer requests

1 the department to consider, within three years after the filing
2 of the original report, including extensions.

3 (b) (1) except in instances where a taxpayer would be
4 entitled to an adjustment of its tax liability, a taxpayer may
5 not file an amended report in lieu of a timely appeal of an
6 assessment.

7 (2) A taxpayer may file an amended report prior to the
8 actual receipt of an assessment or, if a petition raising other
9 issues is pending, during the administrative or judicial appeal.

10 (3) The department may issue proposed regulations within six
11 months of the effective date of this section that provide
12 guidance as to when a taxpayer may file an amended report in
13 lieu of a timely appeal of an assessment.

14 (c) (1) In order for the department to consider an amended
15 report, a taxpayer must consent in writing, on a form prescribed
16 by the department, to the extension of the assessment period for
17 the tax year to one year from the date of the filing of the
18 amended report or three years from the filing of the original
19 report, whichever period last expires.

20 (2) At any time before the expiration of the applicable
21 statute of limitations, a taxpayer may consent to extend the
22 period for the department to consider an amended report.

23 (3) A taxpayer shall maintain records until the end of the
24 extended assessment period.

25 (d) An amended report filed with the department must contain
26 the following:

27 (1) An agreement to the extension of the assessment period
28 as described in subsection (b).

29 (2) The calculation of the amended tax liability.

30 (3) Revised Pennsylvania supporting schedules, if

1 applicable.

2 (4) An explanation of the changes being made and the reason
3 for the changes.

4 (5) Other information that the department may request to
5 support the calculation of the amended tax liability.

6 (e) (1) The department shall review an amended report filed
7 prior to the issuance of an assessment.

8 (2) If the department subsequently issues an assessment, any
9 appeal of the taxpayer must be filed in accordance with section
10 2703 and include any issues raised in the amended report with
11 which the taxpayer disagrees with the action of the department.

12 (3) If the department does not issue an assessment and the
13 taxpayer disagrees with the department's action on the amended
14 report, the taxpayer may file an appeal pursuant to subsection
15 (h).

16 (f) An amended report involving a tax year under appeal
17 shall be forwarded to the appropriate administrative appeal
18 board or to the Office of Attorney General to be included in the
19 appeal.

20 (g) (1) Unless the taxpayer has requested or consented to
21 an extension, the department shall review an amended report and
22 advise the taxpayer in writing within one year of the filing
23 date of the amended report whether the department accepts the
24 amended report. The notice shall provide an explanation of the
25 department's action.

26 (2) If the department fails to provide timely notice, the
27 amended report shall be deemed accepted as filed and the
28 department shall adjust its records accordingly.

29 (h) (1) Except where:

30 (i) an amended report has been incorporated into an

1 administrative or judicial proceeding;

2 (ii) an assessment is issued after consideration of an
3 amended report;

4 (iii) an amended report is filed in lieu of a petition for
5 reassessment; or

6 (iv) an amended report requesting a refund or credit was
7 filed more than three years from the date the applicable tax was
8 paid or deemed paid.

9 A taxpayer who disagrees with the action of the department may
10 file an appeal with the board of appeals within ninety days of
11 the mailing date of the written notice required in subsection
12 (g).

13 (2) A taxpayer may not appeal the department's action on an
14 amended report:

15 (i) filed in lieu of a petition for reassessment; or

16 (ii) requesting a refund or credit filed more than three
17 years from the date the applicable tax was paid or deemed paid.

18 (3) If a taxpayer disagrees with the action of the
19 department, in the instance where:

20 (i) an amended report was filed in lieu of a petition for
21 reassessment; or

22 (ii) the taxpayer had the right to pay the assessed tax,
23 interest and penalty and file a petition for refund or credit
24 instead of an amended report.

25 The taxpayer may pay the tax, interest and penalty due and file
26 a petition for refund in accordance with section 3003.1.

27 (i) This section applies to all taxes that incorporate by
28 reference Part III of this article.

29 Section 2. The addition of section 406.1 of the act shall
30 apply to amended reports filed on or after the effective date of

1 this section.

2 Section 3. This act shall take effect immediately.