

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL**No. 356** Session of
2015

INTRODUCED BY FOLMER, EICHELBERGER, BROWNE, VULAKOVICH, ALLOWAY,
AUMENT, HUGHES, SCHWANK, VOGEL AND HUTCHINSON,
JANUARY 29, 2015

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, APRIL 12, 2016

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 consolidated collection of local income taxes, providing for
23 the definition of "farming" and further providing for
24 declaration and payment of income taxes and for withholding
25 and remittance.

26 The General Assembly of the Commonwealth of Pennsylvania
27 hereby enacts as follows:

28 Section 1. Section 501 of the act of December 31, 1965

1 (P.L.1257, No.511), known as The Local Tax Enabling Act, is
2 amended by adding a definition to read:

3 Section 501. Definitions.

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

7 * * *

8 "Farming." Includes all activities that are farming for
9 purposes of section 325 of the act of March 4, 1971 (P.L.6,
10 No.2), known as the Tax Reform Code of 1971.

11 * * *

12 Section 2. Sections 502 and 512 of the act, added July 2,
13 2008 (P.L.197, No.32), are amended to read:

14 Section 502. Declaration and payment of income taxes.

15 (a) Application.--

16 (1) Income taxes shall be applicable to taxable income
17 earned or received based on the method of accounting used by
18 the taxpayer in the period beginning January 1 of the current
19 year and ending December 31 of the current year, except that
20 taxes imposed for the first time and changes to existing tax
21 rates shall become effective on January 1 or July 1, as
22 specified in the ordinance or resolution, and the tax shall
23 continue in force on a calendar year or taxpayer fiscal year
24 basis, without annual reenactment, unless the rate of the tax
25 is subsequently changed.

26 (2) For a taxpayer whose fiscal year is not a calendar
27 year, the tax officer shall establish deadlines for filing,
28 reporting and payment of taxes which provide time periods
29 equivalent to those provided for a calendar year taxpayer.

30 (b) Partial domicile.--The taxable income subject to tax of

1 a taxpayer who is domiciled in a political subdivision for only
2 a portion of the tax year shall be an amount equal to the
3 taxpayer's taxable income multiplied by a fraction, the
4 numerator of which is the number of calendar months during the
5 tax year that the individual is domiciled in the political
6 subdivision, and the denominator of which is 12. A taxpayer
7 shall include in the numerator any calendar month during which
8 the taxpayer is domiciled for more than half the calendar month.
9 A day that a taxpayer's domicile changes shall be included as a
10 day the individual is in the new domicile and not the old
11 domicile. If the number of days in the calendar month in which
12 the individual lived in the old and new domiciles are equal, the
13 calendar month shall be included in calculating the number of
14 months in the new domicile.

15 (c) Declaration and payment.--Except as provided in
16 [subsection (a) (2)] subsections (a) (2) and (d), taxpayers shall
17 declare and pay income taxes as follows:

18 (1) Every taxpayer shall, on or before April 15 of the
19 succeeding year, make and file with the resident tax officer,
20 a final return showing the amount of taxable income received
21 during the period beginning January 1 of the current year and
22 ending December 31 of the current year, the total amount of
23 tax due on the taxable income, the amount of tax paid, the
24 amount of tax that has been withheld under section 512 and
25 the balance of tax due. All amounts reported shall be rounded
26 to the nearest whole dollar. At the time of filing the final
27 return, the taxpayer shall pay the resident tax officer the
28 balance of the tax due or shall make demand for refund or
29 credit in the case of overpayment. Taxpayers may use the
30 Annual Local Earned Income Tax Return form available from the

1 department's publicly accessible Internet website to file the
2 final return.

3 (2) (i) Every taxpayer making net profits shall, by
4 April 15 of the current year, make and file with the
5 resident tax officer a declaration of the taxpayer's
6 estimated net profits during the period beginning January
7 1 and ending December 31 of the current year, and shall
8 pay to the resident tax officer in four equal quarterly
9 installments the tax due on the estimated net profits.
10 The first installment shall be paid at the time of filing
11 the declaration, and the other installments shall be paid
12 on or before [June] July 15 of the current year,
13 [September] October 15 of the current year and January 15
14 of the succeeding year, respectively.

15 (ii) Any taxpayer who first anticipates any net
16 profit after April 15 of the current year shall make and
17 file the declaration required on or before [June] July 15
18 of the current year, [September] October 15 of the
19 current year or [December 31 of the current year] January
20 15 of the succeeding year, whichever date next follows
21 the date on which the taxpayer first anticipates such net
22 profit, and shall pay to the resident tax officer in
23 equal installments the tax due on or before the quarterly
24 payment dates that remain after the filing of the
25 declaration.

26 ~~(ii.1) A taxpayer will be considered to have met the <--~~
27 ~~requirements for declaration and minimum payment of~~
28 ~~estimated tax for any year in which the taxpayer timely~~
29 ~~declares and makes quarterly payments of estimated tax in~~
30 ~~amounts that equal at least one fourth of the total~~

~~income tax due and not withheld under section 512 in the
previous year, provided that the taxpayer can show
through the taxpayer's annual income tax return filed for
the previous year that tax liability was incurred.~~

(iii) Every taxpayer shall, on or before April 15 of the succeeding year, make and file with the resident tax officer a final return showing the amount of net profits earned or received based on the method of accounting used by the taxpayer during the period beginning January 1 of the current year, and ending December 31 of the current year, the total amount of tax due on the net profits and the total amount of tax paid. At the time of filing the final return, the taxpayer shall pay to the resident tax officer the balance of tax due or shall make demand for refund or credit in the case of overpayment. Any taxpayer may, in lieu of paying the fourth quarterly installment of the estimated tax, elect to make and file with the resident tax officer on or before January 31 of the succeeding year, the final return.

(iv) The department, in consultation with the Department of Revenue, shall provide by regulation for the filing of adjusted declarations of estimated net profits and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration required under this subsection anticipates additional net profits not previously declared or has overestimated anticipated net profits.

(v) Every taxpayer who discontinues business prior to December 31 of the current year, shall, within 30 days after the discontinuance of business, file a final return

1 as required under this paragraph and pay the tax due.

2 (3) Every taxpayer who receives any other taxable income
3 not subject to withholding under section 512(3) shall make
4 and file with the resident tax officer a quarterly return on
5 or before April 15 of the current year, [June] July 15 of the
6 current year, [September] October 15 of the current year, and
7 January 15 of the succeeding year, setting forth the
8 aggregate amount of taxable income not subject to withholding
9 by the taxpayer during the three-month periods ending March
10 31 of the current year, June 30 of the current year,
11 September 30 of the current year, and December 31 of the
12 current year, respectively, and subject to income tax,
13 together with such other information as the department may
14 require. Every taxpayer filing a return shall, at the time of
15 filing the return, pay to the resident tax officer the amount
16 of income tax due. The department shall establish criteria
17 under which the tax officer may waive the quarterly return
18 and payment of the income tax and permit a taxpayer to file
19 the receipt of taxable income on the taxpayer's annual return
20 and pay the income tax due on or before April 15 of the
21 succeeding year.

22 (4) If any date prescribed in this section for filing or
23 payment of tax should fall on a Saturday, Sunday or legal
24 holiday, the taxpayer may file or make payment on the next
25 business day.

26 (d) Filing of estimated tax by taxpayers whose major source
27 of gross income is from farming.--Notwithstanding any other
28 provision of this section, a declaration of estimated tax of an
29 individual having an estimated gross income from farming for the
30 taxable year which is at least two-thirds of his total estimated

1 gross income for the taxable year may be filed at any time on or
2 before January 15 of the succeeding year, but if the farmer
3 files a final return and pays the entire tax by March 1, the
4 return may be considered as his declaration due on or before
5 January 15.

6 (e) Restrictions.--In administering the provisions of this
7 section, no political subdivision, tax collection committee or
8 tax officer may:

9 (1) Prohibit a taxpayer from filing any return or
10 declaration required under this section in person or by first
11 class mail.

12 (2) Prohibit a taxpayer from filing any local income tax
13 return form, estimated tax return form or other form related
14 to any filing required under this section that has been
15 posted by the department on its publicly accessible Internet
16 website.

17 (3) Impose a penalty for failing to timely file a
18 quarterly estimated tax return for which no payment of
19 estimated tax was due, as shown in the taxpayer's annual
20 income tax return.

21 (4) IMPOSE A PENALTY ON A TAXPAYER UNLESS IT HAS ISSUED <--
22 A LETTER THAT NOTIFIES THE TAXPAYER THAT THE TAXPAYER IS
23 REQUIRED TO TAKE CORRECTIVE ACTION WITHIN 30 DAYS AND FAILURE
24 TO TAKE CORRECTIVE ACTION WILL RESULT IN A PENALTY BEING
25 IMPOSED ON THE TAXPAYER.

26 Section 512. Withholding and remittance.

27 (a) General rule.--For taxable years commencing on and after
28 January 1, 2012, or earlier taxable years if specified by a tax
29 collection district, income taxes shall be withheld, remitted
30 and reported as follows:

1 (1) Every employer having an office, factory, workshop,
2 branch, warehouse or other place of business within a tax
3 collection district who employs one or more persons, other
4 than domestic servants, for a salary, wage, commission or
5 other compensation, who has not previously registered, shall,
6 within 15 days after becoming an employer, register with the
7 tax officer the name and address of the employer and such
8 other information as the department may require.

9 (2) An employer shall require each new employee to
10 complete a certificate of residency form, which shall be an
11 addendum to the Federal Employee's Withholding Allowance
12 Certificate (Form W-4). An employer shall also require any
13 employee who changes their address or domicile to complete a
14 certificate of residency form. Upon request, certificate of
15 residency forms shall be provided by the department. The
16 certificate of residency form shall provide information to
17 help identify the political subdivisions where an employee
18 lives and works.

19 (3) Every employer having an office, factory, workshop,
20 branch, warehouse or other place of business within a tax
21 collection district that employs one or more persons, other
22 than domestic servants, for a salary, wage, commission or
23 other compensation, shall, at the time of payment, deduct
24 from the compensation due each employee employed at such
25 place of business the greater of the employee's resident tax
26 or the employee's nonresident tax as released in the official
27 register under section 511.

28 (4) Except as set forth in paragraph (5), [within 30
29 days] by the last day of the month following the end of each
30 calendar quarter, every employer shall file a quarterly

1 return and pay the amount of income taxes deducted during the
2 preceding calendar quarter to the tax officer for the place
3 of employment of each employee. The form shall show the name,
4 address and Social Security number of each employee, the
5 compensation of the employee during the preceding three-month
6 period, the income tax deducted from the employee, the
7 political subdivisions imposing the income tax upon the
8 employee, the total compensation of all employees during the
9 preceding calendar quarter, the total income tax deducted
10 from the employees and paid with the return and any other
11 information prescribed by the department.

12 (5) Notwithstanding paragraph (4), the provisions of
13 this paragraph shall apply if an employer has more than one
14 place of employment in more than one tax collection district.
15 [Within 30 days following the last day of each month] On or
16 before the last day of the month succeeding the month for
17 which the return required by paragraph (4) is due, the
18 employer may file the return [required by paragraph (4)] and
19 pay the total amount of income taxes deducted from employees
20 in all work locations during the preceding month to the tax
21 officer for either the tax collection district in which the
22 employer's payroll operations are located or as determined by
23 the department. The return and income taxes deducted shall be
24 filed and paid electronically. The employer must file a
25 notice of intention to file combined returns and make
26 combined payments with the tax officer for each place of
27 employment at least one month before filing its first
28 combined return or making its first combined payment. This
29 paragraph shall not be construed to change the location of an
30 employee's place of employment for purposes of nonresident

1 tax liability.

2 (6) Any employer who, for two of the preceding four
3 quarterly periods, has failed to deduct the proper income
4 tax, or any part of the income tax, or has failed to pay over
5 the proper amount of income tax as required by paragraph (3)
6 to the tax collection district, may be required by the tax
7 officer to file returns and pay the income tax monthly. In
8 such cases, payments of income tax shall be made to the tax
9 officer on or before the last day of the month succeeding the
10 month for which the income tax was withheld.

11 (7) On or before February 28 of the succeeding year,
12 every employer shall file with the tax officer where income
13 taxes have been deducted and remitted pursuant to paragraph
14 (3):

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

22 (ii) An individual withholding statement, which may
23 be integrated with the Federal Wage and Tax Statement
24 (Form W-2), for each employee employed during all or any
25 part of the period beginning January 1 of the current
26 year and ending December 31 of the current year, setting
27 forth the address and Social Security number, the amount
28 of compensation paid to the employee during the period,
29 the amount of income tax deducted, the amount of income
30 tax paid to the tax officer, the numerical code

1 prescribed by the department representing the tax
2 collection district where the payments required by
3 paragraphs (4) and (5) were remitted and any other
4 information required by the department. Every employer
5 shall furnish one copy of the individual withholding
6 statement to the employee for whom it is filed.

7 (8) Any employer who discontinues business prior to
8 December 31 of the current year shall, within 30 days after
9 the discontinuance of business, file returns and withholding
10 statements required under this section and pay the income tax
11 due.

12 (9) Except as otherwise provided in section 511, an
13 employer who willfully or negligently fails or omits to make
14 the deductions required by this subsection shall be liable
15 for payment of income taxes which the employer was required
16 to withhold to the extent that the income taxes have not been
17 recovered from the employee. The failure or omission of any
18 employer to make the deductions required by this section
19 shall not relieve any employee from the payment of the income
20 tax or from complying with the requirements for filing of
21 declarations and returns.

22 (b) Date of filing.--If any date prescribed in this section
23 for filing or payment of tax should fall on a Saturday, Sunday
24 or legal holiday, the filing or payment may be performed on the
25 next business day.

26 ~~(c) Forms. In administering the provisions of this section, <--~~
27 ~~no political subdivision, tax collection committee or tax~~
28 ~~officer may prohibit the use or filing of any applicable form~~
29 ~~posted by the department on its publicly accessible Internet~~
30 ~~website to meet the requirements of this section.~~

1 Section 3. The amendment of sections 501, 502(c) and 512 of
2 the act shall apply to taxable years beginning after the
3 effective date of this section.

4 Section 4. This act shall take effect in 180 days.