

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1059 Session of 2021

INTRODUCED BY HICKERNELL, BROOKS, CIRESI, DUNBAR, FREEMAN, GREINER, JAMES, JOZWIAK, MENTZER, MILLARD, PICKETT, RYAN, SAINATO, SAYLOR, THOMAS, ZIMMERMAN, RADER AND ARMANINI, MARCH 31, 2021

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, JANUARY 25, 2022

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 personal income tax, further providing for
11 withholding tax requirement for nonemployer payors, for <--
12 information statement for nonemployer payors, for information
13 statement for payees and for declarations of estimated tax,
14 providing for electronic payment and further providing for
15 requirements concerning returns, notices, records and
16 statements and for additions, penalties and fees.
17 DECLARATIONS OF ESTIMATED TAX. <--

18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 Section 1. Sections 316.2(a), 317.1, 317.2 and 325(d) of the <--
21 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
22 of 1971, are amended to read:

23 SECTION 1. SECTION 325(A) AND (D) INTRODUCTORY PARAGRAPH OF <--
24 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM

1 CODE OF 1971, ARE AMENDED TO READ:

2 ~~Section 316.2. Withholding Tax Requirement for Nonemployer~~ <--
3 ~~Payors. (a) To the extent not already required to withhold tax~~
4 ~~on payments under section 316.1, a person that:~~

5 ~~(1) makes payments of income from sources within this~~
6 ~~Commonwealth described in section 303(a)(1) or (2) to either a~~
7 ~~nonresident individual or an entity that is disregarded under~~
8 ~~section 307.21 that has a nonresident member; and~~

9 ~~(2) is required under section 335(f)(1) to file a copy of~~
10 ~~form [1099-MISC] 1099-NEC with the department regarding the~~
11 ~~payments;~~

12 ~~shall deduct and withhold from the payments an amount equal to~~
13 ~~the net amount of the payments multiplied by the tax rate~~
14 ~~specified under section 302(b).~~

15 * * *

16 ~~Section 317.1. Information Statement for Nonemployer~~
17 ~~Payors. Every payor required to deduct and withhold tax under~~
18 ~~section 316.2 shall furnish to a payee to whom the payor has~~
19 ~~paid income from sources within this Commonwealth during the~~
20 ~~calendar year a copy of form [1099-MISC] 1099-NEC required under~~
21 ~~section 335(f)(1). The copy of form [1099-MISC] 1099-NEC~~
22 ~~required by this section for each calendar year shall be~~
23 ~~forwarded to the payee on or before March 1 of the year~~
24 ~~succeeding the calendar year.~~

25 ~~Section 317.2. Information Statement for Payees. Every~~
26 ~~payee receiving a copy of form [1099-MISC] 1099-NEC from a payor~~
27 ~~under section 317.1 shall file a duplicate of such information~~
28 ~~return with the payee's State income tax return.~~

29 ~~Section 325. Declarations of Estimated Tax. * * *~~

30 ~~(d) Except as hereinafter provided, the date for filing a~~

1 ~~declaration of estimated tax shall depend upon when the resident~~
2 ~~or nonresident individual, trust or estate determines that his~~
3 ~~or its income on which no tax has been withheld under this~~
4 ~~article can reasonably be expected to exceed [eight thousand~~
5 ~~dollars (\$8,000)] twenty thousand dollars (\$20,000) in the~~
6 ~~taxable year, as follows:~~

7 ~~(1) If the determination is made on or before April 1 of the~~
8 ~~taxable year, a declaration of estimated tax shall be filed no~~
9 ~~later than April 15 of the taxable year.~~

10 ~~(2) If the determination is made after April 1 but before~~
11 ~~June 2 of the taxable year, the declaration shall be filed no~~
12 ~~later than June 15 of such year.~~

13 ~~(3) If the determination is made after June 1 but before~~
14 ~~September 2 of the taxable year, the declaration shall be filed~~
15 ~~no later than September 15 of such year.~~

16 ~~(4) If the determination is made after September 1 of the~~
17 ~~taxable year, the declaration shall be filed no later than~~
18 ~~January 15 of the year succeeding the taxable year.~~

19 * * *

20 ~~Section 2. The act is amended by adding a section to read:~~

21 ~~Section 332.1. Electronic Payment. Any payment in the~~
22 ~~amount of \$5,000 or more remitted to the department for the tax~~
23 ~~imposed under this article shall be remitted electronically as~~
24 ~~prescribed by the department. This section shall not apply to~~
25 ~~employer withholding payments under Part VII of this article and~~
26 ~~section 9 of the act of April 9, 1929 (P.L.343, No.176), known~~
27 ~~as The Fiscal Code, shall continue to apply to employer~~
28 ~~withholding payments.~~

29 ~~Section 3. Sections 335(f)(1) and (2) of the act are amended~~
30 ~~to read:~~

1 ~~Section 335. Requirements Concerning Returns, Notices,~~
2 ~~Records and Statements. * * *~~

3 ~~(f) The following apply:~~

4 ~~(1) Any person who:~~

5 ~~(i) makes payments of Pennsylvania source income that fall~~
6 ~~within any of the eight classes of income enumerated in section~~
7 ~~303(a);~~

8 ~~(ii) makes such payments to an individual, an entity treated~~
9 ~~as a partnership for tax purposes or a single member limited~~
10 ~~liability company; and~~

11 ~~(iii) is required to make a form [1099 MISC] 1099-NEC return~~
12 ~~to the Secretary of the Treasury of the United States with~~
13 ~~respect to such payments, shall file a copy of such form [1099~~
14 ~~MISC] 1099-NEC with the department [and send a copy of such form~~
15 ~~1099-MISC to the payee by March 1 of each year or, if filed~~
16 ~~electronically, by March 31 of each year] on the due date of the~~
17 ~~form 1099-NEC. If the form [1099 MISC] 1099-NEC filed by a payor~~
18 ~~with the Secretary of the Treasury of the United States [is not~~
19 ~~completed in such a manner that] does not include the State~~
20 ~~income and State tax withheld [information, currently boxes 16~~
21 ~~through 18 on Federal form 1099-MISC, is reflected thereon] as~~
22 ~~required under section 316.2, the payor shall update the copies~~
23 ~~of form [1099 MISC] 1099-NEC to be provided pursuant to this~~
24 ~~section to reflect such information prior to filing it with the~~
25 ~~department and sending it to the payee.~~

26 ~~(2) If the payor is required to perform electronic filing~~
27 ~~for Pennsylvania employer withholding purposes, the form [1099~~
28 ~~MISC] 1099-NEC shall be filed electronically with the~~
29 ~~department.~~

30 ~~* * *~~

1 Section 4. ~~Section 352(f) (4) and (5) of the act are amended~~
2 ~~and the section is amended by adding a subsection to read:~~

3 Section 352. ~~Additions, Penalties and Fees. * * *~~

4 ~~(f) * * *~~

5 ~~(4) Any person required to file a copy of form [1099 MISC]~~
6 ~~1099 NEC with the department under the provisions of section~~
7 ~~335(f) who wilfully furnishes a false or fraudulent form or who~~
8 ~~wilfully fails to file the form in the manner, at the time and~~
9 ~~showing the information required under section 335(f) shall, for~~
10 ~~each such failure, be subject to a penalty of fifty dollars~~
11 ~~(\$50).~~

12 ~~(5) Any person required under the provisions of section~~
13 ~~335(f) to furnish a copy of form [1099 MISC] 1099 NEC to a payee~~
14 ~~who wilfully furnishes a false or fraudulent form or who~~
15 ~~wilfully fails to furnish a form in the manner, at the time and~~
16 ~~showing the information required by section 335(f) shall, for~~
17 ~~each such failure, be subject to a penalty of fifty dollars~~
18 ~~(\$50).~~

19 ~~* * *~~

20 ~~(k) If a tax payment is made and the payment does not comply~~
21 ~~with section 332.1 when required, the taxpayer who is liable for~~
22 ~~the tax shall, in addition to any other penalty, interest or~~
23 ~~addition provided by law, be liable for a penalty of three per~~
24 ~~cent of the payment remitted not to exceed five hundred dollars~~
25 ~~(\$500).~~

26 SECTION 325. DECLARATIONS OF ESTIMATED TAX.--(A) (1) EVERY <--
27 RESIDENT AND NONRESIDENT INDIVIDUAL, TRUST AND ESTATE SHALL AT
28 THE TIME HEREINAFTER PRESCRIBED MAKE A DECLARATION OF HIS OR ITS
29 ESTIMATED TAX FOR THE TAXABLE YEAR, CONTAINING SUCH INFORMATION
30 AS THE DEPARTMENT MAY PRESCRIBE BY REGULATIONS, IF HIS OR ITS

1 INCOME, OTHER THAN FROM INCOME ON WHICH TAX IS WITHHELD UNDER
2 THIS ARTICLE, CAN REASONABLY BE EXPECTED TO EXCEED [EIGHT
3 THOUSAND DOLLARS (\$8,000).] THE FOLLOWING DOLLAR AMOUNT FOR THE
4 APPLICABLE TAXABLE YEAR:

<u>TAXABLE YEAR</u>	<u>DOLLAR AMOUNT</u>
<u>2022 AND PRIOR</u>	<u>\$8,000</u>
<u>2023</u>	<u>9,500</u>
<u>2024</u>	<u>11,000</u>
<u>2025</u>	<u>14,000</u>
<u>2026</u>	<u>17,000</u>
<u>2027</u>	<u>20,000</u>

12 (2) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2027, THE
13 DOLLAR AMOUNT UNDER PARAGRAPH (1) SHALL INCREASE ANNUALLY BY
14 FIVE HUNDRED DOLLARS (\$500). THE DEPARTMENT SHALL SUBMIT A
15 NOTICE CONTAINING THE NEW DOLLAR AMOUNT FOR THE TAXABLE YEAR TO
16 THE LEGISLATIVE REFERENCE BUREAU FOR PUBLICATION IN THE
17 PENNSYLVANIA BULLETIN.

18 * * *

19 (D) EXCEPT AS HEREINAFTER PROVIDED, THE DATE FOR FILING A
20 DECLARATION OF ESTIMATED TAX SHALL DEPEND UPON WHEN THE RESIDENT
21 OR NONRESIDENT INDIVIDUAL, TRUST OR ESTATE DETERMINES THAT HIS
22 OR ITS INCOME ON WHICH NO TAX HAS BEEN WITHHELD UNDER THIS
23 ARTICLE CAN REASONABLY BE EXPECTED TO EXCEED [EIGHT THOUSAND
24 DOLLARS (\$8,000) IN THE TAXABLE YEAR,] THE DOLLAR AMOUNT UNDER
25 SUBSECTION (A), AS FOLLOWS:

26 * * *

27 Section 5 2. The amendment of section 325(d) of the act <--
28 shall apply to taxable years beginning after December 31, 2021.

29 Section 6 3. This act shall take effect immediately. <--