

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1709 Session of 2021

INTRODUCED BY WHITE, JUNE 28, 2021

REFERRED TO COMMITTEE ON FINANCE, JUNE 28, 2021

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 tax
11 imposed at partnership level, for income of a Pennsylvania S
12 corporation, for income taxes imposed by other states and for
13 general rule; and, in general provisions, further providing
14 for estimated tax.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 306.2 of the act of March 4, 1971 (P.L.6,
18 No.2), known as the Tax Reform Code of 1971, is amended by
19 adding a subsection to read:

20 Section 306.2. Tax Imposed at Partnership Level.--* * *

21 (f) A partnership, other than a publicly traded partnership,
22 may elect to have subsection (a) apply to all of its income
23 allocable to the resident partners or members and the portion of
24 its income from sources within this Commonwealth allocable to

1 the nonresident partners or members, regardless of amount. The
2 election may be made for any taxable year at any time during the
3 preceding taxable year or at any time on or before the due date
4 or extended due date of the partnership's tax return under
5 section 335, and the election shall be reflected in the
6 statement to each partner required under section 335(c)(3).

7 Section 2. Section 307.8(f) of the act is amended by adding
8 a paragraph to read:

9 Section 307.8. Income of a Pennsylvania S Corporation.--* *
10 *

11 (f) A Pennsylvania S corporation with underreported income
12 shall be subject to the following:

13 * * *

14 (5) A Pennsylvania S corporation may elect to have paragraph
15 (1) apply to all of its income allocable to the resident
16 shareholders and the portion of its income from sources within
17 this Commonwealth allocable to the nonresident shareholders,
18 regardless of amount. The election may be made for any taxable
19 year at any time during the preceding taxable year or at any
20 time on or before the due date or extended due date of the
21 Pennsylvania S corporation tax return under section 330.1, and
22 the election shall be reflected in the statement to each
23 shareholder required under section 330.1(d).

24 Section 3. Section 314(a) of the act is amended and the
25 section is amended by adding a subsection to read:

26 Section 314. Income Taxes Imposed by Other States.--(a) A
27 resident taxpayer before allowance of any credit under section
28 312 shall be allowed a credit against the tax otherwise due
29 under this article for the amount of any income tax, wage tax or
30 tax on or measured by gross or net earned or unearned income

1 imposed on him or on a Pennsylvania S corporation in which he is
2 a shareholder, to the extent of his pro rata share thereof
3 determined in accordance with section 307.9, or on a partnership
4 in which he is a partner or member, to the extent of his
5 distributive share thereof determined in accordance with section
6 306, by another state with respect to income which is also
7 subject to tax under this article. For purposes of this
8 subsection, the term "state" shall only include a state of the
9 United States, the District of Columbia, the Commonwealth of
10 Puerto Rico and any territory or possession of the United
11 States.

12 * * *

13 (c) No credit shall be allowed under this section to the
14 shareholders of a Pennsylvania S corporation for a tax described
15 under this section on its income taxed at the entity level
16 pursuant to an election under section 307.8(f)(5) or to the
17 partners or members of a partnership for above-described tax on
18 its income taxed at the entity level pursuant to an election
19 under section 306.2(f). Each electing Pennsylvania S corporation
20 shall be entitled to a credit under this section for the tax,
21 whether imposed on the Pennsylvania S corporation or on its
22 shareholders, and the credit shall not reduce the credit allowed
23 to the shareholders under section 307.8(f)(1.1). Each electing
24 partnership shall be entitled to a credit under this subsection
25 for the tax, whether imposed on the partnership or on its
26 partners or members, and the credit shall not reduce the credit
27 allowed to the partners or members under section 306.2(a.1).

28 Section 4. Section 324 of the act is amended by adding a
29 subsection to read:

30 Section 324. General Rule.--* * *

1 (c) This section shall not apply to a partnership taxed at
2 the entity level pursuant to an election under section 306.2(f)
3 or to any Pennsylvania S corporation taxed at the entity level
4 pursuant to an election under section 307.8(f) (5).

5 Section 5. Section 3003.2(a) (1) of the act is amended to
6 read:

7 Section 3003.2. Estimated Tax.--(a) The following taxpayers
8 are required to pay estimated tax:

9 (1) Every corporation subject to the corporate net income
10 tax imposed by Article IV of this act, commencing with the
11 calendar year 1986 and fiscal years beginning during the
12 calendar year 1986 and each taxable year thereafter, shall make
13 payments of estimated corporate net income tax. For purposes of
14 this section and section 3003.3, a partnership taxed at the
15 entity level pursuant to an election under section 306.2(f) and
16 a Pennsylvania S corporation taxed at the entity level pursuant
17 to an election under section 307.8(f) (5) shall be treated as a
18 corporation, the tax imposed on the entity under sections
19 306.2(f) and 307.8(f) (5), respectively, shall be deemed to be
20 the corporate net income tax imposed under Article IV, except
21 that this provision shall not apply to the first taxable year of
22 the partnership or Pennsylvania S corporation for which either
23 is applicable.

24 * * *

25 Section 6. This act shall take effect in 60 days.