

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1709 Session of 2021

INTRODUCED BY WHITE, JUNE 28, 2021

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JUNE 7, 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 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 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
16 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
17 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
18 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
19 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
20 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
21 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
22 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
23 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
24 PENALTIES," IN PERSONAL INCOME TAX, FURTHER PROVIDING FOR
25 DEFINITIONS, PROVIDING FOR ALTERNATE TAX IMPOSED AT PASS-
26 THROUGH ENTITY LEVEL AND FURTHER PROVIDING FOR TAXABILITY OF
27 PARTNERS, FOR INCOME OF A PENNSYLVANIA S CORPORATION AND FOR
28 INCOME TAXES IMPOSED BY OTHER STATES.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

31 ~~Section 1. Section 306.2 of the act of March 4, 1971 (P.L.6, <--~~

1 ~~No.2), known as the Tax Reform Code of 1971, is amended by~~  
2 ~~adding a subsection to read:~~

3 ~~Section 306.2. Tax Imposed at Partnership Level. \* \* \*~~

4 ~~(f) A partnership, other than a publicly traded partnership,~~  
5 ~~may elect to have subsection (a) apply to all of its income~~  
6 ~~allocable to the resident partners or members and the portion of~~  
7 ~~its income from sources within this Commonwealth allocable to~~  
8 ~~the nonresident partners or members, regardless of amount. The~~  
9 ~~election may be made for any taxable year at any time during the~~  
10 ~~preceding taxable year or at any time on or before the due date~~  
11 ~~or extended due date of the partnership's tax return under~~  
12 ~~section 335, and the election shall be reflected in the~~  
13 ~~statement to each partner required under section 335(c)(3).~~

14 ~~Section 2. Section 307.8(f) of the act is amended by adding~~  
15 ~~a paragraph to read:~~

16 ~~Section 307.8. Income of a Pennsylvania S Corporation. \* \*~~

17 ~~\*~~

18 ~~(f) A Pennsylvania S corporation with underreported income~~  
19 ~~shall be subject to the following:~~

20 ~~\* \* \*~~

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

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

3       ~~Section 314. Income Taxes Imposed by Other States. (a) A~~  
4 ~~resident taxpayer before allowance of any credit under section~~  
5 ~~312 shall be allowed a credit against the tax otherwise due~~  
6 ~~under this article for the amount of any income tax, wage tax or~~  
7 ~~tax on or measured by gross or net earned or unearned income~~  
8 ~~imposed on him or on a Pennsylvania S corporation in which he is~~  
9 ~~a shareholder, to the extent of his pro rata share thereof~~  
10 ~~determined in accordance with section 307.9, or on a partnership~~  
11 ~~in which he is a partner or member, to the extent of his~~  
12 ~~distributive share thereof determined in accordance with section~~  
13 ~~306, by another state with respect to income which is also~~  
14 ~~subject to tax under this article. For purposes of this~~  
15 ~~subsection, the term "state" shall only include a state of the~~  
16 ~~United States, the District of Columbia, the Commonwealth of~~  
17 ~~Puerto Rico and any territory or possession of the United~~  
18 ~~States.~~

19       \* \* \*

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

~~1 partnership shall be entitled to a credit under this subsection  
2 for the tax, whether imposed on the partnership or on its  
3 partners or members, and the credit shall not reduce the credit  
4 allowed to the partners or members under section 306.2(a.1).~~

5 Section 4. ~~Section 324 of the act is amended by adding a  
6 subsection to read:~~

7 Section 324. General Rule. \* \* \*

8 ~~(c) This section shall not apply to a partnership taxed at  
9 the entity level pursuant to an election under section 306.2(f)  
10 or to any Pennsylvania S corporation taxed at the entity level  
11 pursuant to an election under section 307.8(f)(5).~~

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

14 Section 3003.2. Estimated Tax. (a) ~~The following taxpayers  
15 are required to pay estimated tax:~~

16 ~~(1) Every corporation subject to the corporate net income  
17 tax imposed by Article IV of this act, commencing with the  
18 calendar year 1986 and fiscal years beginning during the  
19 calendar year 1986 and each taxable year thereafter, shall make  
20 payments of estimated corporate net income tax. For purposes of  
21 this section and section 3003.3, a partnership taxed at the  
22 entity level pursuant to an election under section 306.2(f) and  
23 a Pennsylvania S corporation taxed at the entity level pursuant  
24 to an election under section 307.8(f)(5) shall be treated as a  
25 corporation, the tax imposed on the entity under sections  
26 306.2(f) and 307.8(f)(5), respectively, shall be deemed to be  
27 the corporate net income tax imposed under Article IV, except  
28 that this provision shall not apply to the first taxable year of  
29 the partnership or Pennsylvania S corporation for which either  
30 is applicable.~~

1       \* \* \*

2       ~~Section 6. This act shall take effect in 60 days.~~

3       SECTION 1. SECTION 301(W) OF THE ACT OF MARCH 4, 1971       <--  
4       (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED  
5       TO READ:

6       SECTION 301. DEFINITIONS.--ANY REFERENCE IN THIS ARTICLE TO  
7       THE INTERNAL REVENUE CODE OF 1986 SHALL MEAN THE INTERNAL  
8       REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.),  
9       AS AMENDED TO JANUARY 1, 1997, UNLESS THE REFERENCE CONTAINS THE  
10      PHRASE "AS AMENDED" AND REFERS TO NO OTHER DATE, IN WHICH CASE  
11      THE REFERENCE SHALL BE TO THE INTERNAL REVENUE CODE OF 1986 AS  
12      IT EXISTS AS OF THE TIME OF APPLICATION OF THIS ARTICLE. THE  
13      FOLLOWING WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE  
14      SHALL HAVE THE MEANING ASCRIBED TO THEM IN THIS SECTION EXCEPT  
15      WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

16      \* \* \*

17      (W) "TAXPAYER" MEANS ANY INDIVIDUAL, ESTATE OR TRUST SUBJECT  
18      TO THE TAX IMPOSED BY THIS ARTICLE, ANY PARTNERSHIP HAVING A  
19      PARTNER WHO IS A TAXPAYER UNDER THIS ACT, ANY PENNSYLVANIA S  
20      CORPORATION HAVING A SHAREHOLDER WHO IS A TAXPAYER UNDER THIS  
21      ACT [AND], ANY PERSON REQUIRED TO WITHHOLD TAX UNDER THIS  
22      ARTICLE AND, UNLESS OTHERWISE PROVIDED, A PASS-THROUGH ENTITY  
23      THAT ELECTS TO PAY THE TAX IMPOSED UNDER SECTION 302.3.

24      SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

25      SECTION 302.3. ALTERNATE TAX IMPOSED AT PASS-THROUGH ENTITY  
26      LEVEL.--(A) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ACT, A  
27      PASS-THROUGH ENTITY MAY ELECT, ON AN ANNUAL BASIS, TO HAVE THE  
28      TAX IMPOSED UNDER THIS ARTICLE APPLIED TO THE INCOME OF THE  
29      PASS-THROUGH ENTITY. THE FOLLOWING SHALL APPLY:

30      (1) AN ELECTING PASS-THROUGH ENTITY SHALL BE SUBJECT TO AND

1 SHALL PAY A TAX IMPOSED AT THE RATE PROVIDED IN SECTION 302(B)  
2 ON:

3 (I) EACH RESIDENT TAXABLE OWNER'S SHARE OF EACH CLASS OF  
4 INCOME AND GAIN ENUMERATED IN SECTION 303 FOR THE TAXABLE YEAR.

5 (II) EACH NONRESIDENT TAXABLE OWNER'S SHARE OF EACH CLASS OF  
6 INCOME AND GAIN ENUMERATED IN SECTION 303 FROM SOURCES WITHIN  
7 THIS COMMONWEALTH FOR THE TAXABLE YEAR.

8 (2) AN ELECTING RESIDENT PENNSYLVANIA S CORPORATION SHALL BE  
9 SUBJECT TO AND SHALL PAY A TAX IMPOSED AT THE RATE PROVIDED IN  
10 SECTION 302(B) ON EACH RESIDENT TAXABLE OWNER'S SHARE OF EACH  
11 CLASS OF INCOME AND GAIN ENUMERATED IN SECTION 303 FOR THE  
12 TAXABLE YEAR.

13 (3) AN ELECTING STANDARD PENNSYLVANIA S CORPORATION SHALL BE  
14 SUBJECT TO AND SHALL PAY A TAX IMPOSED AT THE RATE PROVIDED IN  
15 SECTION 302(B) ON EACH TAXABLE OWNER'S SHARE OF EACH CLASS OF  
16 INCOME AND GAIN ENUMERATED IN SECTION 303 FROM SOURCES WITHIN  
17 THIS COMMONWEALTH FOR THE TAXABLE YEAR.

18 (4) AN ENTITY THAT IS DISREGARDED FOR TAX PURPOSES UNDER  
19 THIS ARTICLE SHALL BE DISREGARDED FOR PURPOSES OF DETERMINING IF  
20 AN INDIVIDUAL, ESTATE OR TRUST IS A TAXABLE OWNER OF AN INTEREST  
21 IN THE INCOME, GAIN OR LOSS OF A PASS-THROUGH ENTITY THAT MAKES  
22 AN ELECTION UNDER THIS SECTION.

23 (5) FOR PURPOSES OF DETERMINING THE TAX UNDER THIS  
24 SUBSECTION, THE RESIDENCE OF A TAXABLE OWNER SHALL BE DETERMINED  
25 AS OF THE LAST DAY OF THE PASS-THROUGH ENTITY'S TAXABLE YEAR.

26 (6) IN DETERMINING ITS TAX UNDER THIS SECTION, A PASS-  
27 THROUGH ENTITY THAT OWNS A DIRECT OR INDIRECT OWNERSHIP INTEREST  
28 IN ONE OR MORE PASS-THROUGH ENTITIES SHALL INCLUDE ITS SHARE OF  
29 EACH CLASS OF INCOME ENUMERATED IN SECTION 303 RECEIVED FROM  
30 THOSE PASS-THROUGH ENTITIES. THE PASS-THROUGH ENTITY THAT

1 GENERATES AN ITEM OF INCOME, GAIN OR LOSS SHALL DETERMINE ITS  
2 CLASSIFICATION AND WHETHER THAT ITEM OF INCOME, GAIN OR LOSS  
3 CONSTITUTES INCOME OR LOSS FROM SOURCES WITHIN THIS  
4 COMMONWEALTH.

5 (7) GUARANTEED PAYMENTS MADE TO A PARTNER IN A PARTNERSHIP  
6 SHALL BE TREATED AS ADDITIONAL INCOME ALLOCATED TO THE PARTNER.  
7 WITH RESPECT TO A NONRESIDENT TAXABLE OWNER, ONLY GUARANTEED  
8 PAYMENTS THAT CONSTITUTE INCOME FROM SOURCES WITHIN THIS  
9 COMMONWEALTH SHALL BE SUBJECT TO THE TAX UNDER THIS SECTION.

10 (8) IN DETERMINING THE TAX UNDER THIS SECTION, A PASS-  
11 THROUGH ENTITY SHALL NOT BE PERMITTED TO USE ANY TAX CREDITS  
12 OTHERWISE AVAILABLE TO THE PASS-THROUGH ENTITY EXCEPT A CREDIT  
13 FOR ESTIMATED TAXES PAID FOR THE CURRENT TAXABLE YEAR UNDER THIS  
14 SECTION OR AN OVERPAYMENT OF A PRIOR-YEAR TAX PAID UNDER THIS  
15 SECTION.

16 (B) (1) ANY ELECTION DESCRIBED UNDER SUBSECTION (A) SHALL  
17 BE MADE BY AN INDIVIDUAL WITH AUTHORITY TO BIND THE PASS-THROUGH  
18 ENTITY OR SIGN RETURNS UNDER THIS ARTICLE OR WHO IS AUTHORIZED  
19 TO MAKE THE ELECTION AND REPRESENTS TO HAVING THE AUTHORIZATION  
20 UNDER PENALTY OF PERJURY ON OR BEFORE THE FIFTEENTH DAY OF THE  
21 FOURTH MONTH OF THE PASS-THROUGH ENTITY'S TAXABLE YEAR IN A  
22 MANNER PRESCRIBED BY THE DEPARTMENT.

23 (2) IN INSTANCES WHERE A PASS-THROUGH ENTITY DOES NOT HAVE  
24 EITHER A RESIDENT INDIVIDUAL, ESTATE OR TRUST AS A PARTNER,  
25 MEMBER, SHAREHOLDER OR BENEFICIARY, OR INCOME OR LOSS FROM  
26 SOURCES WITHIN THIS COMMONWEALTH AS OF THE FIFTEENTH DAY OF THE  
27 FOURTH MONTH OF ITS TAXABLE YEAR, THE PASS-THROUGH ENTITY MAY  
28 MAKE AN ELECTION WITHIN NINETY DAYS OF THE EARLIER OF MEETING  
29 EITHER THE OWNERSHIP OR INCOME OR LOSS REQUIREMENT.

30 (3) AN ELECTION UNDER THIS SECTION SHALL TAKE EFFECT FOR THE

1 TAXABLE YEAR IN WHICH THE ELECTION IS SUBMITTED TO THE  
2 DEPARTMENT. ONLY ONE ELECTION MAY BE SUBMITTED BY AN INDIVIDUAL  
3 IDENTIFIED UNDER CLAUSE (1) ON BEHALF OF THE PASS-THROUGH ENTITY  
4 TO THE DEPARTMENT FOR THE TAXABLE YEAR.

5 (4) AN ELECTION MADE UNDER THIS SECTION SHALL BE IRREVOCABLE  
6 FOR THE TAXABLE YEAR.

7 (5) AN ELECTION UNDER THIS SECTION MAY BE MADE ONLY FOR TAX  
8 YEARS THAT THE LIMITATION ON INDIVIDUAL DEDUCTIONS APPLIES UNDER  
9 SECTION 164(B) (6) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC  
10 LAW 99-514, 26 U.S.C. § 164(B) (6)).

11 (C) (1) A TAXABLE OWNER OF AN INTEREST IN A PASS-THROUGH  
12 ENTITY THAT ELECTS TO PAY TAX UNDER SUBSECTION (A) SHALL BE  
13 ALLOWED A REFUNDABLE CREDIT AGAINST THE TAX IMPOSED UNDER  
14 SECTION 302 IN THE AMOUNT OF THE TAXABLE OWNER'S SHARE OF THE  
15 TAX THAT THE PASS-THROUGH ENTITY ACTUALLY PAID UNDER THIS  
16 SECTION. A TAXABLE OWNER'S SHARE OF THE TAX SHALL TAKE INTO  
17 ACCOUNT GUARANTEED PAYMENTS AND OTHER SPECIAL ALLOCATIONS MADE  
18 TO THE OWNER.

19 (2) A TAXABLE OWNER SHALL BE ENTITLED TO CLAIM THE CREDIT  
20 UNDER CLAUSE (1) ON THE TAXABLE OWNER'S TAX RETURN THAT INCLUDES  
21 THE LAST DAY OF THE TAXABLE YEAR OF THE PASS-THROUGH ENTITY.

22 (3) THE CREDIT ALLOWED UNDER THIS SUBSECTION SHALL BE  
23 APPLIED AFTER THE APPLICATION OF ALL OTHER TAX CREDITS AVAILABLE  
24 TO THE OWNER FOR THE TAXABLE YEAR. IF THE AMOUNT OF THE CREDIT  
25 ALLOWABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR EXCEEDS THE  
26 TAX DUE FOR THE YEAR UNDER THIS ARTICLE, THE EXCESS AMOUNT SHALL  
27 BE TREATED AS AN OVERPAYMENT, TO BE CREDITED OR REFUNDED.

28 (4) NO CREDIT SHALL BE ALLOWED TO A TAXABLE OWNER UNDER  
29 CLAUSE (1) UNLESS THE ELECTING PASS-THROUGH ENTITY PAID THE TAX  
30 IMPOSED UNDER THIS ARTICLE AND PROVIDES THE DEPARTMENT ON ITS



1 TAX RETURN ALL THE INFORMATION REQUIRED IN SUBSECTION (E) (2) AND  
2 (3).

3 (5) THE AGGREGATE AMOUNT OF CREDITS CLAIMED BY ALL TAXABLE  
4 OWNERS OF A PASS-THROUGH ENTITY UNDER CLAUSE (1) MAY NOT EXCEED  
5 THE TAX THAT THE PASS-THROUGH ENTITY PAID UNDER SUBSECTION (A)  
6 FOR THE TAXABLE YEAR.

7 (D) A PASS-THROUGH ENTITY THAT ELECTS TO PAY TAX UNDER  
8 SUBSECTION (A) SHALL BE REQUIRED TO MAKE ESTIMATED TAX PAYMENTS  
9 IN FOUR EQUAL INSTALLMENTS ON OR BEFORE THE FIFTEENTH DAY OF THE  
10 FOURTH, SIXTH AND NINTH MONTH OF ITS TAXABLE YEAR, AND THE  
11 FIFTEENTH DAY OF THE FIRST MONTH OF ITS SUBSEQUENT TAXABLE YEAR.

12 (E) (1) ON OR BEFORE THE DATE PROVIDED UNDER SECTION  
13 330(A), EACH PASS-THROUGH ENTITY THAT ELECTS TO PAY TAX UNDER  
14 SUBSECTION (A) SHALL FILE A RETURN FOR THE TAXABLE YEAR  
15 REPORTING THE INFORMATION REQUIRED UNDER THIS ARTICLE.

16 (2) THE RETURN FILED UNDER CLAUSE (1) SHALL INCLUDE, IN A  
17 FORMAT AS PRESCRIBED BY THE DEPARTMENT, A CERTIFICATION BY AN  
18 INDIVIDUAL AUTHORIZED TO ACT ON BEHALF OF THE PASS-THROUGH  
19 ENTITY, WHICH INCLUDES THE FOLLOWING:

20 (I) A TIMELY, VALID ELECTION TO BE SUBJECT TO THE TAX UNDER  
21 THIS ARTICLE AND WHETHER A PENNSYLVANIA S CORPORATION IS  
22 ELECTING TO BE TREATED AS A RESIDENT PENNSYLVANIA S CORPORATION  
23 OR STANDARD PENNSYLVANIA S CORPORATION.

24 (II) THAT ALL STATEMENTS CONTAINED IN THE CERTIFICATION ARE  
25 TRUE.

26 (3) EACH PASS-THROUGH ENTITY THAT ELECTS TO PAY TAX UNDER  
27 SUBSECTION (A) SHALL REPORT ON A RETURN REQUIRED UNDER THIS  
28 ARTICLE THE FOLLOWING:

29 (I) ANY TAX DUE UNDER THIS ARTICLE. THE BALANCE OF ANY TAX  
30 SHOWN ON THE RETURN, NOT PREVIOUSLY PAID AS INSTALLMENTS OF

1 ESTIMATED TAX OR AN OVERPAYMENT OF A PRIOR-YEAR TAX, SHALL BE  
2 PAID WITH THE RETURN.

3 (II) IDENTIFYING INFORMATION OF EACH TAXABLE OWNER ELIGIBLE  
4 TO RECEIVE A CREDIT UNDER SUBSECTION (C), INCLUDING A SOCIAL  
5 SECURITY NUMBER OR TAX IDENTIFICATION NUMBER AND STATUS AS A  
6 RESIDENT OR NONRESIDENT. THE PASS-THROUGH ENTITY MUST PROVIDE  
7 INFORMATION SUFFICIENT TO IDENTIFY A DISREGARDED ENTITY AND ITS  
8 TAXABLE OWNERS.

9 (III) FOR EACH TAXABLE OWNER WHO WILL BE ENTITLED TO CLAIM A  
10 CREDIT ON A TAX RETURN, THE TAXABLE OWNER'S SHARE OF THE TAX  
11 IMPOSED ON THE PASS-THROUGH ENTITY UNDER THIS SECTION.

12 (IV) EACH RESIDENT TAXABLE OWNER'S SHARE OF THE PASS-THROUGH  
13 ENTITY'S INCOME AND EACH NONRESIDENT TAXABLE OWNER'S SHARE OF  
14 INCOME FROM SOURCES FROM WITHIN THIS COMMONWEALTH INCLUDED IN  
15 THE TAX BASE UNDER THIS SECTION.

16 (V) THE CLASSIFICATION OF EACH OWNER AS A TAXABLE RESIDENT  
17 OR NONRESIDENT FOR PURPOSES OF CALCULATING THE PASS-THROUGH  
18 ENTITY'S TAX LIABILITY UNDER THIS SECTION.

19 (VI) ANY OTHER INFORMATION AS REQUIRED BY THE DEPARTMENT.

20 (4) A PASS-THROUGH ENTITY THAT ELECTS TO PAY TAX UNDER  
21 SUBSECTION (A) SHALL NOT BE REQUIRED TO WITHHOLD TAX FROM A  
22 NONRESIDENT TAXABLE OWNER UNDER SECTION 324.

23 (5) TO MEET THE REQUIREMENTS OF THIS SECTION, IF A TAXABLE  
24 OWNER HOLDS AN INTEREST IN THE PASS-THROUGH ENTITY THROUGH AN  
25 ENTITY THAT IS A DISREGARDED ENTITY FOR PURPOSES OF THIS  
26 ARTICLE, THE PASS-THROUGH ENTITY MUST PROVIDE INFORMATION  
27 SUFFICIENT TO IDENTIFY BOTH THE DISREGARDED ENTITY THAT HOLDS AN  
28 INTEREST IN THE PASS-THROUGH ENTITY AND THE TAXABLE OWNER THAT  
29 OWNS THE DISREGARDED ENTITY AND IS ELIGIBLE FOR A CREDIT UNDER  
30 SUBSECTION (C).

1     (6) EACH PASS-THROUGH ENTITY PAYING TAX UNDER THIS SECTION  
2 SHALL REPORT TO EACH TAXABLE OWNER REQUIRED TO FILE A RETURN  
3 UNDER THIS ARTICLE A STATEMENT THAT CONTAINS THE FOLLOWING  
4 INFORMATION:

5     (I) CLASSIFICATION AS A RESIDENT TAXABLE OWNER OR A  
6 NONRESIDENT TAXABLE OWNER FOR PURPOSES OF CALCULATING THE PASS-  
7 THROUGH ENTITY'S TAX UNDER SUBSECTION (A).

8     (II) THE TAXABLE OWNER'S ALLOCABLE SHARE OF THE PASS-THROUGH  
9 ENTITY'S INCOME INCLUDED IN THE TAX BASE FOR PURPOSES OF  
10 COMPUTING THE TAX UNDER SUBSECTION (A).

11     (III) THE OWNER'S ALLOCABLE SHARE OF THE TAX PAID UNDER  
12 SUBSECTION (A).

13     (IV) ANY OTHER INFORMATION, AS REQUIRED BY THE DEPARTMENT.

14     (F) (1) ANY ASSESSMENT OF TAX IMPOSED UNDER THIS SECTION,  
15 INCLUDING INTEREST, PENALTIES AND ADDITIONS, SHALL BE ASSESSED  
16 AGAINST THE PASS-THROUGH ENTITY AT THE TAX RATE APPLICABLE TO  
17 THE TAX YEAR. THE DEPARTMENT MAY NOT ASSESS ANY ADDITIONAL TAX,  
18 INCLUDING INTEREST, PENALTIES AND ADDITIONS, AGAINST THE TAXABLE  
19 OWNERS.

20     (2) ANY DETERMINATION OF AN OVERPAYMENT OR REFUND OF TAX  
21 IMPOSED UNDER THIS SECTION MADE SUBSEQUENT TO THE FILING OF THE  
22 RETURN UNDER SUBSECTION (E) SHALL BE MADE AT THE PASS-THROUGH  
23 ENTITY LEVEL AT THE TAX RATE APPLICABLE TO THE TAX YEAR.

24     (3) THE PASS-THROUGH ENTITY SHALL BE REQUIRED TO PROVIDE  
25 EACH OWNER A STATEMENT OF ANY ADJUSTMENT OF THE TAXABLE OWNER'S  
26 CREDIT WITHIN NINETY DAYS OF AN ASSESSMENT, OVERPAYMENT OR  
27 REFUND BECOMING FINAL.

28     (4) THE TAXABLE OWNER SHALL REPORT THE ADJUSTMENT OF THE  
29 CREDIT ON AN AMENDED RETURN FOR THE TAXABLE OWNER'S TAXABLE YEAR  
30 THAT INCLUDES THE PASS-THROUGH ENTITY'S TAXABLE YEAR FOR WHICH

1 THE TAX WAS ASSESSED.

2 (5) ONLY THE PASS-THROUGH ENTITY MAY APPEAL OR SETTLE AN  
3 ASSESSMENT OR OVERPAYMENT OF TAX ISSUED UNDER THIS SECTION OR  
4 PETITION FOR A REFUND OF TAX IMPOSED UNDER THIS SECTION.

5 (G) THE BASIS OF BOTH A RESIDENT TAXABLE OWNER AND  
6 NONRESIDENT TAXABLE OWNER OF A PASS-THROUGH ENTITY THAT ELECTS  
7 TO PAY TAX UNDER SUBSECTION (A) SHALL BE DETERMINED AS IF THE  
8 ELECTION UNDER SUBSECTION (B) HAD NOT BEEN MADE AND EACH OF THE  
9 TAXABLE OWNERS OF THE TAXED PASS-THROUGH ENTITY HAD PROPERLY  
10 TAKEN INTO ACCOUNT EACH TAXABLE OWNER'S PRO RATA SHARE OF THE  
11 TAXED PASS-THROUGH ENTITY'S ITEMS OF INCOME, GAIN, LOSS AND  
12 DEDUCTION IN THE MANNER REQUIRED WITH RESPECT TO A PASS-THROUGH  
13 ENTITY FOR WHICH NO SUCH ELECTION IS IN EFFECT.

14 (H) (1) UNLESS OTHERWISE PROVIDED IN THIS SECTION, THE  
15 PROVISIONS OF THIS ARTICLE SHALL APPLY TO THIS SECTION.

16 (2) THE DEPARTMENT MAY ISSUE GUIDELINES AND PROMULGATE  
17 REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

18 (I) (1) IN THE CASE OF ANY TAXABLE YEAR THAT INCLUDES THE  
19 EFFECTIVE DATE OF THIS SECTION, A PASS-THROUGH ENTITY MAY FILE  
20 AN ELECTION UNDER SUBSECTION (B) (1) AT ANY TIME WITHIN NINETY  
21 DAYS OF THE EFFECTIVE DATE OF THIS SECTION PROVIDED THAT IF THE  
22 ELECTION IS MADE, THE PASS-THROUGH ENTITY MUST, ON OR BEFORE THE  
23 DATE THE NEXT ESTIMATED TAX PAYMENT IS DUE AFTER THE ELECTION,  
24 MAKE AN ESTIMATED TAX PAYMENT EQUAL TO THE TOTAL ESTIMATED TAX  
25 THAT WOULD HAVE BEEN DUE FOR THE TAX YEAR HAD THE ELECTION BEEN  
26 MADE FOR THE FULL TAX YEAR, AND ANY NONRESIDENT WITHHOLDING MADE  
27 UNDER SECTION 324 BY THE PASS-THROUGH ENTITY FOR THE CURRENT TAX  
28 YEAR MAY BE APPLIED BY THE PASS-THROUGH ENTITY AGAINST ITS  
29 ESTIMATED TAX LIABILITY.

30 (2) IN THE CASE OF ANY TAXABLE YEAR THAT INCLUDES THE

1 EFFECTIVE DATE OF THIS SECTION, ANY NONRESIDENT WITHHOLDING MADE  
2 UNDER SECTION 324 BY THE PASS-THROUGH ENTITY FOR THE CURRENT TAX  
3 YEAR FOR AN OWNER SHALL BE APPLIED BY THE PASS-THROUGH ENTITY  
4 AGAINST ITS ESTIMATED TAX LIABILITY.

5 (3) IN THE CASE OF ANY TAXABLE YEAR THAT INCLUDES THE  
6 EFFECTIVE DATE OF THIS SECTION, THE DEPARTMENT MAY NOT ASSESS  
7 INTEREST AND PENALTIES AGAINST AN ELIGIBLE PASS-THROUGH ENTITY  
8 FOR ANY UNDERPAYMENT OF ESTIMATED TAX DUE UNDER SUBSECTION (D),  
9 SO LONG AS THE ELIGIBLE PASS-THROUGH ENTITY ACTED IN GOOD FAITH  
10 WITH NO INTENT TO DEFRAUD THE COMMONWEALTH.

11 (J) AS USED IN THIS SECTION, THE FOLLOWING WORDS AND PHRASES  
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SUBSECTION UNLESS  
13 THE CONTEXT CLEARLY INDICATES OTHERWISE:

14 "ELECTING PASS-THROUGH ENTITY." A PASS-THROUGH ENTITY THAT  
15 ELECTS AT THE TIME IT MAKES ITS ELECTION TO BE SUBJECT TO THE  
16 TAX UNDER THIS SECTION TO DETERMINE ITS TAX IN ACCORDANCE WITH  
17 SUBSECTION (A) (1), (4), (5), (6), (7) AND (8).

18 "ELECTING RESIDENT PENNSYLVANIA S CORPORATION." A  
19 PENNSYLVANIA S CORPORATION THAT IS A PASS-THROUGH ENTITY WHOSE  
20 SHAREHOLDERS ONLY INCLUDE RESIDENT INDIVIDUALS, ESTATES OR  
21 TRUSTS, AND DISREGARDED ENTITIES WHOSE OWNERS ONLY INCLUDE  
22 RESIDENT INDIVIDUALS, ESTATES OR TRUSTS THAT ELECTS AT THE TIME  
23 IT MAKES ITS ELECTION TO BE SUBJECT TO THE TAX UNDER THIS  
24 SECTION TO DETERMINE ITS TAX IN ACCORDANCE WITH SUBSECTION (A)  
25 (2), (4), (5), (6), (7) AND (8).

26 "ELECTING STANDARD PENNSYLVANIA S CORPORATION." A  
27 PENNSYLVANIA S CORPORATION THAT IS A PASS-THROUGH ENTITY WHOSE  
28 SHAREHOLDERS ONLY INCLUDE RESIDENT AND NONRESIDENT INDIVIDUALS,  
29 ESTATES OR TRUSTS, AND DISREGARDED ENTITIES WHOSE OWNERS ONLY  
30 INCLUDE RESIDENT AND NONRESIDENT INDIVIDUALS, ESTATES OR TRUSTS

1 THAT ELECTS AT THE TIME IT MAKES ITS ELECTION TO BE SUBJECT TO  
2 THE TAX UNDER THIS SECTION TO DETERMINE ITS TAX IN ACCORDANCE  
3 WITH SUBSECTION (A) (3), (4), (5), (6), (7) AND (8).

4 "NONRESIDENT TAXABLE OWNER." AN INDIVIDUAL, ESTATE OR TRUST  
5 SUBJECT TO THE TAX IMPOSED UNDER THIS ARTICLE, OTHER THAN A  
6 RESIDENT TAXABLE OWNER, THAT IS A PARTNER, SHAREHOLDER, MEMBER  
7 OR OTHER OWNER OF AN INTEREST IN A PASS-THROUGH ENTITY THAT HAS  
8 INCOME FROM SOURCES WITHIN THIS COMMONWEALTH.

9 "PARTNERSHIP." A DOMESTIC OR FOREIGN GENERAL PARTNERSHIP,  
10 JOINT VENTURE, LIMITED PARTNERSHIP, LIMITED LIABILITY COMPANY,  
11 BUSINESS TRUST OR OTHER UNINCORPORATED ENTITY THAT FOR FEDERAL  
12 INCOME TAX PURPOSES IS CLASSIFIED AS A PARTNERSHIP. THE TERM  
13 DOES NOT INCLUDE A PUBLICLY TRADED PARTNERSHIP.

14 "PASS-THROUGH ENTITY." A PARTNERSHIP OR PENNSYLVANIA S  
15 CORPORATION.

16 "RESIDENT TAXABLE OWNER." A RESIDENT INDIVIDUAL, RESIDENT  
17 TRUST OR RESIDENT ESTATE THAT IS A PARTNER, SHAREHOLDER, MEMBER  
18 OR OTHER OWNER OF AN INTEREST IN A PASS-THROUGH ENTITY.

19 "TAXABLE OWNER." A RESIDENT TAXABLE OWNER OR NONRESIDENT  
20 TAXABLE OWNER.

21 SECTION 3. SECTIONS 306, 307.8(A) AND 314 OF THE ACT ARE  
22 AMENDED TO READ:

23 SECTION 306. TAXABILITY OF PARTNERS.--EXCEPT AS PROVIDED  
24 UNDER [SECTION] SECTIONS 302.3 AND 306.2, A PARTNERSHIP AS AN  
25 ENTITY SHALL NOT BE SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE,  
26 BUT THE INCOME OR GAIN OF A MEMBER OF A PARTNERSHIP IN RESPECT  
27 OF SAID PARTNERSHIP SHALL BE SUBJECT TO THE TAX AND THE TAX  
28 SHALL BE IMPOSED ON HIS SHARE, WHETHER OR NOT DISTRIBUTED, OF  
29 THE INCOME OR GAIN RECEIVED BY THE PARTNERSHIP FOR ITS TAXABLE  
30 YEAR ENDING WITHIN OR WITH THE MEMBER'S TAXABLE YEAR.

1 SECTION 307.8. INCOME OF A PENNSYLVANIA S CORPORATION.-- (A)  
2 A PENNSYLVANIA S CORPORATION SHALL NOT BE SUBJECT TO THE TAX  
3 IMPOSED BY THIS ARTICLE, EXCEPT AS PROVIDED UNDER SUBSECTION (F)  
4 AND SECTION 302.3, BUT THE SHAREHOLDERS OF THE PENNSYLVANIA S  
5 CORPORATION SHALL BE SUBJECT TO THE TAX IMPOSED UNDER THIS  
6 ARTICLE AS PROVIDED IN THIS ARTICLE.

7 \* \* \*

8 SECTION 314. INCOME TAXES IMPOSED BY OTHER STATES.-- (A) A  
9 RESIDENT TAXPAYER BEFORE ALLOWANCE OF ANY CREDIT UNDER SECTION  
10 302.3 OR 312 SHALL BE ALLOWED A CREDIT AGAINST THE TAX OTHERWISE  
11 DUE UNDER THIS ARTICLE FOR THE AMOUNT OF ANY INCOME TAX, WAGE  
12 TAX OR TAX ON OR MEASURED BY GROSS OR NET EARNED OR UNEARNED  
13 INCOME IMPOSED ON HIM OR ON A PENNSYLVANIA S CORPORATION OR  
14 PARTNERSHIP IN WHICH HE IS A DIRECT OR INDIRECT SHAREHOLDER OR  
15 PARTNER, TO THE EXTENT [OF HIS PRO RATA SHARE THEREOF DETERMINED  
16 IN ACCORDANCE WITH SECTION 307.9,] THAT THE TAX WAS IMPOSED ON  
17 THE TAXPAYER'S DISTRIBUTIVE SHARE OR OTHER SHARE THEREOF BY  
18 ANOTHER STATE WITH RESPECT TO INCOME WHICH IS ALSO SUBJECT TO  
19 TAX UNDER THIS ARTICLE. FOR PURPOSES OF THIS SUBSECTION, THE  
20 TERM "STATE" SHALL ONLY INCLUDE A STATE OF THE UNITED STATES,  
21 THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO AND  
22 ANY TERRITORY OR POSSESSION OF THE UNITED STATES.

23 (B) THE CREDIT PROVIDED UNDER THIS SECTION SHALL NOT EXCEED  
24 THE PROPORTION OF THE TAX OTHERWISE DUE UNDER THIS ARTICLE THAT  
25 THE AMOUNT OF THE TAXPAYER'S INCOME SUBJECT TO TAX BY THE OTHER  
26 JURISDICTION BEARS TO HIS ENTIRE TAXABLE INCOME.

27 (C) IN LIEU OF SUBMITTING A COPY OF EACH STATE RETURN IN  
28 WHICH A TAX LIABILITY IS REPORTED AND TAX IS PAID, A PARTNER,  
29 SHAREHOLDER, PARTNERSHIP OR PENNSYLVANIA S CORPORATION MAY  
30 PROVIDE A CERTIFIED STATEMENT THAT REFLECTS EACH PARTNER'S OR

1 SHAREHOLDER'S SHARE OF TAXABLE INCOME, AMOUNT OF STATE INCOME  
2 TAX PAID AND OTHER INFORMATION THAT THE DEPARTMENT REQUIRES.

3 SECTION 4. THIS ACT SHALL APPLY AS FOLLOWS:

4 (1) THE AMENDMENT OR ADDITION OF SECTIONS 301(W), 302.3,  
5 306 AND 307.8(A) OF THE ACT SHALL APPLY TO TAXABLE YEARS  
6 BEGINNING AFTER DECEMBER 31, 2021.

7 (2) THE AMENDMENT OF SECTION 314(A) SHALL APPLY TO  
8 TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2020.

9 SECTION 5. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.