

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1888 Session of 2015

INTRODUCED BY QUINN, PEIFER, SAYLOR, WATSON, MILNE, V. BROWN, COHEN, D. COSTA, DRISCOLL, DUSH, ENGLISH, EVERETT, GIBBONS, GROVE, HARHART, A. HARRIS, PHILLIPS-HILL, KAUFFMAN, MACKENZIE, NEILSON, READSHAW, SANTORA, THOMAS, TOOHIL, MASSER, DAVIS, KAUFER, BENNINGHOFF, ADOLPH, KORTZ AND MICCARELLI, APRIL 1, 2016

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, JUNE 21, 2016

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," providing for tax amnesty program for fiscal year
11 2016-2017.

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 an article to
16 read:

ARTICLE XXIX-G

TAX AMNESTY PROGRAM FOR FISCAL YEAR 2016-2017

19 Section 2901-G. Definitions.

20 The following words, terms and phrases, when used in this

1 article, shall have the meanings ascribed to them in this
2 section, except where the context clearly indicates a different
3 meaning:

4 "Amnesty period." The time period of 60 consecutive days
5 established by the Governor in the fiscal year beginning July 1,
6 2016, and ending June 30, 2017, which shall start no later than
7 120 days after the effective date of this section.

8 "Department." The Department of Revenue of the Commonwealth.

9 "Eligible tax." Any tax administered by the Department of
10 Revenue delinquent as of December 31, 2015. The term includes
11 any interest or penalty on an eligible tax. For an unknown
12 liability, the term shall only include taxes due within five
13 years prior to December 31, 2015. For purposes of taxes
14 collected under the International Fuel Tax Agreement, the term
15 shall apply only to taxes, interest and penalties owed to the
16 Commonwealth, not to other states or Canadian provinces.

17 "Program." The tax amnesty program established under section
18 2902-G as provided for in this article.

19 "Taxpayer." Any person, association, fiduciary, partnership,
20 corporation or other entity required to pay or collect any of
21 the eligible taxes. The term shall not include a taxpayer who,
22 prior to the amnesty period, has received notice that the
23 taxpayer is the subject of a criminal investigation for an
24 alleged violation of any law imposing an eligible tax or who,
25 prior to the amnesty period, has been named as a defendant in a
26 criminal complaint alleging a violation of any law imposing an
27 eligible tax or is a defendant in a pending criminal action for
28 an alleged violation of any law imposing an eligible tax.

29 "Unknown liability." A liability for an eligible tax for
30 which either:

1 (1) no return or report has been filed, no payment has
2 been made and the taxpayer has not been contacted by the
3 department concerning the unfiled returns or reports or
4 unpaid tax; or

5 (2) a return or report has been filed, the tax was
6 underreported and the taxpayer has not been contacted by the
7 department concerning the underreported tax.

8 Section 2902-F 2902-G. Establishment of program. <--

9 (a) General rule.--A tax amnesty program is established and
10 shall be administered by the department.

11 (b) Applicability.--The program shall apply to a taxpayer
12 who is delinquent on payment of a liability for an eligible tax
13 as of December 31, 2015, including a liability for returns not
14 filed, liabilities according to records of the department as of
15 December 31, 2015, liabilities not reported, underreported or
16 not established, but delinquent as of December 31, 2015.

17 (c) Future amnesty program participation.--A taxpayer who
18 participates in the program shall not be eligible to participate
19 in a future tax amnesty program.

20 (d) Deferred payment plan agreement.--Existing deferred
21 payment plan agreements between a taxpayer and the department
22 where the agreement applies to a tax liability for which amnesty
23 is sought by the taxpayer for amounts remaining on the tax
24 liability, the taxpayer, as a condition of receiving amnesty,
25 shall pay the liability, notwithstanding terms of the agreement
26 to the contrary, in full during the amnesty period.

27 Section 2903-G. Required payment.

28 (a) Taxpayer requirements.--Subject to section 2904-G, all
29 taxpayers who participate in the program shall comply with all
30 of the following:

1 (1) During the amnesty period, file a tax amnesty return
2 in such form and containing such information as the
3 department shall require. A tax amnesty return shall be
4 considered to be timely filed if it is postmarked during the
5 amnesty period or timely electronically or otherwise filed.

6 (2) During the amnesty period, make payment of all taxes
7 and one-half of the interest due to the Commonwealth in
8 accordance with the tax amnesty return that is filed. The
9 taxpayer shall not be required to pay any penalty applicable
10 to an eligible tax.

11 (3) File complete tax returns for all required years for
12 which the taxpayer previously has not filed a tax return and
13 file complete amended returns for all required years for
14 which the taxpayer underreported eligible tax liability.

15 (b) Prohibitions.--

16 (1) The department may not collect the penalties or
17 interest waived under subsection (a)(2). Except as otherwise
18 provided in this article, the department shall not pursue
19 administrative or judicial proceeding against a taxpayer with
20 respect to an eligible tax that is disclosed on a tax amnesty
21 return.

22 (2) A taxpayer with unknown liabilities reported and
23 paid under the program and who complies with all other
24 requirements of this article shall not be liable for any
25 taxes of the same type due prior to January 1, 2011. A
26 taxpayer shall not be owed a refund under this article.

27 (c) Financial hardship.--A taxpayer otherwise eligible for
28 amnesty who certifies on an amnesty return that making payment
29 of the full amount of the liability for which amnesty is sought
30 at the time such return is made would create a severe financial

1 hardship for such taxpayer, shall retain eligibility for amnesty
2 if:

3 (1) Fifty percent or more of the amount due as computed
4 is paid with the amnesty return or within the amnesty period.

5 (2) The balance due, including interest under subsection
6 (a) (2), is paid, in no more than two installments on or
7 before the end of the amnesty period.

8 Section 2904-G. Amnesty contingent on continued compliance.

9 Notwithstanding any other provision of this article, the
10 department may assess and collect from a taxpayer all penalties
11 and interest waived through the program if, within two years
12 after the end of the program, either of the following occurs:

13 (1) the taxpayer granted amnesty under this article
14 becomes delinquent for three consecutive periods in payment
15 of taxes due or filing of returns required on a semimonthly,
16 monthly, quarterly or other basis and the taxpayer has not
17 contested the tax liability through a timely valid
18 administrative or judicial appeal; or

19 (2) the taxpayer granted amnesty under this article
20 becomes delinquent and is eight or more months late in
21 payment of taxes due or filing of returns on an annual basis
22 and the taxpayer has not contested the liability through a
23 timely valid administrative or judicial appeal.

24 Section 2905-G. Limitation of deficiency assessment.

25 If, subsequent to the amnesty period, the department issues a
26 deficiency assessment with respect to a tax amnesty return, the
27 department may impose penalties and pursue a criminal action
28 only with respect to the difference between the amount shown on
29 that tax amnesty return and the current amount of tax.

30 Section 2906-G. Overpayment of tax.

1 Notwithstanding any other provisions of this article or any
2 other act, if an overpayment of eligible tax is refunded or
3 credited within 180 days after the tax amnesty return is filed
4 or the eligible tax is paid, whichever is later, no interest
5 shall be allowed on the overpayment.

6 Section 2907-G. Previously paid interest and penalties.

7 No refund or credit shall be allowed for any interest or
8 penalty on eligible taxes paid to the department prior to the
9 amnesty period.

10 Section 2908-G. Proceedings relating to tax amnesty return
11 barred.

12 Participation in the program shall be conditioned upon the
13 taxpayer's agreement that the right to protest or pursue an
14 administrative or judicial proceeding with regard to tax amnesty
15 returns filed under the program or to claim any refund of money
16 paid under the program is barred.

17 Section 2909-G. Undisclosed liabilities.

18 Nothing in this article shall be construed to prohibit the
19 department from instituting civil or criminal proceedings
20 against a taxpayer with respect to an amount of tax that is not
21 disclosed on the tax amnesty return or an amount disclosed on
22 the amnesty return that is not paid.

23 Section 2910-G. Duties of department.

24 (a) Guidelines.--The department shall develop guidelines to
25 implement the provisions of this article. The guidelines shall
26 be published in the Pennsylvania Bulletin within 60 days of the
27 effective date of this section and shall contain, but not be
28 limited to, the following information:

29 (1) An explanation of the program and the requirements
30 for eligibility for the program.

1 (2) The dates during which a tax amnesty return may be
2 filed.

3 (3) A specimen copy of the tax amnesty return.

4 (4) The amnesty revenue estimates required under section
5 2912-G(b).

6 (b) Publicity.--The department shall publicize the program
7 to maximize public awareness of and participation in the
8 program. The department shall coordinate to the highest degree
9 possible its publicity efforts and other actions taken to
10 implement this article.

11 (c) Reports.--The department shall issue reports to the
12 General Assembly detailing program implementation. The reports
13 shall contain the following information:

14 (1) Within 30 days after the end of the amnesty period:

15 (i) A detailed breakdown of the department's
16 administrative costs in implementing the program.

17 (ii) The total dollar amount of revenue collected by
18 the program.

19 (2) Within 180 days after the end of the amnesty period:

20 (i) The number of tax amnesty returns filed and a
21 breakdown of the number and dollar amount of revenue
22 raised for each tax by calendar year during which the tax
23 period ended. In addition, the gross revenues shall be
24 broken down in the following categories:

25 (A) Amounts represented by assessments
26 receivable established by the department on or before
27 the first day of the amnesty period.

28 (B) All other amounts.

29 (ii) The total dollar amount of penalties and
30 interest waived under the program.

1 (iii) The demographic characteristics of tax amnesty
2 participants, including North American Industry
3 Classification System codes of participants, type of
4 taxpayer, consisting of individual, partnership,
5 corporation or other entity, size of tax liability and
6 geographical location.

7 (d) Notification.--The department shall notify in writing
8 all known tax delinquents at the taxpayers' last known addresses
9 of the existence of the program. The sole purpose of the letter
10 sent by the department to taxpayers shall be notification of the
11 program.

12 Section 2911-G. Method of payment.

13 All tax payments under the program shall be made by certified
14 check, money order, electronic transfer, credit card, cash or
15 its equivalent.

16 Section 2912-G. Use of revenue.

17 (a) Restricted revenue account.--Except as set forth in
18 subsection (c), all revenue generated by this article shall be
19 deposited into a restricted revenue account in the General Fund.
20 Revenue from the restricted revenue account shall be distributed
21 as follows:

22 (1) All money from General Fund sources shall be
23 deposited in the General Fund no later than June 30, 2017,
24 less repayment of any costs for administration of the program
25 to the department.

26 (2) All revenue from Motor License Fund sources shall be
27 deposited in the Motor License Fund no later than June 30,
28 2017.

29 (3) All revenue from Liquid Fuels Tax Fund sources shall
30 be deposited in the Liquid Fuels Tax Fund no later than June

1 30, 2017.

2 (b) Revenue estimates.--

3 (1) The department shall submit, for publication in the
4 Pennsylvania Bulletin:

5 (i) a separate amnesty revenue estimate for revenue
6 generated under this article from the following sources:

7 (A) The General Fund.

8 (B) The Motor License Fund.

9 (C) The Liquid Fuels Tax Fund.

10 (ii) The methodology used to develop the estimate.

11 (2) All amnesty revenue estimates shall be submitted for
12 publication pursuant to section 2910-G(a)(4).

13 Section 2913-G. Additional penalty.

14 (a) General rule.--Subject to the limitations provided under
15 subsection (b), a penalty of 5% of the unpaid tax liability and
16 penalties and interest shall be levied against a taxpayer
17 subject to an eligible tax if the taxpayer failed to remit an
18 eligible tax due or had an unreported or underreported liability
19 for an eligible tax on or after the first day following the end
20 of the amnesty period.

21 (b) Nonapplicability.--The penalty provided in this section
22 shall not apply to a taxpayer who:

23 (1) pays the liability in full or entered into a duly
24 approved and executed deferred payment plan on or before the
25 last day of the amnesty period; or

26 (2) has filed a timely and valid administrative or
27 judicial appeal contesting the liability on or before the
28 last day of the amnesty period.

29 (c) Penalty in addition.--The penalty provided by this
30 section shall be in addition to all other penalties provided by

1 law.

2 Section 2914-G. Construction.

3 Except as expressly provided in this article, this article
4 shall not:

5 (1) be construed to relieve a person, corporation or
6 other entity from the filing of a return or from a tax,
7 penalty or interest imposed by the provisions of any law;

8 (2) affect or terminate a petition, investigation,
9 prosecution, legal or otherwise, or other proceeding pending
10 under the provisions of any such law; or

11 (3) prevent the commencement or further prosecution of a
12 proceeding by the proper authorities of the Commonwealth for
13 violation of any such law or for the assessment, settlement,
14 collection or recovery of tax, penalty or interest due to the
15 Commonwealth under any such law.

16 Section 2915-G. Suspension of inconsistent acts.

17 All acts or parts of acts inconsistent with the provisions of
18 this article are suspended to the extent necessary to carry out
19 the provisions of this article.

20 Section 2. This act shall take effect in 60 days.