

No. 71

AN ACT

HB 1138

Amending the act of April 9, 1929 (P.L.343, No.176), entitled "An act relating to the finances of the State government; providing for the settlement, assessment, collection, and lien of taxes, bonus, and all other accounts due the Commonwealth, the collection and recovery of fees and other money or property due or belonging to the Commonwealth, or any agency thereof, including escheated property and the proceeds of its sale, the custody and disbursement or other disposition of funds and securities belonging to or in the possession of the Commonwealth, and the settlement of claims against the Commonwealth, the resettlement of accounts and appeals to the courts, refunds of moneys erroneously paid to the Commonwealth, auditing the accounts of the Commonwealth and all agencies thereof, of all public officers collecting moneys payable to the Commonwealth, or any agency thereof, and all receipts of appropriations from the Commonwealth and imposing penalties; affecting every department, board, commission, and officer of the State government, every political subdivision of the State, and certain officers of such subdivisions, every person, association, and corporation required to pay, assess, or collect taxes, or to make returns or reports under the laws imposing taxes for State purposes, or to pay license fees or other moneys to the Commonwealth, or any agency thereof, every State depository and every debtor or creditor of the Commonwealth," providing for direct refunds of moneys erroneously received by the Department of Transportation and making an editorial change.

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

Section 1. The first paragraph of clause (a) of section 503, act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," amended June 23, 1965 (P.L.134, No.92), is amended to read:

Section 503. Refunds of State Taxes, License Fees, Et Cetera.—The Board of Finance and Revenue shall have the power, and its duty shall be,

(a) **[To] Except as hereinafter provided with respect to the Department of Transportation, to** hear and determine any petition for the refund of taxes, license fees, penalties, fines, bonuses or other moneys paid to the Commonwealth and to which the Commonwealth is not rightfully or equitably entitled and, upon the allowance of any such petition, to refund such taxes, license fees, penalties, fines, bonuses or other moneys, out of the fund into which such taxes, license fees, penalties, fines, bonuses or other moneys were originally paid, or to credit the account of the person, association, corporation, body politic, or public officer entitled to the refund. So much of the proceeds of the various taxes, license fees, penalties, fines, bonuses or other moneys as shall be necessary for the payment of refunds out of the General or Special Funds shall be authorized by the Governor. **In the case of**

moneys erroneously received by the Department of Transportation for motor licenses, permits, rental fees, penalties, fines, bonuses, or other moneys, the Department of Transportation may make direct refunds when necessary from funds appropriated therefor from the proceeds of the various motor license fees, etc. in the Motor License Fund, which appropriations are hereby authorized. A list of the final amounts of any such refunds or credits in excess of five thousand dollars (\$5,000.00) hereafter granted for corporation taxes, the names of the corporations entitled thereto, and a brief summary of the reasons therefor, and a list of the names and final amounts of any such refunds or credits in excess of two hundred dollars (\$200.00) hereafter granted to any persons or corporations shall be available for public inspection. The jurisdiction of the Board of Finance and Revenue to hear and determine a petition for refund, as aforesaid, shall not be affected or limited (I) by the fact that proceedings for review by the Board of Finance and Revenue or appeal to the [court of common pleas of Dauphin County] *Commonwealth Court*, involving the same tax or bonus and period for which a refund is sought, are pending, have been withdrawn, or have been otherwise closed, provided such proceedings relate to other objections than those raised in the petition for refund, or provided such petition for refund is based upon a final judgment or decision of a court of competent jurisdiction holding the act of Assembly under which the petitioner paid the tax or other money involved to be unconstitutional or to have been erroneously interpreted, or (II) the fact that a petition for resettlement or reassessment involving the same tax or bonus and period and involving either the same or different questions than those raised in the petition for refund is pending has been withdrawn or has been otherwise closed. All such petitions for refund must be filed with the board within two years of the payment of which refund is requested, or within two years of the settlement in the case of taxes or bonus, whichever period last expired, except

* * *

Section 2. This act shall take effect July 1, 1975.

APPROVED—The 30th day of July, A. D. 1975.

MILTON J. SHAPP