

No. 240

AN ACT

HB 1490

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing for additions to tax.

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

Section 1. Subsection (e) of section 352, act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," Article III added August 31, 1971 (P.L.362, No.93), is amended to read:

Section 352. Additions.— * * *

(e) Any person required to collect, account for and pay over any tax imposed by this article who wilfully fails to collect such tax or truthfully account for and pay over such tax, or wilfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded or not collected or not accounted for and paid over. No penalty shall be imposed under subsection (b) [or], (c) or (h) for any offense to which this subsection (e) is applicable. *The term "person" as used in this subsection includes an officer or employe of a corporation, or a member or employe of a partnership, who as such officer, employe or member is under a duty to perform the act in respect of which the violation occurs.*

* * *

Section 2. Section 352 of the act is amended by adding a subsection to read:

Section 352. Additions.— * * *

(h) If any amount of tax required to be withheld by an employer and paid over to the department under this article is not paid on or before the due date prescribed under section 319, there shall be added thereto and paid to the department five per cent of such underpayment for each month or fraction thereof from the due date to the date paid, but the total of such additions shall not exceed fifty per cent of the amount of underpayment for such period.

Section 3. This act shall take effect immediately.

APPROVED—The 23rd day of November, A. D. 1976.

MILTON J. SHAPP