

No. 378

## AN ACT

Further amending the act approved the ninth day of April, one thousand nine hundred twenty-nine (Pamphlet Laws 343), 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," making certain information regarding refunds available for public inspection, changing certain provisions as to the imposition and remission of penalties, and granting of refunds, and clarifying provisions as to settlements.

**The Fiscal Code.**

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

Clauses (a), (b) and (c), section 503, act of April 9, 1929, P. L. 343, last amended January 19, 1952, P. L. 2178, further amended.

Section 1. Clauses (a), (b) and (c) of section five hundred three of the act of April nine, one thousand nine hundred twenty-nine (Pamphlet Laws 343), known as "The Fiscal Code," as last amended by the act of January nineteen, one thousand nine hundred fifty-two (Pamphlet Laws 2178), is hereby further amended to read as follows:

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 hear and determine any petition for the refund of taxes, license fees, penalties, fines, bonus, 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, bonus, or other moneys, out of any appropriation or appropriations made for the purpose, or to credit the account of the person, association, corporation, body politic, or public officer entitled to the refund. *A list of the final amounts of any such refunds or credits in excess of five thousand dollars (\$5,000.00) hereafter granted for cor-*

*poration 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 under sections 1103 or 1104 of this act, 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.), or the fact that a petition under section 1102 of this act 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 expires, except*

(1) Where a petition for refund filed by a domestic or foreign corporation involves the valuation of its capital stock, or in case of a foreign corporation the valuation of its tangible property for bonus purposes, or where a petition for refund filed by a bank, title insurance or trust company involves the valuation of its shares of stock, such petition must be filed with the board within one year of the payment of which refund is requested, or within one year of the settlement of such taxes or bonus, whichever period last expires.

(2) When the estate upon which any transfer inheritance tax has been paid shall have consisted in whole or in part of a partnership, or other interest of uncertain value, or shall have been involved in litigation, by reason whereof there shall have been an overvaluation of that portion of the estate on which the tax has been assessed and paid, which overvaluation could not have been ascertained within said period of two years. In such case, the application for repayment shall be made to the Board of Finance and Revenue, within one year from the termination of such litigation, or ascertainment of such overvaluation.

(3) When a court of record has adjudged a person to be legally dead, and thereafter, in the settlement of his or her estate, a transfer inheritance tax shall have been paid on such estate, and, after such payment has been made, such person shall reappear and the court shall rescind its order and adjudication. In such case, the petition to the board shall be filed within six months after the court shall have rescinded its order and adjudication.

(4) When any tax or other money has been paid to the Commonwealth, under a provision of an act of Assembly subsequently held by final judgment of a court of competent jurisdiction to be unconstitutional, or under an interpretation of such provision subsequently held by such court to be erroneous. In such case, the petition to the board may be filed either prior or subsequent to such final judgment but must be filed within five years of the payment of which a refund is requested, or within five years of the settlement of such taxes, bonus or other moneys due the Commonwealth, whichever period last expires. The board shall have jurisdiction to hear and determine any petition for refund filed prior to such final judgment only if, at the time of the filing thereof, proceedings are pending in a court of competent jurisdiction wherein the claims of unconstitutionality or erroneous interpretation made in the petition for refund may be established, and in such case the board shall not act upon the petition for refund until the final judgment determining the question or questions involved in such petition has been handed down.

(b) To hear and determine any petition for the remission of penalties imposed and paid for failure to file any tax or bonus report within the time specified by law. If the board be satisfied that the failure to file the report was not wilful, that the report was actually filed within thirty days after it was due, and that the amount of tax or bonus, exclusive of penalty, admitted to be due, was paid to the Commonwealth within thirty days after the date when payment of the tax or bonus became due, it may allow the petition and refund the amount of the penalty, or any part thereof, out of any appropriation or appropriations made for the purpose, or credit the account of the person, association, corporation, body politic, or public officer by whom or which the penalty was paid, but no such petition shall be considered unless it be filed within two years after the penalty was paid.

*In the case of petitions for the remission of penalties imposed and paid for failure to file tentative reports for the year 1953 or fiscal years beginning in 1953 under Section 4 (b) of the Corporate Net Income Tax, as*

*reenacted and amended, or under Section 4 (b) of the Corporation Income Tax Law, as reenacted and amended, the Board may allow such petitions if it is satisfied that the failure to file the tentative report was not wilful, that the tentative report was actually filed within one (1) year after it was due, and that the amount of tax required to be paid with such tentative report was paid to the Commonwealth within one (1) year after the date when payment of such tax became due, but no such petition shall be considered unless it is filed prior to the first day of July, 1956.*

(c) To hear and determine petitions for the remission of penalties imposed but not paid for failure to file any tax or bonus report within the time specified by law. If the board be satisfied that the failure to file the report was not wilful, that the report was actually filed within thirty days after it was due, and that the amount of tax or bonus, exclusive of penalty, admitted to be due, was paid to the Commonwealth within thirty days after the date when payment of the tax or bonus became due, it may strike off the penalty, or any part thereof, but no such petition shall be considered unless it be filed within two years after the penalty was imposed.

*In the case of petitions for the remission of penalties imposed but not paid for failure to file tentative reports for the year 1953 or fiscal years beginning in 1953 under Section 4 (b) of the Corporate Net Income Tax Act, as reenacted and amended, or under Section 4 (b) of the Corporation Income Tax Law, as reenacted and amended, the Board may allow such petitions if it is satisfied that the failure to file the tentative report was not wilful, that the tentative report was actually filed within one (1) year after it was due, and that the amount of tax required to be paid with such tentative report was paid to the Commonwealth within one (1) year after the date when payment of such tax become due, but no such petition shall be considered unless it be filed prior to the first day of July, 1956.*

Section 2. Clause seven hundred thirty, renumbered seven hundred thirty-one, of the act as last amended by the act of July nine, one thousand nine hundred forty-one (Pamphlet Laws 305), is further amended to read as follows:

Section 731. Confidential Information.—Any information gained by any administrative department, board, or commission, as a result of any returns, investigations, hearings or verifications required or authorized under the statutes of the Commonwealth imposing taxes or bonus for State purposes, or providing for the collection of the same, shall be confidential ex-

Clause 730,  
renumbered 731,  
act of April 9,  
1929, P. L. 343,  
last amended  
July 9, 1941,  
P. L. 305, fur-  
ther amended.

cept for official purposes, and except that such information may be given to any other state or to the Government of the United States, where such state or the United States by law authorizes the furnishing of similar information to the Commonwealth of Pennsylvania. Any person or agent divulging such information shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not in excess of five hundred dollars (\$500.00), or to undergo imprisonment for not more than three (3) years, or both, in the discretion of the court.

*For purposes of this section, information regarding refunds or credits and the names of the persons or corporations entitled thereto, which is available for public inspection under the provisions of this act, shall not be deemed confidential.*

Section 806, act  
of April 9,  
1929, P. L. 343  
last amended  
August 19,  
1953, P. L. 1146  
further  
amended.

Section 3. Section 806 of the act as last amended by the act of August nineteen, one thousand nine hundred fifty-three (Pamphlet Laws 1146), is hereby further amended to read as follows:

Section 806. Interest on Taxes and Bonus Due the Commonwealth.—All tax and bonus due the Commonwealth, as provided by law, shall bear interest at the rate of six per centum per annum from the date they are due and payable until paid: Provided, That in the case of all taxes and bonus which other provisions of this act require taxpayers to compute and pay at the time of filing the report or return, if a settlement is not made within one year after the date upon which the report or return was filed, no interest whatsoever shall be imposed for the period between the end of such one year and sixty days after the date of the approval of the settlement, unless the taxpayer has filed a written waiver permitting interest to run after the end of said one year: Provided further, That no penalties imposed under sections 1701 [and] 1702 and 1705 of this act for failure to file bonus or tax reports on time shall bear any interest whatsoever. The payment of interest, as aforesaid, shall not relieve any person, association, or corporation, from any of the penalties or commissions prescribed by law for neglect or refusal to furnish reports to the Department of Revenue, or to pay any claim due to the Commonwealth from such person, association, or corporation.

Whenever the tax or bonus liability of a taxpayer is so affected by any settlement or resettlement as to change the interest liability which has been settled against such taxpayer, such interest liability shall be adjusted by the Department of Revenue and the Department of the Auditor General so as to correspond to the tax or bonus liability as changed, without the

necessity for the filing of any petition or request by the taxpayer or by said departments.

Section 4. Section 1705 of the act is hereby amended to read as follows:

Section 1705,  
act of April 9,  
1929, P. L. 343,  
amended.

Section 1705. Failure of Bank, Savings Institution, Title Insurance Company, or Trust Company to Make Report, Pay Tax, or Post Notice of Settlement.—If any bank, or savings institution, having capital stock, incorporated by or under any law of this Commonwealth, or under any law of the United States, and located within this Commonwealth, or any title insurance company or trust company, as defined in section seven hundred twelve of this act, shall fail or refuse to make the report required by section seven hundred eleven or section seven hundred twelve of this act, at the times therein specified, or shall make any false statement in such report, or shall fail or refuse, by its officers, to appear before the Department of Revenue, or shall fail or refuse to produce its books for examination when required to do so by the Department of Revenue, the department shall, after having ascertained the actual value of each share of the capital stock of such company from the best information it can obtain, add *the following percentages* thereto [ten percentum] as a penalty, assess the tax, and proceed according to law to collect the same from such company. *On the first one thousand dollars of tax ten per centum, on the next four thousand dollars five per centum, and on everything in excess of five thousand dollars one per centum.* [and] If the president, secretary, or treasurer of any such company shall neglect or refuse to post a copy of the settlement in a conspicuous place in such company's place of business, immediately upon the receipt of the same, so as to give notice to the shareholders, such president, secretary, or treasurer, shall be adjudged to be in default, and, as a penalty for such default, such company shall be responsible to the Commonwealth for the amount of the tax assessed against the shareholders of such company.

Section 5. The provisions of this act shall become effective immediately upon final enactment.

Act effective  
immediately.

APPROVED—The 6th day of March, A. D. 1956.

GEORGE M. LEADER