

AMENDMENTS TO HOUSE BILL NO. 1994

Sponsor: REPRESENTATIVE SAMUELSON

Printer's No. 2528

1 Amend Bill, page 1, lines 1 through 12, by striking out all
2 of said lines and inserting

3 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
4 act relating to tax reform and State taxation by codifying
5 and enumerating certain subjects of taxation and imposing
6 taxes thereon; providing procedures for the payment,
7 collection, administration and enforcement thereof; providing
8 for tax credits in certain cases; conferring powers and
9 imposing duties upon the Department of Revenue, certain
10 employers, fiduciaries, individuals, persons, corporations
11 and other entities; prescribing crimes, offenses and
12 penalties," in corporate net income tax, further providing
13 for definitions; in procedure and administration, further
14 providing for petition for reassessment and for review by
15 board and providing for settlement conference process, for
16 closing agreements and for report to General Assembly; and,
17 in general provisions, further providing for timely filing.

18 Amend Bill, page 1, lines 15 through 21; pages 2 through 9,
19 lines 1 through 30; page 10, lines 1 through 19; by striking out
20 all of said lines on said pages and inserting

21 Section 1. Section 401(3)1(b.2) of the act of March 4, 1971
22 (P.L.6, No.2), known as the Tax Reform Code of 1971, added July
23 11, 2024 (P.L.674, No.56), is amended to read:

24 Section 401. Definitions.--The following words, terms, and
25 phrases, when used in this article, shall have the meaning
26 ascribed to them in this section, except where the context
27 clearly indicates a different meaning:

28 * * *

29 (3) "Taxable income." 1. * * *

30 (b.2) An additional deduction shall be allowed from the
31 taxable income of a medical cannabis business in the amount of
32 the ordinary and necessary expenses that were paid or incurred
33 by the medical cannabis business during the taxable year that
34 are ordinarily deductible for Federal income tax purposes under
35 section 162 of the Internal Revenue Code of 1986 (Public Law 99-

1 514, 26 U.S.C. § 162) if no deduction for ordinary and necessary
2 expenses paid or incurred by the medical cannabis business was
3 taken for Federal income tax purposes for the taxable year. As
4 used in this phrase, the term "medical cannabis business" shall
5 mean a medical marijuana organization as defined in section 103
6 of the act of April 17, 2016 (P.L.84, No.16), known as the
7 "Medical Marijuana Act," that has an active grower/processor
8 permit or dispensary permit during the taxable year for which
9 the deduction is sought.

10 * * *

11 Section 2. Sections 2702(a) and 2704(a) of the act are
12 amended to read:

13 Section 2702. Petition for reassessment.

14 (a) General rule.--[A]

15 (1) Except as provided under paragraph (2), a taxpayer
16 may file a petition for reassessment with the department
17 within 60 days after the mailing date of the notice of
18 assessment.

19 (2) For an assessment of tax imposed under Article III,
20 a taxpayer may file a petition for reassessment with the
21 department within 90 days after the mailing date of the
22 notice of assessment. An extension of time for filing the
23 petition may be allowed for cause but may not exceed an
24 additional 30 days.

25 * * *

26 Section 2704. Review by board.

27 (a) Petition for review of a decision and order.--[Within]

28 (1) Except as provided under paragraph (2), within 60
29 days after the mailing date of the department's notice of
30 decision and order on a petition filed with it, a taxpayer
31 may petition the board to review the decision and order of
32 the department.

33 (2) For an assessment of tax imposed under Article III,
34 a taxpayer may file a petition for review with the board
35 within 90 days after the mailing date of the decision and
36 order of the department. An extension of time for filing the
37 petition may be allowed for cause but may not exceed an
38 additional 30 days.

39 * * *

40 Section 3. The act is amended by adding sections to read:

41 Section 2704.1. Settlement conference process.

42 (a) Settlement officer.--The board shall appoint one or more
43 individuals to serve as a settlement officer for a settlement
44 conference initiated under subsection (b), and the following
45 shall apply:

46 (1) A settlement officer must be a third-party
47 contractor retained by the board.

48 (2) A settlement officer:

49 (i) must be a citizen of the United States;

50 (ii) must be an attorney in good standing before the
51 Supreme Court of Pennsylvania or a certified public

1 accountant in good standing before the State Board of
2 Accountancy;

3 (iii) must have significant experience in a position
4 requiring substantial knowledge of Pennsylvania tax law;
5 and

6 (iv) may not be employed by the department, board or
7 the State Treasurer, other than in the capacity as a
8 settlement officer.

9 (3) A settlement officer:

10 (i) shall be fair and impartial and is not permitted
11 to preside over a settlement conference if the settlement
12 officer cannot conduct it in an impartial manner; and

13 (ii) shall disclose, as soon as practicable, all
14 actual and potential conflicts of interest that are
15 reasonably known to the settlement officer and could
16 reasonably be seen as raising a question about the
17 officer's interest in the outcome unless the petitioner
18 and the department consent in writing.

19 (4) The board may remove a settlement officer at its
20 sole discretion.

21 (5) The State Treasurer shall set the compensation for a
22 settlement officer.

23 (b) Request for settlement conference.--Notwithstanding
24 section 2704(f) (1), either party may submit a request for, or
25 the board may direct, a settlement conference to settle a
26 petition for review of a decision and order under the board's
27 jurisdiction. The request for a settlement conference shall be
28 submitted to the board, unless the settlement conference is
29 directed by the board, by filing a written request with the
30 petition or within 30 days of the petition being filed. The
31 board may allow settlement conferences after the deadline in the
32 exercise of discretion or upon application for good cause. The
33 following shall apply:

34 (1) The board may defer consideration of the petition
35 until after the parties terminate a settlement conference or
36 the settlement conference is deemed terminated under
37 subsection (e). If the board defers consideration of the
38 petition, the board shall issue a decision and order
39 disposing of the petition within six months of the party's
40 refusal to participate in a settlement conference or
41 termination.

42 (2) The party requesting a settlement conference shall
43 simultaneously notify the other party or parties and the
44 board of the request, unless the board initiated the
45 settlement conference.

46 (3) A request for settlement must provide a brief
47 description of the dispute and the relief requested. The
48 nonrequesting party or parties must file a written response
49 with the board and provide a copy to the requesting party in
50 support of or opposition to the settlement conference within
51 10 business days of the requester's submission.

1 (4) The board, within five business days of receipt of
2 the response in support of or opposition to the settlement
3 conference, shall notify the parties in writing whether the
4 board will refer an appeal to a settlement conference.

5 (5) A petitioner may decline to participate in a
6 settlement conference upon providing the board with written
7 notice of its intent not to participate within five business
8 days of receipt of notice of the referral.

9 (c) Settlement conference.--The following shall apply to a
10 settlement conference requested under subsection (b):

11 (1) A settlement conference shall be held no later than
12 60 days from the date the board refers a case for settlement
13 conference.

14 (2) The settlement officer shall set the date, time and
15 place for each conference. The parties shall respond to
16 requests for conference dates in a timely manner, be
17 cooperative in scheduling the earliest practicable date and
18 adhere to the established conference schedule. The settlement
19 officer, in the exercise of discretion or upon application
20 for good cause, may reschedule a conference. The settlement
21 officer shall provide notice of the conference to the parties
22 in advance of the conference date.

23 (3) A settlement conference and related settlement
24 conference communications are private proceedings. A
25 representative of each party must attend each settlement
26 conference. A party is not required to attend each settlement
27 conference unless the party does not have representation.
28 Other individuals may attend a settlement conference only
29 with the permission of the parties and with the consent of
30 the settlement officer.

31 (4) A settlement conference may be conducted virtually
32 or in person.

33 (5) A settlement conference may not be recorded
34 electronically or in any other manner, regardless of the
35 consent of the parties.

36 (6) The following shall apply to representation at a
37 settlement conference:

38 (i) A party is not required to retain representation
39 for a settlement conference.

40 (ii) If a party retains representation, the party
41 may be represented at a settlement conference by any
42 individual of the party's choosing.

43 (iii) Each party must have a representative attend a
44 settlement conference who has the authority to negotiate
45 a settlement, which shall include each party who has not
46 retained representation.

47 (7) The settlement officer shall conduct the settlement
48 conference in an informal manner with the purpose of
49 facilitating a settlement between the petitioner and the
50 department. The settlement officer is authorized to conduct
51 separate or ex parte meetings and other communications with

1 the parties, and any representatives of the parties, before,
2 during and after any scheduled settlement conference.

3 (8) Prior to and during the scheduled settlement
4 conference, the parties and their representatives shall, as
5 appropriate to each party's circumstances, exercise best
6 efforts to prepare for and engage in a meaningful and
7 productive settlement conference.

8 (9) The parties are encouraged to exchange all documents
9 pertinent to the relief requested. The settlement officer may
10 request the exchange of memoranda on issues, including the
11 underlying interests and the history of the parties'
12 negotiations. Information that a party wishes to keep
13 confidential may be sent to the settlement officer, as
14 necessary, in a separate communication with the settlement
15 officer.

16 (10) Confidential information disclosed to a settlement
17 officer by a party in the course of a settlement conference
18 shall not be divulged by the settlement officer. The
19 settlement officer shall maintain the confidentiality of all
20 information obtained in the settlement conference, and all
21 records, reports or other documents received by the
22 settlement officer while serving in that capacity shall be
23 confidential. The settlement officer shall be subject to the
24 provisions and penalties of section 731 of the act of April
25 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

26 (11) The settlement officer must return to each
27 respective party all documents containing confidential
28 information presented at the settlement conference within 30
29 days after the earlier of the date that the board accepts a
30 settlement or the board mails its order deciding the case.

31 (12) A party must submit to the board any documents
32 intended to be used in support of the party's appeal. The
33 documents must be submitted in accordance with the rules and
34 procedures of the board for submitting additional evidence.

35 (13) The settlement officer shall not be compelled to
36 divulge confidential records or to testify in regard to the
37 settlement conference in any administrative, judicial or
38 other proceeding.

39 (14) No confidential or privileged document or other
40 record presented or included in a settlement conference shall
41 be subject to access under the act of February 14, 2008
42 (P.L.6, No.3), known as the Right-to-Know Law.

43 (15) Each party to a settlement conference shall
44 maintain the confidentiality of the settlement conference and
45 shall not rely on or introduce as evidence in any
46 administrative, judicial or other proceeding the following,
47 unless agreed to by the parties or required by applicable
48 law:

49 (i) Views expressed or suggestions made by a party
50 or other participant with respect to a possible
51 settlement of the dispute.

1 (ii) Admissions made by a party or other participant
2 in the course of the settlement conference.

3 (iii) Proposals made or views expressed by the
4 settlement officer.

5 (iv) The fact that a party had or had not indicated
6 willingness to accept a proposal for settlement made by
7 the settlement officer.

8 (16) A settlement officer is not a legal representative
9 of any party and has no fiduciary duty to any party.

10 (d) Postsettlement conference procedures.--

11 (1) The settlement officer shall evaluate the merits of
12 a dispute during the settlement conference. The evaluations
13 shall be communicated to each party privately or, if the
14 parties agree, to all parties jointly. Unless parties agree
15 otherwise, evaluations shall be communicated orally.

16 (2) The settlement officer does not have the authority
17 to impose a settlement on the parties. Subject to the
18 discretion of the settlement officer, the officer may make
19 oral or written recommendations for settlement to a party
20 privately or, if the parties agree, to all parties jointly.

21 (3) In the event a settlement of all or some of the
22 issues in dispute is not achieved within the scheduled
23 settlement conference, the settlement officer may continue to
24 communicate with the parties for a period of time not to
25 exceed 30 days from the date of the settlement conference,
26 during which time the parties agree to negotiate in earnest
27 in an ongoing effort to facilitate a complete settlement.

28 (4) If the parties to a settlement conference come to an
29 agreement, the parties shall present the terms of the
30 settlement to the board for approval in writing signed by all
31 parties within 10 business days after reaching the
32 settlement. The settlement agreement shall be approved by the
33 board if the board determines the agreement is not contrary
34 to law.

35 (5) If the parties to a settlement conference cannot
36 reach a settlement of any or all of the issues, the board
37 shall proceed in accordance with the procedure specified in
38 this act and regulations.

39 (6) A settlement agreement shall not be considered as
40 precedent and cannot be appealed.

41 (e) Termination of a settlement conference.--The settlement
42 conference shall be terminated:

43 (1) by the board approving a settlement agreement by the
44 parties;

45 (2) by a written declaration by the settlement officer
46 that further efforts at a settlement conference would not
47 contribute to a resolution of the parties' dispute;

48 (3) by a written declaration of all parties that the
49 settlement conference is terminated; or

50 (4) when the settlement officer has represented in
51 writing to the board that there has been no communication

1 between the settlement officer and any party or party's
2 representative for 21 days following the conclusion of the
3 settlement conference.

4 (f) Exclusion of liability.--A settlement officer is not a
5 necessary or proper party in administrative, judicial or other
6 proceedings relating to the settlement conference.

7 Notwithstanding any provision of law to the contrary, parties to
8 a settlement conference under this section shall be deemed to
9 have consented that the settlement officer shall not be liable
10 to any party for any error, act or omission in connection with
11 any settlement conference conducted under this section. Parties
12 to a settlement conference under this section may not call a
13 settlement officer as a witness in litigation or any other
14 proceeding relating to the settlement conference. The settlement
15 officer is not competent to testify as a witness in any
16 proceeding related to the settlement conference.

17 (g) Rules and regulations.--The board may adopt rules and
18 promulgate regulations necessary to effectuate this section.

19 (h) Laws not applicable.--The provisions of 2 Pa.C.S.
20 (relating to administrative law and procedure) shall not apply
21 to a settlement conference conducted under this section.

22 Section 2708. Closing agreements.

23 (a) Authorization.--The department is authorized to enter
24 into an agreement in writing with any person relating to the
25 liability of the person, or of the person or estate for whom the
26 person acts, in respect of any tax administered by the
27 department for any taxable period.

28 (b) Finality.--If the agreement is approved by the
29 department, within a time as may be stated in the agreement or
30 later agreed to, the agreement shall be final and conclusive,
31 and, except upon a showing of fraud, malfeasance or
32 misrepresentation of a material fact:

33 (1) The case shall not be reopened as to the matters
34 agreed upon or the agreement modified by any officer,
35 employee or agent of the department.

36 (2) In a suit, action or proceeding, the agreement, or
37 any determination, assessment, collection, payment,
38 abatement, refund or credit made in accordance with the
39 agreement, shall not be annulled, modified, set aside or
40 disregarded.

41 (c) Liabilities suspended.--If, pursuant to an agreement
42 authorized by subsection (a), the department agrees to suspend
43 the collection of any amounts of tax, penalties, interest or
44 other additions to tax, the department may reimpose any of the
45 suspended amounts if the person who entered into the agreement
46 fails to comply with the terms of the agreement.

47 Section 2709. Report to General Assembly.

48 No later than June 1 of the second year after the effective
49 date of this section, and each year thereafter, the State
50 Treasurer shall submit a report to the General Assembly
51 summarizing the effectiveness of the settlement conference

1 process implemented under section 2704.1. A copy of the report
2 shall be delivered to the chairman and minority chairman of the
3 Finance Committee of the Senate and the chairman and minority
4 chairman of the Finance Committee of the House of
5 Representatives. The report shall, at a minimum, include:

6 (1) The number of appeals of tax liability resolved
7 through the settlement conference process.

8 (2) The number of appeals of tax liability that were not
9 resolved through the settlement conference process.

10 (3) Of the taxpayers whose appeals were resolved through
11 the settlement conference process, how many were individual
12 taxpayers and how many were pass-through entities.

13 (4) The average amount of tax liability contested in
14 cases that were resolved through the settlement conference
15 process.

16 (5) The average number of days it took for appeals of
17 tax liability to be resolved through the settlement
18 conference process.

19 (6) Recommendations to improve the effectiveness of the
20 settlement conference process, which may be implemented
21 through administrative procedure, guidelines, rules,
22 regulations or legislation.

23 (7) Any other information deemed necessary by the State
24 Treasurer.

25 Section 4. Section 3003.6 of the act is amended to read:

26 Section 3003.6. Timely Filing.--(a) A taxpayer shall be
27 deemed to have timely filed a petition for a refund, a petition
28 for reassessment or any other protest relating to the assessment
29 of tax or any other matter relating to any tax imposed by this
30 act if the letter transmitting the petition is received by the
31 Department of Revenue or is postmarked by the United States
32 Postal Service on or prior to the final day on which the
33 petition is required to be filed.

34 (b) For purposes of filing a petition for refund, a petition
35 for reassessment or a petition for redetermination with the
36 Department of Revenue or the Board of Finance and Revenue, the
37 reference in subsection (a) to a postmark by the United States
38 Postal Service shall include any date recorded or marked as
39 described under 26 U.S.C. § 7502(f)(2)(C) (relating to timely
40 mailing treated as timely filing and paying) by any delivery
41 service designated by the Secretary of the Treasury of the
42 United States under 26 U.S.C. § 7502(f)(2).

43 Section 5. The amendment of section 401(3)1(b.2) of the act
44 shall apply to taxable years beginning after December 31, 2023.

45 Section 6. This act shall take effect as follows:

46 (1) The following provisions shall take effect
47 immediately:

48 (i) The amendment of section 401(3)1(b.2) of the
49 act.

50 (ii) This section and section 5 of this act.

51 (2) The remainder of this act shall take effect in 90

1 days.