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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 130 Session of  
2021

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INTRODUCED BY GLEIM, CIRESI, HILL-EVANS, KEEFER, RYAN,  
R. MACKENZIE, ZIMMERMAN, GAYDOS, M. MACKENZIE AND N. NELSON,  
JANUARY 12, 2021

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REFERRED TO COMMITTEE ON FINANCE, JANUARY 12, 2021

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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," in personal income tax, further providing for  
11 refund or credit of overpayment and providing for interest on  
12 refund or credit of overpayments; and, in general provisions,  
13 providing for interest on taxes due the Commonwealth and for  
14 interest on overpayments; and making related repeals.

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

17 Section 1. Section 346 of the act of March 4, 1971 (P.L.6,  
18 No.2), known as the Tax Reform Code of 1971, is amended to read:

19 Section 346. Refund or Credit of Overpayment.--(a) In the  
20 case of any payment of tax not due under this article, the  
21 department may credit the amount of such overpayment against any  
22 liability in respect of the tax imposed by this article on the  
23 part of the person who made the overpayment and shall refund any

1 balance to such person.

2 [(b) The department is authorized to prescribe regulations  
3 providing for the crediting against the estimated tax for any  
4 taxable year of the amount determined to be an overpayment of  
5 the tax for a preceding taxable year.]

6 (c) If the taxpayer has paid as an installment of estimated  
7 tax more than the correct amount of such installment, the  
8 overpayment shall be credited against the unpaid installments,  
9 if any. If the amount paid, whether or not on the basis of  
10 installments, exceeds the amount determined to be the correct  
11 amount of the tax, the overpayment shall be credited or refunded  
12 as provided in subsection (a) [or (b)].

13 Section 2. The act is amended by adding sections to read:

14 Section 346.1. Interest on Refund or Credit of  
15 Overpayments.--Any tax paid by a taxpayer under this article  
16 determined to be an overpayment shall be awarded interest in  
17 accordance with Article XXX.

18 Section 3003.25. Interest on Taxes Due the Commonwealth.--

19 (a) All taxes due the Commonwealth shall bear simple interest  
20 from the date the taxes become due and payable until paid. The  
21 interest rate per annum during each calendar year shall be the  
22 interest rate established by the Secretary of the Treasury of  
23 the United States under the provisions of the Internal Revenue  
24 Code of 1954 (68A Stat.3), effective January 1 of that calendar  
25 year without regard to any change or changes in the Federal  
26 interest rate during that calendar year. No penalties shall bear  
27 any interest.

28 (b) The payment of interest under this section shall not  
29 relieve a person from the penalties, commissions or additional  
30 tax prescribed by law for neglect or refusal to furnish timely

1 returns or reports to the Department of Revenue or to pay a  
2 claim due the Commonwealth from the person.

3 (c) The Secretary of Revenue shall transmit notice of the  
4 rate of interest for each calendar year to the Legislative  
5 Reference Bureau for publication in the Pennsylvania Bulletin.

6 (d) (1) In the case of a tentative tax, estimated tax or  
7 installment payment, interest shall run on any unpaid amount  
8 from the last day the payment is due to the date paid.

9 (2) In the case of tax which is resettled as a result of a  
10 final change or correction of taxable income by the Commissioner  
11 of Internal Revenue or an agency or court of the United States,  
12 interest shall be computed on any additional tax due from thirty  
13 days after the corporation receives notice of the final change  
14 or correction until paid.

15 (e) Whenever the tax liability of a person is so affected by  
16 any payment or credit, settlement or resettlement, assessment or  
17 reassessment or determination or redetermination as to change  
18 the interest liability of the person, the interest liability  
19 shall be recomputed and adjusted by the Department of Revenue  
20 and approved by the Department of the Auditor General in cases  
21 in which the latter department is required to approve  
22 settlements and resettlements, so as to correspond to the tax  
23 liability as changed, without the necessity for the filing of a  
24 petition or request by the person or by the Department of  
25 Revenue and the Department of Auditor General.

26 Section 3003.26. Interest on Overpayments.--(a) Simple  
27 interest shall be allowed and paid by the Commonwealth upon an  
28 overpayment to the Commonwealth of any tax. The interest shall  
29 be allowed and paid for the period during which the Commonwealth  
30 retained the overpayment, beginning with the date of the

1 overpayment, except that:

2 (1) A tax actually deducted and withheld at the source shall  
3 be deemed to have been overpaid on the last day prescribed for  
4 filing the return or report for the taxable year, determined  
5 without regard to any extension of time for filing.

6 (2) An amount overpaid as estimated tax, tentative tax or  
7 installment payment for a taxable year shall be deemed to have  
8 been overpaid on the last day prescribed for filing the final  
9 return or report for the taxable year, determined without regard  
10 to any extension of time for filing.

11 (3) An overpayment made before the last day prescribed for  
12 payment shall be considered made on the last day.

13 (4) An amount claimed to be overpaid with respect to which  
14 an administrative review or appellate procedure is initiated in  
15 the manner provided by law by the taxpayer shall be deemed to  
16 have been overpaid sixty days following the date of initiation  
17 of the review or procedure.

18 (5) (i) If an overpayment of tax is refunded or credited  
19 within sixty days after the last date prescribed for filing the  
20 final return or report of the tax, determined without regard to  
21 any extension of time for filing, or, in case the final return  
22 or report is filed after the last day, and is refunded or  
23 credited within sixty days after the date the final return or  
24 report is filed, no interest shall be allowed on the  
25 overpayment.

26 (ii) For the purpose of this paragraph, a final return or  
27 report shall be deemed to have been filed only if, when the  
28 final return or report is received by the Department of Revenue,  
29 the final return or report has been submitted on a permitted  
30 form containing:

1 (A) the taxpayer's name, address and identifying number and  
2 the required signature; and

3 (B) sufficient required information, either on the permitted  
4 form or attachments to the form, to permit the verification of  
5 tax liability shown on the return.

6 (6) A tax paid to an officer, licensee or collector shall be  
7 deemed to have been overpaid no earlier than the first date that  
8 the tax is required by law to be reported and transmitted to the  
9 Department of Revenue by the officer, licensee or collector.

10 (7) No overpayment of interest or penalty shall bear any  
11 interest.

12 (b) Interest on overpayments shall be allowed and paid at  
13 the rate as is prescribed for underpayments under section 346.1  
14 less two per cent.

15 (c) Interest on overpayments of the tax imposed under this  
16 article shall be allowed and paid at the same rate as is  
17 prescribed for underpayments under section 346.1.

18 (d) Interest on overpayments shall be allowed and paid as  
19 follows:

20 (1) In the case of a cash refund, from the date of the  
21 overpayment to a date preceding the date of the Commonwealth's  
22 refund check by not more than thirty days.

23 (2) In the case of a credit for an overpayment, from the  
24 date of the overpayment to:

25 (i) the date of the Commonwealth's notice to the taxpayer of  
26 the final determination of the credit; or

27 (ii) the date as of which the credit is applied, whichever  
28 first occurs: provided, however, that in the case of a cash  
29 refund of a previously determined credit, interest shall be  
30 allowed and paid on the amount of the credit from a date ninety

1 days after the filing of a petition for a cash refund to a date  
2 preceding the date of the refund check by not more than thirty  
3 days whether or not the refund check is accepted by the taxpayer  
4 after tender to the taxpayer.

5 (3) The taxpayer's acceptance of the Commonwealth's check  
6 shall be without prejudice to any right of the taxpayer to claim  
7 any additional overpayment and interest thereon. Tender of a  
8 refund check shall be deemed acceptance thereof for the purposes  
9 of this section.

10 (e) Interest on overpayment shall not be allowed or paid if  
11 a taxpayer indicates an intent to carry forward a refund or  
12 credit to be applied in a succeeding taxable year.

13 (f) For purposes of this section, "overpayment" means a  
14 payment of tax which is determined in the manner provided by law  
15 not to be legally due.

16 Section 3. Repeals are as follows:

17 (1) The General Assembly finds that the repeals under  
18 paragraph (2) are necessary to effectuate this act.

19 (2) Sections 806 and 806.1 of the act of April 9, 1929  
20 (P.L.343, No.176), known as The Fiscal Code, are repealed.

21 Section 4. A reference in any other act to former section  
22 806 or 806.1 of the act of April 9, 1929 (P.L.343, No.176),  
23 known as The Fiscal Code, shall be deemed to be a reference to  
24 section 3003.25 or 3003.26, respectively, of the act of March 4,  
25 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

26 Section 5. This act shall take effect in 60 days.