

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1994 Session of 2024

INTRODUCED BY BRIGGS, MADDEN, GREINER, McNEILL, KINSEY, BIZZARRO, KAZEEM, SANCHEZ, CEPEDA-FREYTIZ, HILL-EVANS, WARREN, D. WILLIAMS, GREEN, MAYES, BOROWSKI, MUNROE, D'ORSIE, WATRO, DIAMOND, JOZWIAK, MERCURI, ROWE, FRITZ, GROVE, PICKETT, RADER AND WEBSTER, JANUARY 31, 2024

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, OCTOBER 8, 2024

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 corporate net income tax, further providing  
11 for definitions; in procedure and administration, further  
12 providing for petition for reassessment and for review by  
13 board and providing for settlement conference process, for  
14 closing agreements and for report to General Assembly; and,  
15 in general provisions, further providing for timely filing.

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

18 Section 1. Section 401(3)1(b.2) of the act of March 4, 1971  
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, added July  
20 11, 2024 (P.L.674, No.56), is amended to read:

21 Section 401. Definitions.--The following words, terms, and  
22 phrases, when used in this article, shall have the meaning

1 ascribed to them in this section, except where the context  
2 clearly indicates a different meaning:

3 \* \* \*

4 (3) "Taxable income." 1. \* \* \*

5 (b.2) An additional deduction shall be allowed from the  
6 taxable income of a medical cannabis business in the amount of  
7 the ordinary and necessary expenses that were paid or incurred  
8 by the medical cannabis business during the taxable year that  
9 are ordinarily deductible for Federal income tax purposes under  
10 section 162 of the Internal Revenue Code of 1986 (Public Law 99-  
11 514, 26 U.S.C. § 162) if no deduction for ordinary and necessary  
12 expenses paid or incurred by the medical cannabis business was  
13 taken for Federal income tax purposes for the taxable year. As  
14 used in this phrase, the term "medical cannabis business" shall  
15 mean a medical marijuana organization as defined in section 103  
16 of the act of April 17, 2016 (P.L.84, No.16), known as the  
17 "Medical Marijuana Act," that has an active grower/processor  
18 permit or dispensary permit during the taxable year for which  
19 the deduction is sought.

20 \* \* \*

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

23 Section 2702. Petition for reassessment.

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

25 (1) Except as provided under paragraph (2), a taxpayer  
26 may file a petition for reassessment with the department  
27 within 60 days after the mailing date of the notice of  
28 assessment.

29 (2) For an assessment of tax imposed under Article III,  
30 a taxpayer may file a petition for reassessment with the

1 department within 90 days after the mailing date of the  
2 notice of assessment. An extension of time for filing the  
3 petition may be allowed for cause but may not exceed an  
4 additional 30 days.

5 \* \* \*

6 Section 2704. Review by board.

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

8 (1) Except as provided under paragraph (2), within 60  
9 days after the mailing date of the department's notice of  
10 decision and order on a petition filed with it, a taxpayer  
11 may petition the board to review the decision and order of  
12 the department.

13 (2) For an assessment of tax imposed under Article III,  
14 a taxpayer may file a petition for review with the board  
15 within 90 days after the mailing date of the decision and  
16 order of the department. An extension of time for filing the  
17 petition may be allowed for cause but may not exceed an  
18 additional 30 days.

19 \* \* \*

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

21 Section 2704.1. Settlement conference process.

22 (a) Settlement officer.--The board shall appoint one or more  
23 individuals to serve as a settlement officer for a settlement  
24 conference initiated under subsection (b), and the following  
25 shall apply:

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

28 (2) A settlement officer:

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

30 (ii) must be an attorney in good standing before the

1 Supreme Court of Pennsylvania or a certified public  
2 accountant in good standing before the State Board of  
3 Accountancy;

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

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

10 (3) A settlement officer:

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

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

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

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

24 (b) Request for settlement conference.--Notwithstanding  
25 section 2704(f)(1), either party may submit a request for, or  
26 the board may direct, a settlement conference to settle a  
27 petition for review of a decision and order under the board's  
28 jurisdiction. The request for a settlement conference shall be  
29 submitted to the board, unless the settlement conference is  
30 directed by the board, by filing a written request with the

1 petition or within 30 days of the petition being filed. The  
2 board may allow settlement conferences after the deadline in the  
3 exercise of discretion or upon application for good cause. The  
4 following shall apply:

5 (1) The board may defer consideration of the petition  
6 until after the parties terminate a settlement conference or  
7 the settlement conference is deemed terminated under  
8 subsection (e). If the board defers consideration of the  
9 petition, the board shall issue a decision and order  
10 disposing of the petition within six months of the party's  
11 refusal to participate in a settlement conference or  
12 termination.

13 (2) The party requesting a settlement conference shall  
14 simultaneously notify the other party or parties and the  
15 board of the request, unless the board initiated the  
16 settlement conference.

17 (3) A request for settlement must provide a brief  
18 description of the dispute and the relief requested. The  
19 nonrequesting party or parties must file a written response  
20 with the board and provide a copy to the requesting party in  
21 support of or opposition to the settlement conference within  
22 10 business days of the requester's submission.

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

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

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

3 (1) A settlement conference shall be held no later than  
4 60 days from the date the board refers a case for settlement  
5 conference.

6 (2) The settlement officer shall set the date, time and  
7 place for each conference. The parties shall respond to  
8 requests for conference dates in a timely manner, be  
9 cooperative in scheduling the earliest practicable date and  
10 adhere to the established conference schedule. The settlement  
11 officer, in the exercise of discretion or upon application  
12 for good cause, may reschedule a conference. The settlement  
13 officer shall provide notice of the conference to the parties  
14 in advance of the conference date.

15 (3) A settlement conference and related settlement  
16 conference communications are private proceedings. A  
17 representative of each party must attend each settlement  
18 conference. A party is not required to attend each settlement  
19 conference unless the party does not have representation.  
20 Other individuals may attend a settlement conference only  
21 with the permission of the parties and with the consent of  
22 the settlement officer.

23 (4) A settlement conference may be conducted virtually  
24 or in person.

25 (5) A settlement conference may not be recorded  
26 electronically or in any other manner, regardless of the  
27 consent of the parties.

28 (6) The following shall apply to representation at a  
29 settlement conference:

30 (i) A party is not required to retain representation

1 for a settlement conference.

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

5 ~~(iii) Each party must have a representative attend a~~ <--  
6 ~~settlement conference who has the authority to negotiate~~  
7 ~~a settlement, which shall include each party who has not~~  
8 ~~retained representation.~~

9 (7) The settlement officer shall conduct the settlement  
10 conference in an informal manner with the purpose of  
11 facilitating a settlement between the petitioner and the  
12 department. The settlement officer is authorized to conduct  
13 separate or ex parte meetings and other communications with  
14 the parties, and any representatives of the parties, before,  
15 during and after any scheduled settlement conference.

16 (8) Prior to and during the scheduled settlement  
17 conference, the parties and their representatives shall, as  
18 appropriate to each party's circumstances, exercise best  
19 efforts to prepare for and engage in a meaningful and  
20 productive settlement conference.

21 (9) The parties are encouraged to exchange all documents  
22 pertinent to the relief requested. The settlement officer may  
23 request the exchange of memoranda on issues, including the  
24 underlying interests and the history of the parties'  
25 negotiations. Information that a party wishes to keep  
26 confidential may be sent to the settlement officer, as  
27 necessary, in a separate communication with the settlement  
28 officer.

29 (10) Confidential information disclosed to a settlement  
30 officer by a party in the course of a settlement conference

1 shall not be divulged by the settlement officer. The  
2 settlement officer shall maintain the confidentiality of all  
3 information obtained in the settlement conference, and all  
4 records, reports or other documents received by the  
5 settlement officer while serving in that capacity shall be  
6 confidential. The settlement officer shall be subject to the  
7 provisions and penalties of section 731 of the act of April  
8 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

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

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

18 (13) The settlement officer shall not be compelled to  
19 divulge confidential records or to testify in regard to the  
20 settlement conference in any administrative, judicial or  
21 other proceeding.

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

26 (15) Each party to a settlement conference shall  
27 maintain the confidentiality of the settlement conference and  
28 shall not rely on or introduce as evidence in any  
29 administrative, judicial or other proceeding the following,  
30 unless agreed to by the parties or required by applicable



1 law:

2 (i) Views expressed or suggestions made by a party  
3 or other participant with respect to a possible  
4 settlement of the dispute.

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

7 (iii) Proposals made or views expressed by the  
8 settlement officer.

9 (iv) The fact that a party had or had not indicated  
10 willingness to accept a proposal for settlement made by  
11 the settlement officer.

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

14 (d) Postsettlement conference procedures.--

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

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

25 (3) In the event a settlement of all or some of the  
26 issues in dispute is not achieved within the scheduled  
27 settlement conference, the settlement officer may continue to  
28 communicate with the parties for a period of time not to  
29 exceed 30 days from the date of the settlement conference,  
30 during which time the parties agree to negotiate in earnest

1 in an ongoing effort to facilitate a complete settlement.

2 (4) If the parties to a settlement conference come to an  
3 agreement, the parties shall present the terms of the  
4 settlement to the board for approval in writing signed by all  
5 parties within 10 business days after reaching the  
6 settlement. The settlement agreement shall be approved by the  
7 board if the board determines the agreement is not contrary  
8 to law.

9 (5) If the parties to a settlement conference cannot  
10 reach a settlement of any or all of the issues, the board  
11 shall proceed in accordance with the procedure specified in  
12 this act and regulations.

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

15 (e) Termination of a settlement conference.--The settlement  
16 conference shall be terminated:

17 (1) by the board approving a settlement agreement by the  
18 parties;

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

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

24 (4) when the settlement officer has represented in  
25 writing to the board that there has been no communication  
26 between the settlement officer and any party or party's  
27 representative for 21 days following the conclusion of the  
28 settlement conference.

29 (f) Exclusion of liability.--A settlement officer is not a  
30 necessary or proper party in administrative, judicial or other

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

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

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

17 Section 2708. Closing agreements.

18 (a) Authorization.--The department is authorized to enter  
19 into an agreement in writing with any person relating to the  
20 liability of the person, or of the person or estate for whom the  
21 person acts, in respect of any tax administered by the  
22 department for any taxable period.

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

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

1           (2) In a suit, action or proceeding, the agreement, or  
2 any determination, assessment, collection, payment,  
3 abatement, refund or credit made in accordance with the  
4 agreement, shall not be annulled, modified, set aside or  
5 disregarded.

6           (c) Liabilities suspended.--If, pursuant to an agreement  
7 authorized by subsection (a), the department agrees to suspend  
8 the collection of any amounts of tax, penalties, interest or  
9 other additions to tax, the department may reimpose any of the  
10 suspended amounts if the person who entered into the agreement  
11 fails to comply with the terms of the agreement.

12 Section 2709. Report to General Assembly.

13           No later than June 1 of the second year after the effective  
14 date of this section, and each year thereafter, the State  
15 Treasurer shall submit a report to the General Assembly  
16 summarizing the effectiveness of the settlement conference  
17 process implemented under section 2704.1. A copy of the report  
18 shall be delivered to the chairman and minority chairman of the  
19 Finance Committee of the Senate and the chairman and minority  
20 chairman of the Finance Committee of the House of  
21 Representatives. The report shall, at a minimum, include:

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

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

26           (3) Of the taxpayers whose appeals were resolved through  
27 the settlement conference process, how many were individual  
28 taxpayers and how many were pass-through entities.

29           (4) The average amount of tax liability contested in  
30 cases that were resolved through the settlement conference

1 process.

2 (5) The average number of days it took for appeals of  
3 tax liability to be resolved through the settlement  
4 conference process.

5 (6) Recommendations to improve the effectiveness of the  
6 settlement conference process, which may be implemented  
7 through administrative procedure, guidelines, rules,  
8 regulations or legislation.

9 (7) Any other information deemed necessary by the State  
10 Treasurer.

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

12 Section 3003.6. Timely Filing.--(a) A taxpayer shall be  
13 deemed to have timely filed a petition for a refund, a petition  
14 for reassessment or any other protest relating to the assessment  
15 of tax or any other matter relating to any tax imposed by this  
16 act if the letter transmitting the petition is received by the  
17 Department of Revenue or is postmarked by the United States  
18 Postal Service on or prior to the final day on which the  
19 petition is required to be filed.

20 (b) For purposes of filing a petition for refund, a petition  
21 for reassessment or a petition for redetermination with the  
22 Department of Revenue or the Board of Finance and Revenue, the  
23 reference in subsection (a) to a postmark by the United States  
24 Postal Service shall include any date recorded or marked as  
25 described under 26 U.S.C. § 7502(f)(2)(C) (relating to timely  
26 mailing treated as timely filing and paying) by any delivery  
27 service designated by the Secretary of the Treasury of the  
28 United States under 26 U.S.C. § 7502(f)(2).

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

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

2 (1) The following provisions shall take effect  
3 immediately:

4 (i) The amendment of section 401(3)1(b.2) of the  
5 act.

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

7 (2) The remainder of this act shall take effect in 90  
8 days.