

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1051 Session of 2024

INTRODUCED BY HUTCHINSON, DUSH, ARGALL, AUMENT, PENNYCUICK, GEBHARD, YAW, BAKER, J. WARD, BROOKS, ROTHMAN, BROWN AND CULVER, JANUARY 29, 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 procedure and administration, further~~
11 ~~providing for review by board and providing for settlement~~
12 ~~conference process.~~

13 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
14 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
15 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
16 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
17 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
18 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
19 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
20 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
21 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND
22 PENALTIES," IN CORPORATE NET INCOME TAX, FURTHER PROVIDING
23 FOR DEFINITIONS; IN PROCEDURE AND ADMINISTRATION, FURTHER
24 PROVIDING FOR PETITION FOR REASSESSMENT AND FOR REVIEW BY
25 BOARD AND PROVIDING FOR SETTLEMENT CONFERENCE PROCESS, FOR
26 CLOSING AGREEMENTS AND FOR REPORT TO GENERAL ASSEMBLY; AND,
27 IN GENERAL PROVISIONS, FURTHER PROVIDING FOR TIMELY FILING.

28 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Section 2704(d.7) of the act of March 4, 1971~~ <--
3 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, is amended~~
4 ~~and the section is amended by adding a subsection to read:~~

5 ~~Section 2704. Review by board.~~

6 * * *

7 ~~(a.1) Extension for filing petition. Notwithstanding any~~
8 ~~provision to the contrary, the date for filing a petition~~
9 ~~required under this article with the board may be extended by~~
10 ~~the board upon:~~

11 ~~(1) written application for good cause shown; and~~

12 ~~(2) a finding that granting the application will not~~
13 ~~prejudice the other party.~~

14 * * *

15 ~~{(d.7) Compromise settlement. The board shall establish~~
16 ~~procedures to facilitate the compromise settlement of issues on~~
17 ~~appeal. A compromise settlement shall be ordered by the board~~
18 ~~only with the agreement of both the petitioner and the~~
19 ~~department. The provisions of section 2707(c) shall be~~
20 ~~applicable to compromise settlements under this section.}~~

21 * * *

22 ~~Section 2. The act is amended by adding a section to read:~~

23 ~~Section 2704.1. Settlement conference process.~~

24 ~~(a) Settlement officer. The board shall appoint one or more~~
25 ~~individuals to serve as a settlement officer for a settlement~~
26 ~~conference initiated under subsection (b), to whom the following~~
27 ~~shall apply:~~

28 ~~(1) A settlement officer may be either an employee of~~
29 ~~the board or a third party contractor retained by the board.~~

30 ~~(2) A settlement officer:~~

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

2 ~~(ii) must be an attorney in good standing before the~~
3 ~~Supreme Court of Pennsylvania or a certified public~~
4 ~~accountant in good standing before the State Board of~~
5 ~~Accountancy;~~

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

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

12 ~~(3) A settlement officer shall:~~

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

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

22 ~~(4) The board may remove a settlement officer at its~~
23 ~~sole discretion.~~

24 ~~(5) The State Treasurer shall set the compensation for a~~
25 ~~settlement officer.~~

26 ~~(b) Request for settlement conference. Notwithstanding~~
27 ~~section 2704(f)(1), either party may submit a request for, or~~
28 ~~the board may direct, a settlement conference to settle a~~
29 ~~petition for review of a decision and order under the board's~~
30 ~~jurisdiction. The request for a settlement conference shall be~~

1 ~~submitted to the board, unless the settlement conference is~~
2 ~~directed by the board, by filing a written request with the~~
3 ~~petition or within 30 days of the petition being filed. The~~
4 ~~board may allow settlement conferences after the deadline in the~~
5 ~~exercise of discretion or upon application for good cause. The~~
6 ~~following shall apply:~~

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

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

19 ~~(3) A request for settlement must provide a brief~~
20 ~~description of the dispute and the relief requested. The~~
21 ~~nonrequesting party or parties must file a written response~~
22 ~~with the board and provide a copy to the requesting party in~~
23 ~~support of or opposition to the settlement conference within~~
24 ~~10 business days of the requestor's submission.~~

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

29 ~~(5) A petitioner may decline to participate in a~~
30 ~~settlement conference upon providing the board with written~~

~~notice of its intent not to participate within five business days of receipt of notice of the referral.~~

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

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

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

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

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

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

~~(6) The following shall apply to representation at a~~

1 ~~settlement conference:~~

2 ~~(i) A party is not required to retain representation~~
3 ~~for a settlement conference.~~

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

7 ~~(iii) Each party must have a representative attend a~~
8 ~~settlement conference who has the authority to consummate~~
9 ~~a settlement, which shall include each party who has not~~
10 ~~retained representation.~~

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

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

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

1 ~~(10) Confidential information disclosed to a settlement~~
2 ~~officer by a party in the course of a settlement conference~~
3 ~~shall not be divulged by the settlement officer. The~~
4 ~~settlement officer shall maintain the confidentiality of all~~
5 ~~information obtained in the settlement conference, and all~~
6 ~~records, reports or other documents received by the~~
7 ~~settlement officer while serving in that capacity shall be~~
8 ~~confidential. The settlement officer shall be subject to the~~
9 ~~provisions and penalties of section 731 of the act of April~~
10 ~~9, 1929 (P.L.343, No.176), known as The Fiscal Code.~~

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

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

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

24 ~~(14) A confidential or privileged document or other~~
25 ~~record presented or included in a settlement conference is~~
26 ~~exempt from access under the act of February 14, 2008 (P.L.6,~~
27 ~~No.3), known as the Right to Know Law.~~

28 ~~(15) Each party to a settlement conference shall~~
29 ~~maintain the confidentiality of the settlement conference and~~
30 ~~shall not rely on or introduce as evidence in any~~

1 ~~administrative, judicial or other proceeding the following,~~
2 ~~unless agreed to by the parties or required by applicable~~
3 ~~law:~~

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

7 ~~(ii) Admissions made by a party or other participant~~
8 ~~in the course of the settlement conference.~~

9 ~~(iii) Proposals made or views expressed by the~~
10 ~~settlement officer.~~

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

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

16 ~~(d) Post settlement conference procedures.~~

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

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

27 ~~(3) In the event a settlement of all or some of the~~
28 ~~issues in dispute is not achieved within the scheduled~~
29 ~~settlement conference, the settlement officer may continue to~~
30 ~~communicate with the parties for a period of time not to~~

1 ~~exceed 30 days from the date of the settlement conference,~~
2 ~~during which time the parties agree to negotiate in earnest~~
3 ~~in an ongoing effort to facilitate a complete settlement.~~

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

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

15 ~~(6) A settlement agreement shall not be considered as~~
16 ~~precedent and cannot be appealed.~~

17 ~~(c) Termination of a settlement conference. The settlement~~
18 ~~conference shall be terminated:~~

19 ~~(1) by the board approving a settlement agreement by the~~
20 ~~parties;~~

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

24 ~~(3) by a written declaration of all parties that the~~
25 ~~settlement conference is terminated; or~~

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

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

14 ~~(g) Rules and regulations. The board may adopt rules and~~
15 ~~regulations necessary to effectuate this section.~~

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

19 ~~Section 3. This act shall take effect in 60 days.~~

20 SECTION 1. SECTION 401(3)1(B.2) OF THE ACT OF MARCH 4, 1971 <--
21 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, ADDED JULY
22 11, 2024 (P.L.674, NO.56), IS AMENDED TO READ:

23 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
24 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
25 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
26 CLEARLY INDICATES A DIFFERENT MEANING:

27 * * *

28 (3) "TAXABLE INCOME." 1. * * *

29 (B.2) AN ADDITIONAL DEDUCTION SHALL BE ALLOWED FROM THE
30 TAXABLE INCOME OF A MEDICAL CANNABIS BUSINESS IN THE AMOUNT OF

1 THE ORDINARY AND NECESSARY EXPENSES THAT WERE PAID OR INCURRED
2 BY THE MEDICAL CANNABIS BUSINESS DURING THE TAXABLE YEAR THAT
3 ARE ORDINARILY DEDUCTIBLE FOR FEDERAL INCOME TAX PURPOSES UNDER
4 SECTION 162 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-
5 514, 26 U.S.C. § 162) IF NO DEDUCTION FOR ORDINARY AND NECESSARY
6 EXPENSES PAID OR INCURRED BY THE MEDICAL CANNABIS BUSINESS WAS
7 TAKEN FOR FEDERAL INCOME TAX PURPOSES FOR THE TAXABLE YEAR. AS
8 USED IN THIS PHRASE, THE TERM "MEDICAL CANNABIS BUSINESS" SHALL
9 MEAN A MEDICAL MARIJUANA ORGANIZATION AS DEFINED IN SECTION 103
10 OF THE ACT OF APRIL 17, 2016 (P.L.84, NO.16), KNOWN AS THE
11 "MEDICAL MARIJUANA ACT," THAT HAS AN ACTIVE GROWER/PROCESSOR
12 PERMIT OR DISPENSARY PERMIT DURING THE TAXABLE YEAR FOR WHICH
13 THE DEDUCTION IS SOUGHT.

14 * * *

15 SECTION 2. SECTIONS 2702(A) AND 2704(A) OF THE ACT ARE
16 AMENDED TO READ:

17 SECTION 2702. PETITION FOR REASSESSMENT.

18 (A) GENERAL RULE.--[A]

19 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), A TAXPAYER
20 MAY FILE A PETITION FOR REASSESSMENT WITH THE DEPARTMENT
21 WITHIN 60 DAYS AFTER THE MAILING DATE OF THE NOTICE OF
22 ASSESSMENT.

23 (2) FOR AN ASSESSMENT OF TAX IMPOSED UNDER ARTICLE III,
24 A TAXPAYER MAY FILE A PETITION FOR REASSESSMENT WITH THE
25 DEPARTMENT WITHIN 90 DAYS AFTER THE MAILING DATE OF THE
26 NOTICE OF ASSESSMENT. AN EXTENSION OF TIME FOR FILING THE
27 PETITION MAY BE ALLOWED FOR CAUSE BUT MAY NOT EXCEED AN
28 ADDITIONAL 30 DAYS.

29 * * *

30 SECTION 2704. REVIEW BY BOARD.

1 (A) PETITION FOR REVIEW OF A DECISION AND ORDER.-- [WITHIN]
2 (1) EXCEPT AS PROVIDED UNDER PARAGRAPH (2), WITHIN 60
3 DAYS AFTER THE MAILING DATE OF THE DEPARTMENT'S NOTICE OF
4 DECISION AND ORDER ON A PETITION FILED WITH IT, A TAXPAYER
5 MAY PETITION THE BOARD TO REVIEW THE DECISION AND ORDER OF
6 THE DEPARTMENT.

7 (2) FOR AN ASSESSMENT OF TAX IMPOSED UNDER ARTICLE III,
8 A TAXPAYER MAY FILE A PETITION FOR REVIEW WITH THE BOARD
9 WITHIN 90 DAYS AFTER THE MAILING DATE OF THE DECISION AND
10 ORDER OF THE DEPARTMENT. AN EXTENSION OF TIME FOR FILING THE
11 PETITION MAY BE ALLOWED FOR CAUSE BUT MAY NOT EXCEED AN
12 ADDITIONAL 30 DAYS.

13 * * *

14 SECTION 3. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:
15 SECTION 2704.1. SETTLEMENT CONFERENCE PROCESS.

16 (A) SETTLEMENT OFFICER.--THE BOARD SHALL APPOINT ONE OR MORE
17 INDIVIDUALS TO SERVE AS A SETTLEMENT OFFICER FOR A SETTLEMENT
18 CONFERENCE INITIATED UNDER SUBSECTION (B), AND THE FOLLOWING
19 SHALL APPLY:

20 (1) A SETTLEMENT OFFICER MUST BE A THIRD-PARTY
21 CONTRACTOR RETAINED BY THE BOARD.

22 (2) A SETTLEMENT OFFICER:

23 (I) MUST BE A CITIZEN OF THE UNITED STATES;

24 (II) MUST BE AN ATTORNEY IN GOOD STANDING BEFORE THE
25 SUPREME COURT OF PENNSYLVANIA OR A CERTIFIED PUBLIC
26 ACCOUNTANT IN GOOD STANDING BEFORE THE STATE BOARD OF
27 ACCOUNTANCY;

28 (III) MUST HAVE SIGNIFICANT EXPERIENCE IN A POSITION
29 REQUIRING SUBSTANTIAL KNOWLEDGE OF PENNSYLVANIA TAX LAW;
30 AND

1 (IV) MAY NOT BE EMPLOYED BY THE DEPARTMENT, BOARD OR
2 THE STATE TREASURER, OTHER THAN IN THE CAPACITY AS A
3 SETTLEMENT OFFICER.

4 (3) A SETTLEMENT OFFICER:

5 (I) SHALL BE FAIR AND IMPARTIAL AND IS NOT PERMITTED
6 TO PRESIDE OVER A SETTLEMENT CONFERENCE IF THE SETTLEMENT
7 OFFICER CANNOT CONDUCT IT IN AN IMPARTIAL MANNER; AND

8 (II) SHALL DISCLOSE, AS SOON AS PRACTICABLE, ALL
9 ACTUAL AND POTENTIAL CONFLICTS OF INTEREST THAT ARE
10 REASONABLY KNOWN TO THE SETTLEMENT OFFICER AND COULD
11 REASONABLY BE SEEN AS RAISING A QUESTION ABOUT THE
12 OFFICER'S INTEREST IN THE OUTCOME UNLESS THE PETITIONER
13 AND THE DEPARTMENT CONSENT IN WRITING.

14 (4) THE BOARD MAY REMOVE A SETTLEMENT OFFICER AT ITS
15 SOLE DISCRETION.

16 (5) THE STATE TREASURER SHALL SET THE COMPENSATION FOR A
17 SETTLEMENT OFFICER.

18 (B) REQUEST FOR SETTLEMENT CONFERENCE.--NOTWITHSTANDING
19 SECTION 2704(F) (1), EITHER PARTY MAY SUBMIT A REQUEST FOR OR THE
20 BOARD MAY DIRECT, A SETTLEMENT CONFERENCE TO SETTLE A PETITION
21 FOR REVIEW OF A DECISION AND ORDER UNDER THE BOARD'S
22 JURISDICTION. THE REQUEST FOR A SETTLEMENT CONFERENCE SHALL BE
23 SUBMITTED TO THE BOARD, UNLESS THE SETTLEMENT CONFERENCE IS
24 DIRECTED BY THE BOARD, BY FILING A WRITTEN REQUEST WITH THE
25 PETITION OR WITHIN 30 DAYS OF THE PETITION BEING FILED. THE
26 BOARD MAY ALLOW SETTLEMENT CONFERENCES AFTER THE DEADLINE IN THE
27 EXERCISE OF DISCRETION OR UPON APPLICATION FOR GOOD CAUSE. THE
28 FOLLOWING SHALL APPLY:

29 (1) THE BOARD MAY DEFER CONSIDERATION OF THE PETITION
30 UNTIL AFTER THE PARTIES TERMINATE A SETTLEMENT CONFERENCE OR

1 THE SETTLEMENT CONFERENCE IS DEEMED TERMINATED UNDER
2 SUBSECTION (E). IF THE BOARD DEFERS CONSIDERATION OF THE
3 PETITION, THE BOARD SHALL ISSUE A DECISION AND ORDER
4 DISPOSING OF THE PETITION WITHIN SIX MONTHS OF THE PARTY'S
5 REFUSAL TO PARTICIPATE IN A SETTLEMENT CONFERENCE OR
6 TERMINATION.

7 (2) THE PARTY REQUESTING A SETTLEMENT CONFERENCE SHALL
8 SIMULTANEOUSLY NOTIFY THE OTHER PARTY OR PARTIES AND THE
9 BOARD OF THE REQUEST, UNLESS THE BOARD INITIATED THE
10 SETTLEMENT CONFERENCE.

11 (3) A REQUEST FOR SETTLEMENT MUST PROVIDE A BRIEF
12 DESCRIPTION OF THE DISPUTE AND THE RELIEF REQUESTED. THE
13 NONREQUESTING PARTY OR PARTIES MUST FILE A WRITTEN RESPONSE
14 WITH THE BOARD AND PROVIDE A COPY TO THE REQUESTING PARTY IN
15 SUPPORT OF OR OPPOSITION TO THE SETTLEMENT CONFERENCE WITHIN
16 10 BUSINESS DAYS OF THE REQUESTER'S SUBMISSION.

17 (4) THE BOARD, WITHIN FIVE BUSINESS DAYS OF RECEIPT OF
18 THE RESPONSE IN SUPPORT OF OR OPPOSITION TO THE SETTLEMENT
19 CONFERENCE, SHALL NOTIFY THE PARTIES IN WRITING WHETHER THE
20 BOARD WILL REFER AN APPEAL TO A SETTLEMENT CONFERENCE.

21 (5) A PETITIONER MAY DECLINE TO PARTICIPATE IN A
22 SETTLEMENT CONFERENCE UPON PROVIDING THE BOARD WITH WRITTEN
23 NOTICE OF ITS INTENT NOT TO PARTICIPATE WITHIN FIVE BUSINESS
24 DAYS OF RECEIPT OF NOTICE OF THE REFERRAL.

25 (C) SETTLEMENT CONFERENCE.--THE FOLLOWING SHALL APPLY TO A
26 SETTLEMENT CONFERENCE REQUESTED UNDER SUBSECTION (B):

27 (1) A SETTLEMENT CONFERENCE SHALL BE HELD NO LATER THAN
28 60 DAYS FROM THE DATE THE BOARD REFERS A CASE FOR SETTLEMENT
29 CONFERENCE.

30 (2) THE SETTLEMENT OFFICER SHALL SET THE DATE, TIME AND

1 PLACE FOR EACH CONFERENCE. THE PARTIES SHALL RESPOND TO
2 REQUESTS FOR CONFERENCE DATES IN A TIMELY MANNER, BE
3 COOPERATIVE IN SCHEDULING THE EARLIEST PRACTICABLE DATE AND
4 ADHERE TO THE ESTABLISHED CONFERENCE SCHEDULE. THE SETTLEMENT
5 OFFICER, IN THE EXERCISE OF DISCRETION OR UPON APPLICATION
6 FOR GOOD CAUSE, MAY RESCHEDULE A CONFERENCE. THE SETTLEMENT
7 OFFICER SHALL PROVIDE NOTICE OF THE CONFERENCE TO THE PARTIES
8 IN ADVANCE OF THE CONFERENCE DATE.

9 (3) A SETTLEMENT CONFERENCE AND RELATED SETTLEMENT
10 CONFERENCE COMMUNICATIONS ARE PRIVATE PROCEEDINGS. A
11 REPRESENTATIVE OF EACH PARTY MUST ATTEND EACH SETTLEMENT
12 CONFERENCE. A PARTY IS NOT REQUIRED TO ATTEND EACH SETTLEMENT
13 CONFERENCE UNLESS THE PARTY DOES NOT HAVE REPRESENTATION.
14 OTHER INDIVIDUALS MAY ATTEND A SETTLEMENT CONFERENCE ONLY
15 WITH THE PERMISSION OF THE PARTIES AND WITH THE CONSENT OF
16 THE SETTLEMENT OFFICER.

17 (4) A SETTLEMENT CONFERENCE MAY BE CONDUCTED VIRTUALLY
18 OR IN PERSON.

19 (5) A SETTLEMENT CONFERENCE MAY NOT BE RECORDED
20 ELECTRONICALLY OR IN ANY OTHER MANNER, REGARDLESS OF THE
21 CONSENT OF THE PARTIES.

22 (6) THE FOLLOWING SHALL APPLY TO REPRESENTATION AT A
23 SETTLEMENT CONFERENCE:

24 (I) A PARTY IS NOT REQUIRED TO RETAIN REPRESENTATION
25 FOR A SETTLEMENT CONFERENCE.

26 (II) IF A PARTY RETAINS REPRESENTATION, THE PARTY
27 MAY BE REPRESENTED AT A SETTLEMENT CONFERENCE BY ANY
28 INDIVIDUAL OF THE PARTY'S CHOOSING.

29 ~~(III) EACH PARTY MUST HAVE A REPRESENTATIVE ATTEND A~~ <--
30 ~~SETTLEMENT CONFERENCE WHO HAS THE AUTHORITY TO NEGOTIATE~~

1 ~~A SETTLEMENT, WHICH SHALL INCLUDE EACH PARTY WHO HAS NOT~~
2 ~~RETAINED REPRESENTATION.~~

3 (7) THE SETTLEMENT OFFICER SHALL CONDUCT THE SETTLEMENT
4 CONFERENCE IN AN INFORMAL MANNER WITH THE PURPOSE OF
5 FACILITATING A SETTLEMENT BETWEEN THE PETITIONER AND THE
6 DEPARTMENT. THE SETTLEMENT OFFICER IS AUTHORIZED TO CONDUCT
7 SEPARATE OR EX PARTE MEETINGS AND OTHER COMMUNICATIONS WITH
8 THE PARTIES, AND ANY REPRESENTATIVES OF THE PARTIES, BEFORE,
9 DURING AND AFTER ANY SCHEDULED SETTLEMENT CONFERENCE.

10 (8) PRIOR TO AND DURING THE SCHEDULED SETTLEMENT
11 CONFERENCE, THE PARTIES AND THEIR REPRESENTATIVES SHALL, AS
12 APPROPRIATE TO EACH PARTY'S CIRCUMSTANCES, EXERCISE BEST
13 EFFORTS TO PREPARE FOR AND ENGAGE IN A MEANINGFUL AND
14 PRODUCTIVE SETTLEMENT CONFERENCE.

15 (9) THE PARTIES ARE ENCOURAGED TO EXCHANGE ALL DOCUMENTS
16 PERTINENT TO THE RELIEF REQUESTED. THE SETTLEMENT OFFICER MAY
17 REQUEST THE EXCHANGE OF MEMORANDA ON ISSUES, INCLUDING THE
18 UNDERLYING INTERESTS AND THE HISTORY OF THE PARTIES'
19 NEGOTIATIONS. INFORMATION THAT A PARTY WISHES TO KEEP
20 CONFIDENTIAL MAY BE SENT TO THE SETTLEMENT OFFICER, AS
21 NECESSARY, IN A SEPARATE COMMUNICATION WITH THE SETTLEMENT
22 OFFICER.

23 (10) CONFIDENTIAL INFORMATION DISCLOSED TO A SETTLEMENT
24 OFFICER BY A PARTY IN THE COURSE OF A SETTLEMENT CONFERENCE
25 SHALL NOT BE DIVULGED BY THE SETTLEMENT OFFICER. THE
26 SETTLEMENT OFFICER SHALL MAINTAIN THE CONFIDENTIALITY OF ALL
27 INFORMATION OBTAINED IN THE SETTLEMENT CONFERENCE, AND ALL
28 RECORDS, REPORTS OR OTHER DOCUMENTS RECEIVED BY THE
29 SETTLEMENT OFFICER WHILE SERVING IN THAT CAPACITY SHALL BE
30 CONFIDENTIAL. THE SETTLEMENT OFFICER SHALL BE SUBJECT TO THE

1 PROVISIONS AND PENALTIES OF SECTION 731 OF THE ACT OF APRIL
2 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

3 (11) THE SETTLEMENT OFFICER MUST RETURN TO EACH
4 RESPECTIVE PARTY ALL DOCUMENTS CONTAINING CONFIDENTIAL
5 INFORMATION PRESENTED AT THE SETTLEMENT CONFERENCE WITHIN 30
6 DAYS AFTER THE EARLIER OF THE DATE THAT THE BOARD ACCEPTS A
7 SETTLEMENT OR THE BOARD MAILS ITS ORDER DECIDING THE CASE.

8 (12) A PARTY MUST SUBMIT TO THE BOARD ANY DOCUMENTS
9 INTENDED TO BE USED IN SUPPORT OF THE PARTY'S APPEAL. THE
10 DOCUMENTS MUST BE SUBMITTED IN ACCORDANCE WITH THE RULES AND
11 PROCEDURES OF THE BOARD FOR SUBMITTING ADDITIONAL EVIDENCE.

12 (13) THE SETTLEMENT OFFICER SHALL NOT BE COMPELLED TO
13 DIVULGE CONFIDENTIAL RECORDS OR TO TESTIFY IN REGARD TO THE
14 SETTLEMENT CONFERENCE IN ANY ADMINISTRATIVE, JUDICIAL OR
15 OTHER PROCEEDING.

16 (14) NO CONFIDENTIAL OR PRIVILEGED DOCUMENT OR OTHER
17 RECORD PRESENTED OR INCLUDED IN A SETTLEMENT CONFERENCE SHALL
18 BE SUBJECT TO ACCESS UNDER THE ACT OF FEBRUARY 14, 2008
19 (P.L.6, NO.3), KNOWN AS THE RIGHT-TO-KNOW LAW.

20 (15) EACH PARTY TO A SETTLEMENT CONFERENCE SHALL
21 MAINTAIN THE CONFIDENTIALITY OF THE SETTLEMENT CONFERENCE AND
22 SHALL NOT RELY ON OR INTRODUCE AS EVIDENCE IN ANY
23 ADMINISTRATIVE, JUDICIAL OR OTHER PROCEEDING THE FOLLOWING,
24 UNLESS AGREED TO BY THE PARTIES OR REQUIRED BY APPLICABLE
25 LAW:

26 (I) VIEWS EXPRESSED OR SUGGESTIONS MADE BY A PARTY
27 OR OTHER PARTICIPANT WITH RESPECT TO A POSSIBLE
28 SETTLEMENT OF THE DISPUTE.

29 (II) ADMISSIONS MADE BY A PARTY OR OTHER PARTICIPANT
30 IN THE COURSE OF THE SETTLEMENT CONFERENCE.

1 (III) PROPOSALS MADE OR VIEWS EXPRESSED BY THE
2 SETTLEMENT OFFICER.

3 (IV) THE FACT THAT A PARTY HAD OR HAD NOT INDICATED
4 WILLINGNESS TO ACCEPT A PROPOSAL FOR SETTLEMENT MADE BY
5 THE SETTLEMENT OFFICER.

6 (16) A SETTLEMENT OFFICER IS NOT A LEGAL REPRESENTATIVE
7 OF ANY PARTY AND HAS NO FIDUCIARY DUTY TO ANY PARTY.

8 (D) POSTSETTLEMENT CONFERENCE PROCEDURES.--

9 (1) THE SETTLEMENT OFFICER SHALL EVALUATE THE MERITS OF
10 A DISPUTE DURING THE SETTLEMENT CONFERENCE. THE EVALUATIONS
11 SHALL BE COMMUNICATED TO EACH PARTY PRIVATELY OR, IF THE
12 PARTIES AGREE, TO ALL PARTIES JOINTLY. UNLESS PARTIES AGREE
13 OTHERWISE, EVALUATIONS SHALL BE COMMUNICATED ORALLY.

14 (2) THE SETTLEMENT OFFICER DOES NOT HAVE THE AUTHORITY
15 TO IMPOSE A SETTLEMENT ON THE PARTIES. SUBJECT TO THE
16 DISCRETION OF THE SETTLEMENT OFFICER, THE OFFICER MAY MAKE
17 ORAL OR WRITTEN RECOMMENDATIONS FOR SETTLEMENT TO A PARTY
18 PRIVATELY OR, IF THE PARTIES AGREE, TO ALL PARTIES JOINTLY.

19 (3) IN THE EVENT A SETTLEMENT OF ALL OR SOME OF THE
20 ISSUES IN DISPUTE IS NOT ACHIEVED WITHIN THE SCHEDULED
21 SETTLEMENT CONFERENCE, THE SETTLEMENT OFFICER MAY CONTINUE TO
22 COMMUNICATE WITH THE PARTIES FOR A PERIOD OF TIME NOT TO
23 EXCEED 30 DAYS FROM THE DATE OF THE SETTLEMENT CONFERENCE,
24 DURING WHICH TIME THE PARTIES AGREE TO NEGOTIATE IN EARNEST
25 IN AN ONGOING EFFORT TO FACILITATE A COMPLETE SETTLEMENT.

26 (4) IF THE PARTIES TO A SETTLEMENT CONFERENCE COME TO AN
27 AGREEMENT, THE PARTIES SHALL PRESENT THE TERMS OF THE
28 SETTLEMENT TO THE BOARD FOR APPROVAL IN WRITING SIGNED BY ALL
29 PARTIES WITHIN 10 BUSINESS DAYS AFTER REACHING THE
30 SETTLEMENT. THE SETTLEMENT AGREEMENT SHALL BE APPROVED BY THE

1 BOARD IF THE BOARD DETERMINES THE AGREEMENT IS NOT CONTRARY
2 TO LAW.

3 (5) IF THE PARTIES TO A SETTLEMENT CONFERENCE CANNOT
4 REACH A SETTLEMENT OF ANY OR ALL OF THE ISSUES, THE BOARD
5 SHALL PROCEED IN ACCORDANCE WITH THE PROCEDURE SPECIFIED IN
6 THIS ACT AND REGULATIONS.

7 (6) A SETTLEMENT AGREEMENT SHALL NOT BE CONSIDERED AS
8 PRECEDENT AND CANNOT BE APPEALED.

9 (E) TERMINATION OF A SETTLEMENT CONFERENCE.--THE SETTLEMENT
10 CONFERENCE SHALL BE TERMINATED:

11 (1) BY THE BOARD APPROVING A SETTLEMENT AGREEMENT BY THE
12 PARTIES;

13 (2) BY A WRITTEN DECLARATION BY THE SETTLEMENT OFFICER
14 THAT FURTHER EFFORTS AT A SETTLEMENT CONFERENCE WOULD NOT
15 CONTRIBUTE TO A RESOLUTION OF THE PARTIES' DISPUTE;

16 (3) BY A WRITTEN DECLARATION OF ALL PARTIES THAT THE
17 SETTLEMENT CONFERENCE IS TERMINATED; OR

18 (4) WHEN THE SETTLEMENT OFFICER HAS REPRESENTED IN
19 WRITING TO THE BOARD THAT THERE HAS BEEN NO COMMUNICATION
20 BETWEEN THE SETTLEMENT OFFICER AND ANY PARTY OR PARTY'S
21 REPRESENTATIVE FOR 21 DAYS FOLLOWING THE CONCLUSION OF THE
22 SETTLEMENT CONFERENCE.

23 (F) EXCLUSION OF LIABILITY.--A SETTLEMENT OFFICER IS NOT A
24 NECESSARY OR PROPER PARTY IN ADMINISTRATIVE, JUDICIAL OR OTHER
25 PROCEEDINGS RELATING TO THE SETTLEMENT CONFERENCE.

26 NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, PARTIES TO
27 A SETTLEMENT CONFERENCE UNDER THIS SECTION SHALL BE DEEMED TO
28 HAVE CONSENTED THAT THE SETTLEMENT OFFICER SHALL NOT BE LIABLE
29 TO ANY PARTY FOR ANY ERROR, ACT OR OMISSION IN CONNECTION WITH
30 ANY SETTLEMENT CONFERENCE CONDUCTED UNDER THIS SECTION. PARTIES

1 TO A SETTLEMENT CONFERENCE UNDER THIS SECTION MAY NOT CALL A
2 SETTLEMENT OFFICER AS A WITNESS IN LITIGATION OR ANY OTHER
3 PROCEEDING RELATING TO THE SETTLEMENT CONFERENCE. THE SETTLEMENT
4 OFFICER IS NOT COMPETENT TO TESTIFY AS A WITNESS IN ANY
5 PROCEEDING RELATED TO THE SETTLEMENT CONFERENCE.

6 (G) RULES AND REGULATIONS.--THE BOARD MAY ADOPT RULES AND
7 PROMULGATE REGULATIONS NECESSARY TO EFFECTUATE THIS SECTION.

8 (H) LAWS NOT APPLICABLE.--THE PROVISIONS OF 2 PA.C.S.
9 (RELATING TO ADMINISTRATIVE LAW AND PROCEDURE) SHALL NOT APPLY
10 TO A SETTLEMENT CONFERENCE CONDUCTED UNDER THIS SECTION.
11 SECTION 2708. CLOSING AGREEMENTS.

12 (A) AUTHORIZATION.--THE DEPARTMENT IS AUTHORIZED TO ENTER
13 INTO AN AGREEMENT IN WRITING WITH ANY PERSON RELATING TO THE
14 LIABILITY OF THE PERSON, OR OF THE PERSON OR ESTATE FOR WHOM THE
15 PERSON ACTS, IN RESPECT OF ANY TAX ADMINISTERED BY THE
16 DEPARTMENT FOR ANY TAXABLE PERIOD.

17 (B) FINALITY.--IF THE AGREEMENT IS APPROVED BY THE
18 DEPARTMENT, WITHIN A TIME AS MAY BE STATED IN THE AGREEMENT OR
19 LATER AGREED TO, THE AGREEMENT SHALL BE FINAL AND CONCLUSIVE,
20 AND, EXCEPT UPON A SHOWING OF FRAUD, MALFEASANCE OR
21 MISREPRESENTATION OF A MATERIAL FACT:

22 (1) THE CASE SHALL NOT BE REOPENED AS TO THE MATTERS
23 AGREED UPON OR THE AGREEMENT MODIFIED BY ANY OFFICER,
24 EMPLOYEE OR AGENT OF THE DEPARTMENT.

25 (2) IN A SUIT, ACTION OR PROCEEDING, THE AGREEMENT, OR
26 ANY DETERMINATION, ASSESSMENT, COLLECTION, PAYMENT,
27 ABATEMENT, REFUND OR CREDIT MADE IN ACCORDANCE WITH THE
28 AGREEMENT, SHALL NOT BE ANNULLED, MODIFIED, SET ASIDE OR
29 DISREGARDED.

30 (C) LIABILITIES SUSPENDED.--IF, PURSUANT TO AN AGREEMENT

1 AUTHORIZED BY SUBSECTION (A), THE DEPARTMENT AGREES TO SUSPEND
2 THE COLLECTION OF ANY AMOUNTS OF TAX, PENALTIES, INTEREST OR
3 OTHER ADDITIONS TO TAX, THE DEPARTMENT MAY REIMPOSE ANY OF THE
4 SUSPENDED AMOUNTS IF THE PERSON WHO ENTERED INTO THE AGREEMENT
5 FAILS TO COMPLY WITH THE TERMS OF THE AGREEMENT.

6 SECTION 2709. REPORT TO GENERAL ASSEMBLY.

7 NO LATER THAN JUNE 1 OF THE SECOND YEAR AFTER THE EFFECTIVE
8 DATE OF THIS SECTION, AND EACH YEAR THEREAFTER, THE STATE
9 TREASURER SHALL SUBMIT A REPORT TO THE GENERAL ASSEMBLY
10 SUMMARIZING THE EFFECTIVENESS OF THE SETTLEMENT CONFERENCE
11 PROCESS IMPLEMENTED UNDER SECTION 2704.1. A COPY OF THE REPORT
12 SHALL BE DELIVERED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
13 FINANCE COMMITTEE OF THE SENATE AND THE CHAIRMAN AND MINORITY
14 CHAIRMAN OF THE FINANCE COMMITTEE OF THE HOUSE OF
15 REPRESENTATIVES. THE REPORT SHALL, AT A MINIMUM, INCLUDE:

16 (1) THE NUMBER OF APPEALS OF TAX LIABILITY RESOLVED
17 THROUGH THE SETTLEMENT CONFERENCE PROCESS.

18 (2) THE NUMBER OF APPEALS OF TAX LIABILITY THAT WERE NOT
19 RESOLVED THROUGH THE SETTLEMENT CONFERENCE PROCESS.

20 (3) OF THE TAXPAYERS WHOSE APPEALS WERE RESOLVED THROUGH
21 THE SETTLEMENT CONFERENCE PROCESS, HOW MANY WERE INDIVIDUAL
22 TAXPAYERS AND HOW MANY WERE PASS-THROUGH ENTITIES.

23 (4) THE AVERAGE AMOUNT OF TAX LIABILITY CONTESTED IN
24 CASES THAT WERE RESOLVED THROUGH THE SETTLEMENT CONFERENCE
25 PROCESS.

26 (5) THE AVERAGE NUMBER OF DAYS IT TOOK FOR APPEALS OF
27 TAX LIABILITY TO BE RESOLVED THROUGH THE SETTLEMENT
28 CONFERENCE PROCESS.

29 (6) RECOMMENDATIONS TO IMPROVE THE EFFECTIVENESS OF THE
30 SETTLEMENT CONFERENCE PROCESS, WHICH MAY BE IMPLEMENTED

1 THROUGH ADMINISTRATIVE PROCEDURE, GUIDELINES, RULES,
2 REGULATIONS OR LEGISLATION.

3 (7) ANY OTHER INFORMATION DEEMED NECESSARY BY THE STATE
4 TREASURER.

5 SECTION 4. SECTION 3003.6 OF THE ACT IS AMENDED TO READ:

6 SECTION 3003.6. TIMELY FILING.--(A) A TAXPAYER SHALL BE
7 DEEMED TO HAVE TIMELY FILED A PETITION FOR A REFUND, A PETITION
8 FOR REASSESSMENT OR ANY OTHER PROTEST RELATING TO THE ASSESSMENT
9 OF TAX OR ANY OTHER MATTER RELATING TO ANY TAX IMPOSED BY THIS
10 ACT IF THE LETTER TRANSMITTING THE PETITION IS RECEIVED BY THE
11 DEPARTMENT OF REVENUE OR IS POSTMARKED BY THE UNITED STATES
12 POSTAL SERVICE ON OR PRIOR TO THE FINAL DAY ON WHICH THE
13 PETITION IS REQUIRED TO BE FILED.

14 (B) FOR PURPOSES OF FILING A PETITION FOR REFUND, A PETITION
15 FOR REASSESSMENT OR A PETITION FOR REDETERMINATION WITH THE
16 DEPARTMENT OF REVENUE OR THE BOARD OF FINANCE AND REVENUE, THE
17 REFERENCE IN SUBSECTION (A) TO A POSTMARK BY THE UNITED STATES
18 POSTAL SERVICE SHALL INCLUDE ANY DATE RECORDED OR MARKED AS
19 DESCRIBED UNDER 26 U.S.C. § 7502(F)(2)(C) (RELATING TO TIMELY
20 MAILING TREATED AS TIMELY FILING AND PAYING) BY ANY DELIVERY
21 SERVICE DESIGNATED BY THE SECRETARY OF THE TREASURY OF THE
22 UNITED STATES UNDER 26 U.S.C. § 7502(F)(2).

23 SECTION 5. THE AMENDMENT OF SECTION 401(3)1(B.2) OF THE ACT
24 SHALL APPLY TO TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2023.

25 SECTION 6. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

26 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT
27 IMMEDIATELY:

28 (I) THE AMENDMENT OF SECTION 401(3)1(B.2) OF THE
29 ACT.

30 (II) THIS SECTION AND SECTION 5 OF THIS ACT.

1 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IN 90
2 DAYS.