

## No. 1983-29

## AN ACT

## HB 22

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing for the removal of the sales tax exclusion for cigarettes; providing for acceleration of the due date for remission of tax; further providing for a change in and withholding of the annual personal income tax due; further providing for an additional tentative report and prepayment of the Public Utility Realty Tax by every public utility liable to pay tax; and making an appropriation.

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

Section 1. Sections 204(27) and 217 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are amended to read:

Section 204. Exclusions from Tax.—The tax imposed by section 202 shall not be imposed upon

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**[(27) The sale at retail or use of cigarettes.]**

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Section 217. Time for Filing Returns.—(a) Monthly, Bimonthly and Quarterly Returns:

(1) For the year in which this article becomes effective and in each year thereafter a return shall be filed quarterly by every licensee on or before the **[last] twentieth** day of April, July, October and January for the three months ending the last day of March, June, September and December, except as hereinafter provided.

(2) For the year in which this article becomes effective, and in each year thereafter, a return shall be filed monthly with respect to each month by every licensee whose total tax reported, or in the event no report is filed, the total tax which should have been reported, for the third calendar quarter of the preceding year equals or exceeds six hundred dollars (\$600). Such returns shall be filed on or before the **[fifteenth day of the second month succeeding the month] twentieth day of the next succeeding month** with respect to which the return is made, except that the return due for the month of April, of each year, shall be filed on or before the twentieth day of May next following and the return due for the month of May of each year shall be filed on or before the twentieth day of June next following. Any licensee required to file monthly returns hereunder shall be relieved from filing quarterly returns.

(3) For the year in which this article becomes effective, and for each year thereafter, every licensee required to file a quarterly return for the second

calendar quarter shall file a single return for the months of April and May on or before the fifteenth day of June next following. The filing of such return shall not relieve the licensee of the duty to file a return on or before the **[last] twentieth** day of July next following and to remit therewith tax for the month of June.

(b) Annual Returns. For the calendar year 1971, and for each year thereafter, no annual return shall be filed, except as may be required by rules and regulations of the department promulgated and published at least sixty days prior to the end of the year with respect to which the returns are made. Where such annual returns are required licensees shall not be required to file such returns prior to the **[sixty-first] twentieth** day of the year succeeding the year with respect to which the returns are made.

(c) Other Returns. Any person, other than a licensee, liable to pay to the department any tax under this article, shall file a return on or before the **[last] twentieth** day of the month succeeding the month in which such person becomes liable for the tax.

(d) Small Taxpayers. The department, by regulation, may waive the requirement for the filing of quarterly return in the case of any licensee whose individual tax collections do not exceed seventy-five dollars (\$75) per calendar quarter and may provide for reporting on a less frequent basis in such cases.

Section 2. Section 302 of the act, amended December 9, 1982 (P.L.1047, No.246), is amended to read:

Section 302. Imposition of Tax.—(a) There is hereby imposed **[an annual]** a tax to be paid by resident individuals, estates or trusts at the *annual* rate of two and two-tenths per cent *for taxable years up to and including the taxable year commencing on or after January 1, 1982, and at the annual rate of two and forty-five hundredths per cent for the taxable year commencing on or after January 1, 1983, and for the first six months of the taxable year commencing on or after January 1, 1984, and at the annual rate of two and thirty-five hundredths per cent for the second six months of the taxable year commencing on or after January 1, 1984, and for each taxable year thereafter* on the privilege of receiving each of the classes of income hereinafter enumerated in section 303.

(b) There is hereby imposed **[an annual]** a tax to be paid by nonresident individuals, estates or trusts at the *annual* rate of two and two-tenths per cent *for taxable years up to and including the taxable year commencing on or after January 1, 1982, and at the annual rate of two and forty-five hundredths per cent for the taxable year commencing on or after January 1, 1983, and for the first six months of the taxable year commencing on or after January 1, 1984, and at the annual rate of two and thirty-five hundredths per cent for the second six months of the taxable year commencing on or after January 1, 1984, and for each taxable year thereafter* on the privilege of receiving each of the classes of income enumerated in section 303 from sources within this Commonwealth.

Section 3. Sections 303(a)(7) and 360 of the act, added August 31, 1971 (P.L.362, No.93), are amended to read:

Section 303. Classes of Income.—(a) The classes of income referred to above are as follows:

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(7) Gambling and lottery winnings *other than prizes of the Pennsylvania State Lottery*.

\* \* \*

Section 360. [Repealer.—All acts or parts of acts excluding lottery or gambling winnings from a State personal income tax are repealed in so far as inconsistent herewith.] *Transfer of Funds.—An amount equal to the product of the present value of prizes of the Pennsylvania State Lottery won times the rate of tax provided in section 302 shall be transferred quarterly to the General Fund from the State Lottery Fund.*

Section 4. Section 1102-A(a) of the act, amended July 4, 1979 (P.L.60, No.27), is amended to read:

Section 1102-A. Imposition of Tax; Report; Interest and Penalties.—(a) On or before the first day of June of 1970 and of each year thereafter *until and including June 1, 1983*, every public utility shall pay to the State Treasurer, through the Department of Revenue, a tax at the rate of thirty mills upon each dollar of the State taxable value of its utility realty at the end of the preceding calendar year.

(1) *On or before April 15, 1984, for tax year 1983, every public utility shall report tax liability at the rate of thirty mills upon each dollar of the State taxable value of its utility realty at the end of calendar year 1983 and shall pay such tax on or before June 1, 1984.*

(2) *On or before April 15, 1984, and each year thereafter, every public utility shall report tentative tax liability for the current tax year equal to ninety per cent of the tax liability of the immediate prior year, and pay twenty-five per cent of such amount on April 15, June 15, September 15 and December 15 of each year.*

(3) *On or before April 15, 1985, and every year thereafter, every public utility shall pay the remaining portion, if any, of the thirty mills tax due upon each dollar of the State taxable value of its utility realty at the end of the preceding calendar year, after accounting for any tentative tax payments made pursuant to this act.*

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Section 5. Section 3003(a) and (b) of the act, renumbered December 21, 1981 (P.L.482, No.141), are amended to read:

Section 3003. Prepayment of Tax.—(a) Notwithstanding the provisions of this act, or any other State tax law to the contrary, which required taxpayers to make payment of tentative tax, including but not limited to the capital stock and franchise tax, corporate net income and corporation income tax, gross receipts tax on public service companies, transportation by motor vehicles and trackless trolleys, other than motor vehicles for hire, insurance premiums tax, mutual thrift institutions tax, net earnings tax, or other similar tax law requiring payment of tentative tax, but excluding the prepayment by banks and savings institutions under Article VII and title insurance and trust companies under Article VIII, *and public utilities under*

*Article XI-A* of this act, such taxpayers, commencing with the calendar year 1970 and fiscal years beginning during the calendar year 1970 and each taxable year thereafter, on or before the fifteenth day of April for calendar year taxpayers, and on or before the fifteenth day of the fourth month after the close of its previous fiscal year for fiscal year taxpayers, shall report annually and pay on account of the tax due for the current year, an amount to be computed by applying the current tax rate to ninety per cent of such tax base from the immediate prior year as may be applicable with respect to the tax being reported.

(b) For the taxable years commencing with calendar year 1979 and for each taxable year thereafter, the tentative tax due for the current year shall be computed by applying the current tax rate to ninety per cent of such tax base from the year preceding the immediate prior year as may be applicable with respect to the tax being reported; except that with respect to the aforesaid gross receipts tax on public service companies, transportation by motor vehicles and trackless trolleys, other than motor vehicles for hire, and the aforesaid insurance premiums tax, such amount shall continue to be computed by applying the current tax rate to ninety per cent of the tax base from the immediate prior year as may be applicable with respect to the tax being reported.

The tax imposed on shares of bank and savings institutions and title insurance and trust companies *and the tax imposed on public utility realty* shall be paid in the manner and within the time prescribed by Article VII [or], Article VIII *or Article XI-A*, as the case may be, but subject to the additions and interest provided in subsection (e) of this section.

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Section 6. The Department of Revenue shall provide notice to employers, either in the Pennsylvania Bulletin pursuant to 1 Pa. Code § 3.27 or by other means, of the withholding rate equivalent to the rate of tax in effect prior to the effective date of this act plus the additional rate necessary to equalize withholding over the remainder of the taxable year to account for the retroactivity of the revised annual rate provided by this act, to be effective for the period from the first pay period of employers ending on or after 15 days following the effective date of this act through December 31, 1983, after which time the withholding rate during any period of time shall revert to the level of taxation prescribed in section 302 of the act.

Section 7. It is the intent of the General Assembly that a portion of the revenues obtained from the sales tax on cigarettes be used to fund the act of December 18, 1980 (P.L.1241, No.224), known as the Pennsylvania Cancer Control, Prevention and Research Act.

Section 8. There is hereby appropriated to the Department of Health for the 1983-1984 fiscal year, an amount of \$4,000,000 for cancer control, prevention and research.

Section 9. The act of August 26, 1971 (P.L.351, No.91), known as the State Lottery Law, is repealed insofar as it is inconsistent with the provisions of this act.

Section 10. (a) Except as provided in the following paragraphs, this act shall take effect immediately:

(1) The amendments to sections 204 and 217 shall take effect in 15 days.

(2) The amendments to section 302 shall take effect immediately and shall be retroactive to January 1, 1983.

(b) The amendments to sections 303 and 360 shall take effect immediately and apply to prizes of the Pennsylvania State Lottery which are won on or after the date of final enactment of this act.

APPROVED—The 21st day of July, A. D. 1983.

DICK THORNBURGH