

No. 2002-87

## AN ACT

SB 33

Amending the act of December 20, 1996 (P.L.1504, No.195), entitled, as reenacted and amended, "An act providing for the rights and privileges of taxpayers, for designation of a taxpayers' rights advocate and for the powers, duties and responsibilities of the Department of Revenue and the Taxpayers' Rights Advocate," further providing for innocent spouse relief.

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

Section 1. Section 212 of the act of December 20, 1996 (P.L.1504, No.195), known as the Taxpayers' Bill of Rights, reenacted and amended June 22, 2001 (P.L.595, No.47), is amended to read:

Section 212. Innocent spouse relief.

[Under regulations promulgated by the secretary, a taxpayer filing a joint return under Article III of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for a taxable year shall be relieved of liability for tax, interest and penalties for that taxable year to the extent such liability is attributable to a substantial understatement by the taxpayer's spouse. This section shall apply only if:

(1) On such joint return there is a substantial understatement of tax attributable to grossly erroneous items of one spouse.

(2) The other spouse establishes that in signing the return such spouse did not know and had no reason to know that there was such substantial understatement.

(3) Taking into account all the facts and circumstances, it is inequitable to hold the other spouse liable for any assessment for such taxable year attributable to such substantial understatement.]

*(a) General rule.—A taxpayer who has made a joint return may elect to seek relief from liability in the circumstances described in subsection 6015(b) or (c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.). The election under this subsection shall be filed with the Taxpayers' Rights Advocate.*

*(b) Prompt action.—The Taxpayers' Rights Advocate, within six months of receiving an election under this section, shall dispose of the election. If, taking into account all the facts and circumstances, it is inequitable to hold the taxpayer liable for any unpaid tax or any deficiency and relief is not otherwise available to the taxpayer, the Taxpayers' Rights Advocate may relieve the individual of the liability. Prompt notice of the action taken shall be given to the taxpayer. A denial of an election or a failure to notify the taxpayer of a decision within six*

*months after the date an election is filed with the Taxpayers' Rights Advocate may be appealed in the manner provided by law for appeals from actions taken on a petition for reassessment.*

*(c) Notice.—The department and the Board of Finance and Revenue shall provide a taxpayer who has filed a joint return but who does not elect to proceed under this section with adequate notice and an opportunity to become a party to a proceeding under this section.*

*(d) Regulations.—The department and the Board of Finance and Revenue shall promulgate regulations necessary to implement this section.*

Section 2. This act shall take effect immediately.

APPROVED—The 28th day of June, A.D. 2002.

MARK S. SCHWEIKER