

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1921 Session of 2021

INTRODUCED BY STRUZZI, PICKETT, RYAN, HILL-EVANS, CIRESI, BURGOS, JOZWIAK AND ROWE, SEPTEMBER 28, 2021

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, DECEMBER 14, 2021

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 for restrictions on~~
12 ~~refunds.~~

13 AMENDING TITLE 20 (DECEDENTS, ESTATES AND FIDUCIARIES) OF THE <--
14 PENNSYLVANIA CONSOLIDATED STATUTES, IN DISPOSITIONS
15 INDEPENDENT OF LETTERS, FAMILY EXEMPTION AND PROBATE OF WILLS
16 AND GRANT OF LETTERS, FURTHER PROVIDING FOR PAYMENTS TO
17 FAMILY AND FUNERAL DIRECTORS.

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

20 ~~Section 1. Section 346(a) of the act of March 4, 1971~~ <--
21 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, is amended~~
22 ~~to read:~~

23 ~~Section 346. Refund or Credit of Overpayment. (a) In the~~
24 ~~case of any payment of tax not due under this article, the~~
25 ~~department may credit the amount of such overpayment against any~~

1 ~~liability in respect of the tax imposed by this article on the~~
2 ~~part of the person who made the overpayment and shall refund any~~
3 ~~balance to such person or, if the overpayment was made by a~~
4 ~~person who subsequently dies, to the next of kin in accordance~~
5 ~~with section 347(b).~~

6 * * *

7 Section 2. ~~Section 347(a) of the act is amended and the~~
8 ~~section is amended by adding subsections to read:~~

9 Section 347. ~~Restrictions on Refunds. (a) A credit or~~
10 ~~refund may be [made] issued under section 346:~~

11 ~~(1) By reason of the overpayment of an installment of~~
12 ~~estimated tax;~~

13 ~~(2) Upon reassessment;~~

14 ~~(3) Upon the filing of a final return or amended final~~
15 ~~return showing any overpayment of tax.~~

16 ~~(b) (1) In the case of overpayment of tax made by a person~~
17 ~~who subsequently dies, a refund may be issued under section~~
18 ~~346(a) to the executor, administrator or other personal~~
19 ~~representative of the decedent.~~

20 ~~(2) In the case of overpayment of tax made by a person who~~
21 ~~subsequently dies and no estate has been opened for the~~
22 ~~decedent, the department may issue or reissue a refund under~~
23 ~~section 346(a) in the name of the decedent's next of kin,~~
24 ~~provided that the next of kin presents to the department all of~~
25 ~~the following prior to issuing or reissuing a refund:~~

26 ~~(i) A certified death certificate with the same name as the~~
27 ~~decedent.~~

28 ~~(ii) A sworn affidavit under the penalties of 18 Pa.C.S. §~~
29 ~~4904 (relating to unsworn falsification to authorities) setting~~
30 ~~forth the relationship of the claimant to the decedent, the~~

~~1 existence or nonexistence of a duly appointed personal
2 representative of the decedent and any other persons that may be
3 entitled to make a claim to the decedent's refund.~~

~~4 (iii) Other information determined by the department to be
5 necessary in order to issue or reissue a refund.~~

~~6 (3) The department shall develop a form and may promulgate
7 regulations providing for issuance or reissuance of a refund
8 under this subsection.~~

~~9 (c) As used in this section, the term "next of kin" means a
10 surviving spouse, child, mother or father or sister or brother
11 of the decedent, with preference given in that order.~~

~~12 Section 3. This act shall apply to an overpayment of tax
13 made by a decedent taxpayer for taxable years beginning after
14 December 31, 2018.~~

~~15 Section 4. This act shall take effect immediately.~~

16 SECTION 1. SECTION 3101 OF TITLE 20 OF THE PENNSYLVANIA <--
17 CONSOLIDATED STATUTES IS AMENDED BY ADDING A SUBSECTION TO READ:
18 § 3101. PAYMENTS TO FAMILY AND FUNERAL DIRECTORS.

19 * * *

20 (F) PERSONAL INCOME TAX REFUND.--THE FOLLOWING SHALL APPLY:

21 (1) WHEN A TAX REFUND OF \$10,000 OR LESS IS DUE TO A
22 DECEASED INDIVIDUAL UNDER ARTICLE III OF THE ACT OF MARCH 4,
23 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, AND
24 NO ESTATE HAS BEEN OPENED FOR THE DECEASED INDIVIDUAL AND NO
25 PERSONAL REPRESENTATIVE HAS BEEN APPOINTED, THE DEPARTMENT OF
26 REVENUE SHALL ISSUE THE TAX REFUND TO THE SURVIVING SPOUSE,
27 CHILD, PARENT OR SIBLING OF THE DECEASED INDIVIDUAL.

28 (2) IN ORDER FOR A TAX REFUND TO BE ISSUED UNDER
29 PARAGRAPH (1), THE FOLLOWING CRITERIA MUST BE MET:

30 (I) THE INDIVIDUAL SEEKING THE TAX REFUND MUST

1 SUBMIT AN APPLICATION FOR THE REFUND TO THE DEPARTMENT OF
2 REVENUE ON A FORM PRESCRIBED BY THE DEPARTMENT OF
3 REVENUE. THE APPLICATION MUST BE SIGNED AND MADE SUBJECT
4 TO THE PENALTIES OF 18 PA.C.S. § 4904 (RELATING TO
5 UNSWORN FALSIFICATION TO AUTHORITIES). THE APPLICATION
6 SHALL INCLUDE THE FOLLOWING:

7 (A) A CERTIFIED DEATH CERTIFICATE OF THE
8 DECEASED INDIVIDUAL.

9 (B) THE RELATIONSHIP OF THE INDIVIDUAL TO THE
10 DECEASED INDIVIDUAL.

11 (C) A STATEMENT THAT AN ESTATE FOR THE DECEASED
12 INDIVIDUAL HAS NOT BEEN OPENED AND THAT A PERSONAL
13 REPRESENTATIVE HAS NOT BEEN APPOINTED.

14 (D) OTHER INFORMATION AS THE DEPARTMENT OF
15 REVENUE DETERMINES IS NECESSARY IN ORDER TO ISSUE THE
16 TAX REFUND.

17 (II) THE DECEASED INDIVIDUAL HAS BEEN DECEASED FOR
18 AT LEAST NINE MONTHS.

19 (3) THE DEPARTMENT OF REVENUE MAY ONLY ISSUE ONE TAX
20 REFUND UNDER PARAGRAPH (1) TO ONE INDIVIDUAL ON BEHALF OF A
21 DECEASED INDIVIDUAL. IF MORE THAN ONE INDIVIDUAL APPLIES FOR
22 THE TAX REFUND, PREFERENCE SHALL BE GIVEN TO THE INDIVIDUAL
23 AS FOLLOWS:

24 (I) SURVIVING SPOUSE.

25 (II) CHILD.

26 (III) PARENT.

27 (IV) SIBLING.

28 (4) PRIOR TO THE ISSUANCE OF A TAX REFUND UNDER
29 PARAGRAPH (1), THE DEPARTMENT OF REVENUE IS NOT REQUIRED TO
30 CONFIRM THE EXISTENCE OF INDIVIDUALS OTHER THAN THE APPLICANT

1 WHO MAY BE ENTITLED TO THE TAX REFUND UNDER THIS SUBSECTION.

2 (5) IF A REFUND IS ISSUED UNDER PARAGRAPH (1), THE
3 REFUND SHALL BE TREATED AS IF IT HAD BEEN MADE TO A DULY
4 APPOINTED PERSONAL REPRESENTATIVE OF THE DECEASED INDIVIDUAL
5 AND THE DEPARTMENT OF REVENUE MAY NOT BE REQUIRED TO ISSUE
6 THE REFUND TO ANY OTHER PERSON.

7 (6) ANY INDIVIDUAL TO WHOM THE TAX REFUND IS MADE SHALL
8 BE LIABLE TO ANYONE PREJUDICED BY THE ISSUANCE OF THE TAX
9 REFUND UNDER THIS SUBSECTION.

10 SECTION 2. THE ADDITION OF 20 PA.C.S. § 3101(F) SHALL APPLY
11 TO A TAX REFUND DUE FOR TAXABLE YEARS BEGINNING AFTER DECEMBER
12 31, 2018.

13 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.