

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 396 Session of  
2025

INTRODUCED BY MASTRIANO, CULVER, PISCIOTTANO AND STEFANO,  
MARCH 6, 2025

REFERRED TO FINANCE, MARCH 6, 2025

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 definitions, providing for elective tax imposed at pass-  
12 through entity level and further providing for taxability of  
13 partners and for income of a Pennsylvania S corporation.

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

16 Section 1. Section 301(w) of the act of March 4, 1971  
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended  
18 to read:

19 Section 301. Definitions.--Any reference in this article to  
20 the Internal Revenue Code of 1986 shall mean the Internal  
21 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),  
22 as amended to January 1, 1997, unless the reference contains the  
23 phrase "as amended" and refers to no other date, in which case

1 the reference shall be to the Internal Revenue Code of 1986 as  
2 it exists as of the time of application of this article. The  
3 following words, terms and phrases when used in this article  
4 shall have the meaning ascribed to them in this section except  
5 where the context clearly indicates a different meaning:

6 \* \* \*

7 (w) "Taxpayer" means any individual, estate or trust subject  
8 to the tax imposed by this article, any partnership having a  
9 partner who is a taxpayer under this act, any Pennsylvania S  
10 corporation having a shareholder who is a taxpayer under this  
11 act [and], any person required to withhold tax under this  
12 article and, unless otherwise provided, a pass-through entity  
13 that elects to pay the tax imposed under section 302.3.

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

15 Section 302.3. Elective Tax Imposed at Pass-Through Entity  
16 Level.--(a) Notwithstanding any other provision of this  
17 article, a pass-through entity may elect, on an annual basis, to  
18 have the tax imposed under this article applied to the income of  
19 the pass-through entity. The following shall apply:

20 (1) An electing partnership shall be subject to and shall  
21 pay a tax imposed at the rate provided in section 302(b) on:

22 (i) Each resident taxable owner's share of each class of  
23 income and gain enumerated in section 303 for the taxable year.

24 (ii) Each nonresident taxable owner's share of each class of  
25 income and gain enumerated in section 303 from sources within  
26 this Commonwealth for the taxable year.

27 (2) An electing Pennsylvania S corporation with all resident  
28 shareholders shall be subject to and shall pay a tax imposed at  
29 the rate provided in section 302(b) on each resident taxable  
30 owner's share of each class of income and gain enumerated in

section 303 from sources within this Commonwealth for the taxable year.

(3) An electing Pennsylvania S corporation whose shareholders are comprised of either nonresident shareholders, or resident and nonresident shareholders shall be subject to and shall pay a tax imposed at the rate provided in section 302(b) on each taxable owner's share of each class of income and gain enumerated in section 303 from sources within this Commonwealth for the taxable year.

(4) An entity that is disregarded for tax purposes under this article shall be disregarded for the purposes of this section.

(5) In determining its tax under this section, a pass-through entity that owns a direct or indirect ownership interest in one or more pass-through entities shall include its share of each class of income enumerated in section 303 received from those pass-through entities. The pass-through entity that generates an item of income, gain or loss shall determine its classification and whether that item of income, gain or loss constitutes income or loss from sources within this Commonwealth.

(6) Guaranteed payments made to a partner in a partnership shall be treated as additional income allocated to the partner. With respect to a nonresident taxable owner, only guaranteed payments that constitute income from sources within this Commonwealth shall be subject to the tax under this section.

(7) In determining the tax due under this section, a pass-through entity shall not be permitted to use any tax credits otherwise available to the pass-through entity except a credit for estimated taxes paid for the current taxable year under this

section or an overpayment of a prior-year tax paid under this section.

(b) (1) Any election described under subsection (a) shall be made by an individual with authority to bind the pass-through entity or sign returns under this article or who is authorized to make the election and represents to having the authorization under penalty of perjury on or before the original due date of the pass-through entity's return under this article for the taxable year in a manner prescribed by the department.

(2) Only one election may be submitted by an individual identified under clause (1) on behalf of the pass-through entity to the department for the taxable year.

(3) An election made under this section shall be irrevocable for the taxable year.

(4) An election under this section may be made only for tax years that the limitation on individual deductions applies under 26 U.S.C. § 164(b)(6) (relating to taxes).

(c) (1) A taxable owner of an interest in a pass-through entity that elects to pay tax under subsection (a) shall be allowed a refundable credit against the tax imposed under section 302 in the amount of the taxable owner's share of the tax that the pass-through entity actually paid under this section. A taxable owner's share of the tax shall take into account guaranteed payments and other special allocations made to the owner.

(2) A taxable owner shall be entitled to claim the credit under clause (1) on the taxable owner's tax return that includes the corresponding income and gain of the pass-through entity.

(3) The credit allowed under this subsection shall be applied after the application of all other tax credits available

1 to the owner for the taxable year. If the amount of the credit  
2 allowable under this subsection for any taxable year exceeds the  
3 tax due for the year under this article, the excess amount shall  
4 be treated as an overpayment, to be credited or refunded.

5 (4) No credit shall be allowed to a taxable owner under  
6 clause (1) unless the electing pass-through entity paid the tax  
7 imposed under this article and provides the department on its  
8 tax return all the information required in subsection (d)(3) and  
9 (4).

10 (5) The aggregate amount of credits claimed by all taxable  
11 owners of a pass-through entity under clause (1) may not exceed  
12 the tax that the pass-through entity paid under subsection (a)  
13 for the taxable year.

14 (d) (1) On or before the date provided under section  
15 330.1(b) or 335(c), each pass-through entity that elects to pay  
16 tax under subsection (a) shall file a return for the taxable  
17 year reporting the information required under this subsection  
18 and pay the tax due.

19 (2) If a pass-through entity is granted an extension to file  
20 a return required to be filed under section 330.1(b) or 335(c),  
21 the extension shall apply for purposes of filing the return  
22 under this section, but not for the payment of any tax due under  
23 subsection (a).

24 (3) The return filed under clause (1) shall include, in a  
25 format as prescribed by the department, a certification by an  
26 individual authorized to act on behalf of the pass-through  
27 entity, which includes that all statements contained in the  
28 return are true and correct.

29 (4) Each pass-through entity that elects to pay tax under  
30 subsection (a) shall report on a return required under this

1 article the following:

2 (i) Any tax due under this article. The balance of any tax  
3 shown on the return, not previously paid as installments of  
4 estimated tax or an overpayment of a prior-year tax, shall be  
5 paid with the return.

6 (ii) Identifying information of each taxable owner eligible  
7 to receive a credit under subsection (c), including a Social  
8 Security number or tax identification number and status as a  
9 resident or nonresident. The pass-through entity must provide  
10 information sufficient to identify a disregarded entity and its  
11 taxable owners.

12 (iii) For each taxable owner who will be entitled to claim a  
13 credit on a tax return, the taxable owner's share of the tax  
14 imposed on the pass-through entity under this section.

15 (iv) Each resident taxable owner's share of the pass-through  
16 entity's income and each nonresident taxable owner's share of  
17 income from sources from within this Commonwealth included in  
18 the tax base under this section.

19 (v) The classification of each owner as a taxable resident  
20 or nonresident for purposes of calculating the pass-through  
21 entity's tax liability under this section.

22 (vi) Any other information as required by the department.

23 (5) A pass-through entity that elects to pay tax under  
24 subsection (a) shall not be required to withhold tax from a  
25 nonresident taxable owner under section 324.

26 (6) To meet the requirements of this section, if a taxable  
27 owner holds an interest in the pass-through entity through an  
28 entity that is a disregarded entity for purposes of this  
29 article, the pass-through entity must provide information  
30 sufficient to identify both the disregarded entity that holds an

interest in the pass-through entity and the taxable owner that owns the disregarded entity and is eligible for a credit under subsection (c).

(7) Each pass-through entity paying tax under this section shall report to each taxable owner required to file a return under this article a statement that contains the following information:

(i) Classification as a resident taxable owner or a nonresident taxable owner for purposes of calculating the pass-through entity's tax under subsection (a).

(ii) The taxable owner's allocable share of the pass-through entity's income included in the tax base for purposes of computing the tax under subsection (a).

(iii) The owner's allocable share of the tax paid under subsection (a).

(iv) Any other information, as required by the department.

(e) (1) Any assessment of tax imposed under this section, including interest, penalties and additions, shall be assessed against the pass-through entity at the tax rate applicable to the tax year. The department may not assess any additional tax, including interest, penalties and additions, against the taxable owners.

(2) Any determination of an overpayment or refund of tax imposed under this section made subsequent to the filing of the return under subsection (d) shall be made at the pass-through entity level at the tax rate applicable to the tax year.

(3) The pass-through entity shall be required to provide each owner a statement of any adjustment of the taxable owner's credit within ninety days of an assessment, overpayment or refund becoming final.

1     (4) The taxable owner shall report the adjustment of the  
2 credit on an amended return for the taxable owner's taxable year  
3 that includes the pass-through entity's taxable year for which  
4 the tax was assessed.

5     (5) Only the pass-through entity may appeal or settle an  
6 assessment or overpayment of tax issued under this section or  
7 petition for a refund of tax imposed under this section.

8     (f) The basis of both a resident taxable owner and  
9 nonresident taxable owner of a pass-through entity that elects  
10 to pay tax under subsection (a) shall be determined as if the  
11 election under subsection (b) had not been made and each of the  
12 taxable owners of the taxed pass-through entity had properly  
13 taken into account each taxable owner's pro rata share of the  
14 taxed pass-through entity's items of income, gain, loss and  
15 deduction in the manner required with respect to a pass-through  
16 entity for which no such election is in effect.

17     (g) (1) Unless otherwise provided in, or inconsistent with,  
18 this section, the provisions of this article shall apply to this  
19 section.

20     (2) The department may issue guidance and promulgate  
21 regulations necessary for the implementation of this section.

22     (h) (1) In the case of any taxable year that includes the  
23 effective date of this clause, any nonresident withholding made  
24 under section 324 by the pass-through entity for the current tax  
25 year for an owner shall be applied by the pass-through entity  
26 against its estimated tax liability.

27     (2) In the case of any taxable year that includes the  
28 effective date of this clause, the department may not assess  
29 interest and penalties against an eligible pass-through entity  
30 for any underpayment of estimated tax due under subsection (d),



1 so long as the eligible pass-through entity acted in good faith  
2 with no intent to defraud the Commonwealth.

3 (i) As used in this section, the following words and phrases  
4 shall have the meanings given to them in this subsection unless  
5 the context clearly indicates otherwise:

6 "Electing pass-through entity." A pass-through entity that  
7 elects for a taxable year to be subject to the tax under this  
8 section to determine its tax in accordance with subsection (a).

9 "Nonresident taxable owner." An individual, estate or trust  
10 subject to the tax imposed under this article, other than a  
11 resident taxable owner, that is a partner, shareholder, member  
12 or other owner of an interest in a pass-through entity that has  
13 income from sources within this Commonwealth.

14 "Partnership." A domestic or foreign general partnership,  
15 joint venture, limited partnership, limited liability company,  
16 business trust or other unincorporated entity that for Federal  
17 income tax purposes is classified as a partnership. The term  
18 does not include a publicly traded partnership.

19 "Pass-through entity." A partnership or Pennsylvania S  
20 corporation.

21 "Resident taxable owner." A resident individual, resident  
22 trust or resident estate that is a partner, shareholder, member  
23 or other owner of an interest in a pass-through entity.

24 "Taxable owner." A resident taxable owner or nonresident  
25 taxable owner.

26 Section 3. Sections 306 and 307.8(a) of the act are amended  
27 to read:

28 Section 306. Taxability of Partners.--Except as provided  
29 under [section] sections 302.3 and 306.2, a partnership as an  
30 entity shall not be subject to the tax imposed by this article,

1 but the income or gain of a member of a partnership in respect  
2 of said partnership shall be subject to the tax and the tax  
3 shall be imposed on his share, whether or not distributed, of  
4 the income or gain received by the partnership for its taxable  
5 year ending within or with the member's taxable year.

6 Section 307.8. Income of a Pennsylvania S Corporation.--(a)  
7 A Pennsylvania S corporation shall not be subject to the tax  
8 imposed by this article, except as provided under subsection (f)  
9 and section 302.3, but the shareholders of the Pennsylvania S  
10 corporation shall be subject to the tax imposed under this  
11 article as provided in this article.

12 \* \* \*

13 Section 4. The amendment or addition of sections 301(w),  
14 302.3, 306 and 307.8(a) of the act shall apply to taxable years  
15 beginning after December 31, 2020.

16 Section 5. This act shall take effect immediately.