

TAX REFORM CODE OF 1971 - OMNIBUS AMENDMENTS
Act of Jul. 9, 2013, P.L. 270, No. 52

Session of 2013

No. 2013-52

Section 8. Section 306 of the act, amended June 22, 2001

(P.L.353, No.23), is amended to read:

Section 306. Taxability of Partners.--[A]
Except as provided under section 306.2, a partnership as an entity shall not be subject to the tax imposed by this article, but the income or gain of a member of a partnership in respect of said partnership shall

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be subject to the tax and the tax shall be imposed on his share, whether or not distributed, of the income or gain received by the partnership for its taxable year ending within or with the member's taxable year.

Section 9. The act is amended by adding sections to read:

Section 306.1. Tax Treatment Determined at Partnership Level.-

-The classification or character of a partnership item shall be determined at the partnership level. This section shall not prohibit the department from adjusting a partner's return.

Section 306.2. Tax Imposed at Partnership Level.--(a) A partnership underreporting income by more than one million dollars

(\$1,000,000) for any tax year shall be liable for the tax,

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excluding interest, penalties or additions at the tax rate applicable to the tax year, on the underreported income without regard to the tax liability of the partners for the underreported income. The department shall assess the partnership for the tax on

the underreported income. The department shall not assess the partners for the underreported income or the tax thereon; rather,

the partnership shall be required to provide an amended statement

to each partner as required under section 335(c)(3) of the partner's pro rata share of the underreported income within ninety

days of the assessment becoming final. Nothing in this subsection

shall relieve the partners of their tax liability on the underreported income.

(a.1) Each partner shall be allowed a credit for such partner's share of the tax assessed against the partnership under subsection (a) and paid by the partnership. The credit shall be allowed for the partner's taxable year in which the underreported income was required to be reported.

(b) Subsection (a) shall apply to the following partnerships:

(1) A partnership which has eleven or more partners who are natural persons.

(2) A partnership which has at least one partner which is a corporation, limited liability company, partnership or trust.

(3) A partnership which has only partners who are natural persons and which elects to be subject to this subsection. The

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election must be included on the partnership return to be filed with the department.

(c) This section shall not apply to a publicly traded partnership.

(d) Nothing under this section shall require one partner to be liable for the payment of a tax liability of another partner.

(e) Appeals involving a deficiency assessed under this section may only be pursued by the partnership, and a reassessment of tax

liability shall be binding on the partners.

Section 10. Section 307.8(a) of the act, amended May 7, 1997

(P.L.85, No.7), is amended and the section is amended by adding a subsection to read:

Section 307.8. Income of a Pennsylvania S Corporation.--(a) A Pennsylvania S corporation shall not be subject to the tax imposed by this article, **except as provided under subsection (f)**, but the shareholders of the Pennsylvania S corporation shall be subject to the tax imposed under this article as provided in this article.

(f) A Pennsylvania S corporation with underreported income shall be subject to the following:

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(1) A Pennsylvania S corporation underreporting income by more than one million dollars (\$1,000,000) for any tax year shall be liable for the tax, excluding interest, penalties or additions, at the tax rate applicable to the tax year, on the underreported income without regard to the tax liability of the shareholders for the underreported income. The department shall assess the Pennsylvania S corporation for the tax on the underreported income. The department shall not assess the shareholders for the underreported income or the tax thereon; rather, the Pennsylvania S corporation shall be required to provide an amended statement to each shareholder as required under section 330.1 of the shareholder's pro rata share of the underreported income within ninety days of the assessment becoming final. Nothing in this subsection shall relieve the shareholders of their tax liability on the underreported income.

(1.1) Each shareholder shall be allowed a credit for the shareholder's share of the tax assessed against the Pennsylvania S corporation under paragraph (1) and paid by the Pennsylvania S corporation. The credit shall be allowed for the shareholder's taxable year in which the underreported income was required to be reported.

(2) Paragraph (1) shall apply to the following Pennsylvania S

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corporations:

(i) A Pennsylvania S corporation which has eleven or more shareholders.

(ii) A Pennsylvania S corporation which elects to be subject to this subsection. The election must be included on the Pennsylvania S corporation return to be filed with the department.

(3) Nothing under this section shall require one shareholder to be liable for the payment of a tax liability of another shareholder.

(4) Appeals involving the deficiency assessed under this section may be filed only by the Pennsylvania S corporation, and a reassessment of tax liability shall be binding on the shareholders.

Section 11. Section 314(a) of the act, amended December 23, 1983 (P.L.370, No.90), is amended to read:
Section 314. Income Taxes Imposed by Other States.--(a) A resident taxpayer before allowance of any credit under section 312 shall be allowed a credit against the tax otherwise due under this article for the amount of any income tax, wage tax or tax on or measured by gross or net earned or unearned income imposed on him or on a Pennsylvania S corporation in which he is a shareholder, to the extent of his pro rata share thereof determined in accordance with section 307.9, by another state with respect

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to income which is also subject to tax under this article. **For purposes of this subsection, the term "state" shall only include a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States.**