

Paul J. Gitnik, J.D., LL.M.
Member
Pennsylvania Board of Finance and Revenue

Paul was appointed by Governor Wolf, and unanimously confirmed by the Pennsylvania Senate, and his term commenced on June 22, 2018. Paul was reappointed by Governor Shapiro, and unanimously confirmed by the Pennsylvania Senate for a term commencing on November 13, 2024 and ending on January 1, 2030.

Paul is a member of the Pennsylvania Board of Finance and Revenue. The Pennsylvania Board of Finance and Revenue (“BF&R”) is an independent administrative tax tribunal responsible for the second and final level of administrative appeal (with minor exceptions) before appealing to court.

Paul received his B.A., cum laude and his J.D. from Duquesne University. Paul received his LL.M. in Taxation from the Georgetown University Law Center.

Paul has in the past been an adjunct faculty member the Duquesne University School of Law, where he taught Wills and Trust Skills and Business Planning, Mercyhurst College, where he taught Estate Planning and Penn State Continuing Education for Accountants, where he taught Choice of Business Entities.

Paul is or has been a member of nonprofit boards, including the PBA Tax Section Council, Allegheny Regional Asset District Board, Duquesne Law School Dean’s Advisory Board, Allegheny County Bar Foundation, Animal Friends, City of Pittsburgh Planning Commission, Phipps Conservatory and Botanical Gardens, Pittsburgh Opera, Cancer Bridges, Pittsburgh Mercy Foundation, Diocese of Pittsburgh Foundation Advisory Board, Hamot Health Foundation, St. Vincent Health Center, Preservation Pennsylvania, Erie Art Museum and Jefferson Health System.

In 1991 Paul founded his own boutique law firm, Paul J. Gitnik & Associates, LLC.

In 1991, Mr. Gitnik founded SOCRATES, INC., which provided claims recovery outsourcing, technology and consulting services and solutions to the health payor industry which he sold in 2007. During his tenure, SOCRATES, INC. was selected an AHIP Solutions Partner and an A.M. Best rated recommended subrogation firm. Mr. Gitnik stewarded the development of SOCRATES, INC.’s proprietary Subrogation Outsourcing Case Review And Tracking Empowerment System (“SOCRATES”) and the MY SOCRATES family of proprietary software programs.

In 2011, Mr. Gitnik founded ShaleEnergyUSA.com, Inc. with three interconnected websites, www.ShaleEnergyUSA.com, www.ShaleGasUSA.com, <http://www.MarcellusUSA.com> and www.UticaUSA.com, which provides resources and tools, including the recorded oil-gas leases, royalty percentages, dates, documents, instruments, permits, well data, records, regulations and information about Shale Oil-Gas in the Appalachian Basin – all on its websites. Mr. Gitnik sold this company in 2015.

PAUL J. GITNIK, J.D., LL.M.

BOARD MEMBER

PENNSYLVANIA BOARD OF FINANCE AND REVENUE

ALLEGHENY TAX SOCIETY

MAY 19, 2025

PENNSYLVANIA BOARD OF FINANCE AND REVENUE MAY 2025

UPDATE

1. Act 123 of 2024 Effective Date: January 27, 2025 (Please See Handout)
2. Act 119 of 2006.

General Rule. A petition for reassessment (72 P.S. § 9703) may be filed with the Board within 90 days after the mailing date of the notice of the assessment.

3. Act 43 of 2017.

The period for Pennsylvania tax appeals has been reduced from 90 days to 60 days, effective Dec. 29, 2017. Thus, starting on Dec. 29, 2017, taxpayers have 60 days from the date of the notice of assessment or notice of adjustment to file their petitions for reassessment and petitions for redetermination with the Board of Appeals; and will have 60 days to file petitions for review with the Board of Finance and Revenue in connection with the issuance of decisions by the Board of Appeals. This rule will apply even if the notice of assessment, notice of adjustment, or decision states that there is a 90-day appeal deadline.

4. Act 123 of 2024.

The extended deadlines apply to petitions for reassessment of all taxes imposed under Article III, Personal Income Tax – Personal Income Tax, Personal Income Tax for Fiduciaries, Employer Withholding, Entity Level Assessment, and any assessment of penalties or interest imposed under Article III. The extended deadlines do not apply to petitions for a refund.

5. Board of Appeals.

“A. (1) Except as provided under paragraph (2), a taxpayer may file a petition for reassessment with the department within 60 days after the mailing date of the notice of assessment.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for reassessment with the department within 90 days after the mailing date of the notice of assessment. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.”

6. Review by Board of Finance and Revenue.

“(a) Petition for review of a decision and order.--[Within]

(1) Except as provided under paragraph (2), within 60 days after the mailing date of the department's notice of decision and order on a petition filed with it, a taxpayer may petition the board to review the decision and order of the department.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for review with the board within 90 days after the mailing date of the decision and order of the department. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.”

7. Settlement Conference Process.

A. “(a) Settlement officer.--The board shall appoint one or more individuals to serve as a settlement officer for a settlement conference initiated under subsection (b), and the following shall apply:

(1) A settlement officer must be a third-party contractor retained by the board.

(2) A settlement officer:

(i) must be a citizen of the United States;

(ii) must be an attorney in good standing before the Supreme Court of Pennsylvania or a certified public accountant in good standing before the State Board of Accountancy;

(iii) must have significant experience in a position requiring substantial knowledge of Pennsylvania tax law; and

(iv) may not be employed by the department, board or the State Treasurer, other than in the capacity as a settlement officer.

(3) A settlement officer:

(i) shall be fair and impartial and is not permitted to preside over a settlement conference if the settlement officer cannot conduct it in an impartial manner; and

(ii) shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the settlement officer and could reasonably be seen as raising a question about the officer's interest in the outcome unless the petitioner and the department consent in writing.

(4) The board may remove a settlement officer at its sole discretion.

(5) The State Treasurer shall set the compensation for a settlement officer.”

(Currently the compensation is \$250.00 per hour.)

B. “(b) Request for settlement conference.--Notwithstanding section 2704(f)(1), either party may submit a request for or the board may direct, a settlement conference to settle a petition for review of a decision and order under the board's jurisdiction. The request for a settlement conference shall be submitted to the board, unless the settlement conference is directed by the board, by filing a written request with the petition or within 30 days of the petition being filed. The board may allow settlement conferences after the deadline in the exercise of discretion or upon application for good cause. The following shall apply:

(1) The board may defer consideration of the petition until after the parties terminate a settlement conference or the settlement conference is deemed terminated under subsection (e). If the board defers consideration of the petition, the board shall issue a decision and order disposing of the petition within six months of the party's refusal to participate in a settlement conference or termination.

(2) The party requesting a settlement conference shall simultaneously notify the other party or parties and the board of the request, unless the board initiated the settlement conference.

(3) A request for settlement must provide a brief description of the dispute and the relief requested. The nonrequesting party or parties must file a written response with the board and provide a copy to the requesting party in support of or opposition to the settlement conference within 10 business days of the requester's submission.

(4) The board, within five business days of receipt of the response in support of or opposition to the settlement conference, shall notify the parties in writing whether the board will refer an appeal to a settlement conference.

(5) A petitioner may decline to participate in a settlement conference upon providing the board with written notice of its intent not to participate within five business days of receipt of notice of the referral.”

C. “(c) Settlement conference.--The following shall apply to a settlement conference requested under subsection (b):

(1) A settlement conference shall be held no later than 60 days from the date the board refers a case for settlement conference.

(2) The settlement officer shall set the date, time and place for each conference. The parties shall respond to requests for conference dates in a timely manner, be cooperative in scheduling the earliest practicable date and adhere to the established conference schedule. The settlement officer, in the exercise of discretion or upon application for good cause, may reschedule a conference. The settlement officer shall provide notice of the conference to the parties in advance of the conference date.

(3) A settlement conference and related settlement conference communications are private proceedings. A representative of each party must attend each settlement conference. A party is not required to attend each settlement conference unless the party does not have representation. Other individuals may

attend a settlement conference only with the permission of the parties and with the consent of the settlement officer.

(4) A settlement conference may be conducted virtually or in person.

(5) A settlement conference may not be recorded electronically or in any other manner, regardless of the consent of the parties.

(6) The following shall apply to representation at a settlement conference:

(i) A party is not required to retain representation for a settlement conference.

(ii) If a party retains representation, the party may be represented at a settlement conference by any individual of the party's choosing.

(7) The settlement officer shall conduct the settlement conference in an informal manner with the purpose of facilitating a settlement between the petitioner and the department. The settlement officer is authorized to conduct separate or ex parte meetings and other communications with the parties, and any representatives of the parties, before, during and after any scheduled settlement conference.

(8) Prior to and during the scheduled settlement conference, the parties and their representatives shall, as appropriate to each party's circumstances, exercise best efforts to prepare for and engage in a meaningful and productive settlement conference.

(9) The parties are encouraged to exchange all documents pertinent to the relief requested. The settlement officer may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the settlement officer, as necessary, in a separate communication with the settlement officer.

(10) Confidential information disclosed to a settlement officer by a party in the course of a settlement conference shall not be divulged by the settlement officer. The settlement officer shall maintain the confidentiality of all information obtained in the settlement conference, and all records, reports or other documents received by the settlement officer while serving in that capacity shall be confidential. The settlement officer shall be subject to the provisions and penalties of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(11) The settlement officer must return to each respective party all documents containing confidential information presented at the settlement conference within 30 days after the earlier of the date that the board accepts a settlement or the board mails its order deciding the case.

(12) A party must submit to the board any documents intended to be used in support of the party's appeal. The documents must be submitted in accordance with the rules and procedures of the board for submitting additional evidence.

(13) The settlement officer shall not be compelled to divulge confidential records or to testify in regard to the settlement conference in any administrative, judicial or other proceeding.

(14) No confidential or privileged document or other record presented or included in a settlement conference shall be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(15) Each party to a settlement conference shall maintain the confidentiality of the settlement conference and shall not rely on or introduce as evidence in any administrative, judicial or other proceeding the following, unless agreed to by the parties or required by applicable law:

(i) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute.

(ii) Admissions made by a party or other participant in the course of the settlement conference.

(iii) Proposals made or views expressed by the settlement officer.

(iv) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the settlement officer.

(16) A settlement officer is not a legal representative of any party and has no fiduciary duty to any party.”

D. “(d) Postsettlement conference procedures.--

(1) The settlement officer shall evaluate the merits of a dispute during the settlement conference. The evaluations shall be communicated to each party privately or, if the parties agree, to all parties jointly. Unless parties agree otherwise, evaluations shall be communicated orally.

(2) The settlement officer does not have the authority to impose a settlement on the parties. Subject to the discretion of the settlement officer, the officer may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.

(3) In the event a settlement of all or some of the issues in dispute is not achieved within the scheduled settlement conference, the settlement officer may continue to communicate with the parties for a period of time not to exceed 30 days from the date of the settlement conference, during which time the parties agree to negotiate in earnest in an ongoing effort to facilitate a complete settlement.

(4) If the parties to a settlement conference come to an agreement, the parties shall present the terms of the settlement to the board for approval in writing signed by all parties within 10 business days after reaching the settlement. The settlement agreement shall be approved by the board if the board determines the agreement is not contrary to law.

(5) If the parties to a settlement conference cannot reach a settlement of any or all of the issues, the board shall proceed in accordance with the procedure specified in this act and regulations.

(6) A settlement agreement shall not be considered as precedent and cannot be appealed.”

E. “(e) Termination of a settlement conference.--The settlement conference shall be terminated:

(1) by the board approving a settlement agreement by the parties;

(2) by a written declaration by the settlement officer that further efforts at a settlement conference would not contribute to a resolution of the parties' dispute;

(3) by a written declaration of all parties that the settlement conference is terminated; or

(4) when the settlement officer has represented in writing to the board that there has been no communication between the settlement officer and any party or party's representative for 21 days following the conclusion of the settlement conference.”

F. “(f) Exclusion of liability.--A settlement officer is not a necessary or proper party in administrative, judicial or other proceedings relating to the settlement conference. Notwithstanding any provision of law to the contrary, parties to a settlement conference under this section shall be deemed to have consented that the settlement officer shall not be liable to any party for any error, act or omission in connection with any settlement conference conducted under this section. Parties to a settlement conference under this section may not call a settlement officer as a witness in litigation or any other proceeding relating to the settlement conference. The settlement officer is not competent to testify as a witness in any proceeding related to the settlement conference.”

G. “(g) Rules and regulations.--The board may adopt rules and promulgate regulations necessary to effectuate this section.”

H. “(h) Laws not applicable.--The provisions of 2 Pa.C.S. (relating to administrative law and procedure) shall not apply to a settlement conference conducted under this section.”

8. Approved Settlement Officers as of 2025

A. Currently have seven approved settlement officers:

Lauren Zaccarelli;

Richard Kelly, C.P.A (Chadds Ford Accounting Professionals);

Michael Hussey, Esquire (Widner University Commonwealth Law School);

Wayne Pecht, Esquire (Saxton & Stumpf);

Dru A. Durigon, Esquire; Evan Ernest C.P.A; and

David Glad, J.D., C.P.A. (Glad Law, LLC)

- B. The settlement officers that signed an engagement letter either expressed an interest in the Board of Finance and Revenue or were referred to by other professional associations and/or individuals. The Board of Finance and Revenue engaged those who met the requirements, but the settlement officers shall be used on an as-needed basis.
- C. Currently \$250.00 per hour.

9. Taxpayer Appeal Portal – OnBase

- A. If a taxpayer does not have a BFR account, the taxpayer must complete the registration process.
- B. We strongly recommend that taxpayers and their professionals utilize this portal, so that all parties can utilize the full benefits and empowerments of the BFR portal, from electronically filing the petition, to requesting the settlement conference process, the compromise process, tracking your filings, evidence, dates, etc. all within the BFR portal.

10. Since the law became effective January 27, 2025.

A. The Board of Finance and Revenue has referred two petitions filed to the settlement conference process. The tax types are Sales and Motor Carrier Road Tax (PA equivalent of federal IFTA). We have had several PIT assessment appeals filed that will potentially be impacted by the new law; however, they have not proceeded to the calendar process at this time.

B. We have informally compared the PIT appeals from 2024 and 2025. Our data reveals that at the BFR, there is a larger number of PIT appeals filed than last year, The BFR has had substantially less appeals with a jurisdictional issue at BOA. We have not had a chance to touch base with Ryan F to see how the new legislation has impacted the BOA and how the BOA is addressing the jurisdictional issue, including the extension of time (not to exceed 30 days) for filing the petition for cause.

11. Under Moving On:

Tim Loftus started at the BFR in 1990; Tim had 35 years of service. His official retirement date is May 31, 2025. We want to thank Tim for all his years of service at the BFR.

THANK YOU

TAX REFORM CODE OF 1971 - PETITION FOR REASSESSMENT, REVIEW BY BOARD, SETTLEMENT CONFERENCE PROCESS, CLOSING AGREEMENTS, REPORT TO GENERAL ASSEMBLY AND TIMELY FILING

Act of Oct. 29, 2024, P.L. 1086, No. 123

Cl. 72

Session of 2024

No. 2024-123

SB 1051

AN ACT

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," in corporate net income tax, further providing for definitions; in procedure and administration, further providing for petition for reassessment and for review by board and providing for settlement conference process, for closing agreements and for report to General Assembly; and, in general provisions, further providing for timely filing.

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

Section 1. Section 401(3)1(b.2) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added July 11, 2024 (P.L.674, No.56), is amended to read:

Section 401. Definitions.--The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

(3) "Taxable income." 1. * * *

(b.2) An additional deduction shall be allowed from the taxable income of a medical cannabis business in the amount of the ordinary and necessary expenses that were paid or incurred by the medical cannabis business during the taxable year that are ordinarily deductible for Federal income tax purposes under section 162 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 162) if no deduction for ordinary and necessary expenses paid or incurred by the medical cannabis business was taken for Federal income tax purposes for the taxable year. As used in this phrase, the term "medical cannabis business" shall mean a medical marijuana organization as defined in section 103 of the act of April 17, 2016 (P.L.84, No.16), known as the "Medical Marijuana Act," that has an active grower/processor permit **or dispensary permit** during the taxable year for which the deduction is sought.

* * *

Section 2. Sections 2702(a) and 2704(a) of the act are amended to read:

Section 2702. **Petition for reassessment.**

(a) General rule.--[A]

(1) **Except as provided under paragraph (2), a taxpayer may file a petition for reassessment with the department**

BOA

within 60 days after the mailing date of the notice of assessment.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for reassessment with the department within 90 days after the mailing date of the notice of assessment. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.

* * *

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Section 2704. Review by board.

(a) Petition for review of a decision and order.--[Within]

(1) Except as provided under paragraph (2), within 60 days after the mailing date of the department's notice of decision and order on a petition filed with it, a taxpayer may petition the board to review the decision and order of the department.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for review with the board within 90 days after the mailing date of the decision and order of the department. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.

* * *

Section 3. The act is amended by adding sections to read:

Section 2704.1. Settlement conference process.

(a) Settlement officer.--The board shall appoint one or more individuals to serve as a settlement officer for a settlement conference initiated under subsection (b), and the following shall apply:

(1) A settlement officer must be a third-party contractor retained by the board.

(2) A settlement officer:

(i) must be a citizen of the United States;

(ii) must be an attorney in good standing before the Supreme Court of Pennsylvania or a certified public accountant in good standing before the State Board of Accountancy;

(iii) must have significant experience in a position requiring substantial knowledge of Pennsylvania tax law; and

(iv) may not be employed by the department, board or the State Treasurer, other than in the capacity as a settlement officer.

(3) A settlement officer:

(i) shall be fair and impartial and is not permitted to preside over a settlement conference if the settlement officer cannot conduct it in an impartial manner; and

(ii) shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the settlement officer and could reasonably be seen as raising a question about the officer's interest in the outcome unless the petitioner and the department consent in writing.

(4) The board may remove a settlement officer at its sole discretion.

(5) The State Treasurer shall set the compensation for a settlement officer.

(b) Request for settlement conference.--Notwithstanding section 2704(f)(1), either party may submit a request for or the board may direct, a settlement conference to settle a petition for review of a decision and order under the board's jurisdiction. The request for a settlement conference shall be

① submitted to the board, unless the settlement conference is directed by the board, by filing a written request with the petition or within 30 days of the petition being filed. The board may allow settlement conferences after the deadline in the exercise of discretion or upon application for good cause. The following shall apply:

(1) The board may defer consideration of the petition until after the parties terminate a settlement conference or the settlement conference is deemed terminated under subsection (e). If the board defers consideration of the petition, the board shall issue a decision and order disposing of the petition within six months of the party's refusal to participate in a settlement conference or termination. *6-months*

(2) The party requesting a settlement conference shall simultaneously notify the other party or parties and the board of the request, unless the board initiated the settlement conference.

(3) A request for settlement must provide a brief description of the dispute and the relief requested. The nonrequesting party or parties must file a written response with the board and provide a copy to the requesting party in support of or opposition to the settlement conference within 10 business days of the requester's submission. *10-business days*

(4) The board, within five business days of receipt of the response in support of or opposition to the settlement conference, shall notify the parties in writing whether the board will refer an appeal to a settlement conference. *5-business days*

(5) A petitioner may decline to participate in a settlement conference upon providing the board with written notice of its intent not to participate within five business days of receipt of notice of the referral. *5-business days*

(c) Settlement conference. --The following shall apply to a settlement conference requested under subsection (b):

(1) A settlement conference shall be held no later than 60 days from the date the board refers a case for settlement conference. *60-days*

(2) The settlement officer shall set the date, time and place for each conference. The parties shall respond to requests for conference dates in a timely manner, be cooperative in scheduling the earliest practicable date and adhere to the established conference schedule. The settlement officer, in the exercise of discretion or upon application for good cause, may reschedule a conference. The settlement officer shall provide notice of the conference to the parties in advance of the conference date.

(3) A settlement conference and related settlement conference communications are private proceedings. A representative of each party must attend each settlement conference. A party is not required to attend each settlement conference unless the party does not have representation. Other individuals may attend a settlement conference only with the permission of the parties and with the consent of the settlement officer.

(4) A settlement conference may be conducted virtually or in person.

(5) A settlement conference may not be recorded electronically or in any other manner, regardless of the consent of the parties.

(6) The following shall apply to representation at a settlement conference:

BFR

Petitioner

(i) A party is not required to retain representation for a settlement conference.

(ii) If a party retains representation, the party may be represented at a settlement conference by any individual of the party's choosing.

(7) The settlement officer shall conduct the settlement conference in an informal manner with the purpose of facilitating a settlement between the petitioner and the department. The settlement officer is authorized to conduct separate or ex parte meetings and other communications with the parties, and any representatives of the parties, before, during and after any scheduled settlement conference.

(8) Prior to and during the scheduled settlement conference, the parties and their representatives shall, as appropriate to each party's circumstances, exercise best efforts to prepare for and engage in a meaningful and productive settlement conference.

(9) The parties are encouraged to exchange all documents pertinent to the relief requested. The settlement officer may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the settlement officer, as necessary, in a separate communication with the settlement officer.

(10) Confidential information disclosed to a settlement officer by a party in the course of a settlement conference shall not be divulged by the settlement officer. The settlement officer shall maintain the confidentiality of all information obtained in the settlement conference, and all records, reports or other documents received by the settlement officer while serving in that capacity shall be confidential. The settlement officer shall be subject to the provisions and penalties of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(11) The settlement officer must return to each respective party all documents containing confidential information presented at the settlement conference within 30 days after the earlier of the date that the board accepts a settlement or the board mails its order deciding the case.

(12) A party must submit to the board any documents intended to be used in support of the party's appeal. The documents must be submitted in accordance with the rules and procedures of the board for submitting additional evidence.

(13) The settlement officer shall not be compelled to divulge confidential records or to testify in regard to the settlement conference in any administrative, judicial or other proceeding.

(14) No confidential or privileged document or other record presented or included in a settlement conference shall be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(15) Each party to a settlement conference shall maintain the confidentiality of the settlement conference and shall not rely on or introduce as evidence in any administrative, judicial or other proceeding the following, unless agreed to by the parties or required by applicable law:

(i) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute.

BFR

(ii) Admissions made by a party or other participant in the course of the settlement conference.

(iii) Proposals made or views expressed by the settlement officer.

(iv) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the settlement officer.

(16) A settlement officer is not a legal representative of any party and has no fiduciary duty to any party.

(d) Postsettlement conference procedures.--

(1) The settlement officer shall evaluate the merits of a dispute during the settlement conference. The evaluations shall be communicated to each party privately or, if the parties agree, to all parties jointly. Unless parties agree otherwise, evaluations shall be communicated orally.

(2) The settlement officer does not have the authority to impose a settlement on the parties. Subject to the discretion of the settlement officer, the officer may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.

(3) In the event a settlement of all or some of the issues in dispute is not achieved within the scheduled settlement conference, the settlement officer may continue to communicate with the parties for a period of time not to exceed 30 days from the date of the settlement conference, during which time the parties agree to negotiate in earnest in an ongoing effort to facilitate a complete settlement.

(4) If the parties to a settlement conference come to an agreement, the parties shall present the terms of the settlement to the board for approval in writing signed by all parties within 10 business days after reaching the settlement. The settlement agreement shall be approved by the board if the board determines the agreement is not contrary to law.

10 days after reaching agreement

(5) If the parties to a settlement conference cannot reach a settlement of any or all of the issues, the board shall proceed in accordance with the procedure specified in this act and regulations.

(6) A settlement agreement shall not be considered as precedent and cannot be appealed.

(e) Termination of a settlement conference. --The settlement conference shall be terminated:

(1) by the board approving a settlement agreement by the parties;

(2) by a written declaration by the settlement officer that further efforts at a settlement conference would not contribute to a resolution of the parties' dispute;

(3) by a written declaration of all parties that the settlement conference is terminated; or

(4) when the settlement officer has represented in writing to the board that there has been no communication between the settlement officer and any party or party's representative for 21 days following the conclusion of the settlement conference.

21 days Conclusion of Settlement Conference

(f) Exclusion of liability. --A settlement officer is not a necessary or proper party in administrative, judicial or other proceedings relating to the settlement conference. Notwithstanding any provision of law to the contrary, parties to a settlement conference under this section shall be deemed to have consented that the settlement officer shall not be liable to any party for any error, act or omission in connection

with any settlement conference conducted under this section. Parties to a settlement conference under this section may not call a settlement officer as a witness in litigation or any other proceeding relating to the settlement conference. The settlement officer is not competent to testify as a witness in any proceeding related to the settlement conference.

(g) Rules and regulations.--The board may adopt rules and promulgate regulations necessary to effectuate this section.

(h) Laws not applicable.--The provisions of 2 Pa.C.S. (relating to administrative law and procedure) shall not apply to a settlement conference conducted under this section. Section 2708. Closing agreements.

(a) Authorization.--The department is authorized to enter into an agreement in writing with any person relating to the liability of the person, or of the person or estate for whom the person acts, in respect of any tax administered by the department for any taxable period.

(b) Finality.--If the agreement is approved by the department, within a time as may be stated in the agreement or later agreed to, the agreement shall be final and conclusive, and, except upon a showing of fraud, malfeasance or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee or agent of the department.

(2) In a suit, action or proceeding, the agreement, or any determination, assessment, collection, payment, abatement, refund or credit made in accordance with the agreement, shall not be annulled, modified, set aside or disregarded.

(c) Liabilities suspended.--If, pursuant to an agreement authorized by subsection (a), the department agrees to suspend the collection of any amounts of tax, penalties, interest or other additions to tax, the department may reimpose any of the suspended amounts if the person who entered into the agreement fails to comply with the terms of the agreement. Section 2709. Report to General Assembly.

No later than June 1 of the second year after the effective date of this section, and each year thereafter, the State Treasurer shall submit a report to the General Assembly summarizing the effectiveness of the settlement conference process implemented under section 2704.1. A copy of the report shall be delivered to the chairman and minority chairman of the Finance Committee of the Senate and the chairman and minority chairman of the Finance Committee of the House of Representatives. The report shall, at a minimum, include:

(1) The number of appeals of tax liability resolved through the settlement conference process.

(2) The number of appeals of tax liability that were not resolved through the settlement conference process.

(3) Of the taxpayers whose appeals were resolved through the settlement conference process, how many were individual taxpayers and how many were pass-through entities.

(4) The average amount of tax liability contested in cases that were resolved through the settlement conference process.

(5) The average number of days it took for appeals of tax liability to be resolved through the settlement conference process.

(6) Recommendations to improve the effectiveness of the settlement conference process, which may be implemented

through administrative procedure, guidelines, rules, regulations or legislation.

(7) Any other information deemed necessary by the State Treasurer.

Section 4. Section 3003.6 of the act is amended to read:
Section 3003.6. Timely Filing.--(a) A taxpayer shall be deemed to have timely filed a petition for a refund, a petition for reassessment or any other protest relating to the assessment of tax or any other matter relating to any tax imposed by this act if the letter transmitting the petition is received by the Department of Revenue or is postmarked by the United States Postal Service on or prior to the final day on which the petition is required to be filed.

(b) For purposes of filing a petition for refund, a petition for reassessment or a petition for redetermination with the Department of Revenue or the Board of Finance and Revenue, the reference in subsection (a) to a postmark by the United States Postal Service shall include any date recorded or marked as described under 26 U.S.C. § 7502(f)(2)(C) (relating to timely mailing treated as timely filing and paying) by any delivery service designated by the Secretary of the Treasury of the United States under 26 U.S.C. § 7502(f)(2).

Section 5. The amendment of section 401(3)1(b.2) of the act shall apply to taxable years beginning after December 31, 2023.

Section 6. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The amendment of section 401(3)1(b.2) of the act.

(ii) This section and section 5 of this act.

(2) The remainder of this act shall take effect in 90 days.

APPROVED--The 29th day of October, A.D. 2024.

JOSH SHAPIRO