To: Members of the Pennsylvania Senate Finance Committee  
From: Peter N. Calcarra, CAE, Vice President—Government Relations  
Date: Oct. 21, 2019  
Re: Please Support House Bill 17, Printer’s No. 1851

On behalf of the more than 20,000 members of the Pennsylvania Institute of Certified Public Accountants (PICPA), I am writing to respectfully request your support for House Bill 17 (Printer’s Number 1851) without any amendments. On Sept. 19, 2019, the House passed the bill by a vote of 155-31.

Explanation of House Bill 17

House Bill 17, which is sponsored by Rep. Frank Ryan, CPA, establishes the following: (1) a 10-year time period for the Department of Revenue (DOR) to commence an action to collect a tax that it administers (except for the Inheritance Tax), (2) a 10-year time period for the DOR to induce the filing of a return or assess a tax liability for a nonfiled tax period, and (3) a three-year time period to commence a criminal prosecution under a tax statute that the DOR administers. The bill provides several safeguards to prevent a taxpayer from willfully avoiding or evading the obligation of filing returns and paying taxes due, including criminal prosecution for serious offenses.

- **10-Year Time Period to Commence Action to Collect a Tax.** For a tax administered by the DOR, except under Article XXI (Inheritance Tax), the DOR may collect the tax owed if collection commences within 10 years of the date of the settlement, determination, or assessment of the tax becomes final.

- **10-Year Time Period to Induce Filing of a Return or Assess Tax Liability for Nonfiled Tax Period.** For nonfiled returns, the DOR shall induce the filing of a return or settle, determine, or assess the tax liability of a nonfiled tax period within 10 years of the tax return due date.

  - **Exceptions to the 10-Year Time Period – No Time Limit to Collect Taxes.** Instances where there is no time limit to collect taxes include the following: (1) willful failure or gross negligence in failing to remit withheld or collected trust fund tax liabilities, (2) filing a false and fraudulent tax return or report, (3) willful failure to file a return or report, (3) tax evasion, (4) unpaid tax liabilities related to an offense to which a person has been criminally convicted, and (5) certain taxes eligible for a subsequent tax amnesty program.

  - **Tolling of 10-Year Time Period.** The bill provides numerous events that will toll the time period to collect, a tax including (1) bankruptcy, (2) pending tax appeals, (3) consideration
of taxpayer offers-in-compromise, (4) installment agreements or deferred payment plans, (5) military service for which a taxpayer is eligible and received a federal extension, and (6) agreements between the DOR and a taxpayer to extend the statute.

- **Three-Year Time Period to Commence Criminal Prosecution.** The bill imposes a three-year time period after the date of commission of an offense to institute a criminal prosecution under a tax statute administered by the DOR. The statute is extended in offenses involving fraud, breach of fiduciary obligation, and evasion. Upon conviction of any tax-related offense, a person is required to pay as restitution any taxes, interest, and penalties accrued as of the date of payment.

**Reasons for House Bill 17**

Under current law, there are no time parameters for the DOR to (1) induce the filing of a return, or assess tax for a nonfiled tax period, and (2) commence the collection of an assessed tax. During the most recent tax amnesty program, the DOR mailed out notices for taxes owed that were, in some cases, decades old or sent to businesses that were no longer active. If a tax is not collected within 10 years, it is unlikely to be collected. The 10-year collection window (with the exceptions specified in this legislation) is similar to that of other states as well as the Internal Revenue Code.

Although no other state has enacted a formal time period for assessing tax in instances where a return has not been filed, or tax payed for a nonfiled period, a number of states have adopted policies that would limit the number of years for which returns would need to be filed made in this instance. (e.g., see [https://www.mass.gov/technical-information-release/tir-11-1-limitations-period-for-taxpayers-failing-to-file-tax-returns](https://www.mass.gov/technical-information-release/tir-11-1-limitations-period-for-taxpayers-failing-to-file-tax-returns).) The bill attempts to codify a rule that balances the rights of taxpayers and takes into account the DOR’s limited resources. The bill provides safeguards to protect the Commonwealth from taxpayers who will just wait out the 10-year period and not file a return or pay a tax for a nonfiled period.

In addition, House Bill 17 increases from two years (misdemeanor) to three years the general time period for instituting a criminal prosecution under a tax statute that the DOR administers. A three-year time period is consistent with many criminal provisions in the Internal Revenue Code. The DOR has indicated the need for additional time to develop cases for prosecution.

House Bill 17 seeks to balance the rights of taxpayers with the DOR’s ability to collect all taxes owed to the state, and is consistent with [PICPA’s Guiding Principles of Good Tax Policy](https://www.picpa.org).

Thank you in advance for your support, and please do not hesitate to contact me at pcalcara@picpa.org or (717) 329-5230 with questions.