

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2458 Session of
1992

INTRODUCED BY GRUITZA, KOSINSKI, HAGARTY, CAPPABIANCA, COLAIZZO,
NOYE, NAHILL, PISTELLA, GEIST, TIGUE, STISH, JOSEPHS, ITKIN,
FAIRCHILD, HARPER, MERRY, KRUSZEWSKI AND HERSHEY,
MARCH 11, 1992

REFERRED TO COMMITTEE ON FINANCE, MARCH 11, 1992

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," imposing a tax on generation-skipping transfers
11 in an amount equal to the maximum credit allowable under
12 Federal law; and providing a penalty for failure to file a
13 return.

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

16 Section 1. Article XXI of the act of March 4, 1971 (P.L.6,
17 No.2), known as the Tax Reform Code of 1971, is amended by
18 adding a section to read:

19 Section 2118. Generation-skipping Transfer Tax.--(a) In the
20 event that a generation-skipping transfer tax is payable to the
21 Federal Government with respect to a trust created by a person
22 who was a resident of this Commonwealth at the time the trust

1 became irrevocable, a tax equal to the maximum credit allowable
2 under section 2604 of the Internal Revenue Code of 1986 (Public
3 Law 99-514, 26 U.S.C. § 1 et seq.) is imposed. If real property
4 or tangible personal property of such a trust at the time the
5 tax is imposed has a situs in another state, the tax so imposed
6 shall be reduced by the lesser of:

7 (1) the amount of generation-skipping transfer tax actually
8 paid to the other state with respect to the generation-skipping
9 transfer; or

10 (2) an amount computed by multiplying the maximum
11 generation-skipping transfer tax credit allowable under section
12 2604 of the Internal Revenue Code of 1986 by a fraction, the
13 numerator of which is the value of real property and tangible
14 personal property included as part of the taxable transfer and
15 having a situs in that state at the time the tax is imposed and
16 the denominator of which is the value of the total assets the
17 transfer of which is then subject to Federal generation-skipping
18 transfer tax.

19 (b) In the event that a generation-skipping transfer tax is
20 payable to the Federal Government with respect to a trust
21 created by a person who was not a resident of this Commonwealth
22 at the time the trust became irrevocable but which trust at the
23 time the tax is imposed owns or has an interest in real property
24 or tangible personal property having a situs in this
25 Commonwealth, a generation-skipping transfer tax is imposed in
26 an amount computed by multiplying the maximum credit allowable
27 under section 2604 of the Internal Revenue Code of 1986 by a
28 fraction, the numerator of which is the value of the real
29 property and tangible personal property having a situs in this
30 Commonwealth and the denominator of which is the value of the

1 total assets the transfer of which is then subject to the
2 Federal generation-skipping transfer tax.

3 (c) For purposes of this section, the term "trust" means a
4 trust as defined in section 2652(b) of the Internal Revenue Code
5 of 1986.

6 Section 2. Section 2153(a) of the act, added August 4, 1991
7 (P.L.97, No.22), is amended to read:

8 Section 2153. Penalties.--(a) Any person who willfully
9 fails to file a return or other report required of him under the
10 provisions of sections 2136 [and], 2145 and 2155 shall be
11 personally liable, in addition to any liability imposed
12 elsewhere in this article, to a penalty of twenty-five per cent
13 of the tax ultimately found to be due or one thousand dollars
14 (\$1,000), whichever is less, to be recovered by the department
15 as debts of like amount are recoverable by law.

16 * * *

17 Section 3. The act is amended by adding a section to read:

18 Section 2155. Payment of Generation-skipping Transfer Tax.--

19 (a) A person required by the Federal Government to file a
20 Federal generation-skipping transfer tax return for a transfer
21 also taxable under section 2118 shall be initially liable for
22 payment of the generation-skipping transfer tax imposed under
23 section 2118.

24 (b) A person required by the Federal Government to file a
25 Federal generation-skipping transfer tax return for a transfer
26 also taxable under section 2118 shall, on or before the due date
27 of the Federal generation-skipping transfer tax return, file
28 with the register who issued letters, if any, in this
29 Commonwealth or otherwise with the department a copy of his
30 Federal generation-skipping transfer tax return and, within one

month of receipt of any communication from the Federal Government making any final change in the Federal generation-skipping transfer tax return or of the tax due, a copy of that communication. The assessment of generation-skipping transfer tax shall be made by the register or department within three months after the filing of the documents required to be filed and, if not so made, shall be made within an additional period as the court upon application of any party in interest, including the personal representative or trustee, shall fix.

(c) The generation-skipping transfer tax is due at the date of the generation-skipping transfer but shall not become delinquent until the due date of the Federal generation-skipping transfer tax return. Any generation-skipping transfer tax occasioned by a final change in the Federal return or of the tax due shall not become delinquent until the expiration of one month after the person liable to pay the tax has received final notice of the increase in the Federal generation-skipping transfer tax.

(d) No discount shall be allowed in paying the generation-skipping transfer tax.

(e) If the generation-skipping transfer tax is not paid before the date it becomes delinquent under subsection (c), interest on the unpaid tax shall be charged after the date of delinquency at the rate established in section 2143.

(f) The generation-skipping transfer tax shall be apportioned to and ultimately borne by the person obligated to bear the Federal generation-skipping transfer tax on the same transfer unless otherwise provided by the transferor.

(g) The generation-skipping transfer tax shall be paid to the register who issued letters, if any, in this Commonwealth.

1 Otherwise, it shall be paid to the department.

2 (h) Whenever a generation-skipping transfer tax is imposed
3 by the Commonwealth and by one or more other states, the
4 department shall negotiate with the taxing authorities of the
5 other states so that the aggregate amount of generation-skipping
6 transfer taxes imposed by the Commonwealth and the other states
7 does not exceed the amount allowable as a credit under section
8 2604 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
9 U.S.C. § 1 et seq.).

10 Section 4. This act shall apply to all trusts which become
11 irrevocable on or after the effective date of this act.

12 Section 5. This act shall take effect in 90 days.