

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 314

Session of  
1975

INTRODUCED BY MESSRS. THOMAS, SHELHAMER, WEIDNER, YAHNER, W. W.  
WILT, PETRARCA, DeVERTER AND ANDERSON, FEBRUARY 5, 1975

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, APRIL 5, 1976

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," further defining "dividends" AND "COMPENSATION," <—  
11 and providing for taxation as personal income on installment  
12 payments of real and personal property and further providing  
13 for tax returns.

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

16 Section 1. ~~Clause~~ CLAUSES (D) AND (f) of section 301, act <—  
17 of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of  
18 1971," added August 31, 1971 (P.L.362, No.93), ~~is~~ AND CLAUSE (D) <—  
19 AMENDED MAY 9, 1972 (P.L.273, NO.60), ARE amended to read:

20 Section 301. Definitions.--The following words, terms and  
21 phrases when used in this article shall have the meaning  
22 ascribed to them in this section except where the context  
23 clearly indicates a different meaning. Any reference in this

1 article to the Internal Revenue Code shall include the Internal  
2 Revenue Code of 1954, as amended to the date on which this  
3 article is effective.

4 \* \* \*

5 (D) "COMPENSATION" MEANS AND SHALL INCLUDE SALARIES, WAGES, <—  
6 COMMISSIONS, BONUSES AND INCENTIVE PAYMENTS WHETHER BASED ON  
7 PROFITS OR OTHERWISE, FEES, TIPS AND SIMILAR REMUNERATION  
8 RECEIVED FOR SERVICES RENDERED, WHETHER DIRECTLY OR THROUGH AN  
9 AGENT, AND WHETHER IN CASH OR IN PROPERTY.

10 THE TERM "COMPENSATION" SHALL NOT MEAN OR INCLUDE: (I)  
11 PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER THAN REGULAR  
12 WAGES RECEIVED DURING A PERIOD OF SICKNESS OR DISABILITY; OR  
13 (II) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING UNDER  
14 WORKMEN'S COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS AND  
15 SIMILAR LEGISLATION BY ANY GOVERNMENT; OR (III) PAYMENTS  
16 COMMONLY RECOGNIZED AS OLD AGE OR RETIREMENT BENEFITS PAID TO  
17 PERSONS RETIRED FROM SERVICE AFTER REACHING A SPECIFIC AGE OR  
18 AFTER A STATED PERIOD OF EMPLOYMENT; OR (IV) PAYMENTS COMMONLY  
19 KNOWN AS PUBLIC ASSISTANCE, OR UNEMPLOYMENT COMPENSATION  
20 PAYMENTS BY ANY GOVERNMENTAL AGENCY; OR (V) PAYMENTS TO  
21 REIMBURSE ACTUAL EXPENSES; OR (VI) PAYMENTS MADE BY EMPLOYERS OR  
22 LABOR UNIONS FOR PROGRAMS COVERING HOSPITALIZATION, SICKNESS,  
23 DISABILITY OR DEATH, SUPPLEMENTAL UNEMPLOYMENT BENEFITS, STRIKE  
24 BENEFITS, SOCIAL SECURITY AND RETIREMENT; OR (VII) ANY  
25 COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN SERVING IN A  
26 COMBAT ZONE; OR (VIII) COMPENSATION IN AN AMOUNT EQUAL TO  
27 NECESSARY AND REASONABLE EXPENSES OF TRAVEL, MEALS AND LODGING  
28 PAID OR INCURRED BY AN EMPLOYEE WHILE AWAY FROM HOME IN  
29 CONNECTION WITH HIS EMPLOYMENT TO THE EXTENT SUCH EXPENSES ARE  
30 NOT REIMBURSED BY THE EMPLOYER.

1       \* \* \*

2       (f) "Dividends" means any distribution in cash or property  
3 made by a corporation, association or business trust, (i) out of  
4 accumulated earnings and profits, or (ii) out of earnings and  
5 profits of the year in which such dividend is paid, except that  
6 a stock dividend which is not treated as income for Federal  
7 income tax purposes shall not be considered as income for  
8 purposes of this article.

9       \* \* \*

10       Section 2. The first paragraph of clause (3) of subsection  
11 (a) of section 303 of the act, amended June 17, 1974 (No.105),  
12 is amended to read:

13       Section 303. Classes of Income.--(a) The classes of income  
14 referred to above are as follows:

15       \* \* \*

16       (3) Net gains or income from disposition of property. Net  
17 gains or net income, less net losses, derived from the sale,  
18 exchange or other disposition of property, including real or  
19 personal, whether tangible or intangible as determined in  
20 accordance with accepted accounting principles and practices.  
21 For the purpose of this act, for the determination of the basis  
22 of any property, real and personal, if acquired prior to June 1,  
23 1971, the date of acquisition shall be adjusted to June 1, 1971  
24 as if the property had been acquired on that date. If the  
25 property was acquired after June 1, 1971, the actual date of  
26 acquisition shall be used in determination of the basis. In the  
27 case of installment sales of real or personal property the  
28 taxable gain recognized in any year shall be that portion of the  
29 total gain that the installment payment in any such year bears  
30 to the total sales price to be paid over the entire installment

1 period. The determination of total gains, installment payment  
2 and total sales price shall be determined in accordance with  
3 accepted accounting principles and practices. The portion of the  
4 gain in installment payments received in a tax year commencing  
5 after the effective date of this amendatory act is taxable  
6 notwithstanding that the sale occurred prior to June 1, 1971  
7 unless the tax has been previously paid on the entire gain.

8 \* \* \*

9 Section 3. Section 330 of the act, added August 31, 1971  
10 (P.L.362, No.93), is amended to read:

11 Section 330. Returns and Liability.--On or before the date  
12 when the taxpayer's Federal income tax return is due or would be  
13 due if the taxpayer were required to file a Federal income tax  
14 return, under the Internal Revenue Code of 1954, a tax return  
15 under this article shall be made and filed by or for every  
16 taxpayer having income for the taxable year: Provided, That no  
17 return shall be required if the taxpayer has no tax due by  
18 reason of application of special tax provisions.

19 Section 4. This act shall take effect immediately AND SHALL <—  
20 BE RETROACTIVE TO JANUARY 1, 1976.