

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2026

Session of
1978

INTRODUCED BY HOFFEL, STAPLETON, ZELLER, GARZIA, COLE,
GILLETTE, MILLIRON, MORRIS, HOPKINS, LETTERMAN, ZWIKL,
WILSON, WAGNER AND WISE, JANUARY 31, 1978

REFERRED TO COMMITTEE ON FINANCE, JANUARY 31, 1978

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," increasing the personal income, corporate stock
11 and franchise, bank shares, title insurance and trust company
12 shares, and insurance premiums taxes, imposing a State gross
13 receipts tax upon unincorporated businesses, codifying
14 provisions taxing mutual thrift institutions and increasing
15 the tax to compensate for the gradual elimination of school
16 real property taxes, and authorizing the Department of
17 Revenue to collect a surtax when levied by school districts.

18 The General Assembly of the Commonwealth of Pennsylvania

19 hereby enacts as follows:

20 Section 1. Section 302, act of March 4, 1971 (P.L.6, No.2),
21 known as the "Tax Reform Code of 1971," added August 31, 1971
22 (P.L.362, No.93) and amended December 21, 1977 (No.98), is
23 amended to read:

24 Section 302. Imposition of Tax.--(a) There is hereby
25 imposed an annual tax to be paid by resident individuals,

1 estates or trusts at the [rate of two and two-tenths per cent]
2 rates provided in subsection (c) hereof on the privilege of
3 receiving each of the classes of income hereinafter enumerated
4 in section 303.

5 (b) There is hereby imposed an annual tax to be paid by
6 nonresident individuals, estates or trusts at the [rate of two
7 and two-tenths per cent] rates provided in subsection (c) hereof
8 on the privilege of receiving each of the classes of income
9 enumerated in section 303 from sources within this Commonwealth.

10 (c) The rates of the taxes imposed in the two preceding
11 subsections shall be, for the taxpayer's calendar year 1978, two
12 and forty-five one hundredths per cent; calendar year 1979, two
13 and seven-tenths per cent; calendar year 1980, two and ninety-
14 five one hundredths per cent; calendar year 1981, and
15 thereafter, three and two-tenths per cent.

16 Section 2. Article III of the act, added August 31, 1971
17 (P.L.362, No.93), is amended by adding a part to read:

18 ARTICLE III

19 PERSONAL INCOME TAX

20 * * *

21 PART XII

22 LOCAL SCHOOL SURTAX COLLECTIONS

23 Section 370. Local School Surtax.--The chief administrator
24 of each school district of the first class A, each school
25 district of the second, third and fourth class whose board of
26 directors levy, and, in the case of districts of the first
27 class, whose city council authorizes and whose members of the
28 board of public education levy an additional tax for school
29 purposes upon the classes of personal income tax as provided in
30 this article, as authorized under section 602.2 of the act of

1 March 10, 1949 (P.L.30, No.14), known as the "Public School Code
2 of 1949," and determines that the department shall act as its
3 collection agent, shall so notify the department each year by
4 submitting a certified copy of the resolution or ordinance and
5 an affidavit setting forth the amount of the tax to be collected
6 by the department for the school district. The department shall
7 include in all forms and instructions prepared for the
8 collection of the personal income tax appropriate instructions
9 and procedures to enable the residents of the school districts
10 where the local school surtax is levied, and collection by the
11 department authorized, to compute and pay over to this
12 Commonwealth said surtax. The department shall remit to each
13 school district all such taxes collected by it on their behalf
14 within sixty days after receipt of same.

15 Section 371. Procedure; Enforcement; Penalties.--Parts I,
16 III, IV, VI, VII, VIII, IX, X and XI are incorporated by
17 reference in this part insofar as they are consistent with this
18 part and applicable to the surtax to be collected hereunder.

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

20 ARTICLE V-A

21 UNINCORPORATED BUSINESS ASSOCIATIONS GROSS RECEIPTS TAX

22 PART I

23 DEFINITIONS

24 Section 501-A. Definitions.--The following words, terms and
25 phrases when used in this article shall have the meaning
26 ascribed to them in this section except where the context
27 clearly indicates a different meaning:

28 (a) "Person." Any individual, partnership or unincorporated
29 association; whenever used in any clause prescribing or imposing
30 a penalty the term "person" as applied to associations shall

1 mean the partners or members thereof; "person" shall not include
2 domestic or foreign corporations of any class.

3 (b) "Wholesale dealer" or "wholesale vendor." Any person
4 who sells to dealers in or vendors of goods, wares and
5 merchandise.

6 (c) "Retail dealer" or "retail vendor." Any person who
7 sells to dealers in or vendors of goods, wares and merchandise
8 who is not a wholesale dealer or vendor.

9 (d) "Manufacturer." Any person who sells goods, wares and
10 merchandise of his own growth or production.

11 (e) "Business." The carrying on or exercising for gain or
12 profit within the Commonwealth of Pennsylvania by any person of
13 any trade, business, profession, vocation or making sales to
14 persons within this Commonwealth or of any manufacturing,
15 commercial or financial service or business including but not
16 limited to manufacturers, brokers, wholesale dealers or
17 wholesale vendors, retail dealers or retail vendors.

18 "Business" shall not include the following: any business
19 conducted by a nonprofit unincorporated association organized
20 for religious, charitable or educational purposes; any authority
21 created and organized under and pursuant to any act of Assembly;
22 the business of any insurance company, association or exchange
23 or any fraternal benefit or beneficial society or any other
24 state under the laws of which insurance companies, associations
25 or exchanges or fraternal benefit or beneficial societies of
26 this Commonwealth doing business in such other state would be
27 subjected by reason of the tax imposed by this act to additional
28 or further taxes, fines, penalties or license fees by such other
29 state and any employment for a wage or salary.

30 (f) "Financial service" or "financial business." The

services and transactions of unincorporated private banks and bankers, building and loan associations, savings and loan associations, credit unions, savings banks, banks, bank and trust companies, trust companies, investment companies registered as such with the Federal Securities and Exchange Commission, holding companies, dealers and brokers in money credits, commercial paper, bonds, notes, securities and stocks, monetary metals factors and commission merchants.

(g) "Gross volume of business." Gross receipts, and shall include both cash and credit transactions as reported for Federal income tax purposes; it shall exclude (i) the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business except to the extent that the resale price exceeds the trade-in allowance; (ii) in the case of financial business, the cost of securities and other similar property sold, exchanged, paid at maturity or redeemed, and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans and shall exclude deposits; and (iii) the receipts or the portion thereof attributable to any item of sale involving the bona fide delivery of goods, commodities, wares or merchandise to a location regularly maintained by the other party to the transaction outside the limits of this Commonwealth and not for the purpose of evading payment of the tax or any portion thereof imposed under this act.

(h) "Department." The Department of Revenue of this Commonwealth.

(i) "Taxable year." The calendar year or the fiscal year

1 beginning during the calendar year.

2 PART II

3 IMPOSITION AND RATE OF TAX

4 Section 502-A. Imposition and Rate of Tax.--Every person
5 engaging in any business in this Commonwealth shall pay an
6 unincorporated business associations gross receipts tax for the
7 taxable year 1978 at the rate of one and one-quarter mills; and
8 for the taxable year 1979, at the rate of two and one-half
9 mills; 1980, three and three-quarters mills; and for the taxable
10 years 1981 and thereafter, five mills, on each dollar of the
11 gross volume of business, transacted by such person in that
12 taxable year.

13 PART III

14 RETURNS AND PAYMENT OF TAX

15 Section 503-A. Returns.--Every person subject to the tax
16 imposed by this act shall on or before May 15 following the
17 taxable year file with the department a return upon a form
18 furnished by the department setting forth his name, business,
19 business address, and such other information as may be necessary
20 in arriving at the gross volume of business transacted by him
21 during the preceding year and the amount of the tax due.

22 Section 504-A. Payment.--At the time of filing the return
23 the person making the same shall pay to the department the
24 amount of tax shown as due thereon.

25 PART IV

26 POWERS AND DUTIES OF DEPARTMENT

27 Section 505-A. Powers and Duties of Department.--(a) It
28 shall be the duty of the department to collect and receive the
29 taxes, interest, fines and penalties imposed by this act. It
30 shall keep a record showing the amount received from each person

1 paying the tax, interest, fine and penalty and the date of such
2 receipt.

3 (b) The department is hereby charged with the administration
4 and enforcement of the provisions of this act and is hereby
5 empowered to prescribe, adopt, promulgate and enforce
6 regulations relating to any matter pertaining to the
7 administration and enforcement of this act including provision
8 for the reexamination and correction of returns and payments
9 alleged or found to be incorrect or as to which an overpayment
10 is claimed or found to have occurred.

11 (c) The department is hereby authorized to examine the
12 books, papers and records of any person in order to verify the
13 accuracy of any return made or if no return has been made to
14 ascertain the tax due. Every such person is hereby directed and
15 required to give to the department the means, facilities and
16 opportunity for such examinations and investigations as are
17 hereby authorized.

18 Section 506-A. Suit on Collections; Penalty.--(a) This
19 Commonwealth may sue for the recovery of taxes, interest, fines
20 and penalties due and unpaid under this act.

21 (b) If for any reason the tax is not paid when due in each
22 year interest at the rate of six per cent per annum on the
23 amount of said tax and in addition a penalty of one per cent of
24 the amount of the unpaid tax for each month or fraction thereof
25 during which the tax remains unpaid shall be added and
26 collected. Where suit is brought for the recovery of any such
27 tax the person liable therefor shall in addition be liable for
28 the costs of collection and the interest and penalties herein
29 imposed.

1 FINES AND PENALTIES

2 Section 507-A. Fines and Penalties.--Whoever makes any false
3 or untrue statement on his return or who refuses to permit
4 inspection of the books, records or accounts of any business in
5 his custody or control when the right to make such inspection by
6 the department is requested and whoever fails or refuses to file
7 a return required by this act shall upon summary conviction be
8 sentenced to pay a fine of not more than three hundred dollars
9 (\$300).

10 PART VI

11 MISCELLANEOUS PROVISIONS

12 Section 508-A. Other Taxes.--It is hereby declared to be the
13 intention of the General Assembly that the tax imposed under
14 this act shall be in addition to any and all other taxes imposed
15 by this Commonwealth.

16 Section 509-A. Saving Clause.--Notwithstanding anything
17 contained in any law to the contrary the validity of any
18 ordinance or part of any ordinance or any resolution or part of
19 any resolution and any amendments or supplements thereto now or
20 hereafter enacted or adopted by any political subdivision
21 providing for or relating to the imposition, levy or collection
22 of any mercantile license tax shall not be affected or impaired
23 by anything contained in this act.

24 ARTICLE V-B

25 MUTUAL THRIFT INSTITUTIONS TAX

26 PART I

27 DEFINITIONS

28 Section 501-B. Definitions.--As used in this article "mutual
29 thrift institution" shall be construed to mean every savings
30 bank without capital stock incorporated by or under any law of

1 this Commonwealth, every building and loan association, every
2 savings and loan association incorporated under the laws of this
3 Commonwealth and every Federal savings and loan association
4 incorporated under the laws of the United States and located
5 within this Commonwealth.

6 PART II

7 IMPOSITION OF RATE OF TAX

8 Section 502-B. Imposition; Report and Payment of Tax;

9 Exemptions.--(a) Every mutual thrift institution shall
10 annually, upon April 15 each year beginning in the year 1965,
11 make a report to the Department of Revenue, setting forth the
12 entire amount of net earnings or income received or accrued by
13 said mutual thrift institution from all sources during the
14 preceding year, and such other information as the department may
15 require, and upon such net earnings or income the said mutual
16 thrift institution shall pay into the State Treasury, through
17 the Department of Revenue, for the use of this Commonwealth,
18 within the time prescribed by this article for making such
19 annual report, a State excise tax at the rate of eleven and one-
20 half per cent annually for the years 1969 through 1977, and at
21 the rate of twelve and one-eighth per cent for the year 1978;
22 twelve and three-quarters per cent for the year 1979; thirteen
23 and three-eighths per cent for the year 1980; and fourteen per
24 cent for the year 1981 and thereafter, upon such annual net
25 earnings or income, for the privilege of doing business in this
26 Commonwealth. On or before April 30, 1970, and each year
27 thereafter, each such mutual thrift institution shall file a
28 tentative report and pay on account of the tax due upon such
29 earnings or income received or accrued during that year not less
30 than eighty per cent of the amount of said tax, the said amount

1 to be computed by applying the current tax rate to eighty per
2 cent of the net earnings or income of such institution for the
3 immediate prior year, or of the estimated net earnings or income
4 of such corporation to be received or accrued during the current
5 year. The remaining portion of the tax due shall be paid upon
6 the date the institution's annual report is required herein to
7 be made. Should it subsequently be determined that the amount of
8 the net earnings or income of the institution reported for the
9 immediate prior year or of the estimated net earnings or income
10 stated by such institution and employed in the computation of
11 the tentative tax was understated by ten per cent or more, there
12 shall be added to the tax determined to be due an additional one
13 per cent of the amount of said tax for each per cent of such
14 understatement, and said additional tax shall bear interest from
15 the date the tentative tax was due.

16 (b) If, however, any such mutual thrift institution closes
17 its fiscal year, not upon December 31, but upon some other date
18 the tax shall be imposed upon such annual net earnings or income
19 received or accrued during its fiscal year and the tentative
20 report for the fiscal year beginning in 1964 and for each fiscal
21 year thereafter shall be made and the tentative tax for such
22 year shall be paid within one hundred twenty days after the
23 close of the preceding fiscal year, and the remaining portion of
24 the tax due upon the net earnings or income received or accrued
25 during such year shall be paid within the time prescribed by
26 this article for making the annual report for such year.

27 (c) Net earnings or income shall be determined in accordance
28 with generally accepted principles of accounting, either on a
29 cash or accrual or combined cash and accrual basis, depending on
30 the method of bookkeeping employed by each mutual thrift

1 institution, and in computing such net earnings or income,
2 amounts credited or paid as dividends or interest to
3 shareholders, holders of accounts or depositors shall be
4 included among the allowable deductions.

5 (d) Mutual thrift institutions subject to the provisions of
6 this act shall be exempt from all other corporate taxes imposed
7 by this Commonwealth for State purposes, and from all local
8 taxation imposed by political subdivisions of this Commonwealth
9 under the authority of the laws of this Commonwealth, except
10 taxes on real estate or transfers thereof.

11 PART III

12 PROCEDURE; ENFORCEMENT; PENALTIES

13 Section 503-B. Procedure; Enforcement; Penalties.--Parts
14 III, IV, V, VI and VII of Article IV are incorporated by
15 reference into this article insofar as they are applicable to
16 the tax imposed hereunder.

17 PART IV

18 REPEALER

19 Section 504-B. Repealer.--The act of June 22, 1964 (P.L.16,
20 No.2), known as "The Mutual Thrift Institutions Tax Act," is
21 repealed.

22 Section 4. The act is amended by adding sections to read:

23 Section 602.2. Additional Tax in Lieu of School Real
24 Property Tax.--In addition to the taxes imposed by subsections
25 (a), (b), (f) and (g) of section 602, there is hereby imposed a
26 tax for the calendar year 1978 or the fiscal year beginning in
27 1978, at the rate of three and three-quarters mills; for 1979,
28 seven and one-half mills; 1980, eleven and one-quarter mills;
29 1981 and thereafter, fifteen mills.

30 Section 701.1. Additional Tax in Lieu of School Real

1 Property Tax.--In addition to the taxes imposed by section 701,
2 there is hereby imposed a tax for the calendar year 1978, at the
3 rate of seven-eighths mills; for 1979, one and three-quarters
4 mills; 1980, two and five-eighths mills; and for 1981 and
5 thereafter, three and five-tenths mills.

6 Section 801.1. Additional Tax in Lieu of School Real
7 Property Tax.--In addition to the taxes imposed by section 801,
8 there is hereby imposed a tax for the calendar year 1978, at the
9 rate of seven-eighths mills; 1979, one and three-quarter mills;
10 1980, two and five-eighths mills; and 1981 and thereafter, three
11 and five-tenths mills.

12 Section 902.1. Additional Tax in Lieu of School Real
13 Property Tax.--In addition to the taxes imposed by subsection
14 (a) of section 902, there is hereby imposed a tax for general
15 revenue purposes for the calendar year 1978, at the rate of
16 five-one-hundredths per cent; for 1979, ten-one-hundredths per
17 cent; 1980, fifteen-one-hundredths per cent; and 1981 and
18 thereafter, twenty-one-hundredths per cent.

19 Section 5. This act shall take effect immediately.