

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2861 Session of
1980

INTRODUCED BY E. G. JOHNSON, SPENCER, L. E. SMITH AND WENGER,
JULY 7, 1980

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JULY 7, 1980

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
2 entitled "An act empowering cities of the second class,
3 cities of the second class A, cities of the third class,
4 boroughs, towns, townships of the first class, townships of
5 the second class, school districts of the second class,
6 school districts of the third class and school districts of
7 the fourth class including independent school districts, to
8 levy, assess, collect or to provide for the levying,
9 assessment and collection of certain taxes subject to maximum
10 limitations for general revenue purposes; authorizing the
11 establishment of bureaus and the appointment and compensation
12 of officers, agencies and employes to assess and collect such
13 taxes; providing for joint collection of certain taxes,
14 prescribing certain definitions and other provisions for
15 taxes levied and assessed upon earned income, providing for
16 annual audits and for collection of delinquent taxes, and
17 permitting and requiring penalties to be imposed and
18 enforced, including penalties for disclosure of confidential
19 information, providing an appeal from the ordinance or
20 resolution levying such taxes to the court of quarter
21 sessions and to the Supreme Court and Superior Court,"
22 further providing for limitations on actions to recover
23 unpaid taxes.

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

26 Section 1. Division VII of section 13 and section 21, act of
27 December 31, 1965 (P.L.1257, No.511), known as "The Local Tax
28 Enabling Act," are amended to read:

1 Section 13. Earned Income Taxes.--On and after the effective
2 date of this act the remaining provisions of this section shall
3 be included in or construed to be a part of each tax levied and
4 assessed upon earned income by any political subdivision levying
5 and assessing such tax pursuant to this act. The definitions
6 contained in this section shall be exclusive for any tax upon
7 earned income and net profits levied and assessed pursuant to
8 this act, and shall not be altered or changed by any political
9 subdivision levying and assessing such tax.

10 * * *

11 VII. Suit for Collection of Tax

12 (a) The officer may sue in the name of the taxing district
13 for the recovery of taxes due and unpaid under this ordinance.

14 (b) Any suit brought to recover the tax imposed by the
15 ordinance or resolution shall be begun within [three] six years
16 after such tax is due[, or within three years after the
17 declaration or return has been filed, whichever date is later]:
18 Provided, however, That this limitation shall not prevent the
19 institution of a suit at any time for the collection of any tax
20 due or determined to be due [in the following cases:

21 (1) Where no declaration or return was filed by any person
22 although a declaration or return was required to be filed by him
23 under provisions of the ordinance or resolution, there shall be
24 no limitation.

25 (2) Where an examination of the declaration or return filed
26 by any person, or of other evidence relating to such declaration
27 or return in the possession of the officer, reveals a fraudulent
28 evasion of taxes, there shall be no limitation.

29 (3) In the case of substantial understatement of tax
30 liability of twenty-five percent or more and no fraud, suit

1 shall be begun within six years.

2 (4) Where] where any person has deducted taxes under the
3 provisions of the ordinance or resolution, and has failed to pay
4 the amounts so deducted to the officer, or where any person has
5 wilfully failed or omitted to make the deductions required by
6 this section.[, there shall be no limitation.

7 (5)] (c) This section shall not be construed to limit the
8 governing body from recovering delinquent taxes by any other
9 means provided by this act.

10 [(c)] (d) The officer may sue for recovery of an erroneous
11 refund provided such suit is begun two years after making such
12 refund, except that the suit may be brought within [five] six
13 years if it appears that any part of the refund was induced by
14 fraud or misrepresentation of material fact.

15 * * *

16 Section 21. Collection of Taxes by Suit.--Each taxing
17 district shall have power to collect unpaid taxes from the
18 persons owing such taxes by suit in assumpsit or other
19 appropriate remedy. Such suit shall be begun or such remedy
20 shall be pursued in the case of per capita, poll or other
21 similar head taxes, occupation taxes and occupational privilege
22 taxes within six years after such tax is due. Upon each such
23 judgment, execution may be issued without any stay or benefit of
24 any exemption law. The right of each such taxing district to
25 collect unpaid taxes under the provisions of this section shall
26 not be affected by the fact that such taxes have been entered as
27 liens in the office of the prothonotary, or the fact that the
28 property against which they were levied has been returned to the
29 county commissioners for taxes for prior years.

30 Section 2. This act shall take effect in 90 days.