

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2724 Session of
1986

INTRODUCED BY MORRIS, JULY 1, 1986

REFERRED TO COMMITTEE ON FINANCE, JULY 1, 1986

AN ACT

1 Empowering certain political subdivisions to levy and collect
2 taxes on certain income; prescribing penalties; and making
3 repeals.

4 TABLE OF CONTENTS

5 Chapter 1. General Provisions

6 Section 101. Short title.

7 Section 102. Definitions.

8 Section 103. Application.

9 Chapter 2. Personal Income and Real Property Income Taxes

10 Section 201. Authority to impose personal income tax and real
11 property income tax.

12 Chapter 3. Administrative Provisions

13 Section 301. Advertisement of intention to adopt tax
14 ordinance or resolution.

15 Section 302. Rate not subject to limitation; adoption of
16 ordinance.

17 Section 303. Appeals by taxpayers.

18 Section 304. Filing of certified copies of ordinances and

1 GENERAL PROVISIONS

2 Section 101. Short title.

3 This act shall be known and may be cited as the Municipal
4 Income Tax Act.

5 Section 102. Definitions.

6 The following words and phrases when used in this act shall
7 have the meanings given to them in this section unless the
8 context clearly indicates otherwise:

9 "Local municipality." A city of the second class, second
10 class A or third class, a borough, an incorporated town or a
11 township.

12 "Municipality." A local municipality and a county, except a
13 county of the first class.

14 "Personal income." Income subject to the personal income tax
15 imposed pursuant to Article III of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971.

17 "Real property income." Net income derived by a taxpayer
18 from the ownership by such taxpayer of income-producing real
19 property located within the taxing body or net income derived by
20 a taxpayer from a business, trade or profession conducted on
21 real property owned by such taxpayer and located within the
22 taxing body.

23 "Taxing body." A political subdivision other than a county
24 of the first class, a city of the first class or a school
25 district of the first class.

26 Section 103. Application.

27 Unless otherwise provided, this act shall apply to all
28 political subdivisions except counties of the first class,
29 cities of the first class and school districts of the first
30 class.

1 CHAPTER 2

2 PERSONAL INCOME AND REAL PROPERTY

3 INCOME TAXES

4 Section 201. Authority to impose personal income tax and real
5 property income tax.

6 (a) Personal income tax.--A taxing body may levy a tax on
7 the personal income of natural persons residing in the taxing
8 body.

9 (b) Real property income tax.--A taxing body may, in
10 addition to the tax authorized by subsection (a), levy a tax on
11 the real property income of corporations and nonresident natural
12 persons.

13 (c) Initial year's rate.--The tax as authorized by
14 subsections (a) and (b) shall be in partial or total replacement
15 of taxes imposed on real property and may, during the first year
16 such taxes are levied, be fixed at a combined rate that will
17 produce revenue not exceeding 105% of the revenue theretofore
18 produced by taxes imposed on real property within the taxing
19 body. The tax millage on real property within the taxing body
20 shall be lowered sufficiently to reduce the estimated revenues
21 from the real property tax on real property within the taxing
22 body to at least 95% of the revenues estimated to be derived
23 from the taxes imposed under subsections (a) and (b).

24 (d) Subsequent years' rate.--During the second and
25 subsequent years, if the rates are increased, the real property
26 tax millage on all real property, if the taxing body still
27 levies a tax on real property, shall be lowered sufficiently to
28 reduce the estimated revenues from the real property tax on the
29 real property by at least 95% of the revenues estimated to be
30 derived from the increase in rate. The taxing body shall not

1 thereafter increase its real property tax millage on real
2 property without lowering the rate of the tax imposed under
3 subsections (a) and (b) sufficiently to reduce the estimated
4 revenues from the taxes imposed under subsections (a) and (b) by
5 at least 105% of the revenues estimated to be derived from the
6 millage increase on real property.

7 (e) Effect of reassessment.--Whenever there is a general
8 reassessment or a change in the assessment ratio, affecting all
9 real estate within a taxing body which has imposed the taxes
10 authorized by subsections (a) and (b) and reduced the rate of
11 tax on the real property, which change in assessment or
12 assessment ratio increases the estimated revenues to be derived
13 from the tax on the real property, the taxing body shall either
14 lower its millage on real property sufficiently to reduce the
15 estimated increase in revenues from the tax on the real property
16 by at least 100% or lower the rate of the taxes imposed pursuant
17 to subsections (a) and (b) sufficiently to reduce the estimated
18 revenues to be derived therefrom by at least 100% of the
19 estimated increase in revenues from the tax on the real
20 property, or the taxing body may reduce the millage on the real
21 property or the rates of taxes imposed pursuant to subsections
22 (a) and (b) in any combination sufficient to keep the estimated
23 total revenues from all taxes at not more than 100% of the total
24 revenues in the prior tax year.

25 (f) Reduction of tax on real estate.--A taxing body, during
26 the time it imposes a tax on real estate, may not impose or
27 raise the taxes authorized by subsections (a) and (b) without a
28 commensurate reduction in revenues from the tax on real estate,
29 and, having imposed the taxes authorized by subsections (a) and
30 (b), may not thereafter increase or receive the benefit of an

1 increase in revenues from the tax on real estate without a
2 commensurate reduction in the taxes imposed pursuant to
3 subsections (a) and (b). A taxing body that has entirely removed
4 the tax on real estate may, during the time no tax is levied on
5 real estate, fix a rate on the taxes levied pursuant to
6 subsections (a) and (b) that will produce adequate revenue for
7 the taxing body, subject only to the limitations provided in
8 section 314.

9 (g) Application.--The taxes authorized by subsections (a)
10 and (b) may be imposed on income received during the calendar
11 year beginning January 1, 1987, and during taxpayer fiscal years
12 beginning in 1987. The tax shall continue in force during
13 subsequent calendar or fiscal years without annual reenactment,
14 except as provided in section 301(b).

15 CHAPTER 3

16 ADMINISTRATIVE PROVISIONS

17 Section 301. Advertisement of intention to adopt tax ordinance
18 or resolution.

19 (a) Advertisement.--Prior to the passage of any ordinance or
20 the adoption of any resolution imposing a tax, the taxing body
21 shall give notice of the intention to pass the ordinance or
22 adopt such resolution. The notice shall set forth the nature of
23 the tax to be imposed, and the amount of revenue estimated to be
24 derived from the tax. Publication of the notice shall be made by
25 advertisement once a week for three weeks in a newspaper of
26 general circulation within the taxing body if there is such a
27 newspaper and if there is not, then publication shall be made in
28 a newspaper of general circulation within the county in which
29 the advertising taxing body is located.

30 (b) Continuation of tax.--The tax shall continue in force on

1 a calendar or fiscal year basis, as the case may be, without
2 annual reenactment unless the rate of the tax is changed.
3 Section 302. Rate not subject to limitation; adoption of
4 ordinance.

5 (a) Absence of limitations.--A tax imposed under this act
6 shall not be subject to any limitations under existing laws as
7 to rate or amount or as to the necessity of securing court
8 approval or as to budgetary requirements.

9 (b) Adoption of ordinance.--The ordinance or resolution may
10 be passed or adopted prior to the beginning of the fiscal year
11 and prior to the preparation of the budget, when desirable.

12 Section 303. Appeals by taxpayers.

13 (a) Petition of taxpayers.--A tax levied for the first time
14 shall not go into effect until 30 days from the time of the
15 adoption of the ordinance or resolution levying the tax. Within
16 the 30-day period, 25 or more taxpayers of the taxing body
17 aggrieved by the ordinance or resolution shall have the right to
18 appeal to the court of common pleas of the county upon giving
19 bond, with security approved by the court, in the amount of \$500
20 to prosecute the appeal with effect and for the payment of
21 costs. The petition shall set forth the objections to the tax
22 and the facts in support of the objections, and shall be
23 accompanied by the affidavit of at least five of the petitioners
24 that the averments of the petition are true and the petition is
25 not filed for the purpose of delay.

26 (b) Appeal not to act as supersedeas.--An appeal shall not
27 act as a supersedeas unless specifically allowed by a judge of
28 the court to which the appeal is taken.

29 (c) Service of petition.--Immediately upon the filing of a
30 petition, the petitioners shall serve a copy of the petition and

1 any rule granted by the court upon the president, chairman,
2 secretary or clerk of the taxing body levying the tax.

3 (d) Hearing date.--The court shall fix a day for a hearing
4 not less than 15 days nor more than 30 days after the filing of
5 the petition. Notice of the time of the hearing shall be given
6 to all interested parties as the court shall direct. The court
7 shall promptly hear and dispose of the appeal.

8 (e) Duty of court.--It shall be the duty of the court to
9 declare the ordinance and the tax imposed thereby to be valid
10 unless it concludes that the ordinance is unlawful or finds that
11 the tax imposed is excessive or unreasonable, but the court
12 shall not interfere with the reasonable discretion of the taxing
13 body in selecting the subjects or fixing the rates of the tax.
14 The court may declare invalid all or any portion of the
15 ordinance or of the tax imposed or may reduce the rates of tax.
16 Section 304. Filing of certified copies of ordinances and
17 resolutions.

18 (a) Filing with Department of Community Affairs.--Whenever
19 an ordinance or a resolution is first passed or adopted under
20 the authority of this act, an exact printed or typewritten copy
21 thereof, certified to by the secretary of the taxing body, shall
22 be filed with the Department of Community Affairs within 15 days
23 after it becomes effective.

24 (b) Penalty for failure to file.--A secretary or person
25 acting as the clerk or secretary of the taxing body during the
26 meeting at which an ordinance or resolution imposing a tax is
27 passed or adopted who fails to file the certified copy or
28 statement relative thereto with the Department of Community
29 Affairs shall, upon summary conviction in the county in which
30 the taxing body is located, be sentenced to pay a fine of not

1 less than \$5 nor more than \$25 and the costs of prosecution.

2 Section 305. Register for the personal income tax.

3 (a) Register of income taxes.--It shall be the duty of the
4 Department of Community Affairs to have available an official
5 continuing register, supplemented annually, of all income taxes
6 levied under authority of this act. The register shall list the
7 jurisdictions levying income taxes, the rate of the tax as
8 stated in the tax-levying ordinance or resolution, the name and
9 address of the officer responsible for administering the
10 collection of the tax and the name and address of the person
11 from whom information, forms for reporting and copies of rules
12 and regulations are available.

13 (b) Taxing body to furnish information.--Information for the
14 register shall be furnished by the secretary of each taxing body
15 to the Department of Community Affairs in the manner and on
16 forms as the Department of Community Affairs may prescribe. The
17 information must be received by the Department of Community
18 Affairs by certified mail not later than May 31 of each year to
19 show new tax enactments, repeals and changes. Failure to comply
20 with this date for filing may result in the omission of the levy
21 from the register for that year. Failure of the Department of
22 Community Affairs to receive information of taxes continued
23 without change may be construed by the department to mean that
24 the information contained in the previous register remains in
25 force.

26 (c) Time when register shall be available.--The Department
27 of Community Affairs shall have the register, with such annual
28 supplements as may be required by new tax enactments, repeals or
29 changes, available upon request not later than July 1 of each
30 year. The effective period for each register shall be from July

1 1 of the year in which it is issued to June 30 of the following
2 year.

3 (d) Effect of failure to have tax listed in register.--

4 Employers shall not be required by any local ordinance to
5 withhold from the wages, salaries, commissions, compensation or
6 other income of their employees any tax imposed under the
7 provisions of this act which is not listed in the register, or
8 to make reports of wages, salaries, commissions or other
9 compensation in connection with taxes not so listed. If the
10 register is not available by July 1, the register of the
11 previous year shall continue temporarily in effect for an
12 additional period not to exceed one year. The provisions of this
13 section shall not affect the liability of any taxpayer for taxes
14 lawfully imposed under this act.

15 (e) Withholding by employers.--Ordinances or resolutions
16 imposing income taxes may contain provisions requiring employers
17 doing business within the jurisdiction of the taxing body
18 imposing the tax to withhold the tax from the compensation of
19 their employees who are subject to the tax. No employer shall,
20 however, be held liable for failure to withhold income taxes or
21 for the incorrect payment of withheld tax money to a taxing body
22 if the failure to withhold or the incorrect transmittal of
23 withheld taxes arises from incorrect information as to the
24 employee's place of residence submitted by the employee.

25 Section 306. Collection of taxes.

26 (a) Creation of bureau.--A taxing body may provide by
27 ordinance or resolution for the creation of bureaus or the
28 appointment and compensation of officers, clerks, collectors and
29 other assistants and employees, either under existing
30 departments or otherwise, as may be deemed necessary for the

1 assessment and collection of taxes imposed under authority of
2 this act.

3 (b) Joint agreements.--Taxing bodies imposing taxes under
4 authority of this act may make joint agreements for the
5 collection of taxes. The same person or agency may be employed
6 by two or more taxing bodies to collect any taxes imposed by
7 them under authority of this act.

8 Section 307. Audits.

9 The governing body of each local municipality or taxing body
10 which levies, assesses and collects or provides for the levying,
11 assessment and collection of an income tax shall provide for not
12 less than one examination each year of the books, accounts and
13 records of the tax collector, other than the Department of
14 Revenue, by a certified public accountant or a public
15 accountant, appointed by the taxing body. The reports of the
16 audit shall be sent to the taxing body employing the accountant.
17 No further or additional audits shall be performed by elected or
18 appointed auditors.

19 Section 308. Declaration and payment of tax.

20 (a) Election by taxing body.--A taxpayer having personal
21 income not subject to withholding shall, as the taxing body
22 elects:

23 (1) Pay to the officer an annual payment of tax due on
24 or before April 15 of the succeeding year for the period
25 beginning January 1 and ending December 31 of the current
26 year.

27 (2) On or before April 15 of the current year, make and
28 file with the officer, on a form prescribed or approved by
29 the officer, a declaration of his or her estimated income
30 during the period beginning January 1 and ending December 31

1 of the current year and pay to the officer in four equal
2 quarterly installments the tax due and not withheld. The
3 first installment shall be paid at the time of filing the
4 declaration, and the other installments shall be paid on or
5 before June 15 of the current year, September 15 of the
6 current year and January 15 of the succeeding year,
7 respectively.

8 (3) Make reports and payments in the manner provided in
9 Article III of the act of March 4, 1971 (P.L.6, No.2), known
10 as the Tax Reform Code of 1971.

11 (b) Election to have declaration due June 15.--Whenever the
12 taxing body elects to require the filing of a declaration and
13 quarterly payments, a taxpayer who first anticipates any income
14 not subject to withholding after April 15 of the current year
15 shall make and file the declaration required on or before June
16 15 of the current year, September 15 of the current year or
17 December 31 of the current year, whichever of these dates next
18 follows the date on which the taxpayer first anticipates such
19 income, and shall pay to the officer in equal installments the
20 tax due thereon on or before the quarterly payment dates which
21 remain after the filing of the declaration.

22 (c) Final return for net profits.--Whenever the taxing body
23 requires a declaration of estimated income and quarterly
24 payments of tax due on the income, a taxpayer shall, on or
25 before April 15 of the current year, make and file with the
26 officer, on a form prescribed or approved by the officer, a
27 final return showing the amount of net profits earned during the
28 period beginning January 1 of the preceding year and ending
29 December 31 of the preceding year, the total amount of tax due
30 and the total amount of tax paid. At the time of filing the

1 final return, the taxpayer shall pay to the officer the balance
2 of tax due or shall make demand for refund or credit in the case
3 of overpayment. Any taxpayer may, in lieu of paying the fourth
4 quarterly installment of his or her estimated tax, elect to make
5 and file with the officer, on or before January 31 of the
6 succeeding year, the final return.

7 (d) Adjusted declarations.--The officer may be authorized to
8 provide by regulation for the making and filing of adjusted
9 declarations of estimated income for the payments of the
10 estimated tax in cases where a taxpayer who has filed the
11 declaration anticipates additional income not previously
12 declared or finds that he has overestimated his anticipated
13 income.

14 (e) Final returns.--At the election of the taxing body,
15 every taxpayer shall, on or before April 15 of the succeeding
16 year, make and file with the officer, on a form prescribed or
17 approved by the officer, a final return showing the amount of
18 personal income received during the period beginning January 1
19 of the current year and ending December 31 of the current year,
20 the total amount of tax due, the amount of tax paid, the amount
21 of tax that has been withheld pursuant to the provisions
22 relating to the collection at source, and the balance of tax
23 due. At the time of filing the final return, the taxpayer shall
24 pay the balance of the tax due or shall make demand for a refund
25 or credit in the case of overpayment.

26 (f) Taxpayer not subject to collection at source.--A
27 taxpayer who is employed for a salary, wage, commission or other
28 compensation and who received any personal income not subject to
29 the provisions relating to collection at source shall, as the
30 taxing body elects:

1 (1) Make and file with the officer, on a form prescribed
2 or approved by the officer, an annual return setting forth
3 the aggregate amount of earned income not subject to
4 withholding from him or her during the period beginning
5 January 1 and ending December 31 of the current year and such
6 other information as the officer may require and pay to the
7 officer the amount of tax shown as due thereon on or before
8 April 15 of the succeeding year.

9 (2) Make and file with the officer, on a form prescribed
10 or approved by the officer, a quarterly return on or before
11 April 30 of the current year, July 31 of the current year,
12 October 31 of the current year and January 31 of the
13 succeeding year, setting forth the aggregate amount of income
14 not subject to withholding from him or her during the three-
15 month periods ending March 31 of the current year, June 30 of
16 the current year, September 30 of the current year and
17 December 31 of the current year, respectively, and subject to
18 the tax, together with such other information as the officer
19 may require. Every taxpayer making such return shall, at the
20 time of filing thereof, pay to the officer the amount of tax
21 shown as due thereon.

22 Section 309. Collection at source.

23 (a) Employer to register.--An employer having an office,
24 factory, workshop, branch, warehouse or other place of business
25 within a taxing body imposing a tax on personal income who or
26 which employs one or more persons, other than domestic servants,
27 for a salary, wage, commission or other compensation, and who or
28 which has not previously registered, shall, within 15 days after
29 becoming an employer, register with the officer its, his or her
30 name and address and such other information as the officer may

1 require.

2 (b) Deduction of tax.--An employer having an office,
3 factory, workshop, branch, warehouse or other place of business
4 within a taxing body imposing a tax on personal income who or
5 which employs one or more persons, other than domestic servants,
6 for a salary, wage, commission or other compensation, shall
7 deduct at the time of payment the tax imposed by ordinance or
8 resolution on the income due to its, his or her employees, and
9 shall, on or before April 30 of the current year, July 31 of the
10 current year, October 31 of the current year, and January 31 of
11 the succeeding year, file a return and pay to the officer the
12 amount of taxes deducted during the preceding three-month period
13 ending March 31 of the current year, June 30 of the current
14 year, September 30 of the current year and December 31 of the
15 current year respectively. The return, unless otherwise agreed
16 upon between the officer and employer, shall show the name and
17 social security number of the employee, the income of the
18 employee during the preceding three-month period, the tax
19 deducted, the taxing body imposing the tax, the total income of
20 all employees during the preceding three-month period and the
21 total tax deducted and paid with the return.

22 (c) Monthly payment.--An employer who or which, for two of
23 the preceding four quarterly periods, has failed to deduct the
24 proper tax, or any part thereof, or has failed to pay over the
25 proper amount of tax to the taxing authority may be required by
26 the officer to file its, his or her return and pay the tax
27 monthly. In such cases, payments of tax shall be made to the
28 officer on or before the last day of the month for which the tax
29 was withheld.

30 (d) Returns by employers.--On or before February 28 of the

1 succeeding year, employers shall file with the officer:

2 (1) An annual return showing the total amount of earned
3 income paid, the total amount of tax deducted and the total
4 amount of tax paid to the officer for the period beginning
5 January 1 of the current year and ending December 31 of the
6 current year.

7 (2) A return withholding statement for each employee
8 employed during all or any part of the period beginning
9 January 1 of the current year and ending December 31 of the
10 current year, setting forth the employee's name, address and
11 Social Security number, the amount of earned income paid to
12 the employee during said period, the amount of tax deducted,
13 the taxing bodies imposing the tax upon the employee and the
14 amount of tax paid to the officer. Every employer shall
15 furnish two copies of the individual return to the employee
16 for whom it is filed.

17 (e) Discontinuation of business.--An employer who
18 discontinues business prior to December 31 of the current year
19 shall, within 30 days after the discontinuance of business, file
20 the required returns and withholding statements and pay the tax
21 due.

22 (f) Failure of employer to make deductions.--An employer who
23 willfully or negligently fails or omits to make the deductions
24 required by this section shall be liable for payment of the
25 taxes which it, he or she was required to withhold to the extent
26 that the taxes have not been recovered from the employee.

27 (g) Liability of employee.--The failure or omission of an
28 employer to make the deductions required by this section shall
29 not relieve any employee from the payment of the tax or from
30 complying with the requirements of the ordinance or resolution

1 relating to the filing of declarations and returns.

2 Section 310. Powers and duties of appropriate officer.

3 (a) Duties.--It shall be the duty of the appropriate officer
4 to collect and receive the taxes, fines and penalties imposed by
5 the ordinance or resolution. It shall also be his duty to keep a
6 record showing the amount received by him from each person or
7 business paying the tax and the date of receipt.

8 (b) Bond.--An officer, before entering upon his or her
9 official duties, shall give and acknowledge a bond to the taxing
10 body appointing him or her. If the taxing body, by resolution,
11 designates any bond previously given by the officer as adequate,
12 the bond shall be sufficient to satisfy the requirements of this
13 section. The bond shall be joint and several, with one or more
14 corporate sureties which shall be surety companies authorized to
15 do business in this Commonwealth and duly licensed by the
16 Insurance Commissioner of the Commonwealth. The bond shall be
17 conditioned upon the faithful discharge, by the officer, his
18 clerks, assistants and appointees, of all trusts confided in him
19 or her by virtue of his or her office, upon the faithful
20 execution of all duties required of him or her by virtue of his
21 or her office, upon the just and faithful accounting or payment
22 over, according to law, of all moneys and all balances paid to,
23 received or held by him or her by virtue of his or her office
24 and upon the delivery, to his or her successor or successors in
25 office, of all books, papers, documents or other official things
26 held in right of his or her office. The bond shall be taken in
27 the name of the appointing taxing body, and shall be for the use
28 of the taxing body appointing the officer and for the use of
29 such other persons for whom money shall be collected or
30 received, or as his or her interest shall otherwise appear, in

1 case of a breach of any of the conditions thereof by the acts or
2 neglect of the principal on the bond.

3 (c) Suit on bond.--The taxing body appointing the officer,
4 or any person, may sue upon the bond in its or his own name for
5 its or his own use.

6 (d) Amount of bond.--The bond shall contain the name of the
7 surety company bound on it. The taxing body appointing the
8 officer shall fix the amount of the bond at an amount equal to
9 the maximum amount of taxes which may be in the possession of
10 the officer at any given time.

11 (e) Substitution of surety.--The taxing body appointing the
12 officer may, at any time, upon cause shown and due notice to the
13 officer, and his or her surety, require or allow the
14 substitution or the addition of a surety company acceptable to
15 the taxing body for the purpose of making the bond sufficient in
16 amount without releasing the surety or sureties first approved
17 from any accrued liability or previous action on such bond.

18 (f) Custodian of bond.--The taxing body appointing the
19 officer shall designate the custodian of the bond required to be
20 given by the officer.

21 (g) Adoption of regulations.--The officer charged with the
22 administration and enforcement of the provisions of the
23 ordinance or resolution is hereby empowered to adopt regulations
24 relating to any matter pertaining to the administration and
25 enforcement of the ordinance or resolution, including provisions
26 for the reexamination and correction of declarations and
27 returns, and of payments alleged or found to be incorrect, or as
28 to which an overpayment is claimed or found to have occurred,
29 and to make refunds in case of overpayment, for any period of
30 time not to exceed six years subsequent to the date of payment

1 of the sum involved, and to prescribe forms necessary for the
2 administration of the ordinance or resolution. No rule or
3 regulation of any kind shall be enforceable unless it has been
4 approved by resolution by the governing body. A copy of the
5 rules and regulations currently in force shall be available for
6 public inspection.

7 (h) Ordinary and necessary business expenses.--The officer
8 shall refund, on petition of and proof by the taxpayer, income
9 tax paid on the taxpayer's ordinary and necessary business
10 expenses, to the extent that the expenses are not paid by the
11 taxpayer's employer.

12 (i) Examination of records.--The officer, and agents
13 designated by him, are hereby authorized to examine the books,
14 papers and records of any employer or of any taxpayer, or of any
15 person whom the officer reasonably believes to be an employer or
16 taxpayer, in order to verify the accuracy of any declaration or
17 return, or if no declaration or return was filed, to ascertain
18 the tax due. Every employer and every taxpayer and every person
19 whom the officer reasonably believes to be an employer or
20 taxpayer is hereby directed and required to give to the officer,
21 or to any agent designated by him or her, the means, facilities
22 and opportunity for such examination and investigations, as are
23 hereby authorized.

24 (j) Confidential information.--Information gained by the
25 officer, or his or her agents, or by any other official or agent
26 of the taxing district, as a result of any declarations,
27 returns, investigations, hearings or verifications required or
28 authorized by the ordinance or resolution, shall be
29 confidential, except for official purposes and except in
30 accordance with a proper judicial order or as otherwise provided

1 by law.

2 (k) Establishment of different filing dates.--The officer is
3 authorized to establish different filing, reporting and payment
4 dates for taxpayers whose fiscal years do not coincide with the
5 calendar year.

6 Section 311. Compensation of income tax officer.

7 The income tax officer, other than the Commonwealth, shall
8 receive the compensation for his or her services and expenses
9 determined by the taxing body. In the case of joint use of a
10 single collector, the taxing bodies shall share in the
11 compensation and expenses of a single officer according to the
12 proportionate share that the total annual collections for each
13 jurisdiction bears to the total annual collection for all taxing
14 bodies in a single collector district, except that, with the
15 agreement of two-thirds of all participating taxing bodies, a
16 different manner of sharing may be substituted.

17 Section 312. Suit for collection of tax.

18 (a) Suit by officer.--The officer may sue in the name of the
19 taxing body for the recovery of taxes due and unpaid under the
20 appropriate ordinance.

21 (b) Limitation on suits.--A suit brought to recover the tax
22 imposed by the ordinance or resolution shall be begun within
23 three years after such tax is due or within three years after
24 the declaration or return has been filed, whichever date is
25 later. This limitation shall not prevent the institution of a
26 suit for the collection of any tax due or determined to be due
27 in the following cases:

28 (1) Whenever a declaration or return was not filed by
29 any person although a declaration or return was required to
30 be filed by him or her under provisions of the ordinance or

1 resolution, there shall be no limitation.

2 (2) Whenever an examination of the declaration or return
3 filed by any person, or of other evidence relating to such
4 declaration or return in the possession of the officer,
5 reveals a fraudulent evasion of taxes, there shall be no
6 limitation.

7 (3) In the case of substantial understatement of tax
8 liability of 25% or more and no fraud, suit shall be begun
9 within six years.

10 (4) Whenever a person has deducted taxes under the
11 provisions of the ordinance or resolution and has failed to
12 pay the amounts so deducted to the officer, or where any
13 person has willfully failed or omitted to make the deductions
14 required by this act, there shall be no limitation.

15 (5) This section shall not be construed to limit the
16 taxing body from recovering delinquent taxes by any other
17 means provided by this act.

18 (c) Recovery of erroneous refund.--The officer may sue for
19 recovery of an erroneous refund, provided that the suit is begun
20 two years after making the refund. Suit may be brought within
21 five years if it appears that any part of the refund was induced
22 by fraud or misrepresentation of material fact.

23 Section 313. Credit for earned income tax prohibited.

24 The payment of a tax on salaries or wages to a taxing body
25 pursuant to an ordinance or resolution levying a tax on earned
26 income shall not be credited against the liability of taxpayers
27 for any tax imposed under the authority of this act.

28 Section 314. Tax limitations.

29 (a) General rule.--The aggregate amount of all taxes imposed
30 by any taxing body under this act and in effect during any

1 fiscal year shall not exceed an amount equal to the product
2 obtained by multiplying the latest total market valuation of
3 real estate in the taxing body, as determined by the board for
4 the assessment and revision of taxes or any similar board
5 established by the assessment laws which determines market
6 values of real estate within the taxing body, by 20 mills.

7 (b) Certain taxing bodies.--In school districts of the
8 second class, third class and fourth class, and in any taxing
9 body within a county where no market values of real estate have
10 been determined by the board for the assessment and revision of
11 taxes or any similar board, the aggregate amount of all taxes
12 imposed under this act and in effect during any fiscal year
13 shall not exceed an amount equal to the product obtained by
14 multiplying the latest total market valuation of real estate in
15 the school district or other taxing body, as certified by the
16 State Tax Equalization Board, by 20 mills.

17 (c) Exclusion of certain taxes in determining aggregate.--In
18 school districts of the third and fourth class, taxes imposed on
19 sales involving the transfer of real property shall not be
20 included in computing the aggregate amount of taxes for any
21 fiscal year in which 100 or more new homes or other major
22 improvements on real estate were constructed in the school
23 district.

24 (d) Adjustment of tax limitation.--Whenever the taxing body
25 reduces the tax on real estate of residents, the tax limitation
26 imposed by this section shall be increased by the millage
27 reduction on the real estate, but not exceeding the maximum
28 millage the taxing body may impose on real estate under other
29 statutes. Nothing herein shall limit the taxing body in
30 requesting the court for permission to raise the maximum millage

1 rate when the tax limit imposed by this section has otherwise
2 been reached, even when no tax is imposed on real estate.

3 (e) Reduction of taxes.--Whenever, during any fiscal year,
4 it shall appear that the aggregate revenues from taxes levied
5 and collected under the authority of this act will materially
6 exceed the limitations imposed by this act, the taxing body
7 shall forthwith reduce the rate or rates of the tax or taxes to
8 stay within the limitations as nearly as possible. Any one or
9 more persons liable for the payment of taxes levied and
10 collected under the authority of this act shall have the right
11 to complain to the court of common pleas of the county in an
12 action of mandamus to compel compliance with the preceding
13 provision of this subsection. Tax moneys levied and collected in
14 any fiscal year in excess of the limitations imposed by this act
15 shall not be expended during the year, but shall be deposited in
16 a separate account in the treasury of the taxing body for
17 expenditure in the following fiscal year. The rates of taxes
18 imposed under this act for the following fiscal year shall be so
19 fixed that the revenues thereby produced, together with the
20 excess tax moneys on deposit, shall not exceed the limitations
21 imposed by this act.

22 Section 315. Distress and sale of goods and chattels of
23 taxpayer.

24 (a) Levy by collector.--A tax collector shall have power, in
25 case of the neglect or refusal of any person to make payment of
26 the amount of any tax due after two months from the date of the
27 tax notice, to levy the amount of such tax, any penalty due and
28 costs, not exceeding costs and charges allowed constables for
29 similar services, by distress and sale of the goods and chattels
30 of such delinquent, wherever situate or found, upon giving at

1 least ten days' public notice of the sale by posting ten written
2 or printed notices and by one advertisement in a newspaper of
3 general circulation published in the county.

4 (b) Effect of failure to levy.--A failure to demand or
5 collect any taxes by distress and sale of goods and chattels
6 shall not invalidate any return made or lien filed for
7 nonpayment of taxes or any tax sale for the collection of taxes.

8 Section 316. Collection of delinquent personal income taxes
9 from employers, etc.

10 The tax collector shall demand, receive and collect personal
11 income taxes from all corporations, political subdivisions,
12 associations, companies, firms or individuals employing persons
13 who owe delinquent personal income taxes or whose spouse owes
14 delinquent personal income taxes, or having in possession unpaid
15 commissions or earnings belonging to any person who owes
16 delinquent personal income taxes or whose spouse owes personal
17 income taxes, upon the presentation of a written notice and
18 demand certifying that the information contained is true and
19 correct and containing the name of the taxable or his or her
20 spouse and the amount of tax due. Upon the presentation of the
21 written notice and demand, it shall be the duty of the
22 corporation, political subdivision, association, company, firm
23 or individual to deduct, from the wages, commissions or earnings
24 of individual employees that are then owed or that shall within
25 60 days thereafter become due, or from any unpaid commissions or
26 earnings of any taxable that are in its, his or her possession
27 or that shall within 60 days thereafter come into its, his or
28 her possession, a sum sufficient to pay the amount of the
29 delinquent taxes and costs, shown upon the written notice and
30 demand, and to pay the same to the tax collector of the taxing

1 district in which the delinquent tax was levied within 60 days
2 after the notice has been given. No more than 10% of the wages,
3 commissions or earnings of the delinquent taxpayer or his or her
4 spouse may be deducted at any one time for delinquent taxes and
5 costs. The corporation, political subdivision, association, firm
6 or individual shall be entitled to deduct, from the moneys
7 collected from each employee, the costs incurred from the extra
8 bookkeeping necessary to record such transactions, not exceeding
9 2% of the amount of money so collected and paid over to the tax
10 collector. Upon the failure of any corporation, political
11 subdivision, association, company, firm or individual to deduct
12 the amount of the taxes or to pay the same over to the tax
13 collector, less the cost of bookkeeping involved in such
14 transaction, within the time required, the corporation,
15 political subdivision, association, company, firm or individual
16 shall forfeit and pay the amount of the tax for each taxable
17 whose taxes are not withheld and paid over, or that are withheld
18 and not paid over, together with a penalty of 10% added thereto,
19 to be recovered by an action of assumpsit to be instituted by
20 the tax collector, or by the proper authorities of the taxing
21 body, as debts of like amount are now by law recoverable, except
22 that the party against whom the action is brought shall not have
23 the benefit of any stay of execution or exemption law.

24 Section 317. Collection of delinquent income taxes from the
25 Commonwealth.

26 Upon presentation of a written notice and demand, under oath
27 or affirmation, to the State Treasurer or any other fiscal
28 officer of the Commonwealth or its boards, authorities, agencies
29 or commissions, it shall be the duty of the treasurer or officer
30 to deduct from the wages that are then owed, or that shall

1 within 60 days thereafter become due, to any employee, a sum
2 sufficient to pay the respective amount of the delinquent income
3 taxes and costs shown on the written notice. The taxes and costs
4 shall be paid to the tax collector of the taxing body in which
5 the delinquent tax was levied within 60 days after the notice is
6 given.

7 Section 318. Collection of taxes by suit.

8 A taxing body may collect unpaid taxes from the persons owing
9 the taxes by suit in assumpsit or other appropriate remedy. Upon
10 judgment, execution may be issued without any stay or benefit of
11 any exemption law. The right of a taxing body to collect unpaid
12 taxes under the provisions of this section shall not be affected
13 by the fact that the taxes have been entered as liens in the
14 office of the prothonotary, or the fact that the property
15 against which they were levied has been returned to the county
16 commissioners for taxes for prior years.

17 Section 319. Alternate collection by the Commonwealth.

18 In lieu of the procedures provided in this act, a taxing body
19 may designate the Commonwealth as the collecting officer for
20 taxes on personal income. When so designated, the Commonwealth
21 shall collect the local taxes on personal income in the same
22 manner as the Commonwealth collects State taxes on personal
23 income. The taxes so collected shall be paid to the taxing body
24 within 60 days after they are collected.

25 Section 320. Alternate administration procedures.

26 In lieu of the collection and reporting procedures provided
27 in this act, the taxing body may adopt the procedure provided in
28 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
29 the Tax Reform Code of 1971.

30 CHAPTER 4

1 INTEREST AND PENALTIES

2 Section 401. Interest and penalties.

3 Whenever the tax is not paid when due, interest at the rate
4 of 6% per year on the amount of the tax and an additional
5 penalty of .5% of the amount of the unpaid tax for each month or
6 fraction of a month during which the tax remains unpaid shall be
7 added and collected. Where suit is brought for the recovery of
8 any unpaid tax, the person liable shall, in addition, be liable
9 for the costs of collection and the interest and penalties
10 imposed by this section.

11 Section 402. Fines and penalties for violation of ordinance or
12 resolution.

13 (a) Penalty for failure, neglect or refusal.--Any person who
14 fails, neglects or refuses to make any declaration or return
15 required by the ordinance or resolution, any employer who fails,
16 neglects or refuses to register or to pay the tax deducted from
17 his or her employees or fails, neglects or refuses to deduct or
18 withhold the tax from his or her employees, any person who
19 refuses to permit the officer or any agent designated by him or
20 her to examine his or her books, records and papers, and any
21 person who knowingly makes any incomplete, false or fraudulent
22 return, or attempts to do anything whatsoever to avoid the full
23 disclosure of the amount of his income in order to avoid the
24 payment of the whole or any part of the tax imposed by the
25 ordinance or resolution, commits a summary offense and shall,
26 upon conviction, be sentenced to pay a fine of not more than
27 \$300 for each offense and costs and, in default of payment of
28 the fine and costs, to imprisonment for a period not exceeding
29 30 days.

30 (b) Penalty for divulging confidential information.--A

1 person who divulges any information which is confidential under
2 the provisions of the ordinance or resolution commits a summary
3 offense and shall, upon conviction, be sentenced to pay a fine
4 of not more than \$300 for each offense and costs and, in default
5 of payment of the fines and costs, to imprisonment for a period
6 not exceeding 30 days.

7 (c) Additional penalties not prohibited.--The penalties
8 imposed under this section shall be in addition to any other
9 penalty imposed by any section of the ordinance or resolution.

10 (d) Failure to receive forms not a defense.--The failure of
11 a person to receive or procure forms required for making the
12 declaration or returns required by the ordinance or resolution
13 shall not excuse him or her from making a declaration or return.

14 CHAPTER 5

15 MISCELLANEOUS PROVISIONS

16 Section 501. Repeals.

17 All acts and parts of acts are repealed insofar as they are
18 inconsistent with this act.

19 Section 502. Effective date.

20 This act shall take effect in 60 days.