
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2724

Session of
1986

INTRODUCED BY MORRIS, JULY 1, 1986

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 7, 1986

AN ACT

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

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29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 CHAPTER 1

2 GENERAL PROVISIONS

3 Section 101. Short title.

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

6 Section 102. Definitions.

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

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

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

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

18 "Real property income." Net income derived by a taxpayer
19 from the ownership by such taxpayer of income-producing real
20 property located within the taxing body or net income derived by
21 a taxpayer from a business, trade or profession conducted on
22 real property owned by such taxpayer and located within the
23 taxing body AND WHICH IS SUBJECT TO TAXATION UNDER ARTICLE IV OF <—
24 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM
25 CODE OF 1971.

26 "Taxing body." A political subdivision other than a county
27 of the first class, a city of the first class or a school
28 district of the first class.

29 Section 103. Application.

30 Unless otherwise provided, this act shall apply to all

1 political subdivisions except counties of the first class,
2 cities of the first class and school districts of the first
3 class.

4 CHAPTER 2

5 PERSONAL INCOME AND REAL PROPERTY

6 INCOME TAXES

7 Section 201. Authority to impose personal income tax and real
8 property income tax.

9 (a) Personal income tax.--A taxing body may levy a tax on
10 the personal income of natural persons residing in the taxing
11 body.

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

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

27 (d) Subsequent years' rate.--During the second and
28 subsequent years, if the rates are increased, the real property
29 tax millage on all real property, if the taxing body still
30 levies a tax on real property, shall be lowered sufficiently to

1 reduce the estimated revenues from the real property tax on the
2 real property by at least 95% of the revenues estimated to be
3 derived from the increase in rate. The taxing body shall not
4 thereafter increase its real property tax millage on real
5 property without lowering the rate of the tax imposed under
6 subsections (a) and (b) sufficiently to reduce the estimated
7 revenues from the taxes imposed under subsections (a) and (b) by
8 at least 105% of the revenues estimated to be derived from the
9 millage increase on real property.

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

28 (f) Reduction of tax on real estate.--A taxing body, during
29 the time it imposes a tax on real estate, may not impose or
30 raise the taxes authorized by subsections (a) and (b) without a

1 commensurate reduction in revenues from the tax on real estate,
2 and, having imposed the taxes authorized by subsections (a) and
3 (b), may not thereafter increase or receive the benefit of an
4 increase in revenues from the tax on real estate without a
5 commensurate reduction in the taxes imposed pursuant to
6 subsections (a) and (b). A taxing body that has entirely removed
7 the tax on real estate may, during the time no tax is levied on
8 real estate, fix a rate on the taxes levied pursuant to
9 subsections (a) and (b) that will produce adequate revenue for
10 the taxing body, subject only to the limitations provided in
11 section 314.

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

18 (H) SAME RATES.--THE RATE OF TAXATION FOR THE PERSONAL
19 INCOME TAX AND THE REAL PROPERTY INCOME TAX SHALL BE THE SAME.

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20 CHAPTER 3
21 ADMINISTRATIVE PROVISIONS

22 Section 301. Advertisement of intention to adopt tax ordinance
23 or resolution.

24 (a) Advertisement.--Prior to the passage of any ordinance or
25 the adoption of any resolution imposing a tax, the taxing body
26 shall give notice of the intention to pass the ordinance or
27 adopt such resolution. The notice shall set forth the nature of
28 the tax to be imposed, and the amount of revenue estimated to be
29 derived from the tax. Publication of the notice shall be made by
30 advertisement once a week for three weeks in a newspaper of

1 general circulation within the taxing body if there is such a
2 newspaper and if there is not, then publication shall be made in
3 a newspaper of general circulation within the county in which
4 the advertising taxing body is located.

5 (b) Continuation of tax.--The tax shall continue in force on
6 a calendar or fiscal year basis, as the case may be, without
7 annual reenactment unless the rate of the tax is changed.

8 Section 302. Rate not subject to limitation; adoption of
9 ordinance.

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

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

17 Section 303. Appeals by taxpayers.

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

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

4 (c) Service of petition.--Immediately upon the filing of a
5 petition, the petitioners shall serve a copy of the petition and
6 any rule granted by the court upon the president, chairman,
7 secretary or clerk of the taxing body levying the tax.

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

13 (e) Duty of court.--It shall be the duty of the court to
14 declare the ordinance and the tax imposed thereby to be valid
15 unless it concludes that the ordinance is unlawful or finds that
16 the tax imposed is excessive or unreasonable, but the court
17 shall not interfere with the reasonable discretion of the taxing
18 body in selecting the subjects or fixing the rates of the tax.
19 The court may declare invalid all or any portion of the
20 ordinance or of the tax imposed or may reduce the rates of tax.

21 Section 304. Filing of certified copies of ordinances and
22 resolutions.

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

29 (b) Penalty for failure to file.--A secretary or person
30 acting as the clerk or secretary of the taxing body during the

1 meeting at which an ordinance or resolution imposing a tax is
2 passed or adopted who fails to file the certified copy or
3 statement relative thereto with the Department of Community
4 Affairs shall, upon summary conviction in the county in which
5 the taxing body is located, be sentenced to pay a fine of not
6 less than \$5 nor more than \$25 and the costs of prosecution.
7 Section 305. Register for the personal income tax.

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

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

1 (c) Time when register shall be available.--The Department
2 of Community Affairs shall have the register, with such annual
3 supplements as may be required by new tax enactments, repeals or
4 changes, available upon request not later than July 1 of each
5 year. The effective period for each register shall be from July
6 1 of the year in which it is issued to June 30 of the following
7 year.

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

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

30 Section 306. Collection of taxes.

1 (a) Creation of bureau.--A taxing body may provide by
2 ordinance or resolution for the creation of bureaus or the
3 appointment and compensation of officers, clerks, collectors and
4 other assistants and employees, either under existing
5 departments or otherwise, as may be deemed necessary for the
6 assessment and collection of taxes imposed under authority of
7 this act.

8 (b) Joint agreements.--Taxing bodies imposing taxes under
9 authority of this act may make joint agreements for the
10 collection of taxes. The same person or agency may be employed
11 by two or more taxing bodies to collect any taxes imposed by
12 them under authority of this act.

13 Section 307. Audits.

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

24 Section 308. Declaration and payment of tax.

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

28 (1) Pay to the officer an annual payment of tax due on
29 or before April 15 of the succeeding year for the period
30 beginning January 1 and ending December 31 of the current

1 year.

2 (2) On or before April 15 of the current year, make and
3 file with the officer, on a form prescribed or approved by
4 the officer, a declaration of his or her estimated income
5 during the period beginning January 1 and ending December 31
6 of the current year and pay to the officer in four equal
7 quarterly installments the tax due and not withheld. The
8 first installment shall be paid at the time of filing the
9 declaration, and the other installments shall be paid on or
10 before June 15 of the current year, September 15 of the
11 current year and January 15 of the succeeding year,
12 respectively.

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

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

27 (c) Final return for net profits.--Whenever the taxing body
28 requires a declaration of estimated income and quarterly
29 payments of tax due on the income, a taxpayer shall, on or
30 before April 15 of the current year, make and file with the

1 officer, on a form prescribed or approved by the officer, a
2 final return showing the amount of net profits earned during the
3 period beginning January 1 of the preceding year and ending
4 December 31 of the preceding year, the total amount of tax due
5 and the total amount of tax paid. At the time of filing the
6 final return, the taxpayer shall pay to the officer the balance
7 of tax due or shall make demand for refund or credit in the case
8 of overpayment. Any taxpayer may, in lieu of paying the fourth
9 quarterly installment of his or her estimated tax, elect to make
10 and file with the officer, on or before January 31 of the
11 succeeding year, the final return.

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

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

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

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

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

Section 309. Collection at source.

(a) Employer to register.--An employer having an office, factory, workshop, branch, warehouse or other place of business within a taxing body imposing a tax on personal income who or

1 which employs one or more persons, other than domestic servants,
2 for a salary, wage, commission or other compensation, and who or
3 which has not previously registered, shall, within 15 days after
4 becoming an employer, register with the officer its, his or her
5 name and address and such other information as the officer may
6 require.

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

27 (c) Monthly payment.--An employer who or which, for two of
28 the preceding four quarterly periods, has failed to deduct the
29 proper tax, or any part thereof, or has failed to pay over the
30 proper amount of tax to the taxing authority may be required by

1 the officer to file its, his or her return and pay the tax
2 monthly. In such cases, payments of tax shall be made to the
3 officer on or before the last day of the month for which the tax
4 was withheld.

5 (d) Returns by employers.--On or before February 28 of the
6 succeeding year, employers shall file with the officer:

7 (1) An annual return showing the total amount of earned
8 income paid, the total amount of tax deducted and the total
9 amount of tax paid to the officer for the period beginning
10 January 1 of the current year and ending December 31 of the
11 current year.

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

22 (e) Discontinuation of business.--An employer who
23 discontinues business prior to December 31 of the current year
24 shall, within 30 days after the discontinuance of business, file
25 the required returns and withholding statements and pay the tax
26 due.

27 (f) Failure of employer to make deductions.--An employer who
28 willfully or negligently fails or omits to make the deductions
29 required by this section shall be liable for payment of the
30 taxes which it, he or she was required to withhold to the extent

1 that the taxes have not been recovered from the employee.

2 (g) Liability of employee.--The failure or omission of an
3 employer to make the deductions required by this section shall
4 not relieve any employee from the payment of the tax or from
5 complying with the requirements of the ordinance or resolution
6 relating to the filing of declarations and returns.

7 Section 310. Powers and duties of appropriate officer.

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

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

1 held in right of his or her office. The bond shall be taken in
2 the name of the appointing taxing body, and shall be for the use
3 of the taxing body appointing the officer and for the use of
4 such other persons for whom money shall be collected or
5 received, or as his or her interest shall otherwise appear, in
6 case of a breach of any of the conditions thereof by the acts or
7 neglect of the principal on the bond.

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

11 (d) Amount of bond.--The bond shall contain the name of the
12 surety company bound on it. The taxing body appointing the
13 officer shall fix the amount of the bond at an amount equal to
14 the maximum amount of taxes which may be in the possession of
15 the officer at any given time.

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

23 (f) Custodian of bond.--The taxing body appointing the
24 officer shall designate the custodian of the bond required to be
25 given by the officer.

26 (g) Adoption of regulations.--The officer charged with the
27 administration and enforcement of the provisions of the
28 ordinance or resolution is hereby empowered to adopt regulations
29 relating to any matter pertaining to the administration and
30 enforcement of the ordinance or resolution, including provisions

1 for the reexamination and correction of declarations and
2 returns, and of payments alleged or found to be incorrect, or as
3 to which an overpayment is claimed or found to have occurred,
4 and to make refunds in case of overpayment, for any period of
5 time not to exceed six years subsequent to the date of payment
6 of the sum involved, and to prescribe forms necessary for the
7 administration of the ordinance or resolution. No rule or
8 regulation of any kind shall be enforceable unless it has been
9 approved by resolution by the governing body. A copy of the
10 rules and regulations currently in force shall be available for
11 public inspection.

12 (h) Ordinary and necessary business expenses.--The officer
13 shall refund, on petition of and proof by the taxpayer, income
14 tax paid on the taxpayer's ordinary and necessary business
15 expenses, to the extent that the expenses are not paid by the
16 taxpayer's employer.

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

29 (j) Confidential information.--Information gained by the
30 officer, or his or her agents, or by any other official or agent

1 of the taxing district, as a result of any declarations,
2 returns, investigations, hearings or verifications required or
3 authorized by the ordinance or resolution, shall be
4 confidential, except for official purposes and except in
5 accordance with a proper judicial order or as otherwise provided
6 by law.

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

11 Section 311. Compensation of income tax officer.

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

22 Section 312. Suit for collection of tax.

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

26 (b) Limitation on suits.--A suit brought to recover the tax
27 imposed by the ordinance or resolution shall be begun within
28 three years after such tax is due or within three years after
29 the declaration or return has been filed, whichever date is
30 later. This limitation shall not prevent the institution of a

1 suit for the collection of any tax due or determined to be due
2 in the following cases:

3 (1) Whenever a declaration or return was not filed by
4 any person although a declaration or return was required to
5 be filed by him or her under provisions of the ordinance or
6 resolution, there shall be no limitation.

7 (2) Whenever an examination of the declaration or return
8 filed by any person, or of other evidence relating to such
9 declaration or return in the possession of the officer,
10 reveals a fraudulent evasion of taxes, there shall be no
11 limitation.

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

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

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

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

28 Section 313. Credit for earned income tax prohibited.

29 The payment of a tax on salaries or wages to a taxing body
30 pursuant to an ordinance or resolution levying a tax on earned

1 income shall not be credited against the liability of taxpayers
2 for any tax imposed under the authority of this act.

3 Section 314. Tax limitations.

4 (a) General rule.--The aggregate amount of all taxes imposed
5 by any taxing body under this act and in effect during any
6 fiscal year shall not exceed an amount equal to the product
7 obtained by multiplying the latest total market valuation of
8 real estate in the taxing body, as determined by the board for
9 the assessment and revision of taxes or any similar board
10 established by the assessment laws which determines market
11 values of real estate within the taxing body, by 20 mills.

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

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

29 (d) Adjustment of tax limitation.--Whenever the taxing body
30 reduces the tax on real estate of residents, the tax limitation

1 imposed by this section shall be increased by the millage
2 reduction on the real estate, but not exceeding the maximum
3 millage the taxing body may impose on real estate under other
4 statutes. Nothing herein shall limit the taxing body in
5 requesting the court for permission to raise the maximum millage
6 rate when the tax limit imposed by this section has otherwise
7 been reached, even when no tax is imposed on real estate.

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

27 Section 315. Distress and sale of goods and chattels of
28 taxpayer.

29 (a) Levy by collector.--A tax collector shall have power, in
30 case of the neglect or refusal of any person to make payment of

1 the amount of any tax due after two months from the date of the
2 tax notice, to levy the amount of such tax, any penalty due and
3 costs, not exceeding costs and charges allowed constables for
4 similar services, by distress and sale of the goods and chattels
5 of such delinquent, wherever situate or found, upon giving at
6 least ten days' public notice of the sale by posting ten written
7 or printed notices and by one advertisement in a newspaper of
8 general circulation published in the county.

9 (b) Effect of failure to levy.--A failure to demand or
10 collect any taxes by distress and sale of goods and chattels
11 shall not invalidate any return made or lien filed for
12 nonpayment of taxes or any tax sale for the collection of taxes.
13 Section 316. Collection of delinquent personal income taxes
14 from employers, etc.

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

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

29 Section 317. Collection of delinquent income taxes from the
30 Commonwealth.

1 Upon presentation of a written notice and demand, under oath
2 or affirmation, to the State Treasurer or any other fiscal
3 officer of the Commonwealth or its boards, authorities, agencies
4 or commissions, it shall be the duty of the treasurer or officer
5 to deduct from the wages that are then owed, or that shall
6 within 60 days thereafter become due, to any employee, a sum
7 sufficient to pay the respective amount of the delinquent income
8 taxes and costs shown on the written notice. The taxes and costs
9 shall be paid to the tax collector of the taxing body in which
10 the delinquent tax was levied within 60 days after the notice is
11 given.

12 Section 318. Collection of taxes by suit.

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

22 Section 319. Alternate collection by the Commonwealth.

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

30 Section 320. Alternate administration procedures.

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

5 CHAPTER 4

6 INTEREST AND PENALTIES

7 Section 401. Interest and penalties.

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

16 Section 402. Fines and penalties for violation of ordinance or
17 resolution.

18 (a) Penalty for failure, neglect or refusal.--Any person who
19 fails, neglects or refuses to make any declaration or return
20 required by the ordinance or resolution, any employer who fails,
21 neglects or refuses to register or to pay the tax deducted from
22 his or her employees or fails, neglects or refuses to deduct or
23 withhold the tax from his or her employees, any person who
24 refuses to permit the officer or any agent designated by him or
25 her to examine his or her books, records and papers, and any
26 person who knowingly makes any incomplete, false or fraudulent
27 return, or attempts to do anything whatsoever to avoid the full
28 disclosure of the amount of his income in order to avoid the
29 payment of the whole or any part of the tax imposed by the
30 ordinance or resolution, commits a summary offense and shall,

1 upon conviction, be sentenced to pay a fine of not more than
2 \$300 for each offense and costs and, in default of payment of
3 the fine and costs, to imprisonment for a period not exceeding
4 30 days.

5 (b) Penalty for divulging confidential information.--A
6 person who divulges any information which is confidential under
7 the provisions of the ordinance or resolution commits a summary
8 offense and shall, upon conviction, be sentenced to pay a fine
9 of not more than \$300 for each offense and costs and, in default
10 of payment of the fines and costs, to imprisonment for a period
11 not exceeding 30 days.

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

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

19 CHAPTER 5

20 MISCELLANEOUS PROVISIONS

21 Section 501. Repeals.

22 All acts and parts of acts are repealed insofar as they are
23 inconsistent with this act.

24 Section 502. Effective date.

25 This act shall take effect in 60 days.