

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2405

Session of
2000

INTRODUCED BY PIPPY, BOYES, TRELLO, BARRAR, FRANKEL, GANNON,
HASAY, ORIE, RAYMOND, ROSS, STETLER AND WILT, MARCH 16, 2000

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, APRIL 10, 2000

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further defining "domestic entity" and "foreign
11 entity"; ~~and adding a definition for purposes of capital~~ <—
12 ~~stock and franchise taxes.~~ ENTITY."

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

15 Section 1. The definitions of "domestic entity" and "foreign
16 entity" in section 601 of the act of March 4, 1971 (P.L.6,
17 No.2), known as the Tax Reform Code of 1971, amended May 12,
18 1999 (P.L.26, No.4), are amended ~~and the section is amended by~~ <—
19 ~~adding a definition~~ to read:

20 Section 601. Definitions and Reports.--(a) The following
21 words, terms and phrases when used in this Article VI shall have
22 the meaning ascribed to them in this section, except where the

1 context clearly indicates a different meaning:

2 * * *

3 "Domestic entity." Every corporation organized or
4 incorporated by or under any laws of the Commonwealth, other
5 than corporations of the first class and cooperative
6 agricultural associations not having capital stock and not
7 conducted for profit, banks, savings institutions, title
8 insurance or trust companies, building and loan associations and
9 insurance companies is a domestic entity. The term "domestic
10 entity" shall not include:

11 (1) Any domestic or foreign business trust that qualifies as
12 a real estate investment trust under section 856 of the Internal
13 Revenue Code or a qualified real estate investment trust
14 subsidiary under section 856(i) of the Internal Revenue Code or
15 any related domestic or foreign business trust which confines
16 its activities in this Commonwealth to the maintenance,
17 administration and management of intangible investments and
18 activities of real estate investment trusts or qualified real
19 estate investment trust subsidiaries. A qualified real estate
20 investment trust subsidiary under section 856(i) of the Internal
21 Revenue Code shall be treated as part of the real estate
22 investment trust that owns all of the stock of the qualified
23 real estate investment trust subsidiary.

24 (2) Any domestic or foreign business trust that qualifies as
25 a regulated investment company under section 851 of the Internal
26 Revenue Code and is registered with the United States Securities
27 and Exchange Commission under the Investment Company Act of 1940
28 or any related domestic or foreign business trust which confines
29 its activities in this Commonwealth to the maintenance,
30 administration and management of intangible investments and

1 activities of regulated investment companies.

2 (3) Any corporation, trust or other entity that is an exempt
3 organization as defined by section 501 of the Internal Revenue
4 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501).

5 (4) Any corporation, trust or other entity organized as a
6 not-for-profit under the laws of this Commonwealth or the laws
7 of any other state that:

8 (i) would qualify as an exempt organization as defined by
9 section 501 of the Internal Revenue Code of 1986;

10 (ii) would qualify as a homeowners association as defined by
11 section 528(c) of the Internal Revenue Code of 1986 (26 U.S.C. §
12 528(c)); or

13 (iii) is a membership organization subject to the Federal
14 limitations on deductions from taxable income under section 277
15 of the Internal Revenue Code of 1986 (26 U.S.C. § 277) but only
16 if no pecuniary gain or profit inures to any member or related
17 entity from the membership organization.

18 (5) Any investment trust CREATED BY ONE OR MORE INSTITUTIONS <—
19 AS DEFINED BY SECTION 701.5 OR 1501 OF THIS ACT FOR THE PURPOSE
20 OF PROTECTING AND CONSERVING A PORTFOLIO OF ASSETS, UNDER WHICH
21 THERE IS NO POWER TO VARY THE INVESTMENTS, AND WHICH IS
22 CLASSIFIED AS A PARTNERSHIP OR A DISREGARDED ENTITY FOR FEDERAL
23 INCOME TAX PURPOSES.

24 * * *

25 "Foreign entity." Every corporation incorporated or
26 organized by or under the laws of any jurisdiction other than
27 the Commonwealth, and doing business in and liable to taxation
28 within the Commonwealth or carrying on activities in the
29 Commonwealth, including solicitation or either owning or having
30 capital or property employed or used in the Commonwealth by or

1 in the name of any limited partnership or joint-stock
2 association, copartnership or copartnerships, person or persons,
3 or in any other manner doing business within and liable to
4 taxation within the Commonwealth other than banks, savings
5 institutions, title insurance or trust companies, building and
6 loan associations and insurance companies is a foreign entity.
7 The term "foreign entity" shall not include:

8 (1) Any domestic or foreign business trust that qualifies as
9 a real estate investment trust under section 856 of the Internal
10 Revenue Code or a qualified real estate investment trust
11 subsidiary under section 856(i) of the Internal Revenue Code or
12 any related domestic or foreign business trust which confines
13 its activities in this Commonwealth to the maintenance,
14 administration and management of intangible investments and
15 activities of real estate investment trusts or qualified real
16 estate investment trust subsidiaries. A qualified real estate
17 investment trust subsidiary under section 856(i) of the Internal
18 Revenue Code shall be treated as part of the real estate
19 investment trust that owns all of the stock of the qualified
20 real estate investment trust subsidiary.

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22 a regulated investment company under section 851 of the Internal
23 Revenue Code and is registered with the United States Securities
24 and Exchange Commission under the Investment Company Act of 1940
25 or any related domestic or foreign business trust which confines
26 its activities in this Commonwealth to the maintenance,
27 administration and management of intangible investments and
28 activities of regulated investment companies.

29 (3) Any corporation, trust or other entity that is an exempt
30 organization as defined by section 501 of the Internal Revenue

1 Code of 1986.

2 (4) Any corporation, trust or other entity organized as a
3 not-for-profit under the laws of this Commonwealth or the laws
4 of any other state that:

5 (i) would qualify as an exempt organization as defined by
6 section 501 of the Internal Revenue Code of 1986;

7 (ii) would qualify as a homeowners association as defined by
8 section 528(c) of the Internal Revenue Code of 1986; or

9 (iii) is a membership organization subject to the Federal
10 limitations on deductions from taxable income under section 277
11 of the Internal Revenue Code of 1986 but only if no pecuniary
12 gain or profit inures to any member or related entity from the
13 membership organization.

14 (5) Any investment trust CREATED BY ONE OR MORE INSTITUTIONS <—
15 AS DEFINED BY SECTION 701.5 OR 1501 OF THIS ACT FOR THE PURPOSE
16 OF PROTECTING AND CONSERVING A PORTFOLIO OF ASSETS, UNDER WHICH
17 THERE IS NO POWER TO VARY THE INVESTMENTS, AND WHICH IS
18 CLASSIFIED AS A PARTNERSHIP OR A DISREGARDED ENTITY FOR FEDERAL
19 INCOME TAX PURPOSES.

20 * * *

21 ~~"Investment trust." A trust created for the purpose of~~ <—
22 ~~protecting and conserving a fixed portfolio of assets and which~~
23 ~~is taxed as a partnership for Federal income tax purposes as~~
24 ~~described under Treasury regulation section 301.7701-4(c) and~~
25 ~~any successor thereto.~~

26 ~~Section 2. This act shall take effect in 60 days.~~

27 SECTION 2. THIS ACT SHALL APPLY TO TAXABLE YEARS BEGINNING <—
28 AFTER DECEMBER 31, 1999.

29 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY.