

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.

21 (2) Any domestic or foreign business trust that qualifies as  
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.