

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 86

Session of  
2001

INTRODUCED BY HOLL, FEBRUARY 6, 2001

REFERRED TO FINANCE, FEBRUARY 6, 2001

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 providing for the requirement that all  
11 employers withhold wage taxes levied by cities of the first  
12 class.

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

15 Section 1. Section 359 of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971, amended June 16,  
17 1994 (P.L.279, No.48), is amended to read:

18 Section 359. Saving Clause and Limitations.--(a)  
19 Notwithstanding anything contained in any law to the contrary,  
20 including but not limited to the provisions of the act of August  
21 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling  
22 Act, the validity of any ordinance or part of any ordinance or

1 any resolution or part of any resolution, and any amendments or  
2 supplements thereto now or hereafter enacted or adopted by any  
3 political subdivision of this Commonwealth for or relating to  
4 the imposition, levy or collection of any tax, shall not be  
5 affected or impaired by anything contained in this article,  
6 except as hereinafter provided in subsection (b) of this  
7 section.

8 (b) (1) Notwithstanding the provisions of subsection (a) of  
9 this section to the contrary, any rate of tax imposed by  
10 ordinance of a city of the first class pursuant to the above  
11 cited Sterling Act on salaries, wages, commissions, compensation  
12 or other income received or to be received for work done or  
13 services performed within such city by persons who are not legal  
14 residents of such city, shall not, except as hereinafter  
15 provided, exceed the tax imposition rate of four and five-  
16 sixteenths per cent for the tax year 1977 or for any tax year  
17 thereafter.

18 (2) In the event such city by ordinance imposes a tax rate  
19 on residents or nonresidents in excess of the aforesaid tax rate  
20 on the income categories enumerated herein, the provisions of  
21 the ordinance imposing such tax rate increase on income of  
22 persons who are legal residents of such city, shall be deemed  
23 valid and legally effective within the meaning and application  
24 of subsection (a) herein. But the provisions of such ordinance  
25 imposing a tax rate in excess of four and five-sixteenths per  
26 cent with respect to persons who are not legal residents of such  
27 city shall be deemed suspended and without any validity to the  
28 extent that such tax rate exceeds the tax rate of four and five-  
29 sixteenths per cent on income of such nonresidents. And, such  
30 excess tax rate provisions shall remain suspended and without

1 any validity until such date as the city of the first class, by  
2 ordinance, imposes a rate of tax on income of both legal  
3 residents or nonresidents of such city in excess of the tax rate  
4 imposition of five and three-fourths per cent per year. In such  
5 case the Legislature hereby declares such suspension to be  
6 removed and the tax rate valid as to nonresidents, provided,  
7 however, that such suspension is removed and the rate deemed  
8 valid only to the extent the tax rate imposed on income of such  
9 nonresidents does not exceed seventy-five per cent of the tax  
10 rate imposed by ordinance per year on the income of legal  
11 residents of such city. It is the intention of the Legislature  
12 by this subsection to impose certain terms and conditions with  
13 respect to the validity and legal effectiveness of the Sterling  
14 Act or of any ordinance of the city of the first class enacted  
15 pursuant thereto which imposes a tax on the income of  
16 nonresidents of such city.

17 (3) Notwithstanding the suspension provisions set forth  
18 heretofore, each city of the first class which imposes a tax  
19 pursuant to the above cited Sterling Act shall, by ordinance  
20 direct every employer maintaining an office or transacting  
21 business within such city and making payment of compensation (i)  
22 to a resident individual, or (ii) to a nonresident individual  
23 taxpayer performing services on behalf of such employer within  
24 such city, shall deduct and withhold from such compensation for  
25 each payroll period a tax computed in such manner as to result,  
26 so far as practicable, in withholding from the employee's  
27 compensation during each calendar year an amount substantially  
28 equivalent to the tax reasonably estimated to be due for such  
29 year with respect to such compensation. The method of  
30 determining the amount to be withheld shall be to withhold the

1 highest amount of tax imposed with provision in such ordinance  
2 to provide refunds of the excess tax withheld to qualified  
3 nonresident taxpayers within four months of the end of each  
4 calendar year.

5 (4) In the event that all or any part of the provisions of  
6 subsection (b) of this section are declared by a court to be  
7 unconstitutional, it shall be the duty of the court to construe  
8 the remaining amendatory provisions to Article III in accordance  
9 with section 358.

10 [(c) (1) Every employer having a place of business within  
11 this Commonwealth who employs one or more persons who are  
12 residents of a city of the first class shall, within thirty days  
13 after becoming such an employer, register with the revenue  
14 commissioner of a city of the first class the employer's name  
15 and address and such other information as the revenue  
16 commissioner may require.

17 (2) Every employer having a place of business within this  
18 Commonwealth who employs one or more persons who are residents  
19 of a city of the first class shall deduct from the salary,  
20 wages, commissions or compensation due that person, at the time  
21 of payment thereof, the tax imposed by the city of the first  
22 class on any salary, wage, commission or other compensation due  
23 that employe.

24 (3) Employers required to withhold taxes under the  
25 provisions of this subsection shall calculate the amount of  
26 salary, wages, commissions and compensation of employes as  
27 determined under the classes of income set forth in section 303  
28 of this article.

29 (4) Every employer employing one or more persons who are  
30 residents of a city of the first class who pay any tax imposed

1 under this article shall file a return and pay to the revenue  
2 commissioner the amount of taxes deducted as provided under  
3 clause (3) of this subsection. The return shall be on a form or  
4 forms furnished by the revenue commissioner and shall set forth  
5 the names and residences of each employe of that employer during  
6 all or any part of the period covered by the return, the amounts  
7 of salaries, wages, commissions or other compensation earned  
8 during such period by each employe, together with such other  
9 information as the revenue commissioner may require.

10 (5) The employer shall remit the return and the total tax  
11 deducted in accordance with time frames established by section  
12 319 of this article.

13 (6) Annually, on or before the twenty-eighth day of  
14 February, every employer who has filed returns of tax withheld  
15 and remitted the tax through the year shall be required to file  
16 an Employer's Annual Reconciliation of Wage Tax Withheld, along  
17 with a copy of Form W-2 of the Internal Revenue Service for each  
18 employee, other listings or electronic data processing tapes,  
19 setting forth the following information: (i) name and address  
20 of employer; (ii) employer's Federal identification number;  
21 (iii) full name and residence address of each employee; (iv)  
22 employee's Social Security number; (v) total wages paid during  
23 the year before any deductions; and (vi) employer's city  
24 account number.

25 (7) Employers or their designated agents required to file  
26 with the revenue commissioner under this subsection shall not be  
27 required by the revenue commissioner to be bonded. Employer  
28 liability for taxes withheld under this subsection shall be the  
29 same as provided in sections 320 and 321 of this article.

30 (8) If an employer fails to deduct and withhold tax as

1 prescribed in this subsection, it shall not relieve the employee  
2 from payment of such tax where payment cannot, for any reason,  
3 be obtained from the employer.]

4 Section 2. This act shall take effect immediately.