

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 746 Session of 2011

INTRODUCED BY PILEGGI, VOGEL, FOLMER, SMUCKER, SCARNATI,
RAFFERTY, D. WHITE, ERICKSON, KASUNIC, BAKER, YAW, PIPPY,
ALLOWAY, BRUBAKER, EICHELBERGER, GREENLEAF, WAUGH, COSTA,
MENSCH, YUDICHAK, EARLL, WOZNIAK, M. WHITE AND WARD,
MARCH 7, 2011

REFERRED TO FINANCE, MARCH 7, 2011

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," in realty transfer tax, further providing for
11 definitions, for excluded transactions and for acquired
12 company; and, in inheritance tax, further providing for
13 transfers not subject to tax.

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

16 Section 1. The definitions of "association," "corporation,"
17 "family farm corporation" and "family farm partnership" in
18 section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known
19 as the Tax Reform Code of 1971, amended July 2, 1986 (P.L.318,
20 No.77) and April 23, 1998 (P.L.239, No.45), are amended to read:

21 Section 1101-C. Definitions.--The following words when used
22 in this article shall have the meanings ascribed to them in this

1 section:

2 "Association." A partnership, limited partnership, limited
3 liability partnership or any other form of unincorporated
4 enterprise, owned or conducted by two or more persons other than
5 a private trust or decedent's estate.

6 "Corporation." A corporation, limited liability company,
7 joint-stock association, business trust or banking institution
8 which is organized under the laws of this Commonwealth, the
9 United States, or any other state, territory, or foreign
10 country, or dependency.

11 * * *

12 "Family farm corporation." A corporation of which at least
13 seventy-five per cent of its assets are devoted to the business
14 of agriculture and at least seventy-five per cent of each class
15 of stock of the corporation is continuously owned by members of
16 the same family. The term includes any corporation that may be
17 formed to succeed the business operations of a family farm
18 corporation or a family farm partnership. The business of
19 agriculture shall include the leasing to members of the same
20 family or the leasing to a corporation or association owned by
21 members of the same family of property which is directly and
22 principally used for agricultural purposes. The business of
23 agriculture shall not be deemed to include:

24 (1) Recreational activities such as, but not limited to,
25 hunting, fishing, camping, skiing, show competition or racing;

26 (2) The raising, breeding or training of game animals or
27 game birds, fish, cats, dogs or pets or animals intended for use
28 in sporting or recreational activities;

29 (3) Fur farming;

30 (4) Stockyard and slaughterhouse operations; or

(5) Manufacturing or processing operations of any kind.

"Family farm partnership." A general, limited or limited liability partnership of which at least seventy-five per cent of its assets are devoted to the business of agriculture and at least seventy-five per cent of the interests in the general, limited or limited liability partnership are continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family or the leasing to a corporation or association owned by members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

(1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;

(2) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;

(3) fur farming;

(4) stockyard and slaughterhouse operations; or

(5) manufacturing or processing operations of any kind.

* * *

Section 2. Section 1102-C.3(19.1) and (20) of the act, amended or added June 16, 1994 (P.L.279, No.48), are amended to read:

Section 1102-C.3. Excluded Transactions.--The tax imposed by section 1102-C shall not be imposed upon:

* * *

(19.1) A transfer of real estate devoted to the business of agriculture to a family farm, general, limited or limited liability partnership by a member of the same family, which

1 family directly owns at least seventy-five per cent of the
2 interests in the partnership.

3 (20) A transfer between members of the same family of an
4 ownership interest in a real estate company, family farm
5 corporation or family farm, general, limited or limited
6 liability partnership which owns real estate.

7 * * *

8 Section 3. Section 1102-C.5 of the act, amended or added
9 July 2, 1986 (P.L.318, No.77) and June 16, 1994 (P.L.279,
10 No.48), is amended to read:

11 Section 1102-C.5. Acquired Company.--(a) A real estate
12 company is an acquired company upon a change in the ownership
13 interest in the company, however effected, if the change:

14 (1) does not affect the continuity of the company; and

15 (2) of itself or together with prior changes has the effect
16 of transferring, directly or indirectly, ninety per cent or more
17 of the total ownership interest in the company within a period
18 of three years.

19 (b) With respect to real estate acquired after February 16,
20 1986, a family farm corporation is an acquired company when,
21 because of voluntary or involuntary dissolution, it ceases to be
22 a family farm corporation or when, because of issuance or
23 transfer of stock or because of acquisition or transfer of
24 assets that are devoted to the business of agriculture, it fails
25 to meet the minimum requirements of a family farm corporation
26 under this act.

27 (b.1) A family farm partnership or family farm corporation
28 is an acquired company when, because of voluntary or involuntary
29 dissolution, it ceases to be a family farm partnership or family
30 farm corporation or when, because of transfer of partnership or

1 other interests or because of acquisition or transfer of assets
2 that are devoted to the business of agriculture, it fails to
3 meet the minimum requirements of a family farm partnership or
4 family farm corporation under this act.

5 (b.2) The conveyance of assets held by a family farm
6 corporation or family farm partnership to a limited partnership,
7 limited liability partnership or limited liability company in
8 which at least seventy-five per cent of the ownership interest
9 is held by members of the same family as the family holding
10 ownership interest in the conveying corporation or partnership
11 shall not be considered to be a transfer of assets under this
12 article.

13 (c) Within thirty days after becoming an acquired company,
14 the company shall present a declaration of acquisition with the
15 recorder of each county in which it holds real estate for the
16 affixation of documentary stamps and recording. Such declaration
17 shall set forth the value of real estate holdings of the
18 acquired company in such county.

19 Section 4. Section 2102 of the act is amended by adding
20 definitions to read:

21 Section 2102. Definitions.--The following words, terms and
22 phrases, when used in this article, shall have the meanings
23 ascribed to them in this section, except where the context
24 clearly indicates a different meaning:

25 * * *

26 "Business of agriculture." The term shall include the
27 leasing to members of the same family or the leasing to a
28 corporation or association owned by members of the same family
29 of property which is directly and principally used for
30 agricultural purposes. The business of agriculture shall not be

1 deemed to include:

2 (1) recreational activities such as, but not limited to,
3 hunting, fishing, camping, skiing, show competition or racing;

4 (2) the raising, breeding or training of game animals or
5 game birds, fish, cats, dogs or pets or animals intended for use
6 in sporting or recreational activities;

7 (3) fur farming;

8 (4) stockyard and slaughterhouse operations; or

9 (5) manufacturing or processing operations of any kind.

10 * * *

11 "Members of the same family." Any individual, such
12 individual's brothers and sisters, the brothers and sisters of
13 such individual's parents and grandparents, the ancestors and
14 lineal descendants of any of the foregoing, a spouse of any of
15 the foregoing and the estate of any of the foregoing.

16 Individuals related by the half blood or legal adoption shall be
17 treated as if they were related by the whole blood.

18 * * *

19 Section 5. Section 2111 of the act is amended by adding a
20 subsection to read:

21 Section 2111. Transfers Not Subject to Tax.--* * *

22 (s) A transfer of real estate devoted to the business of
23 agriculture between members of the same family, provided that
24 after the transfer the real estate continues to be devoted to
25 the business of agriculture for a period of ten years and the
26 real estate derives a yearly gross income of at least two
27 thousand dollars (\$2,000).

28 Section 6. This act shall be applied retroactively to
29 transactions on or after January 1, 2011.

30 Section 7. The provisions of 61 Pa. Code § 91.222 (relating

1 to acquired family farm partnership) are abrogated.

2 Section 8. This act shall take effect immediately.