

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 92 Session of  
1999

INTRODUCED BY GODSHALL, CORRIGAN, FARGO, GEORGE, HENNESSEY,  
LAUGHLIN, McCALL, PRESTON, RAMOS, READSHAW, SEYFERT, STABACK,  
SURRA, TIGUE, YOUNGBLOOD AND ROBINSON, JANUARY 20, 1999

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, JANUARY 20, 1999

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 further providing for collection of certain delinquent taxes.

23 The General Assembly of the Commonwealth of Pennsylvania  
24 hereby enacts as follows:

25 Section 1. Section 19 of the act of December 31, 1965  
26 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended  
27 October 4, 1978 (P.L.930, No.177), is amended to read:

1       Section 19.   Collection of Delinquent Per Capita, Occupation,  
2   Occupational Privilege and Earned Income Taxes from Employers,  
3   etc.--(a)   The tax collector shall demand, receive and collect  
4   from all corporations, political subdivisions, associations,  
5   companies, firms or individuals, employing persons owing  
6   delinquent per capita, or occupation, occupational privilege and  
7   earned income taxes, or whose spouse owes delinquent per capita,  
8   occupation, occupational privilege and earned income taxes, or  
9   having in possession unpaid commissions or earnings belonging to  
10   any person or persons owing delinquent per capita, occupation,  
11   occupational privilege and earned income taxes, or whose spouse  
12   owes delinquent per capita, occupation, occupational privilege  
13   and earned income taxes, upon the presentation of a written  
14   notice and demand certifying that the information contained  
15   therein is true and correct and containing the name of the  
16   taxable or the spouse thereof and the amount of tax due. Upon  
17   the presentation of such written notice and demand, it shall be  
18   the duty of any such corporation, political subdivision,  
19   association, company, firm or individual to deduct from the  
20   wages, commissions or earnings of such individual employes, then  
21   owing or that shall within sixty days thereafter become due, or  
22   from any unpaid commissions or earnings of any such taxable in  
23   its or his possession, or that shall within sixty days  
24   thereafter come into its or his possession, a sum sufficient to  
25   pay the respective amount of the delinquent per capita,  
26   occupation, occupational privilege and earned income taxes and  
27   costs, shown upon the written notice or demand, and to pay the  
28   same to the tax collector of the taxing district in which such  
29   delinquent tax was levied within sixty days after such notice  
30   shall have been given. No more than ten percent of the wages,

1 commissions or earnings of the delinquent taxpayer or spouse  
2 thereof may be deducted at any one time for delinquent per  
3 capita, occupation, occupational privilege and earned income  
4 taxes and costs. Such corporation, political subdivision,  
5 association, firm or individual shall be entitled to deduct from  
6 the moneys collected from each employe the costs incurred from  
7 the extra bookkeeping necessary to record such transactions, not  
8 exceeding two percent of the amount of money so collected and  
9 paid over to the tax collector. Upon the failure of any such  
10 corporation, political subdivision, association, company, firm  
11 or individual to deduct the amount of such taxes or to pay the  
12 same over to the tax collector, less the cost of bookkeeping  
13 involved in such transaction, as herein provided, within the  
14 time hereby required, such corporation, political subdivision,  
15 association, company, firm or individual shall forfeit and pay  
16 the amount of such tax for each such taxable whose taxes are not  
17 withheld and paid over, or that are withheld and not paid over  
18 together with a penalty of ten percent added thereto, to be  
19 recovered by an action of assumpsit in a suit to be instituted  
20 by the tax collector, or by the proper authorities of the taxing  
21 district, as debts of like amount are now by law recoverable,  
22 except that such person shall not have the benefit of any stay  
23 of execution or exemption law. The tax collector shall not  
24 proceed against a spouse or his employer until he has pursued  
25 collection remedies against the delinquent taxpayer and his  
26 employer under this section.

27 (b) Notwithstanding subsection (a) or section 20 of the act  
28 of May 25, 1945 (P.L.1050, No.394), known as the "Local Tax  
29 Collection Law," the tax collector may not proceed against the  
30 spouse of a taxpayer who owes delinquent per capita, occupation,

1 occupational privilege or earned income taxes or the employer of  
2 such spouse if any one of the following circumstances exists  
3 during the taxable year in which the delinquent taxes are due  
4 and payable:

5 (1) The spouse of the delinquent taxpayer files or has filed  
6 a separate return of income taxes for Federal or State income  
7 tax purposes.

8 (2) The couple is legally separated under a decree of  
9 divorce or separate maintenance.

10 (3) The couple is not legally separated under a decree of  
11 divorce or separate maintenance but lives separate and apart  
12 during the taxable year. For the purposes of this paragraph, the  
13 term "separate and apart" shall have the meaning given to it  
14 under 23 Pa.C.S. § 3103 (relating to definitions).

15 (4) There is sufficient evidence indicating that the  
16 employer of the taxpayer knowingly failed to withhold the  
17 delinquent taxes from the wages of the taxpayer or withheld such  
18 taxes but failed to pay the same over to the tax collector.

19 Section 2. This act shall take effect in 60 days.