

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 14

Session of  
1981

INTRODUCED BY ALDEN, DURHAM, ARTY, GANNON, HAYES AND IRVIS,  
JANUARY 7, 1981

REFERRED TO COMMITTEE ON FINANCE, JANUARY 7, 1981

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 the term "net gains or income."

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Subsection (a) of section 303, act of March 4,  
14 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971,"  
15 added August 31, 1971 (P.L.362, No.93), is amended by adding  
16 clauses to read:

17 Section 303. Classes of Income.--(a) The classes of income  
18 referred to above are as follows:

19 \* \* \*

20 (3.1) One-time exclusion of gain from sale of principal  
21 residence by individual who has attained age fifty-five. At the

election of the taxpayer, "net gains or income" does not include gain from the sale or exchange of property if (i) the taxpayer has attained the age of fifty-five before the date of such sale or exchange, and (ii) during the five-year period ending on the date of the sale or exchange, such property has been owned and used by the taxpayer as his principal residence for periods aggregating three years or more.

(3.2) Limitations. The amount of the gain excluded from gross income under clause (3.1) shall not exceed one hundred thousand dollars (\$100,000) or fifty thousand dollars (\$50,000) in the case of a separate return by a married individual. Clause (3.1) shall not apply to any sale or exchange by the taxpayer if an election by the taxpayer or his spouse under this clause with respect to any other sale or exchange is in effect. In the case of any sale or exchange after July 26, 1978, this clause shall be applied by not taking into account any election made with respect to a sale or exchange on or before such date.

(3.3) Property of deceased spouse. For purposes of clause (3.1), in the case of an unmarried individual whose spouse is deceased on the date of the sale or exchange of property if (i) the deceased spouse, during the five-year period ending on the date of the sale or exchange, satisfied the holding and use requirements of subclause (ii) of clause (3.1) with respect to such property, and (ii) no election by the deceased spouse under clause (3.1) is in effect with respect to a prior sale or exchange, then such individual shall be treated as satisfying the holding and use requirements of subclause (ii) of clause (3.1) with respect to such property.

(3.4) Property used in part as principal residence. In the case of property only a portion of which, during the five-year

1 period ending on the date of the sale or exchange, has been  
2 owned and used by the taxpayer as his principal residence for  
3 periods aggregating three years or more, clause (3.1) shall  
4 apply with respect to so much of the gain from the sale or  
5 exchange of such property as is determined, under regulations  
6 prescribed by the Secretary of Revenue, to be attributable to  
7 the portion of the property so owned and used by the taxpayer.

8 \* \* \*

9 Section 2. This act shall take effect immediately and shall  
10 be retroactive to July 26, 1978.