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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL  
No. 682

Session of  
1981

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INTRODUCED BY BOWSER, HAYES, D. R. WRIGHT, DIETZ, BRANDT,  
DOMBROWSKI, WILT, PUNT, LEVI, PETERSON, A. C. FOSTER, JR.,  
STUBAN, DeVERTER, COLE, BURD, GEIST, CAPPABIANCA, WENGER,  
DeWEESE, CALTAGIRONE, VROON, BITTLE, CIMINI, MERRY, SWIFT,  
BOYES, MACKOWSKI, LEHR, GRIECO, ANDERSON, WASS, JOHNSON,  
HONAMAN, NOYE, MILLER, ARMSTRONG, LIVENGOD, LETTERMAN,  
PETRARCA, STEWART, GRUITZA, ZWIKL, RITTER, STEIGHNER,  
VAN HORNE, TIGUE, BLAUM, CAWLEY, SIRIANNI, WOZNIAK, PHILLIPS,  
DORR, TELEK, J. L. WRIGHT, SIEMINSKI AND LLOYD,  
FEBRUARY 18, 1981

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AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 23, 1982

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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 definition of "utility  
11 realty," FURTHER PROVIDING FOR EXCLUSIONS FROM TAXATION <—  
12 RELATING TO THE SALE AT RETAIL OF CERTAIN PERIODICALS, THE  
13 RETAIL SALE OF CERTAIN BUSES, THE IMPOSITION OF CERTAIN <—  
14 TAXES, THE DISCLOSURE OF CERTAIN INFORMATION, the payment of  
15 taxes, excluding transfers to nature conservancies from the  
16 realty transfer tax AND FURTHER PROVIDING FOR EXCLUSION FROM <—  
17 THE SALES AND USE TAX.

18 The General Assembly of the Commonwealth of Pennsylvania  
19 hereby enacts as follows:

20 SECTION 1. CLAUSE (30) OF SECTION 204, ACT OF MARCH 4, 1971 <—

1 (P.L.6, NO.2), KNOWN AS THE "TAX REFORM CODE OF 1971," IS  
2 AMENDED AND A CLAUSE IS ADDED TO READ:

3 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY  
4 SECTION 202 SHALL NOT BE IMPOSED UPON

5 \* \* \*

6 (30) THE SALE AT RETAIL OR USE OF PERIODICALS AND  
7 PUBLICATIONS WHICH ARE PUBLISHED AT REGULAR INTERVALS NOT  
8 EXCEEDING THREE MONTHS, AND WHICH ARE CIRCULATED AMONG THE  
9 GENERAL PUBLIC AND CONTAINING MATTERS OF GENERAL INTEREST AND  
10 REPORTS OF CURRENT EVENTS; PROVIDED, HOWEVER, THAT PERIODICALS <—  
11 PUBLISHED FOR THE PURPOSE OF DISSEMINATING INFORMATION OF A  
12 PUBLIC CHARACTER OR DEVOTED TO LITERATURE, THE SCIENCES, ART OR  
13 SOME SPECIAL INDUSTRY. SHALL NOT BE SUBJECT TO THE TAX. THIS <—  
14 EXCLUSION SHALL ALSO INCLUDE ANY PRINTED ADVERTISING MATERIAL  
15 CIRCULATED WITH SUCH PERIODICAL OR PUBLICATION REGARDLESS OF  
16 WHERE OR BY WHOM SUCH PRINTED ADVERTISING MATERIAL WAS PRODUCED.

17 \* \* \*

18 ~~(43) THE SALE AT RETAIL OF BUSES TO BE USED UNDER CONTRACT~~ <—  
19 ~~WITH A SCHOOL DISTRICT. OR USE OF BUSES TO BE USED EXCLUSIVELY~~ <—  
20 FOR THE TRANSPORTATION OF CHILDREN FOR SCHOOL PURPOSES.

21 SECTION 2. SECTION 302 OF THE ACT, AMENDED MAY 5, 1981 <—  
22 (P.L.36, NO.14), IS AMENDED TO READ:

23 SECTION 302. IMPOSITION OF TAX.--(A) THERE IS HEREBY  
24 IMPOSED AN ANNUAL TAX TO BE PAID BY RESIDENT INDIVIDUALS,  
25 ESTATES OR TRUSTS AT THE RATE OF TWO AND TWO-TENTHS PER CENT  
26 [UNTIL DECEMBER 31, 1983 AND AT A RATE OF TWO PER CENT  
27 THEREAFTER] ON THE PRIVILEGE OF RECEIVING EACH OF THE CLASSES OF  
28 INCOME HEREINAFTER ENUMERATED IN SECTION 303.

29 (B) THERE IS HEREBY IMPOSED AN ANNUAL TAX TO BE PAID BY  
30 NONRESIDENT INDIVIDUALS, ESTATES OR TRUSTS AT THE RATE OF TWO

1 AND TWO-TENTHS PER CENT [UNTIL DECEMBER 31, 1983 AND AT A RATE  
2 OF TWO PER CENT THEREAFTER] ON THE PRIVILEGE OF RECEIVING EACH  
3 OF THE CLASSES OF INCOME ENUMERATED IN SECTION 303 FROM SOURCES  
4 WITHIN THIS COMMONWEALTH.

5 Section ~~2~~ 3. Subsection (a) of section 356 of the act, <—  
6 amended December 6, 1972 (P.L.1432, No.315), is amended to read:

7 Section 356. Cooperation with Other Governmental Agencies.--

8 (a) Notwithstanding the provisions of subsection (f) of section  
9 353, the department may permit the Commissioner of Internal  
10 Revenue of the United States, or the proper officer of any  
11 political subdivision of this Commonwealth or of any other state  
12 imposing tax based upon the incomes of individuals, or the  
13 authorized representative of such officer, to inspect the tax  
14 returns of any taxpayer, or may furnish to such officer or his  
15 authorized representative an abstract of the return of income of  
16 any taxpayer, or supply him with information concerning any item  
17 of income contained in any return of any taxpayer. Such  
18 permission shall be granted or such information furnished to  
19 such officer or his representative only if the statutes of the  
20 United States or of such other state, as the case may be, grant  
21 substantially similar privileges to the proper officer of this  
22 Commonwealth charged with the administration of the personal  
23 income tax law thereof. PROVIDED, THAT AN AN OFFICER OR <—  
24 AUTHORIZED AGENT OF ANY COUNTY IMPOSING A PERSONAL PROPERTY TAX  
25 SHALL BE ENTITLED TO ONLY FURNISHED THE FOLLOWING INFORMATION <—  
26 FROM SUCH RETURNS UPON PAYMENT TO THE DEPARTMENT OF THE COST OF <—  
27 COLLECTING AND REPRODUCING THE REQUESTED INFORMATION:

28 (1) NAME, ADDRESS AND SOCIAL SECURITY NUMBER OF THE  
29 TAXPAYER; AND

30 (2) IF THE TAXPAYER HAS REPORTED DIVIDENDS OR INTEREST.

1       \* \* \*

2       SECTION 4.   SECTION 402 OF THE ACT, AMENDED DECEMBER 21, 1981   <—  
3   (P.L.482, NO.14), IS AMENDED TO READ:

4       SECTION 402.   IMPOSITION OF TAX.--EVERY CORPORATION SHALL BE  
5   SUBJECT TO, AND SHALL PAY FOR THE PRIVILEGE OF (I) DOING  
6   BUSINESS IN THIS COMMONWEALTH; OR (II) CARRYING ON ACTIVITIES IN  
7   THIS COMMONWEALTH; (III) HAVING CAPITAL OR PROPERTY EMPLOYED OR  
8   USED IN THIS COMMONWEALTH; OR (IV) OWNING PROPERTY IN THIS  
9   COMMONWEALTH, BY OR IN THE NAME OF ITSELF, OR ANY PERSON,  
10   PARTNERSHIP, ASSOCIATION, LIMITED PARTNERSHIP, JOINT-STOCK  
11   ASSOCIATION, OR CORPORATION, A STATE EXCISE TAX AT THE RATE OF  
12   TWELVE PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE INCOME OF  
13   SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION  
14   DURING THE CALENDAR YEAR 1971 AND THE FIRST SIX MONTHS OF 1972  
15   AND AT THE RATE OF ELEVEN PER CENT PER ANNUM UPON EACH DOLLAR OF  
16   TAXABLE INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO,  
17   SUCH CORPORATION DURING THE SECOND SIX MONTHS OF CALENDAR YEAR  
18   1972 THROUGH THE CALENDAR YEAR 1973 AND AT THE RATE OF NINE AND  
19   ONE-HALF PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE INCOME  
20   OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH  
21   CORPORATION DURING THE CALENDAR YEARS 1974, 1975 AND 1976 AND AT  
22   THE RATE OF TEN AND ONE-HALF PER CENT PER ANNUM UPON EACH DOLLAR  
23   OF TAXABLE INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING  
24   TO, SUCH CORPORATION DURING THE CALENDAR YEAR 1977 AND EACH  
25   CALENDAR YEAR THEREAFTER [TO THE BEGINNING OF CALENDAR YEAR 1984  
26   AND AT A RATE OF NINE AND ONE-HALF PER CENT FOR EACH CALENDAR  
27   YEAR THEREAFTER,] EXCEPT WHERE A CORPORATION REPORTS TO THE  
28   FEDERAL GOVERNMENT ON THE BASIS OF A FISCAL YEAR, AND HAS  
29   CERTIFIED SUCH FACT TO THE DEPARTMENT AS REQUIRED BY SECTION 403  
30   OF THIS ARTICLE, IN WHICH CASE, SUCH TAX, AT THE RATE OF TWELVE

1 PER CENT, SHALL BE LEVIED, COLLECTED, AND PAID UPON ALL TAXABLE  
2 INCOME RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION DURING THE  
3 FIRST SIX MONTHS OF THE FISCAL YEAR COMMENCING IN THE CALENDAR  
4 YEAR 1972 AND AT THE RATE OF ELEVEN PER CENT, SHALL BE LEVIED,  
5 COLLECTED, AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND  
6 ACCRUING TO, SUCH CORPORATION DURING THE SECOND SIX MONTHS OF  
7 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1972 AND DURING  
8 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1973 AND AT THE  
9 RATE OF NINE AND ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED,  
10 AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND ACCRUING TO,  
11 SUCH CORPORATION DURING THE FISCAL YEAR COMMENCING IN THE  
12 CALENDAR YEARS 1974, 1975 AND 1976 AND AT THE RATE OF TEN AND  
13 ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED, AND PAID UPON ALL  
14 TAXABLE INCOME RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION  
15 DURING THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1977 AND  
16 DURING EACH FISCAL YEAR THEREAFTER [TO THE FISCAL YEAR  
17 COMMENCING IN THE CALENDAR YEAR 1984 AND AT A RATE OF NINE AND  
18 ONE-HALF PER CENT FOR EACH FISCAL YEAR COMMENCING IN THE  
19 CALENDAR YEAR 1984 AND EACH FISCAL YEAR THEREAFTER]. NO PENALTY  
20 PRESCRIBED BY SUBSECTION (E) OF SECTION 1202.1 SHALL BE ASSESSED  
21 AGAINST A CORPORATION FOR THE ADDITIONAL TAX WHICH MAY BE DUE AS  
22 A RESULT OF THE INCREASE IN TAX RATE FROM NINE AND ONE-HALF PER  
23 CENT TO TEN AND ONE-HALF PER CENT IMPOSED RETROACTIVELY BY THIS  
24 SECTION FOR THE CALENDAR YEAR 1977 OR FOR THE FISCAL YEAR  
25 COMMENCING IN 1977.

26 Section ~~1-3~~ 5. Clause (3) of section 1101-A and subsection <—  
27 (a) of section 1104-A, ~~act of March 4, 1971 (P.L.6, No.2), known~~ <—  
28 ~~as the "Tax Reform Code of 1971,"~~ added July 4, 1979 (P.L.60,  
29 No.27), are amended to read:

30 Section 1101-A. Definitions.--The following words, terms and

1 phrases when used in this article shall have the meaning  
2 ascribed to them in this section, except where the context  
3 clearly indicates a different meaning:

4 \* \* \*

5 (3) "Utility realty." All lands, together with all  
6 buildings, towers, smokestacks, dams, dikes, canals, cooling  
7 towers, storage tanks, reactor structures, pump houses,  
8 supporting foundations, enclosing structures, supporting  
9 structures, containment structures, reactor containment outer  
10 shells, reactor containment vessels, turbine buildings, recovery  
11 tanks, solid waste area enclosures, primary auxiliary buildings,  
12 containment auxiliary safeguard structures, fuel buildings,  
13 decontamination buildings, and, all other structures and  
14 enclosures whatsoever which are physically affixed to the land,  
15 no matter how such structures and enclosures are designated and  
16 without regard to the classification thereof for local real  
17 estate taxation purposes, but not including machinery and  
18 equipment, whether or not housed within such building, structure  
19 or enclosure, located within this Commonwealth and owned by a  
20 public utility either directly or by or through a subsidiary,  
21 which are used or are in the course of development or  
22 construction for use, in the furnishing, including producing,  
23 storing, distributing or transporting, of public utility service  
24 and which are not subject to local real estate taxation under  
25 any law in effect on April 23, 1968: Provided, however, That the  
26 following specified items shall be exempt from the tax hereby  
27 imposed:

28 (i) Easements or similar interests.

29 (ii) Railroad rights-of-way and superstructures thereon.

30 (iii) Pole, transmission tower, pipe, rail or other lines

1 whether or not said lines are attached to the land or to any  
2 structure or enclosure which is physically affixed to the land.

3 (iv) All lands, together with all buildings, dams, dikes,  
4 canals, pump houses, supporting structures, supporting  
5 foundations, turbine buildings and all other structures and  
6 enclosures whatsoever which are physically affixed to the land,  
7 no matter how such structures and enclosures are designated and  
8 without regard to the classification thereof for local real  
9 estate taxation purposes which are used or useful in the  
10 furnishing, including producing, storing, distributing or  
11 transporting, of hydroelectric power and energy: Provided,  
12 however, That the exemptions under this subclause shall not  
13 apply to items and lands which on the effective date of this act  
14 were used to furnish hydroelectric power and energy; and that  
15 the exemptions under this subclause shall commence in the first  
16 year in which the item or land is used and useful in furnishing  
17 hydroelectric power and energy, and shall remain in effect for a  
18 period of ten consecutive years thereafter.

19 \* \* \*

20 Section 1104-A. Effect of Payment; Additional Assessment.--

21 (a) Payment of, or any exemption, created as the result of this  
22 act, from the tax imposed by the act of March 10, 1970 (P.L.168,  
23 No.66), known as the "Public Utility Realty Tax Act," or section  
24 1102-A, or section 1103-A, and the distribution to local taxing  
25 authorities prescribed by section 1107-A, shall be in lieu of  
26 local taxes upon utility realty, as contemplated by Article  
27 VIII, section 4, of the Constitution of Pennsylvania: Provided,  
28 That in exempting the tax imposed by this article, the  
29 Commonwealth shall reimburse local taxing authorities for  
30 property taxes foregone by this act.

1       \* \* \*

2       Section ~~2-4~~ 6. The definition of "document" in section 1101- <—  
3 C of the act, added May 5, 1981 (P.L.36, No.14), is amended to  
4 read:

5       Section 1101-C. Definitions.--The following words when used  
6 in this article shall have the meanings ascribed to them in this  
7 section, except in those instances where the context clearly  
8 indicates a different meaning:

9       \* \* \*

10       "Document." Any deed, instrument or writing whereby any  
11 lands, tenements or hereditaments within this Commonwealth or  
12 any interest therein shall be quitclaimed, granted, bargained,  
13 sold, or otherwise conveyed to the grantee, purchaser, or any  
14 other person, but does not include wills, mortgages, transfers  
15 between corporations operating housing projects pursuant to the  
16 Housing and Redevelopment Assistance Law and the shareholders  
17 thereof, transfers between nonprofit industrial development  
18 agencies and industrial corporations purchasing from them, any  
19 transfers to nonprofit industrial development agencies,  
20 transfers to a nature conservancy or similar organization which  
21 possesses a tax-exempt status pursuant to section 501(c)(3) of  
22 the Internal Revenue Code, and which has as its primary purpose  
23 the preservation of land for historic, recreational, scenic,  
24 agricultural or open space opportunities, and transfers between  
25 husband and wife, transfers between persons who were previously  
26 husband and wife but who have since been divorced provided such  
27 transfer is made within three months of the date of the granting  
28 of the final decree in divorce, or the decree of equitable  
29 distribution of marital property, whichever is later, and the  
30 property or interest therein subject to such transfer was



1 acquired by the husband and wife or husband or wife prior to the  
2 granting of the final decree in divorce, transfers between  
3 parent and child or the spouse of such a child or between parent  
4 and trustee for the benefit of a child or the spouse of such  
5 child, transfers between a grandparent and grandchild or the  
6 spouse of such grandchild, by and between a principal and straw  
7 party for the purpose of placing a mortgage or ground rent upon  
8 the premises, correctional deeds without consideration,  
9 transfers to the United States, the Commonwealth of  
10 Pennsylvania, or to any of their instrumentalities, agencies or  
11 political subdivisions, by gift, dedication or deed in lieu of  
12 condemnation, or deed of confirmation in connection with  
13 condemnation proceedings, or reconveyance by the condemning body  
14 of the property condemned to the owner of record at the time of  
15 condemnation which reconveyance may include property line  
16 adjustments provided said reconveyance is made within one year  
17 from the date of condemnation, leases, a conveyance to a trustee  
18 under a recorded trust agreement for the express purpose of  
19 holding title in trust as security for a debt contracted at the  
20 time of the conveyance under which the trustee is not the lender  
21 and requiring the trustee to make reconveyance to the grantor-  
22 borrower upon the repayment of the debt, or a transfer by the  
23 owner of previously occupied residential premises to a builder  
24 of new residential premises when such previously occupied  
25 residential premises is taken in trade by such builder as part  
26 of the consideration from the purchaser of a new previously  
27 unoccupied residential premises or any transfer from a [purchase <—  
28 money] mortgagor to the [vendor holding the purchase money <—  
29 mortgage] mortgagee whether pursuant to a foreclosure or in lieu <—  
30 thereof, or conveyances to municipalities, townships, school

1 districts and counties pursuant to acquisition by  
2 municipalities, townships, school districts and counties of tax  
3 delinquent properties at sheriff sale or tax claim bureau, or  
4 any transfer between religious organizations or other bodies or  
5 persons holding title to real estate for a religious  
6 organization if such real estate is not being or has not been  
7 used by such transferor for commercial purposes, or in any  
8 sheriff sale instituted by a mortgagee in which the purchaser of  
9 said sheriff sale is the mortgagee who instituted said sale.

10 \* \* \*

11 Section ~~3-5~~ 7. This act shall take effect ~~in 60 days~~ JULY 1, <—  
12 1983.