

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1185 Session of
1981

INTRODUCED BY DeVERTER, WILSON, BURNS, WASS, SIEMINSKI,
E. Z. TAYLOR, PUNT, KUKOVICH, BOWSER, COCHRAN, PHILLIPS,
GEIST, MILLER, PRATT, CESSAR, ARTY, KOWALYSHYN, HOFFFEL,
MORRIS, GRUPPO AND MADIGAN, APRIL 8, 1981

REFERRED TO COMMITTEE ON FINANCE, APRIL 8, 1981

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 implementing school real property tax relief and municipal
23 tax reform, amending the title and certain provisions
24 eliminating authority for school districts to levy taxes and
25 other political subdivisions to levy certain taxes,
26 authorizing certain taxes to be levied by said municipal
27 corporations in lieu of the eliminated taxes and making
28 editorial changes and repeals.

29 The General Assembly of the Commonwealth of Pennsylvania
30 hereby enacts as follows:

1 Section 1. The title, act of December 31, 1965 (P.L.1257,
2 No.511), known as "The Local Tax Enabling Act," is amended to
3 read:

4 AN ACT

5 Empowering cities of the second class, cities of the second
6 class A, cities of the third class, boroughs, towns,
7 townships of the first class[,] and townships of the second
8 class[, school districts of the second class, school
9 districts of the third class and school districts of the
10 fourth class including independent school districts,] to
11 levy, assess, collect or to provide for the levying,
12 assessment and collection of certain taxes subject to maximum
13 limitations for general revenue purposes; authorizing the
14 establishment of bureaus and the appointment and compensation
15 of officers, agencies and employes to assess and collect such
16 taxes; providing for joint collection of certain taxes,
17 prescribing certain definitions and other provisions for
18 taxes levied and assessed upon [earned] income, providing for
19 annual audits and for collection of delinquent taxes, and
20 permitting and requiring penalties to be imposed and
21 enforced, including penalties for disclosure of confidential
22 information[,] and providing an appeal from the ordinance or
23 resolution levying such taxes [to the court of quarter
24 sessions and to the Supreme Court and Superior Court].

25 Section 2. Section 2 of the act, amended December 21, 1967
26 (P.L.878, No.391), July 1, 1978 (P.L.592, No.113) and October
27 25, 1979 (P.L.233, No.74), is amended to read:

28 Section 2. Delegation of Taxing Powers and Restrictions
29 Thereon.--The duly constituted authorities of the following
30 political subdivisions, cities of the second class, cities of

1 the second class A, cities of the third class, boroughs, towns,
2 townships of the first class[,] and townships of the second
3 class[, school districts of the second class, school districts
4 of the third class, and school districts of the fourth class, in
5 all cases including independent school districts,] may, in their
6 discretion, by ordinance or resolution, for general revenue
7 purposes, levy, assess and collect or provide for the levying,
8 assessment and collection of such taxes as they shall determine
9 on persons, transactions, [occupations,] privileges, subjects
10 and personal property within the limits of such [political
11 subdivisions] municipal corporations, and upon the transfer of
12 real property, or of any interest in real property, situate
13 within the [political subdivision] municipal corporation levying
14 and assessing the tax, regardless of where the instruments
15 making the transfers are made, executed or delivered or where
16 the actual settlements on such transfer take place. The taxing
17 authority may provide that the transferee shall remain liable
18 for any unpaid realty transfer taxes imposed by virtue of this
19 act. Each local taxing authority may, by ordinance or
20 resolution, exempt any person whose total income from all
21 sources is less than [three thousand two hundred dollars
22 (\$3,200)] five thousand dollars (\$5,000) per annum from the [per
23 capita or similar head tax, occupation tax and occupational
24 privilege] municipal services tax, or [earned] income tax, or
25 any portion thereof, and may adopt regulations for the
26 processing of claims for exemptions. Such local authorities
27 shall not have authority by virtue of this act:

28 (1) To levy, assess and collect or provide for the levying,
29 assessment and collection of any tax on the transfer of real
30 property when the transfer is by will or mortgage or the

1 intestate laws of this Commonwealth or on a transfer by the
2 owner of previously occupied residential premises to a builder
3 of new residential premises when such previously occupied
4 residential premises is taken in trade by such builder as part
5 of the consideration from the purchaser of a new previously
6 unoccupied single family residential premises or on a transfer
7 between corporations operating housing projects pursuant to the
8 housing and redevelopment assistance law and the shareholders
9 thereof, or on a transfer between nonprofit industrial
10 development agencies and industrial corporations purchasing from
11 them, or on transfer to nonprofit industrial development
12 agencies, or on a transfer between husband and wife, or on a
13 transfer between persons who were previously husband and wife
14 but who have since been divorced; provided such transfer is made
15 within three months of the date of the granting of the final
16 decree in divorce and the property or interest therein, subject
17 to such transfer, was acquired by the husband and wife, or
18 husband or wife, prior to the granting of the final decree in
19 divorce, or on a transfer between parent and child or the spouse
20 of such a child, or between parent and trustee for the benefit
21 of a child or the spouse of such child, by and between a
22 principal and straw party for the purpose of placing a mortgage
23 or ground rent upon the premises, or on a correctional deed
24 without consideration, or on a transfer to the United States,
25 the Commonwealth of Pennsylvania, or to any of their
26 instrumentalities, agencies or [political subdivisions,]
27 municipal corporations by gift, dedication or deed in lieu of
28 condemnation, or deed of confirmation in connection with
29 condemnation proceedings, or reconveyance by the condemning body
30 of the property condemned to the owner of record at the time of

1 condemnation which reconveyance may include property line
2 adjustments provided said reconveyance is made within one year
3 from the date of condemnation, leases, or on a conveyance to a
4 trustee under a recorded trust agreement for the express purpose
5 of holding title in trust as security for a debt contracted at
6 the time of the conveyance under which the trustee is not the
7 lender and requiring the trustee to make reconveyance to the
8 grantor-borrower upon the repayment of the debt, or in any
9 sheriff sale instituted by a mortgagee in which the purchaser of
10 said sheriff sale is the mortgagee who instituted said sale, or
11 on a privilege, transaction, subject, occupation or personal
12 property which is now or does hereafter become subject to a
13 State tax or license fee;

14 (2) To levy, assess or collect a tax on the gross receipts
15 from utility service of any person or company whose rates and
16 services are fixed and regulated by the Pennsylvania Public
17 Utility Commission or on any public utility services rendered by
18 any such person or company or on any privilege or transaction
19 involving the rendering of any such public utility service;

20 (3) Except on sales of admission to places of amusement or
21 on sales or other transfers of title or possession of property,
22 to levy, assess or collect a tax on the privilege of employing
23 such tangible property as is now or does hereafter become
24 subject to a State tax; and for the purposes of this clause,
25 real property rented for camping purposes shall not be
26 considered a place of amusement;

27 (4) To levy, assess and collect a tax on goods and articles
28 manufactured in such [political subdivision] municipal
29 corporation or on the by-products of manufacture, or on
30 minerals, timber, natural resources and farm products produced

1 in such [political subdivision] municipal corporation or on the
2 preparation or processing thereof for use or market, or on any
3 privilege, act or transaction related to the business of
4 manufacturing, the production, preparation or processing of
5 minerals, timber and natural resources, or farm products, by
6 manufacturers, by producers and by farmers with respect to the
7 goods, articles and products of their own manufacture,
8 production or growth, or on any privilege, act or transaction
9 relating to the business of processing by-products of
10 manufacture, or on the transportation, loading, unloading or
11 dumping or storage of such goods, articles, products or by-
12 products; except that local authorities may levy, assess and
13 collect taxes on the [occupation, occupational privilege, per
14 capita and earned] income [or net profits] or for municipal
15 services of natural persons engaged in the above activities
16 whether doing business as individual proprietorship or as
17 members of partnerships or other associations;

18 (5) [To levy, assess or collect a tax on salaries, wages,
19 commissions, compensation and earned income of nonresidents of
20 the political subdivisions: Provided, That this limitation (5)
21 shall apply only to school districts of the second, third and
22 fourth classes;

23 (6)] To levy, assess or collect a tax on personal property
24 subject to taxation by counties or on personal property owned by
25 persons, associations and corporations specifically exempted by
26 law from taxation under the county personal property tax law:
27 Provided, That this limitation [(6)] shall not apply to cities
28 of the second class;

29 [(7)] (6) To levy, assess or collect a tax on membership in
30 or membership dues, fees or assessment of charitable, religious,

1 beneficial or nonprofit organizations including but not limited
2 to sportsmens, recreational, golf and tennis clubs, girl and boy
3 scout troops and councils;

4 [(8)] (7) To levy, assess or collect any tax on a mobilehome
5 or house trailer subject to a real property tax unless the same
6 tax is levied, assessed and collected on other real property in
7 the [political subdivision.] municipal corporation;

8 [(9)] (8) To levy, assess or collect any tax on individuals
9 for the privilege of engaging in an occupation [(occupational
10 privilege tax)] except that [such] a municipal services tax may
11 be levied, assessed and collected but only by the [political
12 subdivision] municipal corporation of the taxpayer's place of
13 employment.

14 Payment of any [occupational privilege] municipal services
15 tax to any [political subdivision] municipal corporation by any
16 person pursuant to an ordinance or resolution passed or adopted
17 under the authority of this act shall be limited to [ten dollars
18 (\$10)] twenty-five dollars (\$25) on each person for each
19 calendar year.

20 The situs of [such] the municipal services tax shall be the
21 place of employment, but, in the event a person is engaged in
22 more than one occupation, or an occupation which requires his
23 working in more than one political subdivision during the
24 calendar year, the priority of claim to collect such
25 [occupational privilege] municipal services tax shall be in the
26 following order: first, the [political subdivision] municipal
27 corporation in which a person maintains his principal office or
28 is principally employed; second, the [political subdivision]
29 municipal corporation in which the person resides and works, if
30 such a tax is levied by that [political subdivision] municipal

1 corporation; third, the [political subdivision] municipal
2 corporation in which a person is employed and which imposes the
3 tax nearest in miles to the person's home. The place of
4 employment shall be determined as of the day the taxpayer first
5 becomes subject to the tax during the calendar year.

6 It is the intent of this provision that no person shall pay
7 more than [ten dollars (\$10)] twenty-five dollars (\$25) in any
8 calendar year as [an occupational privilege] a municipal
9 services tax irrespective of the number of [political
10 subdivisions] municipal corporations within which such person
11 may be employed within any given calendar year.

12 In case of dispute, a tax receipt of the taxing authority for
13 that calendar year declaring that the taxpayer has made prior
14 payment [which constitutes] shall constitute prima facie
15 certification of payment to all other [political subdivisions]
16 municipal corporations.

17 [(10)] (9) To levy, assess or collect a tax on admissions to
18 motion picture theatres: Provided, That this limitation [(10)]
19 shall not apply to cities of the second class.

20 (10) To levy, assess or collect any tax on occupations using
21 a millage or percentage of any value, a flat rate or any
22 arbitrary value placed on various occupations as a basis for
23 such tax.

24 (11) To levy, assess or collect any per capita or similar
25 head tax.

26 (12) To levy, assess or collect a tax on the dollar value of
27 the whole volume of business transacted by wholesale dealers in
28 goods, wares and merchandise, by retail dealers in goods, wares
29 and merchandise and by proprietors of restaurants or other
30 places where food, drink and refreshments are served.

1 Section 3. Section 3 of the act is amended to read:

2 Section 3. Vacation of Tax Ordinances and Resolutions by
3 State Tax Measures.--If, subsequent to the passage of any
4 ordinance or resolution under the authority of this act, the
5 General Assembly shall impose a tax or license fee on any
6 privilege, transactions, subject or occupation, or on personal
7 property or on sales of admission to places of amusement or on
8 sales or other transfer of title or possession of property taxed
9 by any such [political subdivision] municipal corporation
10 hereunder, the act of Assembly imposing the State tax or license
11 fee thereon shall automatically vacate the ordinance or
12 resolution passed under the authority of this act as to all
13 taxes accruing subsequent to the end of the current fiscal year
14 of such [political subdivision] municipal corporation. It is the
15 intention of this section to confer upon such [political
16 subdivision] municipal corporation the power to levy, assess and
17 collect taxes upon any and all subjects of taxation, except as
18 above restricted and limited, which the Commonwealth has power
19 to tax but which it does not tax or license, subject only to the
20 foregoing provision that any tax or license shall automatically
21 terminate at the end of the current fiscal year of the
22 [political subdivision] municipal corporation: Provided, That
23 nothing in this section shall prohibit a municipal corporation
24 from levying and collecting the income tax authorized by this
25 act.

26 Section 4. Section 5 of the act, amended October 9, 1967
27 (P.L.361, No.160), is amended to read:

28 Section 5. (a) Rate, Amount, Court Approval; Revision of
29 Budget.--Any tax imposed under this act shall not be subject to
30 any limitations under existing laws as to rate or amount or as

1 to the necessity of securing court approval or as to budgetary
2 requirements. Any [city, borough or township] municipal
3 corporation imposing a tax under this act may revise its budget
4 during any fiscal year by increasing or making additional
5 appropriations from funds to be provided from such tax.

6 (b) The ordinance or resolution may be passed or adopted
7 prior to the beginning of the fiscal year and prior to the
8 preparation of the budget when desirable.

9 [Every ordinance or resolution which imposed a tax under the
10 authority of this act shall be passed or adopted, if for a
11 school district, during the period other school taxes are
12 required by law to be levied and assessed by such district.]

13 Each ordinance and resolution shall state that it is enacted
14 under the authority of this act, known as "The Local Tax
15 Enabling Act."

16 Section 5. Section 6 of the act is amended to read:

17 Section 6. Appeals by Taxpayers.--(a) No tax levied for the
18 first time by any political subdivision to which this act
19 applies shall go into effect until thirty days from the time of
20 the adoption of the ordinance or resolution levying the tax.
21 Within said thirty days, taxpayers representing twenty-five
22 percent or more of the total valuation of real estate in the
23 political subdivision as assessed for taxation purposes, or
24 taxpayers of the political subdivision not less than twenty-five
25 in number aggrieved by the ordinance or resolution shall have
26 the right to appeal therefrom to the court of [quarter sessions]
27 common pleas of the county upon giving bond with sufficient
28 security in the amount of five hundred dollars (\$500), approved
29 by the court, to prosecute the appeal with effect and for the
30 payment of costs. The petition shall set forth the objections to

1 the tax and the facts in support of such objections, and shall
2 be accompanied by the affidavit of at least five of the
3 petitioners that the averments of the petition are true and the
4 petition is not filed for the purpose of delay.

5 (b) No such appeal shall act as a supersedeas unless
6 specifically allowed by the court to which the appeal is taken
7 or a judge thereof.

8 (c) Immediately upon the filing of any such petition, the
9 petitioners shall serve a copy of the petition and any rule
10 granted by the court upon the president, chairman, secretary or
11 clerk of the legislative body levying the tax.

12 (d) The court shall fix a day for a hearing not less than
13 fifteen days nor more than thirty days after the filing of the
14 petition. Notice of the time of such hearing shall be given to
15 all interested parties as the court shall direct. The court
16 shall promptly hear and dispose of the appeal.

17 (e) It shall be the duty of the court to declare the
18 ordinance and the tax imposed thereby to be valid unless it
19 concludes that the ordinance is unlawful or finds that the tax
20 imposed is excessive or unreasonable; but the court shall not
21 interfere with the reasonable discretion of the legislative body
22 in selecting the subjects or fixing the rates of the tax. The
23 court may declare invalid all or any portion of the ordinance or
24 of the tax imposed or may reduce the rates of tax.

25 Section 6. Section 8 of the act, amended December 27, 1967
26 (P.L.894, No.404), is amended and sections are added to read:

27 Section 8. Limitations on Rates of Specific Taxes.--(a) No
28 taxes levied under the provisions of this act shall be levied by
29 any [political subdivision] municipal corporation on the
30 following subjects exceeding the rates specified in this

1 section:

2 [(1) Per capita, poll or other similar head taxes, ten
3 dollars (\$10).

4 (2) On each dollar of the whole volume of business
5 transacted by wholesale dealers in goods, wares and merchandise,
6 one mill, by retail dealers in goods, wares and merchandise and
7 by proprietors of restaurants or other places where food, drink
8 and refreshments are served, one and one-half mills; except in
9 cities of the second class, where rates shall not exceed one
10 mill on wholesale dealers and two mills on retail dealers and
11 proprietors. No such tax shall be levied on the dollar volume of
12 business transacted by wholesale and retail dealers derived from
13 the resale of goods, wares and merchandise, taken by any dealer
14 as a trade-in or as part payment for other goods, wares and
15 merchandise, except to the extent that the resale price exceeds
16 the trade-in allowance.]

17 [(3)] (1) On [wages, salaries, commissions and other earned]
18 income of individuals, [one] not to exceed one-half percent. A
19 municipal corporation may impose an additional one-half percent
20 tax on individual income provided that there is a reduction in
21 property tax rates or assessment values sufficient to reduce
22 property tax revenues by an amount substantially equal to the
23 revenue raised by the additional one-half percent income tax.
24 If, at the option of the municipal corporation, a tax is levied
25 under either section 8.1 or 8.2 the amount of the property tax
26 revenue reduction referred to above shall substantially equal
27 the total of the revenue raised by the additional one-half
28 percent income tax together with the revenue raised under
29 section 8.1 or 8.2.

30 [(4)] (2) On retail sales involving the transfer of title or

1 possession of tangible personal property, [two] one percent.

2 [(5)] (3) On the transfer of real property, [one] one-half
3 percent.

4 [(6)] (4) On admissions to places of amusement, athletic
5 events and the like, and on motion picture theatres [in cities
6 of the second class, ten percent], five percent.

7 [(7) Flat rate occupation taxes not using a millage or
8 percentage as a basis, ten dollars (\$10).

9 (8) Occupational privilege taxes, ten dollars (\$10).]

10 (5) Municipal services tax, twenty-five dollars (\$25).

11 (6) Residential construction tax, two hundred fifty dollars
12 (\$250) per residential unit.

13 [Except as otherwise provided in this act, at any time two
14 political subdivisions shall impose any one of the above taxes
15 on the same person, subject, business, transaction or privilege,
16 located within both such political subdivisions, during the same
17 year or part of the same year, under the authority of this act
18 then the tax levied by a political subdivision under the
19 authority of this act shall, during the time such duplication of
20 the tax exists, except as hereinafter otherwise provided, be
21 one-half of the rate, as above limited, and such one-half rate
22 shall become effective by virtue of the requirements of this act
23 from the day such duplication becomes effective without any
24 action on the part of the political subdivision imposing the tax
25 under the authority of this act. When any one of the above taxes
26 has been levied under the provisions of this act by one
27 political subdivision and a subsequent levy is made either for
28 the first time or is revived after a lapse of time by another
29 political subdivision on the same person, subject, business,
30 transaction or privilege at a rate that would make the combined

1 levies exceed the limit allowed by this subdivision, the tax of
2 the second political subdivision shall not become effective
3 until the end of the fiscal year for which the prior tax was
4 levied, unless:

5 (1) Notice indicating its intention to make such levy is
6 given to the first taxing body by the second taxing body as
7 follows: (i) when the notice is given to a school district it
8 shall be given at least forty-five days prior to the last day
9 fixed by law for the levy of its school taxes; (ii) when given
10 to any other political subdivision it shall be prior to the
11 first day of January immediately preceding, or if a last day for
12 the adoption of the budget is fixed by law, at least forty-five
13 days prior to such last day; or

14 (2) Unless the first taxing body shall indicate by
15 appropriate resolution its desire to waive notice requirements
16 in which case the levy of the second taxing body shall become
17 effective on such date as may be agreed upon by the two taxing
18 bodies.

19 It is the intent and purpose of this provision to limit rates
20 of taxes referred to in this section so that the entire burden
21 of one tax on a person, subject, business, transaction or
22 privilege shall not exceed the limitations prescribed in this
23 section: Provided, however, That any two political subdivisions
24 which impose any one of the above taxes, on the same person,
25 subject, business, transaction or privilege during the same year
26 or part of the same year may agree among themselves that,
27 instead of limiting their respective rates to one-half of the
28 maximum rate herein provided, they will impose respectively
29 different rates, the total of which shall not exceed the maximum
30 rate as above permitted.

1 Notwithstanding the provisions of this section, any city of
2 the second class A may enact a tax upon wages, salaries,
3 commissions and other earned income of individuals resident
4 therein, not exceeding one percent, even though a school
5 district levies a similar tax on the same person provided that
6 the aggregate of both taxes does not exceed two percent.]

7 (b) If the municipal corporation levies and collects a tax
8 in its fiscal year 1981 that exceeds the rate provided for in
9 this section, the municipal corporation may continue to levy and
10 collect the tax at the rate imposed as of its fiscal year 1981.

11 Section 8.1. Corporate Net Income Tax.--(a) A municipal
12 corporation may levy, assess and collect a tax on that portion
13 of the taxable income of corporations, as those terms are
14 defined in Article IV, act of March 4, 1971 (P.L.6, No.2), known
15 as the "Tax Reform Code of 1971," which is attributable to those
16 business operations conducted within the boundaries to the
17 municipal corporation. A tax under this section may be levied
18 only if there has been a reduction of real property tax rates or
19 assessment values pursuant to section 8(a)(1). No tax may be
20 levied under this section if a tax is levied under section 8.2.

21 (b) (1) If a school district levies a corporate net income
22 tax under the provisions of this section then the school
23 district may also include under the tax a business activities
24 tax upon the activities of carrying on or exercising for gain or
25 profit within the Commonwealth of Pennsylvania by any person of
26 any trade, profession, business vocation or making sales to
27 persons within this Commonwealth or of any manufacturing,
28 commercial or financial service or business including but not
29 limited to manufacturers, brokers, wholesale dealers or
30 wholesale vendors, retail dealers or retail vendors.

1 (2) The tax base for the business activities tax shall
2 include all of the following:

3 (i) Compensation, meaning all wages, salaries, fees,
4 bonuses, commissions or other payments made in the taxable year
5 on behalf of or for the benefit of employes, officers or
6 directors of the business and subject to or specifically exempt
7 from withholding under section 3401 of the United States
8 Internal Revenue Code;

9 (ii) Depreciation claimed for Federal income tax purposes;

10 (iii) Interest deductions claimed for Federal income tax
11 purposes; and

12 (iv) Federal taxable income, meaning taxable income as
13 defined in section 63 of the United States Internal Revenue
14 Code.

15 Section 8.2. Business Use or Occupancy Tax.--(a) A
16 municipal corporation may levy, assess and collect a tax on the
17 user or occupier of real property within the boundaries of the
18 municipal corporation for the privilege of carrying on any
19 business, trade, occupation, profession, vocation or any other
20 commercial, industrial or agricultural activity on the real
21 property.

22 (b) This tax shall not apply to:

23 (1) The use or occupancy of real property to the extent that
24 the real property is used or occupied as the dwelling or
25 principal place of residence of the user or occupier.

26 (2) The use or occupancy of real property for a purpose
27 which exempts it from local real property taxes.

28 (3) Farmland not actively grazed or planted with a current
29 annual crop.

30 (c) Computation of tax:

1 (1) The taxpayer shall on or before September 1 of each
2 taxable year compute the tax which is payable for the portion of
3 the property which he uses or occupies and pay over to the tax
4 collector for the municipal corporation the tax due within
5 twenty-five days after the end of each quarter of the taxable
6 year.

7 (2) In the case where the total area available for use and
8 occupancy of the property is occupied by tenants and no portion
9 is used or occupied by the landlord, the tax shall be allocated
10 by the landlord among the tenants on the basis of rents
11 contracted for between the landlord and the tenants; in the case
12 where the total area available for use or occupancy is used or
13 occupied by the landlord and one or more tenants, the tax shall
14 be allocated among the users and occupiers on the basis of the
15 area used or occupied divided by the total area available for
16 use or occupancy. The tax due for each user and occupier for the
17 quarter of the taxable year shall be computed by multiplying the
18 proportion of the area used or occupied or the proportion of the
19 total rentals paid or to be paid by the user or occupier
20 multiplied by the total assessed value of the property
21 multiplied by the rate of tax multiplied by the months of actual
22 use or occupancy divided by twelve. The use or occupancy of a
23 portion of the property for any period of time during a month
24 shall be presumed to constitute the use or occupancy of the
25 portion for the entire month.

26 (3) The municipal corporation may provide for discounts not
27 to exceed ten percent of the tax due for the annual prepayment
28 of the tax by the taxpayer. The landlord shall provide a list of
29 his tenants to the taxing agent together with the area in square
30 feet that each tenant occupies to the municipal corporation and

1 shall promptly report any changes of tenants or areas of
2 occupancy.

3 (d) The following words, terms and phrases when used in this
4 section shall have the meaning ascribed to them in this
5 subsection except where the context clearly indicates a
6 different meaning:

7 "Area available for use or occupancy." The whole portion of
8 any real property, any structure thereon and space therein
9 exclusive of service, utility and common areas controlled by the
10 landlord.

11 "Business." The carrying on or exercising for gain or profit
12 within the Commonwealth by any person of any trade, business,
13 profession, vocation or making sales to persons within this
14 Commonwealth or of any manufacturing, commercial or financial
15 service or business including, but not limited to,
16 manufacturers, brokers, wholesale dealers or wholesale vendors,
17 retail dealers or retail vendors. The term shall not include the
18 following: any business conducted by a nonprofit unincorporated
19 association organized for religious, charitable or educational
20 purposes; any authority created and organized under and pursuant
21 to any act of Assembly; the business of any insurance company,
22 association or exchange or any fraternal benefit or beneficial
23 society or any other state under the laws of which insurance
24 companies, associations or exchanges or fraternal benefit or
25 beneficial societies of this Commonwealth doing business in such
26 other state would be subjected by reason of the tax imposed by
27 this act to additional or further taxes, fines, penalties or
28 license fees by such other state and any employment for a wage
29 or salary.

30 "Landlord." In addition to the owner of real property, any

1 person who grants the right to use or occupy real property or
2 any part thereof to any lessee, sublessee, licensee or
3 concessionaire.

4 "Taxable year." July 1 of any calendar year through June 30
5 of the following calendar year.

6 "Taxpayer." A taxable user or occupier of real property
7 within the municipal corporation.

8 (e) A tax under this section may be levied only if there has
9 been a reduction of real property tax rates or assessment values
10 pursuant to section 8(a)(1). No tax may be levied under this
11 section if a tax is levied under section 8.1

12 Section 8.3 Required Rent Reductions.--Within thirty days
13 after receipt of his real property tax bill, a landlord shall
14 disclose in writing to each tenant who has occupied a rental
15 unit for more than forty-five days the reduction in real
16 property taxes, if any, under section 8(a)(1) which is
17 attributable to that tenant's unit. The amount of tax reduction
18 attributable to each unit shall be based upon allocated square
19 footage occupied or other reasonable criteria. The rental amount
20 specified in any lease shall reflect any reduction in real
21 property taxes pursuant to section 8(a)(1).

22 Section 7. Section 9 of the act, amended December 12, 1968
23 (P.L.1203, No.377), is amended to read:

24 Section 9. Register for [Earned] Income and [Occupational
25 Privilege] Municipal Services Taxes.--(a) It shall be the duty
26 of the Department of Community Affairs to have available an
27 official continuing register supplemented annually of all
28 [earned] income and [occupational privilege] municipal services
29 taxes levied under authority of this act. The register and its
30 supplements, hereinafter referred to as the register, shall list

1 such jurisdictions levying [earned] income and/or [occupational
2 privilege] municipal services taxes, the rate of the tax as
3 stated in the tax levying ordinance or resolution, [and the
4 effective rate on resident and nonresident taxpayers, if
5 different from the stated rate because of a coterminous levy,]
6 the name and address of the officer responsible for
7 administering the collection of the tax and from whom
8 information, forms for reporting and copies of rules and
9 regulations are available. [With each jurisdiction listed, all
10 jurisdictions making coterminous levies shall also be noted and
11 their tax rates shown.] The register shall also contain the
12 foregoing information for the personal income tax and any other
13 tax authorized by the act of March 10, 1949 (P.L.30, No.14),
14 known as the "Public School Code of 1949."

15 (b) Information for the register shall be furnished by the
16 secretary of each taxing body to the Department of Community
17 Affairs in such manner and on such forms as the Department of
18 Community Affairs may prescribe. The information must be
19 received by the Department of Community Affairs by certified
20 mail not later than May 31 of each year to show new tax
21 enactments, repeals and changes. Failure to comply with this
22 date for filing may result in the omission of the levy from the
23 register for that year. Failure of the Department of Community
24 Affairs to receive information of taxes continued without change
25 may be construed by the department to mean that the information
26 contained in the previous register remains in force.

27 (c) The Department of Community Affairs shall have the
28 register with such annual supplements as may be required by new
29 tax enactments, repeals or changes available upon request not
30 later than July 1 of each year. The effective period for each

1 register shall be from July 1 of the year in which it is issued
2 to June 30 of the following year.

3 (d) Employers shall not be required by any local ordinance
4 to withhold from the [wages, salaries, commissions or other]
5 compensation of their employes any tax imposed under the
6 provisions of this act, which is not listed in the register, or
7 make reports of [wages, salaries, commissions or other]
8 compensation in connection with taxes not so listed: Provided,
9 That if the register is not available by July 1, the register of
10 the previous year shall continue temporarily in effect for an
11 additional period not to exceed one year. The provisions of this
12 section shall not affect the liability of any taxpayer for taxes
13 lawfully imposed under this act.

14 (e) Ordinances or resolutions imposing [earned] income or
15 [occupational privilege] municipal services taxes under
16 authority of this act may contain provisions requiring employers
17 doing business within the jurisdiction of the political
18 subdivision imposing the tax to withhold the tax from the
19 compensation of those of their employes who are subject to the
20 tax: Provided, That no employer shall be held liable for failure
21 to withhold [earned] income taxes or for the payment of such
22 withheld tax money to a political subdivision other than the
23 political subdivision entitled to receive such money if such
24 failure to withhold or such incorrect transmittal of withheld
25 taxes arises from incorrect information as to the employe's
26 place of residence submitted by the employe: And provided
27 further, That employers shall not be required by any local
28 ordinance to withhold from compensation for any one of their
29 employes for the [occupational privilege] municipal services tax
30 more than one time in any fiscal period: And provided further,

1 That the [occupational privilege] municipal services tax shall
2 be applicable to employment in the period beginning January 1,
3 of the current year and ending December 31 of the current year,
4 except that taxes imposed for the first time shall become
5 effective from the date specified in the ordinance or
6 resolution, and the tax shall continue in force on a calendar
7 year basis.

8 Section 8. Subsection (b) of section 10 and sections 11 and
9 12 of the act are amended and a section is added to read:

10 Section 10. Collection of Taxes.--* * *

11 (b) Single Collector for [Earned] Income Taxes When Certain
12 School Districts Impose Such Taxes.--Whenever a school district
13 of the second, third or fourth class shall [be established
14 pursuant to section 296, act of March 10, 1949 (P.L.30), known
15 as the "Public School Code of 1949," added August 8, 1963 (P.L.
16 564), and such school district shall] levy, assess and collect
17 or provide for the levying, assessment and collection of a tax
18 upon [earned] income, as provided for in section 602.1 of the
19 act of March 10, 1949 (P.L.30, No.14), known as the "Public
20 School Code of 1949," such school district and all cities,
21 boroughs, towns and townships within its geographical limits
22 which levy, assess and collect or provide for the levying,
23 assessment and collection of a tax upon [earned] income, may [on
24 January 1, 1967, or as soon thereafter as the school district
25 shall provide for the levying, assessment and collection of
26 taxes upon earned income,] select one person or agency to
27 collect the taxes upon [earned] income imposed by all such
28 political subdivisions. In selecting such person or agency, each
29 political subdivision shall share in the selection upon a basis
30 agreed upon by each political subdivision, or in the absence of

1 any agreement on the basis of voting according to the proportion
2 that the population of each bears to the entire population of
3 the combined collection district, according to the latest
4 official Federal census, and the majority of such votes cast
5 shall determine the person or agency selected to collect the
6 taxes. The provisions of this paragraph shall not prohibit
7 school districts and other political subdivisions which levy,
8 assess and collect or provide for the levying, assessment and
9 collection of taxes upon [earned] income, [under authority of
10 this act,] from selecting the same person or agency to collect
11 such tax upon [earned] income in an area larger than the
12 geographical limits of a school district [established pursuant
13 to section 296 of the "Public School Code of 1949."] or
14 municipal corporation.

15 Section 10.1. Cooperation by Department of Revenue with
16 Municipal Corporations.--The department may elect to enter into
17 agreements with municipal corporations for the collection of
18 taxes imposed under section 8(a)(1).

19 Section 11. Audits of [Earned] Income Taxes.--Except in
20 cities of the second class, the governing body of each political
21 subdivision which levies, assesses and collects or provides for
22 the levying, assessment and collection of a tax upon [earned]
23 income, shall provide for not less than one examination each
24 year of the books, accounts and records of the income tax
25 collector, by a certified public accountant, a firm of certified
26 public accountants, a competent independent public accountant,
27 or a firm of independent public accountants appointed by the
28 governing body. Whenever one person or agency is selected to
29 collect [earned] income taxes for more than one political
30 subdivision, the books, accounts and records of such person or

1 agency shall be examined as provided above in the case of a tax
2 collector for each political subdivision, except that the
3 accountant shall be selected in the manner provided for
4 selection of one person or agency to collect [earned] income
5 taxes for the school district [established under section 296 of
6 the "Public School Code of 1949,"] and the cities, boroughs,
7 towns and townships within the geographical limits of such
8 school district. The reports of the audit shall be sent to the
9 governing body or bodies of the political subdivision or
10 political subdivisions employing the accountant. No further or
11 additional audits shall be performed by elected or appointed
12 auditors.

13 Section 12. Audits of Taxes Other Than [Earned] Income
14 Taxes.--The books, accounts and records of persons collecting
15 taxes pursuant to this act, other than taxes levied, assessed
16 and collected upon [earned] income, shall be audited, adjusted
17 and settled in the manner prescribed by law for the auditing,
18 adjusting and settling of accounts of persons receiving or
19 expending funds of the political subdivision which has levied,
20 assessed and collected the taxes pursuant to this act, other
21 than taxes levied, assessed and collected upon [earned] income.

22 Section 9. Section 13 of the act, amended July 15, 1976
23 (P.L.1047, No.210) and October 4, 1978 (P.L.930, No.177), is
24 amended to read:

25 Section 13. [Earned] Income Taxes.--[On and after the
26 effective date of this act the remaining provisions of this
27 section shall be included in or construed to be a part of each
28 tax levied and assessed upon earned income by any political
29 subdivision levying and assessing such tax pursuant to this act.
30 The definitions contained in this section shall be exclusive for

1 any tax upon earned income and net profits levied and assessed
2 pursuant to this act, and shall not be altered or changed by any
3 political subdivision levying and assessing such tax.]

4 Ordinances, enacted for the purpose of levying a tax on personal
5 and earned income of residents and nonresidents respectively,
6 shall contain the remaining provisions of this section and shall
7 not be altered or changed by the levying municipal corporation.

8 I. Definitions

9 "Association." A partnership, limited partnership, or any
10 other unincorporated group of two or more persons.

11 "Business." An enterprise, activity, profession or any other
12 undertaking of an unincorporated nature conducted for profit or
13 ordinarily conducted for profit whether by a person,
14 partnership, association, or any other entity.

15 "Corporation." A corporation or joint stock association
16 organized under the laws of the United States, the Commonwealth
17 of Pennsylvania, or any other state, territory, foreign country
18 or dependency.

19 "Current year." The calendar year for which the tax is
20 levied.

21 "Domicile." The place where one lives and has his permanent
22 home and to which he has the intention of returning whenever he
23 is absent. Actual residence is not necessarily domicile, for
24 domicile is the fixed place of abode which, in the intention of
25 the taxpayer, is permanent rather than transitory. Domicile is
26 the voluntarily fixed place of habitation of a person, not for a
27 mere special or limited purpose, but with the present intention
28 of making a permanent home, until some event occurs to induce
29 him to adopt some other permanent home. In the case of
30 businesses, or associations, the domicile is that place

1 considered as the center of business affairs and the place where
2 its functions are discharged.

3 "Earned income." Salaries, wages, commissions, bonuses,
4 incentive payments, fees, tips and other compensation received
5 by a person or his personal representative for services
6 rendered, and net profits received, whether directly or through
7 an agent, and whether in cash or in property; not including,
8 however, wages or compensation paid to persons on active
9 military service, periodic payments for sickness and disability
10 other than regular wages received during a period of sickness,
11 disability or retirement or payments arising under workmen's
12 compensation acts, occupational disease acts and similar
13 legislation, or payments commonly recognized as old age
14 benefits, retirement pay or pensions paid to persons retired
15 from service after reaching a specific age or after a stated
16 period of employment or payments commonly known as public
17 assistance, or unemployment compensation payments made by any
18 governmental agency or payments to reimburse expenses or
19 payments made by employers or labor unions for wage and salary
20 supplemental programs, including, but not limited to, programs
21 covering hospitalization, sickness, disability or death,
22 supplemental unemployment benefits, strike benefits, social
23 security and retirement.

24 "Income." Either personal or earned income.

25 "Income tax officer or officer." Person, public employe or
26 private agency designated by governing body to collect and
27 administer the tax on [earned] income [and net profits].

28 "Employer." A person, partnership, association, corporation,
29 institution, governmental body or unit or agency, or any other
30 entity employing one or more persons for [a salary, wage,

1 commission or other] compensation.

2 "Net profits." The net income from the operation of a
3 business, profession, or other activity, except corporations,
4 after provision for all costs and expenses incurred in the
5 conduct thereof, determined either on a cash or accrual basis in
6 accordance with the accounting system used in such business,
7 profession, or other activity, but without deduction of taxes
8 based on income.

9 "Nonresident." A person, partnership, association or other
10 entity domiciled outside the taxing district.

11 "Person or individual." A natural person.

12 "Personal income." The classes of income defined in section
13 303(a)(1) through (8) of the act of March 4, 1971 (P.L.6, No.2),
14 known as the "Tax Reform Code of 1971," including any amendments
15 hereinafter enacted.

16 "Preceding year." The calendar year before the current year.

17 "Resident." A person, partnership, association or other
18 entity domiciled in the taxing district.

19 "Succeeding year." The calendar year following the current
20 year.

21 "Taxpayer." A person, partnership, association, or any other
22 entity, required hereunder to file a return of [earned] income
23 [or net profits,] or to pay a tax thereon.

24 II. Imposition of Tax

25 The [tax] taxes levied under this act shall be applicable to
26 [earned] personal income received [and to net profits earned] by
27 residents and earned income received by nonresidents in the
28 period beginning January 1, of the current year, and ending
29 December 31, of the current year or for taxpayer fiscal years
30 beginning in the current year, except that taxes imposed for the

1 first time shall become effective from the date specified in the
2 ordinance or resolution, and the tax shall continue in force on
3 a calendar year or taxpayer fiscal year basis, without annual
4 reenactment, unless the rate of the tax is subsequently changed.
5 Changes in rate shall become effective on the date specified in
6 the ordinance. No municipal corporation shall levy a tax on the
7 earned income of nonresidents unless it has levied a tax on the
8 personal income of its residents and the rates of tax shall be
9 identical.

10 III. Declaration and Payment of Tax

11 A. [Net Profits.] Income other than Compensation.

12 (1) Every taxpayer [making net profits] receiving income
13 other than compensation upon which tax has been withheld by his
14 employer shall, as the governing body elects, (i) pay to the
15 officer an annual payment of tax due on or before April 15, of
16 the succeeding year for the period beginning January 1, and
17 ending December 31, of the current year, or (ii) on or before
18 April 15, of the current year, make and file with the officer on
19 a form prescribed or approved by the officer, a declaration of
20 his estimated [net profits] income during the period beginning
21 January 1, and ending December 31, of the current year, and pay
22 to the officer in four equal quarterly installments the tax due
23 thereon as follows: the first installment at the time of filing
24 the declaration, and the other installments on or before June
25 15, of the current year, September 15, of the current year, and
26 January 15, of the succeeding year, respectively.

27 (2) Where the governing body elects to require the filing of
28 a declaration and quarterly payments, any taxpayer who first
29 anticipates any [net profit] such income after April 15, of the
30 current year, shall make and file the declaration hereinabove

1 required on or before June 15, of the current year, September
2 15, of the current year, or December 31, of the current year,
3 whichever of these dates next follows the date on which the
4 taxpayer first anticipates such [net profit] income, and pay to
5 the officer in equal installments the tax due thereon on or
6 before the quarterly payment dates which remain after the filing
7 of the declaration.

8 (3) Where the governing body requires a declaration of
9 estimated [net profits] income and quarterly payments of tax due
10 on such [profits] income, every taxpayer shall, on or before
11 April 15, of the succeeding year, make and file with the officer
12 on a form prescribed or approved by the officer a final return
13 showing the amount of [net profits earned] income received
14 during the period beginning January 1, of the current year, and
15 ending December 31, of the current year, the total amount of tax
16 due thereon and the total amount of tax paid thereon. At the
17 time of filing the final return, the taxpayer shall pay to the
18 officer the balance of tax due or shall make demand for refund
19 or credit in the case of overpayment.

20 Any taxpayer may, in lieu of paying the fourth quarterly
21 installment of his estimated tax, elect to make and file with
22 the officer on or before January 31, of the succeeding year, the
23 final return as hereinabove required.

24 (4) The officer may be authorized to provide by regulation
25 for the making and filing of adjusted declarations of estimated
26 [net profits] income, and for the payments of the estimated tax
27 in cases where a taxpayer who has filed the declaration
28 hereinabove required anticipates additional [net profits] income
29 not previously declared or finds that he has overestimated his
30 anticipated [net profits] income.

1 (5) Every taxpayer who discontinues business prior to
2 December 31, of the current year, shall, within thirty days
3 after the discontinuance of business, file his final return as
4 hereinabove required and pay the tax due.

5 B. [Earned] Annual Income Tax Return.

6 [Annual Earned Income Tax Return.]

7 At the election of the governing body every taxpayer shall,
8 on or before April 15, of the succeeding year, make and file
9 with the officer on a form prescribed or approved by the officer
10 a final return showing the amount of [earned] income received
11 during the period beginning January 1, of the current year, and
12 ending December 31, of the current year, the total amount of tax
13 due thereon, the amount of tax paid thereon, the amount of tax
14 thereon that has been withheld pursuant to the provisions
15 relating to the collection at source and the balance of tax due.
16 At the time of filing the final return, the taxpayer shall pay
17 the balance of the tax due or shall make demand for refund or
18 credit in the case of overpayment.

19 [Earned] C. Income Not Subject to Withholding.

20 Every taxpayer who is employed for [a salary, wage,
21 commission, or other] compensation and who received any [earned]
22 income not subject to the provisions relating to collection at
23 source, shall as the governing body elects:

24 (1) Make and file with the officer on a form prescribed or
25 approved by the officer, an annual return setting forth the
26 aggregate amount of [earned] income not subject to withholding
27 from him during the period beginning January 1, and ending
28 December 31, of the current year, and such other information as
29 the officer may require, and pay to the officer the amount of
30 tax shown as due thereon on or before April 15, of the

1 succeeding year, or

2 (2) Make and file with the officer on a form prescribed or
3 approved by the officer, a quarterly return on or before April
4 30, of the current year, July 31, of the current year, October
5 31, of the current year, and January 31, of the succeeding year,
6 setting forth the aggregate amount of [earned] income not
7 subject to withholding by him during the three-month periods
8 ending March 31, of the current year, June 30, of the current
9 year, September 30, of the current year, and December 31, of the
10 current year, respectively, and subject to the tax, together
11 with such other information as the officer may require. Every
12 taxpayer making such return shall, at the time of filing
13 thereof, pay to the officer the amount of tax shown as due
14 thereon.

15 IV. Collection at Source

16 [(a) Every employer having an office, factory, workshop,
17 branch, warehouse, or other place of business within the taxing
18 jurisdiction imposing a tax on earned income or net profits
19 within the taxing district who employs one or more persons,
20 other than domestic servants, for a salary, wage, commission or
21 other compensation, who has not previously registered, shall,
22 within fifteen days after becoming an employer, register with
23 the officer his name and address and such other information as
24 the officer may require.

25 (b) Every employer having an office, factory, workshop,
26 branch, warehouse, or other place of business within the taxing
27 jurisdiction imposing a tax on earned income or net profits
28 within the taxing district who employs one or more persons,
29 other than domestic servants, for a salary, wage, commission, or
30 other compensation, shall deduct at the time of payment thereof,

1 the tax imposed by ordinance or resolution on the earned income
2 due to his employe or employes, and]

3 (a) Upon written notification by the municipal corporation
4 of the rate of income tax imposed by the municipal corporation,
5 an employer shall deduct and withhold from the compensation for
6 each payroll period of each employe subject to such tax, a tax
7 computed in such manner as to result, so far as practicable, in
8 withholding from the employe's compensation during each calendar
9 year an amount substantially equivalent to the tax reasonably
10 estimated to be due for such year with respect to such
11 compensation. The employer shall, on or before April 30, of the
12 current year, July 31, of the current year, October 31, of the
13 current year, and January 31, of the succeeding year, file a
14 return and pay to the officer the amount of taxes deducted
15 during the preceding three-month periods ending March 31, of the
16 current year, June 30, of the current year, September 30, of the
17 current year, and December 31, of the current year,
18 respectively. Such return unless otherwise agreed upon between
19 the officer and employer shall show the name and social security
20 number of each such employe, the [earned] income of such employe
21 during such preceding three-month period, the tax deducted
22 therefrom the political subdivisions imposing the tax upon such
23 employe, the total [earned] income of all such employes during
24 such preceding three-month period, and the total tax deducted
25 therefrom and paid with the return.

26 (b) Any employer who for two of the preceding four quarterly
27 periods has failed to deduct the proper tax, or any part
28 thereof, or has failed to pay over the proper amount of tax to
29 the taxing authority, may be required by the officer to file his
30 return and pay the tax monthly. In such cases, payments of tax

1 shall be made to the officer on or before the last day of the
2 month succeeding the month for which the tax was withheld.

3 (c) On or before February 28, of the succeeding year, every
4 employer shall file with the officer:

5 (1) An annual return showing the total amount of [earned]
6 income paid, the total amount of tax deducted, and the total
7 amount of tax paid to the officer for the period beginning
8 January 1, of the current year, and ending December 31, of the
9 current year.

10 (2) A return withholding statement for each employe employed
11 during all or any part of the period beginning January 1, of the
12 current year, and ending December 31, of the current year,
13 setting forth the employe's name, address and social security
14 number, the amount of [earned] income paid to the employe during
15 said period, the amount of tax deducted, the political
16 subdivisions imposing the tax upon such employe, the amount of
17 tax paid to the officer. Every employer shall furnish two copies
18 of the individual return to the employe for whom it is filed.

19 (d) Every employer who discontinues business prior to
20 December 31, of the current year, shall, within thirty days
21 after the discontinuance of business, file the returns and
22 withholding statements hereinabove required and pay the tax due.

23 (e) Except as otherwise provided in section 9, every
24 employer who wilfully or negligently fails or omits to make the
25 deductions required by this section shall be liable for payment
26 of the taxes which he was required to withhold to the extent
27 that such taxes have not been recovered from the employe.

28 (f) The failure or omission of any employer to make the
29 deductions required by this section shall not relieve any
30 employe from the payment of the tax or from complying with the

1 requirements of the ordinance or resolution relating to the
2 filing of declarations and returns.

3 V. Powers and Duties of Officer

4 (a) It shall be the duty of the officer to collect and
5 receive the taxes, fines and penalties imposed by the ordinance
6 or resolution. It shall also be his duty to keep a record
7 showing the amount received by him from each person or business
8 paying the tax and the date of such receipt.

9 (b) (1) Each officer, before entering upon his official
10 duties shall give and acknowledge a bond to the political
11 subdivision or political subdivisions appointing him. If such
12 political subdivision or political subdivisions shall by
13 resolution designate any bond previously given by the officer as
14 adequate, such bond shall be sufficient to satisfy the
15 requirements of the subsection.

16 (2) Each such bond shall be joint and several, with one or
17 more corporate sureties which shall be surety companies
18 authorized to do business in this Commonwealth and duly licensed
19 by the Insurance Commissioner of this Commonwealth.

20 (3) Each bond shall be conditioned upon the faithful
21 discharge by the officer, his clerks, assistants and appointees
22 of all trusts confided in him by virtue of his office, upon the
23 faithful execution of all duties required of him by virtue of
24 his office, upon the just and faithful accounting or payment
25 over, according to law, of all moneys and all balances thereof
26 paid to, received or held by him by virtue of his office and
27 upon the delivery to his successor or successors in office of
28 all books, papers, documents or other official things held in
29 right of his office.

30 (4) Each such bond shall be taken in the name of the

1 appointing authority or authorities, and shall be for the use of
2 the political subdivision or political subdivisions appointing
3 the officer, and for the use of such other person or persons for
4 whom money shall be collected or received, or as his or her
5 interest shall otherwise appear, in case of a breach of any of
6 the conditions thereof by the acts or neglect of the principal
7 on the bond.

8 (5) The political subdivision or political subdivisions
9 appointing the officer, or any person may sue upon the said bond
10 in its or his own name for its or his own use.

11 (6) Each such bond shall contain the name or names of the
12 surety company or companies bound thereon. The political
13 subdivision or political subdivisions appointing the officer
14 shall fix the amount of the bond at an amount equal to the
15 maximum amount of taxes which may be in the possession of the
16 officer at any given time.

17 (7) The political subdivision or political subdivisions
18 appointing the officer may, at any time, upon cause shown and
19 due notice to the officer, and his surety or sureties, require
20 or allow the substitution or the addition of a surety company
21 acceptable to such political subdivision or political
22 subdivisions for the purpose of making the bond sufficient in
23 amount, without releasing the surety or sureties first approved
24 from any accrued liability or previous action on such bond.

25 (8) The political subdivision or political subdivisions
26 appointing the officer shall designate the custodian of the bond
27 required to be given by the officer.

28 (c) The officer charged with the administration and
29 enforcement of the provisions of the ordinance or resolution is
30 hereby empowered to prescribe, adopt, promulgate and enforce,

1 rules and regulations relating to any matter pertaining to the
2 administration and enforcement of the ordinance or resolution,
3 including provisions for the re-examination and correction of
4 declarations and returns, and of payments alleged or found to be
5 incorrect, or as to which an overpayment is claimed or found to
6 have occurred, and to make refunds in case of overpayment, for
7 any period of time not to exceed six years subsequent to the
8 date of payment of the sum involved, and to prescribe forms
9 necessary for the administration of the ordinance or resolution.
10 No rule or regulation of any kind shall be enforceable unless it
11 has been approved by resolution by the governing body. A copy of
12 such rules and regulations currently in force shall be available
13 for public inspection.

14 (d) The officer shall refund, on petition of, and proof by
15 the taxpayer, [earned] income tax paid on the taxpayer's
16 ordinary and necessary business expenses, to the extent that
17 such expenses are not paid by the taxpayer's employer.

18 (e) The officer and agents designated by him are hereby
19 authorized to examine the books, papers, and records of any
20 employer or of any taxpayer or of any person whom the officer
21 reasonably believes to be an employer or taxpayer, in order to
22 verify the accuracy of any declaration or return, or if no
23 declaration or return was filed, to ascertain the tax due. Every
24 employer and every taxpayer and every person whom the officer
25 reasonably believes to be an employer or taxpayer, is hereby
26 directed and required to give to the officer, or to any agent
27 designated by him, the means, facilities and opportunity for
28 such examination and investigations, as are hereby authorized.

29 (f) Any information gained by the officer, his agents, or by
30 any other official or agent of the taxing district, as a result

1 of any declarations, returns, investigations, hearings or
2 verifications required or authorized by the ordinance or
3 resolution, shall be confidential, except for official purposes
4 and except in accordance with a proper judicial order, or as
5 otherwise provided by law.

6 (g) The officer is authorized to establish different filing,
7 reporting and payment dates for taxpayers whose fiscal years do
8 not coincide with the calendar year.

9 (h) The officer shall, at least quarterly, distribute
10 [earned] income taxes to the appropriate political subdivisions.
11 The political subdivisions shall not be required to request the
12 officer to distribute the funds collected but shall at least
13 annually reconcile their receipts with the records of the
14 officer and return to or credit the officer with any
15 overpayment. If the officer, within one year after receiving a
16 tax payment, cannot identify the taxing jurisdiction entitled to
17 a tax payment, he shall make payment to the municipality in
18 which the tax was collected. [Within one hundred twenty days of
19 the passage of this act, any present accumulated funds that are
20 unclaimed shall be distributed on the same basis.]

21 VI. Compensation of Income Tax Officer

22 The income tax officer shall receive such compensation for
23 his services and expenses as determined by the governing body.
24 In the case of a single collector established pursuant to
25 subsection (b) of section 10 of this act, the taxing
26 jurisdictions shall share in the compensation and expenses of a
27 single officer according to the proportionate share that the
28 total annual collections for each jurisdiction bears to the
29 total annual collection for all political subdivisions in a
30 single collector district, except that with the agreement of

1 two-thirds of all participating political subdivisions, a
2 different manner of sharing may be substituted.

3 VII. Suit for Collection of Tax

4 (a) The officer may sue in the name of the taxing district
5 for the recovery of taxes due and unpaid under this ordinance.

6 (b) Any suit brought to recover the tax imposed by the
7 ordinance or resolution shall be begun within three years after
8 such tax is due, or within three years after the declaration or
9 return has been filed, whichever date is later: Provided,
10 however, That this limitation shall not prevent the institution
11 of a suit for the collection of any tax due or determined to be
12 due in the following cases:

13 (1) Where no declaration or return was filed by any person
14 although a declaration or return was required to be filed by him
15 under provisions of the ordinance or resolution, there shall be
16 no limitation.

17 (2) Where an examination of the declaration or return filed
18 by any person, or of other evidence relating to such declaration
19 or return in the possession of the officer, reveals a fraudulent
20 evasion of taxes, there shall be no limitation.

21 (3) In the case of substantial understatement of tax
22 liability of twenty-five percent or more and no fraud, suit
23 shall be begun within six years.

24 (4) Where any person has deducted taxes under the provisions
25 of the ordinance or resolution, and has failed to pay the
26 amounts so deducted to the officer, or where any person has
27 wilfully failed or omitted to make the deductions required by
28 this section, there shall be no limitation.

29 (5) This section shall not be construed to limit the
30 governing body from recovering delinquent taxes by any other

1 means provided by this act.

2 (c) The officer may sue for recovery of an erroneous refund
3 provided such suit is begun two years after making such refund,
4 except that the suit may be brought within five years if it
5 appears that any part of the refund was induced by fraud or
6 misrepresentation of material fact.

7 VIII. Interest and Penalties

8 If for any reason the tax is not paid when due, interest at
9 the rate of [six] ten percent per annum on the amount of said
10 tax, and an additional penalty of [one-half of] one percent of
11 the amount of the unpaid tax for each month or fraction thereof
12 during which the tax remains unpaid, shall be added and
13 collected. Where suit is brought for the recovery of any such
14 tax, the person liable therefor shall, in addition, be liable
15 for the costs of collection and the interest and penalties
16 herein imposed.

17 IX. Fines and Penalties for Violation
18 of Ordinances or Resolutions

19 (a) Any person who fails, neglects, or refuses to make any
20 declaration or return required by the ordinance or resolution,
21 any employer who fails, neglects or refuses to register or to
22 pay the tax deducted from his employes, or fails, neglects or
23 refuses to deduct or withhold the tax from his employes, any
24 person who refuses to permit the officer or any agent designated
25 by him to examine his books, records, and papers, and any person
26 who knowingly makes any incomplete, false or fraudulent return,
27 or attempts to do anything whatsoever to avoid the full
28 disclosure of the amount of his [net profits or earned] income
29 in order to avoid the payment of the whole or any part of the
30 tax imposed by the ordinance or resolution, shall, upon

1 conviction thereof before any district justice [of the peace,
2 alderman or magistrate, or court] of competent jurisdiction in
3 the county or counties in which the political subdivision
4 imposing the tax is located, be [sentenced to pay a fine of not
5 more than five hundred dollars (\$500) for each offense, and
6 costs, and, in default of payment of said fine and costs to be
7 imprisoned for a period not exceeding thirty days] guilty of a
8 summary offense.

9 (b) Any person who divulges any information which is
10 confidential under the provisions of the ordinance or
11 resolution, shall, upon conviction thereof before any district
12 justice [of the peace, alderman or magistrate, or court of
13 competent jurisdiction], be [sentenced to pay a fine of not more
14 than five hundred dollars (\$500) for each offense, and costs,
15 and, in default of payment of said fines and costs to be
16 imprisoned for a period not exceeding thirty days] guilty of a
17 summary offense.

18 (c) The penalties imposed under this section shall be in
19 addition to any other penalty imposed by any other section of
20 the ordinance or resolution.

21 (d) The failure of any person to receive or procure forms
22 required for making the declaration or returns required by the
23 ordinance or resolution shall not excuse him from making such
24 declaration or return.

25 Section 10. Section 14 of the act, amended October 26, 1972
26 (P.L.1043, No.261), is amended to read:

27 Section 14. Payment of Tax to Other [Political Subdivisions]
28 Municipal Corporations or States as Credit or Deduction;
29 Withholding Tax.--(a) Payment of any tax to any [political
30 subdivision] municipal corporation pursuant to an ordinance or

1 resolution passed or adopted prior to the effective date of this
2 act shall be credited to and allowed as a deduction from the
3 liability of taxpayers for any [like tax respectively on
4 salaries, wages, commissions, other compensation or on net
5 profits of businesses, professions or other activities and for
6 any] income tax imposed by any other [political subdivision]
7 municipal corporation of this Commonwealth under the authority
8 of this act.

9 (b) Payment of any tax on [salaries, wages, commissions,
10 other compensation or on net profits of business, professions or
11 other activities to a political subdivision] income to a
12 municipal corporation by residents thereof pursuant to an
13 ordinance or resolution passed or adopted under the authority of
14 this act shall be credited to and allowed as a deduction from
15 the liability of such persons for any other [like] tax
16 respectively on [salaries, wages, commissions, other
17 compensation or on net profits of businesses, professions or
18 other activities] income imposed by any other [political
19 subdivision] municipal corporation of this Commonwealth under
20 the authority of this act.

21 (c) Payment of any tax on income to any [political
22 subdivision] municipal corporation by residents thereof pursuant
23 to an ordinance or resolution passed or adopted under the
24 authority of this act shall[, to the extent that such income
25 includes salaries, wages, commissions, other compensation or net
26 profits of businesses, professions or other activities, but] be
27 credited in such proportion as hereinafter set forth[, be
28 credited to] and allowed as a deduction from the liability of
29 such persons for any other tax on [salaries, wages, commissions,
30 other compensation or on net profits of businesses, professions,

1 or other activities] income imposed by any other political
2 subdivision of this Commonwealth under the authority of this
3 act.

4 (d) Payment of any tax on income to any other state or to
5 any political subdivision thereof by residents thereof, pursuant
6 to any State or local law, may, at the discretion of the
7 Pennsylvania [political subdivision] municipal corporation
8 imposing such tax, to the extent that such tax is on income
9 [includes salaries, wages, commissions, or other compensation or
10 net profits of businesses, professions or other activities but]
11 in such proportions as hereinafter set forth, be credited to and
12 allowed as a deduction from the liability of such person for any
13 other tax on [salaries, wages, commissions, other compensation
14 or net profits of businesses, professions or other activities]
15 income imposed by any [political subdivision] municipal
16 corporation of this Commonwealth under the authority of this
17 act, if residents of the [political subdivision] municipal
18 corporation in Pennsylvania receive credits and deductions of a
19 similar kind to a like degree from the tax on income imposed by
20 the other state or political subdivision thereof.

21 (e) Payment of any tax on income to any State other than
22 Pennsylvania or to any political subdivision located outside the
23 boundaries of this Commonwealth, by residents of a [political
24 subdivision] municipal corporation located in Pennsylvania
25 shall, to the extent that such tax is on income [includes
26 salaries, wages, commissions, or other compensation or net
27 profits of businesses, professions or other activities but] in
28 such proportions as hereinafter set forth, be credited to and
29 allowed as a deduction from the liability of such person for any
30 other tax on [salaries, wages, commissions, other compensation

1 or net profits of businesses, professions or other activities]
2 income imposed by any [political subdivision] municipal
3 corporation of this Commonwealth under the authority of this
4 act.

5 (f) Where a credit or a deduction is allowable in any of the
6 several cases hereinabove provided, it shall be allowed in
7 proportion to the concurrent periods for which taxes are imposed
8 by the other state or respective political subdivisions, but not
9 in excess of the amount previously paid for a concurrent period.

10 (g) No credit or deduction shall be allowed against any tax
11 on [earned] income imposed under authority of this act to the
12 extent of the amount of credit or deduction taken for the same
13 period by the taxpayer against any income tax imposed by the
14 Commonwealth of Pennsylvania under section 314 of the act of
15 March 4, 1971 (P.L.6, No.2) known as the "Tax Reform Code of
16 1971," on account of taxes imposed on income by other states or
17 by their political subdivisions.

18 (h) In the case of tax paid on income to any state other
19 than Pennsylvania or to any political subdivision located
20 outside the boundaries of the Commonwealth by residents of a
21 municipal corporation located in Pennsylvania, the credit
22 provided in this section shall not exceed the proportion of the
23 income tax otherwise due that the amount of the taxpayer's
24 income subject to tax by the other jurisdiction bears to his
25 entire taxable income.

26 Section 11. Section 17 of the act is amended to read:

27 Section 17. Tax Limitations.--(a) Over-all Limit of Tax
28 Revenues.--The aggregate amount of all taxes imposed by any
29 [political subdivision] municipal corporation under this
30 [section] act and in effect during any fiscal year shall not

1 exceed an amount equal to the product obtained by multiplying
2 the latest total market valuation of real estate in such
3 [political subdivision] municipal corporation, as determined by
4 the board for the assessment and revision of taxes or any
5 similar board established by the assessment laws which
6 determines market values of real estate within the political
7 subdivision, by [twelve] eighteen mills. In [school districts of
8 the second class, third class and fourth class and in any
9 political subdivision] any municipal corporation within a county
10 where no market values of real estate have been determined by
11 the board for the assessment and revision of taxes, or any
12 similar board, the aggregate amount of all taxes imposed under
13 this [section] act and in effect during any fiscal year shall
14 not exceed an amount equal to the product obtained by
15 multiplying the latest total market valuation of real estate in
16 such [school district, or other political subdivision,]
17 municipal corporation as certified by the State Tax Equalization
18 Board, by [twelve] eighteen mills. [In school districts of the
19 third and fourth class, taxes imposed on sales involving the
20 transfer of real property shall not be included in computing the
21 aggregate amount of taxes for any fiscal year in which one
22 hundred or more new homes or other major improvements on real
23 estate were constructed in the school district.

24 The aggregate amount of all taxes imposed by any independent
25 school district under this section during any fiscal year shall
26 not exceed an amount equal to the product obtained by
27 multiplying the latest total valuation of real estate in such
28 district by fifteen mills.]

29 (b) Reduction of Rates Where Taxes Exceed Limitations; Use
30 of Excess Moneys.--If, during any fiscal year, it shall appear

1 that the aggregate revenues from taxes levied and collected
2 under the authority of this act will materially exceed the
3 limitations imposed by this act, the [political subdivision]
4 municipal corporation shall forthwith reduce the rate or rates
5 of such tax or taxes to stay within such limitations as nearly
6 as may be. Any one or more persons liable for the payment of
7 taxes levied and collected under the authority of this act shall
8 have the right to complain to the court of common pleas of the
9 county in an action of mandamus to compel compliance with the
10 preceding provision of this subsection. Tax moneys levied and
11 collected in any fiscal year in excess of the limitations
12 imposed by this act shall not be expended during such year, but
13 shall be deposited in a separate account in the treasury of the
14 [political subdivision] municipal corporation for expenditure in
15 the following fiscal year. The rates of taxes imposed under this
16 act for the following fiscal year shall be so fixed that the
17 revenues thereby produced, together with the excess tax moneys
18 on deposit as aforesaid, shall not exceed the limitations
19 imposed by this act.

20 Section 12. Section 19 of the act, amended October 4, 1978
21 (P.L.930, No.177), is amended to read:

22 Section 19. Collection of Delinquent [Per Capita,
23 Occupation, Occupational Privilege and Earned] Income and
24 Municipal Services Taxes from Employers, etc.--The tax collector
25 shall demand, receive and collect from all corporations,
26 political subdivisions, associations, companies, firms or
27 individuals, employing persons owing delinquent [per capita, or
28 occupation, occupational privilege and earned] income and
29 municipal services taxes, or whose spouse owes delinquent [per
30 capita, occupation, occupational privilege and earned] income

1 and municipal services taxes, or having in possession unpaid
2 commissions or earnings belonging to any person or persons owing
3 delinquent [per capita, occupation, occupational privilege and
4 earned] income and municipal services taxes, or whose spouse
5 owes delinquent [per capita, occupation, occupational privilege
6 and earned] income and municipal services taxes, upon the
7 presentation of a written notice and demand certifying that the
8 information contained therein is true and correct and containing
9 the name of the taxable or the spouse thereof and the amount of
10 tax due. Upon the presentation of such written notice and
11 demand, it shall be the duty of any such corporation, political
12 subdivision, association, company, firm or individual to deduct
13 from the wages, commissions or earnings of such individual
14 employes, then owing or that shall within sixty days thereafter
15 become due, or from any unpaid commissions or earnings of any
16 such taxable in its or his possession, or that shall within
17 sixty days thereafter come into its or his possession, a sum
18 sufficient to pay the respective amount of the delinquent [per
19 capita, occupation, occupational privilege and earned] income
20 and municipal services taxes and costs, shown upon the written
21 notice or demand, and to pay the same to the tax collector of
22 the taxing district in which such delinquent tax was levied
23 within sixty days after such notice shall have been given. No
24 more than ten percent of the wages, commissions or earnings of
25 the delinquent taxpayer or spouse thereof may be deducted at any
26 one time for delinquent [per capita, occupation, occupational
27 privilege and earned] income and municipal services taxes and
28 costs. Such corporation, political subdivision, association,
29 firm or individual shall be entitled to deduct from the moneys
30 collected from each employe the costs incurred from the extra

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

21 Section 13. Sections 20 and 22 of the act are amended to
22 read:

23 Section 20. Collection of Delinquent [Per Capita,
24 Occupation, Occupational Privilege and Earned] Income and
25 Municipal Services Taxes from the Commonwealth.--Upon
26 presentation of a written notice and demand under oath or
27 affirmation, to the State Treasurer or any other fiscal officer
28 of the State, or its boards, authorities, agencies or
29 commissions, it shall be the duty of the treasurer or officer to
30 deduct from the wages then owing, or that shall within sixty

1 days thereafter become due to any employe, a sum sufficient to
2 pay the respective amount of the delinquent [per capita,
3 occupation, occupational privilege and earned] income and
4 municipal services taxes and costs shown on the written notice.
5 The same shall be paid to the tax collector of the taxing
6 district in which said delinquent tax was levied within sixty
7 days after such notice shall have been given.

8 Section 22. Penalties.--(a) Except as otherwise provided in
9 the case of any tax levied and assessed upon [earned] income,
10 any such political subdivision shall have power to prescribe and
11 enforce reasonable penalties for the nonpayment, within the time
12 fixed for their payment, of taxes imposed under authority of
13 this act and for the violations of the provisions of ordinances
14 or resolutions passed under authority of this act.

15 (b) If for any reason any tax levied and assessed upon
16 [earned] income by any such political subdivision is not paid
17 when due, interest at the rate of six percent per annum on the
18 amount of said tax, and an additional penalty of one-half of one
19 percent of the amount of the unpaid tax for each month or
20 fraction thereof during which the tax remains unpaid, shall be
21 added and collected. When suit is brought for the recovery of
22 any such tax, the person liable therefor shall, in addition, be
23 liable for the costs of collection and the interest and
24 penalties herein imposed.

25 Section 14. (a) The following acts or parts of acts, their
26 amendments and supplements, are repealed insofar as they relate
27 to the levy, assessment and collection of per capita or
28 occupation taxes:

29 Section 2531, act of June 23, 1931 (P.L.932, No.317),
30 reenacted June 28, 1951 (P.L.662, No.164), known as "The Third

1 Class City Code."

2 Section 1709, act of June 24, 1931 (P.L.1206, No.331),
3 reenacted May 27, 1949 (P.L.1955, No.569), known as "The First
4 Class Township Code."

5 Section 905, act of May 1, 1933 (P.L.103, No.69), reenacted
6 July 10, 1947 (P.L.1481, No.567), known as "The Second Class
7 Township Code."

8 Sections 20, 20.1 and 21, act of May 25, 1945 (P.L.1050,
9 No.394), known as the "Local Tax Collection Law."

10 Sections 655, 656, 674, 675, 676, 677, 679 and 680, act of
11 March 10, 1949 (P.L.30, No.14), known as the "Public School Code
12 of 1949."

13 Section 1302, act of February 1, 1966 (1965 P.L.1656,
14 No.581), known as "The Borough Code."

15 (b) All acts and parts of acts are repealed insofar as they
16 are inconsistent herewith.

17 Section 15. This act shall take effect immediately and shall
18 be applicable upon the effective date of enactment of companion
19 legislation amending the act of March 10, 1949 (P.L.30, No.14),
20 known as the "Public School Code of 1949," implementing school
21 real property tax relief: Provided, That the provisions
22 eliminating the authority of municipal corporations to levy
23 certain taxes and the provisions providing authorization to levy
24 income and municipal services taxes shall take effect at the
25 beginning of the municipal corporation's next fiscal year
26 following the effective date of this act.