

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1587 Session of  
1981

INTRODUCED BY CORNELL, PRATT, J. L. WRIGHT, BROWN, ARTY,  
SALVATORE, PERZEL, NOYE, BOYES, SWAIM, ZWIKL, HALUSKA,  
PETRARCA, McVERRY, TRELLO, NAHILL, TELEK, POTT AND JOHNSON,  
JUNE 15, 1981

REFERRED TO COMMITTEE ON FINANCE, JUNE 15, 1981

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," excluding from income the gain from the sale of  
11 the principal residence by an individual age fifty-five or  
12 over.

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

15 Section 1. Clause (3) of subsection (a) of section 303, act  
16 of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of  
17 1971," amended June 17, 1974 (P.L.325, No.105), is amended to  
18 read:

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

21 \* \* \*

22 (3) Net gains or income from disposition of property. Net

1 gains or net income, less net losses, derived from the sale,  
2 exchange or other disposition of property, including real or  
3 personal, whether tangible or intangible as determined in  
4 accordance with accepted accounting principles and practices.  
5 For the purpose of this act, for the determination of the basis  
6 of any property, real and personal, if acquired prior to June 1,  
7 1971, the date of acquisition shall be adjusted to June 1, 1971  
8 as if the property had been acquired on that date. If the  
9 property was acquired after June 1, 1971, the actual date of  
10 acquisition shall be used in determination of the basis.

11 At the election of the taxpayer, net gains does not include  
12 gain from the sale or exchange of property if the taxpayer has  
13 attained the age of fifty-five before the date of such sale or  
14 exchange, and during the five-year period ending on the date of  
15 the sale or exchange, such property has been owned and used by  
16 the taxpayer as his principal residence for periods aggregating  
17 three years or more. The amount of the gain excluded from net  
18 gain shall not exceed one hundred thousand dollars (\$100,000) or  
19 fifty thousand dollars (\$50,000) in the case of a separate  
20 return by a married individual. This provision shall apply to  
21 only one sale or exchange; however, in the case of any sale or  
22 exchange after July 26, 1978, this section shall be applied by  
23 not taking into account any election made with respect to a sale  
24 or exchange on or before such date.

25 The term "net gains or income" shall not include gains or  
26 income derived from obligations which are statutorily free from  
27 State or local taxation under any other act of the General  
28 Assembly of the Commonwealth of Pennsylvania or under the laws  
29 of the United States. The term "sale, exchange or other  
30 disposition" shall not include the exchange of stock or

1 securities in a corporation a party to a reorganization in  
2 pursuance of a plan of reorganization, solely for stock or  
3 securities in such corporation or in another corporation a party  
4 to the reorganization and the transfer of property to a  
5 corporation by one or more persons solely in exchange for stock  
6 or securities in such corporation if immediately after the  
7 exchange such person or persons are in control of the  
8 corporation. For purposes of this clause, stock or securities  
9 issued for services shall not be considered as issued in return  
10 for property.

11 For purposes of this clause, the term "reorganization"  
12 means--

13 (i) a statutory merger or consolidation;

14 (ii) the acquisition by one corporation, in exchange solely  
15 for all or a part of its voting stock (or in exchange solely for  
16 all or a part of the voting stock of a corporation which is in  
17 control of the acquiring corporation) of stock of another  
18 corporation if, immediately after the acquisition, the acquiring  
19 corporation has control of such other corporation (whether or  
20 not such acquiring corporation had control immediately before  
21 the acquisition);

22 (iii) the acquisition by one corporation, in exchange solely  
23 for all or a part of its voting stock (or in exchange solely for  
24 all or a part of the voting stock of a corporation which is in  
25 control of the acquiring corporation), of substantially all of  
26 the properties of another corporation, but in determining  
27 whether the exchange is solely for stock the assumption by the  
28 acquiring corporation of a liability of the other, or the fact  
29 that property acquired is subject to a liability, shall be  
30 disregarded;

1       (iv) a transfer by a corporation of all or a part of its  
2 assets to another corporation if immediately after the transfer  
3 the transferor, or one or more of its shareholders (including  
4 persons who were shareholders immediately before the transfer),  
5 or any combination thereof, is in control of the corporation to  
6 which the assets are transferred;

7       (v) a recapitalization;

8       (vi) a mere change in identity, form, or place of  
9 organization however effected; or

10       (vii) the acquisition by one corporation, in exchange for  
11 stock of a corporation (referred to in this subclause as  
12 "controlling corporation") which is in control of the acquiring  
13 corporation, of substantially all of the properties of another  
14 corporation which in the transaction is merged into the  
15 acquiring corporation shall not disqualify a transaction under  
16 subclause (i) if such transaction would have qualified under  
17 subclause (i) if the merger had been into the controlling  
18 corporation, and no stock of the acquiring corporation is used  
19 in the transaction;

20       (viii) a transaction otherwise qualifying under subclause  
21 (i) shall not be disqualified by reason of the fact that stock  
22 of a corporation (referred to in this subclause as the  
23 "controlling corporation") which before the merger was in  
24 control of the merged corporation is used in the transaction, if  
25 after the transaction, the corporation surviving the merger  
26 holds substantially all of its properties and of the properties  
27 of the merged corporation (other than stock of the controlling  
28 corporation distributed in the transaction); and in the  
29 transaction, former shareholders of the surviving corporation  
30 exchanged, for an amount of voting stock of the controlling

1 corporation, an amount of stock in the surviving corporation  
2 which constitutes control of such corporation.

3 For purposes of this clause, the term "control" means the  
4 ownership of stock possessing at least eighty per cent of the  
5 total combined voting power of all classes of stock entitled to  
6 vote and at least eighty per cent of the total number of shares  
7 of all other classes of stock of the corporation.

8 For purposes of this clause, the term "a party to a  
9 reorganization" includes a corporation resulting from a  
10 reorganization, and both corporations, in the case of a  
11 reorganization resulting from the acquisition by one corporation  
12 of stock or properties of another. In the case of a  
13 reorganization qualifying under subclause (i) by reason of  
14 subclause (vii) the term "a party to a reorganization" includes  
15 the controlling corporation referred to in such subclause (vii).

16 Notwithstanding any provisions hereof, upon every such  
17 exchange or conversion, the taxpayer's base for the stock or  
18 securities received shall be the same as the taxpayer's actual  
19 or attributed base for the stock, securities or property  
20 surrendered in exchange therefor.

21 \* \* \*

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