

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1450

Session of
1983

INTRODUCED BY LAUGHLIN, TRELLO, MANDERINO, VAN HORNE, WAMBACH,
ALDERETTE, SPITZ, WILSON, BOYES, D. W. SNYDER, NOYE, MORRIS,
COY, LUCYK, DORR, MRKONIC, COLAFELLA, BUNT, BELFANTI, OLASZ,
CLARK, MISCEVICH, REINARD, MILLER, DeLUCA, ITKIN, McCALL,
LESCOVITZ, PETRARCA, MAYERNIK, MARKOSEK, COHEN, STEWART,
FREEMAN, TRUMAN, McHALE, GODSHALL, MACKOWSKI, COSLETT,
GLADECK, F. E. TAYLOR, E. Z. TAYLOR, DOMBROWSKI, SIRIANNI,
PRATT, WOZNIAK, FEE, PHILLIPS, RUDY, SEMMEL, POTT, HERSHEY,
MADIGAN, KLINGAMAN, STEIGHNER AND HASAY, SEPTEMBER 20, 1983

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, NOVEMBER 28, 1984

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," shifting the burden of proof from vendors to the
11 Department of Revenue on questions concerning the utilization
12 of exemption certificates; ~~AND~~ FURTHER PROVIDING FOR THE TAX <—
13 ON REAL ESTATE TRANSFERS; AND FURTHER PROVIDING FOR <—
14 AGREEMENTS WITH OTHER STATES WITH REFERENCE TO THE INCOME
15 TAX.

16 The General Assembly of the Commonwealth of Pennsylvania
17 hereby enacts as follows:

18 Section 1. Section 237(c) of the act of March 4, 1971
19 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
20 March 26, 1976 (P.L.60, No.26), is amended to read:

1 Section 237. Collection of Tax.--* * *

2 (c) Exemption Certificates. If the tax does not apply to the
3 sale or lease of tangible personal property or services, the
4 purchaser or lessee shall furnish to the vendor a certificate
5 indicating that the sale is not legally subject to the tax. The
6 certificate shall be in substantially such form as the
7 department may, by regulation, prescribe. Where the tangible
8 personal property or service is of a type which is never subject
9 to the tax imposed or where the sale or lease is in interstate
10 commerce, such certificate need not be furnished. Where a series
11 of transactions are not subject to tax, a purchaser or user may
12 furnish the vendor with a single exemption certificate in
13 substantially such form and valid for such period of time as the
14 department may, by regulation, prescribe. The department shall
15 provide all school districts and intermediate units with a
16 permanent tax exemption number. An exemption certificate, which
17 is complete and regular and on its face discloses a valid basis
18 of exemption if taken in good faith, shall relieve the vendor
19 from the liability imposed by this section. An exemption
20 certificate accepted by a vendor from a natural person domiciled
21 within this Commonwealth or any association, fiduciary,
22 partnership, corporation or other entity, either authorized to
23 do business within this Commonwealth or having an established
24 place of business within this Commonwealth, in the ordinary
25 course of the vendor's business, which on its face discloses a
26 valid basis of exemption consistent with the activity of the
27 purchaser and character of the property or service being
28 purchased or which is provided to the vendor by a charitable,
29 religious, educational or volunteer firemen's organization and
30 contains the organization's charitable exemption number AND

<—

1 WHICH, IN THE CASE OF ANY PURCHASE COSTING TWO HUNDRED DOLLARS
2 (\$200) OR MORE, IS ACCOMPANIED BY A SWORN DECLARATION (ON A FORM
3 TO BE PROVIDED BY THE DEPARTMENT) OF AN INTENDED USAGE OF THE
4 PROPERTY OR SERVICE WHICH WOULD RENDER IT NONTAXABLE, shall be
5 presumed to be taken in good faith and the burden of proving
6 otherwise shall be on the Department of Revenue.

7 * * *

8 ~~Section 2. This act shall take effect immediately.~~ <—

9 SECTION 2. SECTION 356(B) OF THE ACT, AMENDED DECEMBER 6, <—
10 1972 (P.L.1432, NO.315), IS AMENDED TO READ:

11 SECTION 356. COOPERATION WITH OTHER GOVERNMENTAL AGENCIES.--

12 * * *

13 (B) THE DEPARTMENT MAY ENTER INTO AN AGREEMENT WITH THE
14 TAXING AUTHORITIES OF ANY STATE WHICH IMPOSES A TAX ON OR
15 MEASURED BY INCOME TO PROVIDE THAT COMPENSATION PAID IN SUCH
16 STATE TO RESIDENTS OF THIS COMMONWEALTH AND NET PROFITS EARNED
17 FROM THE OPERATION OF A BUSINESS, PROFESSION OR OTHER ACTIVITY
18 CARRIED ON IN THAT STATE BY RESIDENTS OF THIS COMMONWEALTH SHALL
19 BE EXEMPT FROM SUCH TAX; IN SUCH CASE ANY COMPENSATION PAID IN
20 THIS [STATE] COMMONWEALTH TO, OR NET PROFITS EARNED IN THIS
21 COMMONWEALTH BY, RESIDENTS OF SUCH STATE SHALL BE EXEMPT FROM
22 PENNSYLVANIA PERSONAL INCOME TAX. THE DEPARTMENT, IN SUCH
23 AGREEMENTS, MAY PROVIDE FOR RECIPROCAL WITHHOLDING, EMPLOYER
24 LIABILITY, EXCHANGE OF INFORMATION AND ALL OTHER MATTERS
25 RELATING TO COOPERATION BETWEEN THE STATES.

26 SECTION ~~2~~ 3. THE DEFINITION OF "DOCUMENT" IN SECTION 1101-C <—
27 OF THE ACT, AMENDED DECEMBER 9, 1982 (P.L.1047, NO.246), IS
28 AMENDED AND DEFINITIONS ARE ADDED TO READ:

29 SECTION 1101-C. DEFINITIONS.--THE FOLLOWING WORDS WHEN USED
30 IN THIS ARTICLE SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS

1 SECTION, EXCEPT IN THOSE INSTANCES WHERE THE CONTEXT CLEARLY
2 INDICATES A DIFFERENT MEANING:

3 * * *

4 "DOCUMENT." ANY DEED, INSTRUMENT OR WRITING WHEREBY ANY
5 LANDS, TENEMENTS OR HEREDITAMENTS WITHIN THIS COMMONWEALTH OR
6 ANY INTEREST THEREIN SHALL BE QUITCLAIMED, GRANTED, BARGAINED,
7 SOLD, OR OTHERWISE CONVEYED TO THE GRANTEE, PURCHASER, OR ANY
8 OTHER PERSON, BUT DOES NOT INCLUDE WILLS, MORTGAGES, TRANSFERS
9 BETWEEN CORPORATIONS OPERATING HOUSING PROJECTS PURSUANT TO THE
10 HOUSING AND REDEVELOPMENT ASSISTANCE LAW AND THE SHAREHOLDERS
11 THEREOF, TRANSFERS BETWEEN NONPROFIT INDUSTRIAL DEVELOPMENT
12 AGENCIES AND INDUSTRIAL CORPORATIONS PURCHASING FROM THEM, ANY
13 TRANSFERS TO NONPROFIT INDUSTRIAL DEVELOPMENT AGENCIES,
14 TRANSFERS TO A NATURE CONSERVANCY OR SIMILAR ORGANIZATION WHICH
15 POSSESSES A TAX-EXEMPT STATUS PURSUANT TO SECTION 501(C)(3) OF
16 THE INTERNAL REVENUE CODE, AND WHICH HAS AS ITS PRIMARY PURPOSE
17 THE PRESERVATION OF LAND FOR HISTORIC, RECREATIONAL, SCENIC,
18 AGRICULTURAL OR OPEN SPACE OPPORTUNITIES, AND TRANSFERS BETWEEN
19 HUSBAND AND WIFE, TRANSFERS BETWEEN PERSONS WHO WERE PREVIOUSLY
20 HUSBAND AND WIFE BUT WHO HAVE SINCE BEEN DIVORCED PROVIDED SUCH
21 TRANSFER IS MADE WITHIN THREE MONTHS OF THE DATE OF THE GRANTING
22 OF THE FINAL DECREE IN DIVORCE, OR THE DECREE OF EQUITABLE
23 DISTRIBUTION OF MARITAL PROPERTY, WHICHEVER IS LATER, AND THE
24 PROPERTY OR INTEREST THEREIN SUBJECT TO SUCH TRANSFER WAS
25 ACQUIRED BY THE HUSBAND AND WIFE OR HUSBAND OR WIFE PRIOR TO THE
26 GRANTING OF THE FINAL DECREE IN DIVORCE, TRANSFERS BETWEEN
27 PARENT AND CHILD OR THE SPOUSE OF SUCH A CHILD OR BETWEEN PARENT
28 AND TRUSTEE FOR THE BENEFIT OF A CHILD OR THE SPOUSE OF SUCH
29 CHILD, TRANSFERS BETWEEN A GRANDPARENT AND GRANDCHILD OR THE
30 SPOUSE OF SUCH GRANDCHILD, BY AND BETWEEN A PRINCIPAL AND STRAW

1 PARTY FOR THE PURPOSE OF PLACING A MORTGAGE OR GROUND RENT UPON
2 THE PREMISES, CORRECTIONAL DEEDS WITHOUT CONSIDERATION,
3 TRANSFERS TO THE UNITED STATES, THE COMMONWEALTH OF
4 PENNSYLVANIA, OR TO ANY OF THEIR INSTRUMENTALITIES, AGENCIES OR
5 POLITICAL SUBDIVISIONS, BY GIFT, DEDICATION OR DEED IN LIEU OF
6 CONDEMNATION, OR DEED OF CONFIRMATION IN CONNECTION WITH
7 CONDEMNATION PROCEEDINGS, OR RECONVEYANCE BY THE CONDEMNING BODY
8 OF THE PROPERTY CONDEMNED TO THE OWNER OF RECORD AT THE TIME OF
9 CONDEMNATION WHICH RECONVEYANCE MAY INCLUDE PROPERTY LINE
10 ADJUSTMENTS PROVIDED SAID RECONVEYANCE IS MADE WITHIN ONE YEAR
11 FROM THE DATE OF CONDEMNATION, LEASES, A CONVEYANCE TO A TRUSTEE
12 UNDER A RECORDED TRUST AGREEMENT FOR THE EXPRESS PURPOSE OF
13 HOLDING TITLE IN TRUST AS SECURITY FOR A DEBT CONTRACTED AT THE
14 TIME OF THE CONVEYANCE UNDER WHICH THE TRUSTEE IS NOT THE LENDER
15 AND REQUIRING THE TRUSTEE TO MAKE RECONVEYANCE TO THE GRANTOR-
16 BORROWER UPON THE REPAYMENT OF THE DEBT, OR A TRANSFER BY THE
17 OWNER OF PREVIOUSLY OCCUPIED RESIDENTIAL PREMISES TO A BUILDER
18 OF NEW RESIDENTIAL PREMISES WHEN SUCH PREVIOUSLY OCCUPIED
19 RESIDENTIAL PREMISES IS TAKEN IN TRADE BY SUCH BUILDER AS PART
20 OF THE CONSIDERATION FROM THE PURCHASER OF A NEW PREVIOUSLY
21 UNOCCUPIED RESIDENTIAL PREMISES OR ANY TRANSFER FROM A MORTGAGOR
22 TO THE MORTGAGEE WHETHER PURSUANT TO A FORECLOSURE OR IN LIEU
23 THEREOF, OR CONVEYANCES TO MUNICIPALITIES, TOWNSHIPS, SCHOOL
24 DISTRICTS AND COUNTIES PURSUANT TO ACQUISITION BY
25 MUNICIPALITIES, TOWNSHIPS, SCHOOL DISTRICTS AND COUNTIES OF TAX
26 DELINQUENT PROPERTIES AT SHERIFF SALE OR TAX CLAIM BUREAU, OR
27 ANY TRANSFER BETWEEN RELIGIOUS ORGANIZATIONS OR OTHER BODIES OR
28 PERSONS HOLDING TITLE TO REAL ESTATE FOR A RELIGIOUS
29 ORGANIZATION IF SUCH REAL ESTATE IS NOT BEING OR HAS NOT BEEN
30 USED BY SUCH TRANSFEROR FOR COMMERCIAL PURPOSES, OR A TRANSFER

1 WITHIN A FAMILY FROM A SOLE PROPRIETOR FAMILY MEMBER TO A FAMILY
2 FARM CORPORATION OR IN ANY SHERIFF SALE INSTITUTED BY A
3 MORTGAGEE IN WHICH THE PURCHASER OF SAID SHERIFF SALE IS THE
4 MORTGAGEE WHO INSTITUTED SAID SALE.

5 "FAMILY FARM CORPORATION." A PENNSYLVANIA CORPORATION AT
6 LEAST SEVENTY-FIVE PER CENT OF THE ASSETS OF WHICH ARE DEVOTED
7 TO THE BUSINESS OF AGRICULTURE, WHICH BUSINESS, FOR THE PURPOSES
8 OF THIS DEFINITION, SHALL NOT BE DEEMED TO INCLUDE:

9 (1) RECREATIONAL ACTIVITIES SUCH AS, BUT NOT LIMITED TO,
10 HUNTING, FISHING, CAMPING, SKIING, SHOW COMPETITION OR RACING;

11 (2) THE RAISING, BREEDING OR TRAINING OF GAME ANIMALS OR
12 GAME BIRDS, FISH, CATS, DOGS OR PETS, OR ANIMALS INTENDED FOR
13 USE IN SPORTING OR RECREATIONAL ACTIVITIES;

14 (3) FUR FARMING;

15 (4) STOCKYARD AND SLAUGHTERHOUSE OPERATIONS; OR

16 (5) MANUFACTURING OR PROCESSING OPERATIONS OF ANY KIND:

17 PROVIDED, HOWEVER, THAT AT LEAST SEVENTY-FIVE PER CENT OF ALL OF
18 THE STOCK OF THE CORPORATION MUST BE OWNED BY MEMBERS OF THE
19 SAME FAMILY.

20 "MEMBERS OF THE SAME FAMILY." ANY INDIVIDUAL, SUCH
21 INDIVIDUAL'S BROTHERS AND SISTERS, THE BROTHERS AND SISTERS OF
22 SUCH INDIVIDUAL'S PARENTS AND GRANDPARENTS, THE ANCESTORS AND
23 LINEAL DESCENDENTS OF ANY OF THE FOREGOING AND A SPOUSE OF ANY
24 OF THE FOREGOING. INDIVIDUALS RELATED BY THE HALF BLOOD OR LEGAL
25 ADOPTION SHALL BE TREATED AS IF THEY WERE RELATED BY THE WHOLE
26 BLOOD.

27 * * *

28 SECTION 3 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—
29 SECTION 1102-C.1. RECAPTURE OF TAX.--NOTWITHSTANDING THE
30 DEFINITION OF "DOCUMENT" IN SECTION 1101-C, IF ANY STOCK OF A

1 FAMILY FARM CORPORATION IS TRANSFERRED TO A PERSON WHO IS NOT A
2 FAMILY MEMBER WITHIN TEN YEARS FROM THE DATE OF THE CONVEYANCE
3 FROM A SOLE PROPRIETOR FAMILY MEMBER TO A FAMILY FARM
4 CORPORATION, THE TAX IMPOSED BY THIS ARTICLE SHALL BECOME
5 IMMEDIATELY DUE AND PAYABLE.

6 ~~SECTION 4. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.~~ <—

7 SECTION 5. SECTION 2 OF THIS ACT SHALL BE RETROACTIVE TO <—
8 MARCH 4, 1971.

9 SECTION 6. THIS ACT SHALL TAKE EFFECT IN 60 DAYS.