

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1981 Session of
1985

INTRODUCED BY FOX, KUKOVICH, NAHILL, DeLUCA, HERSHEY, RAYMOND,
KENNEY, DISTLER, LINTON, GANNON, J. TAYLOR, BUNT,
D. W. SNYDER, MAYERNIK, O'BRIEN, BURNS, ITKIN, TRUMAN,
WESTON, FLICK, SAURMAN, PERZEL, LASHINGER AND HOWLETT,
DECEMBER 11, 1985

REFERRED TO COMMITTEE ON FINANCE, DECEMBER 11, 1985

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 of a person 55 years of age or older.

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

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

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

19 * * *

20 (3) Net gains or income from disposition of property. Net
21 gains or net income, less net losses, derived from the sale,

1 exchange or other disposition of property, including real or
2 personal, whether tangible or intangible as determined in
3 accordance with accepted accounting principles and practices.
4 For the purpose of this act, for the determination of the basis
5 of any property, real and personal, if acquired prior to June 1,
6 1971, the date of acquisition shall be adjusted to June 1, 1971
7 as if the property had been acquired on that date. If the
8 property was acquired after June 1, 1971, the actual date of
9 acquisition shall be used in determination of the basis. At the
10 election of the taxpayer fifty-five years of age or older, net
11 gains shall not include gain from the sale or exchange of
12 property if the property has been owned and used by the taxpayer
13 as a principal residence for periods aggregating three years or
14 more. The amount of the gain excluded from net gain shall not
15 exceed one hundred twenty-five thousand dollars (\$125,000) in
16 the case of married persons who hold the property as tenants by
17 the entireties and who file a joint return, sixty-two thousand
18 five hundred dollars (\$62,500) in the case of a married person
19 who files a separate return, sixty-two thousand five hundred
20 dollars (\$62,500) in the case of a single person who files a
21 return and sixty-two thousand five hundred dollars (\$62,500) in
22 the case of a married person who owns the property singly and
23 who files a joint return with his spouse. This provision shall
24 apply to only one sale or exchange made after July 26, 1978;
25 application of this section shall not be affected by any
26 election made with respect to a sale or exchange on or before
27 July 26, 1978.

28 The term "net gains or income" shall not include gains or
29 income derived from obligations which are statutorily free from
30 State or local taxation under any other act of the General

1 Assembly of the Commonwealth of Pennsylvania or under the laws
2 of the United States. The term "sale, exchange or other
3 disposition" shall not include the exchange of stock or
4 securities in a corporation a party to a reorganization in
5 pursuance of a plan of reorganization, solely for stock or
6 securities in such corporation or in another corporation a party
7 to the reorganization and the transfer of property to a
8 corporation by one or more persons solely in exchange for stock
9 or securities in such corporation if immediately after the
10 exchange such person or persons are in control of the
11 corporation. For purposes of this clause, stock or securities
12 issued for services shall not be considered as issued in return
13 for property.

14 For purposes of this clause, the term "reorganization"
15 means--

16 (i) a statutory merger or consolidation;

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

25 (iii) the acquisition by one corporation, in exchange solely
26 for all or a part of its voting stock (or in exchange solely for
27 all or a part of the voting stock of a corporation which is in
28 control of the acquiring corporation), of substantially all of
29 the properties of another corporation, but in determining
30 whether the exchange is solely for stock the assumption by the

1 acquiring corporation of a liability of the other, or the fact
2 that property acquired is subject to a liability, shall be
3 disregarded;

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

10 (v) a recapitalization;

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

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

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

1 corporation distributed in the transaction); and in the
2 transaction, former shareholders of the surviving corporation
3 exchanged, for an amount of voting stock of the controlling
4 corporation, an amount of stock in the surviving corporation
5 which constitutes control of such corporation.

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

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

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

24 * * *

25 Section 2. This act shall take effect in 60 days.