

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 712 Session of
1997

INTRODUCED BY NICKOL, WAUGH, TULLI, READSHAW, FARGO, OLASZ,
DALEY, ARMSTRONG, LAUGHLIN, BAKER, HALUSKA, TRELLO, DeLUCA,
ALLEN, BELARDI, PLATTS, HENNESSEY, TIGUE, HERSHEY, MICOZZIE,
E. Z. TAYLOR, RAMOS, LYNCH, McCALL, HUTCHINSON, ITKIN,
CORRIGAN, BENNINGHOFF, MILLER, MAITLAND, STEELMAN, SAINATO,
SAYLOR, GEIST, ROBERTS, BROWNE AND BOSCOLA, MARCH 11, 1997

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, MARCH 11, 1997

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 employees 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 increasing exemption amount.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 Section 1. Section 2 of the act of December 31, 1965
26 (P.L.1257, No.511), known as The Local Tax Enabling Act, amended

1 October 11, 1984 (P.L.885, No.172) and July 9, 1987 (P.L.203,
2 No.30), is amended to read:

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

1 act:

2 (1) To levy, assess and collect or provide for the levying,
3 assessment and collection of any tax on the transfer of real
4 property when the transfer is by will or mortgage or the
5 intestate laws of this Commonwealth or on a transfer by the
6 owner of previously occupied residential premises to a builder
7 of new residential premises when such previously occupied
8 residential premises is taken in trade by such builder as part
9 of the consideration from the purchaser of a new previously
10 unoccupied single family residential premises or on a transfer
11 between corporations operating housing projects pursuant to the
12 housing and redevelopment assistance law and the shareholders
13 thereof, or on a transfer between nonprofit industrial
14 development agencies and industrial corporations purchasing from
15 them, or on transfer to or from nonprofit industrial development
16 agencies, or on a transfer between husband and wife, or on a
17 transfer between persons who were previously husband and wife
18 but who have since been divorced; provided such transfer is made
19 within three months of the date of the granting of the final
20 decree in divorce, or the decree of equitable distribution of
21 marital property, whichever is later, and the property or
22 interest therein, subject to such transfer, was acquired by the
23 husband and wife, or husband or wife, prior to the granting of
24 the final decree in divorce, or on a transfer between parent and
25 child or the spouse of such a child, or between parent and
26 trustee for the benefit of a child or the spouse of such child,
27 or on a transfer between a grandparent and grandchild or the
28 spouse of such grandchild, or on a transfer between brother and
29 sister or brother and brother or sister and sister or the spouse
30 of such brother or sister, or on a transfer to a conservancy

1 which possesses a tax-exempt status pursuant to section
2 501(c)(3) of the Internal Revenue Code, and which has as its
3 primary purpose the preservation of land for historic,
4 recreational, scenic, agricultural or open space opportunities,
5 by and between a principal and straw party for the purpose of
6 placing a mortgage or ground rent upon the premises, or on a
7 correctional deed without consideration, or on a transfer to the
8 United States, the Commonwealth of Pennsylvania, or to any of
9 their instrumentalities, agencies or political subdivisions, by
10 gift, dedication or deed in lieu of condemnation, or deed of
11 confirmation in connection with condemnation proceedings, or
12 reconveyance by the condemning body of the property condemned to
13 the owner of record at the time of condemnation which
14 reconveyance may include property line adjustments provided said
15 reconveyance is made within one year from the date of
16 condemnation, leases, or on a conveyance to a trustee under a
17 recorded trust agreement for the express purpose of holding
18 title in trust as security for a debt contracted at the time of
19 the conveyance under which the trustee is not the lender and
20 requiring the trustee to make reconveyance to the grantor-
21 borrower upon the repayment of the debt, or a transfer within a
22 family from a sole proprietor family member to a family farm
23 corporation, or in any sheriff sale instituted by a mortgagee in
24 which the purchaser of said sheriff sale is the mortgagee who
25 instituted said sale, or on a privilege, transaction, subject,
26 occupation or personal property which is now or does hereafter
27 become subject to a State tax or license fee;

28 (2) To levy, assess or collect a tax on the gross receipts
29 from utility service of any person or company whose rates and
30 services are fixed and regulated by the Pennsylvania Public

1 Utility Commission or on any public utility services rendered by
2 any such person or company or on any privilege or transaction
3 involving the rendering of any such public utility service;

4 (3) Except on sales of admission to places of amusement or
5 on sales or other transfers of title or possession of property,
6 to levy, assess or collect a tax on the privilege of employing
7 such tangible property as is now or does hereafter become
8 subject to a State tax; and for the purposes of this clause,
9 real property rented for camping purposes shall not be
10 considered a place of amusement.

11 (4) To levy, assess and collect a tax on goods and articles
12 manufactured in such political subdivision or on the by-products
13 of manufacture, or on minerals, timber, natural resources and
14 farm products produced in such political subdivision or on the
15 preparation or processing thereof for use or market, or on any
16 privilege, act or transaction related to the business of
17 manufacturing, the production, preparation or processing of
18 minerals, timber and natural resources, or farm products, by
19 manufacturers, by producers and by farmers with respect to the
20 goods, articles and products of their own manufacture,
21 production or growth, or on any privilege, act or transaction
22 relating to the business of processing by-products of
23 manufacture, or on the transportation, loading, unloading or
24 dumping or storage of such goods, articles, products or by-
25 products; except that local authorities may levy, assess and
26 collect taxes on the occupation, occupational privilege, per
27 capita and earned income or net profits of natural persons
28 engaged in the above activities whether doing business as
29 individual proprietorship or as members of partnerships or other
30 associations;

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

6 (6) To levy, assess or collect a tax on personal property
7 subject to taxation by counties or on personal property owned by
8 persons, associations and corporations specifically exempted by
9 law from taxation under the county personal property tax law:
10 Provided, That this limitation (6) shall not apply to cities of
11 the second class;

12 (7) To levy, assess or collect a tax on membership in or
13 membership dues, fees or assessment of charitable, religious,
14 beneficial or nonprofit organizations including but not limited
15 to sportsmens, recreational, golf and tennis clubs, girl and boy
16 scout troops and councils;

17 (8) To levy, assess or collect any tax on a mobilehome or
18 house trailer subject to a real property tax unless the same tax
19 is levied, assessed and collected on other real property in the
20 political subdivision.

21 (9) To levy, assess or collect any tax on individuals for
22 the privilege of engaging in an occupation (occupational
23 privilege tax) except that such a tax may be levied, assessed
24 and collected only by the political subdivision of the
25 taxpayer's place of employment.

26 Payment of any occupational privilege tax to any political
27 subdivision by any person pursuant to an ordinance or resolution
28 passed or adopted under the authority of this act shall be
29 limited to ten dollars (\$10) on each person for each calendar
30 year.

1 The situs of such tax shall be the place of employment, but,
2 in the event a person is engaged in more than one occupation, or
3 an occupation which requires his working in more than one
4 political subdivision during the calendar year, the priority of
5 claim to collect such occupational privilege tax shall be in the
6 following order: first, the political subdivision in which a
7 person maintains his principal office or is principally
8 employed; second, the political subdivision in which the person
9 resides and works, if such a tax is levied by that political
10 subdivision; third, the political subdivision in which a person
11 is employed and which imposes the tax nearest in miles to the
12 person's home. The place of employment shall be determined as of
13 the day the taxpayer first becomes subject to the tax during the
14 calendar year.

15 It is the intent of this provision that no person shall pay
16 more than ten dollars (\$10) in any calendar year as an
17 occupational privilege tax irrespective of the number of
18 political subdivisions within which such person may be employed
19 within any given calendar year.

20 In case of dispute, a tax receipt of the taxing authority for
21 that calendar year declaring that the taxpayer has made prior
22 payment which constitutes prima facie certification of payment
23 to all other political subdivisions.

24 (10) To levy, assess or collect a tax on admissions to
25 motion picture theatres: Provided, That this limitation (10)
26 shall not apply to cities of the second class.

27 (11) To levy, assess or collect a tax on the construction of
28 or improvement to residential dwellings or upon the application
29 for or issuance of permits for the construction of or
30 improvements to residential dwellings.

1 (12) To levy, assess and collect a mercantile or business
2 privilege tax on gross receipts or part thereof which are: (i)
3 discounts allowed to purchasers as cash discounts for prompt
4 payment of their bills; (ii) charges advanced by a seller for
5 freight, delivery or other transportation for the purchaser in
6 accordance with the terms of a contract of sale; (iii) received
7 upon the sale of an article of personal property which was
8 acquired by the seller as a trade-in to the extent that the
9 gross receipts in the sale of the article taken in trade does
10 not exceed the amount of trade-in allowance made in acquiring
11 such article; (iv) refunds, credits or allowances given to a
12 purchaser on account of defects in goods sold or merchandise
13 returned; (v) Pennsylvania sales tax; (vi) based on the value of
14 exchanges or transfers between one seller and another seller who
15 transfers property with the understanding that property of an
16 identical description will be returned at a subsequent date;
17 however, when sellers engaged in similar lines of business
18 exchange property and one of them makes payment to the other in
19 addition to the property exchanged, the additional payment
20 received may be included in the gross receipts of the seller
21 receiving such additional cash payments; (vii) of sellers from
22 sales to other sellers in the same line where the seller
23 transfers the title or possession at the same price for which
24 the seller acquired the merchandise; or (viii) transfers between
25 one department, branch or division of a corporation or other
26 business entity of goods, wares and merchandise to another
27 department, branch or division of the same corporation or
28 business entity and which are recorded on the books to reflect
29 such interdepartmental transactions.

30 (13) To levy, assess or collect an amusement or admissions

1 tax on membership, membership dues, fees or assessments,
2 donations, contributions or monetary charges of any character
3 whatsoever paid by the general public, or a limited or selected
4 number thereof, for such persons to enter into any place,
5 indoors or outdoors, to engage in any activities, the
6 predominant purpose or nature of which is exercise, fitness,
7 health maintenance, improvement or rehabilitation, health or
8 nutrition education, or weight control.

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