

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1464 Session of  
1997

INTRODUCED BY RUBLEY, CLARK, FARGO, TULLI, HANNA, TRELLO,  
SCHRODER, HENNESSEY, HERSHEY, CAWLEY, LAUGHLIN, MELIO, STEIL,  
BARD, STEELMAN, TIGUE AND ROSS, MAY 7, 1997

REFERRED TO COMMITTEE ON FINANCE, MAY 7, 1997

AN ACT

1 Authorizing counties to impose sales and use, personal income or  
2 earned income and net profits taxes; providing for the  
3 levying, assessment and collection of taxes and for the  
4 powers and duties of the Department of Community and Economic  
5 Development or any successor agency, the Department of  
6 Revenue and the State Treasurer; and authorizing taxing  
7 authorities to grant deferrals of real estate tax to certain  
8 persons.

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

26 CHAPTER 1  
27 GENERAL PROVISIONS

28 Section 101. Short title.

29 This act shall be known and may be cited as the Optional  
30 County Tax Reform Act.

1 Section 102. Definitions.

2 The following words and phrases when used in this act shall  
3 have the meanings given to them in this section unless the  
4 context clearly indicates otherwise:

5 "Board of county commissioners." Includes the successor in  
6 function to the board of county commissioners in a county which  
7 has adopted a home rule charter under the provisions 53 Pa.C.S.  
8 Pt. III Subpt. E (relating to home rule and optional plan  
9 government), but does not include the city council of a city of  
10 the first class or the board of county commissioners of a county  
11 of the second class.

12 "Classes of income." The classes of income set forth in  
13 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as  
14 the Tax Reform Code of 1971.

15 "Compensation." As defined in section 301 of the act of  
16 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
17 1971.

18 "County." A county-level municipality within this  
19 Commonwealth, regardless of classification. The term includes a  
20 county which has adopted a home rule charter or optional plan of  
21 government under the provisions of 53 Pa.C.S. Pt. III Subpt. E  
22 (relating to home rule and optional plan government). The term  
23 does not include a county of the first class or a county of the  
24 second class.

25 "Current year." The calendar year or fiscal year for which  
26 the tax is levied.

27 "Department." The Department of Revenue of the Commonwealth.

28 "Domicile." As defined in section 13 of the act of December  
29 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling  
30 Act.

1 "Earned income." The classes of income defined as "earned  
2 income" in section 13 of the act of December 31, 1965 (P.L.1257,  
3 No.511), known as The Local Tax Enabling Act.

4 "Employer." As defined in section 301 of the act of March 4,  
5 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

6 "Governing body." The board of county commissioners,  
7 including the successor in function to the board of county  
8 commissioners in a county which has adopted a home rule charter  
9 under the provisions of 53 Pa. C. S. Pt. III Subpt. E (relating  
10 to home rule and optional plan government). The term does not  
11 include the board of county commissioners of a county of the  
12 second class.

13 "Homestead exemption." An exclusion from real estate  
14 taxation of an amount based on the assessed value of residential  
15 property.

16 "Individual." As defined in section 301 of the act of March  
17 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

18 "Local Tax Enabling Act." The act of December 31, 1965  
19 (P.L.1257, No.511), known as The Local Tax Enabling Act.

20 "Municipality." A city of the second class, city of the  
21 second class A, city of the third class, borough, incorporated  
22 town, township of the first class, township of the second class,  
23 home rule municipality, optional plan municipality, optional  
24 form municipality or similar general purpose unit of government  
25 which may hereafter be created by statute, except a city of the  
26 first class.

27 "Nonresident." An individual domiciled outside the  
28 municipality.

29 "Ordinance." Includes a resolution.

30 "Personal income." The classes of income enumerated in

1 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as  
2 the Tax Reform Code of 1971, and upon which is imposed a  
3 personal income tax by the Commonwealth.

4 "Preceding year." The calendar year or fiscal year before  
5 the current year.

6 "Register." The register provided for in Chapter 9.

7 "School district." A school district of the first class A,  
8 second class, third class or fourth class, including any  
9 independent school district.

10 "Succeeding year." The calendar year or fiscal year  
11 following the current year.

12 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),  
13 known as the Tax Reform Code of 1971.

14 "Taxpayer." An individual required under this act to file a  
15 tax return or to pay a tax.

16 Section 103. Scope.

17 It is the intent of this act to confer upon each county the  
18 power to levy, assess and collect taxes upon the subjects of  
19 taxation set forth in this act.

20 Section 104. Preemption.

21 No act of the General Assembly heretofore or hereafter  
22 enacted shall vacate or preempt any ordinance passed or adopted  
23 under the authority of this act or any other act providing  
24 authority for the imposition of a tax by a county, unless the  
25 act of the General Assembly expressly vacates or preempts the  
26 authority to pass or adopt such ordinances.

27 Section 105. Rates of taxation in home rule counties.

28 A home rule county shall not have the right or authority to  
29 fix the rate of taxation for the subjects of taxation authorized  
30 under Chapter 3 in excess of the rates fixed in Chapter 3.

1 CHAPTER 3

2 SUBJECTS OF TAXATION

3 SUBCHAPTER A

4 TAX AUTHORIZATION

5 Section 301. General tax authorization.

6 (a) General rule.--Subject to section 303 and except as  
7 provided in subsection (b), each county shall have the power and  
8 may by ordinance levy, assess and collect or provide for the  
9 levying, assessment and collection of taxes on the sale or use  
10 of tangible personal property and services and the occupancy of  
11 a hotel room at a rate of 1%, on the personal income of resident  
12 taxpayers up to a maximum rate of 0.5% in increments of 0.25% or  
13 on the earned income of resident taxpayers up to a maximum rate  
14 of 0.5% in increments of 0.25% for general revenue purposes as  
15 it shall determine on any or all of the subjects of taxation set  
16 forth in this act within the geographical limits of the county.

17 (b) Exclusions.--No county which levies a tax authorized by  
18 this act shall have any power or authority to levy, assess or  
19 collect:

20 (1) A tax based upon a flat rate or on a millage rate on  
21 an assessed valuation of a particular trade, occupation or  
22 profession, commonly known as an occupation tax.

23 (2) A per capita, poll, residence or similar head tax.

24 (3) The intangible personal property tax under the act  
25 of June 17, 1913 (P.L.507, No.335), referred to as the  
26 Intangible Personal Property Tax Law.

27 Section 302. Continuity of tax.

28 Every tax levied under the provisions of this act shall  
29 continue in force on a calendar year basis, as the case may be,  
30 without annual reenactment unless the rate of tax is increased

1 or the tax is subsequently repealed.

2 Section 303. Election to participate under act.

3 (a) General rule.--

4 (1) Any governing body which desires to participate  
5 under the provisions of this act shall make that  
6 determination by using the procedures set forth in subsection  
7 (b).

8 (2) Any governing body after making an election to  
9 participate under this act may, after a period of at least  
10 three full calendar years of participation, elect, under the  
11 provisions of subsection (b), to cease participation under  
12 this act and levy, assess and collect the taxes prohibited by  
13 section 301(b) to the extent otherwise provided by law.

14 (b) Public referendum.--Subject to the notice and public  
15 hearing requirements of section 316(a), 325(a) or 334, whichever  
16 is applicable, a governing body may elect to participate under  
17 this act by obtaining the approval of the electorate of the  
18 affected county in a public referendum at the November election  
19 preceding the calendar year when the taxes will be initially  
20 imposed. The referendum question must state the initial rate of  
21 the proposed tax.

22 (c) Increase in tax rate limited.--Following an election to  
23 participate under this act, the governing body may only increase  
24 the tax rate in the following cases:

25 (1) If an increase in local expenditures is necessary to  
26 respond to or recover from an emergency or disaster declared  
27 by the Governor.

28 (2) If the political subdivision is required to  
29 implement a court decision.

30 (3) To pay interest and principal on any indebtedness



1 incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B  
2 (relating to indebtedness and borrowing).

3 (4) To pay increases in pension fund requirements which  
4 are in excess of the annual average increase over the  
5 immediately preceding five fiscal years.

6 (5) To respond to a municipality declared to be  
7 distressed under the act of July 10, 1987 (P.L.246, No.47),  
8 known as the Municipalities Financial Recovery Act.

9 (6) To increase revenues when actual revenues decline  
10 from the immediately preceding year, but only to the extent  
11 of the revenue decline.

12 (7) To respond to a Federal or State statute, regulation  
13 or order adding to or significantly altering responsibilities  
14 and duties or requiring expenditure of county funds to the  
15 extent not funded by the Federal or State Government. This  
16 provision shall apply only to a Federal or State statute,  
17 regulation or order taking effect after the effective date of  
18 this act.

19 Section 304. Local tax study commission.

20 (a) First-year implementation.--Before any county levies,  
21 assesses or collects or provides for the levy, assessment or  
22 collection of any tax under the authority of this act, the  
23 governing body may appoint a local tax study commission in  
24 accordance with the following provisions:

25 (1) The local tax study commission shall consist of  
26 five, seven or nine members appointed by the governing body.  
27 One member of the local tax study commission may be a member  
28 of the governing body, as deemed appropriate by the governing  
29 body. No member of the local tax study commission shall be a  
30 relative, by blood or marriage, of an official or employee of

1 the county. All members shall be residents of the county.  
2 Representatives on a local tax study commission must  
3 reasonably reflect the socioeconomic, age and occupational  
4 diversity of the county.

5 (2) The governing body shall provide necessary and  
6 reasonable staff to support the local tax study commission  
7 and shall reimburse the members of the local tax study  
8 commission for necessary and reasonable expenses in the  
9 discharge of their duties.

10 (3) The local tax study commission shall study the  
11 existing taxes levied, assessed and collected by the county  
12 and determine if and how the tax policies of the county could  
13 be strengthened or made more equitable by adopting for levy,  
14 assessment and collection one or a combination of any of the  
15 following taxes: personal income tax, real estate tax, sales  
16 tax or earned income and net profits tax at such levels and  
17 in such combinations on permissible subjects of taxation as  
18 do not exceed the limitations in this act. This study shall  
19 include, but not be limited to, consideration of all of the  
20 following:

21 (i) Historic rate and revenue provided by taxes  
22 currently levied, assessed and collected by the county.

23 (ii) The percentage of total revenues provided by  
24 taxes currently levied, assessed and collected.

25 (iii) The age, income, employment and property use  
26 characteristics of the existing tax base.

27 (iv) The projected revenues of any taxes currently  
28 levied, assessed and collected.

29 (v) The projected revenues of any taxes referred to  
30 in this paragraph not currently levied, assessed and

1 collected by the county.

2 (4) Within 120 days of its appointment, the local tax  
3 study commission shall make a nonbinding recommendation to  
4 the governing body of the appropriate tax or combination of  
5 taxes, identified in paragraph (3), to be levied, assessed  
6 and collected commencing the next fiscal year. Upon  
7 appointment of the commission and except as provided for in  
8 paragraph (5), no tax may be levied, assessed or collected  
9 for the next fiscal year until receipt of the recommendation  
10 of the local tax study commission. No later than 30 days  
11 prior to the commencement of the next fiscal year, the  
12 governing body shall accept or reject the recommendation of  
13 the local tax study commission or adopt any other appropriate  
14 tax or combination of taxes for the county commencing the  
15 next fiscal year as provided by law.

16 (5) If the local tax study commission fails to make a  
17 nonbinding recommendation within 120 days of its appointment,  
18 the governing body shall discharge the appointed local tax  
19 study commission and appoint itself as the local tax study  
20 commission. No later than 30 days prior to the commencement  
21 of the next fiscal year, the governing body shall adopt the  
22 appropriate tax or combination of taxes for the county  
23 commencing the next fiscal year as provided by law.

24 (6) The local tax study commission shall publish or  
25 cause to be published, within 30 days of making its  
26 recommendation, a final report of its activities and  
27 recommendations and shall deliver the final report to the  
28 chief clerk of the county who shall supply copies to any  
29 interested persons upon request.

30 (7) Receipts are required for all reimbursable expenses.

1           (8) All the records, receipts, tapes, minutes of  
2 meetings and written discussions of the local tax study  
3 commission shall, upon its discharge, be turned over to the  
4 chief clerk of the county for permanent safekeeping. The  
5 chief clerk shall make such materials available for public  
6 inspection at any time during regular business hours.

7           (9) The local tax study commission shall be discharged  
8 upon the filing of its final report.

9       (b) Three-year review.--Any county that levies, assesses and  
10 collects or provides for the levy, assessment or collection of  
11 any tax, after having received the recommendations of a local  
12 tax study commission and acted, shall continue to levy, assess  
13 and collect the same tax or combination of taxes for the next  
14 three fiscal years. However, nothing in this act shall preclude  
15 the governing body from changing or altering the rates of any  
16 such tax or combination of taxes if it deems necessary. Before  
17 the third fiscal year following the county action on the  
18 recommendations of a local tax study commission and every third  
19 fiscal year thereafter, the governing body may appoint a local  
20 tax study commission in the manner provided in subsection (a).  
21 The local tax study commission appointed under this subsection  
22 shall be charged with all of the same powers and duties provided  
23 for the local tax study commission under subsection (a). In the  
24 event the county does not appoint a local tax study commission  
25 under this subsection after having previously acted on the  
26 recommendations of a local tax study commission, the county  
27 shall continue to levy, assess and collect the same tax or  
28 combination of taxes for the next three fiscal years.

29                               SUBCHAPTER B

30                               COUNTY SALES AND USE TAX

1 Section 311. Construction.

2 The tax imposed by the governing body of a county under this  
3 subchapter shall be in addition to any tax imposed by the  
4 Commonwealth under Article II of the Tax Reform Code. Except for  
5 the differing situs provisions under section 313, the provisions  
6 of Article II of the Tax Reform Code shall apply to the tax.

7 Section 312. Imposition.

8 (a) Sales.--The governing body of a county may levy and  
9 assess upon each separate sale at retail of tangible personal  
10 property or services, as defined in Article II of the Tax Reform  
11 Code, within the boundaries of the county, a tax on the purchase  
12 price. The tax shall be collected by the vendor from the  
13 purchaser and shall be paid over to the Commonwealth as provided  
14 in this subchapter.

15 (b) Use.--In any county within which the tax authorized in  
16 subsection (a) is imposed, there shall be levied, assessed and  
17 collected upon the use, within the county, of tangible personal  
18 property purchased at retail, and on services purchased at  
19 retail, as defined in Article II of the Tax Reform Code, a tax  
20 on the purchase price. The tax shall be paid over to the  
21 Commonwealth by the person who makes the use. The use tax  
22 imposed under this subchapter shall not be paid over to the  
23 Commonwealth by any person who has paid the tax imposed by  
24 subsection (a) or has paid the tax imposed by this subsection to  
25 the vendor with respect to the use.

26 (c) Occupancy.--In any county within which a tax authorized  
27 by subsection (a) is imposed, there shall be levied, assessed  
28 and collected an excise tax on the rent upon every occupancy of  
29 a room or rooms in a hotel in the county. The tax shall be  
30 collected by the operator or owner from the occupant and paid

1 over to the Commonwealth.

2 (d) Rate and uniformity.--

3 (1) The tax authorized by subsections (a), (b) and (c)  
4 shall be imposed at a rate of 1%.

5 (2) The tax imposed by subsections (a), (b) and (c)  
6 shall be uniform.

7 (e) Computation.--The tax imposed under this section shall  
8 be computed in the manner set forth in section 503(e)(2) of the  
9 act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
10 Intergovernmental Cooperation Authority Act for Cities of the  
11 First Class.

12 Section 313. Situs.

13 The situs of sales at retail or uses, including leases, of  
14 motor vehicles, aircraft, motorcraft and utility services shall  
15 be determined in the manner specified by section 504 of the act  
16 of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania  
17 Intergovernmental Cooperation Authority Act for Cities of the  
18 First Class.

19 Section 314. Licenses.

20 A license for the collection of the tax imposed by this  
21 subchapter shall be issued in the same manner as is provided for  
22 in section 505 of the act of June 5, 1991 (P.L.9, No.6), known  
23 as the Pennsylvania Intergovernmental Cooperation Authority Act  
24 for Cities of the First Class. Licensees shall be entitled to  
25 the same discount as provided in section 227 of the Tax Reform  
26 Code.

27 Section 315. Rules and regulations; collection costs.

28 (a) Regulations.--Rules and regulations shall be applicable  
29 to the taxes imposed under section 312 in the same manner as is  
30 provided for in section 506(1) and (2) of the act of June 5,

1 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental  
2 Cooperation Authority Act for Cities of the First Class.

3 (b) Administrative costs.--The department, to cover its  
4 costs of administration, shall be entitled to retain a sum equal  
5 to 1% of the revenues collected under this subchapter for its  
6 administrative costs. When the annual operating budget for the  
7 department is submitted to the General Assembly, the department  
8 shall also submit to the chairman and minority chairman of the  
9 Appropriations Committee of the Senate and to the chairman and  
10 minority chairman of the Appropriations Committee of the House  
11 of Representatives the actual sums retained for costs of  
12 collection in the preceding fiscal year, together with all  
13 supporting details.

14 Section 316. Procedure and administration.

15 (a) Ordinance.--Any county desiring to impose the tax  
16 authorized by section 312 shall give at least 60 days' written  
17 notice to every municipality and school district located in the  
18 county of its intent to impose the tax and shall adopt an  
19 ordinance after the expiration of 60 days after the date of the  
20 notice. The notice and an ordinance shall state the tax rate and  
21 refer to this subchapter. The ordinance shall authorize the  
22 imposition of all taxes provided for in section 312. Prior to  
23 adopting an ordinance imposing the tax authorized by section  
24 312, the governing body of the county shall give public notice  
25 of its intent to adopt the ordinance in the manner provided by  
26 section 4 of the Local Tax Enabling Act and shall conduct at  
27 least one public hearing regarding the proposed adoption of the  
28 ordinance.

29 (b) Notification to department.--A certified copy of the  
30 county ordinance shall be delivered to the department by

1 September 1 of the year prior to the effective date of the  
2 ordinance. The county ordinance shall become effective on the  
3 January 1 following at least four months after the date of  
4 enactment of the county ordinance.

5 (c) Delivery of repeal ordinance.--A certified copy of a  
6 repeal ordinance shall be delivered to the department at least  
7 30 days prior to the effective date of the repeal.

8 Section 317. County sales and use tax funds.

9 There is hereby created for each county levying the tax under  
10 section 312 the (proper name) County Sales and Use Tax Fund. The  
11 State Treasurer shall be custodian of the funds which shall be  
12 subject to the provisions of law applicable to funds listed in  
13 section 302 of the act of April 9, 1929 (P.L.343, No.176), known  
14 as The Fiscal Code. Taxes imposed under section 312 shall be  
15 received by the department and paid to the State Treasurer and,  
16 along with interest and penalties, less any collection costs  
17 allowed under this subchapter and any refunds and credits paid,  
18 shall be credited to the funds not less frequently than every  
19 two weeks. During any period prior to the credit of moneys to  
20 the funds, interest earned on moneys received by the department  
21 and paid to the State Treasurer under this subchapter shall be  
22 deposited into the funds. All moneys in the funds, including,  
23 but not limited to, moneys credited to the funds under this  
24 section, prior year encumbrances and the interest earned  
25 thereon, shall not lapse or be transferred to any other fund,  
26 but shall remain in the funds. Pending their disbursement,  
27 moneys received on behalf of or deposited into the funds shall  
28 be invested or reinvested as are other moneys in the custody of  
29 the State Treasurer in the manner provided by law. All earnings  
30 received from the investment or reinvestment of the moneys shall



1 be credited to the respective funds.

2 Section 318. Disbursements.

3 (a) General rule.--On or before the tenth day of every  
4 month, the State Treasurer shall make the disbursements on  
5 behalf of the county imposing the tax out of the moneys which  
6 are, as of the last day of the previous month, contained in the  
7 respective county sales and use tax fund.

8 (b) Disbursement to counties.--

9 (1) The State Treasurer shall disburse to a county  
10 imposing the tax authorized under section 312 an amount of  
11 money equal to 50% of the tax collected in that county and  
12 remitted to the department and deposited in the respective  
13 county sales and use tax fund.

14 (2) An amount of money equal to the remaining 50% of the  
15 tax collected in that county shall be allocated to all of the  
16 municipalities and school districts within that county as  
17 follows:

18 (i) Twenty-five percent shall be allocated to all  
19 municipalities within the county. Each municipality shall  
20 be allocated a portion as computed under section 320(a).

21 (ii) Twenty-five percent shall be allocated to all  
22 school districts within the county. Each school district  
23 shall be allocated a portion as computed under section  
24 320(b).

25 (3) The State Treasurer shall disburse to a county, in  
26 addition to its share under paragraph (1), an amount of money  
27 equal to the allocations to nonqualified municipalities and  
28 school districts within the county.

29 (4) The county shall deposit the revenue from the  
30 respective county sales and use tax fund into the county

1       general fund for disposition as provided under section  
2       701(a).

3       (c) Disbursement to municipalities.--The State Treasurer  
4 shall, at the same time, disburse to the qualified  
5 municipalities an amount of money equal to their allocations  
6 under paragraph (2)(i). Each municipality's portion shall be  
7 deposited in the municipal general fund for disposition as  
8 provided in section 701(b).

9       (d) Disbursement to school districts.--The State Treasurer  
10 shall, at the same time, disburse to the qualified school  
11 districts an amount of money equal to their allocations under  
12 paragraph (2)(ii). Each school district's portion shall be  
13 deposited in the school district's general fund for disposition  
14 as provided in section 701(b).

15       (e) Penalty.--If disbursements are not made on or before the  
16 tenth day of each month, a 5% penalty shall be added thereto  
17 plus an additional 1% late charge per month delayed.

18 Section 319. Adoption of municipal ordinances and school  
19                   district petitions.

20       (a) General rule.--No municipality shall be entitled to a  
21 disbursement under section 318(c) and no school district shall  
22 be entitled to a disbursement under section 318(d) unless one of  
23 the following applies:

24           (1) Prior to enactment of the county ordinance, it  
25       adopts a municipal ordinance or a school district petition  
26       containing the statement:

27                   We strongly urge the county to enact a county sales  
28                   and use tax and intend to accept disbursements of the  
29                   sales and use taxes collected.

30       Any municipality which does not enact an ordinance and any

1 school district which does not enact a petition in compliance  
2 with this paragraph shall not be entitled to and shall not  
3 receive any distribution from funds collected during the  
4 first 24 months immediately following the initial date of  
5 imposition of the tax.

6 (2) Prior to October 1 of any year after the enactment  
7 of the county resolution, it adopts a municipal ordinance or  
8 a school district petition containing the statement:

9 We support the enactment by the county of the county  
10 sales and use tax and strongly urge its continuation  
11 and intend to accept disbursements of the sales and  
12 use taxes collected.

13 (b) Delivery.--A certified copy of the municipal ordinance  
14 or the school district petition shall be delivered to the county  
15 commissioners on or before the enactment of the county  
16 resolution or October 15 of any year thereafter, as the case may  
17 be.

18 Section 320. Allocations and qualifications.

19 (a) Allocations to municipalities.--The State Treasurer  
20 shall compute allocations to municipalities in the following  
21 manner:

22 (1) Fifty percent of the money allocated to  
23 municipalities shall be pursuant to a format in which the  
24 total allocation to municipalities multiplied by the ratio of  
25 weighted tax revenues of the municipality divided by the sum  
26 of the weighted tax revenues of all municipalities located in  
27 the county.

28 (2) Fifty percent of the money allocated to  
29 municipalities shall be returned to the municipality of  
30 origin of the sales tax revenue.

(b) Allocations to school districts.--Each school district shall be allocated a portion of the total allocation to school districts which is equal to the total allocation to school districts multiplied by the ratio of average daily membership of the school district divided by the sum of the average daily membership of all school districts in the county. For the purposes of this section, "average daily membership" shall mean "average daily membership" as defined by the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(c) Qualifications.--Municipalities and school districts qualified to receive disbursements under section 318(c) or (d) are municipalities and school districts located within the county, which:

(1) adopt in a timely fashion, the ordinance or petition required under section 319; and

(2) adopt the necessary ordinances or, in the case of school districts, take the legally necessary action and impose the taxes authorized under this act.

(d) Limited definition.--For the purpose of this section, "weighted tax revenues" are total tax revenues from all sources of a municipality divided by the ratio of its per capita market value to the per capita market value of its county. The per capita market value means the total market value of all real property divided by population as determined by the most recent decennial census. Calculations of weighted tax revenues shall be made by the Department of Community and Economic Development or any successor agency and certified to the State Treasurer based upon information reported to the Department of Community and Economic Development any successor agency, subject to review, verification and approval by the Department of Community and

1 Economic Development or any successor agency.

2 SUBCHAPTER C

3 PERSONAL INCOME TAX

4 Section 321. Construction.

5 The tax imposed by the governing body of a county under this  
6 subchapter shall be in addition to any tax imposed by the  
7 Commonwealth under Article III of the Tax Reform Code. Except  
8 for the differing provisions under sections 501, 502 and 503,  
9 the provisions of Article III of the Tax Reform Code shall apply  
10 to the tax.

11 Section 322. Personal income tax.

12 In lieu of imposing the tax under section 312, each county  
13 shall have the power and may levy, assess and collect a tax on  
14 the personal income of resident taxpayers of the county up to a  
15 maximum rate of 0.5%, in increments of 0.25%. Any county which  
16 imposes a tax under this section may not impose any tax under  
17 section 312.

18 Section 323. Collections.

19 A county may either collect the tax imposed under section 322  
20 or may enter into an agreement with the department for  
21 collection of the tax.

22 Section 324. Rules and regulations; collection costs.

23 (a) Regulations.--Rules and regulations shall be applicable  
24 to the taxes imposed under section 322 in the same manner as is  
25 provided for in Article III of the Tax Reform Code.

26 (b) Administrative costs.--The department, to cover its  
27 costs of administration, shall be entitled to retain a sum equal  
28 to 1% of the revenues collected under this subchapter for its  
29 administrative costs. When the annual operating budget for the  
30 department is submitted to the General Assembly, the department

1 shall also submit to the chairman and minority chairman of the  
2 Appropriations Committee of the Senate and to the chairman and  
3 minority chairman of the Appropriations Committee of the House  
4 of Representatives the actual sums retained for costs of  
5 collection in the preceding fiscal year, together with all  
6 supporting details.

7 Section 325. Procedure and administration.

8 (a) Ordinance.--The governing body of the county, in order  
9 to impose the tax authorized by section 322, shall adopt an  
10 ordinance which shall refer to this subchapter. Prior to  
11 adopting an ordinance imposing the tax authorized by section  
12 322, the respective governing body shall give public notice of  
13 its intent to adopt the ordinance in the manner provided by  
14 section 4 of the Local Tax Enabling Act and shall conduct at  
15 least one public hearing regarding the proposed adoption of the  
16 ordinance.

17 (b) Delivery.--A certified copy of the ordinance imposing  
18 the tax shall be delivered to the department no later than 90  
19 days prior to the effective date of the ordinance.

20 (c) Delivery of repeal ordinance.--A certified copy of a  
21 repeal ordinance shall be delivered to the department at least  
22 30 days prior to the effective date of the repeal.

23 Section 326. Local personal income tax funds.

24 There is hereby created for each county levying the tax under  
25 section 322 the (proper name) Personal Income Tax Fund. The  
26 State Treasurer shall be custodian of the funds which shall be  
27 subject to the provisions of law applicable to funds listed in  
28 section 302 of the act of April 9, 1929 (P.L.343, No.176), known  
29 as The Fiscal Code. Taxes imposed under section 322 shall be  
30 received by the department and paid to the State Treasurer and,

1 along with interest and penalties, less any collection costs  
2 allowed under this subchapter and any refunds and credits paid,  
3 shall be credited to the funds not less frequently than every  
4 two weeks. During any period prior to the credit of moneys to  
5 the funds, interest earned on moneys received by the department  
6 and paid to the State Treasurer under this subchapter shall be  
7 deposited into the funds. All moneys in the funds, including,  
8 but not limited to, moneys credited to the funds under this  
9 section, prior year encumbrances and the interest earned  
10 thereon, shall not lapse or be transferred to any other fund,  
11 but shall remain in the funds. Pending their disbursement,  
12 moneys received on behalf of or deposited into the funds shall  
13 be invested or reinvested as are other moneys in the custody of  
14 the State Treasurer in the manner provided by law. All earnings  
15 received from the investment or reinvestment of the moneys shall  
16 be credited to the respective funds.

17 Section 327. Disbursements.

18 On or before the April 10, July 10, October 10 and the next  
19 succeeding January 10, the State Treasurer shall make the  
20 disbursements to each county imposing the tax out of the moneys  
21 which are, as of the last day of the previous month, contained  
22 in the respective personal income tax funds. If disbursements  
23 are not made on or before the dates listed in this section, a 5%  
24 penalty shall be added thereto, plus a 1% late charge per month  
25 delayed. This section shall only apply to a county which imposes  
26 a tax under section 322.

27 SUBCHAPTER D

28 EARNED INCOME AND NET PROFITS TAX

29 Section 331. Earned income and net profits tax.

30 In lieu of imposing the tax under section 312, each county

1 shall have the power and may levy, assess and collect a tax on  
2 the earned income and net profits of resident taxpayers of the  
3 county up to a maximum rate of 0.5% in increments of 0.25% of  
4 1%. Any county which imposes a tax under this paragraph may not  
5 impose a tax under section 322.

6 Section 332. Collections.

7 Any county imposing a tax under section 331 shall designate  
8 the tax officer who is appointed under section 10 of the Local  
9 Tax Enabling Act, or otherwise by law, as the collector of the  
10 earned income and net profits tax. In the performance of the tax  
11 collection duties under this subchapter, the designated tax  
12 officer shall have all the same powers, rights, responsibilities  
13 and duties for the collection of the taxes which may be imposed  
14 under the Local Tax Enabling Act or as otherwise provided by  
15 law.

16 Section 333. Rules and regulations.

17 Taxes imposed under section 331 will be subject to the rules  
18 and regulations pursuant to section 13 of the Local Tax Enabling  
19 Act.

20 Section 334. Procedure and administration.

21 The governing body of the county, in order to impose the tax  
22 authorized by section 331, shall adopt an ordinance which shall  
23 refer to this subchapter. Prior to adopting an ordinance  
24 imposing the tax authorized by section 331, the governing body  
25 shall give public notice of its intent to adopt the ordinance in  
26 the manner provided by section 4 of the Local Tax Enabling Act,  
27 and shall conduct at least one public hearing regarding the  
28 proposed adoption of the ordinance.

29 CHAPTER 5

30 CREDITS, EXEMPTIONS AND DEFERRALS



1 Section 501. Credits.

2 The provisions of section 14 of the Local Tax Enabling Act  
3 shall be used to determine any credits under the provisions of  
4 this act for any tax imposed under section 322.

5 Section 502. Low-income tax provisions.

6 The provisions of section 304 of the Tax Reform Code shall be  
7 applied by any county which levies a tax under section 322 to  
8 any qualified individual.

9 Section 503. Regulations.

10 Each county may adopt regulations for the processing of  
11 claims under sections 501 and 502.

12 CHAPTER 7

13 DISPOSITION OF TAX REVENUES

14 Section 701. Sales tax revenues.

15 (a) Counties.--One hundred percent of any additional  
16 revenues received by a county from the sales and use tax shall  
17 be used to offset the revenues lost as a result of the  
18 prohibition against imposition of the taxes enumerated in  
19 section 301(b) and then to reduce the county real property tax  
20 by means of a homestead exemption.

21 (b) Municipalities and school districts.--

22 (1) One hundred percent of any additional revenues shall  
23 be used to reduce the taxes listed in paragraph (2) and then  
24 to reduce the real property tax by means of a homestead  
25 exemption.

26 (2) The taxes which shall be reduced under this  
27 subsection are as follows:

28 (i) A tax based upon a flat rate or on a millage  
29 rate on an assessed valuation of a particular trade,  
30 occupation or profession, commonly known as an occupation

1 tax.

2 (ii) A tax at a set or flat rate upon persons  
3 employed within the taxing district, commonly known as an  
4 occupational privilege tax.

5 (iii) A per capita, poll, residence or similar head  
6 tax.

7 Section 702. Personal income tax revenues.

8 One hundred percent of any additional revenues from the  
9 personal income tax shall be used to offset the lost revenues  
10 from the taxes prohibited under section 301(b) and then to  
11 reduce the county real property tax by means of a homestead  
12 exemption.

13 Section 703. Revenue limitation exceptions.

14 The limitations relating to the reduction or elimination of  
15 taxes in sections 701 and 702 may be waived, but only to the  
16 degree necessary, in the following cases:

17 (1) If an increase in local expenditures is necessary to  
18 respond to or recover from an emergency or disaster declared  
19 by the Governor.

20 (2) If the political subdivision is required to  
21 implement a court decision.

22 (3) To pay interest and principal on any indebtedness  
23 incurred under the provisions of 53 Pa.C.S. Pt. VII Subpt. B  
24 (relating to indebtedness and borrowing).

25 (4) To pay increases in pension fund requirements which  
26 are in excess of the annual average increase over the  
27 immediately preceding five fiscal years.

28 (5) To respond to a county declared to be distressed  
29 under the act of July 10, 1987 (P.L.246, No.47), known as the  
30 Municipalities Financial Recovery Act.

(6) To increase revenues when actual revenues decline from the immediately preceding year, but only to the extent of the revenue decline.

(7) If the increase does not exceed the limitations on millage rates for real property under the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or the act of August 9, 1955 (P.L.323, No.1307), known as The County Code.

(8) To respond to a Federal or State statute, regulation or order adding to or significantly altering responsibilities and duties or requiring expenditure of funds to the extent not funded by the Federal or State Government. This provision shall apply only to a Federal or State statute, regulation or order taking effect after the effective date of this act.

(9) To increase revenue equal to the percentage increase in the Statewide average weekly wage from the immediately preceding year or 5%, whichever is less.

## CHAPTER 9

## REGISTER FOR CERTAIN TAXES

## Section 901. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Department." The Department of Community and Economic Development of the Commonwealth or any successor agency.

Section 902. Register for taxes under this act.

(a) General rule.--It shall be the duty of the department to have available an official continuing register supplemented annually of all sales and use, personal income and earned income and net profits taxes levied under this act.

(b) Contents of register.--The register and its supplements shall list:

(1) The counties levying a personal income tax, sales and use tax or earned income and net profits tax.

(2) The rate of tax as stated in the ordinance levying the tax.

(3) The rate on taxpayers.

(4) The name and address of the tax officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available.

Section 903. Information for register.

Information for the register shall be furnished by the chief clerk or secretary of each county to the department in such manner and on such forms as the department may prescribe. The information must be received by the department by certified mail no later than May 31 of each year to show new tax enactments, repeals and changes. Failure to comply with this date for filing may result in the omission of the tax levy from the register for that year. Failure of the department to receive information of taxes continued without change may be construed by the department to mean that the information contained in the previous register remains in force.

Section 904. Availability and effective period of register.

The department shall have the register, with such annual supplements as may be required by new tax enactments, repeals or changes, available upon request no later than July 1 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

1 Section 905. Effect of nonfiling.

2 Employers shall not be required by any ordinance to withhold  
3 from the compensation of their employees any personal income tax  
4 imposed under the provisions of this act which is not listed in  
5 the register or to make reports of compensation in connection  
6 with taxes not so listed. If the register is not available by  
7 July 1, the register of the previous year shall continue  
8 temporarily in effect for an additional period of not more than  
9 one year.

10 Section 906. Effect of chapter on liability of taxpayer.

11 The provisions of this chapter shall not affect the liability  
12 of any taxpayer for taxes lawfully imposed under this act.

13 CHAPTER 11

14 REAL ESTATE TAX DEFERRAL

15 Section 1101. Short title of chapter.

16 This chapter shall be known and may be cited as the Real  
17 Estate Tax Deferment Program Act.

18 Section 1102. Findings and legislative intent.

19 (a) Findings.--The General Assembly finds as follows:

20 (1) Many tax jurisdictions are forced into an increasing  
21 reliance on the real property tax.

22 (2) The high level of real property taxes in some taxing  
23 jurisdictions makes it difficult for many individuals to keep  
24 a home.

25 (3) The high level of real property taxes in many taxing  
26 jurisdictions creates a tremendous hardship on many  
27 taxpayers, especially those on fixed incomes.

28 (4) When counties conduct countywide reassessments, many  
29 taxpayers experience substantial increases in their real  
30 property taxes.

1 (b) Intent.--It is the intent of the General Assembly to  
2 provide relief to residential property owners from tax increases  
3 caused by changes in the millage rate, or assessment rates or  
4 method or by a countywide reassessment. It is the further intent  
5 of the General Assembly to create a program which will allow  
6 counties, municipalities and school districts to defer the  
7 increased portion of real property taxes when certain conditions  
8 are met.

9 Section 1103. Definitions.

10 The following words and phrases when used in this chapter  
11 shall have the meanings given to them in this section unless the  
12 context clearly indicates otherwise:

13 "Base payment." The amount of property tax paid by an  
14 applicant in the base year.

15 "Base year." The tax year preceding the first tax year for  
16 which a taxing authority implements the provisions of this  
17 subchapter or the tax year immediately preceding an applicant's  
18 entry into the tax deferral program.

19 "Claimant." A person who qualifies as a claimant under the  
20 provisions of the act of March 11, 1971 (P.L.104, No.3), known  
21 as the Senior Citizens Rebate and Assistance Act, whether or not  
22 a claim is filed under that act and whose household income does  
23 not exceed the limit provided for in section 1105.

24 "Homestead." Real property which qualifies as a homestead  
25 under the provisions of the act of March 11, 1971 (P.L.104,  
26 No.3), known as the Senior Citizens Rebate and Assistance Act,  
27 except real property which is rented or leased to a claimant.

28 "Household income." All income as defined in the act of  
29 March 11, 1971 (P.L.104, No.3), known as the Senior Citizens  
30 Rebate and Assistance Act, received by the claimant and by the

claimant's spouse while residing in the homestead during the calendar year for which a tax deferral is claimed.

"Increases in property taxes." An increase in the property tax above the base payment, resulting from a millage increase, a change in the assessment ratio or method, or any other reason.

"Taxing authority." A county, city, borough, town, township and school district that has elected to participate under this act in accordance with section 303.

Section 1104. Authority.

All taxing authorities shall have the power and authority to grant annual tax deferrals in the manner provided in this chapter.

Section 1105. Income eligibility.

(a) First year of enactment.--During the first calendar year this chapter takes effect, a person shall be eligible for a tax deferral if the person has a household income of \$15,000 or less.

(b) Subsequent years.--The amount of household income provided for in subsection (a) shall be increased \$500 each calendar year following the calendar year this chapter takes effect.

Section 1106. Tax deferral.

(a) Amount.--An annual real estate tax deferral granted under this chapter shall equal the increase in real property taxes in excess of the person's base payment.

(b) Prohibition.--No tax deferrals shall be granted if the total amount of deferred taxes, plus the total amount of all other unsatisfied liens on the homestead of the claimant, exceeds 85% of the market value of the homestead or if the outstanding principal on any and all mortgages on the homestead

1 exceeds 70% of the market value of the homestead. Market value  
2 shall equal assessed value divided by the common level ratio as  
3 most recently determined by the State Tax Equalization Board for  
4 the county in which the property is located.

5 Section 1107. Application procedure.

6 (a) Initial application.--Any person eligible for a tax  
7 deferral under this chapter may apply annually to the taxing  
8 authority. In the initial year of application, the following  
9 information shall be provided in the manner required by the  
10 taxing authority:

11 (1) A statement of request for the tax deferral.

12 (2) A certification that the applicant or the applicant  
13 and his or her spouse jointly are the owners in fee simple  
14 and residents of the property upon which the real property  
15 taxes are imposed.

16 (3) A certification that the applicant's residence is  
17 adequately insured under a homeowner's policy to the extent  
18 of all outstanding liens.

19 (4) Receipts showing timely payment of the current  
20 year's nondeferred real property tax liability.

21 (5) Proof of income eligibility under section 1105.

22 (b) Subsequent years.--After the initial entry into the  
23 program, a claimant shall remain eligible for tax deferral in  
24 subsequent years so long as the claimant continues to meet the  
25 eligibility requirements of this chapter.

26 Section 1108. Contents of application.

27 Any application for a tax deferral distributed to persons  
28 shall contain the following:

29 (1) A statement that the tax deferral granted under this  
30 chapter is provided in exchange for a lien against the



homestead of the applicant.

(2) An explanation of the manner in which the deferred taxes shall become due, payable and delinquent and include, at a minimum, the consequences of noncompliance with the provisions of this chapter.

Section 1109. Attachment and satisfaction of liens.

(a) Nature of lien.--All taxes deferred under this chapter shall constitute a prior lien on the homestead of the claimant in favor of the taxing authority and shall attach as of the date and in the same manner as other liens for taxes. The deferred taxes shall be collected as other liens for taxes, but the deferred taxes shall be due, payable and delinquent only as provided in subsection (b), and no interest shall be collected on the lien.

(b) Payment.--

(1) All or part of the deferred taxes may at any time be paid to the taxing authority.

(2) In the event that the deferred taxes are not paid by the claimant or the claimant's spouse during his or her lifetime or during their continued ownership of the property, the deferred taxes shall be paid either:

(i) prior to the conveyance of the property to any third party; or

(ii) prior to the passing of the legal or equitable title, either by will or by statute, to the heirs of the claimant or the claimant's spouse.

(3) The surviving spouse of a claimant shall not be required to pay the deferred taxes by reason of his or her acquisition of the property due to death of the claimant as long as the surviving spouse maintains his or her residence

1 in the property. The surviving spouse may continue to  
2 participate in the tax deferral program in subsequent years  
3 provided he or she is eligible under the provisions of this  
4 chapter.

5 CHAPTER 13

6 MISCELLANEOUS PROVISIONS

7 Section 1301. Effective date.

8 This act shall take effect January 1, 1998.