

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2405 Session of  
2000

INTRODUCED BY PIPPY, BOYES, TRELLO, BARRAR, FRANKEL, GANNON,  
HASAY, ORIE, RAYMOND, ROSS, STETLER AND WILT, MARCH 16, 2000

REFERRED TO COMMITTEE ON FINANCE, MARCH 16, 2000

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," further defining "domestic entity" and "foreign  
11 entity"; and adding a definition for purposes of capital  
12 stock and franchise taxes.

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

15 Section 1. The definitions of "domestic entity" and "foreign  
16 entity" in section 601 of the act of March 4, 1971 (P.L.6,  
17 No.2), known as the Tax Reform Code of 1971, amended May 12,  
18 1999 (P.L.26, No.4), are amended and the section is amended by  
19 adding a definition to read:

20 Section 601. Definitions and Reports.--(a) The following  
21 words, terms and phrases when used in this Article VI shall have  
22 the meaning ascribed to them in this section, except where the  
23 context clearly indicates a different meaning:

1       \* \* \*

2       "Domestic entity." Every corporation organized or  
3   incorporated by or under any laws of the Commonwealth, other  
4   than corporations of the first class and cooperative  
5   agricultural associations not having capital stock and not  
6   conducted for profit, banks, savings institutions, title  
7   insurance or trust companies, building and loan associations and  
8   insurance companies is a domestic entity. The term "domestic  
9   entity" shall not include:

10       (1) Any domestic or foreign business trust that qualifies as  
11   a real estate investment trust under section 856 of the Internal  
12   Revenue Code or a qualified real estate investment trust  
13   subsidiary under section 856(i) of the Internal Revenue Code or  
14   any related domestic or foreign business trust which confines  
15   its activities in this Commonwealth to the maintenance,  
16   administration and management of intangible investments and  
17   activities of real estate investment trusts or qualified real  
18   estate investment trust subsidiaries. A qualified real estate  
19   investment trust subsidiary under section 856(i) of the Internal  
20   Revenue Code shall be treated as part of the real estate  
21   investment trust that owns all of the stock of the qualified  
22   real estate investment trust subsidiary.

23       (2) Any domestic or foreign business trust that qualifies as  
24   a regulated investment company under section 851 of the Internal  
25   Revenue Code and is registered with the United States Securities  
26   and Exchange Commission under the Investment Company Act of 1940  
27   or any related domestic or foreign business trust which confines  
28   its activities in this Commonwealth to the maintenance,  
29   administration and management of intangible investments and  
30   activities of regulated investment companies.

1 (3) Any corporation, trust or other entity that is an exempt  
2 organization as defined by section 501 of the Internal Revenue  
3 Code of 1986 (Public Law 99-514, 26 U.S.C. § 501).

4 (4) Any corporation, trust or other entity organized as a  
5 not-for-profit under the laws of this Commonwealth or the laws  
6 of any other state that:

7 (i) would qualify as an exempt organization as defined by  
8 section 501 of the Internal Revenue Code of 1986;

9 (ii) would qualify as a homeowners association as defined by  
10 section 528(c) of the Internal Revenue Code of 1986 (26 U.S.C. §  
11 528(c)); or

12 (iii) is a membership organization subject to the Federal  
13 limitations on deductions from taxable income under section 277  
14 of the Internal Revenue Code of 1986 (26 U.S.C. § 277) but only  
15 if no pecuniary gain or profit inures to any member or related  
16 entity from the membership organization.

17 (5) Any investment trust.

18 \* \* \*

19 "Foreign entity." Every corporation incorporated or  
20 organized by or under the laws of any jurisdiction other than  
21 the Commonwealth, and doing business in and liable to taxation  
22 within the Commonwealth or carrying on activities in the  
23 Commonwealth, including solicitation or either owning or having  
24 capital or property employed or used in the Commonwealth by or  
25 in the name of any limited partnership or joint-stock  
26 association, copartnership or copartnerships, person or persons,  
27 or in any other manner doing business within and liable to  
28 taxation within the Commonwealth other than banks, savings  
29 institutions, title insurance or trust companies, building and  
30 loan associations and insurance companies is a foreign entity.

1 The term "foreign entity" shall not include:

2 (1) Any domestic or foreign business trust that qualifies as  
3 a real estate investment trust under section 856 of the Internal  
4 Revenue Code or a qualified real estate investment trust  
5 subsidiary under section 856(i) of the Internal Revenue Code or  
6 any related domestic or foreign business trust which confines  
7 its activities in this Commonwealth to the maintenance,  
8 administration and management of intangible investments and  
9 activities of real estate investment trusts or qualified real  
10 estate investment trust subsidiaries. A qualified real estate  
11 investment trust subsidiary under section 856(i) of the Internal  
12 Revenue Code shall be treated as part of the real estate  
13 investment trust that owns all of the stock of the qualified  
14 real estate investment trust subsidiary.

15 (2) Any domestic or foreign business trust that qualifies as  
16 a regulated investment company under section 851 of the Internal  
17 Revenue Code and is registered with the United States Securities  
18 and Exchange Commission under the Investment Company Act of 1940  
19 or any related domestic or foreign business trust which confines  
20 its activities in this Commonwealth to the maintenance,  
21 administration and management of intangible investments and  
22 activities of regulated investment companies.

23 (3) Any corporation, trust or other entity that is an exempt  
24 organization as defined by section 501 of the Internal Revenue  
25 Code of 1986.

26 (4) Any corporation, trust or other entity organized as a  
27 not-for-profit under the laws of this Commonwealth or the laws  
28 of any other state that:

29 (i) would qualify as an exempt organization as defined by  
30 section 501 of the Internal Revenue Code of 1986;

(ii) would qualify as a homeowners association as defined by section 528(c) of the Internal Revenue Code of 1986; or

(iii) is a membership organization subject to the Federal limitations on deductions from taxable income under section 277 of the Internal Revenue Code of 1986 but only if no pecuniary gain or profit inures to any member or related entity from the membership organization.

(5) Any investment trust.

\* \* \*

"Investment trust." A trust created for the purpose of protecting and conserving a fixed portfolio of assets and which is taxed as a partnership for Federal income tax purposes as described under Treasury regulation section 301.7701-4(c) and any successor thereto.

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