

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1028 Session of 2011

INTRODUCED BY PERRY, BOYD, COX, CREIGHTON, CUTLER, GILLEN,
SCHRODER, SWANGER AND TALLMAN, MARCH 14, 2011

REFERRED TO COMMITTEE ON FINANCE, MARCH 14, 2011

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," in personal income tax, further providing for
11 definitions.

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

14 Section 1. Section 301(d) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 July 7, 2005 (P.L.149, No.40), is amended to read:

17 Section 301. Definitions.--Any reference in this article to
18 the Internal Revenue Code of 1986 shall mean the Internal
19 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),
20 as amended to January 1, 1997, unless the reference contains the
21 phrase "as amended" and refers to no other date, in which case
22 the reference shall be to the Internal Revenue Code of 1986 as

1 it exists as of the time of application of this article. The
2 following words, terms and phrases when used in this article
3 shall have the meaning ascribed to them in this section except
4 where the context clearly indicates a different meaning:

5 * * *

6 (d) "Compensation" means and shall include salaries, wages,
7 commissions, bonuses and incentive payments whether based on
8 profits or otherwise, fees, tips and similar remuneration
9 received for services rendered, whether directly or through an
10 agent, and whether in cash or in property. The term
11 "compensation" shall include any part of a distribution under a
12 plan described in section 409A(d)(1) of the Internal Revenue
13 Code of 1986 (Public Law 99-514, 26 U.S.C. § 409A(d)(1)), as
14 amended, attributable to an elective deferral of income or the
15 income on any elective deferral of income, whether paid or
16 payable during employment or to a retired person upon or after
17 retirement from service.

18 The term "compensation" shall not mean or include: (i)
19 periodic payments for sickness and disability other than regular
20 wages received during a period of sickness or disability; or
21 (ii) disability, retirement or other payments arising under
22 workmen's compensation acts, occupational disease acts and
23 similar legislation by any government; or (iii) payments
24 commonly recognized as old age or retirement benefits paid to
25 persons retired from service after reaching a specific age or
26 after a stated period of employment; or (iv) payments commonly
27 known as public assistance, or unemployment compensation
28 payments by any governmental agency; or (v) payments to
29 reimburse actual expenses, and for the purposes of this
30 paragraph, actual expenses shall not include union dues; or (vi)

1 payments made by employers or labor unions, including payments
2 made pursuant to a cafeteria plan qualifying under section 125
3 of the Internal Revenue Code of 1986 (Public Law 99-514, 26
4 U.S.C. § 125), for employe benefit programs covering
5 hospitalization, sickness, disability or death, supplemental
6 unemployment benefits or strike benefits: Provided, That the
7 program does not discriminate in favor of highly compensated
8 individuals as to eligibility to participate, payments or
9 program benefits; or (vii) any compensation received by United
10 States servicemen serving in a combat zone; or (viii) payments
11 received by a foster parent for in-home care of foster children
12 from an agency of the Commonwealth or a political subdivision
13 thereof or an organization exempt from Federal tax under section
14 501(c)(3) of the Internal Revenue Code of 1954 which is licensed
15 by the Commonwealth or a political subdivision thereof as a
16 placement agency; or (ix) payments made by employers or labor
17 unions for employe benefit programs covering social security or
18 retirement; or (x) personal use of an employer's owned or leased
19 property or of employer-provided services.

20 * * *

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