
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1189 Session of
2013

INTRODUCED BY GROVE, STEPHENS, SAYLOR, GREINER, AUMENT, HELM,
GINGRICH, CUTLER, MARSICO, TALLMAN, ROCK, MICOZZIE, METCALFE,
REGAN, HICKERNELL, EVANKOVICH, DUNBAR, VEREB, HAHN, WATSON
AND TOOHL, APRIL 15, 2013

REFERRED TO COMMITTEE ON FINANCE, APRIL 15, 2013

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 employes 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 providing for optional property tax elimination.

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

25 Section 1. The act of December 31, 1965 (P.L.1257, No.511),
26 known as The Local Tax Enabling Act, is amended by adding a
27 chapter to read:

1 Section 603. Preemption.

2 No act of the General Assembly may vacate or preempt any
3 resolution passed or adopted under the authority of this
4 chapter, or any other act, providing authority for the
5 imposition of an elimination tax by a school district, unless
6 the act of the General Assembly expressly vacates or preempts
7 the authority to pass or adopt resolutions.

8 Section 604. Real property tax replacement.

9 A school district that levies a tax on real property may
10 reduce or eliminate the revenues provided by the real property
11 tax by imposing the elimination tax as provided under this
12 chapter.

13 Section 605. Resolution required.

14 The board of school directors may impose or increase the
15 maximum limits of the elimination tax by adopting a resolution.
16 Prior to approving the resolution, the board of school directors
17 shall:

18 (1) Give public notice of its intent to adopt the
19 resolution in the manner provided under section 306.

20 (2) Conduct at least one public hearing regarding
21 reducing or eliminating the tax on real property and imposing
22 or increasing the maximum rate of the elimination tax.

23 Section 606. Use of funds.

24 All funds generated from an elimination tax shall be used to
25 directly reduce or eliminate school district real property tax
26 millage rates.

27 Section 607. Elimination tax rate limits.

28 (a) Limit.--If a school district has reduced property tax
29 millage rates to zero, a board of school directors may not
30 increase the elimination tax for the support of public schools

1 by more than the index unless there is compliance with section
2 333 of the Taxpayer Relief Act.

3 (b) Maximum rate.--The maximum rate of the elimination tax
4 calculated under this chapter shall not be subject to the limits
5 on the earned income tax specified under section 311(3).

6 Section 608. Exemption.

7 A school district that imposes an elimination tax may exempt
8 from the payment of that tax any person whose total income from
9 all sources is less than \$12,000.

10 Section 609. Collections.

11 (a) Earned income and net profits.--An elimination tax on
12 earned income and net profits shall be subject to Chapters 5 and
13 7.

14 (b) Mercantile tax or a business privilege tax.--A
15 mercantile tax or a business privilege tax imposed under this
16 chapter shall be subject to section 613.

17 Section 610. Credits.

18 (a) Credit.--Except as provided under subsection (b), the
19 provisions of section 317 shall be applied by a board of school
20 directors to determine any credits applicable to an elimination
21 tax.

22 (b) Limitation.--Payment of a tax on earned income and net
23 profits to any state other than Pennsylvania or to any political
24 subdivision located outside the boundaries of this Commonwealth
25 by a resident of a school district located in this Commonwealth
26 shall not be credited to and allowed as a deduction from the
27 liability of the person for an elimination tax imposed by the
28 school district of residence.

29 Section 611. Real property tax prohibited.

30 (a) Prohibition.--For the first fiscal year beginning after

1 the adoption of a resolution that eliminates real property tax
2 millage rates and each fiscal year thereafter, a school district
3 shall be prohibited from levying, assessing or collecting a real
4 property tax.

5 (b) Applicability.--This section shall not apply to the
6 collection of delinquent real property taxes.

7 Section 612. Applicability of personal income tax.

8 Nothing under this chapter shall be construed to authorize a
9 school district to levy, assess or collect a personal income
10 tax.

11 Section 613. Mercantile or business privilege tax.

12 (a) Wholesale dealers.--Each school district shall have the
13 power and may levy, assess and collect a tax on each dollar of
14 the whole volume of business transacted by wholesale dealers in
15 goods, wares and merchandise.

16 (b) Retail sales.--Each school district shall have the power
17 and may levy, assess and collect a tax on each dollar of sales
18 by:

19 (1) Retail dealers in goods, wares and merchandise,
20 including proprietors of restaurants or other places where
21 food, drink and refreshments are served.

22 (2) Providers of services.

23 (c) Transactions partially free of tax.--No tax shall be
24 levied on the dollar volume of business transacted by wholesale
25 and retail dealers derived from the resale of goods, wares and
26 merchandise, taken by any dealer as a trade-in or as part
27 payment for other goods, wares and merchandise, except to the
28 extent that the resale price exceeds the trade-in allowance.

29 Section 614. Exclusions from tax.

30 A tax under section 613 may not be levied, assessed or

1 collected on:

2 (1) The gross receipts from utility service of any
3 person or company whose rates and services are fixed and
4 regulated by the Pennsylvania Public Utility Commission, on
5 any public utility services rendered by the person or
6 company, on any privilege or transaction involving the
7 rendering of the public utility service or on any Federal
8 Energy Regulation Commission-approved qualifying facility.

9 (2) Any of the following:

10 (i) Goods and articles manufactured in the school
11 district.

12 (ii) The by-products of manufacture.

13 (iii) Minerals, timber, natural resources and farm
14 products produced in the school district.

15 (iv) The preparation or processing of items under
16 subparagraph (iii) for use or market.

17 (v) Any privilege, act or transaction related to the
18 business of manufacturing, the production, preparation or
19 processing of minerals, timber and natural resources or
20 farm products, by manufacturers, by producers and by
21 farmers with respect to the goods, articles and products
22 of their own manufacture, production or growth.

23 (vi) Any privilege, act or transaction relating to
24 the business of processing by-products of manufacture.

25 (vii) The transportation, loading, unloading or
26 dumping or storage of goods, articles, products or by-
27 products under this paragraph, except that school
28 districts may levy, assess and collect taxes on a person
29 using municipal services and the personal income of
30 natural persons engaged in these activities whether doing

1 business as an individual proprietorship or as members of
2 partnerships or other associations.

3 (3) Gross receipts or part of gross receipts which are:

4 (i) Discounts allowed to purchasers as cash
5 discounts for prompt payment of their bills.

6 (ii) Charges advanced by a seller for freight,
7 delivery or other transportation for the purchaser in
8 accordance with the terms of a contract of sale.

9 (iii) Received upon the sale of an article of
10 personal property which was acquired by the seller as a
11 trade-in to the extent that the gross receipts in the
12 sale of the article taken in trade does not exceed the
13 amount of trade-in allowance made in acquiring the
14 article.

15 (iv) Refunds, credits or allowances given to a
16 purchaser on account of defects in goods sold or
17 merchandise returned.

18 (v) Pennsylvania sales tax and any sales tax, use
19 tax and occupancy tax imposed under law.

20 (vi) Based on the value of exchanges or transfers
21 between one seller and another seller who transfers
22 property with the understanding that property of an
23 identical description will be returned at a subsequent
24 date, except that if sellers engaged in similar lines of
25 business exchange property and one of them makes payment
26 to the other in addition to the property exchanged, the
27 additional payment received may be included in the gross
28 receipts of the seller receiving such additional cash
29 payments.

30 (vii) Receipts of sellers from sales to other

1 sellers in the same line where the seller transfers the
2 title or possession at the same price for which the
3 seller acquired the merchandise.

4 (viii) Transfers between one department, branch or
5 division of a corporation or other business entity of
6 goods, wares and merchandise to another department,
7 branch or division of the same corporation or business
8 entity and which are recorded on the books to reflect
9 such interdepartmental transactions.

10 (ix) Transfers attributable to activities occurring
11 outside the taxing authority. Gross receipts shall be
12 attributed to the jurisdiction in which the activities
13 generating the receipts occur.

14 (4) The gross receipts of:

15 (i) Any bank, bank and trust company, private bank,
16 savings bank or trust company, as defined in the act of
17 November 30, 1965 (P.L.847, No.356), known as the Banking
18 Code of 1965.

19 (ii) Any other institution or entity subject to the
20 supervision of the Department of Banking under section
21 201 of the act of May 15, 1933 (P.L.565, No.111), known
22 as the Department of Banking Code.

23 (iii) Any national bank.

24 (iv) Any similar institution or entity established
25 pursuant to Federal law or the law of any state.

26 (5) The gross receipts of any distributor or importing
27 distributor of malt or brewed beverages subject to licensure
28 under the act of April 12, 1951 (P.L.90, No.21), known as the
29 Liquor Code.

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