

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,
TOOHIL, GABLER, MENTZER, TURZAI, R. MILLER, SNYDER, CARROLL,
HARHART, GERGELY AND SONNEY, APRIL 15, 2013

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, SEPTEMBER 23, 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 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 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

1 chapter to read:

2 CHAPTER 6

3 OPTIONAL PROPERTY TAX ELIMINATION

4 Section 601. Scope of chapter.

5 This chapter shall authorize a school district to levy,
6 assess and collect an elimination tax as a means of reducing or
7 eliminating property taxation.

8 Section 602. Definitions.

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

12 "Board of school directors." A board of school directors of
13 a school district of the first class A, second class, third
14 class or fourth class.

15 "Domicile." The term as defined in section 501.

16 "Earned income." The term as defined in section 501.

17 "Elimination tax." Any of the following:

18 (1) The tax levied by a school district on earned income
19 and net profits under this chapter.

20 (2) A mercantile tax imposed under section 613.

21 (3) A business privilege tax imposed under section 613.

22 "Index." The term as defined in section 302 of the Taxpayer
23 Relief Act.

24 "Net profits." The term as defined in section 501.

25 "Resident." The term as defined in section 501.

26 "School district." A school district of the first class A,
27 second class, third class or fourth class.

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

30 "Taxpayer Relief Act." The act of June 27, 2006 (1st

1 Sp.Sess., P.L.1873, No.1), known as the Taxpayer Relief Act.

2 Section 603. Preemption.

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

9 Section 604. Real property tax replacement.

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

14 Section 605. Resolution required.

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

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

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

24 Section 606. Use of funds.

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

28 Section 607. Elimination tax rate limits.

29 (a) Limit.--If a school district has reduced property tax
30 millage rates to zero, a board of school directors may not

increase the elimination tax for the support of public schools
by more than the index unless there is compliance with section
333 of the Taxpayer Relief Act.

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

(C) LIMIT.--THE RATE OF THE MERCANTILE OR BUSINESS PRIVILEGE <--
TAX IMPOSED UNDER SECTION 613 SHALL NOT GENERATE REVENUES IN
EXCESS OF 50% OF THE TOTAL ELIMINATION TAX REVENUES GENERATED
UNDER THIS CHAPTER.

Section 608. Exemption.

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

Section 609. Collections.

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

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

Section 610. Credits.

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

(b) Limitation.--Payment of a tax on earned income and net
profits to any state other than Pennsylvania or to any political
subdivision located outside the boundaries of this Commonwealth
by a resident of a school district located in this Commonwealth

shall not be credited to and allowed as a deduction from the liability of the person for an elimination tax imposed by the school district of residence.

Section 611. Real property tax prohibited.

(a) Prohibition.--For the first fiscal year beginning after the adoption of a resolution that eliminates real property tax millage rates and each fiscal year thereafter, a school district shall be prohibited from levying, assessing or collecting a real property tax.

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

Section 612. Applicability of personal income tax.

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

Section 613. Mercantile or business privilege tax.

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

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

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

(2) Providers of services.

(c) Transactions partially free of tax.--No tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and

merchandise, taken by any dealer as a trade-in or as part
payment for other goods, wares and merchandise, except to the
extent that the resale price exceeds the trade-in allowance.

Section 614. Exclusions from tax.

A tax under section 613 may not be levied, assessed or
collected on:

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

(2) Any of the following:

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

(ii) The by-products of manufacture.

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

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

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

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

(vii) The transportation, loading, unloading or

dumping or storage of goods, articles, products or by-
products under this paragraph, except that school
districts may levy, assess and collect taxes on a person
using municipal services and the personal income of
natural persons engaged in these activities whether doing
business as an individual proprietorship or as members of
partnerships or other associations.

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

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

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

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

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

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

(vi) Based on the value of exchanges or transfers
between one seller and another seller who transfers
property with the understanding that property of an
identical description will be returned at a subsequent
date, except that if sellers engaged in similar lines of
business exchange property and one of them makes payment

1 to the other in addition to the property exchanged, the
2 additional payment received may be included in the gross
3 receipts of the seller receiving such additional cash
4 payments.

5 (vii) Receipts of sellers from sales to other
6 sellers in the same line where the seller transfers the
7 title or possession at the same price for which the
8 seller acquired the merchandise.

9 (viii) Transfers between one department, branch or
10 division of a corporation or other business entity of
11 goods, wares and merchandise to another department,
12 branch or division of the same corporation or business
13 entity and which are recorded on the books to reflect
14 such interdepartmental transactions.

15 (ix) Transfers attributable to activities occurring
16 outside the taxing authority. Gross receipts shall be
17 attributed to the jurisdiction in which the activities
18 generating the receipts occur.

19 (4) The gross receipts of:

20 (i) Any bank, bank and trust company, private bank,
21 savings bank or trust company, as defined in the act of
22 November 30, 1965 (P.L.847, No.356), known as the Banking
23 Code of 1965.

24 (ii) Any other institution or entity subject to the
25 supervision of the Department of Banking under section
26 201 of the act of May 15, 1933 (P.L.565, No.111), known
27 as the Department of Banking Code.

28 (iii) Any national bank.

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

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

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