

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 103

Session of
1977

INTRODUCED BY MESSRS. MORRIS, YAHNER, THOMAS, FRYER, ZELLER,
CASSIDY, KLINGAMAN, W. W. FOSTER, SHUMAN, MADIGAN,
D. R. WRIGHT, STAIRS, DeVERTER, WENGER, STUBAN, GRIECO,
BROWN, CALTAGIRONE, COLE, BURD AND WILT, FEBRUARY 8, 1977

AS REPORTED FROM COMMITTEE ON AGRICULTURE AND RURAL AFFAIRS,
HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 30, 1978

AN ACT

1 Amending the act of June 15, 1961 (P.L.373, No.207), entitled
2 "An act providing for the imposition of certain taxes upon
3 the transfer of property passing from a decedent who was a
4 resident of the Commonwealth at the time of his death or
5 presumed death and of property having its situs in the
6 Commonwealth of a decedent who was a nonresident of the
7 Commonwealth at the time of his death or presumed death;
8 imposing additional taxes to equal Federal Estate Tax
9 Credits; defining and taxing certain transfers made in
10 contemplation of death, or to take effect in possession or
11 enjoyment at or after death; defining as a transfer and
12 taxing the right of survivorship in certain property as to
13 which such right exists; defining and exempting from tax,
14 transfers to certain persons or for certain purposes or of
15 certain property; providing for the valuation of property and
16 interests in property, the transfer of which is subject to
17 tax; defining and allowing deductions from the value of
18 property, the transfer of which is subject to tax; providing
19 for the persons ultimately liable for taxes in the absence of
20 a direction by the decedent to the contrary; providing for
21 the reporting of transfers and collection of taxes; imposing
22 penalties upon banks or other financial institutions for
23 failure to give notice to the Department of Revenue of the
24 death of a party to a joint or trust deposit therein and upon
25 persons who fail to file tax returns and documents; providing
26 for the compromise of taxes in the case of alleged
27 nonresidents of the Commonwealth; making it unlawful for any
28 person to make a false return or report; providing for liens
29 upon real property, the transfer of which is subject to tax,
30 and release thereof; authorizing the Secretary of Revenue to
31 bring suits in other jurisdictions for the collection of

1 taxes, and authorizing officials of other jurisdictions to
2 bring suits in the Commonwealth for the collection of death
3 taxes imposed by their jurisdictions; providing for the
4 refund of taxes to which the Commonwealth is not rightfully
5 or equitably entitled; providing for appeals and protests
6 from the imposition of taxes; regulating the entry into safe
7 deposit boxes of a decedent by certain persons, and providing
8 penalties; dealing with the jurisdiction, powers and
9 procedure of the orphans' court, Secretary of Revenue,
10 Department of Revenue, Attorney General, and register of
11 wills in matters relating to taxes; and citing certain acts
12 for repeal," providing for preferential valuation of land in
13 agricultural use OR agricultural reserve ~~and/or forest land~~ <—
14 use.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Clause (24) of section 102, act of June 15, 1961
18 (P.L.373, No.207), known as the "Inheritance and Estate Tax Act
19 of 1961," is amended to read:

20 Section 102. Definitions.--The following words, when used in
21 this act, unless the context clearly indicates otherwise, shall
22 have the meanings ascribed to them in this section:

23 * * *

24 (24) "Value," except as provided in subdivision (b) of
25 Article V, as to land in agricultural use OR agricultural <—
26 reserve use ~~or forest land use~~, value means the value which such <—
27 land has for its particular use according to the standards
28 provided in subdivision (b) of Article V, means the price at
29 which the property would be sold by a willing seller, not
30 compelled to sell, to a willing buyer, not compelled to buy,
31 both of whom have reasonable knowledge of the relevant facts.

32 Section 2. Article V of the act, is amended by adding a
33 subdivision heading to read:

34 ARTICLE V

35 Valuation

36 A. In General

1 Section 3. Article V of the act is amended by adding a
2 subdivision and sections to read:

3 ARTICLE V

4 Valuation

5 * * *

6 B. Valuation of Certain Farmland and Forest Land <—

7 Section 511. Definitions.--As used in this act, the
8 following words and phrases shall have the meanings ascribed to
9 them in this section unless the context obviously otherwise
10 requires:

11 "Agricultural commodity." Any and all plant and animal
12 products including Christmas trees produced in this State for
13 commercial purposes.

14 "Agricultural reserve." Noncommercial open space lands used
15 for outdoor recreation or the enjoyment of scenic or natural
16 beauty and open to the public for such use, without charge or
17 fee, on a nondiscriminatory basis.

18 "Agricultural use." Use of the land for the purpose of
19 producing an agricultural commodity or when devoted to and
20 meeting the requirements and qualifications for payments or
21 other compensation pursuant to a soil conservation program under
22 an agreement with an agency of the Federal Government.

23 ~~"Forest reserve." Land, ten acres or more, stocked by forest~~ <—
24 ~~trees of any size and capable of producing timber or other wood~~
25 ~~products.~~

26 Section 512. Land Devoted to Agricultural Use OR <—
27 Agricultural Reserve and/or Forest Reserve, Woodlots.-- <—

28 (a) The value for transfer inheritance tax purposes of land
29 or an interest in land which is owned by a decedent and devoted
30 to agricultural use OR agricultural reserve, and/or forest <—

reserve use shall be that value which such land has for its particular use if it also meets the following conditions:

(1) Land devoted to agricultural use: Such land was devoted to agricultural use the three years preceding the death of such decedent and is not less than ten contiguous acres in area or has an anticipated yearly gross income derived from agricultural use of two thousand dollars (\$2,000).

(2) Land devoted to agricultural reserve: Such land is not less than ten contiguous acres in area.

~~(3) Land devoted to forest reserve: Such land is not less than ten contiguous acres in area.~~

~~(4)~~ (3) The contiguous tract of land for which application is made is not less than the entire contiguous area of the owner used for agricultural use OR agricultural reserve or forest reserve purposes.

(b) In determining the value of land in agricultural use OR agricultural reserve use, or forest reserve use for its particular use, consideration shall be given to available evidence of such lands' capability for its particular use as derived from the soil survey at the Pennsylvania State University, the National Cooperative Soil Survey, the United States Census of Agricultural Categories of land use classes, and other evidence of the capability of the land devoted to such use, and also if the land is assessed under the provisions of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land and Assessment Act of 1974," to the valuation determined by the local county assessor thereunder.

Section 513. Imposition of Tax When Use Abandoned.--

(a) If any tract of land in agricultural use, or

1 agricultural reserve use ~~or forest reserve use~~ and which is <—
2 valued for Transfer Inheritance Tax purposes under the
3 provisions of this article, is applied to a use other than
4 agricultural, agricultural reserve ~~or forest reserve~~, or for any <—
5 other reason, except condemnation thereof, is removed from the
6 category of land preferentially valued under this article within
7 seven years following the death of such decedent, the owner at
8 such time the land is so removed shall be subject and liable to
9 tax due the Commonwealth in an amount equal to the difference,
10 if any, between the taxes paid or payable on the basis of the
11 valuation authorized hereunder and the taxes that would have
12 been paid or payable had that land been valued and taxed on the
13 basis of its market value at the death of such decedent, plus
14 interest thereon at the rate of six percent (6%) per annum for
15 the period from the date of death to the change of use.

16 (b) Such tax shall be a lien upon the property in favor of
17 the Commonwealth collectible in the manner provided by law for
18 the collection of delinquent real estate taxes, as well as the
19 personal obligation of the owner at the time of such change of
20 use. Such tax shall become due on the date of change of use.

21 (c) Every owner of land preferentially valued under this
22 article shall notify the register of wills of the county or
23 counties in which the land is located of any change or proposed
24 change in use thereof. Any owner failing to make such
25 notification shall be guilty of a misdemeanor and, on conviction
26 thereof, shall be sentenced to pay a fine not exceeding ten
27 thousand dollars (\$10,000) or undergo imprisonment not exceeding
28 one (1) year, or both.

29 Section 514. Separation or Split-off.--

30 (a) Separation or split-off of a part of the land which was

1 valued under this article, and taxed under this act, either by
2 conveyance or other action of the owner of such land for a use
3 other than agricultural or agricultural reserve ~~or forest~~ <—
4 reserve within the seven year period provided for by section
5 513, except when the separation occurs through condemnation,
6 shall subject the owner of the land so separated, and the entire
7 parcel from which the land was separated, to liability for tax
8 as otherwise set forth in this act except as provided in
9 subsection (b).

10 (b) The owner of property subject to a preferential tax
11 valuation may transfer land covered by the preferential tax
12 valuation within the seven year period: Provided, That the tract
13 of land so transferred shall not exceed two acres annually and
14 may only be used for residential OR agricultural, ~~or forest~~ <—
15 reserve use and the construction of a residential dwelling to be
16 occupied by the person to whom the land is transferred: And
17 further provided, That the total parcel or parcels of land so
18 transferred under the provisions of this subsection shall not
19 exceed ten percent (10%) or ten acres, whichever is lesser, of
20 the entire tract subject to the original preferential tax
21 valuation. The transfer of a parcel of land which meets the
22 requirements of this section shall not invalidate the
23 preferential tax valuation or incurs additional tax: Provided,
24 That the land retained by the landowner continues to meet the
25 minimum acreage or, if devoted to agricultural use, gross income
26 requirements established by this act.

27 SECTION 4. THE ACT IS AMENDED BY ADDING A SECTION TO READ: <—

28 SECTION 1001.1. FARMLAND APPEALS.--WHENEVER ANY APPEAL OR
29 PROTEST IS BROUGHT PURSUANT TO ARTICLE X AND THE SUBJECT MATTER
30 OF THE APPEAL CONCERNS THE VALUATION OF CERTAIN FARMLAND AS SET

1 FORTH IN ARTICLE V-B THE FORUM DESIGNATED BY THE DEPARTMENT TO
2 HEAR SUCH APPEAL OR PROTEST SHALL CONSIST OF AT LEAST TWO
3 FARMERS AND THE SECRETARY OF AGRICULTURE. THE SAID FARMERS AND
4 THE SECRETARY OF AGRICULTURE SHALL BE ACCORDED FULL POWERS
5 WITHIN THE FORUM WITH FULL VOTING RIGHTS.

6 Section 4 5. This act shall take effect immediately.

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