

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1271

Session of
1981

INTRODUCED BY MORRIS, ZWIKL, KUKOVICH, CALTAGIRONE,
D. R. WRIGHT, COCHRAN, PETRARCA AND LLOYD, APRIL 22, 1981

REFERRED TO COMMITTEE ON LOCAL GOVERNMENT, APRIL 22, 1981

AN ACT

1 Empowering certain political subdivisions to levy and collect a
2 tax on transfers of real estate, a municipal services tax and
3 a tax on certain income.

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9 The General Assembly of the Commonwealth of Pennsylvania
10 hereby enacts as follows:

11 CHAPTER 1

12 GENERAL PROVISIONS

13 Section 101. Short title.

14 This act shall be known and may be cited as the "Local Tax
15 Enabling Act."

16 Section 102. Definitions.

17 The following words and phrases when used in this act shall
18 have, unless the context clearly indicates otherwise, the
19 meanings given to them in this section:

20 "Local municipality." A city of the second class, second
21 class A or third class, a borough, an incorporated town or a
22 township.

23 "Municipality." A local municipality and a county, except a
24 county of the first class.

25 "Personal income." Income subject to the personal income tax
26 imposed pursuant to Article III of the act of March 4, 1971
27 (P.L.6, No.2) known as the "Tax Reform Code of 1971."

28 "Real property income." Net income derived by a taxpayer
29 from the ownership by such taxpayer of income-producing real
30 property located within the taxing body or net income derived by

1 a taxpayer from a business, trade or profession conducted on
2 real property owned by such taxpayer and located within the
3 taxing body.

4 "Taxing body." A political subdivision other than a county
5 of the first class, a city of the first class or a school
6 district of the first class.

7 Section 103. Application.

8 Unless otherwise provided herein, this act shall apply to all
9 political subdivisions except counties of the first class,
10 cities of the first class and school districts of the first
11 class.

12 Section 104. Replacement of taxes.

13 The tax on personal income and real property income and the
14 municipal services tax imposed under this act shall replace all
15 other taxes, except the real estate transfer tax, imposed under
16 the act of December 31, 1965 (P.L.1257, No.511), known as "The
17 Local Tax Enabling Act."

18 CHAPTER 2

19 SUBJECTS OF TAXATION

20 SUBCHAPTER A

21 REAL ESTATE TRANSFER TAX

22 Section 201. Authority to impose realty transfer tax; rate.

23 (a) A taxing body other than a county may levy a tax not
24 exceeding 1% upon the transfer of real property, or of any
25 interest in real property, situate within the political
26 subdivision levying and assessing the tax, regardless of where
27 the instruments making the transfer are made, executed or
28 delivered or where the actual settlements on such transfer take
29 place. Such taxing body may provide that the transferee shall
30 remain liable for any unpaid realty transfer taxes imposed by

1 virtue of this act.

2 (b) Such a taxing body shall not have authority to levy,
3 assess and collect or provide for the levying, assessment and
4 collection of any tax on the transfer of real property when the
5 transfer is:

6 (1) by will or mortgage or the intestate laws of this
7 Commonwealth;

8 (2) on a transfer by the owner of previously occupied
9 residential premises to a builder of new residential premises
10 when such previously occupied residential premises is taken
11 in trade by such builder as part of the consideration from
12 the purchaser of a new previously unoccupied single family
13 residential premise;

14 (3) on a transfer between corporations operating housing
15 projects pursuant to the housing and redevelopment assistance
16 law and the shareholders thereof;

17 (4) on a transfer between nonprofit industrial
18 development agencies and industrial corporations purchasing
19 from them;

20 (5) on transfer to nonprofit industrial development
21 agencies;

22 (6) on a transfer between husband and wife;

23 (7) on a transfer between persons who were previously
24 husband and wife but who have since been divorced when such
25 transfer is made within three months of the date of the
26 granting of the final decree in divorce and the property or
27 interest therein, subject to such transfer, was acquired by
28 the husband and wife, or husband or wife, prior to the
29 granting of the final decree in divorce;

30 (8) on a transfer between parent and child or the spouse

1 of such a child;

2 (9) between parent and trustee for the benefit of a
3 child or the spouse of such child;

4 (10) by and between a principal and straw party for the
5 purpose of placing a mortgage or ground rent upon the
6 premises;

7 (11) on a correctional deed without consideration;

8 (12) on a transfer to the United States, the
9 Commonwealth of Pennsylvania, or to any of their
10 instrumentalities, agencies or political subdivisions, by
11 gift, dedication or deed in lieu of condemnation, or deed of
12 confirmation in connection with condemnation proceedings, or
13 reconveyance by the condemning body of the property condemned
14 to the owner of record at the time of condemnation which
15 reconveyance may include property line adjustments provided
16 said reconveyance is made within one year from the date of
17 condemnation, leases, or on a conveyance to a trustee under a
18 recorded trust agreement for the express purpose of holding
19 title in trust as security for a debt contracted at the time
20 of the conveyance under which the trustee is not the lender
21 and requiring the trustee to make reconveyance to the
22 grantor-borrower upon the repayment of the debt;

23 (13) on a privilege, transaction, subject, occupation or
24 personal property which is now or does hereafter become
25 subject to a State tax or license fee.

26 (c) Such a taxing body may provide that the transferee shall
27 remain liable for any unpaid realty transfer tax.

28 SUBCHAPTER B

29 MUNICIPAL SERVICE TAX

30 Section 211. Authority to impose municipal service tax; rate.

1 (a) A local municipality may levy, assess or collect a
2 municipal services tax on individuals for the privilege of
3 engaging in an occupation, trade or profession in the
4 municipality. The tax may be levied, assessed and collected only
5 by the local municipality of the taxpayer's place of employment.

6 (b) Payment of any municipal services tax to a local
7 municipality by a person pursuant to an ordinance or resolution
8 passed or adopted under the authority of this act shall be
9 limited to \$25 on each person for each calendar year. No person
10 shall pay more than \$25 in any calendar year as municipal
11 services taxes irrespective of the number of local
12 municipalities within which such person may be employed within
13 any given calendar year. In case of dispute, a tax receipt of
14 the local municipality for that calendar year declaring that the
15 taxpayer has made prior payment constitutes prima facie
16 certification of payment to all other municipalities.

17 (c) The situs of the tax shall be the place of employment,
18 but, in the event a person is engaged in more than one
19 occupation, trade or profession or an occupation, trade or
20 profession which requires his working in more than one local
21 municipality during the calendar year, the priority of claim to
22 collect such municipal services tax shall be in the following
23 order: first, the local municipality in which a person maintains
24 his principal office or is principally employed; second, the
25 local municipality in which the person resides and works, if
26 such a tax is levied by that local municipality; third, the
27 local municipality in which a person is employed and which
28 imposes the tax nearest in miles to the person's home. The place
29 of employment shall be determined as of the day the taxpayer
30 becomes subject to the tax during the calendar year.

1 SUBCHAPTER C

2 PERSONAL AND REAL PROPERTY INCOME TAXES

3 Section 221. Authority to impose a personal income tax and a
4 real property income tax.

5 (a) A taxing body may levy a tax on the personal income of
6 natural persons residing in the taxing body.

7 (b) A taxing body may, in addition to the tax authorized by
8 subsection (a), levy a tax on the real property income of
9 corporations and nonresident natural persons.

10 (c) The tax as authorized by subsections (a) and (b) shall
11 be in partial replacement of taxes imposed on real property and
12 may, during the first year such taxes are levied, be fixed at a
13 combined rate that will produce revenue not exceeding 105% of
14 the revenue produced by other taxes including taxes imposed on
15 real property but not including the occupation privilege tax and
16 real property transfer tax, imposed the preceding year under the
17 act of December 31, 1965 (P.L.1257, No.511), known as "The Local
18 Tax Enabling Act."

19 (d) During the second and subsequent years, if the rates are
20 increased, the real property tax millage on all real property
21 shall be lowered sufficiently to reduce the estimated revenues
22 from the real property tax on such property by at least 95% of
23 the revenues estimated to be derived from the increase in rate.
24 The taxing body shall not thereafter increase its real property
25 tax millage on real property without lowering the rate of the
26 tax as imposed under subsections (a) and (b) sufficiently to
27 reduce the estimated revenues from such taxes by at least 105%
28 of the revenues estimated to be derived from the millage
29 increase on real property.

30 (e) Whenever a general reassessment, or a change in the

1 assessment ratio, affecting all real estate within a taxing body
2 which has imposed the taxes authorized by subsections (a) and
3 (b) and reduced the rate of tax on the real property, which
4 change in assessment or assessment ratio shall increase the
5 estimated revenues to be derived from the tax on the real
6 property the taxing body shall either lower its millage on such
7 real property sufficiently to reduce the estimated increase in
8 revenues from the tax on the real property by at least 100% or
9 lower the rate of the taxes imposed pursuant to subsections (a)
10 and (b) sufficiently to reduce the estimated revenues to be
11 derived therefrom by at least 100% of the estimated increase in
12 revenues from the tax on the real property, or such taxing body
13 may reduce the millage on the real property or the rates of
14 taxes imposed pursuant to subsections (a) and (b) in any
15 combination sufficient to keep the estimated total revenues from
16 all taxes at not more than 100% of the total revenues in the
17 prior tax year.

18 (f) A taxing body, during the time it imposes a tax on such
19 real estate may not impose or raise the taxes authorized by
20 subsections (a) and (b) without a commensurate reduction in
21 revenues from the tax on such real estate, and having imposed
22 the taxes authorized by subsections (a) and (b) may not
23 thereafter increase or receive the benefit of an increase in
24 revenues from the tax on such real estate without a commensurate
25 reduction in the taxes imposed pursuant to subsections (a) and
26 (b). A taxing body that has entirely removed the tax on such
27 real estate may, during the time no tax is levied thereon, fix a
28 rate on the taxes levied pursuant to subsections (a) and (b)
29 that will produce adequate revenue for the taxing body subject
30 only to the limitations provided in section 315.

1 (g) The taxes authorized by subsections (a) and (b) may be
2 imposed on income received during the calendar year beginning
3 January 1, 1982 and during taxpayers fiscal years beginning in
4 1982. The tax shall continue in force during subsequent calendar
5 or fiscal years without annual reenactment.

6 CHAPTER 3

7 ADMINISTRATIVE PROVISIONS

8 Section 301. Advertisement of intention to adopt tax ordinance
9 or resolution.

10 (a) Prior to the passage of any ordinance or the adoption of
11 any resolution imposing a tax, the taxing body shall give notice
12 of the intention to pass the ordinance or adopt such resolution.
13 The notice shall set forth the nature of the tax to be imposed,
14 and the amount of revenue estimated to be derived from the tax.
15 Publication of the notice shall be made by advertisement once a
16 week for three weeks in a newspaper of general circulation
17 within the taxing body if there is such a newspaper and, if
18 there is not, then publication shall be made in a newspaper of
19 general circulation within the county in which the advertising
20 taxing body is located.

21 (b) The tax shall continue in force on a calendar or fiscal
22 year basis, as the case may be, without annual reenactment
23 unless the rate of the tax is changed.

24 Section 302. Rate, amount, court approval; revision of budget.

25 (a) A tax imposed under this act shall not be subject to any
26 limitations under existing laws as to rate or amount or as to
27 the necessity of securing court approval or as to budgetary
28 requirements. Any local municipality imposing a municipal
29 services tax under this act may revise its budget during any
30 fiscal year by increasing or making additional appropriations

1 from funds to be provided from such tax.

2 (b) The ordinance or resolution may be passed or adopted
3 prior to the beginning of the fiscal year and prior to the
4 preparation of the budget when desirable.

5 Section 303. Appeals by taxpayers.

6 (a) A tax levied for the first time shall not go into effect
7 until 30 days from the time of the adoption of the ordinance or
8 resolution levying the tax. Within said 30 days, 25 or more
9 taxpayers of the taxing body aggrieved by the ordinance or
10 resolution shall have the right to appeal therefrom to the court
11 of common pleas of the county upon giving bond with security
12 approved by the court, in the amount of \$500, to prosecute the
13 appeal with effect and for the payment of costs. The petition
14 shall set forth the objections to the tax and the facts in
15 support of such objections, and shall be accompanied by the
16 affidavit of at least five of the petitioners that the averments
17 of the petition are true and the petition is not filed for the
18 purpose of delay.

19 (b) An appeal shall not act as a supersedeas unless
20 specifically allowed by judge of the court to which the appeal
21 is taken.

22 (c) Immediately upon the filing of a petition, the
23 petitioners shall serve a copy of the petition and any rule
24 granted by the court upon the president, chairman, secretary or
25 clerk of the taxing body levying the tax.

26 (d) The court shall fix a day for a hearing not less than 15
27 days nor more than 30 days after the filing of the petition.
28 Notice of the time of such hearing shall be given to all
29 interested parties as the court shall direct. The court shall
30 promptly hear and dispose of the appeal.

(e) It shall be the duty of the court to declare the ordinance and the tax imposed thereby to be valid unless it concludes that the ordinance is unlawful or finds that the tax imposed is excessive or unreasonable; but the court shall not interfere with the reasonable discretion of the taxing body in selecting the subjects or fixing the rates of the tax. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax.

Section 304. Filing of certified copies of ordinances and resolutions.

(a) Whenever an ordinance or a resolution is first passed or adopted under the authority of this act, an exact printed or typewritten copy thereof, certified to by the secretary of the taxing body, shall be filed with the Department of Community Affairs within 15 days after the same becomes effective.

(b) A secretary or person acting as the clerk or secretary of the taxing body of any political subdivision during the meeting at which an ordinance or resolution imposing a tax is passed or adopted as herein provided who shall fail to file the certified copy or statement relative thereto with the Department of Community Affairs as herein required, shall, upon summary conviction thereof in the county in which the political subdivision is located, be sentenced to pay a fine of not less than \$5 nor more than \$25, and the costs of prosecution.

Section 305. Register for the personal income tax.

(a) It shall be the duty of the Department of Community Affairs to have available an official continuing register supplemented annually of all income taxes levied under authority of this act. The register and its supplements, hereinafter referred to as the register, shall list such jurisdictions

1 levying income taxes, the rate of the tax as stated in the tax
2 levying ordinance or resolution, the name and address of the
3 officer responsible for administering the collection of the tax
4 and the name and address of the person from whom information,
5 forms for reporting and copies of rules and regulations are
6 available.

7 (b) Information for the register shall be furnished by the
8 secretary of each taxing body to the Department of Community
9 Affairs in such manner and on such forms as the Department of
10 Community Affairs may prescribe. The information must be
11 received by the Department of Community Affairs by certified
12 mail not later than May 31 of each year to show new tax
13 enactments, repeals and changes. Failure to comply with this
14 date for filing may result in the omission of the levy from the
15 register for that year. Failure of the Department of Community
16 Affairs to receive information of taxes continued without change
17 may be construed by the department to mean that the information
18 contained in the previous register remains in force.

19 (c) The Department of Community Affairs shall have the
20 register with such annual supplements as may be required by new
21 tax enactments, repeals or changes available upon request not
22 later than July 1 of each year. The effective period for each
23 register shall be from July 1 of the year in which it is issued
24 to June 30 of the following year.

25 (d) Employers shall not be required by any local ordinance
26 to withhold from the wages, salaries, commissions, compensation
27 or other income of their employees any tax imposed under the
28 provisions of this act, which is not listed in the register, or
29 make reports of wages, salaries, commissions or other
30 compensation in connection with taxes not so listed. If the

1 register is not available by July 1, the register of the
2 previous year shall continue temporarily in effect for an
3 additional period not to exceed one year. The provisions of this
4 section shall not affect the liability of any taxpayer for taxes
5 lawfully imposed under this act.

6 (e) Ordinances or resolutions imposing income taxes may
7 contain provisions requiring employers doing business within the
8 jurisdiction of the taxing body imposing the tax to withhold the
9 tax from the compensation of their employees who are subject to
10 the tax; but, no employer shall be held liable for failure to
11 withhold income taxes or for the incorrect payment of such
12 withheld tax money to a taxing body if the failure to withhold
13 or the incorrect transmittal of withheld taxes arises from
14 incorrect information as to the employee's place of residence
15 submitted by the employee.

16 Section 306. Collection of taxes.

17 (a) A taxing body may provide by ordinance or resolution for
18 the creation of such bureaus or the appointment and compensation
19 of such officers, clerks, collectors, and other assistants and
20 employees, either under existing departments, or otherwise as
21 may be deemed necessary, for the assessment and collection of
22 taxes imposed under authority of this act.

23 (b) Taxing bodies imposing taxes under authority of this act
24 may make joint agreements for the collection of such taxes or
25 any of them. The same person or agency may be employed by two or
26 more taxing bodies to collect any taxes imposed by them under
27 authority of this act.

28 (c) A local municipality or taxing body may request the
29 Pennsylvania Department of Revenue to collect the municipal
30 services tax or any tax levied on income. Upon receipt of a

1 request to collect such taxes, the department shall, during the
2 calendar year following receipt of the request and during
3 subsequent years, collect and remit such taxes to the local
4 municipality or taxing body. The department may make such
5 regulations, in the manner required for other regulations of the
6 department, as are necessary to collect and remit the taxes.

7 Section 307. Audits.

8 The governing body of each local municipality or taxing body
9 which levies, assesses and collects or provides for the levying,
10 assessment and collection of municipal services tax or an income
11 tax shall provide for not less than one examination each year of
12 the books, accounts and records of the tax collector other than
13 the Department of Revenue, by a certified public accountant, or
14 a public accountant, appointed by the taxing body. The reports
15 of the audit shall be sent to the taxing body employing the
16 accountant. No further or additional audits shall be performed
17 by elected or appointed auditors.

18 Section 308. Declaration and payment of tax.

19 (a) (1) A taxpayer having personal income not subject to
20 withholding shall, as the taxing body elects:

21 (i) pay to the officer an annual payment of tax due
22 on or before April 15 of the succeeding year for the
23 period beginning January 1 and ending December 31 of the
24 current year; or

25 (ii) on or before April 15 of the current year, make
26 and file with the officer on a form prescribed or
27 approved by the officer, a declaration of his estimated
28 income during the period beginning January 1 and ending
29 December 31 of the current year, and pay to the officer
30 in four equal quarterly installments the tax due and not

1 withheld as follows: the first installment at the time of
2 filing the declaration, and the other installments on or
3 before June 15 of the current year, September 15 of the
4 current year and January 15 of the succeeding year,
5 respectively; or

6 (iii) make reports and payments in the manner
7 provided in Article III of the act of March 4, 1971
8 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

9 (2) Whenever the taxing body elects to require the
10 filing of a declaration and quarterly payments, a taxpayer
11 who first anticipates any income not subject to withholding
12 profit after April 15 of the current year, shall make and
13 file the declaration hereinabove required on or before June
14 15 of the current year, September 15 of the current year, or
15 December 31 of the current year, whichever of these dates
16 next follows the date on which the taxpayer first anticipates
17 such income, and pay to the officer in equal installments the
18 tax due thereon or before the quarterly payment dates which
19 remain after the filing of the declaration.

20 (3) Whenever the taxing body requires a declaration of
21 estimated income and quarterly payments of tax due on such
22 income, a taxpayer shall, on or before April 15 of the
23 succeeding year, make and file with the officer on a form
24 prescribed or approved by the officer a final return showing
25 the amount of net profits earned during the period beginning
26 January 1 of the current year, and ending December 31 of the
27 current year, the total amount of tax due thereon and the
28 total amount of tax paid thereon. At the time of filing the
29 final return, the taxpayer shall pay to the officer the
30 balance of tax due or shall make demand for refund or credit

1 in the case of overpayment. Any taxpayer may, in lieu of
2 paying the fourth quarterly installment of his estimated tax,
3 elect to make and file with the officer on or before January
4 31 of the succeeding year, the final return as hereinabove
5 required.

6 (4) The officer may be authorized to provide by
7 regulation for the making and filing of adjusted declarations
8 of estimated income for the payments of the estimated tax in
9 cases where a taxpayer who has filed the declaration
10 hereinabove required anticipates additional income not
11 previously declared or finds that he has overestimated his
12 anticipated income.

13 (b) At the election of the taxing body every taxpayer shall,
14 on or before April 15 of the succeeding year, make and file with
15 the officer on a form prescribed or approved by the officer a
16 final return showing the amount of personal income received
17 during the period beginning January 1 of the current year, and
18 ending December 31 of the current year, the total amount of tax
19 due thereon, the amount of tax paid thereon, the amount of tax
20 thereon that has been withheld pursuant to the provisions
21 relating to the collection at source and the balance of tax due.
22 At the time of filing the final return, the taxpayer shall pay
23 the balance of the tax due or shall make demand for refund or
24 credit in the case of overpayment.

25 (c) A taxpayer who is employed for a salary, wage,
26 commission or other compensation and who received any personal
27 income not subject to the provisions relating to collection at
28 source, shall as the taxing body elects:

29 (1) Make and file with the officer on a form prescribed
30 or approved by the officer, an annual return setting forth

1 the aggregate amount of earned income not subject to
2 withholding from him during the period beginning January 1
3 and ending December 31 of the current year, and such other
4 information as the officer may require, and pay to the
5 officer the amount of tax shown as due thereon on or before
6 April 15 of the succeeding year, or

7 (2) Make and file with the officer on a form prescribed
8 or approved by the officer, a quarterly return on or before
9 April 30 of the current year, July 31 of the current year,
10 October 31 of the current year, and January 31 of the
11 succeeding year, setting forth the aggregate amount of income
12 not subject to withholding by him during the three-month
13 periods ending March 31 of the current year, June 30 of the
14 current year, September 30 of the current year, and December
15 31 of the current year, respectively, and subject to the tax,
16 together with such other information as the officer may
17 require. Every taxpayer making such return shall, at the time
18 of filing thereof, pay to the officer the amount of tax shown
19 as due thereon.

20 Section 309. Collection at source.

21 (a) An employer having an office, factory, workshop, branch,
22 warehouse, or other place of business within the taxing
23 jurisdiction imposing a tax on personal income within the taxing
24 body who employs one or more persons, other than domestic
25 servants, for a salary, wage, commission or other compensation,
26 who has not previously registered, shall, within 15 days after
27 becoming an employer, register with the officer his name and
28 address and such other information as the officer may require.

29 (b) An employer having an office, factory, workshop, branch,
30 warehouse, or other place of business within the taxing body

1 imposing a tax on personal income within the taxing body who
2 employs one or more persons, other than domestic servants, for a
3 salary, wage, commission, or other compensation, shall deduct at
4 the time of payment thereof, the tax imposed by ordinance or
5 resolution on the income due to his employees, and shall, on or
6 before April 30 of the current year, July 31 of the current
7 year, October 31 of the current year, and January 31 of the
8 succeeding year, file a return and pay to the officer the amount
9 of taxes deducted during the preceding three-month period ending
10 March 31 of the current year, June 30 of the current year,
11 September 30 of the current year, and December 31 of the current
12 year, respectively. Such return unless otherwise agreed upon
13 between the officer and employer shall show the name and social
14 security number of each such employee, the income of such
15 employee during such preceding three-month period, the tax
16 deducted therefrom the taxing bodies imposing the tax upon such
17 employee, the total income of all such employees during such
18 preceding three-month period, and the total tax deducted
19 therefrom and paid with the return.

20 (c) An employer who for two of the preceding four quarterly
21 periods has failed to deduct the proper tax, or any part
22 thereof, or has failed to pay over the proper amount of tax to
23 the taxing authority, may be required by the officer to file his
24 return and pay the tax monthly. In such cases, payments of tax
25 shall be made to the officer on or before the last day of the
26 month for which the tax was withheld.

27 (d) On or before February 28 of the succeeding year,
28 employers shall file with the officer:

29 (1) An annual return showing the total amount of earned
30 income paid, the total amount of tax deducted, and the total

1 amount of tax paid to the officer for the period beginning
2 January 1 of the current year and ending December 31 of the
3 current year.

4 (2) A return withholding statement for each employee
5 employed during all or any part of the period beginning
6 January 1 of the current year, and ending December 31 of the
7 current year, setting forth the employee's name, address and
8 social security number, the amount of earned income paid to
9 the employee during said period, the amount of tax deducted,
10 the taxing bodies imposing the tax upon such employee, the
11 amount of tax paid to the officer. Every employer shall
12 furnish two copies of the individual return to the employee
13 for whom it is filed.

14 (e) An employer who discontinues business prior to December
15 31 of the current year, shall, within 30 days after the
16 discontinuance of business, file the returns and withholding
17 statements hereinabove required and pay the tax due.

18 (f) An employer who willfully or negligently fails or omits
19 to make the deductions required by this section shall be liable
20 for payment of the taxes which he was required to withhold to
21 the extent that such taxes have not been recovered from the
22 employee.

23 (g) The failure or omission of an employer to make the
24 deductions required by this section shall not relieve any
25 employee from the payment of the tax or from complying with the
26 requirements of the ordinance or resolution relating to the
27 filing of declarations and returns.

28 Section 310. Powers and duties of officer.

29 (a) It shall be the duty of the officer to collect and
30 receive the taxes, fines and penalties imposed by the ordinance

1 or resolution. It shall also be his duty to keep a record
2 showing the amount received by him from each person or business
3 paying the tax and the date of such receipt.

4 (b) An officer, before entering upon his official duties
5 shall give and acknowledge a bond to the taxing body appointing
6 him. If such taxing body shall by resolution designate any bond
7 previously given by the officer as adequate, such bond shall be
8 sufficient to satisfy the requirements of the subsection.

9 (c) The bond shall be joint and several, with one or more
10 corporate sureties which shall be surety companies authorized to
11 do business in this Commonwealth and duly licensed by the
12 Insurance Commissioner of this Commonwealth.

13 (d) The bond shall be conditioned upon the faithful
14 discharge by the officer, his clerks, assistants and appointees
15 of all trusts confided in him by virtue of his office, upon the
16 faithful execution of all duties required of him by virtue of
17 his office, upon the just and faithful accounting or payment
18 over, according to law, of all moneys and all balances thereof
19 paid to, received or held by him by virtue of his office and
20 upon the delivery to his successor or successors in office of
21 all books, papers, documents or other official things held in
22 right of his office.

23 (e) The bond shall be taken in the name of the appointing
24 taxing body, and shall be for the use of the taxing body
25 appointing the officer, and for the use of such other persons
26 for whom money shall be collected or received, or as his or her
27 interest shall otherwise appear, in case of a breach of any of
28 the conditions thereof by the acts or neglect of the principal
29 on the bond.

30 (f) The taxing body appointing the officer, or any person

1 may sue upon the bond in its or his own name for its or his own
2 use.

3 (g) The bond shall contain the name of the surety company
4 bound thereon. The taxing body appointing the officer shall fix
5 the amount of the bond at an amount equal to the maximum amount
6 of taxes which may be in the possession of the officer at any
7 given time.

8 (h) The taxing body appointing the officer may, at any time,
9 upon cause shown and due notice to the officer, and his surety,
10 require or allow the substitution or the addition of a surety
11 company acceptable to such taxing body for the purpose of making
12 the bond sufficient in amount, without releasing the surety or
13 sureties first approved from any accrued liability or previous
14 action on such bond.

15 (i) The taxing body appointing the officer shall designate
16 the custodian of the bond required to be given by the officer.

17 (j) The officer charged with the administration and
18 enforcement of the provisions of the ordinance or resolution is
19 hereby empowered to adopt regulations relating to any matter
20 pertaining to the administration and enforcement of the
21 ordinance or resolution, including provisions for the re-
22 examination and correction of declarations and returns, and of
23 payments alleged or found to be incorrect, or as to which an
24 overpayment is claimed or found to have occurred, and to make
25 refunds in case of overpayment, for any period of time not to
26 exceed six years subsequent to the date of payment of the sum
27 involved, and to prescribe forms necessary for the
28 administration of the ordinance or resolution. No rule or
29 regulation of any kind shall be enforceable unless it has been
30 approved by resolution by the governing body. A copy of such

1 rules and regulations currently in force shall be available for
2 public inspection.

3 (k) The officer shall refund, on petition of, and proof by
4 the taxpayer, income tax paid on the taxpayer's ordinary and
5 necessary business expenses, to the extent that such expenses
6 are not paid by the taxpayer's employer.

7 (l) The officer and agents designated by him are hereby
8 authorized to examine the books, papers and records of any
9 employer or of any taxpayer or of any person whom the officer
10 reasonably believes to be an employer or taxpayer, in order to
11 verify the accuracy of any declaration or return, or if no
12 declaration or return was filed, to ascertain the tax due. Every
13 employer and every taxpayer and every person whom the officer
14 reasonably believes to be an employer or taxpayer, is hereby
15 directed and required to give to the officer, or to any agent
16 designated by him, the means, facilities and opportunity for
17 such examination and investigations, as are hereby authorized.

18 (m) Information gained by the officer, his agents, or by any
19 other official or agent of the taxing district, as a result of
20 any declarations, returns, investigations, hearings or
21 verifications required or authorized by the ordinance or
22 resolution, shall be confidential, except for official purposes
23 and except in accordance with a proper judicial order, or as
24 otherwise provided by law.

25 (n) The officer is authorized to establish different filing,
26 reporting and payment dates for taxpayers whose fiscal years do
27 not coincide with the calendar year.

28 Section 311. Compensation of income tax officer.

29 The income tax officer, other than the Commonwealth, shall
30 receive the compensation for his services and expenses

1 determined by the taxing body. In the case of a single
2 collector, the taxing bodies shall share in the compensation and
3 expenses of a single officer according to the proportionate
4 share that the total annual collections for each jurisdiction
5 bears to the total annual collection for all taxing bodies in a
6 single collector district, except that with the agreement of
7 two-thirds of all participating taxing bodies, a different
8 manner of sharing may be substituted.

9 Section 312. Suit for collection of tax.

10 (a) The officer may sue in the name of the taxing body for
11 the recovery of taxes due and unpaid under this ordinance.

12 (b) A suit brought to recover the tax imposed by the
13 ordinance or resolution shall be begun within three years after
14 such tax is due, or within three years after the declaration or
15 return has been filed, whichever date is later. This limitation
16 shall not prevent the institution of a suit for the collection
17 of any tax due or determined to be due in the following cases:

18 (1) Whenever a declaration or return was not filed by
19 any person although a declaration or return was required to
20 be filed by him under provisions of the ordinance or
21 resolution, there shall be no limitation.

22 (2) Whenever an examination of the declaration or return
23 filed by any person, or of other evidence relating to such
24 declaration or return in the possession of the officer,
25 reveals a fraudulent evasion of taxes, there shall be no
26 limitation.

27 (3) In the case of substantial understatement of tax
28 liability of 25% or more and no fraud, suit shall be begun
29 within six years.

30 (4) Whenever a person has deducted taxes under the

1 provisions of the ordinance or resolution, and has failed to
2 pay the amounts so deducted to the officer, or where any
3 person has willfully failed or omitted to make the deductions
4 required by this section, there shall be no limitation.

5 (5) This section shall not be construed to limit the
6 taxing body from recovering delinquent taxes by any other
7 means provided by this act.

8 (c) The officer may sue for recovery of an erroneous refund
9 provided such suit is begun two years after making such refund,
10 except that the suit may be brought within five years if it
11 appears that any part of the refund was induced by fraud or
12 misrepresentation of material fact.

13 Section 313. Payment of tax to other taxing bodies or states
14 as credit or deduction; withholding tax.

15 (a) The payment of a tax to a taxing body pursuant to an
16 ordinance or resolution passed or adopted prior to the effective
17 date of this act shall be credited to and allowed as a deduction
18 from the liability of taxpayers for any like tax respectively on
19 income and for any tax on income imposed by any other taxing
20 body of this Commonwealth under the authority of this act.

21 (b) The payment of a tax on real property income by a
22 nonresident natural person or corporation to a taxing body
23 pursuant to an ordinance or resolution passed or adopted under
24 the authority of this act shall be credited to and allowed as a
25 deduction from the liability of such person or corporation for
26 any other tax on income by any other taxing body of this
27 Commonwealth under the authority of this act.

28 (c) The payment of a tax on income to a state other than
29 Pennsylvania or political subdivision of another state by
30 residents thereof, pursuant to any State or local law, may, at

1 the discretion of the Pennsylvania taxing body imposing such
2 tax, to the extent that such income includes the same
3 compensation but in such proportions as hereinafter set forth,
4 be credited to and allowed as a deduction from the liability of
5 such person for any other tax on income, imposed by any
6 political subdivision of this Commonwealth under the authority
7 of this act, if residents of the political subdivision in
8 Pennsylvania received credits and deductions of a similar kind
9 to a like degree from the tax on income imposed by the other
10 state or political subdivision thereof.

11 (d) The payment of a tax on income to any state other than
12 Pennsylvania or to any political subdivision located outside the
13 boundaries of this Commonwealth, by residents of a political
14 subdivision located in Pennsylvania shall, to the extent that
15 such income includes the same compensation but in such
16 proportions as hereinafter set forth, be credited to and allowed
17 as a deduction from the liability of such person for any other
18 tax on income, imposed by any political subdivision of this
19 Commonwealth under the authority of this act.

20 (e) Whenever a credit or a deduction is allowable in any of
21 the several cases hereinabove provided, it shall be allowed in
22 proportion to the concurrent periods for which taxes are imposed
23 by the other state or respective political subdivisions, but not
24 in excess of the amount previously paid for a concurrent period.

25 (f) A credit or deduction shall not be allowed against any
26 tax on income imposed under authority of this act to the extent
27 of the amount of credit or deduction taken for the same period
28 by the taxpayer against any income tax imposed by the
29 Commonwealth of Pennsylvania under the act of March 4, 1971

30 (P.L.6, No.2) known as the "Tax Reform Code of 1971," on account

1 of taxes imposed on income by other states or by their political
2 subdivisions.

3 Section 314. Limitation on assessment.

4 An assessment may not be made of any tax imposed under this
5 act more than five years after the date on which such tax should
6 have been paid except where a fraudulent return or no return has
7 been filed.

8 Section 315. Tax limitations.

9 (a) The aggregate amount of all taxes imposed by any taxing
10 body under this act and in effect during any fiscal year shall
11 not exceed an amount equal to the product obtained by
12 multiplying the latest total market valuation of real estate in
13 such taxing body, as determined by the board for the assessment
14 and revision of taxes or any similar board established by the
15 assessment laws which determines market values of real estate
16 within the political subdivision, by 20 mills.

17 (b) In school districts of the second class, third class and
18 fourth class and in any taxing body within a county where no
19 market values of real estate have been determined by the board
20 for the assessment and revision of taxes, or any similar board,
21 the aggregate amount of all taxes imposed under this act and in
22 effect during any fiscal year shall not exceed an amount equal
23 to the product obtained by multiplying the latest total market
24 valuation of real estate in such school district, or other
25 political subdivision, as certified by the State Tax
26 Equalization Board, by 20 mills.

27 (c) In school districts of the third and fourth class, taxes
28 imposed on sales involving the transfer of real property shall
29 not be included in computing the aggregate amount of taxes for
30 any fiscal year in which 100 or more new homes or other major

1 improvements on real estate were constructed in the school
2 district.

3 (d) Whenever the taxing body reduces the tax on real estate
4 of residents, the tax limitation herein imposed shall be
5 increased by the millage reduction on such real estate but not
6 exceeding the maximum millage the taxing body may impose on real
7 estate under other statutes. Nothing herein shall limit the
8 taxing body in requesting the court for permission to raise the
9 maximum millage rate when the tax limit herein has otherwise
10 been reached even when no tax is imposed on real estate.

11 (e) Whenever, during any fiscal year, it shall appear that
12 the aggregate revenues from taxes levied and collected under the
13 authority of this act will materially exceed the limitations
14 imposed by this act, the taxing body shall forthwith reduce the
15 rate or rates of such tax or taxes to stay within such
16 limitations as nearly as may be. Any one or more persons liable
17 for the payment of taxes levied and collected under the
18 authority of this act shall have the right to complain to the
19 court of common pleas of the county in an action of mandamus to
20 compel compliance with the preceding provision of this
21 subsection. Tax moneys levied and collected in any fiscal year
22 in excess of the limitations imposed by this act shall not be
23 expended during such year, but shall be deposited in a separate
24 account in the treasury of the taxing body for expenditure in
25 the following fiscal year. The rates of taxes imposed under this
26 act for the following fiscal year shall be so fixed that the
27 revenues thereby produced, together with the excess tax moneys
28 on deposit as aforesaid, shall not exceed the limitations
29 imposed by this act.

30 Section 316. Distress and sale of goods and chattels of

1 taxpayer.

2 (a) A tax collector shall have power, in case of the neglect
3 or refusal of any person, to make payment of the amount of any
4 tax due by him, after two months from the date of the tax
5 notice, to levy the amount of such tax, any penalty due thereon
6 and costs, not exceeding costs and charges allowed constables
7 for similar services by distress and sale of the goods and
8 chattels of such delinquent, wherever situate or found, upon
9 giving at least ten days' public notice of such sale, by posting
10 ten written or printed notices, and by one advertisement in a
11 newspaper of general circulation published in the county.

12 (b) A failure to demand or collect any taxes by distress and
13 sale of goods and chattels shall not invalidate any return made,
14 or lien filed for nonpayment of taxes, or any tax sale for the
15 collection of taxes.

16 Section 317. Collection of delinquent municipal services taxes
17 and personal income taxes from employers, etc.

18 The tax collector shall demand, receive and collect from all
19 corporations, political subdivisions, associations, companies,
20 firms or individuals, employing persons owing delinquent
21 municipal services taxes or personal income taxes, or whose
22 spouse owes delinquent municipal services taxes or personal
23 income taxes, or having in possession unpaid commissions or
24 earnings belonging to any person owing delinquent municipal
25 services taxes or personal income taxes, or whose spouse owes
26 delinquent municipal services taxes or personal income taxes,
27 upon the presentation of a written notice and demand certifying
28 that the information contained therein is true and correct and
29 containing the name of the taxable or the spouse thereof and the
30 amount of tax due. Upon the presentation of such written notice

1 and demand, it shall be the duty of any such corporation,
2 political subdivision, association, company, firm or individual
3 to deduct from the wages, commissions or earnings of such
4 individual employees, then owing or that shall within 60 days
5 thereafter become due, or from any unpaid commissions or
6 earnings of any such taxable in its or his possession, or that
7 shall within 60 days thereafter come into its or his possession,
8 a sum sufficient to pay the respective amount of the delinquent
9 taxes and costs, shown upon the written notice or demand, and to
10 pay the same to the tax collector of the taxing district in
11 which such delinquent tax was levied within 60 days after such
12 notice shall have been given. No more than 10% of the wages,
13 commissions or earnings of the delinquent taxpayer or spouse
14 thereof may be deducted at any one time for delinquent taxes and
15 costs. Such corporation, political subdivision, association,
16 firm or individual shall be entitled to deduct from the moneys
17 collected from each employee the costs incurred from the extra
18 bookkeeping necessary to record such transactions, not exceeding
19 2% of the amount of money so collected and paid over to the tax
20 collector. Upon the failure of any such corporation, political
21 subdivision, association, company, firm or individual to deduct
22 the amount of such taxes or to pay the same over to the tax
23 collector, less the cost of bookkeeping involved in such
24 transaction, as herein provided, within the time hereby
25 required, such corporation, political subdivision, association,
26 company, firm or individual shall forfeit and pay the amount of
27 such tax for each such taxable whose taxes are not withheld and
28 paid over, or that are withheld and not paid over together with
29 a penalty of 10% added thereto, to be recovered by an action of
30 assumpsit in a suit to be instituted by the tax collector, or by

1 the proper authorities of the taxing body, as debts of like
2 amount are now by law recoverable, except that such person shall
3 not have the benefit of any stay of execution or exemption law.

4 Section 318. Collection of delinquent municipal services
5 taxes and income taxes from the Commonwealth.

6 Upon presentation of a written notice and demand under oath
7 or affirmation, to the State Treasurer or any other fiscal
8 officer of this Commonwealth, or its boards, authorities,
9 agencies or commissions, it shall be the duty of the treasurer
10 or officer to deduct from the wages then owing, or that shall
11 within 60 days thereafter become due to any employee, a sum
12 sufficient to pay the respective amount of the delinquent
13 municipal services taxes or income taxes and costs shown on the
14 written notice. The same shall be paid to the tax collector of
15 the taxing body in which said delinquent tax was levied within
16 60 days after such notice shall have been given.

17 Section 319. Collection of taxes by suit.

18 A taxing body may collect unpaid taxes from the persons owing
19 such taxes by suit in assumpsit or other appropriate remedy.
20 Upon each such judgment, execution may be issued without any
21 stay or benefit of any exemption law. The right of each such
22 taxing body to collect unpaid taxes under the provisions of this
23 section shall not be affected by the fact that such taxes have
24 been entered as liens in the office of the prothonotary, or the
25 fact that the property against which they were levied has been
26 returned to the county commissioners for taxes for prior years.

27 Section 320. Alternate collection by the Commonwealth.

28 In lieu of the procedures provided in this act, a taxing body
29 may designate the Commonwealth as the collecting officer for
30 taxes on personal income. When so designated, the Commonwealth

1 shall collect the local taxes on personal income in the same
2 manner as the Commonwealth collects State taxes on personal
3 taxes. The taxes so collected shall be paid to the taxing body
4 within 60 days after it is collected.

5 Section 321. Alternate administration procedures.

6 In lieu of the collection and reporting procedures provided
7 in this act, the taxing body may adopt the procedure provided in
8 Article III of the act of March 4, 1971 (P.L.6, No.2), known as
9 the "Tax Reform Code of 1971."

10 CHAPTER 4

11 INTEREST AND PENALTIES

12 Section 401. Interest and penalties.

13 Whenever the tax is not paid when due, interest at the rate
14 of 6% per annum on the amount of said tax, and an additional
15 penalty of .5% of the amount of the unpaid tax for each month or
16 fraction thereof during which the tax remains unpaid, shall be
17 added and collected. Where suit is brought for the recovery of
18 any such tax, the person liable therefor shall, in addition, be
19 liable for the costs of collection and the interest and
20 penalties herein imposed.

21 Section 402. Fines and penalties for violation of
22 ordinance or resolutions.

23 (a) A person who fails, neglects or refuses to make any
24 declaration or return required by the ordinance or resolution,
25 any employer who fails, neglects or refuses to register or to
26 pay the tax deducted from his employees, or fails, neglects or
27 refuses to deduct or withhold the tax from his employees, any
28 person who refuses to permit the officer or any agent designated
29 by him to examine his books, records and papers, and any person
30 who knowingly makes any incomplete, false or fraudulent return,

1 or attempts to do anything whatsoever to avoid the full
2 disclosure of the amount of his income in order to avoid the
3 payment of the whole or any part of the tax imposed by the
4 ordinance or resolution, shall be guilty of a summary offense
5 and upon conviction shall be sentenced to pay a fine of not more
6 than \$300 for each offense, and costs, and, in default of
7 payment of said fine and costs to be imprisoned for a period not
8 exceeding 30 days.

9 (b) A person who divulges any information which is
10 confidential under the provisions of the ordinance or
11 resolution, shall be guilty of a summary offense and upon
12 conviction shall be sentenced to pay a fine of not more than
13 \$300 for each offense, and costs, and, in default of payment of
14 the fines and costs, to be imprisoned for a period not exceeding
15 30 days.

16 (c) The penalties imposed under this section shall be in
17 addition to any other penalty imposed by any other section of
18 the ordinance or resolution.

19 (d) The failure of a person to receive or procure forms
20 required for making the declaration or returns required by the
21 ordinance or resolution shall not excuse him from making such
22 declaration or return.

23 Section 403. Penalties.

24 (a) Except as otherwise provided in the case of any tax
25 levied and assessed upon income, a taxing body shall have power
26 to prescribe and enforce reasonable penalties for the
27 nonpayment, within the time fixed for their payment, of taxes
28 imposed under authority of this act and for the violations of
29 the provisions of ordinances or resolutions passed under
30 authority of this act.

(b) Whenever a tax levied and assessed upon income by any such taxing body is not paid when due, interest at the rate of 6% per annum on the amount of said tax, and an additional penalty of .5% of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. When suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

CHAPTER 5

MISCELLANEOUS PROVISIONS

12 Section 501. Repeal.

13 The act of December 31, 1965 (P.L.1257, No.511), known as
14 "The Local Tax Enabling Act," is repealed.

15 Section 502. Effective date.

16 This act shall take effect January 1, 1982.