

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 923 Session of
1989

INTRODUCED BY GRUITZA, McVERRY, KOSINSKI, MAIALE, CHADWICK,
HAGARTY, R. C. WRIGHT, WOZNIAK, HALUSKA AND PICCOLA,
APRIL 3, 1989

REFERRED TO COMMITTEE ON FINANCE, APRIL 3, 1989

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, redefining "children,"
3 "financial institution" and "lineal descendants"; providing
4 for a credit for estate taxes paid by the estate of a
5 resident decedent to other states; imposing an estate tax on
6 nonresident decedents; further providing for applications for
7 refund of inheritance and estate taxes; and making technical
8 changes.

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

11 Section 1. The definitions of "children," "financial
12 institution" and "lineal descendants" in section 1702 of Title
13 72 of the Pennsylvania Consolidated Statutes are amended to
14 read:

15 § 1702. Definitions.

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

19 * * *

20 "Children." Includes natural children, whether or not they

1 have been adopted by others, adopted children[,] and
2 stepchildren[, all children of the natural parents and the
3 children of the natural parent who are adopted by his spouse.
4 Except as otherwise specifically provided in this definition,
5 children does not include adopted children in the natural
6 family].

7 * * *

8 "Financial institution." A bank, a national banking
9 association, a bank and trust company, a trust company, a
10 savings and loan association, a building and loan association, a
11 mutual savings bank, a credit union, a savings bank, and a
12 [national bank] company that rents safe deposit boxes.

13 * * *

14 "Lineal descendants." All children of the natural parents
15 and their descendants, whether or not they have been adopted by
16 others, adopted descendants and their descendants[, stepchildren
17 and their descendants and children and their descendants of the
18 natural parent who are adopted by his spouse. Except as
19 otherwise specifically provided in this definition, lineal
20 descendants do not include descendants of stepchildren or
21 adopted children and their descendants in the natural family]
22 and stepdescendants.

23 * * *

24 Section 2. Sections 1707(c)(7), 1711(p), 1717, 1781(e) and
25 (f), 1792(a) and 1796(a) of Title 72 are amended to read:
26 § 1707. Transfers subject to tax.

27 * * *

28 (c) Inter vivos transfers.--

29 * *

30 (7) A transfer conforming to paragraph (1), and under

1 which the transferor has at his death, either in himself
2 alone or in conjunction with any person not having an adverse
3 interest, a power to alter, amend or revoke the interest of
4 the beneficiary, is subject to tax. Similarly, the
5 relinquishment of such a power within one year of the death
6 of the transferor is a transfer subject to tax except as
7 otherwise provided in paragraph (3).

8 § 1711. Transfers not subject to tax.

9 * * *

10 (p) [Social Security death] Death payment.--The lump-sum
11 death payment from the [United States] Social Security
12 Administration or Veterans' Administration or any [payment made
13 in lieu of the Social Security Administration payment by another
14 agency of the United States] county veterans' death benefit,
15 whether or not paid to the decedent's estate, is exempt from
16 inheritance tax.

17 * * *

18 § 1717. Estate tax.

19 (a) [Residents] In general.--In the event that a Federal
20 estate tax is payable to the United States on the estate of a
21 decedent [who], whether or not he was a resident of this
22 Commonwealth at the time of his death, and the inheritance tax,
23 if any, paid to the Commonwealth (disregarding interest or the
24 amount of any discount allowed under section 1742 (relating to
25 payment date and discount)), plus the death taxes [(not
26 including any death tax expressly imposed to receive the benefit
27 of the credit for state death taxes allowed by the Federal
28 estate tax law)] paid to other states or territories [in respect
29 to the property] by reason of the death of the decedent,
30 excluding those described in subsection (b), is less than the

1 maximum credit for state taxes allowed by the Federal estate tax
2 law, a tax equal to the difference is imposed.

3 (b) [Nonresidents of United States.--In the event that a
4 Federal estate tax is payable to the United States on the estate
5 of a decedent who was not a resident of the United States or its
6 territories at the time of his death and the inheritance tax, if
7 any, paid to the Commonwealth (disregarding interest or the
8 amount of any discount allowed under section 1742) is less than
9 the maximum credit for state taxes allowed by the Federal estate
10 tax law, a tax is hereby imposed, to be computed by deducting
11 the Pennsylvania inheritance tax, if any, paid from an amount
12 which bears the same ratio to the maximum credit for state taxes
13 allowed by the Federal estate tax law, as the transfer of
14 property subject to inheritance tax and included in the
15 decedent's gross estate for Federal estate tax purposes bears to
16 the decedent's gross estate located within the United States and
17 its territories for Federal estate tax purposes.] Excluded death
18 taxes.--The death taxes paid to other states or territories
19 which are to be excluded from the subsection (a) calculation are
20 those expressly imposed to receive the benefit of the credit for
21 State death taxes allowed by the Federal estate tax law to the
22 extent the death tax paid to another state or territory exceeds
23 an amount which bears the same ratio to the maximum credit for
24 State taxes allowed by the Federal estate tax law as the assets
25 of the decedent located in such state or territory which are
26 included in the decedent's gross estate for Federal estate tax
27 purposes bears to the decedent's gross estate for Federal estate
28 tax purposes.

29 (c) Credit for additional inheritance tax after payment of
30 estate tax.--When an inheritance tax is imposed after an estate

1 tax imposed under subsection (a) [or (b)] has been paid, the
2 estate tax paid shall be credited against any inheritance tax
3 later imposed.

4 § 1781. Refund of tax.

5 * * *

6 (e) To whom application for refund shall be made.--An
7 application for refund of tax shall be made to the [Board of
8 Finance and Revenue] department.

9 (f) Judicial review [of board action].--The action of the
10 [Board of Finance and Revenue] department on all applications
11 for refund of tax may be appealed as provided for in 42 Pa.C.S.
12 § 933 (relating to appeals from government agencies).

13 * * *

14 § 1792. Entry without notice to department.

15 (a) Entry with [bank] financial institution employee.--A
16 safe deposit box of a decedent may be entered, and any or all of
17 the contents removed in the presence of an employee of the
18 financial institution in which the box is located. The employee
19 shall make, or cause to be made, a record of the contents of the
20 box, which record he shall attest under penalty of perjury to be
21 correct and complete. The financial institution may make a
22 reasonable charge for the attendance of its employee at the
23 entry of the box and the listing of the contents, which charge
24 shall be deductible as an administration expense under section
25 1727(1) (relating to expenses).

26 * * *

27 § 1796. Penalties.

28 (a) [Bank] Financial institution employees.--Any employee of
29 a financial institution in which the safe deposit box of a
30 decedent is located who, having actual knowledge of the death of

1 the decedent, enters or permits the entry by any person into a
2 safe deposit box of the decedent in violation of the provisions
3 of this subchapter commits a misdemeanor of the third degree.

4 * * *

5 Section 3. (a) The amendments to the definitions of
6 "children" and "lineal descendants" in section 1702 (relating to
7 definitions) shall apply to the estates of all decedents dying
8 on or after December 13, 1982, and to inter vivos transfers made
9 by decedents dying on or after December 13, 1982, regardless of
10 the date of the transfer.

11 (b) The amendment to section 1781 (relating to refund of
12 tax) shall apply to all applications for refunds regardless of
13 the date of the decedent's death.

14 (c) The remainder of this act shall apply to the estates of
15 all decedents dying on or after the effective date of this act.

16 Section 4. This act shall take effect immediately.