

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1284 Session of
1991

INTRODUCED BY HERMAN, BILLOW, CORNELL, VEON, NOYE, CLARK,
FAIRCHILD, FARGO, MICOZZIE, SAURMAN, BUSH, JOHNSON, GRUPPO,
GEIST AND FLICK, MAY 6, 1991

REFERRED TO COMMITTEE ON FINANCE, MAY 6, 1991

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for the realty transfer tax.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definitions of "document," "title to real
14 estate" and "value" in section 1101-C of the act of March 4,
15 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
16 amended July 2, 1986 (P.L.318, No.77), are amended and the
17 section is amended by adding a definition to read:

18 Section 1101-C. Definitions.--The following words when used
19 in this article shall have the meanings ascribed to them in this
20 section:

21 * * *

1 "Document." Any deed, instrument or writing which conveys,
2 transfers, devises, vests, confirms or evidences any transfer or
3 devise of title to real estate, but does not include wills,
4 mortgages, deeds of trust or other instruments of like character
5 given as security for a debt and deeds of release thereof to the
6 debtor, land contracts whereby the legal title does not pass to
7 the grantee until the total consideration specified in the
8 contract has been paid or any cancellation thereof unless the
9 consideration is payable over a period of time exceeding
10 [thirty] fifty years or instruments which solely grant, vest or
11 confirm a public utility easement. "Document" shall also include
12 a declaration of acquisition required to be presented for
13 recording under section 1102-C.5 of this article.

14 * * *

15 "Family farm partnership." A partnership of which at least
16 seventy-five per cent of its assets are devoted to the business
17 of agriculture and at least seventy-five per cent of the
18 interests in the partnership are continuously owned by members
19 of the same family. The business of agriculture shall not be
20 deemed to include:

21 (1) recreational activities such as, but not limited to,
22 hunting, fishing, camping, skiing, show competition or racing;

23 (2) the raising, breeding or training of game animals or
24 game birds, fish, cats, dogs or pets or animals intended for use
25 in sporting or recreational activities;

26 (3) fur farming;

27 (4) stockyard and slaughterhouse operations; or

28 (5) manufacturing or processing operations of any kind.

29 * * *

30 "Title to real estate."

1 [(1)] Any interest in real estate which endures for a period
2 of time, the termination of which is not fixed or ascertained by
3 a specific number of years, including, without limitation, an
4 estate in fee simple, life estate or perpetual leasehold; [or
5 (2)] any interest in real estate enduring for a fixed period
6 of years but which, either by reason of the length of the term
7 or the grant of a right to extend the term by renewal or
8 otherwise, consists of a group of rights approximating those of
9 an estate in fee simple, life estate or perpetual leasehold,
10 including, without limitation, a leasehold interest or
11 possessory interest under a lease or occupancy agreement for a
12 term of [thirty] fifty years or more or a leasehold interest or
13 possessory interest in real estate in which the lessee has
14 equity.

15 * * *

16 "Value."

17 (1) In the case of any bona fide sale of real estate at
18 arm's length for actual monetary worth, the amount of the actual
19 consideration therefor, paid or to be paid, including liens or
20 other encumbrances thereon existing before the transfer and not
21 removed thereby, whether or not the underlying indebtedness is
22 assumed, and ground rents, or a commensurate part thereof where
23 such liens or other encumbrances and ground rents also encumber
24 or are charged against other real estate: Provided, That where
25 such documents shall set forth a nominal consideration, the
26 "value" thereof shall be determined from the price set forth in
27 or actual consideration for the contract of sale;

28 (2) in the case of a gift, sale by execution upon a judgment
29 or upon the foreclosure of a mortgage by a judicial officer,
30 transactions without consideration or for consideration less

1 than the actual monetary worth of the real estate, a taxable
2 lease, an occupancy agreement, a leasehold or possessory
3 interest, any exchange of properties, or the real estate of an
4 acquired company, the actual monetary worth of the real estate
5 determined by adjusting the assessed value of the real estate
6 for local real estate tax purposes for the common level ratio of
7 assessed values to market values of the taxing district as
8 established by the State Tax Equalization Board, or a
9 commensurate part of the assessment where the assessment
10 includes other real estate; or

11 (3) in the case of an easement or other interest in real
12 estate the value of which is not determinable under clause (1)
13 or (2), the actual monetary worth of such interest_[]; or

14 (4) the actual consideration for or actual monetary worth of
15 any executory agreement for the construction of buildings,
16 structures or other permanent improvements to real estate
17 between the grantor and other persons existing before the
18 transfer and not removed thereby or between the grantor, the
19 agent or principal of the grantor or a related corporation,
20 association or partnership and the grantee existing before or
21 effective with the transfer.]

22 Section 2. Section 1102-C.3(20) of the act, added July 2,
23 1986 (P.L.318, No.77), is amended and the section is amended by
24 adding clauses to read:

25 Section 1102-C.3. Excluded Transactions.--The tax imposed by
26 section 1102-C shall not be imposed upon:

27 * * *

28 (19.1) A transfer of real estate devoted to the business of
29 agriculture to a family farm partnership by a member of the same
30 family which directly owns at least seventy-five per cent of the

1 interests in the partnership.

2 (20) A transfer between members of the same family of an
3 ownership interest in a real estate company [or], family farm
4 corporation or family farm partnership.

5 * * *

6 (23) A transaction of a partnership interest in which real
7 estate is conveyed to the remaining partners.

8 Section 3. This act shall be retroactive to July 2, 1986.

9 Section 4. This act shall take effect immediately.