

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2274 Session of
1993

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FARGO, PLATTS, LEH, MILLER, GODSHALL, SAURMAN, BARLEY, LAUB,
MERRY AND CIVERA, NOVEMBER 24, 1993

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 24, 1993

AN ACT

1 Authorizing counties, municipalities and school districts to
2 impose a personal income tax; providing for the levying,
3 assessment and collection of the tax; providing for the
4 replacement of certain revenue losses and for the reduction
5 of real property taxes and the abolition or reduction of
6 other taxes; imposing limitations on taxing powers; and
7 providing for the powers and duties of the Department of
8 Community Affairs.

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18 The General Assembly of the Commonwealth of Pennsylvania
19 hereby enacts as follows:

20 CHAPTER 1

21 GENERAL PROVISIONS

22 Section 101. Short title.

23 This act shall be known and may be cited as the Local
24 Government Tax Relief Act.

25 Section 102. Definitions.

26 The following words and phrases when used in this act shall
27 have the meanings given to them in this section unless the
28 context clearly indicates otherwise:

29 "Association." A partnership, limited partnership or other
30 unincorporated group of two or more persons.

1 "Business." An enterprise, activity, profession or other
2 undertaking of an unincorporated nature conducted for profit or
3 ordinarily conducted for profit whether by a person, association
4 or other entity.

5 "Compensation." The classes of income included within the
6 definition of "compensation" set forth in section 301 of the act
7 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
8 1971, and upon which are imposed a personal income tax by the
9 Commonwealth.

10 "Corporation." A corporation or joint stock association
11 organized under the laws of the United States or the
12 Commonwealth of Pennsylvania or any other state, territory,
13 foreign country or dependency.

14 "County." A county-level municipality within this
15 Commonwealth, regardless of classification. The term includes a
16 county which has adopted a home rule charter or optional plan of
17 government under the act of April 13, 1972 (P.L.184, No.62),
18 known as the Home Rule Charter and Optional Plans Law. The term
19 does not include a county of the first class.

20 "Department." The Department of Community Affairs of the
21 Commonwealth.

22 "Domicile." The place where one lives and has his permanent
23 home and to which he has the intention of returning whenever he
24 is absent. Actual residence is not necessarily domicile because
25 domicile is the fixed place of abode which, in the intention of
26 the taxpayer, is permanent rather than transitory. Domicile is
27 the voluntarily fixed place of habitation of a person, not for a
28 mere special or limited purpose, but with the present intention
29 of making a permanent home, until some event occurs to induce
30 him to adopt some other permanent home. In the case of

1 businesses or associations, the domicile is any place where the
2 business or association is conducting or engaging in a business
3 for profit within a political subdivision.

4 "Employer." A person, association, corporation, governmental
5 unit or other entity employing one or more persons, other than
6 domestic servants for compensation.

7 "Home rule municipality." A city, borough, incorporated town
8 or township which has adopted a home rule charter under the act
9 of April 13, 1972 (P.L.184, No.62), known as the Home Rule
10 Charter and Optional Plans Law.

11 "Municipality." A city of the second class, city of the
12 second class A, city of the third class, borough, incorporated
13 town, township of the first class, township of the second class,
14 home rule municipality, optional plan municipality, optional
15 form municipality or similar general purpose unit of government
16 which may hereafter be created by statute, except a city of the
17 first class.

18 "Net profits." The class of income described as "net
19 profits" in section 303 of the act of March 4, 1971 (P.L.6,
20 No.2), known as the Tax Reform Code of 1971, and upon which is
21 imposed a personal income tax by the Commonwealth.

22 "Nonresident." A person, association or other entity
23 domiciled outside the political subdivision.

24 "Optional form municipality." A city which has adopted an
25 optional form of government under the act of July 15, 1957
26 (P.L.901, No.399), known as the Optional Third Class City
27 Charter Law.

28 "Optional plan municipality." A city, borough, incorporated
29 town or township which has adopted an optional plan of
30 government under the act of April 13, 1972 (P.L.184, No.62),

1 known as the Home Rule Charter and Optional Plans Law.

2 "Person" or "individual." A natural person.

3 "Personal income." The classes of income enumerated in
4 section 303 of the act of March 4, 1971 (P.L.6, No.2), known as
5 the Tax Reform Code of 1971, and upon which is imposed a
6 personal income tax by the Commonwealth.

7 "Political subdivision." A municipality.

8 "Register." The register provided for in Chapter 9.

9 "Resident." A person, association, corporation or other
10 entity:

11 (1) living in or maintaining a permanent or fixed place
12 of abode in a political subdivision; or

13 (2) conducting or engaging in a business for profit
14 within a political subdivision.

15 "School district." A school district of the first class A,
16 second class, third class or fourth class, including any
17 independent school district.

18 "Tax officer." The person, public employee or private agency
19 designated by a governing body to collect and administer a tax
20 imposed under this act.

21 "Taxpayer." A person, association or other entity required
22 under this act to file a tax return or to pay a tax.

23 Section 103. Existing ordinances and resolutions.

24 This act supersedes, to the extent of inconsistency, any
25 inconsistent ordinance or resolution of a county, municipality
26 or school district.

27 Section 104. Rates of taxation in home rule counties and
28 municipalities.

29 A home rule county or municipality shall not have the right
30 or authority to fix the rate of taxation for the subjects

1 authorized under section 301 in excess of the rates fixed in
2 section 302.

3 CHAPTER 3

4 PERSONAL INCOME TAX

5 Section 301. Power to levy tax.

6 A county, municipality and a school district shall have the
7 power to levy, assess and collect a tax on:

8 (1) The personal income of resident taxpayers of the
9 county, municipality and school district.

10 (2) The compensation and net profits of nonresidents
11 earned within the county, municipality or school district.

12 Section 302. Rate of taxation.

13 (a) Counties.--The rate of the tax levied by a county under
14 section 301 shall not exceed .5%.

15 (b) Municipalities.--The rate of the tax levied by a
16 municipality under section 301 shall not exceed .5%.

17 (c) School districts.--The rate of the tax levied by a
18 school district under section 301 shall not exceed 1.5%.

19 Section 303. Collection of tax.

20 A county, municipality or a school district may enter into an
21 agreement with the Department of Revenue for collection of a tax
22 imposed under section 301.

23 Section 304. Application of State law.

24 (a) General rule.--The provisions of Article III of the act
25 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
26 1971, shall apply to a tax imposed under section 301 insofar as
27 they are applicable to the tax.

28 (b) Rules and regulations.--The rules and regulations
29 promulgated under section 354 of the Tax Reform Code of 1971
30 shall be applicable to a tax imposed under section 301 insofar

1 as the rules and regulations are consistent with section 301.

2 (c) Procedure and administration.--Part X of Article III of
3 the Tax Reform Code of 1971 is incorporated by reference into
4 this subchapter insofar as applicable.

5 CHAPTER 5

6 CREDITS AND EXEMPTIONS

7 Section 501. Credits.

8 (a) Domestic tax credit.--

9 (1) A county, municipality and a school district
10 imposing a tax under section 301 on a nonresident who is
11 domiciled in this Commonwealth shall credit the nonresident
12 with the amount of tax imposed under section 301 and paid by
13 the nonresident to the county, municipality or school
14 district.

15 (2) A county, municipality and a school district
16 imposing a tax under section 301 on a nonresident who is not
17 domiciled in this Commonwealth shall credit the nonresident
18 with the amount of tax paid by the nonresident to the State
19 or political subdivision of the State where the nonresident
20 is domiciled if the residents of the political subdivision
21 granting the credit in this Commonwealth receive a credit or
22 deduction of a similar kind to a like degree from any tax on
23 personal income imposed by the state or political subdivision
24 of the state where the nonresident is domiciled.

25 (3) No credit shall be allowed against any tax imposed
26 under section 301 to the extent of the amount of credit taken
27 for the same period by the taxpayer against any income tax
28 imposed under section 314 of the act of March 4, 1971 (P.L.6,
29 No.2), known as the Tax Reform Code of 1971, on account of
30 taxes imposed on income by another state or by a political

subdivision of another state.

(b) Foreign tax credit.--A county, municipality or school district imposing a tax under section 301 on a taxpayer who is domiciled in this Commonwealth may credit the taxpayer with such percentage of the excess of the tax imposed upon the personal income of the taxpayer by another state or a political subdivision of another state over the personal income tax imposed on the taxpayer under the Tax Reform Code of 1971, as may be determined by the county, municipality or school district.

Section 502. Exemption of low-income persons.

(a) Power to exempt.--Each county, municipality and school district shall have the power and may exempt any person who qualifies under the provisions of section 304 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, from payment of any or all of the tax imposed under section 301.

(b) Regulations.--Each county, municipality and school district may adopt regulations for the processing of claims for exemptions under subsection (a).

CHAPTER 7

DISPOSITION OF TAX REVENUE

Section 701. Replacement of lost revenue and reduction or abolition of certain taxes.

(a) General rule.--Revenue received by a county, municipality and school district from the tax imposed under section 301 shall be used to replace revenue loss occasioned by abrogation of the authority to levy a tax on earned income under section 703, if any, to reduce the rate of, or to eliminate, the nuisance taxes enumerated in subsection (b), or to effect an

1 across-the-board reduction in real property taxes or to reduce
2 the rate of, or to eliminate, the nuisance taxes enumerated in
3 subsection (b) and to effect an across-the-board reduction in
4 real estate taxes.

5 (b) Enumeration of taxes.--Nuisance taxes which shall be
6 reduced or eliminated include the following:

7 (1) Occupation tax (flat rate or millage basis).

8 (2) Personal property tax.

9 (3) Per capita tax.

10 (4) Occupational privilege tax.

11 (5) Mercantile or business privilege tax.

12 (c) Limitation on power following abolition or reduction of
13 tax.--

14 (1) If a county, municipality or a school district uses
15 the revenues from the tax imposed under section 301 to
16 abolish a tax listed in subsection (b), the county,
17 municipality or school district shall not thereafter have the
18 power to levy the tax that was abolished.

19 (2) If a county, municipality or school district uses
20 the revenues from the tax imposed under section 301 to reduce
21 the rate of a tax listed in subsection (b), the county,
22 municipality or school district shall not thereafter have the
23 power to increase the rate of the tax.

24 (d) Limitation on real property tax increases.--If a county,
25 municipality or school district uses the revenues from the tax
26 imposed under section 301 to reduce real property taxes, the
27 county, municipality or school district shall not thereafter
28 increase the rate of real property taxes by more than 1% per
29 year during the five-year period immediately following the
30 fiscal year in which the tax is first levied.

1 (e) Adjustment of actual revenues.--The amount of revenue to
2 be devoted to the purposes contained in section 701(a) in a
3 fiscal year shall be determined by applying the percentage
4 change in the Consumer Price Index, as computed and reported by
5 the United States Bureau of Labor Statistics, for the
6 immediately preceding 12 months to the actual revenues generated
7 by the tax imposed under section 301. The amount so determined
8 shall be used to replace revenue loss occasioned by abrogation
9 of the authority to levy a tax on earned income under section
10 703, if any, on a dollar-for-dollar basis and to effect a
11 dollar-for-dollar reduction or abolition or reduction and
12 abolition of the taxes enumerated in subsection (b) and the tax
13 on real property.

14 Section 702. Limitation on total tax revenues.

15 If a county, municipality or school district imposes a tax
16 under section 301, increases in total tax revenues following the
17 fiscal year in which the tax is first levied shall not exceed
18 the average annual increase in tax revenues during the three
19 fiscal years immediately preceding the fiscal year in which the
20 tax was first levied.

21 Section 703. Loss of authority to tax earned income.

22 If a municipality or school district levies a tax under
23 section 301, it shall not have the power or authority to levy a
24 tax on earned income under the act of December 31, 1965
25 (P.L.1257, No.511), known as The Local Tax Enabling Act.

26 Section 704. Residential rental property.

27 (a) Legislative intent.--The General Assembly recognizes
28 that the rent a residential tenant is paying reflects in part
29 the real property taxes that the landlord is paying on the real
30 property rented by the tenant. If, as a result of the

1 implementation of this act, a landlord receives a reduction in
2 the real property taxes on the real property rented by the
3 tenant, the General Assembly intends, by the provisions of this
4 section, that the tax reduction likewise shall be reflected in
5 the rent.

6 (b) Implementation.--Each landlord shall adjust rental
7 payments required of each residential tenant in an amount equal
8 to the reduction of taxes on real property to that tenant's
9 unit.

10 (c) Damages.--A landlord who does not adjust the rental
11 payments as provided for under subsection (b) shall be liable
12 for treble damages in a civil action. The civil action must be
13 instituted by a tenant within one year of the reduction in real
14 property taxes. The landlord shall have the burden of proving
15 that the rental payments were adjusted as provided for in
16 subsection (b).

17 CHAPTER 9

18 REGISTER FOR CERTAIN TAXES

19 Section 901. Register for personal income taxes.

20 (a) General rule.--It shall be the duty of the department to
21 have available an official continuing register supplemented
22 annually of all personal income taxes levied under authority of
23 this act.

24 (b) Contents of register.--The register and its supplements
25 shall list:

26 (1) The counties, municipalities and school districts
27 levying a personal income tax.

28 (2) The rate of the tax as stated in the tax levying
29 ordinance.

30 (3) The rate on resident and nonresident taxpayers.

1 (4) The name and address of the tax officer responsible
2 for administering the collection of the tax and from whom
3 information, forms for reporting and copies of rules and
4 regulations are available.

5 Section 902. Information for register.

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

17 Section 903. Availability and effective period of register.

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

24 Section 904. Effect of nonfiling.

25 Employers shall not be required by any county, municipal or
26 school district ordinance or resolution to withhold from the
27 compensation of their employees the tax imposed under the
28 provisions of this act which is not listed in the register or to
29 make reports of compensation in connection with a tax not so
30 listed. If the register is not available by July 1, the register

1 of the previous year shall continue temporarily in effect for an
2 additional period not to exceed one year.

3 Section 905. Effect of chapter on liability of taxpayer.

4 The provisions of this chapter shall not affect the liability
5 of any taxpayer for taxes lawfully imposed under this act.

6 CHAPTER 11

7 MISCELLANEOUS PROVISIONS

8 Section 1101. Effective date.

9 This act shall take effect immediately.