

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 984 Session of
2003

INTRODUCED BY JOSEPHS, BEBKO-JONES, CORRIGAN, FRANKEL, HORSEY,
JAMES, LEACH, ROEBUCK, RUBLEY, THOMAS, WASHINGTON AND
YOUNGBLOOD, MARCH 26, 2003

REFERRED TO COMMITTEE ON FINANCE, MARCH 26, 2003

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 cigarette tax definitions
11 and imposition; establishing the Tobacco Control Account; and
12 making an editorial change.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. The heading of Article XII of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added
17 December 21, 1981 (P.L.482, No.141), is amended to read:

ARTICLE XII

[CIGARETTE TAX] CIGARETTE AND

TOBACCO PRODUCTS TAX

21 Section 2. The definition of "cigarette" in section 1201 of
22 the act, added December 21, 1981 (P.L.482, No.141), is amended

1 and the section is amended by adding definitions to read:

2 Section 1201. Definitions.--As used in this article:

3 * * *

4 "Cigarette." Any roll for smoking made wholly or in part of
5 tobacco, the wrapper or cover of which is made of any substance
6 or material other than tobacco regardless of the size or shape
7 of the roll and regardless of whether or not the tobacco is
8 flavored, adulterated or mixed with any other ingredient. The
9 term cigarette shall not include cigars, little cigars or
10 cigarillos.

11 * * *

12 "Smokeless tobacco." A product containing finely cut,
13 ground, powdered, blended or leaf tobacco made primarily for
14 individual consumption which is intended to be placed in the
15 oral or nasal cavity and not intended to be smoked. The term
16 includes chewing tobacco, dipping tobacco and snuff.

17 "Tobacco product." A product containing tobacco for
18 consumption. The term includes a cigar, a little cigar, a
19 cigarillo, pipe tobacco and smokeless tobacco. The term does not
20 include a cigarette.

21 "Tobacco product distributor or wholesaler." A person
22 engaged in the business of selling tobacco products that sells,
23 exchanges or distributes tobacco products to retailers,
24 consumers or other wholesalers or distributors in this
25 Commonwealth. The term includes a tobacco products manufacturer
26 that has within this Commonwealth any office, sales house or
27 other place of business.

28 * * *

29 "Wholesale price." The price for which a tobacco
30 manufacturer sells a tobacco product to a tobacco product

distributor or wholesaler, exclusive of any discount, rebate or other reduction.

Section 3. The act is amended by adding a section to read:

Section 1206.2. Incidence and Rate of Tax on Tobacco Products.--(a) Except as set forth in subsection (d), a tax is imposed on a tobacco product sold or held for sale in this Commonwealth by a tobacco products distributor or wholesaler to a retailer or consumer. The tax is imposed on the tobacco product wholesale price, regardless of the actual price at which the tobacco product is sold and regardless of whether the tobacco product is sold.

(b) A tobacco products distributor or wholesaler that brings tobacco products or causes tobacco products to be brought into this Commonwealth is liable for the tax imposed by this section. The tax imposed is to be paid by the purchase of stamps as provided in this article. The stamp shall be affixed to or impressed upon each package of tobacco product.

(c) The tax imposed by this section shall be at the following rates of the wholesale price of the tobacco product:

(1) After December 31, 2002, and before July 1, 2003, forty per cent.

(2) After June 30, 2003, and before July 1, 2004, forty-five per cent.

(3) After June 30, 2004, and before July 1, 2005, fifty per cent.

(4) After June 30, 2005, and before July 1, 2006, fifty-five per cent.

(5) After June 30, 2006, sixty per cent.

(d) The tax under this section does not apply to a tobacco product which the Commonwealth is prohibited from taxing under

1 the laws of the United States. It shall be presumed that all
2 tobacco products within this Commonwealth are subject to tax.
3 The burden of proof of exemption under this subsection is on the
4 taxpayer or remitter claiming exemption.

5 (e) Ten per cent of the tax revenue under this section shall
6 be deposited each fiscal year into the Tobacco Control Account,
7 which is established as a separate account in the State
8 Treasury. The money in the account is continuously appropriated
9 to the account and shall not lapse at the end of any fiscal
10 year. The account shall be used by the Department of Health for
11 tobacco cessation and prevention programs.

12 (f) The department shall promulgate regulations for
13 enforcement and administration of this section.

14 Section 4. This act shall take effect immediately.