

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## HOUSE BILL

No. 529 Session of  
2005

INTRODUCED BY FLICK, CRAHALLA, TURZAI, SHANER, ARMSTRONG,  
BALDWIN, BARRAR, BELFANTI, BOYD, CALTAGIRONE, CAPPELLI,  
COSTA, GEIST, GEORGE, GILLESPIE, GINGRICH, GOODMAN, GRUCELA,  
HALUSKA, M. KELLER, KILLION, LEACH, MANN, MARKOSEK, MCGEEHAN,  
MCILHATTAN, MUSTIO, O'NEILL, PETRARCA, PICKETT, REICHLEY,  
SAINATO, SCHRODER, SOLOBAY, STERN, TANGRETTI, TIGUE, WALKO,  
WILT AND YOUNGBLOOD, APRIL 26, 2005

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,  
AS AMENDED, MAY 2, 2006

## 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 classes of income.

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

13 ~~Section 1. Section 303(a) of the act of March 4, 1971~~ <—  
14 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, is amended~~  
15 ~~by adding a clause to read:~~

16 SECTION 1. SECTION 303 OF THE ACT OF MARCH 4, 1971 (P.L.6, <—  
17 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY  
18 ADDING A SUBSECTION TO READ:

19 Section 303. Classes of Income.--~~(a) The classes of income~~ <—

referred to above are as follows:

\* \* \*

~~(9) Notwithstanding any other provision of this subsection, the following shall not be considered as income for purposes of this act: Any amount of Pennsylvania income attributable to earnings or distributions from a qualified tuition program, as defined in section 529 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 529) and in effect for the taxable year, if the distributions are used to pay for qualified educational expenses as defined in section 529.~~

\* \* \*

(A.6) (1) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, ANY INCOME ATTRIBUTABLE TO A DISTRIBUTION FROM A QUALIFIED TUITION PLAN SHALL NOT BE INCLUDABLE AS INCOME FOR PURPOSES OF THIS ACT TO THE EXTENT THAT THE DISTRIBUTION CONSISTS OF PROVIDING A BENEFIT TO THE DISTRIBUTEE WHICH, IF PAID FOR BY THE DISTRIBUTEE, WOULD CONSTITUTE PAYMENT OF A QUALIFIED HIGHER EDUCATION EXPENSE.

(2) THE EXTENT TO WHICH ANY DISTRIBUTION EXCEEDS QUALIFIED HIGHER EDUCATION EXPENSES SHALL BE INCLUDABLE AS INCOME UNDER SUBSECTION (A)(6) AND SHALL BE TAXABLE UNDER THIS ARTICLE.

(3) ANY INCOME ATTRIBUTABLE TO A DISTRIBUTION FROM A QUALIFIED TUITION PLAN SHALL NOT BE INCLUDABLE AS INCOME FOR PURPOSES OF THIS ACT IF, WITHIN SIXTY DAYS, THE DISTRIBUTION IS TRANSFERRED TO ONE OF THE FOLLOWING:

(I) ANOTHER QUALIFIED TUITION PROGRAM FOR THE BENEFIT OF THE DESIGNATED BENEFICIARY; OR

(II) THE CREDIT OF ANOTHER DESIGNATED BENEFICIARY UNDER A QUALIFIED TUITION PROGRAM WHO IS A MEMBER OF THE FAMILY OF THE DESIGNATED BENEFICIARY WITH RESPECT TO WHICH THE DISTRIBUTION

1 WAS MADE.

2 (4) ANY PORTION OF A DISTRIBUTION WHICH IS TRANSFERRED AND  
3 DOES NOT MEET THE REQUIREMENTS OF THIS SUBSECTION SHALL BE  
4 INCLUDABLE AS INCOME FOR THE PURPOSES OF THIS ACT. ANY CHANGE IN  
5 THE DESIGNATED BENEFICIARY OF A QUALIFIED TUITION PROGRAM SHALL  
6 NOT BE TREATED AS A DISTRIBUTION IF THE NEW BENEFICIARY IS A  
7 MEMBER OF THE FAMILY OF THE OLD BENEFICIARY.

8 (5) THE DEPARTMENT SHALL TREAT ALL QUALIFIED TUITION  
9 PROGRAMS OF WHICH AN INDIVIDUAL IS A DESIGNATED BENEFICIARY AS  
10 ONE PROGRAM. ALL DISTRIBUTIONS DURING A TAXABLE YEAR SHALL BE  
11 TREATED AS ONE DISTRIBUTION.

12 (6) FOR PURPOSES OF THIS SUBSECTION:

13 (I) THE TERM "DESIGNATED BENEFICIARY" SHALL HAVE THE SAME  
14 MEANING AS PROVIDED IN SECTION 529(E)(1) OF THE INTERNAL REVENUE  
15 CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 529(E)(1)).

16 (II) THE TERM "DISTRIBUTION" SHALL MEAN CONTRIBUTIONS AND  
17 EARNINGS PAID FROM A QUALIFIED TUITION PROGRAM TO AN INDIVIDUAL.

18 (III) THE TERM "QUALIFIED HIGHER EDUCATION EXPENSE" SHALL  
19 HAVE THE SAME MEANING AS PROVIDED IN SECTION 529(E)(3) OF THE  
20 INTERNAL REVENUE CODE OF 1986.

21 (IV) THE TERM "QUALIFIED TUITION PROGRAM" SHALL HAVE THE  
22 SAME MEANING AS PROVIDED IN SECTION 529(B)(1) OF THE INTERNAL  
23 REVENUE CODE OF 1986.

24 \* \* \*

25 Section 2. The addition of section ~~303(a)(9)~~ 303(A.6) of the <—  
26 act shall apply to tax years beginning after December 31, 2005.

27 Section 3. This act shall take effect in 60 days.