

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1388 Session of
2012INTRODUCED BY FERLO, FONTANA, ORIE, SCHWANK, VANCE, HUGHES,
GREENLEAF, FARNESE AND WASHINGTON, JANUARY 26, 2012

SENATOR BRUBAKER, FINANCE, AS AMENDED, MAY 9, 2012

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," in realty transfer tax, further providing for
11 definitions and for acquired company. ←

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

14 ~~Section 1. The definition of "real estate company" in~~ ←
15 ~~section 1101 C of the act of March 4, 1971 (P.L.6, No.2), known~~
16 ~~as the Tax Reform Code of 1971, amended July 2, 1986 (P.L.318,~~
17 ~~No.77), is amended 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 * * *

22 ~~"Real estate company." Either of the following:~~

~~(1) A corporation or association which is primarily engaged in the business of holding, selling or leasing real estate ninety per cent or more of the ownership interest in which is held by thirty five or fewer persons and which:~~

~~[(1)] (i) derives sixty per cent or more of its annual gross receipts from the ownership or disposition of real estate; or~~

~~[(2)] (ii) holds real estate, the value of which comprises [ninety] fifty per cent or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.~~

~~(2) A corporation or association which holds, directly or indirectly, as ninety per cent or more of the value of its assets, an interest in a real estate company.~~

~~For purposes of this definition only, real estate shall not be limited to interests located within this Commonwealth.~~

~~* * *~~

~~Section 2. Section 1102-C.5 of the act, amended or added July 2, 1986 (P.L.318, No.77) and June 16, 1994 (P.L.279, No.48), is amended to read:~~

SECTION 1. SECTION 1102-C.5 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, AMENDED OR ADDED JULY 2, 1986 (P.L.318, NO.77) AND JUNE 16, 1994 (P.L.279, NO.48), IS AMENDED TO READ:

Section 1102-C.5. Acquired Company.--(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:

(1) does not affect the continuity of the company; and

(2) of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety per cent or more



1 of the total ownership interest in the company within a period
2 of three years.

3 ~~For purposes of this subsection, a transfer shall be deemed to~~ ←
4 ~~have occurred within a period of three years of another transfer~~
5 ~~or transfers if a legally binding commitment to execute that~~
6 ~~transfer was made within that period. The tax shall be measured~~
7 ~~by the value of the cumulative percentage of change.~~

8 (3) FOR THE PURPOSES OF PARAGRAPH (2), A TRANSFER OCCURS ←
9 WITHIN A PERIOD OF THREE YEARS OF ANOTHER TRANSFER OR TRANSFERS
10 IF, DURING THE PERIOD:

11 (I) THE TRANSFERRING PARTY PROVIDES A LEGALLY BINDING
12 COMMITMENT, ENFORCEABLE AT A FUTURE DATE, TO EXECUTE THE
13 TRANSFER;

14 (II) THE TERMS OF THE TRANSFER ARE FIXED AND NOT SUBJECT TO
15 NEGOTIATION; AND

16 (III) THE TRANSFERRING PARTY RECEIVES FULL CONSIDERATION, IN
17 ANY FORM, IN EXCHANGE FOR THE TRANSFER.

18 (b) With respect to real estate acquired after February 16,
19 1986, a family farm corporation is an acquired company when,
20 because of voluntary or involuntary dissolution, it ceases to be
21 a family farm corporation or when, because of issuance or
22 transfer of stock or because of acquisition or transfer of
23 assets that are devoted to the business of agriculture, it fails
24 to meet the minimum requirements of a family farm corporation
25 under this act.

26 (b.1) A family farm partnership is an acquired company when,
27 because of voluntary or involuntary dissolution, it ceases to be
28 a family farm partnership or when, because of transfer of
29 partnership interests or because of acquisition or transfer of
30 assets that are devoted to the business of agriculture, it fails

1 to meet the minimum requirements of a family farm partnership
2 under this act.

3 (c) Within thirty days after becoming an acquired company,
4 the company shall present a declaration of acquisition with the
5 recorder of each county in which it holds real estate for the
6 affixation of documentary stamps and recording. Such declaration
7 shall set forth the value of real estate holdings of the
8 acquired company in such county.

9 ~~Section 3. This act shall take effect in 60 days.~~ ←

10 SECTION 2. THIS ACT SHALL NOT APPLY TO A TRANSACTION OR A ←
11 SERIES OF TRANSACTIONS OCCURRING IN PART OR ENTIRELY BEFORE THE
12 EFFECTIVE DATE OF THIS ACT.

13 SECTION 3. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2013.