

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2031 Session of 2014

INTRODUCED BY NEUMAN, CALTAGIRONE, BIZZARRO, KOTIK, BARRAR, COHEN, MULLERY, McNEILL, W. KELLER, PAINTER, DeLUCA, GILLEN, LUCAS, DAVIDSON, EVERETT, MUSTIO, THOMAS, LONGIETTI, CUTLER, MAHONEY, GODSHALL, O'BRIEN, FRANKEL, KORTZ, SNYDER AND DEASY, FEBRUARY 19, 2014

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 5, 2014

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 ~~excluded transactions~~ DEFINITIONS. <--

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

14 ~~Section 1. Section 1102 C.3 of the act of March 4, 1971~~ <--
15 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, is amended~~
16 ~~by adding a clause to read:~~

17 ~~Section 1102 C.3. Excluded Transactions. The tax imposed by~~
18 ~~section 1102 C shall not be imposed upon:~~

19 * * *

20 ~~(9.3) A transfer for no or nominal actual consideration from~~

1 ~~a donor under an arrangement respecting property or contract~~
2 ~~rights that is established during the donor's life, under which:~~
3 ~~(1) the right to possession or enjoyment of the property or~~
4 ~~to a contractual payment shifts outside of probate to the donee~~
5 ~~at the donor's death; and~~
6 ~~(2) substantial lifetime rights of dominion, control,~~
7 ~~possession or enjoyment are retained by the donor.~~

8 * * *

9 Section 2. ~~The addition of section 1102 C.3(9.3) of the act~~
10 ~~shall apply to trusts executed on or after the effective date of~~
11 ~~this act.~~

12 SECTION 1. THE DEFINITION OF "LIVING TRUST" IN SECTION 1101- <--
13 C OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
14 REFORM CODE OF 1971, ADDED MAY 7, 1997 (P.L.85, NO.7), IS
15 AMENDED TO READ:

16 SECTION 1101-C. DEFINITIONS.--THE FOLLOWING WORDS WHEN USED
17 IN THIS ARTICLE SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS
18 SECTION:

19 * * *

20 "LIVING TRUST." ANY TRUST, OTHER THAN A BUSINESS TRUST[,
21 INTENDED AS A WILL SUBSTITUTE BY THE SETTLOR WHICH BECOMES
22 EFFECTIVE DURING THE LIFETIME OF THE SETTLOR, BUT FROM WHICH
23 TRUST DISTRIBUTIONS CANNOT BE MADE TO ANY BENEFICIARIES OTHER
24 THAN THE SETTLOR PRIOR TO THE DEATH OF THE SETTLOR.]:

25 (I) WHICH, THROUGHOUT THE SETTLOR'S LIFETIME, IS
26 WHOLLY REVOCABLE BY THE SETTLOR WITHOUT THE CONSENT OF AN
27 ADVERSE PARTY.

28 (II) WHICH VESTS NO PRESENT INTEREST IN ANY OF THE
29 TRUST CORPUS OR INCOME IN ANY PERSON OTHER THAN THE
30 SETTLOR OR TRUSTEE UNTIL THE SETTLOR DIES.

1 (III) IN WHICH ALL THE CORPUS AND INCOME OF WHICH
2 CAN BE REACHED OR MATERIALLY AFFECTED BY THE SETTLOR
3 WITHOUT REVOCATION OF THE TRUST OR THE CONSENT OF AN
4 ADVERSE PARTY.

5 (IV) FROM WHICH NO TRANSFER OF CORPUS OR INCOME MAY
6 BE MADE BY THE TRUSTEE AT ANY TIME PRIOR TO THE DEATH OF
7 THE SETTLOR TO ANY PERSON IN THE CAPACITY OF A
8 BENEFICIARY OTHER THAN THE SETTLOR.

9 (V) UNDER WHICH THE TRUSTEE EXERCISES NO DISCRETION
10 AS TO THE DISPOSITION OF THE TRUST CORPUS OR INCOME
11 DURING THE SETTLOR'S LIFETIME TO ANY PERSON OTHER THAN
12 THE SETTLOR WITHOUT THE EXPRESS DIRECTION OF THE SETTLOR
13 TO MAKE THE SPECIFIC DISPOSITION.

14 (VI) WHICH THE TRUSTEE OR, IF THE SETTLOR WAS THE
15 TRUSTEE, THE SUCCESSOR TRUSTEE IS REQUIRED UNDER THE
16 GOVERNING INSTRUMENT TO DISTRIBUTE THE CORPUS AND
17 RETAINED INCOME UPON THE DEATH OF THE SETTLOR.

18 * * *

19 Section 3 2. This act shall take effect in 60 days.

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