



HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 262

PRINTERS NO. 2266

PRIME SPONSOR: Metzgar

REVENUE INCREASE / (DECREASE)

FUND	FY 2018/19	FY 2019/20
General Fund	\$0	(\$29,200,000)
PHARE Fund	\$0	\$15,000,000

SUMMARY: House Bill 262, Printer’s Number 2266, amends the Tax Reform Code to include the omnibus tax provision changes for the fiscal year 2019-20 budget.

ANALYSIS: This legislation makes various changes and additions to the Tax Reform Code of 1971. More specific details on each provision are as follows as well as the corresponding fiscal impact for each provision:

Sales and Use Tax (SUT)

• **Marketplace Sales and Wayfair court decision**

Updates and expands provisions contained in Act 43 of 2017 regarding marketplace sellers and marketplace providers to conform to the U.S. Supreme Court decision in *South Dakota v. Wayfair, Inc.* including the removal of the reporting requirement option, thereby requiring vendors to collect and remit sales tax. Applies to sales after June 30, 2019.

Fiscal Impact: This provision is estimated to generate additional revenues of \$5 million in FY2019-20.

• **Manufacturers of malt or brewed beverages (Brew Pubs)**

The Department of Revenue’s *Sales and Use Tax Bulletin 2018-02* imposes a 6% sales tax on the purchase price of malt and brewed beverages sold for consumption on or off premises by manufacturers of malt or brewed beverages and is scheduled to go into effect on July 1, 2019. This provision supersedes the bulletin and provides that the purchase price upon which the 6% sales tax is applied shall be calculated as 25% of the retail price charged to the ultimate consumer for consumption on or off premise and shall take effect for sales occurring after September 30, 2019.

Clarifies that the City of Philadelphia and Allegheny County may continue to levy their respective local alcoholic beverage taxes on the sale at retail of malt or brewed beverages by a manufacturer.

Fiscal Impact: This provision will have a nominal fiscal impact to the General Fund.

• **Vendor absorption of tax and advertising** – Allows absorption and payment of sales tax by the vendor when advertised that the vendor will pay the sales tax imposed on the purchase. In so advertising, such vendor shall expressly state on any receipt or sales slip given to the purchaser that the sales tax imposed shall not indicate or imply the transaction is exempt and such vendor shall be solely responsible and liable for tax. Effective July 1, 2019, or immediately, whichever is later.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

- **Exemption for food and beverages sold by Nonprofits that support Youth Centers** – Adds Youth Centers to the current exclusion for the sale of food and beverages by nonprofit associations. "Youth Center" means a fixed location used exclusively for programs for individuals 19 or younger and primarily conducted by volunteers. Applies to sales occurring after December 31, 2019.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$600,000 in FY2019-20.

- **Exemption for food and beverages sold by Volunteer Firemen's Organizations** – Adds a new exclusion for the sale of food and beverages by a Volunteer Firemen's Organization to raise funds for the purposes of the organization. Applies to sales occurring after December 31, 2019.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$300,000 in FY2019-20.

- **Exemption for building materials and supplies used in the construction of agricultural animal housing facilities** – Adds a new exclusion for building materials and supplies used in the construction or repair of agricultural animal housing facilities. An "animal housing facility" means a roofed structure or facility, or a portion of the facility, used for occupation by livestock or poultry. Applies to sales occurring after December 31, 2019.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$1.7 million in FY2019-20.

Personal Income Tax

- **Conformity with Federal Opportunity Zones** – Provides that "net gains", "net losses" and "dividends" shall not include gains, income or losses which are excluded from Federal taxation under provisions of the Federal KOZ program (Federal Tax Cuts and Jobs Act in 2017). The Federal program allows investors to receive tax deferrals and other tax benefits on unrealized capital gains associated with these investments. Applies to tax years beginning after December 31, 2019.

Fiscal Impact: This provision is estimated to reduce revenues by \$2.3 million in fiscal year 2019-20.

- **Exclusion for Olympic medals and prize money** – Provides that the value of a medal awarded or prize money received from the United States Olympic Committee for competition in the Olympic Games or Paralympic Games is not subject to the personal income tax.

Fiscal Impact: This provision will have a nominal fiscal impact to the General Fund.

- **Veterans' Trust Fund Check-off** – Provides for a new checkoff on the PIT return for voluntary contributions to the Veterans' Trust Fund for tax years beginning after December 31, 2019.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

- **Income tax reporting for estates and revocable trusts** – Provides that if the executor of an estate and the trustee of the trust make an election under Section 645 of the IRC to treat the income of the trust as part of the estate, the fiduciary may make and file a joint tax return for the estate and trust. If a joint return is filed, the tax liabilities of the estate and trust shall be joint and several. This provision applies to taxable years beginning after December 31, 2019.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

- **Paid tax preparer Federal ID number requirement** – Requires any PIT return completed by a paid tax preparer to be signed and bear the IRS preparer tax identification number (PTIN) of the paid preparer. This provision applies to taxable years beginning after December 31, 2019.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

Corporate Net Income Tax

- **Manufacturing Innovation and Reinvestment Deduction Program** – This provision lowers the threshold for private capital investment from in excess of \$100 million to in excess of \$60 million and provides that the maximum allowable deduction shall be set at 35% of the private capital investment when the investment is in excess of \$60 million but not more than \$100 million. Maintains the current 25% calculation of the maximum allowable deduction for investment in excess of \$100 million.

Increases the time period to utilize the maximum allowable deduction from 5 years to 10 years.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$6.2 million in FY2019-20.

Realty Transfer Tax

- **Exemption for sale of property to a beginner farmer** – Provides an exclusion from tax for a transfer of property that is subject to an agricultural conservation easement to a qualified beginning farmer.

Fiscal Impact: This provision will have a nominal fiscal impact to the Commonwealth.

- **Transfer to the PA Housing Affordability and Rehabilitation Enhancement Fund (PHARE)** – Increases the threshold on the transfer of RTT revenues to PHARE from \$25 to \$40 million.

Fiscal Impact: This provision will reduce General Fund revenues by \$15 million in FY2019-20 and increase revenues to the PHARE Fund by \$15 million in FY2019-20.

Film Production Tax Credit

- Adds the purchase of music rights to the definition of "postproduction expenses" if the purchase is from a resident of the Commonwealth, the purchase is from an entity subject to taxation in this Commonwealth and the transaction is subject to PIT, CNIT or CSFT.
- Adds a definition for "tax district capital investment" and extends the period for investing at least \$400 million within the district from 4 years to 8 years. Reduces the number of required soundstages located in the district from 6 to 2.
- Permits 100% offset of tax liability for tax credits purchased or assigned to an entity filing on the same Federal consolidated return as the seller or assignor.
- Increases the annual cap from \$65 million to \$70 million.

Fiscal Impact: This provision will have no adverse fiscal impact in FY2019-20.

Entertainment Economic Enhancement Program (Concert and Rehearsal Tax Credit)

- Amends the definitions of "minimum rehearsal and tour requirements", "rehearsal expense", "rehearsal facility", "taxpayer" and "tour expense" and adds a new definition for "representative".
- Provides for the use, sale or assignment of unused tax credits generated from rehearsals held after January 1, 2017 and before October 1, 2018.
- Increases the annual cap from \$4 million to \$8 million (currently 5 tours at \$800,000 per tour). Updates the individual limitations per tour as follows: (1) purchases between \$3 million and \$4 million - \$800,000 per tour; (2) purchases between \$4 million and \$8 million - \$1.25 million per tour; and (3) purchases of at least \$8 million - \$2 million per tour.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$4 million in FY2019-20.

Resource Enhancement and Protection Tax Credit (REAP)

- Includes a manure management plan as an eligible project.
- Raises the existing cap per eligible applicant from \$150,000 to \$250,000.
- Amends the definition of "eligible applicants" to include individuals filing jointly and adds a section providing that a REAP tax credit granted may be applied to the spouse of an eligible applicant if both the eligible applicant and the spouse report income on a joint income tax return.
- Increases the annual cap from \$10 million to \$13 million, and provides that up to \$3 million may be earmarked for Chesapeake Bay watershed area

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$200,000 in FY2019-20.

Historic Preservation Incentive Tax Credit

- Extends the current sunset date of the program from 2020 to 2031.
- Allows non-commercial buildings, such as residential buildings, to qualify for the program.
- Establishes an application fee of \$2,000 of which the proceeds will be deposited into the Historic Rehabilitation Tax Credit Administration Account.
- Increases the annual cap from \$3 million to \$5 million.
- Requires an annual report to be submitted to the General Assembly.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$2 million in FY2019-20.

Coal Refuse Energy and Reclamation Tax Credit (Waste Coal)

- Extends the current sunset date of the program from 2026 to 2036.
- Provides for netting of Federal tax credits.
- Increases the annual cap from \$10 million to \$20 million.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$7.2 million in FY2019-20.

Tax Credit for New Jobs (Job Creation Tax Credit)

- Provides that no tax credits shall be approved after June 30, 2020.

Fiscal Impact: This provision will have no adverse fiscal impact in FY2019-20.

City Revitalization and Improvement Zones (CRIZ)

- Provides authority for use of funds to finance revolving loans.
- Amends the definition of "infrastructure" allowing ancillary facilities.

Fiscal Impact: This provision will have no adverse fiscal impact in FY2019-20.

Rural Jobs and Investment Tax Credit

- Amends the size of the business that may apply by altering the definition of a rural business from having fewer than 250 employees to having fewer than 150 employees.
- Increases the annual cap from \$1 million to \$6 million and increases the total amount that may be awarded over the life of the program from \$6 million to \$30 million.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$3.6 million in FY2019.

Neighborhood Assistance Tax Credit

- Adds investments in Youth and Adolescent Development Services as allowable policy goals of the program and provides that no more than \$2 million shall be used for such purposes.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

Keystone Opportunity Zones (KOZ)

- Allows DCED to designate additional zones within the following counties: Cambria, Clearfield and Lancaster.
- Counties must submit an application to the department by October 1, 2021.
- DCED shall act on applications by December 31, 2021, and if denied, DCED shall hold a public hearing within the municipality 30 days after the denial.

Fiscal Impact: This provision will have no adverse fiscal impact to the Commonwealth.

Mixed-Use Development Tax Credit

- Increases the annual cap from \$1 million to \$2 million.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$1 million in FY2019.

Inheritance Tax

- **Exempt transfers of property from a parent to a child aged 21 or younger** - Provides that the transfer of property to a child aged 21 or younger from a natural parent, adoptive parent or stepparent is taxed a zero percent. This applies to dates of death on or after January 1, 2020.

Fiscal Impact: This provision is estimated to reduce revenues by \$3 million in FY2019-20.

Table Games Tax

- Extends the current 2% tables games tax through August 1, 2021.

Fiscal Impact: This provision is estimated to generate additional revenues of \$17.9 million in FY2019-20.

Strategic Development Areas (SDA)

- Clarifies the current sales and use exemption as it applies to portable property used exclusively in the Strategic Development Area.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$3 million in FY2019-20.

Computer Data Center Equipment Incentive Program

- Increases the annual cap on refunds issued from \$5 million to \$7 million.

Fiscal Impact: This provision is estimated to reduce General Fund revenues by \$2 million in FY2019-20.

Independent Public Schools

- Provides that charter schools shall be entitled to the same governmental tax immunity as a school district as defined in the Public School Code.

Fiscal Impact: This provision will have a nominal fiscal impact to the General Fund.

PREPARED BY: Ritchie LaFaver
House Appropriations Committee (R)

DATE: June 27, 2019

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.