

LEGISLATIVE REFERENCE BUREAU

L.R.B. Form No. 4 (Rev. 1/11/17)

2022D09663SFR:EJH

No. _____

Legislative Reference Bureau

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, prohibiting tax deductions for anti-union activities.

INTRODUCED _____ **20** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

By _____ **District NO.** _____

See next page for additional co-sponsors.

Prior Session _____

Referred to Committee on	
Date _____	20 _____
Reported _____	20 _____
As Committed-Amended	
Recommendation	

By Hon. _____	

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," prohibiting tax deductions for anti-union
11 activities.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as
15 the Tax Reform Code of 1971, is amended by adding an article to
16 read:

17 ARTICLE XXIX-I

18 PROHIBITING TAX DEDUCTIONS FOR ANTI-UNION ACTIVITIES

19 Section 2901-I. Scope of article.

20 This article prohibits domestic entities and foreign entities
21 that are corporations operating in this Commonwealth from taking
22 tax deductions for expenses incurred in opposing unionization

1 efforts of their workers.

2 Section 2902-I. Definitions.

3 The following words and phrases when used in this article
4 shall have the meanings given to them in this section unless the
5 context clearly indicates otherwise:

6 "Corporation." A domestic entity or foreign entity
7 incorporated for a purpose involving pecuniary profit,
8 incidental or otherwise, to its shareholders or members, whether
9 or not the business entity is a cooperative corporation.

10 "Domestic entity." A corporation that is formed under the
11 laws of this Commonwealth and that exercises, whether in its own
12 name or through a corporation, limited liability company,
13 limited liability partnership, limited liability limited
14 partnership, limited partnership, general partnership or other
15 entity, any of the following privileges:

16 (1) Doing business in this Commonwealth.

17 (2) Carrying on activities in this Commonwealth,
18 including solicitation.

19 (3) Having capital or property employed or used in this
20 Commonwealth.

21 (4) Owning property in this Commonwealth.

22 "Foreign entity." A corporation that is organized by or
23 under the laws of a jurisdiction other than this Commonwealth
24 and that exercises, whether in its own name or through a
25 corporation, limited liability company, limited liability
26 partnership, limited liability limited partnership, limited
27 partnership, partnership or other entity, any of the following
28 privileges:

29 (1) Doing business in this Commonwealth.

30 (2) Carrying on activities in this Commonwealth,

1 including solicitation.

2 (3) Having capital or property employed or used in this
3 Commonwealth.

4 (4) Owning property in this Commonwealth.

5 "General partnership." Either of the following:

6 (1) A partnership as defined in 15 Pa.C.S. § 8412
7 (relating to definitions).

8 (2) An association whose internal affairs are governed
9 by the laws of a jurisdiction other than this Commonwealth
10 which would be a partnership if its internal affairs were
11 governed by the laws of this Commonwealth.

12 "Labor organization." As follows:

13 (1) An organization of any kind or an agency or employee
14 representation committee or plan:

15 (i) in which employees participate; and

16 (ii) which exists for the purpose, in whole or in
17 part, of dealing with employers concerning grievances,
18 labor disputes, wages, rates of pay, hours of employment
19 or conditions of work.

20 (2) The term does not include a labor organization that,
21 by ritualistic practice, constitutional or bylaw
22 proscription, tacit agreement among its members or otherwise,
23 denies a person membership in the organization on account of
24 race, creed, color or political affiliation.

25 "Limited liability company." An association formed under and
26 subject to 15 Pa.C.S. Ch. 88 (related to limited liability
27 companies).

28 "Limited liability limited partnership." A domestic or
29 foreign limited partnership for which there is in effect:

30 (1) a statement of registration under 15 Pa.C.S. Ch. 82

1 (relating to limited liability partnerships and limited
2 liability limited partnerships);

3 (2) a provision of its certificate of limited
4 partnership electing to be subject to 15 Pa.C.S. Ch. 82; or

5 (3) a similar filing or provision under the organic law
6 of a foreign partnership.

7 "Limited liability partnership." A domestic or foreign
8 general partnership for which there is in effect:

9 (1) a statement of registration under 15 Pa.C.S. Ch. 82;

10 or

11 (2) a similar filing under the organic law of a foreign
12 general partnership.

13 "Limited partnership." Either of the following:

14 (1) A limited partnership as defined in 15 Pa.C.S. §
15 8612(a) (relating to definitions).

16 (2) An association whose internal affairs are governed
17 by the laws of a jurisdiction other than this Commonwealth
18 which would be a limited partnership if its internal affairs
19 were governed by the laws of this Commonwealth.

20 Section 2903-I. Prohibition.

21 Except as provided in section 2904-I, a taxpayer that is a
22 domestic entity or foreign entity subject to taxes under Article
23 III, Article IV or Article VI shall be prevented from deducting
24 business expenses that are related to an amount paid or incurred
25 in connection with attempting to influence the taxpayer's
26 employees with respect to a labor organization or the activities
27 of a labor organization, including:

28 (1) An amount paid or incurred by the taxpayer in
29 connection with an action that results in any of the
30 following:

1 (i) A complaint issued under section 10 of the
2 National Labor Relations Act (49 Stat. 449, 29 U.S.C. §
3 160) against the taxpayer for an unfair labor practice
4 under section 8(a) of the National Labor Relations Act
5 (29 U.S.C. § 158(a)), unless an order of the National
6 Labor Relations Board related to the complaint is set
7 aside in full accordance with section 10(e) or (f) of the
8 National Labor Relations Act.

9 (ii) A settlement offer related to an investigation
10 by the National Labor Relations Board of a charge of an
11 unfair labor practice under section 8(a) of the National
12 Labor Relations Act that results in a settlement of the
13 charge without issuance of a complaint under section 10
14 of the National Labor Relations Act.

15 (iii) A finding of interference, influence or
16 coercion by a Federal court under section 2 of the
17 Railway Labor Act (44 Stat. 577, 45 U.S.C. § 152).

18 (iv) A violation of the act of June 1, 1937
19 (P.L.1168, No.294), known as the Pennsylvania Labor
20 Relations Act.

21 (v) A complaint of an unfair labor practice under
22 the Pennsylvania Labor Relations Act.

23 (vi) A violation of an order issued by the
24 Pennsylvania Labor Relations Board.

25 (2) An amount paid or incurred, including wages, in
26 producing, conducting or attending a meeting or training:

27 (i) that includes employees of the taxpayer who are
28 or who could become bargaining unit members or members of
29 a craft or class under the Railway Labor Act; and

30 (ii) at which labor organizations or a labor

1 organization activity is discussed.

2 (3) An amount that is required to be reported under the
3 Labor-Management Reporting and Disclosure Act of 1959 (Public
4 Law 86-257, 29 U.S.C. § 401 et seq.).

5 Section 2904-I. Exceptions.

6 Notwithstanding section 2903-I, the following shall not be
7 treated as an amount paid or incurred in connection with
8 attempting to influence the taxpayer's employees with respect to
9 a labor organization or the activities of a labor organization:

10 (1) An amount paid or incurred for communications or
11 negotiations directly with the designated or selected
12 representative of the employees of the taxpayer described in
13 section 9(a) of the National Labor Relations Act (49 Stat.
14 449, 29 U.S.C. § 159(a)) or under the Railway Labor Act
15 (Public Law 69-257, 44 Stat. 577).

16 (2) An amount paid or incurred for communications
17 directly with shareholders, as may be required under section
18 13 of the Securities Exchange Act of 1934 (48 Stat. 881, 15
19 U.S.C. § 78m).

20 (3) An amount paid or incurred for communications or
21 consultation by the taxpayer in the process of voluntarily
22 recognizing a labor organization as a representative in
23 accordance with section 9 of the National Labor Relations
24 Act.

25 (4) An amount paid or incurred for communications or
26 consultation related to the operation of a labor-management
27 partnership described in a collective bargaining agreement in
28 effect between a representative of employees of the taxpayer
29 and the taxpayer.

30 (5) An amount paid or incurred for communications or

1 consultation related to the operation of a grievance
2 procedure described in a collective bargaining agreement in
3 effect between a representative of employees of the taxpayer
4 and the taxpayer.

5 (6) An amount paid or incurred by a labor organization.

6 (7) An amount paid or incurred for communicating
7 material, including visual or audio media, required to be
8 posted for, or provided to, employees of the taxpayer by law,
9 including under the National Labor Relations Act or the
10 Railway Labor Act.

11 Section 2. This article shall apply to taxable years
12 beginning on or after the effective date of this section.

13 Section 3. This act shall take effect immediately.

