

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2224 Session of  
1978

INTRODUCED BY WISE, HARPER, IRVIS, MANDERINO, REED, FLAHERTY,  
DAVIES, GLEESON, J. L. WRIGHT JR., MEBUS, BROWN, HOEFFEL,  
KUKOVICH, COLE, RHODES, ITKIN, HASKELL, MILANOVICH, COHEN,  
O'DONNELL, SWEET, ZEARFOSS, LEVIN, HONAMAN, E. Z. TAYLOR,  
PICCOLA, SCIRICA, COWELL, WILSON, POTT, RICHARDSON AND  
WHITE, APRIL 3, 1978

REFERRED TO COMMITTEE ON JUDICIARY, APRIL 3, 1978

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),  
2 entitled "An act empowering cities of the second class,  
3 cities of the second class A, cities of the third class,  
4 boroughs, towns, townships of the first class, townships of  
5 the second class, school districts of the second class,  
6 school districts of the third class and school districts of  
7 the fourth class including independent school districts, to  
8 levy, assess, collect or to provide for the levying,  
9 assessment and collection of certain taxes subject to maximum  
10 limitations for general revenue purposes; authorizing the  
11 establishment of bureaus and the appointment and compensation  
12 of officers, agencies and employes to assess and collect such  
13 taxes; providing for joint collection of certain taxes,  
14 prescribing certain definitions and other provisions for  
15 taxes levied and assessed upon earned income, providing for  
16 annual audits and for collection of delinquent taxes, and  
17 permitting and requiring penalties to be imposed and  
18 enforced, including penalties for disclosure of confidential  
19 information, providing an appeal from the ordinance or  
20 resolution levying such taxes to the court of quarter  
21 sessions and to the Supreme Court and Superior Court,"  
22 changing certain provisions to provide for equal rights  
23 between men and women.

24 The General Assembly of the Commonwealth of Pennsylvania  
25 hereby enacts as follows:

26 Section 1. The definition of "domicile" in section 13, act

1 of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax  
2 Enabling Act," is amended to read:

3 Section 13. Earned Income Taxes.--On and after the effective  
4 date of this act the remaining provisions of this section shall  
5 be included in or construed to be a part of each tax levied and  
6 assessed upon earned income by any political subdivision levying  
7 and assessing such tax pursuant to this act. The definitions  
8 contained in this section shall be exclusive for any tax upon  
9 earned income and net profits levied and assessed pursuant to  
10 this act, and shall not be altered or changed by any political  
11 subdivision levying and assessing such tax.

12 I. Definitions

13 \* \* \*

14 "Domicile." The place where one lives and has his permanent  
15 home and to which he has the intention of returning whenever he  
16 is absent. Actual residence is not necessarily domicile, for  
17 domicile is the fixed place of abode which, in the intention of  
18 the taxpayer, is permanent rather than transitory. Domicile is  
19 [the place in which a man has voluntarily fixed the habitation  
20 of himself and his family,] the voluntarily fixed place of  
21 habitation of a person, not for a mere special or limited  
22 purpose, but with the present intention of making a permanent  
23 home, until some event occurs to induce him to adopt some other  
24 permanent home. In the case of businesses, or associations, the  
25 domicile is that place considered as the center of business  
26 affairs and the place where its functions are discharged.

27 \* \* \*

28 Section 2. Section 19 of the act, amended August 6, 1971  
29 (P.L.279, No.71), is amended to read:

30 Section 19. Collection of Delinquent Per Capita, Occupation,

1 Occupational Privilege and Earned Income Taxes from Employers,  
2 etc.--The tax collector shall demand, receive and collect from  
3 all corporations, political subdivisions, associations,  
4 companies, firms or individuals, employing persons owing  
5 delinquent per capita, or occupation, occupational privilege and  
6 earned income taxes, or whose [wife] spouse owes delinquent per  
7 capita, occupation, occupational privilege and earned income  
8 taxes, or having in possession unpaid commissions or earnings  
9 belonging to any person or persons owing delinquent per capita,  
10 occupation, occupational privilege and earned income taxes, or  
11 whose [wife] spouse owes delinquent per capita, occupation,  
12 occupational privilege and earned income taxes, upon the  
13 presentation of a written notice and demand certifying that the  
14 information contained therein is true and correct and containing  
15 the name of the taxable or the [husband] spouse thereof and the  
16 amount of tax due. Upon the presentation of such written notice  
17 and demand, it shall be the duty of any such corporation,  
18 political subdivision, association, company, firm or individual  
19 to deduct from the wages, commissions or earnings of such  
20 individual employes, then owing or that shall within sixty days  
21 thereafter become due, or from any unpaid commissions or  
22 earnings of any such taxable in its or his possession, or that  
23 shall within sixty days thereafter come into its or his  
24 possession, a sum sufficient to pay the respective amount of the  
25 delinquent per capita, occupation, occupational privilege and  
26 earned income taxes and costs, shown upon the written notice or  
27 demand, and to pay the same to the tax collector of the taxing  
28 district in which such delinquent tax was levied within sixty  
29 days after such notice shall have been given. No more than ten  
30 percent of the wages, commissions or earnings of the delinquent

1 taxpayer or [husband] spouse thereof may be deducted at any one  
2 time for delinquent per capita, occupation, occupational  
3 privilege and earned income taxes and costs. Such corporation,  
4 political subdivision, association, firm or individual shall be  
5 entitled to deduct from the moneys collected from each employe  
6 the costs incurred from the extra bookkeeping necessary to  
7 record such transactions, not exceeding two percent of the  
8 amount of money so collected and paid over to the tax collector.  
9 Upon the failure of any such corporation, political subdivision,  
10 association, company, firm or individual to deduct the amount of  
11 such taxes or to pay the same over to the tax collector, less  
12 the cost of bookkeeping involved in such transaction, as herein  
13 provided, within the time hereby required, such corporation,  
14 political subdivision, association, company, firm or individual  
15 shall forfeit and pay the amount of such tax for each such  
16 taxable whose taxes are not withheld and paid over, or that are  
17 withheld and not paid over together with a penalty of ten  
18 percent added thereto, to be recovered by an action of assumpsit  
19 in a suit to be instituted by the tax collector, or by the  
20 proper authorities of the taxing district, as debts of like  
21 amount are now by law recoverable, except that such person shall  
22 not have the benefit of any stay of execution or exemption law.  
23 The tax collector shall not proceed against a spouse or his  
24 employer until he has pursued collection remedies against the  
25 delinquent taxpayer and his employer under this section.

26 Section 3. This act shall take effect immediately.