

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1187

Session of
1981

INTRODUCED BY WILSON, DeVERTER, BURNS, WASS, SIEMINSKI,
E. Z. TAYLOR, PUNT, KUKOVICH, BOWSER, COCHRAN, PHILLIPS,
GEIST, MILLER, CESSAR, ARTY, HOEFFEL, KOWALYSHYN, GRUPPO AND
MADIGAN, APRIL 8, 1981

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 1, 1981

AN ACT

1 Amending the act of August 9, 1955 (P.L.323, No.130), entitled
2 "An act relating to counties of the third, fourth, fifth,
3 sixth, seventh and eighth classes; amending, revising,
4 consolidating and changing the laws relating thereto,"
5 authorizing the imposition of certain taxes in connection
6 with a reduction in real property taxes.

7 The General Assembly of the Commonwealth of Pennsylvania
8 hereby enacts as follows:

9 ~~Section 1. Section 1770, act of August 9, 1955 (P.L.323,~~ <—
10 ~~No.130), known as "The County Code," amended December 15, 1971~~
11 ~~(P.L.606, No.162) and January 10, 1972 (1971 P.L.670, No.179),~~
12 ~~is amended to read:~~

13 ~~Section 1770. Tax Levies. [No tax shall be levied on~~
14 ~~personal property taxable for county purposes where the rate of~~
15 ~~taxation thereon is fixed by law other than at the rate so~~
16 ~~fixed. The] (a) Pursuant to this act the county commissioners~~
17 ~~shall fix, by resolution, the rate of taxation for each year. No~~
18 ~~tax for general county purposes in counties of the third,~~

~~1 fourth, fifth, sixth, seventh and eighth classes, exclusive of
2 the requirements for the payment of the interest and principal
3 of the funded debt of any such county and for the payment of
4 rentals to any municipal authority, shall in any one year exceed
5 the rate of twenty mills on every dollar of the adjusted
6 valuation. Tax for payment of rentals to any municipal authority
7 shall not exceed the rate of ten mills on every dollar of the
8 adjusted valuation and shall be in addition to the twenty mill
9 limitation for general county purposes. In fixing the rate of
10 taxation, the county commissioners, if the rate is fixed in
11 mills, shall also include in the resolution a statement
12 expressing the rate of taxation in dollars and cents on each one
13 hundred dollars of assessed valuation of taxable property.~~

~~14 [The rate of taxation fixed for any occupation tax levied by
15 a county of the fourth, fifth, sixth, seventh or eighth class
16 shall not in any one year exceed twenty mills. The county
17 commissioners may, by resolution, abolish the levy and
18 collection of occupation taxes for county purposes.~~

~~19 The county commissioners of counties of the fourth, fifth,
20 sixth, seventh and eighth classes may levy and collect an annual
21 per capita tax on persons for county purposes.~~

~~22 Any county of the fourth, fifth, sixth, seventh or eighth
23 class which shall become a county of the third class may collect
24 for a period of four years after such status has been certified
25 a per capita tax from any person not in any one year to exceed a
26 total of five dollars (\$5) for county purposes.~~

~~27 No tax shall be levied and collected for county purposes on
28 offices and posts of profits, or on professions, trades and
29 occupations at the same time during which a per capita tax on
30 persons is levied and collected for county purposes.~~

1 ~~Any per capita taxes levied upon and collected from any~~
2 ~~person shall not in any one year exceed a total of five dollars~~
3 ~~(\$5) for county and institution district purposes.}~~

4 ~~(b) No county of the third, fourth, fifth, sixth, seventh or~~
5 ~~eighth class may levy a per capita or similar head tax,~~
6 ~~occupation tax or personal property tax.~~

7 ~~Section 2. The act is amended by adding sections to read:~~

8 ~~Section 1773. Personal Income Tax Authorization; Reductions~~
9 ~~on Real Property Taxes. (a) For the county fiscal year 1982-~~
10 ~~1983, or if appropriate, calendar year 1983 and thereafter, a~~
11 ~~county of the third, fourth, fifth, sixth, seventh or eighth~~
12 ~~class may levy a tax on personal income of one half of one per~~
13 ~~centum consistent with the provisions of Article III, act of~~
14 ~~March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of~~
15 ~~1971."~~

16 ~~(b) A county may impose up to an additional one half per~~
17 ~~centum tax on individual income provided that there is a~~
18 ~~reduction in real property tax rates or assessment values~~
19 ~~sufficient to reduce property tax revenues by an amount~~
20 ~~substantially equal to the revenue raised by the additional~~
21 ~~income tax. If, at the option of the county, a tax is levied~~
22 ~~under either section 1774 or 1775, the amount of the property~~
23 ~~tax reduction referred to above shall substantially equal the~~
24 ~~total of the revenues raised by the additional income tax~~
25 ~~together with the revenue raised under section 1774 or 1775.~~

26 ~~(c) A county levying the personal income tax authorized by~~
27 ~~subsection (a) or (b) shall provide relief from the tax for~~
28 ~~persons who, because of poverty, are determined to be in need of~~
29 ~~special tax provisions. Such tax relief shall be in accordance~~
30 ~~with the special tax provision schedule in section 304 of the~~

~~"Tax Reform Code of 1971."~~

~~(d) A county levying the personal income tax authorized by subsection (a) or (b) may provide relief from the tax for persons who, because of age, are determined to be in need of special tax provisions. Such tax relief shall be in accordance with section 4, act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Property Tax or Rent Rebate and Older Persons Inflation Needs Act."~~

~~(e) Upon written notification by the county of the rate of personal income tax imposed by the school district, an employer shall deduct and withhold from the compensation for each payroll period of each employe who is a resident of the county, a tax computed in such manner as to result, so far as practicable, in withholding from the employe's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. Subject to the foregoing, the ordinance levying the tax shall provide for withholding, collecting and enforcing procedures of the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," relating to the withholding of income taxes.~~

~~(f) The Department of Revenue may elect to enter into agreements with municipal corporations for the collection of taxes imposed under this section.~~

~~Section 1774. Corporate Net Income Tax. (a) A county may levy, assess and collect a tax on that portion of the taxable income of corporations, as those terms are defined in Article IV, act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," which is attributable to those business operations conducted within the boundaries of the county. A tax~~

~~under this section may be levied only if there has been a reduction of real property tax rates or assessment values sufficient to reduce property tax revenues by an amount substantially equal to the revenues raised under this section.~~

~~(b) If a county levies a corporate net income tax under this section, then the county may also include under the tax a business activities tax upon the activities of carrying on or exercising for gain or profit within the Commonwealth by any person of any trade, profession, business vocation or making sales to persons within the Commonwealth or of any manufacturing, commercial or financial service or business, including but not limited to, manufacturers, brokers, wholesale dealers or wholesale vendors, retail dealers or retail vendors.~~

~~(c) For purposes of subsection (b) the tax base shall include all of the following:~~

~~(1) Compensation, meaning all wages, salaries, fees, bonuses, commissions or other payments made in the taxable year on behalf of or for the benefit of employees, officers or directors of the business and subject to or specifically exempt from withholding under section 3401 of the United States Internal Revenue Code.~~

~~(2) Depreciation claimed for Federal income tax purposes.~~

~~(3) Interest deductions claimed for Federal income tax purposes.~~

~~(4) Federal taxable income, meaning taxable income as defined in section 63 of the United States Internal Revenue Code. No tax may be levied under this section if a tax is levied under section 1775.~~

~~Section 1775. Business Use or Occupancy Tax. (a) The following words, terms and phrases when used in this section~~

~~shall have the meaning ascribed to them in this subsection
except where the context clearly indicates otherwise:~~

~~(1) "Area available for use or occupancy" shall include the
whole portion of any real property, any structure thereon and
space therein exclusive of service, utility and common areas
controlled by the landlord.~~

~~(2) "Landlord" shall include in addition to the owner of
real property, any person who grants the right to use or occupy
real property or any part thereof to any lessee, sublessee,
licensee or concessionaire.~~

~~(3) "Taxable year" shall mean July 1 of any calendar year
through June 30 of the following calendar year.~~

~~(4) "Taxpayer" shall mean a taxable user or occupier of real
property within the county.~~

~~(b) A county, in addition to any other taxes authorized by
law, but not in addition to the tax provided for in section
1774, may provide by ordinance or resolution for the levying of
a business use or occupancy tax on the user or occupier of real
property within the county for the privilege of carrying on any
business, trade, occupation, profession, vocation or any other
commercial, industrial or agricultural activity on the real
property.~~

~~(c) This tax shall not apply to:~~

~~(1) The use or occupancy of real property to the extent that
the real property is used or occupied as the dwelling or
principal place of residence of the user or occupier.~~

~~(2) The use or occupancy of real property for a purpose
which exempts it from local real property taxes.~~

~~(3) Farmland not actively grazed or planted with a current
annual crop.~~

~~(d) Computation of tax:~~

~~(1) The taxpayer shall on or before September 1 of each taxable year compute the tax which is payable for the portion of the property which he uses or occupies and pay over to the tax collector for the county the tax due within twenty five days after the end of each quarter of the taxable year.~~

~~(2) In the case where the total area available for use and occupancy of the property is occupied by tenants and no portion is used or occupied by the landlord, the tax shall be allocated by the landlord among the tenants on the basis or rents contracted for between the landlord and the tenants; in the case where the total area available for use or occupancy is used or occupied by the landlord and one or more tenants, the tax shall be allocated among the users and occupiers on the basis of the area used or occupied divided by the total area available for use or occupancy. The tax due for each user and occupier for the quarter of the taxable year shall be computed by multiplying the proportion of the area used or occupied or the proportion of the total rentals paid or to be paid by the user or occupier multiplied by the total assessed value of the property multiplied by the rate of tax multiplied by the months of actual use or occupancy divided by twelve. The use or occupancy of a portion of the property for any period of time during a month shall be presumed to constitute the use or occupancy of the portion for the entire month.~~

~~(3) The county may provide for discounts not to exceed ten per centum of the tax due for the annual prepayment of the tax by the taxpayer. Upon the imposition of a business use or occupancy tax the landlord shall provide a list of his tenants to the taxing agent, together with the area in square feet that~~

~~each tenant occupies to the county and shall promptly report any subsequent changes of tenants or areas of occupancy.~~

~~Section 1776. Rent Reductions. Within thirty days after receipt of his school real property tax bill, a landlord shall disclose in writing to each tenant who has occupied a rental unit for more than forty five days the reduction in real property taxes, if any, under this amendatory act which is attributable to that tenant's unit. The amount of tax reduction attributable to each unit shall be based upon allocated square footage occupied or other reasonable criteria. The rental amount specified in any lease shall reflect any reduction in real property taxes required by this section.~~

~~Section 3. This act shall take effect immediately and shall apply to the fiscal year of a county next commencing after the date of final enactment.~~

SECTION 1. SECTION 1770, ACT OF AUGUST 9, 1955 (P.L.323, NO.130), KNOWN AS "THE COUNTY CODE," AMENDED DECEMBER 15, 1971 (P.L.606, NO.162) AND JANUARY 10, 1972 (1971 P.L.670, NO.179), IS AMENDED TO READ:

SECTION 1770. TAX LEVIES.--[NO TAX SHALL BE LEVIED ON PERSONAL PROPERTY TAXABLE FOR COUNTY PURPOSES WHERE THE RATE OF TAXATION THEREON IS FIXED BY LAW OTHER THAN AT THE RATE SO FIXED. THE] (A) PURSUANT TO THIS ACT THE COUNTY COMMISSIONERS SHALL FIX, BY RESOLUTION, THE RATE OF TAXATION FOR EACH YEAR. NO TAX FOR GENERAL COUNTY PURPOSES IN COUNTIES OF THE THIRD, FOURTH, FIFTH, SIXTH, SEVENTH AND EIGHTH CLASSES, EXCLUSIVE OF THE REQUIREMENTS FOR THE PAYMENT OF THE INTEREST AND PRINCIPAL OF THE FUNDED DEBT OF ANY SUCH COUNTY AND FOR THE PAYMENT OF RENTALS TO ANY MUNICIPAL AUTHORITY, SHALL IN ANY ONE YEAR EXCEED THE RATE OF TWENTY MILLS ON EVERY DOLLAR OF THE ADJUSTED

1 VALUATION. TAX FOR PAYMENT OF RENTALS TO ANY MUNICIPAL AUTHORITY
2 SHALL NOT EXCEED THE RATE OF TEN MILLS ON EVERY DOLLAR OF THE
3 ADJUSTED VALUATION AND SHALL BE IN ADDITION TO THE TWENTY MILL
4 LIMITATION FOR GENERAL COUNTY PURPOSES. IN FIXING THE RATE OF
5 TAXATION, THE COUNTY COMMISSIONERS, IF THE RATE IS FIXED IN
6 MILLS, SHALL ALSO INCLUDE IN THE RESOLUTION A STATEMENT
7 EXPRESSING THE RATE OF TAXATION IN DOLLARS AND CENTS ON EACH ONE
8 HUNDRED DOLLARS OF ASSESSED VALUATION OF TAXABLE PROPERTY.

9 [THE RATE OF TAXATION FIXED FOR ANY OCCUPATION TAX LEVIED BY
10 A COUNTY OF THE FOURTH, FIFTH, SIXTH, SEVENTH OR EIGHTH CLASS
11 SHALL NOT IN ANY ONE YEAR EXCEED TWENTY MILLS. THE COUNTY
12 COMMISSIONERS MAY, BY RESOLUTION, ABOLISH THE LEVY AND
13 COLLECTION OF OCCUPATION TAXES FOR COUNTY PURPOSES.

14 THE COUNTY COMMISSIONERS OF COUNTIES OF THE FOURTH, FIFTH,
15 SIXTH, SEVENTH AND EIGHTH CLASSES MAY LEVY AND COLLECT AN ANNUAL
16 PER CAPITA TAX ON PERSONS FOR COUNTY PURPOSES.

17 ANY COUNTY OF THE FOURTH, FIFTH, SIXTH, SEVENTH OR EIGHTH
18 CLASS WHICH SHALL BECOME A COUNTY OF THE THIRD CLASS MAY COLLECT
19 FOR A PERIOD OF FOUR YEARS AFTER SUCH STATUS HAS BEEN CERTIFIED
20 A PER CAPITA TAX FROM ANY PERSON NOT IN ANY ONE YEAR TO EXCEED A
21 TOTAL OF FIVE DOLLARS (\$5) FOR COUNTY PURPOSES.

22 NO TAX SHALL BE LEVIED AND COLLECTED FOR COUNTY PURPOSES ON
23 OFFICES AND POSTS OF PROFITS, OR ON PROFESSIONS, TRADES AND
24 OCCUPATIONS AT THE SAME TIME DURING WHICH A PER CAPITA TAX ON
25 PERSONS IS LEVIED AND COLLECTED FOR COUNTY PURPOSES.

26 ANY PER CAPITA TAXES LEVIED UPON AND COLLECTED FROM ANY
27 PERSON SHALL NOT IN ANY ONE YEAR EXCEED A TOTAL OF FIVE DOLLARS
28 (\$5) FOR COUNTY AND INSTITUTION DISTRICT PURPOSES.]

29 (B) NO COUNTY OF THE THIRD, FOURTH, FIFTH, SIXTH, SEVENTH OR
30 EIGHTH CLASS MAY LEVY A PER CAPITA OR SIMILAR HEAD TAX,

1 OCCUPATION TAX OR PERSONAL PROPERTY TAX.

2 SECTION 2. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

3 SECTION 1773. PERSONAL INCOME TAX AUTHORIZATION; REDUCTION
4 OF REAL PROPERTY TAX.--(A) FOR THE COUNTY FISCAL YEAR 1982 AND
5 THEREAFTER, A COUNTY OF THE THIRD, FOURTH, FIFTH, SIXTH, SEVENTH
6 OR EIGHTH CLASS MAY IMPOSE A TAX ON THE PERSONAL INCOME OF
7 RESIDENTS OF UP TO ONE-HALF OF ONE PER CENTUM CONSISTENT WITH
8 THE PROVISIONS OF ARTICLE III, ACT OF MARCH 4, 1971 (P.L.6,
9 NO.2), KNOWN AS THE "TAX REFORM CODE OF 1971." A COUNTY MAY
10 IMPOSE THE TAX PROVIDED FOR UNDER THIS SUBSECTION, BUT ONLY AT A
11 RATE THAT WILL PROVIDE REVENUES LOST THROUGH ELIMINATION OF THE
12 TAXES PREVIOUSLY AUTHORIZED BY THIS ACT.

13 (B) A COUNTY MAY IMPOSE AN ADDITIONAL PERCENTAGE OF THE TAX
14 ON THE PERSONAL INCOME OF RESIDENTS PROVIDED THAT THERE IS A
15 REDUCTION IN REAL PROPERTY TAX RATES OR ASSESSMENT VALUES
16 SUFFICIENT TO REDUCE REAL PROPERTY TAX REVENUES BY AN AMOUNT
17 SUBSTANTIALLY EQUAL TO THE REVENUE TO BE RAISED BY THE
18 ADDITIONAL INCOME TAX. THE COMBINED RATE OF TAX AUTHORIZED BY
19 THIS SUBSECTION, AND THE TAX AUTHORIZED BY SUBSECTION (A), SHALL
20 NOT EXCEED ONE-HALF OF ONE PER CENTUM.

21 (C) A COUNTY LEVYING THE PERSONAL INCOME TAX AUTHORIZED BY
22 SUBSECTION (A) OR (B) SHALL PROVIDE RELIEF FROM THE TAX FOR
23 PERSONS WHO, BECAUSE OF POVERTY, ARE DETERMINED TO BE IN NEED OF
24 SPECIAL TAX PROVISIONS. SUCH TAX RELIEF SHALL BE IN ACCORDANCE
25 WITH THE SPECIAL TAX PROVISION SCHEDULE IN SECTION 304 OF THE
26 "TAX REFORM CODE OF 1971."

27 (D) A COUNTY LEVYING THE PERSONAL INCOME TAX AUTHORIZED BY
28 SUBSECTION (A) OR (B) MAY PROVIDE RELIEF FROM THE TAX FOR
29 PERSONS WHO, BECAUSE OF AGE, ARE DETERMINED TO BE IN NEED OF
30 SPECIAL TAX PROVISIONS. SUCH TAX RELIEF SHALL BE IN ACCORDANCE

1 WITH SECTION 4, ACT OF MARCH 11, 1971 (P.L.104, NO.3), KNOWN AS
2 THE "SENIOR CITIZENS PROPERTY TAX OR RENT REBATE AND OLDER
3 PERSONS INFLATION NEEDS ACT."

4 (E) UPON WRITTEN NOTIFICATION BY THE COUNTY OF THE RATE OF
5 PERSONAL INCOME TAX IMPOSED BY THE COUNTY, AN EMPLOYER SHALL
6 DEDUCT AND WITHHOLD FROM THE COMPENSATION FOR EACH PAYROLL
7 PERIOD OF EACH EMPLOYEE WHO IS A RESIDENT OF THE COUNTY, A TAX
8 COMPUTED IN SUCH MANNER AS TO RESULT, SO FAR AS PRACTICABLE, IN
9 WITHHOLDING FROM THE EMPLOYEE'S COMPENSATION DURING EACH CALENDAR
10 YEAR AN AMOUNT SUBSTANTIALLY EQUIVALENT TO THE TAX REASONABLY
11 ESTIMATED TO BE DUE FOR SUCH YEAR WITH RESPECT TO SUCH
12 COMPENSATION. SUBJECT TO THE FOREGOING, THE ORDINANCE LEVYING
13 THE TAX SHALL PROVIDE FOR WITHHOLDING, COLLECTING AND ENFORCING
14 PROCEDURES WHICH ARE NOT INCONSISTENT WITH THE ACT OF DECEMBER
15 31, 1965 (P.L.1257, NO.511), KNOWN AS "THE LOCAL TAX ENABLING
16 ACT," RELATING TO THE WITHHOLDING OF INCOME TAXES.

17 (F) THE DEPARTMENT OF REVENUE MAY ELECT TO ENTER INTO
18 AGREEMENTS WITH COUNTIES FOR THE COLLECTION OF TAXES IMPOSED
19 UNDER THIS SECTION.

20 (G) WITHIN THIRTY DAYS AFTER RECEIPT OF HIS REAL PROPERTY
21 TAX BILL, A LANDLORD SHALL DISCLOSE IN WRITING TO EACH TENANT
22 WHO HAS OCCUPIED A RENTAL UNIT FOR MORE THAN FORTY-FIVE DAYS THE
23 REDUCTION IN REAL PROPERTY TAXES, IF ANY, UNDER SUBSECTION (B)
24 WHICH IS ATTRIBUTABLE TO THAT TENANT'S UNIT. THE AMOUNT OF TAX
25 REDUCTION ATTRIBUTABLE TO EACH UNIT SHALL BE BASED UPON
26 ALLOCATED SQUARE FOOTAGE OCCUPIED OR OTHER REASONABLE CRITERIA.
27 THE RENTAL AMOUNT SPECIFIED IN ANY LEASE SHALL REFLECT ANY
28 REDUCTION IN REAL PROPERTY TAXES PURSUANT TO SUBSECTION (B).

29 SECTION 3. THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND SHALL
30 APPLY TO THE FISCAL YEAR OF A COUNTY NEXT COMMENCING AFTER THE

1 DATE OF FINAL ENACTMENT.