

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1549 Session of
1981

INTRODUCED BY CIMINI, JUNE 15, 1981

REFERRED TO COMMITTEE ON FINANCE, JUNE 15, 1981

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," excluding from income the gain from the sale of
11 the principal residence, including farms.

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

14 Section 1. Clause (3) of subsection (a) of section 303, act
15 of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of
16 1971," amended June 17, 1974 (P.L.325, No.105), is amended to
17 read:

18 Section 303. Classes of Income.--(a) The classes of income
19 referred to above are as follows:

20 * * *

21 (3) Net gains or income from disposition of property. Net
22 gains or net income, less net losses, derived from the sale,

1 exchange or other disposition of property, including real or
2 personal, whether tangible or intangible as determined in
3 accordance with accepted accounting principles and practices.
4 For the purpose of this act, for the determination of the basis
5 of any property, real and personal, if acquired prior to June 1,
6 1971, the date of acquisition shall be adjusted to June 1, 1971
7 as if the property had been acquired on that date. If the
8 property was acquired after June 1, 1971, the actual date of
9 acquisition shall be used in determination of the basis. At the
10 election of the taxpayer, net gains shall not include gain from
11 the sale or exchange of property if the property including
12 farms, has been owned and used by the taxpayer as a principal
13 residence for periods aggregating three years or more. The
14 amount of the gain excluded from net gain shall not exceed one
15 hundred twenty-five thousand dollars (\$125,000) or sixty-two
16 thousand five hundred dollars (\$62,500) in the case of a
17 separate return by a married individual. This provision shall
18 apply to only one sale or exchange, however in the case of any
19 sale or exchange after July 26, 1978, this section shall be
20 applied by not taking into account any election made with
21 respect to a sale or exchange on or before such date.

22 The term "net gains or income" shall not include gains or
23 income derived from obligations which are statutorily free from
24 State or local taxation under any other act of the General
25 Assembly of the Commonwealth of Pennsylvania or under the laws
26 of the United States. The term "sale, exchange or other
27 disposition" shall not include the exchange of stock or
28 securities in a corporation a party to a reorganization in
29 pursuance of a plan of reorganization, solely for stock or
30 securities in such corporation or in another corporation a party

1 to the reorganization and the transfer of property to a
2 corporation by one or more persons solely in exchange for stock
3 or securities in such corporation if immediately after the
4 exchange such person or persons are in control of the
5 corporation. For purposes of this clause, stock or securities
6 issued for services shall not be considered as issued in return
7 for property.

8 For purposes of this clause, the term "reorganization"
9 means--

10 (i) a statutory merger or consolidation;

11 (ii) the acquisition by one corporation, in exchange solely
12 for all or a part of its voting stock (or in exchange solely for
13 all or a part of the voting stock of a corporation which is in
14 control of the acquiring corporation) of stock of another
15 corporation if, immediately after the acquisition, the acquiring
16 corporation has control of such other corporation (whether or
17 not such acquiring corporation had control immediately before
18 the acquisition);

19 (iii) the acquisition by one corporation, in exchange solely
20 for all or a part of its voting stock (or in exchange solely for
21 all or a part of the voting stock of a corporation which is in
22 control of the acquiring corporation), of substantially all of
23 the properties of another corporation, but in determining
24 whether the exchange is solely for stock the assumption by the
25 acquiring corporation of a liability of the other, or the fact
26 that property acquired is subject to a liability, shall be
27 disregarded;

28 (iv) a transfer by a corporation of all or a part of its
29 assets to another corporation if immediately after the transfer
30 the transferor, or one or more of its shareholders (including

1 persons who were shareholders immediately before the transfer),
2 or any combination thereof, is in control of the corporation to
3 which the assets are transferred;

4 (v) a recapitalization;

5 (vi) a mere change in identity, form, or place of
6 organization however effected; or

7 (vii) the acquisition by one corporation, in exchange for
8 stock of a corporation (referred to in this subclause as
9 "controlling corporation") which is in control of the acquiring
10 corporation, of substantially all of the properties of another
11 corporation which in the transaction is merged into the
12 acquiring corporation shall not disqualify a transaction under
13 subclause (i) if such transaction would have qualified under
14 subclause (i) if the merger had been into the controlling
15 corporation, and no stock of the acquiring corporation is used
16 in the transaction;

17 (viii) a transaction otherwise qualifying under subclause
18 (i) shall not be disqualified by reason of the fact that stock
19 of a corporation (referred to in this subclause as the
20 "controlling corporation") which before the merger was in
21 control of the merged corporation is used in the transaction, if
22 after the transaction, the corporation surviving the merger
23 holds substantially all of its properties and of the properties
24 of the merged corporation (other than stock of the controlling
25 corporation distributed in the transaction); and in the
26 transaction, former shareholders of the surviving corporation
27 exchanged, for an amount of voting stock of the controlling
28 corporation, an amount of stock in the surviving corporation
29 which constitutes control of such corporation.

30 For purposes of this clause, the term "control" means the

1 ownership of stock possessing at least eighty per cent of the
2 total combined voting power of all classes of stock entitled to
3 vote and at least eighty per cent of the total number of shares
4 of all other classes of stock of the corporation.

5 For purposes of this clause, the term "a party to a
6 reorganization" includes a corporation resulting from a
7 reorganization, and both corporations, in the case of a
8 reorganization resulting from the acquisition by one corporation
9 of stock or properties of another. In the case of a
10 reorganization qualifying under subclause (i) by reason of
11 subclause (vii) the term "a party to a reorganization" includes
12 the controlling corporation referred to in such subclause (vii).

13 Notwithstanding any provisions hereof, upon every such
14 exchange or conversion, the taxpayer's base for the stock or
15 securities received shall be the same as the taxpayer's actual
16 or attributed base for the stock, securities or property
17 surrendered in exchange therefor.

18 * * *

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