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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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SENATE BILL

No. 345      Session of  
1987

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Report of the Committee of Conference

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To the Members of the Senate and House of Representatives:

We, the undersigned, Committee of Conference on the part of the Senate and House of Representatives for the purpose of considering Senate Bill No. 345, entitled:  
"An act \* \* \* MAKING AN APPROPRIATION TO THE STATE TREASURER FOR REPLACEMENT CHECKS,"

respectfully submit the following bill as our report:

RICHARD A. TILGHMAN

F. JOSEPH LOEPER

VINCENT J. FUMO

(Committee on the part of the Senate.)

MAX PIEVSKY

JAMES J. MANDERINO

MATTHEW J. RYAN

(Committee on the part of the House of Representatives.)

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," further providing for certain corporate taxes;  
11 providing for the exclusion of construction of hydroelectric  
12 generating facilities from the tax on utilities; and further  
13 providing for the realty transfer tax.

14 The General Assembly of the Commonwealth of Pennsylvania  
15 hereby enacts as follows:

16 Section 1. The introductory paragraph and clause (s.2) of  
17 section 301 of the act of March 4, 1971 (P.L.6, No.2), known as  
18 the Tax Reform Code of 1971, added August 31, 1971 (P.L.362,  
19 No.93) and December 23, 1983 (P.L.370, No.90), are amended to  
20 read:

21 Section 301. Definitions.--The following words, terms and  
22 phrases when used in this article shall have the meaning  
23 ascribed to them in this section except where the context  
24 clearly indicates a different meaning. Any reference in this  
25 article to the Internal Revenue Code shall include the Internal  
26 Revenue Code of 1954, [as amended to the date on which this  
27 article is effective] or the Internal Revenue Code of 1986  
28 (Public Law 99-514, 26 U.S.C. § 1 et seq.), whichever would be  
29 applicable to the taxpayer for Federal income tax purposes for a  
30 particular taxable year:

31 \* \* \*

32 (s.2) "Small corporation" means any corporation which has a  
33 valid election in effect under subchapter S of Chapter 1 of the  
34 Internal Revenue Code [of 1954, as amended as of January 1,

1 1983], and which does not have passive investment income in  
2 excess of twenty-five per cent of its gross receipts. For  
3 purposes of this clause, "passive investment income" means gross  
4 receipts derived from royalties, rents, dividends, interest,  
5 annuities and sales or exchanges of stock or securities (gross  
6 receipts from such sales or exchanges being taken into account  
7 only to the extent of gains therefrom[.], provided that "passive  
8 investment income" shall not include income derived from any  
9 options dealer, commodities dealer or equity specialist in the  
10 normal course of the taxpayer's activity of dealing in or  
11 trading options, commodities, or stock or securities. For the  
12 purposes of this clause, the term "options dealer" means any  
13 person registered with an appropriate securities exchange as a  
14 market maker or specialist in listed options; the term  
15 "commodities dealer" means a person who is actively engaged in  
16 trading on and is registered with a domestic board of trade  
17 which is designated as a contract market by the Commodities  
18 Futures Trading Commission; and the term "equity specialist"  
19 means any person registered with an appropriate securities  
20 exchange as a specialist in listed stocks or securities.

21 \* \* \*

22 Section 2. Section 1101-A(3)(iv) of the act, amended  
23 December 9, 1982 (P.L.1047, No.246), is amended to read:

24 Section 1101-A. Definitions.--The following words, terms and  
25 phrases when used in this article shall have the meaning  
26 ascribed to them in this section, except where the context  
27 clearly indicates a different meaning:

28 \* \* \*

29 (3) "Utility realty." All lands, together with all  
30 buildings, towers, smokestacks, dams, dikes, canals, cooling

1 towers, storage tanks, reactor structures, pump houses,  
2 supporting foundations, enclosing structures, supporting  
3 structures, containment structures, reactor containment outer  
4 shells, reactor containment vessels, turbine buildings, recovery  
5 tanks, solid waste area enclosures, primary auxiliary buildings,  
6 containment auxiliary safeguard structures, fuel buildings,  
7 decontamination buildings, and, all other structures and  
8 enclosures whatsoever which are physically affixed to the land,  
9 no matter how such structures and enclosures are designated and  
10 without regard to the classification thereof for local real  
11 estate taxation purposes, but not including machinery and  
12 equipment, whether or not housed within such building, structure  
13 or enclosure, located within this Commonwealth and owned by a  
14 public utility either directly or by or through a subsidiary,  
15 which are used or are in the course of development or  
16 construction for use, in the furnishing, including producing,  
17 storing, distributing or transporting, of public utility service  
18 and which are not subject to local real estate taxation under  
19 any law in effect on April 23, 1968: Provided, however, That the  
20 following specified items shall be exempt from the tax hereby  
21 imposed:

22 \* \* \*

23 (iv) All lands, together with all buildings, dams, dikes,  
24 canals, pump houses, supporting structures, supporting  
25 foundations, turbine buildings and all other structures and  
26 enclosures whatsoever which are physically affixed to the land,  
27 no matter how such structures and enclosures are designated and  
28 without regard to the classification thereof for local real  
29 estate taxation purposes which are used or useful in the  
30 furnishing, including producing, storing, distributing or

1 transporting, of hydroelectric power and energy: Provided,  
2 however, That the exemptions under this subclause shall not  
3 apply to items and lands which on the effective date of this act  
4 were used to furnish hydroelectric power and energy; and that  
5 the exemptions under this subclause shall commence [in the first  
6 year in which the item or land is used and useful in furnishing  
7 hydroelectric power and energy, and shall remain in effect for a  
8 period of ten consecutive years thereafter.] with the initiation  
9 of construction of the hydroelectric generating facilities and  
10 shall remain in effect for a period of ten consecutive years  
11 after the year in which the item or land first becomes used and  
12 useful in furnishing hydroelectric power and energy.

13 \* \* \*

14 Section 3. The definitions of "title to real estate" and  
15 "value" in section 1101-C of the act, amended July 2, 1986  
16 (P.L.318, No.77), are amended and the section is amended by  
17 adding a definition to read:

18 Section 1101-C. Definitions.--The following words when used  
19 in this article shall have the meanings ascribed to them in this  
20 section:

21 \* \* \*

22 "Family farm partnership." A partnership of which at least  
23 seventy-five percent of its assets are devoted to the business  
24 of agriculture and at least seventy-five percent of the  
25 interests in the partnership are continuously owned by members  
26 of the same family. The business of agriculture shall not be  
27 deemed to include:

28 (1) Recreational activities such as, but not limited to,  
29 hunting, fishing, camping, skiing, show competition or racing;

30 (2) The raising, breeding or training of game animals or

game birds, fish, cats, dogs or pets or animals intended for use  
in sporting or recreational activities;

(3) Fur farming;

(4) Stockyard and slaughterhouse operations; or

(5) Manufacturing or processing operations of any kind.

\* \* \*

"Title to real estate."

[(1)] Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including, without limitation, an estate in fee simple, life estate or perpetual leasehold; [or

(2)] any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

\* \* \*

"Value."

(1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber

1 or are charged against other real estate: Provided, That where  
2 such documents shall set forth a nominal consideration, the  
3 "value" thereof shall be determined from the price set forth in  
4 or actual consideration for the contract of sale;

5 (2) in the case of a gift, sale by execution upon a judgment  
6 or upon the foreclosure of a mortgage by a judicial officer,  
7 transactions without consideration or for consideration less  
8 than the actual monetary worth of the real estate, a taxable  
9 lease, an occupancy agreement, a leasehold or possessory  
10 interest, any exchange of properties, or the real estate of an  
11 acquired company, the actual monetary worth of the real estate  
12 determined by adjusting the assessed value of the real estate  
13 for local real estate tax purposes for the common level ratio of  
14 assessed values to market values of the taxing district as  
15 established by the State Tax Equalization Board, or a  
16 commensurate part of the assessment where the assessment  
17 includes other real estate; or

18 (3) in the case of an easement or other interest in real  
19 estate the value of which is not determinable under clause (1)  
20 or (2), the actual monetary worth of such interest\_[]; or

21 (4) the actual consideration for or actual monetary worth of  
22 any executory agreement for the construction of buildings,  
23 structures or other permanent improvements to real estate  
24 between the grantor and other persons existing before the  
25 transfer and not removed thereby or between the grantor, the  
26 agent or principal of the grantor or a related corporation,  
27 association or partnership and the grantee existing before or  
28 effective with the transfer.]

29 Section 4. Section 1102-C.3(18) and (20) of the act, added  
30 July 2, 1986 (P.L.318, No.77), are amended and the section is

1 amended by adding a clause to read:

2 Section 1102-C.3. Excluded Transactions.--The tax imposed by  
3 section 1102-C shall not be imposed upon:

4 \* \* \*

5 (18) A transfer to a conservancy which possesses a tax-  
6 exempt status pursuant to section 501(c)(3) of the Internal  
7 Revenue Code of 1954 (68A Stat. 3, 26 U.S.C. § 501(c)(3)) and  
8 which has as its primary purpose preservation of land for  
9 historic, recreational, scenic, agricultural or open-space  
10 opportunities, or a transfer from such a conservancy to the  
11 United States, the Commonwealth or to any of their  
12 instrumentalities, agencies or political subdivisions.

13 \* \* \*

14 (19.1) A transfer of real estate devoted to the business of  
15 agriculture to a family farm partnership by a member of the same  
16 family which directly owns at least seventy-five per cent of the  
17 interests in the partnership.

18 (20) A transfer between members of the same family of an  
19 ownership interest in a real estate company [or], family farm  
20 corporation or family farm partnership.

21 \* \* \*

22 Section 5. This act shall apply as follows:

23 (1) Section 1 (section 301) shall apply to corporation  
24 tax years commencing on or after January 1, 1989.

25 (2) Section 2 (section 1101-A) shall be retroactive to  
26 and shall apply to hydroelectric projects under construction  
27 as of January 1, 1987.

28 (3) Section 3 (section 1101-C) and section 4 (section  
29 1102-C) shall be retroactive to and shall apply to all  
30 transfers occurring on or after July 1, 1988.



1       Section 6.   This act shall take effect as follows:

2           (1)   Section 1 (section 301) shall take effect January 1,  
3       1989.

4           (2)   Section 2 (section 1101-A) shall take effect January  
5       1, 1990.

6           (3)   The remainder of this act shall take effect  
7       immediately.