

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 921 Session of  
1989

INTRODUCED BY GRUITZA, McVERRY, KOSINSKI, MAIALE, CHADWICK,  
HAGARTY, R. C. WRIGHT, WOZNIAK, HALUSKA AND PICCOLA,  
APRIL 3, 1989

REFERRED TO COMMITTEE ON FINANCE, APRIL 3, 1989

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the  
2 Pennsylvania Consolidated Statutes, exempting spousal  
3 transfers from inheritance taxation; providing for the  
4 taxation of certain spousal trusts; and making technical  
5 changes.

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

8 Section 1. Section 1707 of Title 72 of the Pennsylvania  
9 Consolidated Statutes is amended by adding a subsection to read:

10 § 1707. Transfers subject to tax.

11 \* \* \*

12 (d) Trusts and similar arrangements for spouses.--All  
13 succeeding interests which follow the interest of a surviving  
14 spouse in a trust or similar arrangement, to the extent  
15 specified in section 1712 (relating to trusts and similar  
16 arrangements for spouses), are transfers subject to tax as if  
17 the surviving spouse were the transferor.

18 Section 2. Sections 1708(b) and 1711(k) and (m) of Title 72  
19 are amended to read:

1 § 1708. Joint tenancy.

2 \* \* \*

3 (b) Husband and wife.--[Except as provided in subsection  
4 (c), this] This section shall not apply to property and  
5 interests in property passing by right of survivorship to the  
6 survivor of husband and wife.

7 \* \* \*

8 § 1711. Transfers not subject to tax.

9 \* \* \*

10 (k) Property subject to power of appointment.--Property  
11 subject to a power of appointment, whether or not the power is  
12 exercised, and notwithstanding any blending of such property  
13 with the property of the donee, is exempt from inheritance tax  
14 in the estate of the donee of the power of appointment, except  
15 as provided in section 1712 (relating to trust and similar  
16 arrangements for spouses).

17 \* \* \*

18 (m) Husband and wife.--Transfers of property to or for the  
19 use of a husband or wife of the decedent are exempt from  
20 inheritance tax. Property owned by husband and wife with right  
21 of survivorship is exempt from inheritance tax. [If the  
22 ownership was created within the meaning of section 1707(c)(3)  
23 the entire interest transferred shall be subject to tax under  
24 section 1707(c)(3) as though a part of the estate of the spouse  
25 who created the co-ownership.]

26 \* \* \*

27 Section 3. Title 72 is amended by adding a section to read:

28 § 1712. Trusts and similar arrangements for spouses.

29 In the case of a transfer of property for the sole use of the  
30 transferor's surviving spouse during the surviving spouse's

1 lifetime, all succeeding interests which follow the interest of  
2 the surviving spouse shall not be subject to tax as transfers by  
3 the transferor, but rather shall be deemed to be transfers  
4 subject to tax by the surviving spouse of the property held in  
5 the trust or similar arrangement at the death of the surviving  
6 spouse. Such succeeding interests shall be valued at the death  
7 of the surviving spouse and taxed at the tax rates applicable to  
8 dispositions by the surviving spouse. Any exemption from tax  
9 based upon the kind or location of property shall be based upon  
10 the kind or location of property held in the trust or similar  
11 arrangement at the surviving spouse's death.

12 Section 4. Sections 1716(a)(1) and (2) and (e) and 1730(1)  
13 and (2) of Title 72 are amended to read:

14 § 1716. Inheritance tax.

15 (a) Rate of tax.--

16 (1) Inheritance tax upon the transfer of property  
17 passing to or for the use of any of the following shall be at  
18 the rate of 6%:

19 (i) Grandfather, grandmother, father, mother[,  
20 husband, wife] and lineal descendants.

21 (ii) Wife or widow and husband or widower of a  
22 child.

23 (2) Inheritance tax upon the transfer of property  
24 passing to or for the use of all persons other than those  
25 designated in paragraph (1) or exempt under section 1711(m)  
26 (relating to transfers not subject to tax) shall be at the  
27 rate of 15%.

28 \* \* \*

29 (e) Compromise as to rate of future interests.--If the rate  
30 of tax which will be applicable when [a future] an interest

1 vests in possession and enjoyment cannot be established with  
2 certainty, the department, after consideration of relevant  
3 actuarial factors, valuations and other pertinent circumstances,  
4 may enter into an agreement with the person responsible for  
5 payment to establish a specified amount of tax which, when paid  
6 within 60 days after the agreement, shall constitute full  
7 payment of all tax otherwise due upon such transfer. Rights of  
8 withdrawal of a surviving spouse not exercised within nine  
9 months of the transferor's death shall be ignored in making such  
10 calculations.

11 \* \* \*

12 § 1730. Deductions not allowed.

13 The following are not deductible:

14 [(1) The value of assets claimed for the spouse's  
15 allowance under 20 Pa.C.S. § 2102 (relating to share of  
16 surviving spouse).]

17 (2) Claims of a former [or surviving] spouse, or others,  
18 under an agreement between the former [or surviving] spouse  
19 and the decedent, insofar as they arise in consideration of a  
20 relinquishment or promised relinquishment of marital or  
21 support rights.

22 \* \* \*

23 Section 5. Section 1744 is amended by adding a subsection to  
24 read:

25 § 1744. Source of payment.

26 \* \* \*

27 (e.1) Trusts for spouses.--In the absence of a contrary  
28 intent appearing in the instrument creating the trust or similar  
29 arrangement, and in the absence of a contrary direction by the  
30 surviving spouse, the inheritance tax, including interest, due

1 at the death of a surviving spouse with respect to a trust or  
2 similar arrangement to which section 1712 (relating to trusts  
3 and similar arrangements for spouses) is applicable shall be  
4 paid out of the principal of the trust or similar arrangement.  
5 The payment shall be made by the trustee or other fiduciary in  
6 possession of the property and, if not so paid, shall be made by  
7 the transferee of such principal.

8 Section 6. This act shall apply to the estates of all  
9 decedents dying on or after the effective date of this act.

10 Section 7. This act shall take effect July 1, 1989, or  
11 immediately, whichever is later.