

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1640 Session of
1989

INTRODUCED BY MICOZZIE, CESSAR, BELFANTI, DISTLER, RYBAK,
KASUNIC, SALOOM, BUSH, ROBINSON, TELEK, HALUSKA, TRELLO,
NOYE, JOHNSON, BOYES, SCHULER, GEIST, CARLSON, LANGTRY,
D. W. SNYDER, E. Z. TAYLOR, DeLUCA, WOZNIAK, COLAIZZO,
GODSHALL, BUNT, DORR, HESS, STABACK, FARGO, SAURMAN,
LASHINGER, RITTER, BILLOW, D. F. CLARK, HERSHEY, ADOLPH,
KENNEY, NAHILL, FARMER, McVERRY, MAINE, CIVERA, SEMMEL,
J. TAYLOR, BELARDI, OLASZ, FLICK, RICHARDSON, BROUJOS AND
CORNELL, JUNE 6, 1989

REFERRED TO COMMITTEE ON FINANCE, JUNE 6, 1989

AN ACT

1 Amending Title 72 (Taxation and Fiscal Affairs) of the
2 Pennsylvania Consolidated Statutes, further providing for
3 transfers between husband and wife and for property held by
4 husband and wife.

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

7 Section 1. Sections 1707(c), 1708 and 1711(m) of Title 72 of
8 the Pennsylvania Consolidated Statutes are amended to read:

9 § 1707. Transfers subject to tax.

10 * * *

11 (c) Inter vivos transfers.--

12 (1) All transfers of property specified in paragraphs

13 (3) through (7) which are made by a resident or a nonresident

14 during his lifetime are subject to tax to the extent that

15 they are made without valuable and adequate consideration in

1 money or money's worth at the time of transfer.

2 (2) When the decedent retained or reserved an interest
3 or power with respect to only a part of the property
4 transferred, in consequence of which a tax is imposed under
5 paragraphs (4) through (7), the amount of the taxable
6 transfer is only the value of that portion of the property
7 transferred which is subject to the retained or reserved
8 interest or power.

9 (3) [A] Except for transfers between husband and wife, a
10 transfer conforming to paragraph (1) and made within one year of
11 the death of the transferor is subject to tax only to the extent
12 that the value at the time of the transfer or transfers in the
13 aggregate to or for the benefit of the transferee exceeds \$3,000
14 during any calendar year.

15 (4) A transfer conforming to paragraph (1) which takes
16 effect in possession or enjoyment at or after the death of
17 the transferor and under which the transferor has retained a
18 reversionary interest in the property, the value of which
19 interest immediately before the death of the transferor
20 exceeds 5% of the value of the property transferred, is
21 subject to tax. The term "reversionary interest" includes a
22 possibility that property transferred may return to the
23 transferor or his estate, or may be subject to a power of
24 disposition by him, but the term does not include a
25 possibility that the income alone from the property may
26 return to him or become subject to a power of disposition by
27 him.

28 (5) A transfer conforming to paragraph (1), and under
29 which the transferor expressly or impliedly reserves for his
30 life or any period which does not in fact end before his

1 death, the possession or enjoyment of, or the right to the
2 income from, the property transferred, or the right, either
3 alone or in conjunction with any person not having an adverse
4 interest, to designate the persons who shall possess or enjoy
5 the property transferred or the income from the property, is
6 subject to tax.

7 (6) A transfer conforming to paragraph (1), and under
8 which the transferee promises to make payments to, or for the
9 benefit of, the transferor or to care for the transferor
10 during the remainder of the transferor's life, is subject to
11 tax.

12 (7) A transfer conforming to paragraph (1), and under
13 which the transferor has at his death, either in himself
14 alone or in conjunction with any person not having an adverse
15 interest, a power to alter, amend or revoke the interest of
16 the beneficiary, is subject to tax. Similarly, the
17 relinquishment of such a power is a transfer subject to tax
18 except as otherwise provided in paragraph (3).

19 § 1708. Joint tenancy.

20 (a) General rule.--When any property is held in the names of
21 two or more persons, or is deposited in a financial institution
22 in the names of two or more persons, so that, upon the death of
23 one of them, the survivor or survivors have a right to the
24 immediate ownership or possession and enjoyment of the whole
25 property, the accrual of such right, upon the death of one of
26 them, shall be deemed a transfer subject to tax, of a fractional
27 portion of such property to be determined by dividing the value
28 of the whole property by the number of joint tenants in
29 existence immediately preceding the death of the deceased joint
30 tenant.

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

5 (c) Other exception.--[If] Except where the co-owners are
6 husband and wife, if the co-ownership was created within one
7 year prior to the death of the co-tenant, the entire interest
8 transferred shall be subject to tax only under, and to the
9 extent stated in, section 1707(c)(3) (relating to transfers
10 subject to tax), as though a part of the estate of the person
11 who created the co-ownership.

12 § 1711. Transfers not subject to tax.

13 * * *

14 (m) Husband and wife.--Property owned by husband and wife
15 with right of survivorship is exempt from inheritance tax. [If
16 the ownership was created within the meaning of section
17 1707(c)(3) the entire interest transferred shall be subject to
18 tax under section 1707(c)(3) as though a part of the estate of
19 the spouse who created the co-ownership.]

20 * * *

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