

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 249 Session of
1991

INTRODUCED BY KUKOVICH, TRELLO, ITKIN, JAMES, MIHALICH, PRESTON,
PESCI, MELIO, GIGLIOTTI, DALEY, LAUGHLIN, STEELMAN, STURLA,
BILLOW, CAPPABIANCA, VAN HORNE, JOSEPHS, LaGROTTA, MICHLOVIC,
COHEN, MAIALE AND BATTISTO, FEBRUARY 5, 1991

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 5, 1991

AN ACT

1 Authorizing counties to enact a local sales tax; providing for
2 the levy, assessment and collection of the local sales tax;
3 providing for the expenditure of local sales tax revenues;
4 authorizing the elimination of certain taxes; and imposing
5 powers and duties on the Department of Revenue.

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

8 Section 1. Short title.

9 This act shall be known and may be cited as the Optional
10 County Sales Tax Act.

11 Section 2. Definitions.

12 The following words and phrases when used in this act shall
13 have the meanings given to them in this section unless the
14 context clearly indicates otherwise:

15 "County." A county-level municipality within this
16 Commonwealth, regardless of classification. The term includes a
17 county which has adopted a home rule charter or optional plan of
18 government under the act of April 13, 1972 (P.L.184, No.62),

1 known as the Home Rule Charter and Optional Plans Law. The term
2 includes a county of the first class.

3 "County administered human service programs." Programs
4 administered by the counties in the following areas: aging, drug
5 and alcohol, mental health, mental retardation, child welfare,
6 day care, human services development fund, attendant care,
7 homeless assistance and nursing homes.

8 "Community based human service programs." Community based
9 programs in the following areas: attendant care, family
10 planning, legal services, rape crisis centers, centers for
11 domestic violence, emergency food and shelter, and day care.

12 "Department." The Department of Revenue of the Commonwealth.
13 Section 3. Sales tax authorization.

14 (a) General rule.--Each county shall have the power and may
15 levy, assess and collect a local sales tax at a rate of 0.5% for
16 the purpose of funding county administered human service
17 programs.

18 (b) Additional sales tax.--In addition to the tax authorized
19 under subsection (a), each county which eliminates its
20 occupation, per capita and personal property taxes shall have
21 the power and may levy, assess and collect an additional local
22 sales tax at a rate of 0.5%.

23 (c) Utilization of tax proceeds.--

24 (1) All revenues raised from the tax authorized in
25 subsection (a) shall be used to provide funds for county
26 administered human service programs.

27 (2) All revenues raised from the tax authorized in
28 subsection (b) shall be used to replace the revenues lost
29 from the elimination of the specified taxes. Any revenues in
30 excess of this amount shall be used to provide funds for

1 county administered human service programs and community
2 based human service programs.

3 (3) Any revenues which remain after the requirements of
4 paragraphs (1) and (2) have been met shall be used to reduce
5 county real property taxes.

6 Section 4. Optional county sales and use tax.

7 (a) Sales tax.--The board of commissioners in any county,
8 and the city council in a city of the first class, may levy,
9 assess and collect upon each separate sale at retail of tangible
10 personal property or services a tax on the purchase price. The
11 tax shall be collected by the vendor from the purchaser and
12 shall be paid over to the Commonwealth as provided in
13 regulations.

14 (b) Use tax.--In any county which imposes a tax authorized
15 in subsection (a), there shall be levied, assessed and collected
16 upon the use within the county of tangible personal property
17 purchased at retail and on services purchased at retail a tax at
18 the same rate as imposed pursuant to subsection (a) on the
19 purchase price. The tax shall be paid to the Commonwealth by the
20 person who makes such use as provided in regulations. The use
21 tax shall not be paid to the Commonwealth by any person who has
22 paid any county tax imposed under this act equal to or greater
23 than the tax imposed pursuant to either subsection (a) or this
24 subsection.

25 (c) Hotel occupancy tax.--In any county which imposes a tax
26 authorized in subsection (a), there shall be levied, assessed
27 and collected an excise tax at the same rate as imposed pursuant
28 to subsection (a) on the rent upon every occupancy of a room or
29 rooms in a hotel in the county. The tax shall be collected by
30 the operator or owner from the occupant and paid over to the

1 Commonwealth as provided in regulations.

2 Section 5. Rate of tax.

3 (a) General rule.--Except as provided in subsection (b), the
4 tax authorized by section 4 may be imposed only at a rate of
5 0.5%.

6 (b) Exceptions.--In counties which eliminate the occupation,
7 per capita and personal property taxes, the tax authorized by
8 section 4 may be imposed at a rate of 1%.

9 (c) Uniformity.--The rate of tax imposed by section 4(a),
10 (b) and (c) shall be uniform.

11 Section 6. Computation of tax.

12 The amount of tax imposed by this act shall be computed as
13 follows:

14 (1) In counties imposing the tax authorized by this act
15 at the rate of 0.5%, the tax shall be computed as follows:

16 (i) If the purchase price is 99¢ or less, no tax
17 shall be collected.

18 (ii) If the purchase price is \$1 or more but less
19 than \$3, 1¢ shall be collected.

20 (iii) If the purchase price is \$3 or more but less
21 than \$5, 2¢ shall be collected.

22 (iv) If the purchase price is \$5 or more but less
23 than \$7, 3¢ shall be collected.

24 (v) If the purchase price is \$7 or more but less
25 than \$9, 4¢ shall be collected.

26 (vi) If the purchase price is \$9 or more but less
27 than \$10.01, 5¢ shall be collected.

28 (vii) If the purchase price is more than \$10, 0.5%
29 of each \$10 of purchase price plus the above bracket
30 charges upon any fractional part of a \$10 increment shall

1 be collected.

2 (2) In counties imposing the tax authorized by this act
3 at a total rate of 1%, the tax shall be computed as follows:

4 (i) If the purchase price is 49¢ or less, no tax
5 shall be collected.

6 (ii) If the purchase price is 50¢ or more but less
7 than \$1.50, 1¢ shall be collected.

8 (iii) If the purchase price is \$1.50 or more but
9 less than \$2.50, 2¢ shall be collected.

10 (iv) If the purchase price is \$2.50 or more but less
11 than \$3.50, 3¢ shall be collected.

12 (v) If the purchase price is \$3.50 or more but less
13 than \$4.50, 4¢ shall be collected.

14 (vi) If the purchase price is \$4.50 or more but less
15 than \$5.50, 5¢ shall be collected.

16 (vii) If the purchase is \$5.50 or more but less than
17 \$6.50, 6¢ shall be collected.

18 (viii) If the purchase price is \$6.50 or more but
19 less than \$7.50, 7¢ shall be collected.

20 (ix) If the purchase price is \$7.50 or more but less
21 than \$8.50, 8¢ shall be collected.

22 (x) If the purchase price is \$8.50 or more but less
23 than \$9.50, 9¢ shall be collected.

24 (xi) If the purchase price is \$9.50 or more but less
25 than \$10.01, 10¢ shall be collected.

26 (xii) If the purchase price is more than \$10, 1% of
27 each \$10 of purchase price plus the above bracket charges
28 upon any fractional part of a \$10 increment shall be
29 collected.

30 Section 7. Discounts.

1 There shall be no discount allowed for any taxes collected
2 and reported under this act.

3 Section 8. Situs for imposition of tax.

4 (a) Situs for retail sales.--For purposes of this act and
5 except as otherwise provided in this section, a sale at retail
6 shall be deemed to be consummated at the place where the vendor
7 delivers or otherwise transfers physical possession of the
8 tangible personal property to the customer or its agent.

9 (b) Situs for interstate transactions.--If the tangible
10 personal property is shipped from outside this Commonwealth to a
11 customer within this Commonwealth, the tangible personal
12 property is subject to the use tax imposed by section 4(b),
13 unless the vendor is licensed to collect the tax authorized
14 under section 4(a).

15 (c) Situs for vehicle, aircraft and motorcraft sales.--

16 (1) The sale at retail or use of a motor vehicle,
17 trailer or semitrailer, as defined in Title 75 of the
18 Pennsylvania Consolidated Statutes (relating to vehicles),
19 shall be deemed to have been completed or used at the address
20 of the purchaser or user. The tax due shall be paid by the
21 purchaser or user directly to the Department of
22 Transportation at the time of making application for the
23 issuance of a certificate of title or directly to the
24 department if a certificate of title is not obtained.

25 (2) The sale at retail or use of a motorboat, aircraft,
26 mobile home or similar tangible personal property, required
27 under Federal law or the laws of this Commonwealth to be
28 registered or licensed, purchased from a person not engaged
29 in the business of selling such property shall be deemed to
30 have been completed or used at the address of the purchaser

1 or user. The tax due shall be paid by the purchaser or user
2 at the time of registration or licensing or directly to the
3 department if registration or licensing is not obtained.

4 (d) Situs for utility services.--The sale or use of steam,
5 natural and manufactured gas, electricity, and intrastate
6 telephone and telegraph service shall be deemed to occur in the
7 county where the telephone number under which the service
8 furnished is located or in the county where the telegraph
9 originated or in the county where the meter which registers the
10 service is located, without regard to where the services are
11 rendered.

12 Section 9. Application of State law.

13 (a) General rule.--Except as otherwise provided in this act,
14 the provisions of Article II of the act of March 4, 1971 (P.L.6,
15 No.2), known as the Tax Reform Code of 1971, shall apply to the
16 taxes imposed by this act insofar as they are applicable to such
17 taxes.

18 (b) Licenses.--The license issued pursuant to Article II of
19 the Tax Reform Code of 1971 or a separate license may be issued
20 by the department for the collection and reporting of the tax
21 imposed by section 4. The license or licenses shall be
22 nonassignable and subject to renewal periodically at such times
23 as may be required by the department in regulations but in no
24 event more frequently than once within a five-year period. No
25 fee shall be charged for either a license or any renewal.
26 Failure of any person to obtain a license shall not relieve him
27 of liability to pay the taxes imposed by this act.

28 (c) Rules and regulations.--

29 (1) The rules and regulations promulgated under section
30 270 of the Tax Reform Code of 1971, shall be applicable to

1 the tax imposed by section 4 insofar as such rules and
2 regulations are consistent with section 4.

3 (2) The department shall administer and enforce the
4 provisions of this act and is authorized to promulgate and
5 enforce rules and regulations, not inconsistent with the
6 provisions of this act, relating to any matter or thing
7 pertaining to the administration and enforcement of the
8 provisions of this act. The department may prescribe the
9 extent to which any of such rules and regulations shall be
10 applied without retroactive effect.

11 (d) Exclusion from rate limitations.--The optional county
12 sales and use tax under section 4 which may be imposed by a
13 county of the first class coterminous with a city of the first
14 class shall not apply to the overall rate limitations set forth
15 in section 23(c) of the act of June 27, 1986 (P.L.267, No.70),
16 known as the Pennsylvania Convention Center Authority Act.

17 (e) Procedure and administration.--Part VI of Article II of
18 the Tax Reform Code of 1971 is incorporated by reference into
19 this act insofar as applicable.

20 Section 10. Adoption of ordinance.

21 (a) Adoption of county ordinance.--Any county desiring to
22 impose the tax authorized by section 4 shall adopt an ordinance.
23 The ordinance shall state the tax rate and refer to this act.
24 The county ordinance shall authorize the imposition of all taxes
25 provided for in section 4.

26 (b) Notification to department.--A certified copy of the
27 county ordinance shall be delivered to the department by July 1
28 of the year prior to the effective date thereof. The county
29 ordinance shall become effective on the January 1 following at
30 least six months after the date of enactment of the county

1 ordinance.

2 (c) Copy of repeal ordinance.--A certified copy of a repeal
3 ordinance shall be delivered to the department by July 1 of the
4 year prior to the effective date of such repeal. The repeal of
5 any such ordinance shall become effective on the January 1
6 following at least six months after the date of enactment of the
7 repeal ordinance.

8 (d) Copy of rate change ordinance.--A certified copy of any
9 ordinance changing the rate of the tax imposed by section 4
10 shall be delivered to the department by July 1 of the year prior
11 to the effective date of such ordinance. The ordinance shall
12 become effective on the January 1 following at least six months
13 after the date of enactment of the ordinance.

14 Section 11. Disbursement to counties.

15 On or before March 20, June 20, September 20 and December 20,
16 the department shall disburse to a county imposing the tax
17 authorized by section 4 an amount of money equal to the tax
18 collected in that county and remitted to the department less any
19 refunds and credits granted during the three months ending the
20 last day of March, June, September and December, respectively.

21 Section 12. Effective date.

22 This act shall take effect July 1, 1991.