

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 158 Session of
1997

INTRODUCED BY CONTI, REINARD, CLYMER, MELIO, FICHTER, ZUG,
PESCI, ROONEY, GORDNER, BAKER, M. N. WRIGHT, ARGALL,
GIGLIOTTI, STURLA, McCALL, TRAVAGLIO, L. I. COHEN, LaGROTTA,
CURRY, BATTISTO, BUNT, HERMAN, CORPORA, J. TAYLOR, STEELMAN,
TRELLO, BROWNE, RAMOS, STERN, ALLEN, E. Z. TAYLOR, BOSCOLA,
CORNELL AND JAMES, FEBRUARY 3, 1997

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 3, 1997

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," providing for the personal income tax treatment
11 of contributions to and distributions from a Keystone
12 Investment and Retirement Account.

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

15 Section 1. Section 301(d) and (f) of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
17 amended December 3, 1993 (P.L.473, No.68) and June 30, 1995
18 (P.L.139, No.21), are amended and the section is amended by
19 adding clauses to read:

20 Section 301. Definitions.--The following words, terms and
21 phrases when used in this article shall have the meaning

1 ascribed to them in this section except where the context
2 clearly indicates a different meaning. Any reference in this
3 article to the Internal Revenue Code shall include the Internal
4 Revenue Code of 1954, as amended to the date on which this
5 article is effective:

6 * * *

7 (d) "Compensation" means and shall include salaries, wages,
8 commissions, bonuses and incentive payments whether based on
9 profits or otherwise, fees, tips and similar remuneration
10 received for services rendered, whether directly or through an
11 agent, and whether in cash or in property.

12 The term "compensation" shall not mean or include: (i)
13 periodic payments for sickness and disability other than regular
14 wages received during a period of sickness or disability; or
15 (ii) disability, retirement or other payments arising under
16 workmen's compensation acts, occupational disease acts and
17 similar legislation by any government; or (iii) payments
18 commonly recognized as old age or retirement benefits paid to
19 persons retired from service after reaching a specific age or
20 after a stated period of employment; or (iv) payments commonly
21 known as public assistance, or unemployment compensation
22 payments by any governmental agency; or (v) payments to
23 reimburse actual expenses; or (vi) payments made by employers or
24 labor unions for programs covering hospitalization, sickness,
25 disability or death, supplemental unemployment benefits, strike
26 benefits, social security and retirement; or (vii) any
27 compensation received by United States servicemen serving in a
28 combat zone; or (viii) payments received by a foster parent for
29 in-home care of foster children from an agency of the
30 Commonwealth or a political subdivision thereof or an

1 organization exempt from Federal tax under section 501(c)(3) of
2 the Internal Revenue Code of 1954 which is licensed by the
3 Commonwealth or a political subdivision thereof as a placement
4 agency[.]; or (ix) qualified distributions from a Keystone
5 Investment and Retirement Account.

6 * * *

7 (f) "Dividends" means any distribution in cash or property
8 made by a corporation, association, business trust or investment
9 company with respect to its stock out of accumulated earnings
10 and profits or out of earnings and profits of the year in which
11 such dividend is paid: Provided, however, That the term
12 "dividends" shall not include:

13 (i) a distribution of the stock of a corporation made by the
14 corporation originally issuing same to its own stockholders if
15 such distribution is not treated as personal income for Federal
16 individual income tax purposes; or

17 (ii) for taxable years beginning on or after January 1,
18 1993, a distribution made by an investment company out of
19 earnings and profits derived from interest that is statutorily
20 free from State and local taxation under Article XXIX of this
21 act or the act of August 31, 1971 (P.L.395, No.94), entitled "An
22 act exempting from taxation for State and local purposes within
23 the Commonwealth certain obligations, their transfer and the
24 income therefrom (including any profits made on the sale
25 thereof), issued by the Commonwealth, any public authority,
26 commission, board or other agency created by the Commonwealth,
27 any political subdivision of the Commonwealth or any public
28 authority created by any such political subdivision," or the
29 laws of the United States[.]; or

30 (iii) qualified distributions from a Keystone Investment and

Retirement Account or dividends earned by or accrued to such an account.

* * *

(1.3) "Keystone Investment and Retirement Account" or "KIRA" means an individual retirement plan which is designated at the time of the establishment of the plan as a Keystone Investment and Retirement Account. The aggregate amount of contributions, other than rollover contributions, for any taxable year to all KIRA accounts maintained for the benefit of an individual shall not exceed the lesser of five thousand dollars (\$5,000) or an amount equal to the compensation includable in subsection (d) of this section. No rollover contribution may be made to a KIRA account unless such contribution is from another KIRA account.

* * *

(o.3) "Qualified Distributions from a Keystone Investment and Retirement Account" means:

(1) The term "qualified distributions" means any payment or distribution:

(i) Made for retirement but only on or after the date on which the individual attains fifty-nine and one-half years of age.

(ii) Made for the purchase of a first-time homebuyer.

(iii) Made for the qualified higher education expenses of the taxpayer.

(iv) Made for the first-time start-up of a business within this Commonwealth.

No payment or distribution shall be treated as a qualified distribution if it is made within the five-taxable-year period beginning with the first taxable year for which the individual made a contribution to a KIRA account established for such

1 individual.

2 (2) For purposes of this subclause, the following terms have
3 the following meanings:

4 (i) "Qualified first-time homebuyer distributions" means any
5 payment or distribution received by an individual to the extent
6 that such payment or distribution is used by the individual
7 before the close of the sixtieth day after the day on which such
8 payment or distribution is received to pay qualified acquisition
9 costs with respect to a principal residence for such individual
10 as a first-time homebuyer.

11 (ii) "First-time homebuyer" means any individual if such
12 individual (and, if married, such individual's spouse) had no
13 present ownership interest in a principal residence during the
14 three-year period ending on the date of acquisition of the
15 principal residence to which this paragraph applies.

16 (iii) "Qualified higher education expenses" means tuition,
17 fees, books, supplies and equipment required for the enrollment
18 or attendance of the taxpayer, the taxpayer's spouse, the
19 taxpayer's child or grandchild for the purpose of obtaining
20 higher education at an eligible education institution as defined
21 in section 135(c)(3) of the Internal Revenue Code of 1986
22 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

23 (iv) "First-time start-up of a business" means the initial
24 creation of a business within this Commonwealth. Any individual
25 using the distribution in order to start a business shall not
26 have present ownership interest exceeding five per cent of a
27 business during the three-year period ending on the date of
28 acquisition of a new business to which this distribution
29 applies.

30 * * *

1 Section 2. Section 303(a)(6) of the act, added August 31,
2 1971 (P.L.362, No.93), is amended and clause (3) of the
3 subsection is amended by adding a paragraph to read:

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

6 * * *

7 (3) * * *

8 The term "net gains or income" shall not include qualified
9 distributions from a Keystone Investment and Retirement Account
10 or any net gains or interest earned by or accrued to such an
11 account.

12 * * *

13 (6) Interest derived from obligations which are not
14 statutorily free from State or local taxation under any other
15 act of the General Assembly of the Commonwealth of Pennsylvania
16 or under the laws of the United States. Interest shall not
17 include qualified distributions from a Keystone Investment and
18 Retirement Account or any net gains or interest earned by or
19 accrued to such an account.

20 * * *

21 Section 3. The act is amended by adding a section to read:

22 Section 352.2. KIRA Penalty.--There shall be a ten per cent
23 penalty imposed on distributions from a KIRA account which are
24 not qualified under section 301(o.3) of this act.

25 Section 4. This act shall apply to taxable years beginning
26 January 1, 1998, and each year thereafter.

27 Section 5. This act shall take effect immediately.