

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 30

Session of
1997

INTRODUCED BY COSTA, WAGNER, BELAN, MUSTO, KASUNIC, BODACK,
LAVALLE, TARTAGLIONE, STOUT, MELLOW, AFFLERBACH, SCHWARTZ AND
O'PAKE, JANUARY 15, 1997

REFERRED TO FINANCE, JANUARY 15, 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," further providing for inheritance tax.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2116 of the act of March 4, 1971 (P.L.6,
14 No.2), known as the Tax Reform Code of 1971, amended or added
15 August 4, 1991 (P.L.97, No.22), June 16, 1994 (P.L.279, No.48)
16 and June 30, 1995 (P.L.139, No.21), is amended to read:

17 Section 2116. Inheritance Tax.--(a) (1) [Inheritance]
18 Except as provided in subsection (g), inheritance tax upon the
19 transfer of property passing to or for the use of any of the
20 following shall be at the rate of six per cent:

21 (i) grandfather, grandmother, father, mother and lineal

1 descendants; or

2 (ii) wife or widow and husband or widower of a child.

3 (1.1) [Inheritance] Except as provided in subsection (g),
4 inheritance tax upon the transfer of property passing to or for
5 the use of a husband or wife shall be:

6 (i) At the rate of three per cent for estates of decedents
7 dying on or after July 1, 1994, and before January 1, 1995.

8 (ii) At the rate of zero per cent for estates of decedents
9 dying on or after January 1, 1995.

10 (2) [Inheritance] Except as provided in subsection (g),
11 inheritance tax upon the transfer of property passing to or for
12 the use of all persons other than those designated in subclause
13 (1) or (1.1) or exempt under section 2111(m) shall be at the
14 rate of fifteen per cent.

15 (3) When property passes to or for the use of a husband and
16 wife with right of survivorship, one of whom is taxable at a
17 rate lower than the other, the lower rate of tax shall be
18 applied to the entire interest.

19 (b) (1) When the decedent was a resident, the tax shall be
20 computed upon the value of the property, in excess of the
21 deductions specified in Part VI, at the rates in effect at the
22 transferor's death.

23 (2) When the decedent was a nonresident, the tax shall be
24 computed upon the value of real property and tangible personal
25 property having its situs in this Commonwealth, in excess of
26 unpaid property taxes assessed on the property and any
27 indebtedness for which it is liened, mortgaged or pledged, at
28 the rates in effect at the transferor's death. The person liable
29 to make the return under section 2136 may elect to have the tax
30 computed as if the decedent was a resident and his entire estate

1 was property having its situs in this Commonwealth, and the tax
2 due shall be the amount which bears the same ratio to the tax
3 thus computed as the real property and tangible personal
4 property located in this Commonwealth bears to the entire estate
5 of the decedent.

6 (b.1) The inheritance tax due upon the transfer of property
7 passing to or for the use of a husband or wife shall be the
8 lesser of the tax imposed under subsection (a)(1.1) or the tax
9 due after the allowance of the credit provided for under section
10 2112.

11 (c) When any person entitled to a distributive share of an
12 estate, whether under an inter vivos trust, a will or the
13 intestate law, renounces his right to receive the distributive
14 share receiving therefor no consideration, or exercises his
15 elective rights under 20 Pa.C.S. Ch. 22 (relating to elective
16 share of surviving spouse) receiving therefor no consideration
17 other than the interest in assets passing to him as the electing
18 spouse, the tax shall be computed as though the persons who
19 benefit by such renunciation or election were originally
20 designated to be the distributees, conditioned upon an
21 adjudication or decree of distribution expressly confirming
22 distribution to such distributees. The renunciation shall be
23 made within nine months after the death of the decedent or, in
24 the case of a surviving spouse, within the time for election and
25 any extension thereof under 20 Pa.C.S. § 2210(b) (relating to
26 procedure for election; time limit). Notice of the filing of the
27 account and of its call for audit or confirmation shall include
28 notice of the renunciation or election to the department. When
29 an unconditional vesting of a future interest does not occur at
30 the decedent's death, the renunciation specified in this

1 subsection of the future interest may be made within three
2 months after the occurrence of the event or contingency which
3 resolves the vesting of the interest in possession and
4 enjoyment.

5 (d) In case of a compromise of a dispute regarding rights
6 and interests of transferees, made in good faith, the tax shall
7 be computed as though the persons so receiving distribution were
8 originally entitled to it as transferees of the property
9 received in the compromise, conditioned upon an adjudication or
10 decree of distribution expressly confirming distribution to such
11 distributees. Notice of the filing of the account and of its
12 call for audit or confirmation shall include notice to the
13 department.

14 (e) If the rate of tax which will be applicable when an
15 interest vests in possession and enjoyment cannot be established
16 with certainty, the department, after consideration of relevant
17 actuarial factors, valuations and other pertinent circumstances,
18 may enter into an agreement with the person responsible for
19 payment to establish a specified amount of tax which, when paid
20 within sixty days after the agreement, shall constitute full
21 payment of all tax otherwise due upon such transfer. Rights of
22 withdrawal of a surviving spouse not exercised within nine
23 months of the transferor's death shall be ignored in making such
24 calculations.

25 (f) Property subject to a power of appointment, whether or
26 not the power is exercised and notwithstanding any blending of
27 the property with the property of the donee, shall be taxed only
28 as part of the estate of the donor.

29 (g) The first one hundred thousand dollars (\$100,000) of the
30 taxable value of property solely owned by the decedent that is

1 transferred is exempt from the tax imposed under subsection
2 (a)(1), (1.1) or (2).

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