
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 761 Session of
2011

INTRODUCED BY CUTLER, MIRABITO, BAKER, BOYD, CLYMER, COX,
DENLINGER, FLECK, FREEMAN, GILLEN, GINGRICH, GODSHALL, GRELL,
HARHART, HENNESSEY, HICKERNELL, HUTCHINSON, KAUFFMAN, KORTZ,
LAWRENCE, LONGIETTI, MARSHALL, METZGAR, MILLER, MOUL,
PICKETT, PYLE, REICHLEY, ROAE, ROSS, STERN, SWANGER, TOEPEL,
VULAKOVICH AND WATSON, FEBRUARY 23, 2011

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 23, 2011

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," in realty transfer tax, further providing for
11 definitions, for excluded transactions and for acquired
12 company.

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

15 Section 1. The definitions of "association," "corporation,"
16 "family farm corporation" and "family farm partnership" in
17 section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known
18 as the Tax Reform Code of 1971, amended July 2, 1986 (P.L.318,
19 No.77) and April 23, 1998 (P.L.239, No.45), are amended to read:

20 Section 1101-C. Definitions.--The following words when used
21 in this article shall have the meanings ascribed to them in this

1 section:

2 "Association." A partnership, limited partnership, limited
3 liability partnership or any other form of unincorporated
4 enterprise, owned or conducted by two or more persons other than
5 a private trust or decedent's estate.

6 "Corporation." A corporation, limited liability company,
7 joint-stock association, business trust or banking institution
8 which is organized under the laws of this Commonwealth, the
9 United States, or any other state, territory, or foreign
10 country, or dependency.

11 * * *

12 "Family farm corporation." A corporation of which at least
13 seventy-five per cent of its assets are devoted to the business
14 of agriculture and at least seventy-five per cent of each class
15 of stock of the corporation is continuously owned by members of
16 the same family. The term includes any corporation that may be
17 formed to succeed the business operations of a family farm
18 corporation or a family farm partnership. The business of
19 agriculture shall include the leasing to members of the same
20 family of property which is directly and principally used for
21 agricultural purposes. The business of agriculture shall not be
22 deemed to include:

23 (1) Recreational activities such as, but not limited to,
24 hunting, fishing, camping, skiing, show competition or racing;

25 (2) The raising, breeding or training of game animals or
26 game birds, fish, cats, dogs or pets or animals intended for use
27 in sporting or recreational activities;

28 (3) Fur farming;

29 (4) Stockyard and slaughterhouse operations; or

30 (5) Manufacturing or processing operations of any kind.

1 "Family farm partnership." A general, limited or limited
2 liability partnership of which at least seventy-five per cent of
3 its assets are devoted to the business of agriculture and at
4 least seventy-five per cent of the interests in the general,
5 limited or limited liability partnership are continuously owned
6 by members of the same family. The business of agriculture shall
7 include the leasing to members of the same family of property
8 which is directly and principally used for agricultural
9 purposes. The business of agriculture shall not be deemed to
10 include:

11 (1) recreational activities such as, but not limited to,
12 hunting, fishing, camping, skiing, show competition or racing;

13 (2) the raising, breeding or training of game animals or
14 game birds, fish, cats, dogs or pets or animals intended for use
15 in sporting or recreational activities;

16 (3) fur farming;

17 (4) stockyard and slaughterhouse operations; or

18 (5) manufacturing or processing operations of any kind.

19 * * *

20 Section 2. Section 1102-C.3(19.1) and (20) of the act,
21 amended or added June 16, 1994 (P.L.279, No.48), are amended to
22 read:

23 Section 1102-C.3. Excluded Transactions.--The tax imposed by
24 section 1102-C shall not be imposed upon:

25 * * *

26 (19.1) A transfer of real estate devoted to the business of
27 agriculture to a family farm, general, limited or limited
28 liability partnership by a member of the same family, which
29 family directly owns at least seventy-five per cent of the
30 interests in the partnership.

1 (20) A transfer between members of the same family of an
2 ownership interest in a real estate company, family farm
3 corporation or family farm, general, limited or limited
4 liability partnership which owns real estate.

5 * * *

6 Section 3. Section 1102-C.5 of the act, amended or added
7 July 2, 1986 (P.L.318, No.77) and June 16, 1994 (P.L.279,
8 No.48), is amended to read:

9 Section 1102-C.5. Acquired Company.--(a) A real estate
10 company is an acquired company upon a change in the ownership
11 interest in the company, however effected, if the change:

12 (1) does not affect the continuity of the company; and

13 (2) of itself or together with prior changes has the effect
14 of transferring, directly or indirectly, ninety per cent or more
15 of the total ownership interest in the company within a period
16 of three years.

17 (b) With respect to real estate acquired after February 16,
18 1986, a family farm corporation is an acquired company when,
19 because of voluntary or involuntary dissolution, it ceases to be
20 a family farm corporation or when, because of issuance or
21 transfer of stock or because of acquisition or transfer of
22 assets that are devoted to the business of agriculture, it fails
23 to meet the minimum requirements of a family farm corporation
24 under this act.

25 (b.1) A family farm partnership or family farm corporation
26 is an acquired company when, because of voluntary or involuntary
27 dissolution, it ceases to be a family farm partnership or family
28 farm corporation or when, because of transfer of partnership or
29 other interests or because of acquisition or transfer of assets
30 that are devoted to the business of agriculture, it fails to

1 meet the minimum requirements of a family farm partnership or
2 family farm corporation under this act.

3 (b.2) The conveyance of assets held by a family farm
4 corporation or family farm partnership to a limited partnership,
5 limited liability partnership or limited liability company in
6 which at least seventy-five per cent of the ownership interest
7 is held by members of the same family as the family holding
8 ownership interest in the conveying corporation or partnership
9 shall not be considered to be a transfer of assets under this
10 article.

11 (c) Within thirty days after becoming an acquired company,
12 the company shall present a declaration of acquisition with the
13 recorder of each county in which it holds real estate for the
14 affixation of documentary stamps and recording. Such declaration
15 shall set forth the value of real estate holdings of the
16 acquired company in such county.

17 Section 4. This act shall apply retroactively to
18 transactions occurring after December 31, 2008.

19 Section 5. The provisions of 61 Pa. Code 91.222 (relating to
20 family farm corporation) are abrogated.

21 Section 6. This act shall take effect immediately.