

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, WATSON, QUINN, FARRY AND BEAR, FEBRUARY 23, 2011

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, OCTOBER 19, 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

1 in this article shall have the meanings ascribed to them in this
2 section:

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

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

12 * * *

13 "Family farm [corporation.] BUSINESS." A corporation OR ←
14 ASSOCIATION of which at least seventy-five per cent of its
15 assets are devoted to the business of agriculture and at least
16 seventy-five per cent of each class of stock of the corporation
17 OR INTEREST IN THE ASSOCIATION is continuously owned by members ←
18 of the same family. ~~The term includes any corporation that may~~ ←
19 ~~be formed to succeed the business operations of a family farm~~
20 ~~corporation or a family farm partnership.~~ The business of
21 agriculture shall include the leasing to members of the same
22 family OR THE LEASING TO A CORPORATION OR ASSOCIATION OWNED BY ←
23 MEMBERS OF THE SAME FAMILY of property which is directly and
24 principally used for agricultural purposes. The business of
25 agriculture shall not be deemed to include:

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

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

- 1 (3) Fur farming;
- 2 (4) Stockyard and slaughterhouse operations; or
- 3 (5) Manufacturing or processing operations of any kind.

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

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

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

19 (3) fur farming;

20 (4) stockyard and slaughterhouse operations; or

21 (5) manufacturing or processing operations of any kind.] ←

22 * * *

23 Section 2. ~~Section 1102-C.3(19.1) and (20)~~ SECTIONS 1102- ←
24 C.3(19), (19.1) AND (20) AND 1102-C.5 of the act, amended or
25 added JULY 2, 1986 (P.L.318, NO.77) AND June 16, 1994 (P.L.279, ←
26 No.48), are amended to read:

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

29 * * *

30 (19) A TRANSFER OF REAL ESTATE DEVOTED TO THE BUSINESS OF ←

1 AGRICULTURE TO A FAMILY FARM [CORPORATION] BUSINESS BY A MEMBER
2 OF THE SAME FAMILY WHICH DIRECTLY OWNS AT LEAST SEVENTY-FIVE PER
3 CENT OF EACH CLASS OF THE STOCK THEREOF OR INTEREST THEREIN.

4 [(19.1) A transfer of real estate devoted to the business of ←
5 agriculture to a family farm, ~~general, limited or limited~~ ←
6 ~~liability~~ partnership by a member of the same family, which
7 family directly owns at least seventy-five per cent of the
8 interests in the partnership.] ←

9 (20) A transfer between members of the same family of an
10 ownership interest in a real estate company[,] OR family farm ←
11 [corporation or family farm, ~~general, limited or limited~~ ←
12 ~~liability~~ partnership which] BUSINESS THAT owns real estate. ←

13 * * *

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

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

- 20 (1) does not affect the continuity of the company; and
21 (2) of itself or together with prior changes has the effect
22 of transferring, directly or indirectly, ninety per cent or more
23 of the total ownership interest in the company within a period
24 of three years.

25 (b) [With respect to real estate acquired after February 16, ←
26 1986, a family farm corporation is an acquired company when,
27 because of voluntary or involuntary dissolution, it ceases to be
28 a family farm corporation or when, because of issuance or
29 transfer of stock or because of acquisition or transfer of
30 assets that are devoted to the business of agriculture, it fails

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

3 (b.1) A family farm partnership ~~or family farm corporation~~ ←
4 is an acquired company when, because of voluntary or involuntary
5 dissolution, it ceases to be a family farm partnership ~~or family~~ ←
6 ~~farm corporation~~ or when, because of transfer of partnership ~~or~~ ←
7 ~~other~~ interests or because of acquisition or transfer of assets
8 that are devoted to the business of agriculture, it fails to
9 meet the minimum requirements of a family farm partnership ~~or~~ ←
10 ~~family farm corporation~~ under this act.

11 ~~(b.2) The conveyance of assets held by a family farm~~
12 ~~corporation or family farm partnership to a limited partnership,~~
13 ~~limited liability partnership or limited liability company in~~
14 ~~which at least seventy five per cent of the ownership interest~~
15 ~~is held by members of the same family as the family holding~~
16 ~~ownership interest in the conveying corporation or partnership~~
17 ~~shall not be considered to be a transfer of assets under this~~
18 ~~article.~~ UNDER THIS ACT.] A FAMILY FARM BUSINESS IS AN ACQUIRED ←

19 COMPANY WHEN, BECAUSE OF VOLUNTARY OR INVOLUNTARY DISSOLUTION,
20 IT CEASES TO BE A FAMILY FARM BUSINESS, OR WHEN, BECAUSE OF THE
21 ISSUANCE OR TRANSFER OF STOCK IN THE CORPORATION OR TRANSFER OF
22 INTERESTS IN THE ASSOCIATION OR BECAUSE OF AN ACQUISITION OR
23 TRANSFER OF ASSETS THAT ARE DEVOTED TO THE BUSINESS OF
24 AGRICULTURE, IT FAILS TO MEET THE MINIMUM REQUIREMENTS OF A
25 FAMILY FARM BUSINESS UNDER THIS ACT.

26 (c) Within thirty days after becoming an acquired company,
27 the company shall present a declaration of acquisition with the
28 recorder of each county in which it holds real estate for the
29 affixation of documentary stamps and recording. Such declaration
30 shall set forth the value of real estate holdings of the

1 acquired company in such county.

2 Section ~~4~~ 3. This act shall apply retroactively to ←
3 transactions occurring after December 31, 2008.

4 Section ~~5~~ 4. The provisions of 61 Pa. Code 91.222 (relating ←
5 to family farm corporation) are abrogated.

6 Section ~~6~~ 5. This act shall take effect immediately. ←