

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 303 Session of
2013

INTRODUCED BY PILEGGI, BRUBAKER, MENSCH, FOLMER, SMUCKER,
VULAKOVICH, ARGALL, GREENLEAF, ALLOWAY, RAFFERTY, HUTCHINSON,
ERICKSON, BAKER, TOMLINSON, SOLOBAY, YAW, YUDICHAK, ROBBINS,
WHITE, VOGEL, WARD, WAUGH, SCHWANK AND BOSCOLA,
FEBRUARY 13, 2013

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED,
APRIL 15, 2013

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 inheritance tax, further providing for
11 definitions and for exclusions.

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

14 Section 1. Section 2102 of the act of March 4, 1971 (P.L.6,
15 No.2), known as the Tax Reform Code of 1971, is amended by
16 adding a definition to read:

17 Section 2102. Definitions.--The following words, terms and
18 phrases, when used in this article, shall have the meanings
19 ascribed to them in this section, except where the context
20 clearly indicates a different meaning:

* * *

"Small business." An enterprise that has:

(1) not more than fifty employees;

(2) a net book value of assets totaling less than five million dollars (\$5,000,000) at the beginning or end of the most recent calendar year; and

(3) has been operated by a person with an ownership interest of at least seventy-five per cent of the business for a minimum of five years.

* * *

Section 2. Section 2111 of the act is amended by adding a subsection to read:

Section 2111. Transfers Not Subject to Tax.--* * *

(t) A transfer of a small business and its ~~assets, including~~ ~~real estate,~~ PROPERTY is exempt from inheritance tax provided that the small business is being transferred to one or more members of the same family and the family member maintains the operation of the small business for a minimum of seven years-, <--

PROVIDED THAT:

(1) ANY PROPERTY WHICH IS NO LONGER DEVOTED TO USE IN THE OPERATION OF A SMALL BUSINESS WITHIN SEVEN YEARS BEYOND THE TRANSFEROR'S DATE OF DEATH SHALL BE SUBJECT TO:

(I) INHERITANCE TAX DUE THE COMMONWEALTH UNDER SECTION 2107, IN THE AMOUNT THAT WOULD HAVE BEEN PAID OR PAYABLE ON THE BASIS OF VALUATION AUTHORIZED UNDER SECTION 2121 FOR NONEXEMPT TRANSFERS OF PROPERTY; AND

(II) INTEREST ON THE INHERITANCE TAX DUE ACCRUING AS OF THE TRANSFEROR'S DATE OF DEATH, AT THE RATE ESTABLISHED IN SECTION 2143.

(2) ANY TAX IMPOSED UNDER SECTION 2107 SHALL BE:

1 (I) A LIEN IN FAVOR OF THE COMMONWEALTH UPON THE PROPERTY NO
2 LONGER BEING DEVOTED TO USE IN THE OPERATION OF A SMALL
3 BUSINESS, COLLECTIBLE IN THE MANNER PROVIDED FOR BY LAW FOR THE
4 COLLECTION OF DELINQUENT REAL ESTATE TAXES; AND

5 (II) THE PERSONAL OBLIGATION OF THE OWNER OF THE PROPERTY AT
6 THE TIME OF THE CHANGE OF USE.

7 (3) AN OWNER OF PROPERTY DEVOTED TO USE IN THE OPERATION OF
8 A SMALL BUSINESS UNDER THIS SUBSECTION SHALL CERTIFY TO THE
9 DEPARTMENT ON AN ANNUAL BASIS THAT THE PROPERTY QUALIFIES FOR
10 THIS EXEMPTION AND SHALL NOTIFY THE DEPARTMENT WITHIN THIRTY
11 DAYS OF ANY TRANSACTION OR OCCURRENCE CAUSING THE PROPERTY TO
12 FAIL TO QUALIFY FOR THE EXEMPTION. EACH YEAR THE DEPARTMENT
13 SHALL INFORM ALL OWNERS OF THEIR OBLIGATION TO PROVIDE AN ANNUAL
14 CERTIFICATION UNDER THIS SUBCLAUSE. THE CERTIFICATION AND
15 NOTIFICATION SHALL BE COMPLETED IN THE FORM AND MANNER AS
16 PROVIDED BY THE DEPARTMENT.

17 Section 3. The addition of section 2111(t) of the act shall
18 apply to the estates of decedents who die on or after the
19 effective date of this section.

20 Section 4. This act shall take effect immediately.