

commanding officer shall account, by proper vouchers to the city, for the expenditure of the moneys so appropriated, and no appropriation shall be made for any subsequent year until the expenditure of the previous year shall have been duly and satisfactorily accounted for.

Commanding officer directed to account for expenditure of appropriated moneys.

The accounts of such expenditure shall be subject to the inspection of the Department of Military Affairs, and shall be audited by the [Auditor General in the manner provided by law for the audit of accounts of State moneys] *controller of the city*.

Inspection and audit of accounts.

APPROVED—The 10th day of May, A. D. 1951.

JOHN S. FINE

No. 45

AN ACT

To reenact and amend the title of and the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1669), entitled "An act to provide revenue for school districts of the first class by imposing a temporary tax on persons engaging in certain businesses, professions, occupations, trades, vocations and commercial activities therein; providing for its levy and collection; conferring and imposing powers and duties on the Board of Public Education, receiver of school taxes and school treasurer in such districts; and prescribing penalties," by continuing the provisions thereof for the year one thousand nine hundred fifty-two and succeeding years; exempting payments on building and loan and savings and loan stocks; and deleting certain obsolete provisions.

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

School districts of the first class: business, etc., tax.

Section 1. The title of and the act, approved the twenty-third day of May, one thousand nine hundred forty-nine (Pamphlet Laws 1669), entitled "An act to provide revenue for school districts of the first class by imposing a temporary tax on persons engaging in certain businesses, professions, occupations, trades, vocations and commercial activities therein; providing for its levy and collection; conferring and imposing powers and duties on the Board of Public Education, receiver of school taxes and school treasurer in such districts; and prescribing penalties," are hereby reenacted and amended to read as follows:

Title of and act of May 23, 1949, P. L. 1669, reenacted and amended.

AN ACT

To provide revenue for school districts of the first class by imposing a [temporary] tax on persons engaging in certain businesses, professions, occupations, trades,

Amended title.

vocations and commercial activities therein; providing for its levy and collection; conferring and imposing powers and duties on the Board of Public Education, receiver of school taxes and school treasurer in such districts; and prescribing penalties.

Section 1. Definitions.—The following words and phrases when used in this act shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

(1) "Person." Any individual, partnership, limited partnership, association, or corporation. Whenever used in any clause prescribing or imposing a penalty, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

(2) "Business." Carrying on or exercising for gain or profit within a school district of the first class, any trade, business, including financial business as hereinafter defined, profession, vocation, or commercial activity, or making sales to persons within such school district of first class. "Business" shall not include the following: Any business conducted by a non-profit corporation or association organized for religious, charitable, or educational purposes, the business of any political subdivision, or of any authority created and organized under and pursuant to any act of Assembly, the specific business conducted by any public utility operating under the laws, rules and regulations administered by the Pennsylvania Public Utility Commission of furnishing or supplying service or services at the fixed rates specified in its tariffs, the business of any insurance company, association or exchange, or any fraternal, benefit, or beneficial society of any other state under the laws of which insurance companies, associations or exchanges, or fraternal, benefit, or beneficial societies of this Commonwealth doing business in such other state are subjected, by reason of the tax imposed by this act, to additional or further taxes, fines, penalties or license fees by such other state, and any employment for a wage or salary.

(3) "Financial Business." The services and transactions of private banks and bankers, building and loan associations, savings and loan associations, credit unions, savings banks, banks, bank and trust companies, trust companies, investment companies registered as such with the Federal Securities and Exchange Commission, holding companies, dealers and brokers in money, credits, commercial paper, bonds, notes, securities and stocks, monetary metals, factors and commission merchants.

(4) "Tax Year." The twelve month period corresponding to the fiscal year of the school district levying the tax.

(5) "Receipts." Cash, credits, property of any kind or nature, received in or allocable to a school district of the first class from any business or by reason of any sale made or services rendered or commercial or business transaction had within a school district of the first class, without deduction therefrom on account of the cost of property sold, materials used, labor, service, or other cost, interest or discount paid, or any other expense. "Receipts" shall exclude (a) the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business, except to the extent that the resale price exceeds the trade-in allowance; (b) in the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity, or redeemed, and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and shall also exclude deposits, *and, in the case of building and loan or savings and loan associations, payments received on account of shares purchased by shareholders*; (c) in the case of a broker, any commissions paid by him to another broker on account of a purchase or sales contract initiated, executed or cleared in conjunction with such other broker; (d) the receipts or the portion thereof attributable to any sale involving the bona fide delivery of goods, commodities, wares or merchandise of the taxpayer's own manufacture, growth or produce, to a location regularly maintained by the other party to the transaction outside the limits of such school district, and not for the purpose of evading or avoiding payment of the tax or any portion thereof imposed under this act. For the purpose of determining receipts from the business of insurance, such receipts shall mean those from premiums received from risks within the school district of the first class, whether by mutual or stock companies, domestic or foreign, without any deductions therefrom for any *cost or expense whatsoever. The collector shall determine from such data as he shall require from insurance companies subject to this act, the amount of such receipts, and shall ascertain the amount of the tax in accordance with such determination.

(6) "Collector." The receiver of school taxes or, in a school district of the first class in which there is no such receiver of school taxes, the school treasurer.

* "costs" in original.

Section 2. Authority to Levy and Collect Tax; Use of Tax.—For the year one thousand nine hundred fifty, and annually thereafter, every school district of the first class shall levy and collect an annual tax in the manner and at the rate hereinafter set forth. Such tax shall be in addition to any other tax every such school district is empowered to levy and collect under any existing law. The taxes and penalties collected under the provisions of this act shall be used by every such school district for general public school purposes.

Section 3. Imposition and Rate of Tax.—Every person engaging in any business in any school district of the first class shall pay an annual tax at the rate of one (1) mill on each dollar of the annual receipts thereof.

Where a receipt in its entirety cannot be subjected to the tax imposed by this act by reason of the provisions of the Constitution of the United States, or any other provision of law, the collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the school district levying the tax shall be taxed hereunder. The collector may make such allocation with due regard to the nature of the business concerned on the basis of mileage division of the receipt according to the number of jurisdictions in which it may be taxed, the ratio of the value of the property or assets of the taxpayer owned and situated in the school district levying the tax to the total property or assets of the taxpayer wherever owned and situated, and any other method or methods of allocation other than the foregoing, calculated to effect a fair and proper allocation.

Section 4. Computation of Annual Receipts.—(a) Every person subject to the payment of the tax hereby imposed who has commenced his business at least one (1) full year prior to the beginning of any tax year shall compute his annual receipts upon the actual receipts received by him during the preceding calendar year.

(b) Every person subject to the payment of the tax hereby imposed who has commenced his business less than one (1) full year prior to the tax year one thousand nine hundred fifty for the tax year one thousand nine hundred fifty, or who has commenced his business subsequent to the beginning of any tax year for such tax year and the succeeding tax year, shall compute his annual receipts upon the actual receipts received by him during the first month of his engaging in such business multiplied by the number of months of the current tax year remaining, or multiplied by twelve (12)

for the first full tax year he engages in business, as the case may be.

(c) Every person subject to the payment of the tax hereby imposed who engages in a business, temporary, seasonal or itinerant by its nature, shall compute his annual receipts upon the actual receipts received by him during such license year.

Section 5. Returns.—(a) Every return shall be made upon a form furnished by the collector. Every person making a return shall certify the correctness thereof.

(b) Every person subject to the tax imposed by this act who has commenced his business at least one (1) full year prior to the beginning of any tax year shall, on or before May fifteenth, one thousand nine hundred fifty, and annually thereafter, file with the collector a return setting forth his name, his business and business address, and such other information as may be necessary in arriving at the actual receipts received by him during the preceding calendar year and the amount of the tax due.

(c) Every person subject to the tax imposed by this act who has commenced his business less than one (1) full year prior to the beginning of the tax year one thousand nine hundred fifty shall, on or before May fifteenth, one thousand nine hundred fifty, file with the collector a return setting forth his name, his business, business address, and such other information as may be necessary in arriving at the actual receipts received by him during his first month of business and the amount of the tax due.

(d) Every person subject to the tax imposed by this act who commences business subsequent to the beginning of any tax year shall, within forty (40) days from the date of commencing such business and on or before May fifteenth of the succeeding tax year, file a return with the collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual receipts received by him during his first month of business and the amount of the tax due.

(e) Every person subject to the payment of the tax imposed by this act who engages in a business, temporary, seasonal or itinerant by its nature, shall, within seven (7) days from the day he completes such business, file a return with the collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual receipts received by him during such period and the amount of the tax due.

Section 6. Payment at the Time of Filing the Return.—The person making the same shall pay the amount of tax shown as due thereon to the collector.

Section 7. Powers and Duties of Collector.—(a) It shall be the duty of the collector to collect and receive the taxes, fines and penalties imposed by this act, for payment over to the school treasurer. Where such school treasurer is not the collector as in the case of other school taxes collected, it shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

(b) The collector is hereby charged with the enforcement of the provisions of this act and is hereby empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter pertaining to the administration and enforcement of this act, including provisions for the re-examination and correction of returns and payments alleged or found to be incorrect or as to which an overpayment is claimed or found to have occurred. Any person aggrieved by any decision of the collector shall have the right of appeal to the court of common pleas, as in other cases.

(c) The collector is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer in order to verify the accuracy of any return made, or, if no return was made, to ascertain the tax imposed. Every such taxpayer or supposed taxpayer is hereby directed and required to give to the collector the means, facilities and opportunity for such examinations and investigations as are hereby authorized. The collector is hereby authorized to examine any person connected with any business concerning any receipts which were or should have been returned and to this end may compel the production of books, papers and records and the attendance of all persons before him, whether as parties or witnesses, whom he believes to have knowledge of such receipts.

(d) The powers conferred by this act upon the collector relating to the administration and enforcement of this act shall be in addition to, but not exclusive of, any other powers heretofore or hereafter conferred upon him.

Section 8. Suit on Collection; Penalty.—(a) It shall be the duty of the collector to sue for the recovery of all taxes due him, not paid when due. Such suits shall be begun within three (3) years after such taxes become due.

(b) If for any reason the tax is not paid when due in each year, interest at the rate of six per centum (6%) per annum on the amount of said tax and an additional penalty of one-half per centum ($\frac{1}{2}\%$) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected by the collector. Where suit is brought

for the recovery of any such tax, the person shall be liable for and it shall be the duty of the collector to collect, in addition to the tax assessed against such person, the costs of such collection and the interest and penalties herein imposed.

Section 9. Penalties.—(a) Whoever wilfully makes any false or untrue statement on his return shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than two thousand dollars (\$2000), or to undergo imprisonment for not more than two (2) years, or both.

(b) Whoever wilfully fails or refuses to appear before the collector in person with his books, records or accounts for examination when required under the provisions of this act to do so, or who wilfully refuses to permit inspection of the books, records or accounts of any business in his custody or control when the right to make such inspection by the collector is requested, shall be guilty of a misdemeanor, and shall be sentenced to pay a fine of not more than five hundred dollars (\$500), or to undergo imprisonment for not more than six (6) months, or both.

(c) Whoever wilfully fails or refuses to file a return required by this act shall be guilty of a misdemeanor and, upon conviction thereof, shall be sentenced to pay a fine of not more than one thousand dollars (\$1000), or to undergo imprisonment for not more than one (1) year, or both.

Section 10. *Employes; Compensation.*—Upon the recommendation of the collector, the Board of Public Education shall appoint and fix the salaries of such *assistants and employes as may be necessary to aid such collector in the proper administration of this act.

[Section 11. *Applicability and Related Matter.*—(a) The provisions of this act shall apply only to school districts of the first class having a population of 1,500,000 or more persons. If any act reclassifying school districts is passed by the General Assembly during the session of 1949, the provisions of this act shall apply only to school districts of the first class under such classification and not to school districts of the first class A.]

Section 12. *Saving Clauses.*—(a) The validity of any ordinance or part of any ordinance providing for or relating to the imposition, levy or collection of any tax passed by the council of a city coextensive with a school district of the first class, and any amendments or supplements thereto, shall not be affected or impaired by anything contained in this act.

* "assistance" in original.

(b) Nothing contained in this act shall be construed to empower any school district of the first class to levy and collect the taxes hereby imposed not within the taxing power of this Commonwealth under the Constitution of the United States.

(c) If the tax or any portion of the tax imposed upon any person or if any exception from the imposition of the tax or any portion of the tax imposed upon any person under the provisions of this act shall be held by any court of competent jurisdiction to be in violation of the Constitution of the United States or of the Commonwealth of Pennsylvania, the decision of the court shall not affect or impair the right to impose the taxes or the validity of taxes so excepted from imposition. It is the intent of the General Assembly that the taxes imposed or excepted, so held to be unconstitutional, were not to be imposed or excepted, but that the remainder of said taxes imposed hereunder were to be imposed and collected and the taxes so excepted were to be imposed.

Section 13. Repeal.—All acts or parts of acts inconsistent herewith are hereby repealed.

[Section 14. Effective Date.—The provisions of this act shall become effective immediately upon final enactment and shall remain in effect until and including the thirty-first day of December, one thousand nine hundred fifty-one.]

Act effective
immediately.

Section 2. The provisions of this reenacting and amending act shall become effective immediately upon final enactment.

APPROVED—The 10th day of May, A. D. 1951.

JOHN S. FINE

No. 46

AN ACT

To further amend section sixteen of the act, approved the twenty-fifth day of May, one thousand nine hundred forty-five (Pamphlet Laws 1050), entitled "An act relating to the collection of taxes levied by counties, county institution districts, cities of the third class, boroughs, towns, townships, certain school districts and vocational school districts; conferring powers and imposing duties on tax collectors, courts and various officers of said political subdivisions; and prescribing penalties," by authorizing taxing authorities to add names to the tax assessment lists and tax duplicates.

"Local Tax
Collection Law."

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