

No. 134

AN ACT

HB 280

Amending the act of May 23, 1949 (P.L.1669, No.508), entitled, as amended, "An act to provide revenue for school districts of the first class by imposing a 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," further defining "receipts" and adding definitions of "dividend" and "affiliated group."

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

Section 1. Clause (5) of section 1, act of May 23, 1949 (P.L.1669, No.508), entitled, as amended, "An act to provide revenue for school districts of the first class by imposing a 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," reenacted and amended May 10, 1951 (P.L.265, No.45) and amended November 16, 1967 (P.L.504, No.246), is amended and said section is also amended by adding clauses to read:

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.

* * *

(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, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares or merchandise 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 amount of any allowance made for 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; (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; (e) receipts by dealers from sales to other dealers in the same line, where the dealer transfers title or possession at the same price for which he acquired the goods, wares or merchandise. For the purpose of determining taxable receipts from sales made by a manufacturing corporation of goods, commodities, wares and merchandise of its own manufacture through a wholly owned distributing corporation, such sales shall be treated as if made directly by the manufacturing corporation to the vendees of the distributing corporation. For the purpose of determining taxable receipts from sales made by a manufacturing corporation of goods, commodities, wares and merchandise of its own manufacture made through a distributing corporation, such sales shall be treated as if made directly by the manufacturing corporation to the vendees of the distributing corporation, if a majority of the shares of stock of both the manufacturing corporation and the distributing corporation is owned by the same individual, association or corporation. 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; *(f) dividends received by one corporation from another corporation of which it owns at least twenty (20) per centum of the voting power of all classes of stock and at least twenty (20) per centum of each class of non-voting stock; (g) receipts by a corporation which is a member of an affiliated group from other members of the same affiliated group.*

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(8) "Dividend." Any distribution made by a corporation to its shareholders in respect of its stock, whether ordinary, extraordinary or in liquidation.

(9) "Affiliated group." One or more chains of corporations connected through stock ownership with a common parent corporation

if (a) stock possessing at least eighty (80) per centum of the voting power of all classes of stock and at least eighty (80) per centum of each class of the non-voting stock of each such corporation (except the common parent corporation) is owned directly by one or more of the other such corporations; and (b) the common parent corporation owns directly stock possessing at least eighty (80) per centum of the voting power of all classes of stock and at least eighty (80) per centum of each class of the non-voting stock of at least one of the other such corporations. As used in this definition, "stock" does not include non-voting stock which is limited and preferred as to dividends.

Section 2. This act shall take effect immediately and shall be construed to apply to taxes due for the tax year 1973 and thereafter.

APPROVED—The 27th day of June, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly No. 134.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.