

No. 1980-207

AN ACT

HB 1176

Amending the act of June 15, 1961 (P.L.373, No.207), entitled "An act providing for the imposition of certain taxes upon the transfer of property passing from a decedent who was a resident of the Commonwealth at the time of his death or presumed death and of property having its situs in the Commonwealth of a decedent who was a nonresident of the Commonwealth at the time of his death or presumed death; imposing additional taxes to equal Federal Estate Tax Credits; defining and taxing certain transfers made in contemplation of death, or to take effect in possession or enjoyment at or after death; defining as a transfer and taxing the right of survivorship in certain property as to which such right exists; defining and exempting from tax, transfers to certain persons or for certain purposes or of certain property; providing for the valuation of property and interests in property, the transfer of which is subject to tax; defining and allowing deductions from the value of property, the transfer of which is subject to tax; providing for the persons ultimately liable for taxes in the absence of a direction by the decedent to the contrary; providing for the reporting of transfers and collection of taxes; imposing penalties upon banks or other financial institutions for failure to give notice to the Department of Revenue of the death of a party to a joint or trust deposit therein and upon persons who fail to file tax returns and documents; providing for the compromise of taxes in the case of alleged nonresidents of the Commonwealth; making it unlawful for any person to make a false return or report; providing for liens upon real property, the transfer of which is subject to tax, and release thereof; authorizing the Secretary of Revenue to bring suits in other jurisdictions for the collection of taxes, and authorizing officials of other jurisdictions to bring suits in the Commonwealth for the collection of death taxes imposed by their jurisdictions; providing for the refund of taxes to which the Commonwealth is not rightfully or equitably entitled; providing for appeals and protests from the imposition of taxes; regulating the entry into safe deposit boxes of a decedent by certain persons, and providing penalties; dealing with the jurisdiction, powers and procedure of the orphans' court, Secretary of Revenue, Department of Revenue, Attorney General, and register of wills in matters relating to taxes; and citing certain acts for repeal," providing for preferential valuation of land in agricultural use, agricultural reserve or forest reserve.

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

Section 1. Clause (24) of section 102, act of June 15, 1961 (P.L.373, No.207), known as the "Inheritance and Estate Tax Act of 1961," is amended to read:

Section 102. Definitions.—The following words, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

* * *

(24) "Value," *except as provided in subdivision B. of Article V, as to land in agricultural use, agricultural reserve or forest reserve, value means the value which such land has for its particular use according*

to the standards provided in subdivision B. of Article V, means the price at which the property would be sold by a willing seller, not compelled to sell, to a willing buyer, not compelled to buy, both of whom have reasonable knowledge of the relevant facts.

Section 2. Article V of the act, is amended by adding a subdivision heading to read:

ARTICLE V.
Valuation

A. In General

Section 3. Article V of the act is amended by adding a subdivision and sections to read:

ARTICLE V.
Valuation

* * *

B. Valuation of Certain Farmland

Section 511. Definitions.— The following words, when used in this act, unless the context clearly indicates otherwise, shall have the meanings ascribed to them in this section:

(1) *“Agricultural commodity” means any and all plant and animal products including Christmas trees produced in this State for commercial purposes.*

(2) *“Agricultural reserve” means noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis.*

(3) *“Agricultural use” means use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.*

(4) *“Forest reserve” means land, ten (10) acres or more, stocked by forest trees of any size and capable of producing timber or other wood products.*

(5) *“Separation” means a division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this act into two (2) or more tracts of land which continue to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements of section 3 of the act of December 19, 1974 (P.L.973, No.319), known as the “Pennsylvania Farmland and Forest Land Assessment Act of 1974.”*

(6) *“Split-off” means a division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this*

act into two (2) or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of section 3 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974."

Section 512. Land Devoted to Agricultural Use, Agricultural Reserve or Forest Reserve.—

(a) *The value for transfer inheritance tax purposes of land or an interest in land which is owned by a decedent and devoted to agricultural use, agricultural reserve or forest reserve shall be that value which such land has for its particular use if it also meets the following conditions:*

(1) *Land devoted to agricultural use: such land was devoted to agricultural use the three (3) years preceding the death of such decedent and is not less than ten (10) contiguous acres in area or has an anticipated yearly gross income derived from agricultural use of two thousand dollars (\$2,000).*

(2) *Land devoted to agricultural reserve: such land is not less than ten (10) contiguous acres in area.*

(3) *Land presently devoted to forest reserve: such land is not less than ten (10) contiguous acres in area.*

(4) *The contiguous tract of land for which application is made is not less than the entire contiguous area of the owner used for agricultural use, agricultural reserve or forest reserve purposes.*

(b) *In determining the value of land in agricultural use, agricultural reserve or forest reserve for its particular use, consideration shall be given to available evidence of such land's capability for its particular use as derived from the soil survey at the Pennsylvania State University, the National Cooperative Soil Survey, the United States Census of Agricultural Categories of land use classes, and other evidence of the capability of the land devoted to such use, and also if the land is assessed under the provisions of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land and Assessment Act of 1974," to the valuation determined by the local county assessor thereunder.*

Section 513. Imposition of Tax When Use Abandoned.—

(a) *If any tract of land in agricultural use, agricultural reserve or forest reserve, which is valued for transfer inheritance tax purposes under the provisions of this article, is applied to a use other than agricultural use, agricultural reserve or forest reserve, or for any other reason, except condemnation thereof, is removed from the category of land preferentially valued under this article within seven (7) years following the death of such decedent, the owner at such time the land is so removed shall be subject and liable to tax due the Commonwealth in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation authorized hereunder and the taxes that would have been paid or payable had that land been valued and taxed on the basis of its market value at the death of*

such decedent, plus interest thereon at the rate of six (6) percent per annum for the period from the date of death to the change of use.

(b) Such tax shall be a lien upon the property in favor of the Commonwealth collectible in the manner provided by law for the collection of delinquent real estate taxes, as well as the personal obligation of the owner at the time of such change of use. Such tax shall become due on the date of change of use.

(c) Every owner of land preferentially valued under this article shall notify the register of wills of the county or counties in which the land is located of any change or proposed change in use thereof. Any owner failing to make such notification shall be guilty of a misdemeanor and, on conviction thereof, shall be sentenced to pay a fine not exceeding ten thousand dollars (\$10,000) or undergo imprisonment not exceeding one (1) year, or both.

Section 514. Separation, Split-off or Transfer.—

(a) The split-off of a part of the land, which has been valued, assessed and taxed under this act, for a use other than agricultural use, agricultural reserve or forest reserve within the seven-year period provided for by section 513 shall, except when the split-off occurs through condemnation, subject the land so divided and the entire parcel from which the land was divided to liability for taxes as otherwise set forth in this act except as provided in subsection (b).

(b) The owner of property subject to a preferential tax assessment may split-off land covered by the preferential tax assessment within the seven-year period: Provided, That the tract of land so split-off shall not exceed two (2) acres annually and may only be used for residential use, agricultural use, agricultural reserve or forest reserve and the construction of a residential dwelling to be occupied by the person to whom the land is transferred: And further provided, That the total parcel or parcels of land so split-off under the provisions of this subsection shall not exceed ten (10) percent or ten (10) acres, whichever is less, of the entire tract subject to the preferential tax assessment. The split-off of a parcel of land which meets the requirements of this section shall not invalidate the preferential tax assessment if it continues to meet the requirements of section 512 of this act.

(c) The owner of property subject to a preferential use assessment may separate land covered by the preferential use assessment. Such a separation shall not invalidate the preferential tax assessment unless a subsequent abandonment of preferential use occurs within seven (7) years of the separation. Such abandonment shall subject the entire tract of land so separated to liability for taxes, which are to be paid by the person changing the use, as set forth in this act.

(d) When property subject to preferential tax assessment is separated among the beneficiaries designated as class A for inheritance tax purposes, a subsequent change within the seven-year period provided for in section 513 in the use of one such beneficiary's portion of the

property shall subject only that tract held by the beneficiary who changes the use to liability under this act.

Section 4. The act is amended by adding a section to read:

Section 1001.1. Farmland Appeals.—Whenever any appeal or protest is brought pursuant to Article X and the subject matter of the appeal concerns the valuation of certain farmland as set forth in Article V-B the forum designated by the department to hear such appeal or protest shall consist of at least two (2) farmers and the Secretary of Agriculture. The said farmers and the Secretary of Agriculture shall be accorded full powers within the forum with full voting rights.

Section 5. This act shall take effect immediately.

APPROVED—The 10th day of December, A. D. 1980.

DICK THORNBURGH