

## No. 1982-246

## AN ACT

## HB 682

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing for the definition of "utility realty," further providing for exclusions from taxation relating to the sale at retail of certain periodicals, the retail sale of certain buses, the imposition of certain taxes, the disclosure of certain information, the payment of taxes, excluding transfers to nature conservancies from the realty transfer tax and further providing for exclusion from the sales and use tax.

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

Section 1. Clause (30) of section 204, act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," is amended and a clause is added to read:

Section 204. Exclusions from Tax.—The tax imposed by section 202 shall not be imposed upon

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(30) The sale at retail or use of periodicals and publications which are published at regular intervals not exceeding three months, *and which are* circulated among the general public and containing matters of general interest and reports of current events *published for the purpose of disseminating information of a public character or devoted to literature, the sciences, art or some special industry. This exclusion shall also include any printed advertising material circulated with such periodical or publication regardless of where or by whom such printed advertising material was produced.*

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(43) *The sale at retail or use of buses to be used exclusively for the transportation of children for school purposes.*

Section 2. Section 302 of the act, amended May 5, 1981 (P.L.36, No.14), is amended to read:

Section 302. Imposition of Tax.—(a) There is hereby imposed an annual tax to be paid by resident individuals, estates or trusts at the rate of two and two-tenths per cent [until December 31, 1983 and at a rate of two per cent thereafter] on the privilege of receiving each of the classes of income hereinafter enumerated in section 303.

(b) There is hereby imposed an annual tax to be paid by nonresident individuals, estates or trusts at the rate of two and two-tenths per cent [until December 31, 1983 and at a rate of two per cent thereafter] on the

privilege of receiving each of the classes of income enumerated in section 303 from sources within this Commonwealth.

Section 3. Subsection (a) of section 356 of the act, amended December 6, 1972 (P.L.1432, No.315), is amended to read:

Section 356. Cooperation with Other Governmental Agencies.—

(a) Notwithstanding the provisions of subsection (f) of section 353, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any political subdivision of this Commonwealth or of any other state imposing tax based upon the incomes of individuals, or the authorized representative of such officer, to inspect the tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer, or supply him with information concerning any item of income contained in any return of any taxpayer. Such permission shall be granted or such information furnished to such officer or his representative *only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this Commonwealth charged with the administration of the personal income tax law thereof. An officer or authorized agent of any county imposing a personal property tax shall be furnished the following information from such returns upon payment to the department of the cost of collecting and reproducing the requested information:*

- (1) name, address and social security number of the taxpayer; and*
- (2) if the taxpayer has reported dividends or interest.*

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Section 4. Section 402 of the act, amended December 21, 1981 (P.L.482, No.141), is amended to read:

Section 402. Imposition of Tax.—Every corporation shall be subject to, and shall pay for the privilege of (i) doing business in this Commonwealth; or (ii) carrying on activities in this Commonwealth; (iii) having capital or property employed or used in this Commonwealth; or (iv) owning property in this Commonwealth, by or in the name of itself, or any person, partnership, association, limited partnership, joint-stock association, or corporation, a State excise tax at the rate of twelve per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the calendar year 1971 and the first six months of 1972 and at the rate of eleven per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the second six months of calendar year 1972 through the calendar year 1973 and at the rate of nine and one-half per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the calendar years 1974, 1975 and 1976 and at the rate of ten and one-half per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the calendar year 1977 and each calendar year thereafter **[to the beginning of calendar year 1984 and at a rate of nine and one-half per cent for each calendar year thereafter]**, except where a corporation reports to the

Federal Government on the basis of a fiscal year, and has certified such fact to the department as required by section 403 of this article, in which case, such tax, at the rate of twelve per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the first six months of the fiscal year commencing in the calendar year 1972 and at the rate of eleven per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the second six months of the fiscal year commencing in the calendar year 1972 and during the fiscal year commencing in the calendar year 1973 and at the rate of nine and one-half per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the fiscal year commencing in the calendar years 1974, 1975 and 1976 and at the rate of ten and one-half per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year 1977 and during each fiscal year thereafter **[to the fiscal year commencing in the calendar year 1984 and at a rate of nine and one-half per cent for each fiscal year commencing in the calendar year 1984 and each fiscal year thereafter]**. No penalty prescribed by subsection (e) of section 1202.1 shall be assessed against a corporation for the additional tax which may be due as a result of the increase in tax rate from nine and one-half per cent to ten and one-half per cent imposed retroactively by this section for the calendar year 1977 or for the fiscal year commencing in 1977.

Section 5. Clause (3) of section 1101-A and subsection (a) of section 1104-A of the act, added July 4, 1979 (P.L.60, No.27), are amended to read:

Section 1101-A. Definitions.—The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

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(3) “Utility realty.” All lands, together with all buildings, towers, smokestacks, dams, dikes, canals, cooling towers, storage tanks, reactor structures, pump houses, supporting foundations, enclosing structures, supporting structures, containment structures, reactor containment outer shells, reactor containment vessels, turbine buildings, recovery tanks, solid waste area enclosures, primary auxiliary buildings, containment auxiliary safeguard structures, fuel buildings, decontamination buildings, and, all other structures and enclosures whatsoever which are physically affixed to the land, no matter how such structures and enclosures are designated and without regard to the classification thereof for local real estate taxation purposes, but not including machinery and equipment, whether or not housed within such building, structure or enclosure, located within this Commonwealth and owned by a public utility either directly or by or through a subsidiary, which are used or are in the course of development or construction for use, in the furnishing, including producing, storing, distributing or transporting, of public

utility service and which are not subject to local real estate taxation under any law in effect on April 23, 1968: Provided, however, That the following specified items shall be exempt from the tax hereby imposed:

- (i) Easements or similar interests.
- (ii) Railroad rights-of-way and superstructures thereon.
- (iii) Pole, transmission tower, pipe, rail or other lines whether or not said lines are attached to the land or to any structure or enclosure which is physically affixed to the land.

(iv) *All lands, together with all buildings, dams, dikes, canals, pump houses, supporting structures, supporting foundations, turbine buildings and all other structures and enclosures whatsoever which are physically affixed to the land, no matter how such structures and enclosures are designated and without regard to the classification thereof for local real estate taxation purposes which are used or useful in the furnishing, including producing, storing, distributing or transporting, of hydroelectric power and energy: Provided, however, That the exemptions under this subclause shall not apply to items and lands which on the effective date of this act were used to furnish hydroelectric power and energy; and that the exemptions under this subclause shall commence in the first year in which the item or land is used and useful in furnishing hydroelectric power and energy, and shall remain in effect for a period of ten consecutive years thereafter.*

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Section 1104-A. Effect of Payment; Additional Assessment.—  
 (a) Payment of, *or any exemption, created as the result of this act,* from the tax imposed by the act of March 10, 1970 (P.L.168, No.66), known as the “Public Utility Realty Tax Act,” or section 1102-A, or section 1103-A, and the distribution to local taxing authorities prescribed by section 1107-A, shall be in lieu of local taxes upon utility realty, as contemplated by Article VIII, section 4, of the Constitution of Pennsylvania: *Provided, That in exempting the tax imposed by this article, the Commonwealth shall reimburse local taxing authorities for property taxes foregone by this act.*

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Section 6. The definition of “document” in section 1101-C of the act, added May 5, 1981 (P.L.36, No.14), is amended to read:

Section 1101-C. Definitions.—The following words when used in this article shall have the meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning:

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“Document.” Any deed, instrument or writing whereby any lands, tenements or hereditaments within this Commonwealth or any interest therein shall be quitclaimed, granted, bargained, sold, or otherwise conveyed to the grantee, purchaser, or any other person, but does not include wills, mortgages, transfers between corporations operating housing projects pursuant to the Housing and Redevelopment Assistance Law and the shareholders thereof, transfers between nonprofit industrial

development agencies and industrial corporations purchasing from them, any transfers to nonprofit industrial development agencies, *transfers to a nature conservancy or similar organization which possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code, and which has as its primary purpose the preservation of land for historic, recreational, scenic, agricultural or open space opportunities*, and transfers between husband and wife, transfers between persons who were previously husband and wife but who have since been divorced provided such transfer is made within three months of the date of the granting of the final decree in divorce, or the decree of equitable distribution of marital property, whichever is later, and the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, transfers between parent and child or the spouse of such a child or between parent and trustee for the benefit of a child or the spouse of such child, transfers between a grandparent and grandchild or the spouse of such grandchild, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, correctional deeds without consideration, transfers to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed in lieu of condemnation, or deed of confirmation in connection with condemnation proceedings, or reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation, leases, a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, or a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied residential premises or any transfer from a **[purchase money]** mortgagor to the **[vendor holding the purchase money mortgage]** mortgagee whether pursuant to a foreclosure or in lieu thereof, or conveyances to municipalities, townships, school districts and counties pursuant to acquisition by municipalities, townships, school districts and counties of tax delinquent properties at sheriff sale or tax claim bureau, or any transfer between religious organizations or other bodies or persons holding title to real estate for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale.

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Section 7. This act shall take effect July 1, 1983.

APPROVED—The 9th day of December, A. D. 1982.

DICK THORNBURGH