

## No. 2004-192

## AN ACT

## HB 1535

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," further providing for administrative personnel for the collection of taxes, for earned income taxes and for collection of taxes by suit; and providing for costs of collection of delinquent per capita, occupation, occupational privilege and earned income taxes and for legal representation.

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

Section 1. Section 10(a) of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, is amended to read:

Section 10. Collection of Taxes.—(a) Administrative Personnel; Joint Agreements.—Any such political subdivision is hereby authorized to provide by ordinance or resolution for the creation *or designation* of such bureaus or the appointment and compensation of such officers, clerks, collectors, *private agencies or other person* and other assistants and employes, either under existing departments, or otherwise as may be deemed necessary, for the assessment and collection of taxes imposed under authority of this act. *Each ordinance or resolution under this section authorizing a person, public employe or private agency to act in the capacity and with the authority of a tax collector shall continue in force without annual reauthorization unless otherwise repealed or revoked by the political subdivision.*

Any political subdivisions imposing taxes under authority of this act are authorized to make joint agreements for the collection of such taxes or any of them. The same person or agency may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.

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Section 2. Section 13V(h) of the act, added July 15, 1976 (P.L.1047, No.210), is amended to read:

Section 13. Earned Income Taxes.—On and after the effective date of this act the remaining provisions of this section shall be included in or

construed to be a part of each tax levied and assessed upon earned income by any political subdivision levying and assessing such tax pursuant to this act. The definitions contained in this section shall be exclusive for any tax upon earned income and net profits levied and assessed pursuant to this act, and shall not be altered or changed by any political subdivision levying and assessing such tax.

\* \* \*

V. Powers and Duties of Officer

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(h) The officer shall[, **at least quarterly,**] distribute earned income taxes to the appropriate political subdivisions *within sixty days of the deadline for payment by an employer as set forth in Division IV(b)*. The political subdivisions shall not be required to request the officer to distribute the funds collected but shall at least annually reconcile their receipts with the records of the officer and return to or credit the officer with any overpayment. *A political subdivision shall not be required to pay a fee or commission to the other political subdivision or its tax officer for tax revenue distributed under this subsection.* If the officer, within one year after receiving a tax payment, cannot identify the taxing jurisdiction entitled to a tax payment, he shall make payment to the municipality in which the tax was collected. [Within one hundred twenty days of the passage of this act, any present accumulated funds that are unclaimed shall be distributed on the same basis.] *If earned income taxes are not distributed to the appropriate political subdivision within one year of receipt, the political subdivision may make a written demand on a tax officer or political subdivision for tax revenues collected and attributable to residents of the political subdivision making the demand. If the taxes attributable to residents of the political subdivision making the demand are not paid within thirty days from the date of the demand, the political subdivision, person, public employe or private agency designated by the political subdivision may enter into an arbitration agreement with the officer under 42 Pa.C.S. Ch. 73 Subch. A (relating to statutory arbitration) or bring an action in an appropriate court of common pleas in the name of the taxing district for the recovery of taxes not distributed in accordance with this subsection. The action must be brought within seven years of the collection of the taxes.*

\* \* \*

Section 3. Section 21 of the act is amended to read:

Section 21. Collection of Taxes by Suit.—Each taxing district *or person, public employe or private agency designated by the taxing district* shall have power to collect unpaid taxes from the persons owing such taxes by suit in assumpsit or other appropriate remedy. Upon each such judgment, execution may be issued without any stay or benefit of any exemption law. The right of each such taxing district to collect unpaid taxes under the provisions of this section shall not be affected by the fact that such taxes have been entered as liens in the office of the prothonotary, or the fact that the

property against which they were levied has been returned to the county commissioners for taxes for prior years.

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

**Section 22.1. Costs of Collection of Delinquent Per Capita, Occupation, Occupational Privilege and Earned Income Taxes.—***(a) A person, public employe or private agency designated by a governing body of a political subdivision to collect and administer a per capita, occupation, occupational privilege or earned income tax may impose and collect the reasonable costs incurred to provide notices of delinquency or to implement similar procedures utilized to collect delinquent taxes from a taxpayer as approved by the governing body of the political subdivision. Reasonable costs collected may be retained by the person, public employe or private agency designated to collect the tax as agreed to by the governing body of the political subdivision. An itemized accounting of all costs collected shall be remitted to the political subdivision on an annual basis.*

*(b) Costs related to the collection of unpaid per capita, occupation or occupational privilege taxes may only be assessed, levied and collected for five years from the last day of the calendar year in which the tax was due.*

*(c) A delinquent taxpayer may not bring an action for reimbursement, refund or elimination of reasonable costs of collection assessed or imposed prior to the effective date of this section. Additional costs may not be assessed on delinquent taxes collected prior to the effective date of this section.*

**Section 22.2. Clarification of Existing Law.—***The addition of section 22.1 of this act is intended as a clarification of existing law and is not intended to:*

*(1) establish new rights or enlarge existing rights of political subdivisions or employes or agents of political subdivisions; or*

*(2) establish new obligations or enlarge existing obligations of taxpayers.*

**Section 22.3. Legal Representation.—***When bringing a suit under any provision of this act, the taxing district, officer, person, public employe or private agency designated by the taxing district shall be represented by an attorney.*

Section 5. This act shall take effect in 60 days.

APPROVED—The 30th day of November, A.D. 2004.

EDWARD G. RENDELL