

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.

Compiler's Note: Section 301(a)(16) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that all other powers and duties delegated to the Department of Community Affairs not otherwise expressly transferrred elsewhere by Act 58 and currently performed by the Department of Community Affairs under Act 511 are transferred to the Department of Community and Economic Development.

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

Section 1. Short Title. This act shall be known and may be cited as "The Local Tax Enabling Act."

Section 2. Delegation of Taxing Powers and Restrictions Thereon. The duly constituted authorities of the following political subdivisions, 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, in all cases including independent school districts, may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of such taxes as they shall determine on persons, transactions, occupations, privileges, subjects and personal property within the limits of such political subdivisions, and upon the transfer of real property, or of any interest in real property, situate within the political subdivision levying and assessing the tax, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on such transfer take place. The taxing authority may provide that the transferee shall remain liable for any unpaid realty transfer taxes imposed by virtue of this act. Each local taxing authority may, by ordinance or resolution, exempt any person whose total income from all sources is less than five thousand dollars (\$5,000) per annum from the per capita or similar head tax, occupation tax and occupational privilege tax, or earned income tax, or any portion thereof, and may adopt regulations for the processing of claims for exemptions. Such local authorities shall not have authority by virtue of this act:

(1) To levy, assess and collect or provide for the levying, assessment and collection of any tax on the transfer of real property when the transfer is by will or mortgage or the intestate laws of this Commonwealth or on 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 single family residential premises or on a transfer between corporations operating housing projects pursuant to the housing and redevelopment assistance law and the shareholders thereof, or on a transfer between nonprofit industrial development agencies and industrial corporations purchasing from them, or on transfer to or from nonprofit industrial development agencies, or on a transfer between husband and wife, or on a transfer 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, or on a transfer 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, or on a transfer between a grandparent and grandchild or the spouse of such grandchild, or on a transfer between brother and sister or brother and brother or sister and sister or the spouse of such brother or sister, or on a transfer to a conservancy 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, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, or on a correctional deed without consideration, or on a transfer 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, or on 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 within a family from a sole proprietor family member to a family farm corporation, or in any sheriff sale instituted by a mortgagee in which the purchaser of said sheriff sale is the mortgagee who instituted said sale, or on a privilege, transaction, subject, occupation or personal property which is now or does hereafter become subject to a State tax or license fee;

(2) To levy, assess or collect a tax on the gross receipts from utility service of any person or company whose rates and services are fixed and regulated by the Pennsylvania Public Utility Commission or on any public utility services rendered by any such person or company or on any privilege or transaction involving the rendering of any such public utility service;

(3) Except on sales of admission to places of amusement or on sales or other transfers of title or possession of property, to levy, assess or collect a tax on the privilege of employing such tangible property as is now or does hereafter become subject to a State tax; and for the purposes of this clause, real property rented for camping purposes shall not be considered a place of amusement.

(4) To levy, assess and collect a tax on goods and articles manufactured in such political subdivision or on the by-products of manufacture, or on minerals, timber, natural resources and farm products produced in such political subdivision or on the preparation or processing thereof for use or market, or on any privilege, act or transaction related to the business of manufacturing, the production, preparation or processing of minerals, timber and natural resources, or farm products, by manufacturers, by producers and by farmers with respect to the goods, articles and products of their own manufacture, production or growth, or on any privilege, act or transaction relating to the business of processing by-products of manufacture, or on the transportation, loading, unloading or dumping or storage of such goods, articles, products or by-products; except that local authorities may levy, assess and collect taxes on the occupation, occupational privilege, per capita and earned income or net profits of natural persons engaged in the

above activities whether doing business as individual proprietorship or as members of partnerships or other associations;

(5) To levy, assess or collect a tax on salaries, wages, commissions, compensation and earned income of nonresidents of the political subdivisions: Provided, That this limitation (5) shall apply only to school districts of the second, third and fourth classes;

(6) To levy, assess or collect a tax on personal property subject to taxation by counties or on personal property owned by persons, associations and corporations specifically exempted by law from taxation under the county personal property tax law: Provided, That this limitation (6) shall not apply to cities of the second class;

(7) To levy, assess or collect a tax on membership in or membership dues, fees or assessment of charitable, religious, beneficial or nonprofit organizations including but not limited to sportsmens, recreational, golf and tennis clubs, girl and boy scout troops and councils;

(8) To levy, assess or collect any tax on a mobilehome or house trailer subject to a real property tax unless the same tax is levied, assessed and collected on other real property in the political subdivision.

(9) To levy, assess or collect any tax on individuals for the privilege of engaging in an occupation (occupational privilege tax) except that such a tax may be levied, assessed and collected only by the political subdivision of the taxpayer's place of employment.

Payment of any occupational privilege tax to any political subdivision by any person pursuant to an ordinance or resolution passed or adopted under the authority of this act shall be limited to ten dollars (\$10) on each person for each calendar year.

The situs of such tax shall be the place of employment, but, in the event a person is engaged in more than one occupation, or an occupation which requires his working in more than one political subdivision during the calendar year, the priority of claim to collect such occupational privilege tax shall be in the following order: first, the political subdivision in which a person maintains his principal office or is principally employed; second, the political subdivision in which the person resides and works, if such a tax is levied by that political subdivision; third, the political subdivision in which a person is employed and which imposes the tax nearest in miles to the person's home. The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

It is the intent of this provision that no person shall pay more than ten dollars (\$10) in any calendar year as an occupational privilege tax irrespective of the number of political subdivisions within which such person may be employed within any given calendar year.

In case of dispute, a tax receipt of the taxing authority for that calendar year declaring that the taxpayer has made prior payment which constitutes prima facie certification of payment to all other political subdivisions.

(10) To levy, assess or collect a tax on admissions to motion picture theatres: Provided, That this limitation (10) shall not apply to cities of the second class.

(11) To levy, assess or collect a tax on the construction of or improvement to residential dwellings or upon the application for or issuance of permits for the construction of or improvements to residential dwellings.

(12) To levy, assess and collect a mercantile or business privilege tax on gross receipts or part thereof which are: (i) discounts allowed to purchasers as cash discounts for prompt payment of their bills; (ii) charges advanced by a seller for freight, delivery or other transportation for the

purchaser in accordance with the terms of a contract of sale; (iii) received upon the sale of an article of personal property which was acquired by the seller as a trade-in to the extent that the gross receipts in the sale of the article taken in trade does not exceed the amount of trade-in allowance made in acquiring such article; (iv) refunds, credits or allowances given to a purchaser on account of defects in goods sold or merchandise returned; (v) Pennsylvania sales tax; (vi) based on the value of exchanges or transfers between one seller and another seller who transfers property with the understanding that property of an identical description will be returned at a subsequent date; however, when sellers engaged in similar lines of business exchange property and one of them makes payment to the other in addition to the property exchanged, the additional payment received may be included in the gross receipts of the seller receiving such additional cash payments; (vii) of sellers from sales to other sellers in the same line where the seller transfers the title or possession at the same price for which the seller acquired the merchandise; or (viii) transfers between one department, branch or division of a corporation or other business entity of goods, wares and merchandise to another department, branch or division of the same corporation or business entity and which are recorded on the books to reflect such interdepartmental transactions.

(13) To levy, assess or collect an amusement or admissions tax on membership, membership dues, fees or assessments, donations, contributions or monetary charges of any character whatsoever paid by the general public, or a limited or selected number thereof, for such persons to enter into any place, indoors or outdoors, to engage in any activities, the predominant purpose or nature of which is exercise, fitness, health maintenance, improvement or rehabilitation, health or nutrition education, or weight control. ((13) added July 9, 1987, P. L. 203, No. 30)

(2 amended Oct. 11, 1984, P. L. 885, No. 172)

Compiler's Note: The act of July 1, 1981, P. L. 184, No. 53, which amended section 2, clause (1) and added clause (11) also contained the following provisions:

Section 2. Notwithstanding the provisions of section 2(11) added by this amendatory act:

(1) any school district which has on or before June 30, 1981, levied, assessed or collected a tax which would otherwise be prohibited by section 2(11) may continue to levy, assess and collect, but not increase, the amount of such tax until June 30, 1982; and

(2) any municipality which has before the effective date of this act levied, assessed or collected a tax which would otherwise be prohibited by section 2(11) may continue to levy, assess and collect, but not increase, the amount of such tax until December 31, 1981.

Section 2.1. Recapture of Tax. (a) Notwithstanding the provisions of section 2(1) of this act, if any stock of a family farm corporation is transferred to a person who is not a family member within ten years from the date of the conveyance from a sole proprietor family member to a family farm corporation, the tax imposed by this article shall become immediately due and payable.

(b) As used in this act:

"Family farm corporation" means a Pennsylvania corporation at least seventy-five percent of the assets of which are devoted to the business of agriculture, which business, for the purposes of this definition, shall not be deemed to include (i) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (ii) the

raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities; (iii) fur farming; (iv) stockyard and slaughterhouse operations; or (v) manufacturing or processing operations of any kind: Provided, however, That at least seventy-five percent of all of the stock of the corporation must be owned by members of the same family.

"Members of the same family" means an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendants of any of the foregoing and a spouse of any of the foregoing. Individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

(2.1 added Oct. 11, 1984, P.L. 885, No. 172)

Section 3. Vacation of Tax Ordinances and Resolutions by State Tax Measures. If, subsequent to the passage of any ordinance or resolution under the authority of this act, the General Assembly shall impose a tax or license fee on any privilege, transactions, subject or occupation, or on personal property or on sales of admission to places of amusement or on sales or other transfer of title or possession of property taxed by any such political subdivision hereunder, the act of Assembly imposing the State tax or license fee thereon shall automatically vacate the ordinance or resolution passed under the authority of this act as to all taxes accruing subsequent to the end of the current fiscal year of such political subdivision. It is the intention of this section to confer upon such political subdivision the power to levy, assess and collect taxes upon any and all subjects of taxation, except as above restricted and limited, which the Commonwealth has power to tax but which it does not tax or license, subject only to the foregoing provision that any tax or license shall automatically terminate at the end of the current fiscal year of the political subdivision.

Section 4. Advertisement of Intention to Adopt Tax Ordinance or Resolution. Prior to the passage of any ordinance or the adoption of any resolution imposing a tax or license fee under the authority hereunder granted, such political subdivision shall give notice of the intention to pass such ordinance or adopt such resolution. Such notice shall be given in addition to all other notices required by law to be given and shall set forth the substantial nature of the tax or license fee to be imposed by the proposed ordinance or resolution, the reason which, in the judgment of the officials of the subdivision, necessitates the imposition of the tax, and the amount of revenue estimated to be derived from the tax. Publication of such notice shall be made by advertisement once a week for three weeks in a newspaper of general circulation within such political subdivision if there is such newspaper and, if there is not, then such publication shall be made in a newspaper of general circulation within the county in which the advertising political subdivision is located.

Every such tax shall continue in force on a calendar or fiscal year basis, as the case may be, without annual reenactment unless the rate of the tax is subsequently changed.

(4 amended Oct. 9, 1967, P.L. 361, No. 160)

Section 5. Rate, Amount, Court Approval; Revision of Budget. Any tax imposed under this act shall not be subject to any limitations under existing laws as to rate or amount or as to the necessity of securing court approval or as to budgetary requirements. Any city, borough or township imposing a tax under this act may revise its budget during any fiscal year by increasing or making additional appropriations from funds to be provided from such tax.

The ordinance or resolution may be passed or adopted prior to the beginning of the fiscal year and prior to the preparation of the budget when desirable.

Every ordinance or resolution which imposed a tax under the authority of this act shall be passed or adopted, if for a school district, during the period other school taxes are required by law to be levied and assessed by such district. Each ordinance and resolution shall state that it is enacted under the authority of this act, known as "The Local Tax Enabling Act".

(5 amended Oct. 9, 1967, P.L. 361, No. 160)

Section 6. Appeals by Taxpayers. No tax levied for the first time by any political subdivision to which this act applies shall go into effect until thirty days from the time of the adoption of the ordinance or resolution levying the tax. Within said thirty days, taxpayers representing twenty-five percent or more of the total valuation of real estate in the political subdivision as assessed for taxation purposes, or taxpayers of the political subdivision not less than twenty-five in number aggrieved by the ordinance or resolution shall have the right to appeal therefrom to the court of quarter sessions of the county upon giving bond with sufficient security in the amount of five hundred dollars (\$500), approved by the court, to prosecute the appeal with effect and for the payment of costs. The petition shall set forth the objections to the tax and the facts in support of such objections, and shall be accompanied by the affidavit of at least five of the petitioners that the averments of the petition are true and the petition is not filed for the purpose of delay.

No such appeal shall act as a supersedeas unless specifically allowed by the court to which the appeal is taken or a judge thereof.

Immediately upon the filing of any such petition, the petitioners shall serve a copy of the petition and any rule granted by the court upon the president, chairman, secretary or clerk of the legislative body levying the tax.

The court shall fix a day for a hearing not less than fifteen days nor more than thirty days after the filing of the petition. Notice of the time of such hearing shall be given to all interested parties as the court shall direct. The court shall promptly hear and dispose of the appeal.

It shall be the duty of the court to declare the ordinance and the tax imposed thereby to be valid unless it concludes that the ordinance is unlawful or finds that the tax imposed is excessive or unreasonable; but the court shall not interfere with the reasonable discretion of the legislative body in selecting the subjects or fixing the rates of the tax. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax.

(6 repealed in part June 3, 1971, P.L. 118, No. 6)

Section 7. Filing of Certified Copies of Ordinances and Resolutions. When an ordinance or a resolution is first passed or adopted by a political subdivision imposing a tax or license fee under the authority of this act, an exact printed or typewritten copy thereof, certified to by the secretary of the taxing body, shall be filed with the Department of Community Affairs within fifteen days after the same becomes effective.

Any secretary or person acting as the clerk or secretary of the taxing body of any political subdivision during the meeting at which an ordinance or resolution imposing a tax or license fee is passed or adopted as herein provided who shall fail to file the certified copy or statement relative thereto with the Department of Community Affairs as herein required, shall, upon summary conviction thereof in the county in which the political subdivision is located, be sentenced to pay a fine of not less than five dollars (\$5) nor more than twenty-five dollars (\$25), and the costs of

prosecution.

(7 amended Aug. 11, 1967, P.L. 228, No. 83 and Oct. 9, 1967, P.L. 361, No. 160)

Compiler's Note: The Department of Community Affairs, referred to in this section, was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

Section 8. Limitations on Rates of Specific Taxes. No taxes levied under the provisions of this act shall be levied by any political subdivision on the following subjects exceeding the rates specified in this section:

- (1) Per capita, poll or other similar head taxes, ten dollars (\$10).
- (2) On each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise, one mill, by retail dealers in goods, wares and merchandise and by proprietors of restaurants or other places where food, drink and refreshments are served, one and one-half mills; except in cities of the second class, where rates shall not exceed one mill on wholesale dealers and two mills on retail dealers and proprietors. No such tax shall be levied on the dollar volume of business transacted by wholesale and retail dealers derived from the resale of goods, wares and merchandise, taken by any dealer as a trade-in or as part payment for other goods, wares and merchandise, except to the extent that the resale price exceeds the trade-in allowance.
- (3) On wages, salaries, commissions and other earned income of individuals, one percent.
- (4) On retail sales involving the transfer of title or possession of tangible personal property, two percent.
- (5) On the transfer of real property, one percent.
- (6) On admissions to places of amusement, athletic events and the like, and on motion picture theatres in cities of the second class, ten percent.
- (7) Flat rate occupation taxes not using a millage or percentage as a basis, ten dollars (\$10).
- (8) Occupational privilege taxes, ten dollars (\$10).
- (9) On admissions to ski facilities, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the cost of the lift ticket. The lift ticket shall include all costs of admissions to the ski facility.
- (10) On admissions to golf courses, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the greens fee. The greens fee shall include all costs of admissions to the golf course.
- (11) On admissions to bowling alleys or bowling lanes, ten percent. The tax base upon which the tax shall be levied shall not exceed forty percent of the charge imposed upon a patron for the sale of admission to or the privilege of admission to a bowling alley or bowling lane to engage in one or more games of bowling. ((11) added July 9, 1987, P.L. 203, No. 30)

Except as otherwise provided in this act, at any time two political subdivisions shall impose any one of the above taxes on the same person, subject, business, transaction or privilege, located within both such political subdivisions, during the same year or part of the same year, under the authority of this act then the tax levied by a political subdivision under the authority of this act shall, during the time such duplication of the tax exists, except as hereinafter otherwise provided, be one-half of the rate, as above limited, and such one-half rate shall become effective by virtue of the requirements of this act from the day such duplication becomes effective without any action on the part of the political subdivision imposing the tax under the authority of this act. When any one of the above taxes has been levied under the provisions of this act by one political

subdivision and a subsequent levy is made either for the first time or is revived after a lapse of time by another political subdivision on the same person, subject, business, transaction or privilege at a rate that would make the combined levies exceed the limit allowed by this subdivision, the tax of the second political subdivision shall not become effective until the end of the fiscal year for which the prior tax was levied, unless:

(1) Notice indicating its intention to make such levy is given to the first taxing body by the second taxing body as follows: (i) when the notice is given to a school district it shall be given at least forty-five days prior to the last day fixed by law for the levy of its school taxes; (ii) when given to any other political subdivision it shall be prior to the first day of January immediately preceding, or if a last day for the adoption of the budget is fixed by law, at least forty-five days prior to such last day; or

(2) Unless the first taxing body shall indicate by appropriate resolution its desire to waive notice requirements in which case the levy of the second taxing body shall become effective on such date as may be agreed upon by the two taxing bodies.

It is the intent and purpose of this provision to limit rates of taxes referred to in this section so that the entire burden of one tax on a person, subject, business, transaction or privilege shall not exceed the limitations prescribed in this section: Provided, however, That any two political subdivisions which impose any one of the above taxes, on the same person, subject, business, transaction or privilege during the same year or part of the same year may agree among themselves that, instead of limiting their respective rates to one-half of the maximum rate herein provided, they will impose respectively different rates, the total of which shall not exceed the maximum rate as above permitted.

Notwithstanding the provisions of this section, any city of the second class A may enact a tax upon wages, salaries, commissions and other earned income of individuals resident therein, not exceeding one percent, even though a school district levies a similar tax on the same person provided that the aggregate of both taxes does not exceed two percent.

(8 amended Oct. 11, 1984, P.L. 885, No. 172)

Section 9. Register for Earned Income and Occupational Privilege Taxes. It shall be the duty of the Department of Community Affairs to have available an official continuing register supplemented annually of all earned income and occupational privilege taxes levied under authority of this act. The register and its supplements, hereinafter referred to as the register, shall list such jurisdictions levying earned income and/or occupational privilege taxes, the rate of the tax as stated in the tax levying ordinance or resolution, and the effective rate on resident and nonresident taxpayers, if different from the stated rate because of a coterminous levy, the name and address of the officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available. With each jurisdiction listed, all jurisdictions making coterminous levies shall also be noted and their tax rates shown.

Information for the register shall be furnished by the secretary of each taxing body to the Department of Community Affairs in such manner and on such forms as the Department of Community Affairs may prescribe. The information must be received by the Department of Community Affairs by certified mail not later than May 31 of each year to show new tax enactments, repeals and changes. Failure to comply with this date for filing may result in the omission of the levy from the register for that year. Failure of the Department of Community Affairs to receive information of

taxes continued without change may be construed by the department to mean that the information contained in the previous register remains in force.

The Department of Community Affairs shall have the register with such annual supplements as may be required by new tax enactments, repeals or changes available upon request not later than July 1 of each year. The effective period for each register shall be from July 1 of the year in which it is issued to June 30 of the following year.

Employers shall not be required by any local ordinance to withhold from the wages, salaries, commissions or other compensation of their employes any tax imposed under the provisions of this act, which is not listed in the register, or make reports of wages, salaries, commissions or other compensation in connection with taxes not so listed: Provided, That if the register is not available by July 1, the register of the previous year shall continue temporarily in effect for an additional period not to exceed one year. The provisions of this section shall not affect the liability of any taxpayer for taxes lawfully imposed under this act.

Ordinances or resolutions imposing earned income or occupational privilege taxes under authority of this act may contain provisions requiring employers doing business within the jurisdiction of the political subdivision imposing the tax to withhold the tax from the compensation of those of their employes who are subject to the tax: Provided, That no employer shall be held liable for failure to withhold earned income taxes or for the payment of such withheld tax money to a political subdivision other than the political subdivision entitled to receive such money if such failure to withhold or such incorrect transmittal of withheld taxes arises from incorrect information as to the employe's place of residence submitted by the employe: And provided further, That employers shall not be required by any local ordinance to withhold from compensation for any one of their employes for the occupational privilege tax more than one time in any fiscal period: And provided further, That the occupational privilege tax shall be applicable to employment in the period beginning January 1, of the current year and ending December 31 of the current year, except that taxes imposed for the first time shall become effective from the date specified in the ordinance or resolution, and the tax shall continue in force on a calendar year basis.

(9 amended Dec. 12, 1968, P. L. 1203, No. 377)

Compiler's Note: The Department of Community Affairs, referred to in this section, was abolished by Act 58 of 1996 and its functions were transferred to the Department of Community and Economic Development.

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 of such bureaus or the appointment and compensation of such officers, clerks, collectors, 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.

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.

(b) Single Collector for Earned Income Taxes When Certain School Districts Impose Such Taxes. Whenever a school district of the second, third or fourth class shall be established pursuant to section 296, act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," added August

8, 1963 (P. L. 564), and such school district shall levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, such school district and all cities, boroughs, towns and townships within its geographical limits which levy, assess and collect or provide for the levying, assessment and collection of a tax upon earned income, may on January 1, 1967, or as soon thereafter as the school district shall provide for the levying, assessment and collection of taxes upon earned income, select one person or agency to collect the taxes upon earned income imposed by all such political subdivisions. In selecting such person or agency, each political subdivision shall share in the selection upon a basis agreed upon by each political subdivision, or in the absence of any agreement on the basis of voting according to the proportion that the population of each bears to the entire population of the combined collection district, according to the latest official Federal census, and the majority of such votes cast shall determine the person or agency selected to collect the taxes. The provisions of this paragraph shall not prohibit school districts and other political subdivisions which levy, assess and collect or provide for the levying, assessment and collection of taxes upon earned income, under authority of this act, from selecting the same person or agency to collect such tax upon earned income in an area larger than the geographical limits of a school district established pursuant to section 296 of the "Public School Code of 1949."

Section 11. Audits of Earned Income Taxes. Except in cities of the second class, the governing body of each political subdivision which levies, assesses and collects or provides for the levying, assessment and collection of a tax upon earned income, shall provide for not less than one examination each year of the books, accounts and records of the income tax collector, by a certified public accountant, a firm of certified public accountants, a competent independent public accountant, or a firm of independent public accountants appointed by the governing body. Whenever one person or agency is selected to collect earned income taxes for more than one political subdivision, the books, accounts and records of such person or agency shall be examined as provided above in the case of a tax collector for each political subdivision, except that the accountant shall be selected in the manner provided for selection of one person or agency to collect earned income taxes for the school district established under section 296 of the "Public School Code of 1949," and the cities, boroughs, towns and townships within the geographical limits of such school district. The reports of the audit shall be sent to the governing body or bodies of the political subdivision or political subdivisions employing the accountant. No further or additional audit shall be performed by elected or appointed auditors.

Section 12. Audits of Taxes Other Than Earned Income Taxes. The books, accounts and records of persons collecting taxes pursuant to this act, other than taxes levied, assessed and collected upon earned income, shall be audited, adjusted and settled in the manner prescribed by law for the auditing, adjusting and settling of accounts of persons receiving or expending funds of the political subdivision which has levied, assessed and collected the taxes pursuant to this act, other than taxes levied, assessed and collected upon earned income.

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.

I. Definitions

"Association." A partnership, limited partnership, or any other unincorporated group of two or more persons.

"Business." An enterprise, activity, profession or any other undertaking of an unincorporated nature conducted for profit or ordinarily conducted for profit whether by a person, partnership, association, or any other entity.

"Corporation." A corporation or joint stock association organized under the laws of the United States, the Commonwealth of Pennsylvania, or any other state, territory, foreign country or dependency.

"Current year." The calendar year for which the tax is levied.

"Domicile." The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is the voluntarily fixed place of habitation of a person, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged. (Def. amended Oct. 4, 1978, P. L. 930, No. 177)

"Earned income." Salaries, wages, commissions, bonuses, incentive payments, fees, tips and other compensation received by a person or his personal representative for services rendered, whether directly or through an agent, and whether in cash or in property; not including, however, wages or compensation paid to persons on active military service, periodic payments for sickness and disability other than regular wages received during a period of sickness, disability or retirement or payments arising under workmen's compensation acts, occupational disease acts and similar legislation, or payments commonly recognized as old age benefits, retirement pay or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment or payments commonly known as public assistance, or unemployment compensation payments made by any governmental agency or payments to reimburse expenses or payments made by employers or labor unions for wage and salary supplemental programs, including, but not limited to, programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement.

"Income tax officer or officer." Person, public employe or private agency designated by governing body to collect and administer the tax on earned income and net profits.

"Employer." A person, partnership, association, corporation, institution, governmental body or unit or agency, or any other entity employing one or more persons for a salary, wage, commission or other compensation.

"Net profits." The net income from the operation of a business, profession, or other activity, except corporations, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with the accounting system used in such business, profession, or other activity, but without deduction of taxes based on income.

"Nonresident." A person, partnership, association or other entity domiciled outside the taxing district.

"Person or individual." A natural person.

"Preceding year." The calendar year before the current year.

"Resident." A person, partnership, association or other entity domiciled in the taxing district.

"Succeeding year." The calendar year following the current year.

"Taxpayer." A person, partnership, association, or any other entity, required hereunder to file a return of earned income or net profits, or to pay a tax thereon.

II. Imposition of Tax

The tax levied under this act shall be applicable to earned income received and to net profits earned in the period beginning January 1, of the current year, and ending December 31, of the current year or for taxpayer fiscal years beginning in the current year, except that taxes imposed for the first time shall become effective from the date specified in the ordinance or resolution, and the tax shall continue in force on a calendar year or taxpayer fiscal year basis, without annual reenactment, unless the rate of the tax is subsequently changed. Changes in rate shall become effective on the date specified in the ordinance.

III. Declaration and Payment of Tax

A. Net Profits.

(1) Every taxpayer making net profits shall, as the governing body elects, (i) pay to the officer an annual payment of tax due on or before April 15, of the succeeding year for the period beginning January 1, and ending December 31, of the current year, or (ii) on or before April 15, of the current year, make and file with the officer on a form prescribed or approved by the officer, a declaration of his estimated net profits during the period beginning January 1, and ending December 31, of the current year, and pay to the officer in four equal quarterly installments the tax due thereon as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15, of the current year, September 15, of the current year, and January 15, of the succeeding year, respectively.

(2) Where the governing body elects to require the filing of a declaration and quarterly payments, any taxpayer who first anticipates any net profit after April 15, of the current year, shall make and file the declaration hereinabove required on or before June 15, of the current year, September 15, of the current year, or December 31, of the current year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profit, and pay to the officer in equal installments the tax due thereon on or before the quarterly payment dates which remain after the filing of the declaration.

(3) Where the governing body requires a declaration of estimated net profits and quarterly payments of tax due on such profits, every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of net profits earned during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon and the total amount of tax paid thereon. At the time of filing the final return, the taxpayer shall pay to the officer the balance of tax due or shall make demand for refund or credit in the case of overpayment.

Any taxpayer may, in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the officer on or before

January 31, of the succeeding year, the final return as hereinabove required.

(4) The officer may be authorized to provide by regulation for the making and filing of adjusted declarations of estimated net profits, and for the payments of the estimated tax in cases where a taxpayer who has filed the declaration hereinabove required anticipates additional net profits not previously declared or finds that he has overestimated his anticipated net profits.

(5) Every taxpayer who discontinues business prior to December 31, of the current year, shall, within thirty days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

B. Earned Income. Annual Earned Income Tax Return.

At the election of the governing body every taxpayer shall, on or before April 15, of the succeeding year, make and file with the officer on a form prescribed or approved by the officer a final return showing the amount of earned income received during the period beginning January 1, of the current year, and ending December 31, of the current year, the total amount of tax due thereon, the amount of tax paid thereon, the amount of tax thereon that has been withheld pursuant to the provisions relating to the collection at source and the balance of tax due. At the time of filing the final return, the taxpayer shall pay the balance of the tax due or shall make demand for refund or credit in the case of overpayment.

Earned Income Not Subject to Withholding.

Every taxpayer who is employed for a salary, wage, commission, or other compensation and who received any earned income not subject to the provisions relating to collection at source, shall as the governing body elects:

(1) Make and file with the officer on a form prescribed or approved by the officer, an annual return setting forth the aggregate amount of earned income not subject to withholding from him during the period beginning January 1, and ending December 31, of the current year, and such other information as the officer may require, and pay to the officer the amount of tax shown as due thereon on or before April 15, of the succeeding year, or

(2) Make and file with the officer on a form prescribed or approved by the officer, a quarterly return on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, setting forth the aggregate amount of earned income not subject to withholding by him during the three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively, and subject to the tax, together with such other information as the officer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the officer the amount of tax shown as due thereon.

IV. Collection at Source

(a) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary,

wage, commission or other compensation, who has not previously registered, shall, within fifteen days after becoming an employer, register with the officer his name and address and such other information as the officer may require.

(b) Every employer having an office, factory, workshop, branch, warehouse, or other place of business within the taxing jurisdiction imposing a tax on earned income or net profits within the taxing district who employs one or more persons, other than domestic servants, for a salary, wage, commission, or other compensation, shall deduct at the time of payment thereof, the tax imposed by ordinance or resolution on the earned income due to his employe or employes, and shall, on or before April 30, of the current year, July 31, of the current year, October 31, of the current year, and January 31, of the succeeding year, file a return and pay to the officer the amount of taxes deducted during the preceding three-month periods ending March 31, of the current year, June 30, of the current year, September 30, of the current year, and December 31, of the current year, respectively. Such return unless otherwise agreed upon between the officer and employer shall show the name and social security number of each such employe, the earned income of such employe during such preceding three-month period, the tax deducted therefrom, the political subdivisions imposing the tax upon such employe, the total earned income of all such employes during such preceding three-month period, and the total tax deducted therefrom and paid with the return.

Any employer who for two of the preceding four quarterly periods has failed to deduct the proper tax, or any part thereof, or has failed to pay over the proper amount of tax to the taxing authority, may be required by the officer to file his return and pay the tax monthly. In such cases, payments of tax shall be made to the officer on or before the last day of the month succeeding the month for which the tax was withheld.

(c) On or before February 28, of the succeeding year, every employer shall file with the officer:

(1) An annual return showing the total amount of earned income paid, the total amount of tax deducted, and the total amount of tax paid to the officer for the period beginning January 1, of the current year, and ending December 31, of the current year.

(2) A return withholding statement for each employe employed during all or any part of the period beginning January 1, of the current year, and ending December 31, of the current year, setting forth the employe's name, address and social security number, the amount of earned income paid to the employe during said period, the amount of tax deducted, the political subdivisions imposing the tax upon such employe, the amount of tax paid to the officer. Every employer shall furnish two copies of the individual return to the employe for whom it is filed.

(d) Every employer who discontinues business prior to December 31, of the current year, shall, within thirty days after the discontinuance of business, file the returns and withholding statements hereinabove required and pay the tax due.

(e) Except as otherwise provided in section 9, every employer who wilfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which he was required to withhold to the extent that such taxes have not been recovered from the employe.

(f) The failure or omission of any employer to make the deductions required by this section shall not relieve any employe from the payment of the tax or from complying with the requirements of the ordinance or resolution relating to the filing of declarations and returns.

V. Powers and Duties of Officer

(a) It shall be the duty of the officer to collect and receive the taxes, fines and penalties imposed by the ordinance or resolution. It shall also be his duty to keep a record showing the amount received by him from each person or business paying the tax and the date of such receipt.

(b) Each officer, before entering upon his official duties shall give and acknowledge a bond to the political subdivision or political subdivisions appointing him. If such political subdivision or political subdivisions shall by resolution designate any bond previously given by the officer as adequate, such bond shall be sufficient to satisfy the requirements of the subsection.

Each such bond shall be joint and several, with one or more corporate sureties which shall be surety companies authorized to do business in this Commonwealth and duly licensed by the Insurance Commissioner of this Commonwealth.

Each bond shall be conditioned upon the faithful discharge by the officer, his clerks, assistants and appointees of all trusts confided in him by virtue of his office, upon the faithful execution of all duties required of him by virtue of his office, upon the just and faithful accounting or payment over, according to law, of all moneys and all balances thereof paid to, received or held by him by virtue of his office and upon the delivery to his successor or successors in office of all books, papers, documents or other official things held in right of his office.

Each such bond shall be taken in the name of the appointing authority or authorities, and shall be for the use of the political subdivision or political subdivisions appointing the officer, and for the use of such other person or persons for whom money shall be collected or received, or as his or her interest shall otherwise appear, in case of a breach of any of the conditions thereof by the acts or neglect of the principal on the bond.

The political subdivision or political subdivisions appointing the officer, or any person may sue upon the said bond in its or his own name for its or his own use.

Each such bond shall contain the name or names of the surety company or companies bound thereon. The political subdivision or political subdivisions appointing the officer shall fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the officer at any given time.

The political subdivision or political subdivisions appointing the officer may, at any time, upon cause shown and due notice to the officer, and his surety or sureties, require or allow the substitution or the addition of a surety company acceptable to such political subdivision or political subdivisions for the purpose of making the bond sufficient in amount, without releasing the surety or sureties first approved from any accrued liability or previous action on such bond.

The political subdivision or political subdivisions appointing the officer shall designate the custodian of the bond required to be given by the officer.

(c) The officer charged with the administration and enforcement of the provisions of the ordinance or resolution is hereby empowered to prescribe, adopt, promulgate and enforce, rules and regulations relating to any matter pertaining to the administration and enforcement of the ordinance or resolution, including provisions for the re-examination and correction of declarations and returns, and of payments alleged or found to be incorrect, or as to which an overpayment is claimed or found to have occurred, and to

make refunds in case of overpayment, for any period of time not to exceed six years subsequent to the date of payment of the sum involved, and to prescribe forms necessary for the administration of the ordinance or resolution. No rule or regulation of any kind shall be enforceable unless it has been approved by resolution by the governing body. A copy of such rules and regulations currently in force shall be available for public inspection.

(d) The officer shall refund, on petition of, and proof by the taxpayer, earned income tax paid on the taxpayer's ordinary and necessary business expenses, to the extent that such expenses are not paid by the taxpayer's employer.

(e) The officer and agents designated by him are hereby authorized to examine the books, papers, and records of any employer or of any taxpayer or of any person whom the officer reasonably believes to be an employer or taxpayer, in order to verify the accuracy of any declaration or return, or if no declaration or return was filed, to ascertain the tax due. Every employer and every taxpayer and every person whom the officer reasonably believes to be an employer or taxpayer, is hereby directed and required to give to the officer, or to any agent designated by him, the means, facilities and opportunity for such examination and investigations, as are hereby authorized.

(f) Any information gained by the officer, his agents, or by any other official or agent of the taxing district, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinance or resolution, shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

(g) The officer is authorized to establish different filing, reporting and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.

(h) The officer shall, at least quarterly, distribute earned income taxes to the appropriate political subdivisions. 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. 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. ((h) added July 15, 1976, P. L. 1047, No. 210)

VI. Compensation of Income Tax Officer

The income tax officer shall receive such compensation for his services and expenses as determined by the governing body. In the case of a single collector established pursuant to subsection (b) of section 10 of this act, the taxing jurisdictions shall share in the compensation and expenses of a single officer according to the proportionate share that the total annual collections for each jurisdiction bears to the total annual collection for all political subdivisions in a single collector district, except that with the agreement of two-thirds of all participating political subdivisions, a different manner of sharing may be substituted.

VII. Suit for Collection of Tax

(a) The officer may sue in the name of the taxing district for the

recovery of taxes due and unpaid under this ordinance.

(b) Any suit brought to recover the tax imposed by the ordinance or resolution shall be begun within three years after such tax is due, or within three years after the declaration or return has been filed, whichever date is later: Provided, however, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under provisions of the ordinance or resolution, there shall be no limitation.

(2) Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return in the possession of the officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) In the case of substantial understatement of tax liability of twenty-five percent or more and no fraud, suit shall be begun within six years.

(4) Where any person has deducted taxes under the provisions of the ordinance or resolution, and has failed to pay the amounts so deducted to the officer, or where any person has wilfully failed or omitted to make the deductions required by this section, there shall be no limitation.

(5) This section shall not be construed to limit the governing body from recovering delinquent taxes by any other means provided by this act.

(c) The officer may sue for recovery of an erroneous refund provided such suit is begun two years after making such refund, except that the suit may be brought within five years if it appears that any part of the refund was induced by fraud or misrepresentation of material fact.

VIII. Interest and Penalties

(a) If for any reason the tax is not paid when due, interest at the rate of six percent per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

(b) Notwithstanding the provisions of subsection (a), the governing body may, by ordinance or resolution, establish a one-time period during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of earned income tax liabilities or for the nonpayment of earned income taxes previously imposed and due shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during the period so established. Each governing body may adopt regulations to implement the provisions of this subsection.

(c) The provisions of subsection (b) shall not affect or terminate any petitions, investigations, prosecutions or other proceedings pending under the provisions of this act, or prevent the commencement or further prosecution of any proceedings by the proper authorities for violations of this act. No proceedings shall, however, be commenced on the basis of delinquent returns filed pursuant to subsection (b) if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

(VIII amended July 9, 1987, P. L. 203, No. 30)

IX. Fines and Penalties for Violation

of Ordinances or Resolutions

(a) Any person who fails, neglects, or refuses to make any declaration or return required by the ordinance or resolution, any employer who fails, neglects or refuses to register or to pay the tax deducted from his employes, or fails, neglects or refuses to deduct or withhold the tax from his employes, any person who refuses to permit the officer or any agent designated by him to examine his books, records, and papers, and any person who knowingly makes any incomplete, false or fraudulent return, or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earned income in order to avoid the payment of the whole or any part of the tax imposed by the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction in the county or counties in which the political subdivision imposing the tax is located, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fine and costs to be imprisoned for a period not exceeding thirty days.

(b) Any person who divulges any information which is confidential under the provisions of the ordinance or resolution, shall, upon conviction thereof before any justice of the peace, alderman or magistrate, or court of competent jurisdiction, be sentenced to pay a fine of not more than five hundred dollars (\$500) for each offense, and costs, and, in default of payment of said fines and costs to be imprisoned for a period not exceeding thirty days.

(c) The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the ordinance or resolution.

(d) The failure of any person to receive or procure forms required for making the declaration or returns required by the ordinance or resolution shall not excuse him from making such declaration or return.

Section 14. Payment of Tax to Other Political Subdivisions or States as Credit or Deduction; Withholding Tax. Payment of any tax to any political subdivision pursuant to an ordinance or resolution passed or adopted prior to the effective date of this act shall be credited to and allowed as a deduction from the liability of taxpayers for any like tax respectively on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities and for any income tax imposed by any other political subdivision of this Commonwealth under the authority of this act.

Payment of any tax on salaries, wages, commissions, other compensation or on net profits of business, professions or other activities to a political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of this act shall be credited to and allowed as a deduction from the liability of such persons for any other like tax respectively on salaries, wages, commissions, other compensation or on net profits of businesses, professions or other activities imposed by any other political subdivision of this Commonwealth under the authority of this act.

Payment of any tax on income to any political subdivision by residents thereof pursuant to an ordinance or resolution passed or adopted under the authority of this act shall, to the extent that such income includes salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities, but in such proportion as hereinafter set forth, be credited to and allowed as a deduction from the liability of such persons for any other tax on salaries, wages, commissions, other compensation or on net profits of businesses, professions, or other

activities imposed by any other political subdivision of this Commonwealth under the authority of this act.

Payment of any tax on income to any state or to any political subdivision thereof by residents thereof, pursuant to any State or local law, may, at the discretion of the Pennsylvania political subdivision imposing such tax, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this act, if residents of the political subdivision in Pennsylvania receive credits and deductions of a similar kind to a like degree from the tax on income imposed by the other state or political subdivision thereof.

Payment of any tax on income to any State other than Pennsylvania or to any political subdivision located outside the boundaries of this Commonwealth, by residents of a political subdivision located in Pennsylvania shall, to the extent that such income includes salaries, wages, commissions, or other compensation or net profits of businesses, professions or other activities but in such proportions as hereinafter set forth, be credited to and allowed as a deduction from the liability of such person for any other tax on salaries, wages, commissions, other compensation or net profits of businesses, professions or other activities imposed by any political subdivision of this Commonwealth under the authority of this act.

Where a credit or a deduction is allowable in any of the several cases hereinabove provided, it shall be allowed in proportion to the concurrent periods for which taxes are imposed by the other state or respective political subdivisions, but not in excess of the amount previously paid for a concurrent period.

No credit or deduction shall be allowed against any tax on earned income imposed under authority of this act to the extent of the amount of credit or deduction taken for the same period by the taxpayer against any income tax imposed by the Commonwealth of Pennsylvania under section 314 of the act of March 4, 1971 (P. L. 6) known as the "Tax Reform Code of 1971," on account of taxes imposed on income by other states or by their political subdivisions.

(14 amended Oct. 26, 1972, P. L. 1043, No. 261)

Section 15. Personal Property. Any assessment of a tax on personal property of a decedent shall include all property owned, held or possessed by a decedent, which should have been returned by him for taxation for any former year or years not exceeding five years prior to the year in which the decedent died. Wherever any personal property taxable under the provisions of this act, was owned by a decedent at the time of his death and is held by his executor or administrator, return of such personal property shall be made and the tax paid, if such decedent was domiciled at the time of his death in the political subdivision imposing the tax, notwithstanding the residence or location of such executor or administrator or of any beneficiary, or the place which such securities are kept.

(15 amended June 27, 1968, P. L. 271, No. 128)

Section 16. Limitation on Assessment. No assessment may be made of any tax imposed under this act more than five years after the date on which such tax should have been paid except where a fraudulent return or no return has been filed.

Section 17. Tax Limitations. (a) Over-all Limit of Tax Revenues. The aggregate amount of all taxes imposed by any political subdivision under this section and in effect during any fiscal year shall not exceed an amount

equal to the product obtained by multiplying the latest total market valuation of real estate in such political subdivision, as determined by the board for the assessment and revision of taxes or any similar board established by the assessment laws which determines market values of real estate within the political subdivision, by twelve mills. In school districts of the second class, third class and fourth class and in any political subdivision within a county where no market values of real estate have been determined by the board for the assessment and revision of taxes, or any similar board, the aggregate amount of all taxes imposed under this section and in effect during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the latest total market valuation of real estate in such school district, or other political subdivision, as certified by the State Tax Equalization Board, by twelve mills. In school districts of the third and fourth class, taxes imposed on sales involving the transfer of real property shall not be included in computing the aggregate amount of taxes for any fiscal year in which one hundred or more new homes or other major improvements on real estate were constructed in the school district.

The aggregate amount of all taxes imposed by any independent school district under this section during any fiscal year shall not exceed an amount equal to the product obtained by multiplying the latest total valuation of real estate in such district by fifteen mills.

(b) Reduction of Rates Where Taxes Exceed Limitations; Use of Excess Moneys. If, during any fiscal year, it shall appear that the aggregate revenues from taxes levied and collected under the authority of this act will materially exceed the limitations imposed by this act, the political subdivision shall forthwith reduce the rate or rates of such tax or taxes to stay within such limitations as nearly as may be. Any one or more persons liable for the payment of taxes levied and collected under the authority of this act shall have the right to complain to the court of common pleas of the county in an action of mandamus to compel compliance with the preceding provision of this subsection. Tax moneys levied and collected in any fiscal year in excess of the limitations imposed by this act shall not be expended during such year, but shall be deposited in a separate account in the treasury of the political subdivision for expenditure in the following fiscal year. The rates of taxes imposed under this act for the following fiscal year shall be so fixed that the revenues thereby produced, together with the excess tax moneys on deposit as aforesaid, shall not exceed the limitations imposed by this act.

Section 18. Distress and Sale of Goods and Chattels of Taxpayer. Every tax collector shall have power, in case of the neglect or refusal of any person, copartnership, association, or corporation, to make payment of the amount of any tax due by him, after two months from the date of the tax notice, to levy the amount of such tax, any penalty due thereon and costs, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent, wherever situate or found, upon giving at least ten days' public notice of such sale, by posting ten written or printed notices, and by one advertisement in a newspaper of general circulation published in the county.

No failure to demand or collect any taxes by distress and sale of goods and chattels shall invalidate any return made, or lien filed for nonpayment of taxes, or any tax sale for the collection of taxes.

Section 19. Collection of Delinquent Per Capita, Occupation, Occupational Privilege and Earned Income Taxes from Employers, etc. The tax collector shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing

persons owing delinquent per capita, or occupation, occupational privilege and earned income taxes, or whose spouse owes delinquent per capita, occupation, occupational privilege and earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent per capita, occupation, occupational privilege and earned income taxes, or whose spouse owes delinquent per capita, occupation, occupational privilege and earned income taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or the spouse thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employes, then owing or that shall within sixty days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent per capita, occupation, occupational privilege and earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the tax collector of the taxing district in which such delinquent tax was levied within sixty days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or spouse thereof may be deducted at any one time for delinquent per capita, occupation, occupational privilege and earned income taxes and costs. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employe the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the tax collector. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the tax collector, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. The tax collector shall not proceed against a spouse or his employer until he has pursued collection remedies against the delinquent taxpayer and his employer under this section.

(19 amended Oct. 4, 1978, P.L. 930, No. 177)

Section 20. Collection of Delinquent Per Capita, Occupation, Occupational Privilege and Earned Income Taxes from the Commonwealth. Upon presentation of a written notice and demand under oath or affirmation, to the State Treasurer or any other fiscal officer of the State, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the wages then owing, or that shall within sixty days thereafter become due to any employe, a sum sufficient to pay the respective amount of the delinquent per capita, occupation, occupational privilege and earned income taxes and costs shown on the written notice. The same shall be paid to the tax collector of the taxing district in which said delinquent tax was levied within sixty days after such notice shall have been given.

Section 20.1. Notice. The tax collector shall, at least fifteen days prior to the presentation of a written notice and demand to the State Treasurer or other fiscal officer of the State, or to any corporation, political subdivision, association, company or individual, notify the taxpayer owing the delinquent tax by registered or certified mail that a written notice and demand shall be presented to his employer unless such tax is paid. The return receipt card for certified or registered mail shall be marked delivered to addressee only, and the cost of notification by certified or registered mail shall be added to the costs for collecting taxes.

(20.1 added Oct. 18, 1975, P.L. 425, No. 118)

Section 21. Collection of Taxes by Suit. Each 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 22. Penalties. Except as otherwise provided in the case of any tax levied and assessed upon earned income, any such political subdivision shall have power to prescribe and enforce reasonable penalties for the nonpayment, within the time fixed for their payment, of taxes imposed under authority of this act and for the violations of the provisions of ordinances or resolutions passed under authority of this act.

If for any reason any tax levied and assessed upon earned income by any such political subdivision is not paid when due, interest at the rate of six percent per annum on the amount of said tax, and an additional penalty of one-half of one percent of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. When suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

Section 23. Repeals. The act of June 25, 1947 (P.L. 1145), entitled, as amended, "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 to levy, assess and collect or to provide for the levying, assessment and collection of certain additional taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers and employes to assess and collect such taxes; and permitting penalties to be imposed and enforced; 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," is repealed.

All other acts and parts of acts are repealed in so far as they are inconsistent herewith.