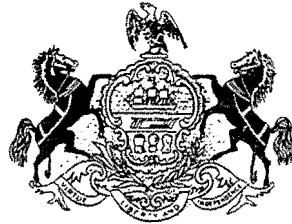


UNDERSTANDING LOCAL TAX REFORM

**An Explanation of Act 145 of 1988,
The Local Tax Reform Act**



Local Government Commission
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania
January, 1989

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**Local Government Commission
General Assembly of the Commonwealth of Pennsylvania
Harrisburg, Pennsylvania
January, 1989**

This commentary was prepared by Local Government Commission Assistant Director, Michael P. Gasbarre, and Research Analyst, Philip G. Bear, with assistance from the entire Commission staff. Ms. Sharon G. Behrendt was responsible for final typing of this document. Any questions regarding the contents of this commentary should be directed to Virgil F. Puskarich, Executive Director of the Local Government Commission.

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The Local Government Commission was created by Act of 1935, May 29, P.L. 244, as amended, as a continuing agency to provide research and advice to the General Assembly of the Commonwealth of Pennsylvania on matters affecting political subdivisions and municipal governments.



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THE LOCAL TAX REFORM ACT

FORWARD

It has become commonplace to speak of the need for an educated and informed citizenry so that intelligent public policy decisions emanating from constructive citizen participation in state and local public affairs can be effected in Pennsylvania. Now more than ever, that necessity is both real and urgent. The altering character of the Local Tax Reform Act, Act 145 of 1988, has caused the Local Government Commission to give a high priority, in terms of staff time as well as money, to preparation of this document.

Accordingly, we hope that this publication will be well received by state and local officials and concerned citizens. We will be delighted to know that, by virtue of this report, we have been able to help many people in their efforts toward a better understanding of the sweeping changes in local taxation which may be implemented upon the electorate's approval of a constitutional amendment designed to provide for a possible reduction in residential real property tax rates.

The primary purpose of this report is to set forth as simply but as comprehensively as possible the essential information about the substantive and procedural elements of local taxation in Pennsylvania emanating from Act 145 of 1988 and its companion legislation, Special Session House Bill 14, the proposed constitutional amendment. Implementation of Act 145 is contingent upon (1) the passage for the second time by the General Assembly of a proposed amendment to the Pennsylvania Constitution authorizing local taxing authorities to reduce local real estate taxes to the extent of additional revenues obtained from personal income taxes; and (2) subsequent approval of the amendment by the voters of Pennsylvania at a referendum (see Appendix). It should be noted that only two provisions of Act 145 are not dependent upon passage of the constitutional amendment. They would enable the City of Philadelphia to levy a real estate transfer tax and would authorize the Pennsylvania Department of Revenue to promulgate regulations for collection of the county sales tax.

This publication is designed to provide a truly **objective** analysis, devoid of partisan, ideological, geographic, or socioeconomic bias, of the first comprehensive change in the taxing powers of counties, municipalities, and school districts, in nearly a quarter century. **In no way should this publication be considered to either advocate or oppose local tax reform.**

Many perceive local governments and school districts today as being in the unenviable position of trying to cope with demands for increased services while they are tied to a relatively rigid revenue source--the real property tax. Some of our cities are faced with replacing obsolete industries with proceeds from a shrinking tax base, while townships and boroughs must deal with expanding populations and new services. Counties are struggling with both types of problems and the ever-increasing demands for social services. In this difficult situation, it can only be helpful if citizens, as well as state and local officials, have an opportunity to increase their familiarity with the details of Act 145 of 1988.

This publication is the product of Local Government Commission staff review of Act 145 of 1988, the Local Tax Reform Act. Due to the complexity of the statutory language embodied within Act 145, this report simply contains a review of the Local Tax Reform Act as construed by the Commission staff. The Commission urges readers of this publication to exercise caution in the interpretation of this statute since others may have a dissimilar view of various provisions of Act 145. In addition, this document should in no way be considered a legal opinion of the Local Government Commission, its staff, or the General Assembly as a whole, since the Local Government Commission is prohibited from rendering legal advice or consultation.

SUMMARY OF
THE LOCAL TAX REFORM ACT
ACT 145 OF 1988

CHAPTER 1
GENERAL PROVISIONS

Section 101 - Short Title. This act is entitled the Local Tax Reform Act.

Section 102 - Definitions.

(NOTE: Readers should be aware that the definitions in this section may not be applicable to all chapters of Act 145. Therefore, please refer to each chapter separately to determine whether definitions exist that are applicable to only those chapters.)

"Association" - any partnership or unincorporated entity.

(NOTE: See General Association Act of 1988 - Title 15 of the Pennsylvania Consolidated Statutes (15 Pa.C.S., Section 101 et seq.).)

"Board of County Commissioners" - the legislative policy-making body in all counties except Philadelphia.

"Business" - a profit-making unincorporated entity.

"Compensation" - includes salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered. Excluded from the term "compensation" are: (i) certain sickness and disability payments; (ii) workmen's compensation; (iii) social security and pension payments; (iv) public assistance and unemployment compensation; (v) reimbursement of actual expenses; (vi) payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement; and (vii) military combat pay.

(NOTE: See Section 301 of the Tax Reform Code of 1971 (Act 2 of 1971) and the definition of "compensation" in the Glossary of Terms in the Appendix.)

"Corporation" - an entity incorporated under the laws of any government.

"County" - all counties except Philadelphia.

"Current year" - a calendar year or fiscal year in which a tax is levied.

"Department" - the Department of Community Affairs (DCA).

"Domicile" - for individuals--a permanent residence; for businesses--a place where the business or association is conducting business for profit.

"Employer" - a person, business, or government employing one or more persons other than domestic servants.

"Governing body" - the legislative policy-making body of all political subdivisions except counties.

"Home rule municipality" - municipalities which have adopted home rule charters pursuant to the Home Rule Charter and Optional Plans Law of 1972.

(NOTE: See Act 62 of 1972.)

"Municipality" - all municipalities except Philadelphia. This term does not include school districts.

"Net profits" - net income from a business or profit-making activity.

(NOTE: See Section 303 of the Tax Reform Code of 1971.)

"Nonresident" - a person, association, or other entity domiciled outside the political subdivision.

"Optional form municipality" - a third class city which has adopted an optional form of government under the Optional Third Class City Charter Law of 1957.

(NOTE: See Act 399 of 1957.)

"Optional plan municipality" - a municipality which has adopted an optional plan of government under Act 62 of 1972.

"Ordinance" - a measure which has the effect of law. This term includes resolutions adopted by school districts.

"Person" or "individual" - a natural person.

"Personal income" - the classes of income enumerated in the Tax Reform Code of 1971 including compensation, net profits, capital gains, rents and royalties, dividends, interest income, gambling and lottery winnings (except winnings from the Pennsylvania lottery), and certain income derived from estates and trusts.

(NOTE: See Section 303 of the Tax Reform Code of 1971.)

"Political subdivision" - all municipalities except Philadelphia and all school districts except the Pittsburgh School District.

"Preceding year" - the calendar year or fiscal year before the current year.

"Register" - the register for the personal income tax and municipal service tax compiled by the Department of Community Affairs.

"Resident" - a person, business, or entity which either maintains a permanent place of abode or conducts a profit-making activity within a political subdivision.

"School district" - all districts except the Pittsburgh School District and the Philadelphia School District.

"Succeeding year" - the calendar or fiscal year following the current year.

"Tax officer" - the person or agency designated to collect taxes levied under this act. The term includes the treasurer of the Pittsburgh School District.

"Taxpayer" - any person or entity required to pay a tax or file a tax return.

Section 103 - Scope.

- a) General Rule - Except as provided for the levy of real property taxes in subsection (b) and Chapter 13 (Philadelphia), this act confers the power to levy taxes only upon the subjects of taxation set forth in this act.
- b) Real Property Taxes - Except as provided in Chapters 3 (Reductions and Limitations) and 27 (Senior Citizen Property Tax Deferral), this act does not affect the power to levy taxes on real property.

Section 104 - Preemption.

No act of the General Assembly will vacate or preempt any ordinance adopted under this act providing for the imposition of a tax by a local taxing district, unless the act of the General Assembly expressly vacates or preempts the authority to adopt the ordinance.

(NOTE: This provision is the opposite of Section 3 of Act 511 of 1965. Act 511, The Local Tax Enabling Act, which provides most municipalities and school districts with their non-real estate taxing powers, mandates that any law imposing a State tax or license fee on a subject of taxation shall automatically vacate local ordinances imposing taxes on such subjects of taxation. The Local Tax Reform Act provides that such acts of the General Assembly shall not preempt any local ordinances, unless expressly stated in the State law.

This change was inspired by City of Pittsburgh v. Allegheny Valley Bank of Pittsburgh, 35 Pa. Cmwlth. 502, 388 A.2d 1098 (1978), affirmed 488 Pa. 544, 412 A.2d 1366 (1980), and Wilsbach Distributors, Inc., v. Commonwealth of Pennsylvania, 513 Pa. 215, 519 A.2d 397 (1986), where the court held that financial institutions and malt beverage distributors, respectively, were subject to pervasive State regulation and therefore beyond local taxes. Section 104 now allows entities subject to State taxation and regulation to be taxed by local authorities but preserves the local tax exemption for malt beverage distributors and financial institutions. See Section 532(4) and (5) and Section 1301(c)(7) and (8) of Act 145.)

Section 105 - Existing Ordinances and Resolutions.

This act supersedes, to the extent of inconsistency, any inconsistent ordinance of a local taxing district.

Section 106 - Rates of Taxation in Home Rule Municipalities.

Except as provided in Section 322 (Limitations) and Section 533 (b) (Relating to the Mercantile or Business Privilege Tax), this act is not intended to restrict the right of home rule municipalities to fix the rate of taxation to be imposed on its residents.

(NOTE: Any home rule municipality which has levied a business privilege or mercantile tax on or before November 30, 1988, is authorized to continue the levy of these taxes at the effective rate imposed on that date. These taxes imposed for the first time after November 30, 1988, can be levied under existing provisions of Act 511 consistent with its home rule charter until the Local Tax Reform Act becomes effective, after which its ability to levy the business privilege or mercantile tax is repealed.)

CHAPTER 3
REDUCTIONS AND LIMITATIONS

Subchapter A
Residential Real Property Tax Reduction

Section 301 - Residential Real Property Tax Reduction.

- a) General Rule - Any political subdivision which levies a tax on personal income under Section 511 must use the revenue derived to reduce the millage rate for residential real property by at least 25% for the first fiscal year in which the personal income tax is levied.

(NOTE: This subsection provides, in effect, that in exchange for the right to impose a personal income tax, the political subdivision must grant at least a 25% tax cut to residential real property owners, subject to the limited exceptions in subsection (d).)

- b) Initial Imposition - When a political subdivision imposes a personal income tax for the first time, the revenue loss from the millage rate reduction on residential property must equal the difference between revenues derived from the personal income tax and revenues derived in the preceding year from the abolished nuisance taxes (which includes the earned income tax under Act 511).

(NOTE: This subsection implements the so-called dollar-for-dollar reduction in residential real property taxes that is required with the imposition of a personal income tax. The initial imposition of a personal income tax must be revenue neutral to the political subdivision. Personal income tax revenues would initially be utilized to replace abolished taxes (earned income tax, per capita tax, occupational assessment tax, etc.). Revenues beyond the replacement of abolished taxes must be used to reduce the millage rate on residential real property. A taxing district should first determine its revenue requirements less projected State grants for the new fiscal year. It should then determine how that revenue would be raised under its existing tax structure, including any changes in the rates of retained taxes (e.g., real estate tax). Then the political subdivision must levy the personal income tax at a rate at least high enough to replace the repealed taxes and provide for at least a 25% tax cut provided in subsection (a), unless one of the limited residential exceptions in subsection (d) apply to the political subdivision.)

- c) Subsequent Rate Change - When a political subdivision changes the rate of the personal income tax after its initial imposition, the revenue change from the millage rate change for residential real property must equal the difference between the revenue from the personal income tax at the changed rate and the revenue from the personal income tax at the rate in the preceding year.

(NOTE: Beyond the initial year of enactment, this subsection requires that any subsequent changes (increases or decreases) in revenue derived from a change in the rate of the personal income tax

require a corresponding change in the revenue derived from residential real property taxes.)

- d) Exceptions - The provisions of subsection (a) shall not apply in the following circumstances:

(NOTE: In recognition of the varied circumstances across Pennsylvania and to provide a degree of local flexibility, Act 145 provides a few limited exceptions to the 25% requirement. However, regardless of whether the political subdivision is required to comply with the full 25% tax cut requirement of subsection (a), the dollar-for-dollar reduction requirement of subsection (b) is always applicable.)

- 1) A "distressed municipality" as determined under the Financially Distressed Municipalities Act (Act 47 of 1987) while the municipality is designated distressed.

(NOTE: Section 123(c) of Act 47 permits a distressed municipality to petition the local court of common pleas to increase the municipality's rates of taxation for earned income, real property, or both, beyond maximum rates provided in law.)

- 2) A political subdivision levies the personal income tax at the maximum rate.

(NOTE: The intention of this provision is not to create a loophole but rather protect those political subdivisions which must levy the personal income tax at the maximum rate to simply offset the loss of the nuisance taxes and earned income tax under Act 511. In this scenario, a mandatory 25% reduction in residential real property taxes may not be possible. However, once a political subdivision implements the personal income tax and raises revenue sufficient to replace the repealed taxes, then a dollar-for-dollar offset in residential real property taxes still must occur.)

- 3) A political subdivision adopts the recommendation of the local tax study commission to reduce the millage rate of residential real property by an amount less than 25%.

(NOTE: If a local tax study commission recommends any deviation from the 25% residential real property tax millage reduction, it must issue a detailed explanation of that recommendation. In order to implement the recommendation of the tax study commission, the governing body must adopt that recommendation. See Section 901(a)(5) of Act 145.)

- e) Home Rule Municipalities - A home rule municipality may adopt the provisions of this section to the extent determined by the home rule municipality.

(NOTE: Due to the unique nature of the authority granted to home rule municipalities to levy higher rates of taxation on residents, this section was drafted to maintain the flexibility for home rule

municipalities in determining tax rates on residents. Thus, a home rule municipality's adherence to the Residential Real Property Tax Reduction is left to its own determination.)

Section 302 - Residential Rental Property.

- a) Legislative Intent - The General Assembly is cognizant that the consideration paid by a residential tenant to a landlord for the use or occupation of real property includes partially the real property taxes being paid by the landlord on the leased property.

(NOTE: The Legislature recognizes that under the provisions of the Residential Real Property Tax Reduction, landlords could enjoy a windfall in real estate tax reductions. This section intends that such reductions in property taxes be passed on to the tenants.)

- b) Implementation - Each landlord must adjust rental property payments of residential tenants in an amount equal to the reduction in residential real property taxes attributable to that tenant's unit.
- c) Damages - A landlord who fails to adjust the rental payment will be liable for treble (triple) damages in a civil action. The civil action must be instituted by a tenant within one year of the required reduction in residential real property taxes. Damages would include, but need not be limited to, the adjustment in the rental payment the tenant did not receive. The landlord must prove that the rental payments were adjusted.

Section 303 - Annual Report.

As currently required by law with respect to filing annual financial reports, each municipality and county will report to the Department of Community Affairs, and each school district must report to the Department of Education such information now required to be filed with the respective departments together with information on the Residential Real Property Tax Reduction.

Section 304 - Regulations and Guidelines.

- a) Regulations - The Department of Community Affairs may adopt regulations for the implementation of this chapter.
- b) Guidelines - The Department of Community Affairs must publish in the Pennsylvania Bulletin on or before May 1 and November 1 of each year guidelines for the implementation of this chapter.

Section 305 - Definitions.

"Crops, livestock, and livestock products" - field crops, fruits, vegetables, horticultural specialties, livestock, wood products, and aquatic plants and animals and their by-products.

"Farm residence" - a farmer's home together with land actually producing crops, livestock, livestock products, and agricultural land held in reserve.

"Immediate family member" - a spouse, child, stepchild, parent, stepparent, grandparent, brother, stepbrother, sister, stepsister, or like relative-in-law of an owner of real property.

"Non-residential real property" - real property which is not residential in nature.

"Owner" - a person who owns real property outright.

"Primary residence" - a fixed and permanent place of abode.

"Real property" - land and buildings.

"Residential real property" - real property which is the primary residence of the owner or those persons leasing property for the purpose of residing therein.

Subchapter B
Limitations on Tax Levies

Section 321 - General Rule.

The tax revenues of a county, municipality, or school district must be limited as provided in Section 322. Tax revenues which exceed these limitations must be used to reduce real property taxes as provided in Section 323.

Section 322 - Limitations.

(NOTE: Effective date of the act as referred to in this section is the first fiscal year occurring at least twelve months following publication of certification of the adoption of the constitutional amendment. See Section 3112(a) of Act 145.)

- a) Municipalities and Counties - Except as provided in subsection (d) (i.e., taxes levied for emergency service, pension recovery payments, debt service, and taxes levied by distressed municipalities), taxes levied by a municipality or county are limited as follows:
- 1) For the first fiscal year beginning after the effective date of this act, the increase in aggregate tax revenue over the previous year's tax revenue may not exceed the greater of any one of the following:
 - i) the amount received under Federal revenue sharing for tax year 1985; or
 - ii) the average annual increase in aggregate tax revenues for the five prior fiscal years; or
 - iii) the average annual increase in the Consumer Price Index (CPI) for All Urban Consumers, United States City Average, for the twenty-four months prior to the start of the fiscal year, for which statistics are available, as determined and published by DCA.

- 2) For the second, third, and fourth fiscal years after the effective date of this act, the increase in aggregate tax revenue over the previous year's tax revenue may not exceed the greater of the following:
 - i) the average annual increase in aggregate tax revenues for the five prior fiscal years; or
 - ii) the average annual increase in the CPI for All Urban Consumers, United States City Average, for the twenty-four months prior to the start of the fiscal year, for which statistics are available, as determined and published by DCA.
- b) School Districts - Except as provided in subsection (e) (i.e., taxes levied for debt service, increased enrollment, or increases in pension fund requirements), taxes levied by a school district are limited as follows:
 - 1) For the first fiscal year beginning after the effective date of this act, the increase in aggregate tax revenue over the previous year's tax revenue may not exceed the greater of the following:
 - i) the average annual increase in aggregate tax revenues for the five prior fiscal years plus 2%, but no more than 8%; or
 - ii) the average annual increase in the CPI for All Urban Consumers, United States City Average, for the twenty-four months prior to the start of the fiscal year, for which statistics are available, as determined and published by DCA.
 - 2) For the second, third, and fourth fiscal years after the effective date of this act, the increase in aggregate tax revenue over the previous year's tax revenue may not exceed the greater of the following:
 - i) the average annual increase in aggregate tax revenues for the five prior fiscal years; or
 - ii) the average annual increase in the CPI for All Urban Consumers, United States City Average, for the twenty-four months prior to the start of the fiscal year, for which statistics are available, as determined and published by DCA.
- c) Applicable - The limitations in this section, unless expressly repealed, apply to every tax levied.
- d) Exclusions for Municipalities and Counties -
 - 1) Limitations contained in subsection (a) do not apply to taxes levied for emergency services used during a disaster declared by the Governor; taxes levied under Section 401 (Revision of

Financing from Local Revenue Sources) of the Municipal Pension Plan Funding Standard and Recovery Act (Act 205 of 1984); and taxes levied for debt service payments under the Local Government Unit Debt Act (Act 185 of 1972).

- 2) The limitations shall not apply to a "distressed municipality" within the scope of the Financially Distressed Municipalities Act.
- e) Exclusions for School Districts - The limitations in subsection (b) (School Districts) shall not apply to taxes to cover:
 - 1) Principal and interest on indebtedness incurred pursuant to the Local Government Unit Debt Act.
 - 2) Increased costs in personnel, resources, or facilities directly attributable to an increase in enrollment.
 - 3) Increases in pension fund requirements in excess of the annual average increase over the prior five years.
 - f) Court Order - These limitations may be exceeded by order of the court of common pleas, upon petition of the governing body, showing due cause. A petition under this subsection must be authorized by resolution of the governing body.

Section 323 - Real Property Tax Refund.

- a) Restricted Account - Each county, municipality, and school district must establish a restricted account to be known as the Local Government Tax Trust Fund. Interest earned on money in the Fund shall be credited to the Fund. Money in the Fund must be used exclusively to reduce real property taxes as provided in this section and cannot be used for interfund transfers or loans.
- b) Deposit of Excess Revenues - If in any year aggregate tax revenues exceed the limitations imposed by Section 322, the treasurer must deposit the excess aggregate tax revenue into the Fund within 90 days of attaining such limitation.
- c) Annual Audit - The annual audit must include a determination of compliance with the limitations in Section 322 and the deposit requirements of subsection (b). A determination of noncompliance will subject the treasurer to surcharge as provided by law.
- d) Refunds - The treasurer must refund to every real property taxpayer a pro rata share of the entire balance of the moneys on deposit in the Fund within 90 days after the balance exceeds 5% of the total tax revenue for the preceding year of the county, municipality, or school district. The amount of the refund will be determined by dividing the assessed value of the taxpayer's property by the total assessed value of all real property within the jurisdiction.
- e) Disposition of Remaining Balance - If, after the expiration of the revenue limits, a balance remains in the Fund, the treasurer must

refund to every real property taxpayer a pro rata share of the entire balance.

- f) Reporting - Each county and municipality must annually report to the Department of Community Affairs in its yearly report and each school district shall annually report to the Department of Education the aggregate tax revenues received, the maximum tax revenues allowable under Section 322, and the balance of moneys on deposit in the Fund at the end of the preceding fiscal year. If applicable, the report must contain a description of the manner in which any refunds were paid.

Section 324 - Definitions.

"Aggregate tax revenues" are the sum of:

- 1) All revenues from county, municipal, or school district taxes, except revenue from taxes levied to repay indebtedness.
- 2) All revenues from the distribution to political subdivisions under Section 525 (Sharing of Optional County Sales Tax), Section 3102 (Temporary Bankruptcy Aid), Section 3103 (Mass Transit Assistance), Section 3104 (Payments in Lieu of Taxes), Section 3105 (Municipal Overburden), and Section 3106 (Transitional Assistance) and the distribution to counties under Section 2122 (Quality Assessment Grants), Section 3103 (Mass Transit Assistance) and Section 3106 (Transitional Assistance).

CHAPTER 5
SUBJECTS OF TAXATION

Subchapter A
Tax Authorization

Section 501 - General Tax Authorization

- a) Municipalities - Except as provided in subsection (c), each municipality may levy such taxes within the geographical limits of the municipality on subjects specified in this chapter as it determines.

(NOTE: See comments in Section 571 of this commentary.)

- b) School Districts - Except as provided in subsection (c), each school district may levy a tax on the personal income of residents and such other taxes that are specifically permitted under this chapter.

(NOTE: See comments in Section 571 of this commentary.)

- c) Exclusions - No county or political subdivision is permitted to levy:

- 1) An occupation tax on a flat rate or millage basis (occupational assessment tax).
- 2) An occupational privilege tax.
- 3) A per capita tax or other similar head tax.
- 4) A personal property tax.

(NOTE: Repeal of the personal property tax is subject to a three-year phaseout or an immediate repeal. See Section 3111(f)(2) of this commentary.)

- 5) An earned income tax previously levied under Act 511, unless specifically authorized.

(NOTE: This provision relating to the earned income tax is subject to six-month transition period for political subdivisions operating on a July to June fiscal year basis. See Section 3111(f)(1) of this commentary.)

Section 502 - Continuity of Tax

Taxes levied under this act will continue in force without annual reenactment unless the rate of the tax is changed.

(NOTE: Similar to a portion of Section 4 of Act 511).

Subchapter B
Personal Income Tax

Section 511 - Personal Income Tax

- a) Municipalities - A municipality may levy a tax on:

- 1) The personal income of residents up to a maximum rate of .75%.

(NOTE: See definition of personal income in Section 102 of this commentary).

- 2) The compensation and net profits of nonresidents earned within the municipality at the rate in effect on January 1, 1988, under Act 511, but in no case higher than the resident rate. The municipality must certify to the Department of Community Affairs before levying such tax that revenues from the tax on the earned income of nonresidents levied under Act 511 exceed 7.5% of all taxes levied by the municipality for the fiscal year beginning January 1, 1988.

(NOTE: This language should not be construed to mean that all municipalities are empowered to levy a tax on the compensation and net profits of nonresidents. Rather, this subsection merely continues to authorize such an imposition of taxes on nonresidents by several municipalities that heavily rely on an earned income tax levied on nonresidents. In these cases, the tax must constitute at least 7.5 percent of the municipality's tax base. However, please note that an earned income tax levied on nonresidents is still subject to the crediting provisions of Section 513 of Act 145.)

- b) School Districts - Each school district may levy a tax on the personal income of residents up to a maximum rate of 1.5%.

(NOTE: This continues the policy from Act 511 of school districts not taxing nonresidents. See Section 2(5) of Act 511.)

Section 512 - Exemption of Low Income Persons

- a) Low Income Exemption - Each political subdivision may exempt any person who qualifies under the provisions of Section 304 of the Tax Reform Code of 1971 (earns less than \$6,300) from payment of personal income taxes.

(NOTE: This provision is similar to Section 2 of Act 511, which authorizes local taxing districts to exempt persons who annually earn less than \$5,000 from payment of the nuisance taxes and earned income tax.)

- b) Special Hardship Exemption - Each political subdivision may exempt persons who qualify as claimants under the Senior Citizens Rebate and Assistance Act (Act 3 of 1971) and who have a "household income" less than the maximum necessary (less than \$15,000) to qualify for an exemption from payment of personal income taxes.

(NOTE: This exemption is determined by income from all sources. For example, if a person over 65 years of age receives \$12,000 of nontaxable income from pensions and \$4,000 of taxable income from interest and dividends, that person does not qualify for this exemption because the total income exceeds \$15,000. Therefore, this person will pay a personal income tax on \$4,000 of income.

For reference, the definitions of "income," "household income," and "claimant" under the Senior Citizens Rebate and Assistance Act are as follows:

"Income" - means all income from whatever source derived, including but not limited to salaries, wages, bonuses, commissions, income from self-employment, alimony, support money, cash public assistance and relief, the gross amount of any pensions or annuities including railroad retirement benefits, all benefits received under the Federal Social Security Act (except Medicare benefits), all benefits received under State unemployment insurance laws and veterans' disability payments, all interest received from the Federal or any state government, or any instrumentality or political subdivision thereof, realized capital gains, rentals, workmen's compensation and the gross amount of loss of time insurance benefits, life insurance benefits and proceeds (except the first five thousand dollars (\$5,000) of the total of death benefit payments), and gifts of cash or property (other than transfers by gift between members of a household) in excess of a total value of three hundred dollars (\$300), but shall not include surplus food or other relief in kind supplied by a governmental agency or property tax or rent rebate or inflation dividend.

"Household income" - means all income received by the claimant and his spouse while residing in the homestead during the calendar year for which a rebate and dividend are claimed.

"Claimant" - means a person who files a claim for property tax rebate or rent rebate in lieu of property taxes and inflation dividend and was sixty-five years of age or over, or whose spouse (if a member of the household) was sixty-five years of age or over, during a calendar year in which real property taxes, rent and inflation costs were due and payable or was a widow or widower and was fifty years of age or over during a calendar year or part thereof in which real property taxes, rent and inflation costs were due and payable, or was a permanently disabled person eighteen years of age or over during a calendar year or part thereof in which real property taxes, rent and inflation costs were due and payable. For the purposes of this act the term "widow" or "widower" shall mean the surviving wife or the surviving husband, as the case may be, of a deceased individual and who has not remarried except as provided in subsection (c) and (d) of section 4 of this act. For the purposes of this act the term "permanently disabled person" shall mean a person who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to continue indefinitely, except as provided in subsection (c) and (d) of section 4 of this act.)

- c) Regulations - The political subdivision may adopt regulations for the processing of claims for these exemptions.

Section 513 - Credits

- a) Domestic Tax Credit

(NOTE: This section is derived primarily from Section 14 of Act 511.)

- 1) A Pennsylvania political subdivision imposing a personal income tax on a nonresident who lives in the Commonwealth must credit the nonresident with the amount of personal income tax or earned income tax paid to the political subdivision (including the City of Philadelphia, the Philadelphia School District, and the Pittsburgh School District) where the nonresident lives.

(NOTE: For example, a person resides in a Pennsylvania borough and works in a Pennsylvania township, both of which impose a personal income tax at the maximum rate. The person pays the personal income tax only to his place of residence (the borough) and the township is required to credit that amount. In situations in which there are varying rates, a municipality is prohibited from imposing an earned income tax on nonresidents unless the municipality meets the requirements of Section 511(a)(2) of Act 145.)

- 2) A Pennsylvania political subdivision imposing a personal income tax on a nonresident who lives outside the Commonwealth shall credit the nonresident with the amount of personal income tax or earned income tax paid by the nonresident to the state or political subdivision where the nonresident lives, if residents of the Pennsylvania political subdivision granting credit receive similar credit from personal income taxes imposed by the state or political subdivision where the nonresident lives.

(NOTE: For example, if an Ohio resident works in a Pennsylvania municipality imposing a personal income tax, the Pennsylvania municipality must grant a personal income tax credit to an Ohio resident if and only if a Pennsylvania resident working in Ohio and living in that Pennsylvania municipality receives a similar credit from the State of Ohio or the Ohio municipality.)

- 3) A credit will not be allowed under this act to the extent the taxpayer has taken credit against the State personal income tax for taxes imposed by other states or political subdivisions.

(NOTE: For example, if a Pennsylvania resident working in New Jersey pays a personal income tax to the State of New Jersey or to one of its municipalities, and if the Pennsylvania resident credits the entire amount of the personal income tax paid in New Jersey toward payment of the Pennsylvania State Personal Income Tax, the Pennsylvania resident may not take a credit against a local personal income tax levied under this act. If the amount of the personal income tax paid in New Jersey exceeds the liability of personal income tax levied by the Commonwealth, then provisions of Section 513(b) of Act 145 (foreign tax credits) apply.)

4) A political subdivision imposing a personal income tax on a resident who has paid an earned income tax to Philadelphia as a nonresident:

- i) must credit that tax payment against any tax imposed by a political subdivision on such income;
- ii) shall not credit that tax payment against a tax on compensation earned outside the City of Philadelphia or any other income.

(NOTE: For example, an attorney lives outside of Philadelphia but practices law in the City and also teaches paralegal courses at a Pennsylvania community college located outside the City. His resident municipality must credit the wage tax on earned income tax paid to Philadelphia only against his salary earned as an attorney. His home municipality may tax all other unearned income or earned income such as compensation received from teaching paralegal courses.)

- b) Foreign Tax Credit - A Pennsylvania political subdivision imposing a personal income tax on a resident of the Commonwealth may credit the taxpayer with such percentage of the excess of the income tax imposed by another state, county, or political subdivision over and above the Commonwealth Personal Income Tax, as determined by the political subdivision.

(NOTE: The language in this subsection is derived from Section 14 of Act 511, which mandated full credit against local tax liability for excess out-of-state tax payments over and above that credited against the Pennsylvania State Income Tax. Under Act 145, this provision is optional on the part of the Pennsylvania political subdivision.)

Subchapter C
Optional County Sales and Use Tax

Section 521 - Optional County Sales and Use Tax

- a) Sales Tax - The board of commissioners in any county, and the City Council in Philadelphia, may levy a sales tax. The tax will be collected by the vendor from the purchaser and paid to the Commonwealth, as provided in regulations.

(NOTE: Technically what we know as the Pennsylvania Sales Tax is actually three taxes: a sales tax, a use tax, and a hotel occupancy tax. Subsections (a), (b), and (c) of Section 521 provide that county commissioners must adopt all three taxes at the county level.)

- b) Use Tax - In counties imposing a sales tax, there is to be a tax levied upon the use of personal property purchased at retail and on services, at the same rate as the sales tax. The tax will be paid to the Commonwealth by the person making such use, as provided in regulations. The use tax will not be paid by any person who has

already paid a county sales tax or already paid a county use tax at a rate greater or equal to the tax imposed herein.

(NOTE: The use tax is imposed on purchasers who purchase taxable personal property outside the taxing district (Commonwealth or county), bring the property into the taxing district, and use that property within the taxing district. For example, a person resides in a county which imposes a tax under this section and purchases a refrigerator in a county which does not impose a tax under this section. That person is subject to a use tax payment to his county of residence.)

- c) Hotel Occupancy Tax - In counties imposing a sales tax, there will be levied an excise tax on the rental of hotel rooms in the county at the same rate as subsection (d), below. The tax will be collected by the owner and paid to the Commonwealth, as provided in regulations.
- d) Rate of Tax -
 - 1) Except as provided in paragraph (d)(2), the sales tax may be imposed at a rate of 0.5%. This applies to all counties except Philadelphia and Allegheny.
 - 2) In the City of Philadelphia and the County of Allegheny, the sales tax may be imposed at either 0.5% or 1%.
 - 3) The sales tax, use tax, and hotel occupancy tax must be imposed at a uniform rate.
- e) Computation of Tax - Sets forth computation tables.

(NOTE: See Section 521(e) of this act. The computation tables should not be confused with the State Sales Tax Table which is significantly different.)
- f) Discounts - No discounts will be allowed for taxes collected and reported under this subchapter.

Section 522 - Situs for Imposition of Tax

- a) Situs for Retail Sales - A sale at retail will be deemed to be consummated at the place where the vendor delivers or otherwise transfers physical possession of the personal property to the customer.
- b) Situs for Interstate Transactions - If the personal property is shipped from outside the Commonwealth to a customer within the Commonwealth, the personal property is subject to the use tax, unless the vendor is licensed to collect the sales tax.
- c) Situs for Vehicle, Aircraft, and Motorcraft Sales
 - 1) The sale at retail or use of a motor vehicle, trailer or semi-trailer will be deemed to have been completed or used at the address of the purchaser. The tax due must be paid

directly to the Department of Transportation at the time of making application for a certificate of title or directly to the Department of Revenue if a certificate of title is not obtained.

(NOTE: Example 1: Two counties impose a sales tax. An individual lives in one county and purchases a car in the other. Under this provision, the county of residence will receive the sales tax since the sale is considered to have been completed at the address of the purchaser.)

Example 2: An individual lives in a county which does not levy a sales tax. He purchases a car in a county which does. The county in which the automobile dealer is located is not entitled to the sales tax since the sale is considered to have been completed at the address of the purchaser.)

- 2) The sale at retail or use of a motor boat, aircraft, mobile home, etc., required by state or Federal law to be registered or licensed, purchased from a person not engaged in the business of selling such property, is deemed to have been completed or used at the address of the purchaser. The tax due must be paid by the purchaser at the time of registration or licensing or directly to the Department of Revenue if registration or licensing is not obtained.

(NOTE: In regard to occasional sales, the general rule is that the purchaser is liable for payment of the sales tax only if the purchaser's county of residence levies a sales tax. Payment of the tax would be to the agency responsible for maintaining the registration record of the personal property.)

d) **Situs for Utility Service**

Situs for the sale or use of utility services is as follows:
telephone - in the county in which the telephone number is located;
telegraph - in the county in which the telegraph originated; steam, natural and manufactured gas, electricity - in the county in which the meter that registered the service is located.

Section 523 - Application of State Law

- a) **General Rule - Unless otherwise provided, the provisions of Article II of the "Tax Reform Code of 1971" will apply to the taxes imposed by this subchapter insofar as applicable.**
- b) **Licenses - The license issued pursuant to Article II of the Tax Reform Code of 1971, or a separate license may be issued by the Department of Revenue to collect and report the sales tax. Such licenses will be nonassignable and subject to renewal periodically as may be required by regulation but no more frequently than once in five years. No fee will be charged for a license or a renewal. Failure of any person to obtain a license will not relieve him of liability to pay the tax.**
- c) **Rules and Regulations -**

- 1) The rules and regulations promulgated under Section 270 of the Tax Reform Code of 1971 will be applicable to the county sales tax insofar as they are consistent.
- 2) The Department of Revenue will administer and enforce the provisions of this subchapter and is authorized to promulgate and enforce rules and regulations. The department may prescribe the extent to which any such rules and regulations shall be applied prospectively.
- d) Exclusion from Rate Limitations - The sales tax levied in Philadelphia shall not apply to the overall rate limitations set forth in Section 23(c) of the Pennsylvania Convention Center Authority Act (Act 70 of 1986).
- e) Procedures and Administration - Part VI of Article II of the Tax Reform Code of 1971 is incorporated by reference into this subchapter.

Section 524 - Adoption of Ordinance

(NOTE: Prior to the adoption of the sales tax ordinance by the county commissioners, the county must establish a tax study commission to review this revenue alternative. See Section 901 of this act.)

- a) Adoption of County Ordinance -
 - 1) Any county desiring to impose a county sales tax shall give at least 60 days' written notice of its intent to every municipality in the county, and must adopt an ordinance after the expiration of 60 days (emphasis added). The ordinance must state the tax rate as specified in Section 521(d) of this act.
- b) Adoption of Municipal Ordinance - NO MUNICIPALITY SHALL BE ENTITLED TO A DISBURSEMENT UNDER SECTION 525 UNLESS ONE OF THE FOLLOWING APPLIES:
 - 1) Prior to enactment of the county ordinance, the municipality adopts an ordinance containing the statement:

"We strongly urge the county to enact a county sales and use tax and intend to accept disbursements of the sales and use taxes collected."

Any municipality failing to enact such an ordinance will not receive any distribution from funds collected during the first twenty-four months immediately following the initial imposition of the tax.
 - 2) Prior to October 1 of any year after enactment of the county ordinance, a municipality adopts an ordinance containing the statement:

"We support the enactment by the county of the county sales and use tax and strongly urge its continuation and intend to accept disbursements of the sales and use taxes collected."

A certified copy of the municipal ordinance must be delivered to the county commissioners on or before the initial enactment of the county ordinance or October 15 of any year thereafter.

- c) Notification to Department - A certified copy of the county ordinance must be delivered to the Department of Revenue by July 1 of the year prior to the effective date of the enactment. The county ordinance must become effective on the January 1 following by at least six months after the enactment of the county ordinance.

(NOTE: This section gives the Department of Revenue a six-month notice before the county becomes eligible to impose the sales tax.)

- d) Copy of Repeal Ordinance - A certified copy of a repeal of a county sales tax ordinance must be delivered to the Department of Revenue by July 1 of the year prior to the effective date of such repeal. The repeal of such tax will become effective on the January 1 following by at least six months after the enactment of the repeal ordinance.
- e) Copy of Rate Change Ordinance - A certified copy of any ordinance changing the rate of a county sales tax must be delivered to the Department of Revenue by July 1 of the year prior to the effective date of the change. The rate change will become effective on the January 1 following by at least six months after the enactment of the rate change ordinance.

(NOTE: This subsection is applicable only to Allegheny County and Philadelphia, both of which are permitted to levy a sales tax at either 0.5% or 1%.)

Section 525 - Disbursement to Municipalities and Counties

- a) Disbursement to Counties - On or before March 20, June 20, September 20, and December 20, the department will disburse to counties imposing a county sales tax an amount equal to the tax collected in that county, less any refunds or credits, during the three months ending the last days of March, June, September, and December, respectively.

(NOTE: An initial reading of this subsection seems unclear as to the actual date of distribution of the county sales tax.)

- b) Disbursements to municipalities - On or before April 20, July 20, October 20, or January 20, a county must distribute a portion of the disbursement received from the Department of Revenue to those municipalities which impose both a personal income tax of at least 0.25% and a real property tax. The total distribution to a municipality will equal 25% of the county disbursement multiplied by a ratio equal to the "weighted tax revenues" of a municipality divided by the sum of the "weighted tax revenues" of all municipalities in the county.

(NOTE: See Section 526 below for the definition of "weighted tax revenues.")

- c) County Retention of Disbursements - If a municipality fails to meet the requirements of this section and Section 524, then its disbursements will remain with the county.
- d) Proportion - The Department of Community Affairs will distribute to each county a listing of the proportion of the tax distribution that each municipality is eligible to receive.

Section 526 - Definitions

"County" - all sixty-seven counties within the Commonwealth.

"Department" - unless otherwise stated in this subchapter, the Department of Revenue.

"Municipality" - a city, incorporated town, borough, or township.

"Per capita market value" - the total market value of all property within a municipality divided by its population as determined by the last decennial census.

"Weighted tax revenues" - the total tax revenues of a municipality divided by the ratio of its per capita market value to the per capita market value of the county.

Subchapter D
Mercantile or Business Privilege Tax

Section 531 - Mercantile or Business Privilege Tax

- a) Wholesale Dealers - Political subdivisions and the Pittsburgh School District may levy a tax not to exceed one mill on the dollar volume of business transacted by wholesale dealers.
- b) Retail Sales - Except for the City of Pittsburgh, political subdivisions and the Pittsburgh School District may levy a tax on each dollar of sales by:
 - 1) Retail dealers and by proprietors of restaurants or other eating places at a rate not to exceed one and one-half mills.
 - 2) Providers of services at the rate as of November 30, 1988.

(NOTE: See notation in Section 533, below. Sections (a) and (b) are the same rate limits as those currently found in Section 8(2) of Act 511.)

- c) Transactions Partially Free of Tax - No such tax shall be levied on the resale of goods taken as a trade-in, except to the extent that the resale price exceeds the trade-in allowance.

- d) Cities of the Second Class - the City of Pittsburgh may levy a tax on each dollar of sales by:
- 1) Retail dealers and by proprietors of restaurants or other eating places at a rate not to exceed two mills.
 - 2) Providers of services at the rate as of November 30, 1988.

(NOTE: See notation in Section 533, below.)

Section 532 - Exclusions from Tax

A tax may not be levied on:

- (1) The gross receipts for utility service from companies whose rates are fixed by the Pennsylvania Public Utility Commission or other companies or persons providing utility service or on any Federal Energy Regulation Commission approved qualifying facility.

(NOTE: The underlining refers to an expansion of language not found in Act 511. Co-generation and several hydroelectric generating facilities will now be exempt from a business privilege or mercantile tax under Act 145.)

- (2) Goods manufactured in the political subdivision or on the by-products of manufacture; minerals, timber, natural resources and farm products produced in the political subdivision; any privilege, act or transaction related to the manufacture or production of minerals, timber, etc., by manufacturers, producers or farmers with respect to their own products; any privilege, act or transaction relating to the processing or shipping of by-products of manufacture; except that a political subdivision may levy a tax on the personal income of individuals engaged in these activities.
- (3) Gross receipts or parts thereof which are:
 - (i) discounts for cash purchases;
 - (ii) shipping charges;
 - (iii) received for the sale of an article acquired as a trade-in (to the extent the resale price does not exceed the trade-in allowance);
 - (iv) refunds or credits given for defective or returned merchandise;
 - (v) Pennsylvania Sales Tax and any county sales tax imposed under this act;
 - (vi) based on the exchange of identical property between two sellers, unless an additional cash payment is included at which time the cash payment shall be taxed;
 - (vii) receipts of sellers from sales to other sellers of similar

products, where the transfer is at the same price as the acquisition price;

- (viii) transfers between departments, divisions, etc., of a single corporation;
- (ix) transfers attributable to activities occurring outside the taxing authority. Gross receipts shall be attributed to the jurisdiction in which the activities occur.

(NOTE: Clause (ix) is new language which addresses the decision in the case of Gilberti v. City of Pittsburgh, 511 Pa. 100, 511 A.2d 1321 (1986). In that case, Gilberti (the owner of an architectural firm) challenged the validity of the City of Pittsburgh's Business Privilege Tax. Gilberti argued that income derived from on-site construction supervision outside the City limits should be excluded from the calculation of the tax since Act 511 authorizes the imposition of taxes on transactions or privileges only "within the limits of such political subdivisions."

In its decision, the court upheld the City's right to collect a tax on the privilege of having a place of business in the City, noting that the tax is not limited so as to ignore the contribution to out-of-city activities provided by maintaining a base of operations within the City.

This provision overturns the Gilberti decision by exempting transfers attributable to activities occurring outside the taxing authority.)

- (4) The gross receipts of:
 - (i) banks or other similar entities in the Banking Code of 1965 (Act 356 of 1965);
 - (ii) other financial institutions under the Department of Banking Code (Act 111 of 1933);
 - (iii) any national bank;
 - (iv) any similar institution.

(NOTE: This provision also addresses the Allegheny Valley Bank decision cited in the note at Section 104 by legislatively affirming the court's ruling.)

- (5) The gross receipts of any malt beverage distributor.

(NOTE: This provision addresses the Wilsbach Distributors decision cited in the note at Section 104 by legislatively affirming the court's ruling.)

Section 533 - Abolishment of Tax

- a) General Rule - After November 30, 1988, no political subdivision is permitted to levy a mercantile or business privilege tax on gross receipts.
- b) Existing Taxes Preserved - Any political subdivision which has on or before November 30, 1988, levied or provided for the levying of a mercantile or business privilege tax may continue to levy the tax at a rate not to exceed the rate imposed as of November 30, 1988.

(NOTE: Under this section, any municipality which has levied a business privilege or mercantile tax on or before November 30, 1988, is authorized to continue the levy of these taxes at the effective rate imposed on that date. These taxes imposed for the first time after November 30, 1988, can be levied under existing provisions of Act 511 until the Local Tax Reform Act becomes effective. After the effective date of the Local Tax Reform Act, a political subdivision's ability to levy the business privilege or mercantile tax is repealed.)

If a school district has imposed on its own volition or has shared a business privilege or mercantile tax under Act 511 with its coterminous municipality(ies) prior to November 30, 1988, it may continue to impose those taxes at the effective rate on November 30, 1988. If these taxes are levied by a school district for the first time after November 30, 1988, these taxes may be imposed until the Local Tax Reform Act becomes effective. After the effective date, its ability to levy the business privilege or mercantile tax is repealed.)

Subchapter E
Admission or Amusement Tax

Section 541 - Places of Amusement or Athletic Events

Each municipality may levy a tax not to exceed 10% on the cost of admission to places of amusement, athletic events, etc., other than movie theaters, except the City of Pittsburgh which may levy a tax on movie theaters. Real property rented for camping purposes will not be considered a place of amusement. This section shall not apply to membership dues, fees, etc., paid to a health club, fitness center, etc.

Section 542 - Ski Facilities

Each municipality may levy a tax on the cost of admission to ski facilities at a rate not to exceed 10%. However, the tax base upon which the tax shall be levied shall not exceed 40% of the cost of the lift ticket. The lift ticket shall include all costs of admission to the ski facility.

Section 543 - Golf Courses

Each municipality may levy a tax on the cost of admission to golf courses at a rate not to exceed 10%. However, the tax base upon which the tax shall be levied shall not exceed 40% of the greens fee. The greens fee shall include all costs of admission to the golf course.

Section 544 - Bowling Alleys

Each municipality may levy a tax on the cost of admission to bowling alleys at a rate not to exceed 10%. However, the tax base upon which the tax will be levied shall not exceed 40% 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.

Section 545 - Existing Taxes Preserved

Any school district which has on or before November 30, 1988, levied a tax under Sections 541, 542, 543, or 544 may continue to do so at a rate not to exceed the rate as of November 30, 1988. If the rate on November 30, 1988, was the maximum rate, the school district may continue to levy the maximum rate.

(NOTE: In other words, if a school district is levying the tax as of November 30, 1988, in excess of half the maximum rate and the municipality is not levying the tax at up to half the maximum rate, unlike the comparable provision in Act 511, the municipality has no authority to levy the portion of the tax not levied as of November 30, 1988, until relinquished in part by the school district. If a school district has not levied this tax on or before November 30, 1988, it loses its ability to impose this tax upon the effective date of this act.)

Section 546 - Maximum Rate of Taxation

Under no circumstances shall the combined tax rate between a municipality and a school district under Sections 541, 542, 543, 544, and 545 exceed the maximum rate of tax specified in Sections 541, 542, 543, or 544.

Subchapter F Municipal Service Tax

Section 551 - Municipal Service Tax

- a) General Rule - Each municipality in which a taxpayer is employed may levy a municipal service tax.
- b) Amount of Tax - A municipal service tax levied under this act cannot exceed \$20.
- c) Situs of Tax - The situs of the municipal service tax shall be the place of employment.

(NOTE: The municipal service tax is similar to the repealed occupational privilege tax which is levied under Act 511. The occupational privilege tax can be levied by both a municipality and school district at a maximum rate of \$10, subject to sharing. After the effective date of this act, the municipal service tax becomes a revenue source for municipalities only.)

Section 552 - Exemption of Low Income Persons

- a) Low Income Exemption - Each municipality may exempt any person who qualifies under the provisions of Section 304 of the Tax Reform Code

of 1971 (earns less than \$6,300) from payment of the municipal service tax.

(NOTE: See Section 512(a) of this commentary.)

- b) Special Hardship Exemption - Each municipality may exempt persons who qualify as claimants under the Senior Citizens Rebate and Assistance Act and who have a "household income" less than the maximum necessary (less than \$15,000) to qualify for an exemption from payment of the municipal service tax.

(NOTE: See comments under Section 512(b) of this commentary.)

- c) Regulations - The municipality may adopt regulations for the processing of claims for these exemptions.

Section 553 - Multiple Employment Locations

- a) Priority of Claim - If a person is engaged in more than one occupation, or in an occupation that requires the person to work in more than one municipality during the year, the priority of claim to collect the municipal service tax shall be in the following order:
 - 1) the municipality in which the person maintains his principal office or is principally employed;
 - 2) the municipality in which the person resides and works, if levied by that municipality;
 - 3) the municipality nearest in miles to the person's home, in which the person is employed, if the tax is levied by that municipality.
- b) Place of Employment - The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.
- c) Liability - No person will be required to pay more than \$20 per year without regard to the number of municipalities within which the person may be employed.

Subchapter G Real Estate Transfer Tax

Section 561 - Real Estate Transfer Tax

- a) General Rule - Subject to subsection (b), each municipality may levy a real estate transfer tax at a rate not to exceed 1% on the transfer of real property located within the municipality to the extent that the transactions are subject to the tax imposed by Articles XI-C and XI-D of the Tax Reform Code of 1971.

(NOTE: Under provisions of Act 511, a political subdivision, by the passage of an ordinance or resolution, may tax those transactions subject to the State Real Estate Transfer Tax. This subsection is intended to expand the transactions subject to the local real estate transfer tax. After the effective date of this act, the subjects of

the realty transfer tax must be the same as those for the State Real Estate Transfer Tax under the Tax Reform Code of 1971.)

- b) Existing Taxes Preserved - Any school district, including the Pittsburgh School District, which levied such tax or provided for the levying of such tax on or before November 30, 1988, may continue to levy such tax. The rate of this tax shall not exceed the rate imposed by the school district as of November 30, 1988.

(NOTE: In other words, if a school district is levying the tax as of November 30, 1988, in excess of half the maximum rate and the municipality is not levying the tax at half the maximum rate, unlike the comparable provision in Act 511, the municipality has no authority to levy the portion of the tax not levied as of November 30, 1988, until relinquished in part by the school district. If a school district has not levied this tax on or before November 30, 1988, it loses its ability to impose this tax upon the effective date of this act.)

- c) Maximum Rate - Except in the Pittsburgh School District, the combined local real estate transfer tax imposed under subsections (a) and (b) shall not exceed 1%.

Section 562 - Family Farm Recapture Provision

- a) General Rule - Notwithstanding other provisions to the contrary, if any stock of a family farm corporation is transferred to a nonfamily member within ten years of the date of conveyance from a sole proprietor to a family farm corporation, the tax will become payable immediately.

(NOTE: This subsection is similar to Section 2.1 of Act 511.)

- b) Definitions -

"Family farm corporation" - taken from the Tax Reform Code of 1971, this term means a corporation which has at least 75 percent of its assets devoted to the business of agriculture and at least 75 percent of each class of stock of the corporation continuously owned by members of the same family. The business of agriculture does not include:

- 1) recreational activities - hunting, fishing, camping, skiing, show competition or racing;
- 2) the raising, breeding, or training of game animals or game birds, fish, cats, dogs, pets, or animals used for sporting or recreational activities;
- 3) fur farming;
- 4) stockyard and slaughterhouse operations; or
- 5) manufacturing or processing operations of any kind.

"Members of the same family" - taken from the Tax Reform Code of 1971, this terms means any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing, and the estate of any of the foregoing. Individuals related by the half blood or legal adoption will be treated as if they were related by the whole blood.

Subchapter H
Other Permitted Taxes

Section 571 - Other Taxes Preserved

Except as provided in Section 104 (Preemption) and Section 501(c) (Exclusions), any political subdivision which has on or before December 31, 1987, levied or provided for the levying of any tax on a subject of taxation under the Local Tax Enabling Act may continue to levy the tax at the rate in effect on December 31, 1987. No political subdivision may levy or provide for the levying of a tax under this section which is taxable under Chapter 5.

(NOTE: Act 101 of 1988 is primarily responsible for the usage of the December 31, 1987, date. Act 101, the Municipal Waste Planning, Recycling, and Waste Management Act, at Section 1301(d) permits political subdivisions to continue to tax landfill or resource recovery facilities at the rate of tax in effect on or before December 31, 1987. This section is also intended to continue those taxes levied under the broad authority of Act 511 but specifically grandfathered in Act 145 at the rates in effect on December 31, 1987. Examples of these preserved taxes are the Pittsburgh parking lot tax, real estate occupancy taxes levied by several Allegheny County municipalities, a sign tax, lease rental taxes, and a recreational use tax.)

CHAPTER 7
COLLECTION PROCEDURES

Section 701 - Collection of Taxes

- a) Administrative Personnel - Each political subdivision may provide by ordinance for the creation of bureaus or appointment and remuneration of tax officers and other employees as may be necessary for the assessment and collection of taxes imposed under authority of this act.
- b) Joint Collection Agreements - Political subdivisions may enter into joint agreements for the collection of taxes imposed under this act. The same tax officer may be employed by two or more political subdivisions to collect such taxes.

(NOTE: These subsections are similar to Section 10(a) of Act 511.)

Section 702 - Single Collector for Personal Income Taxes

Whenever a school district levies a tax on personal income, the school district and all municipalities within its geographical limits which levy a personal income tax may select a single officer to collect all the personal income taxes imposed by all participating political subdivisions. In selecting the tax officer, each political subdivision must share in the selection on an agreed to basis or on the basis of voting in a proportional fashion based on population. This section will not prohibit political subdivisions from selecting a single tax officer to collect personal income taxes in an area larger than a school district.

(NOTE: This section is similar to Section 10(b) of Act 511.)

Section 703 - Audits of Personal Income Taxes

Except in the City of Pittsburgh, the governing body of each political subdivision which levies a personal income tax must provide for at least one audit each year of the accounts of the tax officer by an accountant or accounting firm appointed by the governing body. Whenever a single tax officer is appointed by more than one political subdivision, the accounts must be audited as provided in this section, except that the accountant must be selected in the same fashion as the tax officer. The report of the audit must be sent to each governing body employing the accountant. No further audit will be performed by the elected auditors.

(NOTE: This section is similar to Section 11 of Act 511.)

Section 704 - Audits of Taxes Other Than Personal Income Taxes

The accounts of tax officers collecting other taxes levied under this act shall be audited in the manner prescribed by law.

(NOTE: This section is similar to Section 12 of Act 511.)

Section 705 - Limitation on Assessment

No assessment may be made of any tax imposed under this act more than five (5) years after the date on which the tax should have been paid except where a fraudulent return or no return has been filed.

(NOTE: This section is similar to Section 16 of Act 511.)

Section 706 - Distress and Sale of Property of Taxpayer

- a) General Rule - In the case of the neglect or refusal of any person or corporation to pay the amount of tax due within two months of the date of the tax notice, the tax officer may levy the amount of the tax, penalties, interest, and costs by distress and sale of the goods and chattels of the delinquent, upon giving notice at least 10 days prior to the sale by advertising in a newspaper of general circulation in the area.
- b) Effect on Return - The failure to demand or collect taxes by distress and sale of goods will not invalidate any return made or lien filed for nonpayment of taxes, or any tax sale.

(NOTE: This section is similar to Section 18 of Act 511.)

Section 707 - Collection of Delinquent Taxes from Employers

- a) General Rule - The tax officer must receive from all employers which employ persons owing delinquent personal income taxes or municipal services taxes or having possession of unpaid compensation belonging to such person, upon the presentation of a written notice and demand, certification that the information contained therein is true and correct.
- b) Response to Notice - Upon presentation of the written notice, the employer shall deduct from the compensation of the employee a sum sufficient to pay the respective amount of the delinquent tax, interest, penalty, and costs. This payment must be made within 60 days after the notice is given to the tax officer of the political subdivision in which the delinquent tax was levied.
- c) Limitation on Deduction - No more than 10% of the compensation of the delinquent taxpayer may be deducted at one time for delinquent taxes, interest, penalty, and costs.
- d) Deduction for Costs - The employer may deduct from the moneys collected from each employee the bookkeeping costs incurred, not to exceed 2% of the amount collected and paid over to the tax officer.
- e) Forfeiture - Upon the failure of the employer to deduct the delinquent tax or to pay same over to the tax officer, less the bookkeeping deduction, within the time required, the employer must pay the amount of the tax with a penalty of 10%, which may be recovered by an action instituted by the tax officer or by the political subdivision, as similar debts are recoverable by law, except such person shall not have the benefit of any exemption law or stay of execution.
- f) Collection Rights Preserved - Nothing in this section will impair the right of any political subdivision to collect delinquent taxes validly imposed prior to the effective date of this section.

(NOTE: Under Act 511, an employer could be required to withhold from an employee's compensation the delinquent taxes of the employee's spouse. This act makes no provision for wage attachment to collect the delinquent taxes of the spouse.)

Section 708 - Collection of Delinquent Taxes from Commonwealth

- a) General Rule - Upon written notice, the State Treasurer or other fiscal officer of the State shall deduct from the compensation then owing a sum sufficient to pay the delinquent taxes, interest, penalty, and costs. The payment shall be paid within 60 days to the tax officer of the taxing district in which the tax was levied.
- b) Limitation on Deduction - No more than 10% of the compensation of the delinquent taxpayer may be deducted at one time for delinquent taxes, interest, penalty, and costs.
- c) Collection Rights Preserved - Nothing in this section will impair the right of any political subdivision to collect delinquent taxes validly imposed prior to the effective date of this section.

(NOTE: This section has been rewritten slightly to correct a provision of Act 511 regarding wage withholding that appeared to be unfair to Commonwealth employees. Current law (Section 20 of Act 511) requires that, following proper notice requirements, delinquent taxes shall be deducted from "wages then owing, or that shall within 60 days become due." Therefore, the entire withholding must be completed within three or four pay periods because Commonwealth employees were not subject to the limit of no more than 10% of compensation at one time. Subsection (b) has been revised to conform with limitations in Section 707(c).)

Section 709 - Notice to Taxpayer

The tax collector must, at least 15 days prior to presentation of a written notice and demand under Section 707 or 708, notify the delinquent taxpayer by registered mail that a written notice will be presented to his employer unless such tax is paid. The return receipt card for registered mail must be marked deliver to addressee only, and the cost of mailing shall be included in the collection costs.

(NOTE: This section is similar to Section 20.1 of Act 511.)

Section 710 - Collection of Taxes by Suit

- a) General Rule - Each political subdivision may collect unpaid taxes by a civil action or other appropriate remedy. Upon judgment, execution may be issued without any stay or benefit of any exemption law. The right of each political subdivision to collect taxes under this section shall not be affected by the fact that the taxes have been entered as liens in the prothonotary's office or that the property has been returned to the county commissioners for taxes for previous years.

(NOTE: This section is similar to Section 21 of Act 511.)

- b) Limitation of Actions - Any suit brought to recover taxes shall be instituted within three years after the tax is due, or within three years after the return has been filed, whichever is later. This limitation will not prevent the institution of a suit in the following cases:
 - 1) If no declaration or return was filed, there is no limitation;

- 2) If a fraudulent evasion of taxes is indicated, there shall be no limitation;
- 3) If there is a substantial understatement of tax liability of 25% or more the suit shall be instituted within six years; and
- 4) If any person has deducted taxes and has failed to pay the amount to the officer, or where any person has willfully failed to make the required deductions, there shall be no limitation.

(NOTE: This subsection is similar to Section 13(VII) of Act 511. See also Section 929(b) of this act.)

Section 711 - Collection of Personal Income Tax by the Commonwealth

(a) Any political subdivision imposing a personal income tax may enter into an agreement with the Department of Revenue for collection of the personal income tax by the department in conjunction with the State Personal Income Tax.

(b) Contents -

The agreement and any renewal must:

- (1) be executed at least six months prior to the date for the collection of the tax;
- (2) have a duration of at least four years; and
- (3) if allowed to expire, not be reinstated for a period of four years.

The agreement must contain a provision appointing the Department of Revenue as the tax officer within the meaning of this act.

(c) The Department of Revenue must, by regulation, establish procedures for collecting that tax and shall pay to political subdivisions the full amount collected on their behalf. The agreement may not include any provisions regarding enforcement.

CHAPTER 9
ADOPTION OF ORDINANCES

Subchapter A
General Provisions

Section 901 - Local Tax Study Commissions

- a) First Year Implementation - Before any county, political subdivision, or the Pittsburgh School District levies any new tax authorized by this act, the governing body must appoint a local tax study commission.

(NOTE: Philadelphia is not required to have a tax study commission.)

- 1) Membership - The local tax study commission must consist of five, seven, or nine members appointed by the governing body. No member of the commission may be an elected or appointed official or employee of the taxing district. All members of the commission must be taxpayers of the taxing district.
- 2) Staff and Expenses - The governing body must provide necessary staff and shall reimburse the members of the commission for necessary expenses.
- 3) Public Hearings - The commission must hold at least one public fact-finding hearing. The commission shall provide for the broadest distribution of public information.
- 4) Contents of Study - The commission is required to study the existing and newly authorized taxes available to the political subdivision to determine how the taxing policies of the taxing district could be strengthened. This study must include:
 - i) historic rate and revenue trends by type and subject of tax;
 - ii) the percentage of total revenue by type and subject of tax;
 - iii) age, income, employment, and property use characteristics of the tax base;
 - iv) projected revenue by type and subject of tax;
 - v) the combined effect of the proposed tax plan as it relates to taxes levied by other taxing districts to which the taxpayer would be subject; and
 - vi) the impact of the requirements of Section 301 (Property Tax Reduction).
- 5) Recommendation - Within sixty days of its appointment, the commission must make a nonbinding recommendation to the governing body. No tax newly authorized under this act may be

levied until receipt of this recommendation. If the commission recommends any deviation from the 25% residential real property tax reduction, the commission shall issue a detailed explanation of the reasons for such recommendation. Within two weeks of receiving this recommendation, the governing body shall hold a public hearing to permit public comment.

- 6) Failure to Issue Report - If the commission fails to issue a report within ninety days, the governing body may discharge the commission and appoint itself as the local tax study commission.
 - 7) Public Distribution of Report - The commission must publish sufficient copies of its final report for public study and information and must deliver copies of the report to the taxing district for distribution.
 - 8) Itemization of Expenses - An itemized statement of expenses incurred by the commission in the performance of its work must be attached to the report.
 - 9) Materials - All records, reports, minutes, etc., of the commission must be turned over to the secretary of the taxing district for permanent safekeeping. Such materials must be available for public inspection during regular business hours.
 - 10) Discharge - The commission will be discharged upon the filing of its report.
- b) Five Year Review - Before any taxing district levies taxes for the fifth fiscal year after the effective date of this act, the governing body shall appoint a local tax study commission as provided in subsection (a) to conduct another review of the taxes employed by the political subdivision.
- c) Definition -

"Governing body" - as used under this section in relation to the appointment of the tax study commission, means a city council, borough council, incorporated town council, board of township commissioners, board of township supervisors, board of county commissioners, governing council of a home rule municipality or optional plan municipality, governing council of any similar general purpose unit of government which may hereafter be created by statute, or board of directors of a school district, or the board of education of the Pittsburgh School District.

Section 902 - Advertisement of Intention to Adopt Tax Ordinance (or, in School Districts, Tax Resolutions)

- a) General Rule - Prior to passage of an ordinance or resolution imposing a tax under the authority of this act, each governing body must give notice of its intention to pass the ordinance or resolution.

- b) Contents of Notice - The notice shall be given in addition to other notices required by law. Each notice must set forth the following:
- 1) the nature of the tax to be imposed;
 - 2) the reason which necessitates imposition of the tax; and
 - 3) the amount of revenue estimated to be derived from the tax.
- c) Time Period for Publication - Publication of the notice shall be made by advertisement once a week for three weeks in a newspaper of general circulation within the political subdivision or, if there is no such newspaper, a newspaper of general circulation within the county.

(NOTE: These subsections are similar to provisions found in Section 4 of Act 511.)

- d) Passage of Ordinance - The ordinance may be passed prior to the beginning of the fiscal year and prior to preparation of the budget. School district resolutions must be passed during the period school taxes are required by law to be levied. Ordinances or resolutions must state that they are being enacted under the authority of this act.

(NOTE: This subsection is similar to Section 5 of Act 511.)

Section 903 - Rate and Amount

Except as provided in Section 106 (Rates of Taxation in Home Rule Municipalities), any tax imposed under this act will be subject to the limitations on tax rates and total amount of revenue permitted under Section 322 (Limitations).

(NOTE: This section is similar to a portion of Section 5 of Act 511.)

Section 904 - Revision of Budgets

Each political subdivision imposing a tax under this act may revise its budget during any fiscal year to increase or make additional appropriations from funds to be provided by the tax.

(NOTE: This section is similar to a portion of Section 5 of Act 511.)

Section 905 - Appeals by Taxpayers

- a) General Rule - No tax levied for the first time by any political subdivision under this act will go into effect until thirty days from the time of the adoption of the tax levying ordinance or resolution. Within the thirty-day period, taxpayers representing at least 25% of the total valuation of real property in the political subdivision, or at least twenty-five taxpayers aggrieved by the ordinance or resolution, may appeal the ordinance or resolution to the court of common pleas.

- b) Bond - Taxpayers who appeal an ordinance or resolution will be required to post a bond in the amount of \$500, approved by the court, to prosecute the appeal with effect and for the payment of costs.
- c) Contents of Appeal Petition - The appeal petition shall set forth the objections to the tax and facts in support of the objections and must be accompanied by the affidavit of at least five of the petitioners that the allegations are true and that the petition is not filed for the purpose of delay.
- d) Supersedeas - No appeal will act as a supersedeas unless specifically allowed by the court.

(NOTE: A supersedeas is simply a stay of judicial proceedings.)

- e) Service of Petition - Immediately upon the filing of the petition, the petitioners shall serve a copy of the petition upon the governing body of the political subdivision levying the tax.
- f) Hearing Date - The court shall fix a hearing date between fifteen days and thirty days after the filing of the petition. Notice of the time of the hearing must be given to all interested parties as the court directs. The court must promptly hear and dispose of the appeal.
- g) Responsibility of Court - The court must declare the ordinance or resolution to be valid unless it concludes that the ordinance or resolution is unlawful or finds that the tax is excessive or unreasonable. The court cannot interfere with the reasonable discretion of the governing body in selecting subjects or rates of taxation consistent with Chapter 5 (Subjects of Taxation). The court may declare invalid all or any portion of the ordinance or resolution the tax imposed or may reduce the rate of the tax.

(NOTE: This section is similar to Section 6 of Act 511.)

Section 906 - Filing of Certified Copies of Ordinances

- a) General Rule - When an ordinance or resolution imposing or repealing a tax is passed by a political subdivision under this act, an exact copy must be certified by the secretary of the political subdivision, and filed with the Department of Community Affairs within fifteen days of the effective date.
- b) Penalty - Any political subdivision secretary who fails to file the certified copy of the ordinance or resolution with the Department of Community Affairs commits a summary offense.

(NOTE: This section is similar to Section 7 of Act 511.)

Section 907 - Employer Withholding

- a) General Rule - An ordinance or resolution imposing a personal income tax or an ordinance imposing a municipal service tax may contain

provisions requiring employers having a place of business within the taxing district to withhold the tax.

- b) Liability of Employer - No employer will be liable for failure to withhold the personal income tax or municipal service tax or for the payment of withheld money to an incorrect political subdivision if the failure to withhold or such incorrect transmittal arises from incorrect information submitted by the employee regarding the employee's place of residence.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

Section 908 - Interest and Penalties

- a) Authorization - Any political subdivision may prescribe and enforce reasonable penalties for nonpayment or late payment of taxes imposed under this act and for the violation of provisions of ordinances or resolutions passed under this act.
- b) Interest and Penalty on Tax - If for any reason any personal income tax is not paid when due, interest at the yearly rate charged by the Commonwealth pursuant to Section 806 of the Fiscal Code (Act 176 of 1929), will be added and collected. However, if an employer does not make required deductions and remittance of tax money under Section 907 (Employer Withholding) and Section 926 (Collection of Tax at Source), that employer will be subject to an additional penalty of 5% of the amount of the unpaid tax for each month during which the taxes remain unpaid. The additional penalty cannot exceed 50% of the unpaid taxes. A political subdivision must, on or before December 31, establish by ordinance or resolution the specific interest rate to be imposed on unpaid taxes during the following year.

(NOTE: Section 806 of the Fiscal Code establishes the interest rate on taxes due as following: "All taxes due the Commonwealth shall bear simple interest from the date they become due and payable until paid. The interest rate per annum during each calendar year shall be the interest rate established by the Secretary of the Treasury of the United States under the provisions of the Internal Revenue Code of 1954, effective January 1 of such calendar year without regard to any change or changes in said Federal interest rate during such calendar year." Also, see Section 1310 of this act.)

- c) Liability for Collection Costs - When suit is brought for the recovery of any such tax, the person liable will be liable for the costs of collection in addition to the interest and penalties imposed.

(NOTE: This section is similar to Section 22 of Act 511.)

Subchapter B
Tax Ordinance Provisions

Section 921 - Application of Subchapter

The provisions of this subchapter must be construed to be a part of each personal income tax levied by a political subdivision.

(NOTE: This subchapter does not apply to the Pittsburgh School District.)

Section 922 - Application of Definitions

The following definitions under Section 102 apply to personal income taxes. These definitions cannot be altered or changed by any political subdivision which levies the tax.

(NOTE: These definitions are: "association," "business," "corporation," "current year," "domicile," "compensation," "employer," "net profits," "nonresident," "person," "personal income," "preceding year," "resident," "succeeding year," "tax officer," and "taxpayer." These definitions are used to insure that local personal income taxes are the same as the State Personal Income Tax.)

Section 923 - Imposition of Tax

- a) General Rule - The personal income tax levied under this act will be applicable to personal income received in the current calendar year or for taxpayer fiscal years beginning in the current year.
- b) First Time Imposition - Taxes imposed for the first time will become effective from the date specified in the ordinance or resolution.
- c) Continuity of Tax - The tax will continue in force without annual reenactment, unless the rate of the tax is changed. Changes in rates become effective on the date specified in the ordinance or resolution.

(NOTE: Subsection (c) is similar to a portion of Section 4 of Act 511. See also Section 502 and Section 1303 of Act 145.)

Section 924 - Annual Tax Return

At the election of the political subdivision, every taxpayer must, on or before April 15 of the succeeding year, make and file a final return with the tax officer showing the following:

- 1) the amount of personal income received during the year;
- 2) the amount of tax due;
- 3) the amount of tax paid;
- 4) the amount of tax withheld by the employer; and
- 5) the balance of tax due.

At the time of filing the final return, the taxpayer must pay the balance due or make a demand for a refund or credit in the case of overpayment.

(NOTE: This section is similar to Section 13(III)(B) of Act 511.)

Section 925 - Income Not Subject to Withholding

Every taxpayer who receives personal income for which the taxpayer is required to make estimated tax payments to the State pursuant to Section 325 of the Tax Reform Code of 1971 must also make estimated tax payments to the tax office of the political subdivision in the manner provided in Section 326.

(NOTE: Section 325 of the Tax Reform Code 1971 requires taxpayers who reasonably can expect to receive \$2,500 or more of income not subject to withholding to make quarterly estimated tax payments. This section is similar to Section 13 (III)(B) of Act 511. Also, the due dates for the quarterly returns have been adjusted to coincide with Federal and State requirements.)

Section 926 - Collection of Tax at Source

- a) Registration - Employers having a place of business within a political subdivision imposing a personal income tax or a municipal service tax must, within 15 days after becoming an employer, register with the tax officer. This registration must include the employer's name, address, and such other information as the tax officer may require.
- b) Deduction of Tax - Employers having a place of business within a political subdivision imposing a personal income tax or municipal service tax must deduct such tax from the compensation paid to its employees. The employer must also deduct the personal income tax attributable to the compensation due and payable by the employee to the political subdivision where the employee resides at the rate of tax imposed by the political subdivision where the employee resides.

(NOTE: Under Act 511, an employer may be required to withhold the earned income tax from the income earned by his employees should the ordinance so specify. Under Act 145, if a political subdivision in which the employer is located imposes either a personal income tax or municipal service tax, then that employer shall be required to withhold a personal income tax for all employees at the rate imposed by the political subdivision in which the employee resides.)

- c) Employer Return - Every employer deducting a personal income tax or municipal service tax imposed under this act must quarterly file a return and pay to the tax officer the amount of taxes deducted during the preceding three-month period.

(NOTE: The employer pays all withholding taxes to the tax officer of the political subdivision where the employer is located. It is the responsibility of the tax officer to remit the withheld taxes to the appropriate taxing jurisdiction. See Section 927(g) of this act.)

- d) Contents of Return - Each return, unless otherwise agreed to by the employer and the tax officer, must show the total tax for each political subdivision for which tax has been deducted.
- e) Monthly Returns - Any employer who for two of the preceding four quarters has failed to deduct the proper tax or has failed to pay over the proper amount of tax to the political subdivision may be required to file the return and pay the tax monthly. In such cases, payments will be made on or before the last day of the succeeding month.
- f) Annual Employer Return - On or before February 28 of the succeeding year, every employer must file with the tax officer:
 - 1) an annual return showing the total amount of compensation paid, the total amount of tax deducted, and the total amount of tax paid to the tax officer for the current year;
 - 2) a withholding statement for, or a listing of, each employee, employed for any part of the year, setting forth: the employee's name, address, and social security number; the compensation paid during the year; the amount of tax deducted; the political subdivision imposing the tax on each employee; and the amount of tax paid to the tax officer.

(NOTE: This is similar to information required on W-2 forms.)

Employers must furnish two copies of the individual return to each employee.

- g) Discontinuance of Business - Employers who discontinue doing business within the Commonwealth prior to December 31 must, within 30 days of the discontinuance, file required returns and withholding statements and pay the tax due.
- h) Liability of Employer - Except as otherwise provided in Chapter 11 (Register for Certain Taxes), employers who willfully or negligently fail or omit to make the deductions required by this section will be liable for payment of the taxes the employer was required to withhold to the extent that the taxes have not been recovered from the employee.

(NOTE: The employer is not liable for withheld taxes which are transferred to an incorrect political subdivision as the result of inaccurate information submitted by the employee regarding the employee's place of residence. See Section 907(b) of this act.)

- i) Continued Liability of Taxpayer - The failure or omission of any employer to make deductions will not relieve any employee from payment of the tax or from complying with filing requirements of the ordinance.

(NOTE: This section is similar to Section 13(IV) of Act 511. The due date for quarterly returns has been adjusted to coincide with State and Federal quarterly returns.)

Section 927 - Powers and Duties of Tax Officer

- a) Powers and Duties - The tax officer will collect and receive the taxes, penalties, interest, and costs imposed by the ordinance or resolution and accept payment from employers. The tax officer must keep records showing the amount received from each employee paying the tax and the date of receipt.
- b) Required Bond -
 - 1) Each tax officer, before performing official duties, must give a bond to the political subdivision(s) appointing that tax officer. If a political subdivision decides by ordinance or resolution to designate a previous bond as adequate, that bond will satisfy the requirements of this subsection.
 - 2) Each bond must be joint and several, with one or more corporate sureties authorized to do business in the Commonwealth.
 - 3) Each bond must be conditioned on the faithful discharge by the tax officer and subordinates of all trusts confided in him by virtue of the office, upon the faithful accounting and payment over of all moneys paid to the tax officer and upon delivery to any successor of all books, papers, documents, or other official things held by that office.
 - 4) Each bond will be taken in the name of and must be for the use of the political subdivision appointing the tax officer, and for the use of such other person for whom money will be collected, or as his interest shall otherwise appear, in case of a breach of any condition thereof by the acts or neglect of the tax officer.
 - 5) Any political subdivision appointing the tax officer may sue upon the bond.
 - 6) Each bond must contain the name of the surety company.
 - 7) The political subdivision appointing the officer must fix the amount of the bond at an amount equal to the maximum amount of taxes which may be in the possession of the tax officer at any given time.
 - 8) The political subdivision appointing the tax officer may, at any time, with cause and notice to the tax officer and each of the tax officer's sureties, require or allow the substitution or addition of a surety company acceptable to the political subdivision for the purpose of making the bond sufficient in amount, without releasing any surety previously approved from any accrued liability.
 - 9) The political subdivision appointing the tax officer must designate the custodian of the bond.
- c) Regulations - The tax officer charged with administration and enforcement of the ordinance or resolution may promulgate and enforce rules and regulations. These rules and regulations may include:

- 1) Provisions for the re-examination and correction of declarations and returns, and of payments found to be incorrect, or as to which an overpayment is claimed.
- 2) Provisions for making refunds in case of overpayment, for a period not to exceed six years subsequent to payment.
- 3) Necessary forms.

No rule or regulation will be enforceable unless it has been approved by resolution by the political subdivision. Copies of such rules and regulations must be available for public inspection.

- d) Examination of Records - The tax officer or his agents may examine the books, papers, and records of any employer or taxpayer or any person believed to be an employer or taxpayer, to verify the accuracy of any declaration or return, or if no return was filed, to ascertain the tax due. Employers, taxpayers, and others shall give the tax officer or his agent the means, facilities, and opportunity for such examinations and investigations.
- e) Information to be Confidential - Any information gained by the tax officer or his agent as a result of any declarations, returns, or investigation must remain confidential, except for official purposes and except for proper judicial orders.
- f) Dates for Fiscal Year Taxpayers - The tax officer may establish different filing, reporting, and payment dates for taxpayers whose fiscal years do not coincide with the calendar year.
- g) Distribution of Taxes - The tax officer must, at least quarterly, distribute personal income taxes and municipal service taxes to the appropriate political subdivisions. All personal income taxes paid pursuant to Section 926 (Collection at Source) shall be remitted by the tax officer to the political subdivision of residence according to residency information provided by the employee to the employer. The political subdivisions cannot be required to request such distribution but shall reconcile at least 30 days after the end of the fiscal year their receipts with the records of the tax officer. Any amount not claimed by a political subdivision pursuant to reconciliation must be paid to the municipality in which the tax was collected. The tax officer cannot charge a fee or commission for the distribution of personal income taxes.

(NOTE: This section is similar to Section 13(V) of Act 511.)

Section 928 - Remuneration of Tax Officer

Remuneration for the services and expenses of the tax officer will be determined by the political subdivision. In the case of a single tax officer pursuant to Section 702 (Single Collector for Personal Income Taxes), the participating political subdivisions must share in the compensation of the tax officer on a proportionate basis according to total annual collections for each political subdivision. However, with agreement of two-thirds of all participating political subdivisions, a different manner may be substituted.

(NOTE: This section is similar to Section 13(VI) of Act 511.)

Section 929 - Suit for Collection of Tax

- a) General Rule - The tax officer may sue in the name of the political subdivision for the recovery of taxes due.
- b) Limitation of Actions - Any suit brought to recover taxes must be instituted within three years after the tax is due, or within three years after the return has been filed, whichever is later, except in the following cases:
 - 1) If no declaration or return was filed, there is no limitation.
 - 2) If a fraudulent evasion of taxes is indicated, there is no limitation.
 - 3) If there is a substantial understatement of tax liability of 25% or more and no fraud, the suit must be instituted within six years.
 - 4) If any person has deducted taxes and has failed to pay the amount to the tax officer, or where any person has willfully failed to make the required deductions, there is no limitation.

(NOTE: This section is similar to Section 13(VII) of Act 511. See also Section 710(b) of this commentary.)

- c) Recovery of Erroneous Refund - The tax officer may sue for the recovery of an erroneous refund provided the suit is begun within two years of the refund, except where fraud may be involved, in which case the suit must be brought within five years.
- d) Other Methods Preserved - This section shall not be construed to limit the political subdivision from recovering delinquent taxes by other means provided by this act.

Section 930 - Amnesty

- a) General Rule - Notwithstanding the provisions of this act, the governing body may, by ordinance or resolution, establish once every ten years a three-month amnesty period during which interest and/or penalties on delinquent taxes shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the full amount of late taxes due. Governing bodies may adopt regulations to implement this section.
- b) Pending Proceedings Unaffected - If a political subdivision has instituted a proceeding against a person for delinquent taxes prior to institution of an amnesty period, such proceeding will not be affected by the amnesty provision and all penalties and interest provisions will remain in force.

(NOTE: This section is similar to Section 13(VIII)(a) and (b) of Act 511. Act 511, as amended by Act 30 of 1987, establishes no time limit for the amnesty period while Act 145 limits the amnesty period

to three months. Act 145 also provides that such an amnesty period may be provided once every ten years instead of merely once. See also Section 1308 of this commentary for similar provisions relating to Philadelphia.)

Section 931 - Penalties for Violations of Ordinances or Resolutions

a) Violations

1) A person commits a summary offense if he:

- i) Fails to make a return required by the ordinance or resolution;
- ii) Is responsible for the transmission of personal income tax and fails to transmit the withheld taxes to the tax officer;
- iii) Refuses to permit the tax officer to examine his records;
- iv) Knowingly makes an incomplete or fraudulent return or avoids the full disclosure of personal income to avoid the payment of the tax; or
- v) Divulges confidential information.

2) An employer commits a summary offense if he fails to register or to pay taxes withheld from employees, or fails to withhold the tax from employees.

b) Penalties to be Cumulative - Penalties imposed under this section will be in addition to other penalties imposed by the ordinance or resolution.

c) Failure to File Inexcusable - The failure of any person to receive or procure forms required to make declarations or returns will not excuse the person from making such declaration or return.

(NOTE: These subsections are similar to Section 13(IX) of Act 511.)

d) Fiduciary Status - Employers who withhold personal income tax from employees, and the person responsible for the transmission of personal income tax withheld by a corporate employer, shall be a fiduciary charged with all the responsibilities of a fiduciary with respect to taxes withheld, and shall be subject to all duties imposed by law on fiduciaries, including criminal penalties for breach of duties.

(NOTE: This subsection, regarding fiduciary responsibilities of employers or other persons in charge of the transmission of taxes withheld from employees, is new.)

CHAPTER 11
REGISTER FOR CERTAIN TAXES

Section 1101 - Register for Personal Income and Municipal Service Taxes

- a) General Rule - The Department of Community Affairs will maintain an official continuing register, supplemented annually, of all personal income and municipal service taxes levied by political subdivisions.
- b) Contents of Register - The register must list:
 - 1) The political subdivisions levying such taxes.
 - 2) The rate of the tax imposed.
 - 3) The effective rate on residents and nonresidents, if different.
 - 4) The name and address of the tax officer from whom information, forms, and copies of regulations may be obtained.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

Section 1102 - Information for Register

Information for the register must be furnished to the Department of Community Affairs by the secretary of each political subdivision as the department prescribes. Such information must be received by the department by certified mail not later than May 31 of each year to show new enactments, repeals, and changes. Failure to comply may result in the omission of the levy from the register for that year. If the department does not receive such information, the information in the previous register will be deemed to remain in force.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

Section 1103 - Availability and Effective Period of Register

The register, with such supplements as are required by changes in tax ordinances or resolutions, must be available upon request no later than July 1 of each year. The effective period for each register will be from July 1 of the year issued until June 30 of the following year.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

Section 1104 - Effect of Nonfiling

Employers are relieved of responsibility for withholding taxes from the compensation of their employees if the tax is not listed in the register or making reports of compensation in connection with taxes not so listed. If the register is not available by July 1, the register for the previous year will continue in effect.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

Section 1105 - Effect of Chapter on Liability of Taxpayer

The provision of this chapter will not affect the liability of any taxpayer for taxes lawfully imposed under this act.

(NOTE: This section is similar to a portion of Section 9 of Act 511.)

CHAPTER 13
CITIES OF THE FIRST CLASS
(CITY OF PHILADELPHIA)

Section 1301 - Tax Authorization for Cities of the First Class (Philadelphia)

- a) General Rule - Notwithstanding other provisions of this act and except as provided in subsection (c) below, the City of Philadelphia may levy such taxes for general purposes as it determines on persons, transactions, occupations, privileges, and subjects within the City.

(NOTE: This section is derived from the Sterling Act (Special Session Act 45 of 1932.)

- b) Real Estate Transfer Tax

- 1) City Council, by ordinance, may levy a tax on real property transfers within the City, regardless of where the instruments of the transfer are made, to the extent the transfer is subject to the tax imposed by Article XI-C of the Tax Reform Code of 1971.

(NOTE: See comments in Section 561 relating to taxation of permissible subjects under the Real Estate Transfer Tax.)

- 2) In addition, the City may impose a local real estate transfer tax upon additional transactions and may establish standards to determine the monetary value to be applied to a transaction.

(NOTE: In addition to utilizing the subjects of transfers under the Tax Reform Code of 1971, the City of Philadelphia may continue to impose a realty transfer tax on those transactions previously taxed under the Sterling Act.)

- 3) If the tax officer for the City of Philadelphia determines that any underpayment of tax is due to improper conduct, the City may add an amount equal to 50% of the underpayment; and in the case of failure to record any document in a timely manner (without cause) the City may add 5% per month until the transaction is recorded, not to exceed 50% in the aggregate.

- 4) This subsection will apply to all transactions occurring on or after November 30, 1988.

(NOTE: Subsection (b) became effective immediately upon the Governor's approval of Act 145 on December 13, 1988. It is retroactive to November 30, 1988. See Section 3112(b)(3) of Act 145.)

- c) Exclusions - The City of Philadelphia cannot levy:

- 1) An occupation tax on a flat rate or millage basis;
- 2) An occupational privilege tax;
- 3) A per capita tax;
- 4) A personal property tax;

(NOTE: The personal property tax is subject to either immediate repeal or a three-year phaseout beginning the first fiscal year in which Act 145 affects the City of Philadelphia. The current rate is required to be reduced in equal thirds over three years. See Section 3111(f)(2)(ii) of this commentary.)

- 5) A municipal service tax;
- 6) A sales tax, except as permitted under Chapter 5;
- 7) A mercantile or business privilege tax on the gross receipts of malt beverage distributors; or

(NOTE: See Section 104 and Section 532(5) of this commentary.)

- 8) A tax on banks and other similar financial institutions, except taxes on real estate or transfers or other taxes expressly authorized by the General Assembly.

(NOTE: See Section 104 and Section 532(4) of this commentary.)

Section 1302 - Preemption

No act of the General Assembly will vacate or preempt any ordinance adopted under this act providing for the imposition of a tax by the City of Philadelphia unless the act of the General Assembly expressly vacates or preempts the authority to adopt the ordinance.

(NOTE: See similar provision in Section 104 of this commentary.)

Section 1303 - Continuity of Tax

Continuity of Tax General Rule - Taxes levied under this act will continue in force without annual reenactment unless the rate of the tax is changed.

(NOTE: See similar provision in Sections 502 and 923 of this commentary.)

Section 1304 - Limitations on Rate of Taxation

- a) Rates After Effective Date of Chapter - The City of Philadelphia may not impose any tax under this chapter at a rate greater than the following:

- 1) a wage tax on earned income of:
 - i) residents, not to exceed 4.5%.

(NOTE: This limitation expires at the end of the fourth year after the effective date of this chapter.)

- ii) nonresidents, not to exceed 3.95%.

(NOTE: This limitation does not expire.)

- 2) a net profits tax not to exceed 4.5%.

(NOTE: This limitation expires at the end of the fourth year after the effective date of this chapter.)

- 3) an unearned income tax on residents not to exceed 4.5%.

(NOTE: This limitation expires at the end of the fourth year after the effective date of this chapter.)

- b) Expiration - The rate limits in subsection (a), except (a)(1)(ii) (nonresidents) will expire at the end of the fourth year after the effective date of the chapter.

- c) Definitions

"Unearned income" - means classes of income enumerated in the Tax Reform Code of 1971, except the classes "compensation" and "net profits." Unearned income includes capital gains, rents and royalties, dividends, interest income, gambling and lottery winnings (except winnings from the Pennsylvania lottery), and certain income derived from estates and trusts.

(NOTE: See also Section 303 of the Tax Reform Code of 1971 for similar provision.)

Section 1305 - Collection of Tax at Source

- a) Registration - Every employer located in the Commonwealth who employs one or more persons who are residents of the City of Philadelphia must, within fifteen days of becoming an employer, register with the tax officer of the City of Philadelphia, the employer's name and address and such other information as the tax officer may require.

(NOTE: This provision is new. Under current law, Philadelphia had no authority to require employers located outside the City and employing City residents to withhold the Philadelphia wage tax. This section allows Philadelphia to require withholding from non-Philadelphia employers.)

- b) Deduction of Tax - Every such employer must deduct, at the time of payment, the tax imposed by the City on any earned income of the employee.
- c) Employer Return - Every employer deducting any tax imposed under this chapter must file a return and pay to the officer the amount of taxes deducted during the preceding month.
- d) Contents of Return - Unless otherwise agreed to by the employer and the tax officer, each return must show the total tax deducted from compensation and paid with the return.

(NOTE: The City of Philadelphia will need to establish regulations to require employers located within the City to list the portions of tax paid on behalf of nonresidents, and the municipality and school

district where such nonresidents reside for purposes of Section 1306, below.)

- e) Annual Employer Return - On or before February 28 of the succeeding year, every employer must file with the tax 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 tax officer for the current year.
 - 2) a withholding statement for each employee, employed for any part of the year, listing the name, address and social security number of each employee; the earned income received during the period; the amount of tax deducted; and the amount of tax paid to the officer. Employers shall furnish two copies of the individual return to each employee.
- (NOTE: This is similar to provisions required for W-2 Forms. See also Section 926(f) of this commentary.)**
- f) Discontinuance of Business - Employers who discontinue doing business within the Commonwealth prior to December 31 must, within thirty days of the discontinuance, file required returns and withholding statements and pay the tax due.
- g) Liability of Employer - Employers who willfully or negligently fail or omit to make the deductions required by this section will be liable for payment of the taxes the employer was required to withhold, to the extent that the taxes have not been recovered from the employee.
- h) Continued Liability of Taxpayer - The failure or omission of any employer to make deductions will not relieve any employee from payment of the tax or from complying with filing requirements of the ordinance.

Section 1306 - Payments to Political Subdivisions of Nonresidents

- a) Payments - The City of Philadelphia is required to make payments to political subdivisions of residence of employees working in the City. Since Philadelphia imposes a wage tax on nonresidents, it will pay each municipality and school district with residents employed in the City a quarterly payment equal to 0.25% of the quarterly income earned by those nonresidents within the City.
- (NOTE: This payment is partial compensation to municipalities and school districts for their inability to tax income earned within Philadelphia by their residents.)**
- b) Personal Income Tax Requirement
- 1) To receive a payment, a municipality or school district within the Commonwealth must have in effect a personal income tax at a rate of at least 0.25%.

- 2) A municipality or school district outside the Commonwealth qualifies for payments under subsection (a) if that municipality or school district levies a personal income tax at a rate of at least 0.25% and the state in which the municipality and school district are located makes a payment to the City in an amount sufficient to fund the payments.

(NOTE The payments required under this paragraph are similar to the Commonwealth payments required in subsections (c) and (d), below.)

- c) Procedure for Obtaining Commonwealth Funds - Thirty days after the close of each quarter, the City must determine the amount of potential payments required and shall submit a request for Commonwealth funds to the Department of Revenue. The Department shall review the request and issue a voucher to the State Treasurer for such amount. Failure of the City to request such funds will not relieve the City of the obligation to make the payments (emphasis added).
- d) Commonwealth Payments - Except as provided in subsection (c), before making the payments, Philadelphia will receive a payment from the Commonwealth. The payment is derived from the state's share of realty transfer tax revenues generated in the five counties of Southeastern Pennsylvania (the Counties of Bucks, Chester, Delaware, Montgomery, and Philadelphia).
- (NOTE: The failure of the City to request State funds does not relieve it of its obligation to make payments to other political subdivisions. See subsection (c), above.)**
- e) Limitation on Available Funding - The total amount of payments under this section is derived from and cannot exceed 50% of the State share of the realty transfer tax revenues generated in the five counties of Southeastern Pennsylvania. If the amount of available funding is insufficient to make payments in the full amount, then the amounts of payments will be reduced proportionally.
- f) Payment Deadline - All payments under this section must be made within 30 days of receipt of the funding.
- g) Administration and Audit - The Department of Revenue may promulgate regulations for the implementation of this section and shall administer and annually audit, with the Auditor General, the payment program.
- h) Definitions

"Wage tax of nonresident" - a tax imposed on salaries, wages, commissions, bonuses, incentive payments, tips, and other income earned in Philadelphia by a taxpayer who does not reside in Philadelphia.

Section 1307 - Exemption of Low-Income Persons

- a) Low-Income Exemption - Philadelphia may exempt any person who qualifies under the provisions of Section 304 of the Tax Reform Code of 1971 (earns less than \$6,300) from payment of the wage tax or the unearned income tax.

(NOTE: See similar provisions in Section 512(a) of this commentary.)

- b) Special Hardship Exemption - Philadelphia may exempt persons who qualify as claimants under the Senior Citizens Rebate and Assistance Act and who have a "household income" less than the maximum necessary (less than \$15,000) to qualify for a rebate, from payment of the wage tax or the unearned income tax.

(NOTE: See similar provisions in Section 512(b) of this commentary.)

- c) Regulations - Philadelphia may adopt regulations for the processing of claims for these exemptions.

Section 1308 - Amnesty

- a) General Rule - Notwithstanding the provisions of this act, Philadelphia may, by ordinance, establish once every ten years a period not to exceed three months during which interest and/or penalties on delinquent taxes shall be waived in total or in part if the taxpayer voluntarily files delinquent returns and pays the taxes in full during such period. Philadelphia may adopt regulations to implement this section.
- b) Pending Proceedings Unaffected - If Philadelphia has instituted a proceeding against a person for delinquent taxes prior to institution of an amnesty period, such proceeding will not be affected by the amnesty provision and all penalties and interest provisions will remain in force.

Section 1309 - Collection of Unearned Income Tax by the Commonwealth

Philadelphia may enter into an agreement with the Department of Revenue for collection of the unearned income tax by the department in conjunction with the State Personal Income Tax. The Secretary of Revenue must, by regulation, establish procedures for collecting that tax and paying the full amount collected to the City. The agreement may not include any provisions regarding enforcement. The agreement shall meet all requirements set forth in Section 711(b).

(NOTE: Section 1309 is similar to Section 711; however, this section relates only to the unearned income tax imposed by Philadelphia upon residents. Philadelphia cannot have the Commonwealth collect its wage tax.)

Section 1310 - Interest on Late Payments

Philadelphia may charge simple interest on late payments from the due date until the date paid. The interest rate shall be the rate charged by the Commonwealth pursuant to Section 806 of the Fiscal Code.

(NOTE: See Section 908 of this commentary concerning interest rate established by Section 806 of the Fiscal Code for taxes due.)

Section 1311 - Share of State Transfer Tax

Philadelphia will be entitled to receive 50% of the State share of the realty transfer tax generated within the City.

(NOTE: This provision is a direct payment to the City by the Commonwealth. It should not be confused with payments received by the City in accordance with Section 1306, through which payments are subsequently distributed to political subdivisions whose residents work in Philadelphia.)

Section 1312 - Continuity of Existing Taxes

Unless inconsistent with this chapter or Section 3111 (Transition and Implementation), the validity of any ordinance adopted by Philadelphia providing for the levying of any tax will not be affected.

CHAPTER 15
SCHOOL DISTRICTS OF THE FIRST CLASS A
(PITTSBURGH SCHOOL DISTRICT)

Section 1501 - Definitions

"Board" - the Pittsburgh School Board.

"Nonresident" - an individual or other entity domiciled outside the Pittsburgh School District.

"Nonresident employer" - a Pennsylvania employer whose office is located outside the Pittsburgh School District.

"Person" - a person or any other entity. If used with respect to penalties, it refers to partners or members of associations or officers of corporations.

"Resident" - an individual or other entity domiciled within the Pittsburgh School District.

"Resident employer" - an employer whose office is located within the Pittsburgh School District.

"School district" - the Pittsburgh School District.

(NOTE: These definitions are derived from Section 1 of Act 508 of 1961, the First Class A School District Earned Income Tax Act.)

Section 1502 - Imposition

- a) Levy - The Pittsburgh School District is authorized to levy a tax of not more than 2% on the personal income of its residents.

(NOTE: This is the same income tax rate currently authorized to be imposed on the earned income of residents under Section 652.1 of the Public School Code of 1949 (Act 14 of 1949).)

- b) Applicability - This tax will be in addition to other taxes the Pittsburgh School District may levy.

(NOTE: See Section 652.1 of the Public School Code of 1949 for additional taxing powers.)

- c) Use - Taxes, interest, and penalties collected must be used for general public school purposes.

- d) Exemptions

- 1) The Pittsburgh School District may exempt any person who qualifies under the provisions of Section 304 of the Tax Reform Code of 1971 (earns less than \$6,300) from payment of the personal income tax.

(NOTE: See Sections 512(a) and 1307(a) of this commentary for similar provisions.)

- 2) Special Hardship Exemption - The Pittsburgh School District may also exempt persons who qualify as claimants under the Senior Citizens Rebate and Assistance Act and who have a "household income" less than the maximum necessary (less than \$15,000) to qualify for an exemption from payment of the personal income tax.

(NOTE: See Sections 512(b) and 1307(b) of this commentary for similar provisions.)

- 3) Regulations - The Pittsburgh School District may adopt regulations for the processing of claims for these exemptions.

(NOTE: See Sections 512(c) and 1307(c) of this commentary for similar provisions.)

Section 1503 - Payment of Personal Income Tax

- a) Income Not Subject to Withholding - Every taxpayer who receives personal income for which the taxpayer is required to make a declaration under Section 325 of the Tax Reform Code of 1971 must file quarterly returns in the manner provided in Section 925.
- b) Annual Personal Income Tax Return - At the election of the board, every taxpayer must file an annual return in the manner provided in Section 924.

(NOTE: This section is similar to Section 3 of Act 508 of 1961.)

Section 1504 - Collection at Source

- a) Registration - Resident employers, employing one or more persons must, within 15 days of becoming an employer, register with the treasurer by giving their name, address, and such other information as the tax officer shall require.

(NOTE: See subsection (f), below of this section for nonresident employer withholding requirements.)

- b) Deductions - Employers withholding an aggregate amount less than \$200 per month in taxes from employees' compensation must deduct those taxes monthly or more often than monthly, at the time of payment, and they must quarterly file a return of taxes deducted and must pay to the treasurer the amount of taxes collected during the preceding three-month period. Employers withholding an aggregate amount greater than or equal to \$200 per month in taxes from employees' compensation must deduct those taxes monthly or more often than monthly, at the time of payment, and they must monthly file a return of taxes deducted and shall pay to the tax officer the amount of taxes collected during the previous month.

(NOTE: Contrary to provisions for other taxing districts, the Pittsburgh School District requires employer withholding returns to be filed on a monthly basis, rather than a quarterly basis. This conforms with present law.)

- c) **General Filings** - By the last day of February of the succeeding year, resident employers must file with the tax officer all of the following:
- 1) An annual return showing the total amount of compensation paid, the total amount of tax deducted, and the total amount of tax paid to the tax officer.
 - 2) A return for each employee setting forth the employee's name, address, and social security number; the amount of compensation paid to the employee during the tax year; the total amount of personal income tax deducted; the amount of personal income tax paid to the tax officer; and such other information as the tax officer may require. An employer must furnish a copy of the individual return to the employee.
- d) **Termination of Business** - An employer who discontinues business must, within 15 days of the discontinuance, file the returns required under this section and pay the personal income tax due.
- e) **Failure to Deduct** - The failure of an employer to make deductions required by this section will not relieve the employee from the obligation to pay the personal income tax or file a return.
- f) **Nonresident Employers** - The board or its treasurer may require similar returns, withholding, and payment of taxes, as required by this section, by nonresident employers employing individuals residing in the school district.

(NOTE: Requiring nonresident employers which employ Pittsburgh residents to withhold taxes and file returns is consistent with current law - see Section 4(f) of Act 508 of 1961.)

- g) **Penalty** - Employers who willfully fail to make deductions required by this section will be liable for payment of the taxes the employer was required to withhold to the extent the taxes are not collected from the employee.

(NOTE: This section is similar to Section 4 of Act 508 of 1961.)

Section 1505 - Tax Officer

- a) **General Rule** - The tax officer will have the following powers and duties:
- 1) To collect and receive taxes, fines, and penalties imposed by this chapter.
 - 2) To keep records of the amount of personal income tax received and the date of receipt.
- b) **Administration and Enforcement** - The tax officer will administer and enforce this chapter and may promulgate and enforce regulations relating to this chapter, including provisions for the reexamination and correction of declarations and returns and payments alleged to

be incorrect or as to which an overpayment is claimed. The tax officer may prescribe necessary forms.

- c) Investigations - The tax officer or his agents may examine the records of an employer or supposed employer or of a taxpayer or supposed taxpayer in order to verify the accuracy of a return or, if no return was filed, to ascertain the personal income tax due. An employer or taxpayer must give the treasurer the means, facilities, and opportunity for such examinations and investigations.
- d) Confidentiality - Any information gained by the tax officer or his agents as a result of declarations, returns, investigations, or hearings will be confidential except for official purposes and except in accordance with a proper judicial order.
- e) Appeal - Persons aggrieved by an action of the tax officer may appeal as provided by law.
- f) Remuneration - Remuneration to be paid shall be mutually agreed to by the board and the tax officer.

(NOTE: This section is similar to Section 5 of Act 508 of 1961.)

Section 1506 - Suit for Collection of Tax

- a) Duty - The board or the tax officer must file suit for the recovery of taxes not paid when due.
- b) Limitation of Actions - A suit brought to recover personal income taxes must be instituted within the time limits set forth in Section 929.

(NOTE: This section is similar to Section 6 of Act 508 of 1961. The limitations provided in this subsection are intended to conform with the limitations under Section 929 of this act.)

Section 1507 - Interest and Penalties

If the personal income tax is not paid when due, interest and penalties will be imposed, and costs may be recovered as set forth in Section 908.

(NOTE: These interest and penalty provisions are intended to conform with similar provisions under Section 908 of this act.)

Section 1508 - Payment Under Protest and Refunds

The tax officer may accept payment of personal income taxes under protest if a person disputes the validity or amount of the tax claim. If a court determines that there has been an overpayment, the amount of overpayment will be refunded.

(NOTE: This section is similar to Section 8 of Act 508 of 1961.)

Section 1509 - Collection of Personal Income Tax by the Commonwealth

The Pittsburgh School District may enter into an agreement with the Department of Revenue for collection of the personal income tax by the department in conjunction with the State Personal Income Tax. The Secretary of Revenue shall, by regulation, establish procedures for collecting that tax and paying the full amount collected over to the school district. The agreement may not include any provisions regarding enforcement.

(NOTE: This section is new. See Section 711(b) of this commentary for similar provisions.)

Section 1510 - Applicability

- a) General Rule - The personal income tax imposed under this chapter does not apply to:
- 1) A person beyond the legal authority of the school district by virtue of the United States and Pennsylvania Constitutions and the laws of the Commonwealth.
 - 2) Organizations operated for public, religious, educational or charitable purposes; nonprofit organizations; or trusts and foundations established for these purposes.
 - 3) A person, privilege, transaction, subject, occupation, or property which the City of Pittsburgh is without authority to tax under this act.
- b) Construction - This section will not exempt any employer from the duty of collecting taxes and paying the amount collected to the tax officer under Section 1504 (Collection at Source).

(NOTE: This section is similar to Section 9 of Act 508 of 1961.)

Section 1511 - Fines and Penalties

- a) General Rule - A person commits a misdemeanor of the third degree and, upon conviction, will be sentenced to pay a fine of not more than \$500 or be imprisoned for more than six months if he:
- 1) Fails to make a required return.
 - 2) Fails to register, make deductions, or pay the tax deducted from employees.
 - 3) Refuses to permit the examination of records.
 - 4) Makes an incomplete, false, or fraudulent return or otherwise attempts to avoid the full disclosure of net profits or earned income to avoid payment of taxes.
 - 5) Divulges confidential information.
- b) Cumulative Penalties - The penalties under this section will be in addition to other penalties imposed by this chapter.

- c) Defense Not Available - The failure of a person to receive forms required to make a return will not excuse the person from making the return.

(NOTE: This section is similar to Section 10 of Act 508 of 1961.)

CHAPTER 21
QUALITY ASSESSMENTS

Subchapter A
Preliminary Provisions

Section 2101 - Findings and Legislative Intent

- a) Findings - The Legislature recognizes that most Pennsylvania counties have not reassessed real property in many years. While the market value of real property has changed dramatically, the failure of assessed valuations to keep pace with changes in market value has resulted in an inequitable distribution of the tax burden.
- b) Legislative Intent - The General Assembly intends to provide counties with the financial resources necessary to assist them in voluntarily improving and maintaining their assessment procedures, including:
 - (1) Revaluation of real property located within a county.
 - (2) Improvement of the maintenance and accuracy of a county's assessment system, procedures, and standards and related tax maps, property records, and assessment rolls.
 - (3) Improvement or establishment of a county's appraisal practices, specifications for the computer-assisted appraisal system function, specifications for the conduct of a revaluation program, and procedures for the conduct of public information programs.

(NOTE: This chapter is the product of the Local Government Commission's Task Force on Real Estate Assessments. It is a long-held view by many that the nebulous area of assessment reform be included as part of local tax reform. The ever-increasing reliance on the real property tax over the years has exposed the weaknesses of our property assessment system. Instead of mandating reassessments, a reform that has been advocated in the past, these efforts have focused on creating incentives to achieve and maintain quality assessments.)

Section 2102 - Definitions

"Account" - the Quality Assessment Revolving Loan Account created in Subchapter B of this chapter.

"Advisory committee" - the Quality Assessment Grant and Loan Advisory Committee appointed under Section 2103.

"Board" - the State Tax Equalization Board.

"Coefficient of dispersion" - a measure of the accuracy of assessed value to true values, which measures the average assessment error around the common level ratio.

(NOTE: For a more definitive explanation of this term, see the definition of "coefficient of dispersion" in the Glossary of Terms in the Appendix.)

"Common level ratio" - the ratio of assessed value to current market value as determined by the State Tax Equalization Board.

(NOTE: For a more definitive explanation of this term, see the definition of "common level ratio" in the Glossary of Terms in the Appendix.)

"Established predetermined ratio" - the ratio of assessed value to market value as determined by the appropriate county board.

Section 2103 - Quality Assessment Grant and Loan Advisory Committee

- a) Creation - The Quality Assessment Grant and Loan Advisory Committee (advisory committee) is created to assist the State Tax Equalization Board (STEB) in devising comprehensive standards for assessments.
- b) Review of Applications - The advisory committee will assist STEB in reviewing applications by counties seeking grants under Section 2122 (Disbursement of Grants) in order to determine whether the counties have achieved the level of assessment accuracy needed to qualify for grants.

Section 2104 - Organization of Advisory Committee

- a) Membership - The advisory committee will consist of seven members, none of whom is permitted to be an employee of the General Assembly, as follows:
 - 1) The Governor will appoint three members who are broadly representative of the following groups:
 - i) Licensed real estate brokers;
 - ii) Mathematics or statistics instructors or researchers; and
 - iii) Citizens with a general knowledge of assessment practices.
 - 2) The respective leaders of the four legislative caucuses will each appoint one member with general knowledge of assessment practices.
- b) Term - Except for initial appointees, members of the advisory committee will serve two-year terms, concurrent with sessions of the General Assembly. Members may serve successive terms.
- c) Reimbursement for Expenses - Advisory committee members will not receive a salary but will be reimbursed for actual expenses.
- d) Organization - The advisory committee will organize as soon as possible and will reorganize upon any change in membership.

e) Removal

- 1) A member who has demonstrated misfeasance, malfeasance, or nonfeasance in office, including neglect of duties, may be removed by majority vote of the members of the advisory committee.
- 2) A member neglecting or refusing to attend two (2) successive regular meetings, unless detained by sickness or prevented by a necessary absence, may be subject to removal by a majority vote of the advisory committee.

Section 2105 - Powers and Duties of the State Tax Equalization Board

STEB will have the following powers and duties:

- 1) Maintain accurate and current data on the valuations of taxable and tax-exempt real property and on the number of parcels in each county, as reported by the respective county assessment offices (emphasis added).

(NOTE: This provision is new as it relates to requiring STEB to compile and maintain information on tax-exempt real property.)

- 2) In consultation with the advisory committee, promulgate comprehensive standards and procedures for assessments, except that STEB may not set a uniform established predetermined ratio.
- 3) Review plans submitted by counties to improve their assessment systems, including reassessment programs.
- 4) Approve or reject plans submitted under Section 2112 (Preparation of Plan).
- 5) Review county applications for grants and loans.
- 6) Award grants and loans to eligible counties.
- 7) In consultation with the advisory committee, promulgate necessary rules and regulations.

Section 2106 - Independent Review

- a) General Rule - STEB must provide for an independent review of the assessment loan program and grant program in improving real estate assessment processes of the counties.
- b) Review Procedure - STEB must contract with a qualified person or entity to conduct the independent review. This person or entity must submit a report by June 1, 1993. On June 1 of each subsequent year, a report is required to be sent to the Governor, the Department of Community Affairs, the President pro tempore of the Senate, the Speaker of the House of Representatives, the advisory committee, and the board.

- c) Cooperation of Local Officials - All local assessment officials must cooperate in the conduct of this review.
- d) Initial Review - The first review of the State administered grant and loan program will occur in the fiscal year beginning July 1, 1992, and biennially thereafter.

Subchapter B
Revolving Loan Account

Section 2111 - Quality Assessment Revolving Loan Account

(NOTE: To help counties achieve better assessments, a revolving loan fund, providing interest-free loans (see Section 2117) to counties of up to \$40 per parcel, would be established (see Section 2115). These loans need not necessarily be used for a countywide reassessment; other improvements in the county's assessment office (e.g., computerization) would be permitted.)

- a) Creation - A restricted revenue account is created to be known as the Quality Assessment Revolving Loan Account to which appropriations and loan repayments will be credited.
- b) Repayments to Account - Upon approval of a loan, STEB shall requisition amounts to be allocated to the counties. As loans are repaid, STEB will return such amounts to the account. The account will operate as a revolving account, whereby appropriations and payments are reapplied to advance the purposes of the act.

Section 2112 - Preparation of Plan

Counties seeking to participate in loans from the fund must first submit a detailed plan for assessment reform to STEB.

Section 2113 - Contents of Plan

- a) General Rule - The assessment reform plan submitted to STEB must be consistent with applicable laws, rules, regulations, etc.
- b) Specific Contents - The plan must include:
 - 1) A detailed statement of the county assessment office's current permanent record system, including tax maps, property record cards, etc.
 - 2) A comprehensive explanation of the methodology by which the county intends to implement assessment reform.
 - 3) A comprehensive proposed methodology of any reassessment.
 - 4) A statement of the precise costs associated with the proposed assessment reform.

Section 2114 - Review of Plan

- a) Preliminary Action - STEB will review plans submitted by counties to insure compliance with the act and must issue preliminary approval or rejection within 60 days.
- b) Final Action - If satisfied, STEB will issue final approval and make a disbursement of approved loan funds within 60 days of preliminary approval.
- c) Amended Plan - If the preliminary plan is rejected, a county may submit an amended plan:
 - 1) Submission of an amended plan must occur within 60 days of the preliminary rejection.
 - 2) There is no limit on the number of times amended plans may be submitted.

Section 2115 - Disbursement of Loan Funds

The final total amount of loan funds available to the county must not exceed \$40 times (x) the number of parcels of real estate in the county.

Section 2116 - Restricted Use of Loan Funds

Loan funds disbursed under this act must be used solely for assessment reform as set forth in the plan submitted by the county, including, but not limited to, countywide reassessment. No loan funds can be used to pay assessment costs incurred prior to November 30, 1988. None of the proceeds shall be used to retire debt as defined in the Local Government Unit Debt Act.

Section 2117 - Terms and Conditions of Loan Repayment

A county receiving loan funds must enter into a covenant with respect to the following terms and conditions of repayment:

- 1) The loans are interest free.
- 2) Loans must be repaid in five equal annual installments, the first of which will become due within ninety days of either of the following dates, whichever occurs first:
 - i) The date of complete implementation of the plan as certified by STEB; or
 - ii) Three years following the date of disbursement of funds.
- 3) The second installment will be due twelve months after the first payment, and subsequent annual installments will become due at intervals of one year.

Section 2118 - Definitions

"County" - all counties including Philadelphia are eligible for the loan program.

Subchapter C
Grants for Quality Assessments

Section 2121 - Eligibility for Quality Assessment Grants

(NOTE: To encourage a county to maintain its assessment at an acceptable quality level, Act 145 authorizes annual grants equal to 25% of the State share of the realty transfer tax collected in that county on transactions recorded during the previous fiscal year, provided that county attains a coefficient of dispersion (COD) of 20% or less.)

- a) General Rule - Counties, with exception of Philadelphia, may apply for a grant, on forms provided by STEB, regardless of participation in the loan fund. In order to qualify for a grant, a county must attain an acceptable level of assessment accuracy equal to or less than a coefficient of dispersion of 20% as determined and certified by STEB.
- b) Calculation - In consultation with the advisory committee STEB will determine the average assessment error for the county as measured by the COD. The method of calculating the COD will be established by STEB by regulation.

Section 2122 - Disbursement of Grants

- a) Application Approval Required - A county which applies for a grant must obtain written approval of the application by STEB in consultation with the advisory committee.
- b) County Grants - Grants to qualified counties will equal one-quarter of the State share of the realty transfer tax generated in the county during the preceding Commonwealth fiscal year.
- c) Limited Use of County Grants - Grants disbursed to counties must be used solely to maintain the assessment systems approved by STEB or to maintain an acceptable level of assessment accuracy. None of the proceeds of the grant shall be used to retire debt pursuant to the Local Government Unit Debt Act, unless the debt was incurred to fund a countywide reassessment.
- d) Excess Grants - Any portion of a grant which exceeds the amount necessary to maintain the assessment system will be held by the Commonwealth in reserve for the county and may be drawn upon in subsequent years for eligible activities.

CHAPTER 27
SENIOR CITIZENS PROPERTY TAX DEFERRAL

Section 2701 - Definitions

"Base payment" - the amount of property tax paid by the claimant for the tax year during which the claimant is eligible on the personal residence in which the claimant has maintained continuous occupancy and ownership since either the base year or the date of purchase, whichever is later.

"Base year" - the tax year preceding the first tax year for which a taxing authority implements the provisions of this chapter.

"Claimant" - a person who qualifies as a claimant under the provisions of the Senior Citizens Rebate and Assistance Act, whether or not a claim is filed under that act.

(NOTE: See definition of "claimant" under Section 512(b) of this commentary.)

"Homestead" - real property which qualifies as a "homestead" under the provisions of the Senior Citizens Rebate and Assistance Act, except real property which is rented or leased to a claimant.

(NOTE: The definition of "homestead" under the above act is as follows:

"Homestead" - means a dwelling, whether owned or rented, and so much of the land surrounding it, as is reasonably necessary for use of the dwelling as a home, occupied by a claimant. A homestead shall also include premises occupied by reason of ownership or lease in a cooperative housing corporation, mobile homes which are assessed as realty for local property tax purposes and the land, if owned or rented by the claimant, upon which the mobile home is situated, and other similar living accommodations, as well as a part of a multi-dwelling or multi-purpose building and a part of the land upon which it is built. It shall also include premises occupied by reason of the claimant's ownership or rental of a dwelling located on land owned by a nonprofit incorporated association, of which the claimant is a member, if the claimant is required to pay a pro rata share of the property taxes levied against the association's land. It shall also include premises occupied by a claimant if he is required by law to pay a property tax by reason of his ownership or rental (including a possessory interest) in the dwelling, the land, or both. An owner includes a person in possession under a contract of sale, deed of trust, life estate, joint tenancy or tenancy in common or by reason of statutes of descent and distribution.)

"Household income" - all income as defined in the Senior Citizens Rebate and Assistance Act, received by the claimant and by the claimant's spouse while residing in the homestead during the calendar year for which a tax deferral is claimed.

(NOTE: See definition of "household income" under Section 512(b) of the commentary.)

"Increases in property taxes" - an increase in the property tax due above the base amount, resulting from a millage increase, a change in the assessment ratio, or an assessment increase.

"Taxing authority" - all counties, municipalities, school districts, the City of Philadelphia, and the Pittsburgh School District.

Section 2702 - Authority

A taxing authority may grant annual tax deferrals as provided herein.

(NOTE: It is stressed that this chapter is optional, not mandatory, for all taxing districts.)

Section 2703 - Eligibility

A claimant will be eligible for a tax deferral if his/her household income is equal to or less than the maximum necessary to qualify for the Senior Citizens Rebate and Assistance Act.

(NOTE: See definition of "household income" under Section 512(b) of this commentary.)

Section 2704 - Tax Deferral

- a) Amount - An annual real estate tax deferral must equal the lesser of the following:
 - 1) The increase in real property taxes in excess of the claimant's base payment (taxes due when the claimant becomes eligible).
 - 2) The total amount that a claimant would be eligible to receive under the Senior Citizens Rebate and Rent Assistance Act if there were no maximum, less such maximum.
- b) Prohibited - No tax deferrals will be granted if the total amount of deferred taxes, plus the total amount of unsatisfied liens on the residence, exceeds 85% of the market value of the residence, or if the outstanding principal on the primary mortgage exceeds 70% of the market value of the residence. Market value shall equal assessed value divided by the common level ratio as most recently determined by STEB for the county in which the residence is located.

Section 2705 - Application Procedure

Any person eligible for tax deferrals may apply by filing the following documents with the taxing authorities:

- 1) A request for a tax deferral.
- 2) A certification that the claimant, the claimant's spouse, or the claimant and his/her spouse jointly are the owners of the residence on which the property taxes are imposed.
- 3) A certification that the claimant's residence is adequately insured to the extent of all outstanding liens.

- 4) Receipts showing prompt payment of the current year's real property taxes.
- 5) Proof of eligibility under Section 2703.

Section 2706 - Contents of Application

Any application for a tax deferral must:

- 1) State that the tax deferral is provided in exchange for a lien against the residence of the claimant.
- 2) Explain the manner in which the deferred taxes become due.

Section 2707 - Attachment and Satisfaction of Liens

- a) Nature of Lien - All taxes deferred will constitute a prior lien on the residence of the claimant in favor of the taxing authority and will attach and be collected in the same manner as other liens, but the deferred taxes will become due only as provided in subsection (b), and no interest can be collected on the lien.
- b) Payment
 - 1) All or part of the deferred taxes may at any time be paid by the claimant or his/her spouse.
 - 2) If the deferred taxes are not paid by the claimant or his/her spouse during their lifetime or during their ownership of the property, the deferred taxes must be paid either:
 - i) upon the conveyance of the property to a third party; or
 - ii) upon the passing of the title, by will or by statute, to the heirs of the claimant or the spouse of the claimant.
 - 3) Under no circumstances will the surviving spouse of a claimant be required to pay the deferred taxes by reason of his/her acquisition of the property due to death of the claimant.

(NOTE: Contrary to provisions of subsection (b)(2)(ii) above, this provision exempts the surviving spouse of the claimant from payment of the deferred taxes as the result of death of the claimant.)

CHAPTER 31
MISCELLANEOUS PROVISIONS

Section 3101 - Local Tax Reform Fund

- a) Establishment - There is created a special fund known as the Local Tax Reform Fund. Moneys in the fund will be used for purposes in this act.
- b) Purpose - The Local Tax Reform Fund will assist in the implementation of local tax reforms enacted by the General Assembly, lessen revenue shortfalls and deficits, provide greater continuity in funding, and minimize the need to increase local taxes during the period of transition.

Section 3102 - Temporary Special Aid

- a) General Rule - Starting fiscal year 1989, a municipality experiencing a 10% or greater reduction in real property tax collections in any one year due to nonpayment of such taxes within 60 days of the due date by reason of business bankruptcy proceedings will qualify for temporary special aid.
- b) Temporary Special Aid - The temporary special aid will be equal to 100% of the amount of lost real property tax revenues payable to the municipality during the year of the loss, and 50% of the amount of the lost real property tax revenues payable in the succeeding year. Such temporary special assistance will be paid only once for each bankruptcy proceeding and only on the condition the tax rates in effect are not reduced. Shifts to new tax bases permitted by this act are not considered tax reductions.
- c) Source of Funds - The temporary special aid will be paid from annual appropriations to the Department of Community Affairs for distressed municipalities.
- d) Recapture of Payments - Any subsequent payments made on account of such lost taxes by such businesses or by bankruptcy officials will be repaid to the Department of Community Affairs pursuant to the Financially Distressed Municipalities Act to the extent of the temporary special aid. Any interest or penalties received will be retained by the municipality.
- e) Rules and Regulations - The Department of Community Affairs will promulgate rules and regulations to administer this section.

(NOTE: This special provision (Section 3102 - Temporary Special Aid) should not be confused with the distress criteria delineated in Section 201 of Act 47 of 1987. To be eligible for grants under Section 3102, a municipality must conform with Subsections (a) and (b), as stated above.)

Section 3103 - Municipal Mass Transit Assistance

- a) General Rule - Annually, each municipality which provides local matching funds to a mass transit system pursuant to the Pennsylvania

Urban Mass Transit Law (Act 8 of 1968) will be entitled to receive a payment from the Department of Transportation equal to the lesser of the amount expended by the county or municipality for the local matching funds or 50% of the minimum amount of local matching funds. Payments for this assistance are to come from the Local Tax Reform Fund.

- b) Regulations - The Department of Transportation will promulgate rules and regulations to implement this section.

Section 3104 - Payments in Lieu of Taxes

- a) Leased Commonwealth Property - A corporation, business, or person who leases real property from the Commonwealth must make payments in lieu of taxes to the county and political subdivision in which the leased property is located in an amount equal to the annual taxes that would normally be due.
- b) Amount - The amount of the payment will equal the annual taxes that would be due and payable if the real property were subject to taxation.
- c) Applicability - This subchapter will not apply to property being leased on the effective date of this act or renewals of such leases. This subchapter will apply to leases entered into with the Commonwealth after the effective date of the act.

(NOTE: Subsection (c) becomes effective the first year occurring twelve months after passage of the constitutional amendment. See Section 3112(a).)

Section 3105 - Payments to Cities

The General Assembly may enact legislation which provides payments to cities for municipal overburden. The amount of funds available for this program shall be equal to one-eighth of the Commonwealth's share of the realty transfer taxes generated within counties in which cities are located. No funds will be expended until enabling legislation is enacted. Funding will come from the Local Tax Reform Fund.

Section 3106 - Transitional Assistance

The General Assembly shall enact legislation which provides payments to municipalities to provide assistance in making the transition to the new tax system provided in this act. Funds not exceeding \$70 million from the Local Tax Reform Fund are dedicated to this program and may be appropriated over more than one year. No funds will be expended until enabling legislation is enacted.

Section 3107 - Local Government Capital Project Loan Fund

- a) Assistance to Municipalities
 - 1) The Department of Community Affairs is authorized to make loans to municipalities (boroughs, towns, and townships, only) as follows:

- i) To purchase equipment. Such loans cannot exceed \$50,000 or 50% of the total cost, whichever is less.
 - ii) To purchase, construct, renovate, and rehabilitate facilities. Such loans cannot exceed \$100,000 or 50% of the total cost, whichever is less.
- 2) Loans must be for a period of not more than ten years. The interest rate will be 2% and shall be subject to such security as the department may desire. Interest earnings by investment or reinvestment will be returned to the department and shall not be credited as payment of principal or interest. The minimum amount of any loan is \$1,000.
 - 3) Applications for loans must be accompanied by a financial statement and a financial plan to show how the money will be repaid. Applications must also be accompanied by evidence to show that all other costs will be met by assets or revenues of the municipality.
 - 4) Loans cannot be used for operating expenses or the refinancing of debt incurred prior to the effective date of this section.
(NOTE: Section 3107 becomes effective upon publication of certification of the constitutional amendment.)
 - 5) Loans shall be paid to municipalities in accordance with rules and regulations promulgated by the department.
 - 6) All payments of interest and principal must be deposited in the fund.
- b) Local Government Capital Project Loan Fund
- 1) The Local Government Capital Project Loan Fund is created in the Treasury Department, to which must be credited all appropriations of the General Assembly related to this fund. Grants from other sources to the department and all repayments will also be credited to the fund. Administrative expenses for the fund will not be considered a liability against the fund.
 - 2) The department will requisition funds to provide loans to municipalities. When loans are repaid under the terms of the agreement, the department will pay such amounts into the fund, so that the fund will operate as a revolving fund.
- c) Powers and Duties of the Department - The Department of Community Affairs will have the power and duty to:
- 1) Lend money for authorized purposes, but not in excess of ten years.
 - 2) Accept grants from the Federal Government or other agencies.
 - 3) Prescribe the form of the application.

- 4) Advise a municipality regarding the financial ability of the municipality to purchase equipment or modernize facilities.
 - 5) Assist a municipality in taking advantage of joint purchasing arrangements and the ability to purchase surplus Commonwealth equipment.
 - 6) Require security for a loan.
 - 7) Specify priority of liens against any facility or equipment purchased by a municipality.
 - 8) Establish a schedule which provides an annual opportunity for municipalities to apply for loans.
- d) Ranking of Applications - When there is not enough money in the fund to make loans to all municipalities expected to submit applications, the department will rank the applications in order of priority. A system of ranking will be established and will provide consideration of factors such as whether the municipality has previously received a loan; the ability of the municipality to purchase the equipment or modernize facilities without a loan; and the impact of the equipment or facilities on the health, safety, and welfare of the residents of the municipality.
- e) Definitions
- "Data processing equipment" - any computer, terminal, printer, expansion unit, display unit, software or related component of a data processing system.
- "Department" - the Department of Community Affairs of the Commonwealth.
- "Equipment" - any truck, car, bulldozer, backhoe, grader, highlift, forklift, street sweeper, other mechanized vehicle or data processing equipment.
- "Fund" - the Local Government Capital Project Loan Fund.
- "Facilities" - any structure used to house offices or equipment and the land on which the structure is situated.
- "Municipality" - any borough, town, first class township, or second class township.
- f) Funds - Funding of up to \$7 million from the Local Tax Reform Fund is available for this program.

Section 3108 - Community Facilities Assistance

Funds not exceeding \$3 million from the Local Tax Reform Fund are dedicated to the Community Facilities Program.

Section 3109 - Repeals

Numerous acts are absolutely repealed including the Sterling Act and the Local Tax Enabling Act (Act 511) although the repeal date of Act 511, insofar as it relates to earned income taxes, is delayed until December 31 of the first fiscal year in which certain political subdivisions are eligible to utilize the provisions of Act 145. Many other statutes are partially repealed. The intangible personal property tax levied by counties is subject to either an immediate repeal or a three-year phaseout.

(NOTE: See Sections 3109 through 3112 of Act 145 for a specific listing of repealed acts and implementation of various effective dates. Repeals are effective on the beginning of the first year in which political subdivisions are subject to the provisions of Act 145.)

Section 3110 - Certification of Constitutional Amendment

If a constitutional amendment authorizing differing tax rates for real property is ratified, the Secretary of the Commonwealth shall, after tabulating the election returns, certify the result to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Section 3111 - Transition and Implementation

a) Application of Section - This section is applicable to all local taxing authorities subject to Act 145.

b) January to December Fiscal Year Political Subdivisions. Act 145 will apply to the first fiscal year starting twelve months after certification of the constitutional amendment. Political subdivisions are required to:

- (1) Adopt an ordinance repealing the taxes that are abolished in Section 501(c).

(NOTE: This is the abolition of the so-called nuisance taxes and earned income tax.)

- (2) Adopt an ordinance imposing any of the new taxes authorized in Chapter 5.

(NOTE: For more information on the new taxing powers, see the Quick Reference Table on Act 145 taxes in the Appendix.)

- (3) If the political subdivision is imposing a personal income tax, it must adopt the ordinance implementing the reduction in residential property tax rates pursuant to Sections 301(a) and (d). For the political subdivision in the first year of implementation of the personal income tax, the reduction in residential property tax rates will be calculated on the estimated increased revenues raised by the personal income tax. The reduction in residential real property tax rates may be adjusted in the second year to reflect errors in calculations or assumptions. The reduction must be adjusted for the third year based upon actual receipts from the first fiscal year. The rate cannot change thereafter unless there is a change in the personal income tax rate.

(NOTE: See Section 301(b) and (c) for provisions of the Residential Real Property Tax Reduction requirement. Political subdivisions (excluding Philadelphia) will have appointed local tax study commissions, and those commissions will have issued their recommendations for appropriate tax structures for their respective entities.)

(c) July to June Fiscal Year Political Subdivisions - For political subdivisions operating on a July to June fiscal year basis, this act shall become effective for the first fiscal year beginning at least twelve months after certification of the constitutional amendment.

(NOTE: This provision is applicable to school districts and a few municipalities.)

The political subdivision must:

- (1) Adopt an ordinance or resolution repealing the prohibited taxes under Section 501(c) with the exception of the earned income tax.
- (2) Adopt an ordinance imposing any or all of the authorized taxes under Chapter 5.
- (3) If imposing a personal income tax, the political subdivision will be required to adopt an ordinance or resolution to initiate the personal income tax starting in the second half of the fiscal year. It must also adopt an ordinance or resolution imposing the earned income tax for the first half of the fiscal year at a rate not greater than the new limitations in Section 511.

(NOTE: The abolition of the earned income tax, particularly by school districts, would be delayed for six months so that the new tax base (personal income) would start at the beginning of a calendar year.)

- (4) The political subdivision must also determine the real estate tax differential by comparing revenue raised in the current fiscal year with projected revenues in the succeeding fiscal year. This determination may be adjusted in the second fiscal year to correct errors in calculations or assumptions. The differential must be adjusted in the third year based upon actual receipts for the first calendar year and must remain constant until a change in the personal income tax rate is effectuated.

(NOTE: See Sections 301(b) and (c) of this commentary for provisions of the Residential Real Property Tax Reduction requirement. School districts and some municipalities will have appointed local tax study commissions, and those commissions will have issued their recommendations for appropriate tax structures for their respective entities.)

(d) City of Philadelphia

The implementation of this subsection, as it affects the City of Philadelphia exclusively, will be formulated in two stages.

- (1) Effective on the first of January occurring at least twelve months following certification of the constitutional amendment:

- (i) Philadelphia must adopt an ordinance to conform the unearned income tax base to the State definition of unearned income and must rescind the authority of the school district to levy an unearned income tax.
- (ii) Philadelphia must adopt the procedures for and initiate the grant program for payments to political subdivisions on behalf of nonresidents working in the City.

(NOTE: See Subsection 1306 of this commentary.)

- (iii) Philadelphia may adopt an ordinance imposing a county sales and use tax.

(NOTE: The rate of the optional sales tax which the City of Philadelphia may levy is either 0.5% or 1%. See Section 521(d)(2) of this commentary.)

- (2) The second stage shall be effective for the first July following implementation of stage 1. At that time, Philadelphia must adopt an ordinance to reduce the rate on the wage tax to the levels at or below those specified in Section 1304(a).

(e) Counties

Except for Philadelphia, the effective date for counties will be the first fiscal year starting at least twelve months following certification of the constitutional amendment. Counties must adopt an ordinance repealing the taxes prohibited under 501(c) and may impose the optional county sales tax authorized under Subchapter C of Chapter 5.

(f) Delay of Repeal

- (1) Although Act 511 is absolutely repealed, the repeal date is delayed by six months in regard to the earned income tax as it applies to political subdivisions operating on the July to June fiscal year.

(NOTE: This provision specifically applies to political subdivisions operating on a July to June fiscal year. They are permitted to impose an earned income tax at the new rate limits under Act 145 for the first six months in an effort to avoid an imposition of income taxes levied on different bases and rates which would occur if the personal income tax is imposed in the middle of a calendar year. See Section 3111(c)(1) and (3) of this commentary.)

- (2) The repeal of the personal property tax must occur by one of the following methods:
 - (i) outright repeal; or
 - (ii) repealed during a three-year phaseout. If phased out, the tax must be reduced by one-third in the first year, two-thirds in the second year, and eliminated in the third year.

Section 3112 - Effective Date and Applicability

(a) General Rule - This act shall generally apply to political subdivisions the first fiscal year beginning at least twelve months following certification of the adoption of the constitutional amendment relating to the taxation of real property. There are a series of exceptions to this rule.

(b) Exceptions

- (1) The regulatory power of the Department of Revenue for the administration of the optional county sales tax became effective December 13, 1988.
- (2) Provisions relating to the Tax Study Commission (Section 901), Advertisement of Intention to Adopt Tax Ordinance (Section 902), Appeals by Taxpayers (Section 905), Filing of Certified Copies of Ordinances (Section 906), Quality Assessment Loan Program (Chapter 21, Subchapters A and B), Local Tax Reform Fund (Section 3101), and the Local Government Capital Project Loan Fund (Section 3107) will become effective upon publication of certification of the constitutional amendment.
- (3) The Philadelphia Real Estate Transfer Tax became effective December 13, 1988, and is retroactive to November 30, 1988.

(NOTE: See Section 1301(b) of this commentary.)

- (4) Except for the Philadelphia Real Estate Transfer Tax and the transitional provisions, this act as it applies to Philadelphia and its school district will take effect the fiscal year beginning on the first July occurring after the first January following at least twelve months after certification of the constitutional amendment.

APPENDIX

PROPOSED CONSTITUTIONAL AMENDMENT

CONSTITUTION OF PENNSYLVANIA—PROPOSED AMENDMENT—REAL ESTATE TAX RATES

JOINT RESOLUTION NO. 1

H.B.No. 14

A JOINT RESOLUTION Proposing an amendment to the Constitution of the Commonwealth of Pennsylvania, providing for differentials in local real estate tax rates.

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

Section 1. The following amendment to the Constitution of Pennsylvania is proposed in accordance with Article XI:

That section 2(b) of Article VIII be amended by adding a clause to read:

§ 2. Exemptions and special provisions

• • •

(b) The General Assembly may, by law:

• • •

(vi) Make special tax provisions authorizing or requiring classes of local taxing authorities to reduce tax rates on residential real property to the extent of additional revenues obtained from personal income taxes; all other changes in real property tax rates shall be uniform as provided in section 1.

• • •

TABLE 2-1

Transition Assuming Passage of Constitutional Amendment
in May, 1989, Primary Election

SCHOOL DISTRICTS: (July 1 Fiscal Year)

- July, 1990: Earned income tax rates may be increased up to a maximum rate of 1.5 percent, and in April, 1991, local income tax reconciliation payments will be based on the average rate of the earned income tax.
- The differential for 1990-1991 will be based upon an estimate for 1990-91 total income taxes.
- January, 1991: Personal income tax base goes into effect for schools up to 1.5 percent with estimated payments in April and June, 1991. Reconciliation payments will occur in 1992.
- July, 1991-92: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1993.
- The differential for 1991-92 may be adjusted from the 1990 differential in order to correct for errors in calculations and assumptions.
- July, 1992-93: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1994.
- The differential for 1992-93 will be adjusted based upon actual receipts for calendar year 1991. This differential will remain in place unless the rate is adjusted.

MUNICIPAL GOVERNMENTS: (January 1 Fiscal Year)

- January, 1991: Personal income tax base up to a maximum rate of .75 percent goes into effect with quarterly returns and reconciliations for personal income tax rate in April 1992. April, 1991, reconciliation will be based upon prior year's earned income tax rate.
- The differential for 1991 will be based upon estimated personal income tax revenue for 1990 minus earned income and nuisance taxes.
- January, 1992: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1992, for 1991 personal income tax.
- The differential for 1992 may be adjusted from 1991 base in order to correct for errors in calculations and assumptions.

January, 1993:

Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1993, for 1992 personal income tax.

The differential for 1993 will be adjusted based upon 1991 personal income tax revenue and that differential will remain in place unless there is a change in the income tax rate.

TABLE 2-2

Transition Assuming Passage of Constitutional Amendment
in November, 1989, General Election

MUNICIPAL GOVERNMENTS: (January 1 Fiscal Year)

January, 1991: Personal income tax base up to a maximum rate of .75 percent goes into effect with quarterly returns and reconciliations for personal income tax rate in April 1992. April, 1991, reconciliation will be based upon prior year's earned income tax rate.

The differential for 1991 will be based upon estimated personal income tax revenue for 1990 minus earned income and nuisance taxes.

January, 1992: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1992, for 1991 personal income tax.

The differential for 1992 may be adjusted from 1991 base in order to correct for errors in calculations and assumptions.

January, 1993: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1993, for 1992 personal income tax.

The differential for 1993 will be adjusted based upon 1991 personal income tax revenue and that differential will remain in place unless there is a change in the income tax rate.

SCHOOL DISTRICTS: (July 1 Fiscal Year)

July, 1991: Earned income tax rates may be increased up to a maximum rate of 1.5 percent, and in April, 1992, local income tax reconciliation payments will be based on the average rate of the earned income tax.

The differential for 1991-1992 will be based upon an estimate for 1991-92 total income taxes.

January, 1992: Personal income tax base goes into effect for schools up to 1.5 percent with estimated payments in April and June, 1992. Reconciliation payments will occur in 1993.

July, 1992-93: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1994.

The differential for 1992-93 may be adjusted from the 1991 differential in order to correct for errors in calculations and assumptions.

July, 1993-94:

Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1995.

The differential for 1993-94 will be adjusted based upon actual receipts for calendar year 1992. This differential will remain in place unless the rate is adjusted.

TABLE 2-3

Transition Assuming Passage of Constitutional Amendment
in May, 1990, Primary Election

SCHOOL DISTRICTS: (July 1 Fiscal Year)

- July, 1991: Earned income tax rates may be increased up to a maximum rate of 1.5 percent, and in April, 1992, local income tax reconciliation payments will be based on the average rate of the earned income tax.
- The differential for 1991-1992 will be based upon an estimate for 1991-92 total income taxes.
- January, 1992: Personal income tax base goes into effect for schools up to 1.5 percent with estimated payments in April and June, 1992. Reconciliation payments will occur in 1993.
- July, 1992-93: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1994.
- The differential for 1992-93 may be adjusted from the 1991 differential in order to correct for errors in calculations and assumptions.
- July, 1993-94: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1995.
- The differential for 1993-94 will be adjusted based upon actual receipts for calendar year 1992. This differential will remain in place unless the rate is adjusted.

MUNICIPAL GOVERNMENTS: (January 1 Fiscal Year)

- January, 1992: Personal income tax base up to a maximum rate of .75 percent goes into effect with quarterly returns and reconciliations for personal income tax rate in April, 1993. April, 1992, reconciliation will be based upon prior year's earned income tax rate.
- The differential for 1992 will be based upon estimated personal income tax revenue for 1991 minus earned income and nuisance taxes.
- January, 1993: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1993, for 1992 personal income tax.
- The differential for 1993 may be adjusted from 1992 base in order to correct for errors in calculations and assumptions.

January, 1994:

Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1994, for 1993 personal income tax.

The differential for 1994 will be adjusted based upon 1992 personal income tax revenue and that differential will remain in place unless there is a change in the income tax rate.

TABLE 2-4

Transition Assuming Passage of Constitutional Amendment
in November, 1990, General Election

MUNICIPAL GOVERNMENTS: (January 1 Fiscal Year)

January, 1992: Personal income tax base up to a maximum rate of .75 percent goes into effect with quarterly returns and reconciliations for personal income tax rate in April, 1993. April, 1992, reconciliation will be based upon prior year's earned income tax rate.

The differential for 1992 will be based upon estimated personal income tax revenue for 1991 minus earned income and nuisance taxes.

January, 1993: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1993, for 1992 personal income tax.

The differential for 1993 may be adjusted from 1992 base in order to correct for errors in calculations and assumptions.

January, 1994: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1994, for 1993 personal income tax.

The differential for 1994 will be adjusted based upon 1992 personal income tax revenue and that differential will remain in place unless there is a change in the income tax rate.

SCHOOL DISTRICTS: (July 1 Fiscal Year)

July, 1992: Earned income tax rates may be increased up to a maximum rate of 1.5 percent, and in April, 1993, local income tax reconciliation payments will be based on the average rate of the earned income tax.

The differential for 1992-1993 will be based upon an estimate for 1992-93 total income taxes.

January, 1993: Personal income tax base goes into effect for schools up to 1.5 percent with estimated payments in April and June, 1993. Reconciliation payments will occur in 1994.

July, 1993-94: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1994.

The differential for 1993-94 may be adjusted from the 1992 differential in order to correct for errors in calculations and assumptions.

July, 1994-95:

Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1996.

The differential for 1994-95 will be adjusted based upon actual receipts for calendar year 1993. This differential will remain in place unless the rate is adjusted.

TABLE 2-5

Transition Assuming Passage of Constitutional Amendment
in May, 1991, Primary Election

SCHOOL DISTRICTS: (July 1 Fiscal Year)

- July, 1992: Earned income tax rates may be increased up to a maximum rate of 1.5 percent, and in April, 1993, local income tax reconciliation payments will be based on the average rate of the earned income tax.
- The differential for 1992-1993 will be based upon an estimate for 1992-93 total income taxes.
- January, 1993: Personal income tax base goes into effect for schools up to 1.5 percent with estimated payments in April and June, 1993. Reconciliation payments will occur in 1994.
- July, 1993-94: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1995.
- The differential for 1993-94 may be adjusted from the 1992 differential in order to correct for errors in calculations and assumptions.
- July, 1994-95: Personal income tax base up to a maximum rate of 1.5 percent with quarterly payments and final reconciliation in April, 1996.
- The differential for 1994-95 will be adjusted based upon actual receipts for calendar year 1993. This differential will remain in place unless the rate is adjusted.

MUNICIPAL GOVERNMENTS: (January 1 Fiscal Year)

- January, 1993: Personal income tax base up to a maximum rate of .75 percent goes into effect with quarterly returns and reconciliations for personal income tax rate in April, 1994. April, 1993, reconciliation will be based upon prior year's earned income tax rate.
- The differential for 1993 will be based upon estimated personal income tax revenue for 1992 minus earned income and nuisance taxes.
- January, 1994: Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1994, for 1993 personal income tax.
- The differential for 1994 may be adjusted from 1993 base in order to correct for errors in calculations and assumptions.

January, 1995:

Personal income tax base up to a maximum rate of .75 percent will be in effect with quarterly payments and reconciliation in April, 1995, for 1994 personal income tax.

The differential for 1995 will be adjusted based upon 1993 personal income tax revenue and that differential will remain in place unless there is a change in the income tax rate.

TABLE 3-1

Glossary of Terms Associated with Local Taxation

Act 511 (Local Tax Enabling Act) - refers to the act of December 31, 1965, No. 511, the Local Tax Enabling Act (53 P.S. 6901 et seq.). This act is the grant of authority for all municipalities (except counties and the City of Philadelphia) and most school districts (all but the Philadelphia and Pittsburgh School Districts) to levy nonproperty taxes, such as the earned income tax, per capita tax, occupation taxes, occupational privilege tax, amusement tax, and mercantile and business privilege taxes.

Amusement Tax (Admissions Tax) - this tax is levied on the privilege of engaging in an amusement and is measured as a percentage of the admission price. For these purposes, campgrounds and health clubs are not considered places of amusement. Except in second class cities (Pittsburgh), admissions to movie theaters may not be taxed.

Act 511 authorizes an amusement tax not to exceed 10%, subject to sharing when levied by both a municipality and a school district. However, taxes on ski facilities, golf courses and bowling alleys are limited to an effective maximum rate of 4%. The Sterling Act grants the City of Philadelphia authority to levy an amusement tax (no limit stated).

Assessed Value - that portion of the market value of a property which is used as the basis for local property taxes. The assessed value is determined by applying the county's established predetermined ratio to the market value. The taxing jurisdiction's millage is then applied to the property's assessed value to calculate the property's tax bill.

Example:	\$70,000	Market Value
	x 40%	Established Predetermined Ratio
	\$28,000	Assessed Value
	x .020	Mills (20 mills)
	\$ 560	Tax Bill

Base Year - the year upon which real property market values are based for the most recent countywide reassessment of real property, or other prior year upon which the market value of all real property of the county is based.

Business Privilege Tax (see also Mercantile Tax) - this tax is levied on the privilege of doing business within a taxing district. It is measured by the gross receipts of a business. Virtually all businesses, trades, and professions where any service is offered to the public are liable for payment of the tax. Nevertheless, two broad areas are excluded under Act 511: those qualifying for a manufacturing exclusion and those subject to preemptive State taxes or license fees. However, under Act 145, the preemptive exclusion has been significantly restricted.

Act 511 provides that the business privilege tax not exceed one mill on wholesale dealers and not exceed one and one-half mills on retail dealers and restaurants (two mills in Pittsburgh). The act contains no limit for other

types of businesses. The business privilege tax may be levied with or instead of a mercantile tax.

Business Use and Occupancy Tax (BUOT) - this is a tax levied on the use of real estate for commercial or industrial activity. In the City of Philadelphia this tax is levied for school district purposes. Effective July 1, 1988, this tax was levied at the rate of \$3.85 per \$100 of assessed value of real estate, with factors for the total square feet available for use or occupancy, the square feet actually used or occupied, and the number of days of actual use or occupancy.

Coefficient of Dispersion (COD) - a standard measure of assessment uniformity which measures the variation among properties in their ratio of assessed value to sales price. If assessments are uniform, the distribution of assessments to sales ratios will cluster closely about the mean ratio. For example, a COD of 19% indicates that on average the individual ratios of assessed values to sales prices fall within a range of 19% of the arithmetic mean. Smaller coefficients of dispersions indicate less variation and therefore, more uniform assessments. The International Association of Assessing Officers recommends a coefficient of dispersion of 20% as a reasonable limit. According to 1982 statistics, the coefficient of dispersion on residential property in Pennsylvania is 42%. (See attached Table 9 from the Assessors Handbook.)

Common Level Ratio - the ratio of assessed value to current market value used generally in a county as determined by the State Tax Equalization Board. The method of calculating the common level ratio is determined by the Board. It is important to note that while the county's assessment may be predicated upon a "base year", the common level ratio is a current year statistic.

Example:

\$80,000	Base Year Market Value	\$100,000	Current Year Market Value
<u>25%</u>	Established Predetermined Ratio	<u>20%</u>	Common Level Ratio
\$20,000	Base Year Assessed Value	\$ 20,000	Current Year Assessed Value

There should be a rough equivalence between the base year and current year assessed values. If not, the property has failed to change value in the same fashion as other properties in the county. In that event, the property is over or under assessed.

Compensation - all salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered whether directly or through an agent and whether in cash or in property. The term "compensation" does not include:

1. "special" sick pay
2. disability payments
3. retirement and social security benefits
4. public assistance
5. reimbursement for expenses
6. payments by employers for benefits
7. military pay earned while serving in a combat zone

(from the Tax Reform Code of 1971, 72 P.S. 7301 (d)).

**TABLE 9 DISTRIBUTION OF TWENTY
HYPOTHETICAL SALES, CALCULATION OF
THE ARITHMETIC MEAN, AND
THE STANDARD DEVIATION**

(1)	(2)	(3)	(4)	(5)	(6)
Sale Number	Assessed Value	Sales Price	Ratio % Col. 2/Col. 3	Absolute Value of Deviation (d)	Square of Deviation (d ²)
1	10,000	20,000	50	0.5	.25
2	9,000	20,000	45	4.5	20.25
3	18,000	60,000	30	19.5	380.25
4	22,000	40,000	55	5.5	30.25
5	16,000	40,000	40	9.5	90.25
6	30,000	60,000	50	0.5	.25
7	4,000	10,000	40	9.5	90.25
8	15,000	30,000	50	0.5	.25
9	4,500	10,000	45	4.5	20.25
10	8,000	40,000	20	29.5	870.25
11	16,500	30,000	55	5.5	30.25
12	18,000	40,000	45	4.5	20.25
13	18,000	30,000	60	10.5	110.25
14	20,000	40,000	50	0.5	.25
15	24,000	40,000	60	10.5	110.25
16	10,000	25,000	40	9.5	90.25
17	5,000	10,000	50	0.5	.25
18	35,000	50,000	70	20.5	420.25
19	22,500	25,000	90	40.5	1640.25
20	13,500	30,000	45	4.5	20.25
			990	191.0	3945.00

(1) $M = \frac{\Sigma R}{N} = \frac{990}{20} = 49.5$ (M = mean ratio, N = number of sales observed)

(2) $\bar{d} = \frac{\Sigma d}{N} = \frac{191}{20} = 9.55$ (\bar{d} = mean deviation)

(3) $\frac{\bar{d}}{M} = \frac{9.55}{49.5} = .19$ or 19% (coefficient of dispersion)

(4) $s = \sqrt{\frac{\Sigma d^2}{N}} = \sqrt{\frac{3945}{20}} = \sqrt{197.25} = 14.045$ (s = standard deviation)

(5) $S_s = \frac{s}{\sqrt{N-1}} = \frac{14.045}{\sqrt{19}} = \frac{14.045}{\sqrt{4.359}} = 3.222$ (S_s = standard error of the mean)

SOURCE: PA Department of Community Affairs, Assessor's Handbook, 4th edition (Sept., 1981), p. 62.

Dedicated Millages (also Special Millages) - these are property taxes that municipalities are authorized to levy, with the money generated being pledged to a specific purpose. For example, a township may have a one mill tax for fire fighting equipment or a county may have a two mill library tax. Depending upon the particular tax, these dedicated millages may be initiated by the local officials or placed in the form of a referendum following the submission of a petition to the governing body.

Earned Income - same as "compensation" (see above). In some instances the definition of earned income may also include "net profits" (see below).

Earned Income Tax (EIT) (also Earned Income and Net Profits Tax) - the tax imposed by most municipalities and school districts across the Commonwealth on salaries, wages, etc. (so-called wage tax) and net profits pursuant to the Local Tax Enabling Act. In the case of municipalities this tax is levied on both residents and nonresidents, subject to crediting in the nonresident's "home municipality" (except in the case of the Sterling Act in Southeastern Pennsylvania). School districts are authorized to tax the earned income of residents, only.

Act 511 limits this tax to 1%, to be shared by the municipality and school district. Home rule jurisdictions may exceed this statutory limit on residents. Earned income taxes are imposed in separate laws for the City of Philadelphia (Sterling Act) and the Pittsburgh School District (Public School Code), which permit rates higher than 1%.

Local Tax Enabling Act - Same as Act 511 (see above).

Market Value (also Actual Value or Fair Market Value) - an approximation of the value of a piece of real property on the commercial market. For assessment purposes, this valuation could be in the current year or in a previous "base year". In determining actual value, the assessor must consider three factors in conjunction with one another:

- (1) the income generated from the property;
- (2) the reproduction or replacement cost of the property, less depreciation and all forms of obsolescence; and
- (3) comparable sales of similar properties.

The selling price of a property may be considered, but is not controlling.

Mechanical Devices Tax - this is an amusement-type tax levied against coin-operated mechanical devices (jukeboxes, pinball machines, video games, etc.). The tax is measured by the gross receipts from such machines, but cannot exceed the sum of 10% of each individual price to activate the machine.

Mercantile Tax (see also Business Privilege Tax) - this tax is levied on the privilege of doing business within a taxing district. It is measured by the gross receipts of a business. Virtually all businesses are liable for payment of the tax. Nonetheless, two broad areas are excluded under Act 511: those qualifying for a manufacturing exclusion and those subject to preemptive State taxes or license fees. However, under Act 145 the preemptive exclusion has been significantly restricted. According to the Department of Community Affairs, differences between a mercantile tax and a business privilege tax are more semantic than real and reflect differences in local ordinances.

Act 511 provides that the mercantile tax not exceed one mill on wholesale dealers and not exceed one and one half mills on retail dealers and restaurants (two mills in Pittsburgh). The act contains no limit for other types of businesses, such as providers of services. The mercantile tax may be levied with or instead of a business privilege tax.

Net Profits - the net income from the operation of a business, profession, or other activity (except corporations, for local tax purposes) after providing for all costs and expenses incurred in the conduct thereof, but without the deduction of any income taxes.

Net Profits Tax - a tax levied on the net profits of an individual. This is usually merely a component of an earned income (and net profits) tax. However, as provided in Act 145, Philadelphia would be permitted to continue to levy a separate net profits tax.

Occupation Tax - this tax is levied on the value of an individual's occupation, as if the occupation were a form of property. This tax may be levied at a flat rate (not to exceed \$10) or on a millage basis (see occupational assessment tax, below). This tax may be levied under the authority of Act 511 (both versions) or the various municipal codes (millage basis, only).

Occupational Assessment Tax - this is a tax on occupations calculated on a millage basis. The assessment laws include professions, occupations, and trades as "subjects of taxation". Therefore, it is the duty of the county assessment office to assign a value to the relative worth of a particular occupation. In most cases the counties further group these professions into classifications with similar occupations.

A sample occupational assessment tax schedule could be as follows:

Judges, surgeons, superintendents	\$1,000
Accountants, attorneys, engineers	700
Skilled laborers, government employees	500
Welders, painters, masons	400
Barbers, butchers, beauticians	300
Waitresses, laborers, factory workers	200
Housewives, students, invalids	0

The taxing district would then apply its millage against the above figure to determine the individual's tax liability.

The municipal codes authorize the various local governments to levy a tax against occupations in the same fashion as the property tax. In fact, when levied pursuant to the municipal codes, the occupational assessment tax is subject to the same maximum millage rate as is imposed on real property. However, the Local Tax Enabling Act (53 P.S. 6901 et seq.) also provides for the imposition of a tax on occupations but without specifying a maximum millage rate.

Occupational Privilege Tax (OPT) - this tax is imposed on the "privilege" of working in a given municipality. The tax is commonly referred to as a "commuter tax", but that may be a misnomer, inasmuch as the tax is levied on both residents and nonresidents who are employed within the taxing district. Under Act 511 this tax may be imposed at a rate not to exceed \$10, subject to sharing between the municipality and school district.

Parking Lot Tax - this is a tax levied upon the gross receipts of commercial parking lots. This tax is levied by the City of Philadelphia pursuant to the Sterling Act and by the City of Pittsburgh under Act 511.

Per Capita Tax - a flat rate tax generally levied upon each person within the taxing district. The tax has no connection with employment, income, voting rights, or any other factor except residence within the community. Commonly referred to as a "head tax", it is derived from the Latin words, "per", meaning "by", and "capita", meaning "head". It is sometimes called a residence or poll tax and is levied equally on all adult residents or inhabitants of the taxing jurisdiction.

The tax is authorized in the respective codes for second through fourth class school districts, for third class cities (referred to as a residence tax), and for fourth to eighth class counties as an alternative to the occupation tax, all at a maximum rate of \$5. Those political subdivisions under the authority of the Local Tax Enabling Act may levy an additional per capita tax at a maximum rate of \$10. Where a coterminous municipality and school district wish to levy this tax, the maximum rate must be shared between them.

Personal Income - this term usually encompasses the classes of income set forth in Section 303 of the Tax Reform Code of 1971, as follows:

1. Compensation (see definition of Compensation)
2. Net profits
3. Net gain or income from the disposition of property
4. Net gain or income from rents, royalties, patents or copyrights
5. Dividends
6. Interest (except on Federal, State or local "tax-free" obligations)
7. Gambling and lottery winnings (except the Pennsylvania State Lottery)
8. Net gains or income derived through certain estates or trusts

Personal Income Tax (PIT) - a tax on the "personal income" (see above) of individuals. Such a tax is currently levied by the Commonwealth at the rate of 2.1%. Pursuant to Act 145, this tax is extended to municipalities and school districts.

Personal Property Tax (Intangible Personal Property Tax) - this is a tax on mortgages, other interest bearing obligations and accounts, certain public loans, corporate loans (not subject to the corporate loan tax), and shares of stock (not subject to the capital stock or bank shares tax). To be clear, this tax is levied on the actual value of the financial instrument, not the income derived from the instrument. This tax is authorized for counties, first class cities (Philadelphia), second class cities (Pittsburgh) and first class A school districts (Pittsburgh School District).

Real Estate Tax (Property Tax) - the chief source of tax revenue for local governments in the United States, generally, and in Pennsylvania, specifically, is the tax on real estate and the improvements thereto.

This tax is administered by the county, whose assessors assign a value to the land and buildings on each property in the county (see "assessed value" above). A millage rate (for the county, school district and municipality, respectively) is then applied to determine a tax bill. The assessment laws set forth subjects of taxation, exemptions from taxation, and the appeals process.

Realty Transfer Tax (RTT) (Real Estate Transfer Tax or Deed Transfer Tax) - this is a tax on the transfer of real property within a taxing district. Under Act 511, the tax is authorized at a rate not to exceed 1% of the sales price of the property. This 1% is subject to sharing between the municipality and the school district. As with other taxes, home rule municipalities may exceed the statutory limit. There is also a 1% State Realty Transfer Tax authorized in the Tax Reform Code of 1971. In both the State and local levy there are numerous exempt transfers.

State Tax Equalization Board (STEB) - the Board created by the act of 1947 (P.L. 1046, No. 447), as an independent administrative board. This Board consists of three members, appointed by the Governor for four-year terms. The basic function of this Board is to equalize real property assessments Statewide for use in calculation of the Equalized Subsidy for Basic Education. In recent years this Board has been given other assessment-related functions, significantly the calculation of the common level ratio for use by counties in the appeals process (Act 267 of 1982) and the certification of county assessors (Act 192 of 1986).

Sterling Act - this is the act of August, 1932, which provides the City of Philadelphia with its taxing power. According to the Department of Community Affairs, this act was the earliest, broad grant of nonproperty taxing power to any political subdivision in the Commonwealth. Rather than listing individual taxes and maximum rates, this act grants City Council the power to enact "such taxes on persons, transactions, occupations, privileges, subjects and personal property, within the limits of such city." The Sterling Act was eventually followed in 1963 by an act, referred to as the Little Sterling Act, which authorizes the Philadelphia School District to impose a tax on certain unearned income of residents of the District.

Unearned Income - this is generally considered to be those components of personal income, other than compensation and net profits. The largest part of "unearned income" would consist of interest and dividends. This generally does not include pensions, disability pay, public assistance, etc.

The source of many of the aforementioned definitions is the Taxation Manual, 4th edition (March, 1986), which is published periodically by the Pennsylvania Department of Community Affairs.

TABLE 4-1

Quick Reference Table

Local Taxation In Pennsylvania - Maximum Rates
Specified Where Applicable

<u>Revenue Sources</u>	<u>Act 145 of 1988 Provisions</u>	<u>Act 511 and other Non-Real Estate Tax Provisions</u>
Income Tax	<p>Municipality $\frac{1}{2}$ -</p> <p>resident - .75% Personal Income Tax (PIT)</p> <p>nonresident - .75% EIT (applicable to only several qualified municipalities)</p> <p>School District $\frac{1}{2}$ -</p> <p>resident - 1.5% PIT</p> <p>Pittsburgh School District -</p> <p>resident - 2% PIT</p> <p>Rate limits not applicable to residents of home rule municipalities.</p> <p>$\frac{1}{2}$ 25% reduction in property taxes mandated, with exceptions.</p>	<p>Tax is shared. Limited to 1%</p> <p>Municipality -</p> <p>resident - 1% or .5% if shared Earned Income Tax (EIT)</p> <p>nonresident - 1% EIT</p> <p>School District -</p> <p>resident - 1% or .5% if shared EIT</p> <p>Pittsburgh School District -</p> <p>resident - 2% EIT</p> <p>Rate limits not applicable to residents of home rule municipalities.</p>
Residential Real Property Tax Reduction	<p>Revenue from PIT shall first replace all revenue from repealed nuisance and earned income taxes. Excess revenue raised from PIT shall be used to reduce millage on residential real estate taxes.</p>	N/A
County Sales and Use Tax	<p>Allegheny and Philadelphia Counties - optional at .5% or 1%.</p> <p>All other Counties - optional at rate of .5%</p> <p>All counties - conditionally shared with municipality; 25% of revenues available to municipalities which have adopted ordinances requesting county to levy the tax. Distribution formula is local tax collections weighted by relative tax burden for all municipalities in the county.</p>	N/A

Revenue SourcesAct 145 of 1988 ProvisionsAct 511 and other Non-Real
Estate Tax Provisions

Mercantile/Business
Privilege Tax

Municipal/School District ^{2/}
1 1/2 mill retail
1 mill wholesale
No limit on other businesses.
Pittsburgh/Pittsburgh School District
2 mill retail
1 mill wholesale
^{2/}upon the effective date of Act 145,
tax abolished if not levied by 11/30/88

Same as to limits, subject
to sharing.

Admission or Amusement
Tax

Municipality -
10% limit overall
4% - ski facilities (lift ticket) ^{3/}
4% - golf courses (green fees) ^{3/}
4% - bowling alleys (fees) ^{2/}
School District - upon the effective date
of Act 145, may levy tax if collected
before 11/30/88 but only at rates
effective on 11/30/88
Combined Maximum Rate - 10%
^{3/}4% (10% of 40% base)

Same as to limits, subject
to sharing.

Municipal Service Tax

\$20 per year
(for municipalities only)

\$10 Occupational Privilege
Tax (which may be levied
by both municipalities and
school districts, subject
to sharing)

Real Estate Transfer Tax

Municipality - 1% or effective
rate if school district
levied it by 11/30/88
School District - effective rate
if levied by 11/30/88
Combined Maximum Rate - 1%

1% tax, subject to sharing

Miscellaneous Act 511
Taxes

Grandfathered as to rates and
subjects as of 12/31/87.

Parking lot tax, mobile
home tax, real estate
occupancy tax, sign tax,
lease rental tax, recrea-
tional use tax, etc.

Sterling Act - Philadelphia

Resident - 4.5% EIT (cap expires in
4 years) 4.5% unearned income tax
(on state base with cap to expire
in 4 years).
Nonresident - 3.95% EIT (cap does not
expire)
Net profits tax - 4.5% (cap expires
in 4 years)

Resident - 4.96% EIT
4.96% unearned income tax
(base determined by
Philadelphia).
Nonresident - 4.3125% EIT
Net Profits Tax - 4.96%

Revenue SourcesAct 145 of 1988 ProvisionsAct 511 and other Non-Real
Estate Tax Provisions

	<p>Payments to political subdivision of Philadelphia nonresident. 0.25% of nonresident income paid by Philadelphia to municipality and school district of residence if a local personal income tax of at least is 0.25% imposed. SEE NOTE C. This provision is not to be confused with state payments to Philadelphia regarding the realty transfer tax (see below).</p>	
Realty Transfer Tax Payment to Philadelphia	Philadelphia - receives separate payment of 50% of State's 1% Real Estate Transfer Tax collected within Philadelphia.	N/A
Quality Assessment Loan	Counties (including Philadelphia) - up to \$40/parcel.	N/A
Quality Assessment Grants (if coefficient of dispersion is 20% or less)	Counties receive 25% of State's 1% Real Estate Transfer Tax collected within the county. Philadelphia not eligible.	N/A
Municipal Overburden Assistance	City in county (including Philadelphia) receives 1/8 of State's 1% Real Estate Transfer Tax collected in county in accordance with distribution formula to be determined by future legislation.	N/A
Municipal Aid Program	\$70 million in transitional aid to be distributed to municipalities in accordance with distribution formula to be determined by future legislation.	N/A
Local Government Capital Project Loan Fund (2% interest rate) (excludes cities)	Equipment - 50% of project or \$50,000 Facilities - 50% of project or \$100,000	N/A
Distressed Municipalities Grant (loss of 10% or more in municipal real estate tax collections due to business bankruptcy)	First year - grant equal to 100% loss of revenue associated with bankruptcy of business. Second year - grant equal to 50% loss of revenue associated with bankruptcy of business.	N/A

<u>Revenue Sources</u>	<u>Act 145 of 1988 Provisions</u>	<u>Act 511 and other Non-Real Estate Tax Provisions</u>
Mass Transit Grants	50% of the local match	N/A
<u>Other Provisions</u>		
Nuisance Taxes	Occupational assessment, occupational privilege, and per capita repealed. County personal property tax phased out over three years.	These taxes may be levied under current law.
Senior Citizen and Low Income Exemption	Senior citizens may be exempted from PIT and municipal services tax if total income from whatever source derived is \$15,000 or less (local option).	N/A
	All persons whose earnings (including income from Pennsylvania and United States obligations but excluding certain health and welfare, retirement, and other payments) are \$6,300 or less may be exempted from PIT and municipal services tax (local option).	Local taxing districts may exempt persons whose income from all sources does not exceed \$5,000 per year from payment of per capita, occupation, occupational privilege, and earned income taxes.
Senior Citizens Property Tax Deferral	Senior citizens may defer <u>increases</u> in real property taxes if total income is \$15,000 or less (local option).	N/A
Anti-Windfall Limitations	<u>Counties and municipalities:</u> First year - greater of: (1) 1985 general revenue sharing; (2) average general tax increase for previous five years; and (3) average increase in consumer price index for previous two years. Second through fourth years - greater of: (1) average annual tax revenue increase for previous five years; or (2) average growth in CPI for previous two years. All caps subject to certain exemptions. <u>School districts:</u> First year - greater of: (1) average annual tax revenue increase for previous five years plus 2% but no more than 8%; or (2) average growth in CPI for previous two years. Second through fourth years - greater of: (1) average annual tax revenue increase for previous five years; or (2) average growth in CPI for previous two years. All caps subject to certain exemptions.	N/A

Revenue Sources

Act 145 of 1988 Provisions

Act 511 and other Non-Real
Estate Tax Provisions

In-Lieu Payments

Mandatory program of in-lieu-of tax payments to taxing districts for Commonwealth property leased by private entities.

N/A

Effective Date

Generally, first fiscal year 12 months after ratification of constitutional amendment; several specific provisions are effective immediately.

N/A

- (a) Before imposing any new taxes under Act 145 of 1988, a taxing jurisdiction will be required to have a local tax study commission. The commission will be composed of five to nine members of the community, none of which may be officials or employees of the taxing jurisdiction. The commission is required to hold at least one public hearing and, within 60 days, make nonbinding recommendations to the governing body. Upon completion of the fourth year of revenue limitations, a local tax study commission shall be reconstituted to review the impact of the new local tax plan and make further recommendations.
- (b) Counties and municipalities adopting home rule charters may continue to set rates higher than the limits provided in state law for property taxes and for personal taxes levied on residents. They may not create new subjects of taxation. Therefore, notwithstanding Act 145, home rule municipalities may expand rates applicable to the personal income tax, real estate transfer tax and other taxes on their residents at their discretion.
- (c) The Sterling Act gives Philadelphia the power to levy taxes on any privilege, transaction, subject or personal property not subject to a state tax or license. There are no limits on the rate of taxation under the Act. Each municipality and school district levying a personal income tax of at least 0.25% will receive payments from Philadelphia on a quarterly basis in the amount of 0.25% of wages earned by their residents working in the city. Payments will be made by the city only after receipt of funds for this program from the Commonwealth. Funds transferred from the Commonwealth to Philadelphia for this program will be derived from 50% of the state portion of the realty transfer tax collected in the five southeastern counties. Suburban residents may claim taxes paid to Philadelphia on the wages earned in Philadelphia as a credit against taxes owed to their home municipality or school district. Earned income taxes paid to Philadelphia by non-residents may not be claimed as credits against income earned outside the city or any other income.

'LOCAL TAX REFORM ACT'
Act of 1988, No. 145

'LOCAL TAX REFORM ACT'
Act of 1988, No. 145

AN ACT

Providing for the reduction of real property taxes and the elimination of other taxes; authorizing counties and political subdivisions to impose certain taxes; providing for the levying, assessment and collection of such taxes; imposing limitations on tax revenues; establishing a program to assist political subdivisions of individuals paying nonresident earned income taxes; establishing a grant and loan program for assessment quality and improvements; establishing a Local Tax Reform Fund and Quality Assessment Revolving Loan Account; providing for a senior citizens real property tax deferral program; providing for the powers and duties of the Department of Community Affairs, the Department of Revenue, the Secretary of the Commonwealth, the Legislative Reference Bureau and the State Tax Equalization Board; imposing penalties; and making repeals.

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

CHAPTER 1
GENERAL PROVISIONS

Section 101. Short title.

This act shall be known and may be cited as the Local Tax Reform Act.

Section 102. Definitions.

The following words and phrases when used in this act shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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

"Board of county commissioners." Includes the successor in function to the board of county commissioners in a county which has adopted a home rule charter under the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law, but does not include the city council of a city of the first class.

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

"Compensation." The classes of income included within the definition of "compensation" set forth in section 301 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and upon which are imposed a personal income tax by the Commonwealth.

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

"County." A county-level municipality within this Commonwealth, regardless of classification. The term includes a county which has adopted a home rule charter or optional plan of government under the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law. The term does not include a county of the first class.

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

"Department." The Department of Community Affairs of the Commonwealth.

"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 because 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 any place where the business or association is conducting or engaging in a business for profit within a political subdivision.

"Employer." A person, association, corporation, governmental

unit or other entity employing one or more persons, other than domestic servants for compensation.

"Governing body." City council, borough council, incorporated town council, board of township commissioners, board of township supervisors, governing council of a home rule municipality or optional plan municipality, governing council of any similar general purpose unit of government which may hereafter be created by statute or board of school directors of a school district.

"Home rule municipality." A city, borough, incorporated town or township which has adopted a home rule charter under the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

"Municipality." A city of the second class, city of the second class A, city of the third class, borough, incorporated town, township of the first class, township of the second class, home rule municipality, optional plan municipality, optional form municipality or similar general purpose unit of government which may hereafter be created by statute, except a city of the first class.

"Net profits." The class of income described as "net profits" in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and upon which is imposed a personal income tax by the Commonwealth.

"Nonresident." A person, association or other entity domiciled outside the political subdivision.

"Optional form municipality." A city which has adopted an optional form of government under the act of July 15, 1957 (P.L.901, No.399), known as the Optional Third Class City Charter Law.

"Optional plan municipality." A city, borough, incorporated town or township which has adopted an optional plan of government under the act of April 13, 1972 (P.L.184, No.62), known as the Home Rule Charter and Optional Plans Law.

"Ordinance." Includes a resolution adopted by the board of directors of a school district under the authority of this act.

"Person" or "individual." A natural person.

"Personal income." The classes of income enumerated in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, and upon which is imposed a personal income tax by the Commonwealth.

"Political subdivision." A municipality or school district.

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

"Register." The register provided for in Chapter 11.

"Resident." A person, association, corporation or other entity:

(1) living in or maintaining a permanent or fixed place of abode in a political subdivision; or

(2) conducting or engaging in a business for profit within a political subdivision.

"School district." A school district of the second class, third class or fourth class, including any independent school district.

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

"Tax officer." The person, public employee or private agency designated by a governing body to collect and administer a tax imposed under this act, and the treasurer of a school district

of the first class A.

"Taxpayer." A person, association or other entity required under this act to file a tax return or to pay a tax.

Section 103. Scope.

(a) General rule.--Except as provided in subsection (b) and Chapter 13, it is the intent of this act to confer upon each county, political subdivision or school district of the first class A the power to levy, assess and collect taxes only upon the subjects of taxation set forth in this act.

(b) Real property taxes.--Except as provided in Chapters 3 and 27, this act does not affect the powers of a county, political subdivision or school district of the first class A to levy, assess and collect taxes on real property.

Section 104. Preemption.

No act of the General Assembly heretofore or hereinafter enacted shall vacate or preempt any ordinance passed or adopted under the authority of this act, or any other act, providing authority for the imposition of a tax by a county, political subdivision and a school district of the first class A, unless the act of the General Assembly expressly vacates or preempts the authority to pass or adopt such ordinances.

Section 105. Existing ordinances and resolutions.

This act supersedes, to the extent of inconsistency, any inconsistent ordinance or resolution of a county; a political subdivision, including any city of the first class; or a school district of the first class or a school district of the first class A.

Section 106. Rates of taxation in home rule municipalities.

Except as provided in sections 322 and 533(b), nothing in this act shall be construed to restrict or impair the right and authority of the governing body of a home rule municipality to fix the rate of taxation to be imposed on the residents of that home rule municipality.

CHAPTER 3 REDUCTIONS AND LIMITATIONS

SUBCHAPTER A RESIDENTIAL REAL PROPERTY TAX REDUCTION

Section 301. Residential real property tax reduction.

(a) General rule.--Any political subdivision which levies, assesses and collects a tax on personal income under section 511 shall use the revenues derived from such tax to reduce the millage rate for residential real property by at least 25% in the first fiscal year in which the taxes authorized under section 511 are levied, assessed and collected.

(b) Initial imposition.--When a political subdivision imposes a tax on personal income for the first time, the revenue loss from the millage rate reduction on residential real property shall equal the difference between the revenues derived from the tax on personal income and the revenues derived in the preceding year from the taxes prohibited under section 501(c).

(c) Subsequent rate changes.--When a political subdivision changes the rate of tax on personal income, the revenue change from the millage rate change on residential real property shall equal the difference between the revenues derived from the tax on personal income at the changed rate and the revenues derived from the tax on personal income at the rate in the preceding

year.

(d) Exceptions.--The provisions of subsection (a) shall not apply in any of the following circumstances:

(1) A municipality which is declared a distressed municipality under the act of July 10, 1987 (P.L.246, No.47), known as the Financially Distressed Municipalities Act. This exception shall only continue while the municipality is distressed.

(2) A political subdivision which levies a tax under section 511 at the maximum rate.

(3) A political subdivision which adopts the recommendation of the local tax study commission to reduce the millage rate of residential real property at a level less than 25%.

(e) Home rule municipalities.--A home rule municipality may adopt the provisions of this section to the extent determined by the home rule municipality.

Section 302. Residential rental property.

(a) Legislative intent.--The General Assembly recognizes that the rent a residential tenant is paying reflects in part the real property taxes that the landlord is paying on the real property rented by the tenant. If, as a result of the implementation of this subchapter, a landlord receives a reduction in the real property taxes on the real property rented by the tenant, the General Assembly intends, by the provisions of this section, that the tax reduction likewise shall be reflected in the rent.

(b) Implementation.--Each landlord shall adjust rental payments required of each residential tenant in an amount equal to the reduction of taxes on residential real property under section 301 attributable to that tenant's unit.

(c) Damages.--A landlord who does not adjust the rental payments as provided for under subsection (b) shall be liable for treble damages in a civil action. The civil action shall be instituted by a tenant within one year of the reduction in residential real property taxes. The landlord shall have the burden of proving that the rental payments were adjusted as provided for in subsection (b).

Section 303. Annual report.

Each municipality shall report to the department, and each school district shall report to the Department of Education, information relating to the implementation of this chapter as may be required by each respective department on the annual financial report.

Section 304. Regulations and guidelines.

(a) Regulations.--The department may adopt regulations for the implementation of the provisions of this chapter.

(b) Guidelines.--The department shall publish in the Pennsylvania Bulletin, on or before May 1 and November 1 of each year, guidelines for the implementation of this chapter by political subdivisions.

Section 305. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Crops, livestock and livestock products." Commodities, including, but not limited to:

(1) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes and dry beans.

(2) Fruits, including apples, peaches, grapes, cherries and berries.

(3) Vegetables, including tomatoes, snap beans, cabbage, carrots, beets, onions and mushrooms.

(4) Horticultural specialties, including nursery stock, ornamental shrubs, ornamental trees and flowers.

(5) Cattle, sheep, hogs, goats, horses, poultry, furbearing animals, milk, eggs and furs.

(6) Timber, wood and other wood products derived from trees.

(7) Aquatic plants and animals and their by-products.

"Farm residence." The real property of a farm used for residential purposes, including land used for the production for commercial purposes of crops, livestock and livestock products and land which is held out of production for any Federal or State soil bank, conservation or surplus agricultural product reduction program. The term does not include land used for processing or retail merchandising of crops, livestock or livestock products.

"Immediate family member." A spouse, child, stepchild, parent, stepparent, grandparent, brother, stepbrother, sister, stepsister or like relative-in-law of an owner of real property.

"Nonresidential real property." Real property which is not residential real property.

"Owner." A natural person who owns real property in fee.

"Primary residence." The actual dwelling place of a natural person which is occupied with the intent to make it a fixed and permanent home.

"Real property." Land and all buildings and improvements thereon.

"Residential real property." Real property which meets one or more of the following:

(1) Is used and occupied as the primary residence of the owner.

(2) Is the portion of a multiple-use property which is used and occupied as the primary residence of the owner.

(3) Is a farm residence which is used and occupied as the primary residence of the owner or immediate family member.

(4) Is the primary residence for an immediate family member.

(5) Is leased by the owner to tenants for residential use as a primary residence.

SUBCHAPTER B LIMITATIONS ON TAX LEVIES

Section 321. General rule.

The tax revenues of a county, municipality or school district shall be limited in the manner provided in section 322. Tax revenues which exceed the limitations contained in section 322 shall be used to reduce real property taxes in the manner provided in section 323.

Section 322. Limitations.

(a) Municipalities and counties.--Except as provided in subsection (d), taxes levied by a municipality or county are limited as follows:

(1) For the first fiscal year beginning after the effective date of this act, the increase in the aggregate tax

revenues over the aggregate tax revenues for the fiscal year beginning during the preceding calendar year may not exceed the greater of the following:

(i) The amount received under Federal general revenue sharing for the fiscal year beginning during 1985.

(ii) The average percentage of the annual increase in aggregate tax revenues collected over the immediately preceding five fiscal years.

(iii) The average annual percentage increase in the Consumer Price Index for All Urban Consumers, United States City Average, All Items, for the 24-month period immediately preceding the start of that fiscal year, for which statistics are available, and as determined and published by the department.

(2) For the second, third and fourth fiscal years beginning after the effective date of this act, the increase in the aggregate tax revenues over the aggregate tax revenues for the fiscal year beginning during the preceding calendar year may not exceed the greater of the following:

(i) The average percentage of the annual increase in aggregate tax revenues collected over the immediately preceding five fiscal years.

(ii) The average annual percentage increase in the Consumer Price Index for All Urban Consumers, United States City Average, All Items, for the 24-month period immediately preceding the start of that fiscal year, for which statistics are available, and as determined and published by the department.

(b) School districts.--Except as provided in subsection (e), taxes levied by a school district are limited as follows:

(1) For the first fiscal year beginning after the effective date of this act are limited to an increase in the aggregate tax revenues over the aggregate tax revenues for the fiscal year beginning during the preceding calendar year which does not exceed the greater of the following:

(i) The sum of the average percentage of the annual increase in aggregate tax revenues collected over the immediately preceding five fiscal years and 2% but in no case more than 8%.

(ii) The average annual percentage increase in the Consumer Price Index for All Urban Consumers, United States City Average, All Items, for the 24-month period immediately preceding the start of that fiscal year, for which statistics are available, as determined and published by the department.

(2) For the second, third and fourth fiscal years beginning after the effective date of this act are limited to an increase in the aggregate tax revenues over the aggregate tax revenues for the fiscal year beginning during the preceding calendar year which does not exceed the greater of the following:

(i) The sum of the average percentage of the annual increase in aggregate tax revenues collected over the immediately preceding five fiscal years.

(ii) The average annual percentage increase in the Consumer Price Index for All Urban Consumers, United States City Average, All Items, for the 24-month period immediately preceding the start of that fiscal year, for

which statistics are available, as determined and published by the department.

(c) Application.--The limitations contained in this section, unless expressly repealed, apply to every tax levied.

(d) Exclusions for municipalities and counties.--

(1) The limitations contained in subsection (a) do not apply to taxes levied for emergency services utilized during an emergency declared to be a disaster by the Governor; nor to taxes levied under section 401 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act; nor to taxes levied to pay interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or any prior or subsequent act governing the incurrence of indebtedness by a municipality.

(2) The limitations shall not apply to any municipality which is declared to be a distressed municipality under the provisions of the act of July 10, 1987 (P.L.246, No.47), known as the Financially Distressed Municipalities Act.

(e) Exclusions for school districts.--The limitations contained in subsection (b) do not apply to taxes levied to cover:

(1) Interest and principal on any indebtedness incurred pursuant to the Local Government Unit Debt Act, or any prior or subsequent act governing the incurrence of indebtedness by a school district.

(2) An increase in costs of personnel, resources or facilities directly attributable to an increase in enrollment.

(3) Increases in pension fund requirements which are in excess of the annual average increase over the immediately preceding five fiscal years.

(f) Court order.--The limitations contained in this section may be exceeded by order of the court of common pleas, upon petition of the governing body or board of county commissioners showing due cause. A petition under this subsection must be made by resolution by majority action of the governing body or board of county commissioners.

Section 323. Real property tax refund.

(a) Restricted account.--Each county, municipality or school district shall establish a restricted account to be known as the Local Government Tax Trust Fund. Any interest earned on moneys on deposit in the Local Government Tax Trust Fund shall be credited to the Local Government Tax Trust Fund. Moneys on deposit in the Local Government Tax Trust Fund shall be used exclusively to reduce real property taxes in the manner provided in this section and shall not be used for any interfund transfers or loans.

(b) Deposit of excess revenues.--If in any year aggregate tax revenues exceed the limitations imposed by section 322, the treasurer of the county, municipality or school district shall deposit the excess aggregate tax revenues into the Local Government Tax Trust Fund no later than 90 days following the attainment of such limitation.

(c) Annual audit.--The annual audit required by law for the county, municipality or school district shall include a determination of compliance with the limitations contained in section 322 and the deposit requirements of subsection (b). A

determination of noncompliance with the requirements of subsection (b) shall subject the treasurer to surcharge as provided by law.

(d) Refunds.--The treasurer shall refund to every real property taxpayer a pro rata share of the entire balance of moneys on deposit in the Local Government Tax Trust Fund without charge, fee or expense within 90 days after the balance exceeds 5% of the total tax revenues of the preceding year of the county, municipality or school district. The share of the refund to each taxpayer shall be determined by dividing the assessed value of the real property of the taxpayer by the total assessed value of all real property within the county, municipality or school district.

(e) Disposition of remaining balance.--If, after the expiration of the four years under section 322, a balance remains in the Local Government Tax Trust Fund, the treasurer shall refund to every real property taxpayer a pro rata share of the entire balance in that fund without charge, fee or expense.

(f) Reporting.--Each county and municipality shall report to the department in the annual report and each school district shall report to the Department of Education in its annual report the aggregate tax revenues received, the maximum tax revenues allowable under section 322, and the balance of moneys on deposit in the Local Government Tax Trust Fund at the end of the preceding fiscal year. If applicable, the report shall also contain a description of the manner in which refunds required by subsections (d) and (e) were paid.

Section 324. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Aggregate tax revenues." The total revenue from the sum of the following:

(1) All revenues from county, municipal or school district taxes levied as provided by law, except revenue from taxes levied to pay interest and principal on any indebtedness incurred pursuant to the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, or any prior or subsequent act governing the incurrence of indebtedness by a municipality or a school district.

(2) All revenues from the distribution to political subdivisions under sections 525, 3102, 3103, 3104, 3105 and 3106 and the distribution to counties under sections 2122, 3103 and 3106.

CHAPTER 5 SUBJECTS OF TAXATION

SUBCHAPTER A TAX AUTHORIZATION

Section 501. General tax authorization.

(a) Municipalities.--Except as provided in subsection (c), each municipality shall have the power and may, by ordinance, levy, assess and collect or provide for the levying, assessment and collection of such taxes on the subjects specified in this chapter for general revenue purposes as it shall determine on any or all of the subjects of taxation set forth in this act within the geographical limits of the municipality.

(b) School districts.--Except as provided in subsection (c),

each school district shall have the power and may, by resolution, levy, assess and collect or provide for the levying, assessment and collection of a tax for general revenue purposes as it shall determine on personal income of the residents of the school district and such other taxes that are specifically permitted under this chapter.

(c) Exclusions.--No county or political subdivision shall have any power or authority to levy, assess or collect:

(1) A tax based upon a flat rate or on a millage rate on an assessed valuation of a particular trade, occupation or profession, commonly known as an occupation tax.

(2) A tax at a set or flat rate upon persons employed within the taxing district, commonly known as an occupational privilege tax.

(3) A per capita, poll, residence or similar head tax.

(4) A tax on personal property.

(5) The earned income tax previously levied under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, unless specifically authorized under this act.

Section 502. Continuity of tax.

Every tax levied under the provisions of this act 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.

SUBCHAPTER B PERSONAL INCOME TAX

Section 511. Personal income tax.

(a) Municipalities.--A municipality shall have the power to levy, assess and collect a tax on:

(1) The personal income of resident taxpayers of the municipality up to a maximum rate of 0.75%.

(2) The compensation and net profits of nonresidents earned within the municipality at the nonresident earned income tax rate in effect in the municipality on January 1, 1988, under the authority of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, but in no case higher than the rate in paragraph (1). The municipality shall certify to the department before the levy and assessment of such tax that the revenue from the tax levied and assessed on the earned income of nonresidents of the municipality under the authority of The Local Tax Enabling Act, for the fiscal year beginning on January 1, 1988, exceeds 7.5% of the revenue from all taxes levied and assessed by the municipality for the fiscal year beginning on January 1, 1988.

(b) School districts.--Each school district shall have the power to levy, assess and collect a tax on personal income of resident taxpayers of the school district up to a maximum rate of 1.5%.

Section 512. Exemption of low-income persons.

(a) Low-income exemption.--Each political subdivision shall have the power and may exempt any person who qualifies under the provisions of section 304 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, from payment of any or all of the tax imposed under section 511.

(b) Special hardship exemption.--Each political subdivision

shall have the power and may exempt persons who qualify as claimants under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, and who have household income as defined in the Senior Citizens Rebate and Assistance Act which is equal to or less than the maximum income requirement necessary to qualify for a property tax rebate or rent rebate in lieu of property taxes or rent due pursuant to the Senior Citizens Rebate and Assistance Act, from the payment of any tax on personal income.

(c) Regulations.--Each political subdivision may adopt regulations for the processing of claims for these exemptions. Section 513. Credits.

(a) Domestic tax credit.--

(1) A political subdivision imposing a tax pursuant to section 511 on a nonresident who is domiciled in this Commonwealth shall credit the nonresident with the amount of tax on personal income or earned income imposed under section 511 or Chapter 13 or 15 and paid by the nonresident to the political subdivision, including a city and school district of the first class and a school district of the first class A where the nonresident is domiciled.

(2) A political subdivision imposing a tax pursuant to section 511 on a nonresident who is not domiciled in this Commonwealth shall credit the nonresident with the amount of tax on personal income or earned income paid by the nonresident to the State or political subdivision of the State where the nonresident is domiciled if the residents of the political subdivision granting the credit in this Commonwealth receive a credit or deduction of a similar kind to a like degree from any tax on personal income imposed by the State or political subdivision of the State where the nonresident is domiciled.

(3) No credit shall be allowed against any tax on personal income imposed under this act to the extent of the amount of credit taken for the same period by the taxpayer against any income tax imposed under section 314 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, on account of taxes imposed on income by another state or by a political subdivision of another state.

(4) A political subdivision imposing a tax pursuant to section 511 on a resident who has paid a wage tax on earned income to a city of the first class as a nonresident:

(i) Shall credit that tax payment against any tax imposed by a political subdivision on such income.

(ii) Shall not credit that tax payment against a tax on compensation earned outside the city of the first class or any other income.

(b) Foreign tax credit.--A political subdivision imposing a tax under section 511 on a taxpayer who is domiciled in this Commonwealth may credit the taxpayer with such percentage of the excess of the tax imposed upon the personal income of the taxpayer by another state or a political subdivision of another state over the personal income tax imposed on the taxpayer under the Tax Reform Code of 1971, as may be determined by the political subdivision.

SUBCHAPTER C

OPTIONAL COUNTY SALES AND USE TAX

Section 521. Optional county sales and use tax.

(a) Sales tax.--The board of commissioners in any county, and the city council in a city of the first class, may levy, assess and collect upon each separate sale at retail of tangible personal property or services a tax on the purchase price. The tax shall be collected by the vendor from the purchaser and shall be paid over to the Commonwealth as provided in regulations.

(b) Use tax.--In any county which imposes a tax authorized in subsection (a), there shall be levied, assessed and collected upon the use within the county of tangible personal property purchased at retail and on services purchased at retail a tax at the same rate as imposed pursuant to subsection (a) on the purchase price. The tax shall be paid to the Commonwealth by the person who makes such use as provided in regulations. The use tax shall not be paid to the Commonwealth by any person who has paid any county tax imposed under this subchapter equal to or greater than the tax imposed pursuant to either subsection (a) or this subsection.

(c) Hotel occupancy tax.--In any county which imposes a tax authorized in subsection (a), there shall be levied, assessed and collected an excise tax at the same rate as imposed pursuant to subsection (a) on the rent upon every occupancy of a room or rooms in a hotel in the county. The tax shall be collected by the operator or owner from the occupant and paid over to the Commonwealth as provided in regulations.

(d) Rate of tax.--

(1) Except as provided in paragraph (2), the tax authorized by subsections (a), (b) and (c) may be imposed only at a rate of 0.5%.

(2) In counties of the first class and second class, the tax authorized by subsections (a), (b) and (c) may be imposed at a rate of either 0.5% or 1%.

(3) The rate imposed by subsections (a), (b) and (c) shall be uniform.

(e) Computation of tax.--The amount of tax imposed by this section shall be computed as follows:

(1) In counties imposing the tax authorized by this section at the rate of 0.5%, the tax shall be computed as follows:

(i) If the purchase price is 99¢ or less no tax shall be collected.

(ii) If the purchase price is \$1 or more but less than \$3, 1¢ shall be collected.

(iii) If the purchase price is \$3 or more but less than \$5, 2¢ shall be collected.

(iv) If the purchase price is \$5 or more but less than \$7, 3¢ shall be collected.

(v) If the purchase price is \$7 or more but less than \$9, 4¢ shall be collected.

(vi) If the purchase price is \$9 or more but less than \$10.01, 5¢ shall be collected.

(vii) If the purchase price is more than \$10, 0.5% of each \$10 of purchase price plus the above bracket charges upon any fractional part of a \$10 increment shall be collected.

(2) In counties imposing the tax authorized by this section at the rate of 1%, the tax shall be computed as follows:

(i) If the purchase price is 49¢ or less, no tax

shall be collected.

(ii) If the purchase price is 50¢ or more but less than \$1.50, 1¢ shall be collected.

(iii) If the purchase price is \$1.50 or more but less than \$2.50, 2¢ shall be collected.

(iv) If the purchase price is \$2.50 or more but less than \$3.50, 3¢ shall be collected.

(v) If the purchase price is \$3.50 or more but less than \$4.50, 4¢ shall be collected.

(vi) If the purchase price is \$4.50 or more but less than \$5.50, 5¢ shall be collected.

(vii) If the purchase price is \$5.50 or more but less than \$6.50, 6¢ shall be collected.

(viii) If the purchase price is \$6.50 or more but less than \$7.50, 7¢ shall be collected.

(ix) If the purchase price is \$7.50 or more but less than \$8.50, 8¢ shall be collected.

(x) If the purchase price is \$8.50 or more but less than \$9.50, 9¢ shall be collected.

(xi) If the purchase price is \$9.50 or more but less than \$10.01, 10¢ shall be collected.

(xii) If the purchase price is more than \$10, 1% of each \$10 of purchase price plus the above bracket charges upon any fractional part of a \$10 increment shall be collected.

(f) Discounts.--There shall be no discount allowed for any taxes collected and reported under this subchapter.

Section 522. Situs for imposition of tax.

(a) Situs for retail sales.--For purposes of this subchapter and except as otherwise provided in this section, a sale at retail shall be deemed to be consummated at the place where the vendor delivers or otherwise transfers physical possession of the tangible personal property to the customer or its agent.

(b) Situs for interstate transactions.--If the tangible personal property is shipped from outside this Commonwealth to a customer within this Commonwealth, the tangible personal property is subject to the use tax imposed by section 521(b), unless the vendor is licensed to collect the tax authorized under section 521(a).

(c) Situs for vehicle, aircraft and motorcraft sales.--

(1) The sale at retail or use of a motor vehicle, trailer or semitrailer, as defined in Title 75 of the Pennsylvania Consolidated Statutes (relating to vehicles), shall be deemed to have been completed or used at the address of the purchaser or user. The tax due shall be paid by the purchaser or user directly to the Department of Transportation at the time of making application for the issuance of a certificate of title or directly to the department if a certificate of title is not obtained.

(2) The sale at retail or use of a motorboat, aircraft, mobile home or similar tangible personal property, required under Federal law or the laws of this Commonwealth to be registered or licensed, purchased from a person not engaged in the business of selling such property, shall be deemed to have been completed or used at the address of the purchaser or user. The tax due shall be paid by the purchaser or user at the time of registration or licensing or directly to the department if registration or licensing is not obtained.

(d) Situs for utility services.--The sale or use of steam,

natural and manufactured gas, electricity, and intrastate telephone and telegraph service shall be deemed to occur in the county where the telephone number under which the service furnished is located or in the county where the telegraph originated or in the county where the meter which registers the service is located, without regard to where the services are rendered.

Section 523. Application of State law.

(a) General rule.--Except as otherwise provided in this subchapter, the provisions of Article II of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall apply to the taxes imposed by this subchapter insofar as they are applicable to such taxes.

(b) Licenses.--The license issued pursuant to Article II of the Tax Reform Code of 1971 or a separate license may be issued by the department for the collection and reporting of the tax imposed by section 521. The license or licenses shall be nonassignable and subject to renewal periodically at such times as may be required by the department in regulations but in no event more frequently than once within a five-year period. No fee shall be charged for either a license or any renewal. Failure of any person to obtain a license shall not relieve him of liability to pay the taxes imposed by this subchapter.

(c) Rules and regulations.--

(1) The rules and regulations promulgated under section 270 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall be applicable to the tax imposed by section 521 insofar as such rules and regulations are consistent with section 521.

(2) The department shall administer and enforce the provisions of this subchapter and is authorized to promulgate and enforce rules and regulations, not inconsistent with the provisions of this subchapter, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this subchapter. The department may prescribe the extent to which any of such rules and regulations shall be applied without retroactive effect.

(d) Exclusion from rate limitations.--The optional county sales and use tax under section 521 which may be imposed by a county of the first class coterminous with a city of the first class shall not apply to the overall rate limitations set forth in section 23(c) of the act of June 27, 1986 (P.L.267, No.70), known as the Pennsylvania Convention Center Authority Act.

(e) Procedure and administration.--Part VI of Article II of the Tax Reform Code of 1971 is incorporated by reference into this subchapter insofar as applicable.

Section 524. Adoption of ordinance.

(a) Adoption of county ordinance.--Any county desiring to impose the tax authorized by section 521 shall give at least 60 days written notice to every municipality located in the county of its intent to impose the tax and shall adopt an ordinance after the expiration of 60 days after the date of such notice. Said ordinance shall state the tax rate and refer to this subchapter. The county ordinance shall authorize the imposition of all taxes provided for in section 521.

(b) Adoption of municipal ordinance.--No municipality shall be entitled to a disbursement under section 525 unless one of the following applies:

(1) Prior to enactment of the county ordinance, it

adopts an ordinance containing the statement:

We strongly urge the county to enact a county sales and use tax and intend to accept disbursements of the sales and use taxes collected.

Any municipality which does not enact an ordinance in compliance with this paragraph shall not receive any distribution from funds collected during the first 24 months immediately following the initial date of imposition of such tax.

(2) Prior to October 1 of any year after the enactment of the county ordinance, it adopts an ordinance containing the statement:

We support the enactment by the county of the county sales and use tax and strongly urge its continuation and intend to accept disbursements of the sales and use taxes collected.

A certified copy of the municipal ordinance shall be delivered to the county commissioners on or before the enactment of the county ordinance or October 15 of any year thereafter, as the case may be.

(c) Notification to department.--A certified copy of the county ordinance shall be delivered to the department by July 1 of the year prior to the effective date thereof. The county ordinance shall become effective on the January 1 following at least six months after the date of enactment of the county ordinance.

(d) Copy of repeal ordinance.--A certified copy of a repeal ordinance shall be delivered to the department by July 1 of the year prior to the effective date of such repeal. The repeal of any such ordinance shall become effective on the January 1 following at least six months after the date of enactment of the repeal ordinance.

(e) Copy of rate change ordinance.--A certified copy of any ordinance changing the rate of the tax imposed by section 521 shall be delivered to the department by July 1 of the year prior to the effective date of such ordinance. The ordinance shall become effective on the January 1 following at least six months after the date of enactment of the ordinance.

Section 525. Disbursement to municipalities and counties.

(a) Disbursement to counties.--On or before March 20, June 20, September 20 and December 20, the department shall disburse to a county imposing the tax authorized by section 521 an amount of money equal to the tax collected in that county and remitted to the department less any refunds and credits granted during the three months ending the last day of March, June, September and December, respectively.

(b) Disbursement to municipalities.--On or before April 20, July 20, October 20 and January 20, a county shall disburse, in the following manner, a portion of the disbursement received from the department under subsection (a) to municipalities which are qualified under section 524 and which impose a personal income tax at a rate equal to or greater than 0.25% under section 511 and a real property tax. The total disbursement to a municipality shall equal one-fourth of the disbursement received from the department under subsection (a) multiplied by a ratio equal to the weighted tax revenues of a municipality divided by the sum of the weighted tax revenues of all municipalities located in the county.

(c) County retention of disbursements.--If a municipality

fails to meet the requirements of this section and section 524, then its disbursement shall remain with the county.

(d) Proportion.--The Department of Community Affairs shall distribute to each county a listing of the proportion of the tax distribution that each municipality is eligible to receive if it has complied with section 524.

Section 526. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"County." The term includes county as defined in section 102 and also includes a county of the first class.

"Department." The Department of Revenue of the Commonwealth.

"Municipality." A city, incorporated town, borough or township.

"Per capita market value." The total market value of all real property divided by population as determined by the last decennial census.

"Weighted tax revenues." The total tax revenues from all sources of a municipality as reported to the department divided by the ratio of its per capita market value to the per capita market value of its county.

SUBCHAPTER D MERCANTILE OR BUSINESS PRIVILEGE TAX

Section 531. Mercantile or business privilege tax.

(a) Wholesale dealers.--Each political subdivision and each school district of the first class A shall have the power and may levy, assess and collect a tax at a rate not to exceed one mill on each dollar of the whole volume of business transacted by wholesale dealers in goods, wares and merchandise.

(b) Retail sales.--Except as provided in subsection (d), each political subdivision and each school district of the first class A shall have the power and may levy, assess and collect a tax on each dollar of sales by:

(1) Retail dealers in goods, wares and merchandise, including proprietors of restaurants or other places where food, drink and refreshments are served, at a rate not to exceed one and one-half mills.

(2) Providers of services at a rate in effect on November 30, 1988.

(c) Transactions partially free of tax.--No 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.

(d) Cities of the second class.--Each city of the second class shall have the power and may levy, assess and collect a tax on each dollar of sales by:

(1) Retailers in goods, wares and merchandise, including proprietors of restaurants or other places where food, drink and refreshments are served, at a rate not to exceed two mills.

(2) Providers of services at a rate in effect on November 30, 1988.

Section 532. Exclusions from tax.

A tax may not be levied, assessed or collected on:

(1) 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 or on any Federal Energy Regulation Commission approved qualifying facility.

(2) 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 a 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 political subdivisions may levy, assess and collect taxes on persons using municipal services and the personal income of natural persons engaged in these activities whether doing business as individual proprietorships or as members of partnerships or other associations.

(3) 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 and any sales tax, use tax and occupancy tax imposed under this act.

(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) Receipts 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.

(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.

(ix) Transfers attributable to activities occurring outside the taxing authority. Gross receipts shall be attributed to the jurisdiction in which the activities generating the receipts occur.

(4) The gross receipts of:

(i) Any bank, bank and trust company, private bank, savings bank or trust company, as defined in the act of November 30, 1965 (P.L.847, No.356), known as the Banking Code of 1965.

(ii) Any other institution or entity subject to the supervision of the Department of Banking under section 201 of the act of May 15, 1933 (P.L.565, No.111), known as the Department of Banking Code.

(iii) Any national bank.

(iv) Any similar institution or entity established pursuant to Federal law or the law of any state.

(5) The gross receipts of any distributor or importing distributor of malt or brewed beverages subject to licensure under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

Section 533. Abolishment of tax.

(a) General rule.--After November 30, 1988, and notwithstanding any other provision of this act except for subsection (b), no political subdivision may levy, assess or collect or provide for the levying, assessment or collection of a mercantile or business privilege tax on gross receipts or part thereof.

(b) Existing taxes preserved.--Any political subdivision which has on or before November 30, 1988, levied, assessed or collected or provided for the levying, assessment or collection of a mercantile or business privilege tax on gross receipts or part thereof may continue to levy, assess and collect such tax on such subjects upon which the tax was imposed by the political subdivision as of November 30, 1988, at a rate not to exceed the rate imposed by the political subdivision as of November 30, 1988.

SUBCHAPTER E ADMISSION OR AMUSEMENT TAX

Section 541. Places of amusement or athletic events.

Each municipality shall have the power and may levy, assess and collect a tax at a rate not to exceed 10% on the cost of admission to places of amusement, athletic events and the like, other than motion picture theaters, and, in cities of the second class, on motion picture theaters. For purposes of this section, real property rented for camping purposes shall not be considered a place of amusement. This section shall not apply to memberships, 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 entry 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.

Section 542. Ski facilities.

Each municipality shall have the power and may levy, assess and collect a tax on the cost of admission to ski facilities at a rate not to exceed 10%. The tax base upon which the tax shall be levied shall not exceed 40% of the cost of the lift ticket. The lift ticket shall include all costs of admission to the ski facility.

Section 543. Golf courses.

Each municipality shall have the power and may levy, assess and collect a tax on the cost of admission to golf courses at a rate not to exceed 10%. The tax base upon which the tax shall be levied shall not exceed 40% of the greens fee. The greens fee shall include all costs of admission to the golf course.

Section 544. Bowling alleys.

Each municipality shall have the power and may levy, assess and collect a tax on the cost of admission to bowling alleys or bowling lanes at a rate not to exceed 10%. The tax base upon which the tax shall be levied shall not exceed 40% 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.

Section 545. Existing taxes preserved.

Any school district which has on or before November 30, 1988, levied, assessed or collected or provided for the levying, assessment or collection of a tax described in sections 541, 542, 543 and 544 may continue to levy, assess and collect such tax. The rate of each tax shall not exceed the effective rate imposed by the school district as of November 30, 1988. If the effective rate as of November 30, 1988, was equal to the maximum permitted rate, then the school district may continue to levy such tax at the maximum permitted rate.

Section 546. Maximum rate of taxation.

Under no circumstances shall the combined tax rate under sections 541, 542, 543, 544 and 545 exceed the maximum rate of tax specified in sections 541, 542, 543 and 544.

SUBCHAPTER F MUNICIPAL SERVICE TAX

Section 551. Municipal service tax.

(a) General rule.--Subject to the limitations established in section 553, each municipality in which a taxpayer is employed may levy, assess and collect a municipal service tax.

(b) Amount of tax.--A municipal service tax levied by a municipality under an ordinance passed under the authority of this act shall not exceed \$20.

(c) Situs for tax.--Subject to the limitations in section 553, the situs of a municipal service tax shall be the place of employment.

Section 552. Exemption of low-income persons.

(a) Low-income exemption.--Each municipality shall have the power and may exempt any person who qualifies under the provisions of section 304 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, from payment of any or all of the municipal service tax.

(b) Special hardship exemption.--Each municipality shall have the power and may exempt persons who qualify as claimants

under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, and who have household income as defined in the Senior Citizens Rebate and Assistance Act which is equal to or less than the maximum income requirement necessary to qualify for a property tax rebate or rent rebate in lieu of property taxes or rent due pursuant to the Senior Citizens Rebate and Assistance Act, from the payment of the municipal service tax.

(c) Regulations.--Each municipality may adopt regulations for the processing of claims for these exemptions.
Section 553. Multiple employment locations.

(a) Priority of claim.--In the event a person is engaged in more than one occupation or an occupation which requires the person to work in more than one municipality during the calendar year, the priority of claim to collect the municipal service tax shall be in the following order:

(1) The municipality in which a person maintains his principal office or is principally employed.

(2) The municipality in which the person resides and works if the tax is levied by that municipality.

(3) The municipality nearest in miles to the person's home in which the person is employed if the tax is levied by that municipality.

(b) Place of employment.--The place of employment shall be determined as of the day the taxpayer first becomes subject to the tax during the calendar year.

(c) Liability.--No person shall be required to pay more than \$20 in any calendar year without regard to the number of municipalities within which the person may be employed.

SUBCHAPTER G REAL ESTATE TRANSFER TAX

Section 561. Real estate transfer tax.

(a) General rule.--Subject to subsection (b), each municipality shall have the power and may levy, assess and collect a real estate transfer tax at a rate not to exceed 1% upon a transfer of real property or an interest in real property within the limits of the municipality, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on the transfer take place, to the extent that the transactions are subject to the tax imposed by Articles XI-C and XI-D of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. A tax imposed under this section shall be administered, collected and enforced under this act.

(b) Existing taxes preserved.--Any school district, including a school district of the first class A, which has on or before November 30, 1988, levied, assessed or collected or provided for the levying, assessment or collection of a real estate transfer tax may continue to levy, assess and collect such tax. The rate of this tax shall not exceed the effective rate imposed by the school district as of November 30, 1988. If the effective rate as of November 30, 1988, was equal to the maximum permitted rate, then the school district may continue to levy such tax at the maximum permitted rate of 1%.

(c) Maximum rate.--Except in the case of a school district of the first class A which is substantially coterminous with a municipality, the combined local real estate transfer tax

imposed under subsections (a) and (b) shall not exceed an aggregate maximum rate of 1%.

Section 562. Family farm recapture provision.

(a) General rule.--Notwithstanding any other provision of this act or any other act to the contrary, if any stock of a family farm corporation is transferred to a person who is not a member of the same family within ten years from the date of the conveyance from a sole proprietor member of the same family to a family farm corporation, the tax imposed by section 561 shall become immediately due and payable.

(b) Definitions.--As used in this section:

"Family farm corporation." The phrase shall have the meaning given in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

"Member of the same family." The phrase shall have the meaning given in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

SUBCHAPTER H OTHER PERMITTED TAXES

Section 571. Other taxes preserved.

Except as provided in sections 104 and 501(c), any political subdivision which has on or before December 31, 1987, levied, assessed or collected or provided for the levying, assessment or collection of any tax on a subject of taxation under the authority of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, may continue to levy, assess and collect such tax at an effective rate not to exceed the rate imposed by the political subdivision as of December 31, 1987. No political subdivision may levy, assess or collect or provide for the levying, assessment or collection of a tax under the authority of this section on any subject of taxation which is taxable under this chapter.

CHAPTER 7 COLLECTION PROCEDURES

Section 701. Collection of taxes.

(a) Administrative personnel.--Each political subdivision is authorized to provide by ordinance for the creation of bureaus or the appointment and remuneration of tax officers, clerks, collectors and other assistants and employees, either under existing departments or otherwise as may be necessary, for the assessment and collection of taxes imposed under authority of this act.

(b) Joint collection agreements.--Any political subdivision imposing taxes under authority of this act is authorized to make joint agreements for the collection of such taxes or any of them. The same tax officer may be employed by two or more political subdivisions to collect any taxes imposed by them under authority of this act.

Section 702. Single collector for taxes.

Whenever a school district of the second, third or fourth class established pursuant to section 296 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, shall levy, assess and collect or provide for the levying, assessment and collection of a tax upon personal income, such school district and all municipalities within its geographical

limits which levy, assess and collect or provide for the levying, assessment and collection of a tax upon personal income may select one tax officer to collect the taxes upon personal income imposed by such political subdivisions. In selecting such tax officer, 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 tax officer selected to collect the taxes. The provisions of this section shall not prohibit political subdivisions which levy, assess and collect or provide for the levying, assessment and collection of taxes upon personal income under authority of this act from selecting the same tax officer to collect such tax upon personal 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 703. Audits of personal 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 personal income shall provide for not less than one examination each year of the books, accounts and records of the tax officer, 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 tax officer is selected to collect personal income taxes for more than one political subdivision, the books, accounts and records of such tax officer shall be examined as provided in this section in the case of a tax officer for each political subdivision, and the accountant shall be selected in the manner provided for in section 702. The reports of the audit shall be sent to each governing body employing the accountant. No further or additional audit shall be performed by elected or appointed auditors.

Section 704. Audits of taxes other than personal income taxes.

The books, accounts and records of tax officers pursuant to this act, other than taxes levied, assessed and collected upon personal 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 personal income.

Section 705. 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 706. Distress and sale of property of taxpayer.

(a) General rule.--In case of the neglect or refusal of any person, association or corporation to make payment of the amount of any tax due after two months from the date of the tax notice, every tax officer shall have the power to levy the amount of such tax, penalty, interest and costs thereon, not exceeding costs and charges allowed constables for similar services by distress and sale of the goods and chattels of such delinquent,

wherever located, upon giving at least ten days' public notice of such sale by one advertisement in a newspaper of general circulation published in the county.

(b) Effect on return.--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 707. Collection of delinquent taxes from employers.

(a) General rule.--The tax officer shall demand, receive and collect from all employers employing persons owing delinquent personal income or municipal service taxes or having in possession unpaid compensation belonging to any person or persons owing delinquent personal income or municipal service 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 taxpayer and the amount of tax due.

(b) Response to notice.--Upon the presentation of such written notice and demand, the employer shall deduct from the compensation of such employees then owing, or thereafter due, a sum sufficient to pay the amount of the delinquent personal income or municipal service taxes, interest, penalty and costs shown upon the written notice or demand, and shall pay the same to the tax officer of the political subdivision by which such delinquent tax was levied within 60 days after such notice was given.

(c) Limitation on deduction.--No more than 10% of the compensation of the delinquent taxpayer may be deducted at any one time for delinquent personal income or municipal service taxes, penalty, interest and costs.

(d) Deduction for costs.--Such employer shall be entitled to deduct from the moneys collected from each employee the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding 2% of the amount collected and paid over to the tax officer.

(e) Forfeiture.--Upon the failure of any such employer to deduct the amount of such taxes or to pay the same over to the tax officer, less the amount deducted under subsection (d), within the time hereby required, such employer shall forfeit and pay the amount of such tax for each such taxpayer whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of 10%, to be recovered by a civil action to be instituted by the tax officer, or by the political subdivision, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any exemption law or stay of execution.

(f) Collection rights preserved.--Nothing in this section shall be deemed to affect or impair the right of any political subdivision to pursue and collect delinquent taxes validly imposed prior to the effective date of this section.

Section 708. Collection of delinquent taxes from Commonwealth.

(a) General rule.--Upon presentation of a written notice and demand under oath to the State Treasurer or any other fiscal officer of the Commonwealth, or its boards, authorities, agencies or commissions, it shall be the duty of the treasurer or officer to deduct from the compensation then owing a sum sufficient to pay the amount of the delinquent personal income or municipal service taxes, interest, penalty and costs shown on the written notice. The same shall be paid to the tax officer of

the taxing district in which the delinquent tax was levied within 60 days after such notice shall have been given.

(b) Limitation on deduction.--No more than 10% of the compensation of the delinquent taxpayer may be deducted at any one time for delinquent personal income or municipal service taxes, interest, penalty and costs.

(c) Collection rights preserved.--Nothing in this section shall be deemed to affect or impair the right of any political subdivision to pursue and collect delinquent taxes validly imposed prior to the effective date of this section.

Section 709. Notice to taxpayer.

The tax officer shall, at least 15 days prior to the presentation of a written notice and demand under section 707 or 708, notify the taxpayer owing the delinquent tax, by registered mail, that a written notice and demand shall be presented to his employer unless such tax is paid. The return receipt card for registered mail shall be marked delivered to addressee only, and the cost of notification by registered mail shall be included in the costs for collecting taxes.

Section 710. Collection of taxes by suit.

(a) General rule.--Each political subdivision shall have power to collect unpaid taxes from taxpayers and employers owing such taxes by a civil action or other appropriate remedy. Upon judgment, execution may be issued without any stay or benefit of any exemption law. The right of each political subdivision 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.

(b) Limitation of actions.--A suit brought to recover the taxes under subsection (a) shall be instituted within three years after the tax is due or within three years after a declaration or return has been filed, whichever date is later, except in the following cases:

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

(2) If 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 tax officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) If there is a substantial understatement of tax liability of 25% or more and no fraud, suit shall be instituted within six years.

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

Section 711. Collection of personal income tax by Commonwealth.

(a) Agreement.--Any political subdivision imposing a tax upon personal income under the authority of this act may enter into an agreement with the Department of Revenue for the collection of that personal income tax by the Department of Revenue in conjunction with the collection of any tax on personal income imposed by the Commonwealth under the authority

of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(b) Contents.--The agreement may not include any provisions regarding enforcement. The agreement and any renewal shall be executed at least six months prior to the date for the collection of the tax; shall have a duration of at least four years; and, after expiration, shall not be reinstated for a period of four years. The agreement authorized by this section shall contain a provision appointing the Department of Revenue as the tax officer within the meaning of this act.

(c) Regulations.--The Department of Revenue, by regulation, shall establish the procedures for collecting that tax and paying the full amount collected over to the political subdivision.

CHAPTER 9 ADOPTION OF ORDINANCES

SUBCHAPTER A GENERAL PROVISIONS

Section 901. Local tax study commission.

(a) First year implementation.--Before any county, political subdivision or school district of the first class A levies, assesses or collects or provides for the levy, assessment or collection of any tax newly authorized by this act, the governing body shall appoint a local tax study commission.

(1) Membership.--The local tax study commission shall consist of five, seven or nine members appointed by the governing body. No member of the local tax study commission shall be an elected or appointed official, or an employee, of the county, political subdivision or school district of the first class A. All members of the local tax study commission shall be taxpayers of the county, political subdivision or school district of the first class A.

(2) Staff and expenses.--The governing body shall provide necessary staff to support the local tax study commission and shall reimburse the members of the local tax study commission for necessary expenses in the discharge of their duties.

(3) Public hearings.--The local tax study commission shall hold at least one public hearing during its deliberations. At least one fact-finding hearing shall be held within two weeks of the creation of the local tax study commission to gather background information and solicit suggestions from the community. The local tax study commission may sponsor public forums, shall provide for the broadest possible distribution of public information and shall encourage public discussion respecting the subject of its work.

(4) Contents of study.--The local tax study commission shall study the existing taxes of the county, political subdivision or school district of the first class A and compare these taxes with the taxes newly authorized by this act to determine how the tax policies of the taxing district could be strengthened or made more equitable by adopting an appropriate combination of these newly authorized taxes. This study shall include, but not be limited to, consideration of all of the following:

(i) Historic rate and revenue trends by type of tax

and subject of taxation.

(ii) The percentage of total revenues provided by type of tax and subject of taxation.

(iii) The age, income, employment and property use characteristics of existing tax base.

(iv) The projected revenue by type of tax and subject of taxation.

(v) The combined effect of the proposed optional tax plan as it relates to taxes levied by other taxing districts to which a taxpayer would be subject.

(vi) The impact of the requirements of section 301.

(5) Recommendation.--Within 60 days of its appointment, the local tax study commission shall make a nonbinding recommendation of the appropriate combination of rates and subjects of taxation for the county, political subdivision or school district of the first class A to the governing body. No tax newly authorized by this act may be levied, assessed or collected until receipt of the recommendation of the local tax study commission. If a local tax study commission makes a recommendation for any deviation from the 25% residential real property tax millage reduction, that local tax study commission shall issue a detailed explanation of the reasons for that recommendation. Within two weeks of receiving the recommendation, the governing body shall hold a public hearing to permit public comment prior to the adoption of any tax newly authorized by this act.

(6) Failure to issue report.--If the local tax study commission fails to issue a report within 90 days, the governing body may discharge the appointed local tax study commission and proceed to appoint itself as the local tax study commission.

(7) Public distribution of report.--The local tax study commission shall publish or cause to be published sufficient copies of its final report for public study and information and shall deliver to the municipal clerk or secretary of the taxing district sufficient copies of the report to supply copies to any interested person upon request.

(8) Itemization of expenses.--There shall be attached to each copy of the report of the local tax study commission a statement, sworn to by the members of the local tax study commission, listing in detail the funds, goods, materials and services, both public and private, used by the local tax study commission in the performance of its work and the preparation and filing of the report. In addition, the list shall identify specifically the supplier of each item.

(9) Materials.--All the records, reports, tapes, minutes of meetings and written discussions of the local tax study commission shall, upon its discharge, be turned over to the municipal clerk or secretary of the county, political subdivision or school district of the first class A for permanent safekeeping. The municipal clerk or secretary shall make such materials available for public inspection at any time during regular business hours.

(10) Discharge.--The local tax study commission shall be discharged upon the filing of its report.

(b) Five-year review.--Before any county, political subdivision or school district of the first class A levies, assesses or collects or provides for the levy, assessment or collection of any tax authorized by this act for the fifth

fiscal year beginning after the effective date of this act, the governing body shall appoint a local tax study commission in the manner provided in subsection (a). The local tax study commission appointed under this subsection shall be charged with all of the same powers and duties provided for the local tax study commission under subsection (a).

(c) Definition.--For purposes of this section, the phrase "governing body" shall have the meaning set forth in section 102 and shall also include the board of education of a school district of the first class A and the board of county commissioners.

Section 902. Advertisement of intention to adopt tax ordinance.

(a) General rule.--Prior to the passage or adoption of any ordinance imposing a tax under the authority of this act, each governing body shall give notice of its intention to pass or adopt such ordinance.

(b) Content of notice.--Each notice shall be given in addition to all other notices required by law. Each notice shall set forth all of the following:

(1) The nature of the tax to be imposed by the proposed ordinance.

(2) The reason which, in the judgment of the governing body of the political subdivision, necessitates the imposition of the tax.

(3) The amount of revenue estimated to be derived from the proposed tax.

(c) Time period for publication.--Publication of such notice shall be made by advertisement once a week for three weeks in a newspaper of general circulation within each 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.

(d) Passage or adoption of ordinance.--The ordinance may be passed or adopted prior to the beginning of the fiscal year and prior to the preparation of the budget. Every resolution which imposes a tax under the authority of this act shall be adopted by a school district during the period school taxes are required by law to be levied and assessed by the school district. Each ordinance and resolution shall state that it is enacted under the authority of this act.

Section 903. Rate and amount.

Except as provided in section 106, any tax imposed under this act shall be subject to the limitations as to rate of tax authorized by this act and the total amount of revenues permitted under section 322.

Section 904. Revision of budgets.

Each political subdivision 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.

Section 905. Appeals by taxpayers.

(a) General rule.--No tax levied for the first time by any political subdivision under this act shall go into effect until 30 days from the time of the passage of the ordinance levying the tax. Within the 30-day period, taxpayers representing 25% or more of the total valuation of real property in the political subdivision as assessed for taxation purposes, or taxpayers of the political subdivision not less than 25 in number aggrieved

by the ordinance, shall have the right to appeal therefrom to the court of common pleas of the county.

(b) Bond.--Taxpayers who appeal an ordinance shall be required to post a bond with sufficient security in the amount of \$500, approved by the court, to prosecute the appeal with effect and for the payment of costs.

(c) Contents of appeal petition.--The appeal 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.

(d) Supersedeas.--No appeal shall act as a supersedeas unless specifically allowed by the court to which the appeal is taken.

(e) Service of petition.--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 political subdivision levying the tax as provided by law.

(f) Hearing date.--The court shall fix a day for a hearing not less than 15 days nor more than 30 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.

(g) Responsibility of court.--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. The court shall not interfere with the reasonable discretion of the governing body in selecting the subjects of taxation or fixing the rates of the tax consistent with the provisions of Chapter 5. The court may declare invalid all or any portion of the ordinance or of the tax imposed or may reduce the rates of tax. Section 906. Filing of certified copies of ordinances.

(a) General rule.--When an ordinance is passed or adopted by a political subdivision imposing or repealing a tax under the authority of this act or changing the rate of a tax imposed under this act, an exact printed or typewritten copy thereof, certified by the secretary of the political subdivision, shall be filed with the department within 15 days after the ordinance becomes effective.

(b) Penalty.--The secretary of the political subdivision during the meeting at which an ordinance imposing a tax is passed or adopted who shall fail to file the certified copy or statement relative thereto with the department as required commits a summary offense.

Section 907. Employer withholding.

(a) General rule.--Ordinances imposing personal income or municipal service taxes under authority of this act may contain provisions consistent with the requirements of section 926 requiring employers having a place of business within the jurisdiction of the political subdivision to withhold tax.

(b) Liability of employer.--No employer shall be held liable for failure to withhold personal income or municipal service 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 submitted by the employee as to the employee's place of residence.

Section 908. Interest and penalties.

(a) Authorization.--Any 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 passed under authority of this act.

(b) Interest and penalty on tax.--If the tax levied and assessed by any political subdivision under this act is not paid when due, interest at the per annum rate charged by the Commonwealth pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, shall be added and collected. However, if an employer does not make required deductions and remittance of tax money under sections 907 and 926 of this act, that employer shall be subject to, in lieu of the penalty amount under this section and in addition to the interest amount under this section, an additional penalty of 5% of the amount of the unpaid taxes for each month or fraction of each month during which the taxes remain unpaid, and this amount shall be added and collected. The additional penalty imposed herein shall not exceed 50% of the unpaid taxes. A political subdivision shall, on or before December 31, establish by ordinance the specific per year interest rate to be imposed on unpaid taxes during the following tax year.

(c) Liability for collection costs.--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 imposed.

SUBCHAPTER B
TAX ORDINANCE PROVISIONS

Section 921. Application of subchapter.

All the provisions of this subchapter shall be included in or construed to be a part of each tax levied and assessed upon personal income by any political subdivision which levies and assesses such tax under this act.

Section 922. Application of definitions.

The definitions contained in section 102 relating to "association," "business," "corporation," "current year," "domicile," "compensation," "employer," "net profits," "nonresident," "person," "personal income," "preceding year," "resident," "succeeding year," "tax officer," and "taxpayer" shall be exclusive for any tax upon personal income levied and assessed under this act. These definitions shall not be altered or changed by any political subdivision which levies and assesses the tax.

Section 923. Imposition of tax.

(a) General rule.--The personal income tax levied under this act shall be applicable to personal income received 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.

(b) First-time imposition.--Taxes imposed for the first time shall become effective from the date specified in the ordinance.

(c) Continuity of tax.--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.

Section 924. Annual tax return.

At the election of the political subdivision every taxpayer shall, on or before April 15 of the succeeding year, make and file with the tax officer, on a form prescribed or approved by the tax officer, a final return showing all of the following:

- (1) The amount of personal income received during the period beginning January 1 of the current year and ending December 31 of the current year.
- (2) The total amount of tax due.
- (3) The total amount of tax paid under section 925.
- (4) The total amount of tax thereon that has been withheld under the provisions relating to the collection at source.
- (5) 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.

Section 925. Income not subject to withholding.

Every taxpayer who receives any personal income for which the taxpayer is required to make a declaration of estimated tax pursuant to section 325 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall make and file with the tax officer, on a form prescribed or approved by the tax officer, a quarterly return in the manner required by section 325 of the Tax Reform Code of 1971. Every taxpayer making such return shall, at the time of filing thereof, pay to the tax officer the amount of tax shown as due thereon.

Section 926. Collection of tax at source.

(a) Registration.--Every employer having a place of business within a political subdivision which imposes a tax on personal income or a municipal service tax shall register within 15 days after becoming an employer with the tax officer of the political subdivision where the place of business is located. The registration required by this subsection shall include the name of the employer, the address of the employer and such other information as may be required by the tax officer.

(b) Deduction of tax.--Every employer having a place of business within a political subdivision which imposes a tax on personal income or a municipal service tax shall deduct, from the compensation paid to its employees, the personal income tax attributable to such compensation or the municipal service tax imposed by the political subdivision where the employee works. The employer shall also deduct the personal income tax attributable to the compensation due and payable by the employee to the political subdivision where the employee resides at the rate of the personal income tax imposed by the political subdivision where the employee resides.

(c) Employer return.--Every employer deducting any tax imposed under this act 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 tax officer of the political subdivision where the place of business is located the amount of taxes required to be deducted under this section 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.

(d) Contents of return.--Each return, unless otherwise agreed upon between the tax officer and employer, shall show the

total tax for each political subdivision for which tax has been deducted from compensation and which is paid with the return.

(e) Monthly returns.--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 political subdivision, may be required by the tax officer of the political subdivision where the place of business is located to file his return and pay the tax monthly. In such cases, payments of tax shall be made to such tax officer of the political subdivision where the place of business is located on or before the last day of the month succeeding the month for which the tax was withheld.

(f) Annual employer return.--On or before February 28 of the succeeding year, every employer shall file with the tax officer of the political subdivision where the place of business is located:

(1) An annual return showing the total amount of compensation paid, the total amount of tax deducted and the total amount of tax paid to the tax officer of the political subdivision where the place of business is located for the period beginning January 1 of the current year and ending December 31 of the current year.

(2) A return withholding statement for, or a listing of, each employee 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 employee's name, address and Social Security number, the amount of compensation paid to such employee during such period, the amount of tax deducted, the political subdivisions imposing the tax upon the employee and the amount of tax paid to the tax officer of the political subdivision where the place of business is located. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

(g) Discontinuance of business.--Every employer who discontinues doing business within this Commonwealth prior to December 31 of the current year shall, within 30 days after the discontinuance of doing business, file the returns and withholding statements required and pay the tax due.

(h) Liability of employer.--Except as otherwise provided in Chapter 11, every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which the employer was required to withhold to the extent that such taxes have not been recovered from the employee.

(i) Continued liability of taxpayer.--The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of the ordinance relating to the filing of declarations and returns.
Section 927. Powers and duties of tax officer.

(a) Powers and duties.--The tax officer shall collect and receive the taxes, penalties, interest and costs imposed by the ordinance, and accept payments of an employer made under the requirements of an ordinance and of section 926. The tax officer shall keep a record showing the amount received by that tax officer from each person or business paying the tax and the date of such receipt.

(b) Required bond.--

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

(2) Each 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 Department.

(3) Each bond shall be conditioned upon the faithful discharge by the tax officer, clerks, assistants and appointees of all trusts confided in that tax officer by virtue of the office, upon the faithful execution of all duties required of the tax officer by virtue of the 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 the tax officer by virtue of the office and upon the delivery to any successor or successors in office of all books, papers, documents or other official things held in right of that office.

(4) Each bond shall be taken in the name of, and shall be for the use of, the political subdivision or political subdivisions appointing the tax officer, and for the use of such other person or persons for whom money shall be collected or received, or as his 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.

(5) The political subdivision or political subdivisions appointing the tax officer, or any person, may sue upon such bond in its or his own name for its or his own use.

(6) Each such bond shall contain the name of the surety company or companies bound thereon.

(7) The political subdivision or political subdivisions appointing the tax 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 tax officer at any given time.

(8) The political subdivision or political subdivisions appointing the tax officer may, at any time, upon cause shown and due notice to the tax officer, and to the tax officer's 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.

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

(c) Rules and regulations.--The tax officer charged with the administration and enforcement of the provisions of the ordinance 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. The rules and regulations may include:

(1) Provisions for the reexamination 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.

(2) Provisions for making 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.

(3) Forms necessary for the administration of the ordinance.

No rule or regulation shall be enforceable unless it has been approved by resolution by the political subdivision. A copy of such rules and regulations currently in force shall be available for public inspection.

(d) Examination of records.--The tax officer and agents designated by the tax officer are authorized to examine the books, papers and records of any employer or of any taxpayer or of any person whom the tax 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 tax officer reasonably believes to be an employer or taxpayer is directed and required to give to the tax officer, or to any agent designated by that tax officer, the means, facilities and opportunity for such examination and investigations, as are authorized.

(e) Information to be confidential.--Any information gained by the tax officer, agents of the tax officer or any other official or agent of the political subdivision, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by the ordinance shall be confidential, except for official purposes and except in accordance with a proper judicial order, or as otherwise provided by law.

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

(g) Distribution of taxes.--The tax officer shall, at least quarterly, distribute personal income taxes and municipal service taxes to the appropriate political subdivisions. All personal income taxes paid to the tax officer by an employer pursuant to the requirements of an ordinance and of section 926 shall be remitted by the tax officer to the political subdivision where the taxpayer resides according to the residency information furnished to the tax officer by the employer. The political subdivision shall not be required to request the tax officer to distribute the funds collected but shall reconcile, within 30 days after the expiration of the fiscal year of the political subdivision immediately preceding the collection of the tax, their receipts with the records of the tax officer and return to or credit the tax officer with any overpayment. The tax officer shall pay any tax payment which has not been claimed by a political subdivision pursuant to the reconciliation requirement of this subsection to the political subdivision in which the tax was collected. The tax officer shall not charge any fee, commission, assessment, service charge or other charge for the distribution of personal income taxes required by this subsection.

Section 928. Remuneration of tax officer.

Remuneration for the services and expenses of the tax officer shall be determined by the political subdivision. In the case of

a single collector established pursuant to section 702, the political subdivisions shall share in the remuneration and expenses of a single tax officer according to the proportionate share that the total annual collections for each political subdivision 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.

Section 929. Suit for collection of tax.

(a) General rule.--The tax officer may sue in the name of the political subdivision for the recovery of taxes due and unpaid under the ordinance.

(b) Limitation of action.--Any suit brought to recover the tax imposed by the ordinance shall be instituted within three years after such tax is due or within three years after the declaration or return has been filed, whichever date is later, except in the following cases:

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

(2) If 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 tax officer, reveals a fraudulent evasion of taxes, there shall be no limitation.

(3) If there is a substantial understatement of tax liability of 25% or more and no fraud, suit shall be instituted within six years.

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

(c) Recovery of erroneous refund.--The tax officer may sue for recovery of an erroneous refund provided such suit is begun within 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.

(d) Other methods preserved.--This section shall not be construed to limit the political subdivision from recovering delinquent taxes by any other means provided by this act.

Section 930. Amnesty.

(a) General rule.--Notwithstanding the provisions of this act, the governing body may, by ordinance, establish once every ten years a period not to exceed three months during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of personal income tax liability or for the nonpayment of earned income taxes, personal income taxes or municipal service 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 section.

(b) Pending proceedings unaffected.--The provisions of this section shall not affect or terminate any 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 this section if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

Section 931. Penalties for violation of ordinances.

(a) Violations.--

(1) A person commits a summary offense if he:

(i) Fails, neglects or refuses to make any declaration or return required by the ordinance.

(ii) Is responsible for the transmission of personal income taxes withheld from compensation by an employer and fails to transmit the withheld taxes to the officer.

(iii) Refuses to permit the tax officer or any agent designated by the tax officer to examine his books, records and papers.

(iv) Knowingly makes an incomplete, false or fraudulent return or attempts to avoid the full disclosure of the amount of personal income in order to avoid the payment of the tax imposed by the ordinance.

(v) Divulges any information which is confidential under the provisions of the ordinance.

(2) Any employer commits a summary offense if he fails, neglects or refuses to register or to pay the taxes deducted or withheld from its employees, or fails, neglects or refuses to deduct or withhold the tax from its employees.

(b) Penalties to be cumulative.--The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of the ordinance.

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

(d) Fiduciary status.--Any employer who withholds personal income tax from employees, and any person who is in charge of and responsible for the transmission of personal income tax withheld by a corporate employer, shall be a fiduciary charged with the responsibilities of a fiduciary with respect to personal income tax withheld from employees, and shall be subject to the duties imposed by law on fiduciaries, including criminal penalties for breach of fiduciary duties as provided by law.

CHAPTER 11 REGISTER FOR CERTAIN TAXES

Section 1101. Register for personal income and municipal service taxes.

(a) General rule.--It shall be the duty of the department to have available an official continuing register supplemented annually of all personal income and municipal service taxes levied under authority of this act.

(b) Contents of register.--The register and its supplements shall list:

(1) The political subdivisions levying personal income or municipal service or earned income taxes.

(2) The rate of the tax as stated in the tax levying

ordinance.

(3) The effective rate on resident and nonresident taxpayers, if different from the stated rate because of a coterminous levy.

(4) The name and address of the tax officer responsible for administering the collection of the tax and from whom information, forms for reporting and copies of rules and regulations are available.

Section 1102. Information for register.

Information for the register shall be furnished by the secretary of each political subdivision to the department in such manner and on such forms as the department may prescribe. The information must be received by the department 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 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.

Section 1103. Availability and effective period of register.

The department 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.

Section 1104. Effect of nonfiling.

Employers shall not be required by any local ordinance to withhold from the compensation of their employees any tax imposed under the provisions of this act which is not listed in the register or to make reports of compensation in connection with taxes not so listed. 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.

Section 1105. Effect of chapter on liability of taxpayer.

The provisions of this chapter shall not affect the liability of any taxpayer for taxes lawfully imposed under this act.

CHAPTER 13

CITIES OF THE FIRST CLASS

Section 1301. Tax authorization for cities of the first class.

(a) General rule.--Notwithstanding any other provisions of this act, including the definitions in section 102, and except as provided in subsection (c), each city of the first class shall have the power and may, by ordinance, levy, assess and collect or provide for the levying, assessment and collection of such taxes for general revenue purposes as it shall determine on persons, transactions, occupations, privileges and subjects within the geographical limits of the city of the first class.

(b) Real estate transfer tax.--

(1) From and after the effective date of this chapter, the council of any city of the first class shall have the authority, by ordinance, for general revenue purposes, to levy, assess and collect or provide for the levying, assessment and collection of a tax upon a transfer of real property or an interest in real property within the geographical limits of a city of the first class, regardless

of where the instruments making the transfer are made, executed or delivered or where the actual settlements on the transfer take place, to the extent that the transactions are subject to the tax imposed by Article XI-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971.

(2) In addition, such city of the first class may impose a local real estate transfer tax upon additional classes or types of transactions and may establish standards to be used by the city of the first class to determine the monetary value to be applied to a transaction for the purpose of taxation, if the tax was or is imposed by the city of the first class pursuant to the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, or pursuant to this act.

(3) If the collector of taxes for any such city of the first class determines that any part of any underpayment of tax imposed pursuant to this authority is due to conduct proscribed by the ordinance imposing a tax on the transfer of real estate or an interest in real property, the city shall have the authority to add to the tax an amount equal to 50% of the underpayment; and, in the case of failure to record any document in a timely manner as prescribed therefor by ordinance, unless it is shown that such failure is due to reasonable cause, the city shall have the authority by ordinance to require to be added to the tax 5% of the amount of such tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which such failure continues, not exceeding 50% in the aggregate.

(4) This subsection shall apply to all taxable transactions occurring on and after November 30, 1988.

(c) Exclusions.--A city of the first class shall not levy, assess or collect:

(1) A tax based upon a flat rate or on a millage rate on an assessed valuation of a particular trade, occupation or profession, commonly known as an occupation tax.

(2) A tax at a set or flat rate upon persons employed within the taxing district, commonly known as an occupational privilege tax.

(3) A per capita, poll, residence or similar head tax.

(4) A tax on personal property.

(5) A municipal service tax.

(6) A sales and use tax, except as permitted under

Chapter 5.

(7) A mercantile or business privilege tax on the gross receipts of any distributor or importing distributor of malt or brewed beverages subject to licensure under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.

(8) A tax on a bank, national bank, bank and trust company, private bank, savings bank, trust company, savings and loan association, building and loan association, savings association, Federal savings bank or Federal savings and loan association, except taxes on real estate or transfers thereof or taxes otherwise expressly authorized by an act of the General Assembly.

Section 1302. State preemption.

No act of the General Assembly heretofore or hereinafter enacted shall vacate or preempt any ordinance passed or adopted

under the authority of this act or any other act providing authority for the imposition of a tax by a city of the first class unless the act of the General Assembly expressly vacates or preempts the authority to pass or adopt such ordinances. Section 1303. Continuity of tax.

Every tax levied under the provisions of this chapter 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.

Section 1304. Limitations on rates of taxation.

(a) Rates after effective date of chapter.--Any city of the first class imposing any tax under the provisions of this chapter shall not impose a tax at a rate greater than the following limitations:

(1) A wage tax on the earned income of:

(i) Resident taxpayers not in excess of 4.5%.

(ii) Nonresident taxpayers not in excess of 3.95%.

(2) A net profits tax not in excess of 4.5%.

(3) An unearned income tax on resident taxpayers not in excess of 4.5%.

(b) Expiration.--The rate limitations under subsection (a), except for the rate limitation under subsection (a)(1)(ii), shall expire at the end of the fourth year after the effective date of this chapter.

(c) Definition.--As used in subsection (a), the term "unearned income tax" means a tax upon the classes of income in section 303 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, except the classes "compensation" and "net profits," and upon which is imposed a personal income tax by the Commonwealth.

Section 1305. Collection of tax at source.

(a) Registration.--Every employer having a place of business within this Commonwealth who employs one or more persons who are residents of a city of the first class, other than domestic servants, for a salary, wage, commission or other compensation shall, within 15 days after becoming an employer, register with the tax officer of a city of the first class the employer's name and address and such other information as the officer may require.

(b) Deduction of tax.--Every employer having a place of business within this Commonwealth who employs one or more persons who are residents of a city of the first class, 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 of the city of the first class on the earned income due to the employee.

(c) Employer return.--Every employer deducting any tax imposed under this chapter shall file monthly a return and pay to the tax officer the amount of taxes deducted during the preceding month.

(d) Contents of return.--Each return, unless otherwise agreed upon between the tax officer and employer, shall show the total tax deducted from compensation and paid with the return.

(e) Annual employer return.--On or before February 28 of the succeeding year, every employer shall file with the tax 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 tax 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 employee 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 employee's name, address and Social Security number; the amount of earned income paid to such employee during such period; the amount of tax deducted; and the amount of tax paid to the tax officer. Every employer shall furnish two copies of the individual return to the employee for whom it is filed.

(f) Discontinuance of business.--Every employer who discontinues doing business in this Commonwealth prior to December 31 of the current year shall, within 30 days after the discontinuance of doing business, file the returns and withholding statements required and pay the tax due.

(g) Liability of employer.--Every employer who willfully or negligently fails or omits to make the deductions required by this section shall be liable for payment of the taxes which the employer was required to withhold to the extent that such taxes have not been recovered from the employee.

(h) Continued liability of taxpayer.--The failure or omission of any employer to make the deductions required by this section shall not relieve any employee from the payment of the tax or from complying with the requirements of the ordinance relating to the filing of declarations and returns.
Section 1306. Payments to political subdivision of nonresidents.

(a) Payments.--Subject to the requirements of subsections (b), (c), (d) and (e), a city of the first class which imposes a wage tax on the earned income of nonresidents shall pay each municipality and school district which has residents employed in a city of the first class, a quarterly payment equal to 0.25% of the quarterly earned income earned by those residents in a city of the first class.

(b) Personal income tax requirement.--

(1) To qualify for and receive a payment under subsection (a), a municipality or a school district within this Commonwealth shall have in effect a tax on personal income under section 511 at a rate equal to at least 0.25%.

(2) A municipality or school district located outside this Commonwealth shall qualify for payments under subsection (a) if that municipality or school district levies a personal income tax at a rate equal to at least 0.25% and the state where that municipality or school district is located makes a payment to the city of the first class in an amount sufficient to fund the payments under subsection (a).

(c) Procedure for obtaining Commonwealth funds.--Thirty days after the close of each calendar quarter, the city of the first class shall determine the amount of potential payments required under subsection (a) and shall submit that amount as a request for Commonwealth funds to the Department of Revenue. The Department of Revenue shall review and examine the submitted request and issue a voucher to the State Treasurer for such amount to be paid to the city of the first class. Failure of the city to request such funds shall not relieve the city of the obligation to make payments under subsection (a).

(d) Commonwealth payments.--Except as provided in subsection (c), before making payments to municipalities and school districts within this Commonwealth under subsection (a), the

city of the first class shall receive a payment from the Commonwealth from funds derived from the tax imposed under section 1102-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, which is attributable to transactions recorded during the preceding fiscal year in all counties located in whole or in part within 20 miles of a city and county of the first class.

(e) Limitation on available funding.--In any fiscal year, the total amount of payments under this section shall be derived from and shall not exceed an amount equal to one-half of the portion of the tax imposed under section 1102-C of the Tax Reform Code of 1971, which is attributable to transactions recorded during the preceding fiscal year in all counties located in whole or in part within 20 miles of a city and county of the first class. If the amount of available funding in any fiscal year is insufficient to make payments in the full amount for which the municipality or school district would otherwise qualify but for the limitation imposed by this subsection, then the amounts of payments under this section shall be paid in the proportion that the amount of such available funding bears to the total amount of payments in such year. Funds for this program shall come from the Local Tax Reform Fund.

(f) Payment deadline.--All payments under this section shall be paid within 30 days of receipt of the funding under subsection (d).

(g) Administration and audit.--The Department of Revenue may promulgate regulations for the implementation of this section and shall administer and annually audit, in conjunction with the Auditor General, the payment program provided in this section.

(h) Definition.--As used in this section, the term "wage tax of nonresident" means a tax imposed on earned income in a city of the first class in which the taxpayer did not reside. Section 1307. Exemption of low-income persons.

(a) Low-income exemption.--Each city of the first class shall have the power and may exempt any person who qualifies under the provisions of section 304 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, from payment of any or all of the wage tax or the unearned income tax.

(b) Special hardship exemption.--Each city of the first class shall have the power and may exempt persons who qualify as claimants under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, and who have household income as defined in the Senior Citizens Rebate and Assistance Act which is equal to or less than the maximum income requirement necessary to qualify for a property tax rebate or rent rebate in lieu of property taxes or rent due pursuant to the Senior Citizens Rebate and Assistance Act, from the payment of any tax on earned or unearned income.

(c) Regulations.--Each city of the first class may adopt regulations for the processing of claims for these exemptions. Section 1308. Amnesty.

(a) General rule.--Notwithstanding the provisions of this act, a city of the first class may, by ordinance, establish once every ten years a period not to exceed three months during which interest or interest and penalties that would otherwise be imposed for the nonreporting or underreporting of wage liability or for the nonpayment of wage tax 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. The governing body may adopt regulations to implement the provisions of this subsection.

(b) Pending proceedings unaffected.--The provisions of this section shall not affect or terminate any 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 this subsection if the returns are determined to be substantially true and correct and the taxes are paid in full within the prescribed time.

Section 1309. Collection of unearned income tax by Commonwealth.

Any city of the first class imposing a tax upon unearned income under the authority of this act may enter into an agreement with the Department of Revenue for the collection of that tax by the Department of Revenue in conjunction with the collection of any tax on personal income imposed by the Commonwealth under the authority of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971. The Department of Revenue, by regulation, shall establish the procedures for collecting that tax and paying the full amount collected over to the city of the first class. The agreement may not include any provisions regarding enforcement. The agreement shall meet all requirements set forth in section 711(b).

Section 1310. Interest on late payments.

Any other law of this Commonwealth notwithstanding, each city of the first class and school district of the first class shall have the power to charge simple interest on late payments from the date they become due and payable until paid. The interest rate per annum shall be the rate charged by the Commonwealth pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

Section 1311. Share of State transfer tax.

Notwithstanding any other law to the contrary, each city of the first class which is coterminous with a county of the first class shall be entitled to receive one-half of all State revenues collected pursuant to Article XI-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, for all real estate transactions occurring within the boundaries of that first class county.

Section 1312. Continuity of existing taxes.

Unless inconsistent with the provisions of this chapter or section 3111, the validity of any ordinance or part of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by any city of the first class, providing for or related to the imposition, levy or collection of any tax, shall not be affected or impaired.

CHAPTER 15 SCHOOL DISTRICTS OF THE FIRST CLASS A

Section 1501. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Board." The Board of Public Education of a school district.

"Nonresident." An individual, association or other entity domiciled outside the school district imposing a personal income tax under this chapter.

"Nonresident employer." An employer whose office is within this Commonwealth but outside a school district imposing a personal income tax under this chapter.

"Person." A natural person, corporation, fiduciary or association. When used in a section imposing a penalty, the term, as applied to associations, means the partners or members thereof; and the term, as applied to corporations, means the officers thereof.

"Resident." An individual, association or other entity domiciled in the school district imposing a personal income tax under this act.

"Resident employer." An employer whose office is within a school district imposing a personal income tax under this chapter.

"School district." A school district of the first class A. Section 1502. Imposition.

(a) Levy.--The board shall have the power to levy, assess and collect and may levy, assess and collect a tax on personal income at a rate not to exceed 2%.

(b) Applicability.--The personal income tax authorized under this chapter shall be in addition to other taxes a school district is empowered to levy and collect.

(c) Use.--Taxes, interest and penalties collected under this chapter shall be used for general public school purposes.

(d) Exemptions.--

(1) Each school district shall have the power and may exempt any person who qualifies under the provisions of section 304 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, from payment of any or all personal income tax imposed under this section.

(2) Each school district shall have the power and may exempt persons who qualify as claimants under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, and who have household income as defined in the Senior Citizens Rebate and Assistance Act which is equal to or less than the maximum income requirement necessary to qualify for a property tax rebate or rent rebate in lieu of property taxes or rent due pursuant to the Senior Citizens Rebate and Assistance Act, from the payment of any tax on personal income.

(3) Each school district may adopt regulations for the processing of claims for these exemptions.

Section 1503. Payment of personal income tax.

(a) Income not subject to withholding.--Every taxpayer who receives any personal income for which the taxpayer is required to make a declaration of estimated tax pursuant to section 325 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, shall make and file quarterly returns in the manner provided for in section 925.

(b) Annual personal income tax return.--At the election of the board, every taxpayer shall make and file an annual return in the manner provided in section 924.

Section 1504. Collection at source.

(a) Registration.--Persons and resident employers who employ one or more persons for compensation shall, within 15 days after

becoming a resident employer, register with the tax officer: name, address and such other information as the tax officer may require.

(b) Deductions.--Persons and resident employers who employ one or more persons for compensation and who withhold, expect to withhold or should withhold from employees an aggregate amount less than \$200 per month in taxes on a person's compensation shall deduct those taxes from the compensation due to the employees monthly or more often than monthly, at the time of payment; shall, by April 30, July 31 and October 31 of the tax year and by January 31 of the year next succeeding the tax year, file a return of taxes deducted, on forms prescribed by the tax officer; and shall pay to the tax officer the amount of taxes deducted during the preceding three-month periods ending March 31, June 30, September 30 and December 31 of the tax year. Persons and resident employers who employ one or more persons for compensation and who withhold, expect to withhold or should withhold from employees an aggregate amount greater than or equal to \$200 per month in taxes on a person's compensation shall deduct those taxes from the compensation due to the employees monthly or more often than monthly, at the time of payment; shall, on January 30, February 15, March 15, April 30, May 15, June 15, July 30, August 15, September 15, October 30, November 15 and December 15, file a return of taxes deducted, on forms prescribed by the tax officer; and shall pay to the tax officer the amount of taxes deducted during the previous month of the tax year.

(c) General filings.--By the last day of February of the succeeding year, persons and resident employers who employ one or more persons for compensation shall file with the tax officer, on forms prescribed by the tax officer, all of the following:

(1) An annual return showing the total amount of compensation paid, the total amount of tax deducted and the total amount of personal income tax paid to the tax officer.

(2) A return for each employee employed during the tax year, setting forth the employee's name, address and Social Security number; the amount of compensation paid to the employee during the tax year; the amount of personal income tax deducted; the amount of personal income tax paid to the tax officer; and such other information as the tax officer may require. An employer shall furnish a copy of the individual return to the employee for whom it is filed.

(d) Termination of business.--An employer subject to this section who discontinues business prior to December 31 of a tax year shall, within 15 days after the discontinuance of business, file the returns required under this section and pay the personal income tax due.

(e) Failure to deduct.--The failure or omission of an employer to make the deductions required by this section shall not relieve an employee from the obligation to pay the personal income tax or to file declarations and returns.

(f) Nonresident employers.--The board or its tax officer may require similar returns and similar withholding and payment of taxes, as required under this section, to be made by a nonresident employer who is believed to be employing an employee residing in the school district.

(g) Penalty.--An employer who willfully or negligently fails or omits to make the deductions required by this section shall

be liable for payment of the taxes which the employer was required to withhold to the extent that the taxes have not been recovered from the employee.

Section 1505. Tax officer.

(a) General rule.--The tax officer shall have the following powers and duties:

(1) To collect and receive the taxes, fines and penalties imposed by this chapter.

(2) To keep a record showing the amount received by the tax officer from each person paying the personal income tax and the date of receipt.

(b) Administration and enforcement.--The tax officer is charged with the administration and enforcement of this chapter. The tax officer may promulgate and enforce regulations relating to any matter pertaining to the administration and enforcement of this chapter, including provisions for the re-examination 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. The tax officer may prescribe forms necessary for the administration of this chapter.

(c) Investigations.--The tax officer and the tax officer's designated agents may examine the books, papers and records of an employer or supposed employer or of a taxpayer or supposed taxpayer in order to verify the accuracy of a declaration or return or, if no declaration or return was filed, to ascertain the personal income tax due. An employer or supposed employer, and a taxpayer or supposed taxpayer, shall give to the tax officer or a designated agent the means, facilities and opportunity for examinations and investigations under this subsection.

(d) Confidentiality.--Information gained by the tax officer or other officials or agents of the school district as a result of declarations, returns, investigations, hearings or verifications required or authorized by this chapter shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

(e) Appeal.--A person aggrieved by an action of the tax officer shall have the right of appeal as provided by law.

(f) Remuneration.--There shall be paid to the tax officer, for services rendered in collecting the tax imposed under this chapter, an amount to be mutually agreed upon between the board and the tax officer.

Section 1506. Suit for collection of tax.

(a) Duty.--It shall be the duty of the board, or of the tax officer, if designated by the board, to sue for the recovery of taxes not paid when due.

(b) Limitation of actions.--A suit brought to recover the personal income tax imposed under this chapter shall commence within the time limitations set forth in section 929.

Section 1507. Interest and penalties.

If the tax imposed by this chapter is not paid when due, interest and penalties shall be imposed and accrue, and costs may be recovered as set forth in section 908.

Section 1508. Payment under protest and refunds.

The tax officer is authorized to accept payment under protest of the amount of personal income tax claimed by the school district if a person disputes the validity or amount of the tax claim. If it is determined by a court of competent jurisdiction

that there has been an overpayment to the tax officer, the amount of the overpayment shall be refunded to the person who paid under protest.

Section 1509. Collection of personal income tax by Commonwealth.

Any school district may enter into an agreement with the Department of Revenue for the collection of that tax by the Department of Revenue in conjunction with the collection of any tax on personal income imposed by the Commonwealth under the authority of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, pursuant to section 711(b). The agreement may not include any provisions regarding enforcement. The agreement authorized by this section shall contain a provision appointing the Department of Revenue as the tax officer within the meaning of this act.

Section 1510. Applicability.

(a) General rule.--The personal income tax imposed under this chapter does not apply to any of the following:

(1) A person as to whom it is beyond the legal power of a school district to impose the tax under the Constitution of the United States and the Constitution and laws of this Commonwealth.

(2) Institutions or organizations operated for public, religious, educational or charitable purposes; institutions or organizations not organized or operated for private profit; or trusts and foundations established for any of the purposes set forth in this paragraph.

(3) A person as to whom, or a privilege, a transaction, a subject, an occupation or property as to which, cities of the second class are without authority to tax under this act.

(b) Construction.--This section shall not be construed to exempt a person who is an employer from the duty of collecting the personal income tax at source from employees and paying the amount collected to the tax officer under section 1504.

Section 1511. Fines and penalties.

(a) General rule.--A person commits a misdemeanor of the third degree and shall, upon conviction, be sentenced to pay a fine of not more than \$500 or to undergo imprisonment for not more than six months if he:

(1) Fails, neglects or refuses to make a declaration or return required by this chapter.

(2) Fails, neglects or refuses to register, make deductions or pay the personal income tax deducted from employees.

(3) Refuses to permit the tax officer or a designated agent to examine books, records and papers.

(4) Makes an incomplete, false or fraudulent return or attempts to do anything to avoid the full disclosure of the amount of net profits or earnings to avoid the payment of personal income tax imposed by this chapter.

(5) Divulges information which is confidential under section 1505(d).

(b) Cumulative penalties.--The penalties imposed under this section shall be in addition to any other penalty imposed by any other section of this chapter.

(c) Defense not available.--The failure of a person to receive or procure the forms required for making the declarations or returns required by this chapter shall not excuse the person from making the declaration or return.

CHAPTER 21
QUALITY ASSESSMENTS PROGRAM

SUBCHAPTER A
PRELIMINARY PROVISIONS

Section 2101. Findings and legislative intent.

(a) Findings.--The General Assembly finds that numerous counties within this Commonwealth have not reassessed the value of real property for many years. Consequently, while the market value of real property has changed dramatically in recent years, the failure of assessed values to keep pace with these changes in market value has resulted in an inequitable distribution of the tax burden.

(b) Legislative intent.--It is the intent of the General Assembly to provide counties within this Commonwealth with the financial resources necessary to assist them in maintaining or improving their respective real property assessment processes, which may include, without limitation:

(1) Revaluation of real property located within a county.

(2) Improvement of the maintenance and accuracy of a county's assessment system, procedures, and standards and related tax maps, property records and assessment rolls.

(3) Improvement or establishment of a county's appraisal practices, specifications for the computer-assisted appraisal system function, specifications for the conduct of a revaluation program and procedures for the conduct of public information programs.

Section 2102. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Account." The Quality Assessment Revolving Loan Account.

"Advisory committee." The Quality Assessment Grant and Loan Advisory Committee.

"Board." The State Tax Equalization Board created under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

"Coefficient of dispersion." A measure of the accuracy of assessed values to true values, which measures the average assessment error around the common level ratio.

"Common level ratio." The ratio of assessed value to current market value used generally in the county as most recently determined by the State Tax Equalization Board under the act of June 27, 1947 (P.L.1046, No.447), referred to as the State Tax Equalization Board Law.

"Established predetermined ratio." The ratio of assessed value to market value established by the board of county commissioners or the legislative policymaking body in a home rule county and uniformly applied in determining assessed value in any year.

Section 2103. Quality Assessment Grant and Loan Advisory Committee.

(a) Creation.--There is hereby created the Quality Assessment Grant and Loan Advisory Committee which shall assist the board in devising, preparing and promulgating uniform comprehensive standards for assessment.

(b) Review of applications.--The advisory committee shall

assist the board in its review of applications for certification by counties seeking to become recipients of grants under section 2122 in order to ascertain whether the county has demonstrated an acceptable level of assessment accuracy as defined in this chapter.

Section 2104. Organization of advisory committee.

(a) Membership.--The advisory committee shall consist of seven members, none of whom shall be an employee of the General Assembly of Pennsylvania, and who shall be appointed or designated as follows:

(1) The Governor shall appoint three members who are broadly representative of the following groups:

(i) Licensed real estate brokers.

(ii) Instructors or researchers in any of the various disciplines related to mathematics or statistics who may be employed by an accredited institution of higher learning.

(iii) Citizens with general knowledge or interest in real property assessment practices.

(2) The President pro tempore of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall each appoint one member with general knowledge or interest in real property assessment practices.

(b) Term.--The initial term of each member of the advisory committee shall commence upon the date of his appointment and shall expire 30 days after the convening of the next regular session of the General Assembly. Thereafter, the term of each member shall commence upon the date of his appointment and shall expire two years later. All members shall serve until a successor is appointed and qualified, and any member of the advisory committee may serve successive terms. Any vacancy occurring in the membership shall be filled by the appointing power making the original appointment for the duration of the unexpired term.

(c) Reimbursement for expenses.--No advisory committee member shall receive a salary, but the member shall be reimbursed for actual expenses incurred in the performance of his official duties.

(d) Organization.--The advisory committee shall organize as soon as may be possible after the appointment of members and shall reorganize upon any change in membership. The advisory committee shall select a chairman and other officers from among its members.

(e) Removal.--

(1) A member of the advisory committee, upon clear and convincing evidence of misfeasance, malfeasance or nonfeasance in office, including neglect of duty, may be removed by majority vote of the members of the advisory committee.

(2) A member neglecting or refusing to attend two successive regular meetings, unless detained by sickness or prevented by necessary absence from the meeting, may be subject to removal by majority vote of the members of the advisory committee.

Section 2105. Powers and duties of State Tax Equalization Board.

The board shall:

(1) Maintain accurate and current information and data

on the valuations of taxable and tax-exempt real property and on the number and status of the parcels of real property in each county, as provided to the board by the respective assessment offices of each county.

(2) In consultation with the advisory committee, devise, prepare and promulgate uniform comprehensive standards and procedures for assessment, except that the board may not set a uniform established predetermined ratio of assessed value to market value.

(3) Review plans submitted by a county to improve the county's assessment systems, procedures and standards, including countywide reassessment programs.

(4) Either approve or reject plans submitted by a county under section 2112.

(5) Review county applications for grants and loans.

(6) Award grants and loans to eligible counties in accordance with the provisions of this chapter.

(7) In consultation with the advisory committee, promulgate rules and regulations necessary to implement the provisions of this chapter.

Section 2106. Independent review.

(a) General rule.--The board shall provide for an independent review of the efficacy of the programs established under Subchapters B and C in improving the real estate assessment processes of the counties, in accordance with the legislative intent stated in section 2101(b).

(b) Review procedure.--The board shall contract with a qualified, independent, private professional person or entity with expertise in the evaluation of public policy and in real estate assessment processes to conduct the independent review. This person or entity shall submit a report by June 1, 1993, and by June 1 of each year in which a report is required and for which funding of the review is provided, to the Governor, the Department of Community Affairs, the President pro tempore of the Senate, the Speaker of the House of Representatives, the advisory committee and the board.

(c) Cooperation of local officials.--All local assessment officials shall cooperate with the independent person or entity designated to perform the review required by this section and provide all data requested.

(d) Initial review.--This review shall first occur in the fiscal year beginning July 1, 1992, and biennially thereafter.

SUBCHAPTER B REVOLVING LOAN ACCOUNT

Section 2111. Quality Assessment Revolving Loan Account.

(a) Creation.--There is hereby created a restricted revenue account within the Local Tax Reform Fund, known as the Quality Assessment Revolving Loan Account, to which shall be credited appropriations made by the General Assembly for the purposes of this chapter and repayments of principal on loans made pursuant to this chapter.

(b) Repayments to account.--Upon approval of a loan, the board shall routinely requisition from the account such amounts as shall be allocated by the board for loans to eligible counties. When and as the amounts so allocated by the board as loans to counties are repaid to the board pursuant to the terms of the covenants made and entered into with the board pursuant

to this chapter, the board shall pay such amounts into the account. The account shall operate as a revolving account whereby appropriations and payments to the account may be applied and reapplied to the purposes of this chapter.

Section 2112. Preparation of plan.

A county which seeks to participate in loans from the account shall first submit a detailed plan for assessment reform to the board. A county may submit a detailed plan for an assessment in process on or after the effective date of this chapter.

Section 2113. Contents of plan.

(a) General rule.--The assessment reform plan submitted by a county to the board shall be consistent with applicable law and rules and regulations, statements of policy and requirements promulgated by the board.

(b) Specific contents.--The plan shall include the following:

(1) A detailed statement of the current permanent records system of the county's assessment office, including tax maps, real property record cards, the real property owners' index, computerized systems and related matters.

(2) A comprehensive explanation of the methodology by which the county intends to implement assessment reform.

(3) In the event that the county seeks financial assistance to conduct a countywide reassessment of the valuations of all real property located within the county, a comprehensive proposed methodology by which the county intends to perform such reassessment.

(4) A plan submitted to the board shall include a detailed statement of the precise costs associated with proposed assessment reform, including countywide reassessment.

Section 2114. Review of plan.

(a) Preliminary action.--The board shall review a plan or amended plan submitted by a county to insure compliance with applicable provisions of this chapter, and rules and regulations and statements of policy promulgated under it, and shall issue a preliminary approval or rejection of the plan within 60 days from the date the plan is received by the board.

(b) Final action.--If satisfied that the requirements of this chapter have been met, the board shall issue final approval of the plan and make a disbursement of approved loan funds within 60 days of the date of preliminary approval.

(c) Amended plan.--In the event of the preliminary rejection of a plan, a county may submit an amended plan:

(1) The submission of an amended plan by a county must occur within 60 days of the date the county receives the preliminary rejection in order for the county to remain eligible for disbursement of loan funds within the fiscal year in which the county plan was initially submitted.

(2) Submission of amended plans may be made as many times as may be required in order for a county to obtain the board approval for disbursement of loan funds.

Section 2115. Disbursement of loan funds.

In the calculation of the maximum amount of loan funds to be disbursed to any county which submits an approved plan, the board shall first certify the number of parcels of real estate located within the county. The amount of any loan shall not exceed \$40 per parcel which, when applied to the number of parcels of real estate within the county, shall constitute the

final total amount of loan funds available for disbursement to the county after approval of the plan.

Section 2116. Restricted use of loan funds.

Loan funds disbursed following submission of an approved plan under this chapter shall be used solely for assessment reform as set forth in the plan submitted by the county, including, but not limited to, countywide reassessment. No loan funds shall be used to pay any assessment costs incurred prior to November 30, 1988. None of the proceeds of the loan shall be used to retire debt or unfunded debt as defined in the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act. Loans under this chapter shall not be subject to the provisions of the Local Government Unit Debt Act.

Section 2117. Terms and conditions of loan repayment.

A county to which loan funds are disbursed shall comply with the following terms and conditions and shall enter into a covenant with respect to these terms and conditions of loan repayment:

(1) The principal of loans shall be repaid by a county without interest.

(2) Loans shall be repaid by a county in five equal annual installments, the first of which shall become due and payable within 90 days of either of the following dates, whichever shall occur first:

(i) The date of complete implementation of the approved plan as certified by the board.

(ii) Three years following the date of disbursement of loan funds.

(3) The second annual installment payment on a loan shall become due and payable one year after the date of payment of the first installment, and subsequent annual installment payments shall thereafter become due and payable at intervals of one year.

Section 2118. Definitions.

The following words and phrases when used in this subchapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"County." The term includes county, as defined in section 102, and also includes a county of the first class.

SUBCHAPTER C
GRANTS FOR QUALITY ASSESSMENTS

Section 2121. Eligibility for quality assessment grants.

(a) General rule.--A county may apply for a grant, on forms provided by the board, regardless of the county's participation in the loan program. In order to qualify for a grant, a county must attain or maintain an acceptable level of assessment accuracy equal to or less than a coefficient of dispersion of 20% as determined and certified by the board under subsection (b).

(b) Calculation.--In consultation with the advisory committee, the board shall determine the average assessment error for the county as measured by the coefficient of dispersion during the applicable reporting period. The method of calculating average assessment error shall be established by the board by regulation.

Section 2122. Disbursement of grants.

(a) Application approval required.--A county requesting a

grant shall apply for written approval of such application by the board, which shall review the application in consultation with the advisory committee.

(b) County grants.--The annual grant to a qualified county shall be made from the Local Tax Reform Fund in an amount equal to one-quarter of the tax collected under section 1102-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, on transactions recorded within the county during the preceding fiscal year of the Commonwealth.

(c) Limited use of county grants.--Grants disbursed to counties shall be used solely to maintain the assessment systems, procedures and standards as prescribed and approved by the board or to continue maintenance of an acceptable level of assessment accuracy as determined and certified by the board. None of the proceeds of the grant shall be used to retire debt or unfunded debt as defined in the act of July 12, 1972 (P.L.781, No.185), known as the Local Government Unit Debt Act, unless such debt was incurred for the purpose of funding a countywide revision of assessment of real property.

(d) Excess grants.--Any portion of a grant of an eligible county which exceeds the amount necessary to maintain the assessment system, procedures and standards or to continue maintenance of an acceptable level of assessment accuracy shall be held by the Commonwealth in reserve for the county and may, in subsequent years, be drawn upon for expenses of eligible activities under subsection (c).

CHAPTER 27 SENIOR CITIZENS PROPERTY TAX DEFERRAL

Section 2701. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Base payment." The amount of property tax paid by the claimant for the tax year during which the claimant is eligible on the personal residence in which the claimant has maintained continuous occupancy and ownership since either the base year or the date of purchase, whichever is later.

"Base year." The tax year preceding the first tax year for which a taxing authority implements the provisions of this chapter.

"Claimant." A person who qualifies as a claimant under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, whether or not a claim is filed under that act.

"Homestead." Real property which qualifies as a "homestead" under the provisions of the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, except real property which is rented or leased to a claimant.

"Household income." All income as defined in the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, received by the claimant and by the claimant's spouse while residing in the homestead during the calendar year for which a tax deferral is claimed.

"Increases in property taxes." An increase in the property tax due above the base amount, resulting from a millage increase, a change in the assessment ratio or an assessment increase.

"Taxing authority." A county, political subdivision, city of the first class and school district of the first class A.
Section 2702. Authority.

A taxing authority shall have the power and authority to grant annual tax deferrals in the manner provided in this chapter.

Section 2703. Eligibility.

A claimant shall be eligible for a tax deferral if the claimant has a household income equal to or less than the maximum household income necessary to qualify for a property tax rebate or rent rebate in lieu of property taxes or rent due pursuant to the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act.

Section 2704. Tax deferral.

(a) Amount.--An annual real estate tax deferral granted under this chapter shall equal the lesser of the following:

(1) The increase in real property taxes in excess of the claimant's base payment.

(2) The total amount that a claimant who is also eligible and receives a rebate under the act of March 11, 1971 (P.L.104, No.3), known as the Senior Citizens Rebate and Assistance Act, would be entitled to receive under that act were there no maximum rebate, less such maximum.

(b) Prohibition.--No tax deferrals shall be granted if the total amount of deferred taxes, plus the total amount of all other unsatisfied liens on the homestead of the claimant, exceeds 85% of the market value of the homestead, or if the outstanding principal on the primary mortgage on the homestead is an amount which exceeds 70% of the market value of the homestead. Market value shall equal assessed value divided by the common level-ratio as most recently determined by the State Tax Equalization Board for the county in which the property is located.

Section 2705. Application procedure.

Any person eligible for a tax deferral under section 2703 may apply annually for such deferral by providing to a taxing authority the following information in the manner required by the taxing authority:

(1) A statement of request for the tax deferrals.

(2) A certification that the claimant, the claimant's spouse, or the claimant and his or her spouse jointly are the owners in fee simple of the residence upon which the property taxes are imposed.

(3) A certification that the claimant's residence is adequately insured to the extent of all outstanding liens.

(4) Receipts showing timely payment of the current year's nondeferred real property tax liability.

(5) Proof of eligibility under section 2703.

Section 2706. Contents of application.

Any application for a tax deferral distributed to claimants under section 2705 shall:

(1) State that the tax deferral granted pursuant to this chapter is provided in exchange for a lien against the homestead of the claimant.

(2) Explain the manner in which the deferred taxes shall become due, payable and delinquent.

Section 2707. Attachment and satisfaction of liens.

(a) Nature of lien.--All taxes deferred under this chapter shall constitute a prior lien on the homestead of the claimant

in favor of the taxing authority and shall attach as of the date and in the same manner and shall be collected as other liens for taxes, but such deferred taxes shall be due, payable and delinquent only as provided in subsection (b), and no interest shall be collected on the lien.

(b) Payment.--

(1) All or part of the deferred taxes may at any time be paid to the taxing authority by the claimant or the spouse of the claimant.

(2) In the event that the deferred taxes are not paid by the claimant or the claimant's spouse during their lifetime or during their continued ownership of the property, the deferred taxes shall be paid either:

(i) upon the conveyance of the property to any third party; or

(ii) upon the passing of the legal or equitable title, either by will or by statute, to the heirs of the claimant or claimant's spouse.

(3) Under no circumstances shall the surviving spouse of a claimant be required to pay the deferred taxes by reason of his or her acquisition of the property due to death of the claimant.

CHAPTER 31 MISCELLANEOUS PROVISIONS

Section 3101. Local Tax Reform Fund.

(a) Establishment.--There is hereby established a special fund to be known as the Local Tax Reform Fund. Moneys in the fund shall be used for the purposes specified in this act.

(b) Purposes.--The Local Tax Reform Fund shall provide assistance in connection with efforts to implement local tax reforms enacted by the General Assembly and to lessen revenue shortfalls and deficits, provide greater continuity in the funding of vital government services and minimize the need to increase local taxes during the period of transition to new tax laws.

Section 3102. Temporary special aid to municipalities suffering loss of tax revenue due to bankruptcy of business in the municipality.

(a) General rule.--For the fiscal year 1989 and each year thereafter, a municipality, including a city of the first class, experiencing a 10% or greater loss in revenue from real estate taxes in any one year, compared with real estate tax collections the previous year, due to the nonpayment of such taxes within 60 days of the due date for the payment of such taxes during such year or during the preceding year by any businesses owning real estate within the boundaries of such municipality by reason of bankruptcy proceedings under Chapter 7, 11 or 12 of the Bankruptcy Code (11 U.S.C. § 101 et seq.), or any other legislation shall qualify for temporary special aid under the provisions of this section for a period of two years as provided in subsection (b).

(b) Temporary special aid.--The temporary special aid shall be equal to the amount of lost real estate tax revenues provided for in subsection (a), payable to the municipality during the year in which such loss due to bankruptcy proceedings is suffered, plus an amount equal to 50% of such amount payable to the municipality during the succeeding year. Such temporary

special aid shall be paid only once for each bankruptcy proceeding and only upon the condition that the tax rates which were in effect at the time of the bankruptcy proceeding are not reduced. Reductions in tax rates resulting from a shifting to the new tax bases permitted by this act shall not be considered.

(c) Source of funds.--The temporary special aid provided for in this section shall be paid from the annual appropriation to the Department of Community Affairs for distressed municipalities.

(d) Recapture of payments.--Any subsequent payments made on account of such ceased or suspended real estate taxes by such businesses or by bankruptcy officials on behalf of such businesses, during the course of such bankruptcy proceedings or following their completion, shall be repaid pursuant to the act of July 10, 1987 (P.L.246, No.47), known as the Financially Distressed Municipalities Act, to the extent of the temporary special aid provided to such municipality in accordance with the provisions of this section. Any interest or penalties received by such municipality shall be retained by the municipality.

(e) Rules and regulations.--The Department of Community Affairs shall promulgate the rules and regulations necessary to implement and administer this section.

Section 3103. Municipal mass transit assistance.

(a) General rule.--Annually, each municipality, including any county and any city of the first class, which provides local matching funds under section 203(2)(iii) and (3) of the act of January 22, 1968 (P.L.42, No.8), known as the Pennsylvania Urban Mass Transportation Law, shall be entitled to receive from the Department of Transportation a reimbursement payment which is equal to the lesser of the amount expended by that municipality for the local matching funds or 50% of the minimum amount of local matching funds required under section 203(2)(iii) or (3). Funds for this program shall come from the Local Tax Reform Fund.

(b) Regulations.--The Department of Transportation shall promulgate the necessary rules and regulations to implement and administer the provisions of this section.

Section 3104. Payments in lieu of taxes.

(a) Leased Commonwealth property.--A corporation, business or person leasing real property from the Commonwealth shall make payments in lieu of taxes to the county, political subdivision, city of the first class or school district of the first class A in which the leased property is located.

(b) Amount.--The amount of the payment required by subsection (a) shall equal the annual taxes that would be due and payable if the real property was subject to taxation.

(c) Applicability.--This section shall not apply to a corporation, business or person leasing Commonwealth property on the effective date of this act, or to the renewal of a lease of property which was leased by the tenant from the Commonwealth on the effective date of this act.

Section 3105. Payments to cities.

The General Assembly may enact legislation which provides payments to cities for municipal overburden. The payments shall be made from revenue in an amount equal to one-eighth of the tax collected under section 1102-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, on transactions recorded within the counties where cities are located during the preceding fiscal year of the Commonwealth. No

funds shall be expended until enabling legislation is enacted. Funds for this program shall come from the Local Tax Reform Fund.

Section 3106. Transitional assistance.

The General Assembly shall enact legislation which provides for payments to municipalities, including a city of the first class, to provide assistance in making the transition to the tax system set forth in this act. Funds not exceeding \$70,000,000 from the Local Tax Reform Fund are dedicated for this program and may be appropriated over more than one year. No funds shall be expended until enabling legislation is enacted.

Section 3107. Local Government Capital Project Loan Fund.

(a) Assistance to municipalities.--

(1) The department is hereby authorized, upon application of a municipality, to make loans to the municipality for the following purposes and in the following amounts:

(i) Purchasing equipment. The amount of a loan made for purchasing equipment shall not exceed \$50,000 for any single piece of equipment or 50% of the total cost of the piece of equipment, whichever is less.

(ii) Purchasing, constructing, renovating or rehabilitating facilities. The amount of a loan made for purchasing, constructing, renovating or rehabilitating facilities shall not exceed \$100,000 for any single facility or 50% of the total cost for purchasing, constructing, renovating or rehabilitating the facility, whichever is less.

(2) Loans made by the department shall be for a period of not more than ten years. Loans shall be subject to the payment of interest at 2% per annum and shall be subject to such security as shall be determined by the department. The total amount of interest earned by the investment or reinvestment of all or any part of the principal of any loan shall be returned to the department and transferred to the fund and shall not be credited as payment of principal or interest on the loan. The minimum amount of any loan shall be \$1,000.

(3) Every application for a loan under this section shall be accompanied by a financial statement of the municipality and a financial plan to show how the loan will be repaid. Every application shall be accompanied by evidence sufficient to show that all costs, except the amount of the loan, will be met by assets or revenues of the municipality, grants or loans from other sources, or in-kind contributions or services.

(4) Loans under this section shall be used for purchasing equipment and for purchasing, constructing, renovating or rehabilitating facilities and shall not be used for operating expenses or for the refinancing or reduction of any debt or obligation incurred prior to the effective date of this section.

(5) Loans made by the department shall be paid from the fund to municipalities in accordance with rules and regulations promulgated by the department.

(6) All payments of interest on loans and the principal thereof shall be deposited by the department in the fund.

(b) Local Government Capital Project Loan Fund.--

(1) There is hereby created a special fund in the

Treasury Department, to be known as the Local Government Capital Project Loan Fund, to which shall be credited all appropriations made by the General Assembly, other than appropriations for expenses of administering this section, or grants from other sources to the department as well as repayment of principal and interest on loans made pursuant to this section.

(2) The department shall routinely requisition from the fund such amounts as shall be allocated by the department for loans to municipalities pursuant to this section. When and as the amounts so allocated by the department as loans to municipalities are repaid to the department pursuant to the terms of the agreements made and entered into with the department, the department shall pay such amounts into the fund, it being the intent of this section that the fund shall operate as a revolving fund whereby all appropriations and payments made thereto may be applied and reapplied for the purposes of this section.

(c) Powers and duties of the department.--In addition to the powers and duties conferred upon the department under other provisions of law, the department shall have the power and duty to:

(1) Lend money for the purposes authorized by this section over a term of years, but in no case in excess of ten years.

(2) Accept grants from the Federal Government and any other individual, agency or government for use in the fund.

(3) Prescribe the form of the application for a loan pursuant to this section.

(4) Advise a municipality regarding the financial ability of the municipality to purchase equipment or to purchase, construct, renovate or rehabilitate facilities.

(5) Assist a municipality in taking advantage of joint purchasing arrangements and of opportunities to purchase surplus equipment from the Commonwealth or other political subdivisions.

(6) Require security for a loan, if determined to be necessary.

(7) Specify priority of liens against any facilities or equipment purchased by a municipality using funds loaned pursuant to this section, if determined to be necessary.

(8) Establish a schedule which provides at least an annual opportunity for municipalities to apply for, and receive, loans.

(d) Ranking of applications.--Whenever the department determines that there will not be enough money in the fund to make loans to all of the municipalities expected to submit eligible applications during an application period, the department shall rank the applications in order of priority to determine which loans shall be made first. A system of ranking shall be established for the purposes of this section by regulation and shall provide for consideration of factors such as whether the municipality has previously received a loan pursuant to this section; the ability of the municipality to purchase equipment or purchase, construct, renovate or rehabilitate facilities without a loan pursuant to this section; and the impact of the purchase of equipment or the purchase, construction, renovation or rehabilitation of facilities on the health, safety or welfare of the residents of the municipality.

(e) Definitions.--The following words and phrases when used in this section shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Data processing equipment." Any computer, terminal, printer, expansion unit, display unit, software or related component of a data processing system.

"Department." The Department of Community Affairs of the Commonwealth.

"Equipment." Any truck, car, bulldozer, backhoe, grader, highlift, forklift, street sweeper, other mechanized vehicle or data processing equipment.

"Fund." The Local Government Capital Project Loan Fund.

"Funds." Funds not exceeding \$7,000,000 from the Local Tax Reform Fund are dedicated for this program.

"Facilities." Any structure used to house offices or equipment and the land on which the structure is situated.

"Municipality." Any borough, town, first class township or second class township.

(f) Funds.--Funds not exceeding \$7,000,000 from the Local Tax Reform Fund are dedicated for this program.

Section 3108. Community facilities assistance.

Funds not exceeding \$3,000,000 from the Local Tax Reform Fund are dedicated to provide additional assistance to boroughs, incorporated towns and townships under the Community Facilities Program.

Section 3109. Repeals.

(a) Absolute repeals.--The following acts and parts of acts are repealed:

The first sentence of clause 3 of section 2531 and section 2531.1 of the act of June 23, 1931 (P.L.932, No.317), known as The Third Class City Code.

Act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act.

Sections 202 and 204(d) of the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law.

Sections 201(b), 202(d) and 603(b) of the act of May 21, 1943 (P.L.571, No.254), known as The Fourth to Eighth Class County Assessment Law.

Sections 20 and 20.1 of the act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

Act of June 20, 1947 (P.L.733, No.319), entitled, as amended, "An act to provide revenue in school districts of the first class A by imposing a temporary tax upon certain classes of personal property; providing for its levy and collection; conferring and imposing powers and duties on the county assessing authority, board of revision of taxes, receiver of school taxes, school treasurer, board of public education in such districts and courts; providing for compensation to certain officers, and employes and imposing penalties."

Sections 652.1(a)(1)(ii) and (iii), (2) and (4), 672.2, 679 and 680 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

Act of May 23, 1949 (P.L.1676, No.509), entitled, as reenacted and amended, "An act to provide revenue in school districts of the first class by imposing a tax upon certain classes of personal property; providing for its levy and collection; conferring and imposing powers and duties on the county assessing authority, board of revision of taxes, receiver of school taxes, school treasurer, board of public education in

such districts, and courts; providing for compensation to certain officers and employes; and imposing penalties."

Act of July 19, 1951 (P.L.1026, No.216), entitled, as amended, "An act authorizing political subdivisions, other than cities of the first and second classes and school districts of the first class and first class A, to appoint and pay the compensation of employes to make an assessment list of all inhabitants or residents thereof over eighteen years of age, for taxation purposes."

The second, third, fourth, fifth, sixth and seventh paragraphs of section 1770 of the act of August 9, 1955 (P.L.323, No.130), known as The County Code.

Act of August 24, 1961 (P.L.1135, No.508), referred to as the First Class A School District Earned Income Tax Act.

Act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.

Section 3(a)(2) and (b)(2) of the act of June 25, 1982 (P.L.643, No.182), entitled "An act amending the act of March 10, 1949 (P.L.30, No.14), entitled 'An act relating to the public school system, including certain provisions applicable as well to private and parochial schools; amending, revising, consolidating and changing the laws relating thereto,' providing for the clarification of the taxing power of first class A school districts to conform with the intent of Act 150 of 1975 and Act 46 of 1977, and further providing for temporary special aid for school districts."

(b) Partial repeals.--The following acts or parts of acts are repealed insofar as they provide for the assessment, levying or collection of:

(1) a tax based upon an assessed valuation of a particular trade, occupation or profession, commonly known as an occupation tax;

(2) a tax at a set or flat rate upon persons employed within the taxing district, commonly known as an occupational privilege tax; or

(3) a per capita, poll, residence or similar head tax.

Section 5 of the act of June 28, 1923 (P.L.903, No.348), entitled "A supplement to an act, approved the fourteenth day of May, one thousand nine hundred and fifteen (Pamphlet Laws, three hundred and twelve), entitled 'An act providing a system for government of boroughs, and revising, amending, and consolidating the law relating to boroughs'; so as to provide a system of government where a borough now has annexed or hereafter shall annex land in an adjoining county, including assessment of property, levying and collection of taxes, making municipal improvements, and filing and collecting of liens for the same; the jurisdiction of courts for the enforcement of borough ordinances and State laws, and primary, general, municipal, and special elections; and repealing inconsistent laws."

Section 1709 of the act of June 24, 1931 (P.L.1206, No.331), known as The First Class Township Code.

Act of June 26, 1931 (P.L.1379, No.348), entitled, as amended, "An act creating in counties of the second A and third class a board for the assessment and revision of taxes; providing for the appointment of the members of such board by the county commissioners; providing for their salaries, payable by the county; abolishing existing boards; defining the powers and duties of such board; regulating the assessment of persons,

property, and occupations for county, borough, town, township, school, and poor purposes; authorizing the appointment of subordinate assessors, a solicitor, engineers, and clerks; providing for their compensation, payable by such counties; abolishing the office of ward, borough, and township assessors, so far as the making of assessments and valuations for taxation is concerned; and providing for the acceptance of this act by cities."

Sections 702 VIII(2) and 905 of the act of May 1, 1933 (P.L.103, No.69), known as The Second Class Township Code.

Section 201(b) of the act of May 22, 1933 (P.L.853, No.155), known as The General County Assessment Law.

Section 307 of the act of June 24, 1937 (P.L.2017, No.396), known as the County Institution District Law.

Sections 9 and 21 of the act of June 21, 1939 (P.L.626, No.294), entitled "An act providing for and regulating the assessment and valuation of all subjects of taxation in counties of the second class; creating and prescribing the powers and duties of a Board of Property Assessment, Appeals and Review; imposing duties on certain county and city officers; abolishing the board for the assessment and revision of taxes in such counties; and prescribing penalties."

Act of May 25, 1945 (P.L.1050, No.394), known as the Local Tax Collection Law.

Section 672 of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

Section 1970.1 of the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code.

Act of August 9, 1963 (P.L.640, No.338), entitled "An act empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes."

Section 1302 of the act of February 1, 1966 (1965 P.L.1656, No.581), known as The Borough Code.

(c) Additional partial repeals.--The following acts and parts of acts are repealed to the extent specified:

Act of June 17, 1913 (P.L.507, No.335), entitled "An act to provide revenue for State and county purposes, and, in cities coextensive with counties, for city and county purposes; imposing taxes upon certain classes of personal property; providing for the assessment and collection of the same; providing for the duties and compensation of prothonotaries and recorders in connection therewith; and modifying existing legislation which provided for raising revenue for State purposes," insofar as it applies to counties of the first class, cities of the first class and counties of the second through eighth classes.

(d) General repeal.--All other acts and parts of acts are repealed insofar as they are inconsistent with this act.

Section 3110. Certification of constitutional amendment.

If a constitutional amendment authorizing differing tax rates for real property is ratified, the Secretary of the Commonwealth shall, immediately after tabulating and computing the returns of the ratification election, certify the result to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

Section 3111. Transition and implementation.

(a) Application of section.--The provisions of this section

shall apply to every county, political subdivision, city of the first class, school district of the first class and school district of the first class A when implementing the provisions of this act.

(b) January to December fiscal year political subdivisions.--A political subdivision which uses a January to December fiscal year shall, for the first fiscal year occurring after the expiration of 12 months following publication under section 3110, implement the provisions of this act in the following manner:

(1) Adopt and have in effect an ordinance which repeals the taxes specified in section 501(c).

(2) Adopt and have in effect an ordinance imposing any or all of the authorized taxes in Chapter 5.

(3) If imposing a personal income tax under section 511:

(i) Adopt and have in effect an ordinance which implements section 301(a) and (d).

(ii) Determine the differential for section 301(b) by comparing revenue raised in the current fiscal year with the revenues projected to be raised in the next fiscal year. That determination:

(A) May be adjusted for the second fiscal year to correct errors in calculations and assumptions.

(B) Shall be adjusted for the third fiscal year based upon the actual receipts for the first fiscal year and shall be maintained at this level until there is a change in the personal income tax rate.

(c) July to June fiscal year political subdivisions.--A political subdivision which uses a July to June fiscal year shall, for the first fiscal year occurring after the expiration of 12 months following publication under section 3110, implement the provisions of this act in the following manner:

(1) Adopt and have in effect an ordinance which repeals, except for the earned income tax, the taxes specified in section 501(c).

(2) Adopt and have in effect an ordinance imposing any or all of the authorized taxes in Chapter 5.

(3) If imposing a personal income tax under section 511, do all of the following:

(i) Adopt an ordinance specifying that the personal income tax shall be effective for the second half of the current fiscal year.

(ii) Adopt an ordinance imposing the earned income tax for the first half of the fiscal year at the rate which shall not exceed the limits specified in section 511.

(iii) Adopt and have in effect an ordinance which implements section 301(a) and (d).

(iv) Determine the differential for section 301(b) by comparing revenue raised in the current fiscal year with the revenue projected to be raised in the next fiscal year. This determination:

(A) May be adjusted in the second fiscal year to correct errors in calculations and assumptions.

(B) Shall be adjusted in the third fiscal year based upon actual receipts for the first calendar year and shall be maintained at this level until there is a change in the personal income tax rate.

(d) Cities of the first class.--A city of the first class

shall implement the provisions of this act as follows:

(1) Effective the first January occurring after the expiration of 12 months following publication under section 3110:

(i) Shall have adopted and in effect an ordinance which conforms the unearned income tax base to the provisions of section 1304(c) and rescinds the authority of the school district to levy a tax on unearned income pursuant to the act of August 9, 1963 (P.L.640, No.338), entitled "An act empowering cities of the first class, coterminous with school districts of the first class, to authorize the boards of public education of such school districts to impose certain additional taxes for school district purposes, and providing for the levy, assessment and collection of such taxes."

(ii) Shall have adopted procedures for and initiated the program for payments to political subdivisions of nonresidents under section 1306.

(iii) May have adopted an ordinance imposing the optional county sales and use tax under Subchapter C of Chapter 5.

(2) Effective the first July following the date specified in paragraph (1), shall have adopted an ordinance which reduces on July 1 of that year the rate of wage tax on earned income to conform with the limitations in section 1304(a).

(e) Counties.--For purposes of enacting the tax under Subchapter C of Chapter 5, counties, other than a county of the first class, shall comply with the provisions of subsection (b)(1) and (2).

(f) Delay of repeal.--

(1) The repeal of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, insofar as it relates to the imposition of a tax on earned income by political subdivisions under subsection (c), shall occur December 31 of the first fiscal year in which such political subdivisions are eligible to participate under this act.

(2) The implementation of the repeal of any authority to levy, assess and collect a tax on personal property shall occur by one of the following methods:

(i) An outright repeal of the ordinance or resolution imposing the personal property tax.

(ii) A repeal of the ordinance or resolution over three years in such manner that the millage rate in effect on November 30, 1988, shall be reduced by one-third the first year, two-thirds the second year and repealed in the third year.

Section 3112. Effective date and applicability.

(a) General rule.--Except as provided in section 3111 governing transition and implementation and subsection (b), this act shall be effective for, and shall apply to, counties, political subdivisions and school districts of the first class A for the fiscal year which begins after the expiration of 12 months following the publication of the certification of the constitutional amendment under section 3110.

(b) Exceptions.--Notwithstanding the provisions of subsection (a):

(1) Section 523(c) shall take effect immediately.

(2) Sections 901, 902, 905 and 906, Subchapters A and B of Chapter 21 and sections 3101 and 3107 shall take effect and apply upon the publication of the certification of the constitutional amendment under section 3110.

(3) Section 1301(b) shall take effect November 30, 1988, or immediately, whichever is later and shall be retroactive to November 30, 1988.

(4) Except as provided in paragraph (3) and section 3111, this act shall be effective for and shall apply to a city of the first class, including a school district of the first class, for the fiscal year which begins in the first July occurring after the first January following the expiration of 12 months after publication under section 3110.