

# Taxpayer Relief Act

## Overview

The Taxpayer Relief Act, or Act 1, Special Session 1, of 2006<sup>1</sup> (hereinafter referred to as Act 1), utilizes state gaming revenues and a local shift to an earned income tax (EIT) or a personal income tax (PIT) for the purpose of funding school property tax reductions for qualified homestead and farmstead properties.<sup>2</sup> Act 1 also provides for property tax and rent rebate assistance for low-income senior citizens, and affords wage tax relief in cities of the first class.

In addition to property tax relief, Act 1 stipulates that a school board (except Philadelphia) may not raise property taxes more than its adjusted index<sup>3</sup> unless a referendum question is approved by the electorate or a “backend referendum” exception is approved by the Pennsylvania Department of Education (PDE).

Act 1 further requires school districts (except Philadelphia and Pittsburgh) to enable owners of approved homestead and farmstead property and small business owners<sup>4</sup> to remit property tax payments in installments.

## Referenda – Municipal Election Years

In the 2007 primary election, voters in every school district (except Philadelphia, Pittsburgh and Scranton) were asked whether they wanted to raise either an EIT or PIT and use that revenue to immediately cut property taxes. The amount of property tax relief could be between half of the maximum homestead and farmstead exclusion allowed by law and the full maximum exclusion allowed, with limitations.<sup>5,6</sup>

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<sup>1</sup> 53 P.S. § 6926.101 et seq.

<sup>2</sup> See *Deskbook* article, “Homestead Exclusion.”

<sup>3</sup> “Each September, PDE publishes the index for use in the determination of allowable tax rate increases in the following fiscal year. The base index is the average of the percentage increase in the statewide average weekly wage, as determined by the PA Department of Labor and Industry, for the preceding thirty-six months ending December 31 and the percentage increase in the Employment Cost Index for Elementary and Secondary Schools, as determined by the Bureau of Labor Statistics in the U.S. Department of Labor, for the previous 12-month period ending June 30. For a school district with a market value/personal income aid ratio (MV/PI AR) greater than 0.4000, its index equals the base index multiplied by the sum of 0.75 and its MV/PI AR for the current year.” Excerpt from “Referendum Exception Submitted to PDE Guidelines for the 2020-2021 Fiscal Year,” Pennsylvania Department of Education, December 2019, <https://www.education.pa.gov/Documents/Teachers-Administrators/Property%20Tax%20Relief/ReferendumExceptions/Act%201%20Referendum%20Exception%20Guidelines.pdf>.

<sup>4</sup> Act 1, § 1502(e) defines “small business” as a business that has no more than 50 employees.

<sup>5</sup> Act 1, § 331.2.

<sup>6</sup> 53 Pa.C.S. § 8586. See also Pa. Const. art. XIII, § 2(b)(vi).

Beginning with the 2009 municipal election and any municipal election thereafter, each school district (except Philadelphia) may propose a referendum question asking voters to authorize an increase in the EIT or PIT up to the maximum homestead exclusion allowed by law for the purpose of annually funding homestead and farmstead exclusions<sup>7</sup> School districts that levy an EIT or PIT specifically designated for property tax reduction will combine this revenue with the gaming revenues<sup>8</sup> to determine the total property tax relief for each homestead and farmstead.

If the referendum to increase the EIT or PIT is rejected, qualified homeowners will still benefit from gaming revenues unless the school district opts-out of receiving its state allocation of funds. Voters may reverse the district's decision to opt-out by approving a mandatory referendum question at the next general or municipal election.<sup>9</sup>

**Note:** In November, 2017, Pennsylvania voters approved an amendment to the state Constitution to change the authorized homestead/farmstead exclusion offered by local taxing authorities from one-half of the median assessed value of all homestead property within a local taxing jurisdiction to one hundred percent of the assessed value of each homestead property within the jurisdiction.

[Effectively,] the ballot question would allow the General Assembly to pass a law increasing the amount of assessed value that local taxing authorities may exclude from real estate taxation for homestead property.... The ballot question, by itself, does not authorize local taxing authorities to exclude up to one-hundred percent (100%) of the assessed value of each homestead property from real estate taxation. Local taxing authorities could not take such action unless and until the General Assembly passes a law authorizing them to do so. The ballot question authorizes the General Assembly to pass that law.<sup>10</sup>

### Property Tax and Rent Rebate Program

Act 1 expands the Senior Citizens Property Tax and Rent Rebate (PTRR) Program<sup>11</sup> to benefit eligible Pennsylvanians age 65 and older, widows and widowers age 50 and older, and people with disabilities age 18 and over. The income eligibility requirement for PTRR is \$35,000 a year for a homeowner and \$15,000 for a renter, with a maximum standard rebate of \$650, annually.<sup>12</sup>

<sup>7</sup> Act 1, § 332.

<sup>8</sup> *Id.* § 505 (State Property Tax Reduction Allocation).

<sup>9</sup> *Id.* §§ 903-904.

<sup>10</sup> Plain English Statement of the Office of Attorney General regarding the November 2017 amendment to the Pennsylvania Constitution, Pennsylvania Department of State Public Notice. Available at <http://www.dos.pa.gov/VotingElections/CandidatesCommittees/RunningforOffice/Documents/ConstAmend-10.5x17.pdf> (accessed March 31, 2020).

<sup>11</sup> The PTRR Program was established pursuant to the Senior Citizens Rebate and Assistance Act (Act 3 of 1971), which was repealed by Act 1.

<sup>12</sup> Act 1, § 1304.

The PTRR payment schedule is streamlined to provide the following payments based on a claimant's eligibility income, which excludes one-half of Social Security, Supplemental Security Income and Railroad Retirement Tier 1 benefits, and federal and state veterans' disability payments.<sup>13</sup> Homeowners whose income falls between \$0 and \$8,000 will receive \$650; homeowners whose income falls between \$8,001 and \$15,000 will receive \$500; homeowners whose income falls between \$15,001 and \$18,000 will receive \$300; and homeowners whose income falls between \$18,001 and \$35,000 will receive \$250. Renters with income between \$0 and \$8,000 will receive \$650, and renters whose income falls between \$8,001 and \$15,000 will receive \$500.<sup>14</sup>

### *Rebate Supplement and Credits*

In addition, Act 1 affords more tax relief to certain seniors with particularly limited incomes. Seniors who live in Philadelphia, Pittsburgh or Scranton, where local wage/income tax rates are high, thereby precluding tax shifting, will have their property tax rebate increase by an additional 50 percent if their income is under \$30,000.<sup>15</sup> Seniors in the rest of the state who pay more than 15 percent of their income in property taxes will also have their property tax rebate increase by an additional 50 percent if their income is under \$30,000.<sup>16</sup> Furthermore, suburban Philadelphia school districts impacted by the Philadelphia wage tax will be reimbursed for revenue lost due to the tax.<sup>17</sup>

### *Mandatory Backend Referendum/Spending Controls*

Unless a referendum question is approved by the electorate or a backend referendum exception is approved by PDE, a school board may not raise property taxes more than its adjusted index.<sup>18</sup> Section 333 of the Taxpayer Relief Act, as amended by Act 25 of 2011, provides for four exceptions that require the approval of PDE:

- (1) costs to pay interest and principal on indebtedness incurred prior to September 4, 2004, for Act 72 schools and prior to June 27, 2006, for non-Act 72 schools;
- (2) costs to pay interest and principal on electoral debt;
- (3) costs incurred in providing special education programs and services (such costs shall be net of State special education payments); and
- (4) costs due to increases of more than the index in the school's share of payments to PSERS taking into account only the increase in the PSERS contribution rate.<sup>19</sup>

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<sup>13</sup> *Id.* § 1303.

<sup>14</sup> *Id.* § 1304.

<sup>15</sup> Act 1, § 704.

<sup>16</sup> *Id.* § 1304.

<sup>17</sup> *Id.* § 324.

<sup>18</sup> See footnote 3. See also the definition of "Index" in Act 1 §302.

<sup>19</sup> "Fiscal Note," Pennsylvania House Committee on Appropriations, June 30, 2011, <http://www.legis.state.pa.us/WU01/LI/BI/FN/2011/0/SB0330P1459.pdf> (accessed March 31, 2020). See also section 333 (f).

## *Property Tax Reduction Payments and Reserve Fund*

The property tax relief formula used to distribute gaming revenues for property tax reduction payments is set forth in Chapter 5 of Act 1. Funds are allocated based on a school district's tax capacity, tax effort and tax burden. Act 1 requires the budget secretary to certify the actual balance in the fund by April 15 of each year and to project gaming revenue coming into the fund in the next six months. All school districts are guaranteed a minimum of 10 percent and up to 40 percent tax relief when \$750 million is available for property tax relief, and a minimum of 12.5 percent and up to 50 percent relief when \$1 billion is available from gaming to fund property tax cuts. All homeowners will receive tax relief once gaming generates \$400 million for distribution statewide. The amount required to be deposited in the Property Tax Relief Reserve Fund is 25 percent of the amount of property tax reduction payments for that year, up to \$150 million.<sup>20</sup>

## *Property Tax Installment Payments*

Act 1 requires school districts (except Philadelphia and Pittsburgh)<sup>21</sup> to afford the option to owners of approved homestead and farmstead property and small business owners<sup>22</sup> to pay property taxes in installments. School districts are required to notify the aforesaid property owners of this option as component of their property tax bills. A taxpayer who elects this option and who is delinquent by more than 10 days on two or more installment payments will be ineligible for the installment option in the following year.<sup>23</sup>

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<sup>20</sup> Act 1, § 503.

<sup>21</sup> Philadelphia and Pittsburgh permit installment payments of property taxes under separate enabling authority. Philadelphia, *see* 53 Pa.C.S. § 8564 added by Act 106 of 2013. Pittsburgh, *see* "Real Estate FAQ's," Pittsburgh Department of Finance, <https://pittsburghpa.gov/finance/tax-faqs> (accessed March 31, 2020).

<sup>22</sup> Added by Act 25 of 2011.

<sup>23</sup> Act 1, § 1502.