

No. 507

AN ACT

Repealing section 663, act of March 10, 1949 (P. L. 30), 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," abolishing the levy and assessment of per capita taxes by school districts of the first class having a population of less than one million five hundred thousand persons, and providing for the collection of due and delinquent taxes.

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

Public School Code of 1949.

Section 1. Subject to the provisions of this act, section 663, act of March 10, 1949 (P. L. 30), known as the "Public School Code of 1949," is repealed.

Section 663, act of March 10, 1949, P. L. 30, repealed, subject to certain conditions.

Section 2. On and after January 1, 1962, the collector of school taxes shall continue to collect due and delinquent taxes under said section 663 until such taxes are either collected or the collector of school taxes is exonerated with respect to any such taxes by the board of public education of any school district which levied taxes under said section 663.

Due and delinquent taxes under section 663 preserved as an obligation until paid or enumerated.

Section 3. The right to collect delinquent taxes owing under said section 663 by suit in assumpsit, by prosecuting under subsection (k) of section 663, by filing liens and prosecuting to judgment, or by other legal process, shall be preserved to any school district which levied taxes under said section 663.

Rights to bring legal action preserved.

Section 4. This act shall take effect January 1, 1962.

Effective date.

APPROVED—The 24th day of August, A. D. 1961.

DAVID L. LAWRENCE

No. 508

AN ACT

Imposing a tax for general public school purposes in school districts of the first class A on salaries, wages, commissions and other compensation earned by residents thereof, and on the net profits earned from businesses, professions or other activities conducted by residents thereof; providing for its levy and collection; requiring the filing of declarations and returns and the giving of information by employers and by those subject to the tax; imposing on employers the duty of collecting the tax at source; conferring and imposing powers and duties on boards of public education and school treasurers in such districts; providing for the administration and enforcement of the act and imposing penalties for violation thereof.

Taxation :
school districts
of first class A.

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

Section 1. Definitions.—The following words and phrases, when used in this act, shall have the meanings ascribed to them in this section, except where the context clearly indicates or requires a different meaning:

“Association.” A partnership, limited partnership, or any other form of unincorporated enterprise, owned by two or more persons.

“Business.” An enterprise, activity, profession, or undertaking of any nature conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, association, or any other entity.

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

“Earnings.” Salaries, wages, commissions and other compensation as defined in this act.

“Employer.” An individual, partnership, association, corporation, governmental body or unit or agency, or any other entity employing one or more persons on a salary, wage, commission, or other compensation basis.

“Net Profits.” The net gain from the operation of a business, profession or enterprise, after provision for all costs and expenses incurred in the conduct thereof, either paid or accrued in accordance with the accounting system used in such business, profession or enterprise, but without deduction of taxes based on income.

“Nonresident.” An individual, partnership, association, or other entity domiciled outside the school district imposing a tax under this act. “Non-resident” as applied to employers shall mean an employer whose office is outside a school district imposing a tax under this act but within the Commonwealth of Pennsylvania.

“Person.” A natural person, partnership, corporation, fiduciary or association. When used in any section prescribing and imposing a penalty, the term “person” as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

“Resident.” An individual, partnership, association, or other entity domiciled in the school district imposing a tax under this act. “Resident” as applied to employers shall mean an employer whose office is within a school district imposing a tax under this act.

“Salaries, wages, commissions and other compensation.” Shall include salaries, wages, commissions,

bonuses, incentive payments, fees and tips that may accrue or be received by an individual for services rendered, whether directly or through an agent and whether in cash or in property; but shall not include periodic payments for sick or disability benefits and those commonly recognized as old-age benefits, retirement pay, or pensions paid to persons retired from service after reaching a specific age or after a stated period of employment, nor public assistance or unemployment compensation payments, nor any wages or compensation paid by the United States to any person for active service in the Army, Navy or Air Force of the United States nor any bonus or additional compensation paid by the United States or the Commonwealth of Pennsylvania or any other state for such service.

“Taxpayer.” A person, whether an individual, partnership, association, or any other entity, required hereunder to file a return of earnings or net profits, or to pay a tax thereon.

“Tax Year.” The calendar year which is the fiscal year of a school district imposing a tax under this act, and the year for which a tax is levied under this act.

“Treasurer.” The school treasurer of a school district imposing a tax under this act.

The singular shall include the plural, and the masculine shall include the feminine and the neuter.

Section 2. Tax Levy; Purposes; Imposition.—The Board of Public Education of school districts of the first class A shall levy, annually, a tax of not more than one-half of one per centum on the following:

(a) Salaries, wages, commissions and other compensation earned by residents.

(b) Net profits, earned from businesses, professions and other activities conducted by residents.

The tax levied under clause (a) of this section shall relate to and be imposed upon salaries, wages, commissions and other compensation paid by an employer or on his behalf to a person who is employed by or renders services to him. The tax levied under clause (b) of this section shall relate to and be imposed on the net profits of any business, profession or enterprise carried on by any person as owner or as proprietor, either individually or in association with some other person or persons.

The tax authorized to be levied under this act shall be levied for the tax year 1962 and for succeeding years, and shall be in addition to any other taxes any school district of the first class A is empowered to levy and collect under any existing law.

The taxes, interest and penalties collected under the provisions of this act shall be used for general public school purposes.

Section 3. Declaration and Payment of Tax.—

(a) Net Profits. (1) Every taxpayer who anticipates any net profits shall, on or before April 15 of a tax year, make and file with the treasurer, on a form prescribed by the treasurer, a declaration of his estimated net profits during the period beginning January 1 of the tax year and ending December 31 of the tax year, setting forth the estimated amount of net profits anticipated by him during the said period and subject to the tax, the amount of tax imposed by this act on such estimated net profits, and such other information as the treasurer may require.

The taxpayer making the declaration shall, at the time of filing thereof, pay to the treasurer the estimated amount of tax shown as due thereon: Provided, That the taxpayer shall have the right to pay the estimated tax in four quarterly installments, as follows: the first installment at the time of filing the declaration, and the other installments on or before June 15 and September 15 of the tax year and January 15 of the year next succeeding the tax year, respectively.

(2) Any taxpayer who first anticipates any net profits after April 15 of the tax year, shall make and file the declaration hereinabove required on or before June 15, September 15, or December 31 of the tax year, whichever of these dates next follows the date on which the taxpayer first anticipates such net profits. The taxpayer making the declaration shall, at the time of filing thereof, pay to the treasurer the estimated amount of tax shown as due thereon: Provided, That the taxpayer shall have the right to pay the estimated tax in equal installments on or before the quarterly installment payment dates which remain after the filing of the declaration.

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

(4) On or before April 15 of the year next succeeding the tax year, every taxpayer who has received net profits shall make and file with the treasurer, on a form prescribed by him, a final return showing all of his net profits for the tax year, the total amount of tax due, the amount of estimated tax paid under the provisions of this section, and the balance due. Any taxpayer may,

in lieu of paying the fourth quarterly installment of his estimated tax, elect to make and file with the treasurer, on or before January 15 of the year next succeeding the tax year, the final return as hereinabove required. 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.

(5) Every taxpayer who discontinues business prior to December 31 of a tax year, shall, within fifteen (15) days after the discontinuance of business, file his final return as hereinabove required and pay the tax due.

(b) Salaries, wages, commissions and other compensation. Every taxpayer who is employed on a salary, wage, commission or other compensation basis and who received any earnings not subject to the provisions of section 4 of this act relating to collection at source, shall, on or before April 30, July 31 and October 31 of the tax year and January 31 of the year next succeeding the tax year, make and file with the treasurer, on a form prescribed by the treasurer, a return setting forth the aggregate amount of salaries, wages, commissions and other compensation earned by him during the three-month periods ending March 31, June 30, September 30 and December 31 of the tax year, respectively, and subject to the tax, together with such other information as the treasurer may require. Every taxpayer making such return shall, at the time of filing thereof, pay to the treasurer the amount of tax shown as due thereon.

Section 4. Collection at Source.—(a) Every person and/or resident employer within a school district imposing a tax under this act, who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall, on or before April 15, 1962, or within fifteen (15) days after becoming an employer, register with the treasurer his name and address and such other information as the treasurer may require.

(b) Every person and/or resident employer within a school district imposing a tax under this act, who employs one or more persons on a salary, wage, commission or other compensation basis, other than domestic servants, shall deduct, monthly or more often than monthly, at the time of payment thereof, the tax imposed by this act on the salaries, wages, commissions and other compensation due to his employe or employes, and shall, on or before April 30, July 31 and October 31 of the tax year and January 31 of the year next succeeding the tax year, file a return of taxes deducted, on a form prescribed by the treasurer, and pay to the treasurer 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, respectively.

(c) On or before the last day of February of the year next succeeding the tax year, every such employer shall file with the treasurer, on forms prescribed by him :

(1) An annual return showing the total amount of salaries, wages, commissions and other compensation paid, the total amount of tax deducted, and the total amount of tax paid to the treasurer for the tax year; and

(2) A return for each employe employed during all or any part of the tax year, setting forth the employe's name, address and social security number, the amount of salaries, wages, commissions or other compensation paid to the employe during said period, the amount of tax deducted, the amount paid to the treasurer, and such other information as the treasurer may require. Every employer shall furnish a copy of the individual return to the employe for whom it is filed.

(d) Every employer who discontinues business prior to December 31 of a tax year shall, within fifteen (15) days after the discontinuance of business, file the returns hereinabove required and pay the tax due.

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

(f) The Board of Public Education of a school district imposing a tax under this act, or its treasurer, may require similar returns and similar withholding and payment of taxes, as required under this section, to be made by any nonresident employer who is believed to have in his or its employ any employe residing in said school district.

Section 5. Powers and Duties of Treasurer.—(a) It shall be the duty of the treasurer to collect and receive the taxes, fines and penalties imposed by this act. It shall also be his duty to keep a record showing the amount received by him from each person paying the tax and the date of such receipt.

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

prescribe forms necessary for the administration of this act.

(c) The treasurer, and agents designated by him, are hereby authorized to examine the books, papers and records of any employer or supposed employer, or of any taxpayer or supposed 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 or supposed employer, and every taxpayer or supposed taxpayer, is hereby directed and required to give to the treasurer, or to any agent designated by him, the means, facilities and opportunity for such examinations and investigations as are hereby authorized.

(d) Any information gained by the treasurer, his agents, or by any other official or agent of the school district imposing a tax under this act, as a result of any declarations, returns, investigations, hearings or verifications required or authorized by this act, shall be confidential except for official purposes and except in accordance with a proper judicial order or as otherwise provided by law.

(e) Any person aggrieved by any action of the treasurer shall have the right of appeal as provided by law.

(f) There shall be paid to the treasurer, for services rendered by him in collecting the tax imposed under this act, an amount to be mutually agreed upon between the Board of Public Education of the school district imposing a tax under this act and the treasurer.

Section 6. Suit for Collection of Tax.—(a) It shall be the duty of the Board of Public Education of the school district imposing a tax under this act, or the treasurer, if designated by the board, to sue for the recovery of all taxes * not paid when due.

(b) Any suit brought to recover the tax imposed under this act shall be begun within six (6) years after such tax is due or within six (6) years after a declaration or return has been filed, whichever date is later: Provided, That this limitation shall not prevent the institution of a suit for the collection of any tax due or determined to be due in the following cases:

(1) Where no declaration or return was filed by any person although a declaration or return was required to be filed by him under the provisions of this act.

(2) Where an examination of the declaration or return filed by any person, or of other evidence relating to such declaration or return, in the possession of the treasurer, reveals a fraudulent evasion of taxes, including, but not

* "due" in original.

limited to, substantial understatement of taxes deducted and of actual or estimated net profits or earnings.

(3) Where any person has deducted taxes under the provisions of this act and has failed to pay the amounts so deducted to the treasurer.

Section 7. Interest and Penalties.—If for any reason the tax is not paid when due, interest at the rate of six per centum per annum on the amount of said tax, and an additional penalty of one-half of one per centum of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid, shall be added and collected. Where suit is brought for the recovery of any such tax, the person liable therefor shall, in addition, be liable for the costs of collection and the interest and penalties herein imposed.

Section 8. Payment under Protest and Refunds.—The treasurer is hereby authorized to accept payment under protest of the amount of tax claimed by the school district imposing a tax under this act in any case where any person disputes the validity or amount of the tax claim. If it is thereafter judicially determined by a court of competent jurisdiction that there has been an overpayment to the treasurer, the amount of the overpayment shall be refunded to the person who paid under protest.

Section 9. Applicability.—The tax imposed under this act shall not apply:

(a) To any person as to whom it is beyond the legal power of a school district imposing a tax under this act to impose the tax herein provided for under the Constitution of the United States and the Constitution and laws of the Commonwealth of Pennsylvania.

(b) To institutions or organizations operated for public, religious, educational or charitable purposes, to institutions or organizations not organized or operated for private profit, or to trusts and foundations established for any of the said purposes.

(c) To any person as to whom, or privilege, transaction, subject, occupation or property as to which, cities of the second class are without authority to tax under the provisions of the act of June 25, 1947 (P. L. 1145), as now or hereafter amended.

This section shall not be construed to exempt any person who is an employer from the duty of collecting the tax at source from his employes and paying the amount collected to the treasurer under the provisions of section 4 of this act.

Section 10. Fines and Penalties for Violation of Act.—

(a) Any person who fails, neglects or refuses to make any declaration or return required by this act; any employer who fails, neglects or refuses to register, make deductions, or to pay the tax deducted from his employes; any person who refuses to permit the treasurer or any agent designated by him to examine his books, records and papers; and any person who makes any incomplete, false or fraudulent return or attempts to do anything whatsoever to avoid the full disclosure of the amount of his net profits or earnings to avoid the payment of the whole or any part of the tax imposed by this act, shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500) or to undergo imprisonment for not more than six (6) months.

(b) Any person who divulges any information which is confidential under the provisions of subsection (d) of section 5 of this act shall be guilty of a misdemeanor, and upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500) or to undergo imprisonment for not more than six (6) months.

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

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

Section 11. Severability.—The provisions of this act are severable. If any sentence, clause or section of this act is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this act. It is hereby declared to be the intent of the General Assembly that this act would have been adopted had such unconstitutional, illegal or invalid sentence, clause or section not been included herein.

Section 12. This act shall take effect immediately. Effective date.

APPROVED—The 24th day of August, A. D. 1961.

DAVID L. LAWRENCE