

Retroactive effect. Section 2. The provisions of this act shall be retroactive to the first day of January, one thousand nine hundred and fifty. No refunds of taxes, interest or penalties paid prior to the date of the enactment of this act shall be made as a result of the amendments herein contained.

No refunds.

APPROVED—The 10th day of February, A. D. 1956.

GEORGE M. LEADER

No. 318

AN ACT

Amending the act of May twenty-three, one thousand nine hundred forty-nine (Pamphlet Laws 1669), entitled, as amended, "An act to provide revenue for school districts of the first class by imposing a tax on persons engaging in certain businesses, professions, occupations, trades, vocations and commercial activities therein; providing for its levy and collection; conferring and imposing powers and duties on the Board of Public Education, receiver of school taxes and school treasurer in such districts; and prescribing penalties," changing the method of computing the tax of certain taxpayers, changing the penalty on taxes not paid when due, defining business and limiting the time within which suit may be started for collection of taxes.

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

School districts of the first class: business, etc., tax.

Clause (2), section 1, act of May 23, 1949, P. L. 1669, reenacted and amended May 10, 1951, P. L. 265, further amended.

Section 1. Clause two of section one, act of May twenty-three, one thousand nine hundred forty-nine (Pamphlet Laws 1669), entitled, as amended, "An act to provide revenue for school districts of the first class by imposing a tax on persons engaging in certain businesses, professions, occupations, trades, vocations and commercial activities therein; providing for its levy and collection; conferring and imposing powers and duties on the Board of Public Education, receiver of school taxes and school treasurer in such districts; and prescribing penalties," reenacted and amended May ten, one thousand nine hundred fifty-one (Pamphlet Laws 265), is amended to read:

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 a different meaning.

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(2) "Business." Carrying on or exercising for gain or profit within a school district of the first class, any trade, business, including financial business as hereinafter defined, profession, vocation, or commercial ac-

tivity, or making sales to persons within such school district of first class. "Business" shall not include the following: Any business conducted by a non-profit corporation or association organized for religious, charitable, or educational purposes, the business of any political subdivision, or of any authority created and organized under and pursuant to any act of Assembly, the specific business conducted by any public utility operating under the laws, rules and regulations administered by the Pennsylvania Public Utility Commission of furnishing or supplying service or services at the fixed rates specified in its tariffs, the business of any insurance company, association or exchange, or any fraternal, benefit, or beneficial society of any other state under the laws of which insurance companies, associations or exchanges, or fraternal, benefit, or beneficial societies of this Commonwealth doing business in such other state are subjected, by reason of the tax imposed by this act, to additional or further taxes, fines, penalties or license fees by such other state, and any employment for a wage or salary.

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Section 2. Clause (five) of section one of the act, amended August twenty-two, one thousand nine hundred fifty-three (Pamphlet Laws 1357), is amended to read:

Section 1. Definitions.— \* \* \*

(5) "Receipts." Cash, credits, property of any kind or nature, received in or allocable to a school district of the first class from any business or by reason of any sale made or services rendered or commercial or business transaction had within a school district of the first class, without deduction therefrom on account of the cost of property sold, materials used, labor, service, or other cost, interest or discount paid, or any other expense. "Receipts" shall exclude (a) the dollar volume of annual business covering the resale of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares and merchandise in the usual and ordinary course of his business, except to the extent that the resale price exceeds the trade-in allowance; (b) in the case of a financial business, the cost of securities and other property sold, exchanged, paid at maturity, or redeemed, and moneys or credits received in repayment of advances, credits and loans, but not to exceed the principal amount of such advances, credits and loans, and shall also exclude deposits, and, in the case of building and loan or savings and loan associations, payments received on account of shares purchased by shareholders; (c) in the case of a broker, any commissions paid by him to another broker on account of a

Clause (5), section 1, act of May 23, 1949, P. L. 1669, amended August 22, 1953, P. L. 1357, further amended.

purchase or sales contract initiated, executed or cleared in conjunction with such other broker; (d) the receipts or the portion thereof attributable to any sale involving the bona fide delivery of goods, commodities, wares or merchandise of the taxpayer's own manufacture, growth or produce, to a location regularly maintained by the other party to the transaction outside the limits of such school district, and not for the purpose of evading or avoiding payment of the tax or any portion thereof imposed under this act; (e) in the case of a person who at the execution of a contract for the sale in a natural state of the produce of a mine does not have title thereto and does not at any time take possession thereof, the cost to him of the produce of a mine covered by the contract; (f) *receipts by dealers from sales to other dealers in the same line, where the dealer transfers title or possession at the same price for which he acquired the goods, wares or merchandise.* For the purpose of determining taxable receipts from sales made by a manufacturing corporation of goods, commodities, wares and merchandise of its own manufacture through a wholly owned distributing corporation, such sales shall be treated as if made directly by the manufacturing corporation to the vendees of the distributing corporation. For the purpose of determining taxable receipts from sales made by a manufacturing corporation of goods, commodities, wares and merchandise of its own manufacture made through a distributing corporation, such sales shall be treated as if made directly by the manufacturing corporation to the vendees of the distributing corporation, if a majority of the shares of stock of both the manufacturing corporation and the distributing corporation is owned by the same individual, association or corporation. For the purpose of determining receipts from the business of insurance, such receipts shall mean those from premiums received from risks within the school district of the first class, whether by mutual or stock companies, domestic or foreign, without any deductions therefrom for any cost or expense whatsoever. The collector shall determine from such data as he shall require from insurance companies subject to this act, the amount of such receipts, and shall ascertain the amount of the tax in accordance with such determination.

Section 3, subsection (b) of section 4, subsection (d) of section 5, and section 8, act of May 23, 1949, P. L. 1669, re-enacted and amended May 10, 1951, P. L. 265, further amended.

Section 3. Section three, subsection (b) of section four, subsection (d) of section five and section eight of the act, reenacted and amended May ten, one thousand nine hundred fifty-one (Pamphlet Laws 265), are amended to read:

Section 3. Imposition and Rate of Tax.—Every person engaging in any business in any school district of

the first class shall pay an annual tax at the rate of one (1) mill on each dollar of the annual receipts thereof.

Where a receipt in its entirety cannot be subjected to the tax imposed by this act by reason of the provisions of the Constitution of the United States, or any other provision of law, the collector shall establish rules and regulations and methods of allocation and evaluation so that only that part of such receipt which is properly attributable and allocable to the doing of business in the school district levying the tax shall be taxed hereunder. The collector may make such allocation with due regard to the nature of the business concerned on the basis of mileage, division of the receipt according to the number of jurisdictions in which it may be taxed, the ratio of the value of the property or assets of the taxpayer owned and situated in the school district levying the tax to the total property or assets of the taxpayer wherever owned and situated, and any other method or methods of allocation other than the foregoing, calculated to effect a fair and proper allocation. *Every person who ceases to carry on a business during any tax year shall be permitted to apportion his tax for such tax year, and shall pay for such tax year an amount to be computed by multiplying his gross receipts for the preceding full calendar year by a fraction whose numerator shall be the number of months such person was in business during the tax year and whose denominator shall be twelve.*

Section 4. Computation of Annual Receipts.—

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(b) Every person subject to the payment of the tax hereby imposed who has commenced his business less than one (1) full year prior to the tax year one thousand nine hundred fifty for the tax year one thousand nine hundred fifty, or who has commenced his business subsequent to the beginning of any tax year for such tax year [and the succeeding tax year], shall compute his annual receipts upon the actual receipts received by him [during the first month of his engaging in such business multiplied by the number of months of the current tax year remaining, or multiplied by twelve (12)] *during the part of such tax year remaining, and on his actual receipts of his first full year for the first full tax year he engages in business, as the case may be.*

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Section 5. Returns.— \* \* \*

(d) Every person subject to the tax imposed by this act who commences business subsequent to the beginning of any tax year [shall, within forty (40) days from

the date of commencing such business and on or before May fifteenth] *for such tax year and for his first full tax year shall on or before January thirty-first of the succeeding tax year, file a return with the collector setting forth his name, his business and business address, and such information as may be necessary in arriving at the actual receipts received by him during his first month of business and the amount of the tax due.*

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Section 8. Suit on Collection; Penalty.—It shall be the duty of the collector to sue for the recovery of all taxes due him, not paid when due. [Such suits shall be begun within three (3) years after such taxes become due.] *No suit shall be begun for unpaid taxes later than five (5) years after the date on which such taxes should have been paid. The provisions of this subsection shall be retroactive to the tax year one thousand nine hundred fifty.*

(b) If for any reason the tax is not paid when due in each year, interest at the rate of six per centum (6%) per annum on the amount of said tax and an additional penalty of one-half per centum ( $\frac{1}{2}\%$ ) of the amount of the unpaid tax for each month or fraction thereof during which the tax remains unpaid *after said tax becomes due*, shall be added and collected by the collector: *Provided, That the maximum penalty added for non-payment of the tax shall be seven per centum (7%).* Where suit is brought for the recovery of any such tax, the person shall be liable for and it shall be the duty of the collector to collect, in addition to the tax assessed against such person, the costs of such collection and the interest and penalties herein imposed.

(c) *All penalty in excess of seven per centum (7%) imposed on unpaid taxes levied pursuant to this act for one thousand nine hundred fifty-five and all previous years, are hereby abated, if the unpaid delinquent taxes and penalty (not to exceed seven per centum) and interest are paid on or before December one, one thousand nine hundred fifty-six, provided the taxpayer's one thousand nine hundred fifty-five and one thousand nine hundred fifty-six taxes levied under this act are paid.*

Act effective immediately.  
No refunds.

Section 4. This act shall take effect immediately. No refunds of taxes, interest or penalties paid prior to the date of the enactment of this act shall be made as a result of the amendments herein contained.

APPROVED—The 10th day of February, A. D. 1956.

GEORGE M. LEADER