

Section 408, act of April 9, 1929, P. L. 343, amended May 31, 1957, P. L. 236, further amended.

Section 1. Section 408, act of April 9, 1929 (P. L. 343), known as "The Fiscal Code," amended May 31, 1957 (P. L. 236), is amended to read:

Section 408. Allocation of Costs of Audits.—In order to reimburse the [General Fund] *Department of the Auditor General* for the costs incurred [by the Department of the Auditor General] in auditing requisitions by departments, boards, or commissions for disbursements out of *the General Fund*, * special operating **funds or any other fund in State Treasury, and in auditing, annually, periodically or specially, the affairs of any department, board, or commission which are supported out of *the General Fund*, ***a special operating ****fund or any other fund in ***** the State Treasury, such departments, boards, or commissions, shall be billed at least quarterly ***** by the Department of the Auditor General, upon a cost basis, at such amount as the Department of the Auditor General, with the approval of the Executive Board, shall determine. Amounts payable hereunder for reimbursing the [General Fund] *Department of the Auditor General*, for the cost of audits shall be credited to the appropriation of the Department of the Auditor General and shall, *in respective parts*, be paid out of *the General Fund*, such special operating funds or other funds into the State Treasury through the Department of Revenue, and are hereby appropriated to the Department of the Auditor General for that purpose.

The procedures herein set forth shall not apply to those instances where appropriations are made directly to the Auditor General for the costs incurred by him in making audits.

The reimbursements and procedures herein shall not apply to the Fire Insurance Tax Fund.

Effective date.

Section 2. This act shall take effect June 1, 1959.

APPROVED—The 26th day of May, A. D. 1959.

DAVID L. LAWRENCE

No. 62

AN ACT

Reenacting and amending the act of December 27, 1951 (P. L. 1742), entitled, as amended, "An act to provide revenue by imposing a State tax relating to certain documents and trans-

* "a" in original.
 ** "fund" in original.
 *** "a" omitted in original.
 **** "funds" in original.
 ***** "the" in original.
 ***** "annual" in original.

actions; prescribing and regulating the method and manner of evidencing the payment of such tax; conferring powers and imposing duties upon certain persons, partnerships, associations, and corporations, sheriffs, recorders of deeds, and the Department of Revenue; saving certain State and local taxes and authorizing amendments, extensions and supplements to the ordinances and resolutions relating thereto; and providing penalties," extending the provisions of the act for a further limited period of time and excluding certain documents from the tax.

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

The Realty Transfer Tax Act.

Section 1. The title and sections 1, 2 and 3 of the act of December 27, 1951 (P. L. 1742), known as "The Realty Transfer Tax Act," reenacted and amended May 23, 1957 (P. L. 181), are reenacted and amended to read:

Title and sections 1, 2 and 3. act of December 27, 1951, P. L. 1742, reenacted and amended May 23, 1957, P. L. 181, further reenacted and amended.

AN ACT

To provide revenue by imposing a State tax relating to certain documents and transactions; prescribing and regulating the method and manner of evidencing the payment of such tax; conferring powers and imposing duties upon certain persons, partnerships, associations, and corporations, sheriffs, recorders of deeds, and the Department of Revenue; saving certain State and local taxes and authorizing amendments, extensions and supplements to the ordinances and resolutions relating thereto; and providing penalties.

Title.

Section 1. Short Title.—This act shall be known and may be cited as "The Realty Transfer Tax Act."

Section 2. The following words when used in this act shall have meanings ascribed to them in this section, except in those instances where the context clearly indicates a different meaning.

Definitions.

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

"Corporation." A corporation or joint-stock association organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency, including, but not limited to, banking institutions.

"Department." The Department of Revenue of this Commonwealth.

"Document." Any deed, instrument or writing whereby any lands, tenements or hereditaments within this Commonwealth or any interest therein shall be granted, bargained, sold, or otherwise conveyed to the grantee, purchaser, or any other person, but does not include wills, mortgages, transfers between husband and wife, transfers between parent and child or the spouse

of such a child or between parent and trustee for the benefit of a child or the spouse of such child, by and between a principal and straw party for the purpose of placing a mortgage or ground rent upon the premises, correctional deeds without consideration, transfers to the United States, the Commonwealth of Pennsylvania, or to any of their instrumentalities, agencies or political subdivisions, by gift, dedication or deed of confirmation in connection with condemnation proceedings, [and] leases, [or] a conveyance to a trustee under a recorded trust agreement for the express purpose of holding title in trust as security for a debt contracted at the time of the conveyance under which the trustee is not the lender and requiring the trustee to make reconveyance to the grantor-borrower upon the repayment of the debt, *or a transfer by the owner of previously occupied residential premises to a builder of new residential premises when such previously occupied residential premises is taken in trade by such builder as part of the consideration from the purchaser of a new previously unoccupied residential premises.*

“Person.” Every natural person, association, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person” as applied to associations, shall mean the partners or members thereof, and as applied to corporations, the officers thereof.

“Transaction.” The making, executing, delivering, accepting, or presenting for recording of a document.

“Value.” In the case of any document granting, bargaining, selling, or otherwise conveying any land, tenement or hereditament, or interest therein, the amount of the actual consideration therefor, including liens or other encumbrances thereon and ground rents, or a commensurate part of the liens or other encumbrances thereon and ground rents where such liens or other encumbrances and ground rents also encumber or are charged against other lands, tenements or hereditaments: Provided, That where such documents shall set forth a small or nominal consideration, the “value” thereof shall be determined from the price set forth in or actual consideration for the contract of sale, or, in the case of a gift, or any other document without consideration, from the actual monetary worth of the property granted, bargained, sold, or otherwise conveyed, which, in either event, shall not be less than the amount of the highest assessment of such lands, tenements or hereditaments for local tax purposes.

Rate of Tax.

Section 3. Every person who makes, executes, delivers, accepts, [or] presents for recording any document or in whose behalf any document is made, executed,

delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, or for or in respect of the vellum parchment or paper upon which such document is written or printed, a State tax at the rate of one (1) per centum of the value of the property represented by such document, which State tax shall be payable at the time of making, execution, delivery, acceptance or presenting for recording of such document.

Section 2. Sections 4, 5, 6, 7, 8, 9 and 10 of the act, reenacted and amended May 23, 1957 (P. L. 181), are reenacted and amended to read:

Sections 4, 5, 6, 7, 8, 9 and 10, act of Decem-
ber 27, 1951, P. L.
1742, reenacted
and amended
May 23, 1957,
P. L. 181, fur-
ther reenacted
and amended.

Section 4. The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith.

Priority of tax to
proceeds in
judicial sale.

Section 5. The payment of the tax imposed by this act shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. Such stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing such stamps shall write or stamp or cause to be written or stamped thereon the initials of his name and the date upon which such stamps are affixed or used so that such stamps may not again be used: Provided, That the department may prescribe such other method of cancellation as it may deem expedient.

Payment of tax
to be evidenced
by documentary
stamp.

Section 6. The department shall prescribe, prepare and furnish [adhesive] stamps, of such denominations and quantities as may be necessary, for the payment of the tax imposed and assessed by this act. The department shall make provisions for the sale of such stamps in such places as it may deem necessary.

Department of
Revenue to fur-
nish such stamps.

The department shall appoint the recorder of deeds in each county and other persons within or without the Commonwealth, as agents, in accordance with the provisions of The Fiscal Code, the act of April nine, one thousand nine hundred twenty-nine (Pamphlet Laws 343), as amended, for the sale of stamps to be used in paying the tax herein imposed upon documents, and may allow a commission to said agents of one per cent of the face value of the stamps. The department shall pay the premium or premiums on any bond or bonds required by law to be procured by any agent for the

Appointment of
agents to sell
such stamps.

Bond premiums.

performance of his duties under this act. This section shall not be construed to require any recorder of deeds to accept appointment or serve as such agent.

Disposition of all proceeds.

All moneys paid into the State Treasury during the effective period of this act shall be credited to the General Fund.

Department to prescribe and enforce rules and regulations.

Section 7. The department is hereby charged with the enforcement of the provisions of this act and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

(a) The method and means to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this act.

(b) The denominations and sale of stamps.

(c) Any other matter or thing pertaining to the administration and enforcement of the provisions of this act.

Effect, in certain cases, of failure to affix stamps.

Section 8. No document upon which tax is imposed by this act shall be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence in any court of this Commonwealth, or recorded in the office of any recorder of deeds of any county of this Commonwealth, unless a documentary stamp or stamps as provided in this act have been affixed thereto.

True, full and complete value of document to be set forth therein when presented for recording.

Section 9. Every document when lodged with or presented to any recorder of deeds in this Commonwealth for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by an affidavit executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this act.

Duty of recorder.

Any [such] recorder of deeds who shall record any document upon which tax is imposed by this act without the proper documentary stamp or stamps affixed thereto as required by this act as is indicated in such document or accompanying affidavit, shall, upon summary conviction before any magistrate, alderman or justice of the peace, or other officer having the powers of a committing magistrate, be sentenced to pay a fine of fifty dollars (\$50.00) and costs of prosecution, and in default of payment thereof, undergo imprisonment for not more than thirty (30) days: Provided, That when any document shall have been recorded, it shall be presumed that all requirements of law affecting the title to any real property conveyed thereby have been complied with.

Penalty for failure to perform duty.

Proviso.

Section 10. (a) It shall be unlawful for any person Unlawful acts.
to:

1. Make, execute, deliver, accept or present for recording or cause to be made, executed, delivered, accepted or presented for recording any document, without the full amount of tax thereon being duly paid; or,

2. Make use of any documentary stamp to denote payment of any tax imposed by this act without cancelling such stamp as required by this act or as prescribed by the department; or,

3. Fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the department under the provisions of this act.

Any person violating any of the provisions of this subsection (a) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not more than five hundred dollars (\$500.00) and costs of prosecution, or to undergo imprisonment of not more than ninety (90) days, or both, in the discretion of the court. Penalty.

(b) It shall be unlawful for any person to:

1. Fraudulently cut, tear or remove from a document any documentary stamp; or, Further unlawful acts.

2. Fraudulently affix to any document upon which tax is imposed by this act any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed by this act, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or,

3. Wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored stamp to any person for use, or knowingly use the same; or,

4. Knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this act: Provided, That the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or,

5. Knowingly or wilfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps. Penalty.

Any person violating any of the provisions of this subsection (b) shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine

of not less than five hundred dollars (\$500.00) nor more than one thousand dollars (\$1,000.00) and costs of prosecution, or to undergo imprisonment for not more than five (5) years, or both, in the discretion of the court.

Sections 11 and 12, act of December 27, 1951, P. L. 1742, reenacted and amended May 23, 1957, P. L. 181, further reenacted and amended.

Section 3. Sections 11 and 12 of the act, reenacted and amended May 23, 1957 (P. L. 181), are reenacted and amended to read:

Saving clause.

Section 11. Notwithstanding anything contained in any law to the contrary, the validity of any law or any ordinance or part of law or of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by the Commonwealth or any political subdivision thereof, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this act.

Duration of act.

Section 12. This act shall become effective the first day of February, one thousand nine hundred fifty-two, and shall remain in force until and including the thirty-first day of May, one thousand nine hundred [fifty-nine] *sixty-one*.

Effective date.

Section 4. This reenacting and amending act shall take effect June 1, 1959, but shall not apply to any documents made, executed and delivered prior to February 1, 1952.

APPROVED—The 1st day of June, A. D. 1959.

DAVID L. LAWRENCE

No. 63

AN ACT

Amending the act of August 24, 1951 (P. L. 1417), entitled, as amended, "An act to provide revenue for State purposes by imposing a property tax on the net incomes derived from sources within the Commonwealth of certain corporations, joint-stock associations, and limited partnerships; excluding certain income; providing for the assessment, collection, settlement and resettlement of taxes, and reviews and appeal therefrom; conferring powers and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State and county officers, boards and departments; and providing penalties," increasing the rate of tax for a limited period of time.

Corporation Income Tax Law.

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

Section 3 and subsection (d), section 4, act of August 24, 1951, P. L. 1417, reenacted and amended April 30, 1957, P. L. 66, further amended.

Section 1. Section 3 and subsection (d) of section 4, act of August 24, 1951 (P. L. 1417), known as the "Corporation Income Tax Law," reenacted and amended April 30, 1957 (P. L. 66), are amended to read:

Section 3. Imposition of Tax.—Every corporation carrying on activities in this Commonwealth or owning