

part of the net earnings of which inures to the benefit of any private stockholder or individuals for the use, benefit or advantage of any other person, copartnership, unincorporated association, company, joint-stock company or association, limited partnership, bank or corporation; and the equitable interest in any such personal property of the classes hereinafter enumerated, owned, held, or possessed by, any resident, where the legal title to such personal property is vested in a trustee, agent or attorney-in-fact domiciled in another state, or within this Commonwealth, but outside the school district levying the tax; or where the legal title to such personal property is vested in more than one trustee, agent or attorney-in-fact, one or more of whom are domiciled in another state, or within this Commonwealth, but outside the school district, levying the tax, and one or more of whom are domiciled within such school district, such personal property is held and managed in another state, or within this Commonwealth, but outside the school district levying the tax, and where such resident is entitled to receive all or part of the income therefrom, is hereby made taxable annually for the year one thousand nine hundred fifty, and annually thereafter, for public school purposes in school districts of the first class, and shall be levied upon annually by the board of public education in every such school district at the rate of not less than one (1) nor more than four (4) mills on each dollar of the value thereof, and no failure to assess or return the same shall discharge such owner or holder thereof from liability therefor, that is to say:

* * *

Section 2. The provisions of this act shall take effect January 1, 1968.

APPROVED—The 16th day of November, A. D. 1967.

RAYMOND P. SHAFER

No. 246

AN ACT

HB 1808

Amending the act of May 23, 1949 (P. L. 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," empowering the council of any city of the first class coterminous with any school district of the first class to authorize the Board of Public Education of such school district to impose a tax on persons, as defined in the act, engaging in certain businesses, professions, occupations, trades, vocations and commercial activities therein; increasing the rate of tax; providing for a limitation on the amount of tax; changing certain definitions; and further regulating returns.

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

Section 1. Section 1, act of May 23, 1949 (P. L. 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 10, 1951 (P. L. 265) and amended February 10, 1956 (P. L. 1014) and June 15, 1961 (P. L. 442), 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.

(1) "Person." Any individual, partnership, limited partnership, association or corporation. Whenever used in any clause prescribing or 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.

(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 activity, or making sales to persons within such school district of the 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.

(3) "Financial Business." The services and transactions of private banks and bankers, building and loan associations, savings and loan associations, credit unions, savings banks, banks, bank and trust companies, trust companies, investment companies registered as such with the Federal Securities and Exchange Commission, holding companies, dealers and brokers in money, credits, commercial paper, bonds,

notes, securities and stocks, monetary metals, factors and commission merchants.

(4) "Tax Year." The twelve month period [corresponding to the fiscal year of the school district levying the tax.] from January 1 to December 31.

(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, including resales of goods, wares or merchandise taken by a dealer as a trade-in or as part payment for other goods, wares or merchandise 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 amount of any allowance made for 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; (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 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)] (e) 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. ["Receipts" shall exclude the cost of the commodity at its source in the case of a person who is a wholesale dealer in grain, butter, eggs, fruit or produce in its natural state: "Receipts" shall exclude the cost of the commodity at its source in the case of a person who is a wholesale dealer in fresh meats produced by such person by the slaughter of cattle, hogs and sheep. "Receipts" shall exclude the cost of the commodity at its source in the case of a person who is a wholesale dealer in "dressed poultry." "Dressed poultry" means poultry which has been slaughtered for human food from which the blood and feathers have been removed either with head, feet and viscera intact or removed. "Receipts" shall exclude in the case of a person who is a wholesale dealer and who, at the execution of a contract for the sale of rough or planed lumber sawn from logs, does not have title thereto and does not at any time take possession thereof, the cost to him of such lumber at its source covered by the contract. "Receipts" shall exclude in the case of a person who is a wholesale dealer and who, at the execution of a contract for the sale of cotton spun yarn, does not have title thereto and does not at any time take possession thereof, the cost to him of such cotton spun yarn covered by the contract at its source. "Receipts" shall exclude in the case of a person who is a wholesale dealer and who, at the execution of a contract for the sale of grain in a natural or milled state but unmixed and undiluted, does not have title thereto and does not at any time take possession thereof, the cost to him of such grain covered by the contract at its source. "Receipts" shall exclude the cost of the commodity at its source in the case of a person who is a wholesale dealer in cheese or, fresh or frozen, uncooked sea food, shell-fish or fish.

"Receipts" shall exclude the cost of the commodity at its source in the case of a person who is a wholesale dealer in tobacco and tobacco products, and is a duly appointed cigarette stamp affixing agent under the act of July 8, 1957 (P. L. 594), known as the "Pennsylvania Cigarette Tax Act of 1957."

The provisions of this amendatory act which refer to the computation of receipts by wholesale dealers in tobacco and tobacco products,

dressed poultry, rough or planed lumber, cotton spun yarn, cheese, grain and, fresh or frozen sea food, shell-fish or fish, are hereby made retroactive to January 1, 1950. 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.]

(6) "Collector." The receiver of school taxes, or in a school district of the first class in which there is no such receiver of school taxes, the school treasurer.

(7) "Net Income." Net income shall be the income from any business activity as returned to and ascertained by the Federal Government.

Section 2. Section 2 of the act, reenacted and amended May 10, 1951 (P. L. 265), is amended to read:

Section 2. Authority to Levy and Collect Tax; Use of Tax.—For the year one thousand nine hundred fifty, and annually thereafter, every school district of the first class shall levy and collect an annual tax in the manner and at the rate hereinafter set forth: Provided, That in school districts of the first class coterminous with cities of the first class, for the year 1968, and annually thereafter, if authorized to do so by city council of the said city of the first class, every such school district of the first class coterminous with a city of the first class, shall levy and collect an annual tax in the manner and at the rates hereinafter set forth. Such tax shall be in addition to any other tax every such school district is empowered to levy and collect under any existing law. The taxes and penalties collected under the provisions of this act shall be used by every such school district for general public school purposes.

Section 3. Section 3 of the act, reenacted and amended May 10, 1951 (P. L. 265), and amended February 10, 1956 (P. L. 1014), is 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, and beginning with the tax year 1968, and annually thereafter, shall pay an annual tax at the rate of two (2) mills on each dollar of the annual receipts thereof: Provided, however, That the amount payable shall not exceed two (2) per centum of his net income.

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.] on the basis of the number of months during which he did business.

Section 4. Section 4 of the act, reenacted and amended May 10, 1951 (P. L. 265), is amended by adding at the end thereof, a new subsection to read:

Section 4. Computation of Annual Receipts.—* * *

(d) Any person who pays his tax based only on his gross receipts shall not be required to show on his return his net income.

Section 5. Section 5 of the act, reenacted and amended May 10, 1951 (P. L. 265) and amended February 10, 1956 (P. L. 1014) is amended to read:

Section 5. Returns.—(a) Every return shall be made upon a form furnished by the collector. Every person making a return shall certify the correctness thereof.

(b) Every person subject to the tax imposed by this act who has commenced his business at least one (1) full year prior to the beginning of any tax year shall, on or before May fifteenth, one thousand nine hundred fifty, and annually thereafter, file with the collector a return setting forth his name, his business and business address, and such other information as [may be necessary in arriving at the actual receipts received by him during the preceding calendar year and the amount of the tax due.] the collector may consider to be necessary.

(c) Every person subject to the tax imposed by this act who has commenced his business less than one (1) full year prior to the beginning of the tax year one thousand nine hundred fifty shall, on or before May fifteenth, one thousand nine hundred fifty, file with the collector a return setting forth his name, his business, business address, and such other 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.

(d) Every person subject to the tax imposed by this act who commences business subsequent to the beginning of any tax year 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 tax due.] the collector may consider to be necessary.

(e) Every person subject to the payment of the tax imposed by this act who engages in a business, temporary, seasonal or itinerant by its nature, shall, within seven (7) days from the day he completes such business, 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 such period and the amount of the tax due.] the collector may consider to be necessary.

Section 6. Section 6 and subsection (a) of section 12 of the act, reenacted and amended May 10, 1951 (P. L. 265) are amended to read:

Section 6. Payment at the Time of Filing the Return.—The person making the [same] return shall pay the amount of tax shown as due thereon to the collector.

Section 12. Saving Clauses.—(a) The validity of any ordinance or part of any ordinance providing for or relating to the imposition, levy or collection of any tax for municipal purposes passed by the council of a city coextensive with a school district of the first class, and any amendments or supplements thereto, shall not be affected or impaired by anything contained in this act.

* * *

Section 7. This act shall take effect immediately.

APPROVED—The 16th day of November, A. D. 1967.

RAYMOND P. SHAFER

No. 247

AN ACT

SB 883

Amending the act of April 12, 1951 (P. L. 90), entitled "An act relating to alcoholic liquors, alcohol and malt and brewed beverages; amending, revising, consolidating and changing the laws relating thereto; regulating and restricting the manufacture, purchase, sale, possession, consumption, importation, transportation, furnishing, holding in bond, holding in storage, traffic in and use of alcoholic liquors, alcohol and