

No. 1978-177

AN ACT

HB 2224

Amending the act of December 31, 1965 (P.L.1257, No.511), entitled "An act empowering cities of the second class, cities of the second class A, cities of the third class, boroughs, towns, townships of the first class, townships of the second class, school districts of the second class, school districts of the third class and school districts of the fourth class including independent school districts, to levy, assess, collect or to provide for the levying, assessment and collection of certain taxes subject to maximum limitations for general revenue purposes; authorizing the establishment of bureaus and the appointment and compensation of officers, agencies and employes to assess and collect such taxes; providing for joint collection of certain taxes, prescribing certain definitions and other provisions for taxes levied and assessed upon earned income, providing for annual audits and for collection of delinquent taxes, and permitting and requiring penalties to be imposed and enforced, including penalties for disclosure of confidential information, providing an appeal from the ordinance or resolution levying such taxes to the court of quarter sessions and to the Supreme Court and Superior Court," changing certain provisions to provide for equal rights between men and women.

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

Section 1. The definition of "domicile" in section 13, act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," is amended to read:

Section 13. Earned Income Taxes.—On and after the effective date of this act the remaining provisions of this section shall be included in or construed to be a part of each tax levied and assessed upon earned income by any political subdivision levying and assessing such tax pursuant to this act. The definitions contained in this section shall be exclusive for any tax upon earned income and net profits levied and assessed pursuant to this act, and shall not be altered or changed by any political subdivision levying and assessing such tax.

I. Definitions

* * *

"Domicile." The place where one lives and has his permanent home and to which he has the intention of returning whenever he is absent. Actual residence is not necessarily domicile, for domicile is the fixed place of abode which, in the intention of the taxpayer, is permanent rather than transitory. Domicile is **[the place in which a man has voluntarily fixed the habitation of himself and his family,] the voluntarily fixed place of habitation of a person**, not for a mere special or limited purpose, but with the present intention of making a permanent home, until some event occurs to induce him to adopt some other permanent home. In the case of

businesses, or associations, the domicile is that place considered as the center of business affairs and the place where its functions are discharged.

* * *

Section 2. Section 19 of the act, amended August 6, 1971 (P.L.279, No.71), is amended to read:

Section 19. Collection of Delinquent Per Capita, Occupation, Occupational Privilege and Earned Income Taxes from Employers, etc.—The tax collector shall demand, receive and collect from all corporations, political subdivisions, associations, companies, firms or individuals, employing persons owing delinquent per capita, or occupation, occupational privilege and earned income taxes, or whose **[wife] spouse** owes delinquent per capita, occupation, occupational privilege and earned income taxes, or having in possession unpaid commissions or earnings belonging to any person or persons owing delinquent per capita, occupation, occupational privilege and earned income taxes, or whose **[wife] spouse** owes delinquent per capita, occupation, occupational privilege and earned income taxes, upon the presentation of a written notice and demand certifying that the information contained therein is true and correct and containing the name of the taxable or the **[husband] spouse** thereof and the amount of tax due. Upon the presentation of such written notice and demand, it shall be the duty of any such corporation, political subdivision, association, company, firm or individual to deduct from the wages, commissions or earnings of such individual employes, then owing or that shall within sixty days thereafter become due, or from any unpaid commissions or earnings of any such taxable in its or his possession, or that shall within sixty days thereafter come into its or his possession, a sum sufficient to pay the respective amount of the delinquent per capita, occupation, occupational privilege and earned income taxes and costs, shown upon the written notice or demand, and to pay the same to the tax collector of the taxing district in which such delinquent tax was levied within sixty days after such notice shall have been given. No more than ten percent of the wages, commissions or earnings of the delinquent taxpayer or **[husband] spouse** thereof may be deducted at any one time for delinquent per capita, occupation, occupational privilege and earned income taxes and costs. Such corporation, political subdivision, association, firm or individual shall be entitled to deduct from the moneys collected from each employe the costs incurred from the extra bookkeeping necessary to record such transactions, not exceeding two percent of the amount of money so collected and paid over to the tax collector. Upon the failure of any such corporation, political subdivision, association, company, firm or individual to deduct the amount of such taxes or to pay the same over to the tax collector, less the cost of bookkeeping involved in such transaction, as herein provided, within the time hereby required, such corporation, political subdivision, association, company, firm or individual shall forfeit

and pay the amount of such tax for each such taxable whose taxes are not withheld and paid over, or that are withheld and not paid over together with a penalty of ten percent added thereto, to be recovered by an action of assumpsit in a suit to be instituted by the tax collector, or by the proper authorities of the taxing district, as debts of like amount are now by law recoverable, except that such person shall not have the benefit of any stay of execution or exemption law. ***The tax collector shall not proceed against a spouse or his employer until he has pursued collection remedies against the delinquent taxpayer and his employer under this section.***

Section 3. This act shall take effect immediately.

APPROVED—The 4th day of October, A. D. 1978.

MILTON J. SHAPP