

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2054 Session of  
2018

INTRODUCED BY ROTHMAN, WARD, KINSEY, KAUFFMAN, TOEPEL, BLOOM,  
RYAN, DUNBAR, SIMMONS, EMRICK, METZGAR, STAATS, READSHAW,  
SAYLOR, DUSH, DOWLING, BARRAR, PICKETT, TALLMAN, BERNSTINE,  
CHARLTON, KEEFER, BAKER, MILLARD, A. HARRIS, SANKEY, DeLUCA,  
D. COSTA, ZIMMERMAN, B. MILLER, OBERLANDER, COX, GILLEN AND  
MOUL, FEBRUARY 8, 2018

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 8, 2018

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," repealing provisions relating to inheritance tax;  
11 in procedure and administration, further providing for  
12 petition for reassessment; and, in governmental obligations,  
13 further providing for taxability of government obligations.

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

16 Section 1. Article XXI of the act of March 4, 1971 (P.L.6,  
17 No.2), known as the Tax Reform Code of 1971, is repealed:

18 [ARTICLE XXI

19 INHERITANCE TAX

20 PART I

21 PRELIMINARY PROVISIONS

1 Section 2101. Short Title.--This article shall be known and  
2 may be cited as the "Inheritance and Estate Tax Act."

3 Section 2102. Definitions.--The following words, terms and  
4 phrases, when used in this article, shall have the meanings  
5 ascribed to them in this section, except where the context  
6 clearly indicates a different meaning:

7 "Adverse interest." A substantial beneficial interest in the  
8 property transferred which might be adversely affected by the  
9 exercise or nonexercise of the power or right reserved or  
10 possessed by the transferor.

11 "Business of agriculture." The term shall include the  
12 leasing to members of the same family or the leasing to a  
13 corporation or association owned by members of the same family  
14 of property which is directly and principally used for  
15 agricultural purposes. The business of agriculture shall not be  
16 deemed to include:

17 (1) recreational activities such as, but not limited to,  
18 hunting, fishing, camping, skiing, show competition or racing;

19 (2) the raising, breeding or training of game animals or  
20 game birds, fish, cats, dogs or pets or animals intended for use  
21 in sporting or recreational activities;

22 (3) fur farming;

23 (4) stockyard and slaughterhouse operations; or

24 (5) manufacturing or processing operations of any kind.

25 "Children." Includes natural children whether or not they  
26 have been adopted by others, adopted children and stepchildren.

27 "Clerk." The clerk of the orphans' court division of the  
28 court of common pleas having jurisdiction.

29 "Court." The orphans' court division of the court of common  
30 pleas of:

1 (1) The county in which the decedent resided at the time of  
2 his death.

3 (2) The county in which letters, if any, are granted if the  
4 decedent was a nonresident of this Commonwealth.

5 (3) Dauphin County in all other cases.

6 "Date of death." The date of actual death or, in the case of  
7 a presumed decedent, the date found by the final decree to be  
8 the date of the absentee's presumed death. For the purpose of  
9 determining interest and discount, "date of death" means the  
10 date upon which the court enters its final decree of presumptive  
11 death.

12 "Death taxes." Includes inheritance, succession, transfer  
13 and estate taxes and any other taxes levied against the estate  
14 of a decedent by reason of his death.

15 "Decedent" or "transferor." Any person by or from whom a  
16 transfer is made and includes any testator, intestate, grantor,  
17 settlor, bargainor, vendor, assignor, donor, joint tenant and  
18 insured.

19 "Department." The Department of Revenue of the Commonwealth.

20 "Exemption income." All moneys or property, including,  
21 without limitation, interest, gains or income derived from  
22 obligations which are statutorily free from State or local  
23 taxation under any other Federal or State laws, received of  
24 whatever nature and from whatever source derived.

25 "Financial institution." A bank, a national banking  
26 association, a bank and trust company, a trust company, a  
27 savings and loan association, a building and loan association, a  
28 mutual savings bank, a credit union, a savings bank and a  
29 company that rents safe deposit boxes.

30 "Future interest." Includes a successive life interest and a

1 successive interest for a term certain.

2 "Lineal descendants." All children of the natural parents  
3 and their descendants, whether or not they have been adopted by  
4 others, adopted descendants and their descendants and  
5 stepdescendants.

6 "Members of the same family." Any individual, such  
7 individual's brothers and sisters, the brothers and sisters of  
8 such individual's parents and grandparents, the ancestors and  
9 lineal descendants of any of the foregoing, a spouse of any of  
10 the foregoing and the estate of any of the foregoing.

11 Individuals related by the half blood or legal adoption shall be  
12 treated as if they were related by the whole blood. For a  
13 transfer made by a surviving spouse, the term shall include any  
14 individual considered to be a member of the same family of the  
15 decedent spouse.

16 "Notice." Written notice.

17 "Presumed decedent." A person found to be presumptively dead  
18 under the provisions of 20 Pa.C.S. Ch. 57 (relating to absentees  
19 and presumed decedents) or, if a nonresident of this  
20 Commonwealth, under the laws of his domicile.

21 "Property" or "estate." Includes the following:

22 (1) All real property and all tangible personal property of  
23 a resident decedent or transferor having its situs in this  
24 Commonwealth.

25 (2) All intangible personal property of a resident decedent  
26 or transferor.

27 (3) All real property and all tangible personal property of  
28 a resident decedent having its situs outside this Commonwealth,  
29 which the decedent had contracted to sell, provided the  
30 jurisdiction in which the property has its situs does not

1 subject it to death tax.

2 (4) All real property and all tangible personal property of  
3 a nonresident decedent or transferor having its situs in this  
4 Commonwealth, including property held in trust.

5 (5) A liquor license issued by the Commonwealth.

6 "Register." The register of wills having jurisdiction to  
7 grant letters testamentary or of administration in the estate of  
8 the decedent or transferor.

9 "Safe deposit box of a decedent." A safe deposit box in a  
10 financial institution located within this Commonwealth in the  
11 name of the decedent alone or in the names of the decedent and  
12 one or more persons other than the spouse of the decedent.

13 "Secretary." The Secretary of Revenue of the Commonwealth.

14 "Sibling." An individual who has at least one parent in  
15 common with the decedent, whether by blood or by adoption.

16 "Territory." Includes the District of Columbia and all  
17 possessions of the United States.

18 "Transfer." Includes the passage of ownership of property,  
19 or interest in property or income from property, in possession  
20 or enjoyment, present or future, in trust or otherwise.

21 "Transferee." Any person to whom a transfer is made and  
22 includes any legatee, devisee, heir, next of kin, grantee,  
23 beneficiary, vendee, assignee, donee, surviving joint tenant and  
24 insurance beneficiary.

25 "Transfer of property for the sole use." A transfer to or  
26 for the use of a transferee if, during the transferee's  
27 lifetime, the transferee is entitled to all income and principal  
28 distributions from the property and no person, including the  
29 transferee, possesses an inter vivos power of appointment over  
30 the property.

1 "Value." The price at which the property would be sold by a  
2 willing seller, not compelled to sell, to a willing buyer, not  
3 compelled to buy, both of whom have reasonable knowledge of the  
4 relevant facts. In determining the value of property, no  
5 reduction shall be made on account of income, excise or other  
6 taxes which may become payable subsequent to the valuation date  
7 by the transferee or out of the property. Value as to land in  
8 agricultural use, agricultural reserve or forest reserve means  
9 the value which the land has for its particular use according to  
10 the standards provided in section 2122.

11 Section 2103. Powers of Department.--(a) The department may  
12 adopt and enforce rules and regulations for the just  
13 administration of this article.

14 (b) The department shall have complete supervision of the  
15 making of appraisements, the allowance of deductions and the  
16 assessment of tax, including, but not limited to, the power to  
17 regulate the actions of registers in the allowance and  
18 disallowance of deductions and assessment of tax. The  
19 department's supervision of the making of appraisements includes  
20 the employment and compensation of investigators, appraisers and  
21 expert appraisers. The compensation of investigators, appraisers  
22 and expert appraisers shall be paid from the inheritance tax  
23 collections in the respective counties.

24 (c) The department shall, in the event that the register  
25 fails to take the necessary proceedings in connection with the  
26 appraisal, allowance of deductions, assessment of tax or  
27 collection of tax, have all the powers vested in the register in  
28 this article and, at its option, may take the necessary action  
29 and shall charge to the register and deduct from any commissions  
30 or fees otherwise due him all costs and expenses incurred by the

1 department in connection with the proceedings.

2 PART II

3 TRANSFERS SUBJECT TO TAX

4 Section 2106. Imposition of Tax.--An inheritance tax for the  
5 use of the Commonwealth is imposed upon every transfer subject  
6 to tax under this article at the rates specified in section  
7 2116.

8 Section 2107. Transfers Subject to Tax.--(a) The transfers  
9 enumerated in this section are subject to the tax imposed by  
10 section 2106.

11 (b) All transfers of property by will, by the intestate laws  
12 of this Commonwealth or, in the case of a transfer from a  
13 nonresident, by the laws of succession of another jurisdiction  
14 are subject to tax. The transfer of property of a person  
15 determined by decree of a court of competent jurisdiction to be  
16 a presumed decedent is subject to tax within the meaning of this  
17 section and section 2108.

18 (c) (1) All transfers of property specified in subclauses  
19 (3) through (7) which are made by a resident or a nonresident  
20 during his lifetime are subject to tax to the extent that they  
21 are made without valuable and adequate consideration in money or  
22 money's worth at the time of transfer.

23 (2) When the decedent retained or reserved an interest or  
24 power with respect to only a part of the property transferred,  
25 in consequence of which a tax is imposed under subclauses (4)  
26 through (7), the amount of the taxable transfer is only the  
27 value of that portion of the property transferred which is  
28 subject to the retained or reserved interest or power.

29 (3) A transfer conforming to subclause (1) and made within  
30 one year of the death of the transferor is subject to tax only

1 to the extent that the value at the time of the transfer or  
2 transfers in the aggregate to or for the benefit of the  
3 transferee exceeds three thousand dollars (\$3,000) during any  
4 calendar year.

5 (4) A transfer conforming to subclause (1) which takes  
6 effect in possession or enjoyment at or after the death of the  
7 transferor and under which the transferor has retained a  
8 reversionary interest in the property, the value of which  
9 interest immediately before the death of the transferor exceeds  
10 five per cent of the value of the property transferred, is  
11 subject to tax. The term "reversionary interest" includes a  
12 possibility that property transferred may return to the  
13 transferor or his estate or may be subject to a power of  
14 disposition by him, but the term does not include a possibility  
15 that the income alone from the property may return to him or  
16 become subject to a power of disposition by him.

17 (5) A transfer conforming to subclause (1), and under which  
18 the transferor expressly or impliedly reserves for his life or  
19 any period which does not in fact end before his death, the  
20 possession or enjoyment of, or the right to the income from, the  
21 property transferred, or the right, either alone or in  
22 conjunction with any person not having an adverse interest, to  
23 designate the persons who shall possess or enjoy the property  
24 transferred or the income from the property, is subject to tax.

25 (6) A transfer conforming to subclause (1), and under which  
26 the transferee promises to make payments to, or for the benefit  
27 of, the transferor or to care for the transferor during the  
28 remainder of the transferor's life, is subject to tax.

29 (7) A transfer conforming to subclause (1), and under which  
30 the transferor has at his death, either in himself alone or in

1 conjunction with any person not having an adverse interest, a  
2 power to alter, amend or revoke the interest of the beneficiary,  
3 is subject to tax. Similarly, the relinquishment of such a power  
4 within one year of the death of the transferor is a transfer  
5 subject to tax except as otherwise provided in subclause (3).

6 (d) All succeeding interests which follow the interest of a  
7 surviving spouse in a trust or similar arrangement, to the  
8 extent specified in section 2113, are transfers subject to tax  
9 as if the surviving spouse were the transferor.

10 Section 2108. Joint Tenancy.--(a) When any property is held  
11 in the names of two or more persons or is deposited in a  
12 financial institution in the names of two or more persons so  
13 that, upon the death of one of them, the survivor or survivors  
14 have a right to the immediate ownership or possession and  
15 enjoyment of the whole property, the accrual of such right, upon  
16 the death of one of them, shall be deemed a transfer subject to  
17 tax of a fractional portion of such property to be determined by  
18 dividing the value of the whole property by the number of joint  
19 tenants in existence immediately preceding the death of the  
20 deceased joint tenant.

21 (b) Except as provided in subsection (c), this section shall  
22 not apply to property or interests in property passing by right  
23 of survivorship to the survivor of husband and wife.

24 (c) If the co-ownership was created within one year prior to  
25 the death of the co-tenant, the entire interest transferred  
26 shall be subject to tax only under, and to the extent stated in,  
27 subsection (c) (3) of section 2107 as though a part of the estate  
28 of the person who created the co-ownership.

29 PART III

30 TRANSFERS NOT SUBJECT TO TAX

1 Section 2111. Transfers Not Subject to Tax.--(a) The  
2 transfers enumerated in this section are not subject to the tax  
3 imposed by this article.

4 (b) Transfers of property to or for the use of any of the  
5 following are exempt from inheritance tax:

6 (1) The United States of America.

7 (2) The Commonwealth of Pennsylvania.

8 (3) A political subdivision of the Commonwealth of  
9 Pennsylvania.

10 (c) Transfers of property to or for the use of any of the  
11 following are exempt from inheritance tax:

12 (1) Any corporation, unincorporated association or society  
13 organized and operated exclusively for religious, charitable,  
14 scientific, literary or educational purposes, including the  
15 encouragement of art and the prevention of cruelty to children  
16 or animals, no part of the net earnings of which inures to the  
17 benefit of any private stockholder or individual and no  
18 substantial part of the activities of which is carrying on  
19 propaganda or otherwise attempting to influence legislation.

20 (2) Any trustee or trustees or any fraternal society, order  
21 or association operating under the lodge system, but only if the  
22 property transferred is to be used by the trustee or trustees or  
23 by the fraternal society, order or association exclusively for  
24 religious, charitable, scientific, literary or educational  
25 purposes or for the prevention of cruelty to children or  
26 animals, and no substantial part of the activities of the  
27 trustee or trustees or of the fraternal society, order or  
28 association is carrying on propaganda or otherwise attempting to  
29 influence legislation.

30 (3) Any veterans' organization incorporated by act of

1 Congress or its departments or local chapters or posts, no part  
2 of the net earnings of which inures to the benefit of any  
3 private shareholder or individual.

4 (d) All proceeds of insurance on the life of the decedent  
5 are exempt from inheritance tax. Refunds of unearned premiums  
6 for the current policy period and post mortem dividends shall be  
7 considered exempt proceeds.

8 (e) All proceeds of any Federal War Risk Insurance, National  
9 Service Life Insurance or similar governmental insurance are  
10 exempt from inheritance tax. Refunds of unearned premiums for  
11 the current policy period and post mortem dividends shall be  
12 considered exempt proceeds.

13 (f) The pay and allowances determined by the United States  
14 to be due a member of its armed forces for service in the  
15 Vietnam conflict after August 5, 1964, for the period between  
16 the date declared by it as the beginning of his missing-in-  
17 action status to the date determined by it to be the date of his  
18 death, are exempt from inheritance tax.

19 (g) Inter vivos transfers as defined in subsection (c) of  
20 section 2107 which might otherwise be subject to inheritance tax  
21 are exempt where the transferee is a governmental body as  
22 provided in subsection (b) or a charity as provided in  
23 subsection (c).

24 (h) Intangible personal property held by, for or for the  
25 benefit of a decedent who, at the time of his death, was a  
26 nonresident is exempt from inheritance tax.

27 (i) A transfer made as an advancement of or on account of an  
28 intestate share or in satisfaction or partial satisfaction of a  
29 gift by will, but not within the meaning of subsection (c) (3) of  
30 section 2107, is exempt from inheritance tax.

1 (j) Adjusted service certificates issued under the act of  
2 Congress of May 19, 1924, and adjusted service bonds issued  
3 under the act of Congress of January 27, 1936, are exempt from  
4 inheritance tax.

5 (k) Property subject to a power of appointment, whether or  
6 not the power is exercised, and notwithstanding any blending of  
7 such property with the property of the donee, is exempt from  
8 inheritance tax in the estate of the donee of the power of  
9 appointment.

10 (l) Property awarded to the Commonwealth as statutory heir  
11 by escheat or without escheat, otherwise than as custodian for a  
12 known distributee, is exempt from inheritance tax. Inheritance  
13 tax shall be deducted at the applicable rate without interest  
14 from any such exempt funds thereafter distributed by the  
15 Commonwealth.

16 (m) Property owned by husband and wife with right of  
17 survivorship is exempt from inheritance tax. If the ownership  
18 was created within the meaning of section 2107(c)(3), the entire  
19 interest transferred shall be subject to tax under section  
20 2107(c)(3) as though a part of the estate of the spouse who  
21 created the co-ownership.

22 (n) Property held in the name of a decedent who had no  
23 beneficial interest in the property is exempt from inheritance  
24 tax.

25 (o) Obligations owing to the decedent which are worthless  
26 immediately before death are exempt from inheritance tax  
27 although collectible from the obligor's distributive share of  
28 the estate.

29 (p) The lump-sum death payment from the Social Security  
30 Administration or Veterans' Administration or any county

1 veterans' death benefit or other similar death benefit, whether  
2 or not paid to the decedent's estate, is exempt from inheritance  
3 tax.

4 (q) The lump-sum burial benefit from the United States  
5 Railroad Retirement Board, whether or not paid to the decedent's  
6 estate, is exempt from inheritance tax.

7 (r) Payments under pension, stock bonus, profit-sharing and  
8 other retirement plans, including H.R.10 plans, individual  
9 retirement accounts, individual retirement annuities and  
10 individual retirement bonds to distributees designated by the  
11 decedent or designated in accordance with the terms of the plan,  
12 are exempt from inheritance tax to the extent that the decedent  
13 before his death did not otherwise have the right to possess  
14 (including proprietary rights at termination of employment),  
15 enjoy, assign or anticipate the payment made. In addition to  
16 this exemption, whether or not the decedent possessed any of  
17 these rights, the payments are exempt from inheritance tax to  
18 the same extent that they are exempt from Federal estate tax  
19 under the provisions of the Internal Revenue Code of 1986  
20 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended, any  
21 supplement to the code or any similar provision in effect from  
22 time to time for Federal estate tax purposes, except that a  
23 payment which would otherwise be exempt for Federal estate tax  
24 purposes if it had not been made in a lump-sum or other  
25 nonexempt form of payment shall be exempt from inheritance tax  
26 even though paid in a lump-sum or other form of payment. The  
27 proceeds of life insurance otherwise exempt under subsection (d)  
28 shall not be subject to inheritance tax because they are paid  
29 under a pension, stock bonus, profit-sharing, H.R.10 or other  
30 retirement plan.

1 (s) A transfer of real estate devoted to the business of  
2 agriculture to or for the benefit of members of the same family,  
3 provided that after the transfer the real estate continues to be  
4 devoted to the business of agriculture for a period of seven  
5 years beyond the transferor's date of death, the real estate  
6 derives a yearly gross income of at least two thousand dollars  
7 (\$2,000) and the real estate is reported on a timely filed  
8 inheritance tax return, provided that:

9 (1) Any tract of land under this article which is no longer  
10 devoted to the business of agriculture within seven years beyond  
11 the transferor's date of death or does not derive a yearly gross  
12 income of at least two thousand dollars (\$2,000) shall be  
13 subject to inheritance tax due the Commonwealth under section  
14 2107, in the amount that would have been paid or payable on the  
15 basis of valuation authorized under section 2121 for nonexempt  
16 transfers of property, plus interest thereon accruing as of the  
17 transferor's date of death, at the rate established in section  
18 2143.

19 (2) Any tax imposed under section 2107 shall be a lien in  
20 favor of the Commonwealth upon the property no longer being  
21 devoted to the business of agriculture or which does not derive  
22 a yearly gross income of at least two thousand dollars (\$2,000),  
23 as well as the personal obligation of the owner of the property  
24 at the time of the event causing the property to fail to qualify  
25 for exemption and all beneficiaries of any trust that is an  
26 owner of the property. Liability for the tax shall be joint and  
27 several.

28 (3) Every owner of real estate exempt under this subsection  
29 shall certify to the department on an annual basis that the land  
30 qualifies for this exemption and shall notify the department

1 within thirty days of any transaction or occurrence causing the  
2 real estate to fail to qualify for the exemption. Each year the  
3 department shall inform all owners of their obligation to  
4 provide an annual certification under this subclause. This  
5 certification and notification shall be completed in the form  
6 and manner as provided by the department.

7 (s.1) A transfer of an agricultural commodity, agricultural  
8 conservation easement, agricultural reserve, agricultural use  
9 property or a forest reserve, as those terms are defined in  
10 section 2122(a), to or for the benefit of lineal descendants or  
11 siblings is exempt from inheritance tax, provided the foregoing  
12 property is reported on a timely filed inheritance tax return.

13 (t) A qualified family-owned business. The following shall  
14 apply:

15 (1) A transfer of a qualified family-owned business interest  
16 to or for the benefit of members of the same family is exempt  
17 from inheritance tax if the qualified family-owned business  
18 interest:

19 (i) continues to be owned by members of the same family or a  
20 trust whose beneficiaries are comprised solely of members of the  
21 same family for a minimum of seven years after the decedent's  
22 date of death; and

23 (ii) is reported on a timely filed inheritance tax return.

24 (2) A qualified family-owned business interest that was  
25 exempted from inheritance tax under this subsection that is no  
26 longer owned by members of the same family or a trust whose  
27 beneficiaries are comprised solely of members of the same family  
28 at any time within seven years after the decedent's date of  
29 death shall be subject to inheritance tax due the Commonwealth  
30 under section 2107, in an amount equal to the inheritance tax

1 that would have been paid or payable on the value of the  
2 qualified family-owned business interest using the valuation  
3 authorized under section 2121 for nonexempt transfers of  
4 property. Interest shall accrue from the payment date  
5 established under section 2142 at the rate established under  
6 section 2143.

7 (2.1) The exemption under this subsection shall not apply to  
8 property transferred by the decedent into the qualified family-  
9 owned business within one year of the death of the decedent  
10 unless the property was transferred for a legitimate business  
11 purpose.

12 (3) Inheritance tax due under section 2107 as a result of  
13 disqualification under paragraphs (2) or (4), plus interest on  
14 the inheritance tax, shall be a lien in favor of the  
15 Commonwealth on the real and personal property of the owner of  
16 the qualified family-owned business interest at the time of the  
17 transaction or occurrence that disqualified the qualified  
18 family-owned business interest from the exemption provided under  
19 this subsection. The inheritance tax due and interest shall be  
20 the personal obligation of the owner of the qualified family-  
21 owned business interest at the time of the transaction or  
22 occurrence that disqualified the qualified family-owned business  
23 interest from the exemption provided under this subsection and  
24 all beneficiaries of any trust that is an owner of the qualified  
25 family-owned business interest. Liability for the tax shall be  
26 joint and several. The lien shall remain until the inheritance  
27 tax and accrued interest are paid in full.

28 (4) Each owner of a qualified family-owned business interest  
29 exempted from inheritance tax under this subsection shall  
30 certify to the department, on an annual basis, for seven years

1 after the decedent's date of death, that the qualified family-  
2 owned business interest continues to be owned by members of the  
3 same family or a trust whose beneficiaries are comprised solely  
4 of members of the same family and shall notify the department  
5 within thirty days of any transaction or occurrence causing the  
6 qualified family-owned business interest to fail to qualify for  
7 the exemption. Each year, the department shall inform all owners  
8 of a qualified family-owned business interest exempted from  
9 inheritance tax under this subsection of their obligation to  
10 provide an annual certification under this paragraph. The  
11 certification and notification shall be completed in the form  
12 and manner as provided by the department. An owner's failure to  
13 comply with the certification or notification requirements shall  
14 result in the loss of the exemption, and the qualified family-  
15 owned business interest shall be subject to inheritance tax due  
16 the Commonwealth under section 2107, in an amount equal to the  
17 inheritance tax that would have been paid or payable on the  
18 value of the qualified family-owned business interest using the  
19 valuation authorized under section 2121 for nonexempt transfers  
20 of property. Interest shall accrue from the payment date  
21 established in section 2142 at the rate established in section  
22 2143.

23 (5) For purposes of this subsection, the term "qualified  
24 family-owned business interest" shall be as follows:

25 (i) an interest as a proprietor in a trade or business  
26 carried on as a proprietorship, if the proprietorship has fewer  
27 than fifty full-time equivalent employees as of the date of the  
28 decedent's death, the proprietorship has a net book value of  
29 assets totaling less than five million dollars (\$5,000,000) as  
30 of the date of the decedent's death and has been in existence

1 for five years prior to the date of the decedent's death; or

2 (ii) an interest in an entity carrying on a trade or  
3 business, if:

4 (A) the entity has fewer than fifty full-time equivalent  
5 employees as of the date of the decedent's death;

6 (B) the entity has a net book value of assets totaling less  
7 than five million dollars (\$5,000,000) as of the date of the  
8 decedent's death;

9 (C) as of the date of the decedent's death, the entity is  
10 wholly owned by the decedent, by the decedent and members of the  
11 same family, by a trust whose beneficiaries are comprised solely  
12 of members of the same family or by an entity that is owned  
13 solely by members of the same family;

14 (D) the entity is engaged in a trade or business the  
15 principal purpose of which is not the management of investments  
16 or income-producing assets owned by the entity; and

17 (E) the entity has been in existence for five years prior to  
18 the decedent's date of death.

19 "Qualified transferee." A decedent's:

20 (i) husband or wife;

21 (ii) lineal descendants;

22 (iii) siblings and the sibling's lineal descendants; and

23 (iv) ancestors and the ancestor's siblings.

24 Section 2113. Trusts and Similar Arrangements for Spouses.--

25 (a) In the case of a transfer of property for the sole use of  
26 the transferor's surviving spouse during the surviving spouse's  
27 entire lifetime, all succeeding interests which follow the  
28 interest of the surviving spouse shall not be subject to tax as  
29 transfers by the transferor if the transfer was made by a  
30 decedent dying on or after January 1, 1995, provided that the

1 transferor's personal representative may elect, on a timely  
2 filed inheritance tax return, to have this section not apply to  
3 a trust or similar arrangement or portion of a trust or similar  
4 arrangement.

5 (b) Succeeding interests not subject to tax as transfers by  
6 the transferor by reason of subsection (a) shall be deemed to be  
7 transfers subject to tax by the surviving spouse of the property  
8 held in the trust or similar arrangement at the death of the  
9 surviving spouse. The tax on that property shall be based upon  
10 its value at the death of the surviving spouse, the tax rates  
11 applicable to dispositions by the surviving spouse or by the  
12 transferor, whichever are lower, and any exemptions relating to  
13 the kind or location of property held in the trust or similar  
14 arrangement at the surviving spouse's death.

15 (c) Subsection (b) shall apply even if the succeeding  
16 interests not subject to tax as transfers by the transferor by  
17 reason of subsection (a) were also not subject to tax by reason  
18 of an exemption based upon the kind or location of property at  
19 the transferor's death.

20 (d) This section shall not apply to inter vivos transfers  
21 otherwise exempt from inheritance tax.

#### 22 PART IV

#### 23 RATE OF TAX

24 Section 2116. Inheritance Tax.--(a) (1) Inheritance tax  
25 upon the transfer of property passing to or for the use of any  
26 of the following shall be at the rate of four and one-half per  
27 cent:

28 (i) grandfather, grandmother, father, mother, except  
29 transfers under subclause (1.2), and lineal descendants; or

30 (ii) wife or widow and husband or widower of a child.

1 (1.1) Inheritance tax upon the transfer of property passing  
2 to or for the use of a husband or wife shall be:

3 (i) At the rate of three per cent for estates of decedents  
4 dying on or after July 1, 1994, and before January 1, 1995.

5 (ii) At a rate of zero per cent for estates of decedents  
6 dying on or after January 1, 1995.

7 (1.2) Inheritance tax upon the transfer of property from a  
8 child twenty-one years of age or younger to or for the use of a  
9 natural parent, an adoptive parent or a stepparent of the child  
10 shall be at the rate of zero per cent.

11 (1.3) Inheritance tax upon the transfer of property passing  
12 to or for the use of a sibling shall be at the rate of twelve  
13 per cent.

14 (2) Inheritance tax upon the transfer of property passing to  
15 or for the use of all persons other than those designated in  
16 subclause (1), (1.1), (1.2) or (1.3) or exempt under section  
17 2111(m) shall be at the rate of fifteen per cent.

18 (3) When property passes to or for the use of a husband and  
19 wife with right of survivorship, one of whom is taxable at a  
20 rate lower than the other, the lower rate of tax shall be  
21 applied to the entire interest.

22 (b) (1) When the decedent was a resident, the tax shall be  
23 computed upon the value of the property, in excess of the  
24 deductions specified in Part VI, at the rates in effect at the  
25 transferor's death.

26 (2) When the decedent was a nonresident, the tax shall be  
27 computed upon the value of real property and tangible personal  
28 property having its situs in this Commonwealth, in excess of  
29 unpaid property taxes assessed on the property and any  
30 indebtedness for which it is liened, mortgaged or pledged, at

1 the rates in effect at the transferor's death. The person liable  
2 to make the return under section 2136 may elect to have the tax  
3 computed as if the decedent was a resident and his entire estate  
4 was property having its situs in this Commonwealth, and the tax  
5 due shall be the amount which bears the same ratio to the tax  
6 thus computed as the real property and tangible personal  
7 property located in this Commonwealth bears to the entire estate  
8 of the decedent.

9 (b.1) The inheritance tax due upon the transfer of property  
10 passing to or for the use of a husband or wife shall be the  
11 lesser of the tax imposed under subsection (a)(1.1) or the tax  
12 due after the allowance of the credit provided for under section  
13 2112.

14 (c) When any person entitled to a distributive share of an  
15 estate, whether under an inter vivos trust, a will or the  
16 intestate law, renounces his right to receive the distributive  
17 share receiving therefor no consideration, or exercises his  
18 elective rights under 20 Pa.C.S. Ch. 22 (relating to elective  
19 share of surviving spouse) receiving therefor no consideration  
20 other than the interest in assets passing to him as the electing  
21 spouse, the tax shall be computed as though the persons who  
22 benefit by such renunciation or election were originally  
23 designated to be the distributees, conditioned upon an  
24 adjudication or decree of distribution expressly confirming  
25 distribution to such distributees. The renunciation shall be  
26 made within nine months after the death of the decedent. In the  
27 case of a surviving spouse taking his elective share of an  
28 estate, the renunciation shall be made within the time for  
29 election and any extension thereof under 20 Pa.C.S. § 2210(b)  
30 (relating to procedure for election; time limit). Notice of the

1 filing of the account and of its call for audit or confirmation  
2 shall include notice of the renunciation or election to the  
3 department. When an unconditional vesting of a future interest  
4 does not occur at the decedent's death, the renunciation  
5 specified in this subsection of the future interest may be made  
6 within three months after the occurrence of the event or  
7 contingency which resolves the vesting of the interest in  
8 possession and enjoyment.

9 (d) In case of a compromise of a dispute regarding rights  
10 and interests of transferees, made in good faith, the tax shall  
11 be computed as though the persons so receiving distribution were  
12 originally entitled to it as transferees of the property  
13 received in the compromise, conditioned upon an adjudication or  
14 decree of distribution expressly confirming distribution to such  
15 distributees. Notice of the filing of the account and of its  
16 call for audit or confirmation shall include notice to the  
17 department.

18 (e) If the rate of tax which will be applicable when an  
19 interest vests in possession and enjoyment cannot be established  
20 with certainty, the department, after consideration of relevant  
21 actuarial factors, valuations and other pertinent circumstances,  
22 may enter into an agreement with the person responsible for  
23 payment to establish a specified amount of tax which, when paid  
24 within sixty days after the agreement, shall constitute full  
25 payment of all tax otherwise due upon such transfer. Rights of  
26 withdrawal of a surviving spouse not exercised within nine  
27 months of the transferor's death shall be ignored in making such  
28 calculations.

29 (f) Property subject to a power of appointment, whether or  
30 not the power is exercised and notwithstanding any blending of

1 the property with the property of the donee, shall be taxed only  
2 as part of the estate of the donor.

3 Section 2117. Estate Tax.--(a) In the event that a Federal  
4 estate tax is payable to the Federal Government on the transfer  
5 of the taxable estate of a decedent who was a resident of this  
6 Commonwealth at the time of his death, and the inheritance tax,  
7 if any, actually paid to the Commonwealth by reason of the death  
8 of the decedent (disregarding interest or the amount of any  
9 discount allowed under section 2142) is less than the maximum  
10 credit for State death taxes allowable under section 2011 of the  
11 Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §  
12 2011), a tax equal to the difference is imposed. If a resident  
13 decedent owned or had an interest in real property or tangible  
14 personal property having a situs in another state, the tax so  
15 imposed shall be reduced by the greater of:

16 (1) the amount of death taxes actually paid to the other  
17 state with respect to the estate of the decedent, excluding any  
18 death tax expressly imposed to receive the benefit of the credit  
19 for state death taxes allowed under section 2011 of the Internal  
20 Revenue Code of 1986 (26 U.S.C. § 2011); or

21 (2) an amount computed by multiplying the maximum credit for  
22 state death taxes allowable under section 2011 of the Internal  
23 Revenue Code of 1986 (26 U.S.C. § 2011) by a fraction, the  
24 numerator of which is the value of the real property and  
25 tangible personal property to the extent included in the  
26 decedent's gross estate for Federal estate tax purposes and  
27 having a situs in the other state and the denominator of which  
28 is the value of the decedent's gross estate for Federal estate  
29 tax purposes.

30 (b) In the event that a Federal estate tax is payable to the

1 Federal Government on the transfer of the taxable estate of a  
2 decedent who was not a resident of this Commonwealth at the time  
3 of his death but who owned or had an interest in real property  
4 or tangible personal property having a situs in this  
5 Commonwealth, a tax is imposed in an amount computed by  
6 multiplying the maximum credit for State death taxes allowable  
7 under section 2011 of the Internal Revenue Code of 1986 (26  
8 U.S.C. § 2011) by a fraction, the numerator of which is the  
9 value of the real property and tangible personal property to the  
10 extent included in the decedent's gross estate for Federal  
11 estate tax purposes having a situs in this Commonwealth and the  
12 denominator of which is the value of the decedent's gross estate  
13 for Federal estate tax purposes, and deducting from that amount  
14 the inheritance tax, if any, actually paid to the Commonwealth  
15 (disregarding interest or the amount of any discount allowed  
16 under section 2142).

17 (c) When an inheritance tax is imposed after an estate tax  
18 imposed under subsection (a) or (b) has been paid, the estate  
19 tax paid shall be credited against any inheritance tax later  
20 imposed.

## 21 PART V

### 22 VALUATION

23 Section 2121. Valuation.--(a) Except as otherwise provided  
24 in this part, the valuation date shall be the date of the  
25 transferor's death. When the transfer was made during lifetime  
26 and was not in trust, the property transferred shall be valued  
27 at the transferor's death. When the transfer was to an inter  
28 vivos trust, the property to be valued shall be that comprising  
29 the portion of the trust, if any, which exists at the  
30 transferor's death and which portion is traceable from property

1 the transfer of which is subject to tax under this article.

2 (b) The value of a life interest shall be determined in  
3 accordance with rules and regulations promulgated by the  
4 department. Until the promulgation of rules and regulations to  
5 the contrary, the regulations in effect for Federal estate tax  
6 purposes shall apply.

7 (c) The value of an interest for a term certain shall be  
8 determined in accordance with rules and regulations promulgated  
9 by the department. Until the promulgation of rules and  
10 regulations to the contrary, the regulations in effect for  
11 Federal estate tax purposes shall apply.

12 (d) If an annuity or a life estate is terminated by the  
13 death of the annuitant or life tenant or by the happening of a  
14 contingency within nine months after the death of the  
15 transferor, the value of the annuity or estate shall be the  
16 value, at the date of the transferor's death, of the amount of  
17 the annuity or income actually paid or payable to the annuitant  
18 or life tenant during the period he was entitled to the annuity  
19 or was in possession of the estate. If an appraisal of an  
20 annuity or life estate has been filed before the termination,  
21 the appraisal and any assessment based on the appraisal  
22 shall be revised in accordance with this section upon request of  
23 any party in interest, including the Commonwealth and the  
24 personal representative, insofar as the appraisal and any  
25 assessment based on the appraisal relates to the valuation of  
26 the terminated annuity or life estate, without the necessity of  
27 the party in interest following any procedure described in Part  
28 XI.

29 (e) The value of a future interest shall be determined in  
30 accordance with rules and regulations promulgated by the

1 department. Until the promulgation of rules and regulations to  
2 the contrary, the regulations in effect for Federal estate tax  
3 purposes shall apply.

4 (f) When a decedent's property is subject, during his  
5 lifetime and at the time of his death, to a binding option or  
6 agreement to sell, the appraised value of the property shall not  
7 exceed the amount of the established price payable for it  
8 provided the option or agreement is a bona fide arrangement and  
9 not a device to transfer the property for less than an adequate  
10 and full consideration in money or money's worth. If the option  
11 or agreement is not exercised and consummated, the value at  
12 which the property is appraised shall not be limited to the  
13 established price payable for the property, and it shall not  
14 exceed the value of the property on the date of the transferor's  
15 death. When tax has been assessed on the basis of an established  
16 price and the option or agreement is not exercised and  
17 consummated or an amount greater than the established price is  
18 received for the property, the fiduciary or transferee shall  
19 file a supplemental return reporting the facts.

20 Section 2122. Valuation of Certain Farmland.--(a) The  
21 following words and phrases, when used in this section, shall  
22 have the meaning ascribed to them in this section, except where  
23 the context clearly indicates a different meaning:

24 "Agricultural commodity." Any and all plant and animal  
25 products, including Christmas trees produced in this  
26 Commonwealth for commercial purposes.

27 "Agricultural conservation easement." As defined in section  
28 3 of the act of June 30, 1981 (P.L.128, No.43), known as the  
29 "Agricultural Area Security Law."

30 "Agricultural reserve." Noncommercial open space lands used

1 for outdoor recreation or the enjoyment of scenic or natural  
2 beauty and open to the public for such use, without charge or  
3 fee, on a nondiscriminatory basis.

4 "Agricultural use." Use of the land for the purpose of  
5 producing an agricultural commodity or when devoted to and  
6 meeting the requirements and qualifications for payments or  
7 other compensation pursuant to a soil conservation program under  
8 an agreement with an agency of the Federal Government.

9 "Forest reserve." Land, ten acres or more, stocked by forest  
10 trees of any size and capable of producing timber or other wood  
11 products.

12 "Separation." A division, by conveyance or other action of  
13 the owner, of lands devoted to agricultural use, agricultural  
14 reserve or forest reserve and preferentially assessed under the  
15 provisions of this section into two or more tracts of land which  
16 continue to be agricultural use, agricultural reserve or forest  
17 reserve and all tracts so formed meet the requirements of  
18 section 3 of the act of December 19, 1974 (P.L.973, No.319),  
19 known as the "Pennsylvania Farmland and Forest Land Assessment  
20 Act of 1974."

21 "Split-off." A division, by conveyance or other action of  
22 the owner, of lands devoted to agricultural use, agricultural  
23 reserve or forest reserve and preferentially assessed under the  
24 provisions of this section into two or more tracts of land, the  
25 use of which on one or more of such tracts does not meet the  
26 requirements of section 3 of the act of December 19, 1974  
27 (P.L.973, No.319), known as the "Pennsylvania Farmland and  
28 Forest Land Assessment Act of 1974."

29 (b) (1) The value for transfer inheritance tax purposes of  
30 land or an interest in land which is owned by a decedent and

1 devoted to agricultural use, agricultural reserve or forest  
2 reserve shall be that value which such land has for its  
3 particular use if it also meets the following conditions:

4 (i) in the case of land devoted to agricultural use, the  
5 land was devoted to such agricultural use for the three years  
6 preceding the death of such decedent and is not less than ten  
7 contiguous acres in area or has an anticipated yearly gross  
8 income derived from agricultural use of two thousand dollars  
9 (\$2,000);

10 (ii) in the case of land devoted to agricultural reserve,  
11 the land is not less than ten contiguous acres in area;

12 (iii) in the case of land presently devoted to forest  
13 reserve, the land is not less than ten contiguous acres in area;  
14 or

15 (iv) the contiguous tract of land for which application is  
16 made is not less than the entire contiguous area of the owner  
17 used for agricultural use, agricultural reserve or forest  
18 reserve purposes.

19 (2) In determining the value of land in agricultural use,  
20 agricultural reserve or forest reserve for its particular use,  
21 consideration shall be given to available evidence of such  
22 land's capability for its particular use as derived from the  
23 soil survey at The Pennsylvania State University, the National  
24 Cooperative Soil Survey, the United States Census of  
25 Agricultural Categories of land use classes and other evidence  
26 of the capability of the land devoted to such use and also, if  
27 the land is assessed under the provisions of the "Pennsylvania  
28 Farmland and Forest Land Assessment Act of 1974," to the  
29 valuation determined by the local county assessor thereunder.

30 (c) (1) If any tract of land in agricultural use,

1 agricultural reserve or forest reserve, which is valued for  
2 inheritance tax purposes under the provisions of this part, is  
3 applied to a use other than agricultural use, agricultural  
4 reserve or forest reserve or for any other reason, except  
5 condemnation thereof, is removed from the category of land  
6 preferentially valued under this part within seven years  
7 following the death of such decedent, the owner at such time the  
8 land is so removed shall be subject and liable to tax due the  
9 Commonwealth in an amount equal to the difference, if any,  
10 between the taxes paid or payable on the basis of the valuation  
11 authorized under this section and the taxes that would have been  
12 paid or payable had that land been valued and taxed on the basis  
13 of its market value at the death of the decedent, plus interest  
14 thereon for the period from the date of death to the change of  
15 use at the rate established in section 2143.

16 (2) The tax shall be a lien upon the property in favor of  
17 the Commonwealth, collectible in the manner provided by law for  
18 the collection of delinquent real estate taxes, as well as the  
19 personal obligation of the owner at the time of such change of  
20 use. The tax shall become due on the date of change of use.

21 (3) Every owner of land preferentially valued under this  
22 section shall notify the register of wills of the county or  
23 counties in which the land is located of any change or proposed  
24 change in the use of the land. Any owner failing to make  
25 notification commits a misdemeanor of the third degree.

26 (d) (1) The split-off of a part of the land which has been  
27 valued, assessed and taxed under this article for a use other  
28 than agricultural use, agricultural reserve or forest reserve  
29 within the seven-year period provided for by subsection (c)  
30 shall, except when the split-off occurs through condemnation,

1 subject the land divided and the entire parcel from which the  
2 land was divided to liability for taxes as otherwise set forth  
3 in this article except as provided in subclause (2).

4 (2) The owner of property subject to a preferential tax  
5 assessment may split off land covered by the preferential tax  
6 assessment within the seven-year period. The tract of land so  
7 split-off shall not exceed two acres annually and may only be  
8 used for residential use, agricultural use, agricultural reserve  
9 or forest reserve and the construction of a residential dwelling  
10 to be occupied by the person to whom the land is transferred.  
11 The total parcel or parcels of land split-off under the  
12 provisions of this subsection shall not exceed ten per cent or  
13 ten acres, whichever is less, of the entire tract subject to the  
14 preferential tax assessment. The split-off of a parcel of land  
15 which meets the requirements of this subsection shall not  
16 invalidate the preferential tax assessment if it continues to  
17 meet the requirements of subsection (b).

18 (3) The owner of property subject to a preferential use  
19 assessment may separate land covered by the preferential use  
20 assessment. The separation shall not invalidate the preferential  
21 tax assessment unless a subsequent abandonment of preferential  
22 use occurs within seven years of the separation. The abandonment  
23 shall subject the entire tract of land separated to liability  
24 for taxes, which are to be paid by the person changing the use,  
25 as set forth in this article.

26 (4) When property subject to preferential tax assessment is  
27 separated among the beneficiaries taxed under subsection (a) (1)  
28 of section 2116, a subsequent change within the seven-year  
29 period provided for in subsection (b) in the use of one  
30 beneficiary's portion of the property shall subject only that

1 tract held by the beneficiary who changes the use to liability  
2 under this article.

3 (e) The value for transfer inheritance tax purposes of land  
4 or an interest in land which is part of an agricultural  
5 conservation easement shall be at fifty per cent of the value  
6 otherwise determined under this section.

7 PART VI

8 DEDUCTIONS

9 Section 2126. Deductions Generally.--The only deductions  
10 from the value of the property transferred shall be those set  
11 forth in this part. Except as otherwise provided in this  
12 article, they shall be deductible regardless of whether or not  
13 assets comprising the decedent's taxable estate are employed in  
14 the payment or discharge of the deductible items. When a tax is  
15 imposed upon a transfer described in subsection (c) of section  
16 2107 and section 2108, the deductions shall be allowed to the  
17 transferee only to the extent that the transferee has actually  
18 paid the deductible items and either the transferee was legally  
19 obligated to pay the deductible items or the estate subject to  
20 administration by a personal representative is insufficient to  
21 pay the deductible items.

22 Section 2127. Expenses.--The following expenses may be  
23 deducted from the value of the property transferred:

24 (1) Administration expenses. All reasonable expenses of  
25 administration of the decedent's estate and of the assets  
26 includable in the decedent's taxable estate are deductible.

27 (2) Bequest to fiduciary or attorney in lieu of fees. A  
28 transfer to an executor, trustee or attorney in lieu of  
29 compensation for services is deductible to the extent it does  
30 not exceed reasonable compensation for the services to be

1 performed.

2 (3) Family exemption. The family exemption is deductible.

3 (4) Funeral and burial expenses. Reasonable and customary  
4 funeral expenses, including the cost of a family burial lot or  
5 other resting place, are deductible.

6 (5) Tombstones and gravemarkers. Reasonable and customary  
7 expenses for the purchase and erection of a monument, gravestone  
8 or marker on decedent's burial lot or final resting place are  
9 deductible.

10 (6) Burial trusts or contracts. Bequests or devises in  
11 trust, or funds placed in trust after decedent's death or funds  
12 paid under a contract after decedent's death, in reasonable  
13 amounts, to the extent that the funds or income from the funds  
14 is to be applied to the care and preservation of the family  
15 burial lot or other final resting place in which the decedent is  
16 buried or the remains of the decedent repose and the structure  
17 on the burial lot or other final resting place, are deductible.

18 (7) Bequests for religious services. Bequests in reasonable  
19 amounts for the performance or celebration of religious rites,  
20 rituals, services or ceremonies, in consequence of the death of  
21 the decedent, shall be deductible.

22 Section 2128. Taxes.--The following taxes may be deducted  
23 from the value of the property transferred:

24 (1) Property taxes. Taxes imposed against the decedent or  
25 against any property constituting a part of decedent's gross  
26 taxable estate and which are owing prior to decedent's death are  
27 deductible. However, taxes for which decedent is not personally  
28 liable shall not be deductible in an amount exceeding the value  
29 of the property against which the taxes are liened.

30 (2) State and foreign death taxes. Death taxes other than

1 the Federal estate tax, disregarding interest and penalty, paid  
2 to other states and territories of the United States and to  
3 taxing jurisdictions outside the United States and its  
4 territories on assets, the transfer of which is subject to tax  
5 under this article, if the taxes are required to be paid to  
6 bring the assets into this Commonwealth, or to transfer them to  
7 the new owner, are deductible.

8 Section 2129. Liabilities.--(a) Except as set forth in  
9 section 2130(5), all liabilities of the decedent shall be  
10 deductible subject to the limitations set forth in this section.

11 (b) Except as otherwise provided in subsections (h) and (i),  
12 the deductions for indebtedness of the decedent, when founded  
13 upon a promise or agreement, shall be limited to the extent that  
14 it was contracted bona fide and for an adequate and full  
15 consideration in money or money's worth.

16 (c) Except as provided by subclause (4) of section 2130,  
17 indebtedness owing by the decedent upon a secured loan is  
18 deductible whether or not the security is a part of the gross  
19 taxable estate.

20 (d) Except as provided by subclause (4) of section 2130, the  
21 decedent's liability (net of all collectible contribution) on a  
22 joint obligation is deductible whether or not payment of the  
23 obligation is secured by entreties property or property which  
24 passes to another under the right of survivorship.

25 (e) Indebtedness arising from a contract for the support of  
26 the decedent is deductible.

27 (f) Decedent's obligation is deductible whether or not  
28 discharged by testamentary gift.

29 (g) Decedent's debt, which is unenforceable because of any  
30 statute of limitations, is deductible if paid by the estate.

1 (h) A pledge to a transferee exempt under the provisions of  
2 subsection (c) of section 2111 is deductible if paid by the  
3 estate, whether or not it is legally enforceable.

4 (i) Liabilities arising from the decedent's tort or from  
5 decedent's status as an accommodation endorser, guarantor or  
6 surety are deductible, except to the extent that it can be  
7 reasonably anticipated that decedent's estate will be exonerated  
8 or reimbursed by others primarily liable or subject to  
9 contribution.

10 (j) The fact that a surviving spouse is legally liable and  
11 financially able to pay any item which, if the deceased spouse  
12 were unmarried, would qualify as a deduction under this part  
13 shall not result in the disallowance of such item as a  
14 deduction.

15 (k) Obligations for decedent's medical expenses are not  
16 deductible to the extent decedent's estate will be exonerated or  
17 reimbursed for such expenses from other sources.

18 Section 2130. Deductions Not Allowed.--The following are not  
19 deductible:

20 (2) Claims of a former spouse, or others, under an agreement  
21 between the former spouse and the decedent, insofar as they  
22 arise in consideration of a relinquishment or promised  
23 relinquishment of marital or support rights.

24 (3) Litigation expenses of beneficiaries.

25 (4) Indebtedness secured by real property or tangible  
26 personal property, all of which has its situs outside of this  
27 Commonwealth, except to the extent the indebtedness exceeds the  
28 value of the property.

29 (5) Expenses, debts, obligations and liabilities incurred in  
30 connection with a qualified family-owned business interest

1 exempted from inheritance under section 2111(t) and any property  
2 exempted from inheritance tax under section 2111(s) or (s.1).

3 PART VII

4 PAYMENT OF TAX

5 Section 2136. Returns.--(a) The following persons shall  
6 make a return:

7 (1) The personal representative of the estate of the  
8 decedent as to property of the decedent administered by him and  
9 additional property which is or may be subject to inheritance  
10 tax of which he shall have or acquire knowledge.

11 (2) The transferee of property upon the transfer of which  
12 inheritance tax is or may be imposed by this article, including  
13 a trustee of property transferred in trust. No separate return  
14 need be made by the transferee of property included in the  
15 return of a personal representative.

16 (b) The inclusion of property in the return shall not  
17 constitute an admission that its transfer is taxable.

18 (c) Any person required to file a return under subsection  
19 (a) shall promptly file a supplemental return with respect to  
20 additional assets and transfers which come to his knowledge  
21 after the original return has been filed.

22 (d) The returns required by subsection (a) shall be filed  
23 within nine months after the death of the decedent. At any time  
24 prior to the expiration of the nine-month period, the  
25 department, in its discretion, may grant an extension of the  
26 time for filing a return for an additional period of six months.

27 (e) The returns required by subsections (a) and (c) shall be  
28 made in the form prescribed by the department.

29 (f) When the decedent was a resident, the returns shall be  
30 filed with the register. When the decedent was a nonresident,

1 the returns shall be filed with the register who issued letters,  
2 if any, in this Commonwealth; otherwise, the returns shall be  
3 filed with the department.

4 Section 2137. Appraisement.--The department shall have  
5 supervision over, and make or cause to be made, fair and  
6 conscionable appraisements of property the transfer of which is  
7 subject to tax under this article. The appraisement, unless  
8 suspended until audit, shall be made within six months after the  
9 return has been filed and, if not so made, shall be made within  
10 an additional period as the court, upon application of any party  
11 in interest, including the personal representative, shall fix.

12 Section 2138. Deductions.--The official with whom the return  
13 is required by subsection (f) of section 2136 to be filed shall  
14 determine the allowance or disallowance of all deductions  
15 claimed. The determination, unless suspended until audit, shall  
16 be made within six months after the claim for allowance has been  
17 filed and, if not so made, shall be made within such further  
18 period as the court, upon application by any party in interest,  
19 including the personal representative, shall fix. However, the  
20 court, at the request of the fiduciary at the audit of his  
21 account, may determine and allow, as deductions, all properly  
22 deductible credits claimed in the account or allowed at the  
23 audit without requiring the filing of a separate claim for them,  
24 and the court may then fix the amount of the tax and decree  
25 payment of the tax. Deductions exceeding one hundred dollars  
26 (\$100) in the aggregate shall not be allowed by the court unless  
27 the Commonwealth is represented at the audit by counsel or  
28 unless there is proof that the register has had at least thirty  
29 days notice of the claim.

30 Section 2139. Assessment of Tax.--After the appraisement has

1 been made and the allowance or disallowance of deductions  
2 determined, the inheritance tax, as affected by the court's  
3 determination of the allowance or disallowance of deductions as  
4 provided in section 2138, shall be assessed by the official with  
5 whom the return is required to be filed under subsection (f) of  
6 section 2136. The assessment, unless suspended until audit,  
7 shall be made within one month after the filing of the  
8 appraisal or determination of deductions, whichever occurs  
9 later, and, if not so made, shall be made within an additional  
10 period as the court, upon application by any party in interest,  
11 including the personal representative, shall fix.

12 Section 2140. Notice.--The department shall give, or cause  
13 to be given, notice of the filing of the appraisal, the  
14 determination of the allowance or disallowance of deductions and  
15 the amount of tax assessed, and all supplements, to the personal  
16 representative and to any transferee who filed a tax return or  
17 to their respective attorneys.

18 Section 2141. Failure to File Returns Not a Bar to  
19 Assessment of Tax.--Failure to file a return of a taxable  
20 transfer shall not bar the making of an appraisal or  
21 supplemental appraisal or assessment of tax or supplemental  
22 assessment of tax based upon taxable transfers not returned  
23 under the provisions of this article.

24 Section 2142. Payment Date and Discount.--Inheritance tax is  
25 due at the date of the decedent's death and shall become  
26 delinquent at the expiration of nine months after the decedent's  
27 death. To the extent that the inheritance tax is paid within  
28 three months after the death of the decedent, a discount of five  
29 per cent shall be allowed.

30 Section 2143. Interest.--If the inheritance tax is not paid

1 before the date it becomes delinquent, interest on the unpaid  
2 tax shall be charged after the date of delinquency at the rate  
3 established pursuant to section 806 of the act of April 9, 1929  
4 (P.L.343, No.176), known as "The Fiscal Code." When payment of  
5 inheritance tax is not made because of litigation or other  
6 unavoidable cause of delay and the property on which the tax has  
7 been calculated has remained in the hands of a fiduciary and has  
8 not produced a net income equal to the rate of interest provided  
9 in this section annually, interest for such period shall be  
10 calculated at the rate of the net income produced by the  
11 property. Any payment on delinquent inheritance tax shall be  
12 applied first to any interest due on the tax at the date of  
13 payment and then, if there is any balance, to the tax itself.

14 Section 2144. Source of Payment.--(a) In the absence of a  
15 contrary intent appearing in the will, the inheritance tax,  
16 including interest, on the transfer of property which passes by  
17 will absolutely and in fee, and which is not part of the  
18 residuary estate, shall be paid out of the residuary estate and  
19 charged in the same manner as a general administration expense  
20 of the estate. The payments shall be made by the personal  
21 representative and, if not so paid, shall be made by the  
22 transferee of the residuary estate.

23 (b) In the absence of a contrary intent appearing in the  
24 inter vivos trust, the inheritance tax, including interest, on  
25 the transfer of property which passes absolutely and in fee by  
26 inter vivos trust, and which is not part of the residue of the  
27 inter vivos trust, shall be paid out of the residue of the trust  
28 and charged in the same manner as a general administration  
29 expense of the trust. The payment shall be made by the trustee  
30 and, if not so paid, shall be made by the transferee of the

1 residue of the trust.

2 (c) In the absence of a contrary intent appearing in the  
3 will, the inheritance tax, including interest, on the transfer  
4 of property which passes by will other than absolutely and in  
5 fee, and which is not part of the residuary estate, shall be  
6 paid out of the residuary estate and charged in the same manner  
7 as a general administration expense of the estate. The payment  
8 shall be made by the personal representative and, if not so  
9 paid, shall be made by the transferee of the residuary estate.

10 (d) In the absence of a contrary intent appearing in the  
11 inter vivos trust, the inheritance tax, including interest, on  
12 the transfer of property which passes other than absolutely and  
13 in fee by inter vivos trust, and which is not part of the  
14 residue of the inter vivos trust, shall be paid out of the  
15 residue of the trust and charged in the same manner as a general  
16 administration expense of the trust. The payment shall be made  
17 by the trustee and, if not so paid, shall be made by the  
18 transferee of the residue of the trust.

19 (e) In the absence of a contrary intent appearing in the  
20 will or other instrument of transfer, the inheritance tax, in  
21 the case of a transfer of any estate, income or interest for a  
22 term of years, for life or for other limited period, shall be  
23 paid out of the principal of the property by which the estate,  
24 income or interest is supported, except as otherwise provided in  
25 subsection (c) or (d). The payment shall be made by the personal  
26 representative or trustee and, if not so paid, shall be made by  
27 the transferee of such principal.

28 (e.1) In the absence of a contrary intent appearing in the  
29 will or other instrument of transfer creating the trust or  
30 similar arrangement, and in the absence of a contrary intent

1 appearing in the will or other instrument of transfer of the  
2 surviving spouse which expressly refers to the trust or similar  
3 arrangement, the inheritance tax, including interest, due at the  
4 death of a surviving spouse with respect to a trust or similar  
5 arrangement to which section 2113(b) is applicable shall be paid  
6 out of the residue of the principal of the trust or similar  
7 arrangement and charged as a general administration expense of  
8 the trust or similar arrangement. The payment shall be made by  
9 the trustee or other fiduciary in possession of the property  
10 and, if not so paid, shall be made by the transferee of the  
11 residue of the trust or similar arrangement.

12 (f) In the absence of a contrary intent appearing in the  
13 will or other instrument of transfer and except as otherwise  
14 provided in this section, the ultimate liability for the  
15 inheritance tax, including interest, shall be upon each  
16 transferee.

17 Section 2145. Estate Tax Return.--(a) The person or persons  
18 required by section 2136 to make the inheritance tax return  
19 shall be initially liable for payment of the estate tax.

20 (b) The personal representative of every decedent or, if  
21 there is no personal representative, any other fiduciary charged  
22 by law with the duty of filing a Federal estate tax return,  
23 within one month of the filing or receipt of the return shall  
24 file with the register or, if the decedent was a nonresident,  
25 with the register who issued letters, if any, in this  
26 Commonwealth, or otherwise with the department, a copy of the  
27 decedent's Federal estate tax return and of any communication  
28 from the Federal Government making any final change in the  
29 return or of the tax due. The assessment of estate tax shall be  
30 made by the register or department within three months after the

1 filing of the documents required to be filed and, if not so  
2 made, shall be made within an additional period as the court,  
3 upon application of any party in interest, including the  
4 personal representative, shall fix.

5 (c) The estate tax is due at the date of the decedent's  
6 death but shall not become delinquent until the expiration of  
7 nine months after decedent's death. Any estate tax occasioned by  
8 a final change in the Federal return or of the tax due shall not  
9 become delinquent until the expiration of one month after the  
10 person or persons liable to pay the tax have received final  
11 notice of the increase in the Federal estate tax.

12 (d) No discount shall be allowed in paying the estate tax.

13 (e) If the estate tax is not paid before the date it becomes  
14 delinquent under subsection (c), interest on the unpaid tax  
15 shall be charged after the date of delinquency at the rate  
16 established in section 2143.

17 (f) The estate tax shall be apportioned and ultimately borne  
18 in accordance with the provisions of 20 Pa.C.S. Ch. 37 (relating  
19 to apportionment of death taxes) unless otherwise provided by  
20 this article or in the instrument of transfer.

21 (g) When the decedent was a resident, the estate tax shall  
22 be paid to the register. When the decedent was a nonresident,  
23 the estate tax shall be paid to the register who issued letters,  
24 if any, in this Commonwealth; otherwise, it shall be paid to the  
25 department.

26 Section 2146. Deduction and Collection of Tax by Personal  
27 Representative or Other Fiduciary.--Subject to the provisions of  
28 sections 2144 and 2154, every personal representative or other  
29 fiduciary (other than a trustee of a pension, stock-bonus,  
30 profit-sharing, retirement annuity, deferred compensation,

1 disability, death benefit, or other employe benefit plan) in  
2 charge of or in possession of any property, or instrument  
3 evidencing ownership of property, the transfer of which is  
4 subject to a tax imposed by this article other than a tax on a  
5 future interest not yet delinquent, shall deduct the tax from  
6 the property, if money, or shall collect the tax from the  
7 transferee. Any delivery of property or instrument by the  
8 fiduciary to a transferee, except in accordance with a decree of  
9 distribution of the court or pursuant to a duly executed notice  
10 of election filed under section 2154, shall not relieve him of  
11 personal liability for a tax imposed by this article. No  
12 personal representative or other fiduciary in charge of or in  
13 possession of any property subject to this article shall be  
14 compelled to pay or deliver it to the transferee except upon  
15 payment to him of the tax due other than tax on a future  
16 interest not yet delinquent. If the transferee neglects or  
17 refuses to pay the tax, the personal representative or other  
18 fiduciary may sell the property subject to the tax, or so much  
19 of the property as is necessary, under direction of the court.  
20 All money retained by the personal representative or other  
21 fiduciary, or paid to him on account of the taxes imposed by  
22 this article, shall be remitted by him before the tax becomes  
23 delinquent or, if received after the tax becomes delinquent,  
24 shall be remitted by him promptly upon its receipt.

25 Section 2147. Duties of Depositories.--When money is  
26 deposited or invested in a financial institution located in this  
27 Commonwealth in the names of two or more persons, other than  
28 husband and wife, or in the name of a person or persons in trust  
29 for another or others, and one of the parties to the deposit or  
30 investment dies, it shall be the duty of the financial

1 institution, within ten days after knowledge of the death, to  
2 notify the department, giving the name of the deceased person,  
3 the date of the creation of the joint or trust deposit or  
4 investment, the amount invested or on deposit at the date of  
5 death with the financial institution and the name and address of  
6 the survivor or survivors to the account. No notification shall  
7 be required in regard to the account when the deposit at the  
8 time of death does not exceed three hundred dollars (\$300).

9 Section 2148. Compromise by Department.--The department,  
10 with the approval of the Attorney General, may compromise in  
11 writing, with the person liable, the tax, including interest on  
12 the tax, payable on any transfer of property included in the  
13 estate of any decedent who it is alleged was a nonresident at  
14 the time of his death. A copy of the compromise agreement shall  
15 be filed with the register who issued letters, if any, in this  
16 Commonwealth; otherwise, it shall be filed with the department.  
17 The compromise agreement shall constitute a final determination  
18 of the matters covered by it and the payment of the tax, as  
19 fixed by the agreement, shall discharge all persons and property  
20 from liability with respect to the tax.

21 Section 2149. Interstate Compromise and Arbitration of  
22 Inheritance Taxes.--When the register or the department alleges  
23 that a decedent was a resident of this Commonwealth at the time  
24 of his death, and the taxing authorities of another state or  
25 territory make a like claim on behalf of their state or  
26 territory, a written agreement of compromise or a written  
27 agreement to submit the controversy to a board of arbitrators  
28 may be made under Part VIII.

29 Section 2150. Extension of Time for Payment.--The department  
30 may, for reasonable cause, extend the time for payment of any

1 part of the inheritance tax and may, if deemed necessary for the  
2 protection of the interest of this Commonwealth, require the  
3 transferee in present possession or, if a trust is involved, the  
4 trustee to file a bond in the name of the Commonwealth with  
5 sufficient surety, in an amount not exceeding twice the tax  
6 computed when the bond is given at the highest rate possible in  
7 the specific contingencies involved (reduced by the amount of  
8 any partial payment made) and conditioned for the payment of the  
9 tax at such postponed due date, together with interest from the  
10 due date to the payment date. No bond shall be required under  
11 this section if the trustee or one of the trustees is a bank and  
12 trust company or a trust company incorporated in this  
13 Commonwealth or a national banking association having its  
14 principal office in this Commonwealth. The bond required shall  
15 be filed in the office of the register.

16 Section 2151. Bond for Delinquent Tax.--The court, in its  
17 discretion, at any time after a tax imposed by this article  
18 becomes delinquent, upon application of the department, may  
19 require any person liable for a tax imposed by this article to  
20 give a bond for its payment. The bond shall be in the name of  
21 the Commonwealth, in such amount and with such surety as the  
22 court approves and conditioned for the payment of the tax, plus  
23 interest at the same rate as the interest rate on deficiencies  
24 provided for in section 2143, commencing on the date the tax  
25 became delinquent, within a time certain to be fixed by the  
26 court and specified in the bond. The bond required shall be  
27 filed in the office of the register.

28 Section 2152. Evidence of Payment of Tax for Real Estate in  
29 Another County.--When any tax is imposed and paid under this  
30 article on real estate located in a county other than that of

1 the register who received payment, the register shall, upon  
2 request, immediately forward to the register of the county where  
3 the real estate is located a certificate of the payment of the  
4 tax on the real estate which shall be entered of record in his  
5 office. The register of the county where the real estate is  
6 located shall be entitled to a fee of two dollars (\$2) for  
7 entering the record of payment to be paid as a part of the  
8 administration expenses of the decedent's estate.

9 Section 2153. Penalties.--(a) Any person who willfully  
10 fails to file a return or other report required of him under the  
11 provisions of sections 2136 and 2145 shall be personally liable,  
12 in addition to any liability imposed elsewhere in this article,  
13 to a penalty of twenty-five per cent of the tax ultimately found  
14 to be due or one thousand dollars (\$1,000), whichever is less,  
15 to be recovered by the department as debts of like amount are  
16 recoverable by law.

17 (b) Any financial institution which fails to give the notice  
18 required by section 2147 shall be liable to a penalty of one  
19 hundred dollars (\$100) to be recovered by the department as  
20 debts of like amount are recoverable by law.

21 (c) Any person who willfully makes a false return or report  
22 required of him under the provisions of this article, in  
23 addition to any liability imposed elsewhere in this article,  
24 commits a misdemeanor of the third degree.

25 Section 2154. Payment of Tax for Small Business Transfers.--

26 (a) Notwithstanding the provisions of section 2142, the  
27 inheritance tax due under this article on the transfer of a  
28 small business interest may be paid by the qualified transferee  
29 in consecutive quarterly installments beginning immediately  
30 following the expiration of nine months after the decedent's

1 death. The tax may be paid in twenty consecutive quarterly  
2 installments.

3 (b) The tax shall be paid in consecutive quarterly  
4 installments due on March 31, June 30, September 30 and December  
5 31 of each year, provided the return required by section 2136 is  
6 timely filed, along with a notice of election executed by the  
7 qualified transferee and joined in by the personal  
8 representative which shall relieve the personal representative  
9 or other fiduciary of liability for the collection and payment  
10 of tax under section 2146. The notice of election shall be  
11 completed on a form prescribed by the department containing at  
12 least the following information:

13 (1) The name of the decedent and date of death.

14 (2) The name or names of the personal representative or  
15 other fiduciary.

16 (3) The name or names of the qualified transferees filing  
17 the election.

18 (4) A description and estimated valuation of the business  
19 interest on which tax is due.

20 (5) A statement that the qualified transferees assume full  
21 personal responsibility for the tax.

22 Each notice of election shall be affirmed before an officer  
23 empowered to administer oaths. The installment payment of tax  
24 shall bear interest at the rate of nine per cent per annum.

25 (c) In the event any portion of a small business interest on  
26 which the installment payment of tax has been elected is sold,  
27 exchanged or otherwise disposed of prior to the expiration of  
28 five years following the date of death and that portion equals  
29 or exceeds fifty per cent of the total value of the small  
30 business interest received by the qualified transferee, the

1 transferee shall immediately provide written notice of the sale,  
2 exchange or disposition to the department, and the full amount  
3 of the tax then outstanding on that portion shall become due and  
4 payable at the expiration of sixty days following the date of  
5 sale, exchange or other disposition.

6 (d) For purposes of this section, the term "small business  
7 interest" means an interest in an operating trade or business  
8 entity the principal purpose of which is not the management of  
9 investments or income producing assets owned by the entity which  
10 has employed an average of less than fifty full-time employes  
11 during the twelve months immediately preceding the date of death  
12 and which meets one of the following criteria:

13 (1) An interest as a proprietor in a trade or business  
14 carried on as a proprietorship.

15 (2) An interest as a partner in a partnership carrying on a  
16 trade or business if:

17 (i) twenty per cent or more of the total capital interest in  
18 the partnership is included in determining the gross estate of  
19 the decedent; or

20 (ii) the partnership had ten or less partners.

21 (3) Stock in a corporation carrying on a trade or business  
22 if:

23 (i) twenty per cent or more in value of the voting stock of  
24 the corporation is included in determining the gross estate of  
25 the decedent; or

26 (ii) the corporation had ten or less shareholders.

27 (e) Qualified transferee defined.--For purposes of this  
28 section, the term "qualified transferee" means a legatee or  
29 other transferee receiving:

30 (1) ten per cent or more of the value of a proprietorship

1 qualifying as a small business interest as defined in subsection  
2 (d);  
3 (2) ten per cent or more of the total capital interest in a  
4 partnership qualifying as a small business interest as defined  
5 in subsection (d); or  
6 (3) ten per cent or more in value of the voting stock of a  
7 corporation qualifying as a small business interest as defined  
8 in subsection (d).

9 PART VIII

10 UNIFORM ACT ON INTERSTATE COMPROMISE AND

11 ARBITRATION OF INHERITANCE TAXES

12 Section 2156. Short Title.--This part shall be known and may  
13 be cited as the "Uniform Act on Interstate Compromise and  
14 Arbitration of Inheritance Taxes."

15 Section 2157. Compromise Agreement and Filing, Interest or  
16 Penalty for Nonpayment of Taxes.--When the department or the  
17 register claims a decedent was domiciled in this Commonwealth at  
18 the time of his death and the taxing authority of another state  
19 makes a like claim on behalf of its state, the department may,  
20 with the approval of the Attorney General, make a written  
21 agreement of compromise with the other taxing authority and the  
22 executor or administrator of the decedent that a certain sum  
23 shall be accepted in full satisfaction of any and all  
24 inheritance taxes imposed by this Commonwealth, including any  
25 interest or penalties to the date of signing the agreement. The  
26 agreement shall also fix the amount to be accepted by the other  
27 state in full satisfaction of inheritance taxes. The executor or  
28 administrator of the decedent is authorized to make the  
29 agreement. The agreement shall conclusively fix the amount of  
30 tax payable to the Commonwealth without regard to any other

1 provision of the laws of this Commonwealth. Unless the tax  
2 agreed upon is paid within sixty days after the signing of the  
3 agreement, interest or penalties shall accrue upon the amount  
4 fixed in the agreement, but the time between the decedent's  
5 death and the signing of the agreement shall not be included in  
6 computing the interest or penalties. In the event the aggregate  
7 amount payable under the agreement to the states involved is  
8 less than the maximum credit allowable to the estate against the  
9 Federal estate tax imposed with respect to the estate, the  
10 personal representatives shall also pay to the department so  
11 much of the difference between the aggregate amount and the  
12 amount of such credit as the amount payable to the department  
13 under the agreement bears to the aggregate amount. A copy of the  
14 agreement shall be filed in the office of the proper register,  
15 and any existing appraisement shall be deemed modified according  
16 to the agreement. In the event no appraisement has been made and  
17 filed prior to the agreement, the department shall direct an  
18 appraisement to be made and filed in the office of the proper  
19 register in accordance with the agreement.

20 Section 2158. Arbitration Agreement.--When the department or  
21 the register claims that a decedent was domiciled in this  
22 Commonwealth at the time of his death and the taxing authority  
23 of another state makes a like claim on behalf of its state, the  
24 department may, with the approval of the Attorney General, make  
25 a written agreement with the other taxing authority and with the  
26 executor or administrator of the decedent to submit the  
27 controversy to the decision of a board consisting of one or any  
28 uneven number of arbitrators. The executor or administrator of  
29 the decedent is authorized to make the agreement. The parties to  
30 the agreement shall select the arbitrator or arbitrators.

1 Section 2159. Arbitration Board.--(a) The board shall have  
2 the power to administer oaths, take testimony, subpoena and  
3 require the attendance of witnesses and the production of books,  
4 papers and documents and issue commissions to take testimony.  
5 Subpoenas may be signed by any member of the board. In case of  
6 failure to obey a subpoena, any judge of a court of record of  
7 this Commonwealth, upon application by the board, may make an  
8 order requiring compliance with the subpoena, and the court may  
9 punish failure to obey the order as a contempt.

10 (b) The board shall hold hearings at a time and place it may  
11 determine, upon reasonable notice to the parties to the  
12 agreement, all of whom shall be entitled to be heard, to present  
13 evidence and to examine and cross-examine witnesses.

14 (c) Except as provided in subsection (a) in respect to the  
15 issuance of subpoenas, all questions arising in the course of  
16 the proceedings shall be determined by a majority vote of the  
17 board.

18 (d) The board shall, by a majority vote, determine the  
19 domicile of the decedent at the time of his death. This  
20 determination shall be final for the purpose of imposing and  
21 collecting inheritance taxes but for no other purpose.

22 (e) The compensation and expenses of the members of the  
23 board and its employees may be agreed upon among the members and  
24 the executor or administrator and, if they cannot agree, shall  
25 be fixed by any court having jurisdiction over probate matters  
26 of the State determined by the board to be the domicile of the  
27 decedent. The amounts so agreed upon or fixed shall be deemed an  
28 administration expense and shall be payable by the executor or  
29 administrator.

30 Section 2160. Filing of Determination of Domicile and Other

1 Documents.--The department, register or board, or the executor  
2 or administrator of the decedent, shall file the determination  
3 of the board as to domicile, the record of the board's  
4 proceedings and the agreement, or a duplicate, made pursuant to  
5 section 2158 with the authority having jurisdiction to assess or  
6 determine the inheritance taxes in the State determined by the  
7 board to be the domicile of the decedent and shall file copies  
8 of the documents with the authorities that would have been  
9 empowered to assess or determine the inheritance taxes in each  
10 of the other states involved.

11 Section 2161. Interest or Penalties for Nonpayment of  
12 Taxes.--In any case where it is determined by the board that the  
13 decedent died domiciled in this Commonwealth, interest or  
14 penalties, if otherwise imposed by law, for nonpayment of  
15 inheritance taxes between the date of the agreement and of  
16 filing of the determination of the board as to domicile shall  
17 not exceed the rate provided for in section 2143.

18 Section 2162. Compromise by Parties to Arbitration  
19 Agreement.--The provisions of this part shall not prevent at any  
20 time a written compromise, if otherwise lawful, by all parties  
21 to the agreement made pursuant to section 2157, fixing the  
22 amounts to be accepted by this Commonwealth and any other state  
23 involved in full satisfaction of inheritance taxes.

24 Section 2163. Reciprocal Application.--The provisions of  
25 this part relative to arbitration shall apply only to cases in  
26 which and so far as each of the states involved has a law  
27 identical or substantially similar to this part.

## 28 PART IX

### 29 COLLECTION OF TAX

30 Section 2166. Timely Mailing Treated as Timely Filing and

1 Payment.--Notwithstanding the provisions of any State tax law to  
2 the contrary, whenever a report or payment of all or any portion  
3 of a State tax is required by law to be received by the  
4 department or other agency of the Commonwealth on or before a  
5 day certain, the taxpayer shall be deemed to have complied with  
6 the law if the letter transmitting the report or payment of the  
7 tax which has been received by the department is postmarked by  
8 the United States Postal Service on or prior to the final day on  
9 which the payment is to be received. For the purposes of this  
10 article, presentation of a receipt indicating that the report or  
11 payment was mailed by registered or certified mail on or before  
12 the due date shall be evidence of timely filing and payment. Any  
13 inheritance tax return filed after July 1, 2012, under section  
14 2136 that reports transfers of property that are exempt from the  
15 inheritance tax under section 2111(s), (s.1) and (t) shall be  
16 considered timely filed if filed within one year of the tax  
17 return due date, including an extended due date.

18 Section 2167. Lien and Duration of Lien.--The taxes imposed  
19 by this article, together with any interest on the taxes, shall  
20 be a lien upon the real property included in the transfer on  
21 which the taxes are imposed. Except as otherwise provided in  
22 this part, the lien shall remain until the taxes and interest  
23 are paid in full.

24 Section 2168. Limited and Future Interests.--In the case of  
25 a transfer of any estate, income or interest for a term of  
26 years, for life or for other limited period, or constituting a  
27 future interest, the taxes imposed by this article, together  
28 with any interest on the tax, shall remain a lien until paid  
29 upon the entire real property by which the estate, income or  
30 interest is supported, or of which it is a part, and the lien

1 shall be limited to the real property so transferred.

2 Section 2169. Purchaser, Mortgagee or Lessee.--Unless suit  
3 for collection of the taxes imposed by this article is  
4 instituted within twenty years after any tax becomes delinquent,  
5 the lien shall cease as to any purchaser, mortgagee or lessee of  
6 a devisee or heir of, or a beneficiary under a deed of trust of,  
7 the real property subject to the lien. Any time within the  
8 twenty-year period, if any tax on the real property is not paid,  
9 the department shall have power to file a certificate, under its  
10 seal, certifying to nonpayment which, when filed in the office  
11 of the clerk of the county where the real property is situated,  
12 shall continue the lien against decedent's real property for an  
13 additional period of five years from the date of the filing and  
14 the lien shall be indexed in the office of the clerk. If the  
15 taxes on the real property are not paid within the additional  
16 period of five years, the department shall have power to extend  
17 the lien for additional periods of five years by filing a  
18 certificate in the manner provided in this section.

19 Section 2170. Sale by Fiduciary.--If real property subject  
20 to the lien of taxes imposed by this article is sold or  
21 exchanged by a fiduciary who is subject to the jurisdiction of  
22 the court and who has given bond as required by 20 Pa.C.S.  
23 (relating to decedents, estates and fiduciaries), or is a  
24 corporate fiduciary which need not file bond under 20 Pa.C.S.,  
25 the lien on the property sold shall cease.

26 Section 2171. Sale by Heir, Devisee or Fiduciary.--If real  
27 property subject to the lien of taxes imposed by this article is  
28 sold or exchanged or otherwise disposed of by an heir, devisee  
29 or fiduciary, and if the inheritance tax, together with  
30 interest, is paid on all property reported in the tax return,

1 including the property sold, which property has been appraised  
2 and tax assessed, the lien of any unpaid tax imposed by this  
3 article shall cease as to the property sold.

4 Section 2172. Sale of Property Transferred Inter Vivos.--  
5 When real property or any income or interest in the real  
6 property or income has been transferred within the meaning of  
7 subsection (c) of section 2107 and the transferee has sold,  
8 mortgaged or leased the property or any income or interest in  
9 the property, the interest of a bona fide purchaser, mortgagee  
10 or lessee in the property shall not be subject to any lien for  
11 the taxes imposed by this article.

12 Section 2173. Subordination of Lien.--If real property  
13 subject to the lien is mortgaged or leased by a fiduciary who is  
14 subject to the jurisdiction of the court and who has given a  
15 bond as required by 20 Pa.C.S. (relating to decedents, estates  
16 and fiduciaries), or is a corporate fiduciary which need not  
17 file bond under 20 Pa.C.S., the lien shall become subject and  
18 subordinate to the rights and interests of the mortgagee, lessee  
19 or other person so secured.

20 Section 2174. Cessation Upon Approval of Bond.--Upon  
21 approval of a bond for the payment of taxes imposed upon a  
22 transfer, the lien upon the real property shall cease. The  
23 amount of the bond shall not exceed the value of the real  
24 property transferred.

25 Section 2175. Release of Lien.--(a) In case of a transfer,  
26 other than by will or intestacy, the department, upon  
27 satisfactory proof that no taxes are due which would be a lien  
28 on the real property transferred by reason of the death of the  
29 transferor, may release all or any portion of the property from  
30 any lien imposed by this article to which the property otherwise

1 might be subject.

2 (b) The department may, at any time, release all or any  
3 portion of the real property subject to any lien imposed by this  
4 article from such lien or subordinate such lien to other liens  
5 and encumbrances if it determines that the taxes are  
6 sufficiently secured by a lien on other property of the decedent  
7 or that the release or subordination of the lien will not  
8 endanger or jeopardize the collection of the taxes.

9 (c) When inheritance tax in respect to the transfer of  
10 particular real property is paid on the value of the property  
11 without diminution for any deductions authorized by this  
12 article, other than a mortgage on the property existing at the  
13 date of the decedent's death, the department, upon request of a  
14 party in interest, shall issue a certificate evidencing the  
15 release of the property from the lien of tax.

16 (d) A certificate by the department to the effect that any  
17 real property or interest in real property subject to any lien  
18 imposed by this article has been released from the lien, or that  
19 the lien has been subordinated to other liens and encumbrances,  
20 shall be conclusive evidence as to any bona fide purchaser,  
21 encumbrancer or lessee that the lien has been released or  
22 subordinated.

23 Section 2176. Enforcement Procedure.--(a) The court, at the  
24 request of the register, department or Office of Attorney  
25 General, shall issue a citation, directed to those liable for  
26 the payment of the taxes or subject to any other duty imposed by  
27 this article, commanding the person or persons to appear and  
28 show cause why the requirements of this article should not be  
29 met.

30 (b) The court may issue any decree warranted by the facts,

1 according to equity.

2 (c) A citation to enforce payment of taxes due under this  
3 article or compliance with the duties required by this article  
4 shall be issued by the court upon application of the register,  
5 department or Office of Attorney General whenever any of the  
6 following occurs:

7 (1) A tax return is not filed within the time required by  
8 this article.

9 (2) Any tax due under this article remains delinquent.

10 (3) A Federal estate tax return has been filed but a copy of  
11 the return or a communication making a final change on the  
12 return has not been filed as required by section 2145.

13 (4) Any other duty imposed by this article remains  
14 unperformed.

15 (d) The register or department may issue subpoenas to compel  
16 the production of documents and the attendance of witnesses  
17 necessary for the administration of this article.

18 (e) Execution may be issued by the court against any real  
19 property in the decedent's estate on which a lien for the  
20 payment of the taxes imposed by this article exists or against  
21 any property belonging to a transferee liable for the tax.

22 (f) The department may bring suits in the courts of other  
23 states to collect death taxes (including interest and penalties  
24 on the taxes) imposed by this article. An official of another  
25 state which extends a like comity to the Commonwealth may sue  
26 for the collection of death taxes (including interest and  
27 penalties on the taxes) in the courts of this Commonwealth. A  
28 certificate by the Secretary of State of another state, under  
29 the seal of that state, that an official has authority to  
30 collect its death taxes shall be conclusive evidence of the

1 authority of the official in any suit for the collection of the  
2 taxes in any court of this Commonwealth.

3 PART X

4 REFUND OF TAX

5 Section 2181. Refund of Tax.--(a) A refund shall be made of  
6 any tax to which the Commonwealth is not rightfully or equitably  
7 entitled provided the Commonwealth determines the refund is due  
8 or application for refund is made within the appropriate time  
9 limit as set forth in subsection (d).

10 (b) Interest shall be paid on refundable tax at the same  
11 rate as the interest rate on deficiencies provided for in  
12 section 2143.

13 (c) Refund shall be made in cash to the party who paid the  
14 tax or to his assignee or as directed by the court.

15 (d) Application for refund of tax shall be made within three  
16 years after:

17 (1) the court has rescinded its order and adjudication of  
18 presumed death when the refund is claimed for tax paid on the  
19 transfer of the estate of a presumed decedent who is later  
20 determined to be alive;

21 (2) termination of litigation establishing a right to a  
22 refund; no application for refund shall be necessary when the  
23 litigation has been with the Commonwealth over liability for the  
24 tax or the amount of tax due;

25 (3) it has been finally determined that the whole or any  
26 part of an alleged deficiency tax, asserted by the Federal  
27 Government beyond that admitted to be payable, and in  
28 consequence of which an estate tax was paid under section 2117  
29 was not payable;

30 (4) a final judgment holding that a provision of this

1 article under which tax has been paid is unconstitutional or  
2 that the interpretation of a provision of this article under  
3 which tax has been paid was erroneous; or

4 (5) the date of payment, or the date of the notice of the  
5 assessment of the tax, or the date the tax becomes delinquent,  
6 whichever occurs later, in all other cases.

7 (e) An application for refund of tax shall be made to the  
8 department.

9 (e.1) A petition to review the decision and order of the  
10 department on a petition for refund may be made to the Board of  
11 Finance and Revenue under this article.

12 (f) The action of the Board of Finance and Revenue on all  
13 applications for refund of tax may be appealed as provided for  
14 in 42 Pa.C.S. § 933 (relating to appeals from government  
15 agencies).

16 (g) As much of the moneys received as payment of tax under  
17 this article as shall be necessary for the payment of the  
18 refunds provided for in this article with interest is  
19 appropriated for the payment of such refunds.

20 PART XI

21 DISPUTED TAX

22 Section 2186. Protest, Notice and Appeal.--(a) Any party in  
23 interest, including the Commonwealth and the personal  
24 representative, not satisfied with the appraisal, the  
25 allowance or disallowance of deductions, the assessment of tax,  
26 or supplements or any other matter relating to any tax imposed  
27 by this article, within sixty days after receipt of notice of  
28 the action complained of may:

29 (1) file with the department a written protest, sending a  
30 copy thereof to the Office of Attorney General;

1 (2) notify the register in writing that he elects to have  
2 the correctness of the action complained of determined at the  
3 audit of the account of the personal representative; or

4 (3) appeal to the court to have the correctness of the  
5 action complained of determined at the audit of the account of  
6 the personal representative, or at a time the court shall fix.

7 The protest, notification or appeal shall specify all the  
8 objections to the action complained of. When the protest,  
9 notification or appeal is filed by the Commonwealth, a copy  
10 shall also be sent to the personal representative and to all  
11 other persons who filed a tax return.

12 (b) If a notification or appeal has been filed from an  
13 assessment of tax where it is contended that the rate of tax  
14 which will be applicable when a future interest vests in  
15 possession and enjoyment cannot presently be established with  
16 certainty and no compromise has been entered into pursuant to  
17 subsection (e) of section 2116, the court, after consideration  
18 of relevant actuarial factors, valuations and other pertinent  
19 circumstances, shall determine what portion of the transfer is  
20 to become taxed at each of the rates which might be applicable.

21 (c) Whenever any appeal or protest is brought pursuant to  
22 this part and the subject matter of the appeal concerns the  
23 valuation of certain farmland as set forth in section 2122, the  
24 forum designated by the department to hear the appeal or protest  
25 shall include at least two farmers and the Secretary of  
26 Agriculture. The farmers and the Secretary of Agriculture shall  
27 be accorded full powers within the forum with full voting  
28 rights.

29 Section 2187. Bond.--No bond shall be required of any party  
30 in interest who files a protest or notification against, or

1 appeals from, an appraisal, allowance or disallowance of a  
2 deduction, assessment of tax or supplements or other matter  
3 relating to the tax or from the decision of the department  
4 following a protest or who petitions for removal of the record  
5 to the court.

6 Section 2188. Appeal and Removal from Department.--(a) Any  
7 party in interest, including the Commonwealth and the personal  
8 representative, not satisfied with the decision of the  
9 department upon a protest may appeal from the department to the  
10 court within sixty days after receipt of notice of the entry of  
11 the decision of the department. When no decision has been  
12 rendered by the department within thirty days after the protest  
13 has been filed with the department, the court upon petition of  
14 any party in interest may direct the department to transmit the  
15 entire record to the court. When an appeal is taken from the  
16 decision of the department or the court directs the department  
17 to transmit the entire record to the court, the court shall  
18 either proceed to a determination of the issues protested to the  
19 department or suspend the determination until the audit of the  
20 account of the personal representative.

21 (b) If the appeal or removal arises from an assessment of  
22 tax where it is contended that the rate of tax which will be  
23 applicable when a future interest vests in possession and  
24 enjoyment cannot presently be established with certainty, and no  
25 compromise has been entered into pursuant to subsection (e) of  
26 section 2116, the court after consideration of relevant  
27 actuarial factors, valuations and other pertinent circumstances  
28 shall determine what portion of the transfer is to become taxed  
29 at each of the rates which might be applicable.

30 PART XII

1 ENTRY INTO SAFE DEPOSIT BOX

2 Section 2191. Entry Prohibited.--Unless provided otherwise  
3 in this part, no person having actual knowledge of the death of  
4 a decedent shall enter a safe deposit box of the decedent. This  
5 part shall not be construed to confer upon any person any right  
6 of entry into a safe deposit box of a decedent which he does not  
7 otherwise have.

8 Section 2192. Entry Without Notice to Department.--(a) A  
9 safe deposit box of a decedent may be entered and any or all of  
10 the contents removed in the presence of an employe of the  
11 financial institution in which the box is located. The employe  
12 shall make, or cause to be made, a record of the contents of the  
13 box, which record he shall attest under penalty of perjury to be  
14 correct and complete. The financial institution may make a  
15 reasonable charge for the attendance of its employe at the entry  
16 of the box and the listing of the contents, which charge shall  
17 be deductible as an administration expense under subclause (1)  
18 of section 2127.

19 (b) A safe deposit box of a decedent may be entered and any  
20 or all of the contents removed in the presence of a  
21 representative of the department authorized by the secretary.  
22 The department shall authorize at least one such representative  
23 in and for each county of this Commonwealth. The representative  
24 present at the time of entry into the box shall make or cause to  
25 be made a record of the contents of the box.

26 (c) The court for cause shown may order that a designated  
27 person or persons be permitted to enter a safe deposit box of a  
28 decedent and remove the contents described in the order, under  
29 supervision as the court may direct. The order may also require  
30 that a record be made of the contents of the box.

1 (d) Notwithstanding any of the provisions of this part, the  
2 department, at any time and without relation to the death of a  
3 specific decedent, by a certificate issued to a firm whose  
4 business requires ready access to safe deposit boxes, may issue  
5 a general authorization for the entry into, and removal of the  
6 contents of, a safe deposit box of a decedent, under terms and  
7 conditions as it may prescribe. A financial institution may  
8 permit such entry and removal upon presentation to it of such  
9 certificates issued by the department.

10 (e) Nothing in this part shall prohibit a financial  
11 institution from permitting entry into a safe deposit box of a  
12 decedent for the sole purpose of removing the decedent's will  
13 and evidence of ownership of the burial lot in which the  
14 decedent is to be interred. An employe of the financial  
15 institution must be present at the opening of the box and make  
16 or cause to be made a record of the documents removed from the  
17 safe deposit box during the entry and attest the record to be  
18 correct and complete under penalty of perjury.

19 Section 2193. Entry Upon Notice to Department.--(a) When  
20 entry into a safe deposit box of a decedent is not or cannot be  
21 made under the provisions of subsection (a), (b), (c) or (d) of  
22 section 2192, a safe deposit box of a decedent may be entered at  
23 the time fixed in a notice mailed to the Department of Revenue,  
24 Harrisburg, Pennsylvania, and to the financial institution in  
25 which the box is located, in the manner specified in this  
26 section. The date fixed for entry and contained in the notice  
27 shall not be less than seven days after the date of notice is  
28 mailed. A representative of the department may be present at the  
29 time fixed for entry and may make or cause to be made a record  
30 of the contents of the box.

1 (b) The notice required under subsection (a) shall be  
2 delivered to the United States Postal Service for mailing in a  
3 manner that will provide for a record of the mailing being made  
4 by the United States Postal Service and a receipt being  
5 furnished to the sender. An exact copy of the notice shall be  
6 transmitted to the financial institution in which the box is  
7 located.

8 (c) At the time fixed in the notice required by subsection  
9 (a), although no representative of the department is present, it  
10 shall be lawful for a financial institution in which a safe  
11 deposit box of a decedent is located to permit, and it shall  
12 permit, entry into the box and removal of its contents by a  
13 person who furnishes a signed statement under penalty of perjury  
14 that he or someone in his behalf has given such notice.

15 Section 2194. Subsequent Entries.--Nothing in this part  
16 shall be construed to impose any restriction upon reentry into a  
17 safe deposit box of a decedent at any time subsequent to an  
18 entry made in accordance with any of the provisions of this part  
19 other than subsection (e) of section 2192.

20 Section 2195. Confidential Nature of Contents.--Any  
21 information gained from the contents of a safe deposit box of a  
22 decedent by a person whose attendance at the entry into the box  
23 was required by this part shall be confidential and shall not be  
24 disclosed for other than official purposes to collect the taxes  
25 imposed by this article.

26 Section 2196. Penalties.--(a) Any employe of a financial  
27 institution in which the safe deposit box of a decedent is  
28 located who, having actual knowledge of the death of the  
29 decedent, enters or permits the entry by any person into a safe  
30 deposit box of the decedent in violation of the provisions of

1 this part commits a misdemeanor of the third degree.

2 (b) Any person, other than an employe of a financial  
3 institution in which the safe deposit box of a decedent is  
4 located, who, having actual knowledge of the death of a  
5 decedent, enters a safe deposit box of the decedent in violation  
6 of the provisions of this part commits a misdemeanor of the  
7 third degree.

8 (c) Any person who violates the provisions of section 2195  
9 commits a misdemeanor of the third degree.]

10 Section 2. Sections 2702(c) and 2901(b) of the act are  
11 amended to read:

12 Section 2702. Petition for reassessment.

13 \* \* \*

14 [(c) Application to inheritance and estate taxes.--This  
15 section shall not apply to the taxes imposed by Article XXI.  
16 Part XI of Article XXI shall provide the exclusive procedure for  
17 protesting the appraisement and assessment of taxes imposed by  
18 Article XXI.]

19 Section 2901. Taxability of Government Obligations.--\* \* \*

20 [(b) Government obligations described in subsection (a)  
21 shall continue to be subject to inheritance and estate taxes  
22 imposed by Article XXI.]

23 \* \* \*

24 Section 3. This act shall take effect in 60 days.