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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 2749 Session of  
2022

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INTRODUCED BY PISCIOTTANO, HILL-EVANS, McNEILL, BENHAM,  
D. WILLIAMS, SANCHEZ, SCHLOSSBERG, ZABEL, DELLOSO, GUENST AND  
MADDEN, JULY 13, 2022

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REFERRED TO COMMITTEE ON FINANCE, JULY 13, 2022

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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," prohibiting tax deductions for anti-union  
11 activities.

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

14 Section 1. The act of March 4, 1971 (P.L.6, No.2), known as  
15 the Tax Reform Code of 1971, is amended by adding an article to  
16 read:

17 ARTICLE XXIX-I

18 PROHIBITING TAX DEDUCTIONS FOR ANTI-UNION ACTIVITIES

19 Section 2901-I. Scope of article.

20 This article prohibits domestic entities and foreign entities  
21 that are corporations operating in this Commonwealth from taking  
22 tax deductions for expenses incurred in opposing unionization

1 efforts of their workers.

2 Section 2902-I. Definitions.

3 The following words and phrases when used in this article  
4 shall have the meanings given to them in this section unless the  
5 context clearly indicates otherwise:

6 "Corporation." A domestic entity or foreign entity  
7 incorporated for a purpose involving pecuniary profit,  
8 incidental or otherwise, to its shareholders or members, whether  
9 or not the business entity is a cooperative corporation.

10 "Domestic entity." A corporation that is formed under the  
11 laws of this Commonwealth and that exercises, whether in its own  
12 name or through a corporation, limited liability company,  
13 limited liability partnership, limited liability limited  
14 partnership, limited partnership, general partnership or other  
15 entity, any of the following privileges:

16 (1) Doing business in this Commonwealth.

17 (2) Carrying on activities in this Commonwealth,  
18 including solicitation.

19 (3) Having capital or property employed or used in this  
20 Commonwealth.

21 (4) Owning property in this Commonwealth.

22 "Foreign entity." A corporation that is organized by or  
23 under the laws of a jurisdiction other than this Commonwealth  
24 and that exercises, whether in its own name or through a  
25 corporation, limited liability company, limited liability  
26 partnership, limited liability limited partnership, limited  
27 partnership, partnership or other entity, any of the following  
28 privileges:

29 (1) Doing business in this Commonwealth.

30 (2) Carrying on activities in this Commonwealth,

1 including solicitation.

2 (3) Having capital or property employed or used in this  
3 Commonwealth.

4 (4) Owning property in this Commonwealth.

5 "General partnership." Either of the following:

6 (1) A partnership as defined in 15 Pa.C.S. § 8412  
7 (relating to definitions).

8 (2) An association whose internal affairs are governed  
9 by the laws of a jurisdiction other than this Commonwealth  
10 which would be a partnership if its internal affairs were  
11 governed by the laws of this Commonwealth.

12 "Labor organization." As follows:

13 (1) An organization of any kind or an agency or employee  
14 representation committee or plan:

15 (i) in which employees participate; and

16 (ii) which exists for the purpose, in whole or in  
17 part, of dealing with employers concerning grievances,  
18 labor disputes, wages, rates of pay, hours of employment  
19 or conditions of work.

20 (2) The term does not include a labor organization that,  
21 by ritualistic practice, constitutional or bylaw  
22 proscription, tacit agreement among its members or otherwise,  
23 denies a person membership in the organization on account of  
24 race, creed, color or political affiliation.

25 "Limited liability company." An association formed under and  
26 subject to 15 Pa.C.S. Ch. 88 (related to limited liability  
27 companies).

28 "Limited liability limited partnership." A domestic or  
29 foreign limited partnership for which there is in effect:

30 (1) a statement of registration under 15 Pa.C.S. Ch. 82

1 (relating to limited liability partnerships and limited  
2 liability limited partnerships);

3 (2) a provision of its certificate of limited  
4 partnership electing to be subject to 15 Pa.C.S. Ch. 82; or

5 (3) a similar filing or provision under the organic law  
6 of a foreign partnership.

7 "Limited liability partnership." A domestic or foreign  
8 general partnership for which there is in effect:

9 (1) a statement of registration under 15 Pa.C.S. Ch. 82;  
10 or

11 (2) a similar filing under the organic law of a foreign  
12 general partnership.

13 "Limited partnership." Either of the following:

14 (1) A limited partnership as defined in 15 Pa.C.S. §  
15 8612(a) (relating to definitions).

16 (2) An association whose internal affairs are governed  
17 by the laws of a jurisdiction other than this Commonwealth  
18 which would be a limited partnership if its internal affairs  
19 were governed by the laws of this Commonwealth.

20 Section 2903-I. Prohibition.

21 Except as provided in section 2904-I, a taxpayer that is a  
22 domestic entity or foreign entity subject to taxes under Article  
23 III, Article IV or Article VI shall be prevented from deducting  
24 business expenses that are related to an amount paid or incurred  
25 in connection with attempting to influence the taxpayer's  
26 employees with respect to a labor organization or the activities  
27 of a labor organization, including:

28 (1) An amount paid or incurred by the taxpayer in  
29 connection with an action that results in any of the  
30 following:

1           (i) A complaint issued under section 10 of the  
2 National Labor Relations Act (49 Stat. 449, 29 U.S.C. §  
3 160) against the taxpayer for an unfair labor practice  
4 under section 8(a) of the National Labor Relations Act  
5 (29 U.S.C. § 158(a)), unless an order of the National  
6 Labor Relations Board related to the complaint is set  
7 aside in full accordance with section 10(e) or (f) of the  
8 National Labor Relations Act.

9           (ii) A settlement offer related to an investigation  
10 by the National Labor Relations Board of a charge of an  
11 unfair labor practice under section 8(a) of the National  
12 Labor Relations Act that results in a settlement of the  
13 charge without issuance of a complaint under section 10  
14 of the National Labor Relations Act.

15           (iii) A finding of interference, influence or  
16 coercion by a Federal court under section 2 of the  
17 Railway Labor Act (44 Stat. 577, 45 U.S.C. § 152).

18           (iv) A violation of the act of June 1, 1937  
19 (P.L.1168, No.294), known as the Pennsylvania Labor  
20 Relations Act.

21           (v) A complaint of an unfair labor practice under  
22 the Pennsylvania Labor Relations Act.

23           (vi) A violation of an order issued by the  
24 Pennsylvania Labor Relations Board.

25           (2) An amount paid or incurred, including wages, in  
26 producing, conducting or attending a meeting or training:

27           (i) that includes employees of the taxpayer who are  
28 or who could become bargaining unit members or members of  
29 a craft or class under the Railway Labor Act; and

30           (ii) at which labor organizations or a labor

1 organization activity is discussed.

2 (3) An amount that is required to be reported under the  
3 Labor-Management Reporting and Disclosure Act of 1959 (Public  
4 Law 86-257, 29 U.S.C. § 401 et seq.).

5 Section 2904-I. Exceptions.

6 Notwithstanding section 2903-I, the following shall not be  
7 treated as an amount paid or incurred in connection with  
8 attempting to influence the taxpayer's employees with respect to  
9 a labor organization or the activities of a labor organization:

10 (1) An amount paid or incurred for communications or  
11 negotiations directly with the designated or selected  
12 representative of the employees of the taxpayer described in  
13 section 9(a) of the National Labor Relations Act (49 Stat.  
14 449, 29 U.S.C. § 159(a)) or under the Railway Labor Act  
15 (Public Law 69-257, 44 Stat. 577).

16 (2) An amount paid or incurred for communications  
17 directly with shareholders, as may be required under section  
18 13 of the Securities Exchange Act of 1934 (48 Stat. 881, 15  
19 U.S.C. § 78m).

20 (3) An amount paid or incurred for communications or  
21 consultation by the taxpayer in the process of voluntarily  
22 recognizing a labor organization as a representative in  
23 accordance with section 9 of the National Labor Relations  
24 Act.

25 (4) An amount paid or incurred for communications or  
26 consultation related to the operation of a labor-management  
27 partnership described in a collective bargaining agreement in  
28 effect between a representative of employees of the taxpayer  
29 and the taxpayer.

30 (5) An amount paid or incurred for communications or

1 consultation related to the operation of a grievance  
2 procedure described in a collective bargaining agreement in  
3 effect between a representative of employees of the taxpayer  
4 and the taxpayer.

5 (6) An amount paid or incurred by a labor organization.

6 (7) An amount paid or incurred for communicating  
7 material, including visual or audio media, required to be  
8 posted for, or provided to, employees of the taxpayer by law,  
9 including under the National Labor Relations Act or the  
10 Railway Labor Act.

11 Section 2. This article shall apply to taxable years  
12 beginning on or after the effective date of this section.

13 Section 3. This act shall take effect immediately.