
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 965 Session of
2023

INTRODUCED BY PISCIOTTANO, MADDEN, VENKAT, PROBST, SANCHEZ,
SIEGEL, McNEILL, MARKOSEK, SCHLOSSBERG, ZABEL, CIRESI,
BOROWSKI, HILL-EVANS, DELLOSO, NEILSON, DEASY, OTTEN,
CONKLIN, KRAJEWSKI AND FLEMING, APRIL 24, 2023

REFERRED TO COMMITTEE ON FINANCE, APRIL 24, 2023

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

1 tax deductions for expenses incurred in opposing unionization
2 efforts of their workers.

3 Section 2902-I. Definitions.

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

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

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

17 (1) Doing business in this Commonwealth.

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

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

22 (4) Owning property in this Commonwealth.

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

30 (1) Doing business in this Commonwealth.

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

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

5 (4) Owning property in this Commonwealth.
6 "General partnership." Either of the following:

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

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

13 "Labor organization." As follows:

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

16 (i) in which employees participate; and

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

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

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

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

1 (1) a statement of registration under 15 Pa.C.S. Ch. 82
2 (relating to limited liability partnerships and limited
3 liability limited partnerships);

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

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

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

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

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

14 "Limited partnership." Either of the following:

15 (1) A limited partnership as defined in 15 Pa.C.S. §
16 8612(a) (relating to definitions).

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

21 Section 2903-I. Prohibition.

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

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

1 following:

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

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 29 U.S.C. § 158(a) that
12 results in a settlement of the charge without issuance of
13 a complaint under 29 U.S.C. § 160.

14 (iii) A finding of interference, influence or
15 coercion by a Federal court under 45 U.S.C. § 152
16 (relating to general duties).

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

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

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

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

26 (i) that includes employees of the taxpayer who are
27 or who could become bargaining unit members or members of
28 a craft or class under 45 U.S.C. Ch. 8 (Railway Labor
29 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 29
3 U.S.C. Ch. 11 (relating to labor-management reporting and
4 disclosure procedure).

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 29
13 U.S.C. § 159(a) (relating to representatives and elections)
14 or under 45 U.S.C. Ch. 8 (Railway Labor Act).

15 (2) An amount paid or incurred for communications
16 directly with shareholders, as may be required under 15
17 U.S.C. § 78m (relating to periodical and other reports).

18 (3) An amount paid or incurred for communications or
19 consultation by the taxpayer in the process of voluntarily
20 recognizing a labor organization as a representative in
21 accordance with 29 U.S.C. § 159.

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

27 (5) An amount paid or incurred for communications or
28 consultation related to the operation of a grievance
29 procedure described in a collective bargaining agreement in
30 effect between a representative of employees of the taxpayer

1 and the taxpayer.

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

3 (7) An amount paid or incurred for communicating
4 material, including visual or audio media, required to be
5 posted for, or provided to, employees of the taxpayer by law,
6 including under 29 U.S.C. § 151 et seq. (National Labor
7 Relations Act) or 45 U.S.C. Ch. 8.

8 Section 2. The addition of Article XXIX-I of the act shall
9 apply to taxable years beginning on or after the effective date
10 of this section.

11 Section 3. This act shall take effect immediately.