

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 967 Session of 2017

INTRODUCED BY MASSER, DUNBAR, BARRAR, PICKETT, M. K. KELLER, BLOOM, BOBACK, IRVIN, KNOWLES, RYAN, MILLARD, WATSON, PASHINSKI, A. HARRIS, CUTLER, LAWRENCE, GABLER, SANKEY, HAHN, WARD, THOMAS, COX, GILLEN, ZIMMERMAN AND HEFFLEY, MARCH 27, 2017

REFERRED TO COMMITTEE ON FINANCE, MARCH 27, 2017

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," in inheritance tax, further providing for  
 11 definitions and for transfers not subject to tax.

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

14 Section 1. The definition of "business of agriculture" in  
 15 section 2102 of the act of March 4, 1971 (P.L.6, No.2), known as  
 16 the Tax Reform Code of 1971, is amended and the section is  
 17 amended by adding definitions to read:

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

1 \* \* \*

2 "Business of agriculture." The term shall include the  
3 leasing to members of the same family or the leasing to a  
4 [corporation or association] family farm business or family farm  
5 trust owned by members of the same family of property which is  
6 directly and principally used for agricultural purposes. The  
7 business of agriculture shall not be deemed to include:

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

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

13 (3) fur farming;

14 (4) stockyard and slaughterhouse operations; or

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

16 \* \* \*

17 "Family farm business." As defined in section 1101-C.

18 "Family farm trust." A trust in which at least seventy-five  
19 per cent of its assets are devoted to the business of  
20 agriculture and in which at least seventy-five per cent of the  
21 trust's beneficiary interests that are current interests are  
22 continuously held by members of the same family.

23 \* \* \*

24 Section 2. Section 2111(s) of the act, amended July 13, 2016  
25 (P.L.526, No.84), is amended and the section is amended by  
26 adding a subsection to read:

27 Section 2111. Transfers Not Subject to Tax.--\* \* \*

28 (s) A transfer of an interest in real estate devoted to the  
29 business of agriculture to or for the benefit of members of the  
30 same family or the decedent and a family farm business or family

1 farm trust in which at least seventy-five per cent of the  
2 ownership or beneficial ownership is held by members of the same  
3 family as the decedent, provided that after the transfer the  
4 real estate continues to be devoted to the business of  
5 agriculture for a period of seven years beyond the transferor's  
6 date of death, the real estate derives a yearly gross income of  
7 at least two thousand dollars (\$2,000) and the real estate is  
8 reported on a timely filed inheritance tax return, provided  
9 that:

10 (1) Any tract of land under this article which is no longer  
11 devoted to the business of agriculture within seven years beyond  
12 the transferor's date of death or does not derive a yearly gross  
13 income of at least two thousand dollars (\$2,000) shall be  
14 subject to inheritance tax due the Commonwealth under section  
15 2107, in the amount that would have been paid or payable on the  
16 basis of valuation authorized under section 2121 for nonexempt  
17 transfers of property, plus interest thereon accruing as of the  
18 transferor's date of death, at the rate established in section  
19 2143.

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

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

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

8 \* \* \*

9 (s.2) (1) A transfer of a qualified interest in a family  
10 farm business or a family farm trust to one or more qualified  
11 farm transferees is exempt from inheritance tax if the qualified  
12 interest:

13 (i) continues to be owned by a qualified transferee for a  
14 minimum of seven years after the decedent's date of death; and

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

16 (2) A qualified interest in a family farm business or family  
17 farm trust exempted under this subsection that is no longer  
18 owned by a qualified transferee at any time within seven years  
19 after the decedent's date of death shall be subject to  
20 inheritance tax owed to the Commonwealth under section 2107 in  
21 an amount equal to the inheritance tax that would have been paid  
22 or payable on the value of the family farm business or family  
23 farm trust interest using the valuation authorized under section  
24 2121 for nonexempt transfers of property. Interest shall accrue  
25 from the payment date established under section 2142 at the rate  
26 established under section 2143.

27 (3) Inheritance tax due under section 2107 as a result of a  
28 disqualification under paragraph (2) or (4), plus interest on  
29 the inheritance tax, shall be a lien in favor of the  
30 Commonwealth on the real and personal property of the owner of

1 the qualified family farm business or family farm trust at the  
2 time of the transaction or occurrence that disqualified the  
3 interest from the exemption under this subsection. The  
4 inheritance tax due and the interest shall be collectible in the  
5 manner provided for by law for the collection of delinquent  
6 taxes and shall be the personal obligation of the owner of the  
7 qualified interest at the time of the transaction or occurrence  
8 that disqualified the qualified interest from the exemption  
9 under this subsection. The lien shall remain until the  
10 inheritance tax and accrued interest are paid in full.

11 (4) Each owner of a qualified interest in a family farm  
12 business or family farm trust exempted from inheritance tax  
13 under this subsection shall certify to the department, on an  
14 annual basis for seven years after the decedent's date of death,  
15 that the qualified interest continues to be owned by a qualified  
16 transferee and shall notify the department within thirty days of  
17 any transaction or occurrence causing the qualified interest to  
18 fail to qualify for the exemption. Each year, the department  
19 shall inform all owners of a qualified interest exempted from  
20 inheritance tax under this subsection of the obligation to  
21 provide an annual certification under this paragraph. The  
22 certification and notification shall be completed in the form  
23 and manner as provided by the department. An owner's failure to  
24 comply with the certification or notification requirements shall  
25 result in the loss of the exemption and the qualified interest  
26 shall be subject to inheritance tax due the Commonwealth under  
27 section 2107 in an amount equal to the inheritance tax that  
28 would have been paid or payable on the value of the qualified  
29 interest using the valuation authorized under section 2121 for  
30 nonexempt transfers of property. Interest shall accrue from the

1 payment date established in section 2142 at the rate established  
2 in section 2143.

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

6 (i) "Qualified farm transferee." Includes any of the  
7 following:

8 (A) A member of the same family as the decedent.

9 (B) One or more trusts or series of trusts in which the  
10 beneficiary interests that are current interests are held by  
11 members of the same family as the decedent.

12 (C) One or more legal entities or series of legal entities  
13 in which the ownership interests are held by members of the same  
14 family as the decedent.

15 (ii) "Qualified interest in a family farm business or family  
16 farm trust." An ownership, beneficiary or other interest in a  
17 family farm business or family farm trust engaged in the  
18 business of agriculture, if:

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

21 (B) the entity has a net book value of assets totaling less  
22 than five million dollars (\$5,000,000) as of the date of the  
23 decedent's death.

24 Section 3. The amendment of sections 2102 and 2111 of the  
25 act shall apply to taxes filed on or after July 1, 2015.

26 Section 4. This act shall take effect in 60 days.