

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 631 Session of 2013

INTRODUCED BY BROWNE AND WAUGH, MARCH 7, 2013

REFERRED TO FINANCE, MARCH 7, 2013

AN ACT

1 Amending the act of December 31, 1965 (P.L.1257, No.511),
 2 entitled "An act empowering cities of the second class,
 3 cities of the second class A, cities of the third class,
 4 boroughs, towns, townships of the first class, townships of
 5 the second class, school districts of the second class,
 6 school districts of the third class and school districts of
 7 the fourth class including independent school districts, to
 8 levy, assess, collect or to provide for the levying,
 9 assessment and collection of certain taxes subject to maximum
 10 limitations for general revenue purposes; authorizing the
 11 establishment of bureaus and the appointment and compensation
 12 of officers, agencies and employes to assess and collect such
 13 taxes; providing for joint collection of certain taxes,
 14 prescribing certain definitions and other provisions for
 15 taxes levied and assessed upon earned income, providing for
 16 annual audits and for collection of delinquent taxes, and
 17 permitting and requiring penalties to be imposed and
 18 enforced, including penalties for disclosure of confidential
 19 information, providing an appeal from the ordinance or
 20 resolution levying such taxes to the court of quarter
 21 sessions and to the Supreme Court and Superior Court,"
 22 further providing for delegation of taxing powers and
 23 restrictions.

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

26 Section 1. Section 301.1(f)(12) of the act of December 31,
 27 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act,
 28 amended October 15, 2008 (P.L.1615, No.130), is amended to read:

29 Section 301.1. Delegation of Taxing Powers and Restrictions

1 Thereon.--* * *

2 (f) Such local authorities shall not have authority by
3 virtue of this act:

4 * * *

5 (12) To levy, assess and collect a mercantile or business
6 privilege tax on gross receipts or part thereof which are: (i)
7 discounts allowed to purchasers as cash discounts for prompt
8 payment of their bills; (ii) charges advanced by a seller for
9 freight, delivery or other transportation for the purchaser in
10 accordance with the terms of a contract of sale; (iii) received
11 upon the sale of an article of personal property which was
12 acquired by the seller as a trade-in to the extent that the
13 gross receipts in the sale of the article taken in trade does
14 not exceed the amount of trade-in allowance made in acquiring
15 such article; (iv) refunds, credits or allowances given to a
16 purchaser on account of defects in goods sold or merchandise
17 returned; (v) Pennsylvania sales tax; (vi) based on the value of
18 exchanges or transfers between one seller and another seller who
19 transfers property with the understanding that property of an
20 identical description will be returned at a subsequent date;
21 however, when sellers engaged in similar lines of business
22 exchange property and one of them makes payment to the other in
23 addition to the property exchanged, the additional payment
24 received may be included in the gross receipts of the seller
25 receiving such additional cash payments; (vii) of sellers from
26 sales to other sellers in the same line where the seller
27 transfers the title or possession at the same price for which
28 the seller acquired the merchandise; or (viii) transfers between
29 one department, branch or division of a corporation or other
30 business entity of goods, wares and merchandise to another

1 department, branch or division of the same corporation or
2 business entity and which are recorded on the books to reflect
3 such interdepartmental transactions. A mercantile or transaction
4 tax on the privilege of conducting specific transactions or
5 business within a taxing jurisdiction on the gross receipts from
6 such transactions or business may be imposed by a local taxing
7 jurisdiction wherein such business transactions took place. A
8 taxpayer may exclude such gross receipts from any tax on or
9 measured by such gross receipts which is imposed by a
10 jurisdiction in which the taxpayer maintains a base of
11 operations. A business privilege tax on the privilege of doing
12 business within a taxing jurisdiction on or measured by gross
13 receipts may be imposed by the local taxing jurisdiction only if
14 the privilege of doing business is exercised through a base of
15 operations in the local taxing jurisdiction. If a taxpayer
16 maintains more than one base of operations, the local taxing
17 jurisdiction shall only be able to tax the gross receipts
18 generated by the base of operations located within that local
19 taxing jurisdiction. For purposes of this section, the term
20 "base of operations" shall mean an actual, physical and
21 permanent place of business from which a taxpayer manages,
22 directs and controls its business activities at that location
23 and shall not include a structure which is utilized in a
24 municipality for the purpose of overseeing construction for the
25 duration of the construction project.

26 * * *

27 Section 2. The amendment of section 301.1(f)(12) of the act
28 shall apply to taxable years beginning after December 31, 2013.

29 Section 3. This act shall take effect immediately.