THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 48

Session of 2013

INTRODUCED BY BLOOM, BENNINGHOFF, F. KELLER, METCALFE, BAKER, STEPHENS, SAYLOR, NEILSON, KNOWLES, SWANGER, MALONEY, GINGRICH, MILLARD, TOEPEL, HESS, TALLMAN, EMRICK, MUSTIO, DAVIDSON, DUNBAR, MUNDY, C. HARRIS, AUMENT, HARKINS, STERN, LONGIETTI, CLYMER, BARRAR, FABRIZIO, KORTZ, TRUITT, MARSICO, V. BROWN, FLECK, HAHN, BOBACK, MACKENZIE, KAUFFMAN, O'NEILL, HARHART, STEVENSON, BRADFORD, CUTLER, ROCK, GROVE, COX, KAVULICH, R. BROWN, M. K. KELLER, MCGINNIS, LUCAS, JAMES, HICKERNELL, PICKETT, GIBBONS, DENLINGER, LAWRENCE, MOUL, SCHLEGEL CULVER, EVERETT, SANKEY, MATZIE, MILLER, GILLEN, MURT, BROOKS, SIMMONS, OBERLANDER, MILNE, QUINN, GABLER, GRELL, READSHAW, DAVIS, REGAN, KRIEGER, CALTAGIRONE, DELOZIER AND MARSHALL, JANUARY 10, 2013

AS AMENDED ON SECOND CONSIDERATION, HOUSE OF REPRESENTATIVES, FEBRUARY 4, 2013

AN ACT

- Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying 2 and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing 5 for tax credits in certain cases; conferring powers and 6 imposing duties upon the Department of Revenue, certain 7 employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and 9 penalties," further providing for transfers not subject to 10 11 tax.
- 12 The General Assembly of the Commonwealth of Pennsylvania
- 13 hereby enacts as follows:
- 14 Section 1. Section 2111 of the act of March 4, 1971 (P.L.6,
- 15 No.2), known as the Tax Reform Code of 1971, is amended by
- 16 adding a subsection to read:

- 1 Section 2111. Transfers Not Subject to Tax.--* * *
- 2 (t) The following shall apply:
- 3 (1) A transfer of all business assets, including real estate
- 4 <u>between members of the same family, provided that:</u>
- 5 (i) After the transfer, all assets, including real estate,
- 6 continue to be devoted to the same business BY MEMBERS OF THE
- 7 SAME FAMILY for a period of five years beyond the transferor's
- 8 date of death. An asset under this article which is no longer
- 9 <u>devoted to the same business BY MEMBERS OF THE SAME FAMILY</u>
- 10 within five years beyond the transferor's date of death shall be
- 11 subject to inheritance tax due the Commonwealth under section
- 12 2107, in the amount that would have been paid or payable on the
- 13 <u>basis of valuation authorized under section 2121 for nonexempt</u>
- 14 transfers of property, plus interest accruing as of the
- 15 transferor's date of death, at the rate established in section
- 16 2143.
- 17 (ii) A tax imposed under section 2107 shall be a lien in
- 18 favor of the Commonwealth upon the property no longer being
- 19 devoted to the same use, collectible in the manner provided for
- 20 by law for the collection of delinquent taxes, including the
- 21 personal obligation of the owner of the property at the time of
- 22 the change of use.
- 23 (iii) Every owner of any asset exempt under this subsection
- 24 shall certify to the department on an annual basis that the
- 25 <u>asset qualifies for this exemption and shall notify the</u>
- 26 department within thirty days of any transaction or occurrence
- 27 causing any asset to fail to qualify for the exemption. Each
- 28 year the department shall inform all owners of their obligation
- 29 to provide an annual certification under this subparagraph. The
- 30 certification and notification shall be completed in the form

- 1 and manner as provided by the department.
- 2 (2) Subclause (1) shall apply to the transfer of assets
- BETWEEN MEMBERS OF THE SAME FAMILY if the business is owned <--3
- wholly by members of the same family before the transfer. For 4
- the purposes of this subsection, business assets shall also 5
- include any asset leased to a business owned wholly by members 6
- of the same family before the transfer by a member of the same 7
- 8 family.
- 9 Section 2. The addition of section 2111(t) of the act shall
- apply to the estates of decedents dying after June 30, 2013. 10
- 11 Section 3. This act shall take effect in 60 days.