

Taxation in the City
and
School District of Philadelphia

City Taxes – Authority

The City has no inherent authority to impose or levy taxes. This authority is received through legislative acts of the Commonwealth of Pennsylvania.

Acts by the General Assembly granting the right to impose taxes.

- The Sterling Act (Act of August 5, 1932, P.L.45)
- The First Class City Business Tax Reform Act (Act of May 30, 1984, P.L. 345)
- The General County Assessment Law (Act of May 22, 1933, P.L. 853)
- The Pennsylvania Convention Center Authority Act (Act of June 27, 1986, P.L. 124)
- The Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class (Act of June 5, 1991, P.L. 9)
- Act 25 of 1999
- Community and Economic Improvement Act (Act 174 of 1998)

In addition to legislative authority, all local tax laws must meet the uniformity requirements of the Pennsylvania Constitution and the general requirements of the U.S. Constitution. The uniformity requirement of the Pennsylvania Constitution has been narrowly interpreted by the Supreme Court of Pennsylvania (444 Pa. 38, 279 A.2d 53).

U.S. Constitutional Concerns

- Commerce Clause – Sufficient activity in state to levy taxes (Nexus), no discrimination against interstate commerce, fairly apportioned.
- Due Process Clause – must be have sufficient activity in state (Nexus).
- Equal Protection Clause – tax must be uniform on same class of subjects.

The Sterling Act

Under this Act the State granted Philadelphia the right to impose a tax on any transaction within the limits of the City as long as it did not impose a tax in the same way as the State itself did. When Pennsylvania enacted the Tax Reform Act of 1971 the Wage, Net Profits and Earnings Taxes were permitted to continue by virtue of a savings clause.

Taxes imposed under the Sterling Act

- Wage Tax
- Earnings Tax
- Net Profits Tax
- Amusement Tax
- Parking Tax
- Real Estate Transfer Tax
- Mercantile Tax (Repealed in 1985)

Wage Tax - City

- Basis – Earned Compensation.
For Residents on total earned without regard to where earned at the rate of 3.0% (not including PICA) as of 7/1 02.
For Non-residents on amount earned within the City at the rate of 3.9127% as of 7/1/02.
- FYE 6/30/02 Revenue \$998,150,151.

Earnings Tax - City

- Basis – Total Compensation earned by residents working for firms that are not legally compelled to withhold the City Wage Tax. Taxed at rate of 3.0% (not including PICA) as of 7/1/02.
- FYE 6-30-02 Revenue \$8,692,642.

Net Profits Tax - City

- Basis – Net profits of businesses or professions.
For residents all net profits regardless of where earned at a rate of 3.0% (not including PICA) as of 7/1/02.
For non-residents on net profits apportioned to the city at a rate of 3.9127% as of 7/1/02.
- FYE 6/30/02 Revenue \$13,737,029.

Amusement Tax

- Basis – Admission fee charged for admission to defined amusement in City.
- The rate is 5%.
- Collected and remitted by producer of event.
- FYE 6/30/02 Revenue \$14,430,008.

Parking Tax

- Basis – Gross charge imposed for right to park or store a motor vehicle in or on a parking facility in Philadelphia.
- Rate – 15%.
- FYE 6/30/02 Revenue \$38,009,912.

Real Estate Transfer Tax

- Basis – Fair Market Value of property sold or transferred.
- Rate – 3%.
- FYE 6/30/02 Revenue \$95,149,231.
- The City's Transfer Tax was determined to be imposed differently than the State's in a court decision in 1957. The State tax was determined to be a document tax and the City's a transaction tax.

Mechanical Amusement Device Tax

- Basis – Flat charge for each coin operated mechanical amusement device in use within the City.
- Rate - \$100.00 per machine per year.
- This tax is administered by the Department of Licenses and Inspection as if it were a license.

The First Class City Business Tax Reform Act

- This Act granted the City the authority to impose the Business Privilege Tax with the proviso that the Mercantile and General Business Taxes be repealed. This legislation was created after many hours of negotiation between the City and its business leaders. It was amended in November 2002 to adjust the basis for the tax year.

Business Privilege Tax

- Basis – There are two components for this tax:
 - The Gross Receipts generated within Philadelphia are taxed at the rate of .23%.
 - The Net Income part is based on the Net Income apportioned to the City for the reporting period at the rate of 6.5%.
- FYE 6/30/02 Revenue \$291,700,812.

The General County Assessment Act

- This Act gave the City (County) the authority to impose a tax on real property located within its boundaries. It also provided guidelines regarding how the tax is to be levied and administered.

Real Estate Tax

- Basis – Assessed value as determined by the Board of Revision of Taxes.
- Rate - Total 8.264%, City portion 3.745%,
- FYE 6/30/02 Revenue:
City - \$372,182,942.

The Pennsylvania Intergovernmental Cooperation Authority Act

- This Act allowed the City to establish an Authority with a dedicated funding stream that will enable it to access capital markets under circumstances stipulated in the legislation. The funding stream is a tax imposed on the salaries, wages, commissions and other compensation earned by residents and the net profits earned in business, professions or other activities of residents at a rate of 1.5%. (This tax was carved out of the existing Wage, Earnings, and Net Profits taxes).
- This Act also provides for a Sales and Use Tax and a Hotel Occupancy Tax all at the rate of 1%.

PICA (Wage, Earnings and Net Profits) Taxes

- Basis – Same as those mentioned in City Wage, Earnings and Net Profits Taxes.
- Imposed only on Residents at a rate of 1.5%.
- FYE 6/30/02 Revenue:
 - o Wage - \$265,544,665,
 - o Earnings - \$2,559,452;
 - o Net Profits - \$9,903,788.

Sales Tax

- Basis – Sales price on purchase at retail of good or services (as defined for Pennsylvania 6% Sales Tax). This includes the Hotel Occupancy Tax.
- Rate – 1%.
- FYE 6/30/02 Revenue \$108,644,894.

This tax is administered by the Commonwealth of Pennsylvania for the City.

Act 25 of 1999

- This Act gave the City the authority to impose a Vehicle Rental Tax for capital construction projects. It was primarily intended to support stadium construction.

Vehicle Rental Tax

- Basis – Total charge to rent the vehicle.
- Rate – 2%.
- FYE 6/30/02 Revenue \$3,918,401.

Hotel Room Rental Taxes

- The Pennsylvania Convention Center Authority Act.
- Community and Economic Improvement Act.

The Pennsylvania Convention Center Authority Act

- This Act gave the City the Authority to impose a tax on hotel room rentals in order to establish two special funds. One supports the Convention and Visitors Bureau for the promotion of tourism and the other supports the Pennsylvania Convention Center. Expenditures from both funds are spelled out in the legislation.

Community and Economic **Improvement Act**

- This Act gave the City the authority to impose the Tourism and Marketing Tax.

Combined Hotel Room Rental Taxes

- Basis – Amount charged for use of the accommodation.
- Total Rate – 7% (6% for Hotel Tax and 1% for Tourism and Marketing Tax).
- FYE 6/30/02 Revenue:
 - o Hotel Tax - \$25,310,837,
 - o Tourism and Marketing Tax - \$4,233,724.

School District Taxes - Authority

- The School District also has no inherent authority to impose or levy taxes. Authority is received through legislative acts of the Commonwealth of Pennsylvania. Because the Board of the School District of Philadelphia is appointed and not elected, the power to tax cannot be delegated by the General Assembly to the School District. It is, therefore, given to the City Council of the City of Philadelphia to exercise on behalf of the School district.

Acts Passed by General Assembly **Granting the Right to Impose Taxes**

- The Little Sterling Act (Act of August 9, 1963, P.L. 640).
- Act of May 23, 1949, P.L. 1669.
- The General County Assessment Law (Act of May 22, 1933, P.L. 853).
- The First Class School District Liquor Sale Tax Act.

Miscellaneous Acts in the Pennsylvania School Code

- Act of August 5, 1977, P.L. 178,
- Act of November 30, 1955, P.L. 793,
- Act of July 8, 1957, P.L. 548,
- Act of November 19, 1959, P.L. 1552,
- Act of September 10, 1965, P.L. 512.

Like the City, in addition to legislative authority all School District tax laws must meet the uniformity requirements of the Pennsylvania Constitution and the general requirements of the Federal Constitution.

The Little Sterling Act

- Under this Act the State granted the School District of Philadelphia the right to impose a tax on any transaction the City can tax under the Sterling Act except for wages or net income of non-residents. The following taxes were imposed under the Little Sterling Act:
 - o School Income Tax
 - o Realty Use and Occupancy Tax

School Income Tax

- Basis – Various types of unearned income as defined, principally dividends and short term capital gains.
- Rate – 4.5%.
- FYE 6/30/02 Revenue \$17,145,497.

Business Use and Occupancy Tax

- Basis – Assessed value of Real Property used for a business purpose
- Rate – 4.62%
- FYE 6-30-02 Revenue \$93,486,056

Act of May 23, 1949, P.L. 1669

- This Act gave the School District the authority to impose its General Business Tax. This tax was repealed in 1984 with the creation of the Business Privilege Tax.

The General County Assessment Act

- This Act gave the City (County) the authority to impose a Tax on real property located within its boundaries. It also provided guidelines regarding how the taxes are to be levied and administered. The City Council and Administration determine what portion of the Real Estate Tax is to be allocated to the School District.

Miscellaneous Acts in the Pennsylvania School Code

- These Acts require the School District to levy additional real estate taxes on real property in Philadelphia to fund current expenses. The rates are in addition to the Real Estate tax levied by the local government and are imposed as follows:
 - Act of August 5, 1977, P.L. 178 1.175%
 - Act of November 30, 1955, P.L. 793 .150%
 - Act of July 8, 1957, P.L. 548 .075%
 - Act of November 19, 1959, P.L. 1552 .200%
 - Act of September 10, 1965, P.L. 512 .075%

Real Estate Tax

- Basis – Assessed value as determined by the Board of Revision of Taxes.
- Rate - Total 8.264%, School District portion 4.519%.
- FYE 6/30/02 Revenue: School District - \$442,675,319.

The First Class School District Liquor **Sale Tax Act**

- This Act gave City Council the authority to impose a tax on the retail sale of liquor and malt brewed beverages on behalf of the School District.

Liquor Sales Tax

- Basis – Sales price of sale at retail of wine, liquor and malt beverages.
- Rate – 10%.
- FYE 6/30/02 Revenue \$27,811,696.

City and School District **Tax Incentive Programs**

Tax Incentive Programs

- Keystone Opportunity Zones
- Jobs Creation Tax Credits
- Credits for Contributions to CDC's
- Real Estate Tax Abatement Programs
- Tax Increment Financing Districts

Keystone Opportunity Zones

- This is a State initiated program that provided for a limited number of tax free zones throughout Pennsylvania to improve the business climate.
- There is a formal application and approval process that must be followed to be considered for this program.
- It is jointly administered by the Revenue and Commerce Departments.
- Business located and conducting business within KOZ boundaries are exempt from most Pennsylvania and City taxes.

Jobs Creation Tax Credit

- This credit is provided to companies that file a formal plan with the City to increase the number of jobs in the City under the conditions spelled out in Section 19-2604(7) of the Philadelphia Code.
- A \$1,000 credit will be allowed against the Business Privilege Tax for each new job created in accordance with the Code.

Credit for Contributions to Community Development Corporations

- City Council passed an Ordinance giving 15 members of the business community an opportunity to receive a credit against their Business Privilege Tax liability.
- They must agree to contribute \$100,000 per year for ten (10) years to a qualified Community Development Corporation under the terms and conditions spelled out in the Ordinance.

Real Estate Tax Abatement Programs

- 10 Year Abatements for:
 - 100% of improvements to existing residential property with a Fair Market Value (FMV) under \$193,125 and capped at an increase in the FMV of \$48,100.
 - 100% of value added for improvements to new or existing commercial, industrial or other business property.
 - 100% of value added for newly constructed residential properties.

Tax Increment Financing Districts (TIFs)

- Geographical districts established within the City by City Council under the authority of the Tax Increment Financing Act of 1990.
- The purpose of the districts is to partially assist development projects in a Redevelopment Area.
- TIFs are defined projects that create a public benefit with taxes that are assessed and paid. The increased tax from the development is used to help pay for the financing of the project.