

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1254 Session of 2015

INTRODUCED BY MASSER, MUSTIO, DUNBAR, MILLARD, THOMAS, MURT, PICKETT, CUTLER, WATSON, MACKENZIE, IRVIN, GODSHALL, BAKER, BARRAR, V. BROWN, GIBBONS, DUSH, BLOOM, HAHN, SAINATO, MARSICO, HARHART, LONGIETTI, HEFFLEY, A. HARRIS, LAWRENCE, SONNEY, ZIMMERMAN, WARD, GILLEN AND DEAN, MAY 28, 2015

REFERRED TO COMMITTEE ON FINANCE, MAY 28, 2015

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, added July 2, 2012 (P.L.751,  
 17 No.85), is amended and the section is amended by adding  
 18 definitions to read:

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

1 clearly indicates a different meaning:

2 \* \* \*

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

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

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

14 (3) fur farming;

15 (4) stockyard and slaughterhouse operations; or

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

17 \* \* \*

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

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

24 \* \* \*

25 Section 2. Section 2111(s) of the act, added July 2, 2012  
26 (P.L.751, No.85), is amended and the section is amended by  
27 adding a subsection to read:

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

29 (s) A transfer of an interest in real estate devoted to the  
30 business of agriculture between members of the same family or

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

9 (1) Any tract of land under this article which is no longer  
10 devoted to the business of agriculture within seven years beyond  
11 the transferor's date of death shall be subject to inheritance  
12 tax due the Commonwealth under section 2107, in the amount that  
13 would have been paid or payable on the basis of valuation  
14 authorized under section 2121 for nonexempt transfers of  
15 property, plus interest thereon accruing as of the transferor's  
16 date of death, at the rate established in section 2143.

17 (2) Any tax imposed under section 2107 shall be a lien in  
18 favor of the Commonwealth upon the property no longer being  
19 devoted to agricultural use, collectible in the manner provided  
20 for by law for the collection of delinquent real estate taxes,  
21 as well as the personal obligation of the owner of the property  
22 at the time of the change of use.

23 (3) Every owner of real estate exempt under this subsection  
24 shall certify to the department on an annual basis that the land  
25 qualifies for this exemption and shall notify the department  
26 within thirty days of any transaction or occurrence causing the  
27 real estate to fail to qualify for the exemption. Each year the  
28 department shall inform all owners of their obligation to  
29 provide an annual certification under this subclause. This  
30 certification and notification shall be completed in the form

1 and manner as provided by the department.

2 \* \* \*

3 (s.2) (1) A transfer of a qualified interest in a family  
4 farm business or a family farm trust to one or more qualified  
5 farm transferees is exempt from inheritance tax if the qualified  
6 interest:

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

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

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

21 (3) Inheritance tax due under section 2107 as a result of a  
22 disqualification under paragraph (2) or (4), plus interest on  
23 the inheritance tax, shall be a lien in favor of the  
24 Commonwealth on the real and personal property of the owner of  
25 the qualified family farm business or family farm trust at the  
26 time of the transaction or occurrence that disqualified the  
27 interest from the exemption under this subsection. The  
28 inheritance tax due and the interest shall be collectible in the  
29 manner provided for by law for the collection of delinquent  
30 taxes and shall be the personal obligation of the owner of the

1 qualified interest at the time of the transaction or occurrence  
2 that disqualified the qualified interest from the exemption  
3 under this subsection. The lien shall remain until the  
4 inheritance tax and accrued interest are paid in full.

5 (4) Each owner of a qualified interest in a family farm  
6 business or family farm trust exempted from inheritance tax  
7 under this subsection shall certify to the department, on an  
8 annual basis for seven years after the decedent's date of death,  
9 that the qualified interest continues to be owned by a qualified  
10 transferee and shall notify the department within thirty days of  
11 any transaction or occurrence causing the qualified interest to  
12 fail to qualify for the exemption. Each year, the department  
13 shall inform all owners of a qualified interest exempted from  
14 inheritance tax under this subsection of the obligation to  
15 provide an annual certification under this paragraph. The  
16 certification and notification shall be completed in the form  
17 and manner as provided by the department. An owner's failure to  
18 comply with the certification or notification requirements shall  
19 result in the loss of the exemption and the qualified interest  
20 shall be subject to inheritance tax due the Commonwealth under  
21 section 2107 in an amount equal to the inheritance tax that  
22 would have been paid or payable on the value of the qualified  
23 interest using the valuation authorized under section 2121 for  
24 nonexempt transfers of property. Interest shall accrue from the  
25 payment date established in section 2142 at the rate established  
26 in section 2143.

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

30 (i) "Qualified farm transferee." Includes any of the

1 following:

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

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

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

9 (ii) "Qualified interest in a family farm business or family  
10 farm trust." An ownership, beneficiary or other interest in a  
11 family farm business or family farm trust engaged in the  
12 business of agriculture, if:

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

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

18 \* \* \*

19 Section 3. The amendment of sections 2102 and 2111 of the  
20 act shall apply to taxes filed on or after July 1, 2013.

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