

## **Enabling Legislation, Enacted Law and Local Ordinances for Pennsylvania**

Pennsylvania is the broadest case for legislation and implementation.

Pennsylvania has had unbroken experience with land value taxation since 1913. The power to tax land at a higher rate than buildings has moved from two cities, to all cities, boroughs, as well as some school districts, and all “Home Rule” municipalities.

**Cities of the 2nd Class.** In 1913 the Pennsylvania Legislature passed, and the Governor signed, Act 147 for the two 2nd class cities, Pittsburgh and Scranton, to reduce property taxes to a half-mill rate on buildings, to be phased in over a 10-year period. The two cities operated under a 2 mills on land to 1 mill on buildings until 1976 when Pittsburgh voters adopted a Home Rule Charter. Scranton followed in adoption.

In 2000, a 20-year overdue Allegheny County-wide reappraisal (property had been assessed at 20% of market value) was undertaken. Numerous challenges were received, especially on Pittsburgh's reassessed land values, and the firm responsible for the new assessments was sued on behalf of the Pittsburgh City Controller and a number of named plaintiffs. The county then hired another firm, Cole-Layer-Trumble, to straighten out the reassessment mess. In the interim, the embattled Council had to set 2001 tax rates and moved to revert to the one-rate

property tax mill rate for 2001. This resulted in higher taxes for the very poorest neighborhoods and for downtown property owners.

The Pittsburgh Improvement District continues to use a land value tax.

**Cities of the Third Class.** In 1951 Act. No. 299, incorporated into Senate Bill 357, dealt with taxation and assessment of land and improvements. Thereafter, Public Law 37531 (Purdon) allowed Third class cities to adopt the two-rate property tax structure.

**Boroughs.** Senator Terry Punt's 1997 SB 211, to extend the two-rate property tax option to nearly 1,000 boroughs in Pennsylvania, passed both the House and Senate and signed into law by Governor Thomas Ridge in Nov. 1998 as Act 108. This legislation was supported by the Pennsylvania State Association of Boroughs.

**Pennsylvania School Districts.** In 1993 the Pennsylvania Governor signed Act 16 allowing school districts, which are coterminous with 3rd class cities, to levy higher rates of taxation on assessed land values than on building values. Eight cities qualify under this law. Two School Districts has thus far adopted the higher tax rate on land assessments.

### ***Home Rule Municipalities***

Any municipality that chooses Home Rule in Pennsylvania may adopt a tax structure that exists by an act of law by the General Assembly:

The Home Rule Charter and Optional Plans Law grants Pennsylvania municipalities the power to determine for themselves what structure their government will take and what

services it will perform. A home rule municipality no longer has its powers and organization determined by the state legislature. A home rule municipality drafts and amends its own charter and can exercise any power or perform any function not denied by the state Constitution, the General Assembly or its home rule charter. As of 2006, 71 municipalities have adopted home rule charters, including 6 counties, 19 cities, 19 boroughs and 27 townships.

### ***Third-Class Cities***

Unlike many other states, Pennsylvania's Constitution permits the taxing authorities, if authorized by specific state legislation, to differentiate between land and improvements in the levying of taxes. There are exactly 50 cities, with a combined population of approximately 4,500,000, or slightly over 44 per cent of the state's total population. Of these 50 cities, 47 are classified by law as cities of the third class, only the three largest cities enjoying a higher rating. These third-class cities range in population from 7,000 to 125,000.

A bill granting to the third-class cities the optional privilege of taxing land values at a higher rate than improvements was passed by the Senate on April 17, 1951, by a vote of 50 to 0, and by the House on the following August 2 by 184 to 1, and was signed by Governor John S. Fine as Act No. 299 on August 17, 1951. This legislation, which deals solely with the taxation and assessment of land and

improvements, has also been incorporated in Senate Bill No. 357, which codifies all third-class-city legislation. The act reads in part as follows:

The council of any city may, by ordinance in any year, levy separate and different rates of taxation for city purposes on all real estate classified as land exclusive of the buildings thereon and on all real estate classified as buildings on land. When real estate tax rates are so levied they shall be uniform as to all real estate within each such classification and such rates shall be determined by the requirements of the city budget as approved by council.

In any of the 47 Pennsylvania cities of the third class, city councils may now direct the assessors to make a separate assessment of land and buildings and at any time may levy differential rates. As the legislature has set no fixed ratio between land and building tax rates,

such as now prevails in second-class cities, it is quite possible that some cities may go farther than Pittsburgh and Scranton have gone.

The act (No. 147) applying to the two second-class cities, Pittsburgh and Scranton, was passed by a decisive majority in both houses, was signed by Governor John K. Tener on May 15, 1913, and what has come to be known as the Graded Tax Law went into effect on the first of January 1914, by which time the city Department of Assessors had completed its first separate assessment of land and buildings as required by the act.

The text of the act prescribing the terms of the change is as follows:

*They [the assessors] shall classify all real estate in the city in such a manner, and upon such testimony as may be adduced before them, so as to distinguish between the buildings on land and the land exclusive of the buildings, and to certify to the councils of said city the aggregate valuation of city property subject to taxation. It shall be the duty of said councils, in determining the rate for the years*

*one thousand nine hundred and fourteen and one thousand nine hundred and fifteen to assess a tax upon the buildings equal to nine-tenths of the highest rate of tax required for said years; and for the years one thousand nine hundred and sixteen, one thousand nine hundred and seventeen, and one thousand nine hundred and eighteen to assess a tax upon the buildings equal to eight-tenths of the highest rate of tax required to be assessed for those years; and for the years one thousand nine hundred and nineteen, one thousand nine hundred and twenty, and one thousand nine hundred and twenty-one, to assess a tax upon the buildings equal to seven-tenths of the highest rate of tax required to be assessed for those years; and for the years one thousand nine hundred and twenty-two, one thousand nine hundred and twenty-three, and one thousand nine hundred and twenty-four, to assess a tax upon buildings equal to six-tenths of the highest rate of tax required to be assessed for those years; and for the year one thousand nine hundred and twenty-five, and for each year thereafter, to assess a tax upon the buildings equal to five-tenths of the highest rate of tax required to be assessed for the year one thousand nine hundred and twenty-five, and for each year thereafter, respectively, so that upon the said classes of real estate of said city there shall, in every year, be two rates of taxation.*

## **Third-Class City Enabling Law**

THE GENERAL ASSEMBLY OF PENNSYLVANIA

Act No. 534 - Session of 1959

Signed by Governor David L. Lawrence

AN ACT

Amending the act of June 23, 1931 (P. L. 932) entitled "An Act relating to cities of the third class and amending, revising and consolidating the law relating thereto" changing tax levy provisions when land and buildings are taxed separately.

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

Section 1. Section 2531, act of June 23, 1931 (P. L. 932) known as the "Third Class City Code" reenacted and amended June 28, 1951 (P. L. 662) and amended March 15, 1956 (P. L. 1283) is amended to read:

4. The council of any city may by ordinance in any year levy separate and different rates of taxation for city purposes on all real estate classified as land exclusive of the buildings thereon and on all real estate classified as buildings on land.

When real estate tax rates are so levied, rates shall be determined by the requirements of the city budget as approved by council. Higher rates may be levied on land if the respective rates on lands and buildings are so fixed so as not to constitute a greater levy in the aggregate than a rate of fifteen mills on both land and buildings, and they shall be uniform as to all real estate within each such classification.

5. Where the city council by a majority action shall upon due cause petition the court of quarter sessions for the right to levy additional millage, the court after such public notice as it may direct and after hearing may order a greater rate than fifteen mills but not exceeding five additional mills to be levied.

(This Act was passed by the State Senate of Pennsylvania by a unanimous vote and by the House of Representatives by a vote of 138 to 45).

***Borough Enabling Law (Act 108 of 1997)***

Introduced by Punt, Afflerbach, Jubelirer, Wozniak, Thompson and Heckler, January 29, 1997  
Amended April 7, 1997, Senator Gerlach, Local Government

AN ACT

Amending the act of February 1, 1966 (1965 P.L. 1656, No.581), entitled "An act concerning boroughs, and revising, amending and consolidating the law relating to boroughs," further providing for tax levies. The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The act of February 1, 1966 (1965 P.L.1656, No. 581), known as The Borough Code, is amended by adding a section to read:

Section 1302.1. Different and Separate Tax levies.

(A) A borough may in any year levy separate and different rates of taxation for municipal purposes on all real estate classified as NONFARMLAND, exclusive of the buildings thereon, and on all real estate classified as EITHER buildings on land or FARMLAND. When real estate tax rates are so levied:

(1) The rates shall be determined by the requirements of the borough budget.

(2) A higher rate may be levied on real estate classified as nonfarmland than on real estate classified as either buildings on land or farmland if the respective rates on nonfarmland and on buildings or farmland are so fixed as not to constitute a greater levy in the aggregate than the levy to result from the maximum rate allowed by law on all real estate.

(3) The rates shall be uniform as to all real estate within the classification.

(B) For purposes of this section:

(1) "Farmland" shall include any tract of land that is actively devoted to agricultural use, including, but not limited to, the commercial production of crops, livestock and livestock products, as defined in Section 3 of the Act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law."

(2) "Nonfarmland" shall include any tract of land that is not farmland.

(C) The provisions of this section are nonseverable. If any provision of this act or its application to any person or circumstance is held invalid, the remaining provisions or applications of this act are void. Section 2.

This act shall take effect in 60 days.