



City of Pittsburgh

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Text File

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Committee: Committee on Finance & Budget

Status: Passed Finally

Presented by Mr. Udin

An Ordinance amending the Pittsburgh Code, Title Two, "Fiscal", Article IX, "Property Taxes", Chapter 261, "Personal Property Tax", by eliminating for the tax years 1993 and 1994 an exemption on certain shares of stock which was determined to be unconstitutional by the Supreme Court of Pennsylvania.

Whereas, in 1996, Walter and Leonore Annenberg, taxpayers in Montgomery County, Pennsylvania, challenged the constitutionality of the personal property tax levied pursuant to Section 4821 of the Act of June 17, 1913, P.L. 507, as amended, 72 P.S. § 4821 (the "personal property tax statute"); and

Whereas, at the time the Montgomery County action was filed, the City of Pittsburgh, the School District of Pittsburgh (School District) and the County of Allegheny (the County) had repealed their personal property taxes effective January 1, 1995, as required by Act 77 of 1993, 16 P.S. § 6171-B (a) (2); and

Whereas, by a decision dated June 1, 2000, in the case of Annenberg v. Commonwealth, 562 Pa. 581, 757 A.2d 338 (2000), the Supreme Court of Pennsylvania held that a provision of the personal property tax statute which exempted from taxation stocks of companies doing business in Pennsylvania was unconstitutional because it discriminated against interstate commerce; and

Whereas, the Pennsylvania Supreme Court ordered all taxing jurisdictions which had collected a personal property tax with the unconstitutional exemption to devise a remedy that would eliminate what the Court determined to be illegal discrimination under the law in favor of stocks issued by companies doing business in Pennsylvania; and

Whereas, pursuant to the Pennsylvania Supreme Court directives in Annenberg, possible remedies could include the re-imposition of the personal property tax for the years 1993-1994 to collect taxes on the previously exempt stocks, or the refund of all personal property taxes collected for those years, or some combination thereof; and

Whereas, the City, in conjunction with the County and the School District, are amending their respective personal property taxes for the years 1993 and 1994 to eliminate the unconstitutional exemption so as to comply with the directives of the Pennsylvania Supreme Court in the Annenberg case, cited above.

Be it resolved by the Council of the City of Pittsburgh as follows:

Section 1. The Pittsburgh Code, Title Two, "Fiscal", Article IX, "Property Taxes", Chapter 261, "Personal Property Tax", Section 261.01, "Definitions", paragraph (b), "Taxable Personal Property", is hereby amended

to read as follows:

TAXABLE PERSONAL PROPERTY. All property subject to tax as enumerated in the Act of June 17, 1913, P.L. 507, as amended (72 P.S. § 4821 et seq.), which Act is hereby incorporated by reference as if fully set forth and shall continue in force as part of this chapter even if the Act is repealed. In accordance with the decision rendered by the Pennsylvania Supreme Court in the case of Annenberg v. Commonwealth, 562 Pa. 581, 757 A.2d 338 (2000), taxable personal property includes shares of stock held during the years 1993 and 1994 in companies which were subject during those years to state capital stock and franchise taxes.

Section 2. The Pittsburgh Code, Title Two, "Fiscal", Article IX, "Property Taxes", Chapter 261, "Personal Property Tax", Section 261.03, "Exceptions", paragraph (a), is hereby amended to read as follows.
§ 261.03 EXCEPTIONS.

The personal property tax shall not be imposed upon the following:

(a) Personal property exempted from taxation by the Act of June 17, 1913, P.L. 507, as amended (72 P.S. § 4821 et seq.), which Act is hereby incorporated by reference as if fully set forth and shall continue in force as part of this chapter even if such Act is repealed. However, in accordance with the decision rendered by the Pennsylvania Supreme Court in the case of Annenberg v. Commonwealth, 562 Pa. 581, 757 A.2d, 338 (2000), shares of stock held during the years 1993 and 1994 in companies which were subject during those years to state capital stock and franchise taxes are not exempt and are subject to the personal property tax levied hereunder.