

XII. Per Capita Taxes

A per capita tax is a flat rate tax levied upon each adult within the taxing district. The tax has no connection with employment, income, voting rights or any other factor except residence within the community. Commonly referred to as a “head tax,” it is derived from the Latin words, “per,” meaning “by,” and “capita,” meaning “heads.” It is sometimes called a residence or poll tax and is levied equally on all adult residents or inhabitants of the taxing jurisdiction.

The tax is authorized in the respective codes of law for second through fourth class school districts,¹ for third class cities (referred to as a residence tax),² and for fourth to eighth class counties as an alternative to the occupation tax;³ all of the foregoing at a maximum rate of \$5. Those political subdivisions under the authority of the Local Tax Enabling Act may levy an additional per capita tax at a maximum rate of \$10.⁴ Where a coterminous municipality and school district wish to levy the tax, the maximum rate must be shared between them. School districts where voters have approved an earned income tax under Act 50 of 1998 are prohibited from levying per capita taxes.⁵

Municipalities and school districts levying the per capita tax under authority of these acts are permitted to exempt any person whose income from all sources is less than \$5,000. Counties may exempt persons whose income is less than \$10,000. The exemption must be adopted by ordinance or resolution of the governing body. The governing body has authority to adopt regulations for processing claims for the exemption. In determining whether or not a married person qualifies for the exemption, the income of the spouse cannot be taken into consideration.⁶ The court held the General Assembly had defined those in poverty as persons whose income is below the limit, and local jurisdictions cannot distinguish between members of this class based on additional criteria of need or family relationships.

However, the Commonwealth Court did uphold a municipal per capita tax ordinance limiting the exemption to low income persons over 62 years of age as a reasonable classification.⁷ This case upheld application of the per capita tax to indigents, and stipulated the granting of exemptions under the Local Tax Enabling Act or exonerations under the Local Tax Collection Law is a matter of discretion with each individual taxing district.

Per capita taxes can be levied on the per capita tax duplicate furnished by the county assessment office, or they may be levied on a list prepared for the taxing body by its own employees.⁸ Preparation of the list is often one of the functions discharged by periodic school censuses. Collection of per capita taxes is difficult. They can be billed with real estate taxes. Delinquent per capita taxes are often assigned to a special delinquent collector. However, there is no statutory authority for a taxing district to recover the costs of the delinquent tax collector from taxpayers.⁹ The per capita tax has a high collection cost in relation to its yield in revenues. A growing number of municipalities are eliminating the tax.

References

1. 24 P.S. 6-679; Public School Code, Section 679.
2. 53 P.S. 37531; Third Class City Code, Section 2531.
3. 16 P.S. 1770; County Code, Section 1770.
4. 53 P.S. 6908(l); Local Tax Enabling Act, Section 8(l).
5. 53 Pa.C.S. 8701(b).
6. *Keenan v. Penn Hills School District*, 65 D.&C.2d 767, 1974, C.P. Allegheny Co.
7. *Borough of Rochester v. Geary*, 373 A.2d 1380, 30 Pa.Cmwlth. 493, 1977.
8. 72 P.S. 5505; 1951 P.L. 1026, No. 216.
9. *Selinsgrove Area School District v. Krebs*, 507 A.2d 906, 96 Pa.Cmwlth. 303, 1986.