



Senate Finance Committee

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BILL SUMMARY

Legislation: Senate Bill 405, P.N. 395
Sponsor: Senator Browne
Act Amended: Local Tax Enabling Act
Topic: Limitations on the business privilege tax
Date: March 31, 2011

Summary:

Senate Bill 405 governs the terms under which a local taxing jurisdiction may levy a mercantile or business privilege tax on gross receipts or on the privilege of doing business within or from a location within a local taxing jurisdiction.

- The privilege of doing business must be exercised through a base of operations in the local taxing jurisdiction.
- The “base of operations” shall mean an actual, physical and permanent place of business through which the taxpayer manages, directs and controls its business activities at that location. It shall not include a structure which is utilized in a municipality for the purpose of overseeing construction for the duration of a construction project.
- With respect to a tax on the privilege of doing business within or from a location in a local taxing jurisdiction, no tax shall be imposed on gross receipts from activities which are also subject to a tax imposed by another local taxing jurisdiction on the privilege of doing business or on business receipts within that jurisdiction. A taxpayer may exclude the gross receipts that are taxed or taxable in the other jurisdiction.

Background:

Senate Bill 405 seeks to address the 2007 ruling of the Pennsylvania Supreme Court in *V.L. Rendina, Inc., v. Harrisburg and the Harrisburg School District*, in which the Court reversed its previous position that a municipality cannot tax an entity that lacks a permanent base of operations within its borders.

Under section 533 of Act 145 of 1988, a political subdivision that did not levy a mercantile or business privilege tax prior to November 30, 1988 is prohibited from levying the tax.