
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 247 Session of
1977

Report of the Committee of Conference

To the Members of the House of Representatives and Senate:

We, the undersigned, Committee of Conference on the part of the House of Representatives and Senate for the purpose of considering House Bill No. 247, entitled: "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; * * * prescribing crimes, offenses and penalties,' * * * INCREASING THE RATE OF THE PERSONAL INCOME TAX; IMPOSING CERTAIN CONDITIONS IN THE SAVING CLAUSE OF THE PERSONAL INCOME TAX AS TO THE VALIDITY OF STATE LAWS AUTHORIZING CITIES OF THE FIRST CLASS BY ORDINANCE TO IMPOSE A TAX ON THE INCOME OF NONRESIDENTS OF SUCH CITY; INCREASING THE RATE OF TAX IMPOSED ON CERTAIN CORPORATIONS; CHANGING THE PERIOD FOR SETTLEMENT OF CORPORATE INCOME TAXES AND CHANGING THE PREPAYMENT OF TAX PROVISIONS FOR SUCH TAXES; PRESCRIBING THE EFFECTIVE DATE FOR VARIOUS PROVISIONS AND REPEALING A CERTAIN ACT."

respectfully submit the following bill as our report:

JOHN L. BRUNNER

MAX PIEVSKY

(Committee on the part of the House of Representatives.)

JOSEPH F. SMITH

HENRY C. MESSINGER

(Committee on the part of the Senate.)

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," increasing the rate of the personal income tax;
11 increasing the rate of interest on unpaid tax; imposing
12 certain conditions in the saving clause of the personal
13 income tax as to the validity of State laws authorizing
14 cities of the first class by ordinance to impose a tax on the
15 income of nonresidents of such city; increasing the rate of
16 tax imposed on certain corporations; changing the period for
17 settlement of corporate income taxes and changing the
18 prepayment of tax provisions for such taxes; prescribing the
19 effective date for various provisions and repealing a certain
20 act.

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

23 Section 1. Section 302 of the act of March 4, 1971 (P.L.6,
24 No.2), known as the "Tax Reform Code of 1971," added August 31,
25 1971 (P.L.362, No.93) and amended March 13, 1974 (P.L.179,
26 No.32), is amended to read:

27 Section 302. Imposition of Tax.--(a) There is hereby imposed
28 an annual tax to be paid by resident individuals, estates or
29 trusts at the rate of [two per cent] two and two-tenths per cent
30 on the privilege of receiving each of the classes of income
31 hereinafter enumerated in section 303.

32 (b) There is hereby imposed an annual tax to be paid by
33 nonresident individuals, estates or trusts at the rate of [two
34 per cent] two and two-tenths per cent on the privilege of
35 receiving each of the classes of income enumerated in section
36 303 from sources within this Commonwealth.

37 Section 2. Sections 351 and 359 of the act, added August 31,
38 1971 (P.L.362, No.93), are amended to read:

1 Section 351. Interest.--If any amount of tax imposed by this
2 article is not paid on or before the last date prescribed for
3 payment, interest on such amount at the rate of [one-half]
4 three-fourths of one per cent per month, for each month or
5 fraction thereof from such date, shall be paid for the period
6 from such last date to the date paid. The last date prescribed
7 for payment shall be determined without regard to any extension
8 of time for filing the return. This section shall not apply to
9 any failure to pay estimated tax.

10 Section 359. Saving Clause and Limitations.--(a)
11 Notwithstanding anything contained in any law to the contrary,
12 including but not limited to the provisions of the act of August
13 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling
14 Act, the validity of any ordinance or part of any ordinance or
15 any resolution or part of any resolution, and any amendments or
16 supplements thereto now or hereafter enacted or adopted by any
17 political subdivision of this Commonwealth for or relating to
18 the imposition, levy or collection of any tax, shall not be
19 affected or impaired by anything contained in this article,
20 except as hereinafter provided in subsection (b) of this
21 section.

22 (b) Notwithstanding the provisions of subsection (a) of this
23 section to the contrary, any rate of tax imposed by ordinance of
24 a city of the first class pursuant to the above cited Sterling
25 Act on salaries, wages, commissions, compensation or other
26 income received or to be received for work done or services
27 performed within such city by persons who are not legal
28 residents of such city, shall not, except as hereinafter
29 provided, exceed the tax imposition rate of four and five-
30 sixteenths per cent for the tax year 1977 or for any tax year

1 thereafter.

2 In the event such city by ordinance imposes a tax rate on
3 residents or nonresidents in excess of the aforesaid tax rate on
4 the income categories enumerated herein, the provisions of the
5 ordinance imposing such tax rate increase on income of persons
6 who are legal residents of such city, shall be deemed valid and
7 legally effective within the meaning and application of
8 subsection (a) herein. But the provisions of such ordinance
9 imposing a tax rate in excess of four and five-sixteenths per
10 cent with respect to persons who are not legal residents of such
11 city shall be deemed suspended and without any validity to the
12 extent that such tax rate exceeds the tax rate of four and five-
13 sixteenths per cent on income of such nonresidents. And, such
14 excess tax rate provisions shall remain suspended and without
15 any validity until such date as the city of the first class, by
16 ordinance, imposes a rate of tax on income of both legal
17 residents or nonresidents of such city in excess of the tax rate
18 imposition of five and three-fourths per cent per year. In such
19 case the Legislature hereby declares such suspension to be
20 removed and the tax rate valid as to nonresidents, provided,
21 however, that such suspension is removed and the rate deemed
22 valid only to the extent the tax rate imposed on income of such
23 nonresidents does not exceed seventy-five per cent of the tax
24 rate imposed by ordinance per year on the income of legal
25 residents of such city. It is the intention of the Legislature
26 by this subsection to impose certain terms and conditions with
27 respect to the validity and legal effectiveness of the Sterling
28 Act or of any ordinance of the city of the first class enacted
29 pursuant thereto which imposes a tax on the income of
30 nonresidents of such city.

1 Notwithstanding the suspension provisions set forth
2 heretofore, each city of the first class which imposes a tax
3 pursuant to the above cited Sterling Act shall, by ordinance
4 direct every employer maintaining an office or transacting
5 business within such city and making payment of compensation (i)
6 to a resident individual, or (ii) to a nonresident individual
7 taxpayer performing services on behalf of such employer within
8 such city, shall deduct and withhold from such compensation for
9 each payroll period a tax computed in such manner as to result,
10 so far as practicable, in withholding from the employee's
11 compensation during each calendar year an amount substantially
12 equivalent to the tax reasonably estimated to be due for such
13 year with respect to such compensation. The method of
14 determining the amount to be withheld shall be to withhold the
15 highest amount of tax imposed with provision in such ordinance
16 to provide refunds of the excess tax withheld to qualified
17 nonresident taxpayers within four months of the end of each
18 calendar year.

19 In the event that all or any part of the provisions of
20 subsection (b) of this section are declared by a court to be
21 unconstitutional, it shall be the duty of the court to construe
22 the remaining amendatory provisions to Article III in accordance
23 with section 358.

24 Section 3. Section 402 of the act, amended March 13, 1974
25 (P.L.179, No.32), is amended to read:

26 Section 402. Imposition of Tax.--Every corporation shall be
27 subject to, and shall pay for the privilege of doing business in
28 this Commonwealth, or having capital or property employed or
29 used in this Commonwealth, by or in the name of itself, or any
30 person, partnership, association, limited partnership, joint-

1 stock association, or corporation, a State excise tax at the
2 rate of twelve per cent per annum upon each dollar of taxable
3 income of such corporation received by, and accruing to, such
4 corporation during the calendar year 1971 and the first six
5 months of 1972 and at the rate of eleven per cent per annum upon
6 each dollar of taxable income of such corporation received by,
7 and accruing to, such corporation during the second six months
8 of calendar year 1972 through the calendar year 1973 and at the
9 rate of nine and one-half per cent per annum upon each dollar of
10 taxable income of such corporation received by, and accruing to,
11 such corporation during the calendar [year] years 1974, 1975 and
12 1976 and at the rate of ten and one-half per cent per annum upon
13 each dollar of taxable income of such corporation received by,
14 and accruing to, such corporation during the calendar year 1977
15 and each calendar year thereafter, except where a corporation
16 reports to the Federal Government on the basis of a fiscal year,
17 and has certified such fact to the department as required by
18 section 403 of this article, in which case, such tax, at the
19 rate of twelve per cent, shall be levied, collected, and paid
20 upon all taxable income received by, and accruing to, such
21 corporation during the first six months of the fiscal year
22 commencing in the calendar year 1972 and at the rate of eleven
23 per cent, shall be levied, collected, and paid upon all taxable
24 income received by, and accruing to, such corporation during the
25 second six months of the fiscal year commencing in the calendar
26 year 1972 and during the fiscal year commencing in the calendar
27 year 1973 and at the rate of nine and one-half per cent, shall
28 be levied, collected, and paid upon all taxable income received
29 by, and accruing to, such corporation during the fiscal year
30 commencing in the calendar [year] years 1974, 1975 and 1976 and

1 at the rate of ten and one-half per cent, shall be levied,
2 collected, and paid upon all taxable income received by, and
3 accruing to, such corporation during the fiscal year commencing
4 in the calendar year 1977 and during each fiscal year
5 thereafter. No penalty prescribed by subsection (e) of section
6 1202.1 shall be assessed against a corporation for the
7 additional tax which may be due as a result of the increase in
8 tax rate from nine and one-half per cent to ten and one-half per
9 cent imposed retroactively by this section for the calendar year
10 1977 or for the fiscal year commencing in 1977.

11 Section 4. Subsection (a) of section 407 of the act is
12 amended to read:

13 Section 407. Settlement and Resettlement.--(a) All taxes
14 due under this article shall be settled by the department, and
15 such settlement shall be subject to audit and approval by the
16 Department of the Auditor General, and shall, so far as
17 possible, be made so that notice thereof may reach the taxpayer
18 [before the end of two years] within eighteen months after the
19 tax report was required to be made.

20 * * *

21 Section 5. Section 502 of the act, amended March 13, 1974
22 (P.L.179, No.32), is amended to read:

23 Section 502. Imposition of Tax.--Every corporation carrying
24 on activities in this Commonwealth or owning property in this
25 Commonwealth by or in the name of itself or any person,
26 partnership, joint-stock association or corporation shall be
27 subject to and shall pay a State property tax on taxable income
28 derived from sources within this Commonwealth at the rate of
29 twelve per cent per annum upon each dollar of such taxable
30 income received by and accruing to such corporation during the

1 calendar year 1971 and the first six months of 1972 and at the
2 rate of eleven per cent per annum upon each dollar of taxable
3 income of such corporation received by, and accruing to, such
4 corporation during the second six months of calendar year 1972
5 through the calendar year 1973 and at the rate of nine and one-
6 half per cent per annum upon each dollar of taxable income of
7 such corporation received by, and accruing to, such corporation
8 during the calendar [year] years 1974, 1975 and 1976 and at the
9 rate of ten and one-half per cent per annum upon each dollar of
10 taxable income of such corporation received by, and accruing to,
11 such corporation during the calendar year 1977 and each calendar
12 year thereafter, except where a corporation reports to the
13 Federal Government on the basis of a fiscal year and has
14 certified such fact to the department as required by section 403
15 of Article IV, in which case such tax at the rate of twelve per
16 cent shall be levied, collected and paid upon each dollar of
17 such taxable income received by and accruing to such corporation
18 during the first six months of the fiscal year commencing in the
19 calendar year 1972 and at the rate of eleven per cent shall be
20 levied, collected, and paid upon all taxable income received by,
21 and accruing to, such corporation during the second six months
22 of the fiscal year commencing in the calendar year 1972 and
23 during the fiscal year commencing in the calendar year 1973 and
24 at the rate of nine and one-half per cent, shall be levied,
25 collected, and paid upon all taxable income received by, and
26 accruing to, such corporation during the fiscal year commencing
27 in the calendar [year] years 1974, 1975 and 1976 and at the rate
28 of ten and one-half per cent, shall be levied, collected, and
29 paid upon all taxable income received by, and accruing to, such
30 corporation during the fiscal year commencing in the calendar

1 year 1977 and each fiscal year thereafter: Provided, however,
2 That such taxable income shall not include income for any period
3 for which the corporation is subject to taxation under Article
4 IV: And, provided further, That no penalty prescribed by
5 subsection (e) of section 1202.1 shall be assessed against a
6 corporation for the additional tax which may be due as a result
7 of the increase in tax rate from nine and one-half per cent to
8 ten and one-half per cent imposed retroactively by this section
9 for the calendar year 1977 or for the fiscal year commencing in
10 1977.

11 Section 6. The act is amended by adding a section to read:

12 Section 1202.1. Prepayment of Tax.--(a) Notwithstanding the
13 provisions of this act, or any other State tax law to the
14 contrary, which required taxpayers to make payment of tentative
15 tax, including but not limited to the capital stock and
16 franchise tax, corporate net income and corporation income tax,
17 gross receipts tax on public service companies, transportation
18 by motor vehicles and trackless trolleys, other than motor
19 vehicles for hire, insurance premiums tax, mutual thrift
20 institutions tax, net earnings tax, or other similar tax law
21 requiring payment of tentative tax, but excluding the prepayment
22 by banks and savings institutions under Article VII and title
23 insurance and trust companies under Article VIII of this act,
24 such taxpayers, commencing with the calendar year 1970 and
25 fiscal years beginning during the calendar year 1970 and each
26 taxable year thereafter, on or before the fifteenth day of April
27 for calendar year taxpayers, and on or before the fifteenth day
28 of the fourth month after the close of its previous fiscal year
29 for fiscal year taxpayers, shall report annually and pay on
30 account of the tax due for the current year, an amount to be

1 computed by applying the current tax rate to ninety per cent of
2 such tax base from the immediate prior year as may be applicable
3 with respect to the tax being reported.

4 (b) For the taxable years commencing with calendar year 1979
5 and for each taxable year thereafter, the tentative tax due for
6 the current year shall be computed by applying the current tax
7 rate to ninety per cent of such tax base from the year preceding
8 the immediate prior year as may be applicable with respect to
9 the tax being reported; except that with respect to the
10 aforesaid gross receipts tax on public service companies,
11 transportation by motor vehicles and trackless trolleys, other
12 than motor vehicles for hire, and the aforesaid insurance
13 premiums tax, such amount shall continue to be computed by
14 applying the current tax rate to ninety per cent of the tax base
15 from the immediate prior year as may be applicable with respect
16 to the tax being reported.

17 The tax imposed on shares of bank and savings institutions
18 and title insurance and trust companies shall be paid in the
19 manner and within the time prescribed by Article VII or Article
20 VIII, as the case may be, but subject to the additions and
21 interest provided in subsection (e) of this section.

22 (c) Payment of taxes imposed by Articles IV, V, IX and XI of
23 this act and by the act of June 22, 1964 (P.L.16, No.2), known
24 as "The Mutual Thrift Institutions Tax Act," may at the
25 taxpayer's election be an amount estimated by the taxpayer which
26 estimated amount shall not be less than ninety per cent of the
27 tax as is finally reported in the annual tax report for the
28 current calendar or fiscal year.

29 (d) A corporation with respect to the corporate net income
30 tax imposed by Article IV and the corporation income tax imposed

1 by Article V of this act may, at its election, report and pay in
2 installments on account of the tax due for the current taxable
3 year an amount computed either by applying the current tax rate
4 to ninety per cent of the tax base as determined in subsection
5 (a) or (b) of this section, or as computed on the basis
6 estimated by the taxpayer to be due for the current year which
7 estimated amount shall not be less than ninety per cent of the
8 tax as is finally reported in the annual tax report for the
9 current year as provided in subsection (c) of this section. The
10 installments shall be paid in accordance with the following
11 schedules:

	<u>First</u>	<u>Second</u>	<u>Third</u>	<u>Fourth</u>
<u>Year In</u>	<u>Due on the 15th day of the following months</u>			
<u>Which Tax</u>	<u>after close of the previous tax year:</u>			
<u>Year Begins</u>	<u>4th Month</u>	<u>6th Month</u>	<u>9th Month</u>	<u>12th Month</u>
<u>1978</u>	<u>95%</u>	<u>0%</u>	<u>5%</u>	<u>0%</u>
<u>1979</u>	<u>95%</u>	<u>0%</u>	<u>5%</u>	<u>0%</u>
<u>1980</u>	<u>80%</u>	<u>0%</u>	<u>10%</u>	<u>10%</u>
<u>1981</u>	<u>40%</u>	<u>30%</u>	<u>20%</u>	<u>10%</u>
<u>1982</u>	<u>30%</u>	<u>30%</u>	<u>25%</u>	<u>15%</u>
<u>1983 and</u>				
<u>thereafter</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>	<u>25%</u>

23 Any taxpayer which has elected to compute its tentative tax
24 liability on the aforesaid estimated basis and which has elected
25 to report and pay said estimated tax in installments, may when
26 reporting and paying its third or fourth installment, base such
27 installment on an amended tentative tax report reflecting the
28 taxpayer's new estimate of its tax liability for the tax year:
29 Provided, That the new estimate reflects a lower tax liability
30 than was previously reported in its original or, if applicable,

1 amended tentative tax report. If an amended tentative tax report
2 is filed, each remaining installment payment due, if any, shall
3 be such as to bring the total installment payments made on
4 account of the tax due for the current taxable year up to an
5 amount determined by multiplying the tentative tax due for the
6 year as reported in the amended report by the sum of the
7 percentages set forth in the above schedule for the applicable
8 elapsed installments.

9 The remaining portion of the tax due, if any, shall be paid
10 upon the date the taxpayer's annual report is required to be
11 filed under the applicable tax statute, determined without
12 reference to any extension of time for filing such report.

13 (e) For taxable years beginning prior to January 1, 1979,
14 should it subsequently be determined that the amount of the
15 annual or any installment payment of tentative tax due was
16 understated by more than five per cent, there shall be added to
17 the tax determined to be due an additional ten per cent of the
18 understatement and said percentage addition to the
19 understatement shall be deemed an additional tax and shall bear
20 interest from the date the tentative tax was due.

21 For taxable years beginning January 1, 1979 and thereafter,
22 should it subsequently be determined that the amount of the
23 annual or any installment payment of tentative tax due was
24 underpaid, there shall be imposed an additional tax of ten per
25 cent of the underpayment and said tax shall bear interest from
26 the date the annual or any installment payment of tentative tax
27 was due. Failure to remit the annual or any installment of
28 tentative tax payments on or before the due dates prescribed in
29 this act shall result in the assessment of interest and
30 additions, if any, in the same manner as prescribed by law.

1 Section 7. The act of March 16, 1970 (P.L.180, No.69),
2 entitled "An act relating to State taxation; changing the manner
3 in which tentative and annual taxes are to be paid; providing a
4 penalty in certain cases; and making a repealer," is repealed on
5 the date the amendatory provisions of section 1202.1 of this
6 article become applicable.

7 Section 8. Notwithstanding anything to the contrary in
8 section 9 relating to the applicability of the tax rate
9 increases imposed by sections 302, 402 or 502 in this amendatory
10 act, such amendatory sections are hereby repealed as follows:

11 (1) The tax rate increase imposed by section 302 in this
12 amendatory act is hereby repealed to the extent of such
13 increase, effective January 1, 1980.

14 (2) The tax rate increases imposed by sections 402 and 502
15 in this amendatory act are hereby repealed to the extent of such
16 increases effective January 1, 1980, for those corporations
17 reporting on a calendar year basis, and effective on the date
18 the fiscal year commences in the year 1980 for a corporation
19 reporting on a fiscal year basis.

20 (3) If the tax increases provided in sections 302, 402 and
21 502 are not reenacted before January 1, 1980, the schedule for
22 prepayment of taxes in section 1202.1 is repealed insofar as it
23 relates to prepayment of taxes for the calendar years beginning
24 on or after January 1, 1980, or fiscal years beginning in or
25 after 1980; and, thereafter prepayments shall be made on the
26 same basis as prepayments were made for the calendar or fiscal
27 years beginning in 1979.

28 Section 9. This act shall take effect immediately, but
29 certain articles, sections or parts or provisions shall be
30 applicable as follows:

1 (1) The rate of tax imposed by section 302 shall apply on
2 January 1, 1978 and thereafter.

3 (2) The rate of tax imposed by sections 402 and 502 shall be
4 applicable to the calendar year 1977 or fiscal year beginning
5 1977.

6 (3) Section 407 of the act relating to settlement shall
7 first apply to reports filed for the taxable year 1978.

8 (4) Section 1202.1 shall take effect immediately, and shall
9 apply to tentative tax reports and payments for the calendar and
10 fiscal years beginning in 1978 and thereafter.