

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 2097 Session of
1978

INTRODUCED BY BRUNNER, POTT, MRKONIC AND REED, MARCH 13, 1978

SENATOR SMITH, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, NOVEMBER 13, 1978

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," ADDING A DEFINITION RELATING TO BLASTING FOR <—
11 SALES AND USE TAX PURPOSES AND further providing for taxable
12 income for corporate net income tax purposes.

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

15 SECTION 1. SUBCLAUSE (3) OF CLAUSE (C) OF SECTION 201, ACT <—
16 OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE "TAX REFORM CODE OF
17 1971," AMENDED AUGUST 31, 1971 (P.L.362, NO.93), IS AMENDED AND
18 THE SECTION IS AMENDED BY ADDING A CLAUSE TO READ:

19 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
20 PHRASES WHEN USED IN THIS ARTICLE II SHALL HAVE THE MEANING
21 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
22 CLEARLY INDICATES A DIFFERENT MEANING:

1 * * *

2 (C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING,
3 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
4 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY PERSONAL PROPERTY IN A
5 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT
6 IS ACQUIRED WHETHER FOR SALE OR USE BY THE MANUFACTURER, AND
7 SHALL INCLUDE, BUT NOT LIMITED TO--

8 * * *

9 (3) REFINING, BLASTING, EXPLORING, MINING AND QUARRYING FOR,
10 OR OTHERWISE EXTRACTING FROM THE EARTH OR FROM WASTE OR STOCK
11 PILES OR FROM PITS OR BANKS ANY NATURAL RESOURCES, MINERALS AND
12 MINERAL AGGREGATES INCLUDING BLAST FURNACE SLAG;

13 * * *

14 (C.1) "BLASTING." THE USE OF ANY COMBUSTIBLE OR EXPLOSIVE
15 COMPOSITION IN THE REMOVAL OF MATERIAL RESOURCES, MINERALS AND
16 MINERAL AGGREGATES FROM THE EARTH INCLUDING THE SEPARATION OF
17 THE DIRT, WASTE AND REFUSE IN WHICH THEY ARE FOUND.

18 * * *

19 Section ~~±~~ 2. Subclause 1 of clause (3) of section 401 OF THE <—
20 act, ~~of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform~~ <—
21 ~~Code of 1971,"~~ amended August 31, 1971 (P.L.362, No.93) and
22 September 9, 1971 (P.L.437, No.105), is amended to read:

23 Section 401. Definitions.--The following words, terms, and
24 phrases, when used in this article, shall have the meaning
25 ascribed to them in this section, except where the context
26 clearly indicates a different meaning:

27 * * *

28 (3) "Taxable income." 1. In case the entire business of the
29 corporation is transacted within this Commonwealth, for any
30 taxable year which begins on or after January 1, 1971, taxable

1 income for the calendar year or fiscal year as returned to and
2 ascertained by the Federal Government, or in the case of a
3 corporation participating in the filing of consolidated returns
4 to the Federal Government, the taxable income which would have
5 been returned to and ascertained by the Federal Government if
6 separate returns had been made to the Federal Government for the
7 current and prior taxable years, subject, however, to any
8 correction thereof, for fraud, evasion, or error as finally
9 ascertained by the Federal Government: Provided, That additional
10 deductions shall be allowed from taxable income on account of
11 any dividends received from any other corporation but only to
12 the extent that such dividends are included in taxable income as
13 returned to and ascertained by the Federal Government: Provided
14 further, That additional deductions shall be allowed from
15 taxable income in an amount equal to the amount of any reduction
16 in an employer's deduction for wages and salaries as required by
17 section 280C of the Internal Revenue Code as a result of the
18 employer taking a credit for "new jobs" pursuant to section 44B
19 of the Internal Revenue Code: Provided further, That taxable
20 income will include the sum of the following tax preference
21 items as defined in section 57 of the Internal Revenue Code, as
22 amended, (i) excess investment interest; (ii) accelerated
23 depreciation on real property; (iii) accelerated depreciation on
24 personal property subject to a net lease; (iv) amortization of
25 certified pollution control facilities; (v) amortization of
26 railroad rolling stock; (vi) stock options; (vii) reserves for
27 losses on bad debts of financial institutions; (viii) and
28 capital gains but only to the extent that such preference items
29 are not included in "taxable income" as returned to and
30 ascertained by the Federal Government. No deduction shall be

1 allowed for net operating losses sustained by the corporation
2 during any other fiscal or calendar year. In the case of
3 regulated investment companies as defined by the Internal
4 Revenue Code of 1954, as amended, "taxable income" shall be
5 investment company taxable income as defined in the aforesaid
6 Internal Revenue Code of 1954, as amended. In arriving at
7 "taxable income" for Federal tax purposes for any taxable year
8 beginning on or after January 1, 1971, any corporate net income
9 tax due to the Commonwealth pursuant to the provisions of this
10 article shall not be allowed as a deduction and the amount of
11 corporate tax so due and excluded from Federal taxable income
12 under the Internal Revenue Code shall not be apportioned but
13 shall be subject to tax at the rate imposed under this article.

14 * * *

15 Section ~~2~~ 3. This act shall take effect immediately and <—
16 SECTION 1 SHALL APPLY ON AND AFTER JANUARY 1, 1979 AND SECTION 2 <—
17 shall be retroactive to tax years commencing on or after January
18 1, 1977.