

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 769

Session of  
1979

INTRODUCED BY MESSRS. POTT AND BRUNNER, MARCH 20, 1979

AS AMENDED ON SECOND CONSIDERATION, IN SENATE, SEPTEMBER 30,  
1980

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," PROVIDING FOR EXCLUSION FROM TAX FOR THE SALE AT <—  
11 RETAIL OF SUPPLIES AND MATERIALS TO TOURIST PROMOTION  
12 AGENCIES, AND revising the definition of "taxable income" for  
13 purposes of the corporate net income tax and limiting the  
14 Utilities Gross Receipts Tax.

15 The General Assembly of the Commonwealth of Pennsylvania  
16 hereby enacts as follows:

17 SECTION 1. SECTION 204, ACT OF MARCH 4, 1971 (P.L.6, NO.2), <—  
18 KNOWN AS THE "TAX REFORM CODE OF 1971," IS AMENDED BY ADDING A  
19 CLAUSE TO READ:

20 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY  
21 SECTION 202 SHALL NOT BE IMPOSED UPON

22 \* \* \*

23 (39) THE SALE AT RETAIL OF SUPPLIES AND MATERIALS TO TOURIST

1 PROMOTION AGENCIES, WHICH RECEIVE GRANTS FROM THE COMMONWEALTH,  
2 FOR DISTRIBUTION TO THE PUBLIC AS PROMOTIONAL MATERIAL OR THE  
3 USE OF SUCH SUPPLIES AND MATERIALS BY SAID AGENCIES FOR SAID  
4 PURPOSES.

5 Section ± 2. Subclause 1 of clause (3) of section 401, ~~act~~ <—  
6 ~~of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of~~  
7 ~~1971,"~~ OF THE ACT, amended November 26, 1978 (P.L.1287, No.306), <—  
8 is amended to read:

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

13 \* \* \*

14 (3) "Taxable income." 1. In case the entire business of the  
15 corporation is transacted within this Commonwealth, for any  
16 taxable year which begins on or after January 1, 1971, taxable  
17 income for the calendar year or fiscal year as returned to and  
18 ascertained by the Federal Government, or in the case of a  
19 corporation participating in the filing of consolidated returns  
20 to the Federal Government, the taxable income which would have  
21 been returned to and ascertained by the Federal Government if  
22 separate returns had been made to the Federal Government for the  
23 current and prior taxable years, subject, however, to any  
24 correction thereof, for fraud, evasion, or error as finally  
25 ascertained by the Federal Government: Provided, That additional  
26 deductions shall be allowed from taxable income on account of  
27 any dividends received from any other corporation but only to  
28 the extent that such dividends are included in taxable income as  
29 returned to and ascertained by the Federal Government: Provided  
30 further, That additional deductions shall be allowed from

1 taxable income in an amount equal to the amount of any reduction  
2 in an employer's deduction for wages and salaries as required by  
3 section 280C of the Internal Revenue Code as a result of the  
4 employer taking a credit for "new jobs" pursuant to section 44B  
5 of the Internal Revenue Code: Provided further, That taxable  
6 income will include the sum of the following tax preference  
7 items as defined in section 57 of the Internal Revenue Code, as  
8 amended, (i) excess investment interest; (ii) accelerated  
9 depreciation on real property; (iii) accelerated depreciation on  
10 personal property subject to a net lease; (iv) amortization of  
11 certified pollution control facilities; (v) amortization of  
12 railroad rolling stock; (vi) stock options; (vii) reserves for  
13 losses on bad debts of financial institutions; (viii) and  
14 capital gains but only to the extent that such preference items  
15 are not included in "taxable income" as returned to and  
16 ascertained by the Federal Government. No deduction shall be  
17 allowed for net operating losses sustained by the corporation  
18 during any other fiscal or calendar year. In the case of  
19 regulated investment companies as defined by the Internal  
20 Revenue Code of 1954, as amended, "taxable income" shall be  
21 investment company taxable income as defined in the aforesaid  
22 Internal Revenue Code of 1954, as amended. [In] For purposes of  
23 this definition, in arriving at "taxable income" for Federal tax  
24 purposes for any taxable year beginning on or after [January 1,  
25 1971, any corporate net income tax due to the Commonwealth  
26 pursuant to the provisions of this article shall not be allowed  
27 as a deduction and the amount of corporate tax so due and  
28 excluded from Federal taxable income under the Internal Revenue  
29 Code shall not be apportioned but shall be subject to tax at the  
30 rate imposed under this article.] January 1, 1979, no deduction

1 shall be allowed for taxes imposed on or measured by net income.

2 \* \* \*

3 Section ~~2~~ 3. Section 1101 of the act is amended by adding a <—  
4 subsection to read:

5 Section 1101. Imposition of Tax.--\* \* \*

6 (g) Annual Adjustment.--The rate of the tax imposed by this  
7 section shall be adjusted annually by the Pennsylvania Public  
8 Utility Commission to produce the revenue equal to the amount of  
9 revenue due and payable during the 1979-1980 fiscal year of the  
10 Commonwealth.

11 Section ~~3~~ 4. The act is amended by adding a section to read: <—

12 Section 1101.3. Certain Purchased Energy Costs Not Taxed.--  
13 Notwithstanding any provision of law to the contrary, no tax  
14 shall be imposed pursuant to this article on any public  
15 utility's revenues resulting from higher purchased energy costs  
16 incurred as a direct consequence of an unscheduled outage  
17 lasting two months or longer at a nuclear generating facility  
18 resulting from a major accident or natural disaster as  
19 determined by the Public Utility Commission. To determine  
20 purchased energy costs the Public Utility Commission shall make  
21 a determination of the estimated reliability of the plant  
22 operating under normal conditions prior to such unscheduled  
23 outage. Any utility where the tax liability is reduced pursuant  
24 to this section shall appropriately adjust to the rates charged  
25 to the ratepayers pursuant to procedures established by the  
26 Public Utility Commission to fully reflect the tax reduction.  
27 Any exemption granted under this section shall be calculated  
28 beginning with the original date of the unscheduled outage and  
29 shall extend until regular service at the generating facility is  
30 resumed but not for more than twenty-four months without another

1 review by the commission.

2 Section 4. ~~(a)~~ Section 2 5. (A) SECTION 1 OF THIS ACT <—  
3 SHALL TAKE EFFECT IN 60 DAYS.

4 (B) SECTION 3 of this act shall take effect July 1, 1980 or, <—  
5 ~~if this act is enacted after July 1, 1980, section 2 shall take~~  
6 ~~effect immediately and shall be retroactive to July 1, 1980~~ 1,  
7 1981.

8 ~~(b)~~ (C) Section 3 4 of this act shall take effect <—  
9 immediately and shall be retroactive to January 1, 1979.

10 ~~(c)~~ (D) The remaining provisions of this act shall take <—  
11 effect immediately and shall apply to taxable income for the  
12 calendar or fiscal year of the corporation beginning on or after  
13 January 1, 1979.