

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 533

Session of
1983

INTRODUCED BY LAUGHLIN, BURNS, MANDERINO, CLARK, OLASZ,
ALDERETTE, LESCOVITZ, F. E. TAYLOR, COLAFELLA, SWEET,
PISTELLA, COWELL, PRESTON, GAMBLE, VAN HORNE, TRELLO,
McVERRY, FISCHER, STAIRS, KUKOVICH AND MICHLOVIC, MARCH 21,
1983

SENATOR HOWARD, FINANCE, IN SENATE, AS AMENDED,
DECEMBER 13, 1983

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," FURTHER PROVIDING FOR THE CAPITAL STOCK-FRANCHISE <—
11 TAX; AND further providing for penalties on the utilities
12 gross receipts tax; AND CLARIFYING CERTAIN PROVISIONS IN THE <—
13 MUTUAL THRIFT INSTITUTIONS TAX.

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

16 Section 1. Section ~~1102~~ 601 of the act of March 4, 1971 <—
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended
18 to read:

19 SECTION 601. [VALUATION OF CAPITAL STOCK.--HEREAFTER, EXCEPT <—
20 IN THE CASE OF CORPORATIONS OF THE FIRST CLASS, NONPROFIT
21 CORPORATIONS, AND COOPERATIVE AGRICULTURAL ASSOCIATIONS NOT

1 HAVING CAPITAL STOCK AND NOT CONDUCTED FOR PROFIT, BANKS,
2 SAVINGS INSTITUTIONS, TITLE INSURANCE, OR TRUST COMPANIES,
3 BUILDING AND LOAN ASSOCIATIONS, AND INSURANCE COMPANIES, IT
4 SHALL BE THE DUTY OF EVERY CORPORATION HAVING CAPITAL STOCK,
5 EVERY JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP, AND EVERY
6 COMPANY WHATSOEVER, NOW OR HEREAFTER ORGANIZED OR INCORPORATED
7 BY OR UNDER ANY LAWS OF THIS COMMONWEALTH, AND OF EVERY
8 CORPORATION, JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP, AND
9 COMPANY WHATSOEVER, NOW OR HEREAFTER INCORPORATED OR ORGANIZED
10 BY OR UNDER THE LAW OF ANY OTHER STATE OR TERRITORY OF THE
11 UNITED STATES, OR BY THE UNITED STATES, OR BY ANY FOREIGN
12 GOVERNMENT, AND DOING BUSINESS IN AND LIABLE TO TAXATION WITHIN
13 THIS COMMONWEALTH OR HAVING CAPITAL OR PROPERTY EMPLOYED OR USED
14 IN THIS COMMONWEALTH BY OR IN THE NAME OF ANY LIMITED
15 PARTNERSHIP OR JOINT-STOCK ASSOCIATION, COMPANY, OR CORPORATION
16 WHATSOEVER, ASSOCIATION OR ASSOCIATIONS, COPARTNERSHIP OR
17 COPARTNERSHIPS, PERSON OR PERSONS, OR IN ANY OTHER MANNER, TO
18 MAKE ANNUALLY A REPORT IN WRITING TO THE DEPARTMENT OF REVENUE
19 ON A FORM OR FORMS TO BE PRESCRIBED AND FURNISHED BY IT SETTING
20 FORTH IN ADDITION TO ANY OTHER INFORMATION REQUIRED BY THE
21 DEPARTMENT OF REVENUE:

22 FIRST. THE AMOUNT OF ITS CAPITAL STOCK AT THE CLOSE OF THE
23 YEAR FOR WHICH REPORT IS MADE, TOGETHER WITH THE HIGHEST SELLING
24 PRICE PER SHARE, AND THE AVERAGE SELLING PRICE THEREOF DURING
25 SAID YEAR.

26 SECOND. ITS DEBT ACCOUNT.

27 THIRD. ITS INCOME ACCOUNT, TOGETHER WITH THE DISPOSITION OF
28 ANY NET INCOME, AND ITS PROFIT AND LOSS STATEMENT.

29 FOURTH. ITS GENERAL BALANCE SHEET.

30 FIFTH. ITS REAL ESTATE AND TANGIBLE PERSONAL PROPERTY, IF

1 ANY, OWNED AND PERMANENTLY LOCATED OUTSIDE OF THE COMMONWEALTH,
2 AND VALUE OF THE SAME; AND THE VALUE OF THE PROPERTY, IF ANY,
3 EXEMPT FROM TAXATION.

4 SIXTH. A VALUATION AND APPRAISAL, IN THE MANNER HEREINAFTER
5 PROVIDED, OF THE CAPITAL STOCK OF THE SAID CORPORATION, COMPANY,
6 JOINT-STOCK ASSOCIATION, OR LIMITED PARTNERSHIP, AT ITS ACTUAL
7 VALUE IN CASH AS IT EXISTED AT THE CLOSE OF THE YEAR FOR WHICH
8 THE REPORT IS MADE.

9 THE AFFIDAVIT OF TWO OF THE OFFICERS OF SUCH CORPORATION,
10 LIMITED PARTNERSHIP, JOINT-STOCK ASSOCIATION OR COMPANY, SHALL
11 BE ATTACHED TO SAID REPORT. SUCH AFFIDAVIT SHALL BE IN THE FORM
12 REQUIRED BY THE DEPARTMENT OF REVENUE, BUT SHALL STATE, IN
13 ADDITION TO ANY OTHER AVERMENTS REQUIRED BY THE DEPARTMENT,
14 THAT, WITH FIDELITY AND ACCORDING TO THE BEST OF THEIR KNOWLEDGE
15 AND BELIEF, THE AFFIANTS HAVE ESTIMATED, VALUED AND APPRAISED,
16 AS SHOWN IN SAID REPORT, THE CAPITAL STOCK OF THE SAID
17 CORPORATION AT ITS ACTUAL VALUE IN CASH AS IT EXISTED AT THE
18 CLOSE OF THE YEAR FOR WHICH REPORT IS MADE; TAKING INTO
19 CONSIDERATION, FIRST, THE AVERAGE WHICH SAID STOCK SOLD FOR
20 DURING THE YEAR; AND SECOND, THE PRICE OR VALUE INDICATED OR
21 MEASURED BY NET EARNINGS OR BY THE AMOUNT OF PROFIT MADE AND
22 EITHER DECLARED IN DIVIDENDS, EXPENDED IN BETTERMENTS, OR
23 CARRIED INTO THE SURPLUS OR SINKING FUND; AND THIRD, THE ACTUAL
24 VALUE INDICATED OR MEASURED BY CONSIDERATION OF THE INTRINSIC
25 VALUE OF ITS TANGIBLE PROPERTY AND ASSETS, AND OF THE VALUE OF
26 ITS GOOD WILL AND FRANCHISES AND PRIVILEGES, AS INDICATED BY THE
27 MATERIAL RESULTS OF THEIR EXERCISE, TAKING ALSO INTO
28 CONSIDERATION THE AMOUNT OF ITS INDEBTEDNESS.

29 THE TIME FOR FILING ANNUAL REPORTS MAY BE EXTENDED; TAXPAYERS
30 MAY BE PERMITTED TO FILE THEIR ANNUAL AND TENTATIVE REPORTS ON A

1 FISCAL YEAR BASIS; THE PROCEDURE IN CASE THE DEPARTMENT OF
2 REVENUE IS NOT SATISFIED WITH THE APPRAISEMENT MADE BY THE
3 OFFICERS OF THE TAXPAYER, AND THE PENALTIES FOR FAILING TO FILE
4 REPORTS AND PAY TAXES SHALL BE AS PRESCRIBED BY LAW.]

5 DEFINITIONS AND REPORTS.--(A) THE FOLLOWING WORDS, TERMS AND
6 PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE THE MEANING
7 ASCRIED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
8 CLEARLY INDICATES A DIFFERENT MEANING:

9 "AVERAGE NET INCOME." THE SUM OF THE NET INCOME OR LOSS FOR
10 EACH OF THE CURRENT AND IMMEDIATELY PRECEDING FOUR YEARS,
11 DIVIDED BY FIVE. IF THE ENTITY HAS NOT BEEN IN EXISTENCE FOR A
12 PERIOD OF FIVE YEARS, THE AVERAGE NET INCOME SHALL BE THE
13 AVERAGE NET INCOME FOR THE NUMBER OF YEARS THAT THE ENTITY HAS
14 ACTUALLY BEEN IN EXISTENCE. IN COMPUTING AVERAGE NET INCOME,
15 LOSSES SHALL BE ENTERED AS COMPUTED, BUT IN NO CASE SHALL
16 AVERAGE NET INCOME BE LESS THAN ZERO. THE NET INCOME OR LOSS OF
17 THE ENTITY FOR ANY TAXABLE YEAR SHALL BE THE AMOUNT SET FORTH AS
18 INCOME PER BOOKS ON THE INCOME TAX RETURN FILED BY THE ENTITY
19 WITH THE FEDERAL GOVERNMENT FOR SUCH TAXABLE YEAR, OR IF NO SUCH
20 RETURN IS MADE, AS WOULD HAVE BEEN SET FORTH HAD SUCH A RETURN
21 BEEN MADE, SUBJECT, HOWEVER, IN EITHER CASE TO ANY CORRECTION
22 THEREOF, FOR FRAUD, EVASION OR ERROR. IN THE CASE OF ANY ENTITY
23 WHICH HAS AN INVESTMENT IN ANOTHER CORPORATION, THE NET INCOME
24 OR LOSS SHALL BE COMPUTED ON AN UNCONSOLIDATED BASIS EXCLUSIVE
25 OF THE NET INCOME OR LOSS OF SUCH OTHER CORPORATION.

26 "CAPITAL STOCK." THE CAPITAL STOCK OF AN ENTITY AND ALL
27 OTHER INTERESTS IN A DOMESTIC OR FOREIGN CORPORATION.

28 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
29 FOLLOWING FORMULA: ONE-HALF TIMES THE SUM OF THE AVERAGE NET
30 INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF PER CENT

1 PLUS SEVENTY-FIVE PER CENT OF NET WORTH, THE ALGEBRAIC
2 EQUIVALENT OF WHICH IS
3 .5 X (AVERAGE NET INCOME/.095 + (.75) (NET WORTH))
4 "DEPARTMENT." THE DEPARTMENT OF REVENUE.
5 "DOMESTIC ENTITY." EVERY CORPORATION HAVING CAPITAL STOCK,
6 EVERY JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP AND EVERY
7 COMPANY WHATSOEVER, NOW OR HEREAFTER ORGANIZED OR INCORPORATED
8 BY OR UNDER ANY LAWS OF THE COMMONWEALTH, OTHER THAN
9 CORPORATIONS OF THE FIRST CLASS, NONPROFIT CORPORATIONS AND
10 COOPERATIVE AGRICULTURAL ASSOCIATIONS NOT HAVING CAPITAL STOCK
11 AND NOT CONDUCTED FOR PROFIT, BANKS, SAVINGS INSTITUTIONS, TITLE
12 INSURANCE OR TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS AND
13 INSURANCE COMPANIES IS A DOMESTIC ENTITY.
14 "ENTITY." ANY DOMESTIC OR FOREIGN ENTITY.
15 "FOREIGN ENTITY." EVERY CORPORATION, JOINT-STOCK
16 ASSOCIATION, LIMITED PARTNERSHIP AND COMPANY WHATSOEVER, NOW OR
17 HEREAFTER INCORPORATED OR ORGANIZED BY OR UNDER THE LAW OF ANY
18 OTHER STATE OR TERRITORY OF THE UNITED STATES, OR BY THE UNITED
19 STATES, OR BY OR UNDER THE LAW OF ANY FOREIGN GOVERNMENT, AND
20 DOING BUSINESS IN AND LIABLE TO TAXATION WITHIN THE COMMONWEALTH
21 OR HAVING CAPITAL OR PROPERTY EMPLOYED OR USED IN THE
22 COMMONWEALTH BY OR IN THE NAME OF ANY LIMITED PARTNERSHIP OR
23 JOINT-STOCK ASSOCIATION, COPARTNERSHIP OR COPARTNERSHIPS, PERSON
24 OR PERSONS, OR IN ANY OTHER MANNER DOING BUSINESS WITHIN AND
25 LIABLE TO TAXATION WITHIN THE COMMONWEALTH OTHER THAN NONPROFIT
26 CORPORATIONS, BANKS, SAVINGS INSTITUTIONS, TITLE INSURANCE OR
27 TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS AND INSURANCE
28 COMPANIES IS A FOREIGN ENTITY.
29 "HOLDING COMPANY." ANY CORPORATION (I) AT LEAST NINETY PER
30 CENT OF THE GROSS INCOME OF WHICH FOR THE TAXABLE YEAR IS

1 DERIVED FROM DIVIDENDS, INTEREST, GAINS FROM THE SALE, EXCHANGE
2 OR OTHER DISPOSITION OF STOCK OR SECURITIES AND THE RENDITION OF
3 MANAGEMENT AND ADMINISTRATIVE SERVICES TO SUBSIDIARY
4 CORPORATIONS, AND (II) AT LEAST SIXTY PER CENT OF THE ACTUAL
5 VALUE OF THE TOTAL ASSETS OF WHICH CONSISTS OF STOCK SECURITIES
6 OR INDEBTEDNESS OF SUBSIDIARY CORPORATIONS.

7 "NET WORTH." NET WORTH SHALL BE THE SUM OF THE ENTITY'S
8 ISSUED AND OUTSTANDING CAPITAL STOCK, SURPLUS AND UNDIVIDED
9 PROFITS AS PER BOOKS SET FORTH FOR THE CLOSE OF SUCH TAX YEAR ON
10 THE INCOME TAX RETURN FILED BY THE ENTITY WITH THE FEDERAL
11 GOVERNMENT, OR IF NO SUCH RETURN IS MADE, AS WOULD HAVE BEEN SET
12 FORTH HAD SUCH RETURN BEEN MADE, SUBJECT, HOWEVER, IN EITHER
13 CASE TO ANY CORRECTION THEREOF FOR FRAUD, EVASION OR ERROR. IN
14 THE CASE OF ANY ENTITY WHICH HAS INVESTMENTS IN THE COMMON STOCK
15 OF OTHER CORPORATIONS, THE NET WORTH SHALL BE THE CONSOLIDATED
16 NET WORTH OF SUCH ENTITY COMPUTED IN ACCORDANCE WITH GENERALLY
17 ACCEPTED ACCOUNTING PRINCIPLES. NET WORTH SHALL IN NO CASE BE
18 LESS THAN ZERO.

19 "PROCESSING." THE FOLLOWING ACTIVITIES WHEN ENGAGED IN AS A
20 BUSINESS ENTERPRISE:

21 (1) THE COOKING OR FREEZING OF FRUITS, VEGETABLES,
22 MUSHROOMS, FISH, SEAFOOD, MEATS OR POULTRY, WHEN THE PERSON
23 ENGAGED IN SUCH BUSINESS PACKAGES SUCH PROPERTY IN SEALED
24 CONTAINERS FOR WHOLESALE DISTRIBUTION.

25 (2) THE SCOURING, CARBONIZING, CORDING, COMBING, THROWING,
26 TWISTING OR WINDING OF NATURAL OR SYNTHETIC FIBERS, OR THE
27 SPINNING, BLEACHING, DYEING, PRINTING OR FINISHING OF YARNS OR
28 FABRICS, WHEN SUCH ACTIVITIES ARE PERFORMED PRIOR TO SALE TO THE
29 ULTIMATE CONSUMER.

30 (3) THE ELECTROPLATING, GALVANIZING, ENAMELING, ANODIZING,

1 COLORING, FINISHING, IMPREGNATING OR HEAT TREATING OF METALS OR
2 PLASTICS FOR SALE OR IN THE PROCESS OF MANUFACTURING.

3 (4) THE ROLLING, DRAWING OR EXTRUDING OF FERROUS AND
4 NONFERROUS METALS.

5 (5) THE FABRICATION FOR SALE OF ORNAMENTAL OR STRUCTURAL
6 METAL OR METAL STAIRS, STAIRCASES, GRATINGS, FIRE ESCAPES OR
7 RAILINGS, (NOT INCLUDING FABRICATION WORK DONE AT THE
8 CONSTRUCTION SITE).

9 (6) THE PREPARATION OF ANIMAL FEED OR POULTRY FEED FOR SALE.

10 (7) THE PRODUCTION, PROCESSING AND BOTTLING OF NONALCOHOLIC
11 BEVERAGES FOR WHOLESALE DISTRIBUTION.

12 (8) THE SLAUGHTERING AND DRESSING OF ANIMALS FOR MEAT TO BE
13 SOLD OR TO BE USED IN PREPARING MEAT PRODUCTS FOR SALE, AND THE
14 PREPARATION OF MEAT PRODUCTS, INCLUDING LARD, TALLOW, GREASE,
15 COOKING AND INEDIBLE OILS FOR WHOLESALE DISTRIBUTION.

16 (9) THE OPERATION OF A SAWMILL OR PLANING MILL FOR THE
17 PRODUCTION OF LUMBER OR LUMBER PRODUCTS FOR SALE.

18 (10) THE MILLING FOR SALE OF FLOUR OR MEAL FROM GRAINS.

19 (11) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES OR OTHER
20 PERIODICALS, PRINTING AND BROADCASTING RADIO AND TELEVISION
21 PROGRAMS BY LICENSED COMMERCIAL OR EDUCATIONAL STATIONS.

22 (12) THE PROCESSING OF USED LUBRICATING OILS.

23 (13) THE BLENDING, RECTIFICATION OR PRODUCTION BY
24 DISTILLATION OR OTHERWISE OF ALCOHOL OR ALCOHOLIC LIQUORS,
25 EXCEPT THE DISTILLATION OF ALCOHOL FROM BYPRODUCTS OF WINEMAKING
26 FOR THE SOLE PURPOSE OF FORTIFYING WINE.

27 (14) THE SALVAGING, RECYCLING OR RECLAIMING OF USED
28 MATERIALS TO BE RECYCLED INTO A MANUFACTURING PROCESS.

29 "RESEARCH AND DEVELOPMENT." THE ACTIVITIES RELATING TO THE
30 DISCOVERY OF NEW AND THE REFINEMENT OF KNOWN SUBSTANCES.

1 PRODUCTS, PROCESSES, THEORIES AND IDEAS, BUT NOT INCLUDING
2 ACTIVITIES DIRECTED PRIMARILY TO THE ACCUMULATION OR ANALYSIS OF
3 COMMERCIAL, FINANCIAL OR MERCANTILE DATA.

4 "SUBSIDIARY CORPORATION." ANY CORPORATION, A MAJORITY OF THE
5 TOTAL ISSUED AND OUTSTANDING SHARES OF VOTING STOCK OF WHICH ARE
6 OWNED BY THE TAXPAYER CORPORATION DIRECTLY OR THROUGH ONE OR
7 MORE INTERVENING SUBSIDIARY CORPORATIONS.

8 (B) IT SHALL BE THE DUTY OF EVERY DOMESTIC AND FOREIGN
9 ENTITY TO MAKE ANNUALLY A WRITTEN REPORT VERIFIED IN ACCORDANCE
10 WITH THE REQUIREMENTS OF THE DEPARTMENT ON A FORM OR FORMS TO BE
11 PRESCRIBED AND FURNISHED BY IT SETTING FORTH THE INFORMATION
12 REQUIRED. THE TIME FOR FILING ANNUAL REPORTS MAY BE EXTENDED; AN
13 ENTITY MAY BE PERMITTED TO FILE ITS ANNUAL AND TENTATIVE REPORTS
14 ON A FISCAL YEAR BASIS; THE PROCEDURE IN CASE THE DEPARTMENT IS
15 NOT SATISFIED WITH THE REPORTS FOR THE ENTITY, AND THE PENALTIES
16 FOR FAILING TO FILE REPORTS AND PAY TAXES SHALL BE AS PRESCRIBED
17 BY LAW.

18 SECTION 2. SECTION 602 OF THE ACT, AMENDED JULY 20, 1974
19 (P.L.542, NO.186) AND JULY 1, 1978 (P.L.594, NO.114), IS AMENDED
20 TO READ:

21 SECTION 602. IMPOSITION OF TAX.--(A) THAT EVERY DOMESTIC
22 [CORPORATION OTHER THAN CORPORATIONS OF THE FIRST CLASS,
23 NONPROFIT CORPORATIONS, AND COOPERATIVE AGRICULTURAL
24 ASSOCIATIONS NOT HAVING CAPITAL STOCK AND NOT CONDUCTED FOR
25 PROFIT, AND EVERY JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP,
26 AND COMPANY WHATSOEVER,] ENTITY FROM WHICH A REPORT IS REQUIRED
27 UNDER SECTION 601 HEREOF, SHALL BE SUBJECT TO, AND PAY [INTO THE
28 TREASURY OF THE COMMONWEALTH ANNUALLY, THROUGH THE DEPARTMENT OF
29 REVENUE] TO THE DEPARTMENT ANNUALLY, A TAX AT THE RATE OF TEN
30 MILLS, UPON EACH DOLLAR OF THE [ACTUAL VALUE OF ITS WHOLE

1 CAPITAL STOCK OF ALL KINDS, INCLUDING COMMON, SPECIAL, AND
2 PREFERRED, AS ASCERTAINED IN THE MANNER PRESCRIBED IN SECTION
3 601,] CAPITAL STOCK VALUE AS DEFINED IN SECTION 601(A) FOR THE
4 CALENDAR YEAR 1971 AND THE FISCAL YEAR BEGINNING IN 1971 AND
5 EACH YEAR THEREAFTER, EXCEPT THAT ANY DOMESTIC [CORPORATION,
6 LIMITED PARTNERSHIP, JOINT-STOCK ASSOCIATION] ENTITY OR COMPANY
7 SUBJECT TO THE TAX PRESCRIBED HEREIN MAY ELECT TO COMPUTE AND
8 PAY ITS TAX UNDER AND IN ACCORDANCE WITH THE PROVISIONS OF
9 SUBSECTION (B) OF THIS SECTION 602: PROVIDED, THAT THE
10 PROVISIONS OF THIS SECTION SHALL NOT APPLY TO THE TAXATION OF
11 THE CAPITAL STOCK OF [CORPORATIONS, LIMITED PARTNERSHIPS AND
12 JOINT-STOCK ASSOCIATIONS] ENTITIES ORGANIZED FOR MANUFACTURING,
13 PROCESSING, RESEARCH OR DEVELOPMENT PURPOSES, WHICH IS INVESTED
14 IN AND ACTUALLY AND EXCLUSIVELY EMPLOYED IN CARRYING ON
15 MANUFACTURING, PROCESSING, RESEARCH OR DEVELOPMENT WITHIN THE
16 STATE, EXCEPT SUCH [COMPANIES] ENTITIES AS ENJOY AND EXERCISE
17 THE RIGHT OF EMINENT DOMAIN, BUT EVERY [CORPORATION, LIMITED
18 PARTNERSHIP OR JOINT-STOCK ASSOCIATION] ENTITY ORGANIZED FOR THE
19 PURPOSE OF MANUFACTURING, PROCESSING, RESEARCH OR DEVELOPMENT
20 EXCEPT SUCH [COMPANIES] ENTITIES AS ENJOY AND EXERCISE THE RIGHT
21 OF EMINENT DOMAIN SHALL PAY THE STATE TAX OF TEN MILLS HEREIN
22 PROVIDED, UPON SUCH PROPORTION OF ITS CAPITAL STOCK, IF ANY, AS
23 MAY BE INVESTED IN ANY PROPERTY OR BUSINESS NOT STRICTLY
24 INCIDENT OR APPURTENANT TO THE MANUFACTURING, PROCESSING,
25 RESEARCH OR DEVELOPMENT BUSINESS, IN ADDITION TO THE LOCAL TAXES
26 ASSESSED UPON ITS PROPERTY IN THE DISTRICT WHERE LOCATED, IT
27 BEING THE OBJECT OF THIS [PROVISO] PROVISION TO RELIEVE FROM
28 STATE TAXATION ONLY SO MUCH OF THE CAPITAL STOCK AS IS INVESTED
29 PURELY IN THE MANUFACTURING, PROCESSING, RESEARCH OR DEVELOPMENT
30 PLANT AND BUSINESS.

1 (B) (1) EVERY FOREIGN [CORPORATION, JOINT-STOCK
2 ASSOCIATION, LIMITED PARTNERSHIP, AND COMPANY WHATSOEVER,]
3 ENTITY FROM WHICH A REPORT IS REQUIRED UNDER SECTION 601 HEREOF,
4 SHALL BE SUBJECT TO AND PAY [INTO THE TREASURY OF THE
5 COMMONWEALTH ANNUALLY, THROUGH THE DEPARTMENT OF REVENUE] TO THE
6 DEPARTMENT ANNUALLY, A FRANCHISE TAX AT THE RATE OF TEN MILLS
7 FOR THE CALENDAR YEAR 1971 AND THE FISCAL YEAR BEGINNING IN 1971
8 AND EACH YEAR THEREAFTER, UPON A TAXABLE VALUE TO BE DETERMINED
9 IN THE FOLLOWING MANNER. THE [ACTUAL VALUE OF ITS WHOLE CAPITAL
10 STOCK OF ALL KINDS, INCLUDING COMMON, SPECIAL, AND PREFERRED,]
11 CAPITAL STOCK VALUE SHALL BE ASCERTAINED IN THE MANNER
12 PRESCRIBED IN SECTION 601(A) OF THIS ARTICLE. THE TAXABLE VALUE
13 SHALL THEN BE DETERMINED BY EMPLOYING THE RELEVANT APPORTIONMENT
14 FACTORS SET FORTH IN ARTICLE IV: PROVIDED, THAT THE
15 MANUFACTURING, PROCESSING, RESEARCH AND DEVELOPMENT EXEMPTIONS
16 [AS] CONTAINED UNDER SECTION 602 (A) SHALL ALSO APPLY TO FOREIGN
17 CORPORATIONS AND IN DETERMINING THE RELEVANT APPORTIONMENT
18 FACTORS THE NUMERATOR OF THE PROPERTY, PAYROLL, OR SALES FACTORS
19 SHALL NOT INCLUDE ANY PROPERTY, PAYROLL OR SALES ATTRIBUTABLE TO
20 MANUFACTURING, PROCESSING, RESEARCH OR DEVELOPMENT ACTIVITIES IN
21 THE COMMONWEALTH.

22 (2) THE PROVISIONS OF THIS ARTICLE SHALL APPLY TO THE
23 TAXATION OF [CORPORATIONS, LIMITED PARTNERSHIPS AND JOINT-STOCK
24 ASSOCIATIONS] ENTITIES ORGANIZED FOR MANUFACTURING, PROCESSING,
25 RESEARCH OR DEVELOPMENT PURPOSES, BUT SHALL NOT APPLY TO SUCH
26 [COMPANIES] ENTITIES AS ENJOY AND EXERCISE THE RIGHT OF EMINENT
27 DOMAIN.

28 [(C) THE TERM PROCESSING, AS USED IN THIS SECTION, SHALL
29 MEAN AND BE LIMITED TO THE FOLLOWING ACTIVITIES WHEN ENGAGED IN
30 AS A BUSINESS ENTERPRISE:

1 (1) THE COOKING OR FREEZING OF FRUITS, VEGETABLES,
2 MUSHROOMS, FISH, SEAFOOD, MEATS OR POULTRY, WHEN THE PERSON
3 ENGAGED IN SUCH BUSINESS PACKAGES SUCH PROPERTY IN SEALED
4 CONTAINERS FOR WHOLESALE DISTRIBUTION.

5 (2) THE SCOURING, CARBONIZING, CORDING, COMBING, THROWING,
6 TWISTING OR WINDING OF NATURAL OR SYNTHETIC FIBERS, OR THE
7 SPINNING, BLEACHING, DYEING, PRINTING OR FINISHING OF YARNS OR
8 FABRICS, WHEN SUCH ACTIVITIES ARE PERFORMED PRIOR TO SALE TO THE
9 ULTIMATE CONSUMER.

10 (3) THE ELECTROPLATING, GALVANIZING, ENAMELING, ANODIZING,
11 COLORING, FINISHING, IMPREGNATING OR HEAT TREATING OF METALS OR
12 PLASTICS FOR SALE OR IN THE PROCESS OF MANUFACTURING.

13 (4) THE ROLLING, DRAWING OR EXTRUDING OF FERROUS AND
14 NONFERROUS METALS.

15 (5) THE FABRICATION FOR SALE OF ORNAMENTAL OR STRUCTURAL
16 METAL OR METAL STAIRS, STAIRCASES, GRATINGS, FIRE ESCAPES OR
17 RAILINGS, (NOT INCLUDING FABRICATION WORK DONE AT THE
18 CONSTRUCTION SITE).

19 (6) THE PREPARATION OF ANIMAL FEED OR POULTRY FEED FOR SALE.

20 (7) THE PRODUCTION, PROCESSING AND BOTTLING OF NONALCOHOLIC
21 BEVERAGES FOR WHOLESALE DISTRIBUTION.

22 (8) THE SLAUGHTERING AND DRESSING OF ANIMALS FOR MEAT TO BE
23 SOLD OR TO BE USED IN PREPARING MEAT PRODUCTS FOR SALE, AND THE
24 PREPARATION OF MEAT PRODUCTS, INCLUDING LARD, TALLOW, GREASE,
25 COOKING AND INEDIBLE OILS FOR WHOLESALE DISTRIBUTION.

26 (9) THE OPERATION OF A SAW MILL OR PLANING MILL FOR THE
27 PRODUCTION OF LUMBER OR LUMBER PRODUCTS FOR SALE.

28 (10) THE MILLING FOR SALE OF FLOUR OR MEAL FROM GRAINS.

29 (11) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES OR OTHER
30 PERIODICALS, PRINTING AND BROADCASTING RADIO AND TELEVISION

1 PROGRAMS BY LICENSED COMMERCIAL OR EDUCATIONAL STATIONS.

2 (12) THE PROCESSING OF USED LUBRICATING OILS.

3 (13) THE BLENDING, RECTIFICATION OR PRODUCTION BY
4 DISTILLATION OR OTHERWISE OF ALCOHOL OR ALCOHOLIC LIQUORS,
5 EXCEPT THE DISTILLATION OF ALCOHOL FROM BY-PRODUCTS OF WINE-
6 MAKING FOR THE SOLE PURPOSE OF FORTIFYING WINE.

7 (14) THE SALVAGING, RECYCLING OR RECLAIMING USED MATERIALS
8 TO BE RECYCLED INTO A MANUFACTURING PROCESS.

9 (D) "RESEARCH AND DEVELOPMENT" SHALL MEAN ACTIVITIES
10 RELATING TO THE DISCOVERY OF NEW AND THE REFINEMENT OF KNOWN
11 SUBSTANCES, PRODUCTS, PROCESSES, THEORIES AND IDEAS, BUT SHALL
12 NOT INCLUDE ACTIVITIES DIRECTED PRIMARILY TO THE ACCUMULATION OR
13 ANALYSIS OF COMMERCIAL, FINANCIAL OR MERCANTILE DATA.]

14 (C) ANY ENTITY SUBJECT TO A TAX IMPOSED BY THIS ARTICLE
15 SHALL BE PERMITTED TO ELECT AN ALTERNATIVE CAPITAL STOCK VALUE,
16 WHICH SHALL BE USED IN LIEU OF THE CAPITAL STOCK VALUE DEFINED
17 IN SECTION 601(A) FOR PURPOSES OF SUBSECTIONS (A) AND (B)
18 HEREOF, FOR CALENDAR YEARS 1984, 1985 AND 1986, AND FOR FISCAL
19 YEARS BEGINNING IN 1984, 1985 AND 1986. THE ELECTION SHALL BE
20 AVAILABLE TO ALL ENTITIES, SUBJECT TO THE LIMITATIONS OF THIS
21 SUBSECTION AND SHALL BE AVAILABLE FOR EACH SUCH YEAR WITHOUT
22 REGARD TO WHETHER THE ALTERNATIVE CAPITAL STOCK VALUE WAS
23 ELECTED IN ANY OTHER YEAR. FOR THE CALENDAR YEAR 1984 AND FISCAL
24 YEARS BEGINNING IN 1984, THE ALTERNATIVE CAPITAL STOCK VALUE
25 SHALL BE ONE HUNDRED AND THIRTY PER CENT OF THE VALUE OF SUCH
26 ENTITY'S CAPITAL STOCK AS WAS SETTLED BY THE DEPARTMENT PRIOR TO
27 ANY APPORTIONMENT OR EXEMPTION FOR THE CALENDAR YEAR 1982 OR THE
28 FISCAL YEAR BEGINNING IN 1982. FOR THE CALENDAR YEAR 1985 AND
29 FISCAL YEARS BEGINNING IN 1985, THE ALTERNATIVE CAPITAL STOCK
30 VALUE SHALL BE ONE HUNDRED AND THIRTY PER CENT OF THE VALUE OF

1 SUCH ENTITY'S CAPITAL STOCK AS WAS SETTLED BY THE DEPARTMENT
2 PRIOR TO ANY APPORTIONMENT OR EXEMPTION FOR THE CALENDAR YEAR
3 1983 OR THE FISCAL YEAR BEGINNING IN 1983. FOR THE CALENDAR YEAR
4 1986 AND FISCAL YEARS BEGINNING IN 1986, THE ALTERNATIVE CAPITAL
5 STOCK VALUE SHALL BE ONE HUNDRED AND THIRTY PER CENT OF SUCH
6 ENTITY'S CAPITAL STOCK VALUE AS WAS SETTLED BY THE DEPARTMENT
7 PRIOR TO ANY APPORTIONMENT OR EXEMPTION FOR THE CALENDAR YEAR
8 1984 OR THE FISCAL YEAR BEGINNING IN 1984. PROVIDED THAT IN NO
9 CASE SHALL THE TAX DUE USING THE ALTERNATIVE CAPITAL STOCK VALUE
10 BE REDUCED MORE THAN FIVE HUNDRED DOLLARS (\$500) FROM THAT
11 OBTAINED BY USING THE FORMULA SET FORTH IN SECTION 601(A), AND
12 IN NO CASE SHALL THE TAX DUE BE LESS THAN SEVENTY-FIVE DOLLARS
13 (\$75). THE ELECTION TO USE THE ALTERNATIVE CAPITAL STOCK VALUE
14 FOR THE CALENDAR YEAR 1984 AND FISCAL YEARS BEGINNING IN 1984
15 SHALL BE LIMITED TO THOSE ENTITIES WHICH WERE SUBJECT TO A TAX
16 IMPOSED BY THIS ARTICLE FOR THE CALENDAR YEAR 1982 OR FISCAL
17 YEARS BEGINNING IN 1982, THE ELECTION OF THE ALTERNATIVE CAPITAL
18 STOCK VALUE FOR THE CALENDAR YEAR 1985 AND FISCAL YEARS
19 BEGINNING IN 1985 SHALL BE LIMITED TO ENTITIES WHICH WERE
20 SUBJECT TO A TAX IMPOSED BY THIS ARTICLE FOR THE CALENDAR YEAR
21 1983 OR FISCAL YEARS BEGINNING IN 1983 AND THE ELECTION TO USE
22 THE ALTERNATIVE CAPITAL STOCK VALUE FOR THE CALENDAR YEAR 1986
23 AND FISCAL YEARS BEGINNING IN 1986 SHALL BE LIMITED TO THOSE
24 ENTITIES WHICH WERE SUBJECT TO A TAX IMPOSED BY THIS ARTICLE FOR
25 THE CALENDAR YEAR 1984 OR FISCAL YEARS BEGINNING IN 1984. THE
26 SECRETARY OF REVENUE IS HEREBY DIRECTED TO UNDERTAKE A STUDY OF
27 THE INCIDENCE OF THE FIXED-FORMULA TAX ON VARIOUS SIZES AND
28 TYPES OF BUSINESSES WHICH INCUR SIGNIFICANTLY GREATER TAX
29 LIABILITY UNDER THE FIXED FORMULA. THE FINDINGS AND CONCLUSIONS
30 OF THE SECRETARY SHALL BE SUBMITTED TO THE GENERAL ASSEMBLY NOT

1 LATER THAN SEPTEMBER 15, 1986.

2 [(E)] (D) IT SHALL BE THE DUTY OF THE TREASURER OR OTHER
3 OFFICERS HAVING CHARGE OF ANY [SUCH CORPORATION, JOINT-STOCK
4 ASSOCIATION, OR LIMITED PARTNERSHIP] DOMESTIC OR FOREIGN ENTITY,
5 UPON WHICH A TAX IS IMPOSED BY THIS SECTION, TO TRANSMIT THE
6 AMOUNT OF [SAID] TAX TO THE [DEPARTMENT OF REVENUE] DEPARTMENT
7 WITHIN THE TIME PRESCRIBED BY LAW: PROVIDED, THAT FOR THE
8 PURPOSES OF THIS ACT INTEREST IN LIMITED PARTNERSHIPS OR JOINT-
9 STOCK ASSOCIATIONS SHALL BE DEEMED TO BE CAPITAL STOCK, AND
10 TAXABLE ACCORDINGLY: PROVIDED, FURTHER, THAT [CORPORATIONS,
11 LIMITED PARTNERSHIPS, AND JOINT-STOCK ASSOCIATIONS,] ENTITIES
12 LIABLE TO A TAX UNDER THIS SECTION, SHALL NOT BE REQUIRED TO PAY
13 ANY FURTHER TAX ON THE MORTGAGES, BONDS, AND OTHER SECURITIES
14 OWNED BY THEM AND IN WHICH THE WHOLE BODY OF STOCKHOLDERS OR
15 MEMBERS, AS SUCH, HAVE THE ENTIRE EQUITABLE INTEREST IN
16 REMAINDER; BUT [CORPORATIONS, LIMITED PARTNERSHIPS, AND JOINT-
17 STOCK ASSOCIATIONS,] ENTITIES OWNING OR HOLDING SUCH SECURITIES
18 AS TRUSTEES, EXECUTORS, ADMINISTRATORS, GUARDIANS, OR IN ANY
19 OTHER MANNER THAN FOR THE WHOLE BODY OF STOCKHOLDERS OR MEMBERS
20 THEREOF AS SOLE EQUITABLE OWNERS IN REMAINDER, SHALL RETURN AND
21 PAY THE TAX IMPOSED BY THIS ACT UPON ALL SECURITIES SO OWNED OR
22 HELD BY THEM, AS IN THE CASE OF INDIVIDUALS.

23 [(F)] (E) ANY HOLDING COMPANY SUBJECT TO THE CAPITAL STOCK
24 TAX OR THE FRANCHISE TAX IMPOSED BY THIS SECTION MAY ELECT TO
25 COMPUTE [SAID] THE CAPITAL STOCK OR FRANCHISE TAX BY APPLYING
26 THE RATE OF TAX OF TEN MILLS, UPON EACH DOLLAR TO TEN PER CENT
27 OF THE [ACTUAL VALUE OF ITS WHOLE] CAPITAL STOCK VALUE. IF
28 EXERCISED, THIS ELECTION SHALL BE IN LIEU OF ANY OTHER
29 APPORTIONMENT OR ALLOCATION TO WHICH SUCH COMPANY WOULD
30 OTHERWISE BE ENTITLED.

1 [THE TERM "HOLDING COMPANY" SHALL MEAN ANY CORPORATION (I) AT
2 LEAST NINETY PER CENT OF THE GROSS INCOME OF WHICH FOR THE
3 TAXABLE YEAR IS DERIVED FROM DIVIDENDS, INTEREST, GAINS FROM THE
4 SALE OR OTHER DISPOSITION OF STOCK OR SECURITIES AND THE
5 RENDITION OF MANAGEMENT AND ADMINISTRATIVE SERVICES TO
6 SUBSIDIARY CORPORATIONS, AND (II) AT LEAST SIXTY PER CENT OF THE
7 ACTUAL VALUE OF THE TOTAL ASSETS OF WHICH CONSISTS OF STOCK
8 SECURITIES OR INDEBTEDNESS OF SUBSIDIARY CORPORATIONS.

9 THE TERM "SUBSIDIARY CORPORATION" SHALL MEAN ANY CORPORATION,
10 A MAJORITY OF THE TOTAL ISSUED AND OUTSTANDING SHARES OF VOTING
11 STOCK OF WHICH ARE OWNED BY THE TAXPAYER CORPORATION DIRECTLY OR
12 THROUGH ONE OR MORE INTERVENING SUBSIDIARY CORPORATIONS.]

13 [(G)] (F) NOTWITHSTANDING ANY OTHER PROVISIONS CONTAINED IN
14 THIS SECTION 602, RELATING TO THE [APPRAISAL, ALLOCATION OR
15 APPORTIONMENT OF THE VALUE] COMPUTATION OF THE CAPITAL STOCK
16 VALUE OF [A CORPORATION] AN ENTITY SUBJECT TO TAX IN [THE] THIS
17 COMMONWEALTH [OF PENNSYLVANIA], EVERY DOMESTIC CORPORATION AND
18 EVERY FOREIGN CORPORATION REGISTERED TO DO BUSINESS IN
19 PENNSYLVANIA AND (I) WHICH MAINTAINS AN OFFICE IN PENNSYLVANIA
20 AND (II) WHICH HAS FILED A TIMELY ELECTION TO BE TAXED AS A
21 REGULATED INVESTMENT COMPANY WITH THE FEDERAL GOVERNMENT, AND
22 (III) WHICH DULY QUALIFIES TO BE TAXED AS A REGULATED INVESTMENT
23 COMPANY UNDER THE PROVISIONS OF THE INTERNAL REVENUE CODE OF
24 1954 AS AMENDED, SHALL BE TAXED AS A REGULATED INVESTMENT
25 COMPANY AND SHALL BE SUBJECT TO THE CAPITAL STOCK OR FRANCHISE
26 TAX IMPOSED BY SECTION 602, WHICH TAX SHALL BE COMPUTED IN THE
27 FOLLOWING MANNER:

28 (1) THE [VALUE OF ITS] CAPITAL STOCK VALUE SHALL BE
29 DETERMINED BY ADDING ITS NET ASSET VALUES AS OF THE LAST DAY OF
30 EACH MONTH DURING THE TAXABLE PERIOD OR YEAR AND DIVIDING THE

1 TOTAL SUM BY THE NUMBER OF MONTHS INVOLVED, FOR WHICH PURPOSE
2 NET ASSET VALUE MEANS THE ACTUAL MARKET VALUE OF ALL ASSETS
3 OWNED BY SUCH CORPORATION WITHOUT ANY EXEMPTIONS OR EXCLUSIONS,
4 LESS ALL [OF ITS] LIABILITIES, DEBTS AND OTHER OBLIGATIONS.

5 (2) THE PROPORTION OF [SUCH] THE CAPITAL STOCK VALUE TAXABLE
6 IN THIS COMMONWEALTH AT THE RATE OF TEN MILLS, SHALL BE
7 DETERMINED BY APPLYING TO [SUCH] THE CAPITAL STOCK VALUE A
8 FRACTION, THE NUMERATOR OF WHICH IS THE SUM OF THE CORPORATION'S
9 GROSS RECEIPTS FROM (I) SALES OF ITS OWN SHARES TO PENNSYLVANIA
10 INVESTORS AND (II) SALES OF ITS PORTFOLIO SECURITIES WHERE THE
11 ORDERS FOR SUCH SALES ARE PLACED WITH OR CREDITED TO
12 PENNSYLVANIA OFFICES OF REGISTERED SECURITIES DEALERS AND THE
13 DENOMINATOR OF WHICH FRACTION IS THE CORPORATION'S TOTAL GROSS
14 RECEIPTS FROM (I) SALES OF ITS OWN SHARES AND (II) SALES OF ITS
15 PORTFOLIO SECURITIES. PENNSYLVANIA INVESTORS SHALL MEAN
16 INDIVIDUALS RESIDING IN PENNSYLVANIA AT THE TIME OF THE SALE OR
17 CORPORATIONS OR OTHER ENTITIES HAVING THEIR PRINCIPAL PLACE OF
18 BUSINESS LOCATED IN PENNSYLVANIA AT SUCH TIME.

19 (3) ANY REGULATED INVESTMENT COMPANY SHALL HAVE THE RIGHT
20 ANNUALLY, TO ELECT TO COMPUTE ITS CAPITAL STOCK OR FRANCHISE TAX
21 BY APPLYING THE RATE OF TAX OF TEN MILLS, UPON EACH DOLLAR TO
22 TEN PER CENT OF THE CAPITAL STOCK VALUE, AS DEFINED IN CLAUSE
23 (1) OF THIS SUBSECTION, OF SUCH CORPORATION. IF EXERCISED THIS
24 ELECTION SHALL BE IN LIEU OF ANY OTHER APPORTIONMENT OR
25 ALLOCATION TO WHICH SUCH CORPORATION WOULD OTHERWISE BE
26 ENTITLED.

27 SECTION 3. SECTION 1102 OF THE ACT IS AMENDED TO READ:

28 Section 1102. Procedure; Enforcement; Penalties.--Parts III,
29 IV, VI, and VII of Article IV are incorporated by reference into
30 this article in so far as they are consistent with this article

1 and applicable to the tax imposed hereunder. However,
2 notwithstanding the provisions of subsection (d) of section 403
3 of this act, if the officers of any corporation subject to tax
4 under this article shall neglect or refuse to make any report as
5 herein required or shall knowingly make any false report, there
6 shall be added by the department to the tax determined to be due
7 a penalty of five per cent of the amount of tax due for each
8 month or fraction thereof until the penalty has reached twenty-
9 five per cent, and thereafter at the rate of one per cent per
10 month. No such amounts added to the tax shall bear any interest
11 whatsoever.

12 SECTION 4. SECTION 1502(E) OF THE ACT IS AMENDED TO READ: <—

13 SECTION 1502. IMPOSITION; REPORT AND PAYMENT OF TAX;

14 EXEMPTIONS.--* * *

15 (E) MUTUAL THRIFT INSTITUTIONS SUBJECT TO THE PROVISIONS OF
16 THIS ARTICLE SHALL BE EXEMPT FROM ALL OTHER CORPORATE TAXES
17 IMPOSED BY THE COMMONWEALTH FOR STATE PURPOSES[, AND]. SUCH
18 INSTITUTIONS, ANY SHARES OF STOCK IN SUCH INSTITUTIONS AND THE
19 PROPERTY OF SUCH INSTITUTIONS SHALL BE EXEMPT FROM ALL LOCAL
20 TAXATION IMPOSED BY POLITICAL SUBDIVISIONS OF THIS COMMONWEALTH
21 UNDER THE AUTHORITY OF THE LAWS OF THIS COMMONWEALTH, EXCEPT
22 TAXES ON REAL ESTATE OR TRANSFERS THEREOF.

23 Section ~~2~~ 5. This act shall apply to UTILITIES GROSS <—
24 RECEIPTS taxes due and payable on and after the effective date
25 of this act. Nothing in this act shall be construed to override
26 the provisions of section 806 of the act of April 9, 1929
27 (P.L.343, No.176), known as The Fiscal Code.

28 ~~Section 3. This act shall take effect immediately.~~ <—

29 SECTION 6. IF ANY PROVISION OF THIS ACT RELATING TO THE <—
30 ELECTION OF AN ALTERNATIVE CAPITAL STOCK VALUE IS HELD INVALID,

1 SUCH INVALIDITY SHALL NOT AFFECT OTHER PROVISIONS OR
2 APPLICATIONS OF THE ACT WHICH CAN BE GIVEN EFFECT WITHOUT THE
3 INVALID PROVISION, AND TO THIS END THE PROVISIONS OF THIS ACT
4 ARE DECLARED TO BE SEVERABLE.

5 SECTION 7. THIS ACT SHALL TAKE EFFECT IMMEDIATELY AND SHALL
6 APPLY TO THE CALENDAR YEAR 1984 AND FISCAL YEARS BEGINNING IN
7 1984 AND EACH YEAR THEREAFTER.