

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1112 Session of
1983

INTRODUCED BY AFFLERBACH, TRELLO, MANDERINO, FREEMAN, WOZNIAK,
McHALE AND ZWIKL, MAY 25, 1983

REFERRED TO COMMITTEE ON FINANCE, MAY 25, 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 definition of and
11 determination of taxable income for corporate tax purposes.

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

14 Section 1. Subclause 1 of clause (3) of section 401 of the
15 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
16 of 1971, amended December 21, 1981 (P.L.482, No.141), is amended
17 to read:

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

22 * * *

1 (3) "Taxable income." 1. (a) In case the entire business
2 of the corporation is transacted within this Commonwealth, for
3 any taxable year which begins on or after January 1, 1971,
4 taxable income for the calendar year or fiscal year as returned
5 to and ascertained by the Federal Government, or in the case of
6 a corporation participating in the filing of consolidated
7 returns to the Federal Government, the taxable income which
8 would have been returned to and ascertained by the Federal
9 Government if separate returns had been made to the Federal
10 Government for the current and prior taxable years, subject,
11 however, to any correction thereof, for fraud, evasion, or error
12 as finally ascertained by the Federal Government.

13 (b) Additional deductions shall be allowed from taxable
14 income on account of any dividends received from any other
15 corporation but only to the extent that such dividends are
16 included in taxable income as returned to and ascertained by the
17 Federal Government.

18 (c) Further additional deductions shall be allowed from
19 taxable income in an amount equal to the amount of any reduction
20 in an employer's deduction for wages and salaries as a result of
21 the employer taking a credit for "new jobs" or "targeted jobs"
22 pursuant to section 44B or section 51 of the Internal Revenue
23 Code.

24 (d) Taxable income will include the sum of the following tax
25 preference items as defined in section 57 of the Internal
26 Revenue Code, as amended, (i) excess investment interest; (ii)
27 accelerated depreciation on real property; (iii) accelerated
28 depreciation on personal property subject to a net lease; (iv)
29 amortization of certified pollution control facilities; (v)
30 amortization of railroad rolling stock; (vi) stock options;

1 (vii) reserves for losses on bad debts of financial
2 institutions; (viii) capital gains; and (ix) accelerated cost
3 recovery deduction under section 57(a)(12)(B) of the Internal
4 Revenue Code, but only to the extent that such preference items
5 are not included in "taxable income" as returned to and
6 ascertained by the Federal Government.

7 (e) Taxable income for tax years ending in 1981[, 1982 and
8 1983] and thereafter will also include the amount of the
9 deduction related to depreciation claimed and allowable under
10 section 168, accelerated cost recovery system, Internal Revenue
11 Code of 1954, as amended by the Economic Recovery Tax Act of
12 1981 and the Tax Equity and Fiscal Responsibility Act of 1982,
13 other than items of tax preference under section 57 which have
14 been included in taxable income.

15 (f) For the tax years [beginning and] ending in 1981 and
16 [1982] thereafter a deduction shall be allowed from taxable
17 income to the extent of the deduction for depreciation which
18 would have been allowable on such recovery property under
19 section 167 of the Internal Revenue Code of 1954, as amended,
20 prior to amendment by the Economic Recovery Tax Act of 1981
21 unless a deduction is taken for the same property pursuant to
22 paragraph (h).

23 [(g) For the tax year beginning and ending in 1983 a
24 deduction shall be allowed from taxable income to the extent of
25 the deduction for depreciation which would have been allowable
26 on such recovery property under section 167 of the Internal
27 Revenue Code of 1954, as amended, prior to amendment by the
28 Economic Recovery Tax Act of 1981, plus an additional deduction
29 to the extent of one-half of the deduction related to
30 depreciation claimed and allowable on such recovery property

1 under section 168 of the Internal Revenue Code of 1954, as
2 amended, in excess of the deduction for depreciation which would
3 have been allowable on such recovery property under section 167
4 of the Internal Revenue Code of 1954, as amended, prior to
5 amendment by the Economic Recovery Tax Act of 1981, if any.]

6 (h) For tax years beginning in [1984] 1983, and for
7 subsequent years, there shall be allowed as a deduction related
8 to depreciation the amount allowable under section 168 of the
9 Internal Revenue Code, as amended, with respect to recovery
10 property located and used within this Commonwealth or primarily
11 used within this Commonwealth. In the case of recovery property
12 which is a vehicle, only vehicles titled or registered in the
13 Commonwealth shall be considered to be primarily used within the
14 Commonwealth. In the case of mass asset accounts, all assets in
15 the account must be located or used within the Commonwealth in
16 order for the entire account to be eligible under this
17 paragraph.

18 (i) For all recovery property subject to the provisions of
19 paragraph (h) the amounts disallowed as a consequence of [the
20 aforesaid] adjustments for tax years beginning prior to 1983
21 shall be recovered by an additional deduction from taxable
22 income returned to and ascertained by the Federal Government in
23 tax years commencing in 1984 of one-fourth of the sum per year
24 or ten thousand dollars (\$10,000) per year, whichever is
25 greater, until the total amount has been recovered.

26 (j) In the case of fiscal year taxpayers, the deduction from
27 taxable income related to depreciation shall be prorated so as
28 to reflect the relative portions of each of the calendar years
29 1981, 1982 and 1983 included in the taxpayer's fiscal year, in a
30 manner pursuant to regulations to be promulgated by the

1 secretary.

2 (k) A taxpayer reporting on a 52-53 week basis which closes
3 its fiscal year on any of the last seven days in December or the
4 first seven days of January is deemed a calendar year taxpayer
5 with a year ending date of December 31.

6 (l) For the purpose of computing the depreciation deduction
7 which would have been allowable under section 167 of the
8 Internal Revenue Code of 1954, as amended, prior to amendment by
9 the Economic Recovery Tax Act of 1981: (i) tax preference items
10 as set forth above shall not be included; (ii) property shall be
11 depreciated for a period and with a method consistent with that
12 employed for similar property in prior years; and (iii) for
13 taxable [years 1982 and 1983] year 1982, no deduction shall be
14 allowed for additional first year depreciation on section 179
15 property.

16 (m) No deduction shall be allowed for net operating losses
17 sustained by the corporation during any other fiscal or calendar
18 year: Provided, That for the calendar year 1981 and fiscal years
19 beginning in 1981 and thereafter, a net operating loss, as
20 provided by section 172 of the Internal Revenue Code, shall be
21 allowed as a deduction and a carryover pursuant to the following
22 schedule:

23	Net Operating Loss for Year	Carryover
24	1981	1 year
25	1982	2 years
26	1983 and thereafter	3 years

27 The net operating loss shall be carried to the earliest of the
28 taxable years to which, under this schedule, such loss may first
29 be carried. In the case of regulated investment companies as
30 defined by the Internal Revenue Code of 1954, as amended,

1 "taxable income" shall be investment company taxable income as
2 defined in the aforesaid Internal Revenue Code of 1954, as
3 amended. In arriving at "taxable income" for Federal tax
4 purposes for any taxable year beginning on or after January 1,
5 1981, no deduction shall be allowed for taxes imposed on or
6 measured by net income.

7 * * *

8 Section 2. This act shall take effect immediately.