

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1141 Session of
1987

INTRODUCED BY TRELLO, WILSON, PETRONE, DeLUCA, ROBBINS, PRESTON,
FOSTER, SHOWERS, SEVENTY, B. SMITH, VAN HORNE, REBER,
GODSHALL, HECKLER, PUNT, MOEHLMANN, GEIST, J. L. WRIGHT,
WOGAN, COLAFELLA, HERMAN, BELFANTI, MARKOSEK, DORR, SWEET AND
KENNEY, APRIL 27, 1987

REFERRED TO COMMITTEE ON FINANCE, APRIL 27, 1987

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," changing the definition of "average net income"
11 for purposes of the capital stock tax.

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

14 Section 1. The definition of "average net income" in section
15 601(a) of the act of March 4, 1971 (P.L.6, No.2), known as the
16 Tax Reform Code of 1971, amended December 23, 1983 (P.L.360,
17 No.89), is amended to read:

18 Section 601. Definitions and Reports.--(a) The following
19 words, terms and phrases when used in this Article VI shall have
20 the meaning ascribed to them in this section, except where the
21 context clearly indicates a different meaning:

1 "Average net income." The sum of the net income or loss for
2 each of the current and immediately preceding four years,
3 divided by five. If the entity has not been in existence for a
4 period of five years, the average net income shall be the
5 average net income for the number of years that the entity has
6 actually been in existence. In computing average net income,
7 losses shall be entered as computed, but in no case shall
8 average net income be less than zero. The net income or loss of
9 the entity for any taxable year shall be the amount set forth as
10 income per books on the income tax return filed by the entity
11 with the Federal Government for such taxable year, or if no such
12 return is made, as would have been set forth had such a return
13 been made, subject, however, in either case to any correction
14 thereof, for fraud, evasion or error. In the case of any entity
15 which has an investment in another corporation, the net income
16 or loss shall be computed on an unconsolidated basis exclusive
17 of the net income or loss of such other corporation. The net
18 income or loss of the entity for any taxable year during which a
19 valid Pennsylvania S corporation election has been filed for
20 Federal or State tax purposes shall be the amount of book net
21 income reduced by the amount of Federal and State income taxes
22 which would have been incurred by the corporation but for the
23 fact that a valid Pennsylvania S corporation election had been
24 filed.

25 * * *

26 Section 2. This act shall take effect in 60 days.