

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1210 Session of  
1993

INTRODUCED BY PICCOLA, FAIRCHILD, FLEAGLE, PETTIT, L. I. COHEN,  
M. N. WRIGHT, BUSH, SCHULER, FLICK, MASLAND, STERN,  
JADLOWIEC, FICHTER, GODSHALL, ARMSTRONG, CHADWICK, BROWN,  
CLARK, MICOZZIE, E. Z. TAYLOR, FARMER, CORNELL, HERMAN,  
DEMPSEY, SCHEETZ, MILLER, BIRMELIN, SAURMAN, RAYMOND,  
HECKLER, TULLI, GEIST, LYNCH, PITTS, S. H. SMITH, STEIL,  
CIVERA, GERLACH, FARGO, HESS, B. SMITH, MERRY, KING, SAYLOR,  
LEH, MAITLAND, LEE AND TOMLINSON, APRIL 19, 1993

REFERRED TO COMMITTEE ON FINANCE, APRIL 19, 1993

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 exclusion of certain  
11 services from sales tax; and further providing for  
12 computation and resettlement of the corporate net income tax.

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

15 Section 1. Section 204 of the act of March 4, 1971 (P.L.6,  
16 No.2), known as the Tax Reform Code of 1971, is amended by  
17 adding a clause to read:

18 Section 204. Exclusions from Tax.--The tax imposed by  
19 section 202 shall not be imposed upon

20 \* \* \*

1     (49) The sale at retail or use of the services enumerated in  
2 section 201(k)(11) through (18) or 201(o)(9) through (16) which  
3 represents an allocation, reimbursement or charge for services  
4 provided or rendered between persons specified in any of the  
5 paragraphs of subsection 267(b) or 269B(c)(2) of the Internal  
6 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),  
7 as amended.

8     Section 2. Section 401(3)1.(b) and 4.(a) and (c) of the act,  
9 amended July 1, 1985 (P.L.78, No.29) and August 4, 1991 (P.L.97,  
10 No.22), are amended to read:

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

15     \* \* \*

16     (3) "Taxable income." 1. \* \* \*

17     (b) Additional deductions shall be allowed from taxable  
18 income (i) on account of any dividends received from any other  
19 corporation, other than thirty per cent of dividends received  
20 from a corporation in which the taxpayer owns less than ten per  
21 cent of the voting stock of such corporation, but only to the  
22 extent that such dividends are included in taxable income as  
23 returned to and ascertained by the Federal Government[. For tax  
24 years beginning on or after January 1, 1991, an additional  
25 deduction shall only be allowed]; and (ii) for amounts  
26 included, under section 78 of the Internal Revenue Code of 1986  
27 (Public Law 99-514, 26 U.S.C. § 78), in taxable income returned  
28 to and ascertained by the Federal Government.

29     \* \* \*

30     4. (a) For taxable years beginning in 1982 [through taxable

1 years beginning in 1990] and thereafter, except for taxable  
2 years beginning in 1991 and 1992, a net loss deduction shall be  
3 allowed from taxable income as arrived at under subclause 1 or,  
4 if applicable, subclause 2. [For taxable years beginning in 1991  
5 and thereafter, the net loss deduction allowed for years prior  
6 to 1991 shall be suspended; and no carryover of net losses from  
7 taxable years 1988, 1989, and 1990 shall be utilized in  
8 calculating net income.] For any carryover of a net loss from  
9 taxable years beginning in 1988, 1989 and 1990, to taxable years  
10 beginning in 1991 and 1992, for which a net loss deduction has  
11 been disallowed by this paragraph, the three taxable years  
12 carryover period is extended by two taxable years, as shown in  
13 paragraph (c). For any carryover of a net loss from the taxable  
14 year beginning in 1991, to the taxable year beginning in 1992,  
15 for which a net loss deduction has been disallowed by this  
16 paragraph, the three taxable years carryover period is extended  
17 by one taxable year, as shown in paragraph (c).

18 \* \* \*

19 (c) The net loss deduction shall be the lesser of the amount  
20 of the net loss or losses which may be carried over to the  
21 taxable year or taxable income as determined under subclause 1  
22 or, if applicable, subclause 2. A net loss for a taxable year  
23 may only be carried over pursuant to the following schedule:

24	Taxable Year	Carryover
25	1981	1 taxable year
26	1982	2 taxable years
27	[1983 and thereafter	3 taxable years]
28	<u>1983 - 1987</u>	<u>3 taxable years</u>
29	<u>1988 - 1990</u>	<u>5 taxable years</u>
30	<u>1991</u>	<u>4 taxable years</u>

1                   1992 and thereafter                   3 taxable years

2   The earliest net loss shall be carried over to the earliest  
3   taxable year to which it may be carried under this schedule.

4           \* \* \*

5       Section 3.   Section 407(b) and (e) of the act, amended or  
6   added August 4, 1991 (P.L.97, No.22), are amended to read:

7       Section 407.   Settlement and Resettlement.--\* \* \*

8       (b)   If, within a period of [three years] eighteen months  
9   after the date of any settlement, the department is not  
10   satisfied with such settlement, or if at any time the net income  
11   as returned by any corporation to the Federal Government is  
12   finally changed or corrected by the Commissioner of Internal  
13   Revenue or by any other agency or court of the United States  
14   with the result that tax, in addition to the amount paid, is due  
15   under this article, the department is hereby authorized and  
16   empowered to make a resettlement of the tax due by such  
17   corporation, based upon the facts contained in the report, or  
18   upon any information within its possession or that shall come  
19   into its possession.

20       Whenever a resettlement shall have been made hereunder, the  
21   department shall resettle the account according to law and shall  
22   credit or charge, as the case may be, the amount resulting from  
23   such resettlement upon the current accounts of the corporation  
24   with which it is made.

25       The resettlement shall be subject to audit and approval by  
26   the Department of the Auditor General as in the case of original  
27   settlement, and in case of the failure of the two departments to  
28   agree, the resettlement shall be submitted to the Board of  
29   Finance and Revenue as in the case of original settlements.

30           \* \* \*

1        [(e) If any taxpayer, pursuant to petition or appeal, is  
2 granted a resettlement or issued an order of court or a judgment  
3 basing the taxpayer's tax for any taxable year upon the  
4 principles of multifirmity or unrelated assets resulting from a  
5 final decision upon the taxpayer's petition or appeal, or any  
6 stipulation for judgment in settlement of litigation thereon,  
7 then any taxable year of the taxpayer within a three-year period  
8 prior to the taxable year in issue or any taxable year  
9 thereafter may be resettled consistent with such principles  
10 within one year of such resettlement, order of court or  
11 judgment.]

12        Section 4. This act shall be retroactive as follows:

13            (1) The amendment of section 204 of the act shall be  
14 retroactive to August 4, 1991.

15            (2) The amendment of sections 401 and 407 of the act  
16 shall be retroactive to January 1, 1991.

17        Section 5. This act shall take effect immediately.