

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 338 Session of
2005

INTRODUCED BY SCAVELLO, LEH, BENNINGHOFF, ADOLPH, ALLEN,
ARMSTRONG, BAKER, BALDWIN, BARRAR, BASTIAN, BOYD, BROWNE,
BUNT, CALTAGIRONE, CAPPELLI, CAUSER, CLYMER, CORNELL,
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HERSHEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER,
KILLION, LEDERER, LESCOVITZ, MAJOR, MANN, MARSICO, McGEEHAN,
McGILL, McILHATTAN, McNAUGHTON, METCALFE, MILLARD, S. MILLER,
MUSTIO, NAILOR, O'NEILL, PETRARCA, PETRI, PHILLIPS, PICKETT,
PYLE, READSHAW, REICHLEY, ROHRER, RUBLEY, SAINATO, SATHER,
SCHRODER, SHANER, STERN, R. STEVENSON, TANGRETTI,
E. Z. TAYLOR, TURZAI, WATSON, WILT, WRIGHT AND YOUNGBLOOD,
FEBRUARY 8, 2005

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 8, 2005

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, in gross receipts tax, for the
11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, amended or added December 23, 2003 (P.L.250, No.46), are

1 amended to read:

2 Section 1101. Imposition of Tax.--(a) General Rule.--Every
3 pipeline company, conduit company, steamboat company, canal
4 company, slack water navigation company, transportation company,
5 and every other company, association, joint-stock association,
6 or limited partnership, now or hereafter incorporated or
7 organized by or under any law of this Commonwealth, or now or
8 hereafter organized or incorporated by any other state or by the
9 United States or any foreign government, and doing business in
10 this Commonwealth, and every copartnership, person or persons
11 owning, operating or leasing to or from another corporation,
12 company, association, joint-stock association, limited
13 partnership, copartnership, person or persons, any pipeline,
14 conduit, steamboat, canal, slack water navigation, or other
15 device for the transportation of freight, passengers, baggage,
16 or oil, except motor vehicles and railroads, and every limited
17 partnership, association, joint-stock association, corporation
18 or company engaged in, or hereafter engaged in, the
19 transportation of freight or oil within this State, and every
20 telephone company , telegraph company or provider of mobile
21 telecommunications services now or hereafter incorporated or
22 organized by or under any law of this Commonwealth, or now or
23 hereafter organized or incorporated by any other state or by the
24 United States or any foreign government and doing business in
25 this Commonwealth, and every limited partnership, association,
26 joint-stock association, copartnership, person or persons,
27 engaged in telephone or telegraph business or providing mobile
28 telecommunications services in this Commonwealth, shall pay to
29 the State Treasurer, through the Department of Revenue, a tax of
30 forty-five mills with a surtax equal to five mills upon each

1 dollar of the gross receipts of the corporation, company or
2 association, limited partnership, joint-stock association,
3 copartnership, person or persons, received from:

4 (1) passengers, baggage, oil and freight transported wholly
5 within this State;

6 (2) telegraph or telephone messages transmitted wholly
7 within this State and telegraph or telephone messages
8 transmitted in interstate commerce after December 31, 2005, and
9 before January 1, 2007, where such messages originate or
10 terminate in this State and the charges for such messages are
11 billed to a service address in this State, except gross receipts
12 derived from:

13 (i) the sales of access to the Internet, as set forth in
14 Article II, made to the ultimate consumer; and

15 (ii) the sales for resale to persons, partnerships,
16 associations, corporations or political subdivisions subject to
17 the tax imposed by this article upon gross receipts derived from
18 such resale of telecommunications services, including:

19 (A) telecommunications exchange access to interconnect with
20 a local exchange carrier's network;

21 (B) network elements on an unbundled basis; and

22 (C) sales of telecommunications services to interconnect
23 with providers of mobile telecommunications services; and

24 (3) mobile telecommunications services messages sourced to
25 this Commonwealth after December 31, 2005, and before January 1,
26 2007, based on the place of primary use standard set forth in
27 the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117),
28 except gross receipts derived from:

29 (i) the sales of access to the Internet, as set forth in
30 Article II, made to the ultimate consumer; and

(ii) the sales for resale to persons, partnerships, associations, corporations or political subdivisions subject to the tax imposed by this article upon gross receipts derived from such resale of mobile telecommunications services, including sales of mobile telecommunications services to interconnect with providers of telecommunications services.

(a.1) Credit.--Telegraph or telephone companies or providers of mobile telecommunications services that pay a gross receipts tax to another state on messages or services after December 31, 2005, and before January 1, 2007, which are taxable under this article are entitled to a credit against the tax due under this article. The credit allowed with respect to the messages or services shall not exceed the tax under this article with respect to the messages or services.

* * *

(j) Schedule for Estimated Payments.--

(1) For calendar year 2004, the following schedule applies to the payment of the tax under subsection(a)(3):

(i) Forty per cent of the estimated tax shall be due on March 15, 2004.

(ii) Forty per cent of the estimated tax shall be due on June 15, 2004.

(iii) Twenty per cent of the estimated tax shall be due on September 15, 2004.

(2) [For calendar years after 2004, the payment of the estimated tax under subsection (a)(3) shall be due in accordance with section 3003.2.] This subsection shall expire January 1, 2007.

Section 2. Section 33(12) of the act of December 23, 2003 (P.L.250, No.46), entitled "An act Amending the act of March 4,

1 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and
2 State taxation by codifying and enumerating certain subjects of
3 taxation and imposing taxes thereon; providing procedures for
4 the payment, collection, administration and enforcement thereof;
5 providing for tax credits in certain cases; conferring powers
6 and imposing duties upon the Department of Revenue, certain
7 employers, fiduciaries, individuals, persons, corporations and
8 other entities; prescribing crimes, offenses and penalties,'
9 further providing, in sales and use tax, for definitions, for
10 exclusions, for credits, for licenses and for transfers to
11 Public Transportation Assistance Fund; further providing, in
12 personal income tax, for definitions, for imposition, for
13 special tax provisions for poverty, for returns and liability
14 and for returns and records; further providing, in corporate net
15 income tax, for definitions and for interests in unincorporated
16 entities; providing, in corporate net income tax, for additional
17 withholding requirements; further providing, in capital stock
18 franchise tax, for definitions and reports, for imposition and
19 for expiration; further providing, in utilities gross receipts
20 tax, for imposition; further providing, in public utility realty
21 tax, for surcharges; providing, in public utility realty tax,
22 for additional tax; further providing, in cigarette tax, for
23 incidence and rate of tax, for floor tax, for stamp to evidence
24 the tax and for commissions on sales; establishing, in relation
25 to cigarette tax, the Health Care Provider Retention Account;
26 further providing, in research and development tax credit, for
27 carryover, for limitations and for reports; further providing,
28 in malt beverage tax, for limited tax credits; further
29 providing, in inheritance tax, for definitions, for exempt
30 transfers, for estate tax and for estate tax returns; further

1 providing for the Public Transportation Assistance Fund and
2 providing for its administration; further providing for
3 estimated tax and for underpayment of estimated tax; providing
4 for authority to attach wages; and repealing provisions relating
5 to the Public Transportation Assistance Fund," is repealed.

6 Section 3. This act shall take effect immediately.