

THE GENERAL ASSEMBLY OF PENNSYLVANIA

**SENATE BILL**

**No. 1388** Session of  
2008

INTRODUCED BY EICHELBERGER, CORMAN, REGOLA, VANCE, BROWNE,  
SCARNATI, PILEGGI, BAKER, GORDNER, ORIE, RAFFERTY, PIPPY,  
WONDERLING, MADIGAN, WAUGH, FOLMER, RHOADES, EARLL, BRUBAKER  
AND GREENLEAF, MAY 30, 2008

REFERRED TO FINANCE, MAY 30, 2008

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 corporate net income, for  
11 the definition of "taxable income."

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

14 Section 1. Section 401(3)2(a)(9) of the act of March 4, 1971  
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended  
16 July 12, 2006 (P.L.1137, No.116), is amended to read:

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

21 \* \* \*

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

2 2. In case the entire business of any corporation, other  
3 than a corporation engaged in doing business as a regulated  
4 investment company as defined by the Internal Revenue Code of  
5 1986, is not transacted within this Commonwealth, the tax  
6 imposed by this article shall be based upon such portion of the  
7 taxable income of such corporation for the fiscal or calendar  
8 year, as defined in subclause 1 hereof, and may be determined as  
9 follows:

10 (a) Division of Income.

11 \* \* \*

12 (9) (A) Except as provided in subparagraph (B):

13 (i) For taxable years beginning before January 1, 2007, all  
14 business income shall be apportioned to this State by  
15 multiplying the income by a fraction, the numerator of which is  
16 the property factor plus the payroll factor plus three times the  
17 sales factor and the denominator of which is five.

18 (ii) For taxable years beginning after December 31, 2006,  
19 all business income shall be apportioned to this State by  
20 multiplying the income by a fraction, the numerator of which is  
21 the sum of fifteen times the property factor, fifteen times the  
22 payroll factor and seventy times the sales factor and the  
23 denominator of which is one hundred.

24 (iii) For taxable years beginning after December 31, 2007,  
25 all business income shall be apportioned to this State by  
26 multiplying the income by a fraction: the numerator of which is  
27 the sum of seven and a half times the property factor, seven and  
28 a half times the payroll factor and eighty-five times the sales  
29 factor; and the denominator of which is one hundred.

30 (B) For purposes of apportionment of the capital stock -

1 franchise tax as provided in section 602 of Article VI of this  
2 act, the apportionment fraction shall be the property factor  
3 plus the payroll factor plus the sales factor as the numerator,  
4 and the denominator shall be three.

5 \* \* \*

6 Section 2. This act shall take effect immediately.