

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 411 Session of 2009

INTRODUCED BY REED, BAKER, BARRAR, BEAR, BENNINGHOFF, BOYD, BROOKS, CALTAGIRONE, CAUSER, CLYMER, CREIGHTON, CUTLER, DENLINGER, EVERETT, FAIRCHILD, FLECK, GEIST, GIBBONS, GOODMAN, GRELL, GROVE, HENNESSEY, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, MAJOR, MARSICO, METCALFE, MILLARD, MILLER, MUSTIO, OBERLANDER, O'NEILL, PAYNE, PEIFER, PETRI, PICKETT, PYLE, RAPP, REESE, REICHLEY, ROAE, ROHRER, SCAVELLO, SONNEY, STERN, STEVENSON, TALLMAN, TURZAI, VULAKOVICH, WANSACZ AND WATSON, FEBRUARY 13, 2009

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 13, 2009

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," providing for apportionment of business income.

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

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

16 Section 401. Definitions.--The following words, terms, and  
 17 phrases, when used in this article, shall have the meaning  
 18 ascribed to them in this section, except where the context

1 clearly indicates a different meaning:

2 \* \* \*

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

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

12 (a) Division of Income.

13 \* \* \*

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

15 (i) For taxable years beginning before January 1, [2007]  
16 2006, all business income shall be apportioned to this State by  
17 multiplying the income by a fraction, the numerator of which is  
18 the property factor plus the payroll factor plus three times the  
19 sales factor and the denominator of which is five.

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

26 (B) For purposes of apportionment of the capital stock -  
27 franchise tax as provided in section 602 of Article VI of this  
28 act, the apportionment fraction shall be the property factor  
29 plus the payroll factor plus the sales factor as the numerator,  
30 and the denominator shall be three.

1 \* \* \*

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