

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 205 Session of 2011

INTRODUCED BY MENSCH, PILEGGI, GREENLEAF, WAUGH, ORIE,  
EICHELBERGER, VOGEL, YAW, FOLMER, PICCOLA, ARGALL, BREWSTER,  
ALLOWAY, KASUNIC, D. WHITE, M. WHITE, PIPPY, BOSCOLA AND  
EARLL, JANUARY 21, 2011

REFERRED TO FINANCE, JANUARY 21, 2011

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 October 9, 2009 (P.L.451, No.48), 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  
19 clearly indicates a different meaning:

20 \* \* \*

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

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

(a) Division of Income.

\* \* \*

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

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

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

(iii) For taxable years beginning after December 31, 2008, all business income shall be apportioned to this State by multiplying the income by [a fraction, the numerator of which is the sum of eight and a half times the property factor, eight and a half times the payroll factor and eighty-three times the sales factor and the denominator of which is one hundred.

(iv) For taxable years beginning after December 31, 2009, all business income shall be apportioned to this State by

1 multiplying the income by a fraction, the numerator of which is  
2 the sum of five times the property factor, five times the  
3 payroll factor and ninety times the sales factor and the  
4 denominator of which is one hundred] the sales factor.

5 (B) For purposes of apportionment of the capital stock -  
6 franchise tax as provided in section 602 of Article VI of this  
7 act, the apportionment fraction shall be the property factor  
8 plus the payroll factor plus the sales factor as the numerator,  
9 and the denominator shall be three.

10 \* \* \*

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