

TAX REFORM CODE OF 1971 - DEFINING TAXABLE INCOME

Act of Jun. 28, 2018, P.L. 494, No. 72

Cl. 72

Session of 2018

No. 2018-72

SB 1056

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," in corporate net income tax, further defining taxable income.

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

Section 1. Section 401(3)1(r) and (s) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are amended to read:

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

\* \* \*

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

(r) [Notwithstanding] **The following apply:**

**(1) For property placed in service before September 28, 2017, notwithstanding** paragraph (a), if a deduction for depreciation of qualified property was included in taxable income in accordance with paragraph (q), an additional deduction for depreciation of the qualified property shall be allowed from taxable income until the total amount included as taxable income under paragraph (q) has been claimed. The additional deduction shall be equal to the product of taking three sevenths of the amount of the deduction for depreciation of the qualified property allowable under section 167 of the Internal Revenue Code of 1986 (26 U.S.C. § 167), not including the amount of the deduction for depreciation of the qualified property claimed and allowable under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)), for the tax year.

**(2) For property placed in service after September 27, 2017, notwithstanding paragraph (a), if a deduction for depreciation of qualified property was included in taxable income in accordance with paragraph (q), an additional deduction for depreciation of the qualified property shall be allowed from taxable income until the total amount included as taxable income under paragraph (q) has been claimed. The additional deduction shall be equal to the depreciation on the qualified property for the taxable year as determined in accordance with sections 167 and 168 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 167 and 168), except that section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)) shall not apply .**

(s) [With] **The following apply:**

(1) For property placed in service before September 28, 2017, an additional deduction shall be allowed from taxable income in the earlier of the taxable year in which qualified property is fully depreciated for Federal income tax purposes, or is sold or otherwise disposed of by a taxpayer to the extent the amount of depreciation claimed under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)), on the qualified property and included in taxable income under paragraph (q) has not been recovered through the additional deductions provided under paragraph (r) (1).

(2) For property placed in service after September 27, 2017, with respect to qualified property which is sold or otherwise disposed of during a taxable year by a taxpayer and for which depreciation was included as taxable income under paragraph (q), an additional deduction shall be allowed from taxable income to the extent the amount of depreciation claimed under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)) on the qualified property has not been recovered through the additional deductions provided by paragraph [(r)] **(r) (2)**.

\* \* \*

Section 2. The amendment of section 401(3)1(r) and (s) of the act shall apply to tax years beginning on or after January 1, 2017.

Section 3. This act shall take effect immediately.

APPROVED--The 28th day of June, A.D. 2018.

TOM WOLF