

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL
No. 404

Session of
1979

INTRODUCED BY MESSRS. MILLER, DAVIES, REED, A. C. FOSTER, JR.,
PICCOLA, MRS. HONAMAN, MESSRS. WENGER, LEHR AND ANDERSON,
FEBRUARY 20, 1979

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 27, 1979

AN ACT

1 ~~Amending~~ ~~REENACTING SECTIONS 302, 402 AND 502 AND~~ AMENDING the <—
2 act of March 4, 1971 (P.L.6, No.2), entitled "An act relating
3 to tax reform and State taxation by codifying and enumerating
4 certain subjects of taxation and imposing taxes thereon;
5 providing procedures for the payment, collection,
6 administration and enforcement thereof; providing for tax
7 credits in certain cases; conferring powers and imposing
8 duties upon the Department of Revenue, certain employers,
9 fiduciaries, individuals, persons, corporations and other
10 entities; prescribing crimes, offenses and penalties,"
11 ~~ALLOCATING PART OF THE SALES TAX IMPOSED ON MOTOR VEHICLES TO~~ <—
12 ~~THE MOTOR LICENSE FUND;~~ CONTINUING THE RATE OF THE PERSONAL
13 INCOME TAX AND THE RATE OF TAX IMPOSED ON CERTAIN
14 CORPORATIONS FOR A LIMITED PERIOD AND LOWERING THE TAX
15 THEREAFTER; including the public utility REALTY tax in the <—
16 code, further defining utility REALTY and imposing a surtax; <—
17 PROVIDING FOR ADDITIONAL LIQUID FUELS TAXES AND MAKING
18 REPEALS.

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

21 ~~SECTION 1. SECTION 238, ACT OF MARCH 4, 1971 (P.L.6, NO.2),~~ <—
22 ~~KNOWN AS THE "TAX REFORM CODE OF 1971," AMENDED DECEMBER 28,~~
23 ~~1972 (P.L.1633, NO.340), IS AMENDED TO READ:~~

24 ~~SECTION 238. COLLECTION OF TAX ON MOTOR VEHICLES, TRAILERS~~

1 ~~AND SEMI TRAILERS. (A) NOTWITHSTANDING THE PROVISIONS OF~~
2 ~~CLAUSE (1) OF SUBSECTION (B) OF SECTION 237 OF THIS ARTICLE, TAX~~
3 ~~DUE ON THE SALE AT RETAIL OR USE OF A MOTOR VEHICLE, TRAILER OR~~
4 ~~SEMI TRAILER, EXCEPT MOBILEHOMES AS DEFINED IN "THE VEHICLE~~
5 ~~CODE," REQUIRED BY LAW TO BE REGISTERED WITH THE DEPARTMENT~~
6 ~~UNDER THE PROVISIONS OF "THE VEHICLE CODE" SHALL BE PAID BY THE~~
7 ~~PURCHASER OR USER DIRECTLY TO THE DEPARTMENT UPON APPLICATION TO~~
8 ~~THE DEPARTMENT FOR AN ISSUANCE OF A CERTIFICATE OF TITLE UPON~~
9 ~~SUCH MOTOR VEHICLE, TRAILER OR SEMI TRAILER. THE DEPARTMENT~~
10 ~~SHALL NOT ISSUE A CERTIFICATE OF TITLE UNTIL THE TAX HAS BEEN~~
11 ~~PAID, OR EVIDENCE SATISFACTORY TO THE DEPARTMENT HAS BEEN GIVEN~~
12 ~~TO ESTABLISH THAT TAX IS NOT DUE. THE DEPARTMENT MAY CANCEL OR~~
13 ~~SUSPEND ANY RECORD OF CERTIFICATE OF TITLE OR REGISTRATION OF A~~
14 ~~MOTOR VEHICLE, TRAILER OR SEMI TRAILER WHEN THE CHECK RECEIVED~~
15 ~~IN PAYMENT OF THE TAX ON SUCH VEHICLE IS NOT PAID UPON DEMAND.~~
16 ~~SUCH TAX SHALL BE CONSIDERED AS A FIRST ENCUMBRANCE AGAINST SUCH~~
17 ~~VEHICLE AND THE VEHICLE MAY NOT BE TRANSFERRED WITHOUT FIRST~~
18 ~~PAYMENT IN FULL OF SUCH TAX AND ANY INTEREST ADDITIONS OR~~
19 ~~PENALTIES WHICH SHALL ACCRUE THEREON IN ACCORDANCE WITH THIS~~
20 ~~ARTICLE.~~

21 ~~(B) FIFTY FIVE FORTY ONE PER CENT OF THE TAX COLLECTED UNDER~~
22 ~~THIS SECTION SHALL BE PAID INTO THE MOTOR LICENSE FUND.~~

23 SECTION 2 1. ~~SECTIONS 302, 402 AND 502 OF THE ACT, SECTION~~ <—
24 ~~302, ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE "TAX~~
25 ~~REFORM CODE OF 1971," AMENDED DECEMBER 21, 1977 (P.L.330,~~
26 ~~NO.98), ARE REENACTED IS AMENDED TO READ:~~ <—

27 SECTION 302. IMPOSITION OF TAX.--(A) THERE IS HEREBY
28 IMPOSED AN ANNUAL TAX TO BE PAID BY RESIDENT INDIVIDUALS,
29 ESTATES OR TRUSTS AT THE RATE OF TWO AND TWO-TENTHS PER CENT
30 UNTIL DECEMBER 31, 1981 AND AT A RATE OF TWO PER CENT THEREAFTER

1 ON THE PRIVILEGE OF RECEIVING EACH OF THE CLASSES OF INCOME
2 HEREINAFTER ENUMERATED IN SECTION 303.

3 (B) THERE IS HEREBY IMPOSED AN ANNUAL TAX TO BE PAID BY
4 NONRESIDENT INDIVIDUALS, ESTATES OR TRUSTS AT THE RATE OF TWO
5 AND TWO-TENTHS PER CENT UNTIL DECEMBER 31, 1981 AND AT A RATE OF
6 TWO PER CENT THEREAFTER ON THE PRIVILEGE OF RECEIVING EACH OF
7 THE CLASSES OF INCOME ENUMERATED IN SECTION 303 FROM SOURCES
8 WITHIN THIS COMMONWEALTH.

9 SECTION 2. SECTIONS 402 AND 502 OF THE ACT, AMENDED DECEMBER <—
10 21, 1977 (P.L.330, NO.98), ARE REENACTED AND AMENDED TO READ:

11 SECTION 402. IMPOSITION OF TAX.--EVERY CORPORATION SHALL BE
12 SUBJECT TO, AND SHALL PAY FOR THE PRIVILEGE OF DOING BUSINESS IN
13 THIS COMMONWEALTH, OR HAVING CAPITAL OR PROPERTY EMPLOYED OR
14 USED IN THIS COMMONWEALTH, BY OR IN THE NAME OF ITSELF, OR ANY
15 PERSON, PARTNERSHIP, ASSOCIATION, LIMITED PARTNERSHIP, JOINT-
16 STOCK ASSOCIATION, OR CORPORATION, A STATE EXCISE TAX AT THE
17 RATE OF TWELVE PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE
18 INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH
19 CORPORATION DURING THE CALENDAR YEAR 1971 AND THE FIRST SIX
20 MONTHS OF 1972 AND AT THE RATE OF ELEVEN PER CENT PER ANNUM UPON
21 EACH DOLLAR OF TAXABLE INCOME OF SUCH CORPORATION RECEIVED BY,
22 AND ACCRUING TO, SUCH CORPORATION DURING THE SECOND SIX MONTHS
23 OF CALENDAR YEAR 1972 THROUGH THE CALENDAR YEAR 1973 AND AT THE
24 RATE OF NINE AND ONE-HALF PER CENT PER ANNUM UPON EACH DOLLAR OF
25 TAXABLE INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO,
26 SUCH CORPORATION DURING THE CALENDAR YEARS 1974, 1975 AND 1976
27 AND AT THE RATE OF TEN AND ONE-HALF PER CENT PER ANNUM UPON EACH
28 DOLLAR OF TAXABLE INCOME OF SUCH CORPORATION RECEIVED BY, AND
29 ACCRUING TO, SUCH CORPORATION DURING THE CALENDAR YEAR 1977 AND
30 EACH CALENDAR YEAR THEREAFTER TO THE BEGINNING OF CALENDAR YEAR

1 1982 AND AT A RATE OF NINE AND ONE-HALF PER CENT FOR EACH
2 CALENDAR YEAR THEREAFTER, EXCEPT WHERE A CORPORATION REPORTS TO
3 THE FEDERAL GOVERNMENT ON THE BASIS OF A FISCAL YEAR, AND HAS
4 CERTIFIED SUCH FACT TO THE DEPARTMENT AS REQUIRED BY SECTION 403
5 OF THIS ARTICLE, IN WHICH CASE, SUCH TAX, AT THE RATE OF TWELVE
6 PER CENT, SHALL BE LEVIED, COLLECTED, AND PAID UPON ALL TAXABLE
7 INCOME RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION DURING THE
8 FIRST SIX MONTHS OF THE FISCAL YEAR COMMENCING IN THE CALENDAR
9 YEAR 1972 AND AT THE RATE OF ELEVEN PER CENT, SHALL BE LEVIED,
10 COLLECTED, AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND
11 ACCRUING TO, SUCH CORPORATION DURING THE SECOND SIX MONTHS OF
12 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1972 AND DURING
13 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1973 AND AT THE
14 RATE OF NINE AND ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED,
15 AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND ACCRUING TO,
16 SUCH CORPORATION DURING THE FISCAL YEAR COMMENCING IN THE
17 CALENDAR YEARS 1974, 1975 AND 1976 AND AT THE RATE OF TEN AND
18 ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED, AND PAID UPON ALL
19 TAXABLE INCOME RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION
20 DURING THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1977 AND
21 DURING EACH FISCAL YEAR THEREAFTER TO THE FISCAL YEAR COMMENCING
22 IN THE CALENDAR YEAR 1982 AND AT A RATE OF NINE AND ONE-HALF PER
23 CENT FOR EACH FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1982
24 AND EACH FISCAL YEAR THEREAFTER. NO PENALTY PRESCRIBED BY
25 SUBSECTION (E) OF SECTION 1202.1 SHALL BE ASSESSED AGAINST A
26 CORPORATION FOR THE ADDITIONAL TAX WHICH MAY BE DUE AS A RESULT
27 OF THE INCREASE IN TAX RATE FROM NINE AND ONE-HALF PER CENT TO
28 TEN AND ONE-HALF PER CENT IMPOSED RETROACTIVELY BY THIS SECTION
29 FOR THE CALENDAR YEAR 1977 OR FOR THE FISCAL YEAR COMMENCING IN
30 1977.

1 SECTION 502. IMPOSITION OF TAX.--EVERY CORPORATION CARRYING
2 ON ACTIVITIES IN THIS COMMONWEALTH OR OWNING PROPERTY IN THIS
3 COMMONWEALTH BY OR IN THE NAME OF ITSELF OR ANY PERSON,
4 PARTNERSHIP, JOINT-STOCK ASSOCIATION OR CORPORATION SHALL BE
5 SUBJECT TO AND SHALL PAY A STATE PROPERTY TAX ON TAXABLE INCOME
6 DERIVED FROM SOURCES WITHIN THIS COMMONWEALTH AT THE RATE OF
7 TWELVE PER CENT PER ANNUM UPON EACH DOLLAR OF SUCH TAXABLE
8 INCOME RECEIVED BY AND ACCRUING TO SUCH CORPORATION DURING THE
9 CALENDAR YEAR 1971 AND THE FIRST SIX MONTHS OF 1972 AND AT THE
10 RATE OF ELEVEN PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE
11 INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH
12 CORPORATION DURING THE SECOND SIX MONTHS OF CALENDAR YEAR 1972
13 THROUGH THE CALENDAR YEAR 1973 AND AT THE RATE OF NINE AND ONE-
14 HALF PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE INCOME OF
15 SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION
16 DURING THE CALENDAR YEARS 1974, 1975 AND 1976 AND AT THE RATE OF
17 TEN AND ONE-HALF PER CENT PER ANNUM UPON EACH DOLLAR OF TAXABLE
18 INCOME OF SUCH CORPORATION RECEIVED BY, AND ACCRUING TO, SUCH
19 CORPORATION DURING THE CALENDAR YEAR 1977 AND EACH CALENDAR YEAR
20 THEREAFTER TO THE BEGINNING OF CALENDAR YEAR 1982 AND AT A RATE
21 OF NINE AND ONE-HALF PER CENT FOR EACH CALENDAR YEAR THEREAFTER,
22 EXCEPT WHERE A CORPORATION REPORTS TO THE FEDERAL GOVERNMENT ON
23 THE BASIS OF A FISCAL YEAR AND HAS CERTIFIED SUCH FACT TO THE
24 DEPARTMENT AS REQUIRED BY SECTION 403 OF ARTICLE IV, IN WHICH
25 CASE SUCH TAX AT THE RATE OF TWELVE PER CENT SHALL BE LEVIED,
26 COLLECTED AND PAID UPON EACH DOLLAR OF SUCH TAXABLE INCOME
27 RECEIVED BY AND ACCRUING TO SUCH CORPORATION DURING THE FIRST
28 SIX MONTHS OF THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR
29 1972 AND AT THE RATE OF ELEVEN PER CENT SHALL BE LEVIED,
30 COLLECTED, AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND

1 ACCRUING TO, SUCH CORPORATION DURING THE SECOND SIX MONTHS OF
2 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1972 AND DURING
3 THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1973 AND AT THE
4 RATE OF NINE AND ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED,
5 AND PAID UPON ALL TAXABLE INCOME RECEIVED BY, AND ACCRUING TO,
6 SUCH CORPORATION DURING THE FISCAL YEAR COMMENCING IN THE
7 CALENDAR YEARS 1974, 1975 AND 1976 AND AT THE RATE OF TEN AND
8 ONE-HALF PER CENT, SHALL BE LEVIED, COLLECTED, AND PAID UPON ALL
9 TAXABLE INCOME RECEIVED BY, AND ACCRUING TO, SUCH CORPORATION
10 DURING THE FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1977 AND
11 EACH FISCAL YEAR THEREAFTER TO THE FISCAL YEAR COMMENCING IN THE
12 CALENDAR YEAR 1982 AND AT A RATE OF NINE AND ONE-HALF PER CENT
13 FOR EACH FISCAL YEAR COMMENCING IN THE CALENDAR YEAR 1982 AND
14 EACH FISCAL YEAR THEREAFTER: PROVIDED, HOWEVER, THAT SUCH
15 TAXABLE INCOME SHALL NOT INCLUDE INCOME FOR ANY PERIOD FOR WHICH
16 THE CORPORATION IS SUBJECT TO TAXATION UNDER ARTICLE IV: AND,
17 PROVIDED FURTHER, THAT NO PENALTY PRESCRIBED BY SUBSECTION (E)
18 OF SECTION 1202.1 SHALL BE ASSESSED AGAINST A CORPORATION FOR
19 THE ADDITIONAL TAX WHICH MAY BE DUE AS A RESULT OF THE INCREASE
20 IN TAX RATE FROM NINE AND ONE-HALF PER CENT TO TEN AND ONE-HALF
21 PER CENT IMPOSED RETROACTIVELY BY THIS SECTION FOR THE CALENDAR
22 YEAR 1977 OR FOR THE FISCAL YEAR COMMENCING IN 1977.

23 Section 4 3. The act of ~~March 4, 1971 (P.L. 6, No. 2)~~, known <—
24 as the ~~"Tax Reform Code of 1971,"~~ is amended by adding an <—
25 article ADDING ARTICLES to read: <—

26 ARTICLE XI-A

27 PUBLIC UTILITY REALTY TAX

28 Section 1101-A. Definitions.--The following words, terms and
29 phrases when used in this article shall have the meaning
30 ascribed to them in this section, except where the context

1 clearly indicates a different meaning:

2 (1) "Department." The Department of Revenue of the
3 Commonwealth of Pennsylvania.

4 (2) "Public utility." Any person, partnership, association,
5 corporation or other entity furnishing public utility service
6 under the jurisdiction of the Pennsylvania Public Utility
7 Commission or the corresponding regulatory agency of any other
8 state or of the United States; and any electric cooperative
9 corporation, municipality or municipality authority furnishing
10 public utility service, but shall not mean any public utility
11 furnishing public utility sewage services, or municipality or
12 municipality authority furnishing public utility services.

13 (3) "Utility realty." All lands, together with all
14 buildings, towers, smokestacks, dams, dikes, canals, cooling
15 towers, storage tanks, reactor structures, pump houses,
16 supporting foundations, enclosing structures, supporting
17 structures, containment structures, reactor containment outer
18 shells, reactor containment vessels, turbine buildings, recovery
19 tanks, solid waste area enclosures, primary auxiliary buildings,
20 containment auxiliary safeguard structures, fuel buildings,
21 decontamination buildings, and, all other structures AND <—
22 enclosures, ~~machinery and equipment~~ whatsoever which are <—
23 physically affixed, ~~directly or indirectly~~ to the land, no <—
24 matter how such structures AND enclosures, ~~machinery and~~ <—
25 ~~equipment~~ are designated and without regard to the
26 classification thereof for local real estate taxation purposes,
27 BUT NOT INCLUDING MACHINERY AND EQUIPMENT, WHETHER OR NOT HOUSED <—
28 WITHIN SUCH BUILDING, STRUCTURE OR ENCLOSURE, located within
29 this Commonwealth and owned by a public utility either directly
30 or by or through a subsidiary, which are used or are in the

course of development or construction for use, in the
furnishing, including producing, storing, distributing or
transporting, of public utility service and which are not
subject to local real estate taxation under any law in effect on
April 23, 1968: Provided, however, That the following specified
items, when directly used in the distribution or transportation <—
of a public utility product or service, shall be exempt from the
tax hereby imposed:

(i) Easements or similar interests.

(ii) Railroad rights-of-way and superstructures thereon.

(iii) Pole, transmission tower, pipe, rail or other lines
together with those items of machinery and equipment which are <—
solely appurtenant and ancillary to, and essential to the
operation of, such lines, whether or not said lines are attached
to the land or to any structure OR enclosure, machinery or <—
equipment which is physically affixed to the land. but the <—
exemption provided by this clause shall not include or extend to
any property used in the production or storage of the product or
service which is transported or distributed by, along or through
any such line.

(4) "State taxable value." The cost of utility realty, less
reserves for depreciation and depletion, as shown by the books
of account of a public utility: Provided, That for any public
utility which was not required to record annual depreciation on
its utility realty prior to enactment of section 503 of the
Public Utility Law or Title 66 Pa.C.S. § 1703 (relating to
depreciation accounts; reports), the depreciation deduction
prescribed in this definition shall be the book reserve or fifty
per cent of the book cost, whichever is greater.

(5) "Local taxing authority." A county, city, institution

district, borough, town, township or school district having
authority to impose taxes on real estate.

(6) "Realty tax equivalent." The total amount of taxes
which a local taxing authority could have imposed on utility
realty but for this article, and unless otherwise provided shall
be the product of the real estate property tax rate and the
assessed valuation of utility realty.

(7) "Total tax receipts." The actual amount collected by a
local taxing authority under all statutes authorizing the
imposition of taxes, but shall not include fines, penalties,
fees, licenses or receipts from any source other than taxes.

Section 1102-A. Imposition of Tax; Report; Interest and
Penalties.--(a) On or before the first day of June of 1970 and
of each year thereafter, every public utility shall pay to the
State Treasurer, through the Department of Revenue, a tax at the
rate of thirty mills upon each dollar of the State taxable value
of its utility realty at the end of the preceding calendar year.

(b) Each such payment shall be accompanied by a report, upon
oath of the owner or responsible officer of the public utility,
showing the amount and manner of computation of the State
taxable value upon which such payment is based.

(c) Payment of the tax hereby imposed may be enforced by any
means provided by law for the enforcement of payment of taxes to
the State. If the tax hereby imposed is not paid by the date
herein prescribed, or within any extension granted by the
department, the unpaid tax shall bear interest at the rate of
one per cent per month, and shall in addition be subject to a
penalty of five per cent of the amount of the tax, which penalty
may be waived or abated, in whole or in part, by the department
unless the public utility has acted in bad faith, negligently,

1 or with intent to defraud.

2 (d) This article shall not be construed to apply to nor
3 shall the tax be imposed upon any public utility furnishing any
4 public utility sewage services, or upon any municipality or
5 municipality authority furnishing any public utility services.

6 Section 1103-A. Surtax.--(a) On or before the sixtieth day
7 following the effective date hereof, every public utility shall
8 pay FOR THE 1979-1980 FISCAL YEAR OF THE COMMONWEALTH to the <—
9 State Treasurer, through the Department of Revenue, a tax at the
10 rate of ~~one hundred five~~ ONE HUNDRED THIRTY FIVE ONE HUNDRED <—
11 FIVE mills upon each dollar of the State taxable value of those
12 items of its utility realty at the end of calendar year 1978,
13 which were excluded from the tax imposed by ~~this article~~ THE ACT <—
14 OF MARCH 10, 1970 (P.L.168, NO.66), KNOWN AS THE "PUBLIC UTILITY
15 REALTY TAX ACT," prior to the adoption hereof and which become
16 subject to the tax under the provisions hereof.

17 (b) Each such payment shall be accompanied by a report
18 prepared in the manner prescribed by section 1102-A(b) with
19 respect to such items, and each such report and payment shall be
20 subject to the provisions of section 1102-A(c).

21 (c) The tax imposed by this section shall be in addition to
22 any other tax imposed by this article. ~~shall be paid into the~~ <—
23 ~~General Fund, shall not be subject to any of the provisions of~~
24 ~~section 1104 A, 1105 A, 1106 A or 1107 A and shall not be passed~~
25 ~~on to or collected from the customers of any utility in the form~~
26 ~~of a rate increase, surcharge or in any other manner.~~

27 (D) ON OR BEFORE THE FIRST DAY OF SEPTEMBER, 1980, THE <—
28 DEPARTMENT SHALL ASCERTAIN THE TOTAL AMOUNT OF ALL MONEYS
29 REFUNDED OR CREDITED TO PUBLIC UTILITIES AS A RESULT OF
30 PETITIONS FOR REFUND ARISING OUT OF OR SUPPORTED BY THE

1 INTERPRETATION OF THE DEFINITION OF "UTILITY REALTY" PREVIOUSLY
2 CONTAINED IN THE ACT OF MARCH 10, 1970 (P.L.168, NO.66), KNOWN
3 AS THE "PUBLIC UTILITY REALTY TAX ACT," AS CONSTRUED BY THE
4 DECISION OF THE SUPREME COURT OF PENNSYLVANIA IN COMMONWEALTH V.
5 PHILADELPHIA ELECTRIC COMPANY, 472 PA. 530 (1977), TOGETHER WITH
6 THE AMOUNT OF POTENTIAL REFUNDS SOUGHT BY PUBLIC UTILITIES IN
7 TIMELY PETITIONS WHICH ARE PENDING BEFORE THE BOARD OF FINANCE
8 AND REVENUE ARISING OUT OF OR SUPPORTED BY SAID DECISION. SHOULD
9 THE SURTAX IMPOSED BY THIS SECTION PRODUCE AN AMOUNT OF REVENUE
10 IN EXCESS OF THE TOTAL OBLIGATION OF THE COMMONWEALTH
11 ASCERTAINED IN THE MANNER HEREIN STATED, THE DEPARTMENT OF
12 REVENUE SHALL DETERMINE THE NEAREST MILLAGE RATE CALCULATED TO
13 PRODUCE THE AMOUNT OF SAID OBLIGATIONS, AND SHALL REDUCE AND
14 RECALCULATE THE SURTAX PAID BY THE SAID UTILITIES UPON THE BASIS
15 OF SUCH ADJUSTMENT, AND SHALL NOTIFY EACH SUCH UTILITY OF ITS
16 REDUCED SURTAX LIABILITY. EACH SUCH UTILITY SHALL THEN BE
17 ENTITLED TO APPLY FOR A CASH REFUND OR CREDIT IN THE MANNER
18 PROVIDED BY LAW AND REGULATION.

19 (E) IN ORDER TO IMPLEMENT THE PROVISIONS OF SUBSECTION (D),
20 NOTWITHSTANDING ANY PROVISION OF SECTION 503 OF THE ACT OF APRIL
21 9, 1929 (P.L.343, NO.176), KNOWN AS THE "FISCAL CODE," WHICH MAY
22 ALLOW A MORE EXTENDED TIME FOR FILING, NO PETITION FOR REFUND OF
23 THE TAX IMPOSED BY THE ACT OF MARCH 10, 1970 (P.L.168, NO.66),
24 KNOWN AS THE "PUBLIC UTILITY REALTY TAX ACT," ARISING OUT OF OR
25 SUPPORTED BY THE INTERPRETATION OF THE PREVIOUS DEFINITION OF
26 "UTILITY REALTY" IN THE "PUBLIC UTILITY REALTY TAX ACT," AS
27 CONSTRUED BY THE DECISION OF THE SUPREME COURT OF PENNSYLVANIA
28 IN COMMONWEALTH V. PHILADELPHIA ELECTRIC COMPANY, 472 PA. 530
29 (1977) SHALL BE TIMELY UNLESS SAID PETITION HAS BEEN FILED WITH
30 THE BOARD OF FINANCE AND REVENUE ON OR BEFORE THE FIRST DAY OF

1 JULY 1980.

2 Section 1104-A. Effect of Payment; Additional Assessment.--

3 (a) Payment of the tax imposed by THE ACT OF MARCH 10, 1970 <—
4 (P.L.168, NO.66), KNOWN AS THE "PUBLIC UTILITY REALTY TAX ACT,"
5 OR SECTION 1102-A, OR section 1103-A, and the distribution to
6 local taxing authorities prescribed by section 1107-A, shall be
7 in lieu of local taxes upon utility realty, as contemplated by
8 Article VIII, section 4, of the Constitution of Pennsylvania.

9 (b) If in any calendar year the amount determined by the
10 department pursuant to section 1107-A(a)(2) shall exceed the
11 total amount of tax collected pursuant to section 1102-A(a), the
12 department shall determine the ratio which the amount of such
13 excess bears to the total State taxable value of all utility
14 realty reported to it pursuant to section 1102-A(b). The
15 department shall notify each reporting public utility of such
16 ratio, and it shall be the duty of such public utility, within
17 forty-five days thereafter, to pay to the State Treasurer,
18 through the Department of Revenue, an additional amount of tax
19 equal to the product of (1) such ratio and (2) the State taxable
20 value shown in its report required by section 1102-A(b). The
21 provisions of section 1102-A(c) shall be applicable to such
22 additional amount of tax.

23 Section 1105-A. Local Assessment of Utility Realty; Initial
24 Assessment; Procedure and Appeals.--(a) It shall be the duty of
25 the several elected and appointed assessors of real property to
26 assess and value all utility realty in the same manner as is
27 provided by law for the assessment and valuation of real estate.

28 (b) Such utility realty shall be initially assessed on or
29 before October 1, 1970, whichever is later, and thereafter shall
30 be assessed or reassessed at the same time and in the same

1 manner as real estate.

2 (c) A public utility may appeal from the assessment of its
3 utility realty, including the initial assessment, in the manner
4 provided by law for appeals from assessment of real estate. If
5 appeals are pending at the time a local taxing authority
6 prepares its report for submission to the department as
7 prescribed by section 1106-A, the report shall include as the
8 assessment for the utility realty appealed the amount which the
9 public utility has stipulated or alleged as the proper
10 assessment.

11 Section 1106-A. Reports by Local Taxing Authorities.--(a)
12 On or before the first day of April of 1971 and of each year
13 thereafter, each local taxing authority shall submit to the
14 department:

15 (1) The name and address of each public utility owning
16 utility realty within its jurisdiction, and the assessed value
17 of such utility realty.

18 (2) Its real estate tax rate for its current fiscal year.

19 (3) The realty tax equivalent, which is the assessed value
20 of clause (1) multiplied by the tax rate of clause (2).

21 (4) Its total tax receipts for its last completed fiscal
22 year.

23 (5) Any adjustment to the assessed values, tax rates, realty
24 tax equivalents or total tax receipts previously reported
25 pursuant to clauses (1) to (4).

26 (b) If a local taxing authority shall fail to file the
27 report required by subsection (a) by the date therein
28 prescribed, or within any extension granted by the department,
29 it shall forfeit its right to share in the next-ensuing
30 distribution made pursuant to section 1107-A.

1 Section 1107-A. Distribution to Local Taxing Authorities.--

2 (a) From the reports received by it in each year pursuant to
3 section 1106-A, the department shall determine:

4 (1) The total tax receipts shown in all such reports.

5 (2) The total realty tax equivalent shown in all such
6 reports.

7 (b) On or before the first day of October of 1971 and of
8 each year thereafter, the department shall distribute to each
9 reporting local taxing authority its share of the total realty
10 tax equivalent determined pursuant to subsection (a)(2), which
11 share shall be the ratio which the total tax receipts reported
12 by that local taxing authority bear to the total tax receipts
13 determined pursuant to subsection (a)(1).

14 (c) For the purpose of making such payment, the department
15 shall make requisition therefor in the manner prescribed by The
16 Fiscal Code.

17 Section 1108-A. Legislative Intent.--(a) It is the
18 legislative intent that the tax imposed by this act shall be in
19 addition to any tax now or hereafter imposed upon the gross
20 receipts of public utilities under the act of June 1, 1889
21 (P.L.420, No.332), and this act shall not be construed in any
22 manner as to constitute a replacement for or a repealer of the
23 above cited act.

24 (b) It is specifically declared as the legislative intent of
25 the General Assembly that for purposes of imposition or
26 nonimposition of tax herein, that this Article XI-A shall not be
27 construed or determined in any way by any court of record that
28 this article is in pari materia with any county assessment law
29 heretofore or hereafter enacted, nor shall such courts have the
30 authority to construe the tax assessment base relating to

industrial realty classification under such county assessment
laws as being in conformity with or in any way applicable to the
utility realty tax assessment base as defined in this article.
Accordingly, whether or not public utility property is subject
to tax or is ~~excluded~~ EXEMPTED from tax under this article shall <—
be determined solely by the application of the term "utility
realty," as that term is specifically defined by the General
Assembly under section 1101-A(4).

ARTICLE XI-B <—

FUEL TAXES

PART I

LIQUID FUELS TAX

SECTION 1101-B. IMPOSITION OF ADDITIONAL TAX.--IN ADDITION
TO THE TAX IMPOSED UPON LIQUID FUELS BY THE ACT OF MAY 21, 1931
(P.L.149, NO.105), KNOWN AS "THE LIQUID FUELS TAX ACT," AND BY
THE ACT OF JULY 12, 1974 (P.L.458, NO.161), AN ADDITIONAL STATE
TAX IN AN AMOUNT OF TWO CENTS (2¢) PER GALLON, OR FRACTIONAL
PART THEREOF, IS HEREBY IMPOSED AND ASSESSED UPON ALL LIQUID
FUELS USED OR SOLD AND DELIVERED BY DISTRIBUTORS WITHIN THIS
COMMONWEALTH EXCEPT AS HEREIN PROVIDED. THE TAX HEREIN IMPOSED
AND ASSESSED SHALL BE COLLECTED BY AND PAID TO THE COMMONWEALTH
ONLY ONCE IN RESPECT TO ANY LIQUID FUELS. THE TAX IMPOSED BY
THIS SUBSECTION SHALL NOT BE IMPOSED UPON LIQUID FUELS:

(1) USED OR SOLD AND DELIVERED THAT ARE NOT WITHIN THE
TAXING POWER OF THIS COMMONWEALTH UNDER THE COMMERCE CLAUSE OF
THE UNITED STATES CONSTITUTION.

(2) USED AS FUEL IN AIRCRAFT OR AIRCRAFT ENGINES.

(3) DELIVERED TO AND USED BY THE UNITED STATES GOVERNMENT ON
PRESENTATION OF A DULY AUTHORIZED UNITED STATES GOVERNMENT
EXEMPTION CERTIFICATE OR OTHER EVIDENCE SATISFACTORY TO THE

1 DEPARTMENT.

2 (4) DELIVERED TO AND USED BY THE COMMONWEALTH.

3 (5) DELIVERED TO AND USED BY ANY POLITICAL SUBDIVISION.

4 (6) DELIVERED TO AND USED BY ANY SECOND CLASS COUNTY PORT
5 AUTHORITY.

6 (7) DELIVERED TO AND USED BY ANY NONPUBLIC SCHOOL NOT
7 OPERATED FOR PROFIT ON PRESENTATION OF EVIDENCE SATISFACTORY TO
8 THE DEPARTMENT.

9 (8) DELIVERED TO AND USED BY ANY VOLUNTEER FIRE COMPANY,
10 VOLUNTEER AMBULANCE SERVICE OR VOLUNTEER RESCUE SQUAD.

11 (9) USED AS FUEL IN ANY NONLICENSED POWERED FARM MACHINERY
12 FOR PURPOSES RELATING TO THE ACTUAL PRODUCTION OF FARM PRODUCTS
13 OR ANY LICENSED FARM TRACTOR WHEN USED OFF THE HIGHWAYS FOR
14 AGRICULTURAL PURPOSES OR ANY NONLICENSED FARM TRACTOR.

15 SECTION 1102-B. PAYMENT TO MOTOR LICENSE FUND.--
16 NOTWITHSTANDING THE PROVISIONS OF ANY OTHER ACT, ALL TAX MONEYS
17 COLLECTED PURSUANT TO SECTION 1101-B AND ALL PENALTIES AND
18 INTEREST SHALL BE PAID INTO THE MOTOR LICENSE FUND.

19 PART II

20 FUEL USE TAX

21 SECTION 1121-B. ADDITIONAL TAX IMPOSED.--IN ADDITION TO THE
22 TAX IMPOSED BY THE ACT OF JANUARY 14, 1952 (1951 P.L.1965,
23 NO.550), KNOWN AS THE "FUEL USE TAX ACT," THERE IS HEREBY
24 IMPOSED A TAX AT A RATE EQUIVALENT TO THAT IMPOSED UNDER PART I
25 OF THIS ARTICLE.

26 Section ~~2~~ 4. The act of March 10, 1970 (P.L.168, No.66), <—
27 known as the "Public Utility Realty Tax Act," is repealed.

28 SECTION 5. SECTION 8, ACT OF DECEMBER 21, 1977 (P.L.330, <—
29 NO.98), ENTITLED "AN ACT AMENDING THE ACT OF MARCH 4, 1971
30 (P.L.6, NO.2), ENTITLED 'AN ACT RELATING TO TAX REFORM AND STATE

1 Section 4 7. This act shall take effect immediately and THE <—
2 PROVISIONS OF SECTION 3 ADDING ARTICLE XI-A shall be retroactive
3 to January 1, 1978.