

---

THE GENERAL ASSEMBLY OF PENNSYLVANIA

---

**HOUSE BILL**  
**No. 1529** Session of  
1981

---

INTRODUCED BY KUKOVICH, MICHLOVIC, WACHOB, MURPHY, COHEN,  
PISTELLA, VAN HORNE, PETRARCA, MORRIS, HOEFFEL, SHOWERS,  
DOMBROWSKI, BROWN, EVANS, STUBAN, RICHARDSON, SWAIM,  
J. D. WILLIAMS, CLARK, WAMBACH, WHITE AND GALLAGHER, JUNE 15,  
1981

---

REFERRED TO COMMITTEE ON FINANCE, JUNE 15, 1981

---

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 certain corporate taxes on  
11 integrated oil companies.

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

14 Section 1. Section 401, act of March 4, 1971 (P.L.6, No.2),  
15 known as the "Tax Reform Code of 1971," clause (3) amended  
16 September 9, 1971 (P.L.437, No.105) and May 5, 1981 (No.14), is  
17 amended to read:

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

1       (1) "Corporation." A corporation having capital stock,  
2 joint-stock association, or limited partnership either organized  
3 under the laws of this Commonwealth, the United States, or any  
4 other state, territory, or foreign country, or dependency, and  
5 doing business in this Commonwealth, or having capital or  
6 property employed or used in this Commonwealth by or in the name  
7 of itself, or any person, partnership, association, limited  
8 partnership, joint-stock association or corporation. The word  
9 "corporation" shall not include building and loan associations,  
10 banks, bank and trust companies, national banks, savings  
11 institutions, trust companies, insurance and surety companies.

12       (2) "Department." The Department of Revenue of this  
13 Commonwealth.

14       (3) "Taxable income." 1. In case the entire business of the  
15 corporation is transacted within this Commonwealth, for any  
16 taxable year which begins on or after January 1, 1971, taxable  
17 income for the calendar year or fiscal year as returned to and  
18 ascertained by the Federal Government, or in the case of a  
19 corporation participating in the filing of consolidated returns  
20 to the Federal Government, the taxable income which would have  
21 been returned to and ascertained by the Federal Government if  
22 separate returns had been made to the Federal Government for the  
23 current and prior taxable years, subject, however, to any  
24 correction thereof, for fraud, evasion, or error as finally  
25 ascertained by the Federal Government: Provided, That additional  
26 deductions shall be allowed from taxable income on account of  
27 any dividends received from any other corporation but only to  
28 the extent that such dividends are included in taxable income as  
29 returned to and ascertained by the Federal Government: Provided  
30 further, That additional deductions shall be allowed from

1 taxable income in an amount equal to the amount of any reduction  
2 in an employer's deduction for wages and salaries as required by  
3 section 280C of the Internal Revenue Code as a result of the  
4 employer taking a credit for "new jobs" pursuant to section 44B  
5 of the Internal Revenue Code: Provided further, That taxable  
6 income will include the sum of the following tax preference  
7 items as defined in section 57 of the Internal Revenue Code, as  
8 amended, (i) excess investment interest; (ii) accelerated  
9 depreciation on real property; (iii) accelerated depreciation on  
10 personal property subject to a net lease; (iv) amortization of  
11 certified pollution control facilities; (v) amortization of  
12 railroad rolling stock; (vi) stock options; (vii) reserves for  
13 losses on bad debts of financial institutions; (viii) and  
14 capital gains but only to the extent that such preference items  
15 are not included in "taxable income" as returned to and  
16 ascertained by the Federal Government. No deduction shall be  
17 allowed for net operating losses sustained by the corporation  
18 during any other fiscal or calendar year: Provided, That for the  
19 calendar year 1981 and fiscal years beginning in 1981 and  
20 thereafter, a net operating loss, as provided by section 172 of  
21 the Internal Revenue Code, shall be allowed as a deduction and a  
22 carryover pursuant to the following schedule:

23	Net Operating Loss for Year	Carryover
24	1981	1 year
25	1982	2 years
26	1983 and thereafter	3 years

27 The net operating loss shall be carried to the earliest of the  
28 taxable years to which, under this schedule, such loss may first  
29 be carried. In the case of regulated investment companies as  
30 defined by the Internal Revenue Code of 1954, as amended,

1 "taxable income" shall be investment company taxable income as  
2 defined in the aforesaid Internal Revenue Code of 1954, as  
3 amended. In arriving at "taxable income" for Federal tax  
4 purposes for any taxable year beginning on or after January 1,  
5 1981, no deduction shall be allowed for taxes imposed on or  
6 measured by net income.

7 2. In case the entire business of any corporation, other  
8 than a corporation engaged in doing business as a regulated  
9 investment company as defined by the Internal Revenue Code of  
10 1954, as amended, is not transacted within this Commonwealth,  
11 the tax imposed by this article shall be based upon such portion  
12 of the taxable income of such corporation for the fiscal or  
13 calendar year, as defined in subclause 1 hereof, and may be  
14 determined as follows:

15 (a) Division of Income.

16 (1) As used in this definition, unless the context otherwise  
17 requires:

18 (A) "Business income" means income arising from transactions  
19 and activity in the regular course of the taxpayer's trade or  
20 business and includes income from tangible and intangible  
21 property if the acquisition, management, and disposition of the  
22 property constitute integral parts of the taxpayer's regular  
23 trade or business operations.

24 (B) "Commercial domicile" means the principal place from  
25 which the trade or business of the taxpayer is directed or  
26 managed.

27 (C) "Compensation" means wages, salaries, commissions and  
28 any other form of remuneration paid to employees for personal  
29 services.

30 (D) "Nonbusiness income" means all income other than

1 business income.

2 (E) "Sales" means all gross receipts of the taxpayer not  
3 allocated under this definition other than gross receipts  
4 heretofore or hereafter received from the sale, redemption,  
5 maturity or exchange of securities, except those held by the  
6 taxpayer primarily for sale to customers in the ordinary course  
7 of its trade or business.

8 (F) "State" means any state of the United States, the  
9 District of Columbia, the Commonwealth of Puerto Rico, any  
10 territory or possession of the United States, and any foreign  
11 country or political subdivision thereof.

12 (G) "This state" means the Commonwealth of Pennsylvania or,  
13 in the case of application of this definition to the  
14 apportionment and allocation of income for local tax purposes,  
15 the subdivision or local taxing district in which the relevant  
16 tax return is filed.

17 (2) Any taxpayer having income from business activity which  
18 is taxable both within and without this State other than  
19 activity as a corporation whose allocation and apportionment of  
20 income is specifically provided for in section 401 (3) 2 (b) (c)  
21 [and], (d) and (e) shall allocate and apportion taxable income  
22 as provided in this definition.

23 (3) For purposes of allocation and apportionment of income  
24 under this definition, a taxpayer is taxable in another state if  
25 in that state he is subject to a net income tax, a franchise tax  
26 measured by net income, a franchise tax for the privilege of  
27 doing business, or a corporate stock tax, or that state has  
28 jurisdiction to subject the taxpayer to a net income tax  
29 regardless of whether, in fact, the state does or does not.

30 (4) Rents and royalties from real or tangible personal

1 property, gains, interest, patent or copyright royalties, to the  
2 extent that they constitute nonbusiness income, shall be  
3 allocated as provided in paragraphs (5) through (8).

4 (5) (A) Net rents and royalties from real property located  
5 in this State are allocable to this State.

6 (B) Net rents and royalties from tangible personal property  
7 are allocable to this State if and to the extent that the  
8 property is utilized in this State, or in their entirety if the  
9 taxpayer's commercial domicile is in this State and the taxpayer  
10 is not organized under the laws of or taxable in the state in  
11 which the property is utilized.

12 (C) The extent of utilization of tangible personal property  
13 in a state is determined by multiplying the rents and royalties  
14 by a fraction, the numerator of which is the number of days of  
15 physical location of the property in the state during the rental  
16 or royalty period in the taxable year and the denominator of  
17 which is the number of days of physical location of the property  
18 everywhere during all rental or royalty periods in the taxable  
19 year. If the physical location of the property during the rental  
20 or royalty period is unknown or unascertainable by the taxpayer,  
21 tangible personal property is utilized in the state in which the  
22 property was located at the time the rental or royalty payer  
23 obtained possession.

24 (6) (A) Gains and losses from sales or other disposition of  
25 real property located in this State are allocable to this State.

26 (B) Gains and losses from sales or other disposition of  
27 tangible personal property are allocable to this State if the  
28 property had a situs in this State at the time of the sale, or  
29 the taxpayer's commercial domicile is in this State and the  
30 taxpayer is not taxable in the state in which the property had a

1 situs.

2 (C) Gains and losses from sales or other disposition of  
3 intangible personal property are allocable to this State if the  
4 taxpayer's commercial domicile is in this State.

5 (7) Interest is allocable to this State if the taxpayer's  
6 commercial domicile is in this State.

7 (8) (A) Patent and copyright royalties are allocable to  
8 this State if and to the extent that the patent or copyright is  
9 utilized by the payer in this State, or if and to the extent  
10 that the patent copyright is utilized by the payer in a state in  
11 which the taxpayer is not taxable and the taxpayer's commercial  
12 domicile is in this State.

13 (B) A patent is utilized in a state to the extent that it is  
14 employed in production, fabrication, manufacturing, or other  
15 processing in the state or to the extent that a patented product  
16 is produced in the state. If the basis of receipts from patent  
17 royalties does not permit allocation to states or if the  
18 accounting procedures do not reflect states of utilization, the  
19 patent is utilized in the state in which the taxpayer's  
20 commercial domicile is located.

21 (C) A copyright is utilized in a state to the extent that  
22 printing or other publication originates in the state. If the  
23 basis of receipts from copyright royalties does not permit  
24 allocation to states or if the accounting procedures do not  
25 reflect states of utilization, the copyright is utilized in the  
26 state in which the taxpayer's commercial domicile is located.

27 (9) All business income shall be apportioned to this State  
28 by multiplying the income by a fraction, the numerator of which  
29 is the property factor plus the payroll factor plus the sales  
30 factor, and the denominator of which is three.

1       (10) The property factor is a fraction, the numerator of  
2 which is the average value of the taxpayer's real and tangible  
3 personal property owned or rented and used in this State during  
4 the tax period and the denominator of which is the average value  
5 of all the taxpayer's real and tangible personal property owned  
6 or rented and used during the tax period but shall not include  
7 the security interest of any corporation as seller or lessor in  
8 personal property sold or leased under a conditional sale,  
9 bailment lease, chattel mortgage or other contract providing for  
10 the retention of a lien or title as security for the sales price  
11 of the property.

12       (11) Property owned by the taxpayer is valued at its  
13 original cost. Property rented by the taxpayer is valued at  
14 eight times the net annual rental rate. Net annual rental rate  
15 is the annual rental rate paid by the taxpayer less any annual  
16 rental rate received by the taxpayer from subrentals.

17       (12) The average value of property shall be determined by  
18 averaging the values at the beginning and ending of the tax  
19 period but the tax administrator may require the averaging of  
20 monthly values during the tax period if reasonably required to  
21 reflect properly the average value of the taxpayer's property.

22       (13) The payroll factor is a fraction, the numerator of  
23 which is the total amount paid in this State during the tax  
24 period by the taxpayer for compensation and the denominator of  
25 which is the total compensation paid everywhere during the tax  
26 period.

27       (14) Compensation is paid in this State if:

28       (A) The individual's service is performed entirely within  
29 the State;

30       (B) The individual's service is performed both within and



1 without this State, but the service performed without the State  
2 is incidental to the individual's service within this State; or

3 (C) Some of the service is performed in this State and the  
4 base of operations or if there is no base of operations, the  
5 place from which the service is directed or controlled is in  
6 this State, or the base of operations or the place from which  
7 the service is directed or controlled is not in any state in  
8 which some part of the service is performed, but the  
9 individual's residence is in this State.

10 (15) The sales factor is a fraction, the numerator of which  
11 is the total sales of the taxpayer in this State during the tax  
12 period, and the denominator of which is the total sales of the  
13 taxpayer everywhere during the tax period.

14 (16) Sales of tangible personal property are in this State  
15 if the property is delivered or shipped to a purchaser, within  
16 this State regardless of the f.o.b. point or other conditions of  
17 the sale.

18 (17) Sales, other than sales of tangible personal property,  
19 are in this State if:

20 (A) The income-producing activity is performed in this  
21 State; or

22 (B) The income-producing activity is performed both in and  
23 outside this State and a greater proportion of the income-  
24 producing activity is performed in this State than in any other  
25 state, based on costs of performance.

26 (18) If the allocation and apportionment provisions of this  
27 definition do not fairly represent the extent of the taxpayer's  
28 business activity in this State, the taxpayer may petition the  
29 Secretary of Revenue or the Secretary of Revenue may require, in  
30 respect to all or any part of the taxpayer's business activity:

1 (A) Separate accounting;

2 (B) The exclusion of any one or more of the factors;

3 (C) The inclusion of one or more additional factors which  
4 will fairly represent the taxpayer's business activity in this  
5 State; or

6 (D) The employment of any other method to effectuate an  
7 equitable allocation and apportionment of the taxpayer's income.

8 (b) Railroad, Truck, Bus or Airline Companies.

9 (1) All business income of railroad, truck, bus or airline  
10 companies shall be apportioned to this Commonwealth by  
11 multiplying the income by a fraction, the numerator of which is  
12 the taxpayer's total revenue miles within this Commonwealth  
13 during the tax period and the denominator of which is the total  
14 revenue miles of the taxpayer everywhere during the tax period.  
15 For purposes of this paragraph revenue mile shall mean the  
16 average receipts derived from the transportation by the taxpayer  
17 of persons or property one mile. Where revenue miles are derived  
18 from the transportation of both persons and property, the  
19 revenue mile fractions attributable to each such class of  
20 transportation shall be computed separately, and the average of  
21 the two fractions, weighted in accordance with the ratio of  
22 total receipts from each such class of transportation everywhere  
23 to total receipts from both such classes of transportation  
24 everywhere, shall be used in apportioning income to this  
25 Commonwealth.

26 (2) Nonbusiness income of railroad, truck, bus or airline  
27 companies shall be allocated as provided in paragraphs (5)  
28 through (8) of phrase (a) of subclause 2 of the definition of  
29 taxable income.

30 (c) Pipeline or Natural Gas Companies.

1       (1) All business income of pipeline companies shall be  
2 apportioned to this Commonwealth by multiplying the income by a  
3 fraction, the numerator of which is the revenue ton miles,  
4 revenue barrel miles or revenue cubic feet miles within this  
5 Commonwealth during the tax period and the denominator of which  
6 is the total revenue ton miles, revenue barrel miles or the  
7 revenue cubic feet miles of the taxpayer everywhere during the  
8 tax period. For purposes of this paragraph a revenue ton mile,  
9 revenue barrel mile or a revenue cubic foot mile shall mean  
10 respectively the receipts derived from the transportation by the  
11 taxpayer of one ton of solid property, one barrel of liquid  
12 property or one cubic foot of gaseous property transported one  
13 mile.

14       (2) All business income of natural gas companies subject to  
15 regulation by the Federal Power Commission or by the  
16 Pennsylvania Public Utility Commission shall be apportioned to  
17 this Commonwealth by multiplying the income by a fraction, the  
18 numerator of which shall be the cubic foot capacity of the  
19 taxpayer's pipelines in this Commonwealth, and the denominator  
20 of which shall be the cubic foot capacity of the taxpayer's  
21 pipelines everywhere, at the end of the tax period. For the  
22 purpose of this paragraph, the cubic foot capacity of a pipeline  
23 shall be determined by multiplying the square of its radius (in  
24 feet) by its length (in feet).

25       (3) Nonbusiness income of pipeline companies or natural gas  
26 companies subject to regulation by the Federal Power Commission  
27 or by the Pennsylvania Public Utility Commission shall be  
28 allocated as provided in paragraphs (5) through (8) of phrase  
29 (a) of subclause 2 of the definition of taxable income.

30       (d) Water Transportation Companies.

1       (1) Water Transportation Companies Operating on High Seas.

2 All business income of water transportation companies operating  
3 on high seas shall be apportioned to this Commonwealth by  
4 multiplying the business income by a fraction, the numerator of  
5 which is the number of port days spent inside the Commonwealth  
6 and the denominator of which is the total number of port days  
7 spent inside and outside of the Commonwealth. The term "port  
8 days" does not include periods when the ships are not in use  
9 because of strikes or withheld from service for repair or  
10 because of seasonal reduction of services. Days in port are  
11 computed by dividing the aggregate number of hours in all ports  
12 by twenty-four.

13       (2) Water Transportation Companies Operating in Inland

14 Waters. All business income of water transportation companies  
15 operating on inland waters shall be apportioned to this  
16 Commonwealth by multiplying the business income by a fraction,  
17 the numerator of which is the taxpayer's total revenue miles  
18 within this Commonwealth during the tax period and the  
19 denominator of which is the total revenue miles of the taxpayer  
20 everywhere during the tax period. In the determination of  
21 revenue miles, one-half of the mileage of all navigable  
22 waterways bordering between the Commonwealth and another state  
23 shall be considered Commonwealth miles. For purposes of this  
24 paragraph, revenue miles shall mean the revenue receipts derived  
25 from the transportation by the taxpayer of persons or property  
26 one mile.

27       (3) Nonbusiness income of water transportation companies  
28 shall be allocated as provided in paragraphs (5) through (8) of  
29 phrase (a) of subclause 2 of the definition of taxable income.

30       (e) Integrated Oil Companies.

1     (1) As used in this definition, unless the context otherwise  
2 requires:

3     (A) "Allocable income" means a fraction of a subsidiary's  
4 taxable income equal to the fraction of the subsidiary's voting  
5 stock owned by an integrated oil company.

6     (B) "Excess taxable income" means taxable income as computed  
7 under section 401(3)2(e)(2) minus normal taxable income as  
8 computed under section 401(3)2(e)(1)(D). However, excess taxable  
9 income shall be adjusted to exclude any increase or decrease in  
10 taxable income that is solely attributable to a statutory or  
11 regulatory change in the method of determining taxable income  
12 for Federal purposes which change is implemented subsequent to  
13 the enactment of this amendatory act.

14     (C) "Integrated oil company" means a corporation engaged in  
15 all of the following activities in respect to petroleum or  
16 products made from petroleum: extraction, production, refining,  
17 transportation, distribution and marketing. In determining  
18 whether a particular corporation is an integrated oil company,  
19 the department shall treat as one company the parent corporation  
20 and its subsidiaries.

21     (D) "Normal taxable income" means the in-state sales of the  
22 company for the current year under this chapter with the  
23 modifications under section 401(3)2(e)(2) multiplied by an  
24 amount determined by dividing the company's in-state taxable  
25 income for taxable year 1978 by the company's in-state sales for  
26 taxable year 1978. If a company's calendar or fiscal year 1978  
27 taxable income, as determined under the methods described in  
28 section 401(3)2(e)(2), fell below its calendar or fiscal year  
29 1977 taxable income as computed by these methods and the  
30 integrated oil company has received the written permission of

1 the department following full disclosure of all information  
2 requested by the department, the company may use an adjusted or  
3 alternative base year instead of using in-state taxable income  
4 and in-state sales for taxable year 1978. A company computing an  
5 alternative base year may either recalculate fiscal or calendar  
6 year 1978 taxable income without regard for any extraordinary or  
7 nonrecurring expenses; or using taxable income for a base fiscal  
8 or calendar year preceding 1978, increase it by an amount that  
9 reflects that increase in taxable income that customarily would  
10 have occurred between the base year chosen and fiscal or  
11 calendar year 1978. "In-state sales" is the amount the  
12 corporation reports as the numerator of the sales factor under  
13 section 401(3)2(a)(15). "In-state taxable income" for the  
14 current calendar or fiscal year is that taxable income  
15 apportioned to this State under section 401(3)2(e)(2). "In-state  
16 taxable income" for calendar or fiscal year 1978 is that taxable  
17 income the corporation would have reported in 1978 if it had  
18 computed its income under section 401(3)2(e)(2).

19 (E) "Subsidiary" means any domestic or foreign corporation  
20 more than fifty per cent of the voting stock of which is owned  
21 by an integrated oil company, and which engages in at least one  
22 of the activities under section 401(3)2(e)(1)(C).

23 (2) The "taxable income" of any corporation which  
24 constitutes an integrated oil company within the meaning of this  
25 section shall be the combined taxable income of the parent  
26 corporation and the allocable income of its subsidiaries, if  
27 any. If a subsidiary constituting part of an integrated oil  
28 company does business in this State, the allocable income of  
29 that subsidiary shall be combined with the taxable income of the  
30 parent corporation of the integrated oil company and the

1 allocable income of all its subsidiaries; except that only that  
2 portion of the parent's taxable income attributable to the  
3 petroleum activities enumerated under section 401(3)2(e)(1)(C)  
4 shall be combined. If any subsidiary, in addition to its  
5 petroleum activities enumerated under section 401(3)2(e)(1)(C),  
6 engaged in activities unrelated to such petroleum activities,  
7 only that allocable income attributable to the petroleum  
8 activities shall be combined; however, any income derived by  
9 parent or subsidiary corporation of an integrated oil company  
10 from the production, transportation, distribution or marketing  
11 of natural gas shall also be combined in the same manner  
12 provided for petroleum activities. In computing the denominators  
13 of the property, payroll and sales factors under section  
14 401(3)2(a), the taxpayer shall include amounts of property,  
15 payroll and sales associated with all the combined income of the  
16 parent corporation and its subsidiaries. Except as specifically  
17 modified in this definition, "taxable income" for any  
18 corporation which constitutes an integrated oil company shall be  
19 "taxable income" as defined and determined pursuant to section  
20 401(3)2(a). The requirement of a combined report for integrated  
21 oil companies shall apply notwithstanding any other provision of  
22 this act. Taxable income shall include any amount currently  
23 deductible for Federal tax purposes for intangible drilling and  
24 development costs as defined under section 263(c) of the  
25 Internal Revenue Code, as amended to the effective date of this  
26 amendatory act. All intangible drilling and development costs  
27 associated with a productive well shall be capitalized over the  
28 life of the well.

29       3. In case the entire business of a corporation which has  
30 filed a timely election and has qualified to be taxed as a

1 regulated investment company under the provisions of the  
2 Internal Revenue Code of 1954, as amended, is not transacted  
3 within this Commonwealth, the tax imposed by this article shall  
4 be based upon such portion of the taxable income of such  
5 corporation for the fiscal or calendar year as defined in  
6 subclause 1 hereof, as shall be attributable to business  
7 transacted within this Commonwealth by multiplying such taxable  
8 income by a fraction, the numerator of which is the sum of the  
9 corporation's gross receipts from (i) sales of its own shares to  
10 Pennsylvania investors and (ii) sales of its portfolio  
11 securities, where the orders for such sales are placed with or  
12 credited to Pennsylvania offices of registered securities  
13 dealers and the denominator of which fraction is the  
14 corporation's total gross receipts from (i) sales of its own  
15 shares and (ii) sales of its portfolio securities. Pennsylvania  
16 investors shall mean individuals residing in Pennsylvania at the  
17 time of the sale or corporations or other entities having their  
18 principal place of business located in Pennsylvania at such  
19 time.

20 (4) "Person." Every natural person, association or  
21 corporation. Whenever used in any clause prescribing and  
22 imposing a fine or imprisonment, or both, the term "person," as  
23 applied to associations, shall mean the partners or members  
24 thereof, and as applied to corporations the officers thereof.

25 Section 2. Section 402 of the act, amended May 5, 1981  
26 (No.14), is amended to read:

27 Section 402. Imposition of Tax.--(a) Every corporation  
28 shall be subject to, and shall pay for the privilege of doing  
29 business in this Commonwealth, or having capital or property  
30 employed or used in this Commonwealth, by or in the name of



1 itself, or any person, partnership, association, limited  
2 partnership, joint-stock association, or corporation, a State  
3 excise tax at the rate of twelve per cent per annum upon each  
4 dollar of taxable income of such corporation received by, and  
5 accruing to, such corporation during the calendar year 1971 and  
6 the first six months of 1972 and at the rate of eleven per cent  
7 per annum upon each dollar of taxable income of such corporation  
8 received by, and accruing to, such corporation during the second  
9 six months of calendar year 1972 through the calendar year 1973  
10 and at the rate of nine and one-half per cent per annum upon  
11 each dollar of taxable income of such corporation received by,  
12 and accruing to, such corporation during the calendar years  
13 1974, 1975 and 1976 and at the rate of ten and one-half per cent  
14 per annum upon each dollar of taxable income of such corporation  
15 received by, and accruing to, such corporation during the  
16 calendar year 1977 and each calendar year thereafter to the  
17 beginning of calendar year 1984 and at a rate of nine and one-  
18 half per cent for each calendar year thereafter, except where a  
19 corporation reports to the Federal Government on the basis of a  
20 fiscal year, and has certified such fact to the department as  
21 required by section 403 of this article, in which case, such  
22 tax, at the rate of twelve per cent, shall be levied, collected,  
23 and paid upon all taxable income received by, and accruing to,  
24 such corporation during the first six months of the fiscal year  
25 commencing in the calendar year 1972 and at the rate of eleven  
26 per cent, shall be levied, collected, and paid upon all taxable  
27 income received by, and accruing to, such corporation during the  
28 second six months of the fiscal year commencing in the calendar  
29 year 1972 and during the fiscal year commencing in the calendar  
30 year 1973 and at the rate of nine and one-half per cent, shall

1 be levied, collected, and paid upon all taxable income received  
2 by, and accruing to, such corporation during the fiscal year  
3 commencing in the calendar years 1974, 1975 and 1976 and at the  
4 rate of ten 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 year 1977 and during each fiscal year thereafter to the  
8 fiscal year commencing in the calendar year 1984 and at a rate  
9 of nine and one-half per cent for each fiscal year commencing in  
10 the calendar year 1984 and each fiscal year thereafter. No  
11 penalty prescribed by subsection (e) of section 1202.1 shall be  
12 assessed against a corporation for the additional tax which may  
13 be due as a result of the increase in tax rate from nine and  
14 one-half per cent to ten and one-half per cent imposed  
15 retroactively by this section for the calendar year 1977 or for  
16 the fiscal year commencing in 1977.

17 (b) In lieu of the tax imposed by subsection (a), each  
18 integrated oil company shall pay for the privilege of doing  
19 business in this Commonwealth, or having capital or property  
20 employed or used in this Commonwealth, by or in the name of  
21 itself, or any person, partnership, association, limited  
22 partnership, joint stock association, or corporation, a State  
23 excise tax, at the rate per annum established in subsection(a),  
24 upon each dollar of normal taxable income, as defined in and  
25 determined under section 401(3)2(e), of such integrated oil  
26 company, received by and accruing to, such integrated oil  
27 company.

28 (c) In addition to the tax imposed under subsection (b),  
29 each integrated oil company shall pay for the privilege of doing  
30 business in this Commonwealth, or having capital or property

1 employed or used in this Commonwealth, by or in the name of  
2 itself, or any person, partnership, association, limited  
3 partnership, joint stock association, or corporation, a State  
4 excise tax at the rate of fifty per cent per annum upon each  
5 dollar of excess taxable income, as defined in and determined  
6 under section 401(3)2(e), of such integrated oil company,  
7 received by and accruing to, such integrated oil company.

8 Section 3. Section 403 of the act, amended September 9, 1971  
9 (P.L.437, No.105), is amended to read:

10 Section 403. Reports and Payment of Tax.--(a) For the  
11 purpose of ascertaining the amount of tax payable under this  
12 article, it shall be the duty of every corporation, liable to  
13 pay tax under this article, on or before April 15, 1972, and  
14 each year thereafter, to transmit to the department, upon a form  
15 prescribed, prepared and furnished by the department, an annual  
16 report under oath or affirmation of its president, vice-  
17 president or other principal officer, and of its treasurer or  
18 assistant treasurer of net income taxable under the provisions  
19 of this article. Such report shall set forth:

20 (1) A true copy of its return to the Federal Government of  
21 the annual taxable income arising or accruing in the calendar or  
22 fiscal year next preceding, or such part or portions of said  
23 return, as the department may designate;

24 (2) If no return was filed with the Federal Government the  
25 report made to the department shall show such information as  
26 would have been contained in a return to the Federal Government  
27 had one been made; and

28 (3) Such other information as the department may require.

29 (b) For the purpose of ascertaining the amount of tax  
30 payable under this article for the taxable year 1971, and each

1 taxable year thereafter, it shall be the duty of every  
2 corporation liable to pay tax under this article, on or before  
3 April 30, 1971, and on or before the end of the fourth month  
4 after the close of its previous fiscal year for fiscal year  
5 taxpayers, and each year thereafter, to transmit in like form  
6 and manner an additional tentative report and make payment  
7 pursuant to the provisions of the act of March 16, 1970  
8 (P.L.180): Provided, That in making such report and payment for  
9 the calendar year 1971 and each year thereafter and for fiscal  
10 years commencing during the calendar year 1971, and each year  
11 thereafter the tax base from the immediate prior year, upon  
12 which the tentative tax computation is to be made under said act  
13 of March 16, 1970 (P.L.180), shall be computed as if the tax  
14 base for such immediate prior year had been determined under the  
15 applicable provisions of the act of March 4, 1971 (Act No. 2).

16 (c) The amount of all taxes, imposed under the provisions of  
17 this article, not paid on or before the times as above provided,  
18 shall bear interest at the rate of six per cent per annum from  
19 the date they are due and payable until paid, except that if the  
20 taxable income has been, or is increased by the Commissioner of  
21 Internal Revenue, or by any other agency or court of the United  
22 States, interest shall be computed on the additional tax due  
23 from thirty days after the corporation receives notice of the  
24 change of income until paid: Provided, however, That any  
25 corporation may pay the full amount of such tax, or any part  
26 thereof, together with interest due to the date of payment,  
27 without prejudice to its right to present and prosecute a  
28 petition for resettlement, a petition for review, or an appeal  
29 to court: And provided further however, That no State court  
30 shall enjoin, suspend or restrain the assessment, levy or

1 collection of this tax. If it be thereafter determined that such  
2 taxes were overpaid, the department shall enter a credit to the  
3 account of such corporation, which may be used by it in the  
4 manner prescribed by law.

5 (d) If the officers of any corporation shall neglect, or  
6 refuse to make any report as herein required, or shall knowingly  
7 make any false report, the following percentages of the amount  
8 of the tax shall be added by the department to the tax  
9 determined to be due on the first one thousand dollars (\$1,000)  
10 of tax ten per cent, on the next four thousand dollars (\$4,000)  
11 five per cent, and on everything in excess of five thousand  
12 dollars (\$5,000) one per cent, no such amounts added to the tax  
13 shall bear any interest whatsoever.

14 (e) If any corporation closes its fiscal year not upon  
15 December 31, but upon some other date, and reports to the  
16 Federal Government as of such other date, or would so report  
17 were it to make a return to the Federal Government, such  
18 corporation shall certify such fact to the department, and shall  
19 make the annual report, herein required, within thirty days  
20 after the return to the Federal Government is due, or would be  
21 due were it to be required of such corporation, subject in all  
22 other respects to the provisions of this article. The tentative  
23 report required of such corporation shall be due not later than  
24 four months after the end of the next preceding fiscal year.

25 (f) If the corporation shall claim in its report that the  
26 return made to the Federal Government was inaccurate, the amount  
27 claimed by it to be the taxable income, taxable under this  
28 article, and the basis of such claim of inaccuracy, shall be  
29 fully specified.

30 Section 4. Section 501 of the act, clause (3) amended

1 September 9, 1971 (P.L.437, No.105), is amended to read:

2 Section 501. Definitions.--The following words, terms and  
3 phrases when used in this article shall have the meaning  
4 ascribed to them in this section, except where the context  
5 clearly indicates a different meaning:

6 (1) "Corporation." A corporation having capital stock,  
7 joint-stock association or limited partnership, either organized  
8 under the laws of this Commonwealth, the United States, or any  
9 other state, territory or foreign country or dependency, and  
10 carrying on activities in this Commonwealth, or owning property  
11 in this Commonwealth by or in the name of itself or any person,  
12 partnership, association, limited partnership, joint-stock  
13 association, or corporation. The word "corporation" shall not  
14 include nonprofit corporations, building and loan associations,  
15 banks, bank and trust companies, national banks, savings  
16 institutions, trust companies, insurance and surety companies.

17 (2) "Department." The Department of Revenue of this  
18 Commonwealth.

19 (3) "Taxable income."

20 1. taxable income shall be defined as set forth in Article  
21 IV.

22 2. In the case of corporations owning property or carrying  
23 on activities within and without this Commonwealth, the taxable  
24 income of such corporations derived from sources within this  
25 Commonwealth for the fiscal or calendar year shall be determined  
26 by allocations and apportionments of taxable income as set forth  
27 in Article IV.

28 (3.1) "Excess taxable income." Excess taxable income as  
29 defined in section 401(3)2(1)(B).

30 (3.2) "Normal taxable income." Normal taxable income as

1 defined in section 401(3)2(1)(D).

2 (4) "Sources within this Commonwealth" includes tangible or  
3 intangible property located or having a situs in this  
4 Commonwealth and any activities carried on in this Commonwealth,  
5 regardless of whether carried on in intrastate, interstate or  
6 foreign commerce.

7 (5) "Carrying on activities" shall include every act, power  
8 or privilege exercised or enjoyed in this Commonwealth as an  
9 incident to, or by virtue of, the powers and privileges acquired  
10 by the nature of the corporate organization.

11 Section 5. Section 502 of the act, amended May 5, 1981  
12 (No.14), is amended to read:

13 Section 502. Imposition of Tax.--(a) Every corporation  
14 carrying on activities in this Commonwealth or owning property  
15 in this Commonwealth by or in the name of itself or any person,  
16 partnership, joint-stock association or corporation shall be  
17 subject to and shall pay a State property tax on taxable income  
18 derived from sources within this Commonwealth at the rate of  
19 twelve per cent per annum upon each dollar of such taxable  
20 income received by and accruing to such corporation during the  
21 calendar year 1971 and the first six months of 1972 and at the  
22 rate of eleven per cent per annum upon each dollar of taxable  
23 income of such corporation received by, and accruing to, such  
24 corporation during the second six months of calendar year 1972  
25 through the calendar year 1973 and at the rate of nine and one-  
26 half per cent per annum upon each dollar of taxable income of  
27 such corporation received by, and accruing to, such corporation  
28 during the calendar years 1974, 1975 and 1976 and at the rate of  
29 ten and one-half per cent per annum upon each dollar of taxable  
30 income of such corporation received by, and accruing to, such

1 corporation during the calendar year 1977 and each calendar year  
2 thereafter to the beginning of calendar year 1984 and at a rate  
3 of nine and one-half per cent for each calendar year thereafter,  
4 except where a corporation reports to the Federal Government on  
5 the basis of a fiscal year and has certified such fact to the  
6 department as required by section 403 of Article IV, in which  
7 case such tax at the rate of twelve per cent shall be levied,  
8 collected and paid upon each dollar of such taxable income  
9 received by and accruing to such corporation during the first  
10 six months of the fiscal year commencing in the calendar year  
11 1972 and at the rate of eleven per cent shall be levied,  
12 collected, and paid upon all taxable income received by, and  
13 accruing to, such corporation during the second six months of  
14 the fiscal year commencing in the calendar year 1972 and during  
15 the fiscal year commencing in the calendar year 1973 and at the  
16 rate of nine and one-half per cent, shall be levied, collected,  
17 and paid upon all taxable income received by, and accruing to,  
18 such corporation during the fiscal year commencing in the  
19 calendar years 1974, 1975 and 1976 and at the rate of ten and  
20 one-half per cent, shall be levied, collected, and paid upon all  
21 taxable income received by, and accruing to, such corporation  
22 during the fiscal year commencing in the calendar year 1977 and  
23 each fiscal year thereafter to the fiscal year commencing in the  
24 calendar year 1984 and at a rate of nine and one-half per cent  
25 for each fiscal year commencing in the calendar year 1984 and  
26 each fiscal year thereafter: Provided, however, That such  
27 taxable income shall not include income for any period for which  
28 the corporation is subject to taxation under Article IV: And,  
29 provided further, That no penalty prescribed by subsection (e)  
30 of section 1202.1 shall be assessed against a corporation for



1 the additional tax which may be due as a result of the increase  
2 in tax rate from nine and one-half per cent to ten and one-half  
3 per cent imposed retroactively by this section for the calendar  
4 year 1977 or for the fiscal year commencing in 1977.

5 (b) In lieu of the tax imposed under subsection (a), each  
6 integrated oil company carrying on activities in this  
7 Commonwealth or owning property in this Commonwealth by or in  
8 the name of itself or any person, partnership, joint-stock  
9 association or corporation shall be subject to and shall pay a  
10 State property tax on normal taxable income at the rate per  
11 annum established in subsection (a) upon each dollar of such  
12 normal taxable income, as defined in and determined under  
13 section 401(3)2(e), received by and accruing to such integrated  
14 oil company.

15 (c) In addition to the tax imposed under subsection (a),  
16 each integrated oil company carrying on activities in this  
17 Commonwealth or owning property in this Commonwealth by or in  
18 the name of itself or any person, partnership, joint-stock  
19 association or corporation shall be subject to and shall pay a  
20 State property tax on excess taxable income at the rate of fifty  
21 per cent per annum upon each dollar of such excess taxable  
22 income, as defined in and determined under section 401(3)2(e),  
23 received by and accruing to such integrated oil company.

24 Section 6. This act shall take effect immediately and shall  
25 be applicable to fiscal and calendar tax years commencing on and  
26 after January 1, 1982.