

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 440 Session of 2013

INTRODUCED BY REED, BAKER, BLOOM, KOTIK, NEUMAN, LUCAS, SAYLOR, AUMENT, MILLARD, MICOZZIE, TALLMAN, PICKETT, SCHLEGEL CULVER, STEPHENS, MUSTIO, DAVIS, O'NEILL, VEREB, CUTLER, FLECK, DUNBAR, C. HARRIS, MACKENZIE, KNOWLES, SIMMONS, OBERLANDER, CLYMER, SWANGER, HAHN, HESS, PETRI, HENNESSEY, MASSER, MAJOR, HEFFLEY, HICKERNELL, BENNINGHOFF, ROCK, GROVE, ROSS, GINGRICH, WATSON, MARSICO, EVERETT, S. H. SMITH, MOUL, GILLEN, REESE, QUINN, MURT, EVANKOVICH AND FARRY, FEBRUARY 4, 2013

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES, MAY 6, 2013

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," in sales tax, further providing for definitions,  
11 for credit against tax and for local receivers of use tax; in  
12 personal income tax, further providing for definitions, for  
13 classes of income and for taxability of partners; providing  
14 for tax treatment determined at partnership level and for tax  
15 imposed at partnership level; further providing for income of  
16 a Pennsylvania S corporation, for income taxes imposed by  
17 other states, for general rule, for return of Pennsylvania S  
18 corporation and for requirements concerning returns, notices,  
19 records and statements; in corporate net income tax, further  
20 providing for definitions, for imposition of tax and for  
21 reports and payment of tax; and, in realty transfer tax,  
22 further providing for definitions, for imposition and for  
23 acquired company; further providing for coal waste removal  
24 and ultraclean fuels tax credit; and, in inheritance tax,  
25 further providing for exemption for poverty.

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

3 Section 1. Sections 201(ddd) and 206 of the act of March 4,  
4 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,  
5 amended or added December 23, 2003 (P.L.250, No.46), are amended  
6 to read:

7 Section 201. Definitions.--The following words, terms and  
8 phrases when used in this Article II shall have the meaning  
9 ascribed to them in this section, except where the context  
10 clearly indicates a different meaning:

11 \* \* \*

12 [(ddd) "Call center." The physical location in this  
13 Commonwealth:

14 (1) where at least one hundred and fifty employes are  
15 employed to initiate or answer telephone calls;

16 (2) where there are at least two hundred telephone lines;  
17 and

18 (3) which utilizes an automated call distribution system for  
19 customer telephone calls in one or more of the following  
20 activities:

21 (A) customer service and support;

22 (B) technical assistance;

23 (C) help desk service;

24 (D) providing information;

25 (E) conducting surveys;

26 (F) revenue collections; or

27 (G) receiving orders or reservations.

28 For purposes of this clause, a physical location may include  
29 multiple buildings utilized by a taxpayer located within this  
30 Commonwealth.]

1 Section 206. Credit Against Tax.--(a) A credit against the  
2 tax imposed by section 202 shall be granted with respect to  
3 tangible personal property or services purchased for use outside  
4 the Commonwealth equal to the tax paid to another state by  
5 reason of the imposition by such other state of a tax similar to  
6 the tax imposed by this article: Provided, however, That no such  
7 credit shall be granted unless such other state grants  
8 substantially similar tax relief by reason of the payment of tax  
9 under this article or under the Tax Act of 1963 for Education.

10 [(b) A credit against the tax imposed by section 202 on  
11 telecommunications services shall be granted to a call center  
12 for gross receipts tax paid by a telephone company on the  
13 receipts derived from the sale of incoming and outgoing  
14 interstate telecommunications services to the call center under  
15 section 1101(a)(2). The following apply:

16 (1) A telephone company, upon request, shall notify a call  
17 center of the amount of gross receipts tax paid by the telephone  
18 company on the receipts derived from the sale of incoming and  
19 outgoing interstate telecommunications services to the call  
20 center.

21 (2) A call center that is eligible for the credit in this  
22 subsection may apply for a tax credit as set forth in this  
23 subsection.

24 (3) By February 15, a taxpayer must submit an application to  
25 the department for gross receipts tax paid on the receipts  
26 derived from the sale of incoming and outgoing interstate  
27 telecommunications services incurred in the prior calendar year.

28 (4) By April 15 of the calendar year following the close of  
29 the calendar year during which the gross receipts tax was  
30 incurred, the department shall notify the applicant of the

1 amount of the applicant's tax credit approved by the department.

2 (5) The total amount of tax credits provided for in this  
3 subsection and approved by the department shall not exceed  
4 thirty million dollars (\$30,000,000) in any fiscal year. If the  
5 total amount of tax credits applied for by all applicants  
6 exceeds the amount allocated for those credits, then the credit  
7 to be received by each applicant shall be determined as follows:

8 (i) Divide:

9 (A) the tax credit applied for by the applicant; by

10 (B) the total of all tax credits applied for by all  
11 applicants.

12 (ii) Multiply:

13 (A) the quotient under subparagraph (i); by

14 (B) the amount allocated for all tax credits.]

15 Section 1.1. Section 226 of the act is repealed:

16 [Section 226. Local Receivers of Use Tax.--Beginning on and  
17 after the effective date of this article, in every county,  
18 except in counties of the first class, the county treasurer is  
19 hereby authorized to receive use tax due and payable under the  
20 provisions of this article from any person other than a  
21 licensee. The receiving of such taxes shall be pursuant to rules  
22 and regulations promulgated by the department and upon forms  
23 furnished by the department. Each county treasurer shall remit  
24 to the department all use taxes received under the authority of  
25 this section minus the costs of administering this provision not  
26 to exceed one per cent of the amount of use taxes received,  
27 which amount shall be retained in lieu of any commission  
28 otherwise allowable by law for the collection of such tax.]

29 Section 2. Section 301(t) of the act, added August 31, 1971  
30 (P.L.362, No.93), is amended and the section is amended by

1 adding subsections to read:

2 Section 301. Definitions.--Any reference in this article to  
3 the Internal Revenue Code of 1986 shall mean the Internal  
4 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.),  
5 as amended to January 1, 1997, unless the reference contains the  
6 phrase "as amended" and refers to no other date, in which case  
7 the reference shall be to the Internal Revenue Code of 1986 as  
8 it exists as of the time of application of this article. The  
9 following words, terms and phrases when used in this article  
10 shall have the meaning ascribed to them in this section except  
11 where the context clearly indicates a different meaning:

12 \* \* \*

13 (d.2) "Corporate item" means an item, including income, gain  
14 or loss, deduction or credit determined at the Pennsylvania S  
15 corporation level, which is required to be taken into account  
16 for a Pennsylvania S corporation's taxable year.

17 \* \* \*

18 (n.2) "Partnership item" means an item, including income,  
19 gain or loss, deduction or credit determined at the partnership  
20 level, which is required to be taken into account for a  
21 partnership's taxable year.

22 \* \* \*

23 (o.4) "Publicly traded partnership" means an entity defined  
24 under section 7704 of the Internal Revenue Code of 1986 (Public  
25 Law 99-514, 26 U.S.C. § 7704) with equity securities registered  
26 with the Securities and Exchange Commission under section 12 of  
27 the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. §  
28 78a).

29 \* \* \*

30 (t) "State" means, except as provided under section 314(a),

1 any state or commonwealth of the United States, the District of  
2 Columbia, the Commonwealth of Puerto Rico, any territory or  
3 possession of the United States and any foreign country.

4 \* \* \*

5 Section 2.1. Section 303(a)(2) of the act, added August 31,  
6 1971 (P.L.362, No.93), is amended and subsection (a)(3) is  
7 amended by adding a subparagraph to read:

8 Section 303. Classes of Income.--(a) The classes of income  
9 referred to above are as follows:

10 \* \* \*

11 (2) Net profits. The net income from the operation of a  
12 business, profession, or other activity, after provision for all  
13 costs and expenses incurred in the conduct thereof, determined  
14 either on a cash or accrual basis in accordance with accepted  
15 accounting principles and practices but without deduction of  
16 taxes based on income. For purposes of calculating net income  
17 under this paragraph, to the extent a taxpayer properly deducts  
18 an amount under section 195(b)(1)(A) of the Internal Revenue  
19 Code of 1986 (26 U.S.C. § 195(b)(1)(A)), as amended, and the  
20 regulations promulgated under section 195(b)(1)(A) of the  
21 Internal Revenue Code of 1986, the taxpayer shall be permitted a  
22 deduction in equal amount in the same taxable year.

23 (3) Net gains or income from disposition of property. Net  
24 gains or net income, less net losses, derived from the sale,  
25 exchange or other disposition of property, including real  
26 property, tangible personal property, intangible personal  
27 property or obligations issued on or after the effective date of  
28 this amendatory act by the Commonwealth; any public authority,  
29 commission, board or other agency created by the Commonwealth;  
30 any political subdivision of the Commonwealth or any public

1 authority created by any such political subdivision; or by the  
2 Federal Government as determined in accordance with accepted  
3 accounting principles and practices. For the purpose of this  
4 article:

5 \* \* \*

6 (viii) The term "net gains or net income, less net losses"  
7 shall not include gain or loss from the exchange of property  
8 which is not recognized for Federal income tax purposes under  
9 section 1031 of the Internal Revenue Code of 1986 (26 U.S.C. §  
10 1031), as amended, and the regulations promulgated under section  
11 1031 of the Internal Revenue Code of 1986. For purposes of  
12 determining basis under subparagraph (i), section 1031(d) of the  
13 Internal Revenue Code of 1986 (26 U.S.C. § 1031(d)), as amended,  
14 and the regulations promulgated under section 1031 of the  
15 Internal Revenue Code of 1986 shall apply.

16 \* \* \*

17 Section 3. Section 306 of the act, amended June 22, 2001  
18 (P.L.353, No.23), is amended to read:

19 Section 306. Taxability of Partners.--[A] Except as provided  
20 under section 306.2, a partnership as an entity shall not be  
21 subject to the tax imposed by this article, but the income or  
22 gain of a member of a partnership in respect of said partnership  
23 shall be subject to the tax and the tax shall be imposed on his  
24 share, whether or not distributed, of the income or gain  
25 received by the partnership for its taxable year ending within  
26 or with the member's taxable year.

27 Section 4. The act is amended by adding sections to read:

28 Section 306.1. Tax Treatment Determined at Partnership  
29 Level.--The classification or character of a partnership item  
30 shall be determined at the partnership level. This section shall

1 not prohibit the department from adjusting a partner's return.

2 Section 306.2. Tax Imposed at Partnership Level.--(a) A  
3 partnership underreporting reportable income by more than one  
4 million dollars (\$1,000,000) shall be jointly liable with each  
5 partner for any part of a deficiency resulting from the  
6 treatment of a partnership item by a partner on that partner's  
7 return in a manner that is consistent with the treatment of that  
8 partnership item on the partnership return. If the tax is paid  
9 by the partner, the department may not collect the tax from the  
10 partnership. If the tax is paid by the partnership, the  
11 department may not collect the tax from a partner.

12 (b) Subsection (a) shall apply to the following  
13 partnerships:

14 (1) A partnership which has eleven or more individual  
15 partners.

16 (2) A partnership which has at least one partner which is a  
17 corporation, limited liability company, partnership or trust.

18 (3) A partnership which has only individual partners and  
19 which elects to be subject to this subsection. The election must  
20 be included on the partnership return to be filed with the  
21 department.

22 (c) This section shall not apply to a publicly traded  
23 partnership.

24 (d) Nothing under this section shall require one partner to  
25 be liable for the payment of a tax liability of another partner.

26 (e) Appeals involving a deficiency assessed under this  
27 section may only be pursued by the partnership and a  
28 reassessment or settlement of tax liability shall be binding on  
29 the partners.

30 Section 5. Section 307.8(a) of the act, amended May 7, 1997

1 (P.L.85, No.7), is amended and the section is amended by adding  
2 a subsection to read:

3 Section 307.8. Income of a Pennsylvania S Corporation.--(a)  
4 A Pennsylvania S corporation shall not be subject to the tax  
5 imposed by this article, except as provided under subsection  
6 (f), but the shareholders of the Pennsylvania S corporation  
7 shall be subject to the tax imposed under this article as  
8 provided in this article.

9 \* \* \*

10 (f) (1) A Pennsylvania S corporation underreporting  
11 reportable income by more than one million dollars (\$1,000,000)  
12 shall be jointly liable with each shareholder for any part of a  
13 deficiency resulting from the treatment of a corporate item by  
14 any shareholder on the shareholder's return in a manner that is  
15 consistent with the treatment of the corporate item on the  
16 return of the Pennsylvania S corporation. If the tax is paid by  
17 the shareholder, it may not be collected from the  
18 corporation.

19 (2) Paragraph (1) shall apply to the following Pennsylvania  
20 S corporations:

21 (i) A Pennsylvania S corporation which has eleven or more  
22 shareholders.

23 (ii) A Pennsylvania S corporation which elects to be subject  
24 to this subsection. The election must be included on the  
25 Pennsylvania S corporation return to be filed with the  
26 department.

27 (3) Nothing under this section shall require one shareholder  
28 to be liable for the payment of a tax liability of another  
29 shareholder.

30 (4) Appeals involving the deficiency assessed under this

1 section may be filed only by the Pennsylvania S corporation and  
2 a reassessment or settlement of tax liability shall be binding  
3 on the shareholders.

4 Section 6. Section 314(a) of the act, amended December 23,  
5 1983 (P.L.370, No.90), is amended to read:

6 Section 314. Income Taxes Imposed by Other States.--(a) A  
7 resident taxpayer before allowance of any credit under section  
8 312 shall be allowed a credit against the tax otherwise due  
9 under this article for the amount of any income tax, wage tax or  
10 tax on or measured by gross or net earned or unearned income  
11 imposed on him or on a Pennsylvania S corporation in which he is  
12 a shareholder, to the extent of his pro rata share thereof  
13 determined in accordance with section 307.9, by another state  
14 with respect to income which is also subject to tax under this  
15 article. For purposes of this subsection and notwithstanding  
16 section 301(t), the term "state" shall only include a state of  
17 the United States, the District of Columbia, the Commonwealth of  
18 Puerto Rico and any territory or possession of the United  
19 States.

20 \* \* \*

21 Section 7. Section 324 of the act, amended June 22, 2001  
22 (P.L.353, No.23), is amended to read:

23 Section 324. General Rule.--(a) When a partnership, estate,  
24 trust or Pennsylvania S corporation receives income from sources  
25 within this Commonwealth for any taxable year and any portion of  
26 the income is allocable to a nonresident partner, beneficiary,  
27 member or shareholder thereof, the partnership, estate, trust or  
28 Pennsylvania S corporation shall pay a withholding tax under  
29 this section at the time and in the manner prescribed by the  
30 department; however, notwithstanding any other provision of this

1 article, all such withholding tax shall be paid over on or  
2 before the fifteenth day of the fourth month following the end  
3 of the taxable year.

4 (b) This section shall not apply to any publicly traded  
5 partnership as defined under section 7704 of the Internal  
6 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7704) with  
7 equity securities registered with the Securities and Exchange  
8 Commission under section 12 of the Securities Exchange Act of  
9 1934 (48 Stat. 881, 15 U.S.C. § 78a).

10 Section 8. Section 330.1 of the act, amended or added  
11 December 23, 1983 (P.L.370, No.90) and July 13, 1987 (P.L.325,  
12 No.59), is amended to read:

13 Section 330.1. Return of Pennsylvania S Corporation.--(a)  
14 Every Pennsylvania S corporation shall make a return for each  
15 taxable year, stating specifically all items of gross income and  
16 deductions, the names and addresses of all persons owning stock  
17 in the corporation at any time during the taxable year, the  
18 number of shares of stock owned by each shareholder at all times  
19 during the taxable year, the amount of money and other property  
20 distributed by the corporation during the taxable year to each  
21 shareholder, the date of each distribution, each shareholder's  
22 pro rata share of each item of the corporation for the taxable  
23 year and such other information as the department may require.

24 (b) The return shall be filed on or before thirty days after  
25 the date when the corporation's Federal income tax return is  
26 due.

27 (c) Every Pennsylvania S corporation shall also submit to  
28 the department a true copy of the income tax return filed with  
29 the Federal Government at the time the return required under  
30 subsection (a) is filed.

1 (d) Each Pennsylvania S corporation required to file a  
2 return under subsection (a) for a taxable year shall, on or  
3 before the day on which the return for the taxable year was  
4 filed, furnish to each person who is a shareholder at any time  
5 during the taxable year a copy of one or both of the following  
6 showing their share of income and any other information as may  
7 be required by the department:

8 (1) The Resident Schedule of Shareholder/Partner/Beneficiary  
9 Pass Through Income, Loss and Credits (Schedule RK-1) form.

10 (2) The Nonresident Schedule of  
11 Shareholder/Partner/Beneficiary Pass Through Income, Loss and  
12 Credits (Schedule NRK-1) form.

13 Section 9. Section 335 of the act, amended or added August  
14 31, 1971 (P.L.362, No.93), December 23, 2003 (P.L.250, No.46)  
15 and July 2, 2012 (P.L.751, No.85), is amended to read:

16 Section 335. Requirements Concerning Returns, Notices,  
17 Records and Statements.--(a) The department may prescribe by  
18 regulation for the keeping of records, the content and form of  
19 returns, declarations, statements and other documents and the  
20 filing of copies of Federal income tax returns and  
21 determinations. The department may require any person, by  
22 regulation or notice served upon such person, to make such  
23 returns, render such statements, or keep such records, as the  
24 department may deem sufficient to show whether or not such  
25 person is liable for tax under this article.

26 (b) (1) When required by regulations prescribed by the  
27 department:

28 (i) Any person required under the authority of this article  
29 to make a return, declaration, statement, or other document  
30 shall include in such return, declaration, statement or other

1 document such identifying number as may be prescribed for  
2 securing proper identification of such person.

3 (ii) Any person with respect to whom a return, declaration,  
4 statement, or other document is required under the authority of  
5 this article to make a return, declaration, statement, or other  
6 document with respect to another person, shall request from such  
7 other person, and shall include in any such return, declaration,  
8 statement, or other document, such identifying number as may be  
9 prescribed for securing proper identification of such other  
10 person.

11 (2) For purposes of this section, the department is  
12 authorized to require such information as may be necessary to  
13 assign an identifying number to any person.

14 (c) (1) Every partnership, estate or trust having a  
15 resident partner or a resident beneficiary or every partnership,  
16 estate or trust having any income derived from sources within  
17 this Commonwealth shall make a return for the taxable year  
18 setting forth all items of income, loss and deduction, and such  
19 other pertinent information as the department may by regulations  
20 prescribe. Such return shall be filed on or before the fifteenth  
21 day of the fourth month following the close of each taxable  
22 year. For purposes of this subsection, "taxable year" means year  
23 or period which would be a taxable year of the partnership if it  
24 were subject to tax under this article.

25 (2) Every partnership, estate or trust required to file a  
26 return under paragraph (1) shall also file with the department a  
27 true copy of the income tax return filed with the Federal  
28 Government at the time the return required under paragraph (1)  
29 is filed.

30 (3) Every partnership, estate or trust required to file a

1 return under paragraph (1) for any taxable year shall, on or  
2 before the day the return is filed, furnish to each partner or  
3 nominee for another person or to each beneficiary to whom the  
4 income or gains of the estate or trust is taxable, a copy of one  
5 or both of the following showing their share of income and any  
6 other information as may be required by the department:

7 (i) The Resident Schedule of Shareholder/Partner/Beneficiary  
8 Pass Through Income, Loss and Credits (Schedule RK-1) form.

9 (ii) The Nonresident Schedule of  
10 Shareholder/Partner/Beneficiary Pass Through Income, Loss and  
11 Credits (Schedule NRK-1) form.

12 (4) Failure to file a timely return as required under  
13 paragraph (2) and failure to furnish a copy of the returns  
14 required under paragraph (3) shall result in a penalty of fifty  
15 dollars (\$50) for each individual return or individual copy  
16 required.

17 (d) The department may prescribe regulations requiring  
18 returns of information to be made and filed on or before  
19 February 28 of each year as to the payment or crediting in any  
20 calendar year of amounts of ten dollars (\$10) or more to any  
21 taxpayer. Such returns may be required of any person, including  
22 lessees or mortgagors of real or personal property, fiduciaries,  
23 employers and all officers and employees of this Commonwealth, or  
24 of any municipal corporation or political subdivision of this  
25 Commonwealth having the control, receipt, custody, disposal or  
26 payment of interest, rents, salaries, wages, premiums,  
27 annuities, compensations, remunerations, emoluments or other  
28 fixed or determinable gains, profits or income, except interest  
29 coupons payable to bearer. A duplicate of the statement as to  
30 tax withheld on compensation required to be furnished by an

1 employer to an employe, shall constitute the return of  
2 information required to be made under this section with respect  
3 to such compensation.

4 (e) Any person who is required to make a form W-2G return to  
5 the Secretary of the Treasury of the United States in regard to  
6 taxable gambling or lottery winnings from sources within this  
7 Commonwealth shall file a copy of the form with the department  
8 by March 1 of each year or, if filed electronically, by March 31  
9 of each year.

10 (f) The following apply:

11 (1) Any person who:

12 (i) makes payments of income from sources within this  
13 Commonwealth;

14 (ii) makes payments of nonemploye compensation or payments  
15 under an oil and gas lease under subparagraph (i) to a resident  
16 or nonresident individual, an entity treated as a partnership  
17 for tax purposes or a single member limited liability company;  
18 and

19 (iii) is required to make a form 1099-MISC return to the  
20 Secretary of the Treasury of the United States with respect to  
21 the payments shall file a copy of form 1099-MISC with the  
22 department and send a copy of form 1099-MISC to the payee by the  
23 Federal filing deadline each year.

24 (2) If the payor is required to perform electronic filing  
25 for Pennsylvania employer withholding purposes, the form 1099-  
26 MISC shall be filed electronically with the department.

27 (g) (1) Every estate, trust, Pennsylvania S Corporation or  
28 partnership, other than a publicly traded partnership, shall  
29 maintain at the end of the entity's taxable year an accurate  
30 list of partners, members, beneficiaries or shareholders. The

1 list shall include the name, current address and tax  
2 identification number of all existing partners, members,  
3 beneficiaries or shareholders and of all partners, members,  
4 beneficiaries or shareholders, who were admitted or who withdrew  
5 during the taxable year, including the date of withdrawal and  
6 admittance.

7 (2) If the entity under paragraph (1) does not maintain an  
8 accurate list as required, the tax, penalty and interest with  
9 respect to the entity shall be considered the tax, penalty and  
10 interest of the partnership, estate, trust or Pennsylvania S  
11 Corporation and of the general partner, tax matters partner,  
12 corporate officer or trustee.

13 Section 10. Section 401(3)1 and 2(a)(17) of the act, amended  
14 September 9, 1971 (P.L.437, No.105), are amended, clause (3)1 is  
15 amended by adding a phrase, subclause 2(a) is amended by adding  
16 a paragraph, paragraphs (3)4(c)(1)(A) and 2(B) are amended by  
17 adding subparagraphs and the section is amended by adding  
18 clauses to read:

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

23 \* \* \*

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

25 (t) (1) Except as provided in paragraph (2), (3) or (4) for  
26 taxable years beginning after December 31, 2014, and in addition  
27 to any authority the department has on the effective date of  
28 this paragraph to deny a deduction related to a fraudulent or  
29 sham transaction, no deduction shall be allowed for an  
30 intangible expense or cost, or an interest expense or cost,

1 paid, accrued or incurred directly or indirectly in connection  
2 with one or more transactions with an affiliated entity. In  
3 calculating taxable income under this paragraph, when the  
4 taxpayer is engaged in one or more transactions with an  
5 affiliated entity that was subject to tax in this Commonwealth  
6 or another state or possession of the United States on a tax  
7 base that included the intangible expense or cost, or the  
8 interest expense or cost, paid, accrued or incurred by the  
9 taxpayer, the taxpayer shall receive a credit against tax due in  
10 this Commonwealth in an amount equal to the apportionment factor  
11 of the taxpayer in this Commonwealth multiplied by the greater  
12 of the following:

13 (A) the tax liability of the affiliated entity with respect  
14 to the portion of its income representing the intangible expense  
15 or cost, or the interest expense or cost, paid, accrued or  
16 incurred by the taxpayer; or

17 (B) the tax liability that would have been paid by the  
18 affiliated entity under subparagraph (A) if that tax liability  
19 had not been offset by a credit.

20 The credit issued under this paragraph shall not exceed the  
21 taxpayer's liability in this Commonwealth attributable to the  
22 net income taxed as a result of the adjustment required by this  
23 paragraph.

24 (2) The adjustment required by paragraph (1) shall not apply  
25 to a transaction that was directly related to a valid business  
26 purpose.

27 (3) The adjustment required by paragraph (1) shall not apply  
28 to a transaction between a taxpayer and an affiliated entity  
29 domiciled in a foreign nation which has in force a comprehensive  
30 income tax treaty with the United States providing for the

1 allocation of all categories of income subject to taxation, or  
2 the withholding of tax, on royalties, licenses, fees and  
3 interest for the prevention of double taxation of the respective  
4 nations' residents and the sharing of information.

5 (4) The adjustment required by paragraph (1) shall not apply  
6 to a transaction where an affiliated entity directly or  
7 indirectly paid, accrued or incurred a payment to a person who  
8 is not an affiliated entity, if the payment is paid, accrued or  
9 incurred on the intangible expense or cost, or interest expense  
10 or cost, and is equal to or less than the taxpayer's  
11 proportional share of the transaction. The taxpayer's  
12 proportional share shall be based on relative sales, assets,  
13 liabilities or another reasonable method.

14 2. In case the entire business of any corporation, other  
15 than a corporation engaged in doing business as a regulated  
16 investment company as defined by the Internal Revenue Code of  
17 1986, is not transacted within this Commonwealth, the tax  
18 imposed by this article shall be based upon such portion of the  
19 taxable income of such corporation for the fiscal or calendar  
20 year, as defined in subclause 1 hereof, and may be determined as  
21 follows:

22 (a) Division of Income.

23 \* \* \*

24 (16.1) Sales, other than sales under paragraphs (16) and  
25 (17), are in this State as follows:

26 (A) The sale, lease, rental or other use of real property,  
27 if the real property is located in this State. If real property  
28 is located both in and outside this State, the sale is in this  
29 State based upon the percentage of total assessed value of the  
30 real property located in this State.

1     (B) (I) The rental, lease or licensing of tangible personal  
2 property, if the customer first obtained possession of the  
3 tangible personal property in this State.

4     (II) If the tangible personal property is subsequently taken  
5 out of this State, the taxpayer may use a reasonably determined  
6 estimate of usage in this State to determine the extent of sale  
7 in this State.

8     (C) (I) The sale of service, if the service is delivered to  
9 a location in this State. If the service is delivered both to a  
10 location in and outside this State, the sale is in this State  
11 based upon the percentage of total value of the service  
12 delivered to a location in this State.

13     (II) If the state or states of assignment under subparagraph  
14 (I) cannot be determined for a customer who is an individual  
15 that is not a sole proprietor, a service is deemed to be  
16 delivered at the customer's billing address.

17     (III) If the state or states of assignment under  
18 subparagraph (I) cannot be determined for a customer, except for  
19 a customer under subparagraph (II), a service is deemed to be  
20 delivered at the location from which the services were ordered  
21 in the customer's regular course of operations. If the location  
22 from which the services were ordered in the customer's regular  
23 course of operations cannot be determined, a service is deemed  
24 to be delivered at the customer's billing address.

25     (17) Sales, other than sales [of tangible personal property]  
26 under paragraphs (16) and (16.1), are in this State if:

27     (A) The income-producing activity is performed in this  
28 State; or

29     (B) The income-producing activity is performed both in and  
30 outside this State and a greater proportion of the income-

1 producing activity is performed in this State than in any other  
2 state, based on costs of performance.

3 \* \* \*

4 4. \* \* \*

5 (c) (1) The net loss deduction shall be the lesser of:

6 (A) \* \* \*

7 (V) For taxable years beginning after December 31, 2013, the  
8 greater of twenty-five per cent of taxable income as determined  
9 under subclause 1 or, if applicable, subclause 2 or four million  
10 dollars (\$4,000,000);

11 (VI) For taxable years beginning after December 31, 2014,  
12 the greater of thirty per cent of taxable income as determined  
13 under subclause 1 or, if applicable, subclause 2 or five million  
14 dollars (\$5,000,000); or

15 \* \* \*

16 (2) \* \* \*

17 (B) The earliest net loss shall be carried over to the  
18 earliest taxable year to which it may be carried under this  
19 schedule. The total net loss deduction allowed in any taxable  
20 year shall not exceed:

21 \* \* \*

22 (V) The greater of twenty-five per cent of taxable income as  
23 determined under subclause 1 or, if applicable, subclause 2 or  
24 four million dollars (\$4,000,000) for taxable years beginning  
25 after December 31, 2013.

26 (VI) The greater of thirty per cent of taxable income as  
27 determined under subclause 1 or, if applicable, subclause 2 or  
28 five million dollars (\$5,000,000) for taxable years beginning  
29 after December 31, 2014.

30 \* \* \*

1 (8) "Intangible expense or cost." Royalties, licenses or  
2 fees paid for the acquisition, use, maintenance, management,  
3 ownership, sale, exchange or other disposition of patents,  
4 patent applications, trade names, trademarks, service marks,  
5 copyrights, mask works or other similar expenses or costs.

6 (9) "Interest expense or cost." A deduction allowed under  
7 section 163 of the Internal Revenue Code of 1986 (26 U.S.C. §  
8 163) to the extent that such deduction is directly related to an  
9 intangible expense or cost.

10 (10) "Affiliated entity." A person with a relationship to  
11 the taxpayer during all or any portion of the taxable year that  
12 is any of the following:

13 (i) a stockholder who is an individual, or a member of the  
14 stockholder's family as set forth in section 318 of the Internal  
15 Revenue Code of 1986 (26 U.S.C. § 318), if the stockholder and  
16 the members of the stockholder's family own, directly,  
17 indirectly, beneficially or constructively, in the aggregate,  
18 more than fifty per cent of the value of the taxpayer's  
19 outstanding stock;

20 (ii) a stockholder, or a stockholder's partnership, limited  
21 liability company, estate, trust or corporation, if the  
22 stockholder and the stockholder's partnerships, limited  
23 liability companies, estates, trusts and corporations own  
24 directly, indirectly, beneficially or constructively, in the  
25 aggregate, more than fifty per cent of the value of the  
26 taxpayer's outstanding stock;

27 (iii) a corporation, or a party related to the corporation  
28 in a manner that would require an attribution of stock from the  
29 corporation to the party or from the party to the corporation  
30 under the attribution rules of the Internal Revenue Code of

1 1986, if the taxpayer owns, directly, indirectly, beneficially  
2 or constructively, more than fifty per cent of the value of the  
3 corporation's outstanding stock. The attribution rules of  
4 section 318 of the Internal Revenue Code of 1986 shall apply for  
5 purposes of determining whether the ownership requirements of  
6 this definition have been met;

7 (iv) a component member as defined in section 1563(b) of the  
8 Internal Revenue Code of 1986 (26 U.S.C. § 1563(b)); or

9 (v) a person to or from whom there is attribution of stock  
10 ownership in accordance with section 1563(e) of the Internal  
11 Revenue Code of 1986.

12 (11) "Valid business purpose." A purpose, other than the  
13 avoidance or reduction of taxation, which alone or in  
14 combination with other purposes constitute the primary  
15 motivation for a business activity or transaction. A transaction  
16 done at arm's length terms shall be presumed to be directly  
17 related to a valid business purpose.

18 Section 11. Section 402(b) of the act, amended June 29, 2002  
19 (P.L.559, No.89), is amended to read:

20 Section 402. Imposition of Tax.--\* \* \*

21 (b) The annual rate of tax on corporate net income imposed  
22 by subsection (a) for taxable years beginning for the calendar  
23 year or fiscal year on or after the dates set forth shall be as  
24 follows:

Taxable Year	Tax Rate
January 1, 1995[, and	
each taxable year	
thereafter] <u>to</u>	
<u>December 31, 2014</u>	9.99%
<u>January 1, 2015, to</u>	<u>9.89%</u>

1	<u>December 31, 2015</u>	
2	<u>January 1, 2016, to</u>	
3	<u>December 31, 2016</u>	<u>9.69%</u>
4	<u>January 1, 2017, to</u>	
5	<u>December 31, 2017</u>	<u>9.49%</u>
6	<u>January 1, 2018, to</u>	
7	<u>December 31, 2018</u>	<u>9.29%</u>
8	<u>January 1, 2019, to</u>	
9	<u>December 31, 2019</u>	<u>8.96%</u>
10	<u>January 1, 2020, to</u>	
11	<u>December 31, 2020</u>	<u>8.63%</u>
12	<u>January 1, 2021, to</u>	
13	<u>December 31, 2021</u>	<u>8.3%</u>
14	<u>January 1, 2022, to</u>	
15	<u>December 31, 2022</u>	<u>7.97%</u>
16	<u>January 1, 2023, to</u>	
17	<u>December 31, 2023</u>	<u>7.64%</u>
18	<u>January 1, 2024, to</u>	
19	<u>December 31, 2024</u>	<u>7.31%</u>
20	<u>January 1, 2025, and</u>	
21	<u>each taxable year</u>	
22	<u>thereafter</u>	<u>6.99%</u>

23 \* \* \*

24 Section 12. Section 403(d) of the act, amended October 18,  
 25 2006 (P.L.1149, No.119), is amended to read:

26 Section 403. Reports and Payment of Tax.--\* \* \*

27 (d) If the officers of any corporation shall neglect, or  
 28 refuse to make any report as herein required, or shall knowingly  
 29 make any false report, [the following percentages of the amount  
 30 of the tax shall be added by the department to the tax

1 determined to be due on the first one thousand dollars (\$1,000)  
2 of tax ten per cent, on the next four thousand dollars (\$4,000)  
3 five per cent, and on everything in excess of five thousand  
4 dollars (\$5,000) one per cent, no such] a penalty of five  
5 hundred dollars (\$500) plus an additional one per cent for every  
6 dollar of tax determined to be due in excess of twenty-five  
7 thousand dollars (\$25,000) shall be added to the tax determined  
8 to be due. No amounts added to the tax shall bear any interest  
9 whatsoever.

10 \* \* \*

11 Section 12.1. The definitions of "document," "real estate"  
12 and "real estate company" in section 1101-C of the act, amended  
13 July 2, 1986 (P.L.318, No.77), are amended to read:

14 Section 1101-C. Definitions.--The following words when used  
15 in this article shall have the meanings ascribed to them in this  
16 section:

17 \* \* \*

18 "Document." Any deed, instrument or writing which conveys,  
19 transfers, devises, vests, confirms or evidences any transfer or  
20 devise of title to real estate in this Commonwealth, but does  
21 not include wills, mortgages, deeds of trust or other  
22 instruments of like character given as security for a debt and  
23 deeds of release thereof to the debtor, land contracts whereby  
24 the legal title does not pass to the grantee until the total  
25 consideration specified in the contract has been paid or any  
26 cancellation thereof unless the consideration is payable over a  
27 period of time exceeding thirty years or instruments which  
28 solely grant, vest or confirm a public utility easement.

29 "Document" shall also include a declaration of acquisition  
30 required to be presented for recording under section 1102-C.5 of

1 this article.

2 \* \* \*

3 "Real estate."

4 (1) Any lands, tenements or hereditaments [within this  
5 Commonwealth], including, without limitation, buildings,  
6 structures, fixtures, mines, minerals, oil, gas, quarries,  
7 spaces with or without upper or lower boundaries, trees and  
8 other improvements, immovables or interests which by custom,  
9 usage or law pass with a conveyance of land, but excluding  
10 permanently attached machinery and equipment in an industrial  
11 plant.

12 (2) A condominium unit.

13 (3) A tenant-stockholder's interest in a cooperative housing  
14 corporation, trust or association under a proprietary lease or  
15 occupancy agreement.

16 "Real estate company." A corporation or association which  
17 [is] meets any of the following:

18 (1) Is primarily engaged in the business of holding,  
19 selling or leasing real estate ninety per cent or more of the  
20 ownership interest in which is held by thirty-five or fewer  
21 persons and which:

22 [(1)] (i) derives sixty per cent or more of its annual gross  
23 receipts from the ownership or disposition of real estate; or

24 [(2)] (ii) holds real estate, the value of which comprises  
25 [ninety] fifty per cent or more of the value of its entire  
26 tangible asset holdings exclusive of tangible assets which are  
27 freely transferable and actively traded on an established  
28 market.

29 (2) Owns a direct or indirect interest in a real estate  
30 company. An indirect ownership interest is an interest in a

1 corporation or association whose purpose is the ownership of a  
2 real estate company either by itself or as part of a tiered  
3 structure of corporations or associations.

4 \* \* \*

5 Section 12.2. Section 1102-C of the act, amended July 2,  
6 1986 (P.L.318, No.77), is amended to read:

7 Section 1102-C. Imposition of Tax.--Every person who makes,  
8 executes, delivers, accepts or presents for recording any  
9 document or in whose behalf any document is made, executed,  
10 delivered, accepted or presented for recording, shall be subject  
11 to pay for and in respect to the transaction or any part  
12 thereof, or for or in respect of the vellum parchment or paper  
13 upon which such document is written or printed, a State tax at  
14 the rate of one per cent of the value of the real estate within  
15 this Commonwealth represented by such document, which State tax  
16 shall be payable at the earlier of the time the document is  
17 presented for recording or within thirty days of acceptance of  
18 such document or within thirty days of becoming an acquired  
19 company.

20 Section 12.3. Section 1102-C.5(a) of the act, amended July  
21 2, 2012 (P.L.751, No.85), is amended to read:

22 Section 1102-C.5. Acquired Company.--(a) A real estate  
23 company is an acquired company upon a change in the ownership  
24 interest in the company, however effected, if the change:

25 (1) does not affect the continuity of the company; and  
26 (2) of itself or together with prior changes has the effect  
27 of transferring, directly or indirectly, ninety per cent or more  
28 of the total ownership interest in the company within a period  
29 of three years.

30 (3) For the purposes of paragraph (2), a transfer occurs

1 within a period of three years of another transfer or transfers  
2 if, during the period[:

3 (i) the transferring party provides a legally binding  
4 commitment, enforceable at a future date, to execute the  
5 transfer;

6 (ii) the terms of the transfer are fixed and not subject to  
7 negotiation; and

8 (iii) the transferring party receives full consideration, in  
9 any form, in exchange for the transfer.], the transferring party  
10 provides the transferee a legally binding commitment or option,  
11 enforceable at a future date, to execute the transfer.

12 \* \* \*

13 Section 12.4. Article XVIII-A of the act, added May 12, 1999  
14 (P.L.26, No.4), is repealed:

15 [ARTICLE XVIII-A

16 COAL WASTE REMOVAL AND ULTRACLEAN FUELS

17 TAX CREDIT

18 Section 1801-A. Short Title.--This article shall be known  
19 and may be cited as the "Coal Waste Removal and Ultraclean Fuels  
20 Act."

21 Section 1802-A. Definitions.--The following words, terms and  
22 phrases, when used in this article, shall have the meanings  
23 ascribed to them in this section, except where the context  
24 clearly indicates a different meaning:

25 "Department" means the Department of Revenue of the  
26 Commonwealth.

27 "Developer" means the owner-operator of a facility, as  
28 defined in this section, or the operator of the facility that  
29 has sold the facility in new condition to a third party from  
30 whom that operator has simultaneously leased back the facility

1 for a minimum period of twelve years.

2 "Facility" includes all plant and equipment purchased or  
3 constructed by or on behalf of the developer which is used  
4 within this Commonwealth by the developer to produce one or more  
5 qualified fuels.

6 "Internal Revenue Code" means the Internal Revenue Code of  
7 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

8 "Qualified fuels" means those fuels produced from  
9 nontraditional coal culm and silt feedstocks as defined in  
10 section 29(c) of the Internal Revenue Code of 1986 (Public Law  
11 99-514, 26 U.S.C. § 29(c)).

12 "Qualifying property" means tangible personal property and  
13 other forms of tangible property which qualify for investment  
14 tax credit treatment and which meet all of the following  
15 requirements:

16 (1) Be acquired through a purchase, as defined under section  
17 179(d)(2) of the Internal Revenue Code (26 U.S.C. § 179(d)(2)),  
18 or constructed by the developer for its own use.

19 (2) Be depreciable under section 167 of the Internal Revenue  
20 Code (26 U.S.C. § 167).

21 (3) Have a useful life of greater than or equal to four  
22 years.

23 (4) Be located within this Commonwealth.

24 (5) Be used by the developer in the production of qualified  
25 fuels.

26 (6) Be acquired by purchase or constructed on or after  
27 January 1, 2000, and before January 1, 2013.

28 (7) Not be the subject of any tax credit otherwise available  
29 to the developer under this act.

30 "Tax credit base" means only the cost or other basis of

1 qualifying property that is properly transferred to the  
2 facility's basis for depreciation for Federal income tax  
3 purposes between January 1, 2000, and December 31, 2012.

4 Section 1803-A. Investment Tax Credits Program.--(a) A  
5 developer of a new facility for the production of one or more  
6 qualified fuels shall be allowed an investment tax credit  
7 against the taxes imposed under Articles II, IV and VI of this  
8 act. The amount of the credit shall be computed as a percentage  
9 applied to the cost or other basis for Federal income tax  
10 purposes of qualifying property.

11 (b) (1) The investment tax credit shall be computed as  
12 fifteen per cent of the tax credit base.

13 (2) The maximum investment tax credit available for  
14 application, whether claimed by one or more taxpayers, shall not  
15 exceed fifteen per cent of the capital cost of the facility.

16 (3) Any amount of allowable investment tax credit not used  
17 in the tax year for which the credit was claimed can be carried  
18 forward by the claiming taxpayer to succeeding years until the  
19 full amount of allowable credit has been used.

20 (c) (1) The developer, upon notice to the department as  
21 specified by the department, may sell or assign, in whole or in  
22 part, any investment tax credit afforded under this section to  
23 one or more taxpayers if no claim for allowance of such credit  
24 has been filed.

25 (2) A taxpayer recipient by purchase or assignment of any  
26 portion of the developer's investment tax credit under paragraph  
27 (1) shall initially claim such credit, upon notice to the  
28 department of the derivative basis of the credit in compliance  
29 with procedures specified by the department, for the tax year in  
30 which the purchase or assignment is made, but in no event

1 subsequent to the filing of an income tax return for the year  
2 2012.

3 (3) Any taxpayer who acquires any portion of the developer's  
4 investment tax credit by sale or assignment for value and  
5 without notice by the developer of any irregularity or  
6 invalidity shall not suffer any disallowance of the credit or  
7 the imposition of any adjustment or fraud penalty attributable  
8 to conduct by the developer.

9 (d) (1) If prior to the expiration of any qualifying  
10 property's useful life, as used to calculate depreciation for  
11 Federal income tax purposes, the developer, upon mandatory  
12 notice to the department in compliance with procedures specified  
13 by the department, disposes of any qualifying property, in a  
14 transaction other than a sale-leaseback transaction, upon which  
15 the department has previously allowed an investment tax credit  
16 claimed by any taxpayer, a portion of all such credit shall be  
17 recaptured and added to the developer's tax liability for the  
18 tax year in which the qualifying property is disposed.

19 (2) The portion of the investment tax credit previously  
20 allowed, which is subject to recapture from the developer, shall  
21 be equal to a fraction whose numerator is the number of years  
22 remaining to fully depreciate for Federal income tax purposes  
23 the qualifying property disposed and whose denominator is the  
24 total number of years over which the property otherwise would  
25 have been subject to depreciation by the developer.

26 (3) In calculating the recapture percentage, the year of  
27 disposition of the qualifying property is considered a year of  
28 remaining depreciation.

29 (e) The department shall verify the validity of any claim  
30 for allowance of any investment tax credit afforded under this

1 section and, in the case of a fraudulent claim, may assess  
2 against the developer a penalty of one hundred and twenty-five  
3 per cent of the credit improperly claimed.

4 (f) The tax credits authorized by this section shall not  
5 exceed eighteen million dollars (\$18,000,000) in the aggregate  
6 during any year.

7 Section 1804-A. Contract Required.--(a) In order for a  
8 developer to claim investment tax credits under this article,  
9 the developer must enter into a contract with the Commonwealth  
10 that provides as follows:

11 (1) The term of the contract shall be twenty-five years,  
12 beginning with the first tax year in which the investment tax  
13 credits are claimed.

14 (2) The developer shall make periodic payments to the  
15 Commonwealth, which payments may not exceed in the aggregate  
16 forty-six million eight hundred thousand dollars (\$46,800,000)  
17 over the term of the contract.

18 (3) The periodic payments shall occur every five years and  
19 each payment shall be nine million three hundred sixty thousand  
20 dollars (\$9,360,000), except as provided in paragraphs (4), (5)  
21 and (6).

22 (4) For the first five-year period, the amount specified in  
23 paragraph (3) shall be reduced by:

24 (i) An amount equal to the business losses of the developer,  
25 if any, relating to the facility that are sustained in the first  
26 and second years of the contract, provided such amount does not  
27 exceed three million seven hundred forty-four thousand dollars  
28 (\$3,744,000) for both years.

29 (ii) Allowable offsets identified in subsection (b),  
30 provided that such offsets do not exceed nine million three

1 hundred sixty thousand dollars (\$9,360,000).

2 (5) For the remaining five-year periods, the amount  
3 specified in paragraph (3) shall be reduced by the amount of  
4 allowable offsets identified in subsection (b), provided that  
5 such offsets do not exceed nine million three hundred sixty  
6 thousand dollars (\$9,360,000) during any five-year period.

7 (6) To the extent the amount of allowable offsets during any  
8 five-year period exceeds nine million three hundred sixty  
9 thousand dollars (\$9,360,000), the excess may be carried over  
10 and added to the allowable offsets taken in the following five-  
11 year period, provided that the excess is applied first.

12 (b) For purposes of this section, "allowable offset"  
13 includes all of the following:

14 (1) An amount equal to the corporate net income tax, capital  
15 stock and franchise tax and personal income tax related to the  
16 construction, ownership and operation of the facility.

17 (2) An amount equal to all personal income tax withheld from  
18 the developer's employees.

19 (3) An amount equal to all sales and use tax related to the  
20 operation and construction of the facility.

21 (4) The amount paid by the developer of any new tax enacted  
22 by the Commonwealth following the effective date of this  
23 article.

24 Section 1805-A. Requirements.--Tax credits authorized by  
25 this article shall not be granted unless the developer has  
26 obtained an investment tax credit from the Federal Government or  
27 an investment by a person other than an agency or  
28 instrumentality of the Commonwealth, or any combination thereof,  
29 in an amount equal to or greater than the tax credit granted by  
30 this article.]

1 Section 13. Section 2112 of the act, amended or added August  
2 4, 1991 (P.L.97, No.22), June 16, 1994 (P.L.279, No.48) and June  
3 30, 1995 (P.L.139, No.21), is repealed:

4 [Section 2112. Exemption for Poverty.--(a) The General  
5 Assembly, in recognition of the powers contained in section 2(b)  
6 (ii) of Article VIII of the Constitution of Pennsylvania which  
7 provides therein for the establishing as a class or classes of  
8 subjects of taxation the property or privileges of persons who  
9 because of poverty are determined to be in need of special tax  
10 provisions or tax exemptions, hereby declares as its legislative  
11 intent and purpose to implement such powers under such  
12 Constitutional provision by establishing a tax exemption as  
13 hereinafter provided in this section.

14 (b) The General Assembly, having determined that there are  
15 persons within this Commonwealth the value of whose incomes and  
16 estates are such that the imposition of an inheritance tax under  
17 this article would cause them hardship and economic burden and  
18 having further determined that poverty is a relative concept  
19 inextricably joined with the ability to maintain assets  
20 inherited upon the death of a spouse, deems it to be a matter of  
21 public policy to provide an exemption from taxation for  
22 transfers of property to or for the use of that class of persons  
23 hereinafter designated in order to relieve their hardship and  
24 economic burden.

25 (c) Any claim for a tax exemption hereunder shall be  
26 determined in accordance with the following:

27 (1) The transferee is the spouse of the decedent at the date  
28 of death of the decedent.

29 (2) The value of the estate of the decedent does not exceed  
30 two hundred thousand dollars (\$200,000) after reduction for

1 actual liabilities of the decedent as evidenced by a written  
2 agreement.

3 (3) The average of the joint exemption income of the  
4 decedent and the transferee for the three taxable years, as  
5 defined in Article III, immediately preceding the date of death  
6 of the decedent does not exceed forty thousand dollars  
7 (\$40,000).

8 (d) Notwithstanding any other provision of this article,  
9 transfers of property to or for the use of any eligible  
10 transferee who meets the standards of eligibility established by  
11 this section as the test for poverty shall be deemed a separate  
12 class subject to taxation and, as such, shall be entitled to the  
13 benefit of the following exemptions from taxation on transfers  
14 of property as a credit against the tax imposed by this article:

15 (1) For decedents dying on or after January 1, 1992, and  
16 before January 1, 1993, the lesser of:

17 (i) Two per cent of the taxable value of the property of the  
18 decedent transferred to or for the use of the transferee.

19 (ii) Two per cent of one hundred thousand dollars (\$100,000)  
20 of the taxable value of the property of the decedent transferred  
21 to or for the use of the transferee.

22 (2) For decedents dying on or after January 1, 1993, and  
23 before January 1, 1994, the lesser of:

24 (i) Four per cent of the taxable value of the property of  
25 the decedent transferred to or for the use of the transferee.

26 (ii) Four per cent of one hundred thousand dollars  
27 (\$100,000) of the taxable value of the property of the decedent  
28 transferred to or for the use of the transferee.

29 (3) For decedents dying on or after January 1, 1994, and  
30 before January 1, 1995, the lesser of:

1 (i) Six per cent of the taxable value of the property of the  
2 decedent transferred to or for the use of the transferee.

3 (ii) Six per cent of one hundred thousand dollars (\$100,000)  
4 of the taxable value of the property of the decedent transferred  
5 to or for the use of the transferee.

6 (e) For nonresident decedents, the credit provided in this  
7 section shall bear the same ratio as that of the decedent's  
8 estate in this Commonwealth bears to the decedent's total estate  
9 without regard to situs.

10 (f) The credit provided in this section shall not be greater  
11 than the tax imposed.

12 (g) This section shall not apply to the estates of decedents  
13 dying on or after January 1, 1995.]

14 Section 14. The following shall apply:

15 (1) A tax credit may not be granted under section 206(b)  
16 of the act after June 30, 2013.

17 (2) The amendment or addition of the following  
18 provisions of the act shall apply to tax years beginning  
19 after December 31, 2013:

20 (i) Section 301(d.2), (n.2), (o.4) and (t).

21 (ii) Section 303(a)(2).

22 (iii) Section 306.

23 (iv) Section 306.1.

24 (v) Section 306.2.

25 (vi) Section 307.8(a) and (f).

26 (vii) Section 314(a).

27 (viii) Section 324.

28 (ix) Section 330.1.

29 (x) Section 335.

30 ~~(xi) Section 401(3)1(t), 2(a)(16.1) and (17) and~~

<--

1           ~~(8), (9), (10) and (11) and 4(c)(1)(A)(V) and (VI) and~~  
2           ~~2(B)(V) and (VI).~~

3           ~~(xii) Section 402(b).~~

4           ~~(xiii)~~ (XI) SECTION 401(3)2(A)(16.1) AND (17).           <--

5           (XII) Section 403(d).

6           (3) The addition of section 303(a)(3)(viii) shall apply  
7 to tax years beginning after December 31, 2015.

8 Section 15. This act shall take effect as follows:

9           (1) The following shall take effect January 1, 2014, or  
10 immediately, whichever is later:

11           (i) The amendment of the definitions of "document,"  
12 "real estate" and "real estate company" in section 1101-C  
13 of the act.

14           (ii) The amendment of sections 1102-C and  
15 1102-C.5(a) of the act.

16           (2) THE ADDITION OF SECTION 401(8), (9), (10) AND (11)           <--  
17 OF THE ACT SHALL TAKE EFFECT JANUARY 1, 2015.

18           ~~(2)~~ (3) The remainder of this act shall take effect           <--  
19 immediately.