AN ACT

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

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

Section 1. Section 227 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, is amended to read:
"Section 227. Discount. (a) If a return is filed by a licensee and the tax shown to be due thereon less any discount..."
is paid all within the time prescribed, the licensee shall be
titled to credit and apply against the tax payable by him a
discount of one per cent of the amount of the tax collected by
him on and after the effective date of this article, as
compensation for the expense of collecting and remitting the
[same] tax due by him and as a consideration of the prompt
payment thereof.

(b) For returns filed on or after the effective date of this
subsection, the discount under subsection (a) shall be limited
to the following:

(i) For a monthly filer, twenty-five dollars ($25) per
return.

(ii) For a quarterly filer, seventy-five dollars ($75) per
return.

(iii) For a semi-annual filer, one hundred fifty dollars
($150) per return.

Section 2. Section 401(3)2(a)(9) and 4(c) of the act,
amended October 9, 2009 (P.L.451, No.48), are amended, clause
(3)1 is amended by adding a paragraph and the section is amended
by adding clauses to read:

SECTION 1. SECTION 401(3)2(A)(9) AND 4(C) OF THE ACT OF
MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF
1971, AMENDED OCTOBER 9, 2009 (P.L.451, NO.48), ARE AMENDED,
CLAUSE (3)1 IS AMENDED BY ADDING A PHRASE AND THE SECTION IS
AMENDED BY ADDING CLAUSES TO READ:

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

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

(t) (1) Except as provided in paragraph (2), (3) or (4) for taxable years beginning after December 31, 2012, no deduction shall be allowed for an intangible expense or cost, or an interest expense or cost, paid, accrued or incurred directly or indirectly in connection with one or more transactions with an affiliated entity. In calculating taxable income under this paragraph, when the taxpayer is engaged in one or more transactions with an affiliated entity that was subject to tax in this Commonwealth or another state or possession of the United States on a tax base that included the intangible expense or cost, or the interest expense or cost, paid, accrued or incurred by the taxpayer, the taxpayer shall receive a credit against tax due in this Commonwealth in an amount equal to the apportionment factor of the taxpayer in this Commonwealth multiplied by the greater of the following:

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

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

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

(2) The adjustment required by paragraph (1) shall not apply to a transaction that was directly related to a valid business purpose.
(3) The adjustment required by paragraph (1) shall not apply to a transaction between a taxpayer and an affiliated entity domiciled in a foreign nation which has in force a comprehensive income tax treaty with the United States providing for the allocation of all categories of income subject to taxation, or the withholding of tax, on royalties, licenses, fees and interest for the prevention of double taxation of the respective nations' residents and the sharing of information.

(4) The adjustment required by paragraph (1) shall not apply to a transaction where an affiliated entity directly or indirectly paid, accrued or incurred a payment to a person who is not an affiliated entity, if the transaction PAYMENT is paid, accrued or incurred on the intangible expense or cost, or interest expense or cost, AND IS EQUAL TO OR LESS THAN THE TAXPAYER'S PROPORTIONAL SHARE OF THE TRANSACTION. THE TAXPAYER'S PROPORTIONAL SHARE SHALL BE BASED ON RELATIVE SALES, ASSETS, LIABILITIES OR ANOTHER REASONABLE METHOD.

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

(a) Division of Income.

* * *

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

(i) For taxable years beginning before January 1, 2007, all business income shall be apportioned to this State by
multiplying the income by a fraction, the numerator of which is
the property factor plus the payroll factor plus three times the
sales factor and the denominator of which is five.
(ii) For taxable years beginning after December 31, 2006,
all business income shall be apportioned to this State by
multiplying the income by a fraction, the numerator of which is
the sum of fifteen times the property factor, fifteen times the
payroll factor and seventy times the sales factor and the
denominator of which is one hundred.
(iii) For taxable years beginning after December 31, 2008,
all business income shall be apportioned to this State by
multiplying the income by a fraction, the numerator of which is
the sum of eight and a half times the property factor, eight and
a half times the payroll factor and eighty-three times the sales
factor and the denominator of which is one hundred.
(iv) For taxable years beginning after December 31, 2009,
all business income shall be apportioned to this State by
multiplying the income by a fraction, the numerator of which is
the sum of five times the property factor, five times the
payroll factor and ninety times the sales factor and the
denominator of which is one hundred.
(v) For taxable years beginning after December 31, 2012, all
business income shall be apportioned to this State by
multiplying the income by the sales factor.
(B) For purposes of apportionment of the capital stock-
franchise tax as provided in section 602 of Article VI of this
act, the apportionment fraction shall be the property factor
plus the payroll factor plus the sales factor as the numerator,
and the denominator shall be three.
4. * * *

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

(A) (I) For taxable years beginning before January 1, 2007, two million dollars ($2,000,000);

(II) For taxable years beginning after December 31, 2006, the greater of twelve and one-half per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars ($3,000,000);

(III) For taxable years beginning after December 31, 2008, the greater of fifteen per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars ($3,000,000);

(IV) For taxable years beginning after December 31, 2009, the greater of twenty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars ($3,000,000); [or]

(V) For taxable years beginning after December 31, 2013, the greater of thirty-three per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or four million dollars ($4,000,000);

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

(VII) For taxable years beginning after December 31, 2015, the greater of fifty-six per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or six million dollars ($6,000,000);

(VIII) For taxable years beginning after December 31, 2016, the greater of sixty-six per cent of taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
seven million dollars ($7,000,000);

(IX) For taxable years beginning after December 31, 2017,
the greater of seventy-five per cent of taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
eight million dollars ($8,000,000);

(X) For taxable years beginning after December 31, 2018, the
greater of eighty-three per cent of taxable income as determined
under subclause 1 or, if applicable, subclause 2 or nine million
dollars ($9,000,000);

(XI) For taxable years beginning after December 31, 2019,
the greater of ninety per cent of taxable income as determined
under subclause 1 or, if applicable, subclause 2 or ten million
dollars ($10,000,000);

(XII) For taxable years beginning after December 31, 2020,
the greater of ninety-six per cent of taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
eleven million dollars ($11,000,000);

(XIII) For taxable years beginning after December 31, 2021,
taxable income as determined under subclause 1 or, if
applicable, subclause 2; or

(B) The amount of the net loss or losses which may be
carried over to the taxable year or taxable income as determined
under subclause 1 or, if applicable, subclause 2.

(1.1) In no event shall the net loss deduction include more
than five hundred thousand dollars ($500,000), in the aggregate,
of net losses from taxable years 1988 through 1994.

(2) (A) A net loss for a taxable year may only be carried
over pursuant to the following schedule:

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Carryover</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

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<table>
<thead>
<tr>
<th>Year Range</th>
<th>Taxable Years</th>
</tr>
</thead>
<tbody>
<tr>
<td>1981</td>
<td>1</td>
</tr>
<tr>
<td>1982</td>
<td>2</td>
</tr>
<tr>
<td>1983-1987</td>
<td>3</td>
</tr>
<tr>
<td>1988</td>
<td>2 plus 1 taxable year starting with the 1995 taxable year</td>
</tr>
<tr>
<td>1989</td>
<td>1 plus 2 taxable years starting with the 1995 taxable year</td>
</tr>
<tr>
<td>1990-1993</td>
<td>3</td>
</tr>
<tr>
<td>1994</td>
<td>1</td>
</tr>
<tr>
<td>1995-1997</td>
<td>10</td>
</tr>
<tr>
<td>1998 and thereafter</td>
<td>20 taxable years</td>
</tr>
</tbody>
</table>

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

(I) Two million dollars ($2,000,000) for taxable years beginning before January 1, 2007.

(II) The greater of twelve and one-half per cent of the taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars ($3,000,000) for taxable years beginning after December 31, 2006.

(III) The greater of fifteen per cent of the taxable income as determined under subclause 1 or, if applicable, subclause 2 or three million dollars ($3,000,000) for taxable years beginning after December 31, 2006.
beginning after December 31, 2008.

(IV) The greater of twenty per cent of the taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
three million dollars ($3,000,000) for taxable years beginning
after December 31, 2009.

(V) The greater of thirty-three per cent of taxable income
as determined under subclause 1 or, if applicable, subclause 2
or four million dollars ($4,000,000) for taxable years beginning
after December 31, 2013.

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

(VII) The greater of fifty-six per cent of taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
six million dollars ($6,000,000) for taxable years beginning
after December 31, 2015.

(VIII) The greater of sixty-six per cent of taxable income
as determined under subclause 1 or, if applicable, subclause 2
or seven million dollars ($7,000,000) for taxable years
beginning after December 31, 2016.

(IX) The greater of seventy-five per cent of taxable income
as determined under subclause 1 or, if applicable, subclause 2
or eight million dollars ($8,000,000) for taxable years
beginning after December 31, 2017.

(X) The greater of eighty-three per cent of taxable income
as determined under subclause 1 or, if applicable, subclause 2
or nine million dollars ($9,000,000) for taxable years beginning
after December 31, 2018.

(XI) The greater of ninety per cent of taxable income as
determined under subclause 1 or, if applicable, subclause 2 or
ten million dollars ($10,000,000) for taxable years beginning
after December 31, 2019.

(XII) The greater of ninety-six per cent of taxable income
as determined under subclause 1 or, if applicable, subclause 2
or eleven million dollars ($11,000,000) for taxable years

(XIII) For taxable years beginning after December 31, 2021,
taxable income as determined under subclause 1 or, if
applicable, subclause 2.

* * *

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

(9) "Interest expense or cost." A deduction allowed under
163) to the extent that such deduction is directly related to an
intangible expense or cost.

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

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

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

(iii) a corporation, or a party related to the corporation in a manner that would require an attribution of stock from the corporation to the party or from the party to the corporation under the attribution rules of the Internal Revenue Code of 1986, if the taxpayer owns, directly, indirectly, beneficially or constructively, more than fifty per cent of the value of the corporation's outstanding stock. The attribution rules of section 318 of the Internal Revenue Code of 1986 shall apply for purposes of determining whether the ownership requirements of this definition have been met;

(iv) a component member as defined in section 1563(b) of the Internal Revenue Code of 1986; or

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

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

Section 32. Section 402(b) of the act, amended June 29, 2002 (P.L.559, No.89), is amended to read:
Section 402. Imposition of Tax.--* * *

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

<table>
<thead>
<tr>
<th>Taxable Year</th>
<th>Tax Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>[January 1, 1995, and each taxable year thereafter]</td>
<td>9.99%</td>
</tr>
<tr>
<td>January 1, 1995, and each taxable year through December 31, 2013</td>
<td>9.99%</td>
</tr>
<tr>
<td>January 1, 2014, through December 31, 2014</td>
<td>9.49%</td>
</tr>
<tr>
<td>January 1, 2015, through December 31, 2015</td>
<td>8.75%</td>
</tr>
<tr>
<td>January 1, 2016, through December 31, 2016</td>
<td>8.25%</td>
</tr>
<tr>
<td>January 1, 2017, through December 31, 2017</td>
<td>7.75%</td>
</tr>
<tr>
<td>January 1, 2018, through December 31, 2018</td>
<td>7.25%</td>
</tr>
<tr>
<td>January 1, 2019, and each taxable year thereafter</td>
<td>6.99%</td>
</tr>
</tbody>
</table>

* * *

Section 43. This act shall take effect immediately.