

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 190

Session of
1971

INTRODUCED BY MESSRS. FINEMAN, IRVIS, ENGLEHART,
PRENDERGAST, MRS. ANDERSON, MESSRS. E. B. DAVIS AND
KAUFMAN, FEBRUARY 2, 1971

AS AMENDED ON THIRD CONSIDERATION, HOUSE OF REPRESENTATIVES,
FEBRUARY 12, 1971

AN ACT

1 Relating to tax reform and State taxation by codifying and
2 enumerating certain subjects of taxation and imposing taxes
3 thereon; providing procedures for the payment, collection,
4 administration and enforcement thereof; providing for tax
5 credits in certain cases; conferring powers and imposing
6 duties upon the Department of Revenue, certain employers,
7 fiduciaries, individuals, persons, corporations and other
8 entities; prescribing crimes, offenses and penalties.

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

11 ARTICLE I

12 SHORT TITLE

13 Section 101. Short Title.--This act shall be known and may
14 be cited as the "Tax Reform Code of 1971."

15 ARTICLE II

16 TAX FOR EDUCATION

17 PART I

18 DEFINITIONS

19 Section 201. Definitions.--The following words, terms and
20 phrases when used in this Article II shall have the meaning

1 ascribed to them in this section, except where the context
2 clearly indicates a different meaning:

3 (a) "Soft drinks." All nonalcoholic beverages, whether
4 carbonated or not, such as soda water, ginger ale, coca cola,
5 lime cola, pepsi cola, Dr. Pepper, fruit juice when plain or
6 carbonated water, flavoring or syrup is added, carbonated water,
7 orangeade, lemonade, root beer or any and all preparations,
8 commonly referred to as "soft drinks," of whatsoever kind, and
9 are further described as including any and all beverages,
10 commonly referred to as "soft drinks," which are made with or
11 without the use of any syrup. The term "soft drinks" shall not
12 include natural fruit or vegetable juices or their concentrates,
13 or non-carbonated fruit juice drinks containing not less than
14 twenty-five per cent by volume of natural fruit juices or of
15 fruit juice which has been reconstituted to its original state,
16 or natural concentrated fruit or vegetable juices reconstituted
17 to their original state, whether any of the foregoing natural
18 juices are frozen or unfrozen, sweetened or unsweetened,
19 seasoned with salt or spice or unseasoned, nor shall the term
20 "soft drinks" include coffee, coffee substitutes, tea, cocoa,
21 natural fluid milk or non-carbonated drinks made from milk
22 derivatives.

23 (b) "Maintaining a place of business in this Commonwealth."

24 (1) Having or maintaining within this Commonwealth, directly
25 or by a subsidiary, an office, distribution house, sales house,
26 warehouse, service enterprise or other place of business, or any
27 agent of general or restricted authority irrespective of whether
28 the place of business or agent is located here permanently or
29 temporarily or whether the person or subsidiary maintaining such
30 place of business or agent is authorized to do business within

1 this Commonwealth; or

2 (2) The engaging in any activity as a business within this
3 Commonwealth by any person, directly or by a subsidiary, in
4 connection with the lease, sale or delivery of tangible personal
5 property or the performance of services thereon for use, storage
6 or consumption including, but not limited to, having,
7 maintaining or using any office, distribution house, sales
8 house, warehouse or other place of business, any stock of goods
9 or any solicitor, salesman, agent or representative under its
10 authority, at its direction or with its permission, regardless
11 of whether the person or subsidiary is authorized to do business
12 in this Commonwealth.

13 (3) Regularly or substantially soliciting orders within this
14 Commonwealth in connection with the lease, sale or delivery of
15 tangible personal property to or the performance thereon of
16 services for residents of this Commonwealth by means of
17 catalogues or other advertising, whether such orders are
18 accepted within or without this Commonwealth.

19 ~~(c) "Manufacture." The performance as a business of those~~ <—
20 ~~operations which transform personal property into a form,~~
21 ~~composition and character substantially different from that in~~
22 ~~which it was acquired whether for sale or use by the~~
23 ~~manufacturer. For the purposes of this act, the term~~
24 ~~"manufacture" shall include:~~

25 (C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING, <—
26 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
27 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY PERSONAL PROPERTY IN A
28 FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT IN WHICH IT
29 IS ACQUIRED WHETHER FOR SALE OR USE BY THE MANUFACTURER, AND
30 SHALL INCLUDE, BUT NOT LIMITED TO--

1 (1) EVERY OPERATION COMMENCING WITH THE FIRST PRODUCTION
2 STAGE AND ENDING WITH THE COMPLETION OF PERSONAL PROPERTY HAVING
3 THE PHYSICAL QUALITIES (INCLUDING PACKAGING, IF ANY, PASSING TO
4 THE ULTIMATE CONSUMER) WHICH IT HAS WHEN TRANSFERRED BY THE
5 MANUFACTURER TO ANOTHER;

6 ~~(1)~~ (2) ~~Printing~~; THE PUBLISHING OF BOOKS, NEWSPAPERS, <—
7 MAGAZINES AND OTHER PERIODICALS AND PRINTING;

8 ~~(2)~~ (3) Refining, exploring, mining and quarrying for, or <—
9 otherwise extracting from the earth any natural resources,
10 minerals and mineral aggregates;

11 ~~(3)~~ (4) Building, rebuilding, repairing and making additions <—
12 to, or replacements in or upon vessels designed for commercial
13 use of registered tonnage of fifty tons or more when produced
14 upon special order of the purchaser, or when rebuilt, repaired
15 or enlarged, or when replacements are made upon order of, or for
16 the account of the owner;

17 ~~(4)~~ (5) Research having as its objective the production of a <—
18 new or an improved (i) product or utility service, or (ii)
19 method of producing a product or utility service, but in either
20 case not including market research or research having as its
21 objective the improvement of administrative efficiency.

22 The term "manufacture," shall not include constructing,
23 altering, servicing, repairing or improving real estate or
24 repairing, servicing or installing personal property.

25 (d) "Processing." The performance of the following
26 activities when engaged in as a business enterprise:

27 (1) The cooking or freezing of fruits, vegetables,
28 mushrooms, fish, seafood, meats or poultry, when the person
29 engaged in such business packages such property in sealed
30 containers for wholesale distribution.

1 (2) The scouring, carbonizing, cording, combing, throwing,
2 twisting or winding of natural or synthetic fibers, or the
3 spinning, bleaching, dyeing, printing or finishing of yarns or
4 fabrics, when such activities are performed prior to sale to the
5 ultimate consumer.

6 (3) The electroplating, galvanizing, enameling, anodizing,
7 coloring, finishing, impregnating or heat treating of metals or
8 plastics for sale or in the process of manufacturing.

9 (4) The rolling, drawing or extruding of ferrous and non-
10 ferrous metals.

11 (5) The fabrication for sale of ornamental or structural
12 metal or of metal stairs, staircases, gratings, fire escapes or
13 railings (not including fabrication work done at the
14 construction site).

15 (6) The preparation of animal feed or poultry feed for sale.

16 (7) The production, processing and bottling of non-alcoholic
17 beverages for wholesale distribution.

18 (8) The operation of a saw mill or planing mill for the
19 production of lumber or lumber products for sale.

20 (9) The milling for sale of flour or meal from grains.

21 (10) The slaughtering and dressing of animals for meat to be
22 sold or to be used in preparing meat products for sale, and the
23 preparation of meat products including lard, tallow, grease,
24 cooking and inedible oils for wholesale distribution.

25 (11) The processing of used lubricating oils.

26 (12) THE BROADCASTING OF RADIO AND TELEVISION PROGRAMS OF
27 LICENSED COMMERCIAL OR EDUCATIONAL STATIONS.

28 (e) "Person." Any natural person, association, fiduciary,
29 partnership, corporation or other entity, including the
30 Commonwealth of Pennsylvania, its political subdivisions and

1 instrumentalities and public authorities. Whenever used in any
2 clause prescribing and imposing a penalty or imposing a fine or
3 imprisonment, or both, the term "person," as applied to an
4 association, shall include the members thereof and, as applied
5 to a corporation, the officers thereof.

6 (f) "Purchase at retail."

7 (1) The acquisition for a consideration of the ownership,
8 custody or possession of tangible personal property other than
9 for resale by the person acquiring the same when such
10 acquisition is made for the purpose of consumption or use,
11 whether such acquisition shall be absolute or conditional, and
12 by whatsoever means the same shall have been effected.

13 (2) The acquisition of a license to use or consume, and the
14 rental or lease of tangible personal property, other than for
15 resale regardless of the period of time the lessee has
16 possession or custody of the property.

17 (3) The obtaining for a consideration of those services
18 described in subclauses (2), (3) and (4) of clause (k) of this
19 section other than for resale.

20 (4) A retention after March 7, 1956, of possession, custody
21 or a license to use or consume pursuant to a rental contract or
22 other lease arrangement (other than as security), other than for
23 resale.

24 The term "purchase at retail" with respect to "liquor" and
25 "malt or brewed beverages" shall include the purchase of
26 "liquor" from any "Pennsylvania Liquor Store" by any person for
27 any purpose, and the purchase of "malt or brewed beverages" from
28 a "manufacturer of malt or brewed beverages," "distributor" or
29 "importing distributor" by any person for any purpose, except
30 purchases from a "manufacturer of malt or brewed beverages" by a

1 "distributor" or "importing distributor" or purchases from an
2 "importing distributor" by a "distributor" within the meaning of
3 the "Liquor Code." The term "purchase at retail" shall not
4 include any purchase of "malt or brewed beverages" from a
5 "retail dispenser" or any purchase of "liquor" or "malt or
6 brewed beverages" from a person holding a "retail liquor
7 license" within the meaning of and pursuant to the provisions of
8 the "Liquor Code," but shall include any purchase or acquisition
9 of "liquor" or "malt or brewed beverages" other than pursuant to
10 the provisions of the "Liquor Code."

11 (g) "Purchase price."

12 (1) The total value of anything paid or delivered, or
13 promised to be paid or delivered, whether it be money or
14 otherwise, in complete performance of a sale at retail or
15 purchase at retail, as herein defined, without any deduction on
16 account of the cost or value of the property sold, cost or value
17 of transportation, cost or value of labor or service, interest
18 or discount paid or allowed after the sale is consummated, any
19 other taxes imposed by the Commonwealth of Pennsylvania or any
20 other expense EXCEPT THAT THERE SHALL BE EXCLUDED ANY SEPARATELY <—
21 STATED DEPOSIT CHARGE FOR RETURNABLE CONTAINERS.

22 (2) There shall be deducted from the purchase price the
23 value of any personal property actually taken in trade or
24 exchange within this Commonwealth in lieu of the whole or any
25 part of the purchase price. For the purpose of this subsection,
26 the amount allowed by reason of personal property actually taken
27 in trade or exchange shall be considered the value of such
28 property.

29 (3) In determining the purchase price on the sale or use of
30 taxable tangible personal property where, because of affiliation

1 of interests between the vendor and purchaser, or irrespective
2 of any such affiliation, if for any other reason the purchase
3 price declared by the vendor or taxpayer on the taxable sale or
4 use of such tangible personal property is, in the opinion of the
5 department, not indicative of the true value of the article or
6 the fair price thereof, the department shall, pursuant to
7 uniform and equitable rules, determine the amount of
8 constructive purchase price upon the basis of which the tax
9 shall be computed and levied. Such rules shall provide for a
10 constructive amount of purchase price for each such sale or use
11 which would naturally and fairly be charged in an arms-length
12 transaction in which the element of common interest between the
13 vendor or purchaser is absent or if no common interest exists,
14 any other element causing a distortion of the price or value is
15 likewise absent. For the purpose of this clause where a taxable
16 sale or purchase at retail transaction occurs between a parent
17 and a subsidiary, affiliate or controlled corporation of such
18 parent corporation, there shall be a rebuttable presumption,
19 that because of such common interest such transaction was not at
20 arms-length.

21 (4) Where there is a transfer or retention of possession or
22 custody, whether it be termed a rental, lease, service or
23 otherwise, of tangible personal property including, but not
24 limited to linens, aprons, motor vehicles, trailers, tires,
25 industrial office and construction equipment, and business
26 machines the full consideration paid or delivered to the vendor
27 or lessor shall be considered the purchase price, even though
28 such consideration be separately stated and be designated as
29 payment for processing, laundering, service, maintenance,
30 insurance, repairs, depreciation or otherwise. Where the vendor

1 or lessor supplies or provides an employe to operate such
2 tangible personal property, the value of the labor thus supplied
3 may be excluded and shall not be considered as part of the
4 purchase price if separately stated. There shall also be
5 included as part of the purchase price the value of anything
6 paid or delivered, or promised to be paid or delivered by a
7 lessee, whether it be money or otherwise, to any person other
8 than the vendor or lessor by reason of the maintenance,
9 insurance or repair of the tangible personal property which a
10 lessee has the possession or custody of under a rental contract
11 or lease arrangement.

12 (5) With respect to the tax imposed by subsection (b) of
13 section 202 upon any tangible personal property originally
14 purchased by the user of such property six months or longer
15 prior to the first taxable use of such property within the
16 Commonwealth, such user may elect to pay tax on a substituted
17 base determined by considering the purchase price of such
18 property for tax purposes to be equal to the prevailing market
19 price of similar personal property at the time and place of such
20 first use within the Commonwealth. Such election must be made by
21 filing a notice thereof in the form specified by the department
22 and reporting such tax liability and paying the proper tax due
23 plus all accrued penalties and interest, if there be any, within
24 one year of the due date of such report and payment, as provided
25 for by subsections (a) and (c) of section 217 of this article.

26 ~~(6) The purchase price of "liquor" purchased from a~~ <—
27 ~~"Pennsylvania Liquor Store" by a "retail liquor licensee," and~~
28 ~~the purchase price of "malt or brewed beverages" purchased from~~
29 ~~any person by a "retail dispenser" shall, for the purpose of~~
30 ~~this article, be a constructive average retail price for such~~

1 ~~liquor or malt or brewed beverage, as shall be determined by the~~
2 ~~Pennsylvania Liquor Control Board, and the tax thereon shall be~~
3 ~~computed and paid upon said constructive average retail price,~~
4 ~~rather than upon the price actually paid by the "retail liquor~~
5 ~~licensee" or "retail dispenser".~~

6 (h) "Purchaser." Any person who acquires, for a
7 consideration, the ownership, custody or possession by sale,
8 lease or otherwise, of tangible personal property, or who
9 obtains services in exchange for a purchase price but not
10 including an employer who obtains services from his employees in
11 exchange for wages or salaries when such services are rendered
12 in the ordinary scope of their employment.

13 (i) "Resale."

14 (1) Any transfer of ownership, custody or possession of
15 tangible personal property for a consideration, including the
16 grant of a license to use or consume and transactions where the
17 possession of such property is transferred but where the
18 transferor retains title only as security for payment of the
19 selling price whether such transaction be designated as bailment
20 lease, conditional sale or otherwise.

21 (2) The physical incorporation of personal property as an
22 ingredient or constituent into other personal property, which is
23 to be sold in the regular course of business or the performance
24 of those services described in subclauses (2), (3) and (4) of
25 clause (k) of this section upon personal property which is to be
26 sold in the regular course of business.

27 The term "resale" shall not include any sale of "malt or
28 brewed beverages" by a "retail dispenser," or any sale of
29 "liquor" or "malt or brewed beverages" by a person holding a
30 "retail liquor license" within the meaning of the "Liquor Code."

1 (j) "Resident."

2 (1) Any natural person (i) who is domiciled in the
3 Commonwealth, or (ii) who maintains a permanent place of abode
4 within the Commonwealth and spends in the aggregate more than
5 sixty days of the year within the Commonwealth.

6 (2) Any corporation (i) incorporated under the laws of this
7 Commonwealth, or (ii) authorized to do business or doing
8 business within this Commonwealth, or (iii) maintaining a place
9 of business within this Commonwealth.

10 (3) Any association, fiduciary, partnership or other entity
11 (i) domiciled in this Commonwealth, or (ii) authorized to do
12 business or doing business within this Commonwealth, or (iii)
13 maintaining a place of business within this Commonwealth.

14 (k) "Sale at retail."

15 (1) Any transfer, for a consideration, of the ownership,
16 custody or possession of tangible personal property, including
17 the grant of a license to use or consume whether such transfer
18 be absolute or conditional and by whatsoever means the same
19 shall have been effected.

20 (2) The rendition of the service of printing or imprinting
21 of tangible personal property for a consideration for persons
22 who furnish, either directly or indirectly the materials used in
23 the printing or imprinting.

24 (3) The rendition for a consideration of the service of--

25 (i) Washing, cleaning, waxing, polishing or lubricating of
26 motor vehicles of another, whether or not any tangible personal
27 property is transferred in conjunction therewith; and

28 (ii) Inspecting motor vehicles pursuant to the mandatory
29 requirements of "The Vehicle Code."

30 (4) The rendition for a consideration of the service of

1 repairing, altering, mending, pressing, fitting, dyeing,
2 laundering, drycleaning or cleaning tangible personal property
3 other than wearing apparel or shoes, or applying or installing
4 tangible personal property as a repair or replacement part of
5 other personal property except wearing apparel or shoes for a
6 consideration, whether or not the services are performed
7 directly or by any means other than by coin-operated equipment
8 and whether or not any tangible personal property is transferred
9 in conjunction therewith, except such services as are rendered
10 in the construction, reconstruction, remodeling, repair or
11 maintenance of real estate: Provided, however, That this
12 subclause shall not be deemed to impose tax upon such services
13 in the preparation for sale of new items which are excluded from
14 the tax under clause (26) of section 204, or upon diaper
15 service.

16 (5) Any retention after March 7, 1956, of possession,
17 custody or a license to use or consume pursuant to a rental
18 contract or other lease arrangement (other than as security).

19 (6) Any retention of possession, custody or a license to use
20 or consume tangible personal property or any further obtaining
21 of services described in subclauses (2), (3) and (4) of this
22 clause after April 15, 1959, pursuant to a rental or service
23 contract or other arrangement (other than as security).

24 (7) Any retention of possession, custody or a license to use
25 or consume tangible personal property or any further obtaining
26 of services described in subclauses (2), (3) and (4) of this
27 clause after August 20, 1959, pursuant to a rental or service
28 contract or other arrangement (other than as security).

29 (8) Any retention of possession, custody or a license to use
30 or consume tangible personal property or any further obtaining

1 of services described in subclauses (2), (3) and (4) of this
2 clause pursuant to a rental or service contract or other
3 arrangement (other than as security).

4 The term "sale at retail" shall not include (i) any such
5 transfer of tangible personal property or rendition of services
6 for the purpose of resale, or (ii) such rendition of services or
7 ~~the transfer of tangible personal property which under authority~~ <—
8 ~~of Federal law may be expensed by the purchaser thereof for~~
9 ~~Federal tax purposes, and are to be used or consumed by such~~ THE <—
10 TRANSFER OF TANGIBLE PERSONAL PROPERTY INCLUDING, BUT NOT
11 LIMITED TO, MACHINERY AND EQUIPMENT AND PARTS THEREFOR AND
12 SUPPLIES TO BE USED OR CONSUMED BY THE purchaser directly in any
13 of the operations of--

14 (A) The manufacture of personal property;

15 (B) Farming, dairying, agriculture, horticulture or
16 floriculture when engaged in as a business enterprise. The term
17 "farming" shall include the propagation and raising of ranch
18 raised fur-bearing animals.

19 (C) The producing, delivering or rendering of a public
20 utility service, or in constructing, reconstructing, remodeling,
21 repairing or maintaining the facilities used in such service,
22 whether or not such facilities constitute real estate: Provided,
23 however, "real estate" shall not include buildings;

24 (D) The processing of personal property as defined in clause
25 (d) of this section.

26 The exclusions provided in paragraphs (A), (B), (C) and (D)
27 shall not apply to any vehicle required to be registered under
28 The Vehicle Code, except those vehicles used directly by a
29 public utility engaged in business as a common carrier, or to
30 maintenance facilities or to materials or supplies to be used or

1 consumed in any construction, reconstruction, remodeling, repair
2 or maintenance of real estate.

3 The exclusions provided in paragraphs (A), (B), (C) and (D)
4 shall not apply to tangible personal property or services to be
5 used or consumed in managerial sales or other nonoperational
6 activities, nor to the purchase or use of tangible personal
7 property or services by any person other than the person
8 directly using the same in the operations described in
9 paragraphs (A), (B), (C) and (D) herein.

10 The exclusion provided in paragraph (C) shall not apply to
11 (i) construction materials used to construct, reconstruct,
12 remodel, repair or maintain facilities not used directly by the
13 purchaser in the production, delivering or rendition of public
14 utility service, ~~even though such materials may be expensed for~~ <—
15 ~~Federal tax purposes~~ or (ii) tools and equipment used but not
16 installed in the maintenance of facilities used in the
17 production, delivering or rendition of a public utility service.
18 ~~even though such tools and equipment may be expensed for Federal~~ <—
19 ~~tax purposes.~~

20 (9) Where tangible personal property or services are
21 utilized for purposes constituting a "sale at retail" and for
22 purposes excluded from the definition of "sale at retail," it
23 shall be presumed that said property is subject to tax, unless
24 the user prove that the purposes which constitute a "sale at
25 retail" are minimal.

26 (10) The term "sale at retail" with respect to "liquor" and
27 "malt or brewed beverages" shall include the sale of "liquor" by
28 any "Pennsylvania liquor store" to any person for any purpose,
29 and the sale of "malt or brewed beverages" by a "manufacturer of
30 malt or brewed beverages," "distributor" or "importing

1 distributor" to any person for any purpose, except sales by a
2 "manufacturer of malt or brewed beverages" to a "distributor" or
3 "importing distributor" or sales by an "importing distributor"
4 to a "distributor" within the meaning of the "Liquor Code." The
5 term "sale at retail" shall not include any sale of "malt or
6 brewed beverages" by a "retail dispenser" or any sale of
7 "liquor" or "malt or brewed beverages" by a person holding a
8 "retail liquor license" within the meaning of and pursuant to
9 the provisions of the "Liquor Code," but shall include any sale
10 of "liquor" or "malt or brewed beverages" other than pursuant to
11 the provisions of the "Liquor Code."

12 (l) "Storage." Any keeping or retention of tangible
13 personal property within this Commonwealth for any purpose
14 including the interim keeping, retaining or exercising any right
15 or power over such tangible personal property.

16 (m) "Tangible personal property." Corporeal personal
17 property including, but not limited to, goods, wares,
18 merchandise, steam and natural and manufactured and bottled gas
19 for non-residential use, electricity for non-residential use,
20 intrastate telephone and telegraph service for non-residential
21 use, spirituous or vinous liquor and malt or brewed beverages
22 and soft drinks; but the term shall not include household
23 supplies purchased at retail establishments for residential
24 consumption, including but not limited to, soaps, detergents,
25 cleaning and polishing preparations, paper goods, household
26 wrapping supplies and items of similar nature, or sanitary
27 napkins, tampons or similar items used for feminine hygiene. Nor
28 shall said term include steam, natural and manufactured and
29 bottled gas, fuel oil, electricity or intrastate telephone or
30 telegraph service when purchased solely for residential use.

(n) "Taxpayer." Any person required to pay or collect the tax imposed by this article.

(o) "Use."

(1) The exercise of any right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to transportation, storage or consumption.

(2) The obtaining by a purchaser of the service of printing or imprinting of tangible personal property when such purchaser furnishes, either directly or indirectly, the articles used in the printing or imprinting.

(3) The obtaining by a purchaser of the services of (i) washing, cleaning, waxing, polishing or lubricating of motor vehicles whether or not any tangible personal property is transferred to the purchaser in conjunction with such services, and (ii) inspecting motor vehicles pursuant to the mandatory requirements of "The Vehicle Code."

(4) The obtaining by a purchaser of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property other than wearing apparel or shoes or applying or installing tangible personal property as a repair or replacement part of other personal property other than wearing apparel or shoes, whether or not the services are performed directly or by any means other than by means of coin-operated equipment, and whether or not any tangible personal property is transferred to the purchaser in conjunction therewith, except such services as are obtained in the construction, reconstruction, remodeling, repair or maintenance of real estate: Provided, however, That this subclause shall not be deemed to impose tax upon such

1 services in the preparation for sale of new items which are
2 excluded from the tax under clause (26) of section 204, or upon
3 diaper service: And provided further, That the term "use" shall
4 not include--

5 (A) Any tangible personal property acquired and kept,
6 retained or over which power is exercised within this
7 Commonwealth on which the taxing of the storage, use or other
8 consumption thereof is expressly prohibited by the Constitution
9 of the United States or which is excluded from tax under other
10 provisions of this article.

11 ~~(B) Tangible personal property, supplies or the obtaining of~~ <—
12 ~~the services described in subclauses (2), (3) and (4) of this~~
13 ~~clause, which property, supplies and services under authority of~~
14 ~~Federal law may be expensed by the user thereof for Federal tax~~
15 ~~purposes and which are used or consumed by the purchaser~~
16 ~~directly in any of the operations of—~~

17 (B) THE USE OR CONSUMPTION OF TANGIBLE PERSONAL PROPERTY, <—
18 INCLUDING BUT NOT LIMITED TO MACHINERY AND EQUIPMENT AND PARTS
19 THEREFOR, AND SUPPLIES OR THE OBTAINING OF THE SERVICES
20 DESCRIBED IN SUBCLAUSES (2), (3) AND (4) OF THIS CLAUSE DIRECTLY
21 IN ANY OF THE OPERATIONS OF--

22 (i) The manufacture of personal property;

23 (ii) Farming, dairying, agriculture, horticulture or
24 floriculture when engaged in as a business enterprise;

25 (iii) The producing, delivering or rendering of a public
26 utility service, or in constructing, reconstructing, remodeling,
27 repairing or maintaining the facilities used in such service,
28 whether or not such facilities constitute real estate: Provided,
29 however, "real estate" shall not include buildings;

30 (iv) The processing of personal property as defined in

1 subclause (d) of this section.

2 The exclusions provided in subparagraphs (i), (ii), (iii) and
3 (iv) shall not apply to any vehicle required to be registered
4 under The Vehicle Code except vehicles directly used by a public
5 utility engaged in the business as a common carrier or
6 maintenance facilities, or to materials or supplies to be used
7 or consumed in any construction, reconstruction, remodeling,
8 repair or maintenance of real estate. The exclusions provided in
9 subparagraphs (i), (ii), (iii) and (iv) shall not apply to
10 tangible personal property or services to be used or consumed in
11 managerial sales or other nonoperational activities, nor to the
12 purchase or use of tangible personal property by any person
13 other than the person directly using the same in the aforesaid
14 operations.

15 The exclusion provided in subparagraph (iii) shall not apply
16 to (A) construction materials used to construct, reconstruct,
17 remodel, repair or maintain facilities not used directly in the
18 production, delivering or rendition of public utility service,
19 ~~even though under Federal law such materials may be expensed for~~ <—
20 ~~Federal tax purposes,~~ or (B) tools and equipment used but not
21 installed in the maintenance of facilities used directly in the
22 production, delivering or rendition of a public utility service.
23 ~~even though under Federal law such items may be expensed for~~ <—
24 ~~Federal tax purposes.~~

25 (5) Where tangible personal property or services are
26 utilized for purposes constituting a "use," as herein defined,
27 and for purposes excluded from the definition of "use," it shall
28 be presumed that said property is subject to tax unless the user
29 prove that the purposes which constitute a "use" as herein
30 defined are minimal.

1 IMPOSITION OF TAX

2 Section 202. Imposition of Tax.--(a) There is hereby imposed
3 upon each separate sale at retail of tangible personal property
4 or services, as defined herein, within this Commonwealth a tax
5 of six per cent of the purchase price, which tax shall be
6 collected by the vendor from the purchaser, and shall be paid
7 over to the Commonwealth as herein provided.

8 (b) There is hereby imposed upon the use, on and after the
9 effective date of this act, within this Commonwealth of tangible
10 personal property purchased at retail on or after March 7, 1956,
11 and on those services described herein purchased at retail on
12 and after April 15, 1959, a tax of six per cent of the purchase
13 price, which tax shall be paid to the Commonwealth by the person
14 who makes such use as herein provided, except that such tax
15 shall not be paid to the Commonwealth by such person where he
16 has paid the tax imposed by subsection (a) of this section or
17 has paid the tax imposed by this subsection (b) to the vendor
18 with respect to such use. The tax at the rate of six per cent
19 imposed by this subsection shall not be deemed applicable where
20 the tax has been incurred at the rate of three per cent or three
21 and one-half per cent or four per cent or five per cent under
22 ~~this subsection prior to this amendment.~~ THE PROVISIONS OF "THE <—
23 TAX ACT OF 1963 FOR EDUCATION."

24 (c) Notwithstanding any other provisions of this article,
25 the tax with respect to non-residential intrastate telephone
26 service and intrastate telegraph service within the meaning of
27 clause (m) of section 201 of this article shall, except for
28 telegrams paid for in cash at telegraph offices, be computed at
29 the rate of six per cent upon the total amount billed to
30 customers periodically for such services, irrespective of

1 whether such billing is based upon a flat rate or upon a message
2 unit charge.

3 Section 203. Computation of Tax.--The amount of tax imposed
4 by section 202 of this article shall be computed as follows:

5 (a) If the purchase price is ten cents (10¢) or less, no tax
6 shall be collected.

7 (b) If the purchase price is eleven cents (11¢) or more but
8 less than eighteen cents (18¢), one cent (1¢) shall be
9 collected.

10 (c) If the purchase price is eighteen cents (18¢) or more
11 but less than thirty-five cents (35¢), two cents (2¢) shall be
12 collected.

13 (d) If the purchase price is thirty-five cents (35¢) or more
14 but less than fifty-one cents (51¢), three cents (3¢) shall be
15 collected.

16 (e) If the purchase price is fifty-one cents (51¢) or more
17 but less than sixty-eight cents (68¢), four cents (4¢) shall be
18 collected.

19 (f) If the purchase price is sixty-eight cents (68¢) or more
20 but less than eighty-five cents (85¢), five cents (5¢) shall be
21 collected.

22 (g) If the purchase price is eighty-five cents (85¢) or more
23 but less than one dollar and one cent (\$1.01), six cents (6¢)
24 shall be collected.

25 (h) If the purchase price is more than one dollar (\$1.00),
26 six per centum of each dollar of purchase price plus the above
27 bracket charges upon any fractional part of a dollar in excess
28 of even dollars shall be collected.

29 PART III

30 EXCLUSIONS FROM TAX

1 Section 204. Exclusions from Tax.--The tax imposed by
2 section 202 shall not be imposed upon

3 (1) The sale at retail or use of tangible personal property
4 (other than motor vehicles, trailers, semi-trailers, motor
5 boats, aircraft or other similar tangible personal property
6 required under either Federal law or laws of this Commonwealth
7 to be registered or licensed) or services sold by or purchased
8 from a person not a vendor in an isolated transaction or sold by
9 or purchased from a person who is a vendor but is not a vendor
10 with respect to the tangible personal property or services sold
11 or purchased in such transaction: Provided, That inventory and
12 stock in trade so sold or purchased, shall not be excluded from
13 the tax by the provisions of this subsection.

14 (2) The use of tangible personal property purchased by a
15 nonresident person outside of, and brought into this
16 Commonwealth for use therein for a period not to exceed seven
17 days, or for any period of time when such nonresident is a
18 tourist or vacationer and, in either case not consumed within
19 the Commonwealth.

20 (3) The use of tangible personal property purchased outside
21 this Commonwealth for use outside this Commonwealth by a then
22 nonresident natural person or a business entity not actually
23 doing business within this Commonwealth, who later brings such
24 tangible personal property into this Commonwealth in connection
25 with his establishment of a permanent business or residence in
26 this Commonwealth: Provided, That such property was purchased
27 more than six months prior to the date it was first brought into
28 this Commonwealth or prior to the establishment of such business
29 or residence, whichever first occurs. This exclusion shall not
30 apply to tangible personal property temporarily brought into

1 Pennsylvania for the performance of contracts for the
2 construction, reconstruction, remodeling, repairing and
3 maintenance of real estate.

4 (4) The sale at retail or use of supplies and materials to
5 be used in the fulfillment of contracts for the construction,
6 reconstruction, remodeling, repairing, maintenance or sale of
7 real estate when such contract was entered into

8 (i) Prior to March 7, 1956, and is at a fixed price not
9 subject to change or modification by reason of the tax imposed
10 by this act; or

11 (ii) Pursuant to the obligation of a bid or bids submitted
12 prior to March 7, 1956, which bid or bids could not be altered
13 or withdrawn on or after that date and which bid or bids and
14 contract entered into pursuant thereto are at a fixed price not
15 subject to change or modification by reason of the tax imposed
16 by the act in effect prior to this article.

17 Provided, however, That notice of such contract or bid by
18 reason of which an exclusion is claimed under this subsection
19 (4) must be given by the taxpayer to the department on or before
20 June 15, 1956.

21 (5) The sale at retail or use of materials to be
22 incorporated into and made a part of real estate pursuant to a
23 contract for the construction, reconstruction, remodeling,
24 repairing, maintenance or sale of such real estate, when the
25 contract is, either at a fixed price not subject to change or
26 modification, or entered into pursuant to the obligation of a
27 formal written bid which cannot be altered or withdrawn, and, in
28 either case, such contract was entered into or such bid made on
29 or after March 7, 1956, but prior to April 15, 1959, shall be
30 exempt from the additional one-half of one per cent of tax

1 imposed by section 201 of the Tax Act of 1963 for Education as
2 amended April 15, 1959 (P.L.20), and from the additional one-
3 half of one per cent of tax imposed by section 201 of the Tax
4 Act of 1963 for Education as amended August 20, 1959 (P.L.729),
5 and from the additional one per cent of tax imposed by section
6 201 of the Tax Act of 1963 for Education as amended May 29, 1963
7 (P.L.49) and from the additional one per cent of tax imposed by
8 section 201 of the Tax Act of 1963 for Education as amended
9 January 1, 1968 (P.L.918): Provided, however, That the exemption
10 granted by this clause shall not be claimed by the purchaser
11 from any vendor but shall be claimed only by the filing of a
12 refund petition with the department.

13 (6) The sale at retail or use of materials to be
14 incorporated into and made a part of real estate pursuant to a
15 contract for the construction, reconstruction, remodeling,
16 repairing, maintenance or sale of such real estate when the
17 contract is, either at a fixed price not subject to change or
18 modification, or entered into pursuant to the obligation of a
19 formal written bid which cannot be altered or withdrawn, and, in
20 either case, such contract was entered into or such bid made on
21 or after April 15, 1959, but prior to August 20, 1959, shall be
22 exempt from the additional one-half of one per cent of tax
23 imposed by section 201 of the Tax Act of 1963 for Education as
24 amended August 20, 1959 (P.L.729), and from the additional one
25 per cent of tax imposed by section 201 of the Tax Act of 1963
26 for Education as amended May 29, 1963 (P.L.49) and from the
27 additional one per cent of tax imposed by section 201 of the Tax
28 Act of 1963 for Education as amended January 1, 1968 (P.L.918):
29 Provided, however, That the exemption granted by this clause
30 shall not be claimed by the purchaser from any vendor but shall

1 be claimed only by the filing of a refund petition with the
2 department.

3 (7) The sale at retail or use of materials to be
4 incorporated into and made a part of real estate pursuant to a
5 contract for the construction, reconstruction, remodeling,
6 repairing, maintenance or sale of such real estate when the
7 contract is, either at a fixed price not subject to change or
8 modification, or entered into pursuant to the obligation of a
9 formal written bid which cannot be altered or withdrawn, and, in
10 either case, such contract was entered into or such bid made on
11 or after August 20, 1959, but prior to June 1, 1963 shall be
12 exempt from the additional one per cent of tax imposed by
13 section 201 of the Tax Act of 1963 for Education as amended May
14 29, 1963 (P.L.49) and from the additional one per cent of the
15 tax imposed by section 201 of the Tax Act of 1963 for Education
16 as amended January 1, 1968 (P.L.918): Provided, however, That
17 the exemption granted by this clause shall not be claimed by the
18 purchaser, from any vendor but shall be claimed only by the
19 filing of a refund petition with the department.

20 (8) The sale at retail or use of materials to be
21 incorporated into and made a part of real estate pursuant to a
22 contract for the construction, reconstruction, remodeling,
23 repairing, maintenance or sale of such real estate when the
24 contract is, either at a fixed price not subject to change or
25 modification, or entered into pursuant to the obligation of a
26 formal written bid which cannot be altered or withdrawn, and, in
27 either case, such contract was entered into or such bid made on
28 or after June 1, 1963, but prior to January 1, 1968, shall be
29 exempt from the additional one per cent of tax imposed by
30 section 201 of the Tax Act of 1963 for Education as amended

1 January 1, 1968 (P.L.918): Provided, however, That the exemption
2 granted by this clause shall not be claimed by the purchaser
3 from any vendor but shall be claimed only by the filing of a
4 refund petition with the department.

5 (9) The sale at retail or use of tangible personal property
6 or services subject to tax under this article, but which prior
7 to the effective date of this article were excluded from tax
8 under the provisions of the "Tax Act of 1963 for Education"
9 shall be excluded from the tax imposed by this article, provided
10 such sale at retail or use occurred pursuant to and in
11 fulfillment of a written fixed price sales or construction
12 contract or formal bid entered into on or after January 1, 1968,
13 but prior to the effective date of this article by the person
14 who otherwise would be subject to tax under this article and
15 another, and which contract or bid cannot be altered, modified
16 or withdrawn by the parties. The exclusion from tax provided
17 herein shall not be claimed by any person from a vendor but
18 shall be claimed only by the filing of a refund petition with
19 the department as provided in this article.

20 (10) The sale at retail to or use by (i) any charitable
21 organization, volunteer firemen's organization or nonprofit
22 educational institution, or (ii) a religious organization for
23 religious purposes of tangible personal property or services:
24 Provided, however, That the exclusion of this clause shall not
25 apply with respect to any tangible personal property or services
26 used in any unrelated trade or business carried on by such
27 organization or institution or with respect to any materials,
28 supplies and equipment used in the construction, reconstruction,
29 remodeling, repairs and maintenance of any real estate, except
30 materials and supplies when purchased by such organizations or

1 institutions for routine maintenance and repairs.

2 (11) The sale at retail, or use of gasoline and other motor
3 fuels, the sales of which are otherwise subject to excise taxes
4 under the act of May 21, 1931 (P.L.194), known as the "Liquid
5 Fuels Tax Act," and the act of January 14, 1952 (P.L.1965),
6 known as the "Fuel Use Tax Act."

7 (12) The sale at retail to, or use by the United States,
8 this Commonwealth or its instrumentalities or political
9 subdivisions of tangible personal property or services.

10 (13) The sale at retail, or use of wrapping paper, wrapping
11 twine, bags, cartons, tape, rope, labels, nonreturnable
12 containers and all other wrapping supplies, when such use is
13 incidental to the delivery of any personal property, except that
14 any charge for wrapping or packaging shall be subject to tax at
15 the rate imposed by section 202.

16 (14) Sale at retail or use of vessels designed for
17 commercial use of registered tonnage of fifty tons or more when
18 produced by the builders thereof upon special order of the
19 purchaser;

20 (15) Sale at retail of tangible personal property or
21 services used or consumed in building, rebuilding, repairing and
22 making additions to or replacements in and upon vessels designed
23 for commercial use of registered tonnage of fifty tons or more
24 upon special order of the purchaser, or when rebuilt, repaired
25 or enlarged, or when replacements are made upon order of or for
26 the account of the owner.

27 (16) The sale at retail or use of tangible personal property
28 or services to be used or consumed for ship cleaning or
29 maintenance or as fuel, supplies, ships' equipment, ships'
30 stores or sea stores on vessels to be operated principally

1 outside the limits of the Commonwealth.

2 (17) The sale at retail or use of prescription or non-
3 prescription medicines, drugs or medical supplies, crutches and
4 wheelchairs for the use of cripples and invalids, artificial
5 limbs, artificial eyes and artificial hearing devices when
6 designed to be worn on the person of the purchaser or user,
7 false teeth and materials used by a dentist in dental treatment,
8 eyeglasses when especially designed or prescribed by an
9 ophthalmologist, oculist or optometrist for the personal use of
10 the owner or purchaser and artificial braces and supports
11 designed solely for the use of crippled persons.

12 (18) The sale at retail or use of coal.

13 (19) The sale at retail or use of supplies and materials to
14 be used exclusively in the fulfillment of a contract for the
15 construction, reconstruction, remodeling, repairing or
16 maintenance of real estate, when such contract was entered into
17 prior to March 7, 1956, between the person who would otherwise
18 be subject to the tax and a municipal authority, incorporated
19 under the "Municipality Authorities Act of 1945": Provided, That
20 notice of a claim of exemption under this clause is received by
21 the department within fifteen days after the effective date of
22 this clause.

23 (20) The sale at retail or use of materials to be
24 incorporated into and made a part of real estate pursuant to a
25 contract for the construction, reconstruction, remodeling,
26 repairing or maintenance of such real estate, when the contract
27 was entered into on or after March 7, 1956, but prior to April
28 15, 1959, between the person who would otherwise be subject to
29 the tax and a municipal authority, incorporated under the
30 "Municipality Authorities Act of 1945," shall be exempt from the

1 additional one-half of one per cent of tax imposed by section
2 201 of the Tax Act of 1963 for Education as amended April 15,
3 1959 (P.L.20), and from the additional one-half of one per cent
4 of tax imposed by section 201 of the Tax Act of 1963 for
5 Education as amended August 20, 1959 (P.L.729), and from the
6 additional one per cent of tax imposed by section 201 of the Tax
7 Act of 1963 for Education, as amended May 29, 1963 (P.L.49) and
8 from the additional one per cent of tax imposed by section 201
9 of the Tax Act of 1963 for Education as amended January 1, 1968
10 (P.L.918): Provided, however, That the exemption granted by this
11 clause shall not be claimed by the purchaser from any vendor but
12 shall be claimed only by the filing of a refund petition with
13 the department.

14 (21) The sale at retail or use of materials to be
15 incorporated into and made a part of real estate pursuant to a
16 contract for the construction, reconstruction, remodeling,
17 repairing or maintenance of such real estate, when the contract
18 was entered into on or after April 15, 1959, but prior to August
19 20, 1959, between the person who would otherwise be subject to
20 the tax and a municipal authority, incorporated under the
21 "Municipality Authorities Act of 1945," shall be exempt from the
22 additional one-half of one per cent of tax imposed by section
23 201 of the Tax Act of 1963 for Education as amended August 20,
24 1959 (P.L.729), and from the additional one per cent of tax
25 imposed by section 201 of the Tax Act of 1963 for Education, as
26 amended May 29, 1963 (P.L.49) and from the additional one per
27 cent of tax imposed by section 201 of the Tax Act of 1963 for
28 Education as amended January 1, 1968 (P.L.918): Provided,
29 however, That the exemption granted by this clause shall not be
30 claimed by the purchaser from any vendor but shall be claimed

1 only by the filing of a refund petition with the department.

2 (22) The sale at retail or use of materials to be
3 incorporated into and made a part of real estate pursuant to a
4 contract for the construction, reconstruction, remodeling,
5 repairing or maintenance of such real estate when the contract
6 was entered into on or after August 20, 1959, but prior to June
7 1, 1963, between the person who would otherwise be subject to
8 the tax and a municipal authority, incorporated under the
9 "Municipality Authorities Act of 1945," shall be exempt from the
10 additional one per cent of tax imposed by section 201 of the Tax
11 Act of 1963 for Education as amended May 29, 1963 (P.L.49) and
12 from the additional one per cent of the tax imposed by section
13 201 of the Tax Act of 1963 for Education, as amended January 1,
14 1968 (P.L.918): Provided, however, That the exemption granted by
15 this clause shall not be claimed by the purchaser from any
16 vendor but shall be claimed only by the filing of a refund
17 petition with the department.

18 (23) The sale at retail or use of materials to be
19 incorporated into and made a part of real estate pursuant to a
20 contract for the construction, reconstruction, remodeling,
21 repairing or maintenance of such real estate, when the contract
22 was entered into on or after June 1, 1963, but prior to January
23 1, 1968, between the person who would otherwise be subject to
24 the tax and a municipal authority incorporated under the
25 "Municipality Authorities Act of 1945," shall be exempt from the
26 additional one per cent of tax imposed by section 201 of the Tax
27 Act of 1963 for Education, as amended January 1, 1968 (P.L.918):
28 Provided, however, That the exemption granted by this clause
29 shall not be claimed by the purchaser from any vendor but shall
30 be claimed only by the filing of a refund petition with the

1 department.

2 (24) The sale at retail or use of motor vehicles, trailers
3 and semi-trailers, or bodies attached to the chassis thereof,
4 sold to a nonresident of Pennsylvania to be used outside of
5 Pennsylvania and which are registered in a state other than
6 Pennsylvania within twenty days after delivery to the vendee.

7 (25) The sale at retail or use of water.

8 (26) The sale at retail or use of all vesture, wearing
9 apparel, raiments, garments, footwear and other articles of
10 clothing worn or carried on or about the human body but all
11 accessories, ornamental wear, formal day or evening apparel, and
12 articles made of fur on the hide or pelt or any material
13 imitative of fur and articles of which such fur, real, imitation
14 or synthetic, is the component material of chief value, but only
15 if such value is more than three times the value of the next
16 most valuable component material, and sporting goods and
17 clothing not normally used or worn when not engaged in sports
18 shall not be excluded from the tax.

19 ~~(27) The sale at retail or use or the rendition of or the~~ <—
20 ~~obtaining by a purchaser of the service of printing or~~
21 ~~imprinting of mail order catalogs and direct mail advertising~~
22 ~~materials.~~

23 ~~(28)~~ (27) The sale at retail or use of cigarettes. <—

24 ~~(29)~~ (28) The sale at retail or use of religious <—
25 publications sold by religious groups and Bibles and religious
26 articles.

27 ~~(30)~~ (29) The sale at retail or use of food and beverages <—
28 for human consumption including candy, gum and similar
29 confections, except that this exclusion shall not apply with
30 respect to--

1 (i) Soft drinks;
2 (ii) Malt and brewed beverages and spirituous and vinous
3 liquors;
4 (iii) Food and beverages (except when purchased at, or from
5 a school or church in the ordinary course of activities of such
6 organization) when the purchase price of the total transaction
7 is more than fifty cents (50¢), when purchased (i) from persons
8 engaged in the business of catering, or (ii) from persons
9 engaged in the business of operating restaurants, cafes, lunch
10 counters, private and social clubs, taverns, dining cars, hotels
11 and other eating places. For the purpose of this subclause
12 (iii), beverages shall not include malt and brewed beverages and
13 spirituous and vinous liquors, but shall include soft drinks,
14 and the price of such soft drinks shall be considered together
15 with the price of other beverages and food in determining
16 whether the purchase price of the total transaction is more than
17 fifty cents (50¢).

18 ~~(31)~~ (30) The sale at retail or use of periodicals and <—
19 publications which are published at regular intervals not
20 exceeding three months, circulated among the general public and
21 containing matters of general interest and reports of current
22 events.

23 ~~(32)~~ (31) The sale at retail or use of caskets and burial <—
24 vaults for human remains and markers and tombstones for human
25 graves.

26 ~~(33)~~ (32) The sale at retail or use of flags of the United <—
27 States of America and the Commonwealth of Pennsylvania.

28 ~~(34)~~ (33) The sale at retail or use of textbooks for use in <—
29 schools, colleges and universities, either public or private
30 when purchased in behalf of or through such schools, colleges or

1 universities provided such institutions of learning are
2 recognized by the Department of Education.

3 Section 205. Alternate Imposition of Tax; Credits.--If any
4 person actively and principally engaged in the business of
5 selling new or used motor vehicles, trailers or semi-trailers,
6 and registered with the department in the "dealer's class,"
7 acquires a motor vehicle, trailer or semi-trailer for the
8 purpose of resale, and prior to such resale, uses the motor
9 vehicle, trailer or semi-trailer for a taxable use under this
10 act during a period not exceeding one year from the date of
11 acquisition to the date of resale, such person may, upon notice
12 to the department within ten days of the commencement of such
13 use, elect to pay a tax equal to six per cent of the fair rental
14 value of the motor vehicle, trailer or semi-trailer during such
15 use. Should such motor vehicle, trailer or semi-trailer be used
16 for a taxable use after a period of one year, the taxpayer shall
17 be liable for a tax on the fair market value of such motor
18 vehicle, trailer or semi-trailer at the time of acquisition, but
19 shall be allowed a credit equal to the tax paid pursuant to the
20 election provided for in this section. This section shall not
21 apply to the use of a vehicle as a wrecker, parts truck,
22 delivery truck or courtesy car.

23 Section 206. Credit Against Tax.--A credit against the tax
24 imposed by this act shall be granted with respect to tangible
25 personal property or services purchased for use outside the
26 Commonwealth equal to the tax paid to another state by reason of
27 the imposition by such other state of a tax similar to the tax
28 imposed by this article: Provided, however, That no such credit
29 shall be granted unless such other state grants substantially
30 similar tax relief by reason of the payment of tax under this

1 act.

2 PART IV

3 LICENSES

4 Section 208. Licenses.--(a) Every person maintaining a place
5 of business in this Commonwealth, selling or leasing services or
6 tangible personal property, the sale or use of which is subject
7 to tax and who has not hitherto obtained a license from the
8 department, shall, prior to the beginning of business
9 thereafter, make application to the department, on a form
10 prescribed by the department, for a license. If such person
11 maintains more than one place of business in this Commonwealth,
12 the license shall be issued for the principal place of business
13 in this Commonwealth.

14 (b) The department shall, after the receipt of an
15 application, issue the license applied for under subsection (a)
16 of this section. The license shall be nonassignable and of
17 permanent duration.

18 (c) Any person who, upon the expiration of sixty days after
19 the effective date of this act, shall maintain a place of
20 business in this Commonwealth for the purpose of selling or
21 leasing services or tangible personal property, the sale or use
22 of which is subject to tax, without having first been licensed
23 by the department pursuant to the provisions of this section,
24 shall be guilty of a summary offense, and upon conviction
25 thereof in a summary proceeding, shall be sentenced to pay a
26 fine of not less than one hundred dollars (\$100) nor more than
27 three hundred dollars (\$300), and in default thereof, to undergo
28 imprisonment of not less than five days nor more than thirty
29 days. The penalties imposed by this section shall be in addition
30 to any other penalties imposed by this article.

1 (d) Failure of any person to obtain a license shall not
2 relieve him of liability to pay the tax imposed by this article.

3 PART V

4 HOTEL OCCUPANCY TAX

5 Section 209. Definitions.--(a) For the purposes of this part
6 V only, the following words, terms and phrases shall have the
7 meaning ascribed to them in this subsection, except where the
8 context clearly indicates a different meaning:

9 (1) "Hotel." A building or buildings in which the public
10 may, for a consideration, obtain sleeping accommodations. The
11 term "hotel" shall not include any charitable, educational or
12 religious institution summer camp for children, hospital or
13 nursing home.

14 (2) "Occupant." A person (other than a "permanent
15 resident," as defined herein,) who, for a consideration, uses,
16 possesses or has a right to use or possess any room or rooms in
17 a hotel under any lease, concession, permit, right of access,
18 license or agreement.

19 (3) "Occupancy." The use or possession or the right to the
20 use or possession by any person (other than a "permanent
21 resident,") of any room or rooms in a hotel for any purpose or
22 the right to the use or possession of the furnishings or to the
23 services and accommodations accompanying the use and possession
24 of the room or rooms.

25 (4) "Operator." Any person operating a hotel.

26 (5) "Permanent resident." Any occupant who has occupied or
27 has the right to occupancy of any room or rooms in a hotel for
28 at least thirty consecutive days.

29 (6) "Rent." The consideration received for occupancy valued
30 in money, whether received in money or otherwise, including all

1 receipts, cash, credits and property or services of any kind or
2 nature, and also any amount for which the occupant is liable for
3 the occupancy without any deduction therefrom whatsoever.

4 (b) The following words, terms and phrases and words, terms
5 and phrases of similar import, when used in parts IV and VI of
6 this article for the purposes of those parts only, shall, in
7 addition to the meaning ascribed to them by section 201 of this
8 article, have the meaning ascribed to them in this subsection,
9 except where the context clearly indicates a different meaning:

10 (1) "Maintaining a place of business in this Commonwealth,"
11 being the operator of a hotel in this Commonwealth.

12 (2) "Purchase at retail," occupancy.

13 (3) "Purchase price," rent.

14 (4) "Purchaser," occupant.

15 (5) "Sale at retail," the providing of occupancy to an
16 occupant by an operator.

17 (6) "Tangible personal property," occupancy.

18 (7) "Vendor," operator.

19 (8) "Services," occupancy.

20 (9) "Use," occupancy.

21 Section 210. Imposition of Tax.--There is hereby imposed an
22 excise tax of six per cent of the rent upon every occupancy of a
23 room or rooms in a hotel in this Commonwealth, which tax shall
24 be collected by the operator from the occupant and paid over to
25 the Commonwealth as herein provided.

26 Section 211. Seasonal Tax Returns.--Notwithstanding any
27 other provisions in this act, the department may, by regulation,
28 waive the requirement for the filing of quarterly returns in the
29 case of any operator whose hotel is operated only during certain
30 seasons of the year, and may provide for the filing of returns

1 by such persons at times other than those provided by section
2 221.

3 PART VI

4 PROCEDURE AND ADMINISTRATION

5 CHAPTER I

6 RETURNS

7 Section 215. Persons Required to Make Returns.--Every person
8 required to pay tax to the department or collect and remit tax
9 to the department shall file returns with respect to such tax.

10 Section 216. Form of Returns.--The returns required by
11 section 215 shall be on forms prescribed by the department, and
12 shall show such information with respect to the taxes imposed by
13 this article as the department may reasonably require.

14 CHAPTER II

15 TIME AND PLACE FOR FILING RETURNS

16 Section 217. Time for Filing Returns.--(a) Monthly,
17 Bimonthly and Quarterly Returns:

18 (1) For the year in which this article becomes effective and
19 in each year thereafter a return shall be filed quarterly by
20 every licensee on or before the last day of April, July, October
21 and January for the three months ending the last day of March,
22 June, September and December, except as hereinafter provided.

23 (2) For the year in which this article becomes effective,
24 and in each year thereafter, a return shall be filed monthly
25 with respect to each month by every licensee whose total tax
26 reported, or in the event no report is filed, the total tax
27 which should have been reported, for the third calendar quarter
28 of the preceding year equals or exceeds six hundred dollars
29 (\$600). Such returns shall be filed on or before the fifteenth
30 day of the second month succeeding the month with respect to

1 which the return is made, except that the return due for the
2 month of April, of each year, shall be filed on or before the
3 twentieth day of May next following and the return due for the
4 month of May of each year shall be filed on or before the
5 twentieth day of June next following. Any licensee required to
6 file monthly returns hereunder shall be relieved from filing
7 quarterly returns.

8 (3) For the year in which this article becomes effective,
9 and for each year thereafter, every licensee required to file a
10 quarterly return for the second calendar quarter shall file a
11 single return for the months of April and May on or before the
12 fifteenth day of June next following. The filing of such return
13 shall not relieve the licensee of the duty to file a return on
14 or before the last day of July next following and to remit
15 therewith tax for the month of June.

16 (b) Annual Returns. For the calendar year 1971, and for
17 each year thereafter, no annual return shall be filed, except as
18 may be required by rules and regulations of the department
19 promulgated and published at least sixty days prior to the end
20 of the year with respect to which the returns are made. Where
21 such annual returns are required licensees shall not be required
22 to file such returns prior to the sixty-first day of the year
23 succeeding the year with respect to which the returns are made.

24 (c) Other Returns. Any person, other than a licensee, liable
25 to pay to the department any tax under this article, shall file
26 a return on or before the last day of the month succeeding the
27 month in which such person becomes liable for the tax.

28 (d) Small Taxpayers. The department, by regulation, may
29 waive the requirement for the filing of quarterly return in the
30 case of any licensee whose individual tax collections do not

1 exceed seventy-five dollars (\$75) per calendar quarter and may
2 provide for reporting on a less frequent basis in such cases.

3 Section 218. Extension of Time for Filing Returns.--The
4 department may, on written application and for good cause shown,
5 grant a reasonable extension of time for filing any return
6 required under this part. However, the time for making a return
7 shall not be extended for more than three months.

8 Section 219. Place for Filing Returns.--Returns shall be
9 filed with the department at its main office or at any branch
10 office which it may designate for filing returns.

11 CHAPTER III

12 PAYMENT OF TAX

13 Section 221. Payment.--When a return of tax is required
14 under this part, the person required to make the return shall
15 pay the tax to the department.

16 Section 222. Time of Payment.--(a) Monthly, Bimonthly and
17 Quarterly Payments. The tax imposed by this article and incurred
18 or collected by a licensee shall be due and payable by the
19 licensee on the day the return is required to be filed under the
20 provisions of section 217 and such payment must accompany the
21 return for such preceding period,

22 (b) Annual Payments. If the amount of tax due for the
23 preceding year as shown by the annual return of any taxpayer is
24 greater than the amount already paid by him in connection with
25 his monthly or quarterly returns he shall send with such annual
26 return a remittance for the unpaid amount of tax for the year.

27 (c) Other Payments. Any person other than a licensee liable
28 to pay any tax under this article shall remit the tax at the
29 time of filing the return required by this article.

30 Section 223. Other Times for Payment.--In the event that the

1 department authorizes a taxpayer to file a return at other times
2 than those specified in section 217, the tax due shall be paid
3 at the time such return is filed.

4 Section 224. Place for Payment.--The tax imposed by this
5 article shall be paid to the department at the place fixed for
6 filing the return.

7 Section 225. Tax Held in Trust for the Commonwealth.--All
8 taxes collected by any person from purchasers in accordance with
9 this article and all taxes collected by any person from
10 purchasers under color of this article which have not been
11 properly refunded by such person to the purchaser shall
12 constitute a trust fund for the Commonwealth, and such trust
13 shall be enforceable against such person, his representatives
14 and any person (other than a purchaser to whom a refund has been
15 made properly) receiving any part of such fund without
16 consideration, or knowing that the taxpayer is committing a
17 breach of trust: Provided, however, That any person receiving
18 payment of a lawful obligation of the taxpayer from such fund
19 shall be presumed to have received the same in good faith and
20 without any knowledge of the breach of trust. Any person, other
21 than a taxpayer, against whom the department makes any claim
22 under this section shall have the same right to petition and
23 appeal as is given taxpayers by any provisions of this part.

24 Section 226. Local Receivers of Use Tax.--Beginning on and
25 after the effective date of this article, in every county,
26 except in counties of the first class, the county treasurer is
27 hereby authorized to receive use tax due and payable under the
28 provisions of this article from any person other than a
29 licensee. The receiving of such taxes shall be pursuant to rules
30 and regulations promulgated by the department and upon forms

1 furnished by the department. Each county treasurer shall remit
2 to the department all use taxes received under the authority of
3 this section minus the costs of administering this provision not
4 to exceed one per cent of the amount of use taxes received,
5 which amount shall be retained in lieu of any commission
6 otherwise allowable by law for the collection of such tax.

7 Section 227. Discount.--If a return is filed by a licensee
8 and the tax shown to be due thereon less any discount is paid
9 all within the time prescribed, the licensee shall be entitled
10 to credit and apply against the tax payable by him a discount of
11 one per cent of the amount of the tax collected by him on and
12 after the effective date of this article, as compensation for
13 the expense of collecting and remitting the same and as a
14 consideration of the prompt payment thereof.

15 CHAPTER IV

16 ASSESSMENT AND COLLECTION OF TAX

17 Section 230. Assessment.--The department is authorized and
18 required to make the inquiries, determinations and assessments
19 of the tax (including interest, additions and penalties) imposed
20 by this article.

21 Section 231. Mode and Time of Assessment.--(a) Underpayment
22 of Tax. Within a reasonable time after any return is filed, the
23 department shall examine it and, if the return shows a greater
24 tax due or collected than the amount of tax remitted with the
25 return, the department shall issue an assessment for the
26 difference, together with an addition of three per cent of such
27 difference, which shall be paid to the department within ten
28 days after a notice of the assessment has been mailed to the
29 taxpayer. If such assessment is not paid within ten days, there
30 shall be added thereto and paid to the department an additional

1 three per cent of such difference for each month thereof during
2 which the assessment remains unpaid, but the total of all
3 additions shall not exceed eighteen per cent of the difference
4 shown on the assessment.

5 (b) Understatement of Tax. If the department determines that
6 any return or returns of any taxpayer understates the amount of
7 tax due, it shall determine the proper amount and shall
8 ascertain the difference between the amount of tax shown in the
9 return and the amount determined, such difference being
10 hereafter sometimes referred to as the "deficiency." A notice of
11 assessment for the deficiency and the reasons therefor shall
12 then be sent to the taxpayer. The deficiency shall be paid to
13 the department within thirty days after a notice of the
14 assessment thereof has been mailed to the taxpayer.

15 (c) Failure to File Return. In the event that any taxpayer
16 fails to file a return required by this article, the department
17 may make an estimated assessment (based on information
18 available) of the proper amount of tax owing by the taxpayer. A
19 notice of assessment in the estimated amount shall be sent to
20 the taxpayer. The tax shall be paid within thirty days after a
21 notice of such estimated assessment has been mailed to the
22 taxpayer.

23 (d) Authority to Establish Effective Rates by Business
24 Classification. The department is authorized to make the studies
25 necessary to compute effective rates by business classification,
26 based upon the ratio between the tax required to be collected
27 and taxable sales and to use such rates in arriving at the
28 apparent tax liability of a taxpayer.

29 Any assessment based upon such rates shall be prima facie
30 correct, except that such rate shall not be considered where a

1 taxpayer establishes that such rate is based on a sample
2 inapplicable to him.

3 Section 232. Reassessment.--Any taxpayer against whom an
4 assessment is made may petition the department for a
5 reassessment. Notice of an intention to file such a petition
6 shall be given to the department within thirty days of the date
7 the notice of assessment was mailed to the taxpayer, except that
8 the department for due cause may accept such notice within
9 ninety days of the date the notice of assessment was mailed. The
10 department by registered mail shall supply the taxpayer with a
11 statement setting forth in reasonable detail the basis of the
12 assessment within thirty days after receipt of the taxpayer's
13 notice of intention to file a petition for reassessment. A
14 petition for reassessment shall thereafter be filed within
15 thirty days after such basis of assessment has been mailed to
16 the taxpayer. Such petition shall set forth in reasonable detail
17 the grounds upon which the taxpayer claims that the assessment
18 is erroneous or unlawful, in whole or in part, and shall be
19 accompanied by an affidavit or affirmation that the facts
20 contained therein are true and correct and that the petition is
21 not interposed for delay. An extension of time for filing the
22 petition may be allowed for cause but in no case shall such
23 extension exceed one hundred twenty days. The department shall
24 hold such hearings as may be necessary for the purpose, at such
25 times and places as it may determine, and each taxpayer who has
26 duly filed such petition for reassessment shall be notified by
27 the department of the time when, and the place where, such
28 hearing in his case will be held.

29 It shall be the duty of the department, within six months
30 after receiving a filed petition for reassessment, to dispose of

1 the issue raised by such petition and mail notice of the
2 department's decision to the petitioner: Provided, however, That
3 the taxpayer and the department may, by stipulation, extend such
4 disposal time by not more than six additional months.

5 Section 233. Assessment to Recover Erroneous Refunds.--The
6 department may, within two years of the granting of any refund
7 or credit, or within the period in which an assessment could
8 have been filed by the department with respect to the
9 transaction pertaining to which the refund was granted,
10 whichever period shall last occur, file an assessment to recover
11 any refund or part thereof or credit or part thereof which was
12 erroneously made or allowed.

13 Section 234. Review by Board of Finance and Revenue.--Within
14 sixty days after the date of mailing of notice by the department
15 of the decision on any petition for reassessment filed with it,
16 the person against whom such assessment was made may, by
17 petition, request the Board of Finance and Revenue to review
18 such decision. The failure of the department to notify the
19 petitioner of a decision within the time provided for by section
20 232 shall act as a denial of such petition, and a petition for
21 review may be filed with the Board of Finance and Revenue within
22 one hundred twenty days of the date prior to which the
23 department should have mailed to the petitioner its notice of
24 decision. Every petition for review filed hereunder shall state
25 specifically the reasons on which the petitioner relies, or
26 shall incorporate by reference the petition for reassessment in
27 which the reasons are stated. The petition shall be supported by
28 affidavit that it is not made for the purpose of delay and that
29 the facts set forth therein are true. The Board of Finance and
30 Revenue shall act finally in disposing of petitions filed with

1 it within six months after they have been received. In the event
2 of the failure of the board to dispose of any petition within
3 six months, the action taken by the department, upon the
4 petition for reassessment, shall be sustained. The Board of
5 Finance and Revenue may sustain the action taken by the
6 department on the petition for reassessment, or it may reassess
7 the tax due on such basis as it deems according to law. The
8 board shall give notice of its action to the department and to
9 the petitioner.

10 Section 235. Appeal to Commonwealth Court.--Any person
11 aggrieved by the decision of the Board of Finance and Revenue or
12 by the board's failure to act upon a petition for review within
13 six months may, within ~~sixty~~ THIRTY days, appeal to the
14 Commonwealth Court from the decision of the board or of the
15 department, as the case may be, in the manner now or hereafter
16 provided by law for appeals in the case of tax settlements.

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17 Section 236. Burden of Proof.--In all cases of petitions for
18 reassessment, review or appeal, the burden of proof shall be
19 upon the petitioner or appellant, as the case may be.

20 Section 237. Collection of Tax.--(a) Collection by
21 Department. The department shall collect the tax in the manner
22 provided by law for the collection of taxes imposed by the laws
23 of this Commonwealth.

24 (b) Collection by Persons Maintaining a Place of Business in
25 the Commonwealth. (1) Every person maintaining a place of
26 business in this Commonwealth and selling or leasing tangible
27 personal property or services, the sale or use of which is
28 subject to tax shall collect the tax from the purchaser or
29 lessee at the time of making the sale or lease, and shall remit
30 the tax to the department.

1 (2) Any person required under this article to collect tax
2 from another person, who shall fail to collect the proper amount
3 of such tax, shall be liable for the full amount of the tax
4 which he should have collected.

5 (c) Exemption Certificates. If the tax does not apply to the
6 sale or lease of tangible personal property or services, the
7 purchaser or lessee shall furnish to the vendor a certificate
8 indicating that the sale is not legally subject to the tax. The
9 certificate shall be in substantially such form as the
10 department may, by regulation, prescribe. Where the tangible
11 personal property or service is of a type which is never subject
12 to the tax imposed or where the sale or lease is in interstate
13 commerce, such certificate need not be furnished. Where a series
14 of transactions are not subject to tax, a purchaser or user may
15 furnish the vendor with a single exemption certificate in
16 substantially such form and valid for such period of time as the
17 department may, by regulation, prescribe. An exemption
18 certificate, which is complete and regular and on its face
19 discloses a valid basis of exemption if taken in good faith,
20 shall relieve the vendor from the liability imposed by this
21 section. An exemption certificate accepted by a vendor from a
22 natural person domiciled within this Commonwealth or any
23 association, fiduciary, partnership, corporation or other
24 entity, either authorized to do business within this
25 Commonwealth or having an established place of business within
26 this Commonwealth, in the ordinary course of the vendor's
27 business, which on its face discloses a valid basis of exemption
28 consistent with the activity of the purchaser and character of
29 the property or service being purchased, shall be presumed to be
30 taken in good faith and the burden of proving otherwise shall be

1 on the Department of Revenue.

2 (d) Direct Payment Permits. The department may authorize a
3 purchaser or lessee who acquires tangible personal property or
4 services under circumstances which make it impossible at the
5 time of acquisition to determine the manner in which the
6 tangible personal property or service will be used, to pay the
7 tax directly to the department, and waive the collection of the
8 tax by the vendor. No such authority shall be granted or
9 exercised, except upon application to the department, and the
10 issuance by the department, in its discretion, of a direct
11 payment permit. If a direct payment permit is granted, its use
12 shall be subject to conditions specified by the department, and
13 the payment of tax on all acquisitions pursuant to the permit
14 shall be made directly to the department by the permit holder.

15 Section 238. Collection of Tax on Motor Vehicles, Trailers
16 and Semi-Trailers.--Notwithstanding the provisions of clause (1)
17 of subsection (b) of section 237 of this article, tax due on the
18 sale at retail or use of a motor vehicle, trailer or semi-
19 trailer required by law to be registered with the department
20 under the provisions of "The Vehicle Code" shall be paid by the
21 purchaser or user directly to the department upon application to
22 the department for an issuance of a certificate of title upon
23 such motor vehicle, trailer or semi-trailer. The department
24 shall not issue a certificate of title until the tax has been
25 paid, or evidence satisfactory to the department has been given
26 to establish that tax is not due. The department may cancel or
27 suspend any record of certificate of title or registration of a
28 motor vehicle, trailer or semi-trailer when the check received
29 in payment of the tax on such vehicle is not paid upon demand.

30 Such tax shall be considered as a first encumbrance against such

1 vehicle and the vehicle may not be transferred without first
2 payment in full of such tax and any interest additions or
3 penalties which shall accrue thereon in accordance with this
4 article.

5 Section 239. Precollection of Tax.--The department may, by
6 regulation, authorize or require particular categories of
7 vendors selling tangible personal property for resale to
8 precollect from the purchaser the tax which such purchaser will
9 collect upon making a sale at retail of such tangible personal
10 property: Provided, however, That the department, pursuant to
11 this section, may not require a vendor to precollect tax from a
12 purchaser who purchases for resale more than one thousand
13 dollars (\$1,000) worth of tangible personal property from such
14 vendor per year. In any case in which a vendor has been
15 authorized to prepay the tax to the person from whom he
16 purchased the tangible personal property for resale such vendor
17 so authorized to prepay the tax may, under the regulations of
18 the department, be relieved from his duty to secure a license if
19 such duty shall arise only by reason of his sale of the tangible
20 personal property with respect to which he is, under
21 authorization of the department, to prepay the tax. The vendor,
22 on making a sale at retail of tangible personal property with
23 respect to which he has prepaid the tax, must separately state
24 at the time of resale the proper amount of tax on the
25 transaction, and reimburse himself on account of the taxes which
26 he has previously prepaid. Should such vendor collect a greater
27 amount of tax in any reporting period than he had previously
28 prepaid upon purchase of the goods with respect to which he
29 prepaid the tax, he must file a return and remit the balance to
30 the Commonwealth at the time at which a return would otherwise

1 be due with respect to such sales.

2 Section 240. Bulk and Auction Sales.--Every person who shall
3 sell or cause to be sold at auction, or who shall sell or
4 transfer in bulk, fifty-one per centum or more of any stock of
5 goods, wares or merchandise of any kind, fixtures, machinery,
6 equipment, buildings or real estate, involved in a business for
7 which such person is licensed or required to be licensed under
8 the provisions of this article, or is liable for filing use tax
9 returns in accordance with the provisions of this article, shall
10 give the department ten days' written notice of the sale or
11 transfer prior to the completion of the transfer of such
12 property. Whenever the seller or transferor shall fail to give
13 such notice to the department, or whenever the department shall
14 upon written notice inform the purchaser or transferee that a
15 possible claim for tax imposed by this act exists, any sums of
16 money, property or choses in action or other consideration,
17 which the purchaser or transferee is thereafter required to
18 transfer over to the seller or transferor, shall be subject to a
19 first priority right and lien for any such taxes theretofore or
20 thereafter determined to be due from the seller or transferor,
21 and the purchaser or transferee is forbidden to transfer to the
22 seller or transferor any such sums of money, property or choses
23 in action to the extent of the amount of the Commonwealth's
24 claim. For failure to comply with the provisions of this
25 section, the purchaser or transferee shall be liable for the
26 payment to the Commonwealth of any such taxes theretofore or
27 thereafter determined to be due from the seller or transferor,
28 and such liability may be assessed and enforced in the same
29 manner as the liability for tax under this article: Provided,
30 That nothing contained in this provision shall apply to sales or

1 transfers made under any order of court: And provided further,
2 That the written notice required to be filed with the department
3 by this provision shall be deemed to satisfy the requirements of
4 section 1403 of "The Fiscal Code" as to taxes imposed by this
5 article.

6 ~~Section 241. Collection of Tax on Liquor. The tax due on~~ <—
7 ~~the sale of liquor shall be collected on the purchase price or~~
8 ~~constructive purchase price, as defined in this article, as the~~
9 ~~case may be, of each bottle sold and a receipt shall be issued~~
10 ~~to the purchasers stating that the tax imposed by this article~~
11 ~~is included in the purchase price or constructive purchase~~
12 ~~price. The sale of each bottle of liquor shall be construed to~~
13 ~~be a separate sale.~~

14 ~~Section 242.~~ 241. Collection upon Failure to Request <—
15 Reassessment, Review or Appeal.--The department may collect any
16 tax:

17 (1) If an assessment of tax is not paid within ten days or
18 thirty days as the case may be after notice thereof to the
19 taxpayer, and no petition for reassessment has been filed;

20 (2) Within sixty days from the date of reassessment, if no
21 petition for review has been filed;

22 (3) Within ~~sixty~~ THIRTY days from the date of the decision <—
23 of the Board of Finance and Revenue upon a petition for review,
24 or of the expiration of the board's time for acting upon such
25 petition, if no appeal has been made; and

26 (4) In all cases of judicial sales, receiverships,
27 assignments or bankruptcies.

28 In any such case in a proceeding for the collection of such
29 taxes, the person against whom they were assessed shall not be
30 permitted to set up any ground of defense that might have been

1 determined by the department, the Board of Finance and Revenue
2 or the courts: Provided, That the defense of failure of the
3 department to mail notice of assessment or reassessment to the
4 taxpayer and the defense of payment of assessment or
5 reassessment may be raised in proceedings for collection by a
6 motion to stay the proceedings.

7 Section ~~243.~~ 242. Lien for Taxes.--(a) Lien Imposed. If any <—
8 person liable to pay any tax neglects or refuses to pay the same
9 after demand, the amount (including any interest, addition or
10 penalty, together with any costs that may accrue in addition
11 thereto) shall be a lien in favor of the Commonwealth upon the
12 property, both real and personal, of such person but only after
13 same has been entered and docketed of record by the prothonotary
14 of the county where such property is situated. The department
15 may, at any time, transmit, to the prothonotaries of the
16 respective counties, certified copies of all liens for taxes
17 imposed by this act and penalties and interest. It shall be the
18 duty of each prothonotary receiving the lien to enter and docket
19 the same of record in his office, which lien shall be indexed as
20 judgments are now indexed. No prothonotary shall require, as a
21 condition precedent to the entry of such liens, the payment of
22 the costs incident thereto.

23 (b) Priority of Lien and Effect on Judicial Sale; No
24 Discharge by Sale on Junior Lien. The lien imposed hereunder
25 shall have priority from the date of its recording as aforesaid,
26 and shall be fully paid and satisfied out of the proceeds of any
27 judicial sale of property subject thereto before any other
28 obligation, judgment, claim, lien or estate to which said
29 property may subsequently become subject, except costs of the
30 sale and of the writ upon which the sale was made, and real

1 estate taxes and municipal claims against such property, but
2 shall be subordinate to mortgages and other liens existing and
3 duly recorded or entered of record prior to the recording of the
4 tax lien. In the case of a judicial sale of property, subject to
5 a lien imposed hereunder, upon a lien or claim over which the
6 lien imposed hereunder has priority as aforesaid, such sale
7 shall discharge the lien imposed hereunder to the extent only
8 that the proceeds are applied to its payment, and such lien
9 shall continue in full force and effect as to the balance
10 remaining unpaid. There shall be no inquisition or condemnation
11 upon any judicial sale of real estate made by the Commonwealth
12 pursuant to the provisions hereof. The lien of the taxes,
13 interest and penalties, shall continue for five years from the
14 date of entry, and may be revived and continued in the manner
15 now or hereafter provided for renewal of judgments, or as may be
16 provided in "The Fiscal Code," and a writ of execution may
17 directly issue upon such lien without the issuance and
18 prosecution to judgment of a writ of scire facias: Provided,
19 That not less than ten days before issuance of any execution on
20 the lien, notice of the filing and the effect of the lien shall
21 be sent by registered mail to the taxpayer at his last known
22 post office address: And provided further, That the said lien
23 shall have no effect upon any stock of goods, wares or
24 merchandise regularly sold or leased in the ordinary course of
25 business by the person against whom said lien has been entered,
26 unless and until a writ of execution has been issued and a levy
27 made upon said stock of goods, wares and merchandise.

28 (c) Duty of Prothonotary. Any wilful failure of any
29 prothonotary to carry out any duty imposed upon him by this
30 section shall be a misdemeanor, and, upon conviction, he shall

1 be sentenced to pay a fine not exceeding one thousand dollars
2 (\$1,000) and costs of prosecution, or to undergo imprisonment
3 not exceeding one year, or both.

4 (d) Priority of Tax. Except as hereinbefore provided in the
5 distribution, voluntary or compulsory, in receivership,
6 bankruptcy or otherwise, of the property or estate of any
7 person, all taxes imposed by this article which are due and
8 unpaid and are not collectible under the provisions of section
9 225 hereof, shall be paid from the first money available for
10 distribution in priority to all other claims and liens, except
11 in so far as the laws of the United States may give a prior
12 claim to the Federal government. Any person charged with the
13 administration or distribution of any such property or estate,
14 who shall violate the provisions of this section, shall be
15 personally liable for any taxes imposed by this article, which
16 are accrued and unpaid and are chargeable against the person
17 whose property or estate is being administered or distributed.

18 (e) Other Remedies. Subject to the limitations contained in
19 this article as to the assessment of taxes, nothing contained in
20 this section shall be construed to restrict, prohibit or limit
21 the use by the department in collecting taxes finally due and
22 payable of any other remedy or procedure available at law or
23 equity for the collection of debts.

24 Section ~~244.~~ 243. Suit for Taxes.--(a) Commencement. At any
25 time within three years after any tax or any amount of tax shall
26 be finally due and payable, the department may commence an
27 action in the courts of this Commonwealth, of any state or of
28 the United States, in the name of the Commonwealth of
29 Pennsylvania, to collect the amount of tax due together with
30 additions, interest, penalties and costs in the manner provided

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1 at law or in equity for the collection of ordinary debts.

2 (b) Procedure. The Attorney General shall prosecute the
3 action and, except as provided herein, the provisions of the
4 Rules of Civil Procedure and the provisions of the laws of this
5 Commonwealth relating to civil procedures and remedies shall, to
6 the extent that they are applicable, be available in such
7 proceedings.

8 (c) Other Remedies. The provisions of this section are in
9 addition to any process, remedy or procedure for the collection
10 of taxes provided by this article or by the laws of this
11 Commonwealth, and this section is neither limited by nor
12 intended to limit any such process, remedy or procedure.

13 Section ~~245~~. 244. Tax Suit Comity.--The courts of this <—
14 Commonwealth shall recognize and enforce liabilities for sales
15 and use taxes, lawfully imposed by any other state: Provided,
16 That such other state extends a like comity to this
17 Commonwealth.

18 Section ~~246~~. 245. Service.--Any person maintaining a place <—
19 of business within this Commonwealth is deemed to have appointed
20 the Secretary of the Commonwealth his agent for the acceptance
21 of service of process or notice in any proceedings for the
22 enforcement of the civil provisions of this article, and any
23 service made upon the Secretary of the Commonwealth as such
24 agent shall be of the same legal force and validity as if such
25 service had been personally made upon such person. Where service
26 cannot be made upon such person in the manner provided by other
27 laws of this Commonwealth relating to service of process,
28 service may be made upon the Secretary of the Commonwealth and,
29 in such case, a copy of the process or notice shall also be
30 personally served upon any agent or representative of such

1 person who may be found within this Commonwealth, or where no
2 such agent or representative may be found a copy of the process
3 or notice shall forthwith be sent by registered mail to such
4 person at the last known address of his principal place of
5 business, home office or residence.

6 Section ~~247.~~ 246. Collection of Tax on Credit Sales.--If any <—
7 sale subject to tax hereunder is wholly or partly on credit, the
8 taxpayer shall require the purchaser to pay in cash at the time
9 the sale is made, or within thirty days thereafter, the full tax
10 due on the basis of the entire purchase price.

11 Section ~~248.~~ 247. Prepayment of Tax.--Whenever a vendor is <—
12 forbidden by law or governmental regulation to charge and
13 collect the purchase price in advance of or at the time of
14 delivery, the vendor shall prepay the tax as required by section
15 222 of this article, but in such case if the purchaser shall
16 fail to pay to the vendor the total amount of the purchase price
17 and the tax, and such amount is written off as uncollectible by
18 the vendor, the vendor shall not be liable for such tax and
19 shall be entitled to a credit or refund of such tax paid. If the
20 purchase price is thereafter collected, in whole or in part, the
21 amount collected shall be first applied to the payment of the
22 entire tax portion of the bill, and shall be remitted to the
23 department by the vendor with the first return filed after such
24 collection. For any tax prepaid prior to the effective date of
25 this article, credit may be claimed on any returns filed for the
26 periods prior to the effective date of this article. Tax prepaid
27 after the effective date of this article shall be subject to
28 refund upon petition to the department under the provisions of
29 section 252 of this article, filed within one hundred five days
30 of the close of the fiscal year in which such accounts are

1 written off.

2 CHAPTER V

3 REFUNDS AND CREDITS

4 Section 250. Refund or Credit for Overpayment.--With respect
5 to all taxes paid to a vendor or to the Commonwealth prior to
6 April 5, 1957, in the case of any overpayment, the department,
7 within the applicable period of limitations, may credit the
8 amount of such overpayment against any liability in respect of
9 the tax imposed by this act on the part of the person who made
10 the overpayment, and shall refund any balance to such person.

11 Section 251. Restriction on Refunds.--No refund shall be
12 made under section 250 without the approval of the Board of
13 Finance and Revenue.

14 Section 252. Refunds.--The department shall, pursuant to the
15 provisions of sections 253 and 254, refund all taxes, interest
16 and penalties paid to the Commonwealth under the provisions of
17 this article and to which the Commonwealth is not rightfully
18 entitled. Such refunds shall be made to the person, his heirs,
19 successors, assigns or other personal representatives, who
20 actually paid the tax: Provided, That no refund shall be made
21 under this section with respect to any payment made by reason of
22 an assessment with respect to which a taxpayer has filed a
23 petition for reassessment pursuant to section 232 of this
24 article to the extent that said petition has been determined
25 adversely to the taxpayer by a decision which is no longer
26 subject to further review or appeal: Provided further, That
27 nothing contained herein shall be deemed to prohibit a taxpayer
28 who has filed a timely petition for reassessment from amending
29 it to a petition for refund where the petitioner has paid the
30 tax assessed.

1 Section 253. Refund Petition.--(a) Except as provided for in
2 section ~~251~~ 256 and in subsection (b) and (d) of this section, <—
3 the refund or credit of tax, interest or penalty provided for by
4 section 252 shall be made only where the person who has actually
5 paid the tax files a petition for refund with the department
6 within three years of the actual payment of the tax to the
7 Commonwealth. Such petition for refund must set forth in
8 reasonable detail the grounds upon which the taxpayer claims
9 that the Commonwealth is not rightfully entitled to such tax,
10 interest or penalty, in whole or in part, and shall be
11 accompanied by an affidavit affirming that the facts contained
12 therein are true and correct. The department may hold such
13 hearings as may be necessary for the purpose at such times and
14 places as it may determine, and each person who has duly filed a
15 refund petition shall be notified by the department of the time
16 when, and the place where, such hearing in his case will be
17 held.

18 (b) A refund or credit of tax, interest or penalty, paid as
19 a result of an assessment made by the department under section
20 232, shall be made only where the person who has actually paid
21 the tax files with the department a petition for a refund with
22 the department within six months after the date the notice of
23 assessment was mailed. The filing of a petition for refund,
24 under the provisions of this subsection, shall not affect the
25 abatement of interest, additions or penalties to which the
26 person may be entitled by reason of his payment of the
27 assessment.

28 (c) It shall be the duty of the department, within six
29 months after receiving a petition for refund, to dispose of the
30 issue raised by such petition, and mail notice of the

1 department's decision to the petitioner: Provided, however, That
2 the taxpayer and the department may, by stipulation, extend such
3 disposal time by not more than six additional months.

4 (d) Notwithstanding any other provision of this section
5 where any tax, interest or penalty has been paid under a
6 provision of this article subsequently held by final judgment of
7 a court of competent jurisdiction to be unconstitutional, or
8 under an interpretation of such provision subsequently held by
9 such court to be erroneous, a petition for refund may be filed
10 either before or subsequent to final judgment, but such petition
11 must be filed within five years of the date of the payment of
12 which a refund is requested. The department shall have
13 jurisdiction to hear and determine any such petition filed prior
14 to such final judgment only if, at the time of filing of the
15 petition, proceedings are pending in a court of competent
16 jurisdiction wherein the claim of unconstitutionality or of
17 erroneous interpretation, made in the petition for refund may be
18 established, and in such case, the department shall not take
19 final action upon the petition for refund until the judgment
20 determining the question involved in such petition has become
21 final.

22 Section 254. Review by Board of Finance and Revenue.--Within
23 sixty days after the date of mailing of notice by the department
24 of the decision upon a petition for refund filed with it,
25 pursuant to section 253, the petitioner may further petition the
26 Board of Finance and Revenue to review the decision of the
27 department. The failure of the department to notify the
28 petitioner of its decision within the time provided for by
29 section 253 shall act as a denial of such petition, and a
30 petition for review may be filed with the Board of Finance and

1 Revenue within one hundred twenty days of the date prior to
2 which the department should have mailed to the petitioner its
3 notice of decision. Every petition for review filed with the
4 Board of Finance and Revenue under the provisions of this
5 section shall incorporate by reference the petition for refund.
6 The petitioner may, in his petition for review, elect to
7 withdraw one or more grounds as set out in the original refund
8 petition. The Board of Finance and Revenue shall act finally in
9 disposing of such petitions filed with it within six months
10 after they have been received. In the event of the failure of
11 the board to dispose of any petition within six months, the
12 action taken by the department upon the petition for refund
13 shall be sustained. The Board of Finance and Revenue may sustain
14 the action taken by the department on a petition for refund, or
15 it may redetermine whether a lessor or greater amount of refund
16 is proper. Under no circumstances may the Board of Finance and
17 Revenue authorize a refund greater than that originally applied
18 for by the petitioner. The board shall give notice of its action
19 to the department and to the petitioner.

20 Section 255. Appeal to the Commonwealth Court.--Any person
21 aggrieved by the decision of the Board of Finance and Revenue
22 under section 254, or by the board's failure to act upon a
23 petition for review within six months may, within ~~sixty~~ THIRTY <—
24 days, appeal to the Commonwealth Court from the decision of the
25 board or of the department, as the case may be, in the manner
26 now or hereafter provided for by law for appeals in the case of
27 tax settlements.

28 Section 256. Extended Time for Filing Special Petition for
29 Refund.--Any party to a transaction who has paid tax by reason
30 of a transaction with respect to which the department is

1 assessing tax against another person may, within six months
2 after the filing by the department of the assessment against
3 such other person, file a special petition for refund,
4 notwithstanding his failure to file a regular petition within
5 ~~eighteen months~~ THREE YEARS of the payment. The provisions of <—
6 sections 253, 254 and 255 shall be applicable to such special
7 petition for refund, except that the department need not act on
8 such petition until there is a final determination as to the
9 propriety of the assessment filed against the other party to the
10 transaction. Where a petition is filed under this provision in
11 order to take advantage of the extended period of limitations,
12 overpayments by the petitioner shall be refunded but only to the
13 extent of the actual tax (without consideration of interest and
14 penalties) paid by the other party to the transaction. The
15 purpose of this section is to avoid duplicate payment of tax
16 where a determination is made by the department that one party
17 to a transaction is subject to tax, and another party to the
18 transaction has previously paid tax with respect to such
19 transaction and, as such, this section shall be construed as
20 extending right beyond that provided for by section 253, and not
21 to limit such other section.

22 CHAPTER VI

23 LIMITATIONS

24 Section 258. Limitation on Assessment and Collection.--The
25 amount of the tax imposed by this act shall be assessed within
26 three years after the date when the return provided for by
27 subsection (a) or (c) or under subsection (e) of section 217 is
28 filed or the end of the year in which the tax liability arises
29 whichever shall last occur. Any such assessment may be made at
30 any time during such period notwithstanding that the department

1 may have made one or more previous assessments against the
2 taxpayer for the year in question, or for any part of such year.
3 In any such case, no credit shall be given for any penalty
4 previously assessed or paid.

5 Section 259. Failure to File Return.--Where no return is
6 filed, the amount of the tax due may be assessed and collected
7 at any time as to taxable transactions not reported.

8 Section 260. False or Fraudulent Return.--Where the taxpayer
9 wilfully files a false or fraudulent return with intent to evade
10 the tax imposed by this article, the amount of tax due may be
11 assessed and collected at any time.

12 Section 261. Extension of Limitation Period.--
13 Notwithstanding any of the foregoing provisions of this part,
14 where, before the expiration of the period prescribed therein
15 for the assessment of a tax, a taxpayer has consented, in
16 writing, that such period be extended, the amount of tax due may
17 be assessed at any time within such extended period. The period
18 so extended may be extended further by subsequent consents, in
19 writing, made before the expiration of the extended period.

20 CHAPTER VII

21 INTEREST, ADDITIONS, PENALTIES AND CRIMES

22 Section 265. Interest.--If any amount of tax imposed by this
23 article is not paid to the department on or before the last date
24 prescribed for payment, interest on such amount at the rate of
25 one-half of one per cent per month for each month, or fraction
26 thereof, from such date, shall be paid for the period from such
27 last date to the date paid. The last date prescribed for payment
28 shall be determined under subsection (a) or (c) of section 222
29 without regard to any extension of time for payment. In the case
30 of any amount assessed as a deficiency or as an estimated

1 assessment, the date prescribed for payment shall be thirty days
2 after notice of such assessment.

3 Section 266. Additions to Tax.--(a) Failure to File Return.

4 In the case of failure to file any return required by section
5 215 on the date prescribed therefor (determined with regard to
6 any extension of time for filing), and in the case in which a
7 return filed understates the true amount due by more than fifty
8 per cent, there shall be added to the amount of tax actually due
9 five per cent of the amount of such tax if the failure to file a
10 proper return is for not more than one month, with an additional
11 five per cent for each additional month, or fraction thereof,
12 during which such failure continues, not exceeding twenty-five
13 per cent in the aggregate. In every such case at least two
14 dollars (\$2) shall be added.

15 (b) Addition for Understatement. There shall be added to
16 every assessment under subsection (b) of section 231 an addition
17 equal to five per cent of the amount of the understatement and
18 no addition to the tax shall be paid under subsection (a) of
19 section 231.

20 (c) Interest. If the department assesses a tax according to
21 subsection (a) or (c) of section 231, there shall be added to
22 the amount of the deficiency interest at the rate of one-half of
23 one per cent per month for each month, or fraction thereof, from
24 the date prescribed by subsection (a) or (c) of section 222 of
25 this article for the payment of the tax to the date of notice of
26 the assessment.

27 (d) Uncollectible Checks. Whenever any check issued in
28 payment of any tax or for any other purpose shall be returned to
29 the department as uncollectible, the secretary shall charge a
30 fee of ten per cent of the face amount thereof plus all protest

1 fees, to the person presenting such check to him to cover the
2 cost of its collection in addition to the interest and penalties
3 otherwise provided for by this article: Provided, however, That
4 the additions imposed hereby shall not exceed two hundred
5 dollars (\$200) nor be less than ten dollars (\$10).

6 Section 267. Penalties.--(a) Penalty Assessed as Tax. The
7 penalties, additions, interest and liabilities provided by this
8 article shall be paid upon notice and demand by the department,
9 and shall be assessed and collected in the same manner as taxes.
10 Except as otherwise provided, any reference in this article to
11 "tax" imposed by this article shall be deemed also to refer to
12 the penalties, additions, interest and liabilities provided by
13 this part.

14 (b) Attempt to Evade or Defeat Tax. Any person who wilfully
15 attempts, in any manner, to evade or defeat the tax imposed by
16 this article, or the payment thereof, or to assist any other
17 person to evade or defeat the tax imposed by this article, or
18 the payment thereof, or to receive a refund improperly, shall,
19 in addition to other penalties provided by law, be liable for a
20 penalty equal to one-half of the total amount of the tax evaded.

21 In any direct proceeding arising out of a petition for
22 reassessment or refund as provided in this article, in which an
23 issue of fact is raised with respect to whether a return is
24 fraudulent or with respect to the propriety of the imposition by
25 the department of the penalty prescribed in this subsection (b),
26 the burden of proof with respect to such issue shall be upon the
27 department.

28 Section 268. Crimes.--(a) Fraudulent Return. Any person who
29 with intent to defraud the Commonwealth shall wilfully make, or
30 cause to be made, any return required by this article, which is

1 false, shall be guilty of a misdemeanor, and, upon conviction
2 thereof, shall be sentenced to pay a fine not exceeding two
3 thousand dollars (\$2000), or undergo imprisonment not exceeding
4 three years, or both.

5 (b) Other Crimes. Except as otherwise provided by subsection
6 (a) of this section, any person maintaining a place of business
7 in this Commonwealth, who advertises or holds out or states to
8 the public or to any purchaser or user, directly or indirectly,
9 that the tax or any part thereof imposed by this article will be
10 absorbed by such person, or that it will not be added to the
11 purchase price of the tangible personal property or services
12 described in subclauses (2), (3) and (4) of clause (k) of
13 section 201 of this article sold or, if added, that the tax or
14 any part thereof will be refunded, other than when such person
15 refunds the purchase price because of such property being
16 returned to the vendor, and any person maintaining a place of
17 business in this Commonwealth and selling or leasing tangible
18 personal property or said services the sale or use of which by
19 the purchaser is subject to tax hereunder, who shall wilfully
20 fail or refuse to collect the tax from the purchaser and remit
21 the same to the department, and any person who shall wilfully
22 fail, neglect or refuse to file any return or report required by
23 this article or any taxpayer who shall refuse to pay any tax,
24 penalty or interest imposed or provided for by this article, or
25 who shall wilfully fail to preserve his books, papers and
26 records as directed by the department, or any person who shall
27 refuse to permit the department or any of its authorized agents
28 to examine his books, records or papers, or who shall knowingly
29 make any incomplete, false or fraudulent return or report, or
30 who shall do, or attempt to do, anything whatever to prevent the

1 full disclosure of the amount or character of taxable sales
2 purchases or use made by himself or any other person, or shall
3 provide any person with a false statement as to the payment of
4 tax with respect to particular tangible personal property or
5 said services, or shall make, utter or issue a false or
6 fraudulent exemption certificate, shall be guilty of a
7 misdemeanor, and, upon conviction thereof, shall be sentenced to
8 pay a fine not exceeding one thousand dollars (\$1000) and costs
9 of prosecution, or undergo imprisonment not exceeding one year,
10 or both: Provided, however, That any person maintaining a place
11 of business outside this Commonwealth may absorb the tax with
12 respect to taxable sales made in the normal course of business
13 to customers present at such place of business without being
14 subject to the above penalty and fines. The penalties imposed by
15 this section shall be in addition to any other penalties imposed
16 by any provision of this article.

17 Section 269. Abatement of Additions or Penalties.--Upon the
18 filing of a petition for reassessment or a petition for refund
19 as provided under this article by a taxpayer, additions or
20 penalties imposed upon such taxpayer by this act may be waived
21 or abated, in whole or in part, where the petitioner has
22 established that he has acted in good faith, without negligence
23 and with no intent to defraud.

24 CHAPTER VIII

25 ENFORCEMENT AND EXAMINATIONS

26 Section 270. Rules and Regulations.--(a) General Provision.
27 The department is hereby charged with the enforcement of the
28 provisions of this article, and is hereby authorized and
29 empowered to prescribe, adopt, promulgate and enforce, rules and
30 regulations not inconsistent with the provisions of this

1 article, relating to any matter or thing pertaining to the
2 administration and enforcement of the provisions of this
3 article, and the collection of taxes, penalties and interest
4 imposed by this article. The department may prescribe the
5 extent, if any, to which any of such rules and regulations shall
6 be applied without retroactive effect.

7 (b) Sales between Affiliated Interests. In determining the
8 purchase price of taxable sales where, because of affiliation of
9 interests between the vendor and the purchaser or irrespective
10 of any such affiliation, if for any other reason, the purchase
11 price of such sale is in the opinion of the department not
12 indicative of the true value of the article or the fair price
13 thereof, the department shall, pursuant to uniform and equitable
14 rules, determine the amount of constructive purchase price upon
15 the basis of which the tax shall be computed and levied. Such
16 rules shall provide for a constructive amount of a purchase
17 price for each such sale, which price shall equal a price for
18 such article which would naturally and fairly be charged in an
19 arm's-length transaction in which the element of common
20 interests between vendor and purchaser, or, if no common
21 interest exists, any other element causing a distortion of the
22 price or value is absent. For the purpose of this article where
23 a taxable sale occurs between a parent corporation and a
24 subsidiary affiliate or controlled corporation of such parent,
25 there shall be a rebuttable presumption that because of such
26 common interest such transaction was not at arm's-length.

27 Section 271. Keeping of Records.--(a) General Provision.
28 Every person liable for any tax imposed by this article, or for
29 the collection thereof, shall keep the records, render such
30 statements, make the returns and comply with such rules and

1 regulations as the department may, from time to time, prescribe
2 regarding matters pertinent to his business. Whenever in the
3 judgment of the department it is necessary, it may require any
4 person, by notice served upon such person, or by regulations, to
5 make such returns, render such statements or keep such records
6 as the department deems sufficient to show whether or not such
7 person is liable to pay or collect tax under this article.

8 (b) Persons Collecting Tax from Others. Any person liable to
9 collect tax from another person under the provisions of this
10 article shall file reports, keep records, make payments and be
11 subject to interest and penalties as provided for under this
12 article, in the same manner as if he were directly subject to
13 the tax.

14 (c) Records of Non-Residents. A non-resident who does
15 business in this Commonwealth as a retail dealer shall keep
16 adequate records of such business or businesses and of the tax
17 due with respect thereto, which records shall at all times be
18 retained within this Commonwealth unless retention outside the
19 Commonwealth is authorized by the department. No taxes collected
20 from purchasers shall be sent outside the Commonwealth without
21 the written consent of, and in accordance with conditions
22 prescribed by the department. The department may require a
23 taxpayer who desires to retain records or tax collections
24 outside the Commonwealth to assume reasonable out-of-state audit
25 expenses.

26 (d) Keeping of Separate Records. Any person doing business
27 as a retail dealer who at the same time is engaged in another
28 business or businesses which do not involve the making of sales
29 taxable under this article, shall keep separate books and
30 records of his businesses so as to show the sales taxable under

1 this article separately from his sales not taxable hereunder. If
2 any such person fails to keep such separate books and records,
3 he shall be liable for tax at the rate designated in section 202
4 of this article upon the entire purchase price of sales from
5 both or all of his businesses.

6 (e) Other Methods. In those instances where a vendor gives
7 no sales memoranda or uses registers showing only total sales,
8 the vendor must adopt some method of segregating tax from sales
9 receipts and keep records showing such segregation, all in
10 accordance with proper accounting and business practices.

11 A vendor may apply to the department for permission to use a
12 collection and recording procedure which will show such
13 information as the law requires with reasonable accuracy and
14 simplicity. Such application must contain a detailed description
15 of the procedure to be adopted. Permission to use the proposed
16 procedure is not to be construed as relieving the vendor from
17 remitting the full amount of tax collected. The department may
18 revoke such permission upon thirty days' notice to the vendor.
19 Refusal of the department to grant permission in advance to use
20 such procedure shall not be construed to invalidate a procedure
21 which upon examination shows such information as the law
22 requires.

23 Section 272. Examinations.--The department or any of its
24 authorized agents is hereby authorized to examine the books,
25 papers and records of any taxpayer in order to verify the
26 accuracy and completeness of any return made or, if no return
27 was made, to ascertain and assess the tax imposed by this
28 article. The department may require the preservation of all such
29 books, papers and records for any period deemed proper by it but
30 not to exceed three years from the end of the calendar year to

1 which the records relate. Every such taxpayer is hereby required
2 to give to the department, or its agent, the means, facilities
3 and opportunity for such examinations and investigation. The
4 department is further authorized to examine any person, under
5 oath, concerning taxable sales or use by any taxpayer or
6 concerning any other matter relating to the enforcement or
7 administration of this article, and to this end may compel the
8 production of books, papers and records and the attendance of
9 all persons whether as parties or witnesses whom it believes to
10 have knowledge of such matters. The procedure for such hearings
11 or examinations shall be the same as that provided by The Fiscal
12 Code relating to inquisitorial powers of fiscal officers.

13 Section 273. Records and Examinations of Delivery Agents.--
14 Every agent for the purpose of delivery of goods shipped into
15 the Commonwealth by a nonresident including, but not limited to,
16 common carriers shall maintain adequate records of such
17 deliveries pursuant to rules and regulations adopted by the
18 department and shall make such records available to the
19 department upon request after due notice.

20 Section 274. Unauthorized Disclosure.--Any information
21 gained by the department as a result of any return, examination,
22 investigation, hearing or verification, required or authorized
23 by this article, shall be confidential, except for official
24 purposes and except in accordance with proper judicial order or
25 as otherwise provided by law, and any person unlawfully
26 divulging such information shall be guilty of a misdemeanor,
27 and, upon conviction thereof, shall be sentenced to pay a fine
28 not in excess of one thousand dollars (\$1000) and costs of
29 prosecution, or to undergo imprisonment for not more than one
30 year, or both.

1 Section 275. Cooperation with Other Governments.--

2 Notwithstanding the provisions of section 274, the department
3 may permit the Commissioner of Internal Revenue of the United
4 States, or the proper officer of any state, or the authorized
5 representative of either such officer, to inspect the tax
6 returns of any taxpayer, or may furnish to such officer or to
7 his authorized representative an abstract of the return of any
8 taxpayer, or supply him with information concerning any item
9 contained in any return or disclosed by the report of any
10 examination or investigation of the return of any taxpayer. This
11 permission shall be granted only if the statutes of the United
12 States or of such other state, as the case may be, grant
13 substantially similar privileges to the proper officer of the
14 Commonwealth charged with the administration of this article.

15 Section 276. Interstate Compacts.--The Governor, or his
16 authorized representative, is hereby vested with authority to
17 confer with the Governor and the authorized representatives of
18 other states with respect to reciprocal use tax collection
19 between Pennsylvania and such other states.

20 The Governor, or his representative, is authorized to join
21 with such authorities of other states to conduct joint
22 investigations, to exchange information, hold joint hearings and
23 enter into compacts or interstate agreements with such other
24 states to accomplish uniform reciprocal use tax collections
25 between those states who are parties to any compact or
26 interstate agreement and the Commonwealth of Pennsylvania.

27 Section 277. Bonds.--(a) Taxpayer to File Bond. Whenever
28 the department in its discretion, deems it necessary to protect
29 the revenues to be obtained under the provisions of this
30 article, it may require any nonresident natural person or any

1 foreign corporation, association, fiduciary, partnership or
2 other entity, not authorized to do business within this
3 Commonwealth or not having an established place of business
4 therein and subject to the tax imposed by section 202 of this
5 article, to file a bond issued by a surety company authorized to
6 do business in this Commonwealth and approved by the Insurance
7 Commissioner as to solvency and responsibility, in such amounts
8 as it may fix, to secure the payment of any tax or penalties
9 due, or which may become due, from such natural person or
10 corporation. In order to protect the revenues to be obtained
11 under the provisions of this article, the department shall
12 require any nonresident natural person or any foreign
13 corporation, association, fiduciary, partnership or entity, who
14 or which is a building contractor, or who or which is a supplier
15 delivering building materials for work in this Commonwealth and
16 is not authorized to do business within this Commonwealth or
17 does not have an established place of business therein and is
18 subject to the tax imposed by section 202 of this article, to
19 file a bond issued by a surety company authorized to do business
20 in this Commonwealth and approved by the Insurance Commissioner
21 as to solvency and responsibility, in such amounts as it may
22 fix, to secure the payments of any tax or penalties due, or
23 which may become due, from such natural person, corporation or
24 other entity. The department may also require such a bond of any
25 person petitioning the department for reassessment, in the case
26 of any assessment over five hundred dollars (\$500) or where it
27 is of the opinion that the ultimate collection is in jeopardy.
28 The department may, for a period of three years, require such a
29 bond of any person who has on three or more occasions within a
30 twelve month period either filed a return or made payment to the

1 department more than thirty days late. In the event that the
2 department determines that a taxpayer is to file such a bond, it
3 shall give notice to such taxpayer to that effect, specifying
4 the amount of the bond required. The taxpayer shall file such
5 bond within five days after the giving of such notice by the
6 department unless, within such five days, the taxpayer shall
7 request, in writing, a hearing before the Secretary of Revenue
8 or his representative at which hearing the necessity, propriety
9 and amount of the bond shall be determined by the secretary or
10 such representative. Such determination shall be final and shall
11 be complied with within fifteen days after notice thereof is
12 mailed to the taxpayer.

13 (b) Securities in Lieu of Bond. In lieu of the bond
14 required by this section, securities approved by the department,
15 or cash in such amount as it may prescribe, may be deposited.
16 Such securities or cash shall be kept in the custody of the
17 department, who may, at any time, without notice to the
18 depositor, apply them to any tax and/or interest or penalties
19 due, and for that purpose the securities may be sold by the
20 department, at public or private sale, upon five days written
21 notice to the depositor.

22 (c) Failure to File Bond. The department may file a lien
23 pursuant to section ~~243~~ 242 against any taxpayer who fails to <—
24 file a bond when required to do so under this section. All funds
25 received upon execution of the judgment on such lien shall be
26 refunded to the taxpayer with three per cent interest should a
27 final determination be made that he does not owe any payment to
28 the department.

29 PART VII

30 REPEALER; APPROPRIATION; EFFECTIVE DATE

1 Section 280. Repeal.--The act of March 6, 1956 (P.L.1228),
2 known as the "Tax Act of 1963 for Education," is repealed
3 concurrently with the effective date of the various provisions
4 of this article.

5 SECTION 281. APPROPRIATION FOR REFUNDS, ETC.--SO MUCH OF THE <—
6 PROCEEDS OF THE TAX IMPOSED BY THIS ARTICLE AS SHALL BE
7 NECESSARY FOR THE PAYMENT OF REFUNDS, ENFORCEMENT, OR
8 ADMINISTRATION, UNDER THIS ARTICLE, IS HEREBY APPROPRIATED FOR
9 SUCH PURPOSES.

10 Section ~~281.~~ 282. Effective Date.--The provisions of this <—
11 article shall take effect March 1, 1971, or upon the date this
12 article is enacted into law whichever is the last to occur,
13 except that clauses (k) (4), (m) and (o) (4) of section 201,
14 clause (c) of section 202, clause (17) of section 204 and clause
15 (30) (iii) of section 204 in so far as it relates to the fifty
16 cent (50¢) exclusion from purchase price on restaurant meals,
17 shall take effect July 1, 1971.

18 ARTICLE III

19 PERSONAL INCOME TAX

20 PART I

21 DECLARATION OF POLICY: DEFINITIONS

22 Section 301. Declaration of Intent and Policy.--The
23 Legislature, in imposing a flat rate tax on income defined in
24 this article, hereby declares its legislative intent and policy
25 to provide a fair and practical method of taxation and to
26 effectuate an income tax which shall constitutionally conform to
27 the uniformity provisions of section 1, of Article VIII, of the
28 Constitution, by utilizing and uniformly applying in this
29 article those terms, definitions, classifications and other
30 provisions of the Federal Internal Revenue Code of 1954, as

1 amended, as they relate to the Federal Income Tax on
2 individuals, being the same code which the General Assembly has
3 heretofore employed in the Pennsylvania "Corporate Net Income
4 Tax" and "Corporation Income Tax" acts relating to the
5 imposition of income taxes on corporations.

6 Section 302. Definitions.--Any term used in this article
7 shall have the same meaning as when used in comparable context
8 in the laws of the United States relating to Federal income
9 taxes unless a different meaning is clearly required. Any
10 reference in this article to the Internal Revenue Code shall
11 include the Internal Revenue Code of 1954 and other provisions
12 of the laws of the United States relating to Federal income
13 taxes, all as amended and effective on the date such reference
14 is required by this article:

15 (a) "Compensation" means any form of remuneration as defined
16 in section 3401 (a) of the Internal Revenue Code.

17 (b) "Department" means the Department of Revenue of the
18 Commonwealth of Pennsylvania.

19 (c) "Employee" means any employee as defined in section 3401
20 (c) of the Internal Revenue Code. Any person from whose
21 compensation an employer is required to withhold Federal income
22 tax shall prima facie be deemed an employee.

23 (d) "Employer" means an employer as defined in section 3401
24 (d) of the Internal Revenue Code. Any person required to
25 withhold Federal income tax from compensation paid shall prima
26 facie be deemed an employer.

27 (e) "Fiduciary" means a guardian, trustee, executor,
28 administrator, receiver, conservator or any person acting in any
29 fiduciary capacity, whether domiciliary or ancillary.

30 (f) "Individual" means a natural person.

1 (g) "Nonresident individual" means any individual who is not
2 a resident of the Commonwealth.

3 (h) "Nonresident estate or trust" means any estate or trust
4 which is not a resident estate or trust.

5 (i) "Person" means any individual, employer, association,
6 fiduciary, partnership, corporation or other entity, estate or
7 trust, resident or nonresident, and the plural as well as the
8 singular number.

9 (j) "Resident individual" means an individual who is
10 domiciled in this Commonwealth unless he maintains no permanent
11 place of abode in this Commonwealth and does maintain a
12 permanent place of abode elsewhere and spends in the aggregate
13 not more than thirty days of the taxable year in this
14 Commonwealth; or who is not domiciled in this Commonwealth but
15 maintains a permanent place of abode in this Commonwealth and
16 spends in the aggregate more than one hundred eighty-three days
17 of the taxable year in this Commonwealth.

18 (k) "Resident estate" means the estate of a decedent who at
19 his death was a resident individual.

20 (l) "Resident trust" means a trust created by the will of a
21 decedent who at his death was a resident individual and any
22 trust created by, or consisting of property transferred to such
23 trust by a person who was a resident individual.

24 (m) "State" means any state or commonwealth of the United
25 States, the District of Columbia, the Commonwealth of Puerto
26 Rico, any territory or possession of the United States, any
27 foreign country, or any political subdivision of any of the
28 foregoing.

29 (n) "Tax" includes interest, penalties and additions to tax,
30 and further includes the tax required to be withheld by an

1 employer on compensation paid, unless a more limited meaning is
2 disclosed by the context.

3 (o) "Taxable year" means the taxable period on the basis of
4 which a taxpayer is required to file his Federal income tax
5 return pursuant to the Internal Revenue Code.

6 (p) "Taxpayer" means any person subject to the tax imposed
7 by this article or any employer required to withhold tax on
8 compensation paid.

9 (q) "Taxable income." Except as otherwise provided herein,
10 "taxable income" means the same as "taxable income" as defined
11 in the Internal Revenue Code and which is required to be
12 returned to and ascertained by the Federal Government pursuant
13 to said code, subject to the following adjustments:

14 (1) Subtraction of interest income derived from obligations
15 of the United States Government to the extent included in
16 adjusted gross income.

17 (2) Addition of interest income derived from obligations of
18 states, political subdivisions, instrumentalities and public
19 authorities thereof other than Pennsylvania or its political
20 subdivisions, instrumentalities or public authorities to the
21 extent not included in adjusted gross income.

22 (3) In the case of a nonresident individual, estate or trust
23 estate or trust "taxable income" and the adjustments required by
24 subsections (a) and (b) above shall include only income derived
25 from sources within this Commonwealth.

26 (4) The respective shares of an estate or trust and its
27 beneficiaries in the additions and subtractions to taxable
28 income shall be in proportion to their respective shares of
29 distributable net income of the estate or trust as defined in
30 the Internal Revenue Code. If the estate or trust has no

1 distributable net income for the taxable year, the share of each
2 beneficiary in the additions and subtractions shall be in
3 proportion to his share of the estate or trust income for such
4 year, under local law or the terms of the instrument, which is
5 required to be distributed currently and any other amounts of
6 such income distributed in such year. Any balance of the
7 additions and subtractions shall be allocated to the estate or
8 trust.

9 (5) In the case of a nonresident estate or trust, the
10 respective shares of the estate or trust and of its
11 beneficiaries shall be determined in the manner set forth by
12 this subsection (q); however, in determining the taxable income
13 of a nonresident estate or trust or of any nonresident
14 beneficiary thereof, there shall be taken into account only the
15 income of the estate or trust, or the beneficiary's share
16 thereof, derived from sources within this Commonwealth.

17 (r) (1) "Income from sources within this Commonwealth"
18 means all taxable income to the extent that it is earned,
19 received or acquired from sources within this Commonwealth:

20 (i) by reason of ownership or disposition of any interest in
21 real or tangible personal property in this Commonwealth; or

22 (ii) in connection with a trade, profession, occupation
23 carried on in this Commonwealth or for the rendition or personal
24 services performed in this Commonwealth; or

25 (iii) as a distributive share of the income of an
26 unincorporated business, profession, enterprise, undertaking or
27 other activity as the result of work done, services rendered or
28 other business activities conducted in this Commonwealth, except
29 as allocated to another state pursuant to regulations
30 promulgated by the department under this article.

1 (2) Income from tangible personal property shall constitute
2 income from sources within this Commonwealth only to the extent
3 that such income is from property employed in a trade,
4 profession, occupation or business carried on in this
5 Commonwealth.

6 PART II

7 IMPOSITION OF TAX

8 Section 305. Incidence and Rate.--For the privilege of
9 receiving, earning or otherwise acquiring income from any source
10 whatsoever, in the case of a resident individual, estate or
11 trust of this Commonwealth, or from sources within this
12 Commonwealth, in the case of a nonresident individual, estate or
13 trust of this Commonwealth, there is levied and imposed an
14 annual tax of five per cent of the taxable income of the
15 taxpayer.

16 Section 306. Beneficiary of Grantor Trust.--The taxable
17 income of a person who is required to include income from a
18 trust in his Federal income tax return under the provisions of
19 subpart E of subchapter J of the Internal Revenue Code shall be
20 computed with reference to the income of the trust as if such
21 income were the income of the taxpayer rather than the trust.

22 PART III

23 NONRESIDENT INDIVIDUALS

24 Section 308. Nonresident Individuals; Taxable Income.--The
25 taxable income of a nonresident individual shall be that part of
26 his Federal taxable income derived from sources within this
27 Commonwealth as defined in subsection (r) of section 302 of this
28 article.

29 Section 309. Husband and Wife.--(a) Separate Federal Return.
30 If the Federal taxable income of husband or wife who are both

1 nonresidents of this Commonwealth is determined on a separate
2 Federal return, their taxable incomes from sources within this
3 Commonwealth shall be separately determined.

4 (b) Joint Federal Return. If the Federal taxable income of
5 husband and wife who are both nonresidents is determined on a
6 joint Federal return, their tax shall be determined in this
7 State on their joint taxable income.

8 (c) One Spouse a Nonresident. If either husband or wife is
9 a nonresident and the other a resident, separate taxes shall be
10 determined on their separate taxable incomes from sources within
11 this Commonwealth on such forms as the department shall
12 prescribe, unless both elect to determine their joint taxable
13 income in this Commonwealth as if both were residents. If a
14 husband and wife file a joint Federal income tax return, but
15 determine their taxable income from sources within this
16 Commonwealth separately, they shall compute their taxable
17 incomes from sources within this Commonwealth as if their
18 Federal taxable incomes had been determined separately.

19 Section 310. Allocation of Income of Nonresident.--Where a
20 nonresident taxpayer engages in a business, trade, profession or
21 occupation partly within and partly without this Commonwealth,
22 and, as a result thereof or for other reasons that portion of
23 the income derived from or connected with sources within this
24 Commonwealth cannot readily or accurately be ascertained, the
25 department shall by regulation prescribe uniform rules for
26 apportionment or allocation of so much of such taxpayer's income
27 as fairly and equitably represents income derived from sources
28 within this Commonwealth.

29 PART IV

30 CREDITS AGAINST TAX

1 Commonwealth, EXCEPT THAT IN THE CASE WHERE NO SUCH LOCAL TAXES <—
2 WERE IMPOSED UPON AND PAID BY SUCH INDIVIDUAL, ESTATE OR TRUST
3 DURING THE CALENDAR YEAR 1971, THEN THE PERCENTAGE RATE SHALL BE
4 APPLIED TO THE TOTAL AMOUNT OF SUCH LOCAL TAXES WHICH WERE
5 IMPOSED UPON AND PAID BY SUCH INDIVIDUAL, ESTATE OR TRUST DURING
6 THE CALENDAR YEAR IN WHICH SUCH TAXES WERE FIRST IMPOSED AND
7 PAID AND THE AMOUNT SO DETERMINED SHALL EACH YEAR THEREAFTER
8 CONSTITUTE THE BASE ON WHICH THE TAX CREDIT RATE SHALL BE
9 APPLIED.

10 Section 318. Tax Paid by Trust on Accumulated Income.--A
11 beneficiary of a trust whose taxable income includes all or part
12 of an accumulation distribution or a capital gain distribution
13 by a trust, as defined in section 665 of the Internal Revenue
14 Code, shall be allowed a credit against the tax otherwise due
15 under this article equal to all or a proportionate part of any
16 tax paid by the trust under this article for any preceding
17 taxable year which would not have been payable if the trust had
18 in fact made distribution to its beneficiaries at the times and
19 in the amounts specified in sections 666 and 669 of the Internal
20 Revenue Code. The credit shall not reduce the tax otherwise due
21 from the beneficiary to an amount less than would have been due
22 if the accumulation distribution or capital gain distribution
23 were excluded from taxable income.

24 Section 319. Tax Credit for Taxpayer Class.--(a) Declaration
25 of Legislative Purpose. The General Assembly, in recognition of
26 section 2 (b) (ii) of Article VIII of the Constitution of
27 Pennsylvania which provides for the establishing as a class or
28 classes of subjects of taxation, the property or privileges of
29 persons who, because of age, disability, infirmity or poverty
30 are determined to be in need of tax exemption or of special tax

1 provisions, hereby declares as its legislative intent and
2 purpose to execute its power under such constitutional provision
3 by establishing a special tax credit provision, as hereinafter
4 provided in subsections (b) and (c) of this section.

5 (b) Establishing of Class; Tax Credit.--Pursuant to the
6 provisions of said section of the Constitution of Pennsylvania
7 there is hereby legislatively determined and established in the
8 schedule provided in subsection (c) of this section, a class of
9 taxpayers who by reason of poverty, age, disability or infirmity
10 are in need of special tax relief and the members of such class,
11 on and after the effective date of this article, shall be
12 entitled to claim a credit against the amount of tax which would
13 otherwise be due under this article. The class of taxpayers and
14 the members thereof who qualify for such tax credit and the
15 amount thereof shall be determined solely by reference to the
16 taxable income and exemption schedule set forth in subsection
17 (c) of this section.

18 (c) Tax credit schedule for taxpayer class.

19 SCHEDULE

20 VANISHING TAX CREDIT

21	Net	Tax	Number of FEDERAL Exemptions						←
22	Taxable	at							
23	Income	5%	1	2	3	4	5	6	
24									
25	\$ 100	\$ 5	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	
26	200	10	10.00	10.00	10.00	10.00	10.00	10.00	
27	300	15	15.00	15.00	15.00	15.00	15.00	15.00	
28	400	20	20.00	20.00	20.00	20.00	20.00	20.00	
29	500	25	25.00	25.00	25.00	25.00	25.00	25.00	
30	600	30	<u>30.00</u>	30.00	30.00	30.00	30.00	30.00	

1	700	35	31.25	35.00	35.00	35.00	35.00	35.00	
2	800	40	30.00	40.00	40.00	40.00	40.00	40.00	
3	900	45	28.75	45.00	45.00	45.00	45.00	45.00	
4	1000	50	27.50	50.00	50.00	50.00	50.00	50.00	
5	1100	55	26.25	55.00	55.00	55.00	55.00	55.00	
6	1200	60	25.00	<u>60.00</u>	60.00	60.00	60.00	60.00	
7	1300	65	23.75	62.50	65.00	65.00	65.00	65.00	
8	1400	70	22.50	60.00	70.00	70.00	70.00	70.00	
9	1500	75	21.25	57.50	75.00	75.00	75.00	75.00	
10	1600	80	20.00	55.00	80.00	80.00	80.00	80.00	
11	1700	85	18.75	52.50	85.00	85.00	85.00	85.00	
12	1800	90	17.50	50.00	<u>90.00</u>	90.00	90.00	90.00	
13	1900	95	16.25	47.50	93.75	95.00	95.00	95.00	
14	2000	100	15.00	45.00	90.00	100.00	100.00	100.00	
15	2100	105	13.75	42.50	86.25	105.00	105.00	105.00	
16	2200	110	12.50	40.00	82.50	110.00	110.00	110.00	
17	2300	115	11.25	37.50	78.75	115.00	115.00	115.00	
18	2400	120	10.00	35.00	75.00	120.00	120.00	120.00	
19	2500	125	8.75	32.50	71.25	<u>125.00</u>	125.00	125.00	
20	2600	130	7.50	30.00	67.50	120.00	130.00	130.00	
21	2700	135	6.25	27.50	63.75	115.00	135.00	135.00	
22	2800	140	5.00	25.00	60.00	110.00	140.00	140.00	
23	2900	145	3.75	22.50	56.25	105.00	145.00	145.00	
24	3000	150	2.50	20.00	52.50	100.00	150.00	150.00	
25	3100	155	1.25	17.50	48.75	95.00	124.00	155.00	←
26							<u>155.00</u>		
27	3200	160	.00	15.00	45.00	90.00	156.25	160.00	
28	3300	165	.00	12.50	41.25	85.00	150.00	165.00	
29	3400	170	.00	10.00	37.50	80.00	143.75	170.00	
30	3500	175	.00	7.50	33.75	75.00	137.50	175.00	

1	3600	180	.00	5.00	30.00	70.00	131.25	180.00
2	3700	185	.00	2.50	26.25	65.00	125.00	<u>185.00</u>
3	3800	190	.00	.00	22.50	60.00	118.75	187.50
4	3900	195	.00	.00	18.75	55.00	112.50	180.00
5	4000	200	.00	.00	15.00	50.00	106.25	172.50
6	4100	205	.00	.00	11.25	45.00	100.00	165.00
7	4200	210	.00	.00	7.50	40.00	93.75	157.50
8	4300	215	.00	.00	3.75	35.00	87.50	150.00
9	4400	220	.00	.00	.00	30.00	81.25	142.50
10	4500	225	.00	.00	.00	25.00	75.00	135.00
11	4600	230	.00	.00	.00	20.00	68.75	127.50
12	4700	235	.00	.00	.00	15.00	62.50	120.00
13	4800	240	.00	.00	.00	10.00	56.25	112.50
14	4900	245	.00	.00	.00	5.00	50.00	105.00
15	5000	250	.00	.00	.00	.00	43.75	97.50
16	5100	255	.00	.00	.00	.00	37.50	90.00
17	5200	260	.00	.00	.00	.00	31.25	82.50
18	5300	265	.00	.00	.00	.00	25.00	75.00
19	5400	270	.00	.00	.00	.00	18.75	67.50
20	5500	275	.00	.00	.00	.00	12.50	60.00
21	5600	280	.00	.00	.00	.00	6.25	52.50
22	5700	285	.00	.00	.00	.00	.00	45.00
23	5800	290	.00	.00	.00	.00	.00	37.50
24	5900	295	.00	.00	.00	.00	.00	30.00
25	6000	300	.00	.00	.00	.00	.00	22.50
26	6100	305	.00	.00	.00	.00	.00	15.00
27	6200	310	.00	.00	.00	.00	.00	7.50
28	6300	315	.00	.00	.00	.00	.00	.00
29	6400	320	.00	.00	.00	.00	.00	.00
30	6500	325	.00	.00	.00	.00	.00	.00

1	6600	330	.00	.00	.00	.00	.00	.00
2	6700	335	.00	.00	.00	.00	.00	.00
3	6800	340	.00	.00	.00	.00	.00	.00
4	6900	345	.00	.00	.00	.00	.00	.00
5	7000	350	.00	.00	.00	.00	.00	.00
6	7100	355	.00	.00	.00	.00	.00	.00
7	7200	360	.00	.00	.00	.00	.00	.00
8	7300	365	.00	.00	.00	.00	.00	.00
9	7400	370	.00	.00	.00	.00	.00	.00
10	7500	375	.00	.00	.00	.00	.00	.00
11	7600	380	.00	.00	.00	.00	.00	.00
12	7700	385	.00	.00	.00	.00	.00	.00
13	7800	390	.00	.00	.00	.00	.00	.00
14	7900	395	.00	.00	.00	.00	.00	.00
15	8000	400	.00	.00	.00	.00	.00	.00
16	8100	405	.00	.00	.00	.00	.00	.00
17	8200	410	.00	.00	.00	.00	.00	.00
18	8300	415	.00	.00	.00	.00	.00	.00
19	8400	420	.00	.00	.00	.00	.00	.00
20	8500	425	.00	.00	.00	.00	.00	.00
21	8600	430	.00	.00	.00	.00	.00	.00
22	8700	435	.00	.00	.00	.00	.00	.00
23	8800	440	.00	.00	.00	.00	.00	.00
24	8900	445	.00	.00	.00	.00	.00	.00
25	9000	450	.00	.00	.00	.00	.00	.00
26	9100	455	.00	.00	.00	.00	.00	.00
27	9200	460	.00	.00	.00	.00	.00	.00
28	9300	465	.00	.00	.00	.00	.00	.00
29	9400	470	.00	.00	.00	.00	.00	.00
30	9500	475	.00	.00	.00	.00	.00	.00

1	9600	480	.00	.00	.00	.00	.00	.00	
2	9700	485	.00	.00	.00	.00	.00	.00	
3	9800	490	.00	.00	.00	.00	.00	.00	
4	9900	495	.00	.00	.00	.00	.00	.00	
5	10,000	500	.00	.00	.00	.00	.00	.00	
6	Net	Tax	Number of FEDERAL Exemptions						<—
7	Taxable	at							
8	Income	5%	7	8	9	10	11	12	
9									
10	\$ 100	\$ 5	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	
11	200	10	10.00	10.00	10.00	10.00	10.00	10.00	
12	300	15	15.00	15.00	15.00	15.00	15.00	15.00	
13	400	20	20.00	20.00	20.00	20.00	20.00	20.00	
14	500	25	25.00	25.00	25.00	25.00	25.00	25.00	
15	600	30	30.00	30.00	30.00	30.00	30.00	30.00	
16	700	35	35.00	35.00	35.00	35.00	35.00	35.00	
17	800	40	40.00	40.00	40.00	40.00	40.00	40.00	
18	900	45	45.00	45.00	45.00	45.00	45.00	45.00	
19	1000	50	50.00	50.00	50.00	50.00	50.00	50.00	
20	1100	55	55.00	55.00	55.00	55.00	55.00	55.00	
21	1200	60	60.00	60.00	60.00	60.00	60.00	60.00	
22	1300	65	65.00	65.00	65.00	65.00	65.00	65.00	
23	1400	70	70.00	70.00	70.00	70.00	70.00	70.00	
24	1500	75	75.00	75.00	75.00	75.00	75.00	75.00	
25	1600	80	80.00	80.00	80.00	80.00	80.00	80.00	
26	1700	85	85.00	85.00	85.00	85.00	85.00	85.00	
27	1800	90	90.00	90.00	90.00	90.00	90.00	90.00	
28	1900	95	95.00	95.00	95.00	95.00	95.00	95.00	
29	2000	100	100.00	100.00	100.00	100.00	100.00	100.00	
30	2100	105	105.00	105.00	105.00	105.00	105.00	105.00	

1	2200	110	110.00	110.00	110.00	110.00	110.00	110.00	
2	2300	115	115.00	115.00	115.00	115.00	115.00	115.00	
3	2400	120	120.00	120.00	120.00	120.00	120.00	120.00	
4	2500	125	125.00	125.00	125.00	125.00	125.00	125.00	
5	2600	130	130.00	130.00	130.00	130.00	130.00	130.00	
6	2700	135	135.00	135.00	135.00	135.00	135.00	135.00	
7	2800	140	140.00	140.00	140.00	140.00	140.00	140.00	
8	2900	145	145.00	145.00	145.00	145.00	145.00	145.00	
9	3000	150	150.00	150.00	150.00	150.00	150.00	150.00	
10	3100	155	155.00	155.00	155.00	155.00	155.00	155.00	
11	3200	160	160.00	160.00	160.00	160.00	160.00	160.00	
12	3300	165	165.00	165.00	165.00	165.00	165.00	165.00	
13	3400	170	170.00	170.00	170.00	170.00	170.00	170.00	
14	3500	175	175.00	175.00	175.00	175.00	175.00	175.00	
15	3600	180	180.00	180.00	180.00	180.00	180.00	180.00	
16	3700	185	185.00	185.00	185.00	185.00	185.00	185.00	
17	3800	190	190.00	190.00	190.00	190.00	190.00	190.00	
18	3900	195	195.00	195.00	195.00	195.00	195.00	195.00	
19	4000	200	200.00	200.00	200.00	200.00	200.00	200.00	
20	4100	205	205.00	205.00	205.00	205.00	205.00	205.00	
21	4200	210	210.00	210.00	210.00	210.00	210.00	210.00	
22	4300	215	<u>215.00</u>	215.00	215.00	215.00	215.00	215.00	
23	4400	220	218.75	220.00	220.00	220.00	220.00	220.00	
24	4500	225	210.00	225.00	225.00	225.00	225.00	225.00	
25	4600	230	201.25	230.00	230.00	230.00	230.00	230.00	
26	4700	235	192.50	235.00	235.00	235.00	235.00	235.00	
27	4800	240	183.75	240.00	240.00	240.00	240.00	240.00	
28	4900	245	175.00	245.00	245.00	245.00	245.00	245.00	
29	5000	250	166.25	<u>250.00</u>	250.00	250.00	250.00	250.00	
30	5100	255	157.50	246.00	255.00	255.00	255.00	255.00	<—

1				240.00					
2	5200	260	148.75	230.00	260.00	260.00	260.00	260.00	
3	5300	265	140.00	220.00	265.00	265.00	265.00	265.00	
4	5400	270	131.25	210.00	270.00	270.00	270.00	270.00	
5	5500	275	122.50	200.00	275.00	275.00	275.00	275.00	
6	5600	280	113.75	190.00	<u>280.00</u>	280.00	280.00	280.00	
7	5700	285	105.00	180.00	281.25	285.00	285.00	285.00	
8	5800	290	96.25	170.00	270.00	290.00	290.00	290.00	
9	5900	295	87.50	160.00	258.75	295.00	295.00	295.00	
10	6000	300	78.75	150.00	247.50	300.00	300.00	300.00	
11	6100	305	70.00	140.00	236.25	305.00	305.00	305.00	
12	6200	310	61.25	130.00	225.00	<u>310.00</u>	310.00	310.00	
13	6300	315	52.50	120.00	213.75	312.50	315.00	315.00	
14	6400	320	43.75	110.00	202.50	300.00	300.00	300.00	<—
15							320.00	320.00	
16	6500	325	35.00	100.00	191.25	287.50	325.00	325.00	
17	6600	330	26.25	90.00	180.00	275.00	330.00	330.00	
18	6700	335	17.50	80.00	168.75	262.50	335.00	335.00	
19	6800	340	8.75	70.00	157.50	250.00	<u>340.00</u>	340.00	
20	6900	345	.00	60.00	146.25	237.50	343.75	345.00	
21	7000	350	.00	50.00	135.00	225.00	330.00	350.00	
22	7100	355	.00	40.00	123.75	212.50	316.25	355.00	
23	7200	360	.00	30.00	112.50	206.00	302.50	360.00	<—
24						200.00			
25	7300	365	.00	20.00	101.25	187.50	288.75	365.00	
26	7400	370	.00	10.00	90.00	175.00	275.00	370.00	
27	7500	375	.00	.00	78.75	162.50	261.25	<u>375.00</u>	
28	7600	380	.00	.00	67.50	150.00	247.50	360.00	
29	7700	385	.00	.00	56.25	137.50	233.75	345.00	
30	7800	390	.00	.00	45.00	125.00	220.00	330.00	

1	7900	395	.00	.00	33.75	112.50	206.25	315.00
2	8000	400	.00	.00	22.50	100.00	192.50	300.00
3	8100	405	.00	.00	11.25	87.50	178.75	285.00
4	8200	410	.00	.00	.00	75.00	165.00	270.00
5	8300	415	.00	.00	.00	62.50	151.25	255.00
6	8400	420	.00	.00	.00	50.00	137.50	240.00
7	8500	425	.00	.00	.00	37.50	123.75	225.00
8	8600	430	.00	.00	.00	25.00	110.00	210.00
9	8700	435	.00	.00	.00	12.50	96.25	195.00
10	8800	440	.00	.00	.00	.00	82.50	180.00
11	8900	445	.00	.00	.00	.00	68.75	165.00
12	9000	450	.00	.00	.00	.00	55.00	150.00
13	9100	455	.00	.00	.00	.00	41.25	135.00
14	9200	460	.00	.00	.00	.00	27.50	120.00
15	9300	465	.00	.00	.00	.00	13.75	105.00
16	9400	470	.00	.00	.00	.00	.00	90.00
17	9500	475	.00	.00	.00	.00	.00	75.00
18	9600	480	.00	.00	.00	.00	.00	60.00
19	9700	485	.00	.00	.00	.00	.00	45.00
20	9800	490	.00	.00	.00	.00	.00	30.00
21	9900	495	.00	.00	.00	.00	.00	15.00
22	10,000	500	.00	.00	.00	.00	.00	.00

23 Line indicates point at which there is no tax liability.

24 PART V

25 WITHHOLDING OF TAX

26 Section 322. Requirement of Withholding Tax.--Every employer
27 maintaining an office or transacting business within this
28 Commonwealth and making payment of taxable compensation (i) to a
29 resident individual, or (ii) to a nonresident individual
30 taxpayer performing services on behalf of such employer within

1 this Commonwealth, shall deduct and withhold from such
2 compensation for each payroll period a tax computed in such
3 manner as to result, so far as practicable, in withholding from
4 the employee's compensation during each calendar year an amount
5 substantially equivalent to the tax reasonably estimated to be
6 due for such year with respect to such compensation. The method
7 of determining the amount to be withheld shall be prescribed by
8 regulations of the department, with due regard to any credits
9 allowable against his tax under this article.

10 Section 323. Information Statement.--Every employer required
11 to deduct and withhold tax under this article shall furnish to
12 each such employee to whom the employer has paid compensation
13 during the calendar year, on or before ~~February 15~~ JANUARY 31 of <—
14 the succeeding year, or, if his employment is terminated before
15 the close of such calendar year, within thirty days from the
16 date on which the last payment of compensation is made, a
17 written statement in such manner and in such form as may be
18 prescribed by the department showing the amount of compensation
19 paid by the employer to the employee, the amount deducted and
20 withheld as tax, and such other information as the department
21 shall prescribe.

22 Section 324. Time for Filing Employers' Returns.--Every
23 employer required to deduct and withhold tax under this article
24 shall file a quarterly withholding return on or before the last
25 day of April, July, October and ~~December~~ JANUARY for the three <—
26 months ending the last day of March, June, September and
27 December. Such quarterly returns shall be filed with the
28 department at its main office or at any branch office which it
29 may designate for filing returns.

30 Section 324.1. Monthly, Semi-monthly and Quarterly Payment

1 of Taxes Withheld.--Every employer withholding tax under this
2 article shall pay over to the department or to a depository
3 designated by it the tax required to be deducted and withheld
4 under this article.

5 (1) Where the aggregate amount required to be deducted and
6 withheld by any employer for each quarterly period can
7 reasonably be expected to be less than three hundred dollars
8 (\$300), such employer shall file a return and pay the tax on or
9 before the last day for filing a quarterly return under section
10 324, except that commencing with the year 1971, and each year
11 thereafter every employer required to file a quarterly return
12 for the second calendar quarter shall with respect to the tax
13 deducted and withheld for the months of April and May pay such
14 tax over to the department on or before June 15 next following.
15 The payment of the April and May tax withholdings shall not
16 relieve the employer of the duty to file a quarterly return on
17 or before the last day of July next following and remit
18 therewith the tax deducted and withheld for the month of June.

19 (2) Where the aggregate amount required to be deducted and
20 withheld by any employer for each quarterly period can
21 reasonably be expected to be three hundred dollars (\$300) or
22 more but less than one thousand dollars (\$1,000), such employer
23 shall pay the tax monthly, on or before the fifteenth day of the
24 month succeeding the months of January to November, inclusive,
25 and on or before the last day of January following the month of
26 December.

27 (3) Where the aggregate amount required to be deducted and
28 withheld by any employer for each quarterly period can
29 reasonably be expected to be one thousand dollars (\$1,000) or
30 more, such employer shall pay the tax semi-monthly, within three

1 banking days after the close of the semi-monthly period.

2 Notwithstanding anything in this section to the contrary,
3 whenever any employer fails to deduct or truthfully account for
4 or pay over the tax withheld or file returns as prescribed by
5 this article, the department may serve a notice on such employer
6 requiring him to withhold taxes which are required to be
7 deducted under this article and deposit such taxes in a bank
8 approved by the department in a separate account in trust for
9 and payable to the department, and to keep the amount of such
10 tax in such account until payment over to the department. Such
11 notice shall remain in effect until a notice of cancellation is
12 served on the employer by the department.

13 Section 325. Employer's Liability for Withheld Taxes.--Every
14 employer required to deduct and withhold tax under this article
15 is hereby made liable for such tax. For purposes of assessment
16 and collection, any amount required to be withheld and paid over
17 to the department and any additions to tax penalties and
18 interest with respect thereto, shall be considered the tax of
19 the employer. All taxes deducted and withheld from employees
20 pursuant to this article or under color of this article shall
21 constitute a trust fund for the Commonwealth and shall be
22 enforceable against such employer, his representative or any
23 other person receiving any part of such fund.

24 Section 326. Employer's Failure to Withhold.--If an employer
25 fails to deduct and withhold tax as prescribed herein and
26 thereafter the tax against which such tax may be credited is
27 paid, the tax which was required to be deducted and withheld
28 shall not be collected from the employer, but the employer shall
29 not be relieved of the liability for any penalty, interest, or
30 additions to the tax imposed with respect to such failure to

1 deduct and withhold.

2 Section 327. Designation of Third Parties to Perform Acts
3 Required of Employers.--In case a fiduciary, agent or other
4 person has the control, receipt, custody or disposal of, or pays
5 the compensation of an employe or a group of employes, employed
6 by one or more employers, the department is authorized to
7 designate such fiduciary, agent, or other person to perform such
8 acts as are required of employers under this article as the
9 department may by regulation prescribe. Except as may be
10 otherwise prescribed by the department, all provisions of this
11 article which are applicable to an employer shall be applicable
12 to a fiduciary, agent or other person so designated.

13 PART VI

14 ESTIMATED TAX

15 Section 330. Declarations of Estimated Tax.--(a) Every
16 resident and nonresident individual shall at the time
17 hereinafter prescribed make a declaration of his estimated tax
18 for the taxable year, containing such information as the
19 department may prescribe by regulations, if his taxable income,
20 other than from compensation on which tax is withheld under this
21 article, can reasonably be expected to exceed one thousand
22 dollars (\$1,000).

23 (b) For the purposes of this article, the term
24 "estimated tax" means the amount which an individual estimates
25 to be his tax due under this article for the taxable year, less
26 the amount which he estimates to be the sum of any credits
27 allowable against the tax under this article.

28 (c) A husband and wife entitled to make a joint declaration
29 of Federal estimated tax may make a joint declaration of
30 estimated tax hereunder as if they were one taxpayer, in which

1 case the liability with respect to the estimated tax shall be
2 joint and several. If a joint declaration is made but husband
3 and wife elect to determine their taxes separately, the
4 estimated tax for such year may be treated as the estimated tax
5 of either husband or wife, or may be divided between them, as
6 they may elect.

7 (d) Except as hereinafter provided, the date for filing a
8 declaration of estimated tax shall depend upon when the resident
9 or nonresident individual determines that his taxable income on
10 which no tax has been withheld under this article can reasonably
11 be expected to exceed one thousand dollars (\$1,000) in the
12 taxable year, as follows:

13 (1) If the determination is made on or before April 1 of the
14 taxable year, a declaration of estimated tax shall be filed no
15 later than April 15 of the taxable year.

16 (2) If the determination is made after April 1 but before
17 June 2 of the taxable year, the declaration shall be filed no
18 later than June 15 of such year.

19 (3) If the determination is made after June 1 but before
20 September 2 of the taxable year, the declaration shall be filed
21 no later than September 15 of such year.

22 (4) If the determination is made after September 1 of the
23 taxable year, the declaration shall be filed no later than
24 January 15 of the year succeeding the taxable year.

25 (e) Notwithstanding subsection (d), of this section, a
26 declaration of estimated tax of an individual having an
27 estimated taxable income from farming for the taxable year which
28 is at least two-thirds of his total estimated taxable income for
29 the taxable year may be filed at any time on or before January
30 15 of the succeeding year.

1 (f) A declaration of estimated tax of an individual having a
2 total estimated tax for the taxable year of fifty dollars (\$50)
3 or less may be filed at any time on or before January 15 of the
4 succeeding year under regulations of the department.

5 (g) An individual may amend a declaration under regulations
6 of the department.

7 (h) If on or before January 31 of the year succeeding a
8 taxable year, an individual files his return for the entire
9 taxable year for which a declaration was required to be filed
10 within the time prescribed by subsection (d) (4) of this section
11 and pays therewith the full amount of the tax shown to be due on
12 the return:

13 (1) Such return shall be considered as his declaration which
14 was required to be filed no later than January 15.

15 (2) Such return shall be considered as the amendment
16 permitted by subsection (g) to be filed on or before January 15
17 provided the amount of the tax shown on the return is greater
18 than the amount of the estimated tax shown in a declaration
19 previously made.

20 (i) This article shall apply to a taxable year other than a
21 calendar year by the substitution of the months of such fiscal
22 year for the corresponding months specified in this section.

23 (j) This article shall apply to an individual having a
24 taxable year of less than twelve months in accordance with
25 procedures prescribed in regulations of the department.

26 Section 331. Payments of Estimated Tax.--(a) The estimated
27 tax with respect to which a declaration is required shall be
28 paid as follows:

29 (1) If the declaration is filed on or before April 15 of the
30 taxable year, the estimated tax shall be paid in four equal

1 installments. The first installment shall be paid at the time of
2 the filing of the declaration, and the second, third and fourth
3 installments shall be paid on or before the succeeding June 15,
4 September 15, and January 15, respectively.

5 (2) If the declaration is not required to be filed on or
6 before April 15 of the taxable year and is filed after April 15,
7 but before June 16 of the taxable year, the estimated tax shall
8 be paid in three equal installments. The first installment shall
9 be paid at the time of the filing of the declaration, and the
10 second and third installments shall be paid on the succeeding
11 September 15 and January 15, respectively.

12 (3) If the declaration is not required to be filed on or
13 before June 15 of the taxable year and is filed after June 15
14 but before September 16 of the taxable year, the estimated tax
15 shall be paid in two equal installments. The first installment
16 shall be paid at the time of the filing of the declaration, and
17 the second shall be paid on the succeeding January 15.

18 (4) If the declaration is not required to be filed on or
19 before September 15 of the taxable year and is filed after
20 September 15 of the taxable year, the estimated tax shall be
21 paid in full at the time of the filing of the declaration.

22 (5) If the declaration is not filed within the time
23 prescribed therefor, or after the expiration of any extension of
24 time therefor, clauses (2), (3) and (4) of this subsection shall
25 not apply, and there shall be paid at the time of such filing
26 the amount of all installments of estimated tax which were due
27 and payable on or before the date the declaration was filed, and
28 the remaining installments shall be paid at such times and in
29 such amounts as they would have been payable if the declaration
30 had been filed when due.

1 (b) If an individual described in subsection (e) of section
2 (relating to farmers) makes a declaration of estimated tax
3 after September 15 of the taxable year, but before the following
4 January 15, the estimated tax shall be paid in full at the time
5 of the filing of the declaration.

6 (c) If any amendment of a declaration is filed, the
7 remaining unpaid installments, if any, shall be ratably
8 increased or decreased, as the case may be, to reflect any
9 increase or decrease in the estimated tax by reason of such
10 amendment, and if any amendment is made after September 15 of
11 the taxable year, any increase in the estimated tax by reason
12 thereof shall be paid at the time of making such amendment.

13 PART VII

14 RETURNS AND PAYMENT OF TAX

15 Section 335. Returns and Liability.--On or before the date
16 when the taxpayer's Federal income tax return is due or would be
17 due if the taxpayer were required to file a Federal income tax
18 return, a tax return under this article shall be made and filed
19 by or for every taxpayer having taxable income for the taxable
20 year.

21 Section 336. Returns of Married Individuals, Deceased or
22 Disabled Individuals and Fiduciaries.--(a) If the Federal income
23 tax liability of husband or wife is determined on a separate
24 Federal return, their income tax liabilities and returns under
25 this article shall be separate.

26 (b) If the Federal income tax liabilities of husband and
27 wife (other than a husband and wife described in subsection (c))
28 are determined on a joint Federal return, or if neither files a
29 Federal return:

30 (1) they shall file a joint tax return under this article

1 and their tax liabilities shall be joint and several; or

2 (2) they may elect to file separate returns under this
3 article on a single form if they comply with the requirements of
4 the department in setting forth information, in which event
5 their tax liabilities shall be separate, except as provided in
6 subsection (d).

7 (c) If either husband or wife is a resident and the other is
8 a nonresident, they shall file separate tax returns under this
9 article on such single or separate forms as may be required by
10 the department, in which event their tax liabilities shall be
11 separate except as provided in subsection (d) unless both elect
12 to determine their joint taxable income as if both were
13 residents, in which event their tax liabilities shall be joint
14 and several.

15 (d) If husband and wife file separate tax returns under this
16 article on a single form pursuant to subsections (b) or (c) and:

17 (1) If the sum of the payments by either spouse, including
18 withheld and estimated taxes, exceeds the amount of the tax for
19 which such spouse is separately liable, the excess may be
20 applied by the department to the credit of the other spouse if
21 the sum of the payments by such other spouse, including withheld
22 and estimated taxes, is less than the amount of the tax for
23 which such other spouse is separately liable.

24 (2) If the sum of the payments made by both spouses with
25 respect to the taxes for which they are separately liable,
26 including withheld and estimated taxes, exceeds the total of the
27 taxes due, refund of the excess may be made payable to both
28 spouses, or if either is deceased, to the survivor.

29 Provided, however, That the provisions of this subsection (d)
30 shall not apply if the return of either spouse includes a demand

1 that any overpayment made by him or her shall be applied only on
2 account of his or her separate liability.

3 (e) The return for any deceased individual shall be made and
4 filed by his executor, administrator, or other person charged
5 with his property.

6 (f) The return for an individual who is unable to make a
7 return by reason of minority or other disability shall be made
8 and filed by his guardian, committee, fiduciary or other person
9 charged with the care of his person or property, or by his duly
10 authorized agent.

11 (g) The return for an estate or trust shall be made and
12 filed by the fiduciary. If two or more fiduciaries are acting
13 jointly, the return may be made by any one of them.

14 Section 337. Time and Place for Filing Returns and Paying
15 Tax.--A person required to make and file a return under this
16 article shall, without assessment, notice or demand, pay any tax
17 due thereon to the department on or before the date fixed for
18 filing such return (determined without regard to any extension
19 of time for filing the return). The department shall prescribe
20 by regulation the place for filing any return, declaration,
21 statement, or other document required pursuant to this article
22 and for payment of any tax.

23 Section 338. Signing of Returns and Other Documents.--(a)
24 Any return, declaration, statement or other document required to
25 be made pursuant to this article shall be signed in accordance
26 with regulations or instructions prescribed by the department.

27 (b) Any return, statement, or other document required of a
28 partnership shall be signed by one or more partners. The fact
29 that a partner's name is signed to a return, statement, or other
30 document, shall be prima facie evidence for all purposes that

1 such partner is authorized to sign on behalf of the partnership.

2 (c) The making or filing of any return, declaration,
3 statement or other document or copy thereof required to be made
4 or filed pursuant to this article shall constitute a
5 certification by the person making or filing such return,
6 declaration, statement or other document or copy thereof that
7 the statements contained therein are true and that any copy
8 filed is a true copy.

9 Section 339. Extensions of Time.--(a) A taxpayer who is
10 granted a Federal extension of time by the Commissioner of
11 Internal Revenue for filing any return, declaration, statement
12 or other document shall be automatically entitled to a similar
13 extension of the time for filing any corresponding return,
14 declaration, statement or other document required pursuant to
15 this article. No application for such extension need be made,
16 provided that evidence of the granting of the Federal extension
17 accompany the return, declaration, statement or other document
18 filed pursuant to this article.

19 (b) In all other cases the department may, upon application,
20 grant a reasonable extension of time for filing any return,
21 declaration, statement, or other document required pursuant to
22 this article, on such terms and conditions as it may require.
23 Except for a taxpayer who is outside the United States, no such
24 extension for filing any return, declaration, statement or other
25 document, shall exceed six months.

26 Section 340. Requirements Concerning Returns, Notices,
27 Records and Statements.--(a) The department may prescribe by
28 regulation for the keeping of records, the content and form of
29 returns, declarations, statements and other documents and the
30 filing of copies of Federal income tax returns and

1 determinations. The department may require any person, by
2 regulation or notice served upon such person, to make such
3 returns, render such statements, or keep such records, as the
4 department may deem sufficient to show whether or not such
5 person is liable for tax under this article.

6 (b) (1) When required by regulations prescribed by the
7 department:

8 (i) Any person required under the authority of this article
9 to make a return, declaration, statement, or other document
10 shall include in such return, declaration, statement or other
11 document such identifying number as may be prescribed for
12 securing proper identification of such person.

13 (ii) Any person with respect to whom a return, declaration,
14 statement, or other document is required under the authority of
15 this article to make a return, declaration, statement, or other
16 document with respect to another person, shall request from such
17 other person, and shall include in any such return, declaration,
18 statement, or other document, such identifying number as may be
19 prescribed for securing proper identification of such other
20 person.

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

24 (c) Every partnership having a resident partner or having
25 any income derived from sources within this Commonwealth shall
26 make a return for the taxable year setting forth all items of
27 income, gain, loss and deduction, and such other pertinent
28 information as the department may by regulations prescribe. Such
29 return shall be filed on or before the fifteenth day of the
30 fourth month following the close of each taxable year. For

1 purposes of this subsection, "taxable year" means year or period
2 which would be a taxable year of the partnership if it were
3 subject to tax under this article.

4 (d) The department may prescribe regulations requiring
5 returns of information to be made and filed on or before
6 February 28 of each year as to the payment or crediting in any
7 calendar year of amounts of one thousand dollars (\$1,000) or
8 more to any taxpayer. Such returns may be required of any
9 person, including lessees or mortgagors of real or personal
10 property, fiduciaries, employers and all officers and employees
11 of this Commonwealth, or of any municipal corporation or
12 political subdivision of this Commonwealth having the control,
13 receipt, custody, disposal or payment of interest, rents,
14 salaries, wages, premiums, annuities, compensations,
15 remunerations, emoluments or other fixed or determinable gains,
16 profits or income, except interest coupons payable to bearer. A
17 duplicate of the statement as to tax withheld on compensation
18 required to be furnished by an employer to an employee, shall
19 constitute the return of information required to be made under
20 this section with respect to such compensation.

21 Section 341. Report of Change in Federal Taxable Income.--If
22 the amount of a taxpayer's Federal taxable income reported on
23 his Federal income tax return for any taxable year is changed or
24 corrected by the United States Internal Revenue Service or other
25 competent authority of the United States, the taxpayer shall
26 report to the department such change or correction in Federal
27 taxable income within ninety days after the final determination
28 of such change or correction, or as otherwise required by the
29 department, and shall either concede the accuracy of such
30 determination or state wherein he claims it is erroneous. Any

1 taxpayer filing an amended Federal income tax return shall also
2 file within ninety days thereafter an amended return under this
3 article, and shall give such information as the department may
4 require. The department may by regulation prescribe such
5 exceptions to the requirements of this section as it deems
6 appropriate.

7 PART VIII

8 PROCEDURE AND ADMINISTRATION

9 Section 345. Payment on Notice and Demand.--Upon receipt of
10 notice and demand from the department, there shall be paid the
11 amount of any tax due under the provisions of this article
12 stated in such notice and demand.

13 Section 346. Assessment.--(a) The department is authorized
14 and required to make the inquiries, determinations and
15 assessments of all taxes imposed by this article.

16 (b) If the mode or time for the assessment of any tax is not
17 otherwise provided for, the department may establish the same by
18 regulations.

19 Section 347. Procedure for Reassessment.--Promptly after the
20 date of an assessment by the department, the department shall
21 send by mail a copy thereof to the person against whom it was
22 made. Within ninety days after the date upon which the copy of
23 any such assessment was mailed, such person may file with the
24 department a petition for reassessment of such tax. Every
25 petition for reassessment shall state specifically the reasons
26 which the petitioner believes entitled him to such reassessment,
27 and it shall be supported by affidavit that it is not made for
28 the purpose of delay and that the facts set forth therein are
29 true. It shall be the duty of the department, within six months
30 after receiving a petition for reassessment, to dispose of such

1 petition for reassessment. Notice of the action taken upon any
2 petition for reassessment shall be given to the petitioner
3 promptly thereafter.

4 Section 348. Review by Board of Finance and Revenue.--Within
5 ninety days after the date of mailing of notice by the
6 department of the action taken on any petition for reassessment
7 filed with it, the person against whom the assessment was made
8 may by petition request the Board of Finance and Revenue to
9 review such action. Every petition for review filed hereunder
10 shall state specifically the reasons upon which the petitioner
11 relies, or shall incorporate by reference the petition for
12 reassessment in which such reasons shall have been stated. The
13 petition shall be supported by affidavit that it is not made for
14 the purpose of delay and that the facts therein set forth are
15 true. The Board of Finance and Revenue shall act in disposition
16 of such petitions filed with it within six months after they
17 have been received, and in the event of failure of said board to
18 dispose of any such petition within six months, the action taken
19 by the department upon the petition for reassessment shall be
20 deemed sustained. The Board of Finance and Revenue may sustain
21 the action taken on the petition for reassessment, or it may
22 reassess the tax due upon such basis as it shall deem according
23 to law. Notice of the action of the Board of Finance and Revenue
24 shall be given by mail to the department and to the petitioner.

25 Section 349. Appeal to the Commonwealth Court.--Any person,
26 or the Commonwealth, aggrieved by the decision of the Board of
27 Finance and Revenue may, within sixty days, appeal to the
28 Commonwealth Court from the decision of the Board of Finance and
29 Revenue in the manner now or hereafter provided by law for
30 appeals from decisions of said board in tax cases.

1 Section 350. Collection of Tax.--The department shall
2 collect the taxes imposed by this article in the manner provided
3 by law for the collection of taxes imposed by the laws of this
4 Commonwealth.

5 Section 351. Collection upon Failure to Request
6 Reassessment, Review or Appeal.--(a) The department may collect
7 any tax:

8 (1) After ninety days from the date of mailing of a copy of
9 the notice of assessment, if no petition for reassessment has
10 been filed;

11 (2) After ninety days from the date of mailing of notice of
12 the department's action thereon, if no petition for review has
13 been filed;

14 (3) Within sixty days from the date of mailing of notice of
15 the decision of the Board of Finance and Revenue upon a petition
16 for review or from the expiration of the board's time for acting
17 upon such petition, if no decision has been made; or

18 (4) Immediately, in all cases of judicial sales,
19 receiverships, assignments or bankruptcies.

20 In any such proceeding for the collection of the tax imposed
21 by this article, the person against whom the assessment was made
22 shall not be permitted to set up any ground of defense that
23 might have been presented to the department, the Board of
24 Finance and Revenue or the Commonwealth Court if such person had
25 properly pursued his administrative remedies under this article.

26 Section 352. Lien for Tax.--(a) If any person liable to pay
27 any tax neglects or refuses to pay the same on the date the tax
28 becomes collectible, the amount of such tax, together with any
29 costs that may accrue in addition thereto, shall be a lien in
30 favor of the Commonwealth against all real estate within the

1 Commonwealth of such person from and after such date.

2 (b) The department may, at any time, transmit to the
3 prothonotaries of the respective counties certified copies of
4 all liens for taxes imposed by this article. It shall be the
5 duty of each prothonotary receiving such lien to enter and
6 docket the same of record in his office, which lien shall be
7 indexed as judgments are now indexed. All such liens shall have
8 priority to, and be fully before, any other obligation,
9 judgment, claim, lien or estate paid and satisfied out of the
10 judicial sale of said real estate with which said real estate
11 may subsequently become charged, or for which it may
12 subsequently become liable, subject, however, to mortgage or
13 other liens existing and duly recorded at the time such tax lien
14 is recorded, save and except the cost of sale and of the writ
15 upon which it is made and real estate taxes imposed or assessed
16 upon said property. The lien of said taxes shall continue for
17 five years from the date of entry and may be revived and
18 continued, in the manner now or hereafter provided for renewal
19 of judgments, and it shall be lawful for a writ of scire facias
20 to issue and be prosecuted to judgment in the manner in which
21 such writs are ordinarily employed.

22 (c) Any wilful failure of any prothonotary to carry out any
23 duty imposed upon him by this section shall be a misdemeanor
24 and, upon conviction, he shall be sentenced to pay a fine not
25 exceeding one thousand dollars (\$1,000) and cost of prosecution,
26 or to undergo imprisonment not exceeding one year, or both.

27 Section 353. Refund or Credit of Overpayment.--(a) In the
28 case of any overpayment, the department may credit the amount of
29 such overpayment against any liability in respect of the tax
30 imposed by this article on the part of the person who made the

1 overpayment and shall refund any balance to such person.

2 (b) The department is authorized to prescribe regulations
3 providing for the crediting against the estimated tax for any
4 taxable year of the amount determined to be an overpayment of
5 the tax for a preceding taxable year.

6 (c) If the taxpayer has paid as an installment of estimated
7 tax more than the correct amount of such installment, the
8 overpayment shall be credited against the unpaid installments,
9 if any. If the amount paid, whether or not on the basis of
10 installments, exceeds the amount determined to be the correct
11 amount of the tax, the overpayment shall be credited or refunded
12 as provided in subsection (a) or (b).

13 Section 354. Restrictions on Refunds.--No credit or refund
14 shall be made under section 353 without the approval of the
15 Board of Finance and Revenue, except such credits or refunds as
16 arise:

17 (1) By reason of the overpayment of an installment of
18 estimated tax;

19 (2) Upon the filing of a final return showing less tax due
20 after the application of the allowable credits than the amount
21 of tax withheld from the taxpayer's compensation or the amount
22 of tax paid by him as estimated tax; or

23 (3) Upon the filing of an amended return or a report of
24 change in Federal taxable income disclosing less tax due than
25 the taxpayer has theretofore paid.

26 Section 355. Limitations on Assessment and Collection.--(a)
27 The amount of any tax imposed by this article shall be assessed
28 within three years after the return or any report of change in
29 Federal taxable income, whichever is later, is filed. For the
30 purposes of this subsection and subsection (b), a return filed

1 before the last day prescribed for the filing thereof, or before
2 the last day of any extension of time for the filing thereof,
3 shall be considered as filed on such last day.

4 (b) If the taxpayer omits from taxable income an amount
5 properly includable therein which is in excess of twenty-five
6 per cent of the amount of taxable income stated in the return,
7 the tax may be assessed at any time within six years after the
8 return was filed.

9 (c) Where no return is filed, or if a taxpayer shall fail to
10 report a change in Federal taxable income or, when required, to
11 file an amended return, the amount of the tax due may be
12 assessed at any time.

13 (d) Where the taxpayer files a false or fraudulent return
14 with intent to evade the tax imposed by this article, the amount
15 of tax due may be assessed at any time.

16 Section 356. Extension of Limitation Period.--

17 Notwithstanding section 355, where, before the expiration of the
18 period prescribed therein a taxpayer has consented in writing
19 that such period be extended, the amount of tax due may be
20 assessed at any time within such extended period. The period so
21 extended may be further extended by subsequent consents in
22 writing made before the expiration of the extended period.

23 Section 357. Limitations on Refund or Credit.--Any

24 application for refund must be filed with the Board of Finance
25 and Review within three years from the time the return, amended
26 return, or report of change in Federal taxable income is
27 required to be filed, determined without regard to any extension
28 of time or within two years from the time the tax was paid,
29 whichever is later.

30 Section 358. Interest.--If any amount of tax imposed by this

1 article is not paid on or before the last date prescribed for
2 payment, interest on such amount at the rate of one-half of one
3 per cent per month, for each month or fraction thereof from such
4 date, shall be paid for the period from such last date to the
5 date paid. The last date prescribed for payment shall be
6 determined without regard to any extension of time for filing
7 the return. This section shall not apply to any failure to pay
8 estimated tax.

9 Section 359. Additions.--(a) In case of failure to file any
10 return required under section 335 on the date prescribed
11 therefor, determined with regard to any extension of time for
12 filing, unless it is shown that such failure is due to
13 reasonable cause and not due to wilful neglect, there shall be
14 added to the amount required to be shown as tax on such return
15 five per cent of the amount of such tax if the failure is for
16 not more than one month, with an additional five per cent for
17 each additional month or fraction thereof during which such
18 failure continues, not exceeding twenty-five per cent, in the
19 aggregate, but in no case shall the amount added be less than
20 five dollars (\$5).

21 (b) If any part of any underpayment of any tax imposed by
22 this article is due to negligence or intentional disregard of
23 rules and regulations, but without intent to defraud, there
24 shall be added to the tax an amount equal to five per cent of
25 the underpayment.

26 (c) If any part of any underpayment of tax required to be
27 shown on a return is due to fraud, there shall be added to the
28 tax an amount equal to fifty per cent of the underpayment. This
29 amount shall be in lieu of any amount determined under
30 subsection (b).

1 (d) (1) If any taxpayer fails to file a declaration of
2 estimated tax or fails to pay all of any part of an installment
3 of estimated tax, he shall be deemed to have made an
4 underpayment of estimated tax. There shall be added to the tax
5 for the taxable year an amount at the rate of six per cent per
6 annum upon the amount of the underpayment for the period of the
7 underpayment but not beyond the fifteenth day of the fourth
8 month following the close of the taxable year. The amount of the
9 underpayment shall be the excess of the amount of the
10 installment which would be required to be paid if the estimated
11 tax were equal to eighty per cent of the tax (two-thirds in the
12 case of an individual described in subsection (e) of section
13 330) shown on the return for the taxable year (or if no return
14 was filed, of the tax for such year) over the amount, if any, of
15 the installments paid on or before the last day prescribed for
16 such payment. No underpayment shall be deemed to exist with
17 respect to a declaration or installment otherwise due on or
18 after the taxpayer's death.

19 (2) No addition to tax shall be imposed if the total amount
20 of all payments of estimated tax made on or before the last date
21 prescribed for the payment of such installment equals or exceeds
22 the lesser of:

23 (A) The amount which would have been required to be paid on
24 or before such date if the estimated tax were:

25 (i) the tax shown on the return of the individual for the
26 preceding taxable year, if a return showing a liability for tax
27 was filed by the individual for the preceding taxable year and
28 such preceding year was a taxable year of twelve months, or

29 (ii) an amount equal to the tax computed, at the rates
30 applicable to the taxable year, on the basis of the taxpayer's

1 status with respect to personal exemptions for the taxable year,
2 but otherwise on the basis of the facts shown on his return for,
3 and the law applicable to, the preceding taxable year; or

4 (B) An amount equal to ninety per cent of the tax computed,
5 at the rates applicable to the taxable year, on the basis of the
6 actual taxable income for the months in the taxable year ending
7 before the month in which the installment is required to be
8 paid.

9 (e) Any person required to collect, account for and pay over
10 any tax imposed by this article who wilfully fails to collect
11 such tax or truthfully account for and pay over such tax, or
12 wilfully attempts in any manner to evade or defeat any such tax
13 or the payment thereof, shall, in addition to other penalties
14 provided by law, be liable to a penalty equal to the total
15 amount of the tax evaded or not collected or not accounted for
16 and paid over. No penalty shall be imposed under subsection (b)
17 or (c) of section 359 for any offense to which this section is
18 applicable.

19 (f) Any person required under the provisions of section 323
20 to furnish a statement to an employe who wilfully furnishes a
21 false or fraudulent statement, or who wilfully fails to furnish
22 a statement in the manner, at the time, and showing the
23 information required under section 323 and the regulations
24 prescribed thereunder, shall, for each such failure, be subject
25 to a penalty of fifty dollars (\$50) for each employe.

26 (G) WHENEVER ANY CHECK ISSUED IN PAYMENT OF ANY TAX, OR FOR
27 ANY OTHER PURPOSE REQUIRED BY THIS ARTICLE, SHALL BE RETURNED TO
28 THE DEPARTMENT AS UNCOLLECTIBLE, THE DEPARTMENT SHALL CHARGE A
29 FEE OF TEN PER CENT OF THE FACE AMOUNT THEREOF, PLUS ALL PROTEST
30 FEES, TO THE PERSON PRESENTING SUCH CHECK TO THE DEPARTMENT, TO

1 COVER THE COST OF ITS COLLECTION IN ADDITION TO THE INTEREST AND
2 PENALTIES OTHERWISE PROVIDED FOR IN THIS ARTICLE: PROVIDED,
3 THAT THE ADDITIONS IMPOSED HEREBY SHALL NOT EXCEED TWO HUNDRED
4 DOLLARS (\$200) NOR BE LESS THAN TEN DOLLARS (\$10).

5 Section 360. Crimes.--(a) Any person who wilfully attempts
6 in any manner to evade or defeat any tax imposed by this article
7 or the payment thereof shall, in addition to other penalties
8 provided by law, be guilty of a misdemeanor and shall, upon
9 conviction, be sentenced to pay a fine not exceeding twenty-five
10 thousand dollars (\$25,000) or to undergo imprisonment not
11 exceeding two years, or both.

12 (b) Any person required under this article to collect,
13 account for and pay over any tax imposed by this article who
14 wilfully fails to collect or truthfully account for and pay over
15 such tax, shall, in addition to other penalties provided by law,
16 be guilty of a misdemeanor, and shall, upon conviction, be
17 sentenced to pay a fine not exceeding twenty-five thousand
18 dollars (\$25,000) or to undergo imprisonment not exceeding two
19 years, or both.

20 (c) Any person required under this article to pay any tax or
21 to make a return, keep any records or supply any information,
22 who wilfully fails to pay such tax or make such return, keep
23 such records or supply such information at the time or times
24 required by law or regulations, shall, in addition to other
25 penalties provided by law, be guilty of a misdemeanor and shall,
26 upon conviction, be sentenced to pay a fine not exceeding five
27 thousand dollars (\$5,000) or to undergo imprisonment not
28 exceeding two years, or both.

29 (d) Any person who wilfully makes and subscribes any return,
30 statement or other document which contains or is verified by a

1 written declaration that it is made under the penalties of
2 perjury and which he does not believe to be true and correct as
3 to every material matter, or wilfully aids or assists in, or
4 procures, counsels or advises the preparation or presentation,
5 in connection with any matter arising under this article, of a
6 return, affidavit, claim or other document which is fraudulent
7 or is false as to any material matter, whether or not such
8 falsity or fraud is with the knowledge or consent of the person
9 authorized or required to present such return, affidavit, claim
10 or document, shall be guilty of a misdemeanor and shall, upon
11 conviction, be sentenced to pay a fine not exceeding five
12 thousand dollars (\$5,000) or to undergo imprisonment not
13 exceeding two years, or both.

14 (e) Any person who wilfully delivers or discloses to the
15 department any list, return, account, statement or other
16 document known by him to be fraudulent or to be false as to any
17 material matter shall be guilty of a misdemeanor and shall, upon
18 conviction, be sentenced to pay a fine not exceeding five
19 thousand dollars (\$5,000) or to undergo imprisonment not
20 exceeding two years, or both.

21 (f) It shall be unlawful for any officer or employe of the
22 Commonwealth to divulge or to make known in any manner whatever,
23 not provided by law, except for official purposes, to any
24 person, the amount or source of income, profits, losses,
25 expenditures or any particular thereof set forth or disclosed in
26 any return, or to permit any return or copy thereof or any book
27 containing any abstract or particulars thereof, to be seen or
28 examined by any person except as provided by law, and it shall
29 be unlawful for any person to print or publish in any manner
30 whatsoever not provided by law, any return or any part thereof

1 or source of income, profits, losses or expenditures appearing
2 in any return, and any person committing an offense against the
3 foregoing provisions shall be guilty of a misdemeanor and, upon
4 conviction thereof, shall be fined not more than one thousand
5 dollars (\$1,000), or imprisoned for not more than one year, or
6 both, together with the costs of prosecution; and, if the
7 offender be an officer or employe of the Commonwealth, he shall
8 be dismissed from office or discharged from employment.

9 (g) Notwithstanding subsection (f), it shall be lawful for
10 any officer or employe of the Commonwealth having custody of
11 returns to produce them or evidence of anything contained in
12 them in any action or proceeding in any court on behalf of the
13 department under the provisions of this article to which it is a
14 party, or on behalf of any party to any action or proceeding
15 under the provisions of this article, when the returns or facts
16 shown thereby are directly involved in such action or
17 proceeding, in either of which events the court may require the
18 production of and may admit in evidence so much of said returns
19 or the facts shown thereby as are pertinent to the action or
20 proceeding and no more. Nothing herein shall be construed to
21 prohibit the delivery to a taxpayer or his duly authorized
22 representative of a certified copy of any return filed in
23 connection with his tax, nor to prohibit the publication of
24 statistics so classified as to prevent the identification of
25 particular returns and the items thereof or the inspection by
26 the Attorney General or other legal representatives of the
27 Commonwealth of the return of any taxpayer who shall bring
28 action to review the tax based thereon or against whom an action
29 or proceeding has been instituted for the collection or recovery
30 of the tax imposed by this article.

1 Section 361. Rules and Regulations.--The department is
2 hereby charged with the enforcement of the provisions of this
3 article, and is hereby authorized and empowered to prescribe,
4 adopt, promulgate and enforce rules and regulations relating to
5 any matter or thing pertaining to the administration and
6 enforcement of the provisions of this article and the collection
7 of taxes imposed by this article.

8 Section 362. Examination.--The department, or any agent
9 authorized in writing by it, is hereby authorized to examine the
10 books, papers and records of any taxpayer or supposed taxpayer,
11 and to require the production of a copy of his return as made to
12 and filed with the Federal Government, if one was so made and
13 filed, in order to verify the accuracy of any return made, or if
14 no return was made, to ascertain and assess the tax imposed by
15 this article. Every such taxpayer or supposed taxpayer is hereby
16 directed and required to give to the department or its duly
17 authorized agent the means, facilities and opportunity for such
18 examinations and investigations as are hereby provided and
19 authorized. The department is hereby authorized to examine any
20 person under oath concerning any taxable income which was or
21 should have been returned for taxation, and to this end may
22 compel the production of books, papers and records and the
23 attendance of all persons, whether as parties or witnesses, whom
24 it believes have knowledge of such taxable income. The procedure
25 for such hearing or examination shall be the same as that
26 provided by "The Fiscal Code" relating to inquisitorial powers
27 of fiscal officers.

28 Section 363. Cooperation with Other Governmental Agencies.--
29 Notwithstanding the provisions of subsection (f) of section 359,
30 the department may permit the Commissioner of Internal Revenue

1 of the United States, or the proper officer of any political
2 subdivision of this Commonwealth or of any other state imposing
3 tax based upon the incomes of individuals, or the authorized
4 representative of such officer, to inspect the tax returns of
5 any taxpayer, or may furnish to such officer or his authorized
6 representative an abstract of the return of income of any
7 taxpayer, or supply him with information concerning any item of
8 income contained in any return of any taxpayer. Such permission
9 shall be granted or such information furnished to such officer
10 or his representative only if the statutes of the United States
11 or of such other state, as the case may be, grant substantially
12 similar privileges to the proper officer of this Commonwealth
13 charged with the administration of the personal income tax law
14 thereof.

15 SECTION 364. APPROPRIATION FOR REFUNDS.--SO MUCH OF THE
16 PROCEEDS OF THE TAX IMPOSED BY THIS ARTICLE AS SHALL BE
17 NECESSARY FOR THE PAYMENT OF REFUNDS, ENFORCEMENT, OR
18 ADMINISTRATION, UNDER THIS ARTICLE, IS HEREBY APPROPRIATED FOR
19 SUCH PURPOSES.

<—

20 PART IX
21 MISCELLANEOUS PROVISIONS

22 Section 370. Effective Date.-- Except as hereinafter
23 provided this article shall take effect on March 1, 1971, and
24 the tax imposed hereby shall apply to taxable years ending after
25 December 31, 1970: Provided, however, That a taxpayer who filed
26 returns on the basis of a fiscal year or who is the beneficiary
27 of an estate or trust or member of a partnership which files its
28 returns under this article or with the Federal Government on the
29 basis of a fiscal year, shall be subject to tax for his first
30 taxable period on an apportioned basis reflecting the portion of

1 his fiscal year or of the fiscal year of the estate, trust or
2 partnership which postdates December 31, 1970, as prescribed by
3 the department by regulations. Section 359 which provides for
4 additions or penalties to the tax shall not take effect until
5 thirty days after the date on which the department has
6 promulgated and issued regulations relating to the duties and
7 liabilities imposed on taxpayers under this article.

8 ARTICLE IV

9 CORPORATE NET INCOME TAX

10 PART I

11 DEFINITIONS

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

16 (1) "Corporation." A corporation having capital stock,
17 joint-stock association, or limited partnership either organized
18 under the laws of this Commonwealth, the United States, or any
19 other state, territory, or foreign country, or dependency, and
20 doing business in this Commonwealth, or having capital or
21 property employed or used in this Commonwealth by or in the name
22 of itself, or any person, partnership, association, limited
23 partnership, joint-stock association or corporation. The word
24 "corporation" shall not include building and loan associations,
25 banks, bank and trust companies, national banks, savings
26 institutions, trust companies, insurance and surety companies.

27 (2) "Department." The Department of Revenue of this
28 Commonwealth.

29 (3) "Net income." 1. In case the entire business of the
30 corporation is transacted within this Commonwealth, for any

1 taxable year which begins on or after January 1, 1971, net
2 income for the calendar year or fiscal year as returned to and
3 ascertained by the Federal Government, or in the case of a
4 corporation participating in the filing of consolidated returns
5 to the Federal Government, the net income which would have been
6 returned to and ascertained by the Federal Government if
7 separate returns had been made to the Federal Government for the
8 current and prior taxable years, subject, however, to any
9 correction thereof, for fraud, evasion, or error as finally
10 ascertained by the Federal Government: ~~Except as hereinafter~~ <—
11 ~~otherwise provided~~ PROVIDED, THAT additional deductions shall be <—
12 allowed from net income on account of any dividends received
13 from any other corporation ~~which eighty per cent or more of the~~ <—
14 ~~voting stock is owned by the taxpayer and on account of eighty~~
15 ~~five per cent of dividends received from all other corporations.~~
16 BUT ONLY TO THE EXTENT THAT SUCH DIVIDENDS ARE INCLUDED IN <—
17 TAXABLE INCOME AS RETURNED TO AND ASCERTAINED BY THE FEDERAL
18 GOVERNMENT. No deduction shall be allowed for net operating
19 losses sustained by the corporation during any other fiscal or
20 calendar year. In the case of regulated investment companies as
21 defined by the Internal Revenue Code of 1954, as amended, "net
22 income" shall be investment company taxable income as defined in
23 the aforesaid Internal Revenue Code of 1954, as amended. In
24 arriving at "net income" for Federal tax purposes for any
25 taxable year beginning on or after January 1, 1971, any
26 corporate net income tax paid to the Commonwealth pursuant to
27 the provisions of this article shall not be allowed as a
28 deduction HOWEVER, THE AMOUNT OF CORPORATE NET INCOME TAX SO <—
29 PAID AND EXCLUDED FROM NET INCOME SHALL NOT BE APPORTIONED BUT
30 SHALL BE SUBJECT TO TAX AT THE RATE IMPOSED UNDER THIS ARTICLE.

1 2. In case the entire business of any corporation, other
2 than a corporation engaged in doing business as a regulated
3 investment company as defined by the Internal Revenue Code of
4 1954, as amended, is not transacted within this Commonwealth,
5 the tax imposed by this article shall be based upon such portion
6 of the net income of such corporation for the fiscal or calendar
7 year, as defined in subclause 1 hereof, and may be determined as
8 follows:

9 (a) Division of Income.

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

12 (A) "Business income" means income arising from transactions
13 and activity in the regular course of the taxpayer's trade or
14 business and includes income from tangible and intangible
15 property if the acquisition, management, and disposition of the
16 property constitute integral parts of the taxpayer's regular
17 trade or business operations.

18 (B) "Commercial domicile" means the principal place from
19 which the trade or business of the taxpayer is directed or
20 managed.

21 (C) "Compensation" means wages, salaries, commissions and
22 any other form of remuneration paid to employes for personal
23 services.

24 (D) "Financial organization" means any safe deposit company,
25 credit union, small loan company, sales finance company, or
26 investment company.

27 (E) "Nonbusiness income" means all income other than
28 business income.

29 (F) "Public utility" means any business entity which owns or
30 operates any plant, equipment, property, franchise, or license

1 for the transmission of communications, transportation of goods
2 or persons, except by pipeline, or the production, transmission,
3 sale, delivery, or furnishing of electricity, water or steam;
4 and whose rates of charges for goods or services have been
5 established or approved by a Federal, State or local government
6 or governmental agency.

7 (G) "Sales" means all gross receipts of the taxpayer not
8 allocated under this definition.

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

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

18 (2) Any taxpayer having income from business activity which
19 is taxable both within and without this State, other than
20 activity as a financial organization or public utility or the
21 rendering of purely personal services by an individual, shall
22 allocate and apportion his net income as provided in this
23 definition.

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

(4) Rents and royalties from real or tangible personal property, capital gains, interest, dividends or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs (5) through (8).

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

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

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

(6) (A) Capital gains and losses from sales of real property located in this State are allocable to this State.

(B) Capital gains and losses from sales of tangible personal property are allocable to this State if the property had a situs in this State at the time of the sale, or the taxpayer's

1 commercial domicile is in this State and the taxpayer is not
2 taxable in the state in which the property had a situs.

3 (C) Capital gains and losses from sales of intangible
4 personal property are allocable to this State if the taxpayer's
5 commercial domicile is in this State.

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

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

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

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

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

1 factor, and the denominator of which is three.

2 (10) The property factor is a fraction, the numerator of
3 which is the average value of the taxpayer's real and tangible
4 personal property owned or rented and used in this State during
5 the tax period and the denominator of which is the average value
6 of all the taxpayer's real and tangible personal property owned
7 or rented and used during the tax period.

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

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

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

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

24 (A) The individual's service is performed entirely within
25 the State;

26 (B) The individual's service is performed both within and
27 without the State, but the service performed without the State
28 is incidental to the individual's service within the State; or

29 (C) Some of the service is performed in the State and the
30 base of operations or if there is no base of operations, the

1 place from which the service is directed or controlled is in the
2 State, or the base of operations or the place from which the
3 service is directed or controlled is not in any state in which
4 some part of the service is performed, but the individual's
5 residence is in this State.

6 (15) The sales factor is a fraction, the numerator of which
7 is the total sales of the taxpayer in this State during the tax
8 period, and the denominator of which is the total sales of the
9 taxpayer everywhere during the tax period.

10 (16) Sales of tangible personal property are in this State
11 ~~if:~~ <—

12 ~~(A) The property is delivered or shipped to a purchaser,~~
13 ~~other than the United States Government, within this State~~
14 ~~regardless of the f.o.b. point or other conditions of the sale;~~
15 ~~or~~

16 ~~(B) The property is shipped from an office, store,~~
17 ~~warehouse, factory, or other place of storage in this State. IF~~ <—
18 THE PROPERTY IS DELIVERED OR SHIPPED TO A PURCHASER, OTHER THAN
19 THE UNITED STATES GOVERNMENT, WITHIN THIS STATE REGARDLESS OF
20 THE F.O.B. POINT OR OTHER CONDITIONS OF THE SALE.

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

23 (A) The income-producing activity is performed in this
24 State; or

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

29 (18) If the allocation and apportionment provisions of this
30 definition do not fairly represent the extent of the taxpayer's

1 business activity in this State, the taxpayer may petition the
2 Secretary of Revenue or THE SECRETARY OF REVENUE may require, in <—
3 respect to all or any part of the taxpayer's business activity:

4 (A) Separate accounting;

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

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

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

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

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

29 (2) Nonbusiness income of railroad, truck, bus or airline
30 companies shall be allocated as provided in paragraphs (5)

1 through (8) of clause (a) of subclause 2 of the definition of
2 net income.

3 (c) Pipeline or Natural Gas Companies.

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

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

28 (3) Nonbusiness income of pipeline companies or natural gas
29 companies subject to regulation by the Federal Power Commission
30 or by the Pennsylvania Public Utility Commission shall be

1 allocated as provided in paragraphs (5) through (8) of clause
2 (a) of subclause 2 of the definition of net income.

3 (d) Water Transportation Companies.

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

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

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

30 (3) Nonbusiness income of water transportation companies

1 shall be allocated as provided in paragraphs (5) through (8) of
2 clause (a) of subclause 2 of the definition of net income.

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

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

28 PART II

29 IMPOSITION OF TAX

30 Section 402. Imposition of Tax.--Every corporation shall be

1 subject to, and shall pay for the privilege of doing business in
2 this Commonwealth, or having capital or property employed or
3 used in this Commonwealth, by or in the name of itself, or any
4 person, partnership, association, limited partnership, joint-
5 stock association, or corporation, a State excise tax at the
6 rate of twelve per cent per annum upon each dollar of net income
7 of such corporation received by, and accruing to, such
8 corporation during the calendar year 1971, except where a
9 corporation reports to the Federal Government on the basis of a
10 fiscal year, and has certified such fact to the department as
11 required by section 403 of this article, in which case, such
12 tax, at the rate of twelve per cent, shall be levied, collected,
13 and paid upon all net income received by, and accruing to, such
14 corporation during the fiscal year commencing in the calendar
15 year 1971 and ending in the calendar year 1972, a similar tax at
16 the rate of ~~nine and one-half~~ TEN per cent ~~per annum~~ upon each <—
17 dollar of the net income of such corporation received by, and
18 accruing to, such corporation during the calendar year 1972, and
19 each year thereafter, except where a corporation reports to the
20 Federal Government on the basis of a fiscal year, and has
21 certified such fact to the department as required by section 403
22 of this article, in which case, such tax, at the rate of ~~nine~~ <—
23 ~~and one-half~~ TEN per cent, shall be levied, collected and paid <—
24 upon all net income received by, and accruing to, such
25 corporation during the fiscal year commencing in the calendar
26 year 1972 and ending in the calendar year 1973 and each year
27 thereafter.

28 PART III

29 REPORTS AND PAYMENT OF TAX

30 Section 403. Reports and Payment of Tax.--(a) For the

1 purpose of ascertaining the amount of tax payable under this
2 article, it shall be the duty of every corporation, liable to
3 pay tax under this article, on or before April 15, 1972, and
4 each year thereafter, to transmit to the department, upon a form
5 prescribed, prepared and furnished by the department, an annual
6 report under oath or affirmation of its president, vice-
7 president or other principal officer, and of its treasurer or
8 assistant treasurer of net income taxable under the provisions
9 of this article. Such report shall set forth:

10 (1) A true copy of its return to the Federal Government of
11 the annual net income arising or accruing in the calendar or
12 fiscal year next preceding, or such part or portions of said
13 return, as the department may designate;

14 (2) If no return was filed with the Federal Government the
15 report made to the department shall show such information as
16 would have been contained in a return to the Federal Government
17 had one been made; and

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

19 (b) For the purpose of ascertaining the amount of tax
20 payable under this article for the taxable year 1971, and each
21 taxable year thereafter, it shall be the duty of every
22 corporation liable to pay tax under this article, on or before
23 April 30, 1971, and on or before the end of the fourth month
24 after the close of its previous fiscal year for fiscal year
25 taxpayers, and each year thereafter, to transmit in like form
26 and manner an additional tentative report and make payment
27 pursuant to the provisions of the act of March 16, 1970 (Act No.
28 69).

29 (c) The amount of all taxes, imposed under the provisions of
30 this article, not paid on or before the times as above provided,

1 shall bear interest at the rate of six per cent per annum from
2 the date they are due and payable until paid, except that if the
3 taxable income has been, or is increased by the Commissioner of
4 Internal Revenue, or by any other agency or court of the United
5 States, interest shall be computed on the additional tax due
6 from thirty days after the corporation receives notice of the
7 change of income until paid: Provided, however, That any
8 corporation may pay the full amount of such tax, or any part
9 thereof, together with interest due to the date of payment,
10 without prejudice to its right to present and prosecute a
11 petition for resettlement, a petition for review, or an appeal
12 to court. If it be thereafter determined that such taxes were
13 overpaid, the department shall enter a credit to the account of
14 such corporation, which may be used by it in the manner
15 prescribed by law.

16 (d) If the officers of any corporation shall neglect, or
17 refuse to make any report as herein required, or shall knowingly
18 make any false report, the following percentages of the amount
19 of the tax shall be added by the department to the tax
20 determined to be due on the first one thousand dollars (\$1,000)
21 of tax ten per cent, on the next four thousand dollars (\$4,000)
22 five per cent, and on everything in excess of five thousand
23 dollars (\$5,000) one per cent, no such amounts added to the tax
24 shall bear any interest whatsoever.

25 (e) If any corporation closes its fiscal year not upon
26 December 31, but upon some other date, and reports to the
27 Federal Government as of such other date, or would so report
28 were it to make a return to the Federal Government, such
29 corporation shall certify such fact to the department, and shall
30 make the annual report, herein required, within thirty days

1 after the return to the Federal Government is due, or would be
2 due were it to be required of such corporation, subject in all
3 other respects to the provisions of this article. The tentative
4 report required of such corporation shall be due not later than
5 four months after the end of the next preceding fiscal year.

6 (f) If the corporation shall claim in its report that the
7 return made to the Federal Government was inaccurate, the amount
8 claimed by it to be the net income, taxable under this article,
9 and the basis of such claim of inaccuracy, shall be fully
10 specified.

11 Section 404. Consolidated Reports.--The department shall not
12 permit any corporation owning or controlling, directly or
13 indirectly, any of the voting capital stock of another
14 corporation or of other corporations, subject to the provisions
15 of this article, to make a consolidated report, showing the
16 combined net income.

17 Section 405. Extension of Time to File Reports.--The
18 department may, upon application made to it, in such form as it
19 shall prescribe, on or prior to the last day for filing any
20 annual report, and upon proper cause shown, grant to the
21 corporation, required to file such report, an extension of not
22 more than sixty days within which such report may be filed, and
23 in case the Federal income tax authorities at any time grant a
24 longer extension of time for filing such reports with the
25 Federal Government, the department may grant an additional
26 extension of time for filing the annual report under this
27 article of not more than thirty days after the termination of
28 the Federal extension, but the amount of tax due shall, in such
29 cases, nevertheless, be subject to interest from the due dates
30 and at the rates fixed by this article.

1 Section 406. Changes Made by Federal Government.--(a) If the
2 amount of the net income, as returned by any corporation to the
3 Federal Government, is finally changed or corrected by the
4 Commission of Internal Revenue or by any other agency or court
5 of the United States, such corporation, within thirty days after
6 the receipt of such final change or correction, shall make a
7 corrected report, under oath or affirmation, to the department
8 showing such finally changed or corrected net income, upon which
9 the tax is required to be paid to the United States. In case a
10 corporation fails to file a report of such correction, which
11 results in an increase in net income within the time prescribed,
12 there shall be added to the tax, a penalty of five dollars (\$5)
13 for every day during which such corporation is in default, but
14 the department may abate any such penalty in whole or in part.

15 (b) If, as a result of such final change or correction,
16 there should be any change made in the amount of the net income
17 of any corporation upon which tax is imposed by this article,
18 the department shall have the power, and its duty shall be to
19 resettle such taxes. Whenever a resettlement shall have been
20 made hereunder, the department shall resettle the account
21 according to law, and shall credit or charge, as the case may
22 be, the amount resulting from such resettlement upon the current
23 accounts of the corporation with which it is made. The
24 resettlement shall be subject to audit and approval by the
25 Department of the Auditor General, as in the case of original
26 settlements, and in case of the failure of the two departments
27 to agree, the resettlement shall be submitted to the Board of
28 Finance and Revenue, as in the case of original settlements.

29 (c) Where a report of change, correction, or redetermination
30 of Federal income, or Federal tax, has been filed after a

1 petition for review, or an appeal has been taken, such report
2 shall be deemed a part of the original annual report upon
3 petition of the taxpayer at any subsequent proceeding as though
4 it had been filed with such original report, and no separate
5 petition for review or appeal from the resettlement resulting
6 from such report of change, correction, or redetermination shall
7 be necessary.

8 (d) The provisions of this section shall not be construed so
9 as to permit a resettlement based upon the allowance of any
10 deduction on account of net operating losses, sustained in other
11 fiscal or calendar years, that are not allowed as deductions
12 under the definition of "net income" as contained in this
13 article.

14 (e) The provisions of this section shall apply to every
15 corporation which was doing business in Pennsylvania in the year
16 for which the Federal income has been changed, irrespective of
17 whether or not such corporation has thereafter merged,
18 consolidated, withdrawn or dissolved. Any clearance certificate
19 issued by the department shall be conditioned upon the
20 requirement that in the event of a change in Federal income for
21 any year for which taxes have been paid to the Commonwealth, the
22 corporation or its successor or its officers or its directors
23 shall file with the department a report of change and pay any
24 additional State tax resulting therefrom.

25 PART IV

26 SETTLEMENT AND RESETTLEMENT

27 Section 407. Settlement and Resettlement.--(a) All taxes due
28 under this article shall be settled by the department, and such
29 settlement shall be subject to audit and approval by the
30 Department of the Auditor General, and shall, so far as

1 possible, be made so that notice thereof may reach the taxpayer
2 before the end of two years after the tax report was required to
3 be made.

4 (b) Promptly after the date of any such settlement, the
5 department shall send, by mail or otherwise, a copy thereof to
6 such corporation. The tax imposed by this article shall be
7 settled, resettled, and otherwise imposed and adjusted in the
8 same manner, within the same periods of time, and right of
9 resettlement, review, appeal, and refund, as provided by law in
10 the case of capital stock and franchise taxes imposed upon
11 corporations.

12 (c) If, within a period of one year after the date of any
13 settlement, the department is not satisfied with such
14 settlement, or if at any time the net income as returned by any
15 corporation to the Federal Government is finally changed or
16 corrected by the Commissioner of Internal Revenue or by any
17 other agency or court of the United States with the result that
18 tax, in addition to the amount paid, is due under this article,
19 the department is hereby authorized and empowered to make a
20 resettlement of the tax due by such corporation, based upon the
21 facts contained in the report, or upon any information within
22 its possession or that shall come into its possession.

23 Whenever a resettlement shall have been made hereunder, the
24 department shall resettle the account according to law and shall
25 credit or charge, as the case may be, the amount resulting from
26 such resettlement upon the current accounts of the corporation
27 with which it is made.

28 The resettlement shall be subject to audit and approval by
29 the Department of the Auditor General as in the case of original
30 settlement, and in case of the failure of the two departments to

1 agree, the resettlement shall be submitted to the Board of
2 Finance and Revenue as in the case of original settlements.

3 (d) If any corporation shall neglect or refuse to make any
4 report and payment of tax required by this article, the
5 department shall estimate the tax due by such corporation and
6 subject to audit and approval by the Department of the Auditor
7 General, settle the amount due by it for taxes, penalties, and
8 interest thereon as prescribed herein, from which settlement
9 there shall be no right of review or appeal, but the department,
10 with the approval of the Department of the Auditor General, may
11 require a report to be filed, and thereupon make a settlement
12 based upon such report and cancel the estimated settlement.

13 PART V

14 ENFORCEMENT: RULES AND REGULATIONS

15 INQUISITORIAL POWERS OF THE DEPARTMENT

16 Section 408. Enforcement; Rules and Regulations;
17 Inquisitorial Powers of the Department.--(a) The department is
18 hereby charged with the enforcement of the provisions of this
19 article, and is hereby authorized and empowered to prescribe,
20 adopt, promulgate, and enforce rules and regulations, not
21 inconsistent with this article, relating to any matter or thing
22 pertaining to the administration and enforcement of the
23 provisions of this article, and the collection of taxes,
24 penalties, and interest imposed by this article. The department
25 is hereby required to have such rules and regulations,
26 promulgated and adopted, printed and shall distribute the same
27 to any person upon request.

28 (b) The department, or any agent authorized in writing by
29 it, is hereby authorized to examine the books, papers, and
30 records, and to investigate the character of the business of any

1 corporation in order to verify the accuracy of any report made,
2 or if no report was made by such corporation, to ascertain and
3 settle the tax imposed by this article. Every such corporation
4 is hereby directed and required to give to the department, or
5 its duly authorized agent, the means, facilities, and
6 opportunity for such examinations and investigations, as are
7 hereby provided and authorized. Any information gained by the
8 department, as a result of any returns, investigations, or
9 verifications required to be made by this article, shall be
10 confidential, except for official purposes, and any person
11 divulging such information shall be guilty of a misdemeanor,
12 and, upon conviction thereof, shall be sentenced to pay a fine
13 of not less than one hundred dollars (\$100) or more than one
14 thousand dollars (\$1,000) and costs of prosecution, or to
15 undergo imprisonment for not more than six months, or both.

16 (c) Whenever any person, acting for or on behalf of the
17 department, shall in good faith institute legal proceedings for
18 any violations of the provisions of this article, and for any
19 reason shall fail to recover costs of record, such costs shall
20 be a charge upon the proper county, as shall such costs in the
21 event defendant is imprisoned for failure to pay fine or costs,
22 or both, and shall be audited and paid as are costs of like
23 character in said county.

24 (d) The powers, conferred by this article upon the
25 department, relating to the administration or enforcement of
26 this article, shall be in addition to, but not exclusive of, any
27 other powers heretofore or hereafter conferred upon the
28 department by law.

29 PART VI

30 RETENTION OF RECORDS BY CORPORATION

1 Section 409. Retention of Records.--Each corporation shall
2 maintain and keep for a period of three years after any report
3 is filed under this article, such record or records of its
4 business within this Commonwealth for the period covered by such
5 report and other pertinent papers, as may be required by the
6 department.

7 PART VII

8 PENALTIES

9 Section 410. Penalties.--(a) Any person violating any of the
10 provisions of section 409 shall be guilty of a misdemeanor, and
11 shall, upon conviction thereof, be sentenced to pay a fine not
12 exceeding one thousand dollars (\$1,000) and costs of
13 prosecution, or to undergo imprisonment for not more than six
14 months, or both.

15 (b) Any person who shall wilfully make a false and
16 fraudulent return of net income made taxable by this article,
17 shall be guilty of wilful and corrupt perjury, and, upon
18 conviction thereof, shall be subject to punishment as provided
19 by law. Such penalty shall be in addition to any other penalties
20 imposed by this article.

21 (c) Any person, who wilfully fails, neglects, or refuses to
22 make a report or to pay the tax as herein prescribed, or who
23 shall refuse to permit the department to examine the books,
24 papers, and records of any corporation liable to pay tax under
25 this article, shall be guilty of a misdemeanor, and, upon
26 conviction thereof, shall be sentenced to pay a fine not
27 exceeding one thousand dollars (\$1,000) and costs of
28 prosecution, or to undergo imprisonment not exceeding six
29 months, or both. Such penalty shall be in addition to any other
30 penalties imposed by this article.

1 PART VIII

2 REPEALER; EFFECTIVE DATE

3 Section 411. Repeal.--The act of May 16, 1935 (P.L.208),
4 known as the "Corporate Net Income Tax Act," is repealed.

5 Section 412. Effective Date.--This article shall take effect
6 January 1, 1971.

7 ARTICLE V

8 CORPORATION INCOME TAX

9 PART I

10 DEFINITIONS

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

15 (1) "Corporation." A corporation having capital stock,
16 joint-stock association or limited partnership, either organized
17 under the laws of this Commonwealth, the United States, or any
18 other state, territory or foreign country or dependency, and
19 carrying on activities in this Commonwealth, or owning property
20 in this Commonwealth by or in the name of itself or any person,
21 partnership, association, limited partnership, joint-stock
22 association, or corporation. The word "corporation" shall not
23 include nonprofit corporations, building and loan associations,
24 banks, bank and trust companies, national banks, savings
25 institutions, trust companies, insurance and surety companies.

26 (2) "Department." The Department of Revenue of this
27 Commonwealth.

28 (3) "Net income."

29 1. Net income shall be defined as set forth in Article III.

30 2. In the case of corporations owning property or carrying

1 on activities within and without this Commonwealth, the net
2 income of such corporations derived from sources within this
3 Commonwealth for the fiscal or calendar year shall be determined
4 by allocations and apportionments of net income as set forth in
5 Article III.

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

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

15 PART II

16 IMPOSITION OF TAX

17 Section 502. Imposition of Tax.--Every corporation carrying
18 on activities in this Commonwealth or owning property in this
19 Commonwealth by or in the name of itself or any person,
20 partnership, joint-stock association or corporation shall be
21 subject to and shall pay a State property tax on net income
22 derived from sources within this Commonwealth at the rate of
23 twelve per cent per annum upon each dollar of such net income
24 received by and accruing to such corporation during the calendar
25 year 1971, except where a corporation reports to the Federal
26 Government on the basis of a fiscal year and has certified such
27 fact to the department as required by section 403 of Article IV,
28 in which case such tax at the rate of twelve per cent shall be
29 levied, collected and paid upon each dollar of such net income
30 received by and accruing to such corporation during the fiscal

1 year commencing in the calendar year 1971, and a similar tax at
2 the rate of nine and one-half per cent per annum upon each
3 dollar of such net income received by and accruing to such
4 corporation during the calendar year 1972, except where a
5 corporation reports to the Federal Government on the basis of a
6 fiscal year and has certified such fact to the department as
7 required by section 403 of Article IV, in which case such tax at
8 the rate of nine and one-half per cent per annum shall be
9 levied, collected and paid upon each dollar of such net income
10 received by and accruing to such corporation during the fiscal
11 years commencing in the calendar year 1972, and each year
12 thereafter: Provided, however, That such net income shall not
13 include income for any period for which the corporation is
14 subject to taxation under Article IV.

15 PART III

16 PROCEDURE; ENFORCEMENT; PENALTIES

17 Section 503. Procedure; Enforcement; Penalties.--Parts III,
18 IV, V, VI and VII of Article IV are incorporated by reference
19 into this article in so far as they are applicable to the tax
20 imposed hereunder.

21 PART IV

22 REPEALER; EFFECTIVE DATE

23 Section 505. Repeal.--The act of August 24, 1951 (P.L.1417),
24 known as the "Corporation Income Tax Law," is repealed.

25 Section 506. Effective Date.--This article shall take effect
26 January 1, 1971.

27 ARTICLE VI

28 CAPITAL STOCK--FRANCHISE TAX

29 PART I

30 VALUATION OF CAPITAL STOCK

1 Section 601. Valuation of Capital Stock.--Hereafter, except
2 in the case of corporations of the first class, nonprofit
3 corporations, and cooperative agricultural associations not
4 having capital stock and not conducted for profit, banks,
5 savings institutions, title insurance, or trust companies,
6 building and loan associations, and insurance companies, it
7 shall be the duty of every corporation having capital stock,
8 every joint-stock association, limited partnership, and every
9 company whatsoever, now or hereafter organized or incorporated
10 by or under any laws of this Commonwealth, and of every
11 corporation, joint-stock association, limited partnership, and
12 company whatsoever, now or hereafter incorporated or organized
13 by or under the law of any other state or territory of the
14 United States, or by the United States, or by any foreign
15 government, and doing business in and liable to taxation within
16 this Commonwealth or having capital or property employed or used
17 in this Commonwealth by or in the name of any limited
18 partnership or joint-stock association, company, or corporation
19 whatsoever, association or associations, copartnership or
20 copartnerships, person or persons, or in any other manner, to
21 make annually a report in writing to the Department of Revenue
22 on a form or forms to be prescribed and furnished by it setting
23 forth in addition to any other information required by the
24 Department of Revenue:

25 First. The amount of its capital stock at the close of the
26 year for which report is made, together with the highest selling
27 price per share, and the average selling price thereof during
28 said year.

29 Second. Its debt account.

30 Third. Its income account, together with the disposition of

1 any net income, and its profit and loss statement.

2 Fourth. Its general balance sheet.

3 Fifth. Its real estate and tangible personal property, if
4 any, owned and permanently located outside of the Commonwealth,
5 and value of the same; and the value of the property, if any,
6 exempt from taxation.

7 Sixth. A valuation and appraisal, in the manner hereinafter
8 provided, of the capital stock of the said corporation, company,
9 joint-stock association, or limited partnership, at its actual
10 value in cash as it existed at the close of the year for which
11 the report is made.

12 The affidavit of two of the officers of such corporation,
13 limited partnership, joint-stock association or company, shall
14 be attached to said report. Such affidavit shall be in the form
15 required by the Department of Revenue, but shall state, in
16 addition to any other averments required by the department,
17 that, with fidelity and according to the best of their knowledge
18 and belief, the affiants have estimated, valued and appraised,
19 as shown in said report, the capital stock of the said
20 corporation at its actual value in cash as it existed at the
21 close of the year for which report is made; taking into
22 consideration, first, the average which said stock sold for
23 during the year; and second, the price or value indicated or
24 measured by net earnings or by the amount of profit made and
25 either declared in dividends, expended in betterments, or
26 carried into the surplus or sinking fund; and third, the actual
27 value indicated or measured by consideration of the intrinsic
28 value of its tangible property and assets, and of the value of
29 its good will and franchises and privileges, as indicated by the
30 material results of their exercise, taking also into

1 consideration the amount of its indebtedness.

2 The time for filing annual reports may be extended; taxpayers
3 may be permitted to file their annual and tentative reports on a
4 fiscal year basis; the procedure in case the Department of
5 Revenue is not satisfied with the appraisal made by the
6 officers of the taxpayer, and the penalties for failing to file
7 reports and pay taxes shall be as prescribed by law.

8 PART II

9 IMPOSITION OF TAX

10 Section 602. Imposition of Tax.--(a) That every domestic
11 corporation other than corporations of the first class,
12 nonprofit corporations, and cooperative agricultural
13 associations not having capital stock and not conducted for
14 profit, and every joint-stock association, limited partnership,
15 and company whatsoever, from which a report is required under
16 section 601 hereof, shall be subject to, and pay into the
17 treasury of the Commonwealth annually, through the Department of
18 Revenue, a tax at the rate of ~~eight~~ NINE mills, upon each dollar <—
19 of the actual value of its whole capital stock of all kinds,
20 including common, special, and preferred, as ascertained in the
21 manner prescribed in section 601, for the calendar year 1971 and
22 the fiscal year beginning in 1971 and each year thereafter,
23 except that any domestic corporation, limited partnership,
24 joint-stock association or company subject to the tax prescribed
25 herein may elect to compute and pay its tax under and in
26 accordance with the provisions of subsection (b) of this section
27 602: Provided, That the provisions of this section shall not
28 apply to the taxation of the capital stock of corporations,
29 limited partnerships and joint-stock associations organized for
30 manufacturing, processing, research or development purposes,

1 which is invested in and actually and exclusively employed in
2 carrying on manufacturing, processing, research or development
3 within the State, but every corporation, limited partnership or
4 joint-stock association organized for the purpose of
5 manufacturing, processing, research or development shall pay the
6 State tax of ~~eight~~ NINE mills herein provided, upon such <—
7 proportion of its capital stock, if any, as may be invested in
8 any property or business not strictly incident or appurtenant to
9 the manufacturing, processing, research or development business,
10 in addition to the local taxes assessed upon its property in the
11 district where located, it being the object of this proviso to
12 relieve from State taxation only so much of the capital stock as
13 is invested purely in the manufacturing, processing, research or
14 development plant and business.

15 (b) Every foreign corporation, joint-stock association,
16 limited partnership, and company whatsoever, from which a report
17 is required under section 601 hereof, shall be subject to and
18 pay into the treasury of the Commonwealth annually, through the
19 Department of Revenue, a franchise tax at the rate of ~~eight~~ NINE <—
20 mills for the calendar year 1971 and the fiscal year beginning
21 in 1971 and each year thereafter, upon a taxable value to be
22 determined in the following manner. The actual value of its
23 whole capital stock of all kinds, including common, special, and
24 preferred, shall be ascertained in the manner prescribed in
25 section 601 of this article. The taxable value shall then be
26 determined by employing the relevant apportionment factors set
27 forth in Article IV.

28 ~~The provisions of this subsection shall apply to the taxation~~ <—
29 ~~of corporations, limited partnerships and joint stock~~
30 ~~associations organized for manufacturing, processing, research~~

1 ~~or development purposes.~~

2 (c) The term processing, as used in this section, shall mean
3 and be limited to the following activities when engaged in as a
4 business enterprise:

5 (1) The cooking or freezing of fruits, vegetables,
6 mushrooms, fish, seafood, meats or poultry, when the person
7 engaged in such business packages such property in sealed
8 containers for wholesale distribution.

9 (2) The scouring, carbonizing, cording, combing, throwing,
10 twisting or winding of natural or synthetic fibers, or the
11 spinning, bleaching, dyeing, printing or finishing of yarns or
12 fabrics, when such activities are performed prior to sale to the
13 ultimate consumer.

14 (3) The electroplating, galvanizing, enameling, anodizing,
15 coloring, finishing, impregnating or heat treating of metals or
16 plastics for sale or in the process of manufacturing.

17 (4) The rolling, drawing or extruding of ferrous and
18 nonferrous metals.

19 (5) The fabrication for sale of ornamental or structural
20 metal or metal stairs, staircases, gratings, fire escapes or
21 railings, (not including fabrication work done at the
22 construction site).

23 (6) The preparation of animal feed or poultry feed for sale.

24 (7) The production, processing and bottling of nonalcoholic
25 beverages for wholesale distribution.

26 (8) The slaughtering and dressing of animals for meat to be
27 sold or to be used in preparing meat products for sale, and the
28 preparation of meat products, including lard, tallow, grease,
29 cooking and inedible oils for wholesale distribution.

30 (9) The operation of a saw mill or planing mill for the

1 production of lumber or lumber products for sale.

2 (10) The milling for sale of flour or meal from grains.

3 (11) The publishing of books, newspapers, magazines or other
4 periodicals, printing and broadcasting radio and television
5 programs by licensed commercial or educational stations.

6 (12) The processing of used lubricating oils.

7 (13) The blending, rectification or production by
8 distillation or otherwise of alcohol or alcoholic liquors,
9 except the distillation of alcohol from by-products of wine-
10 making for the sole purpose of fortifying wine.

11 (d) "Research and development" shall mean activities
12 relating to the discovery of new and the refinement of known
13 substances, products, processes, theories and ideas, but shall
14 not include activities directed primarily to the accumulation or
15 analysis of commercial, financial or mercantile data.

16 (e) It shall be the duty of the treasurer or other officers
17 having charge of any such corporation, joint-stock association,
18 or limited partnership, upon which a tax is imposed by this
19 section, to transmit the amount of said tax to the Department of
20 Revenue within the time prescribed by law: Provided, That for
21 the purposes of this act interest in limited partnerships or
22 joint-stock associations shall be deemed to be capital stock,
23 and taxable accordingly: Provided, further, That corporations,
24 limited partnerships, and joint-stock associations, liable to a
25 tax under this section, shall not be required to pay any further
26 tax on the mortgages, bonds, and other securities owned by them
27 and in which the whole body of stockholders or members, as such,
28 have the entire equitable interest in remainder; but
29 corporations, limited partnerships, and joint-stock
30 associations, owning or holding such securities as trustees,

1 executors, administrators, guardians, or in any other manner
2 than for the whole body of stockholders or members thereof as
3 sole equitable owners in remainder, shall return and pay the tax
4 imposed by this act upon all securities so owned or held by
5 them, as in the case of individuals.

6 (f) Any holding company subject to the capital stock tax or
7 the franchise tax imposed by this section may elect to compute
8 said tax by applying the rate of tax of ~~eight~~ NINE mills, upon <—
9 each dollar to ten per cent of the actual value of its whole
10 capital stock. If exercised, this election shall be in lieu of
11 any other apportionment or allocation to which such company
12 would otherwise be entitled.

13 The term "holding company" shall mean any corporation (i) at
14 least ninety per cent of the gross income of which for the
15 taxable year is derived from dividends, interest, gains from the
16 sale or other disposition of stock or securities and the
17 rendition of management and administrative services to
18 subsidiary corporations, and (ii) at least sixty per cent of the
19 actual value of the total assets of which consists of stock
20 securities or indebtedness of subsidiary corporations.

21 The term "subsidiary corporation" shall mean any corporation,
22 a majority of the total issued and outstanding shares of voting
23 stock of which are owned by the taxpayer corporation directly or
24 through one or more intervening subsidiary corporations.

25 (g) Notwithstanding any other provisions contained in this
26 section 602, relating to the appraisal, allocation or
27 apportionment of the value of the capital stock of a corporation
28 subject to tax in the Commonwealth of Pennsylvania, every
29 domestic corporation and every foreign corporation registered to
30 do business in Pennsylvania and (i) which maintains an office in

1 Pennsylvania and (ii) which has filed a timely election to be
2 taxed as a regulated investment company with the Federal
3 Government and (iii) which duly qualifies to be taxed as a
4 regulated investment company under the provisions of the
5 Internal Revenue Code of 1954 as amended, shall be taxed as a
6 regulated investment company and shall be subject to the capital
7 stock or franchise tax imposed by section 602, which tax shall
8 be computed in the following manner:

9 (1) The value of its capital stock shall be determined by
10 adding its net asset values as of the last day of each month
11 during the taxable period or year and dividing the total sum by
12 the number of months involved, for which purpose net asset value
13 means the actual market value of all assets owned by such
14 corporation without any exemptions or exclusions less all of its
15 liabilities, debts and other obligations.

16 (2) The proportion of such value taxable in this
17 Commonwealth at the rate of ~~eight~~ NINE mills, shall be <—
18 determined by applying to such value a fraction, the numerator
19 of which is the sum of the corporation's gross receipts from (i)
20 sales of its own shares to Pennsylvania investors and (ii) sales
21 of its portfolio securities where the orders for such sales are
22 placed with or credited to Pennsylvania offices of registered
23 securities dealers and the denominator of which fraction is the
24 corporation's total gross receipts from (i) sales of its own
25 shares and (ii) sales of its portfolio securities. Pennsylvania
26 investors shall mean individuals residing in Pennsylvania at the
27 time of the sale or corporations or other entities having their
28 principal place of business located in Pennsylvania at such
29 time.

30 (3) Any regulated investment company shall have the right

1 annually, to elect to compute its capital stock or franchise tax
2 by applying the rate of tax of ~~eight~~ NINE mills, upon each <—
3 dollar to ten per cent of the capital stock value of such
4 corporation. If exercised this election shall be in lieu of any
5 other apportionment or allocation to which such corporation
6 would otherwise be entitled.

7 PART III

8 PROCEDURE; ENFORCEMENT; PENALTIES

9 Section 603. Procedure; Enforcement; Penalties.--Parts III,
10 IV, V, VI, and VII of Article IV are incorporated by reference
11 into this article in so far as they are applicable to the tax
12 imposed hereunder, EXCEPT THAT THE TAXABLE PROPORTION IN THE <—
13 CAPITAL STOCK TAX SHALL NOT INCLUDE ANY PROPERTY ACTUALLY AND
14 EXCLUSIVELY USED IN MANUFACTURING, PROCESSING, RESEARCH AND
15 DEVELOPMENT SITUATED WITHIN THE COMMONWEALTH AND THE THREE
16 FRACTION FORMULA IN THE CAPITAL STOCK AND FRANCHISE TAXES SHALL
17 NOT INCLUDE ANY PROPERTY, PAYROLL OR SALES FACTORS ATTRIBUTABLE
18 TO MANUFACTURING, PROCESSING, RESEARCH OR DEVELOPMENT ACTIVITIES
19 IN THE COMMONWEALTH.

20 PART IV

21 REPEAL; EFFECTIVE DATE

22 Section 605. Repeal.--Sections 20 and 21, act of June 1,
23 1889 (P.L.420), entitled "A further supplement to an act
24 entitled 'An act to provide revenue by taxation,' approved the
25 seventh day of June, Anno Domini one thousand eight hundred and
26 seventy-nine," are repealed.

27 Section 606. Effective Date.--This article shall take effect
28 January 1, 1971.

29 ARTICLE VII

30 BANK SHARES TAX

1 PART I

2 IMPOSITION OF tax

3 Section 701. Imposition of Tax.--Every bank or savings
4 institution having capital stock, incorporated by or under any
5 law of this Commonwealth or under any law of the United States,
6 and located within this Commonwealth, shall, on or before April
7 15 in each and every year, make to the Department of Revenue a
8 report in writing, verified as required by law, setting forth
9 the full number of shares of the capital stock subscribed for or
10 issued, as of the preceding January 1, by such bank or savings
11 institution having capital stock, and the actual value thereof
12 as of the preceding January 1, which actual value shall be
13 ascertained as hereinafter provided. It shall be the duty of the
14 Department of Revenue to assess such shares for the calendar
15 year beginning January 1, 1971, and each year thereafter, at the
16 rate of fifteen mills upon each dollar of actual value thereof,
17 the actual value of each share of stock to be ascertained and
18 fixed by adding together the amount of capital stock paid in,
19 the surplus, and undivided profits, and dividing this amount by
20 the number of shares. It shall be the duty of every bank or
21 savings institution having capital stock, at the time of making
22 every report required by this section, to compute the tax and to
23 pay the amount of said tax to the State Treasurer, through the
24 Department of Revenue either from its general fund, or from the
25 amount of said tax collected from its shareholders: Provided,
26 That for the calendar year beginning January 1, 1971, and each
27 year thereafter, such bank or savings institution having capital
28 stock, upon the date its report, herein required is made for
29 such calendar year beginning January 1, 1971, and each year
30 thereafter, shall pay to the Department of Revenue not less than

1 eighty per cent of the tax due to the Commonwealth by it for
2 such calendar year, and the remaining tax due shall be paid at
3 the time when the report herein required for the year next
4 succeeding is made: Provided, That in case any bank or savings
5 institution having capital stock, incorporated under the law of
6 this State or of the United States, shall collect, annually,
7 from the shareholders thereof said tax of fifteen mills, on the
8 dollar upon the actual value of all the shares of stock of said
9 bank or savings institution, according to the provisions of this
10 article, that have been subscribed for or issued, and pay the
11 same into the State Treasury, through the Department of Revenue,
12 the shares, and so much of the capital and profits of such bank
13 or savings institution having capital stock as shall not be
14 invested in real estate, shall be exempt from local taxation
15 under the laws of this Commonwealth; and such bank or savings
16 institution having capital stock shall not be required to make
17 any report to the local assessor or county commissioners of its
18 personal property owned by it in its own right for purposes of
19 taxation and shall not be required to pay any tax thereon.

20 PART II

21 PROCEDURE; ENFORCEMENT; PENALTIES

22 Section 702. Procedure; Enforcement; Penalties.--Parts III,
23 IV, V, VI and VII of Article IV are incorporated by reference
24 into this article in so far as they are applicable to the tax
25 imposed hereunder.

26 PART III

27 REPEALER; EFFECTIVE DATE

28 Section 705. Repeal.--Clause 1 of section 1, act of July 15,
29 1897 (P.L.292), entitled "An act to provide revenue by
30 taxation," is repealed.

1 Section 706. Effective Date.--This article shall take effect
2 January 1, 1971.

3 ARTICLE VIII

4 TITLE INSURANCE AND TRUST COMPANIES SHARES TAX

5 PART I

6 IMPOSITION OF TAX

7 Section 801. Imposition of Tax.--Every company incorporated
8 under the provisions of section 29 of an act, entitled "An act
9 to provide for the incorporation and regulation of certain
10 corporations," approved April 29, 1874, and its supplements, or
11 any other act of Assembly heretofore or hereafter approved, for
12 the insurance of owners of real estate, mortgages, and others
13 interested in real estate, from loss by reason of defective
14 titles, liens, and encumbrances, and every company entitled to
15 benefits of, and every company having any of the powers of,
16 companies entitled to the benefits of an act, entitled "An act
17 conferring upon certain fidelity, insurance, safety deposit,
18 trust, and savings companies, the powers and privileges of
19 companies incorporated under the provisions of section 29 of an
20 act, entitled 'An act to provide for the incorporation and
21 regulation of certain corporations,' approved April 29, 1874,
22 and of the supplements thereto," approved June 27, 1895,
23 commonly known as title insurance or trust companies, and every
24 company organized as a bank and trust company or as a trust
25 company under any act of Assembly heretofore or hereafter
26 approved, except any such companies, all of the shares of
27 capital stock of which (other than shares necessary to qualify
28 directors) are owned by a company which is liable to pay to the
29 Commonwealth a tax on shares, shall, on or before April 15 in
30 each and every year, make to the Department of Revenue a report

1 in writing, setting forth the full number of shares of the
2 capital stock subscribed for or issued by such company, and the
3 actual value thereof as of January 1 preceding, which shall be
4 ascertained as hereinafter provided. It shall be the duty of the
5 Department of Revenue, to assess such shares for taxation at the
6 rate of fifteen mills upon each dollar of the actual value
7 thereof, the actual value of each share of stock to be
8 ascertained and fixed by adding together the amount of capital
9 stock paid in, the surplus, and undivided profits, and dividing
10 this amount by the number of shares.

11 It shall be the duty of every such company, at the time of
12 making every report required by this section, to compute the tax
13 and to pay the amount of said tax to the State Treasurer,
14 through the Department of Revenue, either from its general fund,
15 or from the amount of said tax collected from its shareholders:
16 Provided, That for the calendar year beginning January 1, 1971,
17 and each year thereafter, every such company shall, at the time
18 of making its report for the calendar year beginning January 1,
19 1971, and each year thereafter, compute the tax and pay to the
20 State Treasurer, through the Department of Revenue, either from
21 its general fund, or from the amount of said tax collected from
22 its shareholders, not less than eighty per cent of the tax due
23 to the Commonwealth by it for such calendar year and the
24 remaining tax due shall be paid at the time when the report
25 herein required for the year next succeeding is made: Provided,
26 That upon the payment of the tax fixed by this act into the
27 State Treasury, through the Department of Revenue, the shares
28 and so much of the capital stock, surplus, profits, and deposits
29 of such company as shall not be invested in real estate, shall
30 be exempt from all other taxation under the laws of this

1 Commonwealth. The procedure, in case the Department of Revenue
2 be not satisfied with the report made by any title insurance or
3 trust company, and the penalties for failing to make such report
4 and pay the tax, shall be as provided by law.

5 PART II

6 PROCEDURE; ENFORCEMENT; PENALTIES

7 Section 802. Procedure; Enforcement; Penalties.--Parts III,
8 IV, V, VI and VII of Article IV are incorporated by reference
9 into this article insofar as they are applicable to the tax
10 imposed hereunder.

11 PART III

12 REPEALER; EFFECTIVE DATE

13 Section 805. Repeal.--Section 1, act of June 13, 1907
14 (P.L.640), entitled "An act to provide revenue by levying a tax
15 upon the shares of stock of companies incorporated under the
16 provisions of section twenty-nine of an act, entitled 'An act to
17 provide for the incorporation and regulation of certain
18 corporations,' approved April twenty-ninth, one thousand eight
19 hundred and seventy-four, and the supplements thereto; for the
20 insurance of owners of real estate, mortgages, and others
21 interested in real estate, from loss by reason of defective
22 titles, liens, and encumbrances; and of companies entitled to
23 the benefits of, and of companies having any of the powers of,
24 companies entitled to the benefits of an act, entitled 'An act
25 conferring upon certain fidelity, insurance, safety deposit,
26 trust, and savings companies the powers and privileges of
27 companies incorporated under the provisions of section twenty-
28 nine of an act, entitled "An act to provide for the
29 incorporation and regulation of certain corporations," approved
30 April twenty-ninth, Anno Domini one thousand eight hundred and

1 seventy-four, and of the supplements thereto,' approved June
2 twenty-seventh, one thousand eight hundred and ninety-five,
3 commonly known as title insurance or trust companies," is
4 repealed.

5 Section 806. Effective Date.--This article shall take effect
6 January 1, 1971.

7 ARTICLE IX

8 INSURANCE PREMIUMS TAX

9 PART I

10 DEFINITIONS

11 Section 901. Definitions.--The following terms, when used in
12 this act, shall have the meaning ascribed to them in this
13 section:

14 (1) "Insurance company" means every insurance company,
15 association or exchange, incorporated or organized by or under
16 the laws of this Commonwealth, the United States, territories,
17 dependencies, other states, or foreign governments, and engaged
18 in transacting insurance business of any kind or classification
19 within this Commonwealth, except purely mutual beneficial
20 associations whose funds for the benefit of members and families
21 or heirs are made up entirely of the weekly, monthly, quarterly,
22 semi-annual or annual contributions to their members and the
23 accumulated interest thereon and corporations organized under
24 the act of June 21, 1937 (P.L.1948), known as the "Nonprofit
25 Hospital Plan Act," and the act of June 27, 1939 (P.L.1125),
26 known as the "Nonprofit Medical, Osteopathic, Dental and
27 Podiatry Service Corporation Act."

28 (2) "Gross premiums" means premiums, premium deposits or
29 assessments received by any insurance company, whether received
30 in money or in the form of notes, credits, or any other

1 substitutes for money, and whether collected in this
2 Commonwealth or elsewhere. Gross premiums shall not include: (i)
3 amounts returned on policies canceled or not taken; (ii)
4 premiums received for reinsurance; (iii) in the case of mutual
5 insurance companies, associations, exchanges, and stock
6 companies with participating features, that portion of the
7 advanced premiums, premium deposits or assessments returned in
8 cash or credited to members or policyholders, whether as
9 dividends, earnings, savings, or return deposits, upon the
10 expiration or termination of their contracts; and (iv) notes or
11 other obligations received by mutual insurance companies to
12 secure contingent premium liabilities to the extent that no
13 assessment has been made and collected against said notes or
14 obligations.

15 PART II

16 IMPOSITION OF TAX

17 Section 902. Imposition of Tax.--Every insurance company, as
18 herein defined, transacting business in the Commonwealth of
19 Pennsylvania, shall pay to the department, a tax at the rate of
20 two per cent of the gross premiums received from business done
21 within this Commonwealth during each calendar year, except that
22 any insurance company which was not subject to this tax prior to
23 1971 shall be taxed at the rate of one per cent for the year
24 1971 and thereafter at the rate of two per cent.

25 PART III

26 ANNUAL REPORT

27 Section 903. Annual Report.--Every insurance company shall
28 make a report to the department on a form prescribed by it on or
29 before April 15 of each year, showing the gross premiums
30 received from business transacted in the Commonwealth during the

1 year ending December 31 preceding. When making such report, the
2 insurance company shall compute and pay to the Commonwealth the
3 tax upon the gross premiums received from business transacted
4 within this Commonwealth during such preceding year.

5 PART IV

6 PROCEDURE; ENFORCEMENT; PENALTIES

7 Section 904. Procedure; Enforcement; Penalties.--Parts III,
8 IV, V, VI and VII of Article IV are incorporated by reference
9 into this article in so far as they are applicable to the tax
10 imposed hereunder.

11 PART V

12 Section 905. Repeal.--The act of February 21, 1961 (P.L.33),
13 entitled "An act imposing a State tax on gross premiums, premium
14 deposits, and assessments received from business transacted
15 within this Commonwealth by certain insurance companies,
16 associations, and exchanges; requiring the filing of annual and
17 tentative reports and the computation and payment of tax;
18 providing for the rights, powers and duties of the Department of
19 Revenue, the taxpayers and officers thereof; and providing
20 penalties," is repealed.

21 Section 906. Effective Date.--This article shall take effect
22 January 1, 1971.

23 ARTICLE X

24 CAPITAL STOCK TAX ON FOREIGN CORPORATIONS

25 PART I

26 DEFINITIONS

27 Section 1001. Definitions.--The following terms when used in
28 this article shall have the meanings ascribed to them in this
29 section:

30 (1) "Foreign corporation" means any corporation, limited

1 partnership or joint-stock association chartered or created by
2 or under the laws of any other state or of the United States or
3 of any foreign country, which has been issued a certificate of
4 authority by the Department of State to do business within this
5 Commonwealth and which either (i) has its principal office or
6 chief place of business located within this Commonwealth, or
7 (ii) has any part of its capital actually employed within this
8 Commonwealth. The term "foreign corporation" shall not include
9 foreign insurance companies and foreign nonprofit corporations
10 which do not have capital stock.

11 (2) "Increase of capital" means, (i) as to foreign
12 corporations doing business in this Commonwealth, any increase
13 of capital in excess of the amount actually employed in this
14 Commonwealth at any time prior to January 1, 1971 by such
15 corporations reporting on a calendar year basis, or at any time
16 prior to the first day of any fiscal year, beginning in the
17 calendar year 1971, by such corporations reporting on a fiscal
18 year basis; (ii) as to corporations admitted to do business in
19 this Commonwealth after the effective date of this article,
20 capital actually employed within this Commonwealth at the time
21 of or after receiving a certificate of authority to do business
22 from the Department of State and any increase thereof.

23 PART II

24 IMPOSITION OF TAX

25 Section 1002. Imposition of Tax.--From and after the
26 effective date of this article, every foreign corporation, in
27 addition to complying with all the laws of the Commonwealth now
28 or hereafter in effect, shall, for the privilege of exercising
29 its franchises in Pennsylvania, pay to the department an excise
30 tax of one-third of one per cent upon the amount of any increase

1 of capital actually employed within this Commonwealth: Provided,
2 That credit shall be allowed for said excise tax in the
3 following cases:

4 (1) Merger of domestic corporation or corporations and/or
5 foreign corporation or corporations with a foreign corporation
6 and the surviving foreign corporation in the merger is then
7 authorized, or will immediately thereafter be authorized, by a
8 certificate of authority to transact business in this
9 Commonwealth;

10 (2) Consolidation of two or more foreign corporations or of
11 domestic and foreign corporations (one or more of each), and the
12 corporation formed by the consolidation is a foreign corporation
13 which is then authorized, or will immediately thereafter be
14 authorized, by a certificate of authority to transact business
15 in this Commonwealth.

16 In such cases, the surviving or consolidated foreign
17 corporation shall be entitled to credit upon any excise tax due
18 and payable hereunder equal to the excise tax computed at the
19 rate of one-third of one per cent on the value of the assets of
20 the merging or consolidating foreign corporation or corporations
21 actually employed by such surviving or consolidated foreign
22 corporation within this Commonwealth within the provisions and
23 intent of this article, and such proportion of the total excise
24 tax of the merging or consolidating domestic corporation or
25 corporations paid or relieved from payment on its authorized or
26 issued and outstanding capital stock, determined by the ratio
27 that the value of the assets of such domestic corporation or
28 corporations actually employed by such surviving or consolidated
29 foreign corporation within this Commonwealth within the
30 provisions and intent of this article bears to the value of the

1 total assets of such domestic corporation.

2 (3) IN ARRIVING AT THE AMOUNT OF TAX DUE UNDER THIS ARTICLE, <—
3 A TAXPAYER SHALL APPORTION THE INCREASE IN CAPITAL BY THE USE OF
4 THE FORMULA APPLICABLE TO THE OPERATIONS OF THE CORPORATION AS
5 SET FORTH IN SECTION 401.

6 PART III

7 REPORTS

8 Section 1003. Initial and Annual Report.--Every foreign
9 corporation shall annually file a report with the department for
10 information purposes on a form prescribed by the department
11 stating (i) the state or country in which incorporated or
12 created, (ii) the date of incorporation or organization, (iii)
13 location of its chief office in this Commonwealth, (iv) the name
14 and address of its president and treasurer, (v) the greatest
15 amount of capital actually employed within this Commonwealth
16 during the preceding calendar or fiscal year, (vi) the greatest
17 amount of capital actually employed within this Commonwealth at
18 any time prior to the preceding calendar or fiscal year, and
19 (vii) such other information as the department shall require for
20 the purpose of this article.

21 PART IV

22 PROCEDURE; ENFORCEMENT; PENALTIES

23 Section 1004. Procedure; Enforcement; Penalties.--Parts III,
24 IV, V, VI and VII of Article IV are incorporated by reference
25 into this article in so far as they are applicable to the tax
26 imposed hereunder.

27 PART V

28 REPEALER; EFFECTIVE DATE

29 Section 1005. Repeal.--The act of July 25, 1953 (P.L.560),
30 entitled "An act to provide revenue for State purposes by

1 imposing an excise tax upon any increase in capital, as defined,
2 actually employed in Pennsylvania, by any foreign corporation,
3 limited partnership or joint-stock association; requiring the
4 filing of reports; providing for rights, powers and duties of
5 the Department of Revenue, the taxpayers and officers thereof;
6 imposing interest and penalties; and repealing a certain act
7 relating to foreign corporations, limited partnerships and
8 joint-stock associations," is repealed.

9 Section 1006. Effective Date.--This article shall take
10 effect January 1, 1971.

11 ARTICLE XI

12 GENERAL PROVISIONS

13 Section 1101. Saving Clause.--(a) Notwithstanding anything
14 contained in any law to the contrary, the validity of any
15 ordinance or part of any ordinance or any resolution or part of
16 any resolution, and any amendments or supplements thereto now or
17 hereinafter enacted or adopted by any political subdivision of
18 this Commonwealth for or relating to the imposition, levy or
19 collection of any tax, shall not be affected or impaired by
20 anything contained in this code.

21 (b) Nothing contained in this code shall be construed to
22 relieve any person, corporation or other entity from the filing
23 returns or from any taxes, penalties or interest imposed by the
24 provisions of any laws which were in effect prior to being
25 repealed by this code, or effect or terminate any petitions,
26 investigations, prosecutions, legal or otherwise, or other
27 proceedings pending under the provisions of any such laws or
28 prevent the commencement or further prosecution of any
29 proceedings by the proper authorities of the Commonwealth for
30 violation of any such laws or for the assessment, settlement,

1 collection or recovery of taxes, penalties or interest due to
2 the Commonwealth under any of the laws which were in effect
3 prior to being repealed by this code.

4 Section 1102. Constitutional Construction.--If any word,
5 phrase, clause, sentence, section or provision of this code is
6 for any reason held to be unconstitutional, the decision of the
7 court shall not affect or impair any of the remaining provisions
8 of this code. It is hereby declared as the legislative intent
9 that this code would have been adopted had such unconstitutional
10 word, phrase, clause, sentence, section or provision thereof not
11 been included herein.

12 Section 1103. Effective Date.--The provisions of this code,
13 except as otherwise specified, shall take effect immediately.