

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 567

Session of
1985

INTRODUCED BY TRELLO, LEVIN, DALEY, VAN HORNE, SEVENTY,
COLAFELLA, COHEN AND POTT, MARCH 18, 1985

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, APRIL 29, 1985

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing for computation of the capital
11 stock or franchise tax on regulated investment companies.

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

14 Section 1. Section 602(f) of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
16 December 23, 1983 (P.L.360, No.89) and December 23, 1983
17 (P.L.370, No.90), is amended to read:

18 Section 602. Imposition of Tax.--* * *

19 (f) [Notwithstanding any other provisions contained in this
20 section 602, relating to the computation of the capital stock
21 value of an entity subject to tax in this Commonwealth, every]

1 Every domestic corporation and every foreign corporation (i)
2 registered to do business in Pennsylvania [and (i)]; (ii) which
3 maintains an office in Pennsylvania [and (ii)]; (iii) which has
4 filed a timely election to be taxed as a regulated investment
5 company with the Federal Government[, and (iii)]; and (iv) which
6 duly qualifies to be taxed as a regulated investment company
7 under the provisions of the Internal Revenue Code of 1954 as
8 amended, shall be taxed as a regulated investment company and
9 shall be subject to the capital stock or franchise tax imposed
10 by section 602, in either case for the privilege of having an
11 office in Pennsylvania, which tax shall be [the greater of (i)
12 seventy-five dollars (\$75) or (ii) the amount computed in the
13 following manner:

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

21 (2) The proportion of the capital stock value taxable in
22 this Commonwealth at the rate of ten mills, shall be determined
23 by applying to the capital stock value a fraction, the numerator
24 of which is the sum of the corporation's gross receipts from (i)
25 sales of its own shares to Pennsylvania investors and (ii) sales
26 of its portfolio securities where the orders for such sales are
27 placed with or credited to Pennsylvania offices of registered
28 securities dealers and the denominator of which fraction is the
29 corporation's total gross receipts from (i) sales of its own
30 shares and (ii) sales of its portfolio securities. Pennsylvania

1 investors shall mean individuals residing in Pennsylvania at the
2 time of the sale or corporations or other entities having their
3 principal place of business located in Pennsylvania at such
4 time.

5 (3) Any regulated investment company shall have the right
6 annually, to elect to compute its capital stock or franchise tax
7 by applying the rate of tax of ten mills, upon each dollar to
8 ten per cent of the capital stock value, as defined in clause
9 (1) of this subsection, of such corporation. If exercised this
10 election shall be in lieu of any other apportionment or
11 allocation to which such corporation would otherwise be
12 entitled.] computed pursuant to the provisions of this
13 subsection in lieu of all other provisions of this section 602.
14 The tax shall be in an amount which is the sum of the amounts
15 determined pursuant to clauses (1) and (2):

16 (1) The amount determined pursuant to this clause shall be
17 seventy-five dollars (\$75) times that number which is the result
18 of dividing the net asset value of the regulated investment
19 company by one million, rounded to the nearest multiple of
20 seventy-five dollars (\$75). Net asset value shall be determined
21 by adding the monthly net asset values as of the last day of
22 each month during the taxable period and dividing the total sum
23 by the number of months involved. Each such monthly net asset
24 value shall be the actual market value of all assets owned
25 without any exemptions or exclusions, less all liabilities,
26 debts and other obligations.

27 (2) The amount determined pursuant to this clause shall be
28 the amount which is the result of multiplying the rate of
29 taxation applicable for purposes of the personal income tax
30 during the same taxable year times the apportioned undistributed

1 personal income tax income of the regulated investment company.

2 For the purposes of this clause:

3 (A) Personal income tax income shall mean income to the
4 extent enumerated and classified in section 303.

5 (B) Undistributed personal income tax income shall mean all
6 personal income tax income other than personal income tax income
7 undistributed on account of the capital stock or foreign
8 franchise tax, less all personal income tax income distributed
9 to shareholders. At the election of the company, income
10 distributed within forty five days after the close of a taxable <—
11 year shall be deemed distributed during that year, BUT DEEMED <—
12 DISTRIBUTED DURING THE TAXABLE YEAR FOR FEDERAL INCOME TAX
13 PURPOSES, SHALL BE DEEMED DISTRIBUTED DURING THAT YEAR FOR
14 PURPOSES OF THIS CLAUSE. If a company in a taxable year has both
15 current income and income accumulated from a prior year,
16 distributions during the year shall be deemed to have been made
17 first from current income.

18 (C) Undistributed personal income tax income shall be
19 apportioned to Pennsylvania by a fraction the numerator of which
20 is all income distributed during the taxable period to
21 shareholders who are resident individuals, estates or trusts and
22 the denominator of which is all income distributed during the
23 taxable period. Resident trusts shall not include charitable,
24 pension or profit-sharing, or retirement trusts.

25 (D) Personal income tax income and other income of a company
26 shall each be deemed to be either distributed to shareholders or
27 undistributed in the proportion each category bears to all
28 income received by the company during the taxable year.

29 Section 2. This act applies retroactively to the calendar
30 year beginning January 1, 1985, and to all corporate fiscal

1 years beginning on or after that date.

2 Section 3. This act shall take effect immediately.