
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 515 Session of
2005

INTRODUCED BY REED, TURZAI, HUTCHINSON, BOYD, BAKER, BASTIAN,
BENNINGHOFF, CAPPELLI, CAUSER, CLYMER, CREIGHTON, DALLY,
FAIRCHILD, GEIST, GERGELY, GINGRICH, GOOD, GOODMAN, HARRIS,
HERSHEY, KILLION, MACKERETH, MANN, McILHATTAN, METCALFE,
S. MILLER, MUNDY, MUSTIO, NICKOL, PICKETT, REICHLEY,
SAMUELSON, SCAVELLO, SEMMEL, STEIL, STERN, R. STEVENSON,
E. Z. TAYLOR, THOMAS, TIGUE, ZUG, KAUFFMAN, SAYLOR, PAYNE,
HERMAN, WRIGHT AND BALDWIN, FEBRUARY 15, 2005

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES,
NOVEMBER 22, 2005

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, in sales and use tax, for the
11 definition of "manufacture"; and further providing, in
12 personal income tax, for imposition and, in corporate net
13 income, for definitions ~~and imposition~~. <—

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

16 Section 1. Section 201(c) of the act of March 4, 1971
17 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
18 7, 1997 (P.L.85, No.7), is amended to read:

19 Section 201. Definitions.--The following words, terms and

phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

(c) "Manufacture." The performance of manufacturing, fabricating, compounding, processing or other operations, engaged in as a business, which place any tangible personal property in a form, composition or character different from that in which it is acquired whether for sale or use by the manufacturer, and shall include, but not be limited to--

(1) Every operation commencing with the first production stage and ending with the completion of tangible personal property having the physical qualities (including packaging, if any, passing to the ultimate consumer) which it has when transferred by the manufacturer to another[;]. For purposes of this clause "operation" shall include clean rooms and their component systems, including; environmental control systems, antistatic vertical walls and manufacturing platforms, and floors, which are independent of the real estate; process piping systems; specialized lighting systems; deionized water systems; process vacuum and compressed air systems; process and specialty gases; and alarm or warning devices specifically designed to warn of threats to the integrity of the product and/or people. For purposes of this clause a "clean room" is a location with a self-contained, sealed environment with a controlled closed air system independent from the facility's general environmental control system.

(2) The publishing of books, newspapers, magazines and other periodicals and printing[;].

(3) Refining, blasting, exploring, mining and quarrying for,

1 or otherwise extracting from the earth or from waste or stock
2 piles or from pits or banks any natural resources, minerals and
3 mineral aggregates including blast furnace slag[;]_.

4 (4) Building, rebuilding, repairing and making additions to,
5 or replacements in or upon vessels designed for commercial use
6 of registered tonnage of fifty tons or more when produced upon
7 special order of the purchaser, or when rebuilt, repaired or
8 enlarged, or when replacements are made upon order of, or for
9 the account of the owner[;]_.

10 (5) Research having as its objective the production of a new
11 or an improved (i) product or utility service, or (ii) method of
12 producing a product or utility service, but in either case not
13 including market research or research having as its objective
14 the improvement of administrative efficiency.

15 (6) Remanufacture for wholesale distribution by a
16 remanufacturer of motor vehicle parts from used parts acquired
17 in bulk by the remanufacturer using an assembly line process
18 which involves the complete disassembly of such parts and
19 integration of the components of such parts with other used or
20 new components of parts, including the salvaging, recycling or
21 reclaiming of used parts by the remanufacturer.

22 (7) Remanufacture or retrofit by a manufacturer or
23 remanufacturer of aircraft, armored vehicles, other defense-
24 related vehicles having a finished value of at least fifty
25 thousand dollars (\$50,000). Remanufacture or retrofit involves
26 the disassembly of such aircraft, vehicles, parts or components,
27 including electric or electronic components, the integration of
28 those parts and components with other used or new parts or
29 components, including the salvaging, recycling or reclaiming of
30 the used parts or components and the assembly of the new or used

1 aircraft, vehicles, parts or components. For purposes of this
2 clause, the following terms or phrases have the following
3 meanings:

4 (i) "aircraft" means fixed-wing aircraft, helicopters,
5 powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned
6 aircraft and gliders;

7 (ii) "armored vehicles" means tanks, armed personnel
8 carriers and all other armed track or semitrack vehicles; or

9 (iii) "other defense-related vehicles" means trucks, truck-
10 tractors, trailers, jeeps and other utility vehicles, including
11 any unmanned vehicles.

12 The term "manufacture" shall not include constructing,
13 altering, servicing, repairing or improving real estate or
14 repairing, servicing or installing tangible personal property,
15 nor the cooking, freezing or baking of fruits, vegetables,
16 mushrooms, fish, seafood, meats, poultry or bakery products.

17 * * *

18 Section 2. Section 302 of the act, amended December 23, 2003
19 (P.L.250, No.46), is amended to read:

20 Section 302. Imposition of Tax.--(a) Every resident
21 individual, estate or trust shall be subject to, and shall pay
22 for the privilege of receiving each of the classes of income
23 hereinafter enumerated in section 303, a tax upon each dollar of
24 income received by that resident during that resident's taxable
25 year at the [rate of three and seven hundredths per cent.]
26 following rates:

27 (1) Three and seven hundredths per cent for the taxable year
28 commencing after December 31, 2003, and ending before January 1, <—
29 2007. WITH OR WITHIN CALENDAR YEARS 2004, 2005 AND 2006. <—

30 (2) Three and ~~three~~ FIVE hundredths per cent for the taxable <—

1 year commencing after December 31, 2006, and ending before <—
2 January 1, 2008.

3 ~~(3) Two and ninety eight hundredths per cent for the taxable~~
4 ~~year commencing after December 31, 2007, WITH OR WITHIN CALENDAR~~ <—
5 ~~YEAR 2007, and each taxable year thereafter.~~

6 (b) Every nonresident individual, estate or trust shall be
7 subject to, and shall pay for the privilege of receiving each of
8 the classes of income hereinafter enumerated in section 303 from
9 sources within this Commonwealth, a tax upon each dollar of
10 income received by that nonresident during that nonresident's
11 taxable year at the [rate of three and seven hundredths per
12 cent.] following rates:

13 (1) Three and seven hundredths per cent for the taxable year
14 commencing after December 31, 2003, and ending before January 1, <—
15 2007 WITH OR WITHIN CALENDAR YEARS 2004, 2005 AND 2006. <—

16 (2) Three and three FIVE hundredths per cent for the taxable <—
17 year commencing after December 31, 2006, and before January 1, <—
18 2008.

19 ~~(3) Two and ninety eight hundredths per cent for the taxable~~
20 ~~year commencing after December 31, 2007, WITH OR WITHIN CALENDAR~~ <—
21 ~~YEAR 2007, and each taxable year thereafter.~~

22 Section 3. Section 401(3)2(a)(9) and 4(c) of the act,
23 amended May 12, 1999 (P.L.26, No.4) and June 29, 2002 (P.L.559,
24 No.89), are amended to read:

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

29 * * *

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

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

(a) Division of Income.

* * *

(9) (A) Except as provided in subparagraph (B)[, all business income shall be apportioned to this State by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus three times the sales factor, and the denominator of which is five.]:

(i) For taxable years ~~ending~~ BEGINNING before January 1, 2006 2007, all business income shall be apportioned to this State by multiplying the income by a fraction: the numerator of which is the property factor plus the payroll factor plus three times the sales factor; and the denominator of which is five.

(ii) For taxable years beginning after December 31, 2005, and ending before January 1, 2007 IN CALENDAR YEAR 2007, all business income shall be apportioned to this State by multiplying the income by a fraction: the numerator of which is the sum of ~~twelve and one half~~ FIFTEEN times the property factor, ~~twelve and one half~~ FIFTEEN times the payroll factor and ~~seventy five~~ SEVENTY times the sales factor; and the denominator of which is one hundred.

(iii) For taxable years beginning after December 31, 2006 IN CALENDAR YEAR 2008, all business income shall be apportioned to

1 this State by multiplying the income by a fraction: the
2 numerator of which is the sum of ~~one half-times~~ the property <—
3 factor, ~~one half-times~~ the payroll factor and ~~nine~~ EIGHT times <—
4 the sales factor; and the denominator of which is ten.

5 (IV) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2009, ALL <—
6 BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
7 MULTIPLYING THE INCOME BY A FRACTION: THE NUMERATOR OF WHICH IS
8 THE SUM OF ONE-HALF TIMES THE PROPERTY FACTOR, ONE-HALF TIMES
9 THE PAYROLL FACTOR AND NINE TIMES THE SALES FACTOR; AND THE
10 DENOMINATOR OF WHICH IS TEN.

11 (V) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2010, AND
12 EACH TAXABLE YEAR THEREAFTER, ALL BUSINESS INCOME SHALL BE
13 APPORTIONED TO THIS STATE BY MULTIPLYING THE INCOME BY THE SALES
14 FACTOR.

15 (B) For purposes of apportionment of the capital stock -
16 franchise tax as provided in section 602 of Article VI of this
17 act, the apportionment fraction shall be the property factor
18 plus the payroll factor plus the sales factor as the numerator,
19 and the denominator shall be three.

20 * * *

21 4. * * *

22 ~~(c) (1) (A) The net loss deduction shall be the lesser of:~~ <—
23 ~~(i) two million dollars (\$2,000,000) [or] for taxable years~~
24 ~~ending before January 1, 2006;~~

25 ~~(ii) seven and one half million dollars (\$7,500,000) for~~
26 ~~taxable years beginning after December 31, 2005, and ending~~
27 ~~before January 1, 2007;~~

28 ~~(iii) twenty million dollars (\$20,000,000) for taxable years~~
29 ~~beginning after December 31, 2006; or~~

30 ~~(iv) the amount of the net loss or losses which may be~~

1 ~~carried over to the taxable year or taxable income as determined~~
2 ~~under subclause 1 or, if applicable, subclause 2.~~

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

6 (C) (1) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF [TWO <—
7 MILLION DOLLARS (\$2,000,000) OR THE]:

8 (A) (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007,
9 TWO MILLION DOLLARS (\$2,000,000);

10 (II) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2007, FIVE
11 MILLION DOLLARS (\$5,000,000);

12 (III) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2008,
13 SEVEN AND ONE-HALF MILLION DOLLARS (\$7,500,000);

14 (IV) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2009, TEN
15 MILLION DOLLARS (\$10,000,000);

16 (V) FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2010, AND
17 EACH TAXABLE YEAR THEREAFTER, TEN MILLION DOLLARS (\$10,000,000)
18 OR SEVENTY-FIVE PER CENTUM OF THE TAXABLE INCOME AS DETERMINED
19 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2, WHICHEVER IS
20 GREATER; OR

21 (B) THE AMOUNT OF THE NET LOSS OR LOSSES WHICH MAY BE
22 CARRIED OVER TO THE TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED
23 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2.

24 (1.1) IN NO EVENT SHALL THE NET LOSS DEDUCTION INCLUDE MORE
25 THAN FIVE HUNDRED THOUSAND DOLLARS (\$500,000), IN THE AGGREGATE,
26 OF NET LOSSES FROM TAXABLE YEARS 1988 THROUGH 1994.

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

29	Taxable Year	Carryover
30	1981	1 taxable year

1	1982	2 taxable years
2	1983-1987	3 taxable years
3	1988	2 taxable years plus
4		1 taxable year
5		starting with the
6		1995 taxable year
7	1989	1 taxable year plus
8		2 taxable years
9		starting with the
10		1995 taxable year
11	1990-1993	3 taxable years
12		starting with the
13		1995 taxable year
14	1994	1 taxable year
15	1995	
16	-1997	10 taxable years
17	1998 and thereafter	20 taxable years

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

22 ~~(i) Two million (\$2,000,000)[.] for taxable years beginning~~
 23 ~~before January 1, 2006.~~

24 ~~(ii) Seven and one half million dollars (\$7,500,000) for~~
 25 ~~taxable years beginning after December 31, 2005, and ending~~
 26 ~~before January 1, 2007.~~

27 ~~(iii) Twenty million dollars (\$20,000,000) for taxable years~~
 28 ~~beginning after December 31, 2006.~~

29 ~~(B) THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE~~ <—
 30 ~~EARLIEST TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS~~

1 SCHEDULE. THE TOTAL NET LOSS DEDUCTION ALLOWED IN ANY TAXABLE
2 YEAR SHALL NOT EXCEED [TWO MILLION DOLLARS (\$2,000,000).]:

3 (I) TWO MILLION DOLLARS (\$2,000,000) FOR TAXABLE YEARS
4 BEGINNING BEFORE JANUARY 1, 2007.

5 (II) FIVE MILLION DOLLARS (\$5,000,000) FOR TAXABLE YEARS
6 BEGINNING IN CALENDAR YEAR 2007.

7 (III) SEVEN AND ONE-HALF MILLION DOLLARS (\$7,500,000) FOR
8 TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2008.

9 (IV) TEN MILLION DOLLARS (\$10,000,000) FOR TAXABLE YEARS
10 BEGINNING IN CALENDAR YEAR 2009.

11 (V) TEN MILLION DOLLARS (\$10,000,000) OR SEVENTY-FIVE PER
12 CENTUM OF THE TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR,
13 IF APPLICABLE, SUBCLAUSE 2, WHICHEVER IS GREATER, OF THE TAXABLE
14 INCOME FOR TAXABLE YEARS BEGINNING IN CALENDAR YEAR 2010, AND
15 EACH TAXABLE YEAR THEREAFTER.

16 * * *

17 ~~Section 4. Section 402 of the act, amended June 29, 2002~~ <—
18 ~~(P.L.559, No.89), is amended to read:~~

19 ~~Section 402. Imposition of Tax. (a) A corporation shall be~~
20 ~~subject to and shall pay an excise tax for exercising, whether~~
21 ~~in its own name or through any person, association, business~~
22 ~~trust, corporation, joint venture, limited liability company,~~
23 ~~limited partnership, partnership or other entity, any of the~~
24 ~~following privileges:~~

25 ~~(1) Doing business in this Commonwealth.~~

26 ~~(2) Carrying on activities in this Commonwealth, including~~
27 ~~solicitation which is not protected activity under the act of~~
28 ~~September 14, 1959 (Public Law 86-272, 15 U.S.C. § 381 et seq.).~~

29 ~~(3) Having capital or property employed or used in this~~
30 ~~Commonwealth.~~

~~(4) Owning property in this Commonwealth.~~

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

Taxable Year	Tax Rate
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Beginning on or after	
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January 1, 1995, [and	
----------------------------------	--

each taxable	
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year thereafter	9.99%
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and ending before	
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January 1, 2007	9.99%
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Beginning after	
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December 31, 2006	9.59%
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~~(c) An entity subject to taxation under Article VII, VIII, IX or XV shall not be subject to the tax imposed by this article.~~

~~Section 5. This act shall take effect as follows:~~

~~(1) The amendment of section 401(3)2(a)(9) and 4(c)(1)(A)(ii) and (2)(B)(ii) of the act shall take effect July 1, 2006.~~

~~(2) The amendment of sections 401 4(c)(1)(A)(iii) and (2)(B)(iii) and 402(b) of the act shall take effect July 1, 2007.~~

~~(3) The remainder of this act shall take effect immediately.~~

SECTION 4. THIS ACT SHALL TAKE EFFECT JANUARY 1, 2007.

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