

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2270 Session of
2008

INTRODUCED BY TURZAI, QUIGLEY, REED, SAYLOR, S. H. SMITH,
CIVERA, ADOLPH, ARGALL, BAKER, BARRAR, BASTIAN, BEAR,
BENNINGHOFF, BEYER, BOBACK, BOYD, BROOKS, CAPPELLI, CAUSER,
CLYMER, COX, CREIGHTON, CUTLER, DALLY, DENLINGER, ELLIS,
J. EVANS, EVERETT, FAIRCHILD, FLECK, GABIG, GEIST, GILLESPIE,
GINGRICH, GODSHALL, GRELL, HARHART, HARRIS, HELM, HENNESSEY,
HERSHEY, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, KENNEY,
KILLION, MACKERETH, MAJOR, MANTZ, MARSHALL, MARSICO,
McILHATTAN, MENSCH, METCALFE, MICOZZIE, MILLARD, R. MILLER,
MILNE, MOUL, MOYER, MURT, MUSTIO, NAILOR, O'NEILL, PAYNE,
PEIFER, PERRY, PETRI, PHILLIPS, PICKETT, PYLE, QUINN, RAPP,
REICHLEY, ROAE, ROCK, ROHRER, RUBLEY, SCAVELLO, SCHRODER,
SONNEY, STEIL, STERN, R. STEVENSON, SWANGER, J. TAYLOR, TRUE,
VEREB, VULAKOVICH AND WATSON, FEBRUARY 26, 2008

REFERRED TO COMMITTEE ON FINANCE, FEBRUARY 26, 2008

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in personal income, further providing for
11 imposition; in corporate net income, further providing for
12 the definition of "taxable income"; and in gross receipts
13 tax, further providing for the imposition of tax and for
14 establishment of revenue-neutral reconciliation.

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

17 Section 1. Section 302 of the act of March 4, 1971 (P.L.6,
18 No.2), known as the Tax Reform Code of 1971, amended December

1 23, 2003 (P.L.250, No.46), is amended to read:

2 Section 302. Imposition of Tax.--(a) Every resident
3 individual, estate or trust shall be subject to, and shall pay
4 for the privilege of receiving each of the classes of income
5 hereinafter enumerated in section 303, a tax upon each dollar of
6 income received by that resident during that resident's taxable
7 year at the rate of [three and seven hundredths per cent] two
8 and nine hundred thirty-five thousandths per cent.

9 (b) Every nonresident individual, estate or trust shall be
10 subject to, and shall pay for the privilege of receiving each of
11 the classes of income hereinafter enumerated in section 303 from
12 sources within this Commonwealth, a tax upon each dollar of
13 income received by that nonresident during that nonresident's
14 taxable year at the rate of [three and seven hundredths per
15 cent] two and nine hundred thirty-five thousandths per cent.

16 Section 2. Section 401(3)2(a)(9) and 4(c) of the act,
17 amended July 12, 2006 (P.L.1137, No.116), is amended to read:

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

22 * * *

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

24 2. In case the entire business of any corporation, other
25 than a corporation engaged in doing business as a regulated
26 investment company as defined by the Internal Revenue Code of
27 1986, is not transacted within this Commonwealth, the tax
28 imposed by this article shall be based upon such portion of the
29 taxable income of such corporation for the fiscal or calendar
30 year, as defined in subclause 1 hereof, and may be determined as

1 follows:

2 (a) Division of Income.

3 * * *

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

5 (i) For taxable years beginning before January 1, 2007, 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 property factor plus the payroll factor plus three times the
9 sales factor and the denominator of which is five.

10 (ii) For taxable years beginning after December 31, 2006,
11 and before January 1, 2009, all business income shall be
12 apportioned to this State by multiplying the income by a
13 fraction, the numerator of which is the sum of fifteen times the
14 property factor, fifteen times the payroll factor and seventy
15 times the sales factor and the denominator of which is one
16 hundred.

17 (iii) For taxable years beginning after December 31, 2008,
18 all business income shall be apportioned to this State by
19 multiplying the income by the sales factor.

20 (B) For purposes of apportionment of the capital stock -
21 franchise tax as provided in section 602 of Article VI of this
22 act, the apportionment fraction shall be the property factor
23 plus the payroll factor plus the sales factor as the numerator,
24 and the denominator shall be three.

25 * * *

26 4. * * *

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

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

30 (II) For taxable years beginning after December 31, 2006,

1 the greater of twelve and one-half per cent of taxable income as
2 determined under subclause 1 or, if applicable, subclause 2 or
3 three million dollars (\$3,000,000); or

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

7 [(1.1) In no event shall the net loss deduction include more
8 than five hundred thousand dollars (\$500,000), in the aggregate,
9 of net losses from taxable years 1988 through 1994.]

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

12	Taxable Year	Carryover
13	1981	1 taxable year
14	1982	2 taxable years
15	1983-1987	3 taxable years
16	1988	2 taxable years plus
17		1 taxable year
18		starting with the
19		1995 taxable year
20	1989	1 taxable year plus
21		2 taxable years
22		starting with the
23		1995 taxable year
24	1990-1993	3 taxable years
25		starting with the
26		1995 taxable year
27	1994	1 taxable year
28	1995-1997	10 taxable years
29	1998 and thereafter	20 taxable years

30 (B) The earliest net loss shall be carried over to the

1 earliest taxable year to which it may be carried under this
2 schedule. [The total net loss deduction allowed in any taxable
3 year shall not exceed:

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

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

10 * * *

11 Section 3. Section 1101(b) of the act, amended July 13, 1987
12 (P.L.317, No.58), is amended to read:

13 Section 1101. Imposition of Tax.--* * *

14 (b) Electric Light, Waterpower and Hydro-electric
15 Utilities.--Every electric light company, waterpower company and
16 hydro-electric company now or hereafter incorporated or
17 organized by or under any law of this Commonwealth, or now or
18 hereafter organized or incorporated by any other state or by the
19 United States or any foreign government and doing business in
20 this Commonwealth, and every limited partnership, association,
21 joint-stock association, copartnership, person or persons,
22 engaged in electric light and power business, waterpower
23 business and hydro-electric business in this Commonwealth, shall
24 pay to the State Treasurer, through the Department of Revenue, a
25 tax [of forty-four mills] pursuant to the rate schedule under
26 section 1101.3 upon each dollar of the gross receipts of the
27 corporation, company or association, limited partnership, joint-
28 stock association, copartnership, person or persons, received
29 from:

30 (1) the sales of electric energy within this State, except

1 gross receipts derived from the sales for resale of electric
2 energy to persons, partnerships, associations, corporations or
3 political subdivisions subject to the tax imposed by this
4 subsection upon gross receipts derived from such resale; and

5 (2) the sales of electric energy produced in Pennsylvania
6 and made outside of Pennsylvania in a state that has taken
7 action since December 21, 1977 which results in higher costs for
8 electric energy produced in that state and sold in Pennsylvania
9 unless the action that was taken after December 21, 1977 is
10 rescinded according to the following apportionment formula:

11 except for gross receipts derived from sales under clause (1),
12 the gross receipts from all sales of electricity of the producer
13 shall be apportioned to the Commonwealth of Pennsylvania by the
14 ratio of the producer's operating and maintenance expenses in
15 Pennsylvania and depreciation attributable to property in
16 Pennsylvania to the producer's total operating and maintenance
17 expenses and depreciation.

18 * * *

19 Section 4. Section 1101.2 of the act, added June 29, 2002
20 (P.L.559, No.89), is amended to read:

21 Section 1101.2. Establishment of Revenue-Neutral
22 Reconciliation.--(a) Notwithstanding the provisions of 66
23 Pa.C.S. § 2810(c)(1) (relating to revenue-neutral
24 reconciliation), the rate of tax established under 66 Pa.C.S. §
25 2810(c)(2) for the period beginning January 1, 2002, shall
26 continue in force without further adjustment for periods
27 beginning January 1, 2003, and [thereafter] ending before
28 January 1, 2009, and the Secretary of Revenue shall not deliver
29 any further reports under 66 Pa.C.S. § 2810(c)(3).

30 (b) Notwithstanding the provisions of 66 Pa.C.S. §

1 2810(c)(1):

2 (1) For the period beginning January 1, 2009, through
3 December 31, 2009, the rate of tax shall be 13.5 mills.

4 (2) For the period beginning January 1, 2010, through
5 December 31, 2010, the rate of tax shall be 12.0 mills.

6 (3) For the period beginning January 1, 2011, through
7 December 31, 2011, the rate of tax shall be 10.5 mills.

8 (4) For the period beginning January 1, 2012, through
9 December 31, 2012, the rate of tax shall be 9.0 mills.

10 (5) For the period beginning January 1, 2013, and
11 thereafter, the rate of tax shall be 7.5 mills.

12 Section 5. The act is amended by adding a section to read:

13 Section 1101.3. Electric Light, Waterpower and Hydro-
14 electric Utilities Rate Schedule.--The tax imposed under section
15 1101(b) shall be imposed as follows:

16 (1) For any period beginning before January 1, 2009, the
17 rate of the tax shall be 44 mills.

18 (2) For the period beginning January 1, 2009, through
19 December 31, 2009, the rate of tax shall be 39.6 mills.

20 (3) For the period beginning January 1, 2010, through
21 December 31, 2010, the rate of the tax shall be 35.2 mills.

22 (4) For the period beginning January 1, 2011, through
23 December 31, 2011, the rate of tax shall be 30.8 mills.

24 (5) For the period beginning January 1, 2012, through
25 December 31, 2012, the rate of tax shall be 26.4 mills.

26 (6) For the period beginning January 1, 2013, and
27 thereafter, the rate of tax shall be 22 mills.

28 Section 6. This act shall apply as follows:

29 (1) The amendment of section 302 of the act shall apply
30 to taxable years beginning after December 31, 2008.

1 (2) The amendment of section 401(3)4(c) of the act shall
2 apply to taxable years beginning after December 31, 2008.
3 Section 7. This act shall take effect July 1, 2008, or
4 immediately, whichever is later.