

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 207 Session of 2011

INTRODUCED BY SCAVELLO, BAKER, BARRAR, CALTAGIRONE, CAUSER, CLYMER, CUTLER, DeLUCA, DENLINGER, GEIST, GIBBONS, GILLESPIE, GOODMAN, GROVE, HAHN, HESS, HORNAMAN, HUTCHINSON, KAUFFMAN, KILLION, LONGIETTI, MAJOR, METCALFE, MILLARD, MOUL, OBERLANDER, O'NEILL, PETRARCA, PYLE, RAPP, SWANGER, TALLMAN, WATSON AND PICKETT, JANUARY 25, 2011

REFERRED TO COMMITTEE ON FINANCE, JANUARY 25, 2011

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 gross receipts tax, for the
11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, amended or added December 23, 2003 (P.L.250, No.46) and
17 October 9, 2009 (P.L.451, No.48), are amended to read:

18 Section 1101. Imposition of Tax.--(a) General Rule.--Every
19 pipeline company, conduit company, steamboat company, canal
20 company, slack water navigation company, transportation company,

1 and every other company, association, joint-stock association,
2 or limited partnership, now or hereafter incorporated or
3 organized by or under any law of this Commonwealth, or now or
4 hereafter organized or incorporated by any other state or by the
5 United States or any foreign government, and doing business in
6 this Commonwealth, and every copartnership, person or persons
7 owning, operating or leasing to or from another corporation,
8 company, association, joint-stock association, limited
9 partnership, copartnership, person or persons, any pipeline,
10 conduit, steamboat, canal, slack water navigation, or other
11 device for the transportation of freight, passengers, baggage,
12 or oil, except motor vehicles and railroads, and every limited
13 partnership, association, joint-stock association, corporation
14 or company engaged in, or hereafter engaged in, the
15 transportation of freight or oil within this State, and every
16 telephone company , telegraph company or provider of mobile
17 telecommunications services now or hereafter incorporated or
18 organized by or under any law of this Commonwealth, or now or
19 hereafter organized or incorporated by any other state or by the
20 United States or any foreign government and doing business in
21 this Commonwealth, and every limited partnership, association,
22 joint-stock association, copartnership, person or persons,
23 engaged in telephone or telegraph business or providing mobile
24 telecommunications services in this Commonwealth, shall pay to
25 the State Treasurer, through the Department of Revenue, a tax of
26 forty-five mills with a surtax equal to five mills upon each
27 dollar of the gross receipts of the corporation, company or
28 association, limited partnership, joint-stock association,
29 copartnership, person or persons, received from:

30 (1) passengers, baggage, oil and freight transported wholly

1 within this State;

2 (2) telegraph or telephone messages transmitted wholly
3 within this State and telegraph or telephone messages
4 transmitted in interstate commerce after December 31, 2003, and
5 before January 1, 2012, where such messages originate or
6 terminate in this State and the charges for such messages are
7 billed to a service address in this State, except gross receipts
8 derived from:

9 (i) the sales of access to the Internet, as set forth in
10 Article II, made to the ultimate consumer; and

11 (ii) the sales for resale to persons, partnerships,
12 associations, corporations or political subdivisions subject to
13 the tax imposed by this article upon gross receipts derived from
14 such resale of telecommunications services, including:

15 (A) telecommunications exchange access to interconnect with
16 a local exchange carrier's network;

17 (B) network elements on an unbundled basis; and

18 (C) sales of telecommunications services to interconnect
19 with providers of mobile telecommunications services; and

20 (3) mobile telecommunications services messages sourced to
21 this Commonwealth after December 31, 2003, and before January 1,
22 2012, based on the place of primary use standard set forth in
23 the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117),
24 except gross receipts derived from:

25 (i) the sales of access to the Internet, as set forth in
26 Article II, made to the ultimate consumer; and

27 (ii) the sales for resale to persons, partnerships,
28 associations, corporations or political subdivisions subject to
29 the tax imposed by this article upon gross receipts derived from
30 such resale of mobile telecommunications services, including

1 sales of mobile telecommunications services to interconnect with
2 providers of telecommunications services.

3 (a.1) Credit.--Telegraph or telephone companies or providers
4 of mobile telecommunications services that pay a gross receipts
5 tax to another state on messages or services after December 31,
6 2003, and before January 1, 2012, which are taxable under this
7 article are entitled to a credit against the tax due under this
8 article. The credit allowed with respect to the messages or
9 services shall not exceed the tax under this article with
10 respect to the messages or services.

11 * * *

12 (j) Schedule for Estimated Payments.--

13 (1) For calendar year 2004, the following schedule applies
14 to the payment of the tax under subsection(a) (3):

15 (i) Forty per cent of the estimated tax shall be due on
16 March 15, 2004.

17 (ii) Forty per cent of the estimated tax shall be due on
18 June 15, 2004.

19 (iii) Twenty per cent of the estimated tax shall be due on
20 September 15, 2004.

21 (2) For calendar years after 2004, the payment of the
22 estimated tax under subsection (a) (3) shall be due in accordance
23 with section 3003.2.

24 (3) For calendar year 2009, the tax applicable to the
25 payment of the tax under subsection (b.1) shall be due on March
26 15, 2010.

27 (4) For calendar year 2010, payments of the estimated tax
28 under subsection (b.1) shall be due on May 15, 2010. For
29 calendar year 2011 [and each calendar year thereafter], the
30 payment of the estimated tax under subsection (b.1) shall be due

1 in accordance with section 3003.2.

2 (5) This subsection shall expire January 1, 2012.

3 * * *

4 Section 2. Repeals are as follows:

5 (1) The General Assembly declares that the repeal under
6 paragraph (2) is necessary to effectuate the purposes of this
7 act.

8 (2) Section 33(12) of the act of December 23, 2003 (P.L.
9 250, No.46), entitled "An act amending the act of March 4,
10 1971 (P.L.6, No.2), entitled 'An act relating to tax reform
11 and State taxation by codifying and enumerating certain
12 subjects of taxation and imposing taxes thereon; providing
13 procedures for the payment, collection, administration and
14 enforcement thereof; providing for tax credits in certain
15 cases; conferring powers and imposing duties upon the
16 Department of Revenue, certain employers, fiduciaries,
17 individuals, persons, corporations and other entities;
18 prescribing crimes, offenses and penalties,' further
19 providing, in sales and use tax, for definitions, for
20 exclusions, for credits, for licenses and for transfers to
21 Public Transportation Assistance Fund; further providing, in
22 personal income tax, for definitions, for imposition, for
23 special tax provisions for poverty, for returns and liability
24 and for returns and records; further providing, in corporate
25 net income tax, for definitions and for interests in
26 unincorporated entities; providing, in corporate net income
27 tax, for additional withholding requirements; further
28 providing, in capital stock franchise tax, for definitions
29 and reports, for imposition and for expiration; further
30 providing, in utilities gross receipts tax, for imposition;

1 further providing, in public utility realty tax, for
2 surcharges; providing, in public utility realty tax, for
3 additional tax; further providing, in cigarette tax, for
4 incidence and rate of tax, for floor tax, for stamp to
5 evidence the tax and for commissions on sales; establishing,
6 in relation to cigarette tax, the Health Care Provider
7 Retention Account; further providing, in research and
8 development tax credit, for carryover, for limitations and
9 for reports; further providing, in malt beverage tax, for
10 limited tax credits; further providing, in inheritance tax,
11 for definitions, for exempt transfers, for estate tax and for
12 estate tax returns; further providing for the Public
13 Transportation Assistance Fund and providing for its
14 administration; further providing for estimated tax and for
15 underpayment of estimated tax; providing for authority to
16 attach wages; and repealing provisions relating to the Public
17 Transportation Assistance Fund," is repealed.
18 Section 3. This act shall take effect immediately.