

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 202 Session of 2013

INTRODUCED BY WILLIAMS, WASHINGTON, YUDICHAK, BREWSTER, COSTA,
FERLO, FONTANA, SOLOBAY, FARNESE AND BOSCOLA,
FEBRUARY 20, 2013

REFERRED TO FINANCE, FEBRUARY 20, 2013

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 corporate net income tax, further providing
11 for definitions; establishing a commercial activity tax; and
12 imposing penalties.

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

15 Section 1. Section 401(1) and (3)2(b), (c) and (d) of the
16 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
17 of 1971, amended September 9, 1971 (P.L.437, No.105), June 29,
18 2002 (P.L.559, No.89) and July 7, 2005 (P.L.149, No.40), are
19 amended and the section is amended by adding a clause to read:

20 Section 401. Definitions.--The following words, terms, and
21 phrases, when used in this article, shall have the meaning
22 ascribed to them in this section, except where the context

1 clearly indicates a different meaning:

2 (1) "Corporation." Any of the following that manufacture:

3 (i) A corporation.

4 (ii) A joint-stock association.

5 (iii) A business trust, limited liability company or other
6 entity which for Federal income tax purposes is classified as a
7 corporation.

8 The term does not include:

9 1. A business trust which qualifies as a real estate
10 investment trust under section 856 of the Internal Revenue Code
11 of 1986 (Public Law 99-514, 26 U.S.C. § 856) or which is a
12 qualified real estate investment trust subsidiary under section
13 856(i) of the Internal Revenue Code of 1986 (26 U.S.C. §
14 856(i)).

15 2. A business trust which qualifies as a regulated
16 investment company under section 851 of the Internal Revenue
17 Code of 1986 (26 U.S.C. § 856(i)) and which is registered with
18 the United States Securities and Exchange Commission under the
19 Investment Company Act of 1940 or a related business trust which
20 confines its activities in this Commonwealth to the maintenance,
21 administration and management of intangible investments and
22 activities of regulated investment companies.

23 3. A corporation, trust or other entity which is an exempt
24 organization as defined by section 501 of the Internal Revenue
25 Code of 1986 (26 U.S.C. § 501).

26 4. A corporation, trust or other entity organized as a not-
27 for-profit under the laws of this Commonwealth or the laws of
28 any other state which:

29 (i) would qualify as an exempt organization as defined by
30 section 501 of the Internal Revenue Code of 1986 (26 U.S.C. §

1 501);

2 (ii) would qualify as a homeowners association as defined by
3 section 528(c) of the Internal Revenue Code of 1986 (26 U.S.C. §
4 528(c));

5 (iii) is a membership organization subject to the Federal
6 limitations on deductions from taxable income under section 277
7 of the Internal Revenue Code of 1986 (26 U.S.C. § 277) but only
8 if no pecuniary gain or profit inures to any member or related
9 entity from the membership organization; or

10 (iv) is a nonstock commodity or nonstock stock exchange.

11 * * *

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

13 2. In case the entire business of any corporation, other
14 than a corporation engaged in doing business as a regulated
15 investment company as defined by the Internal Revenue Code of
16 1986, is not transacted within this Commonwealth, the tax
17 imposed by this article shall be based upon such portion of the
18 taxable income of such corporation for the fiscal or calendar
19 year, as defined in subclause 1 hereof, and may be determined as
20 follows:

21 * * *

22 [(b) Railroad, Truck, Bus or Airline Companies.

23 (1) All business income of railroad, truck, bus or airline
24 companies shall be apportioned to this Commonwealth by
25 multiplying the income by a fraction, the numerator of which is
26 the taxpayer's total revenue miles within this Commonwealth
27 during the tax period and the denominator of which is the total
28 revenue miles of the taxpayer everywhere during the tax period.
29 For purposes of this paragraph revenue mile shall mean the
30 average receipts derived from the transportation by the taxpayer

1 of persons or property one mile. Where revenue miles are derived
2 from the transportation of both persons and property, the
3 revenue mile fractions attributable to each such class of
4 transportation shall be computed separately, and the average of
5 the two fractions, weighted in accordance with the ratio of
6 total receipts from each such class of transportation everywhere
7 to total receipts from both such classes of transportation
8 everywhere, shall be used in apportioning income to this
9 Commonwealth.

10 (2) Nonbusiness income of railroad, truck, bus or airline
11 companies shall be allocated as provided in paragraphs (5)
12 through (8) of phrase (a) of subclause 2 of the definition of
13 taxable income.

14 (c) Pipeline or Natural Gas Companies.

15 (1) All business income of pipeline companies shall be
16 apportioned to this Commonwealth by multiplying the income by a
17 fraction, the numerator of which is the revenue ton miles,
18 revenue barrel miles or revenue cubic feet miles within this
19 Commonwealth during the tax period and the denominator of which
20 is the total revenue ton miles, revenue barrel miles or the
21 revenue cubic feet miles of the taxpayer everywhere during the
22 tax period. For purposes of this paragraph a revenue ton mile,
23 revenue barrel mile or a revenue cubic foot mile shall mean
24 respectively the receipts derived from the transportation by the
25 taxpayer of one ton of solid property, one barrel of liquid
26 property or one cubic foot of gaseous property transported one
27 mile.

28 (2) All business income of natural gas companies subject to
29 regulation by the Federal Power Commission or by the
30 Pennsylvania Public Utility Commission shall be apportioned to

1 this Commonwealth by multiplying the income by a fraction, the
2 numerator of which shall be the cubic foot capacity of the
3 taxpayer's pipelines in this Commonwealth, and the denominator
4 of which shall be the cubic foot capacity of the taxpayer's
5 pipelines everywhere, at the end of the tax period. For the
6 purpose of this paragraph, the cubic foot capacity of a pipeline
7 shall be determined by multiplying the square of its radius (in
8 feet) by its length (in feet).

9 (3) Nonbusiness income of pipeline companies or natural gas
10 companies subject to regulation by the Federal Power Commission
11 or by the Pennsylvania Public Utility Commission shall be
12 allocated as provided in paragraphs (5) through (8) of phrase
13 (a) of subclause 2 of the definition of taxable income.

14 (d) Water Transportation Companies.

15 (1) Water Transportation Companies Operating on High Seas.
16 All business income of water transportation companies operating
17 on high seas shall be apportioned to this Commonwealth by
18 multiplying the business income by a fraction, the numerator of
19 which is the number of port days spent inside the Commonwealth
20 and the denominator of which is the total number of port days
21 spent inside and outside of the Commonwealth. The term "port
22 days" does not include periods when the ships are not in use
23 because of strikes or withheld from service for repair or
24 because of seasonal reduction of services. Days in port are
25 computed by dividing the aggregate number of hours in all ports
26 by twenty-four.

27 (2) Water Transportation Companies Operating in Inland
28 Waters. All business income of water transportation companies
29 operating on inland waters shall be apportioned to this
30 Commonwealth by multiplying the business income by a fraction,

1 the numerator of which is the taxpayer's total revenue miles
2 within this Commonwealth during the tax period and the
3 denominator of which is the total revenue miles of the taxpayer
4 everywhere during the tax period. In the determination of
5 revenue miles, one-half of the mileage of all navigable
6 waterways bordering between the Commonwealth and another state
7 shall be considered Commonwealth miles. For purposes of this
8 paragraph, revenue miles shall mean the revenue receipts derived
9 from the transportation by the taxpayer of persons or property
10 one mile.

11 (3) Nonbusiness income of water transportation companies
12 shall be allocated as provided in paragraphs (5) through (8) of
13 phrase (a) of subclause 2 of the definition of taxable income.]

14 * * *

15 (8) "Manufacture." The term shall have the same meaning as
16 given to it in section 201(c).

17 Section 2. The act is amended by adding an article to read:

18 ARTICLE IV-A

19 COMMERCIAL ACTIVITY TAX

20 Section 401-A. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Agent." A person authorized by another person to act on its
25 behalf to undertake a transaction for the other, including any
26 of the following:

27 (1) A person receiving a fee to sell financial instruments.

28 (2) A person retaining only a commission from a transaction
29 with the other proceeds from the transaction being remitted to
30 another person.

1 (3) A person issuing licenses and permits under 34 Pa.C.S.
2 § 2901 (relating to authority to issue permits).

3 (4) A lottery sales agent holding a valid license issued
4 under section 305 of the act of August 26, 1971 (P.L.351,
5 No.91), known as the State Lottery Law.

6 "Bank Holding Company Act." The Bank Holding Company Act of
7 1956 (70 Stat. 133, 12 U.S.C. § 1841 et seq.).

8 "Bright-line presence." A condition which a person has in
9 this Commonwealth for a reporting period and for the remaining
10 portion of the calendar year if any of the following applies:

11 (1) The person owns at any time during the calendar year
12 property in this Commonwealth with an aggregate value of not
13 less than \$50,000. For the purpose of this paragraph, owned
14 property is valued at original cost and rented property is
15 valued at eight times the net annual rental charge.

16 (2) The person has during the calendar year payroll in
17 this Commonwealth of not less than \$50,000.

18 (3) The person has during the calendar year taxable
19 gross receipts of not less than \$500,000.

20 (4) The person has at any time during the calendar year
21 within this Commonwealth not less than 25% of the person's
22 total property, total payroll or total gross receipts.

23 (5) The person is domiciled in this Commonwealth as an
24 individual or for corporate, commercial or other business
25 purposes.

26 "Calendar quarter."

27 (1) Except as provided under paragraph (2), a three-
28 month period ending on the 31st day of March, the 30th day of
29 June, the 30th day of September or the 31st day of December.

30 (2) For fiscal year filers, the last day of the third

month of the taxpayer's fiscal year.

"Calendar quarter taxpayer." A taxpayer for which the tax period is a calendar quarter.

"Calendar year taxpayer." A taxpayer for which the tax period is a calendar year.

"Combined company." Any person engaged in the activity of an electric company or rural electric company that is also engaged in the activity of a heating company or a natural gas company, or any combination thereof.

"Combined taxpayer." A group of two or more persons treated as a single taxpayer.

"Consolidated elected taxpayer." A group of two or more persons treated as a single taxpayer for purposes of this article as the result of an election made under section 401.1-A.

"Dealer in intangibles."

(1) The term includes every person who keeps an office or other place of business in this Commonwealth and engages at the office or other place in a business whether on the person's own account with a view to profit, or as agent or broker for others, with a view to profit or personal earnings that consists primarily of:

(i) Lending money.

(ii) Discounting, buying or selling bills of exchange, drafts, acceptances, notes, mortgages or other evidences of indebtedness.

(iii) Buying or selling bonds, stocks or other investment securities.

(2) The term does not include institutions used exclusively for charitable purposes, insurance companies and financial institutions. The investment of funds as personal

1 accumulations or as business reserves or as working capital
2 does not constitute engaging in a business within the meaning
3 of this paragraph, except that a person who, having engaged
4 in a business that consists primarily of lending money or
5 discounting, buying or selling bills of exchange, drafts,
6 acceptances, notes, mortgages or other evidences of
7 indebtedness on the person's own account, remains in business
8 primarily for the purpose of realizing upon the assets of the
9 business is deemed a dealer in intangibles, though not
10 presently engaged in a business that consists primarily of
11 lending money or discounting or buying the securities.

12 "Department." The Department of Revenue of the Commonwealth.

13 "Doing business." Engaging in any activity, whether legal or
14 illegal, that is conducted for or results in gain, profit or
15 income, at any time during the calendar year.

16 "Excluded person." Any of the following:

17 (1) Any person with not more than \$150,000 of taxable
18 gross receipts during the calendar year. The term does not
19 include a person that is a member of a consolidated elected
20 taxpayer.

21 (2) A public utility that paid the excise tax imposed
22 under section 1101 based on one or more measurement periods
23 that include the entire tax period under this article. A
24 public utility that is a combined company is a taxpayer with
25 regard to the following gross receipts:

26 (i) Taxable gross receipts directly attributed to a
27 public utility activity, but not directly attributed to
28 an activity that is subject to the excise tax imposed by
29 section 1101.

30 (ii) Taxable gross receipts that cannot be directly

1 attributed to any activity, multiplied by a fraction
2 whose numerator is the taxable gross receipts described
3 under subparagraph (i) and whose denominator is the total
4 taxable gross receipts that can be directly attributed to
5 any activity.

6 (iii) Except for any differences resulting from the
7 use of an accrual basis method of accounting for purposes
8 of determining gross receipts under this article and the
9 use of the cash basis method of accounting for purposes
10 of determining gross receipts under section 1101, the
11 gross receipts directly attributed to the activity of a
12 natural gas company shall be determined in a manner
13 consistent with section 1101.

14 (iv) As used in paragraph (2), the term "public
15 utility" shall have the same meanings as in section 1101-
16 A.

17 (3) A financial institution, as defined in section 2 of
18 the act of December 1, 1959 (P.L.1647, No.606), known as the
19 Business Development Credit Corporation Law, that paid the
20 corporation franchise tax imposed under section 602 based on
21 one or more taxable years that include the entire tax period
22 under this article.

23 (4) A dealer in intangibles based on one or more
24 measurement periods that include the entire tax period under
25 this article.

26 (5) A financial holding company as defined in the Bank
27 Holding Company Act.

28 (6) A bank holding company as defined in the Bank
29 Holding Company Act.

30 (7) A savings and loan holding company as defined in the

1 Home Owners' Loan Act that is engaging only in activities or
2 investments permissible for a financial holding company under
3 section 4 of the Bank Holding Company Act (12 U.S.C. §
4 1843(k)).

5 (8) A person directly or indirectly owned by one or more
6 financial institutions, financial holding companies, bank
7 holding companies or savings and loan holding companies
8 described under paragraph (3), (5), (6) or (7) that is
9 engaged in activities permissible for a financial holding
10 company under section 4(k) of the Bank Holding Company Act
11 (12 U.S.C. § 1843(k)). A person held under merchant banking
12 authority under section 4(k)(4)(H) or (I) of the Bank Holding
13 Company Act (12 U.S.C. § 1843(k)(4)(H) or (I)) is not an
14 excluded person, or a person directly or indirectly owned by
15 one or more insurance companies described under paragraph (9)
16 that is authorized to do the business of insurance in this
17 Commonwealth. For the purposes of this paragraph, a person
18 owns another person under the following circumstances:

19 (i) In the case of corporations issuing capital
20 stock, one corporation owns another corporation if it
21 owns 50% or more of the other corporation's capital stock
22 with current voting rights.

23 (ii) In the case of a limited liability company, one
24 person owns the company if that person's membership
25 interest, as defined in 15 Pa.C.S. § 8903 (relating to
26 definitions and index of definitions), is 50% or more of
27 the combined membership interests of all persons owning
28 the interests in the company.

29 (iii) In the case of a partnership, trust or other
30 unincorporated business organization other than a limited

1 liability company, one person owns the organization if,
2 under the articles of organization or other instrument
3 governing the affairs of the organization, that person
4 has a beneficial interest in the organization's profits,
5 surpluses, losses or distributions of 50% or more of the
6 combined beneficial interests of all persons having that
7 interest in the organization.

8 (iv) In the case of multiple ownership, the
9 ownership interests of more than one person may be
10 aggregated to meet the 50% ownership tests only when each
11 owner is described under paragraph (3), (5), (6) or (7)
12 and is engaged in activities permissible for a financial
13 holding company under section 4(k) of the Bank Holding
14 Company Act (12 U.S.C. § 1843(k)) or is a person directly
15 or indirectly owned by one or more insurance companies
16 described under paragraph (9) that is authorized to do
17 the business of insurance in this Commonwealth.

18 (9) A domestic insurance company or foreign insurance
19 company that paid the insurance company premiums tax imposed
20 under section 2 of the act of May 12, 1943 (P.L.259, No.120),
21 referred to as the Foreign Casualty Insurance Premium Tax
22 Allocation Law, based on one or more measurement periods that
23 include the entire tax period under this article.

24 (10) A person that solely facilitates or services one or
25 more securitizations or similar transactions for any person
26 described under paragraph (3), (5), (6), (7), (8) or (9). For
27 purposes of this definition, "securitization" means
28 transferring one or more assets to one or more persons and
29 then issuing securities backed by the right to receive
30 payment from the asset or assets so transferred.

1 (11) A corporation as defined under section 401.

2 (12) Nonprofit organizations or the Commonwealth and its
3 agencies, instrumentalities or political subdivisions.

4 "Gross receipts." Except as provided under this definition,
5 the total amount realized by a person, without deduction for the
6 cost of goods sold or other expenses incurred, that contributes
7 to the production of gross income of the person, including the
8 fair market value of any property and any services received, and
9 any debt transferred or forgiven as consideration.

10 (1) The following are examples of gross receipts:

11 (i) Amounts realized from the sale, exchange or
12 other disposition of the taxpayer's property to or with
13 another person.

14 (ii) Amounts realized from the taxpayer's
15 performance of services for another person.

16 (iii) Amounts realized from another's use or
17 possession of the taxpayer's property or capital.

18 (iv) Any combination of subparagraphs (i), (ii) and
19 (iii).

20 (2) The following amounts are excluded from gross
21 receipts:

22 (i) Interest income except interest on credit sales.

23 (ii) Dividends and distributions from corporations,
24 and distributive or proportionate shares of receipts and
25 income from a pass-through entity as defined under
26 section 1702-B.

27 (iii) Receipts from the sale, exchange or other
28 disposition of an asset described under section 1221 or
29 1231 of the Internal Revenue Code, without regard to the
30 length of time the person held the asset. Notwithstanding

1 section 1221 of the Internal Revenue Code, receipts from
2 hedging transactions also are excluded to the extent the
3 transactions are entered into primarily to protect a
4 financial position, such as managing the risk of exposure
5 to:

6 (A) foreign currency fluctuations that affect
7 assets, liabilities, profits, losses, equity, or
8 investments in foreign operations;

9 (B) interest rate fluctuations; or

10 (C) commodity price fluctuations.

11 As used in this paragraph, "hedging transaction" has the same
12 meaning as used in section 1221 of the Internal Revenue Code.
13 The actual transfer of title of real or tangible personal
14 property to another entity is not a hedging transaction.

15 (iv) Proceeds received attributable to the
16 repayment, maturity or redemption of the principal of a
17 loan, bond, mutual fund, certificate of deposit or
18 marketable instrument.

19 (v) The principal amount received under a repurchase
20 agreement or on account of any transaction properly
21 characterized as a loan to the person.

22 (vi) Contributions received by a trust, plan or
23 other arrangement, any of which is described in section
24 501(a) of the Internal Revenue Code, or to which Title
25 26, Subtitle A, Chapter 1, Subchapter (D) of the Internal
26 Revenue Code applies.

27 (vii) Compensation, whether current or deferred, and
28 whether in cash or in kind, received or to be received by
29 an employee, a former employee or the employee's legal
30 successor for services rendered to or for an employer,

1 including reimbursements received by or for an individual
2 for medical or education expenses, health insurance
3 premiums or employee expenses or on account of a
4 dependent care spending account, legal services plan, any
5 cafeteria plan described in section 125 of the Internal
6 Revenue Code or any similar employee reimbursement.

7 (viii) Proceeds received from the issuance of the
8 taxpayer's own stock, options, warrants, puts or calls,
9 or from the sale of the taxpayer's treasury stock.

10 (ix) Proceeds received on the account of payments
11 from insurance policies, except those proceeds received
12 for the loss of business revenue.

13 (x) Any of the following:

14 (A) Gifts or charitable contributions received;
15 membership dues received by trade, professional,
16 homeowners' or condominium associations.

17 (B) Payments received for educational courses,
18 meetings, meals or similar payments to a trade,
19 professional or other similar association.

20 (C) Fundraising receipts received by any person
21 when any excess receipts are donated or used
22 exclusively for charitable purposes.

23 (xi) Damages received as the result of litigation in
24 excess of amounts that, if received without litigation,
25 would be gross receipts.

26 (xii) Property, money and other amounts received or
27 acquired by an agent on behalf of another in excess of
28 the agent's commission, fee or other remuneration.

29 (xiii) Tax refunds, other tax benefit recoveries and
30 reimbursements for the tax imposed under this article

1 made by entities that are part of the same combined
2 taxpayer or consolidated elected taxpayer group, and
3 reimbursements made by entities that are not members of a
4 combined taxpayer or consolidated elected taxpayer group
5 that are required to be made for economic parity among
6 multiple owners of an entity whose tax obligation under
7 this article is required to be reported and paid entirely
8 by one owner, pursuant to the requirements of sections
9 401.1-A and 401.2-A.

10 (xiv) Pension reversions.

11 (xv) Contributions to capital.

12 (xvi) Sales or use taxes collected as a vendor or an
13 out-of-State seller on behalf of the taxing jurisdiction
14 from a consumer or other taxes the taxpayer is required
15 by law to collect directly from a purchaser and remit to
16 a Federal, State or local tax authority.

17 (xvii) In the case of receipts from the sale of
18 cigarettes or tobacco products by a wholesale dealer,
19 retail dealer, distributor or seller, as defined in
20 section 202-A of the act of April 9, 1929 (P.L.343,
21 No.176), known as The Fiscal Code, an amount equal to the
22 Federal and State excise taxes paid by any person on or
23 for the cigarettes or tobacco products under subtitle E
24 of the Internal Revenue Code.

25 (xviii) In the case of receipts from the sale of
26 motor fuel by a licensed motor fuel dealer, licensed
27 retail dealer or licensed permissive motor fuel dealer,
28 an amount equal to Federal and State excise taxes paid by
29 any person on the motor fuel under section 4081 of the
30 Internal Revenue Code. The terms "licensed motor fuel

1 dealer," "licensed retail dealer" and "licensed
2 permissive motor fuel dealer" shall have the same meaning
3 as the term "dealer" in 75 Pa.C.S. § 9002 (relating to
4 definitions).

5 (xix) In the case of receipts from the sale of beer
6 or intoxicating liquor by a person holding a license
7 issued under the Liquor Code, an amount equal to Federal
8 and State excise taxes paid by any person on or for such
9 beer or intoxicating liquor under subtitle E of the
10 Internal Revenue Code or the Liquor Code. The term "beer"
11 shall have the same meaning as the term "malt or brewed
12 beverage" in section 102 of the Liquor Code. The term
13 "intoxicating liquor" shall have the same meaning as the
14 term "liquor" in section 102 of the Liquor Code.

15 (xx) Receipts realized by a motor vehicle dealer, as
16 defined in 75 Pa.C.S. § 102 (relating to definitions),
17 from the sale or other transfer of a motor vehicle, as
18 defined in 75 Pa.C.S. § 102, to another motor vehicle
19 dealer for the purpose of resale by the transferee motor
20 vehicle dealer, but only if the sale or other transfer
21 was based upon the transferee's need to meet a specific
22 customer's preference for a motor vehicle.

23 (xxi) Receipts from a financial institution for
24 services provided to the financial institution in
25 connection with the issuance, processing, servicing and
26 management of loans or credit accounts, if the financial
27 institution and the recipient of the receipts have at
28 least 50% of their ownership interests owned or
29 controlled, directly or constructively through related
30 interests, by common owners.

1 (xxii) Receipts realized from administering anti-
2 neoplastic drugs and other cancer chemotherapy,
3 biologicals, therapeutic agents and supportive drugs in a
4 physician's office to patients with cancer.

5 (xxiii) Funds received or used by a mortgage broker
6 that is not a dealer in intangibles, other than fees or
7 other consideration, pursuant to a table-funding mortgage
8 loan or warehouse-lending mortgage loan. The terms used
9 in this subparagraph have the same meanings as in section
10 101 of the act of January 30, 1974 (P.L.13, No.6),
11 referred to as the Loan Interest and Protection Law,
12 except "mortgage broker" means a person assisting a buyer
13 in obtaining a mortgage loan for a fee or other
14 consideration paid by the buyer or a lender or a person
15 engaged in table-funding or warehouse-lending mortgage
16 loans that are first lien mortgage loans.

17 (xxiv) Property, money and other amounts received by
18 a professional employer arrangement or employee leasing
19 arrangement as described in section 4 of the act of
20 December 5, 1936 (2nd Sp.Sess., 1937 P.L.2897, No.1),
21 known as the Unemployment Compensation Law, from an
22 employer in excess of the administrative fee charged by
23 the professional employer arrangement.

24 (xxv) In the case of amounts retained as commissions
25 under section 222 of the act of December 17, 1981
26 (P.L.435, No.135), known as the Race Horse Industry
27 Reform Act, an amount equal to the amounts specified
28 under section 222 of the Race Horse Industry Reform Act
29 that must be paid to or collected by the department as a
30 tax and the amounts specified under section 222 of the

1 Race Horse Industry Reform Act to be used as purse money.

2 (xxvi) Qualifying distribution center receipts. The
3 following shall apply:

4 (A) For the purposes of this subparagraph:

5 (I) "Qualifying distribution center
6 receipts." The receipts of a supplier from
7 qualified property that is delivered to a
8 qualified distribution center, multiplied by a
9 quantity that equals one minus the Pennsylvania
10 delivery percentage.

11 (II) "Qualified property." The tangible
12 personal property delivered to a qualified
13 distribution center that is shipped to that
14 qualified distribution center solely for further
15 shipping by the qualified distribution center to
16 another location in this Commonwealth or
17 elsewhere. The term "further shipping" includes
18 storing and repackaging the property into smaller
19 or larger bundles, so long as the property is not
20 subject to further manufacturing or processing.

21 (III) "Qualified distribution center." The
22 warehouse or other similar facility in this
23 Commonwealth that, for the qualifying year, is
24 operated by a person that is not part of a
25 combined taxpayer group and that has a qualifying
26 certificate, except that all warehouses or other
27 similar facilities that are operated by persons
28 in the same taxpayer group and that are located
29 within one mile of each other shall be treated as
30 one qualified distribution center.

1 (IV) "Qualifying year." The calendar year
2 to which the qualifying certificate applies.

3 (V) "Qualifying period." The period of the
4 first day of July of the second year preceding
5 the qualifying year through the 30th day of June
6 of the year preceding the qualifying year.

7 (VI) "Qualifying certificate." The
8 certificate issued by the department after the
9 operator of a distribution center files an annual
10 application with the department. The application
11 and annual fee shall be filed and paid for each
12 qualified distribution center on or before the
13 first day of September before the qualifying year
14 or within 45 days after the distribution center
15 opens, whichever is later. The applicant must
16 substantiate to the department's satisfaction
17 that, for the qualifying period, all persons
18 operating the distribution center have more than
19 50% of the cost of the qualified property shipped
20 to a location such that it would be situated
21 outside this Commonwealth under section 403.3-
22 A(5). The applicant must also substantiate that
23 the distribution center cumulatively had costs
24 from its suppliers equal to or exceeding
25 \$500,000,000 during the qualifying period. For
26 purposes of this subclause, "supplier" excludes
27 any person that is part of the consolidated
28 elected taxpayer group, if applicable, of the
29 operator of the qualified distribution center.
30 The department may require the applicant to have

1 an independent certified public accountant
2 certify that the calculation of the minimum
3 thresholds required for a qualified distribution
4 center by the operator of a distribution center
5 has been made in accordance with generally
6 accepted accounting principles. The department
7 shall issue or deny the issuance of a certificate
8 within 60 days after the receipt of the
9 application. A denial is subject to appeal under
10 section 2702. If the operator files a timely
11 appeal under section 2702, the operator shall be
12 granted a qualifying certificate, provided that
13 the operator is liable for any tax, interest or
14 penalty upon amounts claimed as qualifying
15 distribution center receipts, other than those
16 receipts exempt under section 401.1-A(c)(1), that
17 would have otherwise not been owed by its
18 suppliers if the qualifying certificate was
19 valid.

20 (VII) "Pennsylvania delivery percentage."
21 The proportion of the total property delivered to
22 a destination inside this Commonwealth from the
23 qualified distribution center during the
24 qualifying period compared with total deliveries
25 from the distribution center everywhere during
26 the qualifying period.

27 (B) If the distribution center is new and was
28 not open for the entire qualifying period, the
29 operator of the distribution center may request that
30 the department grant a qualifying certificate. If the

1 certificate is granted and it is later determined
2 that more than 50% of the qualified property during
3 that year was not shipped to a location such that it
4 would be sitused outside of this Commonwealth under
5 section 403.3-A(5) or if it is later determined that
6 the person that operates the distribution center had
7 average monthly costs from its suppliers of less than
8 \$40,000,000 during that year, then the operator of
9 the distribution center shall be liable for any tax,
10 interest or penalty upon amounts claimed as
11 qualifying distribution center receipts, other than
12 those receipts exempt under section 401.1-A(c)(1),
13 that would have not otherwise been owed by its
14 suppliers during the qualifying year if the
15 qualifying certificate was valid. For purposes of
16 this clause, "supplier" excludes any person that is
17 part of the consolidated elected taxpayer group, if
18 applicable, of the operator of the qualified
19 distribution center.

20 (C) The following shall apply:

21 (I) When filing an application for a
22 qualifying certificate under clause (A)(VI), the
23 operator of a qualified distribution center also
24 shall provide documentation, as the department
25 requires, for the department to ascertain the
26 Pennsylvania delivery percentage. The department,
27 upon issuing the qualifying certificate, also
28 shall certify the Pennsylvania delivery
29 percentage. The operator of the qualified
30 distribution center may appeal the department's

1 certification of the Pennsylvania delivery
2 percentage in the same manner as an appeal is
3 taken from the denial of a qualifying certificate
4 under clause (A).

5 (II) Within 30 days after all appeals have
6 been exhausted, the operator of the qualified
7 distribution center shall notify the affected
8 suppliers of qualified property that the
9 suppliers are required to file, within 60 days
10 after receiving notice from the operator of the
11 qualified distribution center, amended reports
12 for the impacted calendar quarter, quarters or
13 year, whichever the case may be. Any additional
14 tax liability or tax overpayment shall be subject
15 to interest but shall not be subject to the
16 imposition of any penalty so long as the amended
17 returns are timely filed. The supplier of
18 tangible personal property delivered to the
19 qualified distribution center shall include in
20 its report of taxable gross receipts the receipts
21 from the total sales of property delivered to the
22 qualified distribution center for the calendar
23 quarter, quarters or year, whichever the case may
24 be, multiplied by the Pennsylvania delivery
25 percentage for the qualifying year. Nothing in
26 this clause shall be construed as imposing
27 liability on the operator of a qualified
28 distribution center for the tax imposed by this
29 article arising from any change to the
30 Pennsylvania delivery percentage.

1 (D) In the case where the distribution center is
2 new and not open for the entire qualifying period,
3 the operator shall make a good faith estimate of a
4 Pennsylvania delivery percentage for use by suppliers
5 in their reports of taxable gross receipts for the
6 remainder of the qualifying period. The operator of
7 the facility shall disclose to the suppliers that the
8 Pennsylvania delivery percentage is an estimate and
9 is subject to recalculation. By the due date of the
10 next application for a qualifying certificate, the
11 operator shall determine the actual Pennsylvania
12 delivery percentage for the estimated qualifying
13 period and proceed as provided under clause (C) with
14 respect to the calculation and recalculation of the
15 Pennsylvania delivery percentage. The supplier is
16 required to file, within 60 days after receiving
17 notice from the operator of the qualified
18 distribution center, amended reports for the impacted
19 calendar quarter, quarters or year, whichever the
20 case may be. Any additional tax liability or tax
21 overpayment shall be subject to interest but shall
22 not be subject to the imposition of any penalty so
23 long as the amended returns are timely filed.

24 (E) Qualifying certificates and Pennsylvania
25 delivery percentages issued by the department shall
26 be open to public inspection and shall be timely
27 published by the department. A supplier relying in
28 good faith on a certificate issued under this
29 subsection shall not be subject to tax on the
30 qualifying distribution center receipts under this

1 subparagraph. A person receiving a qualifying
2 certificate is responsible for paying the tax,
3 interest and penalty upon amounts claimed as
4 qualifying distribution center receipts that would
5 not otherwise have been owed by the supplier if the
6 qualifying certificate were available when it is
7 later determined that the qualifying certificate
8 should not have been issued because the statutory
9 requirements were in fact not met.

10 (F) The annual fee for a qualifying certificate
11 shall be \$100,000 for each qualified distribution
12 center. If a qualifying certificate is not issued,
13 the annual fee is subject to refund after the
14 exhaustion of all appeals provided for under clause
15 (A) (VI). The fee imposed under this clause may be
16 assessed in the same manner as the tax imposed under
17 this article. The first \$100,000 of the annual
18 application fees collected each calendar year shall
19 be credited to the Commercial Activity Tax
20 Administrative Fund.

21 (G) The department may require that adequate
22 security be posted by the operator of the
23 distribution center on appeal when the department
24 disagrees that the applicant has met the minimum
25 thresholds for a qualified distribution center as set
26 forth under clauses (A) and (B).

27 (xxvii) Receipts of an employer from payroll
28 deductions relating to the reimbursement of the employer
29 for advancing money to an unrelated third party on an
30 employee's behalf.

1 (xxviii) Cash discounts allowed and taken.

2 (xxix) Returns and allowances.

3 (xxx) Bad debts from receipts on the basis of which

4 the tax imposed by this article was paid in a prior

5 quarterly tax payment period. For the purpose of this

6 subparagraph, "bad debts" means any debts that have

7 become worthless or uncollectible between the preceding

8 and current quarterly tax payment periods, have been

9 uncollected for at least six months, and that may be

10 claimed as a deduction under section 166 of the Internal

11 Revenue Code and the regulations adopted under that

12 section or that could be claimed as if the taxpayer kept

13 its accounts on the accrual basis. The term "bad debts"

14 does not include repossessed property, uncollectible

15 amounts on property that remains in the possession of the

16 taxpayer until the full purchase price is paid, or

17 expenses in attempting to collect any account receivable

18 or for any portion of the debt recovered.

19 (xxxi) Any amount realized from the sale of an

20 account receivable to the extent the receipts from the

21 underlying transaction giving rise to the account

22 receivable were included in the gross receipts of the

23 taxpayer.

24 (xxxii) Any receipts for which the tax imposed by

25 this article is prohibited by the Constitution of the

26 United States, Federal law or the Constitution of

27 Pennsylvania.

28 (3) In the case of a taxpayer when acting as a real

29 estate broker, the term includes only the portion of any fee

30 for the service of a real estate broker, or service of a real

1 estate salesperson associated with that broker, that is
2 retained by the broker and not paid to an associated real
3 estate salesperson or another real estate broker. For the
4 purposes of this paragraph, the term "real estate broker"
5 shall mean someone licensed under the terms of the
6 Commonwealth to act as a real estate broker.

7 (4) A taxpayer's method of accounting for gross receipts
8 for a tax period shall be the same as the taxpayer's method
9 of accounting for Federal income tax purposes for the
10 taxpayer's Federal taxable year that includes the tax period.
11 If a taxpayer's method of accounting for Federal income tax
12 purposes changes, its method of accounting for gross receipts
13 under this article shall be changed accordingly.

14 "Home Owners' Loan Act." The Home Owners' Loan Act (48 Stat.
15 128, 12 U.S.C. § 1467a).

16 "Internal Revenue Code." The Internal Revenue Code of 1986
17 (100 Stat. 2085, 26 U.S.C. § 1 et seq.), as amended. Any term
18 used in this article that is not otherwise defined has the same
19 meaning as when used in a comparable context in the laws of the
20 United States relating to Federal income taxes unless a
21 different meaning is clearly required. Any reference in this
22 article to the Internal Revenue Code includes other laws of the
23 United States relating to Federal income taxes.

24 "Payroll." Any of the following:

25 (1) Any amount subject to withholding by the person
26 under section 316.

27 (2) Any other amount the person pays as compensation to
28 an individual under the supervision or control of the person
29 for work done in this Commonwealth.

30 (3) Any amount the person pays for services performed in

1 this Commonwealth on its behalf by another.

2 "Person." Individuals, combinations of individuals of any
3 form, receivers, assignees, trustees in bankruptcy, firms,
4 companies, joint-stock companies, business trusts, estates,
5 partnerships, limited liability partnerships, limited liability
6 companies, associations, joint ventures, clubs, societies, for-
7 profit corporations, Pennsylvania S corporations, qualified
8 subchapter S subsidiaries, qualified subchapter S trusts,
9 trusts, entities that are disregarded for Federal income tax
10 purposes and any other entities.

11 "Qualifying controlled group." Two or more corporations in
12 which any taxpayer of one corporation owns or controls either
13 directly or indirectly more than 50% of the capital stock with
14 voting rights of one or more of the other corporations.

15 "Qualifying dealer." A dealer in intangibles that is a
16 qualifying dealer in intangibles or a member of a qualifying
17 controlled group of which an insurance company also is a member
18 on the first day of January of the year in and for which the tax
19 is required to be paid by the dealer.

20 "Qualifying dealer in intangibles." A dealer in intangibles
21 that is a member of a qualifying controlled group of which a
22 financial institution is also a member on the first day of the
23 financial institution's tax year.

24 "Received." The term includes amounts accrued under the
25 accrual method of accounting.

26 "Reporting person." A person in a consolidated elected
27 taxpayer or combined taxpayer group that is designated by that
28 group to legally bind the group for all filings and tax
29 liabilities and to receive all legal notices with respect to
30 matters under this article or, for the purposes of section 404-

1 A, a separate taxpayer that is not a member of the group.

2 "Substantial nexus with this Commonwealth." Attributed to a
3 person who:

4 (1) Owns or uses a part or all of its capital in this
5 Commonwealth.

6 (2) Holds a certificate of compliance with the laws of
7 this Commonwealth authorizing the person to do business in
8 this Commonwealth.

9 (3) Has bright-line presence in this Commonwealth.

10 (4) Otherwise has nexus with this Commonwealth to an
11 extent that the person can be required to remit the tax
12 imposed under this article under the Constitution of the
13 United States.

14 "Table-funding mortgage loan." A residential mortgage loan
15 transaction in which the residential mortgage loan is initially
16 payable to the mortgage broker, the mortgage broker does not use
17 the mortgage broker's own funds to fund the transaction and, by
18 the terms of the mortgage or other agreement, the mortgage is
19 simultaneously assigned to another person.

20 "Tangible personal property." The term shall have the same
21 meaning as in section 201(m).

22 "Tax period." The calendar quarter or calendar year on the
23 basis of which a taxpayer is required to pay the tax imposed
24 under this article.

25 "Taxable gross receipts." Gross receipts sitused to this
26 Commonwealth under section 403.3.

27 "Taxpayer." Any person, or any group of persons in the case
28 of a consolidated elected taxpayer or combined taxpayer treated
29 as one taxpayer, required to register or pay tax under this
30 article. The term does not include excluded persons.

1 "Warehouse-mortgage loan." A residential mortgage loan
2 transaction in which the residential mortgage loan is initially
3 payable to the mortgage broker, the mortgage broker uses the
4 mortgage broker's own funds to fund the transaction and the
5 mortgage is sold or assigned before the mortgage broker receives
6 a scheduled payment on the residential mortgage loan.
7 Section 401.1-A. Consolidation of related taxpayers, election
8 and requirements.

9 (a) Election.--A group of two or more persons may elect to
10 be a consolidated elected taxpayer for the purposes of this
11 article if the group satisfies all of the following
12 requirements:

13 (1) The group elects to include all persons, including
14 persons enumerated under paragraphs (2), (3), (4), (5), (6),
15 (7), (8), (9) and (10) of the definition of "excluded
16 person," having at least 80%, or having at least 50%, of the
17 value of their ownership interests owned or controlled,
18 directly or constructively through related interests, by
19 common owners during all or any portion of the tax period,
20 together with the common owners. A group making its initial
21 election on the basis of the 80% ownership test may change
22 its election so that its consolidated elected taxpayer group
23 is formed on the basis of the 50% ownership test if all of
24 the following are satisfied:

25 (i) When the initial election was made, the group
26 did not have any persons satisfying the 50% ownership
27 test.

28 (ii) One or more of the persons in the initial group
29 subsequently acquires ownership interests in a person
30 such that the 50% ownership test is satisfied, the 80%

1 ownership test is not satisfied and the acquired person
2 would be required to be included in a combined taxpayer
3 group under section 401.2-A.

4 (iii) The group requests the change in a written
5 request to the department on or before the due date for
6 filing the first return due under section 405.1-A after
7 the date of the acquisition.

8 (iv) The group has not previously changed its
9 election. At the election of the group, all entities that
10 are not incorporated or formed under Federal or State
11 laws and that meet the consolidated elected ownership
12 test shall either be included in the group or all shall
13 be excluded from the group. If, at the time of
14 registration, the group does not include the entities
15 that meet the consolidated elected ownership test, the
16 group shall elect to either include or exclude the newly
17 acquired entities before the due date of the first return
18 due after the date of the acquisition. Each group shall
19 notify the department of the elections before the due
20 date of the return for the period in which the election
21 becomes binding. If 50% of the value of a person's
22 ownership interests is owned or controlled by each of two
23 consolidated elected taxpayer groups formed under the
24 50% ownership or control test, that person is a member of
25 each group for the purposes, and each group shall include
26 in the group's taxable gross receipts 50% of that
27 person's taxable gross receipts. Otherwise, all of that
28 person's taxable gross receipts shall be included in the
29 taxable gross receipts of the consolidated elected
30 taxpayer group of which the person is a member. In no

1 event shall the ownership or control of 50% of the value
2 of a person's ownership interests by two otherwise
3 unrelated groups form the basis for consolidating the
4 groups into a single consolidated elected taxpayer group
5 or permit any exclusion under subsection (c) of taxable
6 gross receipts between members of the two groups.
7 Paragraph (3) applies with respect to the elections
8 described in this subsection.

9 (2) The group makes the election to be treated as a
10 consolidated elected taxpayer in the manner prescribed under
11 paragraph (1).

12 (3) Subject to review and audit by the department, the
13 group agrees that all of the following apply:

14 (i) The group shall file reports as a single
15 taxpayer for at least the next eight calendar quarters
16 following the election so long as at least two or more of
17 the members of the group meet the requirements of
18 paragraph (1).

19 (ii) Before the expiration of the eighth calendar
20 quarter, the group shall notify the department if it
21 elects to cancel its designation as a consolidated
22 elected taxpayer. If the group does not so notify the
23 department, the election remains in effect for another
24 eight calendar quarters.

25 (iii) If, at any time during any of those eight
26 calendar quarters following the election, a former member
27 of the group no longer meets the requirements under
28 paragraph (1), that member shall report and pay the tax
29 imposed under this article separately, as a member of a
30 combined taxpayer or, if the former member satisfies the

1 requirements with respect to another consolidated elected
2 group, as a member of that consolidated elected group.

3 (iv) The group agrees to the application of
4 subsection (b).

5 (b) Report.--A group of persons making the election under
6 this section shall report and pay tax on all of the group's
7 taxable gross receipts even if substantial nexus with this
8 Commonwealth does not exist for one or more persons in the
9 group.

10 (c) Exclusion.--

11 (1) (i) Members of a consolidated elected taxpayer
12 group shall exclude gross receipts among persons included
13 in the consolidated elected taxpayer group.

14 (ii) Subject to paragraph (2), nothing in this
15 section shall have the effect of requiring a consolidated
16 elected taxpayer group to include gross receipts received
17 by a person enumerated under paragraphs (2), (3), (4),
18 (5), (6), (7), (8), (9) and (10) of the definition of
19 "excluded person" if that person is a member of the group
20 pursuant to the elections made by the group under
21 subsection (a)(1).

22 (1.1) In the event of a dealer transfer, a consolidated
23 elected taxpayer group shall not exclude, under this
24 subsection, gross receipts from the transfer. For the
25 purposes of this paragraph, a "dealer transfer" shall mean a
26 transfer of property that satisfies both of the following:

27 (i) The property is directly transferred by any
28 means from one member of the group to another member of
29 the group that is a dealer in intangibles but is not a
30 qualifying dealer.

1 (ii) The property is subsequently delivered by the
2 dealer in intangibles to a person that is not a member of
3 the group.

4 (2) Gross receipts related to the sale or transmission
5 of electricity through the use of an intermediary regional
6 transmission organization approved by the Federal Energy
7 Regulatory Commission shall be excluded from taxable gross
8 receipts under paragraph (1) if all other requirements of
9 paragraph (1) are met, even if the receipts are from and to
10 the same member of the group.

11 (d) Notification.--To make the election to be a consolidated
12 elected taxpayer, a group of persons shall notify the department
13 of the election in the manner prescribed by the department and
14 pay the department a registration fee equal to the lesser of
15 \$200 or \$20 for each person in the group. No additional fee
16 shall be imposed for the addition of new members to the group
17 once the group has remitted a fee in the amount of \$200. The
18 election shall be made and the fee paid before the beginning of
19 the first calendar quarter to which the election applies. The
20 fee shall be collected and used in the same manner as provided
21 under section 404-A. The election shall be made on a form
22 prescribed by the department for that purpose and shall be
23 signed by one or more individuals with authority, separately or
24 together, to make a binding election on behalf of all persons in
25 the group. Any person acquired or formed after the filing of the
26 registration shall be included in the group if the person meets
27 the requirements of subsection (a)(1). The group shall notify
28 the department of any additions to the group with the next tax
29 return it files with the department.

30 Section 401.2-A. Combined taxpayers, registration fee and

1 liability.

2 (a) Members.--All persons, other than persons enumerated
3 under paragraphs (2), (3), (4), (5), (6), (7), (8), (9) and (10)
4 of the definition of "excluded person," having more than 50% of
5 the value of their ownership interest owned or controlled,
6 directly or constructively through related interests, by common
7 owners during all or any portion of the tax period, together
8 with the common owners, shall be members of a combined taxpayer
9 group if those persons are not members of a consolidated elected
10 taxpayer pursuant to an election under section 401.1-A.

11 (b) Register.--A combined taxpayer shall register, file
12 returns and pay taxes under this article as a single taxpayer.

13 (c) Exclusion.--A combined taxpayer shall exclude neither
14 taxable gross receipts between its members nor from others that
15 are not members.

16 (d) Payment.--A combined taxpayer shall pay to the
17 department a registration fee equal to the lesser of \$200 or \$20
18 for each person in the group. No additional fee shall be imposed
19 for the addition of new members to the group once the group has
20 remitted a fee in the amount of \$200. The fee shall be timely
21 paid before the beginning of the first calendar quarter or
22 November 15, 2014, whichever is later. The fee shall be
23 collected and used in the same manner as provided under section
24 404-A. Any person acquired or formed after the filing of the
25 registration shall be included in the group if the person meets
26 the requirements of subsection (a). The group must notify the
27 department of any additions to the group with the next quarterly
28 tax return it files with the department.

29 Section 401.3-A. Taxation of property transferred into
30 Commonwealth.

1 (a) Inclusion.--Except as provided under subsection (b):

2 (1) A person shall include as taxable gross receipts the
3 value of property the person transfers into this Commonwealth
4 for the person's own use within one year after the person
5 receives the property outside this Commonwealth.

6 (2) In the case of a consolidated elected taxpayer group
7 or a combined taxpayer group, the taxpayer shall include as
8 taxable gross receipts the value of property that any of the
9 taxpayer's members transferred into this Commonwealth for the
10 use of any of the taxpayer's members within one year after
11 the taxpayer receives the property outside this Commonwealth.

12 (b) Outside property.--Property brought into this
13 Commonwealth within one year after it is received outside this
14 Commonwealth by a person or group described under subsection (a)
15 (1) or (2) shall not be included as taxable gross receipts as
16 required under subsection (a)(1) or (2) if the department
17 ascertains that the property's receipt outside this Commonwealth
18 by the person or group followed by its transfer into this
19 Commonwealth within one year was not intended in whole or in
20 part to avoid in whole or in part the tax imposed under this
21 article.

22 (c) Regulations.--The department may promulgate regulations
23 necessary to administer this section.

24 Section 401.4-A. Joint and several liability.

25 All members of a consolidated elected taxpayer or combined
26 taxpayer group during the tax period for which additional tax,
27 penalty or interest is owed are jointly and severally liable for
28 the amounts. The reporting person will be assessed for the
29 liability and the amounts due may be pursued against any member
30 of the group.

1 Section 402-A. Commercial activity tax levied on taxable gross
2 receipts.

3 (a) Imposition.--For the purpose of funding the needs of
4 this Commonwealth and its local governments beginning with the
5 tax period that commences July 1, 2014, and continuing for every
6 tax period thereafter, there is levied a commercial activity tax
7 on each person with taxable gross receipts for the privilege of
8 doing business in this Commonwealth. Persons on which the
9 commercial activity tax is levied include, but are not limited
10 to, persons with substantial nexus with this Commonwealth. The
11 tax imposed under this section is not a transactional tax and is
12 not subject to the act of September 14, 1949 (Public Law No. 86-
13 272, 73 Stat. 555). The tax imposed under this section is in
14 addition to any other taxes or fees imposed by statute. The tax
15 levied under this section is imposed on the person receiving the
16 gross receipts and is not a tax imposed directly on a purchaser.
17 The tax imposed by this section is an annual privilege tax for
18 the calendar year that, in the case of calendar year taxpayers,
19 is the annual tax period and, in the case of calendar quarter
20 taxpayers, contains all quarterly tax periods in the calendar
21 year. A taxpayer is subject to the annual privilege tax for
22 doing business during any portion of the calendar year.

23 (b) Tax on taxpayer.--The tax imposed by this section is a
24 tax on the taxpayer and shall not be billed or invoiced to
25 another person. If the tax or any portion thereof is billed or
26 invoiced and separately stated, the amounts shall remain part of
27 the price for purposes of the sales and use taxes levied under
28 Article II. Nothing in this subsection shall prohibit:

29 (1) a person from including in the price charged for a
30 good or service an amount sufficient to recover the tax

1 imposed by this section; or

2 (2) a lessor from including an amount sufficient to
3 recover the tax imposed by this section in a lease payment
4 charged or from including the amount on a billing or invoice
5 pursuant to the terms of a written lease agreement providing
6 for the recovery of the lessor's tax costs. The recovery of
7 the costs shall be based on an estimate of the total tax cost
8 of the lessor during the tax period, as the tax liability of
9 the lessor cannot be calculated until the end of that period.

10 Section 403-A. Commercial activity tax rate and computation.

11 (a) Computation.--Except as provided under subsections (b)
12 and (d) and in sections 403.1-A and 403.2-A, the tax levied
13 under this section for each tax period shall be the product of
14 two and six-tenths mills per dollar times the remainder of the
15 taxpayer's taxable gross receipts for the tax period after
16 subtracting the exclusion amount provided for under subsection
17 (c).

18 (b) Amounts.--Notwithstanding subsection (c), the tax on the
19 first \$1,000,000 in taxable gross receipts each calendar year
20 shall be \$150. For calendar year 2015, the tax imposed under
21 this subsection shall be paid not later than May 10, 2015, by
22 both calendar year taxpayers and calendar quarter taxpayers. For
23 calendar years 2016, 2017 and 2018, the tax imposed under this
24 subsection shall be paid with the fourth-quarter tax return or
25 annual tax return for the prior calendar year by both calendar
26 year taxpayers and calendar quarter taxpayers. For calendar
27 years 2019 and thereafter, the tax imposed under this subsection
28 shall be paid not later than the tenth day of May of each year
29 along with the first quarter or annual tax return, as
30 applicable.

1 (c) Exclusion.--

2 (1) Each calendar quarter taxpayer may exclude the first
3 \$250,000 of taxable gross receipts for a calendar quarter and
4 may carry forward and apply any unused exclusion amount to
5 the three subsequent calendar quarters. Each calendar year
6 taxpayer may exclude the first \$1,000,000 of taxable gross
7 receipts for a calendar year.

8 (2) A taxpayer switching from a calendar year tax period
9 to a calendar quarter tax period may, for the first quarter
10 of the change, apply the prior calendar quarter exclusion
11 amounts to the first calendar quarter return the taxpayer
12 files that calendar year. The tax rate shall be based on the
13 rate imposed that calendar quarter when the taxpayer switches
14 from a calendar year to a calendar quarter tax period.

15 (3) A general contractor or a subcontractor shall
16 exclude any income other than income that is actually
17 realized by the general contractor or a subcontractor. For
18 the purposes of this paragraph, the term "contractor" shall
19 have the meaning given to it in 61 Pa. Code § 31.11 (relating
20 to definitions).

21 (4) A taxpayer that has a small profit margin but
22 conducts a high volume of business shall exclude the cost of
23 labor and goods by itemizing those costs in the manner
24 provided by the department. For the purposes of this
25 paragraph, a taxpayer that has a small profit margin but
26 conducts a high volume of business shall be a taxpayer with a
27 2012 North American Industry Classification System Code of
28 4451, 4452, 44711, 447110 or 4453.

29 (d) Credit.--There is allowed a credit against the tax
30 imposed under this article for each of the following calendar

years if a transfer was made in the preceding calendar year from
the General Fund to the Commercial Activity Tax Refund Fund
under section 403.2-A(d): calendar years 2010, 2012 and 2014.
The credit is allowed for taxpayers that paid in full the tax
imposed under this article for the calendar year in which the
transfer was made. The amount of a taxpayer's credit equals the
amount computed under section 403.2-A(d).

Section 403.1-A. Calculation of tax imposed per calendar
quarter.

This section applies only to calendar quarter taxpayers. The
tax imposed per calendar quarter under section 403-A(a) shall be
computed as follows:

(1) From January 1, 2014, to March 31, 2014, by
multiplying the tax otherwise due under that subsection by
23%.

(2) From April 1, 2014, to March 31, 2015, by
multiplying the tax otherwise due under that subsection by
40%.

(3) From April 1, 2015, to March 31, 2016, by
multiplying the tax otherwise due under that subsection by
60%.

(4) From April 1, 2016, to March 31, 2017, by
multiplying the tax otherwise due under that subsection by
80%.

(5) After March 31, 2017, 100% of the tax due under that
subsection.

Section 403.2-A. Periodic review of tax collected, revenue
limits and application of excess.

(a) Computation.--Not later than the last day of September
immediately following the end of each CAT test period, the

1 department shall compute the amount of CAT collected during that
2 test period. If the amount is greater than 110% of the
3 prescribed CAT collections for that period, the department shall
4 proceed as provided under subsections (b) and (c). For the
5 purposes of this subsection, the prescribed CAT collections for
6 the CAT test periods are as follows:

7 (1) For the first CAT test period, \$8,015,000.

8 (2) For the second CAT test period, \$1,190,000,000 less
9 any amount credited to the Commercial Activity Tax Refund
10 Fund with regard to the first CAT test period.

11 (3) For the third CAT test period, \$1,610,000,000 less
12 any amount credited to the commercial activity tax refund
13 fund with regard to the second CAT test period.

14 (b) Collections exceeded.--If the amount of CAT collected
15 during a CAT test period exceeds 110% of the prescribed CAT
16 collections for that test period, the department shall determine
17 a new tax rate equal to the tax rate that would have yielded the
18 prescribed CAT collections during that test period less one-half
19 of the amount of the excess that was certified to the department
20 for the test period under subsection (c).

21 (c) Tax rate.--

22 (1) The tax rate shall be the rate that would have to be
23 imposed under section 403-A(a) before any applicable phase-in
24 percentages under section 403.1-A or otherwise provided by
25 law to yield the prescribed CAT collection after applying any
26 applicable phase-in percentages.

27 (2) A new tax rate computed under subsection (b) shall
28 be expressed as a number of mills per dollar, rounded to the
29 nearest one-hundredth of one mill. The rate shall be rounded
30 upward by one-hundredth of one mill only if the next decimal

1 digit is five or more.

2 (3) Not later than the last day of September following
3 the end of the CAT test period on the basis of which a new
4 tax rate is computed, the department shall certify the new
5 tax rate to the Governor, the President pro tempore of the
6 Senate, the Speaker of the House of Representatives and all
7 other members of the General Assembly. The department shall
8 publish the new tax rate by journal entry and provide notice
9 of the new tax rate to taxpayers. The new tax rate shall be
10 the rate imposed under section 403-A(a) beginning with the
11 ensuing calendar year and is subject to any applicable phase-
12 in percentages provided for under section 403.1-A.

13 (d) Certification.--If the amount of CAT collected during a
14 CAT test period exceeds 110% of the prescribed CAT collections
15 for that test period, the department shall certify the excess
16 amount to the department not later than the last day of
17 September immediately following the end of that test period. The
18 department shall transfer from the General Fund one-half of the
19 amount of the excess so certified to the Commercial Activity Tax
20 Refund Fund, which is created in the State Treasury, and the
21 remaining one-half of the amount of the excess to the budget
22 stabilization fund. All money credited to the Commercial
23 Activity Tax Refund Fund shall be applied to reimburse the
24 General Fund for the diminution in revenue caused by the credit
25 provided under section 403-A(d). In the calendar year that
26 begins immediately after the year in which a transfer is made to
27 the Commercial Activity Tax Refund Fund, the department shall
28 compute the amount to be credited, under section 403-A(d), to
29 each taxpayer that paid in full the tax imposed under this
30 article for the calendar year in which the transfer was made.

The credit allowed to the taxpayer shall equal the amount transferred to the Commercial Activity Tax Refund Fund multiplied by a fraction, the numerator of which is the amount of tax paid by that taxpayer for that calendar year and the denominator of which is the total of the taxes paid by all the taxpayers for which the credit is allowed. The credit applies only to the calendar year that begins immediately after the year in which a transfer is made to the commercial activity tax refund fund under this subsection.

(e) Intent.--It is the intent of the General Assembly to conduct a review of the prescribed CAT collections and rate adjustments provided for under this section every two years and to establish lower prescribed CAT collections or reduce the rate of tax levied under this article on the basis of the following three factors:

(1) The revenue yield of the tax.

(2) The condition of this Commonwealth's economy.

(3) Savings realized by ongoing reform to Medicaid and other policy initiatives.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"CAT." The commercial activity tax levied under this article.

"CAT collected." With regard to a CAT test period, the net amount of CAT, exclusive of registration fees, received in the period after subtracting any CAT refunded in the period.

"First CAT test period." The twenty-four month period beginning July 1, 2014, and ending June 30, 2016.

"Second CAT test period." The twelve-month period beginning

1 July 1, 2017, and ending June 30, 2018.

2 "Third CAT test period." The twelve-month period beginning
3 July 1, 2018, and ending June 30, 2019.

4 Section 403.3-A. Situsing of gross receipts to this
5 Commonwealth.

6 For the purposes of this article, gross receipts shall be
7 sitused to this Commonwealth as follows:

8 (1) Gross rents and royalties from real property located
9 in this Commonwealth shall be sitused to this Commonwealth.

10 (2) Gross rents and royalties from tangible personal
11 property shall be sitused to this Commonwealth to the extent
12 the tangible personal property is located or used in this
13 Commonwealth.

14 (3) Gross receipts from the sale of electricity and
15 electric transmission and distribution services shall be
16 sitused to this Commonwealth in the manner provided under
17 section 1101.

18 (4) Gross receipts from the sale of real property
19 located in this Commonwealth shall be sitused to this
20 Commonwealth.

21 (5) Gross receipts from the sale of tangible personal
22 property shall be sitused to this Commonwealth if the
23 property is received in this Commonwealth by the purchaser.
24 In the case of delivery of tangible personal property by
25 common carrier or by other means of transportation, the place
26 at which the property is ultimately received after all
27 transportation has been completed shall be considered the
28 place where the purchaser receives the property. For purposes
29 of this paragraph, the phrase "delivery of tangible personal
30 property by common carrier or by other means of

1 transportation" includes the situation in which a purchaser
2 accepts the property in this Commonwealth and then transports
3 the property directly or by other means to a location outside
4 this Commonwealth. Direct delivery in this Commonwealth,
5 other than for purposes of transportation, to a person or
6 firm designated by a purchaser constitutes delivery to the
7 purchaser in this Commonwealth, and direct delivery outside
8 this Commonwealth to a person or firm designated by a
9 purchaser does not constitute delivery to the purchaser in
10 this Commonwealth, regardless of where title passes or other
11 conditions of sale.

12 (6) Gross receipts from the sale, exchange, disposition
13 or other grant of the right to use trademarks, trade names,
14 patents, copyrights and similar intellectual property shall
15 be situated to this Commonwealth to the extent that the
16 receipts are based on the amount of use of the property in
17 this Commonwealth. If the receipts are not based on the
18 amount of use of the property, but rather on the right to use
19 the property, and the payor has the right to use the property
20 in this Commonwealth, then the receipts from the sale,
21 exchange, disposition or other grant of the right to use the
22 property shall be situated to this Commonwealth to the extent
23 the receipts are based on the right to use the property in
24 this Commonwealth.

25 (7) Gross receipts from the sale of transportation
26 services by a common or contract carrier shall be situated to
27 this Commonwealth in proportion to the mileage traveled by
28 the carrier during the tax period on roadways, waterways,
29 airways and railways in this Commonwealth to the mileage
30 traveled by the carrier during the tax period on roadways,

1 waterways, airways and railways everywhere. With prior
2 written approval of the department, a common or contract
3 carrier may use an alternative situsing procedure for
4 transportation services.

5 (8) Gross receipts from dividends, interest and other
6 sources of income from financial instruments described under
7 section 1101 shall be sitused to this Commonwealth. Nothing
8 in this paragraph shall limit or modify the exclusions
9 enumerated under the definition of "excluded person" and
10 paragraph (2) of the definition of "gross receipts." The
11 department may promulgate regulations to further specify the
12 manner in which to situs gross receipts subject to this
13 paragraph.

14 (9) Gross receipts from the sale of all other services,
15 and all other gross receipts not otherwise sitused under this
16 section, shall be sitused to this Commonwealth in the
17 proportion that the purchaser's benefit in this Commonwealth
18 with respect to what was purchased bears to the purchaser's
19 benefit everywhere with respect to what was purchased. The
20 physical location where the purchaser ultimately uses or
21 receives the benefit of what was purchased shall be paramount
22 in determining the proportion of the benefit in this
23 Commonwealth to the benefit everywhere. If a taxpayer's
24 records do not allow the taxpayer to determine that location,
25 the taxpayer may use an alternative method to situs gross
26 receipts under this subsection if the alternative method is
27 reasonable, is consistently and uniformly applied, and is
28 supported by the taxpayer's records as the records exist when
29 the service is provided or within a reasonable period of time
30 thereafter.

1 (10) If the situsing provisions of paragraphs (1), (2),
2 (3), (4), (5), (6), (7) and (8) do not fairly represent the
3 extent of a person's activity in this Commonwealth, the
4 person may request, or the department may require or permit,
5 an alternative method. The request by a person must be made
6 within the applicable statute of limitations set forth in
7 this article.

8 (11) The department may promulgate regulations to
9 provide additional guidance to the application, and provide
10 alternative methods of situsing gross receipts that apply to
11 all persons, or subset of persons, that are engaged in
12 similar business or trade activities.

13 Section 404-A. Registration of taxpayer and fee.

14 (a) Registration required.--Not later than 30 days after a
15 person first has more than \$150,000 in taxable gross receipts in
16 a calendar year, each person subject to this article shall
17 register with the department on the form prescribed by the
18 department. The form shall include the following:

19 (1) The person's name.

20 (2) If applicable, the name of the state or country
21 under the laws of which the person is incorporated.

22 (3) If applicable, the location of a person's principal
23 office and the name and address of the officer or agent of
24 the corporation in charge of the business.

25 (4) If applicable, the names of the person's president,
26 secretary, treasurer and authorized agent designated under
27 section 1101, with the post office address of each.

28 (5) The kind of business in which the person is engaged.

29 (6) If required by the department, the date of the
30 beginning of the person's annual accounting period that

1 includes the first day of January of the taxable calendar
2 year.

3 (7) If the person is not a corporation or a sole
4 proprietor, the names of the person's owners and officers, if
5 required by the department.

6 (8) The person's Federal employer identification number
7 or, if those are not applicable, the person's Social Security
8 number or equivalent.

9 (9) All other information that the department requires
10 to administer and enforce this article.

11 (b) Fee.--Except as otherwise provided in this subsection,
12 each person registering with the department as required by
13 subsection (a) shall pay a registration fee. The fee shall be in
14 the amount of \$15 if a person registers electronically and \$20
15 if a person does not register electronically. The registration
16 fee shall be paid in the manner prescribed by the department at
17 the same time the registration is due if a person is subject to
18 the tax imposed under this article before January 1, 2014. If a
19 person first becomes subject to the tax after that date, the
20 registration fee is payable with the first tax period return the
21 person is required to file as prescribed by section 405.1-A. If
22 a person does not register within the time prescribed by this
23 section, an additional fee is imposed in the amount of \$100 per
24 month or part thereof that the fee is outstanding, not to exceed
25 \$1,000. The department may abate the additional fee. The fee
26 imposed under this subsection may be assessed in the same manner
27 as the tax imposed under this article. Proceeds from the fee
28 shall be credited to the Commercial Activity Tax Administrative
29 Fund, which is created in the State Treasury for the department
30 to use in implementing and administering the tax imposed under

this article. Registration fees paid under this section,
excluding any additional fee imposed for a person's failure to
timely register, shall be credited against the first payment of
tax payable under section 403-A.

(c) Notification.--If a person that has registered under
this section is no longer a taxpayer subject to this article,
including no longer being a taxpayer because of the application
of paragraph (1) of the definition of "excluded person," the
person shall notify the department that the person's
registration should be canceled.

(d) (Reserved).

(e) Definitions.--As used in this section, the following
words and phrases shall have the meanings given to them in this
subsection unless the context clearly indicates otherwise:

"Person." The term includes a reporting person.
Section 405-A. Election as calendar year taxpayer.

(a) Notification.--If a person subject to this article
anticipates that the person's taxable gross receipts will be
more than \$1,000,000 in a calendar year, the person shall notify
the department on the person's initial registration form and
file on a quarterly basis as a calendar quarter taxpayer. Any
taxpayer with taxable gross receipts of no more than \$1,000,000
shall register as a calendar year taxpayer and shall file
annually.

(b) Calendar quarter taxpayer.--Any person that is a
calendar year taxpayer under subsection (a) shall become a
calendar quarter taxpayer in the subsequent calendar year if the
person's taxable gross receipts for the prior calendar year are
more than \$1,000,000 and shall remain a calendar quarter
taxpayer until the person notifies the department, and receives

1 approval in writing from the department, to switch back to being
2 a calendar year taxpayer. Nothing in this subsection shall
3 prohibit a person that has elected to be a calendar year
4 taxpayer from notifying the department, using the procedures
5 prescribed by the department, that it is switching back to being
6 a calendar quarter taxpayer.

7 (c) Calendar year taxpayer.--Any taxpayer that is not a
8 calendar quarter taxpayer under this section is a calendar year
9 taxpayer. The department may grant written approval for a
10 calendar quarter taxpayer to use an alternative reporting
11 schedule or estimate the amount of tax due for a calendar
12 quarter if the taxpayer demonstrates to the department the need
13 for the deviation. The department may promulgate a regulation to
14 apply this subsection to a group of taxpayers without the
15 taxpayers having to receive written approval from the
16 department.

17 Section 405.1-A. Filing of tax return required and minimum
18 interim payment.

19 (a) Form.--

20 (1) Not later than the tenth day of the second month
21 after the end of each calendar quarter, every taxpayer other
22 than a calendar year taxpayer shall file with the department
23 a tax return in the form as the department prescribes. The
24 return shall include the amount of the taxpayer's taxable
25 gross receipts for the calendar quarter and shall indicate
26 the amount of tax due under section 403-A for the calendar
27 quarter.

28 (2) (i) Subject to section 405-A(c), a calendar quarter
29 taxpayer shall report the taxable gross receipts for that
30 calendar quarter.

1 (ii) With respect to taxable gross receipts
2 incorrectly reported in a calendar quarter that has a
3 lower tax rate, the tax shall be computed at the tax rate
4 in effect for the quarterly return in which the receipts
5 should have been reported. Nothing in this subparagraph
6 shall prohibit a taxpayer from filing an application for
7 refund under section 408-A with regard to the incorrect
8 reporting of taxable gross receipts discovered after
9 filing the annual return described in paragraph(3). A tax
10 return shall not be deemed to be an incorrect reporting
11 of taxable gross receipts for the purposes of this
12 subparagraph if the return reflects between 95% and 105%
13 of the actual taxable gross receipts for the calendar
14 quarter.

15 (3) For the purposes of paragraph(2)(i), the tax return
16 filed for the fourth calendar quarter of a calendar year is
17 the annual return for the privilege tax imposed by this
18 article. The return shall report any additional taxable gross
19 receipts not previously reported in the calendar year and
20 shall adjust for any over-reported taxable gross receipts in
21 the calendar year. If the taxpayer ceases to be a taxpayer
22 before the end of the calendar year, the last return the
23 taxpayer is required to file shall be the annual return, and
24 the taxpayer shall report any additional taxable gross
25 receipts not previously reported in the calendar year and
26 shall adjust for any over-reported taxable gross receipts in
27 the calendar year.

28 (4) As the tax imposed by this article is a privilege
29 tax, the tax rate with respect to taxable gross receipts for
30 a calendar quarter is not fixed until the end of the

1 measurement period for each calendar quarter. Subject to
2 paragraph (2)(ii), the total amount of taxable gross receipts
3 reported for a given calendar quarter shall be subject to the
4 tax rate in effect in that quarter.

5 (5) Not later than the tenth day of May following the
6 end of each calendar year, every calendar year taxpayer shall
7 file with the department a tax return in the form as the
8 department prescribes. The return shall include the amount of
9 the taxpayer's taxable gross receipts for the calendar year
10 and shall indicate the amount of tax due under section 403-A
11 for the calendar year.

12 (b) Minimum tax.--

13 (1) A person that first becomes subject to the tax
14 imposed under this article shall pay the minimum tax imposed
15 under section 403-A(b) along with the registration fee
16 imposed under section 404-A, if applicable, on or before the
17 day the return is required to be filed for that quarter under
18 subsection (a)(1), regardless of whether the person elects to
19 be a calendar year taxpayer under section 405-A.

20 (2) The amount of the minimum tax for a person subject
21 to paragraph (1) shall be reduced to \$75 if the registration
22 is timely filed after the first day of May and before the
23 first day of January of the following calendar year.

24 Section 406-A. Penalty for late filing or delinquent payment.

25 (a) Imposition.--Any taxpayer that fails to file a return or
26 pay the full amount of the tax due within the period prescribed
27 under this article shall pay a penalty in an amount not
28 exceeding the greater of \$50 or 10% of the tax required to be
29 paid for the tax period.

30 (b) Additional imposition.--

1 (1) If any additional tax is found to be due, the
2 department may impose an additional penalty of up to 15% on
3 the additional tax found to be due.

4 (2) Any delinquent payments of the tax made after a
5 taxpayer is notified of an audit or a tax discrepancy by the
6 department is subject to the penalty imposed under this
7 subsection. If an assessment is issued under section 409-A in
8 connection with the delinquent payments, the payments shall
9 be credited to the assessment.

10 (c) Failure to switch.--After calendar year 2017, the
11 department may impose an additional penalty against a taxpayer
12 that fails to switch to being a calendar quarter taxpayer at the
13 time it had over \$2,000,000 in taxable gross receipts in the
14 calendar year, as required under section 405-A(b). The penalty
15 may be imposed in an amount not to exceed 10% of the tax due
16 above \$2,000,000 in taxable gross receipts for the calendar
17 year. Any penalty imposed under this subsection shall be in
18 addition to any other penalties imposed under this section.

19 (d) Failure to register.--If the department notifies a
20 person required to register under section 404-A of that
21 requirement and of the requirement to remit the tax due under
22 this article, and the person fails to register and remit the tax
23 within 60 days after the notice, the department may impose an
24 additional penalty of up to 35% of the tax due. The penalty
25 imposed under this subsection shall be in addition to any other
26 penalties imposed under this section.

27 (e) Collection.--The department may collect any penalty or
28 interest imposed by this section in the same manner as the tax
29 imposed under this article. Penalties and interest collected
30 shall be considered as revenue arising from the tax imposed

1 under this article.

2 (f) Abatement.--The department may abate all or a portion of
3 any penalties imposed under this section and may promulgate
4 regulations governing the abatements.

5 (g) Interest.--If any tax due is not timely paid in
6 accordance with this article, the taxpayer shall pay interest,
7 calculated at the annual rate prescribed under 61 Pa. Code
8 § 151.22 (relating to transfer, assignment and refund of
9 credits) or section 2 of the act of April 9, 1867 (P.L.58,
10 No.36), entitled "An act regulating interest on public
11 accounts," from the date the tax payment was due to the date of
12 payment or to the date an assessment was issued, whichever
13 occurs first.

14 (h) Incorrect reporting.--The department may impose a
15 penalty of up to 10% for any additional tax that is due under
16 section 405.1-A(a)(2)(ii) from a taxpayer incorrectly reporting
17 its taxable gross receipts.

18 (i) Incorrect billing.--If the department discovers that a
19 taxpayer has billed or invoiced another person for the tax
20 imposed under this article in violation of 402-A(b), the
21 department shall notify the taxpayer of the violation by
22 certified mail and may impose a penalty of up to \$500. If the
23 taxpayer subsequently bills or invoices a person for the tax
24 imposed under this article, the department shall impose a
25 penalty of \$500.

26 Section 407-A. Quarterly payments, electronic filing of returns
27 and penalty.

28 (a) Electronic filing.--Any person required to file returns
29 for a calendar quarter shall remit each tax payment, and, if
30 required by the department, file the tax return or the annual

1 report, electronically. The department may require taxpayers to
2 use the electronic filing system under section 3003.8 to file
3 returns and remit the tax or may provide another means for
4 taxpayers to file and remit the tax electronically.

5 (b) Excuse from requirement.--A person required by this
6 section to remit taxes or file returns electronically may apply
7 to the department, on the form prescribed by the department, to
8 be excused from that requirement. The department may excuse a
9 person from the requirements of this subsection for good cause.

10 (c) Failure.--

11 (1) If a person required to remit taxes or file a return
12 electronically under this section fails to do so, the
13 department may impose a penalty not to exceed the following:

14 (i) For either of the first two calendar quarters
15 the person so fails, 5% of the amount of the payment that
16 was required to be remitted.

17 (ii) For the third and any subsequent calendar
18 quarters the person so fails, 10% of the amount of the
19 payment that was required to be remitted.

20 (2) The penalty imposed under paragraph (1) shall be in
21 addition to any other penalty imposed under this article and
22 shall be considered as revenue arising from the tax imposed
23 under this article. A penalty may be collected by assessment
24 in the manner prescribed by section 409-A. The department may
25 abate all or a portion of the penalty.

26 Section 408-A. Application for refund to taxpayer.

27 (a) Time.--An application for refund to the taxpayer of the
28 amount of taxes imposed under this article that are overpaid,
29 paid illegally or erroneously, or paid on any illegal or
30 erroneous assessment, shall be filed by the reporting person

1 with the department, on the form prescribed by the department,
2 within four years after the date of the illegal or erroneous
3 payment of the tax, or within any additional period allowed
4 under section 409-A(f). The applicant shall provide the amount
5 of the requested refund along with the claimed reasons for, and
6 documentation to support, the issuance of a refund.

7 (b) Amount.--On the filing of the refund application, the
8 department shall determine the amount of refund to which the
9 applicant is entitled. If the amount is not less than that
10 claimed, the department shall certify the amount to the State
11 Treasurer for payment. If the amount is less than that claimed,
12 the department shall proceed in accordance with 53 Pa.C.S.
13 § 8425 (relating to refunds of overpayments).

14 (c) Interest.--Interest on a refund applied for under this
15 section, computed at the rate provided for under section 1274(d)
16 of the Internal Revenue Code, shall be allowed from the later of
17 the date the tax was paid or when the tax payment was due.

18 (d) Full exclusion.--A calendar quarter taxpayer with more
19 than \$1,000,000 in taxable gross receipts in a calendar year
20 other than calendar year 2014 and that is not able to exclude
21 \$1,000,000 in taxable gross receipts because of the operation of
22 the taxpayer's business in that calendar year may file for a
23 refund under this section to obtain the full exclusion of
24 \$1,000,000 in taxable gross receipts for that calendar year.

25 (e) Credit.--Except as provided under section 408.1-A, the
26 department may, with the consent of the taxpayer, provide for
27 the crediting against tax due for a tax year the amount of any
28 refund due the taxpayer under this article for a preceding tax
29 year.

30 Section 408.1-A. Application of refund to debt to Commonwealth.

1 (a) Satisfaction.--If a taxpayer entitled to a refund under
2 section 408-A owes any debt to the Commonwealth, the amount
3 refundable may be applied in satisfaction of the debt. If the
4 amount refundable is less than the amount of the debt, it may be
5 applied in partial satisfaction of the debt. If the amount
6 refundable is greater than the amount of the debt, the amount
7 remaining after satisfaction of the debt shall be refunded. This
8 section shall apply to debts that have become final. For the
9 purposes of this section, a debt becomes final when, under the
10 applicable law, any time provided for petition for reassessment,
11 request for reconsideration or other appeal of the legality or
12 validity of the amount giving rise to the debt expires without
13 an appeal having been filed in the manner provided by law.

14 (b) Definitions.--As used in this section, the following
15 words and phrases shall have the meanings given to them in this
16 subsection unless the context clearly indicates otherwise:

17 "Debt to the Commonwealth." Any of the following:

18 (1) Unpaid taxes due the Commonwealth.

19 (2) Unpaid workers' compensation premiums due the
20 Commonwealth.

21 (3) Unpaid unemployment compensation contributions due
22 under the Commonwealth.

23 (4) Unpaid unemployment compensation payment in lieu of
24 contribution.

25 (5) Unpaid fees payable to the Commonwealth or to the
26 clerk of courts.

27 (6) Incorrect medical assistance payments.

28 (7) Any unpaid charge, penalty or interest arising from
29 paragraphs (1), (2), (3), (4), (5) and (6).

30 Section 409-A. Assessment against person not filing return or

1 paying tax.

2 (a) Assessment.--The department may make an assessment,
3 based on any information in the department's possession, against
4 any person that fails to file a return or pay any tax as
5 required by this article. The department shall give the person
6 assessed written notice of the assessment as provided under 61
7 Pa. Code § 119.1 (relating to payment on notice and demand).
8 With the notice, the department shall provide instructions on
9 the manner in which to petition for reassessment and request a
10 hearing with respect to the petition. The department shall send
11 any assessments against consolidated elected taxpayer and
12 combined taxpayer groups under section 401.1-A or 401.2-A to the
13 taxpayer's reporting person. The reporting person shall notify
14 all members of the group of the assessment and all outstanding
15 taxes, interest and penalties for which the assessment is
16 issued.

17 (b) Final.--Unless the person assessed, within 60 days after
18 service of the notice of assessment, files with the department,
19 either personally or by certified mail, a written petition
20 signed by the person or the person's authorized agent having
21 knowledge of the facts, the assessment becomes final, and the
22 amount of the assessment is due and payable from the person
23 assessed to the State Treasurer. The petition shall indicate the
24 objections of the person assessed, but additional objections may
25 be raised in writing if received by the department prior to the
26 date shown on the final determination.

27 (c) Filing.--

28 (1) After an assessment becomes final, if any portion of
29 the assessment, including accrued interest, remains unpaid, a
30 certified copy of the department's entry making the

1 assessment final may be filed in the office of the clerk of
2 the court of common pleas in the county in which the person
3 resides or has its principal place of business in this
4 Commonwealth.

5 (2) Immediately upon the filing of the entry, the clerk
6 shall enter judgment for the Commonwealth against the person
7 assessed in the amount shown on the entry. Execution shall
8 issue upon the judgment at the request of the department, and
9 all laws applicable to sales on execution shall apply to
10 sales made under the judgment.

11 (3) The portion of the assessment not paid within 60
12 days after the day the assessment was issued shall bear
13 interest at the annual rate prescribed under section 1274(d)
14 of the Internal Revenue Code from the day the department
15 issues the assessment until it is paid. Interest shall be
16 paid in the same manner as the tax and may be collected by
17 the issuance of an assessment under this section.

18 (d) Jeopardy assessment.--If the department believes that
19 collection of the tax will be jeopardized unless proceedings to
20 collect or secure collection of the tax are instituted without
21 delay, the department may issue a jeopardy assessment against
22 the person liable for the tax. Immediately upon the issuance of
23 the jeopardy assessment, the department shall file an entry with
24 the clerk of the court of common pleas in the manner prescribed
25 under subsection (c). Notice of the jeopardy assessment shall be
26 served on the person assessed or the person's authorized agent
27 in the manner provided under 61 Pa. Code § 119.1 within five
28 days of the filing of the entry with the clerk. The total amount
29 assessed shall be immediately due and payable, unless the person
30 assessed files a petition for reassessment in accordance with

1 subsection (b) and provides security in a form satisfactory to
2 the department and in an amount sufficient to satisfy the unpaid
3 balance of the assessment. Full or partial payment of the
4 assessment shall not prejudice the department's consideration of
5 the petition for reassessment.

6 (e) Forwarding.--The department shall immediately forward to
7 the State Treasurer all amounts the department receives under
8 this section, which shall be considered as revenue arising from
9 the tax imposed under this article.

10 (f) Time for assessment.--Except as provided under this
11 subsection, no assessment shall be made or issued against a
12 taxpayer for the tax imposed under this article more than four
13 years after the due date for the filing of the return for the
14 tax period for which the tax was reported, or more than four
15 years after the return for the tax period was filed, whichever
16 is later. The time limit may be extended if both the taxpayer
17 and the department consent in writing to the extension or enter
18 into an agreement waiving or extending the time limit. Any
19 extension shall extend the four-year time limit under section
20 408-A(b) for the same period of time. Nothing in this subsection
21 shall bar an assessment against a taxpayer that fails to file a
22 return required under this article or that files a fraudulent
23 return.

24 (g) Audit.--If the department possesses information that
25 indicates that the amount of tax a taxpayer is required to pay
26 under this article exceeds the amount the taxpayer paid, the
27 department may audit a sample of the taxpayer's gross receipts
28 over a representative period of time to ascertain the amount of
29 tax due and may issue an assessment based on the audit. The
30 department shall make a good faith effort to reach agreement

1 with the taxpayer in selecting a representative sample. The
2 department may apply a sampling method only if the department
3 has prescribed the method by regulation.

4 (h) Location of person.--If the whereabouts of a person
5 subject to this article is not known to the department, the
6 department shall follow the procedures under 61 Pa. Code
7 § 119.1.

8 Section 410-A. Disposal of business or assets and tax due
9 immediately.

10 If any person liable for the tax imposed under this article
11 sells the trade or business, disposes in any manner other than
12 in the regular course of business at least 75% of assets of the
13 trade or business or quits the trade or business, any tax owed
14 by the person shall become due and payable immediately, and the
15 person shall pay the tax under this section, including any
16 applicable penalties and interest, within 45 days after the date
17 of selling or quitting the trade or business. The person's
18 successor shall withhold a sufficient amount of the purchase
19 money to cover the amount due and unpaid until the former owner
20 produces a receipt from the department showing that the amounts
21 are paid or a certificate indicating that no taxes are due. If a
22 purchaser fails to withhold purchase money, that person shall be
23 personally liable up to the purchase money amount, for the
24 amounts that are unpaid during the operation of the business by
25 the former owner. The department may promulgate regulations
26 regarding the issuance of certificates under this section,
27 including the waiver of the need for a certificate if certain
28 criteria are met.

29 Section 411-A. Failure to report or pay and annulment of
30 privilege or franchise.

1 If any person subject to this article fails to report or pay
2 the tax as required under this article or fails to pay any
3 penalty imposed under this article within 90 days after the time
4 prescribed for payment of the penalty, the Attorney General, on
5 the request of the department, shall commence an action in quo
6 warranto in the court of appeals of the county in which the
7 person has its principal place of business to forfeit and annul
8 its privileges or franchise within this Commonwealth. If the
9 court finds that the person is in default for the amount
10 claimed, it shall render judgment revoking the person's
11 privileges or franchise within this Commonwealth.

12 Section 412-A. Records, Federal returns and Federal-State
13 reconciliation computations.

14 The department may prescribe requirements for the keeping of
15 records and other pertinent documents, the filing of copies of
16 Federal income tax returns and determinations and computations
17 reconciling Federal income tax returns with the returns and
18 reports required under section 405-A. The department may require
19 any person, by notice served on that person, to keep those
20 records that the department considers necessary to show whether,
21 and the extent to which, a person is subject to this article.
22 Those records and other documents shall be open during business
23 hours to inspection by the department and shall be preserved for
24 a period of four years unless the department, in writing,
25 consents to their destruction within that period, or by order
26 requires that they be kept longer. If the records are normally
27 kept by the person electronically, the person shall provide the
28 records to the department electronically at the department's
29 request. Any information required by the department under this
30 article is confidential as provided for under section 408,

1 except that the department shall make public an electronic list
2 of all actively registered persons required to remit the tax
3 under this article, including legal names, trade names,
4 addresses and account numbers. The list shall include all
5 persons that canceled their registration at any time during the
6 preceding four calendar years, including the date the
7 registration was canceled.

8 Section 413-A. Credit against tax for amortizable net operating
9 losses.

10 (a) Nonrefundable credit.--For each calendar period
11 beginning prior to January 1, 2039, there is allowed a
12 nonrefundable tax credit against the tax levied each year by
13 this article on each qualifying taxpayer, on each consolidated
14 elected taxpayer having one or more qualifying taxpayers as a
15 member and on each combined taxpayer having one or more
16 qualifying taxpayers as a member. The credit shall be claimed in
17 the order specified in section 414-A and is allowed only to
18 reduce the first one-half of any tax remaining after allowance
19 of the credits that precede it in section 414-A. No credit under
20 subsection (b) shall be allowed against the second one-half of
21 the remaining tax. Except as otherwise limited by subsections
22 (a.1), (b) and (c), the maximum amount of the nonrefundable
23 credit that may be used against the first one-half of the
24 remaining tax for each calendar year is as follows:

25 (1) For calendar year 2019, 10% of the amortizable
26 amount.

27 (2) For calendar year 2020, 20% of the amortizable
28 amount, less all amounts previously used.

29 (3) For calendar year 2021, 30% of the amortizable
30 amount, less all amounts previously used.

1 (4) For calendar year 2022, 40% of the amortizable
2 amount, less all amounts previously used.

3 (5) For calendar year 2023, 50% of the amortizable
4 amount, less all amounts previously used.

5 (6) For calendar year 2024, 60% of the amortizable
6 amount, less all amounts previously used.

7 (7) For calendar year 2025, 70% of the amortizable
8 amount, less all amounts previously used.

9 (8) For calendar year 2026, 80% of the amortizable
10 amount, less all amounts previously used.

11 (9) For calendar year 2027, 90% of the amortizable
12 amount, less all amounts previously used.

13 (10) For each of calendar years 2028, 2029, 2030, 2031,
14 2032, 2033, 2034, 2035, 2036, 2037 and 2038, 100% of the
15 amortizable amount, less all amounts used in all previous
16 years.

17 (a.1) Cumulative credit.--In no event shall the cumulative
18 credit used for calendar years under subsection (a) exceed 100%
19 of the amortizable amount.

20 (b) Refundable credit.--

21 (1) Except as set forth under paragraph (2), a
22 refundable credit is allowed in calendar year 2039 for any
23 portion of the qualifying taxpayer's amortizable amount that
24 is not used in accordance with subsection (a) against the tax
25 levied by this article on all taxpayers.

26 (2) Paragraph (1) shall not apply and no refundable
27 credit shall be available to any person if during any portion
28 of the calendar year 2032 the person is not subject to the
29 tax imposed by this article.

30 (c) Filing.--Not later than June 30, 2015, each qualifying

1 taxpayer, consolidated elected taxpayer or combined taxpayer
2 that claims for any year the credit allowed under subsections
3 (a) and (b) shall file with the department a report setting
4 forth the amortizable amount available to the taxpayer and all
5 other related information that the department, by regulation,
6 requires. If the taxpayer does not timely file the report or
7 fails to provide timely all information required by this
8 subsection, the taxpayer is precluded from claiming any credit
9 amounts described under subsections (a) and (b). Unless extended
10 by mutual consent, the department may, until June 30, 2019,
11 audit the accuracy of the amortizable amount available to each
12 taxpayer that will claim the credit, and adjust the amortizable
13 amount or, if appropriate, issue any assessment or final
14 determination, as applicable, necessary to correct any errors
15 found upon audit.

16 (d) Sham transaction.--For the purpose of calculating the
17 amortizable amount, if the department ascertains that any
18 portion of that amount is the result of a sham transaction, the
19 department shall reduce the amortizable amount by two times the
20 adjustment.

21 (e) Transfer.--If one entity transfers all or a portion of
22 its assets and equity to another entity as part of an entity
23 organization or reorganization or subsequent entity organization
24 or reorganization for which no gain or loss is recognized in
25 whole or in part for Federal income tax purposes under the
26 Internal Revenue Code, the credits allowed by this section shall
27 be computed in a manner consistent with that used to compute the
28 portion, if any, of Federal net operating losses allowed to the
29 respective entities under the Internal Revenue Code. The
30 department may prescribe forms or regulations for making the

1 computations required by this subsection.

2 (f) Disposition.--

3 (1) Except as provided under subsection (g), no person
4 shall pledge, collateralize, hypothecate, assign, convey,
5 sell, exchange or otherwise dispose of any or all tax credits
6 or any portion of any or all tax credits allowed under this
7 section.

8 (2) No credit allowed under this section is subject to
9 execution, attachment, lien, levy or other judicial
10 proceeding.

11 (g) Compliance.--

12 (1) (i) Except as set forth under subparagraph (ii) and
13 notwithstanding section 401(3)1, each person timely and
14 fully complying with the reporting requirements set forth
15 under subsection (c) shall not claim, and shall not be
16 entitled to claim, any deduction or adjustment for any
17 Pennsylvania net operating loss carried forward to any
18 one or more franchise tax years after franchise tax year
19 2007.

20 (ii) Subparagraph (i) shall apply only to the
21 portion of the Pennsylvania net operating loss
22 represented by the disallowed Pennsylvania net operating
23 loss carryforward.

24 (2) Notwithstanding section 401(3)1, with respect to all
25 franchise tax years after franchise tax year 2014, each
26 person timely and fully complying with the reporting
27 requirements set forth under subsection (c) shall not claim,
28 and shall not be entitled to claim, any deduction, exclusion
29 or adjustment with respect to deductible temporary
30 differences reflected on the person's books and records on

1 the last day of its taxable year ending in 2014.

2 (3) (i) Except as set forth under subparagraph (ii) and
3 notwithstanding section 401(3)1, with respect to all
4 franchise tax years after franchise tax year 2014, each
5 person timely and fully complying with the reporting
6 requirements set forth under subsection (c) shall exclude
7 from Pennsylvania net income all taxable temporary
8 differences reflected on the person's books and records
9 on the last day of its taxable year ending in 2012.

10 (ii) The exclusion provided under subparagraph (i)
11 for any franchise tax year may not exceed the amount of
12 the taxable temporary differences otherwise included in
13 Pennsylvania net income for that year.

14 (4) Paragraphs (2) and (3) shall apply only to the
15 extent the items were used in the calculations of the credit
16 provided under this section.

17 (h) Definitions.--As used in this section, the following
18 words and phrases shall have the meanings given to them in this
19 subsection unless the context clearly indicates otherwise:

20 "Amortizable amount." The term shall mean:

21 (1) If the qualifying taxpayer's other net deferred tax
22 items apportioned to this Commonwealth is equal to or greater
23 than zero, 8% of the sum of the qualifying taxpayer's
24 disallowed Pennsylvania net operating loss carryforward and
25 the qualifying taxpayer's other net deferred tax items
26 apportioned to this Commonwealth.

27 (2) If the amount of the qualifying taxpayer's other net
28 deferred tax items apportioned to this Commonwealth is less
29 than zero and if the absolute value of the amount of
30 qualifying taxpayer's other net deferred tax items

1 apportioned to this Commonwealth is less than the qualifying
2 taxpayer's disallowed net operating loss, 8% of the
3 difference between the qualifying taxpayer's disallowed net
4 operating loss carryforward and the absolute value of the
5 qualifying taxpayer's other net deferred tax items
6 apportioned to this Commonwealth.

7 (3) If the amount of the qualifying taxpayer's other net
8 deferred tax items apportioned to this Commonwealth is less
9 than zero and if the absolute value of the amount of
10 qualifying taxpayer's other net deferred tax items
11 apportioned to this Commonwealth is equal to or greater than
12 the qualifying taxpayer's disallowed net operating loss,
13 zero.

14 "Amount of other net deferred tax items." The term shall
15 mean:

16 (1) Subject to paragraphs (2), (3) and (4), the
17 difference between the qualifying taxpayer's deductible
18 temporary differences, net of related valuation allowance
19 amounts, shown on the qualifying taxpayer's books and records
20 on the last day of its taxable year ending in 2012, and the
21 qualifying taxpayer's taxable temporary differences as shown
22 on those books and records on that date. The amount of other
23 net deferred tax items may be less than zero.

24 (2) For the purposes of computing the amount of the
25 qualifying taxpayer's other net deferred tax items described
26 under paragraph (1), any credit carryforward shall be
27 excluded from the amount of deductible temporary differences
28 to the extent the credit carryforward amount, net of any
29 related valuation allowance amount, is otherwise included in
30 the qualifying taxpayer's deductible temporary differences,

1 net of related valuation allowance amounts, shown on the
2 qualifying taxpayer's books and records on the last day of
3 the qualifying taxpayer's taxable year ending in 2012.

4 (3) No portion of the disallowed Pennsylvania net
5 operating loss carryforward shall be included in the
6 computation of the amount of the qualifying taxpayer's other
7 net deferred tax items described under paragraph (1).

8 (4) The amount of other net deferred tax items
9 apportioned to this Commonwealth may not exceed 25% of the
10 qualifying Pennsylvania net operating loss carryforward.

11 "Books and records." The qualifying taxpayer's books,
12 records and all other information, all of which the qualifying
13 taxpayer maintains and uses to prepare and issue its financial
14 statements in accordance with generally accepted accounting
15 principles.

16 "Deductible temporary differences" and "taxable temporary
17 differences." The terms shall have the same meanings as those
18 terms have for purposes of paragraph 13 of the Statement of
19 Financial Accounting Standards, number 109.

20 "Disallowed Pennsylvania net operating loss carryforward."
21 The lesser of the amounts described under paragraph (1) or (2),
22 except that the amounts described under paragraph (1) or (2)
23 shall each be reduced by the qualifying amount.

24 (1) The qualifying taxpayer's qualifying Pennsylvania
25 net operating loss carryforward.

26 (2) The Pennsylvania net operating loss carryforward
27 amount that the qualifying taxpayer used to compute the
28 related deferred tax asset reflected on its books and records
29 on the last day of its taxable year ending in 2012, adjusted
30 for return to accrual, but this amount shall be reduced by

1 the qualifying related valuation allowance amount. For the
2 purposes of this paragraph, the "qualifying related valuation
3 allowance amount" is the amount of Pennsylvania net operating
4 loss reflected in the qualifying taxpayer's computation of
5 the valuation allowance account, as shown on its books and
6 records on the last day of its taxable year ending in 2012,
7 with respect to the deferred tax asset relating to its
8 Pennsylvania net operating loss carryforward amount.

9 "Franchise tax year." The term shall mean the tax year for
10 the qualifying taxpayer.

11 "Net income." The term shall have the same meaning as the
12 term "net profits" under section 303.

13 "Other net deferred tax items apportioned to the
14 Commonwealth." The term shall be the product of:

- 15 (1) the amount of other net deferred tax items; and
16 (2) the formula described under 61 Pa. Code § 155.28
17 (relating to capital stock value methods-fixed formula) for
18 the qualifying taxpayer's franchise tax year 2014.

19 "Qualifying amount." \$50,000,000 per person, except that if
20 for franchise tax year 2014 the person was a member of a
21 combined franchise tax report, as provided under section 403,
22 the "qualifying amount" is, in the aggregate, \$50,000,000 for
23 all members of that combined franchise tax report, and for
24 purposes of paragraphs (1) and (2) of the definition of
25 "disallowed Pennsylvania net operating loss carryforward," those
26 members shall allocate to each member any portion of the
27 \$50,000,000 amount. The total amount allocated to the members
28 who are qualifying taxpayers shall equal \$50,000,000.

29 "Qualifying Pennsylvania net operating loss carryforward." A
30 Pennsylvania net operating loss carryforward that the taxpayer

1 could deduct in whole or in part for franchise tax year 2014,
2 except for the application of subsection (g). A qualifying
3 Pennsylvania net operating loss carryforward shall not exceed
4 the amount of loss carryforward from franchise tax year 2013 as
5 reported by the taxpayer either on a franchise tax report for
6 franchise tax year 2013 or on an amended franchise tax report
7 prepared in good faith for the year and filed before July 1,
8 2014.

9 "Qualifying taxpayer." A taxpayer under this article that
10 has a qualifying Pennsylvania net operating loss carryforward
11 equal to or greater than the qualifying amount.

12 "Sham transaction." A transaction or series of transactions
13 without economic substance because there is no business purpose
14 or expectation of profit other than obtaining tax benefits.

15 "Taxable year." The term shall have the same meaning as
16 under section 301(v).

17 Section 414-A. Order of credits, limitations and excess carried
18 forward.

19 (a) Procedure.--To provide a uniform procedure for
20 calculating the amount of tax due under this article, a taxpayer
21 shall claim any credits to which it is entitled in the following
22 order:

23 (1) The nonrefundable credit for unused net operating
24 losses under section 413-A(a).

25 (2) The refundable credit for calendar year 2039 for
26 unused net operating losses under 413-A(b).

27 (b) Limit.--For any credit except the credit enumerated
28 under subsection (a)(1), the amount of the credit for a tax
29 period shall not exceed the tax due after allowing for any other
30 credit that precedes it in the order required under this

1 section. Any excess amount of a particular credit may be carried
2 forward if authorized under the section creating the credit.

3 Section 415-A. Penalties.

4 (a) Fraudulent filing.--Whoever files a fraudulent refund
5 claim under section 408-A shall be fined the greater of not more
6 than \$1,000 or the amount of the fraudulent refund requested or
7 imprisoned not more than 60 days, or both.

8 (b) Violation of article.--Except as provided under this
9 section, whoever violates this article, or any regulation
10 promulgated by the department under this article, shall be fined
11 not more than \$500 or imprisoned not more than 30 days, or both.

12 (c) Cumulative penalties.--The penalties provided under this
13 section shall be in addition to any penalties imposed by the
14 department under section 406-A.

15 Section 3. This act shall take effect January 1, 2014.