

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2424 Session of 2018

INTRODUCED BY DALEY, MAY 17, 2018

REFERRED TO COMMITTEE ON FINANCE, MAY 17, 2018

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 defining
 11 taxable income and further providing for imposition of tax,
 12 for reports and payment of tax and for consolidated reports;
 13 and, in general provisions, further providing for
 14 underpayment of estimated tax.

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

17 Section 1. Section 401(3)1(a), (b), (t), 4(c) and (5) of the
 18 act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code
 19 of 1971, amended October 30, 2017 (P.L.672, No.43), are amended
 20 and (3)2(a) (9) (A) is amended by adding a unit, (3)1 and (3)2 are
 21 amended by adding phrases and the section is amended by adding
 22 clauses to read:

23 Section 401. Definitions.--The following words, terms, and
 24 phrases, when used in this article, shall have the meaning

1 ascribed to them in this section, except where the context
2 clearly indicates a different meaning:

3 * * *

4 (3) "Taxable income." 1. (a) In case the entire business
5 of the corporation is transacted within this Commonwealth, for
6 any taxable year which begins on or after January 1, 1971,
7 taxable income for the calendar year or fiscal year as returned
8 to and ascertained by the Federal Government, or in the case of
9 a corporation participating in the filing of consolidated
10 returns to the Federal Government or that is not required to
11 file a return with the Federal Government, the taxable income
12 which would have been returned to and ascertained by the Federal
13 Government if separate returns had been made to the Federal
14 Government for the current and prior taxable years, subject,
15 however, to any correction thereof, for fraud, evasion, or error
16 as finally ascertained by the Federal Government.

17 (b) Additional deductions shall be allowed from taxable
18 income on account of any dividends received from any other
19 corporation but only to the extent that such dividends are
20 included in taxable income as returned to and ascertained by the
21 Federal Government. For tax years beginning on or after January
22 1, 1991, additional deductions shall only be allowed for amounts
23 included, under section 78 of the Internal Revenue Code of 1986
24 (Public Law 99-514, 26 U.S.C. § 78), in taxable income returned
25 to and ascertained by the Federal Government and for the amount
26 of any dividends received from a foreign corporation included in
27 taxable income to the extent such dividends would be deductible
28 in arriving at Federal taxable income if received from a
29 domestic corporation. For tax years beginning after December 31,
30 2018, the additional deduction with respect to dividends are not

1 permissible for dividends between members of a unitary group.

2 * * *

3 (p.1) For taxable years after December 31, 2018, in the case
4 of a corporation that is a member of a unitary business, the
5 term "taxable income" shall mean the combined unitary income of
6 the unitary business, as determined on a water's-edge basis.

7 * * *

8 (t) (1) Except as provided in paragraph (2), (3) or (4) for
9 taxable years beginning after December 31, 2014, and in addition
10 to any authority the department has on the effective date of
11 this paragraph to deny a deduction related to a fraudulent or
12 sham transaction, no deduction shall be allowed for an
13 intangible expense or cost, or an interest expense or cost,
14 paid, accrued or incurred directly or indirectly in connection
15 with one or more transactions with an affiliated entity. In
16 calculating taxable income under this paragraph, when the
17 taxpayer is engaged in one or more transactions with an
18 affiliated entity that was subject to tax in this Commonwealth
19 or another state or possession of the United States on a tax
20 base that included the intangible expense or cost, or the
21 interest expense or cost, paid, accrued or incurred by the
22 taxpayer, the taxpayer shall receive a credit against tax due in
23 this Commonwealth in an amount equal to the apportionment factor
24 of the taxpayer in this Commonwealth multiplied by the greater
25 of the following:

26 (A) the tax liability of the affiliated entity with respect
27 to the portion of its income representing the intangible expense
28 or cost, or the interest expense or cost, paid, accrued or
29 incurred by the taxpayer; or

30 (B) the tax liability that would have been paid by the

1 affiliated entity under subparagraph (A) if that tax liability
2 had not been offset by a credit.

3 The credit issued under this paragraph shall not exceed the
4 taxpayer's liability in this Commonwealth attributable to the
5 net income taxed as a result of the adjustment required by this
6 paragraph.

7 (2) The adjustment required by paragraph (1) shall not apply
8 to a transaction that did not have as the principal purpose the
9 avoidance of tax due under this article and was done at arm's
10 length rates and terms.

11 (3) The adjustment required by paragraph (1) shall not apply
12 to a transaction between a taxpayer and an affiliated entity
13 domiciled in a foreign nation which has in force a comprehensive
14 income tax treaty with the United States providing for the
15 allocation of all categories of income subject to taxation, or
16 the withholding of tax, on royalties, licenses, fees and
17 interest for the prevention of double taxation of the respective
18 nations' residents and the sharing of information.

19 (4) The adjustment required by paragraph (1) shall not apply
20 to a transaction where an affiliated entity directly or
21 indirectly paid, accrued or incurred a payment to a person who
22 is not an affiliated entity, if the payment is paid, accrued or
23 incurred on the intangible expense or cost, or interest expense
24 or cost, and is equal to or less than the taxpayer's
25 proportional share of the transaction. The taxpayer's
26 proportional share shall be based on relative sales, assets,
27 liabilities or another reasonable method.

28 (5) The adjustment required by paragraph (1) shall not apply
29 to a transaction between the taxpayer and an affiliated entity,
30 where all the following conditions are met:

1 (i) the taxpayer and the affiliated entity file a combined
2 report in this State;

3 (ii) the taxpayer's deduction with respect to an intangible
4 expense or cost, or interest expense or cost, is subject to
5 paragraph (1); and

6 (iii) the corresponding income recognized by the affiliated
7 entity with respect to such intangible expense or cost, or
8 interest expense or cost, are eliminated pursuant to the
9 definition of combined unitary income set forth in section
10 401(15).

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

19 (a) Division of Income.

20 * * *

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

22 * * *

23 (vi) (a) For taxable years beginning after December 31,
24 2018, all business income of a unitary business shall be
25 apportioned to this State by multiplying the income by the
26 member's sales factor, the numerator of which shall be the
27 member's sales attributable to this State, and the denominator
28 of which shall be the combined sales of all members of the
29 unitary business. In computing the sales of each member for
30 purposes of apportionment, the following sales are excluded from

1 the numerator and denominator:

2 (I) receipts from transactions between or among members of
3 the unitary business that are deferred under 26 CFR 1.1502-13
4 (relating to intercompany transactions) for Federal taxable
5 income purposes; and

6 (II) the taxable income of each member that is excluded from
7 the unitary business pursuant to the definition of water's-edge
8 basis.

9 (b) Nonbusiness income of each member of a unitary business
10 shall be allocated as provided in paragraphs (5) through (8) of
11 phrase (a) of subclause 2 of the definition of "taxable income."
12 A member of the unitary business is subject to tax on its
13 apportioned share of all business income of the unitary
14 business, plus its nonbusiness income or loss allocated to this
15 State, minus the member's net loss deduction.

16 (c) The Secretary of Revenue has the authority and
17 responsibility to make adjustments to ensure that a corporation
18 does not incur an unfair penalty nor realize an unfair benefit
19 because it is required to compute its combined business income
20 as provided herein. Fairness shall be measured by whether the
21 corporation's income allocated and apportioned to this State
22 fairly reflects the corporation's share of the unitary business
23 conducted in this State in the taxable year.

24 * * *

25 (f) For taxable years beginning after December 31, 2018, any
26 member of a unitary group that would otherwise apportion its
27 business income under section 401(3)2(b), (c), (d) or (e) shall
28 determine its apportionment formula using a single sales
29 fraction, as prescribed by the department.

30 * * *

1 4. * * *

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

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

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

9 (III) For taxable years beginning after December 31, 2008,
10 the greater of fifteen per cent of taxable income as determined
11 under subclause 1 or, if applicable, subclause 2 or three
12 million dollars (\$3,000,000);

13 (IV) For taxable years beginning after December 31, 2009,
14 the greater of twenty per cent of taxable income as determined
15 under subclause 1 or, if applicable, subclause 2 or three
16 million dollars (\$3,000,000);

17 (V) For taxable years beginning after December 31, 2013, the
18 greater of twenty-five per cent of taxable income as determined
19 under subclause 1 or, if applicable, subclause 2 or four million
20 dollars (\$4,000,000);

21 (VI) For taxable years beginning after December 31, 2014,
22 the greater of thirty per cent of taxable income as determined
23 under subclause 1 or, if applicable, subclause 2 or five million
24 dollars (\$5,000,000);

25 (VII) For taxable years beginning after December 31, 2017,
26 thirty-five per cent of taxable income as determined under
27 subclause 1 or, if applicable, subclause 2;

28 (VIII) For taxable years beginning after December 31, 2018,
29 forty per cent of taxable income as determined under subclause 1
30 or, if applicable, subclause 2; or

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

4 (1.1) In no event shall the net loss deduction include more
5 than five hundred thousand dollars (\$500,000), in the aggregate,
6 of net losses from taxable years 1988 through 1994.

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

9	Taxable Year	Carryover
10	1981	1 taxable year
11	1982	2 taxable years
12	1983-1987	3 taxable years
13	1988	2 taxable years plus
14		1 taxable year
15		starting with the
16		1995 taxable year
17	1989	1 taxable year plus
18		2 taxable years
19		starting with the
20		1995 taxable year
21	1990-1993	3 taxable years
22		starting with the
23		1995 taxable year
24	1994	1 taxable year
25	1995-1997	10 taxable years
26	1998 and thereafter	20 taxable years

27 (B) The earliest net loss shall be carried over to the
28 earliest taxable year to which it may be carried under this
29 schedule. The total net loss deduction allowed in any taxable
30 year shall not exceed:

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

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

7 (III) The greater of fifteen per cent of the taxable income
8 as determined under subclause 1 or, if applicable, subclause 2
9 or three million dollars (\$3,000,000) for taxable years
10 beginning after December 31, 2008.

11 (IV) The greater of twenty per cent of the taxable income as
12 determined under subclause 1 or, if applicable, subclause 2 or
13 three million dollars (\$3,000,000) for taxable years beginning
14 after December 31, 2009.

15 (V) The greater of twenty-five per cent of taxable income as
16 determined under subclause 1 or, if applicable, subclause 2 or
17 four million dollars (\$4,000,000) for taxable years beginning
18 after December 31, 2013.

19 (VI) The greater of thirty per cent of taxable income as
20 determined under subclause 1 or, if applicable, subclause 2 or
21 five million dollars (\$5,000,000) for taxable years beginning
22 after December 31, 2014.

23 (VII) Thirty-five per cent of taxable income as determined
24 under subclause 1 or, if applicable, subclause 2 for taxable
25 years beginning after December 31, 2017.

26 (VIII) Forty per cent of taxable income as determined under
27 subclause 1 or, if applicable, subclause 2 for taxable years
28 beginning after December 31, 2018.

29 (3) Any member of a unitary business that has unused net
30 loss from taxable years that began prior to January 1, 2019, or

1 that generates net losses while a member of a unitary business
2 may only use the net loss for taxable years beginning after
3 December 31, 2018, and only to the extent of the member's
4 apportionable share of combined business income and may not be
5 used by other members of the same unitary business.

6 (4) Any net loss realized for a taxable year that begins
7 after December 31, 2018, unused by a corporation which
8 subsequently becomes a member of another unitary business, may
9 only be used by that corporation.

10 * * *

11 (5) "Taxable year." [The] 1. Except as set forth in
12 subclause 2, the taxable year which the corporation, or any
13 consolidated group with which the corporation participates in
14 the filing of consolidated returns, actually uses in reporting
15 taxable income to the Federal Government[.], or which the
16 corporation would have used in reporting taxable income to the
17 Federal Government had it been required to report its taxable
18 income to the Federal Government. With regard to the tax imposed
19 by Article IV of this act (relating to the Corporate Net Income
20 Tax), the terms "annual year," "fiscal year," "annual or fiscal
21 year," "tax year" and "tax period" shall be the same as the
22 corporation's taxable year, as defined in this [paragraph]
23 subclause or subclause 2.

24 2. All members of a unitary business shall have a common
25 taxable year for purposes of computing tax due under this
26 article. The taxable year for such purposes is the common
27 taxable year adopted, in a manner prescribed by the department,
28 by all members of the unitary business. The common taxable year
29 must be used by all members of the unitary business in the year
30 of adoption and all future years unless otherwise permitted by

1 the department.

2 * * *

3 (11) "Tax haven." Means any of the following:

4 (A) A jurisdiction that at the beginning of a taxable year
5 is a tax haven as identified by the Organization for Economic
6 Co-operation and Development.

7 (B) Bermuda.

8 (C) The Cayman Islands.

9 (D) The Bailiwick of Jersey.

10 (E) The Grand Duchy of Luxembourg.

11 (12) "Unitary business." A single economic enterprise that
12 is made up of separate parts of a single corporation, of a
13 commonly controlled group of corporations, or both, that are
14 sufficiently interdependent, integrated and interrelated through
15 their activities so as to provide a synergy and mutual benefit
16 that produces a sharing or exchange of value among them and a
17 significant flow of value to the separate parts. A unitary
18 business includes all those parts and corporations that are
19 included in a unitary business under the Constitution of the
20 United States.

21 (13) "Water's-edge basis." A system of reporting that
22 includes the business income and apportionment factors of
23 certain entities of a unitary business, described as follows:

24 (A) Any member incorporated in the United States or formed
25 under the laws of any state of the United States, the District
26 of Columbia, any territory or possession of the United States or
27 the Commonwealth of Puerto Rico.

28 (B) Any member, regardless of the place incorporated or
29 formed, if at least twenty per cent of the member's sales factor
30 is within the United States.

1 (C) Any member which is one of the following:

2 (i) A domestic international sales corporation as described
3 in sections 991, 992, 993 and 994 of the Internal Revenue Code
4 of 1986 (Public Law 99-514, 26 U.S.C. §§ 991, 992, 993 and 994).

5 (ii) A foreign sales corporation as described in sections
6 921, 922, 923, 924 925, 926 and 927 of the Internal Revenue Code
7 of 1986 (Public Law 99-514, 26 U.S.C. §§ 921, 922, 923, 924,
8 925, 926 and 927).

9 (iii) An export trade corporation, as described in sections
10 970 and 971 of the Internal Revenue Code of 1986.

11 (D) Any member not described in subparagraph (A), (B) or (C)
12 shall include the portion of the member's business income
13 derived from or attributable to sources within the United
14 States, as determined under the Internal Revenue Code of 1986
15 without regard to Federal treaties, and its apportionment
16 factors related thereto.

17 (E) Any member that is a "controlled foreign corporation" as
18 defined in section 957 of the Internal Revenue Code of 1986, to
19 the extent the business income of that member is income defined
20 in section 952 of the Internal Revenue Code of 1986, Subpart F
21 income, not excluding lower-tier subsidiaries' distributions of
22 such income which were previously taxed, determined without
23 regard to Federal treaties, and the apportionment factors
24 related to that income; any item of income received by a
25 controlled foreign corporation and the apportionment factors
26 related to such income shall be excluded if the corporation
27 establishes to the satisfaction of the Secretary of Revenue that
28 such income was subject to an effective rate of income tax
29 imposed by a foreign country greater than ninety per cent of the
30 maximum rate of tax specified in section 11 of the Internal

1 Revenue Code of 1986. The effective rate of income tax
2 determination shall be based upon the methodology set forth
3 under 26 CFR 1.954-1 (relating to foreign base company income).

4 (vi) Any member that is not described in subparagraph (A),
5 (B), (C), (D) or (E) and that is doing business in a tax haven.
6 The business income of the combined unitary income and
7 apportionment factors of a corporation doing business in a tax
8 haven shall be excluded if the corporation establishes to the
9 satisfaction of the Secretary of Revenue that the member's
10 income was subject to an effective rate of income tax imposed by
11 a country greater than ninety per cent of the maximum rate of
12 tax specified in section 11 of the Internal Revenue Code of
13 1986.

14 (14) "Commonly controlled group." For a corporation, the
15 corporation is a member of a group of two or more corporations
16 and more than fifty per cent of the voting stock or controlling
17 interest of each member of the group is directly or indirectly
18 owned by a common owner or by common owners, either corporate or
19 noncorporate, or by one or more of the member corporations of
20 the group.

21 (15) "Combined unitary income." The aggregate taxable
22 income or loss of all members of a unitary business, subject to
23 apportionment, except:

24 (A) Income from an intercompany transaction between members
25 of a unitary business shall be deferred in a manner similar to
26 26 CFR 1.1502-13 (relating to intercompany transactions) for
27 Federal taxable income purposes.

28 (B) Dividends paid by one member of a unitary business to
29 another to the extent those dividends are included in business
30 income of the payee corporation.

1 (C) Income of the following corporations is not included in
2 the determination of combined business income:

3 (i) any entity subject to taxation under Article VII, VIII,
4 IX or XV;

5 (ii) any entity specified in the definition of "institution"
6 in section 701.5 that would be subject to taxation under Article
7 VII, were it doing business in this State, as defined in section
8 701.5;

9 (iii) any entity commonly known as a title insurance company
10 that would be subject to taxation under Article VIII, were it
11 incorporated in this State;

12 (iv) any entity specified as an insurance company,
13 association or exchange in Article IX that would be subject to
14 taxation under Article IX, were it transacting insurance
15 business in this State;

16 (v) any entity specified in the definition of "institution"
17 in section 1501 that would be subject to taxation under Article
18 XV, were it located, as defined in section 1501, in this State;

19 or

20 (vi) any entity that is a small corporation as defined in
21 section 301(s.2).

22 (16) "Member." A corporation that is a member of a unitary
23 business. The term does not include a corporation listed in
24 paragraph (15)(iii).

25 Section 2. Section 402 of the act is amended to read:

26 Section 402. Imposition of Tax.--(a) A corporation shall be
27 subject to and shall pay an excise tax for exercising, whether
28 in its own name or through any person, association, business
29 trust, corporation, joint venture, limited liability company,
30 limited partnership, partnership or other entity, any of the

1 following privileges:

2 (1) Doing business in this Commonwealth.

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

6 (3) Having capital or property employed or used in this
7 Commonwealth.

8 (4) Owning property in this Commonwealth.

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

13 Taxable Year	Tax Rate
14 January 1, 1995, [and 15 each taxable year 16 thereafter] <u>through</u> 17 <u>December 31, 2019</u>	9.99%
18 <u>January 1, 2020,</u> 19 <u>through December</u> 20 <u>31, 2020</u>	<u>9.49%</u>
21 <u>January 1, 2021,</u> 22 <u>through December</u> 23 <u>31, 2021</u>	<u>8.99%</u>
24 <u>January 1, 2022,</u> 25 <u>through December</u> 26 <u>31, 2022</u>	<u>8.49%</u>
27 <u>January 1, 2023, and</u> 28 <u>each taxable year</u> 29 <u>thereafter</u>	<u>7.99%</u>

30 (c) An entity subject to taxation under Article VII, VIII,

1 IX or XV shall not be subject to the tax imposed by this
2 article.

3 Section 3. Section 403 of the act is amended by adding
4 subsections to read:

5 Section 403. Reports and Payment of Tax.--* * *

6 (a.1) (1) Each corporation that is a member of a unitary
7 business that consists of two or more corporations, unless
8 excluded by the provisions of this article, shall file as part
9 of a combined annual report. The corporations of the unitary
10 business shall designate one member that is subject to tax under
11 this article to file the combined annual report and to act as
12 agent on behalf of all other members of the unitary business.
13 Each corporation that is a member of a unitary business is
14 liable for its tax liability under this article. The agent is
15 also liable for the aggregate amount of the unitary business'
16 tax liability pursuant to this article.

17 (2) The oath or affirmation of the designated member's
18 president, vice president or other principal officer and of the
19 member's treasurer or assistant treasurer shall constitute the
20 oath or affirmation of each corporation that is a member of that
21 unitary business.

22 (3) The designated member shall transmit to the department
23 upon a form prescribed by the department an annual combined
24 report under oath or affirmation of the member's president, vice
25 president or other principal officer and of the member's
26 treasurer or assistant treasurer.

27 (4) In addition to the information required in subsection
28 (a), the report shall set forth:

29 (i) All corporations included in the unitary business.

30 (ii) All necessary data, both in the aggregate and for each

1 corporation of the unitary business, that sets forth the
2 determination of tax liability for each corporation of the
3 unitary business.

4 (iii) Any other information that the department may require.

5 (a.2) A corporation that is a member of a unitary business
6 of two or more corporations must determine the corporation's
7 business income and apportionment factors on a water's-edge
8 basis.

9 * * *

10 Section 4. Section 404 of the act is amended to read:

11 Section 404. Consolidated Reports.--The department shall not
12 permit any corporation owning or controlling, directly or
13 indirectly, any of the voting capital stock of another
14 corporation or of other corporations, subject to the provisions
15 of this article, to make a consolidated report[, showing the
16 combined net income].

17 Section 5. Section 3003.3(d) of the act is amended and the
18 section is amended by adding a subsection to read:

19 Section 3003.3. Underpayment of Estimated Tax.--* * *

20 (d) Notwithstanding the provisions of [the preceding
21 subsections,] this section, other than as set forth in
22 subsection (d.1), interest with respect to any underpayment of
23 any installment of estimated tax shall not be imposed if the
24 total amount of all payments of estimated tax made on or before
25 the last date prescribed for the payment of such installment
26 equals or exceeds the amount which would have been required to
27 be paid on or before such date if the estimated tax were an
28 amount equal to the tax computed at the rates applicable to the
29 taxable year, including any minimum tax imposed, but otherwise
30 on the basis of the facts shown on the report of the taxpayer

1 for, and the law applicable to, the safe harbor base year,
2 adjusted for any changes to sections 401, 601, 602 and 1101
3 enacted for the taxable year, if a report showing a liability
4 for tax was filed by the taxpayer for the safe harbor base year.
5 If the total amount of all payments of estimated tax made on or
6 before the last date prescribed for the payment of such
7 installment does not equal or exceed the amount required to be
8 paid per the preceding sentence, but such amount is paid after
9 the date the installment was required to be paid, then the
10 period of underpayment shall run from the date the installment
11 was required to be paid to the date the amount required to be
12 paid per the preceding sentence is paid. Provided, that if the
13 total tax for the safe harbor base year exceeds the tax shown on
14 such report by ten per cent or more, the total tax adjusted to
15 reflect the current tax rate shall be used for purposes of this
16 subsection. In the event that the total tax for the safe harbor
17 base year exceeds the tax shown on the report by ten per cent or
18 more, interest resulting from the utilization of such total tax
19 in the application of the provisions of this subsection shall
20 not be imposed if, within forty-five days of the mailing date of
21 each assessment, payments are made such that the total amount of
22 all payments of estimated tax equals or exceeds the amount which
23 would have been required to be paid on or before such date if
24 the estimated tax were an amount equal to the total tax adjusted
25 to reflect the current tax rate. In any case in which the
26 taxable year for which an underpayment of estimated tax may
27 exist is a short taxable year, in determining the tax shown on
28 the report or the total tax for the safe harbor base year, the
29 tax will be reduced by multiplying it by the ratio of the number
30 of installment payments made in the short taxable year to the

1 number of installment payments required to be made for the full
2 taxable year.

3 (d.1) With respect to any underpayment of an installment of
4 estimated corporate net income tax for any tax year that begins
5 in taxable year 2019 or 2020 by a corporation required to file a
6 combined report pursuant to section 403(a.1)(1), interest shall
7 not be imposed if the total amount of all payments of estimated
8 corporate net income tax made on or before the last date
9 prescribed for the payment of such installment equals or exceeds
10 the amount which would have been required to be paid on or
11 before such date if the estimated tax were an amount equal to
12 the combined tax shown on the reports of all the members of the
13 unitary business for the safe harbor base year computed at the
14 rate applicable to the taxable year.

15 Section 6. The following shall apply:

16 (1) Except as provided in paragraph (2), the amendment
17 of sections 401, 402, 403, 404 and 3003.3 of the act shall
18 apply to taxable years beginning after December 31, 2018.

19 (2) The amendment of section 401(3)4 of the act shall
20 apply to taxable years beginning after December 31, 2017.

21 Section 7. This act shall take effect July 1, 2018, or
22 immediately, whichever is later.