HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

HOUSE BILL NO. 465 **PRINTERS NO**. 2211 **PRIME SPONSOR**: Mackenzie

REVENUE INCREASE / (DECREASE)

FUND	FY 2012/13	FY 2013/14
General Fund	**$0**	**$51,600,000**
Racing Fund Restricted Account **Transfer to State Racing Commission**	**$0**	**$5,000,000**
Racing Fund Restricted Account **Transfer to PA Race Horse Development Fund**	**$0**	**$3,900,000**

SUMMARY: House Bill 465, Printer's Number 2211 amends the Tax Reform Code providing the omnibus tax code provisions for implementation of the 2013-2014 budget.

ANALYSIS: This legislation amends the Tax Reform Code as follows:

PROVISION	FY2013-14
SALES AND USE TAX (SUT)	
Repeals the substantially underutilized call center tax credit. (Act 46-2003 created a new tax credit against the sales tax for gross receipts taxes paid on interstate calls by call centers and telemarketers with a cap of $30 million).	$500,000
Provides an exclusion from the sales tax for aircraft parts, services to aircraft and aircraft components.	($3,700,000)
Shortens the appeal period from 90 to 30 days for businesses operating without a sales tax license.	$0
Repeals an obsolete provision in the Tax Reform Code with regard to authorizing county treasurers to receive use tax from any person other than a licensee and remit it to the Commonwealth.	$0
Requires the Independent Fiscal Office to provide a report on the revenues to be collected if Federal legislation relating to remote sellers is enacted. The report shall be published 90 days after notice is published in the PA Bulletin that Federal legislation has been enacted.	$0

PHILADELPHIA SALES AND USE TAX	
Extends the authorization of the 1% Philadelphia sales and use tax scheduled to expire after June 30, 2014. Money received may only be paid to the Philadelphia school district in an amount of up to $120 million. Any amount over $120 million shall be paid to the City in fiscal years 2014-15 through 2017-18 in the amount of $15 million each year for the payment of debt service incurred by the City for the benefit of the school district. The remaining amount shall be paid to the City in accordance with the Municipal Pension Plan Funding Standard and Recovery Act.	$0
PERSONAL INCOME TAX (PIT)	
Authorizes actions by the Department of Revenue to improve income tax compliance and administrative efficiencies for S-corporations, LLCs and partnerships as follows: (1) authorizes the assessment of tax at the entity level in certain instances; (2) requires partnerships to maintain an accurate list of partners and addresses; (3) requires estates and trusts to withhold tax on PA-source income from non-residents; (4) requires non-resident estates and trusts to file PA returns if they have PA beneficiaries or PA-source income; and (5) clarifies the mandatory filing of the pass-through information return (PA-20S/PA65) and RK-1 and NRK-1s.	$2,600,000
Eliminates the resident credit for taxes paid to foreign countries. Credits allowed for taxes paid to other states will remain in effect. (Effective for tax year 2014)	$0
Aligns PA with Federal rules allowing start-up businesses to deduct $5,000 from taxable income in the year a business is established. (Effective for tax year 2014)	$0
Permits the immediate expensing of intangible drilling costs as ordinary and necessary business expenses similar to Federal IRC § 263(c) rules. Alternatively, a taxpayer may elect to amortize over a 60-month period or ten-year period.	($1,100,000)
Extends the PIT checkoffs through tax year 2017 for contributions to (1) Wildlife Resource Conservation, (2) Organ and Tissue Donor Awareness and (3) Military Family Relief Assistance through 2017. Adds two new checkoffs for contributions to the (1) Children's Trust Fund and (2) American Red Cross.	$0
Allows the Department to impose fines and penalties for not paying, underpaying or failing to file an employer withholding return or report (Effective for tax ear 2014)	$0
CORPORATE NET INCOME TAX (CNIT)	
Provides for the closing of the so-called "Delaware Loophole" by requiring companies to addback intangible expenses and costs including the interest expense associated with the intangible expense and cost. The adjustment does not apply to a transaction that did not have as the principal purpose the avoidance of tax and was done at arm's length rates and terms.	$0
Provides for market-based sourcing for the sales apportionment factor with regard to the sales of services. Such sales will be sourced to where the benefit is being derived by the customer.	$7,000,000
Establishes a new apportionment formula for providers of satellite television services based on the value of equipment used in generating, processing or transmitting satellite telecommunications.	($600,000)
Increases the cap of the net operating loss deduction as follows: TY 2014 - greater of $4 million or 25% of income TY 2015 and after - greater of $5 million or 30% of income	($11,400,000)
Creates a non-filing penalty of $500, plus 1% for every dollar of tax greater than $25,000, for C-corporations that do not file a return. (Effective for tax year 2014)	$0

CAPITAL STOCK AND FRANCHISE TAX (CSFT)	
Modifies the phase-out of the CSFT as follows: TY 2012 - 1.89 mills TY 2013 - 0.89 mills TY 2014 - 0.67 mills TY 2015 - 0.45 mills Eliminated for Tax Years 2016 and after.	$58,400,000
BANK SHARES TAX (BST)	
Provides for comprehensive bank shares tax reform as follows: (1) removes the use of a six-year moving average valuation calculation and replaces it with a one-year valuation formula; (2) adjusts the rate and base of taxation from 1.25% of total equity capital to 0.89% of total bank equity capital; (3) eliminates the payroll and deposits factors for apportionment thereby apportioning the taxable value of shares by only a receipts factor (similar to single sales); (4) redefines the terms "doing business in this Commonwealth", "receipts factor" and "institution" to include out-of-state banks doing business in PA in the tax base; and (5) repeals the current provision requiring a special appeals process for the Bank Shares tax and includes the tax in the newly reformed appeals process.	($600,000)
Requires the Department of Revenue and the Department of Banking and Securities, along with representatives from the banking industry, to analyze the comprehensive tax reform and provide a report within 18 months. The report shall ascertain whether the adjustment in tax rate and tax base sufficiently addresses the significant changes in the structural and regulatory environment within the banking industry.	$0
REALTY TRANSFER TAX (RTT)	
Eliminates the realty transfer tax 89/11 loophole which presently imposes tax if at least 90% of the ownership of an acquired company is transferred within 3 years. In an 89/11 transaction, the buyer acquires 89% of the real estate company along with an option to purchase the remaining 11% after 3 years, thereby avoiding paying the state and local realty transfer tax.	$4,300,000
Provides that a transfer of real estate for no or nominal consideration from the Commonwealth or any of its instrumentalities, agencies or political subdivisions to a volunteer emergency medical services agency, volunteer fire company or volunteer rescue company or a transfer of real estate between two or more volunteer emergency medical services agencies, volunteer fire companies or volunteer rescue companies is exempt from the realty transfer tax.	nominal
NONLICENSED CORPORATION PARI-MUTUEL WAGERING TAX	
Establishes a new 10% tax on advance deposit account wagering conducted on horse races in this Commonwealth. The tax is designed to impose a pari-mutuel tax on wagers made over the phone and online and that may be escaping taxation under the existing pari-mutuel tax. Up to $5 million annually may be appropriated from the General Fund to the State Racing Commissions within the Dept. of Agriculture for operations of the Commissions. For FY 2013-14, any funds that exceed $5 million shall be transferred to the Pennsylvania Race Horse Development Fund.	$8,900,000

FILM TAX CREDIT	
Makes the following clarifications and technical changes: (1) Requires the production company to withhold personal income tax on payments to pass-through entities representing individual talent; (2) Clarifies the term "start date" to include an earlier date approved by the PA Film Office other than the first day of principal photography in this Commonwealth; (3) Allows the Director of the PA Film Office to consider other criteria deemed appropriate to ensure maximum employment and benefit to the Commonwealth in the review and approval of tax credits; and (4) Provides that tax credits purchased or assigned in 2013 can be carried forward to 2014; and tax credits purchased or assigned in 2014 can be carried forward to 2015.	$0
EDUCATIONAL OPPORTUNITY SCHOLARSHIP TAX CREDIT	
Adds language clarifying that a scholarship recipient residing within the boundaries of a school that was removed from the list of eligible schools may continue to receive a scholarship for the lesser of five years or until completion of grade 12.	$0
COAL WASTE REMOVAL AND ULTRACLEAN FUELS TAX CREDIT	
Repeals the Coal Waste Removal and Ultraclean Fuels tax credit. The tax credit expired January 1, 2013 and was never utilized.	$0
JOB CREATION TAX CREDIT	
Clarifies current policy allowing DCED to award the total amount of the tax credit authorized for a multiple year tax credit in the first year in which the new job is created and the tax credit is earned.	$0
CITY REVITALIZATION AND IMPROVEMENT ZONES (CRIZ)	
Establishes the CRIZ program to provide economic development and job creation in third class cities. The zone is comprised of designated parcels by the contracting authority constructing one or more facilities with the zone (sports complex, conference center, etc.). Limited to the creation of 2 zones through 2016 including a pilot program which is a zone in a township or borough having a population of at least 3,000 people. After 2016 two additional zones may be approved each year.	$0
MOBILE TELECOMMUNICATIONS BROADBAND INVESTMENT TAX CREDIT	
Creates a new tax credit for the mobile telecommunications industry equal to 5% of the cost of investment in qualified broadband equipment located in PA for tax year 2014 through 2023. The tax credit is capped at $5 million per year.	$0
INNOVATE IN PA TAX CREDIT	
Establishes the new Innovate in PA Tax Credit program, which provides a new and predictable source of funding for early-stage venture capital investment through the Ben Franklin Technology Partners Program, the Venture Investment Program and the Life Sciences Greenhouses. A total of $100 million in tax credits may be sold to qualified taxpayers no earlier than October 1, 2013. Tax credits may first be applied in 2017 for taxable years that begin in 2016. Total tax credits utilized by all taxpayers may not exceed $20 million per year.	$0

NEIGHBORHOOD IMPROVEMENT ZONES (NIZ)	
Codifies the existing NIZ Program legislation currently contained in the Fiscal Code into the Tax Reform Code.	$0
KEYSTONE SPECIAL DEVELOPMENT ZONE PRGORAM (KSDZ)	
Codifies the existing KSDZ Program legislation currently contained in the Fiscal Code into the Tax Reform Code.	$0
INHERITANCE TAX	
Excludes the transfer of all business assets, including real estate, between members of the same family, provided that after the transfer the qualified family-owned business interest continues to be owned by a qualified transferee for a minimum of 7 years after the decedent's date of death. If an asset that was exempt is no longer owned by a qualified transferee during the 7 year period, the asset shall be subject to inheritance tax in the amount that would have been paid plus interest accruing as of the date of death.	($3,800,000)
Repeals Section 2112 which is an obsolete provision relating to an exemption for poverty for spouses. Inheritance tax is no longer imposed on transfers to spouses.	$0
TAX APPEALS REFORM	
Reorganizes the existing board of Finance and Revenue to include three full-time members as follows: 2 members appointed by the Governor and the State Treasurer, or designee of the State Treasurer. Members must be either an attorney or CPA having substantial knowledge of PA tax law. The petitioner and the Department of Revenue are entitled to present oral and documentary evidence before the Board with regard to tax appeals. The Board may order a compromise settlement with agreement of both parties.	$0

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House Appropriations Committee (R)

DATE: July 1, 2013

Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.