

TAX REFORM CODE OF 1971 - OMNIBUS AMENDMENTS

Act of Jul. 7, 2005, P.L. 149, No. 40

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HB 176

AN ACT

Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties," further providing, in sales and use tax, for alternate imposition; providing, in personal income tax, for definitions, for classes of income and for contributions to the Olympics; providing, in personal income tax, for contributions for military family relief assistance and for operational provisions; further providing, in personal income tax, for additions, penalties and fees; further providing, in corporate net income tax, for definitions; further providing, in capital stock franchise tax, for definitions and reports; further providing, in realty transfer tax, for determination and notice; providing, in realty transfer tax, for sharing information; further providing, in local real estate transfer tax, for imposition and for administration; providing, in local real estate transfer tax, for regulations, for documentary stamps, for collection agents, for disbursements, for proceeds of judicial sale, for failure to affix stamps, for determination and notice of tax, for liens, for refunds, for civil penalties, for unlawful acts and penalties and for information; further providing, in the research and development tax credit, for definitions and for Pennsylvania S corporation pass-through; further providing, in the film production tax credit, for definitions and for credit for qualified film production expenses; providing, in the film production tax credit, for credits; further providing in the film production tax credit, for disposition and for limitation; providing, in the film production tax credit, for penalties; further providing, in the film production tax credit, for pass-through entities and report; further providing, in the neighborhood assistance tax credit, for grant; further providing, in general provisions, for bad checks; providing, in general provisions, for electronic transmissions and for reimbursement for costs of collection; continuing ordinances and resolutions relating to real property tax transfers; and making repeals.

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

Section 1. Section 205(a) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended August 4, 1991 (P.L.97, No.22), is amended to read:

Section 205. Alternate Imposition of Tax; Credits.--(a) If any person actively and principally engaged in the business of

selling new or used motor vehicles, trailers or semi-trailers, and registered with the department in the "dealer's class," acquires a motor vehicle, trailer or semi-trailer for the purpose of resale, and prior to such resale, uses the motor vehicle, trailer or semi-trailer for a taxable use under this act [during a period not exceeding one year from the date of acquisition to the date of resale], such person may [within ten days of the commencement of such use, elect to] pay a tax equal to six per cent of the fair rental value of the motor vehicle, trailer or semi-trailer during such use. [Should such motor vehicle, trailer or semi-trailer be used for a taxable use after a period of one year, the taxpayer shall be liable for a tax on the fair market value of such motor vehicle, trailer or semi-trailer at the time of acquisition, but shall be allowed a credit equal to the tax paid pursuant to the election provided for in this section.] This section shall not apply to the use of a vehicle as a wrecker, parts truck, delivery truck or courtesy car.

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Section 2. Section 301 introductory paragraph, (a) and (d) of the act, amended December 23, 1983 (P.L.370, No.90), April 23, 1998 (P.L.239, No.45) and June 29, 2002 (P.L.559, No.89), are amended to read:

Section 301. Definitions.--**Any reference in this article to the Internal Revenue Code of 1986 shall mean the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended to January 1, 1997, unless the reference contains the phrase "as amended" and refers to no other date, in which case the reference shall be to the Internal Revenue Code of 1986 as it exists as of the time of application of this article.** The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning[, and, unless specifically provided otherwise, any reference in this article to the Internal Revenue Code of 1986 shall mean the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended to January 1, 1997]:

(a) "Accepted accounting principles and practices" means, **unless otherwise explicitly provided for in this article,** those accounting principles, systems or practices, including the installment sales method of reporting, which are acceptable by standards of the accounting profession and which are not inconsistent with the regulations of the department setting forth such principles and practices.

* * *

(d) "Compensation" means and shall include salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered, whether directly or through an agent, and whether in cash or in property. **The term "compensation" shall include any part of a distribution under a plan described in section 409A(d) (1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 409 A(d) (1)), as amended, attributable to an elective deferral of income or the income on any elective deferral of income, whether paid or payable during employment or to a retired person upon or after retirement from service.**

The term "compensation" shall not mean or include: (i) periodic payments for sickness and disability other than regular wages received during a period of sickness or disability; or (ii) disability, retirement or other payments arising under

workmen's compensation acts, occupational disease acts and similar legislation by any government; or (iii) payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment; or (iv) payments commonly known as public assistance, or unemployment compensation payments by any governmental agency; or (v) payments to reimburse actual expenses; or (vi) payments made by employers or labor unions, including payments made pursuant to a cafeteria plan qualifying under section 125 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 125), for employee benefit programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits or strike benefits: Provided, That the program does not discriminate in favor of highly compensated individuals as to eligibility to participate, payments or program benefits; or (vii) any compensation received by United States servicemen serving in a combat zone; or (viii) payments received by a foster parent for in-home care of foster children from an agency of the Commonwealth or a political subdivision thereof or an organization exempt from Federal tax under section 501(c)(3) of the Internal Revenue Code of 1954 which is licensed by the Commonwealth or a political subdivision thereof as a placement agency; or (ix) payments made by employers or labor unions for employee benefit programs covering social security or retirement; or (x) personal use of an employer's owned or leased property or of employer-provided services.

* * *

Section 3. Section 303(a)(1) and (6) of the act, amended or added August 31, 1971 (P.L.362, No.93) and March 13, 1974 (P.L.179, No.32), are amended and the section is amended by adding subsections to read:

Section 303. Classes of Income.--(a) The classes of income referred to above are as follows:

(1) Compensation.

(i) All salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered whether directly or through an agent and whether in cash or in property except income derived from the United States Government for active duty outside the Commonwealth of Pennsylvania as a member of its armed forces.

(ii) Compensation of a cash-basis taxpayer shall be considered as received if the compensation is actually or constructively received for Federal income tax purposes as determined consistent with the United States Treasury regulations and rulings under the Internal Revenue Code of 1986, as amended, except that, for purposes of computing tax under this article:

(A) Amounts lawfully deducted, not deferred, and withheld from the compensation of employees shall be considered to have been received by the employee as compensation at the time the deduction is made.

(B) Contributions to an employees' trust, pooled fund or other arrangement which is not subject to the claims of creditors of the employer made by an employer on behalf of an employee or self-employed individual at the election of the employee or self-employed individual pursuant to a cash or deferred arrangement or salary reduction agreement shall be deemed to have been received by the employee or individual as compensation at the time the contribution is made, regardless of when the election is made or a payment is received.

(C) Any contribution to a plan by, on behalf of or attributable to a self-employed person shall be deemed to have been received at the time the contribution is made.

(D) Employer contributions to a Roth IRA custodial account or employee annuity shall be deemed received, earned or acquired only when distributed, when the plan fails to meet the requirements of section 408A of the Internal Revenue Code of 1986 (26 U.S.C. § 408A), as amended, or when the plan is not operated in accordance with such requirements.

(E) Employee contributions to an employees' trust or pooled fund or custodial account or contract or employee annuity shall not be deducted or excluded from compensation.

(iii) For purposes of determining when deferred compensation of employees other than employees of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83 and 451 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 83 and 451), as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986 (26 U.S.C. § 409A), as amended, shall apply.

(iv) For purposes of determining when deferred compensation of employees of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83, 451 and 457 of the Internal Revenue Code of 1986, as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986, as amended, shall apply.

* * *

(6) Interest derived from obligations which are not statutorily free from State or local taxation under any other act of the General Assembly of the Commonwealth of Pennsylvania or under the laws of the United States and any amount paid under contract of life insurance or endowment or annuity contract, which is includable in gross income for Federal income tax purposes.

* * *

(a.4) This article shall be subject to applicable Federal limitations on state income taxation.

(a.5) The requirements of section 1035 of the Internal Revenue Code of 1986 (26 U.S.C. § 1035), as amended, shall be applicable.

* * *

Section 4. Section 315.5 of the act, added May 7, 1997 (P.L.85, No.7), is amended to read:

Section 315.5. Contributions for Olympics.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to the United States Olympic Committee, Pennsylvania Division.

(b) The amount so designated by an individual on the income tax return form shall be deducted from the tax refund to which such individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated pursuant to this section, less reasonable administrative costs, and shall report such amount to the State Treasurer who shall transfer such amount from the General Fund to the United States Olympic Committee, Pennsylvania Division.]

Section 5. The act is amended by adding sections to read:

Section 315.8. Contributions for Military Family Relief Assistance.--(a) Beginning with taxable years ending after

December 31, 2004, the department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may contribute to a fund for military family relief assistance. Persons may do so by stating the amount of the contribution, not less than one dollar (\$1), on the return and that the contribution will reduce the taxpayer's refund.

(b) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer who shall transfer the amount to a restricted revenue account within the General Fund to be used by the Department of Military and Veterans Affairs for contributions to military family relief assistance as provided by statute.

(c) The department shall provide adequate information concerning the checkoff for military family relief assistance in its instructions which accompany the Pennsylvania income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Military and Veterans Affairs to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds.

(d) The Department of Military and Veterans Affairs shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over military and veterans affairs on the amount received via the checkoff plan and how the funds were utilized.

Section 315.9. Operational Provisions.--(a) Except for the checkoff established under sections 315.6 and 315.7 and except as otherwise provided under subsection (b), the checkoffs established under this part shall apply through taxable years ending December 31, 2007.

(b) Any checkoff established under this part and applicable for the first time in a taxable year beginning after December 31, 2003, shall expire four years after the beginning of such first taxable year.

(c) Sections 315.2, 315.3 and 315.4 shall expire January 1, 2008.

Section 6. Section 352(d) and (f) of the act, amended August 4, 1991 (P.L.97, No.22), are amended to read:

Section 352. Additions, Penalties and Fees.--* * *

(d) (1) If any taxpayer fails to pay all or any part of an installment of estimated tax, he shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the rate established pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the fourth month following the close of the taxable year. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety per cent of the tax (two-thirds in the case of an individual described in subsection (e) of section 325) shown on the return for the taxable year (or if no return was filed, of the tax for such year) over the amount, if any, of the installments paid on or before the last day prescribed for such payment. No underpayment shall be deemed to exist with respect to an installment otherwise due on or after the taxpayer's death or, in the case of a decedent's estate or a trust created by the decedent to receive the residue of the decedent's estate, for a period of two years after the decedent's death.

(2) No addition to tax shall be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the lesser of:

(A) The amount which would have been required to be paid on or before such date if the estimated tax were an amount equal to the tax computed, at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year; or

(B) An amount equal to ninety per cent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual income for the months in the taxable year ending before the month in which the installment is required to be paid[.], **or, in the case of a trust or estate, an amount equal to ninety per cent of the applicable percentage of the tax for the taxable year as determined pursuant to section 6654(d)(2)(C)(ii) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 6654), as amended, at rates applicable to the taxable year, computed on an annualized basis in accordance with United States Treasury regulations, based upon the actual income for the months of the taxable year ending with the last day of the second preceding month prior to the month in which the installment is required to be paid.**

* * *

(f) (1) Any person required under the provisions of section 317 to furnish a statement to an employee who wilfully furnishes a false or fraudulent statement, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required under section 317 and the regulations prescribed thereunder, shall, for each such failure, be subject to a penalty of fifty dollars (\$50) for each employee.

(2) Any person required by regulation to furnish an information return who furnishes a false or fraudulent return shall for each failure be subject to a penalty of [fifty dollars (\$50)] **two hundred fifty dollars (\$250).**

* * *

Section 7. Section 401(1) of the act, amended June 29, 2002 (P.L.559, No.89) and December 23, 2003 (P.L.250, No.46), is amended to read:

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

(1) "Corporation." Any of the following:

(i) A corporation.

(ii) A joint-stock association.

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

The term does not include:

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

2. A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)) and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 or a related business trust which

confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.

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

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

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

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

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

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

* * *

Section 8. The definition of "corporation" in section 601(a) of the act, amended December 23, 2003 (P.L.250, No.46), is amended to read:

Section 601. Definitions and Reports.--(a) The following words, terms and phrases when used in this Article VI shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

* * *

"Corporation." (A) Any of the following entities:

(1) A corporation.

(2) A joint-stock association.

(3) A business trust.

(4) A limited liability company. This clause excludes a restricted professional company which is subject to 15 Pa.C.S. Ch. 89 Subch. L (relating to restricted professional companies) and which is deemed to be a limited partnership pursuant to 15 Pa.C.S. § 8997 (relating to taxation of restricted professional companies).

(5) An entity which for Federal income tax purposes is classified as a corporation.

(6) A business trust which is a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 856) more than fifty per cent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution as defined by section 401(6) of Article IV; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

(7) A business trust which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 owned, directly or indirectly, by a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 more than fifty per cent of the voting power or value of the beneficial interests or shares of

which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution as defined by section 401(6) of Article IV; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

(B) The term does not include any of the following:

(1) A business trust which qualifies as a real estate investment trust under section 856 of the Internal Revenue Code of 1986 (26 U.S.C. § 856) or which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)).

(2) A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 851) and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.) or a related business trust which confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.

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

(4) A corporation, trust or other entity organized as a not-for-profit organization under the laws of this Commonwealth or the laws of any other state which:

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

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

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

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

(5) A cooperative agricultural association subject to 15 Pa.C.S. Ch. 75 (relating to cooperative agricultural associations).

(6) A business trust if the trust is all of the following:

(i) Created or managed by an entity which is subject to the tax imposed by Article VII or XV or which is an affiliate of the entity which shares at least eighty per cent common ownership.

(ii) Created and managed for the purpose of facilitating the securitization of intangible assets.

(iii) Classified as a partnership or a disregarded entity for Federal income tax purposes.

* * *

Section 9. Section 1111-C(a) of the act, amended July 2, 1986 (P.L.318, No.77), is amended to read:

Section 1111-C. Determination and Notice of Tax; Review.--(a) If any person shall fail to pay any tax imposed by this article for which he is liable, the department is hereby authorized and empowered to make a determination of additional

tax and interest due by such person based upon any information within its possession or that shall come into its possession. All of such determinations shall be made within three years after the date of the recording of the document[.], **subject to the following:**

(1) If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.

(2) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

* * *

Section 10. The act is amended by adding a section to read:

Section 1114-C. Sharing Information.--Notwithstanding the provisions of any other act, the department may divulge to the proper officer of a political subdivision imposing a local real estate transfer tax, or the authorized representative of that officer, information gained pursuant to the department's administration or collection respecting the collection of realty transfer tax under this article.

Section 11. Sections 1101-D and 1102-D of the act, added July 2, 1986 (P.L.318, No.77), are amended to read:

Section 1101-D. Imposition.--The duly constituted authorities of the following political subdivisions--cities of the second class, cities of the second class A, cities of the third class, boroughs, incorporated towns, townships of the first class, townships of the second class, **school districts of the first class A**, school districts of the second class, school districts of the third class and school districts of the fourth class, in all cases including independent school districts--may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of a tax upon a transfer of real property or an interest in real property within the limits of the political subdivision, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on the transfer take place, to the extent that the transactions are subject to the tax imposed by Article XI-C. [In addition, such political subdivision may impose a local real estate transfer tax upon additional classes or types of transactions if the tax was imposed by the political subdivision under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," prior to the effective date of this article.] A tax imposed under this article shall be subject to rate limitations provided by section 5, **section 8** and section 17 of **the act of December 31, 1965 (P.L.1257, No.511)** , known as "The Local Tax Enabling Act."

Section 1102-D. Administration.--[A] **(a) The tax [imposed] authorized** under this article shall be administered, collected and enforced under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act[.]," **provided, however, that, if the correct amount of the tax is not paid by the last date prescribed for timely payment as provided for in section 1102-C, the department may determine the tax, interest and penalty as provided for in section 1109-D and may collect and enforce the tax, interest and penalty in the same manner as tax, interest and penalty imposed by Article XI-C.**

(b) Whenever a declaration is required to be filed under Article XI-C, a declaration is also required to be filed under this article.

Section 12. The act is amended by adding sections to read:

Section 1103-D. Regulations.--(a) The regulations promulgated under Article XI-C shall be applicable to the taxes imposed under this article.

(b) The Department of Revenue may promulgate and enforce regulations not inconsistent with the provisions of this article.

(c) The department, to cover its costs of administration, shall retain an amount equal to costs but not to exceed ten per cent of the tax, interest and penalty collected and enforced by the department under section 1102-D.

Section 1104-D. Documentary Stamps.--(a) The payment of the tax imposed under this article shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. The stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing the stamps shall write, stamp or cause to be written or stamped thereon the initials of that person's name and the date upon which the stamps are affixed or used so that the stamps may not again be used, provided that the Department of Revenue may prescribe such other method of cancellation as it may deem expedient.

(b) The department may, in its discretion, use documentary license meter impressions or similar indicia of payment in lieu of stamps.

Section 1105-D. Collection Agent.--The recorder of deeds shall be the collection agent for any political subdivision levying a local real estate transfer tax under this article. The recorder of deeds shall pay tax, interest and penalty collected under this article over to the appropriate political subdivision in accordance with section 6(c) of the act of November 1, 1971 (P.L.495, No.113) , entitled, as amended, "An act providing for the compensation of county officers in counties of the second through eighth classes, for compensation of district attorneys in cities and counties of the first class, for compensation of district election officers in all counties, for the disposition of fees, for filing of bonds in certain cases and for duties of certain officers."

Section 1106-D. Disbursements.--The tax, interest and penalty that the Department of Revenue collects under this article shall be remitted in the manner provided by law to the appropriate recorder of deeds along with the "State Tax Payment Imprint Receipt" which shall provide sufficient information for the recorder of deeds to determine which political subdivisions are entitled to the collections. The recorder of deeds shall record the "State Tax Payment Imprint Receipt" whether or not signed and acknowledged by the Department of Revenue and shall index in the grantor/grantee index to the original document upon which the tax has been paid. The department shall collect from the taxpayer as part of its determination process the county recording fee for the recording of the "State Tax Payment Imprint Receipt."

Section 1107-D. Proceeds of Judicial Sale.--The tax imposed under this article shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made. The sheriff or other officer conducting the sale shall pay the tax imposed

under this article out of the first moneys paid to the sheriff or officer in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax imposed under this article, the purchaser shall be liable for the remaining tax.

Section 1108-D. Failure to Affix Stamps.--No document upon which tax is imposed under this article shall at any time be made the basis of any action or other legal proceeding nor shall proof thereof be offered or received in evidence in any court of this Commonwealth or recorded in the office of any recorder of deeds of any county of this Commonwealth unless a documentary stamp or stamps as provided in this article have been affixed thereto.

Section 1109-D. Determination and Notice of Tax; Review.--(a) If any person fails to pay any tax imposed under this article for which that person is liable, a political subdivision may authorize the Department of Revenue to make a determination of additional tax, penalty and interest due under this section by the person. The determination will be based upon any information which is within the possession or which will come into the possession of the department. The determination will be made within three years after the date of the recording of the document, subject to the following:

(1) If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.

(2) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

(b) (1) Promptly after the date of such determination, the department shall send by mail a copy thereof to the person against whom it was made. Within ninety days after the date upon which the copy of the determination was mailed, the person may file with the department a petition for redetermination of the taxes.

(2) Every petition for redetermination must state specifically the reasons which the petitioner believes to be entitled to redetermination and shall be supported by affirmation that it is not made for the purpose of delay and that the facts set forth therein are true.

(3) The department, within six months after the date of filing of a petition for redetermination, shall dispose of the petition. Notice of the action taken upon a petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.

(c) A person shall have the right to review by the Board of Finance and Revenue and appeal in the same manner and within the same time as provided by law in the case of capital stock and franchise taxes imposed upon corporations.

(d) (1) Notice of the action of the Board of Finance and Revenue shall be given by mail to the political subdivision. A political subdivision shall have the right to appeal in the same manner and within the same time as provided by law for the Commonwealth in the case of capital stock and franchise taxes imposed upon corporations.

(2) The political subdivision may request in writing the Office of General Counsel to render such legal advice and such representation as are required concerning every matter and issue arising in connection with an appeal from a decision of the Board of Finance and Revenue.

Section 1110-D. Lien.--(a) Any tax that the Department of Revenue determines to be due under this article and remains unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the affected political subdivision upon the property, both real and personal, of the person but only after the lien has been entered and docketed of record by the prothonotary of the county where such property is situated.

(b) (1) At any time after it makes a determination of additional tax, penalty or interest under this article, the department may transmit to the prothonotaries of the respective counties certified copies of all liens for the taxes, penalties and interest under this article or copies of all liens under Article XI-C and this article on a single form.

(2) A prothonotary receiving the lien shall enter and docket the lien of record in the prothonotary's office, which lien shall be indexed as judgments are now indexed.

(3) After the department's determination becomes final, a writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias, provided that, not less than ten days before issuance of any execution on the lien, notice shall be sent by certified mail to the taxpayer at the taxpayer's last known post office address. No prothonotary shall require as a condition precedent to the entry of the liens the payment of any costs incident thereto.

(c) (1) The lien imposed under this section shall have priority from the date of its recording and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto before any other obligation, judgment, claim, lien or estate to which the property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien.

(2) In the case of a judicial sale of property subject to a lien imposed under this section upon a lien or claim over which the lien has priority, the sale shall discharge the lien to the extent only that the proceeds are applied to its payment, and the lien shall continue in full force and effect as to the balance remaining unpaid.

(d) A lien imposed under this article shall be equal in priority to the lien imposed under Article XI-C.

Section 1111-D. Refunds.--(a) Whenever the amount due upon determination, redetermination or review is less than the amount paid on account thereof, the political subdivision shall refund the difference.

(b) Where there has been no determination of unpaid tax, application for refund shall be made to the political subdivision in the manner prescribed by the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," 53 Pa.C.S. Ch. 84 Subch. C (relating to local taxpayers bill of rights) or as otherwise provided by law.

Section 1112-D. Civil Penalties.--(a) If any part of any underpayment of tax imposed under this article is due to fraud, an amount equal to fifty per cent of the underpayment shall be added to the tax.

(b) In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, five per cent of the amount of such tax shall be added to the tax if the

failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding fifty per cent in the aggregate.

Section 1113-D. Unlawful Acts and Penalty.--(a) It shall be unlawful for any person to:

(1) accept or present for recording or cause to be accepted or presented for recording any document without the full amount of tax thereon being duly paid;

(2) make use of any documentary stamp to denote payment of any tax imposed under this article without cancelling such stamp as required by this article or as prescribed by the Department of Revenue;

(3) fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the department under this article;

(4) fraudulently cut, tear or remove from a document any documentary stamp;

(5) fraudulently affix to any document upon which tax is imposed under this article any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed under this article, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article;

(6) wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale or give away such altered or restored stamp to any person for use, or knowingly use the same;

(7) knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which a tax is imposed under this article, provided that the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or

(8) knowingly or wilfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.

(b) (1) Except as otherwise provided in clause (2), a person who violates subsection (a) commits a misdemeanor of the second degree.

(2) A person who violates subsection (a)(1), (2) or (3) commits a summary offense.

(c) A person who makes a false statement of value or declaration of acquisition, not believing the statement or declaration to be true, commits a misdemeanor of the second degree.

Section 1114-D. Information.--Notwithstanding the provisions of any other act, the officer of a political subdivision imposing a local real estate transfer tax or the authorized representative of the officer may divulge to the Department of Revenue information concerning the administration or collection of local real estate transfer tax authorized by this article.

Section 13. The definition of "qualified tax liability" in section 1702-B of the act, added May 7, 1997 (P.L.85, No.7), is amended and the section is amended by adding a definition to read:

Section 1702-B. Definitions.--The following words and phrases, when used in this article, shall have the meanings given to them in this section, except where the context clearly indicates a different meaning:

* * *

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

* * *

"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI of this act. The term shall **not** include [the liability for taxes imposed under Article III on a shareholder of a Pennsylvania S corporation] **any tax withheld by an employer from an employee under Article III.**

* * *

Section 14. Section 1710-B of the act, added May 7, 1997 (P.L.85, No.7), is amended to read:

Section 1710-B. [Pennsylvania S Corporation Shareholder] **Pass-Through Entity.**--(a) If a [Pennsylvania S corporation does not have an eligible tax liability against which the research and development tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a research and development tax credit equal to the research and development tax credit determined for the Pennsylvania S corporation for the taxable year multiplied by the percentage of the Pennsylvania S corporation's] **pass-through entity has any unused tax credit under section 1704-B, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.**

(b) The credit provided under subsection (a) is in addition to any research and development tax credit to which a shareholder, **member or partner** of a [Pennsylvania S corporation] **pass-through entity** is otherwise entitled under this article. However, a [Pennsylvania S corporation] **pass-through entity** and a shareholder, **member or partner** of a [Pennsylvania S corporation] **pass-through entity** may not claim a credit under this article for the same qualified research and development expense.

(c) **A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.**

Section 15. The definitions of "film," "Pennsylvania production expense," "production expense" and "taxpayer" in section 1702-C of the act, added July 20, 2004 (P.L.801, No.95), are amended and the section is amended by adding a definition read:

Section 1702-C. Definitions.

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

* * *

"Film." [The term includes a] **A feature film, a television film, a television pilot or each episode of a television series [and a television show of 15 minutes or more in length, intended], which is intended as programming for a national audience. The term does not include a production featuring news, current events, weather and market reports, or public programming, talk show, game show, sports event, awards show or other gala event, a production that solicits funds, a**

production that primarily markets a product or service, a production containing obscene material or performances as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other sexual materials and performances) or a production primarily for private, **political**, industrial, corporate or institutional purposes.

* * *

"Pennsylvania production expense." A production expense incurred in this Commonwealth. **The term includes only wages and salaries on which the taxes imposed by Article III or IV will be paid or accrued.**

"Production expense." An expense incurred in the production of a film. The term includes **the aggregate amount of** wages and salaries of individuals **each of whom receive less than \$1,000,000 and are** employed in the production of [a film on which the taxes imposed by Article III or IV have been paid or accrued] **the film**; the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories; and the cost of rental of facilities and equipment. The term does not include expenses incurred in **purchasing story rights, music rights, development costs, marketing or advertising a film.**

* * *

"Start date." **The first day of principal photography in the Commonwealth.**

"Taxpayer." [An entity] **A film production company** subject to tax under Article III, IV or VI. **The term does not include contractors or subcontractors of a film production company.**

Section 16. Section 1703-C of the act, added July 20, 2004 (P.L.801, No.95), is amended to read:

Section 1703-C. Credit for qualified film production expenses.

[(a) General rule.--A taxpayer who incurs a qualified film production expense in a taxable year may apply for a film production tax credit as provided in this article. A taxpayer seeking a credit under this article must submit an application to the department by February 15 for qualified film production expenses incurred in the taxable year that ended in the prior calendar year.

(b) Amount of credit.--A taxpayer that is qualified under subsection (a) shall receive a film production tax credit for the taxable year in the amount of 20% of the qualified film production expenses.

(c) Notification.--By August 15 of the calendar year following the close of the taxable year during which the qualified film production expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's film production tax credit approved by the department.]

(a) **Application.--A taxpayer may apply to the Department of Community and Economic Development for a film production tax credit. The application shall be on the form required by the Department of Community and Economic Development.**

(b) **Review and approval.--The Department of Community and Economic Development shall review the application. Upon determining the qualified film production expense amount for the taxpayer, the Department of Community and Economic Development may approve the taxpayer for a film production tax credit. The Department of Community and Economic Development shall give priority considerations to applications with the earliest start date.**

(c) **Contract.--If the Department of Community and Economic Development approves the taxpayer's application under subsection**

(b), the Department of Community and Economic Development and the taxpayer shall enter into a contract containing the following:

(1) An itemized list of production expenses to be incurred.

(2) An itemized list of Pennsylvania production expenses to be incurred.

(3) A commitment by the taxpayer to incur the qualified film production expenses as itemized.

(4) The start date.

(5) Any other information the Department of Community and Economic Development deems appropriate.

(d) Certificate.--Upon execution of the contract required by subsection (c), the Department of Community and Economic Development shall award the taxpayer a film production tax credit and issue the taxpayer a film production tax credit certificate.

(e) Limitations.--

(1) The aggregate amount of film production tax credits awarded by the Department of Community and Economic Development under subsection (d) shall not exceed \$10,000,000 in any fiscal year.

(2) The aggregate amount of film production tax credits awarded by the Department of Community and Economic Development under subsection (d) to a taxpayer for a film may not exceed 20% of the qualified film production expenses to be incurred.

(3) For the 2005-2006 fiscal year, the first year in which the credit is to be awarded, the amount of film production tax credits to be approved under this article shall not exceed \$10,000,000, including the film production tax credits to be awarded by the department by August 15, 2005, for expenses incurred for the period July 1, 2004, to December 31, 2004, under this article.

Section 17. The act is amended by adding a section to read: Section 1703.1-C. Film production tax credits.

(a) Claim.--In accordance with subsection (b), a taxpayer may claim a film production tax credit against the qualified tax liability of the taxpayer.

(b) Cap.--The aggregate amount of film production tax credits claimed by a taxpayer under subsection (a) may not exceed the amount awarded by the Department of Community and Economic Development under section 1703-C(d) for the taxpayer for that taxable year.

Section 18. Sections 1704-C and 1707-C of the act, added July 20, 2004 (P.L.801, No.95), are amended to read: Section 1704-C. Carryover, carryback, refund and assignment of credit.

(a) General rule.--If the taxpayer cannot use the entire amount of the film production tax credit for the taxable year in which the film production tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the film production tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The film production tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than

three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--A film production tax credit approved by the Department of [Revenue] **Community and Economic Development** for qualified film production expenses in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the film production tax credit can be applied against any tax liability under subsection (a).

(c) No carryback.--A taxpayer is not entitled to carry back or obtain a refund of an unused film production tax credit.

(d) Sale or assignment.--

(1) A taxpayer, upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a film production tax credit granted to the taxpayer under this article.

(2) The Department of Community and Economic Development and the department shall jointly promulgate regulations for the approval of applications under this subsection.

(3) Before an application is approved, the department must make a finding that the applicant has filed **all** required State tax reports [for the taxable year for which the qualified expenses were approved] **and returns for all applicable taxable years** and paid any balance of State tax due as determined at settlement, assessment or determination by the department.

(4) Notwithstanding any other provision of law, the department shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(e) Purchasers and assignees.--The purchaser or assignee of a portion of a film production tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the film production credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or **sell or** assign the film production tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the film production tax credit in compliance with procedures specified by the Department of Revenue.
[Section 1707-C. Limitation on credits.

(a) General rule.--The total amount of credits approved by the department shall not exceed \$10,000,000 in any fiscal year.

(b) Exception.--If the total amount of film production tax credits applied for by all taxpayers exceeds the amount allocated for those credits, then the film production tax credit to be received by each applicant shall be the product of the allocated amount multiplied by the quotient of the film production tax credit applied for by the applicant divided by the total of all film production credits applied for by all applicants, the algebraic equivalent of which is:

taxpayer's film production tax credit = amount allocated for those credits X (film production tax credit applied for by the applicant/total of all film production tax credits applied for by all applicants).]

Section 19. The act is amended by adding a section to read:
Section 1707.1-C. Penalty.

A taxpayer which claims a film production tax credit and fails to incur the amount of qualified film production expense agreed to in section 1703-C(c)(3) for a film in that taxable year shall refund to the Commonwealth the film production tax credit claimed under this article for the film.

Section 20. Sections 1708-C and 1709-C of the act, added July 20, 2004 (P.L.801, No.95), are amended to read:
Section 1708-C. Pass-through entity.

(a) General rule.--If a pass-through entity has any unused tax credit under section 1704-C, it may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of its distributive income to which the shareholder, member or partner is entitled.

(b) Limitation.--The credit provided under subsection (a) is in addition to any film production tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article. However, a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a credit under this article for the same qualified film production expense.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a credit is transferred under subsection (a) shall immediately claim the credit in the taxable year in which the transfer is made. A credit transferred to a natural person may be applied only against the income referred to under section 303(a)(2).] The shareholder, member or partner may not **carry forward**, carry back, obtain a refund of **or sell** or assign the credit.

Section 1709-C. Report to General Assembly.

The [secretary] **Secretary of Community and Economic Development** shall submit an annual report to the General Assembly indicating the effectiveness of the film production tax credit provided by this article no later than April 1 following the year in which the credits were approved. The report shall include the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized by each taxpayer. Notwithstanding any law providing for the confidentiality of tax records, **the department may provide to the Department of Community and Economic Development tax information necessary to complete the report, and the information contained in the report shall be public information.** The report may also include any recommendations for changes in the calculation or administration of the credit.

Section 21. Sections 1905-A and 3003.9 of the act, amended May 7, 1997 (P.L.85, No.7), are amended to read:

Section 1905-A. Grant of Tax Credit.--The Department of Revenue shall grant a tax credit against any tax due under Article IV, VI, VII, VII-A, VIII, VIII-A, IX, X or XV of this act, or any tax substituted in lieu thereof in an amount which shall not exceed fifty per cent of the total amount invested during the taxable year by the business firm or twenty per cent of qualified investments by a private company in programs approved pursuant to section 1904-A of this act: Provided, That a tax credit of up to seventy per cent of the total amount invested during the taxable year by a business firm or up to thirty per cent of the amount of qualified investments by a private company may be allowed for investment in programs where activities fall within the scope of special program priorities as defined with the approval of the Governor in regulations promulgated by the secretary. [Regulations establishing special program priorities are to be promulgated during the first month

of each fiscal year and at such times during the year as the public interest dictates.] Such credit shall not exceed two hundred fifty thousand dollars (\$250,000) annually, except in the case of comprehensive service projects which shall be allowed an additional credit equal to seventy per cent of the qualifying investments made in comprehensive service projects; however, such additional credit shall not exceed three hundred fifty thousand dollars (\$350,000) annually. No tax credit shall be granted to any bank, bank and trust company, insurance company, trust company, national bank, savings association, mutual savings bank or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the investment was made may be carried over for the next five succeeding calendar or fiscal years until the full credit has been allowed. The total amount of all tax credits allowed pursuant to this act shall not exceed eighteen million dollars (\$18,000,000) in any one fiscal year.

Section 3003.9. **Bad Checks; Electronic Funds Transfers Not Credited Upon Transmission; Additions to Tax.--**(a) If any check in payment of any amount receivable under the laws of this Commonwealth administered by the department is not paid upon presentment, **or any electronic funds transfer as payment of any amount receivable under the laws of this Commonwealth administered by the department is not credited upon transmission**, in addition to any interest or penalties provided by law, the department shall charge the person who tendered the check **or authorized the electronic transmission** an addition to tax equal to ten per cent of the face amount of the check **or electronic funds transfer**, plus interest and protest fees, provided that the addition imposed by this section shall not exceed [five hundred dollars (\$500)] **one thousand dollars (\$1,000)** nor be less than twenty-five dollars (\$25).

(b) This section shall apply to all checks presented for payment [after December 31, 1997.] **and all electronic funds transfers authorized for payment.**

Section 22. The act is amended by adding sections to read:

Section 3003.16. **Electronic Transmissions.--**Notwithstanding the provisions of the act of December 16, 1999 (P.L.971, No.69), known as the "Electronic Transactions Act," the department may, at any time, transmit, by electronic or any other means, to the prothonotaries of the respective counties of the Commonwealth, to be entered of record by them, certified copies of all liens imposed by this act. Notwithstanding the provisions of the "Electronic Transactions Act," the department may pay for and satisfy such liens by electronic or any other means.

Section 3003.17. **Reimbursement for Costs of Collection.--**(a) All costs of collection incurred by the department or the Office of Attorney General on tax liability for taxes administered by the department, other than fuel tax liabilities and motor carrier road tax liabilities, including interest, penalties and fees, must be paid before the liability is extinguished unless collection costs are discharged by operation of law. For purposes of this section, costs of collection include only lien filing costs, costs imposed under a Federal or other State tax refund offset program and costs incurred by paying commissions or other remuneration to private agencies paid by the department or the Office of Attorney General to collect department tax liabilities.

(b) The costs of collection shall be added to the amount of the liability for taxes administered by the department and

shall constitute a lien against the real or personal property of the person. The unpaid costs may be collected by the department, the Office of Attorney General or a private collection agency in any way that the underlying tax liability could have been collected.

Section 23. Any ordinance or resolution providing for the levying, assessment or collection of a tax upon a transfer of real property or an interest in real property which has been enacted by a political subdivision prior to the effective date of this section shall continue in full force and effect, without reenactment, insofar as the transactions upon which the tax is levied, assessed or collected are also subject to the tax imposed by Article XI-C of the act. The ordinance or resolution shall continue in full force and effect with respect to documents made, executed and delivered prior to the effective date of this section.

Section 24. This act shall apply as follows:

(1) The following provisions shall apply to taxable years beginning after December 31, 1997:

(i) The amendment of section 401(1)4 of the act.

(ii) The amendment of the definition of "corporation" in section 601(a) of the act.

(2) Except as provided in paragraphs (6) and (7)(ii), the following provisions shall apply to taxable years beginning after December 31, 2002:

(i) The amendment of section 301(a) of the act.

(ii) The amendment of section 303(a)(1) of the act.

(3) The following provisions shall apply to film production expenses incurred after December 31, 2004:

(i) The amendment or addition of the definitions of "film," "Pennsylvania production expense," "production expense," "start date" and "taxpayer" in section 1702-C of the act.

(ii) The amendment of section 1703-C of the act.

(iii) The addition of section 1703.1-C of the act.

(iv) The amendment of section 1704-C of the act.

(v) The amendment of section 1707-C of the act.

(vi) The addition of section 1707.1-C of the act.

(vii) The amendment of section 1708-C of the act.

(viii) The amendment of section 1709-C of the act.

(4) The provisions referred to in paragraph (3) shall not affect:

(i) film production tax credits for production expenses incurred after June 30, 2004, and before January 1, 2005; or

(ii) the process for the approval and awarding of the film production tax credits for these expenses as provided for in the act of July 20, 2004 (P.L.801, No.95), entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,' authorizing a film production tax credit; and providing for the powers and duties of the Department of Community and Economic Development and the Department of Revenue."

(5) The following provisions shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of this paragraph:

- (i) The amendment of section 1111-C of the act.
- (ii) The amendment of section 1101-D of the act.
- (iii) The amendment of section 1102-D of the act.
- (iv) The addition of section 1103-D of the act.
- (v) The addition of section 1104-D of the act.
- (vi) The addition of section 1105-D of the act.
- (vii) The addition of section 1106-D of the act.
- (viii) The addition of section 1107-D of the act.
- (ix) The addition of section 1108-D of the act.
- (x) The addition of section 1109-D of the act.
- (xi) The addition of section 1110-D of the act.
- (xii) The addition of section 1111-D of the act.
- (xiii) The addition of section 1112-D of the act.
- (xiv) The addition of section 1113-D of the act.

(6) The amendment of sections 301(d) and 303(a)(1) of the act shall apply to appeals which arise prior to or after the effective date of this paragraph.

(7) The following provisions shall apply to taxable years beginning after December 31, 2004:

- (i) The amendment of section 301(d).
- (ii) The addition of section 303(a)(1)(iii)(B) and (iv)(B).

(8) The amendment of section 303(a)(6) of the act shall apply to taxable years beginning after December 31, 2004.

(9) The following provisions shall apply to taxable years beginning after December 31, 2004:

- (i) The amendment of section 315.5 of the act.
- (ii) The addition of section 315.8 of the act.

(10) The amendment of sections 1702-B and 1710-B shall apply to taxable years beginning after December 31, 2005.

(11) The amendment of section 352(d) of the act shall apply to payments made after June 30, 2006.

Section 25. Repeals are as follows:

(1) The following acts and parts of acts are repealed as set forth in paragraph (2):

- (i) Section 2 of the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act.
- (ii) Section 652.1(a)(4) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

(2) The acts and parts of acts referred to in paragraph (1) are repealed insofar as they are inconsistent with the following provisions:

- (i) The amendment of section 1111-C of the act.
- (ii) The addition of section 1114-C of the act.
- (iii) The amendment of section 1101-D of the act.
- (iv) The amendment of section 1102-D of the act.
- (v) The addition of section 1103-D of the act.
- (vi) The addition of section 1104-D of the act.
- (vii) The addition of section 1105-D of the act.
- (viii) The addition of section 1106-D of the act.
- (ix) The addition of section 1107-D of the act.
- (x) The addition of section 1108-D of the act.
- (xi) The addition of section 1109-D of the act.
- (xii) The addition of section 1110-D of the act.
- (xiii) The addition of section 1111-D of the act.
- (xiv) The addition of section 1112-D of the act.
- (xv) The addition of section 1113-D of the act.
- (xvi) The addition of section 1114-D of the act.

Section 26. This act shall take effect as follows:

(1) Section 205(a) of the act shall take effect in 60 days.

(2) Section 23 of this act shall take effect in 90 days.

(3) The remainder of this act shall take effect immediately.

APPROVED--The 7th day of July, A. D. 2005.

EDWARD G. RENDELL