

TAX REFORM CODE OF 1971 - OMNIBUS AMENDMENTS

Act of May. 24, 2000, P.L. 106, No. 23

Cl. 72

Session of 2000

No. 2000-23

SB 2

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," amending and adding definitions related to sales tax; further providing for the imposition of, exclusions from and the refund of sales tax; expanding eligibility for the special poverty provisions for personal income tax; revising capital stock franchise tax provisions to reduce the rates of taxation, to eliminate the minimum tax, to continue the provisions for the calculation of the manufacturing, processing, research and development exemptions, to further provide for capital stock franchise tax exemptions and exclusions and to provide for its phaseout; further providing for credits against the insurance premiums tax assessments; providing for the gross receipts tax relating to certain telephone sales and services and for public utility realty tax transition impact limitations; further providing for eligibility for malt beverage tax credits; adding an inheritance tax definition; reducing and revising the rates of inheritance tax; providing a limited rebate program for homeowners; changing the distribution of tax revenue received by the State Racing Fund; and making repeals.

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

Section 1. Section 201(d), (g), (m) and (aa) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended December 13, 1991 (P.L.373, No.40), May 7, 1997 (P.L.85, No.7) and April 23, 1998 (P.L.239, No.45), are amended and the section is amended by adding clauses to read:

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

(d) "Processing." The performance of the following activities when engaged in as a business enterprise:

\* \* \*

**(15) The preparation of dry or liquid fertilizer for sale.**

\* \* \*

(g) "Purchase price."

\* \* \*

**(8) The purchase price of prebuilt housing shall be sixty per cent of the manufacturer's selling price: Provided, however,**

That a manufacturer of prebuilt housing who precollects tax from a prebuilt housing builder at the time of the sale to the prebuilt housing builder shall have the option to collect tax on sixty per cent of the selling price or on one hundred per cent of the actual cost of the supplies and materials used in the manufacture of the prebuilt housing.

\* \* \*

(m) "Tangible personal property." Corporeal personal property including, but not limited to, goods, wares, merchandise, steam and natural and manufactured and bottled gas for non-residential use, electricity for non-residential use, **prepaid telecommunications**, premium cable or premium video programming service, spirituous or vinous liquor and malt or brewed beverages and soft drinks, interstate telecommunications service originating or terminating in the Commonwealth and charged to a service address in this Commonwealth, intrastate telecommunications service with the exception of (i) subscriber line charges and basic local telephone service for residential use and (ii) charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate, provided further, the service address of any intrastate telecommunications service is deemed to be within this Commonwealth or within a political subdivision, regardless of how or where billed or paid. In the case of any such interstate or intrastate telecommunications service, any charge paid through a credit or payment mechanism which does not relate to a service address, such as a bank, travel, credit or debit card, **but not including prepaid telecommunications**, is deemed attributable to the address of origination of the telecommunications service.

\* \* \*

(aa) "Building maintenance or cleaning services." Providing services which include, but are not limited to, janitorial, maid or housekeeping service, office or interior building cleaning or maintenance service, window cleaning service, floor waxing service, lighting maintenance service such as bulb replacement, cleaning, chimney cleaning service, acoustical tile cleaning service, venetian blind cleaning, cleaning and maintenance of telephone booths or cleaning and degreasing of service stations. This term shall not include repairs on buildings and other structures; nor shall this term include the maintenance or repair of boilers, furnaces **and residential air conditioning equipment** or parts thereof; the painting, wallpapering or applying other like coverings to interior walls, ceilings or floors; or the exterior painting of buildings.

\* \* \*

(uu) "Prepaid telecommunications." A tangible item containing a prepaid authorization number that can be used solely to obtain telecommunications service, including any renewal or increases in the prepaid amount.

(vv) "Prebuilt housing." Either of the following:

(1) Manufactured housing, including mobile homes, which bears a label as required by and referred to in the act of November 17, 1982 (P.L.676, No.192), known as the "Manufactured Housing Construction and Safety Standards Authorization Act."

(2) Industrialized housing as defined in the act of May 11, 1972 (P.L.286, No.70), known as the "Industrialized Housing Act."

(ww) "Used prebuilt housing." Prebuilt housing that was previously subject to a sale to a prebuilt housing purchaser.

(xx) "Prebuilt housing builder." A person who makes a prebuilt housing sale to a prebuilt housing purchaser.

(yy) "Prebuilt housing sale." A sale of prebuilt housing to a prebuilt housing purchaser, including a sale to a landlord, without regard to whether the person making the sale is responsible for installing the prebuilt housing or whether the prebuilt housing becomes a real estate structure upon installation. Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale shall not be considered occupancy for residential purposes.

(zz) "Prebuilt housing purchaser." A person who purchases prebuilt housing in a transaction and who intends to occupy the unit for residential purposes in this Commonwealth.

Section 2. Section 202 of the act is amended by adding subsections to read:

Section 202. Imposition of Tax.--\* \* \*

(e) Notwithstanding any provisions of this article, the sale or use of prepaid telecommunications evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsections (a) and (b). The sale or use of prepaid telecommunications not evidenced by the transfer of tangible personal property shall be deemed to occur at the purchaser's billing address.

(f) Notwithstanding any other provision of this article, tax with respect to sales of prebuilt housing shall be imposed on the prebuilt housing builder at the time of the prebuilt housing sale within this Commonwealth and shall be paid and reported by the prebuilt housing builder to the department in the time and manner provided in this article: Provided, however, That a manufacturer of prebuilt housing may, at its option, precollect the tax from the prebuilt housing builder at the time of sale to the prebuilt housing builder. In any case where prebuilt housing is purchased and the tax is not paid by the prebuilt housing builder or precollected by the manufacturer, the prebuilt housing purchaser shall remit tax directly to the department if the prebuilt housing is used in this Commonwealth without regard to whether the prebuilt housing becomes a real estate structure.

Section 3. Section 204(26) of the act is amended and the section is amended by adding clauses to read:

Section 204. Exclusions from Tax.--The tax imposed by section 202 shall not be imposed upon

\* \* \*

(26) The sale at retail or use of all vesture, wearing apparel, raiments, garments, footwear and other articles of clothing, **including clothing patterns and items that are to be a component part of clothing**, worn or carried on or about the human body but all accessories, ornamental wear, formal day or evening apparel, and articles made of fur on the hide or pelt or any material imitative of fur and articles of which such fur, real, imitation or synthetic, is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material, and sporting goods and clothing not normally used or worn when not engaged in sports shall not be excluded from the tax.

\* \* \*

(58) The sale at retail or use of a personal computer to an individual purchaser during the exclusion period for nonbusiness use, but not including computer leasing, rental, repair or alteration. For purposes of this clause, the phrase "exclusion period" means the period of time from August 6, 2000, to and including August 13, 2000, and from February 18, 2001, to and including February 25, 2001. For purposes of this clause, the phrase "personal computer" means a laptop, desktop, or tower

computer system, including all computer hardware and software sold together in the same sale at retail, where the computer system includes, at a minimum, a central processing unit, random access memory, a storage drive, a display monitor and a keyboard, except that the term shall not include minicomputers, mainframe computers, network servers, local area network hubs, routers and cabling, hardware word processors, personal digital assistants, graphical calculators, hand-held computers, game consoles, Internet TV devices, network operating systems, multiple-user licensed software and hardware, separate sales at retail or use of internal or external components and separate sales of add-on components. For purposes of this clause, "purchaser" means an individual who pays the purchase price and takes delivery during the exclusion period or who places an order and pays the purchase price even if delivery takes place after the exclusion period.

(59) The sale at retail or use of molds and related mold equipment used directly and predominantly in the manufacture of products, regardless of whether the person that holds title to the equipment manufactures a product.

(60) The sale or use of used prebuilt housing.

Section 4. Section 237(b)(1) of the act, amended December 28, 1972 (P.L.1633, No.340), is amended to read:

Section 237. Collection of Tax.--\* \* \*

(b) Collection by Persons Maintaining a Place of Business in the Commonwealth. (1) Every person maintaining a place of business in this Commonwealth and selling or leasing tangible personal property or services, [including the selling or leasing as tangible personal property mobilehomes as defined in "The Vehicle Code" whether or not a certificate of title is issued by the department,] the sale or use of which is subject to tax shall collect the tax from the purchaser or lessee at the time of making the sale or lease, and shall remit the tax to the department, **unless such collection and remittance is otherwise provided for in this article.**

\* \* \*

Section 5. Sections 247.1(b) and 304(d)(1) of the act, amended or added May 12, 1999 (P.L.26, No.4), are amended to read:

Section 247.1. Partial Refund of Sales Tax Attributed to Bad Debt.--\* \* \*

(b) The refund authorized by this section shall be limited to [one-third] **two-thirds** of the sales tax paid to the department that is attributed to the bad debt, less [one-third] **two-thirds** of any discount under section 227 of this act. Partial payments by the purchaser to the vendor shall be prorated between the original purchase price and the sales tax due on the sale. Payments made to a vendor on any transaction which includes both taxable and nontaxable components shall be allocated proportionally between the taxable and nontaxable components.

\* \* \*

Section 304. Special Tax Provisions for Poverty.--\* \* \*

(d) Any claim for special tax provisions hereunder shall be determined in accordance with the following:

(1) If the poverty income of the claimant during an entire taxable year is six thousand five hundred dollars (\$6,500) or less, or, in the case of a married claimant, if the joint poverty income of the claimant and the claimant's spouse during an entire taxable year is thirteen thousand dollars (\$13,000) or less, the claimant shall be entitled to a refund or forgiveness of any moneys which have been paid over to (or would

except for the provisions of this act be payable to) the Commonwealth under the provisions of this article, with an additional income allowance of [six thousand five hundred dollars (\$6,500) if claimed by married claimants or of six thousand five hundred dollars (\$6,500) if claimed by a single claimant for the first additional dependent and an additional income allowance of six thousand five hundred dollars (\$6,500)] **seven thousand five hundred dollars (\$7,500)** for each [additional] dependent of the claimant. For purposes of this subsection, a claimant shall not be considered to be married if:

- (i) The claimant and the claimant's spouse file separate returns; and
- (ii) The claimant and the claimant's spouse live apart at all times during the last six months of the taxable year or are separated pursuant to a written separation agreement.

\* \* \*

Section 6. The definitions of "domestic entity," "foreign entity" and "processing" in section 601(a) of the act are amended by adding clauses 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:

\* \* \*

"Domestic entity." Every corporation organized or incorporated by or under any laws of the Commonwealth, other than corporations of the first class and cooperative agricultural associations not having capital stock and not conducted for profit, banks, savings institutions, title insurance or trust companies, building and loan associations and insurance companies is a domestic entity. The term "domestic entity" shall not include:

\* \* \*

**(5) A domestic business trust provided:**

- (i) the trust is created or managed by an entity subject to the tax imposed by Article VII, VII-A or XV or by an affiliate of that entity that shares at least eighty per cent common ownership;**
- (ii) the trust is created and managed for the purpose of facilitating the securitization of intangible assets; and**
- (iii) the trust is classified as a partnership or a disregarded entity for Federal income tax purposes.**

\* \* \*

"Foreign entity." Every corporation incorporated or organized by or under the laws of any jurisdiction other than the Commonwealth, and doing business in and liable to taxation within the Commonwealth or carrying on activities in the Commonwealth, including solicitation or either owning or having capital or property employed or used in the Commonwealth by or in the name of any limited partnership or joint-stock association, copartnership or copartnerships, person or persons, or in any other manner doing business within and liable to taxation within the Commonwealth other than banks, savings institutions, title insurance or trust companies, building and loan associations and insurance companies is a foreign entity. The term "foreign entity" shall not include:

\* \* \*

**(5) A foreign business trust provided:**

- (i) the trust is created or managed by an entity subject to the tax imposed by Article VII, VII-A or XV or by an**

affiliate of that entity that shares at least eighty per cent common ownership;

(ii) the trust is created and managed for the purpose of facilitating the securitization of intangible assets; and

(iii) the trust is classified as a partnership or a disregarded entity for Federal income tax purposes.

\* \* \*

"Processing." The following activities when engaged in as a business enterprise:

\* \* \*

**(18) The preparation of dry or liquid fertilizer for sale.**

\* \* \*

Section 7. Section 602(a), (b), (e), (f), (g), (h) and (i) of the act, amended May 12, 1999 (P.L.26, No.4) and December 15, 1999 (P.L.926, No.63), are amended to read:

Section 602. Imposition of Tax.--(a) That every domestic entity from which a report is required under section 601 hereof[,] shall be subject to, and pay to the department annually, a tax which is [the greater of (i)] the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h); [or (ii) the minimum tax set forth in subsection (i),] except that any domestic entity or company subject to the tax prescribed herein may elect to compute and pay its tax under and in accordance with the provisions of subsection (b) of this section 602: Provided, That[, except for the imposition of the minimum tax set forth in subsection (i),] the provisions of this section shall not apply to the taxation of the capital stock of entities organized for manufacturing, processing, research or development purposes, which is invested in and actually and exclusively employed in carrying on manufacturing, processing, research or development within the State, except such entities as enjoy and exercise the right of eminent domain, but every entity organized for the purpose of manufacturing, processing, research or development except such entities as enjoy and exercise the right of eminent domain shall pay the State tax of [the greater of (i)] the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h)[; or (ii) the minimum tax set forth in subsection (i),] upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to the manufacturing, processing, research or development business, in addition to the local taxes assessed upon its property in the district where located, it being the object of this provision to relieve from State taxation[, except for imposition of the minimum tax set forth in subsection (i),] only so much of the capital stock as is invested purely in the manufacturing, processing, research or development plant and business: and Provided further, That[, except for the imposition of the minimum tax set forth in subsection (i),] the provisions of this section shall not apply to the taxation of so much of the capital stock value attributable to student loan assets owned or held by an entity created for the securitization of student loans or by a trustee on its behalf.

(b) (1) Every foreign entity from which a report is required under section 601 hereof[,] shall be subject to and pay to the department annually[, ] a franchise tax which is [the greater of (i)] the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h)[; or

(ii) the minimum tax set forth in subsection (i),] upon a taxable value to be determined in the following manner. The capital stock value shall be ascertained in the manner prescribed in section 601(a) of this article. The taxable value shall then be determined by employing the relevant apportionment factors set forth in Article IV: Provided, That the manufacturing, processing, research and development exemptions contained under section 602(a) shall also apply to foreign corporations. In determining the relevant apportionment factors, the following shall apply:

(i) for [all] taxable years [other than specifically set forth in subclause (ii)] **beginning before January 1, 1999**, the numerator of the property, payroll or sales factors shall not include any property, payroll or sales attributable to manufacturing, processing, research or development activities in the Commonwealth;

(ii) for [the] taxable years beginning after December 31, 1998, [and beginning before January 1, 2001,] the numerator of the property or payroll factors shall not include any property or payroll attributable to manufacturing, processing, research or development activities in the Commonwealth, and any property or payroll attributable to manufacturing, processing, research or development activities outside of the Commonwealth shall also be excluded from the numerator of the property or payroll factors. [Except for the imposition of the minimum tax set forth in subsection (i), the] **The** provisions of this section shall not apply to the taxation of so much of the capital stock value attributable to student loan assets owned or held by an entity created for the securitization of student loans or by a trustee on its behalf. Any foreign corporation, joint-stock association, limited partnership or company subject to the tax prescribed herein may elect to compute and pay its tax under section 602(a): Provided, That any foreign corporation, joint-stock association, limited partnership or company electing to compute and pay its tax under section 602(a) shall be treated as if it were a domestic corporation for the purpose of determining which of its assets are exempt from taxation and for the purpose of determining the proportion of the value of its capital stock which is subject to taxation.

(2) The provisions of this article shall apply to the taxation of entities organized for manufacturing, processing, research or development purposes, but shall not apply to such entities as enjoy and exercise the right of eminent domain.

\* \* \*

(e) Any holding company subject to the capital stock tax or the franchise tax imposed by this section may elect to compute the capital stock or franchise tax by applying the rate of tax provided in subsection (h) to ten per cent of the capital stock value as defined in section 601(a)[, but in no case shall the tax so computed be less than the minimum tax set forth in subsection (i)]. If exercised, this election shall be in lieu of any other apportionment or allocation to which such company would otherwise be entitled.

(f) Every domestic corporation and every foreign corporation (i) registered to do business in Pennsylvania; (ii) which maintains an office in Pennsylvania; (iii) which has filed a timely election to be taxed as a regulated investment company with the Federal Government; and (iv) which duly qualifies to be taxed as a regulated investment company under the provisions of the Internal Revenue Code of 1954 as amended, shall be taxed as a regulated investment company and shall be subject to the capital stock or franchise tax imposed by section 602, in either

case for the privilege of having an office in Pennsylvania, which tax shall be computed pursuant to the provisions of this subsection in lieu of all other provisions of this section 602. The tax shall be in an amount which is [the greater of the minimum tax set forth in subsection (i) or] the sum of the amounts determined pursuant to clauses (1) and (2):

(1) The amount determined pursuant to this clause shall be seventy-five dollars (\$75) times that number which is the result of dividing the net asset value of the regulated investment company by one million, rounded to the nearest multiple of seventy-five dollars (\$75). Net asset value shall be determined by adding the monthly net asset values as of the last day of each month during the taxable period and dividing the total sum by the number of months involved. Each such monthly net asset value shall be the actual market value of all assets owned without any exemptions or exclusions, less all liabilities, debts and other obligations.

(2) The amount determined pursuant to this clause shall be the amount which is the result of multiplying the rate of taxation applicable for purposes of the personal income tax during the same taxable year times the apportioned undistributed personal income tax income of the regulated investment company. For the purposes of this clause:

(A) Personal income tax income shall mean income to the extent enumerated and classified in section 303.

(B) Undistributed personal income tax income shall mean all personal income tax income other than personal income tax income undistributed on account of the capital stock or foreign franchise tax, less all personal income tax income distributed to shareholders. At the election of the company, income distributed after the close of a taxable year, but deemed distributed during the taxable year for Federal income tax purposes, shall be deemed distributed during that year for purposes of this clause. If a company in a taxable year has both current income and income accumulated from a prior year, distributions during the year shall be deemed to have been made first from current income.

(C) Undistributed personal income tax income shall be apportioned to Pennsylvania by a fraction, the numerator of which is all income distributed during the taxable period to shareholders who are resident individuals, estates or trusts and the denominator of which is all income distributed during the taxable period. Resident trusts shall not include charitable, pension or profit-sharing, or retirement trusts.

(D) Personal income tax income and other income of a company shall each be deemed to be either distributed to shareholders or undistributed in the proportion each category bears to all income received by the company during the taxable year.

(g) In the event that a domestic or foreign entity is required to file a report pursuant to section 601(b) on other than an annual basis, the tax imposed by this section[, including the minimum tax set forth in subsection (i),] shall be prorated to reflect the portion of a taxable year for which the report is filed by multiplying the tax liability by a fraction equal to the number of days in the taxable year divided by three hundred sixty-five days.

(h) The rate of tax for purposes of the capital stock and franchise tax for taxable years beginning within the dates set forth shall be as follows:

Taxable Year	Regular Rate	Surtax	Total Rate
January 1, 1971, to December 31, 1986	10 mills	0	10 mills



January 1, 1987, to December 31, 1987	9 mills	0	9 mills
January 1, 1988, to December 31, 1990	9.5 mills	0	9.5 mills
January 1, 1991, to December 31, 1991	11 mills	2 mills	13 mills
January 1, 1992, to December 31, 1997	11 mills	1.75 mills	12.75 mills
January 1, 1998, to December 31, 1998	11 mills	.99 mills	11.99 mills
[January 1, 1999, and each year thereafter	10.99 mills	0	10.99 mills]
<b>January 1, 1999, to December 31, 1999</b>	<b>10.99 mills</b>	<b>0</b>	<b>10.99 mills</b>
<b>January 1, 2000, to December 31, 2000</b>	<b>8.99 mills</b>	<b>0</b>	<b>8.99 mills</b>
<b>January 1, 2001, to December 31, 2001</b>	<b>7.49 mills</b>	<b>0</b>	<b>7.49 mills</b>
<b>January 1, 2002, to December 31, 2002</b>	<b>6.49 mills</b>	<b>0</b>	<b>6.49 mills</b>
<b>January 1, 2003, to December 31, 2003</b>	<b>5.49 mills</b>	<b>0</b>	<b>5.49 mills</b>
<b>January 1, 2004, to December 31, 2004</b>	<b>4.49 mills</b>	<b>0</b>	<b>4.49 mills</b>
<b>January 1, 2005, to December 31, 2005</b>	<b>3.49 mills</b>	<b>0</b>	<b>3.49 mills</b>
<b>January 1, 2006, to December 31, 2006</b>	<b>2.49 mills</b>	<b>0</b>	<b>2.49 mills</b>
<b>January 1, 2007, to December 31, 2007</b>	<b>1.49 mills</b>	<b>0</b>	<b>1.49 mills</b>
<b>January 1, 2008, to December 31, 2008</b>	<b>.49 mills</b>	<b>0</b>	<b>.49 mills</b>

[(i) The minimum amount of capital stock and franchise tax for the taxable years beginning within the dates set forth shall be as follows:

Taxable Year Beginning	Minimum Tax
January 1, 1971, to December 31, 1983	No minimum tax imposed
January 1, 1984, to December 31, 1990	\$75 minimum tax
January 1, 1991, to December 31, 1998	\$300 minimum tax
January 1, 1999, and each taxable year thereafter	\$200 minimum tax]

Section 8. Section 602.5 of the act, amended May 12, 1999 (P.L.26, No.4), is amended to read:

[Section 602.5. Shows and Flea Markets.--A corporation that confines its activities in this Commonwealth during the course of a calendar year to attendance at an organized "show" or "flea market" for the purpose of exhibiting its goods and making sales therefrom shall not be subject to the minimum tax imposed under this article, based solely upon such attendance if limited to no more than twenty days during the year, with no more than seven days being consecutive.]

Section 9. Section 606 of the act is amended to read:

Section 606. Effective Date.--[This] **(a) Except as provided in subsection (b), this** article shall take effect immediately, and the tax imposed shall apply to taxable years beginning January 1, 1971 and thereafter.

**(b) This article shall expire for taxable years beginning after December 31, 2008.**

Section 10. Section 901 of the act is amended by adding definitions to read:

Section 901. Definitions.--The following terms, when used in this act, shall have the meaning ascribed to them in this section:

\* \* \*

(4) "Assessment" means an assessment imposed by the Guaranty Association pursuant to section 1808 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(5) "Guaranty Association" means the Pennsylvania Property and Casualty Insurance Guaranty Association created pursuant to section 1803 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(6) "Member insurer" means an insurance company, association or exchange which is required to participate in the Guaranty Association pursuant to Article XVIII of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

Section 11. The act is amended by adding a section to read:

Section 902.1. Credits for Assessments Paid.--(a) A member insurer that has paid assessments to the Guaranty Association shall be entitled to a credit as authorized by this section. The credit shall be equal to the amount by which the assessment paid to the Guaranty Association exceeds one per cent of the member insurer's "net direct written premiums," as defined in section 1802 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921," as calculated for the preceding calendar year. Except as provided in subsection (e), the credit authorized by this section shall be applied against the taxes due under this article in equal portions for each of the five calendar years following payment of the assessment. In the event a member insurer should cease doing business, all unused credits may be applied against its premium tax liability for the year it ceases doing business. A member insurer is not entitled to a refund of any unused credit.

(b) Any sums which are acquired by a member insurer from the Guaranty Association either by refund or by receipt of an offset which may be used against an assessment and which have been used in calculating a credit under subsection (a) shall reduce the amount of unused credits or shall be paid by such insurer to the Commonwealth, as the Department of Revenue may require. The Guaranty Association shall notify the department and the Insurance Commissioner that such sums have been acquired by the member insurer.

(c) No credit against premium tax liability shall be permitted to the extent that a member insurer's rates and premiums have been adjusted as permitted in section 1810 of "The Insurance Company Law of 1921."

(d) The credits allowed by this section shall not reduce the amounts which would otherwise be payable for firemen's relief pension or retirement purposes or for police pension, retirement or disability purposes. The department shall transfer by June 30 of each fiscal year an amount equal to the credits taken under this section by foreign fire and casualty insurance companies from the General Fund to the Municipal Pension Aid Fund and the Fire Insurance Tax Fund, as appropriate.

(e) Credits taken by an insurer under this section shall not be included in determining liability for retaliatory taxes imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."

Section 12. Section 1101(a) of the act, amended May 12, 1999 (P.L.26, No.4), is amended to read:

Section 1101. Imposition of Tax.--(a) General Rule.--Every pipeline company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, and every other company, association, joint-stock association, or limited partnership, now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government, and doing business in this Commonwealth, and every copartnership, person or persons owning, operating or leasing to or from another corporation, company, association, joint-stock association, limited partnership, copartnership, person or persons, any pipeline, conduit, steamboat, canal, slack water navigation, or other device for the transportation of freight, passengers, baggage, or oil, except motor vehicles and railroads, and every limited partnership, association, joint-stock association, corporation or company engaged in, or hereafter engaged in, the transportation of freight or oil within this State, and every telephone company and telegraph company now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government and doing business in this Commonwealth, and every limited partnership, association, joint-stock association, copartnership, person or persons, engaged in telephone or telegraph business in this Commonwealth, shall pay to the State Treasurer, through the Department of Revenue, a tax of forty-five mills with a surtax equal to five mills upon each dollar of the gross receipts of the corporation, company or association, limited partnership, joint-stock association, copartnership, person or persons, received from:

(1) passengers, baggage, oil and freight transported wholly within this State[, from]; and

(2) telegraph or telephone messages transmitted wholly within this State, except gross receipts derived from:

(i) the sales of access to the Internet, as set forth in Article II, made to the ultimate consumer [and from the transportation of oil done wholly within this State]; and

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

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

(B) network elements on an unbundled basis.

\* \* \*

Section 13. The act is amended by adding a section to read:

**Section 1110-A. Tax Transitions Impact Limitations.--(a)**

**Notwithstanding any provision of this article to the contrary:**

(1) The total tax imposed on the utility realty of a public utility for taxable year 1998 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 1997. This clause shall not apply to the calculation of the millage rate under sections 1102-A(b) and 1104-A(b).

(2) The total tax imposed on the utility realty of a public utility for taxable year 1999 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 1998.

(3) The total tax imposed on the utility realty of a public utility for taxable year 2000 shall not exceed two hundred fifty

per cent of the total tax imposed upon such utility realty for taxable year 1999.

(4) The total tax imposed on the utility realty of a public utility for taxable year 2001 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 2000.

(5) For purposes of this subsection, any reduction in a public utility's total tax liability as a result of the two hundred fifty per cent limitation shall not exceed one hundred thousand dollars (\$100,000) in each of the taxable years specified in clauses (1) through (4).

(b) Any portion of the total assessed valuations of utility realty of a public utility which is excluded under subsection (a) in any taxable year shall not be included in the calculations required under this article for that taxable year.

(c) The Secretary of Revenue shall transfer funds to the Public Transportation Assistance Fund as a result of any impact this section may have on revenue received under section 2301.

(d) As used in this section, the term "total tax" means the sum of taxes paid under sections 1102-A and 1104-A.

Section 14. Section 2010(e) of the act, amended May 12, 1999 (P.L.26, No.4), is amended to read:

Section 2010. Limited Tax Credits.--\* \* \*

(e) Upon receipt from a taxpayer of a certificate from the secretary issued under subsection (c), the Secretary of Revenue shall grant a tax credit or credits in the amount certified against any tax [then due] **due in the calendar year in which the expenditures were first incurred** or thereafter becoming due from the taxpayer under this article. No credit shall be allowed against any tax due for any taxable period ending after December 31, 2003.

Section 15. Section 2102 of the act is amended by adding a definition to read:

Section 2102. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

\* \* \*

**"Sibling." An individual who has at least one parent in common with the decedent, whether by blood or by adoption.**

\* \* \*

Section 16. Section 2116(a) and (c) of the act, amended or added August 4, 1991 (P.L.97, No.22) and June 16, 1994 (P.L.279, No.48), is amended to read:

Section 2116. Inheritance Tax.--(a) (1) Inheritance tax upon the transfer of property passing to or for the use of any of the following shall be at the rate of [six] **four and one-half** per cent:

(i) grandfather, grandmother, father, mother, **except transfers under subclause (1.2)**, and lineal descendants; or  
(ii) wife or widow and husband or widower of a child.

(1.1) Inheritance tax upon the transfer of property passing to or for the use of a husband or wife shall be:

(i) At the rate of three per cent for estates of decedents dying on or after July 1, 1994, and before January 1, 1995.

(ii) At a rate of zero per cent for estates of decedents dying on or after January 1, 1995.

**(1.2) Inheritance tax upon the transfer of property from a child twenty-one years of age or younger to or for the use of a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent.**

**(1.3) Inheritance tax upon the transfer of property passing to or for the use of a sibling shall be at the rate of twelve per cent.**

(2) Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in subclause (1) [or], (1.1), **(1.2) or (1.3)** or exempt under section 2111(m) shall be at the rate of fifteen per cent.

(3) When property passes to or for the use of a husband and wife with right of survivorship, one of whom is taxable at a rate lower than the other, the lower rate of tax shall be applied to the entire interest.

\* \* \*

(c) When any person entitled to a distributive share of an estate, whether under an inter vivos trust, a will or the intestate law, renounces his right to receive the distributive share receiving therefor no consideration, or exercises his elective rights under 20 Pa.C.S. Ch. 22 (relating to elective share of surviving spouse) receiving therefor no consideration other than the interest in assets passing to him as the electing spouse, the tax shall be computed as though the persons who benefit by such renunciation or election were originally designated to be the distributees, conditioned upon an adjudication or decree of distribution expressly confirming distribution to such distributees. The renunciation shall be made within nine months after the death of the decedent [or, in]. **In the case of a surviving spouse[, ] taking his elective share of an estate, the renunciation shall be made** within the time for election and any extension thereof under 20 Pa.C.S. § 2210(b) (relating to procedure for election; time limit). Notice of the filing of the account and of its call for audit or confirmation shall include notice of the renunciation or election to the department. When an unconditional vesting of a future interest does not occur at the decedent's death, the renunciation specified in this subsection of the future interest may be made within three months after the occurrence of the event or contingency which resolves the vesting of the interest in possession and enjoyment.

\* \* \*

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

**ARTICLE XXIX-B**

**HOMEOWNERS' CENTURY TAX REBATE**

**Section 2901-B. Short Title of Article.--This article shall be known and may be cited as the "Homeowners' Century Tax Rebate Act."**

**Section 2902-B. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:**

**"Assessor."** The chief assessor of a county, the equivalent position in a home rule county or the equivalent position in a city of the third class that performs its own assessments of real property.

**"Department."** The Department of Revenue of the Commonwealth or its designee.

**"Homeowner."** Any owner of a homestead who is:

(1) an individual who is a natural person domiciled in this Commonwealth;

(2) a grantor who has placed real property in a revocable trust, provided that the grantor is a natural person domiciled in this Commonwealth; or

(3) a partner of a family farm partnership or a shareholder of a family farm corporation as the terms are defined in section

1101-C, provided that the partner or shareholder is a natural person domiciled in this Commonwealth.

"Homestead." The owner-occupied, primary residence and the parcel of land within this Commonwealth on which the residence is located and other improvements located on the parcel. If a portion of the structure is used for a nonresidential purpose, the homestead is equal to that portion of the property used as the primary residence of the owner-occupant. This definition of "homestead" shall have no effect, evidentiary or otherwise, concerning the issue of whether the property constitutes a homestead or homestead property under any other act.

"Real property tax." The total real property tax imposed by a school district on a homestead for the tax year. Real property tax imposed by a city of the first class shall constitute taxes imposed by a school district for the purposes of this definition. The term does not include payments made in lieu of taxes or any penalties or interest paid in connection with the tax.

"Rebate." An amount equal to one hundred per cent of the real property tax paid on the assessed value of a homestead to a school district for the tax year, except that no rebate paid pursuant to this article shall exceed one hundred dollars (\$100).

"Residence." A structure used as a place of habitation by the owner of the structure.

"School district." A school district of the first class, first class A, second class, third class or fourth class, including any independent school district.

"Tax year." The school district's fiscal year 1999-2000 during which real property tax is due and payable.

Section 2903-B. Rebate Qualifications.--(a) Subject to section 2904-B, a rebate shall be issued on account of school real property taxes for a homestead if all of the following apply:

(1) The homeowner occupied the homestead during the tax year.

(2) The homeowner has paid school real property tax owed on the homestead for the tax year.

(3) The homeowner is the owner of record as of July 1, 1999.

(4) The homeowner applies in a form and time prescribed by the department.

No homeowner shall be eligible to receive more than one rebate.

(b) If title to a homestead is held by more than one individual, a rebate shall be issued in the names appearing on the school property tax record.

Section 2904-B. Rebate Administration.--(a) The department shall establish any administrative and application procedures and deadlines necessary to implement and administer this article. To facilitate the timely implementation of this article, the provisions of Part X of Article III of this act and Article VII of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," shall not apply to this article. The department may enter into any contracts which are necessary to administer this article.

(b) Every assessor shall submit to the department a list, categorized by school district, of all residential and farm real property and owners of record as of July 1, 1999, within its jurisdiction. The list shall include only those homeowners of record who have fully paid their 1999-2000 school real property taxes owed on their respective homesteads.

(c) Only lists submitted by or within thirty days of the effective date of this article shall be reviewed by the

department. The department shall make the initial determination of homeowner rebate eligibility from information submitted by the homeowner. The department shall thereafter forward the list of eligible homeowners to the respective assessor.

(d) Within thirty days after receipt of the list of eligible homeowners, the assessor shall verify the list and report to the department any corrections to the list.

(e) The department shall finalize the list and authorize rebates which shall be issued and mailed to all homeowners on the final verified list by October 20, 2000. If the assessor fails to verify the list or notify the department of any corrections within the time limitation set forth under subsection (d), the department shall authorize rebates to all homeowners on the list developed by the department pursuant to subsection (c).

Section 2905-B. Petitions for Review.--A homeowner whose rebate is either denied, corrected or otherwise adversely affected by either the department or the assessor may petition for administrative review in the manner prescribed by the department. An individual aggrieved by the department's action in connection with the administrative review may petition for review in the manner specified in sections 11.1 and 11.2 of the act of March 11, 1971 (P.L.104, No.3) , known as the "Senior Citizens Rebate and Assistance Act."

Section 2906-B. Penalties.--(a) Any homeowner who receives a rebate through false or misleading information or who otherwise improperly receives a rebate may be required to do the following:

(1) refund to the department the amount of rebate received;

(2) pay a civil penalty of fifty dollars (\$50) to the department; or

(3) both paragraphs (1) and (2).

(b) The department may offset any rebate due to a homeowner against collectible liabilities owed to the Commonwealth by the homeowner for taxes imposed under Article III.

Section 2907-B. Erroneous Rebates.--(a) If the department determines or finds a rebate to have been incorrectly or erroneously paid, it shall redetermine the correct amount of the rebate, if any, and notify the homeowner of the reason for the correction and the amount of the rebate.

(b) If a rebate has been issued in error and the homeowner fails to refund the rebate upon the department's request, the rebate shall be recoverable by the department in the same manner as assessments as provided for in the act of March 11, 1971 (P.L.104, No.3), known as the "Senior Citizens Rebate and Assistance Act."

Section 2908 -B. Construction.--Notwithstanding any other provision of law to the contrary, any property tax rebate received under this article shall not be considered "income" under Article III or for purposes of determining eligibility for any State government program, including, but not limited to, those programs authorized by the act of March 11, 1971 (P.L.104, No.3) , known as the "Senior Citizens Rebate and Assistance Act," or Chapter 5 of the act of August 26, 1971 (P.L.351, No.91) , known as the "State Lottery Law."

Section 2909-B. Expiration.--This article shall expire on December 31, 2001.

Section 18. The following acts and parts of acts are repealed:

(1) As much as reads "seven-tenths of" in section 222(b)(5)(i) of the act of December 17, 1981 (P.L.435,

No.135), known as the Race Horse Industry Reform Act, and as much as reads ", beginning on July 1, 1983" in section 222(b)(5)(i) of the Race Horse Industry Reform Act.

(2) Section 221(d) of the Race Horse Industry Reform Act.

(3) Section 1303 of the act of October 18, 1988 (P.L.756, No.108), known as the Hazardous Sites Cleanup Act. Section 19. This act shall apply as follows:

(1) The following provisions shall apply to transactions for which purchase agreements are executed after June 30, 2000:

(i) The addition of section 201(g)(8), (vv), (ww), (xx), (yy) and (zz) of the act.

(ii) The addition of section 202(f) of the act.

(iii) The addition of section 204(60) of the act.

(iv) The amendment of section 237(b)(1) of the act.

(2) The amendment of section 247.1(b) of the act shall apply to amounts deducted as bad debt on Federal income tax returns required to be filed after January 1, 2000.

(3) The following provisions shall apply to taxable years beginning after December 31, 1999:

(i) The amendment of section 304(d)(1) of the act.

(ii) The amendment of section 601 of the act.

(iii) The amendment of section 602(a), (b), (e), (f), (g), (h) and (i) of the act.

(iv) The amendment of section 602.5 of the act.

(v) The amendment of section 1101(a) of the act.

(4) The following provisions shall apply to assessments paid after December 31, 1998:

(i) The addition of section 901(4), (5) and (6) of the act.

(ii) The addition of section 902.1 of the act.

(5) The following provisions shall apply to taxes paid for calendar year 2000 and thereafter:

(i) The addition of section 901(4), (5) and (6) of the act.

(ii) The addition of section 902.1 of the act.

(6) The amendment of section 2010(e) of the act shall apply retroactively to tax credits authorized after December 31, 1998.

(7) The following provisions shall apply to the estates of decedents dying after June 30, 2000:

(i) The addition of the definition of "sibling" in section 2102 of the act.

(ii) The amendment of section 2116(a) and (c) of the act.

(8) The following provisions shall apply to inter vivos transfers made by decedents dying after June 30, 2000, regardless of the date of the transfer:

(i) The addition of the definition of "sibling" in section 2102 of the act.

(ii) The amendment of section 2116(a) and (c) of the act.

(9) The addition of section 1110-A of the act shall apply to taxable years beginning after December 31, 1997. Section 20. This act shall take effect as follows:

(1) The following provisions shall take effect immediately:

(i) The addition of section 204(58) of the act.

(ii) The amendment of section 247.1(b) of the act.

(iii) The amendment of section 304(d)(1) of the act.



- (iv) The amendment of section 601 of the act.
  - (v) The amendment of section 602(a), (b), (e), (f), (g), (h) and (i) of the act.
  - (vi) The amendment of section 602.5 of the act.
  - (vii) The amendment of section 606 of the act.
  - (viii) The amendment of section 901 of the act.
  - (ix) The addition of section 902.1 of the act.
  - (x) The amendment of section 1101(a) of the act.
  - (xi) The addition of section 1110-A of the act.
  - (xii) The amendment of section 2010(e) of the act.
  - (xiii) The addition of the definition of "sibling" in section 2102 of the act.
  - (xiv) The addition of Article XXIX-B of the act.
  - (xv) Section 19 of this act.
  - (xvi) This section.
- (2) The remainder of this act shall take effect July 1, 2000, or immediately, whichever is later.

APPROVED--The 24th day of May, A. D. 2000.

THOMAS J. RIDGE

Section 25.1. Compliance option.

Notwithstanding the provisions of 62 Pa.C.S § 322(6) (relating to specific construction powers, duties and procedures), as to the project authorized in section 14(a)(2)(i)(A) for the Commonwealth Mail Processing and Legislative Services Facility, the Department of General Services may comply with the provisions of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings," by entering into a design/build contract which requires that the design/build contractor comply with the requirements of the act of May 1, 1913 (P.L.155, No.104), entitled "An act regulating the letting of certain contracts for the erection, construction, and alteration of public buildings."

(25.1 added Dec. 20, 2000, P.L.975, No.135)