

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 136

Session of 1985

INTRODUCED BY LAUGHLIN, TRELLO, NAHILL, WILSON, LLOYD, DOMBROWSKI, KOSINSKI, FEE, TIGUE, COLAFELLA, DALEY, MERRY, GEIST, HALUSKA, ITKIN, REBER, FARGO, VAN HORNE, SCHULER, PETRARCA, BELFANTI, SEMMEL, CLYMER, SALOOM, AFFLERBACH, LETTERMAN, DeLUCA, BIRMELIN, MORRIS, BURD, PRESSMANN, NOYE, PRATT, D. W. SNYDER, DAWIDA, COWELL, PISTELLA, VEON, CAPPABIANCA, LESCOVITZ, CARN, CIMINI AND KASUNIC, JANUARY 29, 1985

SENATOR HOWARD, FINANCE, IN SENATE, AS AMENDED, JUNE 4, 1985

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," shifting the burden of proof from vendors to the
11 Department of Revenue on questions concerning the utilization
12 of exemption certificates; ELIMINATING THE SPLIT SECOND
13 QUARTER FOR FILING OF SALES TAX RETURNS; REDUCING THE
14 PERSONAL INCOME TAX RATE; PERMITTING THE EQUITABLE ADJUSTMENT
15 OF TAXES AND PENALTIES; REVISING THE PROVISIONS RELATING TO
16 NET LOSS CARRYOVER; ADDING A DEFINITION OF "TAXABLE YEAR";
17 PROVIDING A PROCESSING EXEMPTION FOR COMPUTER SOFTWARE FROM
18 THE CAPITAL STOCK AND FRANCHISE TAX; PROVIDING AN INVESTMENT
19 CREDIT; ELIMINATING TENTATIVE PAYMENTS FOR CORPORATE NET
20 INCOME TAXES AND REQUIRING THE PREPAYMENT OF ESTIMATED TAXES;
21 REDUCING TENTATIVE TAX PAYMENTS FOR THE CAPITAL STOCK AND
22 FRANCHISE TAX; PROVIDING AN UNEMPLOYMENT COMPENSATION
23 INTEREST FUND TAX; CHANGING THE TIME PERIOD WITHIN WHICH
24 PETITIONS FOR REFUNDS MAY BE FILED; AND MAKING REPEALS.

<—

25 The General Assembly of the Commonwealth of Pennsylvania

1 hereby enacts as follows:

2 ~~Section 1. Section 237(c) of the act of March 4, 1971~~ <—
3 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, amended~~
4 ~~March 26, 1976 (P.L.60, No.26), is amended to read:~~

5 SECTION 1. SECTION 217 OF THE ACT OF MARCH 4, 1971 (P.L.6, <—
6 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, AMENDED JULY 21,
7 1983 (P.L.63, NO.29), IS AMENDED TO READ:

8 SECTION 217. TIME FOR FILING RETURNS.--(A) [MONTHLY,
9 BIMONTHLY AND QUARTERLY RETURNS] QUARTERLY AND MONTHLY RETURNS:

10 (1) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE AND
11 IN EACH YEAR THEREAFTER A RETURN SHALL BE FILED QUARTERLY BY
12 EVERY LICENSEE ON OR BEFORE THE TWENTIETH DAY OF APRIL, JULY,
13 OCTOBER AND JANUARY FOR THE THREE MONTHS ENDING THE LAST DAY OF
14 MARCH, JUNE, SEPTEMBER AND DECEMBER[, EXCEPT AS HEREINAFTER
15 PROVIDED].

16 (2) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE,
17 AND IN EACH YEAR THEREAFTER, A RETURN SHALL BE FILED MONTHLY
18 WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE TOTAL TAX
19 REPORTED, OR IN THE EVENT NO REPORT IS FILED, THE TOTAL TAX
20 WHICH SHOULD HAVE BEEN REPORTED, FOR THE THIRD CALENDAR QUARTER
21 OF THE PRECEDING YEAR EQUALS OR EXCEEDS SIX HUNDRED DOLLARS
22 (\$600). SUCH RETURNS SHALL BE FILED ON OR BEFORE THE TWENTIETH
23 DAY OF THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE
24 RETURN IS MADE.[, EXCEPT THAT THE RETURN DUE FOR THE MONTH OF
25 APRIL, OF EACH YEAR, SHALL BE FILED ON OR BEFORE THE TWENTIETH
26 DAY OF MAY NEXT FOLLOWING AND THE RETURN DUE FOR THE MONTH OF
27 MAY OF EACH YEAR SHALL BE FILED ON OR BEFORE THE TWENTIETH DAY
28 OF JUNE NEXT FOLLOWING.] ANY LICENSEE REQUIRED TO FILE MONTHLY
29 RETURNS HEREUNDER SHALL BE RELIEVED FROM FILING QUARTERLY
30 RETURNS.

1 [(3) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE,
2 AND FOR EACH YEAR THEREAFTER, EVERY LICENSEE REQUIRED TO FILE A
3 QUARTERLY RETURN FOR THE SECOND CALENDAR QUARTER SHALL FILE A
4 SINGLE RETURN FOR THE MONTHS OF APRIL AND MAY ON OR BEFORE THE
5 FIFTEENTH DAY OF JUNE NEXT FOLLOWING. THE FILING OF SUCH RETURN
6 SHALL NOT RELIEVE THE LICENSEE OF THE DUTY TO FILE A RETURN ON
7 OR BEFORE THE TWENTIETH DAY OF JULY NEXT FOLLOWING AND TO REMIT
8 THEREWITH TAX FOR THE MONTH OF JUNE.]

9 (B) ANNUAL RETURNS. FOR THE CALENDAR YEAR 1971, AND FOR EACH
10 YEAR THEREAFTER, NO ANNUAL RETURN SHALL BE FILED, EXCEPT AS MAY
11 BE REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT
12 PROMULGATED AND PUBLISHED AT LEAST SIXTY DAYS PRIOR TO THE END
13 OF THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE. WHERE
14 SUCH ANNUAL RETURNS ARE REQUIRED LICENSEES SHALL NOT BE REQUIRED
15 TO FILE SUCH RETURNS PRIOR TO THE TWENTIETH DAY OF THE YEAR
16 SUCCEEDING THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE.

17 (C) OTHER RETURNS. ANY PERSON, OTHER THAN A LICENSEE, LIABLE
18 TO PAY TO THE DEPARTMENT ANY TAX UNDER THIS ARTICLE, SHALL FILE
19 A RETURN ON OR BEFORE THE TWENTIETH DAY OF THE MONTH SUCCEEDING
20 THE MONTH IN WHICH SUCH PERSON BECOMES LIABLE FOR THE TAX.

21 (D) SMALL TAXPAYERS. THE DEPARTMENT, BY REGULATION, MAY
22 WAIVE THE REQUIREMENT FOR THE FILING OF QUARTERLY RETURN IN THE
23 CASE OF ANY LICENSEE WHOSE INDIVIDUAL TAX COLLECTIONS DO NOT
24 EXCEED SEVENTY-FIVE DOLLARS (\$75) PER CALENDAR QUARTER AND MAY
25 PROVIDE FOR REPORTING ON A LESS FREQUENT BASIS IN SUCH CASES.

26 SECTION 2. SECTION 237(C) OF THE ACT, AMENDED MARCH 26, 1976
27 (P.L.60, NO.26), IS AMENDED TO READ:

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

29 (c) Exemption Certificates. If the tax does not apply to the
30 sale or lease of tangible personal property or services, the

1 purchaser or lessee shall furnish to the vendor a certificate
2 indicating that the sale is not legally subject to the tax. The
3 certificate shall be in substantially such form as the
4 department may, by regulation, prescribe. Where the tangible
5 personal property or service is of a type which is never subject
6 to the tax imposed or where the sale or lease is in interstate
7 commerce, such certificate need not be furnished. Where a series
8 of transactions are not subject to tax, a purchaser or user may
9 furnish the vendor with a single exemption certificate in
10 substantially such form and valid for such period of time as the
11 department may, by regulation, prescribe. The department shall
12 provide all school districts and intermediate units with a
13 permanent tax exemption number. An exemption certificate, which
14 is complete and regular and on its face discloses a valid basis
15 of exemption if taken in good faith, shall relieve the vendor
16 from the liability imposed by this section. An exemption
17 certificate accepted by a vendor from a natural person domiciled
18 within this Commonwealth or any association, fiduciary,
19 partnership, corporation or other entity, either authorized to
20 do business within this Commonwealth or having an established
21 place of business within this Commonwealth, in the ordinary
22 course of the vendor's business, which on its face discloses a
23 valid basis of exemption consistent with the activity of the
24 purchaser and character of the property or service being
25 purchased or which is provided to the vendor by a charitable,
26 religious, educational or volunteer firemen's organization and
27 contains the organization's charitable exemption number and
28 which, in the case of any purchase costing two hundred dollars
29 (\$200) or more, is accompanied by a sworn declaration on a form
30 to be provided by the department of an intended usage of the

1 property or service which would render it nontaxable, shall be
2 presumed to be taken in good faith and the burden of proving
3 otherwise shall be on the Department of Revenue.

4 * * *

5 ~~Section 2. This act shall take effect in 60 days.~~ <—

6 SECTION 3. SECTION 253(D) OF THE ACT IS AMENDED TO READ: <—

7 SECTION 253. REFUND PETITION.--* * *

8 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION
9 WHERE ANY TAX, INTEREST OR PENALTY HAS BEEN PAID UNDER A
10 PROVISION OF THIS ARTICLE SUBSEQUENTLY HELD BY FINAL JUDGMENT OF
11 A COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, OR
12 UNDER AN INTERPRETATION OF SUCH PROVISION SUBSEQUENTLY HELD BY
13 SUCH COURT TO BE ERRONEOUS, A PETITION FOR REFUND MAY BE FILED
14 EITHER BEFORE OR SUBSEQUENT TO FINAL JUDGMENT, BUT SUCH PETITION
15 MUST BE FILED WITHIN [FIVE] THREE YEARS OF THE DATE OF THE
16 PAYMENT OF WHICH A REFUND IS REQUESTED. THE DEPARTMENT SHALL
17 HAVE JURISDICTION TO HEAR AND DETERMINE ANY SUCH PETITION FILED
18 PRIOR TO SUCH FINAL JUDGMENT ONLY IF, AT THE TIME OF FILING OF
19 THE PETITION, PROCEEDINGS ARE PENDING IN A COURT OF COMPETENT
20 JURISDICTION WHEREIN THE CLAIM OF UNCONSTITUTIONALITY OR OF
21 ERRONEOUS INTERPRETATION, MADE IN THE PETITION FOR REFUND MAY BE
22 ESTABLISHED, AND IN SUCH CASE, THE DEPARTMENT SHALL NOT TAKE
23 FINAL ACTION UPON THE PETITION FOR REFUND UNTIL THE JUDGMENT
24 DETERMINING THE QUESTION INVOLVED IN SUCH PETITION HAS BECOME
25 FINAL.

26 SECTION 4. SECTION 302 OF THE ACT, AMENDED JULY 21, 1983
27 (P.L.63, NO.29), IS AMENDED TO READ:

28 SECTION 302. IMPOSITION OF TAX.--(A) THERE IS HEREBY
29 IMPOSED A TAX TO BE PAID BY RESIDENT INDIVIDUALS, ESTATES OR
30 TRUSTS AT THE ANNUAL RATE OF TWO AND TWO-TENTHS PER CENT FOR

1 TAXABLE YEARS UP TO AND INCLUDING THE TAXABLE YEAR COMMENCING ON
2 OR AFTER JANUARY 1, 1982, AND AT THE ANNUAL RATE OF TWO AND
3 FORTY-FIVE HUNDREDTHS PER CENT FOR THE TAXABLE YEAR COMMENCING
4 ON OR AFTER JANUARY 1, 1983, AND FOR THE FIRST SIX MONTHS OF THE
5 TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 1984, AND AT THE
6 ANNUAL RATE OF TWO AND THIRTY-FIVE HUNDREDTHS PER CENT FOR THE
7 SECOND SIX MONTHS OF THE TAXABLE YEAR COMMENCING ON OR AFTER
8 JANUARY 1, 1984, AND FOR THE FIRST SIX MONTHS OF THE TAXABLE
9 YEAR COMMENCING ON OR AFTER JANUARY 1, 1985, AND AT THE ANNUAL
10 RATE OF TWO AND TWO-TENTHS PER CENT FOR THE SECOND SIX MONTHS OF
11 THE TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 1985, AND FOR
12 EACH TAXABLE YEAR THEREAFTER ON THE PRIVILEGE OF RECEIVING EACH
13 OF THE CLASSES OF INCOME HEREINAFTER ENUMERATED IN SECTION 303.

14 (B) THERE IS HEREBY IMPOSED A TAX TO BE PAID BY NONRESIDENT
15 INDIVIDUALS, ESTATES OR TRUSTS AT THE ANNUAL RATE OF TWO AND
16 TWO-TENTHS PER CENT FOR TAXABLE YEARS UP TO AND INCLUDING THE
17 TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 1982, AND AT THE
18 ANNUAL RATE OF TWO AND FORTY-FIVE HUNDREDTHS PER CENT FOR THE
19 TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1, 1983, AND FOR THE
20 FIRST SIX MONTHS OF THE TAXABLE YEAR COMMENCING ON OR AFTER
21 JANUARY 1, 1984, AND AT THE ANNUAL RATE OF TWO AND THIRTY-FIVE
22 HUNDREDTHS PER CENT FOR THE SECOND SIX MONTHS OF THE TAXABLE
23 YEAR COMMENCING ON OR AFTER JANUARY 1, 1984, AND FOR THE FIRST
24 SIX MONTHS OF THE TAXABLE YEAR COMMENCING ON OR AFTER JANUARY 1,
25 1985, AND AT THE ANNUAL RATE OF TWO AND TWO-TENTHS PER CENT FOR
26 THE SECOND SIX MONTHS OF THE TAXABLE YEAR COMMENCING ON OR AFTER
27 JANUARY 1, 1985, AND FOR EACH TAXABLE YEAR THEREAFTER ON THE
28 PRIVILEGE OF RECEIVING EACH OF THE CLASSES OF INCOME ENUMERATED
29 IN SECTION 303 FROM SOURCES WITHIN THIS COMMONWEALTH.

30 SECTION 5. SECTIONS 346(A) AND 347 OF THE ACT, ADDED AUGUST

1 31, 1971 (P.L.362, NO.93), ARE AMENDED TO READ:

2 SECTION 346. REFUND OR CREDIT OF OVERPAYMENT.--(A) IN THE
3 CASE OF ANY [OVERPAYMENT] PAYMENT OF TAX NOT RIGHTFULLY OR
4 EQUITABLY DUE UNDER THIS ARTICLE, THE DEPARTMENT MAY CREDIT THE
5 AMOUNT OF SUCH OVERPAYMENT AGAINST ANY LIABILITY IN RESPECT OF
6 THE TAX IMPOSED BY THIS ARTICLE ON THE PART OF THE PERSON WHO
7 MADE THE OVERPAYMENT AND SHALL REFUND ANY BALANCE TO SUCH
8 PERSON.

9 * * *

10 SECTION 347. RESTRICTIONS ON REFUNDS.--NO CREDIT OR REFUND
11 SHALL BE MADE UNDER SECTION 346 WITHOUT THE APPROVAL OF THE
12 BOARD OF FINANCE AND REVENUE, EXCEPT SUCH CREDITS OR REFUNDS AS
13 ARISE:

14 (1) BY REASON OF THE OVERPAYMENT OF AN INSTALLMENT OF
15 ESTIMATED TAX;

16 (2) UPON REASSESSMENT OR UPON THE FILING OF A FINAL RETURN
17 OR AMENDED FINAL RETURN SHOWING [LESS TAX DUE AFTER THE
18 APPLICATION OF THE ALLOWABLE CREDITS THAN THE AMOUNT OF TAX
19 WITHHELD FROM THE TAXPAYER'S COMPENSATION OR THE AMOUNT OF TAX
20 PAID BY HIM AS ESTIMATED TAX UNDER THIS ACT OR PURSUANT TO
21 ARTICLE III OF THE ACT OF MARCH 4, 1971 (ACT NO.2)] ANY
22 OVERPAYMENT OF TAX.

23 SECTION 6. SECTION 348 OF THE ACT IS AMENDED BY ADDING A
24 SUBSECTION TO READ:

25 SECTION 348. LIMITATIONS ON ASSESSMENT AND COLLECTION.--* *

26 *

27 (E) THE DEPARTMENT MAY, WITHIN THREE YEARS OF THE GRANTING
28 OF ANY REFUND OR CREDIT, OR WITHIN THE PERIOD IN WHICH AN
29 ASSESSMENT OR REASSESSMENT COULD HAVE BEEN FILED BY THE
30 DEPARTMENT WITH RESPECT TO THE TAXABLE PERIOD FOR WHICH THE

1 REFUND WAS GRANTED, WHICHEVER PERIOD SHALL LAST OCCUR, FILE AN
2 ASSESSMENT TO RECOVER ANY REFUND OR PART THEREOF OR CREDIT OR
3 PART THEREOF WHICH WAS ERRONEOUSLY MADE OR ALLOWED.

4 SECTION 7. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

5 SECTION 352.1. ABATEMENT OF ADDITIONS OR PENALTIES.--UPON
6 THE FILING OF A PETITION FOR REASSESSMENT OR PETITION FOR REVIEW
7 BY A TAXPAYER AS PROVIDED BY THIS ARTICLE, THE DEPARTMENT MAY
8 WAIVE OR ABATE, IN WHOLE OR IN PART, ADDITIONS OR PENALTIES OF
9 FIVE HUNDRED DOLLARS (\$500) OR LESS IMPOSED UPON SUCH TAXPAYER,
10 WHERE THE TAXPAYER HAS ESTABLISHED THAT HE ACTED IN GOOD FAITH,
11 WITH NO NEGLIGENCE OR INTENT TO DEFRAUD.

12 SECTION 8. SECTION 401(3)4 OF THE ACT, ADDED DECEMBER 23,
13 1983 (P.L.370, NO.90), IS AMENDED AND THE SECTION IS AMENDED BY
14 ADDING A CLAUSE TO READ:

15 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
16 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
17 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
18 CLEARLY INDICATES A DIFFERENT MEANING:

19 * * *

20 (3) "TAXABLE INCOME." * * *

21 4. (A) FOR TAXABLE YEARS BEGINNING IN 1982 AND THEREAFTER,
22 A NET LOSS DEDUCTION SHALL BE ALLOWED FROM TAXABLE INCOME AS
23 ARRIVED AT UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2.

24 (B) A NET LOSS FOR A TAXABLE YEAR IS THE NEGATIVE AMOUNT FOR
25 SAID TAXABLE YEAR DETERMINED UNDER SUBCLAUSE 1 OR, IF
26 APPLICABLE, SUBCLAUSE 2. NEGATIVE AMOUNTS UNDER SUBCLAUSE 1
27 SHALL BE ALLOCATED AND APPORTIONED IN THE SAME MANNER AS
28 POSITIVE AMOUNTS.

29 (C) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF THE AMOUNT
30 OF THE NET LOSS OR LOSSES WHICH MAY BE CARRIED OVER TO THE

1 TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1
2 OR, IF APPLICABLE, SUBCLAUSE 2. A NET LOSS FOR A TAXABLE YEAR
3 MAY ONLY BE CARRIED OVER PURSUANT TO THE FOLLOWING SCHEDULE:

4 TAXABLE YEAR	CARRYOVER
5 1981	1 <u>TAXABLE</u> YEAR
6 1982	2 <u>TAXABLE</u> YEARS
7 1983 AND THEREAFTER	3 <u>TAXABLE</u> YEARS

8 THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE EARLIEST
9 TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS SCHEDULE.

10 (D) NO LOSS SHALL BE A CARRYOVER FROM A TAXABLE YEAR WHEN
11 THE CORPORATION ELECTS TO BE TREATED AS A PENNSYLVANIA S
12 CORPORATION PURSUANT TO SECTION 307 OF ARTICLE III OF THIS ACT
13 TO A TAXABLE YEAR WHEN THE CORPORATION IS SUBJECT TO THE TAX
14 IMPOSED UNDER THIS ARTICLE.

15 (E) PARAGRAPH (D) SHALL NOT PREVENT A TAXABLE YEAR WHEN A
16 CORPORATION IS A PENNSYLVANIA S CORPORATION FROM BEING
17 CONSIDERED A TAXABLE YEAR FOR DETERMINING THE NUMBER OF TAXABLE
18 YEARS TO WHICH A NET LOSS MAY BE A CARRYOVER.

19 (F) FOR PURPOSES OF THE NET LOSS DEDUCTION, THE SHORT
20 TAXABLE YEAR OF A CORPORATION, AFTER THE REVOCATION OR
21 TERMINATION OF AN ELECTION TO BE TREATED AS A PENNSYLVANIA S
22 CORPORATION PURSUANT TO SECTIONS 307.3 AND 307.4 OF ARTICLE III
23 OF THIS ACT, SHALL BE TREATED AS A TAXABLE YEAR.

24 (G) IN THE CASE OF A CHANGE IN OWNERSHIP BY PURCHASE,
25 LIQUIDATION, ACQUISITION OF STOCK OR REORGANIZATION OF A
26 CORPORATION IN THE MANNER DESCRIBED IN SECTION 381 OR 382 OF THE
27 INTERNAL REVENUE CODE OF 1954, THE LIMITATIONS PROVIDED IN THE
28 INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO NET OPERATING
29 LOSSES SHALL APPLY FOR THE PURPOSE OF COMPUTING THE PORTION OF A
30 NET LOSS CARRYOVER RECOGNIZED UNDER PARAGRAPH (3)4(C) OF THIS

1 SECTION. WHEN ANY ACQUIRING CORPORATION AND A TRANSFEROR
2 CORPORATION PARTICIPATED IN THE FILING OF CONSOLIDATED RETURNS
3 TO THE FEDERAL GOVERNMENT, THE ENTITLEMENT OF THE ACQUIRING
4 CORPORATION TO THE PENNSYLVANIA NET LOSS CARRYOVER OF THE
5 ACQUIRING CORPORATION OR THE TRANSFEROR CORPORATION WILL BE
6 DETERMINED AS IF SEPARATE RETURNS TO THE FEDERAL GOVERNMENT HAD
7 BEEN FILED PRIOR TO THE CHANGE IN OWNERSHIP BY PURCHASE,
8 LIQUIDATION, ACQUISITION OF STOCK OR REORGANIZATION.

9 * * *

10 (5) "TAXABLE YEAR." THE TAXABLE YEAR WHICH THE CORPORATION,
11 OR ANY CONSOLIDATED GROUP WITH WHICH THE CORPORATION
12 PARTICIPATES IN THE FILING OF CONSOLIDATED RETURNS, ACTUALLY
13 USES IN REPORTING TAXABLE INCOME TO THE FEDERAL GOVERNMENT. WITH
14 REGARD TO THE TAX IMPOSED BY THIS ARTICLE, THE TERMS "ANNUAL
15 YEAR," "FISCAL YEAR," "ANNUAL OR FISCAL YEAR," "TAX YEAR," AND
16 "TAX PERIOD" SHALL BE THE SAME AS THE CORPORATION'S TAXABLE
17 YEAR, AS DEFINED IN THIS PARAGRAPH.

18 SECTION 9. SECTION 403(B) OF THE ACT, AMENDED SEPTEMBER 9,
19 1971 (P.L.437, NO.105), IS AMENDED TO READ:

20 SECTION 403. REPORTS AND PAYMENT OF TAX.--* * *

21 (B) FOR THE PURPOSE OF ASCERTAINING THE AMOUNT OF TAX
22 PAYABLE UNDER THIS ARTICLE FOR THE TAXABLE YEAR 1971, AND EACH
23 TAXABLE YEAR THEREAFTER, IT SHALL BE THE DUTY OF EVERY
24 CORPORATION LIABLE TO PAY TAX UNDER THIS ARTICLE, ON OR BEFORE
25 APRIL 30, 1971, AND ON OR BEFORE THE END OF THE FOURTH MONTH
26 AFTER THE CLOSE OF ITS PREVIOUS FISCAL YEAR FOR FISCAL YEAR
27 TAXPAYERS, AND EACH YEAR THEREAFTER, TO TRANSMIT IN LIKE FORM
28 AND MANNER AN ADDITIONAL TENTATIVE REPORT AND MAKE PAYMENT
29 PURSUANT TO THE PROVISIONS OF THE ACT OF MARCH 16, 1970
30 (P.L.180): PROVIDED, THAT IN MAKING SUCH REPORT AND PAYMENT FOR

1 THE CALENDAR YEAR 1971 AND EACH YEAR THEREAFTER AND FOR FISCAL
2 YEARS COMMENCING DURING THE CALENDAR YEAR 1971, AND EACH YEAR
3 THEREAFTER THE TAX BASE FROM THE IMMEDIATE PRIOR YEAR, UPON
4 WHICH THE TENTATIVE TAX COMPUTATION IS TO BE MADE UNDER SAID ACT
5 OF MARCH 16, 1970 (P.L.180), SHALL BE COMPUTED AS IF THE TAX
6 BASE FOR SUCH IMMEDIATE PRIOR YEAR HAD BEEN DETERMINED UNDER THE
7 APPLICABLE PROVISIONS OF THE ACT OF MARCH 4, 1971 (ACT NO.2).
8 FOR TAXABLE YEARS COMMENCING WITH CALENDAR YEAR 1986 AND EACH
9 TAXABLE YEAR THEREAFTER, CORPORATIONS SHALL NOT REPORT AND PAY
10 TENTATIVE TAX ON ACCOUNT OF THE CORPORATE NET INCOME TAX, BUT
11 SHALL, ON OR BEFORE APRIL 15, 1986, FOR CALENDAR YEAR TAXPAYERS,
12 AND ON OR BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH AFTER THE
13 CLOSE OF THE PREVIOUS FISCAL YEAR FOR FISCAL YEAR TAXPAYERS, AND
14 EACH YEAR THEREAFTER, REPORT AND PAY ESTIMATED CORPORATE NET
15 INCOME TAX PURSUANT TO SECTION 3003.2 OF THIS ACT: PROVIDED,
16 HOWEVER, THAT TENTATIVE TAX ON ACCOUNT OF ANY OTHER TAX WHICH IS
17 IMPOSED AS THE RESULT OF THE ADOPTION BY REFERENCE OF THIS PART
18 OR SECTION SHALL CONTINUE TO BE IMPOSED.

19 * * *

20 SECTION 10. SECTION 601 OF THE ACT, AMENDED DECEMBER 23,
21 1983 (P.L.360, NO.89), IS AMENDED TO READ:

22 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
23 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
24 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
25 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

26 "AVERAGE NET INCOME." THE SUM OF THE NET INCOME OR LOSS FOR
27 EACH OF THE CURRENT AND IMMEDIATELY PRECEDING FOUR YEARS,
28 DIVIDED BY FIVE. IF THE ENTITY HAS NOT BEEN IN EXISTENCE FOR A
29 PERIOD OF FIVE YEARS, THE AVERAGE NET INCOME SHALL BE THE
30 AVERAGE NET INCOME FOR THE NUMBER OF YEARS THAT THE ENTITY HAS

1 ACTUALLY BEEN IN EXISTENCE. IN COMPUTING AVERAGE NET INCOME,
2 LOSSES SHALL BE ENTERED AS COMPUTED, BUT IN NO CASE SHALL
3 AVERAGE NET INCOME BE LESS THAN ZERO. THE NET INCOME OR LOSS OF
4 THE ENTITY FOR ANY TAXABLE YEAR SHALL BE THE AMOUNT SET FORTH AS
5 INCOME PER BOOKS ON THE INCOME TAX RETURN FILED BY THE ENTITY
6 WITH THE FEDERAL GOVERNMENT FOR SUCH TAXABLE YEAR, OR IF NO SUCH
7 RETURN IS MADE, AS WOULD HAVE BEEN SET FORTH HAD SUCH A RETURN
8 BEEN MADE, SUBJECT, HOWEVER, IN EITHER CASE TO ANY CORRECTION
9 THEREOF, FOR FRAUD, EVASION OR ERROR. IN THE CASE OF ANY ENTITY
10 WHICH HAS AN INVESTMENT IN ANOTHER CORPORATION, THE NET INCOME
11 OR LOSS SHALL BE COMPUTED ON AN UNCONSOLIDATED BASIS EXCLUSIVE
12 OF THE NET INCOME OR LOSS OF SUCH OTHER CORPORATION.

13 "CAPITAL STOCK." THE CAPITAL STOCK OF AN ENTITY AND ALL
14 OTHER INTERESTS IN A DOMESTIC OR FOREIGN CORPORATION.

15 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
16 FOLLOWING FORMULA: ONE-HALF TIMES THE SUM OF THE AVERAGE NET
17 INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF PER CENT
18 PLUS SEVENTY-FIVE PER CENT OF NET WORTH, THE ALGEBRAIC
19 EQUIVALENT OF WHICH IS

20 $.5 \times (\text{AVERAGE NET INCOME} / .095 + (.75) (\text{NET WORTH}))$

21 "DEPARTMENT." THE DEPARTMENT OF REVENUE.

22 "DOMESTIC ENTITY." EVERY CORPORATION HAVING CAPITAL STOCK,
23 EVERY JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP AND EVERY
24 COMPANY WHATSOEVER, NOW OR HEREAFTER ORGANIZED OR INCORPORATED
25 BY OR UNDER ANY LAWS OF THE COMMONWEALTH, OTHER THAN
26 CORPORATIONS OF THE FIRST CLASS, NONPROFIT CORPORATIONS AND
27 COOPERATIVE AGRICULTURAL ASSOCIATIONS NOT HAVING CAPITAL STOCK
28 AND NOT CONDUCTED FOR PROFIT, BANKS, SAVINGS INSTITUTIONS, TITLE
29 INSURANCE OR TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS AND
30 INSURANCE COMPANIES IS A DOMESTIC ENTITY.

1 "ENTITY." ANY DOMESTIC OR FOREIGN ENTITY.

2 "FOREIGN ENTITY." EVERY CORPORATION, JOINT-STOCK
3 ASSOCIATION, LIMITED PARTNERSHIP AND COMPANY WHATSOEVER, NOW OR
4 HEREAFTER INCORPORATED OR ORGANIZED BY OR UNDER THE LAW OF ANY
5 OTHER STATE OR TERRITORY OF THE UNITED STATES, OR BY THE UNITED
6 STATES, OR BY OR UNDER THE LAW OF ANY FOREIGN GOVERNMENT, AND
7 DOING BUSINESS IN AND LIABLE TO TAXATION WITHIN THE COMMONWEALTH
8 OR HAVING CAPITAL OR PROPERTY EMPLOYED OR USED IN THE
9 COMMONWEALTH BY OR IN THE NAME OF ANY LIMITED PARTNERSHIP OR
10 JOINT-STOCK ASSOCIATION, COPARTNERSHIP OR COPARTNERSHIPS, PERSON
11 OR PERSONS, OR IN ANY OTHER MANNER DOING BUSINESS WITHIN AND
12 LIABLE TO TAXATION WITHIN THE COMMONWEALTH OTHER THAN NONPROFIT
13 CORPORATIONS, BANKS, SAVINGS INSTITUTIONS, TITLE INSURANCE OR
14 TRUST COMPANIES, BUILDING AND LOAN ASSOCIATIONS AND INSURANCE
15 COMPANIES IS A FOREIGN ENTITY.

16 "HOLDING COMPANY." ANY CORPORATION (I) AT LEAST NINETY PER
17 CENT OF THE GROSS INCOME OF WHICH FOR THE TAXABLE YEAR IS
18 DERIVED FROM DIVIDENDS, INTEREST, GAINS FROM THE SALE, EXCHANGE
19 OR OTHER DISPOSITION OF STOCK OR SECURITIES AND THE RENDITION OF
20 MANAGEMENT AND ADMINISTRATIVE SERVICES TO SUBSIDIARY
21 CORPORATIONS, AND (II) AT LEAST SIXTY PER CENT OF THE ACTUAL
22 VALUE OF THE TOTAL ASSETS OF WHICH CONSISTS OF STOCK SECURITIES
23 OR INDEBTEDNESS OF SUBSIDIARY CORPORATIONS.

24 "NET WORTH." NET WORTH SHALL BE THE SUM OF THE ENTITY'S
25 ISSUED AND OUTSTANDING CAPITAL STOCK, SURPLUS AND UNDIVIDED
26 PROFITS AS PER BOOKS SET FORTH FOR THE CLOSE OF SUCH TAX YEAR ON
27 THE INCOME TAX RETURN FILED BY THE ENTITY WITH THE FEDERAL
28 GOVERNMENT, OR IF NO SUCH RETURN IS MADE, AS WOULD HAVE BEEN SET
29 FORTH HAD SUCH RETURN BEEN MADE, SUBJECT, HOWEVER, IN EITHER
30 CASE TO ANY CORRECTION THEREOF FOR FRAUD, EVASION OR ERROR. IN

1 THE CASE OF ANY ENTITY WHICH HAS INVESTMENTS IN THE COMMON STOCK
2 OF OTHER CORPORATIONS, THE NET WORTH SHALL BE THE CONSOLIDATED
3 NET WORTH OF SUCH ENTITY COMPUTED IN ACCORDANCE WITH GENERALLY
4 ACCEPTED ACCOUNTING PRINCIPLES. NET WORTH SHALL IN NO CASE BE
5 LESS THAN ZERO.

6 "PROCESSING." THE FOLLOWING ACTIVITIES WHEN ENGAGED IN AS A
7 BUSINESS ENTERPRISE:

8 (1) THE COOKING OR FREEZING OF FRUITS, VEGETABLES,
9 MUSHROOMS, FISH, SEAFOOD, MEATS OR POULTRY, WHEN THE PERSON
10 ENGAGED IN SUCH BUSINESS PACKAGES SUCH PROPERTY IN SEALED
11 CONTAINERS FOR WHOLESALE DISTRIBUTION.

12 (2) THE SCOURING, CARBONIZING, CORDING, COMBING, THROWING,
13 TWISTING OR WINDING OF NATURAL OR SYNTHETIC FIBERS, OR THE
14 SPINNING, BLEACHING, DYEING, PRINTING OR FINISHING OF YARNS OR
15 FABRICS, WHEN SUCH ACTIVITIES ARE PERFORMED PRIOR TO SALE TO THE
16 ULTIMATE CONSUMER.

17 (3) THE ELECTROPLATING, GALVANIZING, ENAMELING, ANODIZING,
18 COLORING, FINISHING, IMPREGNATING OR HEAT TREATING OF METALS OR
19 PLASTICS FOR SALE OR IN THE PROCESS OF MANUFACTURING.

20 (4) THE ROLLING, DRAWING OR EXTRUDING OF FERROUS AND
21 NONFERROUS METALS.

22 (5) THE FABRICATION FOR SALE OF ORNAMENTAL OR STRUCTURAL
23 METAL OR METAL STAIRS, STAIRCASES, GRATINGS, FIRE ESCAPES OR
24 RAILINGS (NOT INCLUDING FABRICATION WORK DONE AT THE
25 CONSTRUCTION SITE).

26 (6) THE PREPARATION OF ANIMAL FEED OR POULTRY FEED FOR SALE.

27 (7) THE PRODUCTION, PROCESSING AND BOTTLING OF NONALCOHOLIC
28 BEVERAGES FOR WHOLESALE DISTRIBUTION.

29 (8) THE SLAUGHTERING AND DRESSING OF ANIMALS FOR MEAT TO BE
30 SOLD OR TO BE USED IN PREPARING MEAT PRODUCTS FOR SALE, AND THE

1 PREPARATION OF MEAT PRODUCTS, INCLUDING LARD, TALLOW, GREASE,
2 COOKING AND INEDIBLE OILS FOR WHOLESALE DISTRIBUTION.

3 (9) THE OPERATION OF A SAWMILL OR PLANING MILL FOR THE
4 PRODUCTION OF LUMBER OR LUMBER PRODUCTS FOR SALE.

5 (10) THE MILLING FOR SALE OF FLOUR OR MEAL FROM GRAINS.

6 (11) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES OR OTHER
7 PERIODICALS, PRINTING AND BROADCASTING RADIO AND TELEVISION
8 PROGRAMS BY LICENSED COMMERCIAL OR EDUCATIONAL STATIONS.

9 (12) THE PROCESSING OF USED LUBRICATING OILS.

10 (13) THE BLENDING, RECTIFICATION OR PRODUCTION BY
11 DISTILLATION OR OTHERWISE OF ALCOHOL OR ALCOHOLIC LIQUORS,
12 EXCEPT THE DISTILLATION OF ALCOHOL FROM BYPRODUCTS OF WINEMAKING
13 FOR THE SOLE PURPOSE OF FORTIFYING WINE.

14 (14) THE SALVAGING, RECYCLING OR RECLAIMING OF USED
15 MATERIALS TO BE RECYCLED INTO A MANUFACTURING PROCESS.

16 (15) THE DEVELOPMENT, OR SUBSTANTIAL MODIFICATION OF
17 COMPUTER PROGRAMS OR SOFTWARE FOR SALE OR FOR USE IN THE
18 DEVELOPMENT OF SUCH PROGRAMS OR SOFTWARE FOR SALE TO UNRELATED
19 PERSONS.

20 "RESEARCH AND DEVELOPMENT." THE ACTIVITIES RELATING TO THE
21 DISCOVERY OF NEW AND THE REFINEMENT OF KNOWN SUBSTANCES,
22 PRODUCTS, PROCESSES, THEORIES AND IDEAS, BUT NOT INCLUDING
23 ACTIVITIES DIRECTED PRIMARILY TO THE ACCUMULATION OR ANALYSIS OF
24 COMMERCIAL, FINANCIAL OR MERCANTILE DATA.

25 "SUBSIDIARY CORPORATION." ANY CORPORATION, A MAJORITY OF THE
26 TOTAL ISSUED AND OUTSTANDING SHARES OF VOTING STOCK OF WHICH ARE
27 OWNED BY THE TAXPAYER CORPORATION DIRECTLY OR THROUGH ONE OR
28 MORE INTERVENING SUBSIDIARY CORPORATIONS.

29 (B) IT SHALL BE THE DUTY OF EVERY DOMESTIC AND FOREIGN
30 ENTITY TO MAKE [ANNUALLY] FOR EACH TAXABLE YEAR AS DEFINED IN

1 SECTION 401(5), A WRITTEN REPORT VERIFIED IN ACCORDANCE WITH THE
2 REQUIREMENTS OF THE DEPARTMENT ON A FORM OR FORMS TO BE
3 PRESCRIBED AND FURNISHED BY IT SETTING FORTH THE INFORMATION
4 REQUIRED. THE TIME FOR FILING [ANNUAL] REPORTS MAY BE EXTENDED;
5 [AN ENTITY MAY BE PERMITTED TO FILE ITS ANNUAL AND TENTATIVE
6 REPORTS ON A FISCAL YEAR BASIS;] THE PROCEDURE IN CASE THE
7 DEPARTMENT IS NOT SATISFIED WITH THE REPORTS FOR THE ENTITY, AND
8 THE PENALTIES FOR FAILING TO FILE REPORTS AND PAY TAXES SHALL BE
9 AS PRESCRIBED BY LAW.

10 SECTION 11. SECTIONS 602 AND 1502 OF THE ACT ARE AMENDED BY
11 ADDING SUBSECTIONS TO READ:

12 SECTION 602. IMPOSITION OF TAX.--* * *

13 (H) IN THE EVENT THAT A DOMESTIC OR FOREIGN ENTITY IS
14 REQUIRED TO FILE A REPORT PURSUANT TO SECTION 601(B) ON OTHER
15 THAN AN ANNUAL BASIS, THE TAX IMPOSED BY THIS SECTION, INCLUDING
16 THE SEVENTY-FIVE DOLLARS (\$75) MINIMUM TAX, SHALL BE PRORATED TO
17 REFLECT THE PORTION OF A YEAR FOR WHICH THE REPORT IS FILED.

18 SECTION 1502. IMPOSITION; REPORT AND PAYMENT OF TAX;
19 EXEMPTIONS.--* * *

20 (E.1) IN THE CASE OF A CHANGE IN OWNERSHIP BY PURCHASE,
21 LIQUIDATION, ACQUISITION OF STOCK OR REORGANIZATION OF A MUTUAL
22 THRIFT INSTITUTION IN THE MANNER DESCRIBED IN SECTIONS 381 OR
23 382 OF THE INTERNAL REVENUE CODE OF 1954, THE LIMITATIONS
24 PROVIDED IN THE INTERNAL REVENUE CODE OF 1954 WITH RESPECT TO
25 NET OPERATING LOSSES SHALL APPLY FOR THE PURPOSE OF COMPUTING
26 THE PORTION OF A NET LOSS CARRYOVER RECOGNIZED PURSUANT TO THIS
27 ARTICLE. WHEN ANY ACQUIRING INSTITUTION AND A TRANSFEROR
28 INSTITUTION PARTICIPATED IN THE FILING OF CONSOLIDATED RETURNS
29 TO THE FEDERAL GOVERNMENT, THE ENTITLEMENT OF THE ACQUIRING
30 INSTITUTION TO THE PENNSYLVANIA NET LOSS CARRYOVER OF THE

1 ACQUIRING INSTITUTION OR THE TRANSFEROR INSTITUTION WILL BE
2 DETERMINED AS IF SEPARATE RETURNS TO THE FEDERAL GOVERNMENT HAD
3 BEEN FILED PRIOR TO THE CHANGE IN OWNERSHIP BY PURCHASE,
4 LIQUIDATION, ACQUISITION OF STOCK OR REORGANIZATION.

5 SECTION 12. THE ACT IS AMENDED BY ADDING ARTICLES TO READ:

6 ARTICLE XVII

7 ECONOMIC REVITALIZATION TAX CREDIT

8 SECTION 1701. SHORT TITLE.--THIS ARTICLE SHALL BE KNOWN AND
9 MAY BE CITED AS THE PENNSYLVANIA ECONOMIC REVITALIZATION TAX
10 CREDIT LAW.

11 SECTION 1702. LEGISLATIVE INTENT.--THE GENERAL ASSEMBLY OF
12 THE COMMONWEALTH OF PENNSYLVANIA HEREBY FINDS THAT:

13 WHEREAS, IN CERTAIN REGIONS OF THIS COMMONWEALTH, INDUSTRIES
14 AND OTHER BUSINESSES IMPORTANT TO THE ECONOMIC WELL-BEING OF
15 THIS STATE SUFFERED SUBSTANTIAL LOSSES DURING THE RECENT
16 RECESSION AND BECAUSE OF THESE LOSSES CLOSED PLANTS AND OTHER
17 FACILITIES AND LAID OFF THOUSANDS OF PENNSYLVANIA WORKERS; AND
18 WHEREAS, MANY OF THESE DISTRESSED INDUSTRIES HAVE NOT YET

19 SUFFICIENTLY RETURNED TO PROFITABILITY TO RECOVER THEIR LOSSES
20 AND EITHER REHIRE LAID-OFF WORKERS OR EXPAND THEIR EMPLOYMENT IN
21 PENNSYLVANIA; AND

22 WHEREAS, NEW CAPITAL INVESTMENTS FOR THE ECONOMIC
23 REVITALIZATION OF THESE DISTRESSED INDUSTRIES DURING THE CURRENT
24 ECONOMIC EXPANSION ARE CRUCIAL IN ORDER TO REHIRE LAID-OFF
25 WORKERS, EXPAND EMPLOYMENT, AND AVOID EVEN MORE SERIOUS ECONOMIC
26 DISLOCATIONS WITHIN THIS COMMONWEALTH IN ANY FUTURE ECONOMIC
27 RECESSIONS; THEREFORE

28 IT IS IN THE PUBLIC INTEREST TO PROVIDE TAX CREDITS TO
29 DISTRESSED INDUSTRIES AND OTHER BUSINESSES FOR NEW INVESTMENTS
30 ABOVE THRESHOLD INVESTMENT LEVELS WHICH WILL CAUSE THE REHIRING

1 OF LAID-OFF PENNSYLVANIA WORKERS OR WILL RESULT IN THE RETENTION
2 OF EXISTING JOBS OR THE CREATION OF EXPANDED PERMANENT
3 EMPLOYMENT OPPORTUNITIES IN THESE DISTRESSED INDUSTRIES WITHIN
4 PENNSYLVANIA.

5 SECTION 1703. TAX CREDIT.--ANY TAXPAYER SUBJECT TO ARTICLE
6 IV OF THIS ACT (RELATING TO CORPORATE NET INCOME TAX) FOR WHICH
7 A NET LOSS FOR A TAX YEAR BEGINNING IN 1981 OR 1982 IS NOT USED
8 AS A DEDUCTION PURSUANT TO SECTION 401(3)4 OF THIS ACT (RELATING
9 TO DEFINITION OF TAXABLE INCOME) MAY APPLY FOR A CREDIT PURSUANT
10 TO THIS ARTICLE. UPON APPROVAL OF AN APPLICATION PURSUANT TO
11 SECTION 1711, THE SECRETARY OF REVENUE MAY AWARD TO THE TAXPAYER
12 A PORTION OF THE TAX EQUIVALENT AMOUNT OF SUCH EXCESS NET LOSSES
13 AS A CREDIT AGAINST ANY TAX OR OTHER OBLIGATION DUE AND PAYABLE
14 AS AN UNRESTRICTED RECEIPT TO THE GENERAL FUND OF THE
15 COMMONWEALTH. THE SECRETARY MAY AWARD SUCH CREDITS FOR QUALIFIED
16 INVESTMENTS IN EXCESS OF THE THRESHOLD LEVEL CALCULATED PURSUANT
17 TO SECTION 1705.

18 SECTION 1704. QUALIFIED INVESTMENTS.--(A) QUALIFIED
19 INVESTMENTS CONSIST OF EXPENDITURES FOR THE ACQUISITION OR
20 CONSTRUCTION OF NEW DEPRECIABLE TANGIBLE PROPERTY WITH A COST
21 RECOVERY PERIOD OF FIVE YEARS OR MORE, AND OF EXPENDITURES FOR
22 THE SUBSTANTIAL RENOVATION, RESTORATION OR RECONSTRUCTION OF
23 EXISTING EQUIPMENT, BUILDINGS OR STRUCTURE WITH A COST RECOVERY
24 PERIOD OF FIVE YEARS OR MORE.

25 (B) QUALIFIED INVESTMENTS SHALL BE LIMITED TO EXPENDITURES
26 BY THE TAXPAYER FOR USE BY THE TAXPAYER WITHIN THIS COMMONWEALTH
27 DIRECTLY FOR MANUFACTURING, MINING, PROCESSING AND RESEARCH AND
28 DEVELOPMENT ACTIVITIES.

29 (C) QUALIFIED INVESTMENTS SHALL NOT INCLUDE INVESTMENTS FOR
30 VEHICLES, OFFICE FURNISHINGS, LIVESTOCK, PUBLIC UTILITY

1 PROPERTY, CABLE TELEVISION PROPERTY, TELECOMMUNICATIONS
2 PROPERTY, MOVIE AND TELEVISION FILMS AND TAPES, VENDING
3 MACHINES, LODGING FACILITIES, RESTAURANTS, AND COMMERCIAL RETAIL
4 OR WHOLESALE PROPERTY.

5 (D) QUALIFIED INVESTMENTS FOR WHICH A CREDIT IS CLAIMED
6 SHALL CONSIST OF OTHERWISE ELIGIBLE EXPENDITURES FOR WHICH THE
7 TAXPAYER DEMONSTRATES THAT THE INVESTMENTS MAKE POSSIBLE THE
8 REHIRING OF PREVIOUSLY LAID-OFF WORKERS IN PENNSYLVANIA, THE
9 RETENTION OF EXISTING JOBS IN PENNSYLVANIA OR THE EXPANSION OF
10 PERMANENT EMPLOYMENT BY THE TAXPAYER WITHIN THIS COMMONWEALTH.

11 SECTION 1705. THRESHOLD LEVEL.--A TAXPAYER MAY RECEIVE
12 CREDITS FOR INVESTMENTS IN EXCESS OF THE THRESHOLD LEVEL ONLY IF
13 THE TAXPAYER CERTIFIES THAT TOTAL QUALIFIED INVESTMENTS TO BE
14 MADE WITHIN PENNSYLVANIA BY THE TAXPAYER FOR THE CALENDAR YEAR
15 FOR WHICH AN APPLICATION IS FILED WILL EXCEED TWO PER CENT OF
16 THE BOOK VALUE OF THRESHOLD ASSETS IN PENNSYLVANIA FOR THE TAX
17 YEAR BEGINNING IN 1982. THRESHOLD ASSETS SHALL BE MANUFACTURING,
18 MINING, PROCESSING AND RESEARCH AND DEVELOPMENT PLANT AND
19 EQUIPMENT IN PLACE WITHIN THIS COMMONWEALTH DURING THE TAX YEAR
20 BEGINNING IN 1982 AS ESTIMATED BASED UPON THE DIFFERENCE BETWEEN
21 THE NUMERATORS OF THE TAXPAYER'S SETTLED CORPORATE NET INCOME
22 TAX AND CAPITAL STOCK OR FRANCHISE TAX PROPERTY FACTORS, OR SUCH
23 FACTORS AS WOULD HAVE BEEN REPORTED FOR ANY TAXPAYER NOT
24 REPORTING ANY SUCH PROPERTY FACTORS. FOR THE PURPOSE OF
25 CALCULATING THE THRESHOLD LEVEL, THE TAXPAYER SHALL INCLUDE THE
26 THRESHOLD ASSETS OF ANY CORPORATION WHICH REPORTED AS A SEPARATE
27 TAXPAYER TO PENNSYLVANIA DURING THE TAX YEAR BEGINNING IN 1982,
28 BUT WHICH IS INCLUDED WITHIN A SINGLE TAX REPORT FILED BY THE
29 TAXPAYER FOR ALL OR A PORTION OF THE CALENDAR YEAR FOR WHICH A
30 CREDIT IS CLAIMED.

1 SECTION 1706. TAX EQUIVALENT AMOUNT OF EXCESS LOSS CARRYOVER
2 CLAIMABLE AS CREDIT.--A TAXPAYER MAY UTILIZE NINE AND ONE-HALF
3 PER CENT OF ANY EXCESS NET LOSS CARRYOVER, AS DETERMINED
4 ACCORDING TO SECTION 1703, IN THE CALCULATION OF CREDITS
5 PURSUANT TO THIS ARTICLE. A NET LOSS CARRYOVER MAY BE UTILIZED
6 IN THE CALCULATION OF CREDITS PURSUANT TO THIS ARTICLE ONLY TO
7 THE EXTENT SUCH CARRYOVERS ARE RECOGNIZABLE AS DEDUCTIONS
8 PURSUANT TO SECTION 401(3)4(G). FOR PURPOSES OF DETERMINING THE
9 AMOUNT OF NET LOSS DESCRIBED IN SECTION 1703 FOR WHICH A CREDIT
10 MAY BE CLAIMED, THE TAXPAYER SHALL REDUCE THE AMOUNT OF THE LOSS
11 DESCRIBED IN SECTION 1703 BY ALL DEPRECIATION DEDUCTIONS CLAIMED
12 FOR TAXABLE YEAR 1981 OR 1982 WITH RESPECT TO ASSETS FOR WHICH
13 TAX BENEFITS WERE TRANSFERRED TO THE TAXPAYER UNDER THE
14 PROVISIONS OF SECTION 168(F)(8) OF THE INTERNAL REVENUE CODE OF
15 1954, TAKING INTO ACCOUNT THE APPLICABLE APPORTIONMENT FRACTION
16 FOR THE RESPECTIVE TAX YEARS.

17 SECTION 1707. AMOUNT OF CREDIT.--(A) A TAXPAYER MAY CLAIM A
18 CREDIT FOR TWENTY PER CENT OF QUALIFIED INVESTMENTS IN EXCESS OF
19 THE THRESHOLD LEVEL NOT TO EXCEED THE TAX EQUIVALENT AMOUNT OF
20 THE TAXPAYER'S LOSS CARRYOVER CLAIMABLE AS A CREDIT AS
21 DETERMINED UNDER SECTION 1706.

22 (B) TOTAL CREDITS AWARDED TO ANY TAXPAYER, TOGETHER WITH ANY
23 CREDIT AWARDED TO A SUBSIDIARY CORPORATION OF THE TAXPAYER, MAY
24 NOT EXCEED SIX MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS
25 (\$6,250,000). IN THE YEAR IN WHICH TOTAL CREDITS CLAIMED BY A
26 TAXPAYER, TOGETHER WITH ANY SUBSIDIARY CORPORATIONS, WILL CAUSE
27 TOTAL CREDITS AWARDED TO THE TAXPAYER, AND ANY SUBSIDIARY
28 CORPORATIONS, TO EXCEED SIX MILLION TWO HUNDRED FIFTY THOUSAND
29 DOLLARS (\$6,250,000), THE SECRETARY OF REVENUE SHALL CAUSE
30 CREDITS AWARDED TO THE TAXPAYER, AND ANY SUBSIDIARY

1 CORPORATIONS, DURING SUCH YEAR TO BE PROPORTIONATELY REDUCED SO
2 AS NOT TO EXCEED SIX MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS
3 (\$6,250,000). FOR THE PURPOSE OF THIS ARTICLE, A SUBSIDIARY
4 CORPORATION SHALL BE DEFINED IN THE MANNER PROVIDED BY SECTION
5 601.

6 (C) TOTAL CREDITS AWARDED PURSUANT TO THIS ARTICLE SHALL NOT
7 EXCEED TWENTY-FIVE MILLION DOLLARS (\$25,000,000). IN THE YEAR IN
8 WHICH TOTAL CREDITS CLAIMED WILL CAUSE TOTAL CREDITS AWARDED IN
9 SUCH YEAR AND ANY PRIOR YEARS TO EXCEED TWENTY-FIVE MILLION
10 DOLLARS (\$25,000,000), THE SECRETARY OF REVENUE SHALL CAUSE
11 CREDITS AWARDED DURING SUCH YEAR TO BE PROPORTIONATELY REDUCED
12 SO AS NOT TO EXCEED TWENTY-FIVE MILLION DOLLARS (\$25,000,000)
13 AND NO FURTHER CREDITS SHALL BE AWARDED.

14 SECTION 1708. REFUNDS.--IN THE EVENT THAT THE TAXPAYER CAN
15 SHOW THAT CREDITS AWARDED PURSUANT TO THIS ARTICLE WILL EXCEED
16 ANY OUTSTANDING OBLIGATIONS OF THE TAXPAYER TO UNRESTRICTED
17 ACCOUNTS WITHIN THE GENERAL FUND OF THE COMMONWEALTH AND ANY
18 OBLIGATIONS ARISING FOR THE TAX YEAR DURING WHICH CREDITS ARE
19 AWARDED, THE TAXPAYER MAY PETITION FOR A CASH REFUND OF SUCH
20 CREDIT AMOUNTS IN THE MANNER PROVIDED BY LAW.

21 SECTION 1709. UTILIZATION OF CREDITS.--(A) CREDITS AWARDED
22 PURSUANT TO THIS ARTICLE MAY BE UTILIZED IN THE TAX YEAR
23 AWARDED, PAID AS A REFUND IN THE MANNER PROVIDED BY SECTION 1708
24 OF THIS ARTICLE, OR CARRIED OVER TO A FUTURE TAX YEAR BY THE
25 TAXPAYER.

26 (B) ANY CREDITS AWARDED PURSUANT TO THIS ARTICLE SHALL BE
27 FIRST UTILIZED TO PAY ANY OUTSTANDING TAX DEBITS DUE AND PAYABLE
28 PRIOR TO JANUARY 1, 1982, BY THE TAXPAYER, OR A SUBSIDIARY
29 CORPORATION OF THE TAXPAYER AS DEFINED IN SECTION 601, EVEN IF
30 THE TAXPAYER HAS PETITIONED FOR A REVIEW OR REDETERMINATION OF

1 ANY SUCH TAX LIABILITIES. IN THE EVENT ANY SUCH TAX DEBITS ARE
2 LATER DETERMINED NOT TO BE DUE AND PAYABLE, THE TAXPAYER MAY
3 PETITION FOR A REFUND IN THE MANNER PROVIDED BY LAW.

4 (C) IN THE CASE OF A CHANGE IN OWNERSHIP BY PURCHASE,
5 LIQUIDATION, ACQUISITION OF STOCK OR REORGANIZATION OF A
6 CORPORATION IN THE MANNER DESCRIBED IN SECTION 381 OR 382 OF THE
7 INTERNAL REVENUE CODE OF 1954, THE LIMITATIONS PROVIDED IN
8 SECTION 401(3)4(G) OF THIS ACT WITH RESPECT TO THE CARRYOVER OF
9 NET LOSSES SHALL APPLY IN THE SAME MANNER WITH RESPECT TO THE
10 CARRYOVER OF ANY UNUSED CREDIT.

11 SECTION 1710. RECAPTURE OF CREDITS.--(A) IF ANY PROPERTY
12 FOR WHICH A TAXPAYER IS AWARDED CREDITS PURSUANT TO THIS ACT IS
13 DISPOSED OF PRIOR TO THE COMPLETION OF ITS COST RECOVERY PERIOD
14 UTILIZED FOR THE PURPOSES OF REPORTING TO THE FEDERAL
15 GOVERNMENT, A PORTION OF SUCH CREDIT SHALL BE ADDED TO THE TAX
16 LIABILITY OF THE TAXPAYER FOR THE TAX YEAR OF SUCH DISPOSITION
17 EQUAL TO THE PERCENTAGE WHICH THE NUMBER OF YEARS REMAINING IN
18 THE COST RECOVERY SCHEDULE OF THE PROPERTY REPRESENTS TO THE
19 TOTAL YEARS OF COST RECOVERY WHICH COULD HAVE BEEN CLAIMED BUT
20 FOR THE DISPOSITION. FOR THE PURPOSES OF CALCULATING THE
21 RECAPTURE PERCENTAGE, THE YEAR OF DISPOSITION SHALL BE
22 CONSIDERED A YEAR OF REMAINING COST RECOVERY. THE RECAPTURE OF
23 TAX CREDITS MAY BE WAIVED BY THE SECRETARY OF REVENUE IF THE
24 DISPOSED PROPERTY IS REPLACED BY THE TAXPAYER BY NEW PLANT OR
25 EQUIPMENT INVESTMENTS WITHIN PENNSYLVANIA WHICH EXPAND
26 EMPLOYMENT IN PENNSYLVANIA.

27 (B) WITHIN THREE MONTHS OF THE END OF ANY CALENDAR YEAR FOR
28 WHICH CREDITS ARE AWARDED, THE TAXPAYER SHALL FILE A REPORT WITH
29 THE SECRETARY OF REVENUE SHOWING THE ACTUAL AMOUNT OF QUALIFIED
30 INVESTMENT MADE DURING SUCH PERIOD. IF ACTUAL QUALIFIED

1 INVESTMENTS MADE ARE LESS THAN THE AMOUNT UPON WHICH ANY CREDITS
2 AWARDED WERE BASED, ANY SUCH UNUTILIZED CREDITS SHALL BE REDUCED
3 BY AN APPROPRIATE FRACTIONAL AMOUNT OF THE DEFICIENCY OF SUCH
4 INVESTMENT, OR IF SUCH CREDITS HAVE BEEN UTILIZED IN WHOLE OR IN
5 PART BY THE TAXPAYER, AN ADDITIONAL TAX SHALL BE IMPOSED UPON
6 THE TAXPAYER FOR THE TAX YEAR BEGINNING IN SUCH CALENDAR YEAR
7 EQUIVALENT TO THE AMOUNT OF ANY SUCH IMPROPERLY UTILIZED
8 CREDITS.

9 SECTION 1711. APPLICATION PROCEDURES.--(A) ANY APPLICATION
10 FOR A CREDIT PURSUANT TO THIS ARTICLE SHALL BE FILED WITH THE
11 SECRETARY OF REVENUE NOT LATER THAN FEBRUARY 1 FOR INVESTMENTS
12 TO BE MADE DURING SUCH CALENDAR YEAR. IN ADDITION TO ANY OTHER
13 INFORMATION AS MAY BE REQUIRED PURSUANT TO THIS ARTICLE, THE
14 APPLICATION SHALL INCLUDE:

15 (1) A FIVE-YEAR HISTORY OF THE APPLICANT'S INVESTMENT AND
16 EMPLOYMENT ACTIVITIES IN THIS COMMONWEALTH;

17 (2) A DETAILED DESCRIPTION OF THE QUALIFIED INVESTMENT
18 PROJECTS IN EXCESS OF THE THRESHOLD LEVEL FOR WHICH A CREDIT IS
19 CLAIMED;

20 (3) AN EXPLANATION OF HOW THE INVESTMENTS FOR WHICH THE
21 CREDIT IS CLAIMED WILL RESULT IN THE REHIRING OF LAID-OFF
22 WORKERS, THE RETENTION OF EXISTING JOBS IN PENNSYLVANIA OR THE
23 EXPANSION OF EMPLOYMENT WITHIN THIS COMMONWEALTH, AND A
24 QUANTITATIVE ESTIMATE OF THE IMPACT OF SUCH INVESTMENT UPON
25 EMPLOYMENT; AND

26 (4) THE IDENTIFICATION OF OTHER FORMS OF FEDERAL, STATE AND
27 LOCAL ECONOMIC DEVELOPMENT ASSISTANCE BEING UTILIZED BY THE
28 TAXPAYER, INCLUDING, BUT NOT LIMITED TO, INDUSTRIAL DEVELOPMENT
29 LOANS, PENNSYLVANIA INDUSTRIAL DEVELOPMENT AGENCY LOANS, JOB
30 TRAINING ASSISTANCE AND OTHER LOW-INTEREST LOANS OR GRANTS BEING

1 RECEIVED BY THE TAXPAYER.

2 (B) THE SECRETARY OF REVENUE SHALL REVIEW ALL APPLICATIONS
3 RECEIVED AND SHALL CERTIFY THAT INVESTMENTS FOR WHICH CREDITS
4 ARE TO BE CLAIMED WILL BE QUALIFIED INVESTMENTS IN EXCESS OF THE
5 THRESHOLD LEVEL AND SHALL CERTIFY THE TAX EQUIVALENT AMOUNT OF
6 EXCESS LOSS CLAIMABLE AS CREDIT AND THE AMOUNT OF CREDIT FOR
7 WHICH THE TAXPAYER MAY BE ELIGIBLE. THE SECRETARY SHALL FORWARD
8 ALL SUCH CERTIFICATIONS TO THE EXECUTIVE DIRECTOR OF THE BEN
9 FRANKLIN PARTNERSHIP FUND. INFORMATION FORWARDED TO THE BEN
10 FRANKLIN PARTNERSHIP FUND BY THE SECRETARY SHALL CONSTITUTE
11 "PUBLIC RECORDS" PURSUANT TO THE ACT OF JUNE 21, 1957 (P.L.390,
12 NO.212), REFERRED TO AS THE RIGHT-TO-KNOW LAW.

13 (C) THE BEN FRANKLIN PARTNERSHIP FUND BOARD SHALL REVIEW ALL
14 APPLICATIONS RECEIVED FROM THE SECRETARY OF REVENUE AND APPROVE,
15 IN WHOLE OR IN PART, THOSE APPLICATIONS WHICH, IN THE JUDGMENT
16 OF THE BOARD, WILL BEST CONTRIBUTE TO THE PURPOSES AND
17 OBJECTIVES OF THIS ARTICLE. THE EXECUTIVE DIRECTOR OF THE BOARD
18 SHALL CERTIFY TO THE SECRETARY OF REVENUE THE AMOUNT OF CREDITS
19 AWARDED AND THE SECRETARY SHALL ENTER SUCH CREDITS UPON THE
20 ACCOUNTS OF TAXPAYERS AS PROVIDED BY THIS ARTICLE. IN THE REVIEW
21 OF APPLICATIONS, THE BOARD SHALL MAKE ITS DECISIONS ON THE BASIS
22 OF CRITERIA, INCLUDING, BUT NOT LIMITED TO:

23 (1) THE LONG-TERM EMPLOYMENT POTENTIAL RESULTING FROM THE
24 INVESTMENT, INCLUDING PROJECTED JOBS RETAINED AND CREATED OVER A
25 FIVE-YEAR PERIOD;

26 (2) THE COMPETITIVE MARKET DEMAND FOR PRODUCTS USING SUCH
27 INVESTMENTS;

28 (3) THE ANTICIPATED INCREASE IN PENNSYLVANIA'S SHARE OF
29 DOMESTIC AND INTERNATIONAL MARKETS CAPTURED FROM OUT-OF-STATE
30 FOREIGN COMPETITORS DUE TO SUCH INVESTMENTS; AND

1 (4) THE UTILIZATION BY THE TAXPAYER OF NEW AND ADVANCED
2 TECHNOLOGIES IN SUCH INVESTMENTS WHICH ARE LIKELY TO PERMANENTLY
3 ENHANCE THE TAXPAYER'S COMPETITIVE POSITION WITHIN ITS INDUSTRY
4 OR BUSINESS.

5 (D) THE SECRETARY OF REVENUE AND THE EXECUTIVE DIRECTOR OF
6 THE BEN FRANKLIN PARTNERSHIP FUND SHALL JOINTLY ESTABLISH
7 PROCEDURES AND TIMETABLES FOR THE APPLICATION BY TAXPAYERS FOR
8 CREDITS PURSUANT TO THIS ARTICLE, THE REVIEW AND APPROVAL OR
9 DISAPPROVAL OF SUCH APPLICATIONS, AND THE CALCULATION, AWARD AND
10 UTILIZATION OF SUCH CREDITS. THE SECRETARY AND THE EXECUTIVE
11 DIRECTOR MAY JOINTLY PROMULGATE RULES AND REGULATIONS,
12 STATEMENTS OF POLICY, FORMS AND OTHER RULINGS AND
13 INTERPRETATIONS NECESSARY TO IMPLEMENT THIS ARTICLE.

14 SECTION 1712. APPROPRIATION.--AN APPROPRIATION OF TWENTY-
15 FIVE MILLION DOLLARS (\$25,000,000) IS HEREBY MADE FROM THE
16 GENERAL FUND OF THE COMMONWEALTH FOR 1985-1986 TO THE DEPARTMENT
17 OF REVENUE FOR THE PAYMENT OF TAX CREDITS PURSUANT TO THIS
18 ARTICLE. THE APPROPRIATION SHALL CONTINUE, UNLESS SOONER
19 EXPENDED, ENCUMBERED OR LAPSED BY THE DEPARTMENT, UNTIL JUNE 30,
20 1988.

21 SECTION 1713. EVALUATION OF TAX CREDIT.--WITHIN SIX MONTHS
22 OF THE EXHAUSTION OF CREDITS PURSUANT TO SECTION 1707(C), BUT
23 NOT LATER THAN JUNE 30, 1988, THE SECRETARY OF REVENUE AND THE
24 EXECUTIVE DIRECTOR OF THE BEN FRANKLIN PARTNERSHIP FUND SHALL
25 JOINTLY REPORT TO THE GOVERNOR AND TO THE GENERAL ASSEMBLY
26 CONCERNING THE IMPACT OF THE CREDITS PROVIDED BY THIS ARTICLE
27 UPON INVESTMENTS MADE BY DISTRESSED INDUSTRIES. THE REPORT SHALL
28 DISCUSS WHETHER TAX CREDITS OF THE TYPE PROVIDED BY THIS ARTICLE
29 ARE AN EFFICIENT AND EFFECTIVE METHOD OF ENCOURAGING NEW
30 INVESTMENT BY DISTRESSED INDUSTRIES AND SHALL RECOMMEND WHETHER

1 THIS ARTICLE SHOULD BE REAUTHORIZED OR EXTENDED.

2 SECTION 1714. SUNSET.--IF NOT SOONER REENACTED OR EXTENDED
3 BY THE GENERAL ASSEMBLY BY LAW, THIS ARTICLE SHALL TERMINATE ON
4 DECEMBER 31, 1988.

5 ARTICLE XVIII

6 UNEMPLOYMENT COMPENSATION INTEREST FUND TAX

7 SECTION 1801. DEFINITIONS.--THE WORDS AND PHRASES USED IN
8 THIS ARTICLE SHALL HAVE THE MEANING ASCRIBED TO THEM IN THE ACT
9 OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897, NO.1), KNOWN
10 AS THE "UNEMPLOYMENT COMPENSATION LAW," EXCEPT WHERE THE CONTEXT
11 CLEARLY INDICATES A DIFFERENT MEANING.

12 SECTION 1802. INTEREST FUND TAX.--NOTWITHSTANDING ANY OTHER
13 PROVISION OF THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937
14 P.L.2897, NO.1), KNOWN AS THE "UNEMPLOYMENT COMPENSATION LAW,"
15 ALL EMPLOYERS REQUIRED TO PAY CONTRIBUTIONS UNDER SECTION 301 OR
16 301.1 OF THE "UNEMPLOYMENT COMPENSATION LAW," OTHER THAN THOSE
17 EMPLOYERS COVERED BY SECTION 301(A)(3) AND (4) OF THE
18 "UNEMPLOYMENT COMPENSATION LAW," SHALL PAY AN INTEREST TAX
19 CALCULATED PURSUANT TO SECTION 1804.

20 SECTION 1803. INTEREST FUND.--ALL TAXES COLLECTED UNDER THIS
21 ARTICLE SHALL BE CONSIDERED TO BE SEPARATE AND APART FROM ANY
22 CONTRIBUTIONS REQUIRED TO BE DEPOSITED IN THE UNEMPLOYMENT
23 COMPENSATION FUND. ALL TAXES COLLECTED UNDER THIS ARTICLE SHALL
24 BE DEPOSITED IN THE INTEREST FUND ESTABLISHED BY SECTION 601.2
25 OF THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS., 1937 P.L.2897,
26 NO.1), KNOWN AS THE "UNEMPLOYMENT COMPENSATION LAW." SUCH TAXES
27 WILL NOT BE CREDITED TO THE EMPLOYER'S RESERVE ACCOUNT.

28 SECTION 1804. INTEREST FACTOR.--THE INTEREST TAX SHALL BE
29 CALCULATED BY MULTIPLYING AN INTEREST FACTOR TIMES WAGES
30 CALCULATED PURSUANT TO THE ACT OF DECEMBER 5, 1936 (2ND

1 SP.SESS., 1937 P.L.2897, NO.1), KNOWN AS THE "UNEMPLOYMENT
2 COMPENSATION LAW," AND SUBJECT TO THE LIMITATIONS SPECIFIED IN
3 SECTION 4(X)(1) OF THE "UNEMPLOYMENT COMPENSATION LAW." THE
4 INTEREST FACTOR SHALL BE EQUAL TO TWENTY-FIVE HUNDREDTHS OF ONE
5 PER CENT FOR CALENDAR YEAR 1984, FIVE-TENTHS OF ONE PER CENT FOR
6 CALENDAR YEAR 1985, AND THREE-TENTHS OF ONE PER CENT FOR
7 CALENDAR YEAR 1986. THEREAFTER, THE INTEREST FACTOR SHALL BE A
8 VARIABLE RATE NOT TO EXCEED ONE PER CENT TO BE DETERMINED
9 ANNUALLY BY THE DEPARTMENT AT A RATE NECESSARY TO PAY THE
10 INTEREST ON OUTSTANDING INTEREST-BEARING ADVANCES UNDER TITLE
11 XII OF THE SOCIAL SECURITY ACT FOR THE FOLLOWING CALENDAR YEAR.
12 NO INTEREST TAX SHALL BE REQUIRED FOR ANY YEAR FOLLOWING THE
13 YEAR IN WHICH THE AMOUNT OF SUCH INTEREST-BEARING ADVANCES IS
14 REDUCED TO ZERO.

15 SECTION 13. SECTION 3003(B) OF THE ACT, AMENDED DECEMBER 1,
16 1983 (P.L.228, NO.66), IS AMENDED AND A SUBSECTION IS ADDED TO
17 READ:

18 SECTION 3003. PREPAYMENT OF TAX.--* * *

19 (B) FOR THE TAXABLE YEARS COMMENCING WITH CALENDAR YEAR 1979
20 AND FOR EACH TAXABLE YEAR THEREAFTER, THE TENTATIVE TAX DUE FOR
21 THE CURRENT YEAR SHALL BE COMPUTED BY APPLYING THE CURRENT TAX
22 RATE TO NINETY PER CENT OF SUCH TAX BASE FROM THE YEAR PRECEDING
23 THE IMMEDIATE PRIOR YEAR AS MAY BE APPLICABLE WITH RESPECT TO
24 THE TAX BEING REPORTED; EXCEPT THAT WITH RESPECT TO THE
25 AFORESAID GROSS RECEIPTS TAX ON PUBLIC SERVICE COMPANIES,
26 TRANSPORTATION BY MOTOR VEHICLES AND TRACKLESS TROLLEYS, OTHER
27 THAN MOTOR VEHICLES FOR HIRE, AND THE AFORESAID INSURANCE
28 PREMIUMS TAX, SUCH AMOUNT SHALL CONTINUE TO BE COMPUTED BY
29 APPLYING THE CURRENT TAX RATE TO NINETY PER CENT OF THE TAX BASE
30 FROM THE IMMEDIATE PRIOR YEAR AS MAY BE APPLICABLE WITH RESPECT

1 TO THE TAX BEING REPORTED; AND EXCEPT THAT CORPORATIONS SHALL
2 NOT BE REQUIRED TO REPORT OR PAY TENTATIVE TAX WITH RESPECT TO
3 THE CORPORATE NET INCOME TAX ON ACCOUNT OF ANY TAXABLE YEAR
4 COMMENCING WITH CALENDAR YEAR 1986 AND EACH TAXABLE YEAR
5 THEREAFTER.

6 THE TAX IMPOSED ON SHARES OF BANKS AND TITLE INSURANCE AND
7 TRUST COMPANIES, THE TAX IMPOSED BY ARTICLE XVI AND THE TAX
8 IMPOSED ON PUBLIC UTILITY REALTY SHALL BE PAID IN THE MANNER AND
9 WITHIN THE TIME PRESCRIBED BY ARTICLE VII, ARTICLE VIII OR
10 ARTICLE XI-A, AS THE CASE MAY BE, BUT SUBJECT TO THE ADDITIONS
11 AND INTEREST PROVIDED IN SUBSECTION (E) OF THIS SECTION.

12 (B.1) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (A) AND
13 (B), THE TENTATIVE TAX DUE WITH RESPECT TO THE CAPITAL STOCK AND
14 FRANCHISE TAX FOR TAXABLE YEARS COMMENCING WITH CALENDAR YEAR
15 1986 AND FOR EACH TAXABLE YEAR THEREAFTER SHALL BE COMPUTED BY
16 APPLYING THE CURRENT TAX RATE TO SEVENTY-FIVE PER CENT OF SUCH
17 TAX BASE FROM THE YEAR PRECEDING THE IMMEDIATE PRIOR YEAR.

18 * * *

19 SECTION 14. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

20 SECTION 3003.1. PETITIONS FOR REFUNDS.--WHEN ANY TAX OR
21 OTHER MONEY HAS BEEN PAID TO THE COMMONWEALTH, UNDER A PROVISION
22 OF AN ACT OF ASSEMBLY SUBSEQUENTLY HELD BY FINAL JUDGMENT OF A
23 COURT OF COMPETENT JURISDICTION TO BE UNCONSTITUTIONAL, OR UNDER
24 AN INTERPRETATION OF SUCH PROVISION SUBSEQUENTLY HELD BY SUCH
25 COURT TO BE ERRONEOUS, A PETITION FOR REFUND MAY BE FILED WITH
26 THE BOARD OF FINANCE AND REVENUE EITHER PRIOR OR SUBSEQUENT TO
27 SUCH FINAL JUDGMENT BUT MUST BE FILED WITHIN THREE YEARS OF THE
28 PAYMENT OF WHICH A REFUND IS REQUESTED, OR WITHIN THREE YEARS OF
29 THE SETTLEMENT OF SUCH TAXES OR OTHER MONEYS DUE THE
30 COMMONWEALTH, WHICHEVER PERIOD LAST EXPIRES. THE BOARD SHALL

1 HAVE JURISDICTION TO HEAR AND DETERMINE ANY PETITION FOR REFUND
2 FILED PRIOR TO SUCH FINAL JUDGMENT ONLY IF, AT THE TIME OF THE
3 FILING THEREOF, PROCEEDINGS ARE PENDING IN A COURT OF COMPETENT
4 JURISDICTION WHEREIN THE CLAIMS OF UNCONSTITUTIONALITY OR
5 ERRONEOUS INTERPRETATION MADE IN THE PETITION FOR REFUND MAY BE
6 ESTABLISHED, AND IN SUCH CASE THE BOARD SHALL NOT ACT UPON THE
7 PETITION FOR REFUND UNTIL THE FINAL JUDGMENT DETERMINING THE
8 QUESTION OR QUESTIONS INVOLVED IN SUCH PETITION HAS BEEN HANDED
9 DOWN.

10 SECTION 3003.2. ESTIMATED CORPORATE NET INCOME TAX.--(A)
11 CORPORATIONS REQUIRED TO PAY ESTIMATED TAX. EVERY CORPORATION
12 SUBJECT TO THE CORPORATE NET INCOME TAX IMPOSED BY ARTICLE IV OF
13 THIS ACT, COMMENCING WITH THE CALENDAR YEAR 1986 AND FISCAL
14 YEARS BEGINNING DURING THE CALENDAR YEAR 1986 AND EACH TAXABLE
15 YEAR THEREAFTER, SHALL MAKE PAYMENTS OF ESTIMATED TAX DURING ITS
16 TAXABLE YEAR AS PROVIDED HEREIN.

17 (B) ESTIMATED TAX DEFINED. FOR PURPOSES OF THIS SUBSECTION,
18 "ESTIMATED TAX" MEANS THE AMOUNT WHICH THE CORPORATION ESTIMATES
19 AS THE AMOUNT OF TAX IMPOSED BY SECTION 402 OF ARTICLE IV FOR
20 THE TAXABLE YEAR.

21 (C) PAYMENT IN INSTALLMENTS. PAYMENTS OF ESTIMATED TAX
22 SHALL BE MADE IN EQUAL INSTALLMENTS ON OR BEFORE THE FIFTEENTH
23 DAY OF THE FOURTH, SIXTH, NINTH AND TWELFTH MONTHS AFTER THE
24 CLOSE OF THE PRECEDING TAXABLE YEAR. THE REMAINING PORTION OF
25 THE TAX DUE, IF ANY, SHALL BE PAID UPON THE DATE THE
26 CORPORATION'S ANNUAL REPORT IS REQUIRED TO BE FILED WITHOUT
27 REFERENCE TO ANY EXTENSION OF TIME FOR FILING SUCH REPORT.

28 (D) RECOMPUTATION OF ESTIMATED TAX. IF, AFTER PAYING ANY
29 INSTALLMENT OF ESTIMATED TAX, THE CORPORATION MAKES A NEW
30 ESTIMATE, THE AMOUNT OF EACH REMAINING INSTALLMENT DUE, IF ANY,

1 SHALL BE SUCH AS TO BRING THE TOTAL INSTALLMENT PAYMENTS MADE ON
2 ACCOUNT OF THE TAX DUE FOR THE CURRENT YEAR UP TO AN AMOUNT THAT
3 WOULD HAVE BEEN DUE HAD THE NEW ESTIMATE BEEN THE BASIS FOR
4 PAYING ALL PREVIOUS INSTALLMENTS.

5 (E) APPLICATION TO SHORT TAXABLE YEAR. EVERY CORPORATION
6 WITH A TAXABLE YEAR OF LESS THAN TWELVE MONTHS SHALL PAY SUCH
7 INSTALLMENTS AS BECOME DUE DURING THE COURSE OF ITS TAXABLE
8 YEAR, AND PAY THE REMAINING TAX DUE ON OR BEFORE THE DUE DATE OF
9 THE ANNUAL REPORT (DETERMINED WITHOUT REGARD TO ANY EXTENSION OF
10 TIME FOR FILING).

11 (F) INSTALLMENTS PAID IN ADVANCE. AT THE ELECTION OF THE
12 CORPORATION, ANY INSTALLMENT OF ESTIMATED TAX MAY BE PAID BEFORE
13 THE DATE PRESCRIBED FOR ITS PAYMENT.

14 SECTION 3003.3. FAILURE TO PAY ESTIMATED TAX.--(A) ADDITION
15 TO THE TAX. IN CASE OF ANY UNDERPAYMENT OF ESTIMATED TAX BY A
16 CORPORATION, THERE SHALL BE IMPOSED AN ADDITIONAL TAX FOR THE
17 TAXABLE YEAR IN AN AMOUNT DETERMINED AT THE ANNUAL RATE AS
18 PROVIDED BY LAW FOR THE PAYMENT OF INTEREST UPON THE AMOUNT OF
19 THE UNDERPAYMENT FOR THE PERIOD OF THE UNDERPAYMENT, EXCEPT THAT
20 IN CASE OF ANY SUBSTANTIAL UNDERPAYMENT OF ESTIMATED TAX BY A
21 CORPORATION, SUCH ADDITIONAL TAX FOR THE TAXABLE YEAR SHALL BE
22 IMPOSED IN AN AMOUNT DETERMINED AT ONE HUNDRED TWENTY PER CENT
23 OF THE ANNUAL RATE AS PROVIDED BY LAW FOR THE PAYMENT OF
24 INTEREST UPON THE ENTIRE UNDERPAYMENT FOR THE PERIOD OF THE
25 SUBSTANTIAL UNDERPAYMENT. FOR THE PURPOSE OF THIS SECTION, A
26 SUBSTANTIAL UNDERPAYMENT SHALL BE DEEMED TO EXIST FOR ANY PERIOD
27 DURING WHICH THE AMOUNT OF THE UNDERPAYMENT EQUALS OR EXCEEDS
28 TWENTY-FIVE PER CENT OF THE CUMULATIVE AMOUNT OF QUARTERLY
29 INSTALLMENTS OF ESTIMATED TAX WHICH WOULD BE REQUIRED TO BE PAID
30 IF THE ESTIMATED TAX WERE EQUAL TO THE AMOUNT AS DETERMINED IN

1 SUBSECTION (B)(1).

2 (B) AMOUNT OF UNDERPAYMENT. FOR PURPOSES OF THIS SECTION,
3 THE AMOUNT OF THE UNDERPAYMENT, IF ANY, SHALL BE THE EXCESS OF:

4 (1) THE CUMULATIVE AMOUNT OF QUARTERLY INSTALLMENTS WHICH
5 WOULD BE REQUIRED TO BE PAID AS OF EACH INSTALLMENT DATE AS
6 DEFINED IN SECTION 3003.2(C) IF THE ESTIMATED TAX WERE EQUAL TO
7 NINETY PER CENT OF THE TAX SHOWN ON THE REPORT FOR THE TAXABLE
8 YEAR, EXCEPT THAT, IF THE SETTLED TAX EXCEEDS THE TAX SHOWN ON
9 THE REPORT BY TEN PER CENT OR MORE, THE AMOUNT OF THE
10 UNDERPAYMENT SHALL BE BASED ON NINETY PER CENT OF THE AMOUNT OF
11 SETTLED TAX; OVER

12 (2) THE CUMULATIVE AMOUNT OF QUARTERLY INSTALLMENTS PAID ON
13 OR BEFORE THE LAST DATE PRESCRIBED FOR PAYMENT. IF THE SETTLED
14 TAX IS USED IN CALCULATING THE AMOUNT OF UNDERPAYMENT AND IS
15 SUBSEQUENTLY RESETTLED, THE AMOUNT OF TAX AS RESETTLED SHALL BE
16 UTILIZED IN DETERMINING THE AMOUNT OF UNDERPAYMENT WITHOUT THE
17 NECESSITY OF THE FILING OF ANY PETITION BY THE DEPARTMENT OR BY
18 THE CORPORATION.

19 (C) PERIOD OF UNDERPAYMENT. THE PERIOD OF THE UNDERPAYMENT
20 SHALL RUN FROM THE DATE THE INSTALLMENT WAS REQUIRED TO BE PAID
21 TO WHICHEVER OF THE FOLLOWING DATES IS THE EARLIER:

22 (1) THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE
23 CLOSE OF THE TAXABLE YEAR.

24 (2) WITH RESPECT TO ANY PORTION OF THE UNDERPAYMENT, THE
25 DATE ON WHICH SUCH PORTION IS PAID.

26 (D) EXCEPTION. NOTWITHSTANDING THE PROVISIONS OF THE
27 PRECEDING SUBSECTIONS, THE ADDITION TO THE TAX WITH RESPECT TO
28 ANY UNDERPAYMENT OF ANY INSTALLMENT SHALL NOT BE IMPOSED IF THE
29 TOTAL AMOUNT OF ALL PAYMENTS OF ESTIMATED TAX MADE ON OR BEFORE
30 THE LAST DATE PRESCRIBED FOR THE PAYMENT OF SUCH INSTALLMENT

1 EQUALS OR EXCEEDS THE AMOUNT WHICH WOULD HAVE BEEN REQUIRED TO
2 BE PAID ON OR BEFORE SUCH DATE IF THE ESTIMATED TAX WERE AN
3 AMOUNT EQUAL TO THE TAX COMPUTED AT THE RATES APPLICABLE TO THE
4 TAXABLE YEAR BUT OTHERWISE ON THE BASIS OF THE FACTS SHOWN ON
5 THE REPORT OF THE CORPORATION FOR, AND THE LAW APPLICABLE TO,
6 THE SECOND PRECEDING TAXABLE YEAR, IF A REPORT SHOWING A
7 LIABILITY FOR TAX WAS FILED BY THE CORPORATION FOR THE SECOND
8 PRECEDING TAXABLE YEAR AND SUCH SECOND PRECEDING YEAR WAS A
9 TAXABLE YEAR OF TWELVE MONTHS: PROVIDED, HOWEVER, THAT IF THE
10 SETTLED TAX FOR THE SECOND PRECEDING YEAR EXCEEDS THE TAX SHOWN
11 ON SUCH REPORT BY TEN PER CENT OR MORE, THE SETTLED TAX ADJUSTED
12 TO REFLECT THE CURRENT TAX RATE SHALL BE USED FOR PURPOSES OF
13 THIS SUBSECTION, EXCEPT THAT IF THE SETTLED TAX IS SUBSEQUENTLY
14 RESETTLED, THE AMOUNT OF TAX AS RESETTLED SHALL BE UTILIZED IN
15 THE APPLICATION OF THIS SUBSECTION WITHOUT THE NECESSITY OF THE
16 FILING OF ANY PETITION BY THE DEPARTMENT OR BY THE CORPORATION.
17 IN THE EVENT THAT THE SETTLED OR RESETTLED TAX FOR THE SECOND
18 PRECEDING YEAR EXCEEDS THE TAX SHOWN ON THE REPORT BY TEN PER
19 CENT OR MORE, ADDITIONAL TAX RESULTING FROM THE UTILIZATION OF
20 SUCH SETTLED OR RESETTLED TAX IN THE APPLICATION OF THE
21 PROVISIONS OF THIS SUBSECTION SHALL NOT BE IMPOSED IF, WITHIN
22 FORTY-FIVE DAYS OF THE MAILING DATE OF SUCH SETTLEMENT OR
23 RESETTLEMENT, PAYMENTS ARE MADE SUCH THAT THE TOTAL AMOUNT OF
24 ALL PAYMENTS OF ESTIMATED TAX EQUALS OR EXCEEDS THE AMOUNT WHICH
25 WOULD HAVE BEEN REQUIRED TO BE PAID ON OR BEFORE SUCH DATE IF
26 THE ESTIMATED TAX WERE AN AMOUNT EQUAL TO SUCH SETTLED OR
27 RESETTLED TAX ADJUSTED TO REFLECT THE CURRENT TAX RATE. IN ANY
28 CASE IN WHICH THE TAXABLE YEAR FOR WHICH AN UNDERPAYMENT OF
29 ESTIMATED TAX MAY EXIST IS A SHORT TAXABLE YEAR, IN DETERMINING
30 THE TAX SHOWN ON THE REPORT FOR THE SECOND PRECEDING TAXABLE

1 YEAR OR THE TAX FILING DETERMINED TO BE DUE FOR THE SECOND
2 PRECEDING TAXABLE YEAR, THE TAX WILL BE REDUCED BY MULTIPLYING
3 IT BY THE NUMBER OF MONTHS IN THE SHORT TAXABLE YEAR AND
4 DIVIDING THE RESULTING AMOUNT BY TWELVE.

5 SECTION 3003.4. INTEREST.--(A) INTEREST ON UNDERPAYMENTS OF
6 ESTIMATED CORPORATE NET INCOME TAX. UNDERPAYMENTS OF ESTIMATED
7 CORPORATE NET INCOME TAX SHALL NOT BEAR INTEREST. HOWEVER, ANY
8 AMOUNT OF TAX FINALLY DETERMINED TO BE DUE, WHICH IS NOT PAID BY
9 THE DATE THE ANNUAL REPORT IS DUE (DETERMINED WITHOUT REGARD TO
10 ANY EXTENSION OF TIME FOR FILING), SHALL BEAR INTEREST FROM SUCH
11 DATE UNTIL PAID.

12 (B) INTEREST ON ADDITIONAL TAX. ADDITIONAL TAX SHALL BEAR
13 INTEREST FROM THE DATE THE ANNUAL REPORT IS DUE UNTIL THE DATE
14 PAID.

15 SECTION 15. THE FOLLOWING ACTS AND PARTS OF ACTS ARE
16 REPEALED INSOFAR AS THEY ARE INCONSISTENT WITH THIS ACT:

17 SECTION 503 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176),
18 KNOWN AS THE FISCAL CODE.

19 SECTION 301.6 OF THE ACT OF DECEMBER 5, 1936 (2ND SP.SESS.,
20 1937 P.L.2897, NO.1), KNOWN AS THE UNEMPLOYMENT COMPENSATION
21 LAW.

22 SECTION 16. (A) THE AMENDMENTS AFFECTING SECTIONS 401 AND
23 1502 SHALL APPLY RETROACTIVELY TO THE EARLIER OF JANUARY 1,
24 1981, OR THE FIRST DAY OF ANY TAX YEAR BEGINNING IN 1981.

25 (B) EXCEPT AS PROVIDED IN SUBSECTION (D), THE AMENDMENTS
26 AFFECTING SECTIONS 601 AND 602 SHALL APPLY RETROACTIVELY TO THE
27 EARLIER OF JANUARY 1, 1981, OR THE FIRST DAY OF ANY TAX YEAR
28 BEGINNING IN 1981, FOR THE PURPOSE OF LIMITING THE PORTION OF
29 EXCESS CARRYOVER USED TO CALCULATE THE TAX EQUIVALENT AMOUNT OF
30 EXCESS CARRYOVER CLAIMABLE AS A CREDIT PURSUANT TO ARTICLE XVII.

1 (C) THE AMENDMENTS AFFECTING SECTIONS 253 AND 3003.1 SHALL
2 APPLY TO TAXES DUE, PAID OR SETTLED ON OR AFTER JANUARY 1, 1985.

3 (D) THE AMENDMENTS ADDING A COMPUTER SOFTWARE EXEMPTION TO
4 THE DEFINITION OF PROCESSING IN SECTION 601(A) SHALL APPLY TO
5 TAX YEARS BEGINNING ON OR AFTER JANUARY 1, 1985.

6 (E) THE AMENDMENTS AFFECTING SECTIONS 217, 403, 3003,
7 3003.2, 3003.3 AND 3003.4 SHALL APPLY TO TAX YEARS BEGINNING ON
8 OR AFTER JANUARY 1, 1986.

9 SECTION 17. (A) THE AMENDMENTS AFFECTING SECTION 237(C)
10 SHALL TAKE EFFECT IN 60 DAYS.

11 (B) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT IMMEDIATELY.