

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 691 Session of 2005

INTRODUCED BY WONDERLING, CORMAN, ERICKSON, GORDNER, D. WHITE, WAUGH, RAFFERTY, BOSCOLA, PUNT, PIPPY, KITCHEN, ROBBINS, EARLL, GREENLEAF, MADIGAN, LOGAN, ORIE, SCARNATI, REGOLA, M. WHITE, PILEGGI, RHOADES, CONTI AND PICCOLA, MAY 23, 2005

REFERRED TO FINANCE, MAY 23, 2005

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," further providing, in gross receipts tax, for the  
11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of  
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of  
16 1971, amended or added December 23, 2003 (P.L.250, No.46), is  
17 amended to read:

18 Section 1101. Imposition of Tax.--(a) General Rule.--Every  
19 pipeline company, conduit company, steamboat company, canal  
20 company, slack water navigation company, transportation company,  
21 and every other company, association, joint-stock association,

1 or limited partnership, now or hereafter incorporated or  
2 organized by or under any law of this Commonwealth, or now or  
3 hereafter organized or incorporated by any other state or by the  
4 United States or any foreign government, and doing business in  
5 this Commonwealth, and every copartnership, person or persons  
6 owning, operating or leasing to or from another corporation,  
7 company, association, joint-stock association, limited  
8 partnership, copartnership, person or persons, any pipeline,  
9 conduit, steamboat, canal, slack water navigation, or other  
10 device for the transportation of freight, passengers, baggage,  
11 or oil, except motor vehicles and railroads, and every limited  
12 partnership, association, joint-stock association, corporation  
13 or company engaged in, or hereafter engaged in, the  
14 transportation of freight or oil within this State, and every  
15 telephone company , telegraph company or provider of mobile  
16 telecommunications services now or hereafter incorporated or  
17 organized by or under any law of this Commonwealth, or now or  
18 hereafter organized or incorporated by any other state or by the  
19 United States or any foreign government and doing business in  
20 this Commonwealth, and every limited partnership, association,  
21 joint-stock association, copartnership, person or persons,  
22 engaged in telephone or telegraph business or providing mobile  
23 telecommunications services in this Commonwealth, shall pay to  
24 the State Treasurer, through the Department of Revenue, a tax of  
25 forty-five mills with a surtax equal to five mills upon each  
26 dollar of the gross receipts of the corporation, company or  
27 association, limited partnership, joint-stock association,  
28 copartnership, person or persons, received from:

29 (1) passengers, baggage, oil and freight transported wholly  
30 within this State;

(2) telegraph or telephone messages transmitted wholly within this State and telegraph or telephone messages transmitted in interstate commerce after December 31, 2003, and before January 1, 2006, where such messages originate or terminate in this State and the charges for such messages are billed to a service address in 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

(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;

(B) network elements on an unbundled basis; and

(C) sales of telecommunications services to interconnect with providers of mobile telecommunications services; and

(3) mobile telecommunications services messages sourced to this Commonwealth after December 31, 2003, and before January 1, 2006, based on the place of primary use standard set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117), 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

(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 mobile telecommunications services, including sales of mobile telecommunications services to interconnect with

1 providers of telecommunications services.

2 (a.1) Credit.--Telegraph or telephone companies or providers  
3 of mobile telecommunications services that pay a gross receipts  
4 tax to another state on messages or services after December 31,  
5 2003, and before January 1, 2006, which are taxable under this  
6 article are entitled to a credit against the tax due under this  
7 article. The credit allowed with respect to the messages or  
8 services shall not exceed the tax under this article with  
9 respect to the messages or services.

10 \* \* \*

11 (j) Schedule for Estimated Payments.--

12 (1) For calendar year 2004, the following schedule applies  
13 to the payment of the tax under subsection(a)(3):

14 (i) Forty per cent of the estimated tax shall be due on  
15 March 15, 2004.

16 (ii) Forty per cent of the estimated tax shall be due on  
17 June 15, 2004.

18 (iii) Twenty per cent of the estimated tax shall be due on  
19 September 15, 2004.

20 (2) For calendar [years after 2004] year 2005, the payment  
21 of the estimated tax under subsection (a)(3) shall be due in  
22 accordance with section 3003.2.

23 (3) This subsection shall expire January 1, 2006.

24 \* \* \*

25 Section 2. Section 33(12) of the act of December 23, 2003  
26 (P.L.250, No.46), entitled "An act amending the act of March 4,  
27 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and  
28 State taxation by codifying and enumerating certain subjects of  
29 taxation and imposing taxes thereon; providing procedures for  
30 the payment, collection, administration and enforcement thereof;

1 providing for tax credits in certain cases; conferring powers  
2 and imposing duties upon the Department of Revenue, certain  
3 employers, fiduciaries, individuals, persons, corporations and  
4 other entities; prescribing crimes, offenses and penalties,'  
5 further providing, in sales and use tax, for definitions, for  
6 exclusions, for credits, for licenses and for transfers to  
7 Public Transportation Assistance Fund; further providing, in  
8 personal income tax, for definitions, for imposition, for  
9 special tax provisions for poverty, for returns and liability  
10 and for returns and records; further providing, in corporate net  
11 income tax, for definitions and for interests in unincorporated  
12 entities; providing, in corporate net income tax, for additional  
13 withholding requirements; further providing, in capital stock  
14 franchise tax, for definitions and reports, for imposition and  
15 for expiration; further providing, in utilities gross receipts  
16 tax, for imposition; further providing, in public utility realty  
17 tax, for surcharges; providing, in public utility realty tax,  
18 for additional tax; further providing, in cigarette tax, for  
19 incidence and rate of tax, for floor tax, for stamp to evidence  
20 the tax and for commissions on sales; establishing, in relation  
21 to cigarette tax, the Health Care Provider Retention Account;  
22 further providing, in research and development tax credit, for  
23 carryover, for limitations and for reports; further providing,  
24 in malt beverage tax, for limited tax credits; further  
25 providing, in inheritance tax, for definitions, for exempt  
26 transfers, for estate tax and for estate tax returns; further  
27 providing for the Public Transportation Assistance Fund and  
28 providing for its administration; further providing for  
29 estimated tax and for underpayment of estimated tax; providing  
30 for authority to attach wages; and repealing provisions relating

1 to the Public Transportation Assistance Fund," is repealed.

2 Section 3. This act shall take effect immediately.