

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, ORIE, SCARNATI, REGOLA, M. WHITE,
PILEGGI, RHOADES, CONTI, PICCOLA, VANCE AND ARMSTRONG,
MAY 23, 2005

AS AMENDED ON THIRD CONSIDERATION, APRIL 3, 2006

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 sales and use tax, for
11 credit against tax and, in gross receipts tax, for the
12 ~~imposition of tax~~ PHASEOUT OF MOBILE TELECOMMUNICATIONS AND <—
13 CERTAIN TELEPHONE TAXES; and making a related repeal.

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

16 Section 1. Section 206 of the act of March 4, 1971 (P.L.6,
17 No.2), known as the Tax Reform Code of 1971, is amended by
18 adding a subsection to read:

19 Section 206. Credit Against Tax.--* * *

20 (c) No tax credits under subsection (b) may be granted for
21 taxable years commencing after December 31, 2010.

22 Section 2. Section 1101(a), (a.1) and (j) of the act,

1 amended or added December 23, 2003 (P.L.250, No.46), are amended
2 and the section is amended by adding a ~~subsection~~ SUBSECTIONS to <—
3 read:

4 Section 1101. Imposition of Tax.--(a) General Rule.--Every
5 pipeline company, conduit company, steamboat company, canal
6 company, slack water navigation company, transportation company,
7 and every other company, association, joint-stock association,
8 or limited partnership, now or hereafter incorporated or
9 organized by or under any law of this Commonwealth, or now or
10 hereafter organized or incorporated by any other state or by the
11 United States or any foreign government, and doing business in
12 this Commonwealth, and every copartnership, person or persons
13 owning, operating or leasing to or from another corporation,
14 company, association, joint-stock association, limited
15 partnership, copartnership, person or persons, any pipeline,
16 conduit, steamboat, canal, slack water navigation, or other
17 device for the transportation of freight, passengers, baggage,
18 or oil, except motor vehicles and railroads, and every limited
19 partnership, association, joint-stock association, corporation
20 or company engaged in, or hereafter engaged in, the
21 transportation of freight or oil within this State, and every
22 telephone company, telegraph company or provider of mobile
23 telecommunications services now or hereafter incorporated or
24 organized by or under any law of this Commonwealth, or now or
25 hereafter organized or incorporated by any other state or by the
26 United States or any foreign government and doing business in
27 this Commonwealth, and every limited partnership, association,
28 joint-stock association, copartnership, person or persons,
29 engaged in telephone or telegraph business or providing mobile
30 telecommunications services in this Commonwealth, shall pay to

1 the State Treasurer, through the Department of Revenue, a tax
2 of, except as otherwise provided in subsection (1), forty-five
3 mills with a surtax equal to five mills upon each dollar of the
4 gross receipts of the corporation, company or association,
5 limited partnership, joint-stock association, copartnership,
6 person or persons, received from:

7 (1) passengers, baggage, oil and freight transported wholly
8 within this State;

9 (2) telegraph or telephone messages transmitted wholly
10 within this State and, after December 31, 2003, and before
11 January 1, 2011, telegraph or telephone messages transmitted in
12 interstate commerce where such messages originate or terminate
13 in this State and the charges for such messages are billed to a
14 service address in this State, except gross receipts derived
15 from:

16 (i) the sales of access to the Internet, as set forth in
17 Article II, made to the ultimate consumer; and

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

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

24 (B) network elements on an unbundled basis; and

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

27 (3) mobile telecommunications services messages sourced to
28 this Commonwealth after December 31, 2003, and before January 1,
29 2011, based on the place of primary use standard set forth in
30 the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117),

1 except gross receipts derived from:

2 (i) the sales of access to the Internet, as set forth in
3 Article II, made to the ultimate consumer; and

4 (ii) the sales for resale to persons, partnerships,
5 associations, corporations or political subdivisions subject to
6 the tax imposed by this article upon gross receipts derived from
7 such resale of mobile telecommunications services, including
8 sales of mobile telecommunications services to interconnect with
9 providers of telecommunications services.

10 (a.1) Credit.--Telegraph or telephone companies or providers
11 of mobile telecommunications services that pay a gross receipts
12 tax to another state on messages or services after December 31,
13 2003, and before January 1, 2011, which are taxable under this
14 article are entitled to a credit against the tax due under this
15 article. The credit allowed with respect to the messages or
16 services shall not exceed the tax under this article with
17 respect to the messages or services.

18 * * *

19 (j) Schedule for Estimated Payments.--

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

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

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

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

28 (2) For calendar years after 2004, the payment of the
29 estimated tax under subsection (a)(3) shall be due in accordance
30 with section 3003.2.

1 (3) This subsection shall expire January 1, 2011.

2 * * *

3 (1) ~~Phase-out~~ PHASEOUT for Telegraph or Telephone Messages <—
4 Transmitted in Interstate Commerce and Mobile Telecommunications
5 Services Messages.--The INTERSTATE TELEGRAPH OR TELEPHONE <—
6 MESSAGES tax imposed under subsection (a)(2) and ~~(3)~~ THE MOBILE <—
7 TELECOMMUNICATIONS SERVICES MESSAGES TAX IMPOSED UNDER
8 SUBSECTION (A)(3) and paid by telephone companies and providers
9 of mobile telecommunications services shall be as follows:

10 (1) After December 31, 2006, and before January 1, 2008,
11 thirty-five mills with a surtax equal to five mills upon each
12 dollar of the gross receipts.

13 (2) After December 31, 2007, and before January 1, 2009,
14 twenty-five mills with a surtax equal to five mills upon each
15 dollar of the gross receipts.

16 (3) After December 31, 2008, and before January 1, 2010,
17 fifteen mills with a surtax equal to five mills upon each dollar
18 of the gross receipts.

19 (4) After December 31, 2009, and before January 1, 2011,
20 five mills with a surtax equal to five mills upon each dollar of
21 the gross receipts.

22 (M) APPLICABILITY OF PHASEOUT PROVISIONS.--THE PHASEOUT <—
23 PROVISIONS OF SUBSECTION (L) SHALL NOT APPLY TO ANY MOBILE
24 TELECOMMUNICATIONS SERVICES PROVIDER THAT DISCLOSES THE
25 TELEPHONE NUMBER, NAME OR ADDRESS OF A CUSTOMER TO ANOTHER
26 PERSON FOR ANY COMMERCIAL PURPOSES WHATSOEVER, INCLUDING, BUT
27 NOT LIMITED TO, A LISTING IN A DIRECTORY ASSISTANCE DATABASE OR
28 FOR THE PUBLICATION OR LISTING IN A DIRECTORY UNLESS SUCH
29 CUSTOMER HAS AUTHORIZED SUCH DISCLOSURE IN WRITING.

30 (N) NOTICE OF CHANGE.--COMPANIES SUBJECT TO THE TAX IMPOSED

1 UNDER SUBSECTION (A)(2) AND (3) WHO PASS THE TAX ON TO CONSUMERS
2 SHALL PROVIDE NOTICE OF ANY CHANGES IN THE TAX IMPOSED,
3 INCLUDING ANY REDUCTION IN THE AMOUNT OF THE MONTHLY BILL.

4 Section 3. Section 33(12) of the act of December 23, 2003
5 (P.L.250, No.46), entitled "An act amending the act of March 4,
6 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and
7 State taxation by codifying and enumerating certain subjects of
8 taxation and imposing taxes thereon; providing procedures for
9 the payment, collection, administration and enforcement thereof;
10 providing for tax credits in certain cases; conferring powers
11 and imposing duties upon the Department of Revenue, certain
12 employers, fiduciaries, individuals, persons, corporations and
13 other entities; prescribing crimes, offenses and penalties,'
14 further providing, in sales and use tax, for definitions, for
15 exclusions, for credits, for licenses and for transfers to
16 Public Transportation Assistance Fund; further providing, in
17 personal income tax, for definitions, for imposition, for
18 special tax provisions for poverty, for returns and liability
19 and for returns and records; further providing, in corporate net
20 income tax, for definitions and for interests in unincorporated
21 entities; providing, in corporate net income tax, for additional
22 withholding requirements; further providing, in capital stock
23 franchise tax, for definitions and reports, for imposition and
24 for expiration; further providing, in utilities gross receipts
25 tax, for imposition; further providing, in public utility realty
26 tax, for surcharges; providing, in public utility realty tax,
27 for additional tax; further providing, in cigarette tax, for
28 incidence and rate of tax, for floor tax, for stamp to evidence
29 the tax and for commissions on sales; establishing, in relation
30 to cigarette tax, the Health Care Provider Retention Account;

1 further providing, in research and development tax credit, for
2 carryover, for limitations and for reports; further providing,
3 in malt beverage tax, for limited tax credits; further
4 providing, in inheritance tax, for definitions, for exempt
5 transfers, for estate tax and for estate tax returns; further
6 providing for the Public Transportation Assistance Fund and
7 providing for its administration; further providing for
8 estimated tax and for underpayment of estimated tax; providing
9 for authority to attach wages; and repealing provisions relating
10 to the Public Transportation Assistance Fund," is repealed.

11 Section 4. This act shall take effect immediately.