

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 190

Session of
1971

INTRODUCED BY MESSRS. FINEMAN, IRVIS, ENGLEHART,
PRENDERGAST, MRS. ANDERSON, MESSRS. E. B. DAVIS AND
KAUFMAN, FEBRUARY 2, 1971

REFERRED TO COMMITTEE ON WAYS AND MEANS, FEBRUARY 2, 1971

AN ACT

1 Relating to tax reform and State taxation by codifying and
2 enumerating certain subjects of taxation and imposing taxes
3 thereon; providing procedures for the payment, collection,
4 administration and enforcement thereof; providing for tax
5 credits in certain cases; conferring powers and imposing
6 duties upon the Department of Revenue, certain employers,
7 fiduciaries, individuals, persons, corporations and other
8 entities; prescribing crimes, offenses and penalties.

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

11 ARTICLE I

12 SHORT TITLE

13 Section 101. Short Title.--This act shall be known and may
14 be cited as the "Tax Reform Code of 1971."

15 ARTICLE II

16 TAX FOR EDUCATION

17 PART I

18 DEFINITIONS

19 Section 201. Definitions.--The following words, terms and
20 phrases when used in this Article II shall have the meaning

1 ascribed to them in this section, except where the context
2 clearly indicates a different meaning:

3 (a) "Soft drinks." All nonalcoholic beverages, whether
4 carbonated or not, such as soda water, ginger ale, coca cola,
5 lime cola, pepsi cola, Dr. Pepper, fruit juice when plain or
6 carbonated water, flavoring or syrup is added, carbonated water,
7 orangeade, lemonade, root beer or any and all preparations,
8 commonly referred to as "soft drinks," of whatsoever kind, and
9 are further described as including any and all beverages,
10 commonly referred to as "soft drinks," which are made with or
11 without the use of any syrup. The term "soft drinks" shall not
12 include natural fruit or vegetable juices or their concentrates,
13 or non-carbonated fruit juice drinks containing not less than
14 twenty-five per cent by volume of natural fruit juices or of
15 fruit juice which has been reconstituted to its original state,
16 or natural concentrated fruit or vegetable juices reconstituted
17 to their original state, whether any of the foregoing natural
18 juices are frozen or unfrozen, sweetened or unsweetened,
19 seasoned with salt or spice or unseasoned, nor shall the term
20 "soft drinks" include coffee, coffee substitutes, tea, cocoa,
21 natural fluid milk or non-carbonated drinks made from milk
22 derivatives.

23 (b) "Maintaining a place of business in this Commonwealth."

24 (1) Having or maintaining within this Commonwealth, directly
25 or by a subsidiary, an office, distribution house, sales house,
26 warehouse, service enterprise or other place of business, or any
27 agent of general or restricted authority irrespective of whether
28 the place of business or agent is located here permanently or
29 temporarily or whether the person or subsidiary maintaining such
30 place of business or agent is authorized to do business within

1 this Commonwealth; or

2 (2) The engaging in any activity as a business within this
3 Commonwealth by any person, directly or by a subsidiary, in
4 connection with the lease, sale or delivery of tangible personal
5 property or the performance of services thereon for use, storage
6 or consumption including, but not limited to, having,
7 maintaining or using any office, distribution house, sales
8 house, warehouse or other place of business, any stock of goods
9 or any solicitor, salesman, agent or representative under its
10 authority, at its direction or with its permission, regardless
11 of whether the person or subsidiary is authorized to do business
12 in this Commonwealth.

13 (3) Regularly or substantially soliciting orders within this
14 Commonwealth in connection with the lease, sale or delivery of
15 tangible personal property to or the performance thereon of
16 services for residents of this Commonwealth by means of
17 catalogues or other advertising, whether such orders are
18 accepted within or without this Commonwealth.

19 (c) "Manufacture." The performance as a business of those
20 operations which transform personal property into a form,
21 composition and character substantially different from that in
22 which it was acquired whether for sale or use by the
23 manufacturer. For the purposes of this act, the term
24 "manufacture" shall include:

25 (1) Printing;

26 (2) Refining, exploring, mining and quarrying for, or
27 otherwise extracting from the earth any natural resources,
28 minerals and mineral aggregates;

29 (3) Building, rebuilding, repairing and making additions to,
30 or replacements in or upon vessels designed for commercial use

1 of registered tonnage of fifty tons or more when produced upon
2 special order of the purchaser, or when rebuilt, repaired or
3 enlarged, or when replacements are made upon order of, or for
4 the account of the owner;

5 (4) Research having as its objective the production of a new
6 or an improved (i) product or utility service, or (ii) method of
7 producing a product or utility service, but in either case not
8 including market research or research having as its objective
9 the improvement of administrative efficiency.

10 The term "manufacture," shall not include constructing,
11 altering, servicing, repairing or improving real estate or
12 repairing, servicing or installing personal property.

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

15 (1) The cooking or freezing of fruits, vegetables,
16 mushrooms, fish, seafood, meats or poultry, when the person
17 engaged in such business packages such property in sealed
18 containers for wholesale distribution.

19 (2) The scouring, carbonizing, cording, combing, throwing,
20 twisting or winding of natural or synthetic fibers, or the
21 spinning, bleaching, dyeing, printing or finishing of yarns or
22 fabrics, when such activities are performed prior to sale to the
23 ultimate consumer.

24 (3) The electroplating, galvanizing, enameling, anodizing,
25 coloring, finishing, impregnating or heat treating of metals or
26 plastics for sale or in the process of manufacturing.

27 (4) The rolling, drawing or extruding of ferrous and non-
28 ferrous metals.

29 (5) The fabrication for sale of ornamental or structural
30 metal or of metal stairs, staircases, gratings, fire escapes or

1 railings (not including fabrication work done at the
2 construction site).

3 (6) The preparation of animal feed or poultry feed for sale.

4 (7) The production, processing and bottling of non-alcoholic
5 beverages for wholesale distribution.

6 (8) The operation of a saw mill or planing mill for the
7 production of lumber or lumber products for sale.

8 (9) The milling for sale of flour or meal from grains.

9 (10) The slaughtering and dressing of animals for meat to be
10 sold or to be used in preparing meat products for sale, and the
11 preparation of meat products including lard, tallow, grease,
12 cooking and inedible oils for wholesale distribution.

13 (11) The processing of used lubricating oils.

14 (e) "Person." Any natural person, association, fiduciary,
15 partnership, corporation or other entity, including the
16 Commonwealth of Pennsylvania, its political subdivisions and
17 instrumentalities and public authorities. Whenever used in any
18 clause prescribing and imposing a penalty or imposing a fine or
19 imprisonment, or both, the term "person," as applied to an
20 association, shall include the members thereof and, as applied
21 to a corporation, the officers thereof.

22 (f) "Purchase at retail."

23 (1) The acquisition for a consideration of the ownership,
24 custody or possession of tangible personal property other than
25 for resale by the person acquiring the same when such
26 acquisition is made for the purpose of consumption or use,
27 whether such acquisition shall be absolute or conditional, and
28 by whatsoever means the same shall have been effected.

29 (2) The acquisition of a license to use or consume, and the
30 rental or lease of tangible personal property, other than for

1 resale regardless of the period of time the lessee has
2 possession or custody of the property.

3 (3) The obtaining for a consideration of those services
4 described in subclauses (2), (3) and (4) of clause (k) of this
5 section other than for resale.

6 (4) A retention after March 7, 1956, of possession, custody
7 or a license to use or consume pursuant to a rental contract or
8 other lease arrangement (other than as security), other than for
9 resale.

10 The term "purchase at retail" with respect to "liquor" and
11 "malt or brewed beverages" shall include the purchase of
12 "liquor" from any "Pennsylvania Liquor Store" by any person for
13 any purpose, and the purchase of "malt or brewed beverages" from
14 a "manufacturer of malt or brewed beverages," "distributor" or
15 "importing distributor" by any person for any purpose, except
16 purchases from a "manufacturer of malt or brewed beverages" by a
17 "distributor" or "importing distributor" or purchases from an
18 "importing distributor" by a "distributor" within the meaning of
19 the "Liquor Code." The term "purchase at retail" shall not
20 include any purchase of "malt or brewed beverages" from a
21 "retail dispenser" or any purchase of "liquor" or "malt or
22 brewed beverages" from a person holding a "retail liquor
23 license" within the meaning of and pursuant to the provisions of
24 the "Liquor Code," but shall include any purchase or acquisition
25 of "liquor" or "malt or brewed beverages" other than pursuant to
26 the provisions of the "Liquor Code."

27 (g) "Purchase price."

28 (1) The total value of anything paid or delivered, or
29 promised to be paid or delivered, whether it be money or
30 otherwise, in complete performance of a sale at retail or

1 purchase at retail, as herein defined, without any deduction on
2 account of the cost or value of the property sold, cost or value
3 of transportation, cost or value of labor or service, interest
4 or discount paid or allowed after the sale is consummated, any
5 other taxes imposed by the Commonwealth of Pennsylvania or any
6 other expense.

7 (2) There shall be deducted from the purchase price the
8 value of any personal property actually taken in trade or
9 exchange within this Commonwealth in lieu of the whole or any
10 part of the purchase price. For the purpose of this subsection,
11 the amount allowed by reason of personal property actually taken
12 in trade or exchange shall be considered the value of such
13 property.

14 (3) In determining the purchase price on the sale or use of
15 taxable tangible personal property where, because of affiliation
16 of interests between the vendor and purchaser, or irrespective
17 of any such affiliation, if for any other reason the purchase
18 price declared by the vendor or taxpayer on the taxable sale or
19 use of such tangible personal property is, in the opinion of the
20 department, not indicative of the true value of the article or
21 the fair price thereof, the department shall, pursuant to
22 uniform and equitable rules, determine the amount of
23 constructive purchase price upon the basis of which the tax
24 shall be computed and levied. Such rules shall provide for a
25 constructive amount of purchase price for each such sale or use
26 which would naturally and fairly be charged in an arms-length
27 transaction in which the element of common interest between the
28 vendor or purchaser is absent or if no common interest exists,
29 any other element causing a distortion of the price or value is
30 likewise absent. For the purpose of this clause where a taxable

1 sale or purchase at retail transaction occurs between a parent
2 and a subsidiary, affiliate or controlled corporation of such
3 parent corporation, there shall be a rebuttable presumption,
4 that because of such common interest such transaction was not at
5 arms-length.

6 (4) Where there is a transfer or retention of possession or
7 custody, whether it be termed a rental, lease, service or
8 otherwise, of tangible personal property including, but not
9 limited to linens, aprons, motor vehicles, trailers, tires,
10 industrial office and construction equipment, and business
11 machines the full consideration paid or delivered to the vendor
12 or lessor shall be considered the purchase price, even though
13 such consideration be separately stated and be designated as
14 payment for processing, laundering, service, maintenance,
15 insurance, repairs, depreciation or otherwise. Where the vendor
16 or lessor supplies or provides an employe to operate such
17 tangible personal property, the value of the labor thus supplied
18 may be excluded and shall not be considered as part of the
19 purchase price if separately stated. There shall also be
20 included as part of the purchase price the value of anything
21 paid or delivered, or promised to be paid or delivered by a
22 lessee, whether it be money or otherwise, to any person other
23 than the vendor or lessor by reason of the maintenance,
24 insurance or repair of the tangible personal property which a
25 lessee has the possession or custody of under a rental contract
26 or lease arrangement.

27 (5) With respect to the tax imposed by subsection (b) of
28 section 202 upon any tangible personal property originally
29 purchased by the user of such property six months or longer
30 prior to the first taxable use of such property within the

1 Commonwealth, such user may elect to pay tax on a substituted
2 base determined by considering the purchase price of such
3 property for tax purposes to be equal to the prevailing market
4 price of similar personal property at the time and place of such
5 first use within the Commonwealth. Such election must be made by
6 filing a notice thereof in the form specified by the department
7 and reporting such tax liability and paying the proper tax due
8 plus all accrued penalties and interest, if there be any, within
9 one year of the due date of such report and payment, as provided
10 for by subsections (a) and (c) of section 217 of this article.

11 (6) The purchase price of "liquor" purchased from a
12 "Pennsylvania Liquor Store" by a "retail liquor licensee," and
13 the purchase price of "malt or brewed beverages" purchased from
14 any person by a "retail dispenser" shall, for the purpose of
15 this article, be a constructive average retail price for such
16 liquor or malt or brewed beverage, as shall be determined by the
17 Pennsylvania Liquor Control Board, and the tax thereon shall be
18 computed and paid upon said constructive average retail price,
19 rather than upon the price actually paid by the "retail liquor
20 licensee" or "retail dispenser".

21 (h) "Purchaser." Any person who acquires, for a
22 consideration, the ownership, custody or possession by sale,
23 lease or otherwise, of tangible personal property, or who
24 obtains services in exchange for a purchase price but not
25 including an employer who obtains services from his employes in
26 exchange for wages or salaries when such services are rendered
27 in the ordinary scope of their employment.

28 (i) "Resale."

29 (1) Any transfer of ownership, custody or possession of
30 tangible personal property for a consideration, including the

1 grant of a license to use or consume and transactions where the
2 possession of such property is transferred but where the
3 transferor retains title only as security for payment of the
4 selling price whether such transaction be designated as bailment
5 lease, conditional sale or otherwise.

6 (2) The physical incorporation of personal property as an
7 ingredient or constituent into other personal property, which is
8 to be sold in the regular course of business or the performance
9 of those services described in subclauses (2), (3) and (4) of
10 clause (k) of this section upon personal property which is to be
11 sold in the regular course of business.

12 The term "resale" shall not include any sale of "malt or
13 brewed beverages" by a "retail dispenser," or any sale of
14 "liquor" or "malt or brewed beverages" by a person holding a
15 "retail liquor license" within the meaning of the "Liquor Code."

16 (j) "Resident."

17 (1) Any natural person (i) who is domiciled in the
18 Commonwealth, or (ii) who maintains a permanent place of abode
19 within the Commonwealth and spends in the aggregate more than
20 sixty days of the year within the Commonwealth.

21 (2) Any corporation (i) incorporated under the laws of this
22 Commonwealth, or (ii) authorized to do business or doing
23 business within this Commonwealth, or (iii) maintaining a place
24 of business within this Commonwealth.

25 (3) Any association, fiduciary, partnership or other entity
26 (i) domiciled in this Commonwealth, or (ii) authorized to do
27 business or doing business within this Commonwealth, or (iii)
28 maintaining a place of business within this Commonwealth.

29 (k) "Sale at retail."

30 (1) Any transfer, for a consideration, of the ownership,

1 custody or possession of tangible personal property, including
2 the grant of a license to use or consume whether such transfer
3 be absolute or conditional and by whatsoever means the same
4 shall have been effected.

5 (2) The rendition of the service of printing or imprinting
6 of tangible personal property for a consideration for persons
7 who furnish, either directly or indirectly the materials used in
8 the printing or imprinting.

9 (3) The rendition for a consideration of the service of--

10 (i) Washing, cleaning, waxing, polishing or lubricating of
11 motor vehicles of another, whether or not any tangible personal
12 property is transferred in conjunction therewith; and

13 (ii) Inspecting motor vehicles pursuant to the mandatory
14 requirements of "The Vehicle Code."

15 (4) The rendition for a consideration of the service of
16 repairing, altering, mending, pressing, fitting, dyeing,
17 laundering, drycleaning or cleaning tangible personal property
18 other than wearing apparel or shoes, or applying or installing
19 tangible personal property as a repair or replacement part of
20 other personal property except wearing apparel or shoes for a
21 consideration, whether or not the services are performed
22 directly or by any means other than by coin-operated equipment
23 and whether or not any tangible personal property is transferred
24 in conjunction therewith, except such services as are rendered
25 in the construction, reconstruction, remodeling, repair or
26 maintenance of real estate: Provided, however, That this
27 subclause shall not be deemed to impose tax upon such services
28 in the preparation for sale of new items which are excluded from
29 the tax under clause (26) of section 204, or upon diaper
30 service.

1 (5) Any retention after March 7, 1956, of possession,
2 custody or a license to use or consume pursuant to a rental
3 contract or other lease arrangement (other than as security).

4 (6) Any retention of possession, custody or a license to use
5 or consume tangible personal property or any further obtaining
6 of services described in subclauses (2), (3) and (4) of this
7 clause after April 15, 1959, pursuant to a rental or service
8 contract or other arrangement (other than as security).

9 (7) Any retention of possession, custody or a license to use
10 or consume tangible personal property or any further obtaining
11 of services described in subclauses (2), (3) and (4) of this
12 clause after August 20, 1959, pursuant to a rental or service
13 contract or other arrangement (other than as security).

14 (8) Any retention of possession, custody or a license to use
15 or consume tangible personal property or any further obtaining
16 of services described in subclauses (2), (3) and (4) of this
17 clause pursuant to a rental or service contract or other
18 arrangement (other than as security).

19 The term "sale at retail" shall not include (i) any such
20 transfer of tangible personal property or rendition of services
21 for the purpose of resale, or (ii) such rendition of services or
22 the transfer of tangible personal property which under authority
23 of Federal law may be expensed by the purchaser thereof for
24 Federal tax purposes, and are to be used or consumed by such
25 purchaser directly in any of the operations of--

26 (A) The manufacture of personal property;

27 (B) Farming, dairying, agriculture, horticulture or
28 floriculture when engaged in as a business enterprise. The term
29 "farming" shall include the propagation and raising of ranch
30 raised fur-bearing animals.

1 (C) The producing, delivering or rendering of a public
2 utility service, or in constructing, reconstructing, remodeling,
3 repairing or maintaining the facilities used in such service,
4 whether or not such facilities constitute real estate: Provided,
5 however, "real estate" shall not include buildings;

6 (D) The processing of personal property as defined in clause
7 (d) of this section.

8 The exclusions provided in paragraphs (A), (B), (C) and (D)
9 shall not apply to any vehicle required to be registered under
10 The Vehicle Code, except those vehicles used directly by a
11 public utility engaged in business as a common carrier, or to
12 maintenance facilities or to materials or supplies to be used or
13 consumed in any construction, reconstruction, remodeling, repair
14 or maintenance of real estate.

15 The exclusions provided in paragraphs (A), (B), (C) and (D)
16 shall not apply to tangible personal property or services to be
17 used or consumed in managerial sales or other nonoperational
18 activities, nor to the purchase or use of tangible personal
19 property or services by any person other than the person
20 directly using the same in the operations described in
21 paragraphs (A), (B), (C) and (D) herein.

22 The exclusion provided in paragraph (C) shall not apply to
23 (i) construction materials used to construct, reconstruct,
24 remodel, repair or maintain facilities not used directly by the
25 purchaser in the production, delivering or rendition of public
26 utility service, even though such materials may be expensed for
27 Federal tax purposes or (ii) tools and equipment used but not
28 installed in the maintenance of facilities used in the
29 production, delivering or rendition of a public utility service,
30 even though such tools and equipment may be expensed for Federal

1 tax purposes.

2 (9) Where tangible personal property or services are
3 utilized for purposes constituting a "sale at retail" and for
4 purposes excluded from the definition of "sale at retail," it
5 shall be presumed that said property is subject to tax, unless
6 the user prove that the purposes which constitute a "sale at
7 retail" are minimal.

8 (10) The term "sale at retail" with respect to "liquor" and
9 "malt or brewed beverages" shall include the sale of "liquor" by
10 any "Pennsylvania liquor store" to any person for any purpose,
11 and the sale of "malt or brewed beverages" by a "manufacturer of
12 malt or brewed beverages," "distributor" or "importing
13 distributor" to any person for any purpose, except sales by a
14 "manufacturer of malt or brewed beverages" to a "distributor" or
15 "importing distributor" or sales by an "importing distributor"
16 to a "distributor" within the meaning of the "Liquor Code." The
17 term "sale at retail" shall not include any sale of "malt or
18 brewed beverages" by a "retail dispenser" or any sale of
19 "liquor" or "malt or brewed beverages" by a person holding a
20 "retail liquor license" within the meaning of and pursuant to
21 the provisions of the "Liquor Code," but shall include any sale
22 of "liquor" or "malt or brewed beverages" other than pursuant to
23 the provisions of the "Liquor Code."

24 (l) "Storage." Any keeping or retention of tangible
25 personal property within this Commonwealth for any purpose
26 including the interim keeping, retaining or exercising any right
27 or power over such tangible personal property.

28 (m) "Tangible personal property." Corporeal personal
29 property including, but not limited to, goods, wares,
30 merchandise, steam and natural and manufactured and bottled gas

1 for non-residential use, electricity for non-residential use,
2 intrastate telephone and telegraph service for non-residential
3 use, spirituous or vinous liquor and malt or brewed beverages
4 and soft drinks; but the term shall not include household
5 supplies purchased at retail establishments for residential
6 consumption, including but not limited to, soaps, detergents,
7 cleaning and polishing preparations, paper goods, household
8 wrapping supplies and items of similar nature, or sanitary
9 napkins, tampons or similar items used for feminine hygiene. Nor
10 shall said term include steam, natural and manufactured and
11 bottled gas, fuel oil, electricity or intrastate telephone or
12 telegraph service when purchased solely for residential use.

13 (n) "Taxpayer." Any person required to pay or collect the
14 tax imposed by this article.

15 (o) "Use."

16 (1) The exercise of any right or power incidental to the
17 ownership, custody or possession of tangible personal property
18 and shall include, but not be limited to transportation, storage
19 or consumption.

20 (2) The obtaining by a purchaser of the service of printing
21 or imprinting of tangible personal property when such purchaser
22 furnishes, either directly or indirectly, the articles used in
23 the printing or imprinting.

24 (3) The obtaining by a purchaser of the services of (i)
25 washing, cleaning, waxing, polishing or lubricating of motor
26 vehicles whether or not any tangible personal property is
27 transferred to the purchaser in conjunction with such services,
28 and (ii) inspecting motor vehicles pursuant to the mandatory
29 requirements of "The Vehicle Code."

30 (4) The obtaining by a purchaser of the service of

1 repairing, altering, mending, pressing, fitting, dyeing,
2 laundering, drycleaning or cleaning tangible personal property
3 other than wearing apparel or shoes or applying or installing
4 tangible personal property as a repair or replacement part of
5 other personal property other than wearing apparel or shoes,
6 whether or not the services are performed directly or by any
7 means other than by means of coin-operated equipment, and
8 whether or not any tangible personal property is transferred to
9 the purchaser in conjunction therewith, except such services as
10 are obtained in the construction, reconstruction, remodeling,
11 repair or maintenance of real estate: Provided, however, That
12 this subclause shall not be deemed to impose tax upon such
13 services in the preparation for sale of new items which are
14 excluded from the tax under clause (26) of section 204, or upon
15 diaper service: And provided further, That the term "use" shall
16 not include--

17 (A) Any tangible personal property acquired and kept,
18 retained or over which power is exercised within this
19 Commonwealth on which the taxing of the storage, use or other
20 consumption thereof is expressly prohibited by the Constitution
21 of the United States or which is excluded from tax under other
22 provisions of this article.

23 (B) Tangible personal property, supplies or the obtaining of
24 the services described in subclauses (2), (3) and (4) of this
25 clause, which property, supplies and services under authority of
26 Federal law may be expensed by the user thereof for Federal tax
27 purposes and which are used or consumed by the purchaser
28 directly in any of the operations of--

29 (i) The manufacture of personal property;

30 (ii) Farming, dairying, agriculture, horticulture or

1 floriculture when engaged in as a business enterprise;

2 (iii) The producing, delivering or rendering of a public
3 utility service, or in constructing, reconstructing, remodeling,
4 repairing or maintaining the facilities used in such service,
5 whether or not such facilities constitute real estate: Provided,
6 however, "real estate" shall not include buildings;

7 (iv) The processing of personal property as defined in
8 subclause (d) of this section.

9 The exclusions provided in subparagraphs (i), (ii), (iii) and
10 (iv) shall not apply to any vehicle required to be registered
11 under The Vehicle Code except vehicles directly used by a public
12 utility engaged in the business as a common carrier or
13 maintenance facilities, or to materials or supplies to be used
14 or consumed in any construction, reconstruction, remodeling,
15 repair or maintenance of real estate. The exclusions provided in
16 subparagraphs (i), (ii), (iii) and (iv) shall not apply to
17 tangible personal property or services to be used or consumed in
18 managerial sales or other nonoperational activities, nor to the
19 purchase or use of tangible personal property by any person
20 other than the person directly using the same in the aforesaid
21 operations.

22 The exclusion provided in subparagraph (iii) shall not apply
23 to (A) construction materials used to construct, reconstruct,
24 remodel, repair or maintain facilities not used directly in the
25 production, delivering or rendition of public utility service,
26 even though under Federal law such materials may be expensed for
27 Federal tax purposes, or (B) tools and equipment used but not
28 installed in the maintenance of facilities used directly in the
29 production, delivering or rendition of a public utility service,
30 even though under Federal law such items may be expensed for

1 Federal tax purposes.

2 (5) Where tangible personal property or services are
3 utilized for purposes constituting a "use," as herein defined,
4 and for purposes excluded from the definition of "use," it shall
5 be presumed that said property is subject to tax unless the user
6 prove that the purposes which constitute a "use" as herein
7 defined are minimal.

8 (6) The term "use" with respect to "liquor" and "malt or
9 brewed beverages" shall include the purchase of "liquor" from
10 any "Pennsylvania liquor store" by any person for any purpose
11 and the purchase of "malt or brewed beverages" from a
12 "manufacturer of malt or brewed beverages," "distributor" or
13 "importing distributor" by any person for any purpose, except
14 purchases from a "manufacturer of malt or brewed beverages" by a
15 "distributor" or "importing distributor," or purchases from an
16 "importing distributor" by a "distributor" within the meaning of
17 the "Liquor Code." The term "use" shall not include any purchase
18 of "malt or brewed beverages" from a "retail dispenser" or any
19 purchase of "liquor" or "malt or brewed beverages" from a person
20 holding a "retail liquor license" within the meaning of and
21 pursuant to the provisions of the "Liquor Code," but shall
22 include the exercise of any right or power incidental to the
23 ownership, custody or possession of "liquor" or "malt or brewed
24 beverages" obtained by the person exercising such right or power
25 in any manner other than pursuant to the provisions of the
26 "Liquor Code."

27 (7) The use of tangible personal property purchased at
28 retail upon which the services described in subclauses (2), (3)
29 and (4) of this clause have been performed shall be deemed to be
30 a use of said services by the person using said property.

1 (p) "Vendor." Any person maintaining a place of business in
2 this Commonwealth, selling or leasing tangible personal
3 property, or rendering services, the sale or use of which is
4 subject to the tax imposed by this article.

5 (q) "Department." The Department of Revenue of the
6 Commonwealth of Pennsylvania.

7 PART II

8 IMPOSITION OF TAX

9 Section 202. Imposition of Tax.--(a) There is hereby imposed
10 upon each separate sale at retail of tangible personal property
11 or services, as defined herein, within this Commonwealth a tax
12 of six per cent of the purchase price, which tax shall be
13 collected by the vendor from the purchaser, and shall be paid
14 over to the Commonwealth as herein provided.

15 (b) There is hereby imposed upon the use, on and after the
16 effective date of this act, within this Commonwealth of tangible
17 personal property purchased at retail on or after March 7, 1956,
18 and on those services described herein purchased at retail on
19 and after April 15, 1959, a tax of six per cent of the purchase
20 price, which tax shall be paid to the Commonwealth by the person
21 who makes such use as herein provided, except that such tax
22 shall not be paid to the Commonwealth by such person where he
23 has paid the tax imposed by subsection (a) of this section or
24 has paid the tax imposed by this subsection (b) to the vendor
25 with respect to such use. The tax at the rate of six per cent
26 imposed by this subsection shall not be deemed applicable where
27 the tax has been incurred at the rate of three per cent or three
28 and one-half per cent or four per cent or five per cent under
29 this subsection prior to this amendment.

30 (c) Notwithstanding any other provisions of this article,

1 the tax with respect to non-residential intrastate telephone
2 service and intrastate telegraph service within the meaning of
3 clause (m) of section 201 of this article shall, except for
4 telegrams paid for in cash at telegraph offices, be computed at
5 the rate of six per cent upon the total amount billed to
6 customers periodically for such services, irrespective of
7 whether such billing is based upon a flat rate or upon a message
8 unit charge.

9 Section 203. Computation of Tax.--The amount of tax imposed
10 by section 202 of this article shall be computed as follows:

11 (a) If the purchase price is ten cents (10¢) or less, no tax
12 shall be collected.

13 (b) If the purchase price is eleven cents (11¢) or more but
14 less than eighteen cents (18¢), one cent (1¢) shall be
15 collected.

16 (c) If the purchase price is eighteen cents (18¢) or more
17 but less than thirty-five cents (35¢), two cents (2¢) shall be
18 collected.

19 (d) If the purchase price is thirty-five cents (35¢) or more
20 but less than fifty-one cents (51¢), three cents (3¢) shall be
21 collected.

22 (e) If the purchase price is fifty-one cents (51¢) or more
23 but less than sixty-eight cents (68¢), four cents (4¢) shall be
24 collected.

25 (f) If the purchase price is sixty-eight cents (68¢) or more
26 but less than eighty-five cents (85¢), five cents (5¢) shall be
27 collected.

28 (g) If the purchase price is eighty-five cents (85¢) or more
29 but less than one dollar and one cent (\$1.01), six cents (6¢)
30 shall be collected.

1 (h) If the purchase price is more than one dollar (\$1.00),
2 six per centum of each dollar of purchase price plus the above
3 bracket charges upon any fractional part of a dollar in excess
4 of even dollars shall be collected.

5 PART III

6 EXCLUSIONS FROM TAX

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

9 (1) The sale at retail or use of tangible personal property
10 (other than motor vehicles, trailers, semi-trailers, motor
11 boats, aircraft or other similar tangible personal property
12 required under either Federal law or laws of this Commonwealth
13 to be registered or licensed) or services sold by or purchased
14 from a person not a vendor in an isolated transaction or sold by
15 or purchased from a person who is a vendor but is not a vendor
16 with respect to the tangible personal property or services sold
17 or purchased in such transaction: Provided, That inventory and
18 stock in trade so sold or purchased, shall not be excluded from
19 the tax by the provisions of this subsection.

20 (2) The use of tangible personal property purchased by a
21 nonresident person outside of, and brought into this
22 Commonwealth for use therein for a period not to exceed seven
23 days, or for any period of time when such nonresident is a
24 tourist or vacationer and, in either case not consumed within
25 the Commonwealth.

26 (3) The use of tangible personal property purchased outside
27 this Commonwealth for use outside this Commonwealth by a then
28 nonresident natural person or a business entity not actually
29 doing business within this Commonwealth, who later brings such
30 tangible personal property into this Commonwealth in connection

1 with his establishment of a permanent business or residence in
2 this Commonwealth: Provided, That such property was purchased
3 more than six months prior to the date it was first brought into
4 this Commonwealth or prior to the establishment of such business
5 or residence, whichever first occurs. This exclusion shall not
6 apply to tangible personal property temporarily brought into
7 Pennsylvania for the performance of contracts for the
8 construction, reconstruction, remodeling, repairing and
9 maintenance of real estate.

10 (4) The sale at retail or use of supplies and materials to
11 be used in the fulfillment of contracts for the construction,
12 reconstruction, remodeling, repairing, maintenance or sale of
13 real estate when such contract was entered into

14 (i) Prior to March 7, 1956, and is at a fixed price not
15 subject to change or modification by reason of the tax imposed
16 by this act; or

17 (ii) Pursuant to the obligation of a bid or bids submitted
18 prior to March 7, 1956, which bid or bids could not be altered
19 or withdrawn on or after that date and which bid or bids and
20 contract entered into pursuant thereto are at a fixed price not
21 subject to change or modification by reason of the tax imposed
22 by the act in effect prior to this article.

23 Provided, however, That notice of such contract or bid by
24 reason of which an exclusion is claimed under this subsection
25 (4) must be given by the taxpayer to the department on or before
26 June 15, 1956.

27 (5) The sale at retail or use of materials to be
28 incorporated into and made a part of real estate pursuant to a
29 contract for the construction, reconstruction, remodeling,
30 repairing, maintenance or sale of such real estate, when the

1 contract is, either at a fixed price not subject to change or
2 modification, or entered into pursuant to the obligation of a
3 formal written bid which cannot be altered or withdrawn, and, in
4 either case, such contract was entered into or such bid made on
5 or after March 7, 1956, but prior to April 15, 1959, shall be
6 exempt from the additional one-half of one per cent of tax
7 imposed by section 201 of the Tax Act of 1963 for Education as
8 amended April 15, 1959 (P.L.20), and from the additional one-
9 half of one per cent of tax imposed by section 201 of the Tax
10 Act of 1963 for Education as amended August 20, 1959 (P.L.729),
11 and from the additional one per cent of tax imposed by section
12 201 of the Tax Act of 1963 for Education as amended May 29, 1963
13 (P.L.49) and from the additional one per cent of tax imposed by
14 section 201 of the Tax Act of 1963 for Education as amended
15 January 1, 1968 (P.L.918): Provided, however, That the exemption
16 granted by this clause shall not be claimed by the purchaser
17 from any vendor but shall be claimed only by the filing of a
18 refund petition with the department.

19 (6) The sale at retail or use of materials to be
20 incorporated into and made a part of real estate pursuant to a
21 contract for the construction, reconstruction, remodeling,
22 repairing, maintenance or sale of such real estate when the
23 contract is, either at a fixed price not subject to change or
24 modification, or entered into pursuant to the obligation of a
25 formal written bid which cannot be altered or withdrawn, and, in
26 either case, such contract was entered into or such bid made on
27 or after April 15, 1959, but prior to August 20, 1959, shall be
28 exempt from the additional one-half of one per cent of tax
29 imposed by section 201 of the Tax Act of 1963 for Education as
30 amended August 20, 1959 (P.L.729), and from the additional one

1 per cent of tax imposed by section 201 of the Tax Act of 1963
2 for Education as amended May 29, 1963 (P.L.49) and from the
3 additional one per cent of tax imposed by section 201 of the Tax
4 Act of 1963 for Education as amended January 1, 1968 (P.L.918):
5 Provided, however, That the exemption granted by this clause
6 shall not be claimed by the purchaser from any vendor but shall
7 be claimed only by the filing of a refund petition with the
8 department.

9 (7) The sale at retail or use of materials to be
10 incorporated into and made a part of real estate pursuant to a
11 contract for the construction, reconstruction, remodeling,
12 repairing, maintenance or sale of such real estate when the
13 contract is, either at a fixed price not subject to change or
14 modification, or entered into pursuant to the obligation of a
15 formal written bid which cannot be altered or withdrawn, and, in
16 either case, such contract was entered into or such bid made on
17 or after August 20, 1959, but prior to June 1, 1963 shall be
18 exempt from the additional one per cent of tax imposed by
19 section 201 of the Tax Act of 1963 for Education as amended May
20 29, 1963 (P.L.49) and from the additional one per cent of the
21 tax imposed by section 201 of the Tax Act of 1963 for Education
22 as amended January 1, 1968 (P.L.918): Provided, however, That
23 the exemption granted by this clause shall not be claimed by the
24 purchaser, from any vendor but shall be claimed only by the
25 filing of a refund petition with the department.

26 (8) The sale at retail or use of materials to be
27 incorporated into and made a part of real estate pursuant to a
28 contract for the construction, reconstruction, remodeling,
29 repairing, maintenance or sale of such real estate when the
30 contract is, either at a fixed price not subject to change or

1 modification, or entered into pursuant to the obligation of a
2 formal written bid which cannot be altered or withdrawn, and, in
3 either case, such contract was entered into or such bid made on
4 or after June 1, 1963, but prior to January 1, 1968, shall be
5 exempt from the additional one per cent of tax imposed by
6 section 201 of the Tax Act of 1963 for Education as amended
7 January 1, 1968 (P.L.918): Provided, however, That the exemption
8 granted by this clause shall not be claimed by the purchaser
9 from any vendor but shall be claimed only by the filing of a
10 refund petition with the department.

11 (9) The sale at retail or use of tangible personal property
12 or services subject to tax under this article, but which prior
13 to the effective date of this article were excluded from tax
14 under the provisions of the "Tax Act of 1963 for Education"
15 shall be excluded from the tax imposed by this article, provided
16 such sale at retail or use occurred pursuant to and in
17 fulfillment of a written fixed price sales or construction
18 contract or formal bid entered into on or after January 1, 1968,
19 but prior to the effective date of this article by the person
20 who otherwise would be subject to tax under this article and
21 another, and which contract or bid cannot be altered, modified
22 or withdrawn by the parties. The exclusion from tax provided
23 herein shall not be claimed by any person from a vendor but
24 shall be claimed only by the filing of a refund petition with
25 the department as provided in this article.

26 (10) The sale at retail to or use by (i) any charitable
27 organization, volunteer firemen's organization or nonprofit
28 educational institution, or (ii) a religious organization for
29 religious purposes of tangible personal property or services:
30 Provided, however, That the exclusion of this clause shall not

1 apply with respect to any tangible personal property or services
2 used in any unrelated trade or business carried on by such
3 organization or institution or with respect to any materials,
4 supplies and equipment used in the construction, reconstruction,
5 remodeling, repairs and maintenance of any real estate, except
6 materials and supplies when purchased by such organizations or
7 institutions for routine maintenance and repairs.

8 (11) The sale at retail, or use of gasoline and other motor
9 fuels, the sales of which are otherwise subject to excise taxes
10 under the act of May 21, 1931 (P.L.194), known as the "Liquid
11 Fuels Tax Act," and the act of January 14, 1952 (P.L.1965),
12 known as the "Fuel Use Tax Act."

13 (12) The sale at retail to, or use by the United States,
14 this Commonwealth or its instrumentalities or political
15 subdivisions of tangible personal property or services.

16 (13) The sale at retail, or use of wrapping paper, wrapping
17 twine, bags, cartons, tape, rope, labels, nonreturnable
18 containers and all other wrapping supplies, when such use is
19 incidental to the delivery of any personal property, except that
20 any charge for wrapping or packaging shall be subject to tax at
21 the rate imposed by section 202.

22 (14) Sale at retail or use of vessels designed for
23 commercial use of registered tonnage of fifty tons or more when
24 produced by the builders thereof upon special order of the
25 purchaser;

26 (15) Sale at retail of tangible personal property or
27 services used or consumed in building, rebuilding, repairing and
28 making additions to or replacements in and upon vessels designed
29 for commercial use of registered tonnage of fifty tons or more
30 upon special order of the purchaser, or when rebuilt, repaired

1 or enlarged, or when replacements are made upon order of or for
2 the account of the owner.

3 (16) The sale at retail or use of tangible personal property
4 or services to be used or consumed for ship cleaning or
5 maintenance or as fuel, supplies, ships' equipment, ships'
6 stores or sea stores on vessels to be operated principally
7 outside the limits of the Commonwealth.

8 (17) The sale at retail or use of prescription or non-
9 prescription medicines, drugs or medical supplies, crutches and
10 wheelchairs for the use of cripples and invalids, artificial
11 limbs, artificial eyes and artificial hearing devices when
12 designed to be worn on the person of the purchaser or user,
13 false teeth and materials used by a dentist in dental treatment,
14 eyeglasses when especially designed or prescribed by an
15 ophthalmologist, oculist or optometrist for the personal use of
16 the owner or purchaser and artificial braces and supports
17 designed solely for the use of crippled persons.

18 (18) The sale at retail or use of coal.

19 (19) The sale at retail or use of supplies and materials to
20 be used exclusively in the fulfillment of a contract for the
21 construction, reconstruction, remodeling, repairing or
22 maintenance of real estate, when such contract was entered into
23 prior to March 7, 1956, between the person who would otherwise
24 be subject to the tax and a municipal authority, incorporated
25 under the "Municipality Authorities Act of 1945": Provided, That
26 notice of a claim of exemption under this clause is received by
27 the department within fifteen days after the effective date of
28 this clause.

29 (20) The sale at retail or use of materials to be
30 incorporated into and made a part of real estate pursuant to a

1 contract for the construction, reconstruction, remodeling,
2 repairing or maintenance of such real estate, when the contract
3 was entered into on or after March 7, 1956, but prior to April
4 15, 1959, between the person who would otherwise be subject to
5 the tax and a municipal authority, incorporated under the
6 "Municipality Authorities Act of 1945," shall be exempt from the
7 additional one-half of one per cent of tax imposed by section
8 201 of the Tax Act of 1963 for Education as amended April 15,
9 1959 (P.L.20), and from the additional one-half of one per cent
10 of tax imposed by section 201 of the Tax Act of 1963 for
11 Education as amended August 20, 1959 (P.L.729), and from the
12 additional one per cent of tax imposed by section 201 of the Tax
13 Act of 1963 for Education, as amended May 29, 1963 (P.L.49) and
14 from the additional one per cent of tax imposed by section 201
15 of the Tax Act of 1963 for Education as amended January 1, 1968
16 (P.L.918): Provided, however, That the exemption granted by this
17 clause shall not be claimed by the purchaser from any vendor but
18 shall be claimed only by the filing of a refund petition with
19 the department.

20 (21) The sale at retail or use of materials to be
21 incorporated into and made a part of real estate pursuant to a
22 contract for the construction, reconstruction, remodeling,
23 repairing or maintenance of such real estate, when the contract
24 was entered into on or after April 15, 1959, but prior to August
25 20, 1959, between the person who would otherwise be subject to
26 the tax and a municipal authority, incorporated under the
27 "Municipality Authorities Act of 1945," shall be exempt from the
28 additional one-half of one per cent of tax imposed by section
29 201 of the Tax Act of 1963 for Education as amended August 20,
30 1959 (P.L.729), and from the additional one per cent of tax

1 imposed by section 201 of the Tax Act of 1963 for Education, as
2 amended May 29, 1963 (P.L.49) and from the additional one per
3 cent of tax imposed by section 201 of the Tax Act of 1963 for
4 Education as amended January 1, 1968 (P.L.918): Provided,
5 however, That the exemption granted by this clause shall not be
6 claimed by the purchaser from any vendor but shall be claimed
7 only by the filing of a refund petition with the department.

8 (22) The sale at retail or use of materials to be
9 incorporated into and made a part of real estate pursuant to a
10 contract for the construction, reconstruction, remodeling,
11 repairing or maintenance of such real estate when the contract
12 was entered into on or after August 20, 1959, but prior to June
13 1, 1963, between the person who would otherwise be subject to
14 the tax and a municipal authority, incorporated under the
15 "Municipality Authorities Act of 1945," shall be exempt from the
16 additional one per cent of tax imposed by section 201 of the Tax
17 Act of 1963 for Education as amended May 29, 1963 (P.L.49) and
18 from the additional one per cent of the tax imposed by section
19 201 of the Tax Act of 1963 for Education, as amended January 1,
20 1968 (P.L.918): Provided, however, That the exemption granted by
21 this clause shall not be claimed by the purchaser from any
22 vendor but shall be claimed only by the filing of a refund
23 petition with the department.

24 (23) The sale at retail or use of materials to be
25 incorporated into and made a part of real estate pursuant to a
26 contract for the construction, reconstruction, remodeling,
27 repairing or maintenance of such real estate, when the contract
28 was entered into on or after June 1, 1963, but prior to January
29 1, 1968, between the person who would otherwise be subject to
30 the tax and a municipal authority incorporated under the

1 "Municipality Authorities Act of 1945," shall be exempt from the
2 additional one per cent of tax imposed by section 201 of the Tax
3 Act of 1963 for Education, as amended January 1, 1968 (P.L.918):
4 Provided, however, That the exemption granted by this clause
5 shall not be claimed by the purchaser from any vendor but shall
6 be claimed only by the filing of a refund petition with the
7 department.

8 (24) The sale at retail or use of motor vehicles, trailers
9 and semi-trailers, or bodies attached to the chassis thereof,
10 sold to a nonresident of Pennsylvania to be used outside of
11 Pennsylvania and which are registered in a state other than
12 Pennsylvania within twenty days after delivery to the vendee.

13 (25) The sale at retail or use of water.

14 (26) The sale at retail or use of all vesture, wearing
15 apparel, raiments, garments, footwear and other articles of
16 clothing worn or carried on or about the human body but all
17 accessories, ornamental wear, formal day or evening apparel, and
18 articles made of fur on the hide or pelt or any material
19 imitative of fur and articles of which such fur, real, imitation
20 or synthetic, is the component material of chief value, but only
21 if such value is more than three times the value of the next
22 most valuable component material, and sporting goods and
23 clothing not normally used or worn when not engaged in sports
24 shall not be excluded from the tax.

25 (27) The sale at retail or use or the rendition of or the
26 obtaining by a purchaser of the service of printing or
27 imprinting of mail order catalogs and direct mail advertising
28 materials.

29 (28) The sale at retail or use of cigarettes.

30 (29) The sale at retail or use of religious publications

1 sold by religious groups and Bibles and religious articles.

2 (30) The sale at retail or use of food and beverages for
3 human consumption including candy, gum and similar confections,
4 except that this exclusion shall not apply with respect to--

5 (i) Soft drinks;

6 (ii) Malt and brewed beverages and spirituous and vinous
7 liquors;

8 (iii) Food and beverages (except when purchased at, or from
9 a school or church in the ordinary course of activities of such
10 organization) when the purchase price of the total transaction
11 is more than fifty cents (50¢), when purchased (i) from persons
12 engaged in the business of catering, or (ii) from persons
13 engaged in the business of operating restaurants, cafes, lunch
14 counters, private and social clubs, taverns, dining cars, hotels
15 and other eating places. For the purpose of this subclause
16 (iii), beverages shall not include malt and brewed beverages and
17 spirituous and vinous liquors, but shall include soft drinks,
18 and the price of such soft drinks shall be considered together
19 with the price of other beverages and food in determining
20 whether the purchase price of the total transaction is more than
21 fifty cents (50¢).

22 (31) The sale at retail or use of periodicals and
23 publications which are published at regular intervals not
24 exceeding three months, circulated among the general public and
25 containing matters of general interest and reports of current
26 events.

27 (32) The sale at retail or use of caskets and burial vaults
28 for human remains and markers and tombstones for human graves.

29 (33) The sale at retail or use of flags of the United States
30 of America and the Commonwealth of Pennsylvania.

1 (34) The sale at retail or use of textbooks for use in
2 schools, colleges and universities, either public or private
3 when purchased in behalf of or through such schools, colleges or
4 universities provided such institutions of learning are
5 recognized by the Department of Education.

6 Section 205. Alternate Imposition of Tax; Credits.--If any
7 person actively and principally engaged in the business of
8 selling new or used motor vehicles, trailers or semi-trailers,
9 and registered with the department in the "dealer's class,"
10 acquires a motor vehicle, trailer or semi-trailer for the
11 purpose of resale, and prior to such resale, uses the motor
12 vehicle, trailer or semi-trailer for a taxable use under this
13 act during a period not exceeding one year from the date of
14 acquisition to the date of resale, such person may, upon notice
15 to the department within ten days of the commencement of such
16 use, elect to pay a tax equal to six per cent of the fair rental
17 value of the motor vehicle, trailer or semi-trailer during such
18 use. Should such motor vehicle, trailer or semi-trailer be used
19 for a taxable use after a period of one year, the taxpayer shall
20 be liable for a tax on the fair market value of such motor
21 vehicle, trailer or semi-trailer at the time of acquisition, but
22 shall be allowed a credit equal to the tax paid pursuant to the
23 election provided for in this section. This section shall not
24 apply to the use of a vehicle as a wrecker, parts truck,
25 delivery truck or courtesy car.

26 Section 206. Credit Against Tax.--A credit against the tax
27 imposed by this act shall be granted with respect to tangible
28 personal property or services purchased for use outside the
29 Commonwealth equal to the tax paid to another state by reason of
30 the imposition by such other state of a tax similar to the tax

1 imposed by this article: Provided, however, That no such credit
2 shall be granted unless such other state grants substantially
3 similar tax relief by reason of the payment of tax under this
4 act.

5 PART IV

6 LICENSES

7 Section 208. Licenses.--(a) Every person maintaining a place
8 of business in this Commonwealth, selling or leasing services or
9 tangible personal property, the sale or use of which is subject
10 to tax and who has not hitherto obtained a license from the
11 department, shall, prior to the beginning of business
12 thereafter, make application to the department, on a form
13 prescribed by the department, for a license. If such person
14 maintains more than one place of business in this Commonwealth,
15 the license shall be issued for the principal place of business
16 in this Commonwealth.

17 (b) The department shall, after the receipt of an
18 application, issue the license applied for under subsection (a)
19 of this section. The license shall be nonassignable and of
20 permanent duration.

21 (c) Any person who, upon the expiration of sixty days after
22 the effective date of this act, shall maintain a place of
23 business in this Commonwealth for the purpose of selling or
24 leasing services or tangible personal property, the sale or use
25 of which is subject to tax, without having first been licensed
26 by the department pursuant to the provisions of this section,
27 shall be guilty of a summary offense, and upon conviction
28 thereof in a summary proceeding, shall be sentenced to pay a
29 fine of not less than one hundred dollars (\$100) nor more than
30 three hundred dollars (\$300), and in default thereof, to undergo

1 imprisonment of not less than five days nor more than thirty
2 days. The penalties imposed by this section shall be in addition
3 to any other penalties imposed by this article.

4 (d) Failure of any person to obtain a license shall not
5 relieve him of liability to pay the tax imposed by this article.

6 PART V

7 HOTEL OCCUPANCY TAX

8 Section 209. Definitions.--(a) For the purposes of this part
9 V only, the following words, terms and phrases shall have the
10 meaning ascribed to them in this subsection, except where the
11 context clearly indicates a different meaning:

12 (1) "Hotel." A building or buildings in which the public
13 may, for a consideration, obtain sleeping accommodations. The
14 term "hotel" shall not include any charitable, educational or
15 religious institution summer camp for children, hospital or
16 nursing home.

17 (2) "Occupant." A person (other than a "permanent
18 resident," as defined herein,) who, for a consideration, uses,
19 possesses or has a right to use or possess any room or rooms in
20 a hotel under any lease, concession, permit, right of access,
21 license or agreement.

22 (3) "Occupancy." The use or possession or the right to the
23 use or possession by any person (other than a "permanent
24 resident,") of any room or rooms in a hotel for any purpose or
25 the right to the use or possession of the furnishings or to the
26 services and accommodations accompanying the use and possession
27 of the room or rooms.

28 (4) "Operator." Any person operating a hotel.

29 (5) "Permanent resident." Any occupant who has occupied or
30 has the right to occupancy of any room or rooms in a hotel for

1 at least thirty consecutive days.

2 (6) "Rent." The consideration received for occupancy valued
3 in money, whether received in money or otherwise, including all
4 receipts, cash, credits and property or services of any kind or
5 nature, and also any amount for which the occupant is liable for
6 the occupancy without any deduction therefrom whatsoever.

7 (b) The following words, terms and phrases and words, terms
8 and phrases of similar import, when used in parts IV and VI of
9 this article for the purposes of those parts only, shall, in
10 addition to the meaning ascribed to them by section 201 of this
11 article, have the meaning ascribed to them in this subsection,
12 except where the context clearly indicates a different meaning:

13 (1) "Maintaining a place of business in this Commonwealth,"
14 being the operator of a hotel in this Commonwealth.

15 (2) "Purchase at retail," occupancy.

16 (3) "Purchase price," rent.

17 (4) "Purchaser," occupant.

18 (5) "Sale at retail," the providing of occupancy to an
19 occupant by an operator.

20 (6) "Tangible personal property," occupancy.

21 (7) "Vendor," operator.

22 (8) "Services," occupancy.

23 (9) "Use," occupancy.

24 Section 210. Imposition of Tax.--There is hereby imposed an
25 excise tax of six per cent of the rent upon every occupancy of a
26 room or rooms in a hotel in this Commonwealth, which tax shall
27 be collected by the operator from the occupant and paid over to
28 the Commonwealth as herein provided.

29 Section 211. Seasonal Tax Returns.--Notwithstanding any
30 other provisions in this act, the department may, by regulation,

1 waive the requirement for the filing of quarterly returns in the
2 case of any operator whose hotel is operated only during certain
3 seasons of the year, and may provide for the filing of returns
4 by such persons at times other than those provided by section
5 221.

6 PART VI

7 PROCEDURE AND ADMINISTRATION

8 CHAPTER I

9 RETURNS

10 Section 215. Persons Required to Make Returns.--Every person
11 required to pay tax to the department or collect and remit tax
12 to the department shall file returns with respect to such tax.

13 Section 216. Form of Returns.--The returns required by
14 section 215 shall be on forms prescribed by the department, and
15 shall show such information with respect to the taxes imposed by
16 this article as the department may reasonably require.

17 CHAPTER II

18 TIME AND PLACE FOR FILING RETURNS

19 Section 217. Time for Filing Returns.--(a) Monthly,
20 Bimonthly and Quarterly Returns:

21 (1) For the year in which this article becomes effective and
22 in each year thereafter a return shall be filed quarterly by
23 every licensee on or before the last day of April, July, October
24 and January for the three months ending the last day of March,
25 June, September and December, except as hereinafter provided.

26 (2) For the year in which this article becomes effective,
27 and in each year thereafter, a return shall be filed monthly
28 with respect to each month by every licensee whose total tax
29 reported, or in the event no report is filed, the total tax
30 which should have been reported, for the third calendar quarter

1 of the preceding year equals or exceeds six hundred dollars
2 (\$600). Such returns shall be filed on or before the fifteenth
3 day of the second month succeeding the month with respect to
4 which the return is made, except that the return due for the
5 month of April, of each year, shall be filed on or before the
6 twentieth day of May next following and the return due for the
7 month of May of each year shall be filed on or before the
8 twentieth day of June next following. Any licensee required to
9 file monthly returns hereunder shall be relieved from filing
10 quarterly returns.

11 (3) For the year in which this article becomes effective,
12 and for each year thereafter, every licensee required to file a
13 quarterly return for the second calendar quarter shall file a
14 single return for the months of April and May on or before the
15 fifteenth day of June next following. The filing of such return
16 shall not relieve the licensee of the duty to file a return on
17 or before the last day of July next following and to remit
18 therewith tax for the month of June.

19 (b) Annual Returns. For the calendar year 1971, and for
20 each year thereafter, no annual return shall be filed, except as
21 may be required by rules and regulations of the department
22 promulgated and published at least sixty days prior to the end
23 of the year with respect to which the returns are made. Where
24 such annual returns are required licensees shall not be required
25 to file such returns prior to the sixty-first day of the year
26 succeeding the year with respect to which the returns are made.

27 (c) Other Returns. Any person, other than a licensee, liable
28 to pay to the department any tax under this article, shall file
29 a return on or before the last day of the month succeeding the
30 month in which such person becomes liable for the tax.

1 (d) Small Taxpayers. The department, by regulation, may
2 waive the requirement for the filing of quarterly return in the
3 case of any licensee whose individual tax collections do not
4 exceed seventy-five dollars (\$75) per calendar quarter and may
5 provide for reporting on a less frequent basis in such cases.

6 Section 218. Extension of Time for Filing Returns.--The
7 department may, on written application and for good cause shown,
8 grant a reasonable extension of time for filing any return
9 required under this part. However, the time for making a return
10 shall not be extended for more than three months.

11 Section 219. Place for Filing Returns.--Returns shall be
12 filed with the department at its main office or at any branch
13 office which it may designate for filing returns.

14 CHAPTER III

15 PAYMENT OF TAX

16 Section 221. Payment.--When a return of tax is required
17 under this part, the person required to make the return shall
18 pay the tax to the department.

19 Section 222. Time of Payment.--(a) Monthly, Bimonthly and
20 Quarterly Payments. The tax imposed by this article and incurred
21 or collected by a licensee shall be due and payable by the
22 licensee on the day the return is required to be filed under the
23 provisions of section 217 and such payment must accompany the
24 return for such preceding period,

25 (b) Annual Payments. If the amount of tax due for the
26 preceding year as shown by the annual return of any taxpayer is
27 greater than the amount already paid by him in connection with
28 his monthly or quarterly returns he shall send with such annual
29 return a remittance for the unpaid amount of tax for the year.

30 (c) Other Payments. Any person other than a licensee liable

1 to pay any tax under this article shall remit the tax at the
2 time of filing the return required by this article.

3 Section 223. Other Times for Payment.--In the event that the
4 department authorizes a taxpayer to file a return at other times
5 than those specified in section 217, the tax due shall be paid
6 at the time such return is filed.

7 Section 224. Place for Payment.--The tax imposed by this
8 article shall be paid to the department at the place fixed for
9 filing the return.

10 Section 225. Tax Held in Trust for the Commonwealth.--All
11 taxes collected by any person from purchasers in accordance with
12 this article and all taxes collected by any person from
13 purchasers under color of this article which have not been
14 properly refunded by such person to the purchaser shall
15 constitute a trust fund for the Commonwealth, and such trust
16 shall be enforceable against such person, his representatives
17 and any person (other than a purchaser to whom a refund has been
18 made properly) receiving any part of such fund without
19 consideration, or knowing that the taxpayer is committing a
20 breach of trust: Provided, however, That any person receiving
21 payment of a lawful obligation of the taxpayer from such fund
22 shall be presumed to have received the same in good faith and
23 without any knowledge of the breach of trust. Any person, other
24 than a taxpayer, against whom the department makes any claim
25 under this section shall have the same right to petition and
26 appeal as is given taxpayers by any provisions of this part.

27 Section 226. Local Receivers of Use Tax.--Beginning on and
28 after the effective date of this article, in every county,
29 except in counties of the first class, the county treasurer is
30 hereby authorized to receive use tax due and payable under the

1 provisions of this article from any person other than a
2 licensee. The receiving of such taxes shall be pursuant to rules
3 and regulations promulgated by the department and upon forms
4 furnished by the department. Each county treasurer shall remit
5 to the department all use taxes received under the authority of
6 this section minus the costs of administering this provision not
7 to exceed one per cent of the amount of use taxes received,
8 which amount shall be retained in lieu of any commission
9 otherwise allowable by law for the collection of such tax.

10 Section 227. Discount.--If a return is filed by a licensee
11 and the tax shown to be due thereon less any discount is paid
12 all within the time prescribed, the licensee shall be entitled
13 to credit and apply against the tax payable by him a discount of
14 one per cent of the amount of the tax collected by him on and
15 after the effective date of this article, as compensation for
16 the expense of collecting and remitting the same and as a
17 consideration of the prompt payment thereof.

18 CHAPTER IV

19 ASSESSMENT AND COLLECTION OF TAX

20 Section 230. Assessment.--The department is authorized and
21 required to make the inquiries, determinations and assessments
22 of the tax (including interest, additions and penalties) imposed
23 by this article.

24 Section 231. Mode and Time of Assessment.--(a) Underpayment
25 of Tax. Within a reasonable time after any return is filed, the
26 department shall examine it and, if the return shows a greater
27 tax due or collected than the amount of tax remitted with the
28 return, the department shall issue an assessment for the
29 difference, together with an addition of three per cent of such
30 difference, which shall be paid to the department within ten

1 days after a notice of the assessment has been mailed to the
2 taxpayer. If such assessment is not paid within ten days, there
3 shall be added thereto and paid to the department an additional
4 three per cent of such difference for each month thereof during
5 which the assessment remains unpaid, but the total of all
6 additions shall not exceed eighteen per cent of the difference
7 shown on the assessment.

8 (b) Understatement of Tax. If the department determines that
9 any return or returns of any taxpayer understates the amount of
10 tax due, it shall determine the proper amount and shall
11 ascertain the difference between the amount of tax shown in the
12 return and the amount determined, such difference being
13 hereafter sometimes referred to as the "deficiency." A notice of
14 assessment for the deficiency and the reasons therefor shall
15 then be sent to the taxpayer. The deficiency shall be paid to
16 the department within thirty days after a notice of the
17 assessment thereof has been mailed to the taxpayer.

18 (c) Failure to File Return. In the event that any taxpayer
19 fails to file a return required by this article, the department
20 may make an estimated assessment (based on information
21 available) of the proper amount of tax owing by the taxpayer. A
22 notice of assessment in the estimated amount shall be sent to
23 the taxpayer. The tax shall be paid within thirty days after a
24 notice of such estimated assessment has been mailed to the
25 taxpayer.

26 (d) Authority to Establish Effective Rates by Business
27 Classification. The department is authorized to make the studies
28 necessary to compute effective rates by business classification,
29 based upon the ratio between the tax required to be collected
30 and taxable sales and to use such rates in arriving at the

1 apparent tax liability of a taxpayer.

2 Any assessment based upon such rates shall be prima facie
3 correct, except that such rate shall not be considered where a
4 taxpayer establishes that such rate is based on a sample
5 inapplicable to him.

6 Section 232. Reassessment.--Any taxpayer against whom an
7 assessment is made may petition the department for a
8 reassessment. Notice of an intention to file such a petition
9 shall be given to the department within thirty days of the date
10 the notice of assessment was mailed to the taxpayer, except that
11 the department for due cause may accept such notice within
12 ninety days of the date the notice of assessment was mailed. The
13 department by registered mail shall supply the taxpayer with a
14 statement setting forth in reasonable detail the basis of the
15 assessment within thirty days after receipt of the taxpayer's
16 notice of intention to file a petition for reassessment. A
17 petition for reassessment shall thereafter be filed within
18 thirty days after such basis of assessment has been mailed to
19 the taxpayer. Such petition shall set forth in reasonable detail
20 the grounds upon which the taxpayer claims that the assessment
21 is erroneous or unlawful, in whole or in part, and shall be
22 accompanied by an affidavit or affirmation that the facts
23 contained therein are true and correct and that the petition is
24 not interposed for delay. An extension of time for filing the
25 petition may be allowed for cause but in no case shall such
26 extension exceed one hundred twenty days. The department shall
27 hold such hearings as may be necessary for the purpose, at such
28 times and places as it may determine, and each taxpayer who has
29 duly filed such petition for reassessment shall be notified by
30 the department of the time when, and the place where, such

1 hearing in his case will be held.

2 It shall be the duty of the department, within six months
3 after receiving a filed petition for reassessment, to dispose of
4 the issue raised by such petition and mail notice of the
5 department's decision to the petitioner: Provided, however, That
6 the taxpayer and the department may, by stipulation, extend such
7 disposal time by not more than six additional months.

8 Section 233. Assessment to Recover Erroneous Refunds.--The
9 department may, within two years of the granting of any refund
10 or credit, or within the period in which an assessment could
11 have been filed by the department with respect to the
12 transaction pertaining to which the refund was granted,
13 whichever period shall last occur, file an assessment to recover
14 any refund or part thereof or credit or part thereof which was
15 erroneously made or allowed.

16 Section 234. Review by Board of Finance and Revenue.--Within
17 sixty days after the date of mailing of notice by the department
18 of the decision on any petition for reassessment filed with it,
19 the person against whom such assessment was made may, by
20 petition, request the Board of Finance and Revenue to review
21 such decision. The failure of the department to notify the
22 petitioner of a decision within the time provided for by section
23 232 shall act as a denial of such petition, and a petition for
24 review may be filed with the Board of Finance and Revenue within
25 one hundred twenty days of the date prior to which the
26 department should have mailed to the petitioner its notice of
27 decision. Every petition for review filed hereunder shall state
28 specifically the reasons on which the petitioner relies, or
29 shall incorporate by reference the petition for reassessment in
30 which the reasons are stated. The petition shall be supported by

1 affidavit that it is not made for the purpose of delay and that
2 the facts set forth therein are true. The Board of Finance and
3 Revenue shall act finally in disposing of petitions filed with
4 it within six months after they have been received. In the event
5 of the failure of the board to dispose of any petition within
6 six months, the action taken by the department, upon the
7 petition for reassessment, shall be sustained. The Board of
8 Finance and Revenue may sustain the action taken by the
9 department on the petition for reassessment, or it may reassess
10 the tax due on such basis as it deems according to law. The
11 board shall give notice of its action to the department and to
12 the petitioner.

13 Section 235. Appeal to Commonwealth Court.--Any person
14 aggrieved by the decision of the Board of Finance and Revenue or
15 by the board's failure to act upon a petition for review within
16 six months may, within sixty days, appeal to the Commonwealth
17 Court from the decision of the board or of the department, as
18 the case may be, in the manner now or hereafter provided by law
19 for appeals in the case of tax settlements.

20 Section 236. Burden of Proof.--In all cases of petitions for
21 reassessment, review or appeal, the burden of proof shall be
22 upon the petitioner or appellant, as the case may be.

23 Section 237. Collection of Tax.--(a) Collection by
24 Department. The department shall collect the tax in the manner
25 provided by law for the collection of taxes imposed by the laws
26 of this Commonwealth.

27 (b) Collection by Persons Maintaining a Place of Business in
28 the Commonwealth. (1) Every person maintaining a place of
29 business in this Commonwealth and selling or leasing tangible
30 personal property or services, the sale or use of which is

1 subject to tax shall collect the tax from the purchaser or
2 lessee at the time of making the sale or lease, and shall remit
3 the tax to the department.

4 (2) Any person required under this article to collect tax
5 from another person, who shall fail to collect the proper amount
6 of such tax, shall be liable for the full amount of the tax
7 which he should have collected.

8 (c) Exemption Certificates. If the tax does not apply to the
9 sale or lease of tangible personal property or services, the
10 purchaser or lessee shall furnish to the vendor a certificate
11 indicating that the sale is not legally subject to the tax. The
12 certificate shall be in substantially such form as the
13 department may, by regulation, prescribe. Where the tangible
14 personal property or service is of a type which is never subject
15 to the tax imposed or where the sale or lease is in interstate
16 commerce, such certificate need not be furnished. Where a series
17 of transactions are not subject to tax, a purchaser or user may
18 furnish the vendor with a single exemption certificate in
19 substantially such form and valid for such period of time as the
20 department may, by regulation, prescribe. An exemption
21 certificate, which is complete and regular and on its face
22 discloses a valid basis of exemption if taken in good faith,
23 shall relieve the vendor from the liability imposed by this
24 section. An exemption certificate accepted by a vendor from a
25 natural person domiciled within this Commonwealth or any
26 association, fiduciary, partnership, corporation or other
27 entity, either authorized to do business within this
28 Commonwealth or having an established place of business within
29 this Commonwealth, in the ordinary course of the vendor's
30 business, which on its face discloses a valid basis of exemption

1 consistent with the activity of the purchaser and character of
2 the property or service being purchased, shall be presumed to be
3 taken in good faith and the burden of proving otherwise shall be
4 on the Department of Revenue.

5 (d) Direct Payment Permits. The department may authorize a
6 purchaser or lessee who acquires tangible personal property or
7 services under circumstances which make it impossible at the
8 time of acquisition to determine the manner in which the
9 tangible personal property or service will be used, to pay the
10 tax directly to the department, and waive the collection of the
11 tax by the vendor. No such authority shall be granted or
12 exercised, except upon application to the department, and the
13 issuance by the department, in its discretion, of a direct
14 payment permit. If a direct payment permit is granted, its use
15 shall be subject to conditions specified by the department, and
16 the payment of tax on all acquisitions pursuant to the permit
17 shall be made directly to the department by the permit holder.

18 Section 238. Collection of Tax on Motor Vehicles, Trailers
19 and Semi-Trailers.--Notwithstanding the provisions of clause (1)
20 of subsection (b) of section 237 of this article, tax due on the
21 sale at retail or use of a motor vehicle, trailer or semi-
22 trailer required by law to be registered with the department
23 under the provisions of "The Vehicle Code" shall be paid by the
24 purchaser or user directly to the department upon application to
25 the department for an issuance of a certificate of title upon
26 such motor vehicle, trailer or semi-trailer. The department
27 shall not issue a certificate of title until the tax has been
28 paid, or evidence satisfactory to the department has been given
29 to establish that tax is not due. The department may cancel or
30 suspend any record of certificate of title or registration of a

1 motor vehicle, trailer or semi-trailer when the check received
2 in payment of the tax on such vehicle is not paid upon demand.
3 Such tax shall be considered as a first encumbrance against such
4 vehicle and the vehicle may not be transferred without first
5 payment in full of such tax and any interest additions or
6 penalties which shall accrue thereon in accordance with this
7 article.

8 Section 239. Precollection of Tax.--The department may, by
9 regulation, authorize or require particular categories of
10 vendors selling tangible personal property for resale to
11 precollect from the purchaser the tax which such purchaser will
12 collect upon making a sale at retail of such tangible personal
13 property: Provided, however, That the department, pursuant to
14 this section, may not require a vendor to precollect tax from a
15 purchaser who purchases for resale more than one thousand
16 dollars (\$1,000) worth of tangible personal property from such
17 vendor per year. In any case in which a vendor has been
18 authorized to prepay the tax to the person from whom he
19 purchased the tangible personal property for resale such vendor
20 so authorized to prepay the tax may, under the regulations of
21 the department, be relieved from his duty to secure a license if
22 such duty shall arise only by reason of his sale of the tangible
23 personal property with respect to which he is, under
24 authorization of the department, to prepay the tax. The vendor,
25 on making a sale at retail of tangible personal property with
26 respect to which he has prepaid the tax, must separately state
27 at the time of resale the proper amount of tax on the
28 transaction, and reimburse himself on account of the taxes which
29 he has previously prepaid. Should such vendor collect a greater
30 amount of tax in any reporting period than he had previously

1 prepaid upon purchase of the goods with respect to which he
2 prepaid the tax, he must file a return and remit the balance to
3 the Commonwealth at the time at which a return would otherwise
4 be due with respect to such sales.

5 Section 240. Bulk and Auction Sales.--Every person who shall
6 sell or cause to be sold at auction, or who shall sell or
7 transfer in bulk, fifty-one per centum or more of any stock of
8 goods, wares or merchandise of any kind, fixtures, machinery,
9 equipment, buildings or real estate, involved in a business for
10 which such person is licensed or required to be licensed under
11 the provisions of this article, or is liable for filing use tax
12 returns in accordance with the provisions of this article, shall
13 give the department ten days' written notice of the sale or
14 transfer prior to the completion of the transfer of such
15 property. Whenever the seller or transferor shall fail to give
16 such notice to the department, or whenever the department shall
17 upon written notice inform the purchaser or transferee that a
18 possible claim for tax imposed by this act exists, any sums of
19 money, property or choses in action or other consideration,
20 which the purchaser or transferee is thereafter required to
21 transfer over to the seller or transferor, shall be subject to a
22 first priority right and lien for any such taxes theretofore or
23 thereafter determined to be due from the seller or transferor,
24 and the purchaser or transferee is forbidden to transfer to the
25 seller or transferor any such sums of money, property or choses
26 in action to the extent of the amount of the Commonwealth's
27 claim. For failure to comply with the provisions of this
28 section, the purchaser or transferee shall be liable for the
29 payment to the Commonwealth of any such taxes theretofore or
30 thereafter determined to be due from the seller or transferor,

1 and such liability may be assessed and enforced in the same
2 manner as the liability for tax under this article: Provided,
3 That nothing contained in this provision shall apply to sales or
4 transfers made under any order of court: And provided further,
5 That the written notice required to be filed with the department
6 by this provision shall be deemed to satisfy the requirements of
7 section 1403 of "The Fiscal Code" as to taxes imposed by this
8 article.

9 Section 241. Collection of Tax on Liquor.--The tax due on
10 the sale of liquor shall be collected on the purchase price or
11 constructive purchase price, as defined in this article, as the
12 case may be, of each bottle sold and a receipt shall be issued
13 to the purchasers stating that the tax imposed by this article
14 is included in the purchase price or constructive purchase
15 price. The sale of each bottle of liquor shall be construed to
16 be a separate sale.

17 Section 242. Collection upon Failure to Request
18 Reassessment, Review or Appeal.--The department may collect any
19 tax:

20 (1) If an assessment of tax is not paid within ten days or
21 thirty days as the case may be after notice thereof to the
22 taxpayer, and no petition for reassessment has been filed;

23 (2) Within sixty days from the date of reassessment, if no
24 petition for review has been filed;

25 (3) Within sixty days from the date of the decision of the
26 Board of Finance and Revenue upon a petition for review, or of
27 the expiration of the board's time for acting upon such
28 petition, if no appeal has been made; and

29 (4) In all cases of judicial sales, receiverships,
30 assignments or bankruptcies.

1 In any such case in a proceeding for the collection of such
2 taxes, the person against whom they were assessed shall not be
3 permitted to set up any ground of defense that might have been
4 determined by the department, the Board of Finance and Revenue
5 or the courts: Provided, That the defense of failure of the
6 department to mail notice of assessment or reassessment to the
7 taxpayer and the defense of payment of assessment or
8 reassessment may be raised in proceedings for collection by a
9 motion to stay the proceedings.

10 Section 243. Lien for Taxes.--(a) Lien Imposed. If any
11 person liable to pay any tax neglects or refuses to pay the same
12 after demand, the amount (including any interest, addition or
13 penalty, together with any costs that may accrue in addition
14 thereto) shall be a lien in favor of the Commonwealth upon the
15 property, both real and personal, of such person but only after
16 same has been entered and docketed of record by the prothonotary
17 of the county where such property is situated. The department
18 may, at any time, transmit, to the prothonotaries of the
19 respective counties, certified copies of all liens for taxes
20 imposed by this act and penalties and interest. It shall be the
21 duty of each prothonotary receiving the lien to enter and docket
22 the same of record in his office, which lien shall be indexed as
23 judgments are now indexed. No prothonotary shall require, as a
24 condition precedent to the entry of such liens, the payment of
25 the costs incident thereto.

26 (b) Priority of Lien and Effect on Judicial Sale; No
27 Discharge by Sale on Junior Lien. The lien imposed hereunder
28 shall have priority from the date of its recording as aforesaid,
29 and shall be fully paid and satisfied out of the proceeds of any
30 judicial sale of property subject thereto before any other

1 obligation, judgment, claim, lien or estate to which said
2 property may subsequently become subject, except costs of the
3 sale and of the writ upon which the sale was made, and real
4 estate taxes and municipal claims against such property, but
5 shall be subordinate to mortgages and other liens existing and
6 duly recorded or entered of record prior to the recording of the
7 tax lien. In the case of a judicial sale of property, subject to
8 a lien imposed hereunder, upon a lien or claim over which the
9 lien imposed hereunder has priority as aforesaid, such sale
10 shall discharge the lien imposed hereunder to the extent only
11 that the proceeds are applied to its payment, and such lien
12 shall continue in full force and effect as to the balance
13 remaining unpaid. There shall be no inquisition or condemnation
14 upon any judicial sale of real estate made by the Commonwealth
15 pursuant to the provisions hereof. The lien of the taxes,
16 interest and penalties, shall continue for five years from the
17 date of entry, and may be revived and continued in the manner
18 now or hereafter provided for renewal of judgments, or as may be
19 provided in "The Fiscal Code," and a writ of execution may
20 directly issue upon such lien without the issuance and
21 prosecution to judgment of a writ of scire facias: Provided,
22 That not less than ten days before issuance of any execution on
23 the lien, notice of the filing and the effect of the lien shall
24 be sent by registered mail to the taxpayer at his last known
25 post office address: And provided further, That the said lien
26 shall have no effect upon any stock of goods, wares or
27 merchandise regularly sold or leased in the ordinary course of
28 business by the person against whom said lien has been entered,
29 unless and until a writ of execution has been issued and a levy
30 made upon said stock of goods, wares and merchandise.

1 (c) Duty of Prothonotary. Any wilful failure of any
2 prothonotary to carry out any duty imposed upon him by this
3 section shall be a misdemeanor, and, upon conviction, he shall
4 be sentenced to pay a fine not exceeding one thousand dollars
5 (\$1,000) and costs of prosecution, or to undergo imprisonment
6 not exceeding one year, or both.

7 (d) Priority of Tax. Except as hereinbefore provided in the
8 distribution, voluntary or compulsory, in receivership,
9 bankruptcy or otherwise, of the property or estate of any
10 person, all taxes imposed by this article which are due and
11 unpaid and are not collectible under the provisions of section
12 225 hereof, shall be paid from the first money available for
13 distribution in priority to all other claims and liens, except
14 in so far as the laws of the United States may give a prior
15 claim to the Federal government. Any person charged with the
16 administration or distribution of any such property or estate,
17 who shall violate the provisions of this section, shall be
18 personally liable for any taxes imposed by this article, which
19 are accrued and unpaid and are chargeable against the person
20 whose property or estate is being administered or distributed.

21 (e) Other Remedies. Subject to the limitations contained in
22 this article as to the assessment of taxes, nothing contained in
23 this section shall be construed to restrict, prohibit or limit
24 the use by the department in collecting taxes finally due and
25 payable of any other remedy or procedure available at law or
26 equity for the collection of debts.

27 Section 244. Suit for Taxes.--(a) Commencement. At any time
28 within three years after any tax or any amount of tax shall be
29 finally due and payable, the department may commence an action
30 in the courts of this Commonwealth, of any state or of the

1 United States, in the name of the Commonwealth of Pennsylvania,
2 to collect the amount of tax due together with additions,
3 interest, penalties and costs in the manner provided at law or
4 in equity for the collection of ordinary debts.

5 (b) Procedure. The Attorney General shall prosecute the
6 action and, except as provided herein, the provisions of the
7 Rules of Civil Procedure and the provisions of the laws of this
8 Commonwealth relating to civil procedures and remedies shall, to
9 the extent that they are applicable, be available in such
10 proceedings.

11 (c) Other Remedies. The provisions of this section are in
12 addition to any process, remedy or procedure for the collection
13 of taxes provided by this article or by the laws of this
14 Commonwealth, and this section is neither limited by nor
15 intended to limit any such process, remedy or procedure.

16 Section 245. Tax Suit Comity.--The courts of this
17 Commonwealth shall recognize and enforce liabilities for sales
18 and use taxes, lawfully imposed by any other state: Provided,
19 That such other state extends a like comity to this
20 Commonwealth.

21 Section 246. Service.--Any person maintaining a place of
22 business within this Commonwealth is deemed to have appointed
23 the Secretary of the Commonwealth his agent for the acceptance
24 of service of process or notice in any proceedings for the
25 enforcement of the civil provisions of this article, and any
26 service made upon the Secretary of the Commonwealth as such
27 agent shall be of the same legal force and validity as if such
28 service had been personally made upon such person. Where service
29 cannot be made upon such person in the manner provided by other
30 laws of this Commonwealth relating to service of process,

1 service may be made upon the Secretary of the Commonwealth and,
2 in such case, a copy of the process or notice shall also be
3 personally served upon any agent or representative of such
4 person who may be found within this Commonwealth, or where no
5 such agent or representative may be found a copy of the process
6 or notice shall forthwith be sent by registered mail to such
7 person at the last known address of his principal place of
8 business, home office or residence.

9 Section 247. Collection of Tax on Credit Sales.--If any sale
10 subject to tax hereunder is wholly or partly on credit, the
11 taxpayer shall require the purchaser to pay in cash at the time
12 the sale is made, or within thirty days thereafter, the full tax
13 due on the basis of the entire purchase price.

14 Section 248. Prepayment of Tax.--Whenever a vendor is
15 forbidden by law or governmental regulation to charge and
16 collect the purchase price in advance of or at the time of
17 delivery, the vendor shall prepay the tax as required by section
18 222 of this article, but in such case if the purchaser shall
19 fail to pay to the vendor the total amount of the purchase price
20 and the tax, and such amount is written off as uncollectible by
21 the vendor, the vendor shall not be liable for such tax and
22 shall be entitled to a credit or refund of such tax paid. If the
23 purchase price is thereafter collected, in whole or in part, the
24 amount collected shall be first applied to the payment of the
25 entire tax portion of the bill, and shall be remitted to the
26 department by the vendor with the first return filed after such
27 collection. For any tax prepaid prior to the effective date of
28 this article, credit may be claimed on any returns filed for the
29 periods prior to the effective date of this article. Tax prepaid
30 after the effective date of this article shall be subject to

1 refund upon petition to the department under the provisions of
2 section 252 of this article, filed within one hundred five days
3 of the close of the fiscal year in which such accounts are
4 written off.

5 CHAPTER V

6 REFUNDS AND CREDITS

7 Section 250. Refund or Credit for Overpayment.--With respect
8 to all taxes paid to a vendor or to the Commonwealth prior to
9 April 5, 1957, in the case of any overpayment, the department,
10 within the applicable period of limitations, may credit the
11 amount of such overpayment against any liability in respect of
12 the tax imposed by this act on the part of the person who made
13 the overpayment, and shall refund any balance to such person.

14 Section 251. Restriction on Refunds.--No refund shall be
15 made under section 250 without the approval of the Board of
16 Finance and Revenue.

17 Section 252. Refunds.--The department shall, pursuant to the
18 provisions of sections 253 and 254, refund all taxes, interest
19 and penalties paid to the Commonwealth under the provisions of
20 this article and to which the Commonwealth is not rightfully
21 entitled. Such refunds shall be made to the person, his heirs,
22 successors, assigns or other personal representatives, who
23 actually paid the tax: Provided, That no refund shall be made
24 under this section with respect to any payment made by reason of
25 an assessment with respect to which a taxpayer has filed a
26 petition for reassessment pursuant to section 232 of this
27 article to the extent that said petition has been determined
28 adversely to the taxpayer by a decision which is no longer
29 subject to further review or appeal: Provided further, That
30 nothing contained herein shall be deemed to prohibit a taxpayer

1 who has filed a timely petition for reassessment from amending
2 it to a petition for refund where the petitioner has paid the
3 tax assessed.

4 Section 253. Refund Petition.--(a) Except as provided for in
5 section 251 and in subsection (b) and (d) of this section, the
6 refund or credit of tax, interest or penalty provided for by
7 section 252 shall be made only where the person who has actually
8 paid the tax files a petition for refund with the department
9 within three years of the actual payment of the tax to the
10 Commonwealth. Such petition for refund must set forth in
11 reasonable detail the grounds upon which the taxpayer claims
12 that the Commonwealth is not rightfully entitled to such tax,
13 interest or penalty, in whole or in part, and shall be
14 accompanied by an affidavit affirming that the facts contained
15 therein are true and correct. The department may hold such
16 hearings as may be necessary for the purpose at such times and
17 places as it may determine, and each person who has duly filed a
18 refund petition shall be notified by the department of the time
19 when, and the place where, such hearing in his case will be
20 held.

21 (b) A refund or credit of tax, interest or penalty, paid as
22 a result of an assessment made by the department under section
23 232, shall be made only where the person who has actually paid
24 the tax files with the department a petition for a refund with
25 the department within six months after the date the notice of
26 assessment was mailed. The filing of a petition for refund,
27 under the provisions of this subsection, shall not affect the
28 abatement of interest, additions or penalties to which the
29 person may be entitled by reason of his payment of the
30 assessment.

1 (c) It shall be the duty of the department, within six
2 months after receiving a petition for refund, to dispose of the
3 issue raised by such petition, and mail notice of the
4 department's decision to the petitioner: Provided, however, That
5 the taxpayer and the department may, by stipulation, extend such
6 disposal time by not more than six additional months.

7 (d) Notwithstanding any other provision of this section
8 where any tax, interest or penalty has been paid under a
9 provision of this article subsequently held by final judgment of
10 a court of competent jurisdiction to be unconstitutional, or
11 under an interpretation of such provision subsequently held by
12 such court to be erroneous, a petition for refund may be filed
13 either before or subsequent to final judgment, but such petition
14 must be filed within five years of the date of the payment of
15 which a refund is requested. The department shall have
16 jurisdiction to hear and determine any such petition filed prior
17 to such final judgment only if, at the time of filing of the
18 petition, proceedings are pending in a court of competent
19 jurisdiction wherein the claim of unconstitutionality or of
20 erroneous interpretation, made in the petition for refund may be
21 established, and in such case, the department shall not take
22 final action upon the petition for refund until the judgment
23 determining the question involved in such petition has become
24 final.

25 Section 254. Review by Board of Finance and Revenue.--Within
26 sixty days after the date of mailing of notice by the department
27 of the decision upon a petition for refund filed with it,
28 pursuant to section 253, the petitioner may further petition the
29 Board of Finance and Revenue to review the decision of the
30 department. The failure of the department to notify the

1 petitioner of its decision within the time provided for by
2 section 253 shall act as a denial of such petition, and a
3 petition for review may be filed with the Board of Finance and
4 Revenue within one hundred twenty days of the date prior to
5 which the department should have mailed to the petitioner its
6 notice of decision. Every petition for review filed with the
7 Board of Finance and Revenue under the provisions of this
8 section shall incorporate by reference the petition for refund.
9 The petitioner may, in his petition for review, elect to
10 withdraw one or more grounds as set out in the original refund
11 petition. The Board of Finance and Revenue shall act finally in
12 disposing of such petitions filed with it within six months
13 after they have been received. In the event of the failure of
14 the board to dispose of any petition within six months, the
15 action taken by the department upon the petition for refund
16 shall be sustained. The Board of Finance and Revenue may sustain
17 the action taken by the department on a petition for refund, or
18 it may redetermine whether a lessor or greater amount of refund
19 is proper. Under no circumstances may the Board of Finance and
20 Revenue authorize a refund greater than that originally applied
21 for by the petitioner. The board shall give notice of its action
22 to the department and to the petitioner.

23 Section 255. Appeal to the Commonwealth Court.--Any person
24 aggrieved by the decision of the Board of Finance and Revenue
25 under section 254, or by the board's failure to act upon a
26 petition for review within six months may, within sixty days,
27 appeal to the Commonwealth Court from the decision of the board
28 or of the department, as the case may be, in the manner now or
29 hereafter provided for by law for appeals in the case of tax
30 settlements.

1 Section 256. Extended Time for Filing Special Petition for
2 Refund.--Any party to a transaction who has paid tax by reason
3 of a transaction with respect to which the department is
4 assessing tax against another person may, within six months
5 after the filing by the department of the assessment against
6 such other person, file a special petition for refund,
7 notwithstanding his failure to file a regular petition within
8 eighteen months of the payment. The provisions of sections 253,
9 254 and 255 shall be applicable to such special petition for
10 refund, except that the department need not act on such petition
11 until there is a final determination as to the propriety of the
12 assessment filed against the other party to the transaction.
13 Where a petition is filed under this provision in order to take
14 advantage of the extended period of limitations, overpayments by
15 the petitioner shall be refunded but only to the extent of the
16 actual tax (without consideration of interest and penalties)
17 paid by the other party to the transaction. The purpose of this
18 section is to avoid duplicate payment of tax where a
19 determination is made by the department that one party to a
20 transaction is subject to tax, and another party to the
21 transaction has previously paid tax with respect to such
22 transaction and, as such, this section shall be construed as
23 extending right beyond that provided for by section 253, and not
24 to limit such other section.

25 CHAPTER VI

26 LIMITATIONS

27 Section 258. Limitation on Assessment and Collection.--The
28 amount of the tax imposed by this act shall be assessed within
29 three years after the date when the return provided for by
30 subsection (a) or (c) or under subsection (e) of section 217 is

1 filed or the end of the year in which the tax liability arises
2 whichever shall last occur. Any such assessment may be made at
3 any time during such period notwithstanding that the department
4 may have made one or more previous assessments against the
5 taxpayer for the year in question, or for any part of such year.
6 In any such case, no credit shall be given for any penalty
7 previously assessed or paid.

8 Section 259. Failure to File Return.--Where no return is
9 filed, the amount of the tax due may be assessed and collected
10 at any time as to taxable transactions not reported.

11 Section 260. False or Fraudulent Return.--Where the taxpayer
12 wilfully files a false or fraudulent return with intent to evade
13 the tax imposed by this article, the amount of tax due may be
14 assessed and collected at any time.

15 Section 261. Extension of Limitation Period.--
16 Notwithstanding any of the foregoing provisions of this part,
17 where, before the expiration of the period prescribed therein
18 for the assessment of a tax, a taxpayer has consented, in
19 writing, that such period be extended, the amount of tax due may
20 be assessed at any time within such extended period. The period
21 so extended may be extended further by subsequent consents, in
22 writing, made before the expiration of the extended period.

23 CHAPTER VII

24 INTEREST, ADDITIONS, PENALTIES AND CRIMES

25 Section 265. Interest.--If any amount of tax imposed by this
26 article is not paid to the department on or before the last date
27 prescribed for payment, interest on such amount at the rate of
28 one-half of one per cent per month for each month, or fraction
29 thereof, from such date, shall be paid for the period from such
30 last date to the date paid. The last date prescribed for payment

1 shall be determined under subsection (a) or (c) of section 222
2 without regard to any extension of time for payment. In the case
3 of any amount assessed as a deficiency or as an estimated
4 assessment, the date prescribed for payment shall be thirty days
5 after notice of such assessment.

6 Section 266. Additions to Tax.--(a) Failure to File Return.
7 In the case of failure to file any return required by section
8 215 on the date prescribed therefor (determined with regard to
9 any extension of time for filing), and in the case in which a
10 return filed understates the true amount due by more than fifty
11 per cent, there shall be added to the amount of tax actually due
12 five per cent of the amount of such tax if the failure to file a
13 proper return is for not more than one month, with an additional
14 five per cent for each additional month, or fraction thereof,
15 during which such failure continues, not exceeding twenty-five
16 per cent in the aggregate. In every such case at least two
17 dollars (\$2) shall be added.

18 (b) Addition for Understatement. There shall be added to
19 every assessment under subsection (b) of section 231 an addition
20 equal to five per cent of the amount of the understatement and
21 no addition to the tax shall be paid under subsection (a) of
22 section 231.

23 (c) Interest. If the department assesses a tax according to
24 subsection (a) or (c) of section 231, there shall be added to
25 the amount of the deficiency interest at the rate of one-half of
26 one per cent per month for each month, or fraction thereof, from
27 the date prescribed by subsection (a) or (c) of section 222 of
28 this article for the payment of the tax to the date of notice of
29 the assessment.

30 (d) Uncollectible Checks. Whenever any check issued in

1 payment of any tax or for any other purpose shall be returned to
2 the department as uncollectible, the secretary shall charge a
3 fee of ten per cent of the face amount thereof plus all protest
4 fees, to the person presenting such check to him to cover the
5 cost of its collection in addition to the interest and penalties
6 otherwise provided for by this article: Provided, however, That
7 the additions imposed hereby shall not exceed two hundred
8 dollars (\$200) nor be less than ten dollars (\$10).

9 Section 267. Penalties.--(a) Penalty Assessed as Tax. The
10 penalties, additions, interest and liabilities provided by this
11 article shall be paid upon notice and demand by the department,
12 and shall be assessed and collected in the same manner as taxes.
13 Except as otherwise provided, any reference in this article to
14 "tax" imposed by this article shall be deemed also to refer to
15 the penalties, additions, interest and liabilities provided by
16 this part.

17 (b) Attempt to Evade or Defeat Tax. Any person who wilfully
18 attempts, in any manner, to evade or defeat the tax imposed by
19 this article, or the payment thereof, or to assist any other
20 person to evade or defeat the tax imposed by this article, or
21 the payment thereof, or to receive a refund improperly, shall,
22 in addition to other penalties provided by law, be liable for a
23 penalty equal to one-half of the total amount of the tax evaded.

24 In any direct proceeding arising out of a petition for
25 reassessment or refund as provided in this article, in which an
26 issue of fact is raised with respect to whether a return is
27 fraudulent or with respect to the propriety of the imposition by
28 the department of the penalty prescribed in this subsection (b),
29 the burden of proof with respect to such issue shall be upon the
30 department.

1 Section 268. Crimes.--(a) Fraudulent Return. Any person who
2 with intent to defraud the Commonwealth shall wilfully make, or
3 cause to be made, any return required by this article, which is
4 false, shall be guilty of a misdemeanor, and, upon conviction
5 thereof, shall be sentenced to pay a fine not exceeding two
6 thousand dollars (\$2000), or undergo imprisonment not exceeding
7 three years, or both.

8 (b) Other Crimes. Except as otherwise provided by subsection
9 (a) of this section, any person maintaining a place of business
10 in this Commonwealth, who advertises or holds out or states to
11 the public or to any purchaser or user, directly or indirectly,
12 that the tax or any part thereof imposed by this article will be
13 absorbed by such person, or that it will not be added to the
14 purchase price of the tangible personal property or services
15 described in subclauses (2), (3) and (4) of clause (k) of
16 section 201 of this article sold or, if added, that the tax or
17 any part thereof will be refunded, other than when such person
18 refunds the purchase price because of such property being
19 returned to the vendor, and any person maintaining a place of
20 business in this Commonwealth and selling or leasing tangible
21 personal property or said services the sale or use of which by
22 the purchaser is subject to tax hereunder, who shall wilfully
23 fail or refuse to collect the tax from the purchaser and remit
24 the same to the department, and any person who shall wilfully
25 fail, neglect or refuse to file any return or report required by
26 this article or any taxpayer who shall refuse to pay any tax,
27 penalty or interest imposed or provided for by this article, or
28 who shall wilfully fail to preserve his books, papers and
29 records as directed by the department, or any person who shall
30 refuse to permit the department or any of its authorized agents

1 to examine his books, records or papers, or who shall knowingly
2 make any incomplete, false or fraudulent return or report, or
3 who shall do, or attempt to do, anything whatever to prevent the
4 full disclosure of the amount or character of taxable sales
5 purchases or use made by himself or any other person, or shall
6 provide any person with a false statement as to the payment of
7 tax with respect to particular tangible personal property or
8 said services, or shall make, utter or issue a false or
9 fraudulent exemption certificate, shall be guilty of a
10 misdemeanor, and, upon conviction thereof, shall be sentenced to
11 pay a fine not exceeding one thousand dollars (\$1000) and costs
12 of prosecution, or undergo imprisonment not exceeding one year,
13 or both: Provided, however, That any person maintaining a place
14 of business outside this Commonwealth may absorb the tax with
15 respect to taxable sales made in the normal course of business
16 to customers present at such place of business without being
17 subject to the above penalty and fines. The penalties imposed by
18 this section shall be in addition to any other penalties imposed
19 by any provision of this article.

20 Section 269. Abatement of Additions or Penalties.--Upon the
21 filing of a petition for reassessment or a petition for refund
22 as provided under this article by a taxpayer, additions or
23 penalties imposed upon such taxpayer by this act may be waived
24 or abated, in whole or in part, where the petitioner has
25 established that he has acted in good faith, without negligence
26 and with no intent to defraud.

27 CHAPTER VIII

28 ENFORCEMENT AND EXAMINATIONS

29 Section 270. Rules and Regulations.--(a) General Provision.
30 The department is hereby charged with the enforcement of the

1 provisions of this article, and is hereby authorized and
2 empowered to prescribe, adopt, promulgate and enforce, rules and
3 regulations not inconsistent with the provisions of this
4 article, relating to any matter or thing pertaining to the
5 administration and enforcement of the provisions of this
6 article, and the collection of taxes, penalties and interest
7 imposed by this article. The department may prescribe the
8 extent, if any, to which any of such rules and regulations shall
9 be applied without retroactive effect.

10 (b) Sales between Affiliated Interests. In determining the
11 purchase price of taxable sales where, because of affiliation of
12 interests between the vendor and the purchaser or irrespective
13 of any such affiliation, if for any other reason, the purchase
14 price of such sale is in the opinion of the department not
15 indicative of the true value of the article or the fair price
16 thereof, the department shall, pursuant to uniform and equitable
17 rules, determine the amount of constructive purchase price upon
18 the basis of which the tax shall be computed and levied. Such
19 rules shall provide for a constructive amount of a purchase
20 price for each such sale, which price shall equal a price for
21 such article which would naturally and fairly be charged in an
22 arm's-length transaction in which the element of common
23 interests between vendor and purchaser, or, if no common
24 interest exists, any other element causing a distortion of the
25 price or value is absent. For the purpose of this article where
26 a taxable sale occurs between a parent corporation and a
27 subsidiary affiliate or controlled corporation of such parent,
28 there shall be a rebuttable presumption that because of such
29 common interest such transaction was not at arm's-length.

30 Section 271. Keeping of Records.--(a) General Provision.

1 Every person liable for any tax imposed by this article, or for
2 the collection thereof, shall keep the records, render such
3 statements, make the returns and comply with such rules and
4 regulations as the department may, from time to time, prescribe
5 regarding matters pertinent to his business. Whenever in the
6 judgment of the department it is necessary, it may require any
7 person, by notice served upon such person, or by regulations, to
8 make such returns, render such statements or keep such records
9 as the department deems sufficient to show whether or not such
10 person is liable to pay or collect tax under this article.

11 (b) Persons Collecting Tax from Others. Any person liable to
12 collect tax from another person under the provisions of this
13 article shall file reports, keep records, make payments and be
14 subject to interest and penalties as provided for under this
15 article, in the same manner as if he were directly subject to
16 the tax.

17 (c) Records of Non-Residents. A non-resident who does
18 business in this Commonwealth as a retail dealer shall keep
19 adequate records of such business or businesses and of the tax
20 due with respect thereto, which records shall at all times be
21 retained within this Commonwealth unless retention outside the
22 Commonwealth is authorized by the department. No taxes collected
23 from purchasers shall be sent outside the Commonwealth without
24 the written consent of, and in accordance with conditions
25 prescribed by the department. The department may require a
26 taxpayer who desires to retain records or tax collections
27 outside the Commonwealth to assume reasonable out-of-state audit
28 expenses.

29 (d) Keeping of Separate Records. Any person doing business
30 as a retail dealer who at the same time is engaged in another

1 business or businesses which do not involve the making of sales
2 taxable under this article, shall keep separate books and
3 records of his businesses so as to show the sales taxable under
4 this article separately from his sales not taxable hereunder. If
5 any such person fails to keep such separate books and records,
6 he shall be liable for tax at the rate designated in section 202
7 of this article upon the entire purchase price of sales from
8 both or all of his businesses.

9 (e) Other Methods. In those instances where a vendor gives
10 no sales memoranda or uses registers showing only total sales,
11 the vendor must adopt some method of segregating tax from sales
12 receipts and keep records showing such segregation, all in
13 accordance with proper accounting and business practices.

14 A vendor may apply to the department for permission to use a
15 collection and recording procedure which will show such
16 information as the law requires with reasonable accuracy and
17 simplicity. Such application must contain a detailed description
18 of the procedure to be adopted. Permission to use the proposed
19 procedure is not to be construed as relieving the vendor from
20 remitting the full amount of tax collected. The department may
21 revoke such permission upon thirty days' notice to the vendor.
22 Refusal of the department to grant permission in advance to use
23 such procedure shall not be construed to invalidate a procedure
24 which upon examination shows such information as the law
25 requires.

26 Section 272. Examinations.--The department or any of its
27 authorized agents is hereby authorized to examine the books,
28 papers and records of any taxpayer in order to verify the
29 accuracy and completeness of any return made or, if no return
30 was made, to ascertain and assess the tax imposed by this

1 article. The department may require the preservation of all such
2 books, papers and records for any period deemed proper by it but
3 not to exceed three years from the end of the calendar year to
4 which the records relate. Every such taxpayer is hereby required
5 to give to the department, or its agent, the means, facilities
6 and opportunity for such examinations and investigation. The
7 department is further authorized to examine any person, under
8 oath, concerning taxable sales or use by any taxpayer or
9 concerning any other matter relating to the enforcement or
10 administration of this article, and to this end may compel the
11 production of books, papers and records and the attendance of
12 all persons whether as parties or witnesses whom it believes to
13 have knowledge of such matters. The procedure for such hearings
14 or examinations shall be the same as that provided by The Fiscal
15 Code relating to inquisitorial powers of fiscal officers.

16 Section 273. Records and Examinations of Delivery Agents.--
17 Every agent for the purpose of delivery of goods shipped into
18 the Commonwealth by a nonresident including, but not limited to,
19 common carriers shall maintain adequate records of such
20 deliveries pursuant to rules and regulations adopted by the
21 department and shall make such records available to the
22 department upon request after due notice.

23 Section 274. Unauthorized Disclosure.--Any information
24 gained by the department as a result of any return, examination,
25 investigation, hearing or verification, required or authorized
26 by this article, shall be confidential, except for official
27 purposes and except in accordance with proper judicial order or
28 as otherwise provided by law, and any person unlawfully
29 divulging such information shall be guilty of a misdemeanor,
30 and, upon conviction thereof, shall be sentenced to pay a fine

1 not in excess of one thousand dollars (\$1000) and costs of
2 prosecution, or to undergo imprisonment for not more than one
3 year, or both.

4 Section 275. Cooperation with Other Governments.--

5 Notwithstanding the provisions of section 274, the department
6 may permit the Commissioner of Internal Revenue of the United
7 States, or the proper officer of any state, or the authorized
8 representative of either such officer, to inspect the tax
9 returns of any taxpayer, or may furnish to such officer or to
10 his authorized representative an abstract of the return of any
11 taxpayer, or supply him with information concerning any item
12 contained in any return or disclosed by the report of any
13 examination or investigation of the return of any taxpayer. This
14 permission shall be granted only if the statutes of the United
15 States or of such other state, as the case may be, grant
16 substantially similar privileges to the proper officer of the
17 Commonwealth charged with the administration of this article.

18 Section 276. Interstate Compacts.--The Governor, or his
19 authorized representative, is hereby vested with authority to
20 confer with the Governor and the authorized representatives of
21 other states with respect to reciprocal use tax collection
22 between Pennsylvania and such other states.

23 The Governor, or his representative, is authorized to join
24 with such authorities of other states to conduct joint
25 investigations, to exchange information, hold joint hearings and
26 enter into compacts or interstate agreements with such other
27 states to accomplish uniform reciprocal use tax collections
28 between those states who are parties to any compact or
29 interstate agreement and the Commonwealth of Pennsylvania.

30 Section 277. Bonds.--(a) Taxpayer to File Bond. Whenever

1 the department in its discretion, deems it necessary to protect
2 the revenues to be obtained under the provisions of this
3 article, it may require any nonresident natural person or any
4 foreign corporation, association, fiduciary, partnership or
5 other entity, not authorized to do business within this
6 Commonwealth or not having an established place of business
7 therein and subject to the tax imposed by section 202 of this
8 article, to file a bond issued by a surety company authorized to
9 do business in this Commonwealth and approved by the Insurance
10 Commissioner as to solvency and responsibility, in such amounts
11 as it may fix, to secure the payment of any tax or penalties
12 due, or which may become due, from such natural person or
13 corporation. In order to protect the revenues to be obtained
14 under the provisions of this article, the department shall
15 require any nonresident natural person or any foreign
16 corporation, association, fiduciary, partnership or entity, who
17 or which is a building contractor, or who or which is a supplier
18 delivering building materials for work in this Commonwealth and
19 is not authorized to do business within this Commonwealth or
20 does not have an established place of business therein and is
21 subject to the tax imposed by section 202 of this article, to
22 file a bond issued by a surety company authorized to do business
23 in this Commonwealth and approved by the Insurance Commissioner
24 as to solvency and responsibility, in such amounts as it may
25 fix, to secure the payments of any tax or penalties due, or
26 which may become due, from such natural person, corporation or
27 other entity. The department may also require such a bond of any
28 person petitioning the department for reassessment, in the case
29 of any assessment over five hundred dollars (\$500) or where it
30 is of the opinion that the ultimate collection is in jeopardy.

1 The department may, for a period of three years, require such a
2 bond of any person who has on three or more occasions within a
3 twelve month period either filed a return or made payment to the
4 department more than thirty days late. In the event that the
5 department determines that a taxpayer is to file such a bond, it
6 shall give notice to such taxpayer to that effect, specifying
7 the amount of the bond required. The taxpayer shall file such
8 bond within five days after the giving of such notice by the
9 department unless, within such five days, the taxpayer shall
10 request, in writing, a hearing before the Secretary of Revenue
11 or his representative at which hearing the necessity, propriety
12 and amount of the bond shall be determined by the secretary or
13 such representative. Such determination shall be final and shall
14 be complied with within fifteen days after notice thereof is
15 mailed to the taxpayer.

16 (b) Securities in Lieu of Bond. In lieu of the bond
17 required by this section, securities approved by the department,
18 or cash in such amount as it may prescribe, may be deposited.
19 Such securities or cash shall be kept in the custody of the
20 department, who may, at any time, without notice to the
21 depositor, apply them to any tax and/or interest or penalties
22 due, and for that purpose the securities may be sold by the
23 department, at public or private sale, upon five days written
24 notice to the depositor.

25 (c) Failure to File Bond. The department may file a lien
26 pursuant to section 243 against any taxpayer who fails to file a
27 bond when required to do so under this section. All funds
28 received upon execution of the judgment on such lien shall be
29 refunded to the taxpayer with three per cent interest should a
30 final determination be made that he does not owe any payment to

1 the department.

2 PART VII

3 REPEALER; EFFECTIVE DATE

4 Section 280. Repeal.--The act of March 6, 1956 (P.L.1228),
5 known as the "Tax Act of 1963 for Education," is repealed
6 concurrently with the effective date of the various provisions
7 of this article.

8 Section 281. Effective Date.--The provisions of this article
9 shall take effect March 1, 1971, or upon the date this article
10 is enacted into law whichever is the last to occur, except that
11 clauses (k) (4), (m) and (o) (4) of section 201, clause (c) of
12 section 202, clause (17) of section 204 and clause (30) (iii) of
13 section 204 in so far as it relates to the fifty cent (50¢)
14 exclusion from purchase price on restaurant meals, shall take
15 effect July 1, 1971.

16 ARTICLE III

17 PERSONAL INCOME TAX

18 PART I

19 DECLARATION OF POLICY: DEFINITIONS

20 Section 301. Declaration of Intent and Policy.--The
21 Legislature, in imposing a flat rate tax on income defined in
22 this article, hereby declares its legislative intent and policy
23 to provide a fair and practical method of taxation and to
24 effectuate an income tax which shall constitutionally conform to
25 the uniformity provisions of section 1, of Article VIII, of the
26 Constitution, by utilizing and uniformly applying in this
27 article those terms, definitions, classifications and other
28 provisions of the Federal Internal Revenue Code of 1954, as
29 amended, as they relate to the Federal Income Tax on
30 individuals, being the same code which the General Assembly has

1 heretofore employed in the Pennsylvania "Corporate Net Income
2 Tax" and "Corporation Income Tax" acts relating to the
3 imposition of income taxes on corporations.

4 Section 302. Definitions.--Any term used in this article
5 shall have the same meaning as when used in comparable context
6 in the laws of the United States relating to Federal income
7 taxes unless a different meaning is clearly required. Any
8 reference in this article to the Internal Revenue Code shall
9 include the Internal Revenue Code of 1954 and other provisions
10 of the laws of the United States relating to Federal income
11 taxes, all as amended and effective on the date such reference
12 is required by this article:

13 (a) "Compensation" means any form of remuneration as defined
14 in section 3401 (a) of the Internal Revenue Code.

15 (b) "Department" means the Department of Revenue of the
16 Commonwealth of Pennsylvania.

17 (c) "Employee" means any employe as defined in section 3401
18 (c) of the Internal Revenue Code. Any person from whose
19 compensation an employer is required to withhold Federal income
20 tax shall prima facie be deemed an employe.

21 (d) "Employer" means an employer as defined in section 3401
22 (d) of the Internal Revenue Code. Any person required to
23 withhold Federal income tax from compensation paid shall prima
24 facie be deemed an employer.

25 (e) "Fiduciary" means a guardian, trustee, executor,
26 administrator, receiver, conservator or any person acting in any
27 fiduciary capacity, whether domiciliary or ancillary.

28 (f) "Individual" means a natural person.

29 (g) "Nonresident individual" means any individual who is not
30 a resident of the Commonwealth.

1 (h) "Nonresident estate or trust" means any estate or trust
2 which is not a resident estate or trust.

3 (i) "Person" means any individual, employer, association,
4 fiduciary, partnership, corporation or other entity, estate or
5 trust, resident or nonresident, and the plural as well as the
6 singular number.

7 (j) "Resident individual" means an individual who is
8 domiciled in this Commonwealth unless he maintains no permanent
9 place of abode in this Commonwealth and does maintain a
10 permanent place of abode elsewhere and spends in the aggregate
11 not more than thirty days of the taxable year in this
12 Commonwealth; or who is not domiciled in this Commonwealth but
13 maintains a permanent place of abode in this Commonwealth and
14 spends in the aggregate more than one hundred eighty-three days
15 of the taxable year in this Commonwealth.

16 (k) "Resident estate" means the estate of a decedent who at
17 his death was a resident individual.

18 (l) "Resident trust" means a trust created by the will of a
19 decedent who at his death was a resident individual and any
20 trust created by, or consisting of property transferred to such
21 trust by a person who was a resident individual.

22 (m) "State" means any state or commonwealth of the United
23 States, the District of Columbia, the Commonwealth of Puerto
24 Rico, any territory or possession of the United States, any
25 foreign country, or any political subdivision of any of the
26 foregoing.

27 (n) "Tax" includes interest, penalties and additions to tax,
28 and further includes the tax required to be withheld by an
29 employer on compensation paid, unless a more limited meaning is
30 disclosed by the context.

1 (o) "Taxable year" means the taxable period on the basis of
2 which a taxpayer is required to file his Federal income tax
3 return pursuant to the Internal Revenue Code.

4 (p) "Taxpayer" means any person subject to the tax imposed
5 by this article or any employer required to withhold tax on
6 compensation paid.

7 (q) "Taxable income." Except as otherwise provided herein,
8 "taxable income" means the same as "taxable income" as defined
9 in the Internal Revenue Code and which is required to be
10 returned to and ascertained by the Federal Government pursuant
11 to said code, subject to the following adjustments:

12 (1) Subtraction of interest income derived from obligations
13 of the United States Government to the extent included in
14 adjusted gross income.

15 (2) Addition of interest income derived from obligations of
16 states, political subdivisions, instrumentalities and public
17 authorities thereof other than Pennsylvania or its political
18 subdivisions, instrumentalities or public authorities to the
19 extent not included in adjusted gross income.

20 (3) In the case of a nonresident individual, estate or trust
21 estate or trust "taxable income" and the adjustments required by
22 subsections (a) and (b) above shall include only income derived
23 from sources within this Commonwealth.

24 (4) The respective shares of an estate or trust and its
25 beneficiaries in the additions and subtractions to taxable
26 income shall be in proportion to their respective shares of
27 distributable net income of the estate or trust as defined in
28 the Internal Revenue Code. If the estate or trust has no
29 distributable net income for the taxable year, the share of each
30 beneficiary in the additions and subtractions shall be in

1 proportion to his share of the estate or trust income for such
2 year, under local law or the terms of the instrument, which is
3 required to be distributed currently and any other amounts of
4 such income distributed in such year. Any balance of the
5 additions and subtractions shall be allocated to the estate or
6 trust.

7 (5) In the case of a nonresident estate or trust, the
8 respective shares of the estate or trust and of its
9 beneficiaries shall be determined in the manner set forth by
10 this subsection (q); however, in determining the taxable income
11 of a nonresident estate or trust or of any nonresident
12 beneficiary thereof, there shall be taken into account only the
13 income of the estate or trust, or the beneficiary's share
14 thereof, derived from sources within this Commonwealth.

15 (r) (1) "Income from sources within this Commonwealth"
16 means all taxable income to the extent that it is earned,
17 received or acquired from sources within this Commonwealth:

18 (i) by reason of ownership or disposition of any interest in
19 real or tangible personal property in this Commonwealth; or

20 (ii) in connection with a trade, profession, occupation
21 carried on in this Commonwealth or for the rendition or personal
22 services performed in this Commonwealth; or

23 (iii) as a distributive share of the income of an
24 unincorporated business, profession, enterprise, undertaking or
25 other activity as the result of work done, services rendered or
26 other business activities conducted in this Commonwealth, except
27 as allocated to another state pursuant to regulations
28 promulgated by the department under this article.

29 (2) Income from tangible personal property shall constitute
30 income from sources within this Commonwealth only to the extent

1 that such income is from property employed in a trade,
2 profession, occupation or business carried on in this
3 Commonwealth.

4 PART II

5 IMPOSITION OF TAX

6 Section 305. Incidence and Rate.--For the privilege of
7 receiving, earning or otherwise acquiring income from any source
8 whatsoever, in the case of a resident individual, estate or
9 trust of this Commonwealth, or from sources within this
10 Commonwealth, in the case of a nonresident individual, estate or
11 trust of this Commonwealth, there is levied and imposed an
12 annual tax of five per cent of the taxable income of the
13 taxpayer.

14 Section 306. Beneficiary of Grantor Trust.--The taxable
15 income of a person who is required to include income from a
16 trust in his Federal income tax return under the provisions of
17 subpart E of subchapter J of the Internal Revenue Code shall be
18 computed with reference to the income of the trust as if such
19 income were the income of the taxpayer rather than the trust.

20 PART III

21 NONRESIDENT INDIVIDUALS

22 Section 308. Nonresident Individuals; Taxable Income.--The
23 taxable income of a nonresident individual shall be that part of
24 his Federal taxable income derived from sources within this
25 Commonwealth as defined in subsection (r) of section 302 of this
26 article.

27 Section 309. Husband and Wife.--(a) Separate Federal Return.
28 If the Federal taxable income of husband or wife who are both
29 nonresidents of this Commonwealth is determined on a separate
30 Federal return, their taxable incomes from sources within this

1 Commonwealth shall be separately determined.

2 (b) Joint Federal Return. If the Federal taxable income of
3 husband and wife who are both nonresidents is determined on a
4 joint Federal return, their tax shall be determined in this
5 State on their joint taxable income.

6 (c) One Spouse a Nonresident. If either husband or wife is
7 a nonresident and the other a resident, separate taxes shall be
8 determined on their separate taxable incomes from sources within
9 this Commonwealth on such forms as the department shall
10 prescribe, unless both elect to determine their joint taxable
11 income in this Commonwealth as if both were residents. If a
12 husband and wife file a joint Federal income tax return, but
13 determine their taxable income from sources within this
14 Commonwealth separately, they shall compute their taxable
15 incomes from sources within this Commonwealth as if their
16 Federal taxable incomes had been determined separately.

17 Section 310. Allocation of Income of Nonresident.--Where a
18 nonresident taxpayer engages in a business, trade, profession or
19 occupation partly within and partly without this Commonwealth,
20 and, as a result thereof or for other reasons that portion of
21 the income derived from or connected with sources within this
22 Commonwealth cannot readily or accurately be ascertained, the
23 department shall by regulation prescribe uniform rules for
24 apportionment or allocation of so much of such taxpayer's income
25 as fairly and equitably represents income derived from sources
26 within this Commonwealth.

27 PART IV

28 CREDITS AGAINST TAX

29 Section 315. Tax Withheld.--(a) The amount withheld under
30 section 322 shall be allowed to the recipient of the

1 compensation as a credit against the tax imposed on him by this
2 article.

3 Section 316. Income Taxes Imposed by Other States.--(a) A
4 resident taxpayer shall be allowed a credit against the tax
5 otherwise due under this act for the amount of any income tax,
6 wage tax or tax on or measured by gross or net earned or
7 unearned income imposed on him by another state with respect to
8 income which is also subject to tax under this article.

9 (b) The credit provided under this section shall not exceed
10 the proportion of the tax otherwise due under this article that
11 the amount of the taxpayer's taxable income subject to tax by
12 the other jurisdiction bears to his entire taxable income.

13 Section 317. Personal Taxes Imposed by Political
14 Subdivisions of This Commonwealth.--(a) Every resident or
15 nonresident individual subject to tax under this article shall
16 be allowed a credit against the tax otherwise due under this
17 article equal to thirty per cent of the amount of any local
18 taxes imposed on and paid by such individual to any political
19 subdivision of this Commonwealth during the calendar year 1971,
20 except that such credit shall not apply to local taxes imposed
21 on real estate, realty transfers or amusements.

22 (b) For local taxes imposed and paid in the taxable years
23 beginning after December 31, 1971, the amount of credit provided
24 in this section shall not exceed thirty per cent of the total
25 amount of the local taxes which were imposed upon and paid by
26 such individual during the calendar year 1971 to political
27 subdivisions of this Commonwealth.

28 Section 318. Tax Paid by Trust on Accumulated Income.--A
29 beneficiary of a trust whose taxable income includes all or part
30 of an accumulation distribution or a capital gain distribution

1 by a trust, as defined in section 665 of the Internal Revenue
2 Code, shall be allowed a credit against the tax otherwise due
3 under this article equal to all or a proportionate part of any
4 tax paid by the trust under this article for any preceding
5 taxable year which would not have been payable if the trust had
6 in fact made distribution to its beneficiaries at the times and
7 in the amounts specified in sections 666 and 669 of the Internal
8 Revenue Code. The credit shall not reduce the tax otherwise due
9 from the beneficiary to an amount less than would have been due
10 if the accumulation distribution or capital gain distribution
11 were excluded from taxable income.

12 Section 319. Tax Credit for Taxpayer Class.--(a) Declaration
13 of Legislative Purpose. The General Assembly, in recognition of
14 section 2 (b) (ii) of Article VIII of the Constitution of
15 Pennsylvania which provides for the establishing as a class or
16 classes of subjects of taxation, the property or privileges of
17 persons who, because of age, disability, infirmity or poverty
18 are determined to be in need of tax exemption or of special tax
19 provisions, hereby declares as its legislative intent and
20 purpose to execute its power under such constitutional provision
21 by establishing a special tax credit provision, as hereinafter
22 provided in subsections (b) and (c) of this section.

23 (b) Establishing of Class; Tax Credit.--Pursuant to the
24 provisions of said section of the Constitution of Pennsylvania
25 there is hereby legislatively determined and established in the
26 schedule provided in subsection (c) of this section, a class of
27 taxpayers who by reason of poverty, age, disability or infirmity
28 are in need of special tax relief and the members of such class,
29 on and after the effective date of this article, shall be
30 entitled to claim a credit against the amount of tax which would

1 otherwise be due under this article. The class of taxpayers and
 2 the members thereof who qualify for such tax credit and the
 3 amount thereof shall be determined solely by reference to the
 4 taxable income and exemption schedule set forth in subsection
 5 (c) of this section.

6 (c) Tax credit schedule for taxpayer class.

7 SCHEDULE

8 VANISHING TAX CREDIT

9	Net	Tax	Number of Exemptions					
10	Taxable	at						
11	Income	5%	1	2	3	4	5	6
12								
13	\$ 100	\$ 5	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00
14	200	10	10.00	10.00	10.00	10.00	10.00	10.00
15	300	15	15.00	15.00	15.00	15.00	15.00	15.00
16	400	20	20.00	20.00	20.00	20.00	20.00	20.00
17	500	25	25.00	25.00	25.00	25.00	25.00	25.00
18	600	30	30.00	<u>30.00</u>	30.00	30.00	30.00	30.00
19	700	35	31.25	35.00	35.00	35.00	35.00	35.00
20	800	40	30.00	40.00	40.00	40.00	40.00	40.00
21	900	45	28.75	45.00	45.00	45.00	45.00	45.00
22	1000	50	27.50	50.00	50.00	50.00	50.00	50.00
23	1100	55	26.25	55.00	55.00	55.00	55.00	55.00
24	1200	60	25.00	<u>60.00</u>	60.00	60.00	60.00	60.00
25	1300	65	23.75	62.50	65.00	65.00	65.00	65.00
26	1400	70	22.50	60.00	70.00	70.00	70.00	70.00
27	1500	75	21.25	57.50	75.00	75.00	75.00	75.00
28	1600	80	20.00	55.00	80.00	80.00	80.00	80.00
29	1700	85	18.75	52.50	85.00	85.00	85.00	85.00
30	1800	90	17.50	50.00	<u>90.00</u>	90.00	90.00	90.00

1	1900	95	16.25	47.50	93.75	95.00	95.00	95.00
2	2000	100	15.00	45.00	90.00	100.00	100.00	100.00
3	2100	105	13.75	42.50	86.25	105.00	105.00	105.00
4	2200	110	12.50	40.00	82.50	110.00	110.00	110.00
5	2300	115	11.25	37.50	78.75	115.00	115.00	115.00
6	2400	120	10.00	35.00	75.00	120.00	120.00	120.00
7	2500	125	8.75	32.50	71.25	<u>125.00</u>	125.00	125.00
8	2600	130	7.50	30.00	67.50	120.00	130.00	130.00
9	2700	135	6.25	27.50	63.75	115.00	135.00	135.00
10	2800	140	5.00	25.00	60.00	110.00	140.00	140.00
11	2900	145	3.75	22.50	56.25	105.00	145.00	145.00
12	3000	150	2.50	20.00	52.50	100.00	150.00	150.00
13	3100	155	1.25	17.50	48.75	95.00	<u>124.00</u>	155.00
14	3200	160	.00	15.00	45.00	90.00	156.25	160.00
15	3300	165	.00	12.50	41.25	85.00	150.00	165.00
16	3400	170	.00	10.00	37.50	80.00	143.75	170.00
17	3500	175	.00	7.50	33.75	75.00	137.50	175.00
18	3600	180	.00	5.00	30.00	70.00	131.25	180.00
19	3700	185	.00	2.50	26.25	65.00	125.00	<u>185.00</u>
20	3800	190	.00	.00	22.50	60.00	118.75	187.50
21	3900	195	.00	.00	18.75	55.00	112.50	180.00
22	4000	200	.00	.00	15.00	50.00	106.25	172.50
23	4100	205	.00	.00	11.25	45.00	100.00	165.00
24	4200	210	.00	.00	7.50	40.00	93.75	157.50
25	4300	215	.00	.00	3.75	35.00	87.50	150.00
26	4400	220	.00	.00	.00	30.00	81.25	142.50
27	4500	225	.00	.00	.00	25.00	75.00	135.00
28	4600	230	.00	.00	.00	20.00	68.75	127.50
29	4700	235	.00	.00	.00	15.00	62.50	120.00
30	4800	240	.00	.00	.00	10.00	56.25	112.50

1	4900	245	.00	.00	.00	5.00	50.00	105.00
2	5000	250	.00	.00	.00	.00	43.75	97.50
3	5100	255	.00	.00	.00	.00	37.50	90.00
4	5200	260	.00	.00	.00	.00	31.25	82.50
5	5300	265	.00	.00	.00	.00	25.00	75.00
6	5400	270	.00	.00	.00	.00	18.75	67.50
7	5500	275	.00	.00	.00	.00	12.50	60.00
8	5600	280	.00	.00	.00	.00	6.25	52.50
9	5700	285	.00	.00	.00	.00	.00	45.00
10	5800	290	.00	.00	.00	.00	.00	37.50
11	5900	295	.00	.00	.00	.00	.00	30.00
12	6000	300	.00	.00	.00	.00	.00	22.50
13	6100	305	.00	.00	.00	.00	.00	15.00
14	6200	310	.00	.00	.00	.00	.00	7.50
15	6300	315	.00	.00	.00	.00	.00	.00
16	6400	320	.00	.00	.00	.00	.00	.00
17	6500	325	.00	.00	.00	.00	.00	.00
18	6600	330	.00	.00	.00	.00	.00	.00
19	6700	335	.00	.00	.00	.00	.00	.00
20	6800	340	.00	.00	.00	.00	.00	.00
21	6900	345	.00	.00	.00	.00	.00	.00
22	7000	350	.00	.00	.00	.00	.00	.00
23	7100	355	.00	.00	.00	.00	.00	.00
24	7200	360	.00	.00	.00	.00	.00	.00
25	7300	365	.00	.00	.00	.00	.00	.00
26	7400	370	.00	.00	.00	.00	.00	.00
27	7500	375	.00	.00	.00	.00	.00	.00
28	7600	380	.00	.00	.00	.00	.00	.00
29	7700	385	.00	.00	.00	.00	.00	.00
30	7800	390	.00	.00	.00	.00	.00	.00

1	7900	395	.00	.00	.00	.00	.00	.00
2	8000	400	.00	.00	.00	.00	.00	.00
3	8100	405	.00	.00	.00	.00	.00	.00
4	8200	410	.00	.00	.00	.00	.00	.00
5	8300	415	.00	.00	.00	.00	.00	.00
6	8400	420	.00	.00	.00	.00	.00	.00
7	8500	425	.00	.00	.00	.00	.00	.00
8	8600	430	.00	.00	.00	.00	.00	.00
9	8700	435	.00	.00	.00	.00	.00	.00
10	8800	440	.00	.00	.00	.00	.00	.00
11	8900	445	.00	.00	.00	.00	.00	.00
12	9000	450	.00	.00	.00	.00	.00	.00
13	9100	455	.00	.00	.00	.00	.00	.00
14	9200	460	.00	.00	.00	.00	.00	.00
15	9300	465	.00	.00	.00	.00	.00	.00
16	9400	470	.00	.00	.00	.00	.00	.00
17	9500	475	.00	.00	.00	.00	.00	.00
18	9600	480	.00	.00	.00	.00	.00	.00
19	9700	485	.00	.00	.00	.00	.00	.00
20	9800	490	.00	.00	.00	.00	.00	.00
21	9900	495	.00	.00	.00	.00	.00	.00
22	10,000	500	.00	.00	.00	.00	.00	.00

23	Net	Tax	Number of Exemptions					
24	Taxable	at						
25	Income	5%	7	8	9	10	11	12
26								
27	\$ 100	\$ 5	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00	\$ 5.00
28	200	10	10.00	10.00	10.00	10.00	10.00	10.00
29	300	15	15.00	15.00	15.00	15.00	15.00	15.00
30	400	20	20.00	20.00	20.00	20.00	20.00	20.00

1	500	25	25.00	25.00	25.00	25.00	25.00	25.00
2	600	30	30.00	30.00	30.00	30.00	30.00	30.00
3	700	35	35.00	35.00	35.00	35.00	35.00	35.00
4	800	40	40.00	40.00	40.00	40.00	40.00	40.00
5	900	45	45.00	45.00	45.00	45.00	45.00	45.00
6	1000	50	50.00	50.00	50.00	50.00	50.00	50.00
7	1100	55	55.00	55.00	55.00	55.00	55.00	55.00
8	1200	60	60.00	60.00	60.00	60.00	60.00	60.00
9	1300	65	65.00	65.00	65.00	65.00	65.00	65.00
10	1400	70	70.00	70.00	70.00	70.00	70.00	70.00
11	1500	75	75.00	75.00	75.00	75.00	75.00	75.00
12	1600	80	80.00	80.00	80.00	80.00	80.00	80.00
13	1700	85	85.00	85.00	85.00	85.00	85.00	85.00
14	1800	90	90.00	90.00	90.00	90.00	90.00	90.00
15	1900	95	95.00	95.00	95.00	95.00	95.00	95.00
16	2000	100	100.00	100.00	100.00	100.00	100.00	100.00
17	2100	105	105.00	105.00	105.00	105.00	105.00	105.00
18	2200	110	110.00	110.00	110.00	110.00	110.00	110.00
19	2300	115	115.00	115.00	115.00	115.00	115.00	115.00
20	2400	120	120.00	120.00	120.00	120.00	120.00	120.00
21	2500	125	125.00	125.00	125.00	125.00	125.00	125.00
22	2600	130	130.00	130.00	130.00	130.00	130.00	130.00
23	2700	135	135.00	135.00	135.00	135.00	135.00	135.00
24	2800	140	140.00	140.00	140.00	140.00	140.00	140.00
25	2900	145	145.00	145.00	145.00	145.00	145.00	145.00
26	3000	150	150.00	150.00	150.00	150.00	150.00	150.00
27	3100	155	155.00	155.00	155.00	155.00	155.00	155.00
28	3200	160	160.00	160.00	160.00	160.00	160.00	160.00
29	3300	165	165.00	165.00	165.00	165.00	165.00	165.00
30	3400	170	170.00	170.00	170.00	170.00	170.00	170.00

1	3500	175	175.00	175.00	175.00	175.00	175.00	175.00
2	3600	180	180.00	180.00	180.00	180.00	180.00	180.00
3	3700	185	185.00	185.00	185.00	185.00	185.00	185.00
4	3800	190	190.00	190.00	190.00	190.00	190.00	190.00
5	3900	195	195.00	195.00	195.00	195.00	195.00	195.00
6	4000	200	200.00	200.00	200.00	200.00	200.00	200.00
7	4100	205	205.00	205.00	205.00	205.00	205.00	205.00
8	4200	210	210.00	210.00	210.00	210.00	210.00	210.00
9	4300	215	<u>215.00</u>	215.00	215.00	215.00	215.00	215.00
10	4400	220	218.75	220.00	220.00	220.00	220.00	220.00
11	4500	225	210.00	225.00	225.00	225.00	225.00	225.00
12	4600	230	201.25	230.00	230.00	230.00	230.00	230.00
13	4700	235	192.50	235.00	235.00	235.00	235.00	235.00
14	4800	240	183.75	240.00	240.00	240.00	240.00	240.00
15	4900	245	175.00	245.00	245.00	245.00	245.00	245.00
16	5000	250	166.25	<u>250.00</u>	250.00	250.00	250.00	250.00
17	5100	255	157.50	246.00	255.00	255.00	255.00	255.00
18	5200	260	148.75	230.00	260.00	260.00	260.00	260.00
19	5300	265	140.00	220.00	265.00	265.00	265.00	265.00
20	5400	270	131.25	210.00	270.00	270.00	270.00	270.00
21	5500	275	122.50	200.00	275.00	275.00	275.00	275.00
22	5600	280	113.75	190.00	<u>280.00</u>	280.00	280.00	280.00
23	5700	285	105.00	180.00	281.25	285.00	285.00	285.00
24	5800	290	96.25	170.00	270.00	290.00	290.00	290.00
25	5900	295	87.50	160.00	258.75	295.00	295.00	295.00
26	6000	300	78.75	150.00	247.50	300.00	300.00	300.00
27	6100	305	70.00	140.00	236.25	305.00	305.00	305.00
28	6200	310	61.25	130.00	225.00	<u>310.00</u>	310.00	310.00
29	6300	315	52.50	120.00	213.75	312.50	315.00	315.00
30	6400	320	43.75	110.00	202.50	300.00	300.00	300.00

1	6500	325	35.00	100.00	191.25	287.50	325.00	325.00
2	6600	330	26.25	90.00	180.00	275.00	330.00	330.00
3	6700	335	17.50	80.00	168.75	262.50	335.00	335.00
4	6800	340	8.75	70.00	157.50	250.00	<u>340.00</u>	340.00
5	6900	345	.00	60.00	146.25	237.50	343.75	345.00
6	7000	350	.00	50.00	135.00	225.00	330.00	350.00
7	7100	355	.00	40.00	123.75	212.50	316.25	355.00
8	7200	360	.00	30.00	112.50	206.00	302.50	360.00
9	7300	365	.00	20.00	101.25	187.50	288.75	365.00
10	7400	370	.00	10.00	90.00	175.00	275.00	370.00
11	7500	375	.00	.00	78.75	162.50	261.25	<u>375.00</u>
12	7600	380	.00	.00	67.50	150.00	247.50	360.00
13	7700	385	.00	.00	56.25	137.50	233.75	345.00
14	7800	390	.00	.00	45.00	125.00	220.00	330.00
15	7900	395	.00	.00	33.75	112.50	206.25	315.00
16	8000	400	.00	.00	22.50	100.00	192.50	300.00
17	8100	405	.00	.00	11.25	87.50	178.75	285.00
18	8200	410	.00	.00	.00	75.00	165.00	270.00
19	8300	415	.00	.00	.00	62.50	151.25	255.00
20	8400	420	.00	.00	.00	50.00	137.50	240.00
21	8500	425	.00	.00	.00	37.50	123.75	225.00
22	8600	430	.00	.00	.00	25.00	110.00	210.00
23	8700	435	.00	.00	.00	12.50	96.25	195.00
24	8800	440	.00	.00	.00	.00	82.50	180.00
25	8900	445	.00	.00	.00	.00	68.75	165.00
26	9000	450	.00	.00	.00	.00	55.00	150.00
27	9100	455	.00	.00	.00	.00	41.25	135.00
28	9200	460	.00	.00	.00	.00	27.50	120.00
29	9300	465	.00	.00	.00	.00	13.75	105.00
30	9400	470	.00	.00	.00	.00	.00	90.00

1	9500	475	.00	.00	.00	.00	.00	75.00
2	9600	480	.00	.00	.00	.00	.00	60.00
3	9700	485	.00	.00	.00	.00	.00	45.00
4	9800	490	.00	.00	.00	.00	.00	30.00
5	9900	495	.00	.00	.00	.00	.00	15.00
6	10,000	500	.00	.00	.00	.00	.00	.00

7 Line indicates point at which there is no tax liability.

8 PART V
9 WITHHOLDING OF TAX

10 Section 322. Requirement of Withholding Tax.--Every employer
11 maintaining an office or transacting business within this
12 Commonwealth and making payment of taxable compensation (i) to a
13 resident individual, or (ii) to a nonresident individual
14 taxpayer performing services on behalf of such employer within
15 this Commonwealth, shall deduct and withhold from such
16 compensation for each payroll period a tax computed in such
17 manner as to result, so far as practicable, in withholding from
18 the employe's compensation during each calendar year an amount
19 substantially equivalent to the tax reasonably estimated to be
20 due for such year with respect to such compensation. The method
21 of determining the amount to be withheld shall be prescribed by
22 regulations of the department, with due regard to any credits
23 allowable against his tax under this article.

24 Section 323. Information Statement.--Every employer required
25 to deduct and withhold tax under this article shall furnish to
26 each such employe to whom the employer has paid compensation
27 during the calendar year, on or before February 15 of the
28 succeeding year, or, if his employment is terminated before the
29 close of such calendar year, within thirty days from the date on
30 which the last payment of compensation is made, a written

1 statement in such manner and in such form as may be prescribed
2 by the department showing the amount of compensation paid by the
3 employer to the employe, the amount deducted and withheld as
4 tax, and such other information as the department shall
5 prescribe.

6 Section 324. Time for Filing Employers' Returns.--Every
7 employer required to deduct and withhold tax under this article
8 shall file a quarterly withholding return on or before the last
9 day of April, July, October and December for the three months
10 ending the last day of March, June, September and December. Such
11 quarterly returns shall be filed with the department at its main
12 office or at any branch office which it may designate for filing
13 returns.

14 Section 324.1. Monthly, Semi-monthly and Quarterly Payment
15 of Taxes Withheld.--Every employer withholding tax under this
16 article shall pay over to the department or to a depository
17 designated by it the tax required to be deducted and withheld
18 under this article.

19 (1) Where the aggregate amount required to be deducted and
20 withheld by any employer for each quarterly period can
21 reasonably be expected to be less than three hundred dollars
22 (\$300), such employer shall file a return and pay the tax on or
23 before the last day for filing a quarterly return under section
24 324, except that commencing with the year 1971, and each year
25 thereafter every employer required to file a quarterly return
26 for the second calendar quarter shall with respect to the tax
27 deducted and withheld for the months of April and May pay such
28 tax over to the department on or before June 15 next following.
29 The payment of the April and May tax withholdings shall not
30 relieve the employer of the duty to file a quarterly return on

1 or before the last day of July next following and remit
2 therewith the tax deducted and withheld for the month of June.

3 (2) Where the aggregate amount required to be deducted and
4 withheld by any employer for each quarterly period can
5 reasonably be expected to be three hundred dollars (\$300) or
6 more but less than one thousand dollars (\$1,000), such employer
7 shall pay the tax monthly, on or before the fifteenth day of the
8 month succeeding the months of January to November, inclusive,
9 and on or before the last day of January following the month of
10 December.

11 (3) Where the aggregate amount required to be deducted and
12 withheld by any employer for each quarterly period can
13 reasonably be expected to be one thousand dollars (\$1,000) or
14 more, such employer shall pay the tax semi-monthly, within three
15 banking days after the close of the semi-monthly period.

16 Notwithstanding anything in this section to the contrary,
17 whenever any employer fails to deduct or truthfully account for
18 or pay over the tax withheld or file returns as prescribed by
19 this article, the department may serve a notice on such employer
20 requiring him to withhold taxes which are required to be
21 deducted under this article and deposit such taxes in a bank
22 approved by the department in a separate account in trust for
23 and payable to the department, and to keep the amount of such
24 tax in such account until payment over to the department. Such
25 notice shall remain in effect until a notice of cancellation is
26 served on the employer by the department.

27 Section 325. Employer's Liability for Withheld Taxes.--Every
28 employer required to deduct and withhold tax under this article
29 is hereby made liable for such tax. For purposes of assessment
30 and collection, any amount required to be withheld and paid over

1 to the department and any additions to tax penalties and
2 interest with respect thereto, shall be considered the tax of
3 the employer. All taxes deducted and withheld from employes
4 pursuant to this article or under color of this article shall
5 constitute a trust fund for the Commonwealth and shall be
6 enforceable against such employer, his representative or any
7 other person receiving any part of such fund.

8 Section 326. Employer's Failure to Withhold.--If an employer
9 fails to deduct and withhold tax as prescribed herein and
10 thereafter the tax against which such tax may be credited is
11 paid, the tax which was required to be deducted and withheld
12 shall not be collected from the employer, but the employer shall
13 not be relieved of the liability for any penalty, interest, or
14 additions to the tax imposed with respect to such failure to
15 deduct and withhold.

16 Section 327. Designation of Third Parties to Perform Acts
17 Required of Employers.--In case a fiduciary, agent or other
18 person has the control, receipt, custody or disposal of, or pays
19 the compensation of an employe or a group of employes, employed
20 by one or more employers, the department is authorized to
21 designate such fiduciary, agent, or other person to perform such
22 acts as are required of employers under this article as the
23 department may by regulation prescribe. Except as may be
24 otherwise prescribed by the department, all provisions of this
25 article which are applicable to an employer shall be applicable
26 to a fiduciary, agent or other person so designated.

27 PART VI

28 ESTIMATED TAX

29 Section 330. Declarations of Estimated Tax.--(a) Every
30 resident and nonresident individual shall at the time

1 hereinafter prescribed make a declaration of his estimated tax
2 for the taxable year, containing such information as the
3 department may prescribe by regulations, if his taxable income,
4 other than from compensation on which tax is withheld under this
5 article, can reasonably be expected to exceed one thousand
6 dollars (\$1,000).

7 (b) For the purposes of this article, the term
8 "estimated tax" means the amount which an individual estimates
9 to be his tax due under this article for the taxable year, less
10 the amount which he estimates to be the sum of any credits
11 allowable against the tax under this article.

12 (c) A husband and wife entitled to make a joint declaration
13 of Federal estimated tax may make a joint declaration of
14 estimated tax hereunder as if they were one taxpayer, in which
15 case the liability with respect to the estimated tax shall be
16 joint and several. If a joint declaration is made but husband
17 and wife elect to determine their taxes separately, the
18 estimated tax for such year may be treated as the estimated tax
19 of either husband or wife, or may be divided between them, as
20 they may elect.

21 (d) Except as hereinafter provided, the date for filing a
22 declaration of estimated tax shall depend upon when the resident
23 or nonresident individual determines that his taxable income on
24 which no tax has been withheld under this article can reasonably
25 be expected to exceed one thousand dollars (\$1,000) in the
26 taxable year, as follows:

27 (1) If the determination is made on or before April 1 of the
28 taxable year, a declaration of estimated tax shall be filed no
29 later than April 15 of the taxable year.

30 (2) If the determination is made after April 1 but before

1 June 2 of the taxable year, the declaration shall be filed no
2 later than June 15 of such year.

3 (3) If the determination is made after June 1 but before
4 September 2 of the taxable year, the declaration shall be filed
5 no later than September 15 of such year.

6 (4) If the determination is made after September 1 of the
7 taxable year, the declaration shall be filed no later than
8 January 15 of the year succeeding the taxable year.

9 (e) Notwithstanding subsection (d), of this section, a
10 declaration of estimated tax of an individual having an
11 estimated taxable income from farming for the taxable year which
12 is at least two-thirds of his total estimated taxable income for
13 the taxable year may be filed at any time on or before January
14 15 of the succeeding year.

15 (f) A declaration of estimated tax of an individual having a
16 total estimated tax for the taxable year of fifty dollars (\$50)
17 or less may be filed at any time on or before January 15 of the
18 succeeding year under regulations of the department.

19 (g) An individual may amend a declaration under regulations
20 of the department.

21 (h) If on or before January 31 of the year succeeding a
22 taxable year, an individual files his return for the entire
23 taxable year for which a declaration was required to be filed
24 within the time prescribed by subsection (d) (4) of this section
25 and pays therewith the full amount of the tax shown to be due on
26 the return:

27 (1) Such return shall be considered as his declaration which
28 was required to be filed no later than January 15.

29 (2) Such return shall be considered as the amendment
30 permitted by subsection (g) to be filed on or before January 15

1 provided the amount of the tax shown on the return is greater
2 than the amount of the estimated tax shown in a declaration
3 previously made.

4 (i) This article shall apply to a taxable year other than a
5 calendar year by the substitution of the months of such fiscal
6 year for the corresponding months specified in this section.

7 (j) This article shall apply to an individual having a
8 taxable year of less than twelve months in accordance with
9 procedures prescribed in regulations of the department.

10 Section 331. Payments of Estimated Tax.--(a) The estimated
11 tax with respect to which a declaration is required shall be
12 paid as follows:

13 (1) If the declaration is filed on or before April 15 of the
14 taxable year, the estimated tax shall be paid in four equal
15 installments. The first installment shall be paid at the time of
16 the filing of the declaration, and the second, third and fourth
17 installments shall be paid on or before the succeeding June 15,
18 September 15, and January 15, respectively.

19 (2) If the declaration is not required to be filed on or
20 before April 15 of the taxable year and is filed after April 15,
21 but before June 16 of the taxable year, the estimated tax shall
22 be paid in three equal installments. The first installment shall
23 be paid at the time of the filing of the declaration, and the
24 second and third installments shall be paid on the succeeding
25 September 15 and January 15, respectively.

26 (3) If the declaration is not required to be filed on or
27 before June 15 of the taxable year and is filed after June 15
28 but before September 16 of the taxable year, the estimated tax
29 shall be paid in two equal installments. The first installment
30 shall be paid at the time of the filing of the declaration, and

1 the second shall be paid on the succeeding January 15.

2 (4) If the declaration is not required to be filed on or
3 before September 15 of the taxable year and is filed after
4 September 15 of the taxable year, the estimated tax shall be
5 paid in full at the time of the filing of the declaration.

6 (5) If the declaration is not filed within the time
7 prescribed therefor, or after the expiration of any extension of
8 time therefor, clauses (2), (3) and (4) of this subsection shall
9 not apply, and there shall be paid at the time of such filing
10 the amount of all installments of estimated tax which were due
11 and payable on or before the date the declaration was filed, and
12 the remaining installments shall be paid at such times and in
13 such amounts as they would have been payable if the declaration
14 had been filed when due.

15 (b) If an individual described in subsection (e) of section
16 (relating to farmers) makes a declaration of estimated tax
17 after September 15 of the taxable year, but before the following
18 January 15, the estimated tax shall be paid in full at the time
19 of the filing of the declaration.

20 (c) If any amendment of a declaration is filed, the
21 remaining unpaid installments, if any, shall be ratably
22 increased or decreased, as the case may be, to reflect any
23 increase or decrease in the estimated tax by reason of such
24 amendment, and if any amendment is made after September 15 of
25 the taxable year, any increase in the estimated tax by reason
26 thereof shall be paid at the time of making such amendment.

27 PART VII

28 RETURNS AND PAYMENT OF TAX

29 Section 335. Returns and Liability.--On or before the date
30 when the taxpayer's Federal income tax return is due or would be

1 due if the taxpayer were required to file a Federal income tax
2 return, a tax return under this article shall be made and filed
3 by or for every taxpayer having taxable income for the taxable
4 year.

5 Section 336. Returns of Married Individuals, Deceased or
6 Disabled Individuals and Fiduciaries.--(a) If the Federal income
7 tax liability of husband or wife is determined on a separate
8 Federal return, their income tax liabilities and returns under
9 this article shall be separate.

10 (b) If the Federal income tax liabilities of husband and
11 wife (other than a husband and wife described in subsection (c))
12 are determined on a joint Federal return, or if neither files a
13 Federal return:

14 (1) they shall file a joint tax return under this article
15 and their tax liabilities shall be joint and several; or

16 (2) they may elect to file separate returns under this
17 article on a single form if they comply with the requirements of
18 the department in setting forth information, in which event
19 their tax liabilities shall be separate, except as provided in
20 subsection (d).

21 (c) If either husband or wife is a resident and the other is
22 a nonresident, they shall file separate tax returns under this
23 article on such single or separate forms as may be required by
24 the department, in which event their tax liabilities shall be
25 separate except as provided in subsection (d) unless both elect
26 to determine their joint taxable income as if both were
27 residents, in which event their tax liabilities shall be joint
28 and several.

29 (d) If husband and wife file separate tax returns under this
30 article on a single form pursuant to subsections (b) or (c) and:

1 (1) If the sum of the payments by either spouse, including
2 withheld and estimated taxes, exceeds the amount of the tax for
3 which such spouse is separately liable, the excess may be
4 applied by the department to the credit of the other spouse if
5 the sum of the payments by such other spouse, including withheld
6 and estimated taxes, is less than the amount of the tax for
7 which such other spouse is separately liable.

8 (2) If the sum of the payments made by both spouses with
9 respect to the taxes for which they are separately liable,
10 including withheld and estimated taxes, exceeds the total of the
11 taxes due, refund of the excess may be made payable to both
12 spouses, or if either is deceased, to the survivor.

13 Provided, however, That the provisions of this subsection (d)
14 shall not apply if the return of either spouse includes a demand
15 that any overpayment made by him or her shall be applied only on
16 account of his or her separate liability.

17 (e) The return for any deceased individual shall be made and
18 filed by his executor, administrator, or other person charged
19 with his property.

20 (f) The return for an individual who is unable to make a
21 return by reason of minority or other disability shall be made
22 and filed by his guardian, committee, fiduciary or other person
23 charged with the care of his person or property, or by his duly
24 authorized agent.

25 (g) The return for an estate or trust shall be made and
26 filed by the fiduciary. If two or more fiduciaries are acting
27 jointly, the return may be made by any one of them.

28 Section 337. Time and Place for Filing Returns and Paying
29 Tax.--A person required to make and file a return under this
30 article shall, without assessment, notice or demand, pay any tax

1 due thereon to the department on or before the date fixed for
2 filing such return (determined without regard to any extension
3 of time for filing the return). The department shall prescribe
4 by regulation the place for filing any return, declaration,
5 statement, or other document required pursuant to this article
6 and for payment of any tax.

7 Section 338. Signing of Returns and Other Documents.--(a)
8 Any return, declaration, statement or other document required to
9 be made pursuant to this article shall be signed in accordance
10 with regulations or instructions prescribed by the department.

11 (b) Any return, statement, or other document required of a
12 partnership shall be signed by one or more partners. The fact
13 that a partner's name is signed to a return, statement, or other
14 document, shall be prima facie evidence for all purposes that
15 such partner is authorized to sign on behalf of the partnership.

16 (c) The making or filing of any return, declaration,
17 statement or other document or copy thereof required to be made
18 or filed pursuant to this article shall constitute a
19 certification by the person making or filing such return,
20 declaration, statement or other document or copy thereof that
21 the statements contained therein are true and that any copy
22 filed is a true copy.

23 Section 339. Extensions of Time.--(a) A taxpayer who is
24 granted a Federal extension of time by the Commissioner of
25 Internal Revenue for filing any return, declaration, statement
26 or other document shall be automatically entitled to a similar
27 extension of the time for filing any corresponding return,
28 declaration, statement or other document required pursuant to
29 this article. No application for such extension need be made,
30 provided that evidence of the granting of the Federal extension

1 accompany the return, declaration, statement or other document
2 filed pursuant to this article.

3 (b) In all other cases the department may, upon application,
4 grant a reasonable extension of time for filing any return,
5 declaration, statement, or other document required pursuant to
6 this article, on such terms and conditions as it may require.
7 Except for a taxpayer who is outside the United States, no such
8 extension for filing any return, declaration, statement or other
9 document, shall exceed six months.

10 Section 340. Requirements Concerning Returns, Notices,
11 Records and Statements.--(a) The department may prescribe by
12 regulation for the keeping of records, the content and form of
13 returns, declarations, statements and other documents and the
14 filing of copies of Federal income tax returns and
15 determinations. The department may require any person, by
16 regulation or notice served upon such person, to make such
17 returns, render such statements, or keep such records, as the
18 department may deem sufficient to show whether or not such
19 person is liable for tax under this article.

20 (b) (1) When required by regulations prescribed by the
21 department:

22 (i) Any person required under the authority of this article
23 to make a return, declaration, statement, or other document
24 shall include in such return, declaration, statement or other
25 document such identifying number as may be prescribed for
26 securing proper identification of such person.

27 (ii) Any person with respect to whom a return, declaration,
28 statement, or other document is required under the authority of
29 this article to make a return, declaration, statement, or other
30 document with respect to another person, shall request from such

1 other person, and shall include in any such return, declaration,
2 statement, or other document, such identifying number as may be
3 prescribed for securing proper identification of such other
4 person.

5 (2) For purposes of this section, the department is
6 authorized to require such information as may be necessary to
7 assign an identifying number to any person.

8 (c) Every partnership having a resident partner or having
9 any income derived from sources within this Commonwealth shall
10 make a return for the taxable year setting forth all items of
11 income, gain, loss and deduction, and such other pertinent
12 information as the department may by regulations prescribe. Such
13 return shall be filed on or before the fifteenth day of the
14 fourth month following the close of each taxable year. For
15 purposes of this subsection, "taxable year" means year or period
16 which would be a taxable year of the partnership if it were
17 subject to tax under this article.

18 (d) The department may prescribe regulations requiring
19 returns of information to be made and filed on or before
20 February 28 of each year as to the payment or crediting in any
21 calendar year of amounts of one thousand dollars (\$1,000) or
22 more to any taxpayer. Such returns may be required of any
23 person, including lessees or mortgagors of real or personal
24 property, fiduciaries, employers and all officers and employes
25 of this Commonwealth, or of any municipal corporation or
26 political subdivision of this Commonwealth having the control,
27 receipt, custody, disposal or payment of interest, rents,
28 salaries, wages, premiums, annuities, compensations,
29 remunerations, emoluments or other fixed or determinable gains,
30 profits or income, except interest coupons payable to bearer. A

1 duplicate of the statement as to tax withheld on compensation
2 required to be furnished by an employer to an employe, shall
3 constitute the return of information required to be made under
4 this section with respect to such compensation.

5 Section 341. Report of Change in Federal Taxable Income.--If
6 the amount of a taxpayer's Federal taxable income reported on
7 his Federal income tax return for any taxable year is changed or
8 corrected by the United States Internal Revenue Service or other
9 competent authority of the United States, the taxpayer shall
10 report to the department such change or correction in Federal
11 taxable income within ninety days after the final determination
12 of such change or correction, or as otherwise required by the
13 department, and shall either concede the accuracy of such
14 determination or state wherein he claims it is erroneous. Any
15 taxpayer filing an amended Federal income tax return shall also
16 file within ninety days thereafter an amended return under this
17 article, and shall give such information as the department may
18 require. The department may by regulation prescribe such
19 exceptions to the requirements of this section as it deems
20 appropriate.

21 PART VIII

22 PROCEDURE AND ADMINISTRATION

23 Section 345. Payment on Notice and Demand.--Upon receipt of
24 notice and demand from the department, there shall be paid the
25 amount of any tax due under the provisions of this article
26 stated in such notice and demand.

27 Section 346. Assessment.--(a) The department is authorized
28 and required to make the inquiries, determinations and
29 assessments of all taxes imposed by this article.

30 (b) If the mode or time for the assessment of any tax is not

1 otherwise provided for, the department may establish the same by
2 regulations.

3 Section 347. Procedure for Reassessment.--Promptly after the
4 date of an assessment by the department, the department shall
5 send by mail a copy thereof to the person against whom it was
6 made. Within ninety days after the date upon which the copy of
7 any such assessment was mailed, such person may file with the
8 department a petition for reassessment of such tax. Every
9 petition for reassessment shall state specifically the reasons
10 which the petitioner believes entitled him to such reassessment,
11 and it shall be supported by affidavit that it is not made for
12 the purpose of delay and that the facts set forth therein are
13 true. It shall be the duty of the department, within six months
14 after receiving a petition for reassessment, to dispose of such
15 petition for reassessment. Notice of the action taken upon any
16 petition for reassessment shall be given to the petitioner
17 promptly thereafter.

18 Section 348. Review by Board of Finance and Revenue.--Within
19 ninety days after the date of mailing of notice by the
20 department of the action taken on any petition for reassessment
21 filed with it, the person against whom the assessment was made
22 may by petition request the Board of Finance and Revenue to
23 review such action. Every petition for review filed hereunder
24 shall state specifically the reasons upon which the petitioner
25 relies, or shall incorporate by reference the petition for
26 reassessment in which such reasons shall have been stated. The
27 petition shall be supported by affidavit that it is not made for
28 the purpose of delay and that the facts therein set forth are
29 true. The Board of Finance and Revenue shall act in disposition
30 of such petitions filed with it within six months after they

1 have been received, and in the event of failure of said board to
2 dispose of any such petition within six months, the action taken
3 by the department upon the petition for reassessment shall be
4 deemed sustained. The Board of Finance and Revenue may sustain
5 the action taken on the petition for reassessment, or it may
6 reassess the tax due upon such basis as it shall deem according
7 to law. Notice of the action of the Board of Finance and Revenue
8 shall be given by mail to the department and to the petitioner.

9 Section 349. Appeal to the Commonwealth Court.--Any person,
10 or the Commonwealth, aggrieved by the decision of the Board of
11 Finance and Revenue may, within sixty days, appeal to the
12 Commonwealth Court from the decision of the Board of Finance and
13 Revenue in the manner now or hereafter provided by law for
14 appeals from decisions of said board in tax cases.

15 Section 350. Collection of Tax.--The department shall
16 collect the taxes imposed by this article in the manner provided
17 by law for the collection of taxes imposed by the laws of this
18 Commonwealth.

19 Section 351. Collection upon Failure to Request
20 Reassessment, Review or Appeal.--(a) The department may collect
21 any tax:

22 (1) After ninety days from the date of mailing of a copy of
23 the notice of assessment, if no petition for reassessment has
24 been filed;

25 (2) After ninety days from the date of mailing of notice of
26 the department's action thereon, if no petition for review has
27 been filed;

28 (3) Within sixty days from the date of mailing of notice of
29 the decision of the Board of Finance and Revenue upon a petition
30 for review or from the expiration of the board's time for acting

1 upon such petition, if no decision has been made; or

2 (4) Immediately, in all cases of judicial sales,
3 receiverships, assignments or bankruptcies.

4 In any such proceeding for the collection of the tax imposed
5 by this article, the person against whom the assessment was made
6 shall not be permitted to set up any ground of defense that
7 might have been presented to the department, the Board of
8 Finance and Revenue or the Commonwealth Court if such person had
9 properly pursued his administrative remedies under this article.

10 Section 352. Lien for Tax.--(a) If any person liable to pay
11 any tax neglects or refuses to pay the same on the date the tax
12 becomes collectible, the amount of such tax, together with any
13 costs that may accrue in addition thereto, shall be a lien in
14 favor of the Commonwealth against all real estate within the
15 Commonwealth of such person from and after such date.

16 (b) The department may, at any time, transmit to the
17 prothonotaries of the respective counties certified copies of
18 all liens for taxes imposed by this article. It shall be the
19 duty of each prothonotary receiving such lien to enter and
20 docket the same of record in his office, which lien shall be
21 indexed as judgments are now indexed. All such liens shall have
22 priority to, and be fully before, any other obligation,
23 judgment, claim, lien or estate paid and satisfied out of the
24 judicial sale of said real estate with which said real estate
25 may subsequently become charged, or for which it may
26 subsequently become liable, subject, however, to mortgage or
27 other liens existing and duly recorded at the time such tax lien
28 is recorded, save and except the cost of sale and of the writ
29 upon which it is made and real estate taxes imposed or assessed
30 upon said property. The lien of said taxes shall continue for

1 five years from the date of entry and may be revived and
2 continued, in the manner now or hereafter provided for renewal
3 of judgments, and it shall be lawful for a writ of scire facias
4 to issue and be prosecuted to judgment in the manner in which
5 such writs are ordinarily employed.

6 (c) Any wilful failure of any prothonotary to carry out any
7 duty imposed upon him by this section shall be a misdemeanor
8 and, upon conviction, he shall be sentenced to pay a fine not
9 exceeding one thousand dollars (\$1,000) and cost of prosecution,
10 or to undergo imprisonment not exceeding one year, or both.

11 Section 353. Refund or Credit of Overpayment.--(a) In the
12 case of any overpayment, the department may credit the amount of
13 such overpayment against any liability in respect of the tax
14 imposed by this article on the part of the person who made the
15 overpayment and shall refund any balance to such person.

16 (b) The department is authorized to prescribe regulations
17 providing for the crediting against the estimated tax for any
18 taxable year of the amount determined to be an overpayment of
19 the tax for a preceding taxable year.

20 (c) If the taxpayer has paid as an installment of estimated
21 tax more than the correct amount of such installment, the
22 overpayment shall be credited against the unpaid installments,
23 if any. If the amount paid, whether or not on the basis of
24 installments, exceeds the amount determined to be the correct
25 amount of the tax, the overpayment shall be credited or refunded
26 as provided in subsection (a) or (b).

27 Section 354. Restrictions on Refunds.--No credit or refund
28 shall be made under section 353 without the approval of the
29 Board of Finance and Revenue, except such credits or refunds as
30 arise:

1 (1) By reason of the overpayment of an installment of
2 estimated tax;

3 (2) Upon the filing of a final return showing less tax due
4 after the application of the allowable credits than the amount
5 of tax withheld from the taxpayer's compensation or the amount
6 of tax paid by him as estimated tax; or

7 (3) Upon the filing of an amended return or a report of
8 change in Federal taxable income disclosing less tax due than
9 the taxpayer has theretofore paid.

10 Section 355. Limitations on Assessment and Collection.--(a)
11 The amount of any tax imposed by this article shall be assessed
12 within three years after the return or any report of change in
13 Federal taxable income, whichever is later, is filed. For the
14 purposes of this subsection and subsection (b), a return filed
15 before the last day prescribed for the filing thereof, or before
16 the last day of any extension of time for the filing thereof,
17 shall be considered as filed on such last day.

18 (b) If the taxpayer omits from taxable income an amount
19 properly includable therein which is in excess of twenty-five
20 per cent of the amount of taxable income stated in the return,
21 the tax may be assessed at any time within six years after the
22 return was filed.

23 (c) Where no return is filed, or if a taxpayer shall fail to
24 report a change in Federal taxable income or, when required, to
25 file an amended return, the amount of the tax due may be
26 assessed at any time.

27 (d) Where the taxpayer files a false or fraudulent return
28 with intent to evade the tax imposed by this article, the amount
29 of tax due may be assessed at any time.

30 Section 356. Extension of Limitation Period.--

1 Notwithstanding section 355, where, before the expiration of the
2 period prescribed therein a taxpayer has consented in writing
3 that such period be extended, the amount of tax due may be
4 assessed at any time within such extended period. The period so
5 extended may be further extended by subsequent consents in
6 writing made before the expiration of the extended period.

7 Section 357. Limitations on Refund or Credit.--Any
8 application for refund must be filed with the Board of Finance
9 and Review within three years from the time the return, amended
10 return, or report of change in Federal taxable income is
11 required to be filed, determined without regard to any extension
12 of time or within two years from the time the tax was paid,
13 whichever is later.

14 Section 358. Interest.--If any amount of tax imposed by this
15 article is not paid on or before the last date prescribed for
16 payment, interest on such amount at the rate of one-half of one
17 per cent per month, for each month or fraction thereof from such
18 date, shall be paid for the period from such last date to the
19 date paid. The last date prescribed for payment shall be
20 determined without regard to any extension of time for filing
21 the return. This section shall not apply to any failure to pay
22 estimated tax.

23 Section 359. Additions.--(a) In case of failure to file any
24 return required under section 335 on the date prescribed
25 therefor, determined with regard to any extension of time for
26 filing, unless it is shown that such failure is due to
27 reasonable cause and not due to wilful neglect, there shall be
28 added to the amount required to be shown as tax on such return
29 five per cent of the amount of such tax if the failure is for
30 not more than one month, with an additional five per cent for

1 each additional month or fraction thereof during which such
2 failure continues, not exceeding twenty-five per cent, in the
3 aggregate, but in no case shall the amount added be less than
4 five dollars (\$5).

5 (b) If any part of any underpayment of any tax imposed by
6 this article is due to negligence or intentional disregard of
7 rules and regulations, but without intent to defraud, there
8 shall be added to the tax an amount equal to five per cent of
9 the underpayment.

10 (c) If any part of any underpayment of tax required to be
11 shown on a return is due to fraud, there shall be added to the
12 tax an amount equal to fifty per cent of the underpayment. This
13 amount shall be in lieu of any amount determined under
14 subsection (b).

15 (d) (1) If any taxpayer fails to file a declaration of
16 estimated tax or fails to pay all of any part of an installment
17 of estimated tax, he shall be deemed to have made an
18 underpayment of estimated tax. There shall be added to the tax
19 for the taxable year an amount at the rate of six per cent per
20 annum upon the amount of the underpayment for the period of the
21 underpayment but not beyond the fifteenth day of the fourth
22 month following the close of the taxable year. The amount of the
23 underpayment shall be the excess of the amount of the
24 installment which would be required to be paid if the estimated
25 tax were equal to eighty per cent of the tax (two-thirds in the
26 case of an individual described in subsection (e) of section
27 330) shown on the return for the taxable year (or if no return
28 was filed, of the tax for such year) over the amount, if any, of
29 the installments paid on or before the last day prescribed for
30 such payment. No underpayment shall be deemed to exist with

1 respect to a declaration or installment otherwise due on or
2 after the taxpayer's death.

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

7 (A) The amount which would have been required to be paid on
8 or before such date if the estimated tax were:

9 (i) the tax shown on the return of the individual for the
10 preceding taxable year, if a return showing a liability for tax
11 was filed by the individual for the preceding taxable year and
12 such preceding year was a taxable year of twelve months, or

13 (ii) an amount equal to the tax computed, at the rates
14 applicable to the taxable year, on the basis of the taxpayer's
15 status with respect to personal exemptions for the taxable year,
16 but otherwise on the basis of the facts shown on his return for,
17 and the law applicable to, the preceding taxable year; or

18 (B) An amount equal to ninety per cent of the tax computed,
19 at the rates applicable to the taxable year, on the basis of the
20 actual taxable income for the months in the taxable year ending
21 before the month in which the installment is required to be
22 paid.

23 (e) Any person required to collect, account for and pay over
24 any tax imposed by this article who wilfully fails to collect
25 such tax or truthfully account for and pay over such tax, or
26 wilfully attempts in any manner to evade or defeat any such tax
27 or the payment thereof, shall, in addition to other penalties
28 provided by law, be liable to a penalty equal to the total
29 amount of the tax evaded or not collected or not accounted for
30 and paid over. No penalty shall be imposed under subsection (b)

1 or (c) of section 359 for any offense to which this section is
2 applicable.

3 (f) Any person required under the provisions of section 323
4 to furnish a statement to an employe who wilfully furnishes a
5 false or fraudulent statement, or who wilfully fails to furnish
6 a statement in the manner, at the time, and showing the
7 information required under section 323 and the regulations
8 prescribed thereunder, shall, for each such failure, be subject
9 to a penalty of fifty dollars (\$50) for each employe.

10 Section 360. Crimes.--(a) Any person who wilfully attempts
11 in any manner to evade or defeat any tax imposed by this article
12 or the payment thereof shall, in addition to other penalties
13 provided by law, be guilty of a misdemeanor and shall, upon
14 conviction, be sentenced to pay a fine not exceeding twenty-five
15 thousand dollars (\$25,000) or to undergo imprisonment not
16 exceeding two years, or both.

17 (b) Any person required under this article to collect,
18 account for and pay over any tax imposed by this article who
19 wilfully fails to collect or truthfully account for and pay over
20 such tax, shall, in addition to other penalties provided by law,
21 be guilty of a misdemeanor, and shall, upon conviction, be
22 sentenced to pay a fine not exceeding twenty-five thousand
23 dollars (\$25,000) or to undergo imprisonment not exceeding two
24 years, or both.

25 (c) Any person required under this article to pay any tax or
26 to make a return, keep any records or supply any information,
27 who wilfully fails to pay such tax or make such return, keep
28 such records or supply such information at the time or times
29 required by law or regulations, shall, in addition to other
30 penalties provided by law, be guilty of a misdemeanor and shall,

1 upon conviction, be sentenced to pay a fine not exceeding five
2 thousand dollars (\$5,000) or to undergo imprisonment not
3 exceeding two years, or both.

4 (d) Any person who wilfully makes and subscribes any return,
5 statement or other document which contains or is verified by a
6 written declaration that it is made under the penalties of
7 perjury and which he does not believe to be true and correct as
8 to every material matter, or wilfully aids or assists in, or
9 procures, counsels or advises the preparation or presentation,
10 in connection with any matter arising under this article, of a
11 return, affidavit, claim or other document which is fraudulent
12 or is false as to any material matter, whether or not such
13 falsity or fraud is with the knowledge or consent of the person
14 authorized or required to present such return, affidavit, claim
15 or document, shall be guilty of a misdemeanor and shall, upon
16 conviction, be sentenced to pay a fine not exceeding five
17 thousand dollars (\$5,000) or to undergo imprisonment not
18 exceeding two years, or both.

19 (e) Any person who wilfully delivers or discloses to the
20 department any list, return, account, statement or other
21 document known by him to be fraudulent or to be false as to any
22 material matter shall be guilty of a misdemeanor and shall, upon
23 conviction, be sentenced to pay a fine not exceeding five
24 thousand dollars (\$5,000) or to undergo imprisonment not
25 exceeding two years, or both.

26 (f) It shall be unlawful for any officer or employe of the
27 Commonwealth to divulge or to make known in any manner whatever,
28 not provided by law, except for official purposes, to any
29 person, the amount or source of income, profits, losses,
30 expenditures or any particular thereof set forth or disclosed in

1 any return, or to permit any return or copy thereof or any book
2 containing any abstract or particulars thereof, to be seen or
3 examined by any person except as provided by law, and it shall
4 be unlawful for any person to print or publish in any manner
5 whatsoever not provided by law, any return or any part thereof
6 or source of income, profits, losses or expenditures appearing
7 in any return, and any person committing an offense against the
8 foregoing provisions shall be guilty of a misdemeanor and, upon
9 conviction thereof, shall be fined not more than one thousand
10 dollars (\$1,000), or imprisoned for not more than one year, or
11 both, together with the costs of prosecution; and, if the
12 offender be an officer or employe of the Commonwealth, he shall
13 be dismissed from office or discharged from employment.

14 (g) Notwithstanding subsection (f), it shall be lawful for
15 any officer or employe of the Commonwealth having custody of
16 returns to produce them or evidence of anything contained in
17 them in any action or proceeding in any court on behalf of the
18 department under the provisions of this article to which it is a
19 party, or on behalf of any party to any action or proceeding
20 under the provisions of this article, when the returns or facts
21 shown thereby are directly involved in such action or
22 proceeding, in either of which events the court may require the
23 production of and may admit in evidence so much of said returns
24 or the facts shown thereby as are pertinent to the action or
25 proceeding and no more. Nothing herein shall be construed to
26 prohibit the delivery to a taxpayer or his duly authorized
27 representative of a certified copy of any return filed in
28 connection with his tax, nor to prohibit the publication of
29 statistics so classified as to prevent the identification of
30 particular returns and the items thereof or the inspection by

1 the Attorney General or other legal representatives of the
2 Commonwealth of the return of any taxpayer who shall bring
3 action to review the tax based thereon or against whom an action
4 or proceeding has been instituted for the collection or recovery
5 of the tax imposed by this article.

6 Section 361. Rules and Regulations.--The department is
7 hereby charged with the enforcement of the provisions of this
8 article, and is hereby authorized and empowered to prescribe,
9 adopt, promulgate and enforce rules and regulations relating to
10 any matter or thing pertaining to the administration and
11 enforcement of the provisions of this article and the collection
12 of taxes imposed by this article.

13 Section 362. Examination.--The department, or any agent
14 authorized in writing by it, is hereby authorized to examine the
15 books, papers and records of any taxpayer or supposed taxpayer,
16 and to require the production of a copy of his return as made to
17 and filed with the Federal Government, if one was so made and
18 filed, in order to verify the accuracy of any return made, or if
19 no return was made, to ascertain and assess the tax imposed by
20 this article. Every such taxpayer or supposed taxpayer is hereby
21 directed and required to give to the department or its duly
22 authorized agent the means, facilities and opportunity for such
23 examinations and investigations as are hereby provided and
24 authorized. The department is hereby authorized to examine any
25 person under oath concerning any taxable income which was or
26 should have been returned for taxation, and to this end may
27 compel the production of books, papers and records and the
28 attendance of all persons, whether as parties or witnesses, whom
29 it believes have knowledge of such taxable income. The procedure
30 for such hearing or examination shall be the same as that

1 provided by "The Fiscal Code" relating to inquisitorial powers
2 of fiscal officers.

3 Section 363. Cooperation with Other Governmental Agencies.--

4 Notwithstanding the provisions of subsection (f) of section 359,
5 the department may permit the Commissioner of Internal Revenue
6 of the United States, or the proper officer of any political
7 subdivision of this Commonwealth or of any other state imposing
8 tax based upon the incomes of individuals, or the authorized
9 representative of such officer, to inspect the tax returns of
10 any taxpayer, or may furnish to such officer or his authorized
11 representative an abstract of the return of income of any
12 taxpayer, or supply him with information concerning any item of
13 income contained in any return of any taxpayer. Such permission
14 shall be granted or such information furnished to such officer
15 or his representative only if the statutes of the United States
16 or of such other state, as the case may be, grant substantially
17 similar privileges to the proper officer of this Commonwealth
18 charged with the administration of the personal income tax law
19 thereof.

20 PART IX

21 MISCELLANEOUS PROVISIONS

22 Section 370. Effective Date.-- Except as hereinafter
23 provided this article shall take effect on March 1, 1971, and
24 the tax imposed hereby shall apply to taxable years ending after
25 December 31, 1970: Provided, however, That a taxpayer who filed
26 returns on the basis of a fiscal year or who is the beneficiary
27 of an estate or trust or member of a partnership which files its
28 returns under this article or with the Federal Government on the
29 basis of a fiscal year, shall be subject to tax for his first
30 taxable period on an apportioned basis reflecting the portion of

1 his fiscal year or of the fiscal year of the estate, trust or
2 partnership which postdates December 31, 1970, as prescribed by
3 the department by regulations. Section 359 which provides for
4 additions or penalties to the tax shall not take effect until
5 thirty days after the date on which the department has
6 promulgated and issued regulations relating to the duties and
7 liabilities imposed on taxpayers under this article.

8 ARTICLE IV

9 CORPORATE NET INCOME TAX

10 PART I

11 DEFINITIONS

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

16 (1) "Corporation." A corporation having capital stock,
17 joint-stock association, or limited partnership either organized
18 under the laws of this Commonwealth, the United States, or any
19 other state, territory, or foreign country, or dependency, and
20 doing business in this Commonwealth, or having capital or
21 property employed or used in this Commonwealth by or in the name
22 of itself, or any person, partnership, association, limited
23 partnership, joint-stock association or corporation. The word
24 "corporation" shall not include building and loan associations,
25 banks, bank and trust companies, national banks, savings
26 institutions, trust companies, insurance and surety companies.

27 (2) "Department." The Department of Revenue of this
28 Commonwealth.

29 (3) "Net income." 1. In case the entire business of the
30 corporation is transacted within this Commonwealth, for any

1 taxable year which begins on or after January 1, 1971, net
2 income for the calendar year or fiscal year as returned to and
3 ascertained by the Federal Government, or in the case of a
4 corporation participating in the filing of consolidated returns
5 to the Federal Government, the net income which would have been
6 returned to and ascertained by the Federal Government if
7 separate returns had been made to the Federal Government for the
8 current and prior taxable years, subject, however, to any
9 correction thereof, for fraud, evasion, or error as finally
10 ascertained by the Federal Government. Except as hereinafter
11 otherwise provided additional deductions shall be allowed from
12 net income on account of any dividends received from any other
13 corporation which eighty per cent or more of the voting stock is
14 owned by the taxpayer and on account of eighty-five per cent of
15 dividends received from all other corporations. No deduction
16 shall be allowed for net operating losses sustained by the
17 corporation during any other fiscal or calendar year. In the
18 case of regulated investment companies as defined by the
19 Internal Revenue Code of 1954, as amended, "net income" shall be
20 investment company taxable income as defined in the aforesaid
21 Internal Revenue Code of 1954, as amended. In arriving at "net
22 income" for Federal tax purposes for any taxable year beginning
23 on or after January 1, 1971, any corporate net income tax paid
24 to the Commonwealth pursuant to the provisions of this article
25 shall not be allowed as a deduction.

26 2. In case the entire business of any corporation, other
27 than a corporation engaged in doing business as a regulated
28 investment company as defined by the Internal Revenue Code of
29 1954, as amended, is not transacted within this Commonwealth,
30 the tax imposed by this article shall be based upon such portion

1 of the net income of such corporation for the fiscal or calendar
2 year, as defined in subclause 1 hereof, and may be determined as
3 follows:

4 (a) Division of Income.

5 (1) As used in this definition, unless the context otherwise
6 requires:

7 (A) "Business income" means income arising from transactions
8 and activity in the regular course of the taxpayer's trade or
9 business and includes income from tangible and intangible
10 property if the acquisition, management, and disposition of the
11 property constitute integral parts of the taxpayer's regular
12 trade or business operations.

13 (B) "Commercial domicile" means the principal place from
14 which the trade or business of the taxpayer is directed or
15 managed.

16 (C) "Compensation" means wages, salaries, commissions and
17 any other form of remuneration paid to employes for personal
18 services.

19 (D) "Financial organization" means any safe deposit company,
20 credit union, small loan company, sales finance company, or
21 investment company.

22 (E) "Nonbusiness income" means all income other than
23 business income.

24 (F) "Public utility" means any business entity which owns or
25 operates any plant, equipment, property, franchise, or license
26 for the transmission of communications, transportation of goods
27 or persons, except by pipeline, or the production, transmission,
28 sale, delivery, or furnishing of electricity, water or steam;
29 and whose rates of charges for goods or services have been
30 established or approved by a Federal, State or local government

1 or governmental agency.

2 (G) "Sales" means all gross receipts of the taxpayer not
3 allocated under this definition.

4 (H) "State" means any state of the United States, the
5 District of Columbia, the Commonwealth of Puerto Rico, any
6 territory or possession of the United States, and any foreign
7 country or political subdivision thereof.

8 (I) "This state" means the state in which the relevant tax
9 return is filed or, in the case of application of this
10 definition to the apportionment and allocation of income for
11 local tax purposes, the subdivision or local taxing district in
12 which the relevant tax return is filed.

13 (2) Any taxpayer having income from business activity which
14 is taxable both within and without this State, other than
15 activity as a financial organization or public utility or the
16 rendering of purely personal services by an individual, shall
17 allocate and apportion his net income as provided in this
18 definition.

19 (3) For purposes of allocation and apportionment of income
20 under this definition, a taxpayer is taxable in another state if
21 in that state he is subject to a net income tax, a franchise tax
22 measured by net income, a franchise tax for the privilege of
23 doing business, or a corporate stock tax, or that state has
24 jurisdiction to subject the taxpayer to a net income tax
25 regardless of whether, in fact, the state does or does not.

26 (4) Rents and royalties from real or tangible personal
27 property, capital gains, interest, dividends or patent or
28 copyright royalties, to the extent that they constitute
29 nonbusiness income, shall be allocated as provided in paragraphs
30 (5) through (8).

1 (5) (A) Net rents and royalties from real property located
2 in this State are allocable to this State.

3 (B) Net rents and royalties from tangible personal property
4 are allocable to this State if and to the extent that the
5 property is utilized in this State, or in their entirety if the
6 taxpayer's commercial domicile is in this State and the taxpayer
7 is not organized under the laws of or taxable in the state in
8 which the property is utilized.

9 (C) The extent of utilization of tangible personal property
10 in a state is determined by multiplying the rents and royalties
11 by a fraction, the numerator of which is the number of days of
12 physical location of the property in the state during the rental
13 or royalty period in the taxable year and the denominator of
14 which is the number of days of physical location of the property
15 everywhere during all rental or royalty periods in the taxable
16 year. If the physical location of the property during the rental
17 or royalty period is unknown or unascertainable by the taxpayer,
18 tangible personal property is utilized in the state in which the
19 property was located at the time the rental or royalty payer
20 obtained possession.

21 (6) (A) Capital gains and losses from sales of real
22 property located in this State are allocable to this State.

23 (B) Capital gains and losses from sales of tangible personal
24 property are allocable to this State if the property had a situs
25 in this State at the time of the sale, or the taxpayer's
26 commercial domicile is in this State and the taxpayer is not
27 taxable in the state in which the property had a situs.

28 (C) Capital gains and losses from sales of intangible
29 personal property are allocable to this State if the taxpayer's
30 commercial domicile is in this State.

1 (7) Interest and dividends are allocable to this State if
2 the taxpayer's commercial domicile is in this State.

3 (8) (A) Patent and copyright royalties are allocable to
4 this State if and to the extent that the patent or copyright is
5 utilized by the payer in this State, or if and to the extent
6 that the patent copyright is utilized by the payer in a state in
7 which the taxpayer is not taxable and the taxpayer's commercial
8 domicile is in this State.

9 (B) A patent is utilized in a state to the extent that it is
10 employed in production, fabrication, manufacturing, or other
11 processing in the state or to the extent that a patented product
12 is produced in the state. If the basis of receipts from patent
13 royalties does not permit allocation to states or if the
14 accounting procedures do not reflect states of utilization, the
15 patent is utilized in the state in which the taxpayer's
16 commercial domicile is located.

17 (C) A copyright is utilized in a state to the extent that
18 printing or other publication originates in the state. If the
19 basis of receipts from copyright royalties does not permit
20 allocation to states or if the accounting procedures do not
21 reflect states of utilization, the copyright is utilized in the
22 state in which the taxpayer's commercial domicile is located.

23 (9) All business income shall be apportioned to this State
24 by multiplying the income by a fraction, the numerator of which
25 is the property factor plus the payroll factor plus the sales
26 factor, and the denominator of which is three.

27 (10) The property factor is a fraction, the numerator of
28 which is the average value of the taxpayer's real and tangible
29 personal property owned or rented and used in this State during
30 the tax period and the denominator of which is the average value

1 of all the taxpayer's real and tangible personal property owned
2 or rented and used during the tax period.

3 (11) Property owned by the taxpayer is valued at its
4 original cost. Property rented by the taxpayer is valued at
5 eight times the net annual rental rate. Net annual rental rate
6 is the annual rental rate paid by the taxpayer less any annual
7 rental rate received by the taxpayer from subrentals.

8 (12) The average value of property shall be determined by
9 averaging the values at the beginning and ending of the tax
10 period but the tax administrator may require the averaging of
11 monthly values during the tax period if reasonably required to
12 reflect properly the average value of the taxpayer's property.

13 (13) The payroll factor is a fraction, the numerator of
14 which is the total amount paid in this State during the tax
15 period by the taxpayer for compensation and the denominator of
16 which is the total compensation paid everywhere during the tax
17 period.

18 (14) Compensation is paid in this State if:

19 (A) The individual's service is performed entirely within
20 the State;

21 (B) The individual's service is performed both within and
22 without the State, but the service performed without the State
23 is incidental to the individual's service within the State; or

24 (C) Some of the service is performed in the State and the
25 base of operations or if there is no base of operations, the
26 place from which the service is directed or controlled is in the
27 State, or the base of operations or the place from which the
28 service is directed or controlled is not in any state in which
29 some part of the service is performed, but the individual's
30 residence is in this State.

1 (15) The sales factor is a fraction, the numerator of which
2 is the total sales of the taxpayer in this State during the tax
3 period, and the denominator of which is the total sales of the
4 taxpayer everywhere during the tax period.

5 (16) Sales of tangible personal property are in this State
6 if:

7 (A) The property is delivered or shipped to a purchaser,
8 other than the United States Government, within this State
9 regardless of the f.o.b. point or other conditions of the sale;
10 or

11 (B) The property is shipped from an office, store,
12 warehouse, factory, or other place of storage in this State.

13 (17) Sales, other than sales of tangible personal property,
14 are in this State if:

15 (A) The income-producing activity is performed in this
16 State; or

17 (B) The income-producing activity is performed both in and
18 outside this State and a greater proportion of the income-
19 producing activity is performed in this State than in any other
20 state, based on costs of performance.

21 (18) If the allocation and apportionment provisions of this
22 definition do not fairly represent the extent of the taxpayer's
23 business activity in this State, the taxpayer may petition the
24 Secretary of Revenue or may require, in respect to all or any
25 part of the taxpayer's business activity:

26 (A) Separate accounting;

27 (B) The exclusion of any one or more of the factors;

28 (C) The inclusion of one or more additional factors which
29 will fairly represent the taxpayer's business activity in this
30 State; or

1 (D) The employment of any other method to effectuate an
2 equitable allocation and apportionment of the taxpayer's income.

3 (b) Railroad, Truck, Bus or Airline Companies.

4 (1) All business income of railroad, truck, bus or airline
5 companies shall be apportioned to this Commonwealth by
6 multiplying the income by a fraction, the numerator of which is
7 the taxpayer's total revenue miles within this Commonwealth
8 during the tax period and the denominator of which is the total
9 revenue miles of the taxpayer everywhere during the tax period.
10 For purposes of this subsection revenue mile shall mean the
11 average receipts derived from the transportation by the taxpayer
12 of persons or property one mile. Where revenue miles are derived
13 from the transportation of both persons and property, the
14 revenue mile fractions attributable to each such class of
15 transportation shall be computed separately, and the average of
16 the two fractions, weighted in accordance with the ratio of
17 total receipts from each such class of transportation everywhere
18 to total receipts from both such classes of transportation
19 everywhere, shall be used in apportioning income to this
20 Commonwealth.

21 (2) Nonbusiness income of railroad, truck, bus or airline
22 companies shall be allocated as provided in paragraphs (5)
23 through (8) of clause (a) of subclause 2 of the definition of
24 net income.

25 (c) Pipeline or Natural Gas Companies.

26 (1) All business income of pipeline companies shall be
27 apportioned to this Commonwealth by multiplying the income by a
28 fraction, the numerator of which is the revenue ton miles,
29 revenue barrel miles or revenue cubic feet miles within this
30 Commonwealth during the tax period and the denominator of which

1 is the total revenue ton miles, revenue barrel miles or the
2 revenue cubic feet miles of the taxpayer everywhere during the
3 tax period. For purposes of this subsection a revenue ton mile,
4 revenue barrel mile or a revenue cubic foot mile shall mean
5 respectively the receipts derived from the transportation by the
6 taxpayer of one ton of solid property, one barrel of liquid
7 property or one cubic foot of gaseous property transported one
8 mile.

9 (2) All business income of natural gas companies subject to
10 regulation by the Federal Power Commission or by the
11 Pennsylvania Public Utility Commission shall be apportioned to
12 this Commonwealth by multiplying the income by a fraction, the
13 numerator of which shall be the cubic foot capacity of the
14 taxpayer's pipelines in this Commonwealth, and the denominator
15 of which shall be the cubic foot capacity of the taxpayer's
16 pipelines everywhere, at the end of the tax period. For the
17 purpose of this subsection, the cubic foot capacity of a
18 pipeline shall be determined by multiplying the square of its
19 radius (in feet) by its length (in feet).

20 (3) Nonbusiness income of pipeline companies or natural gas
21 companies subject to regulation by the Federal Power Commission
22 or by the Pennsylvania Public Utility Commission shall be
23 allocated as provided in paragraphs (5) through (8) of clause
24 (a) of subclause 2 of the definition of net income.

25 (d) Water Transportation Companies.

26 (1) Water Transportation Companies Operating on High Seas.
27 All business income of water transportation companies operating
28 on high seas shall be apportioned to this Commonwealth by
29 multiplying the business income by a fraction, the numerator of
30 which is the number of port days spent inside the Commonwealth

1 and the denominator of which is the total number of port days
2 spent inside and outside of the Commonwealth. The term "port
3 days" does not include periods when the ships are not in use
4 because of strikes or withheld from service for repair or
5 because of seasonal reduction of services. Days in port are
6 computed by dividing the aggregate number of hours in all ports
7 by twenty-four.

8 (2) Water Transportation Companies Operating in Inland
9 Waters. All business income of water transportation companies
10 operating on inland waters shall be apportioned to this
11 Commonwealth by multiplying the business income by a fraction,
12 the numerator of which is the taxpayer's total revenue miles
13 within this Commonwealth during the tax period and the
14 denominator of which is the total revenue miles of the taxpayer
15 everywhere during the tax period. In the determination of
16 revenue miles, one-half of the mileage of all navigable
17 waterways bordering between the Commonwealth and another state
18 shall be considered Commonwealth miles. For purposes of this
19 subclause, revenue miles shall mean the revenue receipts derived
20 from the transportation by the taxpayer of persons or property
21 one mile.

22 (3) Nonbusiness income of water transportation companies
23 shall be allocated as provided in paragraphs (5) through (8) of
24 clause (a) of subclause 2 of the definition of net income.

25 3. In case the entire business of a corporation which has
26 filed a timely election and has qualified to be taxed as a
27 regulated investment company under the provisions of the
28 Internal Revenue Code of 1954, as amended, is not transacted
29 within this Commonwealth, the tax imposed by this article shall
30 be based upon such portion of the net income of such corporation

1 for the fiscal or calendar year as defined in subclause 1
2 hereof, as shall be attributable to business transacted within
3 this Commonwealth by multiplying such net income by a fraction,
4 the numerator of which is the sum of the corporation's gross
5 receipts from (i) sales of its own shares to Pennsylvania
6 investors and (ii) sales of its portfolio securities, where the
7 orders for such sales are placed with or credited to
8 Pennsylvania offices of registered securities dealers and the
9 denominator of which fraction is the corporation's total gross
10 receipts from (i) sales of its own shares and (ii) sales of its
11 portfolio securities. Pennsylvania investors shall mean
12 individuals residing in Pennsylvania at the time of the sale or
13 corporations or other entities having their principal place of
14 business located in Pennsylvania at such time.

15 (4) "Person." Every natural person, association or
16 corporation. Whenever used in any clause prescribing and
17 imposing a fine or imprisonment, or both, the term "person," as
18 applied to associations, shall mean the partners or members
19 thereof, and as applied to corporations the officers thereof.

20 PART II

21 IMPOSITION OF TAX

22 Section 402. Imposition of Tax.--Every corporation shall be
23 subject to, and shall pay for the privilege of doing business in
24 this Commonwealth, or having capital or property employed or
25 used in this Commonwealth, by or in the name of itself, or any
26 person, partnership, association, limited partnership, joint-
27 stock association, or corporation, a State excise tax at the
28 rate of twelve per cent per annum upon each dollar of net income
29 of such corporation received by, and accruing to, such
30 corporation during the calendar year 1971, except where a

1 corporation reports to the Federal Government on the basis of a
2 fiscal year, and has certified such fact to the department as
3 required by section 403 of this article, in which case, such
4 tax, at the rate of twelve per cent, shall be levied, collected,
5 and paid upon all net income received by, and accruing to, such
6 corporation during the fiscal year commencing in the calendar
7 year 1971 and ending in the calendar year 1972, a similar tax at
8 the rate of nine and one-half per cent per annum upon each
9 dollar of the net income of such corporation received by, and
10 accruing to, such corporation during the calendar year 1972, and
11 each year thereafter, except where a corporation reports to the
12 Federal Government on the basis of a fiscal year, and has
13 certified such fact to the department as required by section 403
14 of this article, in which case, such tax, at the rate of nine
15 and one-half per cent, shall be levied, collected and paid upon
16 all net income received by, and accruing to, such corporation
17 during the fiscal year commencing in the calendar year 1972 and
18 ending in the calendar year 1973 and each year thereafter.

19 PART III

20 REPORTS AND PAYMENT OF TAX

21 Section 403. Reports and Payment of Tax.--(a) For the
22 purpose of ascertaining the amount of tax payable under this
23 article, it shall be the duty of every corporation, liable to
24 pay tax under this article, on or before April 15, 1972, and
25 each year thereafter, to transmit to the department, upon a form
26 prescribed, prepared and furnished by the department, an annual
27 report under oath or affirmation of its president, vice-
28 president or other principal officer, and of its treasurer or
29 assistant treasurer of net income taxable under the provisions
30 of this article. Such report shall set forth:

1 (1) A true copy of its return to the Federal Government of
2 the annual net income arising or accruing in the calendar or
3 fiscal year next preceding, or such part or portions of said
4 return, as the department may designate;

5 (2) If no return was filed with the Federal Government the
6 report made to the department shall show such information as
7 would have been contained in a return to the Federal Government
8 had one been made; and

9 (3) Such other information as the department may require.

10 (b) For the purpose of ascertaining the amount of tax
11 payable under this article for the taxable year 1971, and each
12 taxable year thereafter, it shall be the duty of every
13 corporation liable to pay tax under this article, on or before
14 April 30, 1971, and on or before the end of the fourth month
15 after the close of its previous fiscal year for fiscal year
16 taxpayers, and each year thereafter, to transmit in like form
17 and manner an additional tentative report and make payment
18 pursuant to the provisions of the act of March 16, 1970 (Act No.
19 69).

20 (c) The amount of all taxes, imposed under the provisions of
21 this article, not paid on or before the times as above provided,
22 shall bear interest at the rate of six per cent per annum from
23 the date they are due and payable until paid, except that if the
24 taxable income has been, or is increased by the Commissioner of
25 Internal Revenue, or by any other agency or court of the United
26 States, interest shall be computed on the additional tax due
27 from thirty days after the corporation receives notice of the
28 change of income until paid: Provided, however, That any
29 corporation may pay the full amount of such tax, or any part
30 thereof, together with interest due to the date of payment,

1 without prejudice to its right to present and prosecute a
2 petition for resettlement, a petition for review, or an appeal
3 to court. If it be thereafter determined that such taxes were
4 overpaid, the department shall enter a credit to the account of
5 such corporation, which may be used by it in the manner
6 prescribed by law.

7 (d) If the officers of any corporation shall neglect, or
8 refuse to make any report as herein required, or shall knowingly
9 make any false report, the following percentages of the amount
10 of the tax shall be added by the department to the tax
11 determined to be due on the first one thousand dollars (\$1,000)
12 of tax ten per cent, on the next four thousand dollars (\$4,000)
13 five per cent, and on everything in excess of five thousand
14 dollars (\$5,000) one per cent, no such amounts added to the tax
15 shall bear any interest whatsoever.

16 (e) If any corporation closes its fiscal year not upon
17 December 31, but upon some other date, and reports to the
18 Federal Government as of such other date, or would so report
19 were it to make a return to the Federal Government, such
20 corporation shall certify such fact to the department, and shall
21 make the annual report, herein required, within thirty days
22 after the return to the Federal Government is due, or would be
23 due were it to be required of such corporation, subject in all
24 other respects to the provisions of this article. The tentative
25 report required of such corporation shall be due not later than
26 four months after the end of the next preceding fiscal year.

27 (f) If the corporation shall claim in its report that the
28 return made to the Federal Government was inaccurate, the amount
29 claimed by it to be the net income, taxable under this article,
30 and the basis of such claim of inaccuracy, shall be fully

1 specified.

2 Section 404. Consolidated Reports.--The department shall not
3 permit any corporation owning or controlling, directly or
4 indirectly, any of the voting capital stock of another
5 corporation or of other corporations, subject to the provisions
6 of this article, to make a consolidated report, showing the
7 combined net income.

8 Section 405. Extension of Time to File Reports.--The
9 department may, upon application made to it, in such form as it
10 shall prescribe, on or prior to the last day for filing any
11 annual report, and upon proper cause shown, grant to the
12 corporation, required to file such report, an extension of not
13 more than sixty days within which such report may be filed, and
14 in case the Federal income tax authorities at any time grant a
15 longer extension of time for filing such reports with the
16 Federal Government, the department may grant an additional
17 extension of time for filing the annual report under this
18 article of not more than thirty days after the termination of
19 the Federal extension, but the amount of tax due shall, in such
20 cases, nevertheless, be subject to interest from the due dates
21 and at the rates fixed by this article.

22 Section 406. Changes Made by Federal Government.--(a) If the
23 amount of the net income, as returned by any corporation to the
24 Federal Government, is finally changed or corrected by the
25 Commission of Internal Revenue or by any other agency or court
26 of the United States, such corporation, within thirty days after
27 the receipt of such final change or correction, shall make a
28 corrected report, under oath or affirmation, to the department
29 showing such finally changed or corrected net income, upon which
30 the tax is required to be paid to the United States. In case a

1 corporation fails to file a report of such correction, which
2 results in an increase in net income within the time prescribed,
3 there shall be added to the tax, a penalty of five dollars (\$5)
4 for every day during which such corporation is in default, but
5 the department may abate any such penalty in whole or in part.

6 (b) If, as a result of such final change or correction,
7 there should be any change made in the amount of the net income
8 of any corporation upon which tax is imposed by this article,
9 the department shall have the power, and its duty shall be to
10 resettle such taxes. Whenever a resettlement shall have been
11 made hereunder, the department shall resettle the account
12 according to law, and shall credit or charge, as the case may
13 be, the amount resulting from such resettlement upon the current
14 accounts of the corporation with which it is made. The
15 resettlement shall be subject to audit and approval by the
16 Department of the Auditor General, as in the case of original
17 settlements, and in case of the failure of the two departments
18 to agree, the resettlement shall be submitted to the Board of
19 Finance and Revenue, as in the case of original settlements.

20 (c) Where a report of change, correction, or redetermination
21 of Federal income, or Federal tax, has been filed after a
22 petition for review, or an appeal has been taken, such report
23 shall be deemed a part of the original annual report upon
24 petition of the taxpayer at any subsequent proceeding as though
25 it had been filed with such original report, and no separate
26 petition for review or appeal from the resettlement resulting
27 from such report of change, correction, or redetermination shall
28 be necessary.

29 (d) The provisions of this section shall not be construed so
30 as to permit a resettlement based upon the allowance of any

1 deduction on account of net operating losses, sustained in other
2 fiscal or calendar years, that are not allowed as deductions
3 under the definition of "net income" as contained in this
4 article.

5 (e) The provisions of this section shall apply to every
6 corporation which was doing business in Pennsylvania in the year
7 for which the Federal income has been changed, irrespective of
8 whether or not such corporation has thereafter merged,
9 consolidated, withdrawn or dissolved. Any clearance certificate
10 issued by the department shall be conditioned upon the
11 requirement that in the event of a change in Federal income for
12 any year for which taxes have been paid to the Commonwealth, the
13 corporation or its successor or its officers or its directors
14 shall file with the department a report of change and pay any
15 additional State tax resulting therefrom.

16 PART IV

17 SETTLEMENT AND RESETTLEMENT

18 Section 407. Settlement and Resettlement.--(a) All taxes due
19 under this article shall be settled by the department, and such
20 settlement shall be subject to audit and approval by the
21 Department of the Auditor General, and shall, so far as
22 possible, be made so that notice thereof may reach the taxpayer
23 before the end of two years after the tax report was required to
24 be made.

25 (b) Promptly after the date of any such settlement, the
26 department shall send, by mail or otherwise, a copy thereof to
27 such corporation. The tax imposed by this article shall be
28 settled, resettled, and otherwise imposed and adjusted in the
29 same manner, within the same periods of time, and right of
30 resettlement, review, appeal, and refund, as provided by law in

1 the case of capital stock and franchise taxes imposed upon
2 corporations.

3 (c) If, within a period of one year after the date of any
4 settlement, the department is not satisfied with such
5 settlement, or if at any time the net income as returned by any
6 corporation to the Federal Government is finally changed or
7 corrected by the Commissioner of Internal Revenue or by any
8 other agency or court of the United States with the result that
9 tax, in addition to the amount paid, is due under this article,
10 the department is hereby authorized and empowered to make a
11 resettlement of the tax due by such corporation, based upon the
12 facts contained in the report, or upon any information within
13 its possession or that shall come into its possession.

14 Whenever a resettlement shall have been made hereunder, the
15 department shall resettle the account according to law and shall
16 credit or charge, as the case may be, the amount resulting from
17 such resettlement upon the current accounts of the corporation
18 with which it is made.

19 The resettlement shall be subject to audit and approval by
20 the Department of the Auditor General as in the case of original
21 settlement, and in case of the failure of the two departments to
22 agree, the resettlement shall be submitted to the Board of
23 Finance and Revenue as in the case of original settlements.

24 (d) If any corporation shall neglect or refuse to make any
25 report and payment of tax required by this article, the
26 department shall estimate the tax due by such corporation and
27 subject to audit and approval by the Department of the Auditor
28 General, settle the amount due by it for taxes, penalties, and
29 interest thereon as prescribed herein, from which settlement
30 there shall be no right of review or appeal, but the department,

1 with the approval of the Department of the Auditor General, may
2 require a report to be filed, and thereupon make a settlement
3 based upon such report and cancel the estimated settlement.

4 PART V

5 ENFORCEMENT: RULES AND REGULATIONS

6 INQUISITORIAL POWERS OF THE DEPARTMENT

7 Section 408. Enforcement; Rules and Regulations;

8 Inquisitorial Powers of the Department.--(a) The department is
9 hereby charged with the enforcement of the provisions of this
10 article, and is hereby authorized and empowered to prescribe,
11 adopt, promulgate, and enforce rules and regulations, not
12 inconsistent with this article, relating to any matter or thing
13 pertaining to the administration and enforcement of the
14 provisions of this article, and the collection of taxes,
15 penalties, and interest imposed by this article. The department
16 is hereby required to have such rules and regulations,
17 promulgated and adopted, printed and shall distribute the same
18 to any person upon request.

19 (b) The department, or any agent authorized in writing by
20 it, is hereby authorized to examine the books, papers, and
21 records, and to investigate the character of the business of any
22 corporation in order to verify the accuracy of any report made,
23 or if no report was made by such corporation, to ascertain and
24 settle the tax imposed by this article. Every such corporation
25 is hereby directed and required to give to the department, or
26 its duly authorized agent, the means, facilities, and
27 opportunity for such examinations and investigations, as are
28 hereby provided and authorized. Any information gained by the
29 department, as a result of any returns, investigations, or
30 verifications required to be made by this article, shall be

1 confidential, except for official purposes, and any person
2 divulging such information shall be guilty of a misdemeanor,
3 and, upon conviction thereof, shall be sentenced to pay a fine
4 of not less than one hundred dollars (\$100) or more than one
5 thousand dollars (\$1,000) and costs of prosecution, or to
6 undergo imprisonment for not more than six months, or both.

7 (c) Whenever any person, acting for or on behalf of the
8 department, shall in good faith institute legal proceedings for
9 any violations of the provisions of this article, and for any
10 reason shall fail to recover costs of record, such costs shall
11 be a charge upon the proper county, as shall such costs in the
12 event defendant is imprisoned for failure to pay fine or costs,
13 or both, and shall be audited and paid as are costs of like
14 character in said county.

15 (d) The powers, conferred by this article upon the
16 department, relating to the administration or enforcement of
17 this article, shall be in addition to, but not exclusive of, any
18 other powers heretofore or hereafter conferred upon the
19 department by law.

20 PART VI

21 RETENTION OF RECORDS BY CORPORATION

22 Section 409. Retention of Records.--Each corporation shall
23 maintain and keep for a period of three years after any report
24 is filed under this article, such record or records of its
25 business within this Commonwealth for the period covered by such
26 report and other pertinent papers, as may be required by the
27 department.

28 PART VII

29 PENALTIES

30 Section 410. Penalties.--(a) Any person violating any of the

1 provisions of section 409 shall be guilty of a misdemeanor, and
2 shall, upon conviction thereof, be sentenced to pay a fine not
3 exceeding one thousand dollars (\$1,000) and costs of
4 prosecution, or to undergo imprisonment for not more than six
5 months, or both.

6 (b) Any person who shall wilfully make a false and
7 fraudulent return of net income made taxable by this article,
8 shall be guilty of wilful and corrupt perjury, and, upon
9 conviction thereof, shall be subject to punishment as provided
10 by law. Such penalty shall be in addition to any other penalties
11 imposed by this article.

12 (c) Any person, who wilfully fails, neglects, or refuses to
13 make a report or to pay the tax as herein prescribed, or who
14 shall refuse to permit the department to examine the books,
15 papers, and records of any corporation liable to pay tax under
16 this article, shall be guilty of a misdemeanor, and, upon
17 conviction thereof, shall be sentenced to pay a fine not
18 exceeding one thousand dollars (\$1,000) and costs of
19 prosecution, or to undergo imprisonment not exceeding six
20 months, or both. Such penalty shall be in addition to any other
21 penalties imposed by this article.

22 PART VIII

23 REPEALER; EFFECTIVE DATE

24 Section 411. Repeal.--The act of May 16, 1935 (P.L.208),
25 known as the "Corporate Net Income Tax Act," is repealed.

26 Section 412. Effective Date.--This article shall take effect
27 January 1, 1971.

28 ARTICLE V

29 CORPORATION INCOME TAX

30 PART I

1 foreign commerce.

2 (5) "Carrying on activities" shall include every act, power
3 or privilege exercised or enjoyed in this Commonwealth as an
4 incident to, or by virtue of, the powers and privileges acquired
5 by the nature of the corporate organization.

6 PART II

7 IMPOSITION OF TAX

8 Section 502. Imposition of Tax.--Every corporation carrying
9 on activities in this Commonwealth or owning property in this
10 Commonwealth by or in the name of itself or any person,
11 partnership, joint-stock association or corporation shall be
12 subject to and shall pay a State property tax on net income
13 derived from sources within this Commonwealth at the rate of
14 twelve per cent per annum upon each dollar of such net income
15 received by and accruing to such corporation during the calendar
16 year 1971, except where a corporation reports to the Federal
17 Government on the basis of a fiscal year and has certified such
18 fact to the department as required by section 403 of Article IV,
19 in which case such tax at the rate of twelve per cent shall be
20 levied, collected and paid upon each dollar of such net income
21 received by and accruing to such corporation during the fiscal
22 year commencing in the calendar year 1971, and a similar tax at
23 the rate of nine and one-half per cent per annum upon each
24 dollar of such net income received by and accruing to such
25 corporation during the calendar year 1972, except where a
26 corporation reports to the Federal Government on the basis of a
27 fiscal year and has certified such fact to the department as
28 required by section 403 of Article IV, in which case such tax at
29 the rate of nine and one-half per cent per annum shall be
30 levied, collected and paid upon each dollar of such net income

1 received by and accruing to such corporation during the fiscal
2 years commencing in the calendar year 1972, and each year
3 thereafter: Provided, however, That such net income shall not
4 include income for any period for which the corporation is
5 subject to taxation under Article IV.

6 PART III

7 PROCEDURE; ENFORCEMENT; PENALTIES

8 Section 503. Procedure; Enforcement; Penalties.--Parts III,
9 IV, V, VI and VII of Article IV are incorporated by reference
10 into this article in so far as they are applicable to the tax
11 imposed hereunder.

12 PART IV

13 REPEALER; EFFECTIVE DATE

14 Section 505. Repeal.--The act of August 24, 1951 (P.L.1417),
15 known as the "Corporation Income Tax Law," is repealed.

16 Section 506. Effective Date.--This article shall take effect
17 January 1, 1971.

18 ARTICLE VI

19 CAPITAL STOCK--FRANCHISE TAX

20 PART I

21 VALUATION OF CAPITAL STOCK

22 Section 601. Valuation of Capital Stock.--Hereafter, except
23 in the case of corporations of the first class, nonprofit
24 corporations, and cooperative agricultural associations not
25 having capital stock and not conducted for profit, banks,
26 savings institutions, title insurance, or trust companies,
27 building and loan associations, and insurance companies, it
28 shall be the duty of every corporation having capital stock,
29 every joint-stock association, limited partnership, and every
30 company whatsoever, now or hereafter organized or incorporated

1 by or under any laws of this Commonwealth, and of every
2 corporation, joint-stock association, limited partnership, and
3 company whatsoever, now or hereafter incorporated or organized
4 by or under the law of any other state or territory of the
5 United States, or by the United States, or by any foreign
6 government, and doing business in and liable to taxation within
7 this Commonwealth or having capital or property employed or used
8 in this Commonwealth by or in the name of any limited
9 partnership or joint-stock association, company, or corporation
10 whatsoever, association or associations, copartnership or
11 copartnerships, person or persons, or in any other manner, to
12 make annually a report in writing to the Department of Revenue
13 on a form or forms to be prescribed and furnished by it setting
14 forth in addition to any other information required by the
15 Department of Revenue:

16 First. The amount of its capital stock at the close of the
17 year for which report is made, together with the highest selling
18 price per share, and the average selling price thereof during
19 said year.

20 Second. Its debt account.

21 Third. Its income account, together with the disposition of
22 any net income, and its profit and loss statement.

23 Fourth. Its general balance sheet.

24 Fifth. Its real estate and tangible personal property, if
25 any, owned and permanently located outside of the Commonwealth,
26 and value of the same; and the value of the property, if any,
27 exempt from taxation.

28 Sixth. A valuation and appraisal, in the manner hereinafter
29 provided, of the capital stock of the said corporation, company,
30 joint-stock association, or limited partnership, at its actual

1 value in cash as it existed at the close of the year for which
2 the report is made.

3 The affidavit of two of the officers of such corporation,
4 limited partnership, joint-stock association or company, shall
5 be attached to said report. Such affidavit shall be in the form
6 required by the Department of Revenue, but shall state, in
7 addition to any other averments required by the department,
8 that, with fidelity and according to the best of their knowledge
9 and belief, the affiants have estimated, valued and appraised,
10 as shown in said report, the capital stock of the said
11 corporation at its actual value in cash as it existed at the
12 close of the year for which report is made; taking into
13 consideration, first, the average which said stock sold for
14 during the year; and second, the price or value indicated or
15 measured by net earnings or by the amount of profit made and
16 either declared in dividends, expended in betterments, or
17 carried into the surplus or sinking fund; and third, the actual
18 value indicated or measured by consideration of the intrinsic
19 value of its tangible property and assets, and of the value of
20 its good will and franchises and privileges, as indicated by the
21 material results of their exercise, taking also into
22 consideration the amount of its indebtedness.

23 The time for filing annual reports may be extended; taxpayers
24 may be permitted to file their annual and tentative reports on a
25 fiscal year basis; the procedure in case the Department of
26 Revenue is not satisfied with the appraisal made by the
27 officers of the taxpayer, and the penalties for failing to file
28 reports and pay taxes shall be as prescribed by law.

29 PART II

30 IMPOSITION OF TAX

1 Section 602. Imposition of Tax.--(a) That every domestic
2 corporation other than corporations of the first class,
3 nonprofit corporations, and cooperative agricultural
4 associations not having capital stock and not conducted for
5 profit, and every joint-stock association, limited partnership,
6 and company whatsoever, from which a report is required under
7 section 601 hereof, shall be subject to, and pay into the
8 treasury of the Commonwealth annually, through the Department of
9 Revenue, a tax at the rate of eight mills, upon each dollar of
10 the actual value of its whole capital stock of all kinds,
11 including common, special, and preferred, as ascertained in the
12 manner prescribed in section 601, for the calendar year 1971 and
13 the fiscal year beginning in 1971 and each year thereafter,
14 except that any domestic corporation, limited partnership,
15 joint-stock association or company subject to the tax prescribed
16 herein may elect to compute and pay its tax under and in
17 accordance with the provisions of subsection (b) of this section
18 602: Provided, That the provisions of this section shall not
19 apply to the taxation of the capital stock of corporations,
20 limited partnerships and joint-stock associations organized for
21 manufacturing, processing, research or development purposes,
22 which is invested in and actually and exclusively employed in
23 carrying on manufacturing, processing, research or development
24 within the State, but every corporation, limited partnership or
25 joint-stock association organized for the purpose of
26 manufacturing, processing, research or development shall pay the
27 State tax of eight mills herein provided, upon such proportion
28 of its capital stock, if any, as may be invested in any property
29 or business not strictly incident or appurtenant to the
30 manufacturing, processing, research or development business, in

1 addition to the local taxes assessed upon its property in the
2 district where located, it being the object of this proviso to
3 relieve from State taxation only so much of the capital stock as
4 is invested purely in the manufacturing, processing, research or
5 development plant and business.

6 (b) Every foreign corporation, joint-stock association,
7 limited partnership, and company whatsoever, from which a report
8 is required under section 601 hereof, shall be subject to and
9 pay into the treasury of the Commonwealth annually, through the
10 Department of Revenue, a franchise tax at the rate of eight
11 mills for the calendar year 1971 and the fiscal year beginning
12 in 1971 and each year thereafter, upon a taxable value to be
13 determined in the following manner. The actual value of its
14 whole capital stock of all kinds, including common, special, and
15 preferred, shall be ascertained in the manner prescribed in
16 section 601 of this article. The taxable value shall then be
17 determined by employing the relevant apportionment factors set
18 forth in Article IV.

19 The provisions of this subsection shall apply to the taxation
20 of corporations, limited partnerships and joint-stock
21 associations organized for manufacturing, processing, research
22 or development purposes.

23 (c) The term processing, as used in this section, shall mean
24 and be limited to the following activities when engaged in as a
25 business enterprise:

26 (1) The cooking or freezing of fruits, vegetables,
27 mushrooms, fish, seafood, meats or poultry, when the person
28 engaged in such business packages such property in sealed
29 containers for wholesale distribution.

30 (2) The scouring, carbonizing, cording, combing, throwing,

1 twisting or winding of natural or synthetic fibers, or the
2 spinning, bleaching, dyeing, printing or finishing of yarns or
3 fabrics, when such activities are performed prior to sale to the
4 ultimate consumer.

5 (3) The electroplating, galvanizing, enameling, anodizing,
6 coloring, finishing, impregnating or heat treating of metals or
7 plastics for sale or in the process of manufacturing.

8 (4) The rolling, drawing or extruding of ferrous and
9 nonferrous metals.

10 (5) The fabrication for sale of ornamental or structural
11 metal or metal stairs, staircases, gratings, fire escapes or
12 railings, (not including fabrication work done at the
13 construction site).

14 (6) The preparation of animal feed or poultry feed for sale.

15 (7) The production, processing and bottling of nonalcoholic
16 beverages for wholesale distribution.

17 (8) The slaughtering and dressing of animals for meat to be
18 sold or to be used in preparing meat products for sale, and the
19 preparation of meat products, including lard, tallow, grease,
20 cooking and inedible oils for wholesale distribution.

21 (9) The operation of a saw mill or planing mill for the
22 production of lumber or lumber products for sale.

23 (10) The milling for sale of flour or meal from grains.

24 (11) The publishing of books, newspapers, magazines or other
25 periodicals, printing and broadcasting radio and television
26 programs by licensed commercial or educational stations.

27 (12) The processing of used lubricating oils.

28 (13) The blending, rectification or production by
29 distillation or otherwise of alcohol or alcoholic liquors,
30 except the distillation of alcohol from by-products of wine-

1 making for the sole purpose of fortifying wine.

2 (d) "Research and development" shall mean activities
3 relating to the discovery of new and the refinement of known
4 substances, products, processes, theories and ideas, but shall
5 not include activities directed primarily to the accumulation or
6 analysis of commercial, financial or mercantile data.

7 (e) It shall be the duty of the treasurer or other officers
8 having charge of any such corporation, joint-stock association,
9 or limited partnership, upon which a tax is imposed by this
10 section, to transmit the amount of said tax to the Department of
11 Revenue within the time prescribed by law: Provided, That for
12 the purposes of this act interest in limited partnerships or
13 joint-stock associations shall be deemed to be capital stock,
14 and taxable accordingly: Provided, further, That corporations,
15 limited partnerships, and joint-stock associations, liable to a
16 tax under this section, shall not be required to pay any further
17 tax on the mortgages, bonds, and other securities owned by them
18 and in which the whole body of stockholders or members, as such,
19 have the entire equitable interest in remainder; but
20 corporations, limited partnerships, and joint-stock
21 associations, owning or holding such securities as trustees,
22 executors, administrators, guardians, or in any other manner
23 than for the whole body of stockholders or members thereof as
24 sole equitable owners in remainder, shall return and pay the tax
25 imposed by this act upon all securities so owned or held by
26 them, as in the case of individuals.

27 (f) Any holding company subject to the capital stock tax or
28 the franchise tax imposed by this section may elect to compute
29 said tax by applying the rate of tax of eight mills, upon each
30 dollar to ten per cent of the actual value of its whole capital

1 stock. If exercised, this election shall be in lieu of any other
2 apportionment or allocation to which such company would
3 otherwise be entitled.

4 The term "holding company" shall mean any corporation (i) at
5 least ninety per cent of the gross income of which for the
6 taxable year is derived from dividends, interest, gains from the
7 sale or other disposition of stock or securities and the
8 rendition of management and administrative services to
9 subsidiary corporations, and (ii) at least sixty per cent of the
10 actual value of the total assets of which consists of stock
11 securities or indebtedness of subsidiary corporations.

12 The term "subsidiary corporation" shall mean any corporation,
13 a majority of the total issued and outstanding shares of voting
14 stock of which are owned by the taxpayer corporation directly or
15 through one or more intervening subsidiary corporations.

16 (g) Notwithstanding any other provisions contained in this
17 section 602, relating to the appraisal, allocation or
18 apportionment of the value of the capital stock of a corporation
19 subject to tax in the Commonwealth of Pennsylvania, every
20 domestic corporation and every foreign corporation registered to
21 do business in Pennsylvania and (i) which maintains an office in
22 Pennsylvania and (ii) which has filed a timely election to be
23 taxed as a regulated investment company with the Federal
24 Government and (iii) which duly qualifies to be taxed as a
25 regulated investment company under the provisions of the
26 Internal Revenue Code of 1954 as amended, shall be taxed as a
27 regulated investment company and shall be subject to the capital
28 stock or franchise tax imposed by section 602, which tax shall
29 be computed in the following manner:

30 (1) The value of its capital stock shall be determined by

1 adding its net asset values as of the last day of each month
2 during the taxable period or year and dividing the total sum by
3 the number of months involved, for which purpose net asset value
4 means the actual market value of all assets owned by such
5 corporation without any exemptions or exclusions less all of its
6 liabilities, debts and other obligations.

7 (2) The proportion of such value taxable in this
8 Commonwealth at the rate of eight mills, shall be determined by
9 applying to such value a fraction, the numerator of which is the
10 sum of the corporation's gross receipts from (i) sales of its
11 own shares to Pennsylvania investors and (ii) sales of its
12 portfolio securities where the orders for such sales are placed
13 with or credited to Pennsylvania offices of registered
14 securities dealers and the denominator of which fraction is the
15 corporation's total gross receipts from (i) sales of its own
16 shares and (ii) sales of its portfolio securities. Pennsylvania
17 investors shall mean individuals residing in Pennsylvania at the
18 time of the sale or corporations or other entities having their
19 principal place of business located in Pennsylvania at such
20 time.

21 (3) Any regulated investment company shall have the right
22 annually, to elect to compute its capital stock or franchise tax
23 by applying the rate of tax of eight mills, upon each dollar to
24 ten per cent of the capital stock value of such corporation. If
25 exercised this election shall be in lieu of any other
26 apportionment or allocation to which such corporation would
27 otherwise be entitled.

28 PART III

29 PROCEDURE; ENFORCEMENT; PENALTIES

30 Section 603. Procedure; Enforcement; Penalties.--Parts III,

1 IV, V, VI, and VII of Article IV are incorporated by reference
2 into this article in so far as they are applicable to the tax
3 imposed hereunder.

4 PART IV

5 REPEAL; EFFECTIVE DATE

6 Section 605. Repeal.--Sections 20 and 21, act of June 1,
7 1889 (P.L.420), entitled "A further supplement to an act
8 entitled 'An act to provide revenue by taxation,' approved the
9 seventh day of June, Anno Domini one thousand eight hundred and
10 seventy-nine," are repealed.

11 Section 606. Effective Date.--This article shall take effect
12 January 1, 1971.

13 ARTICLE VII

14 BANK SHARES TAX

15 PART I

16 IMPOSITION OF tax

17 Section 701. Imposition of Tax.--Every bank or savings
18 institution having capital stock, incorporated by or under any
19 law of this Commonwealth or under any law of the United States,
20 and located within this Commonwealth, shall, on or before April
21 15 in each and every year, make to the Department of Revenue a
22 report in writing, verified as required by law, setting forth
23 the full number of shares of the capital stock subscribed for or
24 issued, as of the preceding January 1, by such bank or savings
25 institution having capital stock, and the actual value thereof
26 as of the preceding January 1, which actual value shall be
27 ascertained as hereinafter provided. It shall be the duty of the
28 Department of Revenue to assess such shares for the calendar
29 year beginning January 1, 1971, and each year thereafter, at the
30 rate of fifteen mills upon each dollar of actual value thereof,

1 the actual value of each share of stock to be ascertained and
2 fixed by adding together the amount of capital stock paid in,
3 the surplus, and undivided profits, and dividing this amount by
4 the number of shares. It shall be the duty of every bank or
5 savings institution having capital stock, at the time of making
6 every report required by this section, to compute the tax and to
7 pay the amount of said tax to the State Treasurer, through the
8 Department of Revenue either from its general fund, or from the
9 amount of said tax collected from its shareholders: Provided,
10 That for the calendar year beginning January 1, 1971, and each
11 year thereafter, such bank or savings institution having capital
12 stock, upon the date its report, herein required is made for
13 such calendar year beginning January 1, 1971, and each year
14 thereafter, shall pay to the Department of Revenue not less than
15 eighty per cent of the tax due to the Commonwealth by it for
16 such calendar year, and the remaining tax due shall be paid at
17 the time when the report herein required for the year next
18 succeeding is made: Provided, That in case any bank or savings
19 institution having capital stock, incorporated under the law of
20 this State or of the United States, shall collect, annually,
21 from the shareholders thereof said tax of fifteen mills, on the
22 dollar upon the actual value of all the shares of stock of said
23 bank or savings institution, according to the provisions of this
24 article, that have been subscribed for or issued, and pay the
25 same into the State Treasury, through the Department of Revenue,
26 the shares, and so much of the capital and profits of such bank
27 or savings institution having capital stock as shall not be
28 invested in real estate, shall be exempt from local taxation
29 under the laws of this Commonwealth; and such bank or savings
30 institution having capital stock shall not be required to make

1 any report to the local assessor or county commissioners of its
2 personal property owned by it in its own right for purposes of
3 taxation and shall not be required to pay any tax thereon.

4 PART II

5 PROCEDURE; ENFORCEMENT; PENALTIES

6 Section 702. Procedure; Enforcement; Penalties.--Parts III,
7 IV, V, VI and VII of Article IV are incorporated by reference
8 into this article in so far as they are applicable to the tax
9 imposed hereunder.

10 PART III

11 REPEALER; EFFECTIVE DATE

12 Section 705. Repeal.--Clause 1 of section 1, act of July 15,
13 1897 (P.L.292), entitled "An act to provide revenue by
14 taxation," is repealed.

15 Section 706. Effective Date.--This article shall take effect
16 January 1, 1971.

17 ARTICLE VIII

18 TITLE INSURANCE AND TRUST COMPANIES SHARES TAX

19 PART I

20 IMPOSITION OF TAX

21 Section 801. Imposition of Tax.--Every company incorporated
22 under the provisions of section 29 of an act, entitled "An act
23 to provide for the incorporation and regulation of certain
24 corporations," approved April 29, 1874, and its supplements, or
25 any other act of Assembly heretofore or hereafter approved, for
26 the insurance of owners of real estate, mortgages, and others
27 interested in real estate, from loss by reason of defective
28 titles, liens, and encumbrances, and every company entitled to
29 benefits of, and every company having any of the powers of,
30 companies entitled to the benefits of an act, entitled "An act

1 conferring upon certain fidelity, insurance, safety deposit,
2 trust, and savings companies, the powers and privileges of
3 companies incorporated under the provisions of section 29 of an
4 act, entitled 'An act to provide for the incorporation and
5 regulation of certain corporations,' approved April 29, 1874,
6 and of the supplements thereto," approved June 27, 1895,
7 commonly known as title insurance or trust companies, and every
8 company organized as a bank and trust company or as a trust
9 company under any act of Assembly heretofore or hereafter
10 approved, except any such companies, all of the shares of
11 capital stock of which (other than shares necessary to qualify
12 directors) are owned by a company which is liable to pay to the
13 Commonwealth a tax on shares, shall, on or before April 15 in
14 each and every year, make to the Department of Revenue a report
15 in writing, setting forth the full number of shares of the
16 capital stock subscribed for or issued by such company, and the
17 actual value thereof as of January 1 preceding, which shall be
18 ascertained as hereinafter provided. It shall be the duty of the
19 Department of Revenue, to assess such shares for taxation at the
20 rate of fifteen mills upon each dollar of the actual value
21 thereof, the actual value of each share of stock to be
22 ascertained and fixed by adding together the amount of capital
23 stock paid in, the surplus, and undivided profits, and dividing
24 this amount by the number of shares.

25 It shall be the duty of every such company, at the time of
26 making every report required by this section, to compute the tax
27 and to pay the amount of said tax to the State Treasurer,
28 through the Department of Revenue, either from its general fund,
29 or from the amount of said tax collected from its shareholders:
30 Provided, That for the calendar year beginning January 1, 1971,

1 and each year thereafter, every such company shall, at the time
2 of making its report for the calendar year beginning January 1,
3 1971, and each year thereafter, compute the tax and pay to the
4 State Treasurer, through the Department of Revenue, either from
5 its general fund, or from the amount of said tax collected from
6 its shareholders, not less than eighty per cent of the tax due
7 to the Commonwealth by it for such calendar year and the
8 remaining tax due shall be paid at the time when the report
9 herein required for the year next succeeding is made: Provided,
10 That upon the payment of the tax fixed by this act into the
11 State Treasury, through the Department of Revenue, the shares
12 and so much of the capital stock, surplus, profits, and deposits
13 of such company as shall not be invested in real estate, shall
14 be exempt from all other taxation under the laws of this
15 Commonwealth. The procedure, in case the Department of Revenue
16 be not satisfied with the report made by any title insurance or
17 trust company, and the penalties for failing to make such report
18 and pay the tax, shall be as provided by law.

19 PART II

20 PROCEDURE; ENFORCEMENT; PENALTIES

21 Section 802. Procedure; Enforcement; Penalties.--Parts III,
22 IV, V, VI and VII of Article IV are incorporated by reference
23 into this article insofar as they are applicable to the tax
24 imposed hereunder.

25 PART III

26 REPEALER; EFFECTIVE DATE

27 Section 805. Repeal.--Section 1, act of June 13, 1907
28 (P.L.640), entitled "An act to provide revenue by levying a tax
29 upon the shares of stock of companies incorporated under the
30 provisions of section twenty-nine of an act, entitled 'An act to

1 provide for the incorporation and regulation of certain
2 corporations,' approved April twenty-ninth, one thousand eight
3 hundred and seventy-four, and the supplements thereto; for the
4 insurance of owners of real estate, mortgages, and others
5 interested in real estate, from loss by reason of defective
6 titles, liens, and encumbrances; and of companies entitled to
7 the benefits of, and of companies having any of the powers of,
8 companies entitled to the benefits of an act, entitled 'An act
9 conferring upon certain fidelity, insurance, safety deposit,
10 trust, and savings companies the powers and privileges of
11 companies incorporated under the provisions of section twenty-
12 nine of an act, entitled "An act to provide for the
13 incorporation and regulation of certain corporations," approved
14 April twenty-ninth, Anno Domini one thousand eight hundred and
15 seventy-four, and of the supplements thereto,' approved June
16 twenty-seventh, one thousand eight hundred and ninety-five,
17 commonly known as title insurance or trust companies," is
18 repealed.

19 Section 806. Effective Date.--This article shall take effect
20 January 1, 1971.

21 ARTICLE IX

22 INSURANCE PREMIUMS TAX

23 PART I

24 DEFINITIONS

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

28 (1) "Insurance company" means every insurance company,
29 association or exchange, incorporated or organized by or under
30 the laws of this Commonwealth, the United States, territories,

1 dependencies, other states, or foreign governments, and engaged
2 in transacting insurance business of any kind or classification
3 within this Commonwealth, except purely mutual beneficial
4 associations whose funds for the benefit of members and families
5 or heirs are made up entirely of the weekly, monthly, quarterly,
6 semi-annual or annual contributions to their members and the
7 accumulated interest thereon and corporations organized under
8 the act of June 21, 1937 (P.L.1948), known as the "Nonprofit
9 Hospital Plan Act," and the act of June 27, 1939 (P.L.1125),
10 known as the "Nonprofit Medical, Osteopathic, Dental and
11 Podiatry Service Corporation Act."

12 (2) "Gross premiums" means premiums, premium deposits or
13 assessments received by any insurance company, whether received
14 in money or in the form of notes, credits, or any other
15 substitutes for money, and whether collected in this
16 Commonwealth or elsewhere. Gross premiums shall not include: (i)
17 amounts returned on policies canceled or not taken; (ii)
18 premiums received for reinsurance; (iii) in the case of mutual
19 insurance companies, associations, exchanges, and stock
20 companies with participating features, that portion of the
21 advanced premiums, premium deposits or assessments returned in
22 cash or credited to members or policyholders, whether as
23 dividends, earnings, savings, or return deposits, upon the
24 expiration or termination of their contracts; and (iv) notes or
25 other obligations received by mutual insurance companies to
26 secure contingent premium liabilities to the extent that no
27 assessment has been made and collected against said notes or
28 obligations.

29 PART II

30 IMPOSITION OF TAX

1 Section 902. Imposition of Tax.--Every insurance company, as
2 herein defined, transacting business in the Commonwealth of
3 Pennsylvania, shall pay to the department, a tax at the rate of
4 two per cent of the gross premiums received from business done
5 within this Commonwealth during each calendar year, except that
6 any insurance company which was not subject to this tax prior to
7 1971 shall be taxed at the rate of one per cent for the year
8 1971 and thereafter at the rate of two per cent.

9 PART III

10 ANNUAL REPORT

11 Section 903. Annual Report.--Every insurance company shall
12 make a report to the department on a form prescribed by it on or
13 before April 15 of each year, showing the gross premiums
14 received from business transacted in the Commonwealth during the
15 year ending December 31 preceding. When making such report, the
16 insurance company shall compute and pay to the Commonwealth the
17 tax upon the gross premiums received from business transacted
18 within this Commonwealth during such preceding year.

19 PART IV

20 PROCEDURE; ENFORCEMENT; PENALTIES

21 Section 904. Procedure; Enforcement; Penalties.--Parts III,
22 IV, V, VI and VII of Article IV are incorporated by reference
23 into this article in so far as they are applicable to the tax
24 imposed hereunder.

25 PART V

26 Section 905. Repeal.--The act of February 21, 1961 (P.L.33),
27 entitled "An act imposing a State tax on gross premiums, premium
28 deposits, and assessments received from business transacted
29 within this Commonwealth by certain insurance companies,
30 associations, and exchanges; requiring the filing of annual and

1 tentative reports and the computation and payment of tax;
2 providing for the rights, powers and duties of the Department of
3 Revenue, the taxpayers and officers thereof; and providing
4 penalties," is repealed.

5 Section 906. Effective Date.--This article shall take effect
6 January 1, 1971.

7 ARTICLE X

8 CAPITAL STOCK TAX ON FOREIGN CORPORATIONS

9 PART I

10 DEFINITIONS

11 Section 1001. Definitions.--The following terms when used in
12 this article shall have the meanings ascribed to them in this
13 section:

14 (1) "Foreign corporation" means any corporation, limited
15 partnership or joint-stock association chartered or created by
16 or under the laws of any other state or of the United States or
17 of any foreign country, which has been issued a certificate of
18 authority by the Department of State to do business within this
19 Commonwealth and which either (i) has its principal office or
20 chief place of business located within this Commonwealth, or
21 (ii) has any part of its capital actually employed within this
22 Commonwealth. The term "foreign corporation" shall not include
23 foreign insurance companies and foreign nonprofit corporations
24 which do not have capital stock.

25 (2) "Increase of capital" means, (i) as to foreign
26 corporations doing business in this Commonwealth, any increase
27 of capital in excess of the amount actually employed in this
28 Commonwealth at any time prior to January 1, 1971 by such
29 corporations reporting on a calendar year basis, or at any time
30 prior to the first day of any fiscal year, beginning in the

1 calendar year 1971, by such corporations reporting on a fiscal
2 year basis; (ii) as to corporations admitted to do business in
3 this Commonwealth after the effective date of this article,
4 capital actually employed within this Commonwealth at the time
5 of or after receiving a certificate of authority to do business
6 from the Department of State and any increase thereof.

7 PART II

8 IMPOSITION OF TAX

9 Section 1002. Imposition of Tax.--From and after the
10 effective date of this article, every foreign corporation, in
11 addition to complying with all the laws of the Commonwealth now
12 or hereafter in effect, shall, for the privilege of exercising
13 its franchises in Pennsylvania, pay to the department an excise
14 tax of one-third of one per cent upon the amount of any increase
15 of capital actually employed within this Commonwealth: Provided,
16 That credit shall be allowed for said excise tax in the
17 following cases:

18 (1) Merger of domestic corporation or corporations and/or
19 foreign corporation or corporations with a foreign corporation
20 and the surviving foreign corporation in the merger is then
21 authorized, or will immediately thereafter be authorized, by a
22 certificate of authority to transact business in this
23 Commonwealth;

24 (2) Consolidation of two or more foreign corporations or of
25 domestic and foreign corporations (one or more of each), and the
26 corporation formed by the consolidation is a foreign corporation
27 which is then authorized, or will immediately thereafter be
28 authorized, by a certificate of authority to transact business
29 in this Commonwealth.

30 In such cases, the surviving or consolidated foreign

1 corporation shall be entitled to credit upon any excise tax due
2 and payable hereunder equal to the excise tax computed at the
3 rate of one-third of one per cent on the value of the assets of
4 the merging or consolidating foreign corporation or corporations
5 actually employed by such surviving or consolidated foreign
6 corporation within this Commonwealth within the provisions and
7 intent of this article, and such proportion of the total excise
8 tax of the merging or consolidating domestic corporation or
9 corporations paid or relieved from payment on its authorized or
10 issued and outstanding capital stock, determined by the ratio
11 that the value of the assets of such domestic corporation or
12 corporations actually employed by such surviving or consolidated
13 foreign corporation within this Commonwealth within the
14 provisions and intent of this article bears to the value of the
15 total assets of such domestic corporation.

16 PART III

17 REPORTS

18 Section 1003. Initial and Annual Report.--Every foreign
19 corporation shall annually file a report with the department for
20 information purposes on a form prescribed by the department
21 stating (i) the state or country in which incorporated or
22 created, (ii) the date of incorporation or organization, (iii)
23 location of its chief office in this Commonwealth, (iv) the name
24 and address of its president and treasurer, (v) the greatest
25 amount of capital actually employed within this Commonwealth
26 during the preceding calendar or fiscal year, (vi) the greatest
27 amount of capital actually employed within this Commonwealth at
28 any time prior to the preceding calendar or fiscal year, and
29 (vii) such other information as the department shall require for
30 the purpose of this article.

1 PART IV

2 PROCEDURE; ENFORCEMENT; PENALTIES

3 Section 1004. Procedure; Enforcement; Penalties.--Parts III,
4 IV, V, VI and VII of Article IV are incorporated by reference
5 into this article in so far as they are applicable to the tax
6 imposed hereunder.

7 PART V

8 REPEALER; EFFECTIVE DATE

9 Section 1005. Repeal.--The act of July 25, 1953 (P.L.560),
10 entitled "An act to provide revenue for State purposes by
11 imposing an excise tax upon any increase in capital, as defined,
12 actually employed in Pennsylvania, by any foreign corporation,
13 limited partnership or joint-stock association; requiring the
14 filing of reports; providing for rights, powers and duties of
15 the Department of Revenue, the taxpayers and officers thereof;
16 imposing interest and penalties; and repealing a certain act
17 relating to foreign corporations, limited partnerships and
18 joint-stock associations," is repealed.

19 Section 1006. Effective Date.--This article shall take
20 effect January 1, 1971.

21 ARTICLE XI

22 GENERAL PROVISIONS

23 Section 1101. Saving Clause.--(a) Notwithstanding anything
24 contained in any law to the contrary, the validity of any
25 ordinance or part of any ordinance or any resolution or part of
26 any resolution, and any amendments or supplements thereto now or
27 hereinafter enacted or adopted by any political subdivision of
28 this Commonwealth for or relating to the imposition, levy or
29 collection of any tax, shall not be affected or impaired by
30 anything contained in this code.

1 (b) Nothing contained in this code shall be construed to
2 relieve any person, corporation or other entity from the filing
3 returns or from any taxes, penalties or interest imposed by the
4 provisions of any laws which were in effect prior to being
5 repealed by this code, or effect or terminate any petitions,
6 investigations, prosecutions, legal or otherwise, or other
7 proceedings pending under the provisions of any such laws or
8 prevent the commencement or further prosecution of any
9 proceedings by the proper authorities of the Commonwealth for
10 violation of any such laws or for the assessment, settlement,
11 collection or recovery of taxes, penalties or interest due to
12 the Commonwealth under any of the laws which were in effect
13 prior to being repealed by this code.

14 Section 1102. Constitutional Construction.--If any word,
15 phrase, clause, sentence, section or provision of this code is
16 for any reason held to be unconstitutional, the decision of the
17 court shall not affect or impair any of the remaining provisions
18 of this code. It is hereby declared as the legislative intent
19 that this code would have been adopted had such unconstitutional
20 word, phrase, clause, sentence, section or provision thereof not
21 been included herein.

22 Section 1103. Effective Date.--The provisions of this code,
23 except as otherwise specified, shall take effect immediately.