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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 190

Session of  
1971

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

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AS AMENDED ON SECOND CONSIDERATION, IN SENATE, FEBRUARY 18, 1971

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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 of manufacturing,  
20 fabricating, compounding, processing or other operations,  
21 engaged in as a business, which place any personal property in a  
22 form, composition or character different from that in which it  
23 is acquired whether for sale or use by the manufacturer, and  
24 shall include, but not limited to--

25 (1) Every operation commencing with the first production  
26 stage and ending with the completion of personal property having  
27 the physical qualities (including packaging, if any, passing to  
28 the ultimate consumer) which it has when transferred by the  
29 manufacturer to another;

30 (2) The publishing of books, newspapers, magazines and other

1 periodicals and printing;

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

5 (4) Building, rebuilding, repairing and making additions to,  
6 or replacements in or upon vessels designed for commercial use  
7 of registered tonnage of fifty tons or more when produced upon  
8 special order of the purchaser, or when rebuilt, repaired or  
9 enlarged, or when replacements are made upon order of, or for  
10 the account of the owner;

11 (5) Research having as its objective the production of a new  
12 or an improved (i) product or utility service, or (ii) method of  
13 producing a product or utility service, but in either case not  
14 including market research or research having as its objective  
15 the improvement of administrative efficiency.

16 The term "manufacture," shall not include constructing,  
17 altering, servicing, repairing or improving real estate or  
18 repairing, servicing or installing personal property.

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

21 (1) The cooking or freezing of fruits, vegetables,  
22 mushrooms, fish, seafood, meats or poultry, when the person  
23 engaged in such business packages such property in sealed  
24 containers for wholesale distribution.

25 (2) The scouring, carbonizing, cording, combing, throwing,  
26 twisting or winding of natural or synthetic fibers, or the  
27 spinning, bleaching, dyeing, printing or finishing of yarns or  
28 fabrics, when such activities are performed prior to sale to the  
29 ultimate consumer.

30 (3) The electroplating, galvanizing, enameling, anodizing,

1 coloring, finishing, impregnating or heat treating of metals or  
2 plastics for sale or in the process of manufacturing.

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

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

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

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

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

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

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

19 (11) The processing of used lubricating oils.

20 (12) The broadcasting of radio and television programs of  
21 licensed commercial or educational stations.

22 (e) "Person." Any natural person, association, fiduciary,  
23 partnership, corporation or other entity, including the  
24 Commonwealth of Pennsylvania, its political subdivisions and  
25 instrumentalities and public authorities. Whenever used in any  
26 clause prescribing and imposing a penalty or imposing a fine or  
27 imprisonment, or both, the term "person," as applied to an  
28 association, shall include the members thereof and, as applied  
29 to a corporation, the officers thereof.

30 (f) "Purchase at retail."

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

7 (2) The acquisition of a license to use or consume, and the  
8 rental or lease of tangible personal property, other than for  
9 resale regardless of the period of time the lessee has  
10 possession or custody of the property.

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

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

18 The term "purchase at retail" with respect to "liquor" and  
19 "malt or brewed beverages" shall include the purchase of  
20 "liquor" from any "Pennsylvania Liquor Store" by any person for  
21 any purpose, and the purchase of "malt or brewed beverages" from  
22 a "manufacturer of malt or brewed beverages," "distributor" or  
23 "importing distributor" by any person for any purpose, except  
24 purchases from a "manufacturer of malt or brewed beverages" by a  
25 "distributor" or "importing distributor" or purchases from an  
26 "importing distributor" by a "distributor" within the meaning of  
27 the "Liquor Code." The term "purchase at retail" shall not  
28 include any purchase of "malt or brewed beverages" from a  
29 "retail dispenser" or any purchase of "liquor" or "malt or  
30 brewed beverages" from a person holding a "retail liquor

1 license" within the meaning of and pursuant to the provisions of  
2 the "Liquor Code," but shall include any purchase or acquisition  
3 of "liquor" or "malt or brewed beverages" other than pursuant to  
4 the provisions of the "Liquor Code."

5 (g) "Purchase price."

6 (1) The total value of anything paid or delivered, or  
7 promised to be paid or delivered, whether it be money or  
8 otherwise, in complete performance of a sale at retail or  
9 purchase at retail, as herein defined, without any deduction on  
10 account of the cost or value of the property sold, cost or value  
11 of transportation, cost or value of labor or service, interest  
12 or discount paid or allowed after the sale is consummated, any  
13 other taxes imposed by the Commonwealth of Pennsylvania or any  
14 other expense except that there shall be excluded any separately  
15 stated deposit charge for returnable containers.

16 (2) There shall be deducted from the purchase price the  
17 value of any personal property actually taken in trade or  
18 exchange within this Commonwealth in lieu of the whole or any  
19 part of the purchase price. For the purpose of this subsection,  
20 the amount allowed by reason of personal property actually taken  
21 in trade or exchange shall be considered the value of such  
22 property.

23 (3) In determining the purchase price on the sale or use of  
24 taxable tangible personal property where, because of affiliation  
25 of interests between the vendor and purchaser, or irrespective  
26 of any such affiliation, if for any other reason the purchase  
27 price declared by the vendor or taxpayer on the taxable sale or  
28 use of such tangible personal property is, in the opinion of the  
29 department, not indicative of the true value of the article or  
30 the fair price thereof, the department shall, pursuant to

1 uniform and equitable rules, determine the amount of  
2 constructive purchase price upon the basis of which the tax  
3 shall be computed and levied. Such rules shall provide for a  
4 constructive amount of purchase price for each such sale or use  
5 which would naturally and fairly be charged in an arms-length  
6 transaction in which the element of common interest between the  
7 vendor or purchaser is absent or if no common interest exists,  
8 any other element causing a distortion of the price or value is  
9 likewise absent. For the purpose of this clause where a taxable  
10 sale or purchase at retail transaction occurs between a parent  
11 and a subsidiary, affiliate or controlled corporation of such  
12 parent corporation, there shall be a rebuttable presumption,  
13 that because of such common interest such transaction was not at  
14 arms-length.

15 (4) Where there is a transfer or retention of possession or  
16 custody, whether it be termed a rental, lease, service or  
17 otherwise, of tangible personal property including, but not  
18 limited to linens, aprons, motor vehicles, trailers, tires,  
19 industrial office and construction equipment, and business  
20 machines the full consideration paid or delivered to the vendor  
21 or lessor shall be considered the purchase price, even though  
22 such consideration be separately stated and be designated as  
23 payment for processing, laundering, service, maintenance,  
24 insurance, repairs, depreciation or otherwise. Where the vendor  
25 or lessor supplies or provides an employe to operate such  
26 tangible personal property, the value of the labor thus supplied  
27 may be excluded and shall not be considered as part of the  
28 purchase price if separately stated. There shall also be  
29 included as part of the purchase price the value of anything  
30 paid or delivered, or promised to be paid or delivered by a



1 lessee, whether it be money or otherwise, to any person other  
2 than the vendor or lessor by reason of the maintenance,  
3 insurance or repair of the tangible personal property which a  
4 lessee has the possession or custody of under a rental contract  
5 or lease arrangement.

6 (5) With respect to the tax imposed by subsection (b) of  
7 section 202 upon any tangible personal property originally  
8 purchased by the user of such property six months or longer  
9 prior to the first taxable use of such property within the  
10 Commonwealth, such user may elect to pay tax on a substituted  
11 base determined by considering the purchase price of such  
12 property for tax purposes to be equal to the prevailing market  
13 price of similar personal property at the time and place of such  
14 first use within the Commonwealth. Such election must be made by  
15 filing a notice thereof in the form specified by the department  
16 and reporting such tax liability and paying the proper tax due  
17 plus all accrued penalties and interest, if there be any, within  
18 one year of the due date of such report and payment, as provided  
19 for by subsections (a) and (c) of section 217 of this article.

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

27 (i) "Resale."

28 (1) Any transfer of ownership, custody or possession of  
29 tangible personal property for a consideration, including the  
30 grant of a license to use or consume and transactions where the

1 possession of such property is transferred but where the  
2 transferor retains title only as security for payment of the  
3 selling price whether such transaction be designated as bailment  
4 lease, conditional sale or otherwise.

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

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

15 (j) "Resident."

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

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

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

28 (k) "Sale at retail."

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

1 the grant of a license to use or consume whether such transfer  
2 be absolute or conditional and by whatsoever means the same  
3 shall have been effected.

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

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

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

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

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

30 (5) Any retention after March 7, 1956, of possession,

1 custody or a license to use or consume pursuant to a rental  
2 contract or other lease arrangement (other than as security).

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

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

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

18 The term "sale at retail" shall not include (i) any such  
19 transfer of tangible personal property or rendition of services  
20 for the purpose of resale, or (ii) such rendition of services or  
21 the transfer of tangible personal property including, but not  
22 limited to, machinery and equipment and parts therefor and  
23 supplies to be used or consumed by the purchaser directly in any  
24 of the operations of--

25 (A) The manufacture of personal property;

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

30 (C) The producing, delivering or rendering of a public

1 utility service, or in constructing, reconstructing, remodeling,  
2 repairing or maintaining the facilities used in such service,  
3 whether or not such facilities constitute real estate: Provided,  
4 however, "real estate" shall not include buildings;

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

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

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

21 The exclusion provided in paragraph (C) shall not apply to  
22 (i) construction materials used to construct, reconstruct,  
23 remodel, repair or maintain facilities not used directly by the  
24 purchaser in the production, delivering or rendition of public  
25 utility service, or (ii) tools and equipment used but not  
26 installed in the maintenance of facilities used in the  
27 production, delivering or rendition of a public utility service.

28 (9) Where tangible personal property or services are  
29 utilized for purposes constituting a "sale at retail" and for  
30 purposes excluded from the definition of "sale at retail," it

1 shall be presumed that said property is subject to tax, unless  
2 the user prove that the purposes which constitute a "sale at  
3 retail" are minimal.

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

20 (1) "Storage." Any keeping or retention of tangible  
21 personal property within this Commonwealth for any purpose  
22 including the interim keeping, retaining or exercising any right  
23 or power over such tangible personal property.

24 (m) "Tangible personal property." Corporeal personal  
25 property including, but not limited to, goods, wares,  
26 merchandise, steam and natural and manufactured and bottled gas  
27 for non-residential use, electricity for non-residential use,  
28 intrastate telephone and telegraph service for non-residential  
29 use, spirituous or vinous liquor and malt or brewed beverages  
30 and soft drinks; but the term shall not include household

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

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

11 (o) "Use."

12 (1) The exercise of any right or power incidental to the  
13 ownership, custody or possession of tangible personal property  
14 and shall include, but not be limited to transportation, storage  
15 or consumption.

16 (2) The obtaining by a purchaser of the service of printing  
17 or imprinting of tangible personal property when such purchaser  
18 furnishes, either directly or indirectly, the articles used in  
19 the printing or imprinting.

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

26 (4) The obtaining by a purchaser of the service of  
27 repairing, altering, mending, pressing, fitting, dyeing,  
28 laundering, drycleaning or cleaning tangible personal property  
29 other than wearing apparel or shoes or applying or installing  
30 tangible personal property as a repair or replacement part of

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

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

19 (B) The use or consumption of tangible personal property,  
20 including but not limited to machinery and equipment and parts  
21 therefor, and supplies or the obtaining of the services  
22 described in subclauses (2), (3) and (4) of this clause directly  
23 in any of the operations of--

24 (i) The manufacture of personal property;

25 (ii) Farming, dairying, agriculture, horticulture or  
26 floriculture when engaged in as a business enterprise;

27 (iii) The producing, delivering or rendering of a public  
28 utility service, or in constructing, reconstructing, remodeling,  
29 repairing or maintaining the facilities used in such service,  
30 whether or not such facilities constitute real estate: Provided,



1 however, "real estate" shall not include buildings;

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

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

17 The exclusion provided in subparagraph (iii) shall not apply  
18 to (A) construction materials used to construct, reconstruct,  
19 remodel, repair or maintain facilities not used directly in the  
20 production, delivering or rendition of public utility service,  
21 or (B) tools and equipment used but not installed in the  
22 maintenance of facilities used directly in the production,  
23 delivering or rendition of a public utility service.

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

30 (6) The term "use" with respect to "liquor" and "malt or

1 brewed beverages" shall include the purchase of "liquor" from  
2 any "Pennsylvania liquor store" by any person for any purpose  
3 and the purchase of "malt or brewed beverages" from a  
4 "manufacturer of malt or brewed beverages," "distributor" or  
5 "importing distributor" by any person for any purpose, except  
6 purchases from a "manufacturer of malt or brewed beverages" by a  
7 "distributor" or "importing distributor," or purchases from an  
8 "importing distributor" by a "distributor" within the meaning of  
9 the "Liquor Code." The term "use" shall not include any purchase  
10 of "malt or brewed beverages" from a "retail dispenser" or any  
11 purchase of "liquor" or "malt or brewed beverages" from a person  
12 holding a "retail liquor license" within the meaning of and  
13 pursuant to the provisions of the "Liquor Code," but shall  
14 include the exercise of any right or power incidental to the  
15 ownership, custody or possession of "liquor" or "malt or brewed  
16 beverages" obtained by the person exercising such right or power  
17 in any manner other than pursuant to the provisions of the  
18 "Liquor Code."

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

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

27 (q) "Department." The Department of Revenue of the  
28 Commonwealth of Pennsylvania.

29 PART II

30 IMPOSITION OF TAX

1 Section 202. Imposition of Tax.--(a) There is hereby imposed  
2 upon each separate sale at retail of tangible personal property  
3 or services, as defined herein, within this Commonwealth a tax  
4 of ~~six~~ THREE per cent of the purchase price, which tax shall be ←  
5 collected by the vendor from the purchaser, and shall be paid  
6 over to the Commonwealth as herein provided.

7 (b) There is hereby imposed upon the use, on and after the  
8 effective date of this act, within this Commonwealth of tangible  
9 personal property purchased at retail on or after March 7, 1956,  
10 and on those services described herein purchased at retail on  
11 and after April 15, 1959, a tax of ~~six~~ THREE per cent of the ←  
12 purchase price, which tax shall be paid to the Commonwealth by  
13 the person who makes such use as herein provided, except that  
14 such tax shall not be paid to the Commonwealth by such person  
15 where he has paid the tax imposed by subsection (a) of this  
16 section or has paid the tax imposed by this subsection (b) to  
17 the vendor with respect to such use. The tax at the rate of ~~six~~ ←  
18 THREE per cent imposed by this subsection shall not be deemed ←  
19 applicable where the tax has been incurred at the rate of three  
20 per cent or three and one-half per cent or four per cent or five  
21 per cent under the provisions of "The Tax Act of 1963 for  
22 Education."

23 (c) Notwithstanding any other provisions of this article,  
24 the tax with respect to non-residential intrastate telephone  
25 service and intrastate telegraph service within the meaning of  
26 clause (m) of section 201 of this article shall, except for  
27 telegrams paid for in cash at telegraph offices, be computed at  
28 the rate of ~~six~~ THREE per cent upon the total amount billed to ←  
29 customers periodically for such services, irrespective of  
30 whether such billing is based upon a flat rate or upon a message

1 unit charge.

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

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

6 (b) If the purchase price is eleven cents (11¢) or more but  
7 less than ~~eighteen cents (18¢)~~ FORTY-ONE CENTS (41¢), one cent  
8 (1¢) shall be collected. <—

9 (c) If the purchase price is ~~eighteen cents (18¢)~~ FORTY-ONE  
10 CENTS (41¢) or more but less than ~~thirty five cents (35¢)~~ <—  
11 SEVENTY-ONE CENTS (71¢), two cents (2¢) shall be collected. <—

12 (d) If the purchase price is ~~thirty five cents (35¢)~~ <—  
13 SEVENTY-ONE CENTS (71¢) or more but less than ~~fifty one cents~~ <—  
14 ~~(51¢), three cents (3¢) shall be collected.~~

15 ~~(e) If the purchase price is fifty one cents (51¢) or more~~  
16 ~~but less than sixty eight cents (68¢), four cents (4¢) shall be~~  
17 ~~collected.~~

18 ~~(f) If the purchase price is sixty eight cents (68¢) or more~~  
19 ~~but less than eighty five cents (85¢), five cents (5¢) shall be~~  
20 ~~collected.~~

21 ~~(g) If the purchase price is eighty five cents (85¢) or more~~  
22 ~~but less than one dollar and one cent (\$1.01), six cents (6¢)~~ <—  
23 THREE CENTS (3¢) shall be collected. <—

24 ~~(h)~~ (E) If the purchase price is more than one dollar <—  
25 (\$1.00), ~~six~~ THREE per centum of each dollar of purchase price <—  
26 plus the above bracket charges upon any fractional part of a  
27 dollar in excess of even dollars shall be collected.

28 PART III

29 EXCLUSIONS FROM TAX

30 Section 204. Exclusions from Tax.--The tax imposed by

1 section 202 shall not be imposed upon

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

13 (2) The use of tangible personal property purchased by a  
14 nonresident person outside of, and brought into this  
15 Commonwealth for use therein for a period not to exceed seven  
16 days, or for any period of time when such nonresident is a  
17 tourist or vacationer and, in either case not consumed within  
18 the Commonwealth.

19 (3) The use of tangible personal property purchased outside  
20 this Commonwealth for use outside this Commonwealth by a then  
21 nonresident natural person or a business entity not actually  
22 doing business within this Commonwealth, who later brings such  
23 tangible personal property into this Commonwealth in connection  
24 with his establishment of a permanent business or residence in  
25 this Commonwealth: Provided, That such property was purchased  
26 more than six months prior to the date it was first brought into  
27 this Commonwealth or prior to the establishment of such business  
28 or residence, whichever first occurs. This exclusion shall not  
29 apply to tangible personal property temporarily brought into  
30 Pennsylvania for the performance of contracts for the

1 construction, reconstruction, remodeling, repairing and  
2 maintenance of real estate.

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

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

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

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

20 (5) 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, maintenance or sale of such real estate, when the  
24 contract is, either at a fixed price not subject to change or  
25 modification, or entered into pursuant to the obligation of a  
26 formal written bid which cannot be altered or withdrawn, and, in  
27 either case, such contract was entered into or such bid made on  
28 or after March 7, 1956, but prior to April 15, 1959, shall be  
29 exempt from the additional one-half of one per cent of tax  
30 imposed by section 201 of the Tax Act of 1963 for Education as

1 amended April 15, 1959 (P.L.20), and from the additional one-  
2 half of one per cent of tax imposed by section 201 of the Tax  
3 Act of 1963 for Education as amended August 20, 1959 (P.L.729),  
4 and from the additional one per cent of tax imposed by section  
5 201 of the Tax Act of 1963 for Education as amended May 29, 1963  
6 (P.L.49) and from the additional one per cent of tax imposed by  
7 section 201 of the Tax Act of 1963 for Education as amended  
8 January 1, 1968 (P.L.918): Provided, however, That the exemption  
9 granted by this clause shall not be claimed by the purchaser  
10 from any vendor but shall be claimed only by the filing of a  
11 refund petition with the department.

12 (6) The sale at retail or use of materials to be  
13 incorporated into and made a part of real estate pursuant to a  
14 contract for the construction, reconstruction, remodeling,  
15 repairing, maintenance or sale of such real estate when the  
16 contract is, either at a fixed price not subject to change or  
17 modification, or entered into pursuant to the obligation of a  
18 formal written bid which cannot be altered or withdrawn, and, in  
19 either case, such contract was entered into or such bid made on  
20 or after April 15, 1959, but prior to August 20, 1959, shall be  
21 exempt from the additional one-half of one per cent of tax  
22 imposed by section 201 of the Tax Act of 1963 for Education as  
23 amended August 20, 1959 (P.L.729), and from the additional one  
24 per cent of tax imposed by section 201 of the Tax Act of 1963  
25 for Education as amended May 29, 1963 (P.L.49) and from the  
26 additional one per cent of tax imposed by section 201 of the Tax  
27 Act of 1963 for Education as amended January 1, 1968 (P.L.918):  
28 Provided, however, That the exemption granted by this clause  
29 shall not be claimed by the purchaser from any vendor but shall  
30 be claimed only by the filing of a refund petition with the

1 department.

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

19 (8) 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 June 1, 1963, but prior to January 1, 1968, shall be  
28 exempt from the additional one per cent of tax imposed by  
29 section 201 of the Tax Act of 1963 for Education as amended  
30 January 1, 1968 (P.L.918): Provided, however, That the exemption



1 granted by this clause shall not be claimed by the purchaser  
2 from any vendor but shall be claimed only by the filing of a  
3 refund petition with the department.

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

19 (10) The sale at retail to or use by (i) any charitable  
20 organization, volunteer firemen's organization or nonprofit  
21 educational institution, or (ii) a religious organization for  
22 religious purposes of tangible personal property or services:  
23 Provided, however, That the exclusion of this clause shall not  
24 apply with respect to any tangible personal property or services  
25 used in any unrelated trade or business carried on by such  
26 organization or institution or with respect to any materials,  
27 supplies and equipment used in the construction, reconstruction,  
28 remodeling, repairs and maintenance of any real estate, except  
29 materials and supplies when purchased by such organizations or  
30 institutions for routine maintenance and repairs.

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

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

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

15 (14) Sale at retail or use of vessels designed for  
16 commercial use of registered tonnage of fifty tons or more when  
17 produced by the builders thereof upon special order of the  
18 purchaser;

19 (15) Sale at retail of tangible personal property or  
20 services used or consumed in building, rebuilding, repairing and  
21 making additions to or replacements in and upon vessels designed  
22 for commercial use of registered tonnage of fifty tons or more  
23 upon special order of the purchaser, or when rebuilt, repaired  
24 or enlarged, or when replacements are made upon order of or for  
25 the account of the owner.

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

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

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

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

22 (20) The sale at retail or use of materials to be  
23 incorporated into and made a part of real estate pursuant to a  
24 contract for the construction, reconstruction, remodeling,  
25 repairing or maintenance of such real estate, when the contract  
26 was entered into on or after March 7, 1956, but prior to April  
27 15, 1959, between the person who would otherwise be subject to  
28 the tax and a municipal authority, incorporated under the  
29 "Municipality Authorities Act of 1945," shall be exempt from the  
30 additional one-half of one per cent of tax imposed by section

1 201 of the Tax Act of 1963 for Education as amended April 15,  
2 1959 (P.L.20), and from the additional one-half of one per cent  
3 of tax imposed by section 201 of the Tax Act of 1963 for  
4 Education as amended August 20, 1959 (P.L.729), and from the  
5 additional one per cent of tax imposed by section 201 of the Tax  
6 Act of 1963 for Education, as amended May 29, 1963 (P.L.49) and  
7 from the additional one per cent of tax imposed by section 201  
8 of the Tax Act of 1963 for Education as amended January 1, 1968  
9 (P.L.918): Provided, however, That the exemption granted by this  
10 clause shall not be claimed by the purchaser from any vendor but  
11 shall be claimed only by the filing of a refund petition with  
12 the department.

13 (21) The sale at retail or use of materials to be  
14 incorporated into and made a part of real estate pursuant to a  
15 contract for the construction, reconstruction, remodeling,  
16 repairing or maintenance of such real estate, when the contract  
17 was entered into on or after April 15, 1959, but prior to August  
18 20, 1959, between the person who would otherwise be subject to  
19 the tax and a municipal authority, incorporated under the  
20 "Municipality Authorities Act of 1945," shall be exempt from the  
21 additional one-half of one per cent of tax imposed by section  
22 201 of the Tax Act of 1963 for Education as amended August 20,  
23 1959 (P.L.729), and from the additional one per cent of tax  
24 imposed by section 201 of the Tax Act of 1963 for Education, as  
25 amended May 29, 1963 (P.L.49) and from the additional one per  
26 cent of tax imposed by section 201 of the Tax Act of 1963 for  
27 Education as amended January 1, 1968 (P.L.918): Provided,  
28 however, That the exemption granted by this clause shall not be  
29 claimed by the purchaser from any vendor but shall be claimed  
30 only by the filing of a refund petition with the department.

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

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

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

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

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

18 (27) The sale at retail or use of cigarettes.

19 (28) The sale at retail or use of religious publications  
20 sold by religious groups and Bibles and religious articles.

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

24 (i) Soft drinks;

25 (ii) Malt and brewed beverages and spirituous and vinous  
26 liquors;

27 (iii) Food and beverages (except when purchased at, or from  
28 a school or church in the ordinary course of activities of such  
29 organization) when the purchase price of the total transaction  
30 is more than fifty cents (50¢), when purchased (i) from persons

1 engaged in the business of catering, or (ii) from persons  
2 engaged in the business of operating restaurants, cafes, lunch  
3 counters, private and social clubs, taverns, dining cars, hotels  
4 and other eating places. For the purpose of this subclause  
5 (iii), beverages shall not include malt and brewed beverages and  
6 spirituous and vinous liquors, but shall include soft drinks,  
7 and the price of such soft drinks shall be considered together  
8 with the price of other beverages and food in determining  
9 whether the purchase price of the total transaction is more than  
10 fifty cents (50¢).

11 (30) The sale at retail or use of periodicals and  
12 publications which are published at regular intervals not  
13 exceeding three months, circulated among the general public and  
14 containing matters of general interest and reports of current  
15 events.

16 (31) The sale at retail or use of caskets and burial vaults  
17 for human remains and markers and tombstones for human graves.

18 (32) The sale at retail or use of flags of the United States  
19 of America and the Commonwealth of Pennsylvania.

20 (33) The sale at retail or use of textbooks for use in  
21 schools, colleges and universities, either public or private  
22 when purchased in behalf of or through such schools, colleges or  
23 universities provided such institutions of learning are  
24 recognized by the Department of Education.

25 Section 205. Alternate Imposition of Tax; Credits.--If any  
26 person actively and principally engaged in the business of  
27 selling new or used motor vehicles, trailers or semi-trailers,  
28 and registered with the department in the "dealer's class,"  
29 acquires a motor vehicle, trailer or semi-trailer for the  
30 purpose of resale, and prior to such resale, uses the motor

1 vehicle, trailer or semi-trailer for a taxable use under this  
2 act during a period not exceeding one year from the date of  
3 acquisition to the date of resale, such person may, upon notice  
4 to the department within ten days of the commencement of such  
5 use, elect to pay a tax equal to six per cent of the fair rental  
6 value of the motor vehicle, trailer or semi-trailer during such  
7 use. Should such motor vehicle, trailer or semi-trailer be used  
8 for a taxable use after a period of one year, the taxpayer shall  
9 be liable for a tax on the fair market value of such motor  
10 vehicle, trailer or semi-trailer at the time of acquisition, but  
11 shall be allowed a credit equal to the tax paid pursuant to the  
12 election provided for in this section. This section shall not  
13 apply to the use of a vehicle as a wrecker, parts truck,  
14 delivery truck or courtesy car.

15 Section 206. Credit Against Tax.--A credit against the tax  
16 imposed by this act shall be granted with respect to tangible  
17 personal property or services purchased for use outside the  
18 Commonwealth equal to the tax paid to another state by reason of  
19 the imposition by such other state of a tax similar to the tax  
20 imposed by this article: Provided, however, That no such credit  
21 shall be granted unless such other state grants substantially  
22 similar tax relief by reason of the payment of tax under this  
23 act.

24 PART IV

25 LICENSES

26 Section 208. Licenses.--(a) Every person maintaining a place  
27 of business in this Commonwealth, selling or leasing services or  
28 tangible personal property, the sale or use of which is subject  
29 to tax and who has not hitherto obtained a license from the  
30 department, shall, prior to the beginning of business



1 thereafter, make application to the department, on a form  
2 prescribed by the department, for a license. If such person  
3 maintains more than one place of business in this Commonwealth,  
4 the license shall be issued for the principal place of business  
5 in this Commonwealth.

6 (b) The department shall, after the receipt of an  
7 application, issue the license applied for under subsection (a)  
8 of this section. The license shall be nonassignable and of  
9 permanent duration.

10 (c) Any person who, upon the expiration of sixty days after  
11 the effective date of this act, shall maintain a place of  
12 business in this Commonwealth for the purpose of selling or  
13 leasing services or tangible personal property, the sale or use  
14 of which is subject to tax, without having first been licensed  
15 by the department pursuant to the provisions of this section,  
16 shall be guilty of a summary offense, and upon conviction  
17 thereof in a summary proceeding, shall be sentenced to pay a  
18 fine of not less than one hundred dollars (\$100) nor more than  
19 three hundred dollars (\$300), and in default thereof, to undergo  
20 imprisonment of not less than five days nor more than thirty  
21 days. The penalties imposed by this section shall be in addition  
22 to any other penalties imposed by this article.

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

25 PART V

26 HOTEL OCCUPANCY TAX

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

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

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

11 (3) "Occupancy." The use or possession or the right to the  
12 use or possession by any person (other than a "permanent  
13 resident,") of any room or rooms in a hotel for any purpose or  
14 the right to the use or possession of the furnishings or to the  
15 services and accommodations accompanying the use and possession  
16 of the room or rooms.

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

18 (5) "Permanent resident." Any occupant who has occupied or  
19 has the right to occupancy of any room or rooms in a hotel for  
20 at least thirty consecutive days.

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

26 (b) The following words, terms and phrases and words, terms  
27 and phrases of similar import, when used in parts IV and VI of  
28 this article for the purposes of those parts only, shall, in  
29 addition to the meaning ascribed to them by section 201 of this  
30 article, have the meaning ascribed to them in this subsection,

1 except where the context clearly indicates a different meaning:

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

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

5 (3) "Purchase price," rent.

6 (4) "Purchaser," occupant.

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

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

10 (7) "Vendor," operator.

11 (8) "Services," occupancy.

12 (9) "Use," occupancy.

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

18 Section 211. Seasonal Tax Returns.--Notwithstanding any  
19 other provisions in this act, the department may, by regulation,  
20 waive the requirement for the filing of quarterly returns in the  
21 case of any operator whose hotel is operated only during certain  
22 seasons of the year, and may provide for the filing of returns  
23 by such persons at times other than those provided by section  
24 221.

25 PART VI

26 PROCEDURE AND ADMINISTRATION

27 CHAPTER I

28 RETURNS

29 Section 215. Persons Required to Make Returns.--Every person  
30 required to pay tax to the department or collect and remit tax

1 to the department shall file returns with respect to such tax.

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

6 CHAPTER II

7 TIME AND PLACE FOR FILING RETURNS

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

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

15 (2) For the year in which this article becomes effective,  
16 and in each year thereafter, a return shall be filed monthly  
17 with respect to each month by every licensee whose total tax  
18 reported, or in the event no report is filed, the total tax  
19 which should have been reported, for the third calendar quarter  
20 of the preceding year equals or exceeds six hundred dollars  
21 (\$600). Such returns shall be filed on or before the fifteenth  
22 day of the second month succeeding the month with respect to  
23 which the return is made, except that the return due for the  
24 month of April, of each year, shall be filed on or before the  
25 twentieth day of May next following and the return due for the  
26 month of May of each year shall be filed on or before the  
27 twentieth day of June next following. Any licensee required to  
28 file monthly returns hereunder shall be relieved from filing  
29 quarterly returns.

30 (3) For the year in which this article becomes effective,

1 and for each year thereafter, every licensee required to file a  
2 quarterly return for the second calendar quarter shall file a  
3 single return for the months of April and May on or before the  
4 fifteenth day of June next following. The filing of such return  
5 shall not relieve the licensee of the duty to file a return on  
6 or before the last day of July next following and to remit  
7 therewith tax for the month of June.

8 (b) Annual Returns. For the calendar year 1971, and for  
9 each year thereafter, no annual return shall be filed, except as  
10 may be required by rules and regulations of the department  
11 promulgated and published at least sixty days prior to the end  
12 of the year with respect to which the returns are made. Where  
13 such annual returns are required licensees shall not be required  
14 to file such returns prior to the sixty-first day of the year  
15 succeeding the year with respect to which the returns are made.

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

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

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

30 Section 219. Place for Filing Returns.--Returns shall be

1 filed with the department at its main office or at any branch  
2 office which it may designate for filing returns.

3 CHAPTER III

4 PAYMENT OF TAX

5 Section 221. Payment.--When a return of tax is required  
6 under this part, the person required to make the return shall  
7 pay the tax to the department.

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

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

19 (c) Other Payments. Any person other than a licensee liable  
20 to pay any tax under this article shall remit the tax at the  
21 time of filing the return required by this article.

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

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

29 Section 225. Tax Held in Trust for the Commonwealth.--All  
30 taxes collected by any person from purchasers in accordance with

1 this article and all taxes collected by any person from  
2 purchasers under color of this article which have not been  
3 properly refunded by such person to the purchaser shall  
4 constitute a trust fund for the Commonwealth, and such trust  
5 shall be enforceable against such person, his representatives  
6 and any person (other than a purchaser to whom a refund has been  
7 made properly) receiving any part of such fund without  
8 consideration, or knowing that the taxpayer is committing a  
9 breach of trust: Provided, however, That any person receiving  
10 payment of a lawful obligation of the taxpayer from such fund  
11 shall be presumed to have received the same in good faith and  
12 without any knowledge of the breach of trust. Any person, other  
13 than a taxpayer, against whom the department makes any claim  
14 under this section shall have the same right to petition and  
15 appeal as is given taxpayers by any provisions of this part.

16 Section 226. Local Receivers of Use Tax.--Beginning on and  
17 after the effective date of this article, in every county,  
18 except in counties of the first class, the county treasurer is  
19 hereby authorized to receive use tax due and payable under the  
20 provisions of this article from any person other than a  
21 licensee. The receiving of such taxes shall be pursuant to rules  
22 and regulations promulgated by the department and upon forms  
23 furnished by the department. Each county treasurer shall remit  
24 to the department all use taxes received under the authority of  
25 this section minus the costs of administering this provision not  
26 to exceed one per cent of the amount of use taxes received,  
27 which amount shall be retained in lieu of any commission  
28 otherwise allowable by law for the collection of such tax.

29 Section 227. Discount.--If a return is filed by a licensee  
30 and the tax shown to be due thereon less any discount is paid

1 all within the time prescribed, the licensee shall be entitled  
2 to credit and apply against the tax payable by him a discount of  
3 one per cent of the amount of the tax collected by him on and  
4 after the effective date of this article, as compensation for  
5 the expense of collecting and remitting the same and as a  
6 consideration of the prompt payment thereof.

7 CHAPTER IV

8 ASSESSMENT AND COLLECTION OF TAX

9 Section 230. Assessment.--The department is authorized and  
10 required to make the inquiries, determinations and assessments  
11 of the tax (including interest, additions and penalties) imposed  
12 by this article.

13 Section 231. Mode and Time of Assessment.--(a) Underpayment  
14 of Tax. Within a reasonable time after any return is filed, the  
15 department shall examine it and, if the return shows a greater  
16 tax due or collected than the amount of tax remitted with the  
17 return, the department shall issue an assessment for the  
18 difference, together with an addition of three per cent of such  
19 difference, which shall be paid to the department within ten  
20 days after a notice of the assessment has been mailed to the  
21 taxpayer. If such assessment is not paid within ten days, there  
22 shall be added thereto and paid to the department an additional  
23 three per cent of such difference for each month thereof during  
24 which the assessment remains unpaid, but the total of all  
25 additions shall not exceed eighteen per cent of the difference  
26 shown on the assessment.

27 (b) Understatement of Tax. If the department determines that  
28 any return or returns of any taxpayer understates the amount of  
29 tax due, it shall determine the proper amount and shall  
30 ascertain the difference between the amount of tax shown in the



1 return and the amount determined, such difference being  
2 hereafter sometimes referred to as the "deficiency." A notice of  
3 assessment for the deficiency and the reasons therefor shall  
4 then be sent to the taxpayer. The deficiency shall be paid to  
5 the department within thirty days after a notice of the  
6 assessment thereof has been mailed to the taxpayer.

7 (c) Failure to File Return. In the event that any taxpayer  
8 fails to file a return required by this article, the department  
9 may make an estimated assessment (based on information  
10 available) of the proper amount of tax owing by the taxpayer. A  
11 notice of assessment in the estimated amount shall be sent to  
12 the taxpayer. The tax shall be paid within thirty days after a  
13 notice of such estimated assessment has been mailed to the  
14 taxpayer.

15 (d) Authority to Establish Effective Rates by Business  
16 Classification. The department is authorized to make the studies  
17 necessary to compute effective rates by business classification,  
18 based upon the ratio between the tax required to be collected  
19 and taxable sales and to use such rates in arriving at the  
20 apparent tax liability of a taxpayer.

21 Any assessment based upon such rates shall be prima facie  
22 correct, except that such rate shall not be considered where a  
23 taxpayer establishes that such rate is based on a sample  
24 inapplicable to him.

25 Section 232. Reassessment.--Any taxpayer against whom an  
26 assessment is made may petition the department for a  
27 reassessment. Notice of an intention to file such a petition  
28 shall be given to the department within thirty days of the date  
29 the notice of assessment was mailed to the taxpayer, except that  
30 the department for due cause may accept such notice within

1 ninety days of the date the notice of assessment was mailed. The  
2 department by registered mail shall supply the taxpayer with a  
3 statement setting forth in reasonable detail the basis of the  
4 assessment within thirty days after receipt of the taxpayer's  
5 notice of intention to file a petition for reassessment. A  
6 petition for reassessment shall thereafter be filed within  
7 thirty days after such basis of assessment has been mailed to  
8 the taxpayer. Such petition shall set forth in reasonable detail  
9 the grounds upon which the taxpayer claims that the assessment  
10 is erroneous or unlawful, in whole or in part, and shall be  
11 accompanied by an affidavit or affirmation that the facts  
12 contained therein are true and correct and that the petition is  
13 not interposed for delay. An extension of time for filing the  
14 petition may be allowed for cause but in no case shall such  
15 extension exceed one hundred twenty days. The department shall  
16 hold such hearings as may be necessary for the purpose, at such  
17 times and places as it may determine, and each taxpayer who has  
18 duly filed such petition for reassessment shall be notified by  
19 the department of the time when, and the place where, such  
20 hearing in his case will be held.

21 It shall be the duty of the department, within six months  
22 after receiving a filed petition for reassessment, to dispose of  
23 the issue raised by such petition and mail notice of the  
24 department's decision to the petitioner: Provided, however, That  
25 the taxpayer and the department may, by stipulation, extend such  
26 disposal time by not more than six additional months.

27 Section 233. Assessment to Recover Erroneous Refunds.--The  
28 department may, within two years of the granting of any refund  
29 or credit, or within the period in which an assessment could  
30 have been filed by the department with respect to the

1 transaction pertaining to which the refund was granted,  
2 whichever period shall last occur, file an assessment to recover  
3 any refund or part thereof or credit or part thereof which was  
4 erroneously made or allowed.

5 Section 234. Review by Board of Finance and Revenue.--Within  
6 sixty days after the date of mailing of notice by the department  
7 of the decision on any petition for reassessment filed with it,  
8 the person against whom such assessment was made may, by  
9 petition, request the Board of Finance and Revenue to review  
10 such decision. The failure of the department to notify the  
11 petitioner of a decision within the time provided for by section  
12 232 shall act as a denial of such petition, and a petition for  
13 review may be filed with the Board of Finance and Revenue within  
14 one hundred twenty days of the date prior to which the  
15 department should have mailed to the petitioner its notice of  
16 decision. Every petition for review filed hereunder shall state  
17 specifically the reasons on which the petitioner relies, or  
18 shall incorporate by reference the petition for reassessment in  
19 which the reasons are stated. The petition shall be supported by  
20 affidavit that it is not made for the purpose of delay and that  
21 the facts set forth therein are true. The Board of Finance and  
22 Revenue shall act finally in disposing of petitions filed with  
23 it within six months after they have been received. In the event  
24 of the failure of the board to dispose of any petition within  
25 six months, the action taken by the department, upon the  
26 petition for reassessment, shall be sustained. The Board of  
27 Finance and Revenue may sustain the action taken by the  
28 department on the petition for reassessment, or it may reassess  
29 the tax due on such basis as it deems according to law. The  
30 board shall give notice of its action to the department and to

1 the petitioner.

2 Section 235. Appeal to Commonwealth Court.--Any person  
3 aggrieved by the decision of the Board of Finance and Revenue or  
4 by the board's failure to act upon a petition for review within  
5 six months may, within thirty days, appeal to the Commonwealth  
6 Court from the decision of the board or of the department, as  
7 the case may be, in the manner now or hereafter provided by law  
8 for appeals in the case of tax settlements.

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

12 Section 237. Collection of Tax.--(a) Collection by  
13 Department. The department shall collect the tax in the manner  
14 provided by law for the collection of taxes imposed by the laws  
15 of this Commonwealth.

16 (b) Collection by Persons Maintaining a Place of Business in  
17 the Commonwealth. (1) Every person maintaining a place of  
18 business in this Commonwealth and selling or leasing tangible  
19 personal property or services, the sale or use of which is  
20 subject to tax shall collect the tax from the purchaser or  
21 lessee at the time of making the sale or lease, and shall remit  
22 the tax to the department.

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

27 (c) Exemption Certificates. If the tax does not apply to the  
28 sale or lease of tangible personal property or services, the  
29 purchaser or lessee shall furnish to the vendor a certificate  
30 indicating that the sale is not legally subject to the tax. The

1 certificate shall be in substantially such form as the  
2 department may, by regulation, prescribe. Where the tangible  
3 personal property or service is of a type which is never subject  
4 to the tax imposed or where the sale or lease is in interstate  
5 commerce, such certificate need not be furnished. Where a series  
6 of transactions are not subject to tax, a purchaser or user may  
7 furnish the vendor with a single exemption certificate in  
8 substantially such form and valid for such period of time as the  
9 department may, by regulation, prescribe. An exemption  
10 certificate, which is complete and regular and on its face  
11 discloses a valid basis of exemption if taken in good faith,  
12 shall relieve the vendor from the liability imposed by this  
13 section. An exemption certificate accepted by a vendor from a  
14 natural person domiciled within this Commonwealth or any  
15 association, fiduciary, partnership, corporation or other  
16 entity, either authorized to do business within this  
17 Commonwealth or having an established place of business within  
18 this Commonwealth, in the ordinary course of the vendor's  
19 business, which on its face discloses a valid basis of exemption  
20 consistent with the activity of the purchaser and character of  
21 the property or service being purchased, shall be presumed to be  
22 taken in good faith and the burden of proving otherwise shall be  
23 on the Department of Revenue.

24 (d) Direct Payment Permits. The department may authorize a  
25 purchaser or lessee who acquires tangible personal property or  
26 services under circumstances which make it impossible at the  
27 time of acquisition to determine the manner in which the  
28 tangible personal property or service will be used, to pay the  
29 tax directly to the department, and waive the collection of the  
30 tax by the vendor. No such authority shall be granted or

1 exercised, except upon application to the department, and the  
2 issuance by the department, in its discretion, of a direct  
3 payment permit. If a direct payment permit is granted, its use  
4 shall be subject to conditions specified by the department, and  
5 the payment of tax on all acquisitions pursuant to the permit  
6 shall be made directly to the department by the permit holder.

7 Section 238. Collection of Tax on Motor Vehicles, Trailers  
8 and Semi-Trailers.--Notwithstanding the provisions of clause (1)  
9 of subsection (b) of section 237 of this article, tax due on the  
10 sale at retail or use of a motor vehicle, trailer or semi-  
11 trailer required by law to be registered with the department  
12 under the provisions of "The Vehicle Code" shall be paid by the  
13 purchaser or user directly to the department upon application to  
14 the department for an issuance of a certificate of title upon  
15 such motor vehicle, trailer or semi-trailer. The department  
16 shall not issue a certificate of title until the tax has been  
17 paid, or evidence satisfactory to the department has been given  
18 to establish that tax is not due. The department may cancel or  
19 suspend any record of certificate of title or registration of a  
20 motor vehicle, trailer or semi-trailer when the check received  
21 in payment of the tax on such vehicle is not paid upon demand.  
22 Such tax shall be considered as a first encumbrance against such  
23 vehicle and the vehicle may not be transferred without first  
24 payment in full of such tax and any interest additions or  
25 penalties which shall accrue thereon in accordance with this  
26 article.

27 Section 239. Precollection of Tax.--The department may, by  
28 regulation, authorize or require particular categories of  
29 vendors selling tangible personal property for resale to  
30 precollect from the purchaser the tax which such purchaser will

1 collect upon making a sale at retail of such tangible personal  
2 property: Provided, however, That the department, pursuant to  
3 this section, may not require a vendor to precollect tax from a  
4 purchaser who purchases for resale more than one thousand  
5 dollars (\$1,000) worth of tangible personal property from such  
6 vendor per year. In any case in which a vendor has been  
7 authorized to prepay the tax to the person from whom he  
8 purchased the tangible personal property for resale such vendor  
9 so authorized to prepay the tax may, under the regulations of  
10 the department, be relieved from his duty to secure a license if  
11 such duty shall arise only by reason of his sale of the tangible  
12 personal property with respect to which he is, under  
13 authorization of the department, to prepay the tax. The vendor,  
14 on making a sale at retail of tangible personal property with  
15 respect to which he has prepaid the tax, must separately state  
16 at the time of resale the proper amount of tax on the  
17 transaction, and reimburse himself on account of the taxes which  
18 he has previously prepaid. Should such vendor collect a greater  
19 amount of tax in any reporting period than he had previously  
20 prepaid upon purchase of the goods with respect to which he  
21 prepaid the tax, he must file a return and remit the balance to  
22 the Commonwealth at the time at which a return would otherwise  
23 be due with respect to such sales.

24 Section 240. Bulk and Auction Sales.--Every person who shall  
25 sell or cause to be sold at auction, or who shall sell or  
26 transfer in bulk, fifty-one per centum or more of any stock of  
27 goods, wares or merchandise of any kind, fixtures, machinery,  
28 equipment, buildings or real estate, involved in a business for  
29 which such person is licensed or required to be licensed under  
30 the provisions of this article, or is liable for filing use tax

1 returns in accordance with the provisions of this article, shall  
2 give the department ten days' written notice of the sale or  
3 transfer prior to the completion of the transfer of such  
4 property. Whenever the seller or transferor shall fail to give  
5 such notice to the department, or whenever the department shall  
6 upon written notice inform the purchaser or transferee that a  
7 possible claim for tax imposed by this act exists, any sums of  
8 money, property or choses in action or other consideration,  
9 which the purchaser or transferee is thereafter required to  
10 transfer over to the seller or transferor, shall be subject to a  
11 first priority right and lien for any such taxes theretofore or  
12 thereafter determined to be due from the seller or transferor,  
13 and the purchaser or transferee is forbidden to transfer to the  
14 seller or transferor any such sums of money, property or choses  
15 in action to the extent of the amount of the Commonwealth's  
16 claim. For failure to comply with the provisions of this  
17 section, the purchaser or transferee shall be liable for the  
18 payment to the Commonwealth of any such taxes theretofore or  
19 thereafter determined to be due from the seller or transferor,  
20 and such liability may be assessed and enforced in the same  
21 manner as the liability for tax under this article: Provided,  
22 That nothing contained in this provision shall apply to sales or  
23 transfers made under any order of court: And provided further,  
24 That the written notice required to be filed with the department  
25 by this provision shall be deemed to satisfy the requirements of  
26 section 1403 of "The Fiscal Code" as to taxes imposed by this  
27 article.

28 Section 241. Collection upon Failure to Request  
29 Reassessment, Review or Appeal.--The department may collect any  
30 tax:



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

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

6 (3) Within thirty days from the date of the decision of the  
7 Board of Finance and Revenue upon a petition for review, or of  
8 the expiration of the board's time for acting upon such  
9 petition, if no appeal has been made; and

10 (4) In all cases of judicial sales, receiverships,  
11 assignments or bankruptcies.

12 In any such case in a proceeding for the collection of such  
13 taxes, the person against whom they were assessed shall not be  
14 permitted to set up any ground of defense that might have been  
15 determined by the department, the Board of Finance and Revenue  
16 or the courts: Provided, That the defense of failure of the  
17 department to mail notice of assessment or reassessment to the  
18 taxpayer and the defense of payment of assessment or  
19 reassessment may be raised in proceedings for collection by a  
20 motion to stay the proceedings.

21 Section 242. Lien for Taxes.--(a) Lien Imposed. If any  
22 person liable to pay any tax neglects or refuses to pay the same  
23 after demand, the amount (including any interest, addition or  
24 penalty, together with any costs that may accrue in addition  
25 thereto) shall be a lien in favor of the Commonwealth upon the  
26 property, both real and personal, of such person but only after  
27 same has been entered and docketed of record by the prothonotary  
28 of the county where such property is situated. The department  
29 may, at any time, transmit, to the prothonotaries of the  
30 respective counties, certified copies of all liens for taxes

1 imposed by this act and penalties and interest. It shall be the  
2 duty of each prothonotary receiving the lien to enter and docket  
3 the same of record in his office, which lien shall be indexed as  
4 judgments are now indexed. No prothonotary shall require, as a  
5 condition precedent to the entry of such liens, the payment of  
6 the costs incident thereto.

7 (b) Priority of Lien and Effect on Judicial Sale; No  
8 Discharge by Sale on Junior Lien. The lien imposed hereunder  
9 shall have priority from the date of its recording as aforesaid,  
10 and shall be fully paid and satisfied out of the proceeds of any  
11 judicial sale of property subject thereto before any other  
12 obligation, judgment, claim, lien or estate to which said  
13 property may subsequently become subject, except costs of the  
14 sale and of the writ upon which the sale was made, and real  
15 estate taxes and municipal claims against such property, but  
16 shall be subordinate to mortgages and other liens existing and  
17 duly recorded or entered of record prior to the recording of the  
18 tax lien. In the case of a judicial sale of property, subject to  
19 a lien imposed hereunder, upon a lien or claim over which the  
20 lien imposed hereunder has priority as aforesaid, such sale  
21 shall discharge the lien imposed hereunder to the extent only  
22 that the proceeds are applied to its payment, and such lien  
23 shall continue in full force and effect as to the balance  
24 remaining unpaid. There shall be no inquisition or condemnation  
25 upon any judicial sale of real estate made by the Commonwealth  
26 pursuant to the provisions hereof. The lien of the taxes,  
27 interest and penalties, shall continue for five years from the  
28 date of entry, and may be revived and continued in the manner  
29 now or hereafter provided for renewal of judgments, or as may be  
30 provided in "The Fiscal Code," and a writ of execution may

1 directly issue upon such lien without the issuance and  
2 prosecution to judgment of a writ of scire facias: Provided,  
3 That not less than ten days before issuance of any execution on  
4 the lien, notice of the filing and the effect of the lien shall  
5 be sent by registered mail to the taxpayer at his last known  
6 post office address: And provided further, That the said lien  
7 shall have no effect upon any stock of goods, wares or  
8 merchandise regularly sold or leased in the ordinary course of  
9 business by the person against whom said lien has been entered,  
10 unless and until a writ of execution has been issued and a levy  
11 made upon said stock of goods, wares and merchandise.

12 (c) Duty of Prothonotary. Any wilful failure of any  
13 prothonotary to carry out any duty imposed upon him by this  
14 section shall be a misdemeanor, and, upon conviction, he shall  
15 be sentenced to pay a fine not exceeding one thousand dollars  
16 (\$1,000) and costs of prosecution, or to undergo imprisonment  
17 not exceeding one year, or both.

18 (d) Priority of Tax. Except as hereinbefore provided in the  
19 distribution, voluntary or compulsory, in receivership,  
20 bankruptcy or otherwise, of the property or estate of any  
21 person, all taxes imposed by this article which are due and  
22 unpaid and are not collectible under the provisions of section  
23 225 hereof, shall be paid from the first money available for  
24 distribution in priority to all other claims and liens, except  
25 in so far as the laws of the United States may give a prior  
26 claim to the Federal government. Any person charged with the  
27 administration or distribution of any such property or estate,  
28 who shall violate the provisions of this section, shall be  
29 personally liable for any taxes imposed by this article, which  
30 are accrued and unpaid and are chargeable against the person

1 whose property or estate is being administered or distributed.

2 (e) Other Remedies. Subject to the limitations contained in  
3 this article as to the assessment of taxes, nothing contained in  
4 this section shall be construed to restrict, prohibit or limit  
5 the use by the department in collecting taxes finally due and  
6 payable of any other remedy or procedure available at law or  
7 equity for the collection of debts.

8 Section 243. Suit for Taxes.--(a) Commencement. At any time  
9 within three years after any tax or any amount of tax shall be  
10 finally due and payable, the department may commence an action  
11 in the courts of this Commonwealth, of any state or of the  
12 United States, in the name of the Commonwealth of Pennsylvania,  
13 to collect the amount of tax due together with additions,  
14 interest, penalties and costs in the manner provided at law or  
15 in equity for the collection of ordinary debts.

16 (b) Procedure. The Attorney General shall prosecute the  
17 action and, except as provided herein, the provisions of the  
18 Rules of Civil Procedure and the provisions of the laws of this  
19 Commonwealth relating to civil procedures and remedies shall, to  
20 the extent that they are applicable, be available in such  
21 proceedings.

22 (c) Other Remedies. The provisions of this section are in  
23 addition to any process, remedy or procedure for the collection  
24 of taxes provided by this article or by the laws of this  
25 Commonwealth, and this section is neither limited by nor  
26 intended to limit any such process, remedy or procedure.

27 Section 244. Tax Suit Comity.--The courts of this  
28 Commonwealth shall recognize and enforce liabilities for sales  
29 and use taxes, lawfully imposed by any other state: Provided,  
30 That such other state extends a like comity to this

1 Commonwealth.

2 Section 245. Service.--Any person maintaining a place of  
3 business within this Commonwealth is deemed to have appointed  
4 the Secretary of the Commonwealth his agent for the acceptance  
5 of service of process or notice in any proceedings for the  
6 enforcement of the civil provisions of this article, and any  
7 service made upon the Secretary of the Commonwealth as such  
8 agent shall be of the same legal force and validity as if such  
9 service had been personally made upon such person. Where service  
10 cannot be made upon such person in the manner provided by other  
11 laws of this Commonwealth relating to service of process,  
12 service may be made upon the Secretary of the Commonwealth and,  
13 in such case, a copy of the process or notice shall also be  
14 personally served upon any agent or representative of such  
15 person who may be found within this Commonwealth, or where no  
16 such agent or representative may be found a copy of the process  
17 or notice shall forthwith be sent by registered mail to such  
18 person at the last known address of his principal place of  
19 business, home office or residence.

20 Section 246. Collection of Tax on Credit Sales.--If any sale  
21 subject to tax hereunder is wholly or partly on credit, the  
22 taxpayer shall require the purchaser to pay in cash at the time  
23 the sale is made, or within thirty days thereafter, the full tax  
24 due on the basis of the entire purchase price.

25 Section 247. Prepayment of Tax.--Whenever a vendor is  
26 forbidden by law or governmental regulation to charge and  
27 collect the purchase price in advance of or at the time of  
28 delivery, the vendor shall prepay the tax as required by section  
29 222 of this article, but in such case if the purchaser shall  
30 fail to pay to the vendor the total amount of the purchase price

1 and the tax, and such amount is written off as uncollectible by  
2 the vendor, the vendor shall not be liable for such tax and  
3 shall be entitled to a credit or refund of such tax paid. If the  
4 purchase price is thereafter collected, in whole or in part, the  
5 amount collected shall be first applied to the payment of the  
6 entire tax portion of the bill, and shall be remitted to the  
7 department by the vendor with the first return filed after such  
8 collection. For any tax prepaid prior to the effective date of  
9 this article, credit may be claimed on any returns filed for the  
10 periods prior to the effective date of this article. Tax prepaid  
11 after the effective date of this article shall be subject to  
12 refund upon petition to the department under the provisions of  
13 section 252 of this article, filed within one hundred five days  
14 of the close of the fiscal year in which such accounts are  
15 written off.

## 16 CHAPTER V

### 17 REFUNDS AND CREDITS

18 Section 250. Refund or Credit for Overpayment.--With respect  
19 to all taxes paid to a vendor or to the Commonwealth prior to  
20 April 5, 1957, in the case of any overpayment, the department,  
21 within the applicable period of limitations, may credit the  
22 amount of such overpayment against any liability in respect of  
23 the tax imposed by this act on the part of the person who made  
24 the overpayment, and shall refund any balance to such person.

25 Section 251. Restriction on Refunds.--No refund shall be  
26 made under section 250 without the approval of the Board of  
27 Finance and Revenue.

28 Section 252. Refunds.--The department shall, pursuant to the  
29 provisions of sections 253 and 254, refund all taxes, interest  
30 and penalties paid to the Commonwealth under the provisions of

1 this article and to which the Commonwealth is not rightfully  
2 entitled. Such refunds shall be made to the person, his heirs,  
3 successors, assigns or other personal representatives, who  
4 actually paid the tax: Provided, That no refund shall be made  
5 under this section with respect to any payment made by reason of  
6 an assessment with respect to which a taxpayer has filed a  
7 petition for reassessment pursuant to section 232 of this  
8 article to the extent that said petition has been determined  
9 adversely to the taxpayer by a decision which is no longer  
10 subject to further review or appeal: Provided further, That  
11 nothing contained herein shall be deemed to prohibit a taxpayer  
12 who has filed a timely petition for reassessment from amending  
13 it to a petition for refund where the petitioner has paid the  
14 tax assessed.

15 Section 253. Refund Petition.--(a) Except as provided for in  
16 section 256 and in subsection (b) and (d) of this section, the  
17 refund or credit of tax, interest or penalty provided for by  
18 section 252 shall be made only where the person who has actually  
19 paid the tax files a petition for refund with the department  
20 within three years of the actual payment of the tax to the  
21 Commonwealth. Such petition for refund must set forth in  
22 reasonable detail the grounds upon which the taxpayer claims  
23 that the Commonwealth is not rightfully entitled to such tax,  
24 interest or penalty, in whole or in part, and shall be  
25 accompanied by an affidavit affirming that the facts contained  
26 therein are true and correct. The department may hold such  
27 hearings as may be necessary for the purpose at such times and  
28 places as it may determine, and each person who has duly filed a  
29 refund petition shall be notified by the department of the time  
30 when, and the place where, such hearing in his case will be

1 held.

2 (b) A refund or credit of tax, interest or penalty, paid as  
3 a result of an assessment made by the department under section  
4 232, shall be made only where the person who has actually paid  
5 the tax files with the department a petition for a refund with  
6 the department within six months after the date the notice of  
7 assessment was mailed. The filing of a petition for refund,  
8 under the provisions of this subsection, shall not affect the  
9 abatement of interest, additions or penalties to which the  
10 person may be entitled by reason of his payment of the  
11 assessment.

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

18 (d) Notwithstanding any other provision of this section  
19 where any tax, interest or penalty has been paid under a  
20 provision of this article subsequently held by final judgment of  
21 a court of competent jurisdiction to be unconstitutional, or  
22 under an interpretation of such provision subsequently held by  
23 such court to be erroneous, a petition for refund may be filed  
24 either before or subsequent to final judgment, but such petition  
25 must be filed within five years of the date of the payment of  
26 which a refund is requested. The department shall have  
27 jurisdiction to hear and determine any such petition filed prior  
28 to such final judgment only if, at the time of filing of the  
29 petition, proceedings are pending in a court of competent  
30 jurisdiction wherein the claim of unconstitutionality or of



1 erroneous interpretation, made in the petition for refund may be  
2 established, and in such case, the department shall not take  
3 final action upon the petition for refund until the judgment  
4 determining the question involved in such petition has become  
5 final.

6 Section 254. Review by Board of Finance and Revenue.--Within  
7 sixty days after the date of mailing of notice by the department  
8 of the decision upon a petition for refund filed with it,  
9 pursuant to section 253, the petitioner may further petition the  
10 Board of Finance and Revenue to review the decision of the  
11 department. The failure of the department to notify the  
12 petitioner of its decision within the time provided for by  
13 section 253 shall act as a denial of such petition, and a  
14 petition for review may be filed with the Board of Finance and  
15 Revenue within one hundred twenty days of the date prior to  
16 which the department should have mailed to the petitioner its  
17 notice of decision. Every petition for review filed with the  
18 Board of Finance and Revenue under the provisions of this  
19 section shall incorporate by reference the petition for refund.  
20 The petitioner may, in his petition for review, elect to  
21 withdraw one or more grounds as set out in the original refund  
22 petition. The Board of Finance and Revenue shall act finally in  
23 disposing of such petitions filed with it within six months  
24 after they have been received. In the event of the failure of  
25 the board to dispose of any petition within six months, the  
26 action taken by the department upon the petition for refund  
27 shall be sustained. The Board of Finance and Revenue may sustain  
28 the action taken by the department on a petition for refund, or  
29 it may redetermine whether a lessor or greater amount of refund  
30 is proper. Under no circumstances may the Board of Finance and

1 Revenue authorize a refund greater than that originally applied  
2 for by the petitioner. The board shall give notice of its action  
3 to the department and to the petitioner.

4 Section 255. Appeal to the Commonwealth Court.--Any person  
5 aggrieved by the decision of the Board of Finance and Revenue  
6 under section 254, or by the board's failure to act upon a  
7 petition for review within six months may, within thirty days,  
8 appeal to the Commonwealth Court from the decision of the board  
9 or of the department, as the case may be, in the manner now or  
10 hereafter provided for by law for appeals in the case of tax  
11 settlements.

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

1 transaction is subject to tax, and another party to the  
2 transaction has previously paid tax with respect to such  
3 transaction and, as such, this section shall be construed as  
4 extending right beyond that provided for by section 253, and not  
5 to limit such other section.

6 CHAPTER VI

7 LIMITATIONS

8 Section 258. Limitation on Assessment and Collection.--The  
9 amount of the tax imposed by this act shall be assessed within  
10 three years after the date when the return provided for by  
11 subsection (a) or (c) or under subsection (e) of section 217 is  
12 filed or the end of the year in which the tax liability arises  
13 whichever shall last occur. Any such assessment may be made at  
14 any time during such period notwithstanding that the department  
15 may have made one or more previous assessments against the  
16 taxpayer for the year in question, or for any part of such year.  
17 In any such case, no credit shall be given for any penalty  
18 previously assessed or paid.

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

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

26 Section 261. Extension of Limitation Period.--  
27 Notwithstanding any of the foregoing provisions of this part,  
28 where, before the expiration of the period prescribed therein  
29 for the assessment of a tax, a taxpayer has consented, in  
30 writing, that such period be extended, the amount of tax due may

1 be assessed at any time within such extended period. The period  
2 so extended may be extended further by subsequent consents, in  
3 writing, made before the expiration of the extended period.

#### 4 CHAPTER VII

##### 5 INTEREST, ADDITIONS, PENALTIES AND CRIMES

6 Section 265. Interest.--If any amount of tax imposed by this  
7 article is not paid to the department on or before the last date  
8 prescribed for payment, interest on such amount at the rate of  
9 one-half of one per cent per month for each month, or fraction  
10 thereof, from such date, shall be paid for the period from such  
11 last date to the date paid. The last date prescribed for payment  
12 shall be determined under subsection (a) or (c) of section 222  
13 without regard to any extension of time for payment. In the case  
14 of any amount assessed as a deficiency or as an estimated  
15 assessment, the date prescribed for payment shall be thirty days  
16 after notice of such assessment.

17 Section 266. Additions to Tax.--(a) Failure to File Return.  
18 In the case of failure to file any return required by section  
19 215 on the date prescribed therefor (determined with regard to  
20 any extension of time for filing), and in the case in which a  
21 return filed understates the true amount due by more than fifty  
22 per cent, there shall be added to the amount of tax actually due  
23 five per cent of the amount of such tax if the failure to file a  
24 proper return is for not more than one month, with an additional  
25 five per cent for each additional month, or fraction thereof,  
26 during which such failure continues, not exceeding twenty-five  
27 per cent in the aggregate. In every such case at least two  
28 dollars (\$2) shall be added.

29 (b) Addition for Understatement. There shall be added to  
30 every assessment under subsection (b) of section 231 an addition

1 equal to five per cent of the amount of the understatement and  
2 no addition to the tax shall be paid under subsection (a) of  
3 section 231.

4 (c) Interest. If the department assesses a tax according to  
5 subsection (a) or (c) of section 231, there shall be added to  
6 the amount of the deficiency interest at the rate of one-half of  
7 one per cent per month for each month, or fraction thereof, from  
8 the date prescribed by subsection (a) or (c) of section 222 of  
9 this article for the payment of the tax to the date of notice of  
10 the assessment.

11 (d) Uncollectible Checks. Whenever any check issued in  
12 payment of any tax or for any other purpose shall be returned to  
13 the department as uncollectible, the secretary shall charge a  
14 fee of ten per cent of the face amount thereof plus all protest  
15 fees, to the person presenting such check to him to cover the  
16 cost of its collection in addition to the interest and penalties  
17 otherwise provided for by this article: Provided, however, That  
18 the additions imposed hereby shall not exceed two hundred  
19 dollars (\$200) nor be less than ten dollars (\$10).

20 Section 267. Penalties.--(a) Penalty Assessed as Tax. The  
21 penalties, additions, interest and liabilities provided by this  
22 article shall be paid upon notice and demand by the department,  
23 and shall be assessed and collected in the same manner as taxes.  
24 Except as otherwise provided, any reference in this article to  
25 "tax" imposed by this article shall be deemed also to refer to  
26 the penalties, additions, interest and liabilities provided by  
27 this part.

28 (b) Attempt to Evade or Defeat Tax. Any person who wilfully  
29 attempts, in any manner, to evade or defeat the tax imposed by  
30 this article, or the payment thereof, or to assist any other

1 person to evade or defeat the tax imposed by this article, or  
2 the payment thereof, or to receive a refund improperly, shall,  
3 in addition to other penalties provided by law, be liable for a  
4 penalty equal to one-half of the total amount of the tax evaded.

5 In any direct proceeding arising out of a petition for  
6 reassessment or refund as provided in this article, in which an  
7 issue of fact is raised with respect to whether a return is  
8 fraudulent or with respect to the propriety of the imposition by  
9 the department of the penalty prescribed in this subsection (b),  
10 the burden of proof with respect to such issue shall be upon the  
11 department.

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

19 (b) Other Crimes. Except as otherwise provided by subsection  
20 (a) of this section, any person maintaining a place of business  
21 in this Commonwealth, who advertises or holds out or states to  
22 the public or to any purchaser or user, directly or indirectly,  
23 that the tax or any part thereof imposed by this article will be  
24 absorbed by such person, or that it will not be added to the  
25 purchase price of the tangible personal property or services  
26 described in subclauses (2), (3) and (4) of clause (k) of  
27 section 201 of this article sold or, if added, that the tax or  
28 any part thereof will be refunded, other than when such person  
29 refunds the purchase price because of such property being  
30 returned to the vendor, and any person maintaining a place of

1 business in this Commonwealth and selling or leasing tangible  
2 personal property or said services the sale or use of which by  
3 the purchaser is subject to tax hereunder, who shall wilfully  
4 fail or refuse to collect the tax from the purchaser and remit  
5 the same to the department, and any person who shall wilfully  
6 fail, neglect or refuse to file any return or report required by  
7 this article or any taxpayer who shall refuse to pay any tax,  
8 penalty or interest imposed or provided for by this article, or  
9 who shall wilfully fail to preserve his books, papers and  
10 records as directed by the department, or any person who shall  
11 refuse to permit the department or any of its authorized agents  
12 to examine his books, records or papers, or who shall knowingly  
13 make any incomplete, false or fraudulent return or report, or  
14 who shall do, or attempt to do, anything whatever to prevent the  
15 full disclosure of the amount or character of taxable sales  
16 purchases or use made by himself or any other person, or shall  
17 provide any person with a false statement as to the payment of  
18 tax with respect to particular tangible personal property or  
19 said services, or shall make, utter or issue a false or  
20 fraudulent exemption certificate, shall be guilty of a  
21 misdemeanor, and, upon conviction thereof, shall be sentenced to  
22 pay a fine not exceeding one thousand dollars (\$1000) and costs  
23 of prosecution, or undergo imprisonment not exceeding one year,  
24 or both: Provided, however, That any person maintaining a place  
25 of business outside this Commonwealth may absorb the tax with  
26 respect to taxable sales made in the normal course of business  
27 to customers present at such place of business without being  
28 subject to the above penalty and fines. The penalties imposed by  
29 this section shall be in addition to any other penalties imposed  
30 by any provision of this article.

1 Section 269. Abatement of Additions or Penalties.--Upon the  
2 filing of a petition for reassessment or a petition for refund  
3 as provided under this article by a taxpayer, additions or  
4 penalties imposed upon such taxpayer by this act may be waived  
5 or abated, in whole or in part, where the petitioner has  
6 established that he has acted in good faith, without negligence  
7 and with no intent to defraud.

8 CHAPTER VIII

9 ENFORCEMENT AND EXAMINATIONS

10 Section 270. Rules and Regulations.--(a) General Provision.  
11 The department is hereby charged with the enforcement of the  
12 provisions of this article, and is hereby authorized and  
13 empowered to prescribe, adopt, promulgate and enforce, rules and  
14 regulations not inconsistent with the provisions of this  
15 article, relating to any matter or thing pertaining to the  
16 administration and enforcement of the provisions of this  
17 article, and the collection of taxes, penalties and interest  
18 imposed by this article. The department may prescribe the  
19 extent, if any, to which any of such rules and regulations shall  
20 be applied without retroactive effect.

21 (b) Sales between Affiliated Interests. In determining the  
22 purchase price of taxable sales where, because of affiliation of  
23 interests between the vendor and the purchaser or irrespective  
24 of any such affiliation, if for any other reason, the purchase  
25 price of such sale is in the opinion of the department not  
26 indicative of the true value of the article or the fair price  
27 thereof, the department shall, pursuant to uniform and equitable  
28 rules, determine the amount of constructive purchase price upon  
29 the basis of which the tax shall be computed and levied. Such  
30 rules shall provide for a constructive amount of a purchase



1 price for each such sale, which price shall equal a price for  
2 such article which would naturally and fairly be charged in an  
3 arm's-length transaction in which the element of common  
4 interests between vendor and purchaser, or, if no common  
5 interest exists, any other element causing a distortion of the  
6 price or value is absent. For the purpose of this article where  
7 a taxable sale occurs between a parent corporation and a  
8 subsidiary affiliate or controlled corporation of such parent,  
9 there shall be a rebuttable presumption that because of such  
10 common interest such transaction was not at arm's-length.

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

12 Every person liable for any tax imposed by this article, or for  
13 the collection thereof, shall keep the records, render such  
14 statements, make the returns and comply with such rules and  
15 regulations as the department may, from time to time, prescribe  
16 regarding matters pertinent to his business. Whenever in the  
17 judgment of the department it is necessary, it may require any  
18 person, by notice served upon such person, or by regulations, to  
19 make such returns, render such statements or keep such records  
20 as the department deems sufficient to show whether or not such  
21 person is liable to pay or collect tax under this article.

22 (b) Persons Collecting Tax from Others. Any person liable to  
23 collect tax from another person under the provisions of this  
24 article shall file reports, keep records, make payments and be  
25 subject to interest and penalties as provided for under this  
26 article, in the same manner as if he were directly subject to  
27 the tax.

28 (c) Records of Non-Residents. A non-resident who does  
29 business in this Commonwealth as a retail dealer shall keep  
30 adequate records of such business or businesses and of the tax

1 due with respect thereto, which records shall at all times be  
2 retained within this Commonwealth unless retention outside the  
3 Commonwealth is authorized by the department. No taxes collected  
4 from purchasers shall be sent outside the Commonwealth without  
5 the written consent of, and in accordance with conditions  
6 prescribed by the department. The department may require a  
7 taxpayer who desires to retain records or tax collections  
8 outside the Commonwealth to assume reasonable out-of-state audit  
9 expenses.

10 (d) Keeping of Separate Records. Any person doing business  
11 as a retail dealer who at the same time is engaged in another  
12 business or businesses which do not involve the making of sales  
13 taxable under this article, shall keep separate books and  
14 records of his businesses so as to show the sales taxable under  
15 this article separately from his sales not taxable hereunder. If  
16 any such person fails to keep such separate books and records,  
17 he shall be liable for tax at the rate designated in section 202  
18 of this article upon the entire purchase price of sales from  
19 both or all of his businesses.

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

25 A vendor may apply to the department for permission to use a  
26 collection and recording procedure which will show such  
27 information as the law requires with reasonable accuracy and  
28 simplicity. Such application must contain a detailed description  
29 of the procedure to be adopted. Permission to use the proposed  
30 procedure is not to be construed as relieving the vendor from

1 remitting the full amount of tax collected. The department may  
2 revoke such permission upon thirty days' notice to the vendor.  
3 Refusal of the department to grant permission in advance to use  
4 such procedure shall not be construed to invalidate a procedure  
5 which upon examination shows such information as the law  
6 requires.

7 Section 272. Examinations.--The department or any of its  
8 authorized agents is hereby authorized to examine the books,  
9 papers and records of any taxpayer in order to verify the  
10 accuracy and completeness of any return made or, if no return  
11 was made, to ascertain and assess the tax imposed by this  
12 article. The department may require the preservation of all such  
13 books, papers and records for any period deemed proper by it but  
14 not to exceed three years from the end of the calendar year to  
15 which the records relate. Every such taxpayer is hereby required  
16 to give to the department, or its agent, the means, facilities  
17 and opportunity for such examinations and investigation. The  
18 department is further authorized to examine any person, under  
19 oath, concerning taxable sales or use by any taxpayer or  
20 concerning any other matter relating to the enforcement or  
21 administration of this article, and to this end may compel the  
22 production of books, papers and records and the attendance of  
23 all persons whether as parties or witnesses whom it believes to  
24 have knowledge of such matters. The procedure for such hearings  
25 or examinations shall be the same as that provided by The Fiscal  
26 Code relating to inquisitorial powers of fiscal officers.

27 Section 273. Records and Examinations of Delivery Agents.--  
28 Every agent for the purpose of delivery of goods shipped into  
29 the Commonwealth by a nonresident including, but not limited to,  
30 common carriers shall maintain adequate records of such

1 deliveries pursuant to rules and regulations adopted by the  
2 department and shall make such records available to the  
3 department upon request after due notice.

4 Section 274. Unauthorized Disclosure.--Any information  
5 gained by the department as a result of any return, examination,  
6 investigation, hearing or verification, required or authorized  
7 by this article, shall be confidential, except for official  
8 purposes and except in accordance with proper judicial order or  
9 as otherwise provided by law, and any person unlawfully  
10 divulging such information shall be guilty of a misdemeanor,  
11 and, upon conviction thereof, shall be sentenced to pay a fine  
12 not in excess of one thousand dollars (\$1000) and costs of  
13 prosecution, or to undergo imprisonment for not more than one  
14 year, or both.

15 Section 275. Cooperation with Other Governments.--  
16 Notwithstanding the provisions of section 274, the department  
17 may permit the Commissioner of Internal Revenue of the United  
18 States, or the proper officer of any state, or the authorized  
19 representative of either such officer, to inspect the tax  
20 returns of any taxpayer, or may furnish to such officer or to  
21 his authorized representative an abstract of the return of any  
22 taxpayer, or supply him with information concerning any item  
23 contained in any return or disclosed by the report of any  
24 examination or investigation of the return of any taxpayer. This  
25 permission shall be granted only if the statutes of the United  
26 States or of such other state, as the case may be, grant  
27 substantially similar privileges to the proper officer of the  
28 Commonwealth charged with the administration of this article.

29 Section 276. Interstate Compacts.--The Governor, or his  
30 authorized representative, is hereby vested with authority to

1 confer with the Governor and the authorized representatives of  
2 other states with respect to reciprocal use tax collection  
3 between Pennsylvania and such other states.

4 The Governor, or his representative, is authorized to join  
5 with such authorities of other states to conduct joint  
6 investigations, to exchange information, hold joint hearings and  
7 enter into compacts or interstate agreements with such other  
8 states to accomplish uniform reciprocal use tax collections  
9 between those states who are parties to any compact or  
10 interstate agreement and the Commonwealth of Pennsylvania.

11 Section 277. Bonds.--(a) Taxpayer to File Bond. Whenever  
12 the department in its discretion, deems it necessary to protect  
13 the revenues to be obtained under the provisions of this  
14 article, it may require any nonresident natural person or any  
15 foreign corporation, association, fiduciary, partnership or  
16 other entity, not authorized to do business within this  
17 Commonwealth or not having an established place of business  
18 therein and subject to the tax imposed by section 202 of this  
19 article, to file a bond issued by a surety company authorized to  
20 do business in this Commonwealth and approved by the Insurance  
21 Commissioner as to solvency and responsibility, in such amounts  
22 as it may fix, to secure the payment of any tax or penalties  
23 due, or which may become due, from such natural person or  
24 corporation. In order to protect the revenues to be obtained  
25 under the provisions of this article, the department shall  
26 require any nonresident natural person or any foreign  
27 corporation, association, fiduciary, partnership or entity, who  
28 or which is a building contractor, or who or which is a supplier  
29 delivering building materials for work in this Commonwealth and  
30 is not authorized to do business within this Commonwealth or

1 does not have an established place of business therein and is  
2 subject to the tax imposed by section 202 of this article, to  
3 file a bond issued by a surety company authorized to do business  
4 in this Commonwealth and approved by the Insurance Commissioner  
5 as to solvency and responsibility, in such amounts as it may  
6 fix, to secure the payments of any tax or penalties due, or  
7 which may become due, from such natural person, corporation or  
8 other entity. The department may also require such a bond of any  
9 person petitioning the department for reassessment, in the case  
10 of any assessment over five hundred dollars (\$500) or where it  
11 is of the opinion that the ultimate collection is in jeopardy.  
12 The department may, for a period of three years, require such a  
13 bond of any person who has on three or more occasions within a  
14 twelve month period either filed a return or made payment to the  
15 department more than thirty days late. In the event that the  
16 department determines that a taxpayer is to file such a bond, it  
17 shall give notice to such taxpayer to that effect, specifying  
18 the amount of the bond required. The taxpayer shall file such  
19 bond within five days after the giving of such notice by the  
20 department unless, within such five days, the taxpayer shall  
21 request, in writing, a hearing before the Secretary of Revenue  
22 or his representative at which hearing the necessity, propriety  
23 and amount of the bond shall be determined by the secretary or  
24 such representative. Such determination shall be final and shall  
25 be complied with within fifteen days after notice thereof is  
26 mailed to the taxpayer.

27 (b) Securities in Lieu of Bond. In lieu of the bond  
28 required by this section, securities approved by the department,  
29 or cash in such amount as it may prescribe, may be deposited.  
30 Such securities or cash shall be kept in the custody of the

1 department, who may, at any time, without notice to the  
2 depositor, apply them to any tax and/or interest or penalties  
3 due, and for that purpose the securities may be sold by the  
4 department, at public or private sale, upon five days written  
5 notice to the depositor.

6 (c) Failure to File Bond. The department may file a lien  
7 pursuant to section 242 against any taxpayer who fails to file a  
8 bond when required to do so under this section. All funds  
9 received upon execution of the judgment on such lien shall be  
10 refunded to the taxpayer with three per cent interest should a  
11 final determination be made that he does not owe any payment to  
12 the department.

13 PART VII

14 REPEALER; APPROPRIATION; EFFECTIVE DATE

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

19 Section 281. Appropriation for Refunds, etc.--So much of the  
20 proceeds of the tax imposed by this article as shall be  
21 necessary for the payment of refunds, enforcement, or  
22 administration, under this article, is hereby appropriated for  
23 such purposes.

24 Section 282. Effective Date.--The provisions of this article  
25 shall take effect March 1, 1971, or upon the date this article  
26 is enacted into law whichever is the last to occur, except that  
27 clauses (k) (4), (m) and (o) (4) of section 201, clause (c) of  
28 section 202, clause (17) of section 204 and clause (30) (iii) of  
29 section 204 in so far as it relates to the fifty cent (50¢)  
30 exclusion from purchase price on restaurant meals, shall take

1 effect July 1, 1971.

2 ARTICLE III

3 PERSONAL INCOME TAX

4 PART I

5 DECLARATION OF POLICY: DEFINITIONS

6 Section 301. Declaration of Intent and Policy.--The  
7 Legislature, in imposing a flat rate tax on income defined in  
8 this article, hereby declares its legislative intent and policy  
9 to provide a fair and practical method of taxation and to  
10 effectuate an income tax which shall constitutionally conform to  
11 the uniformity provisions of section 1, of Article VIII, of the  
12 Constitution, by utilizing and uniformly applying in this  
13 article those terms, definitions, classifications and other  
14 provisions of the Federal Internal Revenue Code of 1954, as  
15 amended, as they relate to the Federal Income Tax on  
16 individuals, being the same code which the General Assembly has  
17 heretofore employed in the Pennsylvania "Corporate Net Income  
18 Tax" and "Corporation Income Tax" acts relating to the  
19 imposition of income taxes on corporations.

20 Section 302. Definitions.--Any term used in this article  
21 shall have the same meaning as when used in comparable context  
22 in the laws of the United States relating to Federal income  
23 taxes unless a different meaning is clearly required. Any  
24 reference in this article to the Internal Revenue Code shall  
25 include the Internal Revenue Code of 1954 and other provisions  
26 of the laws of the United States relating to Federal income  
27 taxes, all as amended and effective on the date such reference  
28 is required by this article:

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



1 (b) "Department" means the Department of Revenue of the  
2 Commonwealth of Pennsylvania.

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

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

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

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

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

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

19 (i) "Person" means any individual, employer, association,  
20 fiduciary, partnership, corporation or other entity, estate or  
21 trust, resident or nonresident, and the plural as well as the  
22 singular number.

23 (j) "Resident individual" means an individual who is  
24 domiciled in this Commonwealth unless he maintains no permanent  
25 place of abode in this Commonwealth and does maintain a  
26 permanent place of abode elsewhere and spends in the aggregate  
27 not more than thirty days of the taxable year in this  
28 Commonwealth; or who is not domiciled in this Commonwealth but  
29 maintains a permanent place of abode in this Commonwealth and  
30 spends in the aggregate more than one hundred eighty-three days

1 of the taxable year in this Commonwealth.

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

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

8 (m) "State" means any state or commonwealth of the United  
9 States, the District of Columbia, the Commonwealth of Puerto  
10 Rico, any territory or possession of the United States, any  
11 foreign country, or any political subdivision of any of the  
12 foregoing.

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

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

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

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

28 (1) Subtraction of interest income derived from obligations  
29 of the United States Government to the extent included in  
30 adjusted gross income.

1       (2) Addition of interest income derived from obligations of  
2 states, political subdivisions, instrumentalities and public  
3 authorities thereof other than Pennsylvania or its political  
4 subdivisions, instrumentalities or public authorities to the  
5 extent not included in adjusted gross income.

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

10       (4) The respective shares of an estate or trust and its  
11 beneficiaries in the additions and subtractions to taxable  
12 income shall be in proportion to their respective shares of  
13 distributable net income of the estate or trust as defined in  
14 the Internal Revenue Code. If the estate or trust has no  
15 distributable net income for the taxable year, the share of each  
16 beneficiary in the additions and subtractions shall be in  
17 proportion to his share of the estate or trust income for such  
18 year, under local law or the terms of the instrument, which is  
19 required to be distributed currently and any other amounts of  
20 such income distributed in such year. Any balance of the  
21 additions and subtractions shall be allocated to the estate or  
22 trust.

23       (5) In the case of a nonresident estate or trust, the  
24 respective shares of the estate or trust and of its  
25 beneficiaries shall be determined in the manner set forth by  
26 this subsection (q); however, in determining the taxable income  
27 of a nonresident estate or trust or of any nonresident  
28 beneficiary thereof, there shall be taken into account only the  
29 income of the estate or trust, or the beneficiary's share  
30 thereof, derived from sources within this Commonwealth.

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

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

6 (ii) in connection with a trade, profession, occupation  
7 carried on in this Commonwealth or for the rendition or personal  
8 services performed in this Commonwealth; or

9 (iii) as a distributive share of the income of an  
10 unincorporated business, profession, enterprise, undertaking or  
11 other activity as the result of work done, services rendered or  
12 other business activities conducted in this Commonwealth, except  
13 as allocated to another state pursuant to regulations  
14 promulgated by the department under this article.

15 (2) Income from tangible personal property shall constitute  
16 income from sources within this Commonwealth only to the extent  
17 that such income is from property employed in a trade,  
18 profession, occupation or business carried on in this  
19 Commonwealth.

20 PART II

21 IMPOSITION OF TAX

22 Section 305. Incidence and Rate.--For the privilege of  
23 receiving, earning or otherwise acquiring income from any source  
24 whatsoever, in the case of a resident individual, estate or  
25 trust of this Commonwealth, or from sources within this  
26 Commonwealth, in the case of a nonresident individual, estate or  
27 trust of this Commonwealth, there is levied and imposed an  
28 annual tax of five per cent of the taxable income of the  
29 taxpayer.

30 Section 306. Beneficiary of Grantor Trust.--The taxable

1 income of a person who is required to include income from a  
2 trust in his Federal income tax return under the provisions of  
3 subpart E of subchapter J of the Internal Revenue Code shall be  
4 computed with reference to the income of the trust as if such  
5 income were the income of the taxpayer rather than the trust.

6 PART III

7 NONRESIDENT INDIVIDUALS

8 Section 308. Nonresident Individuals; Taxable Income.--The  
9 taxable income of a nonresident individual shall be that part of  
10 his Federal taxable income derived from sources within this  
11 Commonwealth as defined in subsection (r) of section 302 of this  
12 article.

13 Section 309. Husband and Wife.--(a) Separate Federal Return.  
14 If the Federal taxable income of husband or wife who are both  
15 nonresidents of this Commonwealth is determined on a separate  
16 Federal return, their taxable incomes from sources within this  
17 Commonwealth shall be separately determined.

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

22 (c) One Spouse a Nonresident. If either husband or wife is  
23 a nonresident and the other a resident, separate taxes shall be  
24 determined on their separate taxable incomes from sources within  
25 this Commonwealth on such forms as the department shall  
26 prescribe, unless both elect to determine their joint taxable  
27 income in this Commonwealth as if both were residents. If a  
28 husband and wife file a joint Federal income tax return, but  
29 determine their taxable income from sources within this  
30 Commonwealth separately, they shall compute their taxable

1 incomes from sources within this Commonwealth as if their  
2 Federal taxable incomes had been determined separately.

3 Section 310. Allocation of Income of Nonresident.--Where a  
4 nonresident taxpayer engages in a business, trade, profession or  
5 occupation partly within and partly without this Commonwealth,  
6 and, as a result thereof or for other reasons that portion of  
7 the income derived from or connected with sources within this  
8 Commonwealth cannot readily or accurately be ascertained, the  
9 department shall by regulation prescribe uniform rules for  
10 apportionment or allocation of so much of such taxpayer's income  
11 as fairly and equitably represents income derived from sources  
12 within this Commonwealth.

13 PART IV

14 CREDITS AGAINST TAX

15 Section 315. Tax Withheld.--(a) The amount withheld under  
16 section 322 shall be allowed to the recipient of the  
17 compensation as a credit against the tax imposed on him by this  
18 article.

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

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

29 Section 317. Taxes Imposed by Political Subdivisions of This  
30 Commonwealth.--(a) Every resident or nonresident individual,

1 estate or trust subject to tax under this article shall be  
2 allowed a credit against the tax otherwise due under this  
3 article equal to thirty per cent of the amount of any local  
4 taxes imposed on and paid by such individual, estate or trust to  
5 any political subdivision of this Commonwealth during the  
6 calendar year 1971, except that such credit shall not apply to  
7 local taxes imposed on real estate, realty transfers or  
8 amusements.

9 (b) For local taxes described in subsection (a) imposed and  
10 paid in the taxable years beginning after December 31, 1971, the  
11 amount of credit base provided in this section shall not exceed  
12 thirty per cent of the total amount of the local taxes which  
13 were imposed upon and paid by such individual, estate or trust  
14 during the calendar year 1971 to political subdivisions of this  
15 Commonwealth, except that in the case where no such local taxes  
16 were imposed upon and paid by such individual, estate or trust  
17 during the calendar year 1971, then the percentage rate shall be  
18 applied to the total amount of such local taxes which were  
19 imposed upon and paid by such individual, estate or trust during  
20 the calendar year in which such taxes were first imposed and  
21 paid and the amount so determined shall each year thereafter  
22 constitute the base on which the tax credit rate shall be  
23 applied.

24 Section 318. Tax Paid by Trust on Accumulated Income.--A  
25 beneficiary of a trust whose taxable income includes all or part  
26 of an accumulation distribution or a capital gain distribution  
27 by a trust, as defined in section 665 of the Internal Revenue  
28 Code, shall be allowed a credit against the tax otherwise due  
29 under this article equal to all or a proportionate part of any  
30 tax paid by the trust under this article for any preceding

1 taxable year which would not have been payable if the trust had  
2 in fact made distribution to its beneficiaries at the times and  
3 in the amounts specified in sections 666 and 669 of the Internal  
4 Revenue Code. The credit shall not reduce the tax otherwise due  
5 from the beneficiary to an amount less than would have been due  
6 if the accumulation distribution or capital gain distribution  
7 were excluded from taxable income.

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

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



1 (c) of this section.

2 (c) Tax credit schedule for taxpayer class.

3 SCHEDULE

4 VANISHING TAX CREDIT

| 5  | Net     | Tax  | Number of Federal Exemptions |              |              |         |         |         |
|----|---------|------|------------------------------|--------------|--------------|---------|---------|---------|
| 6  | Taxable | at   |                              |              |              |         |         |         |
| 7  | Income  | 5%   | 1                            | 2            | 3            | 4       | 5       | 6       |
| 8  |         |      |                              |              |              |         |         |         |
| 9  | \$ 100  | \$ 5 | \$ 5.00                      | \$ 5.00      | \$ 5.00      | \$ 5.00 | \$ 5.00 | \$ 5.00 |
| 10 | 200     | 10   | 10.00                        | 10.00        | 10.00        | 10.00   | 10.00   | 10.00   |
| 11 | 300     | 15   | 15.00                        | 15.00        | 15.00        | 15.00   | 15.00   | 15.00   |
| 12 | 400     | 20   | 20.00                        | 20.00        | 20.00        | 20.00   | 20.00   | 20.00   |
| 13 | 500     | 25   | 25.00                        | 25.00        | 25.00        | 25.00   | 25.00   | 25.00   |
| 14 | 600     | 30   | <u>30.00</u>                 | 30.00        | 30.00        | 30.00   | 30.00   | 30.00   |
| 15 | 700     | 35   | 31.25                        | 35.00        | 35.00        | 35.00   | 35.00   | 35.00   |
| 16 | 800     | 40   | 30.00                        | 40.00        | 40.00        | 40.00   | 40.00   | 40.00   |
| 17 | 900     | 45   | 28.75                        | 45.00        | 45.00        | 45.00   | 45.00   | 45.00   |
| 18 | 1000    | 50   | 27.50                        | 50.00        | 50.00        | 50.00   | 50.00   | 50.00   |
| 19 | 1100    | 55   | 26.25                        | 55.00        | 55.00        | 55.00   | 55.00   | 55.00   |
| 20 | 1200    | 60   | 25.00                        | <u>60.00</u> | 60.00        | 60.00   | 60.00   | 60.00   |
| 21 | 1300    | 65   | 23.75                        | 62.50        | 65.00        | 65.00   | 65.00   | 65.00   |
| 22 | 1400    | 70   | 22.50                        | 60.00        | 70.00        | 70.00   | 70.00   | 70.00   |
| 23 | 1500    | 75   | 21.25                        | 57.50        | 75.00        | 75.00   | 75.00   | 75.00   |
| 24 | 1600    | 80   | 20.00                        | 55.00        | 80.00        | 80.00   | 80.00   | 80.00   |
| 25 | 1700    | 85   | 18.75                        | 52.50        | 85.00        | 85.00   | 85.00   | 85.00   |
| 26 | 1800    | 90   | 17.50                        | 50.00        | <u>90.00</u> | 90.00   | 90.00   | 90.00   |
| 27 | 1900    | 95   | 16.25                        | 47.50        | 93.75        | 95.00   | 95.00   | 95.00   |
| 28 | 2000    | 100  | 15.00                        | 45.00        | 90.00        | 100.00  | 100.00  | 100.00  |
| 29 | 2100    | 105  | 13.75                        | 42.50        | 86.25        | 105.00  | 105.00  | 105.00  |
| 30 | 2200    | 110  | 12.50                        | 40.00        | 82.50        | 110.00  | 110.00  | 110.00  |

|    |      |     |       |       |       |               |               |               |
|----|------|-----|-------|-------|-------|---------------|---------------|---------------|
| 1  | 2300 | 115 | 11.25 | 37.50 | 78.75 | 115.00        | 115.00        | 115.00        |
| 2  | 2400 | 120 | 10.00 | 35.00 | 75.00 | 120.00        | 120.00        | 120.00        |
| 3  | 2500 | 125 | 8.75  | 32.50 | 71.25 | <u>125.00</u> | 125.00        | 125.00        |
| 4  | 2600 | 130 | 7.50  | 30.00 | 67.50 | 120.00        | 130.00        | 130.00        |
| 5  | 2700 | 135 | 6.25  | 27.50 | 63.75 | 115.00        | 135.00        | 135.00        |
| 6  | 2800 | 140 | 5.00  | 25.00 | 60.00 | 110.00        | 140.00        | 140.00        |
| 7  | 2900 | 145 | 3.75  | 22.50 | 56.25 | 105.00        | 145.00        | 145.00        |
| 8  | 3000 | 150 | 2.50  | 20.00 | 52.50 | 100.00        | 150.00        | 150.00        |
| 9  | 3100 | 155 | 1.25  | 17.50 | 48.75 | 95.00         | <u>155.00</u> | 155.00        |
| 10 | 3200 | 160 | .00   | 15.00 | 45.00 | 90.00         | 156.25        | 160.00        |
| 11 | 3300 | 165 | .00   | 12.50 | 41.25 | 85.00         | 150.00        | 165.00        |
| 12 | 3400 | 170 | .00   | 10.00 | 37.50 | 80.00         | 143.75        | 170.00        |
| 13 | 3500 | 175 | .00   | 7.50  | 33.75 | 75.00         | 137.50        | 175.00        |
| 14 | 3600 | 180 | .00   | 5.00  | 30.00 | 70.00         | 131.25        | 180.00        |
| 15 | 3700 | 185 | .00   | 2.50  | 26.25 | 65.00         | 125.00        | <u>185.00</u> |
| 16 | 3800 | 190 | .00   | .00   | 22.50 | 60.00         | 118.75        | 187.50        |
| 17 | 3900 | 195 | .00   | .00   | 18.75 | 55.00         | 112.50        | 180.00        |
| 18 | 4000 | 200 | .00   | .00   | 15.00 | 50.00         | 106.25        | 172.50        |
| 19 | 4100 | 205 | .00   | .00   | 11.25 | 45.00         | 100.00        | 165.00        |
| 20 | 4200 | 210 | .00   | .00   | 7.50  | 40.00         | 93.75         | 157.50        |
| 21 | 4300 | 215 | .00   | .00   | 3.75  | 35.00         | 87.50         | 150.00        |
| 22 | 4400 | 220 | .00   | .00   | .00   | 30.00         | 81.25         | 142.50        |
| 23 | 4500 | 225 | .00   | .00   | .00   | 25.00         | 75.00         | 135.00        |
| 24 | 4600 | 230 | .00   | .00   | .00   | 20.00         | 68.75         | 127.50        |
| 25 | 4700 | 235 | .00   | .00   | .00   | 15.00         | 62.50         | 120.00        |
| 26 | 4800 | 240 | .00   | .00   | .00   | 10.00         | 56.25         | 112.50        |
| 27 | 4900 | 245 | .00   | .00   | .00   | 5.00          | 50.00         | 105.00        |
| 28 | 5000 | 250 | .00   | .00   | .00   | .00           | 43.75         | 97.50         |
| 29 | 5100 | 255 | .00   | .00   | .00   | .00           | 37.50         | 90.00         |
| 30 | 5200 | 260 | .00   | .00   | .00   | .00           | 31.25         | 82.50         |

|    |      |     |     |     |     |     |       |       |
|----|------|-----|-----|-----|-----|-----|-------|-------|
| 1  | 5300 | 265 | .00 | .00 | .00 | .00 | 25.00 | 75.00 |
| 2  | 5400 | 270 | .00 | .00 | .00 | .00 | 18.75 | 67.50 |
| 3  | 5500 | 275 | .00 | .00 | .00 | .00 | 12.50 | 60.00 |
| 4  | 5600 | 280 | .00 | .00 | .00 | .00 | 6.25  | 52.50 |
| 5  | 5700 | 285 | .00 | .00 | .00 | .00 | .00   | 45.00 |
| 6  | 5800 | 290 | .00 | .00 | .00 | .00 | .00   | 37.50 |
| 7  | 5900 | 295 | .00 | .00 | .00 | .00 | .00   | 30.00 |
| 8  | 6000 | 300 | .00 | .00 | .00 | .00 | .00   | 22.50 |
| 9  | 6100 | 305 | .00 | .00 | .00 | .00 | .00   | 15.00 |
| 10 | 6200 | 310 | .00 | .00 | .00 | .00 | .00   | 7.50  |
| 11 | 6300 | 315 | .00 | .00 | .00 | .00 | .00   | .00   |
| 12 | 6400 | 320 | .00 | .00 | .00 | .00 | .00   | .00   |
| 13 | 6500 | 325 | .00 | .00 | .00 | .00 | .00   | .00   |
| 14 | 6600 | 330 | .00 | .00 | .00 | .00 | .00   | .00   |
| 15 | 6700 | 335 | .00 | .00 | .00 | .00 | .00   | .00   |
| 16 | 6800 | 340 | .00 | .00 | .00 | .00 | .00   | .00   |
| 17 | 6900 | 345 | .00 | .00 | .00 | .00 | .00   | .00   |
| 18 | 7000 | 350 | .00 | .00 | .00 | .00 | .00   | .00   |
| 19 | 7100 | 355 | .00 | .00 | .00 | .00 | .00   | .00   |
| 20 | 7200 | 360 | .00 | .00 | .00 | .00 | .00   | .00   |
| 21 | 7300 | 365 | .00 | .00 | .00 | .00 | .00   | .00   |
| 22 | 7400 | 370 | .00 | .00 | .00 | .00 | .00   | .00   |
| 23 | 7500 | 375 | .00 | .00 | .00 | .00 | .00   | .00   |
| 24 | 7600 | 380 | .00 | .00 | .00 | .00 | .00   | .00   |
| 25 | 7700 | 385 | .00 | .00 | .00 | .00 | .00   | .00   |
| 26 | 7800 | 390 | .00 | .00 | .00 | .00 | .00   | .00   |
| 27 | 7900 | 395 | .00 | .00 | .00 | .00 | .00   | .00   |
| 28 | 8000 | 400 | .00 | .00 | .00 | .00 | .00   | .00   |
| 29 | 8100 | 405 | .00 | .00 | .00 | .00 | .00   | .00   |
| 30 | 8200 | 410 | .00 | .00 | .00 | .00 | .00   | .00   |

|    |         |      |                              |         |         |         |         |         |  |
|----|---------|------|------------------------------|---------|---------|---------|---------|---------|--|
| 1  | 8300    | 415  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 2  | 8400    | 420  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 3  | 8500    | 425  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 4  | 8600    | 430  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 5  | 8700    | 435  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 6  | 8800    | 440  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 7  | 8900    | 445  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 8  | 9000    | 450  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 9  | 9100    | 455  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 10 | 9200    | 460  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 11 | 9300    | 465  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 12 | 9400    | 470  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 13 | 9500    | 475  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 14 | 9600    | 480  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 15 | 9700    | 485  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 16 | 9800    | 490  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 17 | 9900    | 495  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 18 | 10,000  | 500  | .00                          | .00     | .00     | .00     | .00     | .00     |  |
| 19 | Net     | Tax  | Number of Federal Exemptions |         |         |         |         |         |  |
| 20 | Taxable | at   |                              |         |         |         |         |         |  |
| 21 | Income  | 5%   | 7                            | 8       | 9       | 10      | 11      | 12      |  |
| 22 |         |      |                              |         |         |         |         |         |  |
| 23 | \$ 100  | \$ 5 | \$ 5.00                      | \$ 5.00 | \$ 5.00 | \$ 5.00 | \$ 5.00 | \$ 5.00 |  |
| 24 | 200     | 10   | 10.00                        | 10.00   | 10.00   | 10.00   | 10.00   | 10.00   |  |
| 25 | 300     | 15   | 15.00                        | 15.00   | 15.00   | 15.00   | 15.00   | 15.00   |  |
| 26 | 400     | 20   | 20.00                        | 20.00   | 20.00   | 20.00   | 20.00   | 20.00   |  |
| 27 | 500     | 25   | 25.00                        | 25.00   | 25.00   | 25.00   | 25.00   | 25.00   |  |
| 28 | 600     | 30   | 30.00                        | 30.00   | 30.00   | 30.00   | 30.00   | 30.00   |  |
| 29 | 700     | 35   | 35.00                        | 35.00   | 35.00   | 35.00   | 35.00   | 35.00   |  |
| 30 | 800     | 40   | 40.00                        | 40.00   | 40.00   | 40.00   | 40.00   | 40.00   |  |

|    |      |     |        |        |        |        |        |        |
|----|------|-----|--------|--------|--------|--------|--------|--------|
| 1  | 900  | 45  | 45.00  | 45.00  | 45.00  | 45.00  | 45.00  | 45.00  |
| 2  | 1000 | 50  | 50.00  | 50.00  | 50.00  | 50.00  | 50.00  | 50.00  |
| 3  | 1100 | 55  | 55.00  | 55.00  | 55.00  | 55.00  | 55.00  | 55.00  |
| 4  | 1200 | 60  | 60.00  | 60.00  | 60.00  | 60.00  | 60.00  | 60.00  |
| 5  | 1300 | 65  | 65.00  | 65.00  | 65.00  | 65.00  | 65.00  | 65.00  |
| 6  | 1400 | 70  | 70.00  | 70.00  | 70.00  | 70.00  | 70.00  | 70.00  |
| 7  | 1500 | 75  | 75.00  | 75.00  | 75.00  | 75.00  | 75.00  | 75.00  |
| 8  | 1600 | 80  | 80.00  | 80.00  | 80.00  | 80.00  | 80.00  | 80.00  |
| 9  | 1700 | 85  | 85.00  | 85.00  | 85.00  | 85.00  | 85.00  | 85.00  |
| 10 | 1800 | 90  | 90.00  | 90.00  | 90.00  | 90.00  | 90.00  | 90.00  |
| 11 | 1900 | 95  | 95.00  | 95.00  | 95.00  | 95.00  | 95.00  | 95.00  |
| 12 | 2000 | 100 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 | 100.00 |
| 13 | 2100 | 105 | 105.00 | 105.00 | 105.00 | 105.00 | 105.00 | 105.00 |
| 14 | 2200 | 110 | 110.00 | 110.00 | 110.00 | 110.00 | 110.00 | 110.00 |
| 15 | 2300 | 115 | 115.00 | 115.00 | 115.00 | 115.00 | 115.00 | 115.00 |
| 16 | 2400 | 120 | 120.00 | 120.00 | 120.00 | 120.00 | 120.00 | 120.00 |
| 17 | 2500 | 125 | 125.00 | 125.00 | 125.00 | 125.00 | 125.00 | 125.00 |
| 18 | 2600 | 130 | 130.00 | 130.00 | 130.00 | 130.00 | 130.00 | 130.00 |
| 19 | 2700 | 135 | 135.00 | 135.00 | 135.00 | 135.00 | 135.00 | 135.00 |
| 20 | 2800 | 140 | 140.00 | 140.00 | 140.00 | 140.00 | 140.00 | 140.00 |
| 21 | 2900 | 145 | 145.00 | 145.00 | 145.00 | 145.00 | 145.00 | 145.00 |
| 22 | 3000 | 150 | 150.00 | 150.00 | 150.00 | 150.00 | 150.00 | 150.00 |
| 23 | 3100 | 155 | 155.00 | 155.00 | 155.00 | 155.00 | 155.00 | 155.00 |
| 24 | 3200 | 160 | 160.00 | 160.00 | 160.00 | 160.00 | 160.00 | 160.00 |
| 25 | 3300 | 165 | 165.00 | 165.00 | 165.00 | 165.00 | 165.00 | 165.00 |
| 26 | 3400 | 170 | 170.00 | 170.00 | 170.00 | 170.00 | 170.00 | 170.00 |
| 27 | 3500 | 175 | 175.00 | 175.00 | 175.00 | 175.00 | 175.00 | 175.00 |
| 28 | 3600 | 180 | 180.00 | 180.00 | 180.00 | 180.00 | 180.00 | 180.00 |
| 29 | 3700 | 185 | 185.00 | 185.00 | 185.00 | 185.00 | 185.00 | 185.00 |
| 30 | 3800 | 190 | 190.00 | 190.00 | 190.00 | 190.00 | 190.00 | 190.00 |

|    |      |     |               |               |               |               |               |        |
|----|------|-----|---------------|---------------|---------------|---------------|---------------|--------|
| 1  | 3900 | 195 | 195.00        | 195.00        | 195.00        | 195.00        | 195.00        | 195.00 |
| 2  | 4000 | 200 | 200.00        | 200.00        | 200.00        | 200.00        | 200.00        | 200.00 |
| 3  | 4100 | 205 | 205.00        | 205.00        | 205.00        | 205.00        | 205.00        | 205.00 |
| 4  | 4200 | 210 | 210.00        | 210.00        | 210.00        | 210.00        | 210.00        | 210.00 |
| 5  | 4300 | 215 | <u>215.00</u> | 215.00        | 215.00        | 215.00        | 215.00        | 215.00 |
| 6  | 4400 | 220 | 218.75        | 220.00        | 220.00        | 220.00        | 220.00        | 220.00 |
| 7  | 4500 | 225 | 210.00        | 225.00        | 225.00        | 225.00        | 225.00        | 225.00 |
| 8  | 4600 | 230 | 201.25        | 230.00        | 230.00        | 230.00        | 230.00        | 230.00 |
| 9  | 4700 | 235 | 192.50        | 235.00        | 235.00        | 235.00        | 235.00        | 235.00 |
| 10 | 4800 | 240 | 183.75        | 240.00        | 240.00        | 240.00        | 240.00        | 240.00 |
| 11 | 4900 | 245 | 175.00        | 245.00        | 245.00        | 245.00        | 245.00        | 245.00 |
| 12 | 5000 | 250 | 166.25        | <u>250.00</u> | 250.00        | 250.00        | 250.00        | 250.00 |
| 13 | 5100 | 255 | 157.50        | 240.00        | 255.00        | 255.00        | 255.00        | 255.00 |
| 14 | 5200 | 260 | 148.75        | 230.00        | 260.00        | 260.00        | 260.00        | 260.00 |
| 15 | 5300 | 265 | 140.00        | 220.00        | 265.00        | 265.00        | 265.00        | 265.00 |
| 16 | 5400 | 270 | 131.25        | 210.00        | 270.00        | 270.00        | 270.00        | 270.00 |
| 17 | 5500 | 275 | 122.50        | 200.00        | 275.00        | 275.00        | 275.00        | 275.00 |
| 18 | 5600 | 280 | 113.75        | 190.00        | <u>280.00</u> | 280.00        | 280.00        | 280.00 |
| 19 | 5700 | 285 | 105.00        | 180.00        | 281.25        | 285.00        | 285.00        | 285.00 |
| 20 | 5800 | 290 | 96.25         | 170.00        | 270.00        | 290.00        | 290.00        | 290.00 |
| 21 | 5900 | 295 | 87.50         | 160.00        | 258.75        | 295.00        | 295.00        | 295.00 |
| 22 | 6000 | 300 | 78.75         | 150.00        | 247.50        | 300.00        | 300.00        | 300.00 |
| 23 | 6100 | 305 | 70.00         | 140.00        | 236.25        | 305.00        | 305.00        | 305.00 |
| 24 | 6200 | 310 | 61.25         | 130.00        | 225.00        | <u>310.00</u> | 310.00        | 310.00 |
| 25 | 6300 | 315 | 52.50         | 120.00        | 213.75        | 312.50        | 315.00        | 315.00 |
| 26 | 6400 | 320 | 43.75         | 110.00        | 202.50        | 300.00        | 320.00        | 320.00 |
| 27 | 6500 | 325 | 35.00         | 100.00        | 191.25        | 287.50        | 325.00        | 325.00 |
| 28 | 6600 | 330 | 26.25         | 90.00         | 180.00        | 275.00        | 330.00        | 330.00 |
| 29 | 6700 | 335 | 17.50         | 80.00         | 168.75        | 262.50        | 335.00        | 335.00 |
| 30 | 6800 | 340 | 8.75          | 70.00         | 157.50        | 250.00        | <u>340.00</u> | 340.00 |

|    |      |     |     |       |        |        |        |               |
|----|------|-----|-----|-------|--------|--------|--------|---------------|
| 1  | 6900 | 345 | .00 | 60.00 | 146.25 | 237.50 | 343.75 | 345.00        |
| 2  | 7000 | 350 | .00 | 50.00 | 135.00 | 225.00 | 330.00 | 350.00        |
| 3  | 7100 | 355 | .00 | 40.00 | 123.75 | 212.50 | 316.25 | 355.00        |
| 4  | 7200 | 360 | .00 | 30.00 | 112.50 | 200.00 | 302.50 | 360.00        |
| 5  | 7300 | 365 | .00 | 20.00 | 101.25 | 187.50 | 288.75 | 365.00        |
| 6  | 7400 | 370 | .00 | 10.00 | 90.00  | 175.00 | 275.00 | 370.00        |
| 7  | 7500 | 375 | .00 | .00   | 78.75  | 162.50 | 261.25 | <u>375.00</u> |
| 8  | 7600 | 380 | .00 | .00   | 67.50  | 150.00 | 247.50 | 360.00        |
| 9  | 7700 | 385 | .00 | .00   | 56.25  | 137.50 | 233.75 | 345.00        |
| 10 | 7800 | 390 | .00 | .00   | 45.00  | 125.00 | 220.00 | 330.00        |
| 11 | 7900 | 395 | .00 | .00   | 33.75  | 112.50 | 206.25 | 315.00        |
| 12 | 8000 | 400 | .00 | .00   | 22.50  | 100.00 | 192.50 | 300.00        |
| 13 | 8100 | 405 | .00 | .00   | 11.25  | 87.50  | 178.75 | 285.00        |
| 14 | 8200 | 410 | .00 | .00   | .00    | 75.00  | 165.00 | 270.00        |
| 15 | 8300 | 415 | .00 | .00   | .00    | 62.50  | 151.25 | 255.00        |
| 16 | 8400 | 420 | .00 | .00   | .00    | 50.00  | 137.50 | 240.00        |
| 17 | 8500 | 425 | .00 | .00   | .00    | 37.50  | 123.75 | 225.00        |
| 18 | 8600 | 430 | .00 | .00   | .00    | 25.00  | 110.00 | 210.00        |
| 19 | 8700 | 435 | .00 | .00   | .00    | 12.50  | 96.25  | 195.00        |
| 20 | 8800 | 440 | .00 | .00   | .00    | .00    | 82.50  | 180.00        |
| 21 | 8900 | 445 | .00 | .00   | .00    | .00    | 68.75  | 165.00        |
| 22 | 9000 | 450 | .00 | .00   | .00    | .00    | 55.00  | 150.00        |
| 23 | 9100 | 455 | .00 | .00   | .00    | .00    | 41.25  | 135.00        |
| 24 | 9200 | 460 | .00 | .00   | .00    | .00    | 27.50  | 120.00        |
| 25 | 9300 | 465 | .00 | .00   | .00    | .00    | 13.75  | 105.00        |
| 26 | 9400 | 470 | .00 | .00   | .00    | .00    | .00    | 90.00         |
| 27 | 9500 | 475 | .00 | .00   | .00    | .00    | .00    | 75.00         |
| 28 | 9600 | 480 | .00 | .00   | .00    | .00    | .00    | 60.00         |
| 29 | 9700 | 485 | .00 | .00   | .00    | .00    | .00    | 45.00         |
| 30 | 9800 | 490 | .00 | .00   | .00    | .00    | .00    | 30.00         |

|   |        |     |     |     |     |     |     |       |
|---|--------|-----|-----|-----|-----|-----|-----|-------|
| 1 | 9900   | 495 | .00 | .00 | .00 | .00 | .00 | 15.00 |
| 2 | 10,000 | 500 | .00 | .00 | .00 | .00 | .00 | .00   |

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

4 PART V

5 WITHHOLDING OF TAX

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

20 Section 323. Information Statement.--Every employer required  
21 to deduct and withhold tax under this article shall furnish to  
22 each such employe to whom the employer has paid compensation  
23 during the calendar year, on or before January 31 of the  
24 succeeding year, or, if his employment is terminated before the  
25 close of such calendar year, within thirty days from the date on  
26 which the last payment of compensation is made, a written  
27 statement in such manner and in such form as may be prescribed  
28 by the department showing the amount of compensation paid by the  
29 employer to the employe, the amount deducted and withheld as  
30 tax, and such other information as the department shall



1 prescribe.

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

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

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

29 (2) Where the aggregate amount required to be deducted and  
30 withheld by any employer for each quarterly period can

1 reasonably be expected to be three hundred dollars (\$300) or  
2 more but less than one thousand dollars (\$1,000), such employer  
3 shall pay the tax monthly, on or before the fifteenth day of the  
4 month succeeding the months of January to November, inclusive,  
5 and on or before the last day of January following the month of  
6 December.

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

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

23 Section 325. Employer's Liability for Withheld Taxes.--Every  
24 employer required to deduct and withhold tax under this article  
25 is hereby made liable for such tax. For purposes of assessment  
26 and collection, any amount required to be withheld and paid over  
27 to the department and any additions to tax penalties and  
28 interest with respect thereto, shall be considered the tax of  
29 the employer. All taxes deducted and withheld from employes  
30 pursuant to this article or under color of this article shall

1 constitute a trust fund for the Commonwealth and shall be  
2 enforceable against such employer, his representative or any  
3 other person receiving any part of such fund.

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

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

23 PART VI

24 ESTIMATED TAX

25 Section 330. Declarations of Estimated Tax.--(a) Every  
26 resident and nonresident individual shall at the time  
27 hereinafter prescribed make a declaration of his estimated tax  
28 for the taxable year, containing such information as the  
29 department may prescribe by regulations, if his taxable income,  
30 other than from compensation on which tax is withheld under this

1 article, can reasonably be expected to exceed one thousand  
2 dollars (\$1,000).

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

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

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

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

26 (2) If the determination is made after April 1 but before  
27 June 2 of the taxable year, the declaration shall be filed no  
28 later than June 15 of such year.

29 (3) If the determination is made after June 1 but before  
30 September 2 of the taxable year, the declaration shall be filed

1 no later than September 15 of such year.

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

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

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

15 (g) An individual may amend a declaration under regulations  
16 of the department.

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

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

25 (2) Such return shall be considered as the amendment  
26 permitted by subsection (g) to be filed on or before January 15  
27 provided the amount of the tax shown on the return is greater  
28 than the amount of the estimated tax shown in a declaration  
29 previously made.

30 (i) This article shall apply to a taxable year other than a

1 calendar year by the substitution of the months of such fiscal  
2 year for the corresponding months specified in this section.

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

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

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

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

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

28 (4) If the declaration is not required to be filed on or  
29 before September 15 of the taxable year and is filed after  
30 September 15 of the taxable year, the estimated tax shall be

1 paid in full at the time of the filing of the declaration.

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

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

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

23 PART VII

24 RETURNS AND PAYMENT OF TAX

25 Section 335. Returns and Liability.--On or before the date  
26 when the taxpayer's Federal income tax return is due or would be  
27 due if the taxpayer were required to file a Federal income tax  
28 return, a tax return under this article shall be made and filed  
29 by or for every taxpayer having taxable income for the taxable  
30 year.

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

6 (b) If the Federal income tax liabilities of husband and  
7 wife (other than a husband and wife described in subsection (c))  
8 are determined on a joint Federal return, or if neither files a  
9 Federal return:

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

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

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

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

27 (1) If the sum of the payments by either spouse, including  
28 withheld and estimated taxes, exceeds the amount of the tax for  
29 which such spouse is separately liable, the excess may be  
30 applied by the department to the credit of the other spouse if



1 the sum of the payments by such other spouse, including withheld  
2 and estimated taxes, is less than the amount of the tax for  
3 which such other spouse is separately liable.

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

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

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

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

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

24 Section 337. Time and Place for Filing Returns and Paying  
25 Tax.--A person required to make and file a return under this  
26 article shall, without assessment, notice or demand, pay any tax  
27 due thereon to the department on or before the date fixed for  
28 filing such return (determined without regard to any extension  
29 of time for filing the return). The department shall prescribe  
30 by regulation the place for filing any return, declaration,

1 statement, or other document required pursuant to this article  
2 and for payment of any tax.

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

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

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

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

29 (b) In all other cases the department may, upon application,  
30 grant a reasonable extension of time for filing any return,

1 declaration, statement, or other document required pursuant to  
2 this article, on such terms and conditions as it may require.  
3 Except for a taxpayer who is outside the United States, no such  
4 extension for filing any return, declaration, statement or other  
5 document, shall exceed six months.

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

16 (b) (1) When required by regulations prescribed by the  
17 department:

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

23 (ii) Any person with respect to whom a return, declaration,  
24 statement, or other document is required under the authority of  
25 this article to make a return, declaration, statement, or other  
26 document with respect to another person, shall request from such  
27 other person, and shall include in any such return, declaration,  
28 statement, or other document, such identifying number as may be  
29 prescribed for securing proper identification of such other  
30 person.

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

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

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

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

17 PART VIII

18 PROCEDURE AND ADMINISTRATION

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

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

26 (b) If the mode or time for the assessment of any tax is not  
27 otherwise provided for, the department may establish the same by  
28 regulations.

29 Section 347. Procedure for Reassessment.--Promptly after the  
30 date of an assessment by the department, the department shall

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

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

1 the action taken on the petition for reassessment, or it may  
2 reassess the tax due upon such basis as it shall deem according  
3 to law. Notice of the action of the Board of Finance and Revenue  
4 shall be given by mail to the department and to the petitioner.

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

11 Section 350. Collection of Tax.--The department shall  
12 collect the taxes imposed by this article in the manner provided  
13 by law for the collection of taxes imposed by the laws of this  
14 Commonwealth.

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

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

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

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

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

30 In any such proceeding for the collection of the tax imposed

1 by this article, the person against whom the assessment was made  
2 shall not be permitted to set up any ground of defense that  
3 might have been presented to the department, the Board of  
4 Finance and Revenue or the Commonwealth Court if such person had  
5 properly pursued his administrative remedies under this article.

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

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



1 such writs are ordinarily employed.

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

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

12 (b) The department is authorized to prescribe regulations  
13 providing for the crediting against the estimated tax for any  
14 taxable year of the amount determined to be an overpayment of  
15 the tax for a preceding taxable year.

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

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

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

29 (2) Upon the filing of a final return showing less tax due  
30 after the application of the allowable credits than the amount

1 of tax withheld from the taxpayer's compensation or the amount  
2 of tax paid by him as estimated tax; or

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

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

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

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

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

26 Section 356. Extension of Limitation Period.--  
27 Notwithstanding section 355, where, before the expiration of the  
28 period prescribed therein a taxpayer has consented in writing  
29 that such period be extended, the amount of tax due may be  
30 assessed at any time within such extended period. The period so

1 extended may be further extended by subsequent consents in  
2 writing made before the expiration of the extended period.

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

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

19 Section 359. Additions.--(a) In case of failure to file any  
20 return required under section 335 on the date prescribed  
21 therefor, determined with regard to any extension of time for  
22 filing, unless it is shown that such failure is due to  
23 reasonable cause and not due to wilful neglect, there shall be  
24 added to the amount required to be shown as tax on such return  
25 five per cent of the amount of such tax if the failure is for  
26 not more than one month, with an additional five per cent for  
27 each additional month or fraction thereof during which such  
28 failure continues, not exceeding twenty-five per cent, in the  
29 aggregate, but in no case shall the amount added be less than  
30 five dollars (\$5).

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

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

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

29 (2) No addition to tax shall be imposed if the total amount  
30 of all payments of estimated tax made on or before the last date

1 prescribed for the payment of such installment equals or exceeds  
2 the lesser of:

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

5 (i) the tax shown on the return of the individual for the  
6 preceding taxable year, if a return showing a liability for tax  
7 was filed by the individual for the preceding taxable year and  
8 such preceding year was a taxable year of twelve months, or

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

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

19 (e) Any person required to collect, account for and pay over  
20 any tax imposed by this article who wilfully fails to collect  
21 such tax or truthfully account for and pay over such tax, or  
22 wilfully attempts in any manner to evade or defeat any such tax  
23 or the payment thereof, shall, in addition to other penalties  
24 provided by law, be liable to a penalty equal to the total  
25 amount of the tax evaded or not collected or not accounted for  
26 and paid over. No penalty shall be imposed under subsection (b)  
27 or (c) of section 359 for any offense to which this section is  
28 applicable.

29 (f) Any person required under the provisions of section 323  
30 to furnish a statement to an employee who wilfully furnishes a

1 false or fraudulent statement, or who wilfully fails to furnish  
2 a statement in the manner, at the time, and showing the  
3 information required under section 323 and the regulations  
4 prescribed thereunder, shall, for each such failure, be subject  
5 to a penalty of fifty dollars (\$50) for each employe.

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

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

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

30 (c) Any person required under this article to pay any tax or

1 to make a return, keep any records or supply any information,  
2 who wilfully fails to pay such tax or make such return, keep  
3 such records or supply such information at the time or times  
4 required by law or regulations, shall, in addition to other  
5 penalties provided by law, be guilty of a misdemeanor and shall,  
6 upon conviction, be sentenced to pay a fine not exceeding five  
7 thousand dollars (\$5,000) or to undergo imprisonment not  
8 exceeding two years, or both.

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

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

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

19 (g) Notwithstanding subsection (f), it shall be lawful for  
20 any officer or employe of the Commonwealth having custody of  
21 returns to produce them or evidence of anything contained in  
22 them in any action or proceeding in any court on behalf of the  
23 department under the provisions of this article to which it is a  
24 party, or on behalf of any party to any action or proceeding  
25 under the provisions of this article, when the returns or facts  
26 shown thereby are directly involved in such action or  
27 proceeding, in either of which events the court may require the  
28 production of and may admit in evidence so much of said returns  
29 or the facts shown thereby as are pertinent to the action or  
30 proceeding and no more. Nothing herein shall be construed to



1 prohibit the delivery to a taxpayer or his duly authorized  
2 representative of a certified copy of any return filed in  
3 connection with his tax, nor to prohibit the publication of  
4 statistics so classified as to prevent the identification of  
5 particular returns and the items thereof or the inspection by  
6 the Attorney General or other legal representatives of the  
7 Commonwealth of the return of any taxpayer who shall bring  
8 action to review the tax based thereon or against whom an action  
9 or proceeding has been instituted for the collection or recovery  
10 of the tax imposed by this article.

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

18 Section 362. Examination.--The department, or any agent  
19 authorized in writing by it, is hereby authorized to examine the  
20 books, papers and records of any taxpayer or supposed taxpayer,  
21 and to require the production of a copy of his return as made to  
22 and filed with the Federal Government, if one was so made and  
23 filed, in order to verify the accuracy of any return made, or if  
24 no return was made, to ascertain and assess the tax imposed by  
25 this article. Every such taxpayer or supposed taxpayer is hereby  
26 directed and required to give to the department or its duly  
27 authorized agent the means, facilities and opportunity for such  
28 examinations and investigations as are hereby provided and  
29 authorized. The department is hereby authorized to examine any  
30 person under oath concerning any taxable income which was or

1 should have been returned for taxation, and to this end may  
2 compel the production of books, papers and records and the  
3 attendance of all persons, whether as parties or witnesses, whom  
4 it believes have knowledge of such taxable income. The procedure  
5 for such hearing or examination shall be the same as that  
6 provided by "The Fiscal Code" relating to inquisitorial powers  
7 of fiscal officers.

8 Section 363. Cooperation with Other Governmental Agencies.--  
9 Notwithstanding the provisions of subsection (f) of section 359,  
10 the department may permit the Commissioner of Internal Revenue  
11 of the United States, or the proper officer of any political  
12 subdivision of this Commonwealth or of any other state imposing  
13 tax based upon the incomes of individuals, or the authorized  
14 representative of such officer, to inspect the tax returns of  
15 any taxpayer, or may furnish to such officer or his authorized  
16 representative an abstract of the return of income of any  
17 taxpayer, or supply him with information concerning any item of  
18 income contained in any return of any taxpayer. Such permission  
19 shall be granted or such information furnished to such officer  
20 or his representative only if the statutes of the United States  
21 or of such other state, as the case may be, grant substantially  
22 similar privileges to the proper officer of this Commonwealth  
23 charged with the administration of the personal income tax law  
24 thereof.

25 Section 364. Appropriation for Refunds.--So much of the  
26 proceeds of the tax imposed by this article as shall be  
27 necessary for the payment of refunds, enforcement, or  
28 administration, under this article, is hereby appropriated for  
29 such purposes.

1 MISCELLANEOUS PROVISIONS

2 Section 370. Effective Date.-- Except as hereinafter  
3 provided this article shall take effect on March 1, 1971, and  
4 the tax imposed hereby shall apply to taxable years ending after  
5 December 31, 1970: Provided, however, That a taxpayer who filed  
6 returns on the basis of a fiscal year or who is the beneficiary  
7 of an estate or trust or member of a partnership which files its  
8 returns under this article or with the Federal Government on the  
9 basis of a fiscal year, shall be subject to tax for his first  
10 taxable period on an apportioned basis reflecting the portion of  
11 his fiscal year or of the fiscal year of the estate, trust or  
12 partnership which postdates December 31, 1970, as prescribed by  
13 the department by regulations. Section 359 which provides for  
14 additions or penalties to the tax shall not take effect until  
15 thirty days after the date on which the department has  
16 promulgated and issued regulations relating to the duties and  
17 liabilities imposed on taxpayers under this article.

18 ARTICLE IV

19 CORPORATE NET INCOME TAX

20 PART I

21 DEFINITIONS

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

26 (1) "Corporation." A corporation having capital stock,  
27 joint-stock association, or limited partnership either organized  
28 under the laws of this Commonwealth, the United States, or any  
29 other state, territory, or foreign country, or dependency, and  
30 doing business in this Commonwealth, or having capital or

1 property employed or used in this Commonwealth by or in the name  
2 of itself, or any person, partnership, association, limited  
3 partnership, joint-stock association or corporation. The word  
4 "corporation" shall not include building and loan associations,  
5 banks, bank and trust companies, national banks, savings  
6 institutions, trust companies, insurance and surety companies.

7 (2) "Department." The Department of Revenue of this  
8 Commonwealth.

9 (3) "Net income." 1. In case the entire business of the  
10 corporation is transacted within this Commonwealth, for any  
11 taxable year which begins on or after January 1, 1971, net  
12 income for the calendar year or fiscal year as returned to and  
13 ascertained by the Federal Government, or in the case of a  
14 corporation participating in the filing of consolidated returns  
15 to the Federal Government, the net income which would have been  
16 returned to and ascertained by the Federal Government if  
17 separate returns had been made to the Federal Government for the  
18 current and prior taxable years, subject, however, to any  
19 correction thereof, for fraud, evasion, or error as finally  
20 ascertained by the Federal Government: Provided, That additional  
21 deductions shall be allowed from net income on account of any  
22 dividends received from any other corporation but only to the  
23 extent that such dividends are included in taxable income as  
24 returned to and ascertained by the Federal Government. No  
25 deduction shall be allowed for net operating losses sustained by  
26 the corporation during any other fiscal or calendar year. In the  
27 case of regulated investment companies as defined by the  
28 Internal Revenue Code of 1954, as amended, "net income" shall be  
29 investment company taxable income as defined in the aforesaid  
30 Internal Revenue Code of 1954, as amended. In arriving at "net

1 income" for Federal tax purposes for any taxable year beginning  
2 on or after January 1, 1971, any corporate net income tax paid  
3 to the Commonwealth pursuant to the provisions of this article  
4 shall not be allowed as a deduction however, the amount of  
5 corporate net income tax so paid and excluded from net income  
6 shall not be apportioned but shall be subject to tax at the rate  
7 imposed under this article.

8 2. In case the entire business of any corporation, other  
9 than a corporation engaged in doing business as a regulated  
10 investment company as defined by the Internal Revenue Code of  
11 1954, as amended, is not transacted within this Commonwealth,  
12 the tax imposed by this article shall be based upon such portion  
13 of the net income of such corporation for the fiscal or calendar  
14 year, as defined in subclause 1 hereof, and may be determined as  
15 follows:

16 (a) Division of Income.

17 (1) As used in this definition, unless the context otherwise  
18 requires:

19 (A) "Business income" means income arising from transactions  
20 and activity in the regular course of the taxpayer's trade or  
21 business and includes income from tangible and intangible  
22 property if the acquisition, management, and disposition of the  
23 property constitute integral parts of the taxpayer's regular  
24 trade or business operations.

25 (B) "Commercial domicile" means the principal place from  
26 which the trade or business of the taxpayer is directed or  
27 managed.

28 (C) "Compensation" means wages, salaries, commissions and  
29 any other form of remuneration paid to employes for personal  
30 services.

1 (D) "Financial organization" means any safe deposit company,  
2 credit union, small loan company, sales finance company, or  
3 investment company.

4 (E) "Nonbusiness income" means all income other than  
5 business income.

6 (F) "Public utility" means any business entity which owns or  
7 operates any plant, equipment, property, franchise, or license  
8 for the transmission of communications, transportation of goods  
9 or persons, except by pipeline, or the production, transmission,  
10 sale, delivery, or furnishing of electricity, water or steam;  
11 and whose rates of charges for goods or services have been  
12 established or approved by a Federal, State or local government  
13 or governmental agency.

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

16 (H) "State" means any state of the United States, the  
17 District of Columbia, the Commonwealth of Puerto Rico, any  
18 territory or possession of the United States, and any foreign  
19 country or political subdivision thereof.

20 (I) "This state" means the state in which the relevant tax  
21 return is filed or, in the case of application of this  
22 definition to the apportionment and allocation of income for  
23 local tax purposes, the subdivision or local taxing district in  
24 which the relevant tax return is filed.

25 (2) Any taxpayer having income from business activity which  
26 is taxable both within and without this State, other than  
27 activity as a financial organization or public utility or the  
28 rendering of purely personal services by an individual, shall  
29 allocate and apportion his net income as provided in this  
30 definition.

1 (3) For purposes of allocation and apportionment of income  
2 under this definition, a taxpayer is taxable in another state if  
3 in that state he is subject to a net income tax, a franchise tax  
4 measured by net income, a franchise tax for the privilege of  
5 doing business, or a corporate stock tax, or that state has  
6 jurisdiction to subject the taxpayer to a net income tax  
7 regardless of whether, in fact, the state does or does not.

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

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

15 (B) Net rents and royalties from tangible personal property  
16 are allocable to this State if and to the extent that the  
17 property is utilized in this State, or in their entirety if the  
18 taxpayer's commercial domicile is in this State and the taxpayer  
19 is not organized under the laws of or taxable in the state in  
20 which the property is utilized.

21 (C) The extent of utilization of tangible personal property  
22 in a state is determined by multiplying the rents and royalties  
23 by a fraction, the numerator of which is the number of days of  
24 physical location of the property in the state during the rental  
25 or royalty period in the taxable year and the denominator of  
26 which is the number of days of physical location of the property  
27 everywhere during all rental or royalty periods in the taxable  
28 year. If the physical location of the property during the rental  
29 or royalty period is unknown or unascertainable by the taxpayer,  
30 tangible personal property is utilized in the state in which the

1 property was located at the time the rental or royalty payer  
2 obtained possession.

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

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

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

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

15 (8) (A) Patent and copyright royalties are allocable to  
16 this State if and to the extent that the patent or copyright is  
17 utilized by the payer in this State, or if and to the extent  
18 that the patent copyright is utilized by the payer in a state in  
19 which the taxpayer is not taxable and the taxpayer's commercial  
20 domicile is in this State.

21 (B) A patent is utilized in a state to the extent that it is  
22 employed in production, fabrication, manufacturing, or other  
23 processing in the state or to the extent that a patented product  
24 is produced in the state. If the basis of receipts from patent  
25 royalties does not permit allocation to states or if the  
26 accounting procedures do not reflect states of utilization, the  
27 patent is utilized in the state in which the taxpayer's  
28 commercial domicile is located.

29 (C) A copyright is utilized in a state to the extent that  
30 printing or other publication originates in the state. If the



1 basis of receipts from copyright royalties does not permit  
2 allocation to states or if the accounting procedures do not  
3 reflect states of utilization, the copyright is utilized in the  
4 state in which the taxpayer's commercial domicile is located.

5 (9) All business income shall be apportioned to this State  
6 by multiplying the income by a fraction, the numerator of which  
7 is the property factor plus the payroll factor plus the sales  
8 factor, and the denominator of which is three.

9 (10) The property factor is a fraction, the numerator of  
10 which is the average value of the taxpayer's real and tangible  
11 personal property owned or rented and used in this State during  
12 the tax period and the denominator of which is the average value  
13 of all the taxpayer's real and tangible personal property owned  
14 or rented and used during the tax period.

15 (11) Property owned by the taxpayer is valued at its  
16 original cost. Property rented by the taxpayer is valued at  
17 eight times the net annual rental rate. Net annual rental rate  
18 is the annual rental rate paid by the taxpayer less any annual  
19 rental rate received by the taxpayer from subrentals.

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

25 (13) The payroll factor is a fraction, the numerator of  
26 which is the total amount paid in this State during the tax  
27 period by the taxpayer for compensation and the denominator of  
28 which is the total compensation paid everywhere during the tax  
29 period.

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

1 (A) The individual's service is performed entirely within  
2 the State;

3 (B) The individual's service is performed both within and  
4 without the State, but the service performed without the State  
5 is incidental to the individual's service within the State; or

6 (C) Some of the service is performed in the State and the  
7 base of operations or if there is no base of operations, the  
8 place from which the service is directed or controlled is in the  
9 State, or the base of operations or the place from which the  
10 service is directed or controlled is not in any state in which  
11 some part of the service is performed, but the individual's  
12 residence is in this State.

13 (15) The sales factor is a fraction, the numerator of which  
14 is the total sales of the taxpayer in this State during the tax  
15 period, and the denominator of which is the total sales of the  
16 taxpayer everywhere during the tax period.

17 (16) Sales of tangible personal property are in this State  
18 if the property is delivered or shipped to a purchaser, other  
19 than the United States Government, within this State regardless  
20 of the f.o.b. point or other conditions of the sale.

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

23 (A) The income-producing activity is performed in this  
24 State; or

25 (B) The income-producing activity is performed both in and  
26 outside this State and a greater proportion of the income-  
27 producing activity is performed in this State than in any other  
28 state, based on costs of performance.

29 (18) If the allocation and apportionment provisions of this  
30 definition do not fairly represent the extent of the taxpayer's

1 business activity in this State, the taxpayer may petition the  
2 Secretary of Revenue or the Secretary of Revenue may require, in  
3 respect to all or any part of the taxpayer's business activity:

4 (A) Separate accounting;

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

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

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

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

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

29 (2) Nonbusiness income of railroad, truck, bus or airline  
30 companies shall be allocated as provided in paragraphs (5)

1 through (8) of clause (a) of subclause 2 of the definition of  
2 net income.

3 (c) Pipeline or Natural Gas Companies.

4 (1) All business income of pipeline companies shall be  
5 apportioned to this Commonwealth by multiplying the income by a  
6 fraction, the numerator of which is the revenue ton miles,  
7 revenue barrel miles or revenue cubic feet miles within this  
8 Commonwealth during the tax period and the denominator of which  
9 is the total revenue ton miles, revenue barrel miles or the  
10 revenue cubic feet miles of the taxpayer everywhere during the  
11 tax period. For purposes of this subsection a revenue ton mile,  
12 revenue barrel mile or a revenue cubic foot mile shall mean  
13 respectively the receipts derived from the transportation by the  
14 taxpayer of one ton of solid property, one barrel of liquid  
15 property or one cubic foot of gaseous property transported one  
16 mile.

17 (2) All business income of natural gas companies subject to  
18 regulation by the Federal Power Commission or by the  
19 Pennsylvania Public Utility Commission shall be apportioned to  
20 this Commonwealth by multiplying the income by a fraction, the  
21 numerator of which shall be the cubic foot capacity of the  
22 taxpayer's pipelines in this Commonwealth, and the denominator  
23 of which shall be the cubic foot capacity of the taxpayer's  
24 pipelines everywhere, at the end of the tax period. For the  
25 purpose of this subsection, the cubic foot capacity of a  
26 pipeline shall be determined by multiplying the square of its  
27 radius (in feet) by its length (in feet).

28 (3) Nonbusiness income of pipeline companies or natural gas  
29 companies subject to regulation by the Federal Power Commission  
30 or by the Pennsylvania Public Utility Commission shall be

1 allocated as provided in paragraphs (5) through (8) of clause  
2 (a) of subclause 2 of the definition of net income.

3 (d) Water Transportation Companies.

4 (1) Water Transportation Companies Operating on High Seas.

5 All business income of water transportation companies operating  
6 on high seas shall be apportioned to this Commonwealth by  
7 multiplying the business income by a fraction, the numerator of  
8 which is the number of port days spent inside the Commonwealth  
9 and the denominator of which is the total number of port days  
10 spent inside and outside of the Commonwealth. The term "port  
11 days" does not include periods when the ships are not in use  
12 because of strikes or withheld from service for repair or  
13 because of seasonal reduction of services. Days in port are  
14 computed by dividing the aggregate number of hours in all ports  
15 by twenty-four.

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

30 (3) Nonbusiness income of water transportation companies

1 shall be allocated as provided in paragraphs (5) through (8) of  
2 clause (a) of subclause 2 of the definition of net income.

3 3. In case the entire business of a corporation which has  
4 filed a timely election and has qualified to be taxed as a  
5 regulated investment company under the provisions of the  
6 Internal Revenue Code of 1954, as amended, is not transacted  
7 within this Commonwealth, the tax imposed by this article shall  
8 be based upon such portion of the net income of such corporation  
9 for the fiscal or calendar year as defined in subclause 1  
10 hereof, as shall be attributable to business transacted within  
11 this Commonwealth by multiplying such net income by a fraction,  
12 the numerator of which is the sum of the corporation's gross  
13 receipts from (i) sales of its own shares to Pennsylvania  
14 investors and (ii) sales of its portfolio securities, where the  
15 orders for such sales are placed with or credited to  
16 Pennsylvania offices of registered securities dealers and the  
17 denominator of which fraction is the corporation's total gross  
18 receipts from (i) sales of its own shares and (ii) sales of its  
19 portfolio securities. Pennsylvania investors shall mean  
20 individuals residing in Pennsylvania at the time of the sale or  
21 corporations or other entities having their principal place of  
22 business located in Pennsylvania at such time.

23 (4) "Person." Every natural person, association or  
24 corporation. Whenever used in any clause prescribing and  
25 imposing a fine or imprisonment, or both, the term "person," as  
26 applied to associations, shall mean the partners or members  
27 thereof, and as applied to corporations the officers thereof.

28 PART II

29 IMPOSITION OF TAX

30 Section 402. Imposition of Tax.--Every corporation shall be

1 subject to, and shall pay for the privilege of doing business in  
2 this Commonwealth, or having capital or property employed or  
3 used in this Commonwealth, by or in the name of itself, or any  
4 person, partnership, association, limited partnership, joint-  
5 stock association, or corporation, a State excise tax at the  
6 rate of twelve per cent per annum upon each dollar of net income  
7 of such corporation received by, and accruing to, such  
8 corporation during the calendar year 1971, except where a  
9 corporation reports to the Federal Government on the basis of a  
10 fiscal year, and has certified such fact to the department as  
11 required by section 403 of this article, in which case, such  
12 tax, at the rate of twelve per cent, shall be levied, collected,  
13 and paid upon all net income received by, and accruing to, such  
14 corporation during the fiscal year commencing in the calendar  
15 year 1971 and ending in the calendar year 1972, a similar tax at  
16 the rate of ten per cent upon each dollar of the net income of  
17 such corporation received by, and accruing to, such corporation  
18 during the calendar year 1972, and each year thereafter, except  
19 where a corporation reports to the Federal Government on the  
20 basis of a fiscal year, and has certified such fact to the  
21 department as required by section 403 of this article, in which  
22 case, such tax, at the rate of ten per cent, shall be levied,  
23 collected and paid upon all net income received by, and accruing  
24 to, such corporation during the fiscal year commencing in the  
25 calendar year 1972 and ending in the calendar year 1973 and each  
26 year thereafter.

27 PART III

28 REPORTS AND PAYMENT OF TAX

29 Section 403. Reports and Payment of Tax.--(a) For the  
30 purpose of ascertaining the amount of tax payable under this

1 article, it shall be the duty of every corporation, liable to  
2 pay tax under this article, on or before April 15, 1972, and  
3 each year thereafter, to transmit to the department, upon a form  
4 prescribed, prepared and furnished by the department, an annual  
5 report under oath or affirmation of its president, vice-  
6 president or other principal officer, and of its treasurer or  
7 assistant treasurer of net income taxable under the provisions  
8 of this article. Such report shall set forth:

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

13 (2) If no return was filed with the Federal Government the  
14 report made to the department shall show such information as  
15 would have been contained in a return to the Federal Government  
16 had one been made; and

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

18 (b) For the purpose of ascertaining the amount of tax  
19 payable under this article for the taxable year 1971, and each  
20 taxable year thereafter, it shall be the duty of every  
21 corporation liable to pay tax under this article, on or before  
22 April 30, 1971, and on or before the end of the fourth month  
23 after the close of its previous fiscal year for fiscal year  
24 taxpayers, and each year thereafter, to transmit in like form  
25 and manner an additional tentative report and make payment  
26 pursuant to the provisions of the act of March 16, 1970 (Act No.  
27 69).

28 (c) The amount of all taxes, imposed under the provisions of  
29 this article, not paid on or before the times as above provided,  
30 shall bear interest at the rate of six per cent per annum from



1 the date they are due and payable until paid, except that if the  
2 taxable income has been, or is increased by the Commissioner of  
3 Internal Revenue, or by any other agency or court of the United  
4 States, interest shall be computed on the additional tax due  
5 from thirty days after the corporation receives notice of the  
6 change of income until paid: Provided, however, That any  
7 corporation may pay the full amount of such tax, or any part  
8 thereof, together with interest due to the date of payment,  
9 without prejudice to its right to present and prosecute a  
10 petition for resettlement, a petition for review, or an appeal  
11 to court. If it be thereafter determined that such taxes were  
12 overpaid, the department shall enter a credit to the account of  
13 such corporation, which may be used by it in the manner  
14 prescribed by law.

15 (d) If the officers of any corporation shall neglect, or  
16 refuse to make any report as herein required, or shall knowingly  
17 make any false report, the following percentages of the amount  
18 of the tax shall be added by the department to the tax  
19 determined to be due on the first one thousand dollars (\$1,000)  
20 of tax ten per cent, on the next four thousand dollars (\$4,000)  
21 five per cent, and on everything in excess of five thousand  
22 dollars (\$5,000) one per cent, no such amounts added to the tax  
23 shall bear any interest whatsoever.

24 (e) If any corporation closes its fiscal year not upon  
25 December 31, but upon some other date, and reports to the  
26 Federal Government as of such other date, or would so report  
27 were it to make a return to the Federal Government, such  
28 corporation shall certify such fact to the department, and shall  
29 make the annual report, herein required, within thirty days  
30 after the return to the Federal Government is due, or would be

1 due were it to be required of such corporation, subject in all  
2 other respects to the provisions of this article. The tentative  
3 report required of such corporation shall be due not later than  
4 four months after the end of the next preceding fiscal year.

5 (f) If the corporation shall claim in its report that the  
6 return made to the Federal Government was inaccurate, the amount  
7 claimed by it to be the net income, taxable under this article,  
8 and the basis of such claim of inaccuracy, shall be fully  
9 specified.

10 Section 404. Consolidated Reports.--The department shall not  
11 permit any corporation owning or controlling, directly or  
12 indirectly, any of the voting capital stock of another  
13 corporation or of other corporations, subject to the provisions  
14 of this article, to make a consolidated report, showing the  
15 combined net income.

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

30 Section 406. Changes Made by Federal Government.--(a) If the

1 amount of the net income, as returned by any corporation to the  
2 Federal Government, is finally changed or corrected by the  
3 Commission of Internal Revenue or by any other agency or court  
4 of the United States, such corporation, within thirty days after  
5 the receipt of such final change or correction, shall make a  
6 corrected report, under oath or affirmation, to the department  
7 showing such finally changed or corrected net income, upon which  
8 the tax is required to be paid to the United States. In case a  
9 corporation fails to file a report of such correction, which  
10 results in an increase in net income within the time prescribed,  
11 there shall be added to the tax, a penalty of five dollars (\$5)  
12 for every day during which such corporation is in default, but  
13 the department may abate any such penalty in whole or in part.

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

28 (c) Where a report of change, correction, or redetermination  
29 of Federal income, or Federal tax, has been filed after a  
30 petition for review, or an appeal has been taken, such report

1 shall be deemed a part of the original annual report upon  
2 petition of the taxpayer at any subsequent proceeding as though  
3 it had been filed with such original report, and no separate  
4 petition for review or appeal from the resettlement resulting  
5 from such report of change, correction, or redetermination shall  
6 be necessary.

7 (d) The provisions of this section shall not be construed so  
8 as to permit a resettlement based upon the allowance of any  
9 deduction on account of net operating losses, sustained in other  
10 fiscal or calendar years, that are not allowed as deductions  
11 under the definition of "net income" as contained in this  
12 article.

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

24 PART IV

25 SETTLEMENT AND RESETTLEMENT

26 Section 407. Settlement and Resettlement.--(a) All taxes due  
27 under this article shall be settled by the department, and such  
28 settlement shall be subject to audit and approval by the  
29 Department of the Auditor General, and shall, so far as  
30 possible, be made so that notice thereof may reach the taxpayer

1 before the end of two years after the tax report was required to  
2 be made.

3 (b) Promptly after the date of any such settlement, the  
4 department shall send, by mail or otherwise, a copy thereof to  
5 such corporation. The tax imposed by this article shall be  
6 settled, resettled, and otherwise imposed and adjusted in the  
7 same manner, within the same periods of time, and right of  
8 resettlement, review, appeal, and refund, as provided by law in  
9 the case of capital stock and franchise taxes imposed upon  
10 corporations.

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

22 Whenever a resettlement shall have been made hereunder, the  
23 department shall resettle the account according to law and shall  
24 credit or charge, as the case may be, the amount resulting from  
25 such resettlement upon the current accounts of the corporation  
26 with which it is made.

27 The resettlement shall be subject to audit and approval by  
28 the Department of the Auditor General as in the case of original  
29 settlement, and in case of the failure of the two departments to  
30 agree, the resettlement shall be submitted to the Board of

1 Finance and Revenue as in the case of original settlements.

2 (d) If any corporation shall neglect or refuse to make any  
3 report and payment of tax required by this article, the  
4 department shall estimate the tax due by such corporation and  
5 subject to audit and approval by the Department of the Auditor  
6 General, settle the amount due by it for taxes, penalties, and  
7 interest thereon as prescribed herein, from which settlement  
8 there shall be no right of review or appeal, but the department,  
9 with the approval of the Department of the Auditor General, may  
10 require a report to be filed, and thereupon make a settlement  
11 based upon such report and cancel the estimated settlement.

12 PART V

13 ENFORCEMENT: RULES AND REGULATIONS

14 INQUISITORIAL POWERS OF THE DEPARTMENT

15 Section 408. Enforcement; Rules and Regulations;  
16 Inquisitorial Powers of the Department.--(a) The department is  
17 hereby charged with the enforcement of the provisions of this  
18 article, and is hereby authorized and empowered to prescribe,  
19 adopt, promulgate, and enforce rules and regulations, not  
20 inconsistent with this article, relating to any matter or thing  
21 pertaining to the administration and enforcement of the  
22 provisions of this article, and the collection of taxes,  
23 penalties, and interest imposed by this article. The department  
24 is hereby required to have such rules and regulations,  
25 promulgated and adopted, printed and shall distribute the same  
26 to any person upon request.

27 (b) The department, or any agent authorized in writing by  
28 it, is hereby authorized to examine the books, papers, and  
29 records, and to investigate the character of the business of any  
30 corporation in order to verify the accuracy of any report made,

1 or if no report was made by such corporation, to ascertain and  
2 settle the tax imposed by this article. Every such corporation  
3 is hereby directed and required to give to the department, or  
4 its duly authorized agent, the means, facilities, and  
5 opportunity for such examinations and investigations, as are  
6 hereby provided and authorized. Any information gained by the  
7 department, as a result of any returns, investigations, or  
8 verifications required to be made by this article, shall be  
9 confidential, except for official purposes, and any person  
10 divulging such information shall be guilty of a misdemeanor,  
11 and, upon conviction thereof, shall be sentenced to pay a fine  
12 of not less than one hundred dollars (\$100) or more than one  
13 thousand dollars (\$1,000) and costs of prosecution, or to  
14 undergo imprisonment for not more than six months, or both.

15 (c) Whenever any person, acting for or on behalf of the  
16 department, shall in good faith institute legal proceedings for  
17 any violations of the provisions of this article, and for any  
18 reason shall fail to recover costs of record, such costs shall  
19 be a charge upon the proper county, as shall such costs in the  
20 event defendant is imprisoned for failure to pay fine or costs,  
21 or both, and shall be audited and paid as are costs of like  
22 character in said county.

23 (d) The powers, conferred by this article upon the  
24 department, relating to the administration or enforcement of  
25 this article, shall be in addition to, but not exclusive of, any  
26 other powers heretofore or hereafter conferred upon the  
27 department by law.

28 PART VI

29 RETENTION OF RECORDS BY CORPORATION

30 Section 409. Retention of Records.--Each corporation shall

1 maintain and keep for a period of three years after any report  
2 is filed under this article, such record or records of its  
3 business within this Commonwealth for the period covered by such  
4 report and other pertinent papers, as may be required by the  
5 department.

6 PART VII

7 PENALTIES

8 Section 410. Penalties.--(a) Any person violating any of the  
9 provisions of section 409 shall be guilty of a misdemeanor, and  
10 shall, upon conviction thereof, be sentenced to pay a fine not  
11 exceeding one thousand dollars (\$1,000) and costs of  
12 prosecution, or to undergo imprisonment for not more than six  
13 months, or both.

14 (b) Any person who shall wilfully make a false and  
15 fraudulent return of net income made taxable by this article,  
16 shall be guilty of wilful and corrupt perjury, and, upon  
17 conviction thereof, shall be subject to punishment as provided  
18 by law. Such penalty shall be in addition to any other penalties  
19 imposed by this article.

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

30 PART VIII



1 REPEALER; EFFECTIVE DATE

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

4 Section 412. Effective Date.--This article shall take effect  
5 January 1, 1971.

6 ARTICLE V

7 CORPORATION INCOME TAX

8 PART I

9 DEFINITIONS

10 Section 501. Definitions.--The following words, terms and  
11 phrases when used in this article shall have the meaning  
12 ascribed to them in this section, except where the context  
13 clearly indicates a different meaning:

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

25 (2) "Department." The Department of Revenue of this  
26 Commonwealth.

27 (3) "Net income."

28 1. Net income shall be defined as set forth in Article III.

29 2. In the case of corporations owning property or carrying  
30 on activities within and without this Commonwealth, the net

1 income of such corporations derived from sources within this  
2 Commonwealth for the fiscal or calendar year shall be determined  
3 by allocations and apportionments of net income as set forth in  
4 Article III.

5 (4) "Sources within this Commonwealth" includes tangible or  
6 intangible property located or having a situs in this  
7 Commonwealth and any activities carried on in this Commonwealth,  
8 regardless of whether carried on in intrastate, interstate or  
9 foreign commerce.

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

14 PART II

15 IMPOSITION OF TAX

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

1 the rate of nine and one-half per cent per annum upon each  
2 dollar of such net income received by and accruing to such  
3 corporation during the calendar year 1972, except where a  
4 corporation reports to the Federal Government on the basis of a  
5 fiscal year and has certified such fact to the department as  
6 required by section 403 of Article IV, in which case such tax at  
7 the rate of nine and one-half per cent per annum shall be  
8 levied, collected and paid upon each dollar of such net income  
9 received by and accruing to such corporation during the fiscal  
10 years commencing in the calendar year 1972, and each year  
11 thereafter: Provided, however, That such net income shall not  
12 include income for any period for which the corporation is  
13 subject to taxation under Article IV.

14 PART III

15 PROCEDURE; ENFORCEMENT; PENALTIES

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

20 PART IV

21 REPEALER; EFFECTIVE DATE

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

24 Section 506. Effective Date.--This article shall take effect  
25 January 1, 1971.

26 ARTICLE VI

27 CAPITAL STOCK--FRANCHISE TAX

28 PART I

29 VALUATION OF CAPITAL STOCK

30 Section 601. Valuation of Capital Stock.--Hereafter, except

1 in the case of corporations of the first class, nonprofit  
2 corporations, and cooperative agricultural associations not  
3 having capital stock and not conducted for profit, banks,  
4 savings institutions, title insurance, or trust companies,  
5 building and loan associations, and insurance companies, it  
6 shall be the duty of every corporation having capital stock,  
7 every joint-stock association, limited partnership, and every  
8 company whatsoever, now or hereafter organized or incorporated  
9 by or under any laws of this Commonwealth, and of every  
10 corporation, joint-stock association, limited partnership, and  
11 company whatsoever, now or hereafter incorporated or organized  
12 by or under the law of any other state or territory of the  
13 United States, or by the United States, or by any foreign  
14 government, and doing business in and liable to taxation within  
15 this Commonwealth or having capital or property employed or used  
16 in this Commonwealth by or in the name of any limited  
17 partnership or joint-stock association, company, or corporation  
18 whatsoever, association or associations, copartnership or  
19 copartnerships, person or persons, or in any other manner, to  
20 make annually a report in writing to the Department of Revenue  
21 on a form or forms to be prescribed and furnished by it setting  
22 forth in addition to any other information required by the  
23 Department of Revenue:

24 First. The amount of its capital stock at the close of the  
25 year for which report is made, together with the highest selling  
26 price per share, and the average selling price thereof during  
27 said year.

28 Second. Its debt account.

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

1 Fourth. Its general balance sheet.

2 Fifth. Its real estate and tangible personal property, if  
3 any, owned and permanently located outside of the Commonwealth,  
4 and value of the same; and the value of the property, if any,  
5 exempt from taxation.

6 Sixth. A valuation and appraisal, in the manner hereinafter  
7 provided, of the capital stock of the said corporation, company,  
8 joint-stock association, or limited partnership, at its actual  
9 value in cash as it existed at the close of the year for which  
10 the report is made.

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

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

7 PART II

8 IMPOSITION OF TAX

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

1 carrying on manufacturing, processing, research or development  
2 within the State, but every corporation, limited partnership or  
3 joint-stock association organized for the purpose of  
4 manufacturing, processing, research or development shall pay the  
5 State tax of nine mills herein provided, upon such proportion of  
6 its capital stock, if any, as may be invested in any property or  
7 business not strictly incident or appurtenant to the  
8 manufacturing, processing, research or development business, in  
9 addition to the local taxes assessed upon its property in the  
10 district where located, it being the object of this proviso to  
11 relieve from State taxation only so much of the capital stock as  
12 is invested purely in the manufacturing, processing, research or  
13 development plant and business.

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

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

30 (1) The cooking or freezing of fruits, vegetables,

1 mushrooms, fish, seafood, meats or poultry, when the person  
2 engaged in such business packages such property in sealed  
3 containers for wholesale distribution.

4 (2) The scouring, carbonizing, cording, combing, throwing,  
5 twisting or winding of natural or synthetic fibers, or the  
6 spinning, bleaching, dyeing, printing or finishing of yarns or  
7 fabrics, when such activities are performed prior to sale to the  
8 ultimate consumer.

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

12 (4) The rolling, drawing or extruding of ferrous and  
13 nonferrous metals.

14 (5) The fabrication for sale of ornamental or structural  
15 metal or metal stairs, staircases, gratings, fire escapes or  
16 railings, (not including fabrication work done at the  
17 construction site).

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

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

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

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

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

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



1 (12) The processing of used lubricating oils.

2 (13) The blending, rectification or production by  
3 distillation or otherwise of alcohol or alcoholic liquors,  
4 except the distillation of alcohol from by-products of wine-  
5 making for the sole purpose of fortifying wine.

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

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

1 (f) Any holding company subject to the capital stock tax or  
2 the franchise tax imposed by this section may elect to compute  
3 said tax by applying the rate of tax of nine mills, upon each  
4 dollar to ten per cent of the actual value of its whole capital  
5 stock. If exercised, this election shall be in lieu of any other  
6 apportionment or allocation to which such company would  
7 otherwise be entitled.

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

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

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

1 regulated investment company and shall be subject to the capital  
2 stock or franchise tax imposed by section 602, which tax shall  
3 be computed in the following manner:

4 (1) The value of its capital stock shall be determined by  
5 adding its net asset values as of the last day of each month  
6 during the taxable period or year and dividing the total sum by  
7 the number of months involved, for which purpose net asset value  
8 means the actual market value of all assets owned by such  
9 corporation without any exemptions or exclusions less all of its  
10 liabilities, debts and other obligations.

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

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

1 otherwise be entitled.

2 PART III

3 PROCEDURE; ENFORCEMENT; PENALTIES

4 Section 603. Procedure; Enforcement; Penalties.--Parts III,  
5 IV, V, VI, and VII of Article IV are incorporated by reference  
6 into this article in so far as they are applicable to the tax  
7 imposed hereunder, except that the taxable proportion in the  
8 capital stock tax shall not include any property actually and  
9 exclusively used in manufacturing, processing, research and  
10 development situated within the Commonwealth and the three  
11 fraction formula in the capital stock and franchise taxes shall  
12 not include any property, payroll or sales factors attributable  
13 to manufacturing, processing, research or development activities  
14 in the Commonwealth.

15 PART IV

16 REPEAL; EFFECTIVE DATE

17 Section 605. Repeal.--Sections 20 and 21, act of June 1,  
18 1889 (P.L.420), entitled "A further supplement to an act  
19 entitled 'An act to provide revenue by taxation,' approved the  
20 seventh day of June, Anno Domini one thousand eight hundred and  
21 seventy-nine," are repealed.

22 Section 606. Effective Date.--This article shall take effect  
23 January 1, 1971.

24 ARTICLE VII

25 BANK SHARES TAX

26 PART I

27 IMPOSITION OF tax

28 Section 701. Imposition of Tax.--Every bank or savings  
29 institution having capital stock, incorporated by or under any  
30 law of this Commonwealth or under any law of the United States,

1 and located within this Commonwealth, shall, on or before April  
2 15 in each and every year, make to the Department of Revenue a  
3 report in writing, verified as required by law, setting forth  
4 the full number of shares of the capital stock subscribed for or  
5 issued, as of the preceding January 1, by such bank or savings  
6 institution having capital stock, and the actual value thereof  
7 as of the preceding January 1, which actual value shall be  
8 ascertained as hereinafter provided. It shall be the duty of the  
9 Department of Revenue to assess such shares for the calendar  
10 year beginning January 1, 1971, and each year thereafter, at the  
11 rate of fifteen mills upon each dollar of actual value thereof,  
12 the actual value of each share of stock to be ascertained and  
13 fixed by adding together the amount of capital stock paid in,  
14 the surplus, and undivided profits, and dividing this amount by  
15 the number of shares. It shall be the duty of every bank or  
16 savings institution having capital stock, at the time of making  
17 every report required by this section, to compute the tax and to  
18 pay the amount of said tax to the State Treasurer, through the  
19 Department of Revenue either from its general fund, or from the  
20 amount of said tax collected from its shareholders: Provided,  
21 That for the calendar year beginning January 1, 1971, and each  
22 year thereafter, such bank or savings institution having capital  
23 stock, upon the date its report, herein required is made for  
24 such calendar year beginning January 1, 1971, and each year  
25 thereafter, shall pay to the Department of Revenue not less than  
26 eighty per cent of the tax due to the Commonwealth by it for  
27 such calendar year, and the remaining tax due shall be paid at  
28 the time when the report herein required for the year next  
29 succeeding is made: Provided, That in case any bank or savings  
30 institution having capital stock, incorporated under the law of

1 this State or of the United States, shall collect, annually,  
2 from the shareholders thereof said tax of fifteen mills, on the  
3 dollar upon the actual value of all the shares of stock of said  
4 bank or savings institution, according to the provisions of this  
5 article, that have been subscribed for or issued, and pay the  
6 same into the State Treasury, through the Department of Revenue,  
7 the shares, and so much of the capital and profits of such bank  
8 or savings institution having capital stock as shall not be  
9 invested in real estate, shall be exempt from local taxation  
10 under the laws of this Commonwealth; and such bank or savings  
11 institution having capital stock shall not be required to make  
12 any report to the local assessor or county commissioners of its  
13 personal property owned by it in its own right for purposes of  
14 taxation and shall not be required to pay any tax thereon.

15 PART II

16 PROCEDURE; ENFORCEMENT; PENALTIES

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

21 PART III

22 REPEALER; EFFECTIVE DATE

23 Section 705. Repeal.--Clause 1 of section 1, act of July 15,  
24 1897 (P.L.292), entitled "An act to provide revenue by  
25 taxation," is repealed.

26 Section 706. Effective Date.--This article shall take effect  
27 January 1, 1971.

28 ARTICLE VIII

29 TITLE INSURANCE AND TRUST COMPANIES SHARES TAX

30 PART I

IMPOSITION OF TAX

1  
2 Section 801. Imposition of Tax.--Every company incorporated  
3 under the provisions of section 29 of an act, entitled "An act  
4 to provide for the incorporation and regulation of certain  
5 corporations," approved April 29, 1874, and its supplements, or  
6 any other act of Assembly heretofore or hereafter approved, for  
7 the insurance of owners of real estate, mortgages, and others  
8 interested in real estate, from loss by reason of defective  
9 titles, liens, and encumbrances, and every company entitled to  
10 benefits of, and every company having any of the powers of,  
11 companies entitled to the benefits of an act, entitled "An act  
12 conferring upon certain fidelity, insurance, safety deposit,  
13 trust, and savings companies, the powers and privileges of  
14 companies incorporated under the provisions of section 29 of an  
15 act, entitled 'An act to provide for the incorporation and  
16 regulation of certain corporations,' approved April 29, 1874,  
17 and of the supplements thereto," approved June 27, 1895,  
18 commonly known as title insurance or trust companies, and every  
19 company organized as a bank and trust company or as a trust  
20 company under any act of Assembly heretofore or hereafter  
21 approved, except any such companies, all of the shares of  
22 capital stock of which (other than shares necessary to qualify  
23 directors) are owned by a company which is liable to pay to the  
24 Commonwealth a tax on shares, shall, on or before April 15 in  
25 each and every year, make to the Department of Revenue a report  
26 in writing, setting forth the full number of shares of the  
27 capital stock subscribed for or issued by such company, and the  
28 actual value thereof as of January 1 preceding, which shall be  
29 ascertained as hereinafter provided. It shall be the duty of the  
30 Department of Revenue, to assess such shares for taxation at the

1 rate of fifteen mills upon each dollar of the actual value  
2 thereof, the actual value of each share of stock to be  
3 ascertained and fixed by adding together the amount of capital  
4 stock paid in, the surplus, and undivided profits, and dividing  
5 this amount by the number of shares.

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

30

PART II



1                   PROCEDURE; ENFORCEMENT; PENALTIES

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

6                                   PART III

7                   REPEALER; EFFECTIVE DATE

8       Section 805. Repeal.--Section 1, act of June 13, 1907  
9 (P.L.640), entitled "An act to provide revenue by levying a tax  
10 upon the shares of stock of companies incorporated under the  
11 provisions of section twenty-nine of an act, entitled 'An act to  
12 provide for the incorporation and regulation of certain  
13 corporations,' approved April twenty-ninth, one thousand eight  
14 hundred and seventy-four, and the supplements thereto; for the  
15 insurance of owners of real estate, mortgages, and others  
16 interested in real estate, from loss by reason of defective  
17 titles, liens, and encumbrances; and of companies entitled to  
18 the benefits of, and of companies having any of the powers of,  
19 companies entitled to the benefits of an act, entitled 'An act  
20 conferring upon certain fidelity, insurance, safety deposit,  
21 trust, and savings companies the powers and privileges of  
22 companies incorporated under the provisions of section twenty-  
23 nine of an act, entitled "An act to provide for the  
24 incorporation and regulation of certain corporations," approved  
25 April twenty-ninth, Anno Domini one thousand eight hundred and  
26 seventy-four, and of the supplements thereto,' approved June  
27 twenty-seventh, one thousand eight hundred and ninety-five,  
28 commonly known as title insurance or trust companies," is  
29 repealed.

30       Section 806. Effective Date.--This article shall take effect

1 January 1, 1971.

2 ARTICLE IX

3 INSURANCE PREMIUMS TAX

4 PART I

5 DEFINITIONS

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

9 (1) "Insurance company" means every insurance company,  
10 association or exchange, incorporated or organized by or under  
11 the laws of this Commonwealth, the United States, territories,  
12 dependencies, other states, or foreign governments, and engaged  
13 in transacting insurance business of any kind or classification  
14 within this Commonwealth, except purely mutual beneficial  
15 associations whose funds for the benefit of members and families  
16 or heirs are made up entirely of the weekly, monthly, quarterly,  
17 semi-annual or annual contributions to their members and the  
18 accumulated interest thereon and corporations organized under  
19 the act of June 21, 1937 (P.L.1948), known as the "Nonprofit  
20 Hospital Plan Act," and the act of June 27, 1939 (P.L.1125),  
21 known as the "Nonprofit Medical, Osteopathic, Dental and  
22 Podiatry Service Corporation Act."

23 (2) "Gross premiums" means premiums, premium deposits or  
24 assessments received by any insurance company, whether received  
25 in money or in the form of notes, credits, or any other  
26 substitutes for money, and whether collected in this  
27 Commonwealth or elsewhere. Gross premiums shall not include: (i)  
28 amounts returned on policies canceled or not taken; (ii)  
29 premiums received for reinsurance; (iii) in the case of mutual  
30 insurance companies, associations, exchanges, and stock

1 companies with participating features, that portion of the  
2 advanced premiums, premium deposits or assessments returned in  
3 cash or credited to members or policyholders, whether as  
4 dividends, earnings, savings, or return deposits, upon the  
5 expiration or termination of their contracts; and (iv) notes or  
6 other obligations received by mutual insurance companies to  
7 secure contingent premium liabilities to the extent that no  
8 assessment has been made and collected against said notes or  
9 obligations.

10 PART II

11 IMPOSITION OF TAX

12 Section 902. Imposition of Tax.--Every insurance company, as  
13 herein defined, transacting business in the Commonwealth of  
14 Pennsylvania, shall pay to the department, a tax at the rate of  
15 two per cent of the gross premiums received from business done  
16 within this Commonwealth during each calendar year, except that  
17 any insurance company which was not subject to this tax prior to  
18 1971 shall be taxed at the rate of one per cent for the year  
19 1971 and thereafter at the rate of two per cent.

20 PART III

21 ANNUAL REPORT

22 Section 903. Annual Report.--Every insurance company shall  
23 make a report to the department on a form prescribed by it on or  
24 before April 15 of each year, showing the gross premiums  
25 received from business transacted in the Commonwealth during the  
26 year ending December 31 preceding. When making such report, the  
27 insurance company shall compute and pay to the Commonwealth the  
28 tax upon the gross premiums received from business transacted  
29 within this Commonwealth during such preceding year.

30 PART IV

1                               PROCEDURE; ENFORCEMENT; PENALTIES

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

6   PART V

7       Section 905. Repeal.--The act of February 21, 1961 (P.L.33),  
8 entitled "An act imposing a State tax on gross premiums, premium  
9 deposits, and assessments received from business transacted  
10 within this Commonwealth by certain insurance companies,  
11 associations, and exchanges; requiring the filing of annual and  
12 tentative reports and the computation and payment of tax;  
13 providing for the rights, powers and duties of the Department of  
14 Revenue, the taxpayers and officers thereof; and providing  
15 penalties," is repealed.

16       Section 906. Effective Date.--This article shall take effect  
17 January 1, 1971.

18   ARTICLE X

19                               CAPITAL STOCK TAX ON FOREIGN CORPORATIONS

20   PART I

21   DEFINITIONS

22       Section 1001. Definitions.--The following terms when used in  
23 this article shall have the meanings ascribed to them in this  
24 section:

25       (1) "Foreign corporation" means any corporation, limited  
26 partnership or joint-stock association chartered or created by  
27 or under the laws of any other state or of the United States or  
28 of any foreign country, which has been issued a certificate of  
29 authority by the Department of State to do business within this  
30 Commonwealth and which either (i) has its principal office or

1 chief place of business located within this Commonwealth, or  
2 (ii) has any part of its capital actually employed within this  
3 Commonwealth. The term "foreign corporation" shall not include  
4 foreign insurance companies and foreign nonprofit corporations  
5 which do not have capital stock.

6 (2) "Increase of capital" means, (i) as to foreign  
7 corporations doing business in this Commonwealth, any increase  
8 of capital in excess of the amount actually employed in this  
9 Commonwealth at any time prior to January 1, 1971 by such  
10 corporations reporting on a calendar year basis, or at any time  
11 prior to the first day of any fiscal year, beginning in the  
12 calendar year 1971, by such corporations reporting on a fiscal  
13 year basis; (ii) as to corporations admitted to do business in  
14 this Commonwealth after the effective date of this article,  
15 capital actually employed within this Commonwealth at the time  
16 of or after receiving a certificate of authority to do business  
17 from the Department of State and any increase thereof.

18 PART II

19 IMPOSITION OF TAX

20 Section 1002. Imposition of Tax.--From and after the  
21 effective date of this article, every foreign corporation, in  
22 addition to complying with all the laws of the Commonwealth now  
23 or hereafter in effect, shall, for the privilege of exercising  
24 its franchises in Pennsylvania, pay to the department an excise  
25 tax of one-third of one per cent upon the amount of any increase  
26 of capital actually employed within this Commonwealth: Provided,  
27 That credit shall be allowed for said excise tax in the  
28 following cases:

29 (1) Merger of domestic corporation or corporations and/or  
30 foreign corporation or corporations with a foreign corporation

1 and the surviving foreign corporation in the merger is then  
2 authorized, or will immediately thereafter be authorized, by a  
3 certificate of authority to transact business in this  
4 Commonwealth;

5 (2) Consolidation of two or more foreign corporations or of  
6 domestic and foreign corporations (one or more of each), and the  
7 corporation formed by the consolidation is a foreign corporation  
8 which is then authorized, or will immediately thereafter be  
9 authorized, by a certificate of authority to transact business  
10 in this Commonwealth.

11 In such cases, the surviving or consolidated foreign  
12 corporation shall be entitled to credit upon any excise tax due  
13 and payable hereunder equal to the excise tax computed at the  
14 rate of one-third of one per cent on the value of the assets of  
15 the merging or consolidating foreign corporation or corporations  
16 actually employed by such surviving or consolidated foreign  
17 corporation within this Commonwealth within the provisions and  
18 intent of this article, and such proportion of the total excise  
19 tax of the merging or consolidating domestic corporation or  
20 corporations paid or relieved from payment on its authorized or  
21 issued and outstanding capital stock, determined by the ratio  
22 that the value of the assets of such domestic corporation or  
23 corporations actually employed by such surviving or consolidated  
24 foreign corporation within this Commonwealth within the  
25 provisions and intent of this article bears to the value of the  
26 total assets of such domestic corporation.

27 (3) In arriving at the amount of tax due under this article,  
28 a taxpayer shall apportion the increase in capital by the use of  
29 the formula applicable to the operations of the corporation as  
30 set forth in section 401.

1 PART III

2 REPORTS

3 Section 1003. Initial and Annual Report.--Every foreign  
4 corporation shall annually file a report with the department for  
5 information purposes on a form prescribed by the department  
6 stating (i) the state or country in which incorporated or  
7 created, (ii) the date of incorporation or organization, (iii)  
8 location of its chief office in this Commonwealth, (iv) the name  
9 and address of its president and treasurer, (v) the greatest  
10 amount of capital actually employed within this Commonwealth  
11 during the preceding calendar or fiscal year, (vi) the greatest  
12 amount of capital actually employed within this Commonwealth at  
13 any time prior to the preceding calendar or fiscal year, and  
14 (vii) such other information as the department shall require for  
15 the purpose of this article.

16 PART IV

17 PROCEDURE; ENFORCEMENT; PENALTIES

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

22 PART V

23 REPEALER; EFFECTIVE DATE

24 Section 1005. Repeal.--The act of July 25, 1953 (P.L.560),  
25 entitled "An act to provide revenue for State purposes by  
26 imposing an excise tax upon any increase in capital, as defined,  
27 actually employed in Pennsylvania, by any foreign corporation,  
28 limited partnership or joint-stock association; requiring the  
29 filing of reports; providing for rights, powers and duties of  
30 the Department of Revenue, the taxpayers and officers thereof;

1 imposing interest and penalties; and repealing a certain act  
2 relating to foreign corporations, limited partnerships and  
3 joint-stock associations," is repealed.

4 Section 1006. Effective Date.--This article shall take  
5 effect January 1, 1971.

6 ARTICLE XI

7 GENERAL PROVISIONS

8 Section 1101. Saving Clause.--(a) Notwithstanding anything  
9 contained in any law to the contrary, the validity of any  
10 ordinance or part of any ordinance or any resolution or part of  
11 any resolution, and any amendments or supplements thereto now or  
12 hereinafter enacted or adopted by any political subdivision of  
13 this Commonwealth for or relating to the imposition, levy or  
14 collection of any tax, shall not be affected or impaired by  
15 anything contained in this code.

16 (b) Nothing contained in this code shall be construed to  
17 relieve any person, corporation or other entity from the filing  
18 returns or from any taxes, penalties or interest imposed by the  
19 provisions of any laws which were in effect prior to being  
20 repealed by this code, or effect or terminate any petitions,  
21 investigations, prosecutions, legal or otherwise, or other  
22 proceedings pending under the provisions of any such laws or  
23 prevent the commencement or further prosecution of any  
24 proceedings by the proper authorities of the Commonwealth for  
25 violation of any such laws or for the assessment, settlement,  
26 collection or recovery of taxes, penalties or interest due to  
27 the Commonwealth under any of the laws which were in effect  
28 prior to being repealed by this code.

29 Section 1102. Constitutional Construction.--If any word,  
30 phrase, clause, sentence, section or provision of this code is



1 for any reason held to be unconstitutional, the decision of the  
2 court shall not affect or impair any of the remaining provisions  
3 of this code. It is hereby declared as the legislative intent  
4 that this code would have been adopted had such unconstitutional  
5 word, phrase, clause, sentence, section or provision thereof not  
6 been included herein.

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