

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1190 Session of
1993

INTRODUCED BY MELLOW, LINCOLN, FUMO, REIBMAN, AFFLERBACH,
STAPLETON, O'PAKE, STEWART, PORTERFIELD, LAVALLE, SCHWARTZ,
MUSTO, ANDREZESKI, STOUT, WILLIAMS, DAWIDA, FATTAH, LEWIS,
BELAN, LYNCH, JONES, SCANLON AND MOWERY, JUNE 2, 1993

REFERRED TO FINANCE, JUNE 2, 1993

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," reducing the rate of corporate net income tax;
11 and including electric utilities on the increased gross
12 receipts tax and additional surtax.

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

15 Section 1. Section 402 of the act of March 4, 1971 (P.L.6,
16 No.2), known as the Tax Reform Code of 1971, amended August 4,
17 1991 (P.L.97, No.22), is amended to read:

18 Section 402. Imposition of Tax.--Every corporation shall be
19 subject to, and shall pay for the privilege of (i) doing
20 business in this Commonwealth; or (ii) carrying on activities in
21 this Commonwealth; (iii) having capital or property employed or
22 used in this Commonwealth; or (iv) owning property in this

1 Commonwealth, by or in the name of itself, or any person,
2 partnership, association, limited partnership, joint-stock
3 association, or corporation, a State excise tax at the rate of
4 twelve per cent per annum upon each dollar of taxable income of
5 such corporation received by, and accruing to, such corporation
6 during the calendar year 1971 and the first six months of 1972
7 and at the rate of eleven per cent per annum upon each dollar of
8 taxable income of such corporation received by, and accruing to,
9 such corporation during the second six months of calendar year
10 1972 through the calendar year 1973 and at the rate of nine and
11 one-half per cent per annum upon each dollar of taxable income
12 of such corporation received by, and accruing to, such
13 corporation during the calendar years 1974, 1975 and 1976 and at
14 the rate of ten and one-half per cent per annum upon each dollar
15 of taxable income of such corporation received by, and accruing
16 to, such corporation during the calendar year 1977 through the
17 calendar year 1984 and at the rate of nine and one-half per cent
18 per annum upon each dollar of taxable income of such corporation
19 received by and accruing to such corporation during the calendar
20 year 1985 through calendar year 1986 and at the rate of eight
21 and one-half per cent per annum upon each dollar of taxable
22 income of such corporation received by and accruing to such
23 corporation during the calendar year 1987 through the calendar
24 year 1990 and at the rate of ten and one-half per cent per annum
25 upon each dollar of taxable income of such corporation received
26 by and accruing to such corporation during calendar year 1991
27 and during each calendar year thereafter, with an additional
28 surtax equal to one and seventy-five hundredths per cent per
29 annum upon each dollar of taxable income of such corporation
30 received by and accruing to such corporation during calendar

1 [year 1991 and during each calendar year thereafter] years 1991
2 and 1992 and an additional surtax of nine-tenths of one per cent
3 per annum upon each dollar of taxable income of such corporation
4 received by and accruing to such corporation during calendar
5 year 1993 and each year thereafter, except where a corporation
6 reports to the Federal Government on the basis of a fiscal year,
7 and has certified such fact to the department as required by
8 section 403 of this article, in which case, such tax, at the
9 rate of twelve per cent, shall be levied, collected, and paid
10 upon all taxable income received by, and accruing to, such
11 corporation during the first six months of the fiscal year
12 commencing in the calendar year 1972 and at the rate of eleven
13 per cent, shall be levied, collected, and paid upon all taxable
14 income received by, and accruing to, such corporation during the
15 second six months of the fiscal year commencing in the calendar
16 year 1972 and during the fiscal year commencing in the calendar
17 year 1973 and at the rate of nine and one-half per cent, shall
18 be levied, collected, and paid upon all taxable income received
19 by, and accruing to, such corporation during the fiscal year
20 commencing in the calendar years 1974, 1975 and 1976 and at the
21 rate of ten and one-half per cent, shall be levied, collected,
22 and paid upon all taxable income received by, and accruing to,
23 such corporation during the fiscal year commencing in the
24 calendar year 1977 through the fiscal year commencing in 1984
25 and at the rate of nine and one-half per cent, shall be levied,
26 collected, and paid upon all taxable income received by and
27 accruing to such corporation during the fiscal year commencing
28 in 1985 through the fiscal year commencing in 1986 and at the
29 rate of eight and one-half per cent per annum upon each dollar
30 of taxable income of such corporation received by and accruing

1 to such corporation during the fiscal year commencing in 1987
2 through the fiscal year commencing in 1990 and at the rate of
3 ten and one-half per cent per annum upon each dollar of taxable
4 income of such corporation received by and accruing to such
5 corporation during the fiscal year commencing in 1991 and during
6 each fiscal year thereafter, with an additional surtax equal to
7 one and seventy-five hundredths per cent per annum upon each
8 dollar of taxable income of such corporation received by and
9 accruing to such corporation during the fiscal year commencing
10 in 1991 [and during each fiscal year thereafter] and 1992 and an
11 additional surtax of nine-tenths of one per cent per annum upon
12 each dollar of taxable income of such corporation received by
13 and accruing to such corporation during the fiscal year
14 commencing in 1993 and during each fiscal year thereafter. No
15 penalty prescribed by subsection (e) of section 3003 shall be
16 assessed against a corporation for the additional tax which may
17 be due as a result of the increase in tax rate from nine and
18 one-half per cent to ten and one-half per cent imposed
19 retroactively by this section for the calendar year 1977 or for
20 the fiscal year commencing in 1977.

21 Section 2. Section 1101(b) of the act, amended July 13, 1987
22 (P.L.317, No.58), is amended to read:

23 Section 1101. Imposition of Tax.--* * *

24 (b) Electric Light, Waterpower and Hydro-electric
25 Utilities.--Every electric light company, waterpower company and
26 hydro-electric company now or hereafter incorporated or
27 organized by or under any law of this Commonwealth, or now or
28 hereafter organized or incorporated by any other state or by the
29 United States or any foreign government and doing business in
30 this Commonwealth, and every limited partnership, association,

1 joint-stock association, copartnership, person or persons,
2 engaged in electric light and power business, waterpower
3 business and hydro-electric business in this Commonwealth, shall
4 pay to the State Treasurer, through the Department of Revenue, a
5 tax of [forty-four] forty-five mills with a surtax equal to five
6 mills upon each dollar of the gross receipts of the corporation,
7 company or association, limited partnership, joint-stock
8 association, copartnership, person or persons, received from:

9 (1) the sales of electric energy within this State, except
10 gross receipts derived from the sales for resale of electric
11 energy to persons, partnerships, associations, corporations or
12 political subdivisions subject to the tax imposed by this
13 subsection upon gross receipts derived from such resale; and

14 (2) the sales of electric energy produced in Pennsylvania
15 and made outside of Pennsylvania in a state that has taken
16 action since December 21, 1977 which results in higher costs for
17 electric energy produced in that state and sold in Pennsylvania
18 unless the action that was taken after December 21, 1977 is
19 rescinded according to the following apportionment formula:

20 except for gross receipts derived from sales under clause (1),
21 the gross receipts from all sales of electricity of the producer
22 shall be apportioned to the Commonwealth of Pennsylvania by the
23 ratio of the producer's operating and maintenance expenses in
24 Pennsylvania and depreciation attributable to property in
25 Pennsylvania to the producer's total operating and maintenance
26 expenses and depreciation.

27 * * *

28 Section 3. This act shall be retroactive to the tax years
29 beginning on or after January 1, 1993.

30 Section 4. This act shall take effect immediately.