

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 74 Session of  
1995

INTRODUCED BY STRITTMATTER, ARMSTRONG, GEIST, STEELMAN,  
BIRMELIN, KING, HERMAN, BATTISTO, LEH, HUTCHINSON, COY, FLICK  
AND WAUGH, JANUARY 19, 1995

REFERRED TO COMMITTEE ON FINANCE, JANUARY 19, 1995

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An  
2 act relating to tax reform and State taxation by codifying  
3 and enumerating certain subjects of taxation and imposing  
4 taxes thereon; providing procedures for the payment,  
5 collection, administration and enforcement thereof; providing  
6 for tax credits in certain cases; conferring powers and  
7 imposing duties upon the Department of Revenue, certain  
8 employers, fiduciaries, individuals, persons, corporations  
9 and other entities; prescribing crimes, offenses and  
10 penalties," further providing for imposition of tax.

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

13 Section 1. Section 602 of the act of March 4, 1971 (P.L.6,  
14 No.2), known as the Tax Reform Code of 1971, amended August 4,  
15 1991 (P.L.97, No.22), is amended to read:

16 Section 602. Imposition of Tax.--(a) That every domestic  
17 entity from which a report is required under section 601 hereof,  
18 shall be subject to, and pay to the department annually, a tax  
19 which is the greater of (i) three hundred dollars (\$300) or (ii)  
20 the amount computed at the rate of ten mills upon each dollar of  
21 the capital stock value as defined in section 601(a) for the

1 calendar year 1971 and the fiscal year beginning in 1971 through  
2 calendar year 1986 and fiscal years beginning in 1986, at the  
3 rate of nine mills upon each dollar of the capital stock value  
4 as defined in section 601(a) for the calendar year 1987 and  
5 fiscal years beginning in 1987, at the rate of nine and one-half  
6 mills upon each dollar of the capital stock value as defined in  
7 section 601(a) for the calendar year 1988 and fiscal years  
8 beginning in 1988 through calendar year 1990 and fiscal years  
9 beginning in 1990 [and], at the rate of eleven mills upon each  
10 dollar of the capital stock value as defined in section 601(a)  
11 for the calendar year 1991 and fiscal years beginning in 1991  
12 through the calendar year 1996 and fiscal years beginning in  
13 1996 and at the rate of ten mills upon each dollar of the  
14 capital stock value as defined in section 601(a) for the  
15 calendar year 1997 and fiscal years beginning in 1997, at the  
16 rate of nine mills upon each dollar of the capital stock value  
17 as defined in section 601(a) for the calendar year 1998 and  
18 fiscal years beginning in 1998, at the rate of eight mills upon  
19 each dollar of the capital stock value as defined in section  
20 601(a) for the calendar year 1999 and fiscal years beginning in  
21 1999 and each year thereafter, with an additional surtax equal  
22 to two mills upon each dollar of the capital stock value as  
23 defined in section 601(a) for the calendar year 1991 and fiscal  
24 years beginning in 1991 and with an additional surtax equal to  
25 one and three-quarters mills upon each dollar of the capital  
26 stock value as defined in section 601(a) for the calendar year  
27 1992 and fiscal years beginning in 1992 and each year  
28 thereafter, except that any domestic entity or company subject  
29 to the tax prescribed herein may elect to compute and pay its  
30 tax under and in accordance with the provisions of subsection

1 (b) of this section 602: Provided, That, except for the  
2 imposition of the three hundred dollar (\$300) minimum tax, the  
3 provisions of this section shall not apply to the taxation of  
4 the capital stock of entities organized for manufacturing,  
5 processing, research or development purposes, which is invested  
6 in and actually and exclusively employed in carrying on  
7 manufacturing, processing, research or development within the  
8 State, except such entities as enjoy and exercise the right of  
9 eminent domain, but every entity organized for the purpose of  
10 manufacturing, processing, research or development except such  
11 entities as enjoy and exercise the right of eminent domain shall  
12 pay the State tax of the greater of (i) three hundred dollars  
13 (\$300) or (ii) the amount computed at the rate of ten mills upon  
14 each dollar of the capital stock value as defined in section  
15 601(a) for the calendar year 1971 and the fiscal year beginning  
16 in 1971 through calendar year 1986 and fiscal years beginning in  
17 1986, at the rate of nine mills upon each dollar of the capital  
18 stock value as defined in section 601(a) for the calendar year  
19 1987 and fiscal years beginning in 1987 and at the rate of nine  
20 and one-half mills upon each dollar of the capital stock value  
21 as defined in section 601(a) for the calendar year 1988 and  
22 fiscal years beginning in 1988 through calendar year 1990 and  
23 fiscal years beginning in 1990 [and], at the rate of eleven  
24 mills upon each dollar of the capital stock value as defined in  
25 section 601(a) for the calendar year 1991 through the calendar  
26 year 1996 and fiscal years beginning in 1996 and at the rate of  
27 ten mills upon each dollar of the capital stock value as defined  
28 in section 601(a) for the calendar year 1997 and fiscal years  
29 beginning in 1997, at the rate of nine mills upon each dollar of  
30 the capital stock value as defined in section 601(a) for the

1 calendar year 1998 and fiscal years beginning in 1998, at the  
2 rate of eight mills upon each dollar of the capital stock value  
3 as defined in section 601(a) for the calendar year 1999 and  
4 fiscal years beginning in 1999 and each year thereafter, with an  
5 additional surtax equal to two mills upon each dollar of the  
6 capital stock value as defined in section 601(a) for the  
7 calendar year 1991 and fiscal years beginning in 1991 and with  
8 an additional surtax equal to one and three-quarters mills upon  
9 each dollar of the capital stock value as defined in section  
10 601(a) for the calendar year 1992 and fiscal years beginning in  
11 1992 and each year thereafter, upon such proportion of its  
12 capital stock, if any, as may be invested in any property or  
13 business not strictly incident or appurtenant to the  
14 manufacturing, processing, research or development business, in  
15 addition to the local taxes assessed upon its property in the  
16 district where located, it being the object of this provision to  
17 relieve from State taxation, except for imposition of the three  
18 hundred dollar (\$300) minimum tax under this section, only so  
19 much of the capital stock as is invested purely in the  
20 manufacturing, processing, research or development plant and  
21 business.

22 (b) (1) Every foreign entity from which a report is  
23 required under section 601 hereof, shall be subject to and pay  
24 to the department annually, a franchise tax which is the greater  
25 of (i) three hundred dollars (\$300) or (ii) the amount computed  
26 at the rate of ten mills for the calendar year 1971 and the  
27 fiscal years beginning in 1971 through calendar year 1986 and  
28 fiscal years beginning in 1986, at the rate of nine mills for  
29 the calendar year 1987 and for fiscal years beginning in 1987,  
30 at the rate of nine and one-half mills for calendar year 1988

1 and fiscal years beginning in 1988 through calendar year 1990  
2 and fiscal years beginning in 1990 [and], at the rate of eleven  
3 mills upon each dollar of the capital stock value as defined in  
4 section 601(a) for the calendar year 1991 and fiscal years  
5 beginning in 1991 through the calendar year 1996 and fiscal  
6 years beginning in 1996 and at the rate of ten mills upon each  
7 dollar of the capital stock value as defined in section 601(a)  
8 for the calendar year 1997 and fiscal years beginning in 1997,  
9 at the rate of nine mills upon each dollar of the capital stock  
10 value as defined in section 601(a) for the calendar year 1998  
11 and fiscal years beginning in 1998, at the rate of eight mills  
12 upon each dollar of the capital stock value as defined in  
13 section 601(a) for the calendar year 1999 and fiscal years  
14 beginning in 1999 and each year thereafter, with an additional  
15 surtax equal to two mills upon each dollar of the capital stock  
16 value as defined in section 601(a) for the calendar year 1991  
17 and fiscal years beginning in 1991 and with an additional surtax  
18 equal to one and three-quarters mills upon each dollar of the  
19 capital stock value as defined in section 601(a) for the  
20 calendar year 1992 and fiscal years beginning in 1992 and each  
21 year thereafter, upon a taxable value to be determined in the  
22 following manner. The capital stock value shall be ascertained  
23 in the manner prescribed in section 601(a) of this article. The  
24 taxable value shall then be determined by employing the relevant  
25 apportionment factors set forth in Article IV: Provided, That  
26 the manufacturing, processing, research and development  
27 exemptions contained under section 602(a) shall also apply to  
28 foreign corporations and in determining the relevant  
29 apportionment factors the numerator of the property, payroll, or  
30 sales factors shall not include any property, payroll or sales

1 attributable to manufacturing, processing, research or  
2 development activities in the Commonwealth. Any foreign  
3 corporation, joint-stock association, limited partnership or  
4 company subject to the tax prescribed herein may elect to  
5 compute and pay its tax under section 602(a): Provided, That any  
6 foreign corporation, joint-stock association, limited  
7 partnership or company electing to compute and pay its tax under  
8 section 602(a) shall be treated as if it were a domestic  
9 corporation for the purpose of determining which of its assets  
10 are exempt from taxation and for the purpose of determining the  
11 proportion of the value of its capital stock which is subject to  
12 taxation.

13 (2) The provisions of this article shall apply to the  
14 taxation of entities organized for manufacturing, processing,  
15 research or development purposes, but shall not apply to such  
16 entities as enjoy and exercise the right of eminent domain.

17 (d) It shall be the duty of the treasurer or other officers  
18 having charge of any domestic or foreign entity, upon which a  
19 tax is imposed by this section, to transmit the amount of tax to  
20 the department within the time prescribed by law: Provided, That  
21 for the purposes of this act interest in limited partnerships or  
22 joint-stock associations shall be deemed to be capital stock,  
23 and taxable accordingly: Provided, further, That entities liable  
24 to a tax under this section, shall not be required to pay any  
25 further tax on the mortgages, bonds, and other securities owned  
26 by them and in which the whole body of stockholders or members,  
27 as such, have the entire equitable interest in remainder; but  
28 entities owning or holding such securities as trustees,  
29 executors, administrators, guardians, or in any other manner  
30 than for the whole body of stockholders or members thereof as

1 sole equitable owners in remainder, shall return and pay the tax  
2 imposed by this act upon all securities so owned or held by  
3 them, as in the case of individuals.

4 (e) Any holding company subject to the capital stock tax or  
5 the franchise tax imposed by this section may elect to compute  
6 the capital stock or franchise tax by applying the rate of tax  
7 of ten mills for the calendar year 1971 and the fiscal year  
8 beginning in 1971 through the calendar year 1986 and fiscal  
9 years beginning in 1986, at the rate of nine mills for the  
10 calendar year 1987 and fiscal years beginning in 1987, at the  
11 rate of nine and one-half mills for calendar year 1988 and  
12 fiscal years beginning in 1988 through calendar year 1990 and  
13 fiscal years beginning in 1990 [and], at the rate of eleven  
14 mills for calendar year 1991 and fiscal years beginning in 1991  
15 through the calendar year 1996 and fiscal years beginning in  
16 1996 and at the rate of ten mills upon each dollar of the  
17 capital stock value as defined in section 601(a) for the  
18 calendar year 1997 and fiscal years beginning in 1997, at the  
19 rate of nine mills upon each dollar of the capital stock value  
20 as defined in section 601(a) for the calendar year 1998 and  
21 fiscal years beginning in 1998, at the rate of eight mills upon  
22 each dollar of the capital stock value as defined in section  
23 601(a) for the calendar year 1999 and fiscal years beginning in  
24 1999 and each year thereafter, with an additional surtax equal  
25 to two mills for calendar year 1991 and fiscal years beginning  
26 in 1991 and with an additional surtax equal to one and three-  
27 quarters mills upon each dollar of the capital stock value as  
28 defined in section 601(a) for the calendar year 1992 and fiscal  
29 years beginning in 1992 and each year thereafter, upon each  
30 dollar to ten per cent of the capital stock value, but in no

1 case shall the tax so computed be less than three hundred  
2 dollars (\$300). If exercised, this election shall be in lieu of  
3 any other apportionment or allocation to which such company  
4 would otherwise be entitled.

5 (f) Every domestic corporation and every foreign corporation  
6 (i) registered to do business in Pennsylvania; (ii) which  
7 maintains an office in Pennsylvania; (iii) which has filed a  
8 timely election to be taxed as a regulated investment company  
9 with the Federal Government; and (iv) which duly qualifies to be  
10 taxed as a regulated investment company under the provisions of  
11 the Internal Revenue Code of 1954 as amended, shall be taxed as  
12 a regulated investment company and shall be subject to the  
13 capital stock or franchise tax imposed by section 602, in either  
14 case for the privilege of having an office in Pennsylvania,  
15 which tax shall be computed pursuant to the provisions of this  
16 subsection in lieu of all other provisions of this section 602.  
17 The tax shall be in an amount which is the greater of three  
18 hundred dollars (\$300) or the sum of the amounts determined  
19 pursuant to clauses (1) and (2):

20 (1) The amount determined pursuant to this clause shall be  
21 seventy-five dollars (\$75) times that number which is the result  
22 of dividing the net asset value of the regulated investment  
23 company by one million, rounded to the nearest multiple of  
24 seventy-five dollars (\$75). Net asset value shall be determined  
25 by adding the monthly net asset values as of the last day of  
26 each month during the taxable period and dividing the total sum  
27 by the number of months involved. Each such monthly net asset  
28 value shall be the actual market value of all assets owned  
29 without any exemptions or exclusions, less all liabilities,  
30 debts and other obligations.



(2) The amount determined pursuant to this clause shall be the amount which is the result of multiplying the rate of taxation applicable for purposes of the personal income tax during the same taxable year times the apportioned undistributed personal income tax income of the regulated investment company. For the purposes of this clause:

(A) Personal income tax income shall mean income to the extent enumerated and classified in section 303.

(B) Undistributed personal income tax income shall mean all personal income tax income other than personal income tax income undistributed on account of the capital stock or foreign franchise tax, less all personal income tax income distributed to shareholders. At the election of the company, income distributed after the close of a taxable year, but deemed distributed during the taxable year for Federal income tax purposes, shall be deemed distributed during that year for purposes of this clause. If a company in a taxable year has both current income and income accumulated from a prior year, distributions during the year shall be deemed to have been made first from current income.

(C) Undistributed personal income tax income shall be apportioned to Pennsylvania by a fraction, the numerator of which is all income distributed during the taxable period to shareholders who are resident individuals, estates or trusts and the denominator of which is all income distributed during the taxable period. Resident trusts shall not include charitable, pension or profit-sharing, or retirement trusts.

(D) Personal income tax income and other income of a company shall each be deemed to be either distributed to shareholders or undistributed in the proportion each category bears to all

1 income received by the company during the taxable year.

2 (g) In the event that a domestic or foreign entity is  
3 required to file a report pursuant to section 601(b) on other  
4 than an annual basis, the tax imposed by this section, including  
5 the three hundred dollar (\$300) minimum tax, shall be prorated  
6 to reflect the portion of a taxable year for which the report is  
7 filed by multiplying the tax liability by a fraction equal to  
8 the number of days in the taxable year divided by three hundred  
9 sixty-five days.

10 Section 2. This act shall take effect in 60 days.