

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1706 Session of
1995

INTRODUCED BY ADOLPH, RAYMOND, FARGO, CONTI, HERSHEY, SCHULER,
NAILOR, WAUGH, MARKOSEK, COLAIZZO, CLARK, SATHER, FLEAGLE,
FARMER, PETTIT, SERAFINI, LYNCH, GODSHALL, DENT, TULLI,
EGOLF, CORRIGAN, TRELLO, GEIST, KING, PITTS, FAIRCHILD,
MAITLAND, J. TAYLOR, WOGAN, E. Z. TAYLOR, RUBLEY, BARD,
L. I. COHEN, FAJT, ARMSTRONG, CLYMER, STEELMAN, BATTISTO,
HERMAN, GIGLIOTTI, PLATTS, MILLER, HENNESSEY, LEVDANSKY,
MERRY, COY, LEH, SCHRODER, BROWNE, TANGRETTI, HESS AND
KENNEY, JUNE 7, 1995

REFERRED TO COMMITTEE ON FINANCE, JUNE 7, 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," reducing the capital stock and franchise 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

1 which is the greater of (i) [three hundred dollars (\$300)] two
2 hundred dollars (\$200) or (ii) the amount computed at the rate
3 of ten mills upon each dollar of the capital stock value as
4 defined in section 601(a) for the calendar year 1971 and the
5 fiscal year beginning in 1971 through calendar year 1986 and
6 fiscal years beginning in 1986, at the rate of nine mills upon
7 each dollar of the capital stock value as defined in section
8 601(a) for the calendar year 1987 and fiscal years beginning in
9 1987, at the rate of nine and one-half mills upon each dollar of
10 the capital stock value as defined in section 601(a) for the
11 calendar year 1988 and fiscal years beginning in 1988 through
12 calendar year 1990 and fiscal years beginning in 1990 and at the
13 rate of eleven mills upon each dollar of the capital stock value
14 as defined in section 601(a) for the calendar year 1991 and
15 fiscal years beginning in 1991 and each year thereafter, with an
16 additional surtax equal to two mills upon each dollar of the
17 capital stock value as defined in section 601(a) for the
18 calendar year 1991 and fiscal years beginning in 1991 and with
19 an additional surtax equal to one and three-quarters mills upon
20 each dollar of the capital stock value as defined in section
21 601(a) for the calendar year 1992 and fiscal years beginning in
22 1992 and each year thereafter, except that any domestic entity
23 or company subject to the tax prescribed herein may elect to
24 compute and pay its tax under and in accordance with the
25 provisions of subsection (b) of this section 602: Provided,
26 That, except for the imposition of the [three hundred dollar
27 (\$300)] two hundred dollar (\$200) minimum tax, the provisions of
28 this section shall not apply to the taxation of the capital
29 stock of entities organized for manufacturing, processing,
30 research or development purposes, which is invested in and

1 actually and exclusively employed in carrying on manufacturing,
2 processing, research or development within the State, except
3 such entities as enjoy and exercise the right of eminent domain,
4 but every entity organized for the purpose of manufacturing,
5 processing, research or development except such entities as
6 enjoy and exercise the right of eminent domain shall pay the
7 State tax of the greater of (i) [three hundred dollars (\$300)]
8 two hundred dollars (\$200) or (ii) the amount computed at the
9 rate of ten mills upon each dollar of the capital stock value as
10 defined in section 601(a) for the calendar year 1971 and the
11 fiscal year beginning in 1971 through calendar year 1986 and
12 fiscal years beginning in 1986, at the rate of nine mills upon
13 each dollar of the capital stock value as defined in section
14 601(a) for the calendar year 1987 and fiscal years beginning in
15 1987 and at the rate of nine and one-half mills upon each dollar
16 of the capital stock value as defined in section 601(a) for the
17 calendar year 1988 and fiscal years beginning in 1988 through
18 calendar year 1990 and fiscal years beginning in 1990 and at the
19 rate of eleven mills upon each dollar of the capital stock value
20 as defined in section 601(a) for the calendar year 1991 and each
21 year thereafter, with an additional surtax equal to two mills
22 upon each dollar of the capital stock value as defined in
23 section 601(a) for the calendar year 1991 and fiscal years
24 beginning in 1991 and with an additional surtax equal to one and
25 three-quarters mills upon each dollar of the capital stock value
26 as defined in section 601(a) for the calendar year 1992 and
27 fiscal years beginning in 1992 and each year thereafter, upon
28 such proportion of its capital stock, if any, as may be invested
29 in any property or business not strictly incident or appurtenant
30 to the manufacturing, processing, research or development

1 business, in addition to the local taxes assessed upon its
2 property in the district where located, it being the object of
3 this provision to relieve from State taxation, except for
4 imposition of the [three hundred dollar (\$300)] two hundred
5 dollar (\$200) minimum tax under this section, only so much of
6 the capital stock as is invested purely in the manufacturing,
7 processing, research or development plant and business.

8 (b) (1) Every foreign entity from which a report is
9 required under section 601 hereof, shall be subject to and pay
10 to the department annually, a franchise tax which is the greater
11 of (i) [three hundred dollars (\$300)] two hundred dollars (\$200)
12 or (ii) the amount computed at the rate of ten mills for the
13 calendar year 1971 and the fiscal years beginning in 1971
14 through calendar year 1986 and fiscal years beginning in 1986,
15 at the rate of nine mills for the calendar year 1987 and for
16 fiscal years beginning in 1987, at the rate of nine and one-half
17 mills for calendar year 1988 and fiscal years beginning in 1988
18 through calendar year 1990 and fiscal years beginning in 1990
19 and at the rate of eleven mills upon each dollar of the capital
20 stock value as defined in section 601(a) for the calendar year
21 1991 and fiscal years beginning in 1991 and each year
22 thereafter, with an additional surtax equal to two mills upon
23 each dollar of the capital stock value as defined in section
24 601(a) for the calendar year 1991 and fiscal years beginning in
25 1991 and with an additional surtax equal to one and three-
26 quarters mills upon each dollar of the capital stock value as
27 defined in section 601(a) for the calendar year 1992 and fiscal
28 years beginning in 1992 and each year thereafter, upon a taxable
29 value to be determined in the following manner. The capital
30 stock value shall be ascertained in the manner prescribed in

1 section 601(a) of this article. The taxable value shall then be
2 determined by employing the relevant apportionment factors set
3 forth in Article IV: Provided, That the manufacturing,
4 processing, research and development exemptions contained under
5 section 602(a) shall also apply to foreign corporations and in
6 determining the relevant apportionment factors the numerator of
7 the property, payroll, or sales factors shall not include any
8 property, payroll or sales attributable to manufacturing,
9 processing, research or development activities in the
10 Commonwealth. Any foreign corporation, joint-stock association,
11 limited partnership or company subject to the tax prescribed
12 herein may elect to compute and pay its tax under section
13 602(a): Provided, That any foreign corporation, joint-stock
14 association, limited partnership or company electing to compute
15 and pay its tax under section 602(a) shall be treated as if it
16 were a domestic corporation for the purpose of determining which
17 of its assets are exempt from taxation and for the purpose of
18 determining the proportion of the value of its capital stock
19 which is subject to taxation.

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

24 (d) It shall be the duty of the treasurer or other officers
25 having charge of any domestic or foreign entity, upon which a
26 tax is imposed by this section, to transmit the amount of tax to
27 the department within the time prescribed by law: Provided, That
28 for the purposes of this act interest in limited partnerships or
29 joint-stock associations shall be deemed to be capital stock,
30 and taxable accordingly: Provided, further, That entities liable

1 to a tax under this section, shall not be required to pay any
2 further tax on the mortgages, bonds, and other securities owned
3 by them and in which the whole body of stockholders or members,
4 as such, have the entire equitable interest in remainder; but
5 entities owning or holding such securities as trustees,
6 executors, administrators, guardians, or in any other manner
7 than for the whole body of stockholders or members thereof as
8 sole equitable owners in remainder, shall return and pay the tax
9 imposed by this act upon all securities so owned or held by
10 them, as in the case of individuals.

11 (e) Any holding company subject to the capital stock tax or
12 the franchise tax imposed by this section may elect to compute
13 the capital stock or franchise tax by applying the rate of tax
14 of ten mills for the calendar year 1971 and the fiscal year
15 beginning in 1971 through the calendar year 1986 and fiscal
16 years beginning in 1986, at the rate of nine mills for the
17 calendar year 1987 and fiscal years beginning in 1987, at the
18 rate of nine and one-half mills for calendar year 1988 and
19 fiscal years beginning in 1988 through calendar year 1990 and
20 fiscal years beginning in 1990 and at the rate of eleven mills
21 for calendar year 1991 and fiscal years beginning in 1991 and
22 each year thereafter, with an additional surtax equal to two
23 mills for calendar year 1991 and fiscal years beginning in 1991
24 and with an additional surtax equal to one and three-quarters
25 mills upon each dollar of the capital stock value as defined in
26 section 601(a) for the calendar year 1992 and fiscal years
27 beginning in 1992 and each year thereafter, upon each dollar to
28 ten per cent of the capital stock value, but in no case shall
29 the tax so computed be less than three hundred dollars (\$300).
30 If exercised, this election shall be in lieu of any other

1 apportionment or allocation to which such company would
2 otherwise be entitled.

3 (f) Every domestic corporation and every foreign corporation
4 (i) registered to do business in Pennsylvania; (ii) which
5 maintains an office in Pennsylvania; (iii) which has filed a
6 timely election to be taxed as a regulated investment company
7 with the Federal Government; and (iv) which duly qualifies to be
8 taxed as a regulated investment company under the provisions of
9 the Internal Revenue Code of 1954 as amended, shall be taxed as
10 a regulated investment company and shall be subject to the
11 capital stock or franchise tax imposed by section 602, in either
12 case for the privilege of having an office in Pennsylvania,
13 which tax shall be computed pursuant to the provisions of this
14 subsection in lieu of all other provisions of this section 602.
15 The tax shall be in an amount which is the greater of [three
16 hundred dollars (\$300)] two hundred dollars (\$200) or the sum of
17 the amounts determined pursuant to clauses (1) and (2):

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

29 (2) The amount determined pursuant to this clause shall be
30 the amount which is the result of multiplying the rate of

1 taxation applicable for purposes of the personal income tax
2 during the same taxable year times the apportioned undistributed
3 personal income tax income of the regulated investment company.

4 For the purposes of this clause:

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

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

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

26 (D) Personal income tax income and other income of a company
27 shall each be deemed to be either distributed to shareholders or
28 undistributed in the proportion each category bears to all
29 income received by the company during the taxable year.

30 (g) In the event that a domestic or foreign entity is

1 required to file a report pursuant to section 601(b) on other
2 than an annual basis, the tax imposed by this section, including
3 the [three hundred dollar (\$300)] two hundred dollar (\$200)
4 minimum tax, shall be prorated to reflect the portion of a
5 taxable year for which the report is filed by multiplying the
6 tax liability by a fraction equal to the number of days in the
7 taxable year divided by three hundred sixty-five days.

8 Section 2. This act shall be applicable to tax years
9 beginning on or after January 1, 1995.

10 Section 3. This act shall be retroactive to January 1, 1995.

11 Section 4. This act shall take effect immediately.