

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1374 Session of
2001

INTRODUCED BY SCHRODER, ADOLPH, ARMSTRONG, BELFANTI, BROWNE,
CALTAGIRONE, CAPPELLI, CLARK, CREIGHTON, DALLY, FAIRCHILD,
FRANKEL, GEIST, GODSHALL, MARSICO, MCGILL, NAILOR, READSHAW,
ROHRER, RUBLEY, T. STEVENSON, E. Z. TAYLOR, TRICH,
C. WILLIAMS, WILT, YUDICHAK AND ZUG, APRIL 23, 2001

REFERRED TO COMMITTEE ON FINANCE, APRIL 23, 2001

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 definition of "taxable
11 income" for purposes of corporate net income tax.

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

14 Section 1. Section 401(3)1 of the act of March 4, 1971
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended May
16 12, 1999 (P.L.26, No.4), is amended to read:

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

21 * * *

1 (3) "Taxable income." 1. (a) In case the entire business
2 of the corporation is transacted within this Commonwealth, for
3 any taxable year which begins on or after January 1, 1971,
4 taxable income for the calendar year or fiscal year as returned
5 to and ascertained by the Federal Government, or in the case of
6 a corporation participating in the filing of consolidated
7 returns to the Federal Government, the taxable income which
8 would have been returned to and ascertained by the Federal
9 Government if separate returns had been made to the Federal
10 Government for the current and prior taxable years, subject,
11 however, to any correction thereof, for fraud, evasion, or error
12 as finally ascertained by the Federal Government.

13 (b) Additional deductions shall be allowed from taxable
14 income on account of any dividends received from any other
15 corporation but only to the extent that such dividends are
16 included in taxable income as returned to and ascertained by the
17 Federal Government. For tax years beginning on or after January
18 1, 1991, additional deductions shall only be allowed for amounts
19 included, under section 78 of the Internal Revenue Code of 1986
20 (Public Law 99-514, 26 U.S.C. § 78), in taxable income returned
21 to and ascertained by the Federal Government and for the amount
22 of any dividends received from a foreign corporation included in
23 taxable income to the extent such dividends would be deductible
24 in arriving at Federal taxable income if received from a
25 domestic corporation.

26 (b.1) An additional deduction shall be allowed from taxable
27 income in the amount of any interest income from securities
28 issued by the United States or agencies or instrumentalities
29 thereof, to the extent included in Federal taxable income but
30 exempt from the tax imposed by this article under the laws of

1 the United States, but reduced by any interest on indebtedness
2 incurred to carry the securities, any expenses incurred in the
3 production of such interest income and any other expenses
4 deducted on the Federal income tax return that would not have
5 been allowed under section 265 of the Internal Revenue Code of
6 1986 (26 U.S.C. § 265) if the interest were exempt from Federal
7 income tax. As used in the preceding sentence, "interest income"
8 includes any amount received as a distribution or dividend from
9 a regulated investment company, as defined in section 851 of the
10 Internal Revenue Code, to the extent such distribution or
11 dividend is derived from obligations free from State taxation
12 under Article XXIX of this act or securities issued by the
13 United States or agencies or instrumentalities thereof.

14 (c) Further additional deductions shall be allowed from
15 taxable income in an amount equal to the amount of any reduction
16 in an employer's deduction for wages and salaries as a result of
17 the employer taking a credit for its FICA tax obligation on its
18 employees' tips or "targeted jobs" pursuant to section 45B or
19 section 51 of the Internal Revenue Code.

20 (d) Taxable income will include the sum of the following tax
21 preference items as defined in section 57 of the Internal
22 Revenue Code, as amended, (i) excess investment interest; (ii)
23 accelerated depreciation on real property; (iii) accelerated
24 depreciation on personal property subject to a net lease; (iv)
25 amortization of certified pollution control facilities; (v)
26 amortization of railroad rolling stock; (vi) stock options;
27 (vii) reserves for losses on bad debts of financial
28 institutions; (viii) capital gains; and (ix) accelerated cost
29 recovery deduction under section 57(a)(12)(B) of the Internal
30 Revenue Code, but only to the extent that such preference items

1 are not included in "taxable income" as returned to and
2 ascertained by the Federal Government.

3 (k) A taxpayer reporting on a 52-53 week basis which closes
4 its fiscal year on any of the last seven days in December or the
5 first seven days of January is deemed a calendar year taxpayer
6 with a year ending date of December 31.

7 (l) For the purpose of computing the depreciation deduction
8 which would have been allowable under section 167 of the
9 Internal Revenue Code of 1954, as amended, prior to amendment by
10 the Economic Recovery Tax Act of 1981: (i) tax preference items
11 as set forth above shall not be included; (ii) property shall be
12 depreciated for a period and with a method consistent with that
13 employed for similar property in prior years; and (iii) for
14 taxable years 1982 and 1983, no deduction shall be allowed for
15 additional first year depreciation on section 179 property.

16 (m) No deduction shall be allowed for the amount of the net
17 operating loss deduction taken under section 172 of the Internal
18 Revenue Code.

19 (n) In the case of regulated investment companies as defined
20 by the Internal Revenue Code of 1954, as amended, "taxable
21 income" shall be investment company taxable income as defined in
22 the aforesaid Internal Revenue Code of 1954, as amended.

23 (o) In arriving at "taxable income" for Federal tax purposes
24 for any taxable year beginning on or after January 1, 1981, no
25 deduction shall be allowed for taxes imposed on or measured by
26 net income.

27 (p) For taxable years beginning on or after January 1, 1998,
28 in the case of a corporation that is a Pennsylvania S
29 corporation, as defined in section 301(n.1), the term "taxable
30 income" shall mean such corporation's net recognized built-in

1 gain to the extent of and as determined for Federal income tax
2 purposes under section 1374(d)(2) of the Internal Revenue Code
3 of 1986 (Public Law 99-514, 26 U.S.C. § 1374). For purposes of
4 this article, a Pennsylvania S corporation and each qualified
5 Subchapter S subsidiary, as defined in section 301(o.3), shall
6 be treated as separate corporations.

7 (q) Taxable income shall not include gains or losses from
8 the sale or other disposition of real property or tangible
9 personal property, if the property was transferred between
10 members of an affiliated group of corporations filing a
11 consolidated return for Federal income tax purposes and the
12 transferor and the transferee are each subject to the tax
13 imposed under this article.

14 * * *

15 Section 2. This act shall apply to taxable years beginning
16 after December 31, 2001.

17 Section 3. This act shall take effect immediately.