

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 338 Session of
2005

INTRODUCED BY SCAVELLO, LEH, BENNINGHOFF, ADOLPH, ALLEN,
ARMSTRONG, BAKER, BALDWIN, BARRAR, BASTIAN, BOYD, BROWNE,
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T. STEVENSON, KENNEY, RAPP, GILLESPIE, HERMAN, GABIG, SONNEY,
GOOD, J. TAYLOR, ZUG, STAIRS, QUIGLEY, GRELL, NICKOL,
BIRMELIN, SHAPIRO AND MACKERETH, FEBRUARY 8, 2005

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES,
AS AMENDED, JUNE 14, 2005

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, in gross receipts tax, for the
11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of

1 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
2 1971, amended or added December 23, 2003 (P.L.250, No.46), are
3 amended to read:

4 Section 1101. Imposition of Tax.--(a) General Rule.--Every
5 pipeline company, conduit company, steamboat company, canal
6 company, slack water navigation company, transportation company,
7 and every other company, association, joint-stock association,
8 or limited partnership, now or hereafter incorporated or
9 organized by or under any law of this Commonwealth, or now or
10 hereafter organized or incorporated by any other state or by the
11 United States or any foreign government, and doing business in
12 this Commonwealth, and every copartnership, person or persons
13 owning, operating or leasing to or from another corporation,
14 company, association, joint-stock association, limited
15 partnership, copartnership, person or persons, any pipeline,
16 conduit, steamboat, canal, slack water navigation, or other
17 device for the transportation of freight, passengers, baggage,
18 or oil, except motor vehicles and railroads, and every limited
19 partnership, association, joint-stock association, corporation
20 or company engaged in, or hereafter engaged in, the
21 transportation of freight or oil within this State, and every
22 telephone company, telegraph company or provider of mobile
23 telecommunications services now or hereafter incorporated or
24 organized by or under any law of this Commonwealth, or now or
25 hereafter organized or incorporated by any other state or by the
26 United States or any foreign government and doing business in
27 this Commonwealth, and every limited partnership, association,
28 joint-stock association, copartnership, person or persons,
29 engaged in telephone or telegraph business or providing mobile
30 telecommunications services in this Commonwealth, shall pay to

1 the State Treasurer, through the Department of Revenue, a tax of
2 forty-five mills with a surtax equal to five mills upon each
3 dollar of the gross receipts of the corporation, company or
4 association, limited partnership, joint-stock association,
5 copartnership, person or persons, received from:

6 (1) passengers, baggage, oil and freight transported wholly
7 within this State;

8 (2) telegraph or telephone messages transmitted wholly
9 within this State and telegraph or telephone messages
10 transmitted in interstate commerce after December 31, 2005 2003, <—
11 and before January 1, 2007 2006, where such messages originate <—
12 or terminate in this State and the charges for such messages are
13 billed to a service address in this State, except gross receipts
14 derived from:

15 (i) the sales of access to the Internet, as set forth in
16 Article II, made to the ultimate consumer; and

17 (ii) the sales for resale to persons, partnerships,
18 associations, corporations or political subdivisions subject to
19 the tax imposed by this article upon gross receipts derived from
20 such resale of telecommunications services, including:

21 (A) telecommunications exchange access to interconnect with
22 a local exchange carrier's network;

23 (B) network elements on an unbundled basis; and

24 (C) sales of telecommunications services to interconnect
25 with providers of mobile telecommunications services; and

26 (3) mobile telecommunications services messages sourced to
27 this Commonwealth after December 31, 2005 2003, and before <—
28 January 1, 2007 2006, based on the place of primary use standard <—
29 set forth in the Mobile Telecommunications Sourcing Act (4
30 U.S.C. § 117), except gross receipts derived from:

1 (i) the sales of access to the Internet, as set forth in
2 Article II, made to the ultimate consumer; and

3 (ii) the sales for resale to persons, partnerships,
4 associations, corporations or political subdivisions subject to
5 the tax imposed by this article upon gross receipts derived from
6 such resale of mobile telecommunications services, including
7 sales of mobile telecommunications services to interconnect with
8 providers of telecommunications services.

9 (a.1) Credit.--Telegraph or telephone companies or providers
10 of mobile telecommunications services that pay a gross receipts
11 tax to another state on messages or services after December 31,
12 2005 2003, and before January 1, 2007 2006, which are taxable <—
13 under this article are entitled to a credit against the tax due
14 under this article. The credit allowed with respect to the
15 messages or services shall not exceed the tax under this article
16 with respect to the messages or services.

17 * * *

18 (j) Schedule for Estimated Payments.--

19 (1) For calendar year 2004, the following schedule applies
20 to the payment of the tax under subsection(a)(3):

21 (i) Forty per cent of the estimated tax shall be due on
22 March 15, 2004.

23 (ii) Forty per cent of the estimated tax shall be due on
24 June 15, 2004.

25 (iii) Twenty per cent of the estimated tax shall be due on
26 September 15, 2004.

27 (2) †For calendar [years after 2004] YEAR 2005, the payment <—
28 of the estimated tax under subsection (a)(3) shall be due in
29 accordance ~~with section 3003.2.] This subsection shall expire~~ <—
30 January 1, WITH SECTION 3003.2. <—

1 (3) THIS SUBSECTION SHALL EXPIRE JANUARY 1, 2007.

2 * * *

3 Section 2. Section 33(12) of the act of December 23, 2003
4 (P.L.250, No.46), entitled "An act Amending the act of March 4,
5 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and
6 State taxation by codifying and enumerating certain subjects of
7 taxation and imposing taxes thereon; providing procedures for
8 the payment, collection, administration and enforcement thereof;
9 providing for tax credits in certain cases; conferring powers
10 and imposing duties upon the Department of Revenue, certain
11 employers, fiduciaries, individuals, persons, corporations and
12 other entities; prescribing crimes, offenses and penalties,'
13 further providing, in sales and use tax, for definitions, for
14 exclusions, for credits, for licenses and for transfers to
15 Public Transportation Assistance Fund; further providing, in
16 personal income tax, for definitions, for imposition, for
17 special tax provisions for poverty, for returns and liability
18 and for returns and records; further providing, in corporate net
19 income tax, for definitions and for interests in unincorporated
20 entities; providing, in corporate net income tax, for additional
21 withholding requirements; further providing, in capital stock
22 franchise tax, for definitions and reports, for imposition and
23 for expiration; further providing, in utilities gross receipts
24 tax, for imposition; further providing, in public utility realty
25 tax, for surcharges; providing, in public utility realty tax,
26 for additional tax; further providing, in cigarette tax, for
27 incidence and rate of tax, for floor tax, for stamp to evidence
28 the tax and for commissions on sales; establishing, in relation
29 to cigarette tax, the Health Care Provider Retention Account;
30 further providing, in research and development tax credit, for

1 carryover, for limitations and for reports; further providing,
2 in malt beverage tax, for limited tax credits; further
3 providing, in inheritance tax, for definitions, for exempt
4 transfers, for estate tax and for estate tax returns; further
5 providing for the Public Transportation Assistance Fund and
6 providing for its administration; further providing for
7 estimated tax and for underpayment of estimated tax; providing
8 for authority to attach wages; and repealing provisions relating
9 to the Public Transportation Assistance Fund," is repealed.

10 Section 3. This act shall take effect immediately.