

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1531 Session of 2009

INTRODUCED BY GEORGE, MELIO, ADOLPH, BELFANTI, BOBACK, BRADFORD, BRENNAN, BRIGGS, BROWN, CALTAGIRONE, CARROLL, CASORIO, COHEN, CONKLIN, D. COSTA, CREIGHTON, DONATUCCI, EVERETT, FAIRCHILD, FRANKEL, GIBBONS, GOODMAN, GRUCELA, HALUSKA, HARHAI, HARPER, HORNAMAN, JOHNSON, JOSEPHS, W. KELLER, KOTIK, KULA, LONGIETTI, MCGEEHAN, MCILVAINE SMITH, MICOZZIE, MILLARD, MUNDY, MURPHY, MURT, PAYNE, PHILLIPS, READSHAW, REICHLEY, SCAVELLO, SEIP, SIPTROTH, STABACK, STURLA, SWANGER, J. TAYLOR, TRUE, VULAKOVICH, WATERS, YOUNGBLOOD, YUDICHAK, EACHUS, BEYER, KORTZ, GINGRICH, HOUGHTON, MENSCH, BURNS AND MIRABITO, MAY 26, 2009

AMENDMENTS TO SENATE AMENDMENTS, HOUSE OF REPRESENTATIVES, OCTOBER 1, 2009

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 time for filing returns,~~
 11 ~~for time of payment, for continuation of the Military Family~~
 12 ~~Relief Assistance Program and for payment of taxes withheld;~~
 13 ~~providing for an educational improvement tax credit and for a~~
 14 ~~limited tax amnesty program; and making a related repeal.~~

15 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN ←
 16 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
 17 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
 18 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
 19 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
 20 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
 21 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
 22 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
 23 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND

1 PENALTIES," IN SALES AND USE TAX, FURTHER PROVIDING FOR
2 EXCLUSIONS, FOR TIME FOR FILING RETURNS AND FOR TIME OF
3 PAYMENT; IN PERSONAL INCOME TAX, FURTHER PROVIDING FOR
4 CLASSES OF INCOME, FOR OPERATIONAL PROVISIONS AND FOR PAYMENT
5 OF WITHHELD TAXES; IN CORPORATE NET INCOME TAX, FURTHER
6 PROVIDING FOR DEFINITIONS; IN CAPITAL STOCK FRANCHISE TAX,
7 FURTHER PROVIDING FOR DEFINITIONS AND REPORTS, FOR IMPOSITION
8 AND FOR EXPIRATION; IN GROSS RECEIPTS TAX, FURTHER PROVIDING
9 FOR IMPOSITION; IN CIGARETTE TAX, FURTHER PROVIDING FOR
10 INCIDENCE AND RATE, FOR FLOOR TAX, FOR THE HEALTH CARE
11 PROVIDER RETENTION ACCOUNT AND FOR COMMISSIONS ON SALES;
12 FURTHER PROVIDING FOR OTHER VIOLATIONS; PROVIDING FOR TOBACCO
13 PRODUCTS TAX AND FOR SEVERANCE TAX; IN RESEARCH AND
14 DEVELOPMENT TAX CREDIT, FURTHER PROVIDING FOR CARRYING OF
15 CREDIT; PROVIDING FOR EDUCATIONAL IMPROVEMENT TAX CREDIT;
16 REPEALING TAX AMNESTY PROVISIONS; PROVIDING FOR REDUCTION OF
17 TAX CREDITS; PROVIDING FOR TAX AMNESTY FOR FISCAL YEAR
18 2009-2010; PROVIDING FOR PENALTIES FOR CORPORATE OFFICERS,
19 FOR EXAMINATION OF BOOKS AND RECORDS AND FOR TABLE GAMES; AND
20 MAKING RELATED REPEALS.

21 The General Assembly of the Commonwealth of Pennsylvania
22 hereby enacts as follows:

23 ~~Section 1. Section 217 of the act of March 4, 1971 (P.L.6,~~ ←
24 ~~No.2), known as the Tax Reform Code of 1971, amended July 1,~~
25 ~~1985 (P.L.78, No.29), is amended to read:~~

26 ~~Section 217. Time for Filing Returns. (a) Quarterly [and],~~
27 ~~Monthly and Semi-monthly Returns:~~

28 ~~(1) For the year in which this article becomes effective and~~
29 ~~in each year thereafter a return shall be filed quarterly by~~
30 ~~every licensee on or before the twentieth day of April, July,~~
31 ~~October and January for the three months ending the last day of~~
32 ~~March, June, September and December.~~

33 ~~(2) For the year in which this article becomes effective,~~
34 ~~and in each year thereafter, a return shall be filed monthly~~
35 ~~with respect to each month by every licensee whose total tax~~
36 ~~reported, or in the event no report is filed, the total tax~~
37 ~~which should have been reported, for the third calendar quarter~~
38 ~~of the preceding year equals or exceeds six hundred dollars~~
39 ~~(\$600) and is less than twenty five thousand dollars (\$25,000).~~
40 ~~Such returns shall be filed on or before the twentieth day of~~

1 ~~the next succeeding month with respect to which the return is~~
2 ~~made. Any licensee required to file monthly returns hereunder~~
3 ~~shall be relieved from filing quarterly returns.~~

4 ~~(3) After May 31, 2010, a return shall be filed semi monthly~~
5 ~~with respect to each month by every licensee whose total tax~~
6 ~~reported or, if no report is filed, the total tax which should~~
7 ~~have been reported, for the third calendar quarter of the~~
8 ~~preceding year equals or exceeds twenty five thousand dollars~~
9 ~~(\$25,000). For the period from the first day of the month to the~~
10 ~~fifteenth day of the month, the returns shall be filed on or~~
11 ~~before the twenty fifth day of the month. For the period from~~
12 ~~the sixteenth day of the month to the last day of the month, the~~
13 ~~returns shall be filed on or before the tenth day of the next~~
14 ~~succeeding month with respect to which the return is made. Any~~
15 ~~licensee required to file semi monthly returns under this~~
16 ~~section shall be relieved from filing monthly or quarterly~~
17 ~~returns.~~

18 ~~(b) Annual Returns. For the calendar year 1971, and for each~~
19 ~~year thereafter, no annual return shall be filed, except as may~~
20 ~~be required by rules and regulations of the department~~
21 ~~promulgated and published at least sixty days prior to the end~~
22 ~~of the year with respect to which the returns are made. Where~~
23 ~~such annual returns are required licensees shall not be required~~
24 ~~to file such returns prior to the twentieth day of the year~~
25 ~~succeeding the year with respect to which the returns are made.~~

26 ~~(c) Other Returns. Any person, other than a licensee, liable~~
27 ~~to pay to the department any tax under this article, shall file~~
28 ~~a return on or before the twentieth day of the month succeeding~~
29 ~~the month in which such person becomes liable for the tax.~~

30 ~~(d) Small Taxpayers. The department, by regulation, may~~

1 ~~waive the requirement for the filing of quarterly return in the~~
2 ~~case of any licensee whose individual tax collections do not~~
3 ~~exceed seventy five dollars (\$75) per calendar quarter and may~~
4 ~~provide for reporting on a less frequent basis in such cases.~~

5 ~~Section 1.1. Section 222 of the act is amended to read:~~

6 ~~Section 222. Time of Payment. (a) Monthly, [Bimonthly]~~
7 ~~Semi monthly and Quarterly Payments. The tax imposed by this~~
8 ~~article and incurred or collected by a licensee shall be due and~~
9 ~~payable by the licensee on the day the return is required to be~~
10 ~~filed under the provisions of section 217 and such payment must~~
11 ~~accompany the return for such preceding period,~~

12 ~~(b) Annual Payments. If the amount of tax due for the~~
13 ~~preceding year as shown by the annual return of any taxpayer is~~
14 ~~greater than the amount already paid by him in connection with~~
15 ~~his monthly, semi monthly or quarterly returns he shall send~~
16 ~~with such annual return a remittance for the unpaid amount of~~
17 ~~tax for the year.~~

18 ~~(c) Other Payments. Any person other than a licensee liable~~
19 ~~to pay any tax under this article shall remit the tax at the~~
20 ~~time of filing the return required by this article.~~

21 ~~Section 2. Section 315.9 of the act, amended July 25, 2007~~
22 ~~(P.L.373, No.55), is amended to read:~~

23 ~~Section 315.9. Operational Provisions. (a) Except for the~~
24 ~~checkoff established under sections 315.2, 315.6 and 315.7 and~~
25 ~~except as otherwise provided [under subsection (b)] in this~~
26 ~~section, the checkoffs established under this part shall apply~~
27 ~~through taxable years ending December 31, 2007.~~

28 ~~(b) [Any] Except as set forth in subsection (c), any~~
29 ~~checkoff established under this part and applicable for the~~
30 ~~first time in a taxable year beginning after December 31, 2003,~~

1 ~~shall expire four years after the beginning of such first~~
2 ~~taxable year.~~

3 ~~(c) Sections [315.3 and 315.4 shall expire January 1, 2010]~~
4 ~~315.3, 315.4 and 315.8 shall expire January 1, 2014.~~

5 ~~Section 3. Section 319 of the act, repealed and added August~~
6 ~~31, 1971 (P.L.362, No.93), is amended to read:~~

7 ~~Section 319. [Monthly, Semi-monthly and Quarterly] Payment~~
8 ~~of Taxes Withheld. Every employer withholding tax under this~~
9 ~~article shall pay over to the department or to a depository~~
10 ~~designated by it the tax required to be deducted and withheld~~
11 ~~under this article.~~

12 ~~(1) Where the aggregate amount required to be deducted and~~
13 ~~withheld by any employer for [each quarterly period] a calendar~~
14 ~~year can reasonably be expected to be less than [three hundred~~
15 ~~dollars (\$300)] twelve hundred dollars (\$1,200), such employer~~
16 ~~shall file a return and pay the tax on or before the last day~~
17 ~~for filing a quarterly return under section 318.~~

18 ~~(2) Where the aggregate amount required to be deducted and~~
19 ~~withheld by any employer for [each quarterly period] a calendar~~
20 ~~year can reasonably be expected to be [three hundred dollars~~
21 ~~(\$300) or more but less than one thousand dollars (\$1,000)]~~
22 ~~twelve hundred dollars (\$1,200) or more but less than four~~
23 ~~thousand dollars (\$4,000), such employer shall pay the tax~~
24 ~~monthly, on or before the fifteenth day of the month succeeding~~
25 ~~the months of January to November, inclusive, and on or before~~
26 ~~the last day of January following the month of December.~~

27 ~~(3) Where the aggregate amount required to be deducted and~~
28 ~~withheld by any employer for [each quarterly period] a calendar~~
29 ~~year can reasonably be expected to be [one thousand dollars~~
30 ~~(\$1,000) or more] four thousand dollars (\$4,000) or more but~~

1 ~~less than twenty thousand dollars (\$20,000), such employer shall~~
2 ~~pay the tax semi-monthly, within three banking days after the~~
3 ~~close of the semi-monthly period.~~

4 ~~(4) Where the aggregate amount required to be deducted and~~
5 ~~withheld by any employer for a calendar year can reasonably be~~
6 ~~expected to be twenty thousand dollars (\$20,000) or more, such~~
7 ~~employer shall pay the tax on the Wednesday after payday if the~~
8 ~~payday falls on a Wednesday, Thursday or Friday and on the~~
9 ~~Friday after payday if the payday falls on a Saturday, Sunday,~~
10 ~~Monday or Tuesday.~~

11 ~~Notwithstanding anything in this section to the contrary,~~
12 ~~whenever any employer fails to deduct or truthfully account for~~
13 ~~or pay over the tax withheld or file returns as prescribed by~~
14 ~~this article, the department may serve a notice on such employer~~
15 ~~requiring him to withhold taxes which are required to be~~
16 ~~deducted under this article and deposit such taxes in a bank~~
17 ~~approved by the department in a separate account in trust for~~
18 ~~and payable to the department, and to keep the amount of such~~
19 ~~tax in such account until payment over to the department. Such~~
20 ~~notice shall remain in effect until a notice of cancellation is~~
21 ~~served on the employer by the department.~~

22 ~~Section 4. The act is amended by adding articles to read:~~

23 ~~ARTICLE XVII F~~

24 ~~EDUCATIONAL IMPROVEMENT TAX CREDIT~~

25 ~~Section 1701 F. Scope.~~

26 ~~This article establishes the educational improvement tax~~
27 ~~credit.~~

28 ~~Section 1702 F. Definitions.~~

29 ~~The following words and phrases when used in this article~~
30 ~~shall have the meanings given to them in this section unless the~~

1 ~~context clearly indicates otherwise:~~

2 ~~"Business firm." An entity authorized to do business in this~~
3 ~~Commonwealth and subject to taxes imposed under Article III, IV,~~
4 ~~VI, VII, VIII, IX or XV. The term includes a pass through~~
5 ~~entity.~~

6 ~~"Contribution." A donation of cash, personal property or~~
7 ~~services the value of which is the net cost of the donation to~~
8 ~~the donor or the pro rata hourly wage, including benefits, of~~
9 ~~the individual performing the services.~~

10 ~~"Department." The Department of Community and Economic~~
11 ~~Development of the Commonwealth.~~

12 ~~"Educational improvement organization." A nonprofit entity~~
13 ~~which:~~

14 ~~(1) is exempt from Federal taxation under section 501(c)~~
15 ~~(3) of the Internal Revenue Code of 1986 (Public Law 99 514,~~
16 ~~26 U.S.C. § 1 et seq.); and~~

17 ~~(2) contributes at least 80% of its annual receipts as~~
18 ~~grants to a public school for innovative educational~~
19 ~~programs.~~

20 ~~For purposes of this definition, a nonprofit entity~~
21 ~~"contributes" its annual cash receipts when it expends or~~
22 ~~otherwise irrevocably encumbers those funds for expenditure~~
23 ~~during the then current fiscal year of the nonprofit entity or~~
24 ~~during the next succeeding fiscal year of the nonprofit entity.~~

25 ~~"Eligible pre kindergarten student." A student, including an~~
26 ~~eligible student with a disability, who is enrolled in a pre~~
27 ~~kindergarten program and is a member of a household with a~~
28 ~~maximum annual household income as increased by the applicable~~
29 ~~income allowance.~~

30 ~~"Eligible student." A school age student, including an~~

1 ~~eligible student with a disability, who is enrolled in a school~~
2 ~~and is a member of a household with a maximum annual household~~
3 ~~income as increased by the applicable income allowance.~~

4 ~~"Eligible student with a disability." A pre kindergarten~~
5 ~~student or a school age student who meets all of the following:~~

6 ~~(1) Is either enrolled in a special education school or~~
7 ~~has otherwise been identified, in accordance with 22 Pa. Code~~
8 ~~Ch. 14 (relating to special education services and programs),~~
9 ~~as a "child with a disability," as defined in 34 CFR § 300.8~~
10 ~~(relating to child with disability).~~

11 ~~(2) Needs special education and related services.~~

12 ~~(3) Is enrolled in a pre kindergarten program or in a~~
13 ~~school.~~

14 ~~(4) Is a member of a household with an annual household~~
15 ~~income of not more than the maximum allowable household~~
16 ~~income for students with a disability.~~

17 ~~"Household." An individual living alone or with the~~
18 ~~following: a spouse, parent and their unemancipated minor~~
19 ~~children; and other unemancipated minor children who are related~~
20 ~~by blood or marriage; or other adults or unemancipated minor~~
21 ~~children living in the household who are dependent upon the~~
22 ~~individual.~~

23 ~~"Household income." All moneys or property received of~~
24 ~~whatever nature and from whatever source derived. The term does~~
25 ~~not include the following:~~

26 ~~(1) Periodic payments for sickness and disability other~~
27 ~~than regular wages received during a period of sickness or~~
28 ~~disability.~~

29 ~~(2) Disability, retirement or other payments arising~~
30 ~~under workers' compensation acts, occupational disease acts~~

1 ~~and similar legislation by any government.~~

2 ~~(3) Payments commonly recognized as old age or~~
3 ~~retirement benefits paid to persons retired from service~~
4 ~~after reaching a specific age or after a stated period of~~
5 ~~employment.~~

6 ~~(4) Payments commonly known as public assistance or~~
7 ~~unemployment compensation payments by a governmental agency.~~

8 ~~(5) Payments to reimburse actual expenses.~~

9 ~~(6) Payments made by employers or labor unions for~~
10 ~~programs covering hospitalization, sickness, disability or~~
11 ~~death, supplemental unemployment benefits, strike benefits,~~
12 ~~Social Security and retirement.~~

13 ~~(7) Compensation received by United States servicemen~~
14 ~~serving in a combat zone.~~

15 ~~"Income allowance."~~

16 ~~(1) As follows:~~

17 ~~(i) Before July 1, 2011, \$10,000 for each eligible~~
18 ~~student, eligible pre kindergarten student and dependent~~
19 ~~member of the household.~~

20 ~~(ii) After June 30, 2011, \$12,000 for each eligible~~
21 ~~student, eligible pre kindergarten student and dependent~~
22 ~~member of the household.~~

23 ~~(2) Beginning July 12, 2012, the Department of Community~~
24 ~~and Economic Development shall adjust the income allowance~~
25 ~~amounts under paragraph (1) to reflect any upward changes in~~
26 ~~the Consumer Price Index for All Urban Consumers for the~~
27 ~~Pennsylvania, New Jersey, Delaware and Maryland area in the~~
28 ~~preceding 12 months and shall immediately submit the adjusted~~
29 ~~amounts to the Legislative Reference Bureau for publication~~
30 ~~as a notice in the Pennsylvania Bulletin.~~

1 ~~"Innovative educational program." An advanced academic or~~
2 ~~similar program that is not part of the regular academic program~~
3 ~~of a public school but that enhances the curriculum or academic~~
4 ~~program of the public school or provides pre kindergarten~~
5 ~~programs to public school students.~~

6 ~~"Maximum allowable household income for students with a~~
7 ~~disability."~~

8 ~~(1) Except as set forth in paragraph (2), as follows:~~

9 ~~(i) Before July 1, 2011, not more than \$50,000.~~

10 ~~(ii) After June 30, 2011, not more than \$60,000.~~

11 ~~(2) With respect to an eligible student with a~~
12 ~~disability, as calculated by multiplying:~~

13 ~~(i) the sum of:~~

14 ~~(A) the applicable amount under paragraph (1);~~

15 ~~and~~

16 ~~(B) the applicable income allowance; by~~

17 ~~(ii) the applicable support level factor according to~~
18 ~~the following table:~~

Support Level	Support Level Factor
1	1.50
2	2.993

22 ~~(3) Beginning on July 12, 2012, the Department of~~
23 ~~Community and Economic Development shall adjust the income~~
24 ~~amounts under paragraph (1) and (2) to reflect any upward~~
25 ~~changes in the Consumer Price Index for All Urban Consumers~~
26 ~~for the Pennsylvania, New Jersey, Delaware and Maryland area~~
27 ~~in the preceding 12 months and shall immediately submit the~~
28 ~~adjusted amounts to the Legislative Reference Bureau for~~
29 ~~publication as a notice in the Pennsylvania Bulletin.~~

30 ~~"Pass through entity." A partnership as defined in section~~

1 ~~301(n.0), a single member limited liability company treated as a~~
2 ~~disregarded entity for Federal income tax purposes or a~~
3 ~~Pennsylvania S corporation as defined in section 301(n.1).~~

4 ~~"Pre kindergarten program." A program of instruction for~~
5 ~~three year old or four year old students that utilizes a~~
6 ~~curriculum aligned with the curriculum of the school with which~~
7 ~~it is affiliated and which provides one of the following:~~

8 ~~(1) A minimum of two hours of instructional and~~
9 ~~developmental activities per day at least 60 days per school~~
10 ~~year.~~

11 ~~(2) A minimum of two hours of instructional and~~
12 ~~developmental activities per day at least 20 days over the~~
13 ~~summer recess.~~

14 ~~"Pre kindergarten scholarship organization." A nonprofit~~
15 ~~entity which:~~

16 ~~(1) either is exempt from Federal taxation under section~~
17 ~~501(c) (3) of the Internal Revenue Code of 1986 (Public Law~~
18 ~~99 514, 26 U.S.C. § 1 et seq.) or is operated as a separate~~
19 ~~segregated fund by a scholarship organization that has been~~
20 ~~qualified under section 1703 F; and~~

21 ~~(2) contributes at least 80% of its annual cash receipts~~
22 ~~to a pre kindergarten scholarship program by expending or~~
23 ~~otherwise irrevocably encumbering those funds for~~
24 ~~distribution during the then current fiscal year of the~~
25 ~~organization or during the next succeeding fiscal year of the~~
26 ~~organization.~~

27 ~~"Pre kindergarten scholarship program." A program to provide~~
28 ~~tuition to eligible pre kindergarten students to attend a pre~~
29 ~~kindergarten program operated by or in conjunction with a school~~
30 ~~located in this Commonwealth and that includes an application~~

1 ~~and review process for the purpose of making awards to eligible~~
2 ~~pre kindergarten students and awards scholarships to eligible~~
3 ~~pre kindergarten students without limiting availability to only~~
4 ~~students of one school.~~

5 ~~"Public school." A public pre kindergarten where compulsory~~
6 ~~attendance requirements do not apply or a public kindergarten,~~
7 ~~elementary school or secondary school at which the compulsory~~
8 ~~attendance requirements of this Commonwealth may be met and~~
9 ~~which meets the applicable requirements of Title VI of the Civil~~
10 ~~Rights Act of 1964 (Public Law 88 352, 78 Stat. 241).~~

11 ~~"Scholarship organization." A nonprofit entity which:~~

12 ~~(1) is exempt from Federal taxation under section 501(c)~~
13 ~~(3) of the Internal Revenue Code of 1986 (Public Law 99 514,~~
14 ~~26 U.S.C. § 1 et seq.); and~~

15 ~~(2) contributes at least 80% of its annual cash receipts~~
16 ~~to a scholarship program.~~

17 ~~For purposes of this definition, a nonprofit entity~~
18 ~~"contributes" its annual cash receipts to a scholarship program~~
19 ~~when it expends or otherwise irrevocably encumbers those funds~~
20 ~~for distribution during the then current fiscal year of the~~
21 ~~nonprofit entity or during the next succeeding fiscal year of~~
22 ~~the nonprofit entity.~~

23 ~~"Scholarship program." A program to provide tuition to~~
24 ~~eligible students to attend a school located in this~~
25 ~~Commonwealth. A scholarship program must include an application~~
26 ~~and review process for the purpose of making awards to eligible~~
27 ~~students. The award of scholarships to eligible students shall~~
28 ~~be made without limiting availability to only students of one~~
29 ~~school.~~

30 ~~"School." A public or nonpublic pre kindergarten,~~

~~1 kindergarten, elementary school or secondary school at which the
2 compulsory attendance requirements of the Commonwealth may be
3 met and which meets the applicable requirements of Title VI of
4 the Civil Rights Act of 1964 (Public Law 88-352, 78 Stat. 241).~~

~~5 "School age." Children from the earliest admission age to a
6 school's pre kindergarten or kindergarten program or, when no
7 pre kindergarten or kindergarten program is provided, the
8 school's earliest admission age for beginners, until the end of
9 the school year the student attains 21 years of age or
10 graduation from high school, whichever occurs first.~~

~~11 "Special education school." A school or program within a
12 school that is designated specifically and exclusively for
13 students with any of the disabilities listed in 34 CFR § 300.8
14 (relating to child with disability) and meets one of the
15 following:~~

~~16 (1) Is licensed under the act of January 28, 1988
17 (P.L.24, No.11), known as the Private Academic Schools Act.~~

~~18 (2) Is accredited by an accrediting association approved
19 by the State Board of Education.~~

~~20 (3) Is a school for the blind or deaf receiving
21 Commonwealth appropriations.~~

~~22 (4) Is operated by or under the authority of a bona fide
23 religious institution or by the Commonwealth or any political
24 subdivision thereof.~~

~~25 "Support level." The level of support needed by an eligible
26 student with a disability, as set forth in the following matrix:~~

~~27 Support Level 1 The student is not enrolled in a
28 special education school.~~

~~29 Support Level 2 The student is enrolled as a student in
30 a special education school.~~

1 ~~Section 1703 F. Qualification and application.~~

2 ~~(a) Establishment. In accordance with section 14 of Article~~
3 ~~III of the Constitution of Pennsylvania, an educational~~
4 ~~improvement tax credit program is hereby established to enhance~~
5 ~~the educational opportunities available to all students in this~~
6 ~~Commonwealth.~~

7 ~~(b) Information. In order to qualify under this article, a~~
8 ~~scholarship organization, a pre kindergarten scholarship~~
9 ~~organization or an educational improvement organization must~~
10 ~~submit information to the department that enables the department~~
11 ~~to confirm that the organization is exempt from taxation under~~
12 ~~section 501(c) (3) of the Internal Revenue Code of 1986 (Public~~
13 ~~Law 99-514, 26 U.S.C. § 1 et seq.).~~

14 ~~(c) Scholarship organizations and pre kindergarten~~
15 ~~scholarship organizations. A scholarship organization or pre~~
16 ~~kindergarten scholarship organization must certify to the~~
17 ~~department that the organization is eligible to participate in~~
18 ~~the program established under this article and must agree to~~
19 ~~annually report the following information to the department by~~
20 ~~December 1, 2005, and September 1 of each year thereafter:~~

21 ~~(1) (i) The number of scholarships awarded during the~~
22 ~~immediately preceding school year to eligible pre~~
23 ~~kindergarten students.~~

24 ~~(ii) The total and average amounts of the~~
25 ~~scholarships awarded during the immediately preceding~~
26 ~~school year to eligible pre kindergarten students.~~

27 ~~(iii) The number of scholarships awarded during the~~
28 ~~immediately preceding school year to eligible students in~~
29 ~~grades kindergarten through 8.~~

30 ~~(iv) The total and average amounts of the~~

~~scholarships awarded during the immediately preceding school year to eligible students in grades K through 8.~~

~~(v) The number of scholarships awarded during the immediately preceding school year to eligible students in grades 9 through 12.~~

~~(vi) The total and average amounts of the scholarships awarded during the immediately preceding school year to eligible students in grades 9 through 12.~~

~~(vii) Where the scholarship organization or pre-kindergarten scholarship organization collects information on a county by county basis, the total number and the total amount of scholarships awarded during the immediately preceding school year to residents of each county in which the scholarship organization or pre-kindergarten scholarship organization awarded scholarships.~~

~~(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than September 1, 2005, and May 1 of each year thereafter, the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed scholarship organization and pre-kindergarten scholarship organization.~~

~~(3) The department may not require any other information to be provided by scholarship organizations or pre-kindergarten scholarship organizations, except as expressly authorized in this article.~~

~~(d) Educational improvement organization.~~

~~(1) An application submitted by an educational improvement organization must describe its proposed~~

~~innovative educational program or programs in a form prescribed by the department. The department shall consult with the Department of Education as necessary. The department shall review and approve or disapprove the application. In order to be eligible to participate in the program established under this article, an educational improvement organization must agree to annually report the following information to the department by December 1, 2005, and September 1 of each year thereafter:~~

~~(i) The name of the innovative educational program or programs and the total amount of the grant or grants made to those programs during the immediately preceding school year.~~

~~(ii) A description of how each grant was utilized during the immediately preceding school year and a description of any demonstrated or expected innovative educational improvements.~~

~~(iii) The names of the public schools and school districts where innovative educational programs that received grants during the immediately preceding school year were implemented.~~

~~(iv) Where the educational improvement organization collects information on a county by county basis, the total number and the total amount of grants made during the immediately preceding school year for programs at public schools in each county in which the educational improvement organization made grants.~~

~~(2) The information required under paragraph (1) shall be submitted on a form provided by the department. No later than September 1, 2005, and May 1 of each year thereafter,~~

~~the department shall annually distribute such sample forms, together with the forms on which the reports are required to be made, to each listed educational improvement organization.~~

~~(3) The department may not require any other information to be provided by educational improvement organizations, except as expressly authorized in this article.~~

~~(c) Notification. The department shall notify the scholarship organization, pre kindergarten scholarship organization or educational improvement organization that the organization meets the requirements of this article for that fiscal year no later than 60 days after the organization has submitted the information required under this section.~~

~~(f) Publication. The department shall annually publish a list of each scholarship organization, pre kindergarten scholarship organization or educational improvement organization qualified under this section in the Pennsylvania Bulletin. The list shall also be posted and updated as necessary on the publicly accessible Internet website of the department.~~

~~Section 1704 F. Application.~~

~~(a) Scholarship organization or pre kindergarten scholarship organizations. A business firm shall apply to the department for a tax credit under section 1705 F. A business firm shall receive a tax credit under this article if the scholarship organization or pre kindergarten scholarship organization that receives the contribution appears on the list established under section 1703 F(f).~~

~~(b) Educational improvement organization. A business firm must apply to the department for a credit under section 1705 F. A business firm shall receive a tax credit under this article if the department has approved the program provided by the~~

1 ~~educational improvement organization that receives the~~
2 ~~contribution.~~

3 ~~(c) Availability of tax credits. Tax credits under this~~
4 ~~article shall be made available by the department on a first-~~
5 ~~come, first served basis within the limitation established under~~
6 ~~section 1706 F(a).~~

7 ~~(d) Contributions. A contribution by a business firm to a~~
8 ~~scholarship organization, pre kindergarten scholarship~~
9 ~~organization or educational improvement organization shall be~~
10 ~~made no later than 60 days following the approval of an~~
11 ~~application under subsection (a) or (b).~~

12 ~~Section 1705 F. Tax credit.~~

13 ~~(a) Scholarship or educational improvement organizations.~~
14 ~~In accordance with section 1706 F(a), the Department of Revenue~~
15 ~~shall grant a tax credit against any tax due under Article III,~~
16 ~~IV, VI, VII, VIII, IX or XV to a business firm providing proof~~
17 ~~of a contribution to a scholarship organization or educational~~
18 ~~improvement organization in the taxable year in which the~~
19 ~~contribution is made which shall not exceed 75% of the total~~
20 ~~amount contributed during the taxable year by the business firm.~~
21 ~~Such credit shall not exceed \$300,000 annually per business firm~~
22 ~~for contributions made to scholarship organizations or~~
23 ~~educational improvement organizations.~~

24 ~~(b) Additional amount. The Department of Revenue shall~~
25 ~~grant a tax credit of up to 90% of the total amount contributed~~
26 ~~during the taxable year if the business firm provides a written~~
27 ~~commitment to provide the scholarship organization or~~
28 ~~educational improvement organization with the same amount of~~
29 ~~contribution for two consecutive tax years. The business firm~~
30 ~~must provide the written commitment under this subsection to the~~

1 ~~department at the time of application.~~

2 ~~(c) Pre kindergarten scholarship organizations. In~~
3 ~~accordance with section 1706 F(a), the Department of Revenue~~
4 ~~shall grant a tax credit against any tax due under Article III,~~
5 ~~IV, VI, VII, VIII, IX or XV to a business firm providing proof~~
6 ~~of a contribution to a pre kindergarten scholarship organization~~
7 ~~in the taxable year in which the contribution is made which~~
8 ~~shall be equal to 100% of the first \$10,000 contributed during~~
9 ~~the taxable year by the business firm, and which shall not~~
10 ~~exceed 90% of the remaining amount contributed during the~~
11 ~~taxable year by the business firm. Such credit shall not exceed~~
12 ~~\$150,000 annually per business firm for contributions made to~~
13 ~~pre kindergarten scholarship organizations.~~

14 ~~(d) Combination of tax credits. A business firm may receive~~
15 ~~tax credits from the Department of Revenue in any tax year for~~
16 ~~any combination of contributions under subsection (a) or (b) or~~
17 ~~(c). In no case may a business firm receive tax credits in any~~
18 ~~tax year in excess of \$300,000 for contributions under~~
19 ~~subsections (a) and (b). In no case shall a business firm~~
20 ~~receive tax credits in any tax year in excess of \$150,000 for~~
21 ~~contributions under subsection (c).~~

22 ~~(e) Pass through entity.~~

23 ~~(1) If a pass through entity does not intend to use all~~
24 ~~approved tax credits under this section, it may elect in~~
25 ~~writing to transfer all or a portion of the credit to~~
26 ~~shareholders, members or partners in proportion to the share~~
27 ~~of the entity's distributive income to which the shareholder,~~
28 ~~member or partner is entitled for use in the taxable year in~~
29 ~~which the contribution is made or in the taxable year~~
30 ~~immediately following the year in which the contribution is~~

1 ~~made. The election shall designate the year in which the~~
2 ~~transferred credits are to be used and shall be made~~
3 ~~according to procedures established by the Department of~~
4 ~~Revenue.~~

5 ~~(2) A pass through entity and a shareholder, member or~~
6 ~~partner of a pass through entity shall not claim the credit~~
7 ~~under this section for the same contribution.~~

8 ~~(3) The shareholder, member or partner may not carry~~
9 ~~forward, carry back, obtain a refund of or sell or assign the~~
10 ~~credit.~~

11 ~~(f) Restriction on applicability of credits. No credits~~
12 ~~granted under this section shall be applied against any tax~~
13 ~~withheld by an employer from an employee under Article III.~~

14 ~~(g) Time of application for credits.~~

15 ~~(1) Except as provided in paragraphs (2) and (3), the~~
16 ~~department may accept applications for tax credits available~~
17 ~~during a fiscal year no earlier than July 1 of each fiscal~~
18 ~~year.~~

19 ~~(2) The application of any business firm for tax credits~~
20 ~~available during a fiscal year as part of the second year of~~
21 ~~a two year commitment may be accepted no earlier than May 15~~
22 ~~preceding the fiscal year.~~

23 ~~(3) The application under subsection (a) of any pass~~
24 ~~through entity for approval of single year tax credits~~
25 ~~available during a fiscal year against the taxes imposed~~
26 ~~under Article III or under subsection (b) for approval of~~
27 ~~credits against such taxes for the first year of a two year~~
28 ~~commitment may be accepted by the department no earlier than~~
29 ~~the first business day following July 7 of the fiscal year.~~

30 ~~Section 1706 F. Limitations.~~

1 ~~(a) Amount.~~

2 ~~(1) The total aggregate amount of all tax credits~~
3 ~~approved shall not exceed \$67,000,000 in a fiscal year. No~~
4 ~~less than \$44,666,667 of the total aggregate amount shall be~~
5 ~~used to provide tax credits for contributions from business~~
6 ~~firms to scholarship organizations. No less than \$22,333,333~~
7 ~~of the total aggregate amount shall be used to provide tax~~
8 ~~credits for contributions from business firms to educational~~
9 ~~improvement organizations.~~

10 ~~(2) (i) For the fiscal years 2004-2005, 2005-2006 and~~
11 ~~2006-2007, the total aggregate amount of all tax credits~~
12 ~~approved for contributions from business firms to pre-~~
13 ~~kindergarten scholarship programs shall not exceed~~
14 ~~\$5,000,000 in a fiscal year.~~

15 ~~(ii) For the fiscal year 2007-2008 and each fiscal~~
16 ~~year thereafter, the total aggregate amount of all tax~~
17 ~~credits approved for contributions from business firms to~~
18 ~~pre-kindergarten scholarship programs shall not exceed~~
19 ~~\$8,000,000 in a fiscal year.~~

20 ~~(b) Activities. No tax credit shall be approved for~~
21 ~~activities that are a part of a business firm's normal course of~~
22 ~~business.~~

23 ~~(c) Tax liability.~~

24 ~~(1) Except as provided in paragraph (2), a tax credit~~
25 ~~granted for any one taxable year may not exceed the tax~~
26 ~~liability of a business firm.~~

27 ~~(2) In the case of a credit granted to a pass-through~~
28 ~~entity which elects to transfer the credit according to~~
29 ~~section 1705 F(e), a tax credit granted for any one taxable~~
30 ~~year and transferred to a shareholder, member or partner may~~

1 ~~not exceed the tax liability of the shareholder, member or~~
2 ~~partner.~~

3 ~~(d) Use. A tax credit not used by the applicant in the~~
4 ~~taxable year the contribution was made or in the year designated~~
5 ~~by the shareholder, member or partner to whom the credit was~~
6 ~~transferred under section 1705 F(e) may not be carried forward~~
7 ~~or carried back and is not refundable or transferable.~~

8 ~~(e) Nontaxable income. A scholarship received by an~~
9 ~~eligible student or eligible pre kindergarten student shall not~~
10 ~~be considered to be taxable income for the purposes of Article~~
11 ~~III.~~

12 ~~Section 1707 F. Lists.~~

13 ~~The Department of Revenue shall provide a list of all~~
14 ~~scholarship organizations, pre kindergarten scholarship~~
15 ~~organizations and educational improvement organizations~~
16 ~~receiving contributions from business firms granted a tax credit~~
17 ~~under this article to the General Assembly by June 30 of each~~
18 ~~year.~~

19 ~~Section 1708 F. Guidelines.~~

20 ~~The department in consultation with the Department of~~
21 ~~Education shall develop guidelines to determine the eligibility~~
22 ~~of an innovative educational program.~~

23 ~~ARTICLE XXIX D~~

24 ~~TAX AMNESTY PROGRAM FOR FISCAL YEAR 2009-2010~~

25 ~~Section 2901 D. Definitions.~~

26 ~~The following words, terms and phrases, when used in this~~
27 ~~article, shall have the meanings ascribed to them in this~~
28 ~~section, except where the context clearly indicates a different~~
29 ~~meaning:~~

30 ~~"Amnesty period." The time period of 90 consecutive days~~

1 ~~established by the Governor during the fiscal year beginning~~
2 ~~July 1, 2009, and ending June 30, 2010.~~

3 ~~"Department." The Department of Revenue of the Commonwealth.~~

4 ~~"Eligible tax." Any tax imposed by the Commonwealth for~~
5 ~~deposit in the General Fund, the Motor License Fund or the~~
6 ~~Liquid Fuels Tax Fund for taxes delinquent as of December 31,~~
7 ~~2006. The term includes any interest or penalty on an eligible~~
8 ~~tax. The term excludes any tax imposed by a political~~
9 ~~subdivision.~~

10 ~~"Program." The tax amnesty program as provided for in this~~
11 ~~article.~~

12 ~~"Taxpayer." Any person, association, fiduciary, partnership,~~
13 ~~corporation or other entity required to pay or collect any of~~
14 ~~the eligible taxes. The term shall not include a taxpayer who,~~
15 ~~prior to the amnesty period, has received notice that the~~
16 ~~taxpayer is the subject of a criminal investigation for an~~
17 ~~alleged violation of any law imposing an eligible tax or who,~~
18 ~~prior to the amnesty period, has been named as a defendant in a~~
19 ~~criminal complaint alleging a violation of any law imposing an~~
20 ~~eligible tax or is a defendant in a pending criminal action for~~
21 ~~an alleged violation of any law imposing an eligible tax.~~

22 ~~Section 2902 D. Establishment of program.~~

23 ~~(a) Program established. There is established a tax amnesty~~
24 ~~program which shall be administered by the department.~~

25 ~~(b) Applicability. The program shall apply to a taxpayer~~
26 ~~who is delinquent on payment of a liability for an eligible tax~~
27 ~~as of June 1, 2009, including a liability for returns not filed,~~
28 ~~liabilities according to records of the department as of June 1,~~
29 ~~2009, liabilities not reported, underreported or not~~
30 ~~established, but delinquent as of June 1, 2009.~~

1 ~~(c) Prior amnesty program participation. The program shall~~
2 ~~not apply to taxpayers who participated in the tax amnesty~~
3 ~~program outlined in Article XXIX A.~~

4 ~~(d) Future amnesty program participation. A taxpayer who~~
5 ~~participates in the program shall not be eligible to participate~~
6 ~~in a future tax amnesty program.~~

7 ~~Section 2903 D. Required payment.~~

8 ~~(a) Taxpayer requirements. Subject to section 2904 D, all~~
9 ~~taxpayers who participate in the program shall comply with all~~
10 ~~of the following:~~

11 ~~(1) During the amnesty period, file a tax amnesty return~~
12 ~~in such form and containing such information as the~~
13 ~~department shall require. A tax amnesty return shall be~~
14 ~~considered to be timely filed if it is postmarked during the~~
15 ~~amnesty period.~~

16 ~~(2) During the amnesty period, make payment of all taxes~~
17 ~~and 50% of all interest due to the Commonwealth in accordance~~
18 ~~with the tax amnesty return that is filed.~~

19 ~~(3) File complete tax returns for all years for which~~
20 ~~the taxpayer previously has not filed a tax return and file~~
21 ~~complete amended returns for all years for which the taxpayer~~
22 ~~underreported eligible tax liability.~~

23 ~~(b) Prohibitions. The department shall not collect 50% of~~
24 ~~all interest due to the Commonwealth or the penalties owed by a~~
25 ~~taxpayer who participates in the program under subsection (a).~~
26 ~~The department shall not pursue any administrative or judicial~~
27 ~~proceeding against a taxpayer with respect to any eligible tax~~
28 ~~that is disclosed on a tax amnesty return.~~

29 ~~Section 2904 D. Amnesty contingent on continued.~~

30 ~~Notwithstanding any other provision of this article, the~~

~~1 department may assess and collect from a taxpayer all penalties
2 and interest forgone through the tax amnesty program established
3 in this article if, within two years after the end of the
4 program, either of the following occurs:~~

~~5 (1) the taxpayer granted amnesty under this article
6 becomes delinquent for three consecutive periods in payment
7 of taxes due or filing of returns required on a semimonthly,
8 monthly, quarterly or other basis and the taxpayer has not
9 contested the tax liability through a timely valid
10 administrative or judicial appeal; or~~

~~11 (2) the taxpayer granted amnesty under this article
12 becomes delinquent and is eight or more months late in
13 payment of taxes due or filing of returns on an annual basis
14 and the taxpayer has not contested the liability through a
15 timely valid administrative or judicial appeal.~~

~~16 Section 2905 D. Limitation of deficiency assessment.~~

~~17 If, subsequent to the amnesty period, the department issues a
18 deficiency assessment with respect to a tax amnesty return, the
19 department shall have the authority to impose penalties and
20 interest and to pursue a criminal action only with respect to
21 the difference between the amount shown on that tax amnesty
22 return and the current amount of tax.~~

~~23 Section 2906 D. Overpayment of tax.~~

~~24 Notwithstanding any other provisions of this article or any
25 other act, if an overpayment of eligible tax is refunded or
26 credited within 180 days after the tax amnesty return is filed,
27 no interest shall be allowed on the overpayment.~~

~~28 Section 2907 D. Previously paid interest and penalties.~~

~~29 No refund or credit shall be allowed for any interest or
30 penalty on eligible taxes paid to the department prior to the~~

1 ~~amnesty period.~~

2 ~~Section 2908 D. Proceedings relating to tax amnesty return~~
3 ~~barred.~~

4 ~~Participation in the program is conditioned upon the~~
5 ~~taxpayer's agreement that the right to protest or pursue an~~
6 ~~administrative or judicial proceeding with regard to tax amnesty~~
7 ~~returns filed under the program or to claim any refund of money~~
8 ~~paid under the program is barred.~~

9 ~~Section 2909 D. Undisclosed liabilities.~~

10 ~~Nothing in this article shall be construed to prohibit the~~
11 ~~department from instituting civil or criminal proceedings~~
12 ~~against any taxpayer with respect to any amount of tax that is~~
13 ~~not disclosed on the tax amnesty return.~~

14 ~~Section 2910 D. Duties of department.~~

15 ~~(a) Regulations. The department shall develop regulations~~
16 ~~to implement the provisions of this article. The regulations~~
17 ~~must be published in the Pennsylvania Bulletin within 90 days of~~
18 ~~the effective date of this article and shall contain, but not be~~
19 ~~limited to, the following information:~~

20 ~~(1) An explanation of the program and the requirements~~
21 ~~for eligibility for the program.~~

22 ~~(2) The dates during which a tax amnesty return may be~~
23 ~~filed.~~

24 ~~(3) A specimen copy of the tax amnesty return.~~

25 ~~(b) Publicity. The department shall publicize the program~~
26 ~~to maximize public awareness of and participation in the~~
27 ~~program. The department shall coordinate to the highest degree~~
28 ~~possible its publicity efforts and other actions taken to~~
29 ~~implement this article.~~

30 ~~(c) Report. The department shall issue a report to the~~

~~General Assembly within 180 days after the end of the amnesty period detailing the implementation of the program. The report shall contain, but not be limited to, the following information:~~

~~(1) A detailed breakdown of the department's administrative costs in implementing the program.~~

~~(2) The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue raised for each tax by calendar year during which the tax period ended. In addition, the gross revenues shall be broken down into the following categories:~~

~~(i) Amounts represented by assessments receivable established by the department on or before the first day of the amnesty period.~~

~~(ii) All other amounts.~~

~~(3) The total dollar amount of revenue collected by the program.~~

~~(4) The total dollar amount of penalties forgiven under the program.~~

~~(5) The demographic characteristics of tax amnesty participants, including North American Industry Classification System codes of participants, type of taxpayer, consisting of individual, partnership, corporation or other entity, size of tax liability and geographical location.~~

~~(d) Notification. The department shall notify in writing all known tax delinquents at the taxpayers' last known address of the existence of the tax amnesty program. The sole purpose of the letter sent by the department to taxpayers must be notification of the program.~~

~~Section 2911 D. Method of payment.~~

1 ~~All tax payments under the program shall be made by certified~~
2 ~~check, money order, cash or its equivalent.~~

3 ~~Section 2912 D. Exemption from review process.~~

4 ~~Notwithstanding any law to the contrary, the regulations~~
5 ~~issued by the department for the program shall be exempt from~~
6 ~~the regulatory review process provided in the act of June 25,~~
7 ~~1982 (P.L.633, No.181), known as the Regulatory Review Act.~~

8 ~~Section 2913 D. Use of revenue.~~

9 ~~All revenue generated by this article shall be deposited into~~
10 ~~a restricted revenue account in the General Fund. Revenue from~~
11 ~~the restricted revenue account shall be distributed as follows:~~

12 ~~(1) All money from General Fund sources shall be~~
13 ~~deposited in the General Fund no later than June 30, 2010,~~
14 ~~less repayment of any costs for administration of the program~~
15 ~~to the department.~~

16 ~~(2) All revenue from Motor License Fund sources shall be~~
17 ~~deposited in the Motor License Fund no later than June 30,~~
18 ~~2010.~~

19 ~~(3) All revenue from Liquid Fuels Tax Fund sources shall~~
20 ~~be deposited in the Liquid Fuels Tax Fund no later than June~~
21 ~~30, 2010.~~

22 ~~Section 2914 D. Penalties for certain corporate officers.~~

23 ~~If an officer or officers of a corporation or association~~
24 ~~intentionally neglect or refuse to make reports to the Auditor~~
25 ~~General, or to the department, or successively to the Auditor~~
26 ~~General and to the department, as required by law, for any two~~
27 ~~successive tax years, the officer or officers commit a~~
28 ~~misdemeanor and shall, upon conviction, be sentenced to pay a~~
29 ~~fine of not less than \$2,500 nor more than \$5,000. This fine~~
30 ~~shall be in addition to any fine or prison sentence under~~

1 ~~section 1704 of the act of April 9, 1929 (P.L.343, No.176),~~
2 ~~known as The Fiscal Code.~~

3 ~~Section 2915 D. Further examination of books and records.~~

4 ~~(a) Authority. The department or any of its authorized~~
5 ~~agents is authorized to examine the books, papers and records of~~
6 ~~any taxpayer or other persons in order to verify the accuracy~~
7 ~~and completeness of any return or report made or, if no return~~
8 ~~or report was made, to ascertain and assess any tax or other~~
9 ~~liability owed to the Commonwealth.~~

10 ~~(b) Audit. The department may determine, by desk, field or~~
11 ~~other audit, the amount of tax or other liability required to be~~
12 ~~paid to the Commonwealth. The department may determine the~~
13 ~~liability based upon the facts contained in the return or report~~
14 ~~being audited or other information in the department's~~
15 ~~possession. The department may determine the liability based~~
16 ~~upon a reasonable statistical sample or test audit performed in~~
17 ~~accordance with the regulations of the department when the~~
18 ~~individual being audited does not have complete records of~~
19 ~~transactions or when the review of each transaction or invoice~~
20 ~~would place an undue burden on the department to conduct an~~
21 ~~audit in a timely and efficient manner.~~

22 ~~(c) Challenge by taxpayer. The taxpayer may challenge the~~
23 ~~accuracy of a statistical sample or test audit by providing~~
24 ~~clear and convincing evidence that the method used for a~~
25 ~~statistical sample or test audit is erroneous, lacks a rational~~
26 ~~basis or produces a different result when the complete records~~
27 ~~are considered.~~

28 ~~Section 2916 D. Additional penalty.~~

29 ~~(a) Penalty. Subject to the limitations provided under~~
30 ~~subsection (b), a penalty of 5% of the unpaid tax liability and~~

1 ~~penalties and interest shall be levied against a taxpayer~~
2 ~~subject to an eligible tax if the taxpayer had failed to remit~~
3 ~~an eligible tax due or had an unreported or underreported~~
4 ~~liability for an eligible tax on or after the first day~~
5 ~~following the end of the amnesty period.~~

6 ~~(b) Nonapplicability. The penalty provided in this section~~
7 ~~shall not apply to a taxpayer who:~~

8 ~~(1) has paid the liability in full or entered into a~~
9 ~~duly approved and executed deferred payment plan on or before~~
10 ~~the last day of the amnesty period; or~~

11 ~~(2) has filed a timely and valid administrative or~~
12 ~~judicial appeal contesting the liability on or before the~~
13 ~~last day of the amnesty period.~~

14 ~~(c) Penalty in addition. The penalty provided by this~~
15 ~~section shall be in addition to all other penalties provided by~~
16 ~~law.~~

17 ~~Section 2917 D. Application of penalty and powers.~~

18 ~~Sections 2914 D and 2915 D shall apply to all taxes collected~~
19 ~~by the department.~~

20 ~~Section 2918 D. Construction.~~

21 ~~Except as expressly provided in this article, this article~~
22 ~~shall not:~~

23 ~~(1) be construed to relieve any person, corporation or~~
24 ~~other entity from the filing of returns or from any taxes,~~
25 ~~penalties or interest imposed by the provisions of any laws;~~

26 ~~(2) affect or terminate any petitions, investigations,~~
27 ~~prosecutions, legal or otherwise, or other proceedings~~
28 ~~pending under the provisions of any such laws; or~~

29 ~~(3) prevent the commencement or further prosecution of~~
30 ~~any proceedings by the proper authorities of the Commonwealth~~

1 ~~for violation of any such laws or for the assessment,~~
2 ~~settlement, collection or recovery of taxes, penalties or~~
3 ~~interest due to the Commonwealth under any such laws.~~

4 ~~Section 2919 D. Suspension of inconsistent acts.~~

5 ~~All acts or parts of acts inconsistent with the provisions of~~
6 ~~this article are suspended to the extent necessary to carry out~~
7 ~~the provisions of this article.~~

8 Section 5. ~~Repeals are as follows:~~

9 ~~(1) The General Assembly declares that the repeal under~~
10 ~~paragraph (2) is necessary to effectuate the addition of~~
11 ~~Article XVII F of the act.~~

12 ~~(2) Article XX B of the act of March 10, 1949 (P.L.30,~~
13 ~~No.14), known as the Public School Code of 1949, is repealed.~~

14 Section 6. ~~The addition of Article XVII F of the act is a~~
15 ~~continuation of the act of March 10, 1949 (P.L.30, No.14), known~~
16 ~~as the Public School Code of 1949. Except as otherwise provided~~
17 ~~in Article XVII F of the act, all activities initiated under~~
18 ~~Article XX B of the Public School Code of 1949 shall continue~~
19 ~~and remain in full force and effect and may be completed under~~
20 ~~Article XVII F of the act. Orders, regulations, rules and~~
21 ~~decisions which were made under Article XX B of the Public~~
22 ~~School Code of 1949 and which are in effect on the effective~~
23 ~~date of section 5(2) of this act shall remain in full force and~~
24 ~~effect until revoked, vacated or modified under Article XVII F~~
25 ~~of the act.~~

26 Section 7. ~~The amendment of section 319 of the act shall~~
27 ~~apply to tax returns due after May 31, 2011.~~

28 Section 8. ~~This act shall take effect immediately.~~

29 SECTION 1. SECTION 204 OF THE ACT OF MARCH 4, 1971 (P.L.6,
30 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971, IS AMENDED BY



1 ADDING CLAUSES TO READ:

2 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY
3 SECTION 202 SHALL NOT BE IMPOSED UPON ANY OF THE FOLLOWING:

4 * * *

5 (67) THE SALE AT RETAIL OF REPAIR OR REPLACEMENT PARTS,
6 INCLUDING THE INSTALLATION OF THOSE PARTS, EXCLUSIVELY FOR USE
7 IN HELICOPTERS AND SIMILAR ROTORCRAFT OR IN OVERHAULING OR
8 REBUILDING OF HELICOPTERS AND SIMILAR ROTORCRAFT OR HELICOPTER
9 AND SIMILAR ROTORCRAFT COMPONENTS.

10 (68) THE SALE AT RETAIL OF HELICOPTERS AND SIMILAR
11 ROTORCRAFT.

12 SECTION 2. SECTION 217 OF THE ACT, AMENDED JULY 1, 1985
13 (P.L.78, NO.29), IS AMENDED TO READ:

14 SECTION 217. TIME FOR FILING RETURNS.--(A) QUARTERLY [AND],
15 MONTHLY AND SEMI-MONTHLY RETURNS:

16 (1) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE AND
17 IN EACH YEAR THEREAFTER A RETURN SHALL BE FILED QUARTERLY BY
18 EVERY LICENSEE ON OR BEFORE THE TWENTIETH DAY OF APRIL, JULY,
19 OCTOBER AND JANUARY FOR THE THREE MONTHS ENDING THE LAST DAY OF
20 MARCH, JUNE, SEPTEMBER AND DECEMBER.

21 (2) FOR THE YEAR IN WHICH THIS ARTICLE BECOMES EFFECTIVE,
22 AND IN EACH YEAR THEREAFTER, A RETURN SHALL BE FILED MONTHLY
23 WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE TOTAL TAX
24 REPORTED, OR IN THE EVENT NO REPORT IS FILED, THE TOTAL TAX
25 WHICH SHOULD HAVE BEEN REPORTED, FOR THE THIRD CALENDAR QUARTER
26 OF THE PRECEDING YEAR EQUALS OR EXCEEDS SIX HUNDRED DOLLARS
27 (\$600) AND IS LESS THAN TWENTY-FIVE THOUSAND DOLLARS (\$25,000).

28 SUCH RETURNS SHALL BE FILED ON OR BEFORE THE TWENTIETH DAY OF
29 THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE RETURN IS
30 MADE. ANY LICENSEE REQUIRED TO FILE MONTHLY RETURNS HEREUNDER

1 SHALL BE RELIEVED FROM FILING QUARTERLY RETURNS.

2 (3) AFTER MAY 31, 2010, A RETURN SHALL BE FILED SEMI-MONTHLY
3 WITH RESPECT TO EACH MONTH BY EVERY LICENSEE WHOSE TOTAL TAX
4 REPORTED, OR IN THE EVENT NO REPORT IS FILED, THE TOTAL TAX
5 WHICH SHOULD HAVE BEEN REPORTED, FOR THE THIRD CALENDAR QUARTER
6 OF THE PRECEDING YEAR EQUALS OR EXCEEDS TWENTY-FIVE THOUSAND
7 DOLLARS (\$25,000). FOR THE PERIOD FROM THE FIRST DAY OF THE
8 MONTH TO THE FIFTEENTH DAY OF THE MONTH, THE RETURNS SHALL BE
9 FILED ON OR BEFORE THE TWENTY-FIFTH DAY OF THE MONTH. FOR THE
10 PERIOD FROM THE SIXTEENTH DAY OF THE MONTH TO THE LAST DAY OF
11 THE MONTH, THE RETURNS SHALL BE FILED ON OR BEFORE THE TENTH DAY
12 OF THE NEXT SUCCEEDING MONTH WITH RESPECT TO WHICH THE RETURN IS
13 MADE. ANY LICENSEE REQUIRED TO FILE SEMI-MONTHLY RETURNS UNDER
14 THIS SECTION SHALL BE RELIEVED FROM FILING MONTHLY OR QUARTERLY
15 RETURNS.

16 (B) ANNUAL RETURNS. FOR THE CALENDAR YEAR 1971, AND FOR EACH
17 YEAR THEREAFTER, NO ANNUAL RETURN SHALL BE FILED, EXCEPT AS MAY
18 BE REQUIRED BY RULES AND REGULATIONS OF THE DEPARTMENT
19 PROMULGATED AND PUBLISHED AT LEAST SIXTY DAYS PRIOR TO THE END
20 OF THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE. WHERE
21 SUCH ANNUAL RETURNS ARE REQUIRED LICENSEES SHALL NOT BE REQUIRED
22 TO FILE SUCH RETURNS PRIOR TO THE TWENTIETH DAY OF THE YEAR
23 SUCCEEDING THE YEAR WITH RESPECT TO WHICH THE RETURNS ARE MADE.

24 (C) OTHER RETURNS. ANY PERSON, OTHER THAN A LICENSEE, LIABLE
25 TO PAY TO THE DEPARTMENT ANY TAX UNDER THIS ARTICLE, SHALL FILE
26 A RETURN ON OR BEFORE THE TWENTIETH DAY OF THE MONTH SUCCEEDING
27 THE MONTH IN WHICH SUCH PERSON BECOMES LIABLE FOR THE TAX.

28 (D) SMALL TAXPAYERS. THE DEPARTMENT, BY REGULATION, MAY
29 WAIVE THE REQUIREMENT FOR THE FILING OF QUARTERLY RETURN IN THE
30 CASE OF ANY LICENSEE WHOSE INDIVIDUAL TAX COLLECTIONS DO NOT

1 EXCEED SEVENTY-FIVE DOLLARS (\$75) PER CALENDAR QUARTER AND MAY
2 PROVIDE FOR REPORTING ON A LESS FREQUENT BASIS IN SUCH CASES.

3 SECTION 3. SECTION 222 OF THE ACT IS AMENDED TO READ:

4 SECTION 222. TIME OF PAYMENT.--(A) MONTHLY, [BIMONTHLY]
5 SEMI-MONTHLY AND QUARTERLY PAYMENTS. THE TAX IMPOSED BY THIS
6 ARTICLE AND INCURRED OR COLLECTED BY A LICENSEE SHALL BE DUE AND
7 PAYABLE BY THE LICENSEE ON THE DAY THE RETURN IS REQUIRED TO BE
8 FILED UNDER THE PROVISIONS OF SECTION 217 AND SUCH PAYMENT MUST
9 ACCOMPANY THE RETURN FOR SUCH PRECEDING PERIOD,

10 (B) ANNUAL PAYMENTS. IF THE AMOUNT OF TAX DUE FOR THE
11 PRECEDING YEAR AS SHOWN BY THE ANNUAL RETURN OF ANY TAXPAYER IS
12 GREATER THAN THE AMOUNT ALREADY PAID BY HIM IN CONNECTION WITH
13 HIS MONTHLY, SEMI-MONTHLY OR QUARTERLY RETURNS HE SHALL SEND
14 WITH SUCH ANNUAL RETURN A REMITTANCE FOR THE UNPAID AMOUNT OF
15 TAX FOR THE YEAR.

16 (C) OTHER PAYMENTS. ANY PERSON OTHER THAN A LICENSEE LIABLE
17 TO PAY ANY TAX UNDER THIS ARTICLE SHALL REMIT THE TAX AT THE
18 TIME OF FILING THE RETURN REQUIRED BY THIS ARTICLE.

19 SECTION 4. SECTION 303(A.6) OF THE ACT, ADDED JULY 6, 2006
20 (P.L.319, NO.67), IS AMENDED TO READ:

21 SECTION 303. CLASSES OF INCOME.--* * *

22 (A.6) EXCEPT AS PROVIDED IN THIS ARTICLE AND WITHOUT REGARD
23 TO SECTIONS 220(F)(4) AND 223(F)(4) OF THE INTERNAL REVENUE CODE
24 OF 1986, THE REQUIREMENTS OF SECTIONS 106(B) AND (D), 220 AND
25 223 OF THE INTERNAL REVENUE CODE OF 1986[, AS AMENDED TO JANUARY
26 1, 2005,] SHALL BE APPLICABLE.

27 * * *

28 SECTION 5. SECTION 315.9 OF THE ACT, AMENDED JULY 25, 2007
29 (P.L.373, NO.55), IS AMENDED TO READ:

30 SECTION 315.9. OPERATIONAL PROVISIONS.--(A) EXCEPT FOR THE

1 CHECKOFF ESTABLISHED UNDER SECTIONS 315.2, 315.6 AND 315.7 AND
2 EXCEPT AS OTHERWISE PROVIDED [UNDER SUBSECTION (B)] IN THIS
3 SECTION, THE CHECKOFFS ESTABLISHED UNDER THIS PART SHALL APPLY
4 THROUGH TAXABLE YEARS ENDING DECEMBER 31, 2007.

5 (B) [ANY] EXCEPT AS SET FORTH IN SUBSECTION (C), ANY
6 CHECKOFF ESTABLISHED UNDER THIS PART AND APPLICABLE FOR THE
7 FIRST TIME IN A TAXABLE YEAR BEGINNING AFTER DECEMBER 31, 2003,
8 SHALL EXPIRE FOUR YEARS AFTER THE BEGINNING OF SUCH FIRST
9 TAXABLE YEAR.

10 (C) SECTIONS [315.3 AND 315.4 SHALL EXPIRE JANUARY 1, 2010]
11 315.3, 315.4, 315.7 AND 315.8 SHALL EXPIRE JANUARY 1, 2014.

12 SECTION 6. SECTION 319 OF THE ACT, REPEALED AND ADDED AUGUST
13 31, 1971 (P.L.362, NO.93), IS AMENDED TO READ:

14 SECTION 319. [MONTHLY, SEMI-MONTHLY AND QUARTERLY] PAYMENT
15 OF TAXES WITHHELD.--EVERY EMPLOYER WITHHOLDING TAX UNDER THIS
16 ARTICLE SHALL PAY OVER TO THE DEPARTMENT OR TO A DEPOSITORY
17 DESIGNATED BY IT THE TAX REQUIRED TO BE DEDUCTED AND WITHHELD
18 UNDER THIS ARTICLE.

19 (1) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
20 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
21 YEAR CAN REASONABLY BE EXPECTED TO BE LESS THAN [THREE HUNDRED
22 DOLLARS (\$300)] TWELVE HUNDRED DOLLARS (\$1,200), SUCH EMPLOYER
23 SHALL FILE A RETURN AND PAY THE TAX ON OR BEFORE THE LAST DAY
24 FOR FILING A QUARTERLY RETURN UNDER SECTION 318.

25 (2) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
26 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
27 YEAR CAN REASONABLY BE EXPECTED TO BE [THREE HUNDRED DOLLARS
28 (\$300) OR MORE BUT LESS THAN ONE THOUSAND DOLLARS (\$1,000)]
29 TWELVE HUNDRED DOLLARS (\$1,200) OR MORE BUT LESS THAN FOUR
30 THOUSAND DOLLARS (\$4,000), SUCH EMPLOYER SHALL PAY THE TAX

1 MONTHLY, ON OR BEFORE THE FIFTEENTH DAY OF THE MONTH SUCCEEDING
2 THE MONTHS OF JANUARY TO NOVEMBER, INCLUSIVE, AND ON OR BEFORE
3 THE LAST DAY OF JANUARY FOLLOWING THE MONTH OF DECEMBER.

4 (3) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
5 WITHHELD BY ANY EMPLOYER FOR [EACH QUARTERLY PERIOD] A CALENDAR
6 YEAR CAN REASONABLY BE EXPECTED TO BE [ONE THOUSAND DOLLARS
7 (\$1,000) OR MORE] FOUR THOUSAND DOLLARS (\$4,000) OR MORE BUT
8 LESS THAN TWENTY THOUSAND DOLLARS (\$20,000), SUCH EMPLOYER SHALL
9 PAY THE TAX SEMI-MONTHLY, WITHIN THREE BANKING DAYS AFTER THE
10 CLOSE OF THE SEMI-MONTHLY PERIOD.

11 (4) WHERE THE AGGREGATE AMOUNT REQUIRED TO BE DEDUCTED AND
12 WITHHELD BY ANY EMPLOYER FOR A CALENDAR YEAR CAN REASONABLY BE
13 EXPECTED TO BE TWENTY THOUSAND DOLLARS (\$20,000) OR MORE, SUCH
14 EMPLOYER SHALL PAY THE TAX ON THE WEDNESDAY AFTER PAYDAY IF THE
15 PAYDAY FALLS ON A WEDNESDAY, THURSDAY OR FRIDAY AND ON THE
16 FRIDAY AFTER PAYDAY IF THE PAYDAY FALLS ON A SATURDAY, SUNDAY,
17 MONDAY OR TUESDAY.

18 NOTWITHSTANDING ANYTHING IN THIS SECTION TO THE CONTRARY,
19 WHENEVER ANY EMPLOYER FAILS TO DEDUCT OR TRUTHFULLY ACCOUNT FOR
20 OR PAY OVER THE TAX WITHHELD OR FILE RETURNS AS PRESCRIBED BY
21 THIS ARTICLE, THE DEPARTMENT MAY SERVE A NOTICE ON SUCH EMPLOYER
22 REQUIRING HIM TO WITHHOLD TAXES WHICH ARE REQUIRED TO BE
23 DEDUCTED UNDER THIS ARTICLE AND DEPOSIT SUCH TAXES IN A BANK
24 APPROVED BY THE DEPARTMENT IN A SEPARATE ACCOUNT IN TRUST FOR
25 AND PAYABLE TO THE DEPARTMENT, AND TO KEEP THE AMOUNT OF SUCH
26 TAX IN SUCH ACCOUNT UNTIL PAYMENT OVER TO THE DEPARTMENT. SUCH
27 NOTICE SHALL REMAIN IN EFFECT UNTIL A NOTICE OF CANCELLATION IS
28 SERVED ON THE EMPLOYER BY THE DEPARTMENT.

29 SECTION 7. SECTION 401(3)2(A)(9) AND 4(C) OF THE ACT,
30 AMENDED JULY 12, 2006 (P.L.1137, NO.116), ARE AMENDED TO READ:

1 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
2 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
3 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
4 CLEARLY INDICATES A DIFFERENT MEANING:

5 * * *

6 (3) "TAXABLE INCOME." * * *

7 2. IN CASE THE ENTIRE BUSINESS OF ANY CORPORATION, OTHER
8 THAN A CORPORATION ENGAGED IN DOING BUSINESS AS A REGULATED
9 INVESTMENT COMPANY AS DEFINED BY THE INTERNAL REVENUE CODE OF
10 1986, IS NOT TRANSACTED WITHIN THIS COMMONWEALTH, THE TAX
11 IMPOSED BY THIS ARTICLE SHALL BE BASED UPON SUCH PORTION OF THE
12 TAXABLE INCOME OF SUCH CORPORATION FOR THE FISCAL OR CALENDAR
13 YEAR, AS DEFINED IN SUBCLAUSE 1 HEREOF, AND MAY BE DETERMINED AS
14 FOLLOWS:

15 (A) DIVISION OF INCOME.

16 * * *

17 (9) (A) EXCEPT AS PROVIDED IN SUBPARAGRAPH (B):

18 (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007, ALL
19 BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
20 MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
21 THE PROPERTY FACTOR PLUS THE PAYROLL FACTOR PLUS THREE TIMES THE
22 SALES FACTOR AND THE DENOMINATOR OF WHICH IS FIVE.

23 (II) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006,
24 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
25 MULTIPLYING THE INCOME BY A FRACTION, THE NUMERATOR OF WHICH IS
26 THE SUM OF FIFTEEN TIMES THE PROPERTY FACTOR, FIFTEEN TIMES THE
27 PAYROLL FACTOR AND SEVENTY TIMES THE SALES FACTOR AND THE
28 DENOMINATOR OF WHICH IS ONE HUNDRED.

29 (III) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008,
30 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY

1 MULTIPLYING THE INCOME BY A FRACTION: THE NUMERATOR OF WHICH IS
2 THE SUM OF EIGHT AND A HALF TIMES THE PROPERTY FACTOR, EIGHT AND
3 A HALF TIMES THE PAYROLL FACTOR AND EIGHTY-THREE TIMES THE SALES
4 FACTOR; AND THE DENOMINATOR OF WHICH IS ONE HUNDRED.

5 (IV) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2009,
6 ALL BUSINESS INCOME SHALL BE APPORTIONED TO THIS STATE BY
7 MULTIPLYING THE INCOME BY A FRACTION: THE NUMERATOR OF WHICH IS
8 THE SUM OF FIVE TIMES THE PROPERTY FACTOR, FIVE TIMES THE
9 PAYROLL FACTOR AND NINETY TIMES THE SALES FACTOR; AND THE
10 DENOMINATOR OF WHICH IS ONE HUNDRED.

11 (B) FOR PURPOSES OF APPORTIONMENT OF THE CAPITAL STOCK -
12 FRANCHISE TAX AS PROVIDED IN SECTION 602 OF ARTICLE VI OF THIS
13 ACT, THE APPORTIONMENT FRACTION SHALL BE THE PROPERTY FACTOR
14 PLUS THE PAYROLL FACTOR PLUS THE SALES FACTOR AS THE NUMERATOR,
15 AND THE DENOMINATOR SHALL BE THREE.

16 * * *

17 4. * * *

18 (C) (1) THE NET LOSS DEDUCTION SHALL BE THE LESSER OF:

19 (A) (I) FOR TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 2007,
20 TWO MILLION DOLLARS (\$2,000,000);

21 (II) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006,
22 THE GREATER OF TWELVE AND ONE-HALF PER CENT OF TAXABLE INCOME AS
23 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
24 THREE MILLION DOLLARS (\$3,000,000); [OR]

25 (III) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2008,
26 THE GREATER OF FIFTEEN PER CENT OF TAXABLE INCOME AS DETERMINED
27 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE
28 MILLION DOLLARS (\$3,000,000);

29 (IV) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2009,
30 THE GREATER OF TWENTY PER CENT OF TAXABLE INCOME AS DETERMINED

1 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR THREE
2 MILLION DOLLARS (\$3,000,000); OR

3 (B) THE AMOUNT OF THE NET LOSS OR LOSSES WHICH MAY BE
4 CARRIED OVER TO THE TAXABLE YEAR OR TAXABLE INCOME AS DETERMINED
5 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2.

6 (1.1) IN NO EVENT SHALL THE NET LOSS DEDUCTION INCLUDE MORE
7 THAN FIVE HUNDRED THOUSAND DOLLARS (\$500,000), IN THE AGGREGATE,
8 OF NET LOSSES FROM TAXABLE YEARS 1988 THROUGH 1994.

9 (2) (A) A NET LOSS FOR A TAXABLE YEAR MAY ONLY BE CARRIED
10 OVER PURSUANT TO THE FOLLOWING SCHEDULE:

11	TAXABLE YEAR	CARRYOVER
12	1981	1 TAXABLE YEAR
13	1982	2 TAXABLE YEARS
14	1983-1987	3 TAXABLE YEARS
15	1988	2 TAXABLE YEARS PLUS
16		1 TAXABLE YEAR
17		STARTING WITH THE
18		1995 TAXABLE YEAR
19	1989	1 TAXABLE YEAR PLUS
20		2 TAXABLE YEARS
21		STARTING WITH THE
22		1995 TAXABLE YEAR
23	1990-1993	3 TAXABLE YEARS
24		STARTING WITH THE
25		1995 TAXABLE YEAR
26	1994	1 TAXABLE YEAR
27	1995-1997	10 TAXABLE YEARS
28	1998 AND THEREAFTER	20 TAXABLE YEARS

29 (B) THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE
30 EARLIEST TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS

1 SCHEDULE. THE TOTAL NET LOSS DEDUCTION ALLOWED IN ANY TAXABLE
2 YEAR SHALL NOT EXCEED:

3 (I) TWO MILLION DOLLARS (\$2,000,000) FOR TAXABLE YEARS
4 BEGINNING BEFORE JANUARY 1, 2007.

5 (II) THE GREATER OF TWELVE AND ONE-HALF PER CENT OF THE
6 TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF
7 APPLICABLE, SUBCLAUSE 2 OR THREE MILLION DOLLARS (\$3,000,000)
8 FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2006.

9 (III) THE GREATER OF FIFTEEN PER CENT OF THE TAXABLE INCOME
10 AS DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2
11 OR THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS
12 BEGINNING AFTER DECEMBER 31, 2008.

13 (IV) THE GREATER OF TWENTY PER CENT OF THE TAXABLE INCOME AS
14 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
15 THREE MILLION DOLLARS (\$3,000,000) FOR TAXABLE YEARS BEGINNING
16 AFTER DECEMBER 31, 2009.

17 * * *

18 SECTION 7.1. THE DEFINITION OF "CAPITAL STOCK VALUE" IN
19 SECTION 601 OF THE ACT, AMENDED JULY 6, 2006 (P.L.319, NO.67),
20 IS AMENDED TO READ:

21 SECTION 601. DEFINITIONS AND REPORTS.--(A) THE FOLLOWING
22 WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE VI SHALL HAVE
23 THE MEANING ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE
24 CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

25 * * *

26 "CAPITAL STOCK VALUE." THE AMOUNT COMPUTED PURSUANT TO THE
27 FOLLOWING FORMULA: THE PRODUCT OF ONE-HALF TIMES THE SUM OF THE
28 AVERAGE NET INCOME CAPITALIZED AT THE RATE OF NINE AND ONE-HALF
29 PER CENT PLUS SEVENTY-FIVE PER CENT OF NET WORTH, FROM WHICH
30 PRODUCT SHALL BE SUBTRACTED [ONE HUNDRED FIFTY THOUSAND DOLLARS

1 (\$150,000)] ONE HUNDRED SIXTY THOUSAND DOLLARS (\$160,000), THE
 2 ALGEBRAIC EQUIVALENT OF WHICH IS
 3 (.5 X (AVERAGE NET INCOME/.095 + (.75)
 4 (NET WORTH))) - [\$150,000] \$160,000

5 * * *

6 SECTION 8. SECTION 602(H) OF THE ACT, AMENDED JULY 6, 2006
 7 (P.L.319, NO.67), IS AMENDED TO READ:

8 SECTION 602. IMPOSITION OF TAX.--* * *

9 (H) THE RATE OF TAX FOR PURPOSES OF THE CAPITAL STOCK AND
 10 FRANCHISE TAX FOR TAXABLE YEARS BEGINNING WITHIN THE DATES SET
 11 FORTH SHALL BE AS FOLLOWS:

12 TAXABLE YEAR	REGULAR RATE	SURTAX	TOTAL RATE
13 JANUARY 1, 1971, TO			
14 DECEMBER 31, 1986	10 MILLS	0	10 MILLS
15 JANUARY 1, 1987, TO			
16 DECEMBER 31, 1990	9 MILLS	0	9 MILLS
17 JANUARY 1, 1988, TO			
18 DECEMBER 31, 1990	9.5 MILLS	0	9.5 MILLS
19 JANUARY 1, 1991, TO			
20 DECEMBER 31, 1991	11 MILLS	2 MILLS	13 MILLS
21 JANUARY 1, 1992, TO			
22 DECEMBER 31, 1997	11 MILLS	1.75 MILLS	12.75 MILLS
23 JANUARY 1, 1998, TO			
24 DECEMBER 31, 1998	11 MILLS	.99 MILLS	11.99 MILLS
25 JANUARY 1, 1999, TO			
26 DECEMBER 31, 1999	10.99 MILLS	0	10.99 MILLS
27 JANUARY 1, 2000, TO			
28 DECEMBER 31, 2000	8.99 MILLS	0	8.99 MILLS
29 JANUARY 1, 2001, TO			
30 DECEMBER 31, 2001	7.49 MILLS	0	7.49 MILLS

1 JANUARY 1, 2002, TO
2 DECEMBER 31, 2003 7.24 MILLS 0 7.24 MILLS
3 JANUARY 1, 2004, TO
4 DECEMBER 31, 2004 6.99 MILLS 0 6.99 MILLS
5 JANUARY 1, 2005, TO
6 DECEMBER 31, 2005 5.99 MILLS 0 5.99 MILLS
7 JANUARY 1, 2006, TO
8 DECEMBER 31, 2006 4.89 MILLS 0 4.89 MILLS
9 JANUARY 1, 2007, TO
10 DECEMBER 31, 2007 3.89 MILLS 0 3.89 MILLS
11 [JANUARY 1, 2008, TO
12 DECEMBER 31, 2008 2.89 MILLS 0 2.89 MILLS
13 JANUARY 1, 2009, TO
14 DECEMBER 31, 2009 1.89 MILLS 0 1.89 MILLS
15 JANUARY 1, 2010, TO
16 DECEMBER 31, 2010 .89 MILLS 0 .89 MILLS]
17 JANUARY 1, 2008, TO
18 DECEMBER 31, 2011 2.89 MILLS 0 2.89 MILLS
19 JANUARY 1, 2012, TO
20 DECEMBER 31, 2012 1.89 MILLS 0 1.89 MILLS
21 JANUARY 1, 2013, TO
22 DECEMBER 31, 2013 .89 MILLS 0 .89 MILLS

23 * * *

24 SECTION 9. SECTION 607 OF THE ACT, AMENDED DECEMBER 23, 2003
25 (P.L.250, NO.46), IS AMENDED TO READ:

26 SECTION 607. EXPIRATION.--THIS ARTICLE SHALL EXPIRE FOR
27 TAXABLE YEARS BEGINNING AFTER DECEMBER 31, [2010] 2013.

28 SECTION 9.1. SECTION 1101(C), (C.1), (E) AND (J) OF THE ACT,
29 AMENDED OR ADDED AUGUST 4, 1991 (P.L.97, NO.22), DECEMBER 23,
30 2003 (P.L.250, NO.46) AND OCTOBER 18, 2006 (P.L.1149, NO.119),

1 ARE AMENDED AND THE SECTION IS AMENDED BY ADDING A SUBSECTION TO
2 READ:

3 SECTION 1101. IMPOSITION OF TAX.--* * *

4 (B.1) MANAGED CARE ORGANIZATIONS.--EVERY MANAGED CARE
5 ORGANIZATION NOW OR HEREAFTER INCORPORATED OR ORGANIZED BY OR
6 UNDER ANY LAW OF THE COMMONWEALTH OR A POLITICAL SUBDIVISION
7 THEREOF, OR NOW OR HEREAFTER ORGANIZED OR INCORPORATED BY ANY
8 OTHER STATE OR BY THE UNITED STATES OR ANY FOREIGN GOVERNMENT
9 AND DOING BUSINESS IN THIS COMMONWEALTH THAT IS A PARTY TO A
10 MEDICAID MANAGED CARE CONTRACT WITH THE DEPARTMENT OF PUBLIC
11 WELFARE, SHALL PAY TO THE STATE TREASURER, THROUGH THE
12 DEPARTMENT OF REVENUE, A TAX OF 59 MILLS UPON EACH DOLLAR OF THE
13 GROSS RECEIPTS RECEIVED FROM PAYMENTS PURSUANT TO A MEDICAID
14 MANAGED CARE CONTRACT WITH THE DEPARTMENT OF PUBLIC WELFARE
15 THROUGH ITS MEDICAL ASSISTANCE PROGRAM UNDER SUBCHAPTER XIX OF
16 THE SOCIAL SECURITY ACT (49 STAT. 620, 42 U.S.C. § 1396 ET
17 SEQ.). THIS SUBSECTION SHALL ALSO APPLY TO A MEDICAID MANAGED
18 CARE ORGANIZATION, AS DEFINED IN SECTION 1903(M)(1)(A) OF THE
19 SOCIAL SECURITY ACT (42 U.S.C. § 1396B(M)(1)(A)); TO A COUNTY
20 MEDICAID MANAGED CARE ORGANIZATION; AND TO A PERMITTED ASSIGNEE
21 OF A MEDICAID MANAGED CARE CONTRACT. THIS SUBSECTION SHALL NOT
22 APPLY TO AN ASSIGNOR OF A MEDICAID MANAGED CARE CONTRACT. THE
23 REVENUE COLLECTED UNDER THIS SUBSECTION SHALL BE PLACED IN A
24 RESTRICTED RECEIPTS ACCOUNT IN THE GENERAL FUND AND IS
25 APPROPRIATED AS AN AUGMENTATION TO THE CAPITATION APPROPRIATION
26 OF THE DEPARTMENT OF PUBLIC WELFARE.

27 (1) IF THE CENTERS FOR MEDICARE AND MEDICAID SERVICES OF THE
28 DEPARTMENT OF HEALTH AND HUMAN SERVICES ISSUES A WRITTEN
29 DETERMINATION OF A DEFERRAL, DISALLOWANCE OR DISAPPROVAL OF
30 FEDERAL FINANCIAL PARTICIPATION ON THE GROUNDS THAT THE TAX

1 IMPOSED UNDER THIS SUBSECTION CONSTITUTES AN IMPERMISSIBLE
2 HEALTH CARE-RELATED TAX UNDER SUBCHAPTER XIX OF THE SOCIAL
3 SECURITY ACT, THE SECRETARY OF PUBLIC WELFARE SHALL NOTIFY THE
4 SECRETARY OF REVENUE OF THAT DETERMINATION. IF NOTIFICATION IS
5 MADE UNDER THIS PARAGRAPH, THE TAX UNDER THIS SUBSECTION SHALL
6 CEASE TO BE IMPOSED AFTER THE LAST DAY OF THE MONTH IN WHICH
7 NOTIFICATION IS MADE.

8 (2) IF, WITHIN SIXTY DAYS AFTER ISSUANCE OF THE NOTICE UNDER
9 PARAGRAPH (1), LEGISLATION IS NOT ENACTED TO PROVIDE A
10 SUBSTITUTE FOR THE FUNDS LOST DUE TO THE CESSATION OF THE TAX
11 UNDER PARAGRAPH (1), THE DEPARTMENT OF PUBLIC WELFARE MAY
12 EXERCISE ANY RIGHTS UNDER ITS MEDICAID MANAGED CARE CONTRACT TO
13 CEASE PAYMENTS UNDER OR TERMINATE THE CONTRACT FOR SERVICES WITH
14 A MANAGED CARE ORGANIZATION.

15 (C) PAYMENT OF TAX; REPORTS.--THE SAID TAXES IMPOSED UNDER
16 SUBSECTIONS (A) [AND], (B) AND (B.1) SHALL BE PAID WITHIN THE
17 TIME PRESCRIBED BY LAW, AND FOR THE PURPOSE OF ASCERTAINING THE
18 AMOUNT OF THE SAME, IT SHALL BE THE DUTY OF THE TREASURER OR
19 OTHER PROPER OFFICER OF THE SAID COMPANY, COPARTNERSHIP, LIMITED
20 PARTNERSHIP, ASSOCIATION, JOINT-STOCK ASSOCIATION OR
21 CORPORATION, OR PERSON OR PERSONS, TO TRANSMIT TO THE DEPARTMENT
22 OF REVENUE ON OR BEFORE MARCH 15 OF EACH YEAR AN ANNUAL REPORT,
23 AND UNDER OATH OR AFFIRMATION, OF THE AMOUNT OF GROSS RECEIPTS
24 OF THE SAID COMPANIES, COPARTNERSHIPS, CORPORATIONS,
25 ASSOCIATIONS, JOINT-STOCK ASSOCIATIONS, LIMITED PARTNERSHIPS,
26 PERSON OR PERSONS, DERIVED FROM ALL SOURCES, AND OF GROSS
27 RECEIPTS FROM BUSINESS DONE WHOLLY WITHIN THIS STATE AND IN THE
28 CASE OF ELECTRIC ENERGY PRODUCERS THAT TRANSMIT ENERGY TO OTHER
29 STATES REFERRED TO IN CLAUSE (2) OF SUBSECTION (B), A
30 COMPILATION OF THE RELEVANT INFORMATION REGARDING OPERATING AND

1 MAINTENANCE EXPENSES AND DEPRECIATION, DURING THE PERIOD OF
2 TWELVE MONTHS IMMEDIATELY PRECEDING JANUARY 1 OF EACH YEAR. [IT
3 SHALL BE THE FURTHER DUTY OF THE TREASURER OR OTHER PROPER
4 OFFICER OF EVERY SUCH CORPORATION OR ASSOCIATION AND EVERY
5 INDIVIDUAL LIABLE BY LAW TO REPORT OR PAY SAID TAXES IMPOSED
6 UNDER SUBSECTIONS (A) AND (B) EXCEPT MUNICIPALITIES TO TRANSMIT
7 TO THE DEPARTMENT OF REVENUE ON OR BEFORE APRIL 30 OF EACH YEAR,
8 A TENTATIVE REPORT IN LIKE FORM AND MANNER FOR EACH TWELVE-MONTH
9 PERIOD BEGINNING JANUARY 1, OF EACH YEAR. THE TENTATIVE REPORT
10 SHALL SET FORTH (I) THE AMOUNT OF GROSS RECEIPTS RECEIVED IN THE
11 PERIOD OF TWELVE MONTHS NEXT PRECEDING AND REPORTED IN THE
12 ANNUAL REPORT; OR (II) THE GROSS RECEIPTS RECEIVED IN THE FIRST
13 THREE MONTHS OF THE CURRENT PERIOD OF TWELVE MONTHS; AND (III)
14 SUCH OTHER INFORMATION AS THE DEPARTMENT OF REVENUE MAY
15 REQUIRE.]

16 (C.1) SAFE HARBOR BASE YEAR.--FOR PURPOSES OF THE ESTIMATED
17 TAX REQUIREMENTS UNDER SECTIONS 3003.2 AND 3003.3, THE "SAFE
18 HARBOR BASE YEAR" TAX AMOUNT FOR PROVIDERS OF MOBILE
19 TELECOMMUNICATIONS SERVICES AND FOR A MEDICAID MANAGED CARE
20 ORGANIZATION SUBJECT TO THE PROVISIONS OF SUBSECTION (B.1) SHALL
21 BE THE AMOUNT THAT WOULD HAVE BEEN REQUIRED TO BE PAID BY THE
22 TAXPAYER IF THE TAXPAYER HAD BEEN SUBJECT TO THIS ARTICLE.

23 * * *

24 (E) TIME TO FILE REPORTS.--THE TIME FOR FILING ANNUAL
25 REPORTS MAY BE EXTENDED, ESTIMATED ASSESSMENTS MAY BE MADE BY
26 THE DEPARTMENT OF REVENUE IF REPORTS ARE NOT FILED, AND THE
27 PENALTIES FOR FAILING TO FILE REPORTS AND PAY THE TAXES IMPOSED
28 UNDER SUBSECTIONS (A) [AND] (B) AND (B.1) SHALL BE AS
29 PRESCRIBED BY THE LAWS DEFINING THE POWERS AND DUTIES OF THE
30 DEPARTMENT OF REVENUE. IN ANY CASE WHERE THE WORKS OF ANY

1 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
2 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS ARE OPERATED
3 BY ANOTHER CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION,
4 JOINT-STOCK ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS,
5 THE TAXES IMPOSED UNDER SUBSECTIONS (A) [AND], (B) AND (B.1)
6 SHALL BE APPORTIONED BETWEEN THE CORPORATIONS, COMPANIES,
7 COPARTNERSHIPS, ASSOCIATIONS, JOINT-STOCK ASSOCIATIONS, LIMITED
8 PARTNERSHIPS, PERSON OR PERSONS IN ACCORDANCE WITH THE TERMS OF
9 THEIR RESPECTIVE LEASES OR AGREEMENTS, BUT FOR THE PAYMENT OF
10 THE SAID TAXES THE COMMONWEALTH SHALL FIRST LOOK TO THE
11 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
12 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS OPERATING
13 THE WORKS, AND UPON PAYMENT BY THE SAID COMPANY, CORPORATION,
14 COPARTNERSHIP, ASSOCIATION, JOINT-STOCK ASSOCIATION, LIMITED
15 PARTNERSHIP, PERSON OR PERSONS OF A TAX UPON THE RECEIPTS, AS
16 HEREIN PROVIDED, DERIVED FROM THE OPERATION THEREOF, NO OTHER
17 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
18 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS SHALL BE
19 HELD LIABLE FOR ANY TAX IMPOSED UNDER SUBSECTIONS (A) [AND], (B)
20 AND (B.1) UPON THE PROPORTION OF SAID RECEIPTS RECEIVED BY SAID
21 CORPORATION, COMPANY, COPARTNERSHIP, ASSOCIATION, JOINT-STOCK
22 ASSOCIATION, LIMITED PARTNERSHIP, PERSON OR PERSONS FOR THE USE
23 OF SAID WORKS.

24 * * *

25 (J) SCHEDULE FOR ESTIMATED PAYMENTS.--

26 (1) FOR CALENDAR YEAR 2004, THE FOLLOWING SCHEDULE APPLIES
27 TO THE PAYMENT OF THE TAX UNDER SUBSECTION (A) (3) :

28 (I) FORTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON
29 MARCH 15, 2004.

30 (II) FORTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON

1 JUNE 15, 2004.

2 (III) TWENTY PER CENT OF THE ESTIMATED TAX SHALL BE DUE ON
3 SEPTEMBER 15, 2004.

4 (2) FOR CALENDAR YEARS AFTER 2004, THE PAYMENT OF THE
5 ESTIMATED TAX UNDER SUBSECTION (A) (3) SHALL BE DUE IN ACCORDANCE
6 WITH SECTION 3003.2.

7 (3) FOR CALENDAR YEAR 2009, THE TAX APPLICABLE TO THE
8 PAYMENT OF THE TAX UNDER SUBSECTION (B.1) SHALL BE DUE ON MARCH
9 15, 2010.

10 (4) FOR CALENDAR YEAR 2010, PAYMENTS OF THE ESTIMATED TAX
11 UNDER SUBSECTION (B.1) SHALL BE DUE ON MAY 15, 2010. FOR
12 CALENDAR YEAR 2011 AND EACH CALENDAR YEAR THEREAFTER, THE
13 PAYMENT OF THE ESTIMATED TAX UNDER SUBSECTION (B.1) SHALL BE DUE
14 IN ACCORDANCE WITH SECTION 3003.2.

15 * * *

16 SECTION 9.2. SECTIONS 1206 AND 1206.1 OF THE ACT, AMENDED
17 DECEMBER 23, 2003 (P.L.250, NO.46), ARE AMENDED TO READ:

18 SECTION 1206. INCIDENCE AND RATE OF TAX.--AN EXCISE TAX IS
19 HEREBY IMPOSED AND ASSESSED UPON THE SALE OR POSSESSION OF
20 CIGARETTES WITHIN THIS COMMONWEALTH AT THE RATE OF [SIX AND
21 SEVENTY-FIVE HUNDREDTHS] EIGHT CENTS PER CIGARETTE.

22 SECTION 1206.1. FLOOR TAX.--(A) A PERSON WHO POSSESSES
23 CIGARETTES ON WHICH THE TAX IMPOSED BY SECTION 1206 HAS BEEN
24 PAID AS OF THE EFFECTIVE DATE OF THIS SECTION SHALL PAY AN
25 ADDITIONAL TAX AT A RATE OF [ONE AND SEVENTY-FIVE] ONE AND
26 TWENTY-FIVE HUNDREDTHS CENTS PER CIGARETTE. THE TAX SHALL BE
27 PAID AND REPORTED ON A FORM PRESCRIBED BY THE DEPARTMENT WITHIN
28 NINETY DAYS OF THE EFFECTIVE DATE OF THIS SECTION.

29 (B) IF A CIGARETTE DEALER FAILS TO FILE THE REPORT REQUIRED
30 BY SUBSECTION (A) OR FAILS TO PAY THE TAX IMPOSED BY SUBSECTION

1 (A), THE DEPARTMENT MAY, IN ADDITION TO THE INTEREST AND
2 PENALTIES PROVIDED IN SECTION 1278, DO ANY OF THE FOLLOWING:

3 (1) IMPOSE AN ADMINISTRATIVE PENALTY EQUAL TO THE AMOUNT OF
4 TAX EVADED OR NOT PAID. THE PENALTY SHALL BE ADDED TO THE TAX
5 EVADED OR NOT PAID AND ASSESSED AND COLLECTED AT THE SAME TIME
6 AND IN THE SAME MANNER AS THE TAX.

7 (2) SUSPEND OR REVOKE A CIGARETTE DEALER'S LICENSE.

8 (C) IN ADDITION TO ANY PENALTY IMPOSED UNDER SUBSECTION (B),
9 A PERSON WHO WILFULLY OMITTS, NEGLECTS OR REFUSES TO COMPLY WITH
10 A DUTY IMPOSED UNDER SUBSECTION (A) COMMITS A MISDEMEANOR AND
11 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS
12 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) NOR MORE THAN
13 FIVE THOUSAND DOLLARS (\$5,000), TO SERVE A TERM OF IMPRISONMENT
14 NOT TO EXCEED THIRTY DAYS OR BOTH.

15 SECTION 9.3. SECTIONS 1211 AND 1216 OF THE ACT, AMENDED OR
16 ADDED DECEMBER 23, 2003 (P.L.250, NO.46), ARE AMENDED TO READ:

17 [SECTION 1211. HEALTH CARE PROVIDER RETENTION ACCOUNT.--
18 THERE IS ESTABLISHED IN THE GENERAL FUND A SPECIAL ACCOUNT TO BE
19 KNOWN AS THE HEALTH CARE PROVIDER RETENTION ACCOUNT. EIGHTEEN
20 AND FIFTY-TWO HUNDREDTHS PER CENT OF THE PROCEEDS OF THE TAX
21 IMPOSED BY SECTION 1206 SHALL BE DEPOSITED IN THE ACCOUNT. FUNDS
22 IN THE ACCOUNT SHALL BE SUBJECT TO AN ANNUAL APPROPRIATION AND
23 SHALL BE ADMINISTERED AS PROVIDED BY LAW.]

24 SECTION 1216. COMMISSIONS ON SALES.--A CIGARETTE STAMPING
25 AGENT SHALL BE ENTITLED TO A COMMISSION FOR THE AGENT'S SERVICES
26 AND EXPENSES IN AFFIXING CIGARETTE TAX STAMPS. THE COMMISSION
27 SHALL BE EQUAL TO [NINETY-EIGHT] EIGHTY-FIVE HUNDREDTHS PER CENT
28 OF THE TOTAL VALUE OF PENNSYLVANIA CIGARETTE TAX STAMPS
29 PURCHASED BY THE AGENT FROM THE DEPARTMENT OR ITS AUTHORIZED
30 AGENTS TO BE USED IN THE STAMPING OF PACKAGES OF CIGARETTES FOR

1 SALE WITHIN THIS COMMONWEALTH. THE CIGARETTE STAMPING AGENT MAY
2 DEDUCT FROM THE MONEYS TO BE PAID TO THE DEPARTMENT OR ITS
3 AUTHORIZED AGENTS FOR THE STAMPS AN AMOUNT EQUAL TO [NINETY-
4 EIGHT] EIGHTY-FIVE HUNDREDTHS PER CENT OF THE VALUE OF THE
5 STAMPS PURCHASED. THIS SECTION SHALL NOT APPLY TO PURCHASES OF
6 STAMPS BY A CIGARETTE STAMPING AGENT IN AN AMOUNT LESS THAN ONE
7 HUNDRED DOLLARS (\$100).

8 SECTION 9.4. SECTION 1278 OF THE ACT, AMENDED OR ADDED
9 DECEMBER 21, 1981 (P.L.482, NO.141) AND JUNE 22, 2001 (P.L.353,
10 NO.23), IS AMENDED TO READ:

11 SECTION 1278. OTHER VIOLATIONS.--(A) ANY PERSON WHO
12 WILFULLY OMITTS, NEGLECTS, OR REFUSES TO COMPLY WITH ANY DUTY
13 IMPOSED UPON HIM BY THIS ARTICLE OR DOES ANYTHING PROHIBITED BY
14 THIS ARTICLE FOR WHICH NO SPECIFIC PENALTY IS OTHERWISE
15 PROVIDED, SHALL UPON CONVICTION IN A SUMMARY PROCEEDING BE
16 SENTENCED TO PAY A FINE NOT TO EXCEED FIVE HUNDRED DOLLARS
17 (\$500) AND COSTS OF PROSECUTION, AND, IN DEFAULT OF PAYMENT
18 THEREOF, TO UNDERGO IMPRISONMENT FOR NOT MORE THAN THIRTY DAYS.

19 (B) ANY PERSON WHO WILFULLY OMITTS OR NEGLECTS TO FILE ANY
20 RETURN REQUIRED OR PAY ANY TAX IMPOSED BY THIS ARTICLE, OR
21 ATTEMPTS IN ANY MANNER TO EVADE OR DEFEAT THE TAX OR PAYMENT
22 THEREOF, SHALL, IN ADDITION TO ANY OTHER PENALTY PROVIDED IN
23 THIS ARTICLE, BE LIABLE TO A PENALTY EQUAL TO THE AMOUNT OF TAX
24 EVADED OR NOT PAID, WHICH PENALTY SHALL BE ADDED TO THE TAX AND
25 ASSESSED AND COLLECTED AT THE SAME TIME IN THE SAME MANNER AS A
26 PART OF THE TAX.

27 (C) ANY PERSON WHO FAILS TO FILE ANY RETURN REQUIRED OR PAY
28 TAX AT THE TIME PRESCRIBED SHALL, IN ADDITION TO ANY OTHER
29 PENALTY PROVIDED IN THIS ARTICLE, BE LIABLE TO A PENALTY OF FIVE
30 PER CENT OF THE TAX DUE BUT UNPAID FOR EACH MONTH OR FRACTION

1 THEREOF THE TAX REMAINS UNPAID TOGETHER WITH THE INTEREST AT THE
2 RATE ESTABLISHED PURSUANT TO SECTION 806 OF THE ACT OF APRIL 9,
3 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE," ON SUCH TAX
4 FROM THE TIME THE TAX BECAME DUE. THE PENALTIES PROVIDED IN THIS
5 SUBSECTION SHALL BE ADDED TO THE TAX AND ASSESSED AND COLLECTED
6 AT THE SAME TIME IN THE SAME MANNER AND AS A PART OF THE TAX.

7 SECTION 9.5. THE ACT IS AMENDED BY ADDING ARTICLES TO READ:

8 ARTICLE XII-A

9 TOBACCO PRODUCTS TAX

10 SECTION 1201-A. DEFINITIONS.

11 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
12 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
13 CONTEXT CLEARLY INDICATES OTHERWISE:

14 "CIGAR." ANY ROLL OF TOBACCO WRAPPED IN TOBACCO.

15 "CIGARETTE." INCLUDES ANY ROLL FOR SMOKING MADE WHOLLY OR IN
16 PART OF TOBACCO, IRRESPECTIVE OF SIZE OR SHAPE, AND WHETHER OR
17 NOT SUCH TOBACCO IS FLAVORED, ADULTERATED OR MIXED WITH ANY
18 OTHER INGREDIENT, THE WRAPPER OR COVER OF WHICH IS MADE OF PAPER
19 OR ANY OTHER SUBSTANCE OR MATERIAL, EXCEPTING TOBACCO, AND SHALL
20 NOT INCLUDE CIGARS OR ROLL YOUR OWN TOBACCO.

21 "CIGARILLO." A SHORT, NARROW CIGAR, WRAPPED IN WHOLE-LEAF
22 TOBACCO. THE TERM INCLUDES FILTERED CIGARILLOS, WHICH ARE
23 SOMETIMES CALLED LITTLE CIGARS.

24 "CONSUMER." AN INDIVIDUAL WHO PURCHASES TOBACCO PRODUCTS FOR
25 PERSONAL USE AND NOT FOR RESALE.

26 "CONTRABAND." ANY TOBACCO PRODUCT FOR WHICH THE TAX IMPOSED
27 BY THIS ARTICLE HAS NOT BEEN PAID.

28 "DEALER." A WHOLESALER OR RETAILER. NOTHING IN THIS ARTICLE
29 SHALL PRECLUDE ANY PERSON FROM BEING A WHOLESALER OR RETAILER,
30 PROVIDED THE PERSON MEETS THE REQUIREMENTS FOR A LICENSE IN EACH

1 CATEGORY OF DEALER.

2 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

3 "MANUFACTURER." A PERSON THAT PRODUCES TOBACCO PRODUCTS.

4 "PERSON." AN INDIVIDUAL, UNINCORPORATED ASSOCIATION,

5 COMPANY, CORPORATION, JOINT STOCK COMPANY, GROUP, AGENCY,

6 SYNDICATE, TRUST OR TRUSTEE, RECEIVER, FIDUCIARY, PARTNERSHIP,

7 CONSERVATOR, ANY POLITICAL SUBDIVISION OF THE COMMONWEALTH OR

8 ANY OTHER STATE. WHENEVER USED IN ANY OF THE PROVISIONS OF THIS

9 ARTICLE PRESCRIBING OR IMPOSING PENALTIES, THE WORD "PERSON" AS

10 APPLIED TO A PARTNERSHIP, UNINCORPORATED ASSOCIATION OR OTHER

11 JOINT VENTURE, MEANS THE PARTNERS OR MEMBERS THEREOF, AND AS

12 APPLIED TO A CORPORATION, MEANS ALL THE OFFICERS AND DIRECTORS

13 THEREOF.

14 "PURCHASE PRICE." THE TOTAL VALUE OF ANYTHING PAID OR

15 DELIVERED, OR PROMISED TO BE PAID OR DELIVERED, WHETHER IT BE

16 MONEY OR OTHERWISE, IN COMPLETE PERFORMANCE OF A SALE OR

17 PURCHASE, WITHOUT ANY DEDUCTION ON ACCOUNT OF THE COST OR VALUE

18 OF THE PROPERTY SOLD, COST OR VALUE OF TRANSPORTATION, COST OR

19 VALUE OF LABOR OR SERVICE, INTEREST OR DISCOUNT PAID OR ALLOWED

20 AFTER THE SALE IS CONSUMMATED, ANY OTHER TAXES IMPOSED BY THE

21 COMMONWEALTH OR ANY OTHER EXPENSE.

22 "RETAILER." A PERSON THAT PURCHASES OR RECEIVES TOBACCO

23 PRODUCTS FROM ANY SOURCE FOR THE PURPOSE OF SALE TO A CONSUMER,

24 OR WHO OWNS, LEASES OR OTHERWISE OPERATES ONE OR MORE VENDING

25 MACHINES FOR THE PURPOSE OF SALE OF TOBACCO PRODUCTS TO THE

26 ULTIMATE CONSUMER. THE TERM INCLUDES A VENDING MACHINE OPERATOR

27 OR A PERSON THAT BUYS, SELLS, TRANSFERS OR DEALS IN TOBACCO

28 PRODUCTS AND IS NOT LICENSED AS A TOBACCO PRODUCTS WHOLESALER

29 UNDER THIS ARTICLE.

30 "ROLL-YOUR-OWN TOBACCO." ANY TOBACCO WHICH, BECAUSE OF ITS

1 APPEARANCE, TYPE, PACKAGING OR LABELING, IS SUITABLE FOR USE AND
2 IS LIKELY TO BE OFFERED TO, OR PURCHASED BY, CONSUMERS AS
3 TOBACCO FOR MAKING CIGARETTES. FOR PURPOSES OF REPORTING SALES
4 OF THIS PRODUCT UNDER THE ACT OF JUNE 22, 2000 (P.L.394, NO.54),
5 KNOWN AS THE TOBACCO SETTLEMENT AGREEMENT ACT, 0.09 OUNCES OF
6 TOBACCO SHALL CONSTITUTE ONE INDIVIDUAL UNIT SOLD.

7 "SALE." ANY TRANSFER OF OWNERSHIP, CUSTODY OR POSSESSION OF
8 TOBACCO PRODUCTS FOR CONSIDERATION; ANY EXCHANGE, BARTER OR
9 GIFT; OR ANY OFFER TO SELL OR TRANSFER THE OWNERSHIP, CUSTODY OR
10 POSSESSION OF TOBACCO PRODUCTS FOR CONSIDERATION.

11 "TAXPAYER." ANY PERSON SUBJECT TO TAX UNDER THIS ARTICLE.

12 "TOBACCO PRODUCTS." CIGARS, CIGARILLOS, CHERROOTS, STOGIES,
13 PERIQUES, GRANULATED, PLUG CUT, CRIMP CUT, READY RUBBED AND
14 OTHER SMOKING TOBACCO, ROLL-YOUR-OWN TOBACCO, SNUFF, DRY SNUFF,
15 SNUFF FLOUR, CAVENDISH, PLUG AND TWIST TOBACCO, FINE-CUT AND
16 OTHER CHEWING TOBACCOS, SHORTS, REFUSE SCRAPS, CLIPPINGS,
17 CUTTINGS AND SWEEPINGS OF TOBACCO AND OTHER KINDS AND FORMS OF
18 TOBACCO, PREPARED IN SUCH MANNER AS TO BE SUITABLE FOR CHEWING
19 OR INGESTING OR FOR SMOKING IN A PIPE OR OTHERWISE, OR BOTH FOR
20 CHEWING AND SMOKING. THE TERM DOES NOT INCLUDE CIGARETTES.

21 "UNCLASSIFIED IMPORTER." A PERSON IN THIS COMMONWEALTH THAT
22 ACQUIRES A TOBACCO PRODUCT FROM ANY SOURCE ON WHICH THE TAX
23 IMPOSED BY THIS ARTICLE WAS NOT PAID AND THAT IS NOT A PERSON
24 OTHERWISE REQUIRED TO BE LICENSED UNDER THE PROVISIONS OF THIS
25 ARTICLE. THE TERM INCLUDES, BUT IS NOT LIMITED TO, CONSUMERS WHO
26 PURCHASE TOBACCO PRODUCTS USING THE INTERNET OR MAIL ORDER
27 CATALOGS FOR PERSONAL POSSESSION OR USE IN THIS COMMONWEALTH.

28 "VENDING MACHINE OPERATOR." A PERSON WHO PLACES OR SERVICES
29 ONE OR MORE TOBACCO PRODUCT VENDING MACHINES WHETHER OWNED,
30 LEASED OR OTHERWISE OPERATED BY THE PERSON AT LOCATIONS FROM

1 WHICH TOBACCO PRODUCTS ARE SOLD TO THE CONSUMER. THE OWNER OR
2 TENANT OF THE PREMISES UPON WHICH A VENDING MACHINE IS PLACED
3 SHALL NOT BE CONSIDERED A VENDING MACHINE OPERATOR IF THE
4 OWNER'S OR TENANT'S SOLE REMUNERATION THEREFROM IS A FLAT RENTAL
5 FEE OR COMMISSION BASED UPON THE NUMBER OR VALUE OF TOBACCO
6 PRODUCTS SOLD FROM THE MACHINE, UNLESS THE OWNER OR TENANT
7 ACTUALLY OWNS THE VENDING MACHINE OR LEASES THE VENDING MACHINE
8 UNDER AN AGREEMENT WHEREBY ANY PROFITS FROM THE SALE OF THE
9 TOBACCO PRODUCTS DIRECTLY INURE TO THE OWNER'S OR TENANT'S
10 BENEFIT.

11 "WHOLESALER." A PERSON ENGAGED IN THE BUSINESS OF SELLING
12 TOBACCO PRODUCTS THAT RECEIVES, STORES, SELLS, EXCHANGES OR
13 DISTRIBUTES TOBACCO PRODUCTS TO RETAILERS OR OTHER WHOLESALERS
14 IN THIS COMMONWEALTH OR RETAILERS WHO PURCHASE FROM A
15 MANUFACTURER OR FROM ANOTHER WHOLESALER WHO HAS NOT PAID THE TAX
16 IMPOSED BY THIS ARTICLE.

17 SECTION 1202-A. INCIDENCE AND RATE OF TAX.

18 (A) IMPOSITION.--A TOBACCO PRODUCTS TAX IS HEREBY IMPOSED ON
19 THE DEALER, MANUFACTURER OR ANY PERSON AT THE TIME THE TOBACCO
20 PRODUCT IS FIRST SOLD TO A RETAILER IN THIS COMMONWEALTH AT THE
21 RATE OF 30% ON THE PURCHASE PRICE CHARGED TO THE RETAILER FOR
22 THE PURCHASE OF ANY TOBACCO PRODUCT. THE TAX SHALL BE COLLECTED
23 FROM THE RETAILER BY WHOMEVER SELLS THE TOBACCO PRODUCT TO THE
24 RETAILER AND REMITTED TO THE DEPARTMENT. ANY PERSON REQUIRED TO
25 COLLECT THIS TAX SHALL SEPARATELY STATE THE AMOUNT OF TAX ON AN
26 INVOICE OR OTHER SALES DOCUMENT.

27 (B) RETAILER.--IF THE TAX IS NOT COLLECTED BY THE SELLER
28 FROM THE RETAILER, THE TAX IS IMPOSED ON THE RETAILER AT THE
29 TIME OF PURCHASE AT THE SAME RATE AS IN SUBSECTION (A) BASED ON
30 THE RETAILER'S PURCHASE PRICE OF THE TOBACCO PRODUCTS. THE

1 RETAILER SHALL REMIT THE TAX TO THE DEPARTMENT.

2 (C) UNCLASSIFIED IMPORTER.--THE TAX IS IMPOSED ON AN
3 UNCLASSIFIED IMPORTER AT THE TIME OF PURCHASE AT THE SAME RATE
4 AS IN SUBSECTION (A) BASED ON THE UNCLASSIFIED IMPORTER'S
5 PURCHASE PRICE OF THE TOBACCO PRODUCTS. THE UNCLASSIFIED
6 IMPORTER SHALL REMIT THE TAX TO THE DEPARTMENT.

7 (D) EXCEPTIONS.--THE TAX SHALL NOT BE IMPOSED ON ANY TOBACCO
8 PRODUCTS THAT:

9 (1) ARE EXPORTED FOR SALE OUTSIDE THIS COMMONWEALTH; OR

10 (2) ARE NOT SUBJECT TO TAXATION BY THE COMMONWEALTH
11 PURSUANT TO ANY LAWS OF THE UNITED STATES.

12 SECTION 1203-A. FLOOR TAX.

13 (A) PAYMENT.--ANY RETAILER THAT, AS OF THE EFFECTIVE DATE OF
14 THIS ARTICLE, POSSESSES TOBACCO PRODUCTS SUBJECT TO THE TAX
15 IMPOSED BY SECTION 1202-A, SHALL PAY THE TAX ON THE TOBACCO
16 PRODUCTS IN ACCORDANCE WITH THE RATES SPECIFIED IN SECTION 1202-
17 A. THE TAX SHALL BE PAID AND REPORTED ON A FORM PRESCRIBED BY
18 THE DEPARTMENT WITHIN 90 DAYS OF THE EFFECTIVE DATE OF THIS
19 SECTION.

20 (B) ADMINISTRATIVE PENALTY; LICENSE.--IF A RETAILER FAILS TO
21 FILE THE REPORT REQUIRED BY SUBSECTION (A) OR FAILS TO PAY THE
22 TAX IMPOSED BY SUBSECTION (A), THE DEPARTMENT MAY, IN ADDITION
23 TO THE INTEREST AND PENALTIES PROVIDED IN SECTION 1215-A, DO ANY
24 OF THE FOLLOWING:

25 (1) IMPOSE AN ADMINISTRATIVE PENALTY EQUAL TO THE AMOUNT
26 OF TAX EVADED OR NOT PAID. THE PENALTY SHALL BE ADDED TO THE
27 TAX EVADED OR NOT PAID AND ASSESSED AND COLLECTED AT THE SAME
28 TIME AND IN THE SAME MANNER AS THE TAX.

29 (2) SUSPEND, REVOKE OR REFUSE TO ISSUE THE RETAILER'S
30 LICENSE.

1 (C) CRIMINAL PENALTY.--IN ADDITION TO ANY PENALTY IMPOSED
2 UNDER SUBSECTION (B), A PERSON THAT WILLFULLY OMITTS, NEGLECTS OR
3 REFUSES TO COMPLY WITH A DUTY IMPOSED UNDER SUBSECTION (A)
4 COMMITTS A MISDEMEANOR AND SHALL, IF CONVICTED, BE SENTENCED TO
5 PAY A FINE OF NOT LESS THAN \$2,500 NOR MORE THAN \$5,000, TO
6 SERVE A TERM OF IMPRISONMENT NOT TO EXCEED 30 DAYS, OR BOTH.
7 SECTION 1204-A. REMITTANCE OF TAX TO DEPARTMENT.

8 WHOLESALEERS, RETAILERS, UNCLASSIFIED IMPORTERS AND
9 MANUFACTURERS SHALL FILE MONTHLY REPORTS ON A FORM PRESCRIBED BY
10 THE DEPARTMENT BY THE 20TH DAY OF THE MONTH FOLLOWING THE SALE
11 OR PURCHASE OF TOBACCO PRODUCTS FROM ANY OTHER SOURCE ON WHICH
12 THE TAX LEVIED BY THIS ARTICLE HAS NOT BEEN PAID. THE TAX IS DUE
13 AT THE TIME THE REPORT IS DUE. THE DEPARTMENT MAY REQUIRED THE
14 FILING OF REPORTS AND PAYMENT OF TAX ON A LESS FREQUENT BASIS AT
15 ITS DISCRETION.

16 SECTION 1205-A. (RESERVED).

17 SECTION 1206-A. PROCEDURES FOR CLAIMING REFUND.

18 A CLAIM FOR A REFUND OF TAX IMPOSED BY THIS ARTICLE UNDER
19 SECTION 3003.1 AND ARTICLE XXVII SHALL BE IN THE FORM AND
20 CONTAIN THE INFORMATION PRESCRIBED BY THE DEPARTMENT BY
21 REGULATION.

22 SECTION 1207-A. SALES OR POSSESSION OF TOBACCO PRODUCT WHEN TAX
23 NOT PAID.

24 (A) SALES OR POSSESSION.--ANY PERSON WHO SELLS OR POSSESSES
25 ANY TOBACCO PRODUCT FOR WHICH THE PROPER TAX HAS NOT BEEN PAID
26 COMMITTS A SUMMARY OFFENSE AND SHALL, UPON CONVICTION, BE
27 SENTENCED TO PAY COSTS OF PROSECUTION AND A FINE OF NOT LESS
28 THAN \$100 NOT MORE THAN \$1,000 OR TO IMPRISONMENT FOR NOT MORE
29 THAN 60 DAYS, OR BOTH, AT THE DISCRETION OF THE COURT. ANY
30 TOBACCO PRODUCTS PURCHASED FROM A WHOLESALEER PROPERLY LICENSED

1 UNDER THIS ARTICLE SHALL BE PRESUMED TO HAVE THE PROPER TAXES
2 PAID.

3 (B) TAX EVASION.--ANY PERSON THAT SHALL FALSELY OR
4 FRAUDULENTLY, MALICIOUSLY, INTENTIONALLY OR WILLFULLY WITH
5 INTENT TO EVADE THE PAYMENT OF THE TAX IMPOSED BY THIS ARTICLE
6 SELLS OR POSSESSES ANY TOBACCO PRODUCT FOR WHICH THE PROPER TAX
7 HAS NOT BEEN PAID COMMITS A FELONY AND SHALL, UPON CONVICTION,
8 BE SENTENCED TO PAY COSTS OF PROSECUTION AND A FINE OF NOT MORE
9 THAN \$15,000 OR TO IMPRISONMENT FOR NOT MORE THAN FIVE YEARS, OR
10 BOTH, AT THE DISCRETION OF THE COURT.

11 SECTION 1208-A. ASSESSMENT.

12 THE DEPARTMENT IS AUTHORIZED TO MAKE THE INQUIRIES,
13 DETERMINATIONS AND ASSESSMENTS OF THE TAX, INCLUDING INTEREST,
14 ADDITIONS AND PENALTIES, IMPOSED BY THIS ARTICLE.

15 SECTION 1209-A. (RESERVED).

16 SECTION 1210-A. (RESERVED).

17 SECTION 1211-A. FAILURE TO FILE RETURN.

18 WHERE NO RETURN IS FILED, THE AMOUNT OF THE TAX DUE MAY BE
19 ASSESSED AND COLLECTED AT ANY TIME AS TO TAXABLE TRANSACTIONS
20 NOT REPORTED.

21 SECTION 1212-A. FALSE OR FRAUDULENT RETURN.

22 WHERE THE TAXPAYER WILLFULLY FILES A FALSE OR FRAUDULENT
23 RETURN WITH INTENT TO EVADE THE TAX IMPOSED BY THIS ARTICLE, THE
24 AMOUNT OF TAX DUE MAY BE ASSESSED AND COLLECTED AT ANY TIME.

25 SECTION 1213-A. EXTENSION OF LIMITATION PERIOD.

26 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, WHERE,
27 BEFORE THE EXPIRATION OF THE PERIOD PRESCRIBED FOR THE
28 ASSESSMENT OF A TAX, A TAXPAYER HAS CONSENTED, IN WRITING, THAT
29 THE PERIOD BE EXTENDED, THE AMOUNT OF TAX DUE MAY BE ASSESSED AT
30 ANY TIME WITHIN THE EXTENDED PERIOD. THE PERIOD SO EXTENDED MAY

1 BE EXTENDED FURTHER BY SUBSEQUENT CONSENTS, IN WRITING, MADE
2 BEFORE THE EXPIRATION OF THE EXTENDED PERIOD.

3 SECTION 1214-A. FAILURE TO FURNISH INFORMATION, RETURNING FALSE
4 INFORMATION OR FAILURE TO PERMIT INSPECTION.

5 (A) PENALTY.--ANY TAXPAYER WHO FAILS TO KEEP OR MAKE ANY
6 RECORD, RETURN, REPORT, INVENTORY OR STATEMENT, OR KEEPS OR
7 MAKES ANY FALSE OR FRAUDULENT RECORD, RETURN, REPORT, INVENTORY
8 OR STATEMENT REQUIRED BY THIS ARTICLE COMMITS A MISDEMEANOR AND
9 SHALL, UPON CONVICTION, BE SENTENCED TO PAY COSTS OF PROSECUTION
10 AND A FINE OF \$500 AND TO IMPRISONMENT FOR NOT MORE THAN ONE
11 YEAR, OR BOTH, AT THE DISCRETION OF THE COURT.

12 (B) EXAMINATION.--THE DEPARTMENT IS AUTHORIZED TO EXAMINE
13 THE BOOKS AND RECORDS, THE STOCK OF TOBACCO PRODUCTS AND THE
14 PREMISES AND EQUIPMENT OF ANY TAXPAYER IN ORDER TO VERIFY THE
15 ACCURACY OF THE PAYMENT OF THE TAX IMPOSED BY THIS ARTICLE. THE
16 PERSON SUBJECT TO AN EXAMINATION SHALL GIVE TO THE DEPARTMENT OR
17 ITS DULY AUTHORIZED REPRESENTATIVE, THE MEANS, FACILITIES AND
18 OPPORTUNITY FOR THE EXAMINATION. WILLFUL REFUSAL TO COOPERATE
19 WITH OR PERMIT AN EXAMINATION TO THE SATISFACTION OF THE
20 DEPARTMENT SHALL BE SUFFICIENT GROUNDS FOR THE SUSPENSION OR
21 REVOCAION OF A TAXPAYER'S LICENSE. IN ADDITION, A PERSON WHO
22 WILLFULLY REFUSES TO COOPERATE WITH OR PERMIT AN EXAMINATION TO
23 THE SATISFACTION OF THE DEPARTMENT COMMITS A MISDEMEANOR AND
24 SHALL, UPON CONVICTION, BE SENTENCED TO PAY COSTS OF PROSECUTION
25 AND A FINE OF \$500 OR TO IMPRISONMENT FOR NOT MORE THAN ONE
26 YEAR, OR BOTH, AT THE DISCRETION OF THE COURT.

27 (C) RECORDS; DEALER OR MANUFACTURER.--A DEALER OR
28 MANUFACTURER SHALL KEEP AND MAINTAIN FOR A PERIOD OF FOUR YEARS
29 RECORDS IN THE FORM PRESCRIBED BY THE DEPARTMENT. THE RECORDS
30 SHALL BE MAINTAINED AT THE LOCATION FOR WHICH THE LICENSE IS

1 ISSUED.

2 (D) REPORTS.--A DEALER OR MANUFACTURER SHALL FILE REPORTS AT
3 TIMES AND IN THE FORM PRESCRIBED BY THE DEPARTMENT.

4 (E) RECORDS; MANUFACTURER OR WHOLESALER.--A MANUFACTURER OR
5 WHOLESALER LOCATED OR DOING BUSINESS IN THIS COMMONWEALTH WHO
6 SELLS TOBACCO PRODUCTS TO A WHOLESALE LICENSE HOLDER IN THIS
7 COMMONWEALTH SHALL KEEP RECORDS SHOWING:

8 (1) THE NUMBER AND KIND OF TOBACCO PRODUCTS SOLD.

9 (2) THE DATE THE TOBACCO PRODUCTS WERE SOLD.

10 (3) THE NAME AND LICENSE NUMBER OF THE DEALER THE
11 TOBACCO PRODUCTS WERE SOLD TO.

12 (4) THE TOTAL WEIGHT OF EACH OF THE TOBACCO PRODUCTS
13 SOLD TO THE LICENSE HOLDER.

14 (5) THE PLACE WHERE THE TOBACCO PRODUCTS WERE SHIPPED.

15 (6) THE NAME OF THE COMMON CARRIER.

16 (F) MANUFACTURER OR WHOLESALER.--A MANUFACTURER OR
17 WHOLESALER SHALL FILE WITH THE DEPARTMENT, ON OR BEFORE THE 20TH
18 OF EACH MONTH, A REPORT SHOWING THE INFORMATION LISTED IN
19 SUBSECTION (E) FOR THE PREVIOUS MONTH.

20 SECTION 1215-A. OTHER VIOLATIONS; PEACE OFFICERS; FINES.

21 SECTIONS 1278, 1279, 1280 AND 1291 ARE INCORPORATED BY
22 REFERENCE INTO AND SHALL APPLY TO THE TAX IMPOSED BY THIS
23 ARTICLE.

24 SECTION 1216-A. (RESERVED).

25 SECTION 1217-A. (RESERVED).

26 SECTION 1218-A. (RESERVED).

27 SECTION 1219-A. RECORDS OF SHIPMENTS AND RECEIPTS OF TOBACCO
28 PRODUCTS REQUIRED.

29 THE DEPARTMENT MAY, IN ITS DISCRETION, REQUIRE REPORTS FROM
30 ANY COMMON OR CONTRACT CARRIER WHO TRANSPORTS TOBACCO PRODUCTS

1 TO ANY POINT OR POINTS WITHIN THIS COMMONWEALTH, AND FROM ANY
2 BONDED WAREHOUSEMAN OR BAILEE WHO HAS IN THE POSSESSION OF THE
3 WAREHOUSEMAN OR BAILEE ANY TOBACCO PRODUCTS. THE REPORTS SHALL
4 CONTAIN THE INFORMATION CONCERNING SHIPMENTS OF TOBACCO PRODUCTS
5 THAT THE DEPARTMENT DETERMINES TO BE NECESSARY FOR THE
6 ADMINISTRATION OF THIS ARTICLE. ALL COMMON AND CONTRACT
7 CARRIERS, BAILEES AND WAREHOUSEMEN SHALL PERMIT THE EXAMINATION
8 BY THE DEPARTMENT OR ITS AUTHORIZED AGENTS OF ANY RECORDS
9 RELATING TO THE SHIPMENT OR RECEIPT OF TOBACCO PRODUCTS.

10 SECTION 1220-A. LICENSING OF DEALERS AND MANUFACTURERS.

11 (A) PROHIBITION.--NO PERSON, UNLESS ALL SALES OF TOBACCO
12 PRODUCTS ARE EXEMPT FROM PENNSYLVANIA TOBACCO PRODUCTS TAX,
13 SHALL SELL, TRANSFER OR DELIVER ANY TOBACCO PRODUCTS IN THIS
14 COMMONWEALTH WITHOUT FIRST OBTAINING THE PROPER LICENSE PROVIDED
15 FOR IN THIS ARTICLE.

16 (B) APPLICATION.--AN APPLICANT FOR A DEALER'S OR
17 MANUFACTURER'S LICENSE SHALL COMPLETE AND FILE AN APPLICATION
18 WITH THE DEPARTMENT. THE APPLICATION SHALL BE IN THE FORM AND
19 CONTAIN INFORMATION PRESCRIBED BY THE DEPARTMENT AND SHALL SET
20 FORTH TRUTHFULLY AND ACCURATELY THE INFORMATION DESIRED BY THE
21 DEPARTMENT. IF THE APPLICATION IS APPROVED, THE DEPARTMENT SHALL
22 LICENSE THE DEALER OR MANUFACTURER FOR A PERIOD OF ONE YEAR AND
23 THE LICENSE MAY BE RENEWED ANNUALLY THEREAFTER.

24 SECTION 1221-A. LICENSING OF MANUFACTURERS.

25 ANY MANUFACTURER DOING BUSINESS WITHIN THIS COMMONWEALTH
26 SHALL FIRST OBTAIN A LICENSE TO SELL TOBACCO PRODUCTS BY
27 SUBMITTING AN APPLICATION TO THE DEPARTMENT CONTAINING THE
28 INFORMATION REQUESTED BY THE DEPARTMENT AND DESIGNATING A
29 PROCESS AGENT. IF A MANUFACTURER DESIGNATES NO PROCESS AGENT,
30 THE MANUFACTURER SHALL BE DEEMED TO HAVE MADE THE SECRETARY OF

1 STATE ITS AGENT FOR THE SERVICE OF PROCESS IN THIS COMMONWEALTH.

2 SECTION 1222-A. LICENSING OF WHOLESALERS.

3 (A) REQUIREMENTS.--APPLICANTS FOR A WHOLESALE LICENSE OR
4 RENEWAL OF THAT LICENSE SHALL MEET THE FOLLOWING REQUIREMENTS:

5 (1) THE PREMISES ON WHICH THE APPLICANT PROPOSES TO
6 CONDUCT BUSINESS ARE ADEQUATE TO PROTECT THE REVENUE.

7 (2) THE APPLICANT IS A PERSON OF REASONABLE FINANCIAL
8 STABILITY AND REASONABLE BUSINESS EXPERIENCE.

9 (3) THE APPLICANT, OR ANY SHAREHOLDER CONTROLLING MORE
10 THAN 10% OF THE STOCK IF THE APPLICANT IS A CORPORATION OR
11 ANY OFFICER OR DIRECTOR IF THE APPLICANT IS A CORPORATION,
12 SHALL NOT HAVE BEEN CONVICTED OF ANY CRIME INVOLVING MORAL
13 TURPITUDE.

14 (4) THE APPLICANT SHALL NOT HAVE FAILED TO DISCLOSE ANY
15 MATERIAL INFORMATION REQUIRED BY THE DEPARTMENT, INCLUDING
16 INFORMATION THAT THE APPLICANT HAS COMPLIED WITH THIS ARTICLE
17 BY PROVIDING A SIGNED STATEMENT UNDER PENALTY OF PERJURY.

18 (5) THE APPLICANT SHALL NOT HAVE MADE ANY MATERIAL FALSE
19 STATEMENT IN THE APPLICATION.

20 (6) THE APPLICANT SHALL NOT HAVE VIOLATED ANY PROVISION
21 OF THIS ARTICLE.

22 (7) THE APPLICANT SHALL HAVE FILED ALL REQUIRED STATE
23 TAX REPORTS AND PAID ANY STATE TAXES NOT SUBJECT TO A TIMELY
24 PERFECTED ADMINISTRATIVE OR JUDICIAL APPEAL OR SUBJECT TO A
25 DULY AUTHORIZED DEFERRED PAYMENT PLAN.

26 (B) MULTIPLE LOCATIONS.--THE WHOLESALE LICENSE SHALL BE
27 VALID FOR ONE SPECIFIC LOCATION ONLY. WHOLESALERS WITH MORE THAN
28 ONE LOCATION SHALL OBTAIN A LICENSE FOR EACH LOCATION.

29 SECTION 1223-A. LICENSING OF RETAILERS.

30 APPLICANTS FOR RETAIL LICENSE OR RENEWAL OF THAT LICENSE

1 SHALL MEET THE FOLLOWING REQUIREMENTS:

2 (1) THE PREMISES IN WHICH THE APPLICANT PROPOSES TO
3 CONDUCT BUSINESS ARE ADEQUATE TO PROTECT THE REVENUES.

4 (2) THE APPLICANT SHALL NOT HAVE FAILED TO DISCLOSE ANY
5 MATERIAL INFORMATION REQUIRED BY THE DEPARTMENT.

6 (3) THE APPLICANT SHALL NOT HAVE ANY MATERIAL FALSE
7 STATEMENT IN THE APPLICATION.

8 (4) THE APPLICANT SHALL NOT HAVE VIOLATED ANY PROVISION
9 OF THIS ARTICLE.

10 (5) THE APPLICANT SHALL HAVE FILED ALL REQUIRED STATE
11 TAX REPORTS AND PAID ANY STATE TAXES NOT SUBJECT TO A TIMELY
12 PERFECTED ADMINISTRATIVE OR JUDICIAL APPEAL OR SUBJECT TO A
13 DULY AUTHORIZED DEFERRED PAYMENT PLAN.

14 SECTION 1224-A. LICENSE FOR TOBACCO PRODUCTS VENDING MACHINES.

15 EACH TOBACCO PRODUCTS VENDING MACHINE SHALL HAVE A CURRENT
16 RETAIL LICENSE WHICH SHALL BE CONSPICUOUSLY AND VISIBLY PLACED
17 ON THE MACHINE. THERE SHALL BE CONSPICUOUSLY AND VISIBLY PLACED
18 ON EVERY TOBACCO PRODUCTS VENDING MACHINE THE NAME AND ADDRESS
19 OF THE OWNER AND THE NAME AND ADDRESS OF THE OPERATOR.

20 SECTION 1225-A. LICENSE FEES AND ISSUANCE AND DISPLAY OF
21 LICENSE.

22 (A) REQUIREMENTS.--AT THE TIME OF MAKING ANY APPLICATION OR
23 LICENSE RENEWAL APPLICATION:

24 (1) AN APPLICANT FOR A TOBACCO PRODUCTS MANUFACTURERS
25 LICENSE SHALL PAY THE DEPARTMENT A LICENSE FEE OF \$1,500.

26 (2) AN APPLICANT FOR A WHOLESALE TOBACCO PRODUCTS
27 DEALER'S LICENSE SHALL PAY TO THE DEPARTMENT A LICENSE FEE OF
28 \$1,500.

29 (3) AN APPLICANT FOR A RETAIL TOBACCO PRODUCTS DEALER'S
30 LICENSE SHALL PAY TO THE DEPARTMENT A LICENSE FEE OF \$25.

1 (4) AN APPLICANT FOR A VENDING MACHINE TOBACCO PRODUCTS
2 DEALER'S LICENSE SHALL PAY TO THE DEPARTMENT A LICENSE FEE OF
3 \$25.

4 (B) PRORATION.--FEES SHALL NOT BE PRORATED.

5 (C) ISSUANCE AND DISPLAY.--ON APPROVAL OF THE APPLICATION
6 AND PAYMENT OF THE FEES, THE DEPARTMENT SHALL ISSUE THE PROPER
7 LICENSE WHICH MUST BE CONSPICUOUSLY DISPLAYED AT THE LOCATION
8 FOR WHICH IT HAS BEEN ISSUED.

9 SECTION 1226-A. ELECTRONIC FILING.

10 THE DEPARTMENT MAY AT ITS DISCRETION REQUIRE THAT ANY OR ALL
11 RETURNS, REPORTS OR REGISTRATIONS THAT ARE REQUIRED TO BE FILED
12 UNDER THIS ARTICLE BE FILED ELECTRONICALLY. FAILURE TO
13 ELECTRONICALLY FILE ANY RETURN, REPORT, REGISTRATION OR OTHER
14 INFORMATION THE DEPARTMENT MAY DIRECT TO BE FILED ELECTRONICALLY
15 SHALL SUBJECT THE TAXPAYER TO A PENALTY OF 5% OF THE TAX DUE ON
16 THE RETURN, UP TO A MAXIMUM OF \$1,000, BUT NOT LESS THAN \$10.
17 THIS PENALTY SHALL BE ASSESSED AT ANY TIME AND COLLECTED IN THE
18 MANNER PROVIDED IN THIS ARTICLE. THIS PENALTY SHALL BE IN
19 ADDITION TO ANY CIVIL PENALTY IMPOSED IN THIS ARTICLE FOR
20 FAILURE TO FURNISH INFORMATION OR FILE A RETURN. THE CRIMINAL
21 PENALTY FOR FAILURE TO FILE A RETURN ELECTRONICALLY SHALL BE THE
22 SAME AS THE CRIMINAL PENALTY FOR FAILURE TO FURNISH INFORMATION
23 OR FILE A RETURN UNDER THIS ARTICLE.

24 SECTION 1227-A. EXPIRATION OF LICENSE.

25 (A) EXPIRATION.--A LICENSE SHALL EXPIRE ON THE LAST DAY OF
26 JUNE NEXT SUCCEEDING THE DATE UPON WHICH IT WAS ISSUED UNLESS
27 THE DEPARTMENT AT AN EARLIER DATE SUSPENDS, SURRENDERS OR
28 REVOKES THE LICENSE.

29 (B) VIOLATION.--AFTER THE EXPIRATION DATE OF THE LICENSE OR
30 SOONER IF THE LICENSE IS SUSPENDED, SURRENDERED OR REVOKED, IT

1 SHALL BE ILLEGAL FOR ANY DEALER TO ENGAGE DIRECTLY OR INDIRECTLY
2 IN THE BUSINESS HERETOFORE CONDUCTED BY THE DEALER FOR WHICH THE
3 LICENSE WAS ISSUED. ANY LICENSEE WHO SHALL, AFTER THE EXPIRATION
4 DATE OF THE LICENSE, ENGAGE IN THE BUSINESS THERETOFORE
5 CONDUCTED BY THE LICENSEE EITHER BY WAY OF PURCHASE, SALE,
6 DISTRIBUTION OR IN ANY OTHER MANNER DIRECTLY OR INDIRECTLY
7 ENGAGED IN THE BUSINESS OF DEALING WITH TOBACCO PRODUCTS FOR
8 PROFIT SHALL BE IN VIOLATION OF THIS ARTICLE AND BE SUBJECT TO
9 THE PENALTIES PROVIDED IN THIS ARTICLE.

10 SECTION 1228-A. ADMINISTRATION POWERS AND DUTIES.

11 (A) DEPARTMENT.--THE ADMINISTRATION OF THIS ARTICLE IS
12 HEREBY VESTED IN THE DEPARTMENT. THE DEPARTMENT SHALL ADOPT
13 RULES AND REGULATIONS FOR THE ENFORCEMENT OF THIS ARTICLE. THE
14 DEPARTMENT MAY IMPOSE FEES AS MAY BE NECESSARY TO COVER THE
15 COSTS INCURRED IN ADMINISTERING THIS SECTION.

16 (B) JOINT ADMINISTRATION.--THE DEPARTMENT IS AUTHORIZED TO
17 JOINTLY ADMINISTER THIS ARTICLE WITH OTHER PROVISIONS OF THIS
18 ACT, INCLUDING JOINT REPORTING OF INFORMATION, FORMS, RETURNS,
19 STATEMENTS, DOCUMENTS OR OTHER INFORMATION SUBMITTED TO THE
20 DEPARTMENT.

21 SECTION 1229-A. SALES WITHOUT LICENSE.

22 (A) PENALTY.--ANY PERSON WHO SHALL, WITHOUT BEING THE HOLDER
23 OF A PROPER UNEXPIRED DEALER'S LICENSE, ENGAGE IN PURCHASING,
24 SELLING, DISTRIBUTING OR IN ANY OTHER MANNER DIRECTLY OR
25 INDIRECTLY ENGAGING IN THE BUSINESS OF DEALING WITH TOBACCO
26 PRODUCTS FOR PROFIT COMMITS A SUMMARY OFFENSE AND SHALL, UPON
27 CONVICTION, BE SENTENCED TO PAY COSTS OF PROSECUTION AND A FINE
28 OF NOT LESS THAN \$250 NOR MORE THAN \$1,000, OR TO IMPRISONMENT
29 FOR NOT MORE THAN 30 DAYS, OR BOTH, AT THE DISCRETION OF THE
30 COURT.

1 (B) PRIMA FACIE EVIDENCE.--OPEN DISPLAY OF TOBACCO PRODUCTS
2 IN ANY MANNER SHALL BE PRIMA FACIE EVIDENCE THAT THE PERSON
3 DISPLAYING SUCH TOBACCO PRODUCTS IS DIRECTLY OR INDIRECTLY
4 ENGAGING IN THE BUSINESS OF DEALING WITH TOBACCO PRODUCTS FOR
5 PROFIT.

6 SECTION 1230-A. VIOLATIONS AND PENALTIES.

7 (A) SUSPENSION.--THE LICENSE OF ANY PERSON WHO VIOLATES THIS
8 ARTICLE MAY BE SUSPENDED AFTER DUE NOTICE AND OPPORTUNITY FOR A
9 HEARING FOR A PERIOD OF NOT LESS THAN FIVE DAYS OR MORE THAN 30
10 DAYS FOR A FIRST VIOLATION AND SHALL BE REVOKED OR SUSPENDED FOR
11 ANY SUBSEQUENT VIOLATION.

12 (B) FINE.--IN ADDITION TO THE PROVISIONS OF SUBSECTION (A),
13 UPON ADJUDICATION OF A FIRST VIOLATION, THE PERSON SHALL BE
14 FINED NOT LESS THAN \$2,500 NOR MORE THAN \$5,000. FOR SUBSEQUENT
15 VIOLATIONS, THE PERSON SHALL, UPON ADJUDICATION THEREOF, BE
16 FINED NOT LESS THAN \$5,000 NOR MORE THAN \$15,000.

17 (C) CIVIL PENALTY.--A PERSON WHO VIOLATES SECTION 1214-A
18 (B), (C), OR (D), OR 1225-A(C), SHALL BE SUBJECT TO A CIVIL
19 PENALTY NOT TO EXCEED \$300 PER VIOLATION BUT SHALL NOT BE
20 SUBJECT TO SUBSECTIONS (A) AND (B).

21 SECTION 1231-A. PROPERTY RIGHTS.

22 (A) INCORPORATION.--SUBJECT TO SUBSECTION (B), SECTION 1285
23 IS INCORPORATED BY REFERENCE INTO AND SHALL APPLY TO THIS
24 ARTICLE.

25 (B) ALTERATIONS.--

26 (1) REFERENCES IN SECTION 1285 TO CIGARETTES SHALL APPLY
27 TO TOBACCO PRODUCTS IN THIS ARTICLE.

28 (2) REFERENCES IN SECTION 1285 TO 2,000 OR MORE
29 UNSTAMPED CIGARETTES SHALL APPLY TO TOBACCO PRODUCTS WORTH AT
30 LEAST \$500 IN THIS ARTICLE.

1 (3) REFERENCES IN SECTION 1285 TO MORE THAN 200
2 UNSTAMPED CIGARETTES SHALL APPLY TO TOBACCO PRODUCTS WORTH AT
3 LEAST \$50 IN THIS ARTICLE.

4 SECTION 1232-A. SAMPLE OF TOBACCO PRODUCTS.

5 (A) SAMPLES.--THE DEPARTMENT SHALL, BY REGULATION, GOVERN
6 THE RECEIPT, DISTRIBUTION OF AND PAYMENT OF TAX ON SAMPLE
7 TOBACCO PRODUCTS ISSUED FOR FREE DISTRIBUTION.

8 (B) CONSTRUCTION.--NOTHING IN THIS ARTICLE OR THE
9 REGULATIONS PROMULGATED UNDER THIS ARTICLE SHALL PROHIBIT THE
10 BRINGING INTO THIS COMMONWEALTH BY A MANUFACTURER SAMPLES OF
11 TOBACCO PRODUCTS TO BE DELIVERED AND DISTRIBUTED ONLY THROUGH
12 LICENSED DEALERS OR THE MANUFACTURERS OR THEIR SALES
13 REPRESENTATIVES. THE TAX SHALL BE PAID BY THE MANUFACTURER
14 PROVIDED ALL SUCH PACKS BEAR THE LEGEND "ALL APPLICABLE STATE
15 TAXES HAVE BEEN PAID." UNDER NO CIRCUMSTANCES SHALL ANY UNTAXED
16 TOBACCO PRODUCTS BE SOLD WITHIN THIS COMMONWEALTH.

17 SECTION 1233-A. LABELING AND PACKAGING.

18 IT SHALL BE UNLAWFUL TO KNOWINGLY POSSESS, SELL, GIVE,
19 TRANSFER OR DELIVER TO ANY PERSON, ANY TOBACCO PRODUCT WHERE THE
20 PACKAGING OF WHICH HAS BEEN MODIFIED OR ALTERED BY A PERSON
21 OTHER THAN THE ORIGINAL MANUFACTURER. MODIFICATION OR ALTERATION
22 SHALL INCLUDE THE PLACEMENT OF A STICKER, WRITING OR MARK TO
23 COVER INFORMATION ON THE PACKAGES. FOR PURPOSES OF THIS SECTION,
24 A TOBACCO PRODUCT PACKAGE SHALL NOT BE CONSTRUED TO HAVE BEEN
25 MODIFIED OR ALTERED BY A PERSON OTHER THAN THE MANUFACTURER IF
26 THE MOST RECENT MODIFICATION OR ALTERATION WAS MADE BY THE
27 MANUFACTURER OR PERSON AUTHORIZED BY THE MANUFACTURER AND
28 APPROVED BY THE DEPARTMENT.

29 SECTION 1234-A. INFORMATION EXCHANGE.

30 THE DEPARTMENT IS AUTHORIZED TO EXCHANGE INFORMATION WITH ANY

1 OTHER FEDERAL, STATE OR LOCAL ENFORCEMENT AGENCY FOR PURPOSES OF
2 ENFORCING THIS ARTICLE.

3 ARTICLE XVI

4 SEVERANCE TAX

5 SECTION 1601. SCOPE.

6 THIS ARTICLE RELATES TO THE TAXATION OF NATURAL GAS
7 SEVERANCE.

8 SECTION 1602. DEFINITIONS.

9 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
10 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
11 CONTEXT CLEARLY INDICATES OTHERWISE:

12 "ACCREDITED LABORATORY." A FACILITY ENGAGED IN THE TESTING
13 AND CALIBRATION OF SCIENTIFIC MEASUREMENT DEVICES AND CERTIFIED
14 BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AS HAVING MET THE
15 DEPARTMENT'S STANDARDS FOR ACCREDITATION.

16 "ASSOCIATION." A PARTNERSHIP, LIMITED PARTNERSHIP OR ANY
17 OTHER FORM OF UNINCORPORATED ENTERPRISE OWNED OR CONDUCTED BY
18 TWO OR MORE PERSONS.

19 "CORPORATION." A CORPORATION, JOINT STOCK ASSOCIATION,
20 LIMITED LIABILITY COMPANY, BUSINESS TRUST OR ANY OTHER
21 INCORPORATED ENTERPRISE ORGANIZED UNDER THE LAWS OF THIS
22 COMMONWEALTH, THE UNITED STATES OR ANY OTHER STATE, TERRITORY OR
23 FOREIGN COUNTRY OR DEPENDENCY.

24 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

25 "FUND." THE NATURAL GAS SEVERANCE TAX FUND ESTABLISHED UNDER
26 SECTION 1627.

27 "GROSS VALUE." THE VOLUME-WEIGHTED AVERAGE MARKET PRICE FOR
28 ALL ARMS-LENGTH TRANSACTIONS THAT A PRODUCER RECEIVES AT THE
29 SALES METER FOR NATURAL GAS DURING A REPORTING PERIOD.

30 "METER." A DEVICE TO MEASURE THE PASSAGE OF VOLUMES OF GASES

1 OR LIQUIDS PAST A CERTAIN POINT.

2 "MUNICIPALITY." A CITY, BOROUGH, INCORPORATED TOWN OR A
3 TOWNSHIP.

4 "NATURAL GAS." A FOSSIL FUEL CONSISTING OF A MIXTURE OF
5 HYDROCARBON GASES, PRIMARILY METHANE, POSSIBLY INCLUDING ETHANE,
6 PROPANE, BUTANE, PENTANE, CARBON DIOXIDE, OXYGEN, NITROGEN AND
7 HYDROGEN SULFIDE AND OTHER GAS SPECIES. THE TERM INCLUDES
8 NATURAL GAS FROM OIL FIELDS KNOWN AS ASSOCIATED GAS OR CASING
9 HEAD GAS, NATURAL GAS FIELDS KNOWN AS NONASSOCIATED GAS, COAL
10 BEDS, SHALE BEDS AND OTHER FORMATIONS.

11 "NONPRODUCING SITE." A POINT OF SEVERANCE THAT IS NOT
12 CAPABLE OF PRODUCING NATURAL GAS IN PAYING QUANTITIES.

13 "PAYING QUANTITIES." PROFIT TO THE PRODUCER, HOWEVER SMALL,
14 OVER THE PRODUCER'S CURRENT OPERATING EXPENSES.

15 "PERSON." A NATURAL PERSON OR A CORPORATION, FIDUCIARY,
16 ASSOCIATION OR OTHER ENTITY, INCLUDING THE COMMONWEALTH, ITS
17 POLITICAL SUBDIVISIONS, INSTRUMENTALITIES AND AUTHORITIES. WHEN
18 THE TERM IS USED IN A CLAUSE PRESCRIBING AND IMPOSING A PENALTY
19 OR IMPOSING A FINE OR IMPRISONMENT, OR BOTH, THE TERM SHALL
20 INCLUDE THE MEMBERS, AS APPLIED TO AN ASSOCIATION, AND THE
21 OFFICERS, AS APPLIED TO A CORPORATION.

22 "PRODUCER." A PERSON WHO ENGAGES OR CONTINUES WITHIN THIS
23 COMMONWEALTH IN THE BUSINESS OF SEVERING NATURAL GAS FOR SALE,
24 PROFIT OR COMMERCIAL USE. THE TERM DOES NOT INCLUDE A PERSON WHO
25 SEVERS NATURAL GAS FROM A STORAGE FIELD.

26 "PRODUCING SITE." A POINT OF SEVERANCE CAPABLE OF PRODUCING
27 NATURAL GAS IN PAYING QUANTITIES.

28 "REPORTING PERIOD." A CALENDAR MONTH IN WHICH NATURAL GAS IS
29 SEVERED.

30 "SALES METER." A METER AT THE POINT WHERE NATURAL GAS IS

1 SOLD OR TRANSPORTED TO A PURCHASER OR MARKET.

2 "SEVER," "SEVERING" OR "SEVERANCE." THE EXTRACTION OR OTHER
3 REMOVAL OF NATURAL GAS FROM THE SOIL OR WATER OF THIS
4 COMMONWEALTH.

5 "STORAGE FIELD." A NATURAL FORMATION OR OTHER SITE THAT IS
6 USED TO STORE NATURAL GAS THAT DID NOT ORIGINATE FROM AND HAS
7 BEEN INJECTED INTO THE FORMATION OR SITE.

8 "STRIPPER WELL." A PRODUCING SITE OR A NONPRODUCING SITE
9 THAT IS NOT CAPABLE OF PRODUCING AND DOES NOT PRODUCE MORE THAN
10 60,000 CUBIC FEET OF NATURAL GAS PER DAY.

11 "TAX." THE TAX IMPOSED UNDER THIS ARTICLE.

12 "TAXPAYER." A PERSON SUBJECT TO THE TAX IMPOSED BY THIS
13 ARTICLE.

14 "UNIT." A THOUSAND CUBIC FEET OF NATURAL GAS MEASURED AT THE
15 WELLHEAD AT A TEMPERATURE OF 60 DEGREES FAHRENHEIT AND AN
16 ABSOLUTE PRESSURE OF 14.73 POUNDS PER SQUARE INCH IN ACCORDANCE
17 WITH AMERICAN GAS ASSOCIATION STANDARDS AND ACCORDING TO BOYLE'S
18 LAW FOR THE MEASUREMENT OF GAS UNDER VARYING PRESSURES WITH
19 DEVIATIONS AS FOLLOWS:

20 (1) THE AVERAGE ABSOLUTE ATMOSPHERIC PRESSURE SHALL BE
21 ASSUMED TO BE 14.4 POUNDS TO THE SQUARE INCH, REGARDLESS OF
22 ELEVATION OR LOCATION OF POINT OF DELIVERY ABOVE SEA LEVEL OR
23 VARIATIONS IN ATMOSPHERIC PRESSURE FROM TIME TO TIME.

24 (2) THE TEMPERATURE OF THE GAS PASSING THE METERS SHALL
25 BE DETERMINED BY THE CONTINUOUS USE OF A RECORDING
26 THERMOMETER INSTALLED TO PROPERLY RECORD THE TEMPERATURE OF
27 GAS FLOWING THROUGH THE METERS. THE ARITHMETIC AVERAGE OF THE
28 TEMPERATURE RECORDED EACH 24-HOUR DAY SHALL BE USED IN
29 COMPUTING GAS VOLUMES. IF A RECORDING THERMOMETER IS NOT
30 INSTALLED, OR IF INSTALLED AND NOT OPERATING PROPERLY, AN

1 AVERAGE FLOWING TEMPERATURE OF 60 DEGREES FAHRENHEIT SHALL BE
2 USED IN COMPUTING GAS VOLUME.

3 (3) THE SPECIFIC GRAVITY OF THE GAS SHALL BE DETERMINED
4 ANNUALLY BY TESTS MADE BY THE USE OF AN EDWARDS OR ACME
5 GRAVITY BALANCE, OR AT INTERVALS AS FOUND NECESSARY IN
6 PRACTICE. SPECIFIC GRAVITY DETERMINATIONS SHALL BE USED IN
7 COMPUTING GAS VOLUMES.

8 (4) THE DEVIATION OF THE NATURAL GAS FROM BOYLE'S LAW
9 SHALL BE DETERMINED BY ANNUAL TESTS OR AT OTHER SHORTER
10 INTERVALS AS FOUND NECESSARY IN PRACTICE. THE APPARATUS AND
11 METHOD USED IN MAKING THE TEST SHALL BE IN ACCORDANCE WITH
12 RECOMMENDATIONS OF THE NATIONAL BUREAU OF STANDARDS OR REPORT
13 NO. 3 OF THE GAS MEASUREMENT COMMITTEE OF THE AMERICAN GAS
14 ASSOCIATION, OR AMENDMENTS TO THE STANDARDS OR REPORT. THE
15 RESULTS OF THE TESTS SHALL BE USED IN COMPUTING THE VOLUME OF
16 GAS DELIVERED UNDER THIS ARTICLE.

17 "WELLHEAD METER." A METER PLACED AT A PRODUCING OR
18 NONPRODUCING SITE TO MEASURE THE VOLUME OF NATURAL GAS SEVERED
19 FOR WHICH A WELLHEAD METER CERTIFICATION HAS BEEN ISSUED.

20 "WELLHEAD METER CERTIFICATION." A REPORT ISSUED BY AN
21 ACCREDITED LABORATORY CERTIFYING THE ACCURACY OF A WELLHEAD
22 METER.

23 SECTION 1603. IMPOSITION OF TAX.

24 (A) ESTABLISHMENT.--THERE IS LEVIED A NATURAL GAS SEVERANCE
25 TAX ON EVERY PRODUCER.

26 (B) RATE.--THE TAX IMPOSED IN SUBSECTION (A) SHALL BE 5% OF
27 THE GROSS VALUE OF UNITS SEVERED AT THE WELLHEAD DURING A
28 REPORTING PERIOD, PLUS 4.7 CENTS PER UNIT SEVERED, BUT SHALL NOT
29 BE IMPOSED ON UNITS SEVERED FROM A STRIPPER WELL.

30 SECTION 1604. RETURN AND PAYMENT.

1 (A) REQUIREMENT.--EVERY PRODUCER IS REQUIRED TO FILE A
2 RETURN WITH THE DEPARTMENT, ON A FORM TO BE PRESCRIBED BY THE
3 DEPARTMENT, REPORTING ALL SEVERED NATURAL GAS PER REPORTING
4 PERIOD AND THE TAX DUE UNDER SECTION 1603.

5 (B) FILING.--THE RETURN REQUIRED BY SUBSECTION (A) SHALL BE
6 FILED WITH THE DEPARTMENT WITHIN 15 DAYS FOLLOWING THE END OF
7 THE SECOND CALENDAR MONTH AFTER A REPORTING PERIOD.

8 (C) DEADLINE.--THE TAX IMPOSED UNDER SECTION 1603 IS DUE ON
9 THE DAY THE RETURN IS REQUIRED TO BE FILED AND BECOMES
10 DELINQUENT IF NOT REMITTED TO THE DEPARTMENT BY THAT DATE.
11 SECTION 1605. NATURAL GAS SEVERANCE TAX REGISTRATION.

12 (A) APPLICATION.--BEFORE A PRODUCER SEVERS NATURAL GAS IN
13 THIS COMMONWEALTH, THE PRODUCER SHALL APPLY TO THE DEPARTMENT
14 FOR A NATURAL GAS SEVERANCE TAX REGISTRATION CERTIFICATE.

15 (A.1) APPLICATION FEE.--THE DEPARTMENT MAY CHARGE AN
16 APPLICATION FEE TO COVER THE ADMINISTRATIVE COSTS ASSOCIATED
17 WITH THE APPLICATION AND REGISTRATION PROCESS. IF THE DEPARTMENT
18 CHARGES AN APPLICATION FEE, THE DEPARTMENT SHALL NOT ISSUE A
19 REGISTRATION CERTIFICATE UNTIL THE PRODUCER HAS PAID THE
20 APPLICATION FEE.

21 (A.2) DECLARATION.-- THE PRODUCER SHALL INCLUDE IN ITS
22 APPLICATION A DECLARATION OF ALL SITES IN THIS COMMONWEALTH USED
23 BY THE PRODUCER FOR THE SEVERANCE OF NATURAL GAS. THE
24 DECLARATION IS TO INCLUDE ALL PRODUCING SITES AND NONPRODUCING
25 SITES AS WELL AS WELLHEAD METER CERTIFICATION FOR EACH. THE
26 PRODUCER IS REQUIRED TO UPDATE THE DECLARATION WHEN THE PRODUCER
27 ADDS OR REMOVES A PRODUCING SITE OR NONPRODUCING SITE IN THIS
28 COMMONWEALTH OR WHEN THERE IS A CHANGE IN THE STATUS OF A
29 PRODUCING SITE OR NONPRODUCING SITE OR WHEN THE PRODUCER USES A
30 DIFFERENT ACCREDITED LABORATORY TO CERTIFY THE ACCURACY OF THE

1 PRODUCER'S WELLHEAD METERS. THE PRODUCER SHALL UPDATE THE
2 DECLARATION WITHIN 30 DAYS AFTER A CALENDAR MONTH IN WHICH A
3 CHANGE TO THE DECLARATION OCCURS.

4 (B) ISSUANCE.-- EXCEPT AS PROVIDED IN SUBSECTION (C), AFTER
5 THE RECEIPT OF AN APPLICATION, THE DEPARTMENT SHALL ISSUE A
6 REGISTRATION CERTIFICATE UNDER SUBSECTION (A). THE REGISTRATION
7 CERTIFICATE SHALL BE NONASSIGNABLE. ALL REGISTRANTS SHALL BE
8 REQUIRED TO RENEW THEIR REGISTRATION CERTIFICATES AND WELLHEAD
9 METER CERTIFICATIONS ON A STAGGERED RENEWAL SYSTEM ESTABLISHED
10 BY THE DEPARTMENT. AFTER THE INITIAL STAGGERED RENEWAL PERIOD, A
11 REGISTRATION CERTIFICATE OR A WELLHEAD METER CERTIFICATION
12 ISSUED SHALL BE VALID FOR A PERIOD OF FIVE YEARS.

13 (C) REFUSAL, SUSPENSION OR REVOCATION.--THE DEPARTMENT MAY
14 REFUSE TO ISSUE, SUSPEND OR REVOKE A REGISTRATION CERTIFICATE IF
15 THE APPLICANT OR REGISTRANT HAS NOT FILED REQUIRED STATE TAX
16 REPORTS AND PAID STATE TAXES NOT SUBJECT TO A TIMELY PERFECTED
17 ADMINISTRATIVE OR JUDICIAL APPEAL OR SUBJECT TO A DULY
18 AUTHORIZED DEFERRED PAYMENT PLAN. THE DEPARTMENT SHALL NOTIFY
19 THE APPLICANT OR REGISTRANT OF ANY REFUSAL, SUSPENSION OR
20 REVOCATION. THE NOTICE SHALL CONTAIN A STATEMENT THAT THE
21 REFUSAL, SUSPENSION OR REVOCATION MAY BE MADE PUBLIC. THE NOTICE
22 SHALL BE MADE BY FIRST CLASS MAIL. AN APPLICANT OR REGISTRANT
23 AGGRIEVED BY THE DETERMINATION OF THE DEPARTMENT MAY FILE AN
24 APPEAL UNDER THE PROVISIONS FOR ADMINISTRATIVE APPEALS IN THIS
25 ACT. IN THE CASE OF A SUSPENSION OR REVOCATION WHICH IS
26 APPEALED, THE REGISTRATION CERTIFICATE SHALL REMAIN VALID
27 PENDING A FINAL OUTCOME OF THE APPEALS PROCESS. NOTWITHSTANDING
28 SECTIONS 274, 353(F), 408(B), 603, 702, 802, 904 AND 1102 OR ANY
29 OTHER PROVISION OF LAW, IF NO APPEAL IS TAKEN OR IF AN APPEAL IS
30 TAKEN AND DENIED AT THE CONCLUSION OF THE APPEAL PROCESS THE

1 DEPARTMENT MAY DISCLOSE, BY PUBLICATION OR OTHERWISE, THE
2 IDENTITY OF A PRODUCER AND THE FACT THAT THE PRODUCER'S
3 REGISTRATION CERTIFICATE HAS BEEN REFUSED, SUSPENDED OR REVOKED
4 UNDER THIS SUBSECTION. DISCLOSURE MAY INCLUDE THE BASIS FOR
5 REFUSAL, SUSPENSION OR REVOCATION.

6 (D) VIOLATION.--A PERSON SEVERING NATURAL GAS IN THIS
7 COMMONWEALTH WITHOUT HOLDING A VALID REGISTRATION CERTIFICATE
8 UNDER SUBSECTION (B) SHALL BE GUILTY OF A SUMMARY OFFENSE AND
9 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS
10 THAN \$300 NOR MORE THAN \$1,500. IN THE EVENT THE PERSON
11 CONVICTED DEFAULTS, HE SHALL BE SENTENCED TO IMPRISONMENT FOR
12 NOT LESS THAN FIVE DAYS NOR MORE THAN 30 DAYS. THE PENALTIES
13 IMPOSED BY THIS SUBSECTION SHALL BE IN ADDITION TO ANY OTHER
14 PENALTIES IMPOSED BY THIS ARTICLE. FOR PURPOSES OF THIS
15 SUBSECTION, THE SEVERING OF NATURAL GAS DURING ANY CALENDAR DAY
16 SHALL CONSTITUTE A SEPARATE VIOLATION. THE SECRETARY OF REVENUE
17 MAY DESIGNATE EMPLOYEES OF THE DEPARTMENT TO ENFORCE THE
18 PROVISIONS OF THIS SUBSECTION. THE EMPLOYEES SHALL EXHIBIT PROOF
19 OF AND BE WITHIN THE SCOPE OF THE DESIGNATION WHEN INSTITUTING
20 PROCEEDINGS AS PROVIDED BY THE PENNSYLVANIA RULES OF CRIMINAL
21 PROCEDURE.

22 (E) FAILURE TO OBTAIN REGISTRATION CERTIFICATE.--FAILURE TO
23 OBTAIN OR HOLD A VALID REGISTRATION CERTIFICATE DOES NOT RELIEVE
24 A PERSON FROM LIABILITY FOR THE TAX IMPOSED BY THIS ARTICLE.
25 SECTION 1605.1. METERS.

26 A PRODUCER SHALL PROVIDE FOR AND MAINTAIN A DISCRETE WELLHEAD
27 METER AND A DISCRETE SALES METER. A PRODUCER SHALL ENSURE THAT
28 THE METERS ARE MAINTAINED ACCORDING TO INDUSTRY STANDARDS. ANY
29 WELLHEAD METER INSTALLED AFTER THE EFFECTIVE DATE OF THIS
30 SECTION SHALL BE A DIGITAL METER.

1 SECTION 1606. ASSESSMENTS.

2 (A) AUTHORIZATION AND REQUIREMENT.--THE DEPARTMENT IS
3 AUTHORIZED AND SHALL MAKE THE INQUIRIES, DETERMINATIONS AND
4 ASSESSMENTS OF THE NATURAL GAS SEVERANCE TAX, INCLUDING
5 INTEREST, ADDITIONS AND PENALTIES IMPOSED UNDER THIS ARTICLE.

6 (B) NOTICE.--THE NOTICE OF ASSESSMENT AND DEMAND FOR PAYMENT
7 SHALL BE MAILED TO THE TAXPAYER. THE NOTICE SHALL SET FORTH THE
8 BASIS OF THE ASSESSMENT. THE DEPARTMENT SHALL SEND THE NOTICE OF
9 ASSESSMENT TO THE TAXPAYER AT ITS REGISTERED ADDRESS VIA
10 CERTIFIED MAIL IF THE ASSESSMENT INCREASES THE TAXPAYER'S TAX
11 LIABILITY BY \$300. OTHERWISE, THE NOTICE OF ASSESSMENT MAY BE
12 SENT VIA REGULAR MAIL.

13 SECTION 1607. TIME FOR ASSESSMENT.

14 (A) REQUIREMENT.--AN ASSESSMENT AS PROVIDED UNDER SECTION
15 1606 SHALL BE MADE WITHIN THREE YEARS AFTER THE DATE WHEN THE
16 RETURN PROVIDED FOR BY SECTION 1604 IS FILED OR THE END OF THE
17 YEAR IN WHICH THE TAX LIABILITY ARISES, WHICHEVER SHALL OCCUR
18 LAST. FOR THE PURPOSES OF THIS SUBSECTION AND SUBSECTION (B), A
19 RETURN FILED BEFORE THE LAST DAY PRESCRIBED FOR THE FILING
20 PERIOD SHALL BE CONSIDERED AS FILED ON THE LAST DAY.

21 (B) EXCEPTION.--IF THE TAXPAYER UNDERPAYS THE CORRECT AMOUNT
22 OF THE TAX DUE BY 25% OR MORE, THE TAX MAY BE ASSESSED WITHIN
23 SIX YEARS AFTER THE DATE THE RETURN WAS FILED.

24 (C) INTENT TO EVADE.--WHERE NO RETURN IS FILED OR WHERE THE
25 TAXPAYER FILES A FALSE OR FRAUDULENT RETURN WITH INTENT TO EVADE
26 THE TAX IMPOSED BY THIS ARTICLE, THE ASSESSMENT MAY BE MADE AT
27 ANY TIME.

28 (D) ERRONEOUS CREDIT OR REFUND.--WITHIN THREE YEARS OF THE
29 GRANTING OF A REFUND OR CREDIT OR WITHIN THE PERIOD IN WHICH AN
30 ASSESSMENT OR REASSESSMENT MAY HAVE BEEN ISSUED BY THE

1 DEPARTMENT FOR THE TAXABLE PERIOD FOR WHICH THE REFUND WAS
2 GRANTED, WHICHEVER PERIOD SHALL LAST OCCUR, THE DEPARTMENT MAY
3 ISSUE AN ASSESSMENT TO RECOVER A REFUND OR CREDIT MADE OR
4 ALLOWED ERRONEOUSLY.

5 SECTION 1608. EXTENSION OF LIMITATION PERIOD.

6 NOTWITHSTANDING THE PROVISIONS OF THIS ARTICLE, THE
7 ASSESSMENT PERIOD MAY BE EXTENDED IN THE EVENT A TAXPAYER HAS
8 PROVIDED WRITTEN CONSENT BEFORE THE EXPIRATION OF THE PERIOD
9 PROVIDED IN SECTION 1607 FOR A TAX ASSESSMENT. THE AMOUNT OF TAX
10 DUE MAY BE ASSESSED AT ANY TIME WITHIN THE EXTENDED PERIOD. THE
11 PERIOD MAY BE EXTENDED FURTHER BY SUBSEQUENT WRITTEN CONSENTS
12 MADE BEFORE THE EXPIRATION OF THE EXTENDED PERIOD.

13 SECTION 1609. REASSESSMENTS.

14 A TAXPAYER AGAINST WHOM AN ASSESSMENT IS MADE MAY PETITION
15 THE DEPARTMENT FOR A REASSESSMENT UNDER ARTICLE XXVII.

16 SECTION 1610. INTEREST.

17 THE DEPARTMENT SHALL ASSESS INTEREST ON ANY DELINQUENT TAX AT
18 THE RATE PRESCRIBED UNDER SECTION 806 OF THE ACT OF APRIL 9,
19 1929 (P.L.343, NO. 176), KNOWN AS THE FISCAL CODE.

20 SECTION 1611. PENALTIES.

21 THE DEPARTMENT SHALL ENFORCE THE FOLLOWING PENALTIES:

22 (1) A PENALTY AGAINST A VALID PRODUCER WITHOUT A NATURAL
23 GAS SEVERANCE TAX REGISTRATION CERTIFICATE. THE PENALTY SHALL
24 BE \$1 FOR EVERY UNIT SEVERED WITHOUT A VALID REGISTRATION
25 CERTIFICATE. THE DEPARTMENT MAY ASSESS THIS PENALTY
26 SEPARATELY FROM OR IN CONJUNCTION WITH ANY ASSESSMENT OF THE
27 NATURAL GAS SEVERANCE TAX.

28 (2) A PENALTY AGAINST A PRODUCER FOR FAILURE TO TIMELY
29 FILE A RETURN AS REQUIRED UNDER SECTION 1604. THE PENALTY
30 SHALL BE 5% OF THE TAX LIABILITY TO BE REPORTED ON THE RETURN

1 FOR EACH DAY BEYOND THE DUE DATE THAT THE RETURN IS NOT
2 FILED.

3 (3) IN ADDITION TO THE PENALTY UNDER PARAGRAPH (2), A
4 PENALTY AGAINST THE PRODUCER FOR A WILLFUL FAILURE TO TIMELY
5 FILE A RETURN. THE PENALTY SHALL BE 200% OF THE TAX LIABILITY
6 REQUIRED TO BE REPORTED ON THE RETURN.

7 (4) A PENALTY AGAINST A PRODUCER FOR FAILURE TO TIMELY
8 PAY THE TAX AS REQUIRED BY SECTION 1604(C). THE PENALTY SHALL
9 BE 5% OF THE AMOUNT OF TAX DUE FOR EACH DAY BEYOND THE
10 PAYMENT DATE THAT THE TAX IS NOT PAID.

11 SECTION 1612. CRIMINAL ACTS.

12 (A) FRAUDULENT RETURN.--ANY PERSON WITH INTENT TO DEFRAUD
13 THE COMMONWEALTH, WHO WILLFULLY MAKES OR CAUSES TO BE MADE A
14 RETURN REQUIRED BY THIS ARTICLE WHICH IS FALSE, IS GUILTY OF A
15 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
16 FINE OF NOT MORE THAN \$2,000 OR TO IMPRISONMENT FOR NOT MORE
17 THAN THREE YEARS, OR BOTH.

18 (B) OTHER CRIMES.--

19 (1) EXCEPT AS OTHERWISE PROVIDED BY SUBSECTION (A), A
20 PERSON IS GUILTY OF A MISDEMEANOR AND SHALL, UPON CONVICTION,
21 BE SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000 AND COSTS
22 OF PROSECUTION OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR,
23 OR BOTH, FOR ANY OF THE FOLLOWING:

24 (I) WILLFULLY FAILING TO TIMELY REMIT THE TAX TO THE
25 DEPARTMENT.

26 (II) WILLFULLY FAILING OR NEGLECTING TO TIMELY FILE
27 A RETURN OR REPORT REQUIRED BY THIS ARTICLE.

28 (III) REFUSING TO TIMELY PAY A TAX, PENALTY OR
29 INTEREST IMPOSED OR PROVIDED FOR BY THIS ARTICLE.

30 (IV) WILLFULLY FAILING TO PRESERVE ITS BOOKS, PAPERS

1 AND RECORDS AS DIRECTED BY THE DEPARTMENT.

2 (V) REFUSING TO PERMIT THE DEPARTMENT OR ITS
3 AUTHORIZED AGENTS TO EXAMINE ITS BOOKS, RECORDS OR
4 PAPERS.

5 (VI) KNOWINGLY MAKE ANY INCOMPLETE, FALSE OR
6 FRAUDULENT RETURN OR REPORT.

7 (VII) PREVENTING OR ATTEMPTING TO PREVENT THE FULL
8 DISCLOSURE OF THE AMOUNT OF NATURAL GAS SEVERANCE TAX
9 DUE.

10 (VIII) PROVIDING ANY PERSON WITH A FALSE STATEMENT
11 AS TO THE PAYMENT OF NATURAL GAS SEVERANCE TAX WITH
12 RESPECT TO ANY PERTINENT FACTS.

13 (IX) MAKING, UTTERING OR ISSUING A FALSE OR
14 FRAUDULENT STATEMENT.

15 (2) THE PENALTIES IMPOSED BY THIS SECTION SHALL BE IN
16 ADDITION TO OTHER PENALTIES IMPOSED BY THIS ARTICLE.
17 SECTION 1613. ABATEMENT OF ADDITIONS OR PENALTIES.

18 UPON THE FILING OF A PETITION FOR REASSESSMENT OR A PETITION
19 FOR REFUND BY A TAXPAYER AS PROVIDED UNDER THIS ARTICLE,
20 ADDITIONS OR PENALTIES IMPOSED UPON THE TAXPAYER BY THIS ARTICLE
21 MAY BE WAIVED OR ABATED IN WHOLE OR IN PART WHERE THE PETITIONER
22 ESTABLISHES THAT HE ACTED IN GOOD FAITH, WITHOUT NEGLIGENCE AND
23 WITH NO INTENT TO DEFRAUD.

24 SECTION 1614. BULK AND AUCTION SALES.

25 A PERSON THAT SELLS OR CAUSES TO BE SOLD AT AUCTION, OR THAT
26 SELLS OR TRANSFERS IN BULK, 51% OR MORE OF A STOCK OF GOODS,
27 WARES OR MERCHANDISE OF ANY KIND, FIXTURES, MACHINERY,
28 EQUIPMENT, BUILDINGS OR REAL ESTATE INVOLVED IN A BUSINESS FOR
29 WHICH THE PERSON HOLDS A REGISTRATION CERTIFICATE OR IS REQUIRED
30 TO OBTAIN A REGISTRATION CERTIFICATE UNDER THE PROVISIONS OF

1 THIS ARTICLE SHALL BE SUBJECT TO THE PROVISIONS OF SECTION 1403
2 OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE
3 FISCAL CODE.

4 SECTION 1615. COLLECTION UPON FAILURE TO REQUEST REASSESSMENT,
5 REVIEW OR APPEAL.

6 (A) POWER OF DEPARTMENT.--THE DEPARTMENT MAY COLLECT THE
7 NATURAL GAS SEVERANCE TAX:

8 (1) IF AN ASSESSMENT OF THE TAX IS NOT PAID WITHIN 30
9 DAYS AFTER NOTICE TO THE TAXPAYER WHEN NO PETITION FOR
10 REASSESSMENT HAS BEEN FILED.

11 (2) WITHIN 60 DAYS OF THE REASSESSMENT, IF NO PETITION
12 FOR REVIEW HAS BEEN FILED.

13 (3) IF NO APPEAL HAS BEEN MADE, WITHIN 30 DAYS OF:

14 (I) THE BOARD OF FINANCE AND REVENUE'S DECISION OF A
15 PETITION FOR REVIEW; OR

16 (II) THE EXPIRATION OF THE BOARD'S TIME FOR ACTING
17 UPON THE PETITION.

18 (4) IN ALL CASES OF JUDICIAL SALES, RECEIVERSHIPS,
19 ASSIGNMENTS OR BANKRUPTCIES.

20 (B) PROHIBITION.--IN A CASE FOR THE COLLECTION OF TAXES
21 UNDER SUBSECTION (A), THE TAXPAYER AGAINST WHOM THEY WERE
22 ASSESSED SHALL NOT BE PERMITTED TO SET UP A GROUND OF DEFENSE
23 THAT MIGHT HAVE BEEN DETERMINED BY THE DEPARTMENT, THE BOARD OF
24 FINANCE AND REVENUE OR THE COURTS, PROVIDED THAT THE DEFENSE OF
25 FAILURE OF THE DEPARTMENT TO MAIL NOTICE OF ASSESSMENT OR
26 REASSESSMENT TO THE TAXPAYER AND THE DEFENSE OF PAYMENT OF
27 ASSESSMENT OR REASSESSMENT MAY BE RAISED IN PROCEEDINGS FOR
28 COLLECTION BY A MOTION TO STAY THE PROCEEDINGS.

29 SECTION 1616. TAX LIENS.

30 (A) LIEN IMPOSED.--IF ANY TAXPAYER NEGLECTS OR REFUSES TO

1 PAY THE NATURAL GAS SEVERANCE TAX FOR WHICH THE TAXPAYER IS
2 LIABLE UNDER THIS ARTICLE AFTER DEMAND, THE AMOUNT, INCLUDING
3 INTEREST, ADDITION OR PENALTY, TOGETHER WITH ADDITIONAL COSTS
4 THAT MAY ACCRUE, SHALL BE A LIEN IN FAVOR OF THE COMMONWEALTH
5 UPON THE REAL AND PERSONAL PROPERTY OF THE TAXPAYER BUT ONLY
6 AFTER THE SAME HAS BEEN ENTERED AND DOCKETED OF RECORD BY THE
7 PROTHONOTARY OF THE COUNTY WHERE THE PROPERTY IS SITUATED. THE
8 DEPARTMENT MAY, AT ANY TIME, TRANSMIT TO THE PROTHONOTARIES OF
9 THE RESPECTIVE COUNTIES CERTIFIED COPIES OF ALL LIENS IMPOSED BY
10 THIS SECTION. IT SHALL BE THE DUTY OF THE PROTHONOTARY RECEIVING
11 THE LIEN TO ENTER AND DOCKET THE SAME OF RECORD TO THE OFFICE OF
12 THE PROTHONOTARY. THE LIEN SHALL BE INDEXED AS JUDGMENTS ARE NOW
13 INDEXED. NO PROTHONOTARY SHALL REQUIRE AS A CONDITION PRECEDENT
14 TO THE ENTRY OF THE LIEN THE PAYMENT OF COSTS INCIDENTAL TO ITS
15 ENTRY.

16 (B) PRIORITY OF LIEN AND EFFECT ON JUDICIAL SALE.--EXCEPT
17 FOR THE COSTS OF THE SALE AND THE WRIT UPON WHICH THE SALE WAS
18 MADE AND REAL ESTATE TAXES AND MUNICIPAL CLAIMS AGAINST THE
19 PROPERTY, A LIEN IMPOSED UNDER THIS SECTION SHALL HAVE PRIORITY
20 FROM THE DATE OF ITS RECORDING AND SHALL BE FULLY PAID AND
21 SATISFIED OUT OF THE PROCEEDS OF ANY JUDICIAL SALE OF PROPERTY
22 SUBJECT TO THE LIEN, BEFORE ANY OTHER OBLIGATION, JUDGMENT,
23 CLAIM, LIEN OR ESTATE TO WHICH THE PROPERTY MAY SUBSEQUENTLY
24 BECOME SUBJECT, BUT SHALL BE SUBORDINATE TO MORTGAGES AND OTHER
25 LIENS EXISTING AND DULY RECORDED OR ENTERED OF RECORD PRIOR TO
26 THE RECORDING OF THE LIEN.

27 (C) NO DISCHARGE BY SALE ON JUNIOR LIEN.--IN THE CASE OF A
28 JUDICIAL SALE OF PROPERTY SUBJECT TO A LIEN IMPOSED UNDER THIS
29 SECTION, UPON A LIEN OR CLAIM OVER WHICH THE LIEN IMPOSED UNDER
30 THIS SECTION HAS PRIORITY, THE SALE SHALL DISCHARGE THE LIEN

1 IMPOSED UNDER THIS SECTION TO THE EXTENT ONLY THAT THE PROCEEDS
2 ARE APPLIED TO ITS PAYMENT, AND THE LIEN SHALL CONTINUE IN FULL
3 FORCE AND EFFECT AS TO THE BALANCE REMAINING UNPAID. THERE SHALL
4 BE NO INQUISITION OR CONDEMNATION UPON ANY JUDICIAL SALE OF REAL
5 ESTATE MADE BY THE COMMONWEALTH UNDER THE PROVISIONS OF THIS
6 ARTICLE. THE LIEN SHALL CONTINUE AS PROVIDED IN THE ACT OF APRIL
7 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE, AND A WRIT
8 OF EXECUTION MAY DIRECTLY ISSUE UPON THE LIEN WITHOUT THE
9 ISSUANCE AND PROSECUTION TO JUDGMENT OF A WRIT OF SCIRE FACIAS,
10 PROVIDED THAT NOT LESS THAN TEN DAYS BEFORE ISSUANCE OF ANY
11 EXECUTION ON THE LIEN, NOTICE OF THE FILING AND THE EFFECT OF
12 THE LIEN SHALL BE SENT BY REGISTERED MAIL TO THE TAXPAYER AT ITS
13 LAST KNOWN POST OFFICE ADDRESS, PROVIDED FURTHER THAT THE LIEN
14 SHALL HAVE NO EFFECT UPON ANY STOCK OF GOODS, WARES OR
15 MERCHANDISE REGULARLY SOLD OR LEASED IN THE ORDINARY COURSE OF
16 BUSINESS BY THE TAXPAYER AGAINST WHOM THE LIEN HAS BEEN ENTERED,
17 UNLESS AND UNTIL A WRIT OF EXECUTION HAS BEEN ISSUED AND A LEVY
18 MADE UPON SAID STOCK OF GOODS, WARES AND MERCHANDISE.

19 (D) DUTY OF PROTHONOTARY.--ANY WILLFUL FAILURE OF ANY
20 PROTHONOTARY TO CARRY OUT ANY DUTY IMPOSED UPON HIM BY THIS
21 SECTION SHALL BE A MISDEMEANOR. UPON CONVICTION, HE SHALL BE
22 SENTENCED TO PAY A FINE OF NOT MORE THAN \$1,000 AND COSTS OF
23 PROSECUTION OR TO IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR
24 BOTH.

25 (E) PRIORITY.--EXCEPT AS PROVIDED IN THIS ARTICLE, THE
26 DISTRIBUTION, VOLUNTARY OR COMPULSORY, IN RECEIVERSHIP,
27 BANKRUPTCY OR OTHERWISE OF THE PROPERTY OR ESTATE OF ANY PERSON,
28 ALL TAXES IMPOSED BY THIS ARTICLE WHICH ARE DUE AND UNPAID AND
29 ARE NOT COLLECTIBLE UNDER THE PROVISIONS OF SECTION 225, SHALL
30 BE PAID FROM THE FIRST MONEY AVAILABLE FOR DISTRIBUTION IN

1 PRIORITY TO ALL OTHER CLAIMS AND LIENS, EXCEPT AS THE LAWS OF
2 THE UNITED STATES MAY GIVE PRIORITY TO A CLAIM TO THE FEDERAL
3 GOVERNMENT. A PERSON CHARGED WITH THE ADMINISTRATION OR
4 DISTRIBUTION OF THE PROPERTY OR ESTATE WHO VIOLATES THE
5 PROVISIONS OF THIS SECTION SHALL BE PERSONALLY LIABLE FOR THE
6 TAXES IMPOSED BY THIS ARTICLE WHICH ARE ACCRUED AND UNPAID AND
7 CHARGEABLE AGAINST THE PERSON WHOSE PROPERTY OR ESTATE IS BEING
8 ADMINISTERED OR DISTRIBUTED.

9 (F) OTHER REMEDIES.--SUBJECT TO THE LIMITATIONS CONTAINED IN
10 THIS ARTICLE AS TO THE ASSESSMENT OF TAXES, NOTHING CONTAINED IN
11 THIS SECTION SHALL BE CONSTRUED TO RESTRICT, PROHIBIT OR LIMIT
12 THE USE BY THE DEPARTMENT IN COLLECTING TAXES DUE AND PAYABLE OF
13 ANOTHER REMEDY OR PROCEDURE AVAILABLE AT LAW OR EQUITY FOR THE
14 COLLECTION OF DEBTS.

15 SECTION 1617. TAX SUIT RECIPROCITY.

16 THE COURTS OF THIS COMMONWEALTH SHALL RECOGNIZE AND ENFORCE
17 LIABILITIES FOR NATURAL GAS SEVERANCE TAXES LAWFULLY IMPOSED BY
18 ANY OTHER STATE, PROVIDED THAT THE OTHER STATE RECOGNIZES AND
19 ENFORCES THE TAX SET FORTH IN THIS ARTICLE.

20 SECTION 1618. SERVICE.

21 A PRODUCER IS DEEMED TO HAVE APPOINTED THE SECRETARY OF THE
22 COMMONWEALTH ITS AGENT FOR THE ACCEPTANCE OF SERVICE OF PROCESS
23 OR NOTICE IN A PROCEEDING FOR THE ENFORCEMENT OF THE CIVIL
24 PROVISIONS OF THIS ARTICLE AND SERVICE MADE UPON THE SECRETARY
25 OF THE COMMONWEALTH AS AGENT SHALL BE OF THE SAME LEGAL FORCE
26 AND VALIDITY AS IF THE SERVICE HAD BEEN PERSONALLY MADE UPON THE
27 PRODUCER. WHERE SERVICE CANNOT BE MADE UPON THE PRODUCER IN THE
28 MANNER PROVIDED BY OTHER LAWS OF THIS COMMONWEALTH RELATING TO
29 SERVICE OF PROCESS, SERVICE MAY BE MADE UPON THE SECRETARY OF
30 THE COMMONWEALTH. IN THAT CASE, A COPY OF THE PROCESS OR NOTICE

1 SHALL BE PERSONALLY SERVED UPON ANY AGENT OR REPRESENTATIVE OF
2 THE PRODUCER WHO MAY BE FOUND WITHIN THIS COMMONWEALTH OR, WHERE
3 NO AGENT OR REPRESENTATIVE MAY BE FOUND, A COPY OF THE PROCESS
4 OR NOTICE SHALL BE SENT VIA REGISTERED MAIL TO THE PRODUCER AT
5 THE LAST KNOWN ADDRESS OF ITS PRINCIPAL PLACE OF BUSINESS, HOME
6 OFFICE OR RESIDENCE.

7 SECTION 1619. REFUNDS.

8 UNDER ARTICLE XXVII, THE DEPARTMENT SHALL REFUND ALL TAXES,
9 INTEREST AND PENALTIES PAID TO THE COMMONWEALTH UNDER THE
10 PROVISIONS OF THIS ARTICLE TO WHICH THE COMMONWEALTH IS NOT
11 RIGHTFULLY ENTITLED. THE REFUNDS SHALL BE MADE TO THE PERSON OR
12 THE PERSON'S HEIRS, SUCCESSORS, ASSIGNS OR OTHER PERSONAL
13 REPRESENTATIVES WHO PAID THE TAX, PROVIDED THAT NO REFUND SHALL
14 BE MADE UNDER THIS SECTION REGARDING A PAYMENT MADE BY REASON OF
15 AN ASSESSMENT WHERE A TAXPAYER HAS FILED A PETITION FOR
16 REASSESSMENT UNDER SECTION 2702 TO THE EXTENT THE PETITION IS
17 ADVERSE TO THE TAXPAYER BY A DECISION WHICH IS NO LONGER SUBJECT
18 TO FURTHER REVIEW OR APPEAL. NOTHING IN THIS ARTICLE SHALL
19 PROHIBIT A TAXPAYER WHO HAS FILED A TIMELY PETITION FOR
20 REASSESSMENT FROM AMENDING IT TO A PETITION FOR REFUND WHERE THE
21 PETITIONER PAID THE TAX ASSESSED.

22 SECTION 1620. REFUND PETITION.

23 (A) GENERAL RULE.--EXCEPT AS PROVIDED FOR IN SUBSECTION (B),
24 THE REFUND OR CREDIT OF TAX, INTEREST OR PENALTY PROVIDED FOR BY
25 SECTION 1619 SHALL BE MADE ONLY WHERE THE PERSON WHO HAS PAID
26 THE TAX FILES A PETITION FOR REFUND WITH THE DEPARTMENT UNDER
27 ARTICLE XXVII, WITHIN THE TIME LIMITS OF SECTION 3003.1.

28 (B) NATURAL GAS SEVERANCE TAX.--A REFUND OR CREDIT OF TAX,
29 INTEREST OR PENALTY PAID AS A RESULT OF AN ASSESSMENT MADE BY
30 THE DEPARTMENT UNDER SECTION 1605, SHALL BE MADE ONLY WHERE THE

1 PERSON WHO HAS PAID THE TAX FILES WITH THE DEPARTMENT A PETITION
2 FOR A REFUND WITH THE DEPARTMENT UNDER ARTICLE XXVII WITHIN THE
3 TIME LIMITS OF SECTION 3003.1. THE FILING OF A PETITION FOR
4 REFUND, UNDER THE PROVISIONS OF THIS SUBSECTION, SHALL NOT
5 AFFECT THE ABATEMENT OF INTEREST, ADDITIONS OR PENALTIES TO
6 WHICH THE PERSON MAY BE ENTITLED BY REASON OF HIS PAYMENT OF THE
7 ASSESSMENT.

8 SECTION 1621. RULES AND REGULATIONS.

9 THE DEPARTMENT IS CHARGED WITH THE ENFORCEMENT OF THE
10 PROVISIONS OF THIS ARTICLE AND IS AUTHORIZED AND EMPOWERED TO
11 PRESCRIBE, ADOPT, PROMULGATE AND ENFORCE RULES AND REGULATIONS
12 NOT INCONSISTENT WITH THE PROVISIONS OF THIS ARTICLE RELATING TO
13 ANY MATTER OR THING PERTAINING TO THE ADMINISTRATION AND
14 ENFORCEMENT OF THE PROVISIONS OF THIS ARTICLE AND THE COLLECTION
15 OF TAXES, PENALTIES AND INTEREST IMPOSED BY THIS ARTICLE. THE
16 DEPARTMENT MAY PRESCRIBE THE EXTENT, IF ANY, TO WHICH ANY OF THE
17 RULES AND REGULATIONS SHALL BE APPLIED WITHOUT RETROACTIVE
18 EFFECT.

19 SECTION 1622. RECORDKEEPING.

20 (A) GENERAL RULE.--EVERY PERSON LIABLE FOR ANY TAX IMPOSED
21 BY THIS ARTICLE, OR FOR THE COLLECTION OF SUCH TAX, SHALL KEEP
22 RECORDS, INCLUDING THOSE ENUMERATED IN SUBSECTION (B), RENDER
23 STATEMENTS, MAKE RETURNS AND COMPLY WITH THE RULES AND
24 REGULATIONS AS THE DEPARTMENT MAY PRESCRIBE REGARDING MATTERS
25 PERTINENT TO THE PERSON'S BUSINESS. WHENEVER IT IS NECESSARY,
26 THE DEPARTMENT MAY REQUIRE A PERSON, BY NOTICE SERVED UPON THE
27 PERSON OR BY REGULATIONS, TO MAKE RETURNS, RENDER STATEMENTS OR
28 KEEP RECORDS AS THE DEPARTMENT DEEMS SUFFICIENT TO SHOW WHETHER
29 OR NOT A PERSON IS LIABLE TO PAY TAX UNDER THIS ARTICLE.

30 (A.1) RECORDS.--RECORDS TO BE MAINTAINED ARE:

1 (1) WELLHEAD METER AND SALES METER CHARTS FOR EACH
2 REPORTING PERIOD AND THE METER CALIBRATION AND MAINTENANCE
3 RECORDS. IF TURBINE METERS ARE IN USE, THE MAINTENANCE
4 RECORDS WILL BE MADE AVAILABLE TO THE DEPARTMENT UPON
5 REQUEST.

6 (2) RECORDS, STATEMENTS AND OTHER INSTRUMENTS FURNISHED
7 TO A PRODUCER BY A PERSON TO WHOM THE PRODUCER DELIVERS FOR
8 SALE, TRANSPORT OR DELIVERY OF NATURAL GAS.

9 (3) RECORDS, STATEMENTS AND OTHER INSTRUMENTS AS THE
10 DEPARTMENT MAY PRESCRIBE BY REGULATION.

11 (B) RECORDS OF NONRESIDENTS.--A NONRESIDENT WHO DOES
12 BUSINESS IN THIS COMMONWEALTH AS A PRODUCER SHALL KEEP ADEQUATE
13 RECORDS OF THE BUSINESS AND OF THE TAX DUE AS A RESULT. THE
14 RECORDS SHALL BE RETAINED WITHIN THIS COMMONWEALTH UNLESS
15 RETENTION OUTSIDE THIS COMMONWEALTH IS AUTHORIZED BY THE
16 DEPARTMENT. THE DEPARTMENT MAY REQUIRE A TAXPAYER WHO DESIRES TO
17 RETAIN RECORDS OUTSIDE THIS COMMONWEALTH TO ASSUME REASONABLE
18 OUT-OF-STATE AUDIT EXPENSES.

19 (C) KEEPING OF SEPARATE RECORDS.--A PRODUCER WHO IS ENGAGED
20 IN ANOTHER BUSINESS OR BUSINESSES WHICH DO NOT INVOLVE THE
21 SEVERING OF NATURAL GAS TAXABLE UNDER THIS ARTICLE, SHALL KEEP
22 SEPARATE BOOKS AND RECORDS OF THE BUSINESSES SO AS TO SHOW THE
23 TAXABLE SEVERING OF NATURAL GAS UNDER THIS ARTICLE SEPARATELY
24 FROM OTHER BUSINESS ACTIVITIES NOT TAXABLE UNDER THIS ARTICLE.
25 IF ANY PERSON FAILS TO KEEP SEPARATE BOOKS AND RECORDS, THE
26 PERSON SHALL BE LIABLE FOR A PENALTY EQUALING 100% OF TAX DUE
27 UNDER THIS ARTICLE FOR THE PERIOD WHERE SEPARATE RECORDS WERE
28 NOT MAINTAINED.

29 SECTION 1623. EXAMINATIONS.

30 THE DEPARTMENT OR ANY OF ITS AUTHORIZED AGENTS ARE AUTHORIZED

1 TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY TAXPAYER IN
2 ORDER TO VERIFY THE ACCURACY AND COMPLETENESS OF ANY RETURN MADE
3 OR, IF NO RETURN WAS MADE, TO ASCERTAIN AND ASSESS THE TAX
4 IMPOSED BY THIS ARTICLE. THE DEPARTMENT MAY REQUIRE THE
5 PRESERVATION OF ALL BOOKS, PAPERS AND RECORDS FOR ANY PERIOD
6 DEEMED PROPER BY IT BUT NOT TO EXCEED THREE YEARS FROM THE END
7 OF THE CALENDAR YEAR TO WHICH THE RECORDS RELATE. EVERY TAXPAYER
8 IS REQUIRED TO GIVE TO THE DEPARTMENT OR ITS AGENT THE MEANS,
9 FACILITIES AND OPPORTUNITY FOR EXAMINATIONS AND INVESTIGATION
10 UNDER THIS SECTION. THE DEPARTMENT IS FURTHER AUTHORIZED TO
11 EXAMINE ANY PERSON, UNDER OATH, CONCERNING THE TAXABLE SEVERING
12 OF NATURAL GAS BY ANY TAXPAYER OR CONCERNING ANY OTHER MATTER
13 RELATING TO THE ENFORCEMENT OR ADMINISTRATION OF THIS ARTICLE,
14 AND TO THIS END MAY COMPEL THE PRODUCTION OF BOOKS, PAPERS AND
15 RECORDS AND THE ATTENDANCE OF ALL PERSONS WHETHER AS PARTIES OR
16 WITNESSES WHOM IT BELIEVES TO HAVE KNOWLEDGE OF RELEVANT
17 MATTERS. THE PROCEDURE FOR THE HEARINGS OR EXAMINATIONS SHALL BE
18 THE SAME AS THAT PROVIDED BY THE ACT OF APRIL 9, 1929 (P.L.343,
19 NO. 176), KNOWN AS THE FISCAL CODE.
20 SECTION 1624. UNAUTHORIZED DISCLOSURE.

21 ANY INFORMATION GAINED BY THE DEPARTMENT AS A RESULT OF ANY
22 RETURN, EXAMINATION, INVESTIGATION, HEARING OR VERIFICATION
23 REQUIRED OR AUTHORIZED BY THIS ARTICLE SHALL BE CONFIDENTIAL
24 EXCEPT FOR OFFICIAL PURPOSES AND EXCEPT IN ACCORDANCE WITH
25 PROPER JUDICIAL ORDER OR AS OTHERWISE PROVIDED BY LAW, AND ANY
26 PERSON UNLAWFULLY DIVULGING THE INFORMATION SHALL BE GUILTY OF A
27 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
28 FINE OF NOT MORE THAN \$1000 AND COSTS OF PROSECUTION OR TO
29 IMPRISONMENT FOR NOT MORE THAN ONE YEAR, OR BOTH.
30 SECTION 1625. COOPERATION WITH OTHER GOVERNMENTS.

1 NOTWITHSTANDING THE PROVISIONS OF SECTION 1617, THE
2 DEPARTMENT MAY PERMIT THE COMMISSIONER OF THE INTERNAL REVENUE
3 SERVICE OF THE UNITED STATES, THE PROPER OFFICER OF ANY STATE OR
4 THE AUTHORIZED REPRESENTATIVE OF EITHER OF THEM TO INSPECT THE
5 TAX RETURNS OF ANY TAXPAYER, OR MAY FURNISH TO THE COMMISSIONER
6 OR OFFICER OR TO EITHER OF THEIR AUTHORIZED REPRESENTATIVE AN
7 ABSTRACT OF THE RETURN OF ANY TAXPAYER, OR SUPPLY HIM WITH
8 INFORMATION CONCERNING ANY ITEM CONTAINED IN ANY RETURN OR
9 DISCLOSED BY THE REPORT OF ANY EXAMINATION OR INVESTIGATION OF
10 THE RETURN OF ANY TAXPAYER. THIS PERMISSION SHALL BE GRANTED
11 ONLY IF THE LAWS OF THE UNITED STATES OR ANOTHER STATE GRANT
12 SUBSTANTIALLY SIMILAR PRIVILEGES TO THE PROPER OFFICER OF THE
13 COMMONWEALTH CHARGED WITH THE ADMINISTRATION OF THIS ARTICLE.
14 SECTION 1626. BONDS.

15 (A) TAXPAYER TO FILE BOND.--THE DEPARTMENT MAY REQUIRE A
16 NONRESIDENT NATURAL PERSON OR ANY FOREIGN CORPORATION,
17 ASSOCIATION, FIDUCIARY OR OTHER ENTITY, NOT AUTHORIZED TO DO
18 BUSINESS WITHIN THIS COMMONWEALTH OR NOT HAVING AN ESTABLISHED
19 PLACE OF BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO THE TAX
20 IMPOSED BY SECTION 1603, TO FILE A BOND ISSUED BY A SURETY
21 COMPANY AUTHORIZED TO DO BUSINESS IN THIS COMMONWEALTH AND
22 APPROVED BY THE INSURANCE COMMISSIONER AS TO SOLVENCY AND
23 RESPONSIBILITY, IN AMOUNTS AS IT MAY FIX, TO SECURE THE PAYMENT
24 OF ANY TAX OR PENALTIES DUE OR WHICH MAY BECOME DUE FROM
25 ANONRESIDENT NATURAL PERSON, CORPORATION, ASSOCIATION, FIDUCIARY
26 OR OTHER ENTITY WHENEVER IT DEEMS IT NECESSARY TO PROTECT THE
27 REVENUES OBTAINED UNDER THIS ARTICLE. THE DEPARTMENT MAY ALSO
28 REQUIRE A BOND OF A PERSON PETITIONING THE DEPARTMENT FOR
29 REASSESSMENT IN THE CASE OF ANY ASSESSMENT OVER \$500 OR WHERE,
30 IN ITS OPINION, THE ULTIMATE COLLECTION IS IN JEOPARDY. FOR A

1 PERIOD OF THREE YEARS, THE DEPARTMENT MAY REQUIRE A BOND OF ANY
2 PERSON WHO HAS, ON THREE OR MORE OCCASIONS WITHIN A 12-MONTH
3 PERIOD, EITHER FILED A RETURN OR MADE PAYMENT TO THE DEPARTMENT
4 MORE THAN 30 DAYS LATE. IN THE EVENT THE DEPARTMENT DETERMINES A
5 TAXPAYER IS REQUIRED TO FILE A BOND, IT SHALL GIVE NOTICE TO THE
6 TAXPAYER SPECIFYING THE AMOUNT OF THE BOND REQUIRED. THE
7 TAXPAYER SHALL FILE THE BOND WITHIN FIVE DAYS AFTER NOTICE IS
8 GIVEN BY THE DEPARTMENT UNLESS, WITHIN FIVE DAYS, THE TAXPAYER
9 SHALL REQUEST IN WRITING A HEARING BEFORE THE SECRETARY OF
10 REVENUE OR HIS REPRESENTATIVE. AT THE HEARING, THE NECESSITY,
11 PROPRIETY AND AMOUNT OF THE BOND SHALL BE DETERMINED BY THE
12 SECRETARY OR THE SECRETARY'S REPRESENTATIVE. THE DETERMINATION
13 SHALL BE FINAL AND THE TAXPAYER SHALL COMPLY WITH IT WITHIN 15
14 DAYS AFTER NOTICE IS MAILED TO THE TAXPAYER.

15 (B) SECURITIES IN LIEU OF BOND.--IN LIEU OF THE BOND
16 REQUIRED BY THIS SECTION SECURITIES APPROVED BY THE DEPARTMENT
17 OR CASH IN A PRESCRIBED AMOUNT MAY BE DEPOSITED. THE SECURITIES
18 OR CASH SHALL BE KEPT IN THE CUSTODY OF THE DEPARTMENT. THE
19 DEPARTMENT MAY APPLY THE SECURITIES OR CASH TO THE TAX IMPOSED
20 BY THIS ARTICLE AND INTEREST OR PENALTIES DUE WITHOUT NOTICE TO
21 THE DEPOSITOR. THE SECURITIES MAY BE SOLD BY THE DEPARTMENT TO
22 PAY THE TAX, AND/OR INTEREST OR PENALTIES DUE AT PUBLIC OR
23 PRIVATE SALE UPON FIVE DAYS' WRITTEN NOTICE TO THE DEPOSITOR.

24 (C) FAILURE TO FILE BOND.--THE DEPARTMENT MAY FILE A LIEN
25 UNDER SECTION 1616 AGAINST ANY TAXPAYER WHO FAILS TO FILE A BOND
26 WHEN REQUIRED TO DO SO UNDER THIS SECTION. ALL FUNDS RECEIVED
27 UPON EXECUTION OF THE JUDGMENT ON THE LIEN SHALL BE REFUNDED TO
28 THE TAXPAYER WITH 3% INTEREST, SHOULD A FINAL DETERMINATION BE
29 MADE THAT IT DOES NOT OWE ANY PAYMENT TO THE DEPARTMENT.
30 SECTION 1627. NATURAL GAS SEVERANCE TAX FUND.

1 (A) ESTABLISHMENT.--THE NATURAL GAS SEVERANCE TAX FUND IS
2 ESTABLISHED AS A SEPARATE FUND IN THE STATE TREASURY.

3 (B) DEPOSIT.--THE PROCEEDS OF THE NATURAL GAS SEVERANCE TAX,
4 PENALTIES AND INTEREST IMPOSED BY THIS ARTICLE, LESS THE AMOUNTS
5 APPROPRIATED UNDER SECTION 1629, SHALL BE DEPOSITED INTO THE
6 FUND.

7 (C) RESTRICTION.--THE MONEY IN THE FUND SHALL ONLY BE USED
8 IN ACCORDANCE WITH SECTION 1628.

9 SECTION 1628. ADMINISTRATION OF FUND.

10 (A) TRANSFERS.--THE STATE TREASURER SHALL MAKE THE FOLLOWING
11 TRANSFERS FROM THE FUND ON A QUARTERLY BASIS COMMENCING ON THE
12 FIRST BUSINESS DAY OF JANUARY 2012:

13 (1) SIXTY PERCENT TO THE GENERAL FUND.

14 (2) THREE PERCENT TO THE DEPARTMENT OF PUBLIC WELFARE TO
15 PROVIDE CASH AND CRISIS GRANTS TO LOW-INCOME HOUSEHOLDS UNDER
16 THE LOW INCOME HOME ENERGY ASSISTANCE PROGRAM.

17 (3) FIFTEEN PERCENT TO THE ENVIRONMENTAL STEWARDSHIP
18 FUND.

19 (4) FOUR PERCENT TO THE HAZARDOUS SITES CLEANUP FUND.

20 (5) FIVE PERCENT TO THE LIQUID FUELS TAX FUND FOR THE
21 RECONSTRUCTION, MAINTENANCE AND REPAIR OF STATE ROADWAYS AND
22 BRIDGES. THE FUNDS UNDER THIS PARAGRAPH SHALL BE:

23 (I) ALLOCATED IN ADDITION TO AND NOT IN LIEU OF ANY
24 FUNDS NORMALLY AND CUSTOMARILY ALLOCATED TO THE
25 RECONSTRUCTION, MAINTENANCE AND REPAIR OF ROADWAYS AND
26 BRIDGES BY THE DEPARTMENT OF TRANSPORTATION; AND

27 (II) DISTRIBUTED EQUALLY AMONG ALL THE 67 COUNTIES
28 OF THIS COMMONWEALTH.

29 (B) DISTRIBUTIONS.--

30 (1) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,

1 ON A QUARTERLY BASIS COMMENCING ON THE FIRST BUSINESS DAY OF
2 JANUARY 2010, 4.5% TO MUNICIPALITIES WHERE NATURAL GAS HAS
3 BEEN SEVERED AND TAXED UNDER THIS ARTICLE IN THE PREVIOUS
4 QUARTER. THE AMOUNT DISTRIBUTED SHALL BE DETERMINED ON A PRO
5 RATA BASIS AS FOLLOWS: THE TOTAL AMOUNT TO BE DISTRIBUTED
6 UNDER THIS PARAGRAPH IS DIVIDED BY THE TOTAL NUMBER OF
7 TAXABLE GAS UNITS SEVERED IN THE COMMONWEALTH DURING THE
8 PRECEDING QUARTER; THIS QUOTIENT IS THEN MULTIPLIED BY THE
9 TOTAL NUMBER OF TAXABLE GAS UNITS SEVERED IN THE MUNICIPALITY
10 DURING THE PRECEDING QUARTER. THE RESULT EQUALS THE AMOUNT OF
11 MONEY TO BE DISTRIBUTED TO THE MUNICIPALITY, WHICH SHALL BE
12 USED SOLELY FOR ANY OF THE FOLLOWING:

13 (I) RECONSTRUCTION, MAINTENANCE AND REPAIR OF
14 MUNICIPAL ROADWAYS AND BRIDGES WHICH THE MUNICIPALITY HAS
15 DETERMINED HAVE BEEN OR ARE BEING USED EXTENSIVELY TO
16 TRANSPORT NATURAL GAS OR EQUIPMENT RELATED TO THE
17 PRODUCTION OF OF NATURAL GAS.

18 (II) PARKS AND RECREATION.

19 (III) INDUSTRIAL AND COMMERCIAL DEVELOPMENT.

20 (IV) PRESERVATION AND IMPROVEMENT OF MUNICIPAL WATER
21 SUPPLIES.

22 (V) MAINTENANCE AND CAPITAL IMPROVEMENTS TO THE
23 MUNICIPAL WASTE AND SEWAGE SYSTEMS.

24 (VI) PRESERVATION AND RECLAMATION OF THE SURFACE
25 WATERS OF THE MUNICIPALITY.

26 (VII) OTHER LAWFUL PURPOSES REASONABLY RELATED TO
27 THE CONSEQUENCES OF SEVERING NATURAL GAS IN THE
28 MUNICIPALITY.

29 (2) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
30 ON A QUARTERLY BASIS COMMENCING ON THE FIRST BUSINESS DAY OF

1 JANUARY 2010, 4.5% TO COUNTIES WHERE NATURAL GAS HAS BEEN
2 SEVERED AND TAXED UNDER THIS ARTICLE IN THE PREVIOUS QUARTER.
3 THE AMOUNT DISTRIBUTED TO A COUNTY SHALL BE DETERMINED ON A
4 PRO RATA BASIS AS FOLLOWS: THE TOTAL AMOUNT TO BE DISTRIBUTED
5 UNDER THIS PARAGRAPH IS DIVIDED BY THE TOTAL NUMBER OF
6 TAXABLE GAS UNITS SEVERED IN THE COMMONWEALTH DURING THE
7 PRECEDING QUARTER; THIS QUOTIENT IS THEN MULTIPLIED BY THE
8 TOTAL NUMBER OF TAXABLE GAS UNITS SEVERED IN THE COUNTY
9 DURING THE PRECEDING QUARTER. THE RESULT EQUALS THE AMOUNT OF
10 MONEY TO BE DISTRIBUTED TO THE COUNTY, WHICH SHALL BE
11 ADMINISTERED BY A BOARD COMPRISED OF THE CHAIRPERSON OF THE
12 BOARD OF COUNTY COMMISSIONERS, A REPRESENTATIVE FROM THE
13 NATURAL GAS PRODUCING MUNICIPALITIES WITHIN THE COUNTY AND A
14 COUNTY COMMISSIONER SELECTED BY THE REPRESENTATIVE OF THE
15 NATURAL GAS PRODUCING MUNICIPALITIES. THE BOARD SHALL GIVE
16 PRIORITY TO THE RECONSTRUCTION, REPAIR AND MAINTENANCE OF
17 COUNTY ROADWAYS AND BRIDGES DETERMINED BY THE BOARD TO HAVE
18 BEEN AND ARE USED TO TRANSPORT NATURAL GAS OR EQUIPMENT
19 RELATED TO THE PRODUCTION OF NATURAL GAS AND MAY ALLOCATE THE
20 REMAINDER TO THE COUNTY OR ITS MUNICIPALITIES FOR ANY OF THE
21 PURPOSES ENUMERATED IN SUBSECTION (B) (1). A SIMPLE MAJORITY
22 VOTE OF ALL THE MEMBERS OF THE BOARD SHALL BE REQUIRED FOR
23 ANY ACTION UNDER THIS PARAGRAPH.

24 (3) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
25 ON A QUARTERLY BASIS COMMENCING ON THE FIRST DAY OF JANUARY
26 2012, 2% TO THE PENNSYLVANIA GAME COMMISSION, WHICH SHALL BE
27 USED FOR THE COMMISSION'S OPERATIONAL, ADMINISTRATIVE AND
28 ENFORCEMENT COSTS.

29 (4) THE STATE TREASURER SHALL DISTRIBUTE FROM THE FUND,
30 ON A QUARTERLY BASIS COMMENCING ON THE FIRST DAY OF JANUARY

1 2012, 2% TO THE PENNSYLVANIA FISH AND BOAT COMMISSION, WHICH
2 SHALL BE USED FOR THE COMMISSION'S OPERATIONAL,
3 ADMINISTRATIVE AND ENFORCEMENT COSTS.

4 (C) ANNUAL REPORTS.--COUNTIES AND MUNICIPALITIES RECEIVING
5 MONEY FROM THE FUND UNDER THIS SECTION SHALL SUBMIT TO THE
6 DEPARTMENT OF TRANSPORTATION, ON A FORM TO BE PROVIDED BY THE
7 DEPARTMENT OF TRANSPORTATION ON ITS INTERNET WEBSITE, WITHIN 30
8 DAYS FOLLOWING THE END OF EACH FISCAL YEAR A REPORT THAT
9 ACCOUNTS FOR THE USE OF THE MONEY DISTRIBUTED TO THEM UNDER
10 SECTION 1628 IN THE FISCAL YEAR PRECEDING THE DATE OF THE
11 REPORT. THE DEPARTMENT OF TRANSPORTATION SHALL SUBMIT TO THE
12 GOVERNOR, TO THE CHAIR AND MINORITY CHAIR OF THE TRANSPORTATION
13 COMMITTEE OF THE SENATE AND THE CHAIR AND MINORITY CHAIR OF THE
14 TRANSPORTATION COMMITTEE OF THE HOUSE OF REPRESENTATIVES WITHIN
15 45 DAYS FOLLOWING THE END OF EACH FISCAL YEAR A REPORT THAT
16 ACCOUNTS FOR THE USE OF THE MONEY DISTRIBUTED TO THE DEPARTMENT
17 OF TRANSPORTATION UNDER SECTION 1628 IN THE FISCAL YEAR
18 PRECEDING THE DATE OF THE REPORT AND THAT INCLUDES COPIES OF THE
19 REPORTS SUBMITTED TO THE DEPARTMENT OF TRANSPORTATION BY THE
20 COUNTIES AND MUNICIPALITIES RECEIVING MONEY FROM THE FUND.
21 SECTION 1629. APPROPRIATION.

22 THE AMOUNT OF THE PROCEEDS FROM THE TAX IMPOSED BY THIS
23 ARTICLE AS SHALL BE NECESSARY FOR THE PAYMENT OF REFUNDS,
24 ENFORCEMENT OR ADMINISTRATION UNDER THIS ARTICLE, IS HEREBY
25 APPROPRIATED FOR SUCH PURPOSES.

26 SECTION 9.6. SECTION 1704-B OF THE ACT, AMENDED OR ADDED
27 DECEMBER 23, 2003 (P.L.250, NO.46), IS AMENDED TO READ:

28 SECTION 1704-B. CARRYOVER, CARRYBACK, REFUND AND ASSIGNMENT
29 OF CREDIT.--(A) IF THE TAXPAYER CANNOT USE THE ENTIRE AMOUNT OF
30 THE RESEARCH AND DEVELOPMENT TAX CREDIT FOR THE TAXABLE YEAR IN

1 WHICH THE RESEARCH AND DEVELOPMENT TAX CREDIT IS FIRST APPROVED,
2 THEN THE EXCESS MAY BE CARRIED OVER TO SUCCEEDING TAXABLE YEARS
3 AND USED AS A CREDIT AGAINST THE QUALIFIED TAX LIABILITY OF THE
4 TAXPAYER FOR THOSE TAXABLE YEARS. EACH TIME THAT THE RESEARCH
5 AND DEVELOPMENT TAX CREDIT IS CARRIED OVER TO A SUCCEEDING
6 TAXABLE YEAR, IT IS TO BE REDUCED BY THE AMOUNT THAT WAS USED AS
7 A CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE
8 RESEARCH AND DEVELOPMENT TAX CREDIT PROVIDED BY THIS ARTICLE MAY
9 BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE YEARS FOR NO
10 MORE THAN FIFTEEN TAXABLE YEARS FOLLOWING THE FIRST TAXABLE YEAR
11 FOR WHICH THE TAXPAYER WAS ENTITLED TO CLAIM THE CREDIT.

12 (B) A RESEARCH AND DEVELOPMENT TAX CREDIT APPROVED BY THE
13 DEPARTMENT FOR PENNSYLVANIA QUALIFIED RESEARCH AND DEVELOPMENT
14 EXPENSE IN A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE
15 TAXPAYER'S QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR
16 AS OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
17 RESEARCH AND DEVELOPMENT TAX CREDIT IS APPLIED AGAINST ANY TAX
18 LIABILITY UNDER SUBSECTION (A).

19 (C) A TAXPAYER IS NOT ENTITLED TO CARRY BACK OR OBTAIN A
20 REFUND OF AN UNUSED RESEARCH AND DEVELOPMENT TAX CREDIT.

21 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
22 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
23 ASSIGN, IN WHOLE OR IN PART, A RESEARCH AND DEVELOPMENT TAX
24 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE [IF NO CLAIM
25 FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM THE
26 DATE THE CREDIT IS APPROVED BY THE DEPARTMENT UNDER SECTION
27 1703-B]. THE DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT
28 SHALL ESTABLISH GUIDELINES FOR THE APPROVAL OF APPLICATIONS
29 UNDER THIS SUBSECTION.

30 (E) THE PURCHASER OR ASSIGNEE OF A PORTION OF A RESEARCH AND

1 DEVELOPMENT TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY
2 CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
3 ASSIGNMENT IS MADE. THE AMOUNT OF THE RESEARCH AND DEVELOPMENT
4 CREDIT THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE
5 QUALIFIED TAX LIABILITY MAY NOT EXCEED SEVENTY-FIVE PER CENT OF
6 SUCH QUALIFIED TAX LIABILITY FOR THE TAXABLE YEAR. THE PURCHASER
7 OR ASSIGNEE MAY NOT CARRY OVER, CARRY BACK, OBTAIN A REFUND OF
8 OR ASSIGN THE RESEARCH AND DEVELOPMENT TAX CREDIT. THE PURCHASER
9 OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT OF THE SELLER OR
10 ASSIGNOR OF THE RESEARCH AND DEVELOPMENT TAX CREDIT IN
11 COMPLIANCE WITH PROCEDURES SPECIFIED BY THE DEPARTMENT.

12 SECTION 9.7. THE ACT IS AMENDED BY ADDING AN ARTICLE TO
13 READ:

14 ARTICLE XVII-F

15 EDUCATIONAL IMPROVEMENT TAX CREDIT

16 SECTION 1701-F. SCOPE.

17 THIS ARTICLE ESTABLISHES THE EDUCATIONAL IMPROVEMENT TAX
18 CREDIT.

19 SECTION 1702-F. DEFINITIONS.

20 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
21 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
22 CONTEXT CLEARLY INDICATES OTHERWISE:

23 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
24 COMMONWEALTH AND SUBJECT TO TAXES IMPOSED UNDER ARTICLE III, IV,
25 VI, VII, VIII, IX OR XV. THE TERM INCLUDES A PASS-THROUGH
26 ENTITY.

27 "CONTRIBUTION." A DONATION OF CASH, PERSONAL PROPERTY OR
28 SERVICES THE VALUE OF WHICH IS THE NET COST OF THE DONATION TO
29 THE DONOR OR THE PRO RATA HOURLY WAGE, INCLUDING BENEFITS, OF
30 THE INDIVIDUAL PERFORMING THE SERVICES.

1 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
2 DEVELOPMENT OF THE COMMONWEALTH.

3 "EDUCATIONAL IMPROVEMENT ORGANIZATION." A NONPROFIT ENTITY
4 WHICH:

5 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)
6 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
7 26 U.S.C. § 1 ET SEQ.); AND

8 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL RECEIPTS AS
9 GRANTS TO A PUBLIC SCHOOL FOR INNOVATIVE EDUCATIONAL
10 PROGRAMS.

11 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY
12 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS WHEN IT EXPENDS OR
13 OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS FOR EXPENDITURE
14 DURING THE THEN CURRENT FISCAL YEAR OF THE NONPROFIT ENTITY OR
15 DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE NONPROFIT ENTITY.

16 "ELIGIBLE PRE-KINDERGARTEN STUDENT." A STUDENT, INCLUDING AN
17 ELIGIBLE STUDENT WITH A DISABILITY, WHO IS ENROLLED IN A PRE-
18 KINDERGARTEN PROGRAM AND IS A MEMBER OF A HOUSEHOLD WITH A
19 MAXIMUM ANNUAL HOUSEHOLD INCOME AS INCREASED BY THE APPLICABLE
20 INCOME ALLOWANCE.

21 "ELIGIBLE STUDENT." A SCHOOL-AGE STUDENT, INCLUDING AN
22 ELIGIBLE STUDENT WITH A DISABILITY, WHO IS ENROLLED IN A SCHOOL
23 AND IS A MEMBER OF A HOUSEHOLD WITH A MAXIMUM ANNUAL HOUSEHOLD
24 INCOME AS INCREASED BY THE APPLICABLE INCOME ALLOWANCE.

25 "ELIGIBLE STUDENT WITH A DISABILITY." A PRE-KINDERGARTEN
26 STUDENT OR A SCHOOL-AGE STUDENT WHO MEETS ALL OF THE FOLLOWING:

27 (1) IS EITHER ENROLLED IN A SPECIAL EDUCATION SCHOOL OR
28 HAS OTHERWISE BEEN IDENTIFIED, IN ACCORDANCE WITH 22 PA. CODE
29 CH. 14 (RELATING TO SPECIAL EDUCATION SERVICES AND PROGRAMS),
30 AS A "CHILD WITH A DISABILITY," AS DEFINED IN 34 CFR § 300.8

1 (RELATING TO CHILD WITH DISABILITY).

2 (2) NEEDS SPECIAL EDUCATION AND RELATED SERVICES.

3 (3) IS ENROLLED IN A PRE-KINDERGARTEN PROGRAM OR IN A
4 SCHOOL.

5 (4) IS A MEMBER OF A HOUSEHOLD WITH A HOUSEHOLD INCOME
6 OF NOT MORE THAN THE MAXIMUM ANNUAL HOUSEHOLD INCOME.

7 "HOUSEHOLD." AN INDIVIDUAL LIVING ALONE OR WITH THE
8 FOLLOWING: A SPOUSE, PARENT AND THEIR UNEMANCIPATED MINOR
9 CHILDREN; AND OTHER UNEMANCIPATED MINOR CHILDREN WHO ARE RELATED
10 BY BLOOD OR MARRIAGE; OR OTHER ADULTS OR UNEMANCIPATED MINOR
11 CHILDREN LIVING IN THE HOUSEHOLD WHO ARE DEPENDENT UPON THE
12 INDIVIDUAL.

13 "HOUSEHOLD INCOME." ALL MONEYS OR PROPERTY RECEIVED OF
14 WHATEVER NATURE AND FROM WHATEVER SOURCE DERIVED. THE TERM DOES
15 NOT INCLUDE THE FOLLOWING:

16 (1) PERIODIC PAYMENTS FOR SICKNESS AND DISABILITY OTHER
17 THAN REGULAR WAGES RECEIVED DURING A PERIOD OF SICKNESS OR
18 DISABILITY.

19 (2) DISABILITY, RETIREMENT OR OTHER PAYMENTS ARISING
20 UNDER WORKERS' COMPENSATION ACTS, OCCUPATIONAL DISEASE ACTS
21 AND SIMILAR LEGISLATION BY ANY GOVERNMENT.

22 (3) PAYMENTS COMMONLY RECOGNIZED AS OLD-AGE OR
23 RETIREMENT BENEFITS PAID TO PERSONS RETIRED FROM SERVICE
24 AFTER REACHING A SPECIFIC AGE OR AFTER A STATED PERIOD OF
25 EMPLOYMENT.

26 (4) PAYMENTS COMMONLY KNOWN AS PUBLIC ASSISTANCE OR
27 UNEMPLOYMENT COMPENSATION PAYMENTS BY A GOVERNMENTAL AGENCY.

28 (5) PAYMENTS TO REIMBURSE ACTUAL EXPENSES.

29 (6) PAYMENTS MADE BY EMPLOYERS OR LABOR UNIONS FOR
30 PROGRAMS COVERING HOSPITALIZATION, SICKNESS, DISABILITY OR

1 DEATH, SUPPLEMENTAL UNEMPLOYMENT BENEFITS, STRIKE BENEFITS,
2 SOCIAL SECURITY AND RETIREMENT.

3 (7) COMPENSATION RECEIVED BY UNITED STATES SERVICEMEN
4 SERVING IN A COMBAT ZONE.

5 "INCOME ALLOWANCE."

6 (1) AS FOLLOWS:

7 (I) BEFORE JULY 1, 2011, \$10,000 FOR EACH ELIGIBLE
8 STUDENT, ELIGIBLE PRE-KINDERGARTEN STUDENT AND DEPENDENT
9 MEMBER OF THE HOUSEHOLD.

10 (II) AFTER JUNE 30, 2011, \$12,000 FOR EACH ELIGIBLE
11 STUDENT, ELIGIBLE PRE-KINDERGARTEN STUDENT AND DEPENDENT
12 MEMBER OF THE HOUSEHOLD.

13 (2) BEGINNING JULY 1, 2012, THE DEPARTMENT OF COMMUNITY
14 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
15 ALLOWANCE AMOUNTS UNDER PARAGRAPH (1) TO REFLECT ANY UPWARD
16 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
17 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
18 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
19 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
20 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

21 "INNOVATIVE EDUCATIONAL PROGRAM." AN ADVANCED ACADEMIC OR
22 SIMILAR PROGRAM THAT IS NOT PART OF THE REGULAR ACADEMIC PROGRAM
23 OF A PUBLIC SCHOOL BUT THAT ENHANCES THE CURRICULUM OR ACADEMIC
24 PROGRAM OF THE PUBLIC SCHOOL OR PROVIDES PRE-KINDERGARTEN
25 PROGRAMS TO PUBLIC SCHOOL STUDENTS.

26 "MAXIMUM ANNUAL HOUSEHOLD INCOME."

27 (1) EXCEPT AS SET FORTH IN PARAGRAPH (2), AS FOLLOWS:

28 (I) BEFORE JULY 1, 2011, NOT MORE THAN \$50,000.

29 (II) AFTER JUNE 30, 2011, NOT MORE THAN \$60,000.

30 (2) WITH RESPECT TO AN ELIGIBLE STUDENT WITH A

1 DISABILITY, AS CALCULATED BY MULTIPLYING:

2 (I) THE SUM OF:

3 (A) THE APPLICABLE AMOUNT UNDER PARAGRAPH (1);

4 AND

5 (B) THE APPLICABLE INCOME ALLOWANCE; BY

6 (II) THE APPLICABLE SUPPORT LEVEL FACTOR ACCORDING TO
7 THE FOLLOWING TABLE:

8 SUPPORT LEVEL SUPPORT LEVEL FACTOR

9 1 1.50

10 2 2.993

11 (3) BEGINNING JULY 1, 2012, THE DEPARTMENT OF COMMUNITY
12 AND ECONOMIC DEVELOPMENT SHALL ANNUALLY ADJUST THE INCOME
13 AMOUNTS UNDER PARAGRAPHS (1) AND (2) TO REFLECT ANY UPWARD
14 CHANGES IN THE CONSUMER PRICE INDEX FOR ALL URBAN CONSUMERS
15 FOR THE PENNSYLVANIA, NEW JERSEY, DELAWARE AND MARYLAND AREA
16 IN THE PRECEDING 12 MONTHS AND SHALL IMMEDIATELY SUBMIT THE
17 ADJUSTED AMOUNTS TO THE LEGISLATIVE REFERENCE BUREAU FOR
18 PUBLICATION AS A NOTICE IN THE PENNSYLVANIA BULLETIN.

19 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
20 301(N.0), A SINGLE-MEMBER LIMITED LIABILITY COMPANY TREATED AS A
21 DISREGARDED ENTITY FOR FEDERAL INCOME TAX PURPOSES OR A
22 PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION 301(N.1).

23 "PRE-KINDERGARTEN PROGRAM." A PROGRAM OF INSTRUCTION FOR
24 THREE-YEAR-OLD OR FOUR-YEAR-OLD STUDENTS THAT UTILIZES A
25 CURRICULUM ALIGNED WITH THE CURRICULUM OF THE SCHOOL WITH WHICH
26 IT IS AFFILIATED AND WHICH PROVIDES ONE OF THE FOLLOWING:

27 (1) A MINIMUM OF TWO HOURS OF INSTRUCTIONAL AND
28 DEVELOPMENTAL ACTIVITIES PER DAY AT LEAST 60 DAYS PER SCHOOL
29 YEAR.

30 (2) A MINIMUM OF TWO HOURS OF INSTRUCTIONAL AND

1 DEVELOPMENTAL ACTIVITIES PER DAY AT LEAST 20 DAYS OVER THE
2 SUMMER RECESS.

3 "PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION." A NONPROFIT
4 ENTITY WHICH:

5 (1) EITHER IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION
6 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW
7 99-514, 26 U.S.C. § 1 ET SEQ.) OR IS OPERATED AS A SEPARATE
8 SEGREGATED FUND BY A SCHOLARSHIP ORGANIZATION THAT HAS BEEN
9 QUALIFIED UNDER SECTION 1703-F; AND

10 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
11 TO A PRE-KINDERGARTEN SCHOLARSHIP PROGRAM BY EXPENDING OR
12 OTHERWISE IRREVOCABLY ENCUMBERING THOSE FUNDS FOR
13 DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE
14 ORGANIZATION OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF THE
15 ORGANIZATION.

16 "PRE-KINDERGARTEN SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE
17 TUITION TO ELIGIBLE PRE-KINDERGARTEN STUDENTS TO ATTEND A PRE-
18 KINDERGARTEN PROGRAM OPERATED BY OR IN CONJUNCTION WITH A SCHOOL
19 LOCATED IN THIS COMMONWEALTH AND THAT INCLUDES AN APPLICATION
20 AND REVIEW PROCESS FOR THE PURPOSE OF MAKING AWARDS TO ELIGIBLE
21 PRE-KINDERGARTEN STUDENTS AND AWARDS SCHOLARSHIPS TO ELIGIBLE
22 PRE-KINDERGARTEN STUDENTS WITHOUT LIMITING AVAILABILITY TO ONLY
23 STUDENTS OF ONE SCHOOL.

24 "PUBLIC SCHOOL." A PUBLIC PRE-KINDERGARTEN WHERE COMPULSORY
25 ATTENDANCE REQUIREMENTS DO NOT APPLY OR A PUBLIC KINDERGARTEN,
26 ELEMENTARY SCHOOL OR SECONDARY SCHOOL AT WHICH THE COMPULSORY
27 ATTENDANCE REQUIREMENTS OF THIS COMMONWEALTH MAY BE MET AND
28 WHICH MEETS THE APPLICABLE REQUIREMENTS OF TITLE VI OF THE CIVIL
29 RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241).

30 "SCHOLARSHIP ORGANIZATION." A NONPROFIT ENTITY WHICH:

1 (1) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)
2 (3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514,
3 26 U.S.C. § 1 ET SEQ.); AND

4 (2) CONTRIBUTES AT LEAST 80% OF ITS ANNUAL CASH RECEIPTS
5 TO A SCHOLARSHIP PROGRAM.

6 FOR PURPOSES OF THIS DEFINITION, A NONPROFIT ENTITY
7 "CONTRIBUTES" ITS ANNUAL CASH RECEIPTS TO A SCHOLARSHIP PROGRAM
8 WHEN IT EXPENDS OR OTHERWISE IRREVOCABLY ENCUMBERS THOSE FUNDS
9 FOR DISTRIBUTION DURING THE THEN CURRENT FISCAL YEAR OF THE
10 NONPROFIT ENTITY OR DURING THE NEXT SUCCEEDING FISCAL YEAR OF
11 THE NONPROFIT ENTITY.

12 "SCHOLARSHIP PROGRAM." A PROGRAM TO PROVIDE TUITION TO
13 ELIGIBLE STUDENTS TO ATTEND A SCHOOL LOCATED IN THIS
14 COMMONWEALTH. A SCHOLARSHIP PROGRAM MUST INCLUDE AN APPLICATION
15 AND REVIEW PROCESS FOR THE PURPOSE OF MAKING AWARDS TO ELIGIBLE
16 STUDENTS. THE AWARD OF SCHOLARSHIPS TO ELIGIBLE STUDENTS SHALL
17 BE MADE WITHOUT LIMITING AVAILABILITY TO ONLY STUDENTS OF ONE
18 SCHOOL.

19 "SCHOOL." A PUBLIC OR NONPUBLIC PRE-KINDERGARTEN,
20 KINDERGARTEN, ELEMENTARY SCHOOL OR SECONDARY SCHOOL AT WHICH THE
21 COMPULSORY ATTENDANCE REQUIREMENTS OF THE COMMONWEALTH MAY BE
22 MET AND WHICH MEETS THE APPLICABLE REQUIREMENTS OF TITLE VI OF
23 THE CIVIL RIGHTS ACT OF 1964 (PUBLIC LAW 88-352, 78 STAT. 241).

24 "SCHOOL AGE." CHILDREN FROM THE EARLIEST ADMISSION AGE TO A
25 SCHOOL'S PRE-KINDERGARTEN OR KINDERGARTEN PROGRAM OR, WHEN NO
26 PRE-KINDERGARTEN OR KINDERGARTEN PROGRAM IS PROVIDED, THE
27 SCHOOL'S EARLIEST ADMISSION AGE FOR BEGINNERS, UNTIL THE END OF
28 THE SCHOOL YEAR THE STUDENT ATTAINS 21 YEARS OF AGE OR
29 GRADUATION FROM HIGH SCHOOL, WHICHEVER OCCURS FIRST.

30 "SPECIAL EDUCATION SCHOOL." A SCHOOL OR PROGRAM WITHIN A

1 SCHOOL THAT IS DESIGNATED SPECIFICALLY AND EXCLUSIVELY FOR
2 STUDENTS WITH ANY OF THE DISABILITIES LISTED IN 34 CFR § 300.8
3 (RELATING TO CHILD WITH DISABILITY) AND MEETS ONE OF THE
4 FOLLOWING:

5 (1) IS LICENSED UNDER THE ACT OF JANUARY 28, 1988
6 (P.L.24, NO.11), KNOWN AS THE PRIVATE ACADEMIC SCHOOLS ACT.

7 (2) IS ACCREDITED BY AN ACCREDITING ASSOCIATION APPROVED
8 BY THE STATE BOARD OF EDUCATION.

9 (3) IS A SCHOOL FOR THE BLIND OR DEAF RECEIVING
10 COMMONWEALTH APPROPRIATIONS.

11 (4) IS OPERATED BY OR UNDER THE AUTHORITY OF A BONA FIDE
12 RELIGIOUS INSTITUTION OR BY THE COMMONWEALTH OR ANY POLITICAL
13 SUBDIVISION THEREOF.

14 "SUPPORT LEVEL." THE LEVEL OF SUPPORT NEEDED BY AN ELIGIBLE
15 STUDENT WITH A DISABILITY, AS SET FORTH IN THE FOLLOWING MATRIX:

16 SUPPORT LEVEL 1 - THE STUDENT IS NOT ENROLLED IN A
17 SPECIAL EDUCATION SCHOOL.

18 SUPPORT LEVEL 2 - THE STUDENT IS ENROLLED AS A STUDENT IN
19 A SPECIAL EDUCATION SCHOOL.

20 SECTION 1703-F. QUALIFICATION AND APPLICATION.

21 (A) ESTABLISHMENT.--IN ACCORDANCE WITH SECTION 14 OF ARTICLE
22 III OF THE CONSTITUTION OF PENNSYLVANIA, AN EDUCATIONAL
23 IMPROVEMENT TAX CREDIT PROGRAM IS HEREBY ESTABLISHED TO ENHANCE
24 THE EDUCATIONAL OPPORTUNITIES AVAILABLE TO ALL STUDENTS IN THIS
25 COMMONWEALTH.

26 (B) INFORMATION.--IN ORDER TO QUALIFY UNDER THIS ARTICLE, A
27 SCHOLARSHIP ORGANIZATION, A PRE-KINDERGARTEN SCHOLARSHIP
28 ORGANIZATION OR AN EDUCATIONAL IMPROVEMENT ORGANIZATION MUST
29 SUBMIT INFORMATION TO THE DEPARTMENT THAT ENABLES THE DEPARTMENT
30 TO CONFIRM THAT THE ORGANIZATION IS EXEMPT FROM TAXATION UNDER

1 SECTION 501(C)(3) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
2 LAW 99-514, 26 U.S.C. § 1 ET SEQ.).

3 (C) SCHOLARSHIP ORGANIZATIONS AND PRE-KINDERGARTEN
4 SCHOLARSHIP ORGANIZATIONS.--A SCHOLARSHIP ORGANIZATION OR PRE-
5 KINDERGARTEN SCHOLARSHIP ORGANIZATION MUST CERTIFY TO THE
6 DEPARTMENT THAT THE ORGANIZATION IS ELIGIBLE TO PARTICIPATE IN
7 THE PROGRAM ESTABLISHED UNDER THIS ARTICLE AND MUST AGREE TO
8 ANNUALLY REPORT THE FOLLOWING INFORMATION TO THE DEPARTMENT BY
9 DECEMBER 1, 2005, AND SEPTEMBER 1 OF EACH YEAR THEREAFTER:

10 (1) (I) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
11 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE PRE-
12 KINDERGARTEN STUDENTS.

13 (II) THE TOTAL AND AVERAGE AMOUNTS OF THE
14 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
15 SCHOOL YEAR TO ELIGIBLE PRE-KINDERGARTEN STUDENTS.

16 (III) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
17 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
18 GRADES KINDERGARTEN THROUGH 8.

19 (IV) THE TOTAL AND AVERAGE AMOUNTS OF THE
20 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
21 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES K THROUGH 8.

22 (V) THE NUMBER OF SCHOLARSHIPS AWARDED DURING THE
23 IMMEDIATELY PRECEDING SCHOOL YEAR TO ELIGIBLE STUDENTS IN
24 GRADES 9 THROUGH 12.

25 (VI) THE TOTAL AND AVERAGE AMOUNTS OF THE
26 SCHOLARSHIPS AWARDED DURING THE IMMEDIATELY PRECEDING
27 SCHOOL YEAR TO ELIGIBLE STUDENTS IN GRADES 9 THROUGH 12.

28 (VII) WHERE THE SCHOLARSHIP ORGANIZATION OR PRE-
29 KINDERGARTEN SCHOLARSHIP ORGANIZATION COLLECTS
30 INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE TOTAL NUMBER

1 AND THE TOTAL AMOUNT OF SCHOLARSHIPS AWARDED DURING THE
2 IMMEDIATELY PRECEDING SCHOOL YEAR TO RESIDENTS OF EACH
3 COUNTY IN WHICH THE SCHOLARSHIP ORGANIZATION OR PRE-
4 KINDERGARTEN SCHOLARSHIP ORGANIZATION AWARDED
5 SCHOLARSHIPS.

6 (2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL
7 BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER
8 THAN SEPTEMBER 1, 2005, AND MAY 1 OF EACH YEAR THEREAFTER,
9 THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS,
10 TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO
11 BE MADE, TO EACH LISTED SCHOLARSHIP ORGANIZATION AND PRE-
12 KINDERGARTEN SCHOLARSHIP ORGANIZATION.

13 (3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION
14 TO BE PROVIDED BY SCHOLARSHIP ORGANIZATIONS OR PRE-
15 KINDERGARTEN SCHOLARSHIP ORGANIZATIONS, EXCEPT AS EXPRESSLY
16 AUTHORIZED IN THIS ARTICLE.

17 (D) EDUCATIONAL IMPROVEMENT ORGANIZATION.--

18 (1) AN APPLICATION SUBMITTED BY AN EDUCATIONAL
19 IMPROVEMENT ORGANIZATION MUST DESCRIBE ITS PROPOSED
20 INNOVATIVE EDUCATIONAL PROGRAM OR PROGRAMS IN A FORM
21 PRESCRIBED BY THE DEPARTMENT. THE DEPARTMENT SHALL CONSULT
22 WITH THE DEPARTMENT OF EDUCATION AS NECESSARY. THE DEPARTMENT
23 SHALL REVIEW AND APPROVE OR DISAPPROVE THE APPLICATION. IN
24 ORDER TO BE ELIGIBLE TO PARTICIPATE IN THE PROGRAM
25 ESTABLISHED UNDER THIS ARTICLE, AN EDUCATIONAL IMPROVEMENT
26 ORGANIZATION MUST AGREE TO ANNUALLY REPORT THE FOLLOWING
27 INFORMATION TO THE DEPARTMENT BY DECEMBER 1, 2005, AND
28 SEPTEMBER 1 OF EACH YEAR THEREAFTER:

29 (I) THE NAME OF THE INNOVATIVE EDUCATIONAL PROGRAM
30 OR PROGRAMS AND THE TOTAL AMOUNT OF THE GRANT OR GRANTS

1 MADE TO THOSE PROGRAMS DURING THE IMMEDIATELY PRECEDING
2 SCHOOL YEAR.

3 (II) A DESCRIPTION OF HOW EACH GRANT WAS UTILIZED
4 DURING THE IMMEDIATELY PRECEDING SCHOOL YEAR AND A
5 DESCRIPTION OF ANY DEMONSTRATED OR EXPECTED INNOVATIVE
6 EDUCATIONAL IMPROVEMENTS.

7 (III) THE NAMES OF THE PUBLIC SCHOOLS AND SCHOOL
8 DISTRICTS WHERE INNOVATIVE EDUCATIONAL PROGRAMS THAT
9 RECEIVED GRANTS DURING THE IMMEDIATELY PRECEDING SCHOOL
10 YEAR WERE IMPLEMENTED.

11 (IV) WHERE THE EDUCATIONAL IMPROVEMENT ORGANIZATION
12 COLLECTS INFORMATION ON A COUNTY-BY-COUNTY BASIS, THE
13 TOTAL NUMBER AND THE TOTAL AMOUNT OF GRANTS MADE DURING
14 THE IMMEDIATELY PRECEDING SCHOOL YEAR FOR PROGRAMS AT
15 PUBLIC SCHOOLS IN EACH COUNTY IN WHICH THE EDUCATIONAL
16 IMPROVEMENT ORGANIZATION MADE GRANTS.

17 (2) THE INFORMATION REQUIRED UNDER PARAGRAPH (1) SHALL
18 BE SUBMITTED ON A FORM PROVIDED BY THE DEPARTMENT. NO LATER
19 THAN SEPTEMBER 1, 2005, AND MAY 1 OF EACH YEAR THEREAFTER,
20 THE DEPARTMENT SHALL ANNUALLY DISTRIBUTE SUCH SAMPLE FORMS,
21 TOGETHER WITH THE FORMS ON WHICH THE REPORTS ARE REQUIRED TO
22 BE MADE, TO EACH LISTED EDUCATIONAL IMPROVEMENT ORGANIZATION.

23 (3) THE DEPARTMENT MAY NOT REQUIRE ANY OTHER INFORMATION
24 TO BE PROVIDED BY EDUCATIONAL IMPROVEMENT ORGANIZATIONS,
25 EXCEPT AS EXPRESSLY AUTHORIZED IN THIS ARTICLE.

26 (E) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY THE
27 SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN SCHOLARSHIP
28 ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION THAT THE
29 ORGANIZATION MEETS THE REQUIREMENTS OF THIS ARTICLE FOR THAT
30 FISCAL YEAR NO LATER THAN 60 DAYS AFTER THE ORGANIZATION HAS

1 SUBMITTED THE INFORMATION REQUIRED UNDER THIS SECTION.

2 (F) PUBLICATION.--THE DEPARTMENT SHALL ANNUALLY PUBLISH A
3 LIST OF EACH SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN
4 SCHOLARSHIP ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION
5 QUALIFIED UNDER THIS SECTION IN THE PENNSYLVANIA BULLETIN. THE
6 LIST SHALL ALSO BE POSTED AND UPDATED AS NECESSARY ON THE
7 PUBLICLY ACCESSIBLE INTERNET WEBSITE OF THE DEPARTMENT.
8 SECTION 1704-F. APPLICATION.

9 (A) SCHOLARSHIP ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP
10 ORGANIZATIONS.--A BUSINESS FIRM SHALL APPLY TO THE DEPARTMENT
11 FOR A TAX CREDIT UNDER SECTION 1705-F. A BUSINESS FIRM SHALL
12 RECEIVE A TAX CREDIT UNDER THIS ARTICLE IF THE SCHOLARSHIP
13 ORGANIZATION OR PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION THAT
14 RECEIVES THE CONTRIBUTION APPEARS ON THE LIST ESTABLISHED UNDER
15 SECTION 1703-F(F).

16 (B) EDUCATIONAL IMPROVEMENT ORGANIZATION.--A BUSINESS FIRM
17 MUST APPLY TO THE DEPARTMENT FOR A CREDIT UNDER SECTION 1705-F.
18 A BUSINESS FIRM SHALL RECEIVE A TAX CREDIT UNDER THIS ARTICLE IF
19 THE DEPARTMENT HAS APPROVED THE PROGRAM PROVIDED BY THE
20 EDUCATIONAL IMPROVEMENT ORGANIZATION THAT RECEIVES THE
21 CONTRIBUTION.

22 (C) AVAILABILITY OF TAX CREDITS.--TAX CREDITS UNDER THIS
23 ARTICLE SHALL BE MADE AVAILABLE BY THE DEPARTMENT ON A FIRST-
24 COME, FIRST-SERVED BASIS WITHIN THE LIMITATION ESTABLISHED UNDER
25 SECTION 1706-F(A).

26 (D) CONTRIBUTIONS.--A CONTRIBUTION BY A BUSINESS FIRM TO A
27 SCHOLARSHIP ORGANIZATION, PRE-KINDERGARTEN SCHOLARSHIP
28 ORGANIZATION OR EDUCATIONAL IMPROVEMENT ORGANIZATION SHALL BE
29 MADE NO LATER THAN 60 DAYS FOLLOWING THE APPROVAL OF AN
30 APPLICATION UNDER SUBSECTION (A) OR (B).

1 SECTION 1705-F. TAX CREDIT.

2 (A) SCHOLARSHIP OR EDUCATIONAL IMPROVEMENT ORGANIZATIONS.--
3 IN ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
4 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
5 IV, VI, VII, VIII, IX OR XV TO A BUSINESS FIRM PROVIDING PROOF
6 OF A CONTRIBUTION TO A SCHOLARSHIP ORGANIZATION OR EDUCATIONAL
7 IMPROVEMENT ORGANIZATION IN THE TAXABLE YEAR IN WHICH THE
8 CONTRIBUTION IS MADE WHICH SHALL NOT EXCEED 75% OF THE TOTAL
9 AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY THE BUSINESS FIRM.
10 SUCH CREDIT SHALL NOT EXCEED \$300,000 ANNUALLY PER BUSINESS FIRM
11 FOR CONTRIBUTIONS MADE TO SCHOLARSHIP ORGANIZATIONS OR
12 EDUCATIONAL IMPROVEMENT ORGANIZATIONS.

13 (B) ADDITIONAL AMOUNT.--THE DEPARTMENT OF REVENUE SHALL
14 GRANT A TAX CREDIT OF UP TO 90% OF THE TOTAL AMOUNT CONTRIBUTED
15 DURING THE TAXABLE YEAR IF THE BUSINESS FIRM PROVIDES A WRITTEN
16 COMMITMENT TO PROVIDE THE SCHOLARSHIP ORGANIZATION OR
17 EDUCATIONAL IMPROVEMENT ORGANIZATION WITH THE SAME AMOUNT OF
18 CONTRIBUTION FOR TWO CONSECUTIVE TAX YEARS. THE BUSINESS FIRM
19 MUST PROVIDE THE WRITTEN COMMITMENT UNDER THIS SUBSECTION TO THE
20 DEPARTMENT AT THE TIME OF APPLICATION.

21 (C) PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.--IN
22 ACCORDANCE WITH SECTION 1706-F(A), THE DEPARTMENT OF REVENUE
23 SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER ARTICLE III,
24 IV, VI, VII, VIII, IX OR XV TO A BUSINESS FIRM PROVIDING PROOF
25 OF A CONTRIBUTION TO A PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATION
26 IN THE TAXABLE YEAR IN WHICH THE CONTRIBUTION IS MADE WHICH
27 SHALL BE EQUAL TO 100% OF THE FIRST \$10,000 CONTRIBUTED DURING
28 THE TAXABLE YEAR BY THE BUSINESS FIRM, AND WHICH SHALL NOT
29 EXCEED 90% OF THE REMAINING AMOUNT CONTRIBUTED DURING THE
30 TAXABLE YEAR BY THE BUSINESS FIRM. SUCH CREDIT SHALL NOT EXCEED

1 \$150,000 ANNUALLY PER BUSINESS FIRM FOR CONTRIBUTIONS MADE TO
2 PRE-KINDERGARTEN SCHOLARSHIP ORGANIZATIONS.

3 (D) COMBINATION OF TAX CREDITS.--A BUSINESS FIRM MAY RECEIVE
4 TAX CREDITS FROM THE DEPARTMENT OF REVENUE IN ANY TAX YEAR FOR
5 ANY COMBINATION OF CONTRIBUTIONS UNDER SUBSECTION (A) OR (B) OR
6 (C). IN NO CASE MAY A BUSINESS FIRM RECEIVE TAX CREDITS IN ANY
7 TAX YEAR IN EXCESS OF \$300,000 FOR CONTRIBUTIONS UNDER
8 SUBSECTIONS (A) AND (B). IN NO CASE SHALL A BUSINESS FIRM
9 RECEIVE TAX CREDITS IN ANY TAX YEAR IN EXCESS OF \$150,000 FOR
10 CONTRIBUTIONS UNDER SUBSECTION (C).

11 (E) PASS-THROUGH ENTITY.--

12 (1) IF A PASS-THROUGH ENTITY DOES NOT INTEND TO USE ALL
13 APPROVED TAX CREDITS UNDER THIS SECTION, IT MAY ELECT IN
14 WRITING TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
15 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE
16 OF THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
17 MEMBER OR PARTNER IS ENTITLED FOR USE IN THE TAXABLE YEAR IN
18 WHICH THE CONTRIBUTION IS MADE OR IN THE TAXABLE YEAR
19 IMMEDIATELY FOLLOWING THE YEAR IN WHICH THE CONTRIBUTION IS
20 MADE. THE ELECTION SHALL DESIGNATE THE YEAR IN WHICH THE
21 TRANSFERRED CREDITS ARE TO BE USED AND SHALL BE MADE
22 ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
23 REVENUE.

24 (2) A PASS-THROUGH ENTITY AND A SHAREHOLDER, MEMBER OR
25 PARTNER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM THE CREDIT
26 UNDER THIS SECTION FOR THE SAME CONTRIBUTION.

27 (3) THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT CARRY
28 FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE
29 CREDIT.

30 (F) RESTRICTION ON APPLICABILITY OF CREDITS.--NO CREDITS

1 GRANTED UNDER THIS SECTION SHALL BE APPLIED AGAINST ANY TAX
2 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

3 (G) TIME OF APPLICATION FOR CREDITS.--

4 (1) EXCEPT AS PROVIDED IN PARAGRAPHS (2) AND (3), THE
5 DEPARTMENT MAY ACCEPT APPLICATIONS FOR TAX CREDITS AVAILABLE
6 DURING A FISCAL YEAR NO EARLIER THAN JULY 1 OF EACH FISCAL
7 YEAR.

8 (2) THE APPLICATION OF ANY BUSINESS FIRM FOR TAX CREDITS
9 AVAILABLE DURING A FISCAL YEAR AS PART OF THE SECOND YEAR OF
10 A TWO-YEAR COMMITMENT MAY BE ACCEPTED NO EARLIER THAN MAY 15
11 PRECEDING THE FISCAL YEAR.

12 (3) THE APPLICATION UNDER SUBSECTION (A) OF ANY PASS-
13 THROUGH ENTITY FOR APPROVAL OF SINGLE-YEAR TAX CREDITS
14 AVAILABLE DURING A FISCAL YEAR AGAINST THE TAXES IMPOSED
15 UNDER ARTICLE III OR UNDER SUBSECTION (B) FOR APPROVAL OF
16 CREDITS AGAINST SUCH TAXES FOR THE FIRST YEAR OF A TWO-YEAR
17 COMMITMENT MAY BE ACCEPTED BY THE DEPARTMENT NO EARLIER THAN
18 THE FIRST BUSINESS DAY FOLLOWING JULY 7 OF THE FISCAL YEAR.

19 SECTION 1706-F. LIMITATIONS.

20 (A) AMOUNT.--

21 (1) THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS
22 APPROVED SHALL NOT EXCEED \$67,000,000 IN A FISCAL YEAR. NO
23 LESS THAN \$44,666,667 OF THE TOTAL AGGREGATE AMOUNT SHALL BE
24 USED TO PROVIDE TAX CREDITS FOR CONTRIBUTIONS FROM BUSINESS
25 FIRMS TO SCHOLARSHIP ORGANIZATIONS. NO LESS THAN \$22,333,333
26 OF THE TOTAL AGGREGATE AMOUNT SHALL BE USED TO PROVIDE TAX
27 CREDITS FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO EDUCATIONAL
28 IMPROVEMENT ORGANIZATIONS.

29 (2) (I) FOR THE FISCAL YEARS 2004-2005, 2005-2006 AND
30 2006-2007, THE TOTAL AGGREGATE AMOUNT OF ALL TAX CREDITS

1 APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO PRE-
2 KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED
3 \$5,000,000 IN A FISCAL YEAR.

4 (II) FOR THE FISCAL YEAR 2007-2008 AND EACH FISCAL
5 YEAR THEREAFTER, THE TOTAL AGGREGATE AMOUNT OF ALL TAX
6 CREDITS APPROVED FOR CONTRIBUTIONS FROM BUSINESS FIRMS TO
7 PRE-KINDERGARTEN SCHOLARSHIP PROGRAMS SHALL NOT EXCEED
8 \$8,000,000 IN A FISCAL YEAR.

9 (B) ACTIVITIES.--NO TAX CREDIT SHALL BE APPROVED FOR
10 ACTIVITIES THAT ARE A PART OF A BUSINESS FIRM'S NORMAL COURSE OF
11 BUSINESS.

12 (C) TAX LIABILITY.--

13 (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), A TAX CREDIT
14 GRANTED FOR ANY ONE TAXABLE YEAR MAY NOT EXCEED THE TAX
15 LIABILITY OF A BUSINESS FIRM.

16 (2) IN THE CASE OF A CREDIT GRANTED TO A PASS-THROUGH
17 ENTITY WHICH ELECTS TO TRANSFER THE CREDIT ACCORDING TO
18 SECTION 1705-F(E), A TAX CREDIT GRANTED FOR ANY ONE TAXABLE
19 YEAR AND TRANSFERRED TO A SHAREHOLDER, MEMBER OR PARTNER MAY
20 NOT EXCEED THE TAX LIABILITY OF THE SHAREHOLDER, MEMBER OR
21 PARTNER.

22 (D) USE.--A TAX CREDIT NOT USED BY THE APPLICANT IN THE
23 TAXABLE YEAR THE CONTRIBUTION WAS MADE OR IN THE YEAR DESIGNATED
24 BY THE SHAREHOLDER, MEMBER OR PARTNER TO WHOM THE CREDIT WAS
25 TRANSFERRED UNDER SECTION 1705-F(E) MAY NOT BE CARRIED FORWARD
26 OR CARRIED BACK AND IS NOT REFUNDABLE OR TRANSFERABLE.

27 (E) NONTAXABLE INCOME.--A SCHOLARSHIP RECEIVED BY AN
28 ELIGIBLE STUDENT OR ELIGIBLE PRE-KINDERGARTEN STUDENT SHALL NOT
29 BE CONSIDERED TO BE TAXABLE INCOME FOR THE PURPOSES OF ARTICLE
30 III.

1 SECTION 1707-F. LISTS.

2 THE DEPARTMENT OF REVENUE SHALL PROVIDE A LIST OF ALL
3 SCHOLARSHIP ORGANIZATIONS, PRE-KINDERGARTEN SCHOLARSHIP
4 ORGANIZATIONS AND EDUCATIONAL IMPROVEMENT ORGANIZATIONS
5 RECEIVING CONTRIBUTIONS FROM BUSINESS FIRMS GRANTED A TAX CREDIT
6 UNDER THIS ARTICLE TO THE GENERAL ASSEMBLY BY JUNE 30 OF EACH
7 YEAR.

8 SECTION 1708-F. GUIDELINES.

9 THE DEPARTMENT IN CONSULTATION WITH THE DEPARTMENT OF
10 EDUCATION SHALL DEVELOP GUIDELINES TO DETERMINE THE ELIGIBILITY
11 OF AN INNOVATIVE EDUCATIONAL PROGRAM.

12 SECTION 10. ARTICLE XXIX-A OF THE ACT, ADDED JUNE 30, 1995
13 (P.L.139, NO.21), IS AMENDED TO READ:

14 [ARTICLE XXIX-A
15 TAX AMNESTY PROGRAM

16 SECTION 2901-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
17 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
18 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
19 CLEARLY INDICATES A DIFFERENT MEANING:

20 "AMNESTY PERIOD." THE TIME PERIOD OF NINETY CONSECUTIVE DAYS
21 ESTABLISHED BY THE GOVERNOR DURING THE FISCAL YEAR BEGINNING
22 JULY 1, 1995, AND ENDING JUNE 30, 1996.

23 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

24 "ELIGIBLE TAX." ANY TAX IMPOSED BY THE COMMONWEALTH FOR
25 DEPOSIT IN THE GENERAL FUND OR THE MOTOR LICENSE FUND OR THE
26 LIQUID FUELS TAX FUND FOR TAXES DELINQUENT AS OF DECEMBER 31,
27 1993. THE TERM INCLUDES ANY INTEREST OR PENALTY ON AN ELIGIBLE
28 TAX. THE TERM EXCLUDES ANY TAX IMPOSED BY A POLITICAL
29 SUBDIVISION.

30 "PROGRAM." THE TAX AMNESTY PROGRAM AS PROVIDED FOR IN THIS

1 ARTICLE.

2 "TAXPAYER." ANY PERSON, ASSOCIATION, FIDUCIARY, PARTNERSHIP,
3 CORPORATION OR OTHER ENTITY REQUIRED TO PAY OR COLLECT ANY OF
4 THE ELIGIBLE TAXES. THE TERM SHALL NOT INCLUDE A TAXPAYER WHO,
5 PRIOR TO THE AMNESTY PERIOD HAS RECEIVED NOTICE THAT HE IS THE
6 SUBJECT OF A CRIMINAL INVESTIGATION FOR AN ALLEGED VIOLATION OF
7 ANY LAW IMPOSING AN ELIGIBLE TAX OR WHO, PRIOR TO THE AMNESTY
8 PERIOD, HAS BEEN NAMED AS A DEFENDANT IN A CRIMINAL COMPLAINT
9 ALLEGING A VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX OR IS A
10 DEFENDANT IN A PENDING CRIMINAL ACTION FOR AN ALLEGED VIOLATION
11 OF ANY LAW IMPOSING AN ELIGIBLE TAX.

12 SECTION 2902-A. ESTABLISHMENT OF AMNESTY PROGRAM.-- (A)
13 THERE IS HEREBY ESTABLISHED A TAX AMNESTY PROGRAM WHICH SHALL BE
14 ADMINISTERED BY THE DEPARTMENT.

15 (B) THE PROGRAM SHALL APPLY TO A TAXPAYER WHO IS DELINQUENT
16 ON PAYMENT OF A LIABILITY FOR AN ELIGIBLE TAX AS OF JUNE 1,
17 1995, INCLUDING A LIABILITY FOR RETURNS NOT FILED, LIABILITIES
18 ACCORDING TO RECORDS OF THE DEPARTMENT AS OF JUNE 1, 1995,
19 LIABILITIES NOT REPORTED, UNDERREPORTED OR NOT ESTABLISHED, BUT
20 DELINQUENT AS OF JUNE 1, 1995.

21 SECTION 2903-A. REQUIRED PAYMENT.-- (A) SUBJECT TO SECTION
22 2904-A, ALL TAXPAYERS WHO PARTICIPATE IN THE PROGRAM SHALL
23 COMPLY WITH ALL OF THE FOLLOWING:

24 (1) DURING THE AMNESTY PERIOD, FILE A TAX AMNESTY RETURN IN
25 SUCH FORM AND CONTAINING SUCH INFORMATION AS THE DEPARTMENT
26 SHALL REQUIRE. A TAX AMNESTY RETURN SHALL BE CONSIDERED TO BE
27 TIMELY FILED IF IT IS POSTMARKED DURING THE AMNESTY PERIOD.

28 (2) DURING THE AMNESTY PERIOD, MAKE PAYMENT OF ALL TAXES AND
29 INTEREST DUE THE COMMONWEALTH IN ACCORDANCE WITH THE TAX AMNESTY
30 RETURN THAT IS FILED.

1 (3) FILE COMPLETE TAX RETURNS FOR ALL YEARS FOR WHICH THE
2 TAXPAYER PREVIOUSLY HAS NOT FILED A TAX RETURN AND FILE COMPLETE
3 AMENDED RETURNS FOR ALL YEARS FOR WHICH THE TAXPAYER
4 UNDERREPORTED ELIGIBLE TAX LIABILITY.

5 (B) THE DEPARTMENT SHALL NOT COLLECT THE PENALTIES OWED BY A
6 TAXPAYER WHO PARTICIPATES IN THE PROGRAM UNDER SUBSECTION (A).
7 THE DEPARTMENT SHALL NOT PURSUE AN ADMINISTRATIVE OR JUDICIAL
8 PROCEEDING AGAINST A TAXPAYER WITH RESPECT TO ANY ELIGIBLE TAX
9 THAT IS DISCLOSED ON A TAX AMNESTY RETURN.

10 SECTION 2904-A. AMNESTY CONTINGENT ON CONTINUED
11 COMPLIANCE.--NOTWITHSTANDING ANY OTHER PROVISION OF THIS
12 ARTICLE, THE DEPARTMENT MAY ASSESS AND COLLECT FROM A TAXPAYER
13 ALL PENALTIES FOREGONE THROUGH THE TAX AMNESTY PROGRAM
14 ESTABLISHED IN THIS ARTICLE IF, WITHIN TWO YEARS AFTER THE END
15 OF THE AMNESTY PROGRAM, EITHER OF THE FOLLOWING OCCURS:

16 (1) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE BECOMES
17 DELINQUENT FOR THREE CONSECUTIVE PERIODS IN PAYMENT OF TAXES DUE
18 OR FILING OF RETURNS REQUIRED ON A SEMIMONTHLY, MONTHLY,
19 QUARTERLY OR OTHER BASIS AND THE TAXPAYER HAS NOT CONTESTED THE
20 TAX LIABILITY THROUGH A TIMELY VALID ADMINISTRATIVE OR JUDICIAL
21 APPEAL; OR

22 (2) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE BECOMES
23 DELINQUENT AND IS EIGHT OR MORE MONTHS LATE IN PAYMENT OF TAXES
24 DUE OR FILING OF RETURNS ON AN ANNUAL BASIS AND THE TAXPAYER HAS
25 NOT CONTESTED THE LIABILITY THROUGH A TIMELY VALID
26 ADMINISTRATIVE OR JUDICIAL APPEAL.

27 SECTION 2905-A. LIMITATION OF DEFICIENCY ASSESSMENT.--IF,
28 SUBSEQUENT TO THE AMNESTY PERIOD, THE DEPARTMENT ISSUES A
29 DEFICIENCY ASSESSMENT WITH RESPECT TO A TAX AMNESTY RETURN, THE
30 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE PENALTIES AND TO

1 PURSUE A CRIMINAL ACTION ONLY WITH RESPECT TO THE DIFFERENCE
2 BETWEEN THE AMOUNT SHOWN ON THAT TAX AMNESTY RETURN AND THE
3 CURRENT AMOUNT OF TAX.

4 SECTION 2906-A. OVERPAYMENT OF TAX.--NOTWITHSTANDING ANY
5 OTHER PROVISIONS OF THIS OR ANY OTHER ACT, IF AN OVERPAYMENT OF
6 ELIGIBLE TAX IS REFUNDED OR CREDITED WITHIN ONE HUNDRED EIGHTY
7 DAYS AFTER THE TAX AMNESTY RETURN IS FILED, NO INTEREST SHALL BE
8 ALLOWED ON THE OVERPAYMENT.

9 SECTION 2907-A. PREVIOUSLY PAID INTEREST AND PENALTIES.--NO
10 REFUND OR CREDIT SHALL BE ALLOWED FOR ANY INTEREST OR PENALTY ON
11 ELIGIBLE TAXES PAID TO THE DEPARTMENT PRIOR TO THE AMNESTY
12 PERIOD.

13 SECTION 2908-A. PROCEEDINGS RELATING TO TAX AMNESTY RETURN
14 BARRED.--PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
15 TAXPAYER'S AGREEMENT THAT THE RIGHT TO PROTEST OR PURSUE AN
16 ADMINISTRATIVE OR JUDICIAL PROCEEDING WITH REGARD TO TAX AMNESTY
17 RETURNS FILED UNDER THE PROGRAM OR TO CLAIM ANY REFUND OF MONEY
18 PAID UNDER THE PROGRAM IS BARRED.

19 SECTION 2909-A. UNDISCLOSED LIABILITIES.--NOTHING IN THIS
20 ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE DEPARTMENT FROM
21 INSTITUTING CIVIL OR CRIMINAL PROCEEDINGS AGAINST ANY TAXPAYER
22 WITH RESPECT TO ANY AMOUNT OF TAX THAT IS NOT DISCLOSED ON THE
23 TAX AMNESTY RETURN.

24 SECTION 2910-A. DUTIES OF DEPARTMENT.--(A) THE DEPARTMENT
25 SHALL DEVELOP REGULATIONS TO IMPLEMENT THE PROVISIONS OF THIS
26 ARTICLE. THE REGULATIONS MUST BE PUBLISHED IN THE PENNSYLVANIA
27 BULLETIN WITHIN NINETY DAYS OF THE EFFECTIVE DATE OF THIS
28 ARTICLE AND SHALL CONTAIN, BUT NOT BE LIMITED TO, THE FOLLOWING
29 INFORMATION:

30 (1) AN EXPLANATION OF THE PROGRAM AND THE REQUIREMENTS FOR

1 ELIGIBILITY FOR THE PROGRAM.

2 (2) THE DATES DURING WHICH A TAX AMNESTY RETURN MAY BE
3 FILED.

4 (3) A SPECIMEN COPY OF THE TAX AMNESTY RETURN.

5 (B) THE DEPARTMENT SHALL PUBLICIZE THE PROGRAM TO MAXIMIZE
6 PUBLIC AWARENESS OF AND PARTICIPATION IN THE PROGRAM. THE
7 DEPARTMENT SHALL COORDINATE TO THE HIGHEST DEGREE POSSIBLE ITS
8 PUBLICITY EFFORTS AND OTHER ACTIONS TAKEN TO IMPLEMENT THIS
9 ARTICLE.

10 (C) REPORT.--THE DEPARTMENT SHALL ISSUE A REPORT TO THE
11 GENERAL ASSEMBLY WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE END OF
12 THE AMNESTY PERIOD DETAILING THE IMPLEMENTATION OF THE PROGRAM.
13 THE REPORT SHALL CONTAIN, BUT NOT BE LIMITED TO, THE FOLLOWING
14 INFORMATION:

15 (1) A DETAILED BREAKDOWN OF THE DEPARTMENT'S ADMINISTRATIVE
16 COSTS IN IMPLEMENTING THE PROGRAM.

17 (2) THE NUMBER OF TAX AMNESTY RETURNS FILED AND A BREAKDOWN
18 OF THE NUMBER AND DOLLAR AMOUNT OF REVENUE RAISED FOR EACH TAX
19 BY CALENDAR YEAR DURING WHICH THE TAX PERIOD ENDED. IN ADDITION,
20 THE GROSS REVENUES SHALL BE BROKEN DOWN INTO THE FOLLOWING
21 CATEGORIES:

22 (I) AMOUNTS REPRESENTED BY ASSESSMENTS RECEIVABLE
23 ESTABLISHED BY THE DEPARTMENT ON OR BEFORE THE FIRST DAY OF THE
24 AMNESTY PERIOD.

25 (II) ALL OTHER AMOUNTS.

26 (3) THE TOTAL DOLLAR AMOUNT OF REVENUE COLLECTED BY THE
27 PROGRAM.

28 (4) THE TOTAL DOLLAR AMOUNT OF PENALTIES FORGIVEN UNDER THE
29 PROGRAM.

30 (5) THE DEMOGRAPHIC CHARACTERISTICS OF TAX AMNESTY

1 PARTICIPANTS, INCLUDING STANDARD INDUSTRIAL CODES OF
2 PARTICIPANTS, TYPE OF TAXPAYER (INDIVIDUAL, PARTNERSHIP,
3 CORPORATION OR OTHER ENTITY), SIZE OF TAX LIABILITY AND
4 GEOGRAPHICAL LOCATION.

5 (D) THE DEPARTMENT SHALL NOTIFY IN WRITING ALL KNOWN TAX
6 DELINQUENTS AT THEIR LAST KNOWN ADDRESS OF THE EXISTENCE OF THE
7 TAX AMNESTY PROGRAM. THE SOLE PURPOSE OF THE LETTER SENT BY THE
8 DEPARTMENT TO TAXPAYERS MUST BE NOTIFICATION OF THE PROGRAM.

9 SECTION 2911-A. METHOD OF PAYMENT.--ALL TAX PAYMENTS UNDER
10 THE PROGRAM SHALL BE MADE BY CERTIFIED CHECK, MONEY ORDER, CASH
11 OR ITS EQUIVALENT.

12 SECTION 2912-A. EXEMPTION FROM REVIEW PROCESS.--
13 NOTWITHSTANDING ANY LAW TO THE CONTRARY, THE REGULATIONS ISSUED
14 BY THE DEPARTMENT FOR THE PROGRAM SHALL BE EXEMPT FROM THE
15 REGULATORY REVIEW PROCESS PROVIDED IN THE ACT OF JUNE 25, 1982
16 (P.L.633, NO.181), KNOWN AS THE "REGULATORY REVIEW ACT."

17 SECTION 2913-A. USE OF REVENUE.--ALL REVENUE GENERATED BY
18 THIS ARTICLE SHALL BE DEPOSITED INTO A RESTRICTED REVENUE
19 ACCOUNT IN THE GENERAL FUND. REVENUE FROM THE RESTRICTED REVENUE
20 ACCOUNT SHALL BE DISTRIBUTED AS FOLLOWS:

21 (1) REPAYMENT OF ANY COST FOR ADMINISTRATION OF THE PROGRAM
22 TO THE DEPARTMENT.

23 (2) AN AMOUNT NOT EXCEEDING SIXTY-SEVEN MILLION DOLLARS
24 (\$67,000,000) FROM GENERAL FUND SOURCES SHALL BE DEPOSITED INTO
25 THE GENERAL FUND. IF DELINQUENT TAX COLLECTIONS IN THE GENERAL
26 FUND FOR FISCAL YEAR 1995-1996 FALL BELOW THE LEVEL OF THE
27 PREVIOUS YEAR, AN ADDITIONAL AMOUNT EQUAL TO THE DIFFERENCE
28 SHALL BE DEPOSITED INTO THE GENERAL FUND.

29 (3) ALL REVENUE FROM MOTOR LICENSE FUND SOURCES SHALL BE
30 DEPOSITED IN THE MOTOR LICENSE FUND NO LATER THAN JUNE 30, 1996.

1 (4) ALL REVENUE FROM LIQUID FUELS TAX FUND SOURCES SHALL BE
2 DEPOSITED IN THE LIQUID FUELS TAX FUND NO LATER THAN JUNE 30,
3 1996.

4 SECTION 2914-A. PENALTIES FOR CERTAIN CORPORATE OFFICERS.--
5 IF AN OFFICER OR OFFICERS OF A CORPORATION OR ASSOCIATION
6 INTENTIONALLY NEGLECT OR REFUSE TO MAKE REPORTS TO THE AUDITOR
7 GENERAL, OR TO THE DEPARTMENT, OR SUCCESSIVELY TO THE AUDITOR
8 GENERAL AND TO THE DEPARTMENT, AS REQUIRED BY LAW, FOR ANY TWO
9 SUCCESSIVE TAX YEARS, THE OFFICER OR OFFICERS COMMIT A
10 MISDEMEANOR AND SHALL, UPON CONVICTION, BE SENTENCED TO PAY A
11 FINE OF NOT LESS THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500)
12 NOR MORE THAN FIVE THOUSAND DOLLARS (\$5,000). THIS FINE SHALL BE
13 IN ADDITION TO ANY FINE OR PRISON SENTENCE UNDER SECTION 1704 OF
14 THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL
15 CODE."

16 SECTION 2915-A. FURTHER EXAMINATION OF BOOKS AND RECORDS.--

17 (A) THE DEPARTMENT OR ANY OF ITS AUTHORIZED AGENTS IS HEREBY
18 AUTHORIZED TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY
19 TAXPAYER OR OTHER PERSONS IN ORDER TO VERIFY THE ACCURACY AND
20 COMPLETENESS OF ANY RETURN OR REPORT MADE OR, IF NO RETURN OR
21 REPORT WAS MADE, TO ASCERTAIN AND ASSESS ANY TAX OR OTHER
22 LIABILITY OWED THE COMMONWEALTH.

23 (B) THE DEPARTMENT MAY DETERMINE, BY DESK, FIELD OR OTHER
24 AUDIT, THE AMOUNT OF TAX OR OTHER LIABILITY REQUIRED TO BE PAID
25 TO THE COMMONWEALTH. THE DEPARTMENT MAY DETERMINE THE LIABILITY
26 BASED UPON THE FACTS CONTAINED IN THE RETURN OR REPORT BEING
27 AUDITED OR OTHER INFORMATION IN THE DEPARTMENT'S POSSESSION. THE
28 DEPARTMENT MAY DETERMINE THE LIABILITY BASED UPON A REASONABLE
29 STATISTICAL SAMPLE OR TEST AUDIT PERFORMED IN ACCORDANCE WITH
30 THE REGULATIONS OF THE DEPARTMENT WHEN THE INDIVIDUAL BEING

1 AUDITED DOES NOT HAVE COMPLETE RECORDS OF TRANSACTIONS OR WHEN
2 THE REVIEW OF EACH TRANSACTION OR INVOICE WOULD PLACE AN UNDUE
3 BURDEN ON THE DEPARTMENT TO CONDUCT AN AUDIT IN A TIMELY AND
4 EFFICIENT MANNER.

5 (C) THE TAXPAYER MAY CHALLENGE THE ACCURACY OF A STATISTICAL
6 SAMPLE OR TEST AUDIT BY PROVIDING CLEAR AND CONVINCING EVIDENCE
7 THAT THE METHOD USED FOR A STATISTICAL SAMPLE OR TEST AUDIT IS
8 ERRONEOUS, LACKS A RATIONAL BASIS OR PRODUCES A DIFFERENT RESULT
9 WHEN THE COMPLETE RECORDS ARE CONSIDERED.

10 SECTION 2916-A. ADDITIONAL PENALTY.--(A) SUBJECT TO THE
11 LIMITATIONS PROVIDED UNDER SUBSECTION (B), A PENALTY OF FIFTEEN
12 PER CENT OF THE UNPAID TAX LIABILITY AND PENALTIES AND INTEREST
13 SHALL BE LEVIED AGAINST A TAXPAYER SUBJECT TO AN ELIGIBLE TAX IF
14 THE TAXPAYER HAD FAILED TO REMIT AN ELIGIBLE TAX DUE OR HAD AN
15 UNREPORTED OR UNDERREPORTED LIABILITY FOR AN ELIGIBLE TAX ON OR
16 AFTER THE FIRST DAY FOLLOWING THE END OF THE AMNESTY PERIOD.

17 (B) THE PENALTY PROVIDED IN THIS SECTION SHALL NOT APPLY TO
18 A TAXPAYER WHO:

19 (1) HAS PAID THE LIABILITY IN FULL OR ENTERED INTO A DULY
20 APPROVED AND EXECUTED DEFERRED PAYMENT PLAN ON OR BEFORE THE
21 LAST DAY OF THE AMNESTY PERIOD; OR

22 (2) HAS FILED A TIMELY AND VALID ADMINISTRATIVE OR JUDICIAL
23 APPEAL CONTESTING THE LIABILITY ON OR BEFORE THE LAST DAY OF THE
24 AMNESTY PERIOD.

25 (C) THE PENALTY PROVIDED BY THIS SECTION SHALL BE IN
26 ADDITION TO ALL OTHER PENALTIES PROVIDED BY LAW.

27 SECTION 2917-A. APPLICATION OF PENALTY AND POWERS.--SECTIONS
28 2914-A AND 2915-A OF THIS ARTICLE SHALL APPLY TO ALL TAXES
29 COLLECTED BY THE DEPARTMENT.

30 SECTION 2918-A. CONSTRUCTION.--EXCEPT AS EXPRESSLY PROVIDED

1 IN THIS ARTICLE, THIS ARTICLE SHALL NOT:

2 (1) BE CONSTRUED TO RELIEVE ANY PERSON, CORPORATION OR OTHER
3 ENTITY FROM THE FILING OF RETURNS OR FROM ANY TAXES, PENALTIES
4 OR INTEREST IMPOSED BY THE PROVISIONS OF ANY LAWS;

5 (2) AFFECT OR TERMINATE ANY PETITIONS, INVESTIGATIONS,
6 PROSECUTIONS, LEGAL OR OTHERWISE, OR OTHER PROCEEDINGS PENDING
7 UNDER THE PROVISIONS OF ANY SUCH LAWS; OR

8 (3) PREVENT THE COMMENCEMENT OR FURTHER PROSECUTION OF ANY
9 PROCEEDINGS BY THE PROPER AUTHORITIES OF THE COMMONWEALTH FOR
10 VIOLATION OF ANY SUCH LAWS OR FOR THE ASSESSMENT, SETTLEMENT,
11 COLLECTION OR RECOVERY OF TAXES, PENALTIES OR INTEREST DUE TO
12 THE COMMONWEALTH UNDER ANY SUCH LAWS.

13 SECTION 2919-A. SUSPENSION OF INCONSISTENT ACTS.--ALL ACTS
14 OR PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF THIS
15 ARTICLE ARE SUSPENDED TO THE EXTENT NECESSARY TO CARRY OUT THE
16 PROVISIONS OF THIS ARTICLE.]

17 SECTION 11. THE ACT IS AMENDED BY ADDING ARTICLES TO READ:

18 ARTICLE XXIX-D

19 (RESERVED)

20 ARTICLE XXIX-E

21 REDUCTION OF TAX CREDITS

22 SECTION 2901-E. APPLICABILITY.

23 THIS ARTICLE SHALL APPLY TO TAX CREDITS AWARDED IN FISCAL
24 YEARS BEGINNING AFTER JUNE 30, 2009, AND ENDING BEFORE JULY 1,
25 2011.

26 SECTION 2902-E. REDUCTION.

27 (A) TOTAL AMOUNT REDUCTIONS.--FOR CREDITS AUTHORIZED UNDER
28 ARTICLES XVII-B, XVII-D AND XVII-F, THE TOTAL AMOUNT OF CREDITS
29 AWARDED EACH YEAR SHALL BE LIMITED TO 67% OF THE TOTAL AMOUNT OF
30 CREDITS AUTHORIZED BY LAW TO BE AWARDED EACH YEAR.

1 (B) INDIVIDUAL TAXPAYER REDUCTIONS.--FOR CREDITS AUTHORIZED
2 UNDER SECTION 206(B), ARTICLES XVII-A, XVII-E, XVIII-B AND XIX-A
3 AND CH. 5 SUBCH. B AND CH. 9 OF THE ACT OF DECEMBER 1, 2004
4 (P.L. 1758, NO.226), KNOWN AS THE FIRST CLASS CITIES ECONOMIC
5 DEVELOPMENT DISTRICT ACT, THE AMOUNT OF CREDIT AWARDED TO EACH
6 TAXPAYER SHALL BE LIMITED TO 67% OF THE AMOUNT OF CREDIT
7 AUTHORIZED BY LAW TO BE AWARDED TO EACH TAXPAYER.

8 (C) TOTAL REDUCTION.--A TAXPAYER SHALL NOT BE ENTITLED TO A
9 CREDIT UNDER CH.7 OF THE ACT OF JULY 9, 2008 (1ST SP. SESS.,
10 P.L. 1873, NO.1), KNOWN AS THE ALTERNATIVE ENERGY INVESTMENT
11 ACT.

12 ARTICLE XXIX-F

13 TAX AMNESTY PROGRAM FOR

14 FISCAL YEAR 2009-2010

15 SECTION 2901-F. DEFINITIONS.

16 THE FOLLOWING WORDS, TERMS AND PHRASES, WHEN USED IN THIS
17 ARTICLE, SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS
18 SECTION, EXCEPT WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT
19 MEANING:

20 "AMNESTY PERIOD." THE PERIOD FROM APRIL 26, 2010, THROUGH
21 JUNE 18, 2010, INCLUSIVE. THE PUBLISHING OF GUIDELINES AND
22 ESTIMATES UNDER SECTION 2910-F(A) SHALL BE COMPLETED 30 DAYS
23 PRIOR TO APRIL 26, 2010.

24 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.

25 "ELIGIBLE TAX." ANY TAX ADMINISTERED BY THE DEPARTMENT OF
26 REVENUE DELINQUENT AS OF JUNE 30, 2009. THE TERM INCLUDES ANY
27 INTEREST OR PENALTY ON AN ELIGIBLE TAX. FOR AN UNKNOWN
28 LIABILITY, THE TERM SHALL ONLY INCLUDE TAXES DUE WITHIN FIVE
29 YEARS PRIOR TO JUNE 30, 2009.

30 "PROGRAM." THE TAX AMNESTY PROGRAM ESTABLISHED UNDER SECTION

1 2902-F AS PROVIDED FOR IN THIS ARTICLE.

2 "TAXPAYER." ANY PERSON, ASSOCIATION, FIDUCIARY, PARTNERSHIP,
3 CORPORATION OR OTHER ENTITY REQUIRED TO PAY OR COLLECT ANY OF
4 THE ELIGIBLE TAXES. THE TERM SHALL NOT INCLUDE A TAXPAYER WHO,
5 PRIOR TO THE AMNESTY PERIOD, HAS RECEIVED NOTICE THAT THE
6 TAXPAYER IS THE SUBJECT OF A CRIMINAL INVESTIGATION FOR AN
7 ALLEGED VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX OR WHO,
8 PRIOR TO THE AMNESTY PERIOD, HAS BEEN NAMED AS A DEFENDANT IN A
9 CRIMINAL COMPLAINT ALLEGING A VIOLATION OF ANY LAW IMPOSING AN
10 ELIGIBLE TAX OR IS A DEFENDANT IN A PENDING CRIMINAL ACTION FOR
11 AN ALLEGED VIOLATION OF ANY LAW IMPOSING AN ELIGIBLE TAX.

12 "UNKNOWN LIABILITY." A LIABILITY FOR AN ELIGIBLE TAX FOR
13 WHICH EITHER:

14 (1) NO RETURN OR REPORT HAS BEEN FILED, NO PAYMENT HAS
15 BEEN MADE AND THE TAXPAYER HAS NOT BEEN CONTACTED BY THE
16 DEPARTMENT CONCERNING THE UNFILED RETURNS OR REPORTS OR
17 UNPAID TAX; OR

18 (2) A RETURN OR REPORT HAS BEEN FILED, THE TAX WAS
19 UNDERREPORTED AND THE TAXPAYER HAS NOT BEEN CONTACTED BY THE
20 DEPARTMENT CONCERNING THE UNDERREPORTED TAX.

21 SECTION 2902-F. ESTABLISHMENT OF PROGRAM.

22 (A) PROGRAM ESTABLISHED.--THERE IS ESTABLISHED A TAX AMNESTY
23 PROGRAM WHICH SHALL BE ADMINISTERED BY THE DEPARTMENT.

24 (B) APPLICABILITY.--THE PROGRAM SHALL APPLY TO A TAXPAYER
25 WHO IS DELINQUENT ON PAYMENT OF A LIABILITY FOR AN ELIGIBLE TAX
26 AS OF JUNE 30, 2009, INCLUDING A LIABILITY FOR RETURNS NOT
27 FILED, LIABILITIES ACCORDING TO RECORDS OF THE DEPARTMENT AS OF
28 JUNE 30, 2009, LIABILITIES NOT REPORTED, UNDERREPORTED OR NOT
29 ESTABLISHED, BUT DELINQUENT AS OF JUNE 30, 2009.

30 (C) FUTURE AMNESTY PROGRAM PARTICIPATION.--A TAXPAYER WHO

1 PARTICIPATES IN THE PROGRAM SHALL NOT BE ELIGIBLE TO PARTICIPATE
2 IN A FUTURE TAX AMNESTY PROGRAM.

3 (D) DEFERRED PAYMENT PLAN AGREEMENT.--EXISTING DEFERRED
4 PAYMENT PLAN AGREEMENTS BETWEEN A TAXPAYER AND THE DEPARTMENT
5 WHERE THE AGREEMENT APPLIES TO A TAX LIABILITY FOR WHICH AMNESTY
6 IS SOUGHT BY THE TAXPAYER FOR AMOUNTS REMAINING ON THE TAX
7 LIABILITY, THE TAXPAYER, AS A CONDITION OF RECEIVING AMNESTY,
8 SHALL PAY THE LIABILITY, NOTWITHSTANDING TERMS OF THE AGREEMENT
9 TO THE CONTRARY, IN FULL DURING THE AMNESTY PERIOD.

10 SECTION 2903-F. REQUIRED PAYMENT.

11 (A) TAXPAYER REQUIREMENTS.--SUBJECT TO SECTION 2904-F, ALL
12 TAXPAYERS WHO PARTICIPATE IN THE PROGRAM SHALL COMPLY WITH ALL
13 OF THE FOLLOWING:

14 (1) DURING THE AMNESTY PERIOD, FILE A TAX AMNESTY RETURN
15 IN SUCH FORM AND CONTAINING SUCH INFORMATION AS THE
16 DEPARTMENT SHALL REQUIRE. A TAX AMNESTY RETURN SHALL BE
17 CONSIDERED TO BE TIMELY FILED IF IT IS POSTMARKED DURING THE
18 AMNESTY PERIOD OR TIMELY ELECTRONICALLY OR OTHERWISE FILED.

19 (2) DURING THE AMNESTY PERIOD, MAKE PAYMENT OF ALL TAXES
20 AND ONE-HALF OF THE INTEREST DUE TO THE COMMONWEALTH IN
21 ACCORDANCE WITH THE TAX AMNESTY RETURN THAT IS FILED. THE
22 TAXPAYER SHALL NOT BE REQUIRED TO PAY ANY PENALTY APPLICABLE
23 TO AN ELIGIBLE TAX.

24 (3) FILE COMPLETE TAX RETURNS FOR ALL YEARS FOR WHICH
25 THE TAXPAYER PREVIOUSLY HAS NOT FILED A TAX RETURN AND FILE
26 COMPLETE AMENDED RETURNS FOR ALL YEARS FOR WHICH THE TAXPAYER
27 UNDERREPORTED ELIGIBLE TAX LIABILITY.

28 (B) PROHIBITIONS.--

29 (1) THE DEPARTMENT SHALL NOT COLLECT THE PENALTIES OR
30 INTEREST WAIVED UNDER SUBSECTION (A) (2). EXCEPT AS OTHERWISE

1 PROVIDED IN THIS ARTICLE, THE DEPARTMENT SHALL NOT PURSUE ANY
2 ADMINISTRATIVE OR JUDICIAL PROCEEDING AGAINST A TAXPAYER WITH
3 RESPECT TO ANY ELIGIBLE TAX THAT IS DISCLOSED ON A TAX
4 AMNESTY RETURN.

5 (2) A TAXPAYER WITH UNKNOWN LIABILITIES REPORTED AND
6 PAID UNDER THIS PROGRAM AND WHO COMPLIES WITH ALL OTHER
7 REQUIREMENTS OF THIS ARTICLE SHALL NOT BE LIABLE FOR ANY
8 TAXES OF THE SAME TYPE DUE PRIOR TO JULY 1, 2004. A TAXPAYER
9 SHALL NOT BE OWED A REFUND UNDER THIS ARTICLE.

10 (C) FINANCIAL HARDSHIP.--A TAXPAYER OTHERWISE ELIGIBLE FOR
11 AMNESTY WHO CERTIFIES ON AN AMNESTY RETURN THAT MAKING PAYMENT
12 OF THE FULL AMOUNT OF THE LIABILITY FOR WHICH AMNESTY IS SOUGHT
13 AT THE TIME SUCH RETURN IS MADE WOULD CREATE A SEVERE FINANCIAL
14 HARDSHIP FOR SUCH TAXPAYER, SHALL RETAIN ELIGIBILITY FOR AMNESTY
15 IF:

16 (1) FIFTY PERCENT OR MORE OF THE AMOUNT DUE AS COMPUTED
17 IS PAID WITH THE AMNESTY RETURN OR WITHIN THE AMNESTY PERIOD.

18 (2) THE BALANCE DUE, INCLUDING INTEREST UNDER SUBSECTION
19 (A) (2), IS PAID, IN NO MORE THAN TWO INSTALLMENTS ON OR
20 BEFORE THE END OF THE AMNESTY PERIOD.

21 SECTION 2904-F. AMNESTY CONTINGENT ON CONTINUED COMPLIANCE.

22 NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, THE
23 DEPARTMENT MAY ASSESS AND COLLECT FROM A TAXPAYER ALL PENALTIES
24 AND INTEREST WAIVED THROUGH THE TAX AMNESTY PROGRAM ESTABLISHED
25 IN THIS ARTICLE IF, WITHIN TWO YEARS AFTER THE END OF THE
26 PROGRAM, EITHER OF THE FOLLOWING OCCURS:

27 (1) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE
28 BECOMES DELINQUENT FOR THREE CONSECUTIVE PERIODS IN PAYMENT
29 OF TAXES DUE OR FILING OF RETURNS REQUIRED ON A SEMIMONTHLY,
30 MONTHLY, QUARTERLY OR OTHER BASIS AND THE TAXPAYER HAS NOT

1 CONTESTED THE TAX LIABILITY THROUGH A TIMELY VALID
2 ADMINISTRATIVE OR JUDICIAL APPEAL; OR

3 (2) THE TAXPAYER GRANTED AMNESTY UNDER THIS ARTICLE
4 BECOMES DELINQUENT AND IS EIGHT OR MORE MONTHS LATE IN
5 PAYMENT OF TAXES DUE OR FILING OF RETURNS ON AN ANNUAL BASIS
6 AND THE TAXPAYER HAS NOT CONTESTED THE LIABILITY THROUGH A
7 TIMELY VALID ADMINISTRATIVE OR JUDICIAL APPEAL.

8 SECTION 2905-F. LIMITATION OF DEFICIENCY ASSESSMENT.

9 IF, SUBSEQUENT TO THE AMNESTY PERIOD, THE DEPARTMENT ISSUES A
10 DEFICIENCY ASSESSMENT WITH RESPECT TO A TAX AMNESTY RETURN, THE
11 DEPARTMENT SHALL HAVE THE AUTHORITY TO IMPOSE PENALTIES AND TO
12 PURSUE A CRIMINAL ACTION ONLY WITH RESPECT TO THE DIFFERENCE
13 BETWEEN THE AMOUNT SHOWN ON THAT TAX AMNESTY RETURN AND THE
14 CURRENT AMOUNT OF TAX.

15 SECTION 2906-F. OVERPAYMENT OF TAX.

16 NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS ARTICLE OR ANY
17 OTHER ACT, IF AN OVERPAYMENT OF ELIGIBLE TAX IS REFUNDED OR
18 CREDITED WITHIN 180 DAYS AFTER THE TAX AMNESTY RETURN IS FILED
19 OR THE ELIGIBLE TAX IS PAID, WHICHEVER IS LATER, NO INTEREST
20 SHALL BE ALLOWED ON THE OVERPAYMENT.

21 SECTION 2907-F. PREVIOUSLY PAID INTEREST AND PENALTIES.

22 NO REFUND OR CREDIT SHALL BE ALLOWED FOR ANY INTEREST OR
23 PENALTY ON ELIGIBLE TAXES PAID TO THE DEPARTMENT PRIOR TO THE
24 AMNESTY PERIOD.

25 SECTION 2908-F. PROCEEDINGS RELATING TO TAX AMNESTY RETURN

26 BARRED.

27 PARTICIPATION IN THE PROGRAM IS CONDITIONED UPON THE
28 TAXPAYER'S AGREEMENT THAT THE RIGHT TO PROTEST OR PURSUE AN
29 ADMINISTRATIVE OR JUDICIAL PROCEEDING WITH REGARD TO TAX AMNESTY
30 RETURNS FILED UNDER THE PROGRAM OR TO CLAIM ANY REFUND OF MONEY

1 PAID UNDER THE PROGRAM IS BARRED.

2 SECTION 2909-F. UNDISCLOSED LIABILITIES.

3 NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE
4 DEPARTMENT FROM INSTITUTING CIVIL OR CRIMINAL PROCEEDINGS
5 AGAINST ANY TAXPAYER WITH RESPECT TO ANY AMOUNT OF TAX THAT IS
6 NOT DISCLOSED ON THE TAX AMNESTY RETURN OR ANY AMOUNT DISCLOSED
7 ON THE AMNESTY RETURN THAT IS NOT PAID.

8 SECTION 2910-F. DUTIES OF DEPARTMENT.

9 (A) GUIDELINES.--THE DEPARTMENT SHALL DEVELOP GUIDELINES TO
10 IMPLEMENT THE PROVISIONS OF THIS ARTICLE. THE GUIDELINES MUST BE
11 PUBLISHED IN THE PENNSYLVANIA BULLETIN WITHIN 60 DAYS OF THE
12 EFFECTIVE DATE OF THIS ARTICLE AND SHALL CONTAIN, BUT NOT BE
13 LIMITED TO, THE FOLLOWING INFORMATION:

14 (1) AN EXPLANATION OF THE PROGRAM AND THE REQUIREMENTS
15 FOR ELIGIBILITY FOR THE PROGRAM.

16 (2) THE DATES DURING WHICH A TAX AMNESTY RETURN MAY BE
17 FILED.

18 (3) A SPECIMEN COPY OF THE TAX AMNESTY RETURN.

19 (B) PUBLICITY.--THE DEPARTMENT SHALL PUBLICIZE THE PROGRAM
20 TO MAXIMIZE PUBLIC AWARENESS OF AND PARTICIPATION IN THE
21 PROGRAM. THE DEPARTMENT SHALL COORDINATE TO THE HIGHEST DEGREE
22 POSSIBLE ITS PUBLICITY EFFORTS AND OTHER ACTIONS TAKEN TO
23 IMPLEMENT THIS ARTICLE.

24 (C) REPORTS.--THE DEPARTMENT SHALL ISSUE REPORTS TO THE
25 GENERAL ASSEMBLY DETAILING PROGRAM IMPLEMENTATION. THE REPORTS
26 SHALL CONTAIN THE FOLLOWING INFORMATION:

27 (1) WITHIN 30 DAYS AFTER THE END OF THE AMNESTY PERIOD:

28 (I) A DETAILED BREAKDOWN OF THE DEPARTMENT'S
29 ADMINISTRATIVE COSTS IN IMPLEMENTING THE PROGRAM.

30 (II) THE TOTAL DOLLAR AMOUNT OF REVENUE COLLECTED BY

1 THE PROGRAM.

2 (2) WITHIN 180 DAYS AFTER THE END OF THE AMNESTY PERIOD:

3 (I) THE NUMBER OF TAX AMNESTY RETURNS FILED AND A
4 BREAKDOWN OF THE NUMBER AND DOLLAR AMOUNT OF REVENUE
5 RAISED FOR EACH TAX BY CALENDAR YEAR DURING WHICH THE TAX
6 PERIOD ENDED. IN ADDITION, THE GROSS REVENUES SHALL BE
7 BROKEN DOWN IN THE FOLLOWING CATEGORIES:

8 (A) AMOUNTS REPRESENTED BY ASSESSMENTS
9 RECEIVABLE ESTABLISHED BY THE DEPARTMENT ON OR BEFORE
10 THE FIRST DAY OF THE AMNESTY PERIOD.

11 (B) ALL OTHER AMOUNTS.

12 (II) THE TOTAL DOLLAR AMOUNT OF PENALTIES AND
13 INTEREST WAIVED UNDER THE PROGRAM.

14 (III) THE DEMOGRAPHIC CHARACTERISTICS OF TAX AMNESTY
15 PARTICIPANTS, INCLUDING NORTH AMERICAN INDUSTRY
16 CLASSIFICATION SYSTEM CODES OF PARTICIPANTS, TYPE OF
17 TAXPAYER, CONSISTING OF INDIVIDUAL, PARTNERSHIP,
18 CORPORATION OR OTHER ENTITY, SIZE OF TAX LIABILITY AND
19 GEOGRAPHICAL LOCATION.

20 (D) NOTIFICATION.--THE DEPARTMENT SHALL NOTIFY IN WRITING
21 ALL KNOWN TAX DELINQUENTS AT THE TAXPAYERS' LAST KNOWN ADDRESS
22 OF THE EXISTENCE OF THE TAX AMNESTY PROGRAM. THE SOLE PURPOSE OF
23 THE LETTER SENT BY THE DEPARTMENT TO TAXPAYERS MUST BE
24 NOTIFICATION OF THE PROGRAM.

25 SECTION 2911-F. METHOD OF PAYMENT.

26 ALL TAX PAYMENTS UNDER THE PROGRAM SHALL BE MADE BY CERTIFIED
27 CHECK, MONEY ORDER, ELECTRONIC TRANSFER, CREDIT CARD, CASH OR
28 ITS EQUIVALENT.

29 SECTION 2912-F. USE OF REVENUE.

30 ALL REVENUE GENERATED BY THIS ARTICLE SHALL BE DEPOSITED INTO

1 A RESTRICTED REVENUE ACCOUNT IN THE GENERAL FUND. REVENUE FROM
2 THE RESTRICTED REVENUE ACCOUNT SHALL BE DISTRIBUTED AS FOLLOWS:

3 (1) ALL MONEY FROM GENERAL FUND SOURCES SHALL BE
4 DEPOSITED IN THE GENERAL FUND NO LATER THAN JUNE 30, 2010,
5 LESS REPAYMENT OF ANY COSTS FOR ADMINISTRATION OF THE PROGRAM
6 TO THE DEPARTMENT.

7 (2) ALL REVENUE FROM MOTOR LICENSE FUND SOURCES SHALL BE
8 DEPOSITED IN THE MOTOR LICENSE FUND NO LATER THAN JUNE 30,
9 2010.

10 (3) ALL REVENUE FROM LIQUID FUELS TAX FUND SOURCES SHALL
11 BE DEPOSITED IN THE LIQUID FUELS TAX FUND NO LATER THAN JUNE
12 30, 2010.

13 SECTION 2913-F. ADDITIONAL PENALTY.

14 (A) PENALTY.--SUBJECT TO THE LIMITATIONS PROVIDED UNDER
15 SUBSECTION (B), A PENALTY OF 5% OF THE UNPAID TAX LIABILITY AND
16 PENALTIES AND INTEREST SHALL BE LEVIED AGAINST A TAXPAYER
17 SUBJECT TO AN ELIGIBLE TAX IF THE TAXPAYER HAD FAILED TO REMIT
18 AN ELIGIBLE TAX DUE OR HAD AN UNREPORTED OR UNDERREPORTED
19 LIABILITY FOR AN ELIGIBLE TAX ON OR AFTER THE FIRST DAY
20 FOLLOWING THE END OF THE AMNESTY PERIOD.

21 (B) NONAPPLICABILITY.--THE PENALTY PROVIDED IN THIS SECTION
22 SHALL NOT APPLY TO A TAXPAYER WHO:

23 (1) HAS PAID THE LIABILITY IN FULL OR ENTERED INTO A
24 DULY APPROVED AND EXECUTED DEFERRED PAYMENT PLAN ON OR BEFORE
25 THE LAST DAY OF THE AMNESTY PERIOD; OR

26 (2) HAS FILED A TIMELY AND VALID ADMINISTRATIVE OR
27 JUDICIAL APPEAL CONTESTING THE LIABILITY ON OR BEFORE THE
28 LAST DAY OF THE AMNESTY PERIOD.

29 (C) PENALTY IN ADDITION.--THE PENALTY PROVIDED BY THIS
30 SECTION SHALL BE IN ADDITION TO ALL OTHER PENALTIES PROVIDED BY

1 LAW.

2 SECTION 2914-F. CONSTRUCTION.

3 EXCEPT AS EXPRESSLY PROVIDED IN THIS ARTICLE, THIS ARTICLE
4 SHALL NOT:

5 (1) BE CONSTRUED TO RELIEVE ANY PERSON, CORPORATION OR
6 OTHER ENTITY FROM THE FILING OF RETURNS OR FROM ANY TAXES,
7 PENALTIES OR INTEREST IMPOSED BY THE PROVISIONS OF ANY LAWS;

8 (2) AFFECT OR TERMINATE ANY PETITIONS, INVESTIGATIONS,
9 PROSECUTIONS, LEGAL OR OTHERWISE, OR OTHER PROCEEDINGS
10 PENDING UNDER THE PROVISIONS OF ANY SUCH LAWS; OR

11 (3) PREVENT THE COMMENCEMENT OR FURTHER PROSECUTION OF
12 ANY PROCEEDINGS BY THE PROPER AUTHORITIES OF THE COMMONWEALTH
13 FOR VIOLATION OF ANY SUCH LAWS OR FOR THE ASSESSMENT,
14 SETTLEMENT, COLLECTION OR RECOVERY OF TAXES, PENALTIES OR
15 INTEREST DUE TO THE COMMONWEALTH UNDER ANY SUCH LAWS.

16 SECTION 2915-F. SUSPENSION OF INCONSISTENT ACTS.

17 ALL ACTS OR PARTS OF ACTS INCONSISTENT WITH THE PROVISIONS OF
18 THIS ARTICLE ARE SUSPENDED TO THE EXTENT NECESSARY TO CARRY OUT
19 THE PROVISIONS OF THIS ARTICLE.

20 SECTION 11.1. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

21 SECTION 3003.20. PENALTIES FOR CERTAIN CORPORATE OFFICERS.--
22 IF AN OFFICER OF A CORPORATION OR ASSOCIATION INTENTIONALLY
23 FAILS TO MAKE REPORTS TO THE AUDITOR GENERAL OR TO THE
24 DEPARTMENT OF REVENUE, OR SUCCESSIVELY TO THE AUDITOR GENERAL
25 AND TO THE DEPARTMENT, AS REQUIRED BY LAW, FOR ANY TWO
26 SUCCESSIVE TAX YEARS, THE OFFICER COMMITS A MISDEMEANOR AND
27 SHALL, UPON CONVICTION, BE SENTENCED TO PAY A FINE OF NOT LESS
28 THAN TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500) NOR MORE THAN
29 FIVE THOUSAND DOLLARS (\$5,000). THIS FINE SHALL BE IN ADDITION
30 TO ANY FINE OR PRISON SENTENCE UNDER SECTION 1704 OF THE ACT OF

1 APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL CODE."

2 SECTION 3003.21. FURTHER EXAMINATION OF BOOKS AND RECORDS.--

3 (A) THE DEPARTMENT OF REVENUE OR ANY OF ITS AUTHORIZED AGENTS
4 IS AUTHORIZED TO EXAMINE THE BOOKS, PAPERS AND RECORDS OF ANY
5 TAXPAYER OR OTHER PERSONS IN ORDER TO VERIFY THE ACCURACY AND
6 COMPLETENESS OF A RETURN OR REPORT OR, IF NO RETURN OR REPORT IS
7 MADE, TO ASCERTAIN AND ASSESS ANY TAX OR OTHER LIABILITY OWED
8 THE COMMONWEALTH.

9 (B) THE DEPARTMENT MAY DETERMINE, BY DESK, FIELD OR OTHER
10 AUDIT, THE AMOUNT OF TAX OR OTHER LIABILITY REQUIRED TO BE PAID
11 TO THE COMMONWEALTH. THE DEPARTMENT MAY DETERMINE THE LIABILITY
12 BASED UPON THE FACTS CONTAINED IN THE RETURN OR REPORT BEING
13 AUDITED OR UPON OTHER INFORMATION IN THE DEPARTMENT'S
14 POSSESSION. THE DEPARTMENT MAY DETERMINE THE LIABILITY BASED
15 UPON A REASONABLE STATISTICAL SAMPLE OR TEST AUDIT PERFORMED IN
16 ACCORDANCE WITH THE REGULATIONS OF THE DEPARTMENT IF THE
17 INDIVIDUAL BEING AUDITED DOES NOT HAVE COMPLETE RECORDS OF
18 TRANSACTIONS OR IF THE REVIEW OF EACH TRANSACTION OR INVOICE
19 WOULD PLACE AN UNDUE BURDEN ON THE DEPARTMENT TO CONDUCT AN
20 AUDIT IN A TIMELY AND EFFICIENT MANNER.

21 (C) THE TAXPAYER MAY CHALLENGE THE ACCURACY OF A STATISTICAL
22 SAMPLE OR TEST AUDIT BY PROVIDING CLEAR AND CONVINCING EVIDENCE
23 THAT THE METHOD USED FOR THE STATISTICAL SAMPLE OR TEST AUDIT IS
24 ERRONEOUS, LACKS A RATIONAL BASIS OR PRODUCES A DIFFERENT RESULT
25 WHEN THE COMPLETE RECORDS ARE CONSIDERED.

26 SECTION 3003.22. TABLE GAMES.

27 (A) AUTHORIZATION FEE.--IF TABLE GAMES ARE AUTHORIZED TO BE
28 OPERATED IN THIS COMMONWEALTH, THE DEPARTMENT OF REVENUE SHALL
29 COLLECT THE FOLLOWING FOR DEPOSIT INTO THE GENERAL FUND:

30 (1) A NON-REFUNDABLE AUTHORIZATION FEE OF \$20,000,000

1 FROM A HOLDER OF A CATEGORY 1 SLOT MACHINE LICENSE ISSUED
2 UNDER 4 PA.C.S. § 1302 (RELATING TO CATEGORY 1 SLOT MACHINE
3 LICENSE) THAT HAS APPLIED FOR AUTHORIZATION TO OPERATE TABLE
4 GAMES.

5 (2) A NON-REFUNDABLE AUTHORIZATION FEE OF \$20,000,000
6 FROM THE HOLDER OF A CATEGORY 2 SLOT MACHINE LICENSE ISSUED
7 UNDER 4 PA.C.S. § 1304 (RELATING TO CATEGORY 2 SLOT MACHINE
8 LICENSE) THAT HAS APPLIED FOR AUTHORIZATION TO OPERATE TABLE
9 GAMES.

10 (3) A NON-REFUNDABLE AUTHORIZATION FEE OF \$7,500,000
11 FROM THE HOLDER OF A CATEGORY 3 SLOT MACHINE LICENSE ISSUED
12 UNDER 4 PA.C.S. § 1305 (RELATING TO CATEGORY 3 SLOT MACHINE
13 LICENSE) THAT HAS APPLIED FOR AUTHORIZATION TO OPERATE TABLE
14 GAMES.

15 (B) TAX.--IF TABLE GAMES ARE AUTHORIZED TO BE OPERATED IN
16 THIS COMMONWEALTH, THE DEPARTMENT SHALL COLLECT FROM EACH SLOT
17 MACHINE LICENSEE AUTHORIZED TO OPERATE TABLE GAMES, A TAX OF 34%
18 OF THE DAILY GROSS TABLE GAME REVENUE FROM TABLE GAMES IN
19 OPERATION AT ITS LICENSED FACILITY. THE TAX SHALL BE COLLECTED
20 IN THE SAME MANNER AS THE DEPARTMENT COLLECTS TAXES FROM SLOT
21 MACHINE LICENSEES UNDER 4 PA.C.S. § 1403(B) (RELATING TO
22 ESTABLISHMENT OF STATE GAMING FUND AND NET SLOT MACHINE REVENUE
23 DISTRIBUTION), EXCEPT THAT THE TAX DESCRIBED UNDER THIS
24 SUBSECTION SHALL BE COLLECTED ON A WEEKLY BASIS.

25 (C) DEFINITIONS.--AS USED IN THIS SECTION, THE FOLLOWING
26 WORDS AND PHRASES SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS
27 SUBSECTION UNLESS THE CONTEXT CLEARLY INDICATES OTHERWISE:

28 "LICENSED FACILITY." AS DEFINED IN 4 PA.C.S. § 1103
29 (RELATING TO DEFINITIONS).

30 "SLOT MACHINE LICENSE." AS DEFINED IN 4 PA.C.S. § 1103

1 (RELATING TO DEFINITIONS).

2 "SLOT MACHINE LICENSEE." AS DEFINED IN 4 PA.C.S. § 1103

3 (RELATING TO DEFINITIONS).

4 SECTION 12. REPEALS ARE AS FOLLOWS:

5 (1) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
6 PARAGRAPH (2) IS NECESSARY TO EFFECTUATE THE ADDITION OF
7 ARTICLE XVII-F OF THE ACT.

8 (2) ARTICLE XX-B OF THE ACT OF MARCH 10, 1949 (P.L.30,
9 NO.14), KNOWN AS THE PUBLIC SCHOOL CODE OF 1949, IS REPEALED.

10 (3) THE GENERAL ASSEMBLY DECLARES THAT THE REPEAL UNDER
11 PARAGRAPH (4) IS NECESSARY TO EFFECTUATE THE AMENDMENT OR
12 ADDITION OF SECTION 1101(B.1), (C), (C.1), (E) AND (J) OF THE
13 ACT.

14 (4) ARTICLE VIII-F OF THE ACT OF JUNE 13, 1967 (P.L.31,
15 NO.21), KNOWN AS THE PUBLIC WELFARE CODE, IS REPEALED.

16 SECTION 13. THE ADDITION OF ARTICLE XVII-F OF THE ACT IS A
17 CONTINUATION OF THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN
18 AS THE PUBLIC SCHOOL CODE OF 1949. EXCEPT AS OTHERWISE PROVIDED
19 IN ARTICLE XVII-F OF THE ACT, ALL ACTIVITIES INITIATED UNDER
20 ARTICLE XX-B OF THE PUBLIC SCHOOL CODE OF 1949 SHALL CONTINUE
21 AND REMAIN IN FULL FORCE AND EFFECT AND MAY BE COMPLETED UNDER
22 ARTICLE XVII-F OF THE ACT. ORDERS, REGULATIONS, RULES AND
23 DECISIONS WHICH WERE MADE UNDER ARTICLE XX-B OF THE PUBLIC
24 SCHOOL CODE OF 1949 AND WHICH ARE IN EFFECT ON THE EFFECTIVE
25 DATE OF SECTION 12(2) OF THIS ACT SHALL REMAIN IN FULL FORCE AND
26 EFFECT UNTIL REVOKED, VACATED OR MODIFIED UNDER ARTICLE XVII-F
27 OF THE ACT.

28 SECTION 14. THIS ACT SHALL APPLY AS FOLLOWS:

29 (1) THE AMENDMENT OF SECTION 319 OF THE ACT SHALL APPLY
30 TO TAX RETURNS DUE AFTER MAY 31, 2011.

1 (2) THE AMENDMENT OF THE DEFINITION OF "CAPITAL STOCK
2 VALUE" IN SECTION 601 OF THE ACT SHALL APPLY TO TAXABLE YEARS
3 BEGINNING AFTER DECEMBER 31, 2009.

4 (3) FOR PURPOSES OF DETERMINING THE AMOUNT OF ANY
5 UNDERPAYMENT UNDER SECTION 3003.3(D) OF THE ACT, THE
6 AMENDMENT OF SECTION 602(H) OF THE ACT SHALL NOT BE TAKEN
7 INTO ACCOUNT FOR ANY PAYMENT OF ESTIMATED CAPITAL STOCK OR
8 FRANCHISE TAX DUE PRIOR TO JANUARY 1, 2010.

9 (4) THE ADDITION OF SECTION 1101(B.1) OF THE ACT SHALL
10 APPLY TO CALENDAR YEARS BEGINNING AFTER DECEMBER 31, 2008,
11 AND TO GROSS RECEIPTS RECEIVED AFTER SEPTEMBER 30, 2009. THE
12 AMENDMENT OF SECTION 1101(C), (C.1), (E) AND (J) OF THE ACT
13 SHALL APPLY RETROACTIVELY TO OCTOBER 1, 2009.

14 SECTION 15. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

15 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT NOVEMBER
16 1, 2009:

17 (I) THE AMENDMENT OF SECTION 1206 OF THE ACT.

18 (II) THE AMENDMENT OF SECTION 1206.1 OF THE ACT.

19 (III) THE AMENDMENT OF SECTION 1216 OF THE ACT.

20 (IV) THE AMENDMENT OF SECTION 1278 OF THE ACT.

21 (2) THE ADDITION OF ARTICLE XII-A OF THE ACT SHALL TAKE
22 EFFECT IN 60 DAYS.

23 (2.1) THE ADDITION OF ARTICLE XVI OF THE ACT SHALL TAKE
24 EFFECT IN 90 DAYS.

25 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
26 IMMEDIATELY.