
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1457 Session of
2012

INTRODUCED BY BLAKE, TARTAGLIONE, COSTA, FARNESE, FONTANA,
HUGHES, BOSCOLA, SOLOBAY, SCHWANK, YUDICHAK, FERLO AND LEACH,
MARCH 23, 2012

REFERRED TO FINANCE, MARCH 23, 2012

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," in corporate net income tax, further providing
11 for definitions, for imposition, for reports and payment and
12 for consolidated reports; providing for mandatory combined
13 reporting; and, in general provisions, further providing for
14 underpayment of estimated tax.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 401(3)1(a) and (b) and 2(a) and (5) of
18 the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform
19 Code of 1971, amended or added December 23, 1983 (P.L.370,
20 No.90), July 1, 1985 (P.L.78, No.29), August 4, 1991 (P.L.97,
21 No.22), May 12, 1999 (P.L.26, No.4), June 22, 2001 (P.L.353,
22 No.23), June 29, 2002 (P.L.559, No.89) and October 9, 2009
23 (P.L.451, No.48) are amended, clause (3)2 is amended by adding a

1 phrase and the section is amended by adding clauses to read:

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

6 * * *

7 (3) "Taxable income." 1. (a) In case the entire business
8 of the corporation is transacted within this Commonwealth, for
9 any taxable year which begins on or after January 1, 1971,
10 taxable income for the calendar year or fiscal year as returned
11 to and ascertained by the Federal Government, or in the case of
12 a corporation participating in the filing of consolidated
13 returns to the Federal Government or that is not required to
14 file a return with the Federal Government, the taxable income
15 which would have been returned to and ascertained by the Federal
16 Government if separate returns had been made to the Federal
17 Government for the current and prior taxable years, subject,
18 however, to any correction thereof, for fraud, evasion, or error
19 as finally ascertained by the Federal Government.

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

1 in arriving at Federal taxable income if received from a
2 domestic corporation. For taxable years beginning after December
3 31, 2018, if not otherwise allowed as a deduction, an additional
4 deduction is allowed for all dividends paid by one to another of
5 the included corporations of a unitary business to the extent
6 those dividends are included in business income of a corporation
7 that is required to determine its business income pursuant to
8 paragraph (1) of phrase (e) of subclause (2).

9 * * *

10 2. In case the entire business of any corporation, other
11 than a corporation engaged in doing business as a regulated
12 investment company as defined by the Internal Revenue Code of
13 1986, is not transacted within this Commonwealth, the tax
14 imposed by this article shall be based upon such portion of the
15 taxable income of such corporation for the fiscal or calendar
16 year, as defined in subclause 1 hereof, and may be determined as
17 follows:

18 (a) Division of Income.

19 (1) As used in this definition, unless the context otherwise
20 requires:

21 (A) "Business income" means income arising from transactions
22 and activity in the regular course of the taxpayer's trade or
23 business and includes income from tangible and intangible
24 property if either the acquisition, the management or the
25 disposition of the property constitutes an integral part of the
26 taxpayer's regular trade or business operations. The term
27 includes all income which is apportionable under the
28 Constitution of the United States.

29 (B) "Commercial domicile" means the principal place from
30 which the trade or business of the taxpayer is directed or

1 managed.

2 (C) "Compensation" means wages, salaries, commissions and
3 any other form of remuneration paid to employes for personal
4 services.

5 (D) "Nonbusiness income" means all income other than
6 business income. The term does not include income which is
7 apportionable under the Constitution of the United States.

8 (E) "Sales" means all gross receipts of the taxpayer not
9 allocated under this definition other than dividends received,
10 interest on United States, state or political subdivision
11 obligations and gross receipts heretofore or hereafter received
12 from the sale, redemption, maturity or exchange of securities,
13 except those held by the taxpayer primarily for sale to
14 customers in the ordinary course of its trade or business.

15 (F) "State" means any state of the United States, the
16 District of Columbia, the Commonwealth of Puerto Rico, any
17 territory or possession of the United States, and any foreign
18 country or political subdivision thereof.

19 (G) "This state" means the Commonwealth of Pennsylvania or,
20 in the case of application of this definition to the
21 apportionment and allocation of income for local tax purposes,
22 the subdivision or local taxing district in which the relevant
23 tax return is filed.

24 (2) Any taxpayer having income from business activity which
25 is taxable both within and without this State other than
26 activity as a corporation whose allocation and apportionment of
27 income is specifically provided for in section 401(3)2(b)(c) and
28 (d) shall allocate and apportion taxable income as provided in
29 this definition.

30 (3) For purposes of allocation and apportionment of income

1 under this definition, a taxpayer is taxable in another state if
2 in that state the taxpayer is subject to a net income tax, a
3 franchise tax measured by net income, a franchise tax for the
4 privilege of doing business, or a corporate stock tax or if that
5 state has jurisdiction to subject the taxpayer to a net income
6 tax regardless of whether, in fact, the state does or does not.

7 (4) Rents and royalties from real or tangible personal
8 property, gains, interest, patent or copyright royalties, to the
9 extent that they constitute nonbusiness income, shall be
10 allocated as provided in paragraphs (5) through (8).

11 (5) (A) Net rents and royalties from real property located
12 in this State are allocable to this State.

13 (B) Net rents and royalties from tangible personal property
14 are allocable to this State if and to the extent that the
15 property is utilized in this State, or in their entirety if the
16 taxpayer's commercial domicile is in this State and the taxpayer
17 is not organized under the laws of or taxable in the state in
18 which the property is utilized.

19 (C) The extent of utilization of tangible personal property
20 in a state is determined by multiplying the rents and royalties
21 by a fraction, the numerator of which is the number of days of
22 physical location of the property in the state during the rental
23 or royalty period in the taxable year and the denominator of
24 which is the number of days of physical location of the property
25 everywhere during all rental or royalty periods in the taxable
26 year. If the physical location of the property during the rental
27 or royalty period is unknown or unascertainable by the taxpayer,
28 tangible personal property is utilized in the state in which the
29 property was located at the time the rental or royalty payer
30 obtained possession.

1 (6) (A) Gains and losses from sales or other disposition of
2 real property located in this State are allocable to this State.

3 (B) Gains and losses from sales or other disposition of
4 tangible personal property are allocable to this State if the
5 property had a situs in this State at the time of the sale, or
6 the taxpayer's commercial domicile is in this State and the
7 taxpayer is not taxable in the state in which the property had a
8 situs.

9 (C) Gains and losses from sales or other disposition of
10 intangible personal property are allocable to this State if the
11 taxpayer's commercial domicile is in this State.

12 (7) Interest is allocable to this State if the taxpayer's
13 commercial domicile is in this State.

14 (8) (A) Patent and copyright royalties are allocable to
15 this State if and to the extent that the patent or copyright is
16 utilized by the payer in this State, or if and to the extent
17 that the patent copyright is utilized by the payer in a state in
18 which the taxpayer is not taxable and the taxpayer's commercial
19 domicile is in this State.

20 (B) A patent is utilized in a state to the extent that it is
21 employed in production, fabrication, manufacturing, or other
22 processing in the state or to the extent that a patented product
23 is produced in the state. If the basis of receipts from patent
24 royalties does not permit allocation to states or if the
25 accounting procedures do not reflect states of utilization, the
26 patent is utilized in the state in which the taxpayer's
27 commercial domicile is located.

28 (C) A copyright is utilized in a state to the extent that
29 printing or other publication originates in the state. If the
30 basis of receipts from copyright royalties does not permit

1 allocation to states or if the accounting procedures do not
2 reflect states of utilization, the copyright is utilized in the
3 state in which the taxpayer's commercial domicile is located.

4 (9) (A) Except as provided in subparagraph (B):

5 (i) For taxable years beginning before January 1, 2007, all
6 business income shall be apportioned to this State by
7 multiplying the income by a fraction, the numerator of which is
8 the property factor plus the payroll factor plus three times the
9 sales factor and the denominator of which is five.

10 (ii) For taxable years beginning after December 31, 2006,
11 all business income shall be apportioned to this State by
12 multiplying the income by a fraction, the numerator of which is
13 the sum of fifteen times the property factor, fifteen times the
14 payroll factor and seventy times the sales factor and the
15 denominator of which is one hundred.

16 (iii) For taxable years beginning after December 31, 2008,
17 all business income shall be apportioned to this State by
18 multiplying the income by a fraction, the numerator of which is
19 the sum of eight and a half times the property factor, eight and
20 a half times the payroll factor and eighty-three times the sales
21 factor and the denominator of which is one hundred.

22 (iv) For taxable years beginning after December 31, 2009,
23 all business income shall be apportioned to this State by
24 multiplying the income by a fraction, the numerator of which is
25 the sum of five times the property factor, five times the
26 payroll factor and ninety times the sales factor and the
27 denominator of which is one hundred.

28 (B) For purposes of apportionment of the capital stock -
29 franchise tax as provided in section 602 of Article VI of this
30 act, the apportionment fraction shall be the property factor

1 plus the payroll factor plus the sales factor as the numerator,
2 and the denominator shall be three.

3 (10) The property factor is a fraction, the numerator of
4 which is the average value of the taxpayer's real and tangible
5 personal property owned or rented and used in this State during
6 the tax period and the denominator of which is the average value
7 of all the taxpayer's real and tangible personal property owned
8 or rented and used during the tax period but shall not include
9 the security interest of any corporation as seller or lessor in
10 personal property sold or leased under a conditional sale,
11 bailment lease, chattel mortgage or other contract providing for
12 the retention of a lien or title as security for the sales price
13 of the property.

14 (11) Property owned by the taxpayer is valued at its
15 original cost. Property rented by the taxpayer is valued at
16 eight times the net annual rental rate. Net annual rental rate
17 is the annual rental rate paid by the taxpayer less any annual
18 rental rate received by the taxpayer from subrentals.

19 (12) The average value of property shall be determined by
20 averaging the values at the beginning and ending of the tax
21 period but the tax administrator may require the averaging of
22 monthly values during the tax period if reasonably required to
23 reflect properly the average value of the taxpayer's property.

24 (13) The payroll factor is a fraction, the numerator of
25 which is the total amount paid in this State during the tax
26 period by the taxpayer for compensation and the denominator of
27 which is the total compensation paid everywhere during the tax
28 period.

29 (14) Compensation is paid in this State if:

30 (A) The individual's service is performed entirely within

1 the State;

2 (B) The individual's service is performed both within and
3 without this State, but the service performed without the State
4 is incidental to the individual's service within this State; or

5 (C) Some of the service is performed in this State and the
6 base of operations or if there is no base of operations, the
7 place from which the service is directed or controlled is in
8 this State, or the base of operations or the place from which
9 the service is directed or controlled is not in any state in
10 which some part of the service is performed, but the
11 individual's residence is in this State.

12 (15) The sales factor is a fraction, the numerator of which
13 is the total sales of the taxpayer in this State during the tax
14 period, and the denominator of which is the total sales of the
15 taxpayer everywhere during the tax period.

16 (16) Sales of tangible personal property are in this State
17 if the property is delivered or shipped to a purchaser, within
18 this State regardless of the f.o.b. point or other conditions of
19 the sale.

20 (17) Sales, other than sales of tangible personal property
21 and sales set forth under paragraphs (17.1) and (17.2), are in
22 this State if:

23 (A) The income-producing activity is performed in this
24 State; or

25 (B) The income-producing activity is performed both in and
26 outside this State and a greater proportion of the income-
27 producing activity is performed in this State than in any other
28 state, based on costs of performance.

29 (17.1) Sales of services are in this State if sales are
30 derived from customers within this State. If part of the sales

1 with respect to a specific contract or other agreement to
2 perform services is derived from customers from within this
3 State, sales are in this State in proportion to the sales
4 derived from customers within this State to total sales with
5 respect to that contract or agreement.

6 (17.2) In order to determine sales in this State of any
7 railroad, truck, bus, airline, pipeline, natural gas or water
8 transportation company that is required to determine its
9 business income under paragraph (1) of phrase (e) of this
10 subclause, the company must convert the relevant fraction set
11 forth under phrase (b), (c) or (d) of this subclause to gross
12 receipts. Sales in this State are the result of multiplying
13 total gross receipts from relevant transportation activities by
14 the decimal equivalent of the relevant fraction set forth under
15 phrase (b), (c) or (d) of this subclause.

16 (18) If the allocation and apportionment provisions of this
17 definition do not fairly represent the extent of the taxpayer's
18 business activity in this State, the taxpayer may petition the
19 Secretary of Revenue or the Secretary of Revenue may require, in
20 respect to all or any part of the taxpayer's business activity:

21 (A) Separate accounting;

22 (B) The exclusion of any one or more of the factors;

23 (C) The inclusion of one or more additional factors which
24 will fairly represent the taxpayer's business activity in this
25 State; or

26 (D) The employment of any other method to effectuate an
27 equitable allocation and apportionment of the taxpayer's income.
28 In determining the fairness of any allocation or apportionment,
29 the Secretary of Revenue may give consideration to the
30 taxpayer's previous reporting and its consistency with the

1 requested relief.

2 * * *

3 (e) Corporations That are Members of a Unitary Business.

4 (1) Notwithstanding any contrary provisions of this article,
5 for taxable years that begin after December 31, 2018, business
6 income of a corporation that is a member of a unitary business
7 that consists of two or more corporations, at least one of which
8 does not transact its entire business in this State, is
9 determined by combining the business income of either all
10 corporations, other than as provided under this paragraph, that
11 are water's-edge basis members or all corporations, other than
12 as provided under this paragraph, that are worldwide members of
13 the unitary business. Business income from an intercompany
14 transaction between included corporations of a unitary business
15 shall be deferred in the manner set forth under 26 CFR 1.1502-13
16 (relating to intercompany transactions) in determining the
17 business income of a corporation that is a member of that
18 unitary business. Business income of the following corporations
19 is not included in the determination of combined business
20 income:

21 (i) any corporation subject to taxation under Article VII,
22 VIII, IX or XV;

23 (ii) any corporation specified in the definition of
24 "institution" in section 701.5 that would be subject to taxation
25 under Article VII if it was located, as defined in section
26 701.5, in this State;

27 (iii) any corporation commonly known as a title insurance
28 company that would be subject to taxation under Article VIII if
29 it was incorporated in this State;

30 (iv) any corporation specified as an insurance company,

1 association or exchange in Article IX that would be subject to
2 taxation under Article IX if its insurance business was
3 transacted in this State;

4 (v) any corporation specified in the definition of
5 "institution" in section 1501 that would be subject to taxation
6 under Article XV if it was located, as defined in section 1501,
7 in this State; or

8 (vi) any corporation that is a small corporation, as defined
9 in section 301(s.2), or a qualified Subchapter S subsidiary, as
10 defined in section 301(o.3).

11 (2) Notwithstanding any contrary provisions of this article,
12 all corporations that are required to compute business income
13 under paragraph (1) are entitled to apportion the business
14 income when one corporation of the same unitary business is
15 entitled to apportion the business income. Notwithstanding any
16 contrary provisions of this article, for taxable years that
17 begin after December 31, 2018, the denominator of the
18 apportionment fraction of a corporation that is required to
19 compute its business income under paragraph (1) shall be
20 computed on a combined basis for all included corporations of
21 the unitary business. Gross receipts from an intercompany
22 transaction between included corporations of a unitary business
23 shall be eliminated unless the gross receipts are derived from
24 transactions that are deferred in the manner set forth under 26
25 CFR 1.1502-13 in computing the numerator and denominator of the
26 apportionment fraction of a corporation that is required to
27 compute its business income under paragraph (1). Gross receipts
28 from transactions that had been deferred in the manner set forth
29 under 26 CFR 1.1502-13 are included in a corporation's
30 apportionment fraction during the same taxable year that it

1 realizes business income that had been deferred due to the
2 transaction. The apportionment fraction of the following
3 corporations shall not be included in the determination of the
4 combined apportionment fraction:

5 (i) any corporation subject to taxation under Article VII,
6 VIII, IX or XV;

7 (ii) any corporation specified in the definition of
8 "institution" in section 701.5 that would be subject to taxation
9 under Article VII if it was located, as defined in section
10 701.5, in this State;

11 (iii) any corporation commonly known as a title insurance
12 company that would be subject to taxation under Article VIII if
13 it was incorporated in this State;

14 (iv) any corporation specified as an insurance company,
15 association or exchange in Article IX that would be subject to
16 taxation under Article IX if its insurance business was
17 transacted in this State;

18 (v) any corporation specified in the definition of
19 "institution" in section 1501 that would be subject to taxation
20 under Article XV if it was located, as defined in section 1501,
21 in this State;

22 (vi) any corporation that is a small corporation, as defined
23 in section 301(s.2), or a qualified Subchapter S subsidiary, as
24 defined in section 301(o.3).

25 (3) A corporation that is required to compute its business
26 income under paragraph (1) shall apportion the combined business
27 income by multiplying the combined business income by a fraction
28 which is the combined apportionment fraction set forth under
29 paragraph (2).

30 (4) Nonbusiness income of a corporation that is required to

1 compute business income under paragraph (1) shall be allocated
2 as provided in paragraphs (5), (6), (7) and (8) of phrase (a) of
3 subclause 2 of the definition of "taxable income."

4 (5) Each corporation that is a member of a unitary business
5 that consists of two or more corporation shall determine its tax
6 liability based on its apportioned share of the combined
7 business income of the unitary business plus its nonbusiness
8 income or loss allocated to this State, minus its net loss
9 deduction.

10 (6) If any provision of this phrase operates so that an
11 amount is added to or deducted from taxable income for a taxable
12 year for any corporation of a unitary business that previously
13 had been added to or deducted from taxable income of any
14 corporation of the same unitary business, an appropriate
15 adjustment shall be made for the taxable year in order to
16 prevent double taxation or double deduction. If this adjustment
17 is not made by the appropriate corporation of the unitary
18 business, the Secretary of Revenue is authorized to make this
19 adjustment.

20 (7) The Secretary of Revenue shall have the authority and
21 responsibility to make adjustments to insure that a corporation
22 does not incur an unfair penalty nor realize an unfair benefit
23 because it is required to compute its business income under
24 paragraph (1). Fairness shall be measured by whether the
25 corporation's income allocated and apportioned to this State
26 fairly reflects the corporation's share of the unitary business
27 conducted in this State in the taxable year.

28 * * *

29 (5) "Taxable year." [The] 1. Except as set forth in
30 subclause 2, the taxable year which the corporation, or any

1 consolidated group with which the corporation participates in
2 the filing of consolidated returns, actually uses in reporting
3 taxable income to the Federal Government[.], or which the
4 corporation would have used in reporting taxable income to the
5 Federal Government had it been required to report its taxable
6 income to the Federal Government. With regard to the tax imposed
7 by Article IV of this act (relating to the Corporate Net Income
8 Tax), the terms "annual year," "fiscal year," "annual or fiscal
9 year," "tax year" and "tax period" shall be the same as the
10 corporation's taxable year, as defined in this [paragraph.]
11 subclause or subclause 2.

12 2. All corporations of a unitary business shall have a
13 common taxable year for purposes of computing tax due under this
14 article. The taxable year for the purposes shall be the common
15 taxable year adopted, in a manner prescribed by the department,
16 by all corporations of a unitary business. The common taxable
17 year must be used by all corporations of that unitary business
18 in the year of adoption and all future years unless otherwise
19 permitted by the department.

20 * * *

21 (8) "Tax haven." A jurisdiction that at the beginning of a
22 taxable year is a tax haven as identified by the Organization
23 for Economic Co-operation and Development, plus the
24 sovereignties of Bermuda, the Cayman Islands, the Bailiwick of
25 Jersey and the Grand Duchy of Luxembourg.

26 (9) "Unitary business." A single economic enterprise that
27 is made up of separate parts of a single corporation, of a
28 commonly controlled group of corporations, or both, that are
29 sufficiently interdependent, integrated and interrelated through
30 their activities so as to provide a synergy and mutual benefit

1 that produces a sharing or exchange of value among them and a
2 significant flow of value to the separate parts. A unitary
3 business shall include only those parts and corporations which
4 may be included as a unitary business under the Constitution of
5 the United States.

6 (10) "Water's-edge basis." A system of reporting that
7 includes the business income and apportionment factor of certain
8 corporations of a unitary business, described as follows:

9 1. The business income and apportionment factor of any
10 member incorporated in the United States or formed under the
11 laws of any state of the United States, the District of
12 Columbia, any territory or possession of the United States or
13 the Commonwealth of Puerto Rico.

14 2. The business income and apportionment factor of any
15 member, regardless of the place incorporated or formed, if the
16 average of its property, payroll and sales factors within the
17 United States is twenty per cent or more.

18 3. The business income and apportionment factor of any
19 member which is a domestic international sales corporation as
20 described in sections 991, 992, 993 and 994 of the Internal
21 Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 991, 992,
22 993 and 994); a foreign sales corporation as described in former
23 sections 921, 922, 923, 924, 925, 926 and 927 of the Internal
24 Revenue Code of 1986 (formerly 26 U.S.C. §§ 921, 922, 923, 924,
25 925, 926 and 927); or any member which is an export trade
26 corporation, as described in sections 970 and 971 of the
27 Internal Revenue Code of 1986 (26 U.S.C. §§ 970 and 971).

28 4. Any member not described in subclauses 1, 2 and 3 shall
29 include the portion of its business income derived from or
30 attributable to sources within the United States, as determined

1 under the Internal Revenue Code of 1986 without regard to
2 Federal treaties, and its apportionment factor related thereto.

3 5. Any member that is a "controlled foreign corporation" as
4 defined in section 957 of the Internal Revenue Code of 1986 (26
5 U.S.C. § 957), to the extent the business income of that member
6 is income defined in section 952 of the Internal Revenue Code of
7 1986 (26 U.S.C. § 952), Subpart F income, not excluding lower-
8 tier subsidiaries' distributions of the income which were
9 previously taxed, determined without regard to Federal treaties,
10 and the apportionment factor related to that income; any item of
11 income received by a controlled foreign corporation and the
12 apportionment factor related to the income shall be excluded if
13 the corporation establishes to the satisfaction of the Secretary
14 of Revenue that the income was subject to an effective rate of
15 income tax imposed by a foreign country greater than ninety per
16 cent of the maximum rate of tax specified in section 11 of the
17 Internal Revenue Code of 1986 (26 U.S.C. § 11). The effective
18 rate of income tax determination shall be based upon the
19 methodology set forth under 26 CFR 1.954-1 (relating to foreign
20 base company income).

21 6. The business income and apportionment factor of any
22 member that is not described in subclause 1, 2, 3, 4 and 5 and
23 that is doing business in a tax haven. The business income and
24 apportionment factor of a corporation doing business in a tax
25 haven shall be excluded if the corporation establishes to the
26 satisfaction of the Secretary of Revenue that its income was
27 subject to an effective rate of income tax imposed by a country
28 greater than ninety per cent of the maximum rate of tax
29 specified in section 11 of the Internal Revenue Code of 1986 (26
30 U.S.C. § 11).

1 (11) "Commonly controlled group." For a corporation, the
2 corporation is a member of a group of two or more corporations
3 and more than fifty per cent of the voting stock of each member
4 of the group is directly or indirectly owned by a common owner
5 or by common owners, either corporate or noncorporate, or by one
6 or more of the member corporations of the group.

7 (12) "Separate company." A corporation that is not a member
8 of a unitary business that consists of two or more corporations.

9 (13) "Tax." Includes interest, penalties and additions to
10 tax unless a more limited meaning is disclosed by the context.

11 Section 2. Section 402(b) of the act, amended June 29, 2002
12 (P.L.559, No.89), is amended to read:

13 Section 402. Imposition of Tax.--* * *

14 (b) The annual rate of tax on corporate net income imposed
15 by subsection (a) for taxable years beginning for the calendar
16 year or fiscal year on or after the dates set forth shall be as
17 follows:

Taxable Year	Tax Rate
[January 1, 1995, and each taxable year thereafter	9.99%]
<u>January 1, 1995, through taxable</u> <u>years ending December 31,</u> <u>2013</u>	<u>9.99%</u>
<u>January 1, 2014, to December 31,</u> <u>2014</u>	<u>9.39%</u>
<u>January 1, 2015, to December 31,</u> <u>2015</u>	<u>8.79%</u>
<u>January 1, 2016, to December 31,</u> <u>2016</u>	<u>8.19%</u>

1 January 1, 2017, to December 31,
2 2017 7.59%
3 January 1, 2018, to December 31,
4 2018, and each taxable year
5 thereafter 6.99%

6 * * *

7 Section 3. Section 403 of the act is amended by adding
8 subsections to read:

9 Section 403. Reports and Payment of Tax.--* * *

10 (a.1) The following apply:

11 (1) Each corporation subject to tax under this article shall
12 file an annual report in accordance with this section. Each
13 corporation that is a member of a unitary business that consists
14 of two or more corporations, unless excluded by the provisions
15 of this article, shall file as part of a combined annual report.
16 The corporations of the unitary business shall designate one
17 member that is subject to tax under this article to file the
18 combined annual report and to act as agent on behalf of all
19 other corporations that are members of the unitary business.
20 Each corporation that is a member of a unitary business shall be
21 responsible for its tax liability under this article.

22 (2) The oath or affirmation of the designated member's
23 president, vice president or other principal officer, and of its
24 treasurer or assistant treasurer shall constitute the oath or
25 affirmation of each corporation that is a member of that unitary
26 business.

27 (3) The designated member shall transmit to the department
28 upon a form prescribed by the department, an annual combined
29 report under oath or affirmation of its president, vice
30 president or other principal officer, and of its treasurer or

1 assistant treasurer. The report shall set forth:

2 (i) All corporations included in the unitary business.

3 (ii) All necessary data, both in the aggregate and for each
4 corporation of the unitary business, that sets forth the
5 determination of tax liability for each corporation of the
6 unitary business.

7 (iii) Any other information that the department may require.

8 (a.2) The following apply:

9 (1) Activities that evidence a significant flow of value
10 among commonly controlled corporations shall include the
11 following:

12 (i) Assisting in the acquisition of equipment.

13 (ii) Assisting with filling personnel needs.

14 (iii) Lending funds or guaranteeing loans.

15 (iv) Interplay in the area of corporate expansion.

16 (v) Providing technical assistance.

17 (vi) Supervising.

18 (vii) Providing general operational guidance.

19 (viii) Providing overall operational strategic advice.

20 (ix) Common use of trade names and patents.

21 (2) Significant flow of value must be more than the flow of
22 funds arising out of passive investment and shall consist of
23 more than periodic financial oversight.

24 (a.3) The following apply:

25 (1) With respect to a commonly controlled group of
26 corporations, the presence of any of these factors creates a
27 presumption of a unitary business:

28 (i) Corporations engaged in the same type of business.

29 (ii) Corporations engaged in different steps in a vertically
30 structured enterprise.

1 (iii) Strong centralized management of corporations.

2 (2) A corporation newly formed by a corporation that is a
3 member of a unitary business is rebuttably presumed to be a
4 member of the unitary business.

5 (3) A corporation that owns a controlling interest in two or
6 more corporations of a unitary business is rebuttably presumed
7 to be a member of the unitary business.

8 (4) A corporation that permits one or more other
9 corporations of a unitary business to substantially use its
10 patents, trademarks, service marks, logo-types, trade secrets,
11 copyrights or other proprietary assets or that is principally
12 engaged in loaning money to one or more other corporations of a
13 unitary business is rebuttably presumed to be a member of the
14 unitary business. This presumption only applies to a commonly
15 controlled group of corporations.

16 (a.4) As far as applicable to a specific unitary business,
17 unless there is a revision of applicable State law or unless a
18 corporation is not included under the provisions of this
19 article, there is a rebuttable presumption for all tax years
20 that begin in years 2018 and 2019 that a unitary business of two
21 or more corporations includes at least all corporations that are
22 part of a unitary business under the law of any state of the
23 United States in which the corporation files a tax report or tax
24 return of combined net income for the same tax year.

25 (a.5) Unless an election is made to use a worldwide basis of
26 accounting, a corporation that is a member of a unitary business
27 of two or more corporations must determine its business income
28 and apportionment factor upon a water's-edge basis. This basis
29 shall apply to all corporations of the unitary business. If an
30 election is made to use a worldwide basis of accounting, all

1 corporations of the unitary business must make the election,
2 upon a form, prescribed, prepared and furnished by the
3 department. This election shall bind all corporations of the
4 unitary business for the period of time that the election
5 remains in effect. An initial election is binding for a period
6 of seven years. Subsequent elections shall be binding for a
7 period of five years.

8 * * *

9 Section 4. Section 404 of the act is amended to read:

10 Section 404. Consolidated Reports.--The department shall not
11 permit any corporation owning or controlling, directly or
12 indirectly, any of the voting capital stock of another
13 corporation or of other corporations, subject to the provisions
14 of this article, to make a consolidated report[, showing the
15 combined net income].

16 Section 4.1. The act is amended by adding an article to
17 read:

18 ARTICLE IV-A

19 MANDATORY COMBINED REPORTING

20 Section 401-A. Definitions.

21 The following words and phrases when used in this article
22 shall have the meanings given to them in this section unless the
23 context clearly indicates otherwise:

24 "Commonly controlled group." For a corporation, the
25 corporation is a member of a group of two or more corporations
26 and more than 50% of the voting stock of each member of the
27 group is directly or indirectly owned by a common owner or by
28 common owners, either corporate or noncorporate, or by one or
29 more of the member corporations of the group.

30 "Corporation." As defined in section 401.

1 "Department." The Department of Revenue of the Commonwealth.

2 "Secretary." The Secretary of Revenue of the Commonwealth.

3 "Separate company." A corporation that is not a member of a
4 unitary business that consists of two or more corporations.

5 "Tax." Includes interest, penalties and additions to tax,
6 unless a more limited meaning is disclosed by the context.

7 "Tax haven." Any of the following:

8 (1) A jurisdiction which, at the beginning of a taxable
9 year, is a tax haven as identified by the Organization for
10 Economic Co-operation and Development.

11 (2) Bermuda.

12 (3) The Cayman Islands.

13 (4) The Bailiwick of Jersey.

14 (5) The Grand Duchy of Luxembourg.

15 "Unitary business." A single economic enterprise that is
16 made up of separate parts of a single corporation, of a commonly
17 controlled group of corporations, or both, which are
18 sufficiently interdependent, integrated and interrelated through
19 their activities so as to provide a synergy and mutual benefit
20 that produces a sharing or exchange of value among them and a
21 significant flow of value to the separate parts. The term
22 includes only those parts and corporations which may be included
23 as a unitary business under the Constitution of the United
24 States.

25 "Water's-edge basis." The system of reporting required under
26 section 402-A.

27 Section 402-A. Water's-edge basis.

28 A unitary business shall report as follows:

29 (1) The business income and apportionment factor of each
30 member incorporated in the United States or formed under the

1 laws of a state, the District of Columbia, a territory or
2 possession of the United States or the Commonwealth of Puerto
3 Rico.

4 (2) The business income and apportionment factor of
5 every member, regardless of the place incorporated or formed,
6 if the average of the corporation's or unitary business's
7 property, payroll and sales factors within the United States
8 is at least 20%.

9 (3) The business income and apportionment factor of each
10 member which is:

11 (i) a domestic international sales corporation, as
12 described in sections 991, 992, 993 and 994 of the
13 Internal Revenue Code of 1986 (Public Law 99-514, 26
14 U.S.C. §§ 991, 992, 993 and 994);

15 (ii) a foreign sales corporation as described in
16 former sections 921, 922, 923, 924, 925, 926 and 927 of
17 the Internal Revenue Code of 1986 (98 Stat. 985); or

18 (iii) an export trade corporation, as described in
19 sections 970 and 971 of the Internal Revenue Code of 1986
20 (26 U.S.C. §§ 970 and 971).

21 (4) For each member which is a "controlled foreign
22 corporation," as defined in section 957 of the Internal
23 Revenue Code of 1986 (26 U.S.C. § 957), to the extent the
24 business income of that member is income defined in section
25 952 of the Internal Revenue Code of 1986 (26 U.S.C. § 952),
26 all of the following:

27 (i) Subpart F income, not excluding lower-tier
28 subsidiaries' distributions of the income which were
29 previously taxed, determined without regard to a Federal
30 treaty, and the apportionment factor related to that

1 income.

2 (ii) Any item of income received by a controlled
3 foreign corporation and the apportionment factor related
4 to the income shall be excluded if the corporation
5 establishes to the satisfaction of the secretary that the
6 income was subject to an effective rate of income tax
7 imposed by a foreign country greater than 90% of the
8 maximum rate of tax specified in section 11 of the
9 Internal Revenue Code of 1986 (26 U.S.C. § 11). The
10 effective rate of income tax determination shall be based
11 upon the methodology set forth under 26 CFR 1.954-1
12 (relating to foreign base company income).

13 (5) For each member which is not described in paragraph
14 (1), (2) or (3):

15 (i) the portion of its business income derived from
16 or attributable to sources within the United States, as
17 determined under the Internal Revenue Code of 1986,
18 without regard to a Federal treaty; and

19 (ii) its apportionment factor related to the portion
20 of income under subparagraph (i).

21 (6) For each member which is not described in paragraph
22 (1), (2), (3) or (4) and which is doing business in a tax
23 haven:

24 (i) Except as set forth in subparagraph (ii), the
25 business income and apportionment factor.

26 (ii) If the member establishes to the satisfaction
27 of the secretary that its income was subject to an
28 effective rate of income tax imposed by a country greater
29 than 90% of the maximum rate of tax specified in section
30 11 of the Internal Revenue Code of 1986 (26 U.S.C. § 11),

1 subparagraph (i) shall not apply.

2 Section 403-A. Corporate members of unitary businesses.

3 (a) Scope.--This section applies to a corporation that is a
4 member of a unitary business which consists of two or more
5 corporations, at least one of which does not transact its entire
6 business in this Commonwealth.

7 (b) Returns.--For taxable years beginning after December 31,
8 2012, a corporation subject to this section shall, in addition
9 to the tax return filed under Article IV, file a return in
10 accordance with this section. For a taxable year which begins
11 after December 31, 2012, and ends before January 1, 2014, the
12 return filed under this subsection shall be for informational
13 purposes only and shall not be subject to section 404-A(b) or
14 (c).

15 (c) Business income.--

16 (1) For purposes of the return under subsection (b),
17 business income of a corporation shall be computed, subject
18 to paragraph (2) and subsections (d), (e) and (f), by
19 combining the business income of:

20 (i) each corporation required to report on a
21 water's-edge basis; or

22 (ii) each corporation that is a worldwide member of
23 the unitary business.

24 (2) The following shall apply:

25 (i) Business income from an intercompany transaction
26 between included corporations of a unitary business shall
27 be deferred in the manner set forth under 26 CFR
28 1.1502-13 (relating to intercompany transactions) in
29 determining the business income of a corporation which is
30 a member of that unitary business.

1 (ii) Business income of the following corporations
2 shall not be included in the determination of combined
3 business income:

4 (A) A corporation subject to taxation under
5 Article VII, VIII, IX or XV.

6 (B) An institution, as defined in section 701.5,
7 that would be subject to taxation under Article VII
8 if it was located, as defined in section 701.5, in
9 this Commonwealth.

10 (C) A corporation commonly known as a title
11 insurance company that would be subject to taxation
12 under Article VIII if it was incorporated in this
13 Commonwealth.

14 (D) A corporation specified as an insurance
15 company, association or exchange in Article IX that
16 would be subject to taxation under Article IX if its
17 insurance business was transacted in this
18 Commonwealth.

19 (E) A mutual thrift institution, as defined in
20 section 1501, that would be subject to taxation under
21 Article XV if it was located, as defined in section
22 1501, in this Commonwealth.

23 (F) A small corporation, as defined in section
24 301(s.2).

25 (G) A qualified Subchapter S subsidiary, as
26 defined in section 301(o.3).

27 (d) Apportionment.--Notwithstanding any provision of this
28 act to the contrary, a corporation computing business income
29 under subsection (c) may apportion the business income when one
30 corporation of the same unitary business is entitled to

1 apportion the business income.

2 (e) Apportionment fraction.--For a corporation computing
3 business income under subsection (c), subject to subsection (f),
4 the following apply:

5 (1) Computation shall be as follows:

6 (i) The denominator of the apportionment fraction
7 shall be computed on a combined basis for all included
8 corporations of the unitary business.

9 (ii) Gross receipts from an intercompany transaction
10 between included corporations of a unitary business shall
11 be eliminated unless the gross receipts are derived from
12 transactions that are deferred in the manner set forth
13 under 26 CFR 1.1502-13, in computing the numerator and
14 denominator of the apportionment fraction.

15 (iii) Gross receipts from transactions which were
16 deferred under 26 CFR 1.1502-13 shall be included in a
17 corporation's apportionment fraction during the same
18 taxable year in which it realizes business income which
19 was deferred due to the transaction.

20 (2) Apportionment shall be accomplished by multiplying:

21 (i) the combined business income; by

22 (ii) a fraction which is the combined apportionment
23 fraction under paragraph (1).

24 (f) Exclusions.--For purposes of subsection (e), the
25 apportionment fraction of the following corporations shall not
26 be included in the determination of the combined apportionment
27 fraction:

28 (1) A corporation subject to taxation under Article VII,
29 VIII, IX or XV.

30 (2) An institution, as defined in section 701.5, that

1 would be subject to taxation under Article VII if it was
2 located, as defined in section 701.5, in this Commonwealth.

3 (3) A corporation commonly known as a title insurance
4 company that would be subject to taxation under Article VIII
5 if it was incorporated in this Commonwealth.

6 (4) A corporation specified as an insurance company,
7 association or exchange in Article IX that would be subject
8 to taxation under Article IX if its insurance business was
9 transacted in this Commonwealth.

10 (5) A mutual thrift institution, as defined in section
11 1501, that would be subject to taxation under Article XV if
12 it was located, as defined in section 1501, in this
13 Commonwealth.

14 (6) A small corporation, as defined in section 301(s.2).

15 (7) A qualified Subchapter S subsidiary, as defined in
16 section 301(o.3).

17 (g) Nonbusiness income.--A corporation subject to this
18 section shall allocate nonbusiness income as provided in section
19 401(3)2(a)(5), (6), (7) and (8).

20 Section 404-A. Surtax.

21 (a) Estimated tax liability.--Each corporation that is
22 required to submit a return under this article shall determine
23 its estimated tax liability under this article based on its
24 apportioned share of the combined business income of the unitary
25 business plus its nonbusiness income or loss allocated to this
26 State, minus its net loss deduction, multiplied by the tax rate
27 applicable to the taxable year being reported in Article IV.

28 (b) Surtax.--If, after determining its estimated tax
29 liability under subsection (a), the corporation determines that
30 its estimated tax liability calculated under subsection (a) is

1 greater than the corporation's tax liability calculated under
2 Article IV, the corporation shall pay a surtax to the department
3 in an amount equal to the following:

4 (1) For a taxable year which begins after December 31,
5 2012, and ends before January 1, 2014, 20% of the difference
6 between the tax liability calculated under subsection (a) and
7 the tax paid to the department for that taxable year as set
8 forth in the return filed under Article IV.

9 (2) For a taxable year which begins after December 31,
10 2013, and ends before January 1, 2015, 40% of the difference
11 between the tax liability calculated under subsection (a) and
12 the tax paid to the department for that taxable year as set
13 forth in the return filed under Article IV.

14 (3) For a taxable year which begins after December 31,
15 2014, and ends before January 1, 2016, 60% of the difference
16 between the tax liability calculated under subsection (a) and
17 the tax paid to the department for that taxable year as set
18 forth in the return filed under Article IV.

19 (4) For a taxable year which begins after December 31,
20 2015, and ends before January 1, 2017, 80% of the difference
21 between the tax liability calculated under subsection (a) and
22 the tax paid to the department for that taxable year as set
23 forth in the return filed under Article IV.

24 (5) For a taxable year which begins after December 31,
25 2016, and ends before January 1, 2018, 100% of the difference
26 between the tax liability calculated under subsection (a) and
27 the tax paid to the department for that taxable year as set
28 forth in the return filed under Article IV.

29 (c) Credit.--If, after determining its estimated tax
30 liability under subsection (a), the corporation determines that

1 its estimated tax liability calculated under subsection (a) is
2 less than the corporation's tax liability calculated under
3 Article IV, the corporation shall be entitled to a credit
4 against the tax paid under Article IV in an amount equal to the
5 difference between the two calculations.

6 (d) Unitary business adjustment.--If any provision of this
7 article operates so that an amount is added to or deducted from
8 taxable income for a taxable year for any corporation of a
9 unitary business that previously had been added to or deducted
10 from taxable income of any corporation of the same unitary
11 business, an appropriate adjustment shall be made for the
12 taxable year in order to prevent double taxation or double
13 deduction. If the adjustment is not made by the appropriate
14 corporation of the unitary business, the secretary is authorized
15 to make the adjustment.

16 (e) Secretary.--The secretary shall have the duty to make
17 adjustments to insure that a corporation does not incur an
18 unfair penalty nor realize an unfair benefit because it is
19 required to compute its business income under this article.
20 Fairness shall be measured by whether the corporation's income
21 allocated and apportioned to this Commonwealth fairly reflects
22 the corporation's share of the unitary business conducted in
23 this Commonwealth in the taxable year.

24 Section 405-A. Common tax year.

25 All corporations of a unitary business shall have a common
26 taxable year for purposes of computing tax due under this
27 article. The taxable year shall be the common taxable year
28 adopted, in a manner prescribed by the department, by all
29 corporations of a unitary business. The common taxable year must
30 be used by all corporations of that unitary business in the year

1 of adoption and all future years unless otherwise permitted by
2 the department.

3 Section 406-A. Reports and payment of surtax.

4 (a) Designation.--The corporations of the unitary business
5 shall designate one member that is subject to tax under Article
6 IV to file the annual report and remit the surtax required under
7 this article and to act as agent on behalf of all other
8 corporations that are members of the unitary business. Each
9 corporation that is a member of a unitary business shall be
10 responsible for its tax liability under Article IV and the
11 surtax under this article.

12 (b) Oath or affirmation.--The oath or affirmation of the
13 designated member's president, vice president or other principal
14 officer, and of its treasurer or assistant treasurer shall
15 constitute the oath or affirmation of each corporation that is a
16 member of that unitary business.

17 (c) Annual report.--The designated member shall transmit to
18 the department upon a form prescribed by the department, an
19 annual report under oath or affirmation of its president, vice
20 president or other principal officer, and of its treasurer or
21 assistant treasurer. The report shall set forth:

22 (1) All corporations included in the unitary business.

23 (2) All necessary data, both in the aggregate and for
24 each corporation of the unitary business, that sets forth the
25 determination of tax liability for each corporation of the
26 unitary business.

27 (3) Any other information that the department may
28 require.

29 (d) Activities.--

30 (1) Activities that evidence a significant flow of value

1 among commonly controlled corporations shall include the
2 following:

- 3 (i) Assisting in the acquisition of equipment.
- 4 (ii) Assisting with filling personnel needs.
- 5 (iii) Lending funds or guaranteeing loans.
- 6 (iv) Interplay in the area of corporate expansion.
- 7 (v) Providing technical assistance.
- 8 (vi) Supervising.
- 9 (vii) Providing general operational guidance.
- 10 (viii) Providing overall operational strategic
11 advice.
- 12 (ix) Common use of trade names and patents.

13 (2) Significant flow of value must be more than the flow
14 of funds arising out of passive investment and must consist
15 of more than periodic financial oversight.

16 Section 407-A. Rebuttable presumptions for unitary business.

17 (a) Commonly controlled group of corporations.--With respect
18 to a commonly controlled group of corporations, the presence of
19 any of these factors creates a presumption of a unitary
20 business:

- 21 (1) Corporations engaged in the same type of business.
- 22 (2) Corporations engaged in different steps in a
23 vertically structured enterprise.
- 24 (3) Strong centralized management of corporations.

25 (b) Newly formed corporation.--A corporation newly formed by
26 a corporation that is a member of a unitary business shall be
27 rebuttably presumed to be a member of the unitary business.

28 (c) Controlling interest.--A corporation that owns a
29 controlling interest in at least two corporations of a unitary
30 business shall be rebuttably presumed to be a member of the

1 unitary business.

2 (d) Substantial use.--A corporation that permits at least
3 one other corporation of a unitary business to substantially use
4 its patents, trademarks, service marks, logo-types, trade
5 secrets, copyrights or other proprietary assets or that is
6 principally engaged in loaning money to at least one other
7 corporation of a unitary business shall be rebuttably presumed
8 to be a member of the unitary business. The presumption under
9 this subsection shall only apply to a commonly controlled group
10 of corporations.

11 (e) Specific unitary business.--As far as applicable to a
12 specific unitary business, unless there is a revision of
13 applicable State law or unless a corporation is not included
14 under the provisions of this article, there is a rebuttable
15 presumption for all tax years that begin in years 2013 and 2014
16 that a unitary business of at least two corporations includes at
17 least all of the corporations that are part of a unitary
18 business under the law of any state in which the corporation
19 files a tax report or tax return of combined net income for the
20 same tax year.

21 Section 408-A. Election.

22 (a) Nonworldwide basis.--Unless an election is made to use a
23 worldwide basis of accounting, a corporation that is a member of
24 a unitary business of at least two corporations shall determine
25 its business income and apportionment factor upon a water's-edge
26 basis. The basis shall apply to all corporations of the unitary
27 business.

28 (b) Worldwide basis.--If an election is made to use a
29 worldwide basis of accounting, all corporations of the unitary
30 business must make the election, upon a form, prescribed,

1 prepared and furnished by the department. The election shall
2 bind all corporations of the unitary business for the period of
3 time that the election remains in effect. An initial election
4 shall be binding for a period of seven years. Subsequent
5 elections shall be binding for a period of five years.

6 Section 409-A. Expiration.

7 This article shall expire January 1, 2019.

8 Section 5. Section 3003.3(d) of the act, amended October 18,
9 2006 (P.L.1149, No.119), is amended and the section is amended
10 by adding subsections to read:

11 Section 3003.3. Underpayment of Estimated Tax.--* * *

12 (d) Notwithstanding the provisions of the preceding
13 subsections, other than as set forth under subsection (d.1),
14 interest with respect to any underpayment of any installment of
15 estimated tax shall not be imposed if the total amount of all
16 payments of estimated tax made on or before the last date
17 prescribed for the payment of such installment equals or exceeds
18 the amount which would have been required to be paid on or
19 before such date if the estimated tax were an amount equal to
20 the tax computed at the rates applicable to the taxable year,
21 including any minimum tax imposed, but otherwise on the basis of
22 the facts shown on the report of the taxpayer for, and the law
23 applicable to, the safe harbor base year, adjusted for any
24 changes to sections 401, 601, 602 and 1101 enacted for the
25 taxable year, if a report showing a liability for tax was filed
26 by the taxpayer for the safe harbor base year. If the total
27 amount of all payments of estimated tax made on or before the
28 last date prescribed for the payment of such installment does
29 not equal or exceed the amount required to be paid per the
30 preceding sentence, but such amount is paid after the date the

1 installment was required to be paid, then the period of
2 underpayment shall run from the date the installment was
3 required to be paid to the date the amount required to be paid
4 per the preceding sentence is paid. Provided, that if the total
5 tax for the safe harbor base year exceeds the tax shown on such
6 report by ten per cent or more, the total tax adjusted to
7 reflect the current tax rate shall be used for purposes of this
8 subsection. In the event that the total tax for the safe harbor
9 base year exceeds the tax shown on the report by ten per cent or
10 more, interest resulting from the utilization of such total tax
11 in the application of the provisions of this subsection shall
12 not be imposed if, within forty-five days of the mailing date of
13 each assessment, payments are made such that the total amount of
14 all payments of estimated tax equals or exceeds the amount which
15 would have been required to be paid on or before such date if
16 the estimated tax were an amount equal to the total tax adjusted
17 to reflect the current tax rate. In any case in which the
18 taxable year for which an underpayment of estimated tax may
19 exist is a short taxable year, in determining the tax shown on
20 the report or the total tax for the safe harbor base year, the
21 tax will be reduced by multiplying it by the ratio of the number
22 of installment payments made in the short taxable year to the
23 number of installment payments required to be made for the full
24 taxable year.

25 (d.1) (1) Notwithstanding subsections (a), (b) and (c),
26 interest with respect to any underpayment of any installment of
27 estimated corporate net income tax for any tax year that begins
28 in year 2018 or 2019 shall not be imposed if the total amount of
29 all payments of estimated corporate net income tax made on or
30 before the last date prescribed for the payment of the

1 installment equals or exceeds the amount which would have been
2 required to be paid on or before that date if the estimated tax
3 were an amount equal to the tax shown on the report of the
4 taxpayer for the safe harbor base year, if a report showing a
5 liability for tax was filed by the taxpayer for the safe harbor
6 base year.

7 (2) If the total amount of all payments of estimated tax
8 made on or before the last date prescribed for the payment of
9 the installment does not equal or exceed the amount required to
10 be paid under paragraph (1), but the amount is paid after the
11 date the installment was required to be paid, the period of
12 underpayment shall run from the date the installment was
13 required to be paid to the date the amount required to be paid
14 under paragraph (1) is paid.

15 (3) If the total tax for the safe harbor base year exceeds
16 the tax shown on the report by ten per cent or more, the total
17 tax shall be used for purposes of this subsection. If the total
18 tax for the safe harbor base year exceeds the tax shown on the
19 report by ten per cent or more, interest resulting from the
20 utilization of the total tax in the application of the
21 provisions of this subsection shall not be imposed if, within
22 forty-five days of the mailing date of a notice from the
23 department increasing the total tax, payments are made such that
24 the total amount of all payments of estimated tax equals or
25 exceeds the amount which would have been required to be paid on
26 or before the date if the estimated tax were an amount equal to
27 the total tax.

28 (4) If the taxable year for which an underpayment of
29 estimated tax may exist is a short taxable year, in determining
30 the tax shown on the report or the total tax for the safe harbor

1 base year, the tax shall be reduced by multiplying it by the
2 ratio of the number of installment payments made in the short
3 taxable year to the number of installment payments required to
4 be made for the full taxable year.

5 (d.2) (1) If there is a substantial underpayment, as
6 defined in subsection (a), of any installment of estimated
7 corporate net income tax or estimated capital stock/franchise
8 tax for any taxable year beginning in 2018 or 2019, there shall
9 be imposed additional interest in an amount determined at one
10 hundred twenty per cent of the annual rate as provided by law
11 upon the entire underpayment for the period of the substantial
12 underpayment.

13 (2) The additional interest imposed under this subsection
14 shall be in addition to any other interest imposed on
15 underpayments under this section.

16 Section 6. Applicability is as follows:

17 (1) The amendment or addition of the following
18 provisions shall apply to taxable years beginning after
19 December 31, 2011:

20 (i) Section 402(b) of the act.

21 (ii) Article IV-A of the act.

22 (2) The amendment or addition of the following
23 provisions shall apply to taxable years beginning after
24 December 31, 2018:

25 (i) Section 401(3)1(a) and (b) and 2(a) and (e),
26 (5), (8), (9), (10), (11), (12) and (13) of the act.

27 (ii) Section 403(a.1), (a.2), (a.3), (a.4) and (a.5)
28 of the act.

29 (iii) Section 404 of the act.

30 (iv) Section 3003.3(d), (d.1) and (d.2) of the act.

1 Section 7. This act shall take effect as follows:

2 (1) The following provisions shall take effect
3 immediately:

4 (i) The amendment of section 402(b) of the act.

5 (ii) The addition of Article IV-A of the act.

6 (iii) Section 6 of this act.

7 (iv) This section.

8 (2) The remainder of this act shall take effect January
9 1, 2019.