

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 42 Session of 2013

INTRODUCED BY SCAVELLO, HARHART, TALLMAN, METCALFE, CUTLER, BAKER, CAUSER, HESS, AUMENT, KNOWLES, BOBACK, SWANGER, STEPHENS, D. COSTA, MILLARD, PICKETT, MACKENZIE, BENNINGHOFF, LAWRENCE AND MOUL, JANUARY 8, 2013

REFERRED TO COMMITTEE ON FINANCE, JANUARY 8, 2013

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
 2 act relating to tax reform and State taxation by codifying
 3 and enumerating certain subjects of taxation and imposing
 4 taxes thereon; providing procedures for the payment,
 5 collection, administration and enforcement thereof; providing
 6 for tax credits in certain cases; conferring powers and
 7 imposing duties upon the Department of Revenue, certain
 8 employers, fiduciaries, individuals, persons, corporations
 9 and other entities; prescribing crimes, offenses and
 10 penalties," further providing, in gross receipts tax, for the
 11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of
 15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
 16 1971, amended or added December 23, 2003 (P.L.250, No.46) and
 17 October 9, 2009 (P.L.451, No.48), are amended to read:

18 Section 1101. Imposition of Tax.--(a) General Rule.--Every
 19 pipeline company, conduit company, steamboat company, canal
 20 company, slack water navigation company, transportation company,
 21 and every other company, association, joint-stock association,

1 or limited partnership, now or hereafter incorporated or
2 organized by or under any law of this Commonwealth, or now or
3 hereafter organized or incorporated by any other state or by the
4 United States or any foreign government, and doing business in
5 this Commonwealth, and every copartnership, person or persons
6 owning, operating or leasing to or from another corporation,
7 company, association, joint-stock association, limited
8 partnership, copartnership, person or persons, any pipeline,
9 conduit, steamboat, canal, slack water navigation, or other
10 device for the transportation of freight, passengers, baggage,
11 or oil, except motor vehicles and railroads, and every limited
12 partnership, association, joint-stock association, corporation
13 or company engaged in, or hereafter engaged in, the
14 transportation of freight or oil within this State, and every
15 telephone company , telegraph company or provider of mobile
16 telecommunications services now or hereafter incorporated or
17 organized by or under any law of this Commonwealth, or now or
18 hereafter organized or incorporated by any other state or by the
19 United States or any foreign government and doing business in
20 this Commonwealth, and every limited partnership, association,
21 joint-stock association, copartnership, person or persons,
22 engaged in telephone or telegraph business or providing mobile
23 telecommunications services in this Commonwealth, shall pay to
24 the State Treasurer, through the Department of Revenue, a tax of
25 forty-five mills with a surtax equal to five mills upon each
26 dollar of the gross receipts of the corporation, company or
27 association, limited partnership, joint-stock association,
28 copartnership, person or persons, received from:

29 (1) passengers, baggage, oil and freight transported wholly
30 within this State;

1 (2) telegraph or telephone messages transmitted wholly
2 within this State and telegraph or telephone messages
3 transmitted in interstate commerce after December 31, 2003, and
4 before January 1, 2013, where such messages originate or
5 terminate in this State and the charges for such messages are
6 billed to a service address in this State, except gross receipts
7 derived from:

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

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

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

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

17 (C) sales of telecommunications services to interconnect
18 with providers of mobile telecommunications services; and

19 (3) mobile telecommunications services messages sourced to
20 this Commonwealth after December 31, 2003, and before January 1,
21 2013, based on the place of primary use standard set forth in
22 the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117),
23 except gross receipts derived from:

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

26 (ii) the sales for resale to persons, partnerships,
27 associations, corporations or political subdivisions subject to
28 the tax imposed by this article upon gross receipts derived from
29 such resale of mobile telecommunications services, including
30 sales of mobile telecommunications services to interconnect with

1 providers of telecommunications services.

2 (a.1) Credit.--Telegraph or telephone companies or providers
3 of mobile telecommunications services that pay a gross receipts
4 tax to another state on messages or services after December 31,
5 2003, and before January 1, 2013, which are taxable under this
6 article are entitled to a credit against the tax due under this
7 article. The credit allowed with respect to the messages or
8 services shall not exceed the tax under this article with
9 respect to the messages or services.

10 * * *

11 (j) Schedule for Estimated Payments.--

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

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

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

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

20 (2) For calendar years after 2004, the payment of the
21 estimated tax under subsection (a) (3) shall be due in accordance
22 with section 3003.2.

23 (3) For calendar year 2009, the tax applicable to the
24 payment of the tax under subsection (b.1) shall be due on March
25 15, 2010.

26 (4) For calendar year 2010, payments of the estimated tax
27 under subsection (b.1) shall be due on May 15, 2010. For
28 calendar year 2011 [and each calendar year thereafter], the
29 payment of the estimated tax under subsection (b.1) shall be due
30 in accordance with section 3003.2.

1 (5) This subsection shall expire January 1, 2013.

2 * * *

3 Section 2. Repeals are as follows:

4 (1) The General Assembly declares that the repeal under
5 paragraph (2) is necessary to effectuate the purposes of this
6 act.

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

1 surcharges; providing, in public utility realty tax, for
2 additional tax; further providing, in cigarette tax, for
3 incidence and rate of tax, for floor tax, for stamp to
4 evidence the tax and for commissions on sales; establishing,
5 in relation to cigarette tax, the Health Care Provider
6 Retention Account; further providing, in research and
7 development tax credit, for carryover, for limitations and
8 for reports; further providing, in malt beverage tax, for
9 limited tax credits; further providing, in inheritance tax,
10 for definitions, for exempt transfers, for estate tax and for
11 estate tax returns; further providing for the Public
12 Transportation Assistance Fund and providing for its
13 administration; further providing for estimated tax and for
14 underpayment of estimated tax; providing for authority to
15 attach wages; and repealing provisions relating to the Public
16 Transportation Assistance Fund," is repealed.
17 Section 3. This act shall take effect immediately.