

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 440 Session of 2013

INTRODUCED BY REED, BAKER, BLOOM, KOTIK, NEUMAN, LUCAS, SAYLOR, AUMENT, MILLARD, MICOZZIE, TALLMAN, PICKETT, SCHLEGEL CULVER, STEPHENS, MUSTIO, DAVIS, O'NEILL, M. K. KELLER, VEREB, CUTLER, FLECK, DUNBAR, C. HARRIS, MACKENZIE, KNOWLES, SIMMONS, OBERLANDER, CLYMER, SWANGER, HAHN, HESS, PETRI, HENNESSEY, MASSER, MAJOR, HEFFLEY, HICKERNELL, BENNINGHOFF, ROCK, GROVE, ROSS, GINGRICH, WATSON, MARSICO, GRELL, EVERETT, S. H. SMITH, MOUL, GILLEN, REESE, QUINN, SABATINA, MURT AND EVANKOVICH, FEBRUARY 4, 2013

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 22, 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," in corporate net income, further providing for <--
11 definitions and for imposition of tax. IN SALES TAX, FURTHER <--
12 PROVIDING FOR DEFINITIONS, FOR CREDIT AGAINST TAX AND FOR
13 LOCAL RECEIVERS OF USE TAX; IN PERSONAL INCOME TAX, FURTHER
14 PROVIDING FOR DEFINITIONS, FOR CLASSES OF INCOME AND FOR
15 TAXABILITY OF PARTNERS; PROVIDING FOR TAX TREATMENT
16 DETERMINED AT PARTNERSHIP LEVEL AND FOR TAX IMPOSED AT
17 PARTNERSHIP LEVEL; FURTHER PROVIDING FOR INCOME OF A
18 PENNSYLVANIA S CORPORATION, FOR INCOME TAXES IMPOSED BY OTHER
19 STATES, FOR GENERAL RULE, FOR RETURN OF PENNSYLVANIA S
20 CORPORATION AND FOR REQUIREMENTS CONCERNING RETURNS, NOTICES,
21 RECORDS AND STATEMENTS; IN CORPORATE NET INCOME TAX, FURTHER
22 PROVIDING FOR DEFINITIONS, FOR IMPOSITION OF TAX AND FOR
23 REPORTS AND PAYMENT OF TAX; AND, IN REALTY TRANSFER TAX,
24 FURTHER PROVIDING FOR DEFINITIONS, FOR IMPOSITION AND FOR
25 ACQUIRED COMPANY; FURTHER PROVIDING FOR COAL WASTE REMOVAL
26 AND ULTRACLEAN FUELS TAX CREDIT; AND, IN INHERITANCE TAX,

1 FURTHER PROVIDING FOR EXEMPTION FOR POVERTY.

2 The General Assembly of the Commonwealth of Pennsylvania
3 hereby enacts as follows:

4 ~~Section 1. Section 401(3)4(c) of the act of March 4, 1971~~ <--
5 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971, amended~~
6 ~~October 9, 2009 (P.L.451, No.48), is amended, clause (3)1 is~~
7 ~~amended by adding a phrase and the section is amended by adding~~
8 ~~clauses to read:~~

9 ~~Section 401. Definitions. The following words, terms, and~~
10 ~~phrases, when used in this article, shall have the meaning~~
11 ~~ascribed to them in this section, except where the context~~
12 ~~clearly indicates a different meaning:~~

13 * * *

14 ~~(3) "Taxable income." 1. * * *~~

15 ~~(t) (1) Except as provided in paragraph (2), (3) or (4) for~~
16 ~~taxable years beginning after December 31, 2013, no deduction~~
17 ~~shall be allowed for an intangible expense or cost, or an~~
18 ~~interest expense or cost, paid, accrued or incurred directly or~~
19 ~~indirectly in connection with one or more transactions with an~~
20 ~~affiliated entity. In calculating taxable income under this~~
21 ~~paragraph, when the taxpayer is engaged in one or more~~
22 ~~transactions with an affiliated entity that was subject to tax~~
23 ~~in this Commonwealth or another state or possession of the~~
24 ~~United States on a tax base that included the intangible expense~~
25 ~~or cost, or the interest expense or cost, paid, accrued or~~
26 ~~incurred by the taxpayer, the taxpayer shall receive a credit~~
27 ~~against tax due in this Commonwealth in an amount equal to the~~
28 ~~apportionment factor of the taxpayer in this Commonwealth~~
29 ~~multiplied by the greater of the following:~~

30 ~~(A) the tax liability of the affiliated entity with respect~~

1 ~~to the portion of its income representing the intangible expense~~
2 ~~or cost, or the interest expense or cost, paid, accrued or~~
3 ~~incurred by the taxpayer; or~~

4 ~~(B) the tax liability that would have been paid by the~~
5 ~~affiliated entity under subparagraph (A) if that tax liability~~
6 ~~had not been offset by a credit.~~

7 ~~The credit issued under this paragraph shall not exceed the~~
8 ~~taxpayer's liability in this Commonwealth attributable to the~~
9 ~~net income taxed as a result of the adjustment required by this~~
10 ~~paragraph.~~

11 ~~(2) The adjustment required by paragraph (1) shall not apply~~
12 ~~to a transaction that was directly related to a valid business~~
13 ~~purpose.~~

14 ~~(3) The adjustment required by paragraph (1) shall not apply~~
15 ~~to a transaction between a taxpayer and an affiliated entity~~
16 ~~domiciled in a foreign nation which has in force a comprehensive~~
17 ~~income tax treaty with the United States providing for the~~
18 ~~allocation of all categories of income subject to taxation, or~~
19 ~~the withholding of tax, on royalties, licenses, fees and~~
20 ~~interest for the prevention of double taxation of the respective~~
21 ~~nations' residents and the sharing of information.~~

22 ~~(4) The adjustment required by paragraph (1) shall not apply~~
23 ~~to a transaction where an affiliated entity directly or~~
24 ~~indirectly paid, accrued or incurred a payment to a person who~~
25 ~~is not an affiliated entity, if the payment is paid, accrued or~~
26 ~~incurred on the intangible expense or cost, or interest expense~~
27 ~~or cost, and is equal to or less than the taxpayer's~~
28 ~~proportional share of the transaction. The taxpayer's~~
29 ~~proportional share shall be based on relative sales, assets,~~
30 ~~liabilities or another reasonable method.~~

1 * * *

2 ~~4.~~ * * *

3 ~~(c) (1) The net loss deduction shall be the lesser of:~~

4 ~~(A) (I) For taxable years beginning before January 1, 2007,~~
5 ~~two million dollars (\$2,000,000);~~

6 ~~(II) For taxable years beginning after December 31, 2006,~~
7 ~~the greater of twelve and one half per cent of taxable income as~~
8 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
9 ~~three million dollars (\$3,000,000);~~

10 ~~(III) For taxable years beginning after December 31, 2008,~~
11 ~~the greater of fifteen per cent of taxable income as determined~~
12 ~~under subclause 1 or, if applicable, subclause 2 or three~~
13 ~~million dollars (\$3,000,000);~~

14 ~~(IV) For taxable years beginning after December 31, 2009,~~
15 ~~the greater of twenty per cent of taxable income as determined~~
16 ~~under subclause 1 or, if applicable, subclause 2 or three~~
17 ~~million dollars (\$3,000,000); [or]~~

18 ~~(V) For taxable years beginning after December 31, 2014, the~~
19 ~~greater of twenty nine per cent of taxable income as determined~~
20 ~~under subclause 1 or, if applicable, subclause 2 or four million~~
21 ~~dollars (\$4,000,000);~~

22 ~~(VI) For taxable years beginning after December 31, 2015,~~
23 ~~the greater of thirty eight per cent of taxable income as~~
24 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
25 ~~five million dollars (\$5,000,000);~~

26 ~~(VII) For taxable years beginning after December 31, 2016,~~
27 ~~the greater of forty seven per cent of taxable income as~~
28 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
29 ~~six million dollars (\$6,000,000);~~

30 ~~(VIII) For taxable years beginning after December 31, 2017,~~

~~1 the greater of fifty six per cent of taxable income as~~
~~2 determined under subclause 1 or, if applicable, subclause 2 or~~
~~3 seven million dollars (\$7,000,000);~~

~~4 (IX) For taxable years beginning after December 31, 2018,~~
~~5 the greater of sixty four per cent of taxable income as~~
~~6 determined under subclause 1 or, if applicable, subclause 2 or~~
~~7 eight million dollars (\$8,000,000);~~

~~8 (X) For taxable years beginning after December 31, 2019, the~~
~~9 greater of seventy three per cent of taxable income as~~
~~10 determined under subclause 1 or, if applicable, subclause 2 or~~
~~11 nine million dollars (\$9,000,000);~~

~~12 (XI) For taxable years beginning after December 31, 2020,~~
~~13 the greater of eighty two per cent of taxable income as~~
~~14 determined under subclause 1 or, if applicable, subclause 2 or~~
~~15 ten million dollars (\$10,000,000);~~

~~16 (XII) For taxable years beginning after December 31, 2021,~~
~~17 the greater of ninety one per cent of taxable income as~~
~~18 determined under subclause 1 or, if applicable, subclause 2 or~~
~~19 eleven million dollars (\$11,000,000);~~

~~20 (XIII) For taxable years beginning after December 31, 2022,~~
~~21 taxable income as determined under subclause 1 or, if~~
~~22 applicable, subclause 2; or~~

~~23 (B) The amount of the net loss or losses which may be~~
~~24 carried over to the taxable year or taxable income as determined~~
~~25 under subclause 1 or, if applicable, subclause 2.~~

~~26 (1.1) In no event shall the net loss deduction include more~~
~~27 than five hundred thousand dollars (\$500,000), in the aggregate,~~
~~28 of net losses from taxable years 1988 through 1994.~~

~~29 (2) (A) A net loss for a taxable year may only be carried~~
~~30 over pursuant to the following schedule:~~

1	Taxable Year	Carryover
2	1981	1 taxable year
3	1982	2 taxable years
4	1983-1987	3 taxable years
5	1988	2 taxable years plus 1
6	-	taxable year starting
7	-	with the 1995 taxable
8	-	year
9	1989	1 taxable year plus 2
10	-	taxable years starting
11	-	with the 1995 taxable
12	-	year
13	1990-1993	3 taxable years starting
14	-	with the 1995 taxable
15	-	year
16	1994	1 taxable year
17	1995-1997	10 taxable years
18	1998 and thereafter	20 taxable years

19 ~~(B) The earliest net loss shall be carried over to the~~
20 ~~earliest taxable year to which it may be carried under this~~
21 ~~schedule. The total net loss deduction allowed in any taxable~~
22 ~~year shall not exceed:~~

23 ~~(I) Two million dollars (\$2,000,000) for taxable years~~
24 ~~beginning before January 1, 2007.~~

25 ~~(II) The greater of twelve and one half per cent of the~~
26 ~~taxable income as determined under subclause 1 or, if~~
27 ~~applicable, subclause 2 or three million dollars (\$3,000,000)~~
28 ~~for taxable years beginning after December 31, 2006.~~

29 ~~(III) The greater of fifteen per cent of the taxable income~~
30 ~~as determined under subclause 1 or, if applicable, subclause 2~~

1 ~~or three million dollars (\$3,000,000) for taxable years~~
2 ~~beginning after December 31, 2008.~~

3 ~~(IV) The greater of twenty per cent of the taxable income as~~
4 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
5 ~~three million dollars (\$3,000,000) for taxable years beginning~~
6 ~~after December 31, 2009.~~

7 ~~(V) The greater of twenty nine per cent of taxable income as~~
8 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
9 ~~four million dollars (\$4,000,000) for taxable years beginning~~
10 ~~after December 31, 2014.~~

11 ~~(VI) The greater of thirty eight per cent of taxable income~~
12 ~~as determined under subclause 1 or, if applicable, subclause 2~~
13 ~~or five million dollars (\$5,000,000) for taxable years beginning~~
14 ~~after December 31, 2015.~~

15 ~~(VII) The greater of forty seven per cent of taxable income~~
16 ~~as determined under subclause 1 or, if applicable, subclause 2~~
17 ~~or six million dollars (\$6,000,000) for taxable years beginning~~
18 ~~after December 31, 2016.~~

19 ~~(VIII) The greater of fifty six per cent of taxable income~~
20 ~~as determined under subclause 1 or, if applicable, subclause 2~~
21 ~~or seven million dollars (\$7,000,000) for taxable years~~
22 ~~beginning after December 31, 2017.~~

23 ~~(IX) The greater of sixty four per cent of taxable income as~~
24 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
25 ~~eight million dollars (\$8,000,000) for taxable years beginning~~
26 ~~after December 31, 2018.~~

27 ~~(X) The greater of seventy three per cent of taxable income~~
28 ~~as determined under subclause 1 or, if applicable, subclause 2~~
29 ~~or nine million dollars (\$9,000,000) for taxable years beginning~~
30 ~~after December 31, 2019.~~

1 ~~(XI) The greater of eighty two per cent of taxable income as~~
2 ~~determined under subclause 1 or, if applicable, subclause 2 or~~
3 ~~ten million dollars (\$10,000,000) for taxable years beginning~~
4 ~~after December 31, 2020.~~

5 ~~(XII) The greater of ninety one per cent of taxable income~~
6 ~~as determined under subclause 1 or, if applicable, subclause 2~~
7 ~~or eleven million dollars (\$11,000,000) for taxable years~~
8 ~~beginning after December 31, 2021.~~

9 ~~(XIII) For taxable years beginning after December 31, 2022,~~
10 ~~taxable income as determined under subclause 1 or, if~~
11 ~~applicable, subclause 2.~~

12 * * *

13 ~~(8) "Intangible expense or cost." Royalties, licenses or~~
14 ~~fees paid for the acquisition, use, maintenance, management,~~
15 ~~ownership, sale, exchange or other disposition of patents,~~
16 ~~patent applications, trade names, trademarks, service marks,~~
17 ~~copyrights, mask works or other similar expenses or costs.~~

18 ~~(9) "Interest expense or cost." A deduction allowed under~~
19 ~~section 163 of the Internal Revenue Code of 1986 (26 U.S.C. §~~
20 ~~163) to the extent that such deduction is directly related to an~~
21 ~~intangible expense or cost.~~

22 ~~(10) "Affiliated entity." A person with a relationship to~~
23 ~~the taxpayer during all or any portion of the taxable year that~~
24 ~~is any of the following:~~

25 ~~(i) a stockholder who is an individual, or a member of the~~
26 ~~stockholder's family as set forth in section 318 of the Internal~~
27 ~~Revenue Code of 1986 (26 U.S.C. § 318), if the stockholder and~~
28 ~~the members of the stockholder's family own, directly,~~
29 ~~indirectly, beneficially or constructively, in the aggregate,~~
30 ~~more than fifty per cent of the value of the taxpayer's~~

1 ~~outstanding stock;~~

2 ~~(ii) a stockholder, or a stockholder's partnership, limited~~
3 ~~liability company, estate, trust or corporation, if the~~
4 ~~stockholder and the stockholder's partnerships, limited~~
5 ~~liability companies, estates, trusts and corporations own~~
6 ~~directly, indirectly, beneficially or constructively, in the~~
7 ~~aggregate, more than fifty per cent of the value of the~~
8 ~~taxpayer's outstanding stock;~~

9 ~~(iii) a corporation, or a party related to the corporation~~
10 ~~in a manner that would require an attribution of stock from the~~
11 ~~corporation to the party or from the party to the corporation~~
12 ~~under the attribution rules of the Internal Revenue Code of~~
13 ~~1986, if the taxpayer owns, directly, indirectly, beneficially~~
14 ~~or constructively, more than fifty per cent of the value of the~~
15 ~~corporation's outstanding stock. The attribution rules of~~
16 ~~section 318 of the Internal Revenue Code of 1986 shall apply for~~
17 ~~purposes of determining whether the ownership requirements of~~
18 ~~this definition have been met;~~

19 ~~(iv) a component member as defined in section 1563(b) of the~~
20 ~~Internal Revenue Code of 1986 (26 U.S.C. § 1563(b)); or~~

21 ~~(v) a person to or from whom there is attribution of stock~~
22 ~~ownership in accordance with section 1563(e) of the Internal~~
23 ~~Revenue Code of 1986.~~

24 ~~(11) "Valid business purpose." A purpose, other than the~~
25 ~~avoidance or reduction of taxation, which alone or in~~
26 ~~combination with other purposes constitute the primary~~
27 ~~motivation for a business activity or transaction. A transaction~~
28 ~~done at arm's length terms shall be presumed to be directly~~
29 ~~related to a valid business purpose.~~

30 Section 2. Section 402(b) of the act, amended June 29, 2002—

1 ~~(P.L.559, No.89), is amended to read:~~

2 ~~Section 402. Imposition of Tax. * * *~~

3 ~~(b) The annual rate of tax on corporate net income imposed~~
4 ~~by subsection (a) for taxable years beginning for the calendar~~
5 ~~year or fiscal year on or after the dates set forth shall be as~~
6 ~~follows:~~

7 Taxable Year	Tax Rate
8 {January 1, 1995, and each	-
9 taxable year thereafter	9.99%}
10 January 1, 1995, and each	-
11 taxable year through December	-
12 31, 2013	9.99%
13 January 1, 2014, through	-
14 December 31, 2014	9.75%
15 January 1, 2015, through	-
16 December 31, 2015	9.25%
17 January 1, 2016, through	-
18 December 31, 2016	8.75%
19 January 1, 2017, through	-
20 December 31, 2017	8.25%
21 January 1, 2018, through	-
22 December 31, 2018	7.75%
23 January 1, 2019, and each	-
24 taxable year thereafter	6.99%

25 ~~* * *~~

26 ~~Section 3. This act shall take effect immediately.~~

27 SECTION 1. SECTIONS 201(DDD) AND 206 OF THE ACT OF MARCH 4, <--
28 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM CODE OF 1971,
29 AMENDED OR ADDED DECEMBER 23, 2003 (P.L.250, NO.46), ARE AMENDED
30 TO READ:

1 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
2 PHRASES WHEN USED IN THIS ARTICLE II SHALL HAVE THE MEANING
3 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
4 CLEARLY INDICATES A DIFFERENT MEANING:

5 * * *

6 [(DDD) "CALL CENTER." THE PHYSICAL LOCATION IN THIS
7 COMMONWEALTH:

8 (1) WHERE AT LEAST ONE HUNDRED AND FIFTY EMPLOYES ARE
9 EMPLOYED TO INITIATE OR ANSWER TELEPHONE CALLS;

10 (2) WHERE THERE ARE AT LEAST TWO HUNDRED TELEPHONE LINES;
11 AND

12 (3) WHICH UTILIZES AN AUTOMATED CALL DISTRIBUTION SYSTEM FOR
13 CUSTOMER TELEPHONE CALLS IN ONE OR MORE OF THE FOLLOWING
14 ACTIVITIES:

15 (A) CUSTOMER SERVICE AND SUPPORT;

16 (B) TECHNICAL ASSISTANCE;

17 (C) HELP DESK SERVICE;

18 (D) PROVIDING INFORMATION;

19 (E) CONDUCTING SURVEYS;

20 (F) REVENUE COLLECTIONS; OR

21 (G) RECEIVING ORDERS OR RESERVATIONS.

22 FOR PURPOSES OF THIS CLAUSE, A PHYSICAL LOCATION MAY INCLUDE
23 MULTIPLE BUILDINGS UTILIZED BY A TAXPAYER LOCATED WITHIN THIS
24 COMMONWEALTH.]

25 SECTION 206. CREDIT AGAINST TAX.--(A) A CREDIT AGAINST THE
26 TAX IMPOSED BY SECTION 202 SHALL BE GRANTED WITH RESPECT TO
27 TANGIBLE PERSONAL PROPERTY OR SERVICES PURCHASED FOR USE OUTSIDE
28 THE COMMONWEALTH EQUAL TO THE TAX PAID TO ANOTHER STATE BY
29 REASON OF THE IMPOSITION BY SUCH OTHER STATE OF A TAX SIMILAR TO
30 THE TAX IMPOSED BY THIS ARTICLE: PROVIDED, HOWEVER, THAT NO SUCH

1 CREDIT SHALL BE GRANTED UNLESS SUCH OTHER STATE GRANTS
2 SUBSTANTIALLY SIMILAR TAX RELIEF BY REASON OF THE PAYMENT OF TAX
3 UNDER THIS ARTICLE OR UNDER THE TAX ACT OF 1963 FOR EDUCATION.

4 [(B) A CREDIT AGAINST THE TAX IMPOSED BY SECTION 202 ON
5 TELECOMMUNICATIONS SERVICES SHALL BE GRANTED TO A CALL CENTER
6 FOR GROSS RECEIPTS TAX PAID BY A TELEPHONE COMPANY ON THE
7 RECEIPTS DERIVED FROM THE SALE OF INCOMING AND OUTGOING
8 INTERSTATE TELECOMMUNICATIONS SERVICES TO THE CALL CENTER UNDER
9 SECTION 1101(A) (2) . THE FOLLOWING APPLY:

10 (1) A TELEPHONE COMPANY, UPON REQUEST, SHALL NOTIFY A CALL
11 CENTER OF THE AMOUNT OF GROSS RECEIPTS TAX PAID BY THE TELEPHONE
12 COMPANY ON THE RECEIPTS DERIVED FROM THE SALE OF INCOMING AND
13 OUTGOING INTERSTATE TELECOMMUNICATIONS SERVICES TO THE CALL
14 CENTER.

15 (2) A CALL CENTER THAT IS ELIGIBLE FOR THE CREDIT IN THIS
16 SUBSECTION MAY APPLY FOR A TAX CREDIT AS SET FORTH IN THIS
17 SUBSECTION.

18 (3) BY FEBRUARY 15, A TAXPAYER MUST SUBMIT AN APPLICATION TO
19 THE DEPARTMENT FOR GROSS RECEIPTS TAX PAID ON THE RECEIPTS
20 DERIVED FROM THE SALE OF INCOMING AND OUTGOING INTERSTATE
21 TELECOMMUNICATIONS SERVICES INCURRED IN THE PRIOR CALENDAR YEAR.

22 (4) BY APRIL 15 OF THE CALENDAR YEAR FOLLOWING THE CLOSE OF
23 THE CALENDAR YEAR DURING WHICH THE GROSS RECEIPTS TAX WAS
24 INCURRED, THE DEPARTMENT SHALL NOTIFY THE APPLICANT OF THE
25 AMOUNT OF THE APPLICANT'S TAX CREDIT APPROVED BY THE DEPARTMENT.

26 (5) THE TOTAL AMOUNT OF TAX CREDITS PROVIDED FOR IN THIS
27 SUBSECTION AND APPROVED BY THE DEPARTMENT SHALL NOT EXCEED
28 THIRTY MILLION DOLLARS (\$30,000,000) IN ANY FISCAL YEAR. IF THE
29 TOTAL AMOUNT OF TAX CREDITS APPLIED FOR BY ALL APPLICANTS
30 EXCEEDS THE AMOUNT ALLOCATED FOR THOSE CREDITS, THEN THE CREDIT

1 TO BE RECEIVED BY EACH APPLICANT SHALL BE DETERMINED AS FOLLOWS:

2 (I) DIVIDE:

3 (A) THE TAX CREDIT APPLIED FOR BY THE APPLICANT; BY

4 (B) THE TOTAL OF ALL TAX CREDITS APPLIED FOR BY ALL

5 APPLICANTS.

6 (II) MULTIPLY:

7 (A) THE QUOTIENT UNDER SUBPARAGRAPH (I); BY

8 (B) THE AMOUNT ALLOCATED FOR ALL TAX CREDITS.]

9 SECTION 1.1. SECTION 226 OF THE ACT IS REPEALED:

10 [SECTION 226. LOCAL RECEIVERS OF USE TAX.--BEGINNING ON AND
11 AFTER THE EFFECTIVE DATE OF THIS ARTICLE, IN EVERY COUNTY,
12 EXCEPT IN COUNTIES OF THE FIRST CLASS, THE COUNTY TREASURER IS
13 HEREBY AUTHORIZED TO RECEIVE USE TAX DUE AND PAYABLE UNDER THE
14 PROVISIONS OF THIS ARTICLE FROM ANY PERSON OTHER THAN A
15 LICENSEE. THE RECEIVING OF SUCH TAXES SHALL BE PURSUANT TO RULES
16 AND REGULATIONS PROMULGATED BY THE DEPARTMENT AND UPON FORMS
17 FURNISHED BY THE DEPARTMENT. EACH COUNTY TREASURER SHALL REMIT
18 TO THE DEPARTMENT ALL USE TAXES RECEIVED UNDER THE AUTHORITY OF
19 THIS SECTION MINUS THE COSTS OF ADMINISTERING THIS PROVISION NOT
20 TO EXCEED ONE PER CENT OF THE AMOUNT OF USE TAXES RECEIVED,
21 WHICH AMOUNT SHALL BE RETAINED IN LIEU OF ANY COMMISSION
22 OTHERWISE ALLOWABLE BY LAW FOR THE COLLECTION OF SUCH TAX.]

23 SECTION 2. SECTION 301(N.1), (O.3) AND (T) OF THE ACT,
24 AMENDED OR ADDED AUGUST 31, 1971 (P.L.362, NO.93) AND JULY 6,
25 2006 (P.L.319, NO.67), ARE AMENDED AND THE SECTION IS AMENDED BY
26 ADDING SUBSECTIONS TO READ:

27 SECTION 301. DEFINITIONS.--ANY REFERENCE IN THIS ARTICLE TO
28 THE INTERNAL REVENUE CODE OF 1986 SHALL MEAN THE INTERNAL
29 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.),
30 AS AMENDED TO JANUARY 1, 1997, UNLESS THE REFERENCE CONTAINS THE

1 PHRASE "AS AMENDED" AND REFERS TO NO OTHER DATE, IN WHICH CASE
2 THE REFERENCE SHALL BE TO THE INTERNAL REVENUE CODE OF 1986 AS
3 IT EXISTS AS OF THE TIME OF APPLICATION OF THIS ARTICLE. THE
4 FOLLOWING WORDS, TERMS AND PHRASES WHEN USED IN THIS ARTICLE
5 SHALL HAVE THE MEANING ASCRIBED TO THEM IN THIS SECTION EXCEPT
6 WHERE THE CONTEXT CLEARLY INDICATES A DIFFERENT MEANING:

7 * * *

8 (D.2) "CORPORATE ITEM" MEANS AN ITEM, INCLUDING INCOME, GAIN
9 OR LOSS, DEDUCTION OR CREDIT DETERMINED AT THE PENNSYLVANIA S
10 CORPORATION LEVEL, WHICH IS REQUIRED TO BE TAKEN INTO ACCOUNT
11 FOR A PENNSYLVANIA S CORPORATION'S TAXABLE YEAR.

12 * * *

13 (N.2) "PARTNERSHIP ITEM" MEANS AN ITEM, INCLUDING INCOME,
14 GAIN OR LOSS, DEDUCTION OR CREDIT DETERMINED AT THE PARTNERSHIP
15 LEVEL, WHICH IS REQUIRED TO BE TAKEN INTO ACCOUNT FOR A
16 PARTNERSHIP'S TAXABLE YEAR.

17 [(N.1)] (N.3) "PENNSYLVANIA S CORPORATION" MEANS ANY SMALL
18 CORPORATION AS DEFINED IN SECTION 301(S.2) WHICH DOES NOT HAVE A
19 VALID ELECTION UNDER SECTION 307 IN EFFECT. A QUALIFIED
20 SUBCHAPTER S SUBSIDIARY OWNED BY A PENNSYLVANIA S CORPORATION
21 SHALL BE TREATED AS A PENNSYLVANIA S CORPORATION WITHOUT REGARD
22 TO WHETHER AN ELECTION UNDER SECTION 307 HAS BEEN MADE WITH
23 RESPECT TO THE SUBSIDIARY.

24 * * *

25 (O.3) "PUBLICLY TRADED PARTNERSHIP" MEANS AN ENTITY DEFINED
26 UNDER SECTION 7704 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC
27 LAW 99-514, 26 U.S.C. § 7704) WITH EQUITY SECURITIES REGISTERED
28 WITH THE SECURITIES AND EXCHANGE COMMISSION UNDER SECTION 12 OF
29 THE SECURITIES EXCHANGE ACT OF 1934 (48 STAT. 881, 15 U.S.C. §
30 78A).

1 [(0.3)] (0.4) "QUALIFIED SUBCHAPTER S SUBSIDIARY" MEANS A
2 DOMESTIC OR FOREIGN CORPORATION WHICH FOR FEDERAL INCOME TAX
3 PURPOSES IS TREATED AS A QUALIFIED SUBCHAPTER S SUBSIDIARY, AS
4 DEFINED IN SECTION 1361(B)(3)(B) OF THE INTERNAL REVENUE CODE OF
5 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1361), AS AMENDED TO
6 JANUARY 1, 2005.

7 * * *

8 (T) "STATE" MEANS, EXCEPT AS PROVIDED UNDER SECTION 314(A),
9 ANY STATE OR COMMONWEALTH OF THE UNITED STATES, THE DISTRICT OF
10 COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, ANY TERRITORY OR
11 POSSESSION OF THE UNITED STATES AND ANY FOREIGN COUNTRY.

12 * * *

13 SECTION 2.1. SECTION 303(A)(2) OF THE ACT, ADDED AUGUST 31,
14 1971 (P.L.362, NO.93), IS AMENDED AND SUBSECTION (A)(3) IS
15 AMENDED BY ADDING A SUBPARAGRAPH TO READ:

16 SECTION 303. CLASSES OF INCOME.--(A) THE CLASSES OF INCOME
17 REFERRED TO ABOVE ARE AS FOLLOWS:

18 * * *

19 (2) NET PROFITS. THE NET INCOME FROM THE OPERATION OF A
20 BUSINESS, PROFESSION, OR OTHER ACTIVITY, AFTER PROVISION FOR ALL
21 COSTS AND EXPENSES INCURRED IN THE CONDUCT THEREOF, DETERMINED
22 EITHER ON A CASH OR ACCRUAL BASIS IN ACCORDANCE WITH ACCEPTED
23 ACCOUNTING PRINCIPLES AND PRACTICES BUT WITHOUT DEDUCTION OF
24 TAXES BASED ON INCOME. FOR PURPOSES OF CALCULATING NET INCOME
25 UNDER THIS PARAGRAPH, TO THE EXTENT A TAXPAYER PROPERLY DEDUCTS
26 AN AMOUNT UNDER SECTION 195(B)(1)(A) OF THE INTERNAL REVENUE
27 CODE OF 1986 (26 U.S.C. § 195(B)(1)(A)), AS AMENDED, AND THE
28 REGULATIONS PROMULGATED UNDER SECTION 195(B)(1)(A) OF THE
29 INTERNAL REVENUE CODE OF 1986, THE TAXPAYER SHALL BE PERMITTED A
30 DEDUCTION IN EQUAL AMOUNT IN THE SAME TAXABLE YEAR.

1 (3) NET GAINS OR INCOME FROM DISPOSITION OF PROPERTY. NET
2 GAINS OR NET INCOME, LESS NET LOSSES, DERIVED FROM THE SALE,
3 EXCHANGE OR OTHER DISPOSITION OF PROPERTY, INCLUDING REAL
4 PROPERTY, TANGIBLE PERSONAL PROPERTY, INTANGIBLE PERSONAL
5 PROPERTY OR OBLIGATIONS ISSUED ON OR AFTER THE EFFECTIVE DATE OF
6 THIS AMENDATORY ACT BY THE COMMONWEALTH; ANY PUBLIC AUTHORITY,
7 COMMISSION, BOARD OR OTHER AGENCY CREATED BY THE COMMONWEALTH;
8 ANY POLITICAL SUBDIVISION OF THE COMMONWEALTH OR ANY PUBLIC
9 AUTHORITY CREATED BY ANY SUCH POLITICAL SUBDIVISION; OR BY THE
10 FEDERAL GOVERNMENT AS DETERMINED IN ACCORDANCE WITH ACCEPTED
11 ACCOUNTING PRINCIPLES AND PRACTICES. FOR THE PURPOSE OF THIS
12 ARTICLE:

13 * * *

14 (VIII) THE TERM "NET GAINS OR NET INCOME, LESS NET LOSSES"
15 SHALL NOT INCLUDE GAIN OR LOSS FROM THE EXCHANGE OF PROPERTY
16 WHICH IS NOT RECOGNIZED FOR FEDERAL INCOME TAX PURPOSES UNDER
17 SECTION 1031 OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C. §
18 1031), AS AMENDED, AND THE REGULATIONS PROMULGATED UNDER SECTION
19 1031 OF THE INTERNAL REVENUE CODE OF 1986. FOR PURPOSES OF
20 DETERMINING BASIS UNDER SUBPARAGRAPH (I), SECTION 1031(D) OF THE
21 INTERNAL REVENUE CODE OF 1986 (26 U.S.C. § 1031(D)), AS AMENDED,
22 AND THE REGULATIONS PROMULGATED UNDER SECTION 1031 OF THE
23 INTERNAL REVENUE CODE OF 1986 SHALL APPLY.

24 * * *

25 SECTION 3. SECTION 306 OF THE ACT, AMENDED JUNE 22, 2001
26 (P.L.353, NO.23), IS AMENDED TO READ:

27 SECTION 306. TAXABILITY OF PARTNERS.--[A] EXCEPT AS PROVIDED
28 UNDER SECTION 306.2, A PARTNERSHIP AS AN ENTITY SHALL NOT BE
29 SUBJECT TO THE TAX IMPOSED BY THIS ARTICLE, BUT THE INCOME OR
30 GAIN OF A MEMBER OF A PARTNERSHIP IN RESPECT OF SAID PARTNERSHIP

1 SHALL BE SUBJECT TO THE TAX AND THE TAX SHALL BE IMPOSED ON HIS
2 SHARE, WHETHER OR NOT DISTRIBUTED, OF THE INCOME OR GAIN
3 RECEIVED BY THE PARTNERSHIP FOR ITS TAXABLE YEAR ENDING WITHIN
4 OR WITH THE MEMBER'S TAXABLE YEAR.

5 SECTION 4. THE ACT IS AMENDED BY ADDING SECTIONS TO READ:

6 SECTION 306.1. TAX TREATMENT DETERMINED AT PARTNERSHIP
7 LEVEL.--THE CLASSIFICATION OR CHARACTER OF A PARTNERSHIP ITEM
8 SHALL BE DETERMINED AT THE PARTNERSHIP LEVEL. THIS SECTION SHALL
9 NOT PROHIBIT THE DEPARTMENT FROM ADJUSTING A PARTNER'S RETURN.

10 SECTION 306.2. TAX IMPOSED AT PARTNERSHIP LEVEL.--(A) A
11 PARTNERSHIP UNDERREPORTING REPORTABLE INCOME BY MORE THAN ONE
12 MILLION DOLLARS (\$1,000,000) SHALL BE JOINTLY LIABLE WITH EACH
13 PARTNER FOR ANY PART OF A DEFICIENCY RESULTING FROM THE
14 TREATMENT OF A PARTNERSHIP ITEM BY A PARTNER ON THAT PARTNER'S
15 RETURN IN A MANNER THAT IS CONSISTENT WITH THE TREATMENT OF THAT
16 PARTNERSHIP ITEM ON THE PARTNERSHIP RETURN. IF THE TAX IS PAID
17 BY THE PARTNER, THE DEPARTMENT MAY NOT COLLECT THE TAX FROM THE
18 PARTNERSHIP. IF THE TAX IS PAID BY THE PARTNERSHIP, THE
19 DEPARTMENT MAY NOT COLLECT THE TAX FROM A PARTNER.

20 (B) SUBSECTION (A) SHALL APPLY TO THE FOLLOWING
21 PARTNERSHIPS:

22 (1) A PARTNERSHIP WHICH HAS ELEVEN OR MORE INDIVIDUAL
23 PARTNERS.

24 (2) A PARTNERSHIP WHICH HAS AT LEAST ONE PARTNER WHICH IS A
25 CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP OR TRUST.

26 (3) A PARTNERSHIP WHICH HAS ONLY INDIVIDUAL PARTNERS AND
27 WHICH ELECTS TO BE SUBJECT TO THIS SUBSECTION. THE ELECTION MUST
28 BE INCLUDED ON THE PARTNERSHIP RETURN TO BE FILED WITH THE
29 DEPARTMENT.

30 (C) THIS SECTION SHALL NOT APPLY TO A PUBLICLY TRADED

1 PARTNERSHIP.

2 (D) NOTHING UNDER THIS SECTION SHALL REQUIRE ONE PARTNER TO
3 BE LIABLE FOR THE PAYMENT OF A TAX LIABILITY OF ANOTHER PARTNER.

4 (E) APPEALS INVOLVING A DEFICIENCY ASSESSED UNDER THIS
5 SECTION MAY ONLY BE PURSUED BY THE PARTNERSHIP AND A
6 REASSESSMENT OR SETTLEMENT OF TAX LIABILITY SHALL BE BINDING ON
7 THE PARTNERS.

8 SECTION 5. SECTION 307.8(A) OF THE ACT, AMENDED MAY 7, 1997
9 (P.L.85, NO.7), IS AMENDED AND THE SECTION IS AMENDED BY ADDING
10 A SUBSECTION TO READ:

11 SECTION 307.8. INCOME OF A PENNSYLVANIA S CORPORATION.--(A)
12 A PENNSYLVANIA S CORPORATION SHALL NOT BE SUBJECT TO THE TAX
13 IMPOSED BY THIS ARTICLE, EXCEPT AS PROVIDED UNDER SUBSECTION
14 (F), BUT THE SHAREHOLDERS OF THE PENNSYLVANIA S CORPORATION
15 SHALL BE SUBJECT TO THE TAX IMPOSED UNDER THIS ARTICLE AS
16 PROVIDED IN THIS ARTICLE.

17 * * *

18 (F) (1) A PENNSYLVANIA S CORPORATION UNDERREPORTING
19 REPORTABLE INCOME BY MORE THAN ONE MILLION DOLLARS (\$1,000,000)
20 SHALL BE JOINTLY LIABLE WITH EACH SHAREHOLDER FOR ANY PART OF A
21 DEFICIENCY RESULTING FROM THE TREATMENT OF A CORPORATE ITEM BY
22 ANY SHAREHOLDER ON THE SHAREHOLDER'S RETURN IN A MANNER THAT IS
23 CONSISTENT WITH THE TREATMENT OF THE CORPORATE ITEM ON THE
24 RETURN OF THE PENNSYLVANIA S CORPORATION. IF THE TAX IS PAID BY
25 THE SHAREHOLDER, IT MAY NOT BE BE COLLECTED FROM THE
26 CORPORATION.

27 (2) PARAGRAPH (1) SHALL APPLY TO THE FOLLOWING PENNSYLVANIA
28 S CORPORATIONS:

29 (I) A PENNSYLVANIA S CORPORATION WHICH HAS ELEVEN OR MORE
30 SHAREHOLDERS.

1 (II) A PENNSYLVANIA S CORPORATION WHICH ELECTS TO BE SUBJECT
2 TO THIS SUBSECTION. THE ELECTION MUST BE INCLUDED ON THE
3 PENNSYLVANIA S CORPORATION RETURN TO BE FILED WITH THE
4 DEPARTMENT.

5 (3) NOTHING UNDER THIS SECTION SHALL REQUIRE ONE SHAREHOLDER
6 TO BE LIABLE FOR THE PAYMENT OF A TAX LIABILITY OF ANOTHER
7 SHAREHOLDER.

8 (4) APPEALS INVOLVING THE DEFICIENCY ASSESSED UNDER THIS
9 SECTION MAY BE FILED ONLY BY THE PENNSYLVANIA S CORPORATION AND
10 A REASSESSMENT OR SETTLEMENT OF TAX LIABILITY SHALL BE BINDING
11 ON THE SHAREHOLDERS.

12 SECTION 6. SECTION 314(A) OF THE ACT, AMENDED DECEMBER 23,
13 1983 (P.L.370, NO.90), IS AMENDED TO READ:

14 SECTION 314. INCOME TAXES IMPOSED BY OTHER STATES.-- (A) A
15 RESIDENT TAXPAYER BEFORE ALLOWANCE OF ANY CREDIT UNDER SECTION
16 312 SHALL BE ALLOWED A CREDIT AGAINST THE TAX OTHERWISE DUE
17 UNDER THIS ARTICLE FOR THE AMOUNT OF ANY INCOME TAX, WAGE TAX OR
18 TAX ON OR MEASURED BY GROSS OR NET EARNED OR UNEARNED INCOME
19 IMPOSED ON HIM OR ON A PENNSYLVANIA S CORPORATION IN WHICH HE IS
20 A SHAREHOLDER, TO THE EXTENT OF HIS PRO RATA SHARE THEREOF
21 DETERMINED IN ACCORDANCE WITH SECTION 307.9, BY ANOTHER STATE
22 WITH RESPECT TO INCOME WHICH IS ALSO SUBJECT TO TAX UNDER THIS
23 ARTICLE. FOR PURPOSES OF THIS SUBSECTION AND NOTWITHSTANDING
24 SECTION 301(T), THE TERM "STATE" SHALL ONLY INCLUDE A STATE OF
25 THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF
26 PUERTO RICO AND ANY TERRITORY OR POSSESSION OF THE UNITED
27 STATES.

28 * * *

29 SECTION 7. SECTION 324 OF THE ACT, AMENDED JUNE 22, 2001
30 (P.L.353, NO.23), IS AMENDED TO READ:

1 SECTION 324. GENERAL RULE.-- (A) WHEN A PARTNERSHIP, ESTATE,
2 TRUST OR PENNSYLVANIA S CORPORATION RECEIVES INCOME FROM SOURCES
3 WITHIN THIS COMMONWEALTH FOR ANY TAXABLE YEAR AND ANY PORTION OF
4 THE INCOME IS ALLOCABLE TO A NONRESIDENT PARTNER, BENEFICIARY,
5 MEMBER OR SHAREHOLDER THEREOF, THE PARTNERSHIP, ESTATE, TRUST OR
6 PENNSYLVANIA S CORPORATION SHALL PAY A WITHHOLDING TAX UNDER
7 THIS SECTION AT THE TIME AND IN THE MANNER PRESCRIBED BY THE
8 DEPARTMENT; HOWEVER, NOTWITHSTANDING ANY OTHER PROVISION OF THIS
9 ARTICLE, ALL SUCH WITHHOLDING TAX SHALL BE PAID OVER ON OR
10 BEFORE THE FIFTEENTH DAY OF THE FOURTH MONTH FOLLOWING THE END
11 OF THE TAXABLE YEAR.

12 (B) THIS SECTION SHALL NOT APPLY TO ANY PUBLICLY TRADED
13 PARTNERSHIP AS DEFINED UNDER SECTION 7704 OF THE INTERNAL
14 REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 7704) WITH
15 EQUITY SECURITIES REGISTERED WITH THE SECURITIES AND EXCHANGE
16 COMMISSION UNDER SECTION 12 OF THE SECURITIES EXCHANGE ACT OF
17 1934 (48 STAT. 881, 15 U.S.C. § 78A).

18 SECTION 8. SECTION 330.1 OF THE ACT, AMENDED OR ADDED
19 DECEMBER 23, 1983 (P.L.370, NO.90) AND JULY 13, 1987 (P.L.325,
20 NO.59), IS AMENDED TO READ:

21 SECTION 330.1. RETURN OF PENNSYLVANIA S CORPORATION.-- (A)
22 EVERY PENNSYLVANIA S CORPORATION SHALL MAKE A RETURN FOR EACH
23 TAXABLE YEAR, STATING SPECIFICALLY ALL ITEMS OF GROSS INCOME AND
24 DEDUCTIONS, THE NAMES AND ADDRESSES OF ALL PERSONS OWNING STOCK
25 IN THE CORPORATION AT ANY TIME DURING THE TAXABLE YEAR, THE
26 NUMBER OF SHARES OF STOCK OWNED BY EACH SHAREHOLDER AT ALL TIMES
27 DURING THE TAXABLE YEAR, THE AMOUNT OF MONEY AND OTHER PROPERTY
28 DISTRIBUTED BY THE CORPORATION DURING THE TAXABLE YEAR TO EACH
29 SHAREHOLDER, THE DATE OF EACH DISTRIBUTION, EACH SHAREHOLDER'S
30 PRO RATA SHARE OF EACH ITEM OF THE CORPORATION FOR THE TAXABLE

1 YEAR AND SUCH OTHER INFORMATION AS THE DEPARTMENT MAY REQUIRE.

2 (B) THE RETURN SHALL BE FILED ON OR BEFORE THIRTY DAYS AFTER
3 THE DATE WHEN THE CORPORATION'S FEDERAL INCOME TAX RETURN IS
4 DUE.

5 (C) EVERY PENNSYLVANIA S CORPORATION SHALL ALSO SUBMIT TO
6 THE DEPARTMENT A TRUE COPY OF THE INCOME TAX RETURN FILED WITH
7 THE FEDERAL GOVERNMENT AT THE TIME THE RETURN REQUIRED UNDER
8 SUBSECTION (A) IS FILED.

9 (D) EACH PENNSYLVANIA S CORPORATION REQUIRED TO FILE A
10 RETURN UNDER SUBSECTION (A) FOR A TAXABLE YEAR SHALL, ON OR
11 BEFORE THE DAY ON WHICH THE RETURN FOR THE TAXABLE YEAR WAS
12 FILED, FURNISH TO EACH PERSON WHO IS A SHAREHOLDER AT ANY TIME
13 DURING THE TAXABLE YEAR A COPY OF ONE OR BOTH OF THE FOLLOWING
14 SHOWING THEIR SHARE OF INCOME AND ANY OTHER INFORMATION AS MAY
15 BE REQUIRED BY THE DEPARTMENT:

16 (1) THE RESIDENT SCHEDULE OF SHAREHOLDER/PARTNER/BENEFICIARY
17 PASS THROUGH INCOME, LOSS AND CREDITS (SCHEDULE RK-1) FORM.

18 (2) THE NONRESIDENT SCHEDULE OF
19 SHAREHOLDER/PARTNER/BENEFICIARY PASS THROUGH INCOME, LOSS AND
20 CREDITS (SCHEDULE NRK-1) FORM.

21 SECTION 9. SECTION 335 OF THE ACT, AMENDED OR ADDED AUGUST
22 31, 1971 (P.L.362, NO.93), DECEMBER 23, 2003 (P.L.250, NO.46)
23 AND JULY 2, 2012 (P.L.751, NO.85), IS AMENDED TO READ:

24 SECTION 335. REQUIREMENTS CONCERNING RETURNS, NOTICES,
25 RECORDS AND STATEMENTS.-- (A) THE DEPARTMENT MAY PRESCRIBE BY
26 REGULATION FOR THE KEEPING OF RECORDS, THE CONTENT AND FORM OF
27 RETURNS, DECLARATIONS, STATEMENTS AND OTHER DOCUMENTS AND THE
28 FILING OF COPIES OF FEDERAL INCOME TAX RETURNS AND
29 DETERMINATIONS. THE DEPARTMENT MAY REQUIRE ANY PERSON, BY
30 REGULATION OR NOTICE SERVED UPON SUCH PERSON, TO MAKE SUCH

1 RETURNS, RENDER SUCH STATEMENTS, OR KEEP SUCH RECORDS, AS THE
2 DEPARTMENT MAY DEEM SUFFICIENT TO SHOW WHETHER OR NOT SUCH
3 PERSON IS LIABLE FOR TAX UNDER THIS ARTICLE.

4 (B) (1) WHEN REQUIRED BY REGULATIONS PRESCRIBED BY THE
5 DEPARTMENT:

6 (I) ANY PERSON REQUIRED UNDER THE AUTHORITY OF THIS ARTICLE
7 TO MAKE A RETURN, DECLARATION, STATEMENT, OR OTHER DOCUMENT
8 SHALL INCLUDE IN SUCH RETURN, DECLARATION, STATEMENT OR OTHER
9 DOCUMENT SUCH IDENTIFYING NUMBER AS MAY BE PRESCRIBED FOR
10 SECURING PROPER IDENTIFICATION OF SUCH PERSON.

11 (II) ANY PERSON WITH RESPECT TO WHOM A RETURN, DECLARATION,
12 STATEMENT, OR OTHER DOCUMENT IS REQUIRED UNDER THE AUTHORITY OF
13 THIS ARTICLE TO MAKE A RETURN, DECLARATION, STATEMENT, OR OTHER
14 DOCUMENT WITH RESPECT TO ANOTHER PERSON, SHALL REQUEST FROM SUCH
15 OTHER PERSON, AND SHALL INCLUDE IN ANY SUCH RETURN, DECLARATION,
16 STATEMENT, OR OTHER DOCUMENT, SUCH IDENTIFYING NUMBER AS MAY BE
17 PRESCRIBED FOR SECURING PROPER IDENTIFICATION OF SUCH OTHER
18 PERSON.

19 (2) FOR PURPOSES OF THIS SECTION, THE DEPARTMENT IS
20 AUTHORIZED TO REQUIRE SUCH INFORMATION AS MAY BE NECESSARY TO
21 ASSIGN AN IDENTIFYING NUMBER TO ANY PERSON.

22 (C) (1) EVERY PARTNERSHIP, ESTATE OR TRUST HAVING A
23 RESIDENT PARTNER OR A RESIDENT BENEFICIARY OR EVERY PARTNERSHIP,
24 ESTATE OR TRUST HAVING ANY INCOME DERIVED FROM SOURCES WITHIN
25 THIS COMMONWEALTH SHALL MAKE A RETURN FOR THE TAXABLE YEAR
26 SETTING FORTH ALL ITEMS OF INCOME, LOSS AND DEDUCTION, AND SUCH
27 OTHER PERTINENT INFORMATION AS THE DEPARTMENT MAY BY REGULATIONS
28 PRESCRIBE. SUCH RETURN SHALL BE FILED ON OR BEFORE THE FIFTEENTH
29 DAY OF THE FOURTH MONTH FOLLOWING THE CLOSE OF EACH TAXABLE
30 YEAR. FOR PURPOSES OF THIS SUBSECTION, "TAXABLE YEAR" MEANS YEAR

1 OR PERIOD WHICH WOULD BE A TAXABLE YEAR OF THE PARTNERSHIP IF IT
2 WERE SUBJECT TO TAX UNDER THIS ARTICLE.

3 (2) EVERY PARTNERSHIP, ESTATE OR TRUST REQUIRED TO FILE A
4 RETURN UNDER PARAGRAPH (1) SHALL ALSO FILE WITH THE DEPARTMENT A
5 TRUE COPY OF THE INCOME TAX RETURN FILED WITH THE FEDERAL
6 GOVERNMENT AT THE TIME THE RETURN REQUIRED UNDER PARAGRAPH (1)
7 IS FILED.

8 (3) EVERY PARTNERSHIP, ESTATE OR TRUST REQUIRED TO FILE A
9 RETURN UNDER PARAGRAPH (1) FOR ANY TAXABLE YEAR SHALL, ON OR
10 BEFORE THE DAY THE RETURN IS FILED, FURNISH TO EACH PARTNER OR
11 NOMINEE FOR ANOTHER PERSON OR TO EACH BENEFICIARY TO WHOM THE
12 INCOME OR GAINS OF THE ESTATE OR TRUST IS TAXABLE, A COPY OF ONE
13 OR BOTH OF THE FOLLOWING SHOWING THEIR SHARE OF INCOME AND ANY
14 OTHER INFORMATION AS MAY BE REQUIRED BY THE DEPARTMENT:

15 (I) THE RESIDENT SCHEDULE OF SHAREHOLDER/PARTNER/BENEFICIARY
16 PASS THROUGH INCOME, LOSS AND CREDITS (SCHEDULE RK-1) FORM.

17 (II) THE NONRESIDENT SCHEDULE OF
18 SHAREHOLDER/PARTNER/BENEFICIARY PASS THROUGH INCOME, LOSS AND
19 CREDITS (SCHEDULE NRK-1) FORM.

20 (4) FAILURE TO FILE A TIMELY RETURN AS REQUIRED UNDER
21 PARAGRAPH (2) AND FAILURE TO FURNISH A COPY OF THE RETURNS
22 REQUIRED UNDER PARAGRAPH (3) SHALL RESULT IN A PENALTY OF FIFTY
23 DOLLARS (\$50) FOR EACH INDIVIDUAL RETURN OR INDIVIDUAL COPY
24 REQUIRED.

25 (D) THE DEPARTMENT MAY PRESCRIBE REGULATIONS REQUIRING
26 RETURNS OF INFORMATION TO BE MADE AND FILED ON OR BEFORE
27 FEBRUARY 28 OF EACH YEAR AS TO THE PAYMENT OR CREDITING IN ANY
28 CALENDAR YEAR OF AMOUNTS OF TEN DOLLARS (\$10) OR MORE TO ANY
29 TAXPAYER. SUCH RETURNS MAY BE REQUIRED OF ANY PERSON, INCLUDING
30 LESSEES OR MORTGAGORS OF REAL OR PERSONAL PROPERTY, FIDUCIARIES,

1 EMPLOYERS AND ALL OFFICERS AND EMPLOYES OF THIS COMMONWEALTH, OR
2 OF ANY MUNICIPAL CORPORATION OR POLITICAL SUBDIVISION OF THIS
3 COMMONWEALTH HAVING THE CONTROL, RECEIPT, CUSTODY, DISPOSAL OR
4 PAYMENT OF INTEREST, RENTS, SALARIES, WAGES, PREMIUMS,
5 ANNUITIES, COMPENSATIONS, REMUNERATIONS, EMOLUMENTS OR OTHER
6 FIXED OR DETERMINABLE GAINS, PROFITS OR INCOME, EXCEPT INTEREST
7 COUPONS PAYABLE TO BEARER. A DUPLICATE OF THE STATEMENT AS TO
8 TAX WITHHELD ON COMPENSATION REQUIRED TO BE FURNISHED BY AN
9 EMPLOYER TO AN EMPLOYEE, SHALL CONSTITUTE THE RETURN OF
10 INFORMATION REQUIRED TO BE MADE UNDER THIS SECTION WITH RESPECT
11 TO SUCH COMPENSATION.

12 (E) ANY PERSON WHO IS REQUIRED TO MAKE A FORM W-2G RETURN TO
13 THE SECRETARY OF THE TREASURY OF THE UNITED STATES IN REGARD TO
14 TAXABLE GAMBLING OR LOTTERY WINNINGS FROM SOURCES WITHIN THIS
15 COMMONWEALTH SHALL FILE A COPY OF THE FORM WITH THE DEPARTMENT
16 BY MARCH 1 OF EACH YEAR OR, IF FILED ELECTRONICALLY, BY MARCH 31
17 OF EACH YEAR.

18 (F) THE FOLLOWING APPLY:

19 (1) ANY PERSON WHO:

20 (I) MAKES PAYMENTS OF INCOME FROM SOURCES WITHIN THIS
21 COMMONWEALTH;

22 (II) MAKES PAYMENTS OF NONEMPLOYEE COMPENSATION OR PAYMENTS
23 UNDER AN OIL AND GAS LEASE UNDER SUBPARAGRAPH (I) TO A RESIDENT
24 OR NONRESIDENT INDIVIDUAL, AN ENTITY TREATED AS A PARTNERSHIP
25 FOR TAX PURPOSES OR A SINGLE MEMBER LIMITED LIABILITY COMPANY;
26 AND

27 (III) IS REQUIRED TO MAKE A FORM 1099-MISC RETURN TO THE
28 SECRETARY OF THE TREASURY OF THE UNITED STATES WITH RESPECT TO
29 THE PAYMENTS SHALL FILE A COPY OF FORM 1099-MISC WITH THE
30 DEPARTMENT AND SEND A COPY OF FORM 1099-MISC TO THE PAYEE BY THE

1 FEDERAL FILING DEADLINE EACH YEAR.

2 (2) IF THE PAYOR IS REQUIRED TO PERFORM ELECTRONIC FILING
3 FOR PENNSYLVANIA EMPLOYER WITHHOLDING PURPOSES, THE FORM 1099-
4 MISC SHALL BE FILED ELECTRONICALLY WITH THE DEPARTMENT.

5 (G) (1) EVERY ESTATE, TRUST, PENNSYLVANIA S CORPORATION OR
6 PARTNERSHIP, OTHER THAN A PUBLICLY TRADED PARTNERSHIP, SHALL
7 MAINTAIN AT THE END OF THE ENTITY'S TAXABLE YEAR AN ACCURATE
8 LIST OF PARTNERS, MEMBERS, BENEFICIARIES OR SHAREHOLDERS. THE
9 LIST SHALL INCLUDE THE NAME, CURRENT ADDRESS AND TAX
10 IDENTIFICATION NUMBER OF ALL EXISTING PARTNERS, MEMBERS,
11 BENEFICIARIES OR SHAREHOLDERS AND OF ALL PARTNERS, MEMBERS,
12 BENEFICIARIES OR SHAREHOLDERS, WHO WERE ADMITTED OR WHO WITHDREW
13 DURING THE TAXABLE YEAR, INCLUDING THE DATE OF WITHDRAWAL AND
14 ADMITTANCE.

15 (2) IF THE ENTITY UNDER PARAGRAPH (1) DOES NOT MAINTAIN AN
16 ACCURATE LIST AS REQUIRED, THE TAX, PENALTY AND INTEREST WITH
17 RESPECT TO THE ENTITY SHALL BE CONSIDERED THE TAX, PENALTY AND
18 INTEREST OF THE PARTNERSHIP, ESTATE, TRUST OR PENNSYLVANIA S
19 CORPORATION AND OF THE GENERAL PARTNER, TAX MATTERS PARTNER,
20 CORPORATE OFFICER OR TRUSTEE.

21 SECTION 10. SECTION 401(3)1 AND 2(A)(17) OF THE ACT, AMENDED
22 SEPTEMBER 9, 1971 (P.L.437, NO.105), ARE AMENDED, CLAUSE (3)1 IS
23 AMENDED BY ADDING A PHRASE, SUBCLAUSE 2(A) IS AMENDED BY ADDING
24 A PARAGRAPH, PARAGRAPHS (3)4(C)(1)(A) AND 2(B) ARE AMENDED BY
25 ADDING SUBPARAGRAPHS AND THE SECTION IS AMENDED BY ADDING
26 CLAUSES TO READ:

27 SECTION 401. DEFINITIONS.--THE FOLLOWING WORDS, TERMS, AND
28 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANING
29 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
30 CLEARLY INDICATES A DIFFERENT MEANING:

1 * * *

2 (3) "TAXABLE INCOME." 1. * * *

3 (T) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2), (3) OR (4) FOR
4 TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2014, AND IN ADDITION
5 TO ANY AUTHORITY THE DEPARTMENT HAS ON THE EFFECTIVE DATE OF
6 THIS PARAGRAPH TO DENY A DEDUCTION RELATED TO A FRAUDULENT OR
7 SHAM TRANSACTION, NO DEDUCTION SHALL BE ALLOWED FOR AN
8 INTANGIBLE EXPENSE OR COST, OR AN INTEREST EXPENSE OR COST,
9 PAID, ACCRUED OR INCURRED DIRECTLY OR INDIRECTLY IN CONNECTION
10 WITH ONE OR MORE TRANSACTIONS WITH AN AFFILIATED ENTITY. IN
11 CALCULATING TAXABLE INCOME UNDER THIS PARAGRAPH, WHEN THE
12 TAXPAYER IS ENGAGED IN ONE OR MORE TRANSACTIONS WITH AN
13 AFFILIATED ENTITY THAT WAS SUBJECT TO TAX IN THIS COMMONWEALTH
14 OR ANOTHER STATE OR POSSESSION OF THE UNITED STATES ON A TAX
15 BASE THAT INCLUDED THE INTANGIBLE EXPENSE OR COST, OR THE
16 INTEREST EXPENSE OR COST, PAID, ACCRUED OR INCURRED BY THE
17 TAXPAYER, THE TAXPAYER SHALL RECEIVE A CREDIT AGAINST TAX DUE IN
18 THIS COMMONWEALTH IN AN AMOUNT EQUAL TO THE APPORTIONMENT FACTOR
19 OF THE TAXPAYER IN THIS COMMONWEALTH MULTIPLIED BY THE GREATER
20 OF THE FOLLOWING:

21 (A) THE TAX LIABILITY OF THE AFFILIATED ENTITY WITH RESPECT
22 TO THE PORTION OF ITS INCOME REPRESENTING THE INTANGIBLE EXPENSE
23 OR COST, OR THE INTEREST EXPENSE OR COST, PAID, ACCRUED OR
24 INCURRED BY THE TAXPAYER; OR

25 (B) THE TAX LIABILITY THAT WOULD HAVE BEEN PAID BY THE
26 AFFILIATED ENTITY UNDER SUBPARAGRAPH (A) IF THAT TAX LIABILITY
27 HAD NOT BEEN OFFSET BY A CREDIT.

28 THE CREDIT ISSUED UNDER THIS PARAGRAPH SHALL NOT EXCEED THE
29 TAXPAYER'S LIABILITY IN THIS COMMONWEALTH ATTRIBUTABLE TO THE
30 NET INCOME TAXED AS A RESULT OF THE ADJUSTMENT REQUIRED BY THIS

1 PARAGRAPH.

2 (2) THE ADJUSTMENT REQUIRED BY PARAGRAPH (1) SHALL NOT APPLY
3 TO A TRANSACTION THAT WAS DIRECTLY RELATED TO A VALID BUSINESS
4 PURPOSE.

5 (3) THE ADJUSTMENT REQUIRED BY PARAGRAPH (1) SHALL NOT APPLY
6 TO A TRANSACTION BETWEEN A TAXPAYER AND AN AFFILIATED ENTITY
7 DOMICILED IN A FOREIGN NATION WHICH HAS IN FORCE A COMPREHENSIVE
8 INCOME TAX TREATY WITH THE UNITED STATES PROVIDING FOR THE
9 ALLOCATION OF ALL CATEGORIES OF INCOME SUBJECT TO TAXATION, OR
10 THE WITHHOLDING OF TAX, ON ROYALTIES, LICENSES, FEES AND
11 INTEREST FOR THE PREVENTION OF DOUBLE TAXATION OF THE RESPECTIVE
12 NATIONS' RESIDENTS AND THE SHARING OF INFORMATION.

13 (4) THE ADJUSTMENT REQUIRED BY PARAGRAPH (1) SHALL NOT APPLY
14 TO A TRANSACTION WHERE AN AFFILIATED ENTITY DIRECTLY OR
15 INDIRECTLY PAID, ACCRUED OR INCURRED A PAYMENT TO A PERSON WHO
16 IS NOT AN AFFILIATED ENTITY, IF THE PAYMENT IS PAID, ACCRUED OR
17 INCURRED ON THE INTANGIBLE EXPENSE OR COST, OR INTEREST EXPENSE
18 OR COST, AND IS EQUAL TO OR LESS THAN THE TAXPAYER'S
19 PROPORTIONAL SHARE OF THE TRANSACTION. THE TAXPAYER'S
20 PROPORTIONAL SHARE SHALL BE BASED ON RELATIVE SALES, ASSETS,
21 LIABILITIES OR ANOTHER REASONABLE METHOD.

22 2. IN CASE THE ENTIRE BUSINESS OF ANY CORPORATION, OTHER
23 THAN A CORPORATION ENGAGED IN DOING BUSINESS AS A REGULATED
24 INVESTMENT COMPANY AS DEFINED BY THE INTERNAL REVENUE CODE OF
25 1986, IS NOT TRANSACTED WITHIN THIS COMMONWEALTH, THE TAX
26 IMPOSED BY THIS ARTICLE SHALL BE BASED UPON SUCH PORTION OF THE
27 TAXABLE INCOME OF SUCH CORPORATION FOR THE FISCAL OR CALENDAR
28 YEAR, AS DEFINED IN SUBCLAUSE 1 HEREOF, AND MAY BE DETERMINED AS
29 FOLLOWS:

30 (A) DIVISION OF INCOME.

1 * * *

2 (16.1) SALES, OTHER THAN SALES UNDER PARAGRAPHS (16) AND
3 (17), ARE IN THIS STATE AS FOLLOWS:

4 (A) THE SALE, LEASE, RENTAL OR OTHER USE OF REAL PROPERTY,
5 IF THE REAL PROPERTY IS LOCATED IN THIS STATE. IF REAL PROPERTY
6 IS LOCATED BOTH IN AND OUTSIDE THIS STATE, THE SALE IS IN THIS
7 STATE BASED UPON THE PERCENTAGE OF TOTAL ASSESSED VALUE OF THE
8 REAL PROPERTY LOCATED IN THIS STATE.

9 (B) (I) THE RENTAL, LEASE OR LICENSING OF TANGIBLE PERSONAL
10 PROPERTY, IF THE CUSTOMER FIRST OBTAINED POSSESSION OF THE
11 TANGIBLE PERSONAL PROPERTY IN THIS STATE.

12 (II) IF THE TANGIBLE PERSONAL PROPERTY IS SUBSEQUENTLY TAKEN
13 OUT OF THIS STATE, THE TAXPAYER MAY USE A REASONABLY DETERMINED
14 ESTIMATE OF USAGE IN THIS STATE TO DETERMINE THE EXTENT OF SALE
15 IN THIS STATE.

16 (C) (I) THE SALE OF SERVICE, IF THE SERVICE IS DELIVERED TO
17 A LOCATION IN THIS STATE. IF THE SERVICE IS DELIVERED BOTH TO A
18 LOCATION IN AND OUTSIDE THIS STATE, THE SALE IS IN THIS STATE
19 BASED UPON THE PERCENTAGE OF TOTAL VALUE OF THE SERVICE
20 DELIVERED TO A LOCATION IN THIS STATE.

21 (II) IF THE STATE OR STATES OF ASSIGNMENT UNDER SUBPARAGRAPH
22 (I) CANNOT BE DETERMINED FOR A CUSTOMER WHO IS AN INDIVIDUAL
23 THAT IS NOT A SOLE PROPRIETOR, A SERVICE IS DEEMED TO BE
24 DELIVERED AT THE CUSTOMER'S BILLING ADDRESS.

25 (III) IF THE STATE OR STATES OF ASSIGNMENT UNDER
26 SUBPARAGRAPH (I) CANNOT BE DETERMINED FOR A CUSTOMER, EXCEPT FOR
27 A CUSTOMER UNDER SUBPARAGRAPH (II), A SERVICE IS DEEMED TO BE
28 DELIVERED AT THE LOCATION FROM WHICH THE SERVICES WERE ORDERED
29 IN THE CUSTOMER'S REGULAR COURSE OF OPERATIONS. IF THE LOCATION
30 FROM WHICH THE SERVICES WERE ORDERED IN THE CUSTOMER'S REGULAR

1 COURSE OF OPERATIONS CANNOT BE DETERMINED, A SERVICE IS DEEMED
2 TO BE DELIVERED AT THE CUSTOMER'S BILLING ADDRESS.

3 (17) SALES, OTHER THAN SALES [OF TANGIBLE PERSONAL PROPERTY]
4 UNDER PARAGRAPHS (16) AND (16.1), ARE IN THIS STATE IF:

5 (A) THE INCOME-PRODUCING ACTIVITY IS PERFORMED IN THIS
6 STATE; OR

7 (B) THE INCOME-PRODUCING ACTIVITY IS PERFORMED BOTH IN AND
8 OUTSIDE THIS STATE AND A GREATER PROPORTION OF THE INCOME-
9 PRODUCING ACTIVITY IS PERFORMED IN THIS STATE THAN IN ANY OTHER
10 STATE, BASED ON COSTS OF PERFORMANCE.

11 * * *

12 4. * * *

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

14 (A) * * *

15 (V) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2013, THE
16 GREATER OF TWENTY-FIVE PER CENT OF TAXABLE INCOME AS DETERMINED
17 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR FOUR MILLION
18 DOLLARS (\$4,000,000);

19 (VI) FOR TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2014,
20 THE GREATER OF THIRTY PER CENT OF TAXABLE INCOME AS DETERMINED
21 UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR FIVE MILLION
22 DOLLARS (\$5,000,000); OR

23 * * *

24 (2) * * *

25 (B) THE EARLIEST NET LOSS SHALL BE CARRIED OVER TO THE
26 EARLIEST TAXABLE YEAR TO WHICH IT MAY BE CARRIED UNDER THIS
27 SCHEDULE. THE TOTAL NET LOSS DEDUCTION ALLOWED IN ANY TAXABLE
28 YEAR SHALL NOT EXCEED:

29 * * *

30 (V) THE GREATER OF TWENTY-FIVE PER CENT OF TAXABLE INCOME AS

1 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
2 FOUR MILLION DOLLARS (\$4,000,000) FOR TAXABLE YEARS BEGINNING
3 AFTER DECEMBER 31, 2013.

4 (VI) THE GREATER OF THIRTY PER CENT OF TAXABLE INCOME AS
5 DETERMINED UNDER SUBCLAUSE 1 OR, IF APPLICABLE, SUBCLAUSE 2 OR
6 FIVE MILLION DOLLARS (\$5,000,000) FOR TAXABLE YEARS BEGINNING
7 AFTER DECEMBER 31, 2014.

8 * * *

9 (8) "INTANGIBLE EXPENSE OR COST." ROYALTIES, LICENSES OR
10 FEES PAID FOR THE ACQUISITION, USE, MAINTENANCE, MANAGEMENT,
11 OWNERSHIP, SALE, EXCHANGE OR OTHER DISPOSITION OF PATENTS,
12 PATENT APPLICATIONS, TRADE NAMES, TRADEMARKS, SERVICE MARKS,
13 COPYRIGHTS, MASK WORKS OR OTHER SIMILAR EXPENSES OR COSTS.

14 (9) "INTEREST EXPENSE OR COST." A DEDUCTION ALLOWED UNDER
15 SECTION 163 OF THE INTERNAL REVENUE CODE OF 1986 (26 U.S.C. §
16 163) TO THE EXTENT THAT SUCH DEDUCTION IS DIRECTLY RELATED TO AN
17 INTANGIBLE EXPENSE OR COST.

18 (10) "AFFILIATED ENTITY." A PERSON WITH A RELATIONSHIP TO
19 THE TAXPAYER DURING ALL OR ANY PORTION OF THE TAXABLE YEAR THAT
20 IS ANY OF THE FOLLOWING:

21 (I) A STOCKHOLDER WHO IS AN INDIVIDUAL, OR A MEMBER OF THE
22 STOCKHOLDER'S FAMILY AS SET FORTH IN SECTION 318 OF THE INTERNAL
23 REVENUE CODE OF 1986 (26 U.S.C. § 318), IF THE STOCKHOLDER AND
24 THE MEMBERS OF THE STOCKHOLDER'S FAMILY OWN, DIRECTLY,
25 INDIRECTLY, BENEFICIALLY OR CONSTRUCTIVELY, IN THE AGGREGATE,
26 MORE THAN FIFTY PER CENT OF THE VALUE OF THE TAXPAYER'S
27 OUTSTANDING STOCK;

28 (II) A STOCKHOLDER, OR A STOCKHOLDER'S PARTNERSHIP, LIMITED
29 LIABILITY COMPANY, ESTATE, TRUST OR CORPORATION, IF THE
30 STOCKHOLDER AND THE STOCKHOLDER'S PARTNERSHIPS, LIMITED

1 LIABILITY COMPANIES, ESTATES, TRUSTS AND CORPORATIONS OWN
2 DIRECTLY, INDIRECTLY, BENEFICIALLY OR CONSTRUCTIVELY, IN THE
3 AGGREGATE, MORE THAN FIFTY PER CENT OF THE VALUE OF THE
4 TAXPAYER'S OUTSTANDING STOCK;

5 (III) A CORPORATION, OR A PARTY RELATED TO THE CORPORATION
6 IN A MANNER THAT WOULD REQUIRE AN ATTRIBUTION OF STOCK FROM THE
7 CORPORATION TO THE PARTY OR FROM THE PARTY TO THE CORPORATION
8 UNDER THE ATTRIBUTION RULES OF THE INTERNAL REVENUE CODE OF
9 1986, IF THE TAXPAYER OWNS, DIRECTLY, INDIRECTLY, BENEFICIALLY
10 OR CONSTRUCTIVELY, MORE THAN FIFTY PER CENT OF THE VALUE OF THE
11 CORPORATION'S OUTSTANDING STOCK. THE ATTRIBUTION RULES OF
12 SECTION 318 OF THE INTERNAL REVENUE CODE OF 1986 SHALL APPLY FOR
13 PURPOSES OF DETERMINING WHETHER THE OWNERSHIP REQUIREMENTS OF
14 THIS DEFINITION HAVE BEEN MET;

15 (IV) A COMPONENT MEMBER AS DEFINED IN SECTION 1563(B) OF THE
16 INTERNAL REVENUE CODE OF 1986 (26 U.S.C. § 1563(B)); OR

17 (V) A PERSON TO OR FROM WHOM THERE IS ATTRIBUTION OF STOCK
18 OWNERSHIP IN ACCORDANCE WITH SECTION 1563(E) OF THE INTERNAL
19 REVENUE CODE OF 1986.

20 (11) "VALID BUSINESS PURPOSE." A PURPOSE, OTHER THAN THE
21 AVOIDANCE OR REDUCTION OF TAXATION, WHICH ALONE OR IN
22 COMBINATION WITH OTHER PURPOSES CONSTITUTE THE PRIMARY
23 MOTIVATION FOR A BUSINESS ACTIVITY OR TRANSACTION. A TRANSACTION
24 DONE AT ARM'S LENGTH TERMS SHALL BE PRESUMED TO BE DIRECTLY
25 RELATED TO A VALID BUSINESS PURPOSE.

26 SECTION 11. SECTION 402(B) OF THE ACT, AMENDED JUNE 29, 2002
27 (P.L.559, NO.89), IS AMENDED TO READ:

28 SECTION 402. IMPOSITION OF TAX.--* * *

29 (B) THE ANNUAL RATE OF TAX ON CORPORATE NET INCOME IMPOSED
30 BY SUBSECTION (A) FOR TAXABLE YEARS BEGINNING FOR THE CALENDAR

1 YEAR OR FISCAL YEAR ON OR AFTER THE DATES SET FORTH SHALL BE AS
2 FOLLOWS:

3 TAXABLE YEAR TAX RATE

4 JANUARY 1, 1995[, AND

5 EACH TAXABLE YEAR

6 THEREAFTER] TO

7 DECEMBER 31, 2014 9.99%

8 JANUARY 1, 2015, TO

9 DECEMBER 31, 2015 9.89%

10 JANUARY 1, 2016, TO

11 DECEMBER 31, 2016 9.69%

12 JANUARY 1, 2017, TO

13 DECEMBER 31, 2017 9.49%

14 JANUARY 1, 2018, TO

15 DECEMBER 31, 2018 9.29%

16 JANUARY 1, 2019, TO

17 DECEMBER 31, 2019 8.96%

18 JANUARY 1, 2020, TO

19 DECEMBER 31, 2020 8.63%

20 JANUARY 1, 2021, TO

21 DECEMBER 31, 2021 8.3%

22 JANUARY 1, 2022, TO

23 DECEMBER 31, 2022 7.97%

24 JANUARY 1, 2023, TO

25 DECEMBER 31, 2023 7.64%

26 JANUARY 1, 2024, TO

27 DECEMBER 31, 2024 7.31%

28 JANUARY 1, 2025, AND

29 EACH TAXABLE YEAR

30 THEREAFTER 6.99%

1 * * *

2 SECTION 12. SECTION 403(D) OF THE ACT, AMENDED OCTOBER 18,
3 2006 (P.L.1149, NO.119), IS AMENDED TO READ:

4 SECTION 403. REPORTS AND PAYMENT OF TAX.--* * *

5 (D) IF THE OFFICERS OF ANY CORPORATION SHALL NEGLECT, OR
6 REFUSE TO MAKE ANY REPORT AS HEREIN REQUIRED, OR SHALL KNOWINGLY
7 MAKE ANY FALSE REPORT, [THE FOLLOWING PERCENTAGES OF THE AMOUNT
8 OF THE TAX SHALL BE ADDED BY THE DEPARTMENT TO THE TAX
9 DETERMINED TO BE DUE ON THE FIRST ONE THOUSAND DOLLARS (\$1,000)
10 OF TAX TEN PER CENT, ON THE NEXT FOUR THOUSAND DOLLARS (\$4,000)
11 FIVE PER CENT, AND ON EVERYTHING IN EXCESS OF FIVE THOUSAND
12 DOLLARS (\$5,000) ONE PER CENT, NO SUCH] A PENALTY OF FIVE
13 HUNDRED DOLLARS (\$500) PLUS AN ADDITIONAL ONE PER CENT FOR EVERY
14 DOLLAR OF TAX DETERMINED TO BE DUE IN EXCESS OF TWENTY-FIVE
15 THOUSAND DOLLARS (\$25,000) SHALL BE ADDED TO THE TAX DETERMINED
16 TO BE DUE. NO AMOUNTS ADDED TO THE TAX SHALL BEAR ANY INTEREST
17 WHATSOEVER.

18 * * *

19 SECTION 12.1. THE DEFINITIONS OF "DOCUMENT," "REAL ESTATE"
20 AND "REAL ESTATE COMPANY" IN SECTION 1101-C OF THE ACT, AMENDED
21 JULY 2, 1986 (P.L.318, NO.77), ARE AMENDED TO READ:

22 SECTION 1101-C. DEFINITIONS.--THE FOLLOWING WORDS WHEN USED
23 IN THIS ARTICLE SHALL HAVE THE MEANINGS ASCRIBED TO THEM IN THIS
24 SECTION:

25 * * *

26 "DOCUMENT." ANY DEED, INSTRUMENT OR WRITING WHICH CONVEYS,
27 TRANSFERS, DEVISES, VESTS, CONFIRMS OR EVIDENCES ANY TRANSFER OR
28 DEVISE OF TITLE TO REAL ESTATE IN THIS COMMONWEALTH, BUT DOES
29 NOT INCLUDE WILLS, MORTGAGES, DEEDS OF TRUST OR OTHER
30 INSTRUMENTS OF LIKE CHARACTER GIVEN AS SECURITY FOR A DEBT AND

1 DEEDS OF RELEASE THEREOF TO THE DEBTOR, LAND CONTRACTS WHEREBY
2 THE LEGAL TITLE DOES NOT PASS TO THE GRANTEE UNTIL THE TOTAL
3 CONSIDERATION SPECIFIED IN THE CONTRACT HAS BEEN PAID OR ANY
4 CANCELLATION THEREOF UNLESS THE CONSIDERATION IS PAYABLE OVER A
5 PERIOD OF TIME EXCEEDING THIRTY YEARS OR INSTRUMENTS WHICH
6 SOLELY GRANT, VEST OR CONFIRM A PUBLIC UTILITY EASEMENT.
7 "DOCUMENT" SHALL ALSO INCLUDE A DECLARATION OF ACQUISITION
8 REQUIRED TO BE PRESENTED FOR RECORDING UNDER SECTION 1102-C.5 OF
9 THIS ARTICLE.

10 * * *

11 "REAL ESTATE."

12 (1) ANY LANDS, TENEMENTS OR HEREDITAMENTS [WITHIN THIS
13 COMMONWEALTH], INCLUDING, WITHOUT LIMITATION, BUILDINGS,
14 STRUCTURES, FIXTURES, MINES, MINERALS, OIL, GAS, QUARRIES,
15 SPACES WITH OR WITHOUT UPPER OR LOWER BOUNDARIES, TREES AND
16 OTHER IMPROVEMENTS, IMMOVABLES OR INTERESTS WHICH BY CUSTOM,
17 USAGE OR LAW PASS WITH A CONVEYANCE OF LAND, BUT EXCLUDING
18 PERMANENTLY ATTACHED MACHINERY AND EQUIPMENT IN AN INDUSTRIAL
19 PLANT.

20 (2) A CONDOMINIUM UNIT.

21 (3) A TENANT-STOCKHOLDER'S INTEREST IN A COOPERATIVE HOUSING
22 CORPORATION, TRUST OR ASSOCIATION UNDER A PROPRIETARY LEASE OR
23 OCCUPANCY AGREEMENT.

24 "REAL ESTATE COMPANY." A CORPORATION OR ASSOCIATION WHICH
25 [IS] MEETS ANY OF THE FOLLOWING:

26 (1) IS PRIMARILY ENGAGED IN THE BUSINESS OF HOLDING,
27 SELLING OR LEASING REAL ESTATE NINETY PER CENT OR MORE OF THE
28 OWNERSHIP INTEREST IN WHICH IS HELD BY THIRTY-FIVE OR FEWER
29 PERSONS AND WHICH:

30 [(1)] (I) DERIVES SIXTY PER CENT OR MORE OF ITS ANNUAL GROSS

1 RECEIPTS FROM THE OWNERSHIP OR DISPOSITION OF REAL ESTATE; OR
2 [(2)] (II) HOLDS REAL ESTATE, THE VALUE OF WHICH COMPRISES
3 [NINETY] FIFTY PER CENT OR MORE OF THE VALUE OF ITS ENTIRE
4 TANGIBLE ASSET HOLDINGS EXCLUSIVE OF TANGIBLE ASSETS WHICH ARE
5 FREELY TRANSFERABLE AND ACTIVELY TRADED ON AN ESTABLISHED
6 MARKET.

7 (2) OWNS A DIRECT OR INDIRECT INTEREST IN A REAL ESTATE
8 COMPANY. AN INDIRECT OWNERSHIP INTEREST IS AN INTEREST IN A
9 CORPORATION OR ASSOCIATION WHOSE PURPOSE IS THE OWNERSHIP OF A
10 REAL ESTATE COMPANY EITHER BY ITSELF OR AS PART OF A TIERED
11 STRUCTURE OF CORPORATIONS OR ASSOCIATIONS.

12 * * *

13 SECTION 12.2. SECTION 1102-C OF THE ACT, AMENDED JULY 2,
14 1986 (P.L.318, NO.77), IS AMENDED TO READ:

15 SECTION 1102-C. IMPOSITION OF TAX.--EVERY PERSON WHO MAKES,
16 EXECUTES, DELIVERS, ACCEPTS OR PRESENTS FOR RECORDING ANY
17 DOCUMENT OR IN WHOSE BEHALF ANY DOCUMENT IS MADE, EXECUTED,
18 DELIVERED, ACCEPTED OR PRESENTED FOR RECORDING, SHALL BE SUBJECT
19 TO PAY FOR AND IN RESPECT TO THE TRANSACTION OR ANY PART
20 THEREOF, OR FOR OR IN RESPECT OF THE VELLUM PARCHMENT OR PAPER
21 UPON WHICH SUCH DOCUMENT IS WRITTEN OR PRINTED, A STATE TAX AT
22 THE RATE OF ONE PER CENT OF THE VALUE OF THE REAL ESTATE WITHIN
23 THIS COMMONWEALTH REPRESENTED BY SUCH DOCUMENT, WHICH STATE TAX
24 SHALL BE PAYABLE AT THE EARLIER OF THE TIME THE DOCUMENT IS
25 PRESENTED FOR RECORDING OR WITHIN THIRTY DAYS OF ACCEPTANCE OF
26 SUCH DOCUMENT OR WITHIN THIRTY DAYS OF BECOMING AN ACQUIRED
27 COMPANY.

28 SECTION 12.3. SECTION 1102-C.5(A) OF THE ACT, AMENDED JULY
29 2, 2012 (P.L.751, NO.85), IS AMENDED TO READ:

30 SECTION 1102-C.5. ACQUIRED COMPANY.--(A) A REAL ESTATE

1 COMPANY IS AN ACQUIRED COMPANY UPON A CHANGE IN THE OWNERSHIP
2 INTEREST IN THE COMPANY, HOWEVER EFFECTED, IF THE CHANGE:

3 (1) DOES NOT AFFECT THE CONTINUITY OF THE COMPANY; AND

4 (2) OF ITSELF OR TOGETHER WITH PRIOR CHANGES HAS THE EFFECT
5 OF TRANSFERRING, DIRECTLY OR INDIRECTLY, NINETY PER CENT OR MORE
6 OF THE TOTAL OWNERSHIP INTEREST IN THE COMPANY WITHIN A PERIOD
7 OF THREE YEARS.

8 (3) FOR THE PURPOSES OF PARAGRAPH (2), A TRANSFER OCCURS
9 WITHIN A PERIOD OF THREE YEARS OF ANOTHER TRANSFER OR TRANSFERS
10 IF, DURING THE PERIOD[:

11 (I) THE TRANSFERRING PARTY PROVIDES A LEGALLY BINDING
12 COMMITMENT, ENFORCEABLE AT A FUTURE DATE, TO EXECUTE THE
13 TRANSFER;

14 (II) THE TERMS OF THE TRANSFER ARE FIXED AND NOT SUBJECT TO
15 NEGOTIATION; AND

16 (III) THE TRANSFERRING PARTY RECEIVES FULL CONSIDERATION, IN
17 ANY FORM, IN EXCHANGE FOR THE TRANSFER.], THE TRANSFERRING PARTY
18 PROVIDES THE TRANSFEREE A LEGALLY BINDING COMMITMENT OR OPTION,
19 ENFORCEABLE AT A FUTURE DATE, TO EXECUTE THE TRANSFER.

20 * * *

21 SECTION 12.4. ARTICLE XVIII-A OF THE ACT, ADDED MAY 12, 1999
22 (P.L.26, NO.4), IS REPEALED:

23 [ARTICLE XVIII-A
24 COAL WASTE REMOVAL AND ULTRACLEAN FUELS
25 TAX CREDIT

26 SECTION 1801-A. SHORT TITLE.--THIS ARTICLE SHALL BE KNOWN
27 AND MAY BE CITED AS THE "COAL WASTE REMOVAL AND ULTRACLEAN FUELS
28 ACT."

29 SECTION 1802-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
30 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS

1 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
2 CLEARLY INDICATES A DIFFERENT MEANING:

3 "DEPARTMENT" MEANS THE DEPARTMENT OF REVENUE OF THE
4 COMMONWEALTH.

5 "DEVELOPER" MEANS THE OWNER-OPERATOR OF A FACILITY, AS
6 DEFINED IN THIS SECTION, OR THE OPERATOR OF THE FACILITY THAT
7 HAS SOLD THE FACILITY IN NEW CONDITION TO A THIRD PARTY FROM
8 WHOM THAT OPERATOR HAS SIMULTANEOUSLY LEASED BACK THE FACILITY
9 FOR A MINIMUM PERIOD OF TWELVE YEARS.

10 "FACILITY" INCLUDES ALL PLANT AND EQUIPMENT PURCHASED OR
11 CONSTRUCTED BY OR ON BEHALF OF THE DEVELOPER WHICH IS USED
12 WITHIN THIS COMMONWEALTH BY THE DEVELOPER TO PRODUCE ONE OR MORE
13 QUALIFIED FUELS.

14 "INTERNAL REVENUE CODE" MEANS THE INTERNAL REVENUE CODE OF
15 1986 (PUBLIC LAW 99-514, 26 U.S.C. § 1 ET SEQ.).

16 "QUALIFIED FUELS" MEANS THOSE FUELS PRODUCED FROM
17 NONTRADITIONAL COAL CULM AND SILT FEEDSTOCKS AS DEFINED IN
18 SECTION 29(C) OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW
19 99-514, 26 U.S.C. § 29(C)).

20 "QUALIFYING PROPERTY" MEANS TANGIBLE PERSONAL PROPERTY AND
21 OTHER FORMS OF TANGIBLE PROPERTY WHICH QUALIFY FOR INVESTMENT
22 TAX CREDIT TREATMENT AND WHICH MEET ALL OF THE FOLLOWING
23 REQUIREMENTS:

24 (1) BE ACQUIRED THROUGH A PURCHASE, AS DEFINED UNDER SECTION
25 179(D) (2) OF THE INTERNAL REVENUE CODE (26 U.S.C. § 179(D) (2)),
26 OR CONSTRUCTED BY THE DEVELOPER FOR ITS OWN USE.

27 (2) BE DEPRECIABLE UNDER SECTION 167 OF THE INTERNAL REVENUE
28 CODE (26 U.S.C. § 167).

29 (3) HAVE A USEFUL LIFE OF GREATER THAN OR EQUAL TO FOUR
30 YEARS.

1 (4) BE LOCATED WITHIN THIS COMMONWEALTH.

2 (5) BE USED BY THE DEVELOPER IN THE PRODUCTION OF QUALIFIED
3 FUELS.

4 (6) BE ACQUIRED BY PURCHASE OR CONSTRUCTED ON OR AFTER
5 JANUARY 1, 2000, AND BEFORE JANUARY 1, 2013.

6 (7) NOT BE THE SUBJECT OF ANY TAX CREDIT OTHERWISE AVAILABLE
7 TO THE DEVELOPER UNDER THIS ACT.

8 "TAX CREDIT BASE" MEANS ONLY THE COST OR OTHER BASIS OF
9 QUALIFYING PROPERTY THAT IS PROPERLY TRANSFERRED TO THE
10 FACILITY'S BASIS FOR DEPRECIATION FOR FEDERAL INCOME TAX
11 PURPOSES BETWEEN JANUARY 1, 2000, AND DECEMBER 31, 2012.

12 SECTION 1803-A. INVESTMENT TAX CREDITS PROGRAM.--(A) A
13 DEVELOPER OF A NEW FACILITY FOR THE PRODUCTION OF ONE OR MORE
14 QUALIFIED FUELS SHALL BE ALLOWED AN INVESTMENT TAX CREDIT
15 AGAINST THE TAXES IMPOSED UNDER ARTICLES II, IV AND VI OF THIS
16 ACT. THE AMOUNT OF THE CREDIT SHALL BE COMPUTED AS A PERCENTAGE
17 APPLIED TO THE COST OR OTHER BASIS FOR FEDERAL INCOME TAX
18 PURPOSES OF QUALIFYING PROPERTY.

19 (B) (1) THE INVESTMENT TAX CREDIT SHALL BE COMPUTED AS
20 FIFTEEN PER CENT OF THE TAX CREDIT BASE.

21 (2) THE MAXIMUM INVESTMENT TAX CREDIT AVAILABLE FOR
22 APPLICATION, WHETHER CLAIMED BY ONE OR MORE TAXPAYERS, SHALL NOT
23 EXCEED FIFTEEN PER CENT OF THE CAPITAL COST OF THE FACILITY.

24 (3) ANY AMOUNT OF ALLOWABLE INVESTMENT TAX CREDIT NOT USED
25 IN THE TAX YEAR FOR WHICH THE CREDIT WAS CLAIMED CAN BE CARRIED
26 FORWARD BY THE CLAIMING TAXPAYER TO SUCCEEDING YEARS UNTIL THE
27 FULL AMOUNT OF ALLOWABLE CREDIT HAS BEEN USED.

28 (C) (1) THE DEVELOPER, UPON NOTICE TO THE DEPARTMENT AS
29 SPECIFIED BY THE DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN
30 PART, ANY INVESTMENT TAX CREDIT AFFORDED UNDER THIS SECTION TO

1 ONE OR MORE TAXPAYERS IF NO CLAIM FOR ALLOWANCE OF SUCH CREDIT
2 HAS BEEN FILED.

3 (2) A TAXPAYER RECIPIENT BY PURCHASE OR ASSIGNMENT OF ANY
4 PORTION OF THE DEVELOPER'S INVESTMENT TAX CREDIT UNDER PARAGRAPH
5 (1) SHALL INITIALLY CLAIM SUCH CREDIT, UPON NOTICE TO THE
6 DEPARTMENT OF THE DERIVATIVE BASIS OF THE CREDIT IN COMPLIANCE
7 WITH PROCEDURES SPECIFIED BY THE DEPARTMENT, FOR THE TAX YEAR IN
8 WHICH THE PURCHASE OR ASSIGNMENT IS MADE, BUT IN NO EVENT
9 SUBSEQUENT TO THE FILING OF AN INCOME TAX RETURN FOR THE YEAR
10 2012.

11 (3) ANY TAXPAYER WHO ACQUIRES ANY PORTION OF THE DEVELOPER'S
12 INVESTMENT TAX CREDIT BY SALE OR ASSIGNMENT FOR VALUE AND
13 WITHOUT NOTICE BY THE DEVELOPER OF ANY IRREGULARITY OR
14 INVALIDITY SHALL NOT SUFFER ANY DISALLOWANCE OF THE CREDIT OR
15 THE IMPOSITION OF ANY ADJUSTMENT OR FRAUD PENALTY ATTRIBUTABLE
16 TO CONDUCT BY THE DEVELOPER.

17 (D) (1) IF PRIOR TO THE EXPIRATION OF ANY QUALIFYING
18 PROPERTY'S USEFUL LIFE, AS USED TO CALCULATE DEPRECIATION FOR
19 FEDERAL INCOME TAX PURPOSES, THE DEVELOPER, UPON MANDATORY
20 NOTICE TO THE DEPARTMENT IN COMPLIANCE WITH PROCEDURES SPECIFIED
21 BY THE DEPARTMENT, DISPOSES OF ANY QUALIFYING PROPERTY, IN A
22 TRANSACTION OTHER THAN A SALE-LEASEBACK TRANSACTION, UPON WHICH
23 THE DEPARTMENT HAS PREVIOUSLY ALLOWED AN INVESTMENT TAX CREDIT
24 CLAIMED BY ANY TAXPAYER, A PORTION OF ALL SUCH CREDIT SHALL BE
25 RECAPTURED AND ADDED TO THE DEVELOPER'S TAX LIABILITY FOR THE
26 TAX YEAR IN WHICH THE QUALIFYING PROPERTY IS DISPOSED.

27 (2) THE PORTION OF THE INVESTMENT TAX CREDIT PREVIOUSLY
28 ALLOWED, WHICH IS SUBJECT TO RECAPTURE FROM THE DEVELOPER, SHALL
29 BE EQUAL TO A FRACTION WHOSE NUMERATOR IS THE NUMBER OF YEARS
30 REMAINING TO FULLY DEPRECIATE FOR FEDERAL INCOME TAX PURPOSES

1 THE QUALIFYING PROPERTY DISPOSED AND WHOSE DENOMINATOR IS THE
2 TOTAL NUMBER OF YEARS OVER WHICH THE PROPERTY OTHERWISE WOULD
3 HAVE BEEN SUBJECT TO DEPRECIATION BY THE DEVELOPER.

4 (3) IN CALCULATING THE RECAPTURE PERCENTAGE, THE YEAR OF
5 DISPOSITION OF THE QUALIFYING PROPERTY IS CONSIDERED A YEAR OF
6 REMAINING DEPRECIATION.

7 (E) THE DEPARTMENT SHALL VERIFY THE VALIDITY OF ANY CLAIM
8 FOR ALLOWANCE OF ANY INVESTMENT TAX CREDIT AFFORDED UNDER THIS
9 SECTION AND, IN THE CASE OF A FRAUDULENT CLAIM, MAY ASSESS
10 AGAINST THE DEVELOPER A PENALTY OF ONE HUNDRED AND TWENTY-FIVE
11 PER CENT OF THE CREDIT IMPROPERLY CLAIMED.

12 (F) THE TAX CREDITS AUTHORIZED BY THIS SECTION SHALL NOT
13 EXCEED EIGHTEEN MILLION DOLLARS (\$18,000,000) IN THE AGGREGATE
14 DURING ANY YEAR.

15 SECTION 1804-A. CONTRACT REQUIRED.--(A) IN ORDER FOR A
16 DEVELOPER TO CLAIM INVESTMENT TAX CREDITS UNDER THIS ARTICLE,
17 THE DEVELOPER MUST ENTER INTO A CONTRACT WITH THE COMMONWEALTH
18 THAT PROVIDES AS FOLLOWS:

19 (1) THE TERM OF THE CONTRACT SHALL BE TWENTY-FIVE YEARS,
20 BEGINNING WITH THE FIRST TAX YEAR IN WHICH THE INVESTMENT TAX
21 CREDITS ARE CLAIMED.

22 (2) THE DEVELOPER SHALL MAKE PERIODIC PAYMENTS TO THE
23 COMMONWEALTH, WHICH PAYMENTS MAY NOT EXCEED IN THE AGGREGATE
24 FORTY-SIX MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$46,800,000)
25 OVER THE TERM OF THE CONTRACT.

26 (3) THE PERIODIC PAYMENTS SHALL OCCUR EVERY FIVE YEARS AND
27 EACH PAYMENT SHALL BE NINE MILLION THREE HUNDRED SIXTY THOUSAND
28 DOLLARS (\$9,360,000), EXCEPT AS PROVIDED IN PARAGRAPHS (4), (5)
29 AND (6).

30 (4) FOR THE FIRST FIVE-YEAR PERIOD, THE AMOUNT SPECIFIED IN

1 PARAGRAPH (3) SHALL BE REDUCED BY:

2 (I) AN AMOUNT EQUAL TO THE BUSINESS LOSSES OF THE DEVELOPER,
3 IF ANY, RELATING TO THE FACILITY THAT ARE SUSTAINED IN THE FIRST
4 AND SECOND YEARS OF THE CONTRACT, PROVIDED SUCH AMOUNT DOES NOT
5 EXCEED THREE MILLION SEVEN HUNDRED FORTY-FOUR THOUSAND DOLLARS
6 (\$3,744,000) FOR BOTH YEARS.

7 (II) ALLOWABLE OFFSETS IDENTIFIED IN SUBSECTION (B),
8 PROVIDED THAT SUCH OFFSETS DO NOT EXCEED NINE MILLION THREE
9 HUNDRED SIXTY THOUSAND DOLLARS (\$9,360,000).

10 (5) FOR THE REMAINING FIVE-YEAR PERIODS, THE AMOUNT
11 SPECIFIED IN PARAGRAPH (3) SHALL BE REDUCED BY THE AMOUNT OF
12 ALLOWABLE OFFSETS IDENTIFIED IN SUBSECTION (B), PROVIDED THAT
13 SUCH OFFSETS DO NOT EXCEED NINE MILLION THREE HUNDRED SIXTY
14 THOUSAND DOLLARS (\$9,360,000) DURING ANY FIVE-YEAR PERIOD.

15 (6) TO THE EXTENT THE AMOUNT OF ALLOWABLE OFFSETS DURING ANY
16 FIVE-YEAR PERIOD EXCEEDS NINE MILLION THREE HUNDRED SIXTY
17 THOUSAND DOLLARS (\$9,360,000), THE EXCESS MAY BE CARRIED OVER
18 AND ADDED TO THE ALLOWABLE OFFSETS TAKEN IN THE FOLLOWING FIVE-
19 YEAR PERIOD, PROVIDED THAT THE EXCESS IS APPLIED FIRST.

20 (B) FOR PURPOSES OF THIS SECTION, "ALLOWABLE OFFSET"
21 INCLUDES ALL OF THE FOLLOWING:

22 (1) AN AMOUNT EQUAL TO THE CORPORATE NET INCOME TAX, CAPITAL
23 STOCK AND FRANCHISE TAX AND PERSONAL INCOME TAX RELATED TO THE
24 CONSTRUCTION, OWNERSHIP AND OPERATION OF THE FACILITY.

25 (2) AN AMOUNT EQUAL TO ALL PERSONAL INCOME TAX WITHHELD FROM
26 THE DEVELOPER'S EMPLOYEES.

27 (3) AN AMOUNT EQUAL TO ALL SALES AND USE TAX RELATED TO THE
28 OPERATION AND CONSTRUCTION OF THE FACILITY.

29 (4) THE AMOUNT PAID BY THE DEVELOPER OF ANY NEW TAX ENACTED
30 BY THE COMMONWEALTH FOLLOWING THE EFFECTIVE DATE OF THIS

1 ARTICLE.

2 SECTION 1805-A. REQUIREMENTS.--TAX CREDITS AUTHORIZED BY
3 THIS ARTICLE SHALL NOT BE GRANTED UNLESS THE DEVELOPER HAS
4 OBTAINED AN INVESTMENT TAX CREDIT FROM THE FEDERAL GOVERNMENT OR
5 AN INVESTMENT BY A PERSON OTHER THAN AN AGENCY OR
6 INSTRUMENTALITY OF THE COMMONWEALTH, OR ANY COMBINATION THEREOF,
7 IN AN AMOUNT EQUAL TO OR GREATER THAN THE TAX CREDIT GRANTED BY
8 THIS ARTICLE.]

9 SECTION 13. SECTION 2112 OF THE ACT, AMENDED OR ADDED AUGUST
10 4, 1991 (P.L.97, NO.22), JUNE 16, 1994 (P.L.279, NO.48) AND JUNE
11 30, 1995 (P.L.139, NO.21), IS REPEALED:

12 [SECTION 2112. EXEMPTION FOR POVERTY.--(A) THE GENERAL
13 ASSEMBLY, IN RECOGNITION OF THE POWERS CONTAINED IN SECTION 2(B)
14 (II) OF ARTICLE VIII OF THE CONSTITUTION OF PENNSYLVANIA WHICH
15 PROVIDES THEREIN FOR THE ESTABLISHING AS A CLASS OR CLASSES OF
16 SUBJECTS OF TAXATION THE PROPERTY OR PRIVILEGES OF PERSONS WHO
17 BECAUSE OF POVERTY ARE DETERMINED TO BE IN NEED OF SPECIAL TAX
18 PROVISIONS OR TAX EXEMPTIONS, HEREBY DECLARES AS ITS LEGISLATIVE
19 INTENT AND PURPOSE TO IMPLEMENT SUCH POWERS UNDER SUCH
20 CONSTITUTIONAL PROVISION BY ESTABLISHING A TAX EXEMPTION AS
21 HEREINAFTER PROVIDED IN THIS SECTION.

22 (B) THE GENERAL ASSEMBLY, HAVING DETERMINED THAT THERE ARE
23 PERSONS WITHIN THIS COMMONWEALTH THE VALUE OF WHOSE INCOMES AND
24 ESTATES ARE SUCH THAT THE IMPOSITION OF AN INHERITANCE TAX UNDER
25 THIS ARTICLE WOULD CAUSE THEM HARDSHIP AND ECONOMIC BURDEN AND
26 HAVING FURTHER DETERMINED THAT POVERTY IS A RELATIVE CONCEPT
27 INEXTRICABLY JOINED WITH THE ABILITY TO MAINTAIN ASSETS
28 INHERITED UPON THE DEATH OF A SPOUSE, DEEMS IT TO BE A MATTER OF
29 PUBLIC POLICY TO PROVIDE AN EXEMPTION FROM TAXATION FOR
30 TRANSFERS OF PROPERTY TO OR FOR THE USE OF THAT CLASS OF PERSONS

1 HEREINAFTER DESIGNATED IN ORDER TO RELIEVE THEIR HARDSHIP AND
2 ECONOMIC BURDEN.

3 (C) ANY CLAIM FOR A TAX EXEMPTION HEREUNDER SHALL BE
4 DETERMINED IN ACCORDANCE WITH THE FOLLOWING:

5 (1) THE TRANSFEREE IS THE SPOUSE OF THE DECEDENT AT THE DATE
6 OF DEATH OF THE DECEDENT.

7 (2) THE VALUE OF THE ESTATE OF THE DECEDENT DOES NOT EXCEED
8 TWO HUNDRED THOUSAND DOLLARS (\$200,000) AFTER REDUCTION FOR
9 ACTUAL LIABILITIES OF THE DECEDENT AS EVIDENCED BY A WRITTEN
10 AGREEMENT.

11 (3) THE AVERAGE OF THE JOINT EXEMPTION INCOME OF THE
12 DECEDENT AND THE TRANSFEREE FOR THE THREE TAXABLE YEARS, AS
13 DEFINED IN ARTICLE III, IMMEDIATELY PRECEDING THE DATE OF DEATH
14 OF THE DECEDENT DOES NOT EXCEED FORTY THOUSAND DOLLARS
15 (\$40,000).

16 (D) NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE,
17 TRANSFERS OF PROPERTY TO OR FOR THE USE OF ANY ELIGIBLE
18 TRANSFEREE WHO MEETS THE STANDARDS OF ELIGIBILITY ESTABLISHED BY
19 THIS SECTION AS THE TEST FOR POVERTY SHALL BE DEEMED A SEPARATE
20 CLASS SUBJECT TO TAXATION AND, AS SUCH, SHALL BE ENTITLED TO THE
21 BENEFIT OF THE FOLLOWING EXEMPTIONS FROM TAXATION ON TRANSFERS
22 OF PROPERTY AS A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE:

23 (1) FOR DECEDENTS DYING ON OR AFTER JANUARY 1, 1992, AND
24 BEFORE JANUARY 1, 1993, THE LESSER OF:

25 (I) TWO PER CENT OF THE TAXABLE VALUE OF THE PROPERTY OF THE
26 DECEDENT TRANSFERRED TO OR FOR THE USE OF THE TRANSFEREE.

27 (II) TWO PER CENT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000)
28 OF THE TAXABLE VALUE OF THE PROPERTY OF THE DECEDENT TRANSFERRED
29 TO OR FOR THE USE OF THE TRANSFEREE.

30 (2) FOR DECEDENTS DYING ON OR AFTER JANUARY 1, 1993, AND

1 BEFORE JANUARY 1, 1994, THE LESSER OF:

2 (I) FOUR PER CENT OF THE TAXABLE VALUE OF THE PROPERTY OF
3 THE DECEDENT TRANSFERRED TO OR FOR THE USE OF THE TRANSFEREE.

4 (II) FOUR PER CENT OF ONE HUNDRED THOUSAND DOLLARS
5 (\$100,000) OF THE TAXABLE VALUE OF THE PROPERTY OF THE DECEDENT
6 TRANSFERRED TO OR FOR THE USE OF THE TRANSFEREE.

7 (3) FOR DECEDENTS DYING ON OR AFTER JANUARY 1, 1994, AND
8 BEFORE JANUARY 1, 1995, THE LESSER OF:

9 (I) SIX PER CENT OF THE TAXABLE VALUE OF THE PROPERTY OF THE
10 DECEDENT TRANSFERRED TO OR FOR THE USE OF THE TRANSFEREE.

11 (II) SIX PER CENT OF ONE HUNDRED THOUSAND DOLLARS (\$100,000)
12 OF THE TAXABLE VALUE OF THE PROPERTY OF THE DECEDENT TRANSFERRED
13 TO OR FOR THE USE OF THE TRANSFEREE.

14 (E) FOR NONRESIDENT DECEDENTS, THE CREDIT PROVIDED IN THIS
15 SECTION SHALL BEAR THE SAME RATIO AS THAT OF THE DECEDENT'S
16 ESTATE IN THIS COMMONWEALTH BEARS TO THE DECEDENT'S TOTAL ESTATE
17 WITHOUT REGARD TO SITUS.

18 (F) THE CREDIT PROVIDED IN THIS SECTION SHALL NOT BE GREATER
19 THAN THE TAX IMPOSED.

20 (G) THIS SECTION SHALL NOT APPLY TO THE ESTATES OF DECEDENTS
21 DYING ON OR AFTER JANUARY 1, 1995.]

22 SECTION 14. THE FOLLOWING SHALL APPLY:

23 (1) A TAX CREDIT MAY NOT BE GRANTED UNDER SECTION 206(B)
24 OF THE ACT AFTER JUNE 30, 2013.

25 (2) THE AMENDMENT OR ADDITION OF THE FOLLOWING
26 PROVISIONS OF THE ACT SHALL APPLY TO TAX YEARS BEGINNING
27 AFTER DECEMBER 31, 2013:

28 (I) SECTION 301(D.2), (N.1), (N.2), (O.3) AND (T).

29 (II) SECTION 303(A)(2).

30 (III) SECTION 306.

- 1 (IV) SECTION 306.1.
- 2 (V) SECTION 306.2.
- 3 (VI) SECTION 307.8(A) AND (F).
- 4 (VII) SECTION 314(A).
- 5 (VIII) SECTION 324.
- 6 (IX) SECTION 330.1.
- 7 (X) SECTION 335.
- 8 (XI) SECTION 401(3)1(T), 2(A)(16.1) AND (17) AND
- 9 (8), (9), (10) AND (11) AND 4(C)(1)(A)(V) AND (VI) AND
- 10 2(B)(V) AND (VI).
- 11 (XII) SECTION 402(B).
- 12 (XIII) SECTION 403(D).

13 (3) THE ADDITION OF SECTION 303(A)(3)(VIII) SHALL APPLY
14 TO TAX YEARS BEGINNING AFTER DECEMBER 31, 2015.

15 SECTION 15. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:

16 (1) THE FOLLOWING SHALL TAKE EFFECT JANUARY 1, 2014, OR
17 IMMEDIATELY, WHICHEVER IS LATER:

18 (I) THE AMENDMENT OF THE DEFINITIONS OF "DOCUMENT,"
19 "REAL ESTATE" AND "REAL ESTATE COMPANY" IN SECTION 1101-C
20 OF THE ACT.

21 (II) THE AMENDMENT OF SECTIONS 1102-C AND
22 1102-C.5(A) OF THE ACT.

23 (2) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
24 IMMEDIATELY.