

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 994 Session of 2017

INTRODUCED BY GROVE, GREINER, WARD, A. HARRIS, RYAN AND PHILLIPS-HILL, MARCH 28, 2017

AS REPORTED FROM COMMITTEE ON FINANCE, HOUSE OF REPRESENTATIVES, AS AMENDED, JANUARY 23, 2018

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 gross receipts tax, further providing for
11 imposition of tax.

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

14 Section 1. Section ~~1101(a)(3)~~ 1101(A)(2) AND (3) of the act <--
15 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, ~~is~~ ARE amended to read: <--

17 Section 1101. Imposition of Tax.--(a) General Rule.--Every
18 pipeline company, conduit company, steamboat company, canal
19 company, slack water navigation company, transportation company,
20 and every other company, association, joint-stock association,
21 or limited partnership, now or hereafter incorporated or
22 organized by or under any law of this Commonwealth, or now or

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

27 * * *

28 (2) TELEGRAPH OR TELEPHONE MESSAGES TRANSMITTED WHOLLY <--
29 WITHIN THIS STATE AND TELEGRAPH OR TELEPHONE MESSAGES
30 TRANSMITTED IN INTERSTATE COMMERCE WHERE SUCH MESSAGES ORIGINATE

1 OR TERMINATE IN THIS STATE AND THE CHARGES FOR SUCH MESSAGES ARE
2 BILLED TO A SERVICE ADDRESS IN THIS STATE, EXCEPT GROSS RECEIPTS
3 DERIVED FROM:

4 (I) THE SALES OF ACCESS TO THE INTERNET, AS SET FORTH IN
5 ARTICLE II, MADE TO THE ULTIMATE CONSUMER; AND

6 (II) THE SALES FOR RESALE TO PERSONS, PARTNERSHIPS,
7 ASSOCIATIONS, CORPORATIONS, OR POLITICAL SUBDIVISIONS SUBJECT TO
8 THE TAX IMPOSED BY THIS ARTICLE UPON GROSS RECEIPTS DERIVED FROM
9 SUCH RESALE OF TELECOMMUNICATIONS SERVICES, INCLUDING:

10 (A) TELECOMMUNICATIONS EXCHANGE ACCESS TO INTERCONNECT WITH
11 A LOCAL EXCHANGE CARRIER'S NETWORK;

12 (B) NETWORK ELEMENTS ON AN UNBUNDLED BASIS; AND

13 (C) SALES OF TELECOMMUNICATIONS SERVICES TO INTERCONNECT
14 WITH PROVIDERS OF MOBILE TELECOMMUNICATIONS SERVICES; AND

15 (III) THE SALES OF TELEPHONES, TELEPHONE HANDSETS, MODEMS,
16 TABLETS AND RELATED ACCESSORIES, INCLUDING CASES, CHARGERS,
17 HOLSTERS, CLIPS, HANDS-FREE DEVICES, SCREEN PROTECTORS AND
18 BATTERIES; AND

19 (3) mobile telecommunications services [messages] ~~, as~~ <--
20 ~~defined in section 201(aaa),~~ sourced to this Commonwealth based
21 on the place of primary use standard set forth in the Mobile
22 Telecommunications Sourcing Act (4 U.S.C. § 117), except gross
23 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[.]; AND

<--

2 (III) THE SALES OF TELEPHONES, TELEPHONE HANDSETS, MODEMS,
3 TABLETS AND RELATED ACCESSORIES, INCLUDING CASES, CHARGERS,
4 HOLSTERS, CLIPS, HANDS-FREE DEVICES, SCREEN PROTECTORS AND
5 BATTERIES.

6 * * *

7 Section 2. This act shall apply retroactively to gross
8 receipts from transactions occurring on or after January 1,
9 2004, except no claim for refund or credit for a tax paid prior
10 to the effective date of the amendment of section 1101(a)(3) of
11 the act shall be based on this act.

12 Section 3. This act shall take effect immediately.