

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1960 Session of 2021

INTRODUCED BY KAIL, BERNSTINE, SCHLEGEL CULVER, DUNBAR, GROVE, IRVIN, JAMES, KEEFER, MIHALEK, MILLARD, MIZGORSKI, O'NEAL, PENNYCUICK, PICKETT, ROTHMAN, ROWE, RYAN, SMITH, THOMAS, STRUZZI, LAWRENCE AND MARSHALL, OCTOBER 6, 2021

AS RE-REPORTED FROM COMMITTEE ON APPROPRIATIONS, HOUSE OF REPRESENTATIVES, AS AMENDED, APRIL 26, 2022

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.~~

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

24 The General Assembly of the Commonwealth of Pennsylvania
25 hereby enacts as follows:

26 Section 1. Section 401(3)4(c)(1) and (2) of the act of March
27 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, are

1 amended 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." * * *

8 4. * * *

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

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

12 (II) For taxable years beginning after December 31, 2006,
13 the greater of twelve and one-half per cent of taxable income as
14 determined under subclause 1 or, if applicable, subclause 2 or
15 three million dollars (\$3,000,000);

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

20 (IV) For taxable years beginning after December 31, 2009,
21 the greater of twenty per cent of taxable income as determined
22 under subclause 1 or, if applicable, subclause 2 or three
23 million dollars (\$3,000,000);

24 (V) For taxable years beginning after December 31, 2013, the
25 greater of twenty-five per cent of taxable income as determined
26 under subclause 1 or, if applicable, subclause 2 or four million
27 dollars (\$4,000,000);

28 (VI) For taxable years beginning after December 31, 2014,
29 the greater of thirty per cent of taxable income as determined
30 under subclause 1 or, if applicable, subclause 2 or five million

1 dollars (\$5,000,000);

2 (VII) For taxable years beginning after December 31, 2017,
3 thirty-five per cent of taxable income as determined under
4 subclause 1 or, if applicable, subclause 2;

5 (VIII) ~~For~~ EXCEPT AS PROVIDED UNDER UNITS (IX) OR (X), FOR <--
6 taxable years beginning after December 31, 2018, forty per cent
7 of taxable income as determined under subclause 1 or, if
8 applicable, subclause 2; [or]

9 ~~(IX) For taxable years beginning after December 31, 2021, <--~~
10 ~~fifty per cent of taxable income as determined under subclause 1~~
11 ~~or, if applicable, subclause 2;~~

12 ~~(X) For taxable years beginning after December 31, 2022,~~
13 ~~sixty per cent of taxable income as determined under subclause 1~~
14 ~~or, if applicable, subclause 2;~~

15 ~~(XI) For taxable years beginning after December 31, 2023,~~
16 ~~seventy per cent of taxable income as determined under subclause~~
17 ~~1 or, if applicable, subclause 2;~~

18 ~~(XII) For taxable years beginning after December 31, 2024,~~
19 ~~eighty per cent of taxable income as determined under subclause~~
20 ~~1 or, if applicable, subclause 2; or~~

21 ~~(IX) IF THE CONDITION UNDER SECTION 408.2(C) (1) IS CERTIFIED <--~~
22 ~~BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET:~~

23 ~~(1) EXCEPT AS PROVIDED UNDER UNIT (2), FOR TAXABLE YEARS~~
24 ~~BEGINNING AFTER DECEMBER 31, 2023, FORTY-FIVE PER CENT OF~~
25 ~~TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF~~
26 ~~APPLICABLE, SUBCLAUSE 2;~~

27 ~~(2) IF THE CONDITION UNDER SECTION 408.2(C) (2) IS CERTIFIED~~
28 ~~BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, FOR TAXABLE~~
29 ~~YEARS BEGINNING AFTER DECEMBER 31, 2024, FIFTY PER CENT OF~~
30 ~~TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF~~

1 APPLICABLE, SUBCLAUSE 2;
 2 (X) IF THE CONDITION UNDER SECTION 408.2(C) (1) IS NOT
 3 CERTIFIED BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET
 4 AND IF THE CONDITION UNDER SECTION 408.2(C) (2) IS CERTIFIED BY
 5 THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, FOR TAXABLE
 6 YEARS BEGINNING AFTER DECEMBER 31, 2024, FORTY-FIVE PER CENT OF
 7 TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF
 8 APPLICABLE, SUBCLAUSE 2; OR

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

12 * * *

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

Taxable Year	Carryover
15 1981	16 1 taxable year
17 1982	17 2 taxable years
18 1983-1987	18 3 taxable years
19 1988	19 2 taxable years plus
20	20 1 taxable year
21	21 starting with the
22	22 1995 taxable year
23 1989	23 1 taxable year plus
24	24 2 taxable years
25	25 starting with the
26	26 1995 taxable year
27 1990-1993	27 3 taxable years
28	28 starting with the
29	29 1995 taxable year
30 1994	30 1 taxable year

1 1995-1997 10 taxable years

2 1998 and thereafter 20 taxable years

3 (B) The earliest net loss shall be carried over to the
4 earliest taxable year to which it may be carried under this
5 schedule. The total net loss deduction allowed in any taxable
6 year shall not exceed:

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

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

13 (III) The greater of fifteen per cent of the taxable income
14 as determined under subclause 1 or, if applicable, subclause 2
15 or three million dollars (\$3,000,000) for taxable years
16 beginning after December 31, 2008.

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

21 (V) The greater of twenty-five per cent of taxable income as
22 determined under subclause 1 or, if applicable, subclause 2 or
23 four million dollars (\$4,000,000) for taxable years beginning
24 after December 31, 2013.

25 (VI) The greater of thirty per cent of taxable income as
26 determined under subclause 1 or, if applicable, subclause 2 or
27 five million dollars (\$5,000,000) for taxable years beginning
28 after December 31, 2014.

29 (VII) Thirty-five per cent of taxable income as determined
30 under subclause 1 or, if applicable, subclause 2 for taxable

1 years beginning after December 31, 2017.

2 (VIII) ~~[Forty] EXCEPT AS PROVIDED UNDER UNIT (IX) OR (X), <--~~
3 ~~FORTY~~ per cent of taxable income as determined under subclause 1
4 or, if applicable, subclause 2 for taxable years beginning after
5 December 31, 2018.

6 ~~(IX) Fifty per cent of taxable income as determined under <--~~
7 ~~subclause 1 or, if applicable, subclause 2 for taxable years~~
8 ~~beginning after December 31, 2021.~~

9 ~~(X) Sixty per cent of taxable income as determined under~~
10 ~~subclause 1 or, if applicable, subclause 2 for taxable years~~
11 ~~beginning after December 31, 2022.~~

12 ~~(XI) Seventy per cent of taxable income as determined under~~
13 ~~subclause 1 or, if applicable, subclause 2 for taxable years~~
14 ~~beginning after December 31, 2023.~~

15 ~~(XII) Eighty per cent of taxable income as determined under~~
16 ~~subclause 1 or, if applicable, subclause 2 for taxable years~~
17 ~~beginning after December 31, 2024.~~

18 * * *

19 ~~(IX) IF THE CONDITION UNDER SECTION 408.2(C)(1) IS CERTIFIED <--~~
20 ~~BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET:~~

21 ~~(1) EXCEPT AS PROVIDED UNDER UNIT (2), FORTY-FIVE PER CENT~~
22 ~~OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF~~
23 ~~APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS BEGINNING AFTER~~
24 ~~DECEMBER 31, 2023.~~

25 ~~(2) IF THE CONDITION UNDER SECTION 408.2(C)(2) IS CERTIFIED~~
26 ~~BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, FIFTY PER~~
27 ~~CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF~~
28 ~~APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS BEGINNING AFTER~~
29 ~~DECEMBER 31, 2024.~~

30 ~~(X) IF THE CONDITION UNDER SECTION 408.2(C)(1) IS NOT~~

1 CERTIFIED BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET
2 AND IF THE CONDITION UNDER SECTION 408.2(C)(2) IS CERTIFIED BY
3 THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, FORTY-FIVE PER
4 CENT OF TAXABLE INCOME AS DETERMINED UNDER SUBCLAUSE 1 OR, IF
5 APPLICABLE, SUBCLAUSE 2 FOR TAXABLE YEARS BEGINNING AFTER
6 DECEMBER 31, 2024.

7 * * *

8 SECTION 2. SECTION 402(B) OF THE ACT IS AMENDED AND THE
9 SECTION IS AMENDED BY ADDING A SUBSECTION TO READ:

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

11 (B) THE ANNUAL RATE OF TAX ON CORPORATE NET INCOME IMPOSED
12 BY SUBSECTION (A) FOR TAXABLE YEARS BEGINNING FOR THE CALENDAR
13 YEAR OR FISCAL YEAR ON OR AFTER THE DATES SET FORTH SHALL BE AS
14 FOLLOWS:

15 TAXABLE YEAR TAX RATE

16 JANUARY 1, 1995, [AND

17 EACH TAXABLE YEAR

18 THEREAFTER] THROUGH

19 DECEMBER 31, 2022 9.99%

20 EXCEPT AS OTHERWISE

21 PROVIDED UNDER

22 SUBSECTION (D),

23 JANUARY 1, 2023,

24 AND EACH TAXABLE

25 YEAR THEREAFTER 8.99%

26 * * *

27 (D) THE FOLLOWING SHALL APPLY TO THE TAX RATE UNDER THIS
28 ARTICLE:

29 (1) THE SECRETARY OF THE BUDGET SHALL CONSULT WITH THE
30 INDEPENDENT FISCAL OFFICE IN PRODUCING THE CERTIFICATION UNDER

1 SECTION 1702-A(B) OF THE ACT OF APRIL 9, 1929, (P.L.343,
2 NO.176), KNOWN AS "THE FISCAL CODE," FOR FISCAL YEAR 2022-2023
3 AND FISCAL YEAR 2023-2024. THE CERTIFICATION UNDER THIS
4 PARAGRAPH SHALL BE PREPARED IN A WAY THAT IS SUBJECT TO COMPLETE
5 AND THOROUGH OVERSIGHT BY THE APPROPRIATIONS COMMITTEE OF THE
6 SENATE AND THE APPROPRIATIONS COMMITTEE OF THE HOUSE OF
7 REPRESENTATIVES WITH FULL KNOWLEDGE OF ALL DATA, ASSUMPTIONS AND
8 ECONOMETRIC MODELS WHICH WERE USED TO DEVELOP THE CERTIFICATION.

9 (2) UPON MAKING A CERTIFICATION UNDER PARAGRAPH (1), THE
10 SECRETARY OF THE BUDGET SHALL SUBMIT OFFICIAL COPIES OF THE
11 CERTIFICATION TO THE INDEPENDENT FISCAL OFFICE, THE CHAIR AND
12 MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND
13 THE CHAIR AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF
14 THE HOUSE OF REPRESENTATIVES AND TO THE LEGISLATIVE REFERENCE
15 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN.

16 (3) IF THE INDEPENDENT FISCAL OFFICE CONFIRMS THE AMOUNT OF
17 SURPLUS IN THE GENERAL FUND WHICH IS CERTIFIED UNDER PARAGRAPH
18 (1), THE INDEPENDENT FISCAL OFFICE SHALL TRANSMIT TO THE
19 LEGISLATIVE REFERENCE BUREAU A NOTICE FOR PUBLICATION IN THE
20 PENNSYLVANIA BULLETIN. THE NOTICE SHALL INCLUDE THE AMOUNT OF
21 THE SURPLUS CERTIFIED AND WHETHER THE FOLLOWING CONDITIONS HAVE
22 BEEN MET:

23 (I) WHETHER THE SURPLUS FOR THE 2022-2023 FISCAL YEAR WAS
24 MORE THAN FIVE HUNDRED MILLION DOLLARS (\$500,000,000).

25 (II) WHETHER THE SURPLUS FOR THE 2023-2024 FISCAL YEAR WAS
26 MORE THAN FIVE HUNDRED MILLION DOLLARS (\$500,000,000).

27 (4) IF THE CONDITION UNDER PARAGRAPH (3) (I) IS CERTIFIED BY
28 THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, THE FOLLOWING
29 SHALL APPLY:

30 (I) EXCEPT AS PROVIDED UNDER SUBPARAGRAPH (II), THE ANNUAL

1 RATE ON CORPORATE NET INCOME IMPOSED UNDER SUBSECTION (A) FOR
2 TAXABLE YEARS BEGINNING FOR THE CALENDAR YEAR OR FISCAL YEAR
3 AFTER DECEMBER 31, 2023, SHALL BE EIGHT AND FORTY-NINE
4 HUNDREDTHS PER CENT (8.49%).

5 (II) IF THE CONDITION UNDER PARAGRAPH (3)(II) IS CERTIFIED
6 BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, THE ANNUAL
7 RATE ON CORPORATE NET INCOME IMPOSED UNDER SUBSECTION (A) FOR
8 TAXABLE YEARS BEGINNING FOR THE CALENDAR YEAR OR FISCAL YEAR
9 AFTER DECEMBER 31, 2024, SHALL BE SEVEN AND NINETY-NINE
10 HUNDREDTHS PER CENT (7.99%).

11 (5) IF THE CONDITION UNDER PARAGRAPH (3)(I) IS NOT CERTIFIED
12 BY THE INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET AND IF THE
13 CONDITION UNDER PARAGRAPH (3)(II) IS CERTIFIED BY THE
14 INDEPENDENT FISCAL OFFICE AS HAVING BEEN MET, THE ANNUAL RATE ON
15 CORPORATE NET INCOME IMPOSED UNDER SUBSECTION (A) FOR TAXABLE
16 YEARS BEGINNING FOR THE CALENDAR YEAR OR FISCAL YEAR AFTER
17 DECEMBER 31, 2024, SHALL BE EIGHT AND FORTY-NINE HUNDREDTHS PER
18 CENT (8.49%).

19 SECTION 3. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

20 SECTION 408.2. CERTIFICATIONS AND PUBLICATIONS.--(A) THE
21 SECRETARY OF THE BUDGET SHALL CONSULT WITH THE INDEPENDENT
22 FISCAL OFFICE IN PRODUCING THE CERTIFICATION UNDER SECTION 1702-
23 A(B) OF THE ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS
24 "THE FISCAL CODE," FOR FISCAL YEAR 2022-2023 AND FISCAL YEAR
25 2023-2024. THE CERTIFICATION UNDER THIS SUBSECTION SHALL BE
26 PREPARED IN A WAY THAT IS SUBJECT TO COMPLETE AND THOROUGH
27 OVERSIGHT BY THE APPROPRIATIONS COMMITTEE OF THE SENATE AND THE
28 APPROPRIATIONS COMMITTEE OF THE HOUSE OF REPRESENTATIVES WITH
29 FULL KNOWLEDGE OF ALL DATA, ASSUMPTIONS AND ECONOMETRIC MODELS
30 WHICH WERE USED TO DEVELOP THE CERTIFICATION.

1 (B) UPON MAKING A CERTIFICATION UNDER SUBSECTION (A), THE
2 SECRETARY OF THE BUDGET SHALL SUBMIT OFFICIAL COPIES OF THE
3 CERTIFICATION TO THE INDEPENDENT FISCAL OFFICE, THE CHAIR AND
4 MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF THE SENATE AND
5 THE CHAIR AND MINORITY CHAIR OF THE APPROPRIATIONS COMMITTEE OF
6 THE HOUSE OF REPRESENTATIVES AND TO THE LEGISLATIVE REFERENCE
7 BUREAU FOR PUBLICATION IN THE PENNSYLVANIA BULLETIN.

8 (C) IF THE INDEPENDENT FISCAL OFFICE CONFIRMS THE AMOUNT OF
9 SURPLUS IN THE GENERAL FUND WHICH IS CERTIFIED UNDER SUBSECTION
10 (A), THE INDEPENDENT FISCAL OFFICE SHALL TRANSMIT TO THE
11 LEGISLATIVE REFERENCE BUREAU A NOTICE FOR PUBLICATION IN THE
12 PENNSYLVANIA BULLETIN. THE NOTICE SHALL INCLUDE THE AMOUNT OF
13 THE SURPLUS CERTIFIED AND WHETHER THE FOLLOWING CONDITIONS HAVE
14 BEEN MET:

15 (1) WHETHER THE SURPLUS FOR THE 2022-2023 FISCAL YEAR WAS
16 MORE THAN SEVEN HUNDRED FIFTY MILLION DOLLARS (\$750,000,000).

17 (2) WHETHER THE SURPLUS FOR THE 2023-2024 FISCAL YEAR WAS
18 MORE THAN SEVEN HUNDRED FIFTY MILLION DOLLARS (\$750,000,000).

19 Section 2 4. This act shall take effect immediately.

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