TAX REFORM CODE OF 1971

Act of Mar. 4, 1971, P.L. 6, No. 2 Cl. 72

AN ACT

Relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties.

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Section 2909-F. Undisclosed liabilities.
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Article XXIX-G. Tax Amnesty Program for Fiscal Year 2016-2017

Section 2901-G. Definitions.
Section 2902-G. Establishment of program.
Section 2903-G. Required payment.
Section 2904-G. Amnesty contingent on continued compliance.
Section 2905-G. Limitation of deficiency assessment.
Section 2906-G. Overpayment of tax.
Section 2907-G. Previously paid interest and penalties.
Section 2908-G. Proceedings relating to tax amnesty return barred.
Section 2909-G. Undisclosed liabilities.
Section 2910-G. Duties of department.
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Section 3003.25. Allocation of Tax Credits.
Section 3004. Effective Date.

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

ARTICLE I
SHORT TITLE

Section 101. Short Title.--This act shall be known and may be cited as the "Tax Reform Code of 1971."

ARTICLE II
TAX FOR EDUCATION

PART I
DEFINITIONS

Section 201. Definitions.--The following words, terms and phrases when used in this Article II shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Soft drinks." All nonalcoholic beverages, whether carbonated or not, such as soda water, ginger ale, coca cola, lime cola, pepsi cola, Dr. Pepper, fruit juice when plain or carbonated water, flavoring or syrup is added, carbonated water, orangeade, lemonade, root beer or any and all preparations, commonly referred to as "soft drinks," of whatsoever kind, and are further described as including any and all beverages, commonly referred to as "soft drinks," which are made with or without the use of any syrup. The term "soft drinks" shall not include natural fruit or vegetable juices or their concentrates, or non-carbonated fruit juice drinks containing not less than twenty-five per cent by volume of natural fruit juices or of fruit juice which has been reconstituted to its original state, or natural concentrated fruit or vegetable juices reconstituted to their original state, whether any of the foregoing natural juices are frozen or unfrozen, sweetened or unsweetened, seasoned with salt or spice or unseasoned, nor shall the term "soft drinks" include coffee, coffee substitutes, tea, cocoa, natural fluid milk or non-carbonated drinks made from milk derivatives.

(b) "Maintaining a place of business in this Commonwealth."

(1) Having, maintaining or using within this Commonwealth, either directly or through a subsidiary, representative or an agent, an office, distribution house, sales house, warehouse, service enterprise or other place of business; or any agent of general or restricted authority, or representative, irrespective of whether the place of business, representative or agent is located here, permanently or temporarily, or whether the person or subsidiary maintaining the place of business,

representative or agent is authorized to do business within this Commonwealth.

(2) Engaging in any activity as a business within this Commonwealth by any person, either directly or through a subsidiary, representative or an agent, in connection with the lease, sale or delivery of tangible personal property or the performance of services thereon for use, storage or consumption or in connection with the sale or delivery for use of the services described in subclauses (11) through (18) of clause (k) of this section, including, but not limited to, having, maintaining or using any office, distribution house, sales house, warehouse or other place of business, any stock of goods or any solicitor, canvasser, salesman, representative or agent under its authority, at its direction or with its permission, regardless of whether the person or subsidiary is authorized to do business in this Commonwealth.

(3) Regularly or substantially soliciting orders within this Commonwealth in connection with the lease, sale or delivery of tangible personal property to or the performance thereon of services or in connection with the sale or delivery of the services described in subclauses (11) through (18) of clause (k) of this section for residents of this Commonwealth by means of catalogues or other advertising, whether the orders are accepted within or without this Commonwealth.

(3.1) Entering this Commonwealth by any person to provide assembly, service or repair of tangible personal property, either directly or through a subsidiary, representative or an agent.

(3.2) Delivering tangible personal property to locations within this Commonwealth if the delivery includes the unpacking, positioning, placing or assembling of the tangible personal property.

(3.3) Having any contact within this Commonwealth which would allow the Commonwealth to require a person to collect and remit tax under the Constitution of the United States.

(3.4) Providing a customer's mobile telecommunications service deemed to be provided by the customer's home service provider under the Mobile Telecommunications Sourcing Act (4 U.S.C. § 116). For purposes of this clause, words and phrases used in this clause shall have the meanings given to them in the Mobile Telecommunications Sourcing Act.

(3.5) (i) Engaging in any activity as a business by any person, either directly or through a subsidiary, representative or an agent, in connection with the lease, sale or delivery of tangible personal property into this Commonwealth or the performance of services for use, storage or consumption or in connection with the sale or delivery for use in this Commonwealth of at least one hundred thousand dollars ($100,000) during the preceding twelve-month calendar period.

(ii) For a marketplace facilitator, this activity includes all sales, leases and deliveries of tangible personal property, and all sales of services by the marketplace seller whose sales are facilitated through the marketplace facilitator's forum.

(iii) For a peer-to-peer car-sharing program marketplace facilitator, this activity includes all sales, leases and deliveries of tangible personal property and all sales of services by the marketplace seller whose sales are facilitated through the peer-to-peer car-sharing program. ((iii) added July 8, 2022, P.L.513, No.53)

((3.5) added June 28, 2019, P.L.50, No.13)

(4) The term "maintaining a place of business in this Commonwealth" shall not include:

(i) Owning or leasing of tangible or intangible property by a person who has contracted with an unaffiliated commercial printer for printing, provided that:

(A) the property is for use by the commercial printer; and

(B) the property is located at the Pennsylvania premises of the commercial printer.

(ii) Visits by a person's employes or agents to the premises in this Commonwealth of an unaffiliated commercial printer with whom the person has contracted for printing in connection with said contract.

((b) amended June 29, 2002, P.L.559, No.89)

(c) "Manufacture." The performance of manufacturing, fabricating, compounding, processing or other operations, engaged in as a business, which place any tangible personal property in a form, composition or character different from that in which it is acquired whether for sale or use by the manufacturer, and shall include, but not be limited to--

(1) Every operation commencing with the first production stage and ending with the completion of tangible personal property having the physical qualities (including packaging, if any, passing to the ultimate consumer) which it has when transferred by the manufacturer to another. For purposes of this clause, "operation" shall include clean rooms and their component systems, including: environmental control systems, antistatic vertical walls and manufacturing platforms and floors, which are independent of the real estate; process piping systems; specialized lighting systems; deionized water systems; process vacuum and compressed air systems; process and specialty gases; and alarm or warning devices specifically designed to warn of threats to the integrity of the product or people. For purposes of this clause, a "clean room" is a location with a self-contained, sealed environment with a controlled, closed air system independent from the facility's general environmental control system.

(2) The publishing of books, newspapers, magazines and other periodicals and printing.

(3) Refining, blasting, exploring, mining and quarrying for, or otherwise extracting from the earth or from waste or stock piles or from pits or banks any natural resources, minerals and mineral aggregates including blast furnace slag.

(4) Building, rebuilding, repairing and making additions to, or replacements in or upon vessels designed for commercial use of registered tonnage of fifty tons or more when produced upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of, or for the account of the owner.

(5) Research having as its objective the production of a new or an improved (i) product or utility service, or (ii) method of producing a product or utility service, but in either case not including market research or research having as its objective the improvement of administrative efficiency.

(6) Remanufacture for wholesale distribution by a remanufacturer of motor vehicle parts from used parts acquired in bulk by the remanufacturer using an assembly line process which involves the complete disassembly of such parts and integration of the components of such parts with other used or new components of parts, including the salvaging, recycling or reclaiming of used parts by the remanufacturer.

(7) Remanufacture or retrofit by a manufacturer or remanufacturer of aircraft, armored vehicles, other defense-related vehicles having a finished value of at least fifty thousand dollars ($50,000). Remanufacture or retrofit involves the disassembly of such aircraft, vehicles, parts or components, including electric or electronic components, the integration of those parts and components with other used or new parts or components, including the salvaging, recycling or reclaiming of the used parts or components and the assembly of the new or used aircraft, vehicles, parts or components. For purposes of this clause, the following terms or phrases have the following meanings:

(i) "aircraft" means fixed-wing aircraft, helicopters, powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned aircraft and gliders;

(ii) "armored vehicles" means tanks, armed personnel carriers and all other armed track or semitrack vehicles; or

(iii) "other defense-related vehicles" means trucks, truck-tractors, trailers, jeeps and other utility vehicles, including any unmanned vehicles.

(8) Remanufacture by a remanufacturer of locomotive parts from used parts acquired in bulk by the remanufacturer using an assembly line process which involves the complete disassembly of such parts and integration of the components of such parts with other used or new components of parts,

including the salvaging, recycling or reclaiming of used parts by the remanufacturer.

The term "manufacture" shall not include constructing, altering, servicing, repairing or improving real estate or repairing, servicing or installing tangible personal property, nor the producing of a commercial motion picture, nor the cooking, freezing or baking of fruits, vegetables, mushrooms, fish, seafood, meats, poultry or bakery products.

((c) amended July 25, 2007, P.L.373, No.55)

(c.1) "Blasting." The use of any combustible or explosive composition in the removal of material resources, minerals and mineral aggregates from the earth including the separation of the dirt, waste and refuse in which they are found. ((c.1) added Nov. 26, 1978, P.L.1287, No.306)

(d) "Processing." The performance of the following activities when engaged in as a business enterprise:

(1) The filtering or heating of honey, the cooking, baking or freezing of fruits, vegetables, mushrooms, fish, seafood, meats, poultry or bakery products, when the person engaged in such business packages such property in sealed containers for wholesale distribution.

(1.1) The processing of fruits or vegetables by cleaning, cutting, coring, peeling or chopping and treating to preserve, sterilize or purify and substantially extend the useful shelf life of the fruits or vegetables, when the person engaged in such activity packages such property in sealed containers for wholesale distribution.

(2) The scouring, carbonizing, cording, combing, throwing, twisting or winding of natural or synthetic fibers, or the spinning, bleaching, dyeing, printing or finishing of yarns or fabrics, when such activities are performed prior to sale to the ultimate consumer.

(3) The electroplating, galvanizing, enameling, anodizing, coloring, finishing, impregnating or heat treating of metals or plastics for sale or in the process of manufacturing.

(3.1) The blanking, shearing, leveling, slitting or burning of metals for sale to or use by a manufacturer or processor.

(4) The rolling, drawing or extruding of ferrous and non-ferrous metals.

(5) The fabrication for sale of ornamental or structural metal or of metal stairs, staircases, gratings, fire escapes or railings (not including fabrication work done at the construction site).

(6) The preparation of animal feed or poultry feed for sale.

(7) The production, processing and bottling of non-alcoholic beverages for wholesale distribution.

(8) The operation of a saw mill or planing mill for the production of lumber or lumber products for sale. The operation of a saw mill or planing mill begins with the unloading by the operator of the saw mill or planing mill of logs, timber, pulpwood or other forms of wood material to be used in the saw mill or planing mill.

(9) The milling for sale of flour or meal from grains.

(9.1) The aging, stripping, conditioning, crushing and blending of tobacco leaves for use as cigar filler or as components of smokeless tobacco products for sale to manufacturers of tobacco products.

(10) The slaughtering and dressing of animals for meat to be sold or to be used in preparing meat products for sale, and the preparation of meat products including lard, tallow, grease, cooking and inedible oils for wholesale distribution.

(11) The processing of used lubricating oils.

(12) The broadcasting of radio and television programs of licensed commercial or educational stations.

(13) The cooking or baking of bread, pastries, cakes, cookies, muffins and donuts when the person engaged in such activity sells such items at retail at locations that do not constitute an establishment from which ready-to-eat food and beverages are sold. For purposes of this clause, a bakery, a pastry shop and a donut shop shall not be considered an establishment from which ready-to-eat food and beverages are sold.

(14) The cleaning and roasting and the blending, grinding or packaging for sale of coffee from green coffee beans or the production of coffee extract.

(15) The preparation of dry or liquid fertilizer for sale.

(16) The production, processing and packaging of ice for wholesale distribution.

(17) The producing of mobile telecommunications services.

(18) The collection, washing, sorting, inspecting and packaging of eggs.

((d) amended July 2, 2012, P.L.751, No.85)

(e) "Person." Any natural person, association, fiduciary, partnership, corporation or other entity, including the Commonwealth of Pennsylvania, its political subdivisions and instrumentalities and public authorities. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, or both, the term "person," as applied to an association, shall include the members thereof and, as applied to a corporation, the officers thereof.

(f) "Purchase at retail."

(1) The acquisition for a consideration of the ownership, custody or possession of tangible personal property other than for resale by the person acquiring the same when such acquisition is made for the purpose of consumption or use, whether such acquisition shall be absolute or conditional, and by whatsoever means the same shall have been effected.

(2) The acquisition of a license to use or consume, and the rental or lease of tangible personal property, other than for resale regardless of the period of time the lessee has possession or custody of the property.

(3) The obtaining for a consideration of those services described in subclauses (2), (3) and (4) of clause (k) of this section other than for resale.

(4) A retention after March 7, 1956, of possession, custody or a license to use or consume pursuant to a rental contract or other lease arrangement (other than as security), other than for resale.

(5) The obtaining for a consideration of those services described in subclauses (11) through (18) of clause (k) of this section.

The term "purchase at retail" with respect to "liquor" and "malt or brewed beverages" shall include the purchase of "liquor" from any "Pennsylvania Liquor Store" by any person for any purpose, and the purchase of "malt or brewed beverages" from a "manufacturer of malt or brewed beverages," "distributor" or "importing distributor" by any person for any purpose, except purchases from a "manufacturer of malt or brewed beverages" by a "distributor" or "importing distributor" or purchases from an "importing distributor" by a "distributor" within the meaning of the "Liquor Code." The term "purchase at retail" shall not include any purchase of "malt or brewed beverages" from a "retail dispenser" or any purchase of "liquor" or "malt or brewed beverages" from a person holding a "retail liquor license" within the meaning of and pursuant to the provisions of the "Liquor Code," but shall include any purchase or acquisition of "liquor" or "malt or brewed beverages" other than pursuant to the provisions of the "Liquor Code."

((f) amended Aug. 4, 1991, P.L.97, No.22)

(g) "Purchase price."

(1) The total value of anything paid or delivered, or promised to be paid or delivered, whether it be money or otherwise, in complete performance of a sale at retail or purchase at retail, as herein defined, without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount paid or allowed after the sale is consummated, any other taxes imposed by the Commonwealth of Pennsylvania or any other expense except that there shall be excluded any gratuity or separately stated deposit charge for returnable containers.

(2) There shall be deducted from the purchase price the value of any tangible personal property actually taken in trade or exchange in lieu of the whole or any part of the purchase price. For the purpose of this

clause, the amount allowed by reason of tangible personal property actually taken in trade or exchange shall be considered the value of such property.

(3) In determining the purchase price on the sale or use of taxable tangible personal property or a service where, because of affiliation of interests between the vendor and purchaser, or irrespective of any such affiliation, if for any other reason the purchase price declared by the vendor or taxpayer on the taxable sale or use of such tangible personal property or service is, in the opinion of the department, not indicative of the true value of the article or service or the fair price thereof, the department shall, pursuant to uniform and equitable rules, determine the amount of constructive purchase price upon the basis of which the tax shall be computed and levied. Such rules shall provide for a constructive amount of purchase price for each such sale or use which would naturally and fairly be charged in an arms-length transaction in which the element of common interest between the vendor or purchaser is absent or if no common interest exists, any other element causing a distortion of the price or value is likewise absent. For the purpose of this clause where a taxable sale or purchase at retail transaction occurs between a parent and a subsidiary, affiliate or controlled corporation of such parent corporation, there shall be a rebuttable presumption, that because of such common interest such transaction was not at arms-length.

(4) Where there is a transfer or retention of possession or custody, whether it be termed a rental, lease, service or otherwise, of tangible personal property including, but not limited to linens, aprons, motor vehicles, trailers, tires, industrial office and construction equipment, and business machines the full consideration paid or delivered to the vendor or lessor shall be considered the purchase price, even though such consideration be separately stated and be designated as payment for processing, laundering, service, maintenance, insurance, repairs, depreciation or otherwise. Where the vendor or lessor supplies or provides an employe to operate such tangible personal property, the value of the labor thus supplied may be excluded and shall not be considered as part of the purchase price if separately stated. There shall also be included as part of the purchase price the value of anything paid or delivered, or promised to be paid or delivered by a lessee, whether it be money or otherwise, to any person other than the vendor or lessor by reason of the maintenance, insurance or repair of the tangible personal property which a lessee has the possession or custody of under a rental contract or lease arrangement.

(5) With respect to the tax imposed by subsection (b) of section 202 upon any tangible personal property originally purchased by the user of such property six months or longer prior to the first taxable use of such property within the Commonwealth, such user may elect to pay tax on a substituted base determined by considering the purchase price of such property for tax purposes to be equal to the prevailing market price of similar tangible personal property at the time and place of such first use within the Commonwealth. Such election must be made at the time of filing a tax return with the department and reporting such tax liability and paying the proper tax due plus all accrued penalties and interest, if there be any, within six months of the due date of such report and payment, as provided for by subsections (a) and (c) of section 217 of this article.

(6) The purchase price of employment agency services and help supply services shall be the service fee paid by the purchaser to the vendor or supplying entity. The term "service fee," as used in this subclause, shall be the total charge or fee of the vendor or supplying entity minus the costs of the supplied employe which costs are wages, salaries, bonuses and commissions, employment benefits, expense reimbursements and payroll and withholding taxes, to the extent that these costs are specifically itemized or that these costs in aggregate are stated in billings from the vendor or supplying entity. To the extent that these costs are not itemized or stated on the billings, then the service fee shall be the total charge or fee of the vendor or supplying entity.

(7) Unless the vendor separately states that portion of the billing which applies to premium cable service as defined in clause (ll) of this section, the total bill for the provision of all cable services shall be the purchase price.

(8) The purchase price of prebuilt housing shall be sixty per cent of the manufacturer's selling price: Provided, however, That a manufacturer of prebuilt housing who precollects tax from a prebuilt housing builder at the time of the sale to the prebuilt housing builder shall have the option to collect tax on sixty per cent of the selling price or on one hundred per cent of the actual cost of the supplies and materials used in the manufacture of the prebuilt housing. ((8) added May 24, 2000, P.L.106, No. 23)

(9) The purchase price of "malt or brewed beverages" sold by a "manufacturer of malt or brewed beverages" directly to the ultimate consumer for consumption on or off premises shall be twenty-five per cent of the retail sales price of the "malt or brewed beverages" sold for consumption on or off premises. ((9) added June 28, 2019, P.L.50, No.13)

((g) amended Dec. 13, 1991, P.L.373, No.40)

(h) "Purchaser." Any person who acquires, for a consideration, the ownership, custody or possession by sale, lease or otherwise, of tangible personal property, or who obtains services in exchange for a purchase price but not including an employer who obtains services from his employes in exchange for wages or salaries when such services are rendered in the ordinary scope of their employment.

(i) "Resale."

(1) Any transfer of ownership, custody or possession of tangible personal property for a consideration, including the grant of a license to use or consume and transactions where the possession of such property is transferred but where the transferor retains title only as security for payment of the selling price whether such transaction be designated as bailment lease, conditional sale or otherwise.

(2) The physical incorporation of tangible personal property as an ingredient or constituent into other tangible personal property, which is to be sold in the regular course of business or the performance of those services described in subclauses (2), (3) and (4) of clause (k) of this section upon tangible personal property which is to be sold in the regular course of business or where the person incorporating such property has undertaken at the time of purchase to cause it to be transported in interstate commerce to a destination outside this Commonwealth. The term "resale" shall include telecommunications services purchased by a cable operator or video programmer that are used to transport or deliver cable or video programming services which are sold in the regular course of business. ((2) amended June 30, 1995, P.L.139, No.21)

(3) The term "resale" shall also include tangible personal property purchased or having a situs within this Commonwealth solely for the purpose of being processed, fabricated or manufactured into, attached to or incorporated into tangible personal property and thereafter transported outside this Commonwealth for use exclusively outside this Commonwealth.

(4) The term "resale" shall not include any sale of "malt or brewed beverages" by a "retail dispenser," or any sale of "liquor" or "malt or brewed beverages" by a person holding a "retail liquor license" within the meaning of the "Liquor Code."

(5) The physical incorporation of tangible personal property as an ingredient or constituent in the construction of foundations for machinery or equipment the sale or use of which is excluded from tax under the provisions of paragraphs (A), (B), (C) and (D) of subclause (8) of clause (k) and subparagraphs (i), (ii), (iii) and (iv) of paragraph (B) of subclause (4) of clause (o) of this section, whether such foundations at the time of construction or transfer constitute tangible personal property or real estate.

(6) The term does not include the purchase price or repair of a shared vehicle by a shared vehicle owner. ((6) added July 8, 2022, P.L.513, No.53)

((i) amended Aug. 4, 1991, P.L.97, No.22)

(j) "Resident."

(1) Any natural person (i) who is domiciled in the Commonwealth, or (ii) who maintains a permanent place of abode within the Commonwealth and spends in the aggregate more than sixty days of the year within the Commonwealth.

(2) Any corporation (i) incorporated under the laws of this Commonwealth, or (ii) authorized to do business or doing business within this Commonwealth, or (iii) maintaining a place of business within this Commonwealth.

(3) Any association, fiduciary, partnership or other entity (i) domiciled in this Commonwealth, or (ii) authorized to do business or doing business within this Commonwealth, or (iii) maintaining a place of business within this Commonwealth.

(k) "Sale at retail."

(1) Any transfer, for a consideration, of the ownership, custody or possession of tangible personal property, including the grant of a license to use or consume whether such transfer be absolute or conditional and by whatsoever means the same shall have been effected.

(2) The rendition of the service of printing or imprinting of tangible personal property for a consideration for persons who furnish, either directly or indirectly the materials used in the printing or imprinting.

(3) The rendition for a consideration of the service of--

(i) Washing, cleaning, waxing, polishing or lubricating of motor vehicles of another, whether or not any tangible personal property is transferred in conjunction therewith; and

(ii) Inspecting motor vehicles pursuant to the mandatory requirements of "The Vehicle Code."

(4) The rendition for a consideration of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property other than wearing apparel or shoes, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property except wearing apparel or shoes for a consideration, whether or not the services are performed directly or by any means other than by coin-operated self-service laundry equipment for wearing apparel or household goods and whether or not any tangible personal property is transferred in conjunction therewith, except such services as are rendered in the construction, reconstruction, remodeling, repair or maintenance of real estate: Provided, however, That this subclause shall not be deemed to impose tax upon such services in the preparation for sale of new items which are excluded from the tax under clause (26) of section 204, or upon diaper service.

(5) ((5) deleted by amendment May 7, 1997, P.L.85, No.7)

(6) ((6) deleted by amendment May 7, 1997, P.L.85, No.7)

(7) ((7) deleted by amendment May 7, 1997, P.L.85, No.7)

(8) Any retention of possession, custody or a license to use or consume tangible personal property or any further obtaining of services described in subclauses (2), (3) and (4) of this clause pursuant to a rental or service contract or other arrangement (other than as security).

The term "sale at retail" shall not include (i) any such transfer of tangible personal property or rendition of services for the purpose of resale, or (ii) such rendition of services or the transfer of tangible personal property including, but not limited to, machinery and equipment and parts therefor and supplies to be used or consumed by the purchaser directly in the operations of--

(A) The manufacture of tangible personal property.

(B) Farming, dairying, agriculture, timbering, horticulture or floriculture when engaged in as a business enterprise. The term "farming" shall include the propagation and raising of ranch raised fur-bearing animals and the propagation of game birds for commercial purposes by holders of propagation permits issued under 34 Pa.C.S. (relating to game) and the propagation and raising of horses to be used exclusively for commercial racing activities. The term "timbering" shall include:

(1) The business of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood by a company primarily engaged in the business of harvesting trees.

(2) All operations prior to the transport of the harvested product necessary for the removal of timber or forest products from the site, in-field processing of trees into logs or chips, complying with environmental protection and safety requirements applicable to the harvesting of forest products, loading of forest products onto highway vehicles for transport to storage or processing facilities and postharvesting site reclamation, including those activities necessary to improve timber growth or ensure natural or direct reforestation of the site. The term shall not include the harvesting of trees for clearing land for access roads.

(C) The producing, delivering or rendering of a public utility service, or in constructing, reconstructing, remodeling, repairing or maintaining the facilities which are directly used in producing, delivering or rendering such service.

(D) Processing as defined in clause (d) of this section.

The exclusions provided in paragraphs (A), (B), (C) and (D) shall not apply to any vehicle required to be registered under The Vehicle Code, except those vehicles used directly by a public utility engaged in business as a common carrier; to maintenance facilities; or to materials, supplies or equipment to be used or consumed in the construction, reconstruction, remodeling, repair or maintenance of real estate other than directly used machinery, equipment, parts or foundations therefor that may be affixed to such real estate.

The exclusions provided in paragraphs (A), (B), (C) and (D) shall not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person directly using the same in the operations described in paragraphs (A), (B), (C) and (D) herein.

The exclusion provided in paragraph (C) shall not apply to (i) construction materials, supplies or equipment used to construct, reconstruct, remodel, repair or maintain facilities not used directly by the purchaser in the production, delivering or rendition of public utility service, (ii) construction materials, supplies or equipment used to construct, reconstruct, remodel, repair or maintain a building, road or similar structure, or (iii) tools and equipment used but not installed in the maintenance of facilities used directly in the production, delivering or rendition of a public utility service.

The exclusions provided in paragraphs (A), (B), (C) and (D) shall not apply to the services enumerated in clauses (k)(11) through (18) and (w) through (kk), except that the exclusion provided in this subclause for farming, dairying and agriculture shall apply to the service enumerated in clause (z).

((8) amended July 13, 2016, P.L.526, No.84)

(9) Where tangible personal property or services are utilized for purposes constituting a "sale at retail" and for purposes excluded from the definition of "sale at retail," it shall be presumed that such tangible personal property or services are utilized for purposes constituting a "sale at retail" and subject to tax unless the user thereof proves to the department that the predominant purposes for which such tangible personal property or services are utilized do not constitute a "sale at retail."

(10) The term "sale at retail" with respect to "liquor" and "malt or brewed beverages" shall include the sale of "liquor" by any "Pennsylvania liquor store" to any person for any purpose, and the sale of "malt or brewed beverages" by a "manufacturer of malt or brewed beverages," "distributor" or "importing distributor" to any person for any purpose, except sales by a "manufacturer of malt or brewed beverages" to a "distributor" or "importing distributor" or sales by an "importing distributor" to a "distributor" within the meaning of the "Liquor Code." The term "sale at retail" shall not include any sale of "malt or brewed

beverages" by a "retail dispenser" or any sale of "liquor" or "malt or brewed beverages" by a person holding a "retail liquor license" within the meaning of and pursuant to the provisions of the "Liquor Code," but shall include any sale of "liquor" or "malt or brewed beverages" other than pursuant to the provisions of the "Liquor Code."

(11) The rendition for a consideration of lobbying services.

(12) The rendition for a consideration of adjustment services, collection services or credit reporting services.

(13) The rendition for a consideration of secretarial or editing services.

(14) The rendition for a consideration of disinfecting or pest control services, building maintenance or cleaning services.

(15) The rendition for a consideration of employment agency services or help supply services.

(16) ((16) deleted by amendment May 7, 1997, P.L.85, No.7)

(17) The rendition for a consideration of lawn care service.

(18) The rendition for a consideration of self-storage service.

(19) The rendition for a consideration of a mobile telecommunications service. ((19) added June 29, 2002, P.L.559, No.89)

(20) Car sharing through a shared vehicle owner, peer-to-peer car-sharing program marketplace facilitator or rental company. ((20) added July 8, 2022, P.L.513, No.53)

((k) amended May 7, 1997, P.L.85, No.7)

(l) "Storage." Any keeping or retention of tangible personal property within this Commonwealth for any purpose including the interim keeping, retaining or exercising any right or power over such tangible personal property. This term is in no way limited to the provision of self-storage service. ((l) amended Dec. 13, 1991, P.L.373, No.40)

(m) "Tangible personal property."

(1) Corporeal personal property including, but not limited to, goods, wares, merchandise, steam and natural and manufactured and bottled gas for non-residential use, electricity for non-residential use, prepaid telecommunications, premium cable or premium video programming service, spirituous or vinous liquor and malt or brewed beverages and soft drinks, interstate telecommunications service originating or terminating in the Commonwealth and charged to a service address in this Commonwealth, intrastate telecommunications service with the exception of (i) subscriber line charges and basic local telephone service for residential use and (ii) charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate, provided further, the service address of any intrastate telecommunications service is deemed to be within this Commonwealth or within a political subdivision, regardless of how or where billed or paid. In the case of any such interstate or intrastate telecommunications service, any charge paid through a credit or payment mechanism which does not relate to a service address, such as a bank, travel, credit or debit card, but not including prepaid telecommunications, is deemed attributable to the address of origination of the telecommunications service.

(2) The term shall include the following, whether electronically or digitally delivered, streamed or accessed and whether purchased singly, by subscription or in any other manner, including maintenance and updates:

(i) video;

(ii) photographs;

(iii) books;

(iv) any other otherwise taxable printed matter;

(v) applications, commonly known as apps;

(vi) games;

(vii) music;

(viii) any other audio, including satellite radio service;

(ix) canned software, notwithstanding the function performed, including support, except separately invoiced help desk or call center support; or

(x) any other otherwise taxable tangible personal property electronically or digitally delivered, streamed or accessed.

((m) amended Oct. 30, 2017, P.L.672, No.43)

(n) "Taxpayer." Any person required to pay or collect the tax imposed by this article, including a marketplace facilitator, a marketplace seller, a peer-to-peer car-sharing program marketplace facilitator and a shared vehicle owner. ((n) amended July 8, 2022, P.L.513, No.53)

(o) "Use."

(1) The exercise of any right or power incidental to the ownership, custody or possession of tangible personal property and shall include, but not be limited to transportation, storage or consumption.

(2) The obtaining by a purchaser of the service of printing or imprinting of tangible personal property when such purchaser furnishes, either directly or indirectly, the articles used in the printing or imprinting.

(3) The obtaining by a purchaser of the services of (i) washing, cleaning, waxing, polishing or lubricating of motor vehicles whether or not any tangible personal property is transferred to the purchaser in conjunction with such services, and (ii) inspecting motor vehicles pursuant to the mandatory requirements of "The Vehicle Code."

(4) The obtaining by a purchaser of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property other than wearing apparel or shoes or applying or installing tangible personal property as a repair or replacement part of other tangible personal property other than wearing apparel or shoes, whether or not the services are performed directly or by any means other than by means of coin-operated self-service laundry equipment for wearing apparel or household goods, and whether or not any tangible personal property is transferred to the purchaser in conjunction therewith, except such services as are obtained in the construction, reconstruction, remodeling, repair or maintenance of real estate: Provided, however, That this subclause shall not be deemed to impose tax upon such services in the preparation for sale of new items which are excluded from the tax under clause (26) of section 204, or upon diaper service: And provided further, That the term "use" shall not include--

(A) Any tangible personal property acquired and kept, retained or over which power is exercised within this Commonwealth on which the taxing of the storage, use or other consumption thereof is expressly prohibited by the Constitution of the United States or which is excluded from tax under other provisions of this article.

(B) The use or consumption of tangible personal property, including but not limited to machinery and equipment and parts therefor, and supplies or the obtaining of the services described in subclauses (2), (3) and (4) of this clause directly in the operations of--

(i) The manufacture of tangible personal property.

(ii) Farming, dairying, agriculture, timbering, horticulture or floriculture when engaged in as a business enterprise. The term "farming" shall include the propagation and raising of ranch-raised furbearing animals and the propagation of game birds for commercial purposes by holders of propagation permits issued under 34 Pa.C.S. (relating to game) and the propagation and raising of horses to be used exclusively for commercial racing activities. The term "timbering" shall include:

(1) The business of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood by a company primarily engaged in the business of harvesting trees.

(2) All operations prior to the transport of the harvested product necessary for the removal of timber or forest products from the site, in-field processing of trees into logs or chips, complying with environmental protection and safety requirements applicable to the harvesting of forest products, loading of forest products onto highway vehicles for transport to storage or processing facilities and postharvesting site reclamation, including those activities necessary to improve timber growth or ensure natural or direct reforestation of the site. The term shall not include the harvesting of trees for clearing land for access roads.

(iii) The producing, delivering or rendering of a public utility service, or in constructing, reconstructing, remodeling, repairing or maintaining the facilities which are directly used in producing, delivering or rendering such service.

(iv) Processing as defined in subclause (d) of this section.

The exclusions provided in subparagraphs (i), (ii), (iii) and (iv) shall not apply to any vehicle required to be registered under The Vehicle Code except those vehicles directly used by a public utility engaged in the business as a common carrier; to maintenance facilities; or to materials, supplies or equipment to be used or consumed in the construction, reconstruction, remodeling, repair or maintenance of real estate other than directly used machinery, equipment, parts or foundations therefor that may be affixed to such real estate. The exclusions provided in subparagraphs (i), (ii), (iii) and (iv) shall not apply to tangible personal property or services to be used or consumed in managerial sales or other nonoperational activities, nor to the purchase or use of tangible personal property or services by any person other than the person directly using the same in the operations described in subparagraphs (i), (ii), (iii) and (iv).

The exclusion provided in subparagraph (iii) shall not apply to (A) construction materials, supplies or equipment used to construct, reconstruct, remodel, repair or maintain facilities not used directly by the purchaser in the production, delivering or rendition of public utility service or (B) tools and equipment used but not installed in the maintenance of facilities used directly in the production, delivering or rendition of a public utility service.

The exclusion provided in subparagraphs (i), (ii), (iii) and (iv) shall not apply to the services enumerated in clauses (o)(9) through (16) and (w) through (kk), except that the exclusion provided in subparagraph (ii) for farming, dairying and agriculture shall apply to the service enumerated in clause (z).

((B) amended July 13, 2016, P.L.526, No.84)

((4) amended Apr. 23, 1998, P.L.239, No.45)

(5) Where tangible personal property or services are utilized for purposes constituting a "use," as herein defined, and for purposes excluded from the definition of "use," it shall be presumed that such property or services are utilized for purposes constituting a "sale at retail" and subject to tax unless the user thereof proves to the department that the predominant purposes for which such property or services are utilized do not constitute a "sale at retail."

(6) The term "use" with respect to "liquor" and "malt or brewed beverages" shall include the purchase of "liquor" from any "Pennsylvania liquor store" by any person for any purpose and the purchase of "malt or brewed beverages" from a "manufacturer of malt or brewed beverages," "distributor" or "importing distributor" by any person for any purpose, except purchases from a "manufacturer of malt or brewed beverages" by a "distributor" or "importing distributor," or purchases from an "importing distributor" by a "distributor" within the meaning of the "Liquor Code." The term "use" shall not include any purchase of "malt or brewed beverages" from a "retail dispenser" or any purchase of "liquor" or "malt or brewed beverages" from a person holding a "retail liquor license" within the meaning of and pursuant to the provisions of the "Liquor Code," but shall include the exercise of any right or power incidental to the ownership, custody or possession of "liquor" or "malt or brewed beverages" obtained by the person exercising such right or power in any manner other than pursuant to the provisions of the "Liquor Code."

(7) The use of tangible personal property purchased at retail upon which the services described in subclauses (2), (3) and (4) of this clause have been performed shall be deemed to be a use of said services by the person using said property.

(8) The term "use" shall not include the providing of a motor vehicle to a nonprofit private or public school to be used by such a school for the sole purpose of driver education.

(9) The obtaining by the purchaser of lobbying services.

(10) The obtaining by the purchaser of adjustment services, collection services or credit reporting services.

(11) The obtaining by the purchaser of secretarial or editing services.

(12) The obtaining by the purchaser of disinfecting or pest control services, building maintenance or cleaning services.

(13) The obtaining by the purchaser of employment agency services or help supply services.

(14) ((14) deleted by amendment May 7, 1997, P.L.85, No.7)

(15) The obtaining by the purchaser of lawn care service.

(16) The obtaining by the purchaser of self-storage service.

(17) The obtaining by a construction contractor of tangible personal property or services provided to tangible personal property which will be used pursuant to a construction contract whether or not the tangible personal property or services are transferred. ((17) added Apr. 23, 1998, P.L.239, No.45)

(18) The obtaining of mobile telecommunications service by a customer. ((18) added June 29, 2002, P.L.559, No.89)

(19) Car sharing through a shared vehicle owner, peer-to-peer car-sharing program marketplace facilitator or rental company. ((19) added July 8, 2022, P.L.513, No.53)

((o) amended May 7, 1997, P.L.85, No.7)

(p) "Vendor." Any person maintaining a place of business in this Commonwealth, selling or leasing tangible personal property, or rendering services, the sale or use of which is subject to the tax imposed by this article, including a marketplace facilitator, marketplace seller, peer-to-peer car-sharing program marketplace facilitator or shared vehicle owner, but not including any employe who in the ordinary scope of employment renders services to his employer in exchange for wages and salaries. ((p) amended July 8, 2022, P.L.513, No.53)

(q) "Department." The Department of Revenue of the Commonwealth of Pennsylvania.

(r) "Gratuity." Any amount paid or remitted for services performed in conjunction with any sale of food or beverages, or hotel or motel accommodations which amount is in excess of the charges and the tax thereon for such food, beverages or accommodations regardless of the method of billing or payment. ((r) added May 2, 1974, P.L.269, No.75)

(s) "Commercial aircraft operator." A person, excluding scheduled airlines, who engages in any or all of the following: charter of aircraft, leasing of aircraft, aircraft sales, aircraft rental, flight instruction, air freight or any other flight activities for compensation. ((s) added June 9, 1978, P.L.463, No.62)

(t) "Transient vendor."

(1) Any person who--

(i) Brings into the Commonwealth, by automobile, truck or other means of transportation, or purchases in the Commonwealth tangible personal property the sale or use of which is subject to the tax imposed by this article or comes into the Commonwealth to perform services the sale or use of which is subject to the tax imposed by this article;

(ii) Offers or intends to offer such tangible personal property or services for sale at retail within the Commonwealth; and

(iii) Does not maintain an established office, distribution house, saleshouse, warehouse, service enterprise, residence from which business is conducted or other place of business within the Commonwealth.

(2) The term shall not include a person who delivers tangible personal property within the Commonwealth pursuant to orders for such property which were solicited or placed by mail or other means.

(3) The term shall not include a person who handcrafts items for sale at special events, including, but not limited to, fairs, carnivals, art and craft shows and other festivals and celebrations within this Commonwealth.

((t) amended Aug. 4, 1991, P.L.97, No.22)

(u) "Promoter." A person who either, directly or indirectly, rents, leases or otherwise operates or grants permission to any person to use space at a show for the display for sale or for the sale of tangible

personal property or services subject to tax under section 202 of this article. ((u) added May 2, 1985, P.L.28, No.13)

(v) "Show." An event, the primary purpose of which involves the display or exhibition of any tangible personal property or services for sale, including, but not limited to, a flea market, antique show, coin show, stamp show, comic book show, hobby show, automobile show, fair or any similar show, whether held regularly or of a temporary nature, at which more than one vendor displays for sale or sells tangible personal property or services subject to tax under section 202 of this article. ((v) added May 2, 1985, P.L.28, No.13)

(w) "Lobbying services." Providing the services of a lobbyist, as defined in the definition of "lobbyist" in section 2 of the act of September 30, 1961 (P.L.1778, No.712), known as the "Lobbying Registration and Regulation Act." ((w) added Aug. 4, 1991, P.L.97, No.22)

(x) "Adjustment services, collection services or credit reporting services." Providing collection or adjustments of accounts receivable or mercantile or consumer credit reporting, including, but not limited to, services of the type provided by adjustment bureaus or collection agencies, consumer or mercantile credit reporting bureaus, credit bureaus or agencies, credit clearinghouses or credit investigation services. Such services do not include providing credit card service with collection by a central agency, providing debt counseling or adjustment services to individuals or billing or collection services provided by local exchange telephone companies. ((x) added Aug. 4, 1991, P.L.97, No.22)

(y) "Secretarial or editing services." Providing services which include, but are not limited to, editing, letter writing, proofreading, resume writing, typing or word processing. Such services shall not include court reporting and stenographic services. ((y) added Aug. 4, 1991, P.L.97, No.22)

(z) "Disinfecting or pest control services." Providing disinfecting, termite control, insect control, rodent control or other pest control services. Such services include, but are not limited to, deodorant servicing of rest rooms, washroom sanitation service, rest room cleaning service, extermination service or fumigating service. As used in this clause, the term "fumigating service" shall not include the fumigation of agricultural commodities or containers used for agricultural commodities. As used in this clause, the term "insect control" shall not include the spraying of trees which are harvested for commercial purposes for gypsy moth control. ((z) amended Dec. 13, 1991, P.L.373, No.40)

(aa) "Building maintenance or cleaning services." Providing services which include, but are not limited to, janitorial, maid or housekeeping service, office or interior building cleaning or maintenance service, window cleaning service, floor waxing service, lighting maintenance service such as bulb replacement, cleaning, chimney cleaning service, acoustical tile cleaning service, venetian blind cleaning, cleaning and maintenance of telephone booths or cleaning and degreasing of service stations. This term shall not include repairs on buildings and other structures; nor shall this term include the maintenance or repair of boilers, furnaces and residential air conditioning equipment or parts thereof; the painting, wallpapering or applying other like coverings to interior walls, ceilings or floors; or the exterior painting of buildings. ((aa) amended May 24, 2000, P.L.106, No.23)

(bb) "Employment agency services." Providing employment services to a prospective employer or employe other than employment services provided by theatrical employment agencies and motion picture casting bureaus. Such services shall include, but are not limited to, services of the type provided by employment agencies, executive placing services and labor contractor employment agencies other than farm labor. ((bb) added Aug. 4, 1991, P.L.97, No.22)

(cc) "Help supply services." Providing temporary or continuing help where the help supplied is on the payroll of the supplying person or entity, but is under the supervision of the individual or business to which help is furnished. Such services include, but are not limited to, service of a type provided by labor and manpower pools, employe leasing services,

office help supply services, temporary help services, usher services, modeling services or fashion show model supply services. Such services shall not include providing farm labor services. The term shall not include human health-related services, including nursing, home health care and personal care. As used in this clause, "personal care" shall include providing at least one of the following types of assistance to persons with limited ability for self-care:

(1) dressing, bathing or feeding;

(2) supervising self-administered medication;

(3) transferring a person to or from a bed or wheelchair; or

(4) routine housekeeping chores when provided in conjunction with and supplied by the same provider of the assistance listed in subclause (1), (2) or (3).

((cc) amended Dec. 13, 1991, P.L.373, No.40)

(dd) "Computer Programming Services." ((dd) deleted by amendment May 7, 1997, P.L.85, No.7)

(ee) "Computer Integrated Systems Design." ((ee) deleted by amendment May 7, 1997, P.L.85, No.7)

(ff) "Computer-Processing, Data Preparation or Processing Services." ((ff) deleted by amendment May 7, 1997, P.L.85, No.7)

(gg) "Information Retrieval Services." ((gg) deleted by amendment May 7, 1997, P.L.85, No.7)

(hh) "Computer Facilities Management Services." ((hh) deleted by amendment May 7, 1997, P.L.85, No.7)

(ii) "Other computer-related services." ((ii) deleted by amendment May 7, 1997, P.L.85, No.7)

(jj) "Lawn care service." Providing services for lawn upkeep, including, but not limited to, fertilizing, lawn mowing, shrubbery trimming or other lawn treatment services. ((jj) added Aug. 4, 1991, P.L.97, No.22)

(kk) "Self-storage service." Providing a building, a room in a building or a secured area within a building with separate access provided for each purchaser of self-storage service, primarily for the purpose of storing personal property. The term excludes providing:

(1) safe deposit boxes by financial institutions;

(2) storage in refrigerator or freezer units;

(3) storage in commercial warehouses;

(4) facilities for goods distribution; and

(5) lockers in airports, bus stations, museums and other public places.

((kk) amended Dec. 13, 1991, P.L.373, No.40)

(ll) "Premium cable or premium video programming service." That portion of cable television services, video programming services, community antenna television services or any other distribution of television, video, audio or radio services which meets all of the following criteria:

(1) is transmitted with or without the use of wires to purchasers;

(2) which consists substantially of programming uninterrupted by paid commercial advertising which includes, but is not limited to, programming primarily composed of uninterrupted full-length motion pictures or sporting events, pay-per-view, paid programming or like audio or radio broadcasting; and

(3) does not constitute a component of a basic service tier provided by a cable television system or a cable programming service tier provided by a cable television system. A basic service tier shall include all signals of domestic television broadcast stations, any public, educational, governmental or religious programming and any additional video programming signals or service added to the basic service tier by the cable operator. The basic service tier shall also include a single additional lower-priced package of broadcast channels and access information channels which is a subset of the basic service tier as set forth above. A cable programming service tier includes any video programming other than: (i) the basic service tier; (ii) video programming offered on a pay-per-channel or pay-per-view basis; or (iii) a combination of multiple channels of pay-per-channel or pay-per-view programming offered as a package.

If a purchaser receives or agrees to receive premium cable or premium video programming service, then the following charges are included in the purchase price: charges for installation or repair of any premium cable or premium video programming service, upgrade to include additional premium cable or premium video programming service, downgrade to exclude all or some premium cable or premium video programming service, additional premium cable outlets in excess of ten or any other charge or fee related to premium cable or premium video programming services. The term shall not apply to transmissions by public television, public radio services or official Federal, State or local government cable services. Nor shall the term apply to local origination programming which provides a variety of public service programs unique to the community, programming which provides coverage of public affairs issues which are presented without commentary or analysis, including United States Congressional proceedings, or programming which is substantially related to religious subjects. Nor shall the term "premium cable or premium video programming service" apply to subscriber charges for access to a video dial tone system or charges by a common carrier to a video programmer for the transport of video programming.

((ll) amended May 7, 1997, P.L.85, No.7)

(mm) "Minimum pay television." ((mm) deleted by amendment Dec. 13, 1991, P.L.373, No.40)

(nn) "Construction contract." A written or oral contract or agreement for the construction, reconstruction, remodeling, renovation or repair of real estate or a real estate structure. The term shall not apply to services which are taxable under clauses (k)(14) and (17) and (o)(12) and (15). ((nn) amended June 29, 2002, P.L.559, No.89)

(oo) "Construction contractor." A person who performs an activity pursuant to a construction contract, including a subcontractor. ((oo) added Apr. 23, 1998, P.L.239, No.45)

(pp) "Building machinery and equipment." Generation equipment, storage equipment, conditioning equipment, distribution equipment and termination equipment, which shall be limited to the following:

(1) air conditioning limited to heating, cooling, purification, humidification, dehumidification and ventilation;

(2) electrical;

(3) plumbing;

(4) communications limited to voice, video, data, sound, master clock and noise abatement;

(5) alarms limited to fire, security and detection;

(6) control system limited to energy management, traffic and parking lot and building access;

(7) medical system limited to diagnosis and treatment equipment, medical gas, nurse call and doctor paging;

(8) laboratory system;

(9) cathodic protection system; or

(10) furniture, cabinetry and kitchen equipment.

The term shall include boilers, chillers, air cleaners, humidifiers, fans, switchgear, pumps, telephones, speakers, horns, motion detectors, dampers, actuators, grills, registers, traffic signals, sensors, card access devices, guardrails, medial devices, floor troughs and grates and laundry equipment, together with integral coverings and enclosures, whether or not the item constitutes a fixture or is otherwise affixed to the real estate, whether or not damage would be done to the item or its surroundings upon removal or whether or not the item is physically located within a real estate structure. The term "building machinery and equipment" shall not include guardrail posts, pipes, fittings, pipe supports and hangers, valves, underground tanks, wire, conduit, receptacle and junction boxes, insulation, ductwork and coverings thereof.

((pp) added Apr. 23, 1998, P.L.239, No.45)

(qq) "Real estate structure." A structure or item purchased by a construction contractor pursuant to a construction contract with:

(1) a charitable organization, a volunteer firemen's organization, a nonprofit educational institution or a religious organization for religious

purposes and which qualifies as an institution of purely public charity under the act of November 26, 1997 (P.L.508, No.55), known as the "Institutions of Purely Public Charity Act";
(2) the United States; or
(3) the Commonwealth, its instrumentalities or political subdivisions.
The term includes building machinery and equipment; developed or undeveloped land; streets; roads; highways; parking lots; stadiums and stadium seating; recreational courts; sidewalks; foundations; structural supports; walls; floors; ceilings; roofs; doors; canopies; millwork; elevators; windows and external window coverings; outdoor advertising boards or signs; airport runways; bridges; dams; dikes; traffic control devices, including traffic signs; satellite dishes; antennas; guardrail posts; pipes; fittings; pipe supports and hangers; valves; underground tanks; wire; conduit; receptacle and junction boxes; insulation; ductwork and coverings thereof; and any structure or item similar to any of the foregoing, whether or not the structure or item constitutes a fixture or is affixed to the real estate, or whether or not damage would be done to the structure or item or its surroundings upon removal.
((qq) amended June 29, 2002, P.L.559, No.89)
(rr) "Telecommunications service." Any one-way transmission or any two-way, interactive transmission of sounds, signals or other intelligence converted to like form which effects or is intended to effect meaningful communications by electronic or electromagnetic means via wire, cable, satellite, light waves, microwaves, radio waves or other transmission media. The term includes all types of telecommunication transmissions, such as local, toll, wide-area or any other type of telephone service; private line service; telegraph service; radio repeater service; wireless communication service; personal communications system service; cellular telecommunication service; specialized mobile radio service; stationary two-way radio service; and paging service. The term does not include any of the following:
(1) Subscriber charges for access to a video dial tone system.
(2) Charges to video programmers for the transport of video programming.
(3) Charges for access to the Internet. Access to the Internet does not include any of the following:
(A) The transport over the Internet or any proprietary network using the Internet protocol of telephone calls, facsimile transmissions or other telecommunications traffic to or from end users on the public switched telephone network if the signal sent from or received by an end user is not in an Internet protocol.
(B) Telecommunication services purchased by an Internet service provider to deliver access to the Internet to its customers.
(4) Mobile telecommunications services.
((rr) amended June 29, 2002, P.L.559, No.89)
(ss) "Internet." The international nonproprietary computer network of both Federal and non-Federal interoperable packet switched data networks. ((ss) added Apr. 23, 1998, P.L.239, No.45)
(tt) "Commercial racing activities." Any of the following:
(1) Thoroughbred and harness racing at which pari-mutuel wagering is conducted under the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act."
(2) Fair racing sanctioned by the State Harness Racing Commission.
((tt) added Apr. 23, 1998, P.L.239, No.45)
(uu) "Prepaid telecommunications." A tangible item containing a prepaid authorization number that can be used solely to obtain telecommunications service, including any renewal or increases in the prepaid amount. ((uu) added May 24, 2000, P.L.106, No.23)
(vv) "Prebuilt housing." Either of the following:
(1) Manufactured housing, including mobile homes, which bears a label as required by and referred to in the act of November 17, 1982 (P.L.676, No.192), known as the "Manufactured Housing Construction and Safety Standards Authorization Act."

(2) Industrialized housing as defined in the act of May 11, 1972 (P.L.286, No.70), known as the "Industrialized Housing Act."

((vv) added May 24, 2000, P.L.106, No.23)

(ww) "Used prebuilt housing." Prebuilt housing that was previously subject to a sale to a prebuilt housing purchaser. ((ww) added May 24, 2002, P.L.106, No.23)

(xx) "Prebuilt housing builder." A person who makes a prebuilt housing sale to a prebuilt housing purchaser. ((xx) added May 24, 2000, P.L.106, No.23)

(yy) "Prebuilt housing sale." A sale of prebuilt housing to a prebuilt housing purchaser, including a sale to a landlord, without regard to whether the person making the sale is responsible for installing the prebuilt housing or whether the prebuilt housing becomes a real estate structure upon installation. Temporary installation by a prebuilt housing builder for display purposes of a unit held for resale shall not be considered occupancy for residential purposes. ((yy) added May 24, 2000, P.L.106, No.23)

(zz) "Prebuilt housing purchaser." A person who purchases prebuilt housing in a transaction and who intends to occupy the unit for residential purposes in this Commonwealth. ((zz) added May 24, 2000, P.L.106, No.23)

(aaa) "Mobile telecommunications service." Mobile telecommunications service as that term is defined in the Mobile Telecommunications Sourcing Act (4 U.S.C. § 116). ((aaa) added June 29, 2002, P.L.559, No.89)

(bbb) "Fiscal Code." The act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code." ((bbb) added June 29, 2002, P.L.559, No.89)

(ccc) "Prepaid mobile telecommunications service." Mobile telecommunications service which is paid for in advance and which enables the origination of calls using an access number, authorization code or both, whether manually or electronically dialed, if the remaining amount of units of the prepaid mobile telecommunications service is known by the service provider of the prepaid mobile telecommunications service on a continuous basis. The term does not include the advance purchase of mobile telecommunications service if the purchase is pursuant to a service contract between the service provider and customer and if the service contract requires the customer to make periodic payments to maintain the mobile telecommunications service. ((ccc) added June 29, 2002, P.L.559, No.89)

(ddd) ((ddd) deleted by amendment July 9, 2013, P.L.270, No.52)

(eee) "Liquor." Liquor as that term is defined in the "Liquor Code." ((eee) added June 28, 2019, P.L.50, No.13)

(fff) "Malt or brewed beverages." Malt or brewed beverages as that term is defined in the "Liquor Code." ((fff) added June 28, 2019, P.L.50, No.13)

(ggg) "Manufacturer of malt or brewed beverages." Manufacturer of malt or brewed beverages as that term is defined in the "Liquor Code." ((ggg) added June 28, 2019, P.L.50, No.13)

(hhh) "Forum." A place where sales at retail occur, whether physical or electronic. The term includes a store, a booth, an Internet website, a catalog or similar place. ((hhh) added June 28, 2019, P.L.50, No.13)

(iii) "Marketplace facilitator." A person that facilitates the sale at retail of tangible personal property. For purposes of this article, a person facilitates a sale at retail if the person or an affiliated person:

(1) lists or advertises tangible personal property for sale at retail in any forum; and

(2) either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser and transmits the payment to the person selling the property.

The term includes a person that may also be a vendor.

((iii) added June 28, 2019, P.L.50, No.13)

(jjj) "Marketplace seller." A person that has an agreement with a marketplace facilitator to facilitate sales for the person. ((jjj) added June 28, 2019, P.L.50, No.13)

(kkk) "Affiliated person." A person that, with respect to another person:

(1) has a direct or indirect ownership interest of more than five per cent in the other person; or

(2) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than five per cent in the related person.

((kkk) added June 28, 2019, P.L.50, No.13)

(lll) "Animal housing facility." A roofed structure or facility, or a portion of the facility, used for occupation by livestock or poultry. ((lll) added June 28, 2019, P.L.50, No.13)

(mmm) "Flight simulator." A device used for the training or instruction of an individual on a helicopter and similar rotorcraft. ((mmm) added July 8, 2022, P.L.513, No.53)

(nnn) "Car-sharing program agreement." The terms and conditions that govern the use of a shared vehicle through a peer-to-peer car-sharing program. ((nnn) added July 8, 2022, P.L.513, No.53)

(ooo) "Peer-to-peer car sharing." The authorized use of a shared vehicle by an individual, other than the owner of the vehicle, through a peer-to-peer car-sharing program. ((ooo) added July 8, 2022, P.L.513, No.53)

(ppp) "Peer-to-peer car-sharing payment." Full consideration paid or delivered, or promised to be paid or delivered, to the peer-to-peer car-sharing marketplace facilitator under a car-sharing program agreement, excluding charges for local sales or use tax, State sales or use tax or public transportation assistance fund fees. ((ppp) added July 8, 2022, P.L.513, No.53)

(qqq) "Peer-to-peer car-sharing program." A business platform that, through a peer-to-peer car-sharing marketplace, connects shared vehicle owners with drivers to enable the sharing of vehicles for financial consideration. ((qqq) added July 8, 2022, P.L.513, No.53)

(rrr) "Peer-to-peer car-sharing program marketplace." A forum on which a shared vehicle is listed or advertised for peer-to-peer car sharing. ((rrr) added July 8, 2022, P.L.513, No.53)

(sss) "Peer-to-peer car-sharing program marketplace facilitator." A person that facilitates peer-to-peer car sharing through a peer-to-peer car-sharing marketplace and either directly or indirectly, through agreements or arrangements with third parties, collects the peer-to-peer car- sharing payment from the purchaser and transmits the payment to the shared vehicle owner. ((sss) added July 8, 2022, P.L.513, No.53)

(ttt) "Shared vehicle." A vehicle that is available for sharing, including through a peer-to-peer car-sharing program. ((ttt) added July 8, 2022, P.L.513, No.53)

(uuu) "Shared vehicle owner." The registered owner, or a person designated by the registered owner, of a vehicle made available for sharing, including through a peer-to-peer car-sharing program. ((uuu) added July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 26 of Act 13 of 2019 provided that the addition of sections 201(g)(9), (eee), (fff), (ggg) and 202(h) of this act shall apply to sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages occurring after September 30, 2019.

See section 33 of Act 13 of 2019 for special provisions relating to applicability.

Compiler's Note: Section 52(1) of Act 84 of 2016, which amended subsections (k)(8), (m) and (o)(4)(B), provided that, notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the amendment shall not preempt any tax imposed by a

unit of local government as of the effective date of section 52 unless specifically provided for in Act 84.

Compiler's Note: Section 33(1) of Act 46 of 2003, which added subsection (d)(17), provided that subsection (d)(17) shall apply to sales at retail and uses after June 30, 2004.

Compiler's Note: Section 19(1)(i) of Act 23 of 2000, which added subsections (g)(8), (vv), (ww), (xx), (yy) and (zz), provided that subsections (g)(8), (vv), (ww), (xx), (yy) and (zz) shall apply to transactions for which purchase agreements are executed after June 30, 2000.

Compiler's Note: Section 41 of Act 22 of 1991, which amended section 201, provided that it is the intent of the General Assembly that the amendment of subsection (c)(6) is to clarify existing law and shall not be construed to indicate a presumption that it is the intent of the General Assembly to change the existing law.

Section 43(4) of Act 22 provided that no tax shall be imposed on those services defined in subsections (w) through (kk) which are predominantly used outside this Commonwealth. Section 43(5) also provided that, in the case of the tax on services defined in subsections (w) through (kk), where contracts for the sale of the services have been entered into prior to the effective date of the amendments to Article II, the tax under Article II shall be prorated as follows:

(i) Determine the total value of the contract.

(ii) Multiply the total value of the contract by the ratio of:

(A) the remaining term of the contract on the effective date of the amendments to Article II of the act; to

(B) the total term of the contract.

Compiler's Note: The act of September 30, 1961 (P.L.1778, No.712), known as the Lobbying Registration and Regulation Act, referred to in subsection (w) was repealed by the act of October 15, 1998 (P.L.729, No.93).

The act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act, referred to in subsection (tt)(1), was repealed by the act of February 23, 2016 (P.L.15, No.7).

PART II
IMPOSITION OF TAX

Section 202. Imposition of Tax.--(a) There is hereby imposed upon each separate sale at retail of tangible personal property or services, as defined herein, within this Commonwealth a tax of six per cent of the purchase price, which tax shall, except as otherwise provided, be collected by the vendor or any other person required by this article from the purchaser, and shall be paid over to the Commonwealth as herein provided. ((a) amended June 28, 2019, P.L.50, No.13)

(b) There is hereby imposed upon the use, on and after the effective date of this article, within this Commonwealth of tangible personal property purchased at retail on or after the effective date of this article, and on those services described herein purchased at retail on and after the effective date of this article, a tax of six per cent of the purchase price, which tax shall be paid to the Commonwealth by the person who makes such use as herein provided, except that such tax shall not be paid to the Commonwealth by such person where he has paid the tax imposed by subsection (a) of this section or has paid the tax imposed by this subsection (b) to the vendor with respect to such use, or such vendor advertises or holds out or states to such person directly or indirectly subject to the conditions set forth in section 268(b) that such vendor will pay the tax imposed by subsection (a) or this subsection for such person. The tax at the rate of six per cent imposed by this subsection shall not be deemed applicable where the tax has been incurred under the provisions of the "Tax Act of 1963 for Education." ((b) amended June 28, 2019, P.L.50, No.13)

(c) Notwithstanding any other provisions of this article, the tax with respect to telecommunications service within the meaning of clause (m) of section 201 of this article shall, except for telegrams paid for in cash at telegraph offices, be computed at the rate of six per cent upon the total amount charged to customers for such services, irrespective of whether such charge is based upon a flat rate or upon a message unit charge, but in no event shall charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate be subject to this tax. A telecommunications service provider shall have no responsibility or liability to the Commonwealth for billing, collecting or remitting taxes that apply to services, products or other commerce sold over telecommunications lines by third-party vendors. To prevent actual multistate taxation of interstate telecommunications service, any taxpayer, upon proof that the taxpayer has paid a similar tax to another state on the same interstate telecommunications service, shall be allowed a credit against the tax imposed by this section on the same interstate telecommunications service to the extent of the amount of such tax properly due and paid to such other state. ((c) amended Apr. 23, 1998, P.L.239, No.45)

(d) Notwithstanding any other provisions of this article, the sale or use of food and beverages dispensed by means of coin operated vending machines shall be taxed at the rate of six per cent of the receipts collected from any such machine which dispenses food and beverages heretofore taxable. ((d) added Oct. 4, 1978, P.L.987, No.201)

(e) (1) Notwithstanding any provisions of this article, the sale or use of prepaid telecommunications evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsections (a) and (b).

(2) The sale or use of prepaid telecommunications not evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsections (a) and (b) and shall be deemed to occur at the purchaser's billing address.

(3) Notwithstanding clause (2), the sale or use of prepaid telecommunications service not evidenced by the transfer of tangible personal property shall be taxed at the rate of six per cent of the receipts collected on each sale if the service provider elects to collect the tax imposed by this article on receipts of each sale. The service provider shall notify the department of its election and shall collect the tax on receipts of each sale until the service provider notifies the department otherwise.

((e) amended June 29, 2002, P.L.559, No.89)

(e.1) (1) Notwithstanding any other provision of this article, the sale or use of prepaid mobile telecommunications service evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsections (a) and (b).

(2) The sale or use of prepaid mobile telecommunications service not evidenced by the transfer of tangible personal property shall be subject to the tax imposed by subsections (a) and (b) and shall be deemed to occur at the purchaser's billing address or the location associated with the mobile telephone number or the point of sale, whichever is applicable.

(3) Notwithstanding clause (2), the sale or use of prepaid mobile telecommunications service not evidenced by the transfer of tangible personal property shall be taxed at the rate of six per cent of the receipts collected on each sale if the service provider elects to collect the tax imposed by this article on receipts of each sale. The service provider shall notify the department of its election and shall collect the tax on receipts of each sale until the service provider notifies the department otherwise.

((e.1) added June 29, 2002, P.L.559, No.89)

(f) Notwithstanding any other provision of this article, tax with respect to sales of prebuilt housing shall be imposed on the prebuilt housing builder at the time of the prebuilt housing sale within this Commonwealth and shall be paid and reported by the prebuilt housing builder

to the department in the time and manner provided in this article: Provided, however, That a manufacturer of prebuilt housing may, at its option, precollect the tax from the prebuilt housing builder at the time of sale to the prebuilt housing builder. In any case where prebuilt housing is purchased and the tax is not paid by the prebuilt housing builder or precollected by the manufacturer, the prebuilt housing purchaser shall remit tax directly to the department if the prebuilt housing is used in this Commonwealth without regard to whether the prebuilt housing becomes a real estate structure. ((f) added May 24, 2000, P.L.106, No.23)

(g) Notwithstanding any other provisions of this article and in accordance with the Mobile Telecommunications Sourcing Act (4 U.S.C. § 116), the sale or use of mobile telecommunications services which are deemed to be provided to a customer by a home service provider under section 117(a) and (b) of the Mobile Telecommunications Sourcing Act shall be subject to the tax of six per cent of the purchase price, which tax shall be collected by the home service provider from the customer, and shall be paid over to the Commonwealth as herein provided if the customer's place of primary use is located within this Commonwealth, regardless of where the mobile telecommunications services originate, terminate or pass through. For purposes of this subsection, words and phrases used in this subsection shall have the same meanings given to them in the Mobile Telecommunications Sourcing Act. ((g) added June 29, 2002, P.L.559, No.89)

(h) (1) Notwithstanding any other provision of this article, Article II-B, the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or Chapter 5 or 6 of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class, the tax shall be imposed on a manufacturer of malt or brewed beverages with respect to sales of malt or brewed beverages sold by the manufacturer directly to the ultimate consumer for consumption on or off premises.

(2) The tax imposed under clause (1) shall be paid and reported by the manufacturer of malt or brewed beverages to the department in the time and manner provided in this article.

(3) Notwithstanding any law to the contrary, a school district or local government authorized to impose a local alcoholic beverage tax under the act of June 10, 1971 (P.L.153, No.7), known as the First Class School District Liquor Sales Tax Act of 1971, or 53 Pa.C.S. § 8602 (relating to local financial support), may impose or continue to impose a local alcoholic beverage tax on the sale at retail of malt or brewed beverages made by a manufacturer of malt or brewed beverages to the ultimate consumer for consumption on or off premises at the same rate as authorized under the First Class School District Liquor Sales Tax Act of 1971 or 53 Pa.C.S. § 8602 and notwithstanding anything to the contrary in such laws or in a local law or ordinance in existence on the effective date of this section.

(4) The payment of the tax imposed under clause (1) shall eliminate the need for the ultimate consumer to pay or remit a sales or use tax on the related transaction or upon the subsequent use of the malt or brewed beverages.

((h) added June 28, 2019, P.L.50, No.13)

Compiler's Note: Section 26 of Act 13 of 2019 provided that the addition of sections 201(g)(9), (eee), (fff), (ggg) and 202(h) of this act shall apply to sales of malt or brewed beverages sold by a manufacturer of malt or brewed beverages occurring after September 30, 2019.

Section 203. Computation of Tax.--The amount of tax imposed by section 202 of this article shall be computed as follows:

(a) If the purchase price is ten cents (10¢) or less, no tax shall be collected.

(b) If the purchase price is eleven cents (11¢) or more but less than eighteen cents (18¢), one cent (1¢) shall be collected.

(c) If the purchase price is eighteen cents (18¢) or more but less than thirty-five cents (35¢), two cents (2¢) shall be collected.

(d) If the purchase price is thirty-five cents (35¢) or more but less than fifty-one cents (51¢), three cents (3¢) shall be collected.

(e) If the purchase price is fifty-one cents (51¢) or more but less than sixty-eight cents (68¢), four cents (4¢) shall be collected.

(f) If the purchase price is sixty-eight cents (68¢) or more but less than eighty-five cents (85¢), five cents (5¢) shall be collected.

(g) If the purchase price is eighty-five cents (85¢) or more but less than one dollar and one cent ($1.01), six cents (6¢) shall be collected.

(h) If the purchase price is more than one dollar ($1.00), six per centum of each dollar of purchase price plus the above bracket charges upon any fractional part of a dollar in excess of even dollars shall be collected.

PART III
EXCLUSIONS FROM TAX

Section 204. Exclusions from Tax.--The tax imposed by section 202 shall not be imposed upon any of the following: (Intro. par. amended June 29, 2002, P.L.559, No.89)

(1) The sale at retail or use of tangible personal property (other than motor vehicles, trailers, semi-trailers, motor boats, aircraft or other similar tangible personal property required under either Federal law or laws of this Commonwealth to be registered or licensed) or services sold by or purchased from a person not a vendor in an isolated transaction or sold by or purchased from a person who is a vendor but is not a vendor with respect to the tangible personal property or services sold or purchased in such transaction: Provided, That inventory and stock in trade so sold or purchased, shall not be excluded from the tax by the provisions of this subsection.

(2) The use of tangible personal property purchased by a nonresident person outside of, and brought into this Commonwealth for use therein for a period not to exceed seven days, or for any period of time when such nonresident is a tourist or vacationer and, in either case not consumed within the Commonwealth.

(3) The use of tangible personal property purchased outside this Commonwealth for use outside this Commonwealth by a then nonresident natural person or a business entity not actually doing business within this Commonwealth, who later brings such tangible personal property into this Commonwealth in connection with his establishment of a permanent business or residence in this Commonwealth: Provided, That such property was purchased more than six months prior to the date it was first brought into this Commonwealth or prior to the establishment of such business or residence, whichever first occurs. This exclusion shall not apply to tangible personal property temporarily brought into Pennsylvania for the performance of contracts for the construction, reconstruction, remodeling, repairing and maintenance of real estate.

(4) The sale at retail or use of disposable diapers; pre-moistened wipes; incontinence products; colostomy deodorants; toilet paper; sanitary napkins, tampons or similar items used for feminine hygiene; or toothpaste, toothbrushes or dental floss. ((4) amended Dec. 13, 1991, P.L.373, No.40)

(5) The sale at retail or use of steam, natural and manufactured and bottled gas, fuel oil, electricity or intrastate subscriber line charges, basic local telephone service or telegraph service when purchased directly by the user thereof solely for his own residential use and charges for telephone calls paid for by inserting money into a telephone accepting direct deposits of money to operate. ((5) amended June 30, 1995, P.L.139, No.21)

(6) ((6) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(7) ((7) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(8) ((8) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(9) ((9) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(10) The sale at retail to or use by (i) any charitable organization, volunteer firemen's organization, volunteer firefighters' relief

association as defined in 35 Pa.C.S. § 7412 (relating to definitions) or nonprofit educational institution, or (ii) a religious organization for religious purposes of tangible personal property or services other than pursuant to a construction contract: Provided, however, That the exclusion of this clause shall not apply with respect to any tangible personal property or services used in any unrelated trade or business carried on by such organization or institution or with respect to any materials, supplies and equipment used and transferred to such organization or institution in the construction, reconstruction, remodeling, renovation, repairs and maintenance of any real estate structure, other than building machinery and equipment, except materials and supplies when purchased by such organizations or institutions for routine maintenance and repairs. If the department has issued sales tax-exempt status to a volunteer firefighters' organization or a volunteer firefighters' relief association, the sales tax-exempt status may not expire unless the activities of the organization or association change so that the organization or association does not qualify as an institution of purely public charity in which case the organization or association shall immediately notify the department of the change. If the department ascertains that an organization or association no longer qualifies as an institution of purely public charity, the department may revoke the sales tax-exempt status of the organization or association. ((10) amended July 2, 2012, P.L.751, No.85)

(11) The sale at retail, or use of gasoline and other motor fuels, the sales of which are otherwise subject to excise taxes under the act of May 21, 1931 (P.L.194), known as the "Liquid Fuels Tax Act," and the act of January 14, 1952 (P.L.1965), known as the "Fuel Use Tax Act."

(12) The sale at retail to, or use by the United States, this Commonwealth or its instrumentalities or political subdivisions of tangible personal property or services.

(13) The sale at retail, or use of wrapping paper, wrapping twine, bags, cartons, tape, rope, labels, nonreturnable containers, all other wrapping supplies and kegs used to contain malt or brewed beverages, when such use is incidental to the delivery of any personal property, except that any charge for wrapping or packaging shall be subject to tax at the rate imposed by section 202, unless the property wrapped or packaged will be resold by the purchaser of the wrapping or packaging service. As used in this paragraph, the term "cartons" includes corrugated boxes used by a person engaged in the manufacture of snack food products to deliver the manufactured product, whether or not the boxes are returnable for potential reuse. ((13) amended Oct. 30, 2017, P.L.672, No.43)

(14) Sale at retail or use of vessels designed for commercial use of registered tonnage of fifty tons or more when produced by the builders thereof upon special order of the purchaser.

(15) Sale at retail of tangible personal property or services used or consumed in building, rebuilding, repairing and making additions to or replacements in and upon vessels designed for commercial use of registered tonnage of fifty tons or more upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of or for the account of the owner.

(16) The sale at retail or use of tangible personal property or services to be used or consumed for ship cleaning or maintenance or as fuel, supplies, ships' equipment, ships' stores or sea stores on vessels designed for commercial use of registered tonnage of fifty tons or more to be operated principally outside the limits of the Commonwealth. ((16) amended Aug. 4, 1991, P.L.97, No.22)

(17) The sale at retail or use of prescription or non-prescription medicines, drugs or medical supplies, crutches and wheelchairs for the use of cripples and invalids, artificial limbs, artificial eyes and artificial hearing devices when designed to be worn on the person of the purchaser or user, false teeth and materials used by a dentist in dental treatment, eyeglasses when especially designed or prescribed by an ophthalmologist, oculist or optometrist for the personal use of the owner or purchaser and artificial braces and supports designed solely for the use of crippled

persons or any other therapeutic, prosthetic or artificial device designed for the use of a particular individual to correct or alleviate a physical incapacity, including but not limited to hospital beds, iron lungs, and kidney machines. ((17) amended July 20, 1974, P.L.535, No.183)

(18) The sale at retail or use of coal.

(19) ((19) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(20) ((20) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(21) ((21) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(22) ((22) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(23) ((23) deleted by amendment Aug. 4, 1991, P.L.97, No.22)

(24) The sale at retail or use of motor vehicles, trailers and semi-trailers, or bodies attached to the chassis thereof, sold to a nonresident of Pennsylvania to be used outside of Pennsylvania and which are registered in a state other than Pennsylvania within twenty days after delivery to the vendee.

(25) The sale at retail or use of water.

(26) The sale at retail or use of all vesture, wearing apparel, raiments, garments, footwear and other articles of clothing, including clothing patterns and items that are to be a component part of clothing, worn or carried on or about the human body but all accessories, ornamental wear, formal day or evening apparel, and articles made of fur on the hide or pelt or any material imitative of fur and articles of which such fur, real, imitation or synthetic, is the component material of chief value, but only if such value is more than three times the value of the next most valuable component material, and sporting goods and clothing not normally used or worn when not engaged in sports shall not be excluded from the tax. ((26) amended May 24, 2000, P.L.106, No.23)

(27) ((27) deleted by amendment July 21, 1983, P.L.63, No.29)

(28) The sale at retail or use of religious publications sold by religious groups and Bibles and religious articles.

(29) The sale at retail or use of food and beverages for human consumption, except that this exclusion shall not apply with respect to--

(i) Soft drinks;

(ii) Malt and brewed beverages and spirituous and vinous liquors;

(iii) Food or beverages, whether sold for consumption on or off the premises or on a "take-out" or "to go" basis or delivered to the purchaser or consumer, when purchased (A) from persons engaged in the business of catering; or (B) from persons engaged in the business of operating establishments from which ready-to-eat food and beverages are sold, including, but not limited to, restaurants, cafes, lunch counters, private and social clubs, taverns, dining cars, hotels, night clubs, fast food operations, pizzerias, fairs, carnivals, lunch carts, ice cream stands, snack bars, cafeterias, employe cafeterias, theaters, stadiums, arenas, amusement parks, carryout shops, coffee shops and other establishments whether mobile or immobile. For purposes of this clause, a bakery, a pastry shop, a donut shop, a delicatessen, a grocery store, a supermarket, a farmer's market, a convenience store or a vending machine shall not be considered an establishment from which food or beverages ready to eat are sold except for the sale of meals, sandwiches, food from salad bars, hand-dipped or hand-served iced based products including ice cream and yogurt, hot soup, hot pizza and other hot food items, brewed coffee and hot beverages. For purposes of this subclause, beverages shall not include malt and brewed beverages and spirituous and vinous liquors but shall include soft drinks. The sale at retail of food and beverages at or from a school or church in the ordinary course of the activities of such organization is not subject to tax.

((29) amended Apr. 23, 1998, P.L.239, No.45)

(30) The sale at retail or use of newspapers. For purposes of this section, the term "newspaper" shall mean a "legal newspaper" or a publication containing matters of general interest and reports of current events which qualifies as a "newspaper of general circulation" qualified to carry a "legal advertisement" as those terms are defined in 45 Pa.C.S. § 101 (relating to definitions), not including magazines. This exclusion

shall also include any printed advertising materials circulated with such newspaper regardless of where or by whom such printed advertising material was produced. ((30) amended Dec. 13, 1991, P.L.373, No.40)

(31) The sale at retail or use of caskets and burial vaults for human remains and markers and tombstones for human graves.

(32) The sale at retail or use of flags of the United States of America and the Commonwealth of Pennsylvania.

(33) The sale at retail or use of textbooks for use in schools, colleges and universities, either public or private when purchased in behalf of or through such schools, colleges or universities provided such institutions of learning are recognized by the Department of Education.

(34) The sale at retail, or use of motion picture film rented or licensed from a distributor for the purpose of commercial exhibition. ((34) added Aug. 31, 1971, P.L.362, No.93)

(35) The sale at retail or use of mail order catalogs and direct mail advertising literature or materials, including electoral literature or materials, such as envelopes, address labels and a one-time license to use a list of names and mailing addresses for each delivery of direct mail advertising literature or materials, including electoral literature or materials, through the United States Postal Service. ((35) amended Apr. 23, 1998, P.L.239, No.45)

(36) The sale at retail or use of rail transportation equipment used in the movement of personalty. ((36) added Oct. 17, 1974, P.L.756, No.255)

(37) The sale at retail of buses to be used under contract with school districts that are replacements for buses destroyed or lost in the flood of 1977 for a period ending December 31, 1977 in the counties of Armstrong, Bedford, Cambria, Indiana, Jefferson, Somerset and Westmoreland, or the use of such buses. ((37) added Dec. 14, 1977, P.L.322, No.93)

(38) The sale at retail of horses, if at the time of purchase, the seller is directed to ship or deliver the horse to an out-of-State location, whether or not the charges for shipment are paid for by the seller or the purchaser; the seller shall obtain a bill of lading, either from the carrier or from the purchaser, who, in turn has obtained the bill of lading from the carrier, reflecting delivery to the out-of-State address to which the horse has been shipped. The seller shall execute a "Certificate of Delivery to Destination Outside of the Commonwealth" for each bill of lading reflecting out-of-State delivery. The seller shall be required to retain the certificate of delivery form to justify the noncollection of sales tax with respect to the transaction to which the form relates.

In transactions where a horse is sold by the seller and delivered to a domiciled person, agent or corporation prior to its being delivered to an out-of-State location, the "Certificate of Delivery to Destination Outside of the Commonwealth" form must have attached to it bills of lading both for the transfer to the domiciled person, agent or corporation and from the aforementioned to the out-of-State location.

((38) added Oct. 27, 1979, P.L.242, No.79)

(39) The sale at retail or use of fish feed purchased by or on behalf of sportsmen's clubs, fish cooperatives or nurseries approved by the Pennsylvania Fish Commission. ((39) added Dec. 8, 1980, P.L.1117, No.195)

(40) The sale at retail of supplies and materials to tourist promotion agencies, which receive grants from the Commonwealth, for distribution to the public as promotional material or the use of such supplies and materials by said agencies for said purposes. ((40) added Dec. 16, 1980, P.L.1240, No.223)

(41) The sale at retail of supplies and materials to tourist promotion agencies, which receive grants from the Commonwealth, for distribution to the public as promotional material or the use of such supplies and materials by said agencies for said purposes. ((41) added Oct. 22, 1981, P.L.314, No.109)

(42) The sale or use of brook trout (salvelinus fontinalis), brown trout (Salmo trutta) or rainbow trout (Salmo gairdneri). ((42) added June 23, 1982, P.L.610, No.172)

(43) The sale at retail or use of buses to be used exclusively for the transportation of children for school purposes. ((43) added Dec. 9, 1982, P.L.1047, No.246)

(44) The sale at retail or use of firewood. For the purpose of this clause, firewood shall mean the product of trees when severed from the land and cut into proper lengths for burning and pellets made from pure wood sawdust if used for fuel for cooking, hot water production or to heat residential dwellings. ((44) amended June 22, 2001, P.L.353, No.23)

(45) The sale at retail or use of materials used in the construction and erection of objects purchased by not-for-profit organizations for purposes of commemoration and memorialization of historical events, provided that the object is erected upon publicly owned property or property to be conveyed to a public entity upon the commemoration or memorialization of the historical event. ((45) added Dec. 19, 1985, P.L.354, No.100)

(46) The sale at retail or use of tangible personal property purchased in accordance with the Food Stamp Act of 1977, as amended (Public Law 95-113, 7 U.S.C. §§ 2011-2029). ((46) added July 13, 1987, P.L.317, No.58)

(47) ((47) expired December 31, 1999. See Act 22 of 1991.)

(48) ((48) expired December 31, 1999. See Act 22 of 1991.)

(49) The sale at retail or use of food and beverages by nonprofit associations which support sports programs or youth centers. For purposes of this clause, the phrases:

(i) "nonprofit association" means an entity which is organized as a nonprofit corporation or nonprofit unincorporated association under the laws of this Commonwealth or the United States or any entity which is authorized to do business in this Commonwealth as a nonprofit corporation or unincorporated association under the laws of this Commonwealth, including, but not limited to, youth or athletic associations, volunteer fire, ambulance, religious, charitable, fraternal, veterans, civic, or any separately chartered auxiliary of the foregoing, if organized and operated on a nonprofit basis;

(ii) ((ii) deleted by amendment Apr. 23, 1998, P.L.239, No.45)

(iii) ((iii) deleted by amendment Apr. 23, 1998, P.L.239, No.45)

(iv) "sports program" means baseball (including softball), football, basketball, soccer and any other competitive sport formally recognized as a sport by the United States Olympic Committee as specified by and under the jurisdiction of the Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. § 371 et seq.), the Amateur Athletic Union or the National Collegiate Athletic Association. The term shall be limited to a program or that portion of a program that is organized for recreational purposes and whose activities are substantially for such purposes and which is primarily for participants who are 18 years of age or younger or whose 19th birthday occurs during the year of participation or the competitive season, whichever is longer. There shall, however, be no age limitation for programs operated for persons with physical handicaps or persons with mental retardation;

(v) "support" means:

(A) the funds raised from sales are used to pay the expenses of a sports program or a youth center; or

(B) the nonprofit association sells the food and beverages at a youth center or a location where a sports program is being conducted under this act;

(vi) "youth center" means a fixed location used exclusively for programs for individuals who are 19 years of age or younger as long as the programs are:

(A) conducted primarily by volunteers;

(B) designed to advance recreational, civic or moral objectives; and

(C) conducted by an organization that is qualified under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) and that has obtained an exemption number from the department as a charitable organization under clause (10).

((49) amended June 28, 2019, P.L.50, No.13)

(50) The sale at retail or use of subscriptions for magazines. The term "magazine" refers to a periodical published at regular intervals not exceeding three months and which are circulated among the general public, containing matters of general interest and reports of current events published for the purpose of disseminating information of a public character or devoted to literature, the sciences, art or some special industry. This exclusion shall also include any printed advertising material circulated with the periodical or publication regardless of where or by whom the printed advertising material was produced. ((50) added June 16, 1994, P.L.279, No.48)

(51) The sale at retail or use of interior office building cleaning services but only as relates to the costs of the supplied employe, which costs are wages, salaries, bonuses and commissions, employment benefits, expense reimbursements, and payroll and withholding taxes, to the extent that these costs are specifically itemized or that these costs in aggregate are stated in billings from the vender or supplying entity. ((51) added June 16, 1994, P.L.279, No.48)

(52) ((52) deleted by amendment May 7, 1997, P.L.85, No.7)

(53) The sale at retail or use of candy or gum regardless of the location from which the candy or gum is sold. ((53) added May 7, 1997, P.L.85, No.7)

(54) ((54) deleted by amendment July 25, 2007, P.L.373, No.55)

(55) The sale at retail or use of horses to be used exclusively for commercial racing activities and the sale at retail and use of feed, bedding, grooming supplies, riding tack, farrier services, portable stalls and sulkies for horses used exclusively for commercial racing activities. ((55) added Apr. 23, 1998, P.L.239, No.45)

(56) The sale at retail or use of tangible personal property or services used, transferred or consumed in installing or repairing equipment or devices designed to assist persons in ascending or descending a stairway when:

(i) The equipment or devices are used by a person who, by virtue of a physical disability, is unable to ascend or descend stairs without the aid of such equipment or device.

(ii) The equipment or device is installed or used in such person's place of residence.

(iii) A physician has certified the physical disability of the person in whose residence the equipment or device is installed or used.

((56) added Apr. 23, 1998, P.L.239, No.45)

(57) The sale at retail to or use by a construction contractor of building machinery and equipment and services thereto that are:

(i) transferred pursuant to a construction contract for any charitable organization, volunteer firemen's organization, volunteer firefighters' relief association, nonprofit educational institution or religious organization for religious purposes, provided that the building machinery and equipment and services thereto are not used in any unrelated trade or business; or

(ii) transferred to the United States or the Commonwealth or its instrumentalities or political subdivisions; or

(iii) ((iii) repealed Dec. 20, 2000, P.L.841, No.119)

((57) amended July 2, 2012, P.L.751, No.85)

(58) The sale at retail or use of a personal computer, a peripheral device or an Internet access device, or a service contract or single-user licensed software purchased in conjunction with a personal computer, peripheral device or Internet access device, during the exclusion period by an individual purchaser for nonbusiness use. The exclusion does not include a sale at retail or use of, leasing, rental or repair of a personal computer, peripheral device or Internet access device; mainframe computers; network servers; local area network hubs; routers and network cabling; network operating systems; multiple-user licensed software; minicomputers; hand-held computers; personal digital assistants without Internet access; hardware word processors; graphical calculators; video game consoles; telephones; digital cameras; pagers; compact discs encoded with music or

movies; and digital versatile discs encoded with music or movies. For purposes of this clause, the phrase "exclusion period" means the period of time from August 5, 2001, to and including August 12, 2001, and from February 17, 2002, to and including February 24, 2002. For purposes of this clause, "purchaser" means an individual who places an order and pays the purchase price by cash or credit during the exclusion period even if delivery takes place after the exclusion period. ((58) amended June 22, 2001, P.L.353, No.23)

(59) The sale at retail or use of molds and related mold equipment used directly and predominantly in the manufacture of products, regardless of whether the person that holds title to the equipment manufactures a product. ((59) added May 24, 2000, P.L.106, No.23)

(60) The sale or use of used prebuilt housing. ((60) added May 24, 2000, P.L.106, No.23)

(61) The sale at retail to or use of food and nonalcoholic beverages by an airline which will transfer the food or nonalcoholic beverages to passengers in connection with the rendering of the airline service. ((61) added June 22, 2001, P.L.353, No.23)

(62) The sale at retail or use of tangible personal property or services which are directly used in farming, dairying or agriculture when engaged in as a business enterprise whether or not the sale is made to the person directly engaged in the business enterprise or to a person contracting with the person directly engaged in the business enterprise for the production of food. ((62) added June 29, 2002, P.L.559, No.89)

(63) The sale at retail or use of separately stated fees paid pursuant to 13 Pa.C.S. § 9525 (relating to fees). ((63) added June 29, 2002, P.L.559, No.89)

(64) The sale at retail to or use by a construction contractor, employed by a public school district pursuant to a construction contract, of any materials and building supplies which, during construction or reconstruction, are made part of any public school building utilized for instructional classroom education within this Commonwealth, if the construction or reconstruction:

(i) is necessitated by a disaster emergency, as defined in 35 Pa.C.S. § 7102 (relating to definitions); and

(ii) takes place during the period when there is a declaration of disaster emergency under 35 Pa.C.S. § 7301(c) (relating to general authority of Governor).

((64) added Dec. 23, 2003, P.L.250, No.46)

(65) The sale at retail or use of investment metal bullion and investment coins. "Investment metal bullion" means any elementary precious metal which has been put through a process of smelting or refining, including, but not limited to, gold, silver, platinum and palladium, and which is in such state or condition that its value depends upon its content and not its form. "Investment metal bullion" does not include precious metal which has been assembled, fabricated, manufactured or processed in one or more specific and customary industrial, professional, aesthetic or artistic uses. "Investment coins" means numismatic coins or other forms of money and legal tender manufactured of gold, silver, platinum, palladium or other metal and of the United States or any foreign nation with a fair market value greater than any nominal value of such coins. "Investment coins" does not include jewelry or works of art made of coins, nor does it include commemorative medallions. ((65) added July 6, 2006, P.L.319, No.67)

(66) The sale at retail or use of copies of an official document sold by a government agency or a court. For the purposes of this clause, the following terms or phrases shall have the following meanings:

(i) "court" includes:

(A) an "appellate court" as defined in 42 Pa.C.S. § 102 (relating to definitions);

(B) a "court of common pleas" as defined in 42 Pa.C.S. § 102;

(C) the "minor judiciary" as defined in 42 Pa.C.S. § 102;

(ii) "government agency" means an "agency" as defined in section 1 of the act of June 21, 1957 (P.L.390, No.212), referred to as the "Right-to-

Know Law";
(iii) "official document" means a "record" as defined in section 1 of the "Right-to-Know Law." The term shall include notes of court testimony, deposition transcripts, driving records, accident reports, birth and death certificates, deeds, divorce decrees and other similar documents.
((66) added Nov. 29, 2006, P.L.1630, No.189)
(67) The sale at retail or use of repair or replacement parts or software or software upgrades, including the installation of those parts, software or software upgrades, exclusively for use in helicopters and similar rotorcraft and flight simulators or in overhauling or rebuilding of helicopters and similar rotorcraft and flight simulators or helicopters and similar rotorcraft and flight simulator components. ((67) amended July 8, 2022, P.L.513, No.53)
(68) The sale at retail or use or lease of helicopters and similar rotorcraft, and flight simulators, as well as training materials, operational documents and publications relating to the use or operation of helicopters and similar rotorcraft and flight simulators. ((68) amended July 8, 2022, P.L.513, No.53)
(69) The sale at retail or use of aircraft parts, services to aircraft and aircraft components. For purposes of this clause, the term "aircraft" shall include a fixed-wing aircraft, powered aircraft, tilt-rotor or tilt-wing aircraft, glider or unmanned aircraft. ((69) added July 9, 2013, P.L.270, No.52)
(70) The sale at retail or use of services related to the set up, tear down or maintenance of tangible personal property rented by an authority to exhibitors at a convention center or a public auditorium, established under 64 Pa.C.S. Ch. 60 (relating to Pennsylvania Convention Center Authority), the act of July 28, 1953 (P.L.723, No.230), known as the Second Class County Code, or the act of August 9, 1955 (P.L.323, No.130), known as The County Code. ((70) added July 13, 2016, P.L.526, No.84)
(71) The sale at retail or use of food and beverages by a volunteer firemen's organization to raise funds for the purposes of the volunteer firemen's organization. ((71) added June 28, 2019, P.L.50, No.13)
(72) The sale at retail of building materials and supplies used for the construction or repair of an animal housing facility, regardless if the sale is made to the purchaser directly or pursuant to a construction contract. ((72) added June 28, 2019, P.L.50, No.13)
(73) The sale at retail or use by a financial institution of canned computer software directly utilized in conducting the business of banking. For the purposes of this clause, the following words and phrases shall have the following meanings:
"Directly utilized in conducting the business of banking" includes the purchase of canned computer software by a financial institution to be used in transactions with customers and service providers. The term does not include the purchase of canned computer software by entities, other than a financial institution, such as holding companies and subsidiaries of a financial institution.
"Financial institution" means an institution doing business in this Commonwealth subject to the tax imposed by Article VII or XV.
((73) added Nov. 27, 2019, P.L.651, No.90)
(74) The sale at retail or use of a multipurpose agricultural vehicle operated for the benefit of or pursuant to the operation of a farm owned or operated by the owner of the vehicle or a business whose enterprises and activities are considered part of farming. For the purposes of this clause, the following terms or phrases shall have the following meanings:
"Multipurpose agricultural vehicle" shall mean a motor vehicle exempt from registration in accordance with 75 Pa.C.S. § 1302(17) (relating to vehicles exempt from registration) which is 66 inches or less in width and 2,000 pounds or less in dry weight and which is used exclusively for agricultural operations and only incidentally operated or moved upon the highways.
"Use of a multipurpose agricultural vehicle in farming" shall mean repairing and maintaining buildings, including houses, garages, barns,

stables, greenhouses, mushroom houses and storehouses, fences and stanchions permanently affixed to real estate, as well as transporting farming personnel, collecting, conveying or transporting property to be used in farming and transporting or conveying the farm product after the final farming operation, which includes, but does not extend beyond, the operation of packaging for the ultimate consumer and storage.

((74) added June 30, 2021, P.L.124, No.25)

(75) The sale at retail or use of tangible personal property manufactured for the purpose of initiating, supporting or sustaining breast feeding. ((75) added June 30, 2021, P.L.124, No.25)

(76) The sale at retail or use of services related to the cleaning or maintenance of a storage trap utilized by a food service or restaurant establishment to collect grease waste. ((76) added July 11, 2024, P.L.674, No.56)

Compiler's Note: Section 30(1) of Act 56 of 2024 provided that the addition of clause (76) shall apply to transactions occurring after September 30, 2024.

Compiler's Note: Section 40(1) of Act 25 of 2021 provided that the addition of clauses (74) and (75) shall apply to sales at retail or uses after December 31, 2021.

Compiler's Note: See section 4 of Act 90 of 2019 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 27 of Act 13 of 2019 provided that the amendment or addition of clauses (49), (71) and (72) shall apply to sales made after December 31, 2019.

Compiler's Note: Section 51(10) of Act 84 of 2016, which added clause (70), provided that the addition of clause (70) shall apply to the sale at retail or use of services occurring after June 30, 2016.

Section 52(1) of Act 84 of 2016, which amended clause (13) and added clause (70), provided that, notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the amendment or addition of clauses (13) and (70) shall not preempt any tax imposed by a unit of local government as of the effective date of section 52 unless specifically provided for in Act 84.

Section 53.1 of Act 84 of 2016, which added clause (70), provided that the addition of clause (70) may not be used by the Department of Revenue or any party to an audit, appeal or proceeding before the Department of Revenue to determine the applicability of the tax imposed under section 202 prior to the effective date of clause (70).

Compiler's Note: Section 19(1)(iii) of Act 23 of 2000, which added clause (60), provided that clause (60) shall apply to transactions for which purchase agreements are executed after June 30, 2000.

Compiler's Note: Section 32(6) of Act 4 of 1999, which amended clause (57), provided that the amendment shall apply to transactions which take place after December 31, 1998.

Compiler's Note: Section 15(b) of Act 55 of 1997 provided that an exemption from tax under clause (10) existing on the effective date of section 15 shall remain in effect until the expiration of that exemption.

Compiler's Note: Section 6 of Act 68 of 1993, which added clause (49), provided that the Department of Revenue shall not take any action to collect or enforce any unpaid tax liability incurred on or after January 1, 1991, for retail sales of food and beverages by nonprofit corporations which would be excluded from tax under clause (49).

Compiler's Note: The name of the Pennsylvania Fish Commission, referred to in clause (39), was changed to the Pennsylvania Fish and Boat Commission by Act 39 of 1991. See 30 Pa.C.S. § 308 (relating to designation of commission).

Compiler's Note: Section 7 of Act 29 of 1983, which deleted clause (27), provided that it is the intent of the General Assembly that a portion of the revenues obtained from the sales tax on cigarettes be used to fund the act of December 18, 1980 (P.L.1241, No.224), known as the Pennsylvania Cancer Control, Prevention and Research Act.

Compiler's Note: The act of June 21, 1957 (P.L.390, No.212), referred to as the Right-to-Know Law, referred to in clause (66), was repealed by the act of Feb. 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

Compiler's Note: The act of May 21, 1931 (P.L.194), known as the Liquid Fuels Tax Act, referred to in paragraph (11), was repealed by the act of May 26, 2017 (P.L.6, No.3).

The act of January 14, 1952 (P.L.1965), known as the Fuel Use Tax Act, referred to in paragraph (11), was repealed by the act of May 26, 2017 (P.L.6, No.3).

Section 205. Alternate Imposition of Tax; Credits.--(a) If any person actively and principally engaged in the business of selling new or used motor vehicles, trailers or semi-trailers, and registered with the department in the "dealer's class," acquires a motor vehicle, trailer or semi-trailer for the purpose of resale, and prior to such resale, uses the motor vehicle, trailer or semi-trailer for a taxable use under this act, the person may pay a tax equal to six per cent of the fair rental value of the motor vehicle, trailer or semi-trailer during such use. This section shall not apply to the use of a vehicle as a wrecker, parts truck, delivery truck or courtesy car. ((a) amended July 12, 2006, P.L.1137, No.116)

(b) A commercial aircraft operator who acquires an aircraft for the purpose of resale, or lease, or is entitled to claim another valid exemption at the time of purchase, and subsequent to such purchase, periodically uses the same aircraft for a taxable use under this act, may elect to pay a tax equal to six per cent of the fair rental value of the aircraft during such use.

(205 amended June 9, 1978, P.L.463, No.62)

Section 206. Credit Against Tax.--(a) A credit against the tax imposed by section 202 shall be granted with respect to tangible personal property or services purchased for use outside the Commonwealth equal to the tax paid to another state by reason of the imposition by such other state of a tax similar to the tax imposed by this article: Provided, however, That no such credit shall be granted unless such other state grants substantially similar tax relief by reason of the payment of tax under this article or under the Tax Act of 1963 for Education.

(b) ((b) deleted by amendment)

(206 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(1) of Act 52 of 2013, which amended section 206, provided that a tax credit may not be granted under subsection (b) after June 30, 2013.

PART IV
LICENSES

Section 208. Licenses.--(a) Every person maintaining a place of business in this Commonwealth, with the exception of a marketplace seller who makes no sales outside a forum for which a marketplace facilitator is required to collect sales tax on the seller's behalf and a shared vehicle owner who makes no vehicle available for sharing outside a forum for which a peer-to-peer car-sharing program marketplace facilitator is required to collect sales tax on behalf of the shared vehicle owner, selling or leasing services or tangible personal property, the sale or use of which is subject to tax and who has not hitherto obtained a license from the department, shall, prior to the beginning of business thereafter, make application to the department, on a form prescribed by the department, for a license. If such person maintains more than one place of business in this Commonwealth,

the license shall be issued for the principal place of business in this Commonwealth. ((a) amended July 8, 2022, P.L.513, No.53)

(b) The department shall, after the receipt of an application, issue the license applied for under subsection (a) of this section, provided said applicant shall have filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan. Such license shall be nonassignable. All licensees as of the effective date of this subsection shall be required to file for renewal of said license on or before January 31, 1992. Licenses issued through April 30, 1992, shall be based on a staggered renewal system established by the department. Thereafter, any license issued shall be valid for a period of five years.

(b.1) If an applicant for a license or any person holding a license has not filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan, the department may refuse to issue, may suspend or may revoke said license. The department shall notify the applicant or licensee of any refusal, suspension or revocation. Such notice shall contain a statement that the refusal, suspension or revocation may be made public. Such notice shall be made by first class mail. An applicant or licensee aggrieved by the determination of the department may file an appeal pursuant to the provisions for administrative appeals in this article, except that the appeal must be filed within thirty days of the date of the notice. In the case of a suspension or revocation which is appealed, the license shall remain valid pending a final outcome of the appeals process. Notwithstanding sections 274, 353(f), 408(b), 603, 702, 802, 904 and 1102 of the act or any other provision of law to the contrary, if no appeal is taken or if an appeal is taken and denied at the conclusion of the appeal process, the department may disclose, by publication or otherwise, the identity of a person and the fact that the person's license has been refused, suspended or revoked under this subsection. Disclosure may include the basis for refusal, suspension or revocation.

(c) A person that maintains a place of business in this Commonwealth for the purpose of selling or leasing services or tangible personal property, the sale or use of which is subject to tax, without having a valid license at the time of the sale or lease shall be guilty of a summary offense and, upon conviction thereof, be sentenced to pay a fine of not less than three hundred dollars ($300) nor more than one thousand five hundred ($1,500) and, in default thereof, to undergo imprisonment of not less than five days nor more than thirty days. The penalties imposed by this subsection shall be in addition to any other penalties imposed by this article. For purposes of this subsection, the offering for sale or lease of any service or tangible personal property, the sale or use of which is subject to tax, during any calendar day shall constitute a separate violation. The Secretary of Revenue may designate employes of the department to enforce the provisions of this subsection. The employes shall exhibit proof of and be within the scope of the designation when instituting proceedings as provided by the Pennsylvania Rules of Criminal Procedure.

(d) Failure of any person to obtain a license shall not relieve that person of liability to pay the tax imposed by this article.

(208 amended July 9, 2013, P.L.270, No.52)

PART V
HOTEL OCCUPANCY TAX

Section 209. Definitions.--(a) For the purposes of this part V only, the following words, terms and phrases shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Hotel." ((1) deleted by amendment).

(1.1) "Accommodation fee." The amount by which the rent exceeds the discount room charge, if any.

(1.2) "Booking agent." A person or entity which facilitates or collects payment for hotel accommodations on behalf of or for an operator. The term "booking agent" shall not include a person who merely publishes advertisements for accommodations.

(1.3) "Discount room charge." The amount charged by an operator to a booking agent in connection with the sale of an accommodation by the booking agent.

(1.4) "Hotel." A building or buildings in which the public may, for consideration, obtain sleeping accommodations. The term "hotel" shall not include any charitable, educational or religious institution summer camp for children, hospital or nursing home.

(2) "Occupant." A person (other than a "permanent resident," as defined herein,) who, for a consideration, uses, possesses or has a right to use or possess any room or rooms in a hotel under any lease, concession, permit, right of access, license or agreement.

(3) "Occupancy." The use or possession or the right to the use or possession by any person (other than a "permanent resident,") of any room or rooms in a hotel for any purpose or the right to the use or possession of the furnishings or to the services and accommodations accompanying the use and possession of the room or rooms.

(4) "Operator." Any person operating a hotel or acting as a booking agent.

(5) "Permanent resident." Any occupant who has occupied or has the right to occupancy of any room or rooms in a hotel for at least thirty consecutive days.

(6) "Rent." The consideration received for occupancy valued in money, whether received in money or otherwise, including all receipts, cash, credits and property or services of any kind or nature, accommodation fees and any amount for which the occupant is liable for the occupancy without any deduction therefrom whatsoever, including any amount charged by a booking agent. The term "rent" shall not include a gratuity.

((a) amended Oct. 24, 2018, P.L.707, No.109)

(b) The following words, terms and phrases and words, terms and phrases of similar import, when used in parts IV and VI of this article for the purposes of those parts only, shall, in addition to the meaning ascribed to them by section 201 of this article, have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:

(1) "Maintaining a place of business in this Commonwealth," being the operator of a hotel in this Commonwealth.

(2) "Purchase at retail," occupancy.

(3) "Purchase price," rent.

(4) "Purchaser," occupant.

(5) "Sale at retail," the providing of occupancy to an occupant by an operator.

(6) "Tangible personal property," occupancy.

(7) "Vendor," operator.

(8) "Services," occupancy.

(9) "Use," occupancy.

Section 210. Imposition of Tax.--(a) There is hereby imposed an excise tax of six per cent of the rent upon every occupancy of a room or rooms in a hotel in this Commonwealth, which tax shall be collected by the operator from the occupant and paid over to the Commonwealth as herein provided. If a booking agent, acting for an operator, collects payment for rent, the booking agent must collect and remit the following:

(1) The tax imposed under this section.

(2) Any additional or optional hotel tax imposed under:

(i) The act of June 5, 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class";

(ii) The act of December 21, 1998 (P.L.1307, No.174), known as the "Community and Economic Improvement Act";

(iii) 64 Pa.C.S. Ch. 60 (relating to Pennsylvania Convention Center Authority);

(iv) Articles XVII and XXIII of the act of August 9, 1955 (P.L.323, No.130), known as "The County Code"; or

(v) The act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code."

(b) Notwithstanding any provision of law to the contrary, the following shall apply:

(1) The collected and remitted tax imposed under subsection (a)(1) shall be deposited into the Tourism Promotion Fund established under section 212.

(2) The collected and remitted tax imposed under subsection (a)(2) shall be deposited in accordance with a county ordinance.

(c) An operator shall not be liable for tax owed regarding an accommodation fee.

(d) A booking agent shall not be required to separately disclose to an occupant the amount of the tax imposed that relates to a discount room charge versus an accommodation fee.

(210 amended Oct. 24, 2018, P.L.707, No.109)

Section 211. Seasonal Tax Returns.--Notwithstanding any other provisions in this act, the department may, by regulation, waive the requirement for the filing of quarterly returns in the case of any operator whose hotel is operated only during certain seasons of the year, and may provide for the filing of returns by such persons at times other than those provided by section 221.

Section 212. Tourism Promotion Fund.--(a) A restricted revenue account is established within the Treasury Department to be known as the Tourism Promotion Fund.

(b) The tax collected by a booking agent on accommodation fees under section 210 shall be deposited into the fund and disbursed upon appropriation for the purpose of promoting tourism in this Commonwealth.

(c) The department shall promulgate guidelines, rules and regulations as necessary to achieve the purpose of promoting tourism in this Commonwealth.

(c.1) Money from the fund may not be used for the promotion or marketing operations of a tourism entity or for special events or grants until thirty days after the publication of the guidelines, rules and regulations under subsection (c) in the Pennsylvania Bulletin.

(c.2) The following shall apply:

(1) No more than fifty per cent of the funds available for disbursement under subsection (b) may be distributed for the purposes of promotion or marketing operations of a tourism entity or for special events or grants.

(2) Funding for the promotion or marketing operations of a tourism entity, special events or grants shall require a fifty per cent cash or in-kind match.

(3) A single recipient of funding under paragraph (2) may not be awarded more than fifteen per cent of the total funds available for disbursement under subsection (b). This paragraph shall not apply to contracts entered into by the department for Statewide tourism promotion or marketing.

(c.3) Funds available for disbursement under subsection (b) may not be used for capital projects or for the design, construction, rehabilitation, repair, installation or purchase of any building, structure or sign in this Commonwealth.

(d) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Department." The Department of Community and Economic Development of the Commonwealth.

"Fund." The Tourism Promotion Fund established under subsection (a).

"Promoting tourism." Activities and expenditures designed to increase tourism, including, but not limited to, the following:

(1) Advertising, publicizing or otherwise distributing information for the purpose of attracting and welcoming tourists.

(2) Developing strategies to expand tourism.

(3) Funding the promotion or marketing operations of a tourism entity.

(4) Funding marketing and operations of special events and festivals designed to attract tourists.

"Tourism entity." A "tourism promotion agency" as defined in section 2 of the act of July 4, 2008 (P.L.621, No.50), known as the "Tourism Promotion Act," destination marketing organization or regional attractions marketing agency.

(212 added Oct. 24, 2018, P.L.707, No.109)

PART V-A
MARKETPLACE SALES
(Pt. added Oct. 30. 2017, P.L.672, No.43)

Section 213. Definitions.--For the purposes of this part V-A only, the following words, terms and phrases shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(a) "Affiliated person." A person that, with respect to another person:

(1) has a direct or indirect ownership interest of more than five percent in the other person; or

(2) is related to the other person because a third person, or group of third persons who are affiliated with each other as defined in this subsection, holds a direct or indirect ownership interest of more than five percent in the related person.

(b) "Forum." A place where sales at retail occur, whether physical or electronic. The term includes a store, a booth, a publicly accessible Internet website, a catalog or similar place.

(c) "Marketplace facilitator." A person that facilitates the sale at retail of tangible personal property. For purposes of this section, a person facilitates a sale at retail if the person or an affiliated person:

(1) lists or advertises tangible personal property for sale at retail in any forum; and

(2) either directly or indirectly through agreements or arrangements with third parties, collects the payment from the purchaser and transmits the payment to the person selling the property.

The term includes a person that may also be a vendor.

(d) "Marketplace seller." A person that has an agreement with a marketplace facilitator pursuant to which the marketplace facilitator facilitates sales for the person.

(e) "Notice and reporting requirements." The notice requirements under section 213.2 and the reporting requirements under sections 213.3 and 213.4.

(f) "Referral." The transfer by a referrer of a potential purchaser to a person that advertises or lists products for sale on the referrer's platform.

(g) "Referrer." A person, other than a person engaging in the business of printing or publishing a newspaper, that, pursuant to an agreement or arrangement with a marketplace seller or remote seller, does the following:

(1) Agrees to list or advertise for sale at retail one or more products of the marketplace seller or remote seller in a physical or electronic medium.

(2) Receives consideration from the marketplace seller or remote seller from the sale offered in the listing or advertisement.

(3) Transfers by telecommunications, Internet link or other means, a purchaser to a marketplace seller, remote seller or affiliated person to complete a sale.

(4) Does not collect a receipt from the purchaser for the sale.

The term does not include a person that:

(1) provides Internet advertising services; and

(2) does not provide the marketplace seller's or remote seller's shipping terms or advertise whether a marketplace seller or remote seller collects a sales or use tax.

The term includes a person that may also be a vendor.

(h) "Remote seller." A person, other than a marketplace facilitator, a marketplace seller or a referrer, that does not maintain a place of business in this Commonwealth that, through a forum, sells tangible personal property at retail, the sale or use of which is subject to the tax imposed by this article. The term does not include an employe who in the ordinary scope of employment renders services to his employer in exchange for wages and salaries.

(213 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 213.1. Election.--(a) Subject to the provisions of subsections (c) and (d), on or before March 1, 2018, and on or before June 1 of each calendar year thereafter, beginning June 1, 2019, a remote seller, a marketplace facilitator or a referrer that had aggregate sales at retail of tangible personal property subject to tax under this article within this Commonwealth or delivered to locations within this Commonwealth worth at least ten thousand dollars ($10,000) during the immediately preceding twelve-calendar-month period shall file an election with the department to collect and remit the tax imposed under section 202 or to comply with the notice and reporting requirements. The election shall be made on a form and in a manner prescribed by the department and, except as provided in subsection (e), shall apply to the next succeeding fiscal year.

(b) A remote seller, a marketplace facilitator or a referrer that makes an election under subsection (a) to collect and remit the tax imposed under section 202 shall obtain a license under Part IV of this article.

(c) The requirement by a marketplace facilitator to make an election under subsection (a) shall only apply to the following:

(1) sales at retail through the marketplace facilitator's forum made by or on behalf of a marketplace seller that does not maintain a place of business in this Commonwealth; and

(2) sales at retail made by a marketplace facilitator on its own behalf if the marketplace facilitator does not maintain a place of business in this Commonwealth.

(d) The requirement by a referrer to make an election under subsection (a) shall only apply to sales at retail:

(1) directly resulting from a referral of a purchaser to a marketplace seller that does not maintain a place of business in this Commonwealth;

(2) directly resulting from a referral of a purchaser to a remote seller; and

(3) of the referrer's own products if the referrer does not maintain a place of business in this Commonwealth.

A referrer may make an election under subsection (a) for the sales described in paragraphs (1) and (2) that is different from the election made for the sales described in paragraph (3).

(e) An election made on or before March 1, 2018, shall be in effect for the balance of the 2017-2018 fiscal year and for the 2018-2019 fiscal year. A remote seller, a marketplace facilitator or a referrer may change an election to comply with the notice and reporting requirements to an election to collect and remit the tax imposed under section 202 at any time during a fiscal year by filing a new election with the department and obtaining a license under Part IV of this article. The new election shall be effective thirty days after the filing and shall be effective for the balance of the fiscal year in which the new election was filed and for the next succeeding fiscal year.

(f) A remote seller, a marketplace facilitator or a referrer who does not submit an election under subsection (a) or a new election under subsection (e) shall be deemed to have elected to comply with the notice and reporting requirements.

(g) In addition to records that may be required to be maintained under other applicable provisions of this article by a remote seller, a marketplace facilitator or a referrer, a remote seller, a marketplace

facilitator or a referrer subject to this part shall also be subject to section 271 relating to the keeping of records and section 272 relating to the examination of records by the department and agents and employes of the department.

(213.1 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 213.2. Notice Requirements.--(a) A remote seller, a marketplace facilitator or a referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall comply with the applicable notice requirements of this section.

(b) A remote seller or marketplace facilitator subject to the requirements of this section shall:

(1) Post a conspicuous notice on its forum that informs purchasers intending to purchase tangible personal property for delivery to a location within this Commonwealth that includes all of the following:

(i) sales or use tax may be due in connection with the purchase and delivery of the tangible personal property;

(ii) the Commonwealth requires the purchaser to file a return if use tax is due in connection with the purchase and delivery; and

(iii) the notice is required by this section.

(2) Provide a written notice to each purchaser at the time of each sale at retail that includes all of the following:

(i) a statement that sales tax is not being collected in connection with the purchase;

(ii) a statement that the purchaser may be required to remit use tax directly to the department; and

(iii) instructions for obtaining additional information from the department regarding whether and how to remit use tax to the department.

(c) The notice required by subsection (b)(2) must be prominently displayed on all invoices and order forms and on each sales receipt or similar document, whether in paper or electronic form, provided to the purchaser. No statement that sales or use tax is not imposed on a transaction may be made by a remote seller or marketplace facilitator unless the transaction is exempt from sales and use tax pursuant to this article or other applicable Commonwealth law.

(d) A referrer subject to the requirements of this section shall post a conspicuous notice on its platform that informs purchasers intending to purchase tangible personal property for delivery to a location within this Commonwealth that includes all of the following:

(1) Sales or use tax may be due in connection with the purchase and delivery.

(2) The person to which the purchaser is being referred may or may not collect and remit sales tax to the department in connection with the transaction.

(3) The Commonwealth requires the purchaser to file a return if use tax is due in connection with the purchase and delivery and not collected by the person.

(4) The notice is required by this section.

(5) Instructions for obtaining additional information from the department regarding whether and how to remit sales or use tax to the department.

(6) If the person to whom the purchaser is being referred does not collect sales tax on a subsequent purchase by the purchaser, the person may be required to provide information to the purchaser and the department about the purchaser's potential sales or use tax liability.

(e) The notice required under subsection (d) must be prominently displayed and may include pop-up boxes or notification by other means that appears when the referrer transfers a purchaser to another person to complete the sale.

(213.2 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 47(1)(i) of Act 43 of 2017, which added section 213.2, provided that section 213.2 shall apply to transactions that occur after March 31, 2018.

Section 47(1)(ii) of Act 43 of 2017 provided that section 213.2, as it relates to tangible personal property described in section 201(m)(2), shall apply to transactions that occur after March 31, 2019.

Section 49(5)(ii) of Act 43 of 2017 provided that section 213.2, as it relates to tangible personal property described in section 201(m)(2), shall take effect February 1, 2019.

Section 213.3. Reports to Purchasers and Marketplace Sellers.--(a) A remote seller or marketplace facilitator required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, provide a written report to each purchaser required to receive the notice under section 213.2(b)(2) during the immediately preceding calendar year that includes all of the following:

(1) A statement that the remote seller or marketplace facilitator did not collect sales tax in connection with the purchaser's transactions with the remote seller or marketplace facilitator and that the purchaser may be required to remit use tax to the department.

(2) A list, by date, indicating the type and purchase price of each product purchased or leased by the purchaser from the remote seller or marketplace facilitator and delivered to a location within this Commonwealth.

(3) Instructions for obtaining additional information from the department regarding whether and how to remit use tax to the department.

(4) A statement that the remote seller or marketplace facilitator is required to submit a report to the department under section 213.4 that includes the name of the purchaser and the aggregate dollar amount of the purchaser's purchases from the remote seller or marketplace facilitator.

(5) Such additional information as the department may reasonably require.

(b) The department shall prescribe the form of the report required under subsection (a) and shall make the form available on its publicly accessible Internet website.

(c) The report required under subsection (a) shall be mailed by first class mail in an envelope prominently marked with words indicating that important tax information is enclosed to the purchaser's billing address, if known, or, if unknown, to the purchaser's shipping address. If the purchaser's billing and shipping addresses are unknown, the report shall be sent electronically to the purchaser's last known e-mail address with a subject heading indicating that important tax information is being provided.

(d) A referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, provide a written notice to each remote seller to whom the referrer transferred a potential purchaser located in this Commonwealth during the immediately preceding calendar year that includes all of the following:

(1) A statement that a sales or use tax may be imposed by the Commonwealth on the transaction.

(2) A statement that the remote seller may be required to make the election required by section 213.1(a).

(3) Instructions for obtaining additional information regarding sales and use tax from the department.

(213.3 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 213.4. Reports to Department.--(a) A remote seller or marketplace facilitator required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, submit a report to the department. The report shall include, with respect to each purchaser required to receive the notice under section 213.2(b)(2) during the immediately preceding calendar year, the following:

(1) The purchaser's name.

(2) The purchaser's billing address and, if different, the purchaser's last known mailing address.

(3) The address within this Commonwealth to which products were delivered to the purchaser.

(4) The aggregate dollar amount of the purchaser's purchases from the remote seller or marketplace facilitator.

(5) The name and address of the remote seller, marketplace facilitator or marketplace seller that made the sales to the purchaser.

(b) A referrer required to make an election under section 213.1(a) that does not elect to collect and remit the tax imposed by section 202 shall, no later than January 31 of each year, submit a report to the department. The report shall include a list of persons who received the notice required under section 213.3(d).

(c) The department shall prescribe the forms of the reports required under this section and shall make them available on its publicly accessible Internet website. The reports shall be submitted electronically in such manner as the department shall require.

(d) A report required under this section shall be submitted by an officer of the remote seller, the marketplace facilitator or the referrer and shall include a statement, made under penalty of perjury, by the officer that the remote seller, the marketplace facilitator or the referrer made reasonable efforts to comply with the notice and reporting requirements of this part.

(213.4 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 213.5. Liability and Penalties.--(a) The department shall assess a penalty in the amount of twenty thousand dollars ($20,000) or twenty per cent of total sales in Pennsylvania during the previous twelve months, whichever is less, against a remote seller, a marketplace facilitator or a referrer that makes an election under section 213.1(a) to comply with the notice and reporting requirements, or is deemed to have made such election under section 213.1(f), and fails to comply with the requirements under section 213.3 or 213.4. The penalty shall be assessed separately for each violation but may only be assessed once in a calendar year.

(b) A remote seller, a marketplace facilitator or a referrer that makes an election under section 213.1(a) to collect and remit the tax imposed under section 202 shall be subject to all of the provisions of this article with respect to the collection and remittance of such tax and shall be subject to all of the penalties, interest and additions for failing to comply with the provisions of this article except as provided in this section.

(c) For a period of five years after the effective date of this section, the department may abate or reduce any penalty or addition imposed under subsection (b) due to hardship or for good cause shown.

(d) A marketplace facilitator or a referrer is relieved of liability under subsection (b) if the marketplace facilitator or the referrer can show to the satisfaction of the department that the failure to collect the correct amount of tax was due to incorrect information given to the marketplace facilitator or the referrer by a marketplace seller or remote seller.

(e) A class action may not be brought against a marketplace facilitator or a referrer on behalf of purchasers arising from or in any way related to

an overpayment of sales or use tax collected by the marketplace facilitator or the referrer, regardless of whether such action is characterized as a tax refund claim. Nothing in this subsection shall affect a purchaser's right to seek a refund from the department under other provisions of this article.
(213.5 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 213.6. Application.--Nothing in this section affects the obligations of a vendor to register with the department and to collect and remit sales tax or use tax.
(213.6 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: See section 33 of Act 13 of 2019 in the appendix to this act for special provisions relating to applicability.

PART VI
PROCEDURE AND ADMINISTRATION

CHAPTER I
RETURNS

Section 215. Persons Required to Make Returns.--Every person required to pay tax to the department or collect and remit tax to the department, but not including a marketplace seller who solely makes sales through a marketplace facilitator that is required to collect sales tax on the seller's behalf and receives a certification from the marketplace facilitator that the marketplace facilitator will collect, report and remit the proper sales tax, shall file returns with respect to such tax.
(215 amended June 28, 2019, P.L.50, No.13)
Section 216. Form of Returns.--The returns required by section 215 shall be on forms prescribed by the department, and shall show such information with respect to the taxes imposed by this article as the department may reasonably require.

CHAPTER II
TIME AND PLACE FOR FILING RETURNS

Section 217. Time for Filing Returns.--(a) Quarterly and Monthly Returns:
(1) For the year in which this article becomes effective and in each year thereafter a return shall be filed quarterly by every licensee on or before the twentieth day of April, July, October and January for the three months ending the last day of March, June, September and December.
(2) For the year in which this article becomes effective, and in each year thereafter, a return shall be filed monthly with respect to each month by every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds six hundred dollars ($600) and is less than twenty-five thousand dollars ($25,000). Such returns shall be filed on or before the twentieth day of the next succeeding month with respect to which the return is made. Any licensee required to file monthly returns hereunder shall be relieved from filing quarterly returns.
(3) With respect to every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds twenty-five thousand dollars ($25,000) and is less than one hundred thousand dollars ($100,000), the licensee shall, on or before the twentieth day of each month, file a single return consisting of all of the following:
(i) Either of the following:
(A) An amount equal to fifty per centum of the licensee's actual tax liability for the same month in the preceding calendar year if the licensee was a monthly filer or, if the licensee was a quarterly or semi-annual

filer, fifty per centum of the licensee's average actual tax liability for that tax period in the preceding calendar year. The average actual tax liability shall be the actual tax liability for the tax period divided by the number of months in that tax period. For licensees that were not in business during the same month in the preceding calendar year or were in business for only a portion of that month, fifty per centum of the average actual tax liability for each tax period the licensee has been in business. If the licensee is filing a tax liability for the first time with no preceding tax periods, the amount shall be zero.

(B) An amount equal to or greater than fifty per centum of the licensee's actual tax liability for the same month.

(ii) An amount equal to the taxes due for the preceding month, less any amounts paid in the preceding month as required by subclause (i).

(4) With respect to each month by every licensee whose actual tax liability for the third calendar quarter of the preceding year equals or exceeds one hundred thousand dollars ($100,000), the licensee shall, on or before the twentieth day of each month, file a single return consisting of the amounts under clause (3)(i)(A) and (ii).

(5) The amount due under clause (3)(i) or (4) shall be due the same day as the remainder of the preceding month's tax.

(6) The department shall determine whether the amounts reported under clause (3) or (4) shall be remitted as one combined payment or as two separate payments.

(7) The department may require the filing of the returns and the payments for these types of filers by electronic means approved by the department.

(8) Any licensee filing returns under clause (3) or (4) shall be relieved of filing quarterly returns.

(9) If a licensee required to remit payments under clause (3) or (4) fails to make a timely payment or makes a payment which is less than the required amount, the department may, in addition to any applicable penalties, impose an additional penalty equal to five per centum of the amount due under clause (3) or (4) which was not timely paid. The penalty under this clause shall be determined when the tax return is filed for the tax period.

(b) Annual Returns. For the calendar year 1971, and for each year thereafter, no annual return shall be filed, except as may be required by rules and regulations of the department promulgated and published at least sixty days prior to the end of the year with respect to which the returns are made. Where such annual returns are required licensees shall not be required to file such returns prior to the twentieth day of the year succeeding the year with respect to which the returns are made.

(c) Other Returns. Any person, other than a licensee, liable to pay to the department any tax under this article, shall file a return on or before the twentieth day of the month succeeding the month in which such person becomes liable for the tax.

(d) Small Taxpayers. The department, by regulation, may waive the requirement for the filing of quarterly return in the case of any licensee whose individual tax collections do not exceed seventy-five dollars ($75) per calendar quarter and may provide for reporting on a less frequent basis in such cases.

(217 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 30(1) of Act 85 of 2012, which amended section 217, provided that the amendment shall apply to tax returns due after September 30, 2012. See section 29.1 of Act 85 in the appendix to this act for special provisions relating to continuation of prior law.

Section 218. Extension of Time for Filing Returns.--The department may, on written application and for good cause shown, grant a reasonable extension of time for filing any return required under this part. However, the time for making a return shall not be extended for more than three months.

Section 219. Place for Filing Returns.--Returns shall be filed with the department at its main office or at any branch office which it may designate for filing returns.

Section 220. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting the report or payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment.

(220 amended June 27, 1974, P.L.376, No.126)

CHAPTER III
PAYMENT OF TAX

Section 221. Payment.--When a return of tax is required under this part, the person required to make the return shall pay the tax to the department.

Section 222. Time of Payment.--(a) Monthly and Quarterly Payments. The tax imposed by this article and incurred or collected by a licensee shall be due and payable by the licensee on the day the return is required to be filed under the provisions of section 217 and such payment must accompany the return.

(b) Annual Payments. If the amount of tax due for the preceding year as shown by the annual return of any taxpayer is greater than the amount already paid by him in connection with his monthly or quarterly returns he shall send with such annual return a remittance for the unpaid amount of tax for the year.

(c) Other Payments. Any person other than a licensee liable to pay any tax under this article shall remit the tax at the time of filing the return required by this article.

(222 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 30(1) of Act 85 of 2012, which amended section 222, provided that the amendment shall apply to tax returns due after September 30, 2012. See section 29.1 of Act 85 in the appendix to this act for special provisions relating to continuation of prior law.

Section 223. Other Times for Payment.--In the event that the department authorizes a taxpayer to file a return at other times than those specified in section 217, the tax due shall be paid at the time such return is filed.

Section 224. Place for Payment.--The tax imposed by this article shall be paid to the department at the place fixed for filing the return.

Section 225. Tax Held in Trust for the Commonwealth.--All taxes collected by any person from purchasers in accordance with this article and all taxes collected by any person from purchasers under color of this article, including all taxes paid by any person who advertises or holds out or states, directly or indirectly, that such person will pay the tax for the purchaser, which have not been properly refunded by such person to the purchaser shall constitute a trust fund for the Commonwealth, and such trust shall be enforceable against such person, his representatives and any person (other than a purchaser to whom a refund has been made properly) receiving any part of such fund without consideration, or knowing that the taxpayer is committing a breach of trust: Provided, however, That any person receiving payment of a lawful obligation of the taxpayer from such fund shall be presumed to have received the same in good faith and without any knowledge of the breach of trust. Any person, other than a taxpayer, against whom the department makes any claim under this section shall have

the same right to petition and appeal as is given taxpayers by any provisions of this part.
(225 amended June 28, 2019, P.L.50, No.13)
Section 226. Local Receivers of Use Tax.--(226 repealed July 9, 2013, P.L.270, No.52)
Section 227. Discount.--If a return is filed by a licensee and the tax shown to be due thereon less any discount is paid all within the time prescribed, the licensee shall be entitled, as compensation for the expense of collecting and remitting the tax and as a consideration of the prompt payment of the tax, to credit and apply against the tax payable by the licensee a discount of the lesser of:
(1) one per cent of the amount of the tax collected; or
(2) as follows:
(i) twenty-five dollars ($25) per return for a monthly filer;
(ii) seventy-five dollars ($75) per return for a quarterly filer; or
(iii) one hundred fifty dollars ($150) per return for a semiannual filer.
(227 amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 51(1) of Act 84 of 2016, which amended section 227, provided that the amendment of section 227 shall apply to returns due on or after August 1, 2016.
Section 52(1) of Act 84 of 2016 provided that, notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the amendment of section 227 shall not preempt any tax imposed by a unit of local government as of the effective date of section 52 unless specifically provided for in Act 84.

CHAPTER IV
ASSESSMENT AND COLLECTION OF TAX

Section 230. Assessment.--(a) The department is authorized and required to make the inquiries, determinations and assessments of the tax (including interest, additions and penalties) imposed by this article. A notice of assessment and demand for payment shall be mailed to the taxpayer. The notice shall set forth the basis of the assessment.
(b) ((b) deleted by amendment).
(c) A marketplace facilitator is relieved of liability under subsection (a) if the marketplace facilitator can show to the satisfaction of the department that the failure to collect the correct amount of tax was due to incorrect information given to the marketplace facilitator by a marketplace seller. ((c) added June 28, 2019, P.L.50, No.13)
(d) A marketplace seller is relieved of liability under subsection (a) pertaining to those sales made through a marketplace facilitator, when the marketplace facilitator certifies to the seller that the marketplace facilitator will collect, report and remit the proper sales tax, unless the seller gave incorrect information to the marketplace facilitator. ((d) added June 28, 2019, P.L.50, No.13)
(230 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 230, provided that the amendment of section 230 shall apply to assessments issued after December 31, 2007.
Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 231. Mode and Time of Assessment.--(a) Underpayment of Tax. Within a reasonable time after any return is filed, the department shall examine it and, if the return shows a greater tax due or collected than the amount of tax remitted with the return, the department shall issue an assessment for the difference, together with an addition of three per cent of such difference, which shall be paid to the department within ten days after a notice of the assessment has been mailed to the taxpayer. If such assessment is not paid within ten days, there shall be added thereto and paid to the department an additional three per cent of such difference for each month thereof during which the assessment remains unpaid, but the total of all additions shall not exceed eighteen per cent of the difference shown on the assessment.

(b) Understatement of Tax. If the department determines that any return or returns of any taxpayer understates the amount of tax due, it shall determine the proper amount and shall ascertain the difference between the amount of tax shown in the return and the amount determined, such difference being hereafter sometimes referred to as the "deficiency." A notice of assessment for the deficiency and the reasons therefor shall then be sent to the taxpayer. The deficiency shall be paid to the department within thirty days after a notice of the assessment thereof has been mailed to the taxpayer.

(c) Failure to File Return. In the event that any taxpayer fails to file a return required by this article, the department may make an estimated assessment (based on information available) of the proper amount of tax owing by the taxpayer. A notice of assessment in the estimated amount shall be sent to the taxpayer. The tax shall be paid within thirty days after a notice of such estimated assessment has been mailed to the taxpayer.

(d) Authority to Establish Effective Rates by Business Classification. The department is authorized to make the studies necessary to compute effective rates by business classification, based upon the ratio between the tax required to be collected and taxable sales and to use such rates in arriving at the apparent tax liability of a taxpayer.

Any assessment based upon such rates shall be prima facie correct, except that such rate shall not be considered where a taxpayer establishes that such rate is based on a sample inapplicable to him.

Section 232. Reassessment.--Any taxpayer against whom an assessment is made may petition the department for a reassessment pursuant to Article XXVII.

(232 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 233. Assessment to Recover Erroneous Refunds.--The department may, within two years of the granting of any refund or credit, or within the period in which an assessment could have been filed by the department with respect to the transaction pertaining to which the refund was granted, whichever period shall last occur, file an assessment to recover any refund or part thereof or credit or part thereof which was erroneously made or allowed.

Section 234. Review by Board of Finance and Revenue.--(234 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 235. Appeal to Commonwealth Court.--(235 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 236. Burden of Proof.--In all cases of petitions for reassessment, review or appeal, the burden of proof shall be upon the petitioner or appellant, as the case may be.

Section 237. Collection of Tax.--(a) Collection by Department. The department shall collect the tax in the manner provided by law for the collection of taxes imposed by the laws of this Commonwealth.

(b) Collection by Persons Maintaining a Place of Business in the Commonwealth. (1) Every person maintaining a place of business in this Commonwealth and selling or leasing tangible personal property or services, with the exception of a marketplace seller who solely makes sales through a marketplace facilitator that is required to collect sales tax on the marketplace seller's behalf and receives a certification from the marketplace facilitator that the marketplace facilitator will collect, report and remit the proper sales tax, the sale or use of which is subject to tax shall collect the tax from the purchaser or lessee at the time of making the sale or lease, and shall remit the tax to the department, unless such collection and remittance is otherwise provided for in this article. ((1) amended June 28, 2019, P.L.50, No.13)

(1.1) Every person not otherwise required to collect tax that delivers tangible personal property to a location within this Commonwealth and that unpacks, positions, places or assembles the tangible personal property shall collect the tax from the purchaser at the time of delivery and shall remit the tax to the department if the person delivering the tangible personal property is responsible for collecting any portion of the purchase price of the tangible personal property delivered and the purchaser has not provided the person with proof that the tax imposed by this article has been or will be collected by the seller or that the purchaser provided the seller with a valid exemption certificate. Every person required to collect tax under this clause shall be deemed to be selling or leasing tangible personal property or services, the sale or use of which is subject to the tax imposed under section 202. ((1.1) added June 29, 2002, P.L.559, No.89)

(1.2) (i) A vendor maintaining a place of business within this Commonwealth under section 201(b)(3.5) in calendar year 2018 shall collect sales tax from July 1, 2019, through March 31, 2020.

(ii) A vendor maintaining a place of business within this Commonwealth under section 201(b)(3.5) in calendar years after 2018 shall collect sales tax from the second quarter, beginning April 1, of the following calendar year through the first quarter, ending March 31, of the next calendar year.

((1.2) added June 28, 2019, P.L.50, No.13)

(2) Any person required under this article to collect tax from another person, who shall fail to collect the proper amount of such tax, shall be liable for the full amount of the tax which he should have collected.

((b) amended Dec. 28, 1972, P.L.1633, No.340)

(b.1) Collection by Marketplace Facilitators. A marketplace facilitator maintaining a place of business in this Commonwealth must collect and remit the sales tax on all sales, leases and deliveries of tangible personal property, and all sales of services, by marketplace sellers whose sales are facilitated through the marketplace facilitator's forum. ((b.1) added June 28, 2019, P.L.50, No.13)

(c) Exemption Certificates. If the tax does not apply to the sale or lease of tangible personal property or services, the purchaser or lessee shall furnish to the vendor a certificate indicating that the sale is not legally subject to the tax. The certificate shall be in substantially such form as the department may, by regulation, prescribe. Where the tangible personal property or service is of a type which is never subject to the tax imposed or where the sale or lease is in interstate commerce, such certificate need not be furnished. Where a series of transactions are not subject to tax, a purchaser or user may furnish the vendor with a single exemption certificate in substantially such form and valid for such period of time as the department may, by regulation, prescribe. The department shall provide all school districts and intermediate units with a permanent tax exemption number. An exemption certificate, which is complete and regular and on its face discloses a valid basis of exemption if taken in good faith, shall relieve the vendor from the liability imposed by this section. An exemption certificate accepted by a vendor from a natural person domiciled within this Commonwealth or any association, fiduciary,

partnership, corporation or other entity, either authorized to do business within this Commonwealth or having an established place of business within this Commonwealth, in the ordinary course of the vendor's business, which on its face discloses a valid basis of exemption consistent with the activity of the purchaser and character of the property or service being purchased or which is provided to the vendor by a charitable, religious, educational, volunteer firefighters' relief association or volunteer firemen's organization and contains the organization's charitable exemption number and which, in the case of any purchase costing two hundred dollars ($200) or more, is accompanied by a sworn declaration on a form to be provided by the department of an intended usage of the property or service which would render it nontaxable, shall be presumed to be taken in good faith and the burden of proving otherwise shall be on the Department of Revenue. ((c) amended July 2, 2012, P.L.751, No.85)

(c.1) Authorization to Obtain Information. In lieu of the exemption certificate required under subsection (c), the department may authorize a vendor to obtain similarly specific information from the vendor's purchasers. This information includes, but is not limited to, the name and address of the purchaser and a valid basis for exemption. The purchases made pursuant to this subsection must be made with a verifiable source of payment connected to the specific purchaser. The information regarding each purchase shall be available at the time the return is filed for the period covering the purchase. The information shall be retained in accordance with section 271. No such authority shall be granted or exercised, except upon application to and acceptance by the department, in the department's discretion. If authority is granted, it shall be subject to conditions specified by the department. ((c.1) added June 28, 2019, P.L.50, No.13)

(d) Direct Payment Permits. The department may authorize a purchaser or lessee who acquires tangible personal property or services under circumstances which make it impossible at the time of acquisition to determine the manner in which the tangible personal property or service will be used, to pay the tax directly to the department, and waive the collection of the tax by the vendor. No such authority shall be granted or exercised, except upon application to the department, and the issuance by the department, in its discretion, of a direct payment permit. If a direct payment permit is granted, its use shall be subject to conditions specified by the department, and the payment of tax on all acquisitions pursuant to the permit shall be made directly to the department by the permit holder.

Compiler's Note: See section 33 of Act 13 of 2019 for special provisions relating to applicability.

Compiler's Note: Section 19(1)(iv) of Act 23 of 2000, which amended subsection (b)(1), provided that the amendment shall apply to transactions for which purchase agreements are executed after June 30, 2000.

Section 238. Collection of Tax on Motor Vehicles, Trailers and Semi-Trailers.--Notwithstanding the provisions of clause (1) of subsection (b) of section 237 of this article, tax due on the sale at retail or use of a motor vehicle, trailer or semi-trailer, except mobilehomes as defined in "The Vehicle Code," required by law to be registered with the department under the provisions of "The Vehicle Code" shall be paid by the purchaser or user directly to the department upon application to the department for an issuance of a certificate of title upon such motor vehicle, trailer or semi-trailer. The department shall not issue a certificate of title until the tax has been paid, or evidence satisfactory to the department has been given to establish that tax is not due. The department may cancel or suspend any record of certificate of title or registration of a motor vehicle, trailer or semi-trailer when the check received in payment of the tax on such vehicle is not paid upon demand. Such tax shall be considered as a first encumbrance against such vehicle and the vehicle may not be transferred without first payment in full of such tax and any interest additions or penalties which shall accrue thereon in accordance with this article.

(238 amended Dec. 28, 1972, P.L.1633, No.340)

Section 239. Precollection of Tax.--The department may, by regulation, authorize or require particular categories of vendors selling tangible personal property for resale to precollect from the purchaser the tax which such purchaser will collect upon making a sale at retail of such tangible personal property: Provided, however, That the department, pursuant to this section, may not require a vendor to precollect tax from a purchaser who purchases for resale more than one thousand dollars ($1,000) worth of tangible personal property from such vendor per year. In any case in which a vendor has been authorized to prepay the tax to the person from whom he purchased the tangible personal property for resale such vendor so authorized to prepay the tax may, under the regulations of the department, be relieved from his duty to secure a license if such duty shall arise only by reason of his sale of the tangible personal property with respect to which he is, under authorization of the department, to prepay the tax. The vendor, on making a sale at retail of tangible personal property with respect to which he has prepaid the tax, must separately state at the time of resale the proper amount of tax on the transaction, and reimburse himself on account of the taxes which he has previously prepaid. Should such vendor collect a greater amount of tax in any reporting period than he had previously prepaid upon purchase of the goods with respect to which he prepaid the tax, he must file a return and remit the balance to the Commonwealth at the time at which a return would otherwise be due with respect to such sales.

Section 240. Bulk and Auction Sales.--A person that sells or causes to be sold at auction, or that sells or transfers in bulk, fifty-one per centum or more of any stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate, involved in a business for which the person is licensed or required to be licensed under the provisions of this article, or is liable for filing use tax returns in accordance with the provisions of this article, shall be subject to the provisions of section 1403 of "The Fiscal Code."

(240 amended June 29, 2002, P.L.559, No.89)

Section 241. Collection upon Failure to Request Reassessment, Review or Appeal.--The department may collect any tax:

(1) If an assessment of tax is not paid within ten days or thirty days as the case may be after notice thereof to the taxpayer, and no petition for reassessment has been filed;

(2) Within sixty days from the date of reassessment, if no petition for review has been filed;

(3) Within thirty days from the date of the decision of the Board of Finance and Revenue upon a petition for review, or of the expiration of the board's time for acting upon such petition, if no appeal has been made; and

((3) amended Dec. 3, 1975, P.L.476, No.140)

(4) In all cases of judicial sales, receiverships, assignments or bankruptcies.

In any such case in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts: Provided, That the defense of failure of the department to mail notice of assessment or reassessment to the taxpayer and the defense of payment of assessment or reassessment may be raised in proceedings for collection by a motion to stay the proceedings.

Section 242. Lien for Taxes.--(a) Lien Imposed. If any person liable to pay any tax neglects or refuses to pay the same after demand, the amount (including any interest, addition or penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of the Commonwealth upon the property, both real and personal, of such person but only after same has been entered and docketed of record by the prothonotary of the county where such property is situated. The department may, at any time, transmit, to the prothonotaries of the respective counties, certified copies of all liens for taxes imposed by this act and penalties and

interest. It shall be the duty of each prothonotary receiving the lien to enter and docket the same of record in his office, which lien shall be indexed as judgments are now indexed. No prothonotary shall require, as a condition precedent to the entry of such liens, the payment of the costs incident thereto.

(b) Priority of Lien and Effect on Judicial Sale; No Discharge by Sale on Junior Lien. The lien imposed hereunder shall have priority from the date of its recording as aforesaid, and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto before any other obligation, judgment, claim, lien or estate to which said property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien. In the case of a judicial sale of property, subject to a lien imposed hereunder, upon a lien or claim over which the lien imposed hereunder has priority as aforesaid, such sale shall discharge the lien imposed hereunder to the extent only that the proceeds are applied to its payment, and such lien shall continue in full force and effect as to the balance remaining unpaid. There shall be no inquisition or condemnation upon any judicial sale of real estate made by the Commonwealth pursuant to the provisions hereof. The lien of the taxes, interest and penalties, shall continue for five years from the date of entry, and may be revived and continued in the manner now or hereafter provided for renewal of judgments, or as may be provided in "The Fiscal Code," and a writ of execution may directly issue upon such lien without the issuance and prosecution to judgment of a writ of scire facias: Provided, That not less than ten days before issuance of any execution on the lien, notice of the filing and the effect of the lien shall be sent by registered mail to the taxpayer at his last known post office address: And provided further, That the said lien shall have no effect upon any stock of goods, wares or merchandise regularly sold or leased in the ordinary course of business by the person against whom said lien has been entered, unless and until a writ of execution has been issued and a levy made upon said stock of goods, wares and merchandise.

(c) Duty of Prothonotary. Any wilful failure of any prothonotary to carry out any duty imposed upon him by this section shall be a misdemeanor, and, upon conviction, he shall be sentenced to pay a fine not exceeding one thousand dollars ($1,000) and costs of prosecution, or to undergo imprisonment not exceeding one year, or both.

(d) Priority of Tax. Except as hereinbefore provided in the distribution, voluntary or compulsory, in receivership, bankruptcy or otherwise, of the property or estate of any person, all taxes imposed by this article which are due and unpaid and are not collectible under the provisions of section 225 hereof, shall be paid from the first money available for distribution in priority to all other claims and liens, except in so far as the laws of the United States may give a prior claim to the Federal Government. Any person charged with the administration or distribution of any such property or estate, who shall violate the provisions of this section, shall be personally liable for any taxes imposed by this article, which are accrued and unpaid and are chargeable against the person whose property or estate is being administered or distributed.

(e) Other Remedies. Subject to the limitations contained in this article as to the assessment of taxes, nothing contained in this section shall be construed to restrict, prohibit or limit the use by the department in collecting taxes finally due and payable of any other remedy or procedure available at law or equity for the collection of debts.

Section 243. Suit for Taxes.--(a) Commencement. At any time within three years after any tax or any amount of tax shall be finally due and payable, the department may commence an action in the courts of this Commonwealth, of any state or of the United States, in the name of the Commonwealth of Pennsylvania, to collect the amount of tax due together

with additions, interest, penalties and costs in the manner provided at law or in equity for the collection of ordinary debts.

(b) Procedure. The Attorney General shall prosecute the action and, except as provided herein, the provisions of the Rules of Civil Procedure and the provisions of the laws of this Commonwealth relating to civil procedures and remedies shall, to the extent that they are applicable, be available in such proceedings.

(c) Other Remedies. The provisions of this section are in addition to any process, remedy or procedure for the collection of taxes provided by this article or by the laws of this Commonwealth, and this section is neither limited by nor intended to limit any such process, remedy or procedure.

Section 244. Tax Suit Comity.--The courts of this Commonwealth shall recognize and enforce liabilities for sales and use taxes, lawfully imposed by any other state: Provided, That such other state extends a like comity to this Commonwealth.

Section 245. Service.--Any person maintaining a place of business within this Commonwealth is deemed to have appointed the Secretary of the Commonwealth his agent for the acceptance of service of process or notice in any proceedings for the enforcement of the civil provisions of this article, and any service made upon the Secretary of the Commonwealth as such agent shall be of the same legal force and validity as if such service had been personally made upon such person. Where service cannot be made upon such person in the manner provided by other laws of this Commonwealth relating to service of process, service may be made upon the Secretary of the Commonwealth and, in such case, a copy of the process or notice shall also be personally served upon any agent or representative of such person who may be found within this Commonwealth, or where no such agent or representative may be found a copy of the process or notice shall forthwith be sent by registered mail to such person at the last known address of his principal place of business, home office or residence.

Section 246. Collection and Payment of Tax on Credit Sales.--If any sale subject to tax hereunder is wholly or partly on credit, the vendor shall require the purchaser to pay in cash at the time the sale is made, or within thirty days thereafter, the total amount of tax due upon the entire purchase price. The vendor shall remit the tax to the department, regardless of whether payment was made by the purchaser to the vendor, with the next return required to be filed under section 217 of this act.

(246 amended May 12, 1999, P.L.26, No.4)

Compiler's Note: Section 32(3) of Act 4 of 1999, which amended section 246, provided that the amendment shall apply to amounts deducted as bad debt on Federal income tax returns required to be filed after January 1, 1999.

Section 247. Prepayment of Tax.--Whenever a vendor is forbidden by law or governmental regulation to charge and collect the purchase price in advance of or at the time of delivery, the vendor shall prepay the tax as required by section 222 of this article, but in such case if the purchaser shall fail to pay to the vendor the total amount of the purchase price and the tax, and such amount is written off as uncollectible by the vendor, the vendor shall not be liable for such tax and shall be entitled to a credit or refund of such tax paid. If the purchase price is thereafter collected, in whole or in part, the amount collected shall be first applied to the payment of the entire tax portion of the bill, and shall be remitted to the department by the vendor with the first return filed after such collection. For any tax prepaid prior to the effective date of this article, credit may be claimed on any returns filed for the periods prior to the effective date of this article. Tax prepaid after the effective date of this article shall be subject to refund upon petition to the department under the provisions of section 252 of this article, filed within one hundred five days of the close of the fiscal year in which such accounts are written off.

Section 247.1. Refund of Sales Tax Attributed to Bad Debt.--(a) A vendor may file a petition for refund of sales tax paid to the department

that is attributed to a bad debt if all of the following apply:

(1) The purchaser fails to pay the total purchase price.

(2) The purchase price is written off, either in whole or in part, as a bad debt on the books and records of the vendor or an affiliate of the vendor.

(3) The debt has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166).

(a.1) A petition for refund, which is authorized by this section, must be filed with the department within the time limitations prescribed by section 3003.1(a).

(a.2) In the case of private-label credit card accounts not qualifying under subsection (a), a vendor or lender that makes an election pursuant to subsection (a.3) shall be entitled to file a petition for refund of sales tax that the vendor has previously reported and paid to the department if all of the following conditions are met:

(1) No refund was previously allowed with respect to the portion of the account written off as a bad debt.

(2) The account has been found worthless and written off, either in whole or in part, as bad debt on the books and records of the lender or an affiliate of the lender.

(3) The account has been deducted for Federal income tax purposes under section 166 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166) by the lender or an affiliate of the lender.

(a.3) In order to be eligible for a refund under subsection (a.2), the lender and the vendor must execute and file with the department a joint election, signed by both parties, designating which party is entitled to claim the refund. This election may not be revoked unless a written notice is signed by the party that signed the election being revoked and is filed with the department.

(b) The refund authorized by this section shall be limited to the sales tax paid to the department that is attributed to the bad debt, less any discount under section 227 of this act. Partial payments by the purchaser shall be prorated between the original purchase price and the sales tax due on the sale. Payments made on any transaction which includes both taxable and nontaxable components shall be allocated proportionally between the taxable and nontaxable components.

(c) A vendor or a lender may assign its right to petition and receive a refund of sales tax attributed to a bad debt to an affiliate.

(d) No refund shall be granted under this section for any of the following:

(i) Interest.

(ii) Finance charges.

(iii) Expenses incurred in attempting to collect any amount receivable.

(e) Documentation requirements are as follows:

(1) Any person claiming a refund under this section shall, on request, make available adequate books, records or other documentation supporting the claimed refund, including:

(i) Date of original sale and name and Pennsylvania sales tax license number of the retailer.

(ii) Name and address of purchaser.

(iii) Amount that the purchaser paid or agreed to pay.

(iv) Taxable and nontaxable charges.

(v) Amount on which the retailer reported and paid sales tax.

(vi) All payments or other credits applied to the account of the purchaser.

(vii) Evidence that the uncollected amount has been designated as a bad debt in the books and records of the vendor or lender, as appropriate, and that the amount has been claimed as a bad debt deduction for Federal income tax purposes.

(viii) The county in which any local sales tax was incurred.

(ix) The unpaid portion of the sales price.

(x) A certification, under penalty of perjury, that no person has collected money on the bad debt for which the refund is claimed.

(xi) Any other information required by the department.

(2) A person claiming a refund under this section may provide alternative forms of documentation acceptable to the department if appropriate in light of the volume and character of uncollectible accounts. This includes the following:

(i) If a vendor remits sales or use tax to the Commonwealth and to another state, the entity claiming a refund under this section may use an apportionment method to substantiate the amount of Pennsylvania tax included in the bad debts to which the refund applies.

(ii) The apportionment method must use the vendor's Pennsylvania and non-Pennsylvania sales, the vendor's taxable and nontaxable sales and the amount of tax the vendor remitted to Pennsylvania.

(f) The following apply:

(1) If the purchase price that is attributed to a prior bad debt refund is thereafter collected, in whole or in part by the vendor or lender, or an affiliate of the vendor or lender, the entity claiming the refund shall remit the proportional tax to the department with the first return filed after the collection. If the entity is not required to file periodic returns, the entity shall remit the proportional tax to the department with another return pursuant to section 217(c).

(2) Any consideration received for the assignment, sale or other transfer of a bad debt with respect to which a refund has been granted shall be deemed to be a collection of a prior bad debt. This paragraph shall not apply to a transfer to an entity that is part of the same affiliated group, as defined by section 1504 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504).

(3) A person that collects, in whole or in part, the purchase price attributed to a prior bad debt refund is required to maintain adequate books, records or other documentation to allow the department to determine whether the purchase price attributed to a prior bad debt refund has been collected. Information under this paragraph includes the pertinent facts required by subsection (e).

(4) If it is determined by the department that a prior bad debt has been collected, in whole or in part, and the proportional tax has not been properly reported and paid to the department, the person that claimed the refund on the transaction shall report and pay the proportional tax to the department plus applicable interest and penalty under this article.

(g) Notwithstanding the provisions of section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," no interest shall be paid by the Commonwealth on refunds of sales tax attributed to bad debt under this section.

(h) No refund or credit of sales tax shall be made for any uncollected purchase price or bad debt except as authorized by this section. No deduction or credit for bad debt may be taken on any return filed with the department. This section shall provide the exclusive procedure for claiming a refund or credit of sales tax attributed to uncollected purchase price or bad debt.

(i) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

(1) "Affiliate." A person that is:

(i) an affiliated entity, under section 1504 of the Internal Revenue Code of 1986, of a vendor; or

(ii) a person described in paragraph (2)(i) or (ii) that would be an affiliated entity, under section 1504 of the Internal Revenue Code of 1986, of a vendor but for the fact the person is not a corporation, an assignee or another transferee of a person described in paragraph (2)(i) or (ii).

(2) "Lender." Any of the following:

(i) A person that owns or has owned a private-label credit card account purchased directly from a vendor that reported the tax under this article.

(ii) A person that owns or has owned a private-label credit card account pursuant to a contract directly with the vendor that reported the

tax under this article.

(iii) A person that is:

(A) an affiliate of a person described in subparagraph (i) or (ii); or

(B) an assignee or other transferee of a person described in subparagraph (i) or (ii).

(3) "Private-label credit card." Any charge card, credit card or other instrument serving similar purpose which carries, refers to or is branded with the name or logo of a vendor and which can be used for purchases from the vendor. The term does not include a card or instrument which may also be used to make purchases from persons other than the vendor whose name or logo appears on the card or instrument or that vendor's affiliates. Nothing in this paragraph authorizes a refund with respect to bad debts attributable to sales by unrelated persons referred to in this paragraph.

(247.1 amended July 25, 2007, P.L.373, No.55)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 247.1, provided that the amendment of section 247.1 shall apply to amounts deducted as bad debts on Federal income tax returns required to be filed after January 1, 2008.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 26(5) of Act 23 of 2001, which amended section 247.1, provided that the amendment shall apply to amounts deducted as bad debts on Federal income tax returns required to be filed after January 1, 2001.

Compiler's Note: Section 19(2) of Act 23 of 2000, which amended subsection (b), provided that the amendment shall apply to amounts deducted as bad debt on Federal income tax returns required to be filed after January 1, 2000.

Compiler's Note: Section 32(3) of Act 4 of 1999, which added section 247.1, provided that section 247.1 shall apply to amounts deducted as bad debt on Federal income tax returns required to be filed after January 1, 1999.

Section 248. Registration of Transient Vendors.--(a) Prior to conducting business or otherwise commencing operations within the Commonwealth, a transient vendor shall register with the department. The application for registration shall be in such form and contain such information as the department, by regulation, shall prescribe and shall set forth truthfully and accurately the information desired by the department. This registration shall be renewed and updated annually.

(b) Upon registration and the posting of the bond required by section 248.1, the department shall issue to the transient vendor a certificate, valid for one year. Upon renewal of registration, the department shall issue a new certificate, valid for one year, providing the department is satisfied that the transient vendor has complied with the provisions of this article.

(c) The transient vendor shall possess the certificate at all times when conducting business within the Commonwealth and shall exhibit the certificate upon demand by authorized employes of the department or any law enforcement officer.

(d) The certificate issued by the department shall state that the transient vendor named therein has registered with the department and shall provide notice to the transient vendor that:

(1) The transient vendor must notify the department, in writing, before it enters the Commonwealth to conduct business, of the location or locations where it intends to conduct business and the date or dates on which it intends to conduct business;

(2) Failure to notify or giving false information to the department may result in suspension or revocation of the transient vendor's certificate; and

(3) Conducting business within the Commonwealth after a certificate has been suspended or revoked may result in criminal conviction and the imposition of fines or other penalties.

(248 added Dec. 22, 1983, P.L.300, No.82)

Section 248.1. Bond.--(a) Upon registration with the department, a transient vendor shall also post a bond with the department in the amount of five hundred dollars ($500) as surety for compliance with the provisions of this article. After a period of demonstrated compliance with these provisions, or, if the transient vendor provides the license number of a promoter who has notified the department of a show, in accordance with the provisions of section 248.6(a), the department may reduce the amount of bond required of a transient vendor or may eliminate the bond entirely.

(b) A transient vendor may file a request for voluntary suspension of certificate with the department. If the department is satisfied that the provisions of this article have been complied with and has possession of the transient vendor's certificate, it shall return the bond posted to the transient vendor.

(248.1 amended May 2, 1985, P.L.28, No.13)

Section 248.2. Notification to Department; Inspection of Records.--(a) Prior to entering the Commonwealth to conduct business, a transient vendor shall notify the department, in writing, of the location or locations where it intends to conduct business and the date or dates on which it intends to conduct business.

(b) While conducting business within the Commonwealth, the transient vendor shall permit authorized employes of the department to inspect its sales records, including, but not limited to, sales receipts and inventory or price lists and to permit inspection of the tangible personal property offered for sale at retail.

(c) The department may suspend or revoke a certificate issued to a transient vendor if the transient vendor:

(1) Fails to notify the department as required by subsection (a);

(2) Provides the department with false information regarding the conduct of business within the Commonwealth;

(3) Fails to collect sales tax on all tangible personal property or services sold subject to the sales tax; or

(4) Fails to file with the department a tax return as required by section 217 of this act.

(d) The department shall promulgate the rules and regulations necessary to implement this section.

(248.2 added Dec. 22, 1983, P.L.300, No.82)

Section 248.3. Seizure of Property.--(a) If a transient vendor conducting business within the Commonwealth fails to exhibit a valid certificate upon demand by authorized employes of the department, those authorized employes shall have the authority to seize, without warrant, the tangible personal property and the automobile, truck or other means of transportation used to transport or carry that property. All property seized shall be deemed contraband and shall be subject to immediate forfeiture proceedings instituted by the department pursuant to procedures adopted by regulation, except as otherwise provided by this section.

(b) Property seized pursuant to subsection (a) shall be released upon:

(1) Presentation of a valid certificate to authorized employes of the department; or

(2) Registration by the transient vendor with the department and the posting of a bond in the amount of five hundred dollars ($500), either immediately or within fifteen days after the property is seized.

(248.3 added Dec. 22, 1983, P.L.300, No.82)

Section 248.4. Fines.--Any transient vendor conducting business within the Commonwealth while its certificate is suspended or revoked, as provided by sections 248.1(b) and 248.2(c), shall be guilty of a misdemeanor of the

third degree and, upon conviction thereof, shall be sentenced to pay a fine not exceeding two thousand five hundred dollars ($2,500) for each offense.

(248.4 added Dec. 22, 1983, P.L.300, No.82)

Section 248.5. Transient Vendors Subject to Article.--Except as otherwise provided, a transient vendor shall be subject to the provisions of this article in the same manner as a vendor who maintains a place of business within the Commonwealth.

(248.5 added Dec. 22, 1983, P.L.300, No.82)

Section 248.6. Promoters.--(a) A promoter of a show or shows within this Commonwealth may annually file with the department an application for a promoter's license stating the location and dates of such show or shows. The application shall be filed at least thirty days prior to the opening of the first show and shall be in such form as the department may prescribe.

(b) Except as herein provided, the department shall, within fifteen days after receipt of an application for a license, issue to the promoter without charge a license to operate such shows. If application for a license under this section has been timely filed and if the license has not been received by the promoter prior to the opening of the show, the authorization contained in this section with respect to the obtaining of a promoter's license shall be deemed to have been complied with, unless or until the promoter receives notice from the department denying the application for a promoter's license.

(c) Any promoter who is a vendor under the provisions of section 201 of this article shall comply with all the provisions of this article applicable to vendors and with the provisions of this section applicable to promoters.

(d) No licensed promoter shall permit any person to display for sale or to sell tangible personal property or services subject to tax under section 202 of this article at a show unless such person is licensed under section 208 and provides to the promoter the information required under section 271.1.

(e) Any licensed promoter who permits any person to display for sale or to sell tangible personal property or service without first having been licensed under section 208 of this article, fails to maintain records of a show under section 271.1, knowingly maintains false records or fails to comply with any provision contained in this section or any regulation promulgated by the department pertaining to shows shall be subject to denial of a license or the revocation of any existing license issued pursuant to this section. In addition, the department may deny such promoter a license certificate to operate a show for a period of not more than six months from the date of such denial. Such penalty shall be in addition to any other penalty imposed by this article. Within twenty days of notice of denial or revocation of a license by the department, the promoter may petition the department for a hearing, pursuant to Title 2 of the Pennsylvania Consolidated Statutes (relating to administrative law and procedure).

(248.6 added May 2, 1985, P.L.28, No.13)

CHAPTER V
REFUNDS AND CREDITS

Section 250. Refund or Credit for Overpayment.--(250 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 251. Restriction on Refunds.--(251 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 252. Refunds.--The department shall, pursuant to the provisions of Article XXVII, refund all taxes, interest and penalties paid to the Commonwealth under the provisions of this article and to which the Commonwealth is not rightfully entitled. Such refunds shall be made to the person, his heirs, successors, assigns or other personal representatives, who actually paid the tax: Provided, That no refund shall be made under this section with respect to any payment made by reason of an assessment with respect to which a taxpayer has filed a petition for reassessment

pursuant to section 2702 of Article XXVII to the extent that said petition has been determined adversely to the taxpayer by a decision which is no longer subject to further review or appeal: Provided further, That nothing contained herein shall be deemed to prohibit a taxpayer who has filed a timely petition for reassessment from amending it to a petition for refund where the petitioner has paid the tax assessed.

(252 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 253. Refund Petition.--(a) Except as provided for in section 256 and in subsection (b) of this section, the refund or credit of tax, interest or penalty provided for by section 252 shall be made only where the person who has actually paid the tax files a petition for refund with the department under Article XXVII within the time limits of section 3003.1.

(b) A refund or credit of tax, interest or penalty, paid as a result of an assessment made by the department under section 231, shall be made only where the person who has actually paid the tax files with the department a petition for a refund with the department under Article XXVII within the time limits of section 3003.1. The filing of a petition for refund, under the provisions of this subsection, shall not affect the abatement of interest, additions or penalties to which the person may be entitled by reason of his payment of the assessment.

(c) ((c) deleted by amendment)

(d) ((d) deleted by amendment)

(253 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 254. Review by Board of Finance and Revenue.--(254 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 255. Appeal to the Commonwealth Court.--(255 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 256. Extended Time for Filing Special Petition for Refund.--Any party to a transaction who has paid tax by reason of a transaction with respect to which the department is assessing tax against another person may, within six months after the filing by the department of the assessment against such other person, file a special petition for refund, notwithstanding his failure to timely file a petition pursuant to section 3003.1 of Article XXX. The provisions of Article XXVII shall be applicable to such special petition for refund, except that the department need not act on such petition until there is a final determination as to the propriety of the assessment filed against the other party to the transaction. Where a petition is filed under this provision in order to take advantage of the extended period of limitations, overpayments by the petitioner shall be refunded but only to the extent of the actual tax (without consideration of interest and penalties) paid by the other party to the transaction. The purpose of this section is to avoid duplicate payment of tax where a determination is made by the department that one party to a transaction is subject to tax, and another party to the transaction has previously paid tax with respect to such transaction and,

as such, this section shall be construed as extending right beyond that provided for by section 253, and not to limit such other section.
(256 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

CHAPTER VI
LIMITATIONS

Section 258. Limitation on Assessment and Collection.--The amount of the tax imposed by this act shall be assessed within three years after the date when the return provided for by subsection (a) or (c) of section 217 is filed or the end of the year in which the tax liability arises whichever shall last occur. Any such assessment may be made at any time during such period notwithstanding that the department may have made one or more previous assessments against the taxpayer for the year in question, or for any part of such year. In any such case, no credit shall be given for any penalty previously assessed or paid.
(258 amended Sept. 9, 1971, P.L.437, No.105)
Section 259. Failure to File Return.--Where no return is filed, the amount of the tax due may be assessed and collected at any time as to taxable transactions not reported.
Section 260. False or Fraudulent Return.--Where the taxpayer wilfully files a false or fraudulent return with intent to evade the tax imposed by this article, the amount of tax due may be assessed and collected at any time.
Section 261. Extension of Limitation Period.--Notwithstanding any of the foregoing provisions of this part, where, before the expiration of the period prescribed therein for the assessment of a tax, a taxpayer has consented, in writing, that such period be extended, the amount of tax due may be assessed at any time within such extended period. The period so extended may be extended further by subsequent consents, in writing, made before the expiration of the extended period.

CHAPTER VII
INTEREST, ADDITIONS, PENALTIES AND CRIMES

Section 265. Interest.--If any amount of tax imposed by this article is not paid to the department on or before the last date prescribed for payment, interest on such amount at the rate of three-fourths of one per cent per month for each month, or fraction thereof, from such date, shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined under subsection (a) or (c) of section 222 without regard to any extension of time for payment. In the case of any amount assessed as a deficiency or as an estimated assessment, the date prescribed for payment shall be thirty days after notice of such assessment.
(265 amended Apr. 14, 1976, P.L.111, No.48)
Section 266. Additions to Tax.--(a) Failure to File Return. In the case of failure to file any return required by section 215 on the date prescribed therefor (determined with regard to any extension of time for filing), and in the case in which a return filed understates the true amount due by more than fifty per cent, there shall be added to the amount of tax actually due five per cent of the amount of such tax if the failure to file a proper return is for not more than one month, with an additional five per cent for each additional month, or fraction thereof, during which

such failure continues, not exceeding twenty-five per cent in the aggregate. In every such case at least two dollars ($2) shall be added.

(b) Addition for Understatement. There shall be added to every assessment under subsection (b) of section 231 an addition equal to five per cent of the amount of the understatement and no addition to the tax shall be paid under subsection (a) of section 231.

(c) Interest. If the department assesses a tax according to subsection (a), (b) or (c) of section 231, there shall be added to the amount of the deficiency interest at the rate of three-fourths of one per cent per month for each month, or fraction thereof, from the date prescribed by subsection (a) or (c) of section 222 of this article for the payment of the tax to the date of notice of the assessment. ((c) amended Apr. 14, 1976, P.L.112, No.49)

(d) ((d) deleted by amendment May 7, 1997, P.L.85, No.7)

Section 267. Penalties.--(a) Penalty Assessed as Tax. The penalties, additions, interest and liabilities provided by this article shall be paid upon notice and demand by the department, and shall be assessed and collected in the same manner as taxes. Except as otherwise provided, any reference in this article to "tax" imposed by this article shall be deemed also to refer to the penalties, additions, interest and liabilities provided by this part.

(b) Attempt to Evade or Defeat Tax. Any person who wilfully attempts, in any manner, to evade or defeat the tax imposed by this article, or the payment thereof, or to assist any other person to evade or defeat the tax imposed by this article, or the payment thereof, or to receive a refund improperly, shall, in addition to other penalties provided by law, be liable for a penalty equal to one-half of the total amount of the tax evaded.

In any direct proceeding arising out of a petition for reassessment or refund as provided in this article, in which an issue of fact is raised with respect to whether a return is fraudulent or with respect to the propriety of the imposition by the department of the penalty prescribed in this subsection (b), the burden of proof with respect to such issue shall be upon the department.

Section 268. Crimes.--(a) Fraudulent Return. Any person who with intent to defraud the Commonwealth shall wilfully make, or cause to be made, any return required by this article, which is false, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding two thousand dollars ($2000), or undergo imprisonment not exceeding three years, or both.

(b) Other Crimes. (1) Except as otherwise provided by subsection (a) of this section, any person who advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that the tax or any part thereof imposed by this article will not be added to the purchase price of the tangible personal property or services described in subclauses (2), (3), (4) and (11) through (18) of clause (k) of section 201 of this article or that the tax or any part thereof will be refunded, other than when such person refunds the purchase price because of such property being returned to the vendor, and any person selling or leasing tangible personal property or said services the sale or use of which by the purchaser is subject to tax hereunder, who, except as otherwise provided, shall wilfully fail to collect the tax from the purchaser and timely remit the same to the department, and any person who shall wilfully fail or neglect to timely file any return or report required by this article or any taxpayer who shall refuse to timely pay any tax, penalty or interest imposed or provided for by this article, or who shall wilfully fail to preserve his books, papers and records as directed by the department, or any person who shall refuse to permit the department or any of its authorized agents to examine his books, records or papers, or who shall knowingly make any incomplete, false or fraudulent return or report, or who shall do, or attempt to do, anything whatever to prevent the full disclosure of the amount or character of taxable sales purchases or use made by himself or any other person, or shall provide any person with a false statement as to the payment of tax

with respect to particular tangible personal property or said services, or shall make, utter or issue a false or fraudulent exemption certificate, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars ($1000) and costs of prosecution, or undergo imprisonment not exceeding one year, or both: Provided, however, That any person may advertise or hold out or state to the public or to any purchaser or user, directly or indirectly, that the tax or any part thereof imposed by this article will be absorbed and paid by such person subject to the following conditions:

(i) Such person shall expressly state on any receipt, invoice, sales slip or other similar document evidencing such sale given to the purchaser that such person will pay the tax imposed by this article on behalf of such purchaser and shall not indicate or imply that the transaction is exempt or excluded from any tax imposed by this article.

(ii) Any receipt, invoice, sales slip or other similar document evidencing a sale given to the purchaser shall separately state the amount of tax.

(iii) Such person, when recording the sale in the person's books and records, shall separately state the purchase price and the tax.

(iv) The amount of tax shall be calculated by multiplying the total purchase price by the rate of tax imposed by section 202.

(2) ((2) deleted by amendment)

(3) If any person advertises or holds out or states to the public or to any purchaser or user, directly or indirectly, that such person will absorb and pay the tax, subject to the conditions of this subsection, such person shall be solely responsible and liable for any tax imposed by this article, notwithstanding any provisions of this article to the contrary, and shall not be entitled to a refund of such tax.

((b) amended June 28, 2019, P.L.50, No.13)

(c) (1) Notwithstanding any other provision of this part, any person who purchases, installs or uses in this Commonwealth an automated sales suppression device or zapper or phantomware with the intent to defeat or evade the determination of an amount due under this part commits a misdemeanor.

(i) Any person who, for commercial gain, sells, purchases, installs, transfers or possesses in this Commonwealth an automated sales suppression device or zapper or phantomware with the knowledge that the sole purpose of the device is to defeat or evade the determination of an amount due under this part commits an offense which shall be punishable by a fine specified under subparagraph (ii) or by imprisonment for not more than one year, or both. A person who uses an automated sales suppression device or zapper or phantomware shall be liable for all taxes, interest and penalties due as a result of the use of that device.

(ii) If a person is guilty of an offense under this paragraph and the person sold, installed, transferred or possessed not more than three automated sales suppression devices or zappers or phantomware, the person commits an offense punishable by a fine of not more than five thousand dollars ($5,000).

(iii) If a person commits an offense under this paragraph and the person sold, installed, transferred or possessed more than three automated sales suppression devices or zappers or phantomware, the person commits an offense punishable by a fine of not more than ten thousand dollars ($10,000).

(2) This subsection shall not apply to a corporation that possesses an automated sales suppression device or zapper or phantomware for the sole purpose of developing hardware or software to combat the evasion of taxes by use of automated sales suppression devices or zappers or phantomware.

(3) For purposes of this subsection:

"Automated sales suppression device" or "zapper" means a software program carried on a memory stick or removable compact disc, accessed through an Internet link or through any other means, that falsifies the electronic records of electronic cash registers and other point-of-sale

systems, including, but not limited to, transaction data and transaction reports.

"Electronic cash register" means a device that keeps a register or supporting document through the means of an electronic device or computer system designed to record transaction data for the purpose of computing, compiling or processing retail sales transaction data in whatever manner.

"Phantomware" means a hidden programming option, which is either preinstalled or installed at a later time, embedded in the operating system of an electronic cash register or hardwired into the electronic cash register that can be used to create a virtual second till or may eliminate or manipulate a transaction record that may or may not be preserved in digital formats to represent the true or manipulated record of transactions in the electronic cash register.

"Transaction data" includes information regarding items purchased by a customer, the price for each item, a taxability determination for each item, a segregated tax amount for each of the taxed items, the amount of cash or credit tendered, the net amount returned to the customer in change, the date and time of the purchase, the name, address and identification number of the vendor and the receipt or invoice number of the transaction.

((c) added July 13, 2016, P.L.526, No.84)

(d) This section shall not preclude prosecution under any other law. ((d) added July 13, 2016, P.L.526, No.84)

(e) The penalties imposed by this section shall be in addition to any other penalties imposed by any provision of this article. ((e) added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 52(1) of Act 84 of 2016, which amended subsection (b) and added subsections (c), (d) and (e), provided that, notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the amendment or addition of subsections (b) and (c) shall not preempt any tax imposed by a unit of local government as of the effective date of section 52 unless specifically provided for in Act 84.

Section 269. Abatement of Additions or Penalties.--Upon the filing of a petition for reassessment or a petition for refund as provided under this article by a taxpayer, additions or penalties imposed upon such taxpayer by this act may be waived or abated, in whole or in part, where the petitioner has established that he has acted in good faith, without negligence and with no intent to defraud.

CHAPTER VIII
ENFORCEMENT AND EXAMINATIONS

Section 270. Rules and Regulations.--(a) General Provision. The department is hereby charged with the enforcement of the provisions of this article, and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce, rules and regulations not inconsistent with the provisions of this article, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article, and the collection of taxes, penalties and interest imposed by this article. The department may prescribe the extent, if any, to which any of such rules and regulations shall be applied without retroactive effect.

(b) Sales between Affiliated Interests. In determining the purchase price of taxable sales where, because of affiliation of interests between the vendor and the purchaser or irrespective of any such affiliation, if for any other reason, the purchase price of such sale is in the opinion of the department not indicative of the true value of the article or the fair price thereof, the department shall, pursuant to uniform and equitable rules, determine the amount of constructive purchase price upon the basis of which the tax shall be computed and levied. Such rules shall provide for a constructive amount of a purchase price for each such sale, which price

shall equal a price for such article which would naturally and fairly be charged in an arm's-length transaction in which the element of common interests between vendor and purchaser, or, if no common interest exists, any other element causing a distortion of the price or value is absent. For the purpose of this article where a taxable sale occurs between a parent corporation and a subsidiary affiliate or controlled corporation of such parent, there shall be a rebuttable presumption that because of such common interest such transaction was not at arm's-length.

Section 271. Keeping of Records.--(a) General Provision. Every person liable for any tax imposed by this article, or for the collection thereof, shall keep the records, render such statements, make the returns and comply with such rules and regulations as the department may, from time to time, prescribe regarding matters pertinent to his business. Whenever in the judgment of the department it is necessary, it may require any person, by notice served upon such person, or by regulations, to make such returns, render such statements or keep such records as the department deems sufficient to show whether or not such person is liable to pay or collect tax under this article.

(b) Persons Collecting Tax from Others. Any person liable to collect tax from another person under the provisions of this article shall file reports, keep records, make payments and be subject to interest and penalties as provided for under this article, in the same manner as if he were directly subject to the tax.

(c) Records of Nonresidents. A nonresident who does business in this Commonwealth as a retail dealer shall keep adequate records of such business or businesses and of the tax due with respect thereto, which records shall at all times be retained within this Commonwealth unless retention outside the Commonwealth is authorized by the department. No taxes collected from purchasers shall be sent outside the Commonwealth without the written consent of, and in accordance with conditions prescribed by the department. The department may require a taxpayer who desires to retain records or tax collections outside the Commonwealth to assume reasonable out-of-state audit expenses.

(d) Keeping of Separate Records. Any person doing business as a retail dealer who at the same time is engaged in another business or businesses which do not involve the making of sales taxable under this article, shall keep separate books and records of his businesses so as to show the sales taxable under this article separately from his sales not taxable hereunder. If any such person fails to keep such separate books and records, he shall be liable for tax at the rate designated in section 202 of this article upon the entire purchase price of sales from both or all of his businesses.

(e) Other Methods. In those instances where a vendor gives no sales memoranda or uses registers showing only total sales, the vendor must adopt some method of segregating tax from sales receipts and keep records showing such segregation, all in accordance with proper accounting and business practices.

A vendor may apply to the department for permission to use a collection and recording procedure which will show such information as the law requires with reasonable accuracy and simplicity. Such application must contain a detailed description of the procedure to be adopted. Permission to use the proposed procedure is not to be construed as relieving the vendor from remitting the full amount of tax collected. The department may revoke such permission upon thirty days' notice to the vendor. Refusal of the department to grant permission in advance to use such procedure shall not be construed to invalidate a procedure which upon examination shows such information as the law requires.

Section 271.1. Reports and Records of Promoters.--Every licensed promoter shall keep a record of the date and place of each show and the name, address, sales, use and hotel occupancy license number of every person whom he permits to display for sale or to sell tangible personal property or services subject to tax under section 202 at such show. Such records shall be open for inspection and examination at any reasonable time by the department or a duly authorized representative, and such records

shall, unless the department consents in writing to an earlier destruction, be preserved for three years after the date the report was filed or the date it was due, whichever occurs later, except that the department may by regulation require that they be kept for a longer period of time.

(271.1 added May 2, 1985, P.L.28, No.13)

Section 272. Examinations.--The department or any of its authorized agents is hereby authorized to examine the books, papers and records of any taxpayer in order to verify the accuracy and completeness of any return made or, if no return was made, to ascertain and assess the tax imposed by this article. The department may require the preservation of all such books, papers and records for any period deemed proper by it but not to exceed three years from the end of the calendar year to which the records relate. Every such taxpayer is hereby required to give to the department, or its agent, the means, facilities and opportunity for such examinations and investigation. The department is further authorized to examine any person, under oath, concerning taxable sales or use by any taxpayer or concerning any other matter relating to the enforcement or administration of this article, and to this end may compel the production of books, papers and records and the attendance of all persons whether as parties or witnesses whom it believes to have knowledge of such matters. The procedure for such hearings or examinations shall be the same as that provided by The Fiscal Code relating to inquisitorial powers of fiscal officers.

Section 273. Records and Examinations of Delivery Agents.--Every agent for the purpose of delivery of goods shipped into the Commonwealth by a nonresident including, but not limited to, common carriers shall maintain adequate records of such deliveries pursuant to rules and regulations adopted by the department and shall make such records available to the department upon request after due notice.

Section 274. Unauthorized Disclosure.--Any information gained by the department as a result of any return, examination, investigation, hearing or verification, required or authorized by this article, shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law, and any person unlawfully divulging such information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not in excess of one thousand dollars ($1000) and costs of prosecution, or to undergo imprisonment for not more than one year, or both.

Section 275. Cooperation with Other Governments.--Notwithstanding the provisions of section 274, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any state, or the authorized representative of either such officer, to inspect the tax returns of any taxpayer, or may furnish to such officer or to his authorized representative an abstract of the return of any taxpayer, or supply him with information concerning any item contained in any return or disclosed by the report of any examination or investigation of the return of any taxpayer. This permission shall be granted only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of the Commonwealth charged with the administration of this article.

Section 276. Interstate Compacts.--The Governor, or his authorized representative, is hereby vested with authority to confer with the Governor and the authorized representatives of other states with respect to reciprocal use tax collection between Pennsylvania and such other states.

The Governor, or his representative, is authorized to join with such authorities of other states to conduct joint investigations, to exchange information, hold joint hearings and enter into compacts or interstate agreements with such other states to accomplish uniform reciprocal use tax collections between those states who are parties to any compact or interstate agreement and the Commonwealth of Pennsylvania.

Section 277. Bonds.--(a) Taxpayer to File Bond. Whenever the department in its discretion, deems it necessary to protect the revenues to be obtained under the provisions of this article, it may require any nonresident natural person or any foreign corporation, association,

fiduciary, partnership or other entity, not authorized to do business within this Commonwealth or not having an established place of business therein and subject to the tax imposed by section 202 of this article, to file a bond issued by a surety company authorized to do business in this Commonwealth and approved by the Insurance Commissioner as to solvency and responsibility, in such amounts as it may fix, to secure the payment of any tax or penalties due, or which may become due, from such natural person or corporation. In order to protect the revenues to be obtained under the provisions of this article, the department shall require any nonresident natural person or any foreign corporation, association, fiduciary, partnership or entity, who or which is a building contractor, or who or which is a supplier delivering building materials for work in this Commonwealth and is not authorized to do business within this Commonwealth or does not have an established place of business therein and is subject to the tax imposed by section 202 of this article, to file a bond issued by a surety company authorized to do business in this Commonwealth and approved by the Insurance Commissioner as to solvency and responsibility, in such amounts as it may fix, to secure the payments of any tax or penalties due, or which may become due, from such natural person, corporation or other entity. The department may also require such a bond of any person petitioning the department for reassessment, in the case of any assessment over five hundred dollars ($500) or where it is of the opinion that the ultimate collection is in jeopardy. The department may, for a period of three years, require such a bond of any person who has on three or more occasions within a twelve month period either filed a return or made payment to the department more than thirty days late. In the event that the department determines that a taxpayer is to file such a bond, it shall give notice to such taxpayer to that effect, specifying the amount of the bond required. The taxpayer shall file such bond within five days after the giving of such notice by the department unless, within such five days, the taxpayer shall request, in writing, a hearing before the Secretary of Revenue or his representative at which hearing the necessity, propriety and amount of the bond shall be determined by the secretary or such representative. Such determination shall be final and shall be complied with within fifteen days after notice thereof is mailed to the taxpayer.

(b) Securities in Lieu of Bond. In lieu of the bond required by this section, securities approved by the department, or cash in such amount as it may prescribe, may be deposited. Such securities or cash shall be kept in the custody of the department, who may, at any time, without notice to the depositor, apply them to any tax and/or interest or penalties due, and for that purpose the securities may be sold by the department, at public or private sale, upon five days written notice to the depositor.

(c) Failure to File Bond. The department may file a lien pursuant to section 242 against any taxpayer who fails to file a bond when required to do so under this section. All funds received upon execution of the judgment on such lien shall be refunded to the taxpayer with three per cent interest should a final determination be made that he does not owe any payment to the department.

Section 278. Remote Sales Reports.--(a) Within ninety days of the publication of the notice under subsection (b), the Independent Fiscal Office, in conjunction with the Department of Revenue, shall submit a detailed report to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives outlining the plans concerning the implementation of the legislation referenced in subsection (b) or other substantially similar Federal legislation, which would grant the Commonwealth the authority to impose and collect the tax under this article due on sales from remote sellers. The report shall include all of the following:

(1) The amount of State funds necessary to implement the legislation referenced in subsection (b) or other substantially similar legislation.

The amount needed shall be itemized, and all costs, including personnel, office expenses and other related costs, shall be included.

(2) The amount of State tax revenue expected to result from the implementation of the legislation referenced in subsection (b) or other substantially similar legislation for the fiscal year and for five fiscal years thereafter.

(3) The source of funds which will be utilized to pay for the legislation referenced in subsection (b) or other substantially similar legislation implementation program.

(4) The legal and practical issues concerning the propriety of collecting and enforcing the tax imposed under this article from remote sellers.

(5) The number of other states which have a similar law in effect and the success or deficiencies of the law.

(6) Proposed draft legislation concerning the implementation of the legislation referenced in subsection (b) or other substantially similar legislation.

(7) A detailed timetable on when separate tasks must be completed for full implementation on an estimated start date.

(b) The Secretary of Revenue shall publish notice in the Pennsylvania Bulletin that Federal legislation relating to remote sellers has been enacted.

(c) ((c) repealed June 22, 2018, P.L.281, No.42)

(d) As used in this section, the term "remote seller" shall have the same meaning as defined in section 213. ((d) added Oct. 30, 2017, P.L.672, No.43)

(278 added July 9, 2013, P.L.270, No.52)

Section 279. Class Actions.--A class action may not be brought against a marketplace facilitator on behalf of purchasers arising from or in any way related to an overpayment of sales or use tax collected by the marketplace facilitator, regardless of whether such action is characterized as a tax refund claim. Nothing in this section shall affect a purchaser's right to seek a refund from the department under other provisions of this article.

(279 added June 28, 2019, P.L.50, No.13)

PART VII
REPEALER; APPROPRIATION; EFFECTIVE DATE

Section 280. Repeal.--The act of March 6, 1956 (P.L.1228), known as the "Tax Act of 1963 for Education," is repealed concurrently with the effective date of the various provisions of this article.

Section 281. Appropriation for Refunds, Etc.--So much of the proceeds of the tax imposed by this article as shall be necessary for the payment of refunds, enforcement, or administration, under this article, is hereby appropriated for such purposes.

Section 281.1. Construction of Article.--To the extent that the language of this Article II, is identical to that of equivalent provisions in the Tax Act of 1963 for Education, the said language shall be deemed a reenactment of such identical provisions.

(281.1 added Sept. 9, 1971, P.L.437, No.105)

Section 281.2. Transfers to Public Transportation Assistance Fund.--(a) All revenues received on or after July 1, 1992, from the imposition of the tax on periodicals shall be transferred to the Public Transportation Assistance Fund according to the formula set forth in subsection (b).

(b) Within 30 days of the close of any calendar month, .44 per cent (.0044) of the taxes received in the previous month under this article, less any amounts collected in that previous calendar month under former 74 Pa.C.S. § 1314(d) (relating to Public Assistance Transportation Fund), shall be transferred to the Public Transportation Assistance Fund established under Article XXIII.

(c) In fiscal year 1991-1992, the Secretary of Revenue will ensure that ten million dollars ($10,000,000) is deposited in the Public Assistance

Transportation Fund from the combination of revenues received under former 74 Pa.C.S. § 1314(d) and transfers of periodical taxes received under this article.

(d) Within 30 days of the close of any calendar month, .09 per cent (.0009) of the taxes received in the previous month under this article shall be transferred to the Public Transportation Assistance Fund established under Article XXIII.

(e) Within 30 days of the close of a calendar month, .417 per cent (.00417) of the taxes received in the previous month under this article shall be transferred to the Public Transportation Assistance Fund established under Article XXIII.

(281.2 amended Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(2) of Act 46 of 2003, which amended section 281.2, provided that the amendment shall apply to deposits into the Public Transportation Assistance Fund made after June 30, 2003.

Compiler's Note: Section 8 of Act 40 of 1991, which added section 281.2, provided that the Secretary of Revenue shall facilitate the transfer of funds under section 281.2.

Section 282. Effective Date.--The provisions of this article shall take effect immediately, except that clauses (k)(4), (m) and (o)(4) of section 201, clause (c) of section 202, and clause (17) of section 204 shall take effect July 1, 1971.

ARTICLE II-A
SPECIAL SITUS FOR LOCAL SALES TAX
(Art. added June 16, 1994, P.L.279, No.48)

Section 201-A. Situs of Local Sales Tax on Certain Leased or Rental Vehicles or Crafts.--(a) For purposes of this article only, the lease of a motor vehicle, trailer, semitrailer or mobilehome, as defined in 75 Pa.C.S. (relating to vehicles), or of a motorboat, aircraft or other similar tangible personal property required under either Federal or State laws to be registered or licensed shall be deemed to have been completed or used at the address of the lessee. In the case of a lease, the tax shall be paid by the lessee to the lessor.

(b) For purposes of this article only, the rental of a motor vehicle, trailer, semitrailer or mobilehome, as defined in 75 Pa.C.S., or of a motorboat, aircraft or other similar tangible personal property required under either Federal or State laws to be registered or licensed shall be deemed to be consummated at the place of business of the retailer. In the case of a rental, the tax due shall be paid by the renter to the retailer.

(c) This article shall only apply to any sales tax imposed under Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code," and under the act of June 5, 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class."

(d) For purposes of this article only, "lease" shall mean a contract for the use of a motor vehicle or other tangible personal property referred to in subsection (a) for a period of thirty days or more. "Rental" shall mean a contract for the use of a motor vehicle or other tangible personal property referred to in subsection (b) for a period of less than thirty days.

(201-A added June 16, 1994, P.L.279, No.48)

Section 202-A. Situs for Certain Construction Materials.--(a) Notwithstanding the provisions of section 504 of the act of June 5, 1991 (P.L.9, No.6), known as the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class," the sale or use of road construction material, including recycled asphalt, recycled concrete, asphalt, concrete and road aggregates, shall be deemed to have been consummated at the location of its final destination. Final destination will be determined by reference to delivery or shipping documents relating to such sales.

(b) This section shall apply to taxes levied under Chapter 5 of the "Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class." This section shall not apply to taxes levied under Article XXXI-B of the act of July 28, 1953 (P.L.723, No.230), known as the "Second Class County Code."

(202-A added June 22, 2001, P.L.353, No.23)

Section 203-A. Situs of Local Sales Tax on Mobile Telecommunications Services.--(a) For purposes of this article only, the situs of the sales or use of mobile telecommunications services which are deemed to be provided to a customer by a home service provider under section 117(a) and (b) of the Mobile Telecommunications Sourcing Act (4 U.S.C. § 116) shall be the customer's place of primary use regardless of where the mobile telecommunications services originate, terminate or pass through.

(b) For purposes of this section, words and phrases used in this section shall have the meanings given to them in the Mobile Telecommunications Sourcing Act.

(203-A added June 29, 2002, P.L.559, No.89)

ARTICLE II-B
SPECIAL TAXING AUTHORITY
(Art. added July 9, 2013, P.L.270, No.52)

Section 201-B. Special taxing authority.

(a) Imposition of tax.--

(1) A city of the first class may elect to impose a tax on the sale at retail of tangible personal property or services or use of tangible personal property or services purchased at retail, as those terms are defined in section 201.

(2) The tax imposed under this section shall be in addition to the tax authorized under section 503(a) and (b) of the act of June 5, 1991 (P.L.9, No.6), known as the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(3) The tax authorized under this subsection shall not be levied, assessed and collected upon the occupancy of a room in a hotel in the city of the first class.

(4) A tax imposed under this subsection on sales or uses shall be paid to and received by the Department of Revenue and, along with interest and penalties, less any refunds and credits paid, shall be credited to the Local Sales and Use Tax Fund created under the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class. Money in the fund shall be disbursed as provided in section 509 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(b) Rate.--The tax authorized under subsection (a) shall be imposed and collected at the rate of 1% and shall be computed as set forth in section 503(e)(2) of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class.

(c) Collection.--The tax authorized under subsection (a) shall be administered, collected, deposited and disbursed in the same manner as the tax imposed under Chapter 5 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class, and the situs of the tax shall be determined in accordance with the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class and Article II-A. The Department of Revenue shall use the money received from the tax authorized under Chapter 5 of the Pennsylvania Intergovernmental Cooperation Authority Act for Cities of the First Class to cover costs for the administration of the tax authorized under subsection (a). The Department of Revenue shall not retain any additional amounts for the cost of collecting the tax authorized under subsection (a). No additional fee shall be charged for a license or license renewal other than the license or renewal fee authorized and imposed under Article II.

(d) Municipal action.--In order to impose the tax, the governing body of the city shall adopt an ordinance stating the tax rate. The ordinance may be adopted prior to the effective date of this subsection. The

ordinance shall take effect no earlier than 20 days after the adoption of the ordinance or 20 days after the effective date of this section, whichever is later. A certified copy of the city ordinance shall be delivered to the Department of Revenue within ten days prior to or after the effective date of the ordinance. A certified copy of an ordinance to repeal the tax authorized under subsection (a) shall be delivered to the Department of Revenue at least 30 days prior to the effective date of repeal.

(e) Use of tax receipts.--

(1) Money received by the city from the levy, assessment and collection of the tax authorized under subsection (a) may only be paid to a school district of the first class in an amount of up to $120,000,000 if the Secretary of Education has made a determination, in the form of an annual certification published in the Pennsylvania Bulletin, that the school district of the first class has, in the judgment of the Secretary of Education, began implementation of reforms that provide for fiscal stability, educational improvement and operational control.

(2) If the Secretary of Education determines that the school district of the first class is implementing the provisions outlined in paragraph (1), the Secretary of Education shall:

(i) Deliver written certification of the determination to the majority and minority chairpersons of the Appropriations Committees of the Senate and the House of Representatives, the majority and minority chairpersons of the Education Committees of the Senate and the House of Representatives, the chief executive of the school district of the first class and the Secretary of Revenue.

(ii) Upon receipt of the certification from the Secretary of Education, the Secretary of Revenue shall direct the State Treasurer to disburse, on or before the tenth day of every month, to the school district of the first class the total amount of money which is, as of the last day of the previous month, contained in the Local Sales and Use Tax Fund.

(iii) If the Secretary of Education does not issue a written certification on or before December 31 of each year, all money contained in the Local Sales and Use Tax Fund shall be paid to a city of the first class.

(f) Remaining money.--Any remaining money above $120,000,000 paid to a school district of the first class pursuant to this section shall be paid to a city of the first class as follows:

(1) for fiscal years 2014-2015, 2015-2016, 2016-2017 and 2017-2018, the first $15,000,000 in each of those fiscal years may be retained for the payment of debt service incurred by the city for the benefit of a school district of the first class; and

(2) the remaining money shall be paid to a city of the first class in accordance with the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act.

(201-B added July 9, 2013, P.L.270, No.52)

ARTICLE III
PERSONAL INCOME TAX
(Art. added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note. Section 44 of Act 22 of 1991, which amended Article III, provided that the Department of Revenue shall provide notice to employers, either in the Pennsylvania Bulletin pursuant to 1 Pa. Code § 3.27 or by other means, of the withholding rate equivalent to the rate of tax in effect prior to the effective date of the amendments of Article III plus the additional rate necessary to equalize withholding over the remainder of the taxable year to account for the revised annual rate provided by the amendments to Article III, to be effective from the first pay period of the employer ending after the 14th day following the effective date of

section 302 and ending December 31, 1991. The withholding rate during periods in calendar year 1992 shall correspond to the rate imposed by section 302 for identical periods in calendar year 1992.

Compiler's Note: The provisions of the former Article III were ruled unconstitutional by the Pennsylvania Supreme Court in Amidon vs. Kane, 279 A.2d 531, 444 Pa. 38 (1971) and were subsequently repealed August 31, 1971, P.L.362, No.93, at which time a new Article III was added.

PART I
DEFINITIONS
(Part I added Aug. 31, 1971, P.L.362, No.93)

Section 301. Definitions.--Any reference in this article to the Internal Revenue Code of 1986 shall mean the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended to January 1, 1997, unless the reference contains the phrase "as amended" and refers to no other date, in which case the reference shall be to the Internal Revenue Code of 1986 as it exists as of the time of application of this article. The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section except where the context clearly indicates a different meaning: (Intro. par. amended July 7, 2005, P.L.149, No.40)

(a) "Accepted accounting principles and practices" means, unless otherwise explicitly provided for in this article, those accounting principles, systems or practices, including the installment sales method of reporting, which are acceptable by standards of the accounting profession and which are not inconsistent with the regulations of the department setting forth such principles and practices. ((a) amended July 7, 2005, P.L.149, No.40)

(b) "Association" means any form of unincorporated enterprise which:

(1) is subject to the tax imposed under Article IV; or

(2) is required to make a return under section 6042 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 6042).

The term shall not include a partnership or investment company.

((b) amended June 22, 2001, P.L.353, No.23)

(c) "Business" means an enterprise, activity, profession, vocation, trade, joint venture, commerce or any other undertaking of any nature when engaged in as commercial enterprise and conducted for profit or ordinarily conducted for profit, whether by an individual, partnership, Pennsylvania S corporation, association or other unincorporated entity. ((c) amended Dec. 23, 1983, P.L.370, No.90)

(c.1) "Charitable trust" means a trust operated exclusively for religious, charitable, scientific, literary or educational purposes.

(c.2) "Claimant" means a person who is subject to the tax imposed under this article, is not a dependent of another taxpayer for purposes of section 151 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 151), but is entitled to claim against such tax the poverty tax provisions as provided by this act. ((c.2) amended May 7, 1997, P.L.85, No.7)

(d) "Compensation" means and shall include salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered, whether directly or through an agent, and whether in cash or in property. The term "compensation" shall include any part of a distribution under a plan described in section 409A(d)(1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 409A(d)(1)), as amended, attributable to an elective deferral of income or the income on any elective deferral of income, whether paid or payable during employment or to a retired person upon or after retirement from service.

The term "compensation" shall not mean or include: (i) periodic payments for sickness and disability other than regular wages received during a period of sickness or disability; or (ii) disability, retirement or other

payments arising under workmen's compensation acts, occupational disease acts and similar legislation by any government; or (iii) payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment; or (iv) payments commonly known as public assistance, or unemployment compensation payments by any governmental agency; or (v) payments to reimburse actual expenses; or (vi) payments made by employers or labor unions, including payments made pursuant to a cafeteria plan qualifying under section 125 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 125), for employe benefit programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits or strike benefits: Provided, That the program does not discriminate in favor of highly compensated individuals as to eligibility to participate, payments or program benefits; or (vii) any compensation received by United States servicemen serving in a combat zone; or (viii) payments received by a foster parent for in-home care of foster children from an agency of the Commonwealth or a political subdivision thereof or an organization exempt from Federal tax under section 501(c)(3) of the Internal Revenue Code of 1954 which is licensed by the Commonwealth or a political subdivision thereof as a placement agency; or (ix) payments made by employers or labor unions for employe benefit programs covering social security or retirement; or (x) personal use of an employer's owned or leased property or of employer-provided services.

((d) amended July 7, 2005, P.L.149, No.40)

(d.1) "Corporation," for purposes of applying the provisions of section 303(a) with respect to a "reorganization" as defined in that section, the term "corporation" shall include a business trust to which 15 Pa.C.S. Ch. 95 (relating to business trusts) applies, a common law business trust or a limited liability company that for Federal income tax purposes is taxable as a corporation or an investment company. ((d.1) amended May 7, 1997, P.L.85, No.7)

(d.2) "Corporate item" means an item, including income, gain or loss, deduction or credit determined at the Pennsylvania S corporation level, which is required to be taken into account for a Pennsylvania S corporation's taxable year. ((d.2) added July 9, 2013, P.L.270, No.52)

(e) "Department" means the Department of Revenue of this Commonwealth.

(e.1) "Dependent" means a child who is the dependent of a claimant for purposes of section 151 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 151). ((e.1) amended May 7, 1997, P.L.85, No.7)

(f) "Dividends" means any distribution in cash or property made by a corporation, association, business trust or investment company with respect to its stock out of accumulated earnings and profits or out of earnings and profits of the year in which such dividend is paid: Provided, however, That the term "dividends" shall not include:

(i) a distribution of the stock of a corporation made by the corporation originally issuing same to its own stockholders if such distribution is not treated as personal income for Federal individual income tax purposes; or

(ii) for taxable years beginning on or after January 1, 1993, a distribution made by an investment company out of earnings and profits derived from interest that is statutorily free from State and local taxation under Article XXIX of this act or the act of August 31, 1971 (P.L.395, No.94), entitled "An act exempting from taxation for State and local purposes within the Commonwealth certain obligations, their transfer and the income therefrom (including any profits made on the sale thereof), issued by the Commonwealth, any public authority, commission, board or other agency created by the Commonwealth, any political subdivision of the Commonwealth or any public authority created by any such political subdivision," or the laws of the United States.

((f) amended Dec. 3, 1993, P.L.473, No.68)

(g) "Employe" means any individual from whose wages an employer is required under the Internal Revenue Code to withhold Federal income tax. ((g) amended Dec. 22, 1989, P.L.775, No.110)

(h) "Employer" means an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity who or that is required under the Internal Revenue Code to withhold Federal income tax from wages paid to an employe. ((h) amended Dec. 22, 1989, P.L.775, No.110)

(i) "Fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator or any person acting in any trust or similar capacity, whether domiciliary or ancillary.

(i.1) "Health savings account" has the meaning given in section 223(d) of the Internal Revenue Code of 1986, as amended (Public Law 99-514, 26 U.S.C. § 223(d)). ((i.1) added Nov. 20, 2006, P.L.1385, No.151)

(i.2) ((i.2) deleted by amendment Dec. 13, 1991, P.L.373, No.40)

(j) "Income" for a resident individual, estate or trust means the same as compensation, net profits, gains, dividends, interest or income enumerated and classified under section 303 of this article.

(k) "Income from sources within this Commonwealth" for a nonresident individual, estate or trust means the same as compensation, net profits, gains, dividends, interest or income enumerated and classified under section 303 of this article to the extent that it is earned, received or acquired from sources within this Commonwealth:

(1) By reason of ownership or disposition of any interest in real or tangible personal property in this Commonwealth; or

(2) In connection with a trade, profession, occupation carried on in this Commonwealth or for the rendition of personal services performed in this Commonwealth; or

(3) As a distributive share of the income of an unincorporated business, Pennsylvania S corporation, profession, enterprise, undertaking or other activity as the result of work done, services rendered or other business activities conducted in this Commonwealth, except as allocated to another state pursuant to regulations promulgated by the department under this article; or

(4) From intangible personal property employed in a trade, profession, occupation or business carried on in this Commonwealth; or

(5) As gambling and lottery winnings by reason of a wager placed in this Commonwealth, the conduct of a game of chance or other gambling activity located in this Commonwealth or the redemption of a lottery prize from a lottery conducted in this Commonwealth, other than noncash prizes of the Pennsylvania State Lottery.

Provided, however, That "income from sources within this Commonwealth" for a nonresident individual, estate or trust shall not include any items of income enumerated above received or acquired from an investment company registered with the Federal Securities and Exchange Commission under the Investment Company Act of 1940.

((k) amended July 13, 2016, P.L.526, No.84)

(l) "Individual" means a natural person and shall include the members of a partnership or association and the shareholders of a Pennsylvania S corporation. ((l) amended Dec. 23, 1983, P.L.370, No.90)

(l.1) "Installment sales method of reporting" means the method by which a taxpayer reports the gain upon the sale of tangible personal property or real property when at least one payment is to be received in any taxable year following the taxable year of sale, whether such property is sold or otherwise disposed of in an isolated transaction or from the inventory of a dealer or broker. Taxpayers may elect to allocate the gain upon such transactions in equal proportion to each payment to be received. Taxpayers who do not elect to allocate the gain upon such transactions in equal proportion to each payment received shall report all gains upon the sale in the taxable year in which the transaction occurred. For the purposes of this definition: (i) the gain upon the transaction shall be the difference between the sales price and the seller's basis in the property; and (ii) the sales price shall be the face amount of the evidence of indebtedness given in exchange for the property sold or otherwise disposed of together with the value of any other consideration received by the seller. Where the evidence of indebtedness fails to state a price, the evidence of

indebtedness will be valued at the fair market value of the property sold, less the value of other property or cash received in the same transaction. The installment sales method of reporting shall not be used for transactions the object of which is the lending of money or the rendering of services. ((l.1) added Dec. 23, 1983, P.L.370, No.90)

(l.2) "Investment company" includes any incorporated or unincorporated enterprise registered with the Federal Securities and Exchange Commission under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.). ((l.2) added Dec. 3, 1993, P.L.473, No.68)

(m) "Nonresident individual" means any individual who is not a resident of the Commonwealth.

(n) "Nonresident estate or trust" means any estate or trust which is not a resident estate or trust. The term "nonresident estate or trust" shall not include charitable trusts or pension or profit sharing trusts.

(n.0) "Partnership" means a domestic or foreign general partnership, joint venture, limited partnership, limited liability company, business trust or other unincorporated entity that for Federal income tax purposes is classified as a partnership. ((n.0) amended Apr. 23, 1998, P.L.239, No.45)

(n.1) "Pennsylvania S corporation" means any small corporation as defined in section 301(s.2) which does not have a valid election under section 307 in effect. A qualified Subchapter S subsidiary owned by a Pennsylvania S corporation shall be treated as a Pennsylvania S corporation without regard to whether an election under section 307 has been made with respect to the subsidiary. ((n.1) amended July 6, 2006, P.L.319, No.67)

(n.2) "Partnership item" means an item, including income, gain or loss, deduction or credit determined at the partnership level, which is required to be taken into account for a partnership's taxable year. ((n.2) added July 9, 2013, P.L.270, No.52)

(o) "Person" means any individual, employer, association, fiduciary, partnership, corporation or other entity, estate or trust, resident or nonresident, and the plural as well as the singular number. For the purpose of determining eligibility for special tax provisions, the term "person" means a natural individual. ((o) amended July 13, 2016, P.L.526, No.84)

(o.1) "Poverty" means an economic condition wherein the total amount of poverty income is insufficient to adequately provide the claimant, his spouse and dependent children with the necessities of life. ((o.1) added Mar. 13, 1974, P.L.179, No.32)

(o.2) "Poverty income" means for the purpose of determining eligibility for special tax provisions all moneys or property (including interest, gains or income derived from obligations which are statutorily free from State or local taxation under any other act of the General Assembly of the Commonwealth of Pennsylvania or under the laws of the United States) received of whatever nature and from whatever source derived, but not including (i) periodic payments for sickness and disability other than regular wages received during a period of sickness or disability; or (ii) disability, retirement or other payments arising under workmen's compensation acts, occupational disease acts and similar legislation by any government; or (iii) payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment; or (iv) payments commonly known as public assistance or unemployment compensation payments by any governmental agency; or (v) payments to reimburse actual expenses; or (vi) payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, Social Security and retirement; or (vii) any compensation received by United States servicemen serving in a combat zone. ((o.2) amended Dec. 13, 1991, P.L.373, No.40)

(o.3) "Qualified Subchapter S subsidiary" means a domestic or foreign corporation which for Federal income tax purposes is treated as a qualified Subchapter S subsidiary, as defined in section 1361(b)(3)(B) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1361), as amended to January 1, 2005. ((o.3) amended July 6, 2006, P.L.319, No.67)

(o.4) "Publicly traded partnership" means an entity defined under section 7704 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7704) with equity securities registered with the Securities and Exchange Commission under section 12 of the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a). ((o.4) added July 9, 2013, P.L.270, No.52)

(o.5) "Qualified student loan" means indebtedness incurred by a taxpayer to pay educational expenses, which are:

(1) incurred on behalf of the taxpayer at the time the indebtedness is incurred;

(2) paid or incurred within a reasonable period of time before or after the indebtedness is incurred; and

(3) attributable to education furnished during a period in which the recipient is a student.

The term includes indebtedness used to refinance indebtedness that qualifies as a qualified student loan. The term does not include indebtedness owed by a taxpayer to a person related to the taxpayer.

((o.5) added July 11, 2024, P.L.674, No.56)

(p) "Resident individual" means an individual who is domiciled in this Commonwealth unless he maintains no permanent place of abode in this Commonwealth and does maintain a permanent place of abode elsewhere and spends in the aggregate not more than thirty days of the taxable year in this Commonwealth; or who is not domiciled in this Commonwealth but maintains a permanent place of abode in this Commonwealth and spends in the aggregate more than one hundred eighty-three days of the taxable year in this Commonwealth.

(q) "Received" for the purpose of computation of income subject to tax under this article means "received, earned or acquired" and the phrase "received, earned or acquired" shall be construed according to the method of accounting required by the department under this article for computing and reporting income subject to the tax.

(r) "Resident estate" means the estate of a decedent who at the time of his death was a resident individual.

(s) "Resident trust" means:

(1) A trust created by the will of a decedent who at the time of his death was a resident individual; and

(2) Any trust created by, or consisting in whole or in part of property transferred to a trust by a person who at the time of such creation or transfer was a resident. The term "resident trust" under this subclause (2) shall not include charitable trusts or pension or profit sharing trusts.

(s.1) "Special tax provisions" means a refund or forgiveness of all or part of the claimant's liability under the provisions of this article. ((s.1) added Mar. 13, 1974, P.L.179, No.32)

(s.2) "Small corporation" means any corporation which has a valid election in effect under Subchapter S of Chapter 1 of the Internal Revenue Code of 1986, as amended to January 1, 2005. ((s.2) amended July 6, 2006, P.L.319, No.67)

(t) "State" means, except as provided under section 314(a), any state or commonwealth of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any foreign country. ((t) amended July 9, 2013, P.L.270, No.52)

(t.1) "Student loan interest" means interest paid during the taxable year on a qualified student loan, including required and voluntary interest payments, to attend a college, university, vocational school or other postsecondary educational institution eligible to participate in a student aid program administered by the United States Department of Education. ((t.1) added July 11, 2024, P.L.674, No.56)

(u) "Tax" includes interest, penalties and additions to tax, and further includes the tax required to be withheld by an employer on compensation paid, unless a more limited meaning is disclosed by the context.

(v) "Taxable year" means the taxable period on the basis of which a taxpayer or a claimant is required to file his Federal income tax return pursuant to the Internal Revenue Code or if he is not required to or does

not file a Federal income tax return, the calendar year provided that for the initial period during which the tax is first imposed "taxable year" means the period beginning June 1, 1971, and ending with the taxable period on the basis of which a taxpayer is required to file his Federal income tax return pursuant to the Internal Revenue Code or if he is not required to or does not file a Federal income tax return, December 31, 1971. ((v) amended Mar. 13, 1974, P.L.179, No.32)

(w) "Taxpayer" means any individual, estate or trust subject to the tax imposed by this article, any partnership having a partner who is a taxpayer under this act, any Pennsylvania S corporation having a shareholder who is a taxpayer under this act and any person required to withhold tax under this article. ((w) amended July 13, 2016, P.L.526, No.84)

(301 added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note: Section 30(2) of Act 56 of 2024 provided that the addition of subsections (o.5) and (t.1) shall apply to taxable years commencing after December 31, 2023.

Compiler's Note: Section 51(4) of Act 84 of 2016, which amended subsections (k), (o) and (w), provided that the amendment of subsection (k)(5) concerning lottery winnings shall apply retroactively to January 1, 2016.

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended subsection (t), (d.2) and (n.2) and added subsection (0.4), provided that the amendment or addition shall apply to tax years beginning after December 31, 2013.

Compiler's Note: See section 24(2)(i), (6) and (7)(i) of Act 40 of 2005, which amended the introductory paragraph and subsections (a) and (d), in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 33(3) of Act 46 of 2003, which amended subsection (k), provided that the amendment shall apply to taxable years beginning after December 31, 2003.

Compiler's Note: Section 26(4)(i) of Act 23 of 2001, which amended subsection (b), provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended subsection (s.2), provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

PART II
IMPOSITION OF TAX
(II added Aug. 31, 1971, P.L.362, No.93)

Section 302. Imposition of Tax.--(a) Except as provided in subsection (c), every resident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income hereinafter enumerated in section 303, a tax upon each dollar of income received by that resident during that resident's taxable year at the rate of three and seven hundredths per cent.

(b) Except as provided in subsection (c), every nonresident individual, estate or trust shall be subject to, and shall pay for the privilege of receiving each of the classes of income hereinafter enumerated in section 303 from sources within this Commonwealth, a tax upon each dollar of income received by that nonresident during that nonresident's taxable year at the rate of three and seven hundredths per cent.

(c) The classes of income under section 303 received by a resident trust, and the classes of income received by a nonresident trust from sources within this Commonwealth, shall be taxable to the grantor of the trust or another person to the extent the grantor or other person is treated as the owner of the trust under sections 671, 672, 673, 674, 675, 676, 677, 678 and 679 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended, whether or not such income is

distributed or distributable to the beneficiaries of the trust or accumulated.

(302 amended Dec. 14, 2023, P.L. , No.64)

Compiler's Note: Section 2(1) of Act 64 of 2023, which amended section 302, provided that the amendment shall apply to tax years beginning on or after January 1 following the effective date of section 2.

Section 33(4) of Act 46 of 2003, which amended section 302, provided that the amendment shall apply to taxable years beginning after December 31, 2003.

Section 302.1. Rate Changes Occurring During the Taxable Year.--Notwithstanding the provisions of section 302, the tax rate to be used for the computation of tax for any taxable year where the rate changes during the taxable year shall be the monthly weighted average of the rates applicable during the taxable year, regardless of when during the taxable year the income is received.

(302.1 amended Aug. 4, 1991, P.L.97, No.22)

Section 302.2. Imposition of Tax.--(302.2 repealed Aug. 4, 1991, P.L.97, No.22)

Section 303. Classes of Income.--(a) The classes of income referred to above are as follows:

(1) Compensation.

(i) All salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered whether directly or through an agent and whether in cash or in property except income derived from the United States Government for active duty outside the Commonwealth of Pennsylvania as a member of its armed forces and income from the United States Government or the Commonwealth of Pennsylvania for active State duty for emergency within or outside the Commonwealth of Pennsylvania, including duty ordered pursuant to 35 Pa.C.S. Ch. 76 (relating to Emergency Management Assistance Compact).

(ii) Compensation of a cash-basis taxpayer shall be considered as received if the compensation is actually or constructively received for Federal income tax purposes as determined consistent with the United States Treasury regulations and rulings under the Internal Revenue Code of 1986, as amended, except that, for purposes of computing tax under this article:

(A) Amounts lawfully deducted, not deferred, and withheld from the compensation of employes shall be considered to have been received by the employe as compensation at the time the deduction is made.

(B) Contributions to an employes' trust, pooled fund or other arrangement which is not subject to the claims of creditors of the employer made by an employer on behalf of an employe or self-employed individual at the election of the employe or self-employed individual pursuant to a cash or deferred arrangement or salary reduction agreement shall be deemed to have been received by the employe or individual as compensation at the time the contribution is made, regardless of when the election is made or a payment is received.

(C) Any contribution to a plan by, on behalf of or attributable to a self-employed person shall be deemed to have been received at the time the contribution is made.

(D) Employer contributions to a Roth IRA custodial account or employe annuity shall be deemed received, earned or acquired only when distributed, when the plan fails to meet the requirements of section 408A of the Internal Revenue Code of 1986 (26 U.S.C. § 408A), as amended, or when the plan is not operated in accordance with such requirements.

(E) Employe contributions to an employes' trust or pooled fund or custodial account or contract or employe annuity shall not be deducted or excluded from compensation.

(iii) For purposes of determining when deferred compensation of employes other than employes of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83 and 451 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 83 and 451), as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986 (26 U.S.C. § 409A), as amended, shall apply.

(iv) For purposes of determining when deferred compensation of employes of exempt organizations and State and local governments is required to be included in income, the following apply:

(A) The rules of sections 83, 451 and 457 of the Internal Revenue Code of 1986, as amended, shall apply.

(B) The rules of section 409A of the Internal Revenue Code of 1986, as amended, shall apply.

((1) amended Nov. 29, 2006, P.L.1613, No.182)

(2) Net profits. The net income from the operation of a business, profession, or other activity, after provision for all costs and expenses incurred in the conduct thereof, determined either on a cash or accrual basis in accordance with accepted accounting principles and practices but without deduction of taxes based on income. For purposes of calculating net income under this paragraph, to the extent a taxpayer properly deducts an amount under section 195(b)(1)(A) of the Internal Revenue Code of 1986 (26 U.S.C. § 195(b)(1)(A)), as amended, and the regulations promulgated under section 195(b)(1)(A) of the Internal Revenue Code of 1986, the taxpayer shall be permitted a deduction in equal amount in the same taxable year.

((2) amended July 9, 2013, P.L.270, No.52)

(3) Net gains or income from disposition of property. Net gains or net income, less net losses, derived from the sale, exchange or other disposition of property, including real property, tangible personal property, intangible personal property or obligations issued on or after the effective date of this amendatory act by the Commonwealth; any public authority, commission, board or other agency created by the Commonwealth; any political subdivision of the Commonwealth or any public authority created by any such political subdivision; or by the Federal Government as determined in accordance with accepted accounting principles and practices. For the purpose of this article:

(i) For the determination of the basis of any property, real and personal, if acquired prior to June 1, 1971, the date of acquisition shall be adjusted to June 1, 1971, as if the property had been acquired on that date. If the property was acquired after June 1, 1971, the actual date of acquisition shall be used in determination of the basis.

(ii) ((ii) deleted by amendment Apr. 23, 1998, P.L.239, No.45)

(iii) The term "net gains or income" and "net losses" shall not include gains or income or loss derived from obligations which are statutorily free from State or local taxation under the act of August 31, 1971 (P.L.395, No.94), entitled "An act exempting from taxation for State and local purposes within the Commonwealth certain obligations, their transfer and the income therefrom (including any profits made on the sale thereof), issued by the Commonwealth, any public authority, commission, board or other agency created by the Commonwealth, any political subdivision of the Commonwealth or any public authority created by any such political subdivision," or under the laws of the United States.

(iv) The term "sale, exchange or other disposition" shall not include the exchange of stock or securities in a corporation a party to a reorganization in pursuance of a plan of reorganization, solely for stock or securities in such corporation or in another corporation a party to the reorganization and the transfer of property to a corporation by one or more persons solely in exchange for stock or securities in such corporation if immediately after the exchange such person or persons are in control of the corporation. The following shall apply:

(A) For purposes of this subparagraph (iv), stock or securities issued for services shall not be considered as issued in return for property.

(B) For purposes of this subparagraph (iv), the term "reorganization" means any of the following:

(I) A statutory merger or consolidation.

(II) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation) of stock of another corporation if, immediately after the acquisition, the acquiring corporation has control of such other corporation (whether or not such acquiring corporation had control immediately before the acquisition).

(III) The acquisition by one corporation, in exchange solely for all or a part of its voting stock (or in exchange solely for all or a part of the voting stock of a corporation which is in control of the acquiring corporation), of substantially all of the properties of another corporation, but in determining whether the exchange is solely for stock the assumption by the acquiring corporation of a liability of the other, or the fact that property acquired is subject to a liability, shall be disregarded.

(IV) A transfer by a corporation of all or a part of its assets to another corporation if immediately after the transfer the transferor, or one or more of its shareholders (including persons who were shareholders immediately before the transfer), or any combination thereof, is in control of the corporation to which the assets are transferred.

(V) A recapitalization.

(VI) A mere change in identity, form, or place of organization however effected.

(C) The acquisition by one corporation, in exchange for stock of a corporation (referred to in this clause (C) as "controlling corporation") which is in control of the acquiring corporation, of substantially all of the properties of another corporation which in the transaction is merged into the acquiring corporation shall not disqualify a transaction under clause (B)(I) if such transaction would have qualified under clause (B)(I) if the merger had been into the controlling corporation, and no stock of the acquiring corporation is used in the transaction.

(D) A transaction otherwise qualifying under clause (B)(I) shall not be disqualified by reason of the fact that stock of a corporation (referred to in this clause (D) as the "controlling corporation") which before the merger was in control of the merged corporation is used in the transaction, if after the transaction, the corporation surviving the merger holds substantially all of its properties and of the properties of the merged corporation (other than stock of the controlling corporation distributed in the transaction); and in the transaction, former shareholders of the surviving corporation exchanged, for an amount of voting stock of the controlling corporation, an amount of stock in the surviving corporation which constitutes control of such corporation.

(E) For purposes of this subparagraph (iv):

(I) The term "control" means the ownership of stock possessing at least eighty per cent of the total combined voting power of all classes of stock entitled to vote and at least eighty per cent of the total number of shares of all other classes of stock of the corporation.

(II) The term "a party to a reorganization" includes a corporation resulting from a reorganization, and both corporations, in the case of a reorganization resulting from the acquisition by one corporation of stock or properties of another. In the case of a reorganization qualifying under clause (B)(I) by reason of clause (C) the term "a party to a reorganization" includes the controlling corporation referred to in clause (C).

(F) Notwithstanding any provisions hereof, upon every such exchange or conversion, the taxpayer's base for the stock or securities received shall be the same as the taxpayer's actual or attributed base for the stock, securities or property surrendered in exchange therefor.

(v) The term "sale, exchange or other disposition" shall not include a transfer by a common trust fund described in section 584 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 584) of all or substantially all of its assets to one or more companies described in section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 851) in

exchange for stock or units of beneficial interest in the company or companies to which such assets are transferred and the distribution of such stock or units by the fund to its participants in exchange for their interest in the fund, if no gain or loss is recognized on the transfer or distribution for Federal income tax purposes. Upon every such exchange, the taxpayer's base for the stock or units or assets received shall be the same as the taxpayer's actual or attributed base for the assets, stock, units or interest surrendered in exchange therefor.

(vi) The term "sale, exchange or other disposition" shall not include a transfer of an interest in an enterprise treated as a partnership for purposes of this article in exchange for an interest in any other enterprise treated as a partnership for purposes of this article, a liquidation made in connection therewith or an exchange made pursuant to a statutory merger, consolidation or division of enterprises so treated unless taxable income or gain is recognized for Federal income tax purposes. Upon every such exchange, the taxpayer's base for the interest received shall be the same as the taxpayer's actual or attributed base for the interest surrendered in exchange therefor.

(vii) The term "net gains or net income, less net losses," shall not include any gain or loss from the sale, exchange or other disposition of the taxpayer's principal residence.

(A) For purposes of this subparagraph, the term "principal residence" shall mean the property that has been owned and used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more during the five-year period ending on the date of the sale, exchange or disposition: Provided, however, That the following shall apply:

(I) In the case of property only a portion of which, during the five-year period ending on the date of the sale, exchange or disposition, has been owned or used by the taxpayer as the taxpayer's principal residence for periods aggregating two years or more, this subparagraph shall apply with respect to so much of the gain from the sale, exchange or disposition of such property as is determined under regulations prescribed by the department to be attributable to that portion.

(II) In the case of a principal residence only a portion of which has never been subject to the allowance for depreciation, this subparagraph shall apply with respect to so much of the gain from the sale, exchange or disposition of such property as is determined under regulations prescribed by the department to be attributable to that portion.

(B) The provisions of this subparagraph shall not apply to a sale, exchange or disposition if, during the two-year period ending upon the date of the sale, exchange or disposition, there was a prior sale, exchange or disposition by the taxpayer of a principal residence unless the sale, exchange or disposition is by reason of a change in employment, health or, to the extent provided in regulations, unforeseen circumstances.

(C) The provisions of this subparagraph shall not apply to any sale, exchange or disposition made prior to January 1, 1998.

((vii) added Apr. 23, 1998, P.L.239, No.45)

(viii) The term "net gains or income" and "net losses" shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1400Z-2), as amended. Net gains or net income, less net losses, which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses. ((viii) added June 28, 2019, P.L.50, No.13)

((3) amended May 7, 1997, P.L.85, No.7)

(4) Net gains or income derived from or in the form of rents, royalties, patents and copyrights.

(5) Dividends. The term "dividends" shall not include gains or income or losses which are excluded from Federal taxation under section 1400Z-2 of the Internal Revenue Code of 1986, as amended. Gains or income or losses

which are excluded under this subparagraph shall be included in income to the extent they are included in gross income under section 1400Z-2(b) of the Internal Revenue Code of 1986, as amended. Section 1400Z-2(c) of the Internal Revenue Code of 1986, as amended, shall apply in the computation of net gains or net income and net losses. ((5) amended June 28, 2019, P.L.50, No.13)

(6) Interest derived from obligations which are not statutorily free from State or local taxation under any other act of the General Assembly of the Commonwealth of Pennsylvania or under the laws of the United States, any amount paid under contract of life insurance or endowment or annuity contract which is includable in gross income for Federal income tax purposes and any amount paid out of the Archer Medical Savings Account (Archer MSA) or health savings account that is includable in the gross income of an account beneficiary for Federal income tax purposes. ((6) amended July 6, 2006, P.L.319, No.67)

(7) Gambling and lottery winnings other than noncash prizes of the Pennsylvania State Lottery. ((7) amended July 13, 2016, P.L.526, No.84)

(8) Net gains or income derived through estates or trusts. To the extent that income or gain is subject to tax under one of the classes of income enumerated in this section such income or gain shall not be subject to tax under another of such enumerated classes.

(a.1) Income shall be computed under the method of accounting on the basis of which the taxpayer regularly computes income in keeping the taxpayer's books. If the department determines that no method has been regularly used or the method used does not clearly reflect income, the computation of income shall be made under a method which, in the opinion of the department, clearly reflects income. ((a.1) added June 29, 2002, P.L.559, No.89)

(a.2) In computing income, a depreciation deduction shall be allowed for the exhaustion, wear and tear and obsolescence of property being employed in the operation of a business or held for the production of income. The deduction must be reasonable and shall be computed in accordance with the property's adjusted basis at the time placed in service, reasonably estimated useful life and net salvage value at the end of its reasonably estimated useful economic life under the straight-line method or other method prescribed by the department, except a taxpayer may use any depreciation method, recovery method or convention that is also used by the taxpayer in determining Federal net taxable income if, when placed in service, the property has the same adjusted basis for Federal income tax purposes and the method or convention is allowable for Federal income tax purposes at the time the property is placed in service or under the Internal Revenue Code of 1986, whichever is earlier. The basis of property shall be reduced, but not below zero, for depreciation by the greater of:

(1) The amount deducted on a return and not disallowed, but only to the extent the deduction results in a reduction of income; and

(2) The amount allowable using the straight-line method of depreciation computed on the basis of the property's adjusted basis at the time placed in service, reasonably estimated useful life and net salvage value at the end of its reasonably estimated useful economic life, regardless of whether the deduction results in a reduction of income.

((a.2) added June 29, 2002, P.L.559, No.89)

(a.3) The cost of property commonly referred to as Section 179 Property may be treated as a deductible expense only to the extent allowable under the version of section 179 of the Internal Revenue Code in effect at the time the property is placed in service. The basis of Section 179 Property shall be reduced, but not below zero, for costs treated as a deductible expense. The amount of the reduction shall be the amount deducted on a return and not disallowed, regardless of whether the deduction results in a reduction of income. ((a.3) amended July 8, 2022, P.L.513, No.53)

(a.4) This article shall be subject to applicable Federal limitations on state income taxation. ((a.4) added July 7, 2005, P.L.149, No.40)

(a.5) The requirements of sections 1031 and 1035 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 1031 and 1035), as amended, shall be applicable. ((a.5) amended July 8, 2022, P.L.513, No.53)

(a.6) Except as provided in this article and without regard to sections 220(f)(4) and 223(f)(4) of the Internal Revenue Code of 1986, the requirements of sections 106(b) and (d), 220 and 223 of the Internal Revenue Code of 1986 shall be applicable. ((a.6) amended Oct. 9, 2009, P.L.451, No.48)

(a.7) The following apply:

(1) An amount paid as a contribution into a qualified tuition program shall be deductible from taxable income on the annual personal income tax return. The amount paid as a contribution to a qualified tuition program allowable as a deduction under this subsection shall be subject to an annual limitation not to exceed the threshold for exclusion from gifts as provided in section 2503(b) of the Internal Revenue Code of 1986, as amended, per designated beneficiary. The deduction shall not result in taxable income being less than zero.

(2) (i) The following shall not be subject to tax under this article:

(A) Any amount distributed from a qualified tuition program that is excludable from tax under section 529(c)(3)(B) of the Internal Revenue Code of 1986, as amended.

(B) Any distribution that is excludable from tax under section 529 of the Internal Revenue Code of 1986, as amended. ((B) amended July 11, 2024, P.L.674, No.56)

(C) Undistributed earnings on a qualified tuition program.

(D) The value of a medal awarded by or prize money received from the United States Olympic Committee on account of competition in the Olympic Games or Paralympic Games.

(E) Any amount received by an employe through an employer's matching contribution to an account as defined under Article XIX-J. ((E) added July 11, 2024, P.L.674, No.56)

(ii) A change in designated beneficiaries under section 529(c)(3)(C) of the Internal Revenue Code of 1986, as amended, shall not constitute a taxable event under this article.

((2) amended June 28, 2019, P.L.50, No.13)

(3) Any amount distributed from a qualified tuition program that is not described under paragraph (2) shall be taxable under this article.

(4) For purposes of this subsection:

(i) The term "designated beneficiary" shall have the same meaning as provided in section 529(e)(1) of the Internal Revenue Code of 1986, as amended.

(ii) The term "qualified tuition program" shall have the same meaning as provided in section 529(b)(1) of the Internal Revenue Code of 1986, as amended.

(5) As follows:

(i) The classes of income under this section shall not include any amount which is excluded from Federal gross income under sections 276 and 278(a) of the COVID-Related Tax Relief Act of 2020, enacted as Subtitle B of Title II of Division N of the Consolidated Appropriations Act, 2021 (Public Law 116-260, 134 Stat. 1182).

(ii) No deduction may be disallowed from an expense that is otherwise deductible if the payment of the expense results in forgiveness of a covered loan under subparagraph (i).

((5) added July 8, 2022, P.L.513, No.53)

(6) The classes of income under this section shall not include a payment received by an individual from the United States under section 2201 of the Coronavirus Aid, Relief, and Economic Security Act (Public Law 116-136, 134 Stat. 281) or sections 272 and 273 of the Consolidated Appropriations Act, 2021. ((6) added July 8, 2022, P.L.513, No.53)

(7) An amount received from the Federal or State Government or Norfolk Southern Railway, or an agent thereof, as a result of the train derailment that occurred in East Palestine, Ohio, on February 3, 2023, shall not be

considered income subject to the tax imposed by this article. ((7) added July 11, 2024, P.L.674, No.56)

((a.7) added July 6, 2006, P.L.319, No.67)

(a.8) A person who incurs intangible drilling and development costs as defined in section 263(c) of the Internal Revenue Code of 1986, as amended, and regulations thereunder, is required to capitalize the costs and recover them over a ten-year period in the taxable year the costs are incurred; or a person may elect to currently expense up to one-third of the costs in the taxable year in which the costs are incurred and recover the remaining costs over a ten-year period beginning in the taxable year the costs are incurred. ((a.8) amended July 13, 2016, P.L.526, No.84)

(a.9) The provisions of section 1033 of the Internal Revenue Code of 1986 (26 U.S.C. § 1033), as amended, shall be applicable. ((a.9) added July 13, 2016, P.L.526, No.84)

(a.10) The provisions of section 451(f) of the Internal Revenue Code of 1986, as amended, shall be applicable. ((a.10) added June 30, 2021, P.L.124, No.25)

(a.11) The amount of student loan interest paid during a taxable year by a resident individual shall be deductible from taxable income on the annual personal income tax return, provided that the deduction may not:

(1) exceed two thousand five hundred dollars ($2,500) per taxable year; and

(2) result in taxable income being less than zero.

((a.11) added July 11, 2024, P.L.674, No.56)

(a.12) A person may claim a deduction for depletion of a mine, oil and gas well and other natural deposit in accordance with the provisions of sections 611, 612, 613, 613A, 614, 616 and 617 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 611 et seq.) in effect on the effective date of this subsection. ((a.12) added July 11, 2024, P.L.674, No.56)

(b) It is hereby declared to be the intent of the General Assembly that if one or more or part of one or more of the classes of income enumerated in subsection (a) of this section are, for any reason, held to be unconstitutional by a final decision of a court of last resort, said unconstitutional class or classes or part of a class or classes of income shall be deemed severable, and the tax imposed by this article shall apply with respect to all the remaining classes of income or parts thereof enumerated in subsection (a) of this section as if the unconstitutional class or classes of income or part or parts thereof had not been included therein.

(303 added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note: Section 30(3), (4) and (5) of Act 56 of 2024 provided that the addition of subsection (a.7)(7) shall apply to taxable years commencing after December 31, 2022, the addition of subsection (a.11) shall apply to taxable years commencing after December 31, 2024 and the addition of subsection (a.12) shall apply to taxable years commencing after December 31, 2023.

Compiler's Note: See section 23 of Act 53 of 2022 in the appendix to this act for special provisions relating to continuation of prior law. Section 24(1) of Act 53 of 2022 provided that the amendment of section 303(a.3) shall apply to property placed in service in tax years beginning after December 31, 2022. Section 24(2) of Act 53 of 2022 provided that the amendment of section 303(a.5) shall apply to transactions occurring in tax years beginning after December 31, 2022.

Compiler's Note: Section 40(2) of Act 25 of 2021 provided that the addition of subsection (a.10) shall apply to taxable years beginning after December 31, 2020.

Compiler's Note: Section 28 of Act 13 of 2019 provided that amendment or addition of subsection (a)(3)(viii) and (5) shall apply to tax years beginning after December 31, 2019.

Compiler's Note: Section 51(3)(i) of Act 84 of 2016, which amended subsections (a)(7) and (a.8) and added subsection (a.9), provided that the amendment of subsection (a.8) shall apply retroactively to January 1, 2014.

Section 51(4) of Act 84 of 2016 provided that the amendment of subsection (a)(7) concerning lottery winnings shall apply retroactively to January 1, 2016.

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended subsec. (a)(2), and added subsec. (a.8), provided that the amendment or addition shall apply to tax years beginning after December 31, 2013.

Compiler's Note: Section 2 of Act 182 of 2006, which amended subsection (a), provided that the amendment shall apply to taxable years beginning after December 31, 2006.

Compiler's Note: See section 24(2)(ii), (6), (7)(ii) and (8) of Act 40 of 2005, which amended subsection (a)(1) and (6), in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 20 of Act 45 of 1998, which added subsection (a), provided that for the purpose of implementing subsection (a)(3)(vii), the Department of Revenue shall promulgate regulations which are final-form regulations under the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act, and which omit notice of proposed rulemaking under section 201 of the act of July 31, 1968 (P.L.796, No.240), referred to as the Commonwealth Documents Law. Regulations under section 20 shall be submitted to the Legislative Reference Bureau not later than November 24, 1998, for publication in the Pennsylvania Bulletin.

Compiler's Note: Section 35 of Act 7 of 1997, which amended subsection (a), provided that it is the intent of the General Assembly that the amendment of section 303(a)(3)(v) is to clarify existing law and shall not be construed to change existing law.

Section 304. Special Tax Provisions for Poverty.--(a) The General Assembly, in recognition of the powers contained in section 2(b)(ii) of Article VIII of the Constitution of the Commonwealth of Pennsylvania which provides therein for the establishing as a class or classes of subjects of taxation the property or privileges of persons who, because of poverty are determined to be in need of special tax provisions hereby declares as its legislative intent and purpose to implement such power under such constitutional provision by establishing special tax provisions as hereinafter provided in this act.

(b) The General Assembly having determined that there are persons within this Commonwealth whose incomes are such that imposition of a tax thereon would deprive them and their dependents of the bare necessities of life and having further determined that poverty is a relative concept inextricably joined with actual income and the number of people dependent upon such income deems it to be a matter of public policy to provide special tax provisions for that class of persons hereinafter designated to relieve their economic burden.

(c) For the taxable year 1974 and each year thereafter any claimant who meets the following standards of eligibility established by this act as the test for poverty shall be deemed a separate class of subject of taxation, and, as such, shall be entitled to the benefit of the special provisions of this act.

(d) Any claim for special tax provisions hereunder shall be determined in accordance with the following:

(1) If the poverty income of the claimant during an entire taxable year is six thousand five hundred dollars ($6,500) or less, or, in the case of a married claimant, if the joint poverty income of the claimant and the claimant's spouse during an entire taxable year is thirteen thousand dollars ($13,000) or less, the claimant shall be entitled to a refund or forgiveness of any moneys which have been paid over to (or would except for the provisions of this act be payable to) the Commonwealth under the provisions of this article, with an additional income allowance of nine thousand five hundred dollars ($9,500) for each dependent of the claimant.

For purposes of this subsection, a claimant shall not be considered to be married if:

(i) The claimant and the claimant's spouse file separate returns; and

(ii) The claimant and the claimant's spouse live apart at all times during the last six months of the taxable year or are separated pursuant to a written separation agreement.

(2) If the poverty income of the claimant during an entire taxable year does not exceed the poverty income limitations prescribed by clause (1) by more than the dollar category contained in subclauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) of this clause, the claimant shall be entitled to a refund or forgiveness based on the per centage prescribed in such subclauses of any moneys which have been paid over to (or would have been except for the provisions herein be payable to) the Commonwealth under this article:

(i) Ninety per cent if not in excess of two hundred fifty dollars ($250).

(ii) Eighty per cent if not in excess of five hundred dollars ($500).

(iii) Seventy per cent if not in excess of seven hundred fifty dollars ($750).

(iv) Sixty per cent if not in excess of one thousand dollars ($1,000).

(v) Fifty per cent if not in excess of one thousand two hundred fifty dollars ($1,250).

(vi) Forty per cent if not in excess of one thousand five hundred dollars ($1,500).

(vii) Thirty per cent if not in excess of one thousand seven hundred fifty dollars ($1,750).

(viii) Twenty per cent if not in excess of two thousand dollars ($2,000).

(ix) Ten per cent if not in excess of two thousand two hundred fifty dollars ($2,250).

(3) If an individual has a taxable year of less than twelve months, the poverty income thereof shall be annualized in such manner as the department may prescribe.

((d) amended Dec. 23, 2003, P.L.250, No.46)

(304 amended Dec. 13, 1991, P.L.373, No.40)

Compiler's Note: Section 33(5) of Act 46 of 2003, which amended subsection (d), provided that the amendment shall apply to taxable years beginning after December 31, 2003.

Compiler's Note: Section 26(4)(ii) of Act 23 of 2001, which amended subsection (d)(1), provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Compiler's Note: Section 19(3)(i) of Act 23 of 2000, which amended subsection (d)(1), provided that the amendment shall apply to taxable years beginning after December 31, 1999.

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended subsection (d)(1), provided that the amendment shall apply to taxable years beginning after December 31, 1998.

Section 304.1. Alternative Special Tax Provision for Poverty Study.--(a) The General Assembly directs the Joint State Government Commission to conduct or provide for a comprehensive study to determine whether alternative forms of special tax provisions for poverty would be more beneficial to persons who, because of poverty, are determined to be in need of special tax provisions.

(b) The study shall include a comparison between the special tax provisions for poverty set forth under section 304 and the earned income credit allowable under section 32 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 32), as amended.

(c) The study shall consider any effects of linking the alternative special tax provisions for poverty to Federal law, including any misuse that may be inherent in the Federal program.

(d) The study shall ascertain any differences between the fiscal costs to the Commonwealth of the special tax provisions for poverty set forth

under section 304 and projected fiscal costs of other alternative provisions.

(e) The Joint State Government Commission is authorized to hire or retain consultants, utilizing a request for proposal procedure, as necessary to assist in the performance of its duties under this section.

(f) The executive director of the Joint State Government Commission shall present a report summarizing the results of this study to the chairman and the minority chairman of the Finance Committee of the Senate and the chairman and the minority chairman of the Finance Committee of the House of Representatives after August 1, 2009, and before September 1, 2009.

(304.1 added July 9, 2008, P.L.922, No.66)

Section 304.2. Pennsylvania ABLE Savings Program Tax Exemption.--(a) The following shall be exempt from all taxation by the Commonwealth and its political subdivisions:

(1) Undistributed earnings on an account.

(2) An amount distributed from an account that is not included in gross income under section 529A(c)(1) of the Internal Revenue Code.

(b) The following shall apply:

(1) An amount contributed to an account shall be deductible from the taxable income of the contributor under this article for the tax year the contribution was made.

(2) The total contributions made by a contributor during a taxable year to all accounts that are allowable as a deduction under this section shall not exceed the dollar amount under section 2503(b) of the Internal Revenue Code.

(3) The deduction shall not result in the contributor's taxable income being less than zero.

(4) The department and the Treasury Department shall cooperate in verifying account information relating to contributions to an account itemized by a contributor and the contributor's specific contributions.

(c) An amount that is distributed from an account and not otherwise exempt from taxation under this section shall be taxable income to the designated beneficiary under this article.

(d) A change in designated beneficiaries under section 529A(c) of the Internal Revenue Code shall not constitute a taxable event.

(e) As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Account." An ABLE savings account as defined in section 102 of the Pennsylvania ABLE Act.

"Contributor." An individual who makes a contribution to an account as defined in section 102 of the Pennsylvania ABLE Act.

"Designated beneficiary." The term shall have the same meaning as provided in section 102 of the Pennsylvania ABLE Act.

"Internal Revenue Code." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended.

"Pennsylvania ABLE Act." The act of April 18, 2016 (P.L.128, No.17), known as the Pennsylvania ABLE Act.

"Pennsylvania ABLE Savings Program." The program established under the Pennsylvania ABLE Act.

"Qualified disability expense." The term shall have the same meaning as provided in section 102 of the Pennsylvania ABLE Act.

(304.2 added Oct. 30, 2017, P.L.672, No.43)

PART III
ESTATES AND TRUSTS
(III added Aug. 31, 1971, P.L.362, No.93)

Section 305. Taxability of Estates, Trusts and Their Beneficiaries.--(a) Except as provided in subsection (b), the income of a beneficiary of an estate or trust in respect of such estate or trust shall consist of that part of the income or gains received by the estate or trust for its taxable

year ending within or with the beneficiary's taxable year which, under the governing instrument and applicable State law, is required to be distributed currently or is in fact paid or credited to said beneficiary. The income or gains of the estate or trust, if any, taxable to such estate or trust shall consist of the income or gains received by it which has not been distributed or credited to its beneficiaries.

(b) Subsection (a) shall not apply to the extent the grantor or another person is taxable on the income of the trust under section 302(c).

(305 amended Dec. 14, 2023, P.L. , No.64)

Compiler's Note: Section 2(1) of Act 64 of 2023, which amended section 305, provided that the amendment shall apply to tax years beginning on or after January 1 following the effective date of section 2.

PART IV
PARTNERSHIPS

(Hdg. amended June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 26(4)(iii) of Act 23 of 2001, which amended the heading of Part IV, provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Section 306. Taxability of Partners.--Except as provided under section 306.2, a partnership as an entity shall not be subject to the tax imposed by this article, but the income or gain of a member of a partnership in respect of said partnership shall be subject to the tax and the tax shall be imposed on his share, whether or not distributed, of the income or gain received by the partnership for its taxable year ending within or with the member's taxable year.

(306 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended section 306, provided that the amendment shall apply to tax years beginning after December 31, 2013.

Compiler's Note: Section 26(4)(iv) of Act 23 of 2001, which amended section 306, provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Section 306.1. Tax Treatment Determined at Partnership Level.--The classification or character of a partnership item shall be determined at the partnership level. This section shall not prohibit the department from adjusting a partner's return.

(306.1 added July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which added section 306.1, provided that section 306.1 shall apply to tax years beginning after December 31, 2013.

Section 306.2. Tax Imposed at Partnership Level.--(a) A partnership underreporting income by more than one million dollars ($1,000,000) for any tax year shall be liable for the tax, excluding interest, penalties or additions at the tax rate applicable to the tax year, on the underreported income without regard to the tax liability of the partners for the underreported income. The department shall assess the partnership for the tax on the underreported income. The department shall not assess the partners for the underreported income or the tax thereon; rather, the partnership shall be required to provide an amended statement to each partner as required under section 335(c)(3) of the partner's pro rata share of the underreported income within ninety days of the assessment becoming final. Nothing in this subsection shall relieve the partners of their tax liability on the underreported income.

(a.1) Each partner shall be allowed a credit for such partner's share of the tax assessed against the partnership under subsection (a) and paid by the partnership. The credit shall be allowed for the partner's taxable year in which the underreported income was required to be reported.

(b) Subsection (a) shall apply to the following partnerships:

(1) A partnership which has eleven or more partners who are natural persons.

(2) A partnership which has at least one partner which is a corporation, limited liability company, partnership or trust.

(3) A partnership which has only partners who are natural persons and which elects to be subject to this subsection. The election must be included on the partnership return to be filed with the department.

(c) This section shall not apply to a publicly traded partnership.

(d) Nothing under this section shall require one partner to be liable for the payment of a tax liability of another partner.

(e) Appeals involving a deficiency assessed under this section may only be pursued by the partnership, and a reassessment of tax liability shall be binding on the partners.

(306.2 added July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which added section 306.2, provided that section 306.2 shall apply to tax years beginning after December 31, 2013.

PART IV-A
PENNSYLVANIA S CORPORATIONS
(IV-A added Dec. 23, 1983, P.L.370, No.90)

Section 307. Election by Small Corporation.--Any small corporation may elect not to be taxed as a Pennsylvania S corporation. Such election requires the consent of one hundred per cent of the outstanding shares of the small corporation on the day on which the election is made. A qualified Subchapter S subsidiary owned by a Pennsylvania S corporation shall be treated as a Pennsylvania S corporation whether or not an election has been made with respect to such subsidiary.

(307 amended July 6, 2006, P.L.319, No.67)

Section 307.1. Manner of Making Election.--(a) An election made pursuant to section 307 shall be made in such manner as prescribed by the department.

(b) An election under section 307 may be made for any taxable year at any time during the preceding taxable year or at any time on or before the due date or extended due date of the small corporation's tax return under Article IV.

(307.1 amended July 6, 2006, P.L.319, No.67)

Section 307.2. Effective Years of Election.--An election made pursuant to section 307 shall be effective for the taxable year for which the election is made and for each succeeding taxable year unless revoked or terminated.

(307.2 added Dec. 23, 1983, P.L.370, No.90)

Section 307.3. Revocation of Election.--(a) An election under section 307 may be revoked if shareholders holding more than one-half of the shares of stock of the corporation on the day on which the revocation is made consent to the revocation. The corporation and any successor corporation shall not be eligible to revoke an election under this section for any taxable year prior to its fifth taxable year which begins after the first taxable year for which an election is effective unless the corporation becomes a qualified Subchapter S subsidiary.

(b) A revocation under subsection (a) shall be effective on the first day of the taxable year if made on or before the fifteenth day of the third month thereof; if the revocation is made after such date, it shall be effective for the following taxable year.

(c) ((c) deleted by amendment July 6, 2006, P.L.319, No.67)

(307.3 amended July 6, 2006, P.L.319, No.67)

Section 307.4. Termination by Corporation Ceasing to be a Small Corporation.--(a) If a corporation ceases to be a small corporation, as defined in section 301(s.2), the corporation's status as a Pennsylvania S corporation shall terminate.

(b) Such termination shall be effective on the date on which the corporation ceases to be a small corporation, as defined in section 301(s.2).

(307.4 amended July 6, 2006, P.L.319, No.67)

Section 307.5. Termination Year.--(a) The portion of the termination year of a Pennsylvania S corporation ending before the first day for which the termination is effective shall be treated as a short taxable year for which the corporation is a Pennsylvania S corporation.

(b) The portion of such year beginning on the first day for which the termination is effective shall be treated as a short taxable year for purposes of the tax imposed by Article IV.

(c) The allocation of income and expense items to be taken into consideration in each short year shall be made in accordance with such regulations as may be issued by the department.

(307.5 amended July 6, 2006, P.L.319, No.67)

Section 307.6. Election after Revocation or Termination.--(307.6 deleted by amendment July 6, 2006, P.L.319, No.67)

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended section 307.6, provided that the amendment shall apply to taxable years beginning after December 31, 1998.

Section 307.7. Taxable Year of a Pennsylvania S Corporation.--The taxable year of a Pennsylvania S corporation shall be the same taxable year which the corporation uses for Federal income tax purposes.

(307.7 added Dec. 23, 1983, P.L.370, No.90)

Section 307.8. Income of a Pennsylvania S Corporation.--(a) A Pennsylvania S corporation shall not be subject to the tax imposed by this article, except as provided under subsection (f), but the shareholders of the Pennsylvania S corporation shall be subject to the tax imposed under this article as provided in this article. ((a) amended July 9, 2013, P.L.270, No.52)

(b) If any tax is imposed on a Pennsylvania S corporation (or any qualified Subchapter S subsidiary owned by such Pennsylvania S corporation) pursuant to section 1374 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1374), as amended to January 1, 1997, or pursuant to Article IV or Article VI for any taxable year, then, for purposes of section 307.9, the amount of tax so imposed shall be treated as a loss sustained by such Pennsylvania S corporation during such years. In the case of taxes imposed pursuant to section 1374 of the Internal Revenue Code of 1986, as amended to January 1, 1997, or Article IV, the character of such loss shall be determined by allocating the loss proportionately among the recognized built-in gains giving rise to such tax.

(c) If a Pennsylvania S corporation makes a distribution of property, other than an obligation of such corporation, with respect to its stock and the fair market value of such property exceeds its adjusted basis in the hands of the corporation, then gain shall be recognized on the distribution as if the property had been sold to the distributee at its fair market value.

(d) Any election which may affect the computation of items derived from a Pennsylvania S corporation shall be made by the corporation.

(e) Any deduction, except a net loss deduction, which was disallowed when a corporation was subject to the tax imposed under Article IV shall be allowed in years in which the corporation is a Pennsylvania S corporation to the same extent and in the same manner that the deduction would have been allowed if the corporation had remained subject to the tax imposed under Article IV.

(f) A Pennsylvania S corporation with underreported income shall be subject to the following:

(1) A Pennsylvania S corporation underreporting income by more than one million dollars ($1,000,000) for any tax year shall be liable for the tax, excluding interest, penalties or additions, at the tax rate applicable to the tax year, on the underreported income without regard to the tax liability of the shareholders for the underreported income. The department

shall assess the Pennsylvania S corporation for the tax on the underreported income. The department shall not assess the shareholders for the underreported income or the tax thereon; rather, the Pennsylvania S corporation shall be required to provide an amended statement to each shareholder as required under section 330.1 of the shareholder's pro rata share of the underreported income within ninety days of the assessment becoming final. Nothing in this subsection shall relieve the shareholders of their tax liability on the underreported income.

(1.1) Each shareholder shall be allowed a credit for the shareholder's share of the tax assessed against the Pennsylvania S corporation under paragraph (1) and paid by the Pennsylvania S corporation. The credit shall be allowed for the shareholder's taxable year in which the underreported income was required to be reported.

(2) Paragraph (1) shall apply to the following Pennsylvania S corporations:

(i) A Pennsylvania S corporation which has eleven or more shareholders.

(ii) A Pennsylvania S corporation which elects to be subject to this subsection. The election must be included on the Pennsylvania S corporation return to be filed with the department.

(3) Nothing under this section shall require one shareholder to be liable for the payment of a tax liability of another shareholder.

(4) Appeals involving the deficiency assessed under this section may be filed only by the Pennsylvania S corporation, and a reassessment of tax liability shall be binding on the shareholders.

((f) added July 9, 2013, P.L.270, No.52)

(307.8 amended May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended subsec. (a) and added subsec. (f), provided that the amendment or addition shall apply to tax years beginning after December 31, 2013.

Section 307.9. Income of Pennsylvania S Corporations Taxed to Shareholders.--(a) Each shareholder of a Pennsylvania S corporation shall take into income such shareholder's pro rata share of the income or loss in each applicable class of income received by the corporation for its taxable year ending within or with the shareholder's taxable year.

(b) Each shareholder's pro rata share of any item for any taxable year shall be the sum of the amounts determined with respect to the shareholder by assigning an equal portion of all items to each day of the taxable year and then by dividing that portion pro rata among the shares outstanding on such day.

(c) The character of any item included in the shareholder's pro rata share shall be determined as if such item were realized directly by the shareholder from the source from which it was realized by the corporation or incurred in the same manner as incurred by the corporation.

(d) With respect to any deduction allowed pursuant to section 307.8(e), any nonresident shareholder shall be allowed such deduction only to the extent that the previously disallowed deduction would have been considered a deduction related to income from sources within this Commonwealth, within the meaning of section 301(k), during the taxable year when the deduction was disallowed.

(e) For all purposes of this article, a qualified Subchapter S subsidiary owned by a Pennsylvania S corporation shall not be treated as a separate corporation, and all assets, liabilities and items of income, deduction and credit of such qualified Subchapter S subsidiary shall be treated as assets, liabilities and items of income, deduction and credit of the parent Pennsylvania S corporation.

(307.9 amended May 7, 1997, P.L.85, No.7)

Section 307.10. Limitation on Pass-thru of Losses to Shareholders.--(a) The aggregate amount of losses taken into account by a shareholder of a Pennsylvania S corporation under section 307.9 shall not exceed the sum of the adjusted basis of the shareholder's stock in the Pennsylvania S corporation, determined after applying section 307.11(a) for the taxable year and the shareholder's adjusted basis of any indebtedness of the

Pennsylvania S corporation to the shareholder, determined before applying section 307.11(d) for the taxable year.

(b) There shall be no carryover of losses by the shareholders of the Pennsylvania S corporation.

(307.10 added Dec. 23, 1983, P.L.370, No.90)

Section 307.11. Adjustments to the Basis of the Stock of Shareholders.--(a) The basis of the stock of any shareholder in a Pennsylvania S corporation shall be increased for any period by his share of the corporation's income, including nontaxable income, as determined under section 307.9.

(b) The basis of any shareholder's stock in a Pennsylvania S corporation shall be decreased for any period, but not below zero, by any distribution by the corporation to the shareholder which was not included in the income of the shareholder pursuant to section 307.12 and by his share of the corporation's losses as determined under section 307.9 to the extent that the loss reduced the shareholder's income subject to the tax imposed under this article or a tax measured by net income, imposed on the shareholder by any other state.

(c) If for any taxable year any shareholder's basis in the stock of a Pennsylvania S corporation is reduced to zero, any excess losses will reduce the shareholder's basis, but not below zero, in any indebtedness of the Pennsylvania S corporation to the shareholder.

(d) If a shareholder's basis in any indebtedness is reduced under subsection (c) of this section, then such reduction shall be restored before the shareholder's basis in the Pennsylvania S corporation's stock is increased.

(307.11 added Dec. 23, 1983, P.L.370, No.90)

Section 307.12. Distributions.--(a) A distribution of property by a Pennsylvania S corporation which has no accumulated earnings and profits to a shareholder of the corporation shall not be included in the shareholder's income to the extent that it does not exceed the shareholder's adjusted basis in the stock. Any amount of the distribution in excess of the adjusted basis in the stock shall be treated as a gain from the sale, exchange or other disposition of property.

(b) A distribution of property by a Pennsylvania S corporation which has accumulated earnings and profits shall be treated in the same manner as a distribution by a Pennsylvania S corporation without earnings and profits to the extent of the corporation's accumulated adjustment account. That portion of the distribution in excess of the accumulated adjustment account will be treated as a dividend to the extent of the accumulated earnings and profits of the corporation. Any portion of the distribution in excess of the accumulated earnings and profits of the corporation shall be treated in the same manner as a distribution from a Pennsylvania S corporation without accumulated earnings and profits.

(c) Accumulated adjustment account means an account of the Pennsylvania S corporation which is cumulatively adjusted for the most recent continuous period during which the corporation has been a Pennsylvania S corporation by increasing the account for corporate income and decreasing the account for corporate losses and all distributions of property by the corporation to the shareholders which were not included in the income of the shareholders: Provided, That no adjustment shall be made for any income or loss not in any of the classes of income enumerated in section 303 or for any non-deductible expense.

(d) In the case of a non-pro rata distribution of property, the adjustment shall be limited to an amount which bears the same ratio to the balance in such account as the number of shares sold, exchanged or otherwise disposed of bears to the number of shares in the corporation outstanding immediately before such sale, exchange or disposition.

(307.12 added Dec. 23, 1983, P.L.370, No.90)

PART IV-B
OTHER ENTITIES
(IV-B added June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 26(4)(v) of Act 23 of 2001, which added Part IV-B, provided that Part IV-B shall apply to taxable years beginning after December 31, 2000.

Section 307.21. Treatment of Unincorporated Entities with Single Owners.--Unless subject to tax under Article IV, an unincorporated entity that has a single owner shall be disregarded as an entity separate from its owner.

(307.21 added June 22, 2001, P.L.353, No.23)

PART V
NONRESIDENT INDIVIDUALS
(V added Aug. 31, 1971, P.L.362, No.93)

Section 308. Nonresident Individuals; Taxable Income.--The income of a nonresident individual shall be that part of his income derived from sources within this Commonwealth as defined in this article.

(308 added Aug. 31, 1971, P.L.362, No.93)

Section 309. Husband and Wife.--(a) Separate Return. If the income of husband or wife who are both nonresidents of this Commonwealth and are subject to tax under this article is determined on a separately filed return, their incomes from sources within this Commonwealth shall be separately determined.

(b) One Spouse a Nonresident. If either husband or wife is a nonresident and the other a resident, separate taxes shall be determined on their separate incomes on such forms as the department shall prescribe, unless both elect to determine their joint income as if both were residents, in which event their tax liabilities shall be joint and several.

(309 added Aug. 31, 1971, P.L.362, No.93)

Section 310. Allocation of Income of Nonresident.--Where a nonresident taxpayer earns, receives or acquires income from sources partly within and partly without this Commonwealth or engages in a business, trade, profession or occupation partly within and partly without this Commonwealth, and, as a result thereof or for other reasons that portion of the income derived from or connected with sources within this Commonwealth cannot readily or accurately be ascertained, the department shall by regulation prescribe uniform rules for apportionment or allocation of so much of such taxpayer's income as fairly and equitably represents income, derived from sources within this Commonwealth and subject to tax under this article.

(310 added Aug. 31, 1971, P.L.362, No.93)

PART VI
CREDITS AGAINST TAX
(VI added Aug. 31, 1971, P.L.362, No.93)

Section 312. Tax Withheld.--The amount withheld under section 316.1 shall be allowed to the taxpayer from whose income the tax was withheld as a credit against the tax imposed on him by this article.

(312 amended Oct. 30, 2017, P.L.672, No.43)

Section 313. Tax Paid Under Previous Act.--The amount of tax withheld from an employe and paid over to the Commonwealth or paid over by a taxpayer as an estimated payment pursuant to repealed Article III of the act of March 4, 1971 (Act No.2), shall be held as a credit against the tax imposed by this article.

(313 added Aug. 31, 1971, P.L.362, No.93)

Section 314. Income Taxes Imposed by Other States.--(a) A resident taxpayer before allowance of any credit under section 312 shall be allowed a credit against the tax otherwise due under this article for the amount of any income tax, wage tax or tax on or measured by gross or net earned or unearned income imposed on him or on a Pennsylvania S corporation in which he is a shareholder, to the extent of his pro rata share thereof determined

in accordance with section 307.9, by another state with respect to income which is also subject to tax under this article. For purposes of this subsection, the term "state" shall only include a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico and any territory or possession of the United States. ((a) amended July 9, 2013, P.L.270, No.52)

(b) The credit provided under this section shall not exceed the proportion of the tax otherwise due under this article that the amount of the taxpayer's income subject to tax by the other jurisdiction bears to his entire taxable income.

(314 amended Dec. 23, 1983, P.L.370, No.90)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended subsec. (a), provided that the amendment shall apply to tax years beginning after December 31, 2013.

Section 315. Space on Form for Contributions.--(315 repealed Dec. 18, 1992, P.L.1638 No.180)

PART VI-A
CONTRIBUTIONS OF REFUNDS BY CHECKOFF
(VI-A added May 7, 1997, P.L.85, No.7)

Section 315.1. Definitions.--The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

"Individual income tax." The tax imposed under this article.

(315.1 added May 7, 1997, P.L.85, No.7)

Section 315.2. Contributions to Breast and Cervical Cancer Research.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to be utilized for breast and cervical cancer research.

(b) The amount so designated on the individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due to the Commonwealth.

(c) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer who shall transfer the amount from the General Fund to the Pennsylvania Breast Cancer Coalition.

(d) The department shall provide adequate information concerning the checkoff for breast and cervical cancer research in its instructions which accompany State income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Health to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds. Additionally, the Pennsylvania Breast Cancer Coalition shall be charged with the duty to conduct a public information campaign on the availability of this opportunity to Pennsylvania taxpayers.

(e) The Pennsylvania Breast Cancer Coalition shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over health matters on the amount received via the checkoff plan and how the funds were utilized.

(f) The General Assembly may, from time to time, appropriate funds for breast and cervical cancer research.

(315.2 reenacted Oct. 9, 2009, P.L.451, No.48)

Section 315.3. Contributions for Wild Resource Conservation.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to the Wild Resource Conservation Fund established under section 5 of the act of June 23, 1982 (P.L.597, No.170), known as the "Wild Resource Conservation Act."

(b) The amount so designated by an individual on the income tax return form shall be deducted from the tax refund to which such individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated pursuant to this section and shall report such amount to the State Treasurer who shall transfer such amount from the General Fund to the Wild Resource Conservation Fund for use as provided in the "Wild Resource Conservation Act." The department shall be reimbursed from the fund for any administrative costs incurred above and beyond the cost savings it realizes as a result of individual total refund designations.

(d) The department shall provide adequate information concerning the Wild Resource Conservation Fund in its instructions which accompany State income tax return forms, which shall include the listing of an address furnished to it by the Wild Resource Conservation Board to which contributions may be sent by those taxpayers wishing to contribute to said fund but who do not receive refunds.

(e) This section shall apply to taxable years beginning on or after January 1, 1997.

(315.3 added May 7, 1997, P.L.85, No.7)

Section 315.4. Contributions for Organ and Tissue Donation Awareness.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund established under 20 Pa.C.S. § 8622 (relating to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund).

(b) The amount so designated by an individual on the Pennsylvania individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall annually determine the total amount designated pursuant to this section and shall report that amount to the State Treasurer who shall transfer that amount to the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund.

(d) The department shall, in all taxable years following the effective date of this section, provide on its forms or in its instructions which accompany Pennsylvania individual income tax return forms adequate information concerning the Governor Robert P. Casey Memorial Organ and Tissue Donation Awareness Trust Fund which shall include the listing of an address furnished to it by the Organ Donation Advisory Committee to which contributions may be sent by those taxpayers wishing to contribute to the fund but who do not receive refunds.

(e) This section shall apply to taxable years beginning on or after January 1, 1997.

(315.4 amended June 22, 2001, P.L.353, No.23)

Section 315.5. Contributions for Olympics.--(315.5 deleted by amendment July 7, 2005, P.L.149, No.40)

Section 315.6. Contribution for Korea/Vietnam Memorial National Education Center.--(315.6 repealed Oct. 30, 2017, P.L.672, No. 43)

Section 315.7. Contributions for Juvenile Diabetes Cure Research.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to be utilized for juvenile diabetes cure research related to:

(1) restoring normal blood sugar levels;

(2) preventing and reversing complications; or

(3) preventing juvenile diabetes.

(b) The amount so designated on the Pennsylvania individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due to the Commonwealth.

(c) (1) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer, who shall transfer the amount to a restricted revenue account within the General Fund to be used by the Department of Health for aiding juvenile diabetes cure research.

(2) The Department of Health shall distribute the amounts to institutions of higher education and independent research institutes of this Commonwealth to support projects that have been subject to an established peer and scientific review process identical or similar to the National Institutes of Health review system.

(d) The department shall provide adequate information concerning the checkoff for juvenile diabetes cure research in its instructions which accompany the Pennsylvania income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Health to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds.

(e) The Department of Health shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over health matters on the amount received via the checkoff plan and how the funds were utilized.

(315.7 reenacted Oct. 9, 2009, P.L.451, No.48)

Compiler's Note: Section 2 of Act 133 of 2004, which added section 315.7, provided that section 315.7 shall apply to tax years beginning after December 31, 2004.

Section 315.8. Contributions for Military Family Relief Assistance.--(a) Beginning with taxable years ending after December 31, 2004, the department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may contribute to a fund for military family relief assistance. Persons may do so by stating the amount of the contribution, not less than one dollar ($1), on the return and that the contribution will reduce the taxpayer's refund.

(b) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer who shall transfer the amount to a restricted revenue account within the General Fund to be used by the Department of Military and Veterans Affairs for contributions to military family relief assistance as provided by statute.

(c) The department shall provide adequate information concerning the checkoff for military family relief assistance in its instructions which accompany the Pennsylvania income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Military and Veterans Affairs to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds.

(d) The Department of Military and Veterans Affairs shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over military and veterans affairs on the amount received via the checkoff plan and how the funds were utilized.

(315.8 added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(9)(ii) of Act 40 of 2005, which added section 315.8, provided that section 315.8 shall apply to taxable years beginning after December 31, 2004.

Section 315.9. Operational Provisions.--(a) ((a) deleted by amendment Oct. 9, 2009, P.L.451, No.48)

(b) Except as set forth in subsection (b.1), any checkoff established under this part and applicable for the first time in a taxable year beginning after December 31, 2009, shall expire four years after the beginning of such first taxable year.

(b.1) Notwithstanding subsection (b), the checkoffs established in sections 315.2, 315.3, 315.4, 315.7, 315.8, 315.10 and 315.11 shall not

expire. ((b.1) amended Oct. 30, 2017, P.L.672, No.43)

(c) ((c) deleted by amendment Oct. 30, 2017, P.L.672, No.43)

(315.9 amended July 9, 2013, P.L.270, No.52)

Section 315.10. Contributions for the Children's Trust Fund.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution of any amount desired to the Children's Trust Fund established in section 8 of the act of December 15, 1988 (P.L.1235, No.151), known as the "Children's Trust Fund Act."

(b) The amount designated under subsection (a) by an individual on the income tax return form shall be deducted from the tax refund to which that individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated pursuant to this section, less reasonable administrative costs, and shall report the amount to the State Treasurer, who shall transfer the amount from the General Fund to the Children's Trust Fund.

(315.10 added July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which added section 315.10, provided that section 315.10 shall apply to tax years beginning after December 31, 2013.

Section 315.11. Contributions for American Red Cross.--(a) The department shall provide a space on the Pennsylvania individual income tax return form by which an individual may voluntarily designate a contribution of any amount desired to the American Red Cross established under 36 U.S.C. Ch. 3001 (relating to the American National Red Cross).

(b) The amount designated under subsection (a) by an individual on the income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due the Commonwealth.

(c) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer, who shall transfer the amount from the General Fund to the American Red Cross.

(315.11 added July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which added section 315.11, provided that section 315.11 shall apply to tax years beginning after December 31, 2013.

Section 315.12. Contributions for Tuition Account Programs.--(a) Beginning with the 2016 Pennsylvania individual income tax return, the department shall provide a space on the income tax return form by which a taxpayer who is an account owner may voluntarily designate a contribution to a beneficiary's Tuition Account Guaranteed Savings Program or the Tuition Account Investment Program established under the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act.

(b) The amount designated under subsection (a) by a taxpayer on the income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due to the Commonwealth.

(c) The department shall determine the amount designated under this section and shall report the amount to the State Treasurer, who shall transfer the amount from the General Fund to the appropriate account within the Tuition Account Guaranteed Savings Program or the Tuition Account Investment Program.

(d) For purposes of this section, the following words and phrases shall have the meanings ascribed to them in this subsection:

"Account owner." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

"Beneficiary." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

(315.12 added July 13, 2016, P.L.526, No.84)

Section 315.13. Contributions for Pediatric Cancer Research.--(a) The department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution to be utilized for pediatric cancer research. On or before December 1 of each year, the Secretary of Health shall designate hospitals within this Commonwealth conducting pediatric cancer research that are eligible to receive funding under this section for the following calendar year.

(b) The amount designated on the individual income tax return form shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due to the Commonwealth.

(c) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer, who shall transfer the amount from the General Fund to the Pennsylvania Cancer Control, Prevention and Research Advisory Board within the Department of Health.

(d) The department shall provide adequate information concerning the checkoff for pediatric cancer research in its instructions that accompany State income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Health to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds. Additionally, the Department of Health shall be charged with the duty to conduct a public information campaign on the availability of this opportunity to Pennsylvania taxpayers.

(e) The Department of Health shall report annually to the respective committees of the Senate and the House of Representatives that have jurisdiction over health matters on the amount received via the checkoff plan and how the funds were utilized.

(315.13 added Oct. 30, 2017, P.L.377, No.39)

Compiler's Note: Section 2 of Act 39 of 2017, which added section 315.13, provided that the addition of section 315.13 shall apply to taxable years beginning after December 31, 2017.

Section 315.14. Contribution for Veterans' Trust Fund.--(a) For taxable years beginning after December 31, 2019, the department shall provide a space on the Pennsylvania individual income tax return form whereby an individual may voluntarily designate a contribution, in any amount, to the Veterans' Trust Fund. The amount so designated shall be deducted from the tax refund to which the individual is entitled and shall not constitute a charge against the income tax revenues due to the Commonwealth.

(b) The department shall determine annually the total amount designated under this section, less reasonable administrative costs, and shall report the amount to the State Treasurer who shall transfer the amount to the Veterans' Trust Fund.

(c) The department shall provide adequate information concerning the checkoff for the Veterans' Trust Fund in its instructions which accompany the Pennsylvania income tax return forms. The information concerning the checkoff shall include the listing of an address furnished by the Department of Military and Veterans Affairs to which contributions may be sent by taxpayers wishing to contribute to this effort but who do not receive refunds.

(d) The Department of Military and Veterans Affairs shall report annually to the respective committees of the Senate and the House of Representatives which have jurisdiction over military and veterans affairs on the amount received via the checkoff plan and how the funds were utilized.

(315.14 added June 28, 2019, P.L.50, No.13)

PART VII
WITHHOLDING OF TAX

(VII added Aug. 31, 1971, P.L.362, No.93)

Section 316. Definitions.--The following words, terms and phrases, when used in this part, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Payee." The person receiving the payments subject to withholding under this part.

"Payments." The term does not include a partner or shareholder's distributive share of income from a partnership or Pennsylvania S corporation.

"Payor." The person required to withhold under this part.

(316 added Oct. 30, 2017, P.L.672, No.43)

Section 316.1. Requirement of Withholding Tax.--(a) Every employer maintaining an office or transacting business within this Commonwealth and making payment of compensation (i) to a resident individual, or (ii) to a nonresident individual taxpayer performing services on behalf of such employer within this Commonwealth, shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employe's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. The method of determining the amount to be withheld shall be prescribed by regulations of the department.

(b) Whenever the Pennsylvania State Lottery or a person making a Pennsylvania State Lottery prize payment in the form of an annuity is required to withhold Federal income tax under section 3402 of the Internal Revenue Code of 1986, as amended (Public Law 99-514, 26 U.S.C. § 1 et seq.), or backup withholding under section 3406 of the Internal Revenue Code of 1986, as amended, from a gambling or lottery prize payment awarded by the Pennsylvania State Lottery that is taxable under this article, the Pennsylvania State Lottery or the person making the annuity payment shall deduct and withhold from the prize payment an amount equal to the amount of the prize payment subject to withholding under section 3402 or 3406 of the Internal Revenue Code of 1986 multiplied by the tax rate in effect under this article at the time the prize payment is made.

(316.1 renumbered from 316 Oct. 30, 2017, P.L.672, No.43)

Section 316.2. Withholding Tax Requirement for Nonemployer Payors.--(a) To the extent not already required to withhold tax on payments under section 316.1, a person that:

(1) makes payments of income from sources within this Commonwealth described in section 303(a)(1) or (2) to either a nonresident individual or an entity that is disregarded under section 307.21 that has a nonresident member; and

(2) is required under section 335(f)(1) to file a copy of form 1099-MISC or 1099-NEC with the department regarding the payments;

shall deduct and withhold from the payments an amount equal to the net amount of the payments multiplied by the tax rate specified under section 302(b).

((a) amended June 30, 2021, P.L.124, No.25)

(b) Withholding of tax by payors is optional and at the discretion of the payor with respect to payees who receive payments of less than $5,000 annually from the payor.

(c) This section shall not apply to payments made by a payor to a payee if the payor is:

(1) The United States or an agency or instrumentality thereof; or

(2) The Commonwealth or an agency, instrumentality or political subdivision thereof.

(d) The department may prescribe regulations to implement and clarify the withholding requirement set forth in this section.

(316.2 added Oct. 30, 2017, P.L.672, No.43)

Section 317. Information Statement.--(a) Every employer required to deduct and withhold tax under section 316.1(a) shall furnish to each such employe to whom the employer has paid compensation during the calendar year

a written statement in such manner and in such form as may be prescribed by the department showing the amount of compensation paid by the employer to the employe, the amount deducted and withheld as tax, pursuant to section 316.1(a), and such other information as the department shall prescribe. Each statement required by this section for a calendar year shall be furnished to the employe on or before January 31 of the year succeeding such calendar year. If the employe's employment is terminated before the close of such calendar year, the employer, at his option, shall furnish the statement to the employe at any time after the termination but no later than January 31 of the year succeeding such calendar year. However, if an employe whose employment is terminated before the close of such calendar year requests the employer in writing to furnish him the statement at an earlier time, and, if there is no reasonable expectation on the part of both employer and employe of further employment during the calendar year, then the employer shall furnish the statement to the employe on or before the later of the 30th day after the day of the request or the 30th day after the day on which the last payment of wages is made.

(b) Every person required to deduct and withhold tax under section 316.1(b) shall report the prize and the amount of withholding to the taxpayer on Internal Revenue Service Form W-2G, or similar form used for reporting Federal income tax withholding from the prize.

(317 amended Oct. 30, 2017, P.L.672, No.43)

Section 317.1. Information Statement for Nonemployer Payors.--Every payor required to deduct and withhold tax under section 316.2 shall furnish to a payee to whom the payor has paid income from sources within this Commonwealth during the calendar year a copy of form 1099-MISC or 1099-NEC required under section 335(f)(1). The copy of form 1099-MISC or 1099-NEC required by this section for each calendar year shall be forwarded to the payee on or before March 1 of the year succeeding the calendar year.

(317.1 amended June 30, 2021, P.L.124, No.25)

Section 317.2. Information Statement for Payees.--Every payee receiving a copy of form 1099-MISC or 1099-NEC from a payor under section 317.1 shall file a duplicate of such information return with the payee's State income tax return.

(317.2 amended June 30, 2021, P.L.124, No.25)

Section 318. Time for Filing Withholding Returns.--(a) Every employer required to deduct and withhold tax under section 316.1(a) shall file a quarterly withholding return on or before the last day of April, July, October and January for the three months ending the last day of March, June, September and December. Such quarterly returns shall be filed with the department at its main office or at any branch office which it may designate for filing returns.

(b) Every person required to deduct and withhold tax under section 316.1(b) shall file a withholding tax return at the same time the person is required to file its annual return of withheld Federal income tax (IRS Form 945) from nonpayroll payments. The return shall be filed with the department.

(318 amended Oct. 30, 2017, P.L.672, No.43)

Section 318.1. Time for Filing Payors' Returns.--Every payor required to deduct and withhold tax under section 316.2 shall file a quarterly withholding return on or before the last day of April, July, October and January for each three-month period ending the last day of March, June, September and December. The quarterly returns shall be filed with the department in the manner prescribed by regulation.

(318.1 added Oct. 30, 2017, P.L.672, No.43)

Section 319. Payment of Taxes Withheld.--(a) Every employer withholding tax under section 316.1(a) shall pay over to the department or to a depository designated by it the tax required to be deducted and withheld under section 316.1(a).

(1) Where the aggregate amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be less than twelve hundred dollars ($1,200), such employer shall file a return and pay

the tax on or before the last day for filing a quarterly return under section 318.

(2) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be twelve hundred dollars ($1,200) or more but less than four thousand dollars ($4,000), such employer shall pay the tax monthly, on or before the fifteenth day of the month succeeding the months of January to November, inclusive, and on or before the last day of January following the month of December.

(3) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be four thousand dollars ($4,000) or more but less than twenty thousand dollars ($20,000), such employer shall pay the tax semi-monthly, within three banking days after the close of the semi-monthly period.

(4) Where the aggregated amount required to be deducted and withheld by any employer for a calendar year can reasonably be expected to be twenty thousand dollars ($20,000) or more, such employer shall pay the tax on the Wednesday after payday if the payday falls on a Wednesday, Thursday or Friday and on the Friday after payday if the payday falls on a Saturday, Sunday, Monday or Tuesday.

Notwithstanding anything in this subsection to the contrary, whenever any employer fails to deduct or truthfully account for or pay over the tax withheld or file returns as prescribed by this article, the department may serve a notice on such employer requiring him to withhold taxes which are required to be deducted under section 316.1(a) and deposit such taxes in a bank approved by the department in a separate account in trust for and payable to the department, and to keep the amount of such tax in such account until payment over to the department. Such notice shall remain in effect until a notice of cancellation is served on the employer by the department.

(b) Every person deducting and withholding tax under section 316.1(b) shall remit the tax to the department on the same frequency that the person is required to remit Federal income tax withheld from nonpayroll payments.

(319 amended Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: Section 14(1) of Act 48 of 2009, which amended section 319, provided that the amendment shall apply to tax returns due after May 31, 2010.

Section 319.1. Payment of Taxes Withheld for Nonemployer Payors.--Every payor withholding tax under section 316.2 shall pay over to the department or to a depository designated by the department the tax required to be deducted and withheld under section 316.2. The time for paying over the withheld tax shall be as set forth in section 319(1), (2), (3) and (4).

(319.1 added Oct. 30, 2017, P.L.672, No.43)

Section 320. Liability for Withheld Taxes.--Every person required to deduct and withhold tax under section 316.1 is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid over to the department and any additions to tax penalties and interest with respect thereto, shall be considered the tax of the person. All taxes deducted and withheld pursuant to section 316.1 or under color of section 316.1 shall constitute a trust fund for the Commonwealth and shall be enforceable against such person, his representative or any other person receiving any part of such fund.

(320 amended Oct. 30, 2017, P.L.672, No.43)

Section 320.1. Payor's Liability for Withheld Taxes.--Every payor required to deduct and withhold tax under section 316.2 is hereby made liable for such tax. For purposes of assessment and collection, any amount required to be withheld and paid over to the department and any additions to tax, penalties and interest with respect thereto shall be considered the tax of the payor. All taxes deducted and withheld from payees pursuant to section 316.2 or under color of section 316.2 shall constitute a trust fund for the Commonwealth and shall be enforceable against such payor, his representative or any other person receiving any part of such fund.

(320.1 added Oct. 30, 2017, P.L.672, No.43)

Section 321. Failure to Withhold.--If a person fails to deduct and withhold tax as prescribed in this part and thereafter the tax against which such tax may be credited is paid, the tax which was required to be deducted and withheld shall not be collected from the person, but the person shall not be relieved of the liability for any penalty, interest, or additions to the tax imposed with respect to such failure to deduct and withhold.

(321 amended July 13, 2016, P.L.526, No.84)

Section 321.1. Bulk and Auction Sales and Transfers, Notice.--(a) An employer that is liable for filing returns in accordance with the provisions of this part and either sells or causes to be sold at auction, or sells or transfers in bulk, fifty-one per cent or more of any stock of goods, wares or merchandise of any kind, fixtures, machinery, equipment, buildings or real estate held by or on behalf of the employer shall be subject to the provisions of section 1403 of "The Fiscal Code."

(b) ((b) deleted by amendment)

(321.1 amended June 29, 2002, P.L.559, No.89)

Section 321.2. Payor's Failure to Withhold.--If a payor fails to deduct and withhold tax as prescribed under section 316.2 and thereafter the tax which may be credited is paid, the tax which was required to be deducted and withheld shall not be collected from the payor, but the payor shall not be relieved of the liability for any penalty, interest or additions to the tax imposed with respect to such failure to deduct and withhold.

(321.2 added Oct. 30, 2017, P.L.672, No.43)

Section 322. Designation of Third Parties to Perform Acts Required of Employers.--In case a fiduciary, agent or other person has the control, receipt, custody or disposal of, or pays the compensation of an employe or a group of employes, employed by one or more employers, the department is authorized to designate such fiduciary, agent, or other person to perform such acts as are required of employers under this article as the department may by regulation prescribe. Except as may be otherwise prescribed by the department, all provisions of this article which are applicable to an employer shall be applicable to a fiduciary, agent or other person.

(322 added Aug. 31, 1971, P.L.362, No.93)

Section 323. When Withholding Not Required.--Notwithstanding any provision of this code to the contrary, an employer on and after January 1, 1975 shall not be required to withhold any tax upon payment of wages to an employe if such employe can certify:

(1) that he incurred no personal income tax liability for the preceding tax year; and

(2) that he anticipates no liability for personal income tax for the current taxable year.

(323 added Mar. 13, 1974, P.L.179, No.32)

PART VII-A
WITHHOLDING TAX ON INCOME FROM SOURCES WITHIN THIS COMMONWEALTH

(VII-A amended Oct. 30, 2017, P.L.672, No.43)

Section 324. General Rule.--(a) When a partnership, estate, trust or Pennsylvania S corporation receives income from sources within this Commonwealth for any taxable year and any portion of the income is allocable to a nonresident partner, beneficiary, member or shareholder thereof, the partnership, estate, trust or Pennsylvania S corporation shall pay a withholding tax under this section at the time and in the manner prescribed by the department; however, notwithstanding any other provision of this article, all such withholding tax shall be paid over on or before the fifteenth day of the fourth month following the end of the taxable year.

(b) This section shall not apply to any publicly traded partnership as defined under section 7704 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7704) with equity securities registered with the

Securities and Exchange Commission under section 12 of the Securities Exchange Act of 1934 (48 Stat. 881, 15 U.S.C. § 78a).
(324 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended section 324, provided that the amendment shall apply to tax years beginning after December 31, 2013.

Compiler's Note: Section 26(4)(vi) of Act 23 of 2001, which amended section 324, provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Section 324.1. Amount of Withholding Tax.--(a) The amount of tax withheld from nonresidents and the amount of the withholding tax payable under section 324 shall be equal to the income from sources within this Commonwealth of the partnership, association or Pennsylvania S corporation which is allocable to nonresident partners, members or shareholders multiplied by the tax rate specified in section 302(b).

(b) There shall not be taken into account any item of income, gain, loss or deduction to the extent allocable to any partner, member or shareholder who is not a nonresident.

(c) There shall not be taken into account any share of income of nonresident partner, member or shareholder from sources within this Commonwealth to the extent that the amount was subject to withholding under section 324.4 and to the extent withholding actually occurred under section 324.4 by the time withholding is required to be made by the partnership, association or Pennsylvania S corporation under section 324. ((c) added Oct. 30, 2017, P.L.672, No.43)

(324.1 added Aug. 4, 1991, P.L.97, No.22)

Section 324.2. Treatment of Nonresident Partners, Members or Shareholders.--(a) Each nonresident partner, member, shareholder or holder of a beneficial interest shall be allowed a credit for such partner's, member's, shareholder's or holder of a beneficial interest's share of the withholding tax paid by the partnership, association or Pennsylvania S corporation. Such credit shall be allowed for the partner's, member's, shareholder's or holder of a beneficial interest's taxable year in which, or with which, the partnership, association or Pennsylvania S corporation taxable year (for which such tax was paid) ends.

(b) Each nonresident lessor shall be allowed a credit for the nonresident lessor's share of the withholding tax paid by the lessee under section 324.4.

(c) The credits under this section shall be allowed for the nonresident lessor's taxable year in which the lessee withheld tax.

(324.2 amended Oct. 30, 2017, P.L.672, No.43)

Section 324.3. Liability for Tax, Interest, Penalties and Additions.--If a partnership, association or Pennsylvania S corporation fails to pay withholding tax as prescribed herein and thereafter such tax is paid, the partnership, association or Pennsylvania S corporation shall not be relieved of the liability for any penalty, interest or addition as a result of failure to properly withhold such tax.

(324.3 added Aug. 4, 1991, P.L.97, No.22)

Section 324.4. Withholding on Income.--(a) Every lessee of Pennsylvania real estate who makes a lease payment in the course of a trade or business to a nonresident lessor shall withhold Pennsylvania personal income tax on rental payments to such nonresident lessor.

(b) Every lessee shall withhold from each payment made to a lessor an amount equal to the net amount payable to the lessor multiplied by the tax rate specified under section 302(b).

(c) (Reserved).

(d) The withholding of tax under this section is optional and at the discretion of the lessee with respect to payments to a lessor who receives less than $5,000 annually on a lease.

(e) For purposes of this section, the term or phrase:

(1) "Lessor" shall include an individual, estate or trust.

(2) "Lease payment" shall include, but not be limited to, rents, royalties, bonus payments, damage payments, delay rents and other payments made pursuant to a lease, other than compensation derived from intangible property having a taxable or business situs in this Commonwealth. Classification as a "lease payment" under this section is solely for the purposes of establishing withholding requirements and shall not be relevant for a determination as to the proper income classification of any such lease payment.

(3) "In the course of a trade or business" shall include any person or business entity making lease payments to a nonresident or agent of a nonresident who collects rent or lease payments on behalf of a nonresident owner other than a tenant of residential property.

(324.4 added Oct. 30, 2017, P.L.672, No.43)

Section 324.5. Annual Withholding Statement.--(a) Every lessee shall furnish to each lessor an annual statement at such time and in such manner as may be prescribed by the department showing the total payments made by the lessee to the lessor during the preceding taxable year and showing the amount of the tax deducted and withheld from the payments under section 324.4.

(b) Every lessee shall file with the department an annual statement at such time and in such manner as may be prescribed by the department showing the total payments made to each lessor subject to withholding during the preceding taxable year or any portion of the preceding taxable year and the total amount of tax deducted and withheld under section 324.4.

(c) Every lessor shall file a duplicate of the annual statement furnished by the lessee under this section with the lessor's State income tax return.

(324.5 added Oct. 30, 2017, P.L.672, No.43)

PART VIII
ESTIMATED TAX
(VIII added Aug. 31, 1971, P.L.362, No.93)

Section 325. Declarations of Estimated Tax.--(a) (1) Every resident and nonresident individual, trust and estate shall at the time hereinafter prescribed make a declaration of his or its estimated tax for the taxable year, containing such information as the department may prescribe by regulations, if his or its income, other than from income on which tax is withheld under this article, can reasonably be expected to exceed the following dollar amount for the applicable taxable year:

TAXABLE YEAR	DOLLAR AMOUNT
2023 and prior	$8,000
2024	9,500
2025	11,000
2026	14,000
2027	17,000
2028	20,000

(2) For taxable years beginning after December 31, 2028, the dollar amount under paragraph (1) shall increase annually by five hundred dollars ($500). The department shall submit a notice containing the new dollar amount for the taxable year to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

((a) amended Nov. 3, 2022, P.L.1695, No.108)

(b) For the purposes of this article, the term "estimated tax" means the amount which an individual, trust or estate estimates to be his or its tax due under this article for the taxable year, less the amount which he or it estimates to be the sum of any credits allowable against the tax under this article.

(c) A husband and wife may make a joint declaration of estimated tax hereunder as if they were one taxpayer, in which case the liability with respect to the estimated tax shall be joint and several. If a joint declaration is made but husband and wife elect to determine their taxes separately, the estimated tax for such year may be treated as the estimated

tax of either husband or wife, or may be divided between them, as they may elect.

(d) Except as hereinafter provided, the date for filing a declaration of estimated tax shall depend upon when the resident or nonresident individual, trust or estate determines that his or its income on which no tax has been withheld under this article can reasonably be expected to exceed the dollar amount under subsection (a), as follows: (Intro. par. amended Nov. 3, 2022, P.L.1695, No.108)

(1) If the determination is made on or before April 1 of the taxable year, a declaration of estimated tax shall be filed no later than April 15 of the taxable year.

(2) If the determination is made after April 1 but before June 2 of the taxable year, the declaration shall be filed no later than June 15 of such year.

(3) If the determination is made after June 1 but before September 2 of the taxable year, the declaration shall be filed no later than September 15 of such year.

(4) If the determination is made after September 1 of the taxable year, the declaration shall be filed no later than January 15 of the year succeeding the taxable year.

((d) amended May 12, 1999, P.L.26, No.4)

(e) Notwithstanding subsection (d) of this section, a declaration of estimated tax of an individual having an estimated gross income from farming for the taxable year which is at least two-thirds of his total estimated gross income for the taxable year may be filed at any time on or before January 15 of the succeeding year, but if the farmer files a final return and pays the entire tax by March 1, the return may be considered as his declaration due on or before January 15.

(f) A declaration of estimated tax of an individual, trust or estate having a total estimated tax for the taxable year of one hundred dollars ($100) or less may be filed at any time on or before January 15 of the succeeding year under regulations of the department.

(g) An individual, trust or estate may amend a declaration under regulations of the department.

(h) If on or before January 31 of the year succeeding a taxable year, an individual, trust or estate files his or its return for the entire taxable year for which a declaration was required to be filed within the time prescribed by subsection (d)(4) of this section and pays therewith the full amount of the tax shown to be due on the return:

(1) Such return shall be considered as his or its declaration which was required to be filed no later than January 15.

(2) Such return shall be considered as the amendment permitted by subsection (g) to be filed on or before January 15 provided the amount of the tax shown on the return is greater than the amount of the estimated tax shown in a declaration previously made.

(i) This article shall apply to a taxable year other than a calendar year by the substitution of the months of such fiscal year for the corresponding months specified in this section.

(j) This article shall apply to an individual, trust or estate having a taxable year of less than twelve months in accordance with procedures prescribed in regulations of the department.

(325 amended Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 17 of Act 108 of 2022, which amended section 325(a) and (d) intro. par., provided that the amendment of section 325(d) shall apply to taxable years beginning after December 31, 2022.

Compiler's Note: Section 32(11) of Act 4 of 1999, which amended section 325(a) and (b), provided that the amendment shall apply to taxable years beginning after December 31, 1999.

Section 326. Payments of Estimated Tax.--(a) Subject to the provisions of subsection (j) of section 325, the estimated tax with respect to which a declaration is required shall be paid as follows:

(1) If the declaration is filed on or before April 15 of the taxable year, the estimated tax shall be paid in four equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second, third and fourth installments shall be paid on or before the succeeding June 15, September 15, and January 15, respectively.

(2) If the declaration is not required to be filed on or before April 15 of the taxable year and is filed after April 15, but before June 16 of the taxable year, the estimated tax shall be paid in three equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second and third installments shall be paid on the succeeding September 15 and January 15, respectively.

(3) If the declaration is not required to be filed on or before June 15 of the taxable year and is filed after June 15 but before September 16 of the taxable year, the estimated tax shall be paid in two equal installments. The first installment shall be paid at the time of the filing of the declaration, and the second shall be paid on the succeeding January 15.

(4) If the declaration is not required to be filed on or before September 15 of the taxable year and is filed after September 15 of the taxable year, the estimated tax shall be paid in full at the time of the filing of the declaration.

(5) If the declaration is not filed within the time prescribed therefor, or after the expiration of any extension of time therefor, clauses (2), (3) and (4) of this subsection shall not apply, and there shall be paid at the time of such filing the amount of all installments of estimated tax which were due and payable on or before the date the declaration was filed, and the remaining installments shall be paid at such times and in such amounts as they would have been payable if the declaration had been filed when due.

(b) If an individual described in subsection (e) of section 325 (relating to farmers) makes a declaration of estimated tax after September 15 of the taxable year, but before the following March 1, the estimated tax shall be paid in full at the time of the filing of the declaration.

(c) If any amendment of a declaration is filed, the remaining unpaid installments, if any, shall be ratably increased or decreased, as the case may be, to reflect any increase or decrease in the estimated tax by reason of such amendment, and if any amendment is made after September 15 of the taxable year, any increase in the estimated tax by reason thereof shall be paid at the time of making such amendment.

(326 added Aug. 31, 1971, P.L.362, No.93)

PART IX
RETURNS AND PAYMENT OF TAX
(IX added Aug. 31, 1971, P.L.362, No.93)

Section 330. Returns and Liability.--(a) On or before the date when the taxpayer's Federal income tax return is due or would be due if the taxpayer were required to file a Federal income tax return, under the Internal Revenue Code of 1954, a tax return under this article shall be made and filed by or for every taxpayer having income for the taxable year.

(b) (1) In the case of an individual serving in the armed forces of the United States in an area designated by the President of the United States by Executive order as a "combat zone," as described in section 7508 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 7508), as amended, at any time during the period designated by the President by Executive order as the period of combatant activities in the combat zone or hospitalized as a result of injury received while serving in the combat zone during such time, or an individual serving in a military capacity as a result of a Federal callup to active duty or civilian capacity outside the boundary of this Commonwealth in support of such armed forces, the period of service in such area, plus the period of qualified continuous hospitalization attributable to such injury, and the next one hundred eighty days thereafter shall be disregarded in determining, under this

article, in respect of any tax liability, including any interest, penalty, additional amount or addition to the tax of such individual:

(i) Whether any of the following acts were performed within the time prescribed therefor:

(A) Filing any return of income tax, except income tax withheld at source;

(B) Payment of any income tax, except income tax withheld at source or any installment thereof or of any other liability to the Commonwealth in respect thereof;

(C) Filing a petition for redetermination of a deficiency or for review of a decision rendered by the department;

(D) Allowance of a credit or refund of any tax;

(E) Filing a claim for credit or refund of any tax;

(F) Bringing suit upon any such claim for credit;

(G) Assessment of any tax;

(H) Giving or making any notice or demand for the payment of any tax or with respect to any liability to the Commonwealth in respect of any tax;

(I) Collection by the department, by levy or otherwise, of the amount of any liability in respect of any tax;

(J) Bringing suit by the Commonwealth, or any officer on its behalf, in respect of any liability in respect of any tax; and

(K) Any other act required or permitted under this article specified in regulations prescribed by the department;

(ii) The amount of any credit or refund, including interest.

((1) amended Dec. 23, 2003, P.L.250, No.46)

(2) The provisions of this subsection shall apply to the spouse of any individual entitled to the benefits of paragraph (1). This paragraph shall not cause this subsection to apply for any spouse for any taxable year beginning more than one year after the date of termination of combatant activities in a combat zone.

(3) The period of service in the area referred to in this subsection shall include the period during which an individual entitled to benefits under this subsection is in a missing status.

(4) In the event that any qualified individual under paragraph (1) is killed while serving in the combat zone, the tax liability of that decedent for both the year of death and the immediate prior year shall be waived by the Commonwealth.

(5) For purposes of paragraph (1), the phrase "period of qualified continuous hospitalization" shall mean:

(i) any hospitalization outside the United States; and

(ii) any hospitalization inside the United States.

(330 amended Mar. 26, 1991, P.L.5, No.3)

Compiler's Note: Section 19(3)(iii) of Act 23 of 2000, which amended subsections (a), (b), (e), (f), (g), (h) and (i), provided that the amendment shall apply to taxable years beginning after December 31, 1999.

Compiler's Note: Section 4 of Act 63 of 1999, which amended subsection (b), provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended section 602, provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Section 330.1. Return of Pennsylvania S Corporation.--(a) Every Pennsylvania S corporation shall make a return for each taxable year, stating specifically all items of gross income and deductions, the names and addresses of all persons owning stock in the corporation at any time during the taxable year, the number of shares of stock owned by each shareholder at all times during the taxable year, the amount of money and other property distributed by the corporation during the taxable year to each shareholder, the date of each distribution, each shareholder's pro rata share of each item of the corporation for the taxable year and such other information as the department may require.

(b) The return shall be filed on or before thirty days after the date when the corporation's Federal income tax return is due.

(c) Every Pennsylvania S corporation shall also submit to the department a true copy of the income tax return filed with the Federal Government at the time the return required under subsection (a) is filed.

(d) Each Pennsylvania S corporation required to file a return under subsection (a) for a taxable year shall, on or before the day on which the return for the taxable year was filed, furnish to each person who is a shareholder at any time during the taxable year a written statement of the shareholder's pro rata share of each item on the corporate return in a form required by the department.

(330.1 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended section 330.1, provided that the amendment shall apply to tax years beginning after December 31, 2013.

Section 330.2. COVID-19 Emergency Finance and Tax Provision.--(330.2 repealed July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 3(2) of Act 10 of 2021, which added section 330.2, provided that the addition of subsection (d) shall apply to taxable years beginning after the effective date of section 3.

Section 331. Returns of Married Individuals, Deceased or Disabled Individuals and Fiduciaries.--(a) If the income tax liability of husband or wife is determined on a separate return, their income tax liabilities under this article shall be separate.

(b) If the income tax liabilities of husband and wife are determined on a joint return, their tax liabilities shall be joint and several.

(c) If either husband or wife is a resident and the other is a nonresident, they shall file separate tax returns under this article on such single or separate forms as may be required by the department, in which event their tax liabilities shall be separate except as provided in subsection (d) unless both elect to determine their joint taxable income as if both were residents, in which event their tax liabilities shall be joint and several.

(d) If husband and wife file separate tax returns under this article on a single form pursuant to subsections (b) or (c) and:

(1) If the sum of the payments by either spouse, including withheld and estimated taxes, exceeds the amount of the tax for which such spouse is separately liable, the excess may be applied by the department to the credit of the other spouse if the sum of the payments by such other spouse, including withheld and estimated taxes, is less than the amount of the tax for which such other spouse is separately liable.

(2) If the sum of the payments made by both spouses with respect to the taxes for which they are separately liable, including withheld and estimated taxes, exceeds the total of the taxes due, refund of the excess may be made payable to both spouses, or if either is deceased, to the survivor.

Provided, however, That the provisions of this subsection (d) shall not apply if the return of either spouse includes a demand that any overpayment made by him or her shall be applied only on account of his or her separate liability.

(e) Except as provided under subsections (e.1) and (e.2), the final return for any deceased individual shall be made, signed and filed by his executor, administrator, or other personal representative charged with his property. ((e) amended July 2, 2012, P.L.751, No.85)

(e.1) (1) During the year in which a spouse dies, a surviving spouse may file his or her return for the year jointly with the final return of his or her deceased spouse if the joint return could have been filed if both spouses were living for the entire taxable year. If a personal representative, executor or administrator or other fiduciary is appointed on behalf of the deceased spouse before the deceased spouse's tax return is filed, the surviving spouse may not file a joint return without the consent

of the fiduciary. If a joint return is filed, both the fiduciary of the deceased spouse's estate and the surviving spouse must sign the joint return.

(2) A surviving spouse may make, sign and file the final tax return of his or her deceased spouse if the deceased spouse did not previously file a return for that taxable year and if a personal representative, executor or administrator has not been appointed by the time the return is made, signed and filed. If the surviving spouse properly files a final return for the deceased spouse under this paragraph, a fiduciary who is later appointed for the deceased spouse may supersede the final return filed by the surviving spouse by filing a separate return for the deceased spouse. Any joint return improperly filed by the surviving spouse or superseded by the fiduciary shall be treated as void. If the surviving spouse files his or her own tax return jointly with the deceased spouse's return under this paragraph and the return is superseded by the filing of a return by the deceased spouse's fiduciary, the surviving spouse shall be required to file a separate return within 90 days of the filing of the fiduciary's return. The surviving spouse's separate return shall be deemed to be filed:

(i) on the day the joint return was filed if it is filed within such time; or

(ii) the date the department receives it.

((e.1) added July 2, 2012, P.L.751, No.85)

(e.2) If both taxpayers die during the same tax year, a final return for each deceased spouse may be jointly filed if a joint return could have been filed had both spouses lived for the entire taxable year and with the consent of the personal representatives, executors or administrators of both deceased spouses under subsection (e.1) by the due date, including extensions, of the joint tax return. Both fiduciaries must sign the joint return. ((e.2) added July 2, 2012, P.L.751, No.85)

(f) The return for an individual who is unable to make a return by reason of minority or other disability shall be made and filed by his guardian, committee, fiduciary or other person charged with the care of his person or property, or by his duly authorized agent.

(g) The return for an estate or trust shall be made and filed by the fiduciary. If two or more fiduciaries are acting jointly, the return may be made by any one of them. If the executor of the estate and trustee of the trust make an election under section 645 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 645), as amended, to treat the income of the trust as part of the estate, the fiduciary may make and file a joint tax return for the estate and trust under this subsection for the taxable years when the trust income is reported as part of the estate income in accordance with section 645 of the Internal Revenue Code of 1986, as amended. If the income tax liabilities of the estate and trust are filed on a joint tax return under this subsection, the tax liabilities of the estate and trust shall be joint and several. The provisions of subsection (d) shall be applicable to a joint tax return filed under this subsection. ((g) amended June 28, 2019, P.L.50, No.13)

(331 added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note: Section 29 of Act 13 of 2019 provided that the amendment or addition of sections 331(g) and 336.3 of this act shall apply to tax years beginning after December 31, 2019.

Compiler's Note: Section 30(2) of Act 85 of 2012, which amended subsec. (e) and added subsecs. (e.1) and (e.2), provided that the amendment or additions shall apply to tax years beginning on or after January 1, 2013.

Section 332. Time and Place for Filing Returns and Paying Tax.--A person required to make and file a return under this article shall, without assessment, notice or demand, pay any tax due thereon to the department on or before the date fixed for filing such return (determined without regard to any extension of time for filing the return). The department shall prescribe by regulation the place for filing and return, declaration,

statement, or other document required pursuant to this article and for payment of any tax.

(332 added Aug. 31, 1971, P.L.362, No.93)

Section 332.1. Electronic Payment.--Any payment in the amount of fifteen thousand dollars ($15,000) or more remitted to the department for the tax imposed under this article shall be remitted electronically as prescribed by the department. This section shall not apply to employer withholding payments under Part VII of this article and section 9 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(332.1 added June 30, 2021, P.L.124, No.25)

Compiler's Note: Section 40(3) of Act 25 of 2021 provided that the addition of section 332.1 shall apply to payments made after December 31, 2021.

Section 333. Signing of Returns and Other Documents.--(a) Any return other than an estimated return under section 325, statement or other document required to be made pursuant to this article shall be signed in accordance with regulations or instructions prescribed by the department.

(b) Any return, statement, or other document required of a partnership shall be signed by one or more partners. The fact that a partner's name is signed to a return, statement, or other document, shall be prima facie evidence for all purposes that such partner is authorized to sign on behalf of the partnership.

(c) The making or filing of any return, declaration, statement or other document or copy thereof required to be made or filed pursuant to this article shall constitute a certification by the person making or filing such return, declaration, statement or other document or copy thereof that the statements contained therein are true and that any copy filed is a true copy.

(333 amended June 30, 1995, P.L.139, No.21)

Section 334. Extension of Time.--The department may, upon application, grant a reasonable extension of time for filing any return, declaration, statement, or other document required pursuant to this article, on such terms and conditions as it may require. Except for a taxpayer who is outside the United States, no such extension for filing any return, declaration, statement or other document, shall exceed six months.

(334 added Aug. 31, 1971, P.L.362, No.93)

Section 335. Requirements Concerning Returns, Notices, Records and Statements.--(a) The department may prescribe by regulation for the keeping of records, the content and form of returns, declarations, statements and other documents and the filing of copies of Federal income tax returns and determinations. The department may require any person, by regulation or notice served upon such person, to make such returns, render such statements, or keep such records, as the department may deem sufficient to show whether or not such person is liable for tax under this article.

(b) (1) When required by regulations prescribed by the department:

(i) Any person required under the authority of this article to make a return, declaration, statement, or other document shall include in such return, declaration, statement or other document such identifying number as may be prescribed for securing proper identification of such person.

(ii) Any person with respect to whom a return, declaration, statement, or other document is required under the authority of this article to make a return, declaration, statement, or other document with respect to another person, shall request from such other person, and shall include in any such return, declaration, statement, or other document, such identifying number as may be prescribed for securing proper identification of such other person.

(2) For purposes of this section, the department is authorized to require such information as may be necessary to assign an identifying number to any person.

(c) (1) Every partnership, estate or trust having a resident partner or a resident beneficiary or every partnership, estate or trust having any

income derived from sources within this Commonwealth shall make a return for the taxable year setting forth all items of income, loss and deduction, and such other pertinent information as the department may require. Such return shall be filed on or before the fifteenth day of the fourth month following the close of each taxable year. For purposes of this subsection, "taxable year" means year or period which would be a taxable year of the partnership if it were subject to tax under this article.

(2) Every partnership, estate or trust required to file a return under paragraph (1) shall also file with the department a true copy of the income tax return filed with the Federal Government at the time the return required under paragraph (1) is filed.

(3) Every partnership, estate or trust required to file a return under paragraph (1) for any taxable year shall, on or before the day the return is filed, furnish to each partner or nominee for another person or to each beneficiary to whom the income or gains of the estate or trust is taxable a written statement of the partner's pro rata share of each item on the partnership return or the beneficiary's pro rata share of income on the estate or trust return in a form required by the department.

(4) A partnership required to file a return under paragraph (1) for a taxable year shall, on or before the day the return is filed, furnish to each partner classified as a corporation, partnership or disregarded entity for Federal income tax purposes a copy of the Pennsylvania income tax form reporting corporate partner apportioned business income or loss. A reporting partnership shall not be required to provide a partner who is either a partnership or disregarded entity a copy of this form if the reporting partnership is able to determine that an entity classified as a corporation for Federal income tax purposes is not an indirect owner of the reporting partnership.

(d) The department may prescribe regulations requiring returns of information to be made and filed on or before February 28 of each year as to the payment or crediting in any calendar year of amounts of ten dollars ($10) or more to any taxpayer. Such returns may be required of any person, including lessees or mortgagors of real or personal property, fiduciaries, employers and all officers and employes of this Commonwealth, or of any municipal corporation or political subdivision of this Commonwealth having the control, receipt, custody, disposal or payment of interest, rents, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable gains, profits or income, except interest coupons payable to bearer. A duplicate of the statement as to tax withheld on compensation required to be furnished by an employer to an employe, shall constitute the return of information required to be made under this section with respect to such compensation.

(e) Any person who is required to make a form W-2G return to the Secretary of the Treasury of the United States in regard to taxable gambling or lottery winnings from sources within this Commonwealth shall file a copy of the form with the department by March 1 of each year or, if filed electronically, by March 31 of each year.

(f) The following apply:

(1) Any person who:

(i) makes payments of Pennsylvania source income that fall within any of the eight classes of income enumerated in section 303(a);

(ii) makes such payments to an individual, an entity treated as a partnership for tax purposes or a single member limited liability company; and

(iii) is required to make a form 1099-MISC or 1099-NEC return to the Secretary of the Treasury of the United States with respect to such payments, shall file a copy of such form 1099-MISC or 1099-NEC with the department on the due date of the form 1099-MISC or 1099-NEC. If the form 1099-MISC or 1099-NEC filed by a payor with the Secretary of the Treasury of the United States does not include the State income and State tax withheld as required under section 316.2, the payor shall update the copies of form 1099-MISC or 1099-NEC to be provided pursuant to this section to

reflect such information prior to filing it with the department and sending it to the payee.

((1) amended June 30, 2021, P.L.124, No.25)

(2) If the payor is required to perform electronic filing for Pennsylvania employer withholding purposes, the form 1099-MISC or 1099-NEC shall be filed electronically with the department. ((2) amended June 30, 2021, P.L.124, No.25)

(3) As used in this subsection, the following words and phrases shall have the meanings given to them in this paragraph unless the context clearly indicates otherwise:

"Payee." The person receiving the payments subject to withholding under this subsection.

"Payments." The term does not include a partner or shareholder's distributive share of income from a partnership or Pennsylvania S corporation.

"Payor." The person required to withhold under this subsection.

((f) amended Oct. 30, 2017, P.L.672, No.43)

(g) (1) Every estate, trust, Pennsylvania S corporation or partnership, other than a publicly traded partnership, shall maintain at the end of the entity's taxable year an accurate list of partners, members, beneficiaries or shareholders. The list shall include the name, current address and tax identification number of all existing partners, members, beneficiaries or shareholders and of all partners, members, beneficiaries or shareholders who were admitted or who withdrew during the taxable year, including the date of withdrawal and admittance.

(2) If the entity under paragraph (1) does not maintain an accurate list as required, the tax, penalty and interest with respect to the entity shall be considered the tax, penalty and interest of the partnership, estate, trust or Pennsylvania S corporation and of the general partner, tax matters partner, corporate officer or trustee.

(335 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended section 335, provided that the amendment shall apply to tax years beginning after December 31, 2013.

Compiler's Note: Section 33(7) of Act 46 of 2003, which amended section 335, provided that the amendment shall apply to taxable years beginning after December 31, 2003.

Section 336. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting the report or payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment.

(336 amended June 27, 1974, P.L.376, No.126)

Section 336.1. Procedure for Claiming Special Tax Provisions.--The following procedures shall be employed for claiming the special tax provisions:

(1) The claimant may claim the special tax provisions upon the expiration of his taxable year in connection with his filing of an annual return under the provisions of this article. Notwithstanding any other provisions of this article to the contrary, the department shall have the power to promulgate such rules or regulations as it may deem necessary to fairly and reasonably implement the provisions of this section.

(2) If the claimant receives income as defined in this article, other than compensation from an employer, he may claim the special tax provisions in connection with his filing of estimated tax returns.

(336.1 added Mar. 13, 1974, P.L.179, No.32)

Section 336.2. Proof of Eligibility.--The Department of Revenue shall establish such rules, regulations, schedules or other procedures as may be necessary for the submission and establishment of proof of the eligibility of persons for the special tax provisions or other matters relating to the provisions of this act. Such procedures may include, but not be limited to, the submission of requisite information and certifications upon forms provided by the department, including such special tax return or report forms as may be necessary.

(336.2 added Mar. 13, 1974, P.L.179, No.32)

Section 336.3. Paid Tax Return Preparers; Required Information on Personal Income Tax Returns.--(a) For taxable years beginning on or after January 1, 2020, any personal income tax return prepared by a paid tax return preparer shall be signed by the paid tax return preparer and shall bear the paid tax return preparer's Internal Revenue Service preparer tax identification number.

(b) (1) The department may impose an administrative penalty of fifty dollars ($50) on a paid tax return preparer each time the paid tax return preparer fails to sign the return or fails to provide the preparer's tax identification number.

(2) The maximum amount imposed on any individual paid tax return preparer under paragraph (1) shall not exceed twenty-five thousand dollars ($25,000) per paid tax return preparer in a calendar year.

(c) As used in this section:

"Paid tax return preparer" shall mean a person who prepares for compensation, or employs one or more persons to prepare for compensation, a personal income tax return required to be filed under this act. Preparation of a substantial portion of a personal income tax return shall be treated as if it were the preparation of the personal income tax return.

(336.3 added June 28, 2019, P.L.50, No.13)

Compiler's Note: Section 29 of Act 13 of 2019 provided that the amendment or addition of sections 331(g) and 336.3 of this act shall apply to tax years beginning after December 31, 2019.

PART X
PROCEDURE AND ADMINISTRATION
(X added Aug. 31, 1971, P.L.362, No.93)

Section 337. Payment on Notice and Demand.--Upon receipt of notice and demand from the department, there shall be paid the amount of any tax due under the provisions of this article stated in such notice and demand.

(337 added Aug. 31, 1971, P.L.362, No.93)

Section 338. Assessment.--(a) The department is authorized and required to make the inquiries, determinations and assessments of all taxes imposed by this article.

(b) If the mode or time for the assessment of any tax is not otherwise provided for, the department may establish the same by regulations.

(c) In the event that any taxpayer fails to file a return required by this article, the department may make an estimated assessment (based on information available) of the proper amount of tax owing by the taxpayer. A notice of assessment in the estimated amount shall be sent to the taxpayer. The tax shall be paid within ninety days after a notice of such estimated assessment has been mailed to the taxpayer, unless within such period the taxpayer has filed a petition for reassessment in the manner prescribed by Article XXVII.

(d) A notice of assessment issued by the department pursuant to this article shall be mailed to the taxpayer. The notice shall set forth the basis of the assessment.

(e) (Deleted by amendment).

(338 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 338, provided that the amendment of section 338 shall apply to assessments issued after December 31, 2007.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 339. Jeopardy Assessments.--(a) Jeopardy Assessments, Filing and Notice. If the department believes that the assessment or the collection of a deficiency will be jeopardized in whole or in part by delay, it may mail or issue notice of its finding to the taxpayer, together with a demand for immediate payment of the tax or the deficiency declared to be in jeopardy including interest and penalties and additions thereto, if any.

(b) Closing of Taxable Year. If the department believes that a taxpayer designs quickly to depart from the State or to remove his property therefrom or to conceal himself or his property therein, or to do any other act tending to prejudice or to render wholly or partly ineffectual proceedings to collect the tax for the taxable year then last past or the taxable year then current unless such proceedings be brought without delay, the department shall declare the taxable period for such taxpayer immediately terminated and shall cause notice of such finding and declaration to be given the taxpayer, together with a demand for immediate payment of the tax for the taxable period so declared terminated and of the tax for the preceding taxable year or so much of such tax as is unpaid, whether or not the time otherwise allowed by law for filing return and paying the tax has expired; and such taxes shall thereupon become immediately due and payable.

(c) Jeopardy Assessments, Collection. A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once. The taxpayer, however, may stay collection and prevent the jeopardy assessment from becoming final by filing, within ten days after the date of the notice of jeopardy assessment, a petition for reassessment, notwithstanding the provisions of section 2702 to the contrary, accompanied by a bond or other security in such amounts as the department may deem necessary, not exceeding double the amount (including interest and penalties and additions thereto) as to which the stay is desired.

(d) Jeopardy Assessment, When Final. If a petition for reassessment, accompanied by bond or other security is not filed within the ten-day period, the assessment becomes final.

(e) Jeopardy Assessments, Hearing. If the taxpayer has so requested in his petition, the department shall grant him or his authorized representative an oral hearing.

(f) Jeopardy Assessments, Action on Petition for Reassessment. The department shall consider the petition for reassessment and notify the taxpayer of its decision thereon. Its decision as to the validity of the jeopardy assessment shall be final, unless the taxpayer within ninety days after notification of the department's decision files a petition for review authorized under section 2704.

(g) Jeopardy Assessments, Presumptive Evidence of Jeopardy. In any proceeding brought to enforce payment of taxes made due and payable by this section, the belief of the department under subsection (a) whether made after notice to the taxpayer or not, is for all purposes presumptive evidence that the assessment or collection of the tax or the deficiency was in jeopardy. A certificate of the department of the mailing or issuing of the notices specified in this section is presumptive evidence that the notices were mailed or issued.

(339 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 340. Procedure for Reassessment.--Any taxpayer against whom an assessment is made may petition the department for a reassessment pursuant to Article XXVII.

(340 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 341. Review by Board of Finance and Revenue.--(341 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 342. Appeal to the Commonwealth Court.--(342 deleted by amendment Oct. 18, 2006, P.L.1149, No.119)

Section 343. Collection of Tax.--The department shall collect the taxes imposed by this article in the manner provided by law for the collection of taxes imposed by the laws of this Commonwealth.

(343 added Aug. 31, 1971, P.L.362, No.93)

Section 344. Collection upon Failure to Request Reassessment, Review or Appeal.--The department may collect any tax:

(1) After ninety days from the date of mailing of a copy of the notice of assessment, if no petition for reassessment has been filed;

(2) After ninety days from the date of mailing of notice of the department's action thereon, if no petition for review has been filed;

(3) Within thirty days from the date of mailing of notice of the decision of the Board of Finance and Revenue upon a petition for review or from the expiration of the board's time for acting upon such petition, if no decision has been made; or

(4) Immediately, in all cases of judicial sales, receiverships, assignments or bankruptcies.

In any such proceeding for the collection of the tax imposed by this article, the person against whom the assessment was made shall not be permitted to set up any ground of defense that might have been presented to the department, the Board of Finance and Revenue or the Commonwealth Court if such person had properly pursued his administrative remedies under this article.

(344 amended Dec. 3, 1975, P.L.476, No.140)

Section 345. Lien for Tax.--(a) If any person liable to pay any tax neglects or refuses to pay the same on the date the tax becomes collectible, the amount of such tax, together with any costs that may accrue in addition thereto, shall be a lien in favor of the Commonwealth against the real and personal property of such person but only after such lien has been duly entered and docketed of record by the prothonotary of the county where such property is situated. No prothonotary shall require, as a condition precedent to the entry of such lien, the payment of costs incident thereto.

(b) The department may, at any time, transmit to the prothonotaries of the respective counties certified copies of all liens for taxes imposed by this article. It shall be the duty of each prothonotary receiving such lien to enter and docket the same of record in his office, which lien shall be indexed as judgments are now indexed. All such liens shall have priority to, and be fully paid before, any other obligation, judgment, claim, lien or estate paid and satisfied out of the judicial sale of said real and personal property with which said property may subsequently become charged,

or for which it may subsequently become liable, subject, however, to mortgage or other liens existing and duly recorded at the time such tax lien is recorded, save and except the cost of sale and of the writ upon which it is made and real estate taxes imposed or assessed upon said property. A writ of execution may directly issue upon such lien without the issuance and prosecution to judgment of a writ of scire facias: Provided, That not less than ten days before issuance of any execution on the lien, notice of the filing and effect of the lien shall be sent by certified mail to the taxpayer at his last known post office address: And provided further, That the said lien shall have no effect upon any stock of goods, ware or merchandise regularly sold or leased in the ordinary course of business by the person against whom said lien had been entered, unless and until a writ of execution has been issued and a levy made upon said stock of goods, wares and merchandise. ((b) amended Aug. 4, 1991, P.L.97, No.22)

(c) Any wilful failure of any prothonotary to carry out any duty imposed upon him by this section shall be a misdemeanor and, upon conviction, he shall be sentenced to pay a fine not exceeding one thousand dollars ($1,000) and cost of prosecution, or to undergo imprisonment not exceeding one year, or both.

(345 amended July 1, 1978, P.L.594, No.114)

Section 346. Refund or Credit of Overpayment.--(a) In the case of any payment of tax not due under this article, the department may credit the amount of such overpayment against any liability in respect of the tax imposed by this article on the part of the person who made the overpayment and shall refund any balance to such person. ((a) amended July 1, 1985, P.L.78, No.29)

(b) The department is authorized to prescribe regulations providing for the crediting against the estimated tax for any taxable year of the amount determined to be an overpayment of the tax for a preceding taxable year.

(c) If the taxpayer has paid as an installment of estimated tax more than the correct amount of such installment, the overpayment shall be credited against the unpaid installments, if any. If the amount paid, whether or not on the basis of installments, exceeds the amount determined to be the correct amount of the tax, the overpayment shall be credited or refunded as provided in subsection (a) or (b).

(346 added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 346 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

Section 347. Restrictions on Refunds.--A credit or refund may be made under section 346:

(1) By reason of the overpayment of an installment of estimated tax;

(2) Upon reassessment;

(3) Upon the filing of a final return or amended final return showing any overpayment of tax.

(347 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 347 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

Section 348. Limitations on Assessment and Collection.--(a) The amount of any tax imposed by this article shall be assessed within three years after the return is filed. For the purposes of this subsection and subsection (b), a return filed before the last day prescribed for the filing thereof, or before the last day of any extension of time for the filing thereof, shall be considered as filed on such last day.

(b) If the taxpayer omits from income an amount properly includable therein which is in excess of twenty-five per cent of the amount of income stated in the return, the tax may be assessed at any time within six years after the return was filed.

(c) Where no return is filed, or if a taxpayer shall fail, when required, to file an amended return, the amount of the tax due may be assessed at any time.

(d) Where the taxpayer files a false or fraudulent return with intent to evade the tax imposed by this article, the amount of tax due may be assessed at any time.

(e) The department may, within three years of the granting of any refund or credit or within the period in which an assessment or reassessment could have been filed by the department with respect to the taxable period for which the refund was granted, whichever period shall last occur, file an assessment to recover any refund or part thereof or credit or part thereof which was erroneously made or allowed. ((e) added July 1, 1985, P.L.78, No.29)

(348 added Aug. 31, 1971, P.L.362, No.93)

Section 349. Extension of Limitation Period.--Notwithstanding section 348, where, before the expiration of the period prescribed therein a taxpayer has consented in writing that such period be extended, the amount of tax due may be assessed at any time within such extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

(349 added Aug. 31, 1971, P.L.362, No.93)

Section 350. Limitations on Refund or Credit.--Any application for refund must be filed with the department under Article XXVII within the time limits of section 3003.1.

(350 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 351. Interest.--(a) If any amount of tax imposed by Part II of this article is not paid on or before the last date prescribed for payment, interest on such amount at the rate established pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," shall be paid for the period from such last date to the date paid. The last date prescribed for payment shall be determined without regard to any extension of time for filing the return. This section shall not apply to any failure to pay estimated tax.

(b) If any amount of tax required to be withheld by an employer and paid to the department under Part VII of this article is not paid by the due date prescribed under section 319, interest on the amount at the rate established under section 806 of "The Fiscal Code" shall be paid from that date for the period of underpayment.

(351 amended June 29, 1984, P.L.445, No.94)

Section 352. Additions, Penalties and Fees.--(a) In case of failure to file any return required under this article on the date prescribed therefor, determined with regard to any extension of time for filing, unless it is shown that such failure is due to reasonable cause and not due to wilful neglect, there shall be added to the amount required to be shown as tax on such return five per cent of the amount of such tax if the

failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which such failure continues, not exceeding twenty-five per cent, in the aggregate, but in no case shall the amount added be less than five dollars ($5). The amount of tax required to be shown on the return shall, for purposes of computing the additions for the first month, be reduced by the amount of any part of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return. The amount of tax required to be shown on the return shall, for purposes of computing the addition for any subsequent month, be reduced by the amount of any part of the tax which is paid by the beginning of the subsequent month and by the amount of any credit against the tax which may be claimed on the return.

(b) (1) If any part of any underpayment of any tax imposed by Part II of this article is due to negligence or intentional disregard of rules and regulations, but without intent to defraud, there shall be added to the tax an amount equal to five per cent of the underpayment.

(2) If any part of any underpayment of any tax imposed by Part II of this article is due to negligence or intentional disregard of rules and regulations, but without intent to defraud, and the underpayment is from a taxpayer omitting from income an amount properly includable therein which is in excess of twenty-five per cent of the amount of income stated on the taxpayer's return, there shall be added to the tax an amount equal to twenty-five per cent of the underpayment.

((b) amended Aug. 4, 1991, P.L.97, No.22)

(c) If any part of any underpayment of tax required under this article to be shown on a return is due to fraud, there shall be added to the tax an amount equal to fifty per cent of the underpayment. This amount shall be in lieu of any amount determined under subsection (b) or (h).

(d) (1) If any taxpayer fails to pay all or any part of an installment of estimated tax, he shall be deemed to have made an underpayment of estimated tax. There shall be added to the tax for the taxable year an amount at the rate established pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," upon the amount of the underpayment for the period of the underpayment but not beyond the fifteenth day of the fourth month following the close of the taxable year. The amount of the underpayment shall be the excess of the amount of the installment which would be required to be paid if the estimated tax were equal to ninety per cent of the tax (two-thirds in the case of an individual described in subsection (e) of section 325) shown on the return for the taxable year (or if no return was filed, of the tax for such year) over the amount, if any, of the installments paid on or before the last day prescribed for such payment. No underpayment shall be deemed to exist with respect to an installment otherwise due on or after the taxpayer's death or, in the case of a decedent's estate or a trust created by the decedent to receive the residue of the decedent's estate, for a period of two years after the decedent's death.

(2) No addition to tax shall be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the lesser of:

(A) The amount which would have been required to be paid on or before such date if the estimated tax were an amount equal to the tax computed after consideration of the special tax provisions for poverty, at the rates applicable to the taxable year, but otherwise on the basis of the facts shown on his return for, and the law applicable to, the preceding taxable year; or

(B) An amount equal to ninety per cent of the tax computed, at the rates applicable to the taxable year, on the basis of the actual income for the months in the taxable year ending before the month in which the installment is required to be paid, or, in the case of a trust or estate, an amount equal to ninety per cent of the applicable percentage of the tax for the taxable year as determined pursuant to section 6654(d)(2)(C)(ii) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 6654), as

amended, at rates applicable to the taxable year, computed on an annualized basis in accordance with United States Treasury regulations, based upon the actual income for the months of the taxable year ending with the last day of the second preceding month prior to the month in which the installment is required to be paid.

((2) amended July 2, 2012, P.L.751, No.85)

((d) amended July 7, 2005, P.L.149, No.40)

(e) Any person required to collect, account for and pay over any tax imposed by this article who wilfully fails to collect such tax or truthfully account for and pay over such tax, or wilfully attempts in any manner to evade or defeat any such tax or the payment thereof, shall, in addition to other penalties provided by law, be liable to a penalty equal to the total amount of the tax evaded or not collected or not accounted for and paid over. No penalty shall be imposed under subsection (b), (c) or (h) for any offense to which this subsection (e) is applicable. The term "person" as used in this subsection includes an officer or employe of a corporation, or a member or employe of a partnership, who as such officer, employe or member is under a duty to perform the act in respect of which the violation occurs.

(f) (1) Any person required under the provisions of section 317 to furnish a statement to an employe who wilfully furnishes a false or fraudulent statement, or who wilfully fails to furnish a statement in the manner, at the time, and showing the information required under section 317 and the regulations prescribed thereunder, shall, for each such failure, be subject to a penalty of fifty dollars ($50) for each employe.

(2) Any person required to furnish an information return who furnishes a false or fraudulent return or who fails to file or provide an information return shall be subject to a penalty of two hundred fifty dollars ($250).

(3) Every partnership, estate, trust or Pennsylvania S corporation required to file a return with the department under the provisions of section 330.1 or 335(c) who furnishes a false or fraudulent return or who fails to file the return in the manner and at the time required under section 330.1 or 335(c) shall be subject to a penalty of $250 for each failure.

(4) Any person required to file a copy of form 1099-MISC or 1099-NEC with the department under the provisions of section 335(f) who wilfully furnishes a false or fraudulent form or who wilfully fails to file the form in the manner, at the time and showing the information required under section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars ($50). ((4) amended June 30, 2021, P.L.124, No.25)

(5) Any person required under the provisions of section 335(f) to furnish a copy of form 1099-MISC or 1099-NEC to a payee who wilfully furnishes a false or fraudulent form or who wilfully fails to furnish a form in the manner, at the time and showing the information required by section 335(f) shall, for each such failure, be subject to a penalty of fifty dollars ($50). ((5) amended June 30, 2021, P.L.124, No.25)

(6) Any person required to file an annual statement with the department under the provisions of section 324.5 who wilfully furnishes a false or fraudulent statement or who wilfully fails to file the statement in the manner, at the time and showing the information required under section 324.5 and the regulations prescribed under section 324.5 shall, for each such failure, be subject to a penalty of fifty dollars ($50).

(7) Any person required under the provisions of section 324.5 to furnish an annual statement to a lessor who wilfully furnishes a false or fraudulent statement or who wilfully fails to furnish a statement in the manner, at the time and showing the information required by section 324.5 and the regulations prescribed under section 324.5 shall, for each such failure, be subject to a penalty of fifty dollars ($50).

((f) amended Oct. 30, 2017, P.L.672, No.43)

(g) ((g) deleted by amendment May 7, 1997, P.L.85, No.7)

(h) If any amount of tax required to be withheld by an employer and paid over to the department under section 319 or 319.1 is not paid on or before the due date prescribed for filing the quarterly return under

section 318 or 318.1, determined without regard to an extension of time for filing, there shall be added to the tax and paid to the department each month five per cent of such underpayment for each month or fraction thereof from the due date, for the period from the due date to the date paid; but the underpayment shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid by the beginning of that month. The total of such additions shall not exceed fifty per cent of the amount of tax required to be shown on the return reduced by the amount of any part of the tax which is paid by the return due date and by the amount of any credit against the tax which may be claimed on the return. ((h) amended Oct. 30, 2017, P.L.672, No.43)

(i) If any individual, estate or trust files what purports to be a return required under section 330 but which does not contain information on which the substantial correctness of the self-assessment may be judged, or contains information that on its face indicates that the self-assessment is substantially incorrect and the self-assessment is due to a position which is frivolous or due to a desire (which appears on the purported return) to delay or impede the administration of Pennsylvania Income Tax laws, then such individual, estate or trust shall pay a penalty of five hundred dollars ($500). The penalty imposed by this subsection shall be in addition to any other penalty provided by law. ((i) added Aug. 4, 1991, P.L.97, No.22)

(j) If any amount of tax required to be withheld by a partnership, association, Pennsylvania S corporation or lessee and paid over to the department under section 324 or 324.4 is not paid on or before the date prescribed therefor, there shall be added to the tax and paid to the department each month five per cent of such underpayment for each month or fraction thereof from the due date, for the period from the due date to the date paid; but the underpayment shall, for purposes of computing the addition for any month, be reduced by the amount of any part of the tax which is paid by the beginning of that month. The total of such additions shall not exceed fifty per cent of the amount of such tax. ((j) amended Oct. 30, 2017, P.L.672, No.43)

(k) If a tax payment is made and the payment does not comply with section 332.1 when required, the taxpayer that is liable for the tax shall, in addition to any other penalty, interest or addition provided by law, be liable for a penalty of three per cent of the payment remitted not to exceed five hundred dollars ($500). ((k) added June 30, 2021, P.L.124, No.25)

(352 amended June 29, 1984, P.L.445, No.94)

Compiler's Note: Section 40(3) of Act 25 of 2021 provided that the addition of subsection (k) shall apply to payments made after December 31, 2021.

Compiler's Note: Section 30(2) of Act 85 of 2012, which amended subsec. (d)(2), provided that the amendment shall apply to tax years beginning on or after January 1, 2013.

Compiler's Note: Section 24(11) of Act 40 of 2005, which amended subsection (d), provided that the amendment shall apply to payments made after January 30, 2006.

Section 352.1. Abatement of Additions or Penalties.--Upon the filing of a petition for reassessment or petition for review by a taxpayer (other than an employer) as provided by this article, the department may waive or abate, in whole or in part, additions or penalties of three hundred dollars ($300) or less imposed upon such taxpayer for a taxable year, where the taxpayer has established that he acted in good faith with no negligence or intent to defraud.

(352.1 added July 1, 1985, P.L.78, No.29)

Section 352.2. Citation Authority.--(a) Notwithstanding any other provision of this act, any person who does any of the following commits a summary offense and, upon conviction, shall be subject to the fines and penalties imposed under section 208(c):

(1) Does not pay withholding tax, interest or penalty within ninety days after the due date, and the tax liability due has not been timely appealed or subject to a duly authorized deferred payment plan.

(2) Underpays a withholding tax, interest or penalty within ninety days after the due date, and the tax liability due has not been timely appealed or subject to a duly authorized deferred payment plan.

(3) Fails to file a tax withholding return or report or any other reporting document within ninety days after the due date of the applicable payment or return, report or any other reporting document.

((a) amended July 13, 2016, P.L.526, No.84)

(b) The penalties imposed under this section shall be in addition to any other penalties imposed under this article.

(c) The Secretary of Revenue may designate employes of the department to enforce this subsection. The employes shall exhibit proof of and be within the scope of the designation when instituting proceedings as provided under the Pennsylvania Rules of Criminal Procedure.

(352.2 added July 9, 2013, P.L.270, No.52)

Section 353. Crimes.--(a) Any person who wilfully attempts in any manner to evade or defeat any tax imposed by this article or the payment thereof shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding twenty-five thousand dollars ($25,000), or to undergo imprisonment not exceeding two years, or both.

(b) Any person required under this article to collect, account for and pay over any tax imposed by this article who wilfully fails to collect or truthfully account for and pay over such tax, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and shall, upon conviction, be sentenced to pay a fine not exceeding twenty-five thousand dollars ($25,000) or to undergo imprisonment not exceeding two years, or both.

(c) Any person required under this article to pay any tax or to make a return, keep any records or supply any information, who wilfully fails to pay such tax or make such return, keep such records or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding five thousand dollars ($5,000), or to undergo imprisonment not exceeding two years, or both.

(d) Any person who wilfully makes and subscribes any return, statement or other document which contains or is verified by a written declaration that it is made under the penalties of perjury and which he does not believe to be true and correct as to every material matter, or wilfully aids or assists in, or procures, counsels or advises the preparation or presentation, in connection with any matter arising under this article, of a return, affidavit, claim or other document which is fraudulent or is false as to any material matter, whether or not such falsity or fraud is with the knowledge or consent of the person authorized or required to present such return, affidavit, claim or document, shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding five thousand dollars ($5,000) or to undergo imprisonment not exceeding two years, or both.

(e) Any person who wilfully delivers or discloses to the department any list, return, account, statement or other document known by him to be fraudulent or to be false as to any material matter shall be guilty of a misdemeanor and shall, upon conviction, be sentenced to pay a fine not exceeding five thousand dollars ($5,000) or to undergo imprisonment not exceeding two years, or both.

(f) It shall be unlawful for any officer, agent or employe of the Commonwealth to divulge or to make known in any manner whatever, not provided by law, except for official purposes, to any person, the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof or any book containing any abstract or particulars thereof, to be

seen or examined by any person except as provided by law, and it shall be unlawful for any person to print or publish in any manner whatsoever not provided by law, any return or any part thereof or source of income, profits, losses or expenditures appearing in any return, and any person committing an offense against the foregoing provisions shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than one thousand dollars ($1,000), or imprisoned for not more than one year, or both, together with the costs of prosecution; and, if the offender be an officer or employe of the Commonwealth, he shall be dismissed from office or discharged from employment.

(g) Notwithstanding subsection (f), it shall be lawful for any officer or employe of the Commonwealth having custody of returns to produce them or evidence of anything contained in them in any action or proceeding in any court on behalf of the department under the provisions of this article to which it is a party, or on behalf of any party to any action or proceeding under the provisions of this article, when the returns or facts shown thereby are directly involved in such action or proceeding, in either of which events the court may require the production of and may admit in evidence so much of said returns or the facts shown thereby as are pertinent to the action or proceeding and no more. Nothing herein shall be construed to prohibit the delivery to a taxpayer or his duly authorized representative of a certified copy of any return filed in connection with his tax, nor to prohibit the publication of statistics so classified as to prevent the identification of particular returns and the items thereof or the inspection by the Attorney General or other legal representatives of the Commonwealth of the return of any taxpayer who shall bring action to review the tax based thereon or against whom an action or proceeding has been instituted for the collection or recovery of the tax imposed by this article; nothing herein shall be construed to prohibit the delivery to the Pennsylvania Higher Education Assistance Agency of a certified copy or extract of any State income tax return requested by the agency for use in determining the eligibility of applicants for State grants, when the Executive Director of the agency certifies that the agency has in its possession a statement signed by the applicant and his parent, parents, guardian or guardians, as the case may be, authorizing the agency to obtain a certified copy or extract of any State income tax return from the Director of the Pennsylvania State Income Tax Bureau. ((g) amended Feb. 1, 1974, P.L.32, No.14)

(353 added Aug. 31, 1971, P.L.362, No.93)

Compiler's Note: Section 7(c) of Act 93 of 1986 repealed subsection (f) insofar as it is inconsistent with the provisions of Title 34 (relating to game).

Section 354. Rules and Regulations.--The department is hereby charged with the enforcement of the provisions of this article, and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article and the collection of taxes imposed by this article.

(354 added Aug. 31, 1971, P.L.362, No.93)

Section 355. Examination.--The department, or any agent authorized in writing by it, is hereby authorized to examine the books, papers and records of any taxpayer or supposed taxpayer, and to require the production of a copy of his return as made to and filed with the Federal Government, if one was so made and filed in order to verify the accuracy of any return made, or if no return was made, to ascertain and assess the tax imposed by this article. Every such taxpayer or supposed taxpayer is hereby directed and required to give to the department or its duly authorized agent the means, facilities and opportunity for such examinations and investigations as are hereby provided and authorized. The department is hereby authorized to examine any person under oath concerning any income which was or should have been returned for taxation, and to this end may compel the production of books, papers and records and the attendance of all persons, whether as

parties or witnesses, whom it believes have knowledge of such income. The procedure for such hearing or examination shall be the same as that provided by "The Fiscal Code" relating to inquisitorial powers of fiscal officers.

(355 added Aug. 31, 1971, P.L.362, No.93)

Section 356. Cooperation with Other Governmental Agencies.--(a) Notwithstanding the provisions of subsection (f) of section 353, the department may permit the Commissioner of Internal Revenue of the United States, or the proper officer of any political subdivision of this Commonwealth or of any other state imposing tax based upon the incomes of individuals, or the authorized representative of such officer, to inspect the tax returns of any taxpayer, or may furnish to such officer or his authorized representative an abstract of the return of income of any taxpayer, or supply him with information concerning any item of income contained in any return of any taxpayer. Such permission shall be granted or such information furnished to such officer or his representative only if the statutes of the United States or of such other state, as the case may be, grant substantially similar privileges to the proper officer of this Commonwealth charged with the administration of the personal income tax law thereof. An officer or authorized agent of any county imposing a personal property tax shall be furnished the following information from such returns upon payment to the department of the cost of collecting and reproducing the requested information:

(1) Name, address and social security number of the taxpayer; and

(2) If the taxpayer has reported dividends or interest.

((a) amended Dec. 9, 1982, P.L.1047, No.246)

(b) The department may enter into an agreement with the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of this Commonwealth shall be exempt from such tax; in such case any compensation paid in this State to residents of such state shall be exempt from Pennsylvania personal income tax. The department, in such agreements, may provide for reciprocal withholding, employer liability, exchange of information and all other matters relating to cooperation between the states.

(356 amended Dec. 6, 1972, P.L.1432, No.315)

Section 357. Appropriation for Refunds.--So much of the proceeds of the tax imposed by this article as shall be necessary for the payment of refunds, enforcement, or administration, under this article, is hereby appropriated for such purposes.

(357 added Aug. 31, 1971, P.L.362, No.93)

PART XI
MISCELLANEOUS PROVISIONS
(XI added Aug. 31, 1971, P.L.362, No.93)

Section 358. Constitutional Construction.--In addition to the provisions relating to legislative intent contained in subsection (b) of section 303 of this article, if any word, phrase, clause, sentence, sections or provision of this article is for any reason held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared as the legislative intent that this article would have been adopted had such unconstitutional word, phrase, clause, sentence, section or provision thereof not been included herein.

(358 added Aug. 31, 1971, P.L.362, No.93)

Section 359. Saving Clause and Limitations.--(a) Notwithstanding anything contained in any law to the contrary, including but not limited to the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, the validity of any ordinance or part of any ordinance or any resolution or part of any resolution, and any amendments or supplements thereto now or hereafter enacted or adopted by any political subdivision of this Commonwealth for or relating to the

imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this article, except as hereinafter provided in subsection (b) of this section.

(b) (1) Notwithstanding the provisions of subsection (a) of this section to the contrary, any rate of tax imposed by ordinance of a city of the first class pursuant to the above cited Sterling Act on salaries, wages, commissions, compensation or other income received or to be received for work done or services performed within such city by persons who are not legal residents of such city, shall not, except as hereinafter provided, exceed the tax imposition rate of four and five-sixteenths per cent for the tax year 1977 or for any tax year thereafter.

(2) In the event such city by ordinance imposes a tax rate on residents or nonresidents in excess of the aforesaid tax rate on the income categories enumerated herein, the provisions of the ordinance imposing such tax rate increase on income of persons who are legal residents of such city, shall be deemed valid and legally effective within the meaning and application of subsection (a) herein. But the provisions of such ordinance imposing a tax rate in excess of four and five-sixteenths per cent with respect to persons who are not legal residents of such city shall be deemed suspended and without any validity to the extent that such tax rate exceeds the tax rate of four and five-sixteenths per cent on income of such nonresidents. And, such excess tax rate provisions shall remain suspended and without any validity until such date as the city of the first class, by ordinance, imposes a rate of tax on income of both legal residents or nonresidents of such city in excess of the tax rate imposition of five and three-fourths per cent per year. In such case the Legislature hereby declares such suspension to be removed and the tax rate valid as to nonresidents, provided, however, that such suspension is removed and the rate deemed valid only to the extent the tax rate imposed on income of such nonresidents does not exceed seventy-five per cent of the tax rate imposed by ordinance per year on the income of legal residents of such city. It is the intention of the Legislature by this subsection to impose certain terms and conditions with respect to the validity and legal effectiveness of the Sterling Act or of any ordinance of the city of the first class enacted pursuant thereto which imposes a tax on the income of nonresidents of such city.

(3) Notwithstanding the suspension provisions set forth heretofore, each city of the first class which imposes a tax pursuant to the above cited Sterling Act shall, by ordinance direct every employer maintaining an office or transacting business within such city and making payment of compensation (i) to a resident individual, or (ii) to a nonresident individual taxpayer performing services on behalf of such employer within such city, shall deduct and withhold from such compensation for each payroll period a tax computed in such manner as to result, so far as practicable, in withholding from the employe's compensation during each calendar year an amount substantially equivalent to the tax reasonably estimated to be due for such year with respect to such compensation. The method of determining the amount to be withheld shall be to withhold the highest amount of tax imposed with provision in such ordinance to provide refunds of the excess tax withheld to qualified nonresident taxpayers within four months of the end of each calendar year.

(4) In the event that all or any part of the provisions of subsection (b) of this section are declared by a court to be unconstitutional, it shall be the duty of the court to construe the remaining amendatory provisions to Article III in accordance with section 358.

(c) (1) Every employer having a place of business within this Commonwealth who employs one or more persons who are residents of a city of the first class shall, within thirty days after becoming such an employer, register with the revenue commissioner of a city of the first class the employer's name and address and such other information as the revenue commissioner may require.

(2) Every employer having a place of business within this Commonwealth who employs one or more persons who are residents of a city of the first

class shall deduct from the salary, wages, commissions or compensation due that person, at the time of payment thereof, the tax imposed by the city of the first class on any salary, wage, commission or other compensation due that employe.

(3) Employers required to withhold taxes under the provisions of this subsection shall calculate the amount of salary, wages, commissions and compensation of employes as determined under the classes of income set forth in section 303 of this article.

(4) Every employer employing one or more persons who are residents of a city of the first class who pay any tax imposed under this article shall file a return and pay to the revenue commissioner the amount of taxes deducted as provided under clause (3) of this subsection. The return shall be on a form or forms furnished by the revenue commissioner and shall set forth the names and residences of each employe of that employer during all or any part of the period covered by the return, the amounts of salaries, wages, commissions or other compensation earned during such period by each employe, together with such other information as the revenue commissioner may require.

(5) The employer shall remit the return and the total tax deducted in accordance with time frames established by section 319 of this article.

(6) Annually, on or before the twenty-eighth day of February, every employer who has filed returns of tax withheld and remitted the tax through the year shall be required to file an Employer's Annual Reconciliation of Wage Tax Withheld, along with a copy of Form W-2 of the Internal Revenue Service for each employee, other listings or electronic data processing tapes, setting forth the following information: (i) name and address of employer; (ii) employer's Federal identification number; (iii) full name and residence address of each employee; (iv) employee's Social Security number; (v) total wages paid during the year before any deductions; and (vi) employer's city account number.

(7) Employers or their designated agents required to file with the revenue commissioner under this subsection shall not be required by the revenue commissioner to be bonded. Employer liability for taxes withheld under this subsection shall be the same as provided in sections 320 and 321 of this article.

(8) If an employer fails to deduct and withhold tax as prescribed in this subsection, it shall not relieve the employee from payment of such tax where payment cannot, for any reason, be obtained from the employer.

(359 amended June 16, 1994, P.L.279, No.48)

Section 360. Transfer of Funds.--(360 deleted by amendment May 12, 1999, P.L.26, No.4)

Compiler's Note: Section 32(9) of Act 4 of 1999, which amended section 360, provided that the amendment shall apply to prizes won after June 30, 1999.

Section 360.1. Transfer to Clean Streams Fund.--No later than August 1, 2024, and each August 1 thereafter, the sum of fifty million dollars ($50,000,000) shall be transferred from the proceeds of the tax imposed under this article to the Clean Streams Fund established under section 1712-A.2 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(360.1 added July 11, 2024, P.L.674, No.56)

Section 361. Effective Date.--Except as hereinafter provided this article shall take effect immediately, except the tax shall first apply and be imposed upon income received by or accrued to a taxpayer on and after June 1, 1971: Provided, however, That a taxpayer who filed returns on the basis of a fiscal year or who is the beneficiary of an estate or trust or member of a partnership which files its returns under this article on the basis of a fiscal year, shall be subject to tax for his first taxable period on the portion of his fiscal year or of the fiscal year of the estate, trust or partnership which postdates May 31, 1971, as prescribed by the department by regulations. Section 1016 which provides for additions or penalties to the tax shall not take effect until thirty days after the date

on which the department has promulgated and issued regulations relating to the duties and liabilities imposed on taxpayers under this article.
(361 added Aug. 31, 1971, P.L.362, No.93)

ARTICLE IV
CORPORATE NET INCOME TAX

PART I
PRELIMINARY PROVISIONS
(Pt. hdg. amended July 11, 2024, P.L.674, No.56)

Section 401. Definitions.--The following words, terms, and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:
(1) "Corporation." Any of the following:
(i) A corporation.
(ii) A joint-stock association.
(iii) A business trust, limited liability company or other entity which for Federal income tax purposes is classified as a corporation.
The term does not include:
1. A business trust which qualifies as a real estate investment trust under section 856 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 856) or which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)).
2. A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)) and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 or a related business trust which confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.
3. A corporation, trust or other entity which is an exempt organization as defined by section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501).
4. A corporation, trust or other entity organized as a not-for-profit under the laws of this Commonwealth or the laws of any other state which:
(i) would qualify as an exempt organization as defined by section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501);
(ii) would qualify as a homeowners association as defined by section 528(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 528(c));
(iii) is a membership organization subject to the Federal limitations on deductions from taxable income under section 277 of the Internal Revenue Code of 1986 (26 U.S.C. § 277) but only if no pecuniary gain or profit inures to any member or related entity from the membership organization; or
(iv) is a nonstock commodity or nonstock stock exchange.
((1) amended July 7, 2005, P.L.149, No.40)
(2) "Department." The Department of Revenue of this Commonwealth.
(3) "Taxable income." 1. (a) In case the entire business of the corporation is transacted within this Commonwealth, for any taxable year which begins on or after January 1, 1971, taxable income for the calendar year or fiscal year as returned to and ascertained by the Federal Government, or in the case of a corporation participating in the filing of consolidated returns to the Federal Government, the taxable income which would have been returned to and ascertained by the Federal Government if separate returns had been made to the Federal Government for the current and prior taxable years, subject, however, to any correction thereof, for fraud, evasion, or error as finally ascertained by the Federal Government.
(b) Additional deductions shall be allowed from taxable income on account of any dividends received from any other corporation but only to the extent that such dividends are included in taxable income as returned to and ascertained by the Federal Government. For tax years beginning on or after January 1, 1991, additional deductions shall only be allowed for

amounts included, under section 78 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 78), in taxable income returned to and ascertained by the Federal Government and for the amount of any dividends received from a foreign corporation included in taxable income to the extent such dividends would be deductible in arriving at Federal taxable income if received from a domestic corporation.

(b.1) An additional deduction shall be allowed from taxable income in the amount of any interest income from securities issued by the United States or agencies or instrumentalities thereof, to the extent included in Federal taxable income but exempt from the tax imposed by this article under the laws of the United States, but reduced by any interest on indebtedness incurred to carry the securities, any expenses incurred in the production of such interest income and any other expenses deducted on the Federal income tax return that would not have been allowed under section 265 of the Internal Revenue Code of 1986 (26 U.S.C. § 265) if the interest were exempt from Federal income tax. As used in the preceding sentence, "interest income" includes any amount received as a distribution or dividend from a regulated investment company, as defined in section 851 of the Internal Revenue Code, to the extent such distribution or dividend is derived from obligations free from State taxation under Article XXIX of this act or securities issued by the United States or agencies or instrumentalities thereof.

(b.2) An additional deduction shall be allowed from the taxable income of a medical cannabis business in the amount of the ordinary and necessary expenses that were paid or incurred by the medical cannabis business during the taxable year that are ordinarily deductible for Federal income tax purposes under section 162 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 162) if no deduction for ordinary and necessary expenses paid or incurred by the medical cannabis business was taken for Federal income tax purposes for the taxable year. As used in this phrase, the term "medical cannabis business" shall mean a medical marijuana organization as defined in section 103 of the act of April 17, 2016 (P.L.84, No.16), known as the "Medical Marijuana Act," that has an active grower/processor permit or dispensary permit during the taxable year for which the deduction is sought. ((b.2) amended Oct. 29, 2024, P.L.1086, No.123)

(c) Further additional deductions shall be allowed from taxable income in an amount equal to the amount of any reduction in an employer's deduction for wages and salaries as a result of the employer taking a credit for its FICA tax obligation on its employes' tips or "targeted jobs" pursuant to section 45B or section 51 of the Internal Revenue Code.

(d) Taxable income will include the sum of the following tax preference items as defined in section 57 of the Internal Revenue Code, as amended, (i) excess investment interest; (ii) accelerated depreciation on real property; (iii) accelerated depreciation on personal property subject to a net lease; (iv) amortization of certified pollution control facilities; (v) amortization of railroad rolling stock; (vi) stock options; (vii) reserves for losses on bad debts of financial institutions; (viii) capital gains; and (ix) accelerated cost recovery deduction under section 57(a)(12)(B) of the Internal Revenue Code, but only to the extent that such preference items are not included in "taxable income" as returned to and ascertained by the Federal Government.

(e) ((e) deleted by amendment).

(f) ((f) deleted by amendment).

(g) ((g) deleted by amendment).

(h) ((h) deleted by amendment).

(i) ((i) deleted by amendment).

(j) ((j) deleted by amendment).

(k) A taxpayer reporting on a 52-53 week basis which closes its fiscal year on any of the last seven days in December or the first seven days of January is deemed a calendar year taxpayer with a year ending date of December 31.

(l) ((l) deleted by amendment June 29, 2002, P.L.559, No.89)

(m) No deduction shall be allowed for the amount of the net operating loss deduction taken under section 172 of the Internal Revenue Code.

(n) In the case of regulated investment companies as defined by the Internal Revenue Code of 1954, as amended, "taxable income" shall be investment company taxable income as defined in the aforesaid Internal Revenue Code of 1954, as amended.

(o) In arriving at "taxable income" for Federal tax purposes for any taxable year beginning on or after January 1, 1981, no deduction shall be allowed for taxes imposed on or measured by net income.

(p) For taxable years beginning on or after January 1, 1998, in the case of a corporation that is a Pennsylvania S corporation, as defined in section 301(n.1), the term "taxable income" shall mean such corporation's net recognized built-in gain to the extent of and as determined for Federal income tax purposes under section 1374(d)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1374). For purposes of this article, a Pennsylvania S corporation and each qualified Subchapter S subsidiary, as defined in section 301(o.3), shall be treated as separate corporations.

(q) Notwithstanding paragraph (a), taxable income shall include the amount of the deduction for depreciation of qualified property claimed and allowable under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)). ((q) added June 29, 2002, P.L.559, No.89)

(r) The following apply:

(1) For property placed in service before September 28, 2017, notwithstanding paragraph (a), if a deduction for depreciation of qualified property was included in taxable income in accordance with paragraph (q), an additional deduction for depreciation of the qualified property shall be allowed from taxable income until the total amount included as taxable income under paragraph (q) has been claimed. The additional deduction shall be equal to the product of taking three sevenths of the amount of the deduction for depreciation of the qualified property allowable under section 167 of the Internal Revenue Code of 1986 (26 U.S.C. § 167), not including the amount of the deduction for depreciation of the qualified property claimed and allowable under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)), for the tax year.

(2) For property placed in service after September 27, 2017, notwithstanding paragraph (a), if a deduction for depreciation of qualified property was included in taxable income in accordance with paragraph (q), an additional deduction for depreciation of the qualified property shall be allowed from taxable income until the total amount included as taxable income under paragraph (q) has been claimed. The additional deduction shall be equal to the depreciation on the qualified property for the taxable year as determined in accordance with sections 167 and 168 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 167 and 168), except that section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)) shall not apply.

((r) amended June 28, 2018, P.L.494, No.72)

(s) The following apply:

(1) For property placed in service before September 28, 2017, an additional deduction shall be allowed from taxable income in the earlier of the taxable year in which qualified property is fully depreciated for Federal income tax purposes, or is sold or otherwise disposed of by a taxpayer to the extent the amount of depreciation claimed under section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)), on the qualified property and included in taxable income under paragraph (q) has not been recovered through the additional deductions provided under paragraph (r)(1).

(2) For property placed in service after September 27, 2017, with respect to qualified property which is sold or otherwise disposed of during a taxable year by a taxpayer and for which depreciation was included as taxable income under paragraph (q), an additional deduction shall be allowed from taxable income to the extent the amount of depreciation claimed under section 168(k) of the Internal Revenue Code of 1986 (26

U.S.C. § 168(k)) on the qualified property has not been recovered through the additional deductions provided by paragraph (r)(2).

((s) amended June 28, 2018, P.L.494, No.72)

(t) (1) Except as provided in paragraph (2), (3) or (4) for taxable years beginning after December 31, 2014, and in addition to any authority the department has on the effective date of this paragraph to deny a deduction related to a fraudulent or sham transaction, no deduction shall be allowed for an intangible expense or cost, or an interest expense or cost, paid, accrued or incurred directly or indirectly in connection with one or more transactions with an affiliated entity. In calculating taxable income under this paragraph, when the taxpayer is engaged in one or more transactions with an affiliated entity that was subject to tax in this Commonwealth or another state or possession of the United States on a tax base that included the intangible expense or cost, or the interest expense or cost, paid, accrued or incurred by the taxpayer, the taxpayer shall receive a credit against tax due in this Commonwealth in an amount equal to the apportionment factor of the taxpayer in this Commonwealth multiplied by the greater of the following:

(A) the tax liability of the affiliated entity with respect to the portion of its income representing the intangible expense or cost, or the interest expense or cost, paid, accrued or incurred by the taxpayer; or

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

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

(2) The adjustment required by paragraph (1) shall not apply to a transaction that did not have as the principal purpose the avoidance of tax due under this article and was done at arm's length rates and terms.

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

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

((t) added July 9, 2013, P.L.270, No.52)

(u) (1) To the extent a taxpayer makes the adjustment required by phrase (t)(1), an affiliated entity which is subject to tax under this article on a tax base that includes the intangible expense or cost, or the interest expense or cost, paid, accrued or incurred by the taxpayer may annually elect to exclude the intangible expense or cost, or the interest expense or cost, when determining the affiliated entity's taxable income under this subclause or, if applicable, subclause 2. If such an election is made, the taxpayer that made the adjustment required by phrase (t)(1) shall not be entitled to receive any credit against tax due in this Commonwealth as calculated under phrase (t)(1)(A) or (B).

(2) The election under paragraph (1) shall be made by the affiliated entity with the filing of its original return. The affiliated entity shall identify the name and Federal EIN of the taxpayer to which the election applies. Nothing in this paragraph shall otherwise impact nexus or apportionment of the taxpayer or the affiliated entity.

(3) In no case shall the exclusion under paragraph (1) exceed the intangible expense or cost, or the interest expense or cost, paid, accrued

or incurred by the taxpayer.
((u) added July 11, 2024, P.L.674, No.56)
(1 amended May 12, 1999, P.L.26, No.4)
2. In case the entire business of any corporation, other than a corporation engaged in doing business as a regulated investment company as defined by the Internal Revenue Code of 1986, is not transacted within this Commonwealth, the tax imposed by this article shall be based upon such portion of the taxable income of such corporation for the fiscal or calendar year, as defined in subclause 1 hereof, and may be determined as follows: (Intro. par. amended June 29, 2002, P.L.559, No.89)
(a) Division of Income.
(1) As used in this definition, unless the context otherwise requires:
(A) "Business income" means income arising from transactions and activity in the regular course of the taxpayer's trade or business and includes income from tangible and intangible property if either the acquisition, the management or the disposition of the property constitutes an integral part of the taxpayer's regular trade or business operations. The term includes all income which is apportionable under the Constitution of the United States. ((A) amended June 22, 2001, P.L.353, No.23)
(B) "Commercial domicile" means the principal place from which the trade or business of the taxpayer is directed or managed.
(C) "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employes for personal services.
(D) "Nonbusiness income" means all income other than business income. The term does not include income which is apportionable under the Constitution of the United States. ((D) amended June 22, 2001, P.L.353, No.23)
(E) "Sales" means all gross receipts of the taxpayer not allocated under this definition other than dividends received, interest on United States, state or political subdivision obligations and gross receipts heretofore or hereafter received from the sale, redemption, maturity or exchange of securities, except those held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business. ((E) amended Dec. 23, 1983, P.L.370, No.90)
(F) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.
(G) "This state" means the Commonwealth of Pennsylvania or, in the case of application of this definition to the apportionment and allocation of income for local tax purposes, the subdivision or local taxing district in which the relevant tax return is filed.
(2) Any taxpayer having income from business activity which is taxable both within and without this State other than activity as a corporation whose allocation and apportionment of income is specifically provided for in section 401(3)2(b)(c) and (d) shall allocate and apportion taxable income as provided in this definition.
(3) For purposes of allocation and apportionment of income under this definition, a taxpayer is taxable in another state if in that state the taxpayer is subject to a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax or if that state has jurisdiction to subject the taxpayer to a net income tax regardless of whether, in fact, the state does or does not. ((3) amended June 29, 2002, P.L.559, No.89)
(4) Rents and royalties from real or tangible personal property, gains, interest, patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in paragraphs (5) through (8).
(5) (A) Net rents and royalties from real property located in this State are allocable to this State.
(B) Net rents and royalties from tangible personal property are allocable to this State if and to the extent that the property is utilized in this State, or in their entirety if the taxpayer's commercial domicile

is in this State and the taxpayer is not organized under the laws of or taxable in the state in which the property is utilized.

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

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

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

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

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

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

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

(C) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the taxpayer's commercial domicile is located.

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

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

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

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

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

(v) For taxable years beginning after December 31, 2012, all business income shall be apportioned to this State by multiplying the income by the sales factor.

((A) amended July 2, 2012, P.L.751, No.85)

(B) For purposes of apportionment of the capital stock - franchise tax as provided in section 602 of Article VI of this act, the apportionment fraction shall be the property factor plus the payroll factor plus the sales factor as the numerator, and the denominator shall be three.

((9) amended Oct. 9, 2009, P.L.451, No.48)

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

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

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

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

(14) Compensation is paid in this State if:

(A) The individual's service is performed entirely within the State;

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

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

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

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

(16.1) (A) Sales from the sale, lease, rental or other use of real property, if the real property is located in this State. If a single parcel of real property is located both in and outside this State, the sale is in this State based upon the percentage of original cost of the real property located in this State.

(B) (I) Sales from the rental, lease or licensing of tangible personal property, if the customer first obtained possession of the tangible personal property in this State.

(II) If the tangible personal property is subsequently taken out of this State, the taxpayer may use a reasonably determined estimate of usage in this State to determine the extent of sale in this State.

(C) (I) Sales from the sale of service, if the service is delivered to a location in this State. If the service is delivered both to a location in

and outside this State, the sale is in this State based upon the percentage of total value of the service delivered to a location in this State.

(II) If the state or states of assignment under unit (I) cannot be determined for a customer who is an individual that is not a sole proprietor, a service is deemed to be delivered at the customer's billing address.

(III) If the state or states of assignment under unit (I) cannot be determined for a customer, except for a customer under unit (II), a service is deemed to be delivered at the location from which the services were ordered in the customer's regular course of operations. If the location from which the services were ordered in the customer's regular course of operations cannot be determined, a service is deemed to be delivered at the customer's billing address.

((16.1) added July 9, 2013, P.L.270, No.52)

(17) Sales, other than sales under paragraphs (16) and (16.1), are in this State as follows:

(A) ((A) deleted by amendment).

(B) ((B) deleted by amendment).

(C) Gross receipts from the lease or license of intangible property, including a sale or exchange of property where the receipts from the sale or exchange derive from payments that are contingent on the productivity, use or disposition of the property, if and to the extent the property is used in this State.

(D) Gross receipts from the sale of intangible property where the property sold is a contract right, government license or similar property that authorizes the holder to conduct a business activity in a specific geographic area, if and to the extent the property is used in or otherwise associated with this State.

(E) Gross receipts from the sale, redemption, maturity or exchange of securities, held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business, if the customers are in this State.

(F) Gross receipts received by a corporation that regularly lends funds to unaffiliated entities or to individuals from interest, fees and penalties imposed in connection with loans secured by real property as follows:

(i) The following shall apply to a calculation under this subparagraph:

(I) The numerator of the sales factor shall include interest, fees and penalties imposed in connection with loans secured by real property if the property is located within this State.

(II) If the real property under this subparagraph is located both within this State and one or more other states, the gross receipts under this subparagraph shall be included in the numerator of the sales factor if more than fifty per cent of the fair market value of the real property is located within this State.

(III) If more than fifty per cent of the fair market value of real property under this subparagraph is not located within any single state, the gross receipts under this subparagraph shall be included in the numerator of the sales factor if the borrower is located in this State.

(ii) The determination of whether real property securing a loan is located within this State shall be made as of the time the original agreement was made, and all subsequent substitutions of collateral shall be disregarded.

(G) Gross receipts received by a corporation that regularly lends funds to unaffiliated entities or to individuals from interest, fees and penalties imposed in connection with loans related to the sale of tangible personal property. The following shall apply to a calculation under this subparagraph:

(i) Except as provided under unit (ii), the numerator of the sales factor shall include gross receipts received from interest, fees and penalties imposed in connection with loans related to the sale of tangible personal property if the property is delivered or shipped to a purchaser in this State.

(ii) The following shall apply:

(I) Gross receipts received by a corporation that regularly lends funds to unaffiliated entities or to individuals from interest, fees and penalties imposed in connection with loans related to the sale of transportation property shall be included in the numerator of the sales factor to the extent that the property is used in this State.

(II) The extent an aircraft shall be deemed to be used in this State and the amount of gross receipts that shall be included in the numerator of the sales factor shall be determined by multiplying all the gross receipts from the interest, fees and penalties imposed in connection with loans related to the sale of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this State and the denominator of which is the total number of landings of the aircraft.

(III) A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(IV) If the extent of the use of transportation property within this State cannot be determined, the property shall be deemed to be used wholly in the state in which the property was delivered or shipped to the purchaser.

(H) Gross receipts received by a corporation that regularly lends funds to unaffiliated entities or to individuals from interest, fees and penalties imposed in connection with loans not described in subparagraph (F) or (G), if the borrower is located in this State.

(I) Gross receipts received from interest, fees and penalties in the nature of interest from credit card receivables and gross receipts from fees charged to cardholders, such as annual fees, if the billing address of the cardholder is in this State.

(J) Gross receipts received from interest, not otherwise described in this paragraph, shall be included in the numerator of the sales factor if the lender's commercial domicile is in this State.

(K) Gross receipts received from intangible property, not otherwise described in this paragraph, shall be excluded from the numerator and the denominator of the sales factor.

(L) The department shall promulgate the rules and regulations necessary to implement this paragraph.

((17) amended July 8, 2022, P.L.513, No.53)

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

(A) Separate accounting;

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

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

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

((18) amended Aug. 4, 1991, P.L.97, No.22)

(b) Railroad, Truck, Bus, Airline or Qualified Air Freight Forwarding Companies.

(1) All business income of railroad, truck, bus, airline and qualified air freight forwarding companies shall be apportioned to this Commonwealth by multiplying the income by a fraction, the numerator of which is the taxpayer's total revenue miles within this Commonwealth during the tax period and the denominator of which is the total revenue miles of the taxpayer everywhere during the tax period. For purposes of this paragraph revenue mile shall mean the average receipts derived from the transportation by the taxpayer of persons or property one mile. Where revenue miles are derived from the transportation of both persons and property, the revenue mile fractions attributable to each such class of

transportation shall be computed separately, and the average of the two fractions, weighted in accordance with the ratio of total receipts from each such class of transportation everywhere to total receipts from both such classes of transportation everywhere, shall be used in apportioning income to this Commonwealth.

(2) Nonbusiness income of railroad, truck, bus, airline and qualified air freight forwarding companies shall be allocated as provided in paragraphs (5) through (8) of phrase (a) of subclause 2 of the definition of taxable income.

(3) As used in this phrase, "qualified air freight forwarding company" shall mean a company that:

(A) is engaged in the air freight forwarding business;

(B) primarily uses an airline with which it has common ownership and control; and

(C) will use the revenue miles of the airline under subparagraph (B).

((b) amended Oct. 24, 2018, P.L.802, No.131)

(c) Pipeline or Natural Gas Companies.

(1) All business income of pipeline companies shall be apportioned to this Commonwealth by multiplying the income by a fraction, the numerator of which is the revenue ton miles, revenue barrel miles or revenue cubic feet miles within this Commonwealth during the tax period and the denominator of which is the total revenue ton miles, revenue barrel miles or the revenue cubic feet miles of the taxpayer everywhere during the tax period. For purposes of this paragraph a revenue ton mile, revenue barrel mile or a revenue cubic foot mile shall mean respectively the receipts derived from the transportation by the taxpayer of one ton of solid property, one barrel of liquid property or one cubic foot of gaseous property transported one mile.

(2) All business income of natural gas companies subject to regulation by the Federal Power Commission or by the Pennsylvania Public Utility Commission shall be apportioned to this Commonwealth by multiplying the income by a fraction, the numerator of which shall be the cubic foot capacity of the taxpayer's pipelines in this Commonwealth, and the denominator of which shall be the cubic foot capacity of the taxpayer's pipelines everywhere, at the end of the tax period. For the purpose of this paragraph, the cubic foot capacity of a pipeline shall be determined by multiplying the square of its radius (in feet) by its length (in feet).

(3) Nonbusiness income of pipeline companies or natural gas companies subject to regulation by the Federal Power Commission or by the Pennsylvania Public Utility Commission shall be allocated as provided in paragraphs (5) through (8) of phrase (a) of subclause 2 of the definition of taxable income.

(d) Water Transportation Companies.

(1) Water Transportation Companies Operating on High Seas. All business income of water transportation companies operating on high seas shall be apportioned to this Commonwealth by multiplying the business income by a fraction, the numerator of which is the number of port days spent inside the Commonwealth and the denominator of which is the total number of port days spent inside and outside of the Commonwealth. The term "port days" does not include periods when the ships are not in use because of strikes or withheld from service for repair or because of seasonal reduction of services. Days in port are computed by dividing the aggregate number of hours in all ports by twenty-four.

(2) Water Transportation Companies Operating in Inland Waters. All business income of water transportation companies operating on inland waters shall be apportioned to this Commonwealth by multiplying the business income by a fraction, the numerator of which is the taxpayer's total revenue miles within this Commonwealth during the tax period and the denominator of which is the total revenue miles of the taxpayer everywhere during the tax period. In the determination of revenue miles, one-half of the mileage of all navigable waterways bordering between the Commonwealth and another state shall be considered Commonwealth miles. For purposes of

this paragraph, revenue miles shall mean the revenue receipts derived from the transportation by the taxpayer of persons or property one mile.

(3) Nonbusiness income of water transportation companies shall be allocated as provided in paragraphs (5) through (8) of phrase (a) of subclause 2 of the definition of taxable income.

(e) Satellite Television Services Providers.

(1) All business income of providers of satellite television services shall be apportioned to this Commonwealth by multiplying the income by a fraction, the numerator of which is the value of equipment located in this Commonwealth that is owned or rented by the taxpayer or owned by an entity that is included with the taxpayer in a controlled group, as defined in section 267(f) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 166), and used by the taxpayer in generating, processing or transmitting satellite television services, whether or not such equipment is affixed to real estate, and the denominator of which is the value of all such equipment located everywhere. The value of property owned by the taxpayer or owned by an entity included with the taxpayer in a controlled group and used by the taxpayer shall be its cost less depreciation per the books and records of the owner. The value of rented equipment shall be determined in accordance with paragraph (11) of phrase (a) of subclause 2 of this definition.

(2) Nonbusiness income of providers of satellite television services shall be allocated as provided in paragraphs (5), (6), (7) and (8) of subclause 2 of this definition.

((e) added July 9, 2013, P.L.270, No.52)

(2 amended Sept. 9, 1971, P.L.437, No.105)

3. In case the entire business of a corporation which has filed a timely election and has qualified to be taxed as a regulated investment company under the provisions of the Internal Revenue Code of 1954, as amended, is not transacted within this Commonwealth, the tax imposed by this article shall be based upon such portion of the taxable income of such corporation for the fiscal or calendar year as defined in subclause 1 hereof, as shall be attributable to business transacted within this Commonwealth by multiplying such taxable income by a fraction, the numerator of which is the sum of the corporation's gross receipts from (i) sales of its own shares to Pennsylvania investors and (ii) sales of its portfolio securities, where the orders for such sales are placed with or credited to Pennsylvania offices of registered securities dealers and the denominator of which fraction is the corporation's total gross receipts from (i) sales of its own shares and (ii) sales of its portfolio securities. Pennsylvania investors shall mean individuals residing in Pennsylvania at the time of the sale or corporations or other entities having their principal place of business located in Pennsylvania at such time. (3 amended Sept. 9, 1971, P.L.437, No.105)

4. (a) For taxable years beginning in 1982 through taxable years beginning in 1990 and for the taxable year beginning in 1995 and each taxable year thereafter, a net loss deduction shall be allowed from taxable income as arrived at under subclause 1 or, if applicable, subclause 2. For taxable years beginning in 1991, 1992, 1993 and 1994, the net loss deduction allowed for years prior to 1991 shall be suspended, and no carryover of net losses from taxable years 1988, 1989, 1990, 1991, 1992 and 1993 shall be utilized in calculating net income for the 1991, 1992, 1993 and 1994 taxable years, but such net losses may be used as provided in paragraph (c) in calculating net income for the 1995 taxable year and for two taxable years thereafter.

(b) A net loss for a taxable year is the negative amount for said taxable year determined under subclause 1 or, if applicable, subclause 2. Negative amounts under subclause 1 shall be allocated and apportioned in the same manner as positive amounts.

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

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

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

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

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

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

(VI) For taxable years beginning after December 31, 2014, the greater of thirty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 or five million dollars ($5,000,000);

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

(VIII) For taxable years beginning after December 31, 2018, forty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2;

(IX) For taxable years beginning after December 31, 2024, the percentage of taxable income as determined under section 401.1; or

((A) amended July 11, 2024, P.L.674, No.56)

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

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

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

Taxable Year	Carryover
1981	1 taxable year
1982	2 taxable years
1983-1987	3 taxable years
1988	2 taxable years plus 1 taxable year starting with the 1995 taxable year
1989	1 taxable year plus 2 taxable years starting with the 1995 taxable year
1990-1993	3 taxable years starting with the 1995 taxable year
1994	1 taxable year
1995-1997	10 taxable years
1998 and thereafter	20 taxable years

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

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

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

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

million dollars ($3,000,000) for taxable years beginning after December 31, 2008.

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

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

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

(VII) Thirty-five per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 for taxable years beginning after December 31, 2017.

(VIII) Forty per cent of taxable income as determined under subclause 1 or, if applicable, subclause 2 for taxable years beginning after December 31, 2018.

(IX) The percentage of taxable income as determined under section 401.1 for taxable years beginning after December 31, 2024.

((B) amended July 11, 2024, P.L.674, No.56)

((c) amended Oct. 30, 2017, P.L.672, No.43)

(c.1) A deduction under Part IV-A shall be allowed from taxable income as prescribed in a satisfaction commitment letter executed between the Department of Community and Economic Development and a taxpayer under section 407.7(c). ((c.1) added Oct. 30, 2017, P.L.672, No.43)

(d) No loss shall be a carryover from a taxable year when the corporation elects to be treated as a Pennsylvania S corporation pursuant to section 307 of Article III of this act to a taxable year when the corporation is subject to the tax imposed under this article.

(e) Paragraph (d) shall not prevent a taxable year when a corporation is a Pennsylvania S corporation from being considered a taxable year for determining the number of taxable years to which a net loss may be a carryover.

(f) For purposes of the net loss deduction, the short taxable year of a corporation, after the revocation or termination of an election to be treated as a Pennsylvania S corporation pursuant to sections 307.3 and 307.4 of Article III of this act, shall be treated as a taxable year.

(g) In the case of a change in ownership by purchase, liquidation, acquisition of stock or reorganization of a corporation in the manner described in section 381 or 382 of the Internal Revenue Code of 1954, as amended, the limitations provided in the Internal Revenue Code with respect to net operating losses shall apply for the purpose of computing the portion of a net loss carryover recognized under paragraph (3)4(c) of this section. When any acquiring corporation or a transferor corporation participated in the filing of consolidated returns to the Federal Government, the entitlement of the acquiring corporation to the Pennsylvania net loss carryover of the acquiring corporation or the transferor corporation will be determined as if separate returns to the Federal Government had been filed prior to the change in ownership by purchase, liquidation, acquisition of stock or reorganization.

(4 amended Apr. 23, 1998, P.L.239, No.45)

(4) "Person." Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to associations, shall mean the partners or members thereof, and as applied to corporations the officers thereof.

(5) "Taxable year." The taxable year which the corporation, or any consolidated group with which the corporation participates in the filing of consolidated returns, actually uses in reporting taxable income to the Federal Government. With regard to the tax imposed by Article IV of this act (relating to the Corporate Net Income Tax), the terms "annual year," "fiscal year," "annual or fiscal year," "tax year" and "tax period" shall

be the same as the corporation's taxable year, as defined in this paragraph. ((5) added July 1, 1985, P.L.78, No.29)

(6) "Regulated financial institution." An entity subject to tax under articles VII or XV and regulated by the Pennsylvania Department of Banking, the Federal Reserve Board, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration or the Federal Deposit Insurance Corporation. ((6) added Dec. 23, 2003, P.L.250, No.46)

(7) "Determination." The ascertainment of tax liability. The term includes a redetermination. ((7) added Oct. 18, 2006, P.L.1149, No.119)

(8) "Intangible expense or cost." Royalties, licenses or fees paid for the acquisition, use, maintenance, management, ownership, sale, exchange or other disposition of patents, patent applications, trade names, trademarks, service marks, copyrights, mask works or other similar expenses or costs. ((8) added July 9, 2013, P.L.270, No.52)

(9) "Interest expense or cost." A deduction allowed under section 163 of the Internal Revenue Code of 1986 (26 U.S.C. § 163) to the extent that such deduction is directly related to an intangible expense or cost. ((9) added July 9, 2013, P.L.270, No.52)

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

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

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

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

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

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

((10) added July 9, 2013, P.L.270, No.52)

(11) "Unaffiliated entity." Any entity that is not an affiliated entity as defined under section 401(10). ((11) added July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 5 of Act 123 of 2024 provided that the amendment of section 401(3)1(b.2) shall apply to taxable years beginning after December 31, 2023.

Compiler's Note: Section 30(6) and (7) of Act 56 of 2024 provided that the addition of phrase (3)1(b.2) shall apply to taxable years commencing after December 31, 2023, and the addition of phrase (3)1(u) shall apply to taxable years commencing after December 31, 2022.

Compiler's Note: Section 24(3)(i) of Act 53 of 2022 provided that the amendment of section 401(3)2(a)(17) shall apply to taxable years beginning after December 31, 2022.

Compiler's Note: Section 2 of Act 131 of 2018, which amended clause (3)2(b), provided that the amendment shall apply to taxable years beginning after December 31, 2016.

Compiler's Note: Section 2 of Act 72 of 2018, which amended clause (3)1(r) and (s), provided that the amendment shall apply to tax years beginning on or after January 1, 2017.

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended clause (3)2(a)(17) and 4(c)(1)(A)(IV) and added clause (3)1(t)(1), 2(a)(16.1) and (e) and 4(c)(1)(A)(V) and (VI) and (2)(V) and (VI) and (8), (9) and (10), provided that the amendment or addition shall apply to tax years beginning after December 31, 2013.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 24(1)(i) of Act 40 of 2005, which amended clause (1)4, provided that the amendment shall apply to taxable years beginning after December 31, 1997.

Compiler's Note: Section 33(8) of Act 46 of 2003, which amended clause (1)1, provided that the deletion of the phrase "or a related business trust which confines its activities in this Commonwealth to the maintenance, administration, and management of intangible investments and activities of real estate investment trusts or qualified real estate investment trust subsidiaries" from clause(1)1 of the act shall apply to tax years beginning after December 31, 2003, and the deletion of the sentence "A business trust which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)) shall be treated as part of the real estate investment trust which owns all of the stock of the qualified real estate investment trust subsidiary." in clause (1)1 of the act shall apply retroactively to June 29, 2002, and shall be considered as a codification of the law then in effect.

Compiler's Note: Section 25 of Act 23 of 2001, which amended clauses (1) and (3)2(a)(1)(A) and (D), provided that the General Assembly finds and declares that the intent of the amendment of clause (3)2(a)(1)(A) and (D) is to clarify existing law. Section 26(2) of Act 23 provided that clause (3)2(a)(1)(A) and (D) shall apply to taxable years beginning after December 31, 1998. Section 26(4)(vii) of Act 23 provided that clause (1) shall apply to taxable years beginning after December 31, 2000.

Compiler's Note: Section 32(4)(i) of Act 4 of 1999, which amended clause (1), provided that the amendment shall apply to the taxable years beginning after December 31, 1997. Section 32(5) of Act 4 of 1999, which amended clause (3)2(a)(9) and 4(c), provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Compiler's Note: Section 46 of Act 43 of 2017, which amended clause (3)4(c) and added (c.1), provided that if all or a part of the net loss deduction under section 401(3)4(c) of the act has been deemed unconstitutional as a result of a decision by the Pennsylvania Supreme Court, the Secretary of Revenue shall submit a notice of the decision for publication in the Pennsylvania Bulletin.

Section 49(3) of Act 43 of 2017 provided that the amendment or addition of section 401(3)4(c)(1)(A)(VI), (VII) and (VIII) and (2)(B)(VII) and (VIII) of the act shall take effect on the date of the publication of the notice under section 46 of Act 43.

Compiler's Note: The Pennsylvania Department of Banking, referred to in clause (6), is now known as the Department of Banking and Securities.

2017 Unconstitutionality. Section 401(3)4(c)(1)(A)(II) was declared unconstitutional on October 18, 2017, by the Supreme Court of Pennsylvania in Nextel Communications of Mid-Atlantic, Inc. v. Commonwealth, Department of Revenue, 72 P.S. 7401(3)4(c)(1)(A)(II), 171 A.3d 682 (2017).

2020 Unconstitutionality. Section 401(3)4(c)(1)(A)(I) was declared unconstitutional on November 21, 2019, by the Commonwealth Court in General Motors Corp. v. Commonwealth, 72 P.S. 7401(3)4(c)(1)(A)(I), 222 A.3d 454 (2019).

Section 401.1. Determination of Net Loss Deduction.--(a) For taxable years beginning after December 31, 2024, and prior to January 1, 2026, the net loss deduction shall be determined as follows:

(1) Deduct forty per cent of taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3), for a net loss incurred in a taxable year beginning prior to January 1, 2025.

(2) (Reserved).

(b) For taxable years beginning after December 31, 2025, and prior to January 1, 2027, the net loss deduction shall be determined as follows:

(1) Deduct forty per cent of taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3), for a net loss incurred in a taxable year beginning prior to January 1, 2025.

(2) For a net loss incurred in a taxable year beginning after December 31, 2024, deduct an amount equal to:

(i) fifty per cent minus the actual percentage of taxable income deducted under paragraph (1); multiplied by

(ii) the taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3).

(c) For taxable years beginning after December 31, 2026, and prior to January 1, 2028, the net loss deduction shall be determined as follows:

(1) Deduct forty per cent of taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3), for a net loss incurred in a taxable year beginning prior to January 1, 2025.

(2) For a net loss incurred in a taxable year beginning after December 31, 2024, deduct an amount equal to:

(i) sixty per cent minus the actual percentage of taxable income deducted under paragraph (1); multiplied by

(ii) the taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3).

(d) For taxable years beginning after December 31, 2027, and prior to January 1, 2029, the net loss deduction shall be determined as follows:

(1) Deduct forty per cent of taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3), for a net loss incurred in a taxable year beginning prior to January 1, 2025.

(2) For a net loss incurred in a taxable year beginning after December 31, 2024, deduct an amount equal to:

(i) seventy per cent minus the actual percentage of taxable income deducted under paragraph (1); multiplied by

(ii) the taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3).

(e) For taxable years beginning after December 31, 2028, the net loss deduction shall be determined as follows:

(1) Deduct forty per cent of taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3), for a net loss incurred in a taxable year beginning prior to January 1, 2025.

(2) For a net loss incurred in a taxable year beginning after December 31, 2024, deduct an amount equal to:

(i) eighty per cent minus the actual percentage of taxable income deducted under paragraph (1); multiplied by

(ii) the taxable income as determined under subclause 1 of section 401(3) or, if applicable, subclause 2 of section 401(3).

(401.1 added July 11, 2024, P.L.674, No.56)

PART II
IMPOSITION OF TAX

Section 402. Imposition of Tax.--(a) A corporation shall be subject to and shall pay an excise tax for exercising, whether in its own name or through any person, association, business trust, corporation, joint venture, limited liability company, limited partnership, partnership or other entity, any of the following privileges:

(1) Doing business in this Commonwealth.

(2) Carrying on activities in this Commonwealth, including solicitation which is not protected activity under the act of September 14, 1959 (Public Law 86-272, 15 U.S.C. § 381 et seq.).

(3) Having capital or property employed or used in this Commonwealth.

(4) Owning property in this Commonwealth.

(5) (i) Having substantial nexus in this Commonwealth. Substantial nexus in this Commonwealth means a direct or indirect business activity that is sufficient to grant the Commonwealth authority under the Constitution of the United States to impose tax under this article and for which a basis exists under section 401 to apportion or allocate the corporation's income to this Commonwealth.

(ii) For purposes of this section, business activity includes, but is not limited to:

(A) the leasing or licensing of intangible property that is utilized in this Commonwealth;

(B) regularly engaging in transactions with customers in this Commonwealth involving intangible property, including loans made by a corporation that regularly lends funds to unaffiliated entities or to individuals; or

(C) sales of intangible property that was utilized by the corporation within this Commonwealth.

(iii) There shall be a rebuttable presumption that a corporation with $500,000 or more of sales sourced in the current tax year to this Commonwealth under section 401 has substantial nexus in this Commonwealth without regard to physical presence in this Commonwealth.

(6) Paragraph (5) shall not apply to an affiliated entity domiciled in a foreign nation which has in force a comprehensive income tax treaty with the United States providing for the allocation of all categories of income subject to taxation, or the withholding of tax, on royalties, licenses, fees and interest for the prevention of double taxation of the respective nations' residents and the sharing of information.

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

Taxable Year	Tax Rate
January 1, 1995, through December 31, 2022	9.99%
January 1, 2023, through December 31, 2023	8.99%
January 1, 2024, through December 31, 2024	8.49%
January 1, 2025, through December 31, 2025	7.99%

January 1, 2026, through December 31, 2026	7.49%
January 1, 2027, through December 31, 2027	6.99%
January 1, 2028, through December 31, 2028	6.49%
January 1, 2029, through December 31, 2029	5.99%
January 1, 2030, through December 31, 2030	5.49%
January 1, 2031, and each taxable year thereafter	4.99%

(c) An entity subject to taxation under Article VII, VIII, IX or XV shall not be subject to the tax imposed by this article.
(402 amended July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 24(3)(ii) of Act 53 of 2022 provided that the amendment of section 401(a)(5) and (6) shall apply to taxable years beginning after December 31, 2022.

Section 402.1. Allocation of Tax.--(402.1 repealed June 16, 1994, (P.L.279, No.48)

Section 402.2. Interests in Unincorporated Entities.--(a) Except as set forth in subsection (b), for purposes of this article, a corporation's interest in an entity which is not a corporation shall be considered a direct ownership interest in the assets of the entity rather than an intangible interest.

(b) Subsection (a) does not apply to a corporation's interest in an entity described in section 401(1)1 or section 401(1)2 other than:

(1) A business trust which is a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 856) more than fifty per cent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

(2) A business trust which is a qualified real estate trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 owned, directly or indirectly, by a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 more than fifty per cent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

((b) amended Dec. 23, 2003, P.L.250, No.46)

(402.2 added June 29, 2002, P.L.559, No.89 and amended Dec. 30, 2002, P.L.2080, No.232)

Compiler's Note: Section 33(9) of Act 46 of 2003, which added subsection (b), provided that the amendment shall apply to tax years beginning after December 31, 2003.

Compiler's Note: Section 2 of Act 232 of 2002, which amended section 402.2, provided that the General Assembly finds and declares that the amendment of section 402.2 is intended to clarify existing law and shall not be construed to change that law.

PART III
REPORTS AND PAYMENT OF TAX

Section 403. Reports and Payment of Tax.--(a) (1) It shall be the duty of every corporation, liable to pay tax under this article, to transmit to the department, upon a form prescribed by the department, an annual report under oath or affirmation of its president, vice-president, treasurer, assistant treasurer or other authorized officers of net income taxable under the provisions of this article:

(i) on or before April 15, 1972, and every April 15 of each year thereafter through April 15, 2016;

(ii) for taxable years beginning after December 31, 2015, on or before thirty days after the return to the Federal Government is due, or would be due were it to be required of such corporation, subject in all other respects to the provisions of this article; and

(iii) for taxable years beginning after December 31, 2020, on or before the fifteenth day of the month following the due date of the return to the Federal Government, or would be due were it to be required of such corporation, subject in all other respects to the provisions of this article.

((1) amended Apr. 22, 2021, P.L.36, No.10)

(2) The report under paragraph (1) shall set forth:

(i) A true copy of its return to the Federal Government of the annual taxable income arising or accruing in the calendar or fiscal year next preceding, or such part or portions of said return, as the department may designate;

(ii) If no return was filed with the Federal Government the report made to the department shall show such information as would have been contained in a return to the Federal Government had one been made; and

(iii) Such other information as the department may require. Upon receipt of the report, the department shall promptly forward to the Department of State, the names of the president, vice-president, secretary and treasurer of the corporation and the complete street address of the principal office of the corporation for inclusion in the records of the Department of State relating to corporation.

((a) amended July 13, 2016, P.L.526, No.84)

(b) It shall be the duty of each corporation liable to pay tax under this article to pay estimated tax under section 3003.2 and to make final payment of tax due for the taxable year with the annual report required by this section.

(c) The amount of all taxes, imposed under the provisions of this article, not paid on or before the times as above provided, shall bear interest as provided in section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," from the date they are due and payable until paid, except that if the taxable income has been, or is increased by the Commissioner of Internal Revenue, or by any other agency or court of the United States, interest shall be computed on the additional tax due from thirty days after the corporation receives notice of the change of income until paid: Provided, however, That any corporation may pay the full amount of such tax, or any part thereof, together with interest due to the date of payment, without prejudice to its right to present and prosecute, an administrative petition or an appeal to court. If it be thereafter

determined that such taxes were overpaid, the department shall enter a credit to the account of such corporation, which may be used by it in the manner prescribed by law.

(d) If the officers of any corporation shall neglect, or refuse to make any report as herein required, or shall knowingly make any false report, a penalty of five hundred dollars ($500) plus an additional one per cent for every dollar of tax determined to be due in excess of twenty-five thousand dollars ($25,000) shall be added to the tax determined to be due. No amounts added to the tax shall bear any interest whatsoever. ((d) amended July 9, 2013, P.L.270, No.52)

(e) If any corporation closes its fiscal year not upon December 31, but upon some other date, and reports to the Federal Government as of such other date, or would so report were it to make a return to the Federal Government, such corporation shall certify such fact to the department, and shall make the annual report, herein required, on or before the fifteenth day of the month following the due date of the return to the Federal Government, or would be due were it to be required of such corporation, subject in all other respects to the provisions of this article. ((e) amended Apr. 22, 2021, P.L.36, No.10)

(f) If the corporation shall claim in its report that the return made to the Federal Government was inaccurate, the amount claimed by it to be the taxable income, taxable under this article, and the basis of such claim of inaccuracy, shall be fully specified.

(403 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: Section 3(1) of Act 10 of 2021, which amended subsecs. (a)(1) and (e), provided that the amendment of subsec. (a)(1) and (e) shall apply to taxable years beginning after December 31, 2020.

Compiler's Note: Section 51(3.1) of Act 84 of 2016, which amended subsection (a), provided that the amendment shall apply to taxable years beginning after December 31, 2015.

Compiler's Note: Section 42(2) of Act 52 of 2013, which amended subsection (d), provided that the amendment shall apply to tax years beginning after December 31, 2013.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 403.1. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the corporation shall be deemed to have complied with such law if the letter transmitting the report or payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment.

(403.1 amended June 27, 1974, P.L.376, No.126)

Section 403.2. Additional Withholding Requirements.--(a) Every partnership exercising, whether in its own name or through any person, association, business trust, corporation, joint venture, limited liability company, limited partnership, partnership or other entity, any of the privileges specified in section 402(a)(1) through (4) shall make a return for the taxable year of its net nonfiling corporate partners' shares of income and deductions.

(b) A partnership required to file a report under subsection (a) shall withhold and pay to the department a tax on behalf of its nonfiling corporate partners in an amount equal to its net nonfiling corporate partners' shares of income and deductions as reported to the Federal Government multiplied by the tax rate applicable to the taxable year being reported. Any amount withheld and paid to the department on behalf of a nonfiling corporate partner shall be considered a tax payment by that partner and credited to its account as if it was directly paid by the partner.

(c) If an amount of tax required to be withheld and paid under this section is not paid on or before the date prescribed, a penalty of five per cent of the underpayment for each month or fraction of a month from the due date to the date paid shall be added to the tax and paid to the department. The underpayment shall, for purposes of computing the addition for any month, be reduced by the amount of the part of the tax which is paid by the beginning of that month. The total of the additions shall not exceed fifty per cent of the amount of the tax.

(d) The report required by subsection (a) shall be filed with the department in a form prescribed by the department, and the payment required by subsection (b) shall be paid to the department on or before the fifteenth day of the fourth month following the end of the taxable year.

(e) The following words, terms and phrases when used in this section shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Net nonfiling corporate partners' shares of income and deductions as reported to the Federal Government." That portion of the income, less the deductions:

(1) reported on Schedule K of the Federal Form 1065, Return of Partnership Income, filed with the Federal Government for the taxable year; and

(2) allocated on Federal Schedule K-1 to nonfiling corporate partners. If the entire business of the partnership is not transacted in this Commonwealth, the amount computed under this definition shall be apportioned to this Commonwealth as provided in section 401(3)2 as if the partnership were a corporation subject to tax under this article.

"Nonfiling corporate partner." A partner which:

(1) is a corporation as defined in section 401; and

(2) has not filed a tax report and paid the tax required by sections 402 and 403 for the previous taxable year.

"Partner." An owner of an interest in the partnership, in whatever manner that owner and ownership interest are designated.

"Partnership." An entity classified as a partnership for Federal income tax purposes.

(1) The term includes:

(i) a partnership, limited partnership, limited liability partnership or limited liability company; and

(ii) any syndicate, group, pool, joint venture, business trust, association or other unincorporated organization through or by which a business, financial operation or venture is carried on.

(2) The term does not include an entity that is:

(i) listed on a United States national stock exchange; or

(ii) described in section 401(1)1 or 2.

(403.2 added Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(10) of Act 46 of 2003, which added section 403.2, provided that section 403.2 shall apply to taxable years beginning after December 31, 2003.

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

Section 405. Extension of Time to File Reports.--The department may, upon application made to it, in such form as it shall prescribe, on or prior to the last day for filing any annual report, and upon proper cause shown, grant to the corporation, required to file such report, an extension of not more than sixty days within which such report may be filed. If the Federal income tax authorities grant an extension of time for filing the reports with the Federal Government, the department shall automatically grant an extension of time for filing the annual report under this article until the fifteenth day of the month following the termination of the Federal extension, but the amount of tax due shall, in such cases, nevertheless, be subject to interest from the due dates and at the rates fixed by this article.

(405 amended Apr. 22, 2021, P.L.36, No.10)

Compiler's Note: Section 3(1) of Act 10 of 2021, which amended section 405, provided that the amendment shall apply to taxable years beginning after December 31, 2020.

Compiler's Note: Section 30(2) of Act 85 of 2012, which amended section 405, provided that the amendment shall apply to tax years beginning on or after January 1, 2013.

Section 406. Changes Made by Federal Government.--(a) If the amount of the taxable income, as returned by any corporation to the Federal Government, is finally changed or corrected by the Commission of Internal Revenue or by any other agency or court of the United States, such corporation, within six months after the receipt of such final change or correction, shall make a report of change, under oath or affirmation, to the department showing such finally changed or corrected taxable income, upon which the tax is required to be paid to the United States. In case a corporation fails to file a report of change, which results in an increase in taxable income within the time prescribed, there shall be added to the tax, a penalty of five dollars ($5) for every day during which such corporation is in default, but the department may abate any such penalty in whole or in part.

(b) If, as a result of such final change or correction, a corporation should report any change in the amount of the taxable income of any corporation upon which tax is imposed by this article, the department shall adjust the corporation's tax on the department's records to conform to the revised tax as reported and shall credit the taxpayer's account to the extent of any overpayment resulting from the adjustment. The department shall then have the power, and its duty shall be, to determine and assess the taxpayer's unpaid and unreported liability for tax, interest or penalty due the Commonwealth, or to credit the taxpayer's account.

(c) Where a report of change, of Federal income, or Federal tax, has been filed after an administrative or judicial appeal has been taken, the report shall be deemed a part of the original annual report upon petition of the taxpayer at any subsequent proceeding as though it had been filed with the original report, and no separate appeal from an assessment resulting from the report of change, correction, or redetermination shall be necessary to the extent the identical issues for the taxable year have been raised in the appeal.

(d) The provisions of this section shall not be construed so as to permit an assessment based upon the allowance of any deduction on account of net operating losses, sustained in other fiscal or calendar years, that are not allowed as deductions under the definition of "taxable income" as contained in this article.

(e) The provisions of this section shall apply to every corporation which was doing business in Pennsylvania in the year for which the Federal income has been changed, irrespective of whether or not such corporation has thereafter merged, consolidated, withdrawn or dissolved. Any clearance certificate issued by the department shall be conditioned upon the requirement that in the event of a change in Federal income for any year for which taxes have been paid to the Commonwealth, the corporation or its

successor or its officers or its directors shall file with the department a report of change and pay any additional State tax resulting therefrom.
(406 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 30(2) of Act 85 of 2012, which amended section 406, provided that the amendment shall apply to tax years beginning on or after January 1, 2013.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 406.1. Amended Reports.--(a) (1) Except as provided under subsection (b) or section 406, a taxpayer may, within three years after the due date of the original report, including extensions, file an amended report on a form prescribed by the department, under oath or affirmation, to bring to the attention of the department a correction to the original report and provide additional information that the taxpayer requests the department to consider. An amended report shall satisfy all the requirements of an original report.

(2) A taxpayer may file an amended report if a petition raising other issues is pending at the administrative or judicial appeal level.

(b) A taxpayer may not file an amended report:

(1) instead of a timely appeal of an assessment, except if a taxpayer would be entitled to an adjustment of the taxpayer's tax liability as defined by regulations of the department;

(2) if an administrative appeal board or court has previously addressed an issue raised in an amended report on its merits for that particular tax year; or

(3) that takes a position that is contrary to law or published department policy.

(c) (1) Notwithstanding section 407.3, the filing of an amended report shall extend the department's authority to adjust a taxpayer's tax liability, including the assessment of additional tax for the tax year to one year from the date of the filing of the amended report or three years from the filing of the original report, whichever period expires later.

(2) At any time before the expiration of the applicable statute of limitations, a taxpayer may consent to extend the period for the department to consider an amended report.

(3) A taxpayer shall maintain records until the end of the extended assessment period.

(d) An amended report filed with the department must contain the following:

(1) The calculation of the amended tax liability.

(2) Revised Pennsylvania supporting schedules, if applicable.

(3) An explanation of the changes being made and the reason for the changes.

(4) Other information that the department may request to support the calculation of the amended tax liability.

(e) Where an amended report involving a tax year under appeal has been filed after an administrative or judicial appeal has been taken, the report shall be deemed a part of the original annual report upon petition of the taxpayer at any subsequent proceeding as though it had been filed with the original report, and no separate appeal from an assessment resulting from the report of change, correction or redetermination shall be necessary to the extent the identical issues for the taxable year have been raised in the appeal.

(f) (1) Unless the taxpayer has requested or consented to an extension, the department shall review an amended report and advise the taxpayer in writing within one year of the filing date of the amended

report whether the department accepts the amended report. The notice shall provide an explanation of the department's action.

(2) If the department fails to provide timely notice, the amended report shall be deemed accepted as filed and the department shall adjust its records accordingly.

(3) The acceptance of an amended report under this subsection shall not limit the department's authority to issue an assessment of additional tax as reported on the amended report within the time period provided under subsection (c)(1).

(g) (1) A taxpayer who disagrees with the action of the department may file a petition for review under section 2703(a)(2.1) within ninety days of the mailing date of the written notice required under subsection (f) except if:

(i) an amended report has been incorporated into an administrative or judicial proceeding;

(ii) an amended report is filed instead of a petition for reassessment; or

(iii) a timely filed amended report requesting a refund or credit was filed more than three years from the date the tax was paid.

(2) A taxpayer that is not permitted to file a petition for review under paragraph (1)(ii) and that disagrees with the action of the department may pay the tax, interest and penalty due and file a petition for refund in accordance with section 3003.1.

(406.1 added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 51(8) of Act 84 of 2016, which added section 406.1, provided that the addition of section 406.1 shall apply to amended reports filed after December 31, 2016.

PART IV
ASSESSMENT AND COLLECTION OF TAX
(Hdg. amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 407. Settlement and Resettlement.--(a) All taxes due under this article shall be settled by the department, and such settlement shall be subject to audit and approval by the Department of the Auditor General, and shall, so far as possible, be made so that notice thereof may reach the taxpayer within eighteen months after the tax report was required to be made. The Secretary of Revenue, after consultation with the Auditor General, may develop and implement procedures for the settlement of taxes employing, among other means, automatic data processing, statistical analysis, computer analysis, mechanical handling and issuance of settlement documents, including documents without original signatures, such that will facilitate what he determines to be the most efficient and productive use of the resources within his control required to adequately and reasonably ensure the proper collection of taxes. The Secretary of Revenue shall provide documentation of such procedures to the chairmen of the Appropriations Committee and the Finance Committee of the Senate and of the House of Representatives.

(b) If, within a period of three years after the date of any settlement, the department is not satisfied with such settlement, or if at any time the net income as returned by any corporation to the Federal Government is finally changed or corrected by the Commissioner of Internal Revenue or by any other agency or court of the United States with the

result that tax, in addition to the amount paid, is due under this article, the department is hereby authorized and empowered to make a resettlement of the tax due by such corporation, based upon the facts contained in the report, or upon any information within its possession or that shall come into its possession.

Whenever a resettlement shall have been made hereunder, the department shall resettle the account according to law and shall credit or charge, as the case may be, the amount resulting from such resettlement upon the current accounts of the corporation with which it is made.

The resettlement shall be subject to audit and approval by the Department of the Auditor General as in the case of original settlement, and in case of the failure of the two departments to agree, the resettlement shall be submitted to the Board of Finance and Revenue as in the case of original settlements.

(c) Promptly after the date of any such settlement, the department shall send, by mail or otherwise, a copy thereof to such corporation. The tax, interest, and penalty imposed by this article shall be subject to the right of resettlement, review, and refund within the time and in the manner now or hereafter provided for by law for petitions for resettlement, review and refund and to the right of appeal in the manner now or hereafter provided for by law for appeals in the case of tax settlements.

(d) If any corporation shall neglect or refuse to make any report and payment of tax required by this article, the department shall estimate the tax due by such corporation and subject to audit and approval by the Department of the Auditor General, settle the amount due by it for taxes, penalties, and interest thereon as prescribed herein, from which settlement there shall be no right of review or appeal, but the department, with the approval of the Department of the Auditor General, may require a report to be filed, and thereupon make a settlement based upon such report and cancel the estimated settlement.

(e) ((e) repealed June 22, 2001, P.L.353, No.23)

(e.1) This section applies to settlements mailed by the department prior to January 1, 2008. ((e.1) added Oct. 18, 2006, P.L.1149, No.119)

(407 amended Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 26(4)(viii) of Act 23 of 2001, which repealed subsection (e), provided that the repeal shall apply to taxable years beginning after December 31, 2000.

Section 407.1. Assessments.--(a) If the department determines that unpaid or unreported tax is due the Commonwealth, the department shall issue an assessment under this section and sections 407.2, 407.3, 407.4 and 407.5. Such an assessment is not subject to the settlement procedure in the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) A notice of assessment and demand for payment shall be mailed to the taxpayer. The notice shall set forth the basis of the assessment. The assessment shall be paid to the department upon receipt of the notice of assessment. Payment of the assessment shall be without prejudice to the right of the taxpayer to file a petition for reassessment in the manner prescribed by Article XXVII.

(c) In the event that a taxpayer fails to file a report for a tax governed by this article, the department may issue an estimated assessment based upon the records and information available or that may come into the department's possession. If prior to the filing of a report the department estimates that additional unpaid or unreported tax is due the Commonwealth, the department may issue additional estimated assessments.

(d) A notice of estimated assessment and demand for payment shall be mailed to the taxpayer. The assessment shall be paid to the department upon receipt of the notice of assessment. Payment of the estimated assessment does not eliminate the taxpayer's obligation to file a report.

(e) A taxpayer shall have no right to petition for reassessment, petition for refund or otherwise appeal a notice of estimated assessment except as provided in subsection (f).

(f) The department shall remove an estimated assessment within ninety days of the filing of a report and other information required to determine the tax due the Commonwealth, whereupon the department may issue an assessment as provided in subsection (a). Any tax due the Commonwealth that is included in an estimated assessment shall retain its lien priority as of the date of the estimated assessment to the extent such amount is included with an assessment issued upon the review of the filed report.

(g) (Deleted by amendment).

(407.1 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 407.1, provided that the amendment of section 407.1 shall apply to assessments issued after December 31, 2007.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 407.2. Jeopardy Assessments.--(a) If the department believes that the assessment or the collection of unpaid or unreported tax will be jeopardized in whole or in part by delay, it shall issue a jeopardy assessment.

(b) If the department believes that a taxpayer intends to depart from the Commonwealth, remove the taxpayer's property from the Commonwealth, conceal himself or property of the taxpayer from the Commonwealth, or to do any other act that may prejudice or render wholly or partly ineffectual any action to collect any tax for the prior or current tax periods unless the action is brought without delay, the department shall declare the current tax period of the taxpayer immediately terminated. In this case, the department shall issue a jeopardy assessment for the tax period declared terminated and for all prior tax periods, whether or not the time otherwise allowed by law for filing a report or paying the tax has expired.

(c) A notice of jeopardy assessment and demand for payment shall be mailed by certified mail to the taxpayer. The notice of jeopardy assessment shall include the amount of the bond or other security required to stay collection of the assessment.

(d) The jeopardy assessment shall be paid to the department upon receipt of the notice of jeopardy assessment. Payment of the jeopardy assessment does not eliminate the taxpayer's obligation to file a report. If prior to the filing of a report the department estimates that additional unpaid tax is due the Commonwealth, the department may issue additional jeopardy assessments or estimated assessments pursuant to section 407.1.

(e) A jeopardy assessment is immediately due and payable, and proceedings for collection may be commenced at once. The following apply:

(1) The collection of the whole or any amount of a jeopardy assessment may be stayed, at any time before the assessment becomes final, by filing with the department a bond or other security in such amounts as the department may deem necessary, not exceeding one hundred twenty per cent of the tax for which the stay is desired.

(2) Upon the filing of the bond or other security, the collection of the amount assessed that is covered by the bond or other security shall be stayed. The taxpayer shall have the right to waive the stay at any time in respect to the whole or any part of the amount covered by the bond or other security. If the taxpayer waives any part of the amount covered by the bond

or other security, then the bond or other security shall be proportionately reduced upon payment of the amount waived. If any portion of the jeopardy assessment is abated, the bond or other security shall be proportionately reduced at the request of the taxpayer.

(f) (1) A taxpayer may prevent a jeopardy assessment from becoming final by filing a petition for reassessment with the department within thirty days after the mailing date of the notice of jeopardy assessment. The issues to be addressed in the review of the petition shall include:

(i) Whether the making of the jeopardy assessment is reasonable under the circumstances.

(ii) Whether the amount assessed as a result of the jeopardy assessment is appropriate under the circumstances.

(2) The department shall issue a decision and order disposing of a petition filed under paragraph (1) within sixty days after receipt of the petition. Notice of the department's decision and order disposing of the petition shall be mailed to the petitioner.

(3) A taxpayer may file a petition for review of the department's decision and order under paragraph (2) in Commonwealth Court within 30 days after the following:

(i) The mailing date of the department's notice of decision and order on a petition for reassessment of a jeopardy assessment.

(ii) If the petition is not disposed of by the department within sixty days after receipt, the sixtieth day following the date the petition was received by the department.

(4) If it is determined that the making of the jeopardy assessment is unreasonable or that the amount assessed is inappropriate, the assessment may be abated, the assessment may be redetermined in whole or in part, or the department or the taxpayer may be directed to take such other actions as may be appropriate.

(g) Any determination made pursuant to a petition for reassessment under this section shall be final and conclusive upon exhaustion of the appeal rights provided in this section and shall not be reviewed in any other proceeding.

(h) (1) In an action under this section involving the issue of whether the making of a jeopardy assessment is reasonable under the circumstances, the burden of proof in respect to such issue shall be upon the department.

(2) In an action under this section involving the issue of whether an amount assessed as a result of jeopardy assessment is appropriate under the circumstances, the burden of proof in respect to such issue shall be upon the taxpayer.

(407.2 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 407.3. Limitations on Assessments.--(a) Tax may be assessed within three years after the date the report is filed.

(b) Tax may be assessed at any time if a taxpayer fails to file a report required by law.

(c) Tax may be assessed at any time if the taxpayer files a false or fraudulent report with intent to evade tax imposed by the tax laws of this Commonwealth.

(d) If at any time within the time limitations specified in this section the department is not satisfied with its determination of the taxpayer's liability, the department may strike all, or any part of, a previously issued assessment or may issue additional assessments of tax.

(e) The department may, within three years of the granting of any refund or credit or within the period in which an assessment could have been filed by the department with respect to the taxable period for which

the refund was granted, whichever period shall last occur, file an assessment to recover any refund or part thereof or credit or part thereof which was erroneously made or allowed.

(f) For purposes of this section, a report filed before the last day prescribed for filing shall be deemed to have been filed on the last day.

(407.3 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 407.4. Extension of Limitation Period.--Notwithstanding section 407.3, where, before the expiration of the period prescribed in section 407.3, a taxpayer has consented in writing that such period be extended, the amount of tax due may be assessed at any time within the extended period. The period so extended may be further extended by subsequent consents in writing made before the expiration of the extended period.

(407.4 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 407.5. Audit by Auditor General; Determination of Tax.--(a) The Department of the Auditor General shall have the power to do all of the following:

(1) Audit and approve all determinations by the department of tax liability as reported by the taxpayer, including determinations resulting from a field audit, prior to the department's issuance of a determination of the taxpayer's account.

(2) Review any tax report filed with the department, determine the amount of tax liability for the tax period covered by the report and issue to the department for concurrence a determination of tax liability for the tax period.

(3) Audit the procedures implemented by the department under this part for the determination of tax liability or the issuance of an assessment, refund or credit or other action taken by the department with regard to tax liability under this part.

(b) Upon the concurrence of the department and the Auditor General on the determination of tax liability under subsection (a)(1) or (2), the department shall issue an assessment under this article, a refund or a credit, under section 1108 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," or take other appropriate action.

(c) In case of the failure of the department and the Department of the Auditor General to agree on a determination of tax liability under subsection (a)(1) or (2) within four months, the matter shall be submitted to the Board of Finance and Revenue for decision. If the board fails to reach a decision within three months, the determination of the Department of Revenue shall automatically become valid. The decision of the Board of Finance and Revenue shall be implemented by the issuance of an assessment under this article, a refund or a credit, under section 1108 of "The Fiscal Code," or other appropriate action.

(d) The Secretary of Revenue and the Auditor General shall agree on the development and implementation of procedures for the automated determination of taxes that will facilitate the most efficient and productive use of the resources of their respective agencies required to adequately and reasonably ensure the proper collection of taxes.

(e) Nothing in this part shall limit any powers and duties conferred upon the Department of the Auditor General by statute, including the Constitution of Pennsylvania and Article IV of "The Fiscal Code."
(407.5 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

PART IV-A
QUALIFIED MANUFACTURING INNOVATION AND REINVESTMENT DEDUCTION
(Pt. added Oct. 30, 2017, P.L.672, No.43)

Section 407.6. Definitions.--(a) For the purposes of this part only, the following words, terms and phrases shall have the meaning ascribed to them in this subsection, except where the context clearly indicates a different meaning:
(1) "Annual taxable payroll." The total amount of wages paid in this Commonwealth by a taxpayer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.
(2) "Base year." The four calendar quarters preceding the start date.
(3) "Department." The Department of Community and Economic Development of the Commonwealth.
(4) "Manufacture." The mechanical, physical, biological or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.
(5) "Qualified manufacturing innovation and reinvestment deduction." An allowable deduction as determined, calculated and executed in a commitment letter between the department and the taxpayer. The deduction shall be applied to the taxable income of the taxpayer to reduce a qualified tax liability of the taxpayer following the allocation and apportionment of the income of the taxpayer. ((5) amended June 30, 2021, P.L.124, No.25)
(6) "Qualified tax liability." A taxpayer's tax liability under this article.
(7) "Start date." The first day of the calendar quarter in which a taxpayer advises the department of the taxpayer's intent to initiate an eligible project unless the applicant requests and the department agrees to a later start date.
(8) "Taxpayer." An employer subject to the tax under this article.
(9) "Year one." The four calendar quarters immediately following the start date.
(b) (Reserved).
(407.6 added Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: Section 40(4) of Act 25 of 2021 provided that the amendment of subsection (a)(5) shall apply to taxable years beginning after December 31, 2020.

Section 407.7. Manufacturing Innovation and Reinvestment Deduction.--(a) In order to be eligible to receive a manufacturing innovation and reinvestment deduction, a taxpayer must demonstrate to the department a private capital investment in excess of fifty million dollars ($50,000,000) for the creation of new or refurbished manufacturing capacity within the applicable time period specified in subsection (b). The department's calculation of eligible expenses for a qualified manufacturing innovation and reinvestment deduction shall include payments made in advance of the start date of a project if the payments are made for the purchase of, or

partial payment for, new equipment for the project that exceeds one million dollars ($1,000,000) in value.

(b) (1) A taxpayer must advise the department in advance of the start date of any project for which the taxpayer may seek a qualified manufacturing innovation and reinvestment deduction. A taxpayer must attest the taxpayer's intent to meet the eligibility criteria and provide relevant information pertinent to the project's size and scope in a manner as determined by the department.

(2) For a private capital investment of less than or equal to one hundred fifty million dollars ($150,000,000), the following shall apply:

(i) The project must be completed within three years of the project's start date.

(ii) Within five years of the project's start date, the taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(3) For a private capital investment of more than one hundred fifty million one dollars ($150,000,001) and less than two hundred fifty million dollars ($250,000,000), the following shall apply:

(i) The project must be completed within five years of the project's start date.

(ii) Within seven years of the project's start date, the taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(4) For a private capital investment of more than two hundred fifty million one dollars ($250,000,001) and less than three hundred fifty million dollars ($350,000,000), the following shall apply:

(i) The project must be completed within seven years of the project's start date.

(ii) Within nine years of the project's start date, the taxpayer must complete to the department's satisfaction an application on a form and in a manner as determined by the department to attest that the project has been completed and the eligibility criteria has been satisfied.

(5) For a private capital investment of more than three hundred fifty million one dollars ($350,000,001), the department shall establish the time period from the project's start date in which the project must be completed and the time period in which the application as described in paragraph (4) must be completed.

(c) Upon the receipt of the taxpayer's application, the Department of Revenue shall make a finding whether the applicant has filed all required State tax reports and returns for all applicable tax years and paid any balance of State tax due as determined at settlement, assessment or determination, and the department, then in conjunction with the Department of Revenue, shall make an eligibility or satisfaction determination within ninety days of submission. If the department makes a satisfaction determination, the department and the taxpayer shall execute a satisfaction commitment letter containing the following:

(1) The number of new jobs created and their corresponding description.

(2) The number of new jobs created during construction of the project.

(3) The amount of private capital investment in the creation of new jobs.

(4) The increase in the annual taxable payroll attributable to new manufacturing jobs.

(5) A determination of the maximum allowable deduction against a taxpayer's qualified tax liability under this article.

(6) Any other information as the department deems appropriate.

(d) (1) ((1) deleted by amendment June 28, 2019, P.L.50, No.13).

(1.1) If the private capital investment is in excess of sixty million dollars ($60,000,000), but not more than one hundred million dollars ($100,000,000), the maximum allowable deduction shall be equal to thirty-seven and one-half per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity. A taxpayer may

utilize the deduction in an amount not to exceed seven and one-half per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity in any one year of the succeeding ten tax years immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter, up to the maximum allowable deduction. This paragraph shall only apply to applications made prior to January 1, 2024.

(1.2) If a taxpayer's private capital investment for a project exceeds fifty million dollars ($50,000,000), the maximum allowable deduction shall be equal to twenty-five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity. A taxpayer may utilize the deduction in an amount not to exceed five per cent of the private capital investment utilized in the creation of new or refurbished manufacturing capacity in any one year during a time period equal to the time period specified in section 401(3)4(c)(2)(A) for the year immediately following the department's satisfaction determination and the execution of a satisfaction commitment letter, up to the maximum allowable deduction.

(2) ((2) deleted by amendment June 28, 2019, P.L.50, No.13).

(3) A taxpayer cannot use the deduction to reduce the taxpayer's tax liability by more than fifty per cent of the tax liability under this article for the taxable year. The deduction is nontransferable and any unused portion in a tax year shall expire at the end of the corresponding tax year.

(407.7 amended Dec. 14, 2023, P.L. , No.64)

Compiler's Note: Section 2(2) of Act 64 of 2023, which amended section 407.7, provided that the amendment shall apply to tax years beginning after December 31, 2023.

Section 30 of Act 13 of 2019 provided that the amendment or addition of section 407.7(a) and (d)(1), (1.1) and (1.2) of this act shall apply to tax years beginning after December 31, 2019.

PART V
ENFORCEMENT: RULES AND REGULATIONS; INQUISITORIAL POWERS OF THE DEPARTMENT

Section 408. Enforcement; Rules and Regulations; Inquisitorial Powers of the Department.--(a) The department is hereby charged with the enforcement of the provisions of this article, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations, not inconsistent with this article, relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article, and the collection of taxes, penalties, and interest imposed by this article. The department is hereby required to have such rules and regulations, promulgated and adopted, printed and shall distribute the same to any person upon request.

(b) The department, or any agent authorized in writing by it, is hereby authorized to examine the books, papers, and records, and to investigate the character of the business of any corporation in order to verify the accuracy of any report made, or if no report was made by such corporation, to ascertain and assess the tax imposed by this article. Every such corporation is hereby directed and required to give to the department, or its duly authorized agent, the means, facilities, and opportunity for such examinations and investigations, as are hereby provided and authorized. Any information gained by the department, as a result of any returns, investigations, or verifications required to be made by this article, shall be confidential, except for official purposes, and any person divulging such information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars ($100) or more than one thousand dollars ($1,000) and costs of prosecution, or to undergo imprisonment for not more than six months, or both. Nothing in this section shall preclude the department from providing public information, as defined in section 403(a)(2)(iii), to other

government units. Any identification number provided by the department to another governmental unit for governmental purposes shall continue to be confidential information. ((b) amended July 13, 2016, P.L.526, No.84)

(c) Whenever any person, acting for or on behalf of the department, shall in good faith institute legal proceedings for any violations of the provisions of this article, and for any reason shall fail to recover costs of record, such costs shall be a charge upon the proper county, as shall such costs in the event defendant is imprisoned for failure to pay fine or costs, or both, and shall be audited and paid as are costs of like character in said county.

(d) The powers, conferred by this article upon the department, relating to the administration or enforcement of this article, shall be in addition to, but not exclusive of, any other powers heretofore or hereafter conferred upon the department by law.

Compiler's Note: See section 33 of Act 119 of 2006, which amended subsec. (b), in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 408.1. Collection of Tax.--(a) The department shall collect the taxes imposed by this article in the manner provided by law for the collection of taxes imposed by the laws of this Commonwealth.

(b) The department may collect any tax:

(1) Immediately, in the case of any amount related to tax reported as due the Commonwealth by the taxpayer that is not paid by the due date for payment of the tax.

(2) After ninety days from the mailing date of a notice of assessment, if no petition for reassessment has been filed.

(3) After ninety days from the mailing date of the department's decision and order disposing of a petition for reassessment, if no petition for review has been filed.

(4) After thirty days from the mailing date of the decision and order of the Board of Finance and Revenue upon a petition for review or from the expiration of the board's time for acting upon such petition, if no decision has been made.

(5) Immediately, in all cases of judicial sales, receiverships, assignments or bankruptcies.

(6) Immediately, in the case of jeopardy assessments as provided by section 407.2.

(c) A taxpayer shall not be permitted to raise any defense to the department's collection of tax that might have been determined by the department, the Board of Finance and Revenue or the courts if the taxpayer had properly pursued its administrative remedies under this article.

(408.1 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

PART VI
RETENTION OF RECORDS BY CORPORATION

Section 409. Retention of Records.--Each corporation shall maintain and keep for a period of three years after any report is filed under this article, such record or records of its business within this Commonwealth

for the period covered by such report and other pertinent papers, as may be required by the department.

PART VII
PENALTIES

Section 410. Penalties.--(a) Any person violating any of the provisions of section 409 shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine not exceeding one thousand dollars ($1,000) and costs of prosecution, or to undergo imprisonment for not more than six months, or both.

(b) Any person who shall wilfully make a false and fraudulent return of taxable income made taxable by this article, shall be guilty of wilful and corrupt perjury, and, upon conviction thereof, shall be subject to punishment as provided by law. Such penalty shall be in addition to any other penalties imposed by this article. ((b) amended Sept. 9, 1971, P.L.437, No.105)

(c) Any person, who wilfully fails, neglects, or refuses to make a report or to pay the tax as herein prescribed, or who shall refuse to permit the department to examine the books, papers, and records of any corporation liable to pay tax under this article, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars ($1,000) and costs of prosecution, or to undergo imprisonment not exceeding six months, or both. Such penalty shall be in addition to any other penalties imposed by this article.

PART VIII
REPEALER; EFFECTIVE DATE

Section 411. Repeal.--The act of May 16, 1935 (P.L.208), known as the "Corporate Net Income Tax Act," is repealed.

Section 412. Effective Date.--This article shall take effect immediately, and the tax imposed shall apply to taxable years beginning January 1, 1971 and thereafter.

ARTICLE V
CORPORATION INCOME TAX

PART I
DEFINITIONS

Section 501. Definitions.--(501 repealed Dec. 21, 1981, P.L.482, No.141)

PART II
IMPOSITION OF TAX

Section 502. Imposition of Tax.--(502 repealed Dec. 21, 1981, P.L.482, No.141)

PART III
PROCEDURE; ENFORCEMENT; PENALTIES

Section 503. Procedure; Enforcement; Penalties.--(503 repealed Dec. 21, 1981, P.L.482, No.141)

PART IV
REPEALER; EFFECTIVE DATE

Section 505. Repeal.--(505 repealed Dec. 21, 1981, P.L.482, No.141)

Section 506. Effective Date.--(506 repealed Dec. 21, 1981, P.L.482, No.141)

ARTICLE VI
CAPITAL STOCK--FRANCHISE TAX

Compiler's Note: Section 607 provides that Article VI shall expire for taxable years beginning after December 31, 2015.

PART I
VALUATION OF CAPITAL STOCK

Section 601. Definitions and Reports.--(a) The following words, therms and phrases when used in this Article VI shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Average net income." The sum of the net income or loss for each of the current and immediately preceding four years, divided by five. If the entity has not been in existence for a period of five years, the average net income shall be the average net income for the number of years that the entity has actually been in existence. In computing average net income, losses shall be entered as computed, but in no case shall average net income be less than zero. The net income or loss of the entity for any taxable year shall be the amount set forth as income per books on the income tax return filed by the entity with the Federal Government for such taxable year, or if no such return is made, as would have been set forth had such a return been made, subject, however, in either case to any correction thereof, for fraud, evasion or error. In the case of any entity which has an investment in another corporation, the net income or loss shall be computed on an unconsolidated basis exclusive of the net income or loss of such other corporation without regard to how the corporation is treated for Federal income tax purposes. In the case of a limited liability company or business trust that is not taxable as a corporation for Federal income tax purposes, the net income or loss of the limited liability company or business trust for any given year shall be reduced by the amount of distributions made by such limited liability company or business trust to any member of such limited liability company or business trust to any member of such limited liability company or business trust who is deemed to be materially participating in the activities conducted by such limited liability company or business trust for purposes of section 469 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 469). In the case of a limited liability company or business trust that for Federal income tax purposes is a disregarded entity of a natural person, the net income or loss of the limited liability company or business trust for any given year shall be reduced by the amount of distributions made by the limited liability company or business trust to a natural person. For this purpose, distributions which are made to a member of a limited liability company or business trust within thirty (30) days of the end of a given year may be treated as having been made in the preceding year and not in the year in which such distribution is actually made. (Def. amended July 6, 2006, P.L.319, No.67)

"Capital stock." The capital stock, certificates, memberships and all other interests in a domestic or foreign entity. (Def. amended May 7, 1997, P.L.85, No.7)

Capital stock value." The amount computed pursuant to the following formula: the product of one-half times the sum of the average net income capitalized at the rate of nine and one-half per cent plus seventy-five per cent of net worth, from which product shall be subtracted one hundred sixty thousand dollars ($160,000), the algebraic equivalent of which is

(.5 X (average net income/.095 + (.75)
(net worth))) - $160,000

(Def. amended Oct. 9, 2009, P.L.451, No.48.)

"Corporation." (A) Any of the following entities:

(1) A corporation.

(2) A joint-stock association.

(3) A business trust.

(4) A limited liability company. This clause excludes a restricted professional company which is subject to 15 Pa.C.S. Ch. 89 Subch. L (relating to restricted professional companies).

(5) An entity which for Federal income tax purposes is classified as a corporation.

(6) A business trust which is a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 856) more than fifty per cent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution as defined by section 401(6) of Article IV; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

(7) A business trust which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 owned, directly or indirectly, by a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986 more than fifty per cent of the voting power or value of the beneficial interests or shares of which are owned or controlled, directly or indirectly, by a single corporation that is not:

(i) a real estate investment trust as defined in section 856 of the Internal Revenue Code of 1986;

(ii) a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986;

(iii) a regulated financial institution as defined by section 401(6) of Article IV; or

(iv) formed as a holding company, subsidiary or affiliate of a regulated financial institution prior to December 1, 2003.

(B) The term does not include any of the following:

(1) A business trust which qualifies as a real estate investment trust under section 856 of the Internal Revenue Code of 1986 (26 U.S.C. § 856) or which is a qualified real estate investment trust subsidiary under section 856(i) of the Internal Revenue Code of 1986 (26 U.S.C. § 856(i)).

(2) A business trust which qualifies as a regulated investment company under section 851 of the Internal Revenue Code of 1986 (26 U.S.C. § 851) and which is registered with the United States Securities and Exchange Commission under the Investment Company Act of 1940 (54 Stat. 789, 15 U.S.C. § 80a-1 et seq.) or a related business trust which confines its activities in this Commonwealth to the maintenance, administration and management of intangible investments and activities of regulated investment companies.

(3) A corporation, trust or other entity which is an exempt organization as defined by section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501).

(4) A corporation, trust or other entity organized as a not-for-profit organization under the laws of this Commonwealth or the laws of any other state which:

(i) would qualify as an exempt organization as defined by section 501 of the Internal Revenue Code of 1986 (26 U.S.C. § 501);

(ii) would qualify as a homeowners association as defined by section 528(c) of the Internal Revenue Code of 1986 (26 U.S.C. § 528(c));

(iii) is a membership organization subject to Federal limitations on deductions from taxable income under section 277 of the Internal Revenue

Code of 1986 (26 U.S.C. § 277) but only if no pecuniary gain or profit inures to any member or related entity from the membership organization; or

(iv) is a nonstock commodity or a nonstock stock exchange.

(5) A cooperative agricultural association subject to 15 Pa.C.S. Ch. 75 (relating to cooperative agricultural associations).

(6) A business trust if the trust is all of the following:

(i) Created or managed by an entity which is subject to the tax imposed by Article Vii or XV or which is an affiliate of the entity which shares at least eighty per cent common ownership.

(ii) Created and managed for the purpose of facilitating the securitization of intangible assets.

(iii) Classified as a partnership or a disregarded entity for Federal income tax purposes.

(Def. amended July 6, 2006, P.L.319, No.67)

"Department." The Department of Revenue.

"Domestic entity." A corporation organized under the laws of the Commonwealth. (Def. amended June 29, 2002, P.L.559, No.89)

"Entity." (Def. deleted by amendment June 29, 2002, P.L.559, No.89)

"Foreign entity." A corporation organized by or under the laws of any jurisdiction other than the Commonwealth which exercises, whether in its own name or through any individual, association, business trust, corporation, joint venture, limited liability company, limited partnership, partnership or other entity, any of the following privileges:

(1) Doing business in this Commonwealth.

(2) Carrying on activities in this Commonwealth, including solicitation.

(3) Having capital or property employed or used in this Commonwealth.

(4) Owning property in this Commonwealth.

(Def. amended June 29, 2002, P.L.559, No.89)

"Holding company." Any corporation (i) at least ninety per cent of the gross income of which for the taxable year is derived from dividends, interest, gains from the sale, exchange or other disposition of stock or securities and the rendition of management and administrative services to subsidiary corporations, and (ii) at least sixty per cent of the actual value of the total assets of which consists of stock securities or indebtedness of subsidiary corporations.

"Net worth."

(1) Net worth shall be the sum of the entity's issued and outstanding capital stock, surplus and undivided profits as per books set forth for the close of such tax year on the income tax return filed by the entity with the Federal Government, or if no such return is made, as would have been set forth had such return been made, subject, however, in either case to any correction thereof for fraud, evasion or error. In the case of any entity which has investments in other corporations, the net worth shall be the consolidated net worth of such entity computed in accordance with generally accepted accounting principles. In the case of a limited liability company or a business trust, net worth for any tax year shall be the entity's assets minus its liabilities as of the close of such tax year. Net worth shall in no case be less than zero.

(2) If net worth as arrived at under clause (1) for the current tax year is greater than twice or less than one-half of the net worth which would have been calculated under clause (1) as of the first day of the current tax year, then net worth for the current tax year shall be the average of these two amounts.

(Def. amended May 7, 1997, P.L.85, No.7)

"Processing." The following activities when engaged in as a business enterprise:

(1) The filtering or heating of honey, the cooking or freezing of fruits, vegetables, mushrooms, fish, seafood, meats or poultry, when the person engaged in such business packages such property in sealed containers for wholesale distribution.

(1.1) The processing of fruits or vegetables by cleaning, cutting, coring, peeling or chopping and treating to preserve, sterilize or purify

and substantially extend the useful shelf life of the fruits or vegetables, when the person engaged in such activity packages such property in sealed containers for wholesale distribution.

(2) The scouring, carbonizing, cording, combing, throwing, twisting or winding of natural or synthetic fibers, or the spinning, bleaching, dyeing, printing or finishing of yarns or fabrics, when such activities are performed prior to sale to the ultimate consumer.

(3) The electroplating, galvanizing, enameling, anodizing, coloring, finishing, impregnating or heat treating of metals or plastics for sale or in the process of manufacturing.

(3.1) The blanking, shearing, leveling, slitting or burning of metals for sale to or use by a manufacturer or processor.

(4) The rolling, drawing or extruding of ferrous and nonferrous metals.

(5) The fabrication for sale of ornamental or structural metal or metal stairs, staircases, gratings, fire escapes or railings (not including fabrication work done at the construction site).

(6) The preparation of animal feed or poultry feed for sale.

(7) The production, processing and bottling of nonalcoholic beverages for wholesale distribution.

(8) The slaughtering and dressing of animals for meat to be sold or to be used in preparing meat products for sale, and the preparation of meat products, including lard, tallow, grease, cooking and inedible oils for wholesale distribution.

(9) The operation of a saw mill or planing mill for the production of lumber or lumber products for sale. The operation of a saw mill or planing mill begins with the unloading by the operator of the saw mill or planing mill of logs, timber, pulpwood or other forms of wood material to be used in the saw mill or planing mill.

(10) The milling for sale of flour or meal from grains.

(10.1) The aging, stripping, conditioning, crushing and blending of tobacco leaves for use as cigar filler or as components of smokeless tobacco products for sale to manufacturers of tobacco products.

(11) The publishing of books, newspapers, magazines or other periodicals, printing and broadcasting radio and television programs by licensed commercial or educational stations.

(12) The processing of used lubricating oils.

(13) The blending, rectification or production by distillation or otherwise of alcohol or alcoholic liquors, except the distillation of alcohol from byproducts of winemaking for the sole purpose of fortifying wine.

(14) The salvaging, recycling or reclaiming of used materials to be recycled into a manufacturing process.

(15) The development or substantial modification of computer programs or software for sale to unrelated persons for their direct and independent use.

(16) The cleaning and roasting and the blending, grinding or packaging for sale of coffee from green coffee beans or the production of coffee extract.

(17) The refining, blasting, exploring, mining and quarrying for or otherwise extracting limestone, sand, gravel or slag from the earth or from wast or stock piles or from pits or banks and the cleaning, crushing, grinding, pulverizing, sizing or screening of limestone, sand, gravel or slag, including blast furnace slag.

(18) The preparation of dry or liquid fertilizer for sale.

(19) The production, processing and packaging of ice for wholesale distribution.

(Def. amended June 22, 2001, P.L.353, No.23)

"Research and development." The activities relating to the discovery of new and the refinement of known substances, products, processes, theories and ideas, but not including activities directed primarily to the accumulation or analysis of commercial, financial or mercantile data.

"Student loan assets." The term includes the following assets:

(1) Student loan notes.

(2) Federal, State or private subsidies or guarantees of student loans.

(3) Instruments that represent a guarantee of debt, certificates or other securities issued by an entity created for the securitization of student loans or by a trustee on its behalf.

(4) Contract rights to acquire or dispose of student loans and interest rate swap agreements related to student loans.

(5) Interests in or debt obligations of other student loan securitization trusts or entities.

(6) Cash or cash equivalents representing reserve funds or payments on or with respect to student loan notes, the securities issued by an entity created for the securitization of student loans or the other student loan-related assets. Solely for purposes of this definition, "cash or cash equivalents" shall include direct obligations of the United States Department of the Treasury, obligations of Federal agencies which obligations represent the full faith and credit of the United States, investment grade debt obligations or commercial paper, deposit accounts, Federal funds and banker's acceptances, prefunded municipal obligations, money market instruments and money market funds.

(Def. added Apr. 23, 1998, P.L.239, No.45)

"Subsidiary corporation." Any corporation, a majority of the total issued and outstanding shares of voting stock of which are owned by the taxpayer corporation directly or through one or more intervening subsidiary corporations.

(b) It shall be the duty of every domestic and foreign entity to make for each taxable year, as defined in section 401(5), a written report verified in accordances with requirements of the department on a form or forms to be prescribed and furnished by it setting forth the information required. The time for filing reports may be extending; the procedure in case the department is not satisfied with the reports for the entity, and the penalties for failing to file reports and pay taxes shall be as prescribed by law. ((b) amended July 1, 1985, P.L.78, No.29)

(601 amended Dec. 23, 1983, P.L.360, No.89)

Compiler's Note: Section 14(2) of Act 48 of 2009, which amended the def. of "capital stock value", provided that the amendment shall apply to taxable years beginning after December 31, 2009.

PART II
IMPOSITION OF TAX

Section 602. Imposition of Tax.--(a) That every domestic entity from which a report is required under section 601 hereof shall be subject to, and pay to the department annually, a tax which is the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h); except that any domestic entity or company subject to the tax prescribed herein may elect to compute and pay its tax under and in accordance with the provisions of subsection (b) of this section 602: Provided, That the provisions of this section shall not apply to the taxation of the capital stock of entities organized for manufacturing, processing, research or development purposes, which is invested in and actually and exclusively employed in carrying on manufacturing, processing, research or development within the State, except such entities as enjoy and exercise the right of eminent domain, but every entity organized for the purpose of manufacturing, processing, research or development except such entities as enjoy and exercise the right of eminent domain shall pay the State tax of the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h) upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to the manufacturing, processing, research or development business, in addition to the local taxes assessed upon its property in the district where located, it being the object of this provision to relieve from State

taxation only so much of the capital stock as is invested purely in the manufacturing, processing, research or development plant and business: and Provided further, That the provisions of this section shall not apply to the taxation of so much of the capital stock value attributable to student loan assets owned or held by an entity created for the securitization of student loans or by a trustee on its behalf. ((a) amended May 24, 2000, P.L.106, No.23)

(b) (1) Every foreign entity from which a report is required under section 601 hereof shall be subject to and pay to the department annually a franchise tax which is the amount computed by multiplying each dollar of the capital stock value as defined in section 601(a) by the appropriate rate of tax as set forth in subsection (h) upon a taxable value to be determined in the following manner. The capital stock value shall be ascertained in the manner prescribed in section 601(a) of this article. The taxable value shall then be determined by employing the relevant apportionment factors set forth in Article IV: Provided, That the manufacturing, processing, research and development exemptions contained under section 602(a) shall also apply to foreign corporations. In determining the relevant apportionment factors, the following shall apply:

(i) for taxable years beginning before January 1, 1999, the numerator of the property, payroll or sales factors shall not include any property, payroll or sales attributable to manufacturing, processing, research or development activities in the Commonwealth;

(ii) for taxable years beginning after December 31, 1998, the numerator of the property or payroll factors shall not include any property or payroll attributable to manufacturing, processing, research or development activities in the Commonwealth, and any property or payroll attributable to manufacturing, processing, research or development activities outside of the Commonwealth shall also be excluded from the numerator of the property or payroll factors. The provisions of this section shall not apply to the taxation of so much of the capital stock value attributable to student loan assets owned or held by an entity created for the securitization of student loans or by a trustee on its behalf. Any foreign corporation, joint-stock association, limited partnership or company subject to the tax prescribed herein may elect to compute and pay its tax under section 602(a): Provided, That any foreign corporation, joint-stock association, limited partnership or company electing to compute and pay its tax under section 602(a) shall be treated as if it were a domestic corporation for the purpose of determining which of its assets are exempt from taxation and for the purpose of determining the proportion of the value of its capital stock which is subject to taxation.

(2) The provisions of this article shall apply to the taxation of entities organized for manufacturing, processing, research or development purposes, but shall not apply to such entities as enjoy and exercise the right of eminent domain.

((b) amended May 24, 2000, P.L.106, No.23)

(c) ((c) deleted by amendment)

(d) It shall be the duty of the treasurer or other officers having charge of any domestic or foreign entity, upon which a tax is imposed by this section, to transmit the amount of tax to the department within the time prescribed by law: Provided, That for the purposes of this act interest in limited partnerships or joint-stock associations shall be deemed to be capital stock, and taxable accordingly: Provided, further, That entities liable to a tax under this section, shall not be required to pay any further tax on the mortgages, bonds, and other securities owned by them and in which the whole body of stockholders or members, as such, have the entire equitable interest in remainder; but entities owning or holding such securities as trustees, executors, administrators, guardians, or in any other manner than for the whole body of stockholders or members thereof as sole equitable owners in remainder, shall return and pay the tax imposed by this act upon all securities so owned or held by them, as in the case of individuals.

(e) Any holding company subject to the capital stock tax or the franchise tax imposed by this section may elect to compute the capital stock or franchise tax by applying the rate of tax provided in subsection (h) to ten per cent of the capital stock value as defined in section 601(a). If exercised, this election shall be in lieu of any other apportionment or allocation to which such company would otherwise be entitled. ((e) amended May 24, 2000, P.L.106, No.23)

(f) Every domestic corporation and every foreign corporation (i) registered to do business in Pennsylvania; (ii) which maintains an office in Pennsylvania; (iii) which has filed a timely election to be taxed as a regulated investment company with the Federal Government; and (iv) which duly qualifies to be taxed as a regulated investment company under the provisions of the Internal Revenue Code of 1954 as amended, shall be taxed as a regulated investment company and shall be subject to the capital stock or franchise tax imposed by section 602, in either case for the privilege of having an office in Pennsylvania, which tax shall be computed pursuant to the provisions of this subsection in lieu of all other provisions of this section 602. The tax shall be in an amount which is the sum of the amounts determined pursuant to clauses (1) and (2):

(1) The amount determined pursuant to this clause shall be seventy-five dollars ($75) times that number which is the result of dividing the net asset value of the regulated investment company by one million, rounded to the nearest multiple of seventy-five dollars ($75). Net asset value shall be determined by adding the monthly net asset values as of the last day of each month during the taxable period and dividing the total sum by the number of months involved. Each such monthly net asset value shall be the actual market value of all assets owned without any exemptions or exclusions, less all liabilities, debts and other obligations.

(2) The amount determined pursuant to this clause shall be the amount which is the result of multiplying the rate of taxation applicable for purposes of the personal income tax during the same taxable year times the apportioned undistributed personal income tax income of the regulated investment company. For the purposes of this clause:

(A) Personal income tax income shall mean income to the extent enumerated and classified in section 303.

(B) Undistributed personal income tax income shall mean all personal income tax income other than personal income tax income undistributed on account of the capital stock or foreign franchise tax, less all personal income tax income distributed to shareholders. At the election of the company, income distributed after the close of a taxable year, but deemed distributed during the taxable year for Federal income tax purposes, shall be deemed distributed during that year for purposes of this clause. If a company in a taxable year has both current income and income accumulated from a prior year, distributions during the year shall be deemed to have been made first from current income.

(C) Undistributed personal income tax income shall be apportioned to Pennsylvania by a fraction, the numerator of which is all income distributed during the taxable period to shareholders who are resident individuals, estates or trusts and the denominator of which is all income distributed during the taxable period. Resident trusts shall not include charitable, pension or profit-sharing, or retirement trusts.

(D) Personal income tax income and other income of a company shall each be deemed to be either distributed to shareholders or undistributed in the proportion each category bears to all income received by the company during the taxable year.

((f) amended May 24, 2000, P.L.106, No.23)

(g) In the event that a domestic or foreign entity is required to file a report pursuant to section 601(b) on other than an annual basis, the tax imposed by this section shall be prorated to reflect the portion of a taxable year for which the report is filed by multiplying the tax liability by a fraction equal to the number of days in the taxable year divided by three hundred sixty-five days. ((g) amended May 24, 2000, P.L.106, No.23)

(h) The rate of tax for purposes of the capital stock and franchise tax for taxable years beginning within the dates set forth shall be as follows:

Taxable Year	Regular Rate	Surtax	Total Rate
January 1, 1971, to December 31, 1986	10 mills	0	10 mills
January 1, 1987, to December 31, 1987	9 mills	0	9 mills
January 1, 1988, to December 31, 1990	9.5 mills	0	9.5 mills
January 1, 1991, to December 31, 1991	11 mills	2 mills	13 mills
January 1, 1992, to December 31, 1997	11 mills	1.75 mills	12.75 mills
January 1, 1998, to December 31, 1998	11 mills	.99 mills	11.99 mills
January 1, 1999, to December 31, 1999	10.99 mills	0	10.99 mills
January 1, 2000, to December 31, 2000	8.99 mills	0	8.99 mills
January 1, 2001, to December 31, 2001	7.49 mills	0	7.49 mills
January 1, 2002, to December 31, 2003	7.24 mills	0	7.24 mills
January 1, 2004, to December 31, 2004	6.99 mills	0	6.99 mills
January 1, 2005, to December 31, 2005	5.99 mills	0	5.99 mills
January 1, 2006, to December 31, 2006	4.89 mills	0	4.89 mills
January 1, 2007, to December 31, 2007	3.89 mills	0	3.89 mills
January 1, 2008, to December 31, 2011	2.89 mills	0	2.89 mills
January 1, 2012, to December 31, 2012	1.89 mills	0	1.89 mills
January 1, 2013, to December 31, 2013	.89 mills	0	.89 mills
January 1, 2014, to December 31, 2014	.67 mills	0	.67 mills
January 1, 2015, to December 31, 2015	.45 mills	0	.45 mills

((h) amended July 9, 2013, P.L.270, No.52)

(i) An entity subject to taxation under Article VII, VIII, IX or XV shall not not subject to the tax imposed by this article. ((i) added June 29, 2002, P.L.599, No.89)

(602 amended May 12, 1999, P.L.26, No.14)

Compiler's Note: Section 19(3)(iii) of Act 23 of 2000, which amended subsections (a), (b), (e), (f), (g), (h) and (i), provided that the amendment shall apply to taxable years beginning after December 31, 1999.

Compiler's Note: Section 4 of Act 63 of 1999, which amended subsection (b), provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended section 602, provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Compiler's Note: Section 21(2)(vi) of Act 45 of 1998, which amended section 602, provided that the amendment of section 602 shall apply to the taxable years beginning after December 31, 1997.

Compiler's Note: Section 43 of Act 22 of 1991, which amended section 602, provided that the amendment of section 602 shall apply retroactively to the taxable years beginning on or after January 1, 1991.

Section 602.1. Pollution Control Devices.--Notwithstanding the foregoing provisions of section 602, to the contrary, equipment, machinery, facilities and other tangible property employed or utilized within the Commonwealth of Pennsylvania for water and air pollution control or abatement devices which are being employed or utilized for the benefit of the general public shall be exempt from the tax imposed under this Article VI. The Department of Revenue shall have the power, through publication in the Pennsylvania Bulletin, to prescribe the manner and method by which such exemption shall be granted and claimed.

(602.1 amended Aug. 4, 1991, P.L.97, No.22)

Section 602.2. Family Farm Corporation Exemption.--(a) The provisions of section 602 shall not apply to family farm corporations. Family farm corporations shall be exempt from the tax imposed by section 602.

(b) (1) Family farm corporation means a Pennsylvania corporation at least seventy-five per cent of the assets of which are devoted to the business of agriculture, which business, for the purposes of this definition, shall not be deemed to include (i) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing; (ii) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets, or animals intended for use in sporting or recreational activities; (iii) fur farming; (iv) stockyard and slaughterhouse operations; or (v) manufacturing or processing operations of any kind: Provided, however, That at least seventy-five per cent of all of the stock of the corporation must be owned by members of the same family.

(2) Members of the same family shall mean an individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing and a spouse of any of the foregoing. Individuals related by the half blood or by legal adoption shall be treated as if they were related by the whole blood.

(3) Assets devoted to the business of agriculture shall include leasing to members of the same family of assets which are directly and principally used for agricultural purposes.

(602.2 amended Apr. 23, 1998, P.L.239, No.45)

Section 602.3. Hazardous Sites Cleanup Fund.--(602.3 repealed Dec. 18, 2007, P.L.486, No.77)

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended section 602.3, provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Section 602.4. Separate Entities.--For purposes of this article, each Pennsylvania S corporation and each qualified Subchapter S subsidiary, as defined in section 301(o.3), shall be treated as separate corporations.

(602.4 added May 7, 1997, P.L.85, No.7)

Section 602.5. Shows and Flea Markets.--(602.5 deleted by amendment May 24, 2000, P.L.106, No.23)

Section 602.6. Interest in Unincorporated Entities.--(a) Except as set forth in subsection (b), for purposes of this article, a corporation's interest in an entity which is not a corporation shall be considered a direct ownership interest in the assets of the entity rather than an intangible interest.

(b) Subsection (a) does not apply to a corporation's interest in an entity described in section 601(a)(B)(1) or (2) of the definition of "corporation."

(602.6 added June 29, 2002, P.L.559, No.89 and amended Dec. 30, 2002, P.L.2080, No.232)

Compiler's Note: Section 2 of Act 232 of 2002, which amended section 602.6, provided that the General Assembly finds and declares that

the amendment of section 602.6 is intended to clarify existing law and shall not be construed to change that law.

PART III
PROCEDURE; ENFORCEMENT; PENALTIES

Section 603. Procedure; Enforcement; Penalties.--Parts III, IV, V, VI, and VII of Article IV are incorporated by reference into this article in so far as they are applicable to the tax imposed hereunder.

PART IV
REPEAL; APPLICABILITY; EXPIRATION
(Hdg. amended June 29, 2002, P.L.559, No.89)

Section 605. Repeal.--Sections 20 and 21, act of June 1, 1889 (P.L.420), entitled "A further supplement to an act entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," are repealed.

Section 606. Applicability.--Except as provided in section 607, the tax imposed under this article shall apply to taxable years beginning January 1, 1971 and thereafter.

(606 amended June 29, 2002, P.L.559, No.89)

Section 607. Expiration.--This article shall expire for taxable years beginning after December 31, 2015.

(607 amended July 9, 2013, P.L.270, No.52)

ARTICLE VII
BANK AND TRUST COMPANY SHARES TAX
(Hdg. amended June 16, 1994, P.L.279, No.48)

PART I
IMPOSITION OF TAX

Section 701. Imposition of Tax.--(a) Every institution doing business in this Commonwealth shall, on or before March 15 in each and every year, make to the Department of Revenue a report in writing, verified as required by law, setting forth the full number of shares of the capital stock subscribed for or issued, as of the preceding January 1, by such institution, and the taxable amount of such shares of capital stock determined pursuant to section 701.1.

(b) It shall be the duty of the Department of Revenue to assess such shares for the calendar years beginning January 1, 1971 through January 1, 1983, at the rate of fifteen mills and for the calendar years beginning January 1, 1984 through January 1, 1988, at the rate of one and seventy-five one thousandths per cent and for the calendar year beginning January 1, 1989, at the rate of 10.77 per cent and for the calendar years beginning January 1, 1990, through January 1, 2013, at the rate of 1.25 per cent and for the calendar years beginning January 1, 2014 through January 1, 2016, at the rate of 0.89 per cent and for the calendar year beginning January 1, 2017, and each calendar year thereafter at the rate of 0.95 per cent upon each dollar of taxable amount thereof, the taxable amount of each share of stock to be ascertained and fixed pursuant to section 701.1, and dividing this amount by the number of shares.

(c) It shall be the duty of every institution doing business in this Commonwealth, at the time of making every report required by this section, to compute the tax and to pay the amount of said tax to the State Treasurer, through the Department of Revenue either from its general fund, or from the amount of said tax collected from its shareholders. Provided, That in case any institution shall collect, annually, from the shareholders thereof said tax, according to the provisions of this article, that have been subscribed for or issued, and pay the same into the State Treasury, through the Department of Revenue, the shares, and so much of the capital and profits of such institution as shall not be invested in real estate, shall be exempt from local taxation under the laws of this Commonwealth;

and such institution shall not be required to make any report to the local assessor or county commissioners of its personal property owned by it in its own right for purposes of taxation and shall not be required to pay any tax thereon.

(701 amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 42(2.1) of Act 52 of 2013, which amended section 701, provided that the amendment shall apply to the calendar year beginning on January 1, 2014, and to each calendar thereafter. See section 43 of Act 52 in the appendix to this act for special provisions relating to applicability.

Section 701.1. Ascertainment of Taxable Amount; Exclusion of United States Obligations.--(a) (1) The taxable amount of shares shall be ascertained and fixed by the book value of total bank equity capital as determined by the Reports of Condition at the end of the preceding calendar year in accordance with the requirements of the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation or other applicable regulatory authority.

(2) If an institution does not file the Reports of Condition, book values shall be determined by generally accepted accounting principles as of the end of the preceding calendar year.

(3) For institutions which file Reports of Condition on a consolidated basis with subsidiaries formed pursuant to 12 U.S.C. § 611 (relating to formation authorized; fiscal agents; depositaries in insular possessions), total bank equity capital shall exclude the book value of total equity capital of the subsidiaries in accordance with the following schedule:

(i) For the calendar year beginning January 1, 2018, the exclusion for the book value of total equity capital of the subsidiaries shall be limited to twenty per cent of the book value of total equity capital of the subsidiaries.

(ii) For the calendar year beginning January 1, 2019, the exclusion for the book value of total equity capital of the subsidiaries shall be limited to forty per cent of the book value of total equity capital of the subsidiaries.

(iii) For the calendar year beginning January 1, 2020, the exclusion for the book value of total equity capital of the subsidiaries shall be limited to sixty per cent of the book value of total equity capital of the subsidiaries.

(iv) For the calendar year beginning January 1, 2021, the exclusion for the book value of total equity capital of the subsidiaries shall be limited to eighty per cent of the book value of total equity capital of the subsidiaries.

(v) For the calendar year beginning January 1, 2022, and each calendar year thereafter, the exclusion for the book value of total equity capital of the subsidiaries shall be one hundred per cent of the book value of total equity capital of the subsidiaries.

(b) A deduction for the value of United States obligations shall be provided from the taxable amount of shares in an amount equal to the same percentage of total bank equity capital as the book value of obligations of the United States bears to the book value of the total assets. In computing the deduction for United States obligations, any goodwill deducted from the taxable amount of shares under subsection (b.1) shall be subtracted from the book value of total bank equity capital and disregarded in determining the deduction provided for obligations of the United States. For purposes of this article, United States obligations shall be obligations coming within the scope of 31 U.S.C. § 3124 (relating to exemption from taxation). ((b) amended July 11, 2024, P.L.674, No.56)

(b.1) A deduction for goodwill shall be provided from the taxable amount of shares in an amount equal to the value of any goodwill recorded in the Reports of Condition of the institution pursuant to generally accepted accounting principles because of an acquisition or business combination and occurring after June 30, 2001. ((b.1) amended July 11, 2024, P.L.674, No.56)

(c) ((c) deleted by amendment July 11, 2024, P.L.674, No.56)
(701.1 amended July 13, 2016, P.L.526, No.84)

Compiler's Note: See sections 27 and 28 of Act 56 of 2024 in the appendix to this act for special provisions relating to applicability and findings and declarations.

Compiler's Note: Section 51(3)(ii) of Act 84 of 2016, which amended section 701.1, provided that the amendment or addition of subsections (b) and (b.1) shall apply retroactively to January 1, 2014.

Compiler's Note: Section 42(2.1) of Act 52 of 2013, which amended section 701.1, provided that the amendment shall apply to the calendar year beginning on January 1, 2014, and to each calendar thereafter. See section 43 of Act 52 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 14 of Act 55 of 2007, which amended section 701.1, provided that the amendment of section 701.1 is not intended to reverse or modify the ruling of First Union National Bank v. Commonwealth, 867 A.2d 711 (Pa. Commonwealth 2005).

Compiler's Note: See sections 1, 3 and 4 of Act 317 of 1982 in the appendix to this act for special provisions relating to legislative intent and applicability.

Section 701.2. Reserve for Loan Losses.--(701.2 repealed Dec. 1, 1983, P.L.228, No.66)

Section 701.3. Amended Report for 1989.--Within one hundred twenty days of the effective date of this section, every bank subject to tax under section 701 shall make to the Department of Revenue on a form prescribed, prepared and furnished by the Department of Revenue an amended report of the tax payable on its shares computed as of January 1, 1989, and shall pay to the Commonwealth at the time of making such amended report eighty per cent of the tax due, if any, as shown by such amended report less the amount paid, if any, upon filing of an original report for the year 1989 heretofore required to be made and the remaining tax due, if any, shall be paid when the report required by section 701 for the year next succeeding is made. For all purposes under this act, the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," and other applicable statutes, the date of the amended report and the date for payment of the balance, if any, of the tax payable at the time of making the amended report shall be substituted for the date of the report formerly required for the 1989 report and the date of the payment of the tax payable with such report.
(701.3 added July 1, 1989, P.L.95, No.21)

Section 701.4. Apportionment.--An institution may apportion its taxable amount of shares determined under section 701.1 in accordance with this subsection if the institution is subject to tax in another state based on or measured by net worth, gross receipts, net income or some similar base of taxation, or if it could be subject to such tax, whether or not such a tax has in fact been enacted. The following shall apply:

(1) (i) For calendar years beginning prior to January 1, 2014, the taxable amount of shares shall be apportioned in accordance with a fraction, the numerator of which is the sum of the payroll factor, the receipts factor and the deposits factor, and the denominator of which is three. If one of the factors is inapplicable, the denominator is two. If two of the factors are inapplicable, the denominator is one.

(ii) For the calendar year beginning January 1, 2014, and each calendar year thereafter, the taxable amount of shares shall be apportioned based upon the receipts factor, and the payroll and deposits factors shall be disregarded.

(2) The payroll factor is a fraction, the numerator of which is the total wages paid in this Commonwealth and the denominator of which is the total wages paid in all states. Wages are paid in a state if paid to an employe having a regular presence therein.

(3) The receipts factor is a fraction, the numerator of which is total receipts located in this Commonwealth and the denominator of which is the total receipts located in all states. The method of calculating receipts for purposes of the denominator shall be the same as the method used in determining receipts for purposes of the numerator. The location of receipts shall be determined as follows:

(i) The numerator of the receipts factor shall include receipts from the lease or rental of real property owned by the institution if the property is located within this Commonwealth or receipts from the sublease of real property if the property is located within this Commonwealth.

(ii) The following shall apply to receipts from the lease or rental of tangible personal property owned by the institution:

(A) Except as provided under clause (B), the numerator of the receipts factor shall include receipts from the lease or rental of tangible personal property owned by the institution if the property is located within this Commonwealth when it is first placed in service by the lessee.

(B) The following shall apply:

(I) Receipts from the lease or rental of transportation property owned by the institution shall be included in the numerator of the receipts factor to the extent that the property is used in this Commonwealth.

(II) The extent an aircraft shall be deemed to be used in this Commonwealth and the amount of receipts that shall be included in the numerator of this Commonwealth's receipts factor shall be determined by multiplying all the receipts from the lease or rental of the aircraft by a fraction, the numerator of which is the number of landings of the aircraft in this Commonwealth and the denominator of which is the total number of landings of the aircraft.

(III) A motor vehicle shall be deemed to be used wholly in the state in which it is registered.

(IV) If the extent of the use of transportation property within this Commonwealth cannot be determined, the property shall be deemed to be used wholly in the state in which the property has its principal base of operations.

(iii) The following shall apply to interest, fees and penalties in connection with loans secured by real property:

(A) The following shall apply to a calculation under this subparagraph:

(I) The numerator of the receipts factor shall include interest, fees and penalties imposed in connection with loans secured by real property if the property is located within this Commonwealth.

(II) If the real property under subclause (I) is located both within this Commonwealth and one or more other states, the receipts under this subsection shall be included in the numerator of the receipts factor if more than fifty per cent of the fair market value of the real property is located within this Commonwealth.

(III) If more than fifty per cent of the fair market value of real property under subclause (I) is not located within any single state, the receipts under this subsection shall be included in the numerator of the receipts factor if the borrower is located in this Commonwealth.

(B) The determination of whether real property securing a loan is located within this Commonwealth shall be made as of the time the original agreement was made, and all subsequent substitutions of collateral shall be disregarded.

(iv) The numerator of the receipts factor shall include interest, fees and penalties imposed in connection with loans not secured by real property if the borrower is located in this Commonwealth.

(v) The numerator of the receipts factor shall include net gains from the sale of loans. Net gains from the sale of a loan shall include income recorded under the coupon stripping rules of section 1286 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1286). The following shall apply:

(A) The amount of net gains, equal to zero or above, from the sale of loans secured by real property included in the numerator shall be determined by multiplying the net gains by a fraction, the numerator of

which is the amount included in the numerator of the receipts factor under subparagraph (iii) and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(B) The amount of net gains, equal to zero or above, from the sale of loans not secured by real property included in the numerator shall be determined by multiplying the net gains by a fraction, the numerator of which is the amount included in the numerator of the receipts factor under subparagraph (iv) and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(vi) The numerator of the receipts factor shall include interest, fees and penalties charged to credit, debit or similar cardholders, including annual fees and overdraft fees, if the billing address of the cardholder is in this Commonwealth.

(vii) The numerator of the receipts factor shall include net gains, equal to zero or above, from the sale of credit card receivables multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor under subparagraph (vi) and the denominator of which is the institution's total amount of interest and fees or penalties in the nature of interest from credit card receivables and fees charged to cardholders.

(viii) For card issuer's reimbursement fees, the numerator of the receipts factor shall include:

(A) All credit card issuer's reimbursement fees multiplied by a fraction, the numerator of which is the amount of fees, interest and penalties charged to credit cardholders included in the numerator of the receipts factor under subparagraph (vi) and the denominator of which is the institution's total amount of fees, interest and penalties charged to credit cardholders.

(B) All card issuer's reimbursement fees, except as provided under clause (A), multiplied by a fraction, the numerator of which is the amount of the fees, interest and penalties charged to all other cardholders included in the numerator of the receipts factor under subparagraph (vi) and the denominator of which is the institution's total amount of fees, interest and penalties charged to all other cardholders.

(ix) The following shall apply to receipts from merchant's discounts:

(A) If the institution can readily determine the location of the merchant and if the merchant is in this Commonwealth, the numerator of the receipts factor shall include receipts from merchant discount.

(B) If the institution cannot readily determine the location of the merchant, the numerator of the receipts factor shall include the receipts from the merchant discount multiplied by a fraction:

(I) For a merchant discount related to the use of a credit card, the numerator of which shall be the amount of fees, interest and penalties charged to credit cardholders that is included in the numerator of the receipts factor under subparagraph (vi) and the denominator of which is the institution's total amount of fees, interest and penalties charged to credit cardholders.

(II) For a merchant discount related to the use of a debit card, the numerator of which shall be the amount of fees, interest and penalties charged to debit cardholders that is included in the numerator of the receipts factor under subparagraph (vi) and the denominator of which is the institution's total amount of fees, interest and penalties charged to debit cardholders.

(III) For a merchant discount related to the use of cards, except as provided under subclauses (I) and (II), the numerator of which shall be the amount of fees, interest and penalties charged to all other cardholders that is included in the numerator of the receipts factors under subparagraph (vi) and the denominator of which is the institution's total amount of fees, interest and penalties charged to all other cardholders.

(x) The receipts factor shall include automated teller machine fees that are not forwarded directly to another bank. The following shall apply:

(A) The numerator of the receipts factor shall include fees charged to a cardholder for the use at an automated teller machine of a card issued by the institution if the cardholder's billing address is in this Commonwealth.

(B) The numerator of the receipts factor shall include fees charged to a cardholder, other than the institution's cardholder, for the use of the card at an automated teller machine owned or rented by the institution, if the automated teller machine is in this Commonwealth.

(xi) The following shall apply to loan servicing fees:

(A) (I) The numerator of the receipts factor shall include loan servicing fees derived from loans secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor under subparagraph (iii) and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans secured by real property.

(II) The numerator of the receipts factor shall include loan servicing fees derived from loans not secured by real property multiplied by a fraction, the numerator of which is the amount included in the numerator of the receipts factor under subparagraph (iv) and the denominator of which is the total amount of interest and fees or penalties in the nature of interest from loans not secured by real property.

(B) If the institution receives loan servicing fees for servicing the secured or the unsecured loans of another institution, the numerator of the receipts factor shall include loan servicing fees if the borrower is located in this Commonwealth.

(xii) The numerator of the receipts factor shall include receipts from services not otherwise apportioned under this section if the recipient of the services receives all of the benefit of the services in this Commonwealth. If the recipient of the services receives some of the benefit of the services in this Commonwealth, the receipts shall be included in the numerator of the apportionment factor in proportion to the extent that the recipient receives benefit of the services in this Commonwealth.

(xiii) The following shall apply to receipts from an institution's investment assets and activity and trading assets and activity:

(A) Interest, dividends, net gains equal to zero or above, and other income from investment assets and activities and from trading assets and activities shall be included in the receipts factor. Investment assets and activities and trading assets and activities shall include investment securities, trading account assets, Federal funds, securities purchased and sold under agreements to resell or repurchase, options, futures contracts, forward contracts and notional principal contracts such as swaps, equities and foreign currency transactions. For the investment and trading assets and activities under subclauses (I) and (II), the receipts factor shall include the amounts under subclauses (I) and (II). The following shall apply:

(I) The receipts factor shall include the amount by which interest from Federal funds sold and securities purchased under resale agreements exceeds interest expense on Federal funds purchased and securities sold under repurchase agreements.

(II) The receipts factor shall include the amount by which interest, dividends, gains and other income from investment and trading assets and activities, including assets and activities in the matched book, in the arbitrage book and foreign currency transactions, exceed amounts paid in lieu of interest, amounts paid in lieu of dividends and losses from the assets and activities.

(B) The numerator of the receipts factor shall include the receipts under clause (A) that are attributable to this Commonwealth using one of the following alternative methods:

(I) Method 1. The numerator shall be determined by multiplying the total amount of receipts under clause (A) by a fraction, the numerator of which is the total amount of all other receipts attributable to this Commonwealth and the denominator of which is the total amount of all other receipts.

(II) Method 2. The numerator shall be determined by multiplying the total amount of receipts under clause (A) by a fraction, the numerator of which is the average value of the assets which generate the receipts which are properly assigned to a regular place of business of the institution within this Commonwealth and the denominator of which is the average value of all such assets.

(C) Upon the election by the institution to use one of the methods under clause (B) for tax imposed for a taxable year beginning after December 31, 2016, the institution shall use the method on all subsequent returns unless the institution receives prior permission from the Department of Revenue to use a different method.

(D) The following shall apply:

(I) An institution electing to use Method 2 shall have the burden of proving that an investment asset or activity or trading asset or activity was properly assigned to a regular place of business outside of this Commonwealth by demonstrating that the day-to-day decisions regarding the asset or activity occurred at a regular place of business outside this Commonwealth.

(II) If the day-to-day decisions regarding an investment asset or activity or trading asset or activity occur at more than one regular place of business and one regular place of business is in this Commonwealth and one regular place of business is outside this Commonwealth, the asset or activity shall be considered to be located at the regular place of business of the institution where the investment or trading policies or guidelines with respect to the asset or activity are established.

(III) Unless the institution demonstrates to the contrary, the investment or trading policies and guidelines under subclause (II) shall be presumed to be established at the commercial domicile of the institution.

(E) (E) deleted by amendment)

((xiii) amended July 13, 2016, P.L.526, No.84)

(xiv) The following shall apply to receipts from the sale or disposition of property:

(A) The numerator of the receipts factor shall include receipts from the sale or disposition of tangible personal property if the property is delivered or shipped to a purchaser within this Commonwealth regardless of the f.o.b. point or other conditions of the sale.

(B) The numerator of the receipts factor shall include all receipts from the sale or disposition of real property if the property is located in this Commonwealth.

(C) The numerator of the receipts factor shall include all receipts from the sale or disposition of intangible property if:

(I) the commercial domicile of the purchaser or recipient of the property is located in this Commonwealth; or

(II) the purchaser or recipient does not have a commercial domicile, and the billing address of the purchaser or recipient is located in this Commonwealth.

(xv) The following shall apply to receipts not provided for under this paragraph:

(A) The numerator of the receipts factor for receipts not otherwise apportioned under this section shall include receipts if:

(I) the benefit to the customer is received in this Commonwealth; or

(II) the billing address of the customer is located within this Commonwealth; and:

(a) the location where the benefit to the customer is received cannot be determined;

(b) the commercial domicile of the customer is in this Commonwealth; or

(c) the customer does not have a commercial domicile.

(B) If receipts subject to this paragraph are not received from a customer, the receipts shall be excluded from both the numerator and denominator of the receipts factor.

(xvi) For purposes of determining the location where benefits are received from under subparagraphs (xii) and (xv), if a service or other activity generating the receipts provides benefits to two or more

recipients located in different states or provides benefits to a recipient in more than one state, the location where benefits are received may be estimated using reasonable procedures to estimate the locations in which benefits are received.

(xvii) Receipts which would be assigned under this section to a state in which the institution is not subject to a business privilege tax, a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business or a corporate stock tax or shares tax of the type imposed under this article shall be included in the numerator of the receipts factor if the institution's commercial domicile is in this Commonwealth.

(4) The deposits factor is a fraction, the numerator of which is the average value of deposits located in this Commonwealth during the taxable year and the denominator of which is the average value of the total deposits during the taxable year. The average value of deposits is to be computed on a quarterly basis. Deposits are located in the state in which the institution maintains an office which properly treats the deposits as a liability on its books or records. A deposit is considered to be properly treated as a liability on the books or records of the office with which it has a greater portion of contact. In determining whether a deposit has a greater portion of contact with a particular office, consideration is given to:

(i) Whether the deposit account was opened at or transferred to that office by or at the direction of the depositor, regardless of where subsequent deposits or withdrawals are made.

(ii) Whether employes regularly connected with that office are primarily responsible for servicing the depositor's general banking and other financial needs.

(iii) Whether the deposit was solicited by an employe regularly connected with that office, regardless of where such deposit was actually solicited.

(iv) Whether the terms governing the deposit were negotiated by employes regularly connected with that office, regardless of where the negotiations were actually conducted.

(v) Whether essential records relating to the deposit are kept at that office and whether the deposit is serviced at that office.

(701.4 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 51(3)(iii) of Act 84 of 2016, which amended paragraph (3)(xiii), provided that the amendment shall apply retroactively to January 1, 2014.

Compiler's Note: Section 42(2.1) of Act 52 of 2013, which amended section 701.4, provided that the amendment shall apply to the calendar year beginning on January 1, 2014, and to each calendar thereafter. See section 43 of Act 52 in the appendix to this act for special provisions relating to applicability.

Section 701.5. Definitions.--The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Billing address." The location indicated in the books and records of an institution on the first day of the taxable year or on a later date in the taxable year when the customer relationship began, as the address where a notice, statement and bill relating to a customer's account is mailed.

"Commercial domicile." As follows:

(1) the place from which a trade or business is principally managed and directed; or

(2) if a trade or business is organized under the laws of a foreign country, the person's commercial domicile shall be deemed to be the state of the United States or the District of Columbia from which the institution's trade or business in the United States is principally managed and directed. It shall be presumed, subject to rebuttal, that the location from which a trade or business is principally managed and directed is the state of the United States or the District of Columbia to which the

greatest number of employes are regularly connected or out of which they are working, notwithstanding where the services of the employes are performed, as of the last day of the taxable year.

"Card issuer's reimbursement fee." The fee an institution receives from a merchant's bank because one of the persons to whom the institution has issued a credit, debit or similar type of card has charged merchandise or services to the card.

"Credit card." A card, or other means of providing information, that entitles the holder to charge the cost of purchases or a cash advance, against a line of credit.

"Debit card." A card, or other means of providing information, that enables the holder to charge the cost of purchases or cash withdrawal, against the holder's bank account or a remaining balance on the card.

"Deposits." Deposits consist of those items specified for inclusion as such in quarterly Reports of Condition, but do not include deposits made by the Federal Government, its agencies or instrumentalities.

"Doing business in this Commonwealth." As follows:

(1) An institution is engaged in doing business in this Commonwealth and is subject to the tax imposed under this article if it satisfies any of the following requirements:

(i) The institution has an office or branch in this Commonwealth.

(ii) One or more employes, representatives, independent contractors or agents of the institution conduct business activities of the institution in this Commonwealth.

(iii) A person, including an employe, representative, independent contractor, agent or affiliate of the institution, or an employe, representative, independent contractor or agent of an affiliate of the institution, directly or indirectly solicits business in this Commonwealth by or for the benefit of the institution, through:

(A) person-to-person contact, mail, telephone or other electronic means; or

(B) the use of advertising published, produced or distributed in this Commonwealth.

(iv) The institution owns, leases or uses real or personal property in this Commonwealth to conduct its business activities.

(v) The institution holds a security interest, mortgage or lien in real or personal property located in this Commonwealth.

(vi) A basis exists under section 701.4 to apportion the institution's receipts to this Commonwealth.

(vii) The institution has a physical presence in this Commonwealth for a period of more than one day during the tax year or conducts an activity sufficient to create a nexus in this Commonwealth for tax purposes under the Constitution of the United States.

(2) The term shall not include:

(i) The use by the institution of a professional performing a service on behalf of the institution in this Commonwealth if the services are not significantly associated with the institution's ability to establish and maintain a market in this Commonwealth.

(ii) The mere use of financial intermediaries in this Commonwealth by an institution for the processing or transfer of checks, credit card receivables, commercial paper and similar items.

(Def. amended July 13, 2016, P.L.526, No.84)

"Employe." Any individual to whom wages are paid within the meaning of 26 U.S.C. § 3401.

"Institution." As follows:

(1) The term shall mean:

(i) Every bank operating as such and having capital stock which is incorporated under any law of this Commonwealth, under the law of the United States or under the law of any other jurisdiction.

(ii) Every operating company having capital stock and having any of the powers of companies entitled to the benefits of an act, entitled "An act conferring upon certain fidelity, insurance, safety deposit, trust, and savings companies, the powers and privileges of companies incorporated

under the provisions of section 29 of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April 29, 1874, and of the supplements thereto," approved June 27, 1895, commonly known as trust companies.

(iii) Every company organized and operating as a bank and trust company or as trust company having capital stock, whether the institution is incorporated under any law of this Commonwealth, the law of the United States or any law of any jurisdiction. The term shall not include any of such companies, all of the shares of capital stock of which, other than shares necessary to qualify directors, are owned by a company which is liable to pay to the Commonwealth a tax pursuant to this article.

(iv) A corporation organized under 12 U.S.C. Ch. 6 Subch. II (relating to organization of corporations to do foreign banking).

(v) An agency or branch of a foreign depository as defined in 12 U.S.C. § 3101 (relating to definitions).

(2) The term shall not include a "mutual thrift institution" or "institution," as defined in section 1501, which is subject to the tax imposed under Article XV.

"Lease." Any leasing transaction in which the lessor would be treated as owner of the leased property under generally accepted accounting principles. All other transactions purporting to be leases shall be treated as loans for purposes of this article.

"Loan." As follows:

(1) The term shall mean any of the following:

(i) An extension of credit resulting from direct negotiations between the institution and its customer.

(ii) The purchase, in whole or in part, of the extension of credit under subparagraph (i) from another person.

(2) The term shall include a participation, syndication and lease treated as a loan for Federal income tax purposes.

(3) The term shall not include:

(i) Futures or forward contracts.

(ii) An option.

(iii) A notional principal contract such as swaps.

(iv) A credit card receivable, including a purchased credit card relationship.

(v) A noninterest bearing balance due from a depository institution.

(vi) A cash item in the process of collection.

(vii) A Federal fund sold.

(viii) A security purchased under an agreement to resell.

(ix) An asset held in a trading account.

(x) A security.

(xi) An interest in a real estate mortgage investment conduit or other mortgage-backed or asset-backed security.

(xii) An item similar to an item listed under this paragraph.

"Loan secured by real property." A loan for which at least fifty per cent of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

"Located." (Def. deleted by amendment)

"Maintains an office." (Def. deleted by amendment)

"Merchant discount." The fee or negotiated discount charged to a merchant by an institution for the privilege of participating in a program by which a credit, debit or similar type of card is accepted in payment for merchandise or services sold to the cardholder, net of any cardholder charge-back and unreduced by any interchange transaction or issuer reimbursement fee paid to another for a charge or purchase made by its cardholder.

"Origination of loans." A loan is deemed to have originated in the state in which the office is located which properly treats the loan as an asset on its books or records. However, if an institution maintains an office in a state, the following rules apply:

(1) Loans secured primarily by real property are deemed to have originated at an office within the state in which the predominant part of the security real property is or will be located, if at least one of the following activities occurs at an office in the state:

(i) application for the loan;

(ii) negotiation for the loan;

(iii) approval of the loan; or

(iv) administrative responsibility for the loan.

(2) All other loans made to borrowers residing or having their commercial domicile within the state are deemed to have originated at an office within the state, if at least one of the following activities occurs at an office in the state:

(i) application for the loan;

(ii) negotiation for the loan;

(iii) approval of the loan; or

(iv) administrative responsibility for the loan.

"Principal base of operations." As follows:

(1) With respect to transportation property, the place from which the property is regularly directed or controlled.

(2) With respect to an employe, the place of more or less permanent nature from which the employe regularly:

(i) starts work and to which the employe customarily returns in order to receive instructions from the employe's employer;

(ii) communicates with customers or other people; or

(iii) performs any other function necessary to the exercise of the employe's trade or profession at some other point.

"Property located in a state."

(1) Except as otherwise provided in this definition, tangible property, including leased property, shall be deemed to be located in the state in which the property is physically situated.

(2) Tangible personal property which is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment and the like, shall be deemed to be located in a state if:

(i) the operation of the property is entirely within the state or the operation outside of the state is occasional or incidental to its operation within the state;

(ii) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state; or

(iii) the state is the residence or commercial domicile of the lessee or other user of the property, where there is no principal base of operations and the operation of the property is in two or more states.

"Real property owned" and "tangible property owned." As follows:

(1) Real and tangible personal property, respectively,:

(i) on which the institution may claim depreciation for Federal income tax purposes; or

(ii) property to which the institution holds legal title and on which no other person may claim depreciation for Federal income tax purposes, or could claim depreciation if subject to Federal income tax.

(2) The term does not include coin, currency or property acquired in lieu of or pursuant to a foreclosure.

"Receipts." The total of all items of income reported on the income statement of the institution's Reports of Condition at the end of the preceding calendar year. If there is a combination of two or more institutions into one, the total of all items of income that would be reported on the income statements of the Reports of Condition of the constituent institutions shall be combined as if a single institution had been in existence for the year. For purposes of this definition, a combination shall include any acquisition required to be accounted for by using the purchase method in accordance with generally accepted accounting principles or a statutory merger or consolidation. If the institution does not file quarterly Reports of Condition, the term shall include all items of income included on an income statement determined in accordance with

generally accepted accounting principles for the preceding calendar year. (Def. amended June 30, 2021, P.L.124, No.25)

"Regular place of business." An office at which an institution carries on its business in a regular and systematic manner and which is continuously maintained, occupied and used by employes of an institution.

"Regular presence of employes." An employe shall be deemed to have a regular presence in a state if:

(1) a majority of the employe's service is performed within the state; or

(2) the office from which his activities are directed or controlled is located in the state, where a majority of the employe's service is not performed in any one state.

"State." Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any foreign country.

"Syndication." An extension of credit in which two or more people provide funds and each person is at risk for up to a specified percentage of the total extension of credit or for up to a specified dollar amount.

"Transportation property." A vehicle and vessel capable of moving under its own power, such as an aircraft, a train, a water vessel and a motor vehicle. The term includes equipment or a container attached to the property, such as rolling stock, a barge, a trailer or similar equipment or container.

(701.5 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 51(5)(ii) of Act 84 of 2016, which amended the definitions of "doing business in this Commonwealth" and "receipts," provided that the amendment shall apply to taxable years beginning after December 31, 2016.

Compiler's Note: Section 42(2.1) of Act 52 of 2013, which amended section 701.5, provided that the amendment shall apply to the calendar year beginning on January 1, 2014, and to each calendar thereafter. See section 43 of Act 52 in the appendix to this act for special provisions relating to applicability.

PART II
PROCEDURE; ENFORCEMENT; PENALTIES

Section 702. Procedure; Enforcement; Penalties.--(a) Except as set forth in subsection (b), Parts III, IV, V, VI and VII of Article IV are incorporated by reference into this article in so far as they are applicable to the tax imposed hereunder.

(b) The Department of Revenue may, upon application made by the last day for filing and in a form prescribed by the department, grant an extension of not more than six months for filing the annual report required by section 701.

(702 amended June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 26(4)(x) of Act 23 of 2001, which amended section 702, provided that the amendment shall apply to taxable years beginning after December 31, 2000.

PART III
REPEALER; EFFECTIVE DATE

Section 705. Repeal.--Clause 1 of section 1, act of July 15, 1897 (P.L.292), entitled "An act to provide revenue by taxation," is repealed.

Section 706. Effective Date.--This article shall take effect immediately, and the tax imposed shall apply to taxable years beginning January 1, 1971 and thereafter.

ARTICLE VII-A
ALTERNATIVE BANK AND TRUST

COMPANY SHARES TAX
(Art. VII-A repealed June 22, 2001, P.L.353, No.23)

Section 701-A. Imposition of Tax.--(701-A repealed June 22, 2001, P.L.353, No.23)

Section 702-A. Ascertainment of Value; Exclusion of United States Obligations.--(702-A repealed June 22, 2001, P.L.353, No.23)

PART II
PROCEDURE; ENFORCEMENT; PENALTIES
(Pt. II repealed June 22, 2001, P.L.353, No.23)

Section 711-A. Procedure; Enforcement; Penalties.--(711-A repealed June 22, 2001, P.L.353, No.23)

PART III
MISCELLANEOUS PROVISIONS
(Pt. III repealed June 22, 2001, P.L.353, No.23)

Section 721-A. Effective Date.--(721-A repealed June 22, 2001, P.L.353, No.23)

ARTICLE VIII
TITLE INSURANCE COMPANIES SHARES TAX
(Hdg. amended June 16, 1994, P.L.279, No.48)

PART I
IMPOSITION OF TAX

Section 801. Imposition of Tax.--(a) Every company incorporated under the provisions of section 29 of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved April 29, 1874, and its supplements, or any other act of Assembly heretofore or hereafter approved, for the insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens, and encumbrances, commonly known as title insurance companies, except any such companies, all of the shares of capital stock of which (other than shares necessary to qualify directors) are owned by a company which is liable to pay to the Commonwealth a tax on shares, shall, on or before March 15 in each and every year, make to the Department of Revenue a report in writing, setting forth the full number of shares of the capital stock subscribed for or issued by such company, and the taxable amount of such shares of capital stock determined pursuant to section 801.1. It shall be the duty of the Department of Revenue, to assess such shares for taxation for calendar years beginning January 1, 1971 through January 1, 1983, at the rate of fifteen mills and for the calendar years beginning January 1, 1984, through January 1, 1988, at the rate of one and seventy-five one thousandths per cent and for the calendar year beginning January 1, 1989, at the rate of 10.77 per cent and for the calendar year beginning January 1, 1990, and each calendar year thereafter at the rate of 1.25 per cent upon each dollar of the taxable amount thereof, the taxable amount of each share of stock to be ascertained and fixed pursuant to section 801.1, and dividing this amount by the number of shares.

(b) It shall be the duty of every such company, at the time of making every report required by this section, to compute the tax and to pay the amount of said tax to the State Treasurer, through the Department of Revenue, either from its general fund, or from the amount of said tax collected from its shareholders: Provided, That for the calendar years beginning January 1, 1971 through January 1, 1991, every such company shall, at the time of making its report for the calendar years beginning January 1, 1971 through January 1, 1991, compute the tax and pay to the State Treasurer, through the Department of Revenue, either from its general fund, or from the amount of said tax collected from its shareholders, not

less than eighty per cent of the tax due to the Commonwealth by it for such calendar year and the remaining tax due shall be paid at the time when the report herein required for the year next succeeding is made: Provided, That upon the payment of the tax fixed by this act into the State Treasury, through the Department of Revenue, the shares and so much of the capital stock, surplus, profits, and deposits of such company as shall not be invested in real estate, shall be exempt from all other taxation under the laws of this Commonwealth. The procedure, in case the Department of Revenue be not satisfied with the report made by any title insurance company, and the penalties for failing to make such report and pay the tax, shall be as provided by law.

(801 amended June 16, 1994, P.L.279, No.48)

Section 801.1. Ascertainment of Taxable Amount; Exclusion of United States Obligations.--(a) The taxable amount of shares shall be ascertained and fixed by adding together the value determined under subsection (b) for the current and preceding five years and dividing the resulting sum by six. If a company has not been in existence for a period of six years, the taxable amount of shares shall be ascertained and fixed by adding together the value determined under subsection (b) for the number of years the company has been in existence and dividing the resulting sum by such number of years.

(b) The value for each year required by subsection (a) shall be determined by adding together the book value of capital stock paid in, the book value of the surplus, the book value of undivided profits and the book value of the unearned premium reserve with a deduction from the total thereof of an amount equal to the same percentage of such total as the book value of obligations of the United States bears to the book value of the total assets. For purposes of this subsection, in the case of title insurance companies, book values and the deduction for United States obligations for each year shall be determined by generally accepted accounting principles as of the end of each calendar quarter in the preceding calendar year and book values shall in all cases be averaged as calculated by averaging book values as determined at the end of each calendar quarter. For the purposes of this article, United States obligations shall be obligations coming within the scope of 31 U.S.C. § 3124. For any year in which a bank or bank and trust company does not file four quarterly Reports of Condition, book values and deductions for United States obligations shall be determined by adding together the book values and deductions for United States obligations from each quarterly Reports of Condition filed for such year and dividing the resulting sums by the number of such Reports of Condition. For any year in which a title insurance company is not in existence for the full year, book values and deductions for United States obligations shall be determined by adding together the book values and deductions for United States obligations as of the end of each calendar quarter in which the company was in existence at the end of such calendar quarter and dividing the resulting sums by the number of such calendar quarters. For purposes of this section, a partial year shall be treated as a full year.

(c) For purposes of this section:

(1) a mere change in identity, form or place of organization of one company, however effected, shall be treated as if a single company had been in existence prior to as well as after such change; and

(2) the combination of two or more companies into one shall be treated as if the constituent companies had been a single company in existence prior to as well as after the combination and the book values and deductions for United States obligations as determined by generally accepted accounting principles as of the end or each calendar quarter of the constituent companies shall be combined. For purposes of the preceding sentence, a combination shall include any acquisition required to be accounted for by the surviving company under the pooling of interest method in accordance with generally accepted accounting principles or a statutory merger or consolidation.

(801.1 amended June 16, 1994, P.L.279, No.48)

Section 801.2. Reserve for Loan Losses.--(801.2 repealed Dec. 1, 1983, P.L.228, No.66)

PART II
PROCEDURE; ENFORCEMENT; PENALTIES

Section 802. Procedure; Enforcement; Penalties.--Parts III, IV, V, VI and VII of Article IV are incorporated by reference into this article insofar as they are applicable to the tax imposed hereunder. The taxable value of shares under this article shall be apportioned under the provisions of section 701.4, except that, in addition, for purposes of section 701.4(3), receipts from the issuance of title insurance shall be located in the state in which the real property that is insured is located.

(802 amended June 16, 1994, P.L.279, No.48)

Section 803. Amended Report for 1989.--Within one hundred twenty days of the effective date of this section, every company subject to tax under section 801 shall make to the Department of Revenue on a form prescribed, prepared and furnished by the Department of Revenue an amended report of the tax payable on its shares computed as of January 1, 1989, and shall pay to the Commonwealth at the time of making such amended report eighty per cent of the tax due, if any, as shown by such amended report less the amount paid, if any, upon filing of an original report for the year 1989 heretofore required to be made, and the remaining tax due, if any, shall be paid when the report required by section 701 for the year next succeeding is made. For all purposes under this act, the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," and other applicable statutes, the date of the amended report and the date for payment of the balance, if any, of the tax payable at the time of making the amended report shall be substituted for the date of the report formerly required for the 1989 report and the date of the payment of the tax payable with such report.

(803 added July 1, 1989, P.L.95, No.21)

PART III
REPEALER; EFFECTIVE DATE

Section 805. Repeal.--Section 1, act of June 13, 1907 (P.L.640), entitled "An act to provide revenue by levying a tax upon the shares of stock of companies incorporated under the provisions of section twenty-nine of an act, entitled 'An act to provide for the incorporation and regulation of certain corporations,' approved April twenty-ninth, one thousand eight hundred and seventy-four, and the supplements thereto; for the insurance of owners of real estate, mortgages, and others interested in real estate, from loss by reason of defective titles, liens, and encumbrances; and of companies entitled to the benefits of, and of companies having any of the powers of, companies entitled to the benefits of an act, entitled 'An act conferring upon certain fidelity, insurance, safety deposit, trust, and savings companies the powers and privileges of companies incorporated under the provisions of section twenty-nine of an act, entitled "An act to provide for the incorporation and regulation of certain corporations," approved April twenty-ninth, Anno Domini one thousand eight hundred and seventy-four, and of the supplements thereto,' approved June twenty-seventh, one thousand eight hundred and ninety-five, commonly known as title insurance or trust companies," is repealed.

Section 806. Effective Date.--This article shall take effect immediately, and the tax imposed shall apply to taxable years beginning January 1, 1971 and thereafter.

ARTICLE VIII-A
ALTERNATIVE TITLE INSURANCE
COMPANIES SHARES TAX
(Art. VIII-A repealed June 22, 2001, P.L.353, No.23)

Section 801-A. Imposition of Tax.--(801-A repealed June 22, 2001, P.L.353, No.23)

Section 802-A. Ascertainment of Value; Exclusion of United States Obligations.--(802-A repealed June 22, 2001, P.L.353, No.23)

PART II
PROCEDURE; ENFORCEMENT; PENALTIES
(Pt. II repealed June 22, 2001, P.L.353, No.23)

Section 811-A. Procedure; Enforcement; Penalties.--(811-A repealed June 22, 2001, P.L.353, No.23)

PART III
MISCELLANEOUS PROVISIONS
(Pt. III repealed June 22, 2001, P.L.353, No.23)

Section 821-A. Effective Date.--(821-A repealed June 22, 2001, P.L.353, No.23)

ARTICLE IX
INSURANCE PREMIUMS TAX

PART I
DEFINITIONS

Section 901. Definitions.--The following terms, when used in this article, shall have the meaning ascribed to them in this section: (Intro. par. amended July 2, 2012, P.L.751, No.85)

(1) "Insurance company" means every insurance company, association or exchange, incorporated or organized by or under the laws of this Commonwealth, the United States, territories, dependencies, other states, or foreign governments, and engaged in transacting insurance business of any kind or classification within this Commonwealth, except title insurance companies subject to tax under Article VIII or XVI of this act, as the case may be, except purely mutual beneficial associations whose funds for the benefit of members and families or heirs are made up entirely of the weekly, monthly, quarterly, semi-annual or annual contributions to their members and the accumulated interest thereon and corporations organized under the act of June 21, 1937 (P.L.1948), known as the "Nonprofit Hospital Plan Act," and the act of June 27, 1939 (P.L.1125), known as the "Nonprofit Medical, Osteopathic, Dental and Podiatry Service Corporation Act."

(2) "Gross premiums" means premiums, premium deposits or assessments received by any insurance company, whether received in money or in the form of notes, credits, or any other substitutes for money, and whether collected in this Commonwealth or elsewhere. Gross premiums shall not include: (i) amounts returned on policies canceled or not taken; (ii) premiums received for reinsurance; (iii) in the case of mutual insurance companies, associations, exchanges, and stock companies with participating features, that portion of the advanced premiums, premium deposits or assessments returned in cash or credited to members or policyholders, whether as dividends, earnings, savings, or return deposits, upon the expiration or termination of their contracts; and (iv) notes or other obligations received by mutual insurance companies to secure contingent premium liabilities to the extent that no assessment has been made and collected against said notes or obligations.

(3) ((3) deleted by amendment June 30, 1995, P.L.139, No.21)

(4) "Assessment" means an assessment imposed by the guaranty association pursuant to section 1808 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921." ((4) added May 24, 2000, P.L.106, No.23)

(5) "Guaranty association" means the Pennsylvania Property and Casualty Insurance Guaranty Association created pursuant to section 1803 of the act

of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921." ((5) added May 24, 2000, P.L.106, No.23)

(6) "Member insurer" means an insurance company, association or exchange which is required to participate in the guaranty association pursuant to Article XVIII of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921." ((6) added May 24, 2000, P.L.106, No.23)

(7) "Assessment base" means the amount of net direct written premiums used by the guaranty association to calculate a member insurer's assessment on an account under section 1808 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921." ((7) added June 22, 2001, P.L.353, No.23)

(901 amended Dec. 1, 1983, P.L.228, No.66)

Compiler's Note: Section 26(1)(i) of Act 23 of 2001, which added clause (7), provided that clause (7) shall apply to assessments paid after December 31, 1998. Section 26(3)(i) of Act 23 provided that clause (7) shall apply to taxes paid for calendar year 2000 and thereafter.

Compiler's Note: Section 19(4)(i) of Act 23 of 2000, which added clauses (4), (5) and (6), provided that clauses (4), (5) and (6) shall apply to assessments paid after December 31, 1998. Section 19(5)(i) of Act 23 provided that clauses (4), (5) and (6) shall apply to taxes paid for calendar year 2000 and thereafter.

PART II
IMPOSITION OF TAX

Section 902. (a) Imposition of Tax.--Every insurance company, as herein defined, transacting business in the Commonwealth of Pennsylvania, shall pay to the department, a tax at the rate of two per cent of the gross premiums received from business done within this Commonwealth during each calendar year.

(b) Disposition of Taxes.--The total of the money received from the following taxes and charges shall be deposited into the General Fund:

(1) The tax imposed by subsection (a).

(2) The retaliatory charge imposed by section 212 of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."

(3) The surplus lines tax imposed by section 1621 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(4) The tax on independently procured insurance imposed by section 1622 of "The Insurance Company Law of 1921."

(5) The marine insurance tax imposed by section 2 of the act of May 13, 1927 (P.L.998, No.486), entitled "An act imposing a tax for State purposes on marine insurance underwriting profits, and providing for the collection of such tax."

(6) The tax on contracts with unauthorized companies imposed by section 1 of the act of July 6, 1917 (P.L.723, No.262), entitled "An act imposing a tax on premiums of insurance and reinsurance in foreign insurance companies and associations not registered in this Commonwealth; providing the method of collection of such tax, and imposing penalties."

(b.1) The following transfers will occur each fiscal year:

(1) Fire Insurance Tax Fund:

(i) On or before June 30, 2023, and on or before each June 30 thereafter, the greater of eighty-five million dollars ($85,000,000) or eight and one-half per cent of the total taxes and charges under subsection (b) received during the current fiscal year shall be transferred to the Fire Insurance Tax Fund.

(ii) On or before July 15, 2023, and on or before each July 15 thereafter, if taxes or charges are deposited after the transfer under subparagraph (i) and before July 1, 2023, and each July 1 thereafter, an additional transfer shall occur if eight and one-half per cent of total collections under subsection (b) for the prior fiscal year is greater than eighty-five million dollars ($85,000,000). The calculation for the

additional transfer shall equal eight and one-half per cent of the total taxes and charges under subsection (b) minus the transfer amount under subparagraph (i).

(iii) The transfers under subparagraphs (i) and (ii) shall be used for firemen's relief pension or retirement purposes, as provided by section 706(b) of the act of December 18, 1984 (P.L.1005, No.205), known as the "Municipal Pension Plan Funding Standard and Recovery Act."

(2) Municipal Pension Aid Fund:

(i) On or before June 30, 2023, and on or before each June 30 thereafter, the greater of three hundred forty-five million dollars ($345,000,000) or thirty-eight per cent of the total taxes and charges under subsection (b) received during the current fiscal year shall be transferred to the Municipal Pension Aid Fund.

(ii) On or before July 15, 2023, and on or before each July 15 thereafter, if taxes or charges are deposited after the transfer under subparagraph (i) and before July 1, 2023, and each July 1 thereafter, an additional transfer shall occur if thirty-eight per cent of total collections under subsection (b) for the prior fiscal year is greater than three hundred forty-five million dollars ($345,000,000). The calculation for that additional transfer shall equal thirty-eight per cent of the total taxes and charges under subsection (b) minus the transfer amount under subparagraph (i).

(iii) The transfers under subparagraphs (i) and (ii) shall be used for police pension, retirement or disability purposes as provided by the act of May 12, 1943 (P.L.259, No.120), entitled "An act providing for the payment by the State Treasurer, of the amount of the tax on premiums paid by foreign casualty insurance companies, to the treasurers of the several cities, boroughs, towns, townships, and certain counties, and for the payment thereof into police pension funds, and in certain cases into the Municipal Employes' Retirement System, and for Pension Annuity Contracts, and in certain other cases into the State Employes' Retirement Fund, for certain purposes."

(c) Other taxes.--(Deleted by amendment).

(902 amended July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 24(4)(i) of Act 53 of 2022 provided that the amendment of section 902 shall apply to fiscal years beginning after June 30, 2022.

Section 902.1. Credits for Assessments Paid.--(a) A member insurer that has paid assessments to the guaranty association shall be entitled to a credit as authorized by this section. The credit shall be equal to the amount by which the assessment paid to the guaranty association exceeds one per cent of the member insurer's assessment base. Except as provided in subsection (e), the credit authorized by this section shall be applied against the taxes due under this article in equal portions for each of the five calendar years following payment of the assessment. In the event a member insurer should cease doing business, all unused credits may be applied against its premium tax liability for the year it ceases doing business. A member insurer is not entitled to a refund of any unused credit.

(b) Any sums which are acquired by a member insurer from the guaranty association either by refund or by receipt of an offset which may be used against an assessment and which have been used in calculating a credit under subsection (a) shall reduce the amount of unused credits or shall be paid by such insurer to the Commonwealth, as the Department of Revenue may require. The guaranty association shall notify the department and the Insurance Commissioner that such sums have been acquired by the member insurer.

(c) No credit against premium tax liability shall be permitted to the extent that a member insurer's rates and premiums have been adjusted as permitted in section 1810 of the act of May 17, 1921 (P.L.682, No.284), known as "The Insurance Company Law of 1921."

(d) ((d) deleted by amendment July 8, 2022, P.L.513, No.53).

(e) Credits taken by an insurer under this section shall not be included in determining liability for retaliatory taxes imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."

(902.1 amended June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 24(4)(ii) of Act 53 of 2022 provided that the amendment of section 902.1(d) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 26(1)(ii) of Act 23 of 2001, which amended section 902.1, provided that the amendment shall apply to assessments paid after December 31, 1998. Section 26(3)(ii) of Act 23 provided that the amendment shall apply to taxes paid for calendar year 2000 and thereafter.

Compiler's Note: Section 19(4)(ii) of Act 23 of 2000, which added section 902.1, provided that section 902.1 shall apply to assessments paid after December 31, 1998. Section 19(5)(ii) of Act 23 provided that section 902.1 shall aplly to taxes paid for calendar year 2000 and thereafter.

PART III
ANNUAL REPORT

Section 903. Annual Report.--Every insurance company shall make a report to the department on a form prescribed by it on or before April 15 of each year, showing the gross premiums received from business transacted in the Commonwealth during the year ending December 31 preceding. When making such report, the insurance company shall compute and pay to the Commonwealth the tax upon the gross premiums received from business transacted within this Commonwealth during such preceding year.

(903 amended June 30, 1995, P.L.139, No.21)

PART IV
PROCEDURE; ENFORCEMENT; PENALTIES

Section 904. Procedure; Enforcement; Penalties.--Parts III, IV, V, VI and VII of Article IV are incorporated by reference into this article in so far as they are applicable to the tax imposed hereunder.

PART V
REPEALER; EFFECTIVE DATE
(Hdg. amended Sept. 9, 1971, P.L.437, No.105)

Section 905. Repeal.--The act of February 21, 1961 (P.L.33), entitled "An act imposing a State tax on gross premiums, premium deposits, and assessments received from business transacted within this Commonwealth by certain insurance companies, associations, and exchanges; requiring the filing of annual and tentative reports and the computation and payment of tax; providing for the rights, powers and duties of the Department of Revenue, the taxpayers and officers thereof; and providing penalties," is repealed.

Section 906. Effective Date.--This article shall take effect immediately, and the tax imposed shall apply to taxable years beginning January 1, 1971 and thereafter.

ARTICLE X
EXCISE TAX ON FOREIGN CORPORATIONS
(Art. repealed June 22, 2001, P.L.353, No.23)

PART I
DEFINITIONS

(Pt. I repealed June 22, 2001, P.L.353, No.23)

Section 1001. Definitions.--(1001 repealed June 22, 2001, P.L.353, No.23)

PART II
IMPOSITION OF TAX
(Pt. II repealed June 22, 2001, P.L.353, No.23)

Section 1002. Imposition of Tax.--(1002 repealed June 22, 2001, P.L.353, No.23)

PART III
REPORTS

Section 1003. Initial and Annual Report.--(1003 repealed June 22, 2001, P.L.353, No.23)

PART IV
PROCEDURE; ENFORCEMENT; PENALTIES

Section 1004. Procedure; Enforcement; Penalties.--(1004 repealed June 22, 2001, P.L.353, No.23)

PART V
REPEALER; EFFECTIVE DATE
(Pt. V repealed June 22, 2001, P.L.353, No.23)

Section 1005. Repeal.--(1005 repealed June 22, 2001, P.L.353, No.23)
Section 1006. Effective Date.--(1006 repealed June 22, 2001, P.L.353, No.23)

ARTICLE XI
GROSS RECEIPTS TAX
(Hdg. amended Dec. 23, 2003, P.L.250, No.46)

Section 1101. Imposition of Tax.--(a) General Rule.--Every pipeline company, conduit company, steamboat company, canal company, slack water navigation company, transportation company, and every other company, association, joint-stock association, or limited partnership, now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government, and doing business in this Commonwealth, and every copartnership, person or persons owing, operating or leasing to or from another corporation, company, association, joint-stock association, limited partnership, copartnership, person or persons, any pipeline, conduit, steamboat, canal, slack water navigation, or other device for the transportation of freight, passengers, baggage, or oil, except motor vehicles and railroads, and every limited partnership, association, joint-stock association, corporation or company engaged in, or hereinafter engaged in, the transportation of freight or oil within this State, and every telephone company, telegraph company or provider of mobile telecommunications services now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government and doing business in this Commonwealth, and every limited partnership, association, joint-stock association, copartnership, person or persons, engaged in telephone or telegraph business or providing mobile telecommunications services in this Commonwealth, shall pay to the State Treasurer, through the Department of Revenue, a tax of forty-five mills with a surtax equal to five mills upon each dollar of the gross receipts of

the corporation, company or association, limited partnership, joint-stock association, copartnership, person or persons received from:

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

(2) telegraph or telephone messages transmitted wholly within this State and telegraph or telephone messages transmitted in interstate commerce where such messages originate or terminate in this State and the charges for such messages are billed to a service address in this State, except gross receipts derived from:

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

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

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

(B) network elements on an unbundled basis; and

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

(iii) the sales of telephones, telephone handsets, modems, tablets and related accessories, including cases, chargers, holsters, clips, hands-free devices, screen protectors and batteries; and

((2) amended June 28, 2018, P.L.369, No.52)

(3) mobile telecommunications services messages sourced to this Commonwealth based on the place of primary use standard set forth in the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117), except gross receipts derived from:

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

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

(iii) the sales of telephones, telephone handsets, modems, tablets and related accessories, including cases, chargers, holsters, clips, hands-free devices, screen protectors and batteries.

((3) amended June 28, 2018, P.L.369, No.52)

((a) amended Dec. 23, 2003, P.L.250, No.46)

(a.1) Credit.--Telegraph or telephone companies or providers of mobile telecommunications services that pay a gross receipts tax to another state on messages or services which are taxable under this article are entitled to a credit against the tax due under this article. The credit allowed with respect to the messages or services shall not exceed the tax under this article with respect to the messages or services. ((a.1) added Dec. 23, 2003, P.L.250, No.46)

(b) Electric Light, Waterpower and Hydro-electric Utilities.--Every electric light company, waterpower company and hydro-electric company now or hereafter incorporated or organized by or under any law of this Commonwealth, or now or hereafter organized or incorporated by any other state or by the United States or any foreign government and doing business in this Commonwealth, and every limited partnership, association, joint-stock association, copartnership, person or persons, engaged in electric light and power business, waterpower business and hydro-electric business in this Commonwealth, shall pay to the State Treasurer, through the Department of Revenue, a tax of forty-four mills upon each dollar of the gross receipts of the corporation, company or association, limited partnership, joint-stock association, copartnership, person or persons, received from:

(1) the sales of electric energy within this State, except gross receipts derived from the sales for resale of electric energy to persons,

partnerships, associations, corporations or political subdivisions subject to the tax imposed by this subsection upon gross receipts derived from such resale; and

(2) the sales of electric energy produced in Pennsylvania and made outside of Pennsylvania in a state that has taken action since December 21, 1977 which results in higher costs for electric energy produced in that state and sold in Pennsylvania unless the action that was taken after December 21, 1977 is rescinded according to the following apportionment formula: except for gross receipts derived from sales under clause (1), the gross receipts from all sales of electricity of the producer shall be apportioned to the Commonwealth of Pennsylvania by the ratio of the producer's operating and maintenance expenses in Pennsylvania and depreciation attributable to property in Pennsylvania to the producer's total operating and maintenance expenses and depreciation.

((b) amended July 13, 1987, P.L.317, No.58)

(b.1) Managed Care Organizations.--((b.1) deleted by amendment July 13, 2016, P.L.526, No.84)

(c) Payment of Tax; Reports.--The said taxes imposed under subsections (a) and (b) shall be paid within the time prescribed by law, and for the purpose of ascertaining the amount of the same, it shall be the duty of the treasurer or other proper officer of the said company, copartnership, limited partnership, association, joint-stock association or corporation, or person or persons, to transmit to the Department of Revenue on or before March 15 of each year an annual report, and under oath or affirmation, of the amount of gross receipts of the said companies, copartnerships, corporations, associations, joint-stock associations, limited partnerships, person or persons, derived from all sources, and of gross receipts from business done wholly within this State and in the case of electric energy producers that transmit energy to other states referred to in clause (2) of subsection (b), a compilation of the relevant information regarding operating and maintenance expenses and depreciation, during the period of twelve months immediately preceding January 1 of each year. ((c) amended July 13, 2016, P.L.526, No.84)

(c.1) Safe Harbor Base year.--For purposes of the estimated tax requirements under sections 3003.2 and 3003.3, the "safe harbor base year" tax amount for providers of mobile telecommunications services shall be the amount that would have been required to be paid by the taxpayer if the taxpayer had been subject to this article. ((c.1) amended July 13, 2016, P.L.526, No.84)

(d) Tax Computation.--((d) repealed June 29, 2002, P.L.559, No.89)

(e) Time to File Reports.--The time for filing annual reports may be extended, estimated assessments may be made by the Department of Revenue if reports are not filed, and the penalties for failing to file reports and pay the taxes imposed under subsection (a) and (b) shall be as prescribed by the laws defining the powers and duties of the Department of Revenue. In any case where the works of any corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons are operated by another corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons, the taxes imposed under subsections (a) and (b) shall be apportioned between the corporations, companies, copartnerships, associations, joint-stock associations, limited partnerships, person or persons in accordance with the terms of their respective leases or agreements, but for the payment of the said taxes the Commonwealth shall first look to the corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons operating the works, and upon payment by the said company, corporation, copartnership, association, joint-stock association, limited partnership, person or persons of a tax upon the receipts, as herein provided, derived from the operation thereof, no other corporation, company, copartnership, association, joint-stock association, limited partnership, person or persons shall be held liable for any tax imposed under subsections (a) and (b) upon the proportion of said receipts received by said corporation,

company, copartnership, association, joint-stock association, limited partnership, person or persons for the use of said works. ((e) amended July 13, 2016, P.L.526, No.84)

(f) Application to Municipalities.--This article shall be construed to apply to municipalities, and to impose a tax upon the gross receipts derived from any municipality owned or operated public utility or from any public utility service furnished by any municipality, except that gross receipts shall be exempt from the tax, to the extent that such gross receipts are derived from business done inside the limits of the municipality, owning or operating the public utility or furnishing the public utility service.

(g) Certain Gross Receipts not Taxed.--The tax otherwise imposed pursuant to this section upon gross receipts derived from the sale of electricity shall not however be imposed upon those portions of the gross receipts of an electric light company attributable to the following sources:

(1) the net increase in its gross receipts resulting from recovery from its customers of the costs of purchases of additional energy necessitated by the physical or legal inability to operate a nuclear generating facility as a result of an accident or natural disaster causing material damage to that facility or to a similar associated facility located immediately adjacent, whereupon either the damaged facility, another located immediately adjacent, or both, have been removed from the company's rate base for a period exceeding twenty-five months. The Department of Revenue shall request the Public Utility Commission to determine, for each such facility, the net increase in the gross receipts of its electric company owner for the immediate prior twelve-month period. This determination shall reflect the difference between the increased gross receipts of the company attributable to recovery of costs for purchase of replacement energy which otherwise would have been normally generated by the inoperative facility in such twelve-month period less the reduction in the company's gross receipts attributable to removal of the capital costs of the facility from the company's rate base and less the reduction in the company's gross receipts attributable to reduction in operating expenses that would have otherwise been incurred by normal operation of the facility in such twelve-month period. The Public Utility Commission shall, immediately after supplying the requested data, proceed to make the appropriate revision in the State tax adjustment charge of the electric company;

(2) recovery from its customers of costs incurred in connection with the clean-up and decontamination of a nuclear generating facility which has experienced a major accident or natural disaster and had been removed from the electric light company's rate base; and

(3) recovery from its customers of costs for the amortization of investments in a nuclear generating facility whose removal from the rate base of an electric light company has been approved by the Public Utility Commission on account of a major accident or natural disaster.

((g) added June 23, 1982, P.L.610, No.172)

(h) Benefits to Consumer.--For purposes of this article, the reduction in the taxes imposed under subsections (a) and (b) shall derive to the benefit of the consumer purchasing services from said utilities. Said benefit shall be provided in the form of a reduction in the State tax surcharge. Failure to pass through the reduction to the consumer shall subject the public utility to a civil penalty of at least one thousand dollars ($1,000), but not more than five thousand dollars ($5,000), and such additional relief as the court may deem appropriate. ((h) added July 13, 1987, P.L.317, No.58)

(i) Itemization of Gross Receipts Tax.--

(1) Interexchange telecommunications carriers may surcharge and disclose as a separate line item on a customer's bill all gross receipts taxes imposed on interexchange telecommunications carriers services performed wholly within this Commonwealth.

(2) For four monthly billing cycles from the effective date of this act, all interexchange telecommunications carriers shall provide the

customer with information in the carriers' monthly billing that the gross receipts line item surcharge is not a tax increase, but merely a disclosure of taxes presently and previously paid by the customer.

(3) As used in this subsection, the term "interexchange telecommunications carrier" has the meaning as defined in 66 Pa.C.S. § 3002 (relating to definitions).

((i) added June 16, 1994, P.L.279, No.48)

(j) Schedule for Estimated Payments.--

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

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

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

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

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

(3) ((3) deleted by amendment).

(4) ((4) deleted by amendment).

((j) amended July 13, 2016, P.L.526, No.84)

(k) Penalty for Substantial Underpayment of Initial Estimated Gross Receipts Tax.--

(1) If the amount of the estimated gross receipts tax on account of a taxpayer's first applicable taxable year under subsection (a)(3) paid by a due date in subsection (j) is underpaid, a penalty shall be imposed in the amount of five per cent of the underpayment per month for the period of the underpayment, up to a maximum of twenty-five per cent of the underpayment.

(2) The penalty imposed by this subsection is in addition to any interest imposed on underpayments by section 3003.3.

((k) added Dec. 23, 2003, P.L.250, No.46)

(1101 amended Dec. 11, 1979, P.L.499, No.107)

Compiler's Note: Section 2 of Act 52 of 2018, which amended subsection (a)(2) and (3), provided that the amendment of subsection (a)(2) and (3) shall apply retroactively to gross receipts from transactions occurring on or after January 1, 2004, except no claim for refund or credit for a tax paid prior to the effective date of the amendment of subsection (a)(3) shall be based on Act 52.

Compiler's Note: Section 51(9) of Act 84 of 2016, which amended subsections (c), (c.1), (e) and (j) and deleted subsection (b.1), provided that the amendment or deletion of subsections (b.1), (c), (c.1), (e) and (j) shall apply to gross receipts received after December 31, 2016.

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Compiler's Note: Section 14(4) of Act 48 of 2009, which added subsection (b.1), provided that subsection (b.1) shall apply to calendar years beginning after December 31, 2008, and to gross receipts received after September 30, 2009.

Compiler's Note: See section 33 of Act 119 of 2006, which amended subsection (e), in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 33(12) of Act 46 of 2003, which amended section 1101, provided that the amendment shall apply to gross receipts derived from transactions occurring after December 31, 2003.

Compiler's Note: Section 19(3)(v) of Act 23 of 2000, which amended subsection (a), provided that the amendment shall apply to taxable years beginning after December 31, 1999.

Compiler's Note: Section 33(3) of Act 4 of 1999, which amended subsection (a), provided that the amendment shall take effect on January 1 of the first taxable year following enactment of legislation to restructure and deregulate the natural gas utility industry in the Commonwealth and to allow customers to purchase natural gas supply services from their choice of supplier. Section 7 of Act 21 of 1999 provided that Act 21 constitutes the legislation referred to in section 33(3) of Act 4. The Secretary of Revenue shall publish notice of the enactment of Act 21 in the Pennsylvania Bulletin.

Section 1101.1. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

(1101.1 added Mar. 13, 1974, P.L.179, No.32)

Section 1101.2. Establishment of Revenue-Neutral Reconciliation.--Notwithstanding the provisions of 66 Pa.C.S. § 2810(c)(1) (relating to revenue-neutral reconciliation), the rate of tax established under 66 Pa.C.S. § 2810(c)(2) for the period beginning January 1, 2002, shall continue in force without further adjustment for periods beginning January 1, 2003, and thereafter, and the Secretary of Revenue shall not deliver any further reports under 66 Pa.C.S. § 2810(c)(3).

(1101.2 added June 29, 2002, P.L.559, No.89)

PART II
PROCEDURE; ENFORCEMENT; PENALTIES

Section 1102. Procedure; Enforcement; Penalties.--Parts III, IV, VI, and VII of Article IV are incorporated by reference into this article in so far as they are consistent with this article and applicable to the tax imposed hereunder. However, notwithstanding the provisions of subsection (d) of section 403 of this act, if the officers of any corporation subject to tax under this article shall neglect or refuse to make any report as herein required or shall knowingly make any false report, there shall be added by the department to the tax determined to be due a penalty of five per cent of the amount of tax due for each month or fraction thereof until the penalty has reached twenty-five per cent, and thereafter at the rate of one per cent per month. No such amounts added to the tax shall bear any interest whatsoever.

(1102 amended Dec. 23, 1983, P.L.360, No.89)

PART III
REPEALER

Section 1103. Repeal.--Section 23, act of June 1, 1889 (P.L.420), entitled "A further supplement to an act entitled 'An act to provide revenue by taxation,' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," is repealed.

PART IV
DEFINITIONS
(IV added Aug. 4, 1991, P.L.97, No.22)

Section 1104. Definitions.--(1104 repealed May 12, 1999, P.L.26, No.4)

Compiler's Note: Section 33(3) of Act 4 of 1999, which repealed section 1104, provided that the repeal shall take effect on January 1 of the first taxable year following enactment of legislation to restructure

and deregulate the natural gas utility industry in the Commonwealth and to allow customers to purchase natural gas supply services from their choice of supplier. The Secretary of Revenue shall publish notice of the enactment of this legislation in the Pennsylvania Bulletin. Section 7 of Act 21 of 1999 provided that Act 21 constitutes the legislation referred to in section 33(3) of Act 4. The Secretary of Revenue shall publish notice of the enactment of Act 21 in the Pennsylvania Bulletin.

ARTICLE XI-A
PUBLIC UTILITY REALTY TAX
(Art. added July 4, 1979, P.L.60, No.27)

Compiler's Note: Section 6 of Act 27 of 1979, which added Article XI-A, provided that nothing contained in Act 27 shall be construed to relieve any person, corporation or other entity from the filing returns or from any taxes, penalties or interest imposed by the provisions of any laws which were in effect prior to being repealed by Act 27, or affect or terminate any petitions, investigations, prosecutions, legal or otherwise, or other proceedings pending under the provisions of any such laws or prevent the commencement or further prosecution of any proceedings by the proper authorities of the Commonwealth for violation of any such laws or for the assessment, settlement, collection or recovery of taxes, penalties or interest due to the Commonwealth under any of the laws which were in effect prior to being repealed by Act 27.

Section 1101-A. Definitions.--The following words, terms and phrases when used in this article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Department." The Department of Revenue of the Commonwealth of Pennsylvania.

(2) "Public utility." Any person, partnership, association, corporation or other entity furnishing public utility service under the jurisdiction of the Pennsylvania Public Utility Commission or the corresponding regulatory agency of any other state or of the United States on December 31 of the taxable year; and any electric cooperative corporation furnishing public utility service on December 31 of the taxable year, but shall not mean any public utility furnishing public utility sewage services, or municipality or municipality authority furnishing public utility services.

(3) "Utility realty." All lands, together with all buildings, towers, smokestacks, dams, dikes, canals, cooling towers, storage tanks, reactor structures, pump houses, supporting foundations, enclosing structures, supporting structures, containment structures, reactor containment outer shells, reactor containment vessels, turbine buildings, recovery tanks, solid waste area enclosures, primary auxiliary buildings, containment auxiliary safeguard structures, fuel buildings, decontamination buildings, and, all other structures and enclosures whatsoever which are physically affixed to the land, no matter how such structures and enclosures are designated and without regard to the classification thereof for local real estate taxation purposes, but not including machinery and equipment, whether or not housed within such building, structure or enclosure, or, after December 31, 1999, land and improvements to land that are indispensable to the generation of electricity, located within this Commonwealth that at the end of the taxable year are owned by a public utility or its affiliate either directly or by or through a subsidiary and are used or in the course of development or construction for use, in whole or in part, in the furnishing, including producing, storing, distributing or transporting, of public utility service and which are not subject to local real estate taxation under any law in effect on April 23, 1968: Provided, however, That the following specified items shall be exempt from the tax hereby imposed:

(i) Easements or similar interests.

(ii) Railroad beds or rails, land owned or used by a railroad as a right-of-way for a rail line and superstructures thereon. This subclause does not include stations, buildings, warehouses, shops, engine houses, plants or miscellaneous structures or the land appurtenant thereto.

(iii) Pole, transmission tower, pipe, rail or other lines whether or not said lines are attached to the land or to any structure or enclosure which is physically affixed to the land.

(iv) ((iv) deleted by amendment)

(4) "State taxable value." Current market value calculated by adjusting the assessed value for county real estate tax purposes for the taxable year for the common level ratio of assessed values to market values of the county as established by the State Tax Equalization Board after July 1 of the taxable year. During the pendency of an assessment appeal, the term means the amount which the public utility has stipulated or alleged as the current market value for the taxable year.

(5) "Local taxing authority." A county, city, institution district, borough, town, township or school district having authority to impose taxes on real estate.

(6) "Realty tax equivalent." The total amount of real estate taxes which a local taxing authority could have imposed on utility realty for its fiscal year beginning in the taxable year but for this article, and unless otherwise provided shall be the product of the real estate property tax rate and the assessed valuation of utility realty.

(7) "Total tax receipts." The actual amount collected by a local taxing authority under all statutes authorizing the imposition of taxes, but shall not include fines, penalties, fees, licenses or receipts from any source other than taxes.

(8) "Assessed valuation." The assessed valuation of utility realty for county real estate tax purposes contained in the last adjusted valuation for the taxable year.

(9) "Millage rate."

(i) An amount calculated by the department by dividing the amount of the total realty tax equivalent reported to the department under section 1106-A by the amount of the total State taxable value of all utility realty located within this Commonwealth reported under section 1102-A. The amount shall be calculated to four decimal places.

(ii) For taxable year 1998, an amount calculated by the department by dividing the amount of the total State taxable value of all utility realty located within this Commonwealth reporting under section 1102-A into the greater of the total realty tax equivalent reported under section 1106-A or one hundred thirty-three million two hundred thousand dollars ($133,200,000).

(10) "Affiliate." An affiliated interest as defined in 66 Pa.C.S. § 2101 (relating to definition of affiliated interest).

(11) "Subsidiary." An entity:

(i) in which a public utility or affiliate is the beneficial owner, directly or indirectly, of shares of the entity that would entitle the public utility or affiliate to cast in excess of fifty per cent of the votes that all shareholders would be entitled to cast in the election of directors of the entity; or

(ii) which is a partnership, joint venture, limited liability company or similar entity, in which a public utility is a partner, is a participant, is a member or is in a similar relationship.

(12) "Assessment authority." The board of revision of taxes, board for the assessment and revision of taxes of a county, county commissioners in a county with no board of revision of taxes or board for the assessment and revision of taxes, or council of a city of the third class that has not elected to accept county assessments.

(1101-A amended May 12, 1999, P.L.26 No.4)

Section 1102-A. Imposition of Tax; Report; Interest and Penalties; Tentative Tax.--(a) A tax is hereby imposed on the State taxable value of utility realty at a millage rate calculated under subsection (b).

(b) On or before November 1, 1999, for taxable year 1998, and on or before August 1, 2000, for taxable year 1999, and every year thereafter, the department shall calculate the millage rate for the taxable year and notify the public utility of the millage rate and the State taxable value of its utility realty. If an error in addition, subtraction, multiplication or division is present in a report or if an entry on a report is inconsistent with another entry and it is apparent which entry is correct, the millage rate shall be calculated using the correct mathematical result or entry. The public utility shall pay to the State Treasurer through the department a tax equal to the product of the millage rate and the State taxable value within forty-five days after the mailing date of the notice of determination.

(c) On or before May 1, 2000, for taxable year 2000, and every year thereafter, a public utility shall pay tentative tax equal to the lesser of:

(1) The tax imposed by this article for the second preceding taxable year.

(2) An amount equal to the tax computed under the law applicable to the taxable year and the estimated State taxable value of the public utility's utility realty for the taxable year at the rate applicable to the second preceding taxable year, except that the estimated tentative tax shall not be less than ninety per cent of the amount determined by the department to be due for the taxable year.

(d) Any amounts paid for taxable years 1998 and 1999 shall be deemed to be payment on account of tentative tax for those taxable years.

(e) If the tax hereby imposed is not paid by the date herein prescribed, or within any extension granted by the department, the unpaid tax shall bear interest at the rate set forth in section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," and shall in addition be subject to a penalty of five per cent of the amount of the tax, which penalty may be waived or abated, in whole or in part, by the department unless the public utility has acted in bad faith, negligently, or with intent to defraud. If tentative tax is not paid by the date required under this section, the unpaid tentative tax shall bear interest at the rate set forth in section 806 of "The Fiscal Code" for the period of underpayment but not beyond September 15 of the year following the close of the taxable year.

(f) A payment of tax under subsection (c) shall include a report of the amount and manner of computation of the State taxable value of all utility realty and adjustments for the immediate preceding year. The report shall be made as prescribed by the department under oath or affirmation of the owner or responsible officer of the public utility. The report shall include:

(1) The State taxable values, locations and real estate tax parcel identification numbers of all utility realty.

(2) Any adjustment to the State taxable value previously reported under clause (1).

(3) Certified copies of all appeals filed under section 1105-A.

(g) Reports required under this section for taxable year 1998 shall be submitted on or before September 1, 1999.

(1102-A amended May 12, 1999, P.L.26, No.4)

Section 1103-A. Assessment; Collection.--(a) The department shall make all inquiries, determinations and assessments of tax, interest, additions and penalties necessary to enforce this article.

(b) The provisions of sections 337 through 345 shall apply to the assessment and collection of public utility realty tax under this article. A public utility shall not raise a defense or objection in a proceeding that could have been presented as part of an administrative or judicial remedy under section 1105-A or 1109-A.

(c) The amount of any tax or penalty imposed under this article shall be assessed within three years after the close of the taxable year or within one year of a final determination resulting from the public utility's appeal under section 1105-A, whichever is later.

(1103-A amended May 12, 1999, P.L.26, No.4)

Section 1104-A. Effect of Payment; Additional Assessment; Refunds; Rebates.--(a) Payment of, or any exemption from the tax imposed by this article and the distribution to local taxing authorities prescribed by section 1107-A, shall be in lieu of local taxes upon utility realty, as contemplated by Article VIII, section 4, of the Constitution of Pennsylvania.

(b) The department may annually determine for every assessable taxable year whether the total amount of tax due under section 1102-A(a) exceeds the total amount of tax collected and the ratio that the amount of the excess bears to the total State taxable value of all utility realty reported under section 1102-A. The ratio shall be calculated to four decimal places. The department shall notify a reporting public utility of the ratio. Within forty-five days of the mailing date of the notice, the public utility shall pay to the State Treasurer, through the department, an additional amount of tax equal to the product of the ratio and the State taxable value shown in the public utility's report under section 1102-A. Section 1103-A shall apply to the additional amount of tax.

(c) If for a taxable year the amount due on notice of determination is less than the amount paid by the public utility to the department on account of that amount and the public utility is satisfied with the amount due, the department shall enter the amount of the difference as a credit to the account of the public utility.

(d) If for a taxable year the total amount of tax collected under section 1102-A is finally determined to exceed the amount determined by the department under section 1107-A(a)(2) or if for taxable year 1998 the total amount of tax collected under section 1102-A is finally determined to exceed the greater of the total State taxable value of all utility realty reported to the department pursuant to section 1102-A or one hundred thirty-three million two hundred thousand dollars ($133,200,000), the department shall compute the ratio, to four decimal places, that the amount of the excess bears to the total State taxable value of all utility realty under 1102-A. The department shall notify the reporting public utility of the ratio, and the State Treasurer shall rebate the excess to the public utility as a credit in an amount equal to the product of the ratio and the State taxable value of its utility realty. For purposes of section 806.1 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," any amount rebated shall be deemed to have been overpaid seventy-five days following the date of notice.

(1104-A amended May 12, 1999, P.L.26, No.4)

Section 1105-A. Local Assessment of Utility Realty; Initial Assessment; Procedure and Appeals.--(a) It shall be the duty of the several elected and appointed assessors of real property to assess, value and enroll all utility realty in the same manner as is provided by law for the assessment, valuation and enrollment of real estate. After December 31, 1998, assessors shall enroll utility realty separately from the other real estate of a public utility, affiliate or subsidiary.

(b) Such utility realty shall be initially assessed on or before October 1, 1970, whichever is later, and thereafter shall be assessed or reassessed at the same time and in the same manner as real estate.

(c) Except as provided in subsection (d), a public utility may appeal from the assessment of its utility realty, including the initial assessment, in the manner provided by law for appeals from assessment of real estate. If appeals are pending at the time a local taxing authority prepares its report for submission to the department as prescribed by section 1106-A, the report shall include as the assessment for the utility realty appealed the amount which the public utility has stipulated or alleged as the proper assessment.

(d) Notwithstanding any other provision of law, for taxable years 1998 and 1999, a public utility may file an appeal from the assessment of its utility realty on or before July 30, 1999.

(e) In an administrative or court proceeding under this section regarding the local assessment of utility realty, a local taxing authority

that has substantially prevailed may be awarded reasonable costs incurred in relation to the administrative or court proceeding.

(1105-A amended May 12, 1999, P.L.26, No.4)

Section 1106-A. Reports by Local Taxing Authorities.--(a) Except for taxable year 1998, on or before the first day of April of 1971 and of each year thereafter, each local taxing authority shall submit to the department as prescribed by the department:

(1) The name and address of each public utility owning utility realty within its jurisdiction, and the assessed valuations, State taxable values, realty tax equivalents, real estate tax rates and real estate parcel identification numbers of such utility realty for the local taxing authority's fiscal year which began in the taxable year.

(2) ((2) deleted by amendment)

(3) ((3) deleted by amendment)

(4) Its total tax receipts for its last completed fiscal year.

(5) Any adjustment to the assessed values, tax rates, realty tax equivalents or total tax receipts previously reported pursuant to clauses (1) and (4).

(b) If a local taxing authority shall fail to file the report required by subsection (a) by the date therein prescribed, or within any extension granted by the department, it shall forfeit its right to share in the next-ensuing distribution made pursuant to section 1107-A.

(c) Notwithstanding section 731 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," relating to confidential information, reports filed under this section shall be public.

(d) A report filed by a local taxing authority shall be deemed to be prima facie correct unless rebutted by a preponderance of the evidence.

(e) If an amount reported under section 1102-A or this section is finally changed or corrected under section 1105-A or 1109-A, the local taxing authority and the public utility shall make a compensating adjustment on the first report filed following the change or corrections as an adjustment to the taxable year's total realty tax equivalent and total State taxable value so that amounts raised under this article shall not be less than the gross amount of real estate taxes which a local taxing authority could have imposed on real property but for the exemption provided under this article.

(f) A report required by this section for taxable year 1998 shall be submitted on or before September 1, 1999.

(1106-A amended May 12, 1999, P.L.26, No.4)

Section 1106.1-A. Duplicates.--(a) By July 1, 1999, the appropriate assessment authority shall provide written notice to all public utilities of the assessment, valuation and predetermined ratio relating to utility realty for the current and immediate preceding fiscal year and the requirements to appeal the assessment, valuation or ratio.

(b) By April 1, 2000, and every year thereafter, the appropriate assessment authority shall provide written notice to a public utility of a new or changed assessment, valuation and predetermined ratio and the requirements to appeal the assessment, valuation or ratio.

(1106.1-A added May 12, 1999, P.L.26, No.4)

Section 1106.2-A. Affiliates and Subsidiaries.--An affiliate or subsidiary of a public utility shall notify the local taxing authority in which the utility realty is located within thirty days if the entity is no longer an affiliate or subsidiary of the public utility.

(1106.2-A added May 12, 1999, P.L.26, No.4)

Section 1107-A. Distribution to Local Taxing Authorities.--(a) From the reports received by it in each year pursuant to section 1106-A, the department shall determine:

(1) The total tax receipts shown in all such reports.

(2) The total realty tax equivalent shown in all such reports.

(b) Except as provided in subsection (b.1), on or before the first day of October of 1971 and of each year thereafter, the department shall distribute to each reporting local taxing authority its share of the total realty tax equivalent determined pursuant to subsection (a)(2), which share

shall be the ratio which the total tax receipts reported by that local taxing authority bear to the total tax receipts determined pursuant to subsection (a)(1).

(b.1) On or before October 1, 1999, the department shall distribute to each reporting local taxing authority its share of the greater of:

(1) the total realty tax equivalent determined pursuant to subsection (b); or

(2) one hundred thirty-three million two hundred thousand dollars ($133,200,000).

(c) For the purpose of making such payment, the department shall make requisition therefor in the manner prescribed by "The Fiscal Code."

(1107-A amended May 12, 1999, P.L.26, No.4)

Section 1108-A. Legislative Intent.--(a) It is the legislative intent that the tax imposed by this act shall be in addition to any tax now or hereafter imposed upon the gross receipts of public utilities under the act of June 1, 1889 (P.L.420, No.332), and this act shall not be construed in any manner as to constitute a replacement for or a repealer of the above cited act.

(b) It is specifically declared as the legislative intent of the General Assembly that for purposes of imposition or nonimposition of tax herein, that this Article XI-A shall not be construed or determined in any way by any court of record that this article is in pari materia with any county assessment law heretofore or hereafter enacted, nor shall such courts have the authority to construe the tax assessment base relating to industrial realty classification under such county assessment laws as being in conformity with or in any way applicable to the utility realty tax assessment base as defined in this article. Accordingly, whether or not public utility property is subject to tax or is exempted from tax under this article shall be determined solely by the application of the term "utility realty," as that term is specifically defined by the General Assembly under section 1101-A(3).

(1108-A added July 4, 1979, P.L.60, No.27)

Section 1109-A. Objections by Public Utilities.--(a) Except as provided in subsection (b), a public utility may appeal a finding affecting the calculation of the millage rate, additional assessment or rebate by filing a petition for recalculation with the Board of Finance and Revenue within thirty days after the date of notice of the millage rate, assessment or rebate. The petition shall include evidence that the finding is incorrect and arguments substantiating its claim.

(b) A defense in a proceeding for the collection of the tax under this article or an objection raised as part of a proceeding may not be raised if the defense or objection could have been presented had the person appealed under subsection (a).

(c) The petition shall include an affidavit that it is not made for the purpose of delay and that the facts set forth therein are true.

(d) The Board of Finance and Revenue shall dispose of the petition for recalculation within thirty days of its receipt.

(e) The action of the Board of Finance and Revenue on a petition filed under this section shall be final.

(f) For purposes of this section, the term "finding" shall mean:

(1) an entry on a report that is inconsistent with another entry, the correctness of which is apparent; or

(2) a ministerial computation that is made without the use of administrative discretion or judgment.

(1109-A added May 12, 1999, P.L.26, No.4)

Section 1110-A. Tax Transitions Impact Limitations.--(a) Notwithstanding any provision of this article to the contrary:

(1) The total tax imposed on the utility realty of a public utility for taxable year 1998 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 1997. This clause shall not apply to the calculation of the millage rate under sections 1102-A(b) and 1104-A(b).

(2) The total tax imposed on the utility realty of a public utility for taxable year 1999 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 1998.

(3) The total tax imposed on the utility realty of a public utility for taxable year 2000 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 1999.

(4) The total tax imposed on the utility realty of a public utility for taxable year 2001 shall not exceed two hundred fifty per cent of the total tax imposed upon such utility realty for taxable year 2000.

(5) For purposes of this subsection, any reduction in a public utility's total tax liability as a result of the two hundred fifty per cent limitation shall not exceed one hundred thousand dollars ($100,000) in each of the taxable years specified in clauses (1) through (4).

(b) Any portion of the total assessed valuations of utility realty of a public utility which is excluded under subsection (a) in any taxable year shall not be included in the calculations required under this article for that taxable year.

(c) The Secretary of Revenue shall transfer funds to the Public Transportation Assistance Fund as a result of any impact this section may have on revenue received under section 2301.

(d) As used in this section, the term "total tax" means the sum of taxes paid under sections 1102-A and 1104-A.

(1110-A added May 24, 2000, P.L.106, No.23)

Compiler's Note: Section 19(9) of Act 23 of 2000, which added section 1110-A, provided that section 1110-A shall apply to taxable years beginning after December 31, 1997.

Section 1111-A. Surcharge.--(a) By August 1, 2003, and by each August 1 thereafter, the Attorney General shall certify to the department a report containing the total reduction of liabilities, paid or unpaid, to the Commonwealth which are the result of a final adjudication of litigation or a settlement of litigation entered into by the Office of Attorney General for claims made under this article during the prior fiscal year.

(b) By August 1, 2003, and by each August 1 thereafter, the State Treasurer shall certify to the department a report containing the total reduction of liabilities, paid or unpaid, to the Commonwealth granted by the Board of Finance and Revenue which are the result of a final order not appealed by the department for claims made under this article during the prior fiscal year.

(c) If the total reduction of liabilities reported to the department under subsections (a) and (b) exceed five million dollars ($5,000,000) for the fiscal year, each entity subject to the tax imposed by section 1101 shall pay to the Commonwealth a surcharge upon each dollar of the gross receipts required to be reported under section 1101, except gross receipts from providing mobile telecommunications services and telegraph or telephone messages transmitted in interstate commerce, at the rate determined in accordance with subsection (d) for the following calendar year.

(d) The Secretary of Revenue shall establish a surcharge rate by adding the total reduction in liabilities reported to the department under subsections (a) and (b) and dividing the sum by the total amount of taxable gross receipts reported to the department under section 1101, except gross receipts from providing mobile telecommunications services and telegraph or telephone messages transmitted in interstate commerce, for the prior calendar year or settled by the department as of August 1 in the year the return is due. The surcharge rate shall be rounded to four decimal places, certified by the Secretary of Revenue to the Appropriations Committee of the Senate and the Appropriations Committee of the House of Representatives and published by the department by October 1, 2003, and by each October 1 thereafter in the Pennsylvania Bulletin.

(e) If a surcharge is imposed for a calendar year, the secretary shall require entities subject to the surcharge to file a report consistent with the requirements of section 1101 by March 15 of that calendar year.

(f) The surcharge imposed by subsection (c) shall be paid within the time prescribed by law. Parts III, IV, V, VI and VII of Article IV are incorporated by reference into this section insofar as they are consistent with this section and applicable to the surcharge imposed hereunder.

(1111-A amended Dec. 23, 2003, P.L.250, No.46)

Section 1112-A. Additional Tax.--Every entity required to pay the tax imposed under this article shall, in addition to that tax, pay an additional tax of seven and six-tenths (7.6) mills upon each dollar of the State taxable value of its utility realty.

(1112-A added Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(12.1) of Act 46 of 2003, which added section 1112-A, provided that section 1112-A shall apply to deposits into the Transportation Assistance Fund made after June 30, 2003.

ARTICLE XI-B
FUEL TAXES
(Art. XI-B repealed Apr. 17, 1997, P.L.6, No.3)

PART I
LIQUID FUELS TAX
(Pt. I repealed Apr. 17, 1997, P.L.6, No.3)

Section 1101-B. Imposition of Additional Tax.--(1101-B repealed Apr. 17, 1997, P.L.6, No.3)

Section 1102-B. Payment to Motor License Fund.--(1102-B repealed Apr. 17, 1997, P.L.6, No.3)

PART II
FUEL USE TAX
(Pt. II repealed Apr. 17, 1997, P.L.6, No.3)

Section 1121-B. Additional Tax Imposed.--(1121-B repealed Apr. 17, 1997, P.L.6, No.3)

ARTICLE XI-C
REALTY TRANSFER TAX
(Art. added May 5, 1981, P.L.36, No.14)

Compiler's Note: See section 2 of Act 175 of 2016 in the appendix to this act for special provisions relating to time limitations for filing petition for refund.

Compiler's Note: See section 23 of Act 40 of 2005 in the appendix to this act for special provisions relating to continuation of ordinaces and resolutions.

Compiler's Note: Section 5 of Act 14 of 1981, which added Article XI-C, provided that the validity of any law or any ordinance or part of law or of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by the Commonwealth or any political subdivision thereof, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in Article XI-C.

Section 1101-C. Definitions.--The following words when used in this article shall have the meanings ascribed to them in this section:

"Agricultural production." As defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law."

(Def. added June 28, 2019, P.L.50, No.13)

"Association." A general partnership, limited partnership, limited liability partnership or any other form of unincorporated enterprise, owned

or conducted by two or more persons other than a private trust or decedent's estate. (Def. amended July 2, 2012, P.L.751, No.85)

"Conservancy." A corporation or association that possesses a tax-exempt status pursuant to section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)) and which has as its primary purpose preservation of land for historic, recreational, scenic, agricultural or open-space opportunities. (Def. added July 13, 2016, P.L.526, No.84)

"Corporation." A corporation, joint-stock association, business trust or banking institution which is organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency.

"Department." The Department of Revenue of this Commonwealth.

"Document." Any deed, instrument or writing which conveys, transfers, demises, vests, confirms or evidences any transfer or demise of title to real estate in this Commonwealth, but does not include wills, mortgages, deeds of trust or other instruments of like character given as security for a debt and deeds of release thereof to the debtor, land contracts whereby the legal title does not pass to the grantee until the total consideration specified in the contract has been paid or any cancellation thereof unless the consideration is payable over a period of time exceeding thirty years or instruments which solely grant, vest or confirm a public utility easement. "Document" shall also include a declaration of acquisition required to be presented for recording under section 1102-C.5 of this article. (Def. amended June 30, 2021, P.L.124, No.25)

"Family farm business." A corporation or association of which at least seventy-five per cent of its assets are devoted to the business of agriculture and at least seventy-five per cent of each class of stock of the corporation or the interests in the association is continuously owned by members of the same family. The business of agriculture shall include the leasing to members of the same family or the leasing to a corporation or association owned by members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

(1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;

(2) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;

(3) fur farming;

(4) stockyard and slaughterhouse operations; or

(5) manufacturing or processing operations of any kind.

(Def. added July 2, 2012, P.L.751, No.85)

"Family farm corporation." (Def. deleted by amendment July 2, 2012, P.L.751, No.85)

"Family farm partnership." (Def. deleted by amendment July 2, 2012, P.L.751, No.85)

"Living trust." Any trust, other than a business trust, intended as a will substitute by the settlor which becomes effective during the lifetime of the settlor, but from which trust distributions cannot be made to any beneficiaries other than the settlor prior to the death of the settlor. (Def. added May 7, 1997, P.L.85, No.7)

"Members of the same family." Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood.

"Ordinary trust." Any trust, other than a business trust or a living trust, which takes effect during the lifetime of the settlor and for which the trustees of the trust take title to property primarily for the purpose of protecting, managing or conserving it until distribution to the named beneficiaries of the trust. An ordinary trust does not include a trust that

has an objective to carry on business and divide gains, nor does it either expressly or impliedly have any of the following features: the treatment of beneficiaries as associates, the treatment of the interests in the trust as personal property, the free transferability of beneficial interests in the trust, centralized management by the trustee or the beneficiaries, or continuity of life. (Def. added May 7, 1997, P.L.85, No.7)

"Person." Every natural person, association, or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term "person" as applied to associations, shall include the responsible members or general partners thereof, and as applied to corporations, the officers thereof.

"Qualified beginner farmer." A person that:

(1) Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the Department of Agriculture.

(2) Has not received Federal gross income from agricultural production for more than the ten most recent taxable years.

(3) Intends to engage in agricultural production within the borders of this Commonwealth and to provide the majority of the labor and management involved in that agricultural production.

(4) Has obtained written certification from the Department of Agriculture confirming qualified beginner farmer status.

(Def. added June 28, 2019, P.L.50, No.13)

"Real estate."

(1) Any lands, tenements or hereditaments, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

(2) A condominium unit.

(3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

(Def. amended July 9, 2013, P.L.270, No.52)

"Real estate company." A corporation or association which meets any of the following:

(1) Is primarily engaged in the business of holding, selling or leasing real estate ninety per cent or more of the ownership interest in which is held by thirty-five or fewer persons and which:

(i) derives sixty per cent or more of its annual gross receipts from the ownership or disposition of real estate; or

(ii) holds real estate, the value of which comprises ninety per cent or more of the value of its entire tangible asset holdings exclusive of tangible assets which are freely transferable and actively traded on an established market.

(2) Ninety per cent or more of the ownership interest in the corporation or association is held by thirty-five or fewer persons, and the corporation or association owns, as ninety per cent or more of the fair market value of its assets, a direct or indirect interest in a real estate company. An indirect ownership interest is an interest in a corporation or association, ninety per cent or more of the ownership interest which is held by thirty-five or fewer persons whose purpose is the ownership of a real estate company.

(Def. amended July 9, 2013, P.L.270, No.52)

"Title to real estate."

(1) Any interest in real estate which endures for a period of time, the termination of which is not fixed or ascertained by a specific number of years, including, without limitation, an estate in fee simple, life estate or perpetual leasehold; or

(2) any interest in real estate enduring for a fixed period of years but which, either by reason of the length of the term or the grant of a right to extend the term by renewal or otherwise, consists of a group of

rights approximating those of an estate in fee simple, life estate or perpetual leasehold, including, without limitation, a leasehold interest or possessory interest under a lease or occupancy agreement for a term of thirty years or more or a leasehold interest or possessory interest in real estate in which the lessee has equity.

"Transaction." The making, executing, delivering, accepting, or presenting for recording of a document.

"Value."

(1) In the case of any bona fide sale of real estate at arm's length for actual monetary worth, the amount of the actual consideration therefor, paid or to be paid, including liens or other encumbrances thereon existing before the transfer and not removed thereby, whether or not the underlying indebtedness is assumed, and ground rents, or a commensurate part thereof where such liens or other encumbrances and ground rents also encumber or are charged against other real estate: Provided, That where such documents shall set forth a nominal consideration, the "value" thereof shall be determined from the price set forth in or actual consideration for the contract of sale;

(2) in the case of a gift, sale by execution upon a judgment or upon the foreclosure of a mortgage by a judicial officer, transactions without consideration or for consideration less than the actual monetary worth of the real estate, a taxable lease, an occupancy agreement, a leasehold or possessory interest, any exchange of properties, or the real estate of an acquired company, the actual monetary worth of the real estate determined by adjusting the assessed value of the real estate for local real estate tax purposes for the common level ratio of assessed values to market values of the taxing district as established by the State Tax Equalization Board, or a commensurate part of the assessment where the assessment includes other real estate;

(3) in the case of an easement or other interest in real estate the value of which is not determinable under clause (1) or (2), the actual monetary worth of such interest; or

(4) the actual consideration for or actual monetary worth of any executory agreement for the construction of buildings, structures or other permanent improvements to real estate between the grantor and other persons existing before the transfer and not removed thereby or between the grantor, the agent or principal of the grantor or a related corporation, association or partnership and the grantee existing before or effective with the transfer.

"Veterans' service organization." A not-for-profit organization that has been chartered by the Congress of the United States to service veterans or is a member of the State Veterans' Commission under 51 Pa.C.S. Ch. 17 (relating to State Veterans' Commission and Deputy Adjutant General for Veterans' Affairs). (Def. amended Oct. 30, 2017, P.L.672, No.43)

"Volunteer emergency medical services agency." The term shall have the same meaning as given to the term "volunteer ambulance service" in 35 Pa.C.S. § 7802 (relating to definitions). (Def. added July 9, 2013, P.L.270, No.52)

"Volunteer fire company." As defined in 35 Pa.C.S. § 7802 (relating to definitions). (Def. added July 9, 2013, P.L.270, No.52)

"Volunteer rescue company." As defined in 35 Pa.C.S. § 7802 (relating to definitions). (Def. added July 9, 2013, P.L.270, No.52)

(1101-C amended July 2, 1986, P.L.318, No.77)

Compiler's Note: See Act 25 of 2021 in the appendix to this act for special provisions relating to findings and declarations.

Compiler's Note: Act 84 of 2016 added the definitions of "conservancy" and "veterans' organization" in section 1101-C.

Section 51(11)(i) of Act 84 provided that the addition of the definitions of "conservancy" and "veterans' organization" shall apply to transfers at least 60 days following the effective date of section 51.

Section 51(11) of Act 84 was amended November 21, 2016, P.L.1517, No.175, retroactive to July 13, 2016.

Section 51(11)(i)(A) of Act 84, as amended, provided that the addition of the definition of "conservancy" in section 1101-C shall apply to transfers made after December 31, 2012, and section 51(11)(ii)(A) of Act 84, as amended, provided that the addition of the definition of "veterans' organization" shall apply to transfers made after September 12, 2016.

Compiler's Note: Section 27 of Act 85 of 2012, which amended the definition of "association," deleted the definitions of "family farm corporation" and "family farm partnership" and added the definition of "family farm business," provided that a reference in any law to the former "family farm corporation" or "family farm partnership" in section 1101-C shall be deemed to be references to a "family farm business" under section 1101-C.

Section 30(4) of Act 85 provided that the amendment of section 1101-C shall apply retroactively to any document made, executed, delivered, accepted or presented for recording on or after July 1, 2010.

Compiler's Note: The term "volunteer ambulance service," referred to in the definition of "volunteer emergency medical services agency," was amended by the act of June 30, 2016 (P.L.432, No.60).

Section 1102-C. Imposition of Tax.--Every person who makes, executes, delivers, accepts or presents for recording any document or in whose behalf any document is made, executed, delivered, accepted or presented for recording, shall be subject to pay for and in respect to the transaction or any part thereof, or for or in respect of the vellum parchment or paper upon which such document is written or printed, a State tax at the rate of one per cent of the value of the real estate within this Commonwealth represented by such document, which State tax shall be payable at the earlier of the time the document is presented for recording or within thirty days of acceptance of such document or within thirty days of becoming an acquired company.

(1102-C amended July 9, 2013, P.L.270, No.52)

Section 1102-C.1. Recapture of Tax.--(1102-C.1 repealed July 2, 1986, P.L.318, No.77)

Section 1102-C.2. Exempt Parties.--The United States, the Commonwealth or any of their instrumentalities, agencies or political subdivisions, or veterans' service organizations shall be exempt from payment of the tax imposed by this article. The exemption under this section shall not, however, relieve any other party to a transaction from liability for the tax.

(1102-C.2 amended Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: Act 84 of 2016 amended section 1102-C.2. Section 51(11)(ii) of Act 84 provided that the amendment shall apply to transfers at least 60 days following the effective date of section 51 of Act 84.

Section 51(11) of Act 84 was amended November 21, 2016, P.L.1517, No.175, retroactive to July 13, 2016.

Section 51(11)(ii)(B) of Act 84, as amended, provided that the amendment shall apply to transfers made after September 12, 2016.

Section 1102-C.3. Excluded Transactions.--The tax imposed by section 1102-C shall not be imposed upon:

(1) A transfer to the Commonwealth or to any of its instrumentalities, agencies or political subdivisions by gift, dedication or deed in lieu of condemnation or deed of confirmation in connection with condemnation proceedings, or a reconveyance by the condemning body of the property condemned to the owner of record at the time of condemnation, which reconveyance may include property line adjustments provided said reconveyance is made within one year from the date of condemnation.

(2) A document which the Commonwealth is prohibited from taxing under the Constitution or statutes of the United States.

(3) A conveyance to a municipality, township, school district or county pursuant to acquisition by the municipality, township, school district or county of a tax delinquent property at sheriff sale or tax claim bureau sale.

(4) A transfer for no or nominal actual consideration which corrects or confirms a transfer previously recorded, but which does not extend or limit existing record legal title or interest.

(5) A transfer of division in kind for no or nominal actual consideration of property passed by testate or intestate succession and held by cotenants; however, if any of the parties take shares greater in value than their undivided interest, tax is due on the excess.

(6) A transfer between husband and wife, between persons who were previously husband and wife who have since been divorced, provided the property or interest therein subject to such transfer was acquired by the husband and wife or husband or wife prior to the granting of the final decree in divorce, between parent and child or the spouse of such child, between a stepparent and a stepchild or the spouse of the stepchild, between brother or sister or spouse of a brother or sister and brother or sister or the spouse of a brother or sister and between a grandparent and grandchild or the spouse of such grandchild, except that a subsequent transfer by the grantee within one year shall be subject to tax as if the grantor were making such transfer. ((6) amended July 2, 2012, P.L.751, No.85)

(7) A transfer for no or nominal actual consideration of property passing by testate or intestate succession from a personal representative of a decedent to the decedent's devisee or heir.

(8) A transfer for no or nominal actual consideration to a trustee of an ordinary trust where the transfer of the same property would be exempt if the transfer was made directly from the grantor to all of the possible beneficiaries that are entitled to receive the property or proceeds from the sale of the property under the trust, whether or not such beneficiaries are contingent or specifically named. A trust clause which identifies the contingent beneficiaries by reference to the heirs of the trust settlor as determined by the laws of the intestate succession shall not disqualify a transfer from the exclusion provided by this clause. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the trust instrument that clearly identifies the grantor and all possible beneficiaries. ((8) amended May 7, 1997, P.L.85, No.7)

(8.1) A transfer for no or nominal actual consideration to a trustee of a living trust from the settlor of the living trust. No such exemption shall be granted unless the recorder of deeds is presented with a copy of the living trust instrument. ((8.1) added May 7, 1997, P.L.85, No.7)

(9) A transfer for no or nominal actual consideration from a trustee of an ordinary trust to a specifically named beneficiary that is entitled to receive the property under the recorded trust instrument or to a contingent beneficiary where the transfer of the same property would be exempt if the transfer was made by the grantor of the property into the trust to that beneficiary. However, any transfer of real estate from a living trust during the settlor's lifetime shall be considered for the purposes of this article as if such transfer were made directly from the settlor to the grantee. ((9) amended May 7, 1997, P.L.85, No.7)

(9.1) A transfer for no or nominal actual consideration from a trustee of a living trust after the death of the settlor of the trust or from a trustee of a trust created pursuant to the will of a decedent to a beneficiary to whom the property is devised or bequeathed. ((9.1) added May 7, 1997, P.L.85, No.7)

(9.2) A transfer for no or nominal actual consideration from the trustee of a living trust to the settlor of the living trust if such property was originally conveyed to the trustee by the settlor. ((9.2) added May 7, 1997, P.L.85, No.7)

(10) A transfer for no or nominal actual consideration from trustee to successor trustee.

(11) A transfer:

(i) for no or nominal actual consideration between principal and agent or straw party; or

(ii) from or to an agent or straw party where, if the agent or straw party were his principal, no tax would be imposed under this article. Where the document by which title is acquired by a grantee or statement of value fails to set forth that the property was acquired by the grantee from, or for the benefit of, his principal, there is a rebuttable presumption that the property is the property of the grantee in his individual capacity if the grantee claims an exemption from taxation under this clause.

(12) A transfer made pursuant to the statutory merger or consolidation of a corporation or statutory division of a nonprofit corporation, except where the department reasonably determines that the primary intent for such merger, consolidation or division is avoidance of the tax imposed by this article.

(13) A transfer from a corporation or association of real estate held of record in the name of the corporation or association where the grantee owns stock of the corporation or an interest in the association in the same proportion as his interest in or ownership of the real estate being conveyed and where the stock of the corporation or the interest in the association has been held by the grantee for more than two years.

(14) A transfer from a nonprofit industrial development agency or authority to a grantee of property conveyed by the grantee to that agency or authority as security for a debt of the grantee or a transfer to a nonprofit industrial development agency or authority.

(15) A transfer from a nonprofit industrial development agency or authority to a grantee purchasing directly from it, but only if:

(i) the grantee shall directly use such real estate for the primary purpose of manufacturing, fabricating, compounding, processing, publishing, research and development, transportation, energy conversion, energy production, pollution control, warehousing or agriculture; and

(ii) the agency or authority has the full ownership interest in the real estate transferred.

(16) A transfer by a mortgagor to the holder of a bona fide mortgage in default in lieu of a foreclosure or a transfer pursuant to a judicial sale in which the successful bidder is the bona fide holder of a mortgage, unless the holder assigns the bid to another person.

(17) Any transfer between religious organizations or other bodies or persons holding title for a religious organization if such real estate is not being or has not been used by such transferor for commercial purposes.

(18) Any of the following:

(i) A transfer to a conservancy.

(ii) A transfer from a conservancy to the United States, the Commonwealth or to any of their instrumentalities, agencies or political subdivisions.

(iii) A transfer from a conservancy where the real estate is encumbered by a perpetual agricultural conservation easement as defined by the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," and such conservancy has owned the real estate for at least two years immediately prior to the transfer.

(iv) A transfer of an agricultural conservation easement to or from the Commonwealth, a county, a local government unit or a conservancy under authority of the "Agricultural Area Security Law."

(v) A transfer of a conservation easement or preservation easement under the act of June 22, 2001 (P.L.390, No.29), known as the "Conservation and Preservation Easements Act."

(vi) A transfer of a perpetual historic preservation easement, a perpetual public trail easement or other perpetual public recreational use easement, a perpetual scenic preservation easement or a perpetual open-space preservation easement to or from the United States, the Commonwealth, a county, a local government unit or a conservancy.

(vii) A transfer of real estate that is subject to an agricultural conservation easement established under authority of the act of June 30,

1981 (P.L.128, No.43), known as the "Agricultural Area Security Law," to a qualified beginner farmer. ((vii) added June 28, 2019, P.L.50, No.13)

((18) amended July 13, 2016, P.L.526, No.84)

(19) A transfer of real estate devoted to the business of agriculture to a family farm business by:

(i) a member of the same family which directly owns at least seventy-five per cent of each class of the stock thereof or the interests in that family farm business; or

(ii) a family farm business, which family directly owns at least seventy-five per cent of each class of stock thereof or the interests in that family farm business.

((19) amended July 2, 2012, P.L.751, No.85)

(19.1) ((19.1) deleted by amendment July 2, 2012, P.L.751, No.85)

(20) A transfer between members of the same family of an ownership interest in a real estate company or family farm business that owns real estate. ((20) amended July 2, 2012, P.L.751, No.85)

(21) A transaction wherein the tax due is one dollar ($1) or less.

(22) Leases for the production or extraction of coal, oil, natural gas or minerals and assignments thereof.

In order to exercise any exclusion provided in this section, the true, full and complete value of the transfer shall be shown on the statement of value. For leases of coal, oil, natural gas or minerals, the statement of value may be limited to an explanation of the reason such document is not subject to tax under this article.

(23) A transfer of real estate to or by a volunteer EMS company, volunteer fire company or volunteer rescue company as those terms are defined in 35 Pa.C.S. § 7802 (relating to definitions).

(i) ((i) deleted by amendment)

(ii) ((ii) deleted by amendment)

((23) amended July 23, 2020, P.L. 654, No.66)

(24) A transfer of real estate to or by a land bank. For the purposes of this clause, the term "land bank" shall have the same meaning as given to it in 68 Pa.C.S. § 2103 (relating to definitions). ((24) added July 13, 2016, P.L.526, No.84)

(25) Beginning on or after December 31, 2015, a transfer of real estate by a housing authority created under the act of May 28, 1937 (P.L.955, No.265), referred to as the Housing Authorities Law, to a nonprofit organization which is utilizing the real estate for the purpose of Rental Assistance Demonstration administered by the United States Department of Housing and Urban Development under the Consolidated and Further Continuing Appropriations Act, 2012 (Public Law 112-55, 125 Stat. 552). ((25) added Oct. 24, 2018, P.L.675, No.100)

(1102-C.3 added July 2, 1986, P.L.318, No.77)

Compiler's Note: Section 2 of Act 66 of 2020 provided that the amendment of paragraph (23) shall be retroactive to January 1, 2019.

Compiler's Note: Section 4 of Act 100 of 2018 provided that the addition of paragraph (25) shall apply to a county of the fifth class with a population of between 115,000 and 118,000 in the 2010 Federal Decennial Census which filed an appeal with the Board of Finance and Revenue after December 31, 2015.

Act 84 of 2016 amended paragraph (18) and added paragraph (24) in section 1102-C.3. Section 51(11)(iii) of Act 84 provided that the amendment or addition of paragraphs (18) and (24) shall apply to transfers at least 60 days following the effective date of section 51 of Act 84.

Section 51(11) of Act 84 was amended November 21, 2016, P.L.1517, No.175, retroactive to July 13, 2016.

Section (51)(11)(i)(B) of Act 84, as amended, provided that the amendment or addition of paragraphs (18) and (24) in section 1102-C.3 shall apply to transfers made after December 31, 2012.

Compiler's Note: Section 42(3) of Act 52 of 2013, which added par (23), provided that par. (23) shall apply to transactions occurring on or

after November 1, 2011.

Compiler's Note: Section 30(4) of Act 85 of 2012, which amended section 1102-C.5, provided that the amendment shall apply retroactively to any document made, executed, delivered, accepted or presented for recording on or after July 1, 2010.

Section 1102-C.4. Documents Relating to Associations or Corporations and Members, Partners, Stockholders or Shareholders Thereof.--Except as otherwise provided in sections 1102-C.3 and 1102-C.5, documents which make, confirm or evidence any transfer or demise of title to real estate between associations or corporations and the members, partners, shareholders or stockholders thereof are fully taxable. For the purposes of this article, corporations and associations are entities separate from their members, partners, stockholders or shareholders.

(1102-C.4 amended June 30, 2021, P.L.124, No.25)

Compiler's Note: See Act 25 of 2021 in the appendix to this act for special provisions relating to findings and declarations.

Compiler's Note: Section 30(4) of Act 85 of 2012, which amended section 1102-C.4, provided that the amendment shall apply retroactively to any document made, executed, delivered, accepted or presented for recording on or after July 1, 2010.

Section 1102-C.5. Acquired Company.--(a) A real estate company is an acquired company upon a change in the ownership interest in the company, however effected, if the change:

(1) does not affect the continuity of the company; and

(2) of itself or together with prior changes has the effect of transferring, directly or indirectly, ninety per cent or more of the total ownership interest in the company within a period of three years.

(3) For the purposes of paragraph (2), a transfer occurs within a period of three years of another transfer or transfers if, during the period, the transferring party provides the transferee a legally binding commitment or option, enforceable at a future date, to execute the transfer.

((a) amended July 9, 2013, P.L.270, No.52)

(b) (Deleted by amendment).

(b.1) (Deleted by amendment).

(b.2) A family farm business is an acquired company when, because of voluntary or involuntary dissolution, it ceases to be a family farm business or when, because of the issuance or transfer of stock in the corporation or transfer of interests in the association or because of acquisition or transfer of assets that are devoted to the business of agriculture, it fails to meet the minimum requirements of a family farm business under this article.

(b.3) The conveyance of assets held by one family farm business to another family farm business shall not be considered a transfer of assets under this article if the same individuals hold at least fifty per cent of the ownership interest in each family farm business.

(c) Within thirty days after becoming an acquired company, the company shall present a declaration of acquisition with the recorder of each county in which it holds real estate for the affixation of documentary stamps and recording. Such declaration shall set forth the value of real estate holdings of the acquired company in such county.

(1102-C.5 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 30(4) of Act 85 of 2012, which amended section 1102-C.4, provided that the amendment shall apply retroactively to any document made, executed, delivered, accepted or presented for recording on or after July 1, 2010.

Section 30(5) of Act 85 provided that subsec. (a)(3) shall not apply to a transaction or a series of transactions occurring in part or entirely before January 1, 2013.

Section 1102-C.6. Transfer of Tax.--(a) Beginning July 31, 2019, and each July 31 thereafter, the State Treasurer shall transfer from the

General Fund to the Housing Affordability and Rehabilitation Enhancement Fund under Article IV-D of the act of December 3, 1959 (P.L.1688, No.621), known as the "Housing Finance Agency Law," an amount under subsection (b).

(1) ((1) deleted by amendment).

(2) ((2) deleted by amendment).

((a) amended July 11, 2024, P.L.674, No.56)

(b) The amount transferred under subsection (a) shall be equal to the following:

(1) For each fiscal year beginning after June 30, 2019, and ending prior to July 1, 2023, forty million dollars ($40,000,000).

(2) For the fiscal year beginning after June 30, 2023, and ending prior to July 1, 2024, sixty million dollars ($60,000,000).

(3) For the fiscal year beginning after June 30, 2024, and ending prior to July 1, 2025, seventy million dollars ($70,000,000).

(4) For the fiscal year beginning after June 30, 2025, and ending prior to July 1, 2026, eighty million dollars ($80,000,000).

(5) For the fiscal year beginning after June 30, 2026, and ending prior to July 1, 2027, ninety million dollars ($90,000,000).

(6) For the fiscal year beginning July 1, 2027, and each fiscal year thereafter, one hundred million dollars ($100,000,000).

((b) amended July 11, 2024, P.L.674, No.56)

(c) Nothing in this section shall be construed to reduce or prohibit increased funding for the Housing Affordability and Rehabilitation Enhancement Fund or the Keystone Recreation, Park and Conservation Fund as provided in the "Housing Finance Agency Law" or other law.

(d) Nothing in this section shall be construed to increase the rate of tax imposed under section 1102-C. ((d) added July 11, 2024, P.L.674, No.56)

(1102-C.6 added June 28, 2019, P.L.50, No.13)

Compiler's Note: See section 36 of Act 13 of 2019 in the appendix to this act for provisions relating to continuation of prior law.

Section 1103-C. Credits Against Tax.--(a) Where there is a transfer of a residential property by a licensed real estate broker which property was transferred to him within the preceding year as consideration for the purchase of other residential property, a credit for the amount of the tax paid at the time of the transfer to him shall be given to him toward the amount of the tax due upon the transfer.

(b) Where there is a transfer by a builder of residential property which was transferred to the builder within the preceding year as consideration for the purchase of new, previously unoccupied residential property, a credit for the amount of the tax paid at the time of the transfer to the builder shall be given to the builder toward the amount of the tax due upon the transfer.

(c) Where there is a transfer of real estate which is demised by the grantor, a credit for the amount of tax paid at the time of the demise shall be given the grantor toward the tax due upon the transfer. ((c) amended June 30, 2021, P.L.124, No.25)

(d) Where there is a conveyance by deed of real estate which was previously sold under a land contract by the grantor, a credit for the amount of tax paid at the time of the sale shall be given the grantor toward the tax due upon the deed.

(e) If the tax due upon the transfer is greater than the credit given under this section, the difference shall be paid. If the credit allowed is greater than the amount of tax due, no refund or carryover credit shall be allowed.

(1103-C amended July 2, 1986, P.L.318, No.77)

Compiler's Note: See Act 25 of 2021 in the appendix to this act for special provisions relating to findings and declarations.

Section 1103-C.1. Extension of Lease.--In determining the term of a lease, it shall be presumed that a right or option to renew or extend a lease will be exercised if the rental charge to the lessee is fixed or if a method for calculating the rental charge is established.

(1103-C.1 added July 2, 1986, P.L.318, No.77)

Section 1104-C. Proceeds of Judicial Sale.--The tax herein imposed shall be fully paid, and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made, and the sheriff, or other officer, conducting said sale, shall pay the tax herein imposed out of the first moneys paid to him in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax herein imposed, the purchaser shall be liable for the remaining tax.

(1104-C amended July 2, 1986, P.L.318, No.77)

Section 1105-C. Documentary Stamps.--(a) The payment of the tax imposed by this article shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. Such stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing such stamps shall write or stamp or cause to be written or stamped thereon the initials of his name and the date upon which such stamps are affixed or used so that such stamps may not again be used: Provided, That the department may prescribe such other method of cancellation as it may deem expedient.

(b) The use of documentary license meter impressions or similar indicia of payment in lieu of stamps as required by this article may be permitted in the discretion of the department.

(1105-C amended July 2, 1986, P.L.318, No.77)

Section 1106-C. Stamps, Commissions, Payments and Transfers.--(a) The department shall prescribe, prepare and furnish stamps to each recorder of deeds, of such denominations and quantities as may be necessary, for the payment of the tax imposed and assessed by this article.

(b) The department shall allow each county a commission equal to one per cent of the face value of the stamps sold or two hundred fifty dollars ($250) whichever is greater. The recorder of deeds shall pay the commission herein allowed to the general fund of the county. The department shall pay the premium or premiums on any bond or bonds required by law to be procured by recorder of deeds for the performance of their duties under this article.

(c) All moneys paid in accordance with this article shall be credited to the General Fund.

(d) At the end of each month, the State Treasurer shall transfer from the General Fund to the Keystone Recreation, Park and Conservation Fund an amount equal to the tax credited to the General Fund under subsection (c) for the previous month multiplied by the applicable transfer factor. The applicable transfer factor for each month shall be as follows:

Month	Transfer Factor
July 1994 through December 2001	0.15
January 2002 through June 2002	0.10
July 2002 through June 2003	0.075
July 2003 through June 2006	0.15
July 2006 through June 2007	0.021
July 2007 and each month thereafter	0.15

(1106-C amended July 6, 2006, P.L.319, No.67)

Section 1107-C. Enforcement; Rules and Regulations.--The department is hereby charged with the enforcement of the provisions of this article and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to:

(1) The method and means to be used in affixing or cancelling of stamps in substitution for or in addition to the method and means provided in this

article.
(2) The denominations and sale of stamps.
(3) Any other matter or thing pertaining to the administration and enforcement of the provisions of this article.
(1107-C added May 5, 1981, P.L.36, No.14)
Section 1108-C. Failure to Affix Stamps.--No document upon which tax is imposed by this article shall at any time be made the basis of any action or other legal proceeding, nor shall proof thereof be offered or received in evidence in any court of this Commonwealth, or recorded in the office of any recorder of deeds of any county of this Commonwealth, unless a documentary stamp or stamps as provided in this article have been affixed thereto.
(1108-C amended July 2, 1986, P.L.318, No.77)
Section 1109-C. Statement of Value; Penalty.--(a) Every document lodged with or presented to any recorder of deeds in this Commonwealth for recording, shall set forth therein and as a part of such document the true, full and complete value thereof, or shall be accompanied by a statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article. The provisions of this subsection shall not apply to any excludable real estate transfers which are exempt from taxation based on family relationship. Other documents presented for the affixation of stamps shall be accompanied by a certified copy of the document and statement of value executed by a responsible person connected with the transaction showing such connection and setting forth the true, full and complete value thereof or the reason, if any, why such document is not subject to tax under this article.
(b) Any recorder of deeds who shall record any document upon which tax is imposed by this article without the proper documentary stamp or stamps affixed thereto as required by this article as is indicated in such document or accompanying statement of value shall, upon summary conviction, be sentenced to pay a fine of fifty dollars ($50) and costs of prosecution, and in default of payment thereof, undergo imprisonment for not more than thirty days.
(1109-C amended July 2, 1986, P.L.318, No.77)
Section 1109-C.1. Civil Penalties.--(a) If any part of any underpayment of tax imposed by this article is due to fraud, there shall be added to the tax an amount equal to fifty per cent of the underpayment.
(b) In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, there shall be added to the tax five per cent of the amount of such tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which such failure continues, not exceeding fifty per cent in the aggregate.
(1109-C.1 added July 2, 1986, P.L.318, No.77)
Section 1110-C. Unlawful Acts; Penalty.--(a) It shall be unlawful for any person to:
(1) accept or present for recording or cause to be accepted or presented for recording any document, without the full amount of tax thereon being duly paid; or,
(2) make use of any documentary stamp to denote payment of any tax imposed by this article without cancelling such stamp as required by this article or as prescribed by the department; or,
(3) fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the department under the provisions of this article.
(b) Any person violating any of the provisions of subsection (a) shall be guilty of a summary offense.
(c) It shall be unlawful for any person to:
(1) fraudulently cut, tear or remove from a document any documentary stamp; or,

(2) fraudulently affix to any document upon which tax is imposed by this article any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed by this article, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article; or,

(3) wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale, or give away any such altered or restored stamp to any person for use, or knowingly use the same; or,

(4) knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which tax is imposed by this article: Provided, That the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or,

(5) knowingly or wilfully prepare, keep, sell, offer for sale, or have in his possession, any forged or counterfeited documentary stamps.

(d) Any person violating any of the provisions of subsection (c) shall be guilty of a misdemeanor of the second degree.

(e) A person who makes a false statement of value or declaration of acquisition, when he does not believe the statement or declaration to be true, is guilty of a misdemeanor of the second degree.

(1110-C amended July 2, 1986, P.L.318, No.77)

Section 1111-C. Assessment and Notice of Tax; Review.--(a) If any person shall fail to pay any tax imposed by this article for which he is liable, the department is hereby authorized and empowered to make an assessment of additional tax and interest due by such person based upon any information within its possession or that shall come into its possession. All of such assessments shall be made within three years after the date of the recording of the document, subject to the following:

(1) If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.

(2) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

(b) Promptly after the date of such assessment, the department shall send a copy thereof, including the basis of the assessment, to the person against whom it was made. Any taxpayer against whom an assessment is made may petition the department for a reassessment pursuant to Article XXVII.

(c) ((c) deleted by amendment Oct. 18, 2006, P.L.49, No.119)

(d) (Deleted by amendment).

(1111-C amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 1111-C, provided that the amendment of section 1111-C shall apply to assessments issued after December 31, 2007.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Compiler's Note: Section 24(5)(i) of Act 40 of 2005, which amended section 1111-C, provided that the amendment shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1112-C. Lien.--(a) Any tax determined to be due by the department and remaining unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the Commonwealth upon the property, both real and personal, of such person but

only after said lien has been entered and docketed of record by the prothonotary of the county where such property is situated.

(a.1) At any time after it makes an assessment of additional tax, penalty or interest, the department may transmit to the prothonotaries of the respective counties certified copies of all liens for such taxes, penalties and interest, and it shall be the duty of each prothonotary receiving the lien to enter and docket the same of record in his office, which lien shall be indexed as judgments are now indexed. After the department's assessment becomes final, a writ of execution may directly issue upon such lien without the issuance and prosecution to judgment of a writ of scire facias: Provided, That not less than ten days before issuance of any execution on the lien, notice shall be sent by certified mail to the taxpayer at his last known post office address. No prothonotary shall require as a condition precedent to the entry of such liens, the payment of any costs incident thereto.

(b) The lien imposed hereunder shall have priority from the date of its recording as aforesaid, and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto before any other obligation, judgment, claim, lien or estate to which said property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien. In the case of a judicial sale of property subject to a lien imposed hereunder upon a lien or claim over which the lien imposed hereunder has priority, as aforesaid, such sale shall discharge the lien imposed hereunder to the extent only that the proceeds are applied to its payment, and such lien shall continue in full force and effect as to the balance remaining unpaid.

(c) The lien imposed hereunder shall continue for five years from the date of its entry of record, and may be renewed and continued in the manner now or hereafter provided for the renewal of judgments, or as may be provided in the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(1112-C amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 1113-C. Refunds.--(a) Whenever the amount due upon assessment or review is less than the amount paid to the department on account thereof, the department shall enter a credit in the amount of such difference to the account of the person who paid the tax.

(b) Where there has been no assessment of unpaid tax, the department shall have the power, and its duty shall be, to hear and decide any application for refund and, upon the allowance of such application, to enter a credit in the amount of the overpayment to the account of the person who paid the tax. Such application must be filed under Article XXVII.

(1113-C amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 1114-C. Sharing Information.--Notwithstanding the provisions of any other act, the department may divulge to the proper officer of a political subdivision imposing a local real estate transfer tax, or the authorized representative of that officer, information gained pursuant to the department's administration or collection respecting the collection of realty transfer tax under this article.

(1114-C added July 7, 2005, P.L.149, No.40)

ARTICLE XI-D
LOCAL REAL ESTATE TRANSFER TAX
(Art. added July 2, 1986, P.L.318, No.77)

Section 1101-D. Imposition.--The duly constituted authorities of the following political subdivisions--cities of the second class, cities of the second class A, cities of the third class, boroughs, incorporated towns, townships of the first class, townships of the second class, school districts of the first class A, school districts of the second class, school districts of the third class and school districts of the fourth class, in all cases including independent school districts--may, in their discretion, by ordinance or resolution, for general revenue purposes, levy, assess and collect or provide for the levying, assessment and collection of a tax upon a transfer of real property or an interest in real property within the limits of the political subdivision, regardless of where the instruments making the transfers are made, executed or delivered or where the actual settlements on the transfer take place, to the extent that the transactions are subject to the tax imposed by Article XI-C. A tax imposed under this article shall be subject to rate limitations provided by section 5, section 8 and section 17 of the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act."

(1101-D amended July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(ii) of Act 40 of 2005, which amended section 1101-D, provided that the amendment shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1102-D. Administration.--(a) The tax authorized under this article shall be administered, collected and enforced under the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," provided, however, that, if the correct amount of the tax is not paid by the last date prescribed for timely payment as provided for in section 1102-C, the department may determine the tax, interest and penalty as provided for in section 1109-D and may collect and enforce the tax, interest and penalty in the same manner as tax, interest and penalty imposed by Article XI-C.

(b) Whenever a declaration is required to be filed under Article XI-C, a declaration is also required to be filed under this article.

(1102-D amended July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(iii) of Act 40 of 2005, which amended section 1102-D, provided that the amendment shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1103-D. Regulations.--(a) The regulations promulgated under Article XI-C shall be applicable to the taxes imposed under this article.

(b) The Department of Revenue may promulgate and enforce regulations not inconsistent with the provisions of this article.

(c) The department, to cover its costs of administration, shall retain an amount equal to costs but not to exceed ten per cent of the tax, interest and penalty collected and enforced by the department under section 1102-D.

(1103-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(iv) of Act 40 of 2005, which added section 1103-D, provided that section 1103-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1104-D. Documentary Stamps.--(a) The payment of the tax imposed under this article shall be evidenced by the affixing of a documentary stamp or stamps to every document by the person making, executing, delivering or presenting for recording such document. The stamps shall be affixed in such manner that their removal will require the continued application of steam or water, and the person using or affixing the stamps shall write, stamp or cause to be written or stamped thereon the initials of that person's name and the date upon which the stamps are affixed or used so that the stamps may not again be used, provided that the Department of Revenue may prescribe such other method of cancellation as it may deem expedient.

(b) The department may, in its discretion, use documentary license meter impressions or similar indicia of payment in lieu of stamps.

(1104-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(v) of Act 40 of 2005, which added section 1104-D, provided that section 1104-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1105-D. Collection Agent.--The recorder of deeds shall be the collection agent for any political subdivision levying a local real estate transfer tax under this article. The recorder of deeds shall pay tax, interest and penalty collected under this article over to the appropriate political subdivision in accordance with section 6(c) of the act of November 1, 1971 (P.L.495, No.113), entitled, as amended, "An act providing for the compensation of county officers in counties of the second through eighth classes, for compensation of district attorneys in cities and counties of the first class, for compensation of district election officers in all counties, for the disposition of fees, for filing of bonds in certain cases and for duties of certain officers."

(1105-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(vi) of Act 40 of 2005, which added section 1105-D, provided that section 1105-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1106-D. Disbursements.--The tax, interest and penalty that the Department of Revenue collects under this article shall be remitted in the manner provided by law to the appropriate recorder of deeds along with the "State Tax Payment Imprint Receipt" which shall provide sufficient information for the recorder of deeds to determine which political subdivisions are entitled to the collections. The recorder of deeds shall record the "State Tax Payment Imprint Receipt" whether or not signed and acknowledged by the Department of Revenue and shall index in the grantor/grantee index to the original document upon which the tax has been paid. The department shall collect from the taxpayer as part of its determination process the county recording fee for the recording of the "State Tax Payment Imprint Receipt."

(1106-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(vii) of Act 40 of 2005, which added section 1106-D, provided that section 1106-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1107-D. Proceeds of Judicial Sale.--The tax imposed under this article shall be fully paid and have priority out of the proceeds of any judicial sale of real estate before any other obligation, claim, lien, judgment, estate or costs of the sale and of the writ upon which the sale is made. The sheriff or other officer conducting the sale shall pay the tax

imposed under this article out of the first moneys paid to the sheriff or officer in connection therewith. If the proceeds of the sale are insufficient to pay the entire tax imposed under this article, the purchaser shall be liable for the remaining tax.

(1107-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(viii) of Act 40 of 2005, which added section 1107-D, provided that section 1107-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1108-D. Failure to Affix Stamps.--No document upon which tax is imposed under this article shall at any time be made the basis of any action or other legal proceeding nor shall proof thereof be offered or received in evidence in any court of this Commonwealth or recorded in the office of any recorder of deeds of any county of this Commonwealth unless a documentary stamp or stamps as provided in this article have been affixed thereto.

(1108-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(ix) of Act 40 of 2005, which added section 1108-D, provided that section 1108-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1109-D. Determination and Notice of Tax; Review.--(a) If any person fails to pay any tax imposed under this article for which that person is liable, a political subdivision may authorize the Department of Revenue to make a determination of additional tax, penalty and interest due under this section by the person. The determination will be based upon any information which is within the possession or which will come into the possession of the department. The determination will be made within three years after the date of the recording of the document, subject to the following:

(1) If the taxpayer underpays the correct amount of the tax by twenty-five per cent or more, the tax may be assessed at any time within six years after the date of the recording of the document.

(2) If any part of an underpayment of tax is due to fraud or an undisclosed, intentional disregard of rules and regulations, the full amount of the tax may be assessed at any time.

(b) (1) Promptly after the date of such determination, the department shall send by mail a copy thereof to the person against whom it was made. Within ninety days after the date upon which the copy of the determination was mailed, the person may file with the department a petition for redetermination of the taxes.

(2) Every petition for redetermination must state specifically the reasons which the petitioner believes to be entitled to redetermination and shall be supported by affirmation that it is not made for the purpose of delay and that the facts set forth therein are true.

(3) The department, within six months after the date of filing of a petition for redetermination, shall dispose of the petition. Notice of the action taken upon a petition for redetermination shall be given to the petitioner promptly after the date of redetermination by the department.

(c) A person shall have the right to review by the Board of Finance and Revenue and appeal in the same manner and within the same time as provided by law in the case of capital stock and franchise taxes imposed upon corporations.

(d) (1) Notice of the action of the Board of Finance and Revenue shall be given by mail to the political subdivision. A political subdivision shall have the right to appeal in the same manner and within the same time as provided by law for the Commonwealth in the case of capital stock and franchise taxes imposed upon corporations.

(2) The political subdivision may request in writing the Office of General Counsel to render such legal advice and such representation as are

required concerning every matter and issue arising in connection with an appeal from a decision of the Board of Finance and Revenue.
(1109-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(x) of Act 40 of 2005, which added section 1109-D, provided that section 1109-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1110-D. Lien.--(a) Any tax that the Department of Revenue determines to be due under this article and remains unpaid after demand for the same, and all penalties and interest thereon, shall be a lien in favor of the affected political subdivision upon the property, both real and personal, of the person but only after the lien has been entered and docketed of record by the prothonotary of the county where such property is situated.

(b) (1) At any time after it makes a determination of additional tax, penalty or interest under this article, the department may transmit to the prothonotaries of the respective counties certified copies of all liens for the taxes, penalties and interest under this article or copies of all liens under Article XI-C and this article on a single form.

(2) A prothonotary receiving the lien shall enter and docket the lien of record in the prothonotary's office, which lien shall be indexed as judgments are now indexed.

(3) After the department's determination becomes final, a writ of execution may directly issue upon the lien without the issuance and prosecution to judgment of a writ of scire facias, provided that, not less than ten days before issuance of any execution on the lien, notice shall be sent by certified mail to the taxpayer at the taxpayer's last known post office address. No prothonotary shall require as a condition precedent to the entry of the liens the payment of any costs incident thereto.

(c) (1) The lien imposed under this section shall have priority from the date of its recording and shall be fully paid and satisfied out of the proceeds of any judicial sale of property subject thereto before any other obligation, judgment, claim, lien or estate to which the property may subsequently become subject, except costs of the sale and of the writ upon which the sale was made, and real estate taxes and municipal claims against such property, but shall be subordinate to mortgages and other liens existing and duly recorded or entered of record prior to the recording of the tax lien.

(2) In the case of a judicial sale of property subject to a lien imposed under this section upon a lien or claim over which the lien has priority, the sale shall discharge the lien to the extent only that the proceeds are applied to its payment, and the lien shall continue in full force and effect as to the balance remaining unpaid.

(d) A lien imposed under this article shall be equal in priority to the lien imposed under Article XI-C.

(1110-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(xi) of Act 40 of 2005, which added section 1110-D, provided that section 1110-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1111-D. Refunds.--(a) Whenever the amount due upon determination, redetermination or review is less than the amount paid on account thereof, the political subdivision shall refund the difference.

(b) Where there has been no determination of unpaid tax, application for refund shall be made to the political subdivision in the manner prescribed by the act of December 31, 1965 (P.L.1257, No.511), known as "The Local Tax Enabling Act," 53 Pa.C.S. Ch. 84 Subch. C (relating to local taxpayers bill of rights) or as otherwise provided by law.

(1111-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(xii) of Act 40 of 2005, which added section 1111-D, provided that section 1111-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1112-D. Civil Penalties.--(a) If any part of any underpayment of tax imposed under this article is due to fraud, an amount equal to fifty per cent of the underpayment shall be added to the tax.

(b) In the case of failure to record a declaration required under this article on the date prescribed therefor, unless it is shown that such failure is due to reasonable cause, five per cent of the amount of such tax shall be added to the tax if the failure is for not more than one month, with an additional five per cent for each additional month or fraction thereof during which the failure continues, not exceeding fifty per cent in the aggregate.

(1112-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(xiii) of Act 40 of 2005, which added section 1112-D, provided that section 1112-D shall apply to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1113-D. Unlawful Acts and Penalty.--(a) It shall be unlawful for any person to:

(1) accept or present for recording or cause to be accepted or presented for recording any document without the full amount of tax thereon being duly paid;

(2) make use of any documentary stamp to denote payment of any tax imposed under this article without cancelling such stamp as required by this article or as prescribed by the Department of Revenue;

(3) fail, neglect or refuse to comply with or violate the rules and regulations prescribed, adopted and promulgated by the department under this article;

(4) fraudulently cut, tear or remove from a document any documentary stamp;

(5) fraudulently affix to any document upon which tax is imposed under this article any documentary stamp which has been cut, torn or removed from any other document upon which tax is imposed under this article, or any documentary stamp of insufficient value, or any forged or counterfeited stamp, or any impression of any forged or counterfeited stamp, die, plate or other article;

(6) wilfully remove or alter the cancellation marks of any documentary stamp, or restore any such documentary stamp, with intent to use or cause the same to be used after it has already been used, or knowingly buy, sell, offer for sale or give away such altered or restored stamp to any person for use, or knowingly use the same;

(7) knowingly have in his possession any altered or restored documentary stamp which has been removed from any document upon which a tax is imposed under this article, provided that the possession of such stamps shall be prima facie evidence of an intent to violate the provisions of this clause; or

(8) knowingly or wilfully prepare, keep, sell, offer for sale or have in his possession any forged or counterfeited documentary stamps.

(b) (1) Except as otherwise provided in clause (2), a person who violates subsection (a) commits a misdemeanor of the second degree.

(2) A person who violates subsection (a)(1), (2) or (3) commits a summary offense.

(c) A person who makes a false statement of value or declaration of acquisition, not believing the statement or declaration to be true, commits a misdemeanor of the second degree.

(1113-D added July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(5)(xiv) of Act 40 of 2005, which added section 1113-D, provided that section 1113-D shall apply to any

document made, executed, delivered, accepted or presented for recording 90 days after the effective date of section 24(5).

Section 1114-D. Information.--Notwithstanding the provisions of any other act, the officer of a political subdivision imposing a local real estate transfer tax or the authorized representative of the officer may divulge to the Department of Revenue information concerning the administration or collection of local real estate transfer tax authorized by this article.

(1114-D added July 7, 2005, P.L.149, No.40)

ARTICLE XII
CIGARETTE TAX
(Art. added Dec. 21, 1981, P.L.482, No.141)

Compiler's Note: Section 6 of Act 141 of 1981 renumbered former Article XII to Article XXX and added present Article XII.

Compiler's Note: Section 13.1 of Act 48 of 2009 provided that the inclusion of "little cigars" in Article XII is not intended to effect the Master Settlement Agreement and related documents entered into November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers approved by the Court of Common Pleas, Philadelphia County, January 13, 1999.

PART I
INTRODUCTORY PROVISIONS
(I added Dec. 21, 1981, P.L.482, No.141)

Section 1201. Definitions.--As used in this article:

"Article." Article XII and the rules and regulations promulgated thereunder.

"Bureau." (Def. repealed July 2, 1993, P.L.250, No.46)

"Cigarette." Any roll for smoking made wholly or in part of tobacco, the wrapper or cover of which is made of any substance or material other than tobacco regardless of the size or shape of the roll and regardless of whether or not the tobacco is flavored, adulterated or mixed with any other ingredient or a little cigar. (Def. amended Oct. 9, 2009, P.L.451, No.48)

"Cigarette stamping agency." Any person, as defined in this article, who shall be licensed as such by the department for the purpose of affixing cigarette tax stamps to packages of cigarettes and transmitting the proper tax to the Commonwealth, and who maintains separate warehousing facilities for the purpose of receiving and distributing cigarettes and conducting their business, who have received commitments from at least two cigarette manufacturers whose aggregate market share is at least forty per cent of the Commonwealth cigarette market and purchases cigarettes directly from cigarette manufacturers. (Def. amended Aug. 4, 1991, P.L.97, No.22)

"Cigarette tax stamp." Any stamp, tax meter impression, label, print or impression which the department by regulation shall authorize to evidence the payment of the tax imposed by this article.

"Cigarette vending machine." Any mechanical device from which cigarettes are dispensed for a consideration.

"Dealer." Any cigarette stamping agency, wholesaler or retailer as these terms are more specifically defined herein. Whenever, in the provisions of this article, the word "dealer" is used, it shall include all of the above mentioned categories. Nothing contained in this article shall preclude any person from being a cigarette stamping agency, wholesaler, or retailer, provided such person meets the requirements for each category of dealer.

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

"Invoice or delivery ticket." Any invoice or delivery ticket which shows the true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or

purchaser, the quantity and brands of the cigarettes transported, the correct date of purchase or shipment and the true name and complete and exact address of the person who shall assume the payment of the Pennsylvania State tax or the tax, if any, of the state or foreign country at the point of ultimate destination.

"Little cigar." Any roll for smoking that weighs not more than four pounds per thousand, where the wrapper or cover is made of natural leaf tobacco or of any substance containing tobacco. (Def. added Oct. 9, 2009, P.L.451, No.48)

"Pack of cigarettes." The smallest package, box or container in or from which retail sales of cigarettes are normally made.

"Person." Any individual, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, and any political subdivision of the Commonwealth of Pennsylvania, or any other state. Whenever used in any of the provisions of this article prescribing or imposing penalties, the word "person" as applied to a partnership, unincorporated association or other joint venture, means the partners or members thereof, and as applied to a corporation, means all the officers and directors thereof.

"Retailer." Any of the following:

(1) Any person who, in the usual course of business, purchases or receives cigarettes from any source whatsoever for the purpose of sale to the ultimate consumer.

(2) Any person who, in the usual course of business, owns, leases or otherwise operates one or more vending machines for the purpose of sale of cigarettes to the ultimate consumer.

(3) Any person who buys, sells, transfers or deals in cigarettes for profit and is not licensed as a cigarette stamping agency or wholesaler under Article II-A of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(Def. added Oct. 9, 2009, P.L.451, No.48)

"Sale." Any transfer of ownership, custody or possession of cigarettes for a consideration; any exchange, barter or gift; or any offer to sell or transfer the ownership, custody or possession of cigarettes for consideration.

"Unstamped cigarettes." Any pack of cigarettes to which the proper amount of genuine Pennsylvania cigarette tax stamps have not been affixed or any cigarette for which the proper amount of cigarette tax imposed under this article has not been paid. Any pack of cigarettes containing a forged, bogus or counterfeit Pennsylvania cigarette tax stamp or any pack of cigarettes bearing stolen, lost or misplaced genuine Pennsylvania cigarette tax stamps which have not been affixed to said pack of cigarettes by a proper cigarette stamping agency as provided for in this article, or any pack of cigarettes bearing genuine Pennsylvania cigarette tax stamps for which the tax has not been paid as a result of any wilful or intentional act for the purpose of evading the payment of the Pennsylvania cigarette tax shall be considered, under the provisions of this article, to be a package of "unstamped cigarettes." (Def. amended Oct. 9, 2009, P.L.451, No.48)

"Vending machine operator." Any person who places or services one or more cigarette vending machines, whether owned, leased or otherwise operated by him, at locations from which cigarettes are sold to the ultimate consumer. The owner or tenant of the premises upon which a vending machine is placed shall not be considered a vending machine operator if his sole remuneration therefrom is a flat rental fee or commission based upon the number or value of cigarettes sold from the machine, unless said owner or tenant actually owns said vending machine or leases said vending machine under an agreement whereby the profits from the sale of said cigarettes directly inure to his benefit.

"Wholesaler." Any of the following:

(1) Any person that meets all of the following:

(i) In the usual course of business, purchases cigarettes from a cigarette stamping agent or other wholesaler and receives, stores, sells and distributes within this Commonwealth at least seventy-five per cent of the cigarettes purchased by him or her to retail dealers or wholesale dealers or any combination who buys the cigarettes from him or her for the purpose of resale to the ultimate consumer.

(ii) Maintains an established place of business for the receiving, storage and distribution of cigarettes.

(2) Any person that meets all of the following:

(i) Is engaged in the business of distributing cigarettes through vending machines to the ultimate consumer by means of placing the cigarette vending machines, owned or leased by him, in various outlets within this Commonwealth.

(ii) Pays to the owner or lessee of the premises a commission or rental for the use of the premises.

(iii) Operates at least ten vending machines.

(iv) Meets all the other requirements for licensing of wholesalers under Article II-A of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," including maintaining an established place of business for the receiving, storage and distribution of cigarettes.

(3) Any person, including a franchisee, that meets all of the following:

(i) Owns and operates no fewer than three retail outlets in this Commonwealth, having one hundred per cent common ownership.

(ii) Purchases cigarettes from a cigarette stamping agency or another wholesaler for resale to the ultimate consumer.

(iii) Maintains complete and accurate records of all purchases and sales in his or her main office and also in the retail outlet.

(Def. amended July 2, 2012, P.L.751, No.85)

(1201 added Dec. 21, 1981, P.L.482, No.141)

PART II
IMPOSITION OF TAX
(II added Dec. 21, 1981, P.L.482, No.141)

Section 1206. Incidence and Rate of Tax.--An excise tax is hereby imposed and assessed upon the sale or possession of cigarettes within this Commonwealth at the rate of thirteen cents per cigarette.

(1206 amended July 13, 2016, P.L.526, No.84)

Section 1206.1. Floor Tax.--(a) The following apply:

(1) ((1) deleted by amendment)

(2) ((2) deleted by amendment)

(3) ((3) deleted by amendment)

(4) A person who possesses cigarettes on which the tax imposed by section 1206 has been paid as of the effective date of this paragraph shall pay an additional tax at a rate of five cents per cigarette. The tax shall be paid and reported on a form prescribed by the department within ninety days of the effective date of this paragraph.

((a) amended July 13, 2016, P.L.526, No.84)

(b) If a cigarette dealer fails to file the report required by subsection (a) or fails to pay the tax imposed by subsection (a), the department may, in addition to the interest and penalties provided in section 1278, do any of the following:

(1) Impose an administrative penalty equal to the amount of tax evaded or not paid. The penalty shall be added to the tax evaded or not paid and assessed and collected at the same time and in the same manner as the tax.

(2) Suspend or revoke a cigarette dealer's license.

(c) In addition to any penalty imposed under subsection (b), a person who wilfully omits, neglects or refuses to comply with a duty imposed under subsection (a) commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than two thousand five hundred dollars ($2,500) nor more than five thousand dollars ($5,000), to serve a term of imprisonment not to exceed thirty days or both.

(1206.1 amended Oct. 9, 2009, P.L.451, No.48)

Section 1207. Sales to Commonwealth and Political Subdivisions.--The excise tax imposed by this article is hereby levied upon the sale of cigarettes to any person as defined under the provisions of this article and to the Commonwealth of Pennsylvania or any other state, or any department, board, commission, authority or agency thereof.

(1207 added Dec. 21, 1981, P.L.482, No.141)

Section 1208. Limitation of Tax.--Only one sale shall be taxable and used in computing the amount of tax due hereunder whether said sale be of individual cigarettes, packages, cartons or cases.

(1208 added Dec. 21, 1981, P.L.482, No.141)

Section 1209. Exemptions from Tax.--(a) No tax imposed by this article shall be levied upon the possession or sale of cigarettes which this Commonwealth is prohibited from taxing under the Constitution or statutes of the United States. In addition, when the seller and purchaser have registered with the department and have obtained exemption certificates in accordance with such regulations as the department shall prescribe, the following sales are exempt:

(1) Sales to veterans' organizations approved by the department, if the cigarettes are being purchased by the organization for gratuitous issue to veteran patients in Federal, State or State-aided hospitals.

(2) Sales to voluntary unincorporated organizations of military forces personnel operating under regulations promulgated by the United States Secretary of Defense or departments under his jurisdiction.

(3) Sales to retail dealers located in Veterans' Administration hospitals for sales to patients in such hospitals.

(b) The department may otherwise promulgate regulations to relieve manufacturers and dealers from payment of tax on cigarettes sold and delivered to points inside and outside the Commonwealth for sale and use outside the Commonwealth or sold to purchasers designated as exempt by the provisions of this section. However, all sales shall be presumed to be taxable and the burden shall be upon the person claiming an exemption to prove his right thereto.

(1209 added Dec. 21, 1981, P.L.482, No.141)

Section 1210. Liability for Collection of Tax.--(a) Every person shall be liable to pay into the State Treasury, through the department, the tax imposed by this article on all cigarettes received by him to which Pennsylvania cigarette tax stamps have not been previously affixed, the tax paid, or exempted by the provisions of this article. Nothing in this section shall relieve a cigarette stamping agency from its liability to pay the tax imposed by this article on all cigarettes received by it to which Pennsylvania cigarette tax stamps have not been previously affixed, the tax paid, or exempted by the provisions of this article.

(b) For sales to a retailer of cigarettes not required to be stamped under section 1215, the retailer shall be required to pay the tax imposed by this article to the wholesaler or other seller of the cigarettes. The wholesaler or other seller shall be liable to collect and remit the tax to the department. Failure of the seller or retailer to obtain the applicable license shall not relieve the seller or retailer of the liability to pay the tax imposed under this article.

(1210 amended Oct. 9, 2009, P.L.451, No.48)

Section 1211. Health Care Provider Retention Account.-- (1211 deleted by amendment Oct. 9, 2009, P.L.451, No.48)

PART III
METHOD OF PAYMENT OF TAX
(III added Dec. 21, 1981, P.L.482, No.141)

Section 1215. Stamp to Evidence the Tax.--(a) The department shall by regulation require every cigarette stamping agency or ultimate consumer, to use cigarette tax stamps to evidence the payment of the tax imposed by this article unless such stamps have been affixed to the packs of unstamped cigarettes and properly cancelled before such cigarette stamping agency or

ultimate consumer received them or unless otherwise provided in subsection (g).

(b) The department shall by regulation authorize the sale of cigarette tax stamps at such places and at such times as it deems necessary and the department shall prescribe the manner, time and conditions under which the payment of tax shall be made.

(c) The department shall also prescribe the type of cigarette tax stamps which shall be used, to evidence payment of the tax. Nothing in this provision shall be construed as a limitation upon the department to prescribe various methods of affixing cigarette tax stamps and said department shall have the authority to prescribe one or more of several types of tax stamps which shall be used by a particular cigarette stamping agency whenever, in the reasonable exercise of its powers, it shall be deemed necessary for the protection of the revenue.

(d) Under no circumstances shall any cigarette stamping agency be permitted to sell, transfer or deliver to any person any unstamped cigarettes, or any unused cigarette tax stamps unless specifically permitted by the provisions of this article.

(e) The department shall by regulation permit a cigarette stamping agency to pay for purchases on a deferred basis, upon the filing of a surety bond, of the type approved by the department, with the department, in an amount deemed sufficient by the department to protect the revenue, said bond to be executed by the cigarette stamping agency as principal and by a corporate surety company, duly authorized to engage in such business in the Commonwealth of Pennsylvania, as surety. In lieu of the bond required by this subsection, the department shall accept other forms of security, such as a line of credit, if the department deems the security sufficient to protect the revenue. The department shall deny deferred purchase plans to any stamping agency in any state where such state denies stamping agencies in Pennsylvania the right to use deferred purchase plans. The department may deny any cigarette stamping agent the right to purchase cigarette tax stamps if the cigarette stamping agent is delinquent in remitting cigarette taxes or fines owed the Commonwealth.

(f) The department shall, upon application, permit a cigarette stamping agency to post a surety bond with the department for fifty per cent of the amount of the tax stamp purchase, provided that the agency has a record of timely payments of the tax for a three-year period prior to application and further provided that the agency files with the department a financial statement that demonstrates assets sufficient to protect the revenues. To preserve the discounted bond arrangement an agency may be required to provide an updated financial statement at the request of the department. If the department determines the cigarette stamping agency's financial condition and the type and amount of security posted by the cigarette stamping agency is insufficient to protect the revenue, the department may require additional security in the type and amount necessary to protect the revenue. If the cigarette stamping agency fails to post the type and amount of security requested within ten days of the mailing date of the request, the department may revoke the cigarette stamping agency's license.

(g) Stamps shall be affixed to all individual packages containing from twenty to twenty-five cigarettes. Individual packages containing less than twenty or more than twenty-five cigarettes shall have stamps affixed unless the department determines the affixing of stamps is physically impractical due to the size or nature of the package or determines that the cost of affixing the stamps is unreasonably disproportionate to the tax to be collected. Stamps shall not be required to be affixed to containers of roll-your-own tobacco. ((g) amended July 13, 2016, P.L.526, No.84)

(h) Where the department has determined that a cigarette package is not required to be stamped under subsection (g), the tax shall be collected on the sale of the cigarette from the wholesaler to the retailer. To verify the payment of this tax, the following shall be required:

(1) The wholesaler must maintain documentation to show the monthly total number of unstamped cigarette packages purchased and sold listed by

brand name and how many cigarettes were in each unstamped cigarette package.

(2) The wholesaler must maintain a copy of a paid manufacturer's or other wholesaler's dated invoices to substantiate the total number of cigarettes purchased by the wholesaler. The invoices must list the total quantities of every different brand name purchased, the total number of each type of package of each brand name, the number of cigarettes in each package, the purchase price and any other information the department may require.

(3) Every invoice to a retailer must list all the information required in paragraph (2) along with the amount of tax charged on each package of cigarettes sold to the retailer.

(i) For purposes of determining the weight of little cigars, a person shipping little cigars within or into this Commonwealth shall provide the department with the weight per thousand shipped, segregated by brand name, package type, number per package and any other information required by the department. This information shall be reported on a form prescribed by the department and shall be filed with the department within fourteen days of shipment or on a schedule determined by the department by regulation. If the person shipping the little cigars into this Commonwealth is not the manufacturer, the person shall obtain the information as to the weight of the little cigars from the manufacturer and report the weight on the form and by the date referred to in this subsection.

(1215 amended Oct. 9, 2009, P.L.451, No.48)

Compiler's Note: Section 53(5)(i) of Act 84 of 2016, which amended subsection (g), provided that the amendment shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under section 53(3)(ii) of Act 84.

Section 1216. Commissions on Sales.--A cigarette stamping agent shall be entitled to a commission for the agent's services and expenses in affixing cigarette tax stamps. The commission shall be equal to five hundred eighty-six thousandths per cent of the total value of Pennsylvania cigarette tax stamps purchased by the agent from the department or its authorized agents to be used in the stamping of unstamped cigarettes for sale within this Commonwealth. The cigarette stamping agent may deduct from the moneys to be paid to the department or its authorized agents for the stamps an amount equal to five hundred eighty-six thousandths per cent of the value of the stamps purchased. This section shall not apply to purchases of stamps by a cigarette stamping agent in an amount less than one hundred dollars ($100).

(1216 amended July 13, 2016, P.L.526, No.84)

Section 1216.1. Return and Payment of Tax for Unstamped Cigarettes.--(a) By the twentieth day of each month, every person selling unstamped cigarettes to retailers shall file a return with the department reporting the tax imposed by this article on the sales of unstamped cigarettes in the prior calendar month.

(b) By the twentieth day of each month, every person purchasing unstamped cigarettes on which the tax imposed by this article was not paid to the seller or wholesaler shall file a return with the department reporting the amount of tax due on the purchase of unstamped cigarettes in the prior calendar month.

(c) The return shall be on a form prescribed by the department and must contain any information required by the department.

(d) When a return of tax is required under this section, the person required to file the return shall pay the tax to the department on the date the return is due.

(e) Unless otherwise specifically noted, the provisions of Article II shall apply to the returns, payment, penalties, enforcement, collections and appeals of the tax imposed on unstamped cigarettes.

(1216.1 added Oct. 9, 2009, P.L.451, No.48)

Section 1217. Sample Packs of Cigarettes.--(a) The department shall, by regulation, govern the receipt, distribution of and payment of tax on

sample packs of cigarettes issued for free distribution.
(b) Nothing in this article or the regulations promulgated thereunder shall prohibit the bringing into this Commonwealth by a manufacturer of sample packs of cigarettes containing not more than five cigarettes and such packs shall be delivered and distributed only through licensed dealers or the manufacturers or their sales representatives. The tax shall be paid by the manufacturer but no tax stamp or tax impression need be used on the sample packs of cigarettes provided all such packs bear the legend "all applicable State taxes have been paid." Under no circumstances shall any unstamped sample cigarettes be sold within the Commonwealth of Pennsylvania.
(1217 added Dec. 21, 1981, P.L.482, No.141)

PART IV
LICENSING PROVISIONS
(IV added Dec. 21, 1981, P.L.482, No.141)

Section 1221. Licensing of Cigarette Dealers.--(1221 repealed July 2, 1993, P.L.250, No.46)
Section 1222. Licensing of Cigarette Stamping Agents.--(1222 repealed July 2, 1993, P.L.250, No.46)
Section 1223. Licensing of Wholesalers.--(1223 repealed July, 1993, P.L.250, No.46)
Section 1224. Licensing of Retailers.--(1224 repealed July 2, 1993, P.L.250, No.46)
Section 1225. Suspension or Revocation of License.--(1225 repealed July 2, 1993, P.L.250, No.46)
Section 1226. Cigarette Tax Board.--(1226 repealed July 2, 1993, P.L.250, No.46)
Section 1227. License Fees; Issuance and Posting of License.--(1227 repealed July 2, 1993, P.L.250, No.46)
Section 1228. Transfer of Licenses.--(1228 repealed July 2, 1993, P.L.250, No.46)
Section 1229. Disposition of License Fees.--(1229 repealed July 2, 1993, P.L.250, No.46)
Section 1230. Expiration of License.--(1230 repealed July 2, 1993, P.L.250, No.46)
Section 1231. Duplicate License.--(1231 repealed July 2, 1993, P.L.250, No.46)

PART V
CIGARETTE VENDING MACHINES
(V added Dec. 21, 1981, P.L.482, No.141)

Section 1235. Cigarette Vending Machines; Names of Owner and Operator.--(1235 repealed July 2, 1993, P.L.250, No.46)
Section 1236. License for Machine.--(1236 repealed July 2, 1993, P.L.250, No.46)

PART VI
BUSINESS RECORDS
(VI added Dec. 21, 1981, P.L.482, No.141)

Section 1241. Retention of Records.--(1241 repealed July 2, 1993, P.L.250, No.46)
Section 1242. Reports.--(1242 repealed July 2, 1993, P.L.250, No.46)
Section 1243. Examination of Records; Equipment and Premises.--(1243 repealed July 2, 1993, P.L.250, No.46)

PART VII
REFUNDS AND ALLOWANCES
(VII added Dec. 21, 1981, P.L.482, No.141)

Section 1251. Refund of Tax.--A refund of any tax imposed by this article shall be made to a person on proof satisfactory to the department, that the claimant:

(1) Paid the tax on cigarettes withdrawn by him from the market.

(2) Shipped cigarettes into another state for sale or use therein under the conditions as provided by the regulations promulgated by the department.

(3) Sold to persons exempt from the tax under the provisions of this article or regulations prescribed thereunder.

(4) Had possession of cigarettes which were lost (otherwise than by theft) or destroyed by fire, casualty or act of God.

(5) Paid the tax in error.

(6) Has no further use for cigarette stamps originally purchased by him.

(1251 added Dec. 21, 1981, P.L.482, No.141)

Section 1252. Allowance for Nonpayment of Tax.--If the tax has not yet been paid on cigarettes for which a refund of said tax would be allowed under section 1251, relief from the payment of the tax on such cigarettes may be given upon the filing of a claim for allowance in the same manner as a claim for refund, or in any other manner provided by regulations.

(1252 added Dec. 21, 1981, P.L.482, No.141)

Section 1253. Limitations.--Claims for refund or allowance of tax imposed by this article shall be filed under section 3003.1 and shall be in such form and contain such information as the department shall, by regulation, prescribe.

(1253 amended May 7, 1997, P.L.85, No.7)

Section 1254. Procedures for Claiming Refund.--(a) A dealer shall make a claim for a refund of tax on a form and in the manner prescribed by the department.

(b) If the department is satisfied that the dealer is entitled to the refund it shall certify the proposed amount of such refund to the Board of Finance and Revenue for approval and, having obtained approval from the Board of Finance and Revenue, it shall thereafter issue to the dealer the proper refund.

(c) Claims for allowance for nonpayment of tax shall be allowed by the department if the department shall be satisfied that the dealer is entitled to such allowance.

(1254 added Dec. 21, 1981, P.L.482, No.141)

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 1254 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

PART VIII
ADVERTISING
(VIII added Dec. 21, 1981, P.L.482, No.141)

Section 1261. Advertising.--(1261 repealed July 2, 1993, P.L.250, No.46)

PART IX
PENALTIES AND ENFORCEMENT
(IX added Dec. 21, 1981, P.L.482, No.141)

Section 1271. Sales without License.--(1271 repealed July 2, 1993, P.L.250, No.46)

Section 1272. Sales of Unstamped Cigarettes.--(a) Any person who shall sell any unstamped cigarettes shall, upon conviction in a summary proceeding be sentenced to pay costs of prosecution and a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1000)

or to suffer imprisonment for a term of not more than sixty days, or both, at the discretion of the court.

(b) Any person who shall falsely or fraudulently, maliciously, intentionally or wilfully with intent to evade the payment of the Pennsylvania cigarette tax, sell any unstamped cigarettes shall be guilty of a felony and upon conviction thereof shall be sentenced to pay a fine of not more than fifteen thousand dollars ($15,000), plus costs of prosecution or to suffer imprisonment for a term of not more than five years, or both, at the discretion of the court.

(c) For the purposes of this section, the sale of unstamped cigarettes for which the tax has not been paid as a result of any wilful or intentional act for the purpose of avoiding the payment of the Pennsylvania cigarette tax shall be considered an illegal sale subjecting the seller to the penalties provided in subsection (b).

(1272 amended Oct. 9, 2009, P.L.451, No.48)

Section 1273. Possession of Unstamped Cigarettes.--(a) Any person other than a duly licensed stamping agency or other person specifically exempted by the provisions of this article who shall possess more than two hundred but less than one thousand unstamped cigarettesshall be guilty of a summary offense and upon conviction thereof shall pay a fine of three hundred dollars ($300), plus costs of prosecution or to suffer imprisonment for not more than ninety days, or both, at the discretion of the court.

(b) Any person other than a duly licensed stamping agency or other person specifically exempted by the provisions of this article who shall possess one thousand or more unstamped cigarettes shall be guilty of a misdemeanor and upon conviction thereof shall be sentenced to a fine of not less than one thousand dollars ($1000) nor more than fifteen thousand dollars ($15,000) and costs of prosecution or to suffer imprisonment for not more than three years, or both, at the discretion of the court.

(c) Any person who shall falsely or fraudulently, maliciously, intentionally or wilfully with intent to evade the payment of the Pennsylvania cigarette tax possess any unstamped cigarettes shall be guilty of a felony and upon conviction thereof shall be sentenced to pay a fine of not more than five thousand dollars ($5000) and costs of prosecution and to suffer imprisonment for a term of not more than five years.

(d) Every person other than a common carrier engaged in interstate commerce who shall possess or transport more than two hundred unstamped cigarettes upon the public highways, roads or streets of this Commonwealth, shall be required to have in his possession invoices or delivery tickets for such cigarettes. The invoices or delivery tickets shall show the correct date of purchase or shipment, true name and complete and exact address of the consignor or seller, the true name and complete and exact address of the consignee or purchaser, the quantity and brands of the cigarettes so transported and the true name and complete and exact address of the person who shall assume the payment of the Pennsylvania State tax or the tax, if any, of the state or foreign country at the point of ultimate destination. If the cigarettes are consigned to or purchased by any person in the Commonwealth of Pennsylvania such consignee or purchaser must be a licensed cigarette stamping agency or otherwise authorized by this article to possess unstamped cigarettes within the boundaries of this Commonwealth. The absence of such invoices or delivery tickets shall be prima facie evidence that the possession of such cigarettes is contrary to the provisions of this article and shall subject the possessor to the penalties imposed herein.

(e) In the absence of such invoices or delivery tickets or, if the name or address of the purchaser or consignor is falsified, or if the purchaser or consignee in this Commonwealth is not authorized to possess unstamped cigarettes then and in that event the cigarettes so transported shall be subject to confiscation at the discretion of the Secretary of Revenue as is more fully described in section 1285.

(f) For the purpose of this section the possession of genuine Pennsylvania cigarette tax stamps for which the tax has not been paid as a result of any wilful or intentional act for the purpose of avoiding the

payment of the Pennsylvania cigarette tax shall be considered a violation of this article subjecting the possessor thereof to the penalties provided in subsection (c).

(g) Transportation of cigarettes from a point outside of this Commonwealth to a final destination outside of this Commonwealth shall not be considered a violation of this section provided that the person so transporting such cigarettes has in his possession invoices, bills of lading or delivery tickets which give the true name and true address of such out-of-state consignor or seller and such out-of-state consignee or purchaser: Provided, however, That such consignor or consignee shall be authorized by the laws of such states to receive or possess cigarettes on which the taxes imposed by such other states have not been paid.

(h) In any case, where agents of the department have reason to believe that any vehicle is carrying or transporting cigarettes in violation of this article, then and in that event, the agents of the department shall be and are hereby authorized to stop such vehicle, make an inspection and confiscate all such unstamped or improperly stamped cigarettes found therein and confiscate the vehicle used to transport such unstamped or improperly stamped cigarettes.

(1273 amended Oct. 9, 2009, P.L.451, No.48)

Section 1274. Counterfeiting.--(a) Any person who falsely or fraudulently makes, forges, alters or counterfeits, or who has in his possession any stamping device, stencil, machine, or other material of any nature whatsoever designed to produce counterfeit tax stamps with the intent to produce counterfeit tax stamps or who causes or procures to be falsely or fraudulently made, forged, altered or counterfeited any cigarette tax stamp or any stamping device, stencil, machine, or other material of any nature whatsoever designed to produce counterfeit stamps with the intent to produce counterfeit stamps or knowingly and wilfully possesses, utters, purchases, publishes, sells, passes, distributes, or tenders any such false, altered, forged, or counterfeit stamp or any stamping device, stencil, machine or other material of any nature whatsoever designed to produce counterfeit stamps with the intent to produce counterfeit stamps for the purpose of evading the tax hereby imposed and assessed, shall be guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of not more than ten thousand dollars ($10,000) and costs of prosecution and suffer imprisonment for a term of not more than ten years.

(b) Possession of a forged, altered or counterfeited stamp or of any stamping device, stencil, machine, or other material, of any nature whatsoever designed to produce counterfeit stamps shall be prima facie evidence that such person has intended to produce counterfeit stamps for the purpose of evading the tax due under the provisions of this act.

(1274 added Dec. 21, 1981, P.L.482, No.141)

Section 1275. Defacing of Cigarette Stamping Equipment.--Any person who shall wilfully, maliciously and for the purpose of evading the tax hereby imposed and assessed, shall in any manner deface, modify, change, tamper with, alter any cigarette tax meter, machine, or stamping equipment or do any other act, the result of which would be likely to affect the proper working order of said cigarette tax meter, machine, or stamping equipment shall be guilty of a felony, and upon conviction thereof shall be sentenced to pay a fine of five thousand dollars ($5000) and to suffer imprisonment for a term of not more than five years.

(1275 added Dec. 21, 1981, P.L.482, No.141)

Section 1276. Failure to Furnish Information, Returning False Information or Failure to Permit an Inspection.--(a) Any dealer who fails to keep or make any record, return, report, inventory or statement, or keeps or makes any false or fraudulent record, return, report, inventory or statement required by this article or section 214-A, 215-A or 216-A of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of five hundred dollars ($500) and costs of prosecution and to suffer imprisonment of not more than one year, or both,

in the discretion of the court. Notwithstanding any fine imposed by a court of competent jurisdiction in accordance with this subsection or by the department under section 229-A(c) of "The Fiscal Code," if the dealer is a cigarette stamping agent, the department may impose an administrative fine of not more than five thousand dollars ($5,000) and, upon notice, may suspend the right of the cigarette stamping agent to purchase cigarette tax stamps for six months. If a cigarette stamping agent's right to purchase cigarette tax stamps is suspended pursuant to this subsection more than twice, after a hearing, the department shall revoke the license of the cigarette stamping agent; and, for a period of two years, the department shall reject any application by the stamping agent for a license under section 204-A of "The Fiscal Code."

(b) The department is hereby authorized to examine the books and records, the stock of cigarettes and the premises and equipment of any dealer in order to verify the accuracy of the payment of the tax imposed by this article. Every such person is hereby directed and required to give to the department or its duly authorized representative, the means, facilities and opportunity for such examinations. Wilful refusal to cooperate with or permit such examination to the satisfaction of the department shall be sufficient grounds for the suspension or revocation of any license issued hereunder, and in addition thereto shall constitute a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of five hundred dollars ($500) and costs of prosecution and to suffer imprisonment of not more than one year or both.

(1276 amended June 22, 2001, P.L.353, No.23)

Section 1277. Right of Department to Impound Vending Machines and Contents.--(a) Whenever any cigarettes are found or are suspected to be in any vending machine in violation of the provisions of this article, or whenever a vending machine is not properly licensed or labeled, the duly authorized agents or employes of the department shall seal the machine by the means of impounding stickers to prevent sale or removal of any cigarettes from the machine until such time as the violation is corrected in the presence of a duly authorized agent or employe of the department.

(b) Anyone other than the duly authorized agents or employes of the department who shall remove or otherwise tamper with any impounding stickers placed on any vending machine, contents, or other evidence shall be guilty of a misdemeanor and subject to a fine of not more than one thousand dollars ($1000) and costs of prosecution and to suffer imprisonment of not more than one year or both.

(1277 added Dec. 21, 1981, P.L.482, No.141)

Section 1278. Other Violations.--(a) Any person who wilfully omits, neglects, or refuses to comply with any duty imposed upon him by this article or does anything prohibited by this article for which no specific penalty is otherwise provided, shall upon conviction in a summary proceeding be sentenced to pay a fine not to exceed five hundred dollars ($500) and costs of prosecution, and, in default of payment thereof, to undergo imprisonment for not more than thirty days.

(b) Any person who wilfully omits or neglects to file any return required or pay any tax imposed by this article, or attempts in any manner to evade or defeat the tax or payment thereof, shall, in addition to any other penalty provided in this article, be liable to a penalty equal to the amount of tax evaded or not paid, which penalty shall be added to the tax and assessed and collected at the same time in the same manner as a part of the tax.

(c) Any person who fails to file any required return or pay tax at the time prescribed shall, in addition to any other penalty provided in this article, be liable to a penalty of five per cent of the tax due but unpaid for each month or fraction thereof the tax remains unpaid together with the interest at the rate established pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," on such tax from the time the tax became due. The penalties provided in this subsection shall be added to the tax and assessed and collected at the same time in the same manner and as a part of the tax.

(1278 amended Oct. 9, 2009, P.L.451, No.48)

Section 1279. Peace Officers; Powers.--Such employes of the department as are officially designated by the Secretary of Revenue as field investigators of the bureau, and who carry identification of such capacity, are hereby declared to be peace officers and they, as well as other peace officers of the Commonwealth are hereby given police powers and authority throughout the Commonwealth to arrest on view, except in private homes, without warrant, any person actually engaged in the unlawful sale of unstamped or counterfeit cigarettes or any counterfeit devices, or any person unlawfully having in his possession unstamped cigarettes, counterfeit cigarettes or counterfeiting devices contrary to the provisions of this article. Such peace officer shall have the power and authority upon reasonable and probable cause to search for and seize without warrant or process, except in private homes, any unstamped cigarettes, counterfeit cigarettes or counterfeiting devices which are unlawfully possessed.

(1279 added Dec. 21, 1981, P.L.482, No.141)

Section 1280. Fines and Penalties Payable to Commonwealth.--All fines and penalties imposed and collected under the provisions of this article shall be payable to the Commonwealth and are hereby appropriated to the department to be used in enforcing this article.

(1280 added Dec. 21, 1981, P.L.482, No.141)

PART X
CONFISCATION AND FORFEITURE
(X added Dec. 21, 1981, P.L.482, No.141)

Section 1285. Property Rights.--(a) No property rights shall exist in any vending machine in which unstamped cigarettes are found, nor shall any property rights exist in any vehicle containing two thousand or more unstamped cigarettes or containing more than two hundred unstamped cigarettes if the owner has been previously convicted of the illegal sale, possession or transportation of unstamped cigarettes in this or any other jurisdiction. The said vending machine, all cigarettes contained therein, and the vehicle which contained said unstamped cigarettes shall be deemed contraband and shall be confiscated at the discretion of the Secretary of Revenue, and shall be forfeited to the Commonwealth as provided in subsections (e) and (f). No such property, when in the custody of the department, the police or other proper peace officers shall be seized or taken therefrom by any writ of replevin or other judicial process unless a petition for forfeiture is not timely filed.

(b) Upon said forfeiture or confiscation, the department shall dispose of any forfeited machine or forfeited cigarettes in accordance with subsections (e) and (f).

(c) No property rights shall exist in any packages of cigarettes which have been taken from any person who has been found in violation of the provisions of section 1273 or any cigarettes sold or offered for sale by any person without a proper license or any cigarettes sold or offered for sale by any person not possessing proper documentation showing legal purchase of said cigarettes and all such packages of cigarettes shall be deemed contraband, shall be confiscated and shall be forfeited to the Commonwealth without further proceedings and shall be delivered to the agents of the department at the time of conviction by the judge, justice of the peace, magistrate or alderman. ((c) amended Aug. 4, 1991, P.L.97, No.22)

(d) No property rights shall exist in any machinery, equipment, fixtures, stenciling device, stamp, stamping device, or other paraphernalia designed or used to counterfeit Pennsylvania cigarette tax stamps nor shall any property rights exist in any packages of cigarettes confiscated in connection with the operation of any counterfeiting or other scheme designed to evade the payment of proper Pennsylvania cigarette tax. Said machinery, equipment, fixtures, stenciling device, stamp, stamping device or other paraphernalia and cigarettes shall be confiscated and at the

discretion of the Secretary of Revenue, shall be forfeited to the Commonwealth in accordance with the provisions of this article.

(e) The department shall dispose of cigarettes forfeited under the provisions of this article by the sale or destruction of cigarettes pursuant to regulations promulgated by the Secretary of Revenue. ((e) amended June 22, 2001, P.L.353, No.23)

(f) The proceedings for the forfeiture of any cigarette vending machine or motor vehicle, in which are found unstamped cigarettes shall be in rem. The Commonwealth shall be the plaintiff and the property shall be the defendant. A petition shall be filed within ten days after confiscation in the court of common pleas of the county in which the property or vehicle was taken by agents of the department, the police or other such authorized peace officer, verified by oath or affirmation of any cigarette tax enforcement officer, police officer or other person. In the event that such petition is not filed within the time prescribed herein, such confiscated vending machine or motor vehicle shall be immediately returned to the person from whom confiscated or the owner thereof. ((f) amended June 22, 2001, P.L.353, No.23)

(g) The petition shall contain the following:

(1) The description of the property or vehicle seized.

(2) A statement of the time when and place where seized.

(3) The name and address of the owner, if known.

(4) The name and address of the person in possession, if known.

(5) The statement of the circumstances under which the property was found and the number and description of all unstamped or improperly stamped cigarettes found therein.

(6) A prayer for an order forfeiting said property to the Commonwealth, unless cause be shown to the contrary.

(h) A copy of the petition shall be served in any manner provided by law for service of process or complaint in an action in assumpsit on the owner if he can be found within the Commonwealth. If the owner cannot be found within the Commonwealth, a copy of the petition shall be served on the owner by registered mail or certified mail, return receipt requested, addressed to the last known address of the owner. The person in possession and all encumbrance holders having a perfected security interest in the property confiscated shall be notified in a like manner. The copies shall have endorsed thereon a notice substantially similar to the following:

"To the claimant of the within property: You are required to file an answer to this petition setting forth your title in and right to possession of said property, within twenty days from the service hereof, and you are also notified that if you fail to file said answer, a decree of forfeiture will be entered against said property."

(i) The notice shall be signed by the petitioner or his attorney or the district attorney or Attorney General.

(j) If the owner of the property is unknown, notice of the petition shall also be given by an advertisement in only one newspaper of general circulation published in the county where the property was seized, once a week for two successive weeks. No other advertisement of any sort shall be necessary, any other law to the contrary notwithstanding. The notice shall contain a statement of the seizure of the property, with the description thereof, the place and date of seizure, and shall direct any claimants thereof to file a claim therefor, on or before a date given in the notice, which shall not be less than ten days from the date of the last publication.

(k) Upon the filing of any claim for the property setting forth a right of possession thereof, the case shall be deemed at issue and a hearing shall be held within ten days thereof. ((k) amended June 22, 2001, P.L.353, No.23)

(l) At the time of the hearing, if the Commonwealth shall prove by competent evidence to the satisfaction of the court that the machine or motor vehicle in question was found to contain unstamped or improperly stamped cigarettes, then and in that event the claimant shall show that he is the owner of the cigarette vending machine or other equipment, motor

vehicle or cigarettes, and that all cigarettes found in the machine, or any other place from which the cigarettes were seized, did contain the proper amount of genuine Pennsylvania cigarette tax stamps, or that he is otherwise not subject to the provisions of this section as the result of any exemption or allowance provided for in other sections of this article.

(m) The claimant shall have the burden of proving that he is not subject to the provisions of this section, but the burden of proof shall be upon the Commonwealth to prove all other facts necessary for the forfeiture of a cigarette vending machine or motor vehicle. In the event that the Commonwealth has not met its burden by a preponderance of the evidence, or the claimant has proved that he is not subject to the provisions of this section, the court shall order the machine, motor vehicle or other equipment returned to the claimant; otherwise, the court shall order the same forfeited to the Commonwealth: Provided, however, That in the case of a motor vehicle, should the claimant prove to the satisfaction of the court that he is the registered owner of the motor vehicle and that he did not know, nor had reason to know, that it was being used to carry unstamped or improperly stamped cigarettes or tobacco products, the court in its discretion, may order the same returned to the claimant.

(n) In the case of a motor vehicle, should the claimant prove that he holds a valid encumbrance upon such motor vehicle, notice of which encumbrance has been duly noted on the certificate of title to said motor vehicle in accordance with the provisions of Title 75 of the Pennsylvania Consolidated Statutes (relating to vehicles), such forfeiture shall be subject to such encumbrance as of the date of the seizure less prepaid or unearned interest and before said motor vehicle may be sold, exchanged or otherwise transferred or retained for use by the Commonwealth, the outstanding amount of such encumbrance shall be paid to the claimant; or possession of the motor vehicle shall be turned over to the claimant who shall expose the same to public sale and shall pay over to the Commonwealth any amount realized in excess of the outstanding amount of such encumbrance less the reasonable costs incurred by claimant in conducting such sale.

(1285 added Dec. 21, 1981, P.L.482, No.141)

Compiler's Note: Section 28 of Act 207 of 2004 provided that any and all references in any other law to a "district justice" or "justice of the peace" shall be deemed to be references to a magisterial district judge.

Section 1286. Disposition of Unclaimed Motor Vehicles.--If the court orders a motor vehicle returned to the owner or claimant and the owner or claimant fails to remove the vehicle from Commonwealth property, the department shall give the owner or claimant notice, in the manner provided in section 1285 for service of notice of the petition, to remove the vehicle within ninety days. Should the owner or claimant fail to remove the vehicle within ninety days from the date notice was given, the vehicle shall, without regard to any other period of limitations, be disposed of as provided in the act of August 9, 1971 (P.L.286, No.74), known as the "Disposition of Abandoned and Unclaimed Property Act."

(1286 added Dec. 21, 1981, P.L.482, No.141)

PART XI
ENFORCEMENT AND REGULATIONS
(XI added Dec. 21, 1981, P.L.482, No.141)

Section 1291. Enforcement; Regulations.--The department is hereby charged with the enforcement of the provisions of this article and it is hereby authorized to promulgate regulations relating to the administration and enforcement of the provisions of this article. The violation of a regulation promulgated under the authority of this article shall be considered to be a violation of the article.

(1291 added Dec. 21, 1981, P.L.482, No.141)

PART XII
SAVING CLAUSE: PAYMENT: REPEALER
(XII added Dec. 21, 1981, P.L.482, No.141)

Section 1295. Saving Clause.--(a) This article shall be deemed to be a continuation of prior law. All cigarette tax stamps and licenses sold or issued pursuant to any act repealed hereby shall continue in full force and effect in accordance with their terms and any cigarettes upon which tax has once been paid shall not be taxed a second time. All licenses issued after the effective date of this article shall be issued in accordance with the requirements of and the schedule of fees provided in this article. The enactment of this article shall not affect or impair any act done or right existing or accrued or affect any action presently pending before a court involving the enactment or validity of the article or any criminal suit, action, proceeding or prosecution to enforce any right acquired or prosecute any violation committed under the provisions of any law repealed hereby.

(b) If any section, sentence, clause or part of this article is for any reason held to be unconstitutional, the decision of the court shall not affect or impair the remaining provisions of this article. It is hereby declared to be the legislative intent that this article would have been adopted had such unconstitutional section, sentence, clause or part thereof not been included therein.

(1295 added Dec. 21, 1981, P.L.482, No.141)

Section 1296. Disposition of Certain Funds.--

(a) Receipts from the tax imposed under this article shall be deposited into the General Fund and used as follows:

(1) Twenty-five million four hundred eighty-five thousand dollars ($25,485,000) shall be transferred annually to the Agricultural Conservation Easement Purchase Fund.

(2) Thirty million seven hundred thirty thousand dollars ($30,730,000) shall be transferred annually to the Children's Health Fund for health care for uninsured children.

(3) For the payments required under subsection (c).

(b) The transfers required under subsection (a)(1) and (2) shall be made in two equal payments by July 15 and January 15.

(c) For any fiscal year after the effective date of this subsection in which the revenue deposited into the Local Cigarette Tax Fund from an excise tax imposed and assessed upon the sale or possession of cigarettes within a school district that is coterminous with a city of the first class is less than fifty eight million dollars ($58,000,000), the State Treasurer shall transfer receipts deposited into the General Fund in accordance with this section to the Local Cigarette Tax Fund in an amount equal to the difference between the revenue deposited during the fiscal year and fifty eight million dollars ($58,000,000) to be disbursed as provided under 53 Pa.C.S. § 8722(i) (relating to local option cigarette tax in school districts of the first class). The Secretary of Revenue shall determine the amount to be transferred. The transfers required under this subsection shall be made annually by July 15.

(1296 amended July 13, 2016, P.L.526, No.84)

Section 1297. Repealer.--The act of July 22, 1970 (P.L.513, No.178), known as the "Pennsylvania Cigarette Tax Act," is repealed.

(1297 added Dec. 21, 1981, P.L.482, No.141)

ARTICLE XII-A
TOBACCO PRODUCTS TAX
(Art. added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 52(2) of Act 84 of 2016, which added Article XII-A, provided that, notwithstanding the provisions of the act of August 5, 1932 (Sp.Sess., P.L.45, No.45), referred to as the Sterling Act, and the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, the addition of Article XII-A

shall not preempt any tax imposed by a unit of local government as of the effective date of section 52 unless specifically provided for in Act 84.

See section 53 of Act 84 of 2016 in the appendix to this act for special provisions relating to applicability.

Section 1201-A. Definitions.

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

"Cigar." Any roll for smoking that weighs more than four pounds per thousand and the wrapper or cover is made of natural leaf tobacco or of any substance containing tobacco.

"Cigarette." As defined in section 1201.

"Consumer." An individual who purchases tobacco products for personal use and not for resale.

"Contraband." Any tobacco product for which the tax imposed by this article has not been paid.

"Dealer." A wholesaler or retailer. Nothing in this article shall preclude any person from being a wholesaler or retailer, provided the person meets the requirements for a license in each category of dealer.

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

"Electronic cigarettes." As follows:

(1) An electronic oral device, such as one composed of a heating element and battery or electronic circuit, or both, which provides a vapor of nicotine or any other substance and the use or inhalation of which simulates smoking.

(2) The term includes:

(i) A device as described in paragraph (1), notwithstanding whether the device is manufactured, distributed, marketed or sold as an e-cigarette, e-cigar and e-pipe or under any other product, name or description.

(ii) A liquid or substance placed in or sold for use in an electronic cigarette.

"Manufacturer." A person that produces tobacco products.

"Person." An individual, unincorporated association, company, corporation, joint stock company, group, agency, syndicate, trust or trustee, receiver, fiduciary, partnership, conservator, any political subdivision of the Commonwealth or any other state. If used in any of the provisions of this article prescribing or imposing penalties, the term "person" as applied to a partnership, unincorporated association or other joint venture, shall mean the partners or members of the partnership, unincorporated association or other joint venture, and as applied to a corporation, shall mean each officer and director of the corporation.

"Purchase price." The total value of anything paid or delivered, or promised to be paid or delivered, money or otherwise, in complete performance of a sale or purchase, without any deduction on account of the cost or value of the property sold, cost or value of transportation, cost or value of labor or service, interest or discount paid or allowed after the sale is consummated, any other taxes imposed by the Commonwealth or any other expense.

"Retailer." A person that purchases or receives tobacco products from any source for the purpose of sale to a consumer, or who owns, leases or otherwise operates one or more vending machines for the purpose of sale of tobacco products to the ultimate consumer. The term includes a vending machine operator or a person that buys, sells, transfers or deals in tobacco products and is not licensed as a tobacco products wholesaler under this article.

"Roll-your-own tobacco." Any tobacco which, because of the tobacco's appearance, type, packaging or labeling, is suitable for use and is likely to be offered to, or purchased by, consumers as tobacco for making cigarettes.

"Sale." Any transfer of ownership, custody or possession of tobacco products for consideration; any exchange, barter or gift; or any offer to sell or transfer the ownership, custody or possession of tobacco products for consideration.

"Taxpayer." Any person subject to tax under this article.

"Tobacco products." As follows:

(1) Electronic cigarettes.

(2) Roll-your-own tobacco.

(3) Periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, dry snuff, snuff flour, cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or ingesting or for smoking in a pipe or otherwise, or any combination of chewing, ingesting or smoking.

(4) The term does not include:

(i) Any item subject to the tax under section 1206.

(ii) Cigars.

"Unclassified importer." A consumer who purchases tobacco products using the Internet or mail-order catalogs for personal possession or use in this Commonwealth from persons that are not licensed.

"Vending machine operator." A person who places or services one or more tobacco product vending machines whether owned, leased or otherwise operated by the person at locations from which tobacco products are sold to the consumer. The owner or tenant of the premises upon which a vending machine is placed shall not be considered a vending machine operator if the owner's or tenant's sole remuneration therefrom is a flat rental fee or commission based upon the number or value of tobacco products sold from the machine, unless the owner or tenant actually owns the vending machine or leases the vending machine under an agreement whereby any profits from the sale of the tobacco products directly inure to the owner's or tenant's benefit.

"Wholesaler." A person engaged in the business of selling tobacco products that receives, stores, sells, exchanges or distributes tobacco products to retailers or other wholesalers in this Commonwealth or retailers who purchase from a manufacturer or from another wholesaler who has not paid the tax imposed by this article.

(1201-A added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 53(5)(ii)(A) and (B) of Act 84 of 2016, which added section 1201-A, provided that the definition of "roll-your-own tobacco" and par. (2) of the definition of "tobacco products" shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under section 53(3)(ii) of Act 84.

Section 1202-A. Incidence and rate of tax.

(a) Imposition of tax on certain tobacco products.--A tobacco products tax is imposed on the dealer or manufacturer at the time the tobacco product is first sold to a retailer in this Commonwealth at the rate of 55¢ per ounce for the purchase of any tobacco product other than electronic cigarettes. The tax rate shall include a proportionate tax at the rate of 55¢ per ounce on all fractional parts of an ounce. The tax imposed on tobacco products other than electronic cigarettes that weigh less than 1.2 ounces per container is equal to the amount of the tax imposed on tobacco products other than electronic cigarettes that weigh 1.2 ounces. The tax shall be collected from the retailer by whomever sells the tobacco product to the retailer and remitted to the department. Any person required to collect this tax shall separately state the amount of tax on an invoice or other sales document.

(a.1) Imposition of tax on electronic cigarettes.--A tobacco products tax is imposed on the dealer or manufacturer at the time the electronic cigarette is first sold to a retailer in this Commonwealth at the rate of 40% on the purchase price charged to the retailer for the purchase of electronic cigarettes. The tax shall be collected for the retailer by

whomever sells the electronic cigarette to the retailer and remitted to the department. Any person required to collect this tax shall separately state the amount of tax on an invoice or other sales document.

(b) Retailer.--((b) repealed Dec. 22, 2025, P.L.348, No.57)

(c) Unclassified importer.--The tax is imposed on an unclassified importer at the time of purchase at the same rate as in subsections (a) and (a.1) based on the unclassified importer's purchase price of the tobacco products. The unclassified importer shall remit the tax to the department.

(d) Exceptions.--The tax shall not be imposed on any tobacco products that:

(1) are exported for sale outside this Commonwealth; or

(2) are not subject to taxation by the Commonwealth pursuant to any laws of the United States.

(1202-A added July 13, 2016, P.L.526, No.84)

Section 1203-A. Floor tax.

(a) Payment.--

(1) Any retailer that, as of the effective date of this paragraph, possesses tobacco products subject to the tax imposed by section 1202-A other than roll-your-own tobacco shall pay the tax in accordance with the rates specified in section 1202-A. The tax shall be paid and reported on a form prescribed by the department within 90 days of the effective date of this paragraph.

(2) Any retailer that, as of the effective date of this paragraph, possesses roll-your-own tobacco subject to the tax imposed by section 1202-A shall pay the tax in accordance with the rates specified in section 1202-A. The tax shall be paid and reported on a form prescribed by the department within 90 days of the effective date of this paragraph.

(b) Administrative penalty; license.--If a retailer fails to file the report required by subsection (a) or fails to pay the tax imposed by subsection (a), the department may, in addition to the interest and penalties provided in section 1215-A, do any of the following:

(1) Impose an administrative penalty equal to the amount of tax evaded or not paid. The penalty shall be added to the tax evaded or not paid and assessed and collected at the same time and in the same manner as the tax.

(2) Suspend, revoke or refuse to issue the retailer's license.

(c) Criminal penalty.--In addition to any penalty imposed under subsection (b), a person that willfully omits, neglects or refuses to comply with a duty imposed under subsection (a) commits a misdemeanor and shall, if convicted, be sentenced to pay a fine of not less than $2,500 nor more than $5,000, to serve a term of imprisonment not to exceed 30 days, or both.

(1203-A added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 53(5)(ii)(C) of Act 84 of 2016, which added section 1203-A, provided that subsection (a) (2) shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under section 53(3)(ii) of Act 84.

Section 1204-A. Remittance of tax to department.

Wholesalers, retailers, unclassified importers and manufacturers shall file monthly reports on a form prescribed by the department by the 20th day of the month following the sale or purchase of tobacco products from any other source on which the tax levied by this article has not been paid. The tax is due at the time the report is due. The department may require the filing of reports and payment of tax on a less frequent basis at its discretion.

(1204-A added July 13, 2016, P.L.526, No.84)

Section 1205-A. (Reserved).

(1205-A added July 13, 2016, P.L.526, No.84)

Section 1206-A. Procedures for claiming refund.

A claim for a refund of tax imposed by this article under section 3003.1 and Article XXVII shall be in the form and contain the information

prescribed by the department by regulation.
(1206-A added July 13, 2016, P.L.526, No.84)
Section 1207-A. Sales or possession of tobacco product when tax not paid.
(a) Sales or possession.--Any person who sells or possesses any tobacco product for which the proper tax has not been paid commits a summary offense and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not less than $100 nor more than $1,000 or to imprisonment for not more than 60 days, or both, at the discretion of the court. Any tobacco products purchased from a wholesaler properly licensed under this article shall be presumed to have the proper taxes paid.
(b) Tax evasion.--Any person that shall falsely or fraudulently, maliciously, intentionally or willfully with intent to evade the payment of the tax imposed by this article sell or possess any tobacco product for which the proper tax has not been paid commits a felony and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not more than $5,000 or to imprisonment for not more than five years, or both, at the discretion of the court.
(1207-A added July 13, 2016, P.L.526, No.84)
Section 1208-A. Assessment.
The department is authorized to make the inquiries, determinations and assessments of the tax, including interest, additions and penalties, imposed by this article.
(1208-A added July 13, 2016, P.L.526, No.84)
Section 1209-A. (Reserved).
(1209-A added July 13, 2016, P.L.526, No.84)
Section 1210-A. (Reserved).
(1210-A added July 13, 2016, P.L.526, No.84)
Section 1211-A. Failure to file return.
Where no return is filed, the amount of the tax due may be assessed and collected at any time as to taxable transactions not reported.
(1211-A added July 13, 2016, P.L.526, No.84)
Section 1212-A. False or fraudulent return.
Where the taxpayer willfully files a false or fraudulent return with intent to evade the tax imposed by this article, the amount of tax due may be assessed and collected at any time.
(1212-A added July 13, 2016, P.L.526, No.84)
Section 1213-A. Extension of limitation period.
Notwithstanding any other provision of this article, where, before the expiration of the period prescribed for the assessment of a tax, a taxpayer has consented, in writing, that the period be extended, the amount of tax due may be assessed at any time within the extended period. The period so extended may be extended further by subsequent consents, in writing, made before the expiration of the extended period.
(1213-A added July 13, 2016, P.L.526, No.84)
Section 1214-A. Failure to furnish information, returning false information or failure to permit inspection.
(a) Penalty.--Any taxpayer who fails to keep or make any record, return, report, inventory or statement, or keeps or makes any false or fraudulent record, return, report, inventory or statement required by this article commits a misdemeanor and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of $500 and to imprisonment for not more than one year, or both, at the discretion of the court.
(b) Examination.--The department is authorized to examine the books and records, the stock of tobacco products and the premises and equipment of any taxpayer in order to verify the accuracy of the payment of the tax imposed by this article. The person subject to an examination shall give to the department or its duly authorized representative the means, facilities and opportunity for the examination. Willful refusal to cooperate with or permit an examination to the satisfaction of the department shall be sufficient grounds for the suspension or revocation of a taxpayer's license. In addition, a person who willfully refuses to cooperate with or permit an examination to the satisfaction of the department commits a misdemeanor and shall, upon conviction, be sentenced to pay costs of

prosecution and a fine of $500 or to imprisonment for not more than one year, or both, at the discretion of the court.

(c) Dealer or manufacturer records.--A dealer or manufacturer shall keep and maintain for a period of four years records in the form prescribed by the department. The records shall be maintained at the location for which the license is issued.

(d) Reports.--A dealer or manufacturer shall file reports at times and in the form prescribed by the department.

(e) Manufacturer, wholesaler or dealer records.--A manufacturer, wholesaler or dealer located or doing business in this Commonwealth who sells tobacco products to a wholesale or retail license holder in this Commonwealth shall keep records showing:

(1) A list by tobacco product and by brand family of the number and kind of tobacco products sold, the amount of tax due and the amount of tax paid. For roll-your-own tobacco, the records shall include the total weight and the equivalent stick count of roll-your-own tobacco by brand family which the manufacturer, wholesaler or dealer sold, the amount of tax due and the amount of tax paid. For purposes of this paragraph, 0.09 ounces of roll-your-own tobacco shall constitute one stick.

(2) The date the tobacco products were sold.

(3) The name and license number of the dealer the tobacco products were sold to.

(4) The total weight of each of the tobacco products sold to the license holder.

(5) The place where the tobacco products were shipped.

(6) The name of the common carrier.

(f) Manufacturer, wholesaler or dealer.--A manufacturer, wholesaler or dealer shall file with the department, on or before the 20th day of each month, a report showing the information listed in subsection (e) for the previous month.

(g) Records.--Each manufacturer, wholesaler and dealer shall maintain and make available to the department and to the Office of Attorney General all invoices and documentation of sales of all tobacco products and any other information relied upon to prepare the reports required under subsection (f) for a period of five years after each report is filed with the department.

(1214-A added July 13, 2016, P.L.526, No.84)

Section 1215-A. Other violations, peace officers and fines.

Sections 1278, 1279, 1280 and 1291 are incorporated by reference into and shall apply to the tax imposed by this article.

(1215-A added July 13, 2016, P.L.526, No.84)

Section 1216-A. Sales reporting.

For purposes of reporting sales of roll-your-own tobacco under the act of June 22, 2000 (P.L.394, No.54), known as the Tobacco Settlement Agreement Act, 0.09 ounces of tobacco shall constitute one individual unit sold.

(1216-A added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 53(5)(ii)(D) of Act 84 of 2016, which added section 1216-A, provided that section 1216-A shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under section 53(3)(ii) of Act 84.

Section 1217-A. (Reserved).

(1217-A added July 13, 2016, P.L.526, No.84)

Section 1218-A. (Reserved).

(1218-A added July 13, 2016, P.L.526, No.84)

Section 1219-A. Records of shipments and receipts of tobacco products required.

The department may, in its discretion, require reports from any common or contract carrier who transports tobacco products to any point or points within this Commonwealth, and from any bonded warehouseman or bailee who has in the possession of the warehouseman or bailee any tobacco products. The reports shall contain the information concerning shipments of tobacco

products that the department determines to be necessary for the administration of this article. All common and contract carriers, bailees and warehousemen shall permit the examination by the department or its authorized agents of any records relating to the shipment or receipt of tobacco products.
(1219-A added July 13, 2016, P.L.526, No.84)
Section 1220-A. Licensing of dealers and manufacturers.
(a) Prohibition.--No person, unless all sales of tobacco products are exempt from Pennsylvania tobacco products tax, shall sell, transfer or deliver any tobacco products in this Commonwealth without first obtaining the proper license provided for in this article.
(b) Application.--An applicant for a dealer's or manufacturer's license shall complete and file an application with the department. The application shall be in the form and contain information prescribed by the department and shall set forth truthfully and accurately the information desired by the department. If the application is approved, the department shall license the dealer or manufacturer for a period of one year and the license may be renewed annually thereafter.
(1220-A added July 13, 2016, P.L.526, No.84)
Section 1221-A. Licensing of manufacturers.
Any manufacturer doing business within this Commonwealth shall first obtain a license to sell tobacco products by submitting an application to the department containing the information requested by the department and designating a process agent. If a manufacturer designates no process agent, the manufacturer shall be deemed to have made the Secretary of State its agent for the service of process in this Commonwealth.
(1221-A added July 13, 2016, P.L.526, No.84)

2025 Unconstitutionality: Section 1221-A was declared unconstitutional on January 3, 2025, by the Commonwealth Court of Pennsylvania in East Coast Vapor LLC v Department of Revenue, 330 A.3d 521.

Section 1222-A. Licensing of wholesalers.
(a) Requirements.--Applicants for a wholesale license or renewal of that license shall meet the following requirements:
(1) The premises on which the applicant proposes to conduct business are adequate to protect the revenue.
(2) The applicant is a person of reasonable financial stability and reasonable business experience.
(3) The applicant, or any shareholder controlling more than 10% of the stock if the applicant is a corporation or any officer or director if the applicant is a corporation, shall not have been convicted of any crime involving moral turpitude.
(4) The applicant shall not have failed to disclose any material information required by the department, including information that the applicant has complied with this article by providing a signed statement under penalty of perjury.
(5) The applicant shall not have made any material false statement in the application.
(6) The applicant shall not have violated any provision of this article.
(7) The applicant shall have filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan.
(b) Multiple locations.--The wholesale license shall be valid for one specific location only. Wholesalers with more than one location shall obtain a license for each location.
(1222-A added July 13, 2016, P.L.526, No.84)
Section 1223-A. Licensing of retailers.
Applicants for a retail license or renewal of that license shall meet the following requirements:
(1) The premises in which the applicant proposes to conduct business are adequate to protect the revenues.

(2) The applicant shall not have failed to disclose any material information required by the department.

(3) The applicant shall not have any material false statement in the application.

(4) The applicant shall not have violated any provision of this article.

(5) The applicant shall have filed all required State tax reports and paid any State taxes not subject to a timely perfected administrative or judicial appeal or subject to a duly authorized deferred payment plan.

(1223-A added July 13, 2016, P.L.526, No.84)

Section 1224-A. License for tobacco products vending machines.

Each tobacco products vending machine shall have a current retail license which shall be conspicuously and visibly placed on the machine. There shall be conspicuously and visibly placed on every tobacco products vending machine the name and address of the owner and the name and address of the operator.

(1224-A added July 13, 2016, P.L.526, No.84)

Section 1225-A. License fees and issuance and display of license.

(a) Application.--At the time of making any application or license renewal application:

(1) An applicant for a tobacco products manufacturers license shall pay the department a license fee of $1,500.

(2) An applicant for a wholesale tobacco products dealer's license shall pay to the department a license fee of $1,500.

(3) An applicant for a retail tobacco products dealer's license shall pay to the department a license fee of $25.

(4) An applicant for a vending machine tobacco products dealer's license shall pay to the department a license fee of $25.

(b) Proration.--Fees shall not be prorated.

(c) Issuance and display.--On approval of the application and payment of the fees, the department shall issue the proper license which must be conspicuously displayed at the location for which it has been issued.

(1225-A added July 13, 2016, P.L.526, No.84)

Section 1226-A. Electronic filing.

The department may at its discretion require that any or all returns, reports or registrations that are required to be filed under this article be filed electronically. Failure to electronically file any return, report, registration or other information the department may direct to be filed electronically shall subject the taxpayer to a penalty of 5% of the tax due on the return, up to a maximum of $1,000, but not less than $10. This penalty shall be assessed at any time and collected in the manner provided in this article. This penalty shall be in addition to any civil penalty imposed in this article for failure to furnish information or file a return. The criminal penalty for failure to file a return electronically shall be the same as the criminal penalty for failure to furnish information or file a return under this article.

(1226-A added July 13, 2016, P.L.526, No.84)

Section 1227-A. Expiration of license.

(a) Expiration.--A license shall expire on the last day of February next succeeding the date upon which it was issued unless the department at an earlier date suspends, surrenders or revokes the license.

(b) Violation.--After the expiration date of the license or sooner if the license is suspended, surrendered or revoked, it shall be illegal for any dealer to engage directly or indirectly in the business heretofore conducted by the dealer for which the license was issued. Any licensee who shall, after the expiration date of the license, engage in the business theretofore conducted by the licensee either by way of purchase, sale, distribution or in any other manner directly or indirectly engaged in the business of dealing with tobacco products for profit shall be in violation of this article and be subject to the penalties provided in this article.

(1227-A added July 13, 2016, P.L.526, No.84)

Section 1228-A. Administration powers and duties.

(a) Department.--The administration of this article is vested in the department. The department shall adopt rules and regulations for the enforcement of this article. The department may impose fees as may be necessary to cover the costs incurred in administering this section.

(b) Joint administration.--The department is authorized to jointly administer this article with other provisions of this act, including joint reporting of information, forms, returns, statements, documents or other information submitted to the department.

(1228-A added July 13, 2016, P.L.526, No.84)

Section 1229-A. Sales without license.

(a) Penalty.--Any person who shall, without being the holder of a proper unexpired dealer's license, engage in purchasing, selling, distributing or in any other manner directly or indirectly engaging in the business of dealing with tobacco products for profit commits a summary offense and shall, upon conviction, be sentenced to pay costs of prosecution and a fine of not less than $250 nor more than $1,000 or to imprisonment for not more than 30 days, or both, at the discretion of the court.

(b) Prima facie evidence.--Open display of tobacco products in any manner shall be prima facie evidence that the person displaying such tobacco products is directly or indirectly engaging in the business of dealing with tobacco products for profit.

(1229-A added July 13, 2016, P.L.526, No.84)

Section 1230-A. Violations and penalties.

(a) Suspension.--The license of any person who violates this article may be suspended after due notice and opportunity for a hearing for a period of not less than five days or more than 30 days for a first violation and shall be revoked or suspended for any subsequent violation.

(b) Fine.--In addition to the provisions of subsection (a), upon adjudication of a first violation, the person shall be fined not less than $2,500 nor more than $5,000. For subsequent violations, the person shall, upon adjudication thereof, be fined not less than $5,000 nor more than $15,000.

(c) Civil penalty.--A person who violates section 1214-A (b), (c) or (d) or 1225-A(c) shall be subject to a civil penalty not to exceed $300 per violation but shall not be subject to subsections (a) and (b).

(1230-A added July 13, 2016, P.L.526, No.84)

Section 1231-A. Property rights.

(a) Incorporation.--Subject to subsection (b), section 1285 is incorporated by reference into and shall apply to this article.

(b) Alterations.--

(1) References in section 1285 to cigarettes shall apply to tobacco products in this article.

(2) References in section 1285 to 2,000 or more unstamped cigarettes shall apply to tobacco products worth at least $500 in this article.

(3) References in section 1285 to more than 200 unstamped cigarettes shall apply to tobacco products worth at least $50 in this article.

(1231-A added July 13, 2016, P.L.526, No.84)

Section 1232-A. Sample of tobacco products.

(a) Samples.--The department shall, by regulation, govern the receipt, distribution of and payment of tax on sample tobacco products issued for free distribution.

(b) Construction.--Nothing in this article or the regulations promulgated under this article shall prohibit the bringing into this Commonwealth by a manufacturer samples of tobacco products to be delivered and distributed only through licensed dealers or the manufacturers or their sales representatives. The tax shall be paid by the manufacturer provided all such packs bear the legend "all applicable State taxes have been paid." Under no circumstances shall any untaxed tobacco products be sold within this Commonwealth.

(1232-A added July 13, 2016, P.L.526, No.84)

Section 1233-A. Labeling and packaging.

It shall be unlawful to knowingly possess, sell, give, transfer or deliver to any person any tobacco product where the packaging of which has been modified or altered by a person other than the original manufacturer. Modification or alteration shall include the placement of a sticker, writing or mark to cover information on the packages. For purposes of this section, a tobacco product package shall not be construed to have been modified or altered by a person other than the manufacturer if the most recent modification or alteration was made by the manufacturer or person authorized by the manufacturer and approved by the department.

(1233-A added July 13, 2016, P.L.526, No.84)

Section 1234-A. Information exchange.

The department is authorized to exchange information with any other Federal, State or local enforcement agency for purposes of enforcing this article.

(1234-A added July 13, 2016, P.L.526, No.84)

ARTICLE XIII
SINGLE EXCISE TAX ON CERTAIN BANKS, TITLE INSURANCE COMPANIES, BANK AND TRUST COMPANIES AND TRUST COMPANIES
(Art. repealed July 1, 1989, P.L.95, No.21)

Section 1301. Imposition of Tax.--(1301 repealed July 1, 1989, P.L.95, No.21)

Section 1302. Taxpayers Subject to Tax.--(1302 repealed July 1, 1989, P.L.95, No.21)

Section 1303. Measurement of Tax.--(1303 repealed July 1, 1989, P.L.95, No.21)

Section 1304. Publication of Total Refunds and Unpaid Shares Taxes Subject to Protest.--(1304 repealed July 1, 1989, P.L.95, No.21)

Section 1305. Aggregate Amount of Excise Tax.--(1305 repealed July 1, 1989, P.L.95, No.21)

Section 1306. Payment of Tax.--(1306 repealed July 1, 1989, P.L.95, No.21)

Section 1307. Credit for Refunds Due.--(1307 repealed July 1, 1989, P.L.95, No.21)

Section 1308. Additional Credit.--(1308 repealed July 1, 1989, P.L.95, No.21)

Section 1309. Applicability of Existing Law.--(1309 repealed July 1, 1989, P.L.95, No.21)

ARTICLE XIV
FRANCHISE SURTAX ALTERNATIVE ON BANKS
(Art. repealed July 1, 1989, P.L.95, No.21)

Section 1401. Definitions.--(1401 repealed July 1, 1989, P.L.95, No.21)

Section 1402. Imposition of Surtax.--(1402 repealed July 1, 1989, P.L.95, No.21)

Section 1403. Computation of Adjusted Net Worth.--(1403 repealed July 1, 1989, P.L.95, No.21)

Section 1404. Procedure; Enforcement; Penalties.--(1404 repealed July 1, 1989, P.L.95, No.21)

ARTICLE XIV-A
FRANCHISE SURTAX ALTERNATIVE ON TITLE INSURANCE AND TRUST COMPANIES
(Art. repealed July 1, 1989, P.L.95, No.21)

Section 1401-A. Definitions.--(1401-A repealed July 1, 1989, P.L.95, No.21)

Section 1402-A. Imposition of Surtax.--(1402-A repealed July 1, 1989, P.L.95, No.21)

Section 1403-A. Computation of Adjusted Net Worth.--(1403-A repealed July 1, 1989, P.L.95, No.21)

Section 1404-A. Procedure; Enforcement; Penalties.--(1404-A repealed July 1, 1989, P.L.95, No.21)

ARTICLE XV
MUTUAL THRIFT INSTITUTIONS TAX
(Art. added Dec. 1, 1983, P.L.228, No.66)

Section 1501. Definitions.--The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Deposits."

(1) The unpaid balance of money or its equivalent which is received or held by an institution in the usual course of business and for which it has given or is obligated to give credit, either conditionally or unconditionally, to a commercial, checking, savings, time or thrift account, or which is evidenced by its certificate of deposit, thrift certificate, investment certificate, certificate of indebtedness or other similar name, or a check or draft drawn against a deposit account and certified by the institution or a letter of credit or a traveler's check on which the institution is primarily liable: Provided, That, without limiting the generality of the term "money or its equivalent," any such account or instrument must be regarded as evidencing the receipt of the equivalent of money when credited or issued in exchange for checks or drafts or for a promissory note upon which the person obtaining any such credit or instrument is primarily or secondarily liable, or for a charge against a deposit account, or in settlement of checks, drafts or other instruments forwarded to such institution for collection.

(2) Trust funds received or held by an institution, whether held in the trust department or held or deposited in any other department of the institution.

(3) Money received or held by an institution, or the credit given for money or its equivalent received or held by an institution in the usual course of business for a special or specific purpose, regardless of the legal relationship thereby established, including, without being limited to, escrow funds, funds held as security for an obligation due to the institution or others (including funds held as dealers reserves) or for securities loaned by the institution, funds deposited by a debtor to meet maturing obligations, funds deposited as advance payment on subscriptions to United States Government securities, funds held for distribution or purchase of securities, funds held to meet its acceptances or letters of credit, and withheld taxes: Provided, That there shall not be included funds which are received by the institution for immediate application to the reduction of an indebtedness to the receiving institution or under condition that the receipt thereof immediately reduces or extinguishes such an indebtedness.

(4) Outstanding drafts (including advice or authorization to charge an institution's balance in another institution or bank), cashier's checks, money orders, or other officer's checks issued in the usual course of business for any purpose, but not including those issued in payment for services, dividends, or purchases or other costs or expenses of the institution itself.

(5) Deposits do not include deposits made by the Federal Government, its agencies and instrumentalities.

"Employe." Any individual to whom wages are paid within the meaning of 26 U.S.C. § 3401.

"Lease." Any leasing transaction in which the lessor would be treated as owner of the leased property under generally accepted accounting principles. All other transactions purporting to be leases shall be treated as loans for purposes of this article.

"Located." An institution is located in this Commonwealth in a taxable year only if any one of the following apply:

(1) Such institution maintains an office here.

(2) One or more employes of the institution has or have a regular presence here.

(3) Such institution has employes, representatives or independent contractors conducting business activities in its behalf in this Commonwealth.

(4) Such institution engages in regular solicitation in this Commonwealth (whether at a place of business, by traveling loan officers or other representatives, by mail, by telephone or other electronic means), and the solicitation results in the creation of a depository or direct debtor/creditor relationship with a resident of this Commonwealth. For purposes of this regulation, mere processing or transfer through financial intermediaries of checks, credit card receivables, commercial paper and the like does not create a debtor/creditor relationship. A financial institution is engaged in regular solicitation within this Commonwealth if it has entered into any of the relationships listed in this clause with twenty or more residents of this Commonwealth during any tax period or if it has five million dollars ($5,000,000) or more of assets attributable to sources within this Commonwealth at any time during the tax period.

(5) Such institution owns tangible property which is located here and which is leased to others for their use.

(6) Such institution owns or leases tangible property which is located here and which it uses in connection with its activities here.

"Maintains an office." An institution maintains an office wherever it has established a regular, continuous and fixed place of business.

"Mutual thrift institution" or "institution." Every:

(1) savings bank without capital stock;

(2) building and loan association;

(3) savings and loan association; and

(4) savings institution having capital stock;

whether the institution is incorporated under any law of this Commonwealth or under the law of the United States, or is incorporated under the law of any other jurisdiction and is located within this Commonwealth.

"Origination of loans." A loan is deemed to have originated in the state in which the office is located which properly treats the loan as an asset on its books or records. However, if an institution maintains an office in a state, the following rules will apply:

(1) Loans secured primarily by real property are deemed to have originated at an office within the state in which the predominant part of the security real property is or will be located, if at least one of the following activities occurs at an office in the state:

(i) Application for the loan.

(ii) Negotiation for the loan.

(iii) Approval of the loan.

(iv) Administrative responsibility for the loan.

(2) All other loans made to borrowers residing or having their commercial domicile within the state are deemed to have originated at an office within the state, if at least one of the following activities occurs at an office in the state:

(i) Application for the loan.

(ii) Negotiation for the loan.

(iii) Approval of the loan.

(iv) Administrative responsibility for the loan.

"Property located in a state."

(1) Except as otherwise provided in this definition, tangible property, including leased property, shall be deemed to be located in the state in which the property is physically situated.

(2) Tangible personal property which is characteristically moving property, such as motor vehicles, rolling stock, aircraft, vessels, mobile equipment and the like, shall be deemed to be located in a state if:

(i) the operation of the property is entirely within the state, or the operation without the state is occasional or incidental to its operation within the state;

(ii) the operation of the property is in two or more states, but the principal base of operations from which the property is sent out is in the state; or

(iii) the state is the residence or commercial domicile of the lessee or other user of the property, where there is no principal base of operations and the operation of the property is in two or more states.

"Regular presence of employes." An employe shall be deemed to have a regular presence in a state if:

(1) a majority of the employe's service is performed within the state; or

(2) the office from which his activities are directed or controlled is located in the state, where a majority of the employe's service is not performed in any one state.

"State." Any of the several states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States and any foreign country.

"Taxable net income." The net income of an institution after apportionment and after any deduction for a net loss carryover.

"Taxable year." The taxable year which the institution, or any consolidated group with which the institution participates in the filing of consolidated returns, actually uses in reporting taxable income to the Federal Government. For purposes of this article, the terms "year," "annual year," "fiscal year," "annual or fiscal year," "tax year" and "tax period" shall be the same as the institution's taxable year, as defined in this paragraph.

(1501 amended Oct. 14, 1988, P.L.737, No.106)

Section 1502. Imposition; Report and Payment of Tax; Exemptions.--(a) Every institution shall annually, by April 15 of each year beginning in the year 1984, make a report to the Department of Revenue, setting forth the entire amount of taxable net income received or accrued by said institution from all sources during the preceding year, and such other information as the department may require, and upon such taxable net income the said institution shall pay into the State Treasury, through the Department of Revenue, for the use of the Commonwealth, a State excise tax at the rate of eleven and one-half per cent for the calendar years 1983, 1984, 1985 and 1986 and fiscal years beginning in 1983, 1984, 1985 and 1986, at the rate of twenty per cent for calendar years 1987, 1988, 1989 and 1990 and fiscal years beginning in 1987, 1988, 1989 and 1990 and at the rate of twelve and one-half per cent for calendar year 1991 and fiscal years beginning in 1991 and at the rate of eleven and one-half per cent for calendar year 1992 and each calendar year thereafter and fiscal years beginning in 1992 and each fiscal year thereafter upon such annual taxable net income, for the privilege of doing business in the Commonwealth. Every institution shall be required to make payment of estimated tax pursuant to the provisions of sections 3003.2, 3003.3 and 3003.4 of Article XXX for taxable years beginning after December 31, 1991. For taxable years beginning before January 1, 1992, every institution shall be required to make payment of tentative tax pursuant to the provisions of Article XXX. The remaining portion of the tax due shall be paid at the time the report prescribed herein is required to be made. ((a) amended July 1, 1989, P.L.95, No.21)

(b) If, however, any such institution closes its fiscal year, not upon December 31 but upon some other date, the tax shall be imposed upon such taxable net income received or accrued during its fiscal year beginning in the year 1983 and during each fiscal year thereafter, and the annual report of taxable net income received or accrued during each fiscal year shall be made, and the remaining tax due thereon shall be paid within one hundred five days after the close of such fiscal year. Each such institution shall be required to make payment of estimated tax pursuant to the provisions of sections 3003.2, 3003.3 and 3003.4 of Article XXX for taxable years

beginning after December 31, 1991. For taxable years beginning before January 1, 1992, every institution shall be required to make payment of tentative tax pursuant to the provision of Article XXX.

(c) Net income or net loss shall be determined in accordance with generally accepted accounting principles, except that:

(1) Net income or net loss shall be determined on a separate company unconsolidated basis, using cost in lieu of equity accounting for investments in a subsidiary.

(2) The accounting method may be on a cash, combined cash and accrual, or accrual basis, depending on the method of bookkeeping employed by the institution.

(3) In the case of a business combination entered into after December 31, 1986, which is treated as a reorganization for purposes of section 368 of the Internal Revenue Code of 1986, or a similar successor provision, and accounted for under the purchase accounting method, net income or net loss shall be determined as though the acquisition had been accounted for under the pooling of interest method.

(4) Net income or net loss shall exclude amounts credited or paid as interest to holders of accounts or depositors or as dividends to shareholders, except that no deduction shall be permitted for dividends paid by an institution having capital stock to its stockholders with regard to their stock.

(5) Net income or net loss shall exclude income or loss derived from obligations of the United States which, by Federal law, are exempt from local and state taxation and from obligations of the Commonwealth which, by Pennsylvania law, are exempt from taxation by the Commonwealth. For purposes of this article, United States obligations shall be obligations coming within the scope of 31 U.S.C. § 3124, and Commonwealth obligations shall be obligations of the Commonwealth, any public authority, commission, board or other agency created by the Commonwealth, any political subdivision of the Commonwealth or any public authority created by such political subdivision which, by Pennsylvania law, are exempt from taxation by the Commonwealth.

(6) No deduction shall be allowed for that portion of the institution's interest expense which is allocable to tax-exempt income derived from United States obligations and Commonwealth obligations. An institution's interest expense shall include amounts credited or paid as interest to holders of accounts or depositors or as dividends to shareholders except dividends paid by an institution having capital stock to its shareholders with regard to their stock. For purposes of this clause, the portion of the institution's interest expense which is allocable to tax-exempt income derived from United States obligations and Commonwealth obligations is an amount which bears the same ratio to such interest expense as the institution's interest income from United States obligations and Commonwealth obligations bears to the total interest income of the institution.

(d) (1) In determining taxable net income, there shall be allowed a net loss carryover deduction as provided by this subsection.

(2) The net loss carryover deduction for a taxable year shall be that amount which is the sum of any net losses for the preceding three taxable years, beginning with the earliest year, to the extent that any such net loss has not previously been allowed as a deduction in a prior taxable year, except that the deduction shall not exceed the amount of the net income for the current year determined after apportionment.

(3) A net loss for a preceding taxable year shall be an amount determined as a negative amount for the year in accordance with subsection (c), after any apportionment applicable to the preceding year, except that, for taxable years beginning before 1987, any net loss shall be determined without regard to clause (6) of subsection (c).

(e) Institutions subject to the provisions of this article shall be exempt from all other corporate taxes imposed by the Commonwealth for State purposes. Such institutions, any shares of stock in such institutions and the property of such institutions shall be exempt from all local taxation

imposed by political subdivisions of this Commonwealth under the authority of the laws of this Commonwealth, except taxes on real estate or transfers thereof.

(e.1) In the case of a change in ownership by purchase, liquidation, acquisition of stock or reorganization of an institution in the manner described in section 381 or 382 of the Internal Revenue Code of 1954, as amended, certain limitations provided in the Internal Revenue Code with respect to net operating losses shall apply for the purpose of computing the portion of a net loss carryover recognized pursuant to this article. The applicable limitations shall include all those limitations imposed solely on account of a change in ownership, including, but not limited to, sections 269, 318 (insofar as it defines the scope of section 382), 381 and 382. The carryover of tax losses shall not be limited by the Federal consolidated return regulations or section 338, providing for the deemed termination of corporate existence upon the making of certain elections for Federal income tax purposes. When any acquiring institution or a transferor institution participated in the filing of consolidated returns to the Federal Government, the entitlement of the acquiring institution to the Pennsylvania net loss carryover of the acquiring institution or the transferor institution will be determined as if separate returns to the Federal Government had been filed prior to the change in ownership by purchase, liquidation, acquisition of stock or reorganization.

(f) If any institution shall neglect or refuse to make any report required by this article, such institution shall be liable to a penalty of five thousand dollars ($5,000), which shall be assessed in the same manner as the tax imposed by this article is assessed. ((f) amended Oct. 18, 2006, P.L.1149, No.119)

(1502 amended Oct. 14, 1988, P.L.737, No.106)

Compiler's Note: See section 33 of Act 119 of 2006, which amended subsec. (f), in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 1502.1. Apportionment.--Net income or net loss shall be apportioned in accordance with this section. An institution may apportion its net income or net loss if the institution is subject to tax in another state based on or measured by net worth, gross receipts, net income or some similar base of taxation, or if it could be subject to such a tax, whether or not such a tax has in fact been enacted.

(b) Income or loss shall be apportioned in accordance with a fraction, the numerator of which is the sum of the payroll factor, the receipts factor and the deposits factor, and the denominator of which is three.

(c) The payroll factor is a fraction, the numerator of which is the total wages paid in this State and the denominator of which is the total wages paid in all states. Wages are paid in a state if paid to an employe having a regular presence therein.

(d) The receipts factor is a fraction, the numerator of which is total receipts located in this State and the denominator of which is the total receipts located in all states. Receipts do not include principal repayments on loans or credit, travel and entertainment cards. Receipts from sale or disposition of intangible and tangible property include only the net gain therefrom. The location of receipts shall be determined as follows:

(1) Receipts from loans are located at the place of origination.

(2) All receipts from performance of services are located in a state to the extent the services are performed in the state. If services are performed partly within two or more states, the receipts located in each state shall be measured by the ratio which the time spent in performing such services in the state bears to the total time spent in performing such services in all states. Time spent in performing services in a state is the

time spent by employes having a regular presence in the state in performing such services.

(3) Receipts from lease transactions are located in the state in which the leased property is deemed located.

(4) Interest or service charges (excluding merchant discounts) from credit, travel and entertainment card receivables and credit card holders' fees are located in the state in which the credit card holder resides in the case of an individual or, if a corporation, in the state of the cardholder's commercial domicile if, in either case, the institution maintains an office in such state. Otherwise, the receipts are located in the state in which the institution maintains an office which treats such receivables as assets on its books or records.

(5) Interest, dividends and net gains from the sale or disposition of intangibles, exclusive of those receipts described elsewhere in this section, are located in the state in which the depository maintains an office which treats such intangibles as assets on its books or records.

(6) Fees or charges from the issuance of traveler's checks and money orders are located in the state in which such traveler's checks or money orders are issued.

(7) Receipts from sales of tangible property are located in the state in which the property is delivered or shipped to a purchaser, regardless of the f.o.b. point or other conditions of the sale.

(8) All receipts not specifically treated under this subsection are located in the state where the greatest portion of the income-producing activities are performed, based on costs of performance.

(e) The deposits factor is a fraction, the numerator of which is the average value of deposits located in this State during the taxable year and the denominator of which is the average value of total deposits during the taxable year. The average value of deposits is to be computed on a quarterly basis. The location of deposits shall be determined as follows:

(1) Deposits received from individuals are located in the state in which the individual resides, if the institution maintains an office in that state.

(2) Deposits received from a corporation are located in the state of the corporation's commercial domicile, if the institution maintains an office in that state.

(3) Deposits received from a state government, its political subdivisions, agencies and instrumentalities are located in such state, if the institution maintains an office in that state.

(4) In all other cases, deposits are located in the state in which the institution maintains an office which treats the deposits as liabilities on its books or records.

(1502.1 added Oct. 14, 1988, P.L.737, No.106)

Section 1502.2. Credits.--(a) For taxable years beginning in 1987 through taxable years beginning in 1991, an institution may elect to take a credit for taxes based on or measured by income or taxes imposed in lieu thereof paid to other states against its tax liability determined under this article.

(b) The amount of the credit shall be determined as follows:

For each state in which the institution is subject to tax, the amount of the credit shall be the lesser of:

(1) the applicable tax actually paid to such state; or

(2) the total tax due under this article without regard to apportionment multiplied by a fraction the numerator of which is the amount of the institution's income (or other applicable basis of taxation) subject to tax by such state and the denominator of which is the amount of the institution's entire income (or other applicable basis of taxation) to which a system of apportionment or allocation is applied by such state; except that, if a state does not apply a system of allocation or apportionment, the numerator of such fraction is the amount of the institution's income (or other applicable basis of taxation) which would be subject to taxation in such state if the apportionment fraction were computed in accordance with the provisions of this article.

(c) If exercised, this election shall be in lieu of any other apportionment to which the institution would otherwise be entitled.

(1502.2 added Oct. 14, 1988, P.L.737, No.106)

Section 1502.3. Additional Reporting Requirements.--(a) For the calendar years 1987, 1988, 1989, 1990 and 1991 and fiscal years beginning in 1987, 1988, 1989, 1990 and 1991, every institution shall report to the Department of Revenue upon a form prescribed, prepared and furnished by the Department of Revenue the information necessary to determine the income or loss that would otherwise be apportioned in accordance with this section:

(1) Income or loss shall be apportioned in accordance with a fraction, the numerator of which is the sum of the payroll factor and the receipts factor, and the denominator of which is two.

(2) The payroll factor is a fraction, the numerator of which is the total wages paid in this State and the denominator of which is the total wages paid in all states. Wages are paid in a state to the extent of the time spent by the employe in the state.

(3) The receipts factor is a fraction, the numerator of which is total receipts located in this State and the denominator of which is the total receipts located in all states. Receipts do not include principal repayments on loans or credit, travel and entertainment cards. Receipts from sale or disposition of intangible and tangible property include only the net gain therefrom. The location of receipts shall be determined as follows:

(i) Receipts from loans are located at the residence or commercial domicile of the debtor, except that receipts from loans secured by real or tangible personal property are located at the location of the property.

(ii) All receipts from performance of services are located in a state to the extent the services are performed in the state. If services are performed partly within two or more states, the receipts located in each state shall be measured by the ratio which the time spent in performing such services in the state bears to the total time spent in performing such services in all states.

(iii) Receipts from lease transactions are located in the state in which the leased property is deemed located.

(iv) Interest or service charges (excluding merchant discounts) from credit, travel and entertainment card receivables and credit card holders' fees are located in the state in which the credit card holder resides in the case of an individual or, if a corporation, in the state of the cardholder's commercial domicile. Otherwise, the receipts are located in the state in which the credit card holder receives billing notices.

(v) Interest, dividends and net gains from the sale or disposition of intangibles, exclusive of those receipts described elsewhere in this section, are located in the state in which the depository maintains an office which treats such intangibles as assets on its books or records.

(vi) Fees or charges from the issuance of traveler's checks and money orders are located in the state in which such traveler's checks or money orders are issued.

(vii) Receipts from sales of tangible property are located in the state in which the property is delivered or shipped to a purchaser, regardless of the f.o.b. point or other conditions of the sale.

(4) All receipts not specifically treated under clause (3) of this subsection are located in the state where the greatest portion of the income-producing activities are performed, based on costs of performance.

(b) Such reports shall set forth such other information as the Department of Revenue may require, including, but not limited to, information relative to the situs of its payroll and receipts.

(1502.3 added Oct. 14, 1988, P.L.737, No.106)

Section 1502.4. Restrictions on Lawsuits.--No institution which is subject to the tax imposed by this article and which fails to file the annual report required by section 1502 shall be permitted to initiate any action in any court of this Commonwealth until the institution files with the Department of Revenue the required report. The failure of an institution to file the annual report required by section 1502 shall not

impair the validity of any contract or act of the institution and shall not prevent the institution from defending any action in any court of this Commonwealth.

(1502.4 added Oct. 14, 1988, P.L.737, No.106)

Section 1502.5. Sunset.--(1502.5 deleted by amendment Dec. 13, 1991 P.L.373, No.40)

Section 1503. Procedure; Enforcement; Penalties.--(a) Except as set forth in subsection (b), Parts III, IV, V, VI and VII of Article IV are incorporated by reference into this article insofar as they are applicable to the tax imposed under this article.

(b) The Department of Revenue may, upon application made by the last day for filing and in a form prescribed by the department, grant an extension of not more than six months for filing the annual report required by section 1502.

(1503 amended June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 26(4)(xi) of Act 23 of 2001, which amended section 1503, provided that the amendment shall apply to taxable years beginning after December 31, 2000.

Section 1504. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the Department of Revenue or other agency of the Commonwealth on or before a day certain, the institution shall be deemed to have complied with such law if the letter transmitting the report or payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received. For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment.

(1504 added Dec. 1, 1983, P.L.228, No.66)

Section 1505. Tax Credits; Legislative Intent.--Any tax paid by any mutual thrift institution under the provisions of the act of June 22, 1964 (P.L.16, No.2), known as "The Mutual Thrift Institutions Tax Act," as amended, the act of June 25, 1982 (P.L.652, No.184), entitled "An act amending the act of June 22, 1964 (P.L.16, No.2), entitled 'An act imposing a State excise tax on net earnings or income of mutual thrift institutions; requiring the filing of reports and payment of the tax; providing certain exemptions from the tax and repealing part of an act imposing other taxes,' providing for the deduction and carryover of net operating losses in determining net earnings for the tax on mutual thrift institutions," for taxable years beginning during 1983 shall be credited to and applied against the tax imposed by this article without the necessity for the filing of any petition or request by the taxpayer with the Department of Revenue, it being the intention of the General Assembly that this article be a reenactment of such act, although amending such act to include "savings institutions with capital stock" within the definition of "mutual thrift institution." Any institution which would have been entitled to a net operating loss carryforward under the provisions of the act of June 22, 1964 (P.L.16, No.2), known as "The Mutual Thrift Institutions Tax Act," as amended, to calendar year 1983 and fiscal years beginning after January 1, 1983 shall remain entitled to such loss carryforward.

(1505 added Dec. 1, 1983, P.L.228, No.66)

Section 1506. Measurement of Tax.--(a) The Department of Revenue shall ascertain the total amount of revenue, realized or unrealized, that was lost for all taxable years beginning before January 1, 1987, as a result of the decision of the Supreme Court of Pennsylvania in First Federal Savings and Loan Association of Philadelphia vs Commonwealth, 515 Pa. 369 (1987). In ascertaining this amount, the department shall consider any refunds, including interest paid, granted to institutions as well as any reductions in settled or resettled taxes or other reductions which arose or are supported by the First Federal decision. The department shall also

ascertain the difference in the revenue produced by the tax imposed by this article for taxable years beginning in 1987, 1988, 1989 and 1990 at the rate of twenty per cent and the revenue which would have been received if the tax rate was set at twelve and one-half per cent for such taxable years. After such information has been compiled and determined, the department shall reduce the rate of the tax imposed by this article for taxable years beginning in 1987, 1988, 1989 and 1990 to the nearest one-tenth of a per cent in order that the revenue resulting from the rate of tax in excess of twelve and one-half per cent equals the foregone tax revenues due to the First Federal decision as ascertained pursuant to this section. If such adjustment is made, the department shall reduce and recalculate the tax of each institution for taxable years beginning in 1987, 1988, 1989 and 1990 and shall notify each institution of its reduced tax liability. Each institution shall then be entitled to apply for a cash refund or credit in the manner provided by law, except that no interest shall accrue on the refund or credit granted pursuant to this subsection.

(b) The department shall also submit to the General Assembly the information required to be ascertained by subsection (a) of this section.

(1506 amended July 1, 1989, P.L.95, No.21)

ARTICLE XVI
FINANCIAL INSTITUTION ALTERNATIVE FRANCHISE TAX
(Art. repealed July 1, 1989, P.L.95, No.21)

PART I
DEFINITIONS
(I repealed July 1, 1989, P.L.95, No.21)

Section 1601. Definitions.--(1601 repealed July 1, 1989, P.L.95, No.21)

PART II
IMPOSITION OF TAX
(II repealed July 1, 1989, P.L.95, No.21)

Section 1611. Imposition of Tax.--(1611 repealed July 1, 1989, P.L.95, No.21)

PART III
PROCEDURE; ENFORCEMENT; PENALTIES
(III repealed July 1, 1989, P.L.95, No.21)

Section 1621. Procedure; Enforcement; Penalties.--(1621 repealed July 1, 1989, P.L.95, No.21)

Section 1622. Time Period.--(1622 repealed July 1, 1989, P.L.95, No.21)

PART IV
ADDITIONAL REPORTING REQUIREMENTS
(IV repealed July 1, 1989, P.L.95, No.21)

Section 1631. Additional Reporting Requirements.--(1631 repealed July 1, 1989, P.L.95, No.21)

Section 1632. Reports to General Assembly.--(1632 repealed July 1, 1989, P.L.95, No.21)

ARTICLE XVI-A
VEHICLE RENTAL TAX
(Hdg. amended May 7, 1997, P.L.85, No.7)

Section 1601-A. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Peer-to-peer car-sharing program." As defined under section 201(qqq).

"Rental vehicle." A private passenger motor vehicle designed to transport fifteen or fewer passengers or a truck, trailer or semitrailer used in the transportation of property other than commercial freight, that is rented without a driver and is part of a fleet of five or more rental vehicles used for that purpose, owned or leased by the same person or entity.

"Shared vehicle." A vehicle that is available for sharing through a peer-to-peer car-sharing program. The term does not include a rental vehicle as defined under this article.

"Vehicle rental company." Any business entity engaged in the business of renting motor vehicles in this Commonwealth.

(1601-A amended July 8, 2022, P.L.513, No.53)

Section 1602-A. Vehicle Rental Tax.--(a) Except as provided under subsection (b), each vehicle rental company shall collect, at the time the rental vehicle is rented in this Commonwealth, on each rental contract for a period of twenty-nine or fewer consecutive days, a tax equal to two per cent of the purchase price of the rental.

(b) The tax imposed under subsection (a) shall not apply to a shared vehicle that is rented through a peer-to-peer car-sharing program.

(1602-A amended July 8, 2022, P.L.513, No.53)

Section 1603-A. Reporting and Remittance of Tax.--(a) The tax shall be reported and remitted in the same manner as the tax imposed by Article XXIII of this act, except that, no later than February 15 of each calendar year, each vehicle rental company shall file a report with the Department of Revenue on a form prescribed by the department. The report shall include the amount of tax remitted during the previous calendar year and the total amount of rental vehicle licensing and title fees imposed by the Commonwealth under 75 Pa.C.S. (relating to vehicles) on the vehicle rental company's rental vehicles and paid to the Commonwealth by the vehicle rental company in the previous calendar year.

(b) When reconciling the reports and remittances filed during the previous calendar year with the annual report, the department shall allow against the tax imposed by subsection (a) a credit equal to the total amount of licensing and title fees imposed by the Commonwealth under 75 Pa.C.S. on the vehicle rental company's rental vehicles and paid to the Commonwealth by the vehicle rental company in the previous calendar year. The department shall refund to the taxpayer the credit verified from the annual report. The amount of such verified credit shall not exceed the amount of tax collected and remitted by the taxpayer for the calendar year for which the claim is made. If the amount of the tax collected exceeds the amount of licensing fees and title fees paid the Commonwealth, the excess collection shall be deposited by the department into the General Fund.

(c) Unless otherwise noted, the provisions of Article II of this act shall apply to the tax required under this article.

(1603-A amended May 7, 1997, P.L.85, No.7)

Section 1604-A. Application.--This article shall apply to all rental contracts entered into on or after July 1, 1997.

(1604-A amended May 7, 1997, P.L.85, No.7)

ARTICLE XVI-B
NONLICENSED CORPORATION PARI-MUTUEL WAGERING TAX
(Art. repealed Feb. 23, 2016, P.L.15, No.7)

Section 1601-B. Scope. (1601-B repealed Feb. 23, 2016, P.L.15, No.7)
Section 1602-B. Definitions. (1602-B repealed Feb. 23, 2016, P.L.15, No.7)
Section 1603-B. Tax. (1603-B repealed Feb. 23, 2016, P.L.15, No.7)
Section 1604-B. Pari-mutuel tax return. (1604-B repealed Feb. 23, 2016, P.L.15, No.7)
Section 1605-B. Regulations. (1605-B repealed Feb. 23, 2016, P.L.15, No.7)
Section 1606-B. Advanced Deposit Wagering Collections Account. (1606-B repealed Feb. 23, 2016, P.L.15, No.7)

ARTICLE XVII
ECONOMIC REVITALIZATION TAX CREDIT
(Art. XVII repealed June 22, 2001, P.L.353, No.23)

Section 1701. Short Title.--(1701 repealed June 22, 2001, P.L.353, No.23)
Section 1702. Legislative Intent.--(1702 repealed June 22, 2001, P.L.353, No.23)
Section 1703. Tax Credit.--(1703 repealed June 22, 2001, P.L.353, No.23)
Section 1704. Qualified Investment Projects.--(1704 repealed June 22, 2001, P.L.353, No.23)
Section 1705. Threshold Level.--(1705 repealed June 22, 2001, P.L.353, No.23)
Section 1706. Portion of Excess Net Loss Carryover Claimable as Credit.--(1706 repealed June 22, 2001, P.L.353, No.23)
Section 1707. Amount of Credit.--(1707 repealed June 22, 2001, P.L.353, No.23)
Section 1708. Utilization of Credits.--(1708 repealed June 22, 2001, P.L.353, No.23)
Section 1709. Recapture of Credits.--(1709 repealed June 22, 2001, P.L.353, No.23)
Section 1710. Application Procedures.--(1710 repealed June 22, 2001, P.L.353, No.23)
Section 1711. Appropriation.--(1711 repealed June 22, 2001, P.L.353, No.23)
Section 1712. Annual Reports.--(1712 repealed June 22, 2001, P.L.353, No.23)
Section 1713. Evaluation of Tax Credit.--(1713 repealed June 22, 2001, P.L.353, No.23)
Section 1714. Sunset.--(1714 repealed June 22, 2001, P.L.353, No.23)

ARTICLE XVII-A
EMPLOYMENT INCENTIVE PAYMENTS
(Art. added Dec. 19, 1985, P.L.356, No.102)

Section 1701-A. Employment Incentive Payments.--(1701-A deleted by amendment Dec. 15, 1999, P.L.926, No.63)

Section 1702-A. Definitions.--The following words, terms and phrases when used in this article shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Eligible individual" means any of the following:

(1) A person who at any time within the twelve months preceding the date of hire received general assistance.

(2) A person who at any time within the twelve months preceding the date of hire received temporary assistance to needy families.

(3) A person who:

(i) has a physical or mental disability which, for such individual, constitutes or results in a substantial handicap to employment; and

(ii) is referred to the employer upon completion of or while receiving rehabilitative services pursuant to an individualized written rehabilitation plan under a State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (Public Law 93-112, 29 U.S.C. § 701 et seq.), or a program of vocational rehabilitation carried out under Title I of the Veterans' Rehabilitation and Education Amendments of 1980 (Public Law 96-466, 94 Stat. 2171).

"Employment incentive payment" means the employment incentive payment credit provided by this article.

"Pass-through entity" means any of the following:

(1) A partnership, limited partnership, limited liability company, business trust or other unincorporated entity that for Federal income tax purposes is taxable as a partnership.

(2) A Pennsylvania S corporation.

"Qualified first-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning with the day the eligible individual begins work for the employer.

"Qualified second-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning one year after the eligible individual begins work for the employer.

"Qualified tax liability" means the liability for taxes imposed under Article III, IV, VII, VIII, IX or XV of this act. The term includes the liability for taxes imposed under Article III of this act on the owner or owners of a pass-through entity. The term does not include amounts withheld or required to be withheld from employees under Article III of this act.

"Qualified third-year wages" means the qualified wages attributable to service rendered by an eligible individual during the one-year period beginning two years after the eligible individual begins work for the employer.

"Qualified wages" means wages as that term is defined in section 51A(b)(5) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 51A(b)(5)).

"Taxpayer" means a person or entity subject to tax under Article III, IV, VII, VIII, IX or XV of this act. This term includes a pass-through entity.

(1702-A added Dec. 15, 1999, P.L.926, No.63)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: Section 5 of Act 63 of 1999, which added section 1702-A, provided that it is the intent of the General Assembly that the addition of sections 1702-A through 1706-A shall be deemed to be a continuation and expansion of the employment incentive payments program authorized in section 491 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. Accordingly:

(1) Nothing in Act 63 shall be construed to preclude consideration of applications for credits filed under section 1701-A of this act or section 491 of the Public Welfare Code, which applications were filed prior to or on the effective date of Act 63.

(2) Nothing in Act 63 shall be construed to preclude the utilization of credits which were approved but not applied under section 1701-A of this act or section 491 of the Public Welfare Code after the effective date of Act 63.

Section 1703-A. Employment Incentive Payments.--(a) A taxpayer who employs an eligible individual shall be entitled to employment incentive payments as provided by this article.

(b) No employment incentive payment shall be provided for:

(1) The employment of a person who displaces any other individual from employment except persons discharged for cause as certified by the Department of Labor and Industry.

(2) The employment of a person closely related, as defined by clauses (1) through (8) of section 152(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 152(a)(1) through(8)), to the taxpayer or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50% of the outstanding stock of the taxpayer.

(3) Wages paid to an individual during the time period for which the employer received federally funded or State funded job training payments for that individual.

(c) The employment incentive payment shall be calculated on an annual basis as provided in clauses (1) and (2):

(1) The employment incentive payment shall be the sum of thirty per cent of the first nine thousand dollars ($9,000) of qualified first-year wages, twenty per cent of the first nine thousand dollars ($9,000) of qualified second-year wages and ten per cent of the first nine thousand dollars ($9,000) of qualified third-year wages.

(2) A taxpayer eligible to receive a credit under clause (1) shall be eligible to receive an additional employment incentive payment as provided in this clause if:

(i) the taxpayer provides or pays for day care services for the children of an eligible individual; or

(ii) the taxpayer provides or pays for transportation services that enable an eligible individual to travel to and from work.

The additional employment incentive payments under this clause shall be the expenses incurred by the taxpayer for services listed in subclauses (i) and (ii), but in no case shall the additional employment incentive payment for each eligible individual exceed eight hundred dollars ($800) during the first year of employment, six hundred dollars ($600) during the second year of employment or four hundred dollars ($400) during the third year of employment.

(d) The employment incentive payment shall be utilized as a credit against a qualified tax liability to which the taxpayer is subject. The employment incentive payment applicable to a pass-through entity shall be allocated in the same manner as income is allocated.

(e) (1) Except in cases where an eligible individual voluntarily leaves the employment of the taxpayer, becomes disabled or is terminated for cause, no taxpayer shall be entitled to receive an employment incentive payment if the eligible individual is employed by the taxpayer for less than one year.

(2) If the eligible individual leaves the employment of the taxpayer voluntarily, becomes disabled or is terminated for cause in less than one year, the employment incentive payment shall be reduced by the proportion of the year not worked.

(f) The total employment incentive payment credit shall not exceed ninety per cent of the total taxes paid by the employer against which the employment incentive payments may be claimed as a credit.

(g) Employment incentive payments unused as a tax credit in a taxable year may be carried over against a qualified tax liability in the ten immediately subsequent taxable years.

(h) For the purposes of computing a tax liability against which the employment incentive payments may be applied, deductions from taxable income shall be reduced by the employment incentive payments.

(1703-A added Dec. 15, 1999, P.L.926, No.63)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: Section 5 of Act 63 of 1999, which added section 1703-A, provided that it is the intent of the General Assembly that the addition of sections 1702-A through 1706-A shall be deemed to be a continuation and expansion of the employment incentive payments program authorized in section 491 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. Accordingly:

(1) Nothing in Act 63 shall be construed to preclude consideration of applications for credits filed under section 1701-A of this act or section 491 of the Public Welfare Code, which applications were filed prior to or on the effective date of Act 63.

(2) Nothing in Act 63 shall be construed to preclude the utilization of credits which were approved but not applied under section 1701-A of this act or section 491 of the Public Welfare Code after the effective date of Act 63.

Section 1704-A. Administration and Regulations.--The department, in cooperation with the Department of Public Welfare and the Department of Labor and Industry, shall administer the provisions of this article, promulgate appropriate rules, regulations and forms for that purpose and make such determinations as may be required. Determinations made with respect to the employment incentive payment provided in this section may be reviewed and appealed in the manner provided by law for other corporate or personal tax credits.

(1704-A added Dec. 15, 1999, P.L.926, No.63)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Compiler's Note: Section 5 of Act 63 of 1999, which added section 1704-A, provided that it is the intent of the General Assembly that the addition of sections 1702-A through 1706-A shall be deemed to be a continuation and expansion of the employment incentive payments program authorized in section 491 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. Accordingly:

(1) Nothing in Act 63 shall be construed to preclude consideration of applications for credits filed under section 1701-A of this act or section 491 of the Public Welfare Code, which applications were filed prior to or on the effective date of Act 63.

(2) Nothing in Act 63 shall be construed to preclude the utilization of credits which were approved but not applied under section 1701-A of this act or section 491 of the Public Welfare Code after the effective date of Act 63.

Section 1705-A. Limitation on Credits.--The total amount of employment incentive payments authorized by this article shall not exceed twenty-five million dollars ($25,000,000) in any fiscal year. To insure that credits are not claimed in excess of this amount, a taxpayer may claim the incentive payments only upon presentation of an authorizing certificate. Certificates will be issued to the taxpayer by the Department of Labor and Industry upon presentation to the Department of Labor and Industry of evidence of a qualifying offer of employment. If necessary to avoid certificate issuances in excess of the maximum authorized amount for any fiscal year, the department shall advise the Department of Labor and Industry of the total number of certificates which may be issued in each calendar quarter.

(1705-A added Dec. 15, 1999, P.L.926, No.63)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: Section 5 of Act 63 of 1999, which added section 1705-A, provided that it is the intent of the General Assembly that the addition of sections 1702-A through 1706-A shall be deemed to be a continuation and expansion of the employment incentive payments program authorized in section 491 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. Accordingly:

(1) Nothing in Act 63 shall be construed to preclude consideration of applications for credits filed under section 1701-A of this act or section 491 of the Public Welfare Code, which applications were filed prior to or on the effective date of Act 63.

(2) Nothing in Act 63 shall be construed to preclude the utilization of credits which were approved but not applied under section 1701-A of this act or section 491 of the Public Welfare Code after the effective date of Act 63.

Section 1706-A. Time Limitations and Report.--Employment incentive payments shall not be available for employees hired after December 31, 2009, unless reenacted by the General Assembly. Not later than July 1, 2004, and December 31, 2008, the Secretary of Public Welfare shall report to the General Assembly on the effectiveness of incentive payments to encourage the employment of general assistance and temporary assistance to needy families recipients and recommend whether the program should be continued. Credits may be claimed against taxes payable for tax years beginning January 1, 2000, and thereafter, and may be claimed for employees hired after December 31, 1999.

(1706-A amended Nov. 19, 2004, P.L.873, No.116)

Compiler's Note: The short title of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code, referred to in this section, was amended by the act of December 28, 2015 (P.L.500, No.92). The amended short title is now the Human Services Code.

Compiler's Note: The Secretary of Public Welfare, referred to in this section, was redesignated as the Secretary of Human Services by Act 132 of 2014.

Compiler's Note: Section 5 of Act 63 of 1999, which added section 1706-A, provided that it is the intent of the General Assembly that the addition of sections 1702-A through 1706-A shall be deemed to be a continuation and expansion of the employment incentive payments program authorized in section 491 of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code. Accordingly:

(1) Nothing in Act 63 shall be construed to preclude consideration of applications for credits filed under section 1701-A of this act or section 491 of the Public Welfare Code, which applications were filed prior to or on the effective date of Act 63.

(2) Nothing in Act 63 shall be construed to preclude the utilization of credits which were approved but not applied under section 1701-A of this act or section 491 of the Public Welfare Code after the effective date of Act 63.

ARTICLE XVII-A.1
TAX CREDIT AND TAX BENEFIT ADMINISTRATION

(Art. hdg. amended June 30, 2021, P.L.124, No.25)

Section 1701-A.1. Definitions.

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

"Administering agency." A department, board or commission that administers a tax credit or tax benefit as required by a law of this Commonwealth. The term does not include a keystone innovation zone coordinator under Article XIX-F. (Def. added June 30, 2021, P.L.124, No.25)

"Applicant." A person applying to an administering agency for a tax credit or a tax benefit. (Def. added June 30, 2021, P.L.124, No.25)

"Application." An application submitted to an administering agency by an applicant for a tax credit or tax benefit. The term includes a transfer application and supplemental documentation required to be provided by an applicant, including reports, returns and statements. (Def. added June 30, 2021, P.L.124, No.25)

"Broker." A person that engages in the business of effectuating transactions in tax credits for the account of others, including assisting a taxpayer to apply for, sell, transfer, assign or purchase a tax credit. The term includes an entity and all of the following that perform similar functions for the entity:

(1) A partner, officer or director of the entity.

(2) An affiliate of the entity.

(3) Any other person occupying a similar status of the entity.

(Def. added June 30, 2021, P.L.124, No.25)

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

"Person." Any individual, employer, association, fiduciary, partnership, corporation, entity, estate or trust, whether a resident or nonresident of this Commonwealth. (Def. added June 30, 2021, P.L.124, No.25)

"Program year." The annual period in which the tax credit or tax benefit operates. (Def. added June 30, 2021, P.L.124, No.25)

"Recipient." A person that is sold, assigned or transferred a transferrable tax credit. (Def. added June 30, 2021, P.L.124, No.25)

"Tax benefit." For purposes of this article, a tax benefit authorized under any of the following:

(1) Article XVII-A.
(2) Article XVIII-C.
(3) Article XIX-B.
(4) Article XIX-D.
(5) Article XXIX-C.
(6) Article XXIX-D.
(7) The act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.

(Def. added June 30, 2021, P.L.124, No.25)

"Tax credit." A tax credit authorized under any of the following:

(1) Article XVII-B.
(2) Article XVII-D.
(3) Article XVII-E.
(4) Article XVII-G.
(5) Article XVII-H.
(6) Article XVII-I.
(7) Article XVII-J.
(8) Article XVII-K.
(8.1) Article XVII-L.
(9) Article XVIII.
(10) Article XVIII-B.
(11) Article XVIII-D.
(12) Article XVIII-E.
(13) Article XVIII-F.
(14) Article XVIII-G.
(14.1) Article XVIII-H.
(15) Article XIX-A.
(15.1) Article XIX-C.
(16) Article XIX-E.
(16.1) Article XIX-F.
(17) Section 2010.
(18) ((18) deleted by amendment).
(19) Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.
(20) The act of December 1, 2004 (P.L.1750, No.226), known as the First Class Cities Economic Development District Act.
(21) 12 Pa.C.S. Ch. 34 (relating to Infrastructure and Facilities Improvement Program).
(22) Any other program established by a law of this Commonwealth in which a person applies for and receives a credit against a tax. This paragraph shall not apply to a credit against a tax liability as a result of an overpayment.

(Def. amended June 30, 2021, P.L.124, No.25)

"Taxpayer." A person that was approved for a tax credit or tax benefit or that received a transferrable tax credit by sale, assignment or transfer. (Def. added June 30, 2021, P.L.124, No.25)

"Transfer application." An application submitted to the department or the administering agency by an applicant or a recipient as part of the sale, assignment or transfer of a transferrable tax credit to a recipient. (Def. added June 30, 2021, P.L.124, No.25)

"Transferrable tax credit." A tax credit which may be sold, assigned or transferred from an applicant to a different taxpayer. The term includes a

tax credit which may be transferred to a shareholder, member or partner of an applicant. (Def. added June 30, 2021, P.L.124, No.25)

(1701-A.1 added Oct. 30, 2017, P.L.672, No.43)

Section 1702-A.1. Determination of eligibility and method of submission.

(a) Tax reports and returns.--Except as otherwise provided by law, before a tax credit or tax benefit may be awarded, the department or administering agency, as applicable, shall make a finding that an applicant or a recipient has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment by the department, unless the tax due is under appeal at the time the finding was made by the department or administering agency.

(b) Notification.--For a tax credit authorized under Article XX-B of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, the department shall notify the Department of Community and Economic Development of any finding required under subsection (a) within 30 days of the Department of Community and Economic Development receiving a completed application.

(c) Electronic applications.--The department or administering agency, as applicable, may require an application for a tax credit or tax benefit to be filed electronically.

(1702-A.1 amended June 30, 2021, P.L.124, No.25)

Section 1703-A.1. Application and administration.

(a) Insufficient application.--If an administering agency finds that an application is insufficient for the administering agency to determine whether the applicant is eligible to receive a tax credit or tax benefit, the department, in consultation with the administering agency, may do all of the following for applicants other than individuals who own less than 20% of the applicant:

(1) Require the submission of additional documentation or verification which verifies material in the application. Additional documentation or verification required under this paragraph may include any of the following:

(i) A copy of the photo identification of the applicant's or recipient's chief executive officer and any authorized representative responsible for submitting the application. A copy of photo identification under this subparagraph shall include the individual's name and address.

(ii) Bank account statements relating to the business.

(iii) Business records, including receipts and expenditures.

(iv) Business origination documents, including articles of incorporation, partnership or reference to documents under this subparagraph in records of the Department of State or similar entity in another jurisdiction.

(v) Any other information required by the department or administering agency to determine that the applicant is eligible to receive a tax credit or tax benefit with the application.

(2) For an applicant that is not an individual, require that the applicant or broker meet for a virtual or in-person interview with representatives or agents of the department or the administering agency to verify the contents of the application.

(3) For an applicant that is not an individual, require the applicant or broker to agree to submit to scheduled or unscheduled site inspections by the department, the administering agency or representatives or agents of the department or administering agency. If the site is located in an area where unscheduled site visits are not feasible, the department or administering agency shall provide sufficient notice prior to the visit. The department shall establish a policy to ensure the confidentiality of information collected or observed during a site inspection. The policy shall include a prohibition on the taking of photos, video and audio recordings which are not related to the subjects regulated by the department.

(b) Risk criteria.--The department and an administering agency may jointly develop risk-scoring criteria to determine when an applicant other than an individual who owns less than 20% of the applicant may be required to do any of the following:

(1) As a condition of approval of the application, one of the following:

(i) If the amount of the tax credit or tax benefit is equal to or exceeds $100,000, hire an independent auditor to prepare audited financial statements. The independent auditor under this subparagraph shall be a certified public accountant.

(ii) If the amount of the tax credit or tax benefit is less than $100,000, provide an agreed-upon procedure report or a certification-of-costs report prepared by an independent certified public accountant.

(2) Provide information which shall be included in the audited financial statements under paragraph (1)(i) or agreed-upon procedure report or certification-of-costs report under paragraph (1)(ii) to be submitted to the department.

(3) Require the audited financial statements under paragraph (1)(i) or agreed-upon procedure report or certification-of-costs report under paragraph (1)(ii) be submitted to the department.

(c) Reports.--After approval and until a tax credit or tax benefit is fully used, an applicant that is approved for a tax credit or tax benefit shall file an annual report with the department or administering agency detailing all of the following, to the extent that the following is applicable to the tax credit or tax benefit:

(1) For a transferrable tax credit, all of the following:

(i) Whether the applicant used, sold, assigned or transferred a portion or all of the tax credit in the prior program year.

(ii) Whether the tax credit was sold, assigned or transferred for consideration in the prior program year and the name of the recipient.

(iii) If the tax credit was sold, assigned or transferred for consideration, the amount of the consideration.

(iv) If the tax credit was sold, assigned or transferred for consideration, whether the sale, assignment or transfer was conducted with the assistance of a broker and the name and registration number of the broker.

(2) If applicable, an itemization of expenses and jobs generated as a result of the receipt of the tax credit or tax benefit.

(3) Any other information that the department or administering agency deems necessary.

(d) Submission of data.--The department or administering agency shall provide the information submitted under subsection (c)(2) to the Independent Fiscal Office for use in preparing a tax credit report under section 5 of the act of October 30, 2017 (P.L.797, No.48), known as the Performance-Based Budgeting and Tax Credit Efficiency Act.

(1703-A.1 added June 30, 2021, P.L.124, No.25)

Section 1704-A.1. Assessment.

(a) General rule.--The department may issue an assessment against a taxpayer if the department determines that a tax credit or tax benefit was improperly issued or the benefits of the tax credit or tax benefit were improperly conferred.

(b) Transferred tax credit assessment.--If a tax credit is sold, transferred or assigned to a bona fide purchaser for consideration, the department may issue an assessment authorized by subsection (a) against the applicant and the broker which signed the certification required by section 1706-A.1(g). An applicant and broker shall be jointly and severally liable for an assessment under this subsection.

(c) Liability restrictions.--A broker shall not be held jointly and severally liable for the amount due when the broker is purchasing or selling a tax credit or tax benefit in which the broker did not sign the certification required under section 1706-A.1(g) for the initial tax credit

or tax benefit application. A broker under this subsection shall be liable only for the financial amount reported to the department on the program transfer application.

(d) Amount.--An assessment authorized by subsection (a) shall not exceed the face value of the tax credit or tax benefit or the benefits of the tax credit or tax benefit sold, transferred, assigned or otherwise improperly conferred and applicable interest.

(e) Procedures.--The procedures, collection, enforcement and appeals of an assessment made under subsection (a) or (b) shall be subject to Part X of Article III, except that the limitations on assessment and collection under section 348 shall not apply.

(f) Limitations.--

(1) Except as provided under paragraph (2), the department must issue an assessment under subsection (a) or (b) within three years of the date the tax credit or tax benefit is awarded or within three years of the date the tax credit is sold, transferred or assigned, whichever is later.

(2) If a taxpayer obtains a tax credit or tax benefit by fraud, the department may issue an assessment under subsection (a) or (b) at any time.

(3) If a broker is determined to have acted in good faith and was not negligent in duties regarding the information provided to the broker by the taxpayer, the department may not make an assessment against the broker.

(1704-A.1 added June 30, 2021, P.L.124, No.25)

Section 1705-A.1. Administering agency training.

(a) Training.--An administering agency shall provide agency employees, representatives and agents of the administering agency that assist applicants with applications with training on all of the following:

(1) The requirements for a tax credit or tax benefit.

(2) Advising an applicant that has been issued a tax credit or tax benefit of the duty of the applicant to file reports concerning use of the tax credit or tax benefit as required by the laws of this Commonwealth.

(3) Conducting site inspections to verify compliance with the requirements relating to application for and issuance of a tax credit or tax benefit.

(4) Conducting scheduled and unscheduled visits to the site of a taxpayer to ensure compliance with the requirements of the tax credit or tax benefit.

(b) (Reserved).

(1705-A.1 added June 30, 2021, P.L.124, No.25)

Section 1706-A.1. Broker registration.

(a) Registration required.--A person that acts as a broker shall register with the department under this section. An agent or other party representing a broker or assisting a broker on behalf of an applicant, including a person that executes an application for an applicant, or the sale, assignment or transfer of a transferrable tax credit shall register under this section.

(b) Guidelines.--The department, in consultation with the Department of Community and Economic Development, shall establish guidelines providing for the application and registration of a broker under this section. The guidelines shall require all of the following:

(1) The name and address of the broker.

(2) The name and address of the business with which the broker is employed or otherwise associated that is located and maintaining a place of business in this Commonwealth.

(3) That the broker be at least 18 years of age.

(4) The minimum educational requirements, qualifications and experience necessary for the issuance of a registration under this section.

(5) A criminal background check prepared by the Pennsylvania State Police that demonstrates the broker has not been convicted of a felony

offense or an offense that involved fraud or misrepresentation in this Commonwealth or any other jurisdiction.

(6) A list of each professional license that has been issued to the broker and whether the broker is in good standing with the licensing authority.

(7) Verification that the application is submitted in accordance with 18 Pa.C.S. §§ 4903 (relating to false swearing) and 4904 (relating to unsworn falsification to authorities).

(8) Payment of any required application, licensing and registration fees.

(9) Tax clearance showing satisfaction of all State and local taxes.

(c) Applications.--A broker shall obtain an initial or renewed registration by filing an application with the department, providing the renewal information and documentation and paying all fees as required by the department.

(d) Duration of registration.--A registration under this section shall be valid for a period of two years from the date of issuance.

(e) Registration number.--A registration under this section shall include a unique registration number for the broker. A registration under this section may be suspended or revoked by the department for good cause.

(f) Appeals.--A broker who is denied a registration under this section, or whose registration is suspended or revoked, may appeal the department's determination in the same manner as provided by Article XXVII.

(g) Attachment of certification.--A broker executing the sale of a transferrable tax credit or assisting an applicant or a taxpayer to apply for or purchase a tax credit shall do all of the following:

(1) Attach a certification to the application that the statements and representations made in the application are true and correct and subject to the penalties as set forth in 18 Pa.C.S. § 4903 or 4904.

(2) Include the broker's unique registration number issued by the department in the certification under this subsection.

(h) Fees.--The department may require the payment of an application fee to review and process a registration under this subsection.

(i) Penalties.--A person who violates the requirements specified under this section shall pay a civil fine of up to $25,000 for the first offense and up to $50,000 for each additional offense to the department.

(j) Bond required.--A broker registered under this section shall post a bond of $50,000 with the department.

(1706-A.1 added June 30, 2021, P.L.124, No.25)

Section 1707-A.1. Tax credit and tax benefit reports.

(a) Reports.--Notwithstanding any law providing for the confidentiality of tax credits, beginning with the first program year which begins after the effective date of this section and each program year thereafter, the administering agency shall publish a report for each tax credit or tax benefit, which shall include the following information:

(1) The name of each applicant that received a tax credit or tax benefit in the prior program year.

(2) For a tax credit, the amount of tax credit awarded to each applicant.

(3) For a transferrable tax credit, whether an applicant under paragraph (1) sold, assigned or transferred a transferrable tax credit in the prior program year.

(4) If applicable, a summary of the data submitted under section 1703-A.1(c)(2).

(5) If available to the administering agency, all of the following relating to a transferrable tax credit:

(i) The name of the recipient to which the transferrable tax credit under paragraph (3) was sold, assigned or transferred in the prior program year. The name of an individual receiving a transferrable tax credit without consideration from a pass-through entity in which the individual is a shareholder, member or partner shall not be published.

(ii) The amount of the transferrable tax credit under paragraph (3) that was sold, assigned or transferred.

(iii) The price for which a tax credit under paragraph (2) was sold, assigned or transferred.

(b) Publication.--

(1) Except as provided under paragraph (2), an administering agency shall publish a report on each tax credit or tax benefit under subsection (a) on the administering agency's publicly accessible Internet website no later than 45 days after the end of a program year.

(2) If an administering agency is required by a law of this Commonwealth to prepare an annual report on the tax credit or tax benefit, the information under subsection (a) shall be included in the annual report required by the law of this Commonwealth.

(1707-A.1 added June 30, 2021, P.L.124, No.25)

Section 1708-A.1. Allocation of tax credits or tax benefits awarded upon appeal.

(a) Appeal.--If an administering agency denies an applicant's application for a tax credit or tax benefit program, the applicant may appeal the administering agency's determination in the same manner as provided by Article XXVII.

(b) Awarding of tax credit or tax benefit upon appeal.--The following shall apply to an allocation of tax credits awarded upon the final resolution of an appeal:

(1) If an applicant is awarded a tax credit which is subject to a total annual limitation, upon the final resolution of an appeal after the full allocation of credits available for a fiscal year is completely expended, the administering agency shall include the awarded tax credit within the distribution of tax credits in the next program year after the resolution of the appeal for which an amount for allocation is available.

(2) When awarding a tax credit to an applicant under paragraph (1), the administering agency shall apply any reduction in the awarded tax credit amount as was applied in the program year for which the credit was denied if the reduction was applied due to the total credits applied for exceeding the amount of credits allocated for the program year.

(3) When awarding a tax credit to an applicant under paragraph (1), the administering agency shall reduce the total amount of credits available for allocation in the next program year by the amount of credits awarded.

(4) The awarded tax credits under paragraph (1) shall apply for the program year in which the credit was denied.

(c) Appeal.--If the Department of Community and Economic Development denies an applicant's application for a tax credit or tax benefit program, the applicant may appeal in a manner established by the Department of Community and Economic Development.

(d) Definition.--As used in this section, the term "administering agency" does not include the Department of Community and Economic Development.

(1708-A.1 added June 30, 2021, P.L.124, No.25)

Section 1709-A.1. Guidelines.

The department shall establish guidelines for the implementation of this article.

(1709-A.1 added June 30, 2021, P.L.124, No.25)

ARTICLE XVII-B
RESEARCH AND DEVELOPMENT TAX CREDIT
(XVII-B added May 7, 1997, P.L.85, No.7)

Section 1701-B. Short Title.--This article shall be known and may be cited as the Research and Development Tax Credit Law.

(1701-B added May 7, 1997, P.L.85, No.7)

Section 1702-B. Definitions.--The following words and phrases, when used in this article, shall have the meanings given to them in this

section, except where the context clearly indicates a different meaning:

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

"Gross receipts." Gross receipts for any taxable year shall consist only of gross receipts which are effectively connected with the conduct of a trade or business within this Commonwealth. The determination of whether gross receipts are effectively connected with the conduct of a trade or business within this Commonwealth shall be made by reference to the standard established in section 401(3)2(a)(16) and (17) of this act.

"Internal Revenue Code." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1). (Def. added July 7, 2005, P.L.149, No.40)

"Pennsylvania base amount." Base amount as defined in section 41(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 41(c)), except that references to "qualified research expense" shall mean "Pennsylvania qualified research and development expense" and references to "qualified research" shall mean "Pennsylvania qualified research and development." References to "fixed base percentage" shall mean the percentage which the Pennsylvania qualified research and development expense for the four taxable years immediately preceding the taxable year in which the expense is incurred is to the gross receipts for such years. The fixed base percentage for a taxpayer who has fewer than four but at least one taxable year shall be determined in the same manner using the number of immediately preceding taxable years to arrive at the percentage.

"Pennsylvania qualified research and development." Qualified research and development as defined in section 41(d) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 41(d)) that is conducted in this Commonwealth.

"Pennsylvania qualified research and development expense." Qualified research expense as defined in section 41(b) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C.S. § 41(b)) incurred for Pennsylvania qualified research and development.

"Qualified tax liability." The liability for taxes imposed under Article III, IV or VI of this act. The term shall not include any tax withheld by an employer from an employe under Article III. (Def. amended July 7, 2005, P.L.149, No.40)

"Research and development tax credit." The credit provided under this article.

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

"Small business." A for-profit corporation, limited liability company, partnership or proprietorship with net book value of assets totaling, at the beginning or end of the taxable year for which Pennsylvania qualified research and development expense is incurred, as reported on the balance sheet, less than five million dollars ($5,000,000).

"Taxpayer." An entity subject to tax under Article III, IV or VI of this act. The term shall include the shareholder of a Pennsylvania S corporation that receives a research and development tax credit.

(1702-B added May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 24(10) of Act 40 of 2005, which amended section 1702-B, provided that the amendment shall apply to taxable years beginning after December 31, 2005.

Section 1703-B. Credit for Research and Development Expenses.--(a) A taxpayer who incurs Pennsylvania qualified research and development expense in a taxable year may apply for a research and development tax credit as provided in this article. By December 1, a taxpayer must submit an application to the department for Pennsylvania qualified research and development expense incurred in the taxable year that ended in the prior calendar year. ((a) amended June 30, 2021, P.L.124, No.25)

(b) The following apply:

(1) Except as provided in paragraph (2), a taxpayer that is qualified under subsection (a) shall receive a research and development tax credit

for the taxable year in the amount of ten per cent of the excess of the taxpayer's total Pennsylvania qualified research and development expense for the taxable year over the taxpayer's Pennsylvania base amount.

(2) A taxpayer that is a small business and is qualified under subsection (a) shall receive a research and development tax credit for the taxable year in the amount of twenty per cent of the excess of the taxpayer's total Pennsylvania qualified research and development expense for the taxable year over the taxpayer's Pennsylvania base amount.

(c) By May 1 of the second calendar year following the close of the taxable year during which the Pennsylvania qualified research and development expense was incurred, the department shall notify the taxpayer of the amount of the taxpayer's research and development tax credit approved by the department. ((c) amended June 30, 2021, P.L.124, No.25)

(1703-B amended July 12, 2006, P.L.1137, No.116)

Section 1704-B. Carryover, Carryback, Refund and Assignment of Credit.--(a) If the taxpayer cannot use the entire amount of the research and development tax credit for the first taxable year in which the taxpayer applied for a research and development tax credit, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time that the research and development tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The research and development tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than fifteen taxable years following the first taxable year for which the taxpayer was entitled to claim the credit. ((a) amended June 30, 2021, P.L.124, No.25)

(b) A research and development tax credit approved by the department for Pennsylvania qualified research and development expense in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the taxpayer applied for the credit before the research and development tax credit is applied against any tax liability under subsection (a). ((b) amended June 30, 2021, P.L.124, No.25)

(c) A taxpayer is not entitled to carry back or obtain a refund of an unused research and development tax credit.

(d) A taxpayer, upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a research and development tax credit granted to the taxpayer under this article. The Department of Community and Economic Development shall establish guidelines for the approval of applications under this subsection.

(e) The purchaser or assignee of a portion of a research and development tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the research and development credit that a purchaser or assignee may use against any one qualified tax liability may not exceed seventy-five per cent of such qualified tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the research and development tax credit. The purchaser or assignee shall notify the department of the seller or assignor of the research and development tax credit in compliance with procedures specified by the department.

(1704-B amended Oct. 9, 2009, P.L.451, No.48)

Compiler's Note: Section 33(13) of Act 46 of 2003, which amended subsection (b), provided that the amendment shall apply to taxable years beginning after December 31, 2004. Section 33(14), which amended or added subsections (c), (d) and (e), provided that the amendment or addition shall apply to credits awarded after December 31, 2002.

Section 1705-B. Application of Internal Revenue Code.--The provisions of section 41 of the Internal Revenue Code and the regulations promulgated

regarding those provisions shall apply to the department's interpretation and administration of the credit provided by this article. References to the Internal Revenue Code shall mean the sections of the Internal Revenue Code as existing on any date of interpretation of this article. However, if those sections of the Internal Revenue Code referenced in this article are repealed or terminated, references to the Internal Revenue Code shall mean those sections last having full force and effect. If after repeal or termination the Internal Revenue Code sections are revised or reenacted, references herein to Internal Revenue Code sections shall mean those revised or reenacted sections.

(1705-B added May 7, 1997, P.L.85, No.7)

Section 1706-B. Determination of Qualified Research and Development Expenses.--In prescribing standards for determining which qualified research and development expense are considered Pennsylvania qualified research and development expense for purposes of computing the credit provided by this article, the department may consider:

(1) The location where the services are performed.

(2) The residence or business location of the person or persons performing the service.

(3) The location where qualified research and development supplies are consumed.

(4) Other factors that the department determines are relevant for the determination.

(1706-B added May 7, 1997, P.L.84, No.7)

Section 1707-B. Time Limitations.--The termination date in section 41(h) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 41(h)) does not apply to a taxpayer who is eligible for the research and development tax credit under this article for the taxable year in which the Pennsylvania qualified research and development expense is incurred.

(1707-B amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 51(1.2) of Act 84 of 2016, which amended section 1707-B, provided that the amendment of section 1707-B shall apply retroactively to January 1, 2016.

Section 1708-B. Transitional Rule.--For the purpose of calculating Pennsylvania qualified research and development expense used in calculating the Pennsylvania base amount for taxable years ending after 1991 and before 1997, if the taxpayer has incurred qualified research and development expense both inside and outside this Commonwealth and is unable to determine the amount of Pennsylvania qualified research and development expense, the taxpayer may calculate Pennsylvania qualified research and development expense by multiplying qualified research and development expense everywhere by the average of the payroll and property factors calculated in accordance with Article IV of this act for the corresponding taxable years in question.

(1708-B added May 7, 1997, P.L.85, No.7)

Section 1709-B. Limitation on Credits.--(a) The total amount of credits approved by the department shall not exceed sixty million dollars ($60,000,000) in any fiscal year. Of that amount, twelve million dollars ($12,000,000) shall be allocated exclusively for small businesses. However, if the total amounts allocated to either the group of applicants exclusive of small businesses or the group of small business applicants is not approved in any fiscal year, the unused portion will become available for use by the other group of qualifying taxpayers. ((a) amended July 8, 2022, P.L.513, No.53)

(b) If the total amount of research and development tax credits applied for by all taxpayers, exclusive of small businesses, exceeds the amount allocated for those credits, then the research and development tax credit to be received by each applicant shall be the product of the allocated amount multiplied by the quotient of the research and development tax credit applied for by the applicant divided by the total of all research and development credits applied for by all applicants, the algebraic equivalent of which is:

taxpayer's research and development tax credit=amount allocated for those credits X (research and development tax credit applied for by the applicant/total of all research and development tax credits applied for by all applicants).

(c) If the total amount of research and development tax credits applied for by all small business taxpayers exceeds the amount allocated for those credits, then the research and development tax credit to be received by each small business applicant shall be the product of the allocated amount multiplied by the quotient of the research and development tax credit applied for by the small business applicant divided by the total of all research and development credits applied for by all small business applicants, the algebraic equivalent of which is:

taxpayer's research and development tax credit=amount allocated for those credits X (research and development tax credit applied for by the small business/total of all research and development tax credits applied for by all small business applicants).

(1709-B added May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 24(4)(iii) of Act 53 of 2022 provided that the amendment of section 1709-B shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 33(15) of Act 46 of 2003, which amended subsection (a), provided that the amendment shall apply to credits awarded after December 31, 2003.

Section 1710-B. Pass-Through Entity.--(a) If a pass-through entity has any unused tax credit under section 1704-B, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) The credit provided under subsection (a) is in addition to any research and development tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article. However, a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a credit under this article for the same qualified research and development expense.

(c) A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1710-B amended July 7, 2005, P.L.149, No.40)

Compiler's Note: Section 24(10) of Act 40 of 2005, which amended section 1710-B, provided that the amendment shall apply to taxable years beginning after December 31, 2005.

Section 1711-B. Report to General Assembly.--The secretary shall submit an annual report to the General Assembly indicating the effectiveness of the credit provided by this article no later than October 1 following the calendar year in which the credits were approved. The report shall include the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved and utilized by each taxpayer. Notwithstanding any law providing for the confidentiality of tax records, the information contained in the report shall be public information. The report may also include any recommendations for changes in the calculation or administration of the credit.

(1711-B amended June 30, 2021, P.L.124, No.25)

Compiler's Note: Section 33(16) of Act 46 of 2003, which amended section 1711-B, provided that the amendment shall apply to credits awarded after December 31, 2003.

Section 1712-B. Termination.--(1712-B repealed July 2, 2012, P.L.751, No.85)

Section 1713-B. Regulations.--The secretary shall promulgate regulations necessary for the implementation and administration of this article.

(1713-B added May 7, 1997, P.L.85, No.7)

ARTICLE XVII-C
FILM PRODUCTION TAX CREDIT
(Art. repealed May 11, 2006, P.L.167, No.42)

Compiler's Note: Section 3 of Act 42 of 2006, which repealed Art. XVII-C, provided that the repeal shall not apply to any film production tax credit approved or issued prior to the effective date of section 3.

Section 1701-C. Scope of article (1701-C repealed May 11, 2006, P.L.167, No.42)
Section 1702-C. Definitions (1702-C repealed May 11, 2006, P.L.167, No.42)
Section 1703-C. Credit for qualified film production expenses (1703-C repealed May 11, 2006, P.L.167, No.42)
Section 1703.1-C. Film production tax credits (1703.1-C repealed May 11, 2006, P.L.167, No.42)
Section 1704-C. Carryover, carryback, refund and assignment of credit (1704-C repealed May 11, 2006, P.L.167, No.42)
Section 1705-C. Determination of qualified film production expenses (1705-C repealed May 11, 2006, P.L.167, No.42)
Section 1706-C. Time limitations (1706-C repealed May 11, 2006, P.L.167, No.42)
Section 1707-C. Limitation on credits (1707-C deleted by amendment, July 7, 2005, P.L.149, No.40)
Section 1707.1-C. Penalty (1707.1-C repealed May 11, 2006, P.L.167, No.42)
Section 1708-C. Pass-through entity (1708-C repealed May 11, 2006, P.L.167, No.42)
Section 1709-C. Report to General Assembly (1709-C repealed May 11, 2006, P.L.167, No.42)
Section 1710-C. Termination (1710-C repealed May 11, 2006, P.L.167, No.42)
Section 1711-C. Regulations (1711-C repealed May 11, 2006, P.L.167, No.42)

ARTICLE XVII-D
ENTERTAINMENT PRODUCTION TAX CREDIT
(Art. amended July 13, 2016, P.L.526, No.84)

SUBARTICLE A
PRELIMINARY PROVISIONS
(Subart. hdg. added July 13, 2016, P.L.526, No.84)

Section 1701-D. Scope of article.

This article relates to entertainment production tax credits.

(1701-D amended July 13, 2016, P.L.526, No.84)

Section 1702-D. Definitions.

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

"Department." The Department of Community and Economic Development of the Commonwealth.

(prior 1702-D renumbered to 1711-D and amended and current 1702-D added July 13, 2016, P.L.526, No.84)

SUBARTICLE B
FILM PRODUCTION
(Subart. hdg. added July 13, 2016, P.L.526, No.84)

Section 1711-D. Definitions.

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

"Department." (Def. deleted by amendment).

"Deteriorated property." Any blighted, impoverished area containing industrial, commercial or other real property that is abandoned, unsafe, vacant, undervalued, underutilized, overgrown, defective, condemned, demolished or which contains economically undesirable land use. (Def. added Oct. 30, 2017, P.L.672, No.43)

"Film." A feature film, a television film, a television talk or game show series, a television commercial or a television pilot or each episode of a television series which is intended as programming for a national audience. The term does not include a production featuring news, current events, weather and market reports, public programming, sports events, awards shows or other gala events, a production that solicits funds, a production containing obscene material or performances as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other sexual materials and performances) or a production primarily for private, political, industrial, corporate or institutional purposes.

"Film production tax credit district." A district authorized under section 1716.2-D. (Def. added Oct. 30, 2017, P.L.672, No.43)

"Minimum stage filming requirements." Include:

(1) Taxpayers with a Pennsylvania production expense of less than $30,000,000 per production must:

(i) build at least one set at a qualified production facility;

(ii) shoot for a minimum of ten days at a qualified production facility; and

(iii) spend or incur a minimum of $1,500,000 in direct expenditures relating to the use or rental of tangible property or for performance of services provided by a qualified production facility.

(2) Taxpayers with a Pennsylvania production expense of at least $30,000,000 per production must:

(i) build at least two sets at a qualified production facility;

(ii) shoot for a minimum of 15 days at a qualified production facility; and

(iii) spend or incur a minimum of $5,000,000 in direct expenditures relating to the use or rental of tangible property at or for performance of services provided by a qualified production facility.

"Multifilm." (Def. deleted by amendment July 8, 2022, P.L.513, No.53)

"Multifilm production." A series of separate and distinct films that are produced by the same taxpayer, or directly or indirectly produced by the same taxpayers who have no less than 80% common ownership, over a period of no more than four years from the time of application. (Def. added July 8, 2022, P.L.513, No.53)

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Pennsylvania film producer." A Pennsylvania domiciled film production company that meets the following:

(1) The principal tax jurisdiction is this Commonwealth.

(2) A majority of the taxpayer's owners are Pennsylvania residents.

(3) The taxpayer employs fewer than 15 full-time employees.

(Def. added July 8, 2022, P.L.513, No.53)

"Pennsylvania production expense." Production expense incurred in this Commonwealth. The term includes:

(1) A payment made by a taxpayer to a person upon which withholding will be made on the payment by the taxpayer as required under Part VII of Article III.

(2) Payment to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or

accrued on the net income of the corporation for the taxable year.

(3) Payment to a pass-through entity representing individual talent for which withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.

(4) The cost of transportation incurred while transporting to or from a train station, bus depot or airport, located in this Commonwealth.

(5) The cost of insurance coverage purchased through an insurance agent based in this Commonwealth.

(6) The purchase of music or story rights if any of the following subparagraphs apply:

(i) The purchase is from a resident of this Commonwealth.

(ii) The purchase is from an entity subject to taxation in this Commonwealth, and the transaction is subject to taxation under Article III, IV or VI.

(7) The cost of rental of facilities and equipment rented from or through a resident of this Commonwealth or an entity subject to taxation in this Commonwealth.

(8) A qualified postproduction expense.

"Postproduction expense." A postproduction expense of original content for a film as follows:

(1) The term includes traditional, emerging and new work-flow techniques used in postproduction for any of the following:

(i) Picture, sound and music editorial, rerecording and mixing.

(ii) Visual effects.

(iii) Graphic design.

(iv) Original scoring.

(v) Animation.

(vi) Musical composition.

(vii) Mastering.

(viii) Dubbing.

(ix) The purchase of music rights if the following apply:

(A) The purchase is from a resident of this Commonwealth.

(B) The purchase is from an entity subject to taxation in this Commonwealth and the transaction is subject to taxation under Article III, IV or VI.

(2) The term does not include any of the following:

(i) Editing previously produced content for a film.

(ii) News or current affairs.

(iii) Talk shows.

(iv) Instructional videos.

(v) Content which contains obscene material or performances as defined in 18 Pa.C.S. § 5903(b).

(Def. amended June 28, 2019, P.L.50, No.13)

"Production expense." As follows:

(1) The term includes all of the following:

(i) Compensation paid to an individual employed in the production of the film.

(ii) Payment to a personal service corporation representing individual talent.

(iii) Payment to a pass-through entity representing individual talent.

(iv) The costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories.

(v) The cost of leasing vehicles.

(vi) The cost of transportation to or from a train station, bus depot or airport.

(vii) The cost of insurance coverage.

(viii) The costs of food and lodging.

(ix) The purchase of music or story rights.

(x) The cost of rental of facilities and equipment.

(2) The term does not include any of the following:

(i) Deferred, leveraged or profit participation paid or to be paid to individuals employed in the production of the film or paid to entities representing an individual for services provided in the production of the film.

(ii) Development cost.

(iii) Expense incurred in marketing or advertising a film.

(iv) Cost related to the sale or assignment of a film production tax credit under section 1714-D(e).

"Qualified film production expense." All Pennsylvania production expenses if Pennsylvania production expenses comprise at least 60% of the film's total production expenses. The term shall not include more than $15,000,000 in the aggregate of compensation paid to individuals or payment made to entities representing an individual for services provided in the production of the film.

"Qualified postproduction expense." A postproduction expense incurred at a qualified postproduction facility.

"Qualified postproduction facility." A permanent facility where Pennsylvania postproduction activities are conducted and expenses are incurred to which all of the following apply:

(1) The facility is located in this Commonwealth.

(2) The facility is approved by the department.

(3) The facility employs at least ten full-time employees who reside in this Commonwealth.

(4) There is at least $500,000 of capital investment in the facility.

"Qualified production facility." A film production facility located within this Commonwealth that contains at least one sound stage with a column-free, unobstructed floor space and meets either of the following criteria:

(1) Has had a minimum of $10,000,000 invested in the film production facility in land or a structure purchased or ground-up, purpose-built new construction or renovation of existing improvement.

(2) Meets at least three of the following criteria:

(i) A sound stage having an industry standard noise criteria rating of 25 or better.

(ii) A permanent grid with a minimum point load capacity of no less than 1,000 pounds at a minimum of 25 points.

(iii) Built-in power supply available at a minimum of 4,000 amps per sound stage without the need for supplemental generators.

(iv) A height from sound stage floor to permanent grid of a minimum of 20 feet.

(v) A sound stage with a sliding or roll-up access door with a minimum height of 14 feet.

(vi) A built-in HVAC capacity during shoot days with a minimum of 50 tons of cooling capacity available per sound stage.

(vii) Perimeter security that includes a 24-hour, seven-days-a-week security presence and use of access control identification badges.

(viii) On-site lighting and grip department with an available inventory stored at the film production facility with a minimum cost of investment of $500,000.

(ix) A sound stage with contiguous production offices with a minimum of 5,000 square feet per sound stage.

"Qualified tax liability." The liability for taxes imposed under Article III, IV, VI, VII, VIII, IX or XV. The term shall not include any tax withheld by an employer from an employee under Article III.

"Start date." As follows:

(1) For a film:

(i) the first day of principal photography in this Commonwealth; or

(ii) an earlier date approved by the Pennsylvania Film Office.

(2) For a postproduction project, a date approved by the Pennsylvania Film Office.

"Tax credit." The film production tax credit provided under this subarticle.

"Tax district capital investment." Investment within a film production tax credit district that may consist of new construction, renovation, real property improvement and a similar investment as well as other economic development expenditures within the Commonwealth arising directly from the investment. (Def. added June 28, 2019, P.L.50, No.13)

"Taxpayer." A film production company subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a film production company.

(1711-D renumbered from 1702-D and amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(iv) of Act 53 of 2022 provided that the amendment of section 1711-D shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 51(5)(iii) of Act 84 of 2016, which renumbered and amended section 1702-D to 1711-D, provided that the amendment of section 1711-D, renumbered from section 1702-D, shall apply to taxable years beginning after December 31, 2016.

Compiler's Note: Section 42(1.1) of Act 52 of 2013, which amended section 1702-D, provided that the amendment shall apply to tax credits awarded after June 30, 2013.

Section 1712-D. Credit for qualified film production expenses.

(a) Application.--A taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.

(b) Review and approval.--The department shall establish application periods not to exceed 90 days each. All applications received during the application period shall be reviewed and evaluated by the department based on the following criteria:

(1) The anticipated number of production days in a qualified production facility.

(2) The anticipated number of Pennsylvania employees.

(3) The number of preproduction days through postproduction days in Pennsylvania.

(4) The anticipated number of days spent in Pennsylvania hotels.

(5) The Pennsylvania production expenses in comparison to the production budget.

(5.1) For a Pennsylvania film producer, the portion of all preproduction expenses, production expenses and postproduction expenses incurred in Pennsylvania. ((5.1) added July 8, 2022, P.L.513, No.53)

(6) The use of studio resources.

(7) If the application includes a qualified postproduction expense:

(i) The qualified postproduction facility where the activity will occur.

(ii) The anticipated type of postproduction activity that will be conducted.

(7.1) If a multifilm production application is submitted, the department shall consider the ability of the taxpayer to produce multiple films within this Commonwealth during the proposed period of production and the potential economic impact, including tourism impact, of the multiple films to this Commonwealth. The taxpayer may supplement the multifilm production application with additional films during the period of production. The department may annually extend the multifilm production application's period of production before the expiration of the period of production. The taxpayer may not include a film in the multifilm production application that was the subject of an application submitted under this subsection before January 1, 2022. ((7.1) amended July 8, 2022, P.L.513, No.53)

(7.2) The film will be produced by a Pennsylvania film producer. ((7.2) added July 8, 2022, P.L.513, No.53)

(8) Other criteria that the Director of the Pennsylvania Film Office deems appropriate to ensure maximum employment and benefit within this Commonwealth.

Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department may approve the taxpayer for a tax credit. Applications not approved may be reviewed and considered in subsequent application periods. The department may approve a taxpayer for a tax credit based on its evaluation of the criteria under this subsection.

(b.1) Review and approval of applications for film production tax credit district activity.--For applications involving film production expenses incurred within a designated film production tax credit district authorized under section 1716.2-D, the department shall accept applications at any time. Applications shall be reviewed by the department utilizing the criteria required under subsection (b). Upon determining the taxpayer has incurred or will incur qualified film production expenses, the department shall approve the taxpayer for a tax credit utilizing the tax credits authorized under section 1716.2-D, not to exceed the amount authorized for the fiscal year. ((b.1 added Oct. 30, 2017, P.L.672, No.43)

(c) Contract.--If the department approves the taxpayer's application under subsection (b), the department and the taxpayer shall enter into a contract containing the following:

(1) An itemized list of production expenses incurred or to be incurred for the film.

(2) An itemized list of Pennsylvania production expenses incurred or to be incurred for the film.

(3) With respect to a contract entered into prior to completion of production, a commitment by the taxpayer to incur the qualified film production expenses as itemized.

(4) The start date.

(5) Any other information the department deems appropriate.

(d) Certificate.--Upon execution of the contract required by subsection (c), the department shall award the taxpayer a film production tax credit and issue the taxpayer a film production tax credit certificate.

(1712-D renumbered from 1703-D and amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(v) and (vi) of Act 53 of 2022 provided that the addition of section 1712-D(b)(5.1) and (7.2) and the amendment of subsection (b)(7.1) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 51(5)(iii) of Act 84 of 2016, which renumbered and amended section 1703-D to 1712-D, provided that the amendment tosection 1712-D, renumbered from 1703-D, shall apply to taxable years beginning after December 31, 2016.

Compiler's Note: Section 42(1.1) of Act 52 of 2013, which amended section 1703-D, provided that the amendment shall apply to tax credits awarded after June 30, 2013.

Compiler's Note: Section 1703-D was renumbered to 1712-D and amended July 13, 2016, P.L.526, No.84.

Section 1713-D. Film production tax credits.

A taxpayer may claim a tax credit against the qualified tax liability of the taxpayer.

(1713-D renumbered from 1704-D July 13, 2016, P.L.526, No.84)

Section 1714-D. Carryover, carryback and assignment of credit.

(a) General rule.--If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this subarticle may be carried over and applied to succeeding taxable years

for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--A tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the tax credit can be applied against any tax liability under subsection (a).

(c) No carryback or refund.--A taxpayer is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the taxpayer under this subarticle.

(d) (Reserved).

(e) Sale or assignment.--The following shall apply:

(1) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the taxpayer under this subarticle.

(2) The department and the Department of Revenue shall jointly promulgate regulations for the approval of applications under this subsection.

(3) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.

(4) Notwithstanding any other provision of law, the Department of Revenue shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(f) Purchasers and assignees.--Except as provided in subsections (g) and (h), the following apply:

(1) The purchaser or assignee of all or a portion of a tax credit under subsection (e) shall immediately claim the credit in the taxable year in which the purchase or assignment is made.

(2) The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year.

(3) The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit.

(4) The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the tax credit in compliance with procedures specified by the Department of Revenue.

((f) amended June 28, 2019, P.L.50, No.13)

(g) Limited carry forward of tax credits by a purchaser or assignee.--A purchaser or assignee may carry forward all or any unused portion of a tax credit purchased or assigned in:

(1) Calendar year 2010 against qualified tax liabilities incurred in taxable years 2011 and 2012.

(2) Calendar year 2013 against qualified tax liabilities incurred in taxable year 2014.

(3) Calendar year 2014 against qualified tax liabilities incurred in taxable year 2015.

(h) Full utilization of tax credits.--A tax credit awarded under this article may be sold or assigned to a purchaser or assignee included in the same Federal consolidated tax return as permitted under sections 1501 and 1502 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. §§ 1501 and 1502), filed by the taxpayer under subsection (a) to reduce or eliminate the qualified tax liability to the same extent allowable for the taxpayer under subsections (a), (b) and (c). Tax credits sold or assigned under this subsection are limited to the taxable year in which the purchase or assignment is made and may only be carried forward for the remainder of the carryforward period of the original credit. ((h) added June 28, 2019, P.L.50, No.13)

(1714-D renumbered from 1705-D and amended July 13, 2016, P.L.526, No.84)

Section 1715-D. Determination of Pennsylvania production expenses.

In prescribing standards for determining which production expenses are considered Pennsylvania production expenses for purposes of computing the credit provided by this subarticle, the department shall consider:

(1) The location where services are performed.

(2) The location where supplies are consumed.

(3) Other factors the department determines are relevant.

(1715-D renumbered from 1706-D and amended July 13, 2016, P.L.526, No.84)

Section 1716-D. Limitations.

(a) Cap.--Except for tax credits reissued under section 1716.1-D, in no case shall the aggregate amount of tax credits awarded in any fiscal year under this subarticle exceed $100,000,000. The department may, in its discretion, award in one fiscal year up to: (Intro. par. amended July 8, 2022, P.L.513, No.53)

(1) Thirty percent of the dollar amount of film production tax credits available to be awarded in the next succeeding fiscal year.

(2) Twenty percent of the dollar amount of film production tax credits available to be awarded in the second successive fiscal year.

(3) Ten percent of the dollar amount of film production tax credits available to be awarded in the third successive fiscal year.

((a) amended June 28, 2019, P.L.50, No.13)

(a.1) Advance award of credits.--The advance award of film tax credits under subsection (a) shall:

(1) count against the total dollar amount of credits that the department may award in that next succeeding fiscal year; and

(2) reduce the dollar amount of credits that the department may award in that next succeeding fiscal year.

The individual limitations on the awarding of film production tax credits apply to an advance award of film production tax credits under subsection (a) and to a combination of film production tax credits awarded against the current fiscal year cap and against the next succeeding fiscal year's cap.

(b) Individual limitations.--The following shall apply:

(1) Except as set forth in paragraph (1.1) or (1.2), the aggregate amount of film production tax credits awarded by the department under section 1712-D(d) to a taxpayer for a film may not exceed 25% of the qualified film production expenses to be incurred.

(1.1) In addition to the tax credit under paragraph (1), a taxpayer is eligible for a credit in the amount of 5% of the qualified film production expenses incurred by the taxpayer if the taxpayer:

(i) films a feature film, television film or television series, which is intended as programming for a national audience; and

(ii) films in a qualified production facility which meets the minimum stage filming requirements.

(1.2) A qualified postproduction expense shall qualify for a 30% credit.

(2) A taxpayer that has received a grant under 12 Pa.C.S. § 4106 (relating to approval) shall not be eligible for a film production tax credit under this act for the same film.

(c) Qualified production facility.--To be considered a qualified production facility or qualified postproduction facility, the owner of a facility shall provide evidence to the department to verify the development or facility specifications and capital investment costs incurred for the facility so that the threshold amounts set in the definitions of "qualified production facility" and "qualified postproduction facility" are satisfied, and upon verification, the facility shall be registered by the department officially as a qualified production facility or qualified postproduction facility.

(d) Waiver.--The department may make a determination that the financial benefit to this Commonwealth resulting from the direct investment in or payments made to Pennsylvania facilities outweighs the benefit of

maintaining the 60% requirement contained in the definition of "qualified film production expense." If such determination is made, the department may waive the requirement that 60% of a film's total production or postproduction expenses be comprised of Pennsylvania production expenses for a film, television film or television series that is intended as programming for a national audience and is filmed or produced in a qualified production facility or qualified postproduction facility if the taxpayer who has Pennsylvania production expenses of at least $30,000,000 per production meets the minimum stage filming requirements.

(e) Pennsylvania film producer reserve.--The department shall annually reserve and allocate $5,000,000 of the tax credits authorized under this subarticle in support of projects produced by a Pennsylvania film producer. A Pennsylvania film producer shall not be limited in eligibility for a tax credit solely to the Pennsylvania film producer reserve in any fiscal year. ((e) added July 8, 2022, P.L.513, No.53)

(f) If the total amount of tax credits reserved and allocated under subsection (e) is not awarded in a fiscal year, the amount not awarded shall be made available for use by taxpayers who are not Pennsylvania film producers. ((f) added July 8, 2022, P.L.513, No.53)

(1716-D renumbered from 1707-D and amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(vii) of Act 53 of 2022 provided that the amendment of section 1716-D(a) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Compiler's Note: Section 51(7) of Act 84 of 2016, which renumbered and amended section 1707-D to 1716-D, provided that the amendment of section 1716-D, renumbered from 1707-D, shall apply to fiscal years beginning after June 30, 2017.

Section 1716.1-D. Reissuance of film production tax credits.

(a) Reissuance.--In any fiscal year, the department may reissue a tax credit which meets all of the following:

(1) The tax credit was approved under section 1712-D(b).

(2) The contract was signed under section 1712-D(c).

(3) The tax credit was awarded and a certificate was issued under section 1712-D(d).

(4) If an individual film that was issued a tax credit as part of a multifilm production application is canceled, the department may reissue that tax credit only after allowing the taxpayer or the taxpayer's affiliate 90 days to submit an application for an alternative individual film, produced by the taxpayer or the taxpayer's affiliate for that tax credit. The department may approve or reject the application. ((4) amended July 8, 2022, P.L.513, No.53)

(b) Amount.--The amount of a tax credit to be reissued shall be calculated as the difference between the amounts in subsection (a)(1) and (3).

(c) Applicability.--This section shall apply to a tax credit awarded under this article in any fiscal year beginning after June 30, 2017.

(1716.1 added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(viii) of Act 53 of 2022 provided that the amendment of section 1716.1-D(a)(4) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 51(7) of Act 84 of 2016, which added section 1716.1-D, provided that the addition of section 1716.1-D shall apply to fiscal years beginning after June 30, 2017.

Section 1716.2-D. Film production tax credit districts.

(a) Establishment.--The department may designate not more than two film production tax credit districts for the purpose of enhancing, promoting and

expanding film production opportunities and establishing a film production industry within this Commonwealth.

(b) Criteria.--A film production tax credit district shall:

(1) Be at least 55 acres in size.

(2) Be located on deteriorated property.

(3) Be comprised of a parcel that is or will be occupied by two or more qualified businesses that:

(i) in the aggregate, make a tax district capital investment of at least $400,000,000 within eight years after the effective date of the designation of the district; and

(ii) are dedicated to film production activity, postproduction activity or other activities that directly or indirectly support film production activity occurring within the district or within this Commonwealth.

(4) Contain at least one qualified production facility and two sound stages.

((b) amended June 28, 2019, P.L.50, No.13)

(c) Application.--The following apply:

(1) An application to designate a film production tax credit district may be made by the county or municipality in which all or part of the district will be located. The department shall review the application and, if approved, issue a designation for the film production tax credit district. The application period shall be set by the department.

(2) The application shall contain the following information:

(i) The geographic area of the proposed film production tax credit district.

(ii) A detailed map of the proposed district, including geographic boundaries, total area and present use and conditions of the land and structures.

(iii) A description of the current social, economic and demographic characteristics of the proposed district and anticipated improvements in education, health, human services, public safety and employment that will result from designation of the district.

(iv) A description of anticipated film production activity and ancillary activities in the proposed district.

(v) Evidence of potential private and public investment in the proposed district.

(vi) The role of the proposed district in regional economic and community development.

(d) Designation period.--A district designated under subsection (c) shall expire 15 years after the effective date of the designation.

(e) Construction.--The tax credits authorized under this section are in addition to the tax credits under section 1716-D(a) and are available exclusively for activities occurring within the designated district.

(f) Annual tax credits.--The department may authorize a tax credit for a film production tax credit district in fiscal year 2019-2020 and in each fiscal year thereafter.

(1716.2-D added Oct. 30, 2017, P.L.672, No.43)

Section 1717-D. Penalty.

A taxpayer which claims a tax credit and fails to incur the amount of qualified film production expenses agreed to in section 1712-D(c)(3) for a film in that taxable year shall repay to the Commonwealth the amount of the film production tax credit claimed under this subarticle for the film.

(1717-D renumbered from 1708-D and amended July 13, 2016, P.L.526, No.84)

Section 1718-D. Pass-through entity.

(a) General rule.--If a pass-through entity has any unused tax credit under section 1714-D, it may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitation.--A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the credit under subsection (a) for the same qualified film production expense.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a credit is transferred under subsection (a) shall immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1718-D renumbered from 1709-D and amended July 13, 2016, P.L.526, No.84)

Section 1719-D. Department guidelines and regulations.

The department shall develop written guidelines for the implementation of the provisions of this subarticle. The guidelines shall be in effect until such time as the department promulgates regulations for the implementation of the provisions of this subarticle. The department shall promulgate regulations for the implementation of this subarticle within two years of the effective date of this section.

(1719-D renumbered from 1710-D and amended July 13, 2016, P.L.526, No.84)

Section 1720-D. Report to General Assembly.

(a) General rule.--No later than June 1, 2008, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credit provided by this subarticle. The report shall include the name of the film produced, the names of all taxpayers utilizing the credit as of the date of the report and the amount of credits approved for, utilized by or sold or assigned by each taxpayer. The report may also include any recommendations for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairman and minority chairman of the Appropriations and Finance Committees of the Senate and the chairman and minority chairman of the Appropriations and Finance Committees of the House of Representatives. In addition to the information set forth above, the report shall include the following information, which shall be separated by geographic location within this Commonwealth:

(1) The amount of credits claimed during the fiscal year by film.

(2) The total amount spent in this Commonwealth during the fiscal year by film.

(3) The total amount of tax revenues generated by this Commonwealth during the fiscal year by film.

(4) The total number of jobs created during the fiscal year by film, including the duration of the jobs.

(b) Public information.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the department's Internet website.

(1720-D renumbered from 1711-D and amended July 13, 2016, P.L.526, No.84)

Section 1721-D. Film Advisory Board.

(a) Composition.--A Film Advisory Board is established. The board shall work with the Pennsylvania Film Office and the regional film offices to promote the film industry throughout this Commonwealth and to examine and file a written report on the effectiveness of the tax credit and grant programs. The report shall be included in the department's report required under section 1720-D. The board shall consist of the following members:

(1) The Secretary of Community and Economic Development, or a designee.

(2) A member appointed by the Governor.

(3) A member appointed by the President pro tempore of the Senate.

(4) A member appointed by the Minority Leader of the Senate.

(5) A member appointed by the Majority Leader of the House of Representatives.

(6) A member appointed by the Minority Leader of the House of Representatives.

(b) Compensation.--Members of the board shall not be compensated for their service as board members, but shall be compensated for their reasonable expenses. The department shall provide administrative support for the board.

(c) Meetings.--The board shall meet no less than twice each year.

(d) Chairman.--The members of the board shall elect the chairman.

(1721-D renumbered from 1712-D and amended July 13, 2016, P.L.526, No.84)

SUBARTICLE C
CONCERT REHEARSAL AND TOUR
(Subart. repealed June 22, 2017, P.L.202, No.7)

Section 1731-D. Definitions.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1732-D. Procedure.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1733-D. Claim.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1734-D. Carryover, carryback and assignment of tax credit.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1735-D. Determination of Pennsylvania rehearsal and tour expenses.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1736-D. Limitations.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1737-D. Penalty.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1738-D. Pass-through entity.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1739-D. Department guidelines and regulations.--(Repealed June 22, 2017, P.L.202, No.7)
Section 1740-D. Report to General Assembly.--(Repealed June 22, 2017, P.L.202, No.7)

SUBARTICLE D
VIDEO GAME PRODUCTION
(Subart. added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 51(6) of Act 84 of 2016, which added Subarticle D, provided that the addition of Subarticle D shall apply to fiscal years beginning after June 30, 2016.

Section 1751-D. Scope of subarticle.

This subarticle relates to video game production tax credits.

(1751-D added July 13, 2016, P.L.526, No.84)

Section 1752-D. Definitions.

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

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Pennsylvania production expense." Production expense incurred in this Commonwealth. The term includes:

(1) A payment made by a taxpayer to a person upon which withholding will be made on the payment by the taxpayer as required under Part VII of Article III.

(2) Payment to a personal service corporation representing individual talent if the tax imposed by Article IV will be paid or accrued on the net income of the corporation for the taxable year.

(3) Payment to a pass-through entity representing individual talent if withholding will be made by the pass-through entity on the payment as required under Part VII or VII-A of Article III.

(4) The cost of transportation incurred while transporting to or from a train station, bus depot or airport located in this Commonwealth.

(5) The cost of insurance coverage purchased through an insurance agent based in this Commonwealth.

(6) The purchase of music or story rights if any of the following subparagraphs apply:

(i) The purchase is from a resident of this Commonwealth.

(ii) The purchase is from an entity subject to taxation in this Commonwealth, and the transaction is subject to taxation under Article III or IV.

(7) The cost of rental of facilities and equipment rented from or through a resident of this Commonwealth or an entity subject to taxation in this Commonwealth.

(8) The development and manufacture of video game equipment.

"Production expense." As follows:

(1) The term includes all of the following:

(i) Compensation paid to an individual employed in the production of a video game.

(ii) Payment to a personal service corporation representing individual talent.

(iii) Payment to a pass-through entity representing individual talent.

(iv) The costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories.

(v) The cost of leasing vehicles.

(vi) The cost of transportation to or from a train station, bus depot or airport.

(vii) The cost of insurance coverage.

(viii) The costs of food and lodging.

(ix) The purchase of music or story rights.

(x) The cost of rental of facilities and equipment.

(xi) Development and production costs relating to video games.

(2) The term does not include any of the following:

(i) Deferred, leveraged or profit participation paid or to be paid to individuals employed in the production of a video game or paid to entities representing an individual for services provided in the production of a video game.

(ii) Expenses incurred in marketing or advertising a video game.

(iii) Costs related to the sale or assignment of a video game production tax credit under section 1755-D(e).

"Qualified tax liability." The liability for taxes imposed under Article III, IV, VI, VII, VIII, IX or XV. The term does not include a tax withheld by an employer from an employee under Article III.

"Qualified video game production expense." All Pennsylvania production expenses if Pennsylvania production expenses comprise at least 60% of the video game's total production expenses. The term does not include more than $1,000,000 in the aggregate of compensation paid to individuals or payment made to entities representing an individual for services provided in the production of the video game.

"Start date." The first day of principal production of a video game in this Commonwealth.

"Tax credit." The video game production tax credit provided under this subarticle.

"Taxpayer." A video game production company subject to tax under Article III, IV or VI. The term does not include contractors or subcontractors of a video game production company.

"Video game." An electronic game that involves interaction with a user interface to generate visual feedback on a video device. The term does not include a game that contains obscene material or performances as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and other sexual materials and

performances) or a game designed primarily for private, political, industrial, corporate or institutional purposes.

"Video game equipment." Equipment that is required for the development or functioning of a video game. The term includes:

(1) Integrated video and audio equipment, networking routers, switches, network cabling and any other computer-related hardware necessary to create or operate a video game.

(2) Software, notwithstanding the method of delivery, transfer or access.

(3) Computer code.

(4) Image files, music files, audio files, video files, scripts and plays.

(5) Concept mock-ups.

(6) Software tools.

(7) Testing procedures.

(8) A component part of an item listed under paragraph (2), (3), (4), (5), (6) or (7), necessary and integral to create, develop or produce a video game.

(1752-D added July 13, 2016, P.L.526, No.84)

Section 1753-D. Credit for qualified video game production expenses.

(a) Application.--A taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.

(b) Review and approval.--The department shall review and approve or disapprove the applications in the order in which they are received. Upon determining that the taxpayer has incurred or will incur qualified video game production expenses, the department may approve the taxpayer for a tax credit.

(c) Contract.--If the department approves the taxpayer's application under subsection (b), the department and the taxpayer shall enter into a contract containing the following:

(1) An itemized list of production expenses incurred or to be incurred for the video game.

(2) An itemized list of Pennsylvania production expenses incurred or to be incurred for the video game.

(3) With respect to a contract entered into prior to completion of production, a commitment by the taxpayer to incur the qualified video game production expenses as itemized.

(4) The principal production start date.

(5) Any other information the department deems appropriate.

(c.1) Prohibition.--A tax credit may not be awarded for fiscal years prior to fiscal year 2017-2018.

(d) Certificate.--Upon execution of the contract required by subsection (c), the department shall award the taxpayer a video game production tax credit and issue the taxpayer a video game production tax credit certificate.

(1753-D added July 13, 2016, P.L.526, No.84)

Section 1754-D. Video game production tax credits.

Beginning July 1, 2017, a taxpayer may claim a tax credit against the qualified tax liability of the taxpayer.

(1754-D added July 13, 2016, P.L.526, No.84)

Section 1755-D. Carryover, carryback and assignment of credit.

(a) General rule.--If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the tax credit.

(b) Application.--A tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the tax credit was approved before the tax credit can be applied against any tax liability under subsection (a).

(c) No carryback or refund.--A taxpayer is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the taxpayer under this subarticle.

(d) (Reserved).

(e) Sale or assignment.--The following shall apply:

(1) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a tax credit granted to the taxpayer under this subarticle.

(2) The department and the Department of Revenue shall jointly promulgate regulations for the approval of applications under this subsection.

(3) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.

(4) Notwithstanding any other provision of law, the Department of Revenue shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(f) Purchasers and assignees.--The purchaser or assignee of all or a portion of a tax credit under subsection (e) shall immediately claim the tax credit in the taxable year in which the purchase or assignment is made. The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of such qualified tax liability for the taxable year. The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the tax credit in compliance with procedures specified by the Department of Revenue.

(1755-D added July 13, 2016, P.L.526, No.84)

Section 1756-D. Determination of Pennsylvania production expenses.

In prescribing standards for determining which production expenses are considered Pennsylvania production expenses for purposes of computing the tax credit, the department shall consider:

(1) The location where services are performed.

(2) The location where supplies are consumed.

(3) Other factors the department determines are relevant.

(1756-D added July 13, 2016, P.L.526, No.84)

Section 1757-D. Limitations.

(a) Cap.--In no case shall the aggregate amount of tax credits awarded in a fiscal year under this subarticle exceed $1,000,000.

(b) Individual limitations.--The aggregate amount of video game production tax credits awarded by the department under section 1753-D(d) to a taxpayer for a video game may not exceed 25% of the qualified video game production expenses to be incurred during each of the first four years that the video game production expenses are incurred and 10% for each year thereafter that the video game production expenses are incurred.

(1757-D added July 13, 2016, P.L.526, No.84)

Section 1758-D. Penalty.

A taxpayer which claims a tax credit and fails to incur the amount of qualified video game production expenses agreed to in section 1753-D(c)(3) for a video game in that taxable year shall repay to the Commonwealth the amount of the video game production tax credit claimed under this subarticle for the video game.

(1758-D added July 13, 2016, P.L.526, No.84)

Section 1759-D. Pass-through entity.

(a) General rule.--If a pass-through entity has an unused tax credit under section 1755-D, it may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitation.--A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the tax credit under subsection (a) for the same qualified video game production expense.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a tax credit is transferred under subsection (a) shall immediately claim the tax credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

(1759-D added July 13, 2016, P.L.526, No.84)

Section 1760-D. Department guidelines and regulations.

The department shall develop written guidelines for the implementation of the provisions of this subarticle. The guidelines shall be in effect until such time as the department promulgates regulations for the implementation of the provisions of this subarticle. The department shall promulgate regulations for the implementation of this subarticle within two years of the effective date of this section.

(1760-D added July 13, 2016, P.L.526, No.84)

Section 1761-D. Report to General Assembly.

(a) General rule.--No later than June 1 of the second year that commences after the effective date of this section, and September 1 of each year thereafter, the Secretary of Community and Economic Development shall submit a report to the General Assembly summarizing the effectiveness of the tax credit. The report shall include the name of the video game produced, the names of all taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by each taxpayer. The report may also include recommendations for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairperson and minority chairperson of the Appropriations Committee of the Senate and the chairperson and minority chairperson of the Finance Committee of the Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. In addition to the information stated in this section, the report shall include the following information which shall be separated by geographic location within this Commonwealth:

(1) The amount of tax credits claimed by taxpayers during the fiscal year.

(2) The total amount spent on video game production in this Commonwealth during the fiscal year.

(3) The total amount of tax revenues collected from the production of video games in this Commonwealth during the fiscal year.

(4) The total number of jobs created by taxpayers during the fiscal year, including the duration of the jobs.

(b) Public information.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(1761-D added July 13, 2016, P.L.526, No.84)

SUBARTICLE E
ENTERTAINMENT ECONOMIC ENHANCEMENT PROGRAM
(Subart. repealed Oct. 29, 2024, P.L.1056, No.116)

Section 1771-D. Scope of subarticle. (1771-D repealed Oct. 29, 2024, P.L.1056, No.116)

Section 1772-D. Definitions. (1772-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1773-D. Procedure. (1773-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1774-D. Claim. (1774-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1775-D. Carryover, carryback and assignment of tax credit. (1775-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1776-D. Determination of Pennsylvania rehearsal and tour expenses. (1776-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1777-D. Limitations. (1777-D repealed Oct. 29, 2024, P.L.1056, No.116)

Compiler's Note: Section 24(4)(ix) of Act 53 of 2022 provided that the amendment of section 1777-D(a)(1) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1778-D. Penalty. (1778-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1779-D. Pass-through entity. (1779-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1780-D. Department guidelines and regulations. (1780-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1781-D. Report to General Assembly. (1781-D repealed Oct. 29, 2024, P.L.1056, No.116)
Section 1782-D. Pennsylvania live events industry COVID-19 emergency assistance. (1782-D repealed Oct. 29, 2024, P.L.1056, No.116)

ARTICLE XVII-E
RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT
(Art. added July 25, 2007, P.L.373, No.55)

Section 1701-E. Scope of article.

This article relates to resource enhancement and protection tax credits. (1701-E added July 25, 2007, P.L.373, No.55)

Section 1702-E. Definitions.

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

"Agricultural erosion and sedimentation control plan." A site-specific plan that:

(1) meets the requirements of the act of June 22, 1937 (P.L.1987, No.394), known as The Clean Streams Law, and 25 Pa. Code Ch. 102 (relating to erosion and sediment control); and

(2) identifies best management practices to minimize accelerated erosion and sediment from an agricultural operation.

"Agricultural operation." The property on which occur the management and use of farming resources for the production of crops, livestock or poultry or for equine activity.

"Animal concentration areas." An exterior area of an agricultural operation subject to rainfall where livestock congregate, including a barnyard, a feedlot, a loafing area, an exercise lot or other similar animal confinement area that will not maintain a growing crop, or where deposited manure nutrients are in excess of crop needs. The term does not include areas managed as a pasture or other cropland and pasture accessways if they do not cause direct flow of nutrients to surface water or groundwater.

"Best management practice." A practice or combination of practices determined by the State Conservation Commission or United States Department

of Agriculture Natural Resources and Conservation Service to be effective and practical, considering technological, economic and institutional factors, to manage nutrients and sediment to protect surface water and groundwater.

"Business firm." An entity authorized to do business in this Commonwealth and subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV.

"Commission." The State Conservation Commission.

"Conservation district." A county conservation district established under the act of May 15, 1945 (P.L.547, No.217), known as the Conservation District Law.

"Conservation plan." A United States Department of Agriculture Natural Resources Conservation Service plan, including a schedule for implementation, that identifies site-specific conservation best management practices on an agricultural operation. (Def. amended June 28, 2019, P.L.50, No.13)

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

"Eligible applicants." Any of the following subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV:

(1) A business firm.

(2) An individual.

(3) Individuals filing jointly.

(Def. amended June 28, 2019, P.L.50, No.13)

"Equine activity." The term includes the following activities:

(1) The boarding of equines.

(2) The training of equines.

(3) The instruction of people in handling, driving or riding equines.

(4) The use of equines for riding or driving purposes.

(5) The pasturing of equines.

The term does not include activity licensed under the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

"Individual." A natural person.

"Legacy sediment." Sediment that meets all of the following conditions:

(1) Was eroded from upland areas after the arrival of early Pennsylvania settlers and during centuries of intensive land use.

(2) Was deposited in valley bottoms along stream corridors, burying presettlement streams, floodplains, wetlands and valley bottoms.

(3) Altered and continues to impair the hydrologic, biologic, aquatic, riparian and water quality functions of presettlement and modern environments.

"Manure management plan." A written site-specific plan that:

(1) outlines practices for the land application of manure and agricultural process wastewaters acceptable to the commission; and

(2) is developed to meet the requirements of 25 Pa. Code § 91.36(b) (relating to pollution control and prevention at agricultural operations).

(Def. added June 28, 2019, P.L.50, No.13)

"Nutrient management plan." As defined under 3 Pa.C.S. Ch. 5 (relating to nutrient management and odor management).

"Nutrient management specialist." As defined under 3 Pa.C.S. Ch. 5 (relating to nutrient management and odor management).

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"Qualified tax liability." The liability for taxes imposed upon an eligible applicant under Article III, IV, VI, VII, VIII, IX or XV. The term shall not include any tax withheld by an employer from an employee under Article III.

"Riparian forest buffer." An area of mostly trees or shrubs which is adjacent to and up-gradient from watercourses or water bodies and which meets standards established or adopted by the commission. (Def. amended June 28, 2019, P.L.50, No.13)

"Technical service provider." An individual, entity or public agency certified by the United States Department of Agriculture Natural Resources Conservation Service and placed on the approved list to provide technical services to program participants or to the United States Department of Agriculture program participants.

"Total maximum daily load" or "TMDL." The sum of individual waste load allocations for point sources, load allocations for nonpoint sources and natural quality and a margin of safety expressed in terms of mass per time, toxicity or other appropriate measures. (Def. added June 28, 2019, P.L.50, No.13)

"USDA-NRCS." The United States Department of Agriculture Natural Resources and Conservation Service.

(1702-E added July 25, 2007, P.L.373, No.55)

Section 1703-E. Resource Enhancement and Protection Tax Credit Program.

(a) Establishment.--The Resource Enhancement and Protection Tax Credit Program is established to encourage private investment in the implementation of best management practices on agricultural operations, the planting of riparian forest buffers and the remediation of legacy sediment.

(b) Limits.--The following limits shall apply:

(1) Except as set forth in paragraph (5), an eligible applicant may be granted a maximum of $250,000 in tax credits in any consecutive seven-year period, calculated from the date the tax credit is issued. ((1) amended June 28, 2019, P.L.50, No.13)

(2) An agricultural operation may be granted a maximum of $250,000 in tax credits in any consecutive seven-year period, calculated from the date the tax credit is issued. ((2) amended June 28, 2019, P.L.50, No.13)

(3) An eligible applicant may submit an application for a single project or multiple applications for multiple projects within the limits of this section.

(4) There shall be no limit on the amount of tax credits that may be purchased from or be assigned from an eligible applicant.

(5) Notwithstanding paragraph (1), there shall be no limit on the amount of tax credits granted to a sponsor under subsection (e), except the commission may establish annual aggregate limits on tax credits awarded to sponsors to ensure fair and equitable distribution of tax benefits to eligible applicants. ((5) amended June 28, 2019, P.L.50, No.13)

(6) The credits for legacy sediment shall not be issued prior to July 1, 2008. Applications for legacy sediment remediation will not be accepted prior to July 1, 2008.

(c) Carryover.--

(1) If the eligible applicant cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first granted, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the eligible applicant for those taxable years. Each time that the tax credit is carried over to a succeeding taxable year, it is to be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than 15 taxable years following the first taxable year for which the eligible applicant was entitled to claim the credit.

(2) A tax credit granted by the department shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was granted before the tax credit is applied against any tax liability under paragraph (1).

(2.1) A tax credit granted under this article may be applied to the tax liability of the spouse of an eligible applicant if both the eligible applicant and the spouse report income on a joint income tax return.

(3) A tax credit granted under this article shall not be carried back or refunded.

((c) amended June 28, 2019, P.L.50, No.13)

(d) Sale or assignment of credit.--

(1) An eligible applicant, upon application to and approval by the commission, may sell or assign, in whole or in part, a tax credit granted to the eligible applicant under this article if no claim for allowance of the credit is filed within one year from the date the credit is granted by the department under section 1708-E. The commission, in consultation with the department, shall establish guidelines for the approval of applications under this subsection.

(2) The purchaser or assignee of a portion of a tax credit under this subsection shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the credit that a purchaser or assignee may use against a qualified tax liability may not exceed 75% of the qualified tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or sell or assign the tax credit. The purchaser or assignee shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(3) Before an application is approved, the department must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the department.

(4) Notwithstanding any other provision of law, the department shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(e) Sponsorship.--An eligible applicant may be a sponsor by applying for a tax credit for a project authorized under section 1707-E if a written agreement between the eligible applicant and the owner of property on which the project will be completed is submitted to the commission, certifying that the property owner will comply with all the provisions of this article.

(f) Tax credits for pass-through entities.--

(1) If a pass-through entity has any unused tax credit under section 1704-E, it may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(2) The credit provided under paragraph (1) is in addition to any tax credit to which the shareholder, member or partner is otherwise entitled under this article. However, a pass-through entity and its shareholders, members or partners shall not claim a tax credit under this article for the same project authorized under section 1707-E.

(3) A shareholder, member or partner of a pass-through entity to whom credit is transferred under paragraph (1) shall immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1703-E added July 25, 2007, P.L.373, No.55)

Section 1704-E. Tax credits.

(a) General eligibility.--Projects shall be eligible for a tax credit as follows:

(1) Only best management practices completed after the effective date of this article shall be eligible for a tax credit.

(2) An agricultural operation shall have in place a current conservation plan or a current agricultural erosion and sediment control plan if engaged in plowing and tilling, and a current nutrient management plan or manure management plan, if required, or the development of such plans shall be included in an application for a tax credit. ((2) amended June 28, 2019, P.L.50, No.13)

(3) An agricultural operation with an animal concentration area shall have implemented best management practices necessary to abate storm water runoff, loss of sediment, loss of nutrients and runoff of other pollutants from the animal concentration area, or the implementation of such best management practices shall be included in an application for a tax credit.

(4) An agricultural operation with an uncompleted best management practice of either a conservation plan or an agricultural erosion and sediment control plan if engaged in plowing and tilling or a nutrient management plan or manure management plan, if required, shall first include the remaining best management practices included in such plans in an application for a tax credit. ((4) amended June 28, 2019, P.L.50, No.13)

(5) A project shall meet the planning, design, construction and certification standards established by the commission. If standards do not exist for a best management practice approved by the commission, the commission may establish or approve planning, design, construction and certification standards for such a best management practice. ((5) amended June 28, 2019, P.L.50, No.13)

(b) Amount of tax credit.--

(1) A tax credit equal to 75% of the eligible costs under subsection (c) of a project authorized under section 1707-E shall be granted for any of the following:

(i) Development of a voluntary or mandatory nutrient management plan or manure management plan. ((i) amended June 28, 2019, P.L.50, No.13)

(ii) Development of an agricultural erosion and sediment control plan or a conservation plan.

(iii) For an animal concentration area, design and implementation of best management practices necessary to abate storm water runoff, loss of sediment, loss of nutrients and runoff of other pollutants.

(iv) Design and implementation of best management practices necessary to restrict livestock access to streams if there is established and maintained a riparian forest buffer with a minimum width of 50 feet.

(v) Establishment of a riparian forest buffer with a minimum width of 50 feet.

(2) A tax credit equal to 50% of the eligible costs under subsection (c) of a project authorized under section 1707-E shall be granted for any of the following:

(i) For an agricultural operation, design and implementation of agricultural best management practices or the installation and use of equipment, provided that the best management practice or equipment is necessary to reduce existing sediment and nutrient pollution to surface waters. Such best management practices and equipment shall be identified by the commission and may include manure storage systems, alternative uses for manure, filter strips, grassed waterways, management intensive grazing systems and no-till planting equipment.

(ii) Design and implementation of best management practices necessary to exclude livestock access to streams through fencing, stabilized crossings and improved watering systems, if there is established and maintained a vegetated riparian or riparian forest buffer with a minimum width of 35 feet.

(iii) The remediation of legacy sediment, if the legacy sediment is exposed and discharges or threatens to discharge into surface waters as a result of acute stream bank erosion. The project shall meet standards established by the commission as being effective in mitigating or eliminating the harmful effects of legacy sediment.

((2) amended June 28, 2019, P.L.50, No.13)

(3) ((3) deleted by amendment June 28, 2019, P.L.50, No.13).

(4) Notwithstanding any other provision of this section, a tax credit equal to 90% of the eligible costs under subsection (c) of a project authorized under section 1707-E may be granted for certain high-priority best management practices as determined by the commission and implemented within a watershed covered under an approved TMDL, including:

(i) Riparian forest buffers and their maintenance.

(ii) Livestock exclusion from streams and supporting practices.

(iii) Stream crossings.

(iv) Cover crops.

(v) Soil health best management practices as determined appropriate by the commission.

(vi) Other best management practices as determined appropriate by the commission.

((4) added June 28, 2019, P.L.50, No.13)

(c) Costs of project.--

(1) The following shall be considered eligible costs of a project to which a tax credit may be applied:

(i) Project design, engineering and associated planning.

(ii) Project management costs, including contracting, document preparation and applications.

(iii) Project construction or installation.

(iv) Equipment, materials and all other components of projects eligible under subsection (a).

(v) Postconstruction inspections.

(vi) Interest payments on loans for project implementation for up to one year prior to the award of the tax credit.

(2) A tax credit shall not be applied to that portion of a project cost for which public funding was received.

(3) Eligible costs of a project shall include any of the services listed in paragraph (1) that may be provided by a conservation district.

(4) Notwithstanding any other provision of this article, tax credits for annual maintenance best management practices, such as cover crops, buffer maintenance and other annual practices approved by the commission, shall not exceed fixed rates or schedules established by the commission in annual program guidelines.

((c) amended June 28, 2019, P.L.50, No.13)

(1704-E added July 25, 2007, P.L.373, No.55)

Section 1705-E. Project certification.

A project shall be certified by the commission as meeting standards under section 1704-E(a)(5) by the following:

(1) a best management practice that currently requires review and certification by a registered professional engineer under current law or applicable regulation: registered professional engineer;

(2) riparian forest buffer: technical service provider or staff from a conservation district or USDA-NRCS approved by the commission;

((2) amended June 28, 2019, P.L.50, No.13)

(3) nutrient management plan or manure management plan: a nutrient management specialist or any person trained and experienced in manure and nutrient management planning techniques and whose qualifications are acceptable to the commission; and ((3) amended June 28, 2019, P.L.50, No.13)

(4) agricultural erosion and sediment control plan or conservation plan: any person trained and experienced in erosion and sediment control or conservation methods and techniques and whose qualifications are determined acceptable by the commission.

(1705-E added July 25, 2007, P.L.373, No.55)

Section 1706-E. Project maintenance and life expectancy.

(a) Best management practice.--An agricultural operation shall maintain a best management practice for the life of the practice as established by the commission. A riparian forest buffer shall be maintained for a minimum of 15 years.

(b) Failure.--If the commission determines that a best management practice is not maintained for the period required under subsection (a), the owner of the property upon which the project exists shall return to the department the amount of the tax credit originally granted. Any amount paid to the department under this subsection shall be deposited in the General Fund.

(c) Exception.--If the recipient of a tax credit provides prior written notification to the commission that the recipient will be unable to maintain a best management practice due to sale of the property, cessation of an agricultural operation or other factors, the commission may direct the department to prorate the amount of the tax credit that shall be returned based on the remaining lifespan of the best management practice in question.

(1706-E added July 25, 2007, P.L.373, No.55)

Section 1707-E. Application, review and authorization by commission.

(a) Application process.--An eligible applicant shall apply to the commission for authorization that a project is eligible for a tax credit under this program. An application shall be developed by the commission and shall include:

(1) Type and location of project under section 1704-E(b).

(2) Total cost of project as outlined in section 1704-E(c).

(3) Verification of eligibility under section 1704-E(a).

(b) Review, notification and authorization.--The commission shall, within 60 days of receipt, review each application and notify an eligible applicant whether or not the eligible applicant meets the requirements and is authorized to receive a tax credit under this article.

(c) Authorization of tax credit.--The commission shall not authorize tax credits that exceed the limits under sections 1703-E(b) and 1709-E. The commission shall authorize tax credits on a first-come, first-served basis.

(d) Completion of project.--Upon completion of a project authorized under this section, an eligible applicant shall submit to the commission written notice of project completion. Such notice shall include:

(1) Proof of certification as required by section 1705-E that the project is complete.

(2) A maintenance plan as required by section 1707-E(a) for each best management practice, if applicable to the project.

(3) Any other documents as may be required by the commission.

(e) Notification to department.--Upon determination that a project authorized under this section is complete, the commission shall provide notification to the department:

(1) that the eligible applicant has completed a project which meets the criteria for a tax credit under this article; and

(2) the amount of tax credit for the eligible applicant.

(f) Inspection.--Projects authorized under this section may be subject to inspection by the commission or its designated agent.

(1707-E added July 25, 2007, P.L.373, No.55)

Section 1708-E. Grant of tax credit.

The following shall apply:

(1) The department shall grant a tax credit authorized under section 1707-E. The department shall, within 60 days of receipt of notice under section 1707-E(e), issue a notice of grant of a tax credit to the eligible applicant.

(2) Before a tax credit is granted, the department must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment by the department.

(1708-E added July 25, 2007, P.L.373, No.55)

Section 1709-E. Annual tax credits.

(a) Total amount.--The total amount of tax credits authorized by the commission shall not exceed $13,000,000 in any fiscal year.

(b) Chesapeake Bay watershed prioritization.--Notwithstanding any provision of this article to the contrary, the commission may reserve and target up to $3,000,000 of the total amount under subsection (a) in any

fiscal year for geographic areas and best management practices for nutrient and sediment reductions within the Chesapeake Bay watershed area.
(1709-E amended June 28, 2019, P.L.50, No.13)

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1710-E. Report and public information.

(a) General rule.--The commission, in consultation with the department, shall annually report to the General Assembly on the Resource Enhancement and Protection Tax Credit Program as follows:

(1) The number of projects and the dollar amount of tax credits granted under the program in the aggregate, by best management practice and per project.

(2) The types, locations and costs of projects.

(3) The estimated benefits of the projects, including pollution reduction.

(b) Identity.--The identity of each taxpayer utilizing a resource enhancement and protection tax credit under this article and the amount of credits approved and utilized by each taxpayer shall be made available annually within a year of when the credits were granted and shall constitute a public record, notwithstanding any law providing for the confidentiality of tax records. This information regarding taxpayer use of resource enhancement and protection tax credits shall be made available in accordance with the laws applicable to public information and public records generally and need not be included in the annual report to the General Assembly.

(1710-E added July 25, 2007, P.L.373, No.55)

ARTICLE XVII-F
EDUCATIONAL TAX CREDITS
(Art. repealed July 13, 2016, P.L.716, No.86)

Section 1701-F. Scope of article. (1701-F repealed July 13, 2016, P.L.716, No.86)
Section 1702-F. Definitions. (1702-F repealed July 13, 2016, P.L.716, No.86)
Section 1703-F. Qualification and application by organizations. (1703-F repealed July 13, 2016, P.L.716, No.86)
Section 1704-F. Application by business firms. (1704-F repealed July 13, 2016, P.L.716, No.86)
Section 1705-F. Tax credits. (1705-F repealed July 13, 2016, P.L.716, No.86)
Section 1706-F. Limitations. (1706-F repealed July 13, 2016, P.L.716, No.86)
Section 1707-F. Lists. (1707-F repealed July 13, 2016, P.L.716, No.86)
Section 1708-F. Guidelines. (1708-F repealed July 13, 2016, P.L.716, No.86)
Section 1709-F. Opportunity scholarships. (1709-F repealed July 13, 2016, P.L.716, No.86)
Section 1710-F. Low-achieving schools. (1710-F repealed July 13, 2016, P.L.716, No.86)
Section 1711-F. School participation in program. (1711-F repealed July 13, 2016, P.L.716, No.86)
Section 1712-F. Tuition grants by school districts. (1712-F repealed July 13, 2016, P.L.716, No.86)
Section 1713-F. Original jurisdiction. (1713-F repealed July 13, 2016, P.L.716, No.86)

ARTICLE XVII-G

RESOURCE MANUFACTURING TAX CREDIT
(Art. added July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 30(6) of Act 85 of 2012, which added Article XVII-G, provided that Article XVII-G shall apply to the purchase of ethane for the period after December 31, 2016, and before January 1, 2043.

Section 1701-G. Scope of article.

This article establishes a resource manufacturing tax credit.

(1701-G added July 2, 2012, P.L.751, No.85)

Section 1702-G. Definitions.

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

"Company." Any corporation, partnership, limited liability company, limited liability partnership, business trust, affiliate, unincorporated joint venture or other business entity, doing business within this Commonwealth.

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

"Downstream company." Includes a company that uses chemical products or chemical compounds manufactured or processed by a qualified taxpayer as a raw material in its production process in this Commonwealth.

"Ethane." A colorless, odorless gaseous alkane, C2H6, which occurs as a constituent of natural gas and is used as the raw material in the manufacturing of ethylene.

"Ethylene." An organic hydrocarbon compound with the formula C2H4 or H2C=CH2, that is derived from natural gas and petroleum.

"Gallon." A United States liquid gallon equal to a volume of 231 cubic inches and equal to 3.785411784 liters or 0.13368 cubic feet, where volumetric measurements made at ambient flowing conditions are typically adjusted for composition and to standard conditions using established industry standard practices.

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Qualified tax liability." The liability for taxes imposed under Articles III, IV, VI, VII, VIII, IX, XI and XV. The term does not include tax withheld under section 316.1. (Def. amended Oct. 30, 2017, P.L.672, No.43)

"Qualified taxpayer." A company that satisfies all of the following:

(1) Purchases ethane for use in manufacturing ethylene at a facility in this Commonwealth which has been placed in service on or after the effective date of this article.

(2) Has made a capital investment of at least $1,000,000,000 in order to construct the facility and place it into service in this Commonwealth.

(3) Has created at least 2,500 full-time equivalent jobs during the construction phase in order to construct the facility and place it into service in this Commonwealth.

"Tax credit." The resource manufacturing tax credit provided under this article.

"Upstream company." Includes a company that is engaged in the exploration, development, production, processing, refining or transportation of natural gas, natural gas liquids or petroleum in this Commonwealth.

(1702-G added July 2, 2012, P.L.751, No.85)

Section 1703-G. Application and approval of tax credit.

(a) Rate.--The tax credit shall be equal to $0.05 per gallon of ethane purchased and used in manufacturing ethylene in this Commonwealth by a qualified taxpayer.

(b) Application.--

(1) A qualified taxpayer may apply to the department for a tax credit under this section.

(2) The application must be submitted to the department by March 1 for the tax credit claimed for ethane purchased and used by the qualified taxpayer during the prior calendar year. The application must be on the form required by the department.

(3) The department may require information necessary to document the amount of ethane purchased and used.

(c) Review and approval.--

(1) The department shall review and approve or disapprove the applications by March 20.

(2) Upon approval, the department shall issue a certificate stating the amount of tax credit granted for ethane purchased in the prior calendar year.

(1703-G added July 2, 2012, P.L.751, No.85)

Section 1704-G. Use of tax credits.

(a) Initial use.--Prior to sale or assignment of a tax credit under section 1706-G, a qualified taxpayer must first use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved.

(b) Eligibility.--The credit may be applied against up to 20% of the qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the credit was approved.

(c) Application.--The tax credit shall be applied against the qualified taxpayer's liability only after all other statutory tax credits and deductions available to the qualified taxpayer have been used.

(d) Limit.--A qualified taxpayer that has been granted a tax credit under this article shall be ineligible for any other tax credit provided under this act.

(1704-G added July 2, 2012, P.L.751, No.85)

Section 1705-G. Carryover, carryback and refund.

A tax credit cannot be carried back, carried forward or be used to obtain a refund.

(1705-G added July 2, 2012, P.L.751, No.85)

Section 1706-G. Sale or assignment.

(a) Authorization.--If a qualified taxpayer holds a tax credit through the end of the calendar year in which the tax credit was granted, the qualified taxpayer may sell or assign a tax credit, in whole or in part.

(b) Application.--

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the Department of Community and Economic Development. The application must be on a form required by the Department of Community and Economic Development.

(2) To approve an application, the Department of Community and Economic Development must receive:

(i) a finding from the department that the applicant has:

(A) filed all required State tax reports and returns for all applicable taxable years; and

(B) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal; and

(ii) in the case of a sale or assignment to a company that is not an upstream company or downstream company, a certification from the qualified taxpayer that the qualified taxpayer had offered to sell or assign the tax credit:

(A) exclusively to a downstream company for a period of 30 days following approval of the tax credit under section 1703-G(c); and

(B) to an upstream company or downstream company for a period of 30 days following expiration of the period under clause (A).

(c) Approval.--Upon approval by the Department of Community and Economic Development, a qualified taxpayer may sell or assign, in whole or in part, a tax credit.

(1706-G added July 2, 2012, P.L.751, No.85)

Section 1707-G. Purchasers and assignees.

(a) Time.--The purchaser or assignee under section 1706-G must claim the tax credit in the calendar year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee under section 1706-G may use against any one qualified tax liability may not exceed 50% of any of the qualified tax liabilities for the taxable year.

(c) Resale and reassignment.--

(1) A purchaser under section 1706-G may not sell or assign the purchased tax credit.

(2) An assignee under section 1706-G may not sell or assign the assigned tax credit.

(d) Notice.--The purchaser or assignee under section 1706-G shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(1707-G added July 2, 2012, P.L.751, No.85)

Section 1708-G. Pass-through entity.

(a) Election.--If a pass-through entity has an unused tax credit, it may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Amount.--The amount of the tax credit that a transferee under subsection (a) may use against any one qualified tax liability may not exceed 20% of any qualified tax liabilities for the taxable year.

(d) Time.--A transferee under subsection (a) must claim the tax credit in the calendar year in which the transfer is made.

(e) Sale and assignment.--A transferee under subsection (a) may not sell or assign the tax credit.

(1708-G added July 2, 2012, P.L.751, No.85)

Section 1709-G. Administration.

(a) Audits and assessments.--The department has the following powers:

(1) To audit a qualified taxpayer claiming a tax credit to ascertain the validity of the amount claimed.

(2) To issue an assessment against a qualified taxpayer for an improperly issued tax credit. The procedures, collection, enforcement and appeals of any assessment made under this section shall be governed by Article II.

(b) Guidelines and regulations.--The department shall develop written guidelines for the implementation of this article. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this article.

(1709-G added July 2, 2012, P.L.751, No.85)

Section 1710-G. Reports to General Assembly.

(a) Annual report.--By October 1, 2018, and October 1 of each year thereafter, the department shall submit a report on the tax credit provided by this article to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives. The report must include the names of the qualified taxpayers utilizing the tax credit as of the date of the report and the

amount of tax credits approved for, utilized by or sold or assigned by a qualified taxpayer.

(b) Reconciliation report.--On May 1, 2028, the Department of Community and Economic Development shall submit to the Secretary of the Senate and the Chief Clerk of the House of Representatives a reconciliation report on the effectiveness of this article. This report shall include, at a minimum, the following information for the preceding ten years:

(1) The name and business address of all qualified taxpayers who have been granted tax credits under this article.

(2) The amount of tax credits granted to each qualified taxpayer.

(3) The total number of jobs created by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company. This paragraph includes the average annual salary and hourly wage information.

(4) The amount of taxes paid under Article II by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(5) The amount of taxes withheld from employees or paid by members, partners or shareholders of the pass-through entities under Article III of the qualified taxpayer, upstream company and downstream company, and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(6) The amount of taxes paid under Article IV by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(7) The amount of taxes paid under Article VI by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(8) The amount of taxes paid under Article XI by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(9) The amount of any other State or local taxes paid by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer and upstream company and downstream company.

(10) Any other information pertaining to the economic impact of this article in this Commonwealth.

(c) Reduction.--If the reconciliation report issued under subsection (b) reveals that the total amount of the tax credits granted under this article exceeds the total amount of tax revenue reported under subsection (b)(4) through (9), the report must include any recommendation for changes in the calculation of the credit.

(d) Publication.--The reports required by this section shall be public records and shall be available electronically on the Internet website of either the department or the Department of Community and Economic Development. The reports required by this section shall not contain "confidential proprietary information" as defined in section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(1710-G added July 2, 2012, P.L.751, No.85)

Section 1711-G. Expiration.

This article shall expire December 31, 2044.

(1711-G added July 2, 2012, P.L.751, No.85)

ARTICLE XVII-G.1
EDUCATIONAL OPPORTUNITY SCHOLARSHIP TAX CREDIT
(Art. hdg. repealed Oct. 31, 2014, P.L.2929, No.194)

Section 1701-G.1. Scope of article. (1701-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1702-G.1. Definitions. (1702-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1703-G.1. Qualification and application. (1703-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1704-G.1. Tax credit application. (1704-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1705-G.1. Tax credit. (1705-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1706-G.1. Tax credit limitations. (1706-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1707-G.1. Tax credit lists. (1707-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1708-G.1. Scholarships. (1708-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1709-G.1. Low-achieving schools. (1709-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1710-G.1. School participation in program. (1710-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1711-G.1. Tuition grants by school districts. (1711-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)
Section 1712-G.1. Original jurisdiction. (1712-G.1 repealed Oct. 31, 2014, P.L.2929, No.194)

ARTICLE XVII-H
HISTORIC PRESERVATION INCENTIVE TAX CREDIT
(Art. added July 2, 2012, P.L.751, No.85)

Section 1701-H. Scope of article.

This article relates to the historic preservation incentive tax credit.

(1701-H added July 2, 2012, P.L.751, No.85)

Section 1702-H. Definitions.

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

"Commission." The Pennsylvania Historical and Museum Commission.

"Completed project." The completion of the rehabilitation of a qualified historic structure in accordance with a qualified rehabilitation plan and the receipt of an occupancy certificate for the structure.

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

"Internal Revenue Code." The Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

"Qualified expenditures." The costs and expenses incurred by a qualified taxpayer in the rehabilitation of a qualified historic structure pursuant to a qualified rehabilitation plan and which are defined as qualified rehabilitation expenditures under section 47(c)(2) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(2)).

"Qualified historic structure." A building located in this Commonwealth that qualifies as a certified historic structure under section 47(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 47(c)(3)).

"Qualified rehabilitation plan." A plan to rehabilitate a qualified historic structure that is approved by the Pennsylvania Historical and Museum Commission as being consistent with the standards for rehabilitation

and guidelines for rehabilitation of historic buildings as adopted by the United States Secretary of the Interior.

"Qualified tax liability." Tax liability imposed on a taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III.

"Qualified taxpayer." Any natural person, corporation, business trust, limited liability company, partnership, limited liability partnership, association or any other form of legal business entity that:

(1) Is subject to a tax imposed under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III.

(2) Owns a qualified historic structure.

"Region." A community action team region as established by the Department of Community and Economic Development.

"Workforce housing project." A completed project in which, for a period of seven years after the building is placed in service, at least 20% of the units meet the Department of Housing and Urban Development's definition of "affordable" for individuals earning 80% of the area median income.

(1702-H amended June 28, 2019, P.L.50, No.13)

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1703-H. Tax credit certificates.

(a) Application.--

(1) A qualified taxpayer may apply to the Department of Community and Economic Development for a tax credit certificate under this section.

(2) The application shall be on the form required by the Department of Community and Economic Development, shall include a qualified rehabilitation plan, shall state whether the project meets the definition of "workforce housing project" and, if applicable, shall include the plan for the project to meet the definition of "workforce housing project."

(3) The Department of Community and Economic Development shall establish an application processing fee. The fee structure shall be tiered based on the amount of tax credits requested and in no case shall exceed $2,000.

(4) The proceeds of the fee under paragraph (3) shall be deposited into the Historic Rehabilitation Tax Credit Administration Account, which is established as a special fund in the State Treasury. The money in the account shall be appropriated on a continuing basis to the Department of Community and Economic Development and used by the commission and the Department of Community and Economic Development to offset the costs of the review of tax credit applications and awarding of tax credit certificates.

(5) The Department of Community and Economic Development shall begin accepting applications for credit certificates on October 1 and close the initial application period on October 31.

(b) Review, recommendation and approval.--

(1) The Department of Community and Economic Development shall forward applications received under this section to the commission for review.

(2) ((2) deleted by amendment).

(2.1) The commission shall review the proposed rehabilitation plan in each application, verify that the building is a qualified historic structure and by December 1 provide the Department of Community and Economic Development with a list of eligible projects.

(2.2) The Department of Community and Economic Development shall allocate the credits and release a list of allocated projects within 15

days. Applicants with approved allocations shall be provided with an award letter.

(2.3) Any amount of tax credit certificates up to the annual program limit of $20,000,000 not awarded within the initial application period shall be available on a first-come, first-served basis through a process determined by the Department of Community and Economic Development. ((2.3) amended July 11, 2024, P.L.674, No.56)

(3) The commission shall notify the Department of Community and Economic Development of verification of a completed project and notify the Department of Community and Economic Development of the amount of qualified expenditures incurred by the taxpayer in connection with the completed project.

(4) If the Department of Community and Economic Development has approved the application and received notification of a completed project, it shall issue the qualified taxpayer a tax credit certificate within 45 days of the receipt of an approved, completed project. A tax credit certificate issued under this section shall not exceed either:

(i) twenty-five percent of qualified expenditures determined by the commission to have been incurred by the qualified taxpayer in connection with the completed project; or

(ii) thirty percent of qualified expenditures determined by the commission to have been incurred by the qualified taxpayer in connection with a workforce housing project.

(5) In granting tax credit certificates under this article, the Department of Community and Economic Development:

(i) Shall not grant more than $20,000,000 in tax credit certificates in any fiscal year exclusive of any tax credit certificates not awarded or returned from previous fiscal years. ((i) amended July 11, 2024, P.L.674, No.56)

(ii) Shall not grant more than $500,000 in tax credit certificates to a single qualified taxpayer in any fiscal year.

(iii) Shall assure that credits are awarded in an equitable manner to each region in this Commonwealth. However, credits allocated to a region that are unclaimed shall be promptly reallocated to eligible projects in other regions.

(6) ((6) deleted by amendment).

(1703-H amended June 28, 2019, P.L.50, No.13)

Compiler's Note: Section 30(8) of Act 56 of 2024 provided that the amendment of subsection (b) shall apply to fiscal years beginning after June 30, 2024.

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1704-H. Claiming the credit.

Upon presenting a tax credit certificate to the department, the qualified taxpayer may claim a tax credit against the qualified tax liability of the qualified taxpayer.

(1704-H added July 2, 2012, P.L.751, No.85)

Section 1705-H. Carryover, carryback and assignment of credit.

(a) General rule.--If a qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the qualified taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for not more than seven taxable years following the first taxable year for which the qualified taxpayer was entitled to claim the credit.

(b) Application.--A tax credit certificate received by the department in a taxable year first shall be applied against the qualified taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was issued before the tax credit can be applied against any qualified tax liability under subsection (a).

(c) No carryback or refund.--A qualified taxpayer may not carry back or obtain a refund of all or any portion of an unused tax credit granted to the qualified taxpayer under this article.

(d) Sale or assignment.--The following shall apply:

(1) A qualified taxpayer or a purchaser or assignee of a tax credit obtained under section 1703-H or a shareholder, member or partner of a pass-through entity that was transferred the tax credit or a portion of the tax credit from such pass-through entity subject to section 1706-H, upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a tax credit granted to the qualified taxpayer under this article.

(2) Before an application is approved, the department must find that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the department.

((d) amended June 28, 2019, P.L.50, No.13)

(e) Purchasers and assignees.--

(1) If a purchaser or assignee of all or a portion of a tax credit obtained under section 1703-H cannot use the entire amount of the tax credit for the taxable year in which the tax credit was purchased or assigned, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the purchaser or assignee for those taxable years.

(2) Each time a tax credit is carried over to a succeeding taxable year, the tax credit shall be reduced by the amount that was used as a credit during the immediately preceding taxable year.

(3) The tax credit may be carried over and applied to succeeding taxable years for not more than seven taxable years following the first taxable year for which the qualified taxpayer was entitled to claim the credit.

(4) The purchaser or assignee may not carry back the credit or obtain a refund.

((e) amended June 28, 2019, P.L.50, No.13)

(1705-H added July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1706-H. Pass-through entity.

(a) General rule.--If a pass-through entity has any unused tax credit under section 1705-H, it may elect, in writing, according to procedures established by the department, to transfer all or a portion of the credit to its shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled. ((a) amended June 28, 2019, P.L.50, No.13)

(b) Limitation.--A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the credit under subsection (a) for the same qualified expenditures.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a credit is transferred under subsection (a) shall immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1706-H added July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 31 of Act 13 of 2019 provided that the amendment of sections 1716-D(a), 1777-D, 1709-E, 1702-H, 1703-H, 1705-H(d) and (e) and 1706-H(a) of this act shall apply to fiscal years beginning on or after July 1, 2019.

Section 1707-H. Administration.

The Department of Community and Economic Development, the commission and the department shall jointly develop written guidelines for the implementation of the provisions of this article.

(1707-H added July 2, 2012, P.L.751, No.85)

Section 1707.1-H. Annual report to General Assembly.

(a) Report on tax credit.--By October 1, 2020, and October 1 of each year thereafter, the Department of Community and Economic Development shall submit a report on the tax credit under this article to:

(1) The chairperson and minority chairperson of the Appropriations Committee of the Senate.

(2) The chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.

(3) The chairperson and minority chairperson of the Finance Committee of the Senate.

(4) The chairperson and minority chairperson of the Finance Committee of the House of Representatives.

(b) Report content.--The report shall include:

(1) The list of completed projects that have been awarded tax credits.

(2) The amount of Federal rehabilitation tax credits received by each completed project.

(3) The amount of State historic preservation incentive tax credits received by each completed project.

(4) Total project costs and the amount of private investment in each completed project.

(5) The total number of completed projects placed into service in the past year that were vacant for at least 12 months prior to commencement of rehabilitation work.

(6) The total number of completed projects placed into service in the past year that had not paid property taxes for at least 12 months prior to the commencement of rehabilitation work.

(7) The total number of temporary construction jobs and permanent jobs created by completed projects placed into service in the prior year.

(8) The amount of workforce housing projects placed into service in the prior year.

(c) Information to be posted on public Internet website.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information and shall be posted on the Department of Community and Economic Development's publicly accessible Internet website.

(d) Review of tax credit program.--The Department of Community and Economic Development, in cooperation with the commission, shall undertake a review of the Historic Preservation Incentive Tax Credit Program to determine the effectiveness of the program in preserving and rehabilitating the Commonwealth's historic structures and the impact these efforts have had on the stimulation of investment in this Commonwealth. The results of the review shall be included in the annual report due October 1, 2025.

(1707.1-H added June 28, 2019, P.L.50, No.13)

Section 1708-H. Application of Internal Revenue Code.

The provisions of section 47 of the Internal Revenue Code and the regulations promulgated regarding those provisions shall apply to the department's interpretation and administration of the credit provided under this article without regard to ratably allocating the credit over a five-year period as required by section 47(a) of the Internal Revenue Code. References to the Internal Revenue Code shall mean the sections of the Internal Revenue Code as existing on any date of interpretation of this

article, except, if those sections of the Internal Revenue Code referenced in this article are repealed or terminated, references to the Internal Revenue Code shall mean those sections last having full force and effect without regard to ratably allocating the credit over a five-year period as required by section 47(a) of the Internal Revenue Code. If after repeal or termination the Internal Revenue Code sections are revised or reenacted, references in this article to Internal Revenue Code sections shall mean those revised or reenacted sections.

(1708-H amended June 28, 2019, P.L.50, No.13)

Section 1709-H. Limitation.

Taxpayers shall not be entitled to apply for historic preservation tax credits after February 1, 2031.

(1709-H amended June 28, 2019, P.L.50, No.13)

Section 1710-H. Recapture.

In the event that a tax credit or a portion of a tax credit is subject to recapture and the tax credit has been purchased, assigned or transferred, the Commonwealth shall pursue its recapture remedies and rights against the qualified taxpayer that applied for the credit. No redress shall be sought against an assignee, purchaser or transferee of the tax credit if the assignee, purchaser or transferee acquired the tax credit by way of an arm's-length transaction, for value and without notice of violation, fraud or misrepresentation.

(1710-H added June 28, 2019, P.L.50, No.13)

ARTICLE XVII-I
COMMUNITY-BASED SERVICES TAX CREDIT
(Art. added July 2, 2012, P.L.751, No.85)

Section 1701-I. Scope of article.

This article relates to community-based services tax credits.

(1701-I added July 2, 2012, P.L.751, No.85)

Section 1702-I. Definitions.

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

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article III, IV, VI, VII, VIII, IX or XV.

"Contribution." A donation of cash, personal property or services, the value of which is the net cost of the donation to the donor or the pro rata hourly wage, including benefits, of the individual performing the service.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Individual." An individual who is eligible for community-based services funded through the Office of Developmental Programs and the Office of Mental Health and Substance Abuse Services of the Department of Public Welfare.

"Provider." A nonprofit entity that meets all of the following:

(1) Provides community-based services to individuals with intellectual disabilities or mental illness.

(2) Is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(1702-I added July 2, 2012, P.L.751, No.85)

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 1703-I. Community-based services tax credit program.

(a) Establishment.--A community-based services tax credit program is established to supplement, not supplant, existing Federal and State funding for community-based services for individuals in this Commonwealth.

(b) Information.--In order to qualify under this article, a provider must submit information to the department that enables the department to confirm that the provider is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

(c) Provider application.--

(1) An application submitted to the department by the provider must describe the community-based services it provides to individuals on a form provided by the department.

(2) The department shall consult with the Department of Public Welfare as necessary to determine that the provider provides community-based services for individuals. The department shall review and approve or disapprove the application.

(d) Notification.--The department shall notify the provider that the provider meets the requirements under this article for that fiscal year no later than 60 days after the provider has submitted the application required under this section.

(e) Publication.--The department shall annually publish a list of each provider qualified under this section in the Pennsylvania Bulletin. The list shall also be posted and updated as necessary on the publicly accessible Internet website of the department.

(1703-I added July 2, 2012, P.L.751, No.85)

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 1703.1-I. Restriction on use of contributions.

The contributions received by a provider from a business firm claiming a tax credit under this article must be used for direct care or services relating to direct care of individuals.

(1703.1-I added July 2, 2012, P.L.751, No.85)

Section 1704-I. Availability of tax credits.

(a) Application.--A business firm may apply to the department for a tax credit under section 1705-I. A business firm may receive a tax credit under this article if the provider that receives the contribution from the business firm appears on the list under section 1703-I(e).

(b) Availability of tax credits.--Tax credits under this section shall be made available by the department on a first- come, first-served basis within the limitation established under section 1706-I(a).

(c) Contributions.--A contribution by a business firm to a provider shall be made no later than 60 days following the approval of an application under subsection (a).

(1704-I added July 2, 2012, P.L.751, No.85)

Section 1705-I. Grant of tax credits.

(a) General rule.--In accordance with section 1706-I(a), the department shall grant a tax credit certificate. The certificate may be used against a tax liability owed to the department by a business firm that provides proof of a contribution to a provider in the taxable year in which the contribution is made. The business firm may apply the credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV, excluding any tax withheld by an employer under Article III.

(b) Limitation.--The tax credit shall not exceed 50% of the total amount contributed by a business firm to a provider during the taxable year of the business firm. The tax credit shall not exceed $100,000 annually per business firm.

(c) Additional amount.--

(1) A business firm that contributes to a provider in two or more consecutive years shall qualify for a 75% tax credit for the contributions made in the second year and every consecutive year of making a contribution to a provider.

(2) Nothing in this section shall be construed to require a business firm to contribute to the same provider every year in order for the business firm to qualify for a tax credit under this subsection.

(1705-I added July 2, 2012, P.L.751, No.85)

Section 1706-I. Amount of tax credits.

(a) General rule.--The total aggregate amount of all tax credits approved shall not exceed $3,000,000 in a fiscal year.

(b) Activities.--No tax credit shall be approved for activities that are part of a business firm's normal course of business.

(c) Tax liability.--A tax credit granted for any one taxable year may not exceed the tax liability of a business firm.

(d) Use.--A tax credit not used in the taxable year the contribution was made may not be carried forward or carried back and is not refundable or transferable.

(1706-I added July 2, 2012, P.L.751, No.85)

Section 1707-I. Guidelines.

The department, in conjunction with the Department of Revenue and the Department of Public Welfare may establish guidelines as necessary to implement this article.

(1707-I added July 2, 2012, P.L.751, No.85)

Compiler's Note: The Department of Public Welfare, referred to in this section, was redesignated as the Department of Human Services by Act 132 of 2014.

Section 1708-I. Limitation.

A business firm shall not be entitled to apply for a tax credit after the seventh fiscal year following the effective date of this article.

(1708-I added July 2, 2012, P.L.751, No.85)

ARTICLE XVII-J
COAL REFUSE ENERGY AND RECLAMATION TAX CREDIT
(Art. added July 13, 2016, P.L.526, No.84)

Section 1701-J. Scope of article.

This article establishes a coal refuse energy and reclamation tax credit in recognition of the significant and tangible benefits to the environment and savings in Commonwealth funds provided by eligible facilities in reclaiming coal refuse piles and previously mined lands.

(1701-J added July 13, 2016, P.L.526, No.84)

Section 1702-J. (Reserved).

(1702-J added July 13, 2016, P.L.526, No.84)

Section 1703-J. Definitions.

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

"Affiliate." A person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with a qualified taxpayer. For purposes of this definition, the terms "control," "controlling," "controlled by" and "under common control with" mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies of a person, whether through the ownership of 20% or more of the voting securities, capital interests, profit interests or any similar equity interests in a business association of a person by contract or otherwise.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Eligible facility." An electric generating facility placed in service before the effective date of this section consisting of one or more units placed in service before the effective date of this section that generates electricity located on the same property and that:

(1) combusts qualified coal refuse or fuel composed of at least 75% qualified coal refuse by BTU energy value in the prior calendar year;

(2) utilizes at a minimum a circulating fluidized bed combustion unit or pressurized fluidized bed combustion unit equipped with a

limestone injection system for control of acid gases and a fabric filter particulate emission control system; and

(3) beneficially uses ash produced by the facility in the prior calendar year to reclaim mining-affected sites in accordance with 25 Pa. Code Ch. 290 (relating to beneficial use of coal ash) in amounts equal to at least 50% of the ash produced by the facility in the prior calendar year.

"Federal coal refuse reclamation tax credit amount." The actual amount of tax credits obtained by an eligible facility under a Federal coal refuse reclamation tax credit program in the four Federal tax quarters that precede the fiscal year in which credits are awarded under section 1707-J(a). (Def. added June 28, 2019, P.L.50, No.13)

"Federal coal refuse reclamation tax credit program." A program established under the Federal Internal Revenue Code that provides a tax credit for an eligible facility against Federal income taxes based upon the amount of coal refuse used at the eligible facility. (Def. added June 28, 2019, P.L.50, No.13)

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Qualified coal refuse." Any waste coal, rock, shale, slurry, culm, gob, boney, slate, clay and related materials associated with or near a coal seam that are either brought above ground or otherwise removed from a coal mine in the process of mining coal or that are separated from coal during the cleaning or preparation operations. The term includes underground development wastes, coal processing wastes and excess spoil, but does not include overburden from surface mining activities.

"Qualified tax liability." The liability for taxes imposed under Article III, IV, VI, VII, VIII, IX, XI or XV. The term does not include tax withheld by an employer from an employee under Article III.

"Qualified taxpayer." A person that owns an eligible facility in this Commonwealth or is a transferor, purchaser, affiliate or assignee of a person to which a tax credit certificate is issued under this article.

"Tax credit." The coal refuse energy and reclamation tax credit provided under this article.

"Ton." Two thousand pounds of qualified coal refuse, including inherent moisture, ash, sulphur and other noncalorific substances, but excluding excess moisture.

(1703-J added July 13, 2016, P.L.526, No.84)

Section 1704-J. Application and approval of tax credit.

(a) Application.--The following shall apply:

(1) A qualified taxpayer may apply to the department for a tax credit under this section. The application shall be on the form required by the department.

(2) The application must be submitted to the department by February 1 of each year for the tax credit claimed for qualified coal refuse used at an eligible facility during the prior calendar year.

(b) Amount.--Except as otherwise provided under section 1707-J, a qualified taxpayer shall receive a tax credit equal to $8 multiplied by the tons of qualified coal refuse used to generate electricity at an eligible facility in this Commonwealth by a qualified taxpayer in the previous calendar year. ((b) amended July 11, 2024, P.L.674, No.56)

(c) Review and approval.--The following shall apply:

(1) The department shall review and approve applications meeting the requirements of this article by March 20 of each year.

(2) The department may require information necessary to document that a facility qualifies as an eligible facility and the amount of qualified coal refuse used to generate electricity at the eligible facility.

(3) In the review of applications for tax credits, the department shall consult with the Department of Environmental Protection with respect to whether a facility qualifies as an eligible facility and to

review the eligible facility's calculation of the amount of qualified coal refuse used to generate electricity.

(3.1) Prior to approving an application, the applicant must have:

(i) filed all required State tax reports and returns for all applicable taxable years; and

(ii) paid any balance of State tax due as determined by assessment or determination by the Department of Revenue and not under timely appeal.

(4) Upon approval, the department shall issue a certificate stating the amount of tax credit granted for qualified coal refuse used in the prior calendar year.

(c.1) Netting of Federal tax credit.--If a Federal coal refuse reclamation tax credit program is adopted and becomes effective, the following shall apply:

(1) Each eligible facility shall report as part of its application under subsection (a) the Federal coal refuse reclamation tax credit amount received by the eligible facility for the four Federal tax quarters that immediately preceded the submittal of the application.

(2) The amount of tax credits received by an eligible facility as calculated under subsection (b) shall be reduced by the Federal coal refuse reclamation tax credit amount received by the eligible facility for the four Federal tax quarters that immediately preceded the submittal of the application under this section.

((c.1) added June 28, 2019, P.L.50, No.13)

(d) Expiration.--The department may not approve an application for a tax credit under this article after December 31, 2036. ((d) amended June 28, 2019, P.L.50, No.13)

(1704-J added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(9) of Act 56 of 2024 provided that the amendment of subsection (b) shall apply to fiscal years beginning after June 30, 2024.

Section 1705-J. Claim of tax credit.

(a) General rule.--A qualified taxpayer may claim a tax credit against the qualified tax liability of the qualified taxpayer.

(b) Coal refuse use.--A tax credit may be claimed against a qualified tax liability for a taxable year which begins in the same calendar year that the qualified coal refuse was used at the eligible facility to generate the tax credit.

(1705-J added July 13, 2016, P.L.526, No.84)

Section 1706-J. Carryover and carryback.

(a) General rule.--If a qualified taxpayer does not use all or any portion of a tax credit for the taxable year in which the tax credit is first approved, then the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the qualified taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than 15 taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) No carryback or refund.--A qualified taxpayer is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the qualified taxpayer under this article.

(1706-J added July 13, 2016, P.L.526, No.84)

Section 1707-J. Limitation on tax credits.

(a) Amount.--The total amount of tax credits issued by the department may not exceed $7,500,000 in fiscal year 2016-2017, $10,000,000 in fiscal years 2017-2018 and 2018-2019, $20,000,000 in fiscal years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024 and $55,000,000 annually beginning in the 2024-2025 fiscal year and continuing each fiscal year thereafter. ((a) amended July 11, 2024, P.L.674, No.56)

(b) Proration.--If the total amount of otherwise approvable tax credits applied for by all qualified taxpayers exceeds the amount under subsection (a), the tax credit to be received by each qualified taxpayer shall be the product of the amount under subsection (a) multiplied by the quotient of the tax credits otherwise approvable for the qualified taxpayer divided by the total of all tax credits otherwise approvable for all qualified taxpayers.

(c) Restriction.--Notwithstanding subsection (b), the department may not grant more than 26.5% of the amount under subsection (a) in tax credits to a single eligible facility in any fiscal year. ((c) amended July 11, 2024, P.L.674, No.56)

(d) Exception.--In a fiscal year where the full amount of the tax credit is not utilized due to the restriction in subsection (c), a facility not receiving the full per ton tax credit for which the facility would otherwise be eligible shall be provided, on a prorated basis as described in subsection (b), up to the maximum per ton tax credit amount the facility would otherwise be authorized to receive under this section. ((d) added July 11, 2024, P.L.674, No.56)

(1707-J added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(9) of Act 56 of 2024 provided that the amendment or addition of subsections (a), (c) and (d) shall apply to fiscal years beginning after June 30, 2024.

Section 1708-J. Pass-through entity.

(a) Election.--If a tax credit certificate is issued to a pass-through entity, the pass-through entity may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled or in any other manner designated by the pass-through entity in accordance with its governance documents and without regard to how distributive income, losses or credits are allocated for other tax purposes.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or patron of the pass-through entity.

(c) Time.--A transferee under subsection (a) may only use a tax credit during a taxable year for which use of the credit is authorized under sections 1704-J(c)(4) and 1706-J.

(1708-J added July 13, 2016, P.L.526, No.84)

Section 1709-J. Use of credits by affiliates.

In addition to reducing or eliminating the qualified tax liability of a qualified taxpayer, a tax credit under this article may be applied to reduce or eliminate the qualified tax liability of any affiliate of a qualified taxpayer. An affiliate may only use a tax credit during a taxable year for which use of the credit is authorized under sections 1704-J(c)(4) and 1706-J.

(1709-J added July 13, 2016, P.L.526, No.84)

Section 1710-J. Sale or assignment.

(a) Authorization.--Upon approval by the Department of Revenue, a qualified taxpayer may sell or assign, in whole or in part, a tax credit granted to the taxpayer under this article.

(b) Application.--The following shall apply:

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the Department of Revenue. The application must be on a form required by the Department of Revenue.

(2) The Department of Revenue shall approve a sale or assignment if the purchaser or assignee has:

(i) filed all required State tax reports and returns for all applicable taxable years; and

(ii) paid any balance of State tax due as determined by assessment or determination by the Department of Revenue and not under timely appeal.

(1710-J added July 13, 2016, P.L.526, No.84)

Section 1711-J. Purchasers and assignees.

(a) Claim.--The purchaser or assignee of all or a portion of a tax credit under section 1710-J shall immediately claim the credit in the taxable year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 75% of such qualified tax liability for the taxable year.

(c) Use.--The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the tax credit.

(1711-J added July 13, 2016, P.L.526, No.84)

Section 1712-J. Administration.

(a) Audits and assessments.--The Department of Revenue has the following powers:

(1) To audit a qualified taxpayer claiming a tax credit to ascertain the validity of the amount claimed.

(2) To issue an assessment against a qualified taxpayer for an improperly issued tax credit. The procedures, collection, enforcement and appeals of any assessment made under this section shall be governed by Article IV.

(b) Guidelines.--The department shall develop written guidelines for the implementation of this article.

(1712-J added July 13, 2016, P.L.526, No.84)

Section 1713-J. Annual report to General Assembly.

By October 1, 2017, and October 1 of each year thereafter, the department shall submit a report on the tax credit provided by this article to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Finance Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. The report must include:

(1) the names of the qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by a qualified taxpayer; and

(2) data concerning the benefits provided to the Commonwealth in terms of the quantity of coal refuse utilized by qualifying facilities and the volume of coal ash generated by qualifying facilities which is beneficially used to reclaim mine-affected lands.

(1713-J added July 13, 2016, P.L.526, No.84)

Section 1714-J. Applicability.

The tax credit established under this article shall apply to taxable years beginning after December 31, 2015.

(1714-J added July 13, 2016, P.L.526, No.84)

ARTICLE XVII-K
WATERFRONT DEVELOPMENT TAX CREDIT
(Art. added July 13, 2016, P.L.526, No.84)

Section 1701-K. Scope of article.

This article relates to the Waterfront Development Tax Credit.

(1701-K added July 13, 2016, P.L.526, No.84)

Section 1702-K. Definitions.

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

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article III, IV, VI, VII, VIII, IX or XV or the tax under Article XVI of the act of May 17, 1921

(P.L.682, No.284), known as The Insurance Company Law of 1921. The term includes a pass-through entity.

"Contribution." A donation of cash or personal property made by a business firm to a waterfront development organization to fund a waterfront development project under this article.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Pass-through entity." Any of the following:

(1) A partnership as defined under section 301(n.0).

(2) A Pennsylvania S corporation as defined under section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Tax credit." The waterfront development tax credit authorized by this article.

"Waterfront." A site that is directly adjacent to a body of water.

"Waterfront development organization." An authority established under the act of December 6, 1972 (P.L.1392, No.298), known as the Third Class City Port Authority Act, or a nonprofit entity that meets all of the following:

(1) For a nonprofit entity, is exempt from Federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

(2) Has been in existence for a minimum of five years.

(3) Has a board of directors which meets at least once annually.

(4) Has completed a waterfront development plan.

"Waterfront development plan." A plan approved by the Department of Community and Economic Development that meets all of the following:

(1) Provides for the development or enhancement of waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation to incentivize future economic development.

(2) Adheres to current environmental practices.

(3) Considers and integrates approaches that support natural and native habitat.

(4) Considers and integrates architectural and landscape design elements and standards.

"Waterfront development project." A project to develop a waterfront site or area or a project that creates or improves public access and connections to the waterfront. The term may include:

(1) Streets and public rights-of-way.

(2) Waterfront parks, gardens and open spaces.

(3) Enhancement of access to public utilities.

(4) The promotion of erosion control, storm water management and other environmental projects that promote economic development.

(5) Water transportation facilities for use by the public, including water transit landings and boat docking.

(6) Amenities, including infrastructure and recreational projects.

(1702-K added July 13, 2016, P.L.526, No.84)

Section 1703-K. Waterfront Development Tax Credit Program.

The Waterfront Development Tax Credit Program is established in the department to encourage private investment in waterfront property that creates public access to the water, increases property values, restores ecology and catalyzes further financial investment and job creation.

(1703-K added July 13, 2016, P.L.526, No.84)

Section 1704-K. Waterfront development organizations.

(a) Applications.--An application to qualify as a waterfront development organization must be submitted on a form and in a manner as required by the department.

(b) Information.--An application to qualify as a waterfront development organization shall include all of the following:

(1) Confirmation that the organization is a waterfront development organization.

(2) The age of the organization.

(3) The board of directors meeting schedule.

(4) Waterfront development plans completed within the last five years.

(5) A list of completed, ongoing and planned waterfront development projects.

(c) Approval.--No later than 60 days after a waterfront development organization has submitted an application under this section, the department shall notify a waterfront development organization if the organization meets the requirements of this section for the current fiscal year.

(d) Renewal of waterfront organization status.--A waterfront development organization shall annually file a renewal application on a form provided by the department to maintain eligibility as a waterfront development organization. The renewal application shall include:

(1) The total number of waterfront development projects funded, by municipality, during the immediately preceding year.

(2) The total amount expended for waterfront development projects, by municipality, during the immediately preceding year.

(3) The total amount expended on waterfront development projects, by municipality, attributable to contributions from business firms.

(4) The number of waterfront development projects completed, by municipality, during the immediately preceding year.

(5) A copy of the Federal Form 990 or other Federal form of the waterfront development organization that indicates the tax status of the organization for Federal tax purposes, if any.

(6) A copy of a compilation, review or audit of the financial statements of the waterfront development organization conducted by a certified public accounting firm.

(1704-K added July 13, 2016, P.L.526, No.84)

Section 1705-K. Waterfront development projects.

(a) General rule.--To qualify for a tax credit, contributions made to a waterfront development organization must be used by the waterfront development organization for a waterfront development project approved under this section.

(b) Submission.--After approval of a waterfront development organization's application under section 1704-K(c), the organization may submit, on a form and in a manner required by the department, waterfront development projects for approval by the department. The submission shall include for each waterfront development project:

(1) The location of the waterfront development project.

(2) The type of waterfront development project.

(3) A detailed description of the waterfront development project, including architectural and engineering drawings.

(4) The status of the waterfront development project.

(5) The anticipated start date and completion date for the waterfront development project.

(6) The life expectancy of the waterfront development project and a plan for maintenance following completion.

(7) The estimated cost of the waterfront development project.

(8) Analysis of the direct current and future economic benefits derived from the waterfront development project, including indirect and direct job creation projections.

(9) The manner in which the waterfront development organization will do all of the following:

(i) Verify eligibility of costs.

(ii) Monitor progress of the waterfront development project.

(iii) Assure that contributions received are used for the waterfront development project for which the contributions have been designated.

(10) Any other information required by the department.

(c) Review of applications.--The department, in conjunction with the Department of Conservation and Natural Resources, shall review applications received from waterfront development organizations under this section.

(d) Notice of approval or disapproval.--

(1) Within 60 days after receipt of an application, the department shall notify the waterfront development organization of its approval or disapproval of a waterfront development project.

(2) If the application is disapproved, the notice of disapproval shall include the reasons for disapproval.

(3) A waterfront development organization may resubmit the application within 30 days after receipt of a notice of disapproval.

(e) Publication.--The department shall annually publish a list of each waterfront development organization, its approved waterfront development projects under this section and the total aggregate cost of the waterfront development projects in the Pennsylvania Bulletin. The list shall be posted and updated as necessary on the publicly accessible Internet website of the department.

(f) Completion.--Upon completion of a waterfront development project approved under subsection (b), the waterfront development organization shall submit written notice of project completion to the department. The notice shall include all of the following information:

(1) Certification that the waterfront development project is complete.

(2) An upkeep and maintenance plan, if applicable, to the waterfront development project.

(3) Any other information required by the department.

(g) Inspection.--Waterfront development projects approved under subsection (b) may be subject to inspection by the department or its designated agent.

(h) Administrative fees.--No more than 5% of the contributions received under this article may be used for administrative fees.

(1705-K added July 13, 2016, P.L.526, No.84)

Section 1706-K. Tax credit.

(a) General rule.--A business firm that provides contributions to a waterfront development organization to fund waterfront development projects approved by the department under section 1705-K shall receive a tax credit as provided in section 1707-K, within the limitations of section 1708-K, if the department approves the waterfront development projects. The application must specify the waterfront development organization the contribution is being made to and the waterfront development projects being conducted by the organization.

(b) Rules and regulations.--

(1) The department may promulgate rules and regulations for the approval or disapproval of applications by business firms.

(2) The department shall provide a report listing all applications received and the disposition of the applications in each fiscal year to the General Assembly by October 1 of the following fiscal year. The department's report shall include all taxpayers utilizing the tax credit and the amount of tax credits approved, sold or assigned.

(3) Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(c) Availability of tax credits.--Tax credits shall be made available by the department on a first-come, first-served basis within the limitation established under section 1708-K.

(d) Sale or assignment of tax credits.--

(1) A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a waterfront development tax credit granted to the business firm under this article if no claim for allowance of the credit is filed within one year from the date the credit is granted by the Department of Revenue under section 1707-K. The department and the Department of Revenue shall jointly promulgate guidelines for the approval of applications under this subsection.

(2) The purchaser or assignee of a waterfront development tax credit under subsection (d) shall immediately claim the tax credit in the taxable year in which the purchase or assignment is made.

(3) The purchaser or assignee may not carry over, carry back, obtain a refund of or sell or assign the tax credit.

(4) The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the waterfront development tax credit in compliance with procedures specified by the Department of Revenue.

(e) Application of tax credit.--The waterfront development tax credit approved by the department shall be applied against the business firm's tax liability for the taxes under section 1707-K for the current taxable year as of the date on which the tax credit was approved before the waterfront development tax credit may be carried over, sold or assigned.

(1706-K added July 13, 2016, P.L.526, No.84)

Section 1707-K. Grant of tax credits.

(a) General rule.--The Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV or Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or any tax substituted in lieu thereof.

(b) Prohibition.--A tax credit may not be granted for fiscal years prior to fiscal year 2017-2018.

(1707-K added July 13, 2016, P.L.526, No.84)

Section 1708-K. Limitations.

The following limitations shall apply to the tax credits:

(1) No tax credit may exceed 75% of the total contribution made by a business firm during a taxable year.

(2) No tax credit shall be granted to a business firm for activities that are a part of its normal course of business or in which the business firm has a pecuniary interest.

(3) A tax credit not used in the period the contribution or investment was made may be carried over for the next five succeeding calendar or fiscal years until the full credit has been allowed. No business firm may carry back or obtain a refund of an unused tax credit.

(4) The total amount of all tax credits shall not exceed $5,000,000 in any one fiscal year. ((4) amended July 8, 2022, P.L.513, No.53)

(5) In any one fiscal year, the department may not approve more tax credits for contributions made to a waterfront development organization than the total aggregate cost of waterfront development projects approved under section 1705-K(d).

(1708-K added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(x) of Act 53 of 2022 provided that the amendment of section 1708-K(4) shall apply to fiscal years beginning after June 30, 2022.

Section 1709-K. Decision in writing.

The decision of the department to approve or disapprove a project under section 1705-K(d) shall be in writing and, if the project is approved by the department, it shall state the maximum credit allowable to the business firm. A copy of the decision of the department shall be transmitted to the Governor and to the Secretary of Revenue.

(1709-K added July 13, 2016, P.L.526, No.84)

Section 1710-K. Pass-through entity.

(a) General rule.--If a pass-through entity has an unused tax credit under section 1707-K, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitations.--

(1) The credit provided under subsection (a) is in addition to any waterfront development tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article. However, a pass-through entity and a shareholder, member or

partner of a pass-through entity may not claim a credit under this article for the same waterfront development project.

(2) A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made.

(3) The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1710-K added July 13, 2016, P.L.526, No.84)

ARTICLE XVII-L
PENNSYLVANIA ECONOMIC DEVELOPMENT FOR A GROWING ECONOMY (PA EDGE) TAX CREDITS
(Art. hdg. amended Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE A
PRELIMINARY PROVISIONS
(Subart. hdg. added Nov. 3, 2022, P.L.1695, No.108)

Section 1701-L. Scope of article.

This article relates to Pennsylvania Economic Development for a Growing Economy (PA EDGE) tax credits.

(1701-L amended Nov. 3, 2022, P.L.1695, No.108)

Section 1702-L. Definitions.

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

"Capital investment." The amount of money or assets invested by a qualified taxpayer in constructing and placing into service one of the following in this Commonwealth:

(1) A project facility as defined in section 1711-L.
(2) A project facility as defined in section 1731-L.
(3) A project facility as defined in section 1751-L.
(4) A project facility as defined in section 1771-L.

"Company." A corporation, partnership, limited liability company, limited liability partnership, business trust, affiliate, unincorporated joint venture or other business entity doing business in this Commonwealth.

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

"Downstream company." A company that purchases products or chemical compounds manufactured or processed by a qualified taxpayer.

"Full-time-equivalent job." The quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding 12-month period by 2,080.

"Natural gas." As defined in 58 Pa.C.S. § 2301 (relating to definitions).

"New job." A full-time-equivalent job created during the construction of the project facility and paying the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry under the Prevailing Wage Act.

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).
(2) A Pennsylvania S corporation as defined in section 301(n.1).
(3) An unincorporated entity subject to section 307.21.

"Permanent job." A full-time-equivalent job created to support the ongoing operation of the project facility.

"Prevailing Wage Act." The act of August 15, 1961 (P.L.987, No.442), known as the Pennsylvania Prevailing Wage Act.

"Qualified tax liability." The liability for taxes imposed under Articles III, IV, VII, VIII, IX, XI and XV. The term does not include tax withheld under section 316.1.

"Tax credit." The Pennsylvania Economic Development for a Growing Economy (PA EDGE) tax credit provided under this article.

"Unit." One thousand cubic feet of natural gas at a temperature of 60 degrees Fahrenheit and an absolute pressure of 14.73 pounds per square

inch, in accordance with American Gas Association standards and according to Boyle's law for the measurement of gas under varying pressures with deviations therefrom as follows:

(1) The average absolute atmospheric pressure shall be assumed to be 14.4 pounds to the square inch, notwithstanding the actual elevation or location of point of delivery above sea level or variations in the atmospheric pressure.

(2) The temperature of the gas passing the meters shall be determined by the continuous use of a recording thermometer installed so that the thermometer may properly record the temperature of the gas flowing through the meters. The arithmetic average of the temperature recorded each 24-hour day shall be used in computing gas volumes. If a recording thermometer is not installed, or if installed and not operating properly, an average flowing temperature of 60 degrees Fahrenheit shall be used in computing gas volume.

(3) The specific gravity of the gas shall be determined by tests made by the use of an Edwards or Acme gravity balance annually or at intervals as are found necessary in practice. Specific gravity shall be used in computing gas volumes.

(4) The deviation of the natural gas from Boyle's law shall be determined by tests annually or at other shorter intervals as are found necessary in practice. The apparatus and the method to be used in making the tests shall be in accordance with recommendations of the National Bureau of Standards of the Department of Commerce or Report No. 3 of the Gas Measurement Committee of the American Gas Association on the effective date of this section. The results of the tests shall be used in computing the volume of gas delivered.

"Upstream company." The term includes a company that is engaged in the exploration, development, manufacturing, production, processing, refining or transportation of natural gas, clean hydrogen, milk or products used in semiconductor manufacturing, biomedical manufacturing or biomedical research in this Commonwealth.

(1702-L added Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE B
LOCAL RESOURCE MANUFACTURING
(Subart. hdg. added Nov. 3, 2022, P.L.1695, No.108)

Section 1711-L. Definitions.

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

"Company." (Def. deleted by amendment).

"Department." (Def. deleted by amendment).

"Downstream company." (Def. deleted by amendment).

"Dry natural gas." Natural gas in which there are no appreciable natural gas liquids recoverable by separation at the wellhead.

"Fertilizer." A chemical product derived from petrochemicals which is added to soil or land to increase fertility.

"Natural gas." (Def. deleted by amendment).

"Natural gas liquids." As defined in 58 Pa.C.S. § 3203 (relating to definitions).

"New job." (Def. deleted by amendment).

"Pass-through entity." (Def. deleted by amendment).

"Permanent job." (Def. deleted by amendment).

"Petrochemical." Chemical products obtained from refining and processing natural gas. The term does not include liquefaction or other processing of natural gas for the purpose of transport.

"Prevailing Wage Act." (Def. deleted by amendment).

"Project facility." A facility located in this Commonwealth which manufactures petrochemicals or fertilizers using dry natural gas and which required a capital investment of at least $400,000,000 to construct and place into service.

"Qualified tax liability." (Def. deleted by amendment).

"Qualified taxpayer." A company that satisfies all of the following:

(1) Purchases and uses dry natural gas produced in this Commonwealth in the manufacture of petrochemicals or fertilizers at a project facility in this Commonwealth that has been placed in service on or after the effective date of this section.

(2) Has made a capital investment of at least $400,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth.

(3) Has created a minimum aggregate total of 800 new jobs and permanent jobs.

(4) Has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during the construction of the project facility.

(5) Has demonstrated that the new jobs created at the project facility or for work covered by Subarticle F are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry.

(6) The construction work to place a project facility into service shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

"Tax credit." (Def. deleted by amendment).

"Unit." (Def. deleted by amendment).

"Upstream company." (Def. deleted by amendment).

(1711-L renumbered from 1702-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1712-L. Eligibility.

In order to be eligible to receive a tax credit, a company shall demonstrate the following:

(1) The company meets the requirements of a qualified taxpayer.

(2) The use of carbon capture and sequestration technology, or similar technologies, at the project facility to the extent it is cost effective and feasible at the discretion of the qualified taxpayer.

(3) Confirmation that the company has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal.

(1712-L renumbered from 1703-L Nov. 3, 2022, P.L.1695, No.108)

Section 1713-L. Application and approval of tax credit.

(a) Rate.--The tax credit shall be equal to $0.47 per unit of dry natural gas that is purchased and used in the manufacturing of petrochemicals or fertilizers at the project facility by a qualified taxpayer.

(b) Application.--

(1) A qualified taxpayer may apply to the department for a tax credit under this section.

(2) The application must be submitted to the department by March 1 for the tax credit claimed for dry natural gas purchased and used in manufacturing of petrochemicals or fertilizers by the qualified taxpayer at the project facility during the prior calendar year.

(3) The application must be on the form required by the department which shall include the following:

(i) information required by the department to document the amount of dry natural gas purchased and used in the manufacture of petrochemicals or fertilizers at the project facility;

(ii) information required by the department to verify that the applicant is a qualified taxpayer; and

(iii) any other information as the department deems appropriate.

(c) Review and approval.--

(1) The department shall review the applications and shall issue an approval or disapproval by May 1.

(2) Upon approval, the department shall issue a certificate stating the amount of tax credit granted for dry natural gas purchased and used in the manufacture of petrochemicals or fertilizers at the project facility in the prior calendar year.

(d) Availability of tax credits.--

(1) Each fiscal year, $56,666,668 in tax credits shall be made available to the department in accordance with this subarticle.

(2) No more than two qualified taxpayers shall receive a tax credit annually, for a maximum credit of $6,666,667 each.

(3) The department shall issue unallocated tax credits to no more than one qualified taxpayer, notwithstanding the maximum credit limit under paragraph (2), if the qualified taxpayer:

(i) has made a total capital investment of at least $1,000,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth;

(ii) has created a minimum aggregate total of 1,800 new jobs and permanent jobs; and

(iii) has satisfied all other eligibility requirements for a qualified taxpayer under this subarticle.

(4) For purposes of paragraph (3), the term "unallocated tax credits" means the difference between tax credits authorized under paragraph (1) and approved under paragraph (2).

(1713-L renumbered from 1704-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1714-L. Use of tax credits.

(a) Initial use.--Prior to sale or assignment of a tax credit under section 1716-L, a qualified taxpayer must first use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved.

(b) Eligibility.--The tax credit may be applied against up to 20% of the qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the tax credit was approved.

(c) Limit.--A qualified taxpayer that has been granted a tax credit under this subarticle shall be ineligible for any other tax credit provided under this act.

(1714-L renumbered from 1705-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1715-L. Carryover, carryback and refund.

A tax credit cannot be carried back, carried forward or be used to obtain a refund.

(1715-L renumbered from 1706-L Nov. 3, 2022, P.L.1695, No.108)

Section 1716-L. Sale or assignment.

(a) Authorization.--If the qualified taxpayer holds a tax credit through the end of the calendar year in which the tax credit was granted, the qualified taxpayer may sell or assign a tax credit, in whole or in part, provided the sale is effective by the close of the following calendar year.

(b) Application.--

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the department. The application must be on a form required by the department.

(2) To approve an application, the department must receive:

(i) a finding from the department that the applicant has:

(A) filed all required State tax reports and returns for all applicable taxable years; and

(B) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal; and

(ii) for a sale or assignment to a company that is not an upstream company or downstream company, a certification from the qualified taxpayer that the qualified taxpayer has offered to sell or assign the tax credit:

(A) exclusively to a downstream company for a period of 30 days following approval of the tax credit under section 1713-L(c); and

(B) to an upstream company or downstream company for a period of 30 days following expiration of the period under clause (A).

(c) Approval.--Upon approval by the department, a qualified taxpayer may sell or assign, in whole or in part, a tax credit.

(1716-L renumbered from 1707-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1717-L. Purchasers and assignees.

(a) Time.--The purchaser or assignee under section 1716-L must claim the tax credit in the calendar year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee under section 1716-L may use against any one qualified tax liability may not exceed 50% of any of the qualified tax liabilities of the purchaser or assignee for the taxable year.

(c) Resale and assignment.--

(1) A purchaser under section 1716-L may not sell or assign the purchased tax credit.

(2) An assignee under section 1716-L may not sell or assign the assigned tax credit.

(d) Notice.--The purchaser or assignee under section 1716-L shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(1717-L renumbered from 1708-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1718-L. Pass-through entity.

(a) Election.--If a pass-through entity has an unused tax credit, the pass-through entity may elect, in writing, according to procedures established by the department, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Amount.--The amount of the tax credit that a transferee under subsection (a) may use against any one qualified tax liability may not exceed 20% of any qualified tax liabilities for the taxable year.

(d) Time.--A transferee under subsection (a) must claim the tax credit in the calendar year in which the transfer is made.

(e) Sale and assignment.--A transferee under subsection (a) may not sell or assign the tax credit.

(1718-L renumbered from 1709-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1719-L. (Reserved).

(1719-L renumbered from 1710-L Nov. 3, 2022, P.L.1695, No.108)

Section 1720-L. Administration.

(a) Audits and assessments.--

(1) The department may audit a taxpayer awarded a tax credit to ascertain the validity of the amount awarded.

(2) The department may issue an assessment against a taxpayer for an improperly issued tax credit. The procedures, collection, enforcement and appeals of an assessment made under this section shall be governed by Article II.

(b) Guidelines and regulations.--The department shall develop written guidelines for the implementation of this subarticle. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this subarticle.

(1720-L renumbered from 1711-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1721-L. Reports to General Assembly.

(a) Annual report.--No later than the year after which tax credits are first awarded under this subarticle, and each October 1 thereafter, the department shall submit a report on the tax credit provided under this subarticle to the chairperson and minority chairperson of the Appropriations Committee of the Senate, the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives, the chairperson and minority chairperson of the Finance Committee of the Senate and the chairperson and minority chairperson of the Finance Committee of the House of Representatives. The report must include the names of the qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by a qualified taxpayer.

(b) Reconciliation report.--On May 1 of the year which is 10 years after the year in which tax credits are first awarded under this subarticle, the department shall submit to the Secretary of the Senate and the Chief Clerk of the House of Representatives a reconciliation report on the effectiveness of this subarticle. The report shall include, to the extent possible, the following information for the preceding 10 years:

(1) The name and business address of all qualified taxpayers who have been granted tax credits under this subarticle.

(2) The amount of tax credits granted to each qualified taxpayer.

(3) The total number of jobs created by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company. This paragraph includes the average annual salary and hourly wage information.

(4) The amount of taxes paid under Article II by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company.

(5) The amount of taxes withheld from employees or paid by members, partners or shareholders of the pass-through entities under Article III of the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company.

(6) The amount of taxes paid under Article IV by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company.

(7) The amount of taxes paid under Article XI by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company.

(8) The amount of any other State or local taxes paid by the qualified taxpayer, upstream company and downstream company and any companies that provide goods, utilities or other services that support the business operations of the qualified taxpayer, upstream company and downstream company.

(9) Any other information pertaining to the economic impact of this subarticle on this Commonwealth.

(c) Reduction.--If the reconciliation report issued under subsection (b) reveals that the total amount of the tax credits granted under this subarticle exceeds the total amount of tax revenue reported under subsection (b)(4), (5), (6), (7), (8) and (9), the report must include any recommendation for changes in the calculation of the credit.

(d) Publication.--The reports required by this section shall be a public record as defined under section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law, and shall be available electronically on the publicly accessible Internet website of the department. The reports required under this section may not contain "confidential proprietary information" as defined in section 102 of the Right-to-Know Law.

(1721-L renumbered from 1712-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1722-L. Applicability.

This subarticle shall apply to the purchase of dry natural gas produced in this Commonwealth for the period beginning January 1, 2024, and ending December 31, 2049.

(1722-L renumbered from 1714-L and amended Nov. 3, 2022, P.L.1695, No.108)

Section 1723-L. Expiration.

This subarticle shall expire December 31, 2050.

(1723-L renumbered from 1715-L and amended Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE C
PENNSYLVANIA MILK PROCESSING
(Subart. added Nov. 3, 2022, P.L.1695, No.108)

Section 1731-L. Definitions.

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

"Gallon." A United States liquid gallon equal to a volume of 231 cubic inches and equal to 3.785411784 liters or 0.13368 cubic feet, where volumetric measurements made at ambient flowing conditions are typically adjusted for composition and to standard conditions using established industry standard practices.

"Milk." The lacteal secretion, practically free from colostrum, obtained by the complete milking of one or more healthy cows.

"Project facility." A facility located in this Commonwealth which is owned and operated by a qualified taxpayer and which utilizes milk purchased from sources within this Commonwealth and processed by a qualified taxpayer at the project facility.

"Qualified taxpayer." A company that satisfies all of the following:

(1) Purchases and processes milk produced in this Commonwealth at a project facility in this Commonwealth that has been placed in service on or after the effective date of this section.

(2) Has made a capital investment of at least $500,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth.

(3) Has created a minimum aggregate total of 1,200 new jobs and permanent jobs.

(4) Has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during the construction of the project facility.

(5) Has demonstrated that the new jobs created at the project facility or for work covered by Subarticle F are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry.

(6) The construction work to place a project facility into service shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(1731-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1732-L. Eligibility.

In order to be eligible to receive a tax credit, a company shall demonstrate the following:

(1) The company meets the requirements of a qualified taxpayer.

(2) Confirmation that the company has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal.

(1732-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1733-L. Application and approval of tax credit.

(a) Rate.--The tax credit shall be equal to $0.05 per gallon of milk purchased and produced from sources exclusively within this Commonwealth and processed at the project facility by a qualified taxpayer.

(b) Application.--

(1) A qualified taxpayer may apply to the department for a tax credit under this section.

(2) The application must be submitted to the department by March 1 for the tax credit claimed for milk purchased and processed by the qualified taxpayer at the project facility during the prior calendar year.

(3) The application must be on the form required by the department which shall include the following:

(i) information required by the department to document the amount of milk purchased and processed at the project facility;

(ii) information required by the department to verify that the applicant is a qualified taxpayer; and

(iii) any other information as the department deems appropriate.

(c) Review and approval.--

(1) The department shall review the applications and shall issue an approval or disapproval by May 1.

(2) Upon approval, the department shall issue a certificate stating the amount of tax credit granted for milk purchased and processed at the project facility in the prior calendar year.

(d) Availability of tax credits.--

(1) Each fiscal year, $15,000,000 in tax credits shall be made available to the department in accordance with this subarticle.

(2) The department shall issue up to $15,000,000 in tax credits in a fiscal year to the qualified taxpayer which first meets the qualifications to receive a tax credit under this subarticle.

(3) An amount under paragraph (1) which remains unallocated under paragraph (2) shall be issued to the qualified taxpayer which next meets the qualifications to receive a tax credit under this subarticle.

(4) The total aggregate amount of tax credits awarded to a qualified taxpayer under this subarticle may not exceed 25% of the capital investment made to construct a project facility and place the project facility into service in this Commonwealth.

(1733-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1734-L. Use of tax credits.

(a) Initial use.--Prior to sale or assignment of a tax credit under section 1736-L, a qualified taxpayer must first use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved.

(b) Eligibility.--The tax credit may be applied against up to 20% of a qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the tax credit was approved.

(c) Limit.--A qualified taxpayer that has been granted a tax credit under this subarticle shall be ineligible for any other tax credit provided under this act or a tax benefit as defined in section 1701-A.1.

(1734-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1735-L. Carryover, carryback and refund.

A tax credit cannot be carried back, carried forward or be used to obtain a refund.

(1735-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1736-L. Sale or assignment.

(a) Authorization.--If the qualified taxpayer holds a tax credit through the end of the calendar year in which the tax credit was granted, the qualified taxpayer may sell or assign a tax credit, in whole or in part, provided the sale is effective by the close of the following calendar year.

(b) Application.--

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the department. The application must be on a form required by the department.

(2) To approve an application, the department must receive:

(i) a finding from the department that the applicant has:

(A) filed all required State tax reports and returns for all applicable taxable years; and

(B) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal; and

(ii) for a sale or assignment to a company that is not an upstream company or downstream company, a certification from the qualified taxpayer that the qualified taxpayer has offered to sell or assign the tax credit:

(A) exclusively to a downstream company for a period of 30 days following approval of the tax credit under section 1733-L(c); and

(B) to an upstream company or downstream company for a period of 30 days following expiration of the period under clause (A).

(c) Approval.--Upon approval by the department, a qualified taxpayer may sell or assign, in whole or in part, a tax credit.

(1736-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1737-L. Purchasers and assignees.

(a) Time.--The purchaser or assignee under section 1736-L must claim the tax credit in the calendar year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee under section 1736-L may use against any one qualified tax liability may not exceed 50% of any of the qualified tax liabilities of the purchaser or assignee for the taxable year.

(c) Resale and assignment.--

(1) A purchaser under section 1736-L may not sell or assign the purchased tax credit.

(2) An assignee under section 1736-L may not sell or assign the assigned tax credit.

(d) Notice.--The purchaser or assignee under section 1736-L shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(1737-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1738-L. Pass-through entity.

(a) Election.--If a pass-through entity has an unused tax credit, the pass-through entity may elect, in writing, according to procedures established by the department, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Amount.--The amount of the tax credit that a transferee under subsection (a) may use against any one qualified tax liability may not exceed 20% of any qualified tax liabilities for the taxable year.

(d) Time.--A transferee under subsection (a) must claim the tax credit in the calendar year in which the transfer is made.

(e) Sale and assignment.--A transferee under subsection (a) may not sell or assign the tax credit.

(1738-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1739-L. (Reserved).

(1739-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1740-L. Guidelines and regulations.

The department shall develop written guidelines for the implementation of this subarticle. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this subarticle.

(1740-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1741-L. Report to General Assembly.

(a) Report.--

(1) No later than the year after which tax credits are first awarded under this subarticle, and each October 1 thereafter, the department shall submit a report to the General Assembly summarizing the effectiveness of the tax credit. The report shall include the names of all qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by each qualified taxpayer. The report shall be submitted to the following:

(i) The chair and minority chair of the Agriculture and Rural Affairs Committee of the Senate.

(ii) The chair and minority chair of the Agriculture and Rural Affairs Committee of the House of Representatives.

(iii) The chair and minority chair of the Finance Committee of the Senate.

(iv) The chair and minority chair of the Finance Committee of the House of Representatives.

(2) In addition to the information required under paragraph (1), the report shall include the following information in a manner that is separated by geographic location within this Commonwealth:

(i) The amount of tax credits claimed by qualified taxpayers during the fiscal year.

(ii) The total number of new jobs and permanent jobs created by qualified taxpayers during the fiscal year, including the duration of the jobs.

(b) Public information.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report under subsection (a) shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(1741-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1742-L. Applicability.

(a) Duration.--The tax credit under this subarticle shall apply to the purchase and processing of milk produced in this Commonwealth for a period of eight years from the date the first project facility is placed into service.

(b) Limitation.--The total aggregate amount of tax credits awarded by the department under this subarticle may not exceed $120,000,000.

(1742-L added Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE D
REGIONAL CLEAN HYDROGEN HUBS
(Subart. added Nov. 3, 2022, P.L.1695, No.108)

Section 1751-L. Definitions.

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

"Clean hydrogen." Hydrogen used in a project which has been determined by the United States Department of Energy to demonstrably aid achievement of the clean hydrogen production standard under section 822 of the Energy Policy Act of 2005 (Public Law 109-58, 11 Stat. 594) by mitigating

emissions across the supply chain through aggressive carbon capture, by measures to mitigate fugitive methane emissions or by the use of clean electricity or other technologies or practices approved by the United States Department of Energy.

"Project facility." A facility located in this Commonwealth which is owned by a qualified taxpayer which is part of a Regional Clean Hydrogen Hub designated by the United States Department of Energy authorized under section 813 of the Energy Policy Act of 2005.

"Qualified taxpayer." A company that satisfies all of the following:

(1) Owns and operates a project facility located within a Regional Clean Hydrogen Hub designated by the United States Department of Energy authorized under section 813 of the Energy Policy Act of 2005.

(2) Has entered into a commitment letter under section 1752-L(b) to purchase clean hydrogen from a Regional Clean Hydrogen Hub within this Commonwealth for use in manufacturing at a project facility in this Commonwealth which has been placed in service on or after the effective date of this section.

(3) Has made a capital investment of at least $500,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth.

(4) Has created a minimum aggregate total of 1,200 new jobs and permanent jobs.

(5) Has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during the construction of the project facility.

(6) Has demonstrated that the new jobs created at the project facility or for work covered by Subarticle F are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry.

(7) The construction work to place a project facility into service shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

(1751-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1752-L. Eligibility.

(a) Demonstration.--In order to be eligible to receive a tax credit, a company shall demonstrate the following:

(1) The company meets the requirements of a qualified taxpayer.

(2) Confirmation that the company has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal.

(b) Commitment letter.--A company that applies for and receives a tax credit under this subarticle shall enter into a commitment letter with the Department of Community and Economic Development to prescribe the date by which the project facility will begin to purchase clean hydrogen from sources within the Regional Clean Hydrogen Hub in this Commonwealth for use in manufacturing at the project facility.

(1752-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1753-L. Application and approval of tax credit.

(a) Rate.--The tax credit shall be equal to any one or more of the following:

(1) $0.81 per kilogram of clean hydrogen purchased from a Regional Clean Hydrogen Hub within this Commonwealth and used in manufacturing at the project facility by a qualified taxpayer.

(2) $0.47 per unit of natural gas that is purchased and used in manufacturing at the project facility by a qualified taxpayer.

(b) Application.--

(1) A qualified taxpayer may apply to the department for a tax credit under this section.

(2) The application must be submitted to the department by March 1 for the tax credit claimed for clean hydrogen or natural gas purchased

and used in manufacturing by the qualified taxpayer at the project facility during the prior calendar year.

(3) The application must be on a form required by the department which shall include the following:

(i) information required by the department to document the amount of natural gas purchased and used in manufacturing at the project facility;

(ii) information required by the department to document the amount of clean hydrogen to be purchased from sources within the Regional Clean Hydrogen Hub in this Commonwealth and used in manufacturing at the project facility;

(iii) information required by the department to verify that the applicant is a qualified taxpayer; and

(iv) any other information as the department deems appropriate.

(c) Review and approval.--

(1) The department shall review the applications and shall issue an approval or disapproval by May 1.

(2) Upon approval, the department shall issue a certificate stating the amount of the tax credit granted for natural gas purchased and used in manufacturing at the project facility in the prior calendar year.

(3) Upon approval, the department shall issue a certificate stating the amount of the tax credit granted for clean hydrogen purchased from sources located in a Regional Clean Hydrogen Hub located in this Commonwealth and used in manufacturing at the project facility in the prior calendar year.

(d) Availability of tax credits.--

(1) Each fiscal year, $50,000,000 in tax credits shall be made available to the department in accordance with this subarticle.

(2) The department shall issue up to $50,000,000 in a fiscal year to the qualified taxpayer which first meets the qualifications to receive a tax credit under this subarticle.

(3) An amount under paragraph (1) which remains unallocated under paragraph (2) shall be issued to the qualified taxpayer which next meets the qualifications to receive a tax credit under this subarticle.

(4) The total aggregate amount of tax credits awarded to a qualified taxpayer under this subarticle may not exceed 50% of the capital investment made to construct a project facility and place the project facility into service in this Commonwealth.

(1753-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1754-L. Use of tax credits.

(a) Initial use.--Prior to sale or assignment of a tax credit under section 1756-L, a qualified taxpayer must first use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved.

(b) Eligibility.--The tax credit may be applied against up to 20% of the qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the tax credit was approved.

(c) Limit.--A qualified taxpayer that has been granted a tax credit under this subarticle shall be ineligible for any other tax credit provided under this act or a tax benefit as defined in section 1701-A.1.

(1754-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1755-L. Carryover, carryback and refund.

A tax credit cannot be carried back, carried forward or be used to obtain a refund.

(1755-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1756-L. Sale or assignment.

(a) Authorization.--If the qualified taxpayer holds a tax credit through the end of the calendar year in which the tax credit was granted, the qualified taxpayer may sell or assign a tax credit, in whole or in part, provided the sale is effective by the close of the following calendar year.

(b) Application.--

(1) To sell or assign a tax credit, a qualified taxpayer must submit an application for the sale or assignment of the tax credit with the department. The application must be on a form required by the department.

(2) To approve an application, the department must receive:

(i) a finding from the department that the applicant has:

(A) filed all required State tax reports and returns for all applicable taxable years; and

(B) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal; and

(ii) for a sale or assignment to a company that is not an upstream company or downstream company, a certification from the qualified taxpayer that the qualified taxpayer has offered to sell or assign the tax credit:

(A) exclusively to a downstream company for a period of 30 days following approval of the tax credit under section 1753-L(c); and

(B) to an upstream company or downstream company for a period of 30 days following expiration of the period under clause (A).

(c) Approval.--Upon approval by the department, a qualified taxpayer may sell or assign, in whole or in part, a tax credit.

(1756-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1757-L. Purchasers and assignees.

(a) Time.--The purchaser or assignee under section 1756-L must claim the tax credit in the calendar year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee under section 1756-L may use against any one qualified tax liability may not exceed 50% of any of the qualified tax liabilities of the purchaser or assignee for the taxable year.

(c) Resale and assignment.--

(1) A purchaser under section 1756-L may not sell or assign the purchased tax credit.

(2) An assignee under section 1756-L may not sell or assign the assigned tax credit.

(d) Notice.--The purchaser or assignee under section 1756-L shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(1757-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1758-L. Pass-through entity.

(a) Election.--If a pass-through entity has an unused tax credit, the pass-through entity may elect, in writing, according to procedures established by the department, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Amount.--The amount of the tax credit that a transferee under subsection (a) may use against any one qualified tax liability may not exceed 20% of any qualified tax liabilities for the taxable year.

(d) Time.--A transferee under subsection (a) must claim the tax credit in the calendar year in which the transfer is made.

(e) Sale and assignment.--A transferee under subsection (a) may not sell or assign the tax credit.

(1758-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1759-L. (Reserved).

(1759-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1760-L. Guidelines and regulations.

The department shall develop written guidelines for the implementation of this subarticle. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this subarticle.

(1760-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1761-L. Report to General Assembly.

(a) Report.--

(1) No later than the year after which tax credits are first awarded under this subarticle, and each October 1 thereafter, the department shall submit a report to the General Assembly summarizing the effectiveness of the tax credit. The report shall include the names of all qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by each qualified taxpayer. The report shall be submitted to all of the following:

(i) The chair and minority chair of the Appropriations Committee of the Senate.

(ii) The chair and minority chair of the Appropriations Committee of the House of Representatives.

(iii) The chair and minority chair of the Finance Committee of the Senate.

(iv) The chair and minority chair of the Finance Committee of the House of Representatives.

(v) The chair and minority chair of the Environmental Resources and Energy Committee of the Senate.

(vi) The chair and minority chair of the Environmental Resources and Energy Committee of the House of Representatives.

(2) In addition to the information required under paragraph (1), the report shall include the following information in a manner separated by geographic location within this Commonwealth:

(i) The amount of tax credits claimed by qualified taxpayers during the fiscal year.

(ii) The total number of new jobs and permanent jobs created by qualified taxpayers during the fiscal year, including the duration of the jobs.

(b) Public information.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report under subsection (a) shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(1761-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1762-L. Applicability.

This subarticle shall apply to the purchase of clean hydrogen from sources located in a Regional Clean Hydrogen Hub within this Commonwealth or natural gas used in manufacturing at a project facility for the period beginning January 1, 2024, and ending December 31, 2043.

(1762-L added Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE E
SEMICONDUCTOR MANUFACTURING AND BIOMEDICAL MANUFACTURING AND RESEARCH
(Subart. added Nov. 3, 2022, P.L.1695, No.108)

Section 1771-L. Definitions.

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

"Biomedical manufacturing." The manufacture of products or the creation of processes that advance the understanding, treatment and prevention of disease.

"Biomedical research." Scientific research encompassing the application of the biological sciences, especially biochemistry, molecular biology and genetics, for the understanding, treatment and prevention of disease.

"Project facility." A facility located in this Commonwealth which is owned and operated by the qualified taxpayer and where semiconductor manufacturing, biomedical manufacturing or biomedical research is conducted by the qualified taxpayer at the project facility.

"Qualified taxpayer." A company that satisfies all of the following:

(1) Conducts semiconductor manufacturing, biomedical manufacturing or biomedical research in this Commonwealth at a project facility in this Commonwealth that has been placed in service on or after the effective date of this section.

(2) Has made a capital investment of at least $200,000,000 in order to construct the project facility and place the project facility into service in this Commonwealth.

(3) Has created a minimum aggregate total of 800 permanent jobs.

(4) Has made good faith efforts to recruit and employ, and to encourage any contractors or subcontractors to recruit and employ, workers from the local labor market for employment during the construction of the project facility.

(5) Has demonstrated that the new jobs created at the project facility or for work covered by Subarticle F are paid at least the prevailing minimum wage and benefit rates for each craft or classification as determined by the Department of Labor and Industry.

(6) The construction work to place a project facility into service shall be performed subject to the act of March 3, 1978 (P.L.6, No.3), known as the Steel Products Procurement Act.

"Semiconductor manufacturing." The manufacture of components or the creation of advanced processes or technology within the semiconductor manufacturing and related equipment and material supplier sector.

(1771-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1772-L. Eligibility.

In order to be eligible to receive a tax credit, a company shall demonstrate the following:

(1) The company meets the requirements of a qualified taxpayer.

(2) Confirmation that the company has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal.

(1772-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1773-L. Application and approval of tax credit.

(a) Determination of tax credit amount.--The annual tax credit amount may be determined based upon any one or more of the following:

(1) No more than 2.5% of the capital investment.

(2) No more than 100% of tax withheld from employees and paid under Article III or $20,000, whichever is less, for each permanent job at the project facility.

(b) Application.--

(1) A qualified taxpayer may apply to the department for a tax credit under this section.

(2) The application must be submitted to the department by March 1 for the tax credit claimed for semiconductor manufacturing, biomedical manufacturing or biomedical research conducted by the qualified taxpayer at the project facility during the prior calendar year.

(3) The application must be on the form required by the department which shall include the following:

(i) information required by the department to document the semiconductor manufacturing, biomedical manufacturing or biomedical research conducted at the project facility;

(ii) information required by the department to verify that the applicant is a qualified taxpayer; and

(iii) any other information as the department deems appropriate.

(c) Review and approval.--

(1) The department shall review the applications and shall issue an approval or disapproval by May 1.

(2) Upon approval, the department shall issue a certificate stating the amount of the tax credit granted for semiconductor manufacturing, biomedical manufacturing or biomedical research conducted at the project facility in the prior calendar year.

(d) Availability of tax credits.--

(1) Each fiscal year, $20,000,000 in tax credits shall be made available to the department in accordance with this subarticle.

(2) The department shall issue up to $10,000,000 in a fiscal year to the qualified taxpayer engaged in semiconductor manufacturing which first meets the qualifications to receive a tax credit under this subarticle.

(3) The department shall issue up to $10,000,000 in a fiscal year to the qualified taxpayer engaged in biomedical manufacturing or biomedical research which first meets the qualifications to receive a tax credit under this subarticle.

(4) An amount under paragraph (1) which remains unallocated under paragraph (2) or (3) shall be issued to the qualified taxpayer which next meets the qualifications to receive a tax credit under this subarticle.

(5) The total aggregate amount of tax credits awarded to a qualified taxpayer under this subarticle may not exceed 25% of the capital investment made to construct a project facility.

(1773-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1774-L. Use of tax credits.

(a) Initial use.--Prior to sale or assignment of a tax credit under section 1776-L, a qualified taxpayer must first use a tax credit against the qualified tax liability incurred in the taxable year for which the tax credit was approved.

(b) Eligibility.--The tax credit may be applied against up to 20% of the qualified taxpayer's qualified tax liabilities incurred in the taxable year for which the tax credit was approved.

(c) Limit.--A qualified taxpayer that has been granted a tax credit under this subarticle shall be ineligible for any other tax credit provided under this act or a tax benefit as defined in section 1701-A.1.

(1774-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1775-L. Carryover, carryback and refund.

A tax credit cannot be carried back, carried forward or be used to obtain a refund.

(1775-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1776-L. Sale or assignment.

(a) Authorization.--If the qualified taxpayer holds a tax credit through the end of the calendar year in which the tax credit was granted, the qualified taxpayer may sell or assign a tax credit, in whole or in part, provided the sale is effective by the close of the following calendar year.

(b) Application.--

(1) To sell or assign a tax credit, a qualified taxpayer must file an application for the sale or assignment of the tax credit with the department. The application must be on a form required by the department.

(2) To approve an application, the department must receive:

(i) a finding from the department that the applicant has:

(A) filed all required State tax reports and returns for all applicable taxable years; and

(B) paid any balance of State tax due as determined by assessment or determination by the department and not under timely appeal; and

(ii) for a sale or assignment to a company that is not an upstream company or downstream company, a certification from the qualified taxpayer that the qualified taxpayer has offered to sell or assign the tax credit:

(A) exclusively to a downstream company for a period of 30 days following approval of the tax credit under section 1773-

L(c); and

(B) to an upstream company or downstream company for a period of 30 days following expiration of the period under clause (A).

(c) Approval.--Upon approval by the department, a qualified taxpayer may sell or assign, in whole or in part, a tax credit.

(1776-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1777-L. Purchasers and assignees.

(a) Time.--The purchaser or assignee under section 1776-L must claim the tax credit in the calendar year in which the purchase or assignment is made.

(b) Amount.--The amount of the tax credit that a purchaser or assignee under section 1776-L may use against any one qualified tax liability may not exceed 50% of any of the qualified tax liabilities of the purchaser or assignee for the taxable year.

(c) Resale and assignment.--

(1) A purchaser under section 1776-L may not sell or assign the purchased tax credit.

(2) An assignee under section 1776-L may not sell or assign the assigned tax credit.

(d) Notice.--The purchaser or assignee under section 1776-L shall notify the department of the seller or assignor of the tax credit in compliance with procedures specified by the department.

(1777-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1778-L. Pass-through entity.

(a) Election.--If a pass-through entity has an unused tax credit, the pass-through entity may elect, in writing, according to procedures established by the department, to transfer all or a portion of the tax credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholders, members or partners are entitled.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Amount.--The amount of the tax credit that a transferee under subsection (a) may use against any one qualified tax liability may not exceed 20% of any qualified tax liabilities for the taxable year.

(d) Time.--A transferee under subsection (a) must claim the tax credit in the calendar year in which the transfer is made.

(e) Sale and assignment.--A transferee under subsection (a) may not sell or assign the tax credit.

(1778-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1779-L. (Reserved).

(1779-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1780-L. Guidelines and regulations.

The department shall develop written guidelines for the implementation of this subarticle. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this subarticle.

(1780-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1781-L. Report to General Assembly.

(a) Report.--

(1) No later than the year after which tax credits are first awarded under this subarticle, and each October 1 thereafter, the department shall submit a report to the General Assembly summarizing the effectiveness of the tax credit. The report shall include the names of all qualified taxpayers utilizing the tax credit as of the date of the report and the amount of tax credits approved for, utilized by or sold or assigned by each qualified taxpayer. The report shall be submitted to the following:

(i) The chair and minority chair of the Appropriations Committee of the Senate.

(ii) The chair and minority chair of the Appropriations Committee of the House of Representatives.

(iii) The chair and minority chair of the Finance Committee of the Senate.

(iv) The chair and minority chair of the Finance Committee of the House of Representatives.

(2) In addition to the information required under paragraph (1), the report shall include the following information in a manner separated by geographic location within this Commonwealth:

(i) The amount of tax credits claimed by qualified taxpayers during the fiscal year.

(ii) The total number of new jobs and permanent jobs created by qualified taxpayers during the fiscal year, including the duration of the jobs.

(b) Public information.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report under subsection (a) shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(1781-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1782-L. Applicability.

(a) Duration.--The tax credit under this subarticle shall apply to semiconductor manufacturing, biomedical manufacturing or biomedical research conducted at each project facility for a period of five years.

(b) Limitation.--The total aggregate amount of tax credits awarded by the department under this subarticle may not exceed $100,000,000.

(1782-L added Nov. 3, 2022, P.L.1695, No.108)

SUBARTICLE F
APPLICATION OF PREVAILING WAGE ACT
(Subart. added Nov. 3, 2022, P.L.1695, No.108)

Section 1791-L. Definitions.

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

"Qualified project facility." Any of the following:

(1) A project facility as defined in section 1711-L.

(2) A project facility as defined in section 1731-L.

(3) A project facility as defined in section 1751-L.

(4) A project facility as defined in section 1771-L.

"Qualified tax credit recipient." Any of the following who have been awarded a tax credit:

(1) A qualified taxpayer as defined in section 1711-L.

(2) A qualified taxpayer as defined in section 1731-L.

(3) A qualified taxpayer as defined in section 1751-L.

(4) A qualified taxpayer as defined in section 1771-L.

(1791-L added Nov. 3, 2022, P.L.1695, No.108)

Section 1792-L. Prevailing wage.

(a) Application.--A qualified project facility for which a qualified tax credit is sought and awarded under this article is deemed to meet each of the minimum requirements necessary to apply the wage and benefit rates, and related certification of payroll records, required by the Prevailing Wage Act. A qualified tax credit recipient, or the qualified tax credit recipient's agent, and all contractors and subcontractors, of every tier, engaged to perform on the qualified project facility must comply with all provisions and requirements of the Prevailing Wage Act for all new jobs and for all crafts or classifications performing construction, reconstruction, demolition, alteration and repair work, other than maintenance work, undertaken at the qualified project facility during the initial construction and during any period in which qualified tax credits are sought and awarded for the qualified project facility.

(b) Compliance.--The Department of Labor and Industry shall enforce this section and shall apply the same administration and enforcement

applicable to any project of construction, reconstruction, demolition, alteration and repair work, other than maintenance work, undertaken pursuant to the requirements of the Prevailing Wage Act to ensure compliance.

(c) Notification.--Prior to the solicitation of bids or proposals of any contract or subcontract covered under subsection (a), the qualified tax credit recipient, or the qualified tax credit recipient's agent, shall notify the Department of Labor and Industry of the solicitation and request the issuance of a wage and benefit rate determination for all crafts and classifications anticipated to perform at the qualified project facility. Rate requests shall be in conformity with the procedures of the Prevailing Wage Act, and the Department of Labor and Industry shall issue rates upon request as required pursuant to this section and the provisions of the Prevailing Wage Act.

(d) Violation.--In addition to enforcement authorized under the Prevailing Wage Act and subsection (b), if, after notice and hearing, the Department of Labor and Industry determines that the qualified tax credit recipient intentionally failed to pay or intentionally caused another to fail to pay prevailing wage rates or benefit rates as specified under section 11(h) of the Prevailing Wage Act for work covered under subsection (a), or ratified an intentional failure by any contractors or subcontractors of the qualified tax credit recipient, the qualified tax credit recipient shall be required to refund 10% of the amount of the tax credits awarded to the qualified tax credit recipient for the first fiscal year for which qualified tax credits are awarded, in the case of initial construction, or the fiscal year in which the intentional noncompliance occurred as determined by the department.

(e) Appeal.--A finding of a violation under subsection (d) shall be appealable under section 2.2(e)(1) of the Prevailing Wage Act and 34 Pa. Code § 213.3 (relating to appeals from determinations of the secretary). Any final determination by the appeals board under the Prevailing Wage Act may be appealed under 2 Pa.C.S. (relating to administrative law and procedure).

(1792-L added Nov. 3, 2022, P.L.1695, No.108)

ARTICLE XVIII
ORGAN AND BONE MARROW DONATION CREDIT
(Art. added Oct. 31, 2014, P.L.2925, No.193)

Compiler's Note: See the preamble to Act 193 in the appendix to this act for special provisions relating to legislative findings.

Section 1801. Scope.

This article relates to tax credits for organ and bone marrow donation.

(1801 added Oct. 31, 2014, P.L.2925, No.193)

Section 1802. Definitions.

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

"Business firm." An entity authorized to do business in this Commonwealth and subject to the taxes imposed by Article III, IV, VI, VII, VIII, IX or XV. This term also includes a natural person as such or as a member of a partnership or a shareholder in a Pennsylvania S corporation and estates and trusts receiving income as set forth in section 1803.

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

"Leave of absence period." The period, not exceeding five working days or the hourly equivalent of five working days per employee, during which a business firm provides a paid leave of absence to the employee for the purpose of organ or bone marrow donation. The term does not include a period during which an employee utilizes any annual leave or sick days that the employee has been given by the employer.

"Pass-through entity." A partnership or Pennsylvania S corporation as defined in section 301(n.0) and (s.2), respectively.

(1802 added Oct. 31, 2014, P.L.2925, No.193)

Section 1803. Organ and bone marrow donor tax credit.

(a) Qualification.--

(1) Except as set forth in paragraph (2), every business firm which provides one or more paid leaves of absence to employees for the specific purpose of organ or bone marrow donation shall qualify for the organ or bone marrow donor tax credit. A business firm which qualifies for the credit may apply that credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV.

(2) Notwithstanding paragraph (1), the credit shall not be applied against any tax withheld by an employer from an employee under Article III.

(b) Calculation of credit.--

(1) The tax credit amount shall be equal to the amount of employee compensation paid during the leave of absence period, the cost of temporary replacement help, if any, during the leave of absence period and any miscellaneous expenses authorized by regulation that are incurred in connection with the leave of absence period. Credits calculated for a business firm subject to tax in another state shall be apportioned to this Commonwealth in the manner specified by regulation.

(2) If the employee on paid leave of absence is employed by a business firm organized as a pass-through entity, the credit shall be calculated in proportion to the member's or shareholder's portion of the pass-through entity's income. In the case of a trust or estate with income credited to or distributed to a beneficiary, the credit shall be measured in proportion to the beneficiary's share of income.

(c) Unused credit.--Credits not used for the taxable year during which a leave of absence was granted may be carried over for three taxable years. Credits shall not be carried back against preceding taxable years and shall not be refundable.

(1803 added Oct. 31, 2014, P.L.2925, No.193)

Section 1804. Duties of department.

(a) Duties enumerated.--The department shall:

(1) In the manner provided by law, promulgate the regulations necessary to implement section 1803.

(2) Create and publish forms upon which taxpayers may apply for the tax credit authorized by this article.

(3) Within five months after the close of any calendar year during which tax credits granted pursuant to this article were used, furnish to the members of the General Assembly an annual report providing, as to each business firm which used tax credits during the preceding calendar year pursuant to this article, the employer's name, address, standard industrial classification code and the amount of tax credits granted.

(b) Certain provisions not to apply.--The provisions of sections 353(f) and 408(b), relating to confidentiality of information, and any other provisions of law preventing the disclosure of information required under subsection (a)(3), shall not apply when the information is divulged for the purposes of subsection (a)(3).

(1804 added Oct. 31, 2014, P.L.2925, No.193)

Section 1805. Procedures.

(a) Deadline for filing applications.--Applications for tax credits shall be filed not later than the 15th day of the fourth month following the close of the business firm's taxable year.

(b) Notification of tax credit authorization and incomplete applications.--

(1) The department shall notify the business firm regarding the authorization of tax credits, including the amount of the credit available.

(2) The department may return an incomplete application to the business firm or request additional information, documents or signatures from the business firm.

(3) An application shall be complete and processible only if it is signed by an authorized representative of the business firm and contains

the individual's or entity's name, identifying numbers, address and sufficient proof, which the department may require at its discretion, including written verification by a physician or similar documentation of the length and purpose of the donor's leave and the amount of the employee's compensation and costs associated with temporary replacement help and proof that temporary replacement help is needed because of the donor's leave.

(c) Appeals.--Appeals from determinations made pursuant to this article shall be made through the administrative provisions of this act, applicable to the particular taxes against which the business firm or its members, shareholders or beneficiaries claim such credits.

(1805 added Oct. 31, 2014, P.L.2925, No.193)

Section 1806. Applicability.

(a) Prior law.--This article shall not affect taxable years governed by section 6 of the former act of July 2, 2006 (P.L.292, No.65), known as the Organ and Bone Marrow Donor Act.

(b) Current law.--This article shall apply to taxable years beginning after December 31, 2010.

(1806 added Oct. 31, 2014, P.L.2925, No.193)

Section 1807. Procedures.--(1807 repealed June 22, 2001, P.L.353, No.23)

Section 1808. Expiration of Tax Credit.--(1808 repealed June 22, 2001, P.L.353, No.23)

Section 1809. Sunset.--(1809 repealed June 22, 2001, P.L.353, No.23)

ARTICLE XVIII-A
COAL WASTE REMOVAL AND ULTRACLEAN FUELS TAX CREDIT
(Art. repealed July 9, 2013, P.L.270, No.52)

Section 1801-A. Short Title.--(1801-A repealed July 9, 2013, P.L.270, No.52)

Section 1802-A. Definitions.--(1802-A repealed July 9, 2013, P.L.270, No.52)

Section 1803-A. Investment Tax Credits Program.--(1803-A repealed July 9, 2013, P.L.270, No.52)

Section 1804-A. Contract Required.--(1804-A repealed July 9, 2013, P.L.270, No.52)

Section 1805-A. Requirements.--(1805-A repealed July 9, 2013, P.L.270, No.52)

ARTICLE XVIII-B
TAX CREDIT FOR NEW JOBS
(Art. added June 22, 2001, P.L.353, No.23)

Section 1801-B. Definitions.

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

"Base period." The three years preceding the date on which a company may begin creating new jobs which may be eligible for job creation tax credits.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Job creation tax credits." Tax credits for which the department has issued a certificate under this article.

"New job." A full-time job, the average hourly rate, excluding benefits, for which must be at least 150% of the Federal minimum wage, created within a municipality located in this Commonwealth by a company within three years from the start date.

"Small business." A company that is engaged in a for-profit enterprise and that employs 100 or fewer individuals. (Def. added July 2, 2012, P.L.751, No.85)

"Start date." The date on which a company may begin creating new jobs which may be eligible for job creation tax credits.

"Unemployed individual." An individual who at the time of hiring meets all of the following:

(1) Is hired on or after July 1, 2012.

(2) Certifies by signed affidavit, under penalty of perjury, that the individual has not been employed during the 60-day period ending on the date the individual begins employment.

(3) Is not employed by the company to replace another employee of the company unless the other employee separated from employment voluntarily or for cause.

(4) Will perform duties connected to the new job for at least 52 consecutive weeks.

(Def. added July 2, 2012, P.L.751, No.85)

"Veteran." An individual who served on active duty in the United States Armed Forces, including any of the following:

(1) A reservist or member of the National Guard who was discharged or released from the service under honorable conditions.

(2) A reservist or member of the National Guard who completed an initial term of enlistment or qualifying period of service.

(3) A reservist or member of the National Guard who was disabled in the line of duty during training.

(Def. added July 13, 2016, P.L.526, No.84)

"Year one." A one-year period immediately following the start date.

"Year three." A one-year period immediately following the end of year two.

"Year two." A one-year period immediately following the end of year one.

(1801-B added June 22, 2001, P.L.353, No.23)

Section 1802-B. Eligibility.

In order to be eligible to receive job creation tax credits, a company must demonstrate to the department the following:

(1) The ability to create the number of jobs required by the department within three years from the start date.

(2) Leadership in the application, development or deployment of leading technologies.

(3) Financial stability and the project's financial viability.

(4) The intent to maintain operations in this Commonwealth for a period of five years from the date the company submits its tax credit certificate to the Department of Revenue.

(5) An affirmation that the decision to expand or locate in this Commonwealth was due in large part to the availability of a job creation tax credit.

(1802-B added June 22, 2001, P.L.353, No.23)

Section 1803-B. Application process.

(a) Application.--A company must complete and submit to the department a job creation tax credit application.

(b) Creation of jobs.--Except as provided under this subsection, an applicant must agree to create at least 25 new jobs or to increase the applicant's number of employees by at least 20% within three years of the start date. A small business applicant must agree to increase the applicant's number of employees by at least 10% within three years after the start date. ((b) amended July 2, 2012, P.L.751, No.85)

(c) Approval.--If the department approves the company's application, the department and the company shall execute a commitment letter containing the following:

(1) A description of the project.

(2) The number of new jobs to be created.

(3) The amount of private capital investment in the project.

(3.1) A statement authorizing the per job credit as a single year or multiple year credit.

(4) The maximum job creation tax credit amount the company may claim.

(5) A signed statement that the company intends to maintain its operation in this Commonwealth for five years from the start date.

(6) Such other information as the department deems appropriate.

((c) amended July 2, 2012, P.L.751, No.85)

(d) Commitment letter.--After a commitment letter has been signed by both the Commonwealth and the company, the company shall receive a job creation tax credit certificate and filing information.

(e) Expiration.--The department may not approve an application for a tax credit under this article after June 30, 2020. ((e) added June 28, 2019, P.L.50, No.13)

(1803-B added June 22, 2001, P.L.353, No.23)

Section 1804-B. Tax credits.

(a) Maximum amount.--A company may claim a tax credit of $1,000 per new job created, or $2,500 per each new job created if the newly created job is filled by a veteran or an unemployed individual, up to the maximum job creation tax credit amount specified in the commitment letter. ((a) amended July 13, 2016, P.L.526, No.84)

(b) Determination of new jobs created.--

(1) New jobs shall be deemed created in year one to the extent that the company's average employment by quarter during year one exceeds the company's average employment level during the company's base period.

(2) New jobs shall be deemed created in year two to the extent that the company's average employment by quarter during year two exceeds the company's average employment by quarter during year one.

(3) New jobs shall be deemed created in year three to the extent that the company's average employment by quarter during year three exceeds the company's average employment by quarter during year two.

(c) Applicable taxes.--A company may apply the tax credit to 100% of the company's State corporate net income tax, capital stock and franchise tax or the capital stock and franchise tax of a shareholder of the company if the company is a Pennsylvania S corporation, gross premiums tax, gross receipts tax, bank and trust company shares tax, mutual thrift institution tax, title insurance company shares tax, personal income tax or the personal income tax of shareholders of a Pennsylvania S corporation or any combination thereof.

(d) Tax credit term.--

(1) A company may claim the job creation tax credit for each new job created, as approved by the department, for a one-year, two-year or three-year period as authorized by the department, except that no tax credit may be claimed for more than five years from the date the company first submits a job creation tax credit certificate. The department may award the total amount of tax credit authorized for a multiple-year tax credit in the first year in which the new job is created and the tax credit earned.

(2) Notwithstanding the provisions of paragraph (1), nothing in this article shall be construed to prohibit the Department of Community and Economic Development from awarding the total amount of tax credit authorized for a multiple-year tax credit in the first year in which the new job is created and the tax credit earned.

((d) amended July 13, 2016, P.L.526, No.84)

(e) Availability of tax credits.--Each fiscal year, $10,100,000 in tax credits shall be made available to the department and may be awarded by the department in accordance with this article. In addition, in any fiscal year, the department may reissue or assign prior fiscal year tax credits which have been recaptured under section 1806-B(a) or (b) and may award prior fiscal year credits not previously issued. Prior fiscal year credits may be reissued, assigned or awarded by the department without limitation by section 1805-B(b). ((e) amended July 2, 2012, P.L.751, No.85)

(1804-B added June 22, 2001, P.L.353, No.23)

Compiler's Note: Section 27.1 of Act 85 of 2012, which amended the subsecs. (a), (d) and (e), provided that a company may claim the tax credit under section 1804-B for each newly created job filled by an

unemployed individual on or after the effective date of section 27.1.

Section 1805-B. Prohibitions.

(a) Prohibitions.--The following actions with regard to job creation tax credits are prohibited:

(1) Approval of jobs that have been created prior to the start date.

(2) Approval for a company which is relocating operations from one municipality in this Commonwealth to another unless special circumstances exist and the municipality that is losing the existing jobs has an opportunity to submit comments prior to action by the department. If the department approves the tax credits, the company must commit to preserving the existing employees, and the credit shall apply only to the new jobs.

(3) The assignment, transfer or use of credits by any other company, provided, however, that tax credits may be assigned in whole or in part to an affiliated entity. As used in this paragraph, the term "affiliated entity" means an entity which is part of the same "affiliated group," as defined by section 1504(a)(1) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)(1)), as the company awarded the credit.

(b) Allocations.--Twenty-five percent of the total amount of all tax credits authorized in any fiscal year under section 1804-B(e) shall be available to companies with fewer than 100 employees. Any portion of this allocation not committed by April 30 of each year shall be available to any business which meets the remaining program criteria.

(1805-B added June 22, 2001, P.L.353, No.23)

Section 1806-B. Penalties.

(a) Failure to maintain operations.--A company which receives job creation tax credits and fails to substantially maintain existing operations and the operations related to the job creation tax credits in this Commonwealth for a period of five years from the date the company first submits a job creation tax credit certificate to the Department of Revenue shall be required to refund to the Commonwealth the total amount of credit or credits granted.

(b) Failure to create jobs.--A company which receives job creation tax credits and fails to create the approved number of new jobs within three years of the start date will be required to refund to the Commonwealth the total amount of credit or credits granted.

(c) Waiver.--The department may waive the penalties outlined in subsections (a) and (b) if it is determined that a company's operations were not maintained or the new jobs were not created because of circumstances beyond the company's control. Such circumstances include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

(1806-B added June 22, 2001, P.L.353, No.23)

ARTICLE XVIII-C
CITY REVITALIZATION AND IMPROVEMENT ZONES
(Art. hdg. amended July 9, 2013, P.L.270, No.52)

Section 1801-C. Scope of article.

This article relates to city revitalization and improvement zones.

(1801-C added July 9, 2013, P.L.270, No.52)

Section 1802-C. Definitions.

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

"Baseline tax amount." The amount of State or local eligible taxes paid relating to each qualified business that is not a new business, less eligible State or local tax refunds, relating to each qualified business for the first full calendar year in which the qualified business established a presence in the zone.

"Baseline year." The calendar year in which a zone was established.

"Bond." The term includes any public or private financing, note, mortgage, loan, deed of trust, instrument, refunding note or other evidence of indebtedness or obligation.

"Business personal property." The term includes furniture, fixtures, equipment and other similar property purchased and used in the zone.

"City." A city of the second class A or third class or a home rule city or a municipality with a population of at least 20,000 based on the most recent Federal decennial census. The term does not include a city that is determined to be distressed under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act. (Def. amended July 11, 2024, P.L.674, No.56)

"City revitalization and improvement zone." An area of not more than 130 acres in a city or municipality, that may include an area in one or more contiguous municipalities, comprised of parcels designated by the contracting authority, which will provide economic development and job creation within a city or one or more contiguous municipalities. (Def. amended July 11, 2024, P.L.674, No.56)

"Contracting authority." A new or existing authority established or designated by a city, municipality or home rule county to designate and administer zones. The term shall include:

(1) An authority established under 53 Pa.C.S. Ch. 56 (relating to municipal authorities).

(2) An authority established under the former act of December 27, 1994 (P.L.1375, No.162), known as the Third Class County Convention Center Authority Act, or under Article XXIII(n) or (o) of the act of August 9, 1955 (P.L.323, No.130), known as the County Code.

(3) An authority established by a contiguous municipality under 53 Pa.C.S. Ch. 56 for the purposes of this act.

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

"Earned income tax." A tax imposed on earned income within a zone under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, which a city, or a school district contained entirely within the boundaries of or coterminous with the city, is entitled to receive.

"Eligible tax." Any of the following taxes:

(1) Corporate net income tax, capital stock and franchise tax, bank shares tax, personal income tax paid by shareholders, members or partners of Subchapter S corporations, limited liability companies, partnerships or sole proprietors on income other than passive activity income as defined under section 469 of the Internal Revenue Code of 1986 (Public Law 99-516, 26 U.S.C. § 1 et seq.) or business privilege tax, calculated and apportioned as to amount attributable to the location within the zone and calculated under section 1904-B(b) and (c).

(1.1) For a zone designated after July 1, 2024, insurance premiums tax, calculated and apportioned as to the amount attributable to the location within the zone and calculated under section 1904-B(c).

(2) Amusement tax, only to the extent the tax is related to the activity of a qualified business within the zone.

(3) Sales and use tax, only to the extent the tax is related to the activity of a qualified business within the zone. The term includes sales and use taxes on material used for construction in the zone and business personal property to be used by the qualified business in the zone.

(3.1) The hotel occupancy tax imposed under Part V of Article II.

(4) Personal income tax withheld from its employees by a qualified business for work performed in the zone.

(5) Local services tax withheld from its employees by a qualified business for work performed in the zone.

(6) Earned income tax withheld from its employees by a qualified business for work performed in the zone.

(7) All taxes paid to the Commonwealth, or an amount equal to all of the taxes paid to the Commonwealth, related to the purchase or sale of liquor, wine or malt or brewed beverages by a licensee located in the zone for purchases that occurred outside the zone.

The term does not include cigarette tax.
(Def. amended July 11, 2024, P.L.674, No.56)
"Facility." A structure or complex of structures in a zone to be used for commercial, industrial, sports, exhibition, hospitality, conference, retail, community, office, recreational or mixed-use purposes.
"Increment." The amount of eligible taxes generated by a new business, taxes excluded from the baseline tax amount pursuant to section 1810-C(b)(3) and amount of eligible taxes generated by a qualified business above the qualified business's baseline tax amount.
"Infrastructure." Any improvements in or out of the zone that the contracting authority determines to be related to the development of a facility in the zone, including, but not limited to, improvements to utilities, water, sewer, storm water, parking, road improvements or telecommunications within the city or municipality or within a municipality contiguous to that city or municipality. (Def. amended June 28, 2019, P.L.50, No.13)
"Licensee." An individual licensed under the act of April 12, 1951 (P.L.90, No.21), known as the Liquor Code.
"Lobbyist." As defined in 65 Pa.C.S. § 13A03 (relating to definitions).
"Municipality." An incorporated town, a township or a borough. The term does not include an incorporated town, a township or a borough that is determined to be distressed under the Municipalities Financial Recovery Act. (Def. amended July 11, 2024, P.L.674, No.56)
"New business." Any of the following:
(1) any new or separate legal entity that locates or has a location in the zone; or
(2) a business already located in this Commonwealth and conducting operations outside the zone which expands into the zone with a new operation as evidenced by a new facility, business personal property, products or additional employees and continues operations outside the zone without substantial change in business. Only eligible taxes related to activity within the zone shall be attributable to the location in the zone.
"Office." The Office of the Budget.
"Pilot zone." An area of not more than 100 acres designated by the contracting authority prior to July 1, 2024, following application and approval by the Department of Community and Economic Development, the office and the department which will provide economic development and job creation within one or more municipalities, with a total population of at least 7,000 based on the most recent Federal decennial census. (Def. amended July 11, 2024, P.L.674, No.56)
"Professional services." Any of the following:
(1) Legal services.
(2) Advertising or public relations services.
(3) Engineering services.
(4) Architectural, landscaping or surveying services.
(5) Accounting, auditing or actuarial services.
(6) Security consultant services.
(7) Computer and information technology services, except telephone service.
(8) Insurance underwriting services.
(9) Compliance services.
(10) Financial auditing services.
"Qualified business." As follows:
(1) An entity located or partially located in a zone which meets the requirements of all of the following:
(i) Has conducted an active trade or business in the zone.
(ii) Appears on the timely filed list under section 1807-C(a).
(2) A construction contractor engaged in construction, including infrastructure or site preparation, reconstruction or renovation of a facility.
(3) The term does not include an agent, broker or representative of a business.

"Zone." Any of the following:

(1) A city revitalization and improvement zone.

(2) A pilot zone.

"Zone Fund." A city revitalization and improvement zone or pilot zone fund established under section 1808-C.

(1802-C amended July 13, 2016, P.L.526, No.84)

Section 1803-C. Establishment or designation of contracting authority.

(a) Authorization.--The following shall apply:

(1) A city, municipality or municipalities may establish or designate a contracting authority to designate a zone under this article.

(2) The board of directors of the contracting authority of a zone designated after July 1, 2024, shall include:

(i) members with diverse skill sets in the areas of government, law, finance, banking, economic development, community development, planning, project management, project engineering, real estate development and environmental remediation;

(ii) residents of the zone and business owners located in the zone; and

(iii) residents, business owners and business representatives from the city, municipality or municipalities that created the zone.

(b) Distressed cities.--((b) deleted by amendment).

(c) Counties.--((c) deleted by amendment).

(1803-C amended July 11, 2024, P.L.674, No.56)

Section 1803.1-C. Contracting authority duties.

A contracting authority shall:

(1) Hold at least one public hearing on the plan for the designation of a zone. At the public hearing, any interested party may be heard.

(2) Prior to designation of the zone, post the name and address of the owner of each business and property to be located within the zone and a map of the zone on the website of the city or municipality where the zone will be located, if one exists. If a website does not exist, the map and list of names shall be published in a newspaper of general circulation serving the county where the zone is located. The map and list of names shall be made available for public inspection.

(3) Issue bonds and engage in the financing, construction, acquisition, development, related site preparation and infrastructure, reconstruction or renovation of facilities in accordance with this article.

(1803.1 added July 13, 2016, P.L.526, No.84)

Section 1804-C. Approval.

(a) Submission.--A contracting authority may apply to the Department of Community and Economic Development for approval of a zone plan. The application must include all of the following:

(1) A plan to establish one or more facilities which will promote economic development.

(2) An economic development plan, including a plan for the repayment of all bonds.

(3) Specific information relating to the facility which will be constructed, including infrastructure and site preparation, reconstructed or renovated as part of the plan.

(4) Other information as required by the Department of Community and Economic Development, the office or the department.

(5) A designation of the specific geographic area, including parcel numbers and a map of the zone with parcel numbers, of which the zone will consist.

(b) Agencies.--The Department of Community and Economic Development, the office and the department must approve each application.

(b.1) Review.--The Department of Community and Economic Development, the department and the office shall consider the following when determining a designation:

(1) Economic impact of the zone.

(2) Number of jobs that will be created.
(3) Potential State and local tax revenue impact.
(4) Financial fitness and ability of the applicant to repay bonds.
(5) The proximity to previously approved zones.
(6) Any other relevant factor.

(b.2) Additional approval.--Following the effective date of this subsection, applications may be approved for:

(1) Up to two zones for one or more municipalities with a population between 7,000 and 19,999 based on the most recent Federal decennial census.

(2) Up to two zones for one or more cities or municipalities with a population of 20,000 or more based on the most recent Federal decennial census.

((b.2) added July 11, 2024, P.L.674, No.56)

(c) Approval schedule.--((c) deleted by amendment July 11, 2024, P.L.674, No.56).

(c.1) Agreement.--An area that covers contiguous cities or municipalities shall require an agreement among each participant to be included in the zone, evidenced by a resolution of each participant.

(c.2) Single approval.--An application for one zone located in a city of the third class incorporated under optional charter which is located in a home rule county of the third class, is its county's seat and has a population of between 93,500 and 95,500 based on the 2020 Federal decennial census may be approved in the first year after the effective date of this subsection. A contracting authority designated under section 1803-C by a city of the third class incorporated under optional charter which is located in a home rule county of the third class, is its county's seat and has a population of between 93,500 and 95,500 based on the 2020 Federal decennial census shall have a board of directors consisting of nine members. The following shall apply:

(1) One voting member shall be appointed by the mayor and shall serve a five-year term.

(2) Two voting members shall be appointed by the State Representative of the 1st District. The following apply:

(i) One member appointed under this paragraph shall serve a two-year term.

(ii) One member appointed under this paragraph shall serve a five-year term.

(3) Two voting members shall be appointed by the State Representative of the 2nd District. The following apply:

(i) One member appointed under this paragraph shall serve a two-year term.

(ii) One member appointed under this paragraph shall serve a three-year term.

(4) Four voting members shall be appointed by the Senator from the 49th District.

(i) One member appointed under this paragraph shall serve a two-year term.

(ii) Two members appointed under this paragraph shall serve three-year terms.

(iii) One member appointed under this paragraph shall serve a five-year term.

(5) Terms specified in paragraphs (1), (2), (3) and (4) shall commence upon the date of appointment. Members may be reappointed for five-year terms following the expiration of the initial appointed term.

(6) Members serve without compensation.

(7) A vacancy on the board shall be filled by the same appointing authority as the initial appointment in accordance with paragraphs (1), (2), (3) and (4).

((c.2) added July 11, 2024, P.L.674, No.56)

(d) Schedule.--The Department of Community and Economic Development shall establish application deadlines and publish the deadlines on its

publicly accessible Internet website. ((d) amended July 11, 2024, P.L.674, No.56)

(e) Reapplication.--If an application is not approved under this section, the applicant may revise the application and plan and reapply for approval. ((e) amended July 11, 2024, P.L.674, No.56)

(f) Limitation.--No more than one zone may exist in a city or municipality at any given time.

(1804-C amended July 13, 2016, P.L.526, No.84)

Section 1805-C. Exclusions.

A part of a zone may not include a keystone opportunity zone, keystone opportunity expansion zone, keystone opportunity improvement zone, keystone innovation zone, keystone special development zone, neighborhood improvement zone or strategic development area.

(1805-C added July 9, 2013, P.L.270, No.52)

Section 1806-C. Functions of contracting authorities.

(a) Powers.--The contracting authority may do all of the following:

(1) Designate a zone where a facility may be acquired, constructed, including infrastructure and site preparation, reconstructed or renovated.

(2) Engage in the acquisition, development, construction, including infrastructure and site preparation, reconstruction or renovation of facilities.

(3) Engage in the public or private financing of the acquisition, development, construction, including infrastructure and site preparation, reconstruction or renovation of facilities.

(4) Utilize money under section 1813-C.

(b) Money from fund.--A member of the contracting authority may not receive money directly or indirectly from the fund.

(c) Prohibitions.--The following shall apply:

(1) A member, officer or employee of the contracting authority or a member of the governing body or the chief executive officer of the city, municipality or home rule county that created the contracting authority may not:

(i) Receive money from the zone fund for personal use.

(ii) Have a direct ownership interest in a property or parcel included in the zone.

(2) No member, officer, director or employee of the contracting authority, no member of the governing body and no chief executive officer may:

(i) Solicit, accept or receive from a person, firm, corporation or other business or professional organization doing business in the zone or with the contracting authority a gift or a gratuity. This subparagraph shall not apply to a gift or business entertainment of less than $250.

(ii) Directly or indirectly use for personal gain information not available to the public concerning the development of a project which comes to that individual as a result of the affiliation with the contracting authority city or municipality involved in the development or operation of the zone.

(c.1) Disclosure.--The board of directors of the contracting authority, governing body of a city or municipality, consultant, lobbyist or independent contractor of the contracting authority, city or municipality or home rule county creating the contracting authority must disclose the nature and extent of any financial interest as defined in 65 Pa.C.S. Ch. 11 (relating to ethics standards and financial disclosure) or that of his or her immediate family in property within the zone to the contracting authority, the city or municipality where the zone is located and to the Department of Community and Economic Development. The Department of Community and Economic Development must place the disclosures on the Department of Community and Economic Development's publicly accessible Internet website.

(d) Action by contracting authority.--The board of directors of the contracting authority or the governing body of a city or municipality in

which the zone is located must avoid a conflict of interest or impropriety with regard to a property or project in the zone or the operation or management of the zone. Each disclosure statement shall be made a part of the minutes of the contracting authority, city or municipality at a regular or special meeting.

(e) Copy.--The contracting authority must provide a copy of the disclosure under this section to each member, officer, director, employee, consultant, lobbyist and independent contractor of the contracting authority or governing body of the city or municipality in which the zone is located.

(f) Disciplinary action.--The contracting authority shall refer suspected violations to the State Ethics Commission or the county district attorney, if appropriate.

(g) Ethics.--A member of the contracting authority must comply with 65 Pa.C.S. Ch. 11.

(1806-C amended July 13, 2016, P.L.526, No.84)

Section 1807-C. Qualified businesses.

(a) List.--By June 1 following the end of the baseline year, and for every year thereafter, each contracting authority shall file with the department a complete list of all businesses located in the zone and all businesses engaged in acquisition, development, construction, including infrastructure and site preparation, reconstruction or renovation of a facility in the zone in the prior calendar year. The list shall include for each business the address, the names of the business owners or corporate officers, State tax identification number and parcel number and a map of the zone with parcel numbers.

(b) Time.--If the list under subsection (a) is not timely provided to the department, no eligible State tax shall be certified by the department for the prior calendar year.

(c) Audit.--The contracting authority shall hire an independent auditing firm to perform an annual audit verifying all of the following and shall submit the audit to the Department of Community and Economic Development and the Department of Revenue as well as post on the contracting authority's publicly accessible Internet website:

(1) The correct amount of the eligible local tax was submitted to the local taxing authorities.

(2) The local taxing authorities transferred the correct amount of eligible local tax to the State Treasurer.

(3) The moneys transferred to the fund were expended in accordance with this article.

(4) The correct amount was requested under section 1812-C(c).

(1807-C amended July 13, 2016, P.L.526, No.84)

Section 1808-C. Funds.

(a) Notice.--Following the designation of a zone, the contracting authority shall notify the State Treasurer.

(b) Establishment.--Upon receipt of notice under subsection (a), the State Treasurer shall establish for each zone a special fund for the benefit of the contracting authority to be known as the City Revitalization and Improvement Zone Fund or Pilot Zone Fund. Interest income derived from investment of money in the zone fund shall be credited by the State Treasury to the zone fund.

(1808-C amended July 13, 2016, P.L.526, No.84)

Section 1809-C. Reports.

(a) State zone report.--No later than June 15 following the baseline year and each year thereafter, each qualified business shall file a report with the department in a form or manner required by the department which includes all of the following:

(1) Amount of each eligible tax which was paid to the Commonwealth by the qualified business in the prior calendar year.

(2) Amount of each eligible tax refund received from the Commonwealth in the prior calendar year by the qualified business.

(3) The number of new jobs created by the qualified business for the prior calendar year in the zone.

(4) The total wages and salaries for employees of the qualified business for the prior calendar year in the zone.

(5) The amount of private capital investment made by the qualified business in the prior calendar year in the zone.

((a) amended July 11, 2024, P.L.674, No.56)

(a.1) Information.--Notwithstanding any other provision of law, the department may provide information obtained under subsection (a)(3), (4) and (5) to the Department of Community and Economic Development. ((a.1) added July 11, 2024, P.L.674, No.56)

(b) Local zone report.--No later than June 15 following the baseline year and for each year thereafter, each qualified business shall file a report with the local taxing authority which includes all of the following:

(1) Amount of each eligible tax which was paid to the local taxing authority by the qualified business in the prior calendar year.

(2) Amount of each eligible tax refund received from the local taxing authority in the prior calendar year by the qualified business.

((b) amended July 11, 2024, P.L.674, No.56)

(c) Penalties.--

(1) Failure to file a timely and complete report under subsection (a) or (b) may result in the imposition of a penalty of the lesser of:

(i) ten percent of all eligible tax due the taxing authority in the prior calendar year; or

(ii) one thousand dollars.

(2) The department shall notify the contracting authority of all qualified businesses that violated subsection (a) prior to December 31 of the year in which the report was to be filed. A penalty for a violation of subsection (a) shall be imposed, assessed and collected by the department under procedures set forth in Article II. Money collected under this paragraph shall be deposited in the General Fund. ((2) amended July 8, 2022, P.L.513, No.53)

(3) A penalty for a violation of subsection (b) shall be imposed, assessed and collected by the city or municipality under procedures for imposing penalties under local tax collection laws.

(4) If a local taxing authority imposes the penalty, the money shall be transferred to the State Treasurer for deposit in the zone fund.

(5) No penalty shall be imposed by the department or the local taxing authority for failure to file a timely and complete report under subsection (a) or (b) in 2019 or 2020. ((5) added July 23, 2020, P.L.665, No.68 and Nov. 3, 2020, P.L.1074, No.107)

(1809-C amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24(4)(xi) of Act 53 of 2022 provided that the amendment of section 1809-C(c)(2) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Acts 68 and 107 of 2020 amended subsecs. (a) and (b) and added subsec. (c)(5). Act 107 overlooked the amendment by Act 68, but the amendments do not conflict in substance and have both been given effect in setting forth the text of subsecs. (a), (b) and (c)(5).

Section 1810-C. Calculation of baseline.

(a) Baseline tax amount.--By October 15 following the end of the baseline year and for each year thereafter, the department shall verify the State baseline tax amount for each qualified business in a zone which consists of the following:

(1) For each qualified business that files timely State zone reports under section 1809-C(a), the amount of eligible State tax paid, less State eligible tax refunds.

(2) For each qualified business not included under paragraph (1) but located or partially located in the zone as determined by the department or included in the information received by the department under section 1809-C(a), the amount of State eligible tax paid, less State eligible tax refunds.

(b) Moves and noninclusions.--

(1) This subsection applies to a qualified business that:

(i) moves into a zone from within this Commonwealth after the baseline year; or

(ii) is in a zone but not included in the calculation of the State baseline tax amount under subsection (a).

(2) A qualified business subject to paragraph (1) shall file a State zone report under section 1809-C following the end of the first full calendar year in which the qualified business conducted business in the zone and each calendar year thereafter. The amount of eligible State tax verified by the department for the qualified business for the first full calendar year shall be the qualified business' fixed baseline tax amount. The amount added shall remain part of the baseline tax amount each year thereafter until such time as the qualified business ceases to conduct business in the zone, upon which event such amount previously added shall be deducted from the State baseline tax amount.

(3) The following taxes shall be excluded from the baseline tax amount calculation under this section:

(i) Taxes on business personal property to be utilized at a new facility.

(ii) The eligible taxes of:

(A) A new business.

(B) A qualified business moving into the zone from outside this Commonwealth.

(C) A contractor engaged in acquisition, development or construction, including infrastructure and site preparation, reconstruction or renovation of a facility.

(c) Recalculation.--The department shall not recalculate the baseline of a zone designated prior to the effective date of this subsection to include the hotel occupancy tax imposed under Part V of Article II.

(1810-C amended July 13, 2016, P.L.526, No.84)

Section 1811-C. Certification.

(a) Amounts.--By the October 15 following the baseline year, and each year thereafter, the department shall do all of the following for each qualified business within a zone for the prior calendar year:

(1) Subject to paragraph (1.1), make the following calculation for qualified businesses which file State zone reports under section 1809-C(a), separately for each business:

(i) Subtract:

(A) the amount of eligible State tax refunds received; from

(B) the amount of eligible State tax paid.

(ii) Except as set forth in subparagraph (iii), subtract:

(A) the State tax baseline amount for the business; from

(B) the difference under subparagraph (i).

(iii) If the difference under subparagraph (ii) is a negative number, state the difference as zero.

(1.1) Make the following calculation for a qualified business subject to section 1810-C(b)(1) separately for each business:

(i) Subtract:

(A) the amount of State eligible tax refunds received; from

(B) the amount of State eligible tax paid.

(ii) Except as set forth in subparagraph (iii), subtract:

(A) the State tax baseline amount for the business; from

(B) the difference under subparagraph (i).

(iii) If the difference under subparagraph (ii) is a negative number, state the difference as zero.

(2) Certify to the office the sum derived from adding paragraph (1) to paragraph (1.1).

(b) Content.--

(1) The certification may include the following:

(i) Adjustment made to timely filed zone reports by the department for State eligible tax actually paid by a qualified business in the prior calendar year.

(ii) State eligible tax refunds paid to a qualified business in the zone in a prior calendar year.

(iii) State tax penalties paid by a qualified business in the prior year under section 1809-C(c).

(2) The certification shall not include the following:

(i) Tax paid by a qualified business that did not file a timely State zone report under section 1809-C(a).

(ii) Tax paid by a qualified business whose tax was not included in the State tax baseline amount calculation under section 1810-C.

(iii) Tax paid by a qualified business not appearing on a timely filed list under section 1807-C(a).

(3) The department shall request documentation regarding State eligible taxes paid or refunds received from the agency required to collect the taxes or issue the refunds before requiring such documentation from the qualified business. Instructions issued by the department after the effective date of this section shall include a statement that the qualified business will not be required to submit supporting documentation with the qualified business's request for certification under this article. Nothing in this paragraph shall prohibit the department from auditing reports submitted by qualified businesses for compliance with this article. ((3) added Oct. 30, 2017, P.L.672, No.43)

(c) Submission.--The following shall apply:

(1) An entity collecting a local eligible tax within the zone for each qualified business which files a zone report under section 1809-C(b) shall, by October 15 following the baseline year and each year thereafter, submit the following to the State Treasurer for transfer to the fund:

(i) The local eligible tax collected in the prior calendar year.

(ii) Less the amount of local eligible tax refunds issued in the prior calendar year.

(iii) Less the amount of local baseline tax amount.

(iv) If the difference under subparagraph (iii) is a negative number, state the difference as zero.

(2) The information under this subsection shall also be certified by the local taxing authority to the Department of Community and Economic Development, the office and the department.

(d) Confidential report.--No later than October 15 of the baseline year and each year thereafter, the department and the local taxing authority shall provide the contracting authority with a report detailing the baseline tax amount for each qualified business and the amount of eligible tax paid by each qualified business. The report shall be confidential and shall not be publicly accessible under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(1811-C amended July 13, 2016, P.L.526, No.84)

Section 1812-C. Transfers.

(a) Office.--Within ten days of receiving the certification from the department under section 1811-C, the office shall direct the State Treasurer to transfer the amount of certified eligible State zone tax from the General Fund to each fund of a contracting authority. The following shall apply:

(1) For zones designated after July 1, 2024, the office shall direct the State Treasurer to transfer the amount of certified eligible State zone tax up to the maximum of $15,000,000 from the General Fund to each fund of a contracting authority within ten days of receiving the certification from the department under section 1811-C.

(2) The maximum amount of certified eligible State zone tax under paragraph (1) shall be annually adjusted beginning July 1, 2025, and each July 1 thereafter to reflect any upward change in the Consumer Price Index for All Urban Consumers (CPI-U) for the Philadelphia-Camden-Wilmington, PA-NJ-DE-MD area for the prior 12-month period.

((a) amended July 11, 2024, P.L.674, No.56)

(b) State Treasurer.--Within ten days of receiving direction under subsection (a), the State Treasurer shall pay into the fund the amount directed under subsection (a) until bonds issued to finance the acquisition, development, construction, including related infrastructure and site preparation, reconstruction or renovation of a facility or other eligible project in the zone, are retired.

(c) Notification.--((c) deleted by amendment July 11, 2024, P.L.674, No.56)

(1812-C amended July 13, 2016, P.L.526, No.84)

Section 1813-C. Restrictions.

(a) Utilization.--Money transferred under section 1812-C may only be utilized for the following:

(1) Payment of debt service on bonds issued or refinanced for the acquisition, development, construction, including related infrastructure and site preparation, reconstruction, renovation or refinancing of a facility in the zone and normal and customary fees for professional services associated with the issuance or refinance of the bonds.

(1.1) Payment of debt service on bonds issued or refinanced to establish a revolving fund that will provide financial assistance in the form of a grant or a loan to a qualified business acquiring property for the business, constructing a new facility, reconstructing or renovating an existing facility or acquiring new equipment to be used by the qualifying business in a zone. ((1.1) amended July 8, 2022, P.L.513, No.53)

(1.2) ((1.2 expired June 30, 2021. See Act 107 of 2020.)

(2) Acquisition, development, construction, including related infrastructure and site preparation, reconstruction, renovation or refinancing of all or a part of a facility.

(3) Replenishment of amounts in debt service reserve funds established to pay debt service on bonds.

(4) Employment of an independent auditing firm to perform the duties under section 1807-C(c).

(5) Improvement or development of all or part of a zone.

(6) Improvement projects, including fixtures and equipment for a facility owned, in whole or in part, by a public authority.

(7) Payment or reimbursement of reasonable administrative, auditing and compliance services required by this article. Reasonable administrative costs may not exceed 5% of the money transferred under section 1812-C. For purposes of this paragraph, professional services shall not be considered administrative costs.

(b) Prohibition.--

(1) Money transferred under section 1812-C may not be utilized for maintenance or repair of a facility.

(2) Paragraph (1) shall not apply for the period of April 1, 2020, through June 30, 2021.

((b) amended July 23, 2020, P.L.665, No.68 and Nov. 3, 2020, P.L.1074, No.107)

(c) Excess money.--

(1) Except as set forth in paragraph (4) or (5), for the first five calendar years of the zone designated after July 1, 2024, if the amount of money transferred to the fund under sections 1811-C(c) and 1812-C in any one calendar year exceeds the money utilized, budgeted or appropriated by official resolution of the contracting authority under this section in that calendar year, the contracting authority may carry forward any excess up to a total sum of $3,000,000 for the five-year calendar period. For the sixth calendar year and each calendar year thereafter, if the amount of money transferred to the fund under sections 1811-C(c) and 1812-C in any one calendar year exceeds the money utilized, budgeted or appropriated by official resolution of the contracting authority under this section in that calendar year, the contracting authority shall submit by April 15 following the end of the calendar year any money not utilized, budgeted or appropriated by

official resolution of the contracting authority to the State Treasurer for deposit into the General Fund. ((1) amended July 11, 2024, P.L.674, No.56)

(2) At the time of submission to the State Treasurer, the contracting authority shall submit to the State Treasurer, the office and the department a detailed accounting of the calculation resulting in the excess money.

(3) The excess money shall be credited to the contracting authority and applied to the amount required to be repaid under section 1812-C(c)(5) until there is full repayment.

(4) Paragraph (1) does not apply to money utilized in a pilot zone provided the excess money is used in accordance with subsection (a).

(5) Other than a zone described in paragraph (1) or (4), for a zone designation prior to July 1, 2024, if the amount of money transferred to the fund under sections 1811-C(c) and 1812-C in any one calendar year exceeds the money utilized, budgeted or appropriated by official resolution of the contracting authority under this section in that calendar year, the contracting authority shall submit any money not utilized, budgeted or appropriated by official resolution to the State Treasurer for deposit into the General Fund by April 15 of the following calendar year. ((5) added July 11, 2024, P.L.674, No.56)

(d) Matching funds.--

(1) The amount of money transferred from the fund utilized for the acquisition, development, construction, including related site preparation and infrastructure, reconstruction or renovation of facilities, or normal and customary fees for professional services shall be matched by private, Federal or local money at a ratio of five fund dollars to one private, Federal or local dollar. The contracting authority shall verify the private, Federal or local match for a project at the time of the bond and report proof of the match to the agencies. All of the following shall be deemed private money:

(i) Equity.

(ii) Private developer debt and financing.

(iii) Soft costs associated with land development.

(iv) Costs of professional services associated with development.

(v) Costs associated with improvements of the parcel.

(vi) Costs of land acquisition and real estate transactions.

(1.1) Payment of debt service on bonds issued or refinanced to establish a revolving fund that will provide financial assistance in the form of a grant or a loan to a qualified business acquiring property for the business, constructing a new facility, reconstructing or renovating an existing facility or acquiring new equipment to be used by the qualifying business in a zone. ((1.1) amended July 8, 2022, P.L.513, No.53)

(2) By April 1 following the baseline year and for each year thereafter, the contracting authority shall file an annual report with the Department of Community and Economic Development, the office and the department that contains a detailed account of the fund money expenditures and the private, Federal or local money expenditures and a calculation of the ratio in paragraph (1) for the prior calendar year.

(3) If it is determined that insufficient private, Federal or local money was utilized under paragraph (1), the amount of fund money utilized under paragraph (1) in the prior calendar year shall be deducted from the next transfer of the fund.

(1813-C amended Oct. 30, 2017, P.L.672, No.43)

Compiler's Note: Section 24(4)(xii) of Act 53 of 2022 provided that the amendment of section 1813-C(a)(1.1) shall apply to fiscal years beginning after June 30, 2022.

Compiler's Note: Acts 68 and 107 of 2020 amended subsecs. (b) and (c)(1) and added subsec. (a)(1.2). Act 107 overlooked the amendment by Act 68, but the amendments do not conflict in substance and have

both been given effect in setting forth the text of subsecs. (b), (c)(1) and (a)(1.2).

Section 4 of Act 107 of 2020 provided that the amendment of subsec. (b) and (c)(1) of Act 107 shall apply retroactively to January 1, 2019.

Section 6 of Act 68 of 2020, which amended subsecs. (b) and (c)(1) and added subsec. (a)(1.2), provided that the amendment of subsecs. (b) and (c)(1) shall apply retroactively to January 1, 2019.

Section 1814-C. Transfer of property.

(a) Property.--A parcel or parcels in a zone where no zone fund dollars were expended upon the parcel or parcels or where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone, if the contracting authority provides a notarized certification, confirmed in the annual audit required under section 1807-C(c), that no fund dollars were used on the parcel or parcels. Additional acreage, not to exceed the acreage transferred out of the zone, may be added to the zone. ((a) amended July 11, 2024, P.L.674, No.56)

(a.1) Public meeting.--Prior to requesting approval, the contracting authority shall hold a public meeting to consider the proposed transfer. At the meeting, any interested party may attend and offer comment on the proposal change.

(a.2) Infeasibility.--

(1) If no activity in furtherance of development has taken place on the parcel within eight years of the enactment of this section or designation of the zone, whichever occurs later, the contracting authority may conduct a public hearing on the feasibility of the parcel to continue with the designation pursuant to a request from the city or municipality where the parcel sits. The hearing shall be held and notice provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code. For purposes of this section, activity shall include, but not be limited to, construction, building, renovation, reconstruction, site preparation and site development.

(2) If the contracting authority determines that the project is no longer feasible, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination and verifying that no activity has taken place. The decision may be appealed in accordance with section 1001-A of the Pennsylvania Municipalities Planning Code.

(b) Review and approval.--The following apply:

(1) A transfer may be reviewed and approved by the Department of Community and Economic Development in consultation with the office and the department. The contracting authority shall submit a written request to the Department of Community and Economic Development to approve the transfer of a parcel or parcels. In addition to the written request, the contracting authority shall submit the following to the Department of Community and Economic Development:

(i) The certification under subsection (a).

(ii) A resolution of the contracting authority board approving the transfer of the parcel or parcels.

(iii) Any additional information as required by the Department of Community and Economic Development, the office or the department.

(2) A determination regarding a request to approve a transfer of a parcel or parcels shall be made within 90 days of receipt of the written request from the contracting authority board.

((b) amended July 11, 2024, P.L.674, No.56)

(1814-C amended Oct. 30, 2017, P.L.672, No.43)

Section 1815-C. Duration.

A zone shall be in effect for a period equal to the length of time for the repayment of debt incurred for the zone, including bonds issued. Bonds shall be paid, and all zones shall cease no later than 30 years following the initial issuance of the bonds.

(1815-C added July 9, 2013, P.L.270, No.52)

Section 1816-C. Commonwealth pledges.

(a) Pledge.--If and to the extent the contracting authority pledges amounts required to be transferred to its fund under section 1812-C for payment of bonds until all of the bonds, together with interest, are fully paid or provided for, the Commonwealth pledges to and agrees with any person, firm, corporation or government agency, in this Commonwealth or elsewhere, and pledges to and agrees with any Federal agency subscribing to or acquiring the bonds that the Commonwealth itself will not nor will it authorize any government entity to do any of the following:

(1) Abolish or reduce the size of the zone, or transfer zone designation from a parcel contrary to section 1814-C.

(2) Amend or repeal section 1810-C, 1811-C, 1812-C, 1813-C, 1814-C, 1815-C or this section to the detriment of the issuer of any bonds.

(3) Limit or alter the rights vested in the contracting authority in a manner inconsistent with the obligations of the contracting authority with respect to the bonds issued by the contracting authority.

(4) Impair revenue to be paid under this article to the contracting authority necessary to pay debt service on bonds.

(b) Limitation.--Nothing in this section shall limit the authority of the Commonwealth or a political subdivision government entity to change the rate, base or subject of a specific tax or to repeal or enact any tax.

(1816-C amended July 13, 2016, P.L.526, No.84)

Section 1817-C. Confidentiality.

(a) Sole use.--A zone report or certification under this article shall only be used by the contracting authority to verify the amount of the State tax baseline amount calculated under section 1810-C, the State tax certification under section 1811-C and the amount allocated to any uses specified under section 1813-C. ((a) amended July 8, 2022, P.L.513, No.53)

(b) Prohibition.--Use of a zone report other than as set forth in subsection (a) is prohibited and shall be subject to the law applicable to the confidentiality of tax records.

(1817-C added July 9, 2013, P.L.270, No.52)

Section 1818-C. Guidelines.

The Department of Community and Economic Development, the office and the department shall develop, update and publish guidelines necessary to implement this article.

(1818-C amended July 13, 2016, P.L.526, No.84)

Section 1819-C. Review.

(a) Department of Community and Economic Development.--By December 31, 2021, and annually each March 31 thereafter, the Department of Community and Economic Development shall, in cooperation with the office and the department, complete a review and analysis of all active zones. The review shall include an analysis of: ((a) intro. par. amended July 11, 2024, P.L.674, No.56)

(1) The number of new jobs created.

(2) The cost to and impact of the zones on the Commonwealth and the revenue of the Commonwealth.

(3) Economic development to the city, or municipality in a zone and to the Commonwealth.

(4) Any negative impact on adjacent municipalities or the Commonwealth.

(b) Other review.--By June 30, 2021, the Independent Fiscal Office shall complete a review and analysis of all zones. The review shall include an analysis of the factors under subsection (a).

(c) Posting.--Reviews under subsections (a) and (b) shall be posted on the Department of Community and Economic Development's publicly accessible Internet website as well as the Independent Fiscal Office's publicly accessible Internet website.

(1819-C added July 13, 2016, P.L.526, No.84)

ARTICLE XVIII-D
VOLUNTEER RESPONDER RETENTION AND RECRUITMENT TAX CREDIT

(Art. added July 9, 2008, P.L.922, No.66)

Compiler's Note: Section 4 of Act 66 of 2008, which added Article XVIII-D, provided that Article XVIII-D shall apply to taxable years beginning after December 31, 2007, and ending January 1, 2009.

Section 1801-D. Definitions.

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

"Active volunteer." A volunteer for a volunteer ambulance service, volunteer fire company or volunteer rescue company certified as meeting the criteria of this act as set forth under section 1807-D.

"Commissioner." The State Fire Commissioner appointed under section 3 of the act of November 13, 1995 (P.L.604, No.61), known as the State Fire Commissioner Act.

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

"Director." The director of the Emergency Medical Services Office in the Department of Health.

"Qualified tax liability." The liability for taxes imposed under Article III for the taxable year beginning after December 31, 2007 and ending before January 1, 2009.

"Tax credit." The tax credit available to active volunteers under this article.

"Taxpayer." An individual subject to payment of taxes under Article III.

"Volunteer ambulance service." As defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

"Volunteer fire company." As defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

"Volunteer rescue company." As defined in section 102 of the act of July 31, 2003 (P.L.73, No.17), known as the Volunteer Fire Company and Volunteer Ambulance Service Grant Act.

(1801-D added July 9, 2008, P.L.922, No.66)

Section 1802-D. Application.

(a) Application to department.--A taxpayer may submit an application for a tax credit under this article in a manner required by the department. The application shall contain the following information:

(1) The name and tax identification number of the taxpayer.

(2) The name and location of the volunteer fire company, volunteer ambulance service or volunteer rescue company of which the taxpayer is an active volunteer.

(3) A certification for the applicant described in section 1809-D.

(4) Any other information deemed appropriate by the department.

(b) Procedure.--The application shall be attached to the applicant's annual tax return required to be filed under Article III.

(1802-D added July 9, 2008, P.L.922, No.66)

Section 1803-D. Taxpayer credit.

A taxpayer may claim a tax credit against the qualified tax liability of the taxpayer.

(1803-D added July 9, 2008, P.L.922, No.66)

Section 1804-D. Taxpayer eligibility.

(a) Credit.--A taxpayer shall be eligible for a tax credit under subsection (b) against the tax imposed under Article III if the taxpayer is an active volunteer within this Commonwealth.

(b) Maximum credit.--The following shall apply:

(1) A taxpayer who qualifies under subsection (a) may claim a tax credit of $100.

(2) (i) If the taxpayer is not an active volunteer for the entire tax year, the amount of the tax credit shall be prorated and the

credit amount shall equal the maximum amount of credit for the tax year, divided by 12, multiplied by the number of months in the tax year the taxpayer was an active volunteer. The credit shall be rounded to the nearest $5.

(ii) If the taxpayer is an active volunteer during any part of a month, the taxpayer shall be considered an active volunteer for the entire month.

(1804-D added July 9, 2008, P.L.922, No.66)

Section 1805-D. Carryover and carryback.

(a) General rule.--If the taxpayer cannot use the entire amount of the tax credit for the taxable year in which the taxpayer is eligible for the credit, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. The tax credit provided by this article may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(b) Application.--A tax credit approved by the department in a taxable year shall first be applied against the taxpayer's qualified liability for the current taxable year as of the date on which the credit was approved before the tax credit can be applied against any tax liability under subsection (a).

(c) Limitations.--A taxpayer is not entitled to carry back, obtain a refund of, sell or assign an unused tax credit.

(1805-D added July 9, 2008, P.L.922, No.66)

Section 1806-D. Total amount of credits.

The total amount of tax credits authorized by this article shall not exceed $4,500,000.

(1806-D added July 9, 2008, P.L.922, No.66)

Section 1807-D. Point system.

(a) General rule.--The commissioner and the director shall jointly develop and implement a point system establishing the annual requirements for certification of active volunteers.

(b) Factors.--To determine whether to certify an individual as an active volunteer, the point system shall consider the following factors:

(1) The number of emergency calls responded to.

(2) The volunteer's level of training and participation in formal training and drills.

(3) Time spent on administration and support activities, including fundraising and maintenance of facilities and equipment.

(4) Involvement in other projects that directly benefit the organization's financial viability, emergency response or operational readiness.

(1807-D added July 9, 2008, P.L.922, No.66)

Section 1808-D. (Reserved).

(1808-D (Reserved) added July 9, 2008, P.L.922, No.66)

Section 1809-D. Certification.

(a) Self certification.--The active volunteer shall sign and submit the application to the chief of the volunteer fire company or the supervisor or chief of the volunteer ambulance service or volunteer rescue company fire or EMS department where he or she serves.

(b) Local sign-off.--The chief and another officer of the volunteer fire company, the supervisor or chief and another officer of the volunteer ambulance service or volunteer rescue company shall sign the application attesting to the individual's status as an active volunteer. The application shall then be forwarded to the department for final review and processing.

(1809-D added July 9, 2008, P.L.922, No.66)

Section 1810-D. Guidelines.

The department shall adopt guidelines, including forms, necessary to administer this article. The department may require proof of the claim for

tax credit.
(1810-D added July 9, 2008, P.L.922, No.66)
Section 1811-D. Report to General Assembly.
No later than June 1, 2009, the department shall submit a report on the tax credits granted under this article and the applicability of the tax credit to the retention of active volunteers of a volunteer ambulance service, volunteer fire company or volunteer rescue company. The report shall include the names of taxpayers who utilized the credit as of the date of the report and the amount of credits approved. The report may include recommendations for changes in the calculation or administration of the tax credit. The report shall be submitted to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives, the chairman and minority chairman of the Finance Committee of the Senate and the chairman and minority chairman of the Finance Committee of the House of Representatives. The report may include other information that the department deems appropriate.
(1811-D added July 9, 2008, P.L.922, No.66)
Section 1812-D. Penalty.
A taxpayer who claims a credit under this article but fails to meet the standards under section 1804-D shall repay the full amount of the tax credit to the Commonwealth.
(1812-D added July 9, 2008, P.L.922, No.66)

ARTICLE XVIII-E
MOBILE TELECOMMUNICATIONS BROADBAND INVESTMENT TAX CREDIT
(Art. added July 9, 2013, P.L.270, No.52)

Section 1801-E. Definitions.
The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Mobile telecommunication services." As defined in section 201(aaa).
"Qualified broadband equipment." Machinery and equipment located in this Commonwealth that is used by a mobile telecommunication services provider to provide Internet access service and is capable of sending, receiving, storing, transmitting, retransmitting, amplifying, switching or routing data, video or other electronic information. The term does not include machinery or equipment that is used to provide voice communication service.
"Tax credit." The credit provided under this article.
(1801-E added July 9, 2013, P.L.270, No.52)
Section 1802-E. Tax credit.
(a) General rule.--For tax years beginning after December 31, 2013, and ending before January 1, 2024, a taxpayer that is a provider of mobile telecommunication services shall be allowed a tax credit against the tax imposed under Article IV for investment in qualified broadband equipment placed into service in this Commonwealth during a taxable year.
(b) Amount.--
(1) The amount of the tax credit shall be 5% of the purchase price of the qualified broadband equipment under subsection (a).
(2) The amount of the tax credit that may be taken in a taxable year is limited to an amount not greater than 50% of the taxpayer's liability under section 402.
(3) Any credit claimed under this article but not used in the taxable year may be carried forward for not more than five consecutive taxable years. The tax credit may not be used to obtain a refund.
(1802-E added July 9, 2013, P.L.270, No.52)
Section 1803-E. Pass-through entity.
(a) Transfer.--If a pass-through entity has any unused tax credit under this section, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the

entity's distributive income to which the shareholder, member or partner is entitled.

(b) Additional tax credit.--The tax credit provided under subsection (a) shall be in addition to any tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article, except that a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a tax credit under this article for the same qualified broadband equipment.

(c) Claim.--A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

(1803-E added July 9, 2013, P.L.270, No.52)

Section 1804-E. Procedure. (1804-E repealed Nov. 25, 2020, P.L.1253, No.132)

Section 1805-E. Limitation. (1805-E repealed Nov. 25, 2020, P.L.1253, No.132)

ARTICLE XVIII-F
INNOVATE IN PA TAX CREDIT
(Art. added July 9, 2013, P.L.270, No.52)

Section 1801-F. Scope of article.

This article relates to the Innovate in PA Tax Credit.

(1801-F added July 9, 2013, P.L.270, No.52)

Section 1802-F. Legislative intent.

It is the intent of this article to invest in innovation as a catalyst for economic growth. Investment in the Ben Franklin Technology Development Authority, the Ben Franklin Technology Partners, regional biotechnology research centers, the department and venture capital funds will advance the competitiveness of this Commonwealth's companies in the global economy.

(1802-F added July 9, 2013, P.L.270, No.52)

Section 1803-F. Definitions.

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

"Allocation amount." The total amount of tax credits purchased by a qualified taxpayer.

"Authority." The Ben Franklin Technology Development Authority established to manage and fund programs in this Commonwealth that support the development of technology as described in the act of June 22, 2001 (P.L.569, No.38), known as The Ben Franklin Technology Development Authority Act.

"Ben Franklin Technology Partners Program." A program under the Ben Franklin Technology Development Authority that funds four regionally based economic development organizations dedicated to a common mission of technology commercialization.

"Capital." The amount of money that a purchaser invests under the Innovate in PA Program.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Fund." The Innovate in PA Fund.

"Impact investment." An investment intended to solve social or environmental challenges while generating financial profit. Impact investing recognizes that investments have social and environmental returns in addition to financial returns and attempts to maximize the three returns rather than one at the expense of others.

"Insurance premiums tax liability." Any liability incurred by an insurance company under Article IX.

"Program." The Innovate in PA Program.

"Qualified taxpayer." Any of the following that has insurance premiums tax liability and contributes capital to purchase premiums tax credits under this article:

(1) An insurance company authorized to do business in this Commonwealth.

(2) A holding company that has at least one insurance company subsidiary authorized to do business in this Commonwealth.

"Recipient." An entity that receives a distribution of funds under section 1811-F(c).

"Regional biotechnology research center." A regional biotechnology research center established under Chapter 17 of the act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

"Tax credit." A credit against insurance premiums tax liability offered to or held by a qualified taxpayer under this article.

"Venture Investment Program." A program under the Ben Franklin Technology Development Authority dedicated to increasing the availability of venture capital in this Commonwealth.

(1803-F added July 9, 2013, P.L.270, No.52)

Section 1804-F. Tax credit.

A qualified taxpayer may purchase tax credits from the department in accordance with this article and may apply the tax credits against its insurance premiums tax liability in accordance with this article.

(1804-F added July 9, 2013, P.L.270, No.52)

Section 1805-F. Duties.

(a) Sale of tax credits.--The department shall have the authority to sell up to $100,000,000 in tax credits to qualified taxpayers. The sale of the tax credits shall be in accordance with section 1808-F.

(b) Time of sale.--The sale authorized under subsection (a) may not occur before October 1, 2013.

(c) Transfers of amounts.--((c) deleted by amendment July 8, 2022, P.L.513, No.53).

(1805-F added July 9, 2013, P.L.270, No.52)

Compiler's Note: Section 24(4)(xiii) of Act 53 of 2022 provided that the amendment of section 1805-F(c) shall apply to fiscal years beginning after June 30, 2022.

Section 1806-F. Use of tax credits by qualified taxpayers.

(a) Use against insurance premiums tax liability.--A qualified taxpayer that purchases tax credits under section 1805-F may claim the credits beginning in calendar year 2017 against insurance premiums tax liability incurred for a taxable year that begins on or after January 1, 2016.

(b) Application to department.--A qualified taxpayer seeking to use purchased tax credits may submit an application to the department in a manner prescribed by the department.

(c) Construction.--The following shall apply:

(1) A qualified taxpayer may not be required to reduce the amount of insurance premiums tax included by the taxpayer in connection with ratemaking for any insurance contract written in this Commonwealth because of a reduction of the taxpayer's insurance premiums tax liability derived from the tax credit purchased under this article.

(2) If, under the insurance laws of this Commonwealth, the assets of the qualified taxpayer are examined or considered, the taxpayer's balance of tax credits shall be treated as an admitted asset subject to the same financial rating as held by the Commonwealth.

(d) Limitations.--The following shall apply:

(1) The total amount of tax credits applied against insurance premiums tax liability by all qualified taxpayers in a fiscal year may not exceed $20,000,000 per year beginning in calendar year 2017.

(2) The credit to be applied in any one year may not exceed the insurance premiums tax liability of the qualified taxpayer for that taxable year.

(1806-F added July 9, 2013, P.L.270, No.52)

Section 1807-F. Sale, carryover and carryback.

(a) Carryover.--If the qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the taxpayer is eligible for the credit, the excess may be carried over to succeeding taxable years

and used as a credit against the qualified tax liability of the taxpayer for those taxable years, provided that the credit may not be carried over to any taxable year that begins after December 31, 2025.

(b) Sale.--No sooner than 30 days after providing the Insurance Department and the department written notice of the intent to transfer tax credits, a qualified taxpayer may transfer tax credits held without restriction to any entity that is a qualified taxpayer in good standing with the Insurance Department and that agrees to assume all of the transferor's obligations with respect to the tax credit.

(c) Carryback.--A qualified taxpayer may not carry back a tax credit.

(1807-F added July 9, 2013, P.L.270, No.52)

Section 1808-F. Sale of tax credits to qualified taxpayers.

(a) Conduct of sale.--The sale of tax credits authorized under section 1805-F(a) shall be conducted in accordance with this section.

(b) Process.--The department may sell the tax credits authorized under this article or may contract with an independent third party to conduct a bidding process among qualified taxpayers to purchase the credits. In raising capital for the program, the department shall have the discretion to distribute credits using a market-driven approach or any approach that maximizes the yield to the Commonwealth.

(c) Application.--A qualified taxpayer seeking to purchase tax credits may apply to the department in the manner prescribed by the department.

(d) Bidding process.--Using procedures adopted by the department or, if applicable, by an independent third party, each qualified taxpayer that submits an application shall make a timely and irrevocable offer, subject only to the department's issuance to the taxpayer of tax credit certificates, to make specified contributions of capital to the department on dates specified by the department.

(e) Contents of offer.--The offer under subsection (d) must include all of the following:

(1) The requested amount of tax credits, which may not be less than $500,000.

(2) The qualified taxpayer's capital contribution for each tax credit dollar requested, which may not be less than the greater of either of the following:

(i) Seventy-five percent of the requested dollar amount of tax credits.

(ii) The percentage of the requested dollar amount of tax credits that the department and, if applicable, the independent third party determines to be consistent with market conditions as of the offer date.

(3) Any other information the department or, if applicable, independent third party requires.

(f) Notice of approval.--Each qualified taxpayer that submits an application under this section shall receive a written notice from the department indicating whether or not it has been approved as a purchaser of tax credits and, if so, the amount of tax credits allocated.

(g) Limitation.--No tax credits may be sold if the bidding process, upon completion, has failed to yield at least $40,000,000 in revenue.

(1808-F added July 9, 2013, P.L.270, No.52)

Section 1809-F. Payment for tax credits purchased and certificates.

(a) Payment of capital.--Capital committed by a qualified taxpayer shall be paid to the department for deposit into the fund. Nothing under this section shall prohibit the department from establishing an installment payment schedule for capital payments to be made by the qualified taxpayer.

(b) Issuance of tax credit certificates.--On receipt of payment of capital, the department shall issue to each qualified taxpayer a tax credit certificate representing a fully vested credit against insurance premiums tax liability.

(c) Certificate issued in accordance with bidding process.--The department shall issue tax credit certificates to qualified taxpayers in accordance with the bidding process selected by the department or the independent third party.

(d) Contents.--The tax credit certificate shall state all of the following:

(1) The total amount of premiums tax credits that the qualified taxpayer may claim.

(2) The amount of capital that the qualified taxpayer has contributed or agreed to contribute in return for the issuance of the tax credit certificate.

(3) The dates on which the tax credits will be available for use by the qualified taxpayer.

(4) Any penalties or other remedies for noncompliance.

(5) The procedures to be used for transferring the tax credits.

(6) Any other requirements the department considers necessary.

(1809-F added July 9, 2013, P.L.270, No.52)

Section 1810-F. Failure to make contribution of capital and reallocation.

(a) Prohibition.--A tax credit certificate under section 1809-F may not be issued to any qualified taxpayer that fails to make a contribution of capital within the time the department specifies.

(b) Penalty.--A qualified taxpayer that fails to make a contribution of capital within the time the department specifies shall be subject to a penalty equal to 10% of the amount of capital that remains unpaid. The penalty shall be paid to the department within 30 days after demand.

(c) Reallocation.--The department may offer to reallocate the defaulted capital among other qualified taxpayers, so that the result after reallocation is the same as if the initial allocation had been performed without considering the tax credit allocation to the defaulting qualified taxpayer.

(d) Contribution.--If the reallocation of capital under subsection (c) results in the contribution by another qualified taxpayer of the amount of capital not contributed by the defaulting qualified taxpayer, the department may waive the penalty provided under subsection (b).

(e) Transfer.--A qualified taxpayer that fails to make a contribution of capital within the time specified may avoid the imposition of the penalty by transferring the allocation of tax credits to a new or existing qualified taxpayer within 30 days after the due date of the defaulted installment. Any transferee of an allocation of tax credits of a defaulting qualified taxpayer under this subsection shall agree to make the required contribution of capital within 30 days after the date of the transfer.

(1810-F added July 9, 2013, P.L.270, No.52)

Section 1811-F. Innovate in PA Program.

(a) Establishment.--The Innovate in PA Program is established within the authority.

(b) Fund.--The authority shall have the power and duty to establish the Innovate in PA Fund within this authority.

(c) Distribution.--The department shall distribute the net proceeds received by the department as a result of the sale of tax credits under section 1805-F(a) as follows:

(1) Fifty percent shall be distributed to the Ben Franklin Technology Partners Program for use according to program guidelines.

(2) Forty-five percent shall be distributed to the Venture Investment Program for use according to program guidelines, including traditional venture investments or impact investments. The authority may consider impact investments based on performance. Impact investments may not exceed 15% of the Venture Investment Program distribution under this paragraph.

(3) Five percent to the three regional biotechnology research centers for distribution in equal proportions to each regional biotechnology research center.

(1811-F added July 9, 2013, P.L.270, No.52)

Section 1812-F. Guidelines.

The department, in consultation with the authority and each regional biotechnology research center, shall promulgate guidelines implementing this article.

(1812-F added July 9, 2013, P.L.270, No.52)

Section 1813-F. Report.

(a) Duties.--On or before January 1, 2015, and January 1 of each subsequent year, the department, in consultation with the authority and each regional biotechnology research center, shall do the following:

(1) Submit a report on the implementation of the program to all of the following:

(i) The Governor.

(ii) The chairman and minority chairman of the Appropriations Committee of the Senate.

(iii) The chairman and minority chairman of the Appropriations Committee of the House of Representatives.

(2) Publish the report under paragraph (1) on the department's publicly accessible Internet website.

(b) Contents.--The report under subsection (a) shall include the following:

(1) The name of the purchaser of premiums tax credits.

(2) The amount of premiums tax credits allocated to the purchaser.

(3) The amount of capital the purchaser contributed for the issuance of the tax credit certificate.

(4) The amount of any tax credits that have been transferred under section 1810-F(e).

(5) The amount of funds received by the recipients during the previous year.

(6) The cumulative amount of capital received by the department in connection with the sale of the tax credits.

(7) The amount of capital remaining uninvested at the end of the preceding calendar year.

(8) The names and locations of businesses receiving capital from the recipients, the reason for the investment and the amount of the investment.

(9) The total number of jobs created in this Commonwealth by the investment and the average wages paid for the jobs.

(10) The total number of jobs retained in this Commonwealth as a result of the investment and the average wages paid for the jobs.

(1813-F added July 9, 2013, P.L.270, No.52)

ARTICLE XVIII-G
MANUFACTURING AND INVESTMENT TAX CREDIT
(Art. added July 13, 2016, P.L.526, No.84)

PART I
MANUFACTURING TAX CREDIT
(Pt. added July 13, 2016, P.L.526, No.84)

Section 1801-G. Definitions.

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

"Annual taxable payroll." The total amount of wages paid by an employer for the base year or year one, as applicable, from which personal income tax under Article III is withheld.

"Base year." The four calendar quarters preceding the start date.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Manufacturing tax credit." A tax credit for which the department has issued a certificate under this part.

"New job." A full-time job created in year one which has an average wage at least equal to the county average wage where the job is located and which includes employer-provided health benefits.

"Pass-through entity."

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Qualified tax liability." A taxpayer's tax liability under Article III, IV, VI, VII, VIII, IX, XI or XV.

"Start date." The first day of the calendar quarter in which an application is submitted to the department unless the applicant requests and the department agrees to a later start date.

"Taxpayer." An entity that is engaged in the mechanical, physical or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.

"Wages." Remuneration paid by an employer to an individual with respect to the individual's employment.

"Year one." The four calendar quarters immediately following the start date.

(1801-G added July 13, 2016, P.L.526, No.84)

Section 1802-G. Eligibility.

In order to be eligible to receive a manufacturing tax credit, a taxpayer must demonstrate to the department the following:

(1) The ability of the taxpayer to create an increase in the taxpayer's annual taxable payroll in year one by at least $1,000,000 above the amount in the base year solely through the creation of new jobs and to maintain the increase for a period of at least five years from the start date.

(2) The ability to maintain new jobs for a period of at least five years from the start date.

(3) The intent to maintain existing operations in this Commonwealth for a period of at least five years from the start date.

(1802-G added July 13, 2016, P.L.526, No.84)

Section 1803-G. Procedure.

(a) Application.--A taxpayer applying to claim a manufacturing tax credit must complete and submit to the department a manufacturing tax credit application on a form and in a manner as determined by the department.

(b) Creation of new jobs.--In order to receive a manufacturing tax credit, the taxpayer must agree to create in year one new jobs that increase the taxpayer's annual taxable payroll above the base year annual taxable payroll by $1,000,000. The taxpayer must agree to retain the new jobs and increase in payroll for at least five years from the start date.

(c) Approval.--If the department approves the taxpayer's application, the department and the taxpayer shall execute a commitment letter containing the following:

(1) A description of the new jobs created.

(2) The number of new jobs to be created.

(3) The amount of private capital investment in the creation of new jobs.

(4) The increase in year one of the annual taxable payroll for new jobs above the base year amount of annual taxable payroll.

(5) The maximum manufacturing tax credit amount the taxpayer may claim.

(6) A signed statement that the taxpayer intends to maintain existing operations in this Commonwealth for at least five years from the start date.

(7) Any other information as the department deems appropriate.

(d) Commitment letter.--After a commitment letter has been signed by both the Commonwealth and the taxpayer, the taxpayer must increase the annual taxable payroll in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified in the commitment letter. If the taxpayer does not increase the annual taxable payroll as provided under this subsection, the commitment letter shall be revoked and deemed to be null and void.

(1803-G added July 13, 2016, P.L.526, No.84)

Section 1804-G. Manufacturing tax credit.

(a) Maximum amount.--The department may award a manufacturing tax credit of up to 5% of the taxpayer's increase in annual taxable payroll if the annual taxable payroll increases in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified in the commitment letter.

(b) Determination.--The annual taxable payroll in year one for a new job shall be the sum of the amount of annual taxable payroll in year one for the new jobs created above the taxable payroll in the base year.

(c) Certificate.--After verification by the department that the taxpayer has increased the annual taxable payroll in year one by at least $1,000,000 above the base year amount from the creation of new jobs up to the amount specified and any other conditions required by the department and specified in the commitment letter, the taxpayer shall receive a manufacturing tax credit certificate and filing information.

(d) Applicable taxes.--A taxpayer may apply the manufacturing tax credit to 100% of the taxpayer's qualified tax liability.

(e) Term.--A taxpayer may claim the manufacturing tax credit for a period determined by the department, not to exceed the earlier of:

(1) five years from the date the taxpayer receives the manufacturing tax credit certificate; or

(2) six years from the start date.

(f) Availability.--A manufacturing tax credit shall be made available by the department on a first-come, first-served basis.

(g) Limitation.--For each fiscal year beginning after June 30, 2017, $4,000,000 in manufacturing tax credits shall be made available to the department and may be awarded by the department in accordance with this part. In any fiscal year, the department may reissue, assign or award prior fiscal year manufacturing tax credits which have been recaptured under section 1808-G(a) or (b) and may award prior fiscal year manufacturing tax credits not previously issued.

(1804-G added July 13, 2016, P.L.526, No.84)

Section 1805-G. Limitations.

The following apply to manufacturing tax credits:

(1) If the taxpayer cannot use the entire amount of the manufacturing tax credit for the taxable year in which the manufacturing tax credit is first approved, the excess may be carried over to succeeding taxable years and used as a credit against the qualified tax liability of the taxpayer for the taxable years. Each time the manufacturing tax credit is carried over to a succeeding taxable year, the manufacturing tax credit shall be reduced by the amount of the manufacturing tax credit used as a credit during the immediately preceding taxable year. The manufacturing tax credit may be carried over and applied to succeeding taxable years for no more than three taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

(2) A manufacturing tax credit approved by the department in a taxable year first shall be applied against the taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was approved before the manufacturing tax credit can be applied against any tax liability under paragraph (1).

(3) A taxpayer shall not be entitled to carry back or obtain a refund of all or any portion of an unused manufacturing tax credit granted to the taxpayer under this part.

(1805-G added July 13, 2016, P.L.526, No.84)

Section 1806-G. Sale or assignment.

(a) Application.--A taxpayer, upon application to and approval by the department, may sell or assign, in whole or in part, a manufacturing tax credit granted to the taxpayer. The following shall apply:

(1) The department and the Department of Revenue shall jointly issue guidelines for the approval of applications under this paragraph.

(2) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any

balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.

(3) Notwithstanding any other provision of law, the Department of Revenue must settle, assess or determine the tax of an applicant under this paragraph within 90 days of the filing of each required final return or report in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(b) Use by purchaser or assignee.--The purchaser or assignee of all or a portion of a manufacturing tax credit under subsection (a) must immediately claim the credit in the taxable year in which the purchase or assignment is made.

(1) The amount of the manufacturing tax credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of the qualified tax liability for the taxable year.

(2) The purchaser or assignee may not carry forward, carry back or obtain a refund of or sell or assign the manufacturing tax credit.

(3) The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the manufacturing tax credit in compliance with procedures specified by the Department of Revenue.

(1806-G added July 13, 2016, P.L.526, No.84)

Section 1807-G. Pass-through entity.

(a) General rule.--If a pass-through entity has any unused tax credits under section 1805-G, the entity may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion or the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) Limitation.--A pass-through entity and a shareholder, member or partner of a pass-through entity may not claim the credit under subsection (a) for the same new job.

(c) Application.--A shareholder, member or partner of a pass-through entity to whom a credit is transferred under subsection (a) shall immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1807-G added July 13, 2016, P.L.526, No.84)

Section 1808-G. Penalties.

(a) Failure to maintain operations.--A taxpayer which receives a manufacturing tax credit and fails to maintain existing operations related to the manufacturing tax credits in this Commonwealth for a period of at least five years from the start date must refund to the Commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of each manufacturing tax credit to be refunded to the Commonwealth.

(b) Failure to maintain jobs.--A taxpayer which receives a manufacturing tax credit and fails to maintain new jobs along with the increase in taxable payroll for a period of at least five years from the start date must refund to the Commonwealth the total amount of manufacturing tax credits granted. The Department of Revenue may issue an assessment, including interest, additions and penalties, for the total amount of manufacturing tax credits to be refunded to the Commonwealth.

(c) Waiver.--The department may waive the penalties under subsections (a) and (b) if it is determined that a company's existing operations were not maintained or the new jobs and increase to payroll were not created because of circumstances beyond the company's control. Circumstances shall include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

(1808-G added July 13, 2016, P.L.526, No.84)

Section 1809-G. Guidelines.

The department shall develop and publish guidelines necessary to implement this part.

(1809-G added July 13, 2016, P.L.526, No.84)

PART II
RURAL JOBS AND INVESTMENT TAX CREDIT
(Pt. added July 13, 2016, P.L.526, No.84)

Section 1821-G. Scope of part.

This part relates to the Rural Jobs and Investment Tax Credit.

(1821-G added July 13, 2016, P.L.526, No.84)

Section 1822-G. Definitions.

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

"Affiliate." An entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with another entity. For the purposes of this part, an entity is "controlled by" another entity if the controlling person holds, directly or indirectly, the majority voting or ownership interest in the controlled entity or has control over the day-to-day operations of the controlled entity by contract or by law.

"Business firm." An entity authorized to do business in this Commonwealth and subject to taxes imposed under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921.

"Closing date."

(1) With respect to program one tax credit authority, the date on which a rural growth fund has collected all of the amounts specified by section 1825-G.

(2) With respect to program two tax credit authority, either:

(i) the date on which a rural growth fund has collected all of the amounts specified under 1825-G; or

(ii) investment authority reallocated under section 1826-G(b) or 1833-G(c).

(Def. amended July 11, 2024, P.L.674, No.56)

"Credit-eligible capital contribution." An investment of cash by a business firm in a rural growth fund that equals the amount specified on a tax credit certificate issued by the department under section 1829-G. The investment shall purchase an equity interest in the rural growth fund or purchase, at par value or premium, a debt instrument that has a maturity date at least five years from the closing date.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Full-time equivalent employee." The quotient obtained by dividing the total number of hours for which employees were compensated for employment over the preceding 12-month period by 2,080. (Def. added June 28, 2019, P.L.50, No.13)

"Investment authority." The amount stated on the notice issued under section 1824-G approving the rural growth fund.

"Jobs created." Full-time equivalent employee positions that:

(1) Are created by the rural business.

(2) Are currently located in this Commonwealth.

(3) Were not located in this Commonwealth at the time of the rural growth investment in the rural business.

(4) Pay at least 150% of the Federal or State minimum wage, whichever is greater.

(Def. added June 28, 2019, P.L.50, No.13)

"Jobs retained." Full-time equivalent employee positions that:

(1) Are located in this Commonwealth.

(2) Existed before the initial rural growth investment in the rural business.

(3) Pay at least 150% of the Federal or State minimum wage, whichever is greater.

(4) Would have been lost or moved out of this Commonwealth had a rural growth investment not been made, as certified in writing by an executive officer of the rural business and approved by the department. (Def. added June 28, 2019, P.L.50, No.13)

"Principal business operations." The place or places where at least 60% of a rural business' employees work or where employees that are paid at least 60% of the business' payroll work. An out-of-State business that has agreed to relocate employees or an in-State business that has agreed to hire employees using the proceeds of a rural growth investment to establish principal business operations in a rural area in this Commonwealth shall be deemed to have the principal business operations in this new location if the business satisfies this definition within 180 days after receiving the rural growth investment, unless the department agrees to a later date. (Def. amended June 28, 2019, P.L.50, No.13)

"Program one tax credit authority." Investment authority issued by the department before January 1, 2024. (Def. added July 11, 2024, P.L.674, No.56)

"Program two tax credit authority." Investment authority issued by the department on or after January 1, 2024. (Def. added July 11, 2024, P.L.674, No.56)

"Qualified tax liability." The liability for taxes imposed under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, or amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, and any other retaliatory tax imposed on a business firm in this Commonwealth. (Def. amended July 23, 2020, P.L.665, No.68)

"Rural area." Either of the following:

(1) An area of the Commonwealth that is not in:

(i) A city with a population of more than 50,000 according to the latest decennial census of the United States.

(ii) An urbanized area contiguous and adjacent to a city that has a population of more than 50,000 inhabitants.

(2) An area determined to be rural in character by the Under Secretary for Rural Development within the United States Department of Agriculture.

"Rural business." A business that, at the time of the initial rural growth investment in the business by a rural growth fund, meets the following conditions:

(1) Has fewer than 150 employees and not more than $15,000,000 in net income as determined by generally accepted accounting principles for the preceding calendar year.

(2) Has principal business operations in one or more rural areas in this Commonwealth.

(3) Is engaged in industries related to manufacturing, plant sciences, services or technology or, if not engaged in those industries, the department makes a determination that the investment will be highly beneficial to the economic growth of this Commonwealth.

(Def. amended June 28, 2019, P.L.50, No.13)

"Rural growth fund." An entity approved by the department under section 1824-G.

"Rural growth investment." A capital or equity investment in a rural business or any loan to a rural business with a stated maturity at least one year after the date of issuance. A secured loan or a revolving line of credit provided to a rural business is a rural growth investment only if the growth fund obtains an affidavit from the president or chief executive officer or equivalent position of the rural business attesting that the rural business sought and was denied similar financing from a commercial bank. The term does not include any investment used by a rural business or its affiliates to refinance a prior rural growth investment made with program one tax credit authority. (Def. amended July 11, 2024, P.L.674, No.56)

"State repayment amount." The amount by which the rural growth fund's credit-eligible capital contributions exceed the product obtained by multiplying $30,000 by the aggregate number of jobs created and jobs retained reported in annual reports under section 1827-G(b). (Def. added June 28, 2019, P.L.50, No.13)

"Tax credit." The Rural Jobs and Investment Tax Credit provided under this part.

(1822-G added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(10) of Act 56 of 2024 provided that the amendment of section 1822-G shall apply to fiscal years beginning after June 30, 2024.

Section 1823-G. Rural Jobs and Investment Tax Credit Program.

The Rural Jobs and Investment Tax Credit Program is established in the department to attract capital to:

(1) Stimulate business development in rural areas.

(2) Retain and attract new rural business and industry to the Commonwealth.

(3) Create good-paying rural jobs.

(4) Stimulate growth in rural businesses that are prepared to make impactful economic development investments.

(1823-G added July 13, 2016, P.L.526, No.84)

Section 1824-G. Rural growth funds.

(a) Application.--Beginning on the effective date of this section, an application to qualify as a rural growth fund must be submitted on a form and in a manner as required by the department.

(b) Information.--An application to qualify as a rural growth fund shall include all of the following:

(1) The total investment authority sought by the applicant under the business plan.

(2) Documents and other evidence sufficient to prove to the satisfaction of the department that the applicant meets all of the following criteria:

(i) The applicant or an affiliate of the applicant is licensed as a rural business investment company under the Consolidated Farm and Rural Development Act (Public Law 87-128, 75 Stat. 307) or as a small business investment company under the Small Business Investment Act of 1958 (Public Law 85-699, 72 Stat. 689).

(ii) Evidence that as of the date the application is submitted, the applicant or affiliates of the applicant have invested at least $100,000,000 in nonpublic companies located in rural areas of this Commonwealth or other states.

(iii) At least one principal in a rural business investment company or a small business investment company has been an officer or employee of the applicant or of an affiliate of the applicant for at least four years prior to the date the application is submitted.

((2) amended June 28, 2019, P.L.50, No.13)

(3) An estimate of the number of jobs created or retained in this Commonwealth that will result from the applicant's rural growth investments. ((3) amended June 28, 2019, P.L.50, No.13)

(4) A business plan that includes a revenue impact assessment projecting State and local tax revenue to be generated by the applicant's proposed rural growth investments prepared by a nationally recognized third-party independent economic forecasting firm using a dynamic economic forecasting model that analyzes the applicant's business plan over the 10 years following the date the application is submitted to the department.

(5) A signed affidavit from each investor stating the amount of credit-eligible capital contributions each business firm commits to make.

(6) A nonrefundable application fee of $500.

(c) Review of applications.--The department shall review applications received from rural growth funds under this section. Subject to the

limitation in subsection (f), the department shall make allocations of investment authority for approved applications in the order in which the applications are received. Applications received on the same day shall be deemed to have been received simultaneously. If requests for investment authority on approved applications exceed the limitation in subsection (f), the department shall reduce the investment authority and the credit-eligible capital contributions proportionally based upon the amount of investment authority sought in the application for each approved application as necessary to not exceed the limitation in subsection (f).

(d) Notice of approval or disapproval.--

(1) Within 60 days after receipt of an application, the department shall notify the applicant of its approval or disapproval as a rural growth fund under this part.

(2) A notice of approval shall specify the amount of the applicant's investment authority as determined by the department after reviewing the information submitted in accordance with subsection (b) and the amount of credit-eligible contribution authority allocated to each business firm that submitted an affidavit in the application. At least 60% of a growth fund's investment authority shall be comprised of credit-eligible capital contributions. ((2) amended July 23, 2020, P.L.665, No.68)

(3) If the application is disapproved, the notice of disapproval shall include the reasons for disapproval.

(4) An applicant may resubmit the application within 30 days after receipt of a notice of disapproval and provide additional information to complete, clarify or cure defects identified in the application by the department. The department shall consider that application submitted before any pending applications submitted after the date the application was originally submitted. ((4) amended June 28, 2019, P.L.50, No.13)

(e) Request for determination.--A rural growth fund, before making a rural growth investment, may request from the department a written opinion as to whether the business in which the rural growth fund proposes to invest is a rural business. The department shall notify the rural growth fund of the determination within 15 days after receipt of the request. If the department fails to notify a rural growth fund of the determination within 15 days, the business in which the rural growth fund proposes to invest shall be considered a rural business. ((e) amended June 28, 2019, P.L.50, No.13)

(f) Limitation.--The department may not approve more than $50,000,000 in investment authority with respect to program one tax credit authority and $50,000,000 in investment authority with respect to program two tax credit authority under this part. ((f) amended July 11, 2024, P.L.674, No.56)

(1824-G added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(10) of Act 56 of 2024 provided that the amendment of section 1824-G shall apply to fiscal years beginning after June 30, 2024.

Section 1825-G. Requirements.

(a) Collections.--Upon receiving approval under section 1824-G, a rural growth fund must do all of the following within 60 days:

(1) Collect the credit-eligible capital contributions from each business firm issued a tax credit certificate under section 1829-G.

(2) Collect one or more investments of cash that, when added to the contributions collected under paragraph (1), equal the rural growth fund's investment authority. At least 10% of the rural growth fund's investment authority shall be comprised of equity investments contributed, directly or indirectly, by affiliates of the rural growth fund, including employees, officers and directors of the affiliates. ((2) amended June 28, 2019, P.L.50, No.13)

(b) Documentation.--Within 65 days of approval under section 1824-G, a rural growth fund must provide to the department documentation sufficient to prove that the amounts specified in subsection (a) have been collected.

(1825-G added July 13, 2016, P.L.526, No.84)

Section 1826-G. Rural growth fund failure to comply.

(a) Revocation.--If a rural growth fund fails to meet the requirements of section 1825-G, the rural growth fund's approval shall be revoked, and, the corresponding investment authority and credit-eligible capital contributions may not be included in determining the limits on total investment authority and credit-eligible capital contributions prescribed in sections 1824-G(f) and 1828-G(c), respectively. ((a) amended June 28, 2019, P.L.50, No.13)

(b) Reallocation.--Any investment authority and credit-eligible capital contributions related to a rural growth fund whose approval has been revoked under subsection (a) shall be reallocated by awarding the investment authority related to a revocation on a pro rata basis to each rural growth fund that was awarded less than the requested investment authority under section 1824-G.

(c) Discretion.--A rural growth fund may allocate any investment authority reallocated to it under subsection (b) to its investor business firms at its discretion.

(d) Unallocated investment authority.--Subsequent to the reallocation in subsection (b), any remaining investment authority may be awarded by the department to new applicants.

(1826-G added July 13, 2016, P.L.526, No.84)

Section 1827-G. Reporting obligations.

(a) Initial report.--Each rural growth fund shall submit a report to the department on or before the fifth business day after the second anniversary of the closing date. The report shall provide documentation as to the rural growth fund's rural growth investments and include the following information:

(1) A bank statement evidencing each rural growth investment.

(2) The name, location and industry of each business receiving a rural growth investment, including either the determination letter issued by the department under section 1824-G(e) or other evidence that the business qualified as a rural business at the time the investment was made.

(3) ((3) deleted by amendment).

(4) Any other information required by the department.

(5) A copy of the commitment letter or summary of the terms and conditions of the rural growth investment offered to and accepted by the rural business.

(b) Annual report.--No later than March 1 of each year following the closing date the rural growth fund shall submit an annual report to the department that includes the following information:

(1) The number of jobs created and retained by each rural business. The number of jobs created and retained shall be calculated as follows:

(i) The number of jobs created by a rural business is calculated each year by subtracting the number of full-time equivalent employee positions in this Commonwealth at the time of the initial rural growth investment in the rural business from the monthly average of those employment positions for that year. If the number calculated is less than zero, the number shall be reported as zero. The monthly average of full-time equivalent employee positions for a year is calculated by adding together the number of full-time equivalent employee positions existing on the last day of each month of the year and dividing by 12.

(ii) The number of jobs retained by a rural business is calculated each year based on the monthly average of full-time equivalent employee positions for that year. The monthly average of full-time equivalent employee positions for a year is calculated by adding together the number of full-time equivalent employee positions existing on the last day of each month of the year and dividing by 12. The reported number of jobs retained for a year may not exceed the number reported on the annual report under this subsection. The rural growth fund shall reduce the number of jobs

retained for a year if employment at the rural business drops below the number reported on the annual report.

(1.1) If not provided under subsection (a)(2), the name and location of each business receiving a rural growth investment, including either the determination letter issued by the department under section 1824-G(e) or other evidence that the business qualified as a rural business at the time the investment was made.

(2) The average hourly wage of the jobs reported in paragraph (1).

(3) Any other information required by the department.

(c) Report of rural business.--

(1) No later than March 1 of each year following the year in which the report required under subsection (a) is due, a rural business that receives a rural growth investment shall submit the following information on a form required by the department:

(i) The number of jobs existing at the rural business prior to the rural growth investment.

(ii) The number of new jobs created as a result of the rural growth investment.

(iii) The number of jobs retained as a result of the rural growth investment.

(2) Failure by the rural business to submit the report may result in the reduction of investment authority or credit-eligible contribution authority of the rural growth fund.

(1827-G amended June 28, 2019, P.L.50, No.13)

Section 1828-G. Business firms.

(a) General rule.--To qualify for a tax credit, credit-eligible capital contributions made by a business firm to a rural growth fund must be used by the rural growth fund for rural growth investments in a rural business under this part.

(b) Submission.--In connection with the documentation submitted under section 1825-G(b), a rural growth fund shall submit, on behalf of its business firm investors, on a form and in a manner required by the department, a description of credit-eligible capital contributions for approval by the department. The submission shall include for each credit-eligible capital contribution:

(1) The amount of the credit-eligible capital contribution.

(2) The name of the rural growth fund to which the credit-eligible capital contribution was made.

(3) The closing date.

(4) Any other information required by the department.

(c) Limitation.--The department may not approve more than $30,000,000 in credit-eligible capital contributions under this part. ((c) amended June 28, 2019, P.L.50, No.13)

(1828-G added July 13, 2016, P.L.526, No.84)

Section 1829-G. Tax credit certificates.

(a) Application.--

(1) A business firm may apply to the department for a tax credit certificate under this section for the tax credits that are earned and vested as a result of the business firm's credit-eligible capital contribution.

(2) The application shall be on a form required by the department and shall include the amount of the business firm's credit-eligible capital contribution approved under section 1828-G(b).

(3) The application shall be filed no later than February 1 for credit-eligible capital contributions made in the preceding calendar year.

(b) Review, recommendation and approval.--

(1) The department shall review the credit-eligible capital contributions, verify that the credit-eligible capital contributions were made to an approved rural growth fund with adequate investment authority and approve or disapprove the application within 30 days of receipt of the application for review.

(2) If the department has approved the application, it shall award the business firm a tax credit certificate by April 1.

(2.1) Tax credits awarded under this section to a business firm shall not exceed the amount of the credit-eligible capital contributions made by the business firm. ((2.1) amended June 28, 2019, P.L.50, No.13)

(3) In awarding tax credit certificates under this part, the department:

(i) Beginning with fiscal year 2020-2021, may not award tax credit certificates that would result in the utilization of more than $6,000,000 in tax credits in any fiscal year, except for tax credits carried forward.

(ii) May not award more than $30,000,000 in tax credit certificates, in the aggregate, under this part.

((3) amended July 23, 2020, P.L.665, No.68)

(1829-G added July 13, 2016, P.L.526, No.84)

Section 1830-G. Claiming the tax credit.

(a) Presentation.--

(1) Beginning July 1, 2020, with respect to program one tax credit authority, upon presenting a tax credit certificate to the Department of Revenue, a business firm may claim a tax credit of up to 20% of the amount awarded under section 1829-G for each of the taxable years that includes the third, fourth, fifth, sixth and seventh anniversaries of the closing date, exclusive of any tax credit amounts carried over under section 1831-G(b).

(2) Beginning July 1, 2024, with respect to program two tax credit authority, upon presenting a tax credit certificate to the Department of Revenue, a business firm may claim a tax credit of up to 20% of the amount awarded under section 1829-G for each of the taxable years that includes the third, fourth, fifth, sixth and seventh anniversaries of the closing date, exclusive of any tax credit amounts carried over under section 1831-G(b).

((a) amended July 11, 2024, P.L.674, No.56)

(b) Allowance.--The Department of Revenue shall allow a tax credit against any tax due under Article VII, VIII, IX or XV, the tax under Article XVI of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921, amounts imposed under section 212 of the act of May 17, 1921 (P.L.789, No.285), known as The Insurance Department Act of 1921, any retaliatory taxes imposed by this Commonwealth or any tax substituted in lieu of one of the taxes under this subsection.

(1830-G amended July 23, 2020, P.L.665, No.68)

Compiler's Note: Section 30(10) of Act 56 of 2024 provided that the amendment of section 1830-G shall apply to fiscal years beginning after June 30, 2024.

Section 1831-G. Restrictions on tax credit utilization.

(a) Limitation.--A tax credit to be applied in any one year may not exceed the qualified tax liability of the business firm or affiliate to which a tax credit was sold or assigned for that taxable year.

(b) Carryover.--A tax credit not used in the period the credit is first eligible for use under subsection (a) may be carried over for the next five succeeding calendar years until the full tax credit has been allowed.

(1831-G added July 13, 2016, P.L.526, No.84)

Section 1832-G. Prohibitions.

(a) Sale or assignment.--A business firm may not sell or assign, in whole or in part, a tax credit awarded under this part other than to an affiliate having a qualified tax liability.

(b) Carryback or refund.--A business firm may not carry back or obtain a refund of an unused tax credit.

(c) Business activities.--Neither a rural growth fund nor any business firm that invests in the rural growth fund shall be an affiliate of or have a pecuniary interest in a rural business that receives a rural growth investment from the rural growth fund prior to the rural growth fund's

initial rural growth investment in the rural business. ((c) amended June 28, 2019, P.L.50, No.13)

(1832-G added July 13, 2016, P.L.526, No.84)

Section 1833-G. Revocation of tax credit certificates.

(a) Revocation.--The department shall revoke a tax credit certificate awarded under section 1829-G if any of the following occur with respect to a rural growth fund before the rural growth fund exits the program under section 1834-G:

(1) The rural growth fund in which the credit-eligible capital contribution was made does not invest all of its investment authority in rural growth investments in this Commonwealth within three years of the closing date with at least 25% of its investment authority initially invested in rural businesses engaged in manufacturing.

(2) The rural growth fund, after satisfying the conditions of paragraph (1), fails to maintain rural growth investments equal to 100% of its investment authority until the seventh anniversary of the closing date. For the purposes of this paragraph, a rural growth investment is "maintained" even if the rural growth investment is sold or repaid so long as the rural growth fund reinvests an amount equal to the capital returned or recovered by the rural growth fund from the original rural growth investment, exclusive of any profits realized, in other rural growth investments in this Commonwealth within 12 months of the receipt of the capital. Amounts received periodically by a rural growth fund shall be treated as continually invested in rural growth investments if the amounts are reinvested in one or more rural growth investments by the end of the following calendar year. A rural growth fund is not required to reinvest capital returned from rural growth investments after the sixth anniversary of the closing date, and the rural growth investments shall be considered held continuously by the rural growth fund through the seventh anniversary of the closing date.

(3) The rural growth fund, before exiting the program in accordance with section 1834-G, makes a distribution or payment that results in the rural growth fund having less than 100% of its investment authority invested in rural growth investments in this Commonwealth or available for investment in rural growth investments and held in cash and other marketable securities.

(4) The following apply:

(i) With respect to program one tax credit authority, the rural growth fund invests more than 20% of its investment authority, exclusive of receipts or redeemed rural growth investments, in the same rural business, including amounts invested in affiliates of the rural business.

(ii) With respect to program two tax credit authority, the rural growth fund invests more than $5,000,000 of its investment authority, exclusive of receipts or redeemed rural growth investments, in the same rural business, including amounts invested in affiliates of the rural business.

((4) amended July 11, 2024, P.L.674, No.56)

(5) The rural growth fund makes a rural growth investment in a rural business that directly or indirectly through an affiliate owns, has the right to acquire an ownership interest, makes a loan to or makes an investment in the rural growth fund, an affiliate of the rural growth fund or an investor in the rural growth fund. This paragraph does not apply to investments in publicly traded securities by a rural business or an owner or affiliate of a rural business. For purposes of this paragraph, a rural growth fund shall not be considered an affiliate of a rural business solely as a result of its rural growth investment.

((a) amended July 23, 2020, P.L.665, No.68)

(b) Notification.--Before revoking one or more tax credit certificates under this section, the department shall notify the rural growth fund of the reasons for the pending revocation. The rural growth fund shall have 90 days from the date the notice was made to correct any violation outlined in

the notice to the satisfaction of the department and avoid revocation of a tax credit certificate.

(c) Reallocation.--If a tax credit certificate is revoked under this section, the associated investment authority and credit-eligible capital contributions may not count toward the limit on total investment authority and credit-eligible capital contributions allowed under this part. The department shall first reallocate investment authority on a pro rata basis to each rural growth fund that was allocated less than the requested investment authority under section 1824-G. The department may then allocate any remaining investment authority to new applicants.

(d) Rural growth investment cap.--With respect to any one rural business, the maximum amount of rural growth investments made in that business, on a collective basis with all of its affiliates that may be counted toward the satisfaction of subsection (a), shall be $15,000,000, exclusive of receipts of redeemed rural growth investments. ((d) added July 11, 2024, P.L.674, No.56)

(1833-G added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(10) of Act 56 of 2024 provided that the amendment of section 1833-G shall apply to fiscal years beginning after June 30, 2024.

Section 1834-G. Exit.

(a) Application for exit.--On or after the seventh anniversary of the closing date, a rural growth fund may apply to the department to exit the Rural Jobs and Investment Tax Credit Program and no longer be subject to regulation under this part. A rural growth fund shall calculate the State repayment amount in its application for exit and if the product is greater than the rural growth fund's credit-eligible capital contributions, the State repayment amount shall equal zero. The department shall respond to the application within 30 days after receipt and confirm the State repayment amount. In evaluating the application, the fact that no tax credit certificates have been revoked and that the rural growth fund has not received a notice of revocation that has not been cured under section 1833-G(b) shall be sufficient evidence to show that the rural growth fund is eligible for exit. The department may not deny an application submitted under this subsection without reasonable cause. If the application is denied, the department shall issue a notice which shall include the reasons for the denial. If the rural growth fund owes a State repayment amount, the rural growth fund may not be permitted to make distributions or payments in excess of the investment authority until the rural growth fund first remits the State repayment amount to the department. All amounts received by the department under this section shall be credited to the General Fund. ((a) amended June 28, 2019, P.L.50, No.13)

(b) Exit.--The department may not revoke a tax credit certificate after a rural growth fund exits from the Rural Jobs and Investment Tax Credit Program under this section.

(1834-G added July 13, 2016, P.L.526, No.84)

Section 1835-G. Duties of department.

(a) Rules and regulations.--The department may promulgate rules and regulations to administer this part.

(b) Reports by department.--The department shall provide a report listing all applications received for tax credit certificates and the disposition of the applications in each fiscal year to the General Assembly by October 1 of the following fiscal year. The department's report shall include all business firms approved for a tax credit certificate and the amount of tax credit certificates approved for each business firm.

(c) Confidentiality.--Notwithstanding any law providing for the confidentiality of tax records, the information in the report under subsection (b) shall be public information, and all report information shall be posted on the department's publicly accessible Internet website.

(1835-G added July 13, 2016, P.L.526, No.84)

ARTICLE XVIII-H
TAX CREDITS RELATING TO BEGINNING FARMERS
(Art. added July 2, 2019, P.L.399, No.65)

Section 1801-H. Scope of article.

This article relates to the tax credits to owners of agricultural assets who sell or rent agricultural assets to beginning farmers.

(1801-H added July 2, 2019, P.L.399, No.65)

Section 1802-H. Definitions.

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

"Agricultural assets." Agricultural land, livestock, facilities, buildings and machinery used for farming.

"Agricultural production." As defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the Agricultural Area Security Law.

"Beginning farmer." A person who:

(1) Has demonstrated experience in the agriculture industry or related field or has transferable skills as determined by the department.

(2) Has not received Federal gross income from agricultural production for more than the 10 most recent taxable years.

(3) Intends to engage in agricultural production within the borders of this Commonwealth and to provide the majority of the labor and management involved in that agricultural production.

(4) Has obtained written certification from the department confirming beginning farmer status.

(5) Is not, and whose spouse is not, a partner, member, shareholder or trustee of the owner of agricultural assets from whom the person seeks to purchase or rent agricultural assets.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Farm." Real property on which farming occurs.

"Farming." The active use, management and operation of real and personal property for agricultural production.

"Lease." A written agreement between parties for the lease of real property on which farming occurs.

"Owner of agricultural assets." An individual, trust or pass-through entity that is the owner in fee of agricultural land or has legal title to any other agricultural asset. The term does not include an equipment dealer, livestock dealer or comparable entity that is engaged in the business of selling agricultural assets for profit and that is not engaged in farming as its primary business activity.

"Tax credit." A tax credit established by this article.

(1802-H added July 2, 2019, P.L.399, No.65)

Section 1803-H. Beginning farmer management tax credit.

(a) General rule.--An owner of agricultural assets may take a credit against the tax due under Article III for the sale or rental of agricultural assets to a beginning farmer in the amount approved by the department. An owner of agricultural assets is eligible for allocation of a tax credit equal to:

(1) five percent of the lesser of the sale price or the fair market value of the agricultural asset, up to a maximum of $32,000; or

(2) ten percent of the gross rental income in each of the first, second and third years of a rental agreement, up to a maximum of $7,000 per year.

(b) Application.--

(1) The tax credit may be claimed only after approval and certification by the department and is limited to the amount stated on the certificate issued under section 1804-H.

(2) An owner of agricultural assets must apply to the department for approval of a tax credit, in a form and manner prescribed by the

department. The application shall:

(i) identify the beginning farmer who has been certified by the department under paragraph (3) and to whom the agricultural assets are sold or rented; and

(ii) specify whether the beginning farmer is a brother, sister, ancestor or lineal descendant of the applicant.

(3) A person may apply to the department for certification that the person is a beginning farmer for purposes of this article. The application shall be in a form and manner prescribed by the department and shall require that the applicant provide:

(i) Projected earnings statements to demonstrate the profit potential for the farming conducted by the applicant.

(ii) Verification that the farming conducted by the applicant will be a significant source of income for the applicant.

(iii) Verification that the applicant will, if certified as a beginning farmer by the department, notify the department if the farmer no longer meets the certification and eligibility requirements within the three-year certification period, in which case eligibility for tax credits ends.

(iv) Verification that the applicant is not engaged in farming by means of a joint business venture.

(v) Verification and documentation as necessary to meet other eligibility requirements as may be established by the department.

(c) Termination of rental agreement.--

(1) An owner of agricultural assets or a beginning farmer may terminate a rental agreement for reasonable cause upon approval of the department.

(2) If a rental agreement is terminated without the fault of the owner of agricultural assets, the tax credits shall not be retroactively disallowed.

(3) In determining reasonable cause, the department shall consider which party was at fault in the termination of the agreement.

(4) If the department determines the owner of agricultural assets did not have reasonable cause, the owner of agricultural assets must repay all tax credits received as a result of the rental agreement to the Commonwealth. The repayment is additional income tax for the taxable year in which the department makes its decision.

(d) Duration of tax credit.--The credit is limited to the liability for tax as computed under Article III for the taxable year. The tax credit may not be sold, passed through, carried forward or refunded. No credits granted under this section shall be applied against any tax withheld by an employer from an employee under Article III.

(1803-H added July 2, 2019, P.L.399, No.65)

Section 1804-H. Approval of tax credit.

(a) General rule.--The tax credit may be claimed only after approval and certification by the department. The department shall review the application of a tax credit in consultation with the Department of Agriculture.

(b) Tax clearance.--Before an application is approved, the Department of Revenue must find that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement or assessment or as otherwise determined by the Department of Revenue.

(1804-H added July 2, 2019, P.L.399, No.65)

Section 1805-H. Departmental duties.

(a) Duties.--The department shall:

(1) Share information with the Secretary of Revenue to the extent necessary to administer provisions under this article and Article III.

(2) Annually notify the Secretary of Revenue of approval and certification or recertification of beginning farmers and owners of agricultural assets under this section. For tax credits under section 1803-H, the notification must include the amount of tax credit approved by the department and stated on the tax credit certificate.

(b) Validity of certification.--The certification of a beginning farmer or an owner of agricultural assets under this article is valid for the year of the certification and the two following years, after which time the beginning farmer or owner of agricultural assets must apply to the department for recertification.

(c) Limitation on amount.--

(1) For tax credits for owners of agricultural assets allowed under section 1803-H, the department may allocate no more than $5,000,000 for the taxable year beginning after December 31, 2019, and may allocate no more than $6,000,000 for the taxable years beginning after December 31, 2020.

(2) The department shall allocate tax credits on a first-come, first-served basis beginning on January 1 of each year, except that recertifications for the second and third years of tax credits under section 1803-H(a)(1) and (2) have first priority. Any amount authorized but not allocated in any taxable year does not cancel and is added to the allocation for the next taxable year.

(1805-H added July 2, 2019, P.L.399, No.65)

Section 1806-H. Report.

(a) Duty to report.--No later than February 1, 2025, the department, in consultation with the Secretary of Revenue, shall provide a report to the General Assembly on the tax credits issued in tax years beginning after December 31, 2019.

(b) Contents of report.--

(1) The report must include background information on beginning farmers and any other information the department finds relevant to evaluating the effect of the tax credits on increasing opportunities for and the number of beginning farmers.

(2) For tax credits issued under section 1803-H(a), the report shall include:

(i) The number and amount of tax credits issued under each paragraph.

(ii) The geographic distribution of tax credits issued under each paragraph.

(iii) The type of agricultural assets for which tax credits were issued under section 1803-H(a)(1).

(iv) The number and geographic distribution of beginning farmers whose purchase or rental of assets resulted in tax credits for the seller or owner of the asset.

(v) The number and amount of tax credits disallowed under section 1803-H(d).

(vi) Data on the number of beginning farmers by geographic region in the tax years covered in the report.

(vii) The number and amount of tax credit applications that exceeded the allocation available in each year.

(1806-H added July 2, 2019, P.L.399, No.65)

Section 1807-H. Expiration.

This article shall expire for taxable years beginning after December 31, 2029.

(1807-H added July 2, 2019, P.L.399, No.65)

ARTICLE XIX
NEW BANK TAX CREDIT
(Art. XIX repealed June 22, 2001, P.L.353, No.23)

Section 1901. Short Title.--(1901 repealed June 22, 2001, P.L.353, No.23)

Section 1902. Legislative Intent.--(1902 repealed June 22, 2001, P.L.353, No.23)

Section 1903. Definitions.--(1903 repealed June 22, 2001, P.L.353, No.23)

Section 1904. Tax Credit.--(1904 repealed June 22, 2001, P.L.353, No.23)

Section 1905. Limitations on Tax Credits.--(1905 repealed June 22, 2001, P.L.353, No.23)

Section 1906. Total Amount of Credits.--(1906 repealed June 22, 2001, P.L.353, No.23)

Section 1907. Procedures for Claiming Credits.--(1907 repealed June 22, 2001, P.L.353, No.23)

Section 1908. Report to General Assembly.--(1908 repealed June 22, 2001, P.L.353, No.23)

Section 1909. Evaluation of Tax Credit.--No later than September 30, 1992, the Secretary of Revenue, in cooperation with the Secretary of Banking, shall report to the Governor and the General Assembly concerning the impact of the tax credits provided by this article upon the growth and stability of the banking industry in the Commonwealth. The report shall discuss whether tax credits of the type provided by this article are an efficient and effective method of fostering the growth and stability of the banking industry and shall recommend whether this article should be reauthorized or extended.

(1909 added July 1, 1989, P.L.109, No.23)

ARTICLE XIX-A
NEIGHBORHOOD ASSISTANCE TAX CREDIT
(Art. added June 16, 1994, P.L.279, No.48)

Compiler's Note: Section 301(a)(9) of Act 58 of 1996, which created the Department of Community and Economic Development and abolished the Department of Community Affairs, provided that housing, community assistance and other functions under Article XIX-A are transferred from the Department of Community Affairs to the Department of Community and Economic Development.

Section 1901-A. Short Title.--This article shall be known and may be cited as the Neighborhood Assistance Act.

(1901-A added June 16, 1994, P.L.279, No.48)

Section 1902-A. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Affordable housing." Housing that serves median-income, low-income, very low-income and extremely low-income families as those terms are defined in section 3 of the United States Housing Act of 1937 (50 Stat. 888, 42 U.S.C. § 1437 et seq.) based on the area median income as determined by the Federal Housing Finance Agency. (Def. added July 13, 2016, P.L.526, No.84)

"Business firm." Any business entity authorized to do business in this Commonwealth and subject to taxes imposed by Article III, IV, VI, VII, VIII, IX or XV of this act. The term shall include a pass-through entity. (Def. amended July 25, 2007, P.L.373, No.55)

"Charitable food program." An emergency food provider or a regional food bank as defined in section 2 of the act of December 11, 1992 (P.L.807, No.129), known as the "State Food Purchase Program Act." (Def. added July 2, 2012, P.L.751, No.85)

"Community services." Any type of counseling and advice, emergency assistance, food assistance or medical care furnished to individuals or groups in an impoverished area. (Def. amended July 2, 2012, P.L.751, No.85)

"Comprehensive service plan." A strategy developed jointly by a neighborhood organization and a sponsoring business firm or private company for the stabilization and improvement of an impoverished area within an urban neighborhood or rural community.

"Comprehensive service project." Any activity conducted jointly by a neighborhood organization and a sponsoring business firm which implements a comprehensive service plan.

"Crime prevention." Any activity which aids in the reduction of crime in an impoverished area.

"Domestic violence or veterans' housing assistance." Furnishing financial assistance, labor, material and technical advice to aid in the

acquisition, construction, renovation or rehabilitation of real property in an impoverished area that will be used to provide housing for victims of domestic violence or veterans. (Def. added July 13, 2016, P.L.526, No.84)

"Education." Any type of scholastic instruction or scholarship assistance to an individual who resides in an impoverished area that enables that individual to prepare for better life opportunities.

"Enterprise zones." Specific locations with identifiable boundaries within impoverished areas which are designated as enterprise zones by the Secretary of Community and Economic Development.

"Impoverished area." Any area in this Commonwealth which is certified as such by the Department of Community and Economic Development and the certification is approved by the Governor. Such certification shall be made on the basis of Federal census studies and current indices of social and economic conditions.

"Job training." Any type of instruction to an individual who resides in an impoverished area that enables that individual to acquire vocational skills so that the individual can become employable or be able to seek a higher grade of employment.

"Neighborhood assistance." Furnishing financial assistance, labor, material and technical advice to aid in the physical improvement of any part or all of an impoverished area.

"Neighborhood organization." Any organization performing community services, offering neighborhood assistance or providing job training, affordable housing, domestic violence or veterans' housing assistance, education or crime prevention in an impoverished area, holding a ruling from the Internal Revenue Service of the United States Department of the Treasury that the organization is exempt from income taxation under the provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) and approved by the Department of Community and Economic Development. (Def. amended July 13, 2016, P.L.526, No.84)

"Pass-through entity." A partnership as defined under section 301(n.0) or a Pennsylvania S corporation as defined under section 301(n.1). (Def. added July 25, 2007, P.L.373, No.55)

"Private company." Any agricultural, industrial, manufacturing or research and development enterprise as defined in section 3 of the act of May 17, 1956 (1955 P.L.1609, No.537), known as the "Pennsylvania Industrial Development Authority Act," or any commercial enterprise as defined in section 3 of the act of August 23, 1967 (P.L.251, No.102), known as the "Economic Development Financing Law."

"Qualified investments." Any investments made by a private company which promote community economic development pursuant to a plan which has been developed in cooperation with and approved by a neighborhood organization operating pursuant to a plan for the administration of tax credits approved by the Department of Community and Economic Development.

"Secretary." The Secretary of Community and Economic Development of the Commonwealth.

"Youth and adolescent development services." Financial assistance to provide services to youth and adolescents who are 21 years of age and younger, including job training and apprenticeship programs, job placement and retention training, education and after school programs, such as school programs with shared governance by students, teachers and parents, and activities for youth between the hours of 3 p.m. and 11 p.m., mentoring programs, conflict resolution skills training, sports, arts, life skills, employment and recreation programs, summer jobs, summer recreation programs and alternative school resources for youth who have dropped out of school or demonstrate chronic truancy. (Def. added June 28, 2019, P.L.50, No.13)

(1902-A amended May 7, 1997, P.L.85, No.7)

Section 1903-A. Public Policy.--It is hereby declared to be public policy of this Commonwealth to encourage investment by business firms in offering neighborhood assistance and providing job training, education, crime prevention, youth and adolescent development services and community services, to encourage contributions by business firms to neighborhood organizations which offer and provide such assistance and services and to

promote qualified investments made by private companies to rehabilitate, expand or improve buildings or land which promote community economic development and which occur in portions of impoverished areas which have been designated as enterprise zones.

(1903-A amended June 28, 2019, P.L.50, No.13)

Section 1904-A. Tax Credit.--(a) Any business firm which engages or contributes to a neighborhood organization which engages in the activities of providing neighborhood assistance, comprehensive service projects, affordable housing, domestic violence or veterans' housing assistance, job training or education for individuals, community services, youth and adolescent development services or crime prevention in an impoverished area or private company which makes qualified investment to rehabilitate, expand or improve buildings or land located within portions of impoverished areas which have been designated as enterprise zones shall receive a tax credit as provided in section 1905-A if the secretary annually approves the proposal of such business firm or private company. The proposal shall set forth the program to be conducted, the impoverished area selected, the estimated amount to be invested in the program and the plans for implementing the program. ((a) amended June 28, 2019, P.L.50, No.13)

(b) The secretary is hereby authorized to promulgate rules and regulations for the approval or disapproval of such proposals by business firms or private companies. The secretary shall provide a report listing of all applications received and their disposition in each fiscal year to the General Assembly by October 1 of the following fiscal year. The secretary's report shall include all taxpayers utilizing the credit and the amount of credits approved, sold or assigned. Notwithstanding any law providing for the confidentiality of tax records, the information in the report shall be public information, and all report information shall be posted on the secretary's Internet website.

(b.1) The secretary shall take into special consideration, when approving applications for neighborhood assistance tax credits, applications which involve:

(1) multiple projects in various markets throughout this Commonwealth;

(2) charitable food programs; and

(3) youth and adolescent development services.

((b.1) amended June 28, 2019, P.L.50, No.13)

(b.2) The secretary, in cooperation with the Department of Agriculture, shall promulgate guidelines for the approval or disapproval of applications for tax credits by business firms that contribute food or money to charitable food programs.

(b.3) The secretary, in cooperation with the Department of Military and Veterans Affairs, shall promulgate guidelines for the approval or disapproval for tax credits by business firms that contribute to veterans' housing assistance.

(c) The total amount of tax credit granted for programs approved under this act shall not exceed seventy-two million dollars ($72,000,000) of tax credit in any fiscal year. ((c) amended July 11, 2024, P.L.674, No.56)

(c.1) No more than two million dollars ($2,000,000) of the total amount of tax credit available under subsection (c) shall be used for youth and adolescent development services. ((c.1) added June 28, 2019, P.L.50, No.13)

(d) A taxpayer, upon application to and approval by the Department of Community and Economic Development, may sell or assign, in whole or in part, a neighborhood assistance tax credit granted to the business firm under this article if no claim for allowance of the credit is filed within one year from the date the credit is granted by the Department of Revenue under section 1905-A. The Department of Community and Economic Development and the Department of Revenue shall jointly promulgate guidelines for the approval of applications under this subsection.

(e) The purchaser or assignee of a neighborhood assistance tax credit under subsection (d) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee may not carry over, carry back, obtain a refund of or sell or assign the neighborhood assistance tax credit. The purchaser or assignee shall notify

the Department of Revenue of the seller or assignor of the neighborhood assistance tax credit in compliance with procedures specified by the Department of Revenue.

(f) The neighborhood assistance tax credit approved by the Department of Community and Economic Development shall be applied against the business firm's tax liability for the taxes under section 1905-A for the current taxable year as of the date on which the credit was approved before the neighborhood assistance tax credit may be carried over, sold or assigned.

(1904-A amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(9) of Act 56 of 2024 provided that the amendment of subsection (c) shall apply to fiscal years beginning after June 30, 2024.

Section 1905-A. Grant of Tax Credit.--(a) The Department of Revenue shall grant a tax credit against any tax due under Article III, IV, VI, VII, VIII, IX or XV of this act, or any tax substituted in lieu thereof in an amount which shall not exceed sixty-five per cent of the total amount contributed during the taxable year by a business firm or twenty-five per cent of qualified investments by a private company in programs approved pursuant to section 1904-A of this act: Provided, That a tax credit of up to ninety per cent of the total amount contributed during the taxable year by a business firm or up to thirty-five per cent of the amount of qualified investments by a private company may be allowed for investment in programs where activities fall within the scope of special program priorities as defined with the approval of the Governor in regulations promulgated by the secretary, and Provided further, That a tax credit of up to ninety per cent of the total amount contributed during the taxable year by a business firm in comprehensive service projects with five-year commitments and up to ninety-five per cent of the total amount contributed during the taxable year by a business firm in comprehensive service projects with six-year or longer commitments shall be granted, and Provided further, That a tax credit of up to ninety per cent of the total amount contributed during the taxable year by a business firm in veterans' housing assistance approved under section 1904-A(b.3) shall be granted. Such credit shall not exceed one million dollars ($1,000,000) annually for contributions or investments to fewer than four projects or two million five hundred thousand dollars ($2,500,000) annually for contributions or investments to four or more projects. No tax credit shall be granted to any bank, bank and trust company, insurance company, trust company, national bank, savings association, mutual savings bank or building and loan association for activities that are a part of its normal course of business. Any tax credit not used in the period the contribution or investment was made may be carried over for the next five succeeding calendar or fiscal years until the full credit has been allowed. A business firm shall not be entitled to carry back or obtain a refund of an unused tax credit. The total amount of all tax credits allowed pursuant to this act shall not exceed seventy-two million dollars ($72,000,000) in any one fiscal year. Of that amount, two million dollars ($2,000,000) shall be allocated exclusively for pass-through entities. However, if the total amounts allocated to either the group of applicants, exclusive of pass-through entities, or the group of pass-through entity applicants is not approved in any fiscal year, the unused portion shall become available for use by the other group of qualifying taxpayers. ((a) amended July 11, 2024, P.L.674, No.56)

(b) Notwithstanding any other provision of law and except for the tax credits which are granted under subsection (a) on the effective date of this subsection, no additional tax credits may be granted under this article.

(1905-A amended Oct. 24, 2018, P.L.675, No.100)

Compiler's Note: Section 30(9) of Act 56 of 2024 provided that the amendment of subsection (a) shall apply to fiscal years beginning after June 30, 2024.

Section 1906-A. Decision in Writing.--The decision of the secretary to approve or disapprove a proposal pursuant to section 1904-A of this act shall be in writing, and, if it approves the proposal, it shall state the maximum credit allowable to the business firm. A copy of the decision of the secretary shall be transmitted to the Governor and to the Secretary of Revenue.

(1906-A amended May 7, 1997, P.L.85, No.7)

Section 1907-A. Pass-Through Entity.--(a) If a pass-through entity has any unused tax credit under section 1905-A, the entity may elect, in writing, according to the department's procedures, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(b) The credit provided under subsection (a) is in addition to any neighborhood assistance tax credit to which a shareholder, member or partner of a pass-through entity is otherwise entitled under this article. However, a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a credit under this article for the same qualified neighborhood assistance investment or contribution.

(c) A shareholder, member or partner of a pass-through entity to whom credit is transferred under subsection (a) must immediately claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1907-A added July 25, 2007, P.L.373, No.55)

Section 1908-A. Reporting.--The Department of Community and Economic Development shall issue a report within 12 months of the effective date of this section and each five years thereafter. The report shall include a funding evaluation of the neighborhood assistance program and recommendations for the tax credit, specifically including ways the department can interact with and promote the inclusion of community organizations that have not previously been included in projects receiving credits. Copies of the report shall be submitted to the chair and minority chair of the Finance Committee of the Senate and the chair and minority chair of the Finance Committee of the House of Representatives.

(1908-A added Oct. 24, 2018, P.L.675, No.100)

ARTICLE XIX-B
NEIGHBORHOOD IMPROVEMENT ZONES
(Art. added July 9, 2013, P.L.270, No.52)

Compiler's Note: See section 42(7) of Act 52 of 2013 in the appendix to this act for special provisions relating to continuation of prior law.

Section 1901-B. Scope of article.

This article relates to neighborhood improvement zones.

(1901-B added July 9, 2013, P.L.270, No.52)

Section 1902-B. Definitions.

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

"Bonds." Includes notes, instruments, refunding notes and bonds and other evidences of indebtedness or obligations.

"Capital Facilities Debt Enabling Act." The act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act.

"City." A city of the third class with, on the date of the designation of a neighborhood improvement zone by the contracting authority, a population of at least 106,000, based on the most recent Federal decennial census.

"Contracting authority." An authority created under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) for the purpose of designating a neighborhood improvement zone and constructing a facility or other

authority created under the laws of this Commonwealth which is eligible to apply for and receive redevelopment assistance capital grants under Chapter 3 of the act of February 9, 1999 (P.L.1, No.1), known as the Capital Facilities Debt Enabling Act.

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

"Earned income tax." A tax or portion of a tax imposed on earned income within a neighborhood improvement zone under the act of December 31, 1965 (P.L.1257, No.511), known as The Local Tax Enabling Act, which a city, or a school district contained entirely within the boundaries of or coterminous with the city, is entitled to receive.

"Facility." A stadium, arena or other structure owned or leased by a professional sports organization at which professional athletic events are conducted in the presence of individuals who pay admission to view the event constructed or operated by the contracting authority.

"Facility complex." A development or complex of residential, commercial, exhibition, hospitality, conference, retail and community uses which includes a stadium arena or other place owned, leased or utilized by a professional sports organization at which a professional athletic event or other events are conducted in the presence of individuals who pay admission to view the event.

"Fund." A Neighborhood Improvement Zone Fund established under section 1904-B.

"Master list." A list maintained by the contracting authority of the legal business names, principal business addresses within a neighborhood improvement zone and parcel numbers of all qualified businesses which are required to file reports for the calendar year under section 1904-B(a.1)(1). The term shall also include the name, telephone number and e-mail address of the person employed by the qualified business who is primarily responsible for completing reports for the qualified business required under section 1904-B(a.1). (Def. added July 13, 2016, P.L.526, No.84)

"Neighborhood improvement zone." A neighborhood improvement zone designated by the contracting authority for the purposes of neighborhood improvement and development within a city.

"Operating organization." An entity which contracts directly with the contracting authority to lease or operate a facility. (Def. added July 13, 2016, P.L.526, No.84)

"Professional sports organization." A sole proprietorship, corporation, limited liability company, partnership or association that meets all of the following:

(1) Owns a professional sports franchise.

(2) Conducts professional athletic events of the sports franchise at a facility.

"Qualified business." An entity authorized to conduct business in this Commonwealth which is located or partially located within a neighborhood improvement zone and is engaged in the active conduct of a trade or business for the taxable year. An agent, broker or representative of a business shall not be considered to be in the active conduct of trade or business for the business.

(1902-B added July 9, 2013, P.L.270, No.52)

Section 1903-B. Facility.

The contracting authority may designate a neighborhood improvement zone of not greater than 130 acres in which a facility or facility complex may be constructed and may borrow funds for the purpose of improvement and development within the neighborhood improvement zone and construction of a facility or facility complex within the zone.

(1903-B added July 9, 2013, P.L.270, No.52)

Section 1904-B. Neighborhood Improvement Zone Funds.

(a) Special funds.--Following the designation of a neighborhood improvement zone, the contracting authority shall, within ten days of making the designation or, in the case of a neighborhood improvement zone designated prior to July 1, 2012, within ten days of July 2, 2012, notify the State Treasurer of the designation. Upon the notice, the State Treasurer shall establish a special fund for the benefit of each

contracting authority to be known as the Neighborhood Improvement Zone Fund. Interest income derived from investment of the money in each fund shall be credited by the Treasury Department to the fund.

(a.1) Certification.--

(1) Within 31 days of the end of each calendar year, each qualified business shall file a report with the department which complies with all of the following:

(i) States each State tax, calculated in accordance with subsection (b), which was paid by the qualified business in the prior calendar year.

(ii) Lists each State tax refund which complies with all of the following:

(A) The refund is for a tax:

(I) set forth in subsection (b); and

(II) certified as paid under subsection (b).

(B) The refund was received in the prior calendar year by the qualified business.

(iii) Is in a form and manner required by the department.

(2) In addition to any penalties imposed under this act for failure to timely pay State taxes, the following shall apply:

(i) Failure to file a timely and complete report under paragraph (1) shall result in the imposition of a penalty of 10% of all State taxes, calculated in accordance with subsection (b), which were payable by the qualified business in the prior calendar year. In no case shall the penalty imposed be less than $1,000. When the penalty is received, the money shall be transferred from the General Fund to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located. Failure to file a timely and complete report under paragraph (4) shall result in the imposition of a penalty of 10% of all local taxes, calculated in accordance with subsection (b) by a contracting authority which were payable by the qualified business in the prior calendar year. In no case shall the penalty imposed be less than $250.

(ii) Failure to report a qualified business operating in the facility to the contracting authority by an operating organization in accordance with subsection (a.3)(2) shall result in the imposition of a penalty by the contracting authority upon the operating organization, of 100% of the taxes which would be certified under subsection (b) for each qualified business which is not reported to the contracting authority or $1,000, whichever is greater. The contracting authority may not waive or abate any penalties imposed under this subparagraph. When the penalty is received, the money shall be transferred from the General Fund to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located.

(iii) Failure to file a timely and complete report under paragraph (1) by a qualified business engaged in the active conduct of a trade or business during the calendar year in the facility shall result in the imposition of a penalty by the contracting authority upon the operating organization equal to 100% of the taxes paid which would be certified under subsection (b) for each qualified business which fails to file a timely and complete report. The penalty may not be less than $1,000. If the qualified business is properly included on the master list provided under subsection (a.3), the contracting authority may waive or abate penalties imposed under this subparagraph equal to the total taxes paid by the qualified business which are certified under subsection (b). When the penalty is received, the money shall be deposited in the fund of the contracting authority that designated the neighborhood improvement zone in which the qualifying business is located.

(3) Except as otherwise provided under paragraph (2)(ii) and (iii), any penalty imposed under this subsection shall be imposed, assessed and collected by the department under the provisions for imposing, assessing and collecting penalties under Article II. When the penalty is received, the money shall be transferred from the General Fund to the fund of the contracting authority that designated the neighborhood improvement zone in which the qualified business is located.

(4) Within 31 days of the end of each calendar year, each qualified business shall file a report with the local taxing authority reporting all local taxes, calculated in accordance with subsection (b), which were paid by the qualified business in the prior calendar year. The report from each qualified business shall also list any local tax refunds of taxes set forth in subsection (b) received in the prior calendar year by the qualified business and any refunds related to the local taxes as calculated in accordance with subsection (b). The report shall be in a form and manner required by the department.

((a.1) amended July 13, 2016, P.L.526, No.84)

(a.2) Transition.--

(1) Subject to paragraphs (3) and (4), within 15 days of July 2, 2012, the State Treasurer shall:

(i) determine the amount of money in the Neighborhood Improvement Zone Fund existing on July 2, 2012, which is attributable to each neighborhood improvement zone; and

(ii) transfer the amount of money in the Neighborhood Improvement Zone Fund existing on July 2, 2012, to the fund for each contracting authority for which money was deposited.

(2) An entity collecting a local tax that, on July 2, 2012, is in possession of money attributable to a local tax not included in the amount to be calculated and certified under subsection (b) shall promptly remit that money to the local taxing authority entitled to receive the money.

(3) Transfer and repayment is subject to the following:

(i) Before making the transfer under paragraph (1), the State Treasurer shall:

(A) determine the amount of money deposited in the fund which was attributable to earned income taxes that a contracting authority is not entitled to receive under subsection (b); and

(B) deduct the amount of money determined under clause (A) from the money to be transferred under paragraph (1).

(ii) If any amount of the money under subparagraph (i)(A) has already been transferred to a contracting authority, the State Treasurer shall take action as necessary to recover the money from the contracting authority, including by way of setoff from money to be paid to the contracting authority under paragraph (1). The contracting authority shall comply with a demand made by the State Treasurer for the repayment of money under this paragraph.

(4) As to the money deducted or recovered under paragraph (3), the State Treasurer shall:

(i) identify the local taxing authorities that were entitled to receive the money which was deposited in the fund;

(ii) determine the amount to which each local taxing authority was entitled; and

(iii) remit the amount under subparagraph (ii) to the proper local taxing authority.

(a.3) Master list.--The following shall apply:

(1) Except as provided under paragraph (2), within five days of the end of each month, the legal business names, business addresses within the neighborhood improvement zone and parcel numbers of all qualified businesses engaged in the active conduct of a trade or business during the previous month shall be provided to the contracting authority by or on behalf of the qualified business for purposes of inclusion on the master list. The name, telephone number and e-mail address of the person employed by the qualified business who is primarily responsible for

completing reports for the qualified business required under subsection (a.1) shall also be provided.

(2) For purposes of inclusion on the master list, within five days of the end of each month during a calendar year, an operating organization shall provide to the contracting authority the legal business names and business addresses within the neighborhood improvement zone of all qualified businesses engaged in the active conduct of a trade or business in the facility during the previous month along with the name, phone number and e-mail address of the individual employed by the qualified business who is primarily responsible for completing the reports for the qualified business required under subsection (a.1).

(3) Within 10 days of the end of each calendar year, the contracting authority shall provide to the department the master list. The department may not certify any taxes paid directly or indirectly by a qualified business as provided under subsection (b) during the prior calendar year when the qualified business is not included on the master list.

(4) A contracting authority shall impose penalties for failure to comply with this section.

((a.3) added July 13, 2016, P.L.526, No.84)

(b) Calculation.--Within 60 days of the end of each calendar year, the department shall certify separately for each neighborhood improvement zone the amounts of State taxes paid, less any State tax refunds received, by the qualified businesses filing reports under subsection (a.1)(1) to the Office of the Budget. Beginning in the first full calendar year following the designation of a neighborhood improvement zone and in each calendar year thereafter, by November 1, the department shall calculate, in accordance with this subsection, amounts of State taxes actually received by the Commonwealth from each qualified business that filed a report under subsection (a.1)(1) in the prior calendar year, and the department shall certify the amounts received to the office. The department shall include reports filed five months after the due date under subsection (a.1)(1) in the November 1 certification. An entity collecting a local tax within the neighborhood improvement zone shall, within 31 days of the end of each calendar year, submit all of the local taxes that are to be calculated under this subsection and which were paid in the prior calendar year, less any certified local tax refunds received by a qualified business in the prior calendar year, to the State Treasurer to be deposited in the fund under subsection (d) of the contracting authority that established the neighborhood improvement zone. This subsection shall not apply to any taxes subject to a valid pledge or security interest entered into in order to secure debt service on bonds if the pledge or security interest was entered into prior to May 1, 2011, or, in the case of the neighborhood improvement zone designated after July 1, 2011, on the date of the designation, and is still in effect. The following shall be the amounts calculated and certified separately for each neighborhood improvement zone:

(1) An amount equal to all corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of a professional sports organization conducting professional athletic events at the facility or facility complex.

(2) An amount equal to all of the following:

(i) All personal income tax, earned income tax and local services tax withheld from its employees by a professional sports organization conducting professional athletic events at the facility or facility complex.

(ii) All personal income tax, earned income tax and local services tax withheld from the employees of any provider of events at or services to or any operator of an enterprise in the facility or facility complex.

(iii) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from

performers or other participants, including visiting teams, at an event or activity at the facility or facility complex.

(3) An amount equal to all sales and use tax related to the operation of the professional sports organization and the facility and enterprises developed as part of the facility complex. This paragraph shall include sales and use tax paid by any provider of events or activities at or services to the facility or facility complex, including sales and use tax paid by vendors and concessionaires and contractors at the facility or facility complex.

(4) An amount equal to all tax paid to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage in the facility or facility complex.

(5) The amount paid by the professional sports organization or by any provider of events or activities at or services to the facility or facility complex of any new tax enacted by the Commonwealth following October 9, 2009.

(6) An amount equal to all personal income tax, earned income tax and local services tax withheld from personnel by the professional sports organization or by a contractor or other entity involved in the construction of the facility or facility complex.

(7) An amount equal to all sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other entity, directly related to the construction of the facility or facility complex.

(8) An amount equal to all of the following:

(i) All corporate net income tax, capital stock and franchise tax, personal income tax, business privilege tax, business privilege licensing fees and earned income tax related to the ownership and operation of any qualified business within the neighborhood improvement zone.

(ii) All personal income tax, earned income tax and local services tax withheld from its employees by a qualified business within the neighborhood improvement zone.

(iii) All personal income tax, earned income tax and local services tax withheld from the employees of a qualified business that provides events, activities or services in the neighborhood improvement zone.

(iv) All personal income tax, earned income tax and local services tax to which the Commonwealth would be entitled from performers or other participants at an event or activity in the neighborhood improvement zone.

(v) All sales and use tax related to the operation of a qualified business within the neighborhood improvement zone. This subparagraph shall include sales and use tax paid by a qualified business that provides events, activities or services in the neighborhood improvement zone.

(vi) All tax paid by a qualified business to the Commonwealth related to the sale of any liquor, wine or malt or brewed beverage within the neighborhood improvement zone.

(vii) The amount paid by a qualified business within the neighborhood improvement zone of any new tax enacted by the Commonwealth following October 9, 2009.

(viii) All personal income tax, earned income tax and local services tax withheld from personnel by a qualified business involved in the improvement, development or construction of the neighborhood improvement zone.

(ix) All sales and use tax paid on materials and other construction costs, whether withheld or paid by the professional sports organization or other qualified business, directly related to the improvement, development or construction of the neighborhood improvement zone.

(x) An amount equal to any amusement tax paid by a qualified business operating in the neighborhood improvement zone. No

political subdivision or other entity authorized to collect amusement taxes may impose or increase the rate of any tax on admissions to places of entertainment, exhibition or amusement or upon athletic events in the neighborhood improvement zone which are not in effect on the date the neighborhood improvement zone is designated by the contracting authority.

(9) Except for a tax levied against real property and notwithstanding any other law, an amount equal to any tax imposed by the Commonwealth or any of its political subdivisions on a qualified business engaged in an activity within the neighborhood improvement zone or directly or indirectly on any sale or purchase of goods or services, where the point of sale or purchase is within the neighborhood improvement zone.

((b) amended July 13, 2016, P.L.526, No.84)

(c) State tax liability apportionment.--For the purpose of making the calculations under subsection (b), the State tax liability of a qualified business shall be apportioned to the neighborhood improvement zone by multiplying the Pennsylvania State tax liability by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three, in accordance with the following:

(1) The property factor is a fraction, the numerator of which is the average value of the taxpayer's real and tangible personal property owned or rented and used in the neighborhood improvement zone during the tax period and the denominator of which is the average value of all the taxpayer's real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any corporation as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sale price of the property.

(2) The following apply:

(i) The payroll factor is a fraction, the numerator of which is the total amount paid in the neighborhood improvement zone during the tax period by the taxpayer for compensation and the denominator of which is the total compensation paid in this Commonwealth during the tax period.

(ii) Compensation is paid in the neighborhood improvement zone if:

(A) the person's service is performed entirely within the neighborhood improvement zone;

(B) the person's service is performed both within and without the neighborhood improvement zone, but the service performed without the neighborhood improvement zone is incidental to the person's service within the neighborhood improvement zone; or

(C) some of the service is performed in the neighborhood improvement zone and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the neighborhood improvement zone, or the base of operations or the place from which the service is directed or controlled is not in any location in which some part of the service is performed, but the person's residence is in the neighborhood improvement zone.

(3) The sales factor is a fraction, the numerator of which is the total sales of the taxpayer in the neighborhood improvement zone during the tax period and the denominator of which is the total sales of the taxpayer in this Commonwealth during the tax period.

(i) Sales of tangible personal property are in the neighborhood improvement zone if the property is delivered or shipped to a purchaser that takes possession within the neighborhood improvement zone regardless of the F.O.B. point or other conditions of the sale.

(ii) Sales other than sales of tangible personal property are in the neighborhood improvement zone if:

(A) the income-producing activity is performed in the neighborhood improvement zone; or

(B) the income-producing activity is performed both within and without the neighborhood improvement zone and a greater proportion of the income-producing activity is performed in the neighborhood improvement zone than in any other location, based on costs of performance.

(d) Transfers.--

(1) Within ten days of receiving certification under subsection (b), the Secretary of the Budget shall direct the State Treasurer to, notwithstanding any other law, transfer the amounts certified under subsection (b) for each neighborhood improvement zone from the General Fund to the fund of the contracting authority that established the neighborhood improvement zone. Beginning in the second calendar year following the designation of a neighborhood improvement zone and in each year thereafter, the amounts certified by the secretary to the State Treasurer and the amounts transferred by the State Treasurer to the fund of each contracting authority shall be determined as follows:

(i) Add amounts certified by the department under subsection (b) for the prior calendar year.

(ii) Subtract from the sum under subparagraph (i) any State tax refunds paid as certified by the department under subsection (b).

(iii) Add to the difference under subparagraph (ii) any amounts certified under subsection (b) with respect to the second prior calendar year.

(iv) Subtract from the sum under subparagraph (iii) any amounts certified under subsection (b) which are less than the amounts previously certified under subsection (b) with respect to the second prior calendar year.

(2) The State Treasurer shall provide an annual transfer to the contracting authority until the bonds issued to finance and refinance the improvement and development of the neighborhood improvement zone and the construction of the facility or facility complex are retired. Each annual transfer to the contracting authority shall be equal to the balance of the fund of the contracting authority on the date of the transfer under paragraph (1).

(e) Restriction on use of money.--Money transferred under subsection (d) is subject to the following:

(1) The money may only be utilized as follows:

(i) For payment of debt service, directly or indirectly through a multitiered ownership structure or other structure authorized by a contracting authority to facilitate financing mechanisms, on bonds or on refinancing loans used to repay bonds issued to finance or refinance:

(A) the improvement and development of all or any part of the neighborhood improvement zone; and

(B) the construction of all or part of a facility or facility complex.

(ii) For payment of debt service on bonds issued to refund those bonds.

(iii) For replenishment of amounts required in any debt service reserve funds established to pay debt service on bonds.

(1.1) The term of a bond to be refunded shall not exceed the maximum term permitted for the original bond issued for the improvement or development of the neighborhood improvement zone and the construction of a facility or facility complex.

(2) The money may not be utilized for purposes of renovating or repairing a facility or facility complex, except for capital maintenance and improvement projects.

(f) Ticket surcharge.--The entity operating the facility may collect a capital repair and improvement ticket surcharge, the proceeds of which

shall be deposited into the fund of each contracting authority. The fund of each contracting authority shall be maintained and utilized as follows:

(1) The money deposited under this subsection may not be encumbered for any reason and shall be transferred to the entity for capital repair and improvement projects upon request from the entity.

(2) Upon the expiration of the neighborhood improvement zone under section 1906-B, any and all portions of the fund attributable to the ticket surcharge shall be immediately transferred to the contracting authority to be held in escrow where they shall be unencumbered and maintained by the contracting authority in the same manner as the fund. Upon the transfer, any ticket surcharge collected by the operating entity shall thereafter be deposited in the account maintained by the contracting authority and dispersed for a capital repair and improvement project upon request by the operating entity.

(g) Excess money.--Within 30 days of the end of each calendar year, any money remaining in the fund of each contracting authority at the end of the prior calendar year after the required payments under subsection (d)(2) were made in the prior calendar year shall be refunded in the following manner:

(1) Money shall first be returned to the General Fund to the extent that the excess money is part of the transfer under subsection (d)(1).

(2) Money shall next be paid to the contracting authority to the extent that the amounts paid under subsection (d)(2) consisted of local taxes. The contracting authority shall return the money to the appropriate entities collecting local tax who submitted the local taxes to the State Treasurer under subsection (b).

(h) Audit.--

(1) The contracting authority shall hire an independent auditing firm to perform an annual audit verifying all of the following:

(i) The correct amount of the eligible local tax was submitted to the local taxing authorities.

(ii) The local taxing authorities transferred the correct amount of eligible local tax to the State Treasurer.

(iii) The money transferred to the fund was properly expended.

(iv) The correct amount of excess money was refunded in accordance with the provisions of subsection (g).

(2) A copy of the annual audit shall be sent to the Department of Revenue and the Secretary of the Budget.

(3) For purposes of this paragraph, an auditing firm will not be considered independent if it provides services to an operating organization or any qualified business within a neighborhood improvement zone which is a party to a separate agreement with a contracting authority for the allocation of funds from the contracting authority.

((h) added July 13, 2016, P.L.526, No.84)

(1904-B added July 9, 2013, P.L.270, No.52)

Section 1904.1-B. Taxes.

(a) Prohibition.--A division of local government may not assess real estate taxes on any property in a neighborhood improvement zone owned by a contracting authority.

(b) Local hotel tax.--Notwithstanding any other law, revenue generated from local hotel taxes levied in a neighborhood improvement zone must first be set aside for new development and capital improvement of hotel properties in the neighborhood improvement zone. If there is no new hotel property development or capital improvement in the neighborhood improvement zone, the revenue generated from hotel taxes must be distributed as provided under local hotel tax law.

(c) Amount.--For purposes of this article, revenue collected from local hotel taxes shall only include the amount of local hotel taxes collected from hotel activities which exceed the amount collected from hotel activities occurring prior to the designation of a neighborhood improvement zone by the contracting authority.

(1904.1-B added July 13, 2016, P.L.526, No.84)

Section 1904.2-B. Property assessment.

Notwithstanding 53 Pa.C.S. Ch. 88 (relating to consolidated county assessment), for purposes of determining the assessed value of property located in a neighborhood improvement zone, the actual fair market value of the property shall be established without utilizing or considering the cost approach to valuation, and any funds received by the contracting authority and utilized directly or indirectly in connection with the property shall not be considered real property or income attributable to the property.

(1904.2-B added July 13, 2016, P.L.526, No.84)

Section 1904.3-B. Transfer of property.

(a) Transfer of parcels.--Parcels in a zone may be transferred out of the zone and replaced with parcels not to exceed the acreage transferred out of the zone by the contracting authority, if:

(1) The department certifies that there is currently no activity in the parcels transferred in the zone that generates tax receipts or other revenue to the Commonwealth.

(2) The municipality where the zone is located certifies that there is currently no activity in the parcels transferred into the zone that generates tax receipts or other revenue, other than taxes on real property, to the municipality and the school district and county where the zone is located.

(b) Public hearing.--The following apply:

(1) For a parcel identified by the contracting authority to be transferred out of the zone, the contracting authority may conduct a public hearing pursuant to a request from an owner of real estate located within the parcel or the city or municipality where the parcel sits. The hearing shall be held and notice of the hearing provided to the owner of the parcel in accordance with section 908 of the act of July 31, 1968 (P.L.805, No.247), known as the Pennsylvania Municipalities Planning Code.

(2) If the contracting authority determines that it will transfer a parcel out of the zone, the contracting authority shall issue a written opinion within 45 days of the hearing setting forth the reasons supporting the determination.

(1904.3-B added Oct. 30, 2017, P.L.672, No.43)

Section 1905-B. Keystone Opportunity Zone.

Within four months following the designation of a neighborhood improvement zone, a city may apply to the Department of Community and Economic Development to decertify and remove the designation of all or part of the Keystone Opportunity Zone on behalf of all political subdivisions. The provisions of section 309 of the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act, shall be deemed satisfied as to all political subdivisions. The Department of Community and Economic Development shall act on the application within 30 days.

(1905-B added July 9, 2013, P.L.270, No.52)

Section 1906-B. Duration.

The neighborhood improvement zone shall be in effect for a period equal to one year following retirement of all bonds issued to finance or refinance the improvement and development of the neighborhood improvement zone or the construction of the facility or the facility complex. The maximum term of the bond, including the refunding of the bond, shall not exceed 30 years.

(1906-B added July 9, 2013, P.L.270, No.52)

Section 1907-B. Commonwealth pledges.

If and to the extent that the contracting authority pledges amounts required to be transferred to the fund of the contracting authority under section 1904-B for the payment of bonds issued by the contracting authority, until all bonds secured by the pledge of the contracting authority, together with the interest on the bonds, are fully paid or provided for, the Commonwealth pledges to and agrees with any person, firm, corporation or government agency, whether in this Commonwealth or elsewhere, and to and with any Federal agency subscribing to or acquiring

the bonds issued by the contracting authority that the Commonwealth itself will not nor will it authorize any government entity to abolish or reduce the size of the neighborhood improvement zone; to amend or repeal section 1904-B(a.1), (b) or (d); to limit or alter the rights vested in the contracting authority in a manner inconsistent with the obligations of the contracting authority with respect to the bonds issued by the contracting authority; or to otherwise impair revenues to be paid under this article to the contracting authority necessary to pay debt service on bonds. Nothing in this section shall limit the authority of the Commonwealth or any government entity to change the rate, tax bases or any subject of any specific tax or repealing or enacting any tax.

(1907-B added July 9, 2013, P.L.270, No.52)

Section 1908-B. Confidentiality.

Notwithstanding any law providing for the confidentiality of tax records, the contracting authority and the local taxing authorities shall have access to any reports and certifications filed under this article, and the contracting authority shall have access to any State or local tax information filed by a qualified business in the neighborhood improvement zone solely for the purpose of documenting the certifications required by this article or determining the amount allocated to any uses specified under section 1904-B(e)(1). Any other use of the tax information shall be prohibited as provided under law.

(1908-B amended July 8, 2022, P.L.513, No.53)

Section 1909-B. Exceptions.

Beginning with the 2016 calendar year, none of the following may be employed by, be contracting with or provide services for a contracting authority:

(1) An individual employed by, contracting with or providing service for a city that has a neighborhood improvement zone.

(2) An entity contracting with or providing services for a city that has a neighborhood improvement zone.

(3) An individual owning an entity or an entity with ownership interest in a separate entity which is contracting with a city that has a neighborhood improvement zone.

(4) An individual or an entity employed by, contracting with or providing services for a qualified business within the neighborhood improvement zone which is party to a separate agreement with a contracting authority for the allocation of funds from the contracting authority.

(5) An individual or an entity employed by, contracting with or providing services for an operating organization.

(6) A current board member of a contracting authority.

(7) An entity which is owned by or employs a current board member of a contracting authority.

(1909-B added July 13, 2016, P.L.526, No.84)

ARTICLE XIX-C
KEYSTONE SPECIAL DEVELOPMENT ZONE PROGRAM
(Art. added July 9, 2013, P.L.270, No.52)

Compiler's Note: See section 42(8) of Act 52 of 2013 in the appendix to this act for special provisions relating to continuation of prior law.

Section 1901-C. Scope of article.

This article relates to the Keystone Special Development Zone program.

(1901-C added July 9, 2013, P.L.270, No.52)

Section 1902-C. Definitions.

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

"Affiliate." As follows:

(1) an entity which is part of the same "affiliated group," as defined in section 1504(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)), as a Keystone Special Development Zone employer; or

(2) an entity that would be part of the same "affiliated group" except that the entity or the Keystone Special Development Zone employer is not a corporation.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Employee." An individual who:

(1) is employed in this Commonwealth by a Keystone Special Development Zone employer, or its predecessor, after June 30, 2011;

(2) is employed for at least 35 hours per week by a Keystone Special Development Zone employer; and

(3) spends at least 90% of his or her working time for the Keystone Special Development Zone employer at the Keystone Special Development Zone location.

"Full-time equivalent employee." The whole number of employees, rounded down, that equals the sum of:

(1) the total paid hours, including paid time off and family leave under the Family and Medical Leave Act of 1993 (Public Law 103-3, 29 U.S.C. § 2601 et seq.), of all of a Keystone Special Development Zone employer's employees classified as nonexempt during the Keystone Special Development Zone employer's tax year divided by 2000; and

(2) a total number arrived at by adding, for each Keystone Special Development Zone employer's employee classified as exempt scheduled to work at least 35 hours per week, the fraction equal to the portion of the year the exempt employee was paid by the Keystone Special Development Zone employer. Whether an employee shall be classified as exempt or nonexempt shall be determined under the Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.).

The calculation under this definition excludes employees previously employed by an affiliate and employees previously employed by the Keystone Special Development Zone employer outside of a Keystone Special Development Zone.

"Keystone Special Development Zone." A parcel of real property that meets all of the following:

(1) On July 1, 2011, was within a special industrial area, as described in section 305(a) of the act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and Environmental Remediation Standards Act, for which the Department of Environmental Protection has executed a special industrial area consent order and agreement, as provided under section 502(a) of the Land Recycling and Environmental Remediation Standards Act.

(2) On July 1, 2011:

(i) had no permanent vertical structures affixed to it; or

(ii) had a permanent vertical structure affixed to it which has been deteriorated or abandoned for at least 20 years.

(3) Is certified by the Department of Environmental Protection as meeting the requirements of paragraphs (1) and (2).

"Keystone Special Development Zone employer." A person or entity subject to the taxes imposed under Article III, IV, VI, VII, VIII or XV, who employs one or more employees at a Keystone Special Development Zone. The term shall include a pass-through entity. The term shall not include any of the following:

(1) An employer who, after January 1, 1990, intentionally or negligently caused or contributed to, in any material respect, a level of regulated substance above the cleanup standards in the act of May 19, 1995 (P.L.4, No.2), known as the Land Recycling and Environmental Remediation Standards Act, on, in or under the Keystone Special Development Zone at which an employee is employed.

(2) An employer engaged in construction improvements on a Keystone Special Development Zone.

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"Qualified tax liability." Any tax owed by a Keystone Special Development Zone employer attributable to a business activity conducted within a Keystone Special Development Zone for a tax year under Article III, IV, VI, VII, VIII or XV.

(1902-C added July 9, 2013, P.L.270, No.52)

Section 1903-C. Keystone Special Development Zone tax credit.

(a) Tax credit.--A Keystone Special Development Zone employer shall be entitled to claim a tax credit against its qualified tax liability as provided in this article.

(b) Process.--

(1) A Keystone Special Development Zone employer shall notify the department of its qualification for a tax credit under this article by February 1 for tax credits earned during a taxable year ending in the prior calendar year.

(2) The notification shall contain the following:

(i) The name, address and taxpayer identification number of the Keystone Special Development Zone employer.

(ii) Verification that it is a Keystone Special Development Zone employer located in a Keystone Special Development Zone.

(iii) The names, addresses and Social Security numbers of all employees for which the credit is claimed.

(iv) Verification that each employee identified in subparagraph (iii) spent at least 90% of the employee's working time for the Keystone Special Development Zone employer at the employer's Keystone Special Development Zone location.

(v) Any other information required by the department.

(3) To qualify for the credit, the Department of Revenue must certify that the Keystone Special Development Zone employer is current with all tax liabilities.

(4) By March 1 of each year, the department shall send the Keystone Special Development Zone employer who submitted the notification a certificate of its qualification for the credit, which certificate the Keystone Special Development Zone employer shall present to the Department of Revenue when filing its return claiming the credit.

(c) Amount.--The amount of the tax credit a Keystone Special Development Zone employer may earn in any tax year shall be equal to $2,100 for each full-time equivalent employee in excess of the number of full-time equivalent employees employed by the Keystone Special Development Zone employer prior to January 1, 2012.

(d) Application of tax credits.--A Keystone Special Development Zone employer must first use its Keystone Special Development Zone tax credit against its qualified tax liability.

(d.1) Sale or assignment of tax credit.--

(1) If the Keystone Special Development Zone employer is entitled to a credit in any year that exceeds its qualified tax liability for that year, upon application to and approval by the department, a Keystone Special Development Zone employer which has been awarded a tax credit may sell or assign, in whole or in part, the tax credit granted to the Keystone Special Development Zone employer. The application must be on the form required by the department and must include or demonstrate all of the following:

(i) The applicant's name and address.

(ii) A copy of the tax credit certificate previously issued by the department.

(iii) A statement as to whether any part of the tax credit has been applied to tax liability of the applicant and the amount so applied.

(iv) Any other information required by the department.

(2) The department shall review the application and, upon being satisfied that all requirements have been met, shall approve the application and shall notify the Department of Revenue.

(3) The purchaser or assignee of all or a portion of a Keystone Special Development Zone tax credit under this section shall claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee of a tax credit may use the tax credit against any tax liability of the purchaser or assignee under Article III, IV, VI, VII, VIII or XV. The amount of the tax credit used may not exceed 75% of the purchaser's or assignee's tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the Keystone Special Development Zone tax credit. The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the Keystone Special Development Zone tax credit in compliance with procedures specified by the department.

(e) Use and carryforward.--

(1) A Keystone Special Development Zone employer may earn the tax credit allowed under this article beginning in any tax year beginning in 2012 and for a period of up to ten tax years during the period beginning July 1, 2012, and ending June 30, 2035. ((1) amended July 13, 2016, P.L.526, No.84)

(2) A Keystone Special Development Zone employer may carry forward for up to ten years a tax credit earned under this article:

(i) which it is unable to use; or

(ii) which it does not sell or assign.

(3) Tax credits carried forward under paragraph (2) shall be used on a first-in-first-out basis.

(f) Dual-use prohibited.--In a given year, a Keystone Special Development Zone employer may only earn tax credits under subsection (c) or (d) or under the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act. A Keystone Special Development Zone employer may not claim a credit under both this section and Article XVIII-B.

(g) Pass-through entities.--

(1) If a Keystone Special Development Zone employer is a pass-through entity and it has any unused tax credit under subsection (c), (d) or (e), it may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(2) A Keystone Special Development Zone employer that is a pass-through entity and a shareholder, member or partner of that Keystone Special Development Zone employer may not both claim the Keystone Special Development Zone tax credit earned by the Keystone Special Development Zone employer for any tax year.

(3) A shareholder, member or partner of a Keystone Special Development Zone employer that is a pass-through entity to whom a credit is transferred under this subsection shall immediately claim the credit in the taxable year in which the transfer is made.

(h) Transfer.--Any tax credit or tax credit carryforward that a Keystone Special Development Zone employer is entitled to use may be transferred to a successor entity of the Keystone Special Development Zone employer.

(i) Penalties.--The following shall apply:

(1) A company which receives Keystone Special Development Zone tax credits and fails to substantially maintain the operations related to the Keystone Special Development Zone tax credits in this Commonwealth for a period of five years from the date the company first submits a Keystone Special Development Zone tax credit certificate to the Department of Revenue shall be required to refund to the Commonwealth the total amount of credits granted, with interest and a penalty of 20% of the amount of credits granted.

(2) The department may waive the penalties in subsection (a) if it is determined that a company's operations were not maintained or the new jobs were not created because of circumstances beyond the company's control. Circumstances include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

(1903-C added July 9, 2013, P.L.270, No.52)

Section 1904-C. Tax liability attributable to Keystone Special Development Zone.

(a) Determinations of attributable tax liability.--Tax liability attributable to business activity conducted within a Keystone Special Development Zone shall be computed, construed, administered and enforced in conformity with Article III, IV, VI, VII, VIII or XV, whichever is applicable, and with specific reference to the following:

(1) If the entire business of the employer in this Commonwealth is transacted wholly within the Keystone Special Development Zone, the tax liability attributable to business activity within a Keystone Special Development Zone shall consist of the Pennsylvania income as determined under Article III, IV, VI, VII, VIII or XV, whichever is applicable.

(2) If the entire business of the employer in this Commonwealth is not transacted wholly within the Keystone Special Development Zone, the tax liability of an employer in a Keystone Special Development Zone shall be determined upon such portion of the Pennsylvania tax liability of such employer attributable to business activity conducted within the Keystone Special Development Zone and apportioned in accordance with subsection (b).

(b) Tax liability apportionment.--The tax liability of an employer shall be apportioned to the Keystone Special Development Zone by multiplying the Pennsylvania tax liability by a fraction, the numerator of which is the property factor plus the payroll factor and the denominator of which is two, in accordance with the following:

(1) The property factor is a fraction, the numerator of which is the average value of the employer's real and tangible personal property owned or rented and used in the Keystone Special Development Zone during the tax period and the denominator of which is the average value of the employer's real and tangible personal property owned or rented and used in this Commonwealth during the tax period but shall not include the security interest of any employer as seller or lessor in personal property sold or leased under a conditional sale, bailment lease, chattel mortgage or other contract providing for the retention of a lien or title as security for the sale price of the property.

(2) The payroll factor is a fraction, the numerator of which is the total amount paid in the Keystone Special Development Zone during the tax period by the employer to an employee as compensation and the denominator of which is the total compensation paid by the employer in this Commonwealth during the tax period.

(1904-C added July 9, 2013, P.L.270, No.52)

ARTICLE XIX-D
KEYSTONE OPPORTUNITY ZONES, KEYSTONE OPPORTUNITY EXPANSION ZONES AND KEYSTONE OPPORTUNITY IMPROVEMENT ZONES
(Art. added July 13, 2016, P.L.526, No.84)

PART I
PRELIMINARY PROVISIONS
(Pt. added July 13, 2016, P.L.526, No.84)

Section 1901-D. Scope of article.

This article relates to keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones.

(1901-D added July 13, 2016, P.L.526, No.84)

Section 1902-D. Definitions.

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

otherwise:

"Business." As defined in section 103 of the KOZ Act.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Keystone opportunity expansion zone." As defined in section 103 of the KOZ Act.

"Keystone opportunity zone." As defined in section 103 of the KOZ Act.

"KOZ Act." The act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act.

"Person." As defined in section 103 of the KOZ Act.

"Political subdivision." As defined in section 103 of the the KOZ Act.

"Qualified business." As defined in section 103 of the KOZ Act.

"Qualified political subdivision." As defined in section 103 of the KOZ Act.

"Subzone." As defined in section 103 of the KOZ Act.

"Unoccupied parcel." As defined in section 103 of the KOZ Act.

(1902-D added July 13, 2016, P.L.526, No.84)

PART II
KEYSTONE OPPORTUNITY ZONES
(Pt. added July 13, 2016, P.L.526, No.84)

Section 1911-D. Additional keystone opportunity zones.

(a) Establishment.--In addition to any designations under section 301.1 of the KOZ Act, the department may designate up to 12 additional keystone opportunity expansion zones that will create new jobs in accordance with this section. Each additional keystone opportunity expansion zone shall:

(1) Not be less than 10 acres in size, unless contiguous to an existing zone.

(2) Not exceed, in the aggregate, a total of 375 acres.

(3) Be comprised of parcels that are deteriorated, underutilized or unoccupied on the effective date of this paragraph.

(b) Authorization.--Persons and businesses within an additional keystone opportunity expansion zone authorized under subsection (a) shall be entitled to all tax exemptions, deductions, abatements or credits set forth under this section and exemptions for sales and use tax under section 511(a) or 705(a) of the KOZ Act for a period of 10 years. Exemptions for sales and use taxes under sections 511 and 705 of the KOZ Act shall commence upon issuance of a certificate under section 307 of the KOZ Act by the department.

(c) Application.--In order to receive a designation under this section, the department must receive an application from a political subdivision or its designee no later than October 1, 2018. The application must contain the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act. The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits under this act for the zone within three months of receipt of the application. The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, 2018. The department may make designations under this section on a rolling basis during the application period. ((c) amended Oct. 30, 2017, P.L.672, No.43)

(d) Additional eligibility.--A parcel previously included in an application submitted for designation in a city of the first class prior to the effective date of this subsection that previously complied with all requirements of section 302 of the KOZ Act shall be eligible for designation as a zone under this section if the parcel was acquired by a new owner and will be used for a higher and better use or will provide greater levels of job creation or investment.

(e) Applicability.--All exemptions, deductions, abatements and credits authorized under the KOZ Act shall apply to the parcels for a period of 10 years.

(1911-D added July 13, 2016, P.L.526, No.84)

Section 1912-D. Extension for new job creation or new capital investment.

(a) Approval and effect.--

(1) The department may approve an application to grant an extension for a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone upon application by:

(i) one qualified business as a sole applicant; or

(ii) two or more qualified businesses as a joint applicant.

(2) All exemptions, deductions, abatements and credits authorized under Chapter 5 of the KOZ Act shall be extended to the continued parcel for an additional period of 10 years following the expiration date of the existing keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone or subzone.

(a.1) Affiliates.--If an affiliate of a qualified business whose individual or joint extension application under subsection (a) was approved and the affiliate locates within an extended parcel before the expiration of the certification issued under subsection (b)(3), the affiliate is entitled to the tax exemptions, deductions, abatements or credits specified under this section, provided the affiliate meets the requirements of section 307(a) of the KOZ Act. ((a.1) added July 8, 2022, P.L.513, No.53)

(b) Application.--

(1) In order to receive approval under subsection (a)(1), the department must receive an application from one or more qualified businesses located within the zone or subzone no later than three months prior to the expiration date of the existing zone or subzone. The application shall include all information required by the department as set forth in guidelines to be published by the department.

(2) In order to submit an application under paragraph (1), the applicant must:

(i) Have a cumulative minimum of 2,500 employees located within this Commonwealth at the time of the application.

(ii) Demonstrate a total prior minimum capital investment within this Commonwealth of at least $300 million.

(iii) Conduct active business operations from one or more facilities located on the parcel or parcels which are the subject of the application.

(iv) Otherwise be in compliance with the provisions of the KOZ Act.

(3) The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits authorized under Chapter 5 of the KOZ Act for the extended parcel within three months of receipt of the application, subject to the requirements of this section. If the department determines that all qualifications and requirements under this section and the KOZ Act have been met, a certification for the extension period shall be issued within 90 days of receipt of the application.

(4) The certification under paragraph (3) shall be effective as of the day following the expiration date of the existing zone or subzone and shall be effective for an additional period of 10 years.

(c) Qualifications.--

(1) The department shall issue to each qualified business that is approved as part of the application submitted under subsection (a) a certification as described under section 307 of the KOZ Act.

(2) For an applicant with multiple parcels that will expire during the time periods under subsection (e), in order to receive certification under paragraph (1), the applicant must commit that between the effective date of this paragraph and three years following the date of certification of the initial parcel applied for, the applicant shall:

(i) create at least 350 new jobs in this Commonwealth; or

(ii) make a capital investment of at least $35,000,000 in this Commonwealth.

(3) Each qualified business that fails to meet the requirements of paragraph (2) shall refund to the Commonwealth the amount of the exemptions, deductions, abatements and credits under Chapter 5 of the KOZ Act which were received by that business during the three years following receipt of the certification under paragraph (1).

(d) Expiration.--The following apply:

(1) All continuations shall expire no later than 10 years following the effective date of certification by the department.

(2) If the qualified business that is a sole applicant removes itself from the extended parcel or parcel prior to the expiration of the extension and no affiliate remains within the continued parcel, the extension shall expire upon the date of departure of that qualified business. If one or more affiliates remain within the extended parcel, the extension shall expire upon the date of departure of the last remaining affiliate or upon the expiration of the extension date, whichever occurs first.

(3) If two or more qualified businesses submitted an application under subsection (a) as joint applicants and all the joint applicants remove themselves from the parcel prior to the expiration of the extension and no affiliate of a joint applicant is located on or remains within the extended parcel, the extension shall expire upon the date of departure of the last qualified business. If one or more affiliates remain, the extension shall expire upon the departure date of the last remaining affiliate or upon the expiration of the extension date, whichever occurs first.

((d) amended July 8, 2022, P.L.513, No.53)

(e) Applicability.--

(1) This section applies only to existing zones or subzones that expire in 2018 or at any time following 2018 and prior to January 1, 2026.

(2) This section does not apply to exemptions, deductions, abatements or credits authorized under Chapter 7 of the KOZ Act, and the department may not require that the qualified political subdivision in which the continued parcel or parcels are located approve any application submitted under subsection (b).

(3) The exemptions, deductions, abatements or credits authorized under Chapter 5 of the KOZ Act apply only to business activity carried out within the parcel or parcels which are approved for extension.

(4) A determination by the department as to whether the employment or capital investment requirements of subsections (b) and (c) have been met shall be binding upon the Department of Revenue.

(f) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection unless the context clearly indicates otherwise:

"Affiliate." A person who directly or indirectly:

(1) owns or controls another person;

(2) is owned or controlled by another person; or

(3) is under common ownership or control with another person.

"Person." As defined under 1 Pa.C.S. § 1991 (relating to definitions).

((f) added July 8, 2022, P.L.513, No.53)

(1912-D added July 13, 2016, P.L.526, No.84)

Section 1913-D. Extension for keystone opportunity expansion zone.

(a) General rule.--The department may approve an application to grant an extension for a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone upon application by a political subdivision.

(b) Application.--This section shall apply to a parcel located within a keystone opportunity zone, keystone opportunity expansion zone or keystone opportunity improvement zone that expires in 2022, if the parcel is located within a county of the third class with a population of at least 350,000 but less than 410,000 based on the 2010 Federal decennial census.

(c) Extension period.--An extension granted under this section shall be for a period of five years.

(1913-D added June 30, 2021, P.L.124, No.25)

PART III
ADDITIONAL DESIGNATIONS
(Pt. added June 28, 2019, P.L.50, No.13)

Section 1921-D. Additional keystone opportunity expansion zones.

(a) Establishment.--In addition to any designations under Part II or section 301.1 of the KOZ Act, the department may designate one or more additional keystone opportunity expansion zones within the following counties:

(1) A county that has a population of at least 500,000 but less than 525,000 based on the 2010 Federal decennial census.

(2) A county that has a population of at least 140,000 but less than 145,000 based on the 2010 Federal decennial census.

(3) A county that has a population of at least 80,000 but less than 85,000 based on the 2010 Federal decennial census.

(b) Criteria.--Notwithstanding Part II and the KOZ Act, an additional keystone opportunity expansion zone under this part:

(1) May be less than 10 acres in size.

(2) May not exceed, in the aggregate, a total of 375 acres.

(3) Shall be comprised of parcels that are deteriorated, underutilized or unoccupied on the effective date of this paragraph.

(c) Authorization.--

(1) Persons and businesses within an additional keystone opportunity expansion zone authorized under subsection (a) shall be entitled to all tax exemptions, deductions, abatements or credits under this section and exemptions for sales and use tax under section 511(a) or 705(a) of the KOZ Act for a period of 10 years.

(2) Exemptions for sales and use taxes under sections 511 and 705 of the KOZ Act shall commence upon issuance of a certificate under section 307 of the KOZ Act by the department.

(d) Application.--

(1) In order to receive a designation under this section, the department must receive an application from a political subdivision or its designee no later than October 1, 2023. The application must contain the information required under section 302(a)(1), (2)(i) and (ix), (5) and (6) of the KOZ Act. ((1) amended July 8, 2022, P.L.513, No.53)

(2) The department, in consultation with the Department of Revenue, shall review the application and, if approved, issue a certification of all tax exemptions, deductions, abatements or credits under this act for the zone within three months of receipt of the application.

(3) The department shall act on an application for a designation under section 302(a)(1) of the KOZ Act by December 31, 2023. ((3) amended July 8, 2022, P.L.513, No.53)

(4) The department may make designations under this section on a rolling basis during the application period.

((d) amended June 30, 2021, P.L.124, No.25)

(e) Disapproval.--If the department does not approve of a designation as an additional keystone opportunity expansion zone of a parcel under subsection (d), the department shall hold a public hearing in the municipality for which the application was made within 30 days of the disapproval. The Secretary of Community and Economic Development, or a designee, shall provide the following information at the public hearing:

(1) The reason for the disapproval.

(2) The estimated number of new jobs that would have been created in the parcel.

(3) The estimated dollar amount of new investment that would have been made in the parcel.

(4) An alternative economic development plan developed by the department that would, if implemented, provide an equivalent number of jobs and amount of investment in the municipality for which the application was made.

(f) Transparency.--The department shall conduct the public hearing required under subsection (e) in accordance with applicable provisions of 65 Pa.C.S. Ch. 7 (relating to open meetings).

(1921-D added June 28, 2019, P.L.50, No.13)

ARTICLE XIX-E
MIXED-USE DEVELOPMENT TAX CREDIT
(Art. added July 13, 2016, P.L.526, No.84)

Section 1901-E. Scope of article.

This article establishes the Mixed-use Development Tax Credit, the Mixed-use Development Program and the Mixed-use Development Program Fund.

(1901-E added July 13, 2016, P.L.526, No.84)

Section 1902-E. Purpose.

The implementation and use of this program shall be for the purposes of:

(1) Increasing affordable housing and commercial corridor development opportunities in areas of this Commonwealth where significant need and impact can be identified.

(2) Maximizing the leveraging of private and public resources.

(3) Fostering sustainable partnerships committed to addressing community needs.

(4) Ensuring that resources are used to effectively and efficiently meet community needs.

(5) Establishing a transparent application, allocation and reporting process for all stakeholders.

(6) Providing financing to critical projects as part of an overall strategy for revitalizing communities.

(1902-E added July 13, 2016, P.L.526, No.84)

Section 1903-E. Definitions.

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

"Agency." The Pennsylvania Housing Finance Agency.

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

"Eligible projects." A building or buildings to be constructed or rehabilitated and any related real or personal property:

(1) located in a commercial corridor where a comprehensive neighborhood revitalization strategy is either in place or being developed;

(2) sponsored by an entity with development experience in this Commonwealth, with the capacity to complete the project, and qualified under the criteria established in guidelines developed by the agency;

(3) financed by a combination of public or private debt financing, gap financing or owner equity sufficient to ensure the financial feasibility of the project;

(4) has sufficiently demonstrated site control and the ability to proceed;

(5) complies with any other eligibility requirements the agency determines to be appropriate.

"Fund." The Mixed-use Development Program Fund established under section 1906-E.

"Mixed-use development tax credits." Amounts made available to qualified taxpayers to offset against qualified tax liability as authorized and allocated under this article, as evidenced by tax credit certificates and meeting all of the criteria set forth in this article.

"Program." The Mixed-use Development Program established under section 1904-E.

"Qualified tax liability." The tax liability imposed on a taxpayer under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax

withheld by an employer under Article III.
"Qualified taxpayer." Any natural person, business firm, corporation, business trust, limited liability company, partnership, limited liability partnership, association or any other form of legal business entity that:
(1) is subject to a tax imposed under Article III, IV, VI, VII, VIII, IX, XI or XV, excluding any tax withheld by an employer under Article III; and
(2) meets the criteria set forth in guidelines established by the agency.
"Tax credit certificates." The document provided by the agency to the qualified taxpayer evidencing the allocation of mixed-use development tax credits under section 1907-E.
(1903-E added July 13, 2016, P.L.526, No.84)
Section 1904-E. Mixed-use Development Program.
(a) Establishment.--The Mixed-use Development Program is established as a program of the agency.
(b) Administration.--The program shall be administered by the agency in accordance with section 1905-E and with guidelines adopted and promulgated pursuant to this article.
(1904-E added July 13, 2016, P.L.526, No.84)
Section 1905-E. Program administration.
(a) Authorization.--The agency is authorized to perform all necessary and convenient actions to implement the program.
(b) Application.--Eligible project owners may apply to the agency for program funding for an eligible project. The agency shall promulgate guidelines for applying for program funding under this section.
(c) Selection.--The agency shall review applications submitted for program funds and, in accordance with the procedures established in the agency guidelines, shall select and shall conditionally commit program funds to the eligible projects. Eligible project owners shall provide the agency with all program requirements necessary for closing and funding of the eligible project in a form and a timely manner as determined by the agency.
(d) Disbursement.--Funds shall be disbursed to the eligible project owner as determined by the agency.
(e) Monitoring and cost certification.--The agency shall establish procedures for the monitoring of the use of funds and for a cost certification process at the end of the construction or rehabilitation process.
(f) Agency guidelines.--Within 180 days of the effective date of this article, the agency shall perform the following:
(1) Adopt guidelines establishing the agency's priorities.
(2) Establish a method for:
(i) applying and distributing program funds; and
(ii) the sale of the tax credits under section 1907-E(d).
(g) Notice and comment.--The agency shall publish proposed guidelines, including a comment response document, in the Pennsylvania Bulletin and on the agency's publicly accessible Internet website for public comments no later than 45 days prior to adoption. All comments submitted to the agency in writing shall be public records and shall be incorporated into the comment response document.
(h) Report.--Within 90 days following the close of the first calendar year in which tax credits are made available, and by July 1 of every year thereafter, the agency, in consultation with the department, shall issue a report containing:
(1) A financial statement.
(2) An itemized list of the following:
(i) projects funded;
(ii) qualified taxpayers applying for tax credits; and
(iii) tax credits certificates issued.
(3) A description of other expenditures in the preceding calendar year.

(i) Submission of report.--The report under subsection (h) shall constitute a public record and shall be published on the agency's publicly accessible Internet website and submitted to the following:

(1) The Governor.

(2) The Auditor General.

(3) The chairperson and minority chairperson of the Urban Affairs and Housing Committee of the Senate.

(4) The chairperson and minority chairperson of the Commerce Committee of the House of Representatives.

(1905-E added July 13, 2016, P.L.526, No.84)

Section 1906-E. Mixed-use Development Program Fund.

(a) Establishment.--The Mixed-use Development Program Fund is established as a separate account within the agency for the sole purpose of implementing the provisions of this article.

(b) Prohibition.--No other agency funds, money or interest earnings shall be utilized for purposes of this article.

(c) Deposit.--All money allocated or appropriated to the program shall be deposited into the fund and shall be appropriated to the agency on a continuing basis to carry out the provisions of this article.

(d) Funds.--The fund shall include money and proceeds generated through the sale and allocation of mixed-use development tax credits, capital investments, penalties, fees and costs, interest and earnings pursuant to this article as well as grants or donations from other sources and any funds that may be appropriated for these purposes by the General Assembly under this article. Interest and any other earnings shall remain in the fund.

(e) Use of money.--The agency may use any available money in the fund for administrative costs and for purposes consistent with this article.

(1906-E added July 13, 2016, P.L.526, No.84)

Section 1907-E. Mixed-use development tax credits.

(a) Tax credit authority.--For purposes, and in accordance with the provisions of this article, the agency may allocate an amount not to exceed $4,500,000 in each fiscal year in mixed-use development tax credits and is directed to deposit proceeds and earnings derived from the sale into the fund. ((a) amended June 30, 2021, P.L.124, No.25)

(b) Establishment and authorization.--The agency shall have the authority to perform actions necessary or convenient to establish protocols and procedures to sell and distribute mixed-use development tax credits, directly or indirectly, to achieve the purposes of this program.

(c) Limitations.--A qualified taxpayer may only purchase mixed-use development tax credits from the agency and may only apply such credits against the qualified taxpayer's qualified tax liability in accordance with this article.

(d) Sale procedures.--Mixed-use development tax credits may be offered by the agency through direct or negotiated sale to qualified taxpayers.

(e) Procedures.--The agency shall adopt procedures and application criteria that shall be designed to deliver the mixed-use development tax credits in the manner deemed most appropriate to maximize the highest yield to the Commonwealth, to achieve a timely and equitable execution of the delivery of mixed-use development tax credits and to achieve the goals and purposes of the program. Procedures for the sale and application criteria proposed by the agency shall be made available for public comment in a manner consistent with section 1905-E(g).

(f) Application.--A qualified taxpayer seeking to purchase a mixed-use development tax credit may apply to the agency in the manner prescribed by the agency as set forth in the guidelines adopted pursuant to this article. The agency may require applicants to provide evidence of the taxpayer's qualifications.

(1907-E added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 40(5) of Act 25 of 2021 provided that the amendment of subsection (a) shall apply to fiscal years beginning after June 30, 2021.

Section 1908-E. Payment for mixed-use development tax credits.

(a) Payment of capital.--Capital committed by a qualified taxpayer shall be paid to the agency for deposit into the fund. The agency may establish an installment payment schedule for payments to be made by the qualified taxpayer in accordance with guidelines established by the agency.

(b) Issuance of tax credit certificates.--Beginning July 1, 2017, the agency shall issue to each qualified taxpayer a tax credit certificate upon receipt of payment of capital.

(c) Certificate form.--The agency shall issue tax credit certificates to qualified taxpayers in a form determined by the agency in consultation with the department.

(d) Contents.--The tax credit certificate shall contain all of the following:

(1) The total amount of tax credits that a qualified taxpayer may claim.

(2) The amount of capital that the qualified taxpayer has contributed or agreed to contribute in return for the issuance of the tax credit certificate.

(3) The possible penalties or other remedies for noncompliance.

(4) The requirements for transferring the tax credits to other qualified taxpayers.

(5) Limitations and procedures for carryover of the tax credit.

(6) Reporting requirements.

(7) Any other requirements or content the agency, in consultation with the department, considers appropriate.

(1908-E added July 13, 2016, P.L.526, No.84)

Section 1909-E. Failure to make contribution of capital and reallocation.

(a) Prohibition.--A tax credit certificate under section 1908-E may not be issued to a qualified taxpayer who fails to comply with agency guidelines.

(b) Penalty.--After the agency issues a tax credit certificate, a qualified taxpayer who fails to contribute capital in accordance with the agreed upon schedule of payments, or other conditions as determined by the agency, shall be subject to a penalty equal to 10% of the amount of capital that remains unpaid and assessment of costs and fees by the agency. The penalty shall be paid to the agency within 30 days after demand. A qualified taxpayer who fails to make a contribution within the specified time period may be subject to Commonwealth debarment, forfeiture or liquidation of any pledged collateral or to such other actions as deemed appropriate by the agency. All penalties, fees and costs shall be deposited into the fund to be used for the program.

(c) Reallocation.--The agency may, under guidelines promulgated by the agency, recapture and redeploy any defaulted capital. The agency shall make the credit available to other qualified taxpayers with minimal delay and cost to the program.

(d) Avoidance of penalty.--The agency may allow a qualified taxpayer that fails to make a contribution of capital within the time specified to avoid a penalty by transferring the allocation of tax credits to another qualified taxpayer within 30 days after the due date of the defaulted installment. Any transferee of an allocation of tax credits of a defaulting qualified taxpayer under this subsection shall be subject to all requirements of the agency and must agree to make the required contribution of capital within 30 days after the date of the transfer.

(1909-E added July 13, 2016, P.L.526, No.84)

Section 1910-E. Claiming the credit.

(a) General rule.--Upon presenting a tax credit certificate issued and verified by the agency to the department, the qualified taxpayer may claim a tax credit against the qualified tax liability of the qualified taxpayer.

(b) Time period.--Presentation must be made no later than the last day of the second calendar month of the calendar year in which the credit is available. No tax credit will be provided unless the qualified taxpayer provides presentation to both the agency and to the department.

(1910-E added July 13, 2016, P.L.526, No.84)

Section 1911-E. Carryover, carry back and assignment of credit.

(a) General rule.--The agency, in consultation with the department, shall establish guidelines that include procedures for the carryover, assignment and transfer of credits and reports on utilization.

(b) Carryover.--If a qualified taxpayer cannot use the entire amount of the tax credit for the taxable year in which the tax credit is first approved, the excess credit may be carried over to subsequent taxable years and used as a credit against the qualified tax liability of the qualified taxpayer for those taxable years. Each time the tax credit is carried over to a succeeding taxable year, it shall be reduced by the amount that was used as a credit during the immediately preceding taxable year. In no event shall tax credits provided by this article be carried over and applied to succeeding taxable years more than seven taxable years following the first taxable year for which the qualified taxpayer was entitled to claim the credit.

(c) Application.--A tax credit received by the department in a taxable year shall first be applied against the qualified taxpayer's qualified tax liability for the current taxable year as of the date on which the credit was issued before any carried over tax credits can be applied against any qualified tax liability.

(d) No carry back or refund.--A qualified taxpayer may not carry back or obtain a refund of all or any portion of an unused tax credit granted to the qualified taxpayer under this article.

(e) Sale or assignment.--A qualified taxpayer, upon application and approval by the agency and in conformance with the agency's guidelines, may sell or assign, in whole or in part, a tax credit granted to the qualified taxpayer under this article.

(f) Purchasers and assignees.--The purchaser or assignee of all or a portion of a tax credit obtained under subsection (e) must be a qualified taxpayer and must immediately claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee may not carry over, carry back or obtain a refund or otherwise sell or assign the tax credit. The purchaser or assignee shall notify the agency of the utilization of the tax credit in compliance with procedures specified by the agency.

(g) Pass-through entity distributions.--The following shall apply:

(1) A pass-through entity may elect, in writing, according to procedures established by the agency, to transfer all or a portion of unused tax credits to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(2) A pass-through entity and a shareholder, member or partner of a pass-through entity shall not claim the credit under paragraph (1) for the same qualified expenditures.

(3) A shareholder, member or partner of a pass-through entity to whom a credit is transferred under paragraph (1) must claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry over, carry back, obtain a refund of or sell or assign the credit.

(1911-E added July 13, 2016, P.L.526, No.84)

ARTICLE XIX-F
KEYSTONE INNOVATION ZONES
(Art. added July 13, 2016, P.L.526, No.84)

Section 1901-F. Scope of article.

This article relates to the Keystone Innovation Zone Program.

(1901-F added July 13, 2016, P.L.526, No.84)

Section 1902-F. Definitions.

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

"Department." The Department of Community and Economic Development of the Commonwealth.

"Institution of higher education." A public or private institution within this Commonwealth authorized by the Department of Education to grant an associate degree or higher degree. The term includes a branch or satellite campus of the institution.

"Keystone innovation zone." A clearly defined contiguous geographic area comprised of portions of one or more political subdivisions.

"Keystone innovation zone company." A for-profit business entity which is all of the following:

(1) Located within a keystone innovation zone.

(2) Has been in operation for less than eight years.

(3) Falls within one of the targeted industry segments adopted by the keystone innovation zone partnership in its strategic plan.

"Keystone innovation zone coordinator." A nonprofit organization which is all of the following:

(1) Not an institution of higher education.

(2) Chosen by a keystone innovation zone partnership and agreed to by the department to administer the activities of a keystone innovation zone.

"Keystone innovation zone partnership." Any association or group which is all of the following:

(1) Comprised of at least one institution of higher education and a combination of private businesses, business support organizations, commercial lending institutions, venture capital companies, angel investor networks or foundations.

(2) Formed for the creation and administration of a keystone innovation zone.

"KIZ." A keystone innovation zone.

"KIZ company." A keystone innovation zone company.

"KIZ coordinator." A keystone innovation zone coordinator.

"KIZ partnership." A keystone innovation zone partnership.

(1902-F added July 13, 2016, P.L.526, No.84)

Section 1903-F. Program.

(a) Establishment.--There is established a program in the department to be known as the Keystone Innovation Zone Program. The program shall provide economic assistance to KIZ companies for the purpose of improving and encouraging research and development efforts and technology commercialization efforts resulting in employment growth and revitalization of communities.

(b) Application.--A keystone innovation zone partnership may apply to the department to establish a KIZ. All applications must be received by July 1, 2007, be on the form required by the department and include and demonstrate all of the following:

(1) The KIZ coordinator's name and address.

(2) A statement that the applicant is a KIZ partnership and the identity of its members.

(3) The geographic boundaries of the proposed KIZ.

(4) A copy of a written strategic plan adopted by the KIZ partnership describing the targeted industry segments which the KIZ will foster.

(5) Any other information required by the department.

(c) Review and designation.--The department shall review the application. Upon being satisfied that all requirements have been met, the department may approve the application. If the department approves the application, the department shall designate the identified area as a KIZ and accept the organization designated as the KIZ coordinator for the zone.

(1903-F added July 13, 2016, P.L.526, No.84)

Section 1904-F. Assistance.

(a) Existing programs.--A KIZ company shall be eligible and may be given priority consideration in applying for assistance under any of the following:

(1) 12 Pa.C.S. (relating to commerce and trade).

(2) The act of May 17, 1956 (1955 P.L.1609, No.537), known as the Pennsylvania Industrial Development Authority Act.

(3) The act of August 23, 1967 (P.L.251, No.102), known as the Economic Development Financing Law.

(4) The act of June 22, 2001 (P.L.569, No.38), known as The Ben Franklin Technology Development Authority Act.

(5) The act of June 29, 1996 (P.L.434, No.67), known as the Job Enhancement Act.

(6) The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

(7) Any other act enacted after the effective date of this subsection which has economic development assistance as its primary objective.

(b) Loans of the Pennsylvania Industrial Development Authority.--The board of the Pennsylvania Industrial Development Authority may provide loans to entities for land and structures, including structures providing space for research and development activities, in which, when completed, at least one KIZ company will be located. If the structure is intended to accommodate more than one KIZ company, at least 80% of the space in the structure must be leased to KIZ companies. The board may establish the eligibility criteria, the interest rate, the loan term and the participation rate to be applied to these projects.

(c) KIZ operation grants.--

(1) The Ben Franklin Technology Development Authority may provide an annual KIZ operation grant of up to $250,000 to a KIZ coordinator for administrative costs incurred in establishing and implementing the KIZ.

(2) In subsequent years, a grant shall be reduced in accordance with all of the following:

(i) By 25% of the initial amount of the grant in the second year.

(ii) By 50% of the initial amount of the grant in the third year.

(iii) By 75% of the initial amount of the grant in the fourth year.

(3) The Ben Franklin Technology Development Authority shall develop guidelines for the application, receipt and use of operation grant funds.

(1904-F added July 13, 2016, P.L.526, No.84)

Section 1905-F. Keystone innovation grants.

(a) Grants.--The department may provide keystone innovation grants to institutions of higher education to facilitate technology transfer, including patent filings, technology licensing, intellectual property and royalty agreements and other designated resource needs. The application must be on the form required by the department and must include or demonstrate all of the following:

(1) The applicant's name and address.

(2) The KIZ partnership of which the applicant is a member.

(3) A written proposal. The proposal must state all of the following:

(i) The technology transfer activities to be undertaken. The activities may include the addition of personnel who are directly related in transferring technology to the local businesses.

(ii) The quantifiable goals and objectives to be achieved.

(iii) How the activities, goals and objectives will integrate with the strategic plan adopted for the KIZ.

(iv) The role of the applicant and other members of the KIZ partnership.

(4) Identification of a dollar-to-dollar match, which may be in kind if the department determines that the proposed match can be readily identified and tracked and which is directly related to the stated goals and objectives.

(5) Any other information required by the department.

(b) Approval.--The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application. Prior to releasing grant funds, the department shall enter into a contract with the applicant that contains all of the following:

(1) The grant may not exceed $250,000 per year.

(2) Grants under this program shall not exceed $750,000 in the aggregate per applicant under this program.

(3) The aggregate amount of grants awarded to all applicants under this subsection shall not exceed $10,000,000 under this program.

(c) Penalty.--

(1) Except as provided in paragraph (2), the department shall impose a penalty upon a recipient of a grant for any of the following:

(i) If the recipient fails to use the grant for the technology transfer activities specified in the application.

(ii) If the recipient's membership in the KIZ partnership is terminated voluntarily or involuntarily.

(2) The department may waive the penalty required by paragraph (1) if the department determines that the failure was due to circumstances outside the control of the grant recipient.

(3) A penalty imposed under paragraph (1) shall be equal to the full amount of the grant received plus an additional amount of up to 10% of the amount of the grant received. The penalty shall be payable in one lump sum or in installments, with or without interest, as the department deems appropriate.

(1905-F added July 13, 2016, P.L.526, No.84)

Section 1906-F. Keystone innovation zone tax credits.

(a) Tax credit.--A KIZ company may claim a tax credit equal to 50% of the increase in the KIZ company's gross revenues in the immediately preceding taxable year attributable to activities in the KIZ over the KIZ company's gross revenues in the second preceding taxable year attributable to its activities in the KIZ. A tax credit for a KIZ company shall not exceed $100,000 annually. For the purposes of the keystone innovation zone tax credit, the term "gross revenues" may include grants received by the KIZ company from any source whatsoever.

(b) Application for tax credit.--A KIZ company may file an application for a tax credit with the department. An application under this subsection must be filed by December 1 for the prior tax year. The application must be submitted on a form required by the department and must be accompanied by a certification from the KIZ coordinator that the KIZ company falls within a targeted industry segment identified in the strategic plan adopted by the KIZ partnership, and meets any other requirements specified by the department. The department shall review the application and, upon being satisfied that all requirements have been met, the department shall issue a tax credit certificate to the KIZ company. All certificates shall be awarded by May 1 of each year following the calendar year of application.

((b) amended June 30, 2021, P.L.124, No.25)

(c) Limitation on tax credits.--

(1) The total amount of tax credits approved by the department shall not exceed $15,000,000 for any one taxable year.

(2) If $15,000,000 of the tax credits are not approved for any one taxable year, the unused portion shall not be available for use in future taxable years.

(3) If the total amount of tax credits applied for by all taxpayers for any one taxable year exceeds $15,000,000, then the tax credit to be received by each applicant shall be determined as follows:

(i) Divide:

(A) the eligible tax credit applied for by the applicant; by

(B) the total of all eligible tax credits applied for by all applicants.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) $15,000,000.

(d) Application of tax credit and election.--A tax credit approved under this section must be first applied against the KIZ company's tax liability under Article III, IV or VI, for the taxable year in which the taxpayer applied for the tax credit. If the amount of tax liability owed by the KIZ company is less than the amount of the tax credit, the KIZ company may elect to carry forward the amount of the remaining tax credit for a period not to exceed four additional taxable years and to apply the credit against tax liability incurred during those tax years; or the KIZ company may elect to sell or assign a portion of the tax credit in accordance with the provisions of subsection (f). A KIZ company may not carry back or obtain a refund of an unused keystone innovation zone tax credit. ((d) amended June 30, 2021, P.L.124, No.25)

(e) Pennsylvania S corporation shareholder pass-through.--

(1) If a Pennsylvania S corporation does not have an eligible tax liability against which the tax credit may be applied, a shareholder of the Pennsylvania S corporation is entitled to a tax credit equal to the product of:

(i) the tax credit determined for the Pennsylvania S corporation for the taxable year; and

(ii) the percentage of the Pennsylvania S corporation's distributive income to which the shareholder is entitled.

(2) The credit provided under paragraph (1) is in addition to any tax credit to which a shareholder of the Pennsylvania S corporation is otherwise entitled. However, a Pennsylvania S corporation and a shareholder of the Pennsylvania S corporation may not claim a tax credit under this section for the same activity.

(f) Sale or assignment of tax credit.--

(1) Upon application to and approval by the department, a KIZ company which has been awarded a tax credit may sell or assign, in whole or in part, the tax credit granted to the KIZ company. The application must be on the form required by the department and must include or demonstrate all of the following:

(i) The applicant's name and address.

(ii) A copy of the tax credit certificate previously issued by the department.

(iii) A statement as to whether any part of the tax credit has been applied to tax liability of the applicant and the amount so applied.

(iv) Any other information required by the department.

(2) The department shall review the application and, upon being satisfied that all requirements have been met, the department may approve the application and shall notify the Department of Revenue.

(g) Use of sold or assigned tax credit.--The purchaser or assignee of all or a portion of a keystone innovation zone tax credit under this section shall claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee of a tax credit may use the tax credit against any tax liability of the purchaser or assignee under Article III, IV, VI, VII, VIII, IX or XV. The amount of the tax credit used may not exceed 75% of the purchaser's or assignee's tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the keystone innovation zone tax credit. The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the keystone innovation zone tax credit in compliance with procedures specified by the department.

(1906-F added July 13, 2016, P.L.526, No.84)

Section 1907-F. Guidelines.

Before any KIZ is approved by the department, the department shall approve written guidelines for the program and shall provide a copy of the guidelines to the Majority Leader and Minority Leader of the Senate, the Majority Leader and Minority Leader of the House of Representatives, the chairperson and minority chairperson of the Appropriations Committee of the

Senate and the chairperson and minority chairperson of the Appropriations Committee of the House of Representatives.
(1907-F added July 13, 2016, P.L.526, No.84)
Section 1908-F. Annual report.
The department shall submit an annual report to the Secretary of the Senate and the Chief Clerk of the House of Representatives indicating the effectiveness of the keystone innovation zone tax credit provided by this article by October 1 of each year following the calendar year of application. Notwithstanding any law providing for the confidentiality of tax records, the report shall include the names of all taxpayers awarded the credits, all taxpayers utilizing the credits, the amount of credits approved and utilized by each taxpayer and the locations of the KIZ companies awarded the credits. The report shall be a public document.
(1908-F amended June 30, 2021, P.L.124, No.25)

ARTICLE XIX-G
PENNSYLVANIA HOUSING TAX CREDIT
(Art. repealed Nov. 12, 2025, P.L.156, No.45)

Section 1901-G. Scope of article.--(1901-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1902-G. Definitions.--(1902-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1903-G. Pennsylvania Housing Tax Credit.--(1903-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1904-G. Use of tax credits.--(1904-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1905-G. Carryover, carryback and refund.--(1905-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1906-G. Sale or assignment.--(1906-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1907-G. Pass-through entity.--(1907-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1908-G. Purchasers and assignees.--(1908-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1909-G. Administration.--(1909-G repealed Nov. 12, 2025, P.L.156, No.45)
Section 1910-G. Annual report.--(1910-G repealed Nov. 12, 2025, P.L.156, No.45)

ARTICLE XIX-H
AIRPORT LAND DEVELOPMENT ZONES
(Art. added July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 24(4)(xiv) of Act 53 of 2022 provided that the addition of Article XIX-H shall apply to fiscal years beginning after June 30, 2022.

Section 1901-H. Definitions.
The following words and phrases when used in this article shall have the meanings given to them in this section unless the context clearly indicates otherwise:
"Affiliate." As follows:
(1) an entity which is part of the same affiliated group as defined in section 1504(a) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1504(a)), as an airport land development zone employer; or
(2) an entity that would be part of the same affiliated group except that the entity or the airport land development zone employer is

not a corporation.

"Airport." A commercial service airport or a noncommercial service airport.

"Airport land development zone." As follows:

(1) An area of no more than 300 acres, consisting of parcels of real property that are owned by a commercial service airport or leased under paragraph (3), with, as of December 31, 2021, no permanent vertical structures affixed or buildings with businesses located in the structures. The total acres for all commercial service airports in the program may not exceed 2,000 acres.

(2) An area of no more than 50 acres, consisting of parcels of real property that are owned by a noncommercial service airport or leased under paragraph (3), with, as of December 31, 2021, no permanent vertical structures affixed or vacant buildings with businesses located in the structures. The total acres for all noncommercial service airports in the program may not exceed 2,000 acres.

(3) A parcel of real property in the zone may be leased or ground leased to a third party while continuing to be owned by a commercial service airport or a noncommercial service airport for the duration of the program.

"Airport land development zone employer." A person or entity subject to the taxes imposed under Article III, IV, VII, VIII or XV who employs at least one employee in an airport land development zone. The term shall include a pass-through entity. The term shall not include an employer engaged in construction improvements in an airport land development zone.

"Airport land development zone plan." The document submitted to the department that details the parcels included in the airport land development zone by an airport. The plan shall include the following:

(1) A legal description, identification number and acreage of each parcel included in the zone.

(2) Certification by an airport that any building in the zone was vacant and any parcel in the zone had no permanent vertical structures affixed to the parcel on or after December 31, 2021.

(3) A map and diagram of each parcel included in the plan.

"Commercial service airport." A publicly owned airport with at least 2,500 annual enplanements and scheduled air carrier service. The term includes a public use airport in a county of the fourth class with a population of between 140,000 and 148,000 people under the 2020 decennial census.

"Department." The Department of Community and Economic Development of the Commonwealth.

"Employee." An individual who meets all of the following:

(1) Is employed in this Commonwealth by an airport land development zone employer or its predecessor after the effective date of this section.

(2) Is employed for at least 35 hours per week by an airport land development zone employer.

(3) Spends at least 90% of the individual's working time for the airport land development zone employer at the airport land development zone location.

"Full-time equivalent employee." As follows:

(1) The whole number of employees, rounded down, that equals the sum of:

(i) the total paid hours, including paid time off and family leave under the Family and Medical Leave Act of 1993 (Public Law 103-3, 29 U.S.C. § 2601 et seq.), of all of an airport land development zone employer's employees classified as nonexempt during the airport land development zone employer's tax year divided by 2,000; and

(ii) a total number arrived at by adding, for each airport land development zone employer's employees classified as exempt scheduled to work at least 35 hours per week, the fraction equal to the portion of the year the exempt employee was paid by the airport land

development zone employer. Whether an employee shall be classified as exempt or nonexempt shall be determined under the Fair Labor Standards Act of 1938 (52 Stat. 1060, 29 U.S.C. § 201 et seq.).

(2) The calculation under paragraph (1) shall exclude employees previously employed by an affiliate and employees previously employed by the airport land development zone employer outside of an airport land development zone.

"Noncommercial service airport." An airport that is publicly or privately owned, open to the public, with less than 2,500 annual enplanements and without scheduled air carrier service.

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"Plan." An airport land development zone plan.

"Program." The Airport Land Development Zone Program established under section 1902-H.

"Qualified tax liability." A tax owed by an airport land development zone employer attributable to a business activity conducted within an airport land development zone for a tax year under Article III, IV, VII, VIII or XV, excluding any tax withheld by an employer under Article III.

"Zone." An airport land development zone.

(1901-H added July 8, 2022, P.L.513, No.53)

Section 1902-H. Airport Land Development Zone Program.

The Airport Land Development Zone Program is established to encourage and promote the creation of new jobs on land and buildings owned by airports within this Commonwealth, while accelerating economic activity at and around airports on undeveloped land or vacant buildings owned by airports that can provide new revenue sources for airports.

(1902-H added July 8, 2022, P.L.513, No.53)

Section 1903-H. Application and plan.

(a) Application.--Within four months of the effective date of this section, the department shall publish guidelines and an application for airports.

(b) Filing plan.--The department shall begin accepting plans from each airport 30 days after the department publishes the guidelines and application.

(c) Approval of plan.--Upon receipt of a plan submitted by an airport under subsection (b), the department shall have 60 calendar days to review the plan for appropriateness and conformity. If the proposed plan conforms with this article, the department shall approve the plan. If the proposed plan does not conform, the department shall notify the applicant in writing. The airport may revise the plan to make the plan conform with this article. Upon receipt of the revised plan, the department shall have 60 days to approve the revised plan.

(d) Acreage limit.--In the event the area covered by the aggregate applications received by the department would cause the area covered under the program to exceed the 2,000-acre zone limit, applications shall be approved by the department in the order received.

(e) Notification.--When a plan submitted by an airport under subsection (b) is approved, the department shall notify the Department of Revenue of parcels included in the zone within 60 days of approval.

(f) Change.--An airport may change the approved plan by subdividing a parcel, changing the legal description of a parcel, moving the zone designation to another qualifying parcel owned by an airport or making physical changes to a vacant building in the zone by adding to the building's size or reducing the building's size after the plan has been approved. If an airport chooses to make the changes, the airport shall notify the department and the Department of Revenue of the changes. The department shall issue a document confirming the changes to the airport's zone.

(1903-H added July 8, 2022, P.L.513, No.53)

Section 1904-H. Airport land development zone tax credit.

(a) Tax credit.--An airport land development zone employer may claim a tax credit against a qualified tax liability as provided under this

article.

(b) Process.--

(1) An airport land development zone employer shall notify the department and the Department of Revenue of the airport land development zone employer's qualification for a tax credit under this section by February 15 for tax credits earned during a taxable year ending in the prior calendar year.

(2) The notification under paragraph (1) shall contain the following:

(i) The name, address and taxpayer identification number of the airport land development zone employer.

(ii) Verification that the airport land development zone employer is an airport land development zone employer located in an airport land development zone.

(iii) A file prepared for the Department of Revenue containing the names, addresses and Social Security numbers of each employee for which the credit is claimed.

(iv) A file prepared for the Department of Revenue containing verification that each employee identified in subparagraph (iii) spent at least 90% of the employee's working time for the airport land development zone employer at the employer's airport land development zone location.

(v) Any other information required by the department or the Department of Revenue.

(3) To qualify for the credit, the Department of Revenue must certify that the airport land development zone employer is current with all tax liabilities.

(4) By May 15 of each year, the department shall send the airport land development zone employer who submitted the notification a certificate of the airport land development zone employer's qualification for the credit. The airport land development zone employer shall present the certificate to the Department of Revenue when filing the airport land development zone employer's return claiming the credit.

(c) Amount.--The amount of the tax credit an airport land development zone employer may earn in any tax year shall be equal to $2,100 for each full-time equivalent employee in excess of the number of full-time equivalent employees employed by the airport land development zone employer prior to January 1, 2021.

(d) Application of tax credits.--An airport land development zone employer must first use the airport land development zone employer's airport land development zone tax credit against the airport land development zone employer's qualified tax liability.

(d.1) Sale or assignment of tax credit.--

(1) If the airport land development zone employer is entitled to a credit in any year that exceeds the airport land development zone employer's qualified tax liability for that year, upon application to and approval by the department, an airport land development zone employer that has been awarded a tax credit may sell or assign, in whole or in part, the tax credit granted to the airport land development zone employer. The application must be on the form required by the department and must include or demonstrate all of the following:

(i) The applicant's name and address.

(ii) A copy of the tax credit certificate previously issued by the department.

(iii) A statement as to whether any part of the tax credit has been applied to tax liability of the applicant and the amount so applied.

(iv) Any other information required by the department.

(v) Before an application for sale or assignment is approved, the Department of Revenue must find that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at

settlement, assessment or determination by the Department of Revenue.

(2) The department shall review the application and, if all requirements have been met, approve the application and notify the Department of Revenue.

(3) The purchaser or assignee of all or a portion of an airport land development zone tax credit under this section shall claim the credit in the taxable year in which the purchase or assignment is made. The purchaser or assignee of a tax credit may use the tax credit against any tax liability of the purchaser or assignee under Article III, IV, VII, VIII or XV, excluding any tax withheld by an employer under Article III. The amount of the tax credit used may not exceed 75% of the purchaser's or assignee's tax liability for the taxable year. The purchaser or assignee may not carry over, carry back, obtain a refund of or assign the airport land development zone credit. The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the airport land development zone tax credit in compliance with procedures specified by the department.

(e) Use and carryforward.--

(1) An airport land development zone employer may earn the tax credit allowed under this article in any tax year beginning in 2022 and for a period of up to 10 tax years during the 20-year period beginning July 1, 2022, and ending June 30, 2041.

(2) An airport land development zone employer may carry forward for up to 10 years a tax credit earned under this article:

(i) which the airport land development zone employer is unable to use; or

(ii) which the airport land development zone employer does not sell or assign.

(3) Tax credits carried forward under paragraph (2) shall be used on a first-in, first-out basis.

(f) Dual-use prohibited.--Each year, an airport land development zone employer may only earn tax credits under subsection (c) or (d) or under the act of October 6, 1998 (P.L.705, No.92), known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act. An airport land development zone employer may not claim a credit under both this section and Article XVIII-B.

(g) Pass-through entities.--

(1) If an airport land development zone employer is a pass-through entity and has an unused tax credit under subsection (c), (d) or (e), the airport land development zone employer may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled.

(2) An airport land development zone employer that is a pass-through entity and a shareholder, member or partner of that airport land development zone employer may not both claim the airport land development zone tax credit earned by the airport land development zone employer for any tax year.

(3) A shareholder, member or partner of an airport land development zone employer that is a pass-through entity to whom a credit is transferred under this subsection shall immediately claim the credit in the taxable year in which the transfer is made.

(h) Transfer.--A tax credit or tax credit carryforward that an airport land development zone employer is entitled to use may be transferred to a successor entity of the airport land development zone employer.

(i) Penalties.--The following apply:

(1) A company which receives airport land development zone tax credits and fails to substantially maintain the operations related to the airport land development zone tax credits in this Commonwealth for a period of five years from the date the company first submits an airport land development zone tax credit certificate to the Department of

Revenue shall be required to refund to the Commonwealth the total amount of credits granted.

(2) The department may waive the penalty under paragraph (1) if it is determined that a company's operations were not maintained or the new jobs were not created because of circumstances beyond the company's control. Circumstances shall include natural disasters, unforeseen industry trends or a loss of a major supplier or market.

(1904-H added July 8, 2022, P.L.513, No.53)

ARTICLE XIX-I
PENNSYLVANIA CHILD AND DEPENDENT CARE ENHANCEMENT TAX CREDIT PROGRAM
(Art. XIX-I repealed Dec. 13, 2023, P.L.251, No.34)

Section 1901-I. Scope of article.--(1901-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1902-I. Definitions.--(1902-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1903-I. Credit for child and dependent care employment-related expenses.--(1903-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1904-I. Prohibitions.--(1904-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1905-I. Application of Internal Revenue Code of 1986.--(1905-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1906-I. Departmental duties.--(1906-I repealed Dec. 13, 2023, P.L.251, No.34)
Section 1907-I. Report to General Assembly.--(1907-I repealed Dec. 13, 2023, P.L.251, No.34)

ARTICLE XIX-J
529 SAVINGS ACCOUNT EMPLOYER MATCHING CONTRIBUTION TAX CREDIT
(Art. added July 11, 2024, P.L.674, No.56)

Compiler's Note: Section 30(11) of Act 56 of 2024 provided that the addition of Article XIX-J shall apply to taxable years commencing after December 31, 2024.

Section 1901-J. Scope of article.

This article relates to the 529 savings account employer matching contribution tax credit program.

(1901-J added July 11, 2024, P.L.674, No.56)

Section 1902-J. Definitions.

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

"ABLE account." An account under the act of April 18, 2016 (P.L.128, No.17), known as the Pennsylvania ABLE Act.

"ABLE account contract." As defined in section 102 of the Pennsylvania ABLE Act.

"Account." An account owned by an employee who has entered into a Tuition Account Program Contract under the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act, or an ABLE account contract, or a tuition account program contract or an ABLE account program administered by another state, notwithstanding the named beneficiary of the account.

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

"Matching contribution." A deposit of money by an employer into an employee-owned account during the tax year that does not exceed the amount of deposits made into that account by the employee during the same tax year.

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"State tax liability." Any of the taxes due under Article III, IV, VII, VIII, IX or XV. The term shall not include any tax withheld by an employer from an employee under Article III.

"Tax credit." The 529 savings account employer matching contribution tax credit established under section 1903-J.

"Tuition Account Program Contract." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

(1902-J added July 11, 2024, P.L.674, No.56)

Section 1903-J. Credit for employer matching contributions to tuition savings accounts and ABLE accounts.

(a) Tax credit.--For taxable years beginning after December 31, 2024, and ending before January 1, 2030, an employer that makes a matching contribution to an account owned by an employee under this article or an ABLE account may claim a tax credit against the employer's State tax liability.

(b) Amount of tax credit.--The amount of the tax credit under subsection (a) shall be equal to 25% of the employer's aggregate matching contributions made to accounts owned by employees during the tax year.

(c) Tax credit limit for employers.--The total amount of matching contributions to accounts owned by employees for which an employer may claim a tax credit shall be no more than $500 per employee during the tax year.

(d) Proof of matching contribution.--In order to receive the tax credit, an employer shall provide the department with proof that the employer has made qualifying matching contributions to employee-owned accounts under this article at the time of filing the employer's tax return.

(e) Proof of employee contribution.--In a manner prescribed by the employer, an employee shall provide to the employer evidence of the total amount deposited into the employee's account during the previous tax year.

(1903-J added July 11, 2024, P.L.674, No.56)

Section 1904-J. Carryover, carryback, assignment and pass-through of credit.

(a) General rule.--If the amount of the tax credit allowed under this article exceeds the employer's tax liability in the tax year in which the tax credit is approved, the excess tax credit may be carried over to succeeding tax years for a period not to exceed three years to reduce the employer's tax liability during those tax years. The following shall apply:

(1) A tax credit that is carried over to succeeding tax years must be applied first to the earliest tax year possible.

(2) Any credit remaining after three tax years following the initial approval of a tax credit under this article shall not be refunded or credited to the employer.

(b) No carryback or refund.--An employer approved for a tax credit is not entitled to carry back or obtain a refund of all or any portion of an unused tax credit granted to the employer under this article.

(c) Pass-through entity.--If an employer is a pass-through entity and has an unused tax credit under section 1903-J, the employer may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit to shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled. The following apply:

(1) The same unused tax credit under subsection (b) may not be claimed by:

(i) the pass-through entity; and

(ii) a shareholder, member or patron of the pass-through entity.

(2) A shareholder, member or partner of a pass-through entity to whom a credit is transferred under this subsection shall immediately

claim the credit in the taxable year in which the transfer is made. The shareholder, member or partner may not carry forward, carry back, obtain a refund of or sell or assign the credit.

(1904-J added July 11, 2024, P.L.674, No.56)

Section 1905-J. Departmental duties.

The department shall publish guidelines and may promulgate regulations necessary for the implementation and administration of this article.

(1905-J added July 11, 2024, P.L.674, No.56)

Section 1906-J. Nondiscrimination in matching contributions.

(a) Accounts owned by employees.--An employee who owns an account shall have equal opportunity to receive a matching contribution from the employer.

(b) Duty of employers.--If an employer chooses to make matching contributions to employee-owned accounts for the purposes of claiming the tax credit, the employer shall make equal matching contributions during the tax year to any employee that either owns an account or chooses to open an account while employed by the employer.

(c) Rights of employees.--An employee who owns an account may voluntarily opt out of an employer matching contribution benefit during any tax year. An employee who opts out of a matching contribution benefit from the employer during one tax year may elect to receive the matching contribution benefit during another succeeding tax year.

(1906-J added July 11, 2024, P.L.674, No.56)

Section 1907-J. Report to General Assembly.

(a) Annual report.--No later than July 1, 2025, and each July 1 thereafter, the department shall submit a report to the General Assembly indicating the effectiveness of the tax credit under this article.

(b) Information required.--The report required under subsection (a) shall include the following information:

(1) The number of tax credits approved under this article.

(2) The amount of tax credits approved under this article.

(3) The number of tax credits denied and the reason for denial.

(1907-J added July 11, 2024, P.L.674, No.56)

ARTICLE XIX-K
EMPLOYER CHILD CARE CONTRIBUTION TAX CREDIT
(Art. added July 11, 2024, P.L.674, No.56)

Compiler's Note: Section 30(11) of Act 56 of 2024 provided that the addition of Article XIX-K shall apply to taxable years commencing after December 31, 2024.

Section 1901-K. Scope of article.

This article establishes the employer child care contribution tax credit.

(1901-K added July 11, 2024, P.L.674, No.56)

Section 1902-K. Definitions.

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

"Aggregate contribution." The aggregate contribution that a qualified taxpayer makes to all employees during the taxable year for which the qualified taxpayer seeks the employer child care contribution tax credit established under this article, provided that only the first $500 in contributions per employee shall count toward the aggregate contribution.

"Child-care provider." Includes:

(1) A child care center as defined under 55 Pa. Code § 3270.4 (relating to definitions).

(2) A group child care home as defined under 55 Pa. Code § 3280.4 (relating to definitions).

(3) A family child care home as defined under 55 Pa. Code § 3290.4 (relating to definitions).

"Contribution." A payment made to a child-care provider by an employer to subsidize an employee's eligible child-care costs.

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

"Eligible child-care costs." Costs incurred by an employee for services rendered by a child-care provider that are incurred to enable the employee to be gainfully employed by a qualified taxpayer.

"Employee." An individual employed by a qualified taxpayer. The term shall not include:

(1) An officer of an entity subject to tax under Article IV, VII, VIII or XV.

(2) An officer of an insurance company subject to tax under Article IX.

"Pass-through entity." Any of the following:

(1) A partnership as defined in section 301(n.0).

(2) A Pennsylvania S corporation as defined in section 301(n.1).

(3) An unincorporated entity subject to section 307.21.

"Qualified tax liability." Any of the taxes due under Article III, IV, VII, VIII or XV. The term shall not include any tax withheld by an employer from an employee under Article III.

"Qualified taxpayer." An individual, partnership, association, corporation, governmental body or unit or agency or other entity that:

(1) is subject to a tax imposed under Article III, IV, VII, VIII, IX or XV; and

(2) is required under the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.) to withhold Federal income tax from wages paid to an employee.

(1902-K added July 11, 2024, P.L.674, No.56)

Section 1903-K. Employer child care contribution tax credit.

(a) General rule.--For taxable years beginning after December 31, 2024, a qualified taxpayer may claim the employer child care contribution tax credit for a contribution made during the taxable year toward an employee's eligible child-care costs and may apply the tax credit against its qualified tax liability.

(b) Application.--A qualified taxpayer applying to claim an employer child care contribution tax credit must complete and submit to the department a child care contribution tax credit application on a form and in a manner as determined by the department. The form shall require the qualified taxpayer to provide the following:

(1) The names, addresses and Social Security numbers of all employees to which the qualified taxpayer made a contribution during the taxable year.

(2) The names, addresses and employer identification numbers of the child-care providers that provided child-care services to each participating employee.

(3) The amount contributed to each participating employee.

(4) The aggregate contribution.

(c) Amount of tax credit.--The amount of the tax credit under subsection (a) shall be equal to 30% of the aggregate contribution made to employees during the tax year.

(1903-K added July 11, 2024, P.L.674, No.56)

Section 1904-K. Carryover, carryback, refund and assignment of credit.

(a) Carryover, carryback and refund.--A qualified taxpayer is not entitled to carry forward, carry back or obtain a refund of all or a portion of an unused tax credit granted to the qualified taxpayer under this article.

(b) Sale or assignment of tax credit.--A qualified taxpayer may not sell or assign a tax credit granted to the qualified taxpayer under this article.

(1904-K added July 11, 2024, P.L.674, No.56)

Section 1905-K. Pass-through entity.

(a) Election.--If the qualified taxpayer is a pass-through entity, the qualified taxpayer may elect in writing, according to procedures established by the department, to transfer all or a portion of the credit

to shareholders, members or partners in proportion to the share of the qualified taxpayer's distributive income to which the shareholders, members or partners are entitled or in any other manner designated by the qualified taxpayer in accordance with its governance documents and without regard to how distributive income, losses or credits are allocated for other tax purposes.

(b) Limitation.--The same unused tax credit under subsection (a) may not be claimed by:

(1) the pass-through entity; and

(2) a shareholder, member or partner of the pass-through entity.

(c) Time.--A shareholder, member or partner of a pass-through entity under subsection (a) may only use a tax credit during a taxable year for which use of the credit is authorized. The shareholder, member or partner of the pass-through entity may not carry forward, carry back, obtain a refund of or sell or assign the tax credit.

(1905-K added July 11, 2024, P.L.674, No.56)

Section 1906-K. Exclusion from classes of income.

Notwithstanding any other provision of law, contributions made under this article to an employee's eligible child-care costs during the taxable year may not be included in any of the classes of income enumerated under section 303.

(1906-K added July 11, 2024, P.L.674, No.56)

Section 1907-K. Nondiscrimination in contributions.

(a) Employees.--An employee who has incurred eligible child-care costs shall have equal opportunity to receive a contribution from the employer.

(b) Duty of employers.--If an employer chooses to make contributions to a child-care provider for the purposes of claiming the tax credit, the employer shall make equal contributions during the tax year to any employee that has eligible child-care costs.

(1907-K added July 11, 2024, P.L.674, No.56)

Section 1908-K. Regulations.

(a) Promulgation.--The department shall promulgate regulations to implement the provisions of this article.

(b) Guidelines.--The department shall develop written guidelines for the implementation of this article. The guidelines shall be in effect until the department promulgates regulations for the implementation of the provisions of this article.

(1908-K added July 11, 2024, P.L.674, No.56)

Section 1909-K. Tax compliance.

The provisions of Article XVII-A.1 apply to the application of this article.

(1909-K added July 11, 2024, P.L.674, No.56)

Section 1910-K. Applicability.

The provisions of this article shall apply to taxable years beginning after December 31, 2024.

(1910-K added July 11, 2024, P.L.674, No.56)

ARTICLE XX
MALT BEVERAGE TAX
(Art. added Dec. 22, 1989, P.L.775, No.110)

Compiler's Note: Section 18 of Act 86 of 1998 provided that Article XX is repealed insofar as it is inconsistent with the amendment or addition of sections 102 and 505.2 and Article X of Act 21 of 1951 which were amended or added by Act 86 of 1998.

Section 2001. Short Title.--This article shall be known and may be cited as the Malt Beverage Tax Law.

(2001 added Dec. 22, 1989, P.L.775, No.110)

Section 2002. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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

"Distributor." A person engaged in the purchase and resale of malt or brewed beverages in the original sealed packages as prepared for market by the manufacturer, including any who or which:

(1) Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth, or for sale and delivery in and after reaching the Commonwealth.

(2) Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth, or for sale or delivery therein, after the same have come to rest or storage therein, in the original package, receptacle or container.

(3) Purchases or receives malt or brewed beverages in the original package, receptacle or container in the Commonwealth for his own use, or for sale and delivery therein, from any person who has imported the same from a foreign country.

(4) Purchases or receives malt or brewed beverages in the original package, receptacle or container in the Commonwealth for his own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, in case such malt or brewed beverages have not, prior to such purchase or receipt, come to rest or storage in the Commonwealth.

"Malt or Brewed Beverages." Alcoholic beverages, which include beer, lager beer, ale, porter or similar fermented malt liquor, containing one-half of one per cent or more of alcohol, by whatever name such liquors may be called.

"Manufacturer." A person engaged in the brewing or manufacturing of malt or brewed beverages for sale, and, for the purposes of posting bond and payment of taxes required under the provisions of this article, shall include importing agents for foreign manufacturers.

"Original Container." Bottle, cask, keg or other container that has been securely capped, sealed or corked by the manufacturer, with the name and address of the manufacturer permanently affixed to the bottle, cask, keg or other container, or to the cap or cork used in sealing the same, or to a label securely affixed to a bottle.

"Person." An individual or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals, or a corporation. Whenever used in any section prescribing and imposing a fine or imprisonment, or both, the term "person," as applied to a partnership, limited partnership, or any other form of unincorporated enterprise, shall mean the partners or members thereof, and, as applied to corporations and their officers.

"Retail Dealer." A person engaged in the retail sale of malt or brewed beverages either for consumption on the premises or not for consumption on the premises where sold.

"Sale." Any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution, in any manner or by any means whatsoever.

(2002 added Dec. 22, 1989, P.L.775, No.110)

Section 2003. Imposition of Tax.--(a) (1) Each manufacturer shall be subject to pay to the Commonwealth the taxes imposed by this section upon all malt or brewed beverages manufactured and sold by him in this Commonwealth for use in this Commonwealth or manufactured by him outside this Commonwealth and sold to an importing distributor or any person for importation into, and use in, this Commonwealth.

(2) Every person who ships or transports malt or brewed beverages into this Commonwealth for sale, delivery or storage in this Commonwealth shall pay to the Commonwealth the taxes imposed in this section.

(b) (1) Such taxes, payable in the manner prescribed in subsections (a) and (b) of section 2004 of this article, shall be at the rate of two-thirds cent (2/3¢) per half pint of eight (8) fluid ounces or fraction thereof, and in larger quantities at the rate of one cent (1¢) per pint of sixteen (16) fluid ounces or fraction thereof.

(2) The tax rates per original container or standard fraction thereof are as follows:

Standard Fraction	Malt Beverage Tax Rate	Volume
1 barrel	$2.48	31 gal.
1/2 barrel	1.24	15 1/2 gal.
1/3 barrel	.84	10 1/3 gal.
1/4 barrel	.62	7 3/4 gal.
1/6 barrel	.42	5 1/6 gal.
1/8 barrel	.32	3 7/8 gal.
1 gallon	.08	
1/2 gallon	.04	
1 quart	.02	
1 pint	.01	
1/2 pint	.0066	

(c) If the tax shall not be paid when due, there shall be added to the amount of the tax as a penalty a sum equivalent to ten per cent of the amount of the tax, and in addition thereto interest on the tax and penalty at the rate of one per cent per month or fraction of a month from the date the tax became due until paid. Nothing herein contained shall be construed to relieve any person otherwise liable from liability for payment of the tax.

(d) (1) Notwithstanding any other provision of this article, a manufacturer or his agent who fails to file the required monthly return and pay when due the tax imposed under this article shall be declared delinquent by the Secretary of Revenue and shall continue to be delinquent until he files the required monthly return and pays the tax.

(2) During a period of delinquency no malt or brewed beverages in possession or control of a manufacturer may be removed from his licensed premises for sale in the Commonwealth, nor shipped in from outside the Commonwealth.

(e) In the event that any state, territory or country shall impose upon malt or brewed beverages, which have been manufactured in Pennsylvania, a higher tax or fee than is imposed upon malt or brewed beverages manufactured within such state, territory or country, every manufacturer whose malt or brewed beverages manufactured within such state, territory or country are sold to an importing distributor or any person for importation into, and use in, this Commonwealth shall, as to such beverages, pay to this Commonwealth, in addition to the tax imposed by this section, a tax equal to such excess tax or fee which is imposed in such state, territory or country on Pennsylvania manufactured malt or brewed beverages. Such additional tax shall be levied, assessed and collected in the same manner as the other taxes imposed by this article.

(f) Manufacturers whose malt or brewed beverages are sold in this Commonwealth or are sold to importing distributors or any person for importation into, and use in, this Commonwealth shall be liable to the Commonwealth as taxpayers for the payment of the taxes imposed by this article.

(2003 added Dec. 22, 1989, P.L.775, No.110)

Section 2004. Reports.--(a) Each manufacturer whose malt or brewed beverages are sold in or imported into this Commonwealth shall, on or before the fifteenth day of each month, file with the department, on forms prescribed by it, a report showing for the preceding calendar month the quantities of such malt and brewed beverages:

(1) Manufactured by him in this Commonwealth, and constituting his beginning and ending inventory in this Commonwealth for the month.

(2) Sold by him in this Commonwealth for use in this Commonwealth or sold to an importing distributor or any person for importation into, and use in, this Commonwealth, specifically naming the distributors to whom such sales were made and the quantity sold to each.

(3) Sold to purchasers or persons outside this Commonwealth for exportation from, and use outside, this Commonwealth, or sold in other tax-

exempt transactions, naming the purchasers and the quantity sold to each and specifically indicating those sales or transactions to which the tax imposed by this article is not applicable.

(4) Such additional information as the department may reasonably require to assure the accuracy of the tax computation and payment and the proper administration of this article.

(b) The tax payable on all malt or brewed beverages first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into, and use in, this Commonwealth during such month in the amount disclosed by the report, shall accompany the report and be paid by the manufacturer to the department.

(c) Persons licensed as "Public Service Licensees," under the provisions of any law of this Commonwealth relating to the sale of malt or brewed beverages:

(1) shall keep such records of the sales of such malt or brewed beverages in this Commonwealth as the department shall prescribe;

(2) shall, on or before the fifteenth day of each month, submit monthly reports of such sales and of such other information as the department may require to the department upon a form prescribed by said department; and

(3) shall pay the tax due on all such sales at the rate provided by the provisions of this article at the time such reports are filed.

(d) It is the intent and purpose of this section to require all manufacturers and other persons whose malt or brewed beverages are sold or used in this Commonwealth to pay the tax on all such malt or brewed beverages in the month following that in which such beverages are first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into and use in this Commonwealth, except that as to malt or brewed beverages sold to public service licensees, the public service licensees, and not the manufacturer, shall report and pay the tax on all malt or brewed beverages sold by them within the Commonwealth.

(2004 amended Apr. 23, 1998, P.L.239, No.45)

Section 2005. Assessment by Department.--(a) If any person shall fail to pay any tax imposed by this article for which he is liable, the department is hereby authorized and empowered to make an assessment of additional tax due by such person, based upon any information within its possession, or that shall come into its possession.

(b) Promptly after the date of such assessment, the department shall send a copy of the assessment, including the basis of the assessment, to the person against whom it was made. Within ninety days after the date upon which the copy of any such assessment was mailed, such person may file with the department a petition for reassessment of such taxes. Every petition for reassessment shall state specifically the reasons which the petitioner believes entitle him to such reassessment, and it shall be supported by affidavit that it is not made for the purpose of delay, and that the facts set forth therein are true. It shall be the duty of the department, within six months after the date of any assessment, to dispose of any petition for reassessment. Notice of the action taken upon any petition for reassessment shall be given to the petitioner promptly after the date of reassessment by the department.

(b.1) (Deleted by amendment).

(c) Within ninety days after the date of mailing of notice by the department of the action taken on any petition for reassessment filed with it, the person against whom such assessment was made, may, by petition, request the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reason upon which the petitioner relies, or shall incorporate by reference the petition for reassessment in which such reasons shall have been stated. The petition shall be supported by affidavit that it is not made for the purpose of delay, and that the facts therein set forth are true. If the petitioner be a corporation, joint-stock association or limited partnership, the affidavit must be made by one of the principal officers thereof. A petition for review may be amended by the petitioner at any time

prior to the hearing, as hereinafter provided. The Board of Finance and Revenue shall act finally in disposition of such petitions filed with it within six months after they have been received, and, in the event of the failure of said board to dispose of any such petition within six months, the action taken by the department upon the petition for reassessment shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken on the petition for reassessment, or it may reassess the tax due upon such basis as it shall deem according to law and equity. Notice of the action of the Board of Finance and Revenue shall be given by mail, or otherwise, to the department and to the petitioner.

(d) In all cases of petitions for reassessment, review or appeal, the burden of proof shall be upon the petitioner or appellant, as the case may be.

(e) Whenever any assessment of additional tax is not paid within ninety days after the date of the assessment, if no petition for reassessment has been filed, or within ninety days from the date of reassessment, if no petition for review has been filed, or within thirty days from the date of the decision of the Board of Finance and Revenue upon a petition for review, or the expiration of the board's time for acting upon such petition, if no appeal has been made, and in all cases of judicial sales, receiverships, assignments or bankruptcies, the department may call upon the Office of Attorney General to collect such assessment. In such event, in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts. The department may also certify to the Liquor Control Board, for such action as the board may deem proper, the fact that any person has failed to pay or duly appeal from such assessment of additional tax. The department may also provide, adopt, promulgate and enforce such rules and regulations, as may be appropriate, to prevent further shipment or transportation of malt or brewed beverages into this Commonwealth by any person against whom such unpaid assessment shall have been made.

(2005 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 15 of Act 55 of 2007, which amended section 2005, provided that the amendment of section 2005 shall apply to assessments issued after December 31, 2007.

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 2006. Bond or Surety Required.--(a) No malt or brewed beverages shall be sold in or imported into the Commonwealth until and unless the manufacturer of such malt or brewed beverage has on file with the department and in full force and effect an approved bond, duly executed, payable to the Commonwealth, together with a warrant of attorney to confess judgment in a sum equal to the amount of his highest two month average tax liability during the last year prior to the time of giving bond, but in no event less than five thousand dollars ($5,000). All such bonds shall be conditioned upon the payment of the tax imposed by this article and shall have as surety a duly authorized surety company, or shall have deposited therewith, as collateral security, cash or negotiable obligations of the United States of America or the Commonwealth of Pennsylvania in the same amount as herein provided for the penal sum of such bonds.

(b) In all cases where cash or securities in lieu of other surety have been deposited with the department, the depositor shall be permitted to continue the same deposit from year to year, but in no event shall he be permitted to withdraw his deposit during the time he holds a license, or

until six months after the expiration of the license, if any, held by him, or while revocation proceedings are pending against such licensee, or while forfeiture proceedings are pending against the depositor's bond.

(c) All cash or securities received by the department in lieu of other surety shall be turned over by the department to the State Treasurer and held by him. The State Treasurer shall repay or return money or securities deposited with him to the respective depositors only on the order of the department.

(d) After notice from the department that such a bond has been forfeited, the State Treasurer shall immediately pay into the General Fund all cash deposited as collateral with such bond, and when securities have been deposited with such a bond, the State Treasurer shall sell at private sale, at not less than the prevailing market price, any such securities so deposited as collateral with any such forfeited bond. The State Treasurer shall thereafter deposit in the General Fund the net amount realized from the sale of such securities, except that if the amount so realized, after deducting proper costs and expenses, is in excess of the penal amount of the bond, such excess shall be paid over by him to the obligor on such forfeited bond.

(e) Every such bond shall be turned over to the Department of Justice to be collected if and when the depositor shall have been held liable for the unlawful nonpayment of taxes imposed by this article.

(2006 added Dec. 22, 1989, P.L.775, No.110)

Section 2007. Monthly Reports.--(a) For the purpose of verifying the tax payments required by this article, it shall be the duty of every transporter for hire, bailee for hire, warehouseman, distributor and retail licensee, on or before the fifteenth day of the succeeding month, to transmit to the department, on forms supplied by the department, a report, under oath or affirmation, of malt or brewed beverages which were imported and came to rest or storage at his place of business in this Commonwealth during the preceding month, or which were transported from a point outside the Commonwealth to a point within the Commonwealth. Such report shall show the number of barrels, or standard fraction thereof, imported, transported or stored during the period for which it is made, and such further information as the department shall prescribe.

(b) Each manufacturer, transporter for hire, bailee for hire, warehouseman, distributor and retail licensee shall maintain and keep, for a period of two years, such record or records of malt or brewed beverages manufactured, sold by a manufacturer or distributor, transported from a point outside of the Commonwealth to a point within the Commonwealth, imported, or substantiating the other information required on his report, together with invoices, bills of lading and other pertinent papers, as may be required by the department.

(2007 added Dec. 22, 1989, P.L.775, No.110)

Section 2008. Department Examinations.--The department, or any agent appointed in writing by it, is hereby authorized to examine the books, papers, invoices and other records, and the stock of malt or brewed beverages in and upon any premises where the same are placed, stored or sold, and in or on any car, vessel, truck, vehicle or other means of transportation, to verify the payment of or liability for the tax imposed by this article. Any person in possession of such malt or brewed beverages is hereby directed and required to give the Secretary of Revenue, or his duly authorized representative, the means, facilities and opportunities for such examination. The department, or any of its duly authorized agents, is hereby authorized to confiscate any malt or brewed beverages stored, sold or transported in violation of the provisions of this article.

(2008 added Dec. 22, 1989, P.L.775, No.110)

Section 2009. Refund of Tax.--(a) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold or shipped by him to a licensed or regular dealer in such malt or brewed beverages in another state, such manufacturer in this Commonwealth shall be entitled to a refund of the actual amount of tax paid by him, upon condition that the seller in this Commonwealth shall make affidavit that

the malt or brewed beverages were so sold and shipped, and that he shall furnish from the purchaser an affidavit, or in cases where the total purchase price is five dollars ($5) or less, a written certificate in lieu of an affidavit from the purchaser, or, upon satisfactory proof that such affidavit or certificate cannot be obtained, other evidence satisfactory to the department that he has received such malt or brewed beverages for sale or consumption outside this Commonwealth, together with the name and address of the purchaser.

(b) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

(c) In case any malt or brewed beverages upon which the tax has been paid by an out-of-State manufacturer and subsequently sold by an importing distributor to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.

(d) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer shall be rendered unsalable by reason of damage or destruction, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the department that the malt beverages were so damaged or destroyed.

(e) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold and delivered to a public service licensee who is obligated to pay the tax thereon, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the department of such facts.

(f) In each of the above cases the department shall pay or issue to the manufacturer credits of sufficient value to cover the refund. Such credits may be used by the manufacturer for the payment of any taxes due by him to the Commonwealth. The procedure for refund in any case shall be completed by the department within sixty days after the proper affidavits have been filed with the department under section 3003.1.

(2009 amended May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 2009 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

Section 2010. Limited Tax Credits.--(a) The General Assembly of the Commonwealth, conscious of the financial pressures facing small brewers in Pennsylvania and the attendant risk of business failure and loss of employment opportunity, declares it public policy that renewal and improvement of small brewers be encouraged and assisted by a limited tax subsidy to be granted during the period set forth in this section.

(b) As used in this section:

"Amounts paid." The phrase means (i) amounts actually paid, or (ii) at the taxpayer's election, amounts promised to be paid under firm purchase contracts actually executed during any calendar year falling within the effective period of this section: Provided, however, That there shall be no duplication of "amounts paid" under this definition.

"Effective period." The period from January 1, 1974, to December 31, 2008, and the period after June 30, 2017, inclusive.

"Qualifying capital expenditures." Amounts paid by a taxpayer during the effective period of this section for the purchase of items of plant, machinery or equipment for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages: Provided, however, That the total amount of qualifying capital expenditures made by a taxpayer within a single calendar year shall not exceed two hundred thousand dollars ($200,000).

"Secretary." The Secretary of Revenue of the Commonwealth of Pennsylvania where not otherwise qualified.

"Taxpayer." A manufacturer of malt or brewed beverages claiming a tax credit or credits under this section.

(c) A tax credit or credits shall be allowed for each calendar year to a taxpayer, as hereinafter provided, not to exceed in total amount the amount of qualifying capital expenditures made by the taxpayer and certified by the secretary.

(d) A taxpayer desiring to claim a tax credit or credits under this section shall, within one year of the date of the original purchase of the qualifying capital expenditures, in accordance with regulations promulgated by the secretary, report annually to the secretary the nature, amounts and dates of qualifying capital expenditures made by him and such other information as the secretary shall require. If satisfied as to the correctness of such a report, the secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within said report. The taxpayer shall also provide to the secretary the number of employes, total production of malt or brewed beverages and the amount of capital expenditures made by the taxpayer at each location operated by the taxpayer or a parent corporation, subsidiary, joint venture or affiliate. Also, the taxpayer shall notify the secretary of any contract for production held with another manufacturer. The secretary shall file a report annually with the Chief Clerk of the House of Representatives and with the Secretary of the Senate outlining the employment, production, expenditures and tax credits authorized under this section.

(e) Upon receipt from a taxpayer of a certificate from the secretary issued under subsection (c), the Secretary of Revenue shall grant a tax credit or credits in the amount certified against any tax due under this article in the calendar year in which the expenditures were incurred or against any tax becoming due from the taxpayer under this article in the following three calendar years. No credit shall be allowed against any tax due for any taxable period ending after December 31, 2008, and beginning before July 1, 2017.

(f) The total amount of tax credits granted under this section shall not exceed five million dollars ($5,000,000) in any fiscal year.

(g) If the total amount of tax credits granted for all taxpayers exceeds the limitation on the amount of tax credits under this section in a fiscal year, the tax credit to be received by each applicant shall be determined as follows:

(1) Divide:

(i) the tax credit granted for the taxpayer; by

(ii) the total of all tax credits granted for all taxpayers.

(2) Multiply:

(i) the amount under subsection (f); by

(ii) the quotient under paragraph (1).

(3) The algebraic form of the calculation under this subsection is:

Taxpayer's tax credit = amount allocated for those tax credits X (tax credit granted to the taxpayer/total of all tax credits granted to all taxpayers).

(2010 amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 19(6) of Act 23 of 2000, which amended subsection (e), provided that the amendment shall apply retroactively to tax credits authorized after December 31, 1998.

Compiler's Note: Section 32(5) of Act 4 of 1999, which amended section 2010, provided that the amendment shall apply to the taxable years beginning after December 31, 1998.

Section 2011. Unlawful Transportation Activities.--It shall be unlawful for any person to transport into the Commonwealth, taxable malt or brewed beverages in containers on which the tax is not paid or provisions for the payment of the tax are not made pursuant to the provisions of this article. The transportation of malt or brewed beverages in violation of this section shall be a misdemeanor, and, upon conviction in a summary proceeding before a district magistrate, such person shall be fined ten dollars ($10) for each container so transported, and, in default of payment, shall undergo imprisonment for not more than five days for each container so transported. Transportation into Pennsylvania of malt or brewed beverages in containers other than in the manner prescribed by the regulations of the department shall be prima facie evidence of violation of this section.

(2011 added Dec. 22, 1989, P.L.775, No.110)

Section 2012. Other Unlawful Activities.--Any person who shall fail, neglect or refuse to comply with or shall violate any provision of this article, for which violation no specific penalty is provided, or any of the rules and regulations prescribed, adopted and promulgated by the department under the provisions of this article, or who shall refuse to permit the department, or any agent appointed by it in writing, to examine his books, papers, invoices and other records, his stock of malt or brewed beverages in and upon any premises where the same are prepared, stored and sold, in or on any car, vessel, truck, vehicle or other means of transportation, and his equipment pertaining to the manufacture, transportation, storage or sale of malt or brewed beverages taxable under this article, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars ($100) or more than five hundred dollars ($500), or to suffer imprisonment of not more than six months, or both, in the discretion of the court.

(2012 added Dec. 22, 1989, P.L.775, No.110)

Section 2013. Enforcement and Regulations.--(a) The department is hereby charged with the enforcement of the provisions of this article and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article and the collection of taxes, penalties and interest imposed by this article.

(b) The department is hereby authorized and directed to prescribe, adopt, promulgate and enforce rules and regulations relating to the transportation of malt or brewed beverages through this Commonwealth and from points outside of this Commonwealth to points within this Commonwealth, and to prescribe, adopt, promulgate and enforce rules and regulations reciprocal to those of, or laws of, any other state or territory affecting the transportation of malt or brewed beverages manufactured in Pennsylvania.

(c) The department shall promulgate rules and regulations to relieve manufacturers from paying the tax on such goods as are sold and shipped to points outside this Commonwealth, or as are sold in other tax-exempt transactions.

(2013 added Dec. 22, 1989, P.L.775, No.110)

Section 2014. Deposit of Proceeds.--All taxes, fines, penalties and interest received, collected or accruing under the provisions of this article shall be paid into the general fund of the State Treasury by and through the department.

(2014 added Dec. 22, 1989, P.L.775, No.110)

Section 2015. Severability.--The provisions of this article are severable, and, if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the legislative intent that this article would have been adopted had such unconstitutional provisions not been included herein.

(2015 added Dec. 22, 1989, P.L.775, No.110)

Section 2016. Legislative Intent.--In enacting this article it is the intent of the General Assembly to transfer the former provisions of the act of May 5, 1933 (P.L.284, No.104), known as the "Malt Beverage Tax Law," to the "Tax Reform Code of 1971" and, except for changes in section 2010 relating to tax credits, to make that codification without effecting a change in substantive law, and the article shall be interpreted and construed to effectuate this intent.

(2016 added Dec. 22, 1989, P.L.775, No.110)

ARTICLE XXI
INHERITANCE TAX
(Art. added Aug. 4, 1991, P.L.97, No.22)

PART I
PRELIMINARY PROVISIONS
(I added Aug. 4, 1991, P.L.97, No.22)

Section 2101. Short Title.--This article shall be known and may be cited as the "Inheritance and Estate Tax Act."

(2101 added Aug. 4, 1991, P.L.97, No.22)

Section 2102. Definitions.--The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(Intro. par. amended Dec. 23, 2003, P.L.250, No.46)

"Adverse interest." A substantial beneficial interest in the property transferred which might be adversely affected by the exercise or nonexercise of the power or right reserved or possessed by the transferor.

"Business of agriculture." The term shall include the leasing to members of the same family or the leasing to a corporation or association owned by members of the same family of property which is directly and principally used for agricultural purposes. The business of agriculture shall not be deemed to include:

(1) recreational activities such as, but not limited to, hunting, fishing, camping, skiing, show competition or racing;

(2) the raising, breeding or training of game animals or game birds, fish, cats, dogs or pets or animals intended for use in sporting or recreational activities;

(3) fur farming;

(4) stockyard and slaughterhouse operations; or

(5) manufacturing or processing operations of any kind.

(Def. added July 2, 2012, P.L.751, No.85)

"Children." Includes natural children whether or not they have been adopted by others, adopted children and stepchildren.

"Clerk." The clerk of the orphans' court division of the court of common pleas having jurisdiction.

"Court." The orphans' court division of the court of common pleas of:

(1) The county in which the decedent resided at the time of his death.

(2) The county in which letters, if any, are granted if the decedent was a nonresident of this Commonwealth.

(3) Dauphin County in all other cases.

"Date of death." The date of actual death or, in the case of a presumed decedent, the date found by the final decree to be the date of the absentee's presumed death. For the purpose of determining interest and discount, "date of death" means the date upon which the court enters its final decree of presumptive death.

"Death taxes." Includes inheritance, succession, transfer and estate taxes and any other taxes levied against the estate of a decedent by reason of his death.

"Decedent" or "transferor." Any person by or from whom a transfer is made and includes any testator, intestate, grantor, settlor, bargainor, vendor, assignor, donor, joint tenant and insured.

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

"Exemption income." All moneys or property, including, without limitation, interest, gains or income derived from obligations which are

statutorily free from State or local taxation under any other Federal or State laws, received of whatever nature and from whatever source derived.

"Federal estate tax." (Def. deleted by amendment Dec. 23, 2003, P.L.250, No.46)

"Financial institution." A bank, a national banking association, a bank and trust company, a trust company, a savings and loan association, a building and loan association, a mutual savings bank, a credit union, a savings bank and a company that rents safe deposit boxes.

"Future interest." Includes a successive life interest and a successive interest for a term certain.

"Lineal descendants." All children of the natural parents and their descendants, whether or not they have been adopted by others, adopted descendants and their descendants and stepdescendants.

"Members of the same family." Any individual, such individual's brothers and sisters, the brothers and sisters of such individual's parents and grandparents, the ancestors and lineal descendents of any of the foregoing, a spouse of any of the foregoing and the estate of any of the foregoing. Individuals related by the half blood or legal adoption shall be treated as if they were related by the whole blood. For a transfer made by a surviving spouse, the term shall include any individual considered to be a member of the same family of the decedent spouse. (Def. amended July 13, 2016, P.L.526, No.84)

"Notice." Written notice.

"Presumed decedent." A person found to be presumptively dead under the provisions of 20 Pa.C.S. Ch. 57 (relating to absentees and presumed decedents) or, if a nonresident of this Commonwealth, under the laws of his domicile.

"Property" or "estate." Includes the following:

(1) All real property and all tangible personal property of a resident decedent or transferor having its situs in this Commonwealth.

(2) All intangible personal property of a resident decedent or transferor.

(3) All real property and all tangible personal property of a resident decedent having its situs outside this Commonwealth, which the decedent had contracted to sell, provided the jurisdiction in which the property has its situs does not subject it to death tax.

(4) All real property and all tangible personal property of a nonresident decedent or transferor having its situs in this Commonwealth, including property held in trust.

(5) A liquor license issued by the Commonwealth.

"Register." The register of wills having jurisdiction to grant letters testamentary or of administration in the estate of the decedent or transferor.

"Safe deposit box of a decedent." A safe deposit box in a financial institution located within this Commonwealth in the name of the decedent alone or in the names of the decedent and one or more persons other than the spouse of the decedent.

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

"Sibling." An individual who has at least one parent in common with the decedent, whether by blood or by adoption. (Def. added May 24, 2000, P.L.106, No.23)

"Territory." Includes the District of Columbia and all possessions of the United States.

"Transfer." Includes the passage of ownership of property, or interest in property or income from property, in possession or enjoyment, present or future, in trust or otherwise.

"Transferee." Any person to whom a transfer is made and includes any legatee, devisee, heir, next of kin, grantee, beneficiary, vendee, assignee, donee, surviving joint tenant and insurance beneficiary.

"Transfer of property for the sole use." A transfer to or for the use of a transferee if, during the transferee's lifetime, the transferee is entitled to all income and principal distributions from the property and no

person, including the transferee, possesses an inter vivos power of appointment over the property. (Def. amended Dec. 23, 2003, P.L.250, No.46)

"Value." The price at which the property would be sold by a willing seller, not compelled to sell, to a willing buyer, not compelled to buy, both of whom have reasonable knowledge of the relevant facts. In determining the value of property, no reduction shall be made on account of income, excise or other taxes which may become payable subsequent to the valuation date by the transferee or out of the property. Value as to land in agricultural use, agricultural reserve or forest reserve means the value which the land has for its particular use according to the standards provided in section 2122.

(2102 added Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 51(1.1) of Act 84 of 2016, which amended the definition of "members of the same family," provided that the amendment of section 2102 shall apply to inheritance tax imposed as to a decedent whose date of death is after December 31, 2012.

Compiler's Note: Section 30(7) of Act 85 of 2012, which added the definitions of "business of agriculture" and "members of the same family," provided that the amendment of section 2102 shall apply to estates of decedents dying after June 30, 2012.

Compiler's Note: Section 33(17) of Act 46 of 2003, which amended the definitions of "Federal estate tax" and "transfer of property for the sole use," provided that the amendment shall apply to the estates of decedents who die after June 30, 2002.

Compiler's Note: Section 19(7)(i) of Act 23 of 2000, which added the definition of "sibling," provided that the definition shall apply to the estates of decedents dying after June 30, 2000. Section 19(8)(i) provided that the definition shall apply to inter vivos transfers made by decedents dying after June 30, 2000, regardless of the date of the transfer.

Section 2103. Powers of Department.--(a) The department may adopt and enforce rules and regulations for the just administration of this article.

(b) The department shall have complete supervision of the making of appraisements, the allowance of deductions and the assessment of tax, including, but not limited to, the power to regulate the actions of registers in the allowance and disallowance of deductions and assessment of tax. The department's supervision of the making of appraisements includes the employment and compensation of investigators, appraisers and expert appraisers. The compensation of investigators, appraisers and expert appraisers shall be paid from the inheritance tax collections in the respective counties.

(c) The department shall, in the event that the register fails to take the necessary proceedings in connection with the appraisement, allowance of deductions, assessment of tax or collection of tax, have all the powers vested in the register in this article and, at its option, may take the necessary action and shall charge to the register and deduct from any commissions or fees otherwise due him all costs and expenses incurred by the department in connection with the proceedings.

(2103 added Aug. 4, 1991, P.L.97, No.22)

PART II
TRANSFERS SUBJECT TO TAX
(II added Aug. 4, 1991, P.L.97, No.22)

Section 2106. Imposition of Tax.--An inheritance tax for the use of the Commonwealth is imposed upon every transfer subject to tax under this article at the rates specified in section 2116.

(2106 added Aug. 4, 1991, P.L.97, No.22)

Section 2107. Transfers Subject to Tax.--(a) The transfers enumerated in this section are subject to the tax imposed by section 2106.

(b) All transfers of property by will, by the intestate laws of this Commonwealth or, in the case of a transfer from a nonresident, by the laws of succession of another jurisdiction are subject to tax. The transfer of

property of a person determined by decree of a court of competent jurisdiction to be a presumed decedent is subject to tax within the meaning of this section and section 2108.

(c) (1) All transfers of property specified in subclauses (3) through (7) which are made by a resident or a nonresident during his lifetime are subject to tax to the extent that they are made without valuable and adequate consideration in money or money's worth at the time of transfer.

(2) When the decedent retained or reserved an interest or power with respect to only a part of the property transferred, in consequence of which a tax is imposed under subclauses (4) through (7), the amount of the taxable transfer is only the value of that portion of the property transferred which is subject to the retained or reserved interest or power.

(3) A transfer conforming to subclause (1) and made within one year of the death of the transferor is subject to tax only to the extent that the value at the time of the transfer or transfers in the aggregate to or for the benefit of the transferee exceeds three thousand dollars ($3,000) during any calendar year.

(4) A transfer conforming to subclause (1) which takes effect in possession or enjoyment at or after the death of the transferor and under which the transferor has retained a reversionary interest in the property, the value of which interest immediately before the death of the transferor exceeds five per cent of the value of the property transferred, is subject to tax. The term "reversionary interest" includes a possibility that property transferred may return to the transferor or his estate or may be subject to a power of disposition by him, but the term does not include a possibility that the income alone from the property may return to him or become subject to a power of disposition by him.

(5) A transfer conforming to subclause (1), and under which the transferor expressly or impliedly reserves for his life or any period which does not in fact end before his death, the possession or enjoyment of, or the right to the income from, the property transferred, or the right, either alone or in conjunction with any person not having an adverse interest, to designate the persons who shall possess or enjoy the property transferred or the income from the property, is subject to tax.

(6) A transfer conforming to subclause (1), and under which the transferee promises to make payments to, or for the benefit of, the transferor or to care for the transferor during the remainder of the transferor's life, is subject to tax.

(7) A transfer conforming to subclause (1), and under which the transferor has at his death, either in himself alone or in conjunction with any person not having an adverse interest, a power to alter, amend or revoke the interest of the beneficiary, is subject to tax. Similarly, the relinquishment of such a power within one year of the death of the transferor is a transfer subject to tax except as otherwise provided in subclause (3).

(d) All succeeding interests which follow the interest of a surviving spouse in a trust or similar arrangement, to the extent specified in section 2113, are transfers subject to tax as if the surviving spouse were the transferor. ((d) reenacted June 30, 1995, P.L.139, No.21)

Compiler's Note: Section 24 of Act 21 of 1995, which reenacted subsection (d), provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from applying to the estates of decedents dying on or after January 1, 1995.

Section 2108. Joint Tenancy.--(a) When any property is held in the names of two or more persons or is deposited in a financial institution in the names of two or more persons so that, upon the death of one of them, the survivor or survivors have a right to the immediate ownership or possession and enjoyment of the whole property, the accrual of such right, upon the death of one of them, shall be deemed a transfer subject to tax of a fractional portion of such property to be determined by dividing the

value of the whole property by the number of joint tenants in existence immediately preceding the death of the deceased joint tenant.

(b) Except as provided in subsection (c), this section shall not apply to property or interests in property passing by right of survivorship to the survivor of husband and wife. ((b) amended June 30, 1995, P.L.139, No.21)

(c) If the co-ownership was created within one year prior to the death of the co-tenant, the entire interest transferred shall be subject to tax only under, and to the extent stated in, subsection (c)(3) of section 2107 as though a part of the estate of the person who created the co-ownership.

(2108 added Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 24 of Act 21 of 1995, which amended subsection (b), provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from applying to the estates of decedents dying on or after January 1, 1995.

PART III
TRANSFERS NOT SUBJECT TO TAX
(III added Aug. 4, 1991, P.L.97, No.22)

Section 2111. Transfers Not Subject to Tax.--(a) The transfers enumerated in this section are not subject to the tax imposed by this article.

(b) Transfers of property to or for the use of any of the following are exempt from inheritance tax:

(1) The United States of America.

(2) The Commonwealth of Pennsylvania.

(3) A political subdivision of the Commonwealth of Pennsylvania.

(c) Transfers of property to or for the use of any of the following are exempt from inheritance tax:

(1) Any corporation, unincorporated association or society organized and operated exclusively for religious, charitable, scientific, literary or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual and no substantial part of the activities of which is carrying on propaganda or otherwise attempting to influence legislation.

(2) Any trustee or trustees or any fraternal society, order or association operating under the lodge system, but only if the property transferred is to be used by the trustee or trustees or by the fraternal society, order or association exclusively for religious, charitable, scientific, literary or educational purposes or for the prevention of cruelty to children or animals, and no substantial part of the activities of the trustee or trustees or of the fraternal society, order or association is carrying on propaganda or otherwise attempting to influence legislation.

(3) Any veterans' organization incorporated by act of Congress or its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(d) All proceeds of insurance on the life of the decedent are exempt from inheritance tax. Refunds of unearned premiums for the current policy period and post mortem dividends shall be considered exempt proceeds.

(e) All proceeds of any Federal War Risk Insurance, National Service Life Insurance or similar governmental insurance are exempt from inheritance tax. Refunds of unearned premiums for the current policy period and post mortem dividends shall be considered exempt proceeds.

(f) The pay and allowances determined by the United States to be due a member of its armed forces for service in the Vietnam conflict after August 5, 1964, for the period between the date declared by it as the beginning of his missing-in-action status to the date determined by it to be the date of his death, are exempt from inheritance tax.

(g) Inter vivos transfers as defined in subsection (c) of section 2107 which might otherwise be subject to inheritance tax are exempt where the transferee is a governmental body as provided in subsection (b) or a charity as provided in subsection (c).

(h) Intangible personal property held by, for or for the benefit of a decedent who, at the time of his death, was a nonresident is exempt from inheritance tax.

(i) A transfer made as an advancement of or on account of an intestate share or in satisfaction or partial satisfaction of a gift by will, but not within the meaning of subsection (c)(3) of section 2107, is exempt from inheritance tax.

(j) Adjusted service certificates issued under the act of Congress of May 19, 1924, and adjusted service bonds issued under the act of Congress of January 27, 1936, are exempt from inheritance tax.

(k) Property subject to a power of appointment, whether or not the power is exercised, and notwithstanding any blending of such property with the property of the donee, is exempt from inheritance tax in the estate of the donee of the power of appointment. ((k) amended June 30, 1995, P.L.139, No.21)

(l) Property awarded to the Commonwealth as statutory heir by escheat or without escheat, otherwise than as custodian for a known distributee, is exempt from inheritance tax. Inheritance tax shall be deducted at the applicable rate without interest from any such exempt funds thereafter distributed by the Commonwealth.

(m) Property owned by husband and wife with right of survivorship is exempt from inheritance tax. If the ownership was created within the meaning of section 2107(c)(3), the entire interest transferred shall be subject to tax under section 2107(c)(3) as though a part of the estate of the spouse who created the co-ownership. ((m) amended June 30, 1995, P.L.139, No.21)

(n) Property held in the name of a decedent who had no beneficial interest in the property is exempt from inheritance tax.

(o) Obligations owing to the decedent which are worthless immediately before death are exempt from inheritance tax although collectible from the obligor's distributive share of the estate.

(p) The lump-sum death payment from the Social Security Administration or Veterans' Administration or any county veterans' death benefit or other similar death benefit, whether or not paid to the decedent's estate, is exempt from inheritance tax.

(q) The lump-sum burial benefit from the United States Railroad Retirement Board, whether or not paid to the decedent's estate, is exempt from inheritance tax.

(r) Payments under pension, stock bonus, profit-sharing and other retirement plans, including H.R.10 plans, individual retirement accounts, individual retirement annuities and individual retirement bonds to distributees designated by the decedent or designated in accordance with the terms of the plan, are exempt from inheritance tax to the extent that the decedent before his death did not otherwise have the right to possess (including proprietary rights at termination of employment), enjoy, assign or anticipate the payment made. In addition to this exemption, whether or not the decedent possessed any of these rights, the payments are exempt from inheritance tax to the same extent that they are exempt from Federal estate tax under the provisions of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.), as amended, any supplement to the code or any similar provision in effect from time to time for Federal estate tax purposes, except that a payment which would otherwise be exempt for Federal estate tax purposes if it had not been made in a lump-sum or other nonexempt form of payment shall be exempt from inheritance tax even though paid in a lump-sum or other form of payment. The proceeds of life insurance otherwise exempt under subsection (d) shall not be subject to inheritance tax because they are paid under a pension, stock bonus, profit-sharing, H.R.10 or other retirement plan. ((r) amended Dec. 23, 2003, P.L.250, No.46)

(s) A transfer of real estate devoted to the business of agriculture to or for the benefit of members of the same family, provided that after the transfer the real estate continues to be devoted to the business of agriculture for a period of seven years beyond the transferor's date of death, the real estate derives a yearly gross income of at least two thousand dollars ($2,000) and the real estate is reported on a timely filed inheritance tax return, provided that:

(1) Any tract of land under this article which is no longer devoted to the business of agriculture within seven years beyond the transferor's date of death or does not derive a yearly gross income of at least two thousand dollars ($2,000) shall be subject to inheritance tax due the Commonwealth under section 2107, in the amount that would have been paid or payable on the basis of valuation authorized under section 2121 for nonexempt transfers of property, plus interest thereon accruing as of the transferor's date of death, at the rate established in section 2143.

(2) Any tax imposed under section 2107 shall be a lien in favor of the Commonwealth upon the property no longer being devoted to the business of agriculture or which does not derive a yearly gross income of at least two thousand dollars ($2,000), as well as the personal obligation of the owner of the property at the time of the event causing the property to fail to qualify for exemption and all beneficiaries of any trust that is an owner of the property. Liability for the tax shall be joint and several.

(3) Every owner of real estate exempt under this subsection shall certify to the department on an annual basis that the land qualifies for this exemption and shall notify the department within thirty days of any transaction or occurrence causing the real estate to fail to qualify for the exemption. Each year the department shall inform all owners of their obligation to provide an annual certification under this subclause. This certification and notification shall be completed in the form and manner as provided by the department.

((s) amended July 13, 2016, P.L.526, No.84)

(s.1) A transfer of an agricultural commodity, agricultural conservation easement, agricultural reserve, agricultural use property or a forest reserve, as those terms are defined in section 2122(a), to or for the benefit of lineal descendants or siblings is exempt from inheritance tax, provided the foregoing property is reported on a timely filed inheritance tax return. ((s.1) amended July 13, 2016, P.L.526, No.84)

(t) A qualified family-owned business. The following shall apply:

(1) A transfer of a qualified family-owned business interest to or for the benefit of members of the same family is exempt from inheritance tax if the qualified family-owned business interest:

(i) continues to be owned by members of the same family or a trust whose beneficiaries are comprised solely of members of the same family for a minimum of seven years after the decedent's date of death; and

(ii) is reported on a timely filed inheritance tax return.

(2) A qualified family-owned business interest that was exempted from inheritance tax under this subsection that is no longer owned by members of the same family or a trust whose beneficiaries are comprised solely of members of the same family at any time within seven years after the decedent's date of death shall be subject to inheritance tax due the Commonwealth under section 2107, in an amount equal to the inheritance tax that would have been paid or payable on the value of the qualified family-owned business interest using the valuation authorized under section 2121 for nonexempt transfers of property. Interest shall accrue from the payment date established under section 2142 at the rate established under section 2143.

(2.1) The exemption under this subsection shall not apply to property transferred by the decedent into the qualified family-owned business within one year of the death of the decedent unless the property was transferred for a legitimate business purpose.

(3) Inheritance tax due under section 2107 as a result of disqualification under paragraphs (2) or (4), plus interest on the inheritance tax, shall be a lien in favor of the Commonwealth on the real

and personal property of the owner of the qualified family-owned business interest at the time of the transaction or occurrence that disqualified the qualified family-owned business interest from the exemption provided under this subsection. The inheritance tax due and interest shall be the personal obligation of the owner of the qualified family-owned business interest at the time of the transaction or occurrence that disqualified the qualified family-owned business interest from the exemption provided under this subsection and all beneficiaries of any trust that is an owner of the qualified family-owned business interest. Liability for the tax shall be joint and several. The lien shall remain until the inheritance tax and accrued interest are paid in full.

(4) Each owner of a qualified family-owned business interest exempted from inheritance tax under this subsection shall certify to the department, on an annual basis, for seven years after the decedent's date of death, that the qualified family-owned business interest continues to be owned by members of the same family or a trust whose beneficiaries are comprised solely of members of the same family and shall notify the department within thirty days of any transaction or occurrence causing the qualified family-owned business interest to fail to qualify for the exemption. Each year, the department shall inform all owners of a qualified family-owned business interest exempted from inheritance tax under this subsection of their obligation to provide an annual certification under this paragraph. The certification and notification shall be completed in the form and manner as provided by the department. An owner's failure to comply with the certification or notification requirements shall result in the loss of the exemption, and the qualified family-owned business interest shall be subject to inheritance tax due the Commonwealth under section 2107, in an amount equal to the inheritance tax that would have been paid or payable on the value of the qualified family-owned business interest using the valuation authorized under section 2121 for nonexempt transfers of property. Interest shall accrue from the payment date established in section 2142 at the rate established in section 2143.

(5) For purposes of this subsection, the term "qualified family-owned business interest" shall be as follows:

(i) an interest as a proprietor in a trade or business carried on as a proprietorship, if the proprietorship has fewer than fifty full-time equivalent employees as of the date of the decedent's death, the proprietorship has a net book value of assets totaling less than five million dollars ($5,000,000) as of the date of the decedent's death and has been in existence for five years prior to the date of the decedent's death; or

(ii) an interest in an entity carrying on a trade or business, if:

(A) the entity has fewer than fifty full-time equivalent employees as of the date of the decedent's death;

(B) the entity has a net book value of assets totaling less than five million dollars ($5,000,000) as of the date of the decedent's death;

(C) as of the date of the decedent's death, the entity is wholly owned by the decedent, by the decedent and members of the same family, by a trust whose beneficiaries are comprised solely of members of the same family or by an entity that is owned solely by members of the same family;

(D) the entity is engaged in a trade or business the principal purpose of which is not the management of investments or income-producing assets owned by the entity; and

(E) the entity has been in existence for five years prior to the decedent's date of death.

((t) amended July 13, 2016, P.L.526, No.84)

(u) The transfer of personal property, whether tangible or intangible, that is the result of a decedent military member.

(1) For purposes of this subsection, the term "decedent military member" shall mean an individual who, while serving in the armed forces, a reserve component or the National Guard of the United States, died as a result of injury or illness received while on active duty, including active duty for training.

(2) The term shall include both Federal and State active duty as evidenced by official activation order.

((u) added July 8, 2022, P.L.513, No.53)

(2111 added Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 24(2.1) of Act 53 of 2022 provided that the addition of section 2111(u) shall apply to inheritance tax imposed as to a decedent whose date of death is after the effective date of section 24.

Compiler's Note: Section 51(1.1) of Act 84 of 2016, which amended subsections (s) and (s.1), provided that the amendment of subsections (s) and (s.1) shall apply to inheritance tax imposed as to a decedent whose date of death is after December 31, 2012.

Section 51(2) of Act 84 of 2016, which amended subsection (t), provided that the amendment of subsection (t) shall apply to inheritance tax imposed as to a decedent whose date of death is after June 30, 2013.

Compiler's Note: Section 42(4) of Act 52 of 2013, which added subsection (t), provided that subsection (t) shall apply to the estates of decedents who die on or after July 1, 2013.

Compiler's Note: Section 30(7) of Act 85 of 2012, which added subsections (s) and (s.1), provided that subsections (s) and (s.1) shall apply to estates of decedents dying after June 30, 2012.

Compiler's Note: Section 33(17) of Act 46 of 2003, which amended subsection (r), provided that the amendment shall apply to the estates of decedents who die after June 30, 2002.

Compiler's Note: Section 24 of Act 21 of 1995, which amended subsections (k) and (m), provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from applying to the estates of decedents dying on or after January 1, 1995.

Section 2112. Exemption for Poverty.--(2112 repealed July 9, 2013, P.L.270, No.52)

Section 2113. Trusts and Similar Arrangements for Spouses.-- (a) In the case of a transfer of property for the sole use of the transferor's surviving spouse during the surviving spouse's entire lifetime, all succeeding interests which follow the interest of the surviving spouse shall not be subject to tax as transfers by the transferor if the transfer was made by a decedent dying on or after January 1, 1995, provided that the transferor's personal representative may elect, on a timely filed inheritance tax return, to have this section not apply to a trust or similar arrangement or portion of a trust or similar arrangement.

(b) Succeeding interests not subject to tax as transfers by the transferor by reason of subsection (a) shall be deemed to be transfers subject to tax by the surviving spouse of the property held in the trust or similar arrangement at the death of the surviving spouse. The tax on that property shall be based upon its value at the death of the surviving spouse, the tax rates applicable to dispositions by the surviving spouse or by the transferor, whichever are lower, and any exemptions relating to the kind or location of property held in the trust or similar arrangement at the surviving spouse's death.

(c) Subsection (b) shall apply even if the succeeding interests not subject to tax as transfers by the transferor by reason of subsection (a) were also not subject to tax by reason of an exemption based upon the kind or location of property at the transferor's death.

(d) This section shall not apply to inter vivos transfers otherwise exempt from inheritance tax.

(2113 amended June 30, 1995, P.L.139, No.21)

Compiler's Note: Section 24 of Act 21 of 1995, which amended section 2113, provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from

applying to the estates of decedents dying on or after January 1, 1995.

PART IV
RATE OF TAX
(IV added Aug. 4, 1991, P.L.97, No.22)

Section 2116. Inheritance Tax.--(a) (1) Inheritance tax upon the transfer of property passing to or for the use of any of the following shall be at the rate of four and one-half per cent:

(i) grandfather, grandmother, father, mother, except transfers under subclause (1.2), and lineal descendants; or

(ii) wife or widow and husband or widower of a child.

(1.1) Inheritance tax upon the transfer of property passing to or for the use of a husband or wife shall be:

(i) At the rate of three per cent for estates of decedents dying on or after July 1, 1994, and before January 1, 1995.

(ii) At a rate of zero per cent for estates of decedents dying on or after January 1, 1995.

(1.2) Inheritance tax upon the transfer of property from a child twenty-one years of age or younger to or for the use of a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent.

(1.3) Inheritance tax upon the transfer of property passing to or for the use of a sibling shall be at the rate of twelve per cent.

(1.4) Inheritance tax upon the transfer of property to or for the use of a child twenty-one years of age or younger from a natural parent, an adoptive parent or a stepparent of the child shall be at the rate of zero per cent. ((1.4) added June 28, 2019, P.L.50, No.13)

(2) Inheritance tax upon the transfer of property passing to or for the use of all persons other than those designated in subclause (1), (1.1), (1.2), (1.3) or (1.4) or exempt under section 2111(m) shall be at the rate of fifteen per cent. ((2) amended June 28, 2019, P.L.50, No.13)

(3) When property passes to or for the use of a husband and wife with right of survivorship, one of whom is taxable at a rate lower than the other, the lower rate of tax shall be applied to the entire interest.

((a) amended May 24, 2000, P.L.106, No.23)

(b) (1) When the decedent was a resident, the tax shall be computed upon the value of the property, in excess of the deductions specified in Part VI, at the rates in effect at the transferor's death.

(2) When the decedent was a nonresident, the tax shall be computed upon the value of real property and tangible personal property having its situs in this Commonwealth, in excess of unpaid property taxes assessed on the property and any indebtedness for which it is liened, mortgaged or pledged, at the rates in effect at the transferor's death. The person liable to make the return under section 2136 may elect to have the tax computed as if the decedent was a resident and his entire estate was property having its situs in this Commonwealth, and the tax due shall be the amount which bears the same ratio to the tax thus computed as the real property and tangible personal property located in this Commonwealth bears to the entire estate of the decedent.

(b.1) The inheritance tax due upon the transfer of property passing to or for the use of a husband or wife shall be the lesser of the tax imposed under subsection (a)(1.1) or the tax due after the allowance of the credit provided for under section 2112. ((b.1) added June 16, 1994, P.L.279, No.48)

(c) When any person entitled to a distributive share of an estate, whether under an inter vivos trust, a will or the intestate law, renounces his right to receive the distributive share receiving therefor no consideration, or exercises his elective rights under 20 Pa.C.S. Ch. 22 (relating to elective share of surviving spouse) receiving therefor no consideration other than the interest in assets passing to him as the electing spouse, the tax shall be computed as though the persons who benefit by such renunciation or election were originally designated to be

the distributees, conditioned upon an adjudication or decree of distribution expressly confirming distribution to such distributees. The renunciation shall be made within nine months after the death of the decedent. In the case of a surviving spouse taking his elective share of an estate, the renunciation shall be made within the time for election and any extension thereof under 20 Pa.C.S. § 2210(b) (relating to procedure for election; time limit). Notice of the filing of the account and of its call for audit or confirmation shall include notice of the renunciation or election to the department. When an unconditional vesting of a future interest does not occur at the decedent's death, the renunciation specified in this subsection of the future interest may be made within three months after the occurrence of the event or contingency which resolves the vesting of the interest in possession and enjoyment. ((c) amended May 24, 2000, P.L.106, No.23)

(d) In case of a compromise of a dispute regarding rights and interests of transferees, made in good faith, the tax shall be computed as though the persons so receiving distribution were originally entitled to it as transferees of the property received in the compromise, conditioned upon an adjudication or decree of distribution expressly confirming distribution to such distributees. Notice of the filing of the account and of its call for audit or confirmation shall include notice to the department.

(e) If the rate of tax which will be applicable when an interest vests in possession and enjoyment cannot be established with certainty, the department, after consideration of relevant actuarial factors, valuations and other pertinent circumstances, may enter into an agreement with the person responsible for payment to establish a specified amount of tax which, when paid within sixty days after the agreement, shall constitute full payment of all tax otherwise due upon such transfer. Rights of withdrawal of a surviving spouse not exercised within nine months of the transferor's death shall be ignored in making such calculations. ((e) amended June 16, 1994, P.L.279, No.48)

(f) Property subject to a power of appointment, whether or not the power is exercised and notwithstanding any blending of the property with the property of the donee, shall be taxed only as part of the estate of the donor.

(2116 added Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 32 of Act 13 of 2019 provided that the amendment or addition of section 2116(a)(1.4) and (2) of this act shall apply to property transferred by a natural parent, an adoptive parent or a stepparent who dies after December 31, 2019.

Compiler's Note: Section 19(8)(ii) of Act 23 of 2000, which amended subsections (a) and (c), provided that the amendment shall apply to the estates of decedents dying after June 30, 2000. Section 19(8)(ii) provided that the amendment shall apply to inter vivos transfers made by decedents dying after June 30, 2000, regardless of the date of the transfer.

Section 2117. Estate Tax.--(a) In the event that a Federal estate tax is payable to the Federal Government on the transfer of the taxable estate of a decedent who was a resident of this Commonwealth at the time of his death, and the inheritance tax, if any, actually paid to the Commonwealth by reason of the death of the decedent (disregarding interest or the amount of any discount allowed under section 2142) is less than the maximum credit for State death taxes allowable under section 2011 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 2011), a tax equal to the difference is imposed. If a resident decedent owned or had an interest in real property or tangible personal property having a situs in another state, the tax so imposed shall be reduced by the greater of:

(1) the amount of death taxes actually paid to the other state with respect to the estate of the decedent, excluding any death tax expressly imposed to receive the benefit of the credit for state death taxes allowed under section 2011 of the Internal Revenue Code of 1986 (26 U.S.C. § 2011); or

(2) an amount computed by multiplying the maximum credit for state death taxes allowable under section 2011 of the Internal Revenue Code of 1986 (26 U.S.C. § 2011) by a fraction, the numerator of which is the value of the real property and tangible personal property to the extent included in the decedent's gross estate for Federal estate tax purposes and having a situs in the other state and the denominator of which is the value of the decedent's gross estate for Federal estate tax purposes.

(b) In the event that a Federal estate tax is payable to the Federal Government on the transfer of the taxable estate of a decedent who was not a resident of this Commonwealth at the time of his death but who owned or had an interest in real property or tangible personal property having a situs in this Commonwealth, a tax is imposed in an amount computed by multiplying the maximum credit for State death taxes allowable under section 2011 of the Internal Revenue Code of 1986 (26 U.S.C. § 2011) by a fraction, the numerator of which is the value of the real property and tangible personal property to the extent included in the decedent's gross estate for Federal estate tax purposes having a situs in this Commonwealth and the denominator of which is the value of the decedent's gross estate for Federal estate tax purposes, and deducting from that amount the inheritance tax, if any, actually paid to the Commonwealth (disregarding interest or the amount of any discount allowed under section 2142).

(c) When an inheritance tax is imposed after an estate tax imposed under subsection (a) or (b) has been paid, the estate tax paid shall be credited against any inheritance tax later imposed.

(2117 amended Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(17) of Act 46 of 2003, which amended section 2117, provided that the amendment shall apply to the estates of decedents who die after June 30, 2002.

PART V
VALUATION
(V added Aug. 4, 1991, P.L.97, No.22)

Section 2121. Valuation.--(a) Except as otherwise provided in this part, the valuation date shall be the date of the transferor's death. When the transfer was made during lifetime and was not in trust, the property transferred shall be valued at the transferor's death. When the transfer was to an inter vivos trust, the property to be valued shall be that comprising the portion of the trust, if any, which exists at the transferor's death and which portion is traceable from property the transfer of which is subject to tax under this article.

(b) The value of a life interest shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

(c) The value of an interest for a term certain shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

(d) If an annuity or a life estate is terminated by the death of the annuitant or life tenant or by the happening of a contingency within nine months after the death of the transferor, the value of the annuity or estate shall be the value, at the date of the transferor's death, of the amount of the annuity or income actually paid or payable to the annuitant or life tenant during the period he was entitled to the annuity or was in possession of the estate. If an appraisement of an annuity or life estate has been filed before the termination, the appraisement and any assessment based on the appraisement shall be revised in accordance with this section upon request of any party in interest, including the Commonwealth and the personal representative, insofar as the appraisement and any assessment based on the appraisement relates to the valuation of the terminated annuity or life estate, without the necessity of the party in interest following any procedure described in Part XI.

(e) The value of a future interest shall be determined in accordance with rules and regulations promulgated by the department. Until the promulgation of rules and regulations to the contrary, the regulations in effect for Federal estate tax purposes shall apply.

(f) When a decedent's property is subject, during his lifetime and at the time of his death, to a binding option or agreement to sell, the appraised value of the property shall not exceed the amount of the established price payable for it provided the option or agreement is a bona fide arrangement and not a device to transfer the property for less than an adequate and full consideration in money or money's worth. If the option or agreement is not exercised and consummated, the value at which the property is appraised shall not be limited to the established price payable for the property, and it shall not exceed the value of the property on the date of the transferor's death. When tax has been assessed on the basis of an established price and the option or agreement is not exercised and consummated or an amount greater than the established price is received for the property, the fiduciary or transferee shall file a supplemental return reporting the facts.

(2121 added Aug. 4, 1991, P.L.97, No.22)

Section 2122. Valuation of Certain Farmland.--(a) The following words and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Agricultural commodity." Any and all plant and animal products, including Christmas trees produced in this Commonwealth for commercial purposes.

"Agricultural conservation easement." As defined in section 3 of the act of June 30, 1981 (P.L.128, No.43), known as the "Agricultural Area Security Law." (Def. added July 6, 2006, P.L.319, No.67)

"Agricultural reserve." Noncommercial open space lands used for outdoor recreation or the enjoyment of scenic or natural beauty and open to the public for such use, without charge or fee, on a nondiscriminatory basis.

"Agricultural use." Use of the land for the purpose of producing an agricultural commodity or when devoted to and meeting the requirements and qualifications for payments or other compensation pursuant to a soil conservation program under an agreement with an agency of the Federal Government.

"Forest reserve." Land, ten acres or more, stocked by forest trees of any size and capable of producing timber or other wood products.

"Separation." A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this section into two or more tracts of land which continue to be agricultural use, agricultural reserve or forest reserve and all tracts so formed meet the requirements of section 3 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974."

"Split-off." A division, by conveyance or other action of the owner, of lands devoted to agricultural use, agricultural reserve or forest reserve and preferentially assessed under the provisions of this section into two or more tracts of land, the use of which on one or more of such tracts does not meet the requirements of section 3 of the act of December 19, 1974 (P.L.973, No.319), known as the "Pennsylvania Farmland and Forest Land Assessment Act of 1974."

(b) (1) The value for transfer inheritance tax purposes of land or an interest in land which is owned by a decedent and devoted to agricultural use, agricultural reserve or forest reserve shall be that value which such land has for its particular use if it also meets the following conditions:

(i) in the case of land devoted to agricultural use, the land was devoted to such agricultural use for the three years preceding the death of such decedent and is not less than ten contiguous acres in area or has an anticipated yearly gross income derived from agricultural use of two thousand dollars ($2,000);

(ii) in the case of land devoted to agricultural reserve, the land is not less than ten contiguous acres in area;

(iii) in the case of land presently devoted to forest reserve, the land is not less than ten contiguous acres in area; or

(iv) the contiguous tract of land for which application is made is not less than the entire contiguous area of the owner used for agricultural use, agricultural reserve or forest reserve purposes.

(2) In determining the value of land in agricultural use, agricultural reserve or forest reserve for its particular use, consideration shall be given to available evidence of such land's capability for its particular use as derived from the soil survey at The Pennsylvania State University, the National Cooperative Soil Survey, the United States Census of Agricultural Categories of land use classes and other evidence of the capability of the land devoted to such use and also, if the land is assessed under the provisions of the "Pennsylvania Farmland and Forest Land Assessment Act of 1974," to the valuation determined by the local county assessor thereunder.

(c) (1) If any tract of land in agricultural use, agricultural reserve or forest reserve, which is valued for inheritance tax purposes under the provisions of this part, is applied to a use other than agricultural use, agricultural reserve or forest reserve or for any other reason, except condemnation thereof, is removed from the category of land preferentially valued under this part within seven years following the death of such decedent, the owner at such time the land is so removed shall be subject and liable to tax due the Commonwealth in an amount equal to the difference, if any, between the taxes paid or payable on the basis of the valuation authorized under this section and the taxes that would have been paid or payable had that land been valued and taxed on the basis of its market value at the death of the decedent, plus interest thereon for the period from the date of death to the change of use at the rate established in section 2143.

(2) The tax shall be a lien upon the property in favor of the Commonwealth, collectible in the manner provided by law for the collection of delinquent real estate taxes, as well as the personal obligation of the owner at the time of such change of use. The tax shall become due on the date of change of use.

(3) Every owner of land preferentially valued under this section shall notify the register of wills of the county or counties in which the land is located of any change or proposed change in the use of the land. Any owner failing to make notification commits a misdemeanor of the third degree.

(d) (1) The split-off of a part of the land which has been valued, assessed and taxed under this article for a use other than agricultural use, agricultural reserve or forest reserve within the seven-year period provided for by subsection (c) shall, except when the split-off occurs through condemnation, subject the land divided and the entire parcel from which the land was divided to liability for taxes as otherwise set forth in this article except as provided in subclause (2).

(2) The owner of property subject to a preferential tax assessment may split off land covered by the preferential tax assessment within the seven-year period. The tract of land so split-off shall not exceed two acres annually and may only be used for residential use, agricultural use, agricultural reserve or forest reserve and the construction of a residential dwelling to be occupied by the person to whom the land is transferred. The total parcel or parcels of land split-off under the provisions of this subsection shall not exceed ten per cent or ten acres, whichever is less, of the entire tract subject to the preferential tax assessment. The split-off of a parcel of land which meets the requirements of this subsection shall not invalidate the preferential tax assessment if it continues to meet the requirements of subsection (b).

(3) The owner of property subject to a preferential use assessment may separate land covered by the preferential use assessment. The separation shall not invalidate the preferential tax assessment unless a subsequent abandonment of preferential use occurs within seven years of the

separation. The abandonment shall subject the entire tract of land separated to liability for taxes, which are to be paid by the person changing the use, as set forth in this article.

(4) When property subject to preferential tax assessment is separated among the beneficiaries taxed under subsection (a)(1) of section 2116, a subsequent change within the seven-year period provided for in subsection (b) in the use of one beneficiary's portion of the property shall subject only that tract held by the beneficiary who changes the use to liability under this article.

(e) The value for transfer inheritance tax purposes of land or an interest in land which is part of an agricultural conservation easement shall be at fifty per cent of the value otherwise determined under this section. ((e) added July 6, 2006, P.L.319, No.67)

(2122 added Aug. 4, 1991, P.L.97, No.22)

PART VI
DEDUCTIONS
(VI added Aug. 4, 1991, P.L.97, No.22)

Section 2126. Deductions Generally.--The only deductions from the value of the property transferred shall be those set forth in this part. Except as otherwise provided in this article, they shall be deductible regardless of whether or not assets comprising the decedent's taxable estate are employed in the payment or discharge of the deductible items. When a tax is imposed upon a transfer described in subsection (c) of section 2107 and section 2108, the deductions shall be allowed to the transferee only to the extent that the transferee has actually paid the deductible items and either the transferee was legally obligated to pay the deductible items or the estate subject to administration by a personal representative is insufficient to pay the deductible items.

(2126 added Aug. 4, 1991, P.L.97, No.22)

Section 2127. Expenses.--The following expenses may be deducted from the value of the property transferred:

(1) Administration expenses. All reasonable expenses of administration of the decedent's estate and of the assets includable in the decedent's taxable estate are deductible.

(2) Bequest to fiduciary or attorney in lieu of fees. A transfer to an executor, trustee or attorney in lieu of compensation for services is deductible to the extent it does not exceed reasonable compensation for the services to be performed.

(3) Family exemption. The family exemption is deductible.

(4) Funeral and burial expenses. Reasonable and customary funeral expenses, including the cost of a family burial lot or other resting place, are deductible.

(5) Tombstones and gravemarkers. Reasonable and customary expenses for the purchase and erection of a monument, gravestone or marker on decedent's burial lot or final resting place are deductible.

(6) Burial trusts or contracts. Bequests or devises in trust, or funds placed in trust after decedent's death or funds paid under a contract after decedent's death, in reasonable amounts, to the extent that the funds or income from the funds is to be applied to the care and preservation of the family burial lot or other final resting place in which the decedent is buried or the remains of the decedent repose and the structure on the burial lot or other final resting place, are deductible.

(7) Bequests for religious services. Bequests in reasonable amounts for the performance or celebration of religious rites, rituals, services or ceremonies, in consequence of the death of the decedent, shall be deductible.

(2127 added Aug. 4, 1991, P.L.97, No.22)

Section 2128. Taxes.--The following taxes may be deducted from the value of the property transferred:

(1) Property taxes. Taxes imposed against the decedent or against any property constituting a part of decedent's gross taxable estate and which are owing prior to decedent's death are deductible. However, taxes for

which decedent is not personally liable shall not be deductible in an amount exceeding the value of the property against which the taxes are liened.

(2) State and foreign death taxes. Death taxes other than the Federal estate tax, disregarding interest and penalty, paid to other states and territories of the United States and to taxing jurisdictions outside the United States and its territories on assets, the transfer of which is subject to tax under this article, if the taxes are required to be paid to bring the assets into this Commonwealth, or to transfer them to the new owner, are deductible.

(2128 added Aug. 4, 1991, P.L.97, No.22)

Section 2129. Liabilities.--(a) Except as set forth in section 2130(5), all liabilities of the decedent shall be deductible subject to the limitations set forth in this section.

(b) Except as otherwise provided in subsections (h) and (i), the deductions for indebtedness of the decedent, when founded upon a promise or agreement, shall be limited to the extent that it was contracted bona fide and for an adequate and full consideration in money or money's worth.

(c) Except as provided by subclause (4) of section 2130, indebtedness owing by the decedent upon a secured loan is deductible whether or not the security is a part of the gross taxable estate.

(d) Except as provided by subclause (4) of section 2130, the decedent's liability (net of all collectible contribution) on a joint obligation is deductible whether or not payment of the obligation is secured by entireties property or property which passes to another under the right of survivorship.

(e) Indebtedness arising from a contract for the support of the decedent is deductible.

(f) Decedent's obligation is deductible whether or not discharged by testamentary gift.

(g) Decedent's debt, which is unenforceable because of any statute of limitations, is deductible if paid by the estate.

(h) A pledge to a transferee exempt under the provisions of subsection (c) of section 2111 is deductible if paid by the estate, whether or not it is legally enforceable.

(i) Liabilities arising from the decedent's tort or from decedent's status as an accommodation endorser, guarantor or surety are deductible, except to the extent that it can be reasonably anticipated that decedent's estate will be exonerated or reimbursed by others primarily liable or subject to contribution.

(j) The fact that a surviving spouse is legally liable and financially able to pay any item which, if the deceased spouse were unmarried, would qualify as a deduction under this part shall not result in the disallowance of such item as a deduction.

(k) Obligations for decedent's medical expenses are not deductible to the extent decedent's estate will be exonerated or reimbursed for such expenses from other sources.

(2129 amended July 9, 2013, P.L.270, No.52)

Section 2130. Deductions Not Allowed.--The following are not deductible:

(1) ((1) deleted by amendment June 16, 1994, P.L.279, No.48)

(2) Claims of a former spouse, or others, under an agreement between the former spouse and the decedent, insofar as they arise in consideration of a relinquishment or promised relinquishment of marital or support rights.

(3) Litigation expenses of beneficiaries.

(4) Indebtedness secured by real property or tangible personal property, all of which has its situs outside of this Commonwealth, except to the extent the indebtedness exceeds the value of the property.

(5) Expenses, debts, obligations and liabilities incurred in connection with a qualified family-owned business interest exempted from inheritance under section 2111(t) and any property exempted from inheritance tax under section 2111(s) or (s.1).

(2130 amended July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 24 of Act 21 of 1995, which reenacted and amended section 2130, provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from applying to the estates of decedents dying on or after January 1, 1995.

PART VII
PAYMENT OF TAX
(VII added Aug. 4, 1991, P.L.97, No.22)

Section 2136. Returns.--(a) The following persons shall make a return:

(1) The personal representative of the estate of the decedent as to property of the decedent administered by him and additional property which is or may be subject to inheritance tax of which he shall have or acquire knowledge.

(2) The transferee of property upon the transfer of which inheritance tax is or may be imposed by this article, including a trustee of property transferred in trust. No separate return need be made by the transferee of property included in the return of a personal representative.

(b) The inclusion of property in the return shall not constitute an admission that its transfer is taxable.

(c) Any person required to file a return under subsection (a) shall promptly file a supplemental return with respect to additional assets and transfers which come to his knowledge after the original return has been filed.

(d) The returns required by subsection (a) shall be filed within nine months after the death of the decedent. At any time prior to the expiration of the nine-month period, the department, in its discretion, may grant an extension of the time for filing a return for an additional period of six months.

(e) The returns required by subsections (a) and (c) shall be made in the form prescribed by the department.

(f) When the decedent was a resident, the returns shall be filed with the register. When the decedent was a nonresident, the returns shall be filed with the register who issued letters, if any, in this Commonwealth; otherwise, the returns shall be filed with the department.

(2136 added Aug. 4, 1991, P.L.97, No.22)

Section 2137. Appraisement.--The department shall have supervision over, and make or cause to be made, fair and conscionable appraisements of property the transfer of which is subject to tax under this article. The appraisement, unless suspended until audit, shall be made within six months after the return has been filed and, if not so made, shall be made within an additional period as the court, upon application of any party in interest, including the personal representative, shall fix.

(2137 added Aug. 4, 1991, P.L.97, No.22)

Section 2138. Deductions.--The official with whom the return is required by subsection (f) of section 2136 to be filed shall determine the allowance or disallowance of all deductions claimed. The determination, unless suspended until audit, shall be made within six months after the claim for allowance has been filed and, if not so made, shall be made within such further period as the court, upon application by any party in interest, including the personal representative, shall fix. However, the court, at the request of the fiduciary at the audit of his account, may determine and allow, as deductions, all properly deductible credits claimed in the account or allowed at the audit without requiring the filing of a separate claim for them, and the court may then fix the amount of the tax and decree payment of the tax. Deductions exceeding one hundred dollars ($100) in the aggregate shall not be allowed by the court unless the Commonwealth is represented at the audit by counsel or unless there is proof that the register has had at least thirty days notice of the claim.

(2138 added Aug. 4, 1991, P.L.97, No.22)

Section 2139. Assessment of Tax.--After the appraisement has been made and the allowance or disallowance of deductions determined, the inheritance tax, as affected by the court's determination of the allowance or disallowance of deductions as provided in section 2138, shall be assessed by the official with whom the return is required to be filed under subsection (f) of section 2136. The assessment, unless suspended until audit, shall be made within one month after the filing of the appraisement or determination of deductions, whichever occurs later, and, if not so made, shall be made within an additional period as the court, upon application by any party in interest, including the personal representative, shall fix.

(2139 added Aug. 4, 1991, P.L.97, No.22)

Section 2140. Notice.--The department shall give, or cause to be given, notice of the filing of the appraisement, the determination of the allowance or disallowance of deductions and the amount of tax assessed, and all supplements, to the personal representative and to any transferee who filed a tax return or to their respective attorneys.

(2140 added Aug. 4, 1991, P.L.97, No.22)

Section 2141. Failure to File Returns Not a Bar to Assessment of Tax.--Failure to file a return of a taxable transfer shall not bar the making of an appraisement or supplemental appraisement or assessment of tax or supplemental assessment of tax based upon taxable transfers not returned under the provisions of this article.

(2141 added Aug. 4, 1991, P.L.97, No.22)

Section 2142. Payment Date and Discount.--Inheritance tax is due at the date of the decedent's death and shall become delinquent at the expiration of nine months after the decedent's death. To the extent that the inheritance tax is paid within three months after the death of the decedent, a discount of five per cent shall be allowed.

(2142 added Aug. 4, 1991, P.L.97, No.22)

Section 2143. Interest.--If the inheritance tax is not paid before the date it becomes delinquent, interest on the unpaid tax shall be charged after the date of delinquency at the rate established pursuant to section 806 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code." When payment of inheritance tax is not made because of litigation or other unavoidable cause of delay and the property on which the tax has been calculated has remained in the hands of a fiduciary and has not produced a net income equal to the rate of interest provided in this section annually, interest for such period shall be calculated at the rate of the net income produced by the property. Any payment on delinquent inheritance tax shall be applied first to any interest due on the tax at the date of payment and then, if there is any balance, to the tax itself.

(2143 added Aug. 4, 1991, P.L.97, No.22)

Section 2144. Source of Payment.--(a) In the absence of a contrary intent appearing in the will, the inheritance tax, including interest, on the transfer of property which passes by will absolutely and in fee, and which is not part of the residuary estate, shall be paid out of the residuary estate and charged in the same manner as a general administration expense of the estate. The payments shall be made by the personal representative and, if not so paid, shall be made by the transferee of the residuary estate.

(b) In the absence of a contrary intent appearing in the inter vivos trust, the inheritance tax, including interest, on the transfer of property which passes absolutely and in fee by inter vivos trust, and which is not part of the residue of the inter vivos trust, shall be paid out of the residue of the trust and charged in the same manner as a general administration expense of the trust. The payment shall be made by the trustee and, if not so paid, shall be made by the transferee of the residue of the trust.

(c) In the absence of a contrary intent appearing in the will, the inheritance tax, including interest, on the transfer of property which passes by will other than absolutely and in fee, and which is not part of the residuary estate, shall be paid out of the residuary estate and charged

in the same manner as a general administration expense of the estate. The payment shall be made by the personal representative and, if not so paid, shall be made by the transferee of the residuary estate.

(d) In the absence of a contrary intent appearing in the inter vivos trust, the inheritance tax, including interest, on the transfer of property which passes other than absolutely and in fee by inter vivos trust, and which is not part of the residue of the inter vivos trust, shall be paid out of the residue of the trust and charged in the same manner as a general administration expense of the trust. The payment shall be made by the trustee and, if not so paid, shall be made by the transferee of the residue of the trust.

(e) In the absence of a contrary intent appearing in the will or other instrument of transfer, the inheritance tax, in the case of a transfer of any estate, income or interest for a term of years, for life or for other limited period, shall be paid out of the principal of the property by which the estate, income or interest is supported, except as otherwise provided in subsection (c) or (d). The payment shall be made by the personal representative or trustee and, if not so paid, shall be made by the transferee of such principal.

(e.1) In the absence of a contrary intent appearing in the will or other instrument of transfer creating the trust or similar arrangement, and in the absence of a contrary intent appearing in the will or other instrument of transfer of the surviving spouse which expressly refers to the trust or similar arrangement, the inheritance tax, including interest, due at the death of a surviving spouse with respect to a trust or similar arrangement to which section 2113(b) is applicable shall be paid out of the residue of the principal of the trust or similar arrangement and charged as a general administration expense of the trust or similar arrangement. The payment shall be made by the trustee or other fiduciary in possession of the property and, if not so paid, shall be made by the transferee of the residue of the trust or similar arrangement. ((e.1) reenacted and amended June 30, 1995, P.L.139, No.21)

(f) In the absence of a contrary intent appearing in the will or other instrument of transfer and except as otherwise provided in this section, the ultimate liability for the inheritance tax, including interest, shall be upon each transferee.

(2144 added Aug. 4, 1991, P.L.97, No.22)

Compiler's Note: Section 24 of Act 21 of 1995, which reenacted and amended subsection (e.1), provided that section 43(4)(ii) of Act 48 of 1994 is repealed insofar as it limits the amendment or addition of Article XXI from applying to the estates of decedents dying on or after January 1, 1995.

Section 2145. Estate Tax Return.--(a) The person or persons required by section 2136 to make the inheritance tax return shall be initially liable for payment of the estate tax.

(b) The personal representative of every decedent or, if there is no personal representative, any other fiduciary charged by law with the duty of filing a Federal estate tax return, within one month of the filing or receipt of the return shall file with the register or, if the decedent was a nonresident, with the register who issued letters, if any, in this Commonwealth, or otherwise with the department, a copy of the decedent's Federal estate tax return and of any communication from the Federal Government making any final change in the return or of the tax due. The assessment of estate tax shall be made by the register or department within three months after the filing of the documents required to be filed and, if not so made, shall be made within an additional period as the court, upon application of any party in interest, including the personal representative, shall fix.

(c) The estate tax is due at the date of the decedent's death but shall not become delinquent until the expiration of nine months after decedent's death. Any estate tax occasioned by a final change in the Federal return or of the tax due shall not become delinquent until the expiration of one

month after the person or persons liable to pay the tax have received final notice of the increase in the Federal estate tax.

(d) No discount shall be allowed in paying the estate tax.

(e) If the estate tax is not paid before the date it becomes delinquent under subsection (c), interest on the unpaid tax shall be charged after the date of delinquency at the rate established in section 2143.

(f) The estate tax shall be apportioned and ultimately borne in accordance with the provisions of 20 Pa.C.S. Ch. 37 (relating to apportionment of death taxes) unless otherwise provided by this article or in the instrument of transfer.

(g) When the decedent was a resident, the estate tax shall be paid to the register. When the decedent was a nonresident, the estate tax shall be paid to the register who issued letters, if any, in this Commonwealth; otherwise, it shall be paid to the department.

(2145 amended Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(17) of Act 46 of 2003, which amended section 2145, provided that the amendment shall apply to the estates of decedents who die after June 30, 2002.

Section 2146. Deduction and Collection of Tax by Personal Representative or Other Fiduciary.--Subject to the provisions of sections 2144 and 2154, every personal representative or other fiduciary (other than a trustee of a pension, stock-bonus, profit-sharing, retirement annuity, deferred compensation, disability, death benefit, or other employe benefit plan) in charge of or in possession of any property, or instrument evidencing ownership of property, the transfer of which is subject to a tax imposed by this article other than a tax on a future interest not yet delinquent, shall deduct the tax from the property, if money, or shall collect the tax from the transferee. Any delivery of property or instrument by the fiduciary to a transferee, except in accordance with a decree of distribution of the court or pursuant to a duly executed notice of election filed under section 2154, shall not relieve him of personal liability for a tax imposed by this article. No personal representative or other fiduciary in charge of or in possession of any property subject to this article shall be compelled to pay or deliver it to the transferee except upon payment to him of the tax due other than tax on a future interest not yet delinquent. If the transferee neglects or refuses to pay the tax, the personal representative or other fiduciary may sell the property subject to the tax, or so much of the property as is necessary, under direction of the court. All money retained by the personal representative or other fiduciary, or paid to him on account of the taxes imposed by this article, shall be remitted by him before the tax becomes delinquent or, if received after the tax becomes delinquent, shall be remitted by him promptly upon its receipt.

(2146 added Aug. 4, 1991, P.L.97, No.22)

Section 2147. Duties of Depositories.--When money is deposited or invested in a financial institution located in this Commonwealth in the names of two or more persons, other than husband and wife, or in the name of a person or persons in trust for another or others, and one of the parties to the deposit or investment dies, it shall be the duty of the financial institution, within ten days after knowledge of the death, to notify the department, giving the name of the deceased person, the date of the creation of the joint or trust deposit or investment, the amount invested or on deposit at the date of death with the financial institution and the name and address of the survivor or survivors to the account. No notification shall be required in regard to the account when the deposit at the time of death does not exceed three hundred dollars ($300).

(2147 added Aug. 4, 1991, P.L.97, No.22)

Section 2148. Compromise by Department.--The department, with the approval of the Attorney General, may compromise in writing, with the person liable, the tax, including interest on the tax, payable on any transfer of property included in the estate of any decedent who it is alleged was a nonresident at the time of his death. A copy of the compromise agreement shall be filed with the register who issued letters,

if any, in this Commonwealth; otherwise, it shall be filed with the department. The compromise agreement shall constitute a final determination of the matters covered by it and the payment of the tax, as fixed by the agreement, shall discharge all persons and property from liability with respect to the tax.

(2148 added Aug. 4, 1991, P.L.97, No.22)

Section 2149. Interstate Compromise and Arbitration of Inheritance Taxes.--When the register or the department alleges that a decedent was a resident of this Commonwealth at the time of his death, and the taxing authorities of another state or territory make a like claim on behalf of their state or territory, a written agreement of compromise or a written agreement to submit the controversy to a board of arbitrators may be made under Part VIII.

(2149 added Aug. 4, 1991, P.L.97, No.22)

Section 2150. Extension of Time for Payment.--The department may, for reasonable cause, extend the time for payment of any part of the inheritance tax and may, if deemed necessary for the protection of the interest of this Commonwealth, require the transferee in present possession or, if a trust is involved, the trustee to file a bond in the name of the Commonwealth with sufficient surety, in an amount not exceeding twice the tax computed when the bond is given at the highest rate possible in the specific contingencies involved (reduced by the amount of any partial payment made) and conditioned for the payment of the tax at such postponed due date, together with interest from the due date to the payment date. No bond shall be required under this section if the trustee or one of the trustees is a bank and trust company or a trust company incorporated in this Commonwealth or a national banking association having its principal office in this Commonwealth. The bond required shall be filed in the office of the register.

(2150 added Aug. 4, 1991, P.L.97, No.22)

Section 2151. Bond for Delinquent Tax.--The court, in its discretion, at any time after a tax imposed by this article becomes delinquent, upon application of the department, may require any person liable for a tax imposed by this article to give a bond for its payment. The bond shall be in the name of the Commonwealth, in such amount and with such surety as the court approves and conditioned for the payment of the tax, plus interest at the same rate as the interest rate on deficiencies provided for in section 2143, commencing on the date the tax became delinquent, within a time certain to be fixed by the court and specified in the bond. The bond required shall be filed in the office of the register.

(2151 added Aug. 4, 1991, P.L.97, No.22)

Section 2152. Evidence of Payment of Tax for Real Estate in Another County.--When any tax is imposed and paid under this article on real estate located in a county other than that of the register who received payment, the register shall, upon request, immediately forward to the register of the county where the real estate is located a certificate of the payment of the tax on the real estate which shall be entered of record in his office. The register of the county where the real estate is located shall be entitled to a fee of two dollars ($2) for entering the record of payment to be paid as a part of the administration expenses of the decedent's estate.

(2152 amended Apr. 23, 1998, P.L.239, No.45)

Section 2153. Penalties.--(a) Any person who willfully fails to file a return or other report required of him under the provisions of sections 2136 and 2145 shall be personally liable, in addition to any liability imposed elsewhere in this article, to a penalty of twenty-five per cent of the tax ultimately found to be due or one thousand dollars ($1,000), whichever is less, to be recovered by the department as debts of like amount are recoverable by law.

(b) Any financial institution which fails to give the notice required by section 2147 shall be liable to a penalty of one hundred dollars ($100) to be recovered by the department as debts of like amount are recoverable by law.

(c) Any person who willfully makes a false return or report required of him under the provisions of this article, in addition to any liability imposed elsewhere in this article, commits a misdemeanor of the third degree.

(2153 added Aug. 4, 1991, P.L.97, No.22)

Section 2154. Payment of Tax for Small Business Transfers.--(a) Notwithstanding the provisions of section 2142, the inheritance tax due under this article on the transfer of a small business interest may be paid by the qualified transferee in consecutive quarterly installments beginning immediately following the expiration of nine months after the decedent's death. The tax may be paid in twenty consecutive quarterly installments.

(b) The tax shall be paid in consecutive quarterly installments due on March 31, June 30, September 30 and December 31 of each year, provided the return required by section 2136 is timely filed, along with a notice of election executed by the qualified transferee and joined in by the personal representative which shall relieve the personal representative or other fiduciary of liability for the collection and payment of tax under section 2146. The notice of election shall be completed on a form prescribed by the department containing at least the following information:

(1) The name of the decedent and date of death.

(2) The name or names of the personal representative or other fiduciary.

(3) The name or names of the qualified transferees filing the election.

(4) A description and estimated valuation of the business interest on which tax is due.

(5) A statement that the qualified transferees assume full personal responsibility for the tax.

Each notice of election shall be affirmed before an officer empowered to administer oaths. The installment payment of tax shall bear interest at the rate of nine per cent per annum.

(c) In the event any portion of a small business interest on which the installment payment of tax has been elected is sold, exchanged or otherwise disposed of prior to the expiration of five years following the date of death and that portion equals or exceeds fifty per cent of the total value of the small business interest received by the qualified transferee, the transferee shall immediately provide written notice of the sale, exchange or disposition to the department, and the full amount of the tax then outstanding on that portion shall become due and payable at the expiration of sixty days following the date of sale, exchange or other disposition.

(d) For purposes of this section, the term "small business interest" means an interest in an operating trade or business entity the principal purpose of which is not the management of investments or income producing assets owned by the entity which has employed an average of less than fifty full-time employes during the twelve months immediately preceding the date of death and which meets one of the following criteria:

(1) An interest as a proprietor in a trade or business carried on as a proprietorship.

(2) An interest as a partner in a partnership carrying on a trade or business if:

(i) twenty per cent or more of the total capital interest in the partnership is included in determining the gross estate of the decedent; or

(ii) the partnership had ten or less partners.

(3) Stock in a corporation carrying on a trade or business if:

(i) twenty per cent or more in value of the voting stock of the corporation is included in determining the gross estate of the decedent; or

(ii) the corporation had ten or less shareholders.

(e) Qualified transferee defined.--For purposes of this section, the term "qualified transferee" means a legatee or other transferee receiving:

(1) ten per cent or more of the value of a proprietorship qualifying as a small business interest as defined in subsection (d);

(2) ten per cent or more of the total capital interest in a partnership qualifying as a small business interest as defined in subsection (d); or

(3) ten per cent or more in value of the voting stock of a corporation qualifying as a small business interest as defined in subsection (d).

(2154 added Aug. 4, 1991, P.L.97, No.22)

PART VIII
UNIFORM ACT ON INTERSTATE COMPROMISE AND ARBITRATION OF INHERITANCE TAXES
(VIII added Aug. 4, 1991, P.L.97, No.22)

Section 2156. Short Title.--This part shall be known and may be cited as the "Uniform Act on Interstate Compromise and Arbitration of Inheritance Taxes."

(2156 added Aug. 4, 1991, P.L.97, No.22)

Section 2157. Compromise Agreement and Filing, Interest or Penalty for Nonpayment of Taxes.--When the department or the register claims a decedent was domiciled in this Commonwealth at the time of his death and the taxing authority of another state makes a like claim on behalf of its state, the department may, with the approval of the Attorney General, make a written agreement of compromise with the other taxing authority and the executor or administrator of the decedent that a certain sum shall be accepted in full satisfaction of any and all inheritance taxes imposed by this Commonwealth, including any interest or penalties to the date of signing the agreement. The agreement shall also fix the amount to be accepted by the other state in full satisfaction of inheritance taxes. The executor or administrator of the decedent is authorized to make the agreement. The agreement shall conclusively fix the amount of tax payable to the Commonwealth without regard to any other provision of the laws of this Commonwealth. Unless the tax agreed upon is paid within sixty days after the signing of the agreement, interest or penalties shall accrue upon the amount fixed in the agreement, but the time between the decedent's death and the signing of the agreement shall not be included in computing the interest or penalties. In the event the aggregate amount payable under the agreement to the states involved is less than the maximum credit allowable to the estate against the Federal estate tax imposed with respect to the estate, the personal representatives shall also pay to the department so much of the difference between the aggregate amount and the amount of such credit as the amount payable to the department under the agreement bears to the aggregate amount. A copy of the agreement shall be filed in the office of the proper register, and any existing appraisement shall be deemed modified according to the agreement. In the event no appraisement has been made and filed prior to the agreement, the department shall direct an appraisement to be made and filed in the office of the proper register in accordance with the agreement.

(2157 added Aug. 4, 1991, P.L.97, No.22)

Section 2158. Arbitration Agreement.--When the department or the register claims that a decedent was domiciled in this Commonwealth at the time of his death and the taxing authority of another state makes a like claim on behalf of its state, the department may, with the approval of the Attorney General, make a written agreement with the other taxing authority and with the executor or administrator of the decedent to submit the controversy to the decision of a board consisting of one or any uneven number of arbitrators. The executor or administrator of the decedent is authorized to make the agreement. The parties to the agreement shall select the arbitrator or arbitrators.

(2158 added Aug. 4, 1991, P.L.97, No.22)

Section 2159. Arbitration Board.--(a) The board shall have the power to administer oaths, take testimony, subpoena and require the attendance of witnesses and the production of books, papers and documents and issue commissions to take testimony. Subpoenas may be signed by any member of the board. In case of failure to obey a subpoena, any judge of a court of record of this Commonwealth, upon application by the board, may make an order requiring compliance with the subpoena, and the court may punish failure to obey the order as a contempt.

(b) The board shall hold hearings at a time and place it may determine, upon reasonable notice to the parties to the agreement, all of whom shall be entitled to be heard, to present evidence and to examine and cross-examine witnesses.

(c) Except as provided in subsection (a) in respect to the issuance of subpoenas, all questions arising in the course of the proceedings shall be determined by a majority vote of the board.

(d) The board shall, by a majority vote, determine the domicile of the decedent at the time of his death. This determination shall be final for the purpose of imposing and collecting inheritance taxes but for no other purpose.

(e) The compensation and expenses of the members of the board and its employes may be agreed upon among the members and the executor or administrator and, if they cannot agree, shall be fixed by any court having jurisdiction over probate matters of the State determined by the board to be the domicile of the decedent. The amounts so agreed upon or fixed shall be deemed an administration expense and shall be payable by the executor or administrator.

(2159 added Aug. 4, 1991, P.L.97, No.22)

Section 2160. Filing of Determination of Domicile and Other Documents.--The department, register or board, or the executor or administrator of the decedent, shall file the determination of the board as to domicile, the record of the board's proceedings and the agreement, or a duplicate, made pursuant to section 2158 with the authority having jurisdiction to assess or determine the inheritance taxes in the State determined by the board to be the domicile of the decedent and shall file copies of the documents with the authorities that would have been empowered to assess or determine the inheritance taxes in each of the other states involved.

(2160 added Aug. 4, 1991, P.L.97, No.22)

Section 2161. Interest or Penalties for Nonpayment of Taxes.--In any case where it is determined by the board that the decedent died domiciled in this Commonwealth, interest or penalties, if otherwise imposed by law, for nonpayment of inheritance taxes between the date of the agreement and of filing of the determination of the board as to domicile shall not exceed the rate provided for in section 2143.

(2161 added Aug. 4, 1991, P.L.97, No.22)

Section 2162. Compromise by Parties to Arbitration Agreement.--The provisions of this part shall not prevent at any time a written compromise, if otherwise lawful, by all parties to the agreement made pursuant to section 2157, fixing the amounts to be accepted by this Commonwealth and any other state involved in full satisfaction of inheritance taxes.

(2162 added Aug. 4, 1991, P.L.97, No.22)

Section 2163. Reciprocal Application.--The provisions of this part relative to arbitration shall apply only to cases in which and so far as each of the states involved has a law identical or substantially similar to this part.

(2163 added Aug. 4, 1991, P.L.97, No.22)

PART IX
COLLECTION OF TAX
(IX added Aug. 4, 1991, P.L.97, No.22)

Section 2166. Timely Mailing Treated as Timely Filing and Payment.--Notwithstanding the provisions of any State tax law to the contrary, whenever a report or payment of all or any portion of a State tax is required by law to be received by the department or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with the law if the letter transmitting the report or payment of the tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received. For the purposes of this article, presentation of a receipt indicating that the report or payment was mailed by registered or certified mail on or before the due date shall be evidence of timely filing and payment. Any inheritance tax return filed after July 1, 2012,

under section 2136 that reports transfers of property that are exempt from the inheritance tax under section 2111(s), (s.1) and (t) shall be considered timely filed if filed within one year of the tax return due date, including an extended due date.

(2166 amended Oct. 30, 2017, P.L.672, No.43)

Section 2167. Lien and Duration of Lien.--The taxes imposed by this article, together with any interest on the taxes, shall be a lien upon the real property included in the transfer on which the taxes are imposed. Except as otherwise provided in this part, the lien shall remain until the taxes and interest are paid in full.

(2167 added Aug. 4, 1991, P.L.97, No.22)

Section 2168. Limited and Future Interests.--In the case of a transfer of any estate, income or interest for a term of years, for life or for other limited period, or constituting a future interest, the taxes imposed by this article, together with any interest on the tax, shall remain a lien until paid upon the entire real property by which the estate, income or interest is supported, or of which it is a part, and the lien shall be limited to the real property so transferred.

(2168 added Aug. 4, 1991, P.L.97, No.22)

Section 2169. Purchaser, Mortgagee or Lessee.--Unless suit for collection of the taxes imposed by this article is instituted within twenty years after any tax becomes delinquent, the lien shall cease as to any purchaser, mortgagee or lessee of a devisee or heir of, or a beneficiary under a deed of trust of, the real property subject to the lien. Any time within the twenty-year period, if any tax on the real property is not paid, the department shall have power to file a certificate, under its seal, certifying to nonpayment which, when filed in the office of the clerk of the county where the real property is situated, shall continue the lien against decedent's real property for an additional period of five years from the date of the filing and the lien shall be indexed in the office of the clerk. If the taxes on the real property are not paid within the additional period of five years, the department shall have power to extend the lien for additional periods of five years by filing a certificate in the manner provided in this section.

(2169 added Aug. 4, 1991, P.L.97, No.22)

Section 2170. Sale by Fiduciary.--If real property subject to the lien of taxes imposed by this article is sold or exchanged by a fiduciary who is subject to the jurisdiction of the court and who has given bond as required by 20 Pa.C.S. (relating to decedents, estates and fiduciaries), or is a corporate fiduciary which need not file bond under 20 Pa.C.S., the lien on the property sold shall cease.

(2170 added Aug. 4, 1991, P.L.97, No.22)

Section 2171. Sale by Heir, Devisee or Fiduciary.--If real property subject to the lien of taxes imposed by this article is sold or exchanged or otherwise disposed of by an heir, devisee or fiduciary, and if the inheritance tax, together with interest, is paid on all property reported in the tax return, including the property sold, which property has been appraised and tax assessed, the lien of any unpaid tax imposed by this article shall cease as to the property sold.

(2171 added Aug. 4, 1991, P.L.97, No.22)

Section 2172. Sale of Property Transferred Inter Vivos.--When real property or any income or interest in the real property or income has been transferred within the meaning of subsection (c) of section 2107 and the transferee has sold, mortgaged or leased the property or any income or interest in the property, the interest of a bona fide purchaser, mortgagee or lessee in the property shall not be subject to any lien for the taxes imposed by this article.

(2172 added Aug. 4, 1991, P.L.97, No.22)

Section 2173. Subordination of Lien.--If real property subject to the lien is mortgaged or leased by a fiduciary who is subject to the jurisdiction of the court and who has given a bond as required by 20 Pa.C.S. (relating to decedents, estates and fiduciaries), or is a corporate fiduciary which need not file bond under 20 Pa.C.S., the lien shall become

subject and subordinate to the rights and interests of the mortgagee, lessee or other person so secured.

(2173 added Aug. 4, 1991, P.L.97, No.22)

Section 2174. Cessation Upon Approval of Bond.--Upon approval of a bond for the payment of taxes imposed upon a transfer, the lien upon the real property shall cease. The amount of the bond shall not exceed the value of the real property transferred.

(2174 added Aug. 4, 1991, P.L.97, No.22)

Section 2175. Release of Lien.--(a) In case of a transfer, other than by will or intestacy, the department, upon satisfactory proof that no taxes are due which would be a lien on the real property transferred by reason of the death of the transferor, may release all or any portion of the property from any lien imposed by this article to which the property otherwise might be subject.

(b) The department may, at any time, release all or any portion of the real property subject to any lien imposed by this article from such lien or subordinate such lien to other liens and encumbrances if it determines that the taxes are sufficiently secured by a lien on other property of the decedent or that the release or subordination of the lien will not endanger or jeopardize the collection of the taxes.

(c) When inheritance tax in respect to the transfer of particular real property is paid on the value of the property without diminution for any deductions authorized by this article, other than a mortgage on the property existing at the date of the decedent's death, the department, upon request of a party in interest, shall issue a certificate evidencing the release of the property from the lien of tax.

(d) A certificate by the department to the effect that any real property or interest in real property subject to any lien imposed by this article has been released from the lien, or that the lien has been subordinated to other liens and encumbrances, shall be conclusive evidence as to any bona fide purchaser, encumbrancer or lessee that the lien has been released or subordinated.

(2175 added Aug. 4, 1991, P.L.97, No.22)

Section 2176. Enforcement Procedure.--(a) The court, at the request of the register, department or Office of Attorney General, shall issue a citation, directed to those liable for the payment of the taxes or subject to any other duty imposed by this article, commanding the person or persons to appear and show cause why the requirements of this article should not be met.

(b) The court may issue any decree warranted by the facts, according to equity.

(c) A citation to enforce payment of taxes due under this article or compliance with the duties required by this article shall be issued by the court upon application of the register, department or Office of Attorney General whenever any of the following occurs:

(1) A tax return is not filed within the time required by this article.

(2) Any tax due under this article remains delinquent.

(3) A Federal estate tax return has been filed but a copy of the return or a communication making a final change on the return has not been filed as required by section 2145.

(4) Any other duty imposed by this article remains unperformed.

(d) The register or department may issue subpoenas to compel the production of documents and the attendance of witnesses necessary for the administration of this article.

(e) Execution may be issued by the court against any real property in the decedent's estate on which a lien for the payment of the taxes imposed by this article exists or against any property belonging to a transferee liable for the tax.

(f) The department may bring suits in the courts of other states to collect death taxes (including interest and penalties on the taxes) imposed by this article. An official of another state which extends a like comity to the Commonwealth may sue for the collection of death taxes (including interest and penalties on the taxes) in the courts of this Commonwealth. A

certificate by the Secretary of State of another state, under the seal of that state, that an official has authority to collect its death taxes shall be conclusive evidence of the authority of the official in any suit for the collection of the taxes in any court of this Commonwealth.

(2176 added Aug. 4, 1991, P.L.97, No.22)

PART X
REFUND OF TAX
(X added Aug. 4, 1991, P.L.97, No.22)

Section 2181. Refund of Tax.--(a) A refund shall be made of any tax to which the Commonwealth is not rightfully or equitably entitled provided the Commonwealth determines the refund is due or application for refund is made within the appropriate time limit as set forth in subsection (d).

(b) Interest shall be paid on refundable tax at the same rate as the interest rate on deficiencies provided for in section 2143.

(c) Refund shall be made in cash to the party who paid the tax or to his assignee or as directed by the court.

(d) Application for refund of tax shall be made within three years after:

(1) the court has rescinded its order and adjudication of presumed death when the refund is claimed for tax paid on the transfer of the estate of a presumed decedent who is later determined to be alive;

(2) termination of litigation establishing a right to a refund; no application for refund shall be necessary when the litigation has been with the Commonwealth over liability for the tax or the amount of tax due;

(3) it has been finally determined that the whole or any part of an alleged deficiency tax, asserted by the Federal Government beyond that admitted to be payable, and in consequence of which an estate tax was paid under section 2117 was not payable;

(4) a final judgment holding that a provision of this article under which tax has been paid is unconstitutional or that the interpretation of a provision of this article under which tax has been paid was erroneous; or

(5) the date of payment, or the date of the notice of the assessment of the tax, or the date the tax becomes delinquent, whichever occurs later, in all other cases.

(e) An application for refund of tax shall be made to the department.

(e.1) A petition to review the decision and order of the department on a petition for refund may be made to the Board of Finance and Revenue under this article.

(f) The action of the Board of Finance and Revenue on all applications for refund of tax may be appealed as provided for in 42 Pa.C.S. § 933 (relating to appeals from government agencies).

(g) As much of the moneys received as payment of tax under this article as shall be necessary for the payment of the refunds provided for in this article with interest is appropriated for the payment of such refunds.

(2181 amended May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 2181 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

PART XI
DISPUTED TAX
(XI added Aug. 4, 1991, P.L.97, No.22)

Section 2186. Protest, Notice and Appeal.--(a) Any party in interest, including the Commonwealth and the personal representative, not satisfied with the appraisement, the allowance or disallowance of deductions, the assessment of tax, or supplements or any other matter relating to any tax imposed by this article, within sixty days after receipt of notice of the action complained of may:

(1) file with the department a written protest, sending a copy thereof to the Office of Attorney General;

(2) notify the register in writing that he elects to have the correctness of the action complained of determined at the audit of the account of the personal representative; or

(3) appeal to the court to have the correctness of the action complained of determined at the audit of the account of the personal representative, or at a time the court shall fix. The protest, notification or appeal shall specify all the objections to the action complained of. When the protest, notification or appeal is filed by the Commonwealth, a copy shall also be sent to the personal representative and to all other persons who filed a tax return.

(b) If a notification or appeal has been filed from an assessment of tax where it is contended that the rate of tax which will be applicable when a future interest vests in possession and enjoyment cannot presently be established with certainty and no compromise has been entered into pursuant to subsection (e) of section 2116, the court, after consideration of relevant actuarial factors, valuations and other pertinent circumstances, shall determine what portion of the transfer is to become taxed at each of the rates which might be applicable.

(c) Whenever any appeal or protest is brought pursuant to this part and the subject matter of the appeal concerns the valuation of certain farmland as set forth in section 2122, the forum designated by the department to hear the appeal or protest shall include at least two farmers and the Secretary of Agriculture. The farmers and the Secretary of Agriculture shall be accorded full powers within the forum with full voting rights.

(2186 added Aug. 4, 1991, P.L.97, No.22)

Section 2187. Bond.--No bond shall be required of any party in interest who files a protest or notification against, or appeals from, an appraisement, allowance or disallowance of a deduction, assessment of tax or supplements or other matter relating to the tax or from the decision of the department following a protest or who petitions for removal of the record to the court.

(2187 added Aug. 4, 1991, P.L.97, No.22)

Section 2188. Appeal and Removal from Department.--(a) Any party in interest, including the Commonwealth and the personal representative, not satisfied with the decision of the department upon a protest may appeal from the department to the court within sixty days after receipt of notice of the entry of the decision of the department. When no decision has been rendered by the department within thirty days after the protest has been filed with the department, the court upon petition of any party in interest may direct the department to transmit the entire record to the court. When an appeal is taken from the decision of the department or the court directs the department to transmit the entire record to the court, the court shall either proceed to a determination of the issues protested to the department or suspend the determination until the audit of the account of the personal representative.

(b) If the appeal or removal arises from an assessment of tax where it is contended that the rate of tax which will be applicable when a future interest vests in possession and enjoyment cannot presently be established with certainty, and no compromise has been entered into pursuant to subsection (e) of section 2116, the court after consideration of relevant actuarial factors, valuations and other pertinent circumstances shall determine what portion of the transfer is to become taxed at each of the rates which might be applicable.

(2188 added Aug. 4, 1991, P.L.97, No.22)

PART XII
ENTRY INTO SAFE DEPOSIT BOX
(XII added Aug. 4, 1991, P.L.97, No.22)

Section 2191. Entry Prohibited.--Unless provided otherwise in this part, no person having actual knowledge of the death of a decedent shall enter a safe deposit box of the decedent. This part shall not be construed

to confer upon any person any right of entry into a safe deposit box of a decedent which he does not otherwise have.

(2191 added Aug. 4, 1991, P.L.97, No.22)

Section 2192. Entry Without Notice to Department.--(a) A safe deposit box of a decedent may be entered and any or all of the contents removed in the presence of an employe of the financial institution in which the box is located. The employe shall make, or cause to be made, a record of the contents of the box, which record he shall attest under penalty of perjury to be correct and complete. The financial institution may make a reasonable charge for the attendance of its employe at the entry of the box and the listing of the contents, which charge shall be deductible as an administration expense under subclause (1) of section 2127.

(b) A safe deposit box of a decedent may be entered and any or all of the contents removed in the presence of a representative of the department authorized by the secretary. The department shall authorize at least one such representative in and for each county of this Commonwealth. The representative present at the time of entry into the box shall make or cause to be made a record of the contents of the box.

(c) The court for cause shown may order that a designated person or persons be permitted to enter a safe deposit box of a decedent and remove the contents described in the order, under supervision as the court may direct. The order may also require that a record be made of the contents of the box.

(d) Notwithstanding any of the provisions of this part, the department, at any time and without relation to the death of a specific decedent, by a certificate issued to a firm whose business requires ready access to safe deposit boxes, may issue a general authorization for the entry into, and removal of the contents of, a safe deposit box of a decedent, under terms and conditions as it may prescribe. A financial institution may permit such entry and removal upon presentation to it of such certificates issued by the department.

(e) Nothing in this part shall prohibit a financial institution from permitting entry into a safe deposit box of a decedent for the sole purpose of removing the decedent's will and evidence of ownership of the burial lot in which the decedent is to be interred. An employe of the financial institution must be present at the opening of the box and make or cause to be made a record of the documents removed from the safe deposit box during the entry and attest the record to be correct and complete under penalty of perjury.

(2192 added Aug. 4, 1991, P.L.97, No.22)

Section 2193. Entry Upon Notice to Department.--(a) When entry into a safe deposit box of a decedent is not or cannot be made under the provisions of subsection (a), (b), (c) or (d) of section 2192, a safe deposit box of a decedent may be entered at the time fixed in a notice mailed to the Department of Revenue, Harrisburg, Pennsylvania, and to the financial institution in which the box is located, in the manner specified in this section. The date fixed for entry and contained in the notice shall not be less than seven days after the date of notice is mailed. A representative of the department may be present at the time fixed for entry and may make or cause to be made a record of the contents of the box.

(b) The notice required under subsection (a) shall be delivered to the United States Postal Service for mailing in a manner that will provide for a record of the mailing being made by the United States Postal Service and a receipt being furnished to the sender. An exact copy of the notice shall be transmitted to the financial institution in which the box is located.

(c) At the time fixed in the notice required by subsection (a), although no representative of the department is present, it shall be lawful for a financial institution in which a safe deposit box of a decedent is located to permit, and it shall permit, entry into the box and removal of its contents by a person who furnishes a signed statement under penalty of perjury that he or someone in his behalf has given such notice.

(2193 added Aug. 4, 1991, P.L.97, No.22)

Section 2194. Subsequent Entries.--Nothing in this part shall be construed to impose any restriction upon reentry into a safe deposit box of a decedent at any time subsequent to an entry made in accordance with any of the provisions of this part other than subsection (e) of section 2192.

(2194 added Aug. 4, 1991, P.L.97, No.22)

Section 2195. Confidential Nature of Contents.--Any information gained from the contents of a safe deposit box of a decedent by a person whose attendance at the entry into the box was required by this part shall be confidential and shall not be disclosed for other than official purposes to collect the taxes imposed by this article.

(2195 added Aug. 4, 1991, P.L.97, No.22)

Section 2196. Penalties.--(a) Any employe of a financial institution in which the safe deposit box of a decedent is located who, having actual knowledge of the death of the decedent, enters or permits the entry by any person into a safe deposit box of the decedent in violation of the provisions of this part commits a misdemeanor of the third degree.

(b) Any person, other than an employe of a financial institution in which the safe deposit box of a decedent is located, who, having actual knowledge of the death of a decedent, enters a safe deposit box of the decedent in violation of the provisions of this part commits a misdemeanor of the third degree.

(c) Any person who violates the provisions of section 2195 commits a misdemeanor of the third degree.

(2196 added Aug. 4, 1991, P.L.97, No.22)

ARTICLE XXIII
PUBLIC TRANSPORTATION ASSISTANCE FUND
(Art. added July 1, 1994, P.L.413, No.67)

Section 2301. Public Transportation Assistance Fund.--(a) There is hereby created a special fund in the State Treasury to be known as the Public Transportation Assistance Fund. Moneys deposited into the fund and interest which accrues from those funds shall be used for the purposes delineated in 74 Pa.C.S. § 1310 (relating to distribution of funding).

(b) Funds received under the provisions of this section, as estimated and certified by the Secretary of Revenue, shall be deposited within five days of the end of each month into the fund. Unless otherwise specifically noted, the provisions of Article II shall apply to the fees and taxes imposed by subsections (c), (d) and (e).

(c) There is hereby imposed a fee on each sale in this Commonwealth of new tires for highway use at the rate of one dollar ($1) per tire. The fee shall be collected by the seller from the purchaser and remitted to the Department of Revenue. No exclusions or exemptions, other than those for governmental entities provided under Article II, shall apply to the fees and taxes imposed by this section.

(d) (1) There is hereby imposed on each lease of a motor vehicle subject to tax under Article II an additional tax of three per cent of the total lease price charged.

(2) As used in this subsection on and after April 1, 1995, the term "motor vehicle" does not include trucks in Class 4 or higher as defined in 75 Pa.C.S. § 1916(a)(1) (relating to trucks and truck tractors).

(e) Except as provided in subsection (e.1), there is hereby imposed on each rental of a motor vehicle subject to tax under Article II a fee of two dollars ($2) for each day or part of a day for which the vehicle is rented.

((e) amended Oct. 30, 2017, P.L.672, No.43)

(e.1) (1) There is hereby imposed on each rental of a motor vehicle subject to tax under Article II and used in carsharing, a peer-to-peer car-sharing program or car sharing by a shared vehicle owner a fee for each day or part of a day computed according to the following schedule:

Rental Interval	Fee
Less than 2 hours	$0.25
2 to 3 hours	$0.50
More than 3, but less than 6 hours	$1.25

6 hours or more $2.00

(2) For purposes of this subsection, the term "carsharing" shall mean a membership-based service that provides an alternative to personal car ownership and which meets the following conditions:

(i) Does not require a trip-specific written agreement each time a member rents a vehicle.

(ii) Does not require an attendant to be present at the beginning or end of a rental.

(iii) Offers members access to a dispersed network of shared vehicles 24 hours per day, 7 days per week, 365 days per year.

(iv) Allows a vehicle to be rented on a per minute, per hour, per day, or per trip basis, and at per mile or per kilometer rates, which typically include fuel, insurance and maintenance.

(3) For purposes of this subsection:

(i) The term "peer-to-peer car-sharing program" shall be as defined in section 201(qqq).

(ii) The term "shared vehicle owner" shall be as defined in section 201(uuu).

((e.1) amended July 8, 2022, P.L.513, No.53)

(f) ((f) deleted by amendment).

(2301 amended Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(18) of Act 46 of 2003, which amended section 2301, provided that the amendment shall apply to deposits into the Transportation Assistance Fund made after June 30, 2003.

Compiler's Note: Section 1310 of Title 74 (Transportation), referred to in subsection (a), was repealed by the act of July 18, 2007 (P.L.169, No.44).

Section 2302. Administration.--For fiscal years beginning after June 30, 2003, the Department of Revenue shall not make any transfers into or out of the Public Transportation Assistance Fund to adjust for prior year payments, credits, refunds or appeals.

(2302 added Dec. 23, 2003, P.L.250, No.46)

Compiler's Note: Section 33(19) of Act 46 of 2003, which added section 2302, provided that section 2302 shall apply to deposits into the Transportation Assistance Fund made after June 30, 2003.

ARTICLE XXIV
FIREWORKS
(Art. XXIV repealed July 11, 2022, P.L.762, No.74)

Section 2401. Definitions.--(2401 repealed July 11, 2022, P.L.762, No.74)

Section 2402. Permits--(2402 repealed July 11, 2022, P.L.762, No.74)

Section 2403. Request for extension.--(2403 repealed July 11, 2022, P.L.762, No.74)

Section 2404. Use of consumer fireworks.--(2404 repealed July 11, 2022, P.L.762, No.74)

Section 2404.1. Use of display fireworks.--(2404.1 repealed July 11, 2022, P.L.762, No.74)

Section 2405. Agricultural purposes.--(2405 repealed July 11, 2022, P.L.762, No.74)

Section 2406. Rules and regulations by municipality.--(2406 repealed July 11, 2022, P.L.762, No.74)

Section 2407. Sales locations.--(2407 repealed July 11, 2022, P.L.762, No.74)

Section 2408. Fees, granting of licenses and inspections.--(2408 repealed July 11, 2022, P.L.762, No.74)

Section 2409. Conditions for facilities.--(2409 repealed July 11, 2022, P.L.762, No.74)

Section 2410. Temporary structures.--(2410 repealed July 11, 2022, P.L.762, No.74)

Section 2411. Attorney General.--(2411 repealed July 11, 2022, P.L.762, No.74)

Section 2412. Consumer fireworks tax.--(2412 repealed July 11, 2022, P.L.762, No.74)

Section 2413. Disposition of certain funds.--(2413 repealed July 11, 2022, P.L.762, No.74)

Section 2414. Penalties.--(2414 repealed July 11, 2022, P.L.762, No.74)

Section 2415. Removal, storage and destruction.--(2415 repealed July 11, 2022, P.L.762, No.74)

Section 2416. Transition.--(2416 repealed July 11, 2022, P.L.762, No.74)

ARTICLE XXV
TABLE GAME TAXES
(Art. hdg. reenacted June 28, 2019, P.L.50, No.13)

Section 2501. Definitions.

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

"Certificate holder." As defined in 4 Pa.C.S. § 1103 (relating to definitions).

"Gross table game revenue." As defined in 4 Pa.C.S. § 1103.

"Table game." As defined in 4 Pa.C.S. § 1103.

(2501 reenacted June 28, 2019, P.L.50, No.13)

Section 2502. Table game taxes.

Commencing August 1, 2016, in addition to the tax payable under 4 Pa.C.S. § 13A62(a)(1) (relating to table game taxes), each certificate holder shall report to the Department of Revenue and pay from its daily gross table game revenue an additional tax of 2% of its daily gross table game revenue. The additional tax shall be subject to all provisions of 4 Pa.C.S. Ch. 13A (relating to table games) relating to the payment of taxes by a certificate holder in the same manner as the tax payable under 4 Pa.C.S. § 13A62(a)(1).

(2502 reenacted June 28, 2019, P.L.50, No.13)

Section 2502.1. General Fund deposit.

Notwithstanding 4 Pa.C.S. § 13A62(c) (relating to table game taxes), beginning on July 1, 2022, the tax imposed under section 2502 and the tax imposed under 4 Pa.C.S. § 13A62(a) shall be deposited into the General Fund.

(2502.1 added July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 25 of Act 53 of 2022 provided that the addition of section 2502.1 shall apply retroactively to July 1, 2022.

Section 2503. Expiration.--(2503 repealed June 30, 2021, P.L.124, No.25).

Compiler's Note: Section 32.1 of Act 13 of 2019 provided that the reenactment and amendment of section 2503 of this act shall apply retroactively to June 29, 2019.

ARTICLE XXVII
PROCEDURE AND ADMINISTRATION
(Art. added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006, which added Article XXVII, in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 2701. Definitions.

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

"Board." The Board of Finance and Revenue.

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

"Party." The term includes both a taxpayer and the department.

"Petitioner." A taxpayer.

"Return." The term includes a tax report.

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

(2701 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: See section 42(5) of Act 52 of 2013 in the appendix to this act for special provisions relating to applicability.

Section 2702. Petition for reassessment.

(a) General rule.--

(1) Except as provided under paragraph (2), a taxpayer may file a petition for reassessment with the department within 60 days after the mailing date of the notice of assessment.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for reassessment with the department within 90 days after the mailing date of the notice of assessment. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.

((a) amended Oct. 29, 2024, P.L.1086, No.123)

(a.1) Petition for review of tax adjustment not resulting in an increase in liability.--

(1) A petition for reassessment under subsection (a) may include a request for review of the department's adjustment of a tax item if the adjustment did not result in a tax increase in the year of adjustment but may increase the tax due in a subsequent year. A request for review may include:

(i) Recalculation of the taxpayer's corporate net income tax net loss under Article IV as adjusted by the department.

(ii) Recalculation of the taxpayer's capital stock franchise tax average net income under Article VI as adjusted by the department.

(iii) Recalculation of the personal income tax basis of an asset under Article III as adjusted by the department.

(2) A taxpayer must file a petition for review under this subsection within 60 days of the mailing date of the department's notice

of adjustment. A taxpayer's failure to file a petition under this subsection shall not prejudice the taxpayer's right to file a petition in a subsequent tax year. ((2) amended Oct. 30, 2017, P.L.672, No.43)

(a.2) Petition for review of denial of tax credit or tax benefit.--The following apply:

(1) A petition for reassessment under subsection (a) may include a request for review of a denial of an application for a tax credit or tax benefit made by an administering agency.

(2) The administering agency shall have the right to be represented in all proceedings before the department. An applicant filing a petition under paragraph (1) shall provide a copy of the petition to the administering agency within 30 days of the applicant filing the petition with the department.

(3) The department's review of a petition filed under paragraph (1) shall be limited to the administering agency's denial of a tax credit or tax benefit and shall not include a review of any underlying tax determinations.

(4) For the purposes of this subsection:

(i) The terms "applicant," "tax benefit" and "tax credit" shall have the same meaning as in section 1701-A.1.

(ii) The term "administering agency" shall have the same meaning as in section 1701-A.1 but shall not include the Department of Community and Economic Development.

((a.2) added June 30, 2021, P.L.124, No.25)

(b) Special rule for shares taxes.--((b) repealed July 9, 2013, P.L.270, No.52)

(c) Application to inheritance and estate taxes.--This section shall not apply to the taxes imposed by Article XXI. Part XI of Article XXI shall provide the exclusive procedure for protesting the appraisement and assessment of taxes imposed by Article XXI.

(2702 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 42(5.1) of Act 52 of 2013, which repealed subsec. (b), provided that the repeal shall apply to a petition for reassessment filed with the Department of Revenue on or after the effective date of par. (5.1). See section 43 of Act 52 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 30(8) of Act 85 of 2012, which added subsec. (a.1), provided that subsec. (a.1) shall apply to tax periods which, on the effective date of section 30, are open under Act 2; to administrative appeals pending on the effective date of section 30; and to judicial appeals pending on the effective date of section 30.

Compiler's Note: Section 47(2)(i) of Act 43 of 2017, which amended section 2702(a) and (a.1)(2), provided that the amendment of section 2702(a) and (a.1)(2) shall apply to petitions for refunds, petitions for reassessments and petitions for redeterminations filed with the department on or after 60 days from the effective date of section 47 of Act 43.

Section 2703. Petition procedure.

(a) Content of petition.--

(1) A petition for reassessment shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously assessed.

(iii) The basis upon which the taxpayer claims that the assessment is erroneous.

(iv) The basis upon which the taxpayer claims that the adjustment of a tax item is erroneous.

(2) A petition for refund shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been overpaid.

(iii) The basis of the taxpayer's claim for refund.

(2.1) A petition for review of the denial of an amended report under section 406.1 shall state:

(i) The tax type and tax period included within the petition.

(ii) The reasons why the tax stated in the amended report should be accepted.

((2.1) added July 13, 2016, P.L.526, No.84)

(2.2) A petition for review of tax adjustment not resulting in an increase in liability shall state:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously adjusted.

(iii) The basis upon which the taxpayer claims that the adjustment is erroneous.

((2.2) added June 30, 2021, P.L.124, No.25)

(2.3) A petition for review of denial of tax credit or tax benefit shall state:

(i) The tax credit or tax benefit program for which the applicant was denied.

(ii) The amount of the tax credit or tax benefit that the taxpayer claims to have been erroneously denied.

(iii) The basis upon which the taxpayer claims that the denial is erroneous.

((2.3) added June 30, 2021, P.L.124, No.25)

(3) The petition shall be supported by an affidavit by the petitioner or the petitioner's authorized representative that the petition is not made for the purpose of delay and that the facts set forth in the petition are true.

(b) Request for hearing.--Upon written request of the petitioner or when deemed necessary by the department, the department shall schedule a hearing to review a petition. The petitioner shall be notified by the department of the date, time and place where the hearing will be held.

(b.1) Participation of administering agency.--An administering agency of a tax credit or tax benefit shall be permitted to participate in a hearing before the department. The department shall notify the administering agency of the date, time and place where the hearing will be held. The administering agency shall be provided the opportunity to comment upon any submitted evidence and provide written and oral argument to support its denial. ((b.1) added June 30, 2021, P.L.124, No.25)

(c) Decision and order.--The department shall issue a decision and order disposing of a petition on such basis as it deems to be in accordance with law. The department shall provide a written explanation of the basis for any denial of relief.

(d) Time limit for decision and order.--The department shall issue a decision and order disposing of a petition within six months after receipt of the petition. The petitioner and the department may agree to extend the time period for the department to dispose of the petition for one additional six-month period. Notice of the department's decision and order disposing of the petition shall be issued to the petitioner.

(e) Exception to time limit for decision and order.--If at the time of the filing of a petition proceedings are pending in a court of competent jurisdiction wherein any claim made in the petition may be established, the department, upon the written request of the petitioner, may defer consideration of the petition until the final judgment determining the question or questions involved in the petition has been decided. If consideration of the petition is deferred, the department shall issue a decision and order disposing of the petition within six months after the final judgment.

(f) Failure of department to take action.--The failure of the department to dispose of the petition within the time period provided for by subsection (d) or (e) shall act as a denial of the petition. Notice of the department's failure to take action and the denial of the petition shall be mailed to the petitioner.

(2703 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: Section 51(8) of Act 84 of 2016, which added subsection (a)(2.1), provided that the addition of subsection (a)(2.1) shall apply to amended reports filed after December 31, 2016.

Compiler's Note: Section 30(8) of Act 85 of 2012, which added subsec. (a)(1)(iv), provided that subsec. (a) (1) (iv) shall apply to tax periods which, on the effective date of section 30, are open under Act 2; to administrative appeals pending on the effective date of section 30; and to judicial appeals pending on the effective date of section 30.

Section 2703.1. Board.

(a) Membership.--Notwithstanding any other law to the contrary, the Board of Finance and Revenue shall consist of the the following members:

(1) the State Treasurer or the State Treasurer's designee; and

(2) two members nominated by the Governor and approved by the Senate.

The State Treasurer or the State Treasurer's designee shall have one vote on the board, and the other two members shall each have one vote on the board.

(b) Terms.--Members nominated by the Governor and approved by the Senate shall serve an initial term of four and six years respectively as designated by the Governor at the time of nomination and until their successors have qualified. After the initial terms, members nominated by the Governor and approved by the Senate shall serve for a term of six years and until a successor has qualified.

(c) Member qualifications.--Each member nominated by the Governor and each member who is a designee of the State Treasurer must satisfy and maintain the following criteria:

(1) Be a citizen of the United States.

(2) Be a resident of the Commonwealth of Pennsylvania.

(3) Be an attorney in good standing before the Supreme Court of Pennsylvania or be a certified public accountant in good standing before the State Board of Accountancy.

(4) Have at least ten years of experience in a position requiring substantial knowledge of Pennsylvania tax law.

(5) Devote full time to the duties of the office and, while a member, may not engage in any other gainful employment or business nor hold another office or position of profit in a government of this Commonwealth, any other state or the United States. Nothing in this section may be interpreted to prohibit members of the board from serving in the National Guard and the reserves of the armed forces of the United States while a member of the board.

(d) Initial term.--The initial term of the members nominated by the Governor and approved by the Senate shall begin January 1, 2014.

(e) Nomination and approval.--The Governor may nominate and the Senate may approve the two board members referred to in subsection (a)(2) as of the effective date of this section.

(f) Renomination.--A member may be renominated upon the expiration of the member's term.

(g) Vacancies.--Any vacancy shall be filled for the unexpired term in the same manner as set forth in this section.

(h) Salary.--Each of the members of the board who are nominated by the Governor and approved by the Senate shall receive an annual salary to be determined by the executive board commensurate with the annual salary received by other boards and commissions.

(i) Operation of board.--Two members of the board shall constitute a quorum. The board shall elect a secretary, who need not be a member of the board. The State Treasurer shall be the chairman of the board and shall, in consultation with the other members, select and appoint the counsel, clerks and other employees as may be necessary to administer the responsibilities of the board and for the proper conduct of its work.

(j) Oath of office.--Before entering upon the duties of office, a member shall take and subscribe to an oath or affirmation to faithfully discharge the duties of the office.

(k) Actions of board.--The board may take any action that is necessary to properly exercise the duties, functions and powers given the board upon the effective date of this section.

(l) Need for majority.--The powers and duties vested in and imposed upon the board shall in all cases be exercised or performed by a majority of the board.

(m) Powers.--The board is authorized to promulgate and adopt all rules, regulations and forms as may be necessary or appropriate.

(2703.1 added July 9, 2013, P.L.270, No.52)

Compiler's Note: See section 42(6) of Act 52 of 2013 in the appendix to this act for special provisions relating to applicability.

Section 2704. Review by board.

(a) Petition for review of a decision and order.--

(1) Except as provided under paragraph (2), within 60 days after the mailing date of the department's notice of decision and order on a petition filed with it, a taxpayer may petition the board to review the decision and order of the department.

(2) For an assessment of tax imposed under Article III, a taxpayer may file a petition for review with the board within 90 days after the mailing date of the decision and order of the department. An extension of time for filing the petition may be allowed for cause but may not exceed an additional 30 days.

((a) amended Oct. 29, 2024, P.L.1086, No.123)

(b) Petition for review of denial by department's failure to act.--A petition for review may be filed with the board within 60 days after the mailing date of the department's notice to the petitioner of its failure to dispose of the petition within the time periods prescribed by section 2703(d) or (e). ((b) amended Oct. 30, 2017, P.L.672, No.43)

(c) Contents of petition.--

(1) A petition for review of the department's decision and order on a petition for reassessment shall state all of the following:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been erroneously assessed.

(iii) The basis upon which the taxpayer claims that the assessment is erroneous.

(2) A petition for review of the department's decision and order on a petition for refund shall state all of the following:

(i) The tax type and tax periods included within the petition.

(ii) The amount of the tax that the taxpayer claims to have been overpaid.

(iii) The basis of the taxpayer's claims for refund.

(2.1) All petitions for review shall identify a mailing address to which all correspondence and decisions can be mailed and received and, if so desired, an e-mail address to which all correspondence and decisions can be electronically sent. The board shall be permitted to rely upon the accuracy of the address provided by the taxpayer, and it shall be the duty of the taxpayer to notify the board if there is any change in an address provided to the board.

(3) A petition may satisfy the requirements of paragraphs (1)(iii) or (2)(iii) by incorporating by reference the petition filed with the department in which the basis of the taxpayer's claim is specifically stated.

(d) Affidavit.--A petition shall be supported by an affidavit by the petitioner or the petitioner's authorized representative that the petition is not made for the purpose of delay and that the facts set forth in the petition are true.

(d.1) Representation.--

(1) Appearances in tax appeal proceedings conducted by the board may be by the taxpayer or by an attorney, accountant or other representative provided the representation does not constitute the unauthorized practice of law as administered by the Pennsylvania Supreme Court.

(2) The department shall have the right to be represented in all tax appeal proceedings before the board. The secretary or the secretary's designee shall notify the board as to whom copies of all communications, notices and decisions should be sent on behalf of the department. Communications with the department's appointed representative shall be by electronic means.

(3) An administering agency of a tax credit or tax benefit shall be permitted to participate in all proceedings before the board. The board shall notify the administering agency of the date, time and place where the hearing will be held. The administering agency shall be provided the opportunity to comment upon any submitted evidence and provide written and oral argument to support its denial. ((3) added June 30, 2021, P.L.124, No.25)

(d.2) Evidence.--The petitioner and the department shall be entitled to present oral and documentary evidence in support of their positions. The petitioner and the department will be provided the opportunity to comment upon any submitted evidence and provide written and oral argument to support their positions.

(d.3) Ex parte communications.--The members or staff of the board shall not participate in any ex parte communications with the petitioner or the department or their representatives regarding the merits of any tax appeal pending before the board. Any information or documentation provided to the members or staff of the board by the petitioner or the department or their representatives in a communication regarding the merits of any appeal pending before the board shall also be promptly provided to the other party.

(d.4) Access to department's database.--The board shall be provided access to the department's records relating to a petition before the board.

(d.5) Request for hearing.--Upon written request of the petitioner or the department or when deemed necessary by the board, the board shall schedule a hearing to review a petition. The petitioner and the department shall be notified by the board of the date, time and place where the hearing will be held.

(d.6) Hearing practice.--Hearings shall be open to the public and shall be conducted in accordance with such rules of practice and procedure as the board may adopt and promulgate. On request of either party or on its own accord, the board may conduct part or all of the hearing as an executive session to the extent that if held in public it would violate a lawful privilege or lead to the disclosure of information or confidentiality protected by law.

(d.7) Compromise settlement.--The board shall establish procedures to facilitate the compromise settlement of issues on appeal. A compromise settlement shall be ordered by the board only with the agreement of both the petitioner and the department. The provisions of section 2707(c) shall be applicable to compromise settlements under this section.

(e) Decision and order.--The board shall issue a decision and order in writing disposing of a petition on any basis as it deems to be in accordance with law and equity. A decision and order shall include the conclusions reached and the facts on which the decision was based. The decision and order shall be approved by a majority of the board. A copy of the decision and order and any dissenting opinion shall be sent to the petitioner utilizing the method identified by the petitioner and by electronic means to the department.

(f) Time limit for decision and order.--

(1) Except as provided in paragraphs (2) and (3), the board shall issue a decision and order disposing of a petition within six months after receipt of the petition. Upon the request of the petitioner or the

department, the board may extend the time period for the board to dispose of the petition for one additional six-month period.

(2) If at the time of the filing of a petition proceedings are pending in a court of competent jurisdiction in which any claim made in the petition may be established, the board, upon the written request of the petitioner, may defer consideration of the petition until the final judgment determining the question or questions involved in the petition has been decided. If consideration of the petition is deferred, the board shall issue a decision and order disposing of the petition within six months after the final judgment.

(3) If a matter pending before the board would be materially affected by an audit or other proceeding before the Internal Revenue Service or by an audit or other proceeding conducted by another state, the board, upon the written request of the petitioner, may defer consideration of the petition until such time as the other audit or proceeding is completed. If consideration of the petition is deferred, the board shall issue a decision and order disposing of the petition within six months after the audit or other proceeding is final.

(g) Failure of board to take action.--The failure of the board to dispose of the petition within the time period provided for by subsection (f) shall act as a denial of the petition. Notice of the board's failure to take action and the denial of the petition shall be issued to the petitioner and the department. The mailing date of the notice shall begin the time for filing any appeal.

(h) Publication of decisions.--

(1) The board shall publish each decision, along with any dissenting opinion, which grants or denies in whole or in part a petition for review or a petition for refund.

(2) Prior to publication of a decision, the board shall edit the decision to redact the following:

(i) Information identified by the petitioner as and that meets the definition of a trade secret or confidential proprietary information as defined in section 102 of the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(ii) An individual's Social Security number, home address, driver's license number, personal financial information as defined in section 102 of the Right-to-Know Law, home, cellular or personal telephone numbers, personal e-mail addresses, employee number or other confidential personal identification number and a record identifying the name, home address or date of birth of a child 17 years of age or younger.

(iii) Specific dollar amounts of tax.

(iv) Information pursuant to the Right-to-Know Law.

(3) The disclosure of any remaining information, including the name of the taxpayer and the nature of the taxpayer's business, shall be deemed not to violate any provision of law to the contrary, including:

(i) Sections 274, 353 and 408.

(ii) 18 Pa.C.S. § 7326 (relating to disclosure of confidential tax information).

(iii) Section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(4) Decisions shall be indexed and published on a publicly accessible Internet website maintained by the board.

(i) Appeals.--An appeal from a decision of the board shall be to the Commonwealth Court and shall be de novo.

(2704 amended July 9, 2013, P.L.270, No.52)

Compiler's Note: See section 42(5) of Act 52 of 2013 in the appendix to this act for special provisions relating to applicability.

Compiler's Note: Section 47(2)(ii) of Act 43 of 2017, which amended section 2704(a) and (b), provided that the amendment of section 2704(a) and (b) shall apply to petitions for refunds, petitions for reassessments and petitions for redeterminations filed with the

department on or after 60 days from the effective date of section 47 of Act 43.

Section 2704.1. Settlement conference process.

(a) Settlement officer.--The board shall appoint one or more individuals to serve as a settlement officer for a settlement conference initiated under subsection (b), and the following shall apply:

(1) A settlement officer must be a third-party contractor retained by the board.

(2) A settlement officer:

(i) must be a citizen of the United States;

(ii) must be an attorney in good standing before the Supreme Court of Pennsylvania or a certified public accountant in good standing before the State Board of Accountancy;

(iii) must have significant experience in a position requiring substantial knowledge of Pennsylvania tax law; and

(iv) may not be employed by the department, board or the State Treasurer, other than in the capacity as a settlement officer.

(3) A settlement officer:

(i) shall be fair and impartial and is not permitted to preside over a settlement conference if the settlement officer cannot conduct it in an impartial manner; and

(ii) shall disclose, as soon as practicable, all actual and potential conflicts of interest that are reasonably known to the settlement officer and could reasonably be seen as raising a question about the officer's interest in the outcome unless the petitioner and the department consent in writing.

(4) The board may remove a settlement officer at its sole discretion.

(5) The State Treasurer shall set the compensation for a settlement officer.

(b) Request for settlement conference.--Notwithstanding section 2704(f)(1), either party may submit a request for or the board may direct, a settlement conference to settle a petition for review of a decision and order under the board's jurisdiction. The request for a settlement conference shall be submitted to the board, unless the settlement conference is directed by the board, by filing a written request with the petition or within 30 days of the petition being filed. The board may allow settlement conferences after the deadline in the exercise of discretion or upon application for good cause. The following shall apply:

(1) The board may defer consideration of the petition until after the parties terminate a settlement conference or the settlement conference is deemed terminated under subsection (e). If the board defers consideration of the petition, the board shall issue a decision and order disposing of the petition within six months of the party's refusal to participate in a settlement conference or termination.

(2) The party requesting a settlement conference shall simultaneously notify the other party or parties and the board of the request, unless the board initiated the settlement conference.

(3) A request for settlement must provide a brief description of the dispute and the relief requested. The nonrequesting party or parties must file a written response with the board and provide a copy to the requesting party in support of or opposition to the settlement conference within 10 business days of the requester's submission.

(4) The board, within five business days of receipt of the response in support of or opposition to the settlement conference, shall notify the parties in writing whether the board will refer an appeal to a settlement conference.

(5) A petitioner may decline to participate in a settlement conference upon providing the board with written notice of its intent not to participate within five business days of receipt of notice of the referral.

(c) Settlement conference.--The following shall apply to a settlement conference requested under subsection (b):

(1) A settlement conference shall be held no later than 60 days from the date the board refers a case for settlement conference.

(2) The settlement officer shall set the date, time and place for each conference. The parties shall respond to requests for conference dates in a timely manner, be cooperative in scheduling the earliest practicable date and adhere to the established conference schedule. The settlement officer, in the exercise of discretion or upon application for good cause, may reschedule a conference. The settlement officer shall provide notice of the conference to the parties in advance of the conference date.

(3) A settlement conference and related settlement conference communications are private proceedings. A representative of each party must attend each settlement conference. A party is not required to attend each settlement conference unless the party does not have representation. Other individuals may attend a settlement conference only with the permission of the parties and with the consent of the settlement officer.

(4) A settlement conference may be conducted virtually or in person.

(5) A settlement conference may not be recorded electronically or in any other manner, regardless of the consent of the parties.

(6) The following shall apply to representation at a settlement conference:

(i) A party is not required to retain representation for a settlement conference.

(ii) If a party retains representation, the party may be represented at a settlement conference by any individual of the party's choosing.

(7) The settlement officer shall conduct the settlement conference in an informal manner with the purpose of facilitating a settlement between the petitioner and the department. The settlement officer is authorized to conduct separate or ex parte meetings and other communications with the parties, and any representatives of the parties, before, during and after any scheduled settlement conference.

(8) Prior to and during the scheduled settlement conference, the parties and their representatives shall, as appropriate to each party's circumstances, exercise best efforts to prepare for and engage in a meaningful and productive settlement conference.

(9) The parties are encouraged to exchange all documents pertinent to the relief requested. The settlement officer may request the exchange of memoranda on issues, including the underlying interests and the history of the parties' negotiations. Information that a party wishes to keep confidential may be sent to the settlement officer, as necessary, in a separate communication with the settlement officer.

(10) Confidential information disclosed to a settlement officer by a party in the course of a settlement conference shall not be divulged by the settlement officer. The settlement officer shall maintain the confidentiality of all information obtained in the settlement conference, and all records, reports or other documents received by the settlement officer while serving in that capacity shall be confidential. The settlement officer shall be subject to the provisions and penalties of section 731 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

(11) The settlement officer must return to each respective party all documents containing confidential information presented at the settlement conference within 30 days after the earlier of the date that the board accepts a settlement or the board mails its order deciding the case.

(12) A party must submit to the board any documents intended to be used in support of the party's appeal. The documents must be submitted in accordance with the rules and procedures of the board for submitting additional evidence.

(13) The settlement officer shall not be compelled to divulge confidential records or to testify in regard to the settlement conference in any administrative, judicial or other proceeding.

(14) No confidential or privileged document or other record presented or included in a settlement conference shall be subject to access under the act of February 14, 2008 (P.L.6, No.3), known as the Right-to-Know Law.

(15) Each party to a settlement conference shall maintain the confidentiality of the settlement conference and shall not rely on or introduce as evidence in any administrative, judicial or other proceeding the following, unless agreed to by the parties or required by applicable law:

(i) Views expressed or suggestions made by a party or other participant with respect to a possible settlement of the dispute.

(ii) Admissions made by a party or other participant in the course of the settlement conference.

(iii) Proposals made or views expressed by the settlement officer.

(iv) The fact that a party had or had not indicated willingness to accept a proposal for settlement made by the settlement officer.

(16) A settlement officer is not a legal representative of any party and has no fiduciary duty to any party.

(d) Postsettlement conference procedures.--

(1) The settlement officer shall evaluate the merits of a dispute during the settlement conference. The evaluations shall be communicated to each party privately or, if the parties agree, to all parties jointly. Unless parties agree otherwise, evaluations shall be communicated orally.

(2) The settlement officer does not have the authority to impose a settlement on the parties. Subject to the discretion of the settlement officer, the officer may make oral or written recommendations for settlement to a party privately or, if the parties agree, to all parties jointly.

(3) In the event a settlement of all or some of the issues in dispute is not achieved within the scheduled settlement conference, the settlement officer may continue to communicate with the parties for a period of time not to exceed 30 days from the date of the settlement conference, during which time the parties agree to negotiate in earnest in an ongoing effort to facilitate a complete settlement.

(4) If the parties to a settlement conference come to an agreement, the parties shall present the terms of the settlement to the board for approval in writing signed by all parties within 10 business days after reaching the settlement. The settlement agreement shall be approved by the board if the board determines the agreement is not contrary to law.

(5) If the parties to a settlement conference cannot reach a settlement of any or all of the issues, the board shall proceed in accordance with the procedure specified in this act and regulations.

(6) A settlement agreement shall not be considered as precedent and cannot be appealed.

(e) Termination of a settlement conference.--The settlement conference shall be terminated:

(1) by the board approving a settlement agreement by the parties;

(2) by a written declaration by the settlement officer that further efforts at a settlement conference would not contribute to a resolution of the parties' dispute;

(3) by a written declaration of all parties that the settlement conference is terminated; or

(4) when the settlement officer has represented in writing to the board that there has been no communication between the settlement officer and any party or party's representative for 21 days following the conclusion of the settlement conference.

(f) Exclusion of liability.--A settlement officer is not a necessary or proper party in administrative, judicial or other proceedings relating to

the settlement conference. Notwithstanding any provision of law to the contrary, parties to a settlement conference under this section shall be deemed to have consented that the settlement officer shall not be liable to any party for any error, act or omission in connection with any settlement conference conducted under this section. Parties to a settlement conference under this section may not call a settlement officer as a witness in litigation or any other proceeding relating to the settlement conference. The settlement officer is not competent to testify as a witness in any proceeding related to the settlement conference.

(g) Rules and regulations.--The board may adopt rules and promulgate regulations necessary to effectuate this section.

(h) Laws not applicable.--The provisions of 2 Pa.C.S. (relating to administrative law and procedure) shall not apply to a settlement conference conducted under this section.

(2704.1 added Oct. 29, 2024, P.L.1086, No.123)

Section 2705. Burden of proof.

Except as otherwise provided by this act, in all cases of petitions filed pursuant to this article, the burden of proof shall be upon the petitioner or appellant, as the case may be.

(2705 added Oct. 18, 2006, P.L.1149, No.119)

Section 2706. Abatement of additions or penalties.

Upon the filing of a petition for reassessment or a petition for refund as provided under this act by a taxpayer, additions or penalties imposed upon the taxpayer by the laws of this Commonwealth may be waived or abated, in whole or in part, where the petitioner has established that he has acted in good faith, without negligence and with no intent to defraud.

(2706 added Oct. 18, 2006, P.L.1149, No.119)

Section 2707. Compromise by secretary.

(a) General rule.--A taxpayer who has filed a petition for relief under section 2703 or any other statutory provision allowing for administrative tax appeal to the department may propose a compromise of the amount of liability for tax, interest, penalty, additions or fees administered by the department. The compromise offer must be submitted prior to a final decision by the department on the petition. An informal conference, in person or by telephone, may be conducted by the department with representatives of the department and the petitioner. If the compromise offer is accepted, the department shall issue an order reflecting the compromise that shall not be subject to further appeal.

(b) Bases for compromise.--There shall be two bases for compromise:

(1) doubt as to liability; and

(2) the promotion of effective tax administration.

(c) Ineligible for compromise.--The following are not eligible for compromise:

(1) a petition of denial of property tax or rent rebate claim;

(2) a petition of denial of a charitable tax exemption;

(3) a petition of the revocation of a sales tax license;

(4) a petition of jeopardy assessments; or

(5) a petition arising under 4 Pa.C.S. Pt. II (relating to gaming).

(2707 added July 2, 2012, P.L.751, No.85)

Section 2708. Closing agreements.

(a) Authorization.--The department is authorized to enter into an agreement in writing with any person relating to the liability of the person, or of the person or estate for whom the person acts, in respect of any tax administered by the department for any taxable period.

(b) Finality.--If the agreement is approved by the department, within a time as may be stated in the agreement or later agreed to, the agreement shall be final and conclusive, and, except upon a showing of fraud, malfeasance or misrepresentation of a material fact:

(1) The case shall not be reopened as to the matters agreed upon or the agreement modified by any officer, employee or agent of the department.

(2) In a suit, action or proceeding, the agreement, or any determination, assessment, collection, payment, abatement, refund or

credit made in accordance with the agreement, shall not be annulled, modified, set aside or disregarded.

(c) Liabilities suspended.--If, pursuant to an agreement authorized by subsection (a), the department agrees to suspend the collection of any amounts of tax, penalties, interest or other additions to tax, the department may reimpose any of the suspended amounts if the person who entered into the agreement fails to comply with the terms of the agreement.

(2708 added Oct. 29, 2024, P.L.1086, No.123)

Section 2709. Report to General Assembly.

No later than June 1 of the second year after the effective date of this section, and each year thereafter, the State Treasurer shall submit a report to the General Assembly summarizing the effectiveness of the settlement conference process implemented under section 2704.1. A copy of the report shall be delivered to the chairman and minority chairman of the Finance Committee of the Senate and the chairman and minority chairman of the Finance Committee of the House of Representatives. The report shall, at a minimum, include:

(1) The number of appeals of tax liability resolved through the settlement conference process.

(2) The number of appeals of tax liability that were not resolved through the settlement conference process.

(3) Of the taxpayers whose appeals were resolved through the settlement conference process, how many were individual taxpayers and how many were pass-through entities.

(4) The average amount of tax liability contested in cases that were resolved through the settlement conference process.

(5) The average number of days it took for appeals of tax liability to be resolved through the settlement conference process.

(6) Recommendations to improve the effectiveness of the settlement conference process, which may be implemented through administrative procedure, guidelines, rules, regulations or legislation.

(7) Any other information deemed necessary by the State Treasurer.

(2709 added Oct. 29, 2024, P.L.1086, No.123)

ARTICLE XXVIII
TOBACCO MASTER SETTLEMENT PAYMENT REVENUE BONDS AND SALE OF REVENUE
(Art. added Oct. 30, 2017, P.L.672, No.43)

Section 2801. Definitions.

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

"Account." The Tobacco Revenue Bond Debt Service Account established in section 2805.

"Annual payment." A payment received by the Commonwealth under section IX(c)(1) of the Master Settlement Agreement.

"Authority." The Commonwealth Financing Authority established under 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority).

"Executive director." The executive director of the Commonwealth Financing Authority.

"Finance." The issuance of revenue bonds utilizing a portion of annual payments due to the Commonwealth under the Master Settlement Agreement.

"Fund." The Tobacco Settlement Fund.

"Master Settlement Agreement." The settlement agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers approved by the Court of Common Pleas, Philadelphia County, on January 13, 1999.

"Office." The Governor's Office of the Budget.

"Sales agreement." A written contract entered into under section 2803.1 under which a portion of the revenue the Commonwealth will receive under the Master Settlement Agreement is sold.

"Secretary." The Secretary of the Budget of the Commonwealth.

"Tobacco Settlement Act." The act of June 26, 2001 (P.L.755, No.77), known as the Tobacco Settlement Act.

(2801 added Oct. 30, 2017, P.L.672, No.43)

Section 2802. Bond issuance or sales agreement.

(a) Declaration of policy.--The General Assembly finds and declares that:

(1) The Commonwealth experienced a revenue deficit of $1,106,700,308 in General Fund revenue collections for fiscal year 2016-2017.

(2) The Commonwealth's General Fund continues to experience a structural deficit where annual expenditures exceed recurring revenue collections.

(3) The General Fund for fiscal year 2016-2017 revenue shortfall in combination with the structural deficit, increased expenditure needs and increased tax refunds resulted in a significant negative ending balance in the General Fund of approximately $1,539,000,000 for fiscal year 2016-2017.

(4) A significant portion of the Commonwealth's General Fund annual expenditures are dedicated to the protection of the health, safety and general welfare of the people of this Commonwealth and the furtherance of economic development and efficiency within this Commonwealth by providing basic services and facilities.

(5) The ability of the Commonwealth to provide for the protection of the health, safety and general welfare of the people of this Commonwealth and the provision of basic services and facilities is jeopardized by the General Fund for fiscal year 2016-2017 revenue deficit and the continuing structural deficit.

(6) The provisions of 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority) are entitled to liberal construction in order to effect legislative and public purposes.

(7) One of the stated purposes of 64 Pa.C.S. Ch. 15 is "to protect the health, safety and general welfare of the people of this Commonwealth and to further encourage economic development and efficiency within this Commonwealth by providing basic services and facilities, it is necessary to provide additional or alternate means of financing infrastructure facilities, transportation systems, industrial parks, energy conversion facilities, facilities for the furnishing of energy, water and telecommunications, facilities for the collection or treatment of wastewater and storm water, tourism, parking facilities, health care facilities and other basic service and related facilities which are conducive to economic activity within this Commonwealth" under 64 Pa.C.S. § 1503(6) (relating to findings and declaration of policy).

(8) The fund is a special revenue fund established for the purpose of providing funding for various Commonwealth programs.

(9) Utilizing a portion of annual payments received through the Master Settlement Agreement and deposited in the fund to leverage funding to offset the effect of the fiscal year 2016-2017 revenue deficit and the structural deficit is in the best interest of the Commonwealth to provide General Fund budgetary relief necessary for the protection of the health, safety and general welfare of the people of this Commonwealth and the provision of basic services and facilities.

(b) Authority.--Notwithstanding any other law, the authority is authorized to enter into a sales agreement on behalf of the Commonwealth or to issue bonds, the proceeds of either of which shall be deposited in the General Fund to provide General Fund budgetary relief necessary for the protection of the health, safety and general welfare of the people of this Commonwealth and the furtherance of economic development and efficiency within this Commonwealth by providing basic services and facilities.

(c) Duty.--The authority shall issue bonds under section 2803 or enter into a sales agreement under section 2803.1. An issuance or sale under this article shall be undertaken in a manner consistent with the best interest of the Commonwealth and in a way that provides the greatest value to taxpayers and furthers the purposes of this article.

(d) Procedures for sale.--A sale under this article shall be in accordance with the following:

(1) No later than 45 days after the effective date of this section, the executive director shall accept statements of qualifications and expressions of interest from persons in relation to a sale under this article. The executive director may specify a uniform format for statements of qualifications and required information. Persons may amend these statements at any time by filing a new statement.

(2) The executive director or a designee of the executive director may conduct discussions with any responsible offeror to determine the offeror's qualifications for further consideration. Discussions shall not disclose any information derived from proposals submitted by other offerors.

(3) The State Employees' Retirement System and the Public School Employees' Retirement System may each submit to the executive director a statement of qualification and expression of interest under paragraph (1).

(4) An award to enter into a sales agreement under this article shall be made to the responsible offeror determined in writing by the authority to be best qualified based on the evaluation factors set forth in the request for proposals. The provisions of 64 Pa.C.S. § 1512(d)(1) (relating to board) shall apply to a decision to award under this paragraph. If terms cannot be agreed upon with the best-qualified, responsible offeror, negotiations will be formally terminated with the offeror. If proposals were submitted by one or more other responsible offerors, negotiations may be conducted with the other responsible offeror or responsible offerors in the order of their respective qualification ranking. The sales agreement may be entered into with the responsible offeror then ranked as best qualified if the amount of compensation is determined to be fair and reasonable.

(e) Debt or liability.--

(1) Bonds issued or a sales agreement entered into under this article shall not be a debt or liability of the Commonwealth and shall not create or constitute an indebtedness, liability or obligation of the Commonwealth.

(2) Bond obligations or obligations under a sales agreement shall be payable solely from revenues or funds pledged or available for repayment or payment as authorized under this article.

(3) Each bond must contain on its face a statement that:

(i) The authority is obligated to pay the principal of or interest on the bonds only from the revenues or funds pledged or available for repayment as authorized under this article.

(ii) The Commonwealth shall not be obligated to pay the principal of or interest on the bonds.

(iii) The full faith and credit of the Commonwealth is not pledged to the payment of the principal of or the interest on the bonds.

(4) Each sales agreement under this article must contain a statement that:

(i) The authority is obligated to pay the portion of the revenue the Commonwealth will receive under the Master Settlement Agreement only from the revenues or funds identified or available for payment as authorized under this article.

(ii) The Commonwealth shall not be obligated to pay any amount provided in the sales agreement.

(iii) The full faith and credit of the Commonwealth is not pledged to the payment of any amount provided in the sales agreement.

(2802 added Oct. 30, 2017, P.L.672, No.43)

Section 2803. Limitations on bond issuance.

(a) Maximum principal amount.--If the authority issues bonds under this article, the authority may issue bonds in a maximum aggregate principal amount sufficient to raise net proceeds of $1,500,000,000.

(b) Limitation.--The authority shall not issue any bonds under this article, except refunding bonds, after June 30, 2018. The authority, in consultation with the office, shall determine the principal amounts of taxable bonds and tax-exempt bonds to be issued during fiscal year 2017-2018.

(c) Refunding bonds.--Notwithstanding any other limitation, the authority, at the request of the secretary, may issue refunding bonds at any time while bonds issued under this article are outstanding, provided that the final maturity of a series of bonds being refunded shall not be extended.

(d) Interest.--Interest on bonds issued under this article and refunding bonds authorized under this section shall be payable at the time or times the authority determines in the resolution authorizing the bonds and, except as provided under subsection (e), shall otherwise be subject to the other provisions of 64 Pa.C.S. Ch. 15 (relating to Commonwealth Financing Authority). Interest may be capitalized for a period not to exceed two years.

(e) Debt limitations.--The aggregate principal amount of bonds specified in this section shall not be subject to the debt limitations specified in 64 Pa.C.S. § 1543 (relating to indebtedness).

(f) Term of bonds.--The term of the bonds issued under this article may not exceed 30 years.

(2803 added Oct. 30, 2017, P.L.672, No.43)

Section 2803.1. Limitations on sales agreement.

(a) Maximum amount.--If the authority enters into a sales agreement under this article, the authority may enter into a sales agreement to sell a portion of the revenue the Commonwealth will receive under the Master Settlement Agreement in a maximum aggregate amount sufficient to raise net proceeds of $1,500,000,000 during the 2017-2018 fiscal year.

(b) Limitation.--The authority shall not enter into an agreement under this article after June 30, 2018.

(c) Terms of agreement.--The sales agreement may not provide for a sale of revenue in excess of 10 years' worth of payments received by the Commonwealth under the Master Settlement Agreement. No payments from the Master Settlement Agreement may be required under the sales agreement before July 1, 2018.

(2803.1 added Oct. 30, 2017, P.L.672, No.43)

Section 2804. Finance pledge.

(a) Annual payments for bond issuance.--

(1) For a bond issuance under this article, annual payments received under the Master Settlement Agreement are pledged by the Commonwealth in the amount certified by the secretary under paragraph (2) for payment of principal and interest for bonds issued by the authority under this article.

(2) The secretary shall certify the amount of annual payments to be pledged for payment of principal and interest for the bonds issued by the authority under this article within 30 days of the closing date of the bond transaction. The certification shall be published as a notice in the Pennsylvania Bulletin.

(b) Annual payments for sales agreement.--

(1) Annual payments received under the Master Settlement Agreement are pledged by the Commonwealth in the amount provided in the sales agreement entered into by the authority under this article.

(2) The secretary shall certify the amount of annual payments under the Master Settlement Agreement to be pledged for payment under the sales agreement entered into by the authority under this article within 30 days of the effective date of the sales agreement. The certification shall be published as a notice in the Pennsylvania Bulletin.

(c) General revenues.--

(1) For a bond issuance, the Commonwealth may pledge revenues collected by the Commonwealth under Article II for the payment of principal and interest for the bonds issued by the authority under this article. A pledge made under this subsection shall be subordinate to the

pledge of Article II revenues made before the effective date of this section for outstanding indebtedness of the authority.

(2) The secretary shall certify the maximum annual amount of general revenues to be pledged to supplement amounts pledged under subsection (a) for payment of principal and interest for bonds issued by the authority under this article within 30 days of the closing date of the bond transaction. The certification shall be published as a notice in the Pennsylvania Bulletin.

(2804 added Oct. 30, 2017, P.L.672, No.43)

Section 2805. Tobacco Revenue Bond Debt Service Account.

(a) Establishment.--There is established in the State Treasury a restricted account in the General Fund to be known as the Tobacco Revenue Bond Debt Service Account.

(b) Annual payments.--The amount of each annual payment received under the Master Settlement Agreement and pledged by the Commonwealth under section 2804 and certified by the secretary for the payment of principal and interest for bonds issued under this article shall be deposited in the account upon receipt of each annual payment.

(c) General revenue.--General revenues pledged by the Commonwealth in section 2804 and certified by the secretary for the payment of principal and interest for bonds issued under this article shall be deposited in the accounts in amounts determined by the secretary.

(d) Payments on bonds.--Payments of principal and interest due on the bonds shall be made from the account.

(2805 added Oct. 30, 2017, P.L.672, No.43)

Section 2806. Service agreement for bond issuance authorized.

(a) Authorization.--For a bond issuance under this article, the authority and the office may enter into an agreement or service agreement to effectuate the purposes of this article, including an agreement to secure bonds issued under this article, under which the secretary shall agree to pay service charges to the authority in each fiscal year that the bonds or refunding bonds are outstanding in amounts sufficient to timely pay in full the debt service and any other financing costs due on the bonds issued under this article.

(b) Payment of service charges.--The office's payment of any service charges shall be subject to and dependent upon approval by the authority and the appropriation of funds by the General Assembly to the office for payment of any service charges.

(c) Amendment of agreement.--The service agreement may be amended or supplemented by the authority and the office in connection with the issuance of a series of bonds or refunding bonds authorized in this section.

(2806 added Oct. 30, 2017, P.L.672, No.43)

Section 2806.1. Service agreement for sales agreement authorized.

(a) Authorization.--For a sales agreement under this article, the authority and the office may enter into an agreement or service agreement to effectuate the purposes of this article, including a direction to the secretary to pay all or a specified portion of the tobacco settlement revenues directly to a person who has entered into a sales agreement under this article.

(b) Payment of service charges.--The office's payment of any service charges shall be subject to and dependent upon approval by the authority and the appropriation of funds by the General Assembly to the office for payment of any service charges.

(c) Amendment of agreement.--The service agreement may be amended or supplemented by the authority and the office in connection with a sales agreement under this article.

(2806.1 added Oct. 30, 2017, P.L.672, No.43)

Section 2807. Submission of sales agreement.

A certified copy of a sales agreement entered into under this article shall be submitted to the Governor, State Treasurer, office, President pro tempore of the Senate, Minority Leader of the Senate, Speaker of the House

of Representatives and Minority Leader of the House of Representatives promptly upon execution and delivery of the sales agreement.
(2807 added Oct. 30, 2017, P.L.672, No.43)
Section 2808. Deposit of proceeds.
The net proceeds of a sales agreement entered into or bonds issued under this article, other than refunding bonds, exclusive of costs of issuance, reserves and other financing charges, shall be transferred by the authority to the State Treasurer for deposit into the General Fund and shall be available for expenditure as provided in this article in accordance with appropriations by the General Assembly.
(2808 added Oct. 30, 2017, P.L.672, No.43)
Section 2809. Limitation on appropriations.
The amount of annual payments from the Master Settlement Agreement that are pledged and certified by the secretary under section 2804 for the payment of principal and interest for bonds issued under this article or for payments required under a sales agreement under this article shall not be subject to appropriation under section 1713-A.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.
(2809 added Oct. 30, 2017, P.L.672, No.43)

ARTICLE XXIX
GOVERNMENTAL OBLIGATIONS
(Art. added Dec. 3, 1993, P.L.473, No.68)

Section 2901. Taxability of Government Obligations.--(a) Except as provided in subsections (b) and (c), all obligations, interest on obligations and income from obligations issued on or after the effective date of this section by the Commonwealth, any public authority, commission, board or other agency created by the Commonwealth or any political subdivision of the Commonwealth or any public authority created by any political subdivision of the Commonwealth shall at all times be free from taxation for State and local purposes within the Commonwealth.
(b) Government obligations described in subsection (a) shall continue to be subject to inheritance and estate taxes imposed by Article XXI.
(c) Profits, gains or income derived from the sale, exchange or other disposition of government obligations described in subsection (a) shall be subject to State or local taxation.
(2901 added Dec. 3, 1993, P.L.473, No.68)

ARTICLE XXIX-A
TAX AMNESTY PROGRAM
(Art. deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2901-A. Definitions.--(2901-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2902-A. Establishment of Amnesty Program.--(2902-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2903-A. Required Payment.--(2903-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2904-A. Amnesty Contingent on Continued Compliance.--(2904-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2905-A. Limitation of Deficiency Assessment.--(2905-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2906-A. Overpayment of Tax.--(2906-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2907-A. Previously Paid Interest and Penalties.--(2907-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2908-A. Proceedings Relating to Tax Amnesty Return Barred.--(2908-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2909-A. Undisclosed Liabilities.--(2909-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)
Section 2910-A. Duties of Department.--(2910-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2911-A. Method of Payment.--(2911-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2912-A. Exemption from Review Process.--(2912-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2913-A. Use of Revenue.--(2913-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2914-A. Penalties for Certain Corporate Officers.--(2914-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2915-A. Further Examination of Books and Records.--(2915-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2916-A. Additional Penalty.--(2916-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2917-A. Application of Penalty and Powers.--(2917-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2918-A. Construction.--(2918-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

Section 2919-A. Suspension of Inconsistent Acts.--(2919-A deleted by amendment Oct. 9, 2009, P.L.451, No.48)

ARTICLE XXIX-B
HOMEOWNERS' CENTURY TAX REBATE
(Art. expired December 31, 2001. See Act 23 of 2000.)

Section 2901-B. Short Title of Article.--(2901-B expired December 31, 2001. See Act 23 of 2000.)

Section 2902-B. Definitions.--(2902-B expired December 31, 2001. See Act 23 of 2000.)

Section 2903-B. Rebate Qualifications.--(2903-B expired December 31, 2001. See Act 23 of 2000.)

Section 2904-B. Rebate Administration.--(2904-B expired December 31, 2001. See Act 23 of 2000.)

Section 2905-B. Petitions for Review.--(2905-B expired December 31, 2001. See Act 23 of 2000.)

Section 2906-B. Penalties.--(2906-B expired December 31, 2001. See Act 23 of 2000.)

Section 2907-B. Erroneous Rebates.--(2907-B expired December 31, 2001. See Act 23 of 2000.)

Section 2908-B. Construction.-(2908-B expired December 31, 2001. See Act 23 of 2000.)

Section 2909-B. Expiration.--(2909-B expired December 31, 2001. See Act 23 of 2000.)

ARTICLE XXIX-C
STRATEGIC DEVELOPMENT AREAS
(Art. expired December 31, 2022. See Act 151 of 2006.)

PART I
PRELIMINARY PROVISIONS
(Pt. expired December 31, 2022. See Act 151 of 2006.)

Section 2901-C. Scope.
(2901-C expired December 31, 2022. See Act 151 of 2006.)

Section 2902-C. Legislative findings.
(2902-C expired December 31, 2022. See Act 151 of 2006.)

Section 2903-C. Definitions.
(2903-C expired December 31, 2022. See Act 151 of 2006.)

PART III
STRATEGIC DEVELOPMENT AREAS
(Pt. III expired December 31, 2022. See Act 151 of 2006.)

Section 2911-C. Strategic development areas.
(2911-C expired December 31, 2022. See Act 151 of 2006.)
Section 2912-C. Qualified businesses.
(2912-C expired December 31, 2022. See Act 151 of 2006.)
Section 2913-C. Procedure for approval by political subdivisions.
(2913-C expired December 31, 2022. See Act 151 of 2006.)
Section 2914-C. Decertification.
(2914-C expired December 31, 2022. See Act 151 of 2006.)

PART V
STATE TAXES
(Pt. V expired December 31, 2022. See Act 151 of 2006.)

SUBPART A
GENERAL PROVISIONS
(Subpt. A expired December 31, 2022. See Act 151 of 2006.)

Section 2921-C. State taxes.
(2921-C expired December 31, 2022. See Act 151 of 2006.)

SUBPART B
PARTICULAR STATE TAXES
(Subpt. B expired December 31, 2022. See Act 151 of 2006.)

Section 2931-C. Sales and use tax.
(2931-C expired December 31, 2022. See Act 151 of 2006.)
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(2932-C expired December 31, 2022. See Act 151 of 2006.)
Section 2933-C. Nonresidency considerations.
(2933-C expired December 31, 2022. See Act 151 of 2006.)
Section 2934-C. (Reserved).
(2934-C expired December 31, 2022. See Act 151 of 2006.)
Section 2935-C. Corporate net income tax.
(2935-C expired December 31, 2022. See Act 151 of 2006.)
Section 2936-C. Capital stock franchise tax.
(2936-C expired December 31, 2022. See Act 151 of 2006.)
Section 2937-C. (Reserved).
(2937-C expired December 31, 2022. See Act 151 of 2006.)
Section 2938-C. Strategic development area job tax credit.
(2938-C expired December 31, 2022. See Act 151 of 2006.)
Section 2939-C. Strategic development area job creation tax credit.
(2939-C expired December 31, 2022. See Act 151 of 2006.)

PART VII
LOCAL TAXES
(Pt. VII expired December 31, 2022. See Act 151 of 2006.)

Section 2941-C. Local taxes.
(2941-C expired December 31, 2022. See Act 151 of 2006.)
Section 2942-C. Real property tax.
(2942-C expired December 31, 2022. See Act 151 of 2006.)
Section 2943-C. Local earned income and net profits taxes; business privilege taxes.
(2943-C expired December 31, 2022. See Act 151 of 2006.)
Section 2944-C. Mercantile license tax.
(2944-C expired December 31, 2022. See Act 151 of 2006.)
Section 2945-C. Local sales and use tax.
(2945-C expired December 31, 2022. See Act 151 of 2006.)

PART IX
ADMINISTRATION OF TAX PROVISIONS
(Pt. IX expired December 31, 2022. See Act 151 of 2006.)

Section 2951-C. Transferability.
(2951-C expired December 31, 2022. See Act 151 of 2006.)
Section 2952-C. Recapture.
(2952-C expired December 31, 2022. See Act 151 of 2006.)
Section 2953-C. Delinquent or deficient State or local taxes.
(2953-C expired December 31, 2022. See Act 151 of 2006.)
Section 2954-C. Code compliance.
(2954-C expired December 31, 2022. See Act 151 of 2006.)
Section 2955-C. Appeals.
(2955-C expired December 31, 2022. See Act 151 of 2006.)
Section 2956-C. Notice requirements; State and local authorities.
(2956-C expired December 31, 2022. See Act 151 of 2006.)
Section 2957-C. Application time.
(2957-C expired December 31, 2022. See Act 151 of 2006.)

PART XI
(RESERVED)
(Pt. XI (Reserved) expired December 31, 2022. See Act 151 of 2006.)

PART XIII
MISCELLANEOUS PROVISIONS
(Pt. XIII expired December 31, 2022. See Act 151 of 2006.)

Section 2971-C. Illegal activity.
(2971-C expired December 31, 2022. See Act 151 of 2006.)
Section 2972-C. Rules and regulations.
(2972-C expired December 31, 2022. See Act 151 of 2006.)
Section 2973-C. Compliance.
(2973-C expired December 31, 2022. See Act 151 of 2006.)
Section 2974-C. Penalties.
(2974-C expired December 31, 2022. See Act 151 of 2006.)
Section 2975-C. Construction.
(2975-C expired December 31, 2022. See Act 151 of 2006.)
Section 2976-C. Applicability.
(2976-C expired December 31, 2022. See Act 151 of 2006.)
Section 2977-C. Severability.
(2977-C expired December 31, 2022. See Act 151 of 2006.)
Section 2978-C. Repeals.
(2978-C expired December 31, 2022. See Act 151 of 2006.)
Section 2979-C. Expiration.
(2979-C expired December 31, 2022. See Act 151 of 2006.)

SUBARTICLE A
PRELIMINARY PROVISIONS
(Subart. hdg. added June 30, 2021, P.L.124, No.25)

Compiler's Note: See section 29 of Act 56 of 2024 in the appendix to this act for special provisions relating to certification requirements.

Section 2901-D. Definitions.

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

"Blockchain." A distributed ledger technology in which the data is:

(1) shared across a network that creates a digital ledger of verified transactions or information among network participants; and

(2) typically linked using cryptography to maintain the integrity of the digital ledger and execute other functions, including the transfer of ownership or value.

(Def. added July 11, 2024, P.L.674, No.56)

"Computer data center." All or part of a facility that may be composed of one or more businesses, owners or tenants, that is or will be predominantly used to house working servers or similar data storage systems and that may have uninterruptible energy supply or generator backup power, or both, cooling systems, towers and other temperature control infrastructure.

"Computer data center equipment." Equipment that is used to outfit, operate or benefit a computer data center and component parts, installations, refreshments, replacements and upgrades to the equipment, whether any of the equipment is affixed to or incorporated into real property, including:

(1) All equipment necessary for the transformation, generation, distribution or management of electricity that is required to operate computer servers or similar data storage equipment, including generators, uninterruptible energy supplies, conduit, gaseous fuel piping, cabling, duct banks, switches, switchboards, batteries and testing equipment.

(2) All equipment necessary to cool and maintain a controlled environment for the operation of the computer servers or data storage systems and other components of the computer data center, including mechanical equipment, refrigerant piping, gaseous fuel piping, adiabatic and free cooling systems, cooling towers, water softeners, air handling units, indoor direct exchange units, fans, ducting and filters.

(3) All water conservation systems, including facilities or mechanisms that are designed to collect, conserve and reuse water.

(4) All software, including, but not limited to, enabling software and licensing agreements, computer servers or similar data storage equipment, chassis, networking equipment, switches, racks, cabling, trays and conduits.

(5) All monitoring equipment and security systems.

(6) Modular data centers and preassembled components of any item described in this definition, including components used in the manufacturing of modular data centers.

(7) Other tangible personal property that is essential to the operations of a computer data center.

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

"Facility." One or more parcels of land in this Commonwealth and any structures and personal property contained on the land.

"New investment." Construction, expansion or build out of data center space at either a new or an existing computer data center on or after January 1, 2014, and the purchase and installation of computer data center equipment, except for items described under paragraph (4) of the definition of "computer data center equipment."

"Owner or operator." Includes a single entity, multiple entities or affiliated entities.

"Proof of work crypto-asset mining." The process of performing computations to add a valid block of data to a blockchain, excluding computations required to validate individual transactions, typically in exchange for a reward or fee. (Def. added July 11, 2024, P.L.674, No.56)

"Qualification period." Except as provided under sections 2931-D(d), 2935-D(b) and 2937-D(c), as follows:

(1) With respect to the owner or operator of a computer data center certified under this article, a period of time beginning on the date of certification of the computer data center and expiring at the end of the fifteenth full calendar year following the calendar year in which the owner or operator filed an application for certification.

(2) With respect to a qualified tenant of the owner or operator of a computer data center certified under this article, a period of time beginning on the date that the qualified tenant enters into an agreement concerning the use or occupancy of the computer data center and expiring at the earlier of the expiration of the term of the agreement or the end

of the 10th full calendar year following the calendar year in which the qualified tenant enters into the agreement.

(Def. amended July 8, 2022, P.L.513, No.53)

"Qualified tenant." An entity that contracts with the owner or operator of a computer data center that is certified pursuant to this article to use or occupy part of the computer data center for at least 100 kilowatts per month for two or more years.

"Tax exemption." The tax exemption provided under Subarticle C. (Def. added June 30, 2021, P.L.124, No.25)

"Tax refund." The tax refund provided for under Subarticle B. (Def. amended June 30, 2021, P.L.124, No.25)

"Telecommunications provider." A provider of telecommunications services as defined in 61 Pa. Code § 60.20 (relating to telecommunications service). (Def. added June 30, 2021, P.L.124, No.25)

"Tenant." An entity that contracts with the owner or operator of a computer data center to use or occupy part of the computer data center.

(2901-D added July 13, 2016, P.L.526, No.84)

Compiler's Note: Section 30(12) of Act 56 of 2024 provided that the addition of section 2901-D shall apply to taxable years commencing after December 31, 2025.

SUBARTICLE B
SALES AND USE TAX REFUND PROGRAM
(Subart. hdg. added June 30, 2021, P.L.124, No.25)

Section 2911-D. Sales and use tax refund.

(a) Application.--Beginning July 1, 2017, an owner or operator or qualified tenant of a computer data center certified under this article may apply for a tax refund of taxes paid under Article II upon the sale at retail or use of computer data center equipment for installation in a computer data center, purchased by:

(1) An owner or operator of a computer data center certified under this article.

(2) A qualified tenant certified under this article.

(b) Applicability.--Taxes paid under Article II during the qualification period shall be eligible for a refund under this article.

(c) Exclusions.--The following do not qualify for a tax refund:

(1) Computer data center equipment used by the computer data center to:

(i) generate electricity for resale purposes to a power utility, except for sales incidental to the primary sale to computer data centers and which qualify under subparagraph (ii); or

(ii) generate, provide or sell more than 5% of its electricity outside of the computer data center.

(2) (Reserved).

(2911-D renumbered from 2902-D June 30, 2021, P.L.124, No.25)

Section 2912-D. Application for certification.

To be considered for a certification, an owner or operator of a computer data center shall submit to the department an application on a form prescribed by the department that includes the following:

(1) The owner's or operator's name, address and telephone number.

(2) The address of the site where the facility is or will be located, including, if applicable, information sufficient to identify the specific portion or portions of the facility comprising the computer data center.

(3) If the computer data center is to qualify under section 2915-D(1), the following information:

(i) The anticipated investment associated with the computer data center for which the certification is being sought.

(ii) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirements prescribed in section 2915-D(1).

(4) If the computer data center is to qualify under section 2915-D(2), an affirmation, signed by an authorized executive representing the owner or operator, that the computer data center has satisfied, or will satisfy, the certification requirements prescribed in section 2915-D(2).

(5) The department shall begin accepting applications no later than 90 days after the effective date of this section.

(2912-D renumbered from 2903-D and amended June 30, 2021, P.L.124, No.25)

Section 2913-D. Review of application.

(a) General rule.--Within 60 days after receiving a complete and correct application, the department shall review the application and either issue a written certification that the computer data center qualifies for the certification or provide written reasons for its denial.

(b) Deemed approval.--Failure of the department to approve or deny an application within 60 days after the date the owner or operator of a computer data center submits the application to the department constitutes certification of the computer data center, and the department shall issue written certification to the owner or operator within 14 days. The department may not certify any computer data center after December 31, 2021.

(2913-D renumbered from 2904-D and amended June 30, 2021, P.L.124, No.25)

Section 2914-D. Separation of facilities.

(a) Separate certification.--An owner or operator of a computer data center may separate a facility into one or more computer data centers, which may each receive a separate certification, if each computer data center individually meets the requirements prescribed in section 2915-D.

(b) Limitation.--A portion of a facility or an article of computer data equipment shall not be deemed to be a part of more than one computer data center.

(c) Aggregation.--An owner or operator may aggregate one or more parcels, buildings or condominiums in a facility into a single computer data center if, in the aggregate, the parcels, buildings and condominiums meet the requirements of this article.

(2914-D renumbered from 2905-D and amended June 30, 2021, P.L.124, No.25)

Section 2915-D. Eligibility requirements.

A computer data center must meet one of the following requirements, after taking into account the combined investments made and annual compensation paid by the owner or operator of the computer data center or the qualified tenant:

(1) On or before the fourth anniversary of certification, the computer data center creates a minimum investment of:

(i) At least $25,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals; or

(ii) At least $50,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals.

(2) One or more taxpayers operating or occupying a computer data center, in the aggregate, pay annual compensation of at least $1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

(2915-D renumbered from 2906-D June 30, 2021, P.L.124, No.25)

Section 2916-D. Notification.

(a) Requirements satisfied.--On or before the fourth anniversary of the certification of a computer data center, the owner or operator of a computer data center shall notify the department in writing whether the computer data center for which the certification is requested has satisfied the requirements prescribed in section 2915-D.

(b) Records.--Until a computer data center satisfies the requirements prescribed in section 2915-D, the owner, operator and qualified tenants shall maintain detailed records of all investments created by the computer

data center, including costs of buildings and computer data center equipment, and all tax refunds directly received by the owner, operator or qualified tenant.

(2916-D renumbered from 2907-D and amended June 30, 2021, P.L.124, No.25)

Section 2917-D. Revocation of certification.

(a) Revocation.--If the department determines that the requirements of section 2915-D have not been satisfied, the department may revoke the certification of a computer data center.

(b) Appeal.--The owner or operator of the computer data center may appeal the revocation. Appeals filed under this section shall be governed by Article II.

(c) Recapture.--If certification is revoked pursuant to this section, the qualification period of any owner, operator or qualified tenant of the computer data center expires, and the department may recapture from the owner, operator or qualified tenant all or part of the tax refund provided directly to the owner or operator or qualified tenant. The department may give special consideration or allow a temporary exemption from recapture of the tax refund if there is extraordinary hardship due to factors beyond the control of the owner or operator or qualified tenant.

(2917-D renumbered from 2908-D and amended June 30, 2021, P.L.124, No.25)

Section 2918-D. Guidelines.

The department shall publish guidelines and prescribe forms and procedures as necessary for the purposes of this article.

(2918-D renumbered from 2909-D June 30, 2021, P.L.124, No.25)

Section 2919-D. Confidential information.

Proprietary business information contained in the application form described in section 2912-D and the written notice described in section 2916-D, as well as information concerning the identity of a qualified tenant, are confidential and may not be disclosed to the public. The department may disclose the name of a computer data center that has been certified under this article.

(2919-D renumbered from 2910-D and amended June 30, 2021, P.L.124, No.25)

Section 2920-D. List of tenants.

An owner or operator of a computer data center shall provide, to the extent permissible under Federal law, the department with a list of qualified tenants, including the commencement and expiration dates of each qualified tenant's agreement to use or occupy part of the computer data center. The list shall be provided to the department annually, upon request by the department.

(2920-D renumbered from 2911-D June 30, 2021, P.L.124, No.25)

Section 2921-D. Sale or transfer.

Except as provided in section 2917-D, a computer data center retains its certification regardless of a transfer, sale or other disposition, directly or indirectly, of the computer data center.

(2921-D renumbered from 2912-D and amended June 30, 2021, P.L.124, No.25)

Section 2922-D. Application.

(a) General rule.--An owner, operator or qualified tenant may apply for a tax refund under this article on or before July 30, 2017, and each July 30 thereafter.

(b) Notification.--No later than September 30, 2017, and each September 30 thereafter, the department shall notify each applicant of the amount of tax refund approved by the department.

(2922-D renumbered from 2913-D June 30, 2021, P.L.124, No.25)

Section 2923-D. Limitations.

(a) Total.--The total amount of State tax refunds approved by the department under this article shall not exceed $7,000,000 in any fiscal year.

(b) Allocation.--If the total amount of tax refunds approved for all applicants exceeds the limitation on the amount of tax refunds in

subsection (a) in a fiscal year, the tax refund to be received by each applicant shall be determined as follows:

(1) Divide:

(i) the tax refund approved for the applicant; by

(ii) the total of all tax refunds approved for all applicants.

(2) Multiply:

(i) the amount under subsection (a); by

(ii) the quotient under paragraph (1).

(3) The algebraic form of the calculation under this subsection is: Taxpayer's tax refund = amount allocated for those tax refunds X (tax refund approved for the applicant/total of all tax refunds approved for all applicants).

(2923-D renumbered from 2914-D June 30, 2021, P.L.124, No.25)

Section 2924-D. Applicability.

Notwithstanding any other provision of this article, the department may not issue a tax refund under this subarticle for the tax imposed upon the sale at retail or use of computer data center equipment purchased after December 31, 2021.

(2924-D added June 30, 2021, P.L.124, No.25)

SUBARTICLE C
SALES AND USE TAX EXEMPTION PROGRAM
(Subart. added June 30, 2021, P.L.124, No.25)

Section 2931-D. Sales and use tax exemption.

(a) Sales and use tax.--Beginning January 1, 2022, the tax imposed under Article II shall not be imposed upon the sale at retail or use of computer data center equipment purchased for installation in a certified computer data center, if purchased by any of the following:

(1) An owner or operator of a computer data center certified under this subarticle.

(2) A qualified tenant of a computer data center certified under this subarticle.

(b) Applicability.--A tax exemption approved under this subarticle shall apply during the qualification period as provided under section 2942-D.

(c) Exclusions.--The following shall not qualify for a tax exemption:

(1) A telecommunications provider's computer data center that does not have retail or wholesale customers being billed or paying for services and does provide a majority of services for internal use or use by the telecommunications provider's subsidiaries.

(2) Computer data center equipment used by the certified computer data center for any of the following purposes:

(i) Generating electricity for resale purposes to a power utility.

(ii) Generating, providing or selling more than 5% of its electricity outside of the certified computer data center.

(iii) Proof of work crypto-asset mining. ((iii) added July 11, 2024, P.L.674, No.56)

(3) Laptop computers, handheld devices and motor vehicles for use both inside and outside the computer data center.

(d) Definition.--As used in this section, the term "qualification period" shall mean the following:

(1) With respect to the owner or operator of a computer data center certified under this article, a period of time beginning on the date of certification of the computer data center and expiring at the end of the 25th full calendar year following the calendar year in which the owner or operator filed an application for certification.

(2) With respect to a qualified tenant of the owner or operator of a computer data center certified under this article, a period of time beginning on the date that the qualified tenant enters into an agreement concerning the use or occupancy of the computer data center and expiring at the earlier of the expiration of the term of the agreement or the end

of the 10th full calendar year following the calendar year in which the qualified tenant enters into the agreement.

((d) added July 8, 2022, P.L.513, No.53)

(2931-D added June 30, 2021, P.L.124, No.25)

Compiler's Note: Section 30(12) of Act 56 of 2024 provided that the addition of subsection (c)(2)(iii) shall apply to taxable years commencing after December 31, 2025.

Section 2932-D. Application for certification.

(a) Application.--To be considered for a certification, an owner or operator of a computer data center shall submit to the department an application on a form prescribed by the department that includes all of the following:

(1) The owner's or operator's name, address and telephone number.

(2) The address of the site where the computer data center is or will be located, including, if applicable, information sufficient to identify the specific portion of a facility comprising the computer data center.

(3) An affirmation, signed by an authorized executive representing the owner or operator, that the computer data center is expected to satisfy the certification requirements prescribed under section 2935-D.

(b) Acceptance.--The department shall begin accepting applications no later than 60 days after the effective date of this section.

(c) Compliance in reporting.--An owner or operator or qualified tenant eligible for a certification shall comply with all reporting, filing and compliance requirements under this act.

(d) Compliance in tax laws.--No owner or operator or qualified tenant may receive a certification under this subarticle unless that owner or operator or qualified tenant is in full compliance with all State tax laws.

(2932-D added June 30, 2021, P.L.124, No.25)

Section 2933-D. Review of application.

(a) General rule.--Within 60 days after receiving a complete and correct application, the department shall review the application and either issue a written certification that the computer data center qualifies for the certification or provide written reasons for its denial.

(b) Deemed approval.--Failure of the department to approve or deny an application that has been acknowledged as received by the department within 60 days after the date the owner or operator of a computer data center submits the application to the department shall constitute certification of the computer data center, and the department shall issue written certification to the owner or operator within 14 days.

(2933-D added June 30, 2021, P.L.124, No.25)

Section 2934-D. Separation of facilities.

(a) Separate certification.--An owner or operator of a computer data center may separate a facility into one or more computer data centers, which may each receive a separate certification, if each computer data center individually meets the requirements prescribed in section 2935-D.

(b) Limitation.--A portion of a facility or an article of computer data equipment shall not be deemed to be a part of more than one computer data center for certification under this subarticle.

(c) Aggregation.--An owner or operator may aggregate one or more parcels, buildings or condominiums in a facility into a single computer data center for certification under this subarticle if, in the aggregate, the parcels, buildings and condominiums meet the requirements prescribed in section 2935-D.

(2934-D added June 30, 2021, P.L.124, No.25)

Section 2935-D. Eligibility requirements.

(a) General rule.--In order to be certified under this subarticle, an owner or operator of a computer data center must meet all of the following requirements:

(1) On or before the fourth anniversary of certification, the combined investment, in the aggregate, of the owner or operator or

qualified tenant of the computer data center must total a minimum of any of the following:

(i) At least $75,000,000 of new investment if the computer data center is located in a county with a population of 250,000 or fewer individuals and creates 25 new jobs.

(ii) At least $100,000,000 of new investment if the computer data center is located in a county with a population of more than 250,000 individuals and creates 45 new jobs.

(2) On or before the fourth anniversary of certification, the owner or operator or qualified tenant of a computer data center, in the aggregate, must pay annual compensation of at least $1,000,000 to employees at the certified computer data center site for each year of the certification after the fourth anniversary of certification.

(b) Prior applications.--A computer data center that has met the eligibility requirements as prescribed under section 2915-D and has, prior to July 1, 2021, been certified under section 2913-D shall be deemed to meet the certification requirements of this section. The certification shall not be revoked, except as provided under section 2917-D, and shall remain in effect for the remainder of the qualification period, as defined in section 2931-D(d). ((b) amended July 8, 2022, P.L.513, No.53)

(c) Limitation.--The department may not certify any computer data center under this subarticle after December 31, 2032.

(d) Definition.--As used in this section, the term "new investment" means construction, expansion or build out of data center space at either a new or an existing computer data center on or after January 1, 2022, and the purchase and installation of computer data center equipment, except for items described under paragraph (4) of the definition of "computer data center equipment" in section 2901-D.

(2935-D added June 30, 2021, P.L.124, No.25)

Section 2936-D. Notification and records.

(a) Requirements satisfied.--On or before the fourth anniversary of the certification of a computer data center, the owner or operator of the computer data center shall notify the department in writing whether the computer data center for which the certification is requested has satisfied the requirements prescribed under section 2935-D.

(b) Records.--The owner or operator or qualified tenant shall:

(1) Maintain detailed records of all investments created by the computer data center, including costs of buildings and computer data center equipment and all tax exemptions received by the owner or operator or qualified tenant.

(2) Maintain purchase journals for examination by the department.

(2936-D added June 30, 2021, P.L.124, No.25)

Section 2937-D. Revocation of certification.

(a) Revocation.--If the department determines that the requirements of section 2935-D have not been satisfied, the department may revoke the certification of a computer data center.

(b) Appeal.--The owner or operator of the computer data center may appeal the revocation. Appeals filed under this section shall be governed by Article II.

(c) Recapture.--If certification is revoked under this section, the qualification period, as defined in section 2931-D(d), of any owner or operator or qualified tenant of the computer data center shall expire and the department may recapture from the owner or operator or qualified tenant all or part of the tax exemption received by the owner or operator or qualified tenant under section 2942-D. The department may give special consideration or allow a temporary exemption from recapture of the tax exemption if there is extraordinary hardship due to factors beyond the control of the owner or operator or qualified tenant. The department may require the owner or operator or qualified tenant to file appropriate amended tax returns in order to reflect any recapture of the tax exemption. ((c) amended July 8, 2022, P.L.513, No.53)

(d) Limitation on assessment.--Notwithstanding the limitation on assessment and collection in section 258, the department shall assess any

tax determined not to be properly exempted under this subarticle within five years from the date an owner or operator or qualified tenant of a computer data center purchases property exempt from a tax. A taxpayer may consent to an extension of the period as set forth in section 261.
(2937-D added June 30, 2021, P.L.124, No.25)
Section 2938-D. Guidelines.
The department shall publish guidelines and prescribe forms and procedures as necessary for the purposes of this article.
(2938-D added June 30, 2021, P.L.124, No.25)
Section 2939-D. Confidential information.
Proprietary business information contained in the application form described under section 2932-D and the written notice described under section 2936-D, as well as information concerning the identity of a qualified tenant, shall be confidential and may not be disclosed to the public. The department may disclose the name of a computer data center that has been certified under this subarticle.
(2939-D added June 30, 2021, P.L.124, No.25)
Section 2940-D. List of tenants.
An owner or operator of a certified computer data center shall provide, to the extent permissible under Federal law, the department with a list of qualified tenants, including the commencement and expiration dates of each qualified tenant's agreement to use or occupy part of the certified computer data center. The list shall be provided to the department annually, upon request by the department.
(2940-D added June 30, 2021, P.L.124, No.25)
Section 2941-D. Sale or transfer.
Except as provided under section 2937-D, a computer data center retains its certification regardless of a transfer, sale or other disposition, directly or indirectly, of the computer data center.
(2941-D added June 30, 2021, P.L.124, No.25)
Section 2942-D. Certificate of exemption.
(a) General rule.--A qualified owner or operator or qualified tenant of a computer data center certified under this subarticle may submit for a sales and use tax certificate of exemption in a manner prescribed by the department on or before October 1, 2021, and renew each October 1 thereafter. The following shall apply:
(1) The owner or operator or qualified tenant of a certified computer data center eligible for a sales and use tax certificate of exemption shall comply with all reporting, filing and compliance requirements under this act.
(2) No owner or operator or qualified tenant may receive a sales and use tax certificate of exemption under this subarticle unless that owner or operator or qualified tenant is in full compliance with all State tax laws.
(b) Notification.--No later than 60 days after the submission under subsection (a) for a sales and use tax certificate of exemption, the department shall issue a sales and use tax certificate of exemption to each applicant approved by the department.
(c) Exempt purchases.--The owner or operator or qualified tenant of a certified computer data center shall prepare and deliver a properly executed sales and use tax certificate of exemption to a vendor from which the owner or operator or qualified tenant purchases exempt computer data center equipment.
(2942-D added June 30, 2021, P.L.124, No.25)

ARTICLE XXIX-E
REDUCTION OF TAX CREDITS
(Art. added Oct. 9, 2009, P.L.451, No.48)

Section 2901-E. Applicability of article.
This article shall apply to tax credits awarded in fiscal years 2009-2010 and 2010-2011.
(2901-E added Oct. 9, 2009, P.L.451, No.48)

Section 2902-E. Reduction.

(a) Article XVII-D.--For the tax credit established under Article XVII-D, the amount available to be awarded pursuant to section 1707-D(a) shall be reduced from $75,000,000 per fiscal year to $42,000,000 in fiscal year 2009-2010 and to $60,000,000 in fiscal year 2010-2011.

(b) Article XVII-F.--For the tax credit established under Article XVII-F, the amount available to be awarded pursuant to section 1706-F(a) shall be reduced from $75,000,000 per fiscal year to $60,000,000 in fiscal year 2009-2010 and to $50,000,000 in fiscal year 2010-2011. The amount available to be awarded under section 1706-F(a)(1) and (2) shall be as follows:

(1) The total aggregate amount of all tax credits approved shall not exceed $53,600,000 in fiscal year 2009-2010. No less than $37,967,000 of the total aggregate amount shall be used to provide tax credits from contributions from business firms to scholarship organizations. No less than $15,633,000 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(2) The total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship programs shall not exceed $ 6,400,000 in fiscal year 2009-2010.

(3) The total aggregate amount of all tax credits approved shall not exceed $44,670,000 in fiscal year 2010-2011. No less than $33,502,000 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to scholarship organizations. No less than $11,168,000 of the total aggregate amount shall be used to provide tax credits for contributions from business firms to educational improvement organizations.

(4) The total aggregate amount of all tax credits approved for contributions from business firms to pre-kindergarten scholarship programs shall not exceed $5,330,000 in fiscal year 2010-2011.

Notwithstanding section 1704-F(c), in fiscal year 2009-2010, if valid applications for tax credits received by the Department of Community and Economic Development before October 1, 2009, exceed the limitation under this section, tax credits shall be made available on a pro-rata basis to all valid applications received before October 1, 2009.

(c) Article XVII-B.--For the tax credit established under Article XVII-B, the amounts available to be awarded pursuant to section 1709-B(a) shall be equal to 50% of the maximum amounts otherwise available for award in fiscal year 2009-2010 and 45% of the maximum amounts otherwise available for award in fiscal year 2010-2011.

(d) Certain other credits.--For the tax credits established under section 206(b) and Articles XVII-A, XVII-E, XVIII-B and XIX-A and under Chapter 5 Subchapter B and Chapter 9 of the act of December 1, 2004 (P.L.1750, No.226), known as the First Class Cities Economic Development District Act, the amounts available for award to each eligible taxpayer shall be determined such that the total amount available for award shall be 50% of the amounts otherwise available for award in total pursuant to the applicable sections or articles in fiscal year 2009-2010, and 45% of the amounts otherwise available for award in total pursuant to all applicable sections or articles in fiscal year 2010-2011.

(e) Hiatus.--Notwithstanding any other provision of law, a taxpayer is not entitled to a tax credit under Chapter 7 of the act of July 9, 2008 (1st Sp.Sess., P.L.1873, No.1), known as the Alternative Energy Investment Act.

(2902-E added Oct. 9, 2009, P.L.451, No.48)

ARTICLE XXIX-F
TAX AMNESTY PROGRAM FOR FISCAL YEAR 2009-2010
(Art. added Oct. 9, 2009, P.L.451, No.48)

Section 2901-F. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

"Amnesty period." The period from April 26, 2010, through June 18, 2010, inclusive. The estimates under section 2910-F(a) shall be completed 30 days prior to April 26, 2010.

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

"Eligible tax." Any tax administered by the Department of Revenue delinquent as of June 30, 2009. The term includes any interest or penalty on an eligible tax. For an unknown liability, the term shall only include taxes due within five years prior to June 30, 2009. For purposes of taxes collected under the International Fuel Tax Agreement, the term shall apply only to taxes, interest and penalties owed to the Commonwealth, not to other states or Canadian provinces.

"Program." The tax amnesty program established under section 2902-F as provided for in this article.

"Taxpayer." Any person, association, fiduciary, partnership, corporation or other entity required to pay or collect any of the eligible taxes. The term shall not include a taxpayer who, prior to the amnesty period, has received notice that the taxpayer is the subject of a criminal investigation for an alleged violation of any law imposing an eligible tax or who, prior to the amnesty period, has been named as a defendant in a criminal complaint alleging a violation of any law imposing an eligible tax or is a defendant in a pending criminal action for an alleged violation of any law imposing an eligible tax.

"Unknown liability." A liability for an eligible tax for which either:

(1) no return or report has been filed, no payment has been made and the taxpayer has not been contacted by the department concerning the unfiled returns or reports or unpaid tax; or

(2) a return or report has been filed, the tax was underreported and the taxpayer has not been contacted by the department concerning the underreported tax.

(2901-F added Oct. 9, 2009, P.L.451, No.48)

Section 2902-F. Establishment of program.

(a) Program established.--There is established a tax amnesty program which shall be administered by the department.

(b) Applicability.--The program shall apply to a taxpayer who is delinquent on payment of a liability for an eligible tax as of June 30, 2009, including a liability for returns not filed, liabilities according to records of the department as of June 30, 2009, liabilities not reported, underreported or not established, but delinquent as of June 30, 2009.

(c) Future amnesty program participation.--A taxpayer who participates in the program shall not be eligible to participate in a future tax amnesty program.

(d) Deferred payment plan agreement.--Existing deferred payment plan agreements between a taxpayer and the department where the agreement applies to a tax liability for which amnesty is sought by the taxpayer for amounts remaining on the tax liability, the taxpayer, as a condition of receiving amnesty, shall pay the liability, notwithstanding terms of the agreement to the contrary, in full during the amnesty period.

(2902-F added Oct. 9, 2009, P.L.451, No.48)

Section 2903-F. Required payment.

(a) Taxpayer requirements.--Subject to section 2904-F, all taxpayers who participate in the program shall comply with all of the following:

(1) During the amnesty period, file a tax amnesty return in such form and containing such information as the department shall require. A tax amnesty return shall be considered to be timely filed if it is postmarked during the amnesty period or timely electronically or otherwise filed.

(2) During the amnesty period, make payment of all taxes and one-half of the interest due to the Commonwealth in accordance with the tax amnesty return that is filed. The taxpayer shall not be required to pay any penalty applicable to an eligible tax.

(3) File complete tax returns for all required years for which the taxpayer previously has not filed a tax return and file complete amended returns for all required years for which the taxpayer underreported eligible tax liability.

(b) Prohibitions.--

(1) The department shall not collect the penalties or interest waived under subsection (a)(2). Except as otherwise provided in this article, the department shall not pursue any administrative or judicial proceeding against a taxpayer with respect to any eligible tax that is disclosed on a tax amnesty return.

(2) A taxpayer with unknown liabilities reported and paid under this program and who complies with all other requirements of this article shall not be liable for any taxes of the same type due prior to July 1, 2004. A taxpayer shall not be owed a refund under this article.

(c) Financial hardship.--A taxpayer otherwise eligible for amnesty who certifies on an amnesty return that making payment of the full amount of the liability for which amnesty is sought at the time such return is made would create a severe financial hardship for such taxpayer, shall retain eligibility for amnesty if:

(1) Fifty percent or more of the amount due as computed is paid with the amnesty return or within the amnesty period.

(2) The balance due, including interest under subsection (a)(2), is paid, in no more than two installments on or before the end of the amnesty period.

(2903-F added Oct. 9, 2009, P.L.451, No.48)

Section 2904-F. Amnesty contingent on continued compliance.

Notwithstanding any other provision of this article, the department may assess and collect from a taxpayer all penalties and interest waived through the tax amnesty program established in this article if, within two years after the end of the program, either of the following occurs:

(1) the taxpayer granted amnesty under this article becomes delinquent for three consecutive periods in payment of taxes due or filing of returns required on a semimonthly, monthly, quarterly or other basis and the taxpayer has not contested the tax liability through a timely valid administrative or judicial appeal; or

(2) the taxpayer granted amnesty under this article becomes delinquent and is eight or more months late in payment of taxes due or filing of returns on an annual basis and the taxpayer has not contested the liability through a timely valid administrative or judicial appeal.

(2904-F added Oct. 9, 2009, P.L.451, No.48)

Section 2905-F. Limitation of deficiency assessment.

If, subsequent to the amnesty period, the department issues a deficiency assessment with respect to a tax amnesty return, the department shall have the authority to impose penalties and to pursue a criminal action only with respect to the difference between the amount shown on that tax amnesty return and the current amount of tax.

(2905-F added Oct. 9, 2009, P.L.451, No.48)

Section 2906-F. Overpayment of tax.

Notwithstanding any other provisions of this article or any other act, if an overpayment of eligible tax is refunded or credited within 180 days after the tax amnesty return is filed or the eligible tax is paid, whichever is later, no interest shall be allowed on the overpayment.

(2906-F added Oct. 9, 2009, P.L.451, No.48)

Section 2907-F. Previously paid interest and penalties.

No refund or credit shall be allowed for any interest or penalty on eligible taxes paid to the department prior to the amnesty period.

(2907-F added Oct. 9, 2009, P.L.451, No.48)

Section 2908-F. Proceedings relating to tax amnesty return barred.

Participation in the program is conditioned upon the taxpayer's agreement that the right to protest or pursue an administrative or judicial proceeding with regard to tax amnesty returns filed under the program or to claim any refund of money paid under the program is barred.

(2908-F added Oct. 9, 2009, P.L.451, No.48)

Section 2909-F. Undisclosed liabilities.

Nothing in this article shall be construed to prohibit the department from instituting civil or criminal proceedings against any taxpayer with respect to any amount of tax that is not disclosed on the tax amnesty return or any amount disclosed on the amnesty return that is not paid.

(2909-F added Oct. 9, 2009, P.L.451, No.48)

Section 2910-F. Duties of department.

(a) Guidelines.--The department shall develop guidelines to implement the provisions of this article. The guidelines must be published in the Pennsylvania Bulletin within 60 days of the effective date of this article and shall contain, but not be limited to, the following information:

(1) An explanation of the program and the requirements for eligibility for the program.

(2) The dates during which a tax amnesty return may be filed.

(3) A specimen copy of the tax amnesty return.

(4) The amnesty revenue estimates required under section 2912-F(b).

(b) Publicity.--The department shall publicize the program to maximize public awareness of and participation in the program. The department shall coordinate to the highest degree possible its publicity efforts and other actions taken to implement this article.

(c) Reports.--The department shall issue reports to the General Assembly detailing program implementation. The reports shall contain the following information:

(1) Within 30 days after the end of the amnesty period:

(i) A detailed breakdown of the department's administrative costs in implementing the program.

(ii) The total dollar amount of revenue collected by the program.

(2) Within 180 days after the end of the amnesty period:

(i) The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue raised for each tax by calendar year during which the tax period ended. In addition, the gross revenues shall be broken down in the following categories:

(A) Amounts represented by assessments receivable established by the department on or before the first day of the amnesty period.

(B) All other amounts.

(ii) The total dollar amount of penalties and interest waived under the program.

(iii) The demographic characteristics of tax amnesty participants, including North American Industry Classification System codes of participants, type of taxpayer, consisting of individual, partnership, corporation or other entity, size of tax liability and geographical location.

(d) Notification.--The department shall notify in writing all known tax delinquents at the taxpayers' last known address of the existence of the tax amnesty program. The sole purpose of the letter sent by the department to taxpayers must be notification of the program.

(2910-F added Oct. 9, 2009, P.L.451, No.48)

Section 2911-F. Method of payment.

All tax payments under the program shall be made by certified check, money order, electronic transfer, credit card, cash or its equivalent.

(2911-F added Oct. 9, 2009, P.L.451, No.48)

Section 2912-F. Use of revenue.

(a) Restricted revenue account.--Except as set forth in subsection (c), all revenue generated by this article shall be deposited into a restricted revenue account in the General Fund. Revenue from the restricted revenue account shall be distributed as follows:

(1) All money from General Fund sources shall be deposited in the General Fund no later than June 30, 2010, less repayment of any costs for administration of the program to the department.

(2) All revenue from Motor License Fund sources shall be deposited in the Motor License Fund no later than June 30, 2010.

(3) All revenue from Liquid Fuels Tax Fund sources shall be deposited in the Liquid Fuels Tax Fund no later than June 30, 2010.

(b) Revenue estimates.--

(1) The department shall submit, for publication in the Pennsylvania Bulletin, a separate amnesty revenue estimate for revenue generated by this article from the following sources:

(i) the General Fund;

(ii) the Motor License Fund;

(iii) the Liquid Fuels Tax Fund; and

(iv) the methodology used to develop the estimate.

(2) All amnesty revenue estimates shall be submitted for publication pursuant to section 2910-F(a)(4).

(c) Budget Stabilization Reserve Fund.--((c) repealed July 6, 2010, P.L.279, No.46)

(2912-F added Oct. 9, 2009, P.L.451, No.48)

Section 2913-F. Additional penalty.

(a) Penalty.--Subject to the limitations provided under subsection (b), a penalty of 5% of the unpaid tax liability and penalties and interest shall be levied against a taxpayer subject to an eligible tax if the taxpayer had failed to remit an eligible tax due or had an unreported or underreported liability for an eligible tax on or after the first day following the end of the amnesty period.

(b) Nonapplicability.--The penalty provided in this section shall not apply to a taxpayer who:

(1) has paid the liability in full or entered into a duly approved and executed deferred payment plan on or before the last day of the amnesty period; or

(2) has filed a timely and valid administrative or judicial appeal contesting the liability on or before the last day of the amnesty period.

(c) Penalty in addition.--The penalty provided by this section shall be in addition to all other penalties provided by law.

(2913-F added Oct. 9, 2009, P.L.451, No.48)

Section 2914-F. Construction.

Except as expressly provided in this article, this article shall not:

(1) be construed to relieve any person, corporation or other entity from the filing of returns or from any taxes, penalties or interest imposed by the provisions of any laws;

(2) affect or terminate any petitions, investigations, prosecutions, legal or otherwise, or other proceedings pending under the provisions of any such laws; or

(3) prevent the commencement or further prosecution of any proceedings by the proper authorities of the Commonwealth for violation of any such laws or for the assessment, settlement, collection or recovery of taxes, penalties or interest due to the Commonwealth under any such laws.

(2914-F added Oct. 9, 2009, P.L.451, No.48)

Section 2915-F. Suspension of inconsistent acts.

All acts or parts of acts inconsistent with the provisions of this article are suspended to the extent necessary to carry out the provisions of this article.

(2915-F added Oct. 9, 2009, P.L.451, No.48)

ARTICLE XXIX-G
TAX AMNESTY PROGRAM FOR FISCAL YEAR 2016-2017
(Art. added July 13, 2016, P.L.526, No.84)

Section 2901-G. Definitions.

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

"Amnesty period." The time period of 60 consecutive days established by the Governor ending no later than June 30, 2017.

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

"Eligible tax." Any tax administered by the Department of Revenue delinquent as of December 31, 2015. The term includes any interest, penalty or fees on an eligible tax. For an unknown liability, the term shall only include taxes due within five years prior to December 31, 2015. For purposes of taxes collected under the International Fuel Tax Agreement, the term shall apply only to taxes, interest and penalties owed to the Commonwealth, not to other states or Canadian provinces.

"Program." The tax amnesty program established under section 2902-G as provided for in this article.

"Taxpayer." Any person, association, fiduciary, partnership, corporation or other entity required to pay or collect any of the eligible taxes. The term shall not include a taxpayer who, prior to the amnesty period, has received notice that the taxpayer is the subject of a criminal investigation for an alleged violation of any law imposing an eligible tax or who, prior to the amnesty period, has been named as a defendant in a criminal complaint alleging a violation of any law imposing an eligible tax or is a defendant in a pending criminal action for an alleged violation of any law imposing an eligible tax.

"Unknown liability." A liability for an eligible tax for which either:

(1) no return or report has been filed, no payment has been made and the taxpayer has not been contacted by the department concerning the unfiled returns or reports or unpaid tax; or

(2) a return or report has been filed, the tax was underreported and the taxpayer has not been contacted by the department concerning the underreported tax and is not already under audit when the amnesty period begins.

(2901-G added July 13, 2016, P.L.526, No.84)

Section 2902-G. Establishment of program.

(a) General rule.--Except as provided in section 2902-F(c), a tax amnesty program is established and shall be administered by the department.

(b) Applicability.--Except as provided in section 2902-F(c), the program shall apply to a taxpayer who is delinquent on payment of a liability for an eligible tax as of December 31, 2015, including a liability for returns not filed, liabilities according to records of the department as of December 31, 2015, liabilities not reported, underreported or not established, but delinquent as of December 31, 2015.

(c) Future amnesty program participation.--A taxpayer who participates in the program shall not be eligible to participate in a future tax amnesty program.

(d) Deferred payment plan agreement.--Existing deferred payment plan agreements between a taxpayer and the department where the agreement applies to a tax liability for which amnesty is sought by the taxpayer for amounts remaining on the tax liability, the taxpayer, as a condition of receiving amnesty, shall pay the liability, notwithstanding terms of the agreement to the contrary, in full during the amnesty period.

(2902-G added July 13, 2016, P.L.526, No.84)

Section 2903-G. Required payment.

(a) Taxpayer requirements.--Subject to section 2904-G, all taxpayers who participate in the program shall comply with all of the following:

(1) During the amnesty period, file a tax amnesty return in such form and containing such information as the department shall require. A tax amnesty return shall be considered to be timely filed if it is postmarked during the amnesty period or timely electronically or otherwise filed.

(2) During the amnesty period, make payment of all taxes and one-half of the interest due to the Commonwealth in accordance with the tax amnesty return that is filed. The taxpayer shall not be required to pay any penalty or fees applicable to an eligible tax.

(3) File complete tax returns for all required years for which the taxpayer previously has not filed a tax return and file complete amended returns for all required years for which the taxpayer underreported eligible tax liability.

(b) Prohibitions.--

(1) The department may not collect the penalties, interest or fees waived under subsection (a)(2). Except as otherwise provided in this article, the department shall not pursue administrative or judicial proceeding against a taxpayer with respect to an eligible tax that is disclosed on a tax amnesty return.

(2) A taxpayer with unknown liabilities reported and paid under the program and who complies with all other requirements of this article shall not be liable for any taxes of the same type due prior to January 1, 2011. A taxpayer shall not be owed a refund under this article.

(2903-G added July 13, 2016, P.L.526, No.84)

Section 2904-G. Amnesty contingent on continued compliance.

Notwithstanding any other provision of this article, the department may assess and collect from a taxpayer all penalties and interest waived through the program if, within two years after the end of the program, either of the following occurs:

(1) the taxpayer granted amnesty under this article becomes delinquent for three consecutive periods in payment of taxes due or filing of returns required on a semimonthly, monthly, quarterly or other basis, and the taxpayer has not contested the tax liability through a timely valid administrative or judicial appeal; or

(2) the taxpayer granted amnesty under this article becomes delinquent and is eight or more months late in payment of taxes due or filing of returns on an annual basis, and the taxpayer has not contested the liability through a timely valid administrative or judicial appeal.

(2904-G added July 13, 2016, P.L.526, No.84)

Section 2905-G. Limitation of deficiency assessment.

If, subsequent to the amnesty period, the department issues a deficiency assessment with respect to a tax amnesty return, the department may impose penalties and pursue a criminal action only with respect to the difference between the amount shown on that tax amnesty return and the current amount of tax.

(2905-G added July 13, 2016, P.L.526, No.84)

Section 2906-G. Overpayment of tax.

Notwithstanding any other provisions of this article or any other act, if an overpayment of eligible tax is refunded or credited within 180 days after the tax amnesty return is filed or the eligible tax is paid, whichever is later, no interest shall be allowed on the overpayment.

(2906-G added July 13, 2016, P.L.526, No.84)

Section 2907-G. Previously paid interest and penalties.

No refund or credit shall be allowed for any interest or penalty on eligible taxes paid to the department prior to the amnesty period.

(2907-G added July 13, 2016, P.L.526, No.84)

Section 2908-G. Proceedings relating to tax amnesty return barred.

Participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or pursue an administrative or judicial proceeding with regard to tax amnesty returns filed under the program or to claim any refund of money paid under the program is barred.

(2908-G added July 13, 2016, P.L.526, No.84)

Section 2909-G. Undisclosed liabilities.

Nothing in this article shall be construed to prohibit the department from instituting civil or criminal proceedings against a taxpayer with respect to an amount of tax that is not disclosed on the tax amnesty return or an amount disclosed on the amnesty return that is not paid.

(2909-G added July 13, 2016, P.L.526, No.84)

Section 2910-G. Duties of department.

(a) Guidelines.--The department shall develop guidelines to implement the provisions of this article. The guidelines shall be published in the Pennsylvania Bulletin within 60 days of the effective date of this section and shall contain, but not be limited to, the following information:

(1) An explanation of the program and the requirements for eligibility for the program.

(2) The dates during which a tax amnesty return may be filed.

(3) A specimen copy of the tax amnesty return.

(4) The amnesty revenue estimates required under section 2912-G(b).

(b) Publicity.--The department shall publicize the program to maximize public awareness of and participation in the program. The department shall coordinate to the highest degree possible its publicity efforts and other actions taken to implement this article.

(c) Reports.--The department shall issue reports to the General Assembly detailing program implementation. The reports shall contain the following information:

(1) Within 30 days after the end of the amnesty period:

(i) A detailed breakdown of the department's administrative costs in implementing the program.

(ii) The total dollar amount of revenue collected by the program.

(2) Within 180 days after the end of the amnesty period:

(i) The number of tax amnesty returns filed and a breakdown of the number and dollar amount of revenue raised for each tax by calendar year during which the tax period ended. In addition, the gross revenues shall be broken down in the following categories:

(A) Amounts represented by assessments receivable established by the department on or before the first day of the amnesty period.

(B) All other amounts.

(ii) The total dollar amount of penalties and interest waived under the program.

(iii) The demographic characteristics of tax amnesty participants, including North American Industry Classification System codes of participants, type of taxpayer, consisting of individual, partnership, corporation or other entity, size of tax liability and geographical location.

(d) Notification.--The department shall notify in writing all known tax delinquents at the taxpayers' last known valid addresses of the existence of the program. The sole purpose of the letter sent by the department to taxpayers shall be notification of the program.

(2910-G added July 13, 2016, P.L.526, No.84)

Section 2911-G. Method of payment.

All tax payments under the program shall be made by certified check, money order, electronic transfer, credit card or other financial instrument acceptable to the department.

(2911-G added July 13, 2016, P.L.526, No.84)

Section 2912-G. Use of revenue.

(a) Restricted revenue account.--Except as set forth in subsection (c), all revenue generated by this article shall be deposited into a restricted revenue account in the General Fund. Revenue from the restricted revenue account shall be distributed as follows:

(1) All money from General Fund sources shall be deposited in the General Fund no later than June 30, 2017, less repayment of any costs for administration of the program to the department.

(2) All revenue from Motor License Fund sources shall be deposited in the Motor License Fund no later than June 30, 2017.

(3) All revenue from Liquid Fuels Tax Fund sources shall be deposited in the Liquid Fuels Tax Fund no later than June 30, 2017.

(b) Revenue estimates.--

(1) The department shall submit, for publication in the Pennsylvania Bulletin:

(i) a separate amnesty revenue estimate for revenue generated under this article from the following sources:

(A) The General Fund.

(B) The Motor License Fund.

(C) The Liquid Fuels Tax Fund.

(ii) The methodology used to develop the estimate.

(2) All amnesty revenue estimates shall be submitted for publication pursuant to section 2910-G(a)(4).

(2912-G added July 13, 2016, P.L.526, No.84)

Compiler's Note: Subsection (c), referred to in subsection (a), does not exist.

Section 2913-G. Additional penalty.

(a) General rule.--Subject to the limitations provided under subsection (b), a penalty of 5% of the unpaid tax liability and penalties and interest shall be levied against a taxpayer subject to an eligible tax if the taxpayer failed to remit an eligible tax due or had an unreported or underreported liability for an eligible tax on or after the first day following the end of the amnesty period.

(b) Nonapplicability.--The penalty provided in this section shall not apply to a taxpayer who:

(1) pays the liability in full or entered into a duly approved and executed deferred payment plan on or before the last day of the amnesty period; or

(2) has filed a timely and valid administrative or judicial appeal contesting the liability on or before the last day of the amnesty period.

(c) Penalty in addition.--The penalty provided by this section shall be in addition to all other penalties provided by law.

(2913-G added July 13, 2016, P.L.526, No.84)

Section 2914-G. Construction.

Except as expressly provided in this article, this article shall not:

(1) be construed to relieve a person, corporation or other entity from the filing of a return or from a tax, penalty or interest imposed by the provisions of any law;

(2) affect or terminate a petition, investigation, prosecution, legal or otherwise, or other proceeding pending under the provisions of any such law; or

(3) prevent the commencement or further prosecution of a proceeding by the proper authorities of the Commonwealth for violation of any such law or for the assessment, settlement, collection or recovery of tax, penalty or interest due to the Commonwealth under any such law.

(2914-G added July 13, 2016, P.L.526, No.84)

Section 2915-G. Suspension of inconsistent acts.

All acts or parts of acts inconsistent with the provisions of this article are suspended to the extent necessary to carry out the provisions of this article.

(2915-G added July 13, 2016, P.L.526, No.84)

ARTICLE XXIX-H
INDEPENDENT PUBLIC SCHOOLS
(Art. added June 28, 2019, P.L.50, No.13)

Section 2901-H. Taxability of independent public schools.

A charter school, regional charter school or cyber charter school, as defined in section 1703-A of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949, is an independent public school and shall be free from taxation within this Commonwealth to the same extent as a school district for purposes of the surplus lines tax under section 1621 of the act of May 17, 1921 (P.L.682, No.284), known as The Insurance Company Law of 1921.

(2901-H added June 28, 2019, P.L.50, No.13)

ARTICLE XXIX-I
TUITION ACCOUNT PROGRAMS
(Art. added July 11, 2024, P.L.674, No.56)

Section 2901-I. Definitions.

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

"Account." As defined in section 302 of the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act.

"Account owner." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

"Beneficiary." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

"Tuition Account Program Contract." As defined in section 302 of the Tuition Account Programs and College Savings Bond Act.

(2901-I added July 11, 2024, P.L.674, No.56)

Section 2902-I. Fees.

Notwithstanding section 313(c) of the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act, the Treasury Department may not impose a fee on the termination of an account if the termination was a result of the death or disability of the beneficiary.

(2902-I added July 11, 2024, P.L.674, No.56)

Section 2903-I. Taxation of payment.

Notwithstanding section 313(d) of the act of April 3, 1992 (P.L.28, No.11), known as the Tuition Account Programs and College Savings Bond Act, if a Tuition Account Program Contract is terminated under section 313(a) of the Tuition Account Programs and College Savings Bond Act, a payment received by an account owner from the Treasury Department shall not be considered in the classes of income under section 303 for the purpose of computing the tax under Article III.

(2903-I added July 11, 2024, P.L.674, No.56)

ARTICLE XXX
GENERAL PROVISIONS
(Art. renumbered from Art. XII Dec. 21, 1981, P.L.482, No.141)

Section 3001. Saving Clause.--(a) Notwithstanding anything contained in any law to the contrary, the validity of any ordinance or part of any ordinance or any resolution or part of any resolution, and any amendments or supplements thereto now or hereinafter enacted or adopted by any political subdivision of this Commonwealth for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this code.

(b) Nothing contained in this code shall be construed to relieve any person, corporation or other entity from the filing returns or from any taxes, penalties or interest imposed by the provisions of any laws which were in effect prior to being repealed by this code, or affect or terminate any petitions, investigations, prosecutions, legal or otherwise, or other proceedings pending under the provisions of any such laws or prevent the commencement or further prosecution of any proceedings by the proper authorities of the Commonwealth for violation of any such laws or for the assessment, settlement, collection or recovery of taxes, penalties or interest due to the Commonwealth under any of the laws which were in effect prior to being repealed by this code.

(3001 renumbered from 1201 Dec. 21, 1981, P.L.482, No.141)

Section 3002. Constitutional Construction.--If any word, phrase, clause, sentence, section or provision of this code is for any reason held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this code. It is hereby declared as the legislative intent that this code would have been adopted had such unconstitutional word, phrase, clause, sentence, section or provision thereof not been included herein.

(3002 renumbered from 1202 Dec. 21, 1981, P.L.482, No.141)

Section 3003. Prepayment of Tax.--(3003 deleted by amendment May 7, 1997, P.L.85, No.7)

Section 3003.1. Petitions for Refunds.--(a) For a tax collected by the Department of Revenue, a taxpayer who has actually paid tax, interest or penalty to the Commonwealth or to an agent or licensee of the Commonwealth authorized to collect taxes may petition the Department of Revenue for refund or credit of the tax, interest or penalty. Except as otherwise provided by statute, a petition for refund must be made to the department within three years of actual payment of the tax, interest or penalty.

(b) The department may grant a refund or credit to a taxpayer for all tax periods covered by a departmental audit. If a credit is not granted by the department in the audit report, the taxpayer must file a petition for refund for taxes paid with respect to the audit period within six months of the mailing date of the notice of assessment, determination or settlement or within three years of actual payment of the tax, whichever is later.

(c) ((c) repealed June 29, 2002, P.L.559, No.89)

(d) In the case of amounts paid as a result of an assessment, determination, settlement or appraisement, a petition for refund must be filed with the department within six months of the actual payment of the tax.

(e) A taxpayer may petition the Board of Finance and Revenue to review the decision and order of the department on a petition for refund. The petition for review must be filed with the board within ninety days of the mailing date of a decision and order of the department upon a petition for refund.

(3003.1 amended July 2, 2012, P.L.751, No.85)

Compiler's Note: See section 2 of Act 175 of 2016 in the appendix to this act for special provisions relating to time limitations for filing petition for refund.

Compiler's Note: Section 30(9) of Act 85 of 2012, which amended section 3003.1, provided that the amendment shall apply to petitions filed after July 1, 2012.

Compiler's Note: Section 42(b) of Act 48 of 1994 provided that section 3003.1 is repealed to the extent that it conflicts with the provisions of Act 48 for filing with the Board of Finance and Revenue of petitions for the refund of taxes and other moneys collected by the Department of Revenue.

Section 3003.2. Estimated Tax.--(a) The following taxpayers are required to pay estimated tax:

(1) Every corporation subject to the corporate net income tax imposed by Article IV of this act, commencing with the calendar year 1986 and fiscal years beginning during the calendar year 1986 and each taxable year thereafter, shall make payments of estimated corporate net income tax.

(2) Every corporation subject to the capital stock and franchise tax imposed by Article VI of this act, commencing with the calendar year 1988 and fiscal years beginning during the calendar year 1988 and each taxable year thereafter, shall make payments of estimated capital stock and franchise tax during its taxable year as provided herein.

(3) Every "mutual thrift institution" or "institution" subject to the tax imposed by Article XV of this act, commencing with the calendar year 1992 and fiscal years beginning during the calendar year 1992 and each taxable year thereafter, shall make payments of estimated mutual thrift institution tax during its taxable year.

(4) Every "insurance company" subject to the tax imposed by Article IX of this act shall make payments of estimated insurance premiums tax during its taxable year.

(5) Every person subject to the tax imposed by Article XI of this act shall make payments of estimated gross receipts tax during its taxable year. ((5) amended Dec. 23, 2003, P.L.250, No.46)

(6) Every person subject to the surcharge imposed by section 1111-A of this act shall make payments of estimated public utility realty surcharge during its taxable year.

(b) The following words, terms and phrases when used in this section and section 3003.3 shall have the following meanings ascribed to them: (Intro. par. amended Dec.23, 2003, P.L.250, No.46)

(1) "Estimated tax." Estimated corporate net income tax, estimated capital stock and franchise tax, estimated mutual thrift institution tax, estimated insurance premiums tax, estimated gross receipts tax or estimated public utility realty surcharge. ((1) amended Dec. 23, 2003, P.L.250, No.46)

(2) "Estimated corporate net income tax." The amount which the corporation estimates as the amount of tax imposed by section 402 of Article IV for the taxable year.

(3) "Estimated capital stock and franchise tax." The amount which the corporation estimates as the amount of tax imposed by section 602 of Article VI for the taxable year.

(4) "Estimated mutual thrift institution tax." The amount which the institution estimates as the amount of tax imposed by section 1502 of Article XV for the taxable year.

(4.1) "Estimated insurance premiums tax." The amount which the insurance company estimates as the amount of tax imposed by section 902 of Article IX for the taxable year.

(4.2) "Estimated gross receipts tax." The amount which the taxpayer estimates as the amount of tax imposed by section 1101 of Article XI for the taxable year. ((4.2) amended Dec. 23, 2003, P.L.250, No.46)

(4.3) "Person." Any natural person, association, fiduciary, partnership, corporation or other entity, including the Commonwealth, its political subdivisions and instrumentalities and public authorities. Whenever used in any clause prescribing and imposing a penalty or imposing a fine or imprisonment, or both, the term "person," as applied to an association, shall include the members thereof and, as applied to a corporation, the officers thereof.

(4.4) "Safe harbor base year." The taxpayer's second preceding taxable year. If the second preceding taxable year is less than twelve months, then the "safe harbor base year" shall mean the taxpayer's annualized second preceding taxable year. If the taxpayer has filed only one previous report, the "safe harbor base year" shall mean the first preceding taxable year. If the first preceding taxable year is less than twelve months, then the "safe harbor base year" shall mean the taxpayer's annualized first preceding taxable year.

(4.5) "Estimated public utility realty surcharge." The amount which the taxpayer estimates as the amount of surcharge imposed by section 1111-A of Article XI-A for the taxable year.

(5) "Taxpayer." Any person required to pay a tax imposed by Article IV, VI, IX, XI or XV of this act.

(6) "Total tax." The total tax liability of the taxpayer for the tax period including the tax reported by the taxpayer and settled, resettled or assessed by the department. ((6) added Oct. 18, 2006, P.L.1149, No.119)

(c) Estimated tax shall be paid as follows:

(1) Payments of estimated corporate net income tax shall be made in equal installments on or before the fifteenth day of the third, sixth, ninth and twelfth months of the taxable year. The remaining portion of the corporate net income tax due, if any, shall be paid upon the date the corporation's annual report is required to be filed without reference to any extension of time for filing such report.

(2) Payment of estimated capital stock and franchise tax shall be made in equal installments on or before the fifteenth day of the third, sixth, ninth and twelfth months of the taxable year. The remaining portion of the capital stock and franchise tax due, if any, shall be paid upon the date the corporation's annual report is required to be filed without reference to any extension of time for filing such report.

(3) Payment of the estimated mutual thrift institution tax shall be made in equal installments on or before the fifteenth day of the third, sixth, ninth and twelfth months of the taxable year. The remaining portion of the mutual thrift institution tax due, if any, shall be paid upon the date the

institution's annual report is required to be filed without reference to any extension of time for filing such report.

(4) Payment of the estimated insurance premiums tax shall be made in a single installment on or before the fifteenth day of March of the taxable year. The remaining portion of the insurance premiums tax due, if any, shall be paid upon the date the insurance company's annual report is required to be filed without reference to any extension of time for filing the report.

(5) Payment of the estimated gross receipts tax shall be made in a single installment on or before the fifteenth day of March of the taxable year. The remaining portion of the gross receipts tax due, if any, shall be paid upon the date the annual report is required to be filed without reference to any extension of time for filing the report. ((5) amended Dec. 23, 2003, P.L.250, No.46)

(6) Payment of the estimated public utility realty surcharge shall be made in a single installment on or before the fifteenth day of March of the taxable year. The remaining portion of the public utility realty surcharge due, if any, shall be paid upon the date the report is required to be filed without reference to any extension of time for filing the report.

(d) If, after paying any installment of estimated tax, the taxpayer makes a new estimate, the amount of each remaining installment due, if any, shall be such as to bring the total installment payments made on account of the tax due for the current year up to an amount that would have been due had the new estimate been the basis for paying all previous installments.

(e) Every taxpayer with a taxable year of less than twelve months shall pay such installments as become due during the course of its taxable year and pay the remaining tax due on or before the due date of the annual report (determined without regard to any extension of time for filing).

(f) At the election of the taxpayer, any installment of estimated tax may be paid before the date prescribed for its payment.

(g) For all purposes of this section and section 3003.3, estimated corporate net income tax, estimated capital stock and franchise tax, estimated mutual thrift institutions tax, estimated insurance premiums tax, estimated gross receipts tax and estimated public utility realty surcharge shall be separately reported, determined and treated. ((g) amended Dec. 23, 2003, P.L.250, No.46)

(h) The tax imposed on shares of institutions and title insurance companies shall be paid in the manner and within the time prescribed by Article VII or VIII of this act, but subject to the interest provided in section 3003.3 of this article.

(i) Whenever the amount shown as due on the annual report, including any assessment of the tax period, is less than the amount paid to the department on account of that amount under this article, the department shall enter a credit in the amount of the difference to the account of the taxpayer, which credit shall be immediately subject to application, assignment or refund, at the request of the taxpayer under section 1108 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," or at the initiative of the department. If the application, assignment or refund of credit under this subsection results in an underpayment of the tax due upon assessment, interest shall be calculated on the amount of the underpayment from the date credit was applied, assigned or refunded. ((i) amended Oct. 18, 2006, P.L.1149, No.119)

(3003.2 amended June 29, 2002, P.L.559, No.89)

Compiler's Note: See section 33 of Act 119 of 2006, which amended subsec. (i) and added subsec. (b)(6), in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 3003.3. Underpayment of Estimated Tax.--(a) In case of any underpayment of an installment of estimated tax by a taxpayer, there shall be imposed interest for the taxable year in an amount determined at the annual rate as provided by law upon the amount of the underpayment for the period of the underpayment, except that, in case of any substantial underpayment of estimated tax by a taxpayer, such interest for the taxable year shall be imposed in an amount determined at one hundred twenty per cent of the annual rate as provided by law upon the entire underpayment for the period of the substantial underpayment. For the purpose of this subsection, a substantial underpayment shall be deemed to exist for any period during which the amount of the underpayment equals or exceeds twenty-five per cent of the cumulative amount of installments of estimated tax which would be required to be paid if the estimated tax were equal to the amount as determined in subsection (b)(1).

(b) (1) For purposes of this section, the amount of the underpayment, if any, shall be the excess of:

(i) the cumulative amount of installments which would be required to be paid as of each installment date as defined in section 3003.2(c) if the estimated tax were equal to ninety per cent of the tax shown on the report for the taxable year, except that, if the total tax exceeds the tax shown on the report by ten per cent or more, the amount of the underpayment shall be based on ninety per cent of the amount of the total tax; over

(ii) the cumulative amount of installments paid on or before the last date prescribed for payment.

(2) If the total tax is revised, the amount of underpayment shall be calculated without the necessity of the filing of any petition by the department or by the taxpayer.

((b) amended Oct. 18, 2006, P.L.1149, No.119)

(c) The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

(1) The fifteenth day of the fourth month following the close of the taxable year.

(2) With respect to any portion of the underpayment, the date on which such portion is paid.

(d) Notwithstanding the provisions of the preceding subsections, interest with respect to any underpayment of any installment of estimated tax shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment equals or exceeds the amount which would have been required to be paid on or before such date if the estimated tax were an amount equal to the tax computed at the rates applicable to the taxable year, including any minimum tax imposed, but otherwise on the basis of the facts shown on the report of the taxpayer for, and the law applicable to, the safe harbor base year, adjusted for any changes to sections 401, 601, 602 and 1101 enacted for the taxable year, if a report showing a liability for tax was filed by the taxpayer for the safe harbor base year. If the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of such installment does not equal or exceed the amount required to be paid per the preceding sentence, but such amount is paid after the date the installment was required to be paid, then the period of underpayment shall run from the date the installment was required to be paid to the date the amount required to be paid per the preceding sentence is paid. Provided, that if the total tax for the safe harbor base year exceeds the tax shown on such report by ten per cent or more, the total tax adjusted to reflect the current tax rate shall be used for purposes of this subsection. In the event that the total tax for the safe harbor base year exceeds the tax shown on the report by ten per cent or more, interest resulting from the utilization of such total tax in the application of the provisions of this subsection shall not be imposed if, within forty-five days of the mailing date of each assessment, payments are made such that the total amount of all payments of estimated tax equals or exceeds the amount which would have been required to be paid on or before such date if

the estimated tax were an amount equal to the total tax adjusted to reflect the current tax rate. In any case in which the taxable year for which an underpayment of estimated tax may exist is a short taxable year, in determining the tax shown on the report or the total tax for the safe harbor base year, the tax will be reduced by multiplying it by the ratio of the number of installment payments made in the short taxable year to the number of installment payments required to be made for the full taxable year. ((d) amended Oct. 18, 2006, P.L.1149, No.119)

(e) ((e) deleted by amendment May 7, 1997, P.L.85, No.7)

(3003.3 amended May 7, 1997, P.L.85, No.7)

Compiler's Note: Section 14(3) of Act 48 of 2009 provided that for the purposes of determining the amount of any underpayment under subsec. (d), the amendment of section 602(h) shall not be taken into account for any payment of estimated capital stock or franchise tax due prior to January 1, 2010.

Section 3003.4. Interest.--(3003.4 deleted by amendment May 7, 1997, P.L.85, No.7)

Section 3003.5. Refund Petitions.--(a) Effective January 1, 1995, petitions for refund of taxes, penalties, fines, additions and other moneys collected by the Department of Revenue except those claims for refunds of liquid fuels taxes paid by political subdivisions, farmers, nonpublic schools not operated for profit, volunteer fire companies, volunteer rescue squads, volunteer ambulance services, users of liquid fuel in propeller-driven aircraft or engines and agencies of the Federal Government and of the Commonwealth and the Boat Fund of the Pennsylvania Fish and Boat Commission shall be heard and determined by the Department of Revenue as provided in the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," and the Department of Revenue shall thereafter have, except as set forth in Article XXVII, the powers and duties formerly granted to the Board of Finance and Revenue with respect to such refunds. Also effective January 1, 1995, the Board of Finance and Revenue shall no longer have the power and duty to hear and determine any petition for refund of taxes, penalties, fines, additions or other moneys collected by the Department of Revenue, except that thereafter the board may either hear and determine any such petitions filed with it prior to January 1, 1995, or it may transfer such petitions to the Department of Revenue.

(b) Appeals.--The decision of the Department of Revenue on a petition for refund under this section may, in the first instance, be appealed to the Board of Finance and Revenue in the manner provided by section 1103 of "The Fiscal Code" except that the Board of Finance and Revenue shall act finally in disposition of such petitions within twelve months after they have been received.

(3003.5 amended Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 3003.6. Timely Filing.--(a) A taxpayer shall be deemed to have timely filed a petition for a refund, a petition for reassessment or any other protest relating to the assessment of tax or any other matter relating to any tax imposed by this act if the letter transmitting the petition is received by the Department of Revenue or is postmarked by the United States Postal Service on or prior to the final day on which the petition is required to be filed.

(b) For purposes of filing a petition for refund, a petition for reassessment or a petition for redetermination with the Department of Revenue or the Board of Finance and Revenue, the reference in subsection (a) to a postmark by the United States Postal Service shall include any

date recorded or marked as described under 26 U.S.C. § 7502(f)(2)(C) (relating to timely mailing treated as timely filing and paying) by any delivery service designated by the Secretary of the Treasury of the United States under 26 U.S.C. § 7502(f)(2).

(3003.6 amended Oct. 29, 2024, P.L.1086, No.123)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 3003.7. Failure to Make Payment by Electronic Fund Transfer.--Any person who fails to make a payment covered by section 9 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," by a method prescribed in that section shall in addition to any other penalty, interest or addition provided by law, be liable for a penalty of three per cent of the total tax due, not exceeding one thousand dollars ($1,000).

(3003.7 added June 16, 1994, P.L.279, No.48)

Section 3003.8. Method of Filing.--(a) Notwithstanding any provision of law, the Department of Revenue may allow the electronic filing of any tax return or documents.

(b) For the purposes of this section, the Department of Revenue may determine alternative methods for the signing, subscribing or verifying of a return, statement or other document that shall have the same validity and consequences as the actual signing by the taxpayer.

(3003.8 added June 16, 1994, P.L.279, No.48)

Section 3003.9. Bad Checks; Electronic Funds Transfers Not Credited Upon Transmission; Additions to Tax.--(a) If any check in payment of any amount receivable under the laws of this Commonwealth administered by the department is not paid upon presentment, or any electronic funds transfer as payment of any amount receivable under the laws of this Commonwealth administered by the department is not credited upon transmission, in addition to any interest or penalties provided by law, the department shall charge the person who tendered the check or authorized the electronic transmission an addition to tax equal to ten per cent of the face amount of the check or electronic funds transfer, plus interest and protest fees, provided that the addition imposed by this section shall not exceed one hundred dollars ($100) nor be less than twenty-five dollars ($25). ((a) amended June 30, 2021, P.L.124, No.25)

(b) This section shall apply to all checks presented for payment and all electronic funds transfers authorized for payment.

(3003.9 amended July 7, 2005, P.L.149, No.40)

Section 3003.10. Commercial Printers.--For purposes of defining the phrases "doing business in this Commonwealth," "carrying on activities in this Commonwealth," "having capital or property employed or used in this Commonwealth" or "owning property in this Commonwealth" in section 401 of Article IV and substantially similar phrases in section 601 of Article VI, the following activities shall be excluded:

(1) Owning or leasing of tangible or intangible property by a person who has contracted with an unaffiliated commercial printer for printing, provided that:

(i) the property is for use by the commercial printer; and

(ii) the property is located at the Pennsylvania premises of the commercial printer.

(2) Visits by a person's employes or agents to the premises in this Commonwealth of an unaffiliated commercial printer with whom the person has contracted for printing in connection with said contract.

(3) Owning of printed matter and other items packaged therewith by a person who has contracted with an unaffiliated commercial printer for printing on the premises of such unaffiliated commercial printer prior to

delivery of the property regardless of to whom or by whom the printed matter is delivered or mailed.

(3003.10 added June 30, 1995, P.L.139, No.21)

Section 3003.11. Restatement of Tax Liability Under Treaties.--In the absence of an express exemption from State income taxes, no treaty of the Federal Government shall be construed to exempt a corporation from the taxes imposed under Articles IV and VI. For purposes of determining "taxable income" under Article IV, any corporation not subject to Federal income taxation or Federal reporting requirements pursuant to such a treaty shall be required to file a report with the department showing the taxable income which would have been reported to and ascertained by the Federal Government had it not been exempted by the treaty.

(3003.11 added Apr. 23, 1998, P.L.239, No.45)

Compiler's Note: Section 19 of Act 45 of 1998, which added section 3003.11, provided that the General Assembly declares that the intent of the addition of section 3003.11 is to clarify existing law. The addition of section 3003.11 shall not be construed to change existing law.

Section 3003.12. Harness and Thoroughbred Racing.--Notwithstanding the provisions of section 222 of the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act," regarding the payment of taxes, all corporations licensed to conduct harness horse race meetings or thoroughbred horse race meetings shall remit the taxes imposed under section 222(a.1) within twenty days of the close of each calendar month.

(3003.12 added May 12, 1999, P.L.26, No.4)

Section 3003.13. Corporate Tax Treatment of Certain Automobile Clubs.--(a) Notwithstanding any other provision of law, the "taxable income" of an automobile club for purposes of the tax imposed by Article IV of this act shall be separately computed and limited to income from the following activities:

(1) The conduct of the business of insurance by the automobile club, or subsidiary or affiliate thereof, in the capacity of an insurance company, association or exchange, insurance agency or brokerage, as these terms are defined in the act of May 17, 1921 (P.L.789, No.285), known as "The Insurance Department Act of 1921."

(2) The conduct of a travel agency business.

(b) Notwithstanding any other provision of law, the "capital stock value" of an automobile club for purposes of the tax imposed by Article VI of this act shall be separately computed and limited to the value attributed to the following activities:

(1) The conduct of the business of insurance by the automobile club, or subsidiary or affiliate thereof, in the capacity of an insurance company, association or exchange, insurance agency or brokerage, as these terms are defined in "The Insurance Department Act of 1921."

(2) The conduct of a travel agency business.

(c) For purposes of the taxes imposed by Articles IV and VI of this act, an automobile club shall be deemed not to be a membership organization subject to the Federal limitations on deductions from taxable income under section 277 of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 277).

(d) The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Automobile club." A nonprofit corporation, trust or other entity whose membership is open to the general public, and that provides services and conducts activities on behalf of its members, including all of the following:

(1) Motor vehicle registration, title transfer and license application and renewal services.

(2) Motor vehicle travel assistance, including road maps, trip itineraries, tour guides and emergency roadside assistance.

(3) Promotion of the development and provision of safe and convenient motor vehicle travel conditions, services and facilities.

(4) Promotion of the construction, maintenance and use of efficient, adequate and safe highway systems.

(5) Education of motorists and the traveling public in the principles of traffic and motor vehicle safety and related matters.

"Travel agency business." The arrangement, in exchange for a fee, commission or salary, of vacation or travel packages or services, sightseeing tours, travel reservations or accommodations, tickets for domestic or foreign travel by air, rail, ship, bus or other mode of transportation or hotel or other accommodations.

(3003.13 added May 12, 1999, P.L.26, No.4)

Compiler's Note: Section 32(4) of Act 4 of 1999, which added section 3003.13, provided that section 3003.13 shall apply to the taxable years beginning after December 31, 1997.

Section 3003.14. Immediate Assessment, Settlement or Collection to Prevent Tax Avoidance.--(a) Notwithstanding Articles IV, VIII and X of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," and section 407 of this act, the Department of Revenue may make an immediate assessment or settlement of any tax imposed in accordance with Article II, IV or VI and any interest or penalty due if the department finds that, without immediate action by the department, the tax, interest or penalty due will be in jeopardy of not being collected because the taxpayer intends to do any of the following without paying the tax, interest or penalty due:

(1) Immediately depart this Commonwealth.

(2) Remove property from this Commonwealth used in activities which are subject to any tax imposed by this act.

(3) Discontinue doing business in this Commonwealth.

(4) Do any other act which would prejudice or render ineffective, either in whole or in part, proceedings to assess, settle or collect any tax, interest or penalty due.

(b) The department shall give notice to the person and a demand for filing an immediate return or report and paying the tax, interest or penalty due.

(c) The department may issue a civil citation to collect any assessment or settlement made under subsection (a).

(d) Except as provided in subsection (e), the department may compel security, including the detention of tangible personal property, for any tax, interest or penalty assessed or settled under subsection (a).

(e) The department may not detain tangible personal property of a taxpayer under this section if the taxpayer does any of the following:

(1) Presents a valid Pennsylvania sales tax license to the authorized employes of the department.

(2) Posts bond in an amount to be determined by the department.

(3) Pays the tax, interest or penalty due under this section.

(3003.14 added June 29, 2002, P.L.559, No.89)

Section 3003.15. Authority to Attach Wages, Commissions and Other Earnings.--(a) The Department of Revenue may, upon the presentation of a written notice and demand certifying that the information contained within is true and correct and containing the name of the taxpayer and the amount of delinquent State tax due plus the department's costs, demand, receive and collect the amount from any entity:

(1) employing persons owing delinquent State taxes; or

(2) having in its possession unpaid commissions or earnings belonging to any person or persons owing delinquent State taxes.

(b) Subject to the limitations in subsection (c), upon the receipt of a written notice and demand pursuant to subsection (a), an entity shall deduct from the wages of an individual employe the amount shown on the notice and shall forward the amount to the department within sixty days after receipt of the notice.

(c) No more than ten per cent of the wages of an individual employe who is a delinquent taxpayer may be deducted at any one time for delinquent

State taxes and costs. The entity is entitled to deduct from the amount collected from the individual employe the costs incurred by the entity for the extra bookkeeping necessary to record the transactions but not to exceed two per cent of the amount collected from the individual employe.

(d) Upon the failure of an entity to deduct or forward an amount required under this section within the time period required under subsection (b), the entity shall pay the amount of the delinquent State tax and costs for each individual employe who is a delinquent taxpayer subject to a demand in addition to a penalty in accordance with section 352(h). An entity paying delinquent taxes, costs and a penalty pursuant to this subsection shall not have the benefit of any stay of execution or exemption law.

(e) The following words, terms and phrases when used in this section shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

"Entity." The United States, the Commonwealth or any of its political subdivisions, a corporation, an association, a company, a firm or an individual.

"Wages." Any wages, commissions or earnings of an individual employe:

(1) which are currently owed to the individual employe;

(2) which shall become due within sixty days of receipt of a written notice and demand pursuant to subsection (b);

(3) any unpaid commissions or earnings of an individual employe in the entity's possession; or

(4) any unpaid commissions or earnings of an individual employe that comes into the entity's possession within sixty days of receipt of a written notice and demand pursuant to subsection (a).

(3003.15 added Dec. 23, 2003, P.L.250, No.46)

Section 3003.16. Electronic Transmissions.--Notwithstanding the provisions of the act of December 16, 1999 (P.L.971, No.69), known as the "Electronic Transactions Act," the department may at any time transmit, by electronic or any other means, to the prothonotaries of the respective counties of the Commonwealth, to be entered of record by them, certified copies of all liens imposed by this act. Notwithstanding the provisions of the "Electronic Transactions Act," the department may pay for and satisfy such liens by electronic or any other means.

(3003.16 added July 7, 2005, P.L.149, No.40)

Section 3003.17. Reimbursement for Costs of Collection.--(a) All costs of collection incurred by the department or the Office of Attorney General on tax liability for taxes administered by the department, other than fuel tax liabilities and motor carrier road tax liabilities, including interest, penalties and fees, must be paid before the liability is extinguished unless collection costs are discharged by operation of law. For purposes of this section, costs of collection include only lien filing costs, costs imposed under a Federal or other State tax refund offset program and costs incurred by paying commissions or other remuneration to private agencies paid by the department or the Office of Attorney General to collect department tax liabilities.

(b) The costs of collection shall be added to the amount of the liability for taxes administered by the department and shall constitute a lien against the real or personal property of the person. The unpaid costs may be collected by the department, the Office of Attorney General or a private collection agency in any way that the underlying tax liability could have been collected.

(3003.17 added July 7, 2005, P.L.149, No.40)

Section 3003.18. Assessments to be Made by Department.--(a) Parts IV, V, VI and VII of Article IV shall apply to all of the following:

(1) The tax imposed by section 17 of the act of June 22, 1935 (P.L.414, No.182), known as the "State Personal Property Tax Act."

(2) The tax imposed by the act of May 23, 1945 (P.L.893, No.360), known as the "Co-operative Agricultural Association Corporate Net Income Tax Act." The reference to petition for resettlement in section 4 of the "Co-

operative Agricultural Association Corporate Net Income Tax Act" shall be interpreted as a petition for reassessment.

(3) The State admissions tax and the pari-mutuel wagering tax imposed by sections 208 and 222 of the act of December 17, 1981 (P.L.435, No.135), known as the "Race Horse Industry Reform Act."

(4) All taxes, fees, additions, bonuses, costs, penalties or charges collected by the department either:

(i) subject to settlement or determination by the department prior to the effective date of this section; or

(ii) for which no other method for the establishment of the unpaid or unreported liability to be collected by the department is provided by law.

(b) The powers conferred upon the department by this section shall be in addition to, but not exclusive of, any powers conferred upon the department by law before or after the effective date of this section.

(c) This section shall not apply to any of the following:

(1) The procedure for collection of moneys due the Commonwealth by county or city officers as provided by Article IX of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(2) The taxes imposed by 75 Pa.C.S. Chs. 90 (relating to liquid fuels and fuels tax), 95 (relating to taxes for highway maintenance and construction) and 96 (relating to motor carriers road tax).

(3003.18 added Oct. 18, 2006, P.L.1149, No.119)

Compiler's Note: See section 33 of Act 119 of 2006 in the appendix to this act for special provisions relating to determinations and assessments of tax liability by the Department of Revenue after December 31, 2007, and applicability of Act 119 on proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008.

Section 3003.19. Powder Metallurgy Parts.--For purposes of defining the phrases "doing business in this Commonwealth," "carrying on activities in this Commonwealth," "having capital or property employed or used in this Commonwealth" or "owning property in this Commonwealth" in sections 401 and 402 of Article IV and substantially similar phrases in section 601 of Article VI, the following activities shall be excluded:

(1) Owning or leasing of intangible and tangible property, including dies, molds, tooling and related equipment, by a person who has contracted with an unaffiliated manufacturer of powder metallurgy products for manufacturing, provided that:

(i) the property is for use by the powder metallurgy product manufacturer;

(ii) the property is located at the Pennsylvania premises of the powder metallurgy product manufacturer; and

(iii) the products manufactured using such property are incorporated into products produced outside this Commonwealth by the owner or lessor of the property.

(2) Visits by a person's employes or agents to the premises in this Commonwealth of an unaffiliated powder metallurgy product manufacturer with whom the person has contracted for manufacturing in connection with the contract.

(3) Owning of manufactured powder metallurgy products, and other items packaged therewith, by a person who has contracted with an unaffiliated powder metallurgy products manufacturer for manufacturing of products, on the premises of the unaffiliated powder metallurgy products manufacturer prior to delivery of the property.

(3003.19 added July 25, 2007, P.L.373, No.55)

Compiler's Note: Section 15 of Act 55 of 2007, which added section 3003.19, provided that the addition of section 3003.19 shall apply to taxable years beginning after December 31, 2004, and taxable years as to which there is an appeal prior to the effective date of the addition of section 3003.19.

Section 3003.20. Penalties for Certain Corporate Officers.--If an officer of a corporation or association intentionally fails to make reports to the Auditor General or to the Department of Revenue, or successively to the Auditor General and to the department, as required by law, for any two successive tax years, the officer commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not less than two thousand five hundred dollars ($2,500) nor more than five thousand dollars ($5,000). This fine shall be in addition to any fine or prison sentence under section 1704 of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code."

(3003.20 added Oct. 9, 2009, P.L.451, No.48)

Section 3003.21. Further Examination of Books and Records.--(a) The Department of Revenue or any of its authorized agents is authorized to examine the books, papers and records of any taxpayer or other persons in order to verify the accuracy and completeness of a return or report or, if no return or report is made, to ascertain and assess any tax or other liability owed the Commonwealth.

(b) The department may determine, by desk, field or other audit, the amount of tax or other liability required to be paid to the Commonwealth. The department may determine the liability based upon the facts contained in the return or report being audited or upon other information in the department's possession. The department may determine the liability based upon a reasonable statistical sample or test audit performed in accordance with the regulations of the department if the individual being audited does not have complete records of transactions or if the review of each transaction or invoice would place an undue burden on the department to conduct an audit in a timely and efficient manner.

(c) The taxpayer may challenge the accuracy of a statistical sample or test audit by providing clear and convincing evidence that the method used for the statistical sample or test audit is erroneous, lacks a rational basis or produces a different result when the complete records are considered.

(3003.21 added Oct. 9, 2009, P.L.451, No.48)

Section 3003.22. Administrative Bank Attachment for Accounts of Obligors to the Commonwealth.--(a) The following shall apply:

(1) Except as prohibited by Federal or State law, a financial institution doing business in this Commonwealth shall, upon request, and not more often than quarterly, undertake reasonable efforts to provide a report containing identifying information and asset information as the department may specify for any obligor as identified by the department by name and Social Security number, Federal employer identification number or other taxpayer identification number. The report and information shall be in the form and format as prescribed by the department pursuant to subsections (e) and (p).

(2) The department shall provide information identifying the obligors for which financial institutions are required to provide reports under paragraph (1) in a standard and generally utilized electronic machine readable format. If requested by a financial institution, the department shall coordinate the requests and the submission of reports under this section with similar procedures utilized for data exchanges under 23 Pa.C.S. § 4304.1 (relating to cooperation of government and nongovernment agencies).

(3) Reports providing identifying and asset information under this subsection shall be provided to the department within thirty days of receipt of requests for reports from the department, unless the department for good cause extends the deadline for providing reports.

(b) The department and financial institutions are authorized to enter into agreements for the purpose of carrying out the provisions of this section, which may modify the procedures contained in the department's guidelines as otherwise provided by subsection (p).

(c) The following shall apply:

(1) Information transmitted, provided or collected pursuant to this section shall be confidential and may be used by the department solely for official purposes relating to the administration and collection of taxes.

(2) Information transmitted, provided or collected pursuant to this section by a financial institution or the institution's agents and sent to the department shall not constitute a breach of confidentiality and this section shall not impose additional confidentiality requirements upon a financial institution.

(3) The department shall establish procedures to review, on at least a quarterly basis, whether information collected pursuant to this section continues to be needed to collect delinquent taxes and, upon a determination that the information is not needed, to require the permanent expungement of the information from the department's records and the records of any person to which the information has been made available, including any automated data exchange utilized by the department. Within seven days following the receipt of new reports and information under subsection (a), all previous information collected pursuant to this section shall be permanently expunged from the records of the department and the department's representatives, including any automated data exchange utilized by the department.

(4) Any employe or agent of the department, or an automated data exchange who divulges or retains information in a manner not provided in this subsection, or lacks good faith for a disclosure not authorized under this section, commits a misdemeanor of the third degree and, upon conviction, shall be sentenced to pay a fine of up to one thousand dollars ($1,000) per violation and costs and shall be subject to a term of imprisonment of not more than one year, or both.

(d) A financial institution shall be entitled to payment from the department in the amount of two hundred fifty dollars ($250) per quarter for conducting data matches pursuant to this section.

(e) The department, in consultation with associations representing financial institutions, shall develop proposed guidelines and the department shall publish final guidelines for the department's data matching processes and uses for the collection of information required under this section, which shall be conducted no more frequently than on a quarterly basis. The department may designate an agent for the collection of information under this section from the financial institutions, which may include an automated data exchange organization who shall have the authority to enter into agreements for the manner of providing information exchanges as the agent and financial institution may agree. The guidelines shall not be subject to review under section 205 of the act of July 31, 1968 (P.L.769, No.240), referred to as the Commonwealth Documents Law, section 204(b) of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, or the act of June 25, 1982 (P.L.633, No.181), known as the Regulatory Review Act.

(f) Provided that an obligor has not entered into and is in compliance with a deferred payment plan with the department, the department may order the attachment and seizure of funds in an obligor's account that the department reasonably believes to hold property subject to a tax lien recorded in favor of the Commonwealth for tax, interest, additions or penalties due to the Commonwealth. Upon receiving seized funds, the department shall apply the amount seized to the obligor's tax lien obligation.

(g) (1) If the department has a reasonable belief that an obligor's account holds property subject to a tax lien in favor of the Commonwealth, the department may order the attachment of funds in the obligor's account by sending a notice to the financial institution.

(2) The notice given to a financial institution attaching an account of the obligor shall be sent by an electronic format or any other reasonable manner as agreed to by the department and the financial institution.

(3) The notice shall include all of the following:

(i) The name of the obligor.

(ii) The amount of the Commonwealth's tax lien, including interest and penalty accrued up to forty-five days after the date of notice.

(iii) The current or last known address of the obligor.

(iv) The Social Security number, Federal employer identification number or other taxpayer identification number of the obligor.

(v) An order to immediately attach one or more accounts held by the financial institution in the name of the obligor for an aggregate amount equal to the lesser of the amounts in all accounts or the Commonwealth's tax lien.

(h) (1) Upon receipt of the notice described in subsection (g), the financial institution shall, by the end of the fifth business day following the date of the notice, attach one or more of the accounts of the obligor held by the financial institution for an aggregate amount equal to the lesser of:

(i) the total of the amounts in all the accounts of the obligor held by the financial institution as of the date of attachment; or

(ii) the amount stated in the notice.

Upon the attachment and until the financial institution receives further notice from the department or on order of a court, as provided in this section, the financial institution may not allow any activity to reduce the amounts in any of the accounts below the amount of the attachment.

(2) Within five days after date of notice to the financial institution described in subsection (g), the financial institution shall inform the department that the financial institution has complied with the attachment order and shall specify the aggregate amount attached pursuant to the order.

(3) Financial institution fees for costs are allowable as follows:

(i) The financial institution may assess a reasonable administrative fee against the accounts or the obligor in addition to the amount attached. An administrative fee may include a fee permitted to be assessed under an agreement between the obligor and the financial institution in connection with the early withdrawal of a certificate of deposit attached under this section.

(ii) In the case of insufficient funds to cover both the fee authorized by subparagraph (i) and the amount identified in the notice under subsection (g), the financial institution may first deduct the fee from the amount attached and retain it from the amount seized and forwarded to the department as provided in this section.

(iii) A financial institution shall not be required to reimburse fees assessed against an account or an obligor as a result of the department instituting an action under this section or as otherwise permitted by law or authorized by contract even if there is a successful challenge or relief is granted under subsection (j).

(i) (1) Except as otherwise provided in paragraph (3), no later than five business days after the date of the notice in subsection (g)(2), the department shall send a notice to the obligor by first class mail to the obligor's current or last known address and may attempt to deliver personal notice to the obligor.

(2) The notice shall contain the following information:

(i) The address of the department.

(ii) The telephone number, address and name of a contact person at the department.

(iii) The name and Social Security number, Federal employer identification number or other taxpayer identification number of the obligor.

(iv) The current or last known address of the obligor.

(v) The total amount of the Commonwealth's tax lien owed by the obligor, including interest and penalty accrued up to forty-five days after the date of notice.

(vi) The date the notice is being sent.

(vii) A statement informing the obligor that the department has ordered the financial institution to attach the amount of the Commonwealth's tax lien owed by the obligor from one or more of the accounts of the obligor.

(viii) For each account of the obligor, the name of the financial institution that has been given notice to attach amounts as required by this section.

(ix) A statement that the order may be challenged or relief from the order requested in accordance with subsection (j).

(x) A statement informing the obligor that unless a timely challenge is made by the obligor, the financial institution or an account holder of interest under subsection (j), the department shall notify the financial institution to seize the amount attached by the financial institution and forward it to the department.

(3) The department shall not be required to send the notice described under this subsection if, prior to the time that the notice must be sent, the department and the obligor agree to an arrangement under which the obligor will pay amounts owed under the Commonwealth's tax lien.

(j) (1) An obligor, the financial institution or an account holder of interest may challenge the actions of the department under this section by filing a petition with the court of common pleas within ten days of the date of the notice sent under subsection (i).

(2) An obligor, the financial institution or an account holder of interest may challenge or seek relief from the actions of the department based on:

(i) a mistake as to any of the following:

(A) The identity of the obligor.

(B) The ownership of the account.

(C) The contents of the account.

(D) The amount of the tax lien obligation due.

(ii) the exclusion of the account from attachment under this section;

(iii) the failure of the department to properly record the tax lien upon which the attachment is based;

(iv) the failure of the department to send notice to the obligor of the assessment or determination of the tax, interest, penalties or addition to tax upon which the attachment is based;

(v) severe economic hardship;

(vi) a request for spousal relief from joint liability; or

(vii) any other good cause.

(3) Except as provided in paragraph (2)(iv), an obligor, the financial institution or an account holder of interest may not challenge the actions of the department based on a mistake or error in the original assessment underlying a tax lien against the obligor.

(k) (1) If a timely challenge or request from relief is not made by the obligor, the financial institution or an account holder of interest under subsection (j), the department shall direct the financial institution to:

(i) seize the amount attached by the financial institution and forward it to the department;

(ii) reduce the amount attached by the financial institution to a revised amount as stated by the department, seize the revised amount and forward it to the department and release the balance of the account; or

(iii) release the amount attached by the financial institution.

(2) The department may direct a financial institution to seize and forward attached funds before the time for filing a timely challenge under subsection (j) upon agreement among the department, the obligor and, in cases where the department is aware of an account holder of interest, the account holder of interest.

(l) (1) If a determination is made by the court, pursuant to a challenge or request for relief under subsection (j), that the account of the obligor should not have been attached, the department shall notify the financial institution, in the manner specified in subsection (g)(2), to release the amount attached by the financial institution.

(2) If a determination is made by the court, pursuant to a challenge or request for relief under subsection (j), to reduce the amount attached by the financial institution, the department shall notify the financial institution, in the manner specified in subsection (g)(2), to revise the amount as stated by the department, to seize and forward the revised amount to the department and to release the balance of the account attached by the financial institution.

(3) If a determination is made by the court, pursuant to a challenge or request for relief made under subsection (j), that the attachment by the financial institution was proper, the department shall notify the financial institution, in the manner specified in subsection (g)(2), to seize the amount attached by the financial institution and forward it to the department.

(m) A person, government agency or financial institution shall not be subject to any civil or criminal liability for providing, reporting or matching information and data or encumbering or surrendering assets under this section. The immunity provided under this subsection shall not apply to any person or agent of a government agency or financial institution who knowingly supplies false information under this section.

(n) The following shall apply:

(1) The department may impose a penalty upon a financial institution that willfully fails to comply or respond to, or refuses to process without reasonable cause, a request by the department for information pursuant to subsection (a).

(2) The department shall provide a financial institution twenty-five days' notice and a hearing before the Board of Finance and Revenue prior to imposing a penalty under paragraph (1). The penalty shall be in an amount equal to fifty dollars ($50) for each record not provided and the total penalty imposed on any financial institution for all such failures during any calendar year shall not exceed ten thousand dollars ($10,000).

(3) If, under the provisions of this section, a financial institution fails to attach accounts as required in a timely manner or fails to forward the proper amount of funds attached to the department at the time and in the manner required by this section, the financial institution may be subject to a penalty of five per cent of the amount of funds which should have been attached or forwarded for each month or fraction thereof from the date the funds should have been attached or forwarded to the date the funds are attached or forwarded. The total amount of the penalty shall not exceed fifty per cent of the proper amount of funds which should have been attached or forwarded.

(4) The penalty imposed by this section shall be assessed, enforced, administered or collected under the provisions of Article II.

(o) This section shall not be construed to prohibit the department or any other Commonwealth agency from requesting information or collecting obligations due from an obligor in any other manner authorized by law.

(p) Prior to requesting information or attaching an account under this section, the department shall develop guidelines:

(1) describing its tax collection procedures;

(2) describing the rights and remedies available to taxpayers;

(3) describing acceptable formats of information reports between the department and financial institution pursuant to subsection (b);

(4) describing the manner in which accounts must be disclosed by the financial institution completing the reports;

(5) disclosing the circumstances in which the department may attach an account under this section;

(6) describing the policies regarding spousal relief and severe economic hardship relief;

(7) advising financial institutions of the requirements of this section; and

(8) describing the department's policies and procedures used to attach and seize accounts under this section.

(q) Accounts, funds and property subject to attachment under this section shall not include the following:

(1) An account subject to a security interest, control agreement or pledged security for a loan or other obligation.

(2) Money or property deposited to an account after the time that a financial institution initially attaches the account.

(3) An account that a financial institution has a present right to exercise a right of setoff either under an agreement between the financial institution and the obligor or otherwise under applicable law.

(4) An account that has an account holder of interest named as an owner on the account.

(5) An account to which an obligor does not have an unconditional right of access.

(6) An account that may not be attached under Federal law.

(r) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Account." Any of the following:

(1) Funds from a demand deposit account, checking account, negotiable order of withdrawal account, savings account, time deposit account, money market mutual fund account or certificate of deposit account.

(2) Funds paid toward the purchase of shares or other interest in an entity as described in paragraphs (1) and (2) of the definition of "financial institution."

(3) Funds or property held by a depository institution as described in paragraph (3) of the definition of "financial institution."

"Account holder of interest." A person, other than an obligor of an account, who asserts an interest in an account based upon ownership, possession of a security interest, lien or judgment.

"Asset information." Account balances and account identifying information provided by a report requested under subsection (a).

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

"Financial institution." Any of the following:

(1) A depository institution as defined in section 3(c) of the Federal Deposit Insurance Act (64 Stat. 873, 12 U.S.C. § 1813(c)).

(2) A Federal credit union or State credit union as defined in section 1752(1) of the Federal Credit Union Act (48 Stat. 1216, 12 U.S.C. § 1752(1)).

(3) A benefit association, safe deposit company, money market mutual fund or similar entity doing business in this Commonwealth that holds property or maintains accounts reflecting property belonging to others.

"Identifying information." Name, record address, Social Security number of an individual or other taxpayer identification number.

"Obligor." Any of the following:

(1) An entity engaged in a business whose property is subject to a Commonwealth tax lien or liens totaling at least one thousand dollars ($1,000).

(2) An individual operating as a sole proprietor whose property is subject to a Commonwealth tax lien or liens totaling at least one thousand dollars ($1,000).

(3) A shareholder, member or partner of a pass-through entity whose property is subject to a Commonwealth tax lien or liens totaling at least one thousand dollars ($1,000).

(4) A corporate officer or other responsible individual who has been assessed pursuant to the provisions of section 225 or 320 and whose property is subject to a Commonwealth tax lien or liens totaling at least one thousand dollars ($1,000).

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"Tax lien."

(1) A lien recorded as provided by law to reflect a final tax liability. A tax lien may be recorded only after:

(i) an assessment or similar determination that a taxpayer has a tax liability is issued by the department;

(ii) the assessment or similar determination under subparagraph (i) is issued in the manner required by law; and

(iii) the appeal rights to the assessment or similar determination have expired, the liability was sustained through the appeals process or the taxpayer failed to provide an appeal bond if required to do so by the department as authorized by law.

(2) A tax lien does not include a statutory lien that has not been recorded in accordance with paragraph (1).

(3003.22 amended Nov. 27, 2019, P.L.651, No.90)

Compiler's Note: See section 4 of Act 90 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 3003.23. Collection of Assessed Taxes.--(a) The following shall apply:

(1) For a tax administered by the Department of Revenue, except under Article XXI, the Department of Revenue may collect the tax owed if collection commences within ten years of the date the settlement, determination or assessment of the tax becomes final. For nonfiled returns, the Department of Revenue shall induce the filing of a return or settle, determine or assess the tax liability of a nonfiled tax period within ten years of the tax return due date. The filing of a tax lien shall not extend the ten-year period to collect a tax.

(2) Paragraph (1) shall not affect the Department of Revenue's ability to set off tax overpayments by the taxpayer against any taxes and other obligations owing the Commonwealth by the taxpayer or to set off tax liabilities owed to the Commonwealth with moneys owed the taxpayer by the Commonwealth within the applicable collection period.

(b) The following shall apply:

(1) The Department of Revenue shall have no time limitation to collect taxes in the following cases:

(i) For trust fund tax liabilities a taxpayer either collected or withheld, as an agent of or in trust for the Commonwealth, but wilfully failed, grossly neglected or refused to remit to the Commonwealth notwithstanding whether the taxpayer filed a return.

(ii) If a taxpayer files a false and fraudulent tax return or report.

(iii) If a taxpayer wilfully fails to file a tax return or report as required by law.

(iv) If a taxpayer attempts to evade or defeat a tax.

(v) For a tax offense for which a taxpayer has been criminally charged and convicted in which tax liabilities remain unpaid.

(vi) For liabilities of eligible taxes unknown to the Department of Revenue that have not been extinguished under subsection (a) prior to the commencement of the tax amnesty period of a subsequently enacted or approved tax amnesty program administered by the Department of Revenue.

(2) The collection expiration date shall be tolled for the time when any of the following events are pending, plus one year:

(i) During a bankruptcy or proceeding during which the taxpayer's assets are in the control or custody of an administrative body, court or duly appointed guardian, receiver or trustee.

(ii) The period during which a taxpayer's offer-in-compromise is under consideration by the Department of Revenue.

(iii) The duration of an installment agreement or deferred payment plan between the taxpayer and the Department of Revenue.

(iv) The duration, from commencement through final determination, of a proceeding which constitutes a tax appeal or which opposes a collection action before an administrative tribunal or court of law or in which the taxpayer has filed a lawsuit or brought a cause of action against the Department of Revenue.

(v) The duration of a taxpayer's military service for which the taxpayer is eligible for and has received a Federal extension.

(vi) For a period of time as the taxpayer and the Department of Revenue may agree, in writing, to extend the collection expiration date.

(c) As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Tax." A tax, interest, addition to tax, penalty, fee and other cost, including the cost of collection.

(3003.23 added Nov. 27, 2019, P.L.651, No.90)

Compiler's Note: See section 4 of Act 90 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 3003.24. Criminal Tax Prosecutions.--(a) A person shall not be prosecuted, tried or punished for an offense under a tax statute

administered by the Department of Revenue except if prosecution is instituted within three years after the commission of the offense.

(b) If the period under subsection (a) has expired, a prosecution may be instituted for:

(1) An offense a material element of which is either fraud or a breach of fiduciary obligation within one year after the discovery of the offense. This paragraph shall not extend the period under subsection (a) otherwise applicable by more than two years.

(2) The offense of wilfully attempting to evade or defeat a tax or the payment of a tax within one year after the discovery of the offense. This paragraph shall not extend the period under subsection (a) otherwise applicable by more than three years.

(c) In addition to a criminal offense identified in the tax statutes administered by the Department of Revenue, a person may be prosecuted for an offense provided for under 18 Pa.C.S. (relating to crimes and offenses), relating to misconduct under the tax statutes, if the prosecution is instituted within five years after the commission of the offense.

(d) In addition to the imposition of a fine and imprisonment and if a taxpayer has been convicted of a tax-related offense under a statutory provision, the defendant taxpayer shall be ordered and required to pay the Department of Revenue restitution of each tax liability for which a conviction has been entered. The amount of restitution shall be the taxes, interest and penalties accrued through the date of payment.

(3003.24 added Nov. 27, 2019, P.L.651, No.90)

Compiler's Note: See section 4 of Act 90 of 2019 in the appendix to this act for special provisions relating to applicability.

Section 3003.25. Allocation of Tax Credits.--(a) Notwithstanding any other provision of this act, the amount of tax credits that may be awarded for tax credit programs specified under this subsection shall remain at the amount allocated for fiscal years beginning after June 30, 2022, and ending before July 1, 2025:

(1) Article XVII-B.

(2) Subarticle B of Article XVII-D.

(2.1) Subarticle E of Article XVII-D.

(3) Article XVII-K.

(b) Notwithstanding any other provision of this act, the amount of tax credit earned for each full-time equivalent employe under Article XIX-H shall remain at the amount specified under section 1904-H(c) for fiscal years beginning after June 30, 2022, and ending before July 1, 2025.

(3003.25 added July 8, 2022, P.L.513, No.53)

Compiler's Note: Section 24(4)(xvi) of Act 53 of 2022 provided that the addition of section 3003.25 shall apply to fiscal years beginning after June 30, 2022.

Section 3004. Effective Date.--The provisions of this code, except as otherwise specified, shall take effect immediately.

(3004 renumbered from 1203 Dec. 21, 1981, P.L.482, No.141)

APPENDIX

Supplementary Provisions of Amendatory Statutes

1982, DECEMBER 17, P.L.1385, NO.317

Section 1. The General Assembly finds and declares as follows:

(a) Article VII of the "Tax Reform Code of 1971," the Bank Shares Tax, was derived from the act of July 15, 1897 (P.L.292, No.227), as amended, and Article VIII, the Title Insurance and Trust Companies Shares Tax, was derived from the act of June 13, 1907 (P.L.640, No.512). Both these taxes were enacted in conformity with the authority of section 548 of Title 12, U.S.C.

(b) At the time of enactment of the "Tax Reform Code of 1971," the aforesaid taxes could have been enacted either in the form of privilege taxes or in the form of property taxes.

(c) Although the constitutionality and legality of taxing financial institutions in Pennsylvania using the value of capital stock in the hands of shareholders as the measure of taxing, and including Federal obligations in the ascertainment of said value, appears to be well settled, a recent decision of the Supreme Court of the State of Montana has, by a three-to-two decision, cast doubt upon the propriety of including obligations of the United States in the tax base of a property tax based upon the value of bank stock.

(d) If the rationale of the decision of the Montana Court were to be applied to Articles VII and VIII of the "Tax Reform Code of 1971" by a decision of a court of competent jurisdiction in Pennsylvania, the Commonwealth of Pennsylvania would suffer a financial crisis. Approximately $400,000,000 would have to be refunded to the financial institutions as an undeserved windfall, and current revenues based upon Articles VII and VIII of the "Tax Reform Code of 1971" effectually would be terminated.

(e) Until the Montana decision in 1978, Pennsylvania financial institutions voluntarily have paid the taxes in question, and the moneys have been collected, appropriated to public use and expended in good faith, and for the common weal. Payment of the aforesaid refunds and termination of existing revenues derived from said taxes would require the enactment of new and onerous taxes, to the detriment of the general public.

(f) The General Assembly finds it essential to the public welfare that the taxes voluntarily paid heretofore under the provisions of Articles VII and VIII of the "Tax Reform Code of 1971" not be refunded, and that present and prospective revenues therefrom not be prejudiced.

Compiler's Note: Act 317 added sections 701.1, 701.2, and 801.1 of Act 2.

Section 3. The provisions of section 2, adding sections 701.1 and 801.1, shall have retroactive effect to March 4, 1971, being deemed a part of the act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," and shall be construed as a part of, and read together with, the original statute as if originally enacted on March 4, 1971. Acts done and taxes collected under the said act from said date and prior to this amendment are hereby ratified. If, however, it should be finally determined by a court of competent jurisdiction that such retroactive effect and construction may not be so applied to the said act as hereby amended, the provisions of section 2 shall be construed to have retroactive effect to the earliest date to which such retroactive effect may be given.

Section 4. Notwithstanding any provision of any law to the contrary, including but not limited to the provisions of the act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal Code," from and after the effective date of this act, no cash refund shall be made and no tax credit shall be allowed arising from any voluntary payment of tax under any provision of Article VII or VIII of the "Tax Reform Code of 1971," upon the basis that the inclusion of United States obligations in the tax base was or is unconstitutional or illegal or in the case of taxes due prior to the effective date of this act upon the basis of the inclusion in the law of section 701.2, nor shall any action or proceeding be commenced or further prosecuted for the attainment, directly or indirectly, of any such cash refund or tax credit, without regard to the legal or equitable entitlement of the Commonwealth to such taxes voluntarily paid. Nor shall any suit, proceeding, or action, whether brought before or after the effective date

hereof, be maintained in any administrative board, tribunal, or court of record for the recovery, recoupment, setoff, refund, credit or counterclaim for any such tax payment upon any such basis. For the purpose of this section, every tax payment shall be presumed to be a voluntary payment and the payment of tax under mere protest shall be deemed to constitute a voluntary payment. Only the payment of these taxes under actual and direct duress, coercion or compulsion against the individual payor shall not be deemed to be a voluntary payment.

1986, JULY 2, P.L.318, NO.77

Section 21. Notwithstanding anything contained in any law to the contrary, the validity of any ordinance or part of any ordinance, or any resolution or part of any resolution, and any amendments or supplements thereto, now or hereafter enacted or adopted by any political subdivision, providing for or relating to the imposition, levy or collection of any tax, shall not be affected or impaired by anything contained in this act.

Section 22. If any word, phrase, clause, sentence, section or provision of Article XI-C or XI-D of the act is for any reason held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared as the legislative intent that this act would have been adopted had such unconstitutional word, phrase, clause,

1991, AUGUST 4, P.L.97, NO.22

Section 44. The Department of Revenue shall provide notice to employers, either in the Pennsylvania Bulletin under 1 Pa. Code § 3.27 or by other means, of the withholding rate equivalent to the rate of tax in effect prior to the effective date of the amendments of Article III of the act plus the additional rate necessary to equalize withholding over the remainder of the taxable year to account for the revised annual rate provided by the amendments to Article III of the act, to be effective from the first pay period of the employer ending after the 14th day following the effective date of section 302 of the act and ending December 31, 1991. The withholding rate during periods in calendar year 1992 shall correspond to the rate imposed by section 302 of the act for identical periods in calendar year 1992.

Section 46. The provisions of this act are severable. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application.

1999, MAY 12, P.L.26, NO.4

Section 29. Nothing contained in section 1101-A, 1102-A, 1103-A, 1104-A, 1105-A, 1106-A, 1106.1-A, 1106.2-A, 1107-A, 1109-A, 2301(f) or 3003.2(h) of the act shall be construed to relieve any person, corporation or other entity from the filing of reports or from any tax, tentative tax, penalty or interest imposed by the provisions of any laws which were in effect prior to being amended or repealed by this act, or affect or terminate any petitions, investigations, prosecutions, legal or otherwise, or other proceedings by the proper authorities of the Commonwealth for violation of any such laws or for the assessment, settlement, collection or recovery of any tax, tentative tax, penalty or interest due to the Commonwealth under any of the laws which were in effect prior to being amended or repealed by this act

Compiler's Note. Act 4 amended, added or repealed sections 201, 204, 246, 247.1, 301, 304, 307.6, 325, 360, 401, 601, 602, 602.3, 602.5, 1101, 1104, 1101-A, 1102-A, 1103-A, 1104-A, 1105-A, 1106-A, 1106.1-A, 1106.2-A, 1107-A and 1109-A, Art. XVIII-A and sections 2010, 2301, 3003.2, 3003.12 and 3003.13 of Act 2.

Section 30. Nothing in the amendment of section 2301(f) of the act shall constitute a change in a rate of a tax requiring an adjustment in the 1995-1996 fiscal tax revenue base under 66 Pa.C.S. § 2810(c)(4) or a rate change under 74 Pa.C.S. § 1765.

Section 32. This act shall apply as follows:

(1) Notwithstanding the time limitations of section 307.1(b) of the act, a small corporation which is subject to the tax imposed under Article IV of the act or which owns a qualified Subchapter S corporation subsidiary which is subject to the tax under Article IV of the act may elect to be taxed as a Pennsylvania S corporation for taxable years beginning after December 31, 1998, if the limitations of section 307.6 of the act do not apply. Such election shall be valid for a taxable year commencing after December 31, 1998, through the effective date of this section if the election is filed with the department before September 16, 1999.

(2) Notwithstanding paragraph (1), any corporation which made a Pennsylvania S corporation election under section 307 of the act which was terminated for exceeding the passive investment income limitation for a taxable year beginning prior to January 1, 1999, may elect to be taxed as a Pennsylvania S corporation for taxable years beginning after December 31, 1998. Such election shall be valid for a taxable year commencing after December 31, 1998, through the effective date of this section if the election is filed with the department before September 16, 1999.

* * *

2003, DECEMBER 23, P.L.250, NO.46

Section 32. By April 1, 2004, the Department of Revenue shall submit a detailed report to the chairman and minority chairman of the Appropriations Committee and the Finance Committee of the Senate and the chairman and minority chairman of the Appropriations Committee and the Finance Committee of the House of Representatives outlining the plans and costs concerning a Statewide tax clearance for licenses, permits and registrations. The report shall include all of the following:

(1) The amount of State revenue necessary to perform tax clearances for all licenses, permits and registrations for the department, the Department of Labor and Industry, the Department of Environmental Protection, the Department of Banking, the Department of State, the Insurance Department and the Pennsylvania Securities Commission. The amount needed shall be itemized, and all costs, including personnel, office expenses and other related costs, shall be included.

(2) The number of licenses, permits and registrations for each agency and the costs associated with the program by agency.

(3) The source of funds which will be utilized to pay for the tax clearance program.

(4) The legal issues concerning the propriety of restricting or revoking a license, permit or registration due to the delinquency of a tax owed.

(5) The number of other states which have a similar law in effect and the success or deficiencies of the law.

(6) Proposed draft legislation concerning tax clearance.

(7) A detailed timetable on when separate tasks must be completed for full implementation on an estimated start date.

Compiler's Note: Act 46 amended or added sections 201, 204, 206, 208, 281.2, 301, 302, 304, 330, 335, 401, 402.2, 601, 602 and 607, the heading of Article XI, sections 1101, 1111-A, 1112-A, 1206, 1206.1, 1211, 1215, 1216, 1704-B, 1709-B, 1711-B, 2010, 2102, 2111, 2117, 2145, 2301, 2302, 3003.2, 3003.3 and 3003.15 of Act 2.

2005, JULY 7, P.L.149, NO.40

Section 23. Any ordinance or resolution providing for the levying, assessment or collection of a tax upon a transfer of real property or an interest in real property which has been enacted by a political subdivision prior to the effective date of this section shall continue in full force and effect, without reenactment, insofar as the transactions upon which the tax is levied, assessed or collected are also subject to the tax imposed by Article XI-C of the act. The ordinance or resolution shall continue in full force and effect with respect to documents made, executed and delivered prior to the effective date of this section.

Compiler's Note: Act 40 amended, added or deleted sections 205, 301, 303, 315.5, 352, 401, 601, 1111-C, 1114-C, 1101-D, 1103-D, 1104-D, 1105-D, 1106-D, 1107-D, 1108-D, 1109-D, 1110-D, 1111-D, 1112-D, 1113-D, 1114-D, 1702-B, 1710-B, 1702-C, 1703-C, 1703.1-C, 1704-C, 1707-C, 1707.1-C, 1708-C, 1709-C, 1905-A, 3003.9, 3003.17 and 3003.17 of Act 2.

Section 24. This act shall apply as follows:

* * *

(2) Except as provided in paragraphs (6) and (7)(ii), the following provisions shall apply to taxable years beginning after December 31, 2002:

(i) The amendment of section 301(a) of the act.

(ii) The amendment of section 303(a)(1) of the act.

(3) The following provisions shall apply to film production expenses incurred after December 31, 2004:

(i) The amendment or addition of the definitions of "film," "Pennsylvania production expense," "production expense," "start date" and "taxpayer" in section 1702-C of the act.

(ii) The amendment of section 1703-C of the act.

(iii) The addition of section 1703.1-C of the act.

(iv) The amendment of section 1704-C of the act.

(v) The amendment of section 1707-C of the act.

(vi) The addition of section 1707.1-C of the act.

(vii) The amendment of section 1708-C of the act.

(viii) The amendment of section 1709-C of the act.

(4) The provisions referred to in paragraph (3) shall not affect:

(i) film production tax credits for production expenses incurred after June 30, 2004, and before January 1, 2005; or

(ii) the process for the approval and awarding of the film production tax credits for these expenses as provided for in the act of July 20, 2004 (P.L.801, No.95), entitled "An act amending the act of March 4, 1971 (P.L.6, No.2), entitled 'An act relating to tax reform and State taxation by codifying and enumerating certain subjects of taxation and imposing taxes thereon; providing procedures for the payment, collection, administration and enforcement thereof; providing for tax credits in certain cases; conferring powers and imposing duties upon the Department of Revenue, certain employers, fiduciaries, individuals, persons, corporations and other entities; prescribing crimes, offenses and penalties,' authorizing a film production tax credit; and providing for the powers and duties of the Department of Community and Economic Development and the Department of Revenue."

* * *

(6) The amendment of sections 301(d) and 303(a)(1) of the act shall apply to appeals which arise prior to or after the effective date of this paragraph.

(7) The following provisions shall apply to taxable years beginning after December 31, 2004:

(i) The amendment of section 301(d).

(ii) The addition of section 303(a)(1)(iii)(B) and (iv)(B).

(8) The amendment of section 303(a)(6) of the act shall apply to taxable years beginning after December 31, 2004.

* * *

2006, OCTOBER 18, P.L.1149, NO.119

Section 33. This act shall apply as follows:

(1) The provisions of this act shall apply to all determinations and assessments of tax liability by the Department of Revenue after December 31, 2007.

(2) The provisions of this act shall not apply to or effect any proceeding, prosecution, action, suit or appeal involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008, and any reassessment, redetermination or resettlement resulting from such proceeding, prosecution, suit or appeal. For all proceedings, prosecutions, actions, suits or appeals involving assessments, determinations or settlements of tax liability by the Department of Revenue prior to January 1, 2008, the procedures in place prior to the effective date of this section shall apply until final resolution by withdrawal, reassessment, redetermination or resettlement by the Department of Revenue or an administrative board or a decision by a court of competent jurisdiction.

Compiler's Note: Act 119 of 2006 amended, added or deleted sections 230, 232, 234, 235, 247.1, 250, 251, 252, 253, 254, 255, 256, 338, 339, 340, 341, 342, 347, 350, 401, 403, 406, Part IV of Article IV heading, 407, 407.1, 407.2, 407.3, 407.4, 407.5, 408, 408.1, 1101, 1111-C, 1112-C, 1113-C, 1502, 2005, Article XXVII, 3003.2, 3003.3, 3003.5, 3003.6 and 3003.18 of Act 2.

2009, OCTOBER 9, P.L.451, NO.48

Section 13. The addition of Article XVII-F of the act is a continuation of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949. Except as otherwise provided in Article XVII-F of the act, all activities initiated under Article XX-B of the Public School Code of 1949 shall continue and remain in full force and effect and may be completed under Article XVII-F of the act. Orders, regulations, rules and decisions which were made under Article XX-B of the Public School Code of 1949 and which are in effect on the effective date of section 12(2) of this act shall remain in full force and effect until revoked, vacated or modified under Article XVII-F of the act.

Compiler's Note: Act 48 of 2009 amended, added, reenacted or deleted sections 204, 217, 222, 303, 315.2, 315.7, 315.9, 319, 401, 601, 602, 607, 701.1, 1101, 1201, 1206, 1206.1, 1210, 1211, 1215, 1216, 1216.1, 1272, 1273, 1278 and 1704-B and Articles XVII-F, XXVIX-A, XXIX-D, XXIX-E and XXIX-F of Act 2.

2012, JULY 2, P.L.751, NO.85

Secion 29.1. The amendment of sections 217 and 222 of the act are a continuation of section 202.2 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Except as otherwise provided in sections 217 and 222 of the act, all activities initiated under section 202.2 of The Fiscal Code shall continue and remain in full force and effect and may be completed under sections 217 and 222 of the act. Orders, regulations, rules and decisions which were made under section 202.2 of The Fiscal Code and which are in effect on the effective date of the amendment of sections 217 and 222 of the act shall remain in full force and effect until revoked, vacated or modified under section 217 or 222 of the act.

Compiler's Note: Act 85 amended, added or repealed sections 201, 204, 217, 222, 230, 237, 331, 335, 338, 352, 401, 405, 406, 407.1, 901, 902, 1101-C, 1102-C.3, 1102-C.4, 1102-C.5, 1111-C, 1201, 1709-B, 1712-B, 1702-D, 1703-D, 1705-D, 1707-D, 1702-F, 1703-F, 1705-F and 1706-F, Articles XVII-G, XVII-G.1, XVII-H and XVII-I and sections 1801-B, 1803-B, 1804-B, 1902-A, 1904-A, 2005, 2102, 2111, 2702, 2703, 2707, 3003.1 and 3002.22 of Act 2.

2013, JULY 9, P.L.270, NO.52

Section 42. The following shall apply:

* * *

(6) Section 2703.1 of the act shall apply on April 1, 2014, or when the two Board of Finance and Revenue members referred to in section 2703.1(a)(2) have been sworn in, whichever is later. The members of the Board of Finance and Revenue in office before April 1, 2014, shall continue their terms until at least two members of the board under section 2703.1 have been sworn in.

(7) The addition of Article XIX-B of the act is a continuation of Article XVI-B of The Fiscal Code. Except as otherwise provided in Article XIX-B of the act, all activities initiated under Article XVI-B of The Fiscal Code shall continue and remain in full force and effect and may be completed under Article XIX-B of the act. Orders, regulations, rules and decisions which were made under Article XVI-B of The Fiscal Code and which are in effect on the effective date of section 41(9) of this act shall remain in full force and effect until revoked, vacated or modified under Article XIX-B of the act. Contracts, obligations and collective bargaining agreements entered into under Article XVI-B of The Fiscal Code are not affected nor impaired by the repeal of Article XVI-B of The Fiscal Code and shall remain in full force and effect under the terms of the contracts, obligations and collective bargaining agreements.

(8) The addition of Article XIX-C of the act is a continuation of Article XVI-F of The Fiscal Code. Except as otherwise provided in Article XIX-C of the act, all activities initiated under Article XVI-F of The Fiscal Code shall continue and remain in full force and effect and may be completed under Article XIX-C of the act. Orders, regulations, rules and decisions which were made under Article XVI-F of The Fiscal Code and which are in effect on the effective date of section 41(11) of this act shall remain in full force and effect until revoked, vacated or modified under Article XIX-C of the act. Contracts, obligations and collective bargaining agreements entered into under Article XVI-F of The Fiscal Code are not affected nor impaired by the repeal of Article XVI-F of The Fiscal Code.

Compiler's Note: Act 52 amended, added, deleted or repealed sections 202, 204, 206, 208, 226 and 278, Article II-B, sections 301, 303, 306, 306.1, 306.2, 307.8, 314, 315.9, 315.10, 315.11, 324, 330.1, 352, 352.2, 401, 403, 602, 607, 701, 701.1, 701.4, 701.5, 1101-C,

1102-C, 1102-C.3 and 1102-C.5, Article XVI-B, sections 1705-D and 1708-G.1, Article XVIII-A, section 1804-B, Articles XVIII-C, XVIII-E, XVIII-F, XIX-B and XIX-C and sections 2111, 2112, 2129, 2130, 2701, 2702, 2703 and 2704.

Section 43. The following shall apply:

(1) Within 18 months of the effective date of this section, the Department of Revenue, working jointly with the Secretary of Banking and Securities and representatives from the banking industry in this Commonwealth, shall submit a detailed report to the chairman and minority chairman of the Appropriations Committee of the Senate, the chairman and minority chairman of the Finance Committee of the Senate, the chairman and minority chairman of the Appropriations Committee of the House of Representatives and the chairman and minority chairman of the Finance Committee of the House of Representatives ascertaining whether the adjustment, under the amendment or repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act, to the rate of tax under Article VII of the act sufficiently addresses the significant changes in the structure and regulatory environment within the banking industry. The report shall include recommendations with regard to all of the following:

(i) An appropriate tax base on which to calculate tax liabilities, which shall include recognition of the effect of a final court decision and pending litigation on the tax base.

(ii) An appropriate rate of tax necessary to provide fair, stable and predictable tax revenues to the Commonwealth to ensure that the total amount of tax imposed on an institution subject to the tax under Article VII of the act and the rate of growth of the tax liabilities will be competitive with taxes imposed by other states, particularly those adjacent to this Commonwealth. Consideration shall be given to the adjustment to the rate of tax under the amendment or repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act in order to determine whether future adjustments are warranted.

(iii) An appropriate methodology to allocate and apportion the tax base in instances where the entire business of a taxpayer subject to Article VII of the act is not conducted in this Commonwealth.

(iv) Proposed draft legislation concerning the implementation of recommended changes to Article VII of the act.

(2) (Reserved).

2006, OCTOBER 18, P.L.1149, NO.119

Preamble

The General Assembly finds as follows:

(1) Each year an estimated 137,000 Americans contract leukemia, lymphoma anemia or other fatal blood diseases.

(2) If a matched bone marrow donor can be found, many of these victims can be cured.

(3) There is now a National Marrow Donor Program, and the United States is working with 30 other countries to establish a worldwide registry.

(4) Marrow donation does not involve considerable risk to the donor.

(5) There are approximately 110,500 patients in the United States and approximately 8,000 patients in this Commonwealth awaiting lifesaving organ transplants.

(6) Many patients awaiting organ transplants could benefit from living organ donation, including approximately 93,000 kidney patients, 16,900 liver patients and 2,000 lung patients.

(7) Of the more than 1,700 organ transplants performed in this Commonwealth in 2010, approximately 300 were from living donors.

(8) There continues to be a great need for bone marrow and organ donors among the African-American, Asian, Native American and Hispanic communities.

(9) Potential living bone marrow and organ donors should be able to perform their lifesaving service without risk of loss of income or employment.

Compiler's Note: Act 193 added Article XVIII.

2016, JULY 13, P.L.526, NO.84

Section 53. The following shall apply:

(1) The inclusion of roll-your-own tobacco in the addition of Article XII-A of the act requires the amendment of the definition of "units sold" in section 3 of the act of June 22, 2000 (P.L.394, No.54), known as the Tobacco Settlement Agreement Act, and in section 102 of the act of December 30, 2003 (P.L.441, No.64), known as the Tobacco Product Manufacturer Directory Act.

(2) The Office of Attorney General shall attempt to obtain the consent of the participating manufacturers under the Master Settlement Agreement to the amendments specified under paragraph (1). For the purposes of this paragraph, the term "Master Settlement Agreement" shall mean the settlement agreement and related documents entered into on November 23, 1998, by the Commonwealth and leading United States tobacco product manufacturers and approved by the court in Commonwealth v. Philip Morris, April Term, 1997, No.2443 (C.P. Philadelphia County), on January 13, 1999.

(3) If the consents under paragraph (2) are obtained, the Office of Attorney General shall:

(i) provide notice to the Secretary of Revenue; and

(ii) submit for publication in the Pennsylvania Bulletin a notice of the consent.

(4) If the consents under paragraph (2) are not obtained, the Office of Attorney General shall:

(i) notify the Secretary of Revenue; and

(ii) submit for publication in the Pennsylvania Bulletin a notice of the refusal.

(5) The following provisions shall take effect 60 days after the Office of Attorney General publishes the notice of the consents under paragraph (3)(ii):

(i) The amendment of section 1215(g) of the act.

(ii) The addition of the following:

(A) The definition of "roll-your-own tobacco" in section 1201-A of the act.

(B) Paragraph (2) of the definition of "tobacco products" in section 1201-A of the act.

(C) Section 1203-A(a)(2) of the act.

(D) Section 1216-A of the act.

Compiler's Note: Act 84 amended, renumbered, added, deleted or repealed sections 201, 204, 227, 268, 301, 303, 312, 315.12, 316, 317, 318, 319, 320, 321, 325, 352.2, 403, 406.1, 408, 701, 701.1, 701.4, 701.5, 1101, 1101-C, 1102-C.2, 1102-C.3, 1206, 1206.1, 1215, 1216, 1296, Article XVII-A, section 1707-B, Articles XVIII-D, XVII-J and XVII-K, sections 1801-B, 1804-B, 1802-C, 1803-C, 1803.1-C, 1804-C, 1806-C, 1807-C, 1808-C, 1809-C, 1810-C, 1811-C, 1812-C, 1813-C, 1814-C, 1816-C, 1818-C, 1819-C, Article XVIII-G, sections 1902-A, 1904-A, 1905-A, 1902-B, 1904-B, 1904.1-B, 1904.2-B, 1909-B, 1903-C, Articles XIX-D and XIX-E, XIX-F, sections 2010, 2102, 2111, 2130, Article XXV,

section 2703 and Articles XXIX-D and XXIX-G of Act 2, section 312 of Act 91 of 1971, Act 206 of 2012, 12 Pa.C.S. Chapter 37 and 53 Pa.C.S. § 8722.

2016, NOVEMBER 21, P.L.1517, NO.175

Section 2. Notwithstanding the time limitations for filing a petition for refund under section 3003.1 of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971:

(1) a person that would be entitled to a refund of the tax imposed under Article XI-C of the Tax Reform Code of 1971 as a result of the amendment of section 51(11) of the amendatory act as it relates to transfers of real estate to or by a land bank; and

(2) a person that would be entitled to a refund of tax as a result of the addition of the definition of "conservancy" in section 1101-C of the Tax Reform Code of 1971 and the amendment of section 1102-C.3(18) of the Tax Reform Code of 1971

but for the time limitations contained under section 3003.1 of the Tax Reform Code of 1971 may file for and obtain a refund of tax actually paid as long as the petition for refund is filed within six months of the effective date of this section.

Compiler's Note: Act 175 amended section 51 of Act 84 of 2016.

2019, JUNE 28, P.L.50, NO.13

Section 33. The following shall apply:

(1) The operation of sections 213, 213.1, 213.2, 213.3, 213.4, 213.5 and 213.6 of the act shall be suspended as of July 1, 2019.

(2) If section 201(b)(3.5) or 237(b)(1.2) of the act are deemed unconstitutional as a result of a decision of the Pennsylvania Supreme Court or if a substantially similar statute from another state is deemed unconstitutional by a decision of the United States Supreme Court, the Secretary of Revenue shall submit a notice of the decision to the Legislative Reference Bureau for publication in the Pennsylvania Bulletin.

(3) The suspension of sections 213, 213.1, 213.2, 213.3, 213.4, 213.5 and 213.6 of the act shall lapse as of the date of the publication of the notice under paragraph (2).

Section 36. Continuation is as follows:

(1) The addition of section 1102-C.6 of the act is a continuation of section 406-D(c) of the act of December 3, 1959 (P.L.1688, No.621), known as the Housing Finance Agency Law. The following apply:

(i) All activities initiated under section 406-D(c) of the Housing Finance Agency Law shall continue and remain in full force and effect and may be completed under section 1102-C.6 of the act of March 4, 1971 (P.L.6, No.2) known as the Tax Reform Code of 1971. Orders, regulations, rules and decisions which were made under section 406-D(c) of the Housing Finance Agency Law and which are in effect on the effective date of section 35 of this act shall remain in full force and effect until revoked, vacated or modified under section 1102-C.6 of the Tax Reform Code of 1971. Contracts, obligations and collective bargaining agreements entered into under section 406-D(c) of the Housing Finance Agency Law are not affected nor impaired by the repeal of section 406-D(c) of the Housing Finance Agency Law.

(ii) Any difference in language between section 1102-C.6 of the Tax Reform Code of 1971 and section 406-D(c) of the Housing Finance Agency Law is not intended to change or affect the legislative

intent, judicial construction or administration and implementation of section 406-D(c) of the Housing Finance Agency Law.

(2) (Reserved).

Compiler's Note: Act 13 amended, added, reenacted or deleted by amendment sections 201, 202, 204, 208, 215, 225, 230, 237, 268, 279, 303, 315.14, 331, 336.3, 407.7, 1101-C, 1102-C.3, 1102-C.6, 1711-D, 1714-D, 1716-D, 1716.2-D, 1772-D, 1775-D, 1777-D, 1702-E, 1703-E, 1704-E, 1705-E, 1709-E, 1702-H, 1703-H, 1705-H, 1706-H, 1707.1-H, 1708-H, 1709-H, 17010-H, 1703-J, 1704-J, 1707-J, 1803-B, 1802-C, 1813-C, 1822-G, 1824-G, 1825-G, 1826-G, 1827-G, 1828-G, 1829-G, 1830-G, 1832-G, 1833-G, 1834-G, Article XVIII-H, sections 1902-A, 1903-A, 1904-A, Part III, sections 1907-E, 2116, 2401, 2407, 2408, 2410, Article XXV heading, 2501, 2502, 2503 and 2931-C, 2945-C, 2914-D and Article XXIX-H of this act.

2019, NOVEMBER 27, P.L.651, NO.90

Section 4. The following apply:

(1) The addition of section 204(73) of the act shall apply to the sale at retail or use of canned software on or after the effective date of this section.

(2) The addition of sections 3003.23 and 3003.24 of the act shall not relieve a person of a tax, interest, addition to a tax, penalty, fee and other cost payable by the person on the effective date of this section.

(3) If a court of competent jurisdiction holds that a tax, interest, addition to tax, penalty, fee and other cost or money payable to the Commonwealth, or any officer or agency of the Commonwealth, cannot be settled, assessed or collected under the procedure provided by the addition of sections 3003.23 and 3003.24 of the act, the matters shall continue to be settled or assessed and collected under the laws in force prior to the effective date of this section.

(4) The following apply to the addition of section 3003.23 of the act:

(i) For a settlement, determination or assessment issued before the effective date of this section, the ten-year collection period shall begin on the effective date of this section or when the settlement, determination or assessment becomes final, whichever is later.

(ii) For a tax return due and not filed as of the effective date of this section, the ten-year period applicable to a nonfiled return shall begin on the effective date of this section.

(iii) For a tax return due and not filed as of the effective date of this section, the ten-year period applicable to a nonfiled return shall begin on the effective date of this section.

(5) A tax lien created prior to January 1, 2021, shall not be impaired, shall remain in full force and effect and shall retain the priority under the provision imposing the tax lien, without the necessity of refiling or revival, until January 1, 2031.

Compiler's Note: Act 90 amended or added sections 204, 3003.22, 3003.23 and 3003.24 of this act.

2021, JUNE 30, P.L.124, NO.25

Section 1. The General Assembly finds and declares as follows:

(1) An error appeared in the publication of section 8 of the act of July 2, 1986 (P.L.318, No.77): The amendment of the definition of

"document" in section 1101-C of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, used the word "devises" instead of the word "demises" and the word "devise" instead of the word "demise."

(2) An error appeared in the publication of section 11 of Act 77 of 1986: The addition of section 1102-C.4 of the Tax Reform Code of 1971, used the word "devise" instead of the word "demise."

(3) An error appeared in the publication of section 12 of Act 77 of 1986: The addition of section 1103-C(c) of the Tax Reform Code of 1971, used the word "devise" instead of the word "demise" and the word "devised" instead of the word "demised."

(4) The publication of the official law, without a footnote, does not match the enrolled bill nor comport with the interpretive regulation of the Department of Revenue at 61 Pa. Code §§ 91.111(a) (relating to imposition of tax on documents) and 91.112(a) (relating to statement of value).

(5) The errors are corrected by the amendment of the definition of "document" in section 1101-C and sections 1102-C.4 and 1103-C(c) of the Tax Reform Code of 1971.

Compiler's Note: Act 25 amended or added sections 204, 303, 316.2, 317.1, 317.2, 332.1, 335, 352, 407.6, 701.5, 1101-C, 1102-C.4, 1103-C, 1701-A.1 and the heading of Article XVII-A.1, sections 1702-A.1, 1703-A.1, 1704-A.1, 1705-A.1, 1706-A.1, 1707-A.1, 1708-A.1, 1709-A.1, 1703-B, 1704-B, 1711-B, 1711-D, 1712-D, 1716.1-D, 1772-D, 1777-D, 1782-D, 1704-L, 1913-D, 1921-D, 1907-E, 1906-F, 1908-F, 1903-G, 1910-G, 2503, 2702, 2703, 2704, 2901-D, 2902-D, 2903-D, 2904-D, 2905-D, 2906-D, 2907-D, 2908-D, 2909-D, 2910-D, 2911-D, 2912-D, 2913-D, 2914-D, 2915-D, 2916-D, 2917-D, 2918-D, 2919-D, 2920-D, 2921-D, 2922-D, 2923-D, 2924-D and Subarticle C of Article XXIX-D and section 3003.9 of this act.

2022, JULY 8, P.L.513, NO.53

Section 23. The addition of section 303(a.7)(5) and (6) of the act are a continuation of section 104-A of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code. Except as provided in section 303(a.7)(5) and (6) of the act, all activities initiated under section 104-A of The Fiscal Code shall continue and remain in full force and effect and may be completed under section 303(a.7)(5) and (6) of the act. Orders, regulations, rules and decisions which were made under section 104-A of The Fiscal Code and which are in effect on the effective date of section 303(a.7)(5) and (6) of the act shall remain in full force and effect until revoked, vacated or modified under section 303(a.7)(5) and (6) of the act. Contracts, obligations and collective bargaining agreements entered into under section 104-A of The Fiscal Code are not affected nor impaired by the repeal of section 104-A of The Fiscal Code.

Compiler's Note: Act 53 amended, added, deleted by amendment or repealed sections 201, 204, 208, 303, 330.2, 401, 402, 902, 902.1, 1601-A, 1602-A, 1709-B, 1711-D, 1712-D, 1716-D, 1716.1-D, 1777-D, 1708-K, 1809-C, 1813-C, 1817-C, 1805-F, 1908-D, 1912-D and 1921-D, Articles XIX-H and XIX-I, sections 2111 and 2301, Article XXIV, sections 2502.1, 2901-D, 2931-D, 2935-D, 2937-D and 3003.25.

2024, JULY 11, P.L. , NO.56

Section 27. The amendment of section 701.1(b), (b.1) and (c) of the act shall apply to the ascertainment of the taxable amount of shares after December 31, 2024, and to the report and the payment of the bank and trust company shares tax due after March 14, 2025.

Section 28. The General Assembly finds and declares as follows:

(1) The amendment of section 701.1(b), (b.1) and (c) of the act shall not be relied upon to:

(i) ascertain the taxable amount of shares for a period prior to January 1, 2025;

(ii) ascertain the amount of tax due prior to March 15, 2025; or

(iii) authorize a refund of a tax paid for a period for which a report was due prior to March 15, 2025, beyond the extent to which the refund would have otherwise been due notwithstanding the amendment of section 701.1(b), (b.1) and (c) of the act.

(2) In ascertaining the taxable amount of shares for a period prior to January 1, 2025, the amount of goodwill subtracted and disregarded in calculating the deduction for United States obligations under section 701.1(b) of the act, and the amount of goodwill deducted from the taxable amount of shares under section 701.1(b.1) of the act, shall be determined based on the law as in effect prior to the effective date of this section, without any inference that the amendment of section 701.1(b), (b.1) and (c) of the act expanded, or confirmed any administrative determination that limited or restricted, the extent to which goodwill could be subtracted and disregarded under section 701.1(b) of the act or deducted under section 701.1(b.1) of the act.

Section 29. A computer data center that has met the eligibility requirements and has been certified under Article XXIX-D prior to the effective date of this section shall be deemed to meet the certification requirements of Article XXIX-D. The certification may not be revoked, except as provided under section 2917-D of the act, and shall remain in effect for the remainder of the qualification period, as defined in section 2931-D(d).

Compiler's Note: Act 56