

court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Section 13. Effective Date.—This act shall become effective immediately upon its final enactment, and shall remain in force, only for the imposition and collection of taxes on net income of corporations for the calendar years one thousand nine hundred thirty-five, one thousand nine hundred [and] thirty-six, one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, [and] one thousand nine hundred fifty, *one thousand nine hundred fifty-one, and one thousand nine hundred fifty-two*, or for the fiscal years ending in the calendar years one thousand nine hundred thirty-six, one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, [and] one thousand nine hundred fifty-one, *one thousand nine hundred fifty-two, and one thousand nine hundred fifty-three*.

Act effective
immediately.

Section 2. This reenacting and amending act shall become effective immediately upon its final enactment.

APPROVED—The 29th day of May, A. D. 1951.

JOHN S. FINE

No. 109.

AN ACT

To further amend section twenty-one of the act, approved the first day of June, *one thousand eight hundred eighty-nine (Pamphlet Laws 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

* "one" omitted in original.

and seventy-nine," by postponing the manufacturing exemption with regard to capital stock tax and the franchise tax on domestic and foreign corporations, joint-stock associations, limited partnerships and companies, for a further limited period of time.

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

Section 1. Section twenty-one of the act, approved the first day of June, one thousand eight hundred eighty-nine (Pamphlet Laws 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," as last amended by the act, approved the twenty-fourth day of March, one thousand nine hundred forty-nine (Pamphlet Laws 358), is hereby further amended to read as follows:

Section 21. (a) That every domestic corporation other than corporations of the first class, nonprofit [corporation] *corporations*, and cooperative agricultural associations not having capital stock and not conducted for profit, and every joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to, and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special, and preferred, as ascertained in the manner prescribed in said twentieth section: Provided, That the tax of five mills imposed by this subsection on reports filed for the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, [and] one thousand nine hundred fifty, *one thousand nine hundred fifty-one, and one thousand nine hundred fifty-two*, or for the fiscal years beginning in the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, [and] one thousand nine hundred fifty, *one thousand nine hundred fifty-one, and one thousand nine hundred fifty-two*, shall apply to the taxation of capital stock of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, excepting companies engaged in the distilling of liquors: Provided, further, That after said [four] *six* year period the provisions of this section shall not apply to the taxation of the capital stock of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, which is invested in and actually and exclusively employed in carrying on manufacturing within the State, excepting companies engaged in the distilling of liquors and such

Taxation.

Section 21, act of June 1, 1889, P. L. 420, as last amended by act of March 24, 1949, P. L. 358, further amended.

Tax of five mills on capital stock of certain domestic corporations, etc.

Proviso.

Exception.

Further proviso.

as enjoy and exercise the right of eminent domain, but every corporation, limited partnership or joint-stock association organized for the purpose of manufacturing shall pay the State tax of five mills herein provided, 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 business, in addition to the local taxes assessed upon its property in the district where located, it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the manufacturing plant and business.

Tax of five mills on capital stock of foreign corporations, etc.

Actual value of whole capital stock to be ascertained and then be divided into three equal parts.

(b) Every foreign corporation, joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a franchise tax at the rate of five mills upon a taxable value to be determined in the following manner. The actual value of its whole capital stock of all kinds, including common, special, and preferred, shall be ascertained in the manner prescribed in the twentieth section of this act, and shall then be divided into three equal parts.

(1) Of one third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the value of the taxpayer's tangible property not actually and exclusively used in manufacturing, situated within the Commonwealth, and whose denominator is the value of all the taxpayer's tangible property wherever situated.

(2) Of another third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the expenditures of the taxpayer for wages, salaries, commissions, or other compensation to its employes not exclusively engaged in manufacturing in this Commonwealth and assignable to this Commonwealth as hereinafter provided, and whose denominator is the total expenditures of the taxpayer for wages, salaries, commissions, or other compensation to all its employes.

(3) Of the remaining third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the amount of the taxpayer's gross receipts from business not strictly incident or appurtenant to manufacturing in this Commonwealth assignable to this Commonwealth as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its business.

The sum of the amounts, determined in accordance with the foregoing three rules, shall be the taxable value. In a case where only two of the foregoing three rules are applicable, the remaining third equal part of the value of the entire capital stock shall be divided into two equal parts, each of which shall be apportioned in accordance with one of the remaining two rules. If only one of the three rules is applicable, that part of the entire capital stock attributed to business carried on within the Commonwealth shall be determined solely by that rule.

The amount assignable to this Commonwealth of expenditures of the taxpayers for wages, salaries, commissions, or other compensation to its employes, shall be such expenditures for the taxable year as represent the wages, salaries, commissions, or other compensation of employes not chiefly situated at, connected with, or sent out from premises for the transaction of business maintained by the taxpayer outside the Commonwealth.

The amount of the taxpayer's gross receipts from business assignable to this Commonwealth shall be, (1) the amount of its gross receipts for the taxable year, except those negotiated or effected in behalf of the taxpayer by agents or agencies chiefly situated at, connected with, or sent out from premises for the transaction of business maintained by the taxpayer outside the Commonwealth, and except rents and royalties, and interest and dividends, (2) rentals or royalties from property situated or from the use of patents within this Commonwealth, and (3) dividends and interest, except such dividends and interest attributable to the business conducted on premises maintained by the taxpayer outside the Commonwealth. If a taxpayer maintains an office, warehouse, or other place of business in a state other than this Commonwealth for the purpose of reducing its tax under this subsection, the Department of Revenue shall, in determining the amount of its gross receipts from business assignable to this Commonwealth, include therein the gross receipts attributed by the taxpayer to the business conducted at such place of business in another state.

In the case of construction contracts negotiated or effected at an office in the State of Pennsylvania, but performed outside the State, the gross receipts under such contracts shall be assignable outside the State, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the State and partly outside the State, such proportion of the gross receipts under said contract shall be assignable to Pennsylvania as the direct and indirect costs incurred in Pennsylvania under the contract for the taxable year bear to the total costs incurred

Taxable value.

Where only two rules applicable.

Where only one rule applicable.

Amount assignable to Commonwealth of expenditures of taxpayer for compensation to its employes.

Amount of taxpayers' gross receipts from business assignable to Commonwealth.

Maintenance of office outside Commonwealth for purpose of reducing tax.

Gross receipts; fraction applicable to foreign corporations doing business in Pennsylvania.

thereunder for the taxable year. In the case of construction contracts negotiated or effected at an office outside the State, but performed in the State, the gross receipts under such contract shall be assignable to the State, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the State and partly outside the State, such proportion of the gross receipts under said contract shall be assignable to Pennsylvania as the direct and indirect costs incurred in the State under the contract for the taxable year bear to the total cost incurred thereunder for the taxable year.

Where all tangible property and expenditures of a taxpayer are outside Commonwealth.

A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditures of a taxpayer for wages, salaries, commissions, or other compensation, or the gross receipts of the taxpayer are found to be situated, incurred, or received without the Commonwealth.

Application of franchise tax of five mills.

Notwithstanding the foregoing provisions of this subsection (b), the franchise tax of five mills imposed by subsection (b) on reports filed for the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, [and] one thousand nine hundred fifty, *one thousand nine hundred fifty-one, and one thousand nine hundred fifty-two*, and for fiscal years beginning in the calendar years one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, [and] one thousand nine hundred fifty, *one thousand nine hundred fifty-one, and one thousand nine hundred fifty-two* shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, excepting companies engaged in the distilling of liquors, without excluding from the numerators of the applicable fractions tangible property actually and exclusively used in manufacturing, compensation of employes exclusively engaged in manufacturing, and gross receipts from business strictly incident or appurtenant to manufacturing.

Exception.

Tax to be computed without certain exclusions.

Application of subsection after 6 year period.

After said [four] *six* year period the provisions of this subsection shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing purposes.

Payment of tax.

(c) It shall be the duty of the treasurer or other officers having charge of any such corporation, joint-stock association, or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth 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

Proviso.

stock, and taxable accordingly: Provided further, That corporations, limited partnerships, and joint-stock associations, 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 corporations, limited partnerships, and joint-stock associations, 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: Provided further, That the tax of five mills, imposed by this section on reports filed for the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each calendar year thereafter, or for the fiscal years beginning in the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each fiscal year thereafter, shall apply to the taxation of the capital stock of corporations, limited partnerships, and joint-stock associations, organized for laundering and for the processing and curing of meats, their products and by products, excepting companies engaged in the distilling of liquors: Provided further, That in case of fire and marine insurance companies, the tax imposed by this section shall be at the rate of five mills upon each dollar of the actual value of the whole capital stock: Provided, That nothing in this act shall be so construed as to apply to building and loan associations chartered by the State of Pennsylvania.

Further proviso.

Further proviso.

Further proviso.

Proviso

Act retroactive to January 1, 1949.

Section 2. The provisions of this act shall be retroactive to the first day of January, one thousand nine hundred forty-nine, so that domestic and foreign corporations, limited partnerships and joint-stock associations organized for manufacturing purposes, shall pay the tax imposed for the calendar years one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one and one thousand nine hundred fifty-two, or for the fiscal years beginning in the calendar years one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one and one thousand nine hundred fifty-two, as other domestic and foreign corporations, limited partnerships and joint-stock associations.

Section 3. The provisions of this act shall become effective immediately upon final enactment.

Act effective immediately.

APPROVED—The 29th day of May, A. D. 1951.

JOHN S. FINE