

No. 150

## AN ACT

To provide revenue for State purposes by imposing an excise tax on the capital stock, stated capital or capital of domestic corporations, banks and trust companies, and certain partnerships; providing for the computation, payment, assessment, settlement and resettlement of the tax, and reviews and appeals therefrom; conferring powers and imposing duties on certain persons, corporations and certain partnerships, State officers, boards and departments; requiring certain reports; creating a lien for unpaid tax; imposing penalties; and repealing certain acts relating to corporations and certain partnerships.

Excise tax imposed on capital stock, stated capital or capital of domestic corporations, banks and trust companies, and certain partnerships.

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

Section 1. Definitions.—As used in this act, when applied to corporations, the terms—

(a) “Stated Capital” shall be construed to mean (1) The number of shares of capital stock authorized having a par value, multiplied by the par value thereof, or (2) the value expressed in dollars of the entire consideration received by the corporation for or on account of its authorized shares without par value, set forth in its articles of incorporation or applicable thereto, irrespective of whether the consideration be allocated or applicable to stated capital or paid-in capital, or both clauses (1) and (2) and, in \*addition, (3) such amounts not included in clauses (1) or (2) of this paragraph as may have been transferred to or are applicable to the stated capital or capital or paid-in capital with which the corporation will begin business, whether upon the issue of shares as a dividend or otherwise, minus such formal reduction from said sum as may have been effected in a manner permitted by law.

(b) “Authorized Capital Stock” is intended to mean and shall be construed to mean the number of shares of capital stock having a par value multiplied by the par value thereof, with which a corporation is authorized to begin business.

(c) “Capital Shares” or “Capital Stock” shall be construed to mean the units which recognize the stockholders’ rights to participate in the control of the corporation or in its surplus or in its profits or benefits or in the distribution of its assets or dividends.

Section 2. Imposition of Tax.—An excise tax of one fifth of one per centum is hereby imposed for State purposes for the privilege of exercising corporate franchises or other powers or privileges within this State, as follows:

(a) Upon the amount of stated capital with which any corporation hereafter incorporated will begin business and upon the amount of increase thereof.

\* “additions” in original.

(b) Upon the amount of increase of the stated capital of any corporation heretofore incorporated.

(c) Upon the amount of the authorized capital stock of any corporation heretofore incorporated which is unissued at the date of passage of this act and upon the amount of each subsequent increase of the authorized capital stock of such corporation made after the passage of this act.

(d) Upon the amount of the authorized capital stock of any corporation hereafter incorporated and upon the amount of each subsequent increase of authorized capital stock.

(e) Upon the amount of authorized capital stock or stated capital which any corporation other than a banking corporation is authorized to have upon a renewal or extension of its charter.

(f) In the case of the merger or consolidation of two or more corporations, upon the amount of the authorized capital stock or stated capital of the new or merged corporation in excess of the greatest amount of the authorized capital stock or stated capital or both, of the several corporations so merging or consolidating, upon which bonus has been theretofore paid under prior laws or upon which the excise tax has theretofore been paid under the provisions of this act: Provided, That in case of the merger or consolidation of a foreign corporation which has any part of its capital actually employed within this State with a domestic corporation, such new or merged or consolidated corporations shall be entitled to credit upon any tax then due and payable for the amount of bonus or excise tax theretofore paid by such foreign corporation upon the amount of the capital actually employed within the State of Pennsylvania.

(g) In the case of a trust company incorporated for the purchasing, taking over, merging or consolidating with any other trust company, or purchasing, taking over or consolidating with any bank, banking company or savings institution, where such purpose is expressed in its charter, and in the case of a bank or banking company or savings institution incorporated to similarly acquire a trust company, bank, banking company or other savings institution, upon the amount of the authorized capital stock or its stated capital expressed in its new charter or articles of incorporation, which is in excess of the amount of the authorized capital stock or stated capital of the corporation or corporations purchased, merged or acquired.

(h) Upon the amount of the capital stock which a partnership association hereafter formed under the provisions of the act, approved the second day of June, one thousand eight hundred and seventy-four (Pamphlet

Laws 271), entitled "An act authorizing the formation of partnership associations, in which the capital subscribed shall alone be responsible for the debts of the association, except under certain circumstances," and a partnership hereafter formed under the provisions of the act, approved the ninth day of May, one thousand eight hundred and ninety-nine (Pamphlet Laws 261), entitled "An act authorizing the formation of partnerships in which one or more, or all of the partners, may limit their liability for the debts of the partnership to the amount of capital subscribed by such partner, or partners, respectively, and providing penalties for violation of its provisions," shall have, and upon the amount of any increase of the capital of any such partnership association or partnership heretofore or hereafter formed.

Section 3. Exceptions.—No excise tax shall be imposed or be collected under the provisions of this act (a) in the case of the incorporation or the increase of the capital stock of a building and loan association or credit union, or (b) from any corporation named in the first class of section two of the act, approved the twenty-ninth day of April, one thousand eight hundred and seventy-four (Pamphlet Laws 73), entitled "An act to provide for the incorporation and regulation of certain corporations," which does not have any capital stock, or (c) upon capital stock to the extent upon which a bonus has been heretofore paid under prior laws or under laws repealed by this act or which was not liable for the payment of bonus under then existing laws.

In the case of any corporation issuing shares of stock without nominal or par value, no increase in the number of outstanding shares without nominal or par value shall warrant the imposition of any excise tax under the provisions of this act, unless there shall be an increase in the stated capital of the corporation issuing such shares, and if there be such increase in stated capital, the excise tax shall be imposed and computed upon the amount of such increase only.

In the case of any corporation created by or under the laws of any other state and authorized by a certificate of authority to do business in this Commonwealth becoming a corporation of this Commonwealth in the manner provided by law, said corporation shall be liable for the excise tax imposed herein on its capital stock or stated capital or both, to the same extent, at the same rate and in the same manner as corporations created under the laws of this Commonwealth are liable: Provided, That said corporation shall be entitled to a credit on the excise tax imposed herein by exempting from the payment of the excise tax capital stock equal to the

capital upon which such foreign corporation has theretofore paid bonus or the excise tax under the laws of this State.

Section 4. Settlement and Collection of Tax, Interest and Penalties.—It shall be the duty of the Secretary of the Commonwealth to settle and collect all excise tax, interest thereon and penalties for failure to file any report required by this act to be filed by a corporation or to file any report of the tax imposed upon any corporation by this act.

Section 5. Payments to the Secretary of the Commonwealth.—Except as hereinafter otherwise provided, the excise tax imposed by this act shall in each case be paid by the corporation, limited partnership or joint stock association liable for the same to the Secretary of the Commonwealth for the use of the Commonwealth.

Section 6. Reports; Due Date of Tax; Interest; Penalties; Settlement and Resettlement; Collection and Lien.—

(a) Every corporation required to pay the excise tax in accordance with the provisions of this act shall, in a form prescribed by the Secretary of the Commonwealth, report to the Secretary of the Commonwealth, on or before sixty (60) days from the effective date of this act, the name, location of registered office, the date of incorporation and the amount of its authorized capital stock or stated capital as of the effective date of this act, the maximum amount of capital stock or stated capital outstanding at any time between the date of incorporation and the effective date of this act, the amount of the capital stock outstanding as of the effective date of this act, giving such other information about such capital stock or stated capital as the Secretary of the Commonwealth shall require for the purpose of this act.

(b) Upon the increase of the stated capital of any corporation, it shall be the duty of the president or treasurer thereof, within thirty (30) days thereafter, to file a report thereof with the Secretary of the Commonwealth, and concurrently therewith such corporation shall pay to the Secretary of the Commonwealth the excise tax due on such increase.

(c) The amount of excise tax due the Commonwealth upon authorized capital stock or stated capital of any corporation hereafter incorporated shall be due and payable concurrently with filing its articles of incorporation or application for a charter.

(d) The amount of excise tax due the Commonwealth upon the increase of the authorized capital stock of any corporation heretofore or hereafter incorporated shall be due and payable concurrently with filing its articles of amendment.

(e) The excise tax due under the provisions of this act upon the amount of authorized but unissued capital stock of any corporation heretofore incorporated as of the effective date of this act shall be due and payable, at the option of the corporation, (1) either upon the amount of such authorized capital stock, within sixty days from the effective date of this act, or (2) upon the amount of such authorized capital stock, within thirty (30) days after the issuance of the capital shares or capital stock so authorized. In either case, the corporation shall make a report thereof to the Secretary of the Commonwealth within the sixty (60) or thirty (30) day period and shall make payment of the tax due concurrently with the filing of the report.

(f) The excise tax due upon the increase of authorized capital stock or stated capital in the case of a merger or consolidation, as provided in this act, shall be due and payable by the merged or consolidated corporation concurrently with the filing of articles of merger or consolidation.

(g) The excise tax due the Commonwealth under the provisions of this act shall bear interest at the rate of six per centum (6%) per annum from the date it is due and payable until paid. The payment of such interest shall not relieve any corporation or partnership from any of the penalties imposed by law for neglect or refusal to make a report to the Secretary of the Commonwealth or to pay any excise tax due the Commonwealth from such corporation or partnership.

(h) In case any corporation or any officer thereof shall neglect or omit to file a report within sixty (60) days from the effective date of this act, furnishing information required by this act as of the effective date thereof, such corporation shall be subject to a penalty of five hundred dollars (\$500), and in case any corporation or any officer thereof shall neglect or omit to file a report and pay the excise tax as required by this act, such corporation shall be subject to a penalty of ten per centum (10%) of the tax and interest due thereon or fifty dollars (\$50), whichever shall be the larger amount, in addition to the tax. The Secretary of the Commonwealth may remit such penalties for reasons satisfactory to him.

(i) Within six (6) months from the due date of any report or tax payment as provided in this act, the Secretary of the Commonwealth shall settle and assess the excise tax and interest then due and payable against each corporation which shall have omitted or failed to file any report required by this act or to pay any and all tax imposed by this act on its capital stock or stated capital and the penalty imposed by this act for the failure so to do.

(j) Promptly after the date of any such settlement, the Secretary of the Commonwealth shall send, by mail or otherwise, a copy thereof to such corporation. The tax, interest and penalty imposed by this act shall be subject to the right of resettlement, review, appeal and refund as provided by law in the case of capital stock and franchise taxes imposed upon corporations, except that any petition for resettlement of such settlement shall be filed with the Secretary of the Commonwealth. In the event of any adjustment of the excise tax in respect to which a penalty has been assessed for failure to file any report required by this act, the penalty shall be adjusted in accordance with the provisions of this act imposing such penalty.

(k) Whenever any tax, interest or penalty imposed by this act are not paid within ninety (90) days—

(1) From the date of settlement, if no petition for resettlement has been filed; or

(2) From the date of resettlement or refusal of any petition for resettlement, if no petition for review has been filed; or

(3) From the date of the decision by the Board of Finance and Revenue upon a petition for review or the expiration of said board's time for acting upon such petition, if no appeal has been filed; and in all cases of judicial sales, assignments or bankruptcies, the Secretary of the Commonwealth shall call upon the Department of Justice to collect the same in the same manner as provided by law in the case of other taxes imposed for State purposes.

(1) For the purpose of enforcing collection, all unpaid excise tax and penalties settled against any corporations and partnerships under the provisions of this act, including any interest due thereon, shall be a first lien upon the franchises and property, both real and personal, of such corporations and partnerships, from the date of such settlement thereof, with the same force, effect and remedies as provided by law in the case of other taxes for State purposes.

(m) The amount of the excise tax due the Commonwealth upon the capital stock which any partnership hereafter formed or organized and made taxable under the provisions of this act shall be due and payable to the Department of Revenue concurrently with its formation or organization, and upon the increase of the capital stock of any partnership heretofore or hereafter formed or organized and made taxable under the provisions of this act, it shall be the duty of the chairman or treasurer or other proper officer to make a report, within thirty (30) days thereafter, to the Department

of Revenue, of the amount of the increase of capital stock actually made, and concurrently therewith such partnership shall pay to the Department of Revenue the excise tax due on such increase of capital stock.

(n) In case any partnership taxable under the provisions of this act or any officer thereof shall neglect or omit to make any report or tax payment required by this act, such partnership shall be subject to a penalty of ten per centum (10%) of the excise tax or fifty dollars (\$50), whichever shall be the larger amount, in addition to the tax, which penalty, together with the tax and interest due thereon, shall be collected on an account settled by the Department of Revenue as accounts for taxes due the Commonwealth are settled and collected. The Department of Revenue may remit such penalty for reasons satisfactory to it.

(o) The provisions of this act in respect to the excise tax, interest and penalties due from corporations are applicable to the excise tax, interest and penalties due from partnerships, except that, where necessary, the powers and duties conferred upon the Secretary of the Commonwealth in the case of corporations are conferred upon the Department of Revenue in the case of partnerships.

Section 7. Effect of Failure to Pay the Excise Tax.—The Governor of this Commonwealth shall not issue any letters patent to any corporation, nor shall the Secretary of the Commonwealth issue a certificate of incorporation or a certificate of merger to any corporation, nor shall any domestic corporation, partnership or partnership association go into operation or exercise any corporate or other powers or privileges, until the excise tax imposed by this act has been paid to the proper officer of the Commonwealth.

The Secretary of the Commonwealth shall not permit the filing in his office of any proceedings for the increase of capital stock or stated capital or both of any corporation, until he is satisfied that the excise tax upon such increase of capital stock or stated capital has been paid.

No articles of association to form a partnership or any amendment increasing the capital stock thereof shall be accepted of record by the recorder of deeds in any county in this Commonwealth, unless there is annexed thereto a receipt of the Department of Revenue for the amount of the excise tax due under this act, said receipt to be made a part of the articles of association and recorded therewith.

The articles of association of any partnerships which shall not pay the excise tax imposed by this act shall be void and of no effect and every person a party thereto shall be held liable as general partners.

Section 8. **Compromise \*or Settlement of Tax, Interest and Penalties.**—If any corporation, bank, trust company or partnership required to pay the excise tax under the provisions of this act is indebted to the Commonwealth for such tax and interest and penalties thereon shall have gone into liquidation, become insolvent, ceased to carry on business, or has no known or available property in this or any other state which may be seized in execution of process issued out of any court of this or any other state, or if the property of such corporation, bank, trust company or partnership is insufficient to pay the tax and interest and penalties or interest or penalties due the Commonwealth, the Secretary of the Commonwealth may, with the approval of the Auditor General and the Attorney General, compound, compromise or settle such tax and interest and penalties or such tax or interest or penalties, on such terms as said officials may determine to be for the best interests of the Commonwealth, and any lien of the Commonwealth for such tax and interest and penalties or for such tax or interest or penalties shall be reduced to the amount of such tax and interest and penalties or such tax or interest or penalties as so compounded, compromised or settled.

Section 9. **Constitutional Construction.**—The provisions of this act are not intended to be severable, and if any provision hereof is found by a court of record to be unconstitutional and void, the remaining provisions of this act shall fall and become void, and the acts repealed in section 10 shall be revived and continued in force and effect as of the date of the passage of this act.

Section 10. **Repeal.**—Subject to the conditions imposed in section 9, the following acts are hereby repealed:

The act, approved the twentieth day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws 322), entitled “An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock, stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships.”

The act, approved the twenty-first day of April, one thousand nine hundred and thirty-seven (Pamphlet Laws 315), entitled “An act to amend section three of the act, approved the twentieth day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, three hundred twenty-two), entitled ‘An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock,

\* “of” in original.



stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships,' exempting credit unions from the provisions of the act."

The act, approved the twentieth day of June, one thousand nine hundred and thirty-nine (Pamphlet Laws 473), entitled "An act to amend section three of the act, approved the twentieth day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, three hundred twenty-two), entitled 'An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock, stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships,' as amended, by providing that foreign corporations becoming domestic corporations shall be entitled to a credit on bonus, by exempting, from the payment of bonus, capital stock equal to the capital stock upon which such foreign corporation has theretofore paid bonus under existing laws of this State."

The act, approved the twenty-fifth day of April, one thousand nine hundred and twenty-nine (Pamphlet Laws 671), entitled "An act to amend sections five, six and seven of the act, approved the twentieth day of April, one thousand nine hundred and twenty-seven (Pamphlet Laws, three hundred twenty-two), entitled 'An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock, stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships'."

The act, approved the twenty-first day of June, one thousand nine hundred and thirty-nine (Pamphlet Laws 609), entitled "An act to amend the act, approved the twentieth day of April, one thousand nine hundred \*twenty-seven (Pamphlet Laws, three hundred twenty-two), entitled 'An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock, stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships,' as amended, by clarifying and enlarging its meaning; and modifying and changing the provisions relating to the imposition, computation, and collection of bonus imposed by said act; requiring certain reports; imposing additional duties on State, county, and corporate officers; creating a lien for unpaid bonus; and imposing penalties."

\* "and" deleted in original.

The act, approved the twenty-third day of May, one thousand nine hundred and forty-five (Pamphlet Laws 857), entitled "An act to further amend section six (d), and to add a new section to the act, approved the twentieth day of April, one thousand nine hundred \* twenty-seven (Pamphlet Laws, three hundred twenty-two), entitled 'An act to amend, revise, consolidate, and change the laws relating to bonus, and providing for the imposition, computation, and collection of bonus for State purposes on the capital stock, stated capital, or capital of domestic corporations, banks, and trust companies, and certain partnerships,' as last amended, by establishing the interest rate on bonus due the Commonwealth at six per centum per annum from the time when due until paid; and authorizing the Secretary of the Commonwealth, with the approval of the Auditor General and the Attorney General, to compromise and settle claims for bonus, interest and penalties thereon in certain cases."

All other acts and parts of acts inconsistent with this act are hereby repealed, but the repeal of any act of Assembly shall not estop the assessment or collection of any bonus, interest or penalty by the Commonwealth due or liable to become due under such acts before such repeal.

Section 11. **\*\*Saving Clause.**—The provisions of the acts repealed in section 10 of this act shall remain in force and effect as to bonus imposable and collectible for any period prior to the effective date of this act.

Section 12. **Effective Date.**—This act shall become effective immediately upon its final enactment.

APPROVED—The 25th day of July, A. D. 1953.

JOHN S. FINE

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No. 151

AN ACT

To amend the title and section 1 of the act, approved the seventeenth day of May, one thousand nine hundred forty-five (Pamphlet Laws 624), entitled "An act requiring the recorder of deeds of every county, except counties of the second class, to report transfers of property to the commissioners of townships of the first class," by requiring the recorder of deeds in certain cases to report transfers of property to supervisors of townships of the second class.

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

First and second  
class townships.

\* "and" deleted in original.

\*\* "Savings" in original.