

No. 180

AN ACT

HB 1415

Amending the act of May 16, 1935 (P.L.208), entitled, as amended, "An act to provide revenue for State purposes by imposing an excise tax on the net incomes of certain corporations, joint-stock associations, and limited partnerships; providing for the assessment, collection, settlement and resettlement of taxes, and reviews and appeal therefrom; conferring powers, and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State and county officers, boards and departments; and providing penalties," changing and removing certain deductions, increasing the rate of the tentative and the annual tax and changing the manner in which the tentative and the annual tax are to be paid.

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

Section 1. Subclause (b) of clause 1 of the definition of "Net Income" of section 2, act of May 16, 1935 (P.L.208), known as the "Corporate Net Income Tax Act," reenacted and amended April 30, 1957 (P.L.80), and amended June 22, 1964 (P.L.21) and June 22, 1964 (P.L.24), is amended to read:

Section 2. Definitions.—The following words, terms, and phrases, when used in this act, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning.

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"Net Income." 1. In case the entire business of the corporation is transacted within this Commonwealth,

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(b) For any taxable year beginning after the thirty-first day of December, one thousand nine hundred fifty-three, and ending after the fifteenth day of August, one thousand nine hundred fifty-four, except as hereinafter provided in the case of stock life insurance companies 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 or which has participated in prior taxable years 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 tax returns had been made to the Federal Government for all years affected by the filing of consolidated returns to the Federal Government, subject, however, to any corrections thereof for fraud, evasion or error as finally ascertained by the Federal Government: **Provided, [That in the case of corporations eligible for a manufacturing, processing or research and development exemption under the 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," an additional deduction shall**

be allowed from taxable income equal to one-half the amount allowed by the Federal Government for the depreciation of buildings or structures situated in this Commonwealth or improvements thereon or improvements made thereto if such buildings, structures or improvements thereon or improvements made thereto are actually used in manufacturing, processing or research and development conducted within this Commonwealth and they consist of those for which the actual construction or improvement project commences after August 14, 1963. Buildings, structures or improvements thereon or improvements made thereto for which an additional deduction is allowed by this section shall not include equipment, fixtures, machinery or other similar tangible property. The additional deductions from income allocated to Pennsylvania for depreciation allowed hereunder shall cease when the said additional deductions, together with the depreciation allowed by the Federal Government, equal the cost of the said buildings, structures or improvements: And provided further,] That additional deductions shall be allowed from taxable income on account of 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: And provided further, That no deduction shall be allowed for net operating losses sustained by the corporation during any other fiscal or calendar year: And provided further, That in the case of stock life insurance companies, "net income" for taxable years beginning in one thousand nine hundred fifty-four shall be one thousand nine hundred fifty-four life insurance company taxable income as returned to and ascertained by the Federal Government and for taxable years beginning in one thousand nine hundred fifty-five and thereafter shall be life insurance company taxable income as returned to and ascertained by the Federal Government: And provided further, That in the case of stock life, fire, casualty and indemnity insurance companies, doing business on the mutual or participating plan, the term "net income" shall not include the dividends paid to policyholders out of net income: And provided further, That in the case of regulated investment companies as defined by the Internal Revenue Code of 1954, as amended, "net income" shall be investment company taxable income as defined in the aforesaid Internal Revenue Code of 1954, as amended.

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Section 2. Section 3 and subsection (d) of section 4, of the act, reenacted and amended April 30, 1957 (P.L.80) and amended September 29, 1967 (P.L.310), are amended to read:

Section 3. Imposition of Tax.—Every corporation shall be subject to, and shall pay for the privilege of doing business in this Commonwealth, or having capital or property employed or used in this Commonwealth, by or in the name of itself, or any person, partnership, association, limited partnership, joint-stock association, or corporation, a State excise tax at the rate of six per centum per annum upon each dollar of net income of such corporation received by, and accruing to, such corporation during the calendar year one

thousand nine hundred thirty-five, except where a corporation reports to the Federal Government on the basis of a fiscal year, and has certified such fact to the department as required by section four of this act, in which case, such tax, at the rate of six per centum, shall be levied, collected, and paid upon all net income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year one thousand nine hundred thirty-five and ending in the calendar year one thousand nine hundred thirty-six, a similar tax at the rate of ten per centum per annum upon each dollar of the net income of such corporation received by, and accruing to, such corporation during the calendar year one thousand nine hundred thirty-six, except where a corporation reports to the Federal Government on the basis of a fiscal year, and has certified such fact to the department as required by section four of this act, in which case, such tax, at the rate of ten per centum, shall be levied, collected and paid upon all net income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year one thousand nine hundred thirty-six and ending in the calendar year one thousand nine hundred thirty-seven, and a similar tax at the rate of seven per centum per annum upon each dollar of the net income of such corporation during the calendar years 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, and one thousand nine hundred forty-two, except when a corporation reports to the Federal Government on the basis of a fiscal year, and has certified such fact to the department as required by section four of this act, in which case, such tax at the rate of seven per centum shall be levied, collected, and paid upon all net income received by, and accruing to, such corporation during the fiscal years commencing in the calendar years 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, and one thousand nine hundred forty-two, and a similar tax at the rate of four per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years 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, except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act in which case such tax at the rate of four per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during the fiscal years commencing in the calendar years 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; and a similar tax at the rate of five per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, and one thousand nine hundred fifty-five, except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case such tax at the rate of five per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during the fiscal years commencing in the calendar years one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, and one thousand nine hundred fifty-five, and a similar tax at the rate of six per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred fifty-six, one thousand nine hundred fifty-seven, one thousand nine hundred fifty-eight, one thousand nine hundred fifty-nine, one thousand nine hundred sixty, and one thousand nine hundred sixty-one, except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case such tax at the rate of six per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during the fiscal years commencing in the calendar year one thousand nine hundred fifty-six, one thousand nine hundred fifty-seven, one thousand nine hundred fifty-eight, one thousand nine hundred fifty-nine, one thousand nine hundred sixty, and one thousand nine hundred sixty-one, and a similar tax at the rate of six per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during each calendar year subsequent to one thousand nine hundred sixty-one and through and including one thousand nine hundred sixty-six except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case such tax at the rate of six per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during each fiscal year commencing during each calendar year subsequent to one thousand nine hundred sixty-one and through and including one thousand nine hundred sixty-six, and a similar tax at the rate of seven per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred sixty-seven and one thousand nine hundred and sixty-eight except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case such tax at the rate of seven per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation

during each fiscal year commencing during the calendar years one thousand nine hundred sixty-seven and one thousand nine hundred sixty-eight, and a similar tax at the rate of [seven and one-half] *twelve* per centum per annum upon each dollar of net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred sixty-nine and each year thereafter, except where a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case such tax at the rate of [seven and one-half] *twelve* per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during each fiscal year commencing during the calendar year one thousand and nine hundred sixty-nine and each year thereafter: And provided further, That in the case of stock life insurance companies, the rate shall be one-half of one per centum per annum on each dollar of the net income of such corporations received by and accruing to such corporations during the calendar years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four, except where such a corporation reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case the rate shall be one-half of one per centum per annum on net income received by and accruing to such corporations during the fiscal years commencing in the calendar years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four.

The tax hereby imposed shall be in addition to all taxes now imposed on any corporation under the provisions of existing laws.

Section 4. Reports and Payment of Tax.—

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(d) For the taxable years up to and including the year one thousand nine hundred fifty-two, every corporation, upon the date its report is required herein to be made, shall pay to the department not less than one-half of the tax due to the Commonwealth by it for such preceding year, and the remaining one-half of such tax shall be paid within the thirty days next succeeding, and except as otherwise provided by law, no extension of time for the filing of any report granted by the department shall extend the date any tax imposed by this act shall be due and payable. For the taxable years one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, and one thousand nine hundred fifty-five, every corporation, upon the date its tentative report is required herein to be made, shall pay on account of the tax due for the current year at its election, (1) not less than two and one-half per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the net income had been reported, or (2) not less than

ten per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable. For the taxable years one thousand nine hundred fifty-six, one thousand nine hundred fifty-seven, one thousand nine hundred fifty-eight, one thousand nine hundred fifty-nine, and one thousand nine hundred sixty, every corporation upon the date its tentative report is required herein to be made shall pay on account of the tax due for the current year, at its election, (1) not less than three per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the net income had been reported, or (2) not less than twelve per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable. For the taxable year one thousand nine hundred sixty-one, and each taxable year thereafter, through and including one thousand nine hundred sixty-seven, every corporation, upon the date its tentative report is required herein to be made, shall pay on account of the tax due for the current year, at its election, (1) not less than four and eight-tenths per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year, or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the net income had been reported, or (2) not less than nineteen and two-tenths per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable. For the taxable year one thousand nine hundred sixty-eight, every corporation, upon the date its tentative report is required herein to be made, shall pay on account of the tax due for the current year, at its election, (1) not less than five and six-tenths per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year, or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the net income had been reported, or (2) not less than twenty-two and four-tenths per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable, and for the taxable year one thousand nine hundred sixty-nine [and each taxable year thereafter,] every corporation, upon the date its tentative report is required herein to be made, shall pay on account of the tax due for the current year, at its election, (1) not less than six per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year, or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the

net income had been reported, or (2) not less than twenty-four per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable. *For the taxable year one thousand nine hundred seventy and each taxable year thereafter, every corporation, upon the date its tentative report is required herein to be made, shall pay on account of the tax due for the current year at its election, (1) not less than nine and six-tenths per centum upon each dollar of net income of such corporation last reported as received or accrued during an entire preceding year, or of such multiple of the net income last reported for a portion of such year as the entire year bears to the portion of the year for which the net income had been reported, or (2) not less than thirty-eight and four-tenths per centum upon each dollar of net income of such corporation received or accrued during the first three months of the current calendar or fiscal year, whichever is applicable.* The remaining portion of the tax due shall be paid upon the date the corporation's annual report is required herein to be made.

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Section 3. This act shall become effective immediately, and shall apply to tax imposed for calendar year 1969 and thereafter, or for fiscal years beginning in 1969 and thereafter, and shall not be construed to alter the liability of any corporation to report and pay the tax imposed by the Corporate Net Income Tax Act prior to this amendment for the calendar year ending the thirty-first day of December, 1968 and years prior thereto or fiscal years beginning in 1968 and years prior thereto.

APPROVED—The 31st day of December, A. D. 1969.

RAYMOND P. SHAFER

The foregoing is a true and correct copy of Act of the General Assembly No. 180.


Secretary of the Commonwealth.