

No. 1982-172

AN ACT

HB 1040

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," further providing for an exemption from the sales tax, for the furnishing and availability of certain information relating to corporations and for the gross receipts tax on electricity.

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

Section 1. Section 204, act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," is amended by adding a clause to read:

Section 204. Exclusions from Tax.—The tax imposed by section 202 shall not be imposed upon

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(42) The sale or use of brook trout (salvelinus fontinalis), brown trout (Salmo trutta) or rainbow trout (Salmo gairdneri).

Section 2. Subsection (a) of section 403 of the act, amended September 9, 1971 (P.L.437, No.105), is amended to read:

Section 403. Reports and Payment of Tax.—(a) For the purpose of ascertaining the amount of tax payable under this article, it shall be the duty of every corporation, liable to pay tax under this article, on or before April 15, 1972, and each year thereafter, to transmit to the department, upon a form prescribed, prepared and furnished by the department, an annual report under oath or affirmation of its president, vice-president or other principal officer, and of its treasurer or assistant treasurer of net income taxable under the provisions of this article. Such report shall set forth:

(1) 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;

(2) 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

(3) 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. This information shall be public information available for inspection and copying in the Department of State.

* * *

Section 3. Subsection (b) of section 408 of the act is amended to read:

Section 408. Enforcement; Rules and Regulations; Inquisitorial Powers of the Department.—* * *

(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 settle 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)(3), to other government units. Any identification number provided by the department to another governmental unit for governmental purposes shall continue to be confidential information.*

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Section 4. Section 1101 of the act is amended by adding a subsection to read:

Section 1101. Imposition of Tax.—* * *

(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 has 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.

Section 5. This act shall take effect as follows:

(1) Sections 1, 2, and 3 in 60 days. Within 90 days of enactment, the Department of Revenue shall provide the Department of State with a list of names of all corporations which, according to its records, have been active in this Commonwealth within the preceding three years.

(2) Section 4 on July 1, 1982. The amendment to section 1101 shall apply to all sales of electricity occurring on or after such date.

APPROVED—The 23rd day of June, A. D. 1982.

DICK THORNBURGH