No. 2013-52

AN ACT

HB 465

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," in tax for education, further providing for definitions, for exclusions from tax, for credit against tax, for licenses and for local receivers of use tax; providing for remote sales reports; providing for special taxing authority; in personal income tax, further providing for definitions, for classes of income and for taxability of partners; providing for tax treatment determined at partnership level and for tax imposed at partnership level; further providing for income of a Pennsylvania S corporation, for income taxes imposed by other states and for operational provisions; providing for contributions for the Children's Trust Fund and for contributions for American Red Cross; further providing for general rule, for return of Pennsylvania S corporation, for requirements concerning returns, notices, records and statements and for additions, penalties and fees; providing for citation authority; in corporate net income tax, further providing for definitions and for reports and payment of tax; in capital stock and franchise tax, further providing for imposition and for expiration; in bank and trust company shares tax, further providing for imposition of tax, for ascertainment of taxable amount and exclusion of United States obligations, for apportionment and for definitions; in realty transfer tax, further providing for definitions, for imposition of tax, for excluded transactions and for acquired company; providing for nonlicensed corporation pari-mutuel wagering tax; in film production tax credit, further providing for definitions, for credit for qualified film production expenses and for carryover, carryback and assignment of credit; in educational opportunity scholarship tax credit, further providing for scholarships; repealing provisions relating to coal waste removal and ultraclean fuels tax credit; in job creation tax credit, further providing for tax credits; making an editorial change; providing for city revitalization and improvement zones, for mobile telecommunications broadband investment tax credit, for the Innovate in PA Program, for neighborhood improvement zones and for Keystone Special Development Zone program; in inheritance tax, further providing for transfers not subject to tax, for exemption for poverty, for liabilities and for deductions not allowed; in procedure and administration, further providing for definitions and for petition for reassessment; providing for the Board of Finance and Revenue; further providing for review by the Board of Finance and Revenue; providing for a report concerning the significant changes in the structure and regulatory environment within the banking industry; and making related repeals.

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

Section 1. Section 201(ddd) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added December 23, 2003 (P.L.250, No.46), is amended to read:

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:

* * *

[(ddd) "Call center." The physical location in this Commonwealth:

(1) where at least one hundred and fifty employes are employed to initiate or answer telephone calls;

(2) where there are at least two hundred telephone lines; and

(3) which utilizes an automated call distribution system for customer telephone calls in one or more of the following activities:

(A) customer service and support;

(B) technical assistance;

(C) help desk service;

(D) providing information;

(E) conducting surveys;

(F) revenue collections; or

(G) receiving orders or reservations.

For purposes of this clause, a physical location may include multiple buildings utilized by a taxpayer located within this Commonwealth.]

Section 2. Section 204 of the act is amended by adding a clause to read:

Section 204. Exclusions from Tax.—The tax imposed by section 202 shall not be imposed upon any of the following:

* * *

(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.

Section 3. Sections 206 and 208 of the act, amended December 23, 2003 (P.L.250, No.46), are amended to read:

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) A credit against the tax imposed by section 202 on telecommunications services shall be granted to a call center for gross receipts tax paid by a telephone company on the receipts derived from the sale of incoming and outgoing interstate telecommunications services to the call center under section 1101(a)(2). The following apply:

(1) A telephone company, upon request, shall notify a call center of the amount of gross receipts tax paid by the telephone company on the receipts derived from the sale of incoming and outgoing interstate telecommunications services to the call center.

(2) A call center that is eligible for the credit in this subsection may apply for a tax credit as set forth in this subsection.

(3) By February 15, a taxpayer must submit an application to the department for gross receipts tax paid on the receipts derived from the sale of incoming and outgoing interstate telecommunications services incurred in the prior calendar year.

(4) By April 15 of the calendar year following the close of the calendar year during which the gross receipts tax was incurred, the department shall notify the applicant of the amount of the applicant's tax credit approved by the department.

(5) The total amount of tax credits provided for in this subsection and approved by the department shall not exceed thirty million dollars ($30,000,000) in any fiscal year. If the total amount of tax credits applied for by all applicants exceeds the amount allocated for those credits, then the credit to be received by each applicant shall be determined as follows:

(i) Divide:

(A) the tax credit applied for by the applicant; by

(B) the total of all tax credits applied for by all applicants.

(ii) Multiply:

(A) the quotient under subparagraph (i); by

(B) the amount allocated for all tax credits.]

Section 208. Licenses.—(a) Every person maintaining a place of business in this Commonwealth, 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.

(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 **[first been licensed by the department]** ***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.

Section 4. Section 226 of the act is repealed:

[Section 226. Local Receivers of Use Tax.—Beginning on and after the effective date of this article, in every county, except in counties of the first class, the county treasurer is hereby authorized to receive use tax due and payable under the provisions of this article from any person other than a licensee. The receiving of such taxes shall be pursuant to rules and regulations promulgated by the department and upon forms furnished by the department. Each county treasurer shall remit to the department all use taxes received under the authority of this section minus the costs of administering this provision not to exceed one per cent of the amount of use taxes received, which amount shall be retained in lieu of any commission otherwise allowable by law for the collection of such tax.]

Section 5. The act is amended by adding a section to read:

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.

Section 5.1. The act is amended by adding an article to read:

ARTICLE II-B
SPECIAL TAXING AUTHORITY

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.

Section 6. Section 301(t) of the act, added August 31, 1971 (P.L.362, No.93), is amended and the section is amended by adding subsections to read:

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:

* * *

(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.

* * *

(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.

* * *

(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).

* * *

(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.

* * *

Section 7. Section 303(a)(2) of the act, added August 31, 1971 (P.L.362, No.93), is amended and the section is amended by adding a subsection to read:

Section 303. Classes of Income.—(a) The classes of income referred to above are as follows:

* * *

(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.***

* * *

(a.8) A person who incurs intangible drilling and development costs shall capitalize the costs unless the taxpayer elects to currently expense the costs for Federal income tax purposes under 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.

* * *

Section 8. Section 306 of the act, amended June 22, 2001 (P.L.353, No.23), is amended to read:

Section 306. Taxability of Partners.—**[**A**]** ***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.

Section 9. The act is amended by adding sections to read:

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.

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.

Section 10. Section 307.8(a) of the act, amended May 7, 1997 (P.L.85, No.7), is amended and the section is amended by adding a subsection to read:

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.

* * *

(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.

Section 11. Section 314(a) of the act, amended December 23, 1983 (P.L.370, No.90), is amended to read:

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.***

* * *

Section 12. Section 315.9 of the act, amended October 9, 2009 (P.L.451, No.48), is amended to read:

Section 315.9. Operational Provisions.—

(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 and 315.7 shall not expire.

(c) Sections 315.3, 315.4 and 315.8 shall expire January 1, **[2014]** ***2018***.

Section 13. The act is amended by adding sections to read:

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.

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.

Section 14. Section 324 of the act, amended June 22, 2001 (P.L.353, No.23), is amended to read:

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).

Section 15. Section 330.1 of the act, amended or added December 23, 1983 (P.L.370, No.90) and July 13, 1987 (P.L.325, No.59), is amended to read:

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.

Section 16. Section 335 of the act, amended or added August 31, 1971 (P.L.362, No.93), December 23, 2003 (P.L.250, No.46) and July 2, 2012 (P.L.751, No.85), is amended to read:

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 **[by regulations prescribe]** *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 income from sources within this Commonwealth;

(ii) makes payments of nonemploye compensation or payments under an oil and gas lease under subparagraph (i) to a resident or nonresident 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 return to the Secretary of the Treasury of the United States with respect to the payments shall file a copy of form 1099-MISC with the department and send a copy of form 1099-MISC to the payee by the Federal filing deadline each year.

(2) If the payor is required to perform electronic filing for Pennsylvania employer withholding purposes, the form 1099-MISC shall be filed electronically with the department.

(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.

Section 17. Section 352(f) of the act, amended July 2, 2012 (P.L.751, No.85), is amended to read:

Section 352. Additions, Penalties and Fees.—* * *

(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 **[by regulation]** to furnish an information return who furnishes a false or fraudulent return ***or who fails to file or provide an information return*** shall **[for each failure]** 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 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).

(5) Any person required under the provisions of section 335(f) to furnish a copy of form 1099-MISC 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).

* * *

Section 18. The act is amended by adding a section to read:

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 employer 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 an employer 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 employer 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.

(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.

Section 19. Section 401(3)2(a)(17) and 4(c)(1)(A)(IV) of the act, amended September 9, 1971 (P.L.437, No.105) and October 9, 2009 (P.L.451, No.48), are amended, clause (3)1 and 2 are amended by adding phrases, subclause 2(a) is amended by adding a paragraph, paragraphs (3)4(c)(1)(A) and (2)(B) are amended by adding subparagraphs and the section is amended by adding clauses to read:

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:

* * *

(3) "Taxable income." 1. * * *

(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.

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:

(a) Division of Income.

* * *

(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.

(17) Sales, other than sales **[of tangible personal property]** *under paragraphs (16) and (16.1)*, are in this State if:

(A) The income-producing activity is performed in this State; or

(B) The income-producing activity is performed both in and outside this State and a greater proportion of the income-producing activity is performed in this State than in any other state, based on costs of performance.

* * *

(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.

* * *

4. * * *

(c) (1) The net loss deduction shall be the lesser of:

(A) * * *

(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); **[or]**

(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); or

* * *

(2) * * *

(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:

* * *

(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.

* * *

(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.

(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.

(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.

Section 20. Section 403(d) of the act, amended October 18, 2006 (P.L.1149, No.119), is amended to read:

Section 403. Reports and Payment of Tax.—* * *

(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, **[the following percentages of the amount of the tax shall be added by the department to the tax determined to be due on the first one thousand dollars ($1,000) of tax ten per cent, on the next four thousand dollars ($4,000) five per cent, and on everything in excess of five thousand dollars ($5,000) one per cent, no such]** ***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.

* * *

Section 20.1. Sections 602(h) and 607 of the act, amended October 9, 2009 (P.L.451, No.48), are amended to read:

Section 602. Imposition of Tax.—* * *

(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***

* * *

Section 607. Expiration.—This article shall expire for taxable years beginning after December 31, **[2013]** ***2015***.

Section 21. Section 701 of the act, amended June 16, 1994 (P.L.279, No.48), is amended to read:

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 **[year]** ***years*** beginning January 1, 1990, **[and each calendar year thereafter]** ***through January 1, 2013,*** at the rate of 1.25 per cent ***and for the calendar year beginning January 1, 2014, and each calendar year thereafter at the rate of 0.89 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 for the calendar years beginning January 1, 1971 through January 1, 1991, such institution, upon the date its report, herein required is made for**

such calendar years beginning January 1, 1971 through January 1, 1991, shall pay to the Department of Revenue 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 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.

Section 22. Section 701.1 of the act, amended July 25, 2007 (P.L.373, No.55), is amended to read:

Section 701.1. 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 an institution 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 values determined under subsection (b) for the number of years the institution has been in existence and dividing the resulting sum by such number of years.]** ***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.***

(b) **[The value for each year required by subsection (a) shall be determined by deducting from the book value of total equity capital]** ***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, except that, for the value of shares reported on tax returns due on March 15, 2008, and thereafter, any goodwill recorded as a result of the use of purchase accounting for an acquisition or combination as described in this section and occurring after June 30, 2001, may 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 the six-year period described in subsection (a). For purposes of this subsection, book values and deductions for United States obligations for each year shall be determined by the Reports of Condition for each calendar quarter 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; and book values shall be averaged as calculated by averaging book values as determined by such Reports of Condition.] For 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 an institution 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.]** In the case of institutions which do not file such Reports of Condition, book values shall be determined by generally accepted accounting principles as of the end of **[each calendar quarter. For any year in which an institution which does not file Reports of Condition is not in existence for four quarters, the book value for that year shall be determined by adding together the book values for each quarter in which the institution was in existence and dividing by that number of quarters. For purposes of this section, a partial year shall be treated as a full year.]** ***the preceding calendar year.***

(c) For purposes of this section:

(1) a mere change in identity, form or place of organization of one institution, however effected, shall be treated as if a single institution had been in existence prior to as well as after such change; and

(2) **[the]** ***if there is a*** combination of two or more institutions into one **[shall be treated as if the constituent institutions had been a single institution in existence prior to as well as after the combination and]**, the book values and deductions for United States obligations from the Reports of Condition of the constituent institutions shall be combined. For purposes of this section, 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.

Section 23. Sections 701.4 and 701.5 of the act, added June 16, 1994 (P.L.279, No.48), are amended to read:

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) **[The]** ***(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. **[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 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) Receipts from loans are located at the place of origination.

(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. 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.

(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 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.

(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 institution 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.

(viii) 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.]

(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,[1] 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:

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[1] "amount fees," in enrolled bill.

(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[1] 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 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 interest, dividends, net gains, equal to zero or above, and other income from investment assets and activities and from trading assets and activities 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 from trading assets and activities 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), 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

[1] "contracts, notional" in enrolled bill.

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) Receipts apportioned under this subparagraph shall be separately apportioned for:

(I) interest, dividends, net gains and other income from investment assets and activities in an investment account;

(II) interest from Federal funds sold and purchased and from securities purchased under resale agreements and securities sold under repurchase agreements; and

(III) interest, dividends, gains and other income from trading assets and activities, including assets and activities in the matched book, in the arbitrage book and foreign currency transactions.

(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[1] purchaser or recipient does not have a commercial domicile, and the[2] 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

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[1]"(II) if the" in enrolled bill.

[2]"domicile, the" in enrolled bill.

(II) the[1] *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.

[1] "(II) if the" in enrolled bill.

(v) Whether essential records relating to the deposit are kept at that office and whether the deposit is serviced at that office.

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 and generates gross receipts apportioned to this Commonwealth under section 701.4 in excess of $100,000:

(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.

"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 **[and is located within this Commonwealth]**.

[(2)] *(ii)* Every operating company having capital stock **[located within this Commonwealth]** *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.

[(3)] *(iii)* Every company organized and operating as a bank and trust company or as trust company having capital stock **[located in this Commonwealth]**, 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.

["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 in this Commonwealth.

(2) One or more employes of the institution have a regular presence in this Commonwealth.

(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 article, 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 in this Commonwealth and which is leased to others for their use.

(6) Such institution owns or leases tangible property which is located in this Commonwealth and which it uses in connection with its activities in this Commonwealth.]

"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.

["Maintains an office." An institution maintains an office wherever it has established a regular, continuous and fixed place of business.]

"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." As follows:

(1) Except as provided under paragraph (2), an item included in taxable income returned to and ascertained by the Federal Government.

(2) If consolidated returns are filed with the Federal Government, an item that would be included in taxable income returned to and ascertained by the Federal Government if a separate return had been made to the Federal Government by the institution, including the taxable income of a subsidiary of the institution that are disregarded entities for purposes of Federal taxation.

"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.

Section 24. The definitions of "document," "real estate" and "real estate company" in section 1101-C of the act, amended July 2, 1986 (P.L.318, No.77), are amended and the section is amended by adding definitions to read:

Section 1101-C. Definitions.—The following words when used in this article shall have the meanings ascribed to them in this section:

* * *

"Document." Any deed, instrument or writing which conveys, transfers, devises, vests, confirms or evidences any transfer or devise 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.

* * *

"Real estate."

(1) Any lands, tenements or hereditaments **[within this Commonwealth]**, 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.

"Real estate company." A corporation or association which **[is]** ***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:

[(1)] ***(i)*** derives sixty per cent or more of its annual gross receipts from the ownership or disposition of real estate; or

[(2)] ***(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.

* * *

"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).

"Volunteer fire company." As defined in 35 Pa.C.S. § 7802 (relating to definitions).

"Volunteer rescue company." As defined in 35 Pa.C.S. § 7802 (relating to definitions).

Section 25. Section 1102-C of the act, amended July 2, 1986 (P.L.318, No.77), is amended to read:

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.

Section 25.1. Section 1102-C.3 of the act is amended by adding a clause to read:

Section 1102-C.3. Excluded Transactions.—The tax imposed by section 1102-C shall not be imposed upon:

* * *

(23) A transfer of real estate:

(i) for no or nominal consideration from the Commonwealth or any of its instrumentalities, agencies or political subdivisions to a volunteer emergency medical services agency, volunteer fire company or volunteer rescue company; or

(ii) between two or more volunteer emergency medical services agencies, volunteer fire companies or volunteer rescue companies.

Section 26. Section 1102-C.5(a) of the act, amended July 2, 2012 (P.L.751, No.85), is amended to read:

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**[:**

(i) the transferring party provides a legally binding commitment, enforceable at a future date, to execute the transfer;

(ii) the terms of the transfer are fixed and not subject to negotiation; and

(iii) the transferring party receives full consideration, in any form, in exchange for the transfer.], ***the transferring party provides the transferee a legally binding commitment or option, enforceable at a future date, to execute the transfer.***

* * *

Section 26.1. The act is amended by adding an article to read:

ARTICLE XVI-B
NONLICENSED CORPORATION PARI-MUTUEL WAGERING TAX

Section 1601-B. Scope.

This article relates to taxation on the privilege of conducting pari-mutuel wagering in this Commonwealth by nonlicensed corporations.

Section 1602-B. Definitions.

The following words and phrases when used in this article shall have the same meanings given to them in this section unless the context clearly indicates otherwise:

"Advance deposit account wagering." A system by which a wager is debited and a payout is credited to an advance deposit account held by a person on behalf of another person.

"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.

"Common pool wagering." The inclusion of a wager placed into a common pari-mutuel pool for the purpose of display of wagering information and calculation of payoffs on winning wagers.

"Corporation." A corporation, joint-stock association or business trust which is organized under the laws of this Commonwealth, the United States or any other state, territory, foreign country or dependency.

"Department." The Department of Revenue of the Commonwealth.

"Licensed corporation." The term shall have the same meaning as defined in section 102 of the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

"Nonlicensed corporation." A person other than a licensed corporation that offers and accepts pari-mutuel wagers made within this Commonwealth, including an advance deposit account wagering, in which the wagers are included in common pool wagering through a pari-mutuel system.

"Pari-mutuel system." The hardware, software and communications equipment used to record wagers, calculate payouts for winning wagers and transmit wagering transactions and pari-mutuel pool data for display to patrons and to communicate with other pari-mutuel systems linked to facilitate common pool wagering.

"Pari-mutuel wagering." A form of wagering on the outcome of a horse race or harness horse race in which all wagers are pooled and held by a pari-mutuel pool host for distribution of the total amount, minus the deductions authorized by law, to holders of tickets on the winning contestants.

"Person." A natural person, association or corporation. The term shall, when used in any provision prescribing and imposing a penalty, include the responsible members or general partners of an association or the officers of a corporation.

Section 1603-B. Tax.

(a) Imposition.—A tax is imposed on the privilege of conducting pari-mutuel wagering in this Commonwealth by all nonlicensed corporations. A nonlicensed corporation shall pay a tax through the department for deposit into the restricted account established under section 1606-B.

(b) Rate.—The tax imposed under subsection (a) shall be a percentage tax of 10% on the amount of pari-mutuel wagers made each day through the nonlicensed corporation where the wagers were placed from within this Commonwealth, including wagers made by an advance deposit account wagering system, in which the wagers are included in common pool wagering through a pari-mutuel system.

Section 1604-B. Pari-mutuel tax return.

(a) Returns.—A nonlicensed corporation subject to this article shall file with the department, on a form prescribed by the department, a nonlicensed corporation pari-mutuel wagering tax return. The return shall be filed under oath or affirmation of an authorized officer, member or partner reporting the tax due under this part in the prior calendar month. A return shall be due by the 20th day following the end of the reporting period. The return shall set forth all of the following with regard to the nonlicensed corporation:

(1) The total amount of pari-mutuel wagers made within this Commonwealth, including wagers made by an advance deposit account wagering system, in which the wagers are included in common pool wagering through a pari-mutuel system, on thoroughbred meets.

(2) The total amount of pari-mutuel wagers made within this Commonwealth, including wagers made by an advance deposit account wagering system, in which the wagers are included in common pool wagering through a pari-mutuel system, on harness meets.

(3) Calculation of the tax due at 10%.

(4) Other information required by the department.

(b) Payment of tax.—Each nonlicensed corporation subject to pay the tax under this article shall remit the tax to the department when the return under subsection (a) is due.

(c) Penalties and interest.—If a nonlicensed corporation fails to file the return required under subsection (a) or fails to pay the tax imposed under section 1603-B, the department may do any of the following:

(1) Assess the amount of tax due.

(2) Impose and assess an administrative penalty equal to 5% of the tax or $500, whichever is greater, due but unpaid for each quarter or fraction of the quarter that the tax remains unpaid together with interest at the rate established under section 806 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, on the tax from the time when the tax became due. The penalties provided under this paragraph shall be added to the tax and assessed and collected at the same time and in the same manner as a part of the tax. Unless otherwise specified, the tax shall be assessed, collected and enforced by the department under the provisions of Article II.

Section 1605-B. Regulations.

The department may promulgate regulations to enforce this article, including regulations to provide for licensing and enforcement of this article.

Section 1606-B. Advanced Deposit Wagering Collections Account.

(a) Advanced Deposit Wagering Collections Account.—There is created within the General Fund a restricted account to be known as the Advanced Deposit Wagering Collections Account. Revenues collected under this article shall be deposited into the account.

(b) Transfer.—Of the funds deposited in the Advanced Deposit Wagering Collections Account, beginning fiscal year 2013-2014 and each fiscal year thereafter, up to $5,000,000 is transferred to the State racing commissions in the Department of Agriculture for general government operations of the commissions. For fiscal year 2013-2014, any funds that exceed the $5,000,000 shall be transferred to the Pennsylvania Race Horse Development Fund.

Section 27. Sections 1702-D and 1703-D of the act, amended or added July 25, 2007 (P.L.373, No.55) and July 2, 2012 (P.L.751, No.85), are amended to read:

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.

"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.

"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.

"Pass-through entity." A partnership as defined in section 301(n.0) or a Pennsylvania S corporation as defined in section 301(n.1).

"Pennsylvania production expense." Production expense incurred in this Commonwealth. The term includes:

(1) Compensation paid to an individual on which the tax imposed by Article III will be paid or accrued.

(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 the tax imposed by Article III will be paid or accrued by all of the partners, members or shareholders of the pass-through entity for the taxable year ***for which the tax imposed under Article III has been withheld and remitted under the requirements of Article III by the production company***.

(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.

"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 1705-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 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 or IX. The term shall not include any tax withheld by an employer from an employee under Article III.

"Start date." **[The first day of principal photography in this Commonwealth.]** ***As follows:***

(1) the first day of principal photography in this Commonwealth; or

(2) an earlier date than the date under paragraph (1), approved[1] by the Pennsylvania Film Office.

"Tax credit." The film production tax credit provided under this article.

"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.

Section 1703-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.

(6) The use of studio resources.

(7) 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.

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[1] "under subparagraph (i), approved" in enrolled bill.

(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.

Section 28. Sections 1705-D(g) and 1708-G.1(b) of the act, amended or added July 2, 2012 (P.L.751, No.85), are amended to read:

Section 1705-D. Carryover, carryback and assignment of credit.

* * *

(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 **[calendar]***:*

(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.

Section 1708-G.1. Scholarships.

* * *

(b) Award.—A scholarship organization may award a scholarship to an applicant who resides within the attendance boundary of a low-achieving school to attend a participating public school or a participating nonpublic school selected by the parent of the applicant. ***If an applicant who received an educational opportunity scholarship under this article for the prior school year resides within the attendance boundary of a school that was removed from the list of low-achieving schools provided by the department under subsection (a), the applicant may receive an educational opportunity scholarship. The scholarship may be for each year of enrollment in a participating public school or participating nonpublic school for up to the lesser of five years or until completion of grade 12 provided the applicant otherwise remains eligible.*** In awarding scholarships, a scholarship organization shall give preference to any of the following:

(1) An applicant who received a scholarship for the prior school year.

(2) An applicant of a household with a household income that does not exceed 185% of the Federal poverty level for the school year preceding the school year for which the application is being made.

(3) An applicant of a household with a household income that does not exceed 185% of the Federal poverty level for the school year

preceding the school year for which the application is being made and who resides within any of the following:

(i) a first class school district;

(ii) a school district with an average daily membership greater than 7,500 and that receives an advance of its basic education subsidy at any time; or

(iii) a school district that receives an advance of its basic education subsidy at any time and is either subject to a declaration of financial distress under section 691 of the Public School Code of 1949 or engaged in litigation against the Commonwealth in which the school district seeks financial assistance from the Commonwealth to allow the school district to continue to operate.

* * *

Section 29. Article XVIII-A of the act, added May 12, 1999 (P.L.26, No.4), is repealed:

[ARTICLE XVIII-A
COAL WASTE REMOVAL AND ULTRACLEAN FUELS TAX CREDIT

Section 1801-A. Short Title.—This article shall be known and may be cited as the "Coal Waste Removal and Ultraclean Fuels Act."

Section 1802-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:

"Department" means the Department of Revenue of the Commonwealth.

"Developer" means the owner-operator of a facility, as defined in this section, or the operator of the facility that has sold the facility in new condition to a third party from whom that operator has simultaneously leased back the facility for a minimum period of twelve years.

"Facility" includes all plant and equipment purchased or constructed by or on behalf of the developer which is used within this Commonwealth by the developer to produce one or more qualified fuels.

"Internal Revenue Code" means the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 1 et seq.).

"Qualified fuels" means those fuels produced from nontraditional coal culm and silt feedstocks as defined in section 29(c) of the Internal Revenue Code of 1986 (Public Law 99-514, 26 U.S.C. § 29(c)).

"Qualifying property" means tangible personal property and other forms of tangible property which qualify for investment tax credit treatment and which meet all of the following requirements:

(1) Be acquired through a purchase, as defined under section 179(d)(2) of the Internal Revenue Code (26 U.S.C. § 179(d)(2)), or constructed by the developer for its own use.

(2) Be depreciable under section 167 of the Internal Revenue Code (26 U.S.C. § 167).

(3) Have a useful life of greater than or equal to four years.

(4) Be located within this Commonwealth.

(5) Be used by the developer in the production of qualified fuels.

(6) Be acquired by purchase or constructed on or after January 1, 2000, and before January 1, 2013.

(7) Not be the subject of any tax credit otherwise available to the developer under this act.

"Tax credit base" means only the cost or other basis of qualifying property that is properly transferred to the facility's basis for depreciation for Federal income tax purposes between January 1, 2000, and December 31, 2012.

Section 1803-A. Investment Tax Credits Program.—(a) A developer of a new facility for the production of one or more qualified fuels shall be allowed an investment tax credit against the taxes imposed under Articles II, IV and VI of this act. The amount of the credit shall be computed as a percentage applied to the cost or other basis for Federal income tax purposes of qualifying property.

(b) (1) The investment tax credit shall be computed as fifteen per cent of the tax credit base.

(2) The maximum investment tax credit available for application, whether claimed by one or more taxpayers, shall not exceed fifteen per cent of the capital cost of the facility.

(3) Any amount of allowable investment tax credit not used in the tax year for which the credit was claimed can be carried forward by the claiming taxpayer to succeeding years until the full amount of allowable credit has been used.

(c) (1) The developer, upon notice to the department as specified by the department, may sell or assign, in whole or in part, any investment tax credit afforded under this section to one or more taxpayers if no claim for allowance of such credit has been filed.

(2) A taxpayer recipient by purchase or assignment of any portion of the developer's investment tax credit under paragraph (1) shall initially claim such credit, upon notice to the department of the derivative basis of the credit in compliance with procedures specified by the department, for the tax year in which the purchase or assignment is made, but in no event subsequent to the filing of an income tax return for the year 2012.

(3) Any taxpayer who acquires any portion of the developer's investment tax credit by sale or assignment for value and without notice by the developer of any irregularity or invalidity shall not suffer any disallowance of the credit or the imposition of any adjustment or fraud penalty attributable to conduct by the developer.

(d) (1) If prior to the expiration of any qualifying property's useful life, as used to calculate depreciation for Federal income tax purposes, the developer, upon mandatory notice to the department in compliance with procedures specified by the department, disposes of any qualifying property, in a transaction other than a sale-leaseback transaction, upon which the department has previously allowed an investment tax credit claimed by any taxpayer, a portion of all such credit shall be recaptured and added to the developer's tax liability for the tax year in which the qualifying property is disposed.

(2) The portion of the investment tax credit previously allowed, which is subject to recapture from the developer, shall be equal to a fraction whose numerator is the number of years remaining to fully depreciate for Federal income tax purposes the qualifying property disposed and whose denominator is the total number of years over which the property otherwise would have been subject to depreciation by the developer.

(3) In calculating the recapture percentage, the year of disposition of the qualifying property is considered a year of remaining depreciation.

(e) The department shall verify the validity of any claim for allowance of any investment tax credit afforded under this section and, in the case of a fraudulent claim, may assess against the developer a penalty of one hundred and twenty-five per cent of the credit improperly claimed.

(f) The tax credits authorized by this section shall not exceed eighteen million dollars ($18,000,000) in the aggregate during any year.

Section 1804-A. Contract Required.—(a) In order for a developer to claim investment tax credits under this article, the developer must enter into a contract with the Commonwealth that provides as follows:

(1) The term of the contract shall be twenty-five years, beginning with the first tax year in which the investment tax credits are claimed.

(2) The developer shall make periodic payments to the Commonwealth, which payments may not exceed in the aggregate forty-six million eight hundred thousand dollars ($46,800,000) over the term of the contract.

(3) The periodic payments shall occur every five years and each payment shall be nine million three hundred sixty thousand dollars ($9,360,000), except as provided in paragraphs (4), (5) and (6).

(4) For the first five-year period, the amount specified in paragraph (3) shall be reduced by:

(i) An amount equal to the business losses of the developer, if any, relating to the facility that are sustained in the first and second years of the contract, provided such amount does not exceed three million seven hundred forty-four thousand dollars ($3,744,000) for both years.

(ii) Allowable offsets identified in subsection (b), provided that such offsets do not exceed nine million three hundred sixty thousand dollars ($9,360,000).

(5) For the remaining five-year periods, the amount specified in paragraph (3) shall be reduced by the amount of allowable offsets identified in subsection (b), provided that such offsets do not exceed nine million three hundred sixty thousand dollars ($9,360,000) during any five-year period.

(6) To the extent the amount of allowable offsets during any five-year period exceeds nine million three hundred sixty thousand dollars ($9,360,000), the excess may be carried over and added to the allowable offsets taken in the following five-year period, provided that the excess is applied first.

(b) For purposes of this section, "allowable offset" includes all of the following:

(1) An amount equal to the corporate net income tax, capital stock and franchise tax and personal income tax related to the construction, ownership and operation of the facility.

(2) An amount equal to all personal income tax withheld from the developer's employes.

(3) An amount equal to all sales and use tax related to the operation and construction of the facility.

(4) The amount paid by the developer of any new tax enacted by the Commonwealth following the effective date of this article.

Section 1805-A. Requirements.—Tax credits authorized by this article shall not be granted unless the developer has obtained an investment tax credit from the Federal Government or an investment by a person other than an agency or instrumentality of the Commonwealth, or any combination thereof, in an amount equal to or greater than the tax credit granted by this article.]

Section 29.1. Section 1804-B(d) of the act, amended July 2, 2012 (P.L.751, No.85), is amended to read:

Section 1804-B. Tax credits.

* * *

(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.

(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.

* * *

Section 30. Article XVIII-C heading of the act, added July 9, 2008 (P.L.922, No.66), is amended to read:

ARTICLE XVIII-C
[(RESERVED)]
CITY REVITALIZATION AND IMPROVEMENT ZONES

Section 31. The act is amended by adding sections to read:

Section 1801-C. Scope of article.

This article relates to city revitalization and improvement zones.

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 year." The calendar year in which a zone was established.

"Bond." The term includes any note, instrument, refunding note or other evidence of indebtedness or obligation.

"City." A city of the third class with a population of at least 30,000 based on the most recent Federal decennial census. The term shall not include a city that has had a receiver appointed under Chapter 7 of the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act.

"City revitalization and improvement zone." An area of not more than 130 acres, comprised of parcels designated by the contracting authority, which will provide economic development and job creation within a city.

"Contracting authority." An authority established under 53 Pa.C.S. Ch. 56 (relating to municipal authorities) by a city or home rule county for the purpose of:

(1) designating zones; and

(2) engaging in the construction, including related site preparation and infrastructure, reconstruction or renovation of facilities.

"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 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).

(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.

(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) Tax paid to the Commonwealth on the sale of liquor, wine or malt or brewed beverages in the zone.

The term does not include cigarette tax.

"Facility." A structure or complex of structures to be used for commercial, sports, exhibition, hospitality, conference, retail, community, office, recreational or mixed-use purposes.

"Office." The Office of the Budget.

"Pilot zone." An area of not more than 130 acres designated by the authority 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 a township or borough, with a population of at least 7,000 based on the most recent Federal decennial census.

"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 located in or partially in the zone.

(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 fund established under section 1808-C.

Section 1803-C. Establishment of contracting authority.

(a) Cities.—Except as set forth in subsection (b), a city may establish a contracting authority to designate a zone under this article.

(b) Distressed cities.—A city that is a distressed city under the act of July 10, 1987 (P.L.246, No.47), known as the Municipalities Financial Recovery Act, and is located in a home rule county may not establish a contracting authority under this article.

(c) Counties.—The home rule county where a distressed city under the Municipalities Financial Recovery Act is located may establish a contracting authority to designate a zone under this article within the distressed city.

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.

(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.

(c) Approval schedule.—The Department of Community and Economic Development shall develop a schedule for the approval of applications under this section as follows:

(1) Following the effective date of this paragraph, applications for two initial zones may be approved.

(2) Beginning in 2016, applications for two additional zones may be approved each calendar year.

(3) Following the effective date of this paragraph, the Department of Community and Economic Development, the office and the department, may approve one pilot zone.

(d) Time.—An application under this section shall be approved or disapproved within 90 days of the postmark date of submission. An application which is not disapproved within the time period under this subsection shall be deemed to be approved.

(e) Reapplication.—If an application is not approved under this section, the applicant may revise the application and plan and reapply for approval.

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.

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 constructed, including infrastructure and site preparation, reconstructed or renovated.

(2) Provide or borrow money for any of the following purposes:

(i) Development or improvement within a zone.

(ii) Construction, including infrastructure and site preparation, reconstruction or renovation of a facility within a zone which will result in economic development in accordance with the contracting authority's plan.

(b) Money from fund.—A member of the contracting authority may not receive money directly or indirectly from the fund.

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 construction contractors engaged in construction, reconstruction or renovation of a facility in the zone in the prior calendar year. The list shall include for each business the address, 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:

(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 properly expended.

(4) The[1] correct amount was requested under section 1812-C(c).

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. Interest income derived from investment of money in a fund shall be credited by the State Treasury to the fund.

Section 1809-C. Reports.

(a) State zone report.—By 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.

(b) Local zone report.—By 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.

(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) 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.

(3) A penalty for a violation of subsection (b) shall be imposed, assessed and collected by the political subdivision 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 fund of the contracting authority.

Section 1810-C. Calculation of baseline.

(a) Baseline tax.—By October 15 following the end of the baseline year and for each year thereafter, the department shall verify the State baseline tax amount which consists of the following:

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[1] "(4) Verify the" in enrolled bill.

(1) For qualified businesses that file timely State zone reports[1] under section 1809-C(a), the amount of eligible State tax paid, less eligible State tax refunds.

(2) For qualified businesses 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 eligible State tax paid, less eligible State 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 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 prior calendar year shall be added to the State baseline tax amount for the zone for the prior calendar year and each year thereafter.

(3) The calculation under this section may not include the eligible taxes of a qualifying business moving into the zone from outside this Commonwealth.

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 the prior calendar year:

(1) Make the following calculation for qualified businesses which file State zone reports under section 1809-C(a), separately for each zone:

(i) Subtract:

(A) the amount of eligible State tax refunds received; from

(B) the amount of eligible State tax paid.

(ii) Subtract:

(A) the State tax baseline amount for the zone; from

(B) the difference under subparagraph (i).

(2) Certify to the office the difference under paragraph (1)(ii).

(b) Content.—

(1) The certification may include the following:

(i) Adjustment made to timely filed zone reports by the department for eligible State tax actually paid by a qualified business in the prior calendar year.

(ii) Eligible State 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).

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[1] "timely zone State reports" in enrolled bill.

(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[1] not appearing on a timely filed list under section 1807-C(a).

(c) Submission.—The following shall apply:

(1) An entity collecting an eligible local tax within the zone 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 eligible local tax collected in the prior calendar year;

(ii) less the amount of eligible local tax refunds issued in the prior calendar year; and

(iii) less the amount of local baseline tax for the zone.

(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.

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.

(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 construction, including related infrastructure and site preparation, reconstruction or renovation of a facility or other eligible project in the zone, are retired.

(c) Notification.—The following shall apply:

(1) If the transfers under subsection (a) and section 1811-C(c) are insufficient to make payments on the bonds issued under section 1813-C(a)(1) for the calendar year when the transfers are made, the contracting authority shall notify the Department of Community and Economic Development, the office and the department of the amount of additional money necessary to make payments on the bonds.

(2) The notification under paragraph (1) must be accompanied by a detailed account of the contracting authority's expenditures and the calculation which resulted in the request for additional money. The Department of Community and Economic Development, the office or the department may request additional information from the contracting authority and shall jointly verify the proper amount of money necessary to make the payments on the bonds.

(3) Notwithstanding 53 Pa.C.S. § 5607(e) (relating to purposes and powers), within 90 days of the date of the notification request, the office shall direct the State Treasurer to establish a restricted account within the General Fund. The office shall direct the State Treasurer to transfer

[1] "a qualifying business" in enrolled bill.

the amount verified under paragraph (2) from the General Fund to the restricted account for the use of the contracting authority to make payments on the bonds issued under section 1813-C(a)(1).

(4) Money transferred under paragraph (3):

(i) shall be limited to 50% of the State tax baseline amount for the calendar year prior to the date the amount is verified under paragraph (2), not to exceed $10,000,000; and

(ii) must occur in the first seven calendar years following the baseline year.

(4.1) Under extraordinary circumstances, a contracting authority may request money in excess of the limitations in paragraph (4)(i). The Department of Community and Economic Development, the office and the department shall determine whether the circumstances merit additional money and the amount to be transferred. The money shall be transferred under the procedure under this section.

(5) Money transferred under paragraph (3) shall[1] be repaid to the General Fund by the contracting authority. If money transferred under paragraph (3) is not repaid to the General Fund by the contracting authority by the date of the final payment on the bonds originally issued under section 1813-C(a)(1), the city or county which established the contracting authority shall pay the money not repaid to the General Fund plus an additional penalty of 10% of the amount outstanding on the date of the final payment on the bonds originally issued under section 1813-C(a)(1).

Section 1813-C. Restrictions.

(a) Utilization.—If the use was approved in an application filed under section 1804-C, money transferred under section 1812-C may only be utilized for the following:

(1) Payment of debt service on bonds issued for the construction, including related infrastructure and site preparation, reconstruction or renovation of a facility in the zone.

(2) Construction, including related infrastructure and site preparation, reconstruction or renovation 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 by a public authority.

(b) Prohibition.—Money transferred under section 1812-C may not be utilized for maintenance or repair of a facility.

(c) Excess money.—

(1) 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 under this section in that calendar year, the contracting authority shall submit by January 15 following the end of the calendar

[1] "paragraph (4) shall" in enrolled bill.

year the excess money to the State Treasurer for deposit into the General Fund.

(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.

(d) Matching funds.—

(1) The amount of money transferred from the fund utilized for the construction, including related site preparation and infrastructure, reconstruction or renovation of facilities, shall be matched by private money at a ratio of five fund dollars to one private dollar.

(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 money expenditures and a calculation of the ratio in paragraph (1) for the prior calendar year. The agencies shall determine whether sufficient private money was utilized.

(3) If it is determined that insufficient private 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.

Section 1814-C. Transfer of property.

(a) Property.—Portions of a zone where a facility has not been constructed, reconstructed or renovated using money under this article may be transferred out of the zone. Additional acreage, not to exceed the acreage transferred out of the zone, may be added to the zone.

(b) Approval.—A transfer under subsection (a) must be approved by the Department of Community and Economic Development in consultation with the office and the department.

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.

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 issued by the contracting authority, until all bonds secured by the pledge of the contracting authority, together with interest on the bonds, 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 of the contracting authority 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.

(2) Amend or repeal section 1810-C or 1811-C.

(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.

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 and State tax certification under section 1811-C.

(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.

Section 1818-C. Guidelines.

By October 31, 2013, the Department of Community and Economic Development, the office and the department shall develop and publish guidelines necessary to implement this article.

Section 32. The act is amended by adding articles to read:

ARTICLE XVIII-E
MOBILE TELECOMMUNICATIONS BROADBAND INVESTMENT TAX CREDIT

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.

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[1] *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.*

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[1] "mobile communications services" in enrolled bill.

(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.

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.

Section 1804-E. Procedure.

(a) Application.—A taxpayer who purchased and placed into service qualified broadband equipment in a taxable year may apply for a tax credit as provided in this article. By October 15, 2015, and every October 15 thereafter, a taxpayer must submit an application to the department for the purchase price of qualified broadband equipment placed into service in the taxable year that ended in the prior calendar year.

(b) Notification.—By December 15, 2015, and of the calendar year following the close of the taxable year during which the qualified broadband equipment was placed into service and every December 15 thereafter, the department shall notify the taxpayer of the amount of the taxpayer's tax credit approved by the department.

Section 1805-E. Limitation.

(a) Total.—The total amount of tax credits approved by the department shall not exceed $5,000,000 in any fiscal year.

(b) Allocation.—If the total amount of tax credits applied for by all taxpayers exceeds the limitation on the amount of tax credits in subsection (a) in a fiscal year, the tax credit to be received by each application shall be the product of the allocated amount multiplied by the quotient of the tax credit applied for by the applicant divided by the total of all tax credits applied for by all applicants, the algebraic equivalent of which is:

taxpayer's tax credit = amount allocated for those tax credits X (tax credit applied for by the applicant/total of all tax credits applied for by all applicants).

ARTICLE XVIII-F
INNOVATE IN PA TAX CREDIT

Section 1801-F. Scope of article.

This article relates to the Innovate in PA Tax Credit.

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.

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[1] 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.

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.

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.—In a fiscal year in which a tax credit is claimed under this article, the State Treasurer shall, prior to June 30 of the fiscal year, do all of the following:

(1) Transfer an amount from the General Fund equal to the amount of premiums tax credits claimed by a foreign fire insurance company against taxes that otherwise would be distributed in accordance with Chapter 7 of the act of December 18, 1984 (P.L.1005, No.205), known as the Municipal Pension Plan Funding Standard and Recovery Act, to the fund as defined in section 702 of the Municipal Pension Plan Funding Standard and Recovery Act.

(2) Transfer from the General Fund an amount equal to the amount of a premiums tax credit claimed by a foreign casualty insurance company against taxes that otherwise would be distributed and used for police pension, retirement or disability purposes as provided by the act of May 12, 1943 (P.L.259, No.120), referred to as the Foreign Casualty Insurance Premium Tax Allocation Law, for distribution in accordance with the Foreign Casualty Insurance Premium Tax Allocation Law.

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.

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[1] "biotechnology center" in enrolled bill.

(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.

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.

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.

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.

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.

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.

Section 1812-F. Guidelines.

The department, in consultation with the authority and each regional biotechnology research center, shall promulgate guidelines implementing this article.

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.

ARTICLE XIX-B
NEIGHBORHOOD IMPROVEMENT ZONES

Section 1901-B. Scope of article.

This article relates to neighborhood improvement zones.

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.

"Neighborhood improvement zone." A neighborhood improvement zone designated by the contracting authority for the purposes of neighborhood improvement and development within a city.

"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.

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.

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 30 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, 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.

(3) 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[1] is located.

(4) Within 30 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.2) Transition.—

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[1] "qualifying business" in enrolled bill.

(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.

(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. An entity collecting a local tax within the neighborhood improvement zone shall, within 30 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.

(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).

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.

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.

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.

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. Any other use of the tax information shall be prohibited as provided under law.

ARTICLE XIX-C
KEYSTONE SPECIAL DEVELOPMENT ZONE PROGRAM

Section 1901-C. Scope of article.

This article relates to the Keystone Special Development Zone program.

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.

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.[1] *The purchaser or assignee shall notify the department and the Department of Revenue of the seller or assignor of the Keystone Special*

[1] "Zone credit." in enrolled bill.

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 15-year period beginning July 1, 2012, and ending June 30, 2026.

(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.

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.

Section 33. (Reserved).

Section 34. Section 2111 of the act is amended by adding a subsection to read:

Section 2111. Transfers Not Subject to Tax.—* * *

(t) A qualified family-owned business. The following shall apply:

(1) A transfer of a qualified family-owned business interest to one or more qualified transferees is exempt from inheritance tax if the qualified family-owned business interest:

(i) continues to be owned by a qualified transferee 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 a qualified transferee 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 collectible in the manner provided for by law for the collection of delinquent taxes and 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. 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 a qualified transferee 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 following terms shall have the meanings given to them in this paragraph:

"Qualified family-owned business interest." 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[1] 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 or by the decedent and members of the decedent's family that meet the definition of a qualified transferee;

(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.

"Qualified transferee." A decedent's:

(i) husband or wife;

(ii) lineal descendants;

(iii) siblings and the sibling's lineal descendants; and

(iv) ancestors and the ancestor's siblings.

Section 35. Section 2112 of the act, amended or added August 4, 1991 (P.L.97, No.22), June 16, 1994 (P.L.279, No.48) and June 30, 1995 (P.L.139, No.21), is repealed:

[Section 2112. Exemption for Poverty.—(a) The General Assembly, in recognition of the powers contained in section 2(b)(ii) of Article VIII of the Constitution 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 or tax exemptions, hereby declares as its legislative intent and purpose to implement such powers under such Constitutional provision by establishing a tax exemption as hereinafter provided in this section.

(b) The General Assembly, having determined that there are persons within this Commonwealth the value of whose incomes and estates are

[1] "date the" in enrolled bill.

such that the imposition of an inheritance tax under this article would cause them hardship and economic burden and having further determined that poverty is a relative concept inextricably joined with the ability to maintain assets inherited upon the death of a spouse, deems it to be a matter of public policy to provide an exemption from taxation for transfers of property to or for the use of that class of persons hereinafter designated in order to relieve their hardship and economic burden.

(c) Any claim for a tax exemption hereunder shall be determined in accordance with the following:

(1) The transferee is the spouse of the decedent at the date of death of the decedent.

(2) The value of the estate of the decedent does not exceed two hundred thousand dollars ($200,000) after reduction for actual liabilities of the decedent as evidenced by a written agreement.

(3) The average of the joint exemption income of the decedent and the transferee for the three taxable years, as defined in Article III, immediately preceding the date of death of the decedent does not exceed forty thousand dollars ($40,000).

(d) Notwithstanding any other provision of this article, transfers of property to or for the use of any eligible transferee who meets the standards of eligibility established by this section as the test for poverty shall be deemed a separate class subject to taxation and, as such, shall be entitled to the benefit of the following exemptions from taxation on transfers of property as a credit against the tax imposed by this article:

(1) For decedents dying on or after January 1, 1992, and before January 1, 1993, the lesser of:

(i) Two per cent of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(ii) Two per cent of one hundred thousand dollars ($100,000) of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(2) For decedents dying on or after January 1, 1993, and before January 1, 1994, the lesser of:

(i) Four per cent of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(ii) Four per cent of one hundred thousand dollars ($100,000) of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(3) For decedents dying on or after January 1, 1994, and before January 1, 1995, the lesser of:

(i) Six per cent of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(ii) Six per cent of one hundred thousand dollars ($100,000) of the taxable value of the property of the decedent transferred to or for the use of the transferee.

(e) For nonresident decedents, the credit provided in this section shall bear the same ratio as that of the decedent's estate in this Commonwealth bears to the decedent's total estate without regard to situs.

(f) The credit provided in this section shall not be greater than the tax imposed.

(g) This section shall not apply to the estates of decedents dying on or after January 1, 1995.]

Section 35.1. Section 2129 of the act, added August 4, 1991 (P.L.97, No.22), is amended to read:

Section 2129. Liabilities.—(a) **[All]** ***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.

Section 35.2. Section 2130 of the act, reenacted and amended June 30, 1995 (P.L.139, No.21), is amended to read:

Section 2130. Deductions Not Allowed.—The following are not deductible:

(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).

Section 36. Section 2701 of the act, added October 18, 2006 (P.L.1149, No.119), is amended to read:

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.

Section 37. Section 2702(b) of the act, amended July 2, 2012 (P.L.751, No.85), is repealed:

Section 2702. Petition for reassessment.

* * *

[(b) Special rule for shares taxes.—Notwithstanding any provision of law to the contrary, section 1104.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, shall constitute the exclusive method by which an appeal from the assessment of the tax imposed by Article VII or VIII may be made.]

* * *

Section 38. The act is amended by adding a section to read:

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.

Section 39. Section 2704 of the act, added October 18, 2006 (P.L.1149, No.119), is amended to read:

Section 2704. Review by board.

(a) Petition for review of a decision and order.—Within 90 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.

(b) Petition for review of denial by department's failure to act.—A petition for review may be filed with the board within 90 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).

(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.

(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 **[paragraph]** *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.

Section 40. (Reserved).

Section 41. Repeals are as follows:

(1) The General Assembly declares that the repeal under paragraph (2) is necessary to effectuate the amendment or repeal of sections 701, 701.1, 701.4, 701.5 and 2702(b) of the act.

(2) Section 1104.1 of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, is repealed.

(3) Sections 207 and 302 of the act of October 15, 1980 (P.L.950, No.164), known as the Commonwealth Attorneys Act, are repealed insofar as they are inconsistent with the addition of section 2703.1 of the act.

(4) The General Assembly declares that the repeal under paragraph (5) is necessary to effectuate the addition of section 2704(h) of the act.

(5) Section 503.1 of The Fiscal Code is repealed.

(6) The General Assembly declares that the repeal under paragraph (7) is necessary to effectuate the addition of section 2703.1 of the act.

(7) Section 405 of the act of April 9, 1929 (P.L.177, No.175), known as The Administrative Code of 1929, is repealed.

(8) The General Assembly declares that the repeal under paragraph (9) is necessary to effectuate the addition of Article XIX-B of the act.

(9) Article XVI-B of The Fiscal Code is repealed.

(10) The General Assembly declares that the repeal under paragraph (11) is necessary to effectuate the addition of Article XIX-C of the act.

(11) Article XVI-F of The Fiscal Code is repealed.

Section 42. The following shall apply:

(1) A tax credit may not be granted under section 206(b) of the act after June 30, 2013.

(1.1) The amendment of sections 1702-D and 1703-D of the act shall apply to tax credits awarded after June 30, 2013.

(2) The amendment or addition of the following provisions of the act shall apply to tax years beginning after December 31, 2013:

(i) Section 301(d.2), (n.2), (o.4) and (t).

(ii) Section 303(a)(2) and (a.8).

(iii) Section 306.

(iv) Section 306.1.

(v) Section 306.2.

(vi) Section 307.8(a) and (f).

(vii) Section 314(a).

(viii) Section 315.10.

(ix) Section 315.11.

(x) Section 324.

(xi) Section 330.1.

(xii) Section 335.

(xiii) Section 401(3)2(a)(16.1) and (17) and (e).

(xiv) Section 403(d).

(2.1) The amendment of sections 701, 701.1, 701.4 and 701.5 of the act shall apply to the calendar year beginning on January 1, 2014, and to each calendar year thereafter.

(3) The addition of section 1102-C.3(23) of the act shall apply to transactions occurring on or after November 1, 2011.

(4) The addition of section 2111(t) of the act shall apply to the estates of decedents who die on or after July 1, 2013.

(5) The amendment of sections 2701 and 2704 of the act shall apply to:

(i) All petitions filed with the Board of Finance and Revenue and all other business of the Board of Finance and Revenue on or after April 1, 2014.

(ii) All petitions filed with the Board of Finance and Revenue prior to April 1, 2014, that have not been the subject of a final and irrevocable decision by the Board of Finance and Revenue as of April 1, 2014.

(5.1) The repeal of section 2702(b) of the act and section 1104.1[1] of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code, shall apply to a petition for reassessment filed with the Department of Revenue on or after the effective date of this paragraph.

(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.

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

[1] "section 2702(b) and section 1101.4" in enrolled bill.

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).

Section 44. This act shall take effect as follows:

(1) The following provisions shall take effect January 1, 2014, or immediately, whichever is later:

(i) The amendment of the definitions of "document," "real estate" and "real estate company" in section 1101-C of the act.

(ii) The amendment of sections 1102-C and 1102" C.5(a) of the act.

(2) The following provisions shall take effect April 1, 2014:

(i) The amendment of section 2701 of the act.

(ii) The addition of section 2703.1 of the act.

(iii) The amendment of section 2704 of the act.

(3) The addition of section 401(8), (9) and (10) of the act shall take effect January 1, 2015.

(4) The following provisions shall take effect in 60 days:

(i) The addition of section 278 of the act.

(ii) The addition of Article XVIII-F of the act.

(5) The addition of section 204(69) of the act shall take effect in 90 days.

(5.1) The addition of Article II-B of the act shall take effect July 1, 2014, or immediately, whichever is later.

(6) The remainder of this act shall take effect immediately.

APPROVED—The 9th day of July, A.D. 2013

TOM CORBETT