

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," further providing, in gross receipts tax, for the
11 imposition of tax; and making a related repeal.

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

14 Section 1. Section 1101(a), (a.1) and (j) of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, amended or added December 23, 2003 (P.L.250, No.46) and
17 October 9, 2009 (P.L.451, No.48), are amended to read:

18 Section 1101. Imposition of Tax.--(a) General Rule.--Every
19 pipeline company, conduit company, steamboat company, canal
20 company, slack water navigation company, transportation company,
21 and every other company, association, joint-stock association,
22 or limited partnership, now or hereafter incorporated or

1 organized by or under any law of this Commonwealth, or now or
2 hereafter organized or incorporated by any other state or by the
3 United States or any foreign government, and doing business in
4 this Commonwealth, and every copartnership, person or persons
5 owning, operating or leasing to or from another corporation,
6 company, association, joint-stock association, limited
7 partnership, copartnership, person or persons, any pipeline,
8 conduit, steamboat, canal, slack water navigation, or other
9 device for the transportation of freight, passengers, baggage,
10 or oil, except motor vehicles and railroads, and every limited
11 partnership, association, joint-stock association, corporation
12 or company engaged in, or hereafter engaged in, the
13 transportation of freight or oil within this State, and every
14 telephone company , telegraph company or provider of mobile
15 telecommunications services now or hereafter incorporated or
16 organized by or under any law of this Commonwealth, or now or
17 hereafter organized or incorporated by any other state or by the
18 United States or any foreign government and doing business in
19 this Commonwealth, and every limited partnership, association,
20 joint-stock association, copartnership, person or persons,
21 engaged in telephone or telegraph business or providing mobile
22 telecommunications services in this Commonwealth, shall pay to
23 the State Treasurer, through the Department of Revenue, a tax of
24 forty-five mills with a surtax equal to five mills upon each
25 dollar of the gross receipts of the corporation, company or
26 association, limited partnership, joint-stock association,
27 copartnership, person or persons, received from:

28 (1) passengers, baggage, oil and freight transported wholly
29 within this State;

30 (2) telegraph or telephone messages transmitted wholly

1 within this State and telegraph or telephone messages
2 transmitted in interstate commerce after December 31, 2003, and
3 before January 1, 2013, where such messages originate or
4 terminate in this State and the charges for such messages are
5 billed to a service address in this State, except gross receipts
6 derived from:

7 (i) the sales of access to the Internet, as set forth in
8 Article II, made to the ultimate consumer; and

9 (ii) the sales for resale to persons, partnerships,
10 associations, corporations or political subdivisions subject to
11 the tax imposed by this article upon gross receipts derived from
12 such resale of telecommunications services, including:

13 (A) telecommunications exchange access to interconnect with
14 a local exchange carrier's network;

15 (B) network elements on an unbundled basis; and

16 (C) sales of telecommunications services to interconnect
17 with providers of mobile telecommunications services; and

18 (3) mobile telecommunications services messages sourced to
19 this Commonwealth after December 31, 2003, and before January 1,
20 2013, based on the place of primary use standard set forth in
21 the Mobile Telecommunications Sourcing Act (4 U.S.C. § 117),
22 except gross receipts derived from:

23 (i) the sales of access to the Internet, as set forth in
24 Article II, made to the ultimate consumer; and

25 (ii) the sales for resale to persons, partnerships,
26 associations, corporations or political subdivisions subject to
27 the tax imposed by this article upon gross receipts derived from
28 such resale of mobile telecommunications services, including
29 sales of mobile telecommunications services to interconnect with
30 providers of telecommunications services.

1 (a.1) Credit.--Telegraph or telephone companies or providers
2 of mobile telecommunications services that pay a gross receipts
3 tax to another state on messages or services after December 31,
4 2003, and before January 1, 2013, which are taxable under this
5 article are entitled to a credit against the tax due under this
6 article. The credit allowed with respect to the messages or
7 services shall not exceed the tax under this article with
8 respect to the messages or services.

9 * * *

10 (j) Schedule for Estimated Payments.--

11 (1) For calendar year 2004, the following schedule applies
12 to the payment of the tax under subsection(a) (3):

13 (i) Forty per cent of the estimated tax shall be due on
14 March 15, 2004.

15 (ii) Forty per cent of the estimated tax shall be due on
16 June 15, 2004.

17 (iii) Twenty per cent of the estimated tax shall be due on
18 September 15, 2004.

19 (2) For calendar years after 2004, the payment of the
20 estimated tax under subsection (a) (3) shall be due in accordance
21 with section 3003.2.

22 (3) For calendar year 2009, the tax applicable to the
23 payment of the tax under subsection (b.1) shall be due on March
24 15, 2010.

25 (4) For calendar year 2010, payments of the estimated tax
26 under subsection (b.1) shall be due on May 15, 2010. For
27 calendar year 2011 [and each calendar year thereafter], the
28 payment of the estimated tax under subsection (b.1) shall be due
29 in accordance with section 3003.2.

30 (5) This subsection shall expire January 1, 2013.

1 * * *

2 Section 2. Repeals are as follows:

3 (1) ~~The General Assembly declares that the repeal under~~
4 paragraph (2) is necessary to effectuate the purposes of this
5 act.

6 (2) Section 33(12) of the act of December 23, 2003 (P.L.
7 250, No.46), entitled "An act amending the act of March 4,
8 1971 (P.L.6, No.2), entitled 'An act relating to tax reform
9 and State taxation by codifying and enumerating certain
10 subjects of taxation and imposing taxes thereon; providing
11 procedures for the payment, collection, administration and
12 enforcement thereof; providing for tax credits in certain
13 cases; conferring powers and imposing duties upon the
14 Department of Revenue, certain employers, fiduciaries,
15 individuals, persons, corporations and other entities;
16 prescribing crimes, offenses and penalties,' further
17 providing, in sales and use tax, for definitions, for
18 exclusions, for credits, for licenses and for transfers to
19 Public Transportation Assistance Fund; further providing, in
20 personal income tax, for definitions, for imposition, for
21 special tax provisions for poverty, for returns and liability
22 and for returns and records; further providing, in corporate
23 net income tax, for definitions and for interests in
24 unincorporated entities; providing, in corporate net income
25 tax, for additional withholding requirements; further
26 providing, in capital stock franchise tax, for definitions
27 and reports, for imposition and for expiration; further
28 providing, in utilities gross receipts tax, for imposition;
29 further providing, in public utility realty tax, for
30 surcharges; providing, in public utility realty tax, for

1 additional tax; further providing, in cigarette tax, for
2 incidence and rate of tax, for floor tax, for stamp to
3 ~~evidence the tax and for commissions on sales; establishing,~~
4 in relation to cigarette tax, the Health Care Provider
5 Retention Account; further providing, in research and
6 development tax credit, for carryover, for limitations and
7 for reports; further providing, in malt beverage tax, for
8 limited tax credits; further providing, in inheritance tax,
9 for definitions, for exempt transfers, for estate tax and for
10 estate tax returns; further providing for the Public
11 Transportation Assistance Fund and providing for its
12 administration; further providing for estimated tax and for
13 underpayment of estimated tax; providing for authority to
14 attach wages; and repealing provisions relating to the Public
15 Transportation Assistance Fund," is repealed.
16 Section 3. This act shall take effect immediately.