

(1) If the purchase price is ten cents (10¢) or less, no tax shall be collected;

(2) If the purchase price is eleven cents (11¢) or more, but less than sixty-two cents (62¢), one cent (1¢) shall be collected;

(3) If the purchase price is sixty-two cents (62¢) or more, but less than one dollar and one cent (\$1.01), two cents (2¢) shall be collected;

(4) If the purchase price is more than one dollar (\$1), two per centum of each dollar of the purchase price, plus the above bracket charges upon any fractional part of a dollar in excess of even dollars, shall be collected.

APPROVED—The 6th day of March, A. D. 1956.

GEORGE M. LEADER

No. 382

AN ACT

Amending the act of May sixteen, one thousand nine hundred thirty-five (Pamphlet Laws 208), entitled, as amended, "An act to provide revenue for State purposes by imposing an excise tax, for a limited period of time, on the net incomes of certain corporations, joint-stock associations, and limited partnerships; providing for the assessment, collection, settlement and resetting of taxes, and reviews and appeal therefrom; conferring powers, and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State, and county officers, boards, and departments; making an appropriation; and providing penalties," changing formula for determining gross receipts where entire business is not transacted in the Commonwealth, modifying the manner of imposing tax on certain corporations engaged in business or owning property outside of the Commonwealth, and the penalty for failure to make report or for making false report, and increasing the rate of tax for a limited period of time.

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

Section 1. Subdivision two of the definition of "net income" of section two and sections three and four, act of May sixteen, one thousand nine hundred thirty-five (Pamphlet Laws 208), known as the "Corporate Net Income Tax Act," reenacted and amended September twenty-seven, one thousand nine hundred fifty-five (Pamphlet Laws 609), are amended to read:

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

Corporate Net
Income Tax
Act.

Subdivision 2 of
the definition of
"Net Income"
of section 2,
and sections 3
and 4, act of
May 16, 1935,
P. L. 208, re-
enacted and
amended Sep-
tember 27,
1955, P. L. 609,
further
amended.

* * * * *

"Net Income."

* * * * *

2. In case the entire business of any corporation, other than a corporation engaged in doing business as an insurance or surety company, is not transacted within this Commonwealth, the tax imposed by this act shall be based upon such portion of the net income of such corporation for the fiscal or calendar year, as defined in clause one hereof, as may be determined by allocations and apportionments made as follows:

(a) Gains realized and losses sustained from the sale or exchange of capital assets, if such assets consist of real estate or tangible personal property situated in the Commonwealth, shall be allocated to this Commonwealth.

(b) Gains realized and losses sustained from the sale or exchange of capital assets, if such assets consist of real estate or tangible personal property situated outside of the Commonwealth, shall not be allocated in any part to this Commonwealth.

(c) The remainder of such net income shall be divided into three equal parts.

(1) Of one-third, such portion shall be attributed to business carried on within this Commonwealth, as shall be found by multiplying said one-third by a fraction, whose numerator is the value of the corporation's tangible property situated within this Commonwealth, and whose denominator is the value of all the corporation's tangible property wherever situated.

(2) Of one-third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said one-third by a fraction, whose numerator is the expenditures of the corporation for wages, salaries, commissions and other compensation to its employes, and assignable to this Commonwealth as hereinafter provided, and whose denominator is the total expenditures of the corporation for wages, salaries, commissions, and other compensation to all its employes.

(3) Of the remaining third, such portion shall be attributed to business carried on within the Commonwealth, as shall be found by multiplying said third by a fraction, whose numerator is the amount of the taxpayer's gross receipts from business assignable to this Commonwealth as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its business. *For the purpose of this section, gross receipts shall not include receipts heretofore or hereafter received from the sale, redemption,*

maturity or exchange of securities, except those held by the taxpayer primarily for sale to customers in the ordinary course of its trade or business.

In cases where only two of the foregoing three rules are applicable, the remainder of the net income of the corporation shall be divided into two equal parts only, each of which shall be apportioned in accordance with one of the remaining two rules. If only one of the three rules is applicable, the part of the net income received from business carried on within the Commonwealth shall be determined solely by that rule.

The amount assignable to this Commonwealth of expenditures of the corporation for wages, salaries, commissions, or other compensation to its employes, shall be such expenditures for the taxable year as represent the wages, salaries, commissions, or other compensation of employes, not chiefly situated at, connected with, or sent out from, premises for the transaction of business maintained by the corporation outside the Commonwealth.

The amount of the corporation's gross receipts from business assignable to this Commonwealth shall be, (1) the amount of its gross receipts for the taxable year except those negotiated or effected in behalf of the corporation by agents or agencies chiefly situated at, connected with, or sent out from, premises for the transaction of business maintained by the taxpayer outside of the Commonwealth, and except rentals and royalties, and interest and dividends, (2) rentals or royalties from property situated, or from the use of patents, within this Commonwealth, and (3) dividends and interest, except such dividends and interest attributable to the business conducted on premises maintained by the taxpayer outside the Commonwealth. If a corporation maintains an office, warehouse, or other place of business in a state other than this Commonwealth for the purpose of reducing its tax under this subsection, the department shall, in determining the amount of its gross receipts from business assignable to this Commonwealth, include therein the gross receipts attributed by the corporation to the business conducted at such place of business in another state. In the case of construction contracts, negotiated or effected, at an office in the state of Pennsylvania, but performed outside the state, the gross receipts under such contracts shall be assignable outside the state, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the state and partly outside the state, such proportion of the gross receipts under said contract shall be assignable to Pennsylvania as the direct and indirect costs, incurred in Pennsyl-

vania under the contract for the taxable year, bear to the total cost incurred thereunder for the taxable year. In the case of construction contracts, negotiated or effected, at an office outside the state, but performed in the state, the gross receipts under such contracts shall be assignable to the state, except that if the activities under any such contract to which the gross receipts are attributable shall occur partly within the state, and partly outside the state, such proportion of the gross receipts under said contract shall be assignable to Pennsylvania as the direct and indirect costs, incurred in the state under the contract for the taxable year, bear to the total costs incurred thereunder for the taxable year.

A rule shall not be deemed to be inapplicable merely because all the tangible property or the expenditures of a corporation for wages, salaries, commissions, or other compensation, or the gross receipts of the corporation are found to be situated, incurred or received without the Commonwealth.

Where a corporation in any tax year beginning on or after the first day of January, one thousand nine hundred fifty-six, engages in a separate business outside of Pennsylvania, or owns property having a situs outside of Pennsylvania, which business or property bears no relation to the exercise of the Pennsylvania franchise, the department, with the approval of the Auditor General, may determine the base for the tax imposed by this act for the tax year by excluding from the net income of such corporation as returned to and ascertained by the Federal Government, the net income from the business or property which bears no relation to the exercise of the Pennsylvania franchise. The deduction allowed by this section for dividends received from any other corporation shall be limited to those dividends which remain in the net income after the exclusion hereinbefore authorized in this paragraph. The net income which remains, after the exclusion and deductions authorized in this paragraph, shall be subject to allocations and apportionments as provided in this section using only those factors which pertain to that portion of the net income being allocated and apportioned.

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

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

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

poration reports to the Federal Government on the basis of a fiscal year and has certified such fact to the department as required by section four of this act, in which case the rate shall be one-half of one per centum per annum on net income received by and accruing to such corporations during the fiscal years commencing in the calendar years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four.

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

Section 4. Reports and Payment of Tax.—(a) For the purpose of ascertaining the amount of tax payable under this act, it shall be the duty of every corporation, liable to pay tax under this act, on or before the fifteenth day of April, one thousand nine hundred thirty-six, one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five, one thousand nine hundred fifty-six, one thousand nine hundred fifty-seven and one thousand nine hundred fifty-eight, to transmit to the department, upon a form prescribed, prepared, and furnished by the department, an annual report under oath or affirmation of its president, vice-president or other principal officer, and of its treasurer or assistant treasurer, of net income taxable under the provisions of this act. Such report shall set forth:

(1) A true copy of its return to the Federal Government of the annual net income arising or accruing in the calendar or fiscal year next preceding, or such part or portions of said return, as the department may designate;

(2) If no return was filed with the Federal Government, the report made to the department shall show such information as would have been contained in a return to the Federal Government, had one been made; and

(3) Such other information as the department may require.

(b) For the purpose of ascertaining the amount of tax payable under this act for the taxable years one

thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five, one thousand nine hundred fifty-six and one thousand nine hundred fifty-seven, it shall be the duty of every corporation liable to pay tax under this act, on or before the thirtieth day of April, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, one thousand nine hundred fifty-five, one thousand nine hundred fifty-six and one thousand nine hundred fifty-seven, to transmit in like form and manner an additional tentative report. Such report shall set forth:

(1) The annual net income received or accruing in the calendar or fiscal year next preceding and reported to the department under the provisions of this act; or

(2) The net income received or accruing in the first three months of the current calendar or fiscal year, together with such information as would have been contained in a return to the Federal Government had one been required or made:

(3) Such other information as the department may require.

(c) The failure of any corporation liable to pay tax under this act to procure or receive any report form shall not excuse it from making a report.

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

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

(e) The amount of all taxes, imposed under the provisions of this act, not paid on or before the times as above provided, shall bear interest at the rate of six (6) per centum per annum from the date they are due and payable until paid, except that if the taxable income has been, or is increased by the Commissioner of Internal Revenue, or by any other agency or court of the United States, interest shall be computed on the additional tax due from thirty days after the corporation receives notice of the change of income until paid: Provided, however, That any corporation may pay the full amount of such tax, or any part thereof, together with interest due to the date of payment, without prejudice to its right to present and prosecute a petition for resettlement, a petition for review, or an appeal to court. If it be thereafter determined that such taxes were overpaid, the department shall enter a credit to the account of such corporation, which may be used by it in the manner prescribed by law.

(f) If the officers of any corporation shall neglect, or refuse to make any report as herein required, or shall knowingly make any false report, [an additional ten per centum] *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 of tax ten per centum, on the next four thousand dollars five per centum, and on everything in excess of five thousand dollars one per centum, no such amounts added to the tax shall bear any interest whatsoever.*

(g) If any corporation closes its fiscal year not upon the thirty-first day of December, but upon some other date, and reports to the Federal Government as of such other date, or would so report were it to make a

return to the Federal Government, such corporation shall certify such fact to the Department of Revenue, and shall make the annual report, herein required, within thirty (30) days after the return to the Federal Government is due, or would be due were it to be required of such corporation, subject in all other respects to the provisions of this act. The tentative report required of such corporation shall be due not later than four months after the end of the next preceding fiscal year.

(h) If the corporation shall claim in its report that the return made to the Federal Government was inaccurate, the amount claimed by it to be the net income, taxable under this act, and the basis of such claim of inaccuracy, shall be fully specified.

Effective dates.

Section 2. This amending act shall take effect as of the first day of January, one thousand nine hundred fifty-six, for corporations reporting on a calendar year basis, or as of the first day of any fiscal year beginning in the calendar year one thousand nine hundred fifty-six for corporations reporting on a fiscal year basis.

APPROVED—The 6th day of March, A. D. 1956.

GEORGE M. LEADER

No. 383

AN ACT

Imposing a tax on the occupancy of rooms in hotels, inns, motels, tourist homes, houses, or courts, lodging houses and rooming houses, defined herein as hotels; prescribing the manner of collecting the tax; providing for licenses; imposing duties on and prescribing powers of the Department of Revenue; and fixing penalties.

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

ARTICLE I.

PRELIMINARY PROVISIONS.

Section 101. Short Title.—This act shall be known and may be cited as “The Hotel Occupancy Tax Act.”

Section 102. Definitions.—The following words, terms and phrases when used in this act shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) “Department.” The Department of Revenue of this Commonwealth.

(2) “Hotel.” A building or buildings in which the public may, for a consideration, obtain sleeping accom-

The Hotel Occupancy Tax Act.

Definitions.