

thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created," further regulating payments to certain beneficiaries under the fund.

Cities of second class.

Subsection (a), section 12, act of May 25, 1933, P. L. 1050, amended February 1, 1956, Act No. 306, further amended.

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

Section 1. Subsection (a) of section twelve, act of May twenty-five, one thousand nine hundred thirty-three (Pamphlet Laws 1050), entitled "An act creating and establishing a fund for the care, maintenance and relief of aged, retired and disabled employes of the bureau of fire in cities of the second class; creating a board for the management thereof; providing the mode and manner of payment to beneficiaries, and for the care and disposition of its funds; and providing for the transfer and payment of all moneys and securities in existing funds in similar boards superseded by the fund and board herein created," amended February one, one thousand nine hundred fifty-six (Act No. 306), is amended to read:

Section 12. (a) Beneficiaries under the fund, who retire on or after January one, one thousand nine hundred fifty-six, shall be entitled to receive from the fund, per month, [fifty per centum of the highest average annual salary] *an amount equalling fifty per centum of the average monthly salary* earned by the contributor as an employe of the bureau of fire of the city during any five calendar years of service *or the last sixty months immediately* preceding retirement, but in no event shall the maximum monthly pension payment exceed two hundred and fifty dollars per month.

* * * * *

APPROVED—The 24th day of May, A. D. 1956.

GEORGE M. LEADER

No. 571

AN ACT

Amending the act of August twenty-four, one thousand nine hundred fifty-one (Pamphlet Laws 1417), entitled, as amended, "An act to provide revenue for State purposes by imposing a property tax, for a limited period of time, on the net incomes derived from sources within the Commonwealth of certain corporations, joint-stock associations, and limited partnerships; excluding certain income; providing for the assessment, collection, settlement and resettlement of taxes, and reviews and appeal therefrom; conferring powers and imposing duties on certain persons, corporations, joint-stock associations, limited partnerships, State and county officers, boards and departments; making an appropriation; and providing penalties," changing formula for determining

gross receipts of corporations owning property or carrying on activities within and without the Commonwealth, clarifying provisions for determination of allocation fractions, 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:

Corporation
Income Tax Law.

Section 1. Subdivision two of the definition of "net income" of section two and sections three and four, act of August twenty-four, one thousand nine hundred fifty-one (Pamphlet Laws 1417), known as the "Corporation Income Tax Law," reenacted and amended September twenty-seventh, one thousand nine hundred fifty-five (Pamphlet Laws 626), are amended to read:

Subdivision 2 of the definition of "net income", section 2, and sections 3 and 4, act of August 24, 1951, P. L. 1417, reenacted and amended September 27, 1955, P. L. 626, further amended.

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:

• • • • •

"Net Income."

• • • • •

2. In the case of corporations owning property or carrying on activities within and without this Commonwealth, other than corporations carrying on activities as insurance or surety companies, the net income of such corporations derived from sources within this Commonwealth for the fiscal or calendar year shall be determined by allocations and apportionments of net income as defined in clause one hereof, 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 of this Commonwealth.

(c) The resultant net income, if any, after allocations, shall be divided into three equal parts:

(1) Of one-third, such portion shall be attributed to the 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 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 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 property and activities assignable to this Commonwealth, as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its property and activities; *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 property and activities 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 to the extent of services rendered or work performed in the Commonwealth [, and similar expenditures to 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 property and activities assignable to this Commonwealth shall be: (1) the amount of its gross receipts for the taxable year from services rendered, work and contracts performed, and sales made, in the Commonwealth [and all other gross receipts, except those negotiated or affected 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 divi-

dends]; (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 property and activities 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 Pennsylvania under the contract for the taxable year bear to the total costs 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.

Section 3. Imposition of Tax.—Every corporation carrying on activities in this Commonwealth or owning property in this Commonwealth by or in the name of itself or any person, partnership, joint-stock association or corporation shall be subject to and shall pay a State property tax on net income derived from sources within this Commonwealth at the rate of five per centum

* "form" in original.

per annum upon each dollar of such net income 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 each dollar of such 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, [and ending in the calendar years one thousand nine hundred fifty-two, one thousand nine hundred fifty-three and] 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 such net income 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 per annum shall be levied, collected and paid upon each dollar of such net income received by and accruing to such corporation during the fiscal years commencing in 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 [and ending in the calendar years 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]: Provided, however, That such net income shall not include income for any period for which the corporation is subject to taxation under the Corporate Net Income Tax Act, approved the sixteenth day of May, one thousand nine hundred thirty-five (Pamphlet Laws, two hundred eight), as reenacted and amended, according to or measured by net income.

Except as otherwise provided in this section, the tax hereby imposed shall be in addition to all taxes now imposed on any corporation under the provisions of existing laws.

* "corporation" in original.

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 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 portion 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 [thirteenth] *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, 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 corporations 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.

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. Effective dates.

APPROVED—The 24th day of May, A. D. 1956.

GEORGE M. LEADER