

Section 2. This act shall take effect immediately, and shall apply to all work for which funds are herein authorized to be expended, heretofore started or completed.

Effective date and applicability.

APPROVED—The 13th day of August, A. D. 1963.

WILLIAM W. SCRANTON

No. 399

AN ACT

Amending the act of May 16, 1935 (P. L. 208), entitled, as amended, "An act to provide revenue for State purposes by imposing an excise tax on the net incomes of certain corporations, joint-stock associations, and limited partnerships; 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; and providing penalties," providing exclusion from taxable income for certain investments.

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

Corporate Net Income Tax Act.

Section 1. Subclause (b) of clause 1 and paragraph (1) of subclause (c) of clause 2 of the definition of "Net Income" contained in section 2, act of May 16, 1935 (P. L. 208), known as the "Corporate Net Income Tax Act," reenacted and amended April 30, 1957 (P. L. 80), are amended to read:

Subclause (b), clause 1, and paragraph (1), subclause (c), clause 2, of "Net Income" definition, section 2, act of May 16, 1935, P. L. 208, reenacted and amended April 30, 1957, P. L. 80, 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." 1. In case the entire business of the corporation is transacted within this Commonwealth,

* * * * *

(b) For any taxable year beginning after the thirty-first day of December, one thousand nine hundred fifty-three, and ending after the fifteenth day of August, one thousand nine hundred fifty-four, except as hereinafter provided in the case of stock life insurance companies, taxable income for the calendar year or fiscal year as returned to and ascertained by the Federal Government, or in the case of a corporation participating or which has participated in prior taxable years in the filing of consolidated returns to the Federal Government the taxable income which would have been returned to and ascertained by the Federal Government if separate re-

* "like" in original

turns had been made to the Federal Government for all years affected by the filing of consolidated returns to the Federal Government, subject, however, to any corrections thereof for fraud, evasion or error as finally ascertained by the Federal Government: Provided, That *in the case of corporations eligible for a manufacturing, processing or research and development exemption under the act of June 1, 1889 (P. L. 420), entitled "A further supplement to an act entitled 'An act to provide revenue by taxation' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," an additional deduction shall be allowed from taxable income equal to one-half the amount allowed by the Federal Government for the depreciation of buildings, structures or improvements thereon or improvements made thereto if such buildings, structures or improvements thereon or improvements made thereto are actually used in manufacturing, processing or research and development and they consist of those for which the actual construction or improvement project commences after the effective date of this act; however, the total depreciation shall not exceed the cost of the said buildings, structures or improvements thereon or improvements made thereto: And provided further, That additional deductions shall be allowed from taxable income on account of (i) dividends received from any other corporation but only to the extent that such dividends are included in taxable income as returned to and ascertained by the Federal Government; (ii) An amount equal to the credit against the Federal income tax allowed for investment in depreciable property, including without limitation the credit allowed to a lessee for leased property by the Federal corporation income tax in force on the last day of the income year: Provided, That deduction for such amount shall be allowed in equal annual installments over a twelve-year period, commencing with the income year in which the said credit was allowed by the Federal Government, and shall not exceed in the aggregate the Federal income tax credit as adjusted by reason of early disposition of such property. Any adjustment of the deduction as provided herein shall be established by rulings or regulations of the Department of Revenue. The provisions of this subclause shall be applicable to taxable years ending after December 31, 1963: And provided further, That no deduction shall be allowed for net operating losses sustained by the corporation during any other fiscal or calendar year: And provided further, That in the case of stock life insurance companies, "net income" for taxable years beginning in one thousand nine hundred fifty-four shall be one thousand nine hun-*

dred fifty-four life insurance company taxable income as returned to and ascertained by the Federal Government and for taxable years beginning in one thousand nine hundred fifty-five and thereafter shall be life insurance company taxable income as returned to and ascertained by the Federal Government: And provided further, That in the case of stock life, fire, casualty and indemnity insurance companies, doing business on the mutual or participating plan, the term "net income" shall not include the dividends paid to policy holders out of 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:

* * * * *

(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. *In computing the value of the corporation's tangible property situated within this Commonwealth, additional depreciation shall be allowed for buildings, structures and improvements thereon or improvements made thereto as provided in subclause (b) of clause 1.* The term "tangible property," as used in this subsection, 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 sales price of the property.

* * * * *

Section 2. Except as otherwise provided herein, this act shall take effect immediately and shall apply to taxes imposed for calendar year 1963 and thereafter, or for fiscal years beginning in 1963 and thereafter.

Effective date
and applicability.

APPROVED—The 14th day of August, A. D. 1963.

WILLIAM W. SCRANTON