

No. 32

AN ACT

HB 1190

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," further providing for the time of payment of State taxes; implementing the provisions of section 2(b)(ii) of Article VIII of the Constitution of the Commonwealth of Pennsylvania providing special tax provisions for certain persons who meet the standards and qualifications for poverty; exempting income of certain members of the armed forces of the United States from the income tax; establishing procedures for the implementation thereof; and imposing duties on the Department of Revenue; and reducing the rate of the personal income and corporation taxes.

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

Section 1. The act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," is amended by adding a section to read:

ARTICLE II
TAX FOR EDUCATION

* * *

Section 220. Timely Mailing Treated as Timely Filing and Payment.—Notwithstanding the provisions of any State tax law to the contrary, whenever payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

Section 2. Section 301 of the act added August 31, 1971 (P.L.362, No.93), is amended by amending clauses (o) and (v) and by adding clauses to read:

Section 301. 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. Any reference in this article to the Internal Revenue Code shall include the Internal Revenue Code of 1954, as amended to the date on which this article is effective:

* * *

(c.2) “Claimant” means a person who is subject to the tax imposed under this article, is not a dependent of another person, but is entitled to claim against such tax the poverty tax provisions as provided by this act.

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(e.1) “Dependent” means a spouse or child who derives more than one-half of his total support during the entire taxable year from a claimant entitled to claim the poverty exemption. Any person who is a dependent pursuant to the provisions of the Internal Revenue Code during a taxable year shall prima facie be deemed a dependent for purposes of this act.

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(o) “Person” means any individual employer, association, fiduciary, partnership, corporation or other entity, estate or trust, resident or nonresident, and the plural as well as the singular number. For the purpose of determining eligibility for special tax provisions, the term “person” means a natural individual.

(o.1) “Poverty” means an economic condition wherein the total amount of poverty income is insufficient to adequately provide the claimant, his spouse and dependent children with the necessities of life.

(o.2) “Poverty income” means for the purpose of determining eligibility for special tax provisions all moneys or property (including interest, gains or income derived from obligations which are statutorily free from State or local taxation under any other act of the General Assembly of the Commonwealth of Pennsylvania or under the laws of the United States) received of whatever nature and from whatever source derived but not including (i) periodic payments for sickness and disability other than regular wages received during a period of sickness or disability; or (ii) disability, retirement or other payments arising under workmen’s compensation acts, occupational disease acts and similar legislation by any government; or (iii) payments commonly recognized as old age or retirement benefits paid to persons retired from service after reaching a specific age or after a stated period of employment; or (iv) payments commonly known as public assistance, or unemployment compensation payments by any governmental agency; or (v) payments to reimburse actual expenses; or (vi) payments made by employers or labor unions for programs covering hospitalization, sickness, disability or death, supplemental unemployment benefits, strike benefits, social security and retirement; or (vii) any compensation received by United States servicemen serving in a combat zone.

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(s.1) “Special tax provisions” means a refund or forgiveness of all or part of the claimant’s liability under the provisions of this article.

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(v) “Taxable year” means the taxable period on the basis of which a taxpayer or a claimant is required to file his Federal income tax return

pursuant to the Internal Revenue Code or if he is not required to or does not file a Federal income tax return, the calendar year provided that for the initial period during which the tax is first imposed "taxable year" means the period beginning June 1, 1971, and ending with the taxable period on the basis of which a taxpayer is required to file his Federal income tax return pursuant to the Internal Revenue Code or if he is not required to or does not file a Federal income tax return, December 31, 1971.

* * *

Section 3. Section 302 and clause (1) of subsection (a) of section 303 of the act, added August 31, 1971 (P.L.362, No.93), are amended to read:

Section 302. Imposition of Tax.—(a) There is hereby imposed an annual tax to be paid by resident individuals, estates or trusts at the rate of two **[and three-tenths]** per cent on the privilege of receiving each of the classes of income hereinafter enumerated in section 303.

(b) There is hereby imposed an annual tax to be paid by nonresident individuals, estates or trusts at the rate of two **[and three-tenths]** per cent on the privilege of receiving each of the classes of income enumerated in section 303 from sources within this Commonwealth.

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

(1) Compensation. All salaries, wages, commissions, bonuses and incentive payments whether based on profits or otherwise, fees, tips and similar remuneration received for services rendered whether directly or through an agent and whether in cash or in property *except income derived from the United States Government for active duty outside the Commonwealth of Pennsylvania as a member of its armed forces.*

* * *

Section 4. The act is amended by adding sections to read:

Section 304. Special Tax Provisions for Poverty.—(a) The General Assembly, in recognition of the powers contained in section 2(b) (ii) of Article VIII of the Constitution of the Commonwealth 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 hereby declares as its legislative intent and purpose to implement such power under such constitutional provision by establishing special tax provisions as hereinafter provided in this act.

(b) The General Assembly having determined that there are persons within this Commonwealth whose incomes are such that imposition of a tax thereon would deprive them and their dependents of the bare necessities of life and having further determined that poverty is a relative concept inextricably joined with actual income and the number of people dependent upon such income deems it to be a matter of public

policy to provide special tax provisions for that class of persons hereinafter designated to relieve their economic burden.

(c) For the taxable year 1974 and each year thereafter any claimant who meets the following standards of eligibility established by this act as the test for poverty shall be deemed a separate class of subject of taxation, and, as such, shall be entitled to the benefit of the special provisions of this act.

(d) Any claim for special tax provisions hereunder shall be determined in accordance with the following:

(1) If the poverty income of the claimant during an entire taxable year is three thousand dollars (\$3,000) or less, the claimant shall be entitled to a refund or forgiveness of any moneys which have been paid over to (or would except for the provisions of this act be payable to) the Commonwealth under the provisions of this article, with an additional income allowance of twelve hundred dollars (\$1200) for the first additional dependent and an additional income allowance of seven hundred fifty dollars (\$750) for each additional dependent of the claimant.

(2) If the poverty income of the claimant during an entire taxable year does not exceed the poverty income limitations prescribed by clause (1) by more than the dollar category contained in subclauses (i), (ii), (iii), (iv), (v), (vi), (vii), (viii) or (ix) of this clause, the claimant shall be entitled to a refund or forgiveness based on the percentage prescribed in such subclauses of any moneys which have been paid over to (or would except for the provisions herein be payable to) the Commonwealth under this article:

- (i) Ninety per cent if not in excess of one hundred dollars (\$100).*
- (ii) Eighty per cent if not in excess of two hundred dollars (\$200).*
- (iii) Seventy per cent if not in excess of three hundred dollars (\$300).*
- (iv) Sixty per cent if not in excess of four hundred dollars (\$400).*
- (v) Fifty per cent if not in excess of five hundred dollars (\$500).*
- (vi) Forty per cent if not in excess of six hundred dollars (\$600).*
- (vii) Thirty per cent if not in excess of seven hundred dollars (\$700).*
- (viii) Twenty per cent if not in excess of eight hundred dollars (\$800).*
- (ix) Ten per cent if not in excess of nine hundred dollars (\$900).*

Section 323. When Withholding Not Required.—Notwithstanding any provision of this code to the contrary, an employer on and after January 1, 1975 shall not be required to withhold any tax upon payment of wages to an employe if such employe can certify:

(1) that he incurred no personal income tax liability for the preceding tax year; and

(2) that he anticipates no liability for personal income tax for the current taxable year.

Section 336. Timely Mailing Treated as Timely Filing and Payment.—*Notwithstanding the provisions of any State tax law to the contrary, whenever payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.*

Section 336.1. Procedure for Claiming Special Tax Provisions.—*The following procedures shall be employed for claiming the special tax provisions:*

(1) *The claimant may claim the special tax provisions upon the expiration of his taxable year in connection with his filing of an annual return under the provisions of this article. Notwithstanding any other provisions of this article to the contrary, the department shall have the power to promulgate such rules or regulations as it may deem necessary to fairly and reasonably implement the provisions of this section.*

(2) *If the claimant receives income as defined in this article, other than compensation from an employer, he may claim the special tax provisions in connection with his filing of estimated tax returns.*

Section 336.2. Proof of Eligibility.—*The Department of Revenue shall establish such rules, regulations, schedules or other procedures as may be necessary for the submission and establishment of proof of the eligibility of persons for the special tax provisions or other matters relating to the provisions of this act. Such procedures may include, but not be limited to, the submission of requisite information and certifications upon forms provided by the department, including such special tax return or report forms as may be necessary.*

Section 5. Section 402 of the act, amended August 31, 1971 (P.L.362, No.93), and September 9, 1971 (P.L.437, No.105), is amended to read:

Section 402. 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 twelve per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the calendar year 1971 and the first six months of 1972 and at the rate of eleven per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the second six months of calendar year 1972 through the calendar year 1973 and at the rate of nine and one-half per cent per annum upon each dollar of taxable income of such*

corporation received by, and accruing to, such corporation during the calendar year 1974 and each **calendar** year thereafter, 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 403 of this article, in which case, such tax, at the rate of twelve per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the first six months of the fiscal year commencing in the calendar year 1972 and at the rate of eleven per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the second six months of the fiscal year commencing in the calendar year 1972 and **[ending] during the fiscal year commencing** in the calendar year 1973 **and at the rate of nine and one-half per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year 1974** and during each fiscal year thereafter.

Section 6. The act is amended by adding a section to read:

Section 403.1. Timely Mailing Treated as Timely Filing and Payment.—Notwithstanding the provisions of any State tax law to the contrary, whenever payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the corporation shall be deemed to have complied with such law if the letter transmitting payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

Section 7. Section 502 of the act, amended August 31, 1971 (P.L.362, No.93) and September 9, 1971 (P.L.437, No.105), is amended to read:

Section 502. 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 taxable income derived from sources within this Commonwealth at the rate of twelve per cent per annum upon each dollar of such taxable income received by and accruing to such corporation during the calendar year 1971 and the first six months of 1972 and at the rate of eleven per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the second six months of calendar year 1972 **through the calendar year 1973 and at the rate of nine and one-half per cent per annum upon each dollar of taxable income of such corporation received by, and accruing to, such corporation during the calendar year 1974** and each **calendar** year thereafter, 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 403 of Article IV, in which case such tax at the rate of twelve per cent shall be levied, collected and paid upon each dollar of such taxable income received by and accruing to such corporation during the first six months of the fiscal year commencing in the calendar year 1972 and at the rate of eleven per cent shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the second six months of the fiscal year commencing in the calendar year 1972 and **[ending] during the fiscal year commencing in the calendar year 1973 and at the rate of nine and one-half per cent, shall be levied, collected, and paid upon all taxable income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year 1974** and each fiscal year thereafter: Provided, however, That such taxable income shall not include income for any period for which the corporation is subject to taxation under Article IV.

Section 8. The act is amended by adding a section to read:

Section 1101.1. Timely Mailing Treated as Timely Filing and Payment.—Notwithstanding the provisions of any State tax law to the contrary, whenever payment of all or any portion of a State tax is required by law to be received by the Pennsylvania Department of Revenue or other agency of the Commonwealth on or before a day certain, the taxpayer shall be deemed to have complied with such law if the letter transmitting payment of such tax which has been received by the department is postmarked by the United States Postal Service on or prior to the final day on which the payment is to be received.

Section 9. In order to rebate the personal income tax overpayment which individuals have made during the 1974 calendar year, the Department of Revenue after the approval of this act shall promulgate a withholding rate of one and eighty-five hundredths per cent from May 1, 1974 to December 31, 1974, at which time the withholding rate shall revert to the level of taxation prescribed in section 302 of the Tax Reform Code of 1971. In carrying out this same purpose the department may promulgate necessary rules concerning individuals not subject to withholding who as a result of action before passage of this act have made overpayments in behalf of their 1974 personal income tax liability.

Section 10. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Section 11. This act shall take effect immediately and the provisions of section 302 shall be retroactive to January 1, 1974.

APPROVED—The 13th day of March, A. D. 1974.

MILTON J. SHAPP

The foregoing is a true and correct copy of Act of the General Assembly
No. 32.

A handwritten signature in black ink, reading "C. McLaughlin Tucker". The signature is written in a cursive, flowing style with a large initial "C" and a prominent "T" at the end.

Secretary of the Commonwealth.