

No. 1980-195

AN ACT

HB 1252

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," exempting certain fish feed from the sales tax and providing for the deduction and carryover of net operating loss in determining taxable income for corporate income taxes.

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

Section 1. Section 204, act of March 4, 1971 (P.L.6, No.2), known as the "Tax Reform Code of 1971," is amended by adding a clause to read:

Section 204. Exclusions from Tax.—The tax imposed by section 202 shall not be imposed upon

* * *

(39) The sale at retail or use of fish feed purchased by or on behalf of sportsmen's clubs, fish cooperatives or nurseries approved by the Pennsylvania Fish Commission.

Section 2. Subclause 1 of clause (3) of section 401 of the act, amended November 26, 1978 (P.L.1287, No.306), is amended to read:

Section 401. 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:

* * *

(3) "Taxable income." 1. In case the entire business of the corporation is transacted within this Commonwealth, for any taxable year which begins on or after January 1, 1971, 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 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 returns had been made to the Federal Government for the current and prior taxable years, subject, however, to any correction thereof, for fraud, evasion, or error as finally ascertained by the Federal Government: Provided, That additional deductions shall be allowed from taxable income on account of any 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: Provided further, That additional deductions shall be allowed from taxable income in an amount equal to the amount of any reduction in an employer's deduction for wages and salaries as required by section 280C of the Internal Revenue Code as a result of the employer taking a credit for "new jobs" pursuant to section 44B of the Internal Revenue Code: Provided further, That taxable income will include the sum of the following tax preference items as defined in section 57 of the Internal Revenue Code, as amended, (i) excess investment interest; (ii) accelerated depreciation on real property; (iii) accelerated depreciation on personal property subject to a net lease; (iv) amortization of certified pollution control facilities; (v) amortization of railroad rolling stock; (vi) stock options; (vii) reserves for losses on bad debts of financial institutions; (viii) and capital gains but only to the extent that such preference items are not included in "taxable income" as returned to and ascertained by the Federal Government. No deduction shall be allowed for net operating losses sustained by the corporation during any other fiscal or calendar year: *Provided, That for the calendar year 1981 and fiscal years beginning in 1981 and thereafter, a net operating loss, as provided by section 172 of the Internal Revenue Code, shall be allowed as a deduction and a carryover pursuant to the following schedule:*

<i>Net Operating Loss for Year</i>	<i>Carryover</i>
<i>1981</i>	<i>1 year</i>
<i>1982</i>	<i>2 years</i>
<i>1983 and thereafter</i>	<i>3 years</i>

The net operating loss shall be carried to the earliest of the taxable years to which, under this schedule, such loss may first be carried. In the case of regulated investment companies as defined by the Internal Revenue Code of 1954, as amended, "taxable income" shall be investment company taxable income as defined in the aforesaid Internal Revenue Code of 1954, as amended. In arriving at "taxable income" for Federal tax purposes for any taxable year beginning on or after January 1, 1971, any corporate net income tax due to the Commonwealth pursuant to the provisions of this article shall not be allowed as a deduction and the amount of corporate tax so due and excluded from Federal taxable income under the Internal Revenue Code shall not be apportioned but shall be subject to tax at the rate imposed under this article.

Section 3. (a) Section 1 of this act shall take effect in 60 days.

(b) Section 2 of this act shall take effect immediately and shall apply to taxable years beginning on or after January 1, 1981.

APPROVED—The 8th day of December, A. D. 1980.

DICK THORNBURGH