

No. 1989-110

AN ACT

HB 1435

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 defining the terms "employee" and "employer" for personal income tax purposes; further providing for estimated tax; codifying provisions imposing a State tax, payable by manufacturers and by others, on malt or brewed beverages used, sold, transported or delivered within the Commonwealth; prescribing the method and manner of evidencing the payment and collection of such tax; conferring additional powers and imposing additional duties on the Department of Revenue, and those using or engaged in the sale, at retail or wholesale, or in the transportation of malt or brewed beverages; providing penalties; and making a repeal.

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

Section 1. Section 301(g) and (h) of the act of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971, added August 31, 1971 (P.L.362, No.93), are amended 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:

* * *

(g) "Employee" means any individual [who renders services to an employer and receives or accrues compensation. Any person] from whose [compensation] wages an employer is required under the Internal Revenue Code to withhold Federal income tax [shall prima facie be deemed an employee].

(h) "Employer" means an individual, partnership, association, corporation, governmental body or unit or agency, or any other entity who or that [employs one or more persons for compensation. Any person] is required under the Internal Revenue Code to withhold Federal income tax from [compensation] wages paid to an employee [shall prima facie be deemed an employer].

* * *

Section 2. Section 325(e) of the act, added August 31, 1971 (P.L.362, No.93), is amended to read:

Section 325. Declarations of Estimated Tax.—* * *

(e) Notwithstanding subsection (d) of this section, a declaration of estimated tax of an individual having an estimated **[taxable] gross** income from farming for the taxable year which is at least two-thirds of his total estimated **[taxable] gross** income for the taxable year may be filed at any time on or before January 15 of the succeeding year, but if the farmer files a final return and pays the entire tax by March 1, the return may be considered as his declaration due on or before January 15.

* * *

Section 3. The act is amended by adding an article to read:

**ARTICLE XX
MALT BEVERAGE TAX**

Section 2001. Short Title.—This article shall be known and may be cited as the Malt Beverage Tax Law.

Section 2002. Definitions.—The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

“Department.” The Department of Revenue of the Commonwealth.

“Distributor.” A person engaged in the purchase and resale of malt or brewed beverages in the original sealed packages as prepared for market by the manufacturer, including any who or which:

(1) Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth, or for sale and delivery in and after reaching the Commonwealth.

(2) Imports or causes to be imported from any other state or territory of the United States, or from any foreign country, malt or brewed beverages for his own use in the Commonwealth, or for sale or delivery therein, after the same have come to rest or storage therein, in the original package, receptacle or container.

(3) Purchases or receives malt or brewed beverages in the original package, receptacle or container in the Commonwealth for his own use, or for sale and delivery therein, from any person who has imported the same from a foreign country.

(4) Purchases or receives malt or brewed beverages in the original package, receptacle or container in the Commonwealth for his own use therein, or for sale and delivery therein, from any person who has imported the same from any other state or territory of the United States, in case such malt or brewed beverages have not, prior to such purchase or receipt, come to rest or storage in the Commonwealth.

“Malt or Brewed Beverages.” Alcoholic beverages, which include beer, lager beer, ale, porter or similar fermented malt liquor, containing one-half of one per cent or more of alcohol, by whatever name such liquors may be called.

“Manufacturer.” A person engaged in the brewing or manufacturing of malt or brewed beverages for sale, and, for the purposes of posting bond and

payment of taxes required under the provisions of this article, shall include importing agents for foreign manufacturers.

“Original Container.” Bottle, cask, keg or other container that has been securely capped, sealed or corked by the manufacturer, with the name and address of the manufacturer permanently affixed to the bottle, cask, keg or other container, or to the cap or cork used in sealing the same, or to a label securely affixed to a bottle.

“Person.” An individual or an unincorporated association, including a partnership, a limited partnership, or any other form of unincorporated enterprise owned by two or more individuals, or a corporation. Whenever used in any section prescribing and imposing a fine or imprisonment, or both, the term “person,” as applied to a partnership, limited partnership, or any other form of unincorporated enterprise, shall mean the partners or members thereof, and, as applied to corporations and their officers.

“Retail Dealer.” A person engaged in the retail sale of malt or brewed beverages either for consumption on the premises or not for consumption on the premises where sold.

“Sale.” Any transfer for a consideration, exchange, barter, gift, offer for sale, and distribution, in any manner or by any means whatsoever.

Section 2003. Imposition of Tax.—(a) (1) Each manufacturer shall be subject to pay to the Commonwealth the taxes imposed by this section upon all malt or brewed beverages manufactured and sold by him in this Commonwealth for use in this Commonwealth or manufactured by him outside this Commonwealth and sold to an importing distributor or any person for importation into, and use in, this Commonwealth.

(2) Every person who ships or transports malt or brewed beverages into this Commonwealth for sale, delivery or storage in this Commonwealth shall pay to the Commonwealth the taxes imposed in this section.

(b) (1) Such taxes, payable in the manner prescribed in subsections (a) and (b) of section 2004 of this article, shall be at the rate of two-thirds cent (2/3¢) per half pint of eight (8) fluid ounces or fraction thereof, and in larger quantities at the rate of one cent (1¢) per pint of sixteen (16) fluid ounces or fraction thereof.

(2) The tax rates per original container or standard fraction thereof are as follows:

<i>Standard Fraction</i>	<i>Malt Beverage Tax Rate</i>	<i>Volume</i>
1 barrel	\$2.48	31 gal.
1/2 barrel	1.24	15 1/2 gal.
1/3 barrel	.84	10 1/3 gal.
1/4 barrel	.62	7 3/4 gal.
1/6 barrel	.42	5 1/6 gal.
1/8 barrel	.32	3 7/8 gal.
1 gallon	.08	
1/2 gallon	.04	
1 quart	.02	
1 pint	.01	
1/2 pint	.0066	

(c) *If the tax shall not be paid when due, there shall be added to the amount of the tax as a penalty a sum equivalent to ten per cent of the amount of the tax, and in addition thereto interest on the tax and penalty at the rate of one per cent per month or fraction of a month from the date the tax became due until paid. Nothing herein contained shall be construed to relieve any person otherwise liable from liability for payment of the tax.*

(d) (1) *Notwithstanding any other provision of this article, a manufacturer or his agent who fails to file the required monthly return and pay when due the tax imposed under this article shall be declared delinquent by the Secretary of Revenue and shall continue to be delinquent until he files the required monthly return and pays the tax.*

(2) *During a period of delinquency no malt or brewed beverages in possession or control of a manufacturer may be removed from his licensed premises for sale in the Commonwealth, nor shipped in from outside the Commonwealth.*

(e) *In the event that any state, territory or country shall impose upon malt or brewed beverages, which have been manufactured in Pennsylvania, a higher tax or fee than is imposed upon malt or brewed beverages manufactured within such state, territory or country, every manufacturer whose malt or brewed beverages manufactured within such state, territory or country are sold to an importing distributor or any person for importation into, and use in, this Commonwealth shall, as to such beverages, pay to this Commonwealth, in addition to the tax imposed by this section, a tax equal to such excess tax or fee which is imposed in such state, territory or country on Pennsylvania manufactured malt or brewed beverages. Such additional tax shall be levied, assessed and collected in the same manner as the other taxes imposed by this article.*

(f) *Manufacturers whose malt or brewed beverages are sold in this Commonwealth or are sold to importing distributors or any person for importation into, and use in, this Commonwealth shall be liable to the Commonwealth as taxpayers for the payment of the taxes imposed by this article.*

Section 2004. Reports.—(a) Each manufacturer whose malt or brewed beverages are sold in or imported into this Commonwealth shall, on or before the fifteenth day of each month, file with the department, on forms prescribed by it, a verified report showing for the preceding calendar month the quantities of such malt and brewed beverages:

(1) *Manufactured by him in this Commonwealth, and constituting his beginning and ending inventory in this Commonwealth for the month.*

(2) *Sold by him in this Commonwealth for use in this Commonwealth or sold to an importing distributor or any person for importation into, and use in, this Commonwealth, specifically naming the distributors to whom such sales were made and the quantity sold to each.*

(3) *Sold to purchasers or persons outside this Commonwealth for exportation from, and use outside, this Commonwealth, or sold in other tax-exempt transactions, naming the purchasers and the quantity sold to each and specifically indicating those sales or transactions to which the tax imposed by this article is not applicable.*

(4) Such additional information as the department may reasonably require to assure the accuracy of the tax computation and payment and the proper administration of this article.

(b) The tax payable on all malt or brewed beverages first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into, and use in, this Commonwealth during such month in the amount disclosed by the report, shall accompany the report and be paid by the manufacturer to the department.

(c) Persons licensed as "Public Service Licensees," under the provisions of any law of this Commonwealth relating to the sale of malt or brewed beverages:

(1) shall keep such records of the sales of such malt or brewed beverages in this Commonwealth as the department shall prescribe;

(2) shall, on or before the fifteenth day of each month, submit monthly reports of such sales and of such other information as the department may require to the department upon a form prescribed by said department; and

(3) shall pay the tax due on all such sales at the rate provided by the provisions of this article at the time such reports are filed.

(d) It is the intent and purpose of this section to require all manufacturers and other persons whose malt or brewed beverages are sold or used in this Commonwealth to pay the tax on all such malt or brewed beverages in the month following that in which such beverages are first sold in this Commonwealth for use in this Commonwealth or first sold to an importing distributor or any person for importation into and use in this Commonwealth, except that as to malt or brewed beverages sold to public service licensees, the public service licensees, and not the manufacturer, shall report and pay the tax on all malt or brewed beverages sold by them within the Commonwealth.

Section 2005. Assessment by Department.—(a) If any person shall fail to pay any tax imposed by this article for which he is liable, the department is hereby authorized and empowered to make an assessment of additional tax due by such person, based upon any information within its possession, or that shall come into its possession.

(b) Promptly after the date of such assessment, the department shall send by registered mail a copy of the assessment to the person against whom it was made. Within ninety days after the date upon which the copy of any such assessment was mailed, such person may file with the department a petition for reassessment of such taxes. Every petition for reassessment shall state specifically the reasons which the petitioner believes entitle him to such reassessment, and it shall be supported by affidavit that it is not made for the purpose of delay, and that the facts set forth therein are true. It shall be the duty of the department, within six months after the date of any assessment, to dispose of any petition for reassessment. Notice of the action taken upon any petition for reassessment shall be given to the petitioner promptly after the date of reassessment by the department.

(c) Within sixty days after the date of mailing of notice by the department of the action taken on any petition for reassessment filed with it, the person against whom such assessment was made, may, by petition, request

the Board of Finance and Revenue to review such action. Every petition for review filed hereunder shall state specifically the reason upon which the petitioner relies, or shall incorporate by reference the petition for reassessment in which such reasons shall have been stated. The petition shall be supported by affidavit that it is not made for the purpose of delay, and that the facts therein set forth are true. If the petitioner be a corporation, joint-stock association or limited partnership, the affidavit must be made by one of the principal officers thereof. A petition for review may be amended by the petitioner at any time prior to the hearing, as hereinafter provided. The Board of Finance and Revenue shall act finally in disposition of such petitions filed with it within six months after they have been received, and, in the event of the failure of said board to dispose of any such petition within six months, the action taken by the department upon the petition for reassessment shall be deemed sustained. The Board of Finance and Revenue may sustain the action taken on the petition for reassessment, or it may reassess the tax due upon such basis as it shall deem according to law and equity. Notice of the action of the Board of Finance and Revenue shall be given by mail, or otherwise, to the department and to the petitioner.

(d) In all cases of petitions for reassessment, review or appeal, the burden of proof shall be upon the petitioner or appellant, as the case may be.

(e) Whenever any assessment of additional tax is not paid within ninety days after the date of the assessment, if no petition for reassessment has been filed, or within sixty days from the date of reassessment, if no petition for review has been filed, or within sixty days from the date of the decision of the Board of Finance and Revenue upon a petition for review, or the expiration of the board's time for acting upon such petition, if no appeal has been made, and in all cases of judicial sales, receiverships, assignments or bankruptcies, the department may call upon the Office of Attorney General to collect such assessment. In such event, in a proceeding for the collection of such taxes, the person against whom they were assessed shall not be permitted to set up any ground of defense that might have been determined by the department, the Board of Finance and Revenue or the courts. The department may also certify to the Liquor Control Board, for such action as the board may deem proper, the fact that any person has failed to pay or duly appeal from such assessment of additional tax. The department may also provide, adopt, promulgate and enforce such rules and regulations, as may be appropriate, to prevent further shipment or transportation of malt or brewed beverages into this Commonwealth by any person against whom such unpaid assessment shall have been made.

Section 2006. Bond or Surety Required.—(a) No malt or brewed beverages shall be sold in or imported into the Commonwealth until and unless the manufacturer of such malt or brewed beverage has on file with the department and in full force and effect an approved bond, duly executed, payable to the Commonwealth, together with a warrant of attorney to confess judgment in a sum equal to the amount of his highest two-month average tax liability during the last year prior to the time of giving bond, but in no event less than five thousand dollars (\$5,000). All such bonds shall be

conditioned upon the payment of the tax imposed by this article and shall have as surety a duly authorized surety company, or shall have deposited therewith, as collateral security, cash or negotiable obligations of the United States of America or the Commonwealth of Pennsylvania in the same amount as herein provided for the penal sum of such bonds.

(b) In all cases where cash or securities in lieu of other surety have been deposited with the department, the depositor shall be permitted to continue the same deposit from year to year, but in no event shall he be permitted to withdraw his deposit during the time he holds a license, or until six months after the expiration of the license, if any, held by him, or while revocation proceedings are pending against such licensee, or while forfeiture proceedings are pending against the depositor's bond.

(c) All cash or securities received by the department in lieu of other surety shall be turned over by the department to the State Treasurer and held by him. The State Treasurer shall repay or return money or securities deposited with him to the respective depositors only on the order of the department.

(d) After notice from the department that such a bond has been forfeited, the State Treasurer shall immediately pay into the General Fund all cash deposited as collateral with such bond, and when securities have been deposited with such a bond, the State Treasurer shall sell at private sale, at not less than the prevailing market price, any such securities so deposited as collateral with any such forfeited bond. The State Treasurer shall thereafter deposit in the General Fund the net amount realized from the sale of such securities, except that if the amount so realized, after deducting proper costs and expenses, is in excess of the penal amount of the bond, such excess shall be paid over by him to the obligor on such forfeited bond.

(e) Every such bond shall be turned over to the Department of Justice to be collected if and when the depositor shall have been held liable for the unlawful nonpayment of taxes imposed by this article.

Section 2007. Monthly Reports.—*(a) For the purpose of verifying the tax payments required by this article, it shall be the duty of every transporter for hire, bailee for hire, warehouseman, distributor and retail licensee, on or before the fifteenth day of the succeeding month, to transmit to the department, on forms supplied by the department, a report, under oath or affirmation, of malt or brewed beverages which were imported and came to rest or storage at his place of business in this Commonwealth during the preceding month, or which were transported from a point outside the Commonwealth to a point within the Commonwealth. Such report shall show the number of barrels, or standard fraction thereof, imported, transported or stored during the period for which it is made, and such further information as the department shall prescribe.*

(b) Each manufacturer, transporter for hire, bailee for hire, warehouseman, distributor and retail licensee shall maintain and keep, for a period of two years, such record or records of malt or brewed beverages manufactured, sold by a manufacturer or distributor, transported from a point outside of the Commonwealth to a point within the Commonwealth,

imported, or substantiating the other information required on his report, together with invoices, bills of lading and other pertinent papers, as may be required by the department.

Section 2008. Department Examinations.—*The department, or any agent appointed in writing by it, is hereby authorized to examine the books, papers, invoices and other records, and the stock of malt or brewed beverages in and upon any premises where the same are placed, stored or sold, and in or on any car, vessel, truck, vehicle or other means of transportation, to verify the payment of or liability for the tax imposed by this article. Any person in possession of such malt or brewed beverages is hereby directed and required to give the Secretary of Revenue, or his duly authorized representative, the means, facilities and opportunities for such examination. The department, or any of its duly authorized agents, is hereby authorized to confiscate any malt or brewed beverages stored, sold or transported in violation of the provisions of this article.*

Section 2009. Refund of Tax.—(a) *In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold or shipped by him to a licensed or regular dealer in such malt or brewed beverages in another state, such manufacturer in this Commonwealth shall be entitled to a refund of the actual amount of tax paid by him, upon condition that the seller in this Commonwealth shall make affidavit that the malt or brewed beverages were so sold and shipped, and that he shall furnish from the purchaser an affidavit, or in cases where the total purchase price is five dollars (\$5) or less, a written certificate in lieu of an affidavit from the purchaser, or, upon satisfactory proof that such affidavit or certificate cannot be obtained, other evidence satisfactory to the department that he has received such malt or brewed beverages for sale or consumption outside this Commonwealth, together with the name and address of the purchaser.*

(b) *In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.*

(c) *In case any malt or brewed beverages upon which the tax has been paid by an out-of-State manufacturer and subsequently sold by an importing distributor to commissaries, ship's stores or voluntary unincorporated organizations of the armed forces personnel operating under regulations promulgated by the Secretary of Defense, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him upon condition that he shall make affidavit and furnish proof that the malt or brewed beverages were so sold.*

(d) *In case any malt or brewed beverages upon which the tax has been paid by a manufacturer shall be rendered unsalable by reason of damage or destruction, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and*

furnish proof satisfactory to the department that the malt beverages were so damaged or destroyed.

(e) In case any malt or brewed beverages upon which the tax has been paid by a manufacturer have been sold and delivered to a public service licensee who is obligated to pay the tax thereon, such manufacturer shall be entitled to a refund of the actual amount of tax paid by him, upon condition that he shall make affidavit and furnish proof satisfactory to the department of such facts.

(f) In each of the above cases the department shall, with the approval of the Board of Finance and Revenue, pay or issue to the manufacturer credits of sufficient value to cover the refund. Such credits may be used by the manufacturer for the payment of any taxes due by him to the Commonwealth. The procedure for refund in any case shall be completed by the Department of Revenue and the Board of Finance and Revenue within sixty days after the proper affidavits have been filed with the department.

Section 2010. Limited Tax Credits.—*(a) The General Assembly of the Commonwealth, conscious of the financial pressures facing small brewers in Pennsylvania and the attendant risk of business failure and loss of employment opportunity, declares it public policy that renewal and improvement of small brewers be encouraged and assisted by a limited tax subsidy to be granted during the period set forth in this section.*

(b) As used in this section:

“Amounts paid.” The phrase means (i) amounts actually paid, or (ii) at the taxpayer’s election, amounts promised to be paid under firm purchase contracts actually executed during any calendar year falling within the effective period of this section: Provided, however, That there shall be no duplication of “amounts paid” under this definition.

“Effective period.” The period from January 1, 1974, to December 31, 1993, inclusive.

“Qualifying capital expenditures.” Amounts paid by a taxpayer during the effective period of this section for the purchase of items of plant, machinery or equipment for use by the taxpayer within this Commonwealth in the manufacture and sale of malt or brewed beverages: Provided, however, That the total amount of qualifying capital expenditures made by a taxpayer within a single calendar year shall not exceed two hundred thousand dollars (\$200,000).

“Secretary.” The Secretary of Revenue of the Commonwealth of Pennsylvania where not otherwise qualified.

“Taxpayer.” A manufacturer of malt or brewed beverages claiming a tax credit or credits under this section and having an annual production of malt or brewed beverages that does not exceed three hundred thousand (300,000) barrels.

(c) A tax credit or credits shall be allowed for each calendar year to a taxpayer, as hereinafter provided, not to exceed in total amount the amount of qualifying capital expenditures made by the taxpayer and certified by the secretary.

(d) A taxpayer desiring to claim a tax credit or credits under this section shall, in accordance with regulations promulgated by the secretary, report annually to the secretary the nature, amounts and dates of qualifying capital expenditures made by him and such other information as the secretary shall require. If satisfied as to the correctness of such a report, the secretary shall issue to the taxpayer a certificate establishing the amount of qualifying capital expenditures made by the taxpayer and included within said report. The taxpayer shall also provide to the secretary the number of employes, total production of malt or brewed beverages and the amount of capital expenditures made by the taxpayer at each location operated by the taxpayer or a parent corporation, subsidiary, joint venture or affiliate. Also, the taxpayer shall notify the secretary of any contract for production held with another manufacturer. The secretary shall file a report annually with the Chief Clerk of the House of Representatives and with the Secretary of the Senate outlining the employment, production, expenditures and tax credits authorized under this section.

(e) Upon receipt from a taxpayer of a certificate from the secretary issued under subsection (c), the Secretary of Revenue shall grant a tax credit or credits in the amount certified against any tax then due or thereafter becoming due from the taxpayer under this article. No credit shall be allowed against any tax due for any taxable period ending after December 31, 1994.

Section 2011. Unlawful Transportation Activities.—It shall be unlawful for any person to transport into the Commonwealth, taxable malt or brewed beverages in containers on which the tax is not paid or provisions for the payment of the tax are not made pursuant to the provisions of this article. The transportation of malt or brewed beverages in violation of this section shall be a misdemeanor, and, upon conviction in a summary proceeding before a district magistrate, such person shall be fined ten dollars (\$10) for each container so transported, and, in default of payment, shall undergo imprisonment for not more than five days for each container so transported. Transportation into Pennsylvania of malt or brewed beverages in containers other than in the manner prescribed by the regulations of the department shall be prima facie evidence of violation of this section.

Section 2012. Other Unlawful Activities.—Any person who shall fail, neglect or refuse to comply with or shall violate any provision of this article, for which violation no specific penalty is provided, or any of the rules and regulations prescribed, adopted and promulgated by the department under the provisions of this article, or who shall refuse to permit the department, or any agent appointed by it in writing, to examine his books, papers, invoices and other records, his stock of malt or brewed beverages in and upon any premises where the same are prepared, stored and sold, in or on any car, vessel, truck, vehicle or other means of transportation, and his equipment pertaining to the manufacture, transportation, storage or sale of malt or brewed beverages taxable under this article, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine of not less than one hundred dollars (\$100) or more than five hundred dollars (\$500), or to suffer imprisonment of not more than six months, or both, in the discretion of the court.

Section 2013. Enforcement and Regulations.—(a) *The department is hereby charged with the enforcement of the provisions of this article and is hereby authorized and empowered to prescribe, adopt, promulgate and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this article and the collection of taxes, penalties and interest imposed by this article.*

(b) *The department is hereby authorized and directed to prescribe, adopt, promulgate and enforce rules and regulations relating to the transportation of malt or brewed beverages through this Commonwealth and from points outside of this Commonwealth to points within this Commonwealth, and to prescribe, adopt, promulgate and enforce rules and regulations reciprocal to those of, or laws of, any other state or territory affecting the transportation of malt or brewed beverages manufactured in Pennsylvania.*

(c) *The department shall promulgate rules and regulations to relieve manufacturers from paying the tax on such goods as are sold and shipped to points outside this Commonwealth, or as are sold in other tax-exempt transactions.*

Section 2014. Deposit of Proceeds.—*All taxes, fines, penalties and interest received, collected or accruing under the provisions of this article shall be paid into the general fund of the State Treasury by and through the department.*

Section 2015. Severability.—*The provisions of this article are severable, and, if any of its provisions shall be held to be unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this article. It is hereby declared to be the legislative intent that this article would have been adopted had such unconstitutional provisions not been included herein.*

Section 2016. Legislative Intent.—*In enacting this article it is the intent of the General Assembly to transfer the former provisions of the act of May 5, 1933 (P.L.284, No.104), known as the "Malt Beverage Tax Law," to the "Tax Reform Code of 1971" and, except for changes in section 2010 relating to tax credits, to make that codification without effecting a change in substantive law, and the article shall be interpreted and construed to effectuate this intent.*

Section 4. The act of May 5, 1933 (P.L.284, No.104), known as the Malt Beverage Tax Law, is repealed.

Section 5. Section 1 of this act shall be retroactive to and apply to taxable years beginning on or after January 1, 1986.

Section 6. Section 2 of this act shall apply to all individuals whose taxable years begin on or after the effective date of this act.

Section 7. Section 3 (section 2010) of this act shall be retroactive to December 31, 1988.

Section 8. This act shall take effect immediately.

APPROVED—The 22nd day of December, A. D. 1989.

ROBERT P. CASEY