

sources within the Commonwealth for the calendar years one thousand nine hundred fifty-one, 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 and one thousand nine hundred fifty-seven, or for the fiscal years ending in the calendar years 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].

Section 2. This reenacting and amending act shall take effect immediately.

APPROVED—The 30th day of April, A. D. 1957.

GEORGE M. LEADER

No. 39

AN ACT

Reenacting and 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, for a limited period of time, 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 appeals 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," imposing the tax permanently, clarifying the provisions relating to tangible property fraction, and reports of change, and amending the definition of net income.

Corporate Net
Income Tax Act.

Title and all
sections of act
of May 16, 1935,
P. L. 208, re-
enacted and
amended Sep-
tember 27, 1955,
P. L. 609, and
the act amended
March 6, 1956,
P. L. 1247, re-
enacted and
amended.

Title.

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

Section 1. The title and all the sections of the act of May 16, 1935 (P. L. 208), known as the "Corporate Net Income Tax Act," reenacted and amended September 27, 1955 (P. L. 609), and the act amended March 6, 1956 (P. L. 1247), are reenacted and amended to read:

An Act

To provide revenue for State purposes by imposing an excise tax [, for a limited period of time,] 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, cor-

porations, joint-stock associations, limited partnerships, State, and county officers, boards and departments; [making an appropriation;] and providing penalties.

Section 1. Short Title.—Be it enacted, &c., That this act shall be known and may be cited as the “Corporate Net Income Tax Act.”

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.

“Corporation.” A corporation having capital stock, joint-stock association, or limited partnership either organized under the laws of this Commonwealth, the United States, or any other state, territory, or foreign country, or dependency, and 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. The word “corporation” shall not include building and loan associations, banks, bank and trust companies, national banks, savings institutions, trust companies, title insurance companies, beneficial life and limited life insurance companies, mutual fire, mutual casualty and mutual life insurance companies, and foreign stock companies registered in this Commonwealth and therein engaged in doing business as life, fire and casualty insurance companies, and surety companies.

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

“Net Income.” 1. In case the entire business of the corporation is transacted within this Commonwealth,

(a) For any taxable year which begins before the first day of January, one thousand nine hundred fifty-four, or ends before the sixteenth day of August, one thousand nine hundred fifty-four, except as hereinafter provided in the case of stock life insurance companies, net 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 net 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 except as hereinafter otherwise provided additional deductions shall be allowed from net income on account

of any Federal income or excess profits taxes paid after deducting therefrom an amount equivalent to any post-war refunds applicable to any such taxes during such calendar or fiscal year for the preceding calendar or fiscal year, or accrued during such calendar or fiscal year for such year, as the case may be, and on account of any dividends received from any other corporation: And provided further, That in the case of a corporation participating in the filing of consolidated Federal returns the additional deduction allowed from net income on account of any Federal income or excess profits taxes paid or accrued shall be an amount which bears the same ratio to the total Federal income or excess profits taxes of the group after deducting therefrom an amount equivalent to any post-war refunds applicable to any such taxes as the net income of the corporation computed without a deduction for such Federal taxes bears to the sum of the net incomes of the several members of the group computed without a deduction for such Federal taxes: And provided further, That on reports filed for the calendar year one thousand nine hundred forty-three for any fiscal year beginning in such calendar year, or any calendar or fiscal year thereafter no deduction shall be allowed for any Federal income or excess profits taxes whatsoever, except the declared value excess profits tax: And provided further, That on reports filed for the calendar year one thousand nine hundred forty-six or for any fiscal year beginning in such calendar year, or any calendar or fiscal year thereafter, no deduction shall be allowed for net operating losses sustained by the corporation during any other fiscal or calendar year, nor shall any net operating loss sustained by the corporation during the calendar year one thousand nine hundred forty-six, or during any fiscal year beginning in such calendar year, or in any calendar or fiscal year thereafter, be allowed as a deduction for any prior calendar or fiscal year: And provided further, That in the case of stock life insurance companies "net income" shall be the adjusted normal tax net 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 policyholders out of net income.

(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 returns had been made to the Federal Government for [the current and prior taxable] *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 additional deductions shall be allowed from taxable income on account of 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: 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 hundred 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:

(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 to this Commonwealth.

(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. *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.*

(2) Of one-third, such portion shall be attributed to business carried on within 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 business carried on within 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 business assignable to this Commonwealth as hereinafter provided, and whose denominator is the amount of the taxpayer's gross receipts from all its business. 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 business 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 years as represent the wages, salaries, commissions, or other compensation of 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 business assignable to this Commonwealth shall be, (1) the amount of its gross receipts for the taxable year except those negotiated or effected 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 dividends, (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 business 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 cost 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.

Where a corporation in any tax year beginning on or after the first day of January, one thousand nine hun-

dred fifty-six, engages in a separate business outside of Pennsylvania, or owns property having a situs outside of Pennsylvania, which business or property bears no relation to the exercise of the Pennsylvania franchise, the department, with the approval of the Auditor General, may determine the base for the tax imposed by this act for the tax year by excluding from the net income of such corporation as returned to and ascertained by the Federal Government, the net income from the business or property which bears no relation to the exercise of the Pennsylvania franchise. The deduction allowed by this section for dividends received from any other corporation shall be limited to those dividends which remain in the net income after the exclusion hereinbefore authorized in this paragraph. The net income which remains, after the exclusion and deductions authorized in this paragraph, shall be subject to allocations and apportionments as provided in this section using only those factors which pertain to that portion of the net income being allocated and apportioned.

3. In the case the entire business of any 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 shall be attributed to business transacted within this Commonwealth, by multiplying such net income by a fraction, of which the numerator is the gross premiums received from business transacted within the Commonwealth, as hereinafter defined, and of which the denominator is the amount of the gross premiums received from all its business. "Gross Premiums" shall mean the amount of dues, fees, and premiums stated in the policy contracts, and shall include gross premiums of every character and description received during the taxable year from all underwriting activities, whether said premiums were received in money or in the form of notes, credits, or any other substitute for money, less the following deductions:

(a) All premiums returned on policies cancelled or not taken.

(b) In the case of stock companies with participating features, an additional deduction for that portion of the premiums returned to the policyholders.

(c) In the case of life insurance companies, an additional deduction for dividends declared and actually used by policyholders in payment of renewal premiums.

"Gross premiums received from business transacted in the Commonwealth" shall mean gross premiums received

from policies and annuities written on property or risks located or resident in this Commonwealth, whether such premiums were collected in this Commonwealth or elsewhere.

“Person.” Every natural person, association or corporation. Whenever used in any clause prescribing and imposing a fine or imprisonment, or both, the term “person,” as applied to associations, shall mean the partners or members thereof, and as applied to corporations the officers thereof.

The singular shall include the plural, and the masculine shall include the feminine and neuter.

Section 3. 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 six per centum per annum upon each dollar of net income of such corporation received by, and accruing to, such corporation during the calendar year one thousand nine hundred thirty-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 six per centum, shall be levied, collected, and paid upon all net income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year one thousand nine hundred thirty-five and ending in the calendar year one thousand nine hundred thirty-six, a similar tax at the rate of ten per centum per annum upon each dollar of the net income of such corporation received by, and accruing to, such corporation during the calendar year one thousand nine hundred thirty-six, 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 ten per centum, shall be levied, collected, and paid upon all net income received by, and accruing to, such corporation during the fiscal year commencing in the calendar year one thousand nine hundred thirty-six and ending in the calendar year one thousand nine hundred thirty-seven, and a similar tax at the rate of seven per centum per annum upon each dollar of the net income of such corporation during the calendar years one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, and one thousand nine

hundred forty-two, except when 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 seven per centum shall be levied, collected, and paid upon all net income received by, and accruing to, such corporation during the fiscal years commencing in the calendar years one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, and one thousand nine hundred forty-two, and a similar tax at the rate of four per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, and one thousand nine hundred fifty, 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 four per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during the fiscal years commencing in the calendar years one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, and one thousand nine hundred fifty; and a similar tax at the rate of five per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred fifty-one, one thousand nine hundred fifty-two, 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 all 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, one thousand nine hundred fifty-three, one thousand nine hundred fifty-four, and one thousand nine hundred fifty-five, and a similar tax at the rate of six per centum per

annum upon each dollar of the net income of such corporation received by and accruing to such corporation during the calendar years one thousand nine hundred fifty-six, [and] one thousand nine hundred fifty-seven, *one thousand nine hundred fifty-eight and one thousand nine hundred fifty-nine*, 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 six per centum shall be levied, collected and paid upon all net income received by and accruing to such corporation during the fiscal years commencing in the calendar year one thousand nine hundred fifty-six, [and] one thousand nine hundred fifty-seven, *one thousand nine hundred fifty-eight, and one thousand nine hundred fifty-nine*, and a similar tax at the rate of five per centum per annum upon each dollar of the net income of such corporation received by and accruing to such corporation during each calendar year subsequent to one thousand nine hundred fifty-nine, 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 all net income received by and accruing to such corporation during each fiscal year commencing during each calendar year subsequent to one thousand nine hundred fifty-nine: And provided further, That in the case of stock life insurance companies, the rate shall be one-half of one per centum per annum on each dollar of the net income of such corporations received by and accruing to such corporations during the calendar years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four, except where such 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 the rate shall be one-half of one per centum per annum on net income received by and accruing to such corporations during the fiscal years commencing in the calendar years one thousand nine hundred fifty-three and one thousand nine hundred fifty-four.

The tax hereby imposed shall be in addition to all taxes now imposed on any corporation under the provision of existing laws.

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 thirty-six, one

thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, 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, *and each year thereafter*, 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 portions 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, *and each taxable year thereafter*, it shall be the duty of every corporation liable to pay tax under this act, on or before the 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, *and each year thereafter*, 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, *and each taxable year thereafter except the taxable years one thousand nine hundred fifty-six, one thousand nine hundred fifty-seven, one thousand nine hundred fifty-eight, and one thousand nine hundred fifty-nine*, 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, *one thousand nine hundred fifty-eight and one thousand nine hundred fifty-nine*, 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, 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 corporation 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 5. Consolidated Reports.—The department shall not permit any corporation owning or controlling, directly or indirectly, any of the voting capital stock of another corporation or of other corporations, subject to the provisions of this act, to make a consolidated report, showing the combined net income.

Section 6. Extension of Time to File Reports.—The department may, upon application made to it, in such form as it shall prescribe, on or prior to the last day for filing any annual report, and upon proper cause shown, grant to the corporation, required to file such report, an extension of not more than sixty (60) days within which such report may be filed, and in case the Federal income tax authorities at any time grant a longer extension of time for filing such reports with the Federal Government, the department may grant an additional extension of time for filing the annual report under this act of not more than thirty (30) days after the termination of the Federal extension, but the amount of tax due shall, in such cases, nevertheless, be subject to interest from the due dates and at the rates fixed by this act.

Section 7. Changes Made by Federal Government.—

(a) If the amount of the net income, as returned by any corporation to the Federal Government, is finally changed or corrected by the Commissioner of Internal Revenue or by any other agency or court of the United States, such corporation, within thirty (30) days after the receipt of such final change or correction, shall make a corrected report, under oath or affirmation, to the department showing such finally changed or corrected net income, upon which the tax is required to be paid to the United States. In case a corporation fails to file a report of such correction, which results in an increase in net income within the time prescribed, there shall be added to the tax, a penalty of five dollars (\$5.00) for every day during which such corporation is in default, but the department may abate any such penalty in whole or in part.

(b) If, as a result of such final change or correction, there should be any change made in the amount of the net income of any corporation upon which tax is imposed

by this act, the department shall have the power, and its duty shall be to resettle such taxes. Whenever a resettlement shall have been made hereunder, the department shall resettle the account according to law, and shall credit or charge, as the case may be, the amount resulting from such resettlement upon the current accounts of the corporation with which it is made. The resettlement shall be subject to audit and approval by the Department of the Auditor General, as in the case of original settlements, and in case of the failure of the two departments to agree, the resettlement shall be submitted to the Board of Finance and Revenue, as in the case of original settlements.

(c) Where a report of change, correction, or redetermination of Federal income, or Federal tax, has been filed after a petition for review, or an appeal has been taken, such report shall be deemed a part of the original annual report upon petition of the taxpayer at any subsequent proceeding as though it had been filed with such original report, and no separate petition for review or appeal from the resettlement resulting from such report of change, correction, or redetermination shall be necessary.

(d) The provisions of this section shall not be construed so as to permit a resettlement based upon the allowance of any deduction on account of net operating losses, sustained in other fiscal or calendar years, that are not allowed as deductions under the definition of "Net Income," as contained in section two of this act.

(e) The provisions of this section shall apply to every corporation which was doing business in Pennsylvania in the year for which the Federal income has been changed, irrespective of whether or not such corporation has thereafter merged, consolidated, withdrawn or dissolved. Any clearance certificate issued by the department shall be conditioned upon the requirement that in the event of a change in Federal income for any year for which taxes have been paid to the Commonwealth, the corporation or its successor or its officers or its directors shall file with the department a report of change and pay any additional State tax resulting therefrom.

Section 8. Settlement and Resettlement.—(a) All taxes due under this act shall be settled by the department, and such settlement shall be subject to audit and approval by the Department of the Auditor General, and shall, so far as possible, be made so that notice thereof may reach the taxpayer before the end of a year after the tax report was required to be made.

(b) Promptly after the date of any such settlement, the department shall send, by mail or otherwise, a copy thereof to such corporation. The tax imposed by this act shall be settled, resettled, and otherwise imposed and adjusted in the same manner, within the same periods of time, and right of resettlement, review, appeal, and refund, as provided by law in the case of capital stock and franchise taxes imposed upon corporations.

(c) If, within a period of two years after the date of any settlement, the department is not satisfied with such settlement, or if at any time the net income as returned by any corporation to the Federal Government is finally changed or corrected by the Commissioner of Internal Revenue or by any other agency or court of the United States with the result that tax, in addition to the amount paid, is due under this act, the department is hereby authorized and empowered to make a resettlement of the tax due by such corporation, based upon the facts contained in the report, or upon any information within its possession or that shall come into its possession.

Whenever a resettlement shall have been made hereunder, the department shall resettle the account according to law and shall credit or charge, as the case may be, the amount resulting from such resettlement upon the current accounts of the corporation with which it is made.

The resettlement shall be subject to audit and approval by the Department of the Auditor General as in the case of original settlement, and in case of the failure of the two departments to agree, the resettlement shall be submitted to the Board of Finance and Revenue as in the case of original settlements.

(d) If any corporation shall neglect or refuse to make any report and payment of tax required by this act, the department shall estimate the tax due by such corporation and subject to audit and approval by the Department of the Auditor General, settle the amount due by it for taxes, penalties, and interest thereon as prescribed herein, from which settlement there shall be no right of review or appeal, but the department, with the approval of the Department of the Auditor General, may require a report to be filed, and thereupon make a settlement based upon such report and cancel the estimated settlement.

Section 9. Enforcement; Rules and Regulations; Inquisitorial Powers of the Department.—(a) The department is hereby charged with the enforcement of the provisions of this act, and is hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations, not inconsistent with this act,

relating to any matter or thing pertaining to the administration and enforcement of the provisions of this act, and the collection of taxes, penalties, and interest imposed by this act. The department is hereby required to have such rules and regulations, promulgated and adopted, printed and shall distribute the same to any person upon request.

(b) The department, or any agent authorized in writing by it, is hereby authorized to examine the books, papers, and records, and to investigate the character of the business of any corporation in order to verify the accuracy of any report made, or if no report was made by such corporation, to ascertain and settle the tax imposed by this act. Every such corporation is hereby directed and required to give to the department, or its duly authorized agent, the means, facilities, and opportunity for such examinations and investigations, as are hereby provided and authorized. Any information gained by the department, as a result of any returns, investigations, or verifications required to be made by this act, shall be confidential, except for official purposes, and any person divulging such information shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine of not less than one hundred dollars (\$100.00) or more than one thousand dollars (\$1000.00) and costs of prosecution, or to undergo imprisonment for not more than six (6) months, or both, in the discretion of the court.

(c) Whenever any person, acting for or on behalf of the department, shall in good faith institute legal proceedings for any violations of the provisions of this act, and for any reason shall fail to recover costs of record, such costs shall be a charge upon the proper county, as shall such costs in the event defendant is imprisoned for failure to pay fine or costs, or both, and shall be audited and paid as are costs of like character in said county.

(d) The powers, conferred by this act upon the department, relating to the administration or enforcement of this act, shall be in addition to, but not exclusive of, any other powers heretofore or hereafter conferred upon the department by law.

Section 10. Retention of Records by Corporation; Penalty.—Each corporation shall maintain and keep for a period of three (3) years after any report is filed under this act, such record or records of its business within this Commonwealth for the period covered by such report and other pertinent papers, as may be required by the department.

Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and shall, upon conviction thereof, be sentenced to pay a fine not exceeding one thousand dollars (\$1000.00) and costs of prosecution, or to undergo imprisonment for not more than six (6) months, or both, in the discretion of the court.

Section 11. Penalties.—(a) Any person who shall wilfully make a false and fraudulent return of net income made taxable by this act, shall be guilty of wilful and corrupt perjury, and, upon conviction thereof, shall be subject to punishment as provided by law. Such penalty shall be in addition to any other penalties imposed by this act.

(b) Any person, who wilfully fails, neglects, or refuses to make a report or to pay the tax as herein prescribed, or who shall refuse to permit the department to examine the books, papers, and records of any corporation liable to pay tax under this act, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be sentenced to pay a fine not exceeding one thousand dollars (\$1000.00) and costs of prosecution, or to undergo imprisonment not exceeding six (6) months, or both, in the discretion of the court. Such penalty shall be in addition to any other penalties imposed by this act.

Section 12. Constitutional Construction.—The provisions of this act are severable, and if any of its provisions shall be held unconstitutional, the decision of the court shall not affect or impair any of the remaining provisions of this act. It is hereby declared to be the legislative intent that this act would have been adopted had such unconstitutional provisions not been included herein.

Section 13. Effective Date.—This act shall become effective immediately upon its final enactment [, and shall remain in force, only for the imposition and collection of taxes on net income of corporations for the calendar years one thousand nine hundred thirty-five, one thousand nine hundred thirty-six, one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, 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 and one thousand nine hundred fifty-seven, or for the fiscal years ending in the calendar years one thousand nine hundred thirty-six, one thousand nine hundred thirty-seven, one thousand nine hundred thirty-eight, one thousand nine hundred thirty-nine, one thousand nine hundred forty, one thousand nine hundred forty-one, one thousand nine hundred forty-two, one thousand nine hundred forty-three, one thousand nine hundred forty-four, one thousand nine hundred forty-five, one thousand nine hundred forty-six, one thousand nine hundred forty-seven, one thousand nine hundred forty-eight, one thousand nine hundred forty-nine, one thousand nine hundred fifty, one thousand nine hundred fifty-one, 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].

Section 2. This reenacting and amending act shall take effect immediately.

Act effective immediately.

APPROVED—The 30th day of April, A. D. 1957.

GEORGE M. LEADER

No. 40

AN ACT

Amending the act of August 21, 1953 (P. L. 1273), entitled "An act to regulate the business of private detectives, investigators and watch, guard, or patrol agencies, and the licensing thereof in each county; providing penalties," permitting former members of the Pennsylvania State Police to apply for licenses.

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

Section 1. Subsection (a) of section 4, act of August 21, 1953 (P. L. 1273), known as "The Private Detective Act of 1953," is amended to read:

Section 4. Application for Licenses.— * * *

(a) If the applicant is a person, the application shall be signed and verified by such person, and if the applicant is a partnership or association, the application shall be signed and verified by each individual composing or intending to compose such partnership or association. The application shall state the full name, age, residence, present and previous occupations, of each person or individual so signing the same, that he is a citizen of the United States, and shall also specify the name of the city, borough, township, or incorporated town, stat-

The Private Detective Act of 1953.

Subsection (a), section 4, act of August 21, 1953, P. L. 1273, amended.