

No. 492

AN ACT

Amending the act of June 1, 1889 (P. L. 420), entitled "A further supplement to an act entitled 'An act to provide revenue by taxation' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," creating an exemption for processing as defined and limited with regard to capital stock tax and franchise tax on domestic and foreign corporations, joint-stock associations, limited partnerships and companies.

Taxation.

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

Section 21, act of June 1, 1889, P. L. 420, amended March 15, 1956, P. L. 1285, further amended.

Section 1. Section 21 of the act of June 1, 1889 (P. L. 420), entitled "A further supplement to an act entitled 'An act to provide revenue by taxation' approved the seventh day of June, Anno Domini one thousand eight hundred and seventy-nine," as amended March 15, 1956 (P. L. 1285), is amended to read:

Tax of five mills on capital stock of certain domestic corporations, etc.

Section 21. (a) That every domestic corporation other than corporations of the first class, non-profit corporations, and cooperative agricultural associations not having capital stock and not conducted for profit, and every joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to, and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a tax at the rate of five mills upon each dollar of the actual value of its whole capital stock of all kinds, including common, special, and preferred, as ascertained in the manner prescribed in said twentieth section: Provided, That the tax of five mills imposed by this subsection on reports filed for the calendar years 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 beginning in the calendar years 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, shall apply to the taxation of capital stock of corporations, limited partnerships and joint-

Proviso.

stock associations organized for manufacturing purposes, excepting companies engaged in the distilling of liquors: Provided further, That after said eleven year period the provisions of this section shall not apply to the taxation of the capital stock of corporations, limited partnerships and joint-stock associations organized for manufacturing or processing purposes, which is invested in and actually and exclusively employed in carrying on manufacturing or processing within the State, excepting companies engaged in the distilling of liquors and such as enjoy and exercise the right of eminent domain, but every corporation, limited partnership or joint-stock association organized for the purpose of manufacturing or processing shall pay the State tax of five mills herein provided, upon such proportion of its capital stock, if any, as may be invested in any property or business not strictly incident or appurtenant to the manufacturing or processing business, in addition to the local taxes assessed upon its property in the district where located, it being the object of this proviso to relieve from State taxation only so much of the capital stock as is invested purely in the manufacturing or processing plant and business.

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(b) Every foreign corporation, joint-stock association, limited partnership, and company whatsoever, from which a report is required under the twentieth section hereof, shall be subject to and pay into the treasury of the Commonwealth annually, through the Department of Revenue, a franchise tax at the rate of five mills upon a taxable value to be determined in the following manner. The actual value of its whole capital stock of all kinds, including common, special, and preferred, shall be ascertained in the manner prescribed in the twentieth section of this act, and shall then be divided into three equal parts.

Tax of five mills on capital stock of foreign corporations, etc.

Actual value of whole capital stock to be ascertained and then be divided into three equal parts.

(1) Of one 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 value of the taxpayer's tangible property not actually and exclusively used in manufacturing or processing, situated within the Commonwealth, and whose denominator is the value of all the taxpayer's tangible property wherever situated.

(2) Of another 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 expenditures of the taxpayer for wages, salaries, commissions, or other compensation to its employes not exclusively engaged in manufacturing or processing in this Commonwealth and assignable to this Commonwealth as hereinafter provided, and whose de-

nominator is the total expenditures of the taxpayer for wages, salaries, commissions, or other compensation to all its employees.

(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 not strictly incident or appurtenant to manufacturing or *processing* in this Commonwealth 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 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.

Taxable value.

The sum of the amounts, determined in accordance with the foregoing three rules, shall be the taxable value. In a case where only two of the foregoing three rules are applicable, the remaining third equal part of the value of the entire capital stock shall be divided into two equal parts, each of which shall be apportioned in accordance with one of the remaining two rules. If only one of the three rules is applicable, that part of the entire capital stock attributed to business carried on within the Commonwealth shall be determined solely by that rule.

Where only two rules applicable.

Where only one rule applies.

Amount assignable to Commonwealth of expenditures of taxpayers for compensation to its employes.

The amount assignable to this Commonwealth of expenditures of the taxpayers for wages, salaries, commissions, or other compensation to its employes, shall be such expenditures for the taxable year 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 taxpayer outside the Commonwealth.

Amount of taxpayer's gross receipts from business assignable to Commonwealth.

The amount of the taxpayer'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 taxpayer by agents or agencies chiefly situated at, connected with, or sent out from premises for the transaction of business maintained by the taxpayer outside the Commonwealth, and except rents 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 taxpayer maintains an office, warehouse, or other place of business in a state other than this Commonwealth for the purpose of reducing its tax under

Maintenance of office outside Commonwealth for purpose of reducing tax.

this subsection, the Department of Revenue shall, in determining the amount of its gross receipts from business assignable to this Commonwealth, include therein the gross receipts attributed by the taxpayer 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 costs 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 contract 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 cost 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 taxpayer for wages, salaries, commissions, or other compensation, or the gross receipts of the taxpayer are found to be situated, incurred, or received without the Commonwealth.

Notwithstanding the foregoing provisions of this subsection (b), the franchise tax of five mills imposed by subsection (b) on reports filed for the calendar years 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, and for fiscal years beginning in the calendar years 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

Construction contracts negotiated or effected in Pennsylvania, but performed outside State.

Construction contracts negotiated or effected outside State, but performed in Pennsylvania.

Where all tangible property and expenditures of a taxpayer are outside State.

Applicability of franchise tax of five mills.

Tax to be computed without certain exclusions.

nine hundred fifty-seven, shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing or processing purposes excepting companies engaged in the distilling of liquors, without excluding from the numerators of the applicable fractions tangible property actually and exclusively used in manufacturing or processing, compensation of employes exclusively engaged in manufacturing, and gross receipts from business strictly incident or appurtenant to manufacturing.

Applicability of subsection after eleven year period.

After said eleven year period the provisions of this subsection shall apply to the taxation of corporations, limited partnerships and joint-stock associations organized for manufacturing or processing purposes.

Definition of "processing" and limitation to certain activities.

(c) *The term processing, as used in this section, shall mean and be limited to the following activities when engaged in as a business enterprise:*

(1) *The cooking or freezing of fruits, vegetables, mushrooms, fish, seafood, meats or poultry, when the person engaged in such business packages such property in sealed containers for wholesale distribution.*

(2) *The scouring, carbonizing, cording, combing, throwing, twisting or winding of natural or synthetic fibers, or the spinning, bleaching, dyeing, printing or finishing of yarns or fabrics, when such activities are performed prior to sale to the ultimate consumer.*

(3) *The electroplating, galvanizing, enameling, anodizing, coloring, finishing, impregnating or heat treating of metals or plastics for sale or in the process of manufacturing.*

(4) *The rolling, drawing or extruding of ferrous and non-ferrous metals.*

(5) *The fabrication for sale of ornamental or structural metal or metal stairs, staircases, gratings, fire escapes or railings (not including fabrication work done at the construction site).*

(6) *The preparation of animal feed or poultry feed for sale.*

(7) *The production, processing and bottling of non-alcoholic beverages for wholesale distribution.*

(8) *The slaughtering and dressing of animals for meat to be sold or to be used in preparing meat products for sale, and the preparation of meat products, including lard, tallow, grease, cooking and inedible oils for wholesale distribution.*

(9) *The operation of a saw mill or planing mill for the production of lumber or lumber products for sale.*

(10) *The milling for sale of flour or meal from grains.*

(11) *The publishing of books, newspapers, magazines or other periodicals, printing and broadcasting radio and television programs by licensed commercial or educational stations.*

(12) *The processing of used lubricating oils.*

[(c)] (d) It shall be the duty of the treasurer or other officers having charge of any such corporation, joint-stock association, or limited partnership, upon which a tax is imposed by this section, to transmit the amount of said tax to the Treasury of the Commonwealth within the time prescribed by law: **Payment of tax.** Provided, That for the purposes of this act interest in limited partnerships or joint-stock associations shall be deemed to be capital stock, and taxable accordingly: **Proviso.** Provided further, That corporations, limited partnerships, and joint-stock associations, liable to a tax under this section, shall not be required to pay any further tax on the mortgages, bonds, and other securities owned by them and in which the whole body of stockholders or members, as such, have the entire equitable interest in remainder; but corporations, limited partnerships, and joint-stock associations, owning or holding such securities as trustees, executors, administrators, guardians, or in any other manner than for the whole body of stockholders or members thereof as sole equitable owners in remainder, shall return and pay the tax imposed by this act upon all securities so owned or held by them, as in the case of individuals: **Further proviso.** Provided further, That the tax of five mills, imposed by this section on reports filed for the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each calendar year thereafter, or for the fiscal years beginning in the calendar years one thousand nine hundred and thirty-five and one thousand nine hundred and thirty-six, and for each fiscal year thereafter, shall apply to the taxation of the capital stock of corporations, limited partnerships, and joint-stock associations, organized for laundering and for the processing and curing of meats, their products and by products, excepting companies engaged in the distilling of liquors: **Further proviso.** Provided further, That in case of fire and marine insurance companies, the tax imposed by this section shall be at the rate of five mills upon each dollar of the actual value of the whole capital stock: **Further proviso.** Provided, That nothing in this act shall be so construed as to apply to building and loan associations chartered by the State of Pennsylvania. **Proviso.**

Effective time.

Section 2. This act shall take effect retroactively, and shall apply to taxes imposed for calendar year 1958 and thereafter or for fiscal years beginning in 1958 and thereafter.

APPROVED—The 23rd day of August, A. D. 1961.

DAVID L. LAWRENCE

No. 493

AN ACT

Amending the act of May 15, 1933 (P. L. 624), entitled, as amended, "An act relating to the business of banking, and to the exercise of fiduciary powers by corporations; providing for the organization of corporations with fiduciary powers, and of banking corporations, with or without fiduciary powers, including the conversion of National banks into State banks, and for the licensing of private bankers and employes' mutual banking associations; defining the rights, powers, duties, liabilities, and immunities of such corporations, of existent corporations authorized to engage in a banking business, with or without fiduciary powers, of private bankers and employes' mutual banking associations, and of the officers, directors, trustees, shareholders, attorneys, and other employes of all such corporations, employes' mutual banking associations or private bankers, or of affiliated corporations, associations, or persons; restricting the exercise of banking powers by any other corporation, association, or person, and of fiduciary powers by any other corporation; conferring powers and imposing duties upon the courts, prothonotaries, recorders of deeds, and certain State departments, commissions, and officers; imposing penalties; and repealing certain acts and parts of acts," authorizing banks and trust companies to purchase shares of capital in certain corporations or associations engaged in financial operations subject to conditions, and further providing for the acquisition in whole or in part of mortgage loans by a bank or bank and trust company.

Banking Code.

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

Section 1010,
act of May 15,
1933, P. L. 624,
amended.

Section 1. Section 1010, act of May 15, 1933 (P. L. 624), known as the "Banking Code," is amended to read:

Section 1010. Power to Invest in Shares of Banks, Corporations or Associations Engaged in Foreign Business.—A bank or a bank and trust company, the unimpaired capital and the unimpaired surplus of which total at least one million dollars, may invest not more than ten per centum of its unimpaired capital, plus ten per centum of its unimpaired surplus, in the shares of capital of one or more corporations or associations, chartered or organized under the laws of the United States or of any state thereof, and principally engaged in interna-