

LEGISLATIVE REFERENCE BUREAU

AMENDMENTS TO HOUSE BILL NO. 377

Sponsor: *BROWNE*

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1 Amend Title, page 1, lines 10 through 25, by striking out "IN
2 SALES AND USE TAX, FURTHER PROVIDING FOR" in line 10, all of
3 lines 11 through 25, and inserting

4 in personal income tax, further providing for classes of income
5 and for special tax provisions for poverty; and, in corporate
6 net income tax, further providing for the definition of "taxable
7 income."

8 Amend Bill, page 2, lines 3 through 30; pages 3 through 33,
9 lines 1 through 30; page 34, lines 1 through 17, by striking out
10 all of said lines on said pages and inserting

11 Section 1. Section 303(a.3) of the act of March 4, 1971
12 (P.L.6, No.2), known as the Tax Reform Code of 1971, added June
13 29, 2002 (P.L.559, No.89), is amended to read:

14 Section 303. Classes of Income.--* * *

15 (a.3) The cost of property commonly referred to as Section
16 179 Property may be treated as a deductible expense only to the
17 extent allowable under the version of section 179 of the
18 Internal Revenue Code in effect at the time the property is
19 placed in service [or under section 179 of the Internal Revenue
20 Code of 1986 (26 U.S.C. § 179), whichever is earlier]. The limit
21 on Section 179 Property which may be treated as deductible shall
22 be fifty thousand dollars (\$50,000). The basis of Section 179
23 Property shall be reduced, but not below zero, for costs treated
24 as a deductible expense. The amount of the reduction shall be
25 the amount deducted on a return and not disallowed, regardless
26 of whether the deduction results in a reduction of income.

27 * * *

28 Section 2. Section 304 of the act, amended December 13, 1991
29 (P.L.373, No.40) and December 23, 2003 (P.L.250, No.46), is
30 amended to read:

31 Section 304. Special Tax Provisions for Poverty.--(a) The
32 General Assembly, in recognition of the powers contained in
33 section 2(b)(ii) of Article VIII of the Constitution of the
34 Commonwealth of Pennsylvania which provides therein for the
35 establishing as a class or classes of subjects of taxation the
36 property or privileges of persons who, because of poverty are
37 determined to be in need of special tax provisions hereby

1 declares as its legislative intent and purpose to implement such
2 power under such constitutional provision by establishing
3 special tax provisions as hereinafter provided in this act.

4 (b) The General Assembly having determined that there are
5 persons within this Commonwealth whose incomes are such that
6 imposition of a tax thereon would deprive them and their
7 dependents of the bare necessities of life and having further
8 determined that poverty is a relative concept inextricably
9 joined with actual income and the number of people dependent
10 upon such income deems it to be a matter of public policy to
11 provide special tax provisions for that class of persons
12 hereinafter designated to relieve their economic burden.

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

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

20 (1) If the poverty income of the claimant during an entire
21 taxable year is [six thousand five hundred dollars (\$6,500) or
22 less, or, in the case of a married claimant, if the joint
23 poverty income of the claimant and the claimant's spouse during
24 an entire taxable year is thirteen thousand dollars (\$13,000) or
25 less] the amount under clause (1.1)(i), the claimant shall be
26 entitled to a refund or forgiveness of any moneys which have
27 been paid over to (or would except for the provisions of this
28 act be payable to) the Commonwealth under the provisions of this
29 article, with an additional income allowance of [nine thousand
30 five hundred dollars (\$9,500)] the amount under clause (1.1)(ii)
31 for each dependent of the claimant. For purposes of this
32 subsection, a claimant shall not be considered to be married if:

33 (i) The claimant and the claimant's spouse file separate
34 returns; and

35 (ii) The claimant and the claimant's spouse live apart at
36 all times during the last six months of the taxable year or are
37 separated pursuant to a written separation agreement.

38 (1.1) (i) The amount of poverty income of a claimant during
39 an entire taxable year under clause (1) shall be as follows:

40 (A) For taxable years ending before January 1, 2008, the
41 amount shall be six thousand five hundred dollars (\$6,500) or
42 less, or, in the case of a married claimant, the amount shall be
43 thirteen thousand dollars (\$13,000) or less.

44 (B) For taxable years ending after December 31, 2007, and
45 before January 1, 2009, the amount shall be seven thousand five
46 hundred dollars (\$7,500) or less, or, in the case of a married
47 claimant, the amount shall be fifteen thousand dollars (\$15,000)
48 or less.

49 (C) For taxable years ending after December 31, 2008, and
50 before January 1, 2010, the amount shall be eight thousand
51 dollars (\$8,000) or less, or, in the case of a married claimant,
52 the amount shall be sixteen thousand dollars (\$16,000) or less.

53 (D) For taxable years ending after December 31, 2009, the
54 amount shall be eight thousand five hundred dollars (\$8,500) or
55 less, or, in the case of a married claimant, the amount shall be
56 seventeen thousand dollars (\$17,000) or less.

57 (ii) The additional income allowance for each dependent of a
58 claimant under clause (1) shall be as follows:

59 (A) For taxable years ending before January 1, 2009, the

1 amount shall be nine thousand five hundred dollars (\$9,500).

2 (B) For taxable years ending after December 31, 2008, and
3 before January 1, 2010, the amount shall be nine thousand seven
4 hundred and fifty dollars (\$9,750).

5 (C) For taxable years ending after December 31, 2009, the
6 amount shall be ten thousand dollars (\$10,000).

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

16 (i) Ninety per cent if not in excess of two hundred fifty
17 dollars (\$250).

18 (ii) Eighty per cent if not in excess of five hundred
19 dollars (\$500).

20 (iii) Seventy per cent if not in excess of seven hundred
21 fifty dollars (\$750).

22 (iv) Sixty per cent if not in excess of one thousand dollars
23 (\$1,000).

24 (v) Fifty per cent if not in excess of one thousand two
25 hundred fifty dollars (\$1,250).

26 (vi) Forty per cent if not in excess of one thousand five
27 hundred dollars (\$1,500).

28 (vii) Thirty per cent if not in excess of one thousand seven
29 hundred fifty dollars (\$1,750).

30 (viii) Twenty per cent if not in excess of two thousand
31 dollars (\$2,000).

32 (ix) Ten per cent if not in excess of two thousand two
33 hundred fifty dollars (\$2,250).

34 (3) If an individual has a taxable year of less than twelve
35 months, the poverty income thereof shall be annualized in such
36 manner as the department may prescribe.

37 Section 3. Section 401(3)2(a)(9) and 4(c) of the act,
38 amended July 12, 2006 (P.L.1137, No.116), are amended to read:

39 Section 401. Definitions.--The following words, terms, and
40 phrases, when used in this article, shall have the meaning
41 ascribed to them in this section, except where the context
42 clearly indicates a different meaning:

43 * * *

44 (3) "Taxable income." * * *

45 2. In case the entire business of any corporation, other
46 than a corporation engaged in doing business as a regulated
47 investment company as defined by the Internal Revenue Code of
48 1986, is not transacted within this Commonwealth, the tax
49 imposed by this article shall be based upon such portion of the
50 taxable income of such corporation for the fiscal or calendar
51 year, as defined in subclause 1 hereof, and may be determined as
52 follows:

53 (a) Division of Income.

54 * * *

55 (9) (A) Except as provided in subparagraph (B):

56 (i) For taxable years beginning before January 1, 2007, all
57 business income shall be apportioned to this State by
58 multiplying the income by a fraction, the numerator of which is
59 the property factor plus the payroll factor plus three times the

1 sales factor and the denominator of which is five.
2 (ii) For taxable years beginning after December 31, 2006,
3 all business income shall be apportioned to this State by
4 multiplying the income by a fraction, the numerator of which is
5 the sum of fifteen times the property factor, fifteen times the
6 payroll factor and seventy times the sales factor and the
7 denominator of which is one hundred.

8 (iii) For taxable years beginning after December 31, 2008,
9 all business income shall be apportioned to this State by
10 multiplying the income by a fraction: the numerator of which is
11 the sum of seven and a half times the property factor, seven and
12 a half times the payroll factor and eighty-five times the sales
13 factor; and the denominator of which is one hundred.

14 (B) For purposes of apportionment of the capital stock -
15 franchise tax as provided in section 602 of Article VI of this
16 act, the apportionment fraction shall be the property factor
17 plus the payroll factor plus the sales factor as the numerator,
18 and the denominator shall be three.

19 * * *

20 4. * * *

21 (c) (1) The net loss deduction shall be the lesser of:

22 (A) (I) For taxable years beginning before January 1, 2007,
23 two million dollars (\$2,000,000);

24 (II) For taxable years beginning after December 31, 2006,
25 the greater of twelve and one-half per cent of taxable income as
26 determined under subclause 1 or, if applicable, subclause 2 or
27 three million dollars (\$3,000,000); [or]

28 (III) For taxable years beginning after December 31, 2008,
29 the greater of twenty per cent of the taxable income as
30 determined under subclause 1 or, if applicable, subclause 2 or
31 five million dollars (\$5,000,000); or

32 (B) The amount of the net loss or losses which may be
33 carried over to the taxable year or taxable income as determined
34 under subclause 1 or, if applicable, subclause 2.

35 (1.1) In no event shall the net loss deduction include more
36 than five hundred thousand dollars (\$500,000), in the aggregate,
37 of net losses from taxable years 1988 through 1994.

38 (2) (A) A net loss for a taxable year may only be carried
39 over pursuant to the following schedule:

Taxable Year	Carryover
1981	1 taxable year
1982	2 taxable years
1983-1987	3 taxable years
1988	2 taxable years plus 1 taxable year starting with the 1995 taxable year
1989	1 taxable year plus 2 taxable years starting with the 1995 taxable year
1990-1993	3 taxable years starting with the 1995 taxable year
1994	1 taxable year
1995-1997	10 taxable years
1998 and thereafter	20 taxable years

58 (B) The earliest net loss shall be carried over to the
59 earliest taxable year to which it may be carried under this

1 schedule. The total net loss deduction allowed in any taxable
2 year shall not exceed:

3 (I) Two million dollars (\$2,000,000) for taxable years
4 beginning before January 1, 2007.

5 (II) The greater of twelve and one-half per cent of the
6 taxable income as determined under subclause 1 or, if
7 applicable, subclause 2 or three million dollars (\$3,000,000)
8 for taxable years beginning after December 31, 2006.

9 (III) The greater of twenty per cent of the taxable income
10 as determined under subclause 1 or, if applicable, subclause 2
11 or five million dollars (\$5,000,000) for taxable years beginning
12 after December 31, 2008.

13 * * *

14 Section 4. The amendment of section 303(a.3) of the act
15 shall apply to property placed in service after December 31,
16 2008.

17 Section 5. This act shall take effect immediately.