
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 162 Session of
2023

INTRODUCED BY R. MACKENZIE, KAUFER, FLOOD, GILLEN, STRUZZI,
ADAMS, GUENST, KAUFFMAN, M. MACKENZIE, MARCELL, E. NELSON,
OWLETT, PICKETT AND RADER, APRIL 24, 2023

REFERRED TO COMMITTEE ON FINANCE, APRIL 24, 2023

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," in gross receipts tax, further providing for
11 imposition of tax.

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

14 Section 1. Section 1101(b), (c), (e), (g) and (h) of the act
15 of March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, are amended to read:

17 Section 1101. Imposition of Tax.--* * *

18 [(b) Electric Light, Waterpower and Hydro-electric
19 Utilities.--Every electric light company, waterpower company and
20 hydro-electric company now or hereafter incorporated or
21 organized by or under any law of this Commonwealth, or now or
22 hereafter organized or incorporated by any other state or by the

1 United States or any foreign government and doing business in
2 this Commonwealth, and every limited partnership, association,
3 joint-stock association, copartnership, person or persons,
4 engaged in electric light and power business, waterpower
5 business and hydro-electric business in this Commonwealth, shall
6 pay to the State Treasurer, through the Department of Revenue, a
7 tax of forty-four mills upon each dollar of the gross receipts
8 of the corporation, company or association, limited partnership,
9 joint-stock association, copartnership, person or persons,
10 received from:

11 (1) the sales of electric energy within this State, except
12 gross receipts derived from the sales for resale of electric
13 energy to persons, partnerships, associations, corporations or
14 political subdivisions subject to the tax imposed by this
15 subsection upon gross receipts derived from such resale; and

16 (2) the sales of electric energy produced in Pennsylvania
17 and made outside of Pennsylvania in a state that has taken
18 action since December 21, 1977 which results in higher costs for
19 electric energy produced in that state and sold in Pennsylvania
20 unless the action that was taken after December 21, 1977 is
21 rescinded according to the following apportionment formula:
22 except for gross receipts derived from sales under clause (1),
23 the gross receipts from all sales of electricity of the producer
24 shall be apportioned to the Commonwealth of Pennsylvania by the
25 ratio of the producer's operating and maintenance expenses in
26 Pennsylvania and depreciation attributable to property in
27 Pennsylvania to the producer's total operating and maintenance
28 expenses and depreciation.]

29 (c) Payment of Tax; Reports.--The said taxes imposed under
30 [subsections (a) and (b)] subsection (a) shall be paid within

1 the time prescribed by law, and for the purpose of ascertaining
2 the amount of the same, it shall be the duty of the treasurer or
3 other proper officer of the said company, copartnership, limited
4 partnership, association, joint-stock association or
5 corporation, or person or persons, to transmit to the Department
6 of Revenue on or before March 15 of each year an annual report,
7 and under oath or affirmation, of the amount of gross receipts
8 of the said companies, copartnerships, corporations,
9 associations, joint-stock associations, limited partnerships,
10 person or persons, derived from all sources, and of gross
11 receipts from business done wholly within this State. [and in
12 the case of electric energy producers that transmit energy to
13 other states referred to in clause (2) of subsection (b), a
14 compilation of the relevant information regarding operating and
15 maintenance expenses and depreciation, during the period of
16 twelve months immediately preceding January 1 of each year.]

17 * * *

18 (e) Time to File Reports.--The time for filing annual
19 reports may be extended, estimated assessments may be made by
20 the Department of Revenue if reports are not filed, and the
21 penalties for failing to file reports and pay the taxes imposed
22 under subsection (a) [and (b)] shall be as prescribed by the
23 laws defining the powers and duties of the Department of
24 Revenue. In any case where the works of any corporation,
25 company, copartnership, association, joint-stock association,
26 limited partnership, person or persons are operated by another
27 corporation, company, copartnership, association, joint-stock
28 association, limited partnership, person or persons, the taxes
29 imposed under [subsections (a) and (b)] subsection (a) shall be
30 apportioned between the corporations, companies, copartnerships,

1 associations, joint-stock associations, limited partnerships,
2 person or persons in accordance with the terms of their
3 respective leases or agreements, but for the payment of the said
4 taxes the Commonwealth shall first look to the corporation,
5 company, copartnership, association, joint-stock association,
6 limited partnership, person or persons operating the works, and
7 upon payment by the said company, corporation, copartnership,
8 association, joint-stock association, limited partnership,
9 person or persons of a tax upon the receipts, as herein
10 provided, derived from the operation thereof, no other
11 corporation, company, copartnership, association, joint-stock
12 association, limited partnership, person or persons shall be
13 held liable for any tax imposed under [subsections (a) and (b)]
14 subsection (a) upon the proportion of said receipts received by
15 said corporation, company, copartnership, association, joint-
16 stock association, limited partnership, person or persons for
17 the use of said works.

18 * * *

19 [(g) Certain Gross Receipts not Taxed.--The tax otherwise
20 imposed pursuant to this section upon gross receipts derived
21 from the sale of electricity shall not however be imposed upon
22 those portions of the gross receipts of an electric light
23 company attributable to the following sources:

24 (1) the net increase in its gross receipts resulting from
25 recovery from its customers of the costs of purchases of
26 additional energy necessitated by the physical or legal
27 inability to operate a nuclear generating facility as a result
28 of an accident or natural disaster causing material damage to
29 that facility or to a similar associated facility located
30 immediately adjacent, whereupon either the damaged facility,

1 another located immediately adjacent, or both, have been removed
2 from the company's rate base for a period exceeding twenty-five
3 months. The Department of Revenue shall request the Public
4 Utility Commission to determine, for each such facility, the net
5 increase in the gross receipts of its electric company owner for
6 the immediate prior twelve-month period. This determination
7 shall reflect the difference between the increased gross
8 receipts of the company attributable to recovery of costs for
9 purchase of replacement energy which otherwise would have been
10 normally generated by the inoperative facility in such twelve-
11 month period less the reduction in the company's gross receipts
12 attributable to removal of the capital costs of the facility
13 from the company's rate base and less the reduction in the
14 company's gross receipts attributable to reduction in operating
15 expenses that would have otherwise been incurred by normal
16 operation of the facility in such twelve-month period. The
17 Public Utility Commission shall, immediately after supplying the
18 requested data, proceed to make the appropriate revision in the
19 State tax adjustment charge of the electric company;

20 (2) recovery from its customers of costs incurred in
21 connection with the clean-up and decontamination of a nuclear
22 generating facility which has experienced a major accident or
23 natural disaster and had been removed from the electric light
24 company's rate base; and

25 (3) recovery from its customers of costs for the
26 amortization of investments in a nuclear generating facility
27 whose removal from the rate base of an electric light company
28 has been approved by the Public Utility Commission on account of
29 a major accident or natural disaster.]

30 (h) Benefits to Consumer.--For purposes of this article, the

1 reduction in the taxes imposed under [subsections (a) and (b)]
2 subsection (a) shall derive to the benefit of the consumer
3 purchasing services from said utilities. Said benefit shall be
4 provided in the form of a reduction in the State tax surcharge.
5 Failure to pass through the reduction to the consumer shall
6 subject the public utility to a civil penalty of at least one
7 thousand dollars (\$1,000), but not more than five thousand
8 dollars (\$5,000), and such additional relief as the court may
9 deem appropriate.

10 * * *

11 Section 2. The amendment of section 1101(b), (c), (e), (g)
12 and (h) of the act shall apply to gross receipts received on or
13 after January 1 of the first taxable year commencing after the
14 effective date of this section and each taxable year thereafter.

15 Section 3. This act shall take effect immediately.