

**Commonwealth of Pennsylvania**  
**Department of Revenue**



*The Tax  
Compendium*

**JUNE 2007**

**Edward G. Rendell**  
GOVERNOR

**Thomas W. Wolf**  
SECRETARY OF REVENUE



COMMONWEALTH OF PENNSYLVANIA  
DEPARTMENT OF REVENUE  
Strawberry Square  
Harrisburg, PA 17128-1100

THE SECRETARY

(717) 783-3680

June 2007

Taxpayers of Pennsylvania:

On behalf of the Pennsylvania Department of Revenue, I am pleased to present a new edition of the Pennsylvania Tax Compendium.

The Department of Revenue administers and enforces the state tax codes, while performing fiscal analysis and budget planning for the Governor. In fiscal year 2005-06, the Department collected \$25.9 billion in revenue for the General Fund, Motor License Fund and various special funds.

The Tax Compendium describes the basis, rate and history of Pennsylvania taxes and is intended for research and background information. It is a general guide to Pennsylvania taxes, not a tax manual. The Statistical Supplement for the Tax Compendium contains tax collections data, including historical data for comparison purposes. Both reports are available on the Department's Web site at [www.revenue.state.pa.us](http://www.revenue.state.pa.us), under Reports and Research.

I encourage you to visit the Revenue Department's Web site to explore the many e-services offered. Taxpayers can file returns and reports, make payments, register businesses, ask a question and file appeals electronically for Pennsylvania personal income and business taxes. You can also stay on top of recent developments in the Department by visiting the Web site and by signing-up to receive the *Pennsylvania Tax Update*, a bi-monthly electronic newsletter.

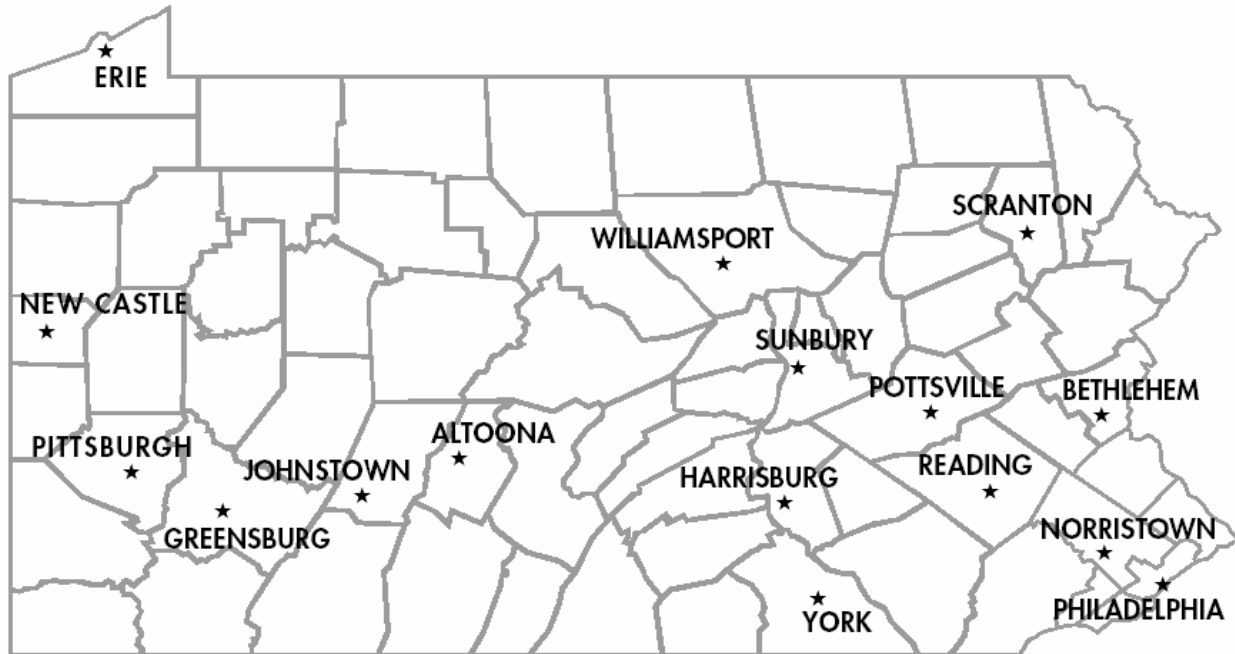
Sincerely,

A handwritten signature in black ink, appearing to read "T. Wolf", written over a light-colored rectangular background.

Thomas W. Wolf  
Secretary of Revenue

## PA DEPARTMENT OF REVENUE DISTRICT OFFICES

NOTE: A district office's location may change. Please call to verify the address before visiting a district office. Office hours are 8:30 a.m. to 5 p.m.



**Altoona**  
Ste. 204  
Cricket Field Plz.  
615 Howard Ave.  
Altoona, PA 16601-4867  
(814) 946-7310

**Bethlehem**  
44 E. Broad St.  
Bethlehem, PA 18018-5998  
(610) 861-2000

**Erie**  
448 W. 11th St.  
Erie, PA 16501-1501  
(814) 871-4491

**Greensburg**  
Second Fl.  
15 W. Third St.  
Greensburg, PA 15601-3003  
(724) 832-5386

**Harrisburg**  
Lobby  
Strawberry Sq.  
Harrisburg, PA 17128-0101  
(717) 783-1405

**Johnstown**  
425 Main St.  
Johnstown, PA 15901-1808  
(814) 533-2495

**New Castle**

103 S. Mercer St.  
New Castle, PA 16101-3849  
(724) 656-3203

**Norristown**  
Second Fl.  
Stoney Creek Office Center  
151 W. Marshall St.  
Norristown, PA 19401-4739  
(610) 270-1780

**Philadelphia**  
Rm. 201  
State Office Bldg.  
1400 W. Spring Garden St.  
Philadelphia, PA 19130-4007  
(215) 560-2056

**Pittsburgh**  
Rm. 104  
State Office Bldg.  
300 Liberty Ave.  
Pittsburgh, PA 15222-1210  
(412) 565-7540

**Pottsville**  
115 S. Centre St.  
Pottsville, PA 17901-3047  
(570) 621-3175

**Reading**  
Ste. 239  
625 Cherry St.  
Reading, PA 19602-1186  
(610) 378-4401

**Scranton**  
Rm. 305  
Samters Bldg.  
101 Penn Ave.  
Scranton, PA 18503-1970  
(570) 963-4585

**Sunbury**  
535 Chestnut St.  
Sunbury, PA 17801-2834  
(570) 988-5520

**Williamsport**  
440 Little League Blvd.  
Williamsport, PA 17701-5055  
(570) 327-3475

**York**  
140 N. Duke St.  
York, PA 17401-1110  
(717) 845-6661

## TAXPAYER SERVICES AND ASSISTANCE

### ONLINE SERVICES

#### Revenue e-Services Center at [www.revenue.state.pa.us](http://www.revenue.state.pa.us)

- This is the location for all of the Department's electronic filing services. Through this Web site you can: file returns using [pa.direct.file](#); request an extension of time to file; make payments, including estimated payments; check the status of your return and refund; update your address; calculate penalty and interest; pay tax due by Electronic Funds Withdrawal for PA Personal Income Taxes; and find a link to pay by credit card.

#### Online Customer Service Center at [www.revenue.state.pa.us](http://www.revenue.state.pa.us)

- If you have Internet access, you can find answers to commonly asked questions by using the Department's Online Customer Service Center. Use the *Find an Answer* feature to search the database of commonly asked questions. If you do not find your answer in this area, you can submit your question to a customer service representative.

#### PA Personal Income Tax Guide (PA PIT Guide)

- The Department's PA PIT GUIDE has information that explains Pennsylvania's income tax and its differences from federal rules. You can only access the PA PIT Guide at the Department's Web site. You can open the entire PA PIT Guide, or a specific chapter, and use the search features of Adobe Acrobat ReaderTM. The Department offers a link for free download of the Adobe Acrobat ReaderTM.

### TELEPHONE SERVICES

#### Taxpayer Service and Information Center

- Call (717) 787-8201 for PA Personal Income Tax help during normal business hours, 7:30 a.m. to 5:00 p.m.

**Automated 24-hour FACT & Information Line**  
1-888-PATAxes (728-2937). Touch-tone telephone service is required. This service provides:

- Answers to some of the most commonly asked tax questions.
- The balance of your PA estimated tax account.
- The status of a filed PA Personal Income Tax return or Property Tax/Rent Rebate claim.

### FORMS ORDERING SERVICES

To obtain Pennsylvania tax forms and schedules, visit a Revenue district office, your public library, post office, or use one of the following services:

#### Internet: [www.revenue.state.pa.us](http://www.revenue.state.pa.us)

Pennsylvania income tax forms, schedules, brochures, electronic filing options and other information are available

on the Department's Web site. If you do not have Internet access, visit your local public library.

#### E-mail Requests for Forms: [ra-forms@state.pa.us](mailto:ra-forms@state.pa.us)

#### Automated 24-hour FACT & Information Line

(including most forms by fax):

1-888-PATAxes (728-2937). In the Harrisburg area, call 717-772-9739. Touch-tone telephone service is required.

#### Automated 24-hour Forms Ordering Message Service:

1-800-362-2050. This line serves taxpayers without touch-tone telephone service.

**Written Requests:** PA Department of Revenue  
Tax Forms Service Unit  
711 Gibson Blvd.  
Harrisburg, PA 17104-3200

### OTHER SERVICES

#### Services for taxpayers with Special Hearing and/or

Speaking Needs: 1-800-447-3020 (TT only)

#### Free Income Tax Preparation Assistance

- You can receive free assistance in preparing uncomplicated, non-business federal, state, and local income tax returns through the Volunteer Income Tax Assistance (VITA) and Tax Counseling for the Elderly (TCE) programs. Visit the Department's Web site, contact the Department's nearest district office, or call the Internal Revenue Service's toll-free number (1-800-829-1040) for the location of assistance sites. Taxpayers with modest incomes and older residents are urged to take advantage of these services.

#### Language Services

- Non-English-speaking taxpayers can receive assistance from the Department through an interpretation service. Assistance is available in 140 languages.

#### Español

- El Departamento de Impuestos puede ayudar los contribuyentes que no hablan inglés por medio de un servicio de traducción durante el periodo de pago de impuestos.

#### Federal Tax Assistance

- Federal tax account or technical information and problem solving are available by calling: 1-800-829-1040.
- Records Tele-Tax Service on 150 federal tax topics or 2005 tax refund information is available by calling: 1-800-829-4477.
- Federal tax forms and publications are available by calling: 1-800-829-FORM (3676).

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## General Fund

The General Fund is the major operating fund of the Commonwealth. It receives most tax revenue and other receipts not assigned by law to special funds. Special funds receive monies set aside for particular purposes. The General Fund is the primary funding source for most Commonwealth agencies.

General Fund revenues are appropriated by the General Assembly and approved by the Governor. Funding for basic and higher education, health and human services, and protection of persons and property account for the majority of General Fund expenditures.

Several programs generate tax credits for businesses and individuals to apply against various General Fund taxes:

### The Neighborhood Assistance Program

Any business firm or private company (as defined in Article XIX-A of the Tax Reform Code) which engages in certain assistance programs in impoverished areas or makes qualified investments in designated enterprise zones may claim credits up to 70% and 30%, respectively, of the amount of qualified investments for a taxable year. The annual credit per taxpayer may not exceed \$250,000. An additional credit of 70% (maximum of \$350,000) may be allowed for qualified investments in Comprehensive Service Projects. Credits may be applied against the major corporation taxes. If the tax credit is not used in the period the investment was made, it may be carried over for five succeeding calendar or fiscal years. Total amount of credits taken by all taxpayers cannot exceed \$18 million in a fiscal year.

### Job Creation Tax Credit

Any employer creating at least 25 new full-time equivalent jobs or increasing their workforce by 20% or more within three years from a given start date may receive a tax credit of \$1,000 for each job created. To qualify as a new full-time job, the employee must earn at least 150% of the federal minimum hourly wage rate, excluding benefits. Twenty-five percent of the tax credits are allocated to companies with fewer than 100 employees. The total credit available in a fiscal year was increased from \$15 million to \$20 million beginning in FY 1998-99 and to \$22.5 million beginning in FY 2001-02. To be eligible for the credit, an employer must enter into an agreement with the Department of Community and Economic Development.

### The Employment Incentive Payments Program

A corporation, bank, savings institution, insurance company, or mutual thrift institution subject to major corporation taxes or individual subject to the personal income tax, employing persons formerly receiving welfare benefits may qualify for employment incentive payment credits. The credit is for a portion of wages paid to a qualifying employee in the first three years of employment. Additional credit is available for financing associated day care costs. Total employment incentive payment credits authorized cannot exceed \$25 million in any fiscal year.

Employment incentive payment credits are available (as provided by Act 116-2004) for employees hired up to December 31, 2009.

### Special Tax Provisions for Poverty Credits

Personal income tax - A credit against personal income tax liability is available for individuals who meet eligibility income limits. The most recent legislative change increased the dependent allowance from \$9,000 to \$9,500 per dependent. More detail is available in the Personal Income Tax section.

### Research and Development Tax Credits

A research and development tax credit is available for qualified research performed in Pennsylvania. Prior to Act 46-2003, the credit had an annual cap of \$15 million, with \$3 million earmarked exclusively for small businesses. Act 46-2003 raised the annual cap to \$30 million and the amount of credit available to small businesses to \$6 million. Act 116-2006 raised the annual cap to \$40 million and the amount of credit available to small businesses to \$8 million. Before the passage of Act 116 the credit for all businesses was equal to 10% of the increase in research activities in Pennsylvania over a base period. Act 116 increased the small business credit from 10% to 20% of research activities.

The credit may be applied against the corporate net income tax, capital stock and franchise tax, personal income tax, or any combination thereof, but may not exceed 50% of such qualified tax liability for tax years 2004 and earlier. Act 46-2003 eliminated the 50% limitation for tax years 2005 and forward. Unused credits may be carried forward fifteen taxable years.

With the passage of Act 46–2003, taxpayers could apply to the Department of Community and Economic Development to sell or assign an unused credit after one year from the date that the department approved the credit. The purchaser or assignee must use the credit in the taxable year in which the purchase or assignment is made and the credit cannot exceed 75 percent of the tax liability for the taxable year. The purchaser may not carry credits forward or back or obtain a refund of any unused credit. This change applied to credits awarded in December 2003 and after. The Department of Revenue is required to report to the General Assembly the names of all taxpayers using the credit for credits awarded in December 2004 and after.

Businesses were first able to apply for the credit in September of 1997 and can continue to apply each September through the year 2015.

### **Coal Gasification**

A tax credit is available for qualifying capital expenditures on facilities producing fuels from coal, culm, or silt. The credit can be used against sales and use tax, corporate net income tax, and capital stock and franchise tax. The total cost of the credit is capped at \$18 million per year.

### **Keystone Opportunity Zone**

The Keystone Opportunity Zone (KOZ) program was established in 1999 to spur the development of underutilized or deteriorated properties across the Commonwealth. In defined, parcel-specific areas, the program allows businesses and residents to receive tax relief from various local and state taxes. By waiving these taxes for a series of years, the program hopes to stimulate development of the selected sites. The Department of Community and Economic Development administers the program for the Commonwealth.

Among the state taxes waived by the program are corporate net income, capital stock and foreign franchise, personal income, bank shares, and mutual thrift institutions taxes. Insurance companies and certain regulated transportation companies may earn tax credits based on the number of jobs created in a zone. Businesses operating in a zone are exempted from paying sales and use taxes on items purchased for consumption in a zone. At the local level, property, earned income, and various other taxes are waived for zone businesses and residents.

Twelve Keystone Opportunity Zones, each containing as many as twenty sub-zones, have been designated throughout the Commonwealth. The program was enlarged in scope and length by the creation of Keystone Opportunity Expansion Zones

(KOEZ). Act 217–2002 allowed for the enhancement of KOZ or KOEZ subzones. As amended, each zone may contain no more than 6,500 acres and expire no later than January 1, 2014. Act 217 also created Keystone Opportunity Improvement Zones (KOIZ).

Act 51–2003 permits KOZ and KOEZ subzones to enhance their size up to previously legislated limits and extended the application period for KOIZ subzones until June 1, 2004. Benefits in the additional KOZ and KOEZ acreage began January 1, 2004 and expire with the rest of the subzone, either December 31, 2010 or December 31, 2013. Approved KOIZ subzones expire December 31, 2018. Act 51 also changed the relocation provisions governing businesses moving into a subzone.

### **Keystone Innovation Zone**

Act 12–2004 created the Keystone Innovation Zone (KIZ) program to foster growth in targeted industry segments, namely research and development and other high technology businesses. The zones are defined parcels and are operated by a partnership of business groups and institutions of higher education. Qualified businesses operating in a zone are entitled to priority consideration for assistance under a number of State programs, as well as a tax credit. A KIZ company may apply to the Department of Community and Economic Development for a tax credit equal to 50 percent of the increase in its gross revenues from the previous year attributable to its activities in a zone. A KIZ company may not claim in excess of \$100,000 in tax credit per year. No more than \$25 million in tax credits may be awarded in any taxable year.

KIZ companies may apply KIZ tax credits against personal income tax, corporate net income tax, or capital stock and franchise tax liabilities. KIZ companies may apply for KIZ tax credits beginning September 15, 2006 based on expenses from the prior taxable year. The Department of Community and Economic Development began awarding credits during fiscal year 2006-07.

### **Educational Improvement Tax Credit**

This tax credit is granted to business firms providing proof of a contribution to a scholarship organization or an educational improvement organization. The actual credit is equal to 75% of the total amount contributed during the taxable year. A credit equal to 90% of the total amount contributed will be granted if the business provides a written commitment to the Department of Community and Economic Development (DCED) to contribute the same amount for two consecutive years. The tax credit shall not

exceed the tax liability of a business for any given taxable year. Prior to 2004, the credit could not exceed \$100,000 per business per taxable year. Act 48–2003 increased the limit to \$200,000 per business per taxable year beginning in 2004.

Prior to 2004, the total amount of tax credits approved for all taxpayers could not exceed \$30 million in a fiscal year, including \$20 million for contributions to scholarship organizations, and \$10 million for contributions to educational improvement organizations. Act 48–2003 increased the total amount of tax credits available for all taxpayers to \$40 million in a fiscal year, including \$26.7 million for contributions to scholarship organizations, and \$13.3 million for contributions to educational improvement organizations. Act 48–2003 also created a \$5.0 million credit program for contributions to pre-kindergarten scholarship organizations beginning in fiscal year 2004-05.

Act 46–2005 increased the total amount of tax credits approved for all taxpayers from \$40 million to \$44 million in a fiscal year including \$29.3 million for contributions to scholarship organizations, and \$14.7 million for contributions to educational improvement organizations beginning in fiscal year 2005-06. Act 114-2006 raised the annual cap on credits from \$44 million to \$54 million, including \$36 million for contributions to scholarship organizations and \$18 million for contributions to educational improvement organizations beginning in fiscal year 2006-07.

### **Film Production Tax Credit**

The Film Production Tax Credit was created by Act 95–2004. A tax credit in the amount of 20 percent of qualified film production expenses was available for expenses incurred in Pennsylvania. The tax credit may be used to offset capital stock and franchise tax, corporate net income tax, or personal income tax. To qualify, the expenses must have been incurred in the production of a film or television show of at least 15 minutes in length that is intended for a national audience. At least 60 percent of total production expenses must have been incurred in Pennsylvania.

The total amount of tax credit that could be awarded in any fiscal year was \$10 million. Initially, the Department of Revenue awarded the tax credit on

August 15 for qualified expenses incurred during July through December of the prior calendar year. Beginning in fiscal year 2006-07, the credit program was replaced with a grant program.

### **Strategic Development Areas**

The Strategic Development Areas (SDA) program was established in 2006 to provide incentives for economic development in designated areas. Act 151 of 2006 created the program to provide tax relief and tax credits to qualified companies within the SDA. The designation is in effect for fifteen years and must be approved by the political subdivision in which the SDA is located.

Businesses located within the SDA are eligible to receive tax relief from various local and state taxes, including the corporate net income tax, the capital stock and foreign franchise tax, and the personal income tax. In addition, businesses operating within the SDA are exempt from paying sales and use tax on purchases for consumption within the SDA. Insurance companies and certain regulated transportation companies may earn tax credits based on the number of jobs created in a zone. At the local level, property taxes, earned income and net profit taxes, mercantile license tax, and the local sales and use tax are waived for area businesses. By waiving these taxes and creating tax credits for a series of years, the program hopes to foster growth within the SDA.

The program is administered by the Department of Community and Economic Development. Tax benefits may not extend beyond December 31, 2022.

### **Organ Bone Marrow Donor Tax Credit**

The Organ and Bone Marrow Donor Act provides for a tax credit for expenses incurred when a business firm grants to any of its employees a paid leave of absence for the purpose of donating an organ or bone marrow. Credits can be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank and trust company shares tax, title insurance companies shares tax, insurance premiums tax or mutual thrift institutions tax.

## Corporation Taxes

Domestic (incorporated in Pennsylvania) and foreign (incorporated outside Pennsylvania) corporations doing business in Pennsylvania are subject to corporate net income tax and corporate loans tax. In addition, Pennsylvania corporations must pay capital stock tax, and foreign corporations must remit foreign franchise tax. Special classes of domestic and foreign corporations are subject to various selective business taxes including a gross receipts tax levied on electric, telecommunications, and transportation companies; a gross premiums tax imposed on domestic and foreign insurance companies; a public utility realty tax levied on regulated utilities; and the bank and trust company shares tax, title insurance company shares tax, or mutual thrift institutions tax levied on financial institutions.

### Corporate Net Income Tax

Domestic and foreign corporations are subject to the corporate net income tax for the privilege of doing business, carrying on activities, having capital or property employed or used in Pennsylvania, or owning property in Pennsylvania. Limited liability companies and business trusts that are classified as corporations for Federal income tax purposes are also subject to tax. Building and loan associations, banks, saving institutions, trust companies, insurance and surety companies, and nonprofit corporations are exempt from the tax.

This tax is levied on federal taxable income, without the federal net operating loss deduction and special deductions, and modified by certain additions and subtractions. To arrive at Pennsylvania taxable income, all taxes imposed on or measured by net income which are expensed on the federal corporate income tax return are added back, while the foreign dividend gross-up and net interest income and gains on United States government securities are deducted.

A Pennsylvania net loss carryforward is permitted for taxable years beginning on or after January 1, 1981, according to the schedule listed below. Losses carried forward to a tax year may be deducted from taxable income in that tax year to arrive at the tax liability. Net loss deductions for tax years 1982 through 1990 were uncapped. For tax years 1991 through 1994, the net loss deduction was suspended and no net loss deduction was allowed. Act 48–1994 reinstated the net loss provisions. For the tax year beginning in 1995, the net loss deduction allowed each taxpayer is capped at \$500,000. Act 21–1995 raised the net loss deduction allowed each taxpayer to \$1,000,000 per tax year for tax years beginning in

1996 and thereafter. Act 45–1998 increased the three year carryforward period to ten years starting with losses realized in tax year 1995. Tax year 2005 is the first tax year in which 10 years of tax losses are fully available. Act 4–1999 increased to \$2,000,000 the annual cap on deductions in each of the ten years following the loss, effective January 1, 1999. Act 89–2002 increased the carryforward period to 20 years starting with losses realized in tax year 1998. Tax year 2018 is the first year in which 20 years of losses are fully available. Act 116–2006 increased the annual cap on deductions to the greater of \$3,000,000 or 12.5% of taxable income, effective January 1, 2007.

### Net Loss Carryforward Schedule

<u>Taxable Year</u>	<u>Loss Carry forward</u>
1981	1 taxable year
1982	2 taxable years
1983 – 1987	3 taxable years
1988	2 taxable years, plus the 1995 taxable year
1989	1 taxable year, plus the 1995 and 1996 taxable years
1990 – 1993	1995 through 1997 taxable years
1994	1995 taxable year
1995 – 1997	10 taxable years
1998 and thereafter	20 taxable years

Corporations are taxed on a separate company basis for Pennsylvania purposes; therefore, corporations which file a consolidated federal return must start with the taxable income which would have been shown on separate federal returns in order to arrive at the Pennsylvania base. For corporations whose entire business is not transacted within Pennsylvania, the income base may be allocated and apportioned to determine income subject to taxation in Pennsylvania. Nonbusiness income is directly allocated within or without Pennsylvania. Business income is usually apportioned on the basis of property, payroll, and sales factors within and without Pennsylvania. Act 4–1999 increased the weighting of the sales factor in the apportionment formula from 50% to 60% beginning in tax year 1999. In the numerator of the formula, the sales factor is multiplied by three instead of two as was done prior to Act 4–1999; the payroll and property factors remain multiplied by one. The sum of the numerator is then divided by five instead of four. The effect of this provision is to lower the apportionment formula for corporations with relatively more payroll and property than sales in Pennsylvania. Act 116–2006 increased the

weighting of the sales factor in the apportionment formula from 60% to 70% beginning in the tax year 2007. In the numerator of the formula, the sales factor is multiplied by 70 and the property and payroll factors are each multiplied by 15. The sum of the numerator is then divided by 100. Other apportionment methods are available for special industries.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u>	<u>Year</u>	<u>Rate</u>
1935	6.00%	1972 <sup>1</sup>	11.00%
1936	10.00%	1974	9.50%
1937	7.00%	1977 <sup>2</sup>	10.50%
1943	4.00%	1985 <sup>3</sup>	9.50%
1951	5.00%	1987 <sup>4</sup>	8.50%
1956	6.00%	1991 <sup>5</sup>	12.25%
1967	7.00%	1994 <sup>6</sup>	11.99%
1969	12.00%	1995 <sup>7</sup>	9.99%

<sup>1</sup> The rate was 12% for the first half of 1972 and 11% for the second half of that year.

<sup>2</sup> Act 98–1977 temporarily raised the rate to 10.5%, and Act 246–1982 made this rate permanent.

<sup>3</sup> Authorized by Act 94–1984.

<sup>4</sup> Authorized by Act 77–1986.

<sup>5</sup> Authorized by Act 22–1991.

<sup>6</sup> Authorized by Act 48–1994.

<sup>7</sup> Authorized by Act 21–1995.

The tax is paid on an estimated tax payment system. Under this system, prepayments are considered deposits as opposed to tentative liabilities. Cumulative prepayments must exceed 90% of reported annual liability, or 100% of the liability two year’s prior subject to the current rate and, after 1990, the current tax base definition. The adequacy of these payments is judged retrospectively based on the final return.

Quarterly payments are due on the 15th day of the 3rd, 6th, 9th, and 12th months of the tax year. Final reports and payments are due 105 days after the close of the taxable year. Extensions are available for filing annual reports, but not for remitting payments.

The corporate net income tax originated as an emergency tax during the Civil War but later was declared unconstitutional by the Pennsylvania Supreme Court. It was enacted as an emergency tax again in 1923 and in 1935. In 1957 the tax was made permanent and was later codified into the Tax Reform Code of 1971.

The enabling legislation is Article IV of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

### Capital Stock and Foreign Franchise Taxes

These taxes are imposed on corporations with capital stock, joint-stock associations, limited liability companies, business trusts, and other companies doing business within Pennsylvania. Nonprofit and family farm corporations are exempt. Domestic corporations are subject to the capital stock tax while foreign corporations are subject to the foreign franchise tax on capital stock apportioned to Pennsylvania.

The capital stock tax for domestic firms is imposed on the corporation's capital stock value, as derived by the application of a formula. The courts have construed this tax to be a property tax.

The foreign franchise tax is a tax on the privilege of doing business in Pennsylvania, rather than on property, and is imposed on the capital stock value attributable to Pennsylvania.

Capital stock valuations are derived by application of the following formula:

$$\left\{ 0.5 \times \left[ \frac{\text{AveNetIncome}}{0.095} + (0.75 \times \text{NetWorth}) \right] \right\} - \$150,000$$

<u>Tax Year</u>	<u>Valuation Deduction</u>
1987	\$50,000
1988-1990	\$100,000
1991-1993	\$50,000
1994	\$75,000
1995-1996	\$100,000
1997-2006	\$125,000
2007 and beyond	\$150,000

Net worth is defined as consolidated net stockholders' equity as of the close of the tax year unless at that time net worth is greater than twice or less than half of the net worth as calculated at the beginning of the year. In that case, net worth is an average of the two amounts. Average net income is defined as a five-year average of unconsolidated net income as shown in the stockholders' annual report.

Corporations are permitted to choose between a single exempt assets factor and a three-factor apportionment to determine the portion of capital stock value attributable to Pennsylvania and thus subject to Commonwealth taxation. Corporations

may use the exempt assets factor to exclude certain nontaxable assets. The single fraction consists of the book value of taxable assets divided by the book value of total assets. The three-factor apportionment is composed of property, payroll, and sales fractions.

Certain assets are exempt from tax, and these exemptions are reflected in the apportionment fractions used to compute the percentage of the capital stock value actually subject to tax. A statutory exemption is provided for assets engaged in producing a manufactured article within Pennsylvania, specified processing operations, including computer software development, research or development activities, and air or water pollution control efforts. A corporation receives an exemption for intangible assets to the extent that they are directly used in an exempt activity. Holding companies, as defined by law, may elect a special 10% apportionment formula in lieu of a standard apportionment formula. Regulated investment companies apportion their special valuation based on the share of income distributed to resident shareholders.

The taxes are imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1844	3.00 mills
1891	5.00 mills
1967	6.00 mills
1969	7.00 mills
1971	10.00 mills
1987 <sup>1</sup>	9.00 mills
1988 <sup>2</sup>	9.50 mills
1991 <sup>3</sup>	13.00 mills
1992	12.75 mills
1998 <sup>4</sup>	11.99 mills
1999 <sup>5</sup>	10.99 mills
2000 <sup>6</sup>	8.99 mills
2001 <sup>6</sup>	7.49 mills
2002 <sup>7</sup>	7.24 mills
2003 <sup>8</sup>	7.24 mills
2004 <sup>8</sup>	6.99 mills
2005	5.99 mills
2006 <sup>9</sup>	4.89 mills
2007	3.89 mills

<sup>1</sup> Act 58–1987 retroactively reduced the rate from 10.0 mills to 9.0 mills effective for tax years beginning in 1987 and increased the rate to 9.5 mills starting with tax year 1988.

<sup>2</sup> Beginning in 1988, the revenue raised from 0.5 mills of the tax is transferred to the Hazardous Sites Cleanup Fund (HSCF).

<sup>3</sup> Act 22–1991 retroactively increased the rate to 13 mills. For tax years beginning in 1991 only, 0.25 mills of the tax was earmarked for the State Lottery Fund.

<sup>4</sup> Act 45–1998 retroactively lowered the rate to 11.99 mills.

<sup>5</sup> Act 4–1999 retroactively lowered the rate to 10.99 mills and reduced the HSCF portion to 0.25 mill.

<sup>6</sup> Act 23–2000 retroactively lowered the rate to 8.99 mills for tax year 2000. In addition, the Act phases out the tax rate by 1.5 mills for tax year 2001 and by 1 mill per year thereafter until the tax is eliminated.

<sup>7</sup> Act 89–2002 modified the CSFT phaseout schedule by setting the 2002 rate at 7.24 mills. In addition, the Act set the rate at 6.99 mills for 2003. Act 89 also lowered the rate by 1 mill per year thereafter until the tax is eliminated. The semi-annual transfer to the HSCF is suspended unless the fund balance is expected to be less than \$5 million.

<sup>8</sup> Act 46–2003 modified the CSFT phaseout schedule by setting the 2003 rate at 7.24 mills. In addition, the Act set the 2004 rate at 6.99 mills. The rate is reduced by 1 mill per year thereafter until the tax is eliminated.

<sup>9</sup> Act 67–2006 retroactively lowered the rate to 4.89 mills for tax year 2006. In addition, the act phases out the tax rate by 1 mill per year thereafter until the tax is eliminated.

A minimum tax of \$75 was established for tax years beginning in 1983, and the minimum tax was increased to \$300 for tax years beginning in 1991 through 1998. Act 4–1999 decreased the minimum tax payment to \$200 effective January 1, 1999. Act 23–2000 eliminated the minimum payment for tax years beginning in 2000 and thereafter.

A corporation must pay the tax due in quarterly installments computed under the estimated payment system in place for corporate net income tax. The remaining tax due must be remitted when the report is due without regard to extension. The final tax report is due 105 days after the close of the taxable year.

These taxes were first enacted in 1840 and amended in 1844.

The enabling legislation is Article VI of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

### Gross Receipts Tax

This tax is levied on pipeline, conduit, steamboat, canal, slack water navigation, and transportation companies; telephone, telegraph, and mobile telecommunications companies; electric light, water power, and hydroelectric companies; express companies; palace car and sleeping car companies; and freight and oil transportation companies.

The tax is based on gross receipts from passengers, baggage, and freight transported within Pennsylvania; telegraph and telephone messages transmitted within Pennsylvania as well as mobile telecommunications services and interstate landline calls either originating or terminating in Pennsylvania and billed to a service address in Pennsylvania; sales of electric energy; and intrastate shipment of freight and oil.

1936	20 mills
1944	14 mills
1967 <sup>1</sup>	20 mills
1970	45 mills
1988	44 mills
1991 <sup>2</sup>	50 mills

<sup>1</sup> The 20 mills rate became effective July 1, 1967.

<sup>2</sup> The 50 mills rate became effective July 1, 1991 on gross receipts other than from electric utilities, which continued to be taxed at 44 mills.

Municipally owned or operated public utilities may exclude gross receipts derived from business done inside the limits of the municipality. Companies selling electric energy for resale are entitled to exclude those gross receipts. Electric cooperative corporations are exempt from gross receipts tax on electric companies for sales within their service territory. Act 21–1995 exempted railroads from this tax, effective January 1, 1995. A credit for expenditures on maintenance and improvements of railroad rights-of-way was enacted in 1980 and repealed by Act 21–1995. Act 45–1998 repealed the motor carriers gross receipts tax, effective January 1, 1998. Act 4–1999 exempted the sale of natural gas pending passage of a law deregulating the natural gas industry. Act 21–1999, which deregulated the natural gas industry, effectively exempted the sale of natural gas from the tax beginning January 1, 2000. Act 23–2000 exempted the sale for resale of telecommunications services from the tax beginning January 1, 2000. Act 46–2003 extended the gross receipts tax to mobile and interstate telecommunications services.

Act 138–1996 provided the Revenue Neutral Reconciliation (RNR) mechanism for adjusting the base rate on sales of electric energy. The RNR was calculated at -2 mills for tax year 1999, +6 mills for tax year 2000, -1 mill for tax year 2001, and +15 mills for tax year 2002. Act 89–2002 set the permanent RNR tax rate paid by electric companies at 15 mills for tax year 2003 and thereafter; the actual GRT rate applied to the sales of electric energy is 59 mills for tax year 2003 and forward.

Firms are required to file reports and remit tax payments annually by March 15th for taxable gross receipts in the prior year. Act 7–1997 changed the gross receipts tax from a tentative to an estimated prepayment system effective for tax years beginning on or after January 1, 1998. Under this system, prepayments are considered deposits as opposed to tentative liabilities. Estimated payments are due March 15th for the current taxable year and must exceed 90% of reported annual liability, or 100% of the liability two years prior, subject to the current rate. The adequacy of these payments is judged retrospectively based on the final return.

Beginning July 1, 1993, the revenue raised from 0.25 mill of the tax collected during the fiscal year is transferred to the Alternative Fuels Incentive Grant Fund pursuant to Act 166–1992.

Act 89–2002 created a gross receipts tax surcharge in the event refunds for PURTA appeals exceed \$5 million in any fiscal year. The surcharge is calculated based on the amount of PURTA refunds during the prior fiscal year. Act 46–2003 excludes from the surcharge gross receipts derived from providing mobile telecommunications services and telegraph or telephone messages transmitted in interstate commerce.

The tax on gross receipts originated in 1864. In 1889 a revised gross receipts tax was enacted and was eventually codified into the Tax Reform Code of 1971.

There has not been a GRT surcharge in every year. For tax year 2004 and 2006 there was no surcharge. For tax year 2005, the surcharge was 0.6 mills. For tax year 2007, the surcharge was 1.2 mills.

Prior to Act 46–2003, 0.18% of the gross receipts tax base for electric suppliers was transferred to the Public Transportation Assistance Fund. Act 46–2003 repealed this transfer.

The tax is imposed at the following rates:

The enabling legislation is Article XI of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

<u>Year</u>	<u>Rate</u>
1889	8 mills
1935	14 mills

**Public Utility Realty Tax**

An amendment to the Constitution of Pennsylvania in 1968 provided for the state taxation of public utility realty. The Public Utility Realty Tax (PURTA) is

levied against certain entities furnishing utility services that are regulated by the Pennsylvania Public Utility Commission or a similar regulatory body. Public utilities furnishing sewage services and municipal authorities furnishing public utility service are exempt from tax. The Commonwealth imposes this tax on public utility realty in lieu of local real estate taxes and distributes the local realty tax equivalent to local taxing authorities.

Act 4–1999 fundamentally revised the PURTA statute. Beginning with tax year 1998, the PURTA tax base is the fair market value of utility realty, which is defined as the assessed value of the realty as adjusted by the common level ratio of the county in which the realty is located. The previous base had been the depreciated book value of the utility realty. Exempt from the tax are easements, rights-of-way, pipe, rail or other lines, machinery or equipment not affixed to the land, and certain property subject to local taxation.

The Department will annually calculate a variable tax rate in order to raise an amount of revenue equal to the distribution of the realty tax equivalent to the local taxing authorities. An additional tax rate of 7.6 mills is applied to the tax base. Up until June 30, 2003, the 7.6 mills of revenue was transferred to the Public Transportation Assistance Fund. Act 46–2003 eliminated this transfer as of June 30, 2003. As a result, the 7.6 mills of PURTA revenue will remain in the General Fund beginning in FY 2003-04.

For tax year 1999 and for each tax year thereafter, the local taxing authorities must file reports with the Department separately listing the utility realty in each jurisdiction and the realty tax equivalent by April 1<sup>st</sup> of the succeeding year.

Public utilities had until July 30, 1999 to file retroactive appeals on the assessment of their utility realty for 1998 and 1999. As of December 31, 1999, land and improvement indispensable to the generation of electricity is subject to local real estate tax and excluded from the PURTA tax base and the realty tax equivalent.

For taxable year 2000 and for each year thereafter, a tentative payment and the utility realty report are due on May 1<sup>st</sup> of the taxable year and a final payment is due on September 15<sup>th</sup> of the following year.

Act 89–2002 created a gross receipts tax surcharge in the event refunds for PURTA appeals exceed \$5 million in any fiscal year. The surcharge will be calculated based on the amount of PURTA refunds during the prior fiscal year. Act 46–2003 excludes

from the surcharge gross receipts derived from providing mobile telecommunications services and telegraph or telephone messages transmitted in interstate commerce.

The enabling legislation is Article XI-A of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

## Gross Premiums Tax

Domestic and foreign insurance companies, except purely mutual beneficial associations and nonprofit hospital and medical associations, are subject to this tax. A retaliatory tax also is imposed on taxable companies incorporated in other states which impose a higher burden upon Pennsylvania companies doing business there.

The yearly gross premiums received from doing business form the tax base. Gross premiums are premiums, premium deposits, or assessments. Exclusions include canceled policies, premiums for reinsurance, annuity considerations and dividends, and earnings of participating members of mutual or stock insurance companies. Act 4–1989 exempted premiums written by automobile insurance companies for extraordinary medical benefit coverage from \$100,000 to \$1,100,000. Act 21–1995 exempted all sums paid or otherwise received by insurance companies as consideration for annuity contracts from the gross premiums tax base effective January 1, 1996.

A credit is available to companies that are members of the Life and Health Insurance Guaranty Association for assessments paid to the Association for the purpose of continuation of coverage for policyholders and claimants in the event of insolvency.

Act 23–2000 created a credit for the amount of assessments paid to the Pennsylvania Property and Casualty Insurance Guaranty Association (PP & CIGA) in excess of 1% of gross premiums collected from policyholders. The credit is to be taken equally over five years, beginning the year after the assessment is paid. This credit applies to assessments paid after December 31, 1998 and to taxes paid for calendar year 2000 and thereafter.

The basic rate of tax is 2% of gross premiums, plus any retaliatory tax. However, a 3% surplus lines tax rate is imposed on policies written with surplus lines insurers or other nonadmitted insurers.

Companies transacting marine insurance business within the Commonwealth are subject to a 5% tax on their underwriting profits in lieu of a tax on their premiums.

Act 7–1997 changed the gross premiums tax from a tentative to an estimated payment system effective for tax years beginning on or after January 1, 1998. Under this system, prepayments are considered deposits as opposed to tentative liabilities. Estimated payments are due March 15th for the current taxable year and must exceed 90% of reported annual liability, or 100% of the liability two years prior, subject to the current rate. The adequacy of these payments is judged retrospectively based on the final return. Final payments and reports must be remitted together by April 15th of each year for the previous tax year.

The miscellaneous insurance taxes have the following due dates for payments and reports. The marine insurance underwriting profits tax is due by June 1st. The 3% surplus lines tax on premiums placed with an unlicensed insurance company is due January 31st from the surplus lines agent if such agent was involved in the placement. However, in the case of a policy placed without a surplus lines agent, the insured must remit a report and payment of tax within 30 days of the date the insurance was procured. The insurance premiums tax on life insurance entered with unauthorized insurance companies is due from the insured at the same time as each premium payment.

The enabling legislation is Article IX of the Act of March 4, 1971 (P.L. 6, No. 2), the Act of July 6, 1921 (P.L. 723), the Act of May 17, 1921 (P.L. 682), and the Act of May 13, 1927 (P.L. 998).

**Financial Institutions Taxes**

The various classes of financial institutions are subject to three different taxes. The bank and trust company shares tax is imposed on every bank and trust company having capital stock which is conducting business in Pennsylvania. Domestic title insurance companies are subject to the title insurance company shares tax. The mutual thrifts institutions tax is imposed on savings institutions, savings banks, savings and loan associations, and building and loan associations conducting business in Pennsylvania. Credit unions are not subject to tax.

The bank and trust company shares tax and the title insurance company shares tax are imposed annually on the book value of shares as of January 1st. Shares exempt from taxation include the taxpayer's shares of

stock of national banks and the shares held by exempt holders (i.e., charitable, religious or educational institutions). Additionally, a deduction is permitted for exempt federal obligations as a proportion of all assets.

The tax base is the value of shares as of each January 1st. The value of shares is calculated by a six-year moving average using the total number of shares divided into the book values of capital stock paid in, surplus and undivided profits, with a proportional exemption for United States obligations. For each year in the average, book values and deductions for United States obligations are determined by averaging book values as shown in the Report of Condition for each quarter of the preceding calendar year.

A report and payment of 100% of the tax on the value of shares on the preceding January 1st are due on March 15th of each year.

The bank and trust company shares tax and title insurance shares tax are imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1959	0.800%
1967	1.000%
1969	1.300%
1971	1.500%
1984	1.075%
1989 <sup>1</sup>	10.770%
1990	1.250%

<sup>1</sup> The rate was retroactively changed by Act 21–1989.

Act 48–1994 established apportionment and expanded the nexus of the bank and trust company shares tax to all banks operating in the Commonwealth effective January 1, 1995. Apportionment was also established for domestic title insurance companies.

The mutual thrift institutions tax applies to the net earnings or income received or accrued from all sources during the tax year. Income earned from United States obligations or Pennsylvania state and local obligations is excluded from the computation of net earnings on income. The deduction of the portion of interest expense associated with tax-exempt income is disallowed. Apportionment of income to Pennsylvania is permitted through payroll, receipts, and deposits factors. Mutual thrift institutions are permitted to carry forward net operating losses a maximum of three years.

Mutual thrift institutions make quarterly estimated payments by applying the current tax rate to 100% of the tax base for the second preceding year, or by paying at least 90% of the reported annual liability for the current year. Final reports are due 105 days after the close of the fiscal year. Extensions are available for filing reports; however, no extensions are granted for payment of the tax.

The Commonwealth began taxing financial institutions in 1861. Since then, laws have been revised to subject building and loan associations, title insurance companies, trust companies, and other financial institutions to the taxes.

The mutual thrift institutions tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1969	11.50%
1987 <sup>1</sup>	20.00%
1991	12.50%
1992	11.50%

<sup>1</sup> The rate was retroactively changed by Act 106–1988, and was extended to tax years 1989 and 1990 by Act 21–1989.

The enabling legislation is found in Articles VII, VIII and XV of the Tax Reform Code of 1971 (P.L. 6, No. 2) (Bank Shares, Title Insurance and Trust Companies Shares and Mutual Thrift Institutions).

**Other Corporation Taxes**

This group of revenues, composed primarily of the corporate loans tax, also includes the cooperative

agricultural association and electric cooperative corporation taxes. Imposition of these taxes is in lieu of other corporation taxes and certain excise taxes. Electric cooperatives are exempt from gross receipts tax on electric companies for sales within their service territory.

All domestic and foreign corporations doing business in and having fiscal officers in Pennsylvania are subject to the corporate loans tax.

The tax base is taxable indebtedness which is determined by dividing the interest rate into the interest actually paid to or for Pennsylvania individual residents.

The tax is imposed at the rate of 4 mills on each dollar of the nominal value of all scrip, bonds, certificates, and evidences of indebtedness.

Payments and reports are due 105 days after the end of the taxable year. Extensions are available for filing reports but not for remitting monies.

This tax was first enacted in 1889 and reenacted in 1919.

The enabling legislation is the Act of June 22, 1935 (P.L. 414) and the Act of July 15, 1919 (P.L. 954), as amended.

## Consumption Taxes

Consumption taxes are levied on the purchase of certain types of tangible personal property and selected services. They are imposed on the ultimate consumer, but collected and remitted to the Commonwealth by others such as manufacturers, retail vendors, or licensed agents of the Commonwealth. The consumption taxes are: sales, use and hotel occupancy, cigarette, malt beverage, and liquor.

### Sales, Use, and Hotel Occupancy Taxes

The sales and use tax is imposed on the retail sale, consumption, rental, or use of tangible personal property in Pennsylvania. The tax is also imposed on certain services relating to such property and on the charge for specific business services. Major items exempt from the tax include food (not ready-to-eat), candy and gum, most wearing apparel, textbooks, computer services, prescription and non-prescription drugs, sales for resale, and residential heating fuels such as oil, electricity, gas, coal, and firewood. Purchases which are not otherwise exempt from sales and use tax are exempt when paid for with food stamps.

Exemptions are allowed for purchases or use by the United States Government, the Commonwealth and its political subdivisions, ambassadors, ministers and consular officers of foreign governments, volunteer firemen's organizations, and certain institutions of purely public charity. There are also exemptions for certain business activities: manufacturing, processing, farming, dairying, agriculture, horticulture, floriculture or aquaculture, and public utilities.

A use tax, at the same rate as sales tax, is due on taxable purchases of tangible personal property or specified services used or consumed in Pennsylvania where no sales tax is paid to a vendor. For example, the purchase may have been made out-of-state. Licensees must report and pay use tax at the time their regular sales tax return is due. Non-licensees must report and pay use tax on or before the end of the month following the month during which the tax was incurred.

The hotel occupancy tax, imposed at the same rate as sales tax, applies to room rental charges for periods of less than 30 days by the same person.

The sales, use, and hotel occupancy taxes are required to be collected by those engaged in making taxable sales of tangible personal property or

services; leasing, renting, or using tangible personal property; or renting hotel rooms within the Commonwealth.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1954	1.0%
1956	3.0%
1959	3.5%
1959	4.0%
1963	5.0%
1968	6.0%

Under the Pennsylvania Intergovernmental Cooperation Authority Act for cities of the first class (Act 6–1991), Philadelphia City Council levies sales, use, and hotel occupancy taxes at the rate of 1% effective October 1, 1991. The provisions of Act 6 parallel those under the sales, use, and hotel occupancy tax except that it is a point-of-sale tax.

Under the Second Class County Code, Allegheny County is authorized (Act 77–1993) to levy sales, use, and hotel occupancy taxes at the rate of 1% to be administered in the same manner as provided in Act 6 of 1991 (the Philadelphia 1% local sales, use, and hotel occupancy tax). The implementation date for the Allegheny County tax was July 1, 1994.

Vendor licenses are renewable on a five-year cycle and may be suspended or revoked. Payments and reports are due from vendors as follows:

1. Monthly returns - Taxpayers must file monthly reports when total tax liability for the third calendar quarter equals or is greater than \$600. Payments and reports are due on the 20th day of the following month.

2. Quarterly returns - When total tax liability does not exceed \$600 in the third calendar quarter the taxpayer must file quarterly (unless liability was less than \$75 in the previous calendar year). The reports are due on the 20th day of April, July, October, and January for the preceding calendar quarter.

3. Semi-annual returns - When total tax collected is \$75 a year or less, a taxpayer must file tax reports twice a year. The report for the period of January to June is due on August 20th, and the report for the period of July to December is due February 20th.

Act 40–1991 provided that 0.44% of total sales and use tax receipts be transferred monthly to the Public Transportation Assistance Fund effective July 1,

1992. Act 48–1994 provided that an additional 0.09% be transferred to the same fund effective April 1, 1995 and Act 46–2003 further provided for a monthly transfer of 0.417% effective July 1, 2003.

Act 3–1997 provided that 1.22% of sales and use tax receipts be transferred monthly to the Supplemental Public Transportation Account effective July 1, 1997. The amount of this transfer is capped at \$75 million per fiscal year.

The sales, use, and hotel occupancy taxes were enacted in 1953 and later codified into the Tax Reform Code of 1971. The enabling legislation is Article II of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

**Cigarette Tax**

The cigarette tax is an excise tax levied on the sale or possession of cigarettes in Pennsylvania. The tax is based on a rate per cigarette. The current rate of 6.75 cents per cigarette has been in effect since January 7, 2004.

Only one sale of cigarettes, whether individual cigarettes, packages, cartons, or cases, is taxable. Cigarette stamping agents, wholesalers, retailers, and vendors must be licensed. The tax is imposed on the ultimate consumer, but cigarette-stamping agents apply tax stamps to cigarette packs which indicate payment of the tax and are responsible for remitting payment to the Commonwealth.

Payments are due at the time of purchase of the stamps or, if the cigarette stamping agency is bonded, by the 15th of the following month. Reports are due on the 10th day after the end of the month for which they are prepared.

Beginning in FY 2002-03, fixed annual amounts of \$30.73 million and \$20.485 million of cigarette tax receipts are transferred to the Children’s Health Insurance Program (CHIP) and the Agricultural Conservation Easement Purchase (ACEP) Fund, respectively. Transfers of cigarette tax receipts to CHIP began in FY 1992-93 at the rate of two thirty-firsts (2/31) of receipts. After January 1, 1997, the transfer amount was increased to three thirty-firsts (3/31) of receipts. Transfers of cigarette tax receipts to the ACEP Fund began in FY 1993-94 at the rate of two thirty-firsts (2/31) of receipts. Effective January 7, 2004, 18.52% of cigarette tax receipts are transferred to the Health Care Provider Retention Account. The remaining tax receipts are deposited into the General Fund.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u> <sup>1</sup> (per cigarette)
1935	0.10 ¢
1947	0.20 ¢
1955	0.25 ¢
1959	0.30 ¢
1963	0.40 ¢
1967	0.65 ¢
1970	0.90 ¢
1991	1.55 ¢
2002	5.00 ¢
2004	6.75 ¢

<sup>1</sup> Combined rate for the General Fund and special funds.

The tax was first enacted in 1935 as a temporary emergency tax and was made permanent in 1951. The enabling legislation is Article XII of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

**Malt Beverage Tax**

The malt beverage tax is levied on malt or brewed beverages manufactured and sold for use in Pennsylvania, or manufactured outside of Pennsylvania but sold for importation and use in Pennsylvania. The tax is borne by the consumer, but manufacturers, distributors, and importers remit the tax to the Commonwealth.

Manufacturers must file reports and submit payments by the 15th day of each month for the preceding month. For the purpose of verifying tax payments, every transporter for hire, bailee for hire, warehouseman, and distributor also must submit reports by the 15th of the month for the preceding month.

Certain manufacturers of malt or brewed beverages are permitted a credit for qualifying capital expenditures, defined as purchases of plant, machinery, or equipment for use in the Commonwealth. The annual credit per manufacturer is equal to the amount of qualifying capital expenditures in the reporting year or \$200,000, whichever is less. This credit applies to purchases made through December 31, 2008. The credit is limited to taxpayers whose annual production of malt or brewed beverages does not exceed 1.5 million barrels.

The malt beverage tax rates are as follows:

<u>Standard Fraction</u>	<u>Rate</u>
1 barrel	\$ 2.48
1/2 barrel	\$ 1.24
50 liter	\$ 1.06
12 gallon	\$ 0.96
1/4 barrel	\$ 0.62
1/6 barrel	\$ 0.42
1/8 barrel	\$ 0.32
160 ounce	\$ 0.10
4 liter	\$ 0.09
1 gallon	\$ 0.08
2 liter	\$ 0.05
40 ounce	\$ 0.03
1 quart	\$ 0.02
25 ounce	\$ 0.02
1 pint	\$ 0.01
1/2 pint	\$ 0.0066

These rates have remained unchanged since 1947. Prior to 1947, malt beverage tax rates were one-half the current rate.

The enabling legislation is Article XX of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

## Liquor Tax

The distribution of liquor is a state enterprise under the auspices of the Pennsylvania Liquor Control Board (LCB).

The Commonwealth assumed the liquor control responsibility following the repeal of Prohibition in 1933.

All liquors sold by the LCB are subject to this tax which is computed on the actual price paid by the consumer including mark-up, handling charge, and federal tax. The first sale of liquor is also subject to the sales and use tax at the time of purchase.

The LCB periodically transmits reports and payments to the Department of Revenue.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1936	10.0%
1963	15.0%
1968	18.0%

Enabling legislation is the Liquor Code, Act of June 29, 1987 (P.L. 32) 47 P.S. §§ 1-101 et seq. and the Emergency Liquor Sales Tax Act, Act of June 9, 1936 (Special Session, P.L. 13) 47 P.S. §§ 794 et seq.

## Other Taxes

Other taxes consist of those General Fund taxes on individuals and transactions not elsewhere classified in this document. Other taxes include the personal income tax, realty transfer tax, inheritance and estate tax, and various minor and repealed taxes.

### Personal Income Tax

The personal income tax is levied against the taxable income of resident and nonresident individuals, estates and trusts, partnerships, S corporations, business trusts, and limited liability companies that are not taxed as corporations for federal purposes.

Pennsylvania taxes eight classes of income: (1) compensation; (2) net profits from the operation of a business, profession or farm; (3) net gains or income less net losses from dispositions of property; (4) net gains or income from rents, royalties, patents and copyrights; (5) dividends; (6) interest; (7) gambling and lottery winnings (except Pennsylvania Lottery winnings won on or after July 21, 1983); and (8) net gains or income derived through estates or trusts. A loss in one class of income may not be offset against income in another class, nor may gains or losses be carried backward or forward from year to year.

Act 40–2005 changed the treatment of nonqualified deferred compensation plans. The definition of compensation now includes distributions from nonqualified plans attributable to an elective deferral of income, regardless of whether the distribution is paid during employment or retirement.

With certain exceptions, Pennsylvania's constructive receipt rules are now the same as the federal constructive receipt rules to determine when compensation is received by a cash basis taxpayer. The exceptions include contributions to retirement plans like the public employee retirement system, contributions to 401(k) plans, contributions by self employed persons to retirement plans, and contributions to Roth IRAs and regular IRAs. This change applies to appeals which arise prior to or after the effective date of this act and applies to taxable years beginning after December 31, 2004.

Following the federal constructive receipt rule, deferrals to nonqualified deferred compensation plans are not includible in compensation. This change applies to appeals which arise prior to or after the effective date of this act and applies to taxable years beginning after December 31, 2002.

Act 67–2006 provides that if a small corporation elects to be an S corporation for federal purposes, it

will be recognized as a Pennsylvania S corporation unless it opts out of Pennsylvania S status. This is a change from current law which requires a federal S corporation affirmatively to elect Pa-S status. If a small corporation opts out of S status, then its choice will remain in effect for 5 years. The requirements to become an S corporation will now be consistent with the federal requirements enacted as part of the American Jobs Creation Act of 2004, which now permits S corporations of up to 100 shareholders and members of the same family to be counted as one shareholder. These changes will apply to taxable years beginning after December 31, 2005.

The Pennsylvania personal income tax does not provide for a standard deduction or personal exemption. However, individuals are able to reduce their tax liabilities through allowable deductions, credits, and exclusions.

#### Deductions:

- Taxpayers may reduce taxable compensation for allowable unreimbursed expenses that are ordinary, actual, reasonable, necessary, and directly related to the taxpayer's occupation or employment.
- Act 48–2005 provided special tax provisions for health savings accounts. Excluded from Pennsylvania personal income tax is any income from a health savings account, as well as any amount paid out or distributed from a health savings account that is used exclusively for the qualified medical expenses of the beneficiary or for the reimbursement of those expenses. The act specifies that distributions paid out that do not go toward the qualified medical expenses of the beneficiary, as well as any excess contributions, shall be taxable. These provisions apply to tax years beginning after December 31, 2004.
- Act 67–2006 allows taxpayers with federally qualified Health Savings Accounts and Archer MSAs to generally follow federal rules. Under the federal rules, employer contributions are excluded from tax and employee contributions are deducted from income if they meet the criteria outlined in the Internal Revenue Code. Distributions that are not used for qualified medical expenses will be taxable as interest income. These changes will apply to tax years beginning after December 31, 2005.
- Act 114–2006 allows taxpayers to deduct from taxable income contributions to a qualified tuition program as defined in section 529 of the

Internal Revenue Code. The amount deducted for each designated beneficiary cannot exceed the annual limitation on gifts permitted by the Internal Revenue Code for purposes of federal estate and gift tax, which is \$12,000 for 2006 and 2007. The deduction cannot result in taxable income being less than zero.

- Distributions used for qualified higher education expenses, as well as undistributed earnings in the accounts, will not be taxable. Federally qualified rollovers between accounts and beneficiary changes will also not be taxable events for Pennsylvania purposes. Distributions that are not used for qualified higher education expenses will be subject to tax. These changes will apply to tax years beginning after December 31, 2005.

Credits:

- A credit against tax is allowed for gross or net income taxes paid to other states or foreign countries by Pennsylvania residents.
- Enacted in 1974, a credit is available to those individuals receiving tax forgiveness under the Special Provisions (SP) for Poverty. For tax year 2006, the eligibility income limits for 100% tax forgiveness are \$6,500 for single claimants and \$13,000 for married claimants with no dependents. The eligibility income limits increase by \$9,500 for each dependent. Partial tax forgiveness is available to claimants for eligibility incomes of up to \$2,250 above the limit for 100% forgiveness.
- Qualified taxpayers may use employment incentive payment credits, job creation tax credits, research and development credits, or Keystone Opportunity Zone tax credits to offset personal income tax liabilities.
- Act 65–2006 provides for an organ or bone marrow donor tax credit to be claimed by a business firm against the taxes imposed under Articles III, IV, VI, VII, VIII or XV of the Tax Reform Code, effective January 1, 2006.

Exclusions:

- Act 7–1997 allows taxpayers to exclude from compensation qualified payments made under a cafeteria plan, qualifying under Section 125 of the Internal Revenue Code, for programs covering hospitalization, sickness, disability, or death.

- Effective January 1, 1998, Act 45–1998 exempts the capital gain from the sale of a principal residence for all taxpayers who satisfy ownership and use requirements. Previously, a one-time exclusion of up to \$100,000 of gain from the sale of a taxpayer’s principal residence was allowed for persons 55 years of age or older who satisfied ownership and use requirements, for sales made after July 1, 1987.
- Act 45–1998 provides an exclusion for personal use of employer-provided property or services.

The Commonwealth employs three primary methods for collecting personal income taxes: 1) estimated and final payments from individuals;

2) employer withholding; and 3) withholding from nonresident partners or shareholders by partnerships and S corporations.

1. Individuals, estates, and trusts must file annual returns on or before April 15th for the previous year’s income. Individuals, estates, and trusts with non-withheld income in excess of \$8,000 annually must file and remit estimated payments by the 15th day of April, June, September, and January for the preceding calendar quarter. For tax years beginning before January 1, 2000, the income threshold for estimated tax payments was \$2,500. There are special estimated tax provisions for farm income and trusts.

2. Employers withhold and remit employees’ taxes on wage and salary income according to the following schedule:

a. Quarterly - If total withholding tax is under \$300 per quarter, due the last day of April, July, October, and January for the preceding calendar quarter.

b. Monthly - If \$300 to \$1,000 of tax is withheld per quarter, due the 15th day of the following month.

c. Semi-Monthly - If \$1,000 or more in tax is withheld per quarter, due within three banking days of the close of the semi-monthly period.

An employer reconciliation statement must be filed by January 31st following the calendar year for which taxes were withheld or within 30 days after the termination of a business.

3. Partnerships and S corporations with nonresident partners or shareholders must remit tax on income from sources within this Commonwealth

which is allocable to a nonresident. The nonresident partner or shareholder may take a credit on their annual return for the tax remitted by the partnership or S corporation.

The income tax was first imposed in 1971 but was declared unconstitutional because it violated the uniformity clause. The tax was modified to a flat rate tax on the eight separate classes of income described above, effective June 1, 1971.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate</u>
1971	2.30%
1974	2.00%
1978	2.20%
1983	2.45%
1984 <sup>1</sup>	2.40%
1985	2.35%
1986 <sup>2</sup>	2.16%
1987	2.10%
1991 <sup>3</sup>	2.60%
1992 <sup>4</sup>	2.95%
1993	2.80%
2004	3.07%

<sup>1</sup> Effective tax rate after midyear rate change. Rate was 2.45% for the first half of the year and 2.35% for the second half of the year.

<sup>2</sup> Effective tax rate after midyear rate change. The rate for the first eight months of the tax year commencing on or after January 1, 1986 was 2.2% and for the final four months was 2.1%, for an effective rate of 2.16%.

<sup>3</sup> Effective tax rate after midyear rate change. Rate was 2.1% for first half of the year and 3.1% for second half of the year.

<sup>4</sup> Effective tax rate after midyear rate change. Rate was 3.1% for first half of the year and 2.8% for second half of the year.

The enabling legislation is Article III of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

**Realty Transfer Tax**

The realty transfer tax is a documentary stamp tax imposed on the value of real property, including contracted-for improvements to the property, transferred by deed, instrument, long-term lease, or other writing. The stamps or meter impressions, indicating payment of the tax, are affixed to the document when presented for recording.

Exempt classes of transfers include wills; mortgages; deeds of trust or similar instruments given as security

for debts; deeds to release such debt; land contracts where legal title passes only upon completion of payment; short-term leases; and instruments which solely grant, vest, or confirm a public utility easement. These items are excluded from the definition of document.

The United States, the Commonwealth or their instrumentalities, agencies, or subdivisions are exempt from payment of the tax. However, the exempt status of a party does not relieve the other parties to a transaction from the entire tax due.

Other specific transactions exist which are given statutory or regulatory exemptions from payment of the tax. Some of these excluded transactions include certain transfers among family members; certain transfers to governmental units; certain transfers between religious organizations; certain transfers to shareholders or partners; certain transfers to or from a non-profit industrial development agency; certain transfers of ownership interest in a real estate company or family farm; leases for the production or extraction of coal, oil, natural gas, or minerals; certain partitions of realty held by cotenants, when the property was passed by testate or intestate succession; and deeds to burial sites.

Act 45–1998 amended both the definition of family farm corporation and family farm partnership to allow the leasing of property directly and principally used for agricultural purposes between members of the same family to be an exempt transaction.

Since enactment, the realty transfer tax has been imposed at the rate of 1% of the actual consideration or price of the property represented in the deed. When the document has no consideration stated or the transaction is not arm's-length, the tax rate is 1% of the property's actual monetary worth computed through use of assessed value adjusted to market value.

The tax is payable upon the presentation of any document for recording or 30 days after acceptance of the document, whichever occurs first. Both grantor and grantee are held jointly and severally liable for payment of the tax. The County Recorder of Deeds collects the tax and remits it to the Commonwealth.

Beginning July 1994, 15% of the state levied realty transfer tax revenues are earmarked for the Keystone Recreation, Park, and Conservation Fund as mandated by Act 50–1993.

Act 89–2002 reduced the transfer rate from 15% to 10% for January 2002 through June 2002 and to 7.5% for July 2002 through June 2003. The transfer

percent then increased to 15% for July 2003 through June 2006. Act 67–2006 reduced the transfer to 2.1% for July 2006 through June 2007. The transfer percent is established at 15% for July 2007 and thereafter.

The tax was enacted as a temporary tax in 1951 and was made permanent in 1961.

The enabling legislation is Article XI-C of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

## **Inheritance and Estate Taxes**

The personal representative of the decedent's estate or the transferee pays inheritance and estate taxes using proceeds from the estate. The local Register of Wills acts as the Commonwealth's agent in the collection of these taxes.

The inheritance tax is imposed on the value of the decedent's estate transferred to beneficiaries by will or intestacy. Certain inter vivos transfers are also subject to inheritance tax. A fractional portion of property held by the decedent and one or more other persons jointly with the right of survivorship is taxable in the decedent's estate. Specified deductions may be taken in determining taxable estate value.

Inheritance tax is not levied on transfers of assets to certain types of entities. Transfers to governmental entities are exempt. Also exempt are transfers of property to charitable and fraternal organizations when the property is used exclusively for religious, charitable, scientific, literary, or educational purposes. Transfers to qualified veteran organizations are not subject to inheritance tax.

The tax rates levied against estates are based on to whom property is bequeathed. Inheritance tax on the transfer of non-jointly held property to spouses is levied at 0%. The transfer of property from children twenty-one years of age or younger to their parent (either natural, step, or adoptive) is taxed at a rate of 0%. All other transfers to lineal heirs are taxed at the rate of 4.5%. Transfers to siblings (defined as those having at least one parent in common with the decedent, related by blood or adoption) are subject to a tax rate of 12%. Transfers to all other persons are taxed at a rate of 15%.

The estate tax is a pick-up tax imposed to absorb the maximum amount of credit allowed by federal estate tax law toward state death taxes. For residents, the estate tax represents the difference between the Pennsylvania inheritance tax plus death taxes paid to other states and the maximum federal credit for state

taxes allowed by federal estate tax law. If a resident owned or had an interest in real property or tangible personal property located in another state, the estate tax is reduced by the amount of death taxes paid to the other state or by a proportional amount of the federal credit, whichever is greater. For nonresidents who owned or had an interest in property located in this Commonwealth, the estate tax is the difference between the Pennsylvania inheritance tax and a proportionate share of the federal credit in the same ratio that the property located in this Commonwealth subject to federal estate tax bears to the decedent's gross federal estate. The federal credit upon which the Pennsylvania estate tax is based is phased out between 2002 and 2005. Once the credit is completely phased out, the Pennsylvania estate tax is eliminated. However, estate tax collections will rebound when the federal credit is fully reinstated in 2011.

Inheritance and estate tax payments are due upon the death of the decedent and become delinquent nine months after the individual's death. If inheritance taxes are paid within three months of the decedent's death, a 5% discount is allowed. No discount is permitted for estate tax paid within three months of the death of the decedent.

The enabling legislation is Article XXI of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended, and Chapter 17 of Title 72 (Taxation and Fiscal Affairs), as amended.

## **Minor and Repealed Taxes**

Minor taxes produce comparatively small annual yields and primarily consist of the tax on legal documents and excess vehicle rental tax. Payments received as Electronic Funds Transfers (EFT) which cannot be immediately attributed to a specific tax category are placed in a temporary clearing account within this category. The spirituous and vinous liquors tax was placed in this category until its repeal effective July 1, 2001.

The vehicle rental tax is a two percent tax imposed on the rental of private passenger cars, trucks, and trailers used in the transportation of non-commercial property for periods of less than 30 days. The tax was originally named the passenger car rental tax when it was created by Act 48–1994, as it was levied only on the rental of private passenger vehicles for periods of less than thirty days. However, Act 7–1997 expanded the tax to include the rental of trucks, trailers, and semi-trailers used in the transportation of non-commercial property. Revenues from the vehicle rental tax are used to refund the cost of

licensing and title fees to vehicle rental companies. Any excess funds are transferred to the General Fund.

Enabling legislation of the vehicle rental tax is Article XVI-A of the Tax Reform Code of 1971 (P.L. 6, No. 2).

## **Nontax Revenue**

This category of General Fund revenue includes items such as licenses, fines, penalties, interest income, miscellaneous revenues, escheated accounts, and profits from the operation of Pennsylvania liquor stores.

The profits of Pennsylvania liquor stores are transferred by the Liquor Control Board (LCB) to the General Fund. The amount is annually determined by the LCB, subject to the approval of the Governor.

Enabling legislation is the Liquor Code, Act of June 29, 1987 (P.L. 32) 47 P.S. §§ 8-802 et seq.

## Motor License Fund

The Motor License Fund receives monies from liquid fuels taxes, motor vehicle licenses and fees, aviation revenues, federal aid for highway and aviation purposes, contributions from local subdivisions for highway projects, fines, and other miscellaneous highway revenues.

The fund provides revenues for highway and bridge improvement, design and maintenance, purchase of rights-of-way, aviation activities, administration costs, and Department of Transportation licensing and safety activities. It also finances State Police highway patrol operations, pays subsidies to local subdivisions for the construction and maintenance of roads, and funds other operations.

### Liquid Fuels Taxes

There are four taxes pertaining to the use or purchase of motor fuel in the Commonwealth which comprise the liquid fuels taxes: the liquid fuels and fuels tax, the motor carriers road tax / IFTA, the alternative fuels tax, and the oil company franchise tax.

### Liquid Fuels and Fuels Tax

Under the provisions of Act 3–1997, a permanent trust fund tax of 12 cents per gallon or fractional part is imposed on all liquid fuels and fuels used or sold and delivered by distributors in the Commonwealth beginning October 1, 1997. Prior to this date, liquid fuels were taxed under the provisions of the Act of May 21, 1931 (P.L. 149, No. 105), as amended, known as the Liquid Fuels Tax Act and fuels were taxed under the Act of January 14, 1952 (P.L. 1965, No. 550), as amended, known as the Fuels Use Tax Act. Both of these acts were repealed effective October 1, 1997.

Liquid fuels, which is comprised primarily of gasoline, specifically excludes kerosene, fuel oil, gas oil, diesel fuels, and tractor fuel. Fuels includes diesel fuel and all other special fuels except dyed diesel fuel, liquid fuels, and alternative fuels.

Aviation gasoline and jet fuel are also taxed under the liquid fuels and fuels tax. However, separate tax rates are set for these fuels (please refer to the tables below).

The tax is imposed on the ultimate consumer, but the distributor is liable for collecting and remitting the tax. Exempt from the tax are fuels sold and delivered to the United States Government, the Commonwealth and any of its political subdivisions, volunteer fire companies, ambulance services and rescue squads, second class county port authorities, and nonpublic nonprofit schools. In addition to these exemptions, reimbursements are made for certain agricultural purposes.

Payments and reports are due on or before the 20th day of the month following the month of tax collection.

The enabling legislation is Chapter 90 of Title 75 (the Vehicle Code) of the Pennsylvania Consolidated Statutes.

Tax rate histories of aviation gasoline and jet fuel as well as those for the repealed Liquid Fuels Tax Act and Fuels Use Tax Act are shown on the tables below:

#### Aviation Gasoline Rates <sup>1</sup>

<u>Date</u>	<u>Cents Per Gallon</u>
6/1/31	3.0
7/1/35	4.0
6/1/49	5.0
9/13/55	6.0
6/1/56	1.5
11/1/84	3.0
1/1/88	3.3
1/1/89	3.2
1/1/90	3.3
1/1/91	3.8
1/1/92	3.6
1/1/94	3.5
1/1/97	3.7
1/1/98	3.5
1/1/99	3.3
1/1/00	3.7
1/1/01	4.3
1/01/02	4.1
1/01/05	4.7
1/01/06	5.3

<sup>1</sup> Adjusted annually each January 1st beginning in 1985 based on the change in the producer price index for jet fuel. Minimum and maximum rates are 3.0 and 6.0 cents per gallon respectively.

**Jet Fuel Tax Rates <sup>1</sup>**

<u>Date</u>	<u>Cents Per Gallon</u>
6/1/56	1.5
6/1/60	1.0
11/1/84	1.1
1/1/85	1.3
7/1/85	1.5
1/1/88	1.8
1/1/89	1.7
1/1/90	1.8
1/1/91	2.0
1/1/92	1.8
1/1/94	1.7
1/1/97	1.9
1/1/98	1.7
1/1/99	1.5
1/1/00	1.9
1/1/01	2.0
1/1/02	1.8
1/1/05	2.0

<sup>1</sup> Adjusted annually each January 1st beginning in 1986 based on the change in producer price index for jet fuel. Minimum and maximum rates are 1.5 and 2.0 cents per gallon respectively.

**Liquid Fuels Tax Act Rates**

<u>Date</u>	<u>Cents Per Gallon</u>
6/1/31	3.0
7/1/35	4.0
6/1/49	5.0
9/13/55	6.0
6/1/57	5.0
4/1/61	7.0
4/1/70	8.0
9/1/74	9.0
7/4/79	11.0
8/8/83	12.0
10/1/97 <sup>1</sup>	NA

<sup>1</sup> The Act of April 7, 1997 (P.L. 6, No. 3) combined these taxes into the liquid fuels and fuels tax which has a rate of 12.0 cents per gallon.

**Fuel Use Tax Act Rates**

<u>Date</u>	<u>Cents Per Gallon</u>
9/1/47	4.0
6/1/49	5.0
2/1/52	5.0
9/13/55	6.0
6/1/57	5.0
4/1/61	7.0
4/1/70	8.0
9/1/74	9.0
7/4/79	11.0
8/8/83	12.0
10/1/97 <sup>1</sup>	NA

<sup>1</sup> The Act of April 7, 1997 (P.L. 6, No. 3) combined these taxes into the liquid fuels and fuels tax which has a rate of 12.0 cents per gallon.

**Motor Carriers Road Tax / IFTA**

Under the provisions of Act 75 of 1995, Pennsylvania joined the International Fuel Tax Agreement (IFTA) effective January 1, 1996. This agreement provides for base state reporting of fuel taxes for operators of qualified motor vehicles used in interstate operations. Qualified motor vehicles include those used, designed, or maintained for the transportation of persons or property which: (1) have two axles and a registered or gross weight greater than 26,000 pounds, or (2) have three or more axles regardless of weight, or (3) are operated as a vehicle combination exceeding 26,000 pounds. Qualified motor vehicles operated in Pennsylvania intrastate activities only are subject to fuel taxation under the motor carriers road tax.

The motor carriers road tax/IFTA is imposed on fuel consumed by qualified motor vehicle operators within Pennsylvania. Credit is granted for tax paid at the pump or directly remitted. Credit is also granted for fuel purchased in Pennsylvania but consumed elsewhere.

The tax rate is equivalent to the rate per gallon currently in effect on liquid fuels, fuels, or alternative fuels, plus an oil company franchise tax component.

Annual decal fees indicating vehicle registration in Pennsylvania are also included in these taxes. The cost is \$5 per calendar year, and the decals must be displayed on each qualified vehicle operated in Pennsylvania. Through September 30, 1997, the motor carriers road tax/IFTA accounts served as the reporting mechanism for an additional 6 cents per gallon surtax on fuel used by qualified motor vehicles. Surtax revenue funded, in part, the restricted highway bridge improvement account and was not considered to be part of motor carriers road tax/IFTA collections. Act 3–1997 repealed the surtax effective October 1, 1997.

The motorbus road tax, imposed on the motor fuel used by bus companies in their operations on highways within Pennsylvania, was repealed effective January 1, 1996 under the provisions of Act 75 of 1995. If a bus meets the definition of a qualified motor vehicle, its fuel consumption is subject to taxation under motor carrier road tax/IFTA.

IFTA payments and reports are due on or before the last day of April, July, October, and January for the quarter ending the last day of the preceding month. Motor carriers road tax reports are filed annually.

The enabling legislation is Chapter 21 and Chapter 96 of Title 75 (the Vehicle Code) of the Pennsylvania Consolidated Statutes.

### Alternative Fuels Tax

Under the provisions of Act 3–1997, alternative fuels used to propel vehicles on the public highways are subject to the alternative fuels tax effective October 1, 1997. Alternative fuels include natural gas, compressed natural gas, liquid propane gas and liquified petroleum gas, alcohols, gasoline-alcohol mixtures containing at least 85% alcohol by volume, hydrogen, hythane, electricity, and any other fuel not taxable as liquid fuels or fuels.

Each alternative fuel is converted to a gasoline gallon equivalent. The basis of this conversion is statutorily set at 114,500 Btu. The tax rate applied to the gasoline gallon equivalent equals the current liquid fuels tax and oil company franchise tax applicable to one gallon of gasoline.

Alternative fuels dealer-users are required to remit this tax. Reports and payments are due on or before the 20<sup>th</sup> day of each month for fuel sold or used in the preceding month. The Department of Revenue

may permit dealer-users to report the tax due for reporting periods greater than one month, up to an annual basis, provided the tax is prepaid on an estimated basis.

Enabling legislation is Chapter 90 of Title 75 (the Vehicle Code) of the Pennsylvania Consolidated Statutes.

### Oil Company Franchise Tax

Prior to October 1, 1997, all oil companies conducting business in Pennsylvania were subject to an excise tax for the privilege of exercising their corporate franchise, doing business, employing capital, owning or leasing property, maintaining an office, or having employees in the Commonwealth. Effective October 1, 1997, Act 3–1997 imposed an oil company franchise tax on all taxable liquid fuels and fuels. The tax is imposed on a cents-per-gallon equivalent basis and is remitted by distributors of liquid fuels and fuels.

Entities exempt from the liquid fuels and fuels tax are also exempt from the oil company franchise tax.

Prior to October 1, 1997, the tax rate was 153.5 mills on the revenue received from the first sale of petroleum products in Pennsylvania used to fuel motor vehicles for public highway use. Petroleum revenue was derived by multiplying total gallons of petroleum products by the average wholesale price as established monthly by the Department of Revenue. Minimum and maximum average wholesale prices are statutorily set at \$0.90 and \$1.25 per gallon, respectively.

As of October 1, 1997, the tax rate is 153.5 mills for liquid fuels and 208.5 mills for fuels expressed on a cents-per-gallon basis. Beginning January 1, 1999, under the provisions of Act 151–1998, a bus company may apply for reimbursement of 55 mills of the levy on fuels.

Receipts from 57 mills of the tax are deposited as unrestricted Motor License Fund revenues. The remaining monies are deposited to various restricted accounts within the fund. For example, revenues received from 55 mills of the levy on fuels are deposited in the highway bridge restricted account as replacement revenues for the repealed surtax.

Payments and reports are due from distributors on or before the 20<sup>th</sup> day of the month for liquid fuels and fuels sales in the preceding month.

Enabling legislation is Chapter 95 of Title 75 (the Vehicle Code) of the Pennsylvania Consolidated Statutes.

### **Motor Vehicle Licenses and Fees**

The Commonwealth receives revenue from fees levied for registering and titling motor vehicles, from the issuance of learner's permits, operator's licenses, transfers of registration, special hauling permits, and from other states for Pennsylvania's share of registration fees based on proportionate travel on Pennsylvania highways (IRP).

### **Other Revenue**

Other Motor License Fund revenues are primarily derived from three sources:

Fines - This category consists of fines collected under the various fuel tax laws and certain Vehicle Code fines. Act 64-1987 established a restricted receipt account known as the Judicial Computer

System Augmentation Account. Beginning July 1, 1987, the total of certain fines, fees, and costs collected by any division of the unified judicial system which are in excess of the amount collected from such sources in fiscal year 1986-87 are to be deposited into this account. This transfer was to continue until a statutory cap of \$80 million was transferred but subsequent legislation eliminated this cap. Fines, fees, or costs that are allocated by law to counties and municipalities are not affected by this Act.

Miscellaneous revenue - The Commonwealth receives revenue from interest on deposits of Motor License Fund monies; investments and securities; and the sale and rental of properties, maps, plans, and inspection stickers.

Gross receipts tax - This 8 mill excise tax imposed on the gross receipts of owners and operators of motor vehicles transporting property for hire on public highways was repealed effective January 1, 1998.

## Public Transportation Assistance Fund Taxes and Fees

Act 26–1991 established a special fund known as the Public Transportation Assistance (PTA) Fund effective October 1, 1991. The Act imposed fees and taxes to be deposited into that fund and dedicated for funding mass transportation.

Generally, the provisions of Article II (Sales and Use Tax) of the Tax Reform Code of 1971 apply to PTA Fund taxes and fees. The taxes and fees are in addition to the sales and use tax (SUT) and require any person making sales, rentals, or leases subject to taxes or fees to obtain a Public Transportation Assistance Tax License from the Department of Revenue. The rules and procedures for filing returns are the same as for SUT.

If a transaction is taxable and the purchaser does not pay the tax to the vendor for any reason, then the purchaser must pay the tax directly to the Department of Revenue. Specific entities receive exemption for specified purchases.

### New Tire Fee

A \$1.00 per tire fee is imposed on the sale of new tires for highway use in Pennsylvania. Tires placed on vehicles or equipment licensed for highway use are deemed to be for highway use regardless of the actual usage. The purchase of new tires in conjunction with the purchase of other property, for example a motor vehicle, is subject to the fee. The sale of used tires or tires which are for other than highway use are not subject to the fee.

### Motor Vehicle Lease Tax

The motor vehicle lease tax, imposed at 3% of the total lease price, applies to leases taxable under Article II (Sales and Use Tax) of the Tax Reform Code. The term lease means a contract for the use of a motor vehicle for a period of 30 days or more. The 6% sales tax and the 3% lease tax are not included in the lease price used to calculate the other tax.

Act 48–1994 exempted trucks registered as class 4 and above from the 3% lease tax effective April 1, 1995.

### Motor Vehicle Rental Fee

The motor vehicle rental fee is imposed on the rental of any motor vehicle, taxable under Article II (Sales and Use Tax) of the Tax Reform Code, at the rate of \$2.00 for each day or part of a day for which a vehicle is rented. The term rental means a contract for the use of a motor vehicle for a period of less than 30 days.

### Sales and Use Tax

Effective for revenues collected on or after July 1, 1992, Act 40–1991 requires 0.44% of SUT to be transferred to the PTA Fund within 30 days of the close of each calendar month. This transfer represents the amount of tax collected pursuant to the imposition of the tax on periodicals under Act 26–1991. Effective for revenues collected on or after April 1, 1995, Act 48–1994 requires an additional transfer of 0.09% of SUT revenues from the General Fund to the PTA Fund for the exemption of vehicles class 4 and above from the lease tax. Effective for transfers after June 30, 2003, Act 46–2003 requires an additional amount of 0.417% of SUT to be transferred each month from the General Fund to the PTA Fund. As a result, the current monthly transfer totals 0.947%.

### Public Utility Realty Additional Tax

Effective January 1, 1998, Act 4–1999 requires that every entity liable for the public utility realty tax (PURTA) imposed under Article XI-A of the Tax Reform Code pay an additional tax of 7.6 mills on each dollar of state taxable value of its utility realty. Act 46–2003 repealed the transfer of 7.6 mills of PURTA revenue from the General Fund to the PTA Fund effective for transfers after June 30, 2003. Beginning in FY 2003-04, revenues associated with the 7.6 mills of PURTA will remain in the General Fund.

### **Utility Gross Receipts Tax**

Act 138–1996 provided that beginning June 15, 1999, and each year thereafter, 0.18% of the gross receipts tax base for electric suppliers is deposited into the Public Transportation Assistance Fund. Act 46–2003 repealed this transfer effective for FY 2003-04 and forward.

The Public Transportation Assistance Fund enabling legislation is Article XXIII of the Tax Reform Code of 1971 (P.L. 6, No. 2), as amended.

### **Supplemental Public Transportation Assistance Funding**

Act 3–1997 provided that, beginning July 1, 1997, 1.22% of the money collected from the tax imposed under Article II of the Tax Reform Code (Sales and Use Tax) is deposited into the supplemental public transportation account. No funds in excess of \$75 million may be transferred to the account in any one fiscal year.

## Lottery Fund

The Lottery Fund is a special fund comprised of monies received from the sale of lottery tickets and from fees. It provides funds for payment of prizes to lottery winners and for various programs benefiting older Pennsylvanians and others.

In 1971, legislation was enacted creating a state lottery with a General Assembly mandate that net proceeds were to fund senior citizen benefit programs. Lottery sales originated on March 7, 1972 when the first 50-cent ticket went on sale. In November 1972 the first \$1 game was introduced establishing a product mix of different games. The product mix has undergone numerous revisions culminating in the current game structure of various computer terminal games and instant ticket games.

Sale proceeds from the various games, less retailer-paid prizes and retailer commissions, are deposited in the Lottery Fund. This fund is used to pay prizes and authorized programs. Benefit programs currently offered include:

**1. Property Tax or Rent Rebate (PTRR)** – Households with claimants or spouses 65 years of age or older, widows or widowers 50 years of age or older, and the permanently disabled 18 years of age or older meeting income eligibility requirements may qualify for this program. Rebates of paid property tax or rent, up to a maximum of \$650 per year, are available. Act 30–1999 expanded the PTRR program by excluding 50% of Social Security payments and 50% of Railroad Retirement benefit payments from eligibility income. The Taxpayer Relief Act (Act 1–2006) expanded the PTRR program for homeowners by increasing the income limit from \$15,000 to \$35,000 and the maximum rebate from \$500 to \$650. The income limit for renters remained at \$15,000; however, the maximum rebate for renters increased from \$500 to \$650. In addition, the Act created an automatic supplemental property tax rebate for seniors living in Philadelphia, Pittsburgh, and Scranton, as well as a supplemental rebate for homeowners with incomes of \$30,000 or less and a property tax bill that exceeds 15% of that income.

**2. Pharmaceutical Assistance (PACE and PACENET)** – The PACE program was expanded by Act 134–1996 which increased income eligibility requirements and established the PACE Needs Enhancement Tier (PACENET). Those qualifying for these programs must be at least 65 years of age

and meet income eligibility requirements. Currently, individuals and married couples with annual incomes not exceeding \$14,500 and \$17,700 respectively qualify for PACE. The PACE co-payment is \$6 for generic drugs and \$9 for brand-name prescriptions. Additionally, individuals with an annual income greater than \$14,500 but not exceeding \$23,500 and married couples with annual incomes greater than \$17,700 but not exceeding \$31,500 qualify for benefits under PACENET. The program pays for the entire cost of prescription drugs and insulin supplies, subject to co-payments, after the individual pays the first \$40 of prescription costs each month. Previously, benefits would not begin until a participant already spent \$500 in a given year. The PACENET co-payment is \$8 for generic drugs and \$15 for brand-name prescriptions.

**3. Transportation Programs** - Under the Free Transit Program older Pennsylvanians are eligible for free rides on participating local fixed route operations during off-peak hours on weekdays and all day on weekends and holidays. This program also applies to commuter rail lines. The Shared Ride Program for Older Pennsylvanians, as amended by Act 36–1991, permits citizens aged 65 or older to shared-ride services at a cost of only 15% of the fare. The State Lottery Fund reimburses shared-ride transit operators the remaining 85% of the shared-ride fare.

**4. PennCARE** – The State Lottery Fund provides funding to 52 Area Agencies on Aging serving all 67 counties. These Area Agencies on Aging provide aging services at the local level. Lottery funded services include, for example, in-home care, senior center activities, and home delivered meals for people unable to prepare adequate meals for themselves (meals-on-wheels).

Enabling legislation is the State Lottery Law of 1971 (P.L. 351, No. 91), as amended.

## Gaming Fund

Act 71–2004 established the State Gaming Fund and authorized gaming at 14 locations throughout Pennsylvania. A gaming tax, a local share assessment, and various license and fee revenue are deposited into the Gaming Fund. In addition, the \$5 million escrow accounts established by each licensed gaming entity and used to pay the Commonwealth's administrative expenses related to the Act, are also deposited in the Fund.

Under current law, an amount equal to \$1.5 million, or 0.1% of gross terminal revenue whichever is greater, is transferred annually from the Gaming Fund to the Compulsive and Problem Gambling Treatment Fund. Additional transfers from the Gaming Fund include \$5 million to the Pennsylvania Gaming Control Board (PGCB) for law enforcement grants, \$25 million to the General Fund for the Volunteer Fire Company Grant Program, \$0.80 per acre to local jurisdictions hosting specified forest reserves, and repayments to the Lottery Fund for property tax relief enacted under Act 1–2006 of the Special Session on Property Tax Relief.

All remaining revenue is transferred to the Property Tax Relief Fund and used for general property tax relief as provided in statute.

### Gaming Tax and Assessment

A 34% state tax and a 4% local share assessment are imposed on gross terminal revenue and are deposited into the Gaming Fund. For purposes of this

calculation, gross terminal revenue is defined as the total of wagers received by a slot machine minus the total of cash or cash equivalents paid out to patrons as a result of slot machine play, cash paid to purchase annuities to fund prizes for patrons as a result of slot machine play, and any personal property distributed to a patron as the result of playing a slot machine.

The local share assessment is deposited into the Gaming Fund and distributed to local jurisdictions hosting a licensed gaming entity. These distributions are made quarterly and are either sent directly to the local jurisdiction or forwarded to the Department of Community and Economic Development for the awarding of grants to the local jurisdiction.

### Licenses and Fees

License and fee revenue related to gaming is deposited into the Gaming Fund. These fees include the one-time fee paid by licensed gaming entities (\$50 million for a category 1 or 2 license and \$5 million for category 3 license), as well as licenses and annual renewals for manufacturers and suppliers of gaming equipment, and a multitude of other gaming related permits issued by the PGCB.

Enabling legislation is the Pennsylvania Race Horse Development and Gaming Act of July 5, 2004 (P.L. 572, No. 71).

## Recent Changes in Tax Law

Significant pieces of legislation affecting revenues for the General Fund, Motor License Fund and certain special funds are outlined below.

**ACT #189 of November 29, 2006 made the following changes:**

**To the Sales and Use Tax:**

- Exempts the sale of copies of official documents sold by government agencies or courts from tax. (Effective immediately)

**ACT #182 of November 29, 2006 made the following changes:**

**To the Personal Income Tax:**

- Exempts amounts paid by the U.S. Government or the Commonwealth for active state duty emergency service inside or outside of the Commonwealth from the definition of compensation.
- Applies to taxable years beginning after December 31, 2006.

**ACT #151 of November 20, 2006 made the following changes:**

**Allows for the creation of Strategic Development Areas (SDA):**

- Businesses located within the SDAs receive relief from various local and state taxes, including the corporate net income tax, the capital stock and franchise tax, the sales and use tax, and the personal income tax. In addition, insurance companies and certain regulated transportation companies are eligible to earn tax credits based on the number of jobs created within the SDA.
- The program is administered by the Department of Community and Economic Development and tax benefits may not extend beyond December 31, 2022. (Effective immediately)

**ACT #116 of July 6, 2006 made the following changes:**

**To the Sales and Use Tax:**

- Clarifies that clean rooms and their component systems are included under the manufacturing and processing exemption and as such, are exempt from tax.

**To the Corporate Net Income Tax:**

- Increases the sales factor weight to 70 percent for calculating corporate net income tax apportionment. This applies to taxable years beginning after December 31, 2006.
- Expands the cap on net operating losses to \$3 million, or 12.5 percent of taxable income, whichever is greater. This applies to taxable years beginning after December 31, 2006.

**To the Research and Development Tax Credit:**

- Increases the cap on credits from \$30 million to \$40 million.
- Increases the amount of credits allocated for small businesses from \$6 million to \$8 million.
- Increases the small business credit from 10 percent to 20 percent of qualified research and development expenses.
- Extends the credit to include expenses incurred during taxable years ending on or before December 31, 2015.
- Changes apply to credits awarded after June 30, 2006.

**ACT #114 of July 11, 2006 in part, made the following changes:**

**To the Educational Improvement Tax Credit:**

- Raises the annual cap on credits from \$44 million to \$54 million. This change increases the amount available to provide tax credits to businesses for contributions to scholarship organizations from \$29.3 million to \$36 million, and the amount available for contributions to educational improvement organizations from \$14.7 million to \$18 million. (Effective immediately)

**ACT #67 of July 6, 2006 made the following changes:**

**To the Sales and Use Tax:**

- Exempts the sale of investment metal bullion and investment coins from the sales and use tax. This exemption does not include jewelry or works of art made from coins, nor does it include medallions. (Effective September 6, 2006)

**To the Personal Income Tax:**

- Links the Pennsylvania definitions of small corporation and qualified subchapter S subsidiary to the Internal Revenue Code, as amended through 2005. The effect is that, pursuant to recent Federal changes in the American Jobs Creation Act, the number of shareholders allowed for purposes of Pennsylvania S corporation designation increases from 75 to 100. Requires a Federal S corporation to be a Pennsylvania S corporation unless it specifically files an election not to be considered an S corporation for Pennsylvania purposes. The election requires the consent of 100 percent of the members. The election due date is extended and election revocations are prohibited for the six months. Applies to taxable years beginning after December 31, 2005.
- Provides a personal income tax exemption for contributions made to Health Savings Accounts (HSAs) and Archer Medical Accounts (AMAs). These changes are consistent with Federal treatment of these contributions. Applies to taxable years beginning after December 31, 2005.
- Provides a personal income tax exemption for qualified tuition program (QTP) contributions, rollovers, undistributed earnings, and distributions used for qualified higher education expenses. Applies to taxable years beginning after December 31, 2005.

**To the Capital Stock and Franchise Tax:**

- Excludes single member restricted professional companies (RPCs) from the definition of corporation, and consequently, from paying the capital stock and franchise tax (CSFT).
- Reduces the net income of a limited liability corporation (LLC) or business trust by the amount of distributions made by the entity to any member materially participating in the business activities of the entity. Applies to any LLC or business trust that is not taxable as a corporation for Federal income tax purposes and is effective for taxable years beginning after December 31, 2005.
- Increases the applicable valuation deduction used in calculating capital stock value from \$125,000 to \$150,000. Applies to taxable years beginning after December 31, 2006.
- Accelerates the CSFT phaseout by 0.1 mills. The rate for tax year 2006 is reduced from 4.99 mills to 4.89 mills and declines by 1 mill per

year thereafter until the tax is eliminated. Applies to taxable years beginning after December 31, 2005.

**To the Realty Transfer Tax:**

- Reduces the amount of the transfer to the Keystone Recreation, Park, and Conservation Fund from 15 percent to 2.1 percent for transfers occurring between July 1, 2006 and June 30, 2007. The transfers occurring on or after July 1, 2007 are at 15 percent.

**To the Inheritance Tax:**

- Reduces the value of agricultural conservation easements by fifty percent for purposes of inheritance tax assessments. Applies to estates of decedents with dates of death on or after July 6, 2006. (Effective immediately)

**ACT #65 of July 2, 2006 in part, made the following changes:**

**To Tax Credits:**

- The Organ and Bone Marrow Donor Act provides for a tax credit for expenses incurred when a business firm grants to any of its employees a paid leave of absence for the purpose of donating an organ or bone marrow. Credits can be used against the taxes imposed under Articles III, IV, VI, VII, VIII or XV of the Tax Reform Code. The credit is available for tax years beginning on or after January 1, 2006. (Effective immediately)

**Special Session ACT #1 of June 27, 2006 made the following changes:**

**Creates the Taxpayer Relief Act:**

- Provides an allocation for a portion of Pennsylvania gaming revenue to school districts to provide for property tax reduction.
- Allows school districts to impose an earned income tax (EIT) or personal income tax (PIT) after a front-end referendum. The added revenue must be used to provide additional homestead and farmstead exclusions.
- Requires each school board to appoint a local tax study commission to review certain past and present tax, revenue, and demographic data, and make recommendations whether the school district should increase the EIT, or impose a PIT, in order to provide property tax reductions for homesteads and farmsteads.

- Requires a school board to seek voter approval for any proposed tax increase exceeding an annually established index.
- Requires all school districts to submit a preliminary budget by February 14, 2007. The preliminary budget, along with a schedule of any proposed tax rate increases, must be submitted to the Department of Education (PDE) by February 19, 2007.
- Provides that any school district imposing an EIT and net profits tax is subject to section 13 of the Local Tax Enabling Act.
- Provides that any school district imposing a PIT is subject to all regulations adopted by the Department of Revenue for purposes of administering the Pennsylvania personal income tax.
- Establishes the Property Tax Relief Fund and the Property Tax Relief Reserve Fund.
- Requires the Secretary of the Budget to certify the amount of revenue in the Property Tax Relief Fund and the Property Tax Relief Reserve Fund that is available for distribution as property tax relief. The certification must be completed by April 15 and include the amount currently in the Funds, as well as all revenue which is reasonably projected to be deposited into the Funds during the following 6-month period. The Secretary may only certify an amount that is sustainable in subsequent years.
- Provides that no property tax relief shall be granted until at least \$400 million is available for distribution in the Property Tax Relief Fund.
- Repealed Act 72 of 2004, also known as the Homeowner Tax Relief Act.

**To the Property Tax Rent Rebate (PTRR) Program:**

- Expands the income parameters to include homeowners with an eligible income of up to \$35,000. The income eligibility requirements for renters remain at \$15,000.
- Changes the basis on which rebates are calculated from a percentage of the claimant's property tax/rent bill (where the percentage was based on income) to a fixed dollar amount based on the claimant's income.
- Provides a supplemental rebate for homeowners with incomes of \$30,000 or less and a property tax bill that exceeds of 15% of that income.
- Utilizes gaming revenue to provide for an additional rebate for homeowner residents of a

city of the first class (Philadelphia), a school district of the first class A (Pittsburgh), or a city of the second class A (Scranton).

**ACT #42 of May 11, 2006 made the following changes:**

**To the Film Production Tax Credit:**

- Repealed the Film Production Tax Credit, Article XVII-C of the Tax Reform Code. (Effective June 30, 2006)
- Created the Film Production Grant program by amending Title 12 to add Chapter 41 to the Pennsylvania Consolidated Statutes. This replaces the Film Production Tax Credit Program.

**ACT #81 of December 16, 2005 made the following changes:**

**To the Emergency Energy Assistance Fund:**

- Establishes the Emergency Energy Assistance Fund.
- Provides for the appropriation of not more than 1 mill of gross receipts tax receipts collected during fiscal year 2005-06 to the Emergency Energy Assistance Fund for state funded emergency energy assistance if the Governor declares that either weather conditions, disasters, or high energy prices are a threat to public health and Federal home energy assistance funds are not sufficient to meet this need.

**ACT #48 of July 14, 2005 made the following changes:**

**To the Personal Income Tax:**

- Provides special tax provisions for a health savings account (HSA). Excluded from PA personal income tax is any income from an HSA, as well any amount paid out or distributed from an HSA, that is used exclusively for the qualified medical expenses of the beneficiary or for the reimbursement of those expenses. Distributions paid out for reasons other than the qualified medical expenses of the beneficiary, as well as any excess contributions, shall be taxable. The provisions apply to taxable years beginning after December 31, 2004. (Effective September 12, 2005)

**ACT #46 of July 13, 2005 in part, made the following changes:**

**To the Educational Improvement Tax Credit:**

- Increases the total amount of Educational Improvement Tax Credits approved for all taxpayers from \$40 million to \$44 million in a fiscal year. The \$44 million credit includes \$29.3 million for contributions to scholarship organizations, and \$14.7 million for contributions to educational improvement organizations. (Effective immediately)

**ACT #40 of July 7, 2005 made the following changes:**

**To the Personal Income Tax:**

- Expands the definition of compensation to include distributions from nonqualified deferred compensation plans attributable to an elective deferral of income, regardless of whether the distribution is paid during employment or retirement. With certain exceptions, Pennsylvania's constructive receipt rules are now the same as the federal constructive receipt rules to determine when compensation is received by a cash basis taxpayer. This change applies to appeals which arise prior to or after the effective date of this act and applies to taxable years beginning after December 31, 2004. Following the federal constructive receipt rule, deferrals to nonqualified deferred compensation plans are not includible in compensation. This change applies to appeals which arise prior to or after the effective date of this act and applies to taxable years beginning after December 31, 2002. The exceptions include contributions to retirement plans like the public employee retirement system, contributions to 401(k) plans, contributions by self-employed persons to retirement plans, and contributions to Roth IRAs and regular IRAs.
- The taxability of an exchange of life insurance annuity contracts will follow the requirements of Section 1035 of the Internal Revenue Code. Under these rules, if there is no cash involved, the exchange will be tax-free. If the exchange involves cash, the amount of cash received will be taxable as interest income. This applies to taxable years beginning after December 31, 2004.
- Taxpayers who receive personal income tax refunds will be able to make contributions for military family relief assistance through a check-

off on the personal income tax return. This shall apply to taxable years beginning after December 31, 2004. The check-off for the US Olympics Committee has been eliminated for taxable years beginning after December 31, 2004. Sunset dates have been established for the remaining check-offs. In general, check-offs expire at the end of the fourth year after becoming effective.

- Fiduciaries may follow federal rules in determining the amount of quarterly estimated payments due. This applies to payments made after June 30, 2006.
- The fine for furnishing a false or fraudulent information return (K-1) to a partner has been increased to \$250 from \$50. (Effective immediately)

**To the Corporate Net Income Tax and Capital Stock and Franchise Tax:**

- Amends the definition of corporation to exclude a non-profit nonstock commodity or nonprofit nonstock stock exchange. This applies retroactively to taxable years beginning after December 31, 1997.

**To the Local Realty Transfer Tax:**

- Authorizes the Department to collect delinquent local realty transfer tax, if so requested by the local taxing authority. For these purposes, the local realty transfer tax law is amended to make it more consistent with the state realty transfer tax law.
- The three-year period for making an assessment is extended to six years if the underpayment of the amount of tax is 25% or more.
- If any part of the underpayment is due to fraud or an undisclosed, intentional disregard for the rules and regulations, the full amount of the tax can be assessed at any time.
- Applies to any document made, executed, delivered, accepted or presented for recording 90 days after the effective date of this act.

**To the Research and Development Tax Credit:**

- Amends the Research and Development Tax Credit for technical changes. The definition of pass-through entity now includes limited liability companies and partnerships. Provides that credit against Article III cannot be used against employer withholding tax. Establishes procedures for the pass-through of the credit to shareholders, members, or partners of pass-

through entities including the written notification to the Department of the pass-through of the credit. The shareholder, member, or partner must use the credit in the taxable year in which the transfer is made. These changes apply to taxable years beginning after December 31, 2005.

**To the Film Tax Credit:**

- Amends the Film Tax Credit so that the Department of Community and Economic Development (DCED) can now administer the awarding of the credits on a “first come, first served” basis using the date on which principal photography in Pennsylvania begins. DCED will certify the amount of the credit to the Department. Only \$10 million of credits may be awarded in any fiscal year. Credit applications are based on budgeted expenses rather than actual expenses. Filmmakers who are awarded credits and fail to incur the agreed to amount of qualified film production expenses upon which the credits are based must refund any unearned credit claimed. These provisions apply to any film production expenses incurred after December 31, 2004. For the fiscal year 2005-2006, the amount of credits that can be awarded by DCED is equal to the difference between \$10 million and the amount of credits awarded by the Department on August 15, 2005.

**To the Sales and Use Tax:**

- If a vehicle dealer makes a taxable use of a motor vehicle from its inventory, the dealer must pay use tax equal to 6% of the fair rental value of the motor vehicle during the period of use. Previously, this provision only applied for one year from the day that the vehicle was acquired by the dealer. Also eliminated was a requirement that the dealer notify the Department of the election to pay tax on the fair rental value within 10 days of the commencement of such use. (Effective September 5, 2005)

**Miscellaneous Changes:**

- Authorizes the Department to impose an additional fee of 10% of the face amount, up to \$1,000, for any electronic funds transfer denied for insufficient funds. This is the same fee that is applied to bad checks. (Effective immediately)
- Authorizes the Department to electronically file liens with county courts, when requested to do so by the county court. The filing fee may also be made electronically. (Effective immediately)

- Authorizes the Department to add the cost of collection to delinquent tax liabilities. This is intended to provide the Department the ability to recoup the cost of retaining private agencies for the collection of delinquent taxes. In this way, the Commonwealth will receive 100% of the delinquent tax liability and not the amount of the delinquent tax liability reduced by the cost of the collection. (Effective immediately)

**ACT #226 of December 1, 2004, in part, made the following changes:**

**To Tax Credits:**

- Creates the First Class Cities Economic Development District Act, providing an incentive for produce merchants to locate in a designated Economic Development District (EDD) in Philadelphia. The Governor may propose land for the district by executive order on or before July 15, 2005.
- Permits a company actively conducting business in the district to apply to the Department of Community and Economic Development (DCED) for certification as a “qualified business”. Such businesses are entitled to various tax benefits for operating in the district.
- Provides personal income tax (PIT) and corporate net income tax (CNIT) credits for business activity conducted in the EDD by qualified businesses.
- Exempts qualified businesses from sales and use tax (SUT) on purchases at retail of services or tangible personal property, other than motor vehicles, for the exclusive use, consumption, or utilization in the district.
- Effective upon the designation of the district by DCED and expires no later than December 31, 2018.

**To Local Taxes:**

- Requires the City of Philadelphia and the school district of Philadelphia to agree to waive certain types of taxation for the real property and businesses operating in the EDD for the duration of the program before benefits are effective.
- Requires the City of Philadelphia to waive its Business Privilege Tax on activity conducted within the district and requires all property taxes not dedicated to the school district to be waived for property encompassed by the district.

- Permits school district property taxes to be based only on the value of property prior to redevelopment as an EDD.
- Effective upon designation of the district by DCED.

**ACT #201 of November 30, 2004, in part, made the following changes:**

**To the Sales, Use and Hotel Occupancy Tax:**

- Expands the sales and use tax exemption for common carriers to include five-axle tractor trailers that are primarily engaged in the business of hauling ashes, rubbish, excavated and road construction materials. (Effective December 14, 2004)

**ACT #116 of November 19, 2004, in part, made the following changes:**

**To the Employment Incentive Payment Tax Credit:**

- Extends the Employment Incentive Payments (EIP) Tax Credit making it available for employees hired up to December 31, 2009. The total cap on EIP tax credits awarded remains \$25 million per fiscal year. (Effective immediately)

**ACT #95 of July 20, 2004, in part, made the following changes:**

**To Tax Credits:**

- Creates a Film Production Tax Credit to promote the production of television series and movies in Pennsylvania by offering a tax credit for certain production expenses.
- Limits the credit to only those productions where at least 60% of production expenses are incurred in Pennsylvania. The credit is equal to 20% of the qualified Pennsylvania production expenses. Production companies must apply to DCED for the credit by February 15 for expenses incurred in the previous calendar year. DCED is to review applications and award credits by August 15 of the same year. To qualify for the credit, film expenses must be incurred between July 1, 2004 and December 31, 2012.
- Allows credits to be applied against CNIT, CSFT, and PIT liabilities. Credits may also be passed through a partnership or Pennsylvania S corporation to its owners.

- Permits the carrying forward of any unused credit for up to three years. Credit recipients are also allowed to sell or transfer any unused portion of the credit, if approved by DCED.
- Caps the total amount of credit that can be awarded by DCED at \$10 million per fiscal year. If more applications are received than can be fully funded, the amount awarded is to be prorated.
- Requires the Department of Revenue to issue an annual report as to the effectiveness of the Film Production Tax Credit beginning April 1, 2006.

**ACT #72 of July 5, 2004, in part, made the following changes:**

**Creates the Homeowner Tax Relief Act:**

- Authorizes school districts to assess and collect a tax on earned income and net profits or a tax on personal income for the purpose of funding homestead and farmstead exclusions to reduce school district property taxes.
- Authorizes school districts levying taxes under this Act to create an exemption for residents earning less than \$10,000 annually from all sources.
- Provides that any school district imposing an earned income and net profits tax is subject to section 13 of the Local Tax Enabling Act.
- Provides that any school district imposing a personal income tax is subject to all regulations adopted by the Department of Revenue in administering the State personal income tax.
- Provides that in order to qualify for state funds for property tax relief, a school district must levy an additional 0.1% earned income and net profits tax.
- For school districts levying taxes under this Act, generally requires voter approval to increase property taxes beyond the index calculated by the Department of Education, to increase the rate of tax levied under this Act, or to create a new tax for the purpose of supporting the school district.
- Establishes the Property Tax Relief Fund and the Property Tax Relief Reserve Fund.
- Provides that no property tax relief shall be granted until the balance in the Property Tax Relief Reserve Fund is \$400 million and at least \$500 million is available for distribution in the Property Tax Relief Fund.

- Requires the Secretary of the Budget to certify the amount of revenue in the Property Tax Relief Fund and the Property Tax Relief Reserve Fund that is available for distribution as property tax relief. The certification must be completed by April 15 and include the amount currently in the Funds, as well as all revenue which is reasonably projected to be deposited into the Funds during the following 6-month period. The Secretary may only certify an amount that is sustainable in subsequent years.
- Effective September 3, 2004.

**ACT #71 of July 5, 2004, in part, made the following changes:**

**Creates the Pennsylvania Race Horse Development and Gaming Act:**

- Authorizes limited gaming and establishes the Pennsylvania Gaming Control Board to oversee the operation of gaming in Pennsylvania.
- Provides for the issuance of 12 full slot machine licenses and 2 resort licenses. Also provides for licensing requirements and fees.
- Establishes licensing requirements and fees for slot machine suppliers and manufacturers, as well as key employees and gaming employees.
- Provides for a central control computer system that will be linked to all slot machines and under the control of the Department of Revenue.
- Authorizes the Department of Revenue to make deductions and distributions from gross terminal revenue.
- Establishes the Pennsylvania Race Horse Development Fund, the State Gaming Fund, and the Property Tax Relief Fund. Provides funding for and the subsequent distribution of revenue from the Funds.
- Effective immediately.

**ACT #12 of February 12, 2004, in part, made the following changes:**

**To Tax Credits:**

- Creates the Keystone Innovation Zone program. Keystone Innovation Zones (KIZ) are areas of land in which a partnership of institutions of higher education, businesses, and other stakeholders work together to foster growth in a targeted industry segment. Groups have until July 1, 2007 to apply for KIZ status. Once the KIZ is approved by DCED, companies operating in the KIZ may be able to generate tax credits based on annual increases in their revenue.
- Permits a KIZ company to claim a tax credit equal to 50% of the increase in the company's gross revenue from the previous year for activity conducted within the KIZ. KIZ companies are for-profit companies operating in a KIZ, in existence for less than eight years, and operating within the targeted industry identified by the KIZ.
- Limits the tax credit to \$100,000 per company, per year. KIZ companies must apply to DCED for the credit by September 15 of each year, beginning in 2006. DCED is to review the applications and award credits by December 15 of the same year. DCED may not approve more than \$25 million in total KIZ credits in any taxable year.
- Allows companies to apply KIZ credits against PIT, CNIT, or CSFT liabilities. Credits may pass through Pennsylvania S corporations to their shareholders, based on each shareholder's share of distributive income.
- Authorizes KIZ companies to carry forward any unused credit for up to four taxable years. A KIZ company may elect to transfer or sell an awarded tax credit with the approval of DCED.
- Requires DCED to issue an annual report as to the effectiveness of the KIZ tax credit beginning December 31, 2007.

## Tax Summary

<u>Tax</u>	<u>Rate</u>	<u>Payment Remitted By</u>	<u>Report Due Date</u>
<b>Alternative Fuels</b>	12 cents per gallon plus an oil franchise tax component is applied to each gasoline gallon equivalent.	Dealer-users of fuel	20th day of each month
<b>Bank and Trust Company Shares</b>	1.25%	All bank and trust companies doing business in Pennsylvania	March 15th of each year
<b>Capital Stock and Foreign Franchise</b>	3.89 mills base rate for 2007 on formula valuation with a \$150,000 valuation exemption <sup>1</sup>	Corporations doing business in Pennsylvania	15th day of the 4th month after the close of a tax year
<b>Cigarette</b>	6.75 cents per cigarette	Cigarette Stamping Agents	15th day of each month
<b>Corporate Loans</b>	4 mills	Corporations doing business in Pennsylvania	15th day of the 4th month after the close of a tax year
<b>Corporate Net Income</b>	9.99%	Corporations doing business in Pennsylvania	15th day of the 4th month after the close of a tax year
<b>Gross Premiums</b>	2% of gross premiums, with certain exceptions	Domestic and foreign insurance companies	April 15th of each year
<b>Gross Receipts</b>	50 mills, except electric companies at 59 mills	Certain electric, telecommunications, and transportation companies	March 15th of each year
<b>Inheritance and Estate</b>	Rate determined by relationship to decedent: Spouses – 0% Parents of decedent 21 years of age or younger – 0% Other lineal heirs – 4.5% Siblings – 12% All other heirs – 15%	Local Registers of Wills	Within 9 months of the death of the decedent

<sup>1</sup> The tax rate is scheduled to be phased out by an additional 1 mill per year until the tax is eliminated.

## Tax Summary

<u>Tax</u>	<u>Rate</u>	<u>Payment Remitted By</u>	<u>Report Due Date</u>
<b>Liquid Fuels and Fuels</b>	12 cents per gallon (aviation gasoline and jet fuel rates vary annually - see text)	Licensed distributors	20th day of each month
<b>Liquor</b>	18%	Liquor Control Board (LCB)	LCB functions on a 4-week accounting cycle. Reports are due on the last day of the calendar month for accounting periods ending within that calendar month.
<b>Malt Beverage</b>	\$2.48 per barrel	Manufacturers, distributors and importers of malt beverages	15th day of each month
<b>Motor Carriers Road/IFTA</b>	12 cents per gallon plus an oil company franchise tax component	Motor carriers with vehicles in excess of 26,000 pounds	IFTA reports are due on the last day of April, July, October, and January while MCRT reports are filed annually
<b>Motor Vehicle Lease</b>	3%	Any entity making taxable leases of motor vehicles	20th day of each month
<b>Motor Vehicle Rental Fee</b>	\$2 per day	Any entity making taxable rentals of motor vehicles	20th day of each month
<b>Mutual Thrift</b>	11.5%	Savings institutions, savings banks, savings and loan associations, and building and loan associations doing business in Pennsylvania	15th day of the 4th month after the close of a tax year
<b>New Tire Fee</b>	\$1 per tire	Any entity selling new tires intended for highway use	20th day of each month
<b>Oil Company Franchise</b>	153.5 mills on liquid fuels and 208.5 mills on fuels	Registered liquid fuels and fuels distributors	20th day of each month
<b>Personal Income</b>	3.07%	Pennsylvania employers and residents, nonresidents with income from sources within Pennsylvania and businesses	April 15th of each year

## Tax Summary

<u>Tax</u>	<u>Rate</u>	<u>Payment Remitted By</u>	<u>Report Due Date</u>
		with nonresident owners which receive income from sources within Pennsylvania	
<b>Private Bankers</b>	1%	Private bankers authorized to do business in Pennsylvania	February 15th of each year
<b>Public Utility Realty</b>	Variable	Public utilities furnishing services and regulated by the Pennsylvania Public Utility Commission or a regulatory body of another state of the United States	May 1st of each year
<b>Realty Transfer</b>	1%	County Recorders of Deeds	Upon the presentation of any document for recording or the transfer of certain interests in real estate
<b>Sales, Use and Hotel Occupancy</b>	6%	Any entity making taxable sales or anyone who incurs use tax	20th day of each month; monthly, quarterly, or semi-annually
<b>Sales, Use and Hotel Occupancy (Local)</b>	1%	Any entity making taxable sales or anyone who incurs use tax in the City of Philadelphia or Allegheny County (see text for special situs provisions)	20th day of each month; monthly, quarterly, or semi-annually
<b>Title Insurance Company Shares</b>	1.25%	Pennsylvania title insurance companies (foreign title insurance companies are subjected to the gross premiums tax)	March 15th of each year
<b>Vehicle Rental</b>	2%	Entities renting taxable vehicles	Quarterly reports are due on the 20th day of January, April, July and October and the annual reconciliation is due on February 15th