

# THE TAX COMPENDIUM

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## Table of Contents

	<u>Page</u>
<b><u>General Fund</u></b>	1
<b>Corporation Taxes</b>	1
Corporate Net Income Tax	1
Capital Stock and Foreign Franchise Taxes	3
Gross Receipts Tax	5
Public Utility Realty Tax	6
Insurance Premiums Tax	7
Financial Institutions Taxes	8
<b>Consumption Taxes</b>	11
Sales, Use and Hotel Occupancy Taxes	11
Cigarette Tax	12
Other Tobacco Product Tax	13
Malt Beverage Tax	13
Liquor Tax	14
<b>Other Taxes</b>	15
Personal Income Tax	15
Realty Transfer Tax	18
Inheritance and Estate Taxes	18
Table Game Taxes	19
Tavern Games Taxes	19
Minor and Repealed Taxes	20
Non-Tax Revenue	20
<b>Tax Credit Programs</b>	21
<b><u>Motor License Fund</u></b>	
<b>Liquid Fuels Taxes</b>	32
Oil Company Franchise Tax	32
Motor Carriers Road Tax / IFTA	33
Alternative Fuels Tax	33
Liquid Fuels and Fuels Tax	33
<b>Motor Vehicle Licenses and Fees</b>	35
<b>Other Revenue</b>	35
<b><u>Public Transportation Assistance Fund Taxes and Fees</u></b>	36
<b><u>Public Transportation Trust Fund</u></b>	37
<b><u>Lottery Fund</u></b>	38
<b><u>Gaming Fund</u></b>	40
<b><u>Recent Changes in Tax Law</u></b>	41
<b><u>Tax Summary</u></b>	70

## **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.

In addition, several programs generate tax credits for businesses and individuals to apply against various General Fund taxes. In addition, several specialized zones use tax revenues that would otherwise go to the General Fund for the purpose of economic development within the zones.

## **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, for tax years 2015 and prior 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; an insurance 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 Carryforward Schedule**

**Net Operating Losses Cap**

<b>Taxable Year</b>	<b>Loss Carry forward</b>
1981 <sup>1</sup>	1 taxable year
1982 <sup>1</sup>	2 taxable years
1983 – 1987 <sup>3</sup>	3 taxable years
1988 <sup>3</sup>	2 taxable years (plus 1995)
1989 <sup>3</sup>	1 taxable year (plus 1995 and 1996)
1990 – 1993 <sup>3</sup>	1995 through 1997
1994 <sup>3</sup>	1995 taxable year
1995 – 1997 <sup>5</sup>	10 taxable years
1998 and thereafter <sup>7</sup>	20 taxable years

<b>Taxable Year</b>	<b>Net Operating Loss Cap</b>
1982-1990	Uncapped
1991-1994 <sup>2</sup>	Suspended
1995 <sup>3</sup>	\$500,000
1996-1998 <sup>4</sup>	\$1 million
1999-2006 <sup>6</sup>	\$2 million
2007-2008 <sup>8</sup>	\$3 million or 12.5% of taxable income
2009 <sup>8</sup>	\$3 million or 15% of taxable income
2010-2013 <sup>9</sup>	\$3 million or 20% of taxable income
2014 <sup>10</sup>	\$4 million or 25% of taxable income
2015 <sup>10</sup>	\$5 million or 30% of taxable income

<sup>1</sup> Authorized by Act 195-1979.

<sup>6</sup> Authorized by Act 4-1999.

<sup>2</sup> Authorized by Act 22-1991.

<sup>7</sup> Authorized by Act 89-2002.

<sup>3</sup> Authorized by Act 48-1994.

<sup>8</sup> Authorized by Act 116-2006.

<sup>4</sup> Authorized by Act 21-1995.

<sup>9</sup> Authorized by Act 48-2009.

<sup>5</sup> Authorized by Act 45-1998.

<sup>10</sup> Authorized by Act 52-2013.

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, as follows:

**Corporate Net Income Tax Apportionment Formula**

<b>Taxable Year</b>	<b>Sales Factor</b>	<b>Property Factor</b>	<b>Payroll Factor</b>
1994 and prior	33%	33%	33%
1995-1998 <sup>1</sup>	50%	25%	25%
1999-2006 <sup>2</sup>	60%	20%	20%
2007-2008 <sup>3</sup>	70%	15%	15%
2009 <sup>4</sup>	83%	8.5%	8.5%
2010-2012 <sup>4</sup>	90%	5%	5%
2013 <sup>5</sup>	100%	0%	0%

<sup>1</sup> Authorized by Act 21 1995.

<sup>2</sup> Authorized by Act 4-1999.

<sup>3</sup> Authorized by Act 116-2006.

<sup>4</sup> Authorized by Act 48-2009.

<sup>5</sup> Authorized by Act 85-2012.

Other apportionment methods are available for special industries. The effect of this provision is to lower the apportionment formula for corporations with relatively more payroll and property than sales in Pennsylvania.

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 percent for the first half of 1972 and 11 percent for the second half of that year.

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

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

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

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

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

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

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 percent of reported annual liability, or 100 percent 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 the 15th day of the fourth month 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.

Effective for tax years 2016 and after, the Capital Stock and Foreign Franchise tax has been eliminated.

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

$$\left\{ 0.5 \times \left[ \frac{\text{AveNetIncome}}{0.095} + (0.75 \times \text{NetWorth}) \right] \right\} - \$160,000$$

<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
2007-2009	\$150,000
2010 and beyond	\$160,000

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 percent 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>Tax Rate (mills)</u>	<u>Year</u>	<u>Tax Rate (mills)</u>	<u>Year</u>	<u>Tax Rate (mills)</u>
1844	3.00	1992	12.75	2005	5.99
1891	5.00	1998 <sup>4</sup>	11.99	2006 <sup>9</sup>	4.89
1967	6.00	1999 <sup>5</sup>	10.99	2007	3.89
1969	7.00	2000 <sup>6</sup>	8.99	2008 <sup>10</sup>	2.89
1971	10.00	2001	7.49	2009 <sup>11</sup>	2.89
1987 <sup>1</sup>	9.00	2002 <sup>7</sup>	7.24	2012	1.89
1988 <sup>2</sup>	9.50	2003 <sup>8</sup>	7.24	2013	0.89
1991 <sup>3</sup>	13.00	2004	6.99	2014 <sup>12</sup>	0.67
				2015	0.45
				2016	0

<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.

<sup>10</sup> Beginning in FY 2008-09, the transfer to HSCF is \$40 million.

<sup>11</sup> Act 48 of 2009 retroactively froze the rate at 2.89 mills for tax year 2009. The rate will remain 2.89 mills through 2011; thereafter the original phase out of 1 mill per year will resume until the tax is eliminated.

<sup>12</sup> Act 52 of 2013 modified the phaseout schedule by setting the 2014 rate at 0.67 mills. Additionally, the Act set the 2015 rate at 0.45 mills. The tax would then be eliminated in tax year 2016.

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. 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 48-2009 extended the gross receipts tax to managed care organizations. Act 84-2016 repeals the gross receipts tax on managed care organizations effective January 1, 2017.

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 percent of reported annual liability, or 100 percent of the liability two years prior, subject to the current rate. The adequacy of these payments is judged retrospectively based on the final return.

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.

The tax is imposed at the following rates:

<u>Year</u>	<u>Rate (mills)</u>	<u>Year</u>	<u>Rate (mills)</u>
1889	8.00	1967 <sup>1</sup>	20.00
1935	14.00	1970	45.00
1936	20.00	1988	44.00
1944	14.00	1991 <sup>2</sup>	50.00

<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.

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.

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.

There has not been a GRT surcharge in every year: For tax years 2004, 2006, 2009, 2010, and 2012-2017 there was no surcharge. For tax years 2005, 2007, 2008, and 2011 the surcharge was 0.6 mills, 1.2 mills, 2.8 mills, and 1.6 mills respectively.

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

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

### **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.

## **Insurance Premiums Tax**

Domestic and foreign insurance companies, with some statutory exceptions, are subject to this tax. A retaliatory fee is also imposed on taxable companies incorporated in other states that impose a higher burden upon Pennsylvania companies doing business there.

The yearly insurance premiums received from doing business form the tax base. Insurance 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 insurance 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 percent of insurance 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.

Act 52-2013 created the Innovate in PA tax credit program permitting the sale of \$100 million in tax credits by the Department of Community and Economic Development to qualified insurance companies after October 1, 2013. Insurance companies may purchase the credits via a bidding process and claim them beginning in calendar year 2017 against insurance premiums tax liabilities for taxable years beginning on or after January 1, 2016. The total amount of credits applied against an insurance premiums tax liability in a fiscal year may not exceed \$20 million, nor may they exceed a taxpayer's insurance premiums tax liability for that year. Credits may be carried forward for any taxable year that begins prior to 2026. No tax credits may be sold if the bidding process, upon completion, has failed to yield at least \$40 million in revenue from the sale of the credits.

The basic rate of tax is 2 percent of insurance premiums, plus any retaliatory tax. However, a 3 percent surplus lines tax rate is imposed on policies written with surplus lines insurers or other non-admitted insurers when the insured's home state is Pennsylvania.

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

Act 7–1997 changed the insurance 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 percent of reported annual liability, or 100 percent 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 percent 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 bank and trust company shares tax base is the value of shares as of each January 1st. Prior to January 1, 2014, the value of shares was calculated by a six-year moving average of total equity capital, with a proportional exemption for United States obligations. For each year in the average, total equity capital and deductions for United States obligations were determined by averaging the values as shown in the Report of Condition for each quarter of the preceding calendar year.

As part of Act 52-2013, the value of shares is the total bank equity capital, with a proportional exemption for United States obligations, effective for tax years beginning on January 1, 2014 and thereafter. Total bank equity capital and deductions for United States obligations are determined by the most recent year-end values as shown in the Report of Condition. Effective January 1, 2018, Act 84-2016 provides a phased-in deduction for Edge Act corporation equity.

A report and payment of 100 percent 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 is imposed at the following rates:

<b>Year</b>	<b>Rate</b>	<b>Year</b>	<b>Rate</b>
1959	0.80%	1989 <sup>1</sup>	10.77%
1967	1.00%	1990	1.25%
1969	1.30%	2014	0.89%
1971	1.50%	2017	0.95%
1984	1.08%		

<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.

Act 55–2007 allowed for goodwill generated by a merger or acquisition to be subtracted from a bank’s book value of total equity capital when calculating its shares history. Act 52-2013 allowed for this subtraction from total bank equity capital.

Act 52-2013 changed how taxable shares are apportioned beginning January 1, 2014. Apportionment is now based solely on receipts, rather than on payroll, receipts, and deposits. The act also expanded nexus by using a more customer-based definition of an institution.

Act 84-2016 provides a phased-in deduction for Edge Act corporation equity, beginning January 1, 2018. The act also changed the source for income in the receipts definition from the federal tax return to the Consolidated Reports of Condition and clarified the deduction for goodwill generated from combination activity and the apportionment of receipts from investment and trading assets and activity.

The title insurance company shares 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 percent of the tax on the value of shares on the preceding January 1st are due on March 15th of each year.

The title insurance shares tax is imposed at the following rates:

<b>Year</b>	<b>Rate</b>	<b>Year</b>	<b>Rate</b>
1959	0.80%	1984	1.08%
1967	1.00%	1989 <sup>1</sup>	10.77%
1969	1.30%	1990	1.25%
1971	1.50%		

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

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 percent of the tax base for the second preceding year, or by paying at least 90 percent 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:

<b>Year</b>	<b>Rate</b>
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).

## 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, other tobacco products 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>	<u>Year</u>	<u>Rate</u>
1954	1.00%	1959	4.00%
1956	3.00%	1963	5.00%
1959	3.50%	1968	6.00%

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 percent 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. In addition, Act 44 of 2009 increased the Philadelphia sales and use tax rate from 1 percent to 2 percent from October 8, 2009 to June 30, 2014. Act 52 of 2013 permanently extended the 2 percent Philadelphia local sales and use tax rate.

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 percent to be administered in the same manner as provided in Act 6 of 1991 (the Philadelphia 1 percent 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.
  - a. Sales tax licensees reporting an actual tax liability of at least \$25,000 and less than \$100,000 for the third calendar quarter of the preceding year are provided an option for their tax payment.
    - i. 50 percent of the tax liability for the same month of the previous year or
    - ii. Greater than 50 percent of the actual tax liability for the same month in the current year.  
This option will be effective for tax returns due after September 30, 2012.
  - b. Sales tax licensees reporting an actual tax liability equal to or greater than \$100,000 for the third calendar quarter of the preceding year must make a payment of 50 percent of the tax liability for the same month of the previous year.
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.

As of July 1, 2003, 0.947 percent of total sales and use tax receipts are transferred monthly to the Public Transportation Assistance Fund.

Act 44–2007 provided that 4.4 percent of sales and use tax receipts be transferred monthly to the Public Transportation Transfer Fund effective July 1, 2007.

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 13 cents per cigarette has been in effect since August 1, 2016.

Act 48 of 2009 expanded the definition of cigarette to include little cigars, weighing less than four pounds per thousand.

Under Act 131–2014, the Philadelphia School District levies a cigarette tax at the rate of 10 cents per cigarette effective October 1, 2014. Act 84 of 2016 made this local cigarette tax permanent.

In addition, Act 84 of 2016 created a transfer from the General Fund to the Local Cigarette Tax Fund. The transfer will occur if prior year deposits into the Local Cigarette Tax Fund fall below \$58 million. In this case the General Fund will transfer the difference between \$58 million and actual deposits to the Local Cigarette Tax Fund. This transfer is effective for fiscal years 2016-17, which means the first transfer could occur in FY 2017-18.

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. Act 84 of 2016 increased the transfer to the ACEP fund to \$25.485 million beginning in FY 2016-17.

From January 2004 through October 2009, 18.52 percent of cigarette tax receipts were transferred to the Health Care Provider Retention Account.

The tax is imposed at the following rates:

Year	Rate (per cigarette) <sup>1</sup>	Year	Rate (per cigarette) <sup>1</sup>
1935	\$0.0010	1970	\$0.0090
1947	\$0.0020	1991	\$0.0155
1955	\$0.0025	2002	\$0.0500
1959	\$0.0030	2004	\$0.0675
1963	\$0.0040	2009 <sup>2</sup>	\$0.0800
1967	\$0.0065	2016 <sup>3</sup>	\$0.1300

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

<sup>2</sup> Effective November 1, 2009.

<sup>3</sup> Effective August 1, 2016.

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.

### Other Tobacco Products Tax

The other tobacco products tax is an excise tax levied on the sale or possession of tobacco products in Pennsylvania. The tax is based on weight for tobacco products other than electronic cigarettes and is based on the purchase price charged to the retailer in the case of electronic cigarettes.

The tax rate for tobacco products other than electronic cigarettes is \$0.55 per ounce. For items sold in units that weigh less than 1.2 ounces, the tax is equal to the tax on an item that weighs 1.2 ounces. Tobacco products subject to this tax include roll-your-own tobacco, periques, granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco, snuff, dry snuff, snuff flour, Cavendish, plug and twist tobacco, fine-cut and other chewing tobaccos, shorts, refuse scraps, clippings, cuttings and sweepings of tobacco and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or ingesting or for smoking in a pipe or otherwise, or any combination of chewing, ingesting or smoking. The term does not include any item subject to the Cigarette Tax or cigars.

The tax rate for electronic cigarettes is 40% of the purchase price charged to the retailer. Items subject to this tax include electronic oral devices (composed of a heating element and battery or electronic circuit, or both) that provide a vapor of nicotine or any other substance and the use of inhalation of which simulates smoking. It also includes any liquid or substance placed in or sold for use in an electronic cigarette.

In both cases, the tax is to be collected by whomever sells the product to the retailer. The tax shall be separately stated on an invoice or other sales document.

Monthly reports are due by the 20<sup>th</sup> day of the month following the sale or purchase of tobacco products. Remittances are due at the time the report is due.

### 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 or after June 30, 2017. The credit for purchases made prior to December 31, 2008 was limited to taxpayers whose annual production of malt or brewed beverages did not exceed 1.5 million barrels. The credit for purchases made after June 30, 2017 has no limit on annual production but is capped at \$5 million.

The malt beverage tax rates are as follows:

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

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	10.00%
1963	15.00%
1968	18.00%

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, table game taxes, 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; 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 prior law which required 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 are consistent with the federal requirements enacted as part of the American Jobs Creation Act of 2004, which permits S corporations of up to 100 shareholders and members of the same family to be counted as one shareholder. These changes apply to taxable years beginning after December 31, 2005.

Act 84-2016 made cash prizes of the Pennsylvania Lottery subject to personal income tax, effective for tax years beginning on or after January 1, 2016. Previously, Pennsylvania Lottery prizes were not subject to the personal income tax. Pennsylvania Lottery noncash prizes remain exempt from personal income tax.

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 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 \$14,000 for 2013 and 2014. 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 apply to tax years beginning after December 31, 2005.
- Act 52-2013 permits a pass-through entity to deduct up to \$5,000 of business start-up costs from net income for the tax year in which the active trade or business begins to the extent the pass-through entity deducts them for federal tax purposes. This change applies to tax years beginning after December 31, 2013.
- Act 52-2013 allows a taxpayer to recover intangible drilling costs (IDCs) by using either a ten-year amortization period, or elect to immediately expense up to one-third of the allowable costs and recover the remaining costs over a ten-year period beginning in the taxable year the costs are incurred. This provision applies to tax years beginning after December 31, 2013. Act 84-2016 clarifies the statutory language regarding how taxpayers may recover IDCs.
- Act 17-2016, which establishes the Achieving a Better Life Experience (ABLE) Savings Program to benefit disabled Pennsylvanians and their families, provides that contributions made to an ABLE account, any increase in the value of those contributions, the retention or transfer during life or as a result of death of any legal interest in an account and payment of qualified disability expenses of eligible individuals from an account shall be exempt from all taxation by the Commonwealth and its political subdivisions. The act is effective immediately.
- Act 84-2016 provides that, effective September 11, 2016, Section 1033 of the Internal Revenue Code applies to the personal income tax. Section 1033 allows a taxpayer to acquire replacement property and make an election to defer recognition of the gain following an involuntary conversion.

Credits:

- A credit against tax is allowed for gross or net income taxes paid to other states 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 2014, the eligibility income limits for 100 percent 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 percent forgiveness.
- Qualified taxpayers may use Research and Development credits, Keystone Opportunity Zone credits, Entertainment Production credits, Keystone Innovation Zone credits, Resource Enhancement and Protection credits, Neighborhood Assistance Program credits, Strategic Development Area credits, Educational Improvement Credits, Opportunity Scholarship credits, Keystone Special Development Zone credits, Organ and Bone Marrow Donor credits, Community-Based Service Historic Preservation, Mixed-Use Development - credits, Waterfront Development credits or the Tax Credit for New Jobs to offset personal income tax liabilities.

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, shareholders, partnerships, estates and trusts, or 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 expected to be under \$1,200 per calendar year, due the last day of April, July, October, and January for the preceding calendar quarter.

b. Monthly - If \$1,200 or more but less than \$4,000 of tax is expected to be withheld per calendar year, due the 15th day of the following month.

c. Semi-Monthly - If \$4,000 or more but less than \$20,000 in tax is expected to be withheld per calendar year, due within three banking days of the close of the semi-monthly period.

d. Semi-Weekly – If \$20,000 or more in tax is expected to be withheld per calendar year, due Wednesday after the payday if the payday falls on a Wednesday, Thursday, or Friday, and on the Friday after payday if the payday falls on a Saturday, Sunday, Monday, or Tuesday.

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

<sup>1</sup> Effective tax rate after midyear rate change. Rate was 2.45 percent for the first half of the year and 2.35 percent 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 percent and for the final four months was 2.1 percent, for an effective rate of 2.16 percent.

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

<sup>4</sup> Effective tax rate after midyear rate change. Rate was 3.1 percent for first half of the year and 2.8 percent 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 52-2013 eliminated the 89%/11% loophole, which had allowed the buyer of certain real estate to acquire 89% of the real estate company along with an option to purchase the remaining 11% after 3 years and avoid paying the RTT. Since enactment, the realty transfer tax has been imposed at the rate of 1 percent 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 percent 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 percent 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 percent to 10 percent for January 2002 through June 2002 and to 7.5 percent for July 2002 through June 2003. The transfer percent then increased to 15 percent for July 2003 through June 2006. Act 67-2006 reduced the transfer to 2.1 percent for July 2006 through June 2007. The transfer percent is established at 15 percent for July 2007 and thereafter.

Act 58-2015 provided for a transfer from realty transfer tax funds to the Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund beginning in FY 2015-16. The transfer amount is to be the lesser of \$25 million or 40 percent of the difference between the total dollar amount of the realty transfer tax collected in the prior fiscal year and the total dollar amount of the realty transfer tax official estimate for FY 14-15 (\$447.5 million).

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 percent. The transfer of property from children 21 years of age or younger to their parent (either natural, step, or adoptive) is taxed at a rate of 0 percent. All other transfers to lineal heirs are taxed at the rate of 4.5 percent. 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 percent. Transfers to all other persons are taxed at a rate of 15 percent.

The estate tax was 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 represented 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. For nonresidents who owned or had an interest in property located in this Commonwealth, the estate tax was 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 bore to the decedent's gross federal estate. The federal credit upon which the Pennsylvania estate tax is based was phased out between 2002 and 2005. Once the credit was completely phased out, the Pennsylvania estate tax was eliminated. As a result of the American Taxpayer Relief Act of 2012, the federal credit mentioned above is not scheduled to return.

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 percent 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.

### **Table Game Taxes**

Act 1-2010 established a 12 percent table game tax imposed on gross table game revenue; however, for 2 years following commencement of table game operations at the facility, the rate is 14 percent. Act 84-2016 established an additional 2 percent table game tax on gross table game revenue for the period August 1, 2016 through June 30, 2019. Fully automated electronic gaming tables are subject to a 34 percent tax, in addition to the percentages above. Gross table game revenue is defined as total cash or cash equivalents received in the playing of table games, contest or tournament fees or payments, and total amount of rakes collected minus cash or cash equivalents paid out, paid to purchase annuities to fund prizes, and paid for personal property distributed to patrons as a result of playing a table game. The revenue from these taxes is deposited to the General Fund until such time as, on the last day of the fiscal year, the balance in the Budget Stabilization Reserve Fund is certified by the Secretary of the Budget to exceed \$750,000,000. Thereafter, the funds from these taxes are deposited to the Property Tax Relief Fund.

Enabling legislation is Act 1 of January 7, 2010 (P.L. 1, No. 1).

### **Tavern Games Taxes**

Act 90-2013 provides for the conduct of tavern games by tavern games licensees and imposes a tavern games tax of 60 percent and a host municipality tavern games tax of 5 percent on the net revenue from tavern games. For games required to be purchased from a licensed distributor, net revenue is the difference between the face value, as indicated by the manufacturer, collectible by a licensee, and the maximum amount of prizes, as indicated by the manufacturer, payable by a licensee from a tavern game. For tavern games not required to be purchased from a licensed distributor, net revenue is the difference between the actual gross revenue collected by a licensee from a tavern game and the actual amount of prizes paid by a licensee plus the cost to purchase tavern games.

These taxes are collected and remitted by the licensed distributor or by the tavern games licensee in instances where the tavern game is not required to be purchased from a licensed distributor. Licensed distributors must file tavern games tax returns and remit tax by the 20th day of each month for the preceding month. Tavern games licensees must file returns and remit tax on a quarterly basis. Returns and tax for each calendar quarter are due on the 20th of the month following the close of each calendar quarter.

Revenue from the tavern games tax is deposited into the General Fund. Revenue from the host municipality tavern games tax is deposited into the Host Municipality Tavern Games Local Share Account, a restricted receipts account established within the General Fund. Enabling legislation is Act 90 of November 27, 2013 (P.L. 1045 No. 90).

### **Minor and Repealed Taxes**

Minor taxes produce comparatively small annual yields and primarily consist of the tax on legal documents, excess vehicle rental tax, and other selective business taxes. 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 vehicle rental tax is a 2 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).

Transfers of state tax revenue to the Neighborhood Improvement Zone and the City Revitalization and Improvement Zones are made from Minor and Repealed Taxes.

Other selective business taxes include 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.

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.

Act 71 of 2013 repealed the corporate loans tax for tax years beginning after December 31, 2013.

### **Non-Tax Revenue**

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

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.

## Tax Credit Programs

### The Neighborhood Assistance Program

Any business firm or private company or pass-through entity which engages in certain assistance programs in impoverished areas or makes qualified investments in designated enterprise zones may claim the Neighborhood Assistance Tax Credit. The amount of credit that may be awarded to a taxpayer is 55 percent of the amount contributed by a business firm, or 75 percent of the amount contributed to special program priorities defined by the Department of Community and Economic Development in regulations. For private companies, the amount is 25 percent of the amount of qualified investment, or 35 percent of the amount invested in special program priorities. Also, a credit equal to 75 percent of the contributions made by a business firm during a taxable year for comprehensive service projects with a five-year commitment may be awarded. A credit equal to 80 percent of the contributions made by a business firm during a taxable year for comprehensive service projects with a six-year commitment may be awarded. The amount of the credits awarded annually cannot exceed \$500,000 for contributions or investments for single projects or \$1,250,000 for contributions or investments for four projects.

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. Act 55-2007 allowed for the sale of unused tax credits, subject to a one year holding period. Purchased tax credits must be used in the taxable year in which they were purchased and may not be carried back, carried forward, refunded or sold.

The total amount of Neighborhood Assistance tax credits awarded to taxpayers cannot exceed \$18 million in a fiscal year, with \$2 million allocated exclusively to pass-through entities. However, if the pass-through entities do not claim the \$2 million, the unused portion is available for other taxpayers.

Act 48-2009 reduced the amount of tax credit that could be awarded in FY 2009-10 and FY 2010-11 by 50 percent and 55 percent respectively. For FY 11-12 and forward, the total amount of credit that can be awarded returned to \$18 million.

Act 85-2012 provided direction to the Department of Community and Economic Development to credit applications involving charitable food programs.

Act 84-2016 included new definitions for affordable housing, domestic violence or veterans' housing assistance. By inclusion of these amendments, tax credits may be awarded equivalent to 75 percent of the total amount contributed by business firms participating in the program.

### Tax Credit for New Jobs

Prior to Act 84-2016, this tax credit was known as the Job Creation Tax Credit. Act 84-2016 changed the name of the tax credit to the Tax Credit for New Jobs.

Any employer creating at least 25 new full-time equivalent jobs or increasing their workforce by 10 percent or more within three years from a given start date may receive a tax credit of \$1,000 for each job created. If the newly created job is filled by an individual who has been unemployed for at least 60 days, the maximum credit per job created is increased to \$2,500. Act 84-2016 added a provision for a maximum credit per job of \$2,500 for every veteran hired. To qualify as a new full-time job, the employee must earn at least 150 percent 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. Act 26-2011 permanently reduced the total credits that can be awarded to \$10.1 million beginning in FY 2011-12. To be eligible for the credit, an employer must enter into an agreement with the Department of Community and Economic Development.

### 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 percent of the increase in research activities in Pennsylvania over a base period. Act 116 increased the small business credit from 10 percent to 20 percent of research activities.

Act 48-2009 reduced the amount of tax credit that could be awarded in FY 2009-10 and FY 2010-11 to \$20 million and \$18 million respectively. Act 26-2011 increased the total amount of credit that can be awarded to \$55 million and the amount of credit available to small businesses to \$11 million beginning in FY 2011-12. Act 85-2012 reestablished these limits and removed the sunset date of the tax credit.

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 percent of such qualified tax liability for tax years 2004 and earlier. Act 46–2003 eliminated the 50 percent 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.

Prior to Act 84-2016, the research and development tax credit was to sunset on December 31, 2015. However, Act 84-2016 repealed this provision.

### **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 permitted 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 were set to expire with the rest of the subzone, either December 31, 2010 or December 31, 2013. Approved KOIZ subzones were set to expire December 31, 2018. Act 51-2003 also changed the relocation provisions governing businesses moving into a subzone.

Act 79–2008 granted KOZs that were set to expire within the next five to ten years the option of extending their associated benefits for seven to ten years. Act 79-2008 also allowed the Department of Community and Economic Development to designate up to 15 additional KOEZs beginning in January 1, 2010. Under this legislation, contractors, pursuant to a contract with a qualified business, landowner or lessee, may purchase, exempt from sales and use tax, any tangible personal property or services for use in the zone by the qualified business.

Furthermore, under Act 79-2008, the formula for calculating the taxable income of a corporation in a zone is now based only on the payroll and property factors. The sales factor was eliminated from the calculation.

Act 16-2012 granted KOZs located in unoccupied parcels the option of extending their associated benefits for seven to ten years. Additionally, the Department of Community and Economic Development is allowed to designate up to 19 additional KOEZs. Act 16-2012 also permits the expansion of an existing KOZ and KOEZ zone if the expansion is expected to increase job creation or capital investment. Benefits for expanded parcels are limited to 15 acres for a period of 10 years.

Act 84-2016 included a provision to allow for the designation of 12 new Keystone Opportunity Expansion Zones consisting of 375 acres each for a period of up to 10 years effective for January 1, 2017 to December 31, 2026. In addition, existing parcels can be extended up to 10 years for state tax benefits, if the applicant can meet the job creation and capital investment requirements in the enabling legislation.

## **Educational Tax Credits**

Act 194-2014 created the Educational Tax Credits (ETC) program by consolidating both the Educational Improvement Tax Credit (EITC) and the Educational Opportunity Scholarship Tax Credit (EOSTC) in Article XVII-F of the Tax Reform Code. Act 194-2014 repealed Article XVII-G.1 of the Tax Reform Code containing the EOSTC.

Act 84-2016 repealed Article XVII-F of the Tax Reform Code, which contained the ETC program. Act 86-2016 moved the ETC program back to the Public School Code.

The total tax credits awarded under the ETC program are equal to the combined total of the EITC and EOSTC. Prior to Act 86-2016, the total tax credits that could be awarded in a fiscal year under the EITC was \$100 million, and the total tax credits that could be awarded in a fiscal year under the EOSTC was \$50 million, for a total combined amount of \$150 million per fiscal year under the ETC program.

Act 86-2016 increased the total tax credits that can be awarded in a fiscal year under the EITC to \$125 million, while the total tax credits that can be awarded in a fiscal year under the EOSTC remained unchanged at \$50 million. Starting in FY 16-17, a total of \$175 million in educational tax credits can be awarded.

Act 194-2014 made numerous administrative changes to the ETC programs in order to make the program more flexible in awarding the tax credits and how they may be utilized.

The tax credits awarded under the ETC program may be applied to the personal income tax, corporate net income tax, capital stock & foreign franchise tax, bank shares tax, title insurance company shares tax, insurance premiums tax, mutual thrift institutions tax, and malt beverage tax.

### *Educational Improvement Tax Credit*

The EITC is granted to business firms providing proof of a contribution to a scholarship organization, an educational improvement organization, or a pre-kindergarten scholarship organization. The actual credit is equal to 75 percent of the total amount contributed during the taxable year. The tax credit shall not exceed the tax liability of a business for any given taxable year.

The annual limit for contributions by a business to a scholarship organization or an educational improvement organization is \$750,000. The annual limit for contributions by a business to a pre-kindergarten scholarship organization is \$200,000.

Under the changes in Act 84-2016, of \$125 million in EITC that can be awarded in a fiscal year, \$75 million is set-aside for contributions to scholarship organizations, \$37.5 million is set-aside for contributions to educational improvement organizations, and \$12.5 million is set-aside for contributions to pre-kindergarten scholarship organizations.

### *Educational Opportunity Scholarship Tax Credit*

The EOSTC is available to eligible businesses contributing to an Opportunity Scholarship Organization. Business contributions are then used by Opportunity Scholarship Organizations to provide tuition assistance in the form of scholarships to eligible students residing within the boundaries of a low-achieving school to attend another public school outside of their district or nonpublic school.

The EOS tax credit is equal to 75 percent of contributions to an approved scholarship organization, up to a maximum of \$750,000 per taxable year. The total amount of credits that can be granted in any fiscal year cannot exceed \$50 million.

The total amount of EOSTC tax credits that can be granted in any fiscal year cannot exceed \$50 million.

## 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.

Originally, no more than \$25 million in tax credits could be awarded in any taxable year. Act 84–2016 lowered the program cap to \$15 million per taxable year, effective July 2016. Act 84-2016 also amends the previous authorizing statute for the KIZ program, moving the authorizing statute to the Tax Reform Code.

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 FY 2006-07.

Act 16-2012 permits the expansion of an existing KIZ zone if the expansion is expected to increase job creation or capital investment. Benefits for expanded parcels are limited to 15 acres for a period of 10 years.

## Entertainment Production Tax Credits

Act 84-2016 made significant changes to the prior Film Production Tax Credit. The act expanded the scope of the authorizing article to encompass the existing Film Production Tax Credit program and created two new credit programs – the Concert Rehearsal and Tour Tax Credit and the Video Game Production Tax Credit.

### Film Production Tax Credit

A Film Production Tax Credit in the amount of 20 percent of qualified film production expenses incurred in Pennsylvania was originally created by Act 95–2004. The tax credit could be used to offset capital stock and franchise tax, corporate net income tax, and 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 was 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 FY 2006-07, the credit program was replaced with a grant program.

Beginning in FY 2007-08, the Film Production Tax Credit was reestablished as part of Act 55–2007. DCED is responsible for administering the program. DCED will administer the award of the credits by the order of the date that the applications are received. Tax credit certificates will be issued by the Department upon review and approval of an audit, economic impact report, and any other information requested by the Pennsylvania Film Office. Provided the information supplied to the Film Office meets the financial reporting requirements of the program, a tax credit certificate will be issued within 45 days of receipt of the information. DCED may, upon its discretion, award 30 percent of the dollar amount of Film Production tax credits available to be awarded in the next succeeding fiscal year, 20 percent in the second successive fiscal year, and 10 percent in the third successive fiscal year.

This credit will be available for certain production expenses of the producers of feature films and certain television commercials or shows intended for a national audience. Production expenses include compensation paid to individuals or payments made to entities representing individuals for their services, the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, the cost of transportation; the cost of insurance coverage, the costs of food and lodging, the purchase of music or story rights; and the cost of rental of facilities and equipment. Production expenses will not include certain items such as deferred compensation or profit sharing, development costs, marketing or advertising expenses or expenses related to the selling of the credit.

A tax credit equal to 25 percent of qualified film production expense may be taken against personal income tax, corporate net income tax, capital stock/franchise tax, bank shares tax, and the insurance premiums tax. A taxpayer

is eligible for an additional tax credit of 5 percent if the taxpayer films a feature film, television film, or television series intended for a national audience that is filmed in a qualified production facility that meets all minimum stage requirements.

Qualified film production expenses are Pennsylvania production expenses if at least 60 percent of the total production expenses are incurred in Pennsylvania except that compensation paid to individuals or payments made to entities representing individuals for services provided in the film cannot exceed \$15 million. The Department of Community and Economic Development may waive the 60 percent requirement in certain circumstances.

Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned with the approval of Department of Community and Economic Development and the Department of Revenue pursuant to regulations jointly promulgated. There are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner. Those films that receive a film production grant are not eligible for this credit for the same film. The total amount of credits that can be granted in any fiscal year cannot exceed \$75 million.

Act 48-2009 reduced the amount of tax credit that could be awarded in FY 2009-10 and FY 2010-11 to \$42 million and \$60 million respectively. Act 26-2011 permanently reduced that amount to \$60 million for FY 2011-12 and after.

Act 85-2012 provided an additional 5 percent tax credit for filming in a qualified production facility that meets minimum stage requirements. Additionally, the Act permitted a portion of credits to be accelerated into the current fiscal year, for the three succeeding fiscal years. Finally, the Act added the bank shares tax and insurance premiums tax to the list of taxes that may be offset by the credit.

Act 52-2013 made clarifications and technical changes to the program. More specifically, it clarified the term “start date”, and provided that credits purchased or assigned in 2013 or 2014 could be carried forward to 2014 and 2015 respectively.

In addition to expanding credit eligibility to certain postproduction costs, Act 84-2016 increased the program cap from \$60 million to \$65 million, beginning in FY 2017-18. The act was also amended to include title insurance company shares tax and mutual thrift institutions tax among the eligible taxes against which the credit may be claimed. The act further provided that, beginning in the FY 2017-18, DCED may reissue unused credits from prior fiscal years.

#### Concert Rehearsal and Tour Tax Credit

Act 84-2016 created the Concert Rehearsal and Tour Tax Credit. The credit may be claimed by qualified concert tour promotion companies, concert tour management companies, or other concert management companies, excluding contractors or subcontractors of such companies. The tax credit may be applied against corporate net income, personal income (excluding taxes withheld by an employer from an employee), or capital stock/foreign franchise taxes.

The amount of credit awarded per taxpayer may not exceed certain percentages of qualified rehearsal and tour costs, based on the types of venues and number of performances at which the performer(s) will appear.

Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned, and there are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner.

Up to \$4 million in tax credits can be awarded in any fiscal year. The credit may be claimed beginning on July 1, 2017.

#### Video Game Production Tax Credit

Act 84-2016 created the Video Game Production Tax Credit. The credit may be claimed by qualified video game production companies, excluding contractors or subcontractors of such companies, for qualified Pennsylvania production expenses. The tax credit may be applied against corporate net income, personal income (excluding taxes withheld by an employer from an employee), capital stock/franchise, bank shares, title insurance company shares, insurance premiums, or mutual thrift institutions taxes.

The amount of credit awarded per taxpayer may not exceed 25 percent of the qualified production expenses incurred in the first four years of such expense and may not exceed 10 percent in years thereafter.

Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned, and there are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner.

Up to \$1 million in tax credits can be awarded in any fiscal year. The credit may be claimed beginning on July 1, 2017.

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

Act 193-2014 reestablished the Organ and Bone Marrow Donor Tax Credit as an Article in the Tax Reform Code for tax year 2011 and forward. The Organ and Bone Marrow Donor Tax Credit provides 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.

### **Alternative Energy Production Tax Credit**

Act 1 of the Special Section of 2008 created the Alternative Energy Production Tax Credit. Taxpayers that develop or construct energy production projects located within the Commonwealth, which have a useful life of at least four years, may apply to the Department of Environmental Protection for a tax credit beginning in September 2009. The amount of the tax credit may be up to 15 percent of the amount paid for the development and construction of alternative energy production project but may not exceed \$1 million per taxpayer. Unused portions of the tax credit may be carried forward for up to five taxable years from the year in which the credit is awarded. Credits may not be carried back. Additionally, taxpayers may sell or assign unused portions of the tax credit upon approval by the Department of Revenue and the Department of Environmental Protection. The total amount of tax credit that can be awarded is anywhere from \$2 million to \$10 million per fiscal year depending on the fiscal year. Act 48-2009 prohibits that any amount of tax credit can be awarded in FY 2009-10 and FY 2010-11. Beginning in FY 2011-12, the total amount of tax credits that can be awarded is \$5 million.

### **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.

### **Resource Enhancement and Protection Tax Credit**

The Resource Enhancement and Protection (REAP) Tax Credit was created as part of Act 55-2007. The REAP tax credit is available to business entities or individuals that engage in certain agricultural programs that manage nutrients and sediment and protect surface water and groundwater. An eligible applicant applies to the State Conservation Commission of the Department of Agriculture for authorization that a project is eligible for a tax credit under this program. Tax credits will be awarded by the order of the date that the application was received. Once the Commission has authorized a credit, the Commission shall provide notice to the Department of the credit. The credit may be carried forward for 16 years.

The REAP tax credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax. These credits can be awarded to eligible projects, applicants or sponsors of eligible projects. Dependent on the

type of project, a tax credit in the amount of 75 percent of the eligible project or 50 percent of the project costs may be awarded up to a maximum amount of \$150,000 for each eligible applicant or project. There is no limitation on the amount of credit that can be awarded to a sponsor of the project.

There are procedures for the sale and assignment of the credit as well as for pass-through entities to transfer tax credits to their shareholders, partners or members. The total amount of credits that can be awarded in one fiscal year is \$10 million. If the Commission determines that a best management practice is not maintained, then the amount of the tax credit originally awarded shall be returned to the Department of Revenue. The credit took effect in FY 2007-08 except that credits for legacy sediment could not be issued prior to July 1, 2008.

Act 48-2009 reduced the amount of tax credit that could be awarded in FY 2009-10 and 2010-11 by 50 percent and 55 percent respectively. For FY 11-12 and forward, the total amount of credit that can be awarded returns to \$10 million.

### **Keystone Special Development Zones Tax Credit**

The Keystone Special Development Zones (KSDZ) Tax Credit was created as part of Act 26–2011. The KSDZ tax credit is available to taxpayers with operations located on parcels of real property certified as Brownfields pursuant to the Land Recycling and Environmental Remediation Standards Act. The tax credit is equal to \$2,100 for each full-time equivalent employee working in the zone beginning in tax year 2012. Prior to Act 84-2016, the tax credit was available for ten consecutive tax years during the fifteen-year period the tax credit was to be in existence, ending June 30, 2026. Act 84-2016 extended the ending date to June 30, 2035.

The KSDZ tax credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance tax, insurance premiums tax, and gross receipts tax. The tax credit may not exceed the qualified tax liability and may be carried forward for up to ten years. Jobs used to claim this tax credit may not be used to claim the Keystone Opportunity Zone Tax Credit or the Job Creation Tax Credit.

Unused KSDZ credits may be sold or assigned to reduce a taxpayer's liability up to 75 percent. The purchaser or assignee of an unused KSDZ credit must use it in the year it was purchased or assigned; there is no carry forward, carry back or refund of a KSDZ credit.

### **Neighborhood Improvement Zone Program**

Act 50-2009 created the Neighborhood Improvement Zone (NIZ) program designating a 130 acre area in a city of the third class with a population between 106,000 and 107,000 as eligible to receive state money for economic improvement. The only city that currently qualifies is Allentown. General Fund and local tax revenues attributable to business in the zone may be used for the purpose of improvement and development within the zone and to construct a facility or facility complex within the zone. State taxes related to ownership and operation of any business located within the zone are used to repay bonds issued by the Allentown Economic Development Corporation to fund various economic development projects within the zone, including a sports arena.

Act 26-2011 opened a new window for the decertification of a Keystone Opportunity Zone, limited the debt issuance to a maximum term of 30 years, and clarified that excess moneys shall first be returned to the General Fund and then to the local taxing authorities who collect the local taxes.

Act 84-2016 made both administrative and local-level changes to the NIZ program. The act provides for new and expanded penalty provisions, changes to the acceptance of late reports within the program reconciliation, and an annual program audit by an independent auditing firm. The act also provides for changes to the collection and distribution of local hotel taxes within the zone.

Further, the act prohibits the assessment of real estate taxes on any property owned by the contracting authority in a zone and prohibits certain property valuations for property within the zone for use by the county.

### **Pennsylvania Resource Manufacturing Tax Credit**

The Pennsylvania Resource Manufacturing (PRM) Tax Credit was created as part of Act 85–2012. The PRM tax credit is available to business entities purchasing ethane for use in manufacturing ethylene at a facility in the Commonwealth that has made a capital investment of at least \$1 billion and created at least 2,500 full-time equivalent jobs during the construction phase.

The PRM tax credit is equal to \$0.05 per gallon of ethane purchased (\$2.10/barrel) for the period from January 1, 2017 to December 31, 2042. The credit may be used to offset 20 percent of a taxpayer's liabilities for personal

income tax, corporate net income tax, capital stock and foreign franchise tax, bank shares tax, title insurance company shares tax, insurance premiums tax, and mutual thrift institutions tax.

Within one year after the PRM credit is approved, a taxpayer can apply to DCED for approval to assign or sell eligible credits to another taxpayer. The eligible buyer of the credit may use the purchased credits to offset up to 50 percent of its Pennsylvania tax liabilities. The PRM tax credit may not be carried back, carried forward, or be used to obtain a refund.

### **Historic Preservation Incentive Tax Credit**

The Historic Preservation Incentive (HPI) Tax Credit was created as part of Act 85–2012. Beginning July 1, 2013, a HPI tax credit is available to qualified taxpayers owning a PA commercial building that qualifies as a certified historical structure according to the Internal Revenue Code (IRC). The HPI tax credit is equal to 25 percent of the costs and expenses associated with a rehabilitation of a historic structure approved by the Pennsylvania Historical and Museum Commission or costs and expenses defined as qualified rehabilitation expenditures under the IRC. The HPI tax credit may be applied to the personal income tax, corporate net income tax, capital stock & foreign franchise tax, bank shares tax, title insurance company shares tax, insurance premiums tax, gross receipts tax, and mutual thrift institutions tax.

A taxpayer without a qualified tax liability may assign or sell credits to another taxpayer. Purchasers and assignees of a tax credit must immediately claim the credit in the taxable year in which the purchase or assignment is made. The HPI tax credit may not be carried back or used to obtain a refund, but it may be carried forward for up to seven taxable years following the first taxable year for which the taxpayer was entitled to claim the credit.

The maximum amount of HPI tax credits awarded is \$3 million and \$500,000 per taxpayer annually. No HIP credits may be awarded after June 30, 2020.

### **Community-Based Services Tax Credit**

The Community-Based Services (CBS) Tax Credit was created as part of Act 85–2012. Beginning July 1, 2013, a CBS tax credit is available for contributions made by business firms to providers of community-based services for individuals with intellectual disabilities, mental illness, or drug and alcohol addiction. The CBS tax credit is equal to 50 percent of contributions made to a provider. This amount may be increased to 75 percent for business firms that contribute to a provider in two or more successive years.

The CBS tax credit may be applied to the personal income tax, corporate net income tax, capital stock/foreign franchise tax, bank shares tax, title insurance company shares tax, insurance premiums tax, and mutual thrift institutions tax. Tax credits may not be carried forward, carried back, and are not refundable or transferable.

The maximum amount of CBS tax credits awarded is \$3 million and \$100,000 per taxpayer annually. No CBS credits may be awarded after the June 30, 2020.

### **City Revitalization and Improvement Zones Program**

The City Revitalization and Improvement Zones (CRIZ) program was created by Act 52-2013, which at that time permitted cities of the third class with a population of at least 30,000 to designate an area of up to 130 acres as a CRIZ. Additionally, one pilot zone could be established within a township or borough with a population of at least 7,000. Two zones were approved in 2013, and two more zones per year can be approved in 2016 and thereafter. General Fund and local tax revenues above a baseline amount attributable to economic activity with the zones may be used for the purpose of improvement and development within the zones. These state and local tax revenues will be deposited into a separate fund to be dispersed to a contracting authority for the purpose of repaying bonds issued to fund various economic development projects within the zones.

Act 194-2014 amended the definition of contracting authority in order to allow a township to establish an authority, and thus, a CRIZ or pilot zone. The original language only allowed for cities to establish contracting authorities, therefore no pilot zone was established before this Act.

Act 84-2016 made numerous changes to the CRIZ program. The act expands eligibility to cities of the second class-A and third class cities with populations over 20,000. The act also removed the prohibition on participation by otherwise eligible third class cities that have had a receiver. The act allowed pilot zones to include multiple municipalities.

The act also expands the definition of eligible tax types within the zone to include hotel occupancy tax and personal income tax paid by members or partners of Subchapter S corporations, limited liability companies, partnerships or sole proprietors on income. The baselines for existing zones shall not be recalculated to include hotel occupancy tax.

The act significantly amended the method for calculating the annual certification amount. Baseline tax amounts and revenue above the baseline are now calculated by individual entity, rather than by the entire zone. If an entity's taxes fall below its baseline, the amount is no longer included in that year's revenue change from the baseline. This change eliminates the impact of entities that have year over year decreases in tax revenue on the entire zone. The act also lowered the maximum amount that a zone may borrow per year from \$10 million to \$7.5 million, effective immediately.

Further, the act provides for additional powers and responsibilities for CRIZ authorities and authorizes additional uses of CRIZ funds by CRIZ authorities.

### **Waterfront Development Tax Credit**

Act 84-2016 created the Waterfront Development Tax Credit. The credit is available to business firms making a donation of cash or property to a waterfront development organization to fund a waterfront development project.

The credit may be claimed by qualified business firms subject to personal income, corporate net income, capital stock/foreign franchise, title insurance company shares, insurance premiums (including surplus lines), or mutual thrift institutions taxes that have made a contribution to a waterfront development organization to fund a waterfront development project. The tax credit may not exceed 75 percent of the total contribution made by the business firm during the taxable year.

Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned, and there are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner. Particularly, a pass-through entity and a shareholder, member or partner of a pass-through entity may not claim a credit under this article for the same waterfront development project.

Credits are available on a first come, first served basis. Total credits awarded in a fiscal year shall not exceed \$1.5 million; the credit may be claimed beginning in FY 2017-18

### **Mixed-Use Development Tax Credit**

Act 84-2016 created the Mixed-Use Development Tax Credit. The credit encourages increased funding of affordable housing and commercial corridor development opportunities in the commonwealth through the Pennsylvania Housing Finance Authority's Mixed-Use Development Program.

The Pennsylvania Housing Finance Authority may allocate up to \$2 million per fiscal year in tax credits to be purchased by qualified purchasers. Tax credit certificates are schedule to be issued to credit purchasers beginning on July 1, 2017.

The credits may be claimed by tax credit purchasers against personal income (excluding employer withholding), corporate net income, capital stock/foreign franchise, title insurance company shares, insurance premiums, gross receipts, or mutual thrift institutions taxes.

Credits granted may be carried forward for up to seven taxable years; however, they may not be carried back or refunded. Credits may be sold or assigned, and there are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner.

### **Coal Refuse Energy and Reclamation Tax Credit**

Act 84-2016 created the Coal Refuse Energy and Reclamation Tax Credit. The credit is designed to incentivize eligible facilities that generate electricity in the commonwealth to use coal refuse for power generation, control acid gasses for emission control and use ash produced by the facility to reclaim mining-affected sites.

Credits may be awarded at a rate of \$4 per 2,000 pounds of qualified coal refuse capped at 22.2 percent of the available budget allocation per fiscal year. The allocation is \$7.5 million for FY 2016-17 and \$10 million each fiscal year thereafter. Credits are awarded by the Department of Community and Economic Development.

The Coal Refuse Energy and Reclamation Tax Credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax.

The tax credit can be carried forward for 15 years, but may not be carried back or refunded. Credits can be transferred to pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner.

An unused tax credit may be sold or assigned. A sold or assigned tax credit must be used by the purchaser or assignee in the tax year in which it was sold or assigned. The credit cannot be carried back, carried forward or refunded. A sold or assigned tax credit may only reduce a taxpayer's qualified liability by 75% in a given tax year.

### **Manufacturing and Investment Tax Credit**

Act 84-2016 created the Manufacturing and Investment Tax Credit. The credit is designed to support job creation in the Commonwealth.

Eligible taxpayers, capable of increasing their annual taxable payroll by a minimum of \$1 million through the creation of new full-time jobs can earn a tax credit equal to up to 5 percent of the taxpayer's increase in annual taxable payroll. Jobs must be maintained for at least five years. The budget allocation is \$4 million a year beginning in FY 2017-18. Credits are awarded by the Department of Community and Economic Development.

The Manufacturing and Investment Tax Credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax.

The tax credit can be carried forward for 3 years, but may not be carried back or refunded. Credits can be transferred to pass-through entities (Subchapter S corporations, Limited Liability Companies, and Partnerships) to a shareholder, member or partner.

An unused tax credit may be sold or assigned. A sold or assigned tax credit must be used by the purchaser or assignee in the tax year in which it was sold or assigned. The credit cannot be carried back, carried forward or refunded. A sold or assigned tax credit may only reduce a taxpayer's qualified liability by 50% in a given tax year.

### **Rural Jobs and Investment Tax Credit**

Act 84-2016 created the Rural Jobs and Investment Tax Credit. The credit is designed to stimulate growth and job creation in rural areas by providing access to capital to rural businesses from businesses supporting rural growth funds.

The Rural Jobs and Investment Tax Credit is based on contributions made by a business firm to a rural growth fund. Eligible business firms may be approved for up to a 90 percent equivalent tax credit per contributed dollar. The budget allocation is \$1 million a year beginning in the FY 2017-18, and is not to exceed \$4 million for the duration of the program. The credits are awarded by the Department of Community and Economic Development.

The Rural Jobs and Investment Tax Credit may be used against the bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax.

The tax credit can be carried forward for 5 years, but may not be carried back or refunded. Credits can only be sold to affiliated companies. An awarded or assigned tax credit may reduce a taxpayer's qualified liability by 100% in a given tax year.

### **Computer Data Center Equipment Incentive Program**

Act 84-2016 created the Computer Data Center Equipment Incentive Program. The program is designed to attract new investment from businesses that operate within facilities containing equipment such as servers or data storage equipment necessary to operate a computer data center.

The program is to be administered by the Department of Revenue. The budget allocation is \$5 million a year beginning in FY 2017-18. The \$5 million annual cap applies to qualified requested refunds of Sale and Use Tax paid on certain computer data center equipment.

### **Innovate in PA Tax Credit**

Act 52-2013 created the Innovate in PA tax credit program in which credits may be purchased by qualified insurance companies and used against insurance premiums tax liabilities beginning in calendar year 2017. More detail is available in the Insurance Premiums Tax section.

### **Mobile Telecommunications Broadband Investment Tax Credit**

Act 52-2013 created the Mobile Telecommunications Broadband Investment Tax Credit. Taxpayers that are a provider of mobile communications services shall be allowed a tax credit against their Corporate Net Income tax for investment in qualified broadband equipment placed into service in Pennsylvania.

The amount of the tax credit is 5% of the purchase price of qualified broadband equipment put into service during the taxable year. The maximum amount of approved tax credits shall not exceed \$5 million in any fiscal year, nor may they exceed 50% of a taxpayer's Corporate Net Income tax liability. Any credit claimed and not used in the taxable year may be carried forward for no more than 5 consecutive tax years. Affiliated shareholders, members or partners of pass-through entities that receive unused credits from the pass-through entity are required to use the tax credit immediately. They are not allowed to carry forward, carry back, obtain a refund or sell the tax credit.

The credit is first awarded for tax year 2014.

## 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 the 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: oil company franchise tax, the motor carriers road tax / IFTA, the alternative fuels tax, and the liquid fuels and fuels tax.

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.

#### 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.

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 were statutorily set at \$0.90 and \$1.25 per gallon, respectively.

Act 3-1997 imposed a tax of 153.5 mills on liquid fuels and 208.5 mills on fuels on a cents-per-gallon equivalent basis beginning October 1, 1997. Act 89-2013 added an additional 64 mills beginning January 1, 2014, 49 mills in 2015, 48 mills in 2016, 41 mills in 2017, and 39 mills in 2018 and each calendar year thereafter. These additional mills are levied on both liquid fuels and fuels purchases. Act 89-2013 also set the average wholesale price at \$1.87 per gallon in 2014, \$2.49 in 2015 and 2016, and uncapped the average wholesale price in 2017 and each year thereafter. A statutory average wholesale price floor is set at \$2.99 per gallon in 2017 and thereafter.

Receipts from 57 mills of the oil company franchise tax on liquid fuels and fuels are deposited as unrestricted Motor License Fund revenue, along with 95.83% of the mills added by Act 89-2013. The remaining 4.17% of the mills added by Act 89-2013 are transferred to the Liquid Fuels Tax Fund. The balance of the tax rate represents revenues restricted to certain highway activities. 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.

The tax is imposed upon sales by distributors, who collect and remit the tax to the Commonwealth; however, the tax is ultimately borne by the consumer. Payments and reports are due from distributors on or before the 20th day of the month for liquid fuels and fuels sales in the preceding month.

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

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

## 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. 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 liquefied petroleum gas, alcohols, gasoline-alcohol mixtures containing at least 85 percent 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 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.

## 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 was 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. Act 89-2013 repealed the 12 cents per gallon tax on liquid fuels and fuels effective January 1, 2014.

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

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

Payments and reports are due from distributors 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>Cents Per Gallon</u>					
7/1/1935	4.0	1/1/1992	3.6	1/1/2006	5.3
6/1/1949	5.0	1/1/1994	3.5	1/1/2009	5.8
9/13/1955	6.0	1/1/1997	3.7	1/1/2010	5.4
6/1/1956	1.5	1/1/1998	3.5	1/1/2011	5.5
11/1/1984	3.0	1/1/1999	3.3	1/1/2012	5.9
1/1/1988	3.3	1/1/2000	3.7	1/1/2013	5.9
1/1/1989	3.2	1/1/2001	4.3	1/1/2014	5.9
1/1/1990	3.3	1/1/2002	4.1	1/1/2015	5.9
1/1/1991	3.8	1/1/2005	4.7	1/1/2016	5.5

<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>Cents Per Gallon</u>					
6/1/1956	1.5	1/1/1992	1.8	1/1/2010	1.6
6/1/1960	1.0	1/1/1994	1.7	1/1/2011	1.7
11/1/1984	1.1	1/1/1997	1.9	1/1/2012	2.0
1/1/1985	1.3	1/1/1998	1.7	1/1/2013	2.0
7/1/1985	1.5	1/1/1999	1.5	1/1/2014	2.0
1/1/1988	1.8	1/1/2000	1.9	1/1/2015	2.0
1/1/1989	1.7	1/1/2001	2.0	1/1/2016	1.6
1/1/1990	1.8	1/1/2002	1.8		
1/1/1991	2.0	1/1/2005	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>Cents Per Gallon</u>					
6/1/1931	3.0	6/1/1957	5.0	7/4/1979	11.0
7/1/1935	4.0	4/1/1961	7.0	8/8/1983	12.0
6/1/1949	5.0	4/1/1970	8.0	10/1/1997	NA <sup>1</sup>
9/13/1955	6.0	9/1/1974	9.0	1/1/2014	NA <sup>2</sup>

<sup>1</sup> Act 3-1997 combined these taxes into the liquid fuels and fuels tax which has a rate of 12.0 cents per gallon.

<sup>2</sup> Act 89-2013 repealed the 12.0 cents per gallon tax on liquid fuels and fuels.

**Fuel Use Tax Act Rates**

<u>Cents Per Gallon</u>					
9/1/1947	4.0	6/1/1957	5.0	7/4/1979	11.0
6/1/1949	5.0	4/1/1961	7.0	8/8/1983	12.0
2/1/1952	5.0	4/1/1970	8.0	10/1/1997	NA <sup>1</sup>
9/13/1955	6.0	9/1/1974	9.0	1/1/2014	NA <sup>2</sup>

<sup>1</sup> Act 3- 1997 combined these taxes into the liquid fuels and fuels tax which has a rate of 12.0 cents per gallon.

<sup>2</sup> Act 89-2013 repealed the 12 cents per gallon tax on liquid fuels and fuels.

**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 FY 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.

Beginning in FY 2007-08, in accordance with Act 44–2007 the Department of Transportation was to deposit a portion of the scheduled annual payments from the Pennsylvania Turnpike Commission into the Motor License Fund. For FY 2007-08, \$450 million was to be deposited. For FY 2008-09 and FY 2009-10 the amount deposited was \$500 million. For FY 2010-11 through FY 2013-14 the amount deposited was \$200 million. Act 89-2013 ended the transfer of payments from the Pennsylvania Turnpike Commission to the Motor License Fund in FY2014-15 and each fiscal year thereafter.

## Public Transportation Assistance Fund

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. Act 44–2007 created the transfer of a portion of PTA Fund money to the Public Transportation Trust Fund.

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.

### Newly Purchased 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 percent 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 percent sales tax and the 3 percent lease tax are not included in the lease price used to calculate the other tax.

### 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 percent 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 percent 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 percent 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 percent.

### 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 percent 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.

## **Public Transportation Trust Fund**

The Public Transportation Trust Fund was created by Act 44-2007 to provide dedicated funding for public transportation in the Commonwealth. Act 89-2013 increased funding and revenue sources for the fund. Revenues come from scheduled payments by the Pennsylvania Turnpike Commission, a portion of the Sales and Use Tax, certain motor vehicle fees, vehicle code fines and surcharges, and transfers from the Public Transportation Assistance Fund and the Lottery Fund. Beginning in fiscal year 2022-23, an additional transfer will be made from the motor vehicle Sales and Use Tax (SUT) receipts in the General Fund. The transfer will be \$450 million or the total amount of tax imposed under Article II of the Tax Reform Code (SUT) in the previous fiscal year multiplied by the ratio of \$450 million to the total amount of SUT collected in fiscal year 2020-21, whichever is greater. Monies in this fund are disbursed as grants to public transit agencies for operating costs, capital and asset improvements, and programs of statewide significance. Beginning July 1, 2007, 4.4 percent of SUT collected is deposited into the Public Transportation Trust Fund. This fund replaces the Supplemental Public Transportation Assistance Fund.

## 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. Act 201-2014 added definitions for Internet Instant Game and Keno, while prohibiting the Secretary of Revenue from authorizing these games unless authorized by an act of law. The Act also allocates no less than 27% of total revenues from the sale of lottery tickets or shares to property tax relief and free or reduced fare transit service for the elderly in fiscal years beginning before July 1, 2014. For fiscal years beginning after June 30, 2014, that percentage drops to 25%.

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 percent of Social Security payments and 50 percent 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 percent of that income. PTRR program costs beyond those paid in fiscal year 2006-07 are funded by transfers from the Gaming Fund. Act 156-2014 allowed that claimants who are eligible as of December 31, 2012 would remain eligible if the household income limit is exceeded only due to a Social Security cost-of-living increase. This provision expires on December 31, 2016. Act 117-2016 amends the definition of income to exclude all federal veterans' disability payments and state veterans' benefits from PTRR eligibility income. This provision will be effective year for claim year 2017.

**2. Pharmaceutical Assistance (PACE and PACENET)** – The PACE program administered by the Pennsylvania Department of Aging 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. Effective for 2014, Social Security Medicare Part B premiums are now excluded from income. This change has the same effect as raising the income limits by that amount. For most Medicare beneficiaries, this amount is \$1,258.80 per person for a year. For married couples, the excluded amount would be \$2,517.60 for a year.

**3. Transportation Programs** - Under the Free Transit Program older Pennsylvanians are eligible for free rides on fixed route services at all regular operating times on weekdays, 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 percent of the fare. The State Lottery Fund reimburses shared-ride transit operators the remaining 85 percent 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 slots gaming at 14 locations throughout Pennsylvania. Act 1-2010 authorized table games and increased the number of slot machine licenses by 1. Under current law, a total of fifteen slot machine licenses within three categories have been established; however, the final Category 3 license will not be effective until after July 20, 2017, or after the first two Category 3 licensed facilities are operational, whichever is later.

A slot machine tax, local share assessments, and various license and fee revenue are deposited into the Gaming Fund. In addition, the 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. Each Category 1 and 2 slot machine licensee must provide and maintain a deposit of \$1,500,000. Each Category 3 licensee must provide and maintain a deposit of \$1,000,000.

An amount equal to \$2 million, or 0.2 percent 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 \$2 million to the Pennsylvania Gaming Control Board (PGCB) for law enforcement grants, \$3 million to the Department of Health for drug and alcohol addiction treatment services, \$25 million to the General Fund for the Volunteer Fire Company Grant Program, 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 the statute.

### Slot Machine Tax and Assessment

A 34 percent state tax and a 4 percent 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 total cash or cash equivalents received by a slot machine or received as entry fees for slot machine contests or tournaments less cash or cash equivalents paid out, cash or cash equivalents paid to purchase annuities to fund prizes, and personal property distributed to patrons as a result of playing a slot machine.

The local share assessment is deposited into the Gaming Fund and, quarterly, is distributed to local jurisdictions hosting a licensed gaming entity. The exact distribution and uses are prescribed by the legislation and are based upon the classification of the county and municipality in which the facility resides. This funding supports various services and projects at the county and municipal level.

### Table Game Assessment

A 2 percent local share assessment is imposed on gross table game revenue. Gross table game revenue is defined as total cash or cash equivalents received in the playing of table games, contest or tournament fees or payments, and total amount of rakes collected minus cash or cash equivalents paid out, paid to purchase annuities to fund prizes, and paid for personal property distributed to patrons as a result of playing a table game.

The local share assessment is deposited into the Gaming Fund and, quarterly, is distributed to local jurisdictions hosting a licensed gaming entity. The exact distribution and uses are prescribed by the legislation and are based upon the classification of the county and municipality in which the facility resides. This funding supports various services and projects at the county and municipal level.

### Licenses and Fees

License and fee revenue related to slots 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 slots gaming equipment, and a multitude of other gaming related permits issued by the PGCB. Beginning in fiscal year 2013-14, any payment of a slot machine license fee received by the Board, after June 30, 2013, is deposited to the General Fund in accordance with the applicable Fiscal Code budget implementation provisions.

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 #117 of November 2, 2016 made the following changes:**

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

- Amended the definition of income to exclude federal veterans' disability payments and state veterans' benefits. The changes are effective within 60 days and will first impact claim year 2017 rebates.

### **ACT #86 of July 13, 2016 made the following changes:**

#### **To the Public School Code:**

- Educational Tax Credits: Funding has increased from \$100 million to \$125 million for the aggregate amount of all tax credits approved for contributions from business firms to scholarship organizations, educational improvement organizations and pre-kindergarten scholarship organizations. Additionally, a new procedural change effective for the 2016-17 fiscal year requires the Department of Community and Economic Development to notify applicants of the status of the application in writing within 90 days of submitting the application to the Department.
- The Educational Tax Credit statute was moved back to the Public School Code from the Tax Reform Code by Act 86 of 2016 as well.

### **ACT #85 of July 13, 2016 made the following changes:**

#### **To the Fiscal Code:**

- Under the Cigarette and the Sales and Use taxes, starting August 1, 2016, the mandatory cost of doing business (selling cigarettes) increases from 6.0 percent to 7.0 percent, resulting in a minimum price increase of \$0.06.
- In fiscal year 2016-17, \$350.2 million in payments will be made from the Tobacco Settlement Fund to fund health related programs.
- In fiscal year 2016-17, the following transfers, totaling \$265.5 million, will be made to the General Fund:
  - \$5.0 million from the Alternative Fuels Incentive Fund;
  - \$2.0 million from the Local Law Enforcement Block Grants;
  - \$9.0 million from the Recycling Fund;
  - \$28.5 million from the Tobacco Settlement Fund;
  - \$9.0 million from the Volunteer Companies Loan Fund;
  - \$200.0 million from the unappropriated surplus of the Pennsylvania Professional Liability Joint Underwriting Association; and
  - \$12.0 million from the CFA Building Pennsylvania program account.
- For any slot machine issued in fiscal year 2016-17, the Pennsylvania Gaming Control Board shall require the slot machine license fee (\$50.0 million) and the table games authorization fee (\$24.75 million) to be paid in full to the General Fund no later than June 30, 2017.

### **ACT #84 of July 13, 2016 made the following changes:**

#### **To the Sales and Use Tax:**

- Starting August 1, 2016, the sales and use tax specifically extends to items delivered to a customer electronically or digitally or by streaming. This includes music or any other audio, video - such as movies and streaming services - e-books and any otherwise taxable matter. Also now taxable are items such as apps and in-app

purchases, ringtones, online games, canned software - frequently referred to as off-the-shelf software - and any updates, maintenance or support of these items. Items that are exempt in physical form are not subject to tax.

- For sales tax returns for periods ending after August 1, 2016, the sales tax vendor discount is capped at the lesser of one percent of the amount of sales tax collected or \$25 on a monthly return, \$75 on a quarterly return or \$150 on a semi-annual return.
- Effective immediately, the possession, sale or distribution of zappers or sales suppression software with the intent to evade taxes is deemed an offense and individuals could be fined up to \$10,000 and one year in prison.
- Effective immediately, returnable corrugated boxes used to deliver snack food products when purchased by a manufacturer are exempt from the sales and use tax.
- Effective September 11, 2016, the sale at retail or use of services related to the setup, teardown, or maintenance of tangible personal property rented by an authority to exhibitors at the Pennsylvania Convention Center and the David L. Lawrence Convention Center is exempt from sales and use tax.
- Effective July 1, 2017, property and services directly and predominately used in timbering operations are exempt from sales and use tax when purchased by a company primarily engaged in the business of harvesting trees. Timbering does not include the harvesting of trees for clearing land for access roads.

**To the Cigarette and Tobacco Products Taxes:**

- Starting August 1, 2016, the state tax on cigarettes is \$2.60 per pack, a \$1.00 per pack increase. In Philadelphia the tax will be \$4.60 per pack.
- Effective October 1, 2016, pipe tobacco, chewing tobacco, snuff, and any other tobacco products for chewing, ingesting or smoking, except cigars, will be subject to a \$0.55 per ounce tax, with a minimum tax per package of \$0.66. Electronic cigarettes including both the liquid product and the delivery device will be subject to a 40 percent tax on the wholesale price.
- The tax on roll-your-own tobacco at \$0.55 per ounce will be effective 60 days after the Attorney General publishes a notice in the Pennsylvania Bulletin that the tax is permitted under the Master Settlement Agreement with the tobacco companies.
- A transfer of monies from the General Fund to the Local Cigarette Tax Fund is established to occur if the amount of monies deposited in the Local Cigarette Tax Fund in fiscal year 2016-17 and thereafter falls below the amount deposited in fiscal year 2015-16. The transfer amount shall be equal to the difference between the amount deposited in the Local Cigarette Tax Fund in the given fiscal year and \$58 million. The transfer, if it is necessary, will occur annually by July 15<sup>th</sup>.
- The expiration date of the Local Cigarette Tax of June 30, 2019 is eliminated.

**To the Corporate Net Income Tax:**

- For tax years beginning after December 31, 2015, corporate net income tax reports (RCT-101) are due 30 days after the federal report is due, or would be due if that corporation were required to file federally.
- Beginning with amended reports filed after December 31, 2016, the Act provides procedures for corporations filing amended corporate tax reports (RTC-101). Taxpayers will have three years from the due date of the original report to file an amended report. The department will have one year from the date the amended report is filed to notify the taxpayer if the changes are accepted. If the taxpayer is not notified within one year, the report is deemed accepted.

**To the Bank Shares Tax:**

- Effective January 1, 2107, the bank shares tax rate changes from 0.89 percent to 0.95 percent.
- Effective January 1, 2018 a phased-in deduction is allowed for Edge Act corporation equity.

- The source for income in the receipts definition is changed from the federal tax return to the Consolidated Reports of Condition.
- The deduction for goodwill generated from combination activity and for the apportionment of receipts from investment and trading assets and activities has been clarified.

**To the Personal Income Tax:**

- Retroactive to January 1, 2016, the Pennsylvania personal income tax applies to cash prizes from the Pennsylvania Lottery.
- Starting in the 2016 tax year, taxpayers receiving a personal income tax refund will have the option of designating all or a portion of the refund as a contribution to a Tuition Account Program (TAP) directly from their personal income tax return.
- The Act clarifies the language specifying the treatment of intangible drilling costs in the personal income tax.
- Effective September 11, 2016, Section 1033 of the Internal Revenue Code shall be applicable to the personal income tax. This federal provision allows a taxpayer to acquire replacement property and make an election to defer recognition of gain following an involuntary conversion, for example when the original property is destroyed by fire or natural disaster.

**To the Realty Transfer Tax:**

- Agricultural, conservation, or historic preservation easements transferred or sold to certain dedicated conservancies as well as government entities may be made without the seller paying the realty transfer tax.
- Transfers by not-for-profit veterans' organizations that are recognized by the Internal Revenue Service as 501(c)(19) tax-exempt organizations are exempt from realty transfer tax, though other parties to the transaction may still be liable.
- Transfers to or from a land bank, which can be established by government entities in the commonwealth, are excluded from tax under the Realty Transfer Tax.
- All three provisions take effect September 11, 2016.

**To the Inheritance Tax:**

- The exemption for family farms and family businesses are amended, allowing for farms and businesses that are transferred "to or for the benefit of" a member of the same family to be exempt from the taxable estate. This language extends the family farm and business exclusions to transfers of trusts for the benefit of members of the same family. This amendment also added relatives of a decedent's spouse to the definition of "members of the same family." The farm provision is effective retroactive to dates of death after December 31, 2012, while the business provision is retroactive to dates of death after June 30, 2013.

**To the Table Game Taxes:**

- The 12 percent tax on casinos' gross table games revenue is increased to 14 percent effective August 1, 2016. This additional 2 percent tax is set to expire on June 30, 2019.

**To the Tax Amnesty Program:**

- The Act provides for a tax amnesty program to be implemented by the Department of Revenue. The Governor will establish the 60-day period that must end by June 30, 2017. During amnesty, the department will waive 100 percent of penalties and half of the interest due on taxes delinquent as of December 31, 2015. The department is required to publish guidelines for the program within 60 days of the effective date of Act 84, including an explanation of the program, the amnesty period dates, a sample tax return, and estimates for amnesty revenue.

**To the Tax Credits and Economic Development Programs**

- The sunset provision of December 31, 2015, for the Research and Development (R&D) tax credit has been removed from the law.
- The Film Production Tax Credit is renamed the Entertainment Production Tax Credit. There are three subsections: An expanded Film Production Tax Credit, and two new tax credits, the Concert Rehearsal and Tour Tax Credit and the Video Game Production Tax Credit.
  - Film Production Tax Credit: The scope for eligible production expenses used to quantify the tax credit and permitted uses of the credit against tax liability has been expanded. Additionally, the budget allocation has also been increased from \$60 million to \$65 million per year beginning in the 2017-18 fiscal year. Additionally, the Department of Community and Economic Development may now reissue unused Film Production Tax Credits from prior fiscal years, beginning in the 2017-18 fiscal year.
  - Concert Rehearsal and Tour Tax Credit: This new tax credit is designed to attract investment in the commonwealth by awarding tax credits to tour operators representing musicians for rehearsals and live musical performances within the state. Credits may be awarded for up to 40 percent of eligible expenses up to \$800,000 per taxpayer per fiscal year. The budget allocation is \$4 million a year beginning in the 2017-18 fiscal year.
  - Video Game Production Tax Credit: This new tax credit is designed to attract investment in the commonwealth by awarding tax credits for production expenses incurred by video game production companies. Credits may be awarded for up to 25 percent of qualified expenses in the first four years of production and 10 percent for each year thereafter per taxpayer per fiscal year. The budget allocation is \$1 million a year beginning in the 2017-18 fiscal year.
- Coal Refuse Energy and Reclamation Tax Credit: This new tax credit is designed to incentivize eligible facilities that generate electricity in the commonwealth to use coal refuse for power generation, control acid gasses for emission control and use ash produced by the facility to reclaim mining-affected sites. Credits may be awarded at a rate of \$4 per 2,000 pounds of qualified refuse capped at 22.2 percent of the available budget allocation per fiscal year. The allocation is \$7.5 million for the 2016-17 fiscal year and \$10 million each fiscal year thereafter.
- Waterfront Development Tax Credit: This new tax credit is designed to generate funding for waterfront development projects that provide or improve public access to waterfront sites within the commonwealth. Contributions in the form of cash or personal property may be donated to an approved waterfront organization for up to a 75 percent equivalent tax credit per contributed dollar. The budget allocation is \$1.5 million a year beginning in the 2017-18 fiscal year.
- Repealed Article XVII-F of the Tax Reform Code containing the provisions of the Educational Tax Credit Program.
- Tax Credit for New Jobs: Formerly referred to as the Job Creation Tax Credit program, this tax credit has been amended to include an incentive for businesses to hire veterans for a job tax credit equivalent to \$2,500 per veteran hired. The amendment is effective immediately.
- The City Revitalization and Improvement Zone (CRIZ) Program is amended to include broadened definitions regarding the scope and administration of the program. Amendments include: changes to program eligibility for qualifying cities and municipalities, new CRIZ eligible tax types, and expanded powers or duties of the contracting authority. Other notable changes include an amended formula for the calculation of the annual certification, a lowered cap on annual borrowing by zones, and permitted uses of CRIZ funds by the contracting authority. The amendment is effective immediately.
- Manufacturing and Investment Tax Credit: This new tax credit is designed to support job creation. Eligible taxpayers, capable of increasing annual taxable payroll by a minimum of \$1 million through the creation of new full-time jobs can earn a tax credit up to 5 percent of the taxpayer's increase in annual taxable payroll. Jobs must be maintained for at least five years. The budget allocation is \$4 million a year beginning in the 2017-18 fiscal year.
- Rural Jobs and Investment Tax Credit: This new tax credit is designed to stimulate growth and job creation in rural areas by providing access to capital to rural businesses from businesses supporting rural growth funds.

Credit for eligible contributions made by a business firm may be approved for up to a 90 percent equivalent tax credit per contributed dollar. The budget allocation is \$1 million a year beginning in the 2017-18 fiscal year, and is not to exceed \$4 million for the duration of the program.

- The Neighborhood Assistance Tax Credit program is amended with new definitions for affordable housing, domestic violence or veterans' housing assistance. By inclusion of these amendments, tax credits may be awarded equivalent to 75 percent of the total amount contributed by business firms participating in the program. The amendment is effective immediately.
- Neighborhood Improvement Zone (NIZ) Program: The NIZ program has been amended to include broadened definitions regarding the scope and administration of the program for the state and contracting authority. Amendments include new penalty provisions, acceptance of late reports within the program reconciliation and an annual program audit by an independent auditing firm. Other notable changes include the prohibition of assessing real estate taxes on any property owned by the contracting authority in a zone, collection and distribution changes to local hotel taxes within the zone, and property valuation prohibitions for property within the zone for use by the county.
- The sunset date for the Keystone Special Development Zone (KSDZ) Tax Credit program has been changed from 2026 to 2035. The amendment is effective immediately.
- The Keystone Opportunity Zone (KOZ) program has been expanded to include the designation of 12 new Keystone Opportunity Expansion Zones consisting of 375 acres each for a period of up to 10 years effective January 1, 2017 to December 31, 2026. In addition, existing parcels can be extended up to 10 years for state tax benefits, if the applicant can meet the job creation and capital investment requirements in the enabling legislation.
- Mixed-Use Development Tax Credit: This new tax credit is designed to help communities address affordable housing shortages and support business growth. The program allows developers to access funds for construction or rehabilitation projects that enable affordable housing and business in the same structure. Tax credit availability is based on the sale of the credits from the Pennsylvania Housing Finance Agency. The budget allocation is \$2 million a year beginning in the 2017-18 fiscal year.
- The budget allocation for the Keystone Innovation Zone (KIZ) tax credits is reduced to \$15 million per fiscal year from \$25 million per fiscal year effective immediately.
- The Malt Beverage Tax Credit tax credit will be reinstated in the 2017-18 fiscal year with a \$5 million a year budget allocation. The credit was formerly effective from January 1, 1974, to December 31, 2008.
- Computer Data Center Equipment Incentive Program: This new program is designed to attract new investment from businesses that operate within facilities containing equipment such as servers or data storage equipment necessary to operate a computer data center. Applicants must meet capital investment and annual compensation requirements for employees working within the data center. The budget allocation is \$5 million a year beginning in the 2017-18 fiscal year.
- Effective December 1, 2016, the Promoting Employment Across Pennsylvania (PEP) tax credit is repealed.

**ACT #39 of June 8, 2016 made the following changes:**

***To the Liquor Code:***

- Allows restaurants and hotels to purchase an expanded wine permit to sell up to 3,000 mL of wine (4 bottles) for off-premise consumption.
- The initial permit fee is \$2,000 and the renewal fee is equal to 2.0 percent of the cost of wine purchased from the board for off-premise consumption.

- Allows the LCB to sell PA Lottery tickets through instant ticket vending machines, player activated terminals and technologies for the self-service sale of PA Lottery tickets and provides that the licensee commission be deposited in the General Fund.
- Authorizes the LCB to issue licenses to casinos for a fee of \$1 million to sell alcohol 24 hours a day, 7 days a week. The renewal fee will be \$1 million for the next four years and will be set at \$250,000 per year thereafter.
- Allows a restaurant license that ceased to exist under law to be auctioned by the LCB once a year to the highest bidder with the minimum bid set at \$25,000.
- Allows for the conversion of an eating place license to a restaurant license for a fee of \$30,000.
- Provides for up to \$1 million annually for the awarding of grants for the purpose of increasing production of malt and brewed beverages made in PA. Provides for up to \$1 million annually for the awarding of grants for the purpose of increasing production of wines made in PA.
- Effective 60 days after enactment.

**ACT #25 of April 25, 2016 made the following changes:**

**To the Fiscal Code:**

- Reduces the statutory annual transfer from the Oil and Gas Lease Fund to the Marcellus Legacy Fund for transfer to the Environmental Stewardship Fund for FY 2015-16 to \$20,000,000 to align with amounts available and modifies the distribution to agencies from that transfer to ensure that mandatory debt service continues to be paid and to preserve the funding for the Agricultural Conservation Easement Program.
- The legislation provides language necessary to allow a business which participates in the Educational Improvement Tax Credit (EITC) and Opportunity Scholarship Tax Credit (OSTC) programs during FY 2015-16 to utilize the credit in either the tax year in which the application or the contribution is made.
- The legislation directs that any payment of a slot machine license fee received by the Pennsylvania Gaming Control Board after June 30, 2014, is to be deposited in and credited to the General Fund. The transfer is estimated to generate a deposit of \$50 million by June 30, 2016.
- The Enhanced Revenue Collection Account (ERCA) in the Department of Revenue will continue through FY 2019-20. Revenues collected will be deposited into the account. Of the funds in the account, for each of the fiscal years from FY 2015-16 through FY 2019-20, up to \$25,000,000 is appropriated to the department to fund the costs associated with the increased tax collection enforcement and reduction of tax refund errors. The balance in account on June 15, 2014 and each June 15 thereafter shall be deposited into the General Fund. The department will generate a report to the governor and General Assembly including a detailed breakdown of administrative costs, the amount of revenue collected and the amount of refunds avoided.
- By June 1, 2016, \$4,500,000 shall be transferred from the Dormitory Sprinkler System fund to the General Fund.

**ACT #16 of April 18, 2016 made the following changes:**

**Created the stand alone Medical Marijuana Act:**

- Establishes a program for the use of medical marijuana (MM) to be administered by the Pennsylvania Department of Health (DOH). This legislation is effective in 30 days after enactment.
- An excise tax of 5.0 percent is imposed on the gross receipts from the sale of MM by a grower/processor to a dispensary. The tax shall be paid by the grower/processor and shall not be paid by dispensary or the patient or caregiver. The proceeds of the tax are to be deposited in the Medical Marijuana Program Fund. This fund is established in the State Treasury. The sale of MM to a patient or caregiver is exempt from sales tax.

- DOH and the Department of Revenue shall monitor the price of medical marijuana sold by a grower/processor and by a dispensary, including the per-dose price. If both DOH and the Department of Revenue determine that prices are unreasonable or excessive, a cap may be placed on the price of medical marijuana for a period of six months.

**ACT #17 of April 18, 2016 made the following changes:**

**Created the Pennsylvania ABLE Act:**

**UPDATE: This section has been amended to clarify changes made by ACT 17 of 2016 (the Pennsylvania ABLE Act). The official name of the act and the tax benefits have been revised.**

- Created the Pennsylvania ABLE (Achieving a Better Life Experience) Act and provides that contributions made to an ABLE account, any increase in the value of those contributions, the retention or transfer during life or as a result of death of any legal interest in an account and payment of qualified disability expenses of eligible individuals from an account shall be exempt from all taxation by the Commonwealth and its political subdivisions.
- An amount that is distributed from an account which is not described as being exempt from taxation under this act shall be subject to tax under the Pennsylvania personal income tax.

**ACT #7 of February 23, 2016 made the following changes:**

**To the Administrative Code:**

- Repealed the Race Horse Industry Reform Act (P.L. 534, No. 135) and Article XV1-B of the Tax Reform Code of 1971, related to Nonlicensed Corporation Pari-Mutuel Wagering Tax, and added Article XXVIII-D, Race Horse Industry Reform, providing for the regulatory oversight of horse and harness racing.
- Maintained the existing Pari-Mutuel Tax rate, which is deposited to the State Racing Fund, but eliminated the Admissions Tax. The established Pennsylvania Sire Stakes Fund and Pennsylvania Breeding Fund and established distributions are maintained in the bill.
- Imposed the Pari-Mutuel Tax on Secondary Pari-Mutuel Organizations, which were previously subject to the Nonlicensed Corporation Pari-Mutuel Wagering Tax, which was deposited into the Advanced Deposit Wagering Collections Account, a restricted account within the General Fund. From those funds, up to \$5 million was appropriated to the State Racing Commission in the Department of Agriculture for general government operations.
- Provided that 37.5 percent of the breakage retained by licensed racing entities conducting horse race meetings (currently 25 percent by licensed entities conducting thoroughbred race meetings) shall be paid to the Department of Revenue for credit to the State Racing Fund. Breakage is defined as "the odd cents of redistributions to be made on contributions to pari-mutuel pools exceeding a sum equal to the next lowest multiple of ten."
- Provided, beginning July 1, 2016, and annually thereafter, that one percent of the previous fiscal year deposits to the Pennsylvania Race Horse Development Fund shall be transferred to the State Racing Fund for the promotion of horse racing.
- Established the Pennsylvania Race Horse Testing Program, providing all cost for medication testing and research be paid out of the Pennsylvania Race Horse Development Fund, in 52 equal, weekly payments to the State Racing Fund. This transfer expires on June 30, 2020.
- Provided for various licenses for horse racing, which are deposited to the State Racing Fund, including a new annual license fee to conduct electronic wagering, at an initial fee of \$500,000, with a \$100,000 annual renewal. However, if an applicant that is also a Category 1 slot machine licensee paid the license fee under 4 Pa.C.S. § 1209 (relating to slot machine license fee), this fee shall be deemed paid and the amount of the fee shall be transferred to the State Racing Fund upon certification of the Secretary of the Budget.

**ACT #58 of November 4, 2015 made the following changes:**

**To the Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund:**

- Provides for a transfer of realty transfer tax funds to the Pennsylvania Housing Affordability and Rehabilitation Enhancement Fund, beginning in fiscal year 2015-16.
- Specifies that the annual transfer is to be the lesser of \$25 million or 40 percent of the difference between (a) the total dollar amount of the realty transfer tax collected in the prior fiscal year and (b) the total dollar amount of the realty transfer tax official estimate for the fiscal year 2014-15 (\$447.5 million).

**ACT #203 of October 31, 2014 made the following changes:**

**To Procedure and Tax Administration for Out-of-State Entities during a Declared Emergency:**

- Provides that out-of-state businesses responding to a disaster emergency declared by the Governor of Pennsylvania or President would not be subject to: state or local business licensing or registration; PUC or regulatory requirements; state and local taxes/fees, such as unemployment insurance, sales and use tax, property tax on equipment brought in on a temporary basis, used or consumed in the Commonwealth during the disaster emergency, and subsequently removed from the Commonwealth, state or local occupational licensing fees or local service taxes; and state or local tax on or measured by, in whole or in part, net or gross income or receipts.
- An out-of-state employee shall not be considered to have established residency that would require the individual or the employer to do the following: file and pay income taxes; be subjected to income tax withholding; or file and pay any other state or local tax or fee for disaster emergency-related work performed during the period designated.
- These exemptions apply to an out-of-state business who performs work for a period of not more than ten days before and not more than 60 days after the end of a declared disaster emergency period and the business must be in compliance with all applicable regulatory and licensing requirements in its state of domicile. The exemption period may be extended by the Governor for a period of not more than 30 days for each declared disaster emergency.

**ACT #201 of October 31, 2014 made the following changes:**

**To the State Lottery Fund:**

- Added definitions for Internet Instant Game and Keno, while prohibiting the Secretary of Revenue from authorizing these games unless authorized by an act of law.
- Allocates no less than 27.0 percent of total revenues from the sale of lottery tickets or shares to property tax relief and free or reduced fare transit service for the elderly in fiscal years beginning before July 1, 2014. For fiscal years beginning after June 30, 2014, that percentage drops to 25.0 percent.

**ACT #194 of October 31, 2014 made the following changes:**

**To the Educational Improvement Tax Credit (EITC) and Educational Opportunity Scholarship Tax Credit (EOSTC):**

- Repeals the EITC and EOSTC as stand-alone Articles in the Tax Reform Code (TRC).
- Consolidates both the EITC and EOSTC programs into Article XVII-F of the TRC under the title of the Educational Tax Credits (ETC) Program.
- Adds the Malt Beverage Tax to the list of taxes against which the ETC can be applied.
- Includes numerous administrative changes regarding how the ETC operates.

**To the City Revitalization and Improvement Zones (CRIZ):**

- Effectively allows a borough or township to create an authority to apply for a pilot zone. Previous law did not include this language, so no pilot zones were able to be awarded.

**ACT #193 of October 31, 2014 made the following changes:****To the Organ and Bone Marrow Donor Tax Credit:**

- Repeals Act 65-2006, the Organ and Bone Marrow Donor Act, which contained the original creation of the Organ and Bone Marrow Tax Credit.
- Adds Article XVIII to the Tax Reform Code (TRC), containing the reestablished Organ and Bone Marrow Tax Credit, which had expired in 2010.
- The Organ and Bone Marrow Donor Tax Credit is 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 TRC. The credit is retroactively available for tax years beginning on or after January 1, 2011. (Effective immediately)

**ACT # 156 of October 22, 2014 made the following changes:****To the Property Tax or Rent Rebate (PTRR) Program:**

- Allowed that PTRR claimants who are eligible as of December 31, 2012 would remain eligible if the household income limit is exceeded only due to a Social Security cost-of-living increase. This provision expires on December 31, 2016.

**ACT #131 of September 24, 2014 made the following changes:****To the Cigarette Tax:**

- Authorizes Philadelphia School District to levy a cigarette tax at the rate of 10 cents per cigarette. Effective October 1, 2014 to June 30, 2019.

**ACT #90 of November 27, 2013 made the following changes:****To the Tavern Games Taxes:**

Provides for the conduct of tavern games by tavern games licensees and imposes a tavern games tax of 60 percent and a host municipality tavern games tax of 5 percent on the net revenue from tavern games. Revenue from the tavern games tax is deposited into the General Fund. Revenue from the host municipality tavern games tax is deposited into the Host Municipality Tavern Games Local Share Account, a restricted receipts account established within the General Fund.

**ACT #89 of November 25, 2013 made the following changes:****To Liquid Fuels and Fuels Taxes:**

- Eliminates the permanent trust fund tax of \$0.12 per gallon on all taxable liquid fuels, fuels, and alternative fuels used or sold and delivered by distributors in the Commonwealth, effective January 1, 2014.

**To the Oil Company Franchise Tax:**

- Sets the average wholesale price at \$1.87 in 2014, \$2.49 in 2015 and 2016, and in 2017 the average wholesale price will be uncapped. An average wholesale price floor is set at \$2.99 for 2017 and each year thereafter. The prior cap was \$1.25 per gallon, with a \$.90 floor.
- Adds an additional 64 mills to the tax rate in 2014, 49 mills in 2015, 48 mills in 2016, 41 mills in 2017, and 39 mills in 2018 and each calendar year thereafter on all taxable liquid fuels, fuels, and alternative fuels. Furthermore, 4.17 percent of the mills added by Act 89 are transferred to the Liquid Fuels Tax Fund.

**To Licenses and Fees:**

- Increases various motor vehicle registration fees, effective April 1, 2014.
- Redirects certain vehicle fees that had been deposited in the Motor License Fund to the Public Transportation Trust Fund and the Multimodal Transportation Fund, effective January 1, 2014.
- Authorizes a fee option in lieu of suspension for driving without insurance, effective January 1, 2015.
- Provides the motor vehicle owner an option for biennial vehicle registration renewal rather than the current annual cycle beginning January 1, 2017.

**To Transfers and Payments:**

- Transfers \$35 million from Oil Company Franchise Tax revenues to the Multimodal Transportation Fund beginning in fiscal year 2015-16.
- Redirects the \$200 million Pennsylvania Turnpike payment to the Motor License Fund beginning in fiscal year 2014-15. That payment will now be split between the Public Transportation Trust Fund and the Multimodal Transportation Fund.
- Transfers \$450 million or the total amount of Sales and Use Tax (SUT) collected in the previous fiscal year multiplied by the ratio of \$450 million to the total amount of SUT collected in fiscal year 2020-21, whichever is greater, from the General Fund to the Public Transportation Trust Fund. This transfer is to begin in fiscal year 2022-23.

**ACT #71 of July 18, 2013 made the following changes:**

**To Procedure and Administration:**

- Authorizes the Department of Revenue and the State Treasurer to mandate that payments of \$1,000 or more for corporation taxes, employer withholding and sales tax must be made electronically. Personal income tax is not required to be paid electronically. Effective Jan. 1, 2014.
- Requires electronic filing by third-party preparers who annually submit 11 or more state tax reports or returns. Effective immediately.
- Prohibits the department from contracting with third parties to conduct field audits based on a contingent fee. Effective immediately.

**To the Corporate Loans Tax:**

- Repeals the corporate loans tax effective for tax years beginning after Dec. 31, 2013.

**ACT #52 of July 9, 2013 made the following changes:**

**To the Sales and Use Tax:**

- Effective 90 days following enactment, provides a sales and use tax exemption for aircraft parts, services to aircraft and aircraft components.
- Immediately reduces the appeal period for a sales tax license revocation from 90 days to 30 days.
- The additional 1 percent local Philadelphia sales and use tax authorized under Act 44 of 2009 is made permanent. The total Philadelphia sales and use tax is 2 percent.

**To the Personal Income Tax:**

- Start-Up Business Deduction -- Pass-through entities may deduct up to \$5,000 of business start-up costs from net income for the tax year in which the active trade or business begins to the extent the pass-through entity deducts them for federal tax purposes. This change applies to tax years beginning after December 31, 2013.
- Intangible Drilling Costs (IDCs) -- A taxpayer may recover IDCs by using either a ten-year amortization period, or elect to immediately expense up to one-third of the allowable costs and recover the remaining costs over a ten-year period beginning in the taxable year the costs are incurred. This provision applies to tax years beginning after December 31, 2013.
- Check-offs – The sunset dates for the following check-offs on the Personal Income Tax return have been extended to January 1, 2018: Wild Resource Conservation, Organ and Tissue Donation Awareness, and Military Family

Relief Assistance. Additionally, two new check-offs have been added to the PA-40 to benefit the Children’s Trust Fund and the American Red Cross. The new check-offs apply to tax years beginning after December 31, 2013.

- Resident Credit - Foreign Countries – Effective for tax years beginning after December 31, 2013, the resident credit for personal income tax paid to foreign countries is eliminated. Taxpayers may still claim the resident credit for taxes paid to other states, the District of Columbia, and United States Territories.
- Pass-Through Compliance -- Assessment of tax at the entity level is authorized for partnerships which underreport income by more than one million dollars and which 1) have eleven or more partners; 2) have at least one partner which is a corporation, limited liability company, partnership or trust; or 3) elect to be subject to this assessment. Publicly traded partnerships are specifically excluded. Similarly, assessment of tax at the entity level is authorized for S corporations that underreport income by more than \$1 million and have 11 or more shareholders or choose to be subject to this section. Every estate, trust, S Corporation and partnership, other than a publicly traded partnership, is required to maintain an accurate list of partners and addresses. Failure to do so will subject the general partner/partnership to the liabilities. Additionally, estates and trusts are obliged to withhold Pennsylvania tax on Pennsylvania-source income from nonresidents, and nonresident estates and trusts must file Pennsylvania returns if they have Pennsylvania beneficiaries or Pennsylvania-source income. Pass-through entities are required to furnish information returns to partners, members and shareholders. The preceding changes are effective for tax years beginning after December 31, 2013. Effective immediately, any pass-through entity that fails to file a return or provide an information return is subject to a penalty.

**To the Corporate Net Income Tax:**

- Requires the add-back of intangible expenses to income for interest, royalties, patents, trademarks, etc., between affiliated companies in certain instances. Effective for taxable years beginning in 2015.
- Clarifies the rules for the sales apportionment factor with regard to sale of services. Effective Jan. 1, 2014, the following sourcing rules apply:
  - The sale, lease, rental or other use of real property occurs at the location of the real property.
  - The rental, lease or licensing of tangible personal property occurs at the location of first possession of the property.
  - Sales of services occur at the point of delivery of the services.
- Effective Jan. 1, 2014, establishes a satellite television apportionment formula, based upon the value of equipment used in generating, processing or transmitting satellite television services.
- Increases the net operating loss deduction cap to \$4 million or 25 percent of Pennsylvania taxable income for tax year 2014 and \$5 million or 30 percent for tax year 2015 and beyond.
- Creates a minimum \$500 penalty for failure to file or knowingly making a false corporation tax report for tax years beginning after Jan. 1, 2014, in order to encourage greater compliance with the tax law.

**To the Capital Stock/Foreign Franchise Tax:**

- The capital stock/foreign franchise tax phase out is extended to January 2016, reducing the rate according to the following schedule:
  - Tax Year 2013 – 0.89 mills
  - Tax Year 2014 – 0.67 mills
  - Tax Year 2015 – 0.45 mills
  - Tax Year 2016 and thereafter – 0.00 mills

**To the Bank and Trust Company Shares Tax:**

- Reduces the bank shares tax rate from 1.25 percent to 0.89 percent as of Jan. 1, 2014, and thereafter.
- Eliminates the use of a six-year average to calculate the value of total equity capital, and instead bases the tax on the most recent year-end value of total bank equity capital.
- Requires apportionment solely based on receipts, similar to the manner in which the corporate net income tax is apportioned based on sales.

- Expands the extent to which out-of-state banks doing business in Pennsylvania are subject to the tax. A new definition of “doing business in this Commonwealth” is added, extending the tax to banking institutions that generate at least \$100,000 of gross receipts apportioned to Pennsylvania and solicit business in Pennsylvania, or hold a security interest, mortgage or lien in real or personal property located in the commonwealth.
- The prohibition on petitions for reassessment of bank shares tax is repealed.
- Requires the Department of Revenue and the Department of Banking and Securities to analyze whether the statutory tax rate sufficiently addresses the significant changes in the structure and regulatory environment within the banking industry. Requires a report within 18 months of enactment.

**To the Realty Transfer Tax (RTT):**

- Expands circumstances in which the sale of a real estate company is subject to tax. The following changes are effective Jan. 1, 2014:
  - An option or commitment to transfer interests in a real estate company in the future is now treated as a transfer of those interests.
  - A closely held company, 90 percent of whose assets are interests in one or more real estate companies, is now considered a real estate company itself.
  - Whether or not a company is a real estate company is determined by consideration of real estate everywhere, not just in Pennsylvania.
- Exempts from realty transfer tax the following transfers, effective immediately, applicable to transactions that occurred on or after Nov 1, 2011:
  - The transfer of real estate for no or nominal consideration from the commonwealth or any of its instrumentalities to a volunteer emergency medical services agency, volunteer fire company or volunteer rescue company
  - A transfer of real estate between two or more volunteer emergency medical services agencies, volunteer fire companies or volunteer rescue companies

**To the Pari-mutuel Wagering Tax:**

- Establishes a 10 percent tax on advance deposit account wagering through a non-licensed corporation on a horse race made over the phone or online from locations within this commonwealth. Effective immediately.

**To the Film Production Tax Credit:**

- Effective July 1, 2013, requires that Pennsylvania personal income tax shall be withheld by a production company and paid on that portion of Pennsylvania income paid to individual talent through a pass-through entity.
- Provides that a film production tax credit purchased or assigned in calendar year 2013 may be used in 2014.
- Provides that a film production tax credit purchased or assigned in calendar year 2014 may be used in 2015.

**To the Innovate in PA Tax Credit Program:**

- Effective Oct. 1, 2013, this tax credit is created to distribute funding for innovation and economic growth biotechnology based projects. The Department of Community and Economic Development (DCED) is authorized to sell up to \$100 million in tax credits against insurance premiums tax liabilities to qualified taxpayers.
- A qualified taxpayer is an insurance company authorized to do business in the commonwealth, or a holding company that has at least one insurance company subsidiary authorized to do business in the commonwealth.
- The credits may only be claimed beginning in 2017 and the total credit applied for all claimants in any one tax year may not exceed \$20,000,000. Credits claimed may not exceed the insurance premiums tax liabilities of the claimant. Any unused credits may be carried over to any year prior to the 2026 tax year.

**To the City Revitalization and Improvement Zones (CRIZ):**

- Effective immediately, establishes the CRIZ program for the purpose of improvement and development within a third class city with a population of at least 30,000 based on the most recent federal census.
- Designation requires approval of an application by the Department and Community Development (DCED), Department of Revenue and the Office of the Budget, and zones may not overlap locations with other economic development incentive zones or areas.
- Eligible state and local tax revenues from businesses in the CRIZ will be transferred from the General Fund or local government fund to the CRIZ Fund. Eligible state tax revenues above the baseline will be transferred to CRIZ Authority on an annual basis. Baseline tax revenues, which are eligible state tax revenue calculated in the first year of the CRIZ, will remain with the General Fund on an annual basis in most instances.
- Limited to the creation of two zones until 2016, when two additional zones may be approved each year afterwards.
- DCED may approve one “pilot zone,” which is a zone within a township or borough having a population of at least 7,000 people.

**To the Mobile Telecommunications Broadband Investment Tax Credit:**

- Effective beginning with tax year 2014, establishes a new tax credit against corporate net income tax based upon 5 percent of the cost of investment in qualified broadband equipment located in the commonwealth.
- The tax credit may not be sold or assigned to third parties.
- The credit is capped at \$5 million per year and will be prorated if necessary.

**To the Inheritance Tax:**

- Effective July 1, 2013, provides a small business exemption from inheritance tax for a transfer of a family-owned business interest to one or more family members, provided that after the transfer, the family-owned business interest continues to be owned by a family member for a minimum of seven years after the decedent’s date of death.
- The exemption is limited to qualified family-owned business interests, defined as having fewer than 50 full-time equivalent employees, a net book value of assets less than \$5 million, and being in existence for at least five years, as of the decedent’s date of death. In addition, the principal purpose of the entity must not be the management of investments or income-producing assets owned by the entity.
- Specifies that any family-owned business interest no longer owned by a member of the decedent’s family within seven years shall be subject to the inheritance tax in the amount that would have been paid for nonexempt transfers of property, plus interest.
- Requires annual certification to the department that the family-owned business interest qualifies for the exemption and notification to the department within 30 days if it fails to qualify.
- Does not apply to property transferred to the business within one year of the date of death unless the transfer is for a legitimate business purpose.

**To the Tax Appeals Reform:**

- Reorganizes the existing Board of Finance and Revenue by April 2014 by replacing the existing six members of the Board with three full-time members, who must be attorneys or certified public accountants having substantial knowledge of Pennsylvania tax law. Two members will be nominated by the Governor and confirmed by the Senate, and the third member is the Pennsylvania Treasurer or Treasurer’s designee.

**ACT #206 of October 25, 2012 made the following changes:**

**To the Promoting Employment Across Pennsylvania Program:**

- Qualified businesses that are located in the Commonwealth and create 250 new jobs within 5 years may retain 95 percent of the qualified company’s withholding taxes for individuals employed in the new jobs. The new employees must be compensated at a rate equal to at least 100 percent of the county average wage, and depending on the compensation rates, the company may retain the withholding for seven to ten years. In order to qualify, a company must offer health insurance to its employees and pay at least 50 percent of the premium. Certain

industries are specifically excluded from participating in the program, including the gambling industry, religious organizations, retail trade, educational services, public administration, utilities, and food services and drinking places. The Department of Community and Economic Development is charged with administering the program, which has an annual cap of \$5 million. No new businesses may enter the program after January 1, 2018.

**ACT #87 of July 2, 2012 made the following changes:**

**To Procedure and Administration:**

- Permits the Department of Revenue to change, by regulation, the method of payment for payments greater than \$10,000. Previous law allowed changes for payments greater than \$20,000.
- Allows the Department of Revenue to enter into contracts to identify savings from refunds and to collect taxes, interest, penalties or fees paid pursuant to a contingency fee. The contracts must ensure compliance with all laws and procedures regulating the collection of taxes, interest, penalties and fees.
- Allows replacement checks to be issued for checks that are between 180 days and 1 year old. After 1 year, all reportable checks issued by the Commonwealth that have not been presented for payment shall be delivered to the State Treasurer as abandoned/unclaimed property.
- Provides that any money received by an agency as a result of a settlement, litigation or an enforcement action shall be deemed funds of the Commonwealth, and shall, upon receipt, be deposited in the General Fund. Agencies shall be reimbursed from settlement proceeds for any costs incurred to pursue a settlement, litigation or enforcement action.

**To The Neighborhood Improvement Zone Fund:**

- Defines “city” as a city of the third class with a population of at least 106,000 based on the most recent US Census.
- Defines “earned income tax” to ensure that the monies retained by the city as part of the Neighborhood Improvement Zone are only those earned income tax monies which are levied by a city or a school district entirely contained in the zone.
- Provides that an entity collecting a local tax that is in possession of money attributable to a local tax not included in the amount to be certified shall promptly remit the money to the local taxing authority entitled to receive the money.
- Provides that within 4 months of the designation of a Neighborhood Improvement Zone, a city may apply to the Department of Community and Economic Development to decertify all or part of the Keystone Opportunity Zone on behalf of all political subdivisions.

**To Keystone Special Development Zones:**

- Amends the definition of “Keystone Special Development Zone” to include properties that have no permanent vertical structures affixed to them or which had a permanent vertical structure affixed to it which has been deteriorated or abandoned for at least 20 years.

**To Tax Credits:**

- Limits on Research & Development, Film, and Job Creation tax credits are deleted from the Fiscal Code for placement in the Tax Code

**To the Enhanced Revenue Collection Account :**

- Extends the Enhanced Revenue Collections Account through 2016-17.
- Increases the appropriation to fund the costs associated with the enhanced revenue collection program to up to \$10,000,000 annually.

**ACT #85 of July 2, 2012 made the following changes:****To the Sales and Use Tax:**

- Provides a sales and use tax exemption for the collection, washing, sorting, inspecting and packaging of eggs. Tangible personal property and services used directly and predominantly in the processing of eggs are exempt from sales and use tax. Effective July 2, 2012.
- Provides exclusion for wrapping or packaging supplies. Clarifies that any charge for wrapping or packaging is exempt from sales and use tax if the property wrapped or packaged will be resold by the purchaser of the wrapping or packaging services. Effective July 2, 2012.
- Provides for a permanent exempt status for volunteer firefighters' organizations and volunteer firefighters' relief associations. Excludes the sale at retail or use of tangible personal property or services by a volunteer firefighters' organization and volunteer firefighters' relief association from tax. Effective July 2, 2012.
- Provides sales and use tax licensees whose actual tax liability for the third calendar quarter of the preceding year is at least \$25,000 but less than \$100,000 with an alternative payment option to the requirement of paying 50 percent of the tax liability for the same month of the preceding calendar year. The licensee may remit an amount that is equal to or greater than 50 percent of the actual tax liability required to be reported for the same month in the current year. Effective Oct. 1, 2012.

**To the Personal Income Tax:**

- Provides that a surviving spouse may file a joint return for the year in which his or her spouse died, if the joint return could have been filed if both spouses were living for the entire taxable year. If both taxpayers die during the same tax year, a joint final return may be filed if a joint return could have been filed had both spouses lived for the entire taxable year. Effective for tax years beginning on or after Jan. 1, 2013.
- Eliminates a penalty for underpayment of estimated taxes for taxpayers who make estimated tax payments equal to the amount of the taxpayer's tax liability for the preceding tax year by taking into account a calculation for the special provisions for poverty. Effective for tax years beginning on or after January 1, 2013.

**To the Corporate Net Income Tax:**

- Adopts a 100 percent single sales factor for corporate net income tax for tax years beginning on or after January 1, 2013.

**To the Realty Transfer Tax:**

- Extends exclusions from the realty transfer tax to general, limited or limited liability partnerships related to a family-owned business of agriculture. Applies retroactively to transfers occurring on or after July 1, 2010.
- Broadens the definition of "real estate company" and provides for instances in which a real estate company shall become an "acquired company". This provision is effective Jan. 1, 2013, and shall not apply to a transaction or a series of transactions occurring in part or entirely before Jan. 1, 2013.
- Excludes transfers between a stepparent and a stepchild or the spouse of the stepchild from the tax. Effective July 2, 2012.

**To the Cigarette Tax:**

- Amends the definition of "wholesaler," so that any person owning three or more retail outlets now qualifies as a cigarette wholesaler. Effective Aug. 31, 2012.

**To the Inheritance Tax:**

- Provides an exemption from the inheritance tax for the transfer of real estate devoted to the business of agriculture to members of the same family. The transfer of real estate must continue to be devoted to the business of agriculture for a period of seven years beyond the transferor's date of death and the real estate derives a yearly gross income of at least \$2,000.
- Specifies that any tract of land no longer devoted to the business of agriculture within seven years shall be subject to the inheritance tax in the amount that would have been paid for nonexempt transfers of property, plus interest.
- Provides that a transfer of an agricultural commodity, agricultural conservation easement, agricultural reserve, agricultural use property or a forest reserve to lineal descendants or siblings is exempt from inheritance tax.
- Applies to the estates of decedents dying after June 30, 2012.

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

- Reestablishes a credit cap of \$55 million per year in the Tax Code (previously in the Fiscal Code).
- Removes the sunset date of the tax credit.

**To the Film Production Tax Credit:**

- Provides that a taxpayer is eligible for an additional tax credit of 5 percent of “qualified film production expenses” if a taxpayer films a feature film, television film or television series that is intended as programming for a national audience and is filmed in a “qualified production facility” that meets all “minimum stage filming requirements”
- Defines "qualified production facility" as a film production facility located in Pennsylvania containing at least one sound stage with column-free, unobstructed floor space and meets specific criteria.
- Adds the bank shares tax and insurance premiums tax to the list of taxes that may be offset by the Film Production Tax Credit.
- Applications will be reviewed by the Department of Community and Economic Development in 90-day periods on a competitive basis and will be evaluated on several criteria.
- A portion of tax credits may be accelerated into the current fiscal year for the three succeeding fiscal years.
- Permits carry forward of a tax credit purchased or assigned in 2010 to tax years 2011 and 2012.
- Allows the Department of Community and Economic Development to waive the requirement that 60 percent of the film's total expenses be incurred in the commonwealth.

**To the Educational Improvement Tax Credit:**

- The maximum credit for contributions to scholarship or educational improvement organizations is increased from \$300,000 to \$400,000. Beginning in fiscal year 2013-14, the maximum credit will be \$750,000.
- The maximum credit for contributions to pre-kindergarten scholarship organizations is increased from \$150,000 to \$200,000.
- The total aggregate amount of all tax credits shall not exceed \$100 million in a fiscal year.
- Adds surplus lines tax to the list of taxes that may be offset by the Educational Improvement Tax Credit.

**To the Pennsylvania Resource Manufacturing Tax Credit:**

- Establishes a tax credit for any entity purchasing ethane for use in a manufacturing ethylene at a facility in the Commonwealth that has made a capital investment of at least \$1 billion and created 2,500 full-time jobs during the construction phase. Effective for ethane purchased between Jan. 1, 2017 and Dec. 31, 2042.
- The tax credit is generated based on 5 cents for every gallon of ethane purchased (\$2.10/barrel) and may be used to offset 20 percent of the taxpayer’s qualified Pennsylvania tax liabilities.
- After the end of the calendar year in which the credit is approved, a taxpayer can apply to the Department of Community and Economic Development for approval to assign or sell eligible credits to another taxpayer. The eligible buyer of the credit would be able to use the purchased credits to offset up to 50 percent of its qualified Pennsylvania tax liabilities.
- Requires an annual report by the Department of Revenue beginning in 2018 to include names of all qualified taxpayers utilizing the tax credit and the amount of tax credits approved, utilized or sold or assigned by each qualified taxpayer.
- Requires that a reconciliation report be filed by the Department of Community and Economic Development beginning in 2028 to include the total number of jobs created, the amount of tax revenue generated from qualified taxpayers and upstream or downstream companies and any other information pertaining to the economic impact of the tax credit program.

**To the Educational Opportunity Scholarship Tax Credit:**

- Establishes a new credit for businesses contributing to organizations awarding scholarships for students in “low-achieving schools” to attend participating public or non-public schools. Effective July 2, 2012.
- Defines a “low-achieving school” as a public school ranked in the lowest 15 percent based on annual assessments.

- The limitations on business contribution and business application procedures are similar to those under the Educational Improvement Tax Credit.
- A total of \$50 million in credits may be granted annually.

**To the Historic Preservation Tax Credit:**

- Establishes a \$3 million per year tax credit program to encourage the restoration of qualified historic structures. Effective July 2, 2013.
- Credit is equal to 25 percent of the costs and expenses associate with the rehabilitation of a historic structure.
- Defines a "qualified historic structure" as a commercial building located in the commonwealth that qualifies as a certified historic structure under the federal Internal Revenue Code.
- Defines "qualified expenditures" as the costs and expenses (1) incurred by a qualified taxpayer in the restoration of a qualified historic structure pursuant to a "qualified rehabilitation plan," and (2) defined as qualified rehabilitation expenditures under the Internal Revenue Code.

**To the Community-Based Services Tax Credit:**

- Establishes a \$3 million per year tax credit program for contributions made by business firms to providers of community-based services to individuals with intellectual disabilities or mental illness. Effective July 1, 2013. No credits may be awarded after July 1, 2018.
- Credit is equal to 50 percent of contributions made to a qualified provider.
- Credits may not be carried forward, carried back, and are not refundable or transferable.
- Requires a provider to be a nonprofit entity that provides community-based services to individuals exempt from federal taxation under Section 501(c)(3) of the Internal Revenue Code.

**To the Job Creation Tax Credit:**

- Adds definition of "small business" for companies with fewer than 100 employees and "unemployed individual" as someone who has been unemployed for at least 60 days.
- Provides that a small business must agree to increase employment by at least 10 percent.
- Allows tax credits to be authorized as single-year or multiple-year credits.
- Increases the per-job tax credit from \$1,000 to \$2,500 if the new job created is filled by an unemployed individual.

**To the Neighborhood Assistance Tax Credit:**

- Provides direction for the Department of Community and Economic Development to credit applications involving charitable food programs.

**To Procedure and Administration:**

- Repeals provisions requiring the Department of Revenue to send assessments over \$300 via certified mail. Effective July 2, 2012.
- Requires companies making payments of Pennsylvania source income representing nonemployee compensation or payments under an oil or gas lease to send a copy of the 1099-MISC form to the Department of Revenue. Effective July 2, 2012, and will apply to 1099-MISC forms issued for the 2012 tax year.
- Provides that the Department of Revenue shall automatically grant an extension of time for filing the corporate net income tax annual report if the Internal Revenue Service (IRS) grants an extension of time for filing federal corporate income tax reports. Effective for tax years beginning on or after January 1, 2013.
- Allows the Department of Revenue to levy bank accounts of delinquent taxpayers where the delinquency is greater than \$1,000. Effective January 1, 2013.
- Allows the Secretary of Revenue compromise authority for a taxpayer who has filed a petition to the Board of Appeals of the amount due to the department. Once the Request for Compromise is submitted, an informal conference (either by phone or in person) may be conducted by the board. Any compromise offer will be reviewed by the board and if approved, the board will issue a Compromise Order. The Compromise Order will represent the full and final settlement of the appeal. Petitions resulting from the denial of a property tax or rent rebate claim,

a denial of a charitable tax exemption, the revocation of a sales tax license, appealing a jeopardy assessment, or arising under the Gaming Law are not eligible for compromise.

- Allows for the acceptance of refund petitions after an audit assessment up to the latter of six months after the mailing date of the notice of assessment or three years from the date of actual payment of the tax. Effective for petitions filed after July 1, 2012.
- Allows for the acceptance of refund petitions for amounts paid as a result of any other assessment within six months of the actual payment of the tax. Effective for petitions filed after July 1, 2012.
- Extends the time period for filing a federal report of change with the department from 30 to 180 days, so that companies audited by the Internal Revenue Service have sufficient time to accurately update state filings. Effective for tax years beginning on or after Jan. 1, 2013.
- Allows petitioners to contest changes that do not affect tax in the current year but may affect tax liabilities in future years. Applies to petitions filed on or after July 2, 2012, and to appeals pending as of that date.

**ACT #16 of February 14, 2012 made the following changes:**

**To Keystone Opportunity Zones and Keystone Innovation Zones:**

- Permits the extension of KOZ benefits to unoccupied parcels for 7 to 10 years.
- Expands 4 KOEZ zones previously not designated and permits the creation of 15 new zones.
- Permits the expansion of parcels within and existing KOZ, KOEZ, or KOIZ zone if the expansion is expected to increase job creation or capital investment. Benefits for expanded parcels are limited to 15 acres for a period of 10 years.

**ACT #29 of June 30, 2011 made the following changes:**

**To the Surplus Lines Tax:**

- Requires the premium tax to be paid on policies of insurance placed with an insurance company or association of another state or a foreign country be made in the same manner as an eligible surplus lines insurer or non-admitted carrier (at 3 percent on all premiums charged based on the gross premiums charged, less any return premiums).
- For policies placed after June 30, 2011, the collecting, reporting and remittance of tax apply when the Commonwealth is the home state of the insured. Additionally, the imposition of tax and penalties apply when the Commonwealth is the home state of the insured.

**ACT #28 of June 30, 2011 made the following changes:**

**To the Surplus Lines Tax:**

- Provides that no state other than the home state of the insured may require premium taxes on non-admitted insurance.
- Changes the taxation for multi-state surplus lines policies and independently procured insurance placed after June 30, 2011, from an allocation method (taxing only that risk which is in the Commonwealth) to a gross premiums method (taxing the entire premium regardless of where the risk is located).
- In the case of independently procured insurance, the insured must report the transaction and pay the 3 percent tax to the Department of Revenue within 30 days after the last day of the month the insurance was procured.

**ACT #26 of June 30, 2011 made the following changes:**

**To the Sales and Use Tax:**

- Sales tax licensees reporting a total tax liability of \$25,000 or more for the third calendar quarter of the preceding year are required to file a return and make a payment by the 20th of the month which shall include the following:
  - Fifty percent of the licensee’s sales and use tax liability for the same month in the prior calendar year (55 percent from the return due June 20, 2011).

- The amount of tax due for the prior calendar month.
- Less any amount paid under the first bullet in the prior month.
- This change will be effective for reporting periods beginning after May 31, 2011.
- This procedure replaces language enacted in the Tax Reform Code by Act 48 of 2009 that required two sales tax returns per month from the same sales tax vendors.

**To the Film Production Tax Credit:**

- For fiscal year 2011-12 and each year thereafter, the annual cap will be reduced to \$60 million.
- Allows a purchaser or assignee of a film tax credit in 2011 to carry over the credit for use in the next taxable year.

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

- For fiscal year 2011-12 and each year thereafter, the annual cap will be increased to \$55 million, while also increasing the small business set aside to \$11 million.

**To the Job Creation Tax Credit:**

- For fiscal year 2011-12 and each year thereafter, the annual cap will be reduced to \$10.1 million.

**To Neighborhood Improvement Zones:**

- Extends the window for the decertification of a Keystone Opportunity Zone to September 1, 2011.
- Limits debt issuance, including any refunding, to a maximum term of 30 years.
- Clarifies the flow of monies from the state and local taxing authorities and provides for an annual settlement with the contracting authority.
- Provides that any excess monies shall first be returned to the General Fund and then to the local taxing authorities who collected the taxes.

**To the Creation of Keystone Special Development Zones:**

- Creates a new program for the designation of Keystone Special Development Zones for parcels of real property certified as Special Industrial Areas by the Department of Environmental Protection pursuant to the Land Recycling and Environmental Remediation Standards Act, and which as of July 1, 2011 had no permanent vertical structures affixed to it. The Keystone Special Development Zone designation shall exist for 15 years and provide tax credits to employers for new full time jobs created in the zone.

**ACT #46 of July 6, 2010 made the following changes:**

**To the Educational Improvement Tax Credit:**

- For fiscal year 2010-11, the cap will be \$60 million.

**To the Enhanced Revenue Collection Account:**

- Revenues collected and the amount of refunds avoided as a result of expanded tax return review and tax collection activities shall be deposited into the account.

**ACT #1 of January 7, 2010 made the following changes:**

**To Table Game Taxes and Assessments:**

- Table Game Taxes – Established a 12 percent table game tax imposed on gross table game revenue; however, for 2 years following commencement of table game operations at a facility, the rate is 14 percent. In addition, a 34 percent table game tax is imposed on gross table game revenue from table games played on fully automated electronic gaming tables. The funds from these taxes are deposited to the General Fund until such time as, on the last day of the fiscal year, the balance in the Budget Stabilization Reserve Fund is certified by the Secretary of the Budget to exceed \$750,000,000. Thereafter, the funds from these taxes are deposited to the Property Tax Relief Fund.

- Local Share Assessment – Established a 2 percent local share assessment imposed on gross table game revenue. These funds are deposited to the State Gaming Fund. Quarterly, the Department of Revenue distributes the local share assessment to counties and municipalities hosting a licensed facility authorized to conduct table games. The exact distribution and uses are prescribed by the Act and are based upon the classification of the county and municipality in which the facility resides.

**To Non-Tax Revenues:**

- Licenses, Fees & Miscellaneous – Established various fees related to table games, including a table games certificate fee and supplier and manufacturer license fees. The table games certificate fee for Category 1 and 2 facilities is a one-time fee of \$16,500,000 if paid on or before June 1, 2010, or \$24,750,000 if paid after June 1, 2010. The table games certificate fee for Category 3 facilities is a one-time fee of \$7,500,000 if paid on or before June 1, 2010, or \$11,250,000 if paid after June 1, 2010. However, the certificate fee for any Category 1 or 3 facility that holds a slot machine license issued after June 1, 2010, is \$16,500,000 or \$7,500,000, respectively. The supplier license fee is \$25,000 upon issuance of a license to supply table games or associated equipment and \$15,000 for the annual renewal. The Act allows for a 3-year renewal for a fee of \$45,000. The manufacturer license fee is \$50,000 upon issuance of a license to manufacture table games or associated equipment and \$30,000 for the annual renewal. The Act allows for a 3-year renewal for a fee of \$90,000
- Transfers – Amounts from the Pennsylvania Race Horse Development Fund will be transferred to the General Fund, beginning January 1, 2010, and continuing through fiscal year 2012-13. Beginning January 1, 2010, through the end of fiscal year 2009-10, funds from the Pennsylvania Race Horse Development Fund will be distributed as follows: 34 percent to General Fund and 66 percent to active and operating Category 1 licensees conducting live racing apportioned in accordance with a prescribed formula. In fiscal years 2010-11 through 2012-13, funds from the Pennsylvania Race Horse Development Fund will be distributed as follows: 17 percent to the General Fund and 83 percent to active and operating Category 1 licensees conducting live racing apportioned in accordance with a prescribed formula.
- Transfer – A one-time transfer will be made to the General Fund in fiscal year 2009-10 from amounts previously appropriated to the Pennsylvania Gaming Control Board.

**ACT #10A of October 9, 2009 made the following changes:**

**To Non-Tax Revenues:**

- Transfers – Amounts from the following sources will be transferred to the General Fund in 2009-10: Higher Education Assistance Fund; Keystone Recreation, Park and Conservation Fund; Dog Law Restricted Revenue Account; Oil & Gas Lease Fund.

**ACT #48 of October, 2009 made the following changes:**

**To the Tax Amnesty Program:**

- Established a tax amnesty program to be administered April 26, 2010 through June 18, 2010.
- Provides for a no penalty, reduced interest payment on those tax liabilities delinquent as of June 30, 2009 and unknown tax liabilities owed by the taxpayer for the five years prior to June 30, 2009.
- Those liabilities not paid during the tax amnesty period will incur an additional 5 percent penalty on any delinquent accounts that did not come forward.
- Eligible liabilities included all taxes administered by the Department of Revenue. For taxes owed under the International Fuel Tax Agreement (i.e. Liquid Fuels Tax), only those taxes, interest and penalties owed to the Commonwealth were eligible for this program.

**To the Sales and Use Tax:**

- The sale at retail of helicopters and similar rotorcraft are excluded from sales and use tax. In addition, repairs to and the sale of replacement parts for helicopters and similar rotorcraft are exempt from sales and use tax. This change is effective immediately.
- Sales tax licensees reporting a total tax liability of \$25,000 or more for the third calendar quarter of the preceding year are required to report and remit payment to the department on a semi-monthly basis. For the period of the first day of the month through the 15th day of the month, the return and remittance are due on or before the 25th

day of the month. For the period from the 16th day of the month to the last day of the month, the return and remittance are due on or before the 10th day of the following month. This change will be effective for reporting periods beginning after May 31, 2011.

**To the Personal Income Tax:**

- The sunset dates for the following check-offs on the Personal Income Tax return have been extended to January 1, 2014: Wild Resource Conservation, Organ and Tissue Donation Awareness, and Military and Family Relief Assistance. The sunset dates for the check-offs for Breast and Cervical Cancer Research and Juvenile Diabetes Cure Research Funds have been extended indefinitely.
- An employer that can reasonably anticipate that its employer withholding will be \$20,000 or more in a calendar year will be required to report and remit the tax on a semi-weekly schedule. This change requires the largest employers to submit withheld taxes to the department on a schedule similar to the one used by the IRS. This change is effective for collections beginning after May 31, 2010.

**To the Corporate Net Income Tax:**

- For tax years beginning after December 31, 2008, the sales factor used in calculating the Corporate Net Income Tax is increased from 70 percent to 83 percent. The sales factor weight is further increased from 83 percent to 90 percent for tax years beginning after December 31, 2009.
- The cap on the net operating loss is increased to the greater of \$3 million or 15 percent for tax years beginning after December 31, 2008, and \$3 million or 20 percent for tax years beginning after December 31, 2009.

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

- The standard deduction used in calculating the Capital Stock and Franchise Tax will increase from \$150,000 to \$160,000 for tax years beginning after December 31, 2009.
- The tax rate has been set as 2.89 mills for tax years beginning in 2009 through 2011, and then declines by one mill per year until eliminated for tax years beginning after December 31, 2013.

**To the Gross Receipts Tax:**

- A tax of 59 mills is imposed upon each dollar of gross receipts received by Managed Care Organizations pursuant to a contract with the PA Department of Public Welfare.

**To the Cigarette Tax:**

- Increases the excise tax from \$1.35 on a pack of twenty cigarettes (6.75 cents per stick) to \$1.60 per pack (8 cents per stick). (Effective November 1, 2009)
- A floor tax will be due on inventories of previously-stamped cigarette packs for the difference of the tax. The floor tax return and payment is due January 29, 2010.
- Reduces the commission paid to cigarette stamping agents for services and expenses incurred in affixing cigarette stamps from 0.98 percent to 0.87 percent. (Effective November 1, 2009)
- Repeals the 18.52 percent transfer of proceeds from cigarette tax receipts to the Health Care Provider Retention Account. (Effective immediately)
- Little Cigars – The definition of cigarettes was expanded to include little cigars, weighing less than four pounds per thousand. Beginning November 1, 2009, little cigars in packages of 20 or 25 per pack are required to be tax stamped like cigarettes. Little cigars in packages other than 20 or 25, which are determined to be “unstampable”, become taxable at the same rate of 8 cents per stick on January 4, 2010.
- Retailers will be required to calculate a floor tax on “unstampable” little cigars in inventory on January 4, 2010. The floor tax return and payment will be due by January 29, 2010.
- Taxpayers who have not sold cigarettes prior to November 1, 2009, but sell little cigars, will be required to obtain a cigarette dealers license. Shippers are required to report to the department the weight, brand name, number per package and to whom the little cigars were shipped.

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

- The current one-year holding period for the transfer or assignment of the R&D tax credit has been removed. For fiscal year 2009-10, the annual credit cap will be \$20 million. For fiscal year 2010-11, the cap will be \$18 million.

**To the Educational Improvement Tax Credit:**

- This credit has been relocated from the Public School Code to the Tax Reform Code. The maximum annual household income to qualify will be \$50,000 until July 1, 2011, and \$60,000 thereafter. For fiscal year 2009-10, the annual credit cap will be \$60 million. For fiscal year 2010-11, the cap will be \$50 million.

**To the Film Production Tax Credit:**

- For fiscal year 2009-10, the annual cap will be \$42 million. For fiscal year 2010-11, the cap will be \$60 million.

**To the Alternative Energy Production Tax Credit:**

- For fiscal years 2009-10 and 2010-11, the annual credits available have been reduced to \$0.

**To the Other Tax Credits:**

- For the following tax credits, the total amount available for award to eligible taxpayers will be 50 percent of the total amount otherwise available for award in fiscal year 2009-10, and 45 percent of the total amount otherwise available for award in fiscal year 2010-11. This applies to the Call Center Credit, Employment Incentive Payments, Job Creation Tax Credit, Neighborhood Assistance Tax Credit, Resource Enhancement and Protection Tax Credit, and the First Class Cities Economic Development District Credit.

**ACT #79 of July 10, 2008 made the following changes:**

**To the Keystone Opportunity Zones:**

- Expands the Keystone Opportunity Zone (KOZ) program. Under this legislation, KOZs that are set to expire within the next five to ten years will have the option of extending benefits for seven to ten years. Zones that expire in January of 2008 will be given until June 2009 to apply for the extension.
- The Department of Community and Economic Development (DCED) may designate up to 15 additional zones beginning on January 1, 2010. These newly designated zones must be sponsored by a political subdivision. Moreover, a political subdivision may be able to swap underutilized zones for new locations within the political subdivision. Applications must be received by DCED by December 31, 2008.
- Under this legislation, contractors, pursuant to a contract with a qualified business, landowner or lessee, may purchase, exempt from Sales and Use Tax, any tangible personal property or services for use in the zone by the qualified business.
- The formula for calculating the taxable income of a corporation is only based upon the payroll and property factors. The sales factor has been eliminated from the calculation.
- The bill further prohibits a person or business from knowingly employing an illegal alien. Those found to be in violation may be required to repay all tax benefits received for a two-year period while being located within the zone.

**ACT #1 of the Special Session of July 9, 2008 made the following changes:**

**To the Alternative Energy Production Tax Credit:**

- Taxpayers that develop or construct alternative energy production projects located within the Commonwealth, which have a useful life of at least four-years, may apply to the Department of Environmental Protection (DEP) for a credit beginning in September 2009. The amount of the credit may be up to 15 percent of the amount paid for the development and construction of alternative energy production project but may not exceed \$1,000,000 per taxpayer. Unused portions of the credit may be carried forward for up to five taxable years from the year in which the credit is awarded. Credits may not be applied to previous tax years. Additionally taxpayers may, upon approval by DEP, sell or assign an unused credit after one year from the date that the credit was approved. The total amount of credits that may be awarded annually is as follows:
  - \$5 million for Fiscal Years 2008-09 through 2011-12;

- \$7 million in Fiscal Year 2012-13;
- \$10 million in Fiscal Years 2013-14 through 2014-15; and
- \$2 million in Fiscal Year 2015-16.

**ACT #66 of July 9, 2008 made the following changes:**

**To the Volunteer Responder Retention and Recruitment Tax Credit:**

- Qualified active volunteer ambulance, fire and rescue personnel are eligible for a credit of up to \$100 to be used against their Pennsylvania Personal Income Tax liability. The credit is available for Tax Years beginning after December 31, 2007 and ending before January 1, 2009. Eligibility of volunteers for the credit will be determined based upon certification by their designated supervisor or chief under a point system approved by the State Fire Commissioner and State EMS Director. If the entire credit cannot be used against the volunteer's tax liability for the year in which it was awarded, it may be carried forward to succeeding tax years. The amount of credits awarded cannot exceed \$4,500,000.

**To the Personal Income Tax:**

- Monies from the check-offs for breast and cervical cancer research will now be transferred to the Pennsylvania Breast Cancer Coalition, rather than the Department of Health.

**ACT #61 of July 9, 2008 made the following changes:**

**To the Educational Improvement Tax Credit:**

- Makes Subchapter S corporations and other pass-through entities eligible for the Education Improvement Tax Credit (EITC) program, which allows business firms to receive tax credits for certain contributions made to non-profit, scholarship and education improvement organizations. Business firms applying for tax credits for a second year of a two-year commitment may apply beginning on May 15. Other business firms applying for tax credits may apply beginning on July 1. Pass through entities may apply beginning on July 7. The bill also increases the annual credit limit per taxpayer from \$200,000 to \$300,000 for scholarship and education improvement organizations, and increases the annual credit limit for contributions to pre-kindergarten scholarship organizations from \$100,000 to \$150,000.

**ACT #42 of July 4, 2008 made the following changes:**

**To the Cigarette Fire Safety and Firefighter Protection Act:**

- Beginning July 1, 2009, only self-extinguishing cigarettes that have been tested, certified and stamped may be sold in Pennsylvania. Cigarette manufacturers must submit certifications to the Department, with a \$1,000 fee per brand, stating that the cigarettes offered have been tested pursuant to the standards set forth in the Act. The Department, the State Fire Commissioner and the Attorney General are charged with enforcing the Act. Manufacturers, wholesalers and stamping agents found in violation may be subject to a penalty not to exceed \$10,000 per sale; \$25,000 for subsequent offenses. Retailers found to be in violation may be subject to fines of up to \$500; \$5,000 for subsequent offenses.
- Certification fees collected will be deposited into the Cigarette Fire Safety and Firefighter Protection Act Enforcement Fund to support the processing, testing, enforcement and oversight duties under the Act. Monies received from penalties will be deposited into the Fire Prevention and Public Safety Fund to support fire safety and prevention programs administered by the State Fire Commissioner.

**ACT #32 of July 2, 2008 made the following changes:**

**To the Local Earned Income and Net Profits Tax:**

- Consolidates on a county-wide basis the collection of the local earned income and net profits taxes. Each tax collection district will have one appointed tax collector. The number of local collectors will be reduced from 560 to 69 beginning January 1, 2010. Municipalities are included in the tax collection district in which its school district is located. Local taxing districts may enter into an agreement with the Department for the exchange of information necessary for the administration and enforcement of local tax collection. Furthermore, the DCED,

in consultation with the Department shall develop forms and regulations for local tax collection.

**ACT #55 of July 25, 2007 made the following changes:**

**To the Personal Income Tax:**

- The check-off for breast and cervical cancer research will no longer have an expiration date. The expiration date for the check-offs for wild resource conservation and organ and tissue donation awareness has been extended to December 31, 2009.

**To the Bank Shares Tax:**

- Banks involved in mergers or acquisitions will now be permitted to deduct goodwill from the book value of total equity capital generated as a result of combinations. This change will apply to combinations occurring after June 30, 2001 and to the returns due on March 15, 2008.

**To the Film Tax Credit:**

- Creates a new article entitled the Film Production Tax Credit. This credit will be available for certain production expenses of the producers of feature films and certain television commercials or shows intended for a national audience. Production expenses include compensation paid to individuals or payments made to entities representing individuals for their services, the costs of construction, operations, editing, photography, sound synchronization, lighting, wardrobe and accessories, the cost of transportation; the cost of insurance coverage, the costs of food and lodging, the purchase of music or story rights; and the cost of rental of facilities and equipment. Production expenses will not include certain items such as deferred compensation or profit sharing, development costs, marketing or advertising expenses or expenses related to the selling of the credit.
- A tax credit equal to 25 percent of qualified film production expense may be taken against PIT (except employer withholding tax), CNIT or CSFT. Qualified film production expenses are Pennsylvania production expenses if at least 60 percent of the total production expenses are incurred in Pennsylvania except that compensation paid to individuals or payments made to entities representing individuals for services provided in the film cannot exceed \$15 million.
- The Department of Community and Economic Development (DCED) will administer the award of the credits using the date on which the application for credits are received. DCED will certify the amount of the credit to Revenue upon execution of a contract outlining the production and Pennsylvania production expenses. Any taxpayer who is awarded this credit and fails to incur qualified production expenses as outlined in the contract shall repay the amount of the credit claimed to the Commonwealth.
- Credits granted may be carried forward; however, they may not be carried back or refunded. Credits may be sold or assigned with the approval of Department of Community and Economic Development and the Department of Revenue pursuant to regulations jointly promulgated.
- There are procedures for the transfer of unused credits by pass-through entities (Subchapter S corporation, Limited Liability Companies and Partnerships) to a shareholder, member or partner.
- Those films that receive a film production grant are not eligible for this credit for the same film.
- The total amount of credits that can be granted in any fiscal year cannot exceed \$75 million.

**To the Neighborhood Assistance Tax Credit:**

- Pass-through entities will now be eligible for this credit. If the entity cannot use this credit, the entity may elect, in writing, to transfer the credit to its shareholders, members or partners in proportion to the share of the entity's distributive income to which the shareholder, member or partner is entitled. The shareholder, member or partner who receives the credit must immediately claim the credit in the taxable year in which the credit is transferred and may not carry it forward or backward, obtain a refund or sell the credit.
- This credit may now be sold or assigned. The taxpayer must apply to DCED for approval of the sale or assignment. DCED and Revenue shall jointly promulgate guidelines for the approval of these applications.
- The amount of credit that may be awarded to a taxpayer is 55 percent (increased from 50 percent) of the amount contributed by a business firm, or 75 percent (increased from 70 percent) of the amount contributed to special program priorities defined by the Department of Community and Economic Development in regulations. For private companies, the amount is 25 percent (increased from 20 percent) of the amount of qualified investment, or 35 percent (increased from 30 percent) of the amount invested in special program priorities. A credit equal to

75 percent of the contributions made by a business firm during a taxable year for comprehensive service projects with a five-year commitment may be awarded. A credit equal to 80 percent of the contributions made by a business firm during a taxable year for comprehensive service projects with a six-year commitment may be awarded. The amount of the credits awarded annually cannot exceed \$500,000 (increased from \$250,000) for contributions or investments for single projects or \$1,250,000 for contributions or investments for four projects.

- The amount of credits that can be awarded in any fiscal year remains at \$18 million and of that amount, \$2 million is to be allocated exclusively for pass-through entities. If the \$2 million is not used, then the unused portion is to be available for other taxpayers. (Effective immediately)

**To the Resource Enhancement and Protection Tax Credit:**

- Establishes the Resource Enhancement and Protection (REAP) tax credit. The tax credit may be used against personal income tax, corporate net income tax, capital stock and franchise tax, bank shares tax, title insurance company premiums tax, insurance premiums tax and mutual thrift institutions tax. These credits can be awarded to eligible projects, applicants or sponsors of eligible projects. Dependent on the type of project, a tax credit in the amount of 75 percent of the eligible project or 50 percent of the project costs may be awarded up to a maximum amount of \$150,000 for each eligible applicant or project. There is no limitation on the amount of credit that can be awarded to a sponsor of the project.
- The applicant must apply to the State Conservation Commission (“Commission”) for certification that a project meets best management practices and for authorization of the tax credit. Tax credits will be awarded on a first come first served basis. Once the Commission has authorized a credit, the Commission shall provide notice to the Department of the credit. The credit may be carried forward for 16 years.
- There are procedures for the sale and assignment of the credit as well as for pass-through entities to transfer tax credits to their shareholders, partners or members. The total amount of credits that can be awarded in one fiscal year is \$10 million. If the Commission determines that a best management practice is not maintained, then the amount of the tax credit originally awarded shall be returned to the Department. The credit shall take effect in 90 days except that credits for legacy sediment cannot be issued prior to July 1, 2008.

**To the Sales and Use Tax:**

- Manufacturing exemption includes the remanufacturing of locomotive parts. (Effective immediately)
- There will no longer be an exclusion from sales and use tax for the production of commercial motion pictures. (Effective October 1, 2007)
- The refund for sales tax remitted and attributable to bad debt is now expanded to private label credit cards. A private label credit card is a card that includes the name or logo of the retailer and can be used to make purchases from the retailer. This change will apply to amounts deducted as bad debts on Federal income tax returns required to be filed after January 1, 2008.

**Miscellaneous Changes:**

- A nexus exemption is provided for the customers of powdered metallurgy parts manufacturers. This will be applicable to taxable years beginning after December 31, 2004, as well as taxable years as to which there is an appeal prior to the effective date of this act.
- The Department will be required to mail by certified mail assessments that are \$300 or more. This will apply to assessments issued after December 31, 2007.

**ACT #45 of July 20, 2007 made the following changes:**

**To the Educational Improvement Tax Credit:**

- Increases the total aggregate amount of Educational Improvement Tax Credits available for a fiscal year by \$16 million, from \$59 million to \$75 million. The amount of credits available for scholarship organizations has been increased by \$8.7 million to \$44.7 million per year. The amount available for contributions to educational improvements has been increased by \$4.3 million to \$22.3 million per year. The total amount of credits available for kindergarten organizations will now be \$8 million per year, an increase of \$3 million. (Effective immediately)

**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 #119 of October 27, 2006 made the following changes:**

**To Corporation Taxes:**

- Replaces the corporation tax settlement process with an assessment and reassessment process comparable to that used for other Pennsylvania state taxes, beginning January 1, 2008. Returns are now accepted as filed unless the Pennsylvania Department of Revenue or Auditor General selects them for review or audit. This new assessment process does not apply to Liquid Fuels Tax, Oil Company Franchise Tax, or Motor Carriers Road Tax.
- Estimated assessments may be issued by the Department of Revenue for failure to file a corporation tax report or for filing a return that is too incomplete to determine the tax.

**Miscellaneous Changes:**

- Standardizes assessment terminology throughout the tax code.
- Requires tax assessment notices (of \$300 or more, as amended by Act 55 of 2007) be sent via certified mail, including the basis for such assessments, so that the Department of Revenue may confirm with some certainty the receipt of the assessment.
- Provides new administrative procedures for petitions for reassessments and petitions for refunds made to the Board of Appeals.
- Authorizes new time limits for tax assessments. Under Act 119, the taxpayer has 90 days from the mailing date of the assessment to file a petition for reassessment with the Board of Appeals. This change does not apply to Shares Taxes or Inheritance Taxes, which will retain the same method of appeal.

**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 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. It is effective immediately.

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

**To the 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 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 percent 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.

## Tax Summary

<u>Tax</u>	<u>Rate</u>	<u>Payment Remitted By</u>	<u>Report Due Date</u>
<b>Alternative Fuels</b>	The oil franchise tax is applied to each gasoline gallon equivalent.	Dealer-users of fuel	20th day of each month
<b>Aviation Gasoline</b>	5.5 cents per gallon	Licensed distributors	20 <sup>th</sup> day of each month
<b>Bank and Trust Company Shares</b>	0.89% for tax year 2016; 0.95% for tax years 2017 and after	All bank and trust companies doing business in Pennsylvania	March 15th of each year
<b>Capital Stock and Foreign Franchise</b>	45 mills base rate for 2015 on formula valuation with a \$160,000 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>	13.00 cents per cigarette	Cigarette Stamping Agents	Payment is due by the 15th day of each month. Report is due by the 10th day after the month for which they are prepared
<b>Corporate Net Income</b>	9.99%	Corporations doing business in Pennsylvania	Due 30 days after the Federal report is due or would be due if required to file federally
<b>Insurance 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 and	March 15th of each year

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<sup>1</sup> The tax is scheduled to be eliminated starting in tax year 2016.

## Tax Summary

<u>Tax</u>	<u>Rate</u>	<u>Payment Remitted By</u>	<u>Report Due Date</u>
<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
<b>Jet Fuel</b>	1.6 cents per gallon	Licensed distributors	20th day of each month
<b>Liquor</b>	18%	Liquor Control Board (LCB)	LCB functions on a monthly accounting cycle. Reports are due on the last day of the 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>	The same rate as the oil company franchise tax	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

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<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>	201.5 mills on liquid fuels and 256.5 mills on fuels (changes through 2018 – see text)	Registered liquid fuels and fuels distributors	20th day of each month
<b>Other Tobacco Products</b>	55.00 cents per ounce on certain tobacco products; 40% of wholesale price for electronic cigarettes	Any entity making sales to retailers	20th day of each month
<b>Personal Income</b>	3.07%	Pennsylvania employers and residents, estates and trusts, nonresidents with income from sources within Pennsylvania and businesses with nonresident owners which receive income from sources within Pennsylvania	April 15th of each year
<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
<b>Sales, Use and Hotel Occupancy (Local)</b>	1% (Allegheny) 2% (Philadelphia)	Any entity making taxable sales or anyone who incurs use tax in the City of Philadelphia or Allegheny	20th day of each month

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		County (see text for special situs provisions)	
<b>Table Game Taxes</b>	14% of gross table game revenue for the period 8/1/2016 through 6/30/2019. Otherwise, 14% of gross table game revenue for 2 years following commencement of table game operations at the facility; 12% thereafter. 34% of gross table game revenue from table games played on fully automated electronic gaming tables	Licensed gaming entities	Weekly
<b>Tavern Games Taxes</b>	60% of net revenue on tavern games (tavern games tax) and 5% of net revenue on tavern games (host municipality tavern games tax)	Licensed distributors and tavern games licensees	20 <sup>th</sup> day of each month by licensed distributors and 20 <sup>th</sup> of the month following the close of each calendar quarter by tavern games licensees
<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 due 20th day of January, April, July and October. Reconciliation due February 15th