

PRIOR PRINTER'S NOS. 132, 1166, 1217,
1275, 1285

PRINTER'S NO. 1327

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 97 Session of 2007

INTRODUCED BY D. WHITE, ARMSTRONG, CORMAN, EARLL, PUNT,
RAFFERTY, BRUBAKER, WOZNIAK, PIPPY, BROWNE, STACK, REGOLA AND
WONDERLING, FEBRUARY 15, 2007

SENATE AMENDMENTS TO HOUSE AMENDMENTS, JULY 15, 2007
AN ACT

1 ~~Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An~~ <--
2 ~~act relating to tax reform and State taxation by codifying~~
3 ~~and enumerating certain subjects of taxation and imposing~~
4 ~~taxes thereon; providing procedures for the payment,~~
5 ~~collection, administration and enforcement thereof; providing~~
6 ~~for tax credits in certain cases; conferring powers and~~
7 ~~imposing duties upon the Department of Revenue, certain~~
8 ~~employers, fiduciaries, individuals, persons, corporations~~
9 ~~and other entities; prescribing crimes, offenses and~~
10 ~~penalties," in sales and use tax, further defining~~
11 ~~"manufacture"; further providing, in sales and use tax, for~~
12 ~~refund of sales tax attributed to bad debt; in personal~~
13 ~~income tax, for operational provisions; in capital stock~~
14 ~~franchise tax, for the definition of "capital stock value"~~
15 ~~and, in bank and trust company shares tax, for ascertainment~~
16 ~~of taxable amount and exclusion of United States obligations;~~
17 ~~providing for a film production tax credit and conferring~~
18 ~~powers and imposing duties upon the Department of Community~~
19 ~~and Economic Development and for a resource enhancement and~~
20 ~~protection tax credit; further providing, in neighborhood~~
21 ~~assistance tax credit, for definitions, for tax credit and~~
22 ~~for grant of tax credit; and providing for pass through~~
23 ~~entities and powdered metallurgy parts.~~
24 AMENDING THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), ENTITLED "AN <--
25 ACT RELATING TO TAX REFORM AND STATE TAXATION BY CODIFYING
26 AND ENUMERATING CERTAIN SUBJECTS OF TAXATION AND IMPOSING
27 TAXES THEREON; PROVIDING PROCEDURES FOR THE PAYMENT,
28 COLLECTION, ADMINISTRATION AND ENFORCEMENT THEREOF; PROVIDING
29 FOR TAX CREDITS IN CERTAIN CASES; CONFERRING POWERS AND
30 IMPOSING DUTIES UPON THE DEPARTMENT OF REVENUE, CERTAIN
31 EMPLOYERS, FIDUCIARIES, INDIVIDUALS, PERSONS, CORPORATIONS
32 AND OTHER ENTITIES; PRESCRIBING CRIMES, OFFENSES AND

1 PENALTIES," IN SALES AND USE TAX, FURTHER PROVIDING FOR
2 DEFINITIONS, FOR EXCLUSIONS, FOR ASSESSMENT AND FOR REFUND;
3 IN PERSONAL INCOME TAX, FURTHER PROVIDING FOR OPERATIONAL
4 PROVISIONS AND FOR ASSESSMENT; IN CORPORATE NET INCOME TAX,
5 FURTHER PROVIDING FOR ASSESSMENTS; IN BANK AND TRUST COMPANY
6 SHARES TAX, FURTHER PROVIDING FOR ASCERTAINMENT OF TAXABLE
7 AMOUNT AND EXCLUSION OF UNITED STATES OBLIGATIONS; IN REALTY
8 TRANSFER TAX, FURTHER PROVIDING FOR ASSESSMENT AND NOTICE;

9 PROVIDING FOR A FILM PRODUCTION TAX CREDIT AND CONFERRING
 10 POWERS AND DUTIES UPON THE DEPARTMENT OF COMMUNITY AND
 11 ECONOMIC DEVELOPMENT AND PROVIDING FOR A RESOURCE ENHANCEMENT
 12 AND PROTECTION TAX CREDIT; IN NEIGHBORHOOD ASSISTANCE TAX
 13 CREDIT, FURTHER PROVIDING FOR DEFINITIONS, FOR TAX CREDIT AND
 14 FOR GRANT OF TAX CREDIT AND PROVIDING FOR PASS-THROUGH
 15 ENTITIES; IN MALT BEVERAGE TAX, FURTHER PROVIDING FOR
 16 DEPARTMENTAL ASSESSMENT; AND PROVIDING FOR POWDER METALLURGY
 17 PARTS.

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

20 ~~Section 1. The definition of "manufacture" in section 201(e) <--~~
 21 ~~of the act of March 4, 1971 (P.L. 6, No. 2), known as the Tax~~
 22 ~~Reform Code of 1971, amended July 12, 2006 (P.L. 1137, No. 116),~~
 23 ~~is amended to read:~~

24 ~~Section 201. Definitions. The following words, terms and~~
 25 ~~phrases when used in this Article II shall have the meaning~~
 26 ~~ascribed to them in this section, except where the context~~
 27 ~~clearly indicates a different meaning:~~

28 * * *

29 ~~(c) "Manufacture." The performance of manufacturing,~~
 30 ~~fabricating, compounding, processing or other operations,~~
 31 ~~engaged in as a business, which place any tangible personal~~
 32 ~~property in a form, composition or character different from that~~
 33 ~~in which it is acquired whether for sale or use by the~~
 34 ~~manufacturer, and shall include, but not be limited to--~~

35 ~~(1) Every operation commencing with the first production~~
 36 ~~stage and ending with the completion of tangible personal~~
 37 ~~property having the physical qualities (including packaging, if~~
 38 ~~any, passing to the ultimate consumer) which it has when~~

20070S0097B1327

- 2 -

1 ~~transferred by the manufacturer to another. For purposes of this~~
 2 ~~clause, "operation" shall include clean rooms and their~~
 3 ~~component systems, including: environmental control systems,~~
 4 ~~antistatic vertical walls and manufacturing platforms and~~
 5 ~~floors, which are independent of the real estate; process piping~~
 6 ~~systems; specialized lighting systems; deionized water systems;~~
 7 ~~process vacuum and compressed air systems; process and specialty~~
 8 ~~gases; and alarm or warning devices specifically designed to~~
 9 ~~warn of threats to the integrity of the product or people. For~~
 10 ~~purposes of this clause, a "clean room" is a location with a~~
 11 ~~self contained, sealed environment with a controlled, closed air~~
 12 ~~system independent from the facility's general environmental~~
 13 ~~control system.~~

14 ~~(2) The publishing of books, newspapers, magazines and other~~
 15 ~~periodicals and printing.~~

16 ~~(3) Refining, blasting, exploring, mining and quarrying for,~~
 17 ~~or otherwise extracting from the earth or from waste or stock~~
 18 ~~piles or from pits or banks any natural resources, minerals and~~
 19 ~~mineral aggregates including blast furnace slag.~~

20 ~~(4) Building, rebuilding, repairing and making additions to,~~
 21 ~~or replacements in or upon vessels designed for commercial use~~
 22 ~~of registered tonnage of fifty tons or more when produced upon~~
 23 ~~special order of the purchaser, or when rebuilt, repaired or~~
 24 ~~enlarged, or when replacements are made upon order of, or for~~
 25 ~~the account of the owner.~~

26 ~~(5) Research having as its objective the production of a new~~
 27 ~~or an improved (i) product or utility service, or (ii) method of~~
 28 ~~producing a product or utility service, but in either case not~~
 29 ~~including market research or research having as its objective~~
 30 ~~the improvement of administrative efficiency.~~

20070S0097B1327

- 3 -

1 ~~(6) Remanufacture for wholesale distribution by a~~
 2 ~~remanufacturer of motor vehicle parts from used parts acquired~~
 3 ~~in bulk by the remanufacturer using an assembly line process~~

4 ~~which involves the complete disassembly of such parts and~~
 5 ~~integration of the components of such parts with other used or~~
 6 ~~new components of parts, including the salvaging, recycling or~~
 7 ~~reclaiming of used parts by the remanufacturer.~~

8 ~~(7) Remanufacture or retrofit by a manufacturer or~~
 9 ~~remanufacturer of aircraft, armored vehicles, other defense-~~
 10 ~~related vehicles having a finished value of, at least fifty~~
 11 ~~thousand dollars (\$50,000). Remanufacture or retrofit involves~~
 12 ~~the disassembly of such aircraft, vehicles, parts or components,~~
 13 ~~including electric or electronic components, the integration of~~
 14 ~~those parts and components with other used or new parts or~~
 15 ~~components, including the salvaging, recycling or reclaiming of~~
 16 ~~the used parts or components and the assembly of the new or used~~
 17 ~~aircraft, vehicles, parts or components. For purposes of this~~
 18 ~~clause, the following terms or phrases have the following~~
 19 ~~meanings:~~

20 ~~(i) "aircraft" means fixed-wing aircraft, helicopters,~~
 21 ~~powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned~~
 22 ~~aircraft and gliders;~~

23 ~~(ii) "armored vehicles" means tanks, armed personnel~~
 24 ~~carriers and all other armed track or semitrack vehicles; or~~

25 ~~(iii) "other defense related vehicles" means trucks, truck-~~
 26 ~~tractors, trailers, jeeps and other utility vehicles, including~~
 27 ~~any unmanned vehicles.~~

28 ~~(8) Remanufacture by a remanufacturer of locomotive parts~~
 29 ~~from used parts acquired in bulk by the remanufacturer using an~~
 30 ~~assembly line process which involves the complete disassembly of~~

20070S0097B1327

- 4 -

1 ~~such parts and integration of the components of such parts with~~
 2 ~~other used or new components of parts, including the salvaging,~~
 3 ~~recycling or reclaiming of used parts by the remanufacturer.~~

4 ~~The term "manufacture" shall not include constructing,~~
 5 ~~altering, servicing, repairing or improving real estate or~~
 6 ~~repairing, servicing or installing tangible personal property,~~
 7 ~~nor the cooking, freezing or baking of fruits, vegetables,~~
 8 ~~mushrooms, fish, seafood, meats, poultry or bakery products.~~

9 * * *

10 ~~Section 1.1. Section 247.1 of the act, amended June 22, 2001~~
 11 ~~(P.L.353, No.23) and October 18, 2006 (P.L.1149, No.119), is~~
 12 ~~amended to read:~~

13 ~~Section 247.1. Refund of Sales Tax Attributed to Bad Debt.--~~

14 ~~(a) A vendor may file a petition for refund of sales tax paid~~
 15 ~~to the department that is attributed to a bad debt if all of the~~
 16 ~~following apply:~~

17 ~~(1) The purchaser fails to pay [the vendor] the total~~
 18 ~~purchase price.~~

19 ~~(2) The purchase price is written off, either in whole or in~~
 20 ~~part, as a bad debt on the [vendor's] books and records of the~~
 21 ~~vendor or an affiliate of the vendor.~~

22 ~~(3) The [bad] debt has been deducted for Federal income tax~~
 23 ~~purposes under section 166 of the Internal Revenue Code of 1986~~
 24 ~~(Public Law 99-514, 26 U.S.C. § 166).~~

25 ~~[The petition shall be filed with the department under Article~~
 26 ~~XXVII within the time limitations prescribed by section 3003.1~~
 27 ~~of this act.]~~

28 ~~(a.1) A petition for refund which is authorized by this~~
 29 ~~section must be filed with the department within the time~~
 30 ~~limitations prescribed by section 3003.1(a).~~

20070S0097B1327

- 5 -

1 ~~(a.2) In the case of private label credit card accounts not~~
 2 ~~qualifying under subsection (a), a vendor or lender that makes~~
 3 ~~an election pursuant to subsection (a.3) shall be entitled to~~
 4 ~~file a petition for refund of sales tax that the vendor has~~
 5 ~~previously reported and paid to the department if all of the~~
 6 ~~following conditions are met:~~

7 ~~(1) No refund was previously allowed with respect to the~~

8 ~~portion of the account written off as a bad debt.~~

9 ~~(2) The account has been found worthless and written off,~~
10 ~~either in whole or in part, as bad debt on the books and records~~
11 ~~of the lender or an affiliate of the lender.~~

12 ~~(3) The account has been deducted for Federal income tax~~
13 ~~purposes under section 166 of the Internal Revenue Code of 1986~~
14 ~~(Public Law 99 514, 26 U.S.C. § 166) by the lender or an~~
15 ~~affiliate of the lender.~~

16 ~~(a.3) In order to be eligible for a refund under subsection~~
17 ~~(a.2), the lender and the vendor must execute and file with the~~
18 ~~department a joint election, signed by both parties, designating~~
19 ~~which party is entitled to claim the refund. This election may~~
20 ~~not be revoked unless a written notice is signed by the party~~
21 ~~that signed the election being revoked and is filed with the~~
22 ~~department.~~

23 ~~(b) The refund authorized by this section shall be limited~~
24 ~~to the sales tax paid to the department that is attributed to~~
25 ~~the bad debt, less any discount under section 227 of this act.~~
26 ~~Partial payments by the purchaser [to the vendor] shall be~~
27 ~~prorated between the original purchase price and the sales tax~~
28 ~~due on the sale. Payments made [to a vendor] on any transaction~~
29 ~~which includes both taxable and nontaxable components shall be~~
30 ~~allocated proportionally between the taxable and nontaxable~~

20070S0097B1327

- 6 -

1 ~~components.~~

2 ~~(c) A vendor or a lender may assign its right to petition~~
3 ~~and receive a refund of sales tax attributed to a bad debt to an~~
4 ~~[affiliated entity. A vendor may not assign its right to~~
5 ~~petition and receive a refund of sales tax attributed to a bad~~
6 ~~debt to any other person] affiliate.~~

7 ~~(d) No refund shall be granted under this section for any of~~
8 ~~the following:~~

9 ~~(i) Interest.~~

10 ~~(ii) Finance charges.~~

11 ~~(iii) Expenses incurred in attempting to collect any amount~~
12 ~~receivable.~~

13 ~~(e) [The documentation, procedures and methods for claiming~~
14 ~~and calculating the refund allowed under this section shall be~~
15 ~~in such form as the department may prescribe.] Documentation~~
16 ~~requirements are as follows:~~

17 ~~(1) Any person claiming a refund under this section must, on~~
18 ~~request, make available adequate books, records or other~~
19 ~~documentation supporting the claimed refund, including:~~

20 ~~(i) Date of original sale and name and Pennsylvania sales~~
21 ~~tax license number of the retailer.~~

22 ~~(ii) Name and address of purchaser.~~

23 ~~(iii) Amount that the purchaser paid or agreed to pay.~~

24 ~~(iv) Taxable and nontaxable charges.~~

25 ~~(v) Amount on which the retailer reported and paid sales~~
26 ~~tax.~~

27 ~~(vi) All payments or other credits applied to the account of~~
28 ~~the purchaser.~~

29 ~~(vii) Evidence that the uncollected amount has been~~
30 ~~designated as a bad debt in the books and records of the vendor~~

20070S0097B1327

- 7 -

1 ~~or lender, as appropriate, and that the amount has been claimed~~
2 ~~as a bad debt deduction for Federal income tax purposes.~~

3 ~~(viii) The county in which any local sales tax was incurred.~~

4 ~~(ix) The unpaid portion of the sales price.~~

5 ~~(x) A certification, under penalty or perjury, that no~~
6 ~~person has collected money on the bad debt for which the refund~~
7 ~~is claimed.~~

8 ~~(xi) Any other information required by the department.~~

9 ~~(2) A person claiming a refund under this section may~~
10 ~~provide alternative forms of documentation acceptable to the~~
11 ~~department if appropriate in light of the volume and character~~

12 of uncollectible accounts. This includes the following:

13 (i) ~~If a vendor remits sales or use tax to the Commonwealth~~
 14 ~~and to another state, the entity claiming a refund under this~~
 15 ~~section may use an apportionment method to substantiate the~~
 16 ~~amount of Pennsylvania tax included in the bad debts to which~~
 17 ~~the refund applies.~~

18 (ii) ~~The apportionment method must use the vendor's~~
 19 ~~Pennsylvania and non Pennsylvania sales, the vendor's taxable~~
 20 ~~and nontaxable sales and the amount of tax the vendor remitted~~
 21 ~~to Pennsylvania.~~

22 (f) ~~The following apply:~~

23 (1) ~~If the purchase price that is attributed to a prior bad~~
 24 ~~debt refund is thereafter collected, in whole or in part[,] by~~
 25 ~~the vendor or [affiliated] lender, or an affiliate of the vendor~~
 26 ~~or lender, the entity claiming the refund shall remit the~~
 27 ~~proportional tax to the department with the first return filed~~
 28 ~~after the collection. If the entity is not required to file~~
 29 ~~periodic returns, the entity shall remit the proportional tax to~~
 30 ~~the department with another return pursuant to section 217(c).~~

20070S0097B1327

- 8 -

1 (2) ~~Any consideration received for the assignment, sale or~~
 2 ~~other transfer of a bad debt with respect to which a refund has~~
 3 ~~been granted shall be deemed to be a collection of a prior bad~~
 4 ~~debt. This paragraph shall not apply to a transfer to an entity~~
 5 ~~that is part of the same affiliated group, as defined by section~~
 6 ~~1504 of the Internal Revenue Code of 1986 (Public Law 99 514, 26~~
 7 ~~U.S.C. § 1504).~~

8 (3) ~~A person that collects, in whole or in part, the~~
 9 ~~purchase price attributed to a prior bad debt refund is required~~
 10 ~~to maintain adequate books, records or other documentation to~~
 11 ~~allow the department to determine whether the purchase price~~
 12 ~~attributed to a prior bad debt refund has been collected.~~
 13 ~~Information under this paragraph includes the pertinent facts~~
 14 ~~required by subsection (e).~~

15 (4) ~~If it is determined by the department that a prior bad~~
 16 ~~debt has been collected, in whole or in part, and the~~
 17 ~~proportional tax has not been properly reported and paid to the~~
 18 ~~department, the person that claimed the refund on the~~
 19 ~~transaction shall report and pay the proportional tax to the~~
 20 ~~department plus applicable interest and penalty under this~~
 21 ~~article.~~

22 (g) ~~Notwithstanding the provisions of section 806.1 of the~~
 23 ~~act of April 9, 1929 (P.L.343, No.176), known as "The Fiscal~~
 24 ~~Code," no interest shall be paid by the Commonwealth on refunds~~
 25 ~~of sales tax attributed to bad debt under this section.~~

26 (h) ~~No refund or credit of sales tax shall be made for any~~
 27 ~~uncollected purchase price or bad debt except as authorized by~~
 28 ~~this section. No deduction or credit for bad debt may be taken~~
 29 ~~on any return filed with the department. This section shall~~
 30 ~~provide the exclusive procedure for claiming a refund or credit~~

20070S0097B1327

- 9 -

1 of sales tax attributed to uncollected purchase price or bad
 2 debt.

3 (i) ~~[For purposes of this section, the term "affiliated~~
 4 ~~entity" shall mean any corporation that is part of the same~~
 5 ~~affiliated group as the vendor as defined by] As used in this~~
 6 ~~section, the following words and phrases shall have the meanings~~
 7 ~~given to them in this subsection:~~

8 (1) ~~"Affiliate." A person that is:~~

9 (i) ~~an affiliated entity, under section 1504[(a)(1)] of the~~
 10 ~~Internal Revenue Code of 1986[.], of a vendor; or~~

11 (ii) ~~a person described in paragraph (2)(i) or (ii) that~~
 12 ~~would be an affiliated entity, under section section 1504 of the~~
 13 ~~Internal Revenue Code of 1986, of a vendor but for the fact the~~
 14 ~~person is not a corporation, an assignee or another transferee~~
 15 ~~of a person described in paragraph (2) (i) or (ii).~~

16 ~~(2) "Lender." Any of the following:~~
 17 ~~(i) A person that owns or has owned a private label credit~~
 18 ~~card account purchased directly from a vendor that reported the~~
 19 ~~tax under this article.~~
 20 ~~(ii) A person that owns or has owned a private label credit~~
 21 ~~card account pursuant to a contract directly with the vendor~~
 22 ~~that reported the tax under this article.~~
 23 ~~(iii) A person that is:~~
 24 ~~(A) an affiliate of a person described in subparagraph (i)~~
 25 ~~or (ii); or~~
 26 ~~(B) an assignee or other transferee of a person described in~~
 27 ~~subparagraph (i) or (ii).~~
 28 ~~(3) "Private label credit card." Any charge card, credit~~
 29 ~~card or other instrument serving similar purpose which carries,~~
 30 ~~refers to or is branded with the name or logo of a vendor and~~

20070S0097B1327

- 10 -

1 ~~which can be used for purchases from the vendor. The term does~~
 2 ~~not include a card or instrument which may also be used to make~~
 3 ~~purchases from persons other than the vendor whose name or logo~~
 4 ~~appears on the card or instrument or that vendor's affiliates.~~
 5 ~~Nothing in this paragraph authorizes a refund with respect to~~
 6 ~~bad debts attributable to sales by unrelated persons referred to~~
 7 ~~in this paragraph.~~

8 ~~Section 1.2. Section 315.9 of the act, added July 7, 2005~~
 9 ~~(P.L.149, No.40), is amended to read:~~

10 ~~Section 315.9. Operational Provisions. (a) Except for the~~
 11 ~~checkoff established under sections 315.2, 315.6 and 315.7 and~~
 12 ~~except as otherwise provided under subsection (b), the checkoffs~~
 13 ~~established under this part shall apply through taxable years~~
 14 ~~ending December 31, 2007.~~

15 ~~(b) Any checkoff established under this part and applicable~~
 16 ~~for the first time in a taxable year beginning after December~~
 17 ~~31, 2003, shall expire four years after the beginning of such~~
 18 ~~first taxable year.~~

19 ~~(c) Sections [315.2,] 315.3 and 315.4 shall expire January~~
 20 ~~1, 2008.~~

21 ~~Section 2. The definition of "capital stock value" in~~
 22 ~~section 601(a) of the act, amended July 6, 2006 (P.L.319,~~
 23 ~~No.67), is amended to read:~~

24 ~~Section 601. Definitions and Reports. (a) The following~~
 25 ~~words, terms and phrases when used in this Article VI shall have~~
 26 ~~the meaning ascribed to them in this section, except where the~~
 27 ~~context clearly indicates a different meaning:~~

28 ~~* * *~~

29 ~~"Capital stock value." The amount computed pursuant to the~~
 30 ~~following formula: the product of one half times the sum of the~~

20070S0097B1327

- 11 -

1 ~~average net income capitalized at the rate of nine and one-half~~
 2 ~~per cent plus seventy five per cent of net worth, from which~~
 3 ~~product shall be subtracted [one hundred fifty thousand dollars~~
 4 ~~(\$150,000)] one hundred seventy five thousand dollars~~
 5 ~~(\$175,000), the algebraic equivalent of which is~~

6 ~~$(.5 \times (\text{average net income} / .095 + (.75)$~~
 7 ~~$(\text{net worth})) - [\$150,000] \underline{\$175,000}$~~

8 ~~* * *~~

9 ~~Section 3. Section 701.1 of the act, amended June 16, 1994~~
 10 ~~(P.L.279, No.48), is amended to read:~~

11 ~~Section 701.1. Ascertainment of Taxable Amount; Exclusion of~~
 12 ~~United States Obligations. (a) The taxable amount of shares~~
 13 ~~shall be ascertained and fixed by adding together the value~~
 14 ~~determined under subsection (b) for the current and preceding~~
 15 ~~five years and dividing the resulting sum by six. If an~~
 16 ~~institution has not been in existence for a period of six years,~~
 17 ~~the taxable amount of shares shall be ascertained and fixed by~~
 18 ~~adding together the values determined under subsection (b) for~~
 19 ~~the number of years the institution has been in existence and~~

20 dividing the resulting sum by such number of years.

21 (b) The value for each year required by subsection (a) shall
 22 be determined by ~~[adding together]~~ deducting from the book value
 23 of [capital stock paid in, the book value of the surplus and the
 24 book value of undivided profits with a deduction from the total
 25 thereof of] total equity capital an amount equal to the same
 26 percentage of [such total] total equity capital as the book
 27 value of obligations of the United States bears to the book
 28 value of the total assets[.], except that for the value of
 29 shares reported on tax returns due on March 15, 2008, and
 30 thereafter, any goodwill recorded as a result of the use of

20070S0097B1327

- 12 -

1 purchase accounting for an acquisition or combination as
 2 described in this section and occurring after June 30, 2001, may
 3 be subtracted from the book value of total equity capital and
 4 disregarded in determining the deduction provided for
 5 obligations of the United States for the six year period
 6 described in subsection (a). For purposes of this subsection,
 7 book values and deductions for United States obligations for
 8 each year shall be determined by the Reports of Condition for
 9 each calendar quarter of the preceding calendar year in
 10 accordance with the requirements of the Board of Governors of
 11 the Federal Reserve System, the Comptroller of the Currency, the
 12 Federal Deposit Insurance Corporation or other applicable
 13 regulatory authority; and book values shall be averaged as
 14 calculated by averaging book values as determined by such
 15 Reports of Condition. For purposes of this article, United
 16 States obligations shall be obligations coming within the scope
 17 of 31 U.S.C. § 3124. For any year in which an institution does
 18 not file four quarterly Reports of Condition, book values and
 19 deductions for United States obligations shall be determined by
 20 adding together the book values and deductions for United States
 21 obligations from each quarterly Reports of Condition filed for
 22 such year and dividing the resulting sums by the number of such
 23 Reports of Condition. In the case of institutions which do not
 24 file such Reports of Condition, book values shall be determined
 25 by generally accepted accounting principles as of the end of
 26 each calendar quarter. For any year in which an institution
 27 which does not file Reports of Condition is not in existence for
 28 four quarters, the book value for that year shall be determined
 29 by adding together the book values for each quarter in which the
 30 institution was in existence and dividing by that number of

20070S0097B1327

- 13 -

1 quarters. For purposes of this section, a partial year shall be
 2 treated as a full year.

3 (c) For purposes of this section:

4 (1) a mere change in identity, form or place of organization
 5 of one institution, however effected, shall be treated as if a
 6 single institution had been in existence prior to as well as
 7 after such change; and

8 (2) the combination of two or more institutions into one
 9 shall be treated as if the constituent institutions had been a
 10 single institution in existence prior to as well as after the
 11 combination and the book values and deductions for United States
 12 obligations from the Reports of Condition of the constituent
 13 institutions shall be combined. For purposes of [the preceding
 14 sentence] this section, a combination shall include any
 15 acquisition required to be accounted for [by the surviving
 16 institution under the pooling of interest method] by using the
 17 purchase method in accordance with generally accepted accounting
 18 principles or a statutory merger or consolidation.

19 Section 4. The act is amended by adding articles to read:

20 ARTICLE XVII-D

21 FILM PRODUCTION TAX CREDIT

22 Section 1701-D. Scope of article.

23 This article relates to film production tax credits.

24 Section 1702 D. Definitions.

25 The following words and phrases when used in this article
26 shall have the meanings given to them in this section unless the
27 context clearly indicates otherwise:

28 "Department." The Department of Community and Economic
29 Development of the Commonwealth.

30 "Film." A feature film, a television film, a television talk
20070S0097B1327 - 14 -

1 or game show series, a television commercial or a television
2 pilot or each episode of a television series which is intended
3 as programming for a national or regional audience. The term
4 does not include a production featuring news, current events,
5 weather and market reports, or public programming, sports event,
6 awards show or other gala event, a production that solicits
7 funds, a production containing obscene material or performances
8 as defined in 18 Pa.C.S. § 5903(b) (relating to obscene and
9 other sexual materials and performances) or a production
10 primarily for private, political, industrial, corporate or
11 institutional purposes.

12 "Film production tax credit." The credit provided under this
13 article.

14 "Pass through entity." A partnership as defined in section
15 301(n.0) or a Pennsylvania S corporation as defined in section
16 301(n.1).

17 "Pennsylvania production expense." A production expense
18 incurred in this Commonwealth. As applied to wages and salaries,
19 the term includes only wages and salaries on which the taxes
20 imposed by Article III or IV will be paid or accrued.

21 "Production expense." An expense incurred in the production
22 of a film. The term includes the aggregate amount of wages and
23 salaries of individuals each of whom receive less than
24 \$1,000,000 and are employed in the production of the film; the
25 costs of construction, operations, editing, photography, sound
26 synchronization, lighting, wardrobe and accessories; the cost of
27 leasing vehicles; the cost of transportation to or from a
28 Pennsylvania train station, bus depot or airport; the cost of
29 insurance coverage if the insurance is purchased through a
30 Pennsylvania based insurance agent; the costs of food and
20070S0097B1327 - 15 -

1 lodging; the purchase of music or story rights if the rights are
2 purchased from a Pennsylvania resident or an entity subject to
3 taxation in this Commonwealth and the transaction is subject to
4 taxation under Article III, IV or VI; and the cost of rental of
5 facilities and equipment, if rented from or through a
6 Pennsylvania resident or an entity subject to taxation in this
7 Commonwealth. The term does not include:

8 (1) deferred, leveraged or profit participation paid or
9 to be paid to individuals employed in the production of the
10 film;

11 (2) development costs; or

12 (3) expenses incurred in marketing or advertising a
13 film.

14 "Qualified film production expense." A Pennsylvania
15 production expense if at least 60% of the total expenses are
16 Pennsylvania production expenses.

17 "Qualified tax liability." The liability for taxes imposed
18 under Article III, IV or VI. The term shall not include any tax
19 withheld by an employer from an employee under Article III.

20 "Start date." The first day of principal photography in this
21 Commonwealth.

22 "Taxpayer." A film production company subject to tax under
23 Article III, IV or VI. The term does not include contractors or
24 subcontractors of a film production company.

25 Section 1703 D. Credit for qualified film production expenses.

26 (a) Application.-- A taxpayer may apply to the department for
27 a film production tax credit under this section. The application

28 ~~shall be on the form required by the department.~~

29 ~~(b) Review and approval. The department shall review the~~
 30 ~~application. Upon determining the qualified film production~~

20070S0097B1327 - 16 -

1 ~~expense amount for the taxpayer, the department may approve the~~
 2 ~~taxpayer for a film production tax credit.~~

3 ~~(c) Contract. If the department approves the taxpayer's~~
 4 ~~application under subsection (b), the department and the~~
 5 ~~taxpayer shall enter into a contract containing the following:~~

6 ~~(1) An itemized list of production expenses incurred or~~
 7 ~~to be incurred.~~

8 ~~(2) An itemized list of Pennsylvania production expenses~~
 9 ~~incurred or to be incurred.~~

10 ~~(3) With respect to a contract entered into prior to~~
 11 ~~completion of production, a commitment by the taxpayer to~~
 12 ~~incur the qualified film production expenses as itemized.~~

13 ~~(4) The start date.~~

14 ~~(5) Any other information the department deems~~
 15 ~~appropriate.~~

16 ~~(d) Certificate. Upon execution of the contract required by~~
 17 ~~subsection (c), the department shall award the taxpayer a film~~
 18 ~~production tax credit and issue the taxpayer a film production~~
 19 ~~tax credit certificate.~~

20 ~~(e) Limitations.--The following limitations shall apply:~~

21 ~~(1) The aggregate amount of film production tax credits~~
 22 ~~awarded by the department under subsection (d) to a taxpayer~~
 23 ~~for a film may not exceed 25% of the qualified film~~
 24 ~~production expenses to be incurred.~~

25 ~~(2) A taxpayer has received a grant under 12 Pa.C.S. §~~
 26 ~~4106 (relating to approval) shall not be eligible for a film~~
 27 ~~production tax credit under this act for the same film.~~

28 ~~(3) The aggregate amount of film production tax credits~~
 29 ~~claimed by a taxpayer under section 1704-D may not exceed the~~
 30 ~~amount awarded for the department under this section for the~~

20070S0097B1327 - 17 -

1 ~~taxpayer for that taxable year.~~

2 ~~Section 1704 D. Film production tax credits.~~

3 ~~A taxpayer may claim a film production tax credit against the~~
 4 ~~qualified tax liability of the taxpayer if the taxpayer makes a~~
 5 ~~contribution in the amount of at least 10% of the amount of the~~
 6 ~~credit claimed to an organization which is located in this~~
 7 ~~Commonwealth and is registered under section 5 of the act of~~
 8 ~~December 19, 1990 (P.L.1200, No.202), known as the Solicitation~~
 9 ~~of Funds for Charitable Purposes Act.~~

10 ~~Section 1705-D. Carryover, carryback, refund and assignment of~~
 11 ~~credit.~~

12 ~~(a) General rule.--If the taxpayer cannot use the entire~~
 13 ~~amount of the film production tax credit for the taxable year in~~
 14 ~~which the film production tax credit is first approved, then the~~
 15 ~~excess may be carried over to succeeding taxable years and used~~
 16 ~~as a credit against the qualified tax liability of the taxpayer~~
 17 ~~for those taxable years. Each time the film production tax~~
 18 ~~credit is carried over to a succeeding taxable year, it shall be~~
 19 ~~reduced by the amount that was used as a credit during the~~
 20 ~~immediately preceding taxable year. The film production tax~~
 21 ~~credit provided by this article may be carried over and applied~~
 22 ~~to succeeding taxable years for no more than three taxable years~~
 23 ~~following the first taxable year for which the taxpayer was~~
 24 ~~entitled to claim the credit.~~

25 ~~(b) Application.--A film production tax credit approved by~~
 26 ~~the department in a taxable year first shall be applied against~~
 27 ~~the taxpayer's qualified tax liability for the current taxable~~
 28 ~~year as of the date on which the credit was approved before the~~
 29 ~~film production tax credit can be applied against any tax~~
 30 ~~liability under subsection (a).~~

20070S0097B1327 - 18 -

~~(c) No carryback. A taxpayer is not entitled to carry back all or any portion of an unused film production tax credit granted to the taxpayer under this article.~~

~~(d) (Reserved)~~

~~(e) Sale or assignment. The following shall apply:~~

~~(1) A taxpayer, upon application and approval by the department, may sell or assign, in whole or in part, a film production tax credit granted to the taxpayer under this article to another taxpayer under this article.~~

~~(2) The department and the Department of Revenue shall jointly promulgate regulations for the approval of applications under this subsection.~~

~~(3) Before an application is approved, the Department of Revenue must make a finding that the applicant has filed all required State tax reports and returns for all applicable taxable years and paid any balance of State tax due as determined at settlement, assessment or determination by the Department of Revenue.~~

~~(4) Notwithstanding any other provision of law, the Department of Revenue shall settle, assess or determine the tax of an applicant under this subsection within 90 days of the filing of all required final returns or reports in accordance with section 806.1(a)(5) of the act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.~~

~~(f) Purchasers and assignees. The purchaser or assignee of all or a portion of a film production tax credit under subsection (e) shall immediately claim the credit in the taxable year in which the purchase or assignment is made. The amount of the film production credit that a purchaser or assignee may use against any one qualified tax liability may not exceed 50% of~~

~~such qualified tax liability for the taxable year. The purchaser or assignee may not carry back or obtain a refund of the film production tax credit. The purchaser or assignee shall notify the Department of Revenue of the seller or assignor of the film production tax credit in compliance with procedures specified by the Department of Revenue.~~

~~Section 1706 D. Determination of qualified film production expenses.~~

~~In prescribing standards for determining which production expenses are considered qualified film production expenses for purposes of computing the credit provided by this article, the department shall consider:~~

~~(1) The location where services are performed.~~

~~(2) The residence or business location of the person or persons performing the service.~~

~~(3) The location where supplies are consumed.~~

~~(4) Other factors the department determines are relevant.~~

~~Section 1707 D. Limitation.~~

~~In no case shall the aggregate amount of tax credits awarded in any fiscal year under this article exceed \$50,000,000.~~

~~Section 1708 D. Penalty.~~

~~A taxpayer which claims a film production tax credit and fails to incur the amount of qualified film production expenses agreed to in section 1703 D(e)(3) for a film in that taxable year shall repay to the Commonwealth the amount of the film production tax credit claimed under this article for the film, including any sums refunded to the taxpayer under section 1705-D(d).~~

~~Section 1709 D. Pass through entity.~~

~~(a) General rule. If a pass-through entity has any unused tax credit under section 1705 D, it may elect in writing, according to procedures established by the Department of Revenue, to transfer all or a portion of the credit to~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
20070S0097B1327

1
2
3
4

5 shareholders, members or partners in proportion to the share of
 6 distributive income to which the shareholder, member or partner
 7 is entitled.

8 (b) Limitation. The credit provided under subsection (a)
 9 cannot be claimed under this article for the same qualified film
 10 production expense by pass-through entity and a shareholder,
 11 member or partner of a pass-through entity.

12 (c) Application. A shareholder, member or partner of a
 13 pass-through entity to whom a credit is transferred under
 14 subsection (a) shall immediately claim the credit in the taxable
 15 year in which the transfer is made. The shareholder, member or
 16 partner may not carry forward, carry back, obtain a refund of or
 17 sell or assign the credit.

18 Section 1710 D. Department guidelines.

19 The department shall develop written guidelines for the
 20 implementation of the provisions of this article.

21 Section 1711 D. Report to General Assembly.

22 The Secretary of Community and Economic Development shall
 23 submit an annual report to the General Assembly indicating the
 24 effectiveness of the credit provided by this article no later
 25 than March 15 following the year in which the credits were
 26 approved. The report shall include the names of all taxpayers
 27 utilizing the credit as of the date of the report and the amount
 28 of credits approved and utilized by each taxpayer.

29 Notwithstanding any law providing for the confidentiality of tax
 30 records, the information contained in the report shall be public

20070S0097B1327 - 21 -

1 information. The report may also include any recommendations for
 2 changes in the calculation or administration of the credit.

3 ARTICLE XVII-E

4 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDITS

5 Section 1701 E. Scope of article.

6 This article relates to resource enhancement and protection
 7 tax credits.

8 Section 1702 E. Legislative findings.

9 The General Assembly determines, finds and declares that:

10 (1) Best management practices installed on agricultural
 11 lands and riparian forest buffers are among the most
 12 effective tools to reduce nutrients, sediment and other
 13 pollutants carried by storm water.

14 (2) Statewide, 13,400 miles of streams do not meet water
 15 quality standards.

16 (3) Financial assistance to support the adoption of
 17 conservation practices must be increased substantially to
 18 achieve acceptable water quality in this Commonwealth. Within
 19 the Pennsylvania portion of the Chesapeake Bay watershed it
 20 is estimated that an increase of \$175 million per year in
 21 conservation funding is needed to achieve nutrient and
 22 sediment pollution reduction goals under the Chesapeake 2000
 23 Agreement.

24 (4) As Pennsylvania develops Total Maximum Daily Loads
 25 for impaired waters required by the Federal Water Pollution
 26 Control Act (62 Stat. 1155, 33 U.S.C. § 1251 et seq.),
 27 hundreds of millions of dollars will be necessary to
 28 implement the nonpoint source components.

29 (5) There is considerable unmet demand on the part of
 30 agricultural producers for financial assistance to support

20070S0097B1327 - 22 -

1 the adoption of conservation practices, with \$37,500,000 of
 2 unfunded conservation support from the United States
 3 Department of Agriculture Natural Resource Conservation
 4 Service requested by Pennsylvania producers in 2004.

5 (6) Encouraging private investment in the implementation
 6 of best management practices, planting of forested riparian
 7 buffers and remediation of legacy sediment will provide an
 8 expanded source of funding that increases the private

9 sector's involvement in cleaning up our waterways.

10 (7) Section 27 of Article I of the Constitution of
 11 Pennsylvania declares, "The people have a right to clean air,
 12 pure water, and to the preservation of the natural, scenic,
 13 historic and esthetic values of the environment.
 14 Pennsylvania's public natural resources are the common
 15 property of all the people, including generations yet to
 16 come. As trustee of these resources, the Commonwealth shall
 17 conserve and maintain them for the benefit of all the
 18 people."

19 (8) The Commonwealth has adopted tax credit programs to
 20 encourage private funding of educational programs and
 21 research and development efforts which are critical to the
 22 future and economic health of Pennsylvania.

23 (9) Providing tax credits for the design and
 24 implementation of practices that are necessary to protect and
 25 restore our waterways is equally critical to the quality of
 26 life in this Commonwealth and its economic future.

27 Section 1703 E. Definitions.

28 The following words and phrases when used in this article
 29 shall have the meanings given to them in this section unless the
 30 context clearly indicates otherwise:

20070S0097B1327 - 23 -

1 "Agricultural erosion and sedimentation control plan."— A
 2 site specific plan that:

3 (1) Meets the requirements of the act of June 22, 1937
 4 (P.L.1987, No.394), known as The Clean Streams Law and 25 Pa.
 5 Code Ch. 102 (relating to erosion and sediment control).

6 (2) Identifies best management practices to minimize
 7 accelerated erosion and sediment from an agricultural
 8 operation.

9 "Agricultural operation." The management and use of farming
 10 resources for the production of crops, livestock or poultry or
 11 for equine activity.

12 "Animal concentration areas." An exterior area of an
 13 agricultural operation subject to rainfall where livestock
 14 congregate, including a barnyard, a feedlot, a loafing area, an
 15 exercise lot or other similar animal confinement area that will
 16 not maintain a growing crop, or where deposited manure nutrients
 17 are in excess of crop needs. The term does not include areas
 18 managed as a pasture or other cropland and pasture accessways if
 19 they do not cause direct flow of nutrients to surface water or
 20 groundwater.

21 "Best management practice." A practice or combination of
 22 practices determined by the State Conservation Commission or
 23 United States Department of Agriculture Natural Resources and
 24 Conservation Service to be effective and practical, considering
 25 technological, economic and institutional factors, to manage
 26 nutrients and sediment to protect surface water.

27 "Business firm." An entity authorized to do business in this
 28 Commonwealth and subject to the taxes imposed by Article III,
 29 IV, VI, VII, VIII, IX or XV.

30 "Commission." The State Conservation Commission.

20070S0097B1327 - 24 -

1 "Conservation district." A county conservation district
 2 established under the act of May 15, 1945 (P.L.547, No.217),
 3 known as the Conservation District Law.

4 "Conservation plan." A plan, including a schedule for
 5 implementation, that identifies site specific conservation best
 6 management practices on an agricultural operation.

7 "Department." The Department of Revenue of the Commonwealth.

8 "Eligible applicants." A business firm or an individual who
 9 is subject to taxation under Article III.

10 "Equine activity." The term includes the following
 11 activities:

12 (1) The boarding of equines.

- 13 ~~(2) The training of equines.~~
 14 ~~(3) The instruction of people in handling, driving or~~
 15 ~~riding equines.~~
 16 ~~(4) The use of equines for riding or driving purposes.~~
 17 ~~(5) The pasturing of equines.~~

18 The term does not include activity licensed under the act of
 19 December 17, 1981 (P.L.435, No.135), known as the Race Horse
 20 Industry Reform Act.

- 21 ~~"Individual." A natural person.~~
 22 ~~"Legacy sediment." Sediment that meets all of the following~~
 23 ~~conditions:~~
 24 ~~(1) Was eroded from upland areas after the arrival of~~
 25 ~~early Pennsylvania settlers and during centuries of intensive~~
 26 ~~land use.~~
 27 ~~(2) Was deposited in valley bottoms along stream~~
 28 ~~corridors, burying presettlement streams, floodplains,~~
 29 ~~wetlands and valley bottoms.~~
 30 ~~(3) Was altered and continues to impair the hydrologic,~~

20070S0097B1327

- 25 -

- 1 ~~biologic, aquatic, riparian and water quality functions of~~
 2 ~~presettlement and modern environments.~~
 3 ~~"Nutrient management plan." As defined under 3 Pa.C.S. Ch. 5~~
 4 ~~(relating to nutrient management and odor management).~~
 5 ~~"Nutrient management specialist." As defined under 3 Pa.C.S.~~
 6 ~~Ch. 5 (relating to nutrient management and odor management).~~
 7 ~~"Pass through entity." A partnership or Pennsylvania S~~
 8 ~~corporation as defined in section 301(n.0) and (s.2).~~
 9 ~~"Qualified tax liability." The liability for taxes imposed~~
 10 ~~upon an eligible applicant under Article III, IV, VI, VII, VIII,~~
 11 ~~IX or XV.~~
 12 ~~"Riparian forest buffer." An area of mostly trees or shrubs~~
 13 ~~which is adjacent to and up gradient from watercourses or water~~
 14 ~~bodies and which meets standards established by the United~~
 15 ~~States Department of Agriculture Natural Resources and~~
 16 ~~Conservation Service.~~
 17 ~~"Technical service provider." An individual, entity or~~
 18 ~~public agency certified by the United States Department of~~
 19 ~~Agriculture Natural Resources Conservation Service and placed on~~
 20 ~~the approved list to provide technical services to program~~
 21 ~~participants or to the United States Department of Agriculture~~
 22 ~~program participants.~~
 23 ~~"USDA-NRCS." The United States Department of Agriculture~~
 24 ~~Natural Resources and Conservation Service.~~
 25 ~~Section 1704 E. Resource Enhancement and Protection Tax Credit~~
 26 ~~Program.~~

- 27 ~~(a) Establishment. The Resource Enhancement and Protection~~
 28 ~~Tax Credit Program is established to encourage private~~
 29 ~~investment in the implementation of best management practices on~~
 30 ~~agricultural operations, the planting of riparian forest buffers~~

20070S0097B1327

- 26 -

- 1 ~~and the remediation of legacy sediment.~~
 2 ~~(b) Limits. The following limits shall apply:~~
 3 ~~(1) An eligible applicant may be granted a maximum of~~
 4 ~~\$150,000 in tax credits under this program.~~
 5 ~~(2) No more than \$150,000 in tax credits shall be~~
 6 ~~granted toward projects on an agricultural operation.~~
 7 ~~(3) An eligible applicant may submit an application for~~
 8 ~~a single project or multiple applications for multiple~~
 9 ~~projects within the limits of this section.~~
 10 ~~(4) There shall be no limit on the amount of tax credits~~
 11 ~~that may be purchased from or be assigned from an eligible~~
 12 ~~applicant.~~
 13 ~~(5) There shall be no limit on the amount of tax credits~~
 14 ~~granted to a sponsor under subsection (f).~~
 15 ~~(c) Carryover.--~~
 16 ~~(1) If the eligible applicant cannot use the entire~~

17 amount of the tax credit for the taxable year in which the
 18 tax credit is first granted, then the excess may be carried
 19 over to succeeding taxable years and used as a credit against
 20 the qualified tax liability of the eligible applicant for
 21 those taxable years. Each time that the tax credit is carried
 22 over to a succeeding taxable year, it is to be reduced by the
 23 amount that was used as a credit during the immediately
 24 preceding taxable year. The tax credit provided by this
 25 article may be carried over and applied to succeeding taxable
 26 years for no more than 15 taxable years following the first
 27 taxable year for which the eligible applicant was entitled to
 28 claim the credit.

29 (2) A tax credit granted by the department shall be
 30 applied against the taxpayer's qualified tax liability for

20070S0097B1327 - 27 -

1 the current taxable year as of the date on which the credit
 2 was granted before the tax credit is applied against any tax
 3 liability under paragraph (1).

4 (d) Assignment of credit.--

5 (1) An eligible applicant, upon application to and
 6 approval by the department, may sell or assign, in whole or
 7 in part, a tax credit granted to the eligible applicant under
 8 this article if no claim for allowance of the credit is filed
 9 within one year from the date the credit is granted by the
 10 department under this section. The department shall establish
 11 guidelines for the approval of applications under this
 12 subsection.

13 (2) The purchaser or assignee of a portion of a tax
 14 credit under this subsection shall immediately claim the
 15 credit in the taxable year in which the purchase or
 16 assignment is made. The amount of the credit that a purchaser
 17 or assignee may use against a qualified tax liability may not
 18 exceed 75% of the qualified tax liability for the taxable
 19 year. The purchaser or assignee may not carry over, carry
 20 back, obtain a refund of or assign the tax credit. The
 21 purchaser or assignee shall notify the department of the
 22 seller or assignor of the tax credit in compliance with
 23 procedures specified by the department.

24 (e) Sponsorship.-- An eligible applicant may be a sponsor by
 25 applying for a tax credit for a project authorized under section
 26 1708 E if a written agreement between the eligible applicant and
 27 the owner of property on which the project will be completed is
 28 submitted to the commission, certifying that the property owner
 29 will comply with all the provisions of this article.

30 (f) Tax credits for pass-through entities.--

20070S0097B1327 - 28 -

1 (1) If a pass-through entity has any unused tax credit,
 2 it may elect in writing, according to procedures established
 3 by the department, to transfer all or a portion of the credit
 4 to shareholders, members or partners in proportion to the
 5 share of its distributive income to which the shareholder,
 6 member or partner is entitled.

7 (2) The credit provided under paragraph (1) is in
 8 addition to any tax credit to which the shareholder, member
 9 or partner is otherwise entitled under this article.

10 (3) A pass through entity and its partners or
 11 shareholders shall not claim a tax credit under this article
 12 for the same project authorized under section 1708 E.

13 Section 1705-E. Tax credits.

14 (a) General eligibility.-- Projects shall be eligible for a
 15 tax credit as follows:

16 (1) Only best management practices completed after the
 17 effective date of this article shall be eligible for a tax
 18 credit.

19 (2) An agricultural operation shall have in place a
 20 current conservation plan, a current agricultural erosion and

21 sediment control plan if engaged in plowing and tilling, and
22 a current nutrient management plan if required, or the
23 development of such plans shall be included in an application
24 for a tax credit.

25 (3) An agricultural operation with an animal
26 concentration area shall have implemented best management
27 practices necessary to abate storm water runoff, loss of
28 sediment, loss of nutrients and runoff of other pollutants
29 from the animal concentration area, or the implementation of
30 such best management practices shall be included in an

20070S0097B1327 - 29 -

1 application for a tax credit.

2 (4) An agricultural operation with an uncompleted best
3 management practice of either an agricultural erosion and
4 sediment control plan if engaged in plowing and tilling or a
5 nutrient management plan if required, shall first include the
6 remaining best management practices included in such plans in
7 an application for a tax credit.

8 (5) A project shall meet the design and construction
9 standards established by the commission or USDA NRCS. If
10 standards do not exist for a best management practice
11 approved by the commission, the commission may establish or
12 approve design, construction and certification standards for
13 such a best management practice.

14 (b) Amount of tax credit.

15 (1) A tax credit equal to 75% of the eligible costs
16 under subsection (c) of a project authorized under section
17 1708 E shall be granted for any of the following:

18 (i) Development of a voluntary or mandatory nutrient
19 management plan.

20 (ii) Development of an agricultural erosion and
21 sediment control plan or a conservation plan.

22 (iii) For an animal concentration area, design and
23 implementation of best management practices necessary to
24 abate storm water runoff, loss of sediment, loss of
25 nutrients and runoff of other pollutants.

26 (iv) Design and implementation of best management
27 practices necessary to restrict livestock access to
28 streams if there is established and maintained a riparian
29 forest buffer with a minimum width of 35 feet.

30 (v) Establishment of a riparian forest buffer with a

20070S0097B1327 - 30 -

1 minimum width of 35 feet.

2 (2) A tax credit equal to 50% of the eligible costs
3 under subsection (c) of a project authorized under section
4 1708 E shall be granted for any of the following:

5 (i) For an agricultural operation, design and
6 implementation of agricultural best management practices
7 or the installation and use of equipment, provided that
8 the best management practice or equipment is necessary to
9 reduce existing sediment and nutrient pollution to
10 surface waters. Such best management practices and
11 equipment shall be identified by the commission and may
12 include manure storage systems, alternative uses for
13 manure, filter strips, grassed waterways, management
14 intensive grazing systems and no till planting equipment.

15 (ii) Design and implementation of best management
16 practices necessary to restrict livestock access to
17 streams through fencing, stabilized crossings and
18 improved watering systems, if there is established and
19 maintained a riparian forest buffer with a minimum width
20 of 20 feet.

21 (3) A tax credit equal to 25% of the eligible costs
22 under subsection (c) of a project authorized under section
23 1708 E shall be granted for the remediation of legacy
24 sediment if the legacy sediment is exposed and is discharging

25 or threatens to discharge into surface waters as a result of
 26 acute stream bank erosion. The project shall meet standards
 27 established by the commission as being effective in
 28 mitigating or eliminating the harmful effects of legacy
 29 sediment.
 30 (c) Costs of project.--

20070S0097B1327 - 31 -

1 (1) The following shall be considered eligible costs of
 2 a project to which a tax credit may be applied:

3 (i) Project design, engineering and associated
 4 planning, including that which may be provided by a
 5 conservation district.

6 (ii) Project management costs, including
 7 contracting, document preparation and applications.

8 (iii) Project construction or installation.

9 (iv) Equipment, materials and all other components
 10 of projects eligible under subsection (a).

11 (v) Postconstruction inspections.

12 (vi) Interest payments on loans for project
 13 implementation for up to one year prior to the award of
 14 the tax credit.

15 (2) A tax credit shall not be applied to that portion of
 16 a project cost under this subsection for which public funding
 17 was received.

18 Section 1706 E. Project certification.

19 A project shall be certified as meeting standards under
 20 section 1705 E(a)(5) by the following:

21 (1) a best management practice that currently requires
 22 review and certification by a registered professional
 23 engineer under current law or applicable regulation;
 24 registered professional engineer;

25 (2) riparian forest buffer; technical service provider
 26 or staff from a conservation district or USDA-NRCS;

27 (3) nutrient management plan; nutrient management
 28 specialist; and

29 (4) agricultural erosion and sediment control plan or
 30 conservation plan; any person trained and experienced in

20070S0097B1327 - 32 -

1 erosion and sediment control or conservation methods and
 2 techniques and whose qualifications are determined acceptable
 3 by the commission.

4 Section 1707 E. Project maintenance and life expectancy.

5 (a) Best management practice. An agricultural operation
 6 shall maintain a best management practice for the life of the
 7 practice as established by the commission or USDA-NRCS. A
 8 riparian forest buffer shall be maintained for a minimum of 15
 9 years.

10 (b) Failure.--If a best management practice is not
 11 maintained for the period required under subsection (a), the
 12 owner of the property upon which the project exists shall return
 13 to the department the amount of the tax credit originally
 14 granted. Additional penalties may be determined by the
 15 department.

16 (c) Exception.--If the recipient of a tax credit provides
 17 prior written notification to the department that the recipient
 18 will be unable to maintain a best management practice due to
 19 sale of the property, cessation of an agricultural operation or
 20 other factors, the department may prorate the amount of the tax
 21 credit that shall be returned based on the remaining lifespan of
 22 the best management practice in question.

23 Section 1708 E. Application, review and authorization by
 24 commission.

25 (a) Application process.--An eligible applicant shall apply
 26 to the commission for authorization that a project is eligible
 27 for a tax credit under this program. An application shall be
 28 developed by the commission and shall include:

29 ~~(1) Type and location of project under section 1705-~~

30 ~~E(b).~~

20070S0097B1327 - 33 -

1 ~~(2) Total cost of project as outlined in section 1705-~~

2 ~~E(c).~~

3 ~~(3) Verification of eligibility under section 1705-E(a).~~

4 ~~(b) Review, notification and authorization. The commission~~
 5 ~~shall within 30 days of receipt review each application and~~
 6 ~~notify an eligible applicant whether or not the eligible~~
 7 ~~applicant meets the requirements and is authorized to receive a~~
 8 ~~tax credit under this article.~~

9 ~~(c) Authorization of tax credit.--The commission shall not~~
 10 ~~authorize tax credits that exceed the limits under sections~~
 11 ~~1704 E(b) and 1710 E. The commission shall authorize tax credits~~
 12 ~~on a first-come, first-served basis.~~

13 ~~(d) Completion of project. Upon completion of a project~~
 14 ~~authorized under this section, an eligible applicant shall~~
 15 ~~submit to the commission written notice of project completion.~~
 16 ~~Such notice shall include:~~

17 ~~(1) Proof of certification as required by section 1706 E~~
 18 ~~that the project is complete.~~

19 ~~(2) A maintenance plan as required by section 1707 E(a)~~
 20 ~~for each best management practice, if applicable to the~~
 21 ~~project.~~

22 ~~(3) Any other documents as may be required by the~~
 23 ~~commission.~~

24 ~~(e) Notification to department.--Upon determination that a~~
 25 ~~project authorized under this section is complete, the~~
 26 ~~commission shall provide notification to the department:~~

27 ~~(1) that the eligible applicant has completed a project~~
 28 ~~which meets the criteria for a tax credit under this article;~~
 29 ~~and~~

30 ~~(2) the amount of tax credit for the eligible applicant.~~

20070S0097B1327 - 34 -

1 ~~(f) Inspection.--Projects authorized under this section may~~
 2 ~~be subject to inspection by the commission or its designated~~
 3 ~~agent.~~

4 ~~Section 1709 E. Grant of tax credit.~~

5 ~~The department shall grant a tax credit authorized under~~
 6 ~~section 1708 E. The department shall within 60 days of receipt~~
 7 ~~of notice under section 1708 E(c), issue a notice of grant of a~~
 8 ~~tax credit to the eligible applicant.~~

9 ~~Section 1710 E. Annual cap of tax credits.~~

10 ~~Tax credits shall be granted to the extent that funds are~~
 11 ~~appropriated by the General Assembly. The total amount of tax~~
 12 ~~credits granted by the department shall not exceed \$10,000,000~~
 13 ~~in any fiscal year.~~

14 ~~Section 1711 E. Report.~~

15 ~~The commission, in consultation with the department, shall~~
 16 ~~annually report to the General Assembly on the Resource~~
 17 ~~Enhancement and Protection Tax Credit Program as follows:~~

18 ~~(1) The number of tax credits granted under the program.~~

19 ~~(2) The types and locations of projects.~~

20 ~~(3) The estimated benefits of the projects.~~

21 ~~Section 5. The definition of "business firm" in section~~
 22 ~~1902 A of the act, amended May 7, 1997 (P.L.85, No.7), is~~
 23 ~~amended and the section is amended by adding definitions to~~
 24 ~~read:~~

25 ~~Section 1902-A. Definitions.--The following words, terms and~~
 26 ~~phrases, when used in this article, shall have the meanings~~
 27 ~~ascribed to them in this section, except where the context~~
 28 ~~clearly indicates a different meaning:~~

29 ~~"Business firm." Any business entity authorized to do~~
 30 ~~business in this Commonwealth and subject to taxes imposed by~~

20070S0097B1327 - 35 -

1 ~~Article III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X or~~

2 ~~XV of this act. The term shall include a shareholder of a~~
 3 ~~Pennsylvania S corporation who is liable for taxes imposed under~~
 4 ~~Article III.~~

5 * * *

6 ~~"Pass-through entity." A partnership as defined under~~
 7 ~~section 301(n.0) or a Pennsylvania S corporation as defined~~
 8 ~~under section 301(n.1).~~

9 * * *

10 ~~"Small business." A pass-through entity.~~
 11 ~~Section 6. Section 1904 A of the act is amended by adding~~
 12 ~~subsections to read:~~

13 ~~Section 1904 A. Tax Credit.---* * *~~

14 ~~(b.1) The secretary shall take into special consideration,~~
 15 ~~when approving applications for neighborhood assistance tax~~
 16 ~~credits, applications which involve multiple projects in various~~
 17 ~~markets throughout this Commonwealth.~~

18 * * *

19 ~~(d) A taxpayer, upon application to and approval by the~~
 20 ~~Department of Community and Economic Development, may sell or~~
 21 ~~assign, in whole or in part, a neighborhood assistance tax~~
 22 ~~credit granted to the taxpayer under this article if no claim~~
 23 ~~for allowance of the credit is filed within one year from the~~
 24 ~~date the credit is granted by the Department of Revenue under~~
 25 ~~section 1905-A. The Department of Community and Economic~~
 26 ~~Development and the Department of Revenue shall jointly~~
 27 ~~promulgate guidelines for the approval of applications under~~
 28 ~~this subsection.~~

29 ~~(e) The purchaser or assignee of a portion of a neighborhood~~
 30 ~~assistance tax credit under subsection (d) shall immediately~~

20070S0097B1327

- 36 -

1 ~~claim the credit in the taxable year in which the purchase or~~
 2 ~~assignment is made. The purchaser or assignee may not carry~~
 3 ~~over, carry back, obtain a refund of or assign the neighborhood~~
 4 ~~assistance tax credit. The purchaser or assignee shall notify~~
 5 ~~the Department of Revenue of the seller or assignor of the~~
 6 ~~neighborhood assistance tax credit in compliance with procedures~~
 7 ~~specified by the Department of Revenue.~~

8 ~~Section 7. Section 1905 A of the act, amended July 7, 2005~~
 9 ~~(P.L.149, No.40), is amended to read:~~

10 ~~Section 1905 A. Grant of Tax Credit. The Department of~~
 11 ~~Revenue shall grant a tax credit against any tax due under~~
 12 ~~Article III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX, X or~~
 13 ~~XV of this act, or any tax substituted in lieu thereof in an~~
 14 ~~amount which shall not exceed [fifty] sixty per cent of the~~
 15 ~~total amount [invested] contributed during the taxable year by~~
 16 ~~[the business firm or twenty] a business firm or twenty five per~~
 17 ~~cent of qualified investments by a private company in programs~~
 18 ~~approved pursuant to section 1904 A of this act: Provided, That~~
 19 ~~a tax credit of up to [seventy] eighty per cent of the total~~
 20 ~~amount [invested] contributed during the taxable year by a~~
 21 ~~business firm or up to [thirty] thirty five per cent of the~~
 22 ~~amount of qualified investments by a private company may be~~
 23 ~~allowed for investment in programs where activities fall within~~
 24 ~~the scope of special program priorities as defined with the~~
 25 ~~approval of the Governor in regulations promulgated by the~~
 26 ~~secretary[.], and Provided further, That a tax credit of up to~~
 27 ~~eighty per cent of the total amount contributed during the~~
 28 ~~taxable year by a business firm in comprehensive service~~
 29 ~~projects with five-year commitments and up to ninety per cent of~~
 30 ~~the total amount contributed during the taxable year by a~~

20070S0097B1327

- 37 -

1 ~~business firm in comprehensive service projects with six year or~~
 2 ~~longer commitments shall be granted. Such credit shall not~~
 3 ~~exceed [two hundred fifty thousand dollars (\$250,000) annually,~~
 4 ~~except in the case of comprehensive service projects which shall~~
 5 ~~be allowed an additional credit equal to seventy per cent of the~~

6 ~~qualifying investments made in comprehensive service projects;~~
 7 ~~however, such additional credit shall not exceed three hundred~~
 8 ~~fifty thousand dollars (\$350,000) annually.] five hundred~~
 9 ~~thousand dollars (\$500,000) annually for contributions or~~
 10 ~~investments to fewer than four projects or one million two~~
 11 ~~hundred fifty thousand dollars (\$1,250,000) annually for~~
 12 ~~contributions or investments to four or more projects. No tax~~
 13 ~~credit shall be granted to any bank, bank and trust company,~~
 14 ~~insurance company, trust company, national bank, savings~~
 15 ~~association, mutual savings bank or building and loan~~
 16 ~~association for activities that are a part of its normal course~~
 17 ~~of business. Any tax credit not used in the period the~~
 18 ~~contribution or investment was made may be carried over for the~~
 19 ~~next five succeeding calendar or fiscal years until the full~~
 20 ~~credit has been allowed. The total amount of all tax credits~~
 21 ~~allowed pursuant to this act shall not exceed eighteen million~~
 22 ~~dollars (\$18,000,000) in any one fiscal year. Of that amount,~~
 23 ~~two million dollars (\$2,000,000) shall be allocated exclusively~~
 24 ~~for small businesses. However, if the total amounts allocated to~~
 25 ~~either the group of applicants, exclusive of small businesses,~~
 26 ~~or the group of small business applicants is not approved in any~~
 27 ~~fiscal year, the unused portion shall become available for use~~
 28 ~~by the other group of qualifying taxpayers.~~

29 ~~Section 8. The act is amended by adding sections to read:~~
 30 ~~Section 1907 A. Pass Through Entity. (a) If a pass through~~
 20070S0097B1327 - 38 -

1 ~~entity has any unused tax credit under section 1905 A, the~~
 2 ~~entity may elect, in writing, according to the department's~~
 3 ~~procedures, to transfer all or a portion of the credit to~~
 4 ~~shareholders, members or partners in proportion to the share of~~
 5 ~~the entity's distributive income to which the shareholder,~~
 6 ~~member or partner is entitled.~~

7 ~~(b) The credit provided under subsection (a) is in addition~~
 8 ~~to any neighborhood assistance tax credit to which a~~
 9 ~~shareholder, member or partner of a pass through entity is~~
 10 ~~otherwise entitled under this article. However, a pass through~~
 11 ~~entity and a shareholder, member or partner of a pass through~~
 12 ~~entity may not claim a credit under this article for the same~~
 13 ~~qualified neighborhood assistance investment or contribution.~~

14 ~~(c) A shareholder, member or partner of a pass through~~
 15 ~~entity to whom credit is transferred under subsection (a) must~~
 16 ~~immediately claim the credit in the taxable year in which the~~
 17 ~~transfer is made. The shareholder, member or partner may not~~
 18 ~~carry forward, carry back, obtain a refund of or sell or assign~~
 19 ~~the credit.~~

20 ~~Section 3003.19. Powdered Metallurgy Parts. For purposes of~~
 21 ~~defining the phrases "doing business in this Commonwealth,"~~
 22 ~~"carrying on activities in this Commonwealth," "having capital~~
 23 ~~or property employed or used in this Commonwealth" or "owning~~
 24 ~~property in this Commonwealth" in sections 401 and 402 of~~
 25 ~~Article IV and substantially similar phrases in section 601 of~~
 26 ~~Article VI, and for determining activities which are not~~
 27 ~~protected under the act of September 14, 1959 (Public Law 86-~~
 28 ~~272, 15 U.S.C. § 381 et seq.), the following activities shall be~~
 29 ~~excluded:~~

30 ~~(1) Owning or leasing of intangible and tangible property,~~
 20070S0097B1327 - 39 -

1 ~~including dies, molds, tooling and related equipment, by a~~
 2 ~~person who has contracted with an unaffiliated manufacturer of~~
 3 ~~powder metallurgy products for manufacturing, provided that:~~
 4 ~~(i) the property is for use by the powder metallurgy product~~
 5 ~~manufacturer;~~
 6 ~~(ii) the property is located at the Pennsylvania premises of~~
 7 ~~the powder metallurgy product manufacturer; and~~
 8 ~~(iii) the products manufactured using such property are~~
 9 ~~incorporated into products produced outside this Commonwealth by~~

10 ~~the owner or lessor of the property.~~
 11 ~~(2) Visits by a person's employes or agents to the premises~~
 12 ~~in this Commonwealth of an unaffiliated powder metallurgy~~
 13 ~~product manufacturer with whom the person has contracted for~~
 14 ~~manufacturing in connection with the contract.~~

15 ~~(3) Owning of manufactured powder metallurgy products and~~
 16 ~~other items packaged therewith, by a person who has contracted~~
 17 ~~with an unaffiliated powder metallurgy products manufacturer for~~
 18 ~~manufacturing of products, on the premises of the unaffiliated~~
 19 ~~powdered metallurgy products manufacturer prior to delivery of~~
 20 ~~the property.~~

21 ~~Section 9. The amendment of section 701.1 of the act is not~~
 22 ~~intended to reverse or modify the ruling of First Union National~~
 23 ~~Bank v. Commonwealth, 867 A.2d 711 (Pa. Cmwlth. 2005).~~

24 ~~Section 10. The provisions of this act shall apply as~~
 25 ~~follows:~~

26 ~~(1) The amendment of section 247.1 of the act shall~~
 27 ~~apply to amounts deducted as bad debts on Federal income tax~~
 28 ~~returns required to be filed after January 1, 2008.~~

29 ~~(1.1) The amendment of section 601 of the act shall~~
 30 ~~apply to all taxable years beginning after December 31, 2007.~~

20070S0097B1327 - 40 -

1 ~~(2) The addition of Article XVII-D of the act shall~~
 2 ~~apply to:~~

3 ~~(i) qualified film production expenses incurred~~
 4 ~~after December 31, 2006; and~~

5 ~~(ii) taxable years commencing after December 31,~~
 6 ~~2006.~~

7 ~~(3) The addition of section 3003.19 of the act shall~~
 8 ~~apply to:~~

9 ~~(i) taxable years beginning after December 31, 2004;~~
 10 ~~and~~

11 ~~(ii) other taxable years which are not closed on the~~
 12 ~~effective date of the addition of section 3003.19 of the~~
 13 ~~act.~~

14 ~~Section 11. This act shall take effect immediately.~~

15 SECTION 1. THE DEFINITION OF "MANUFACTURE" IN SECTION 201(C) <--
 16 OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX
 17 REFORM CODE OF 1971, AMENDED JULY 12, 2006 (P.L.1137, NO.116),
 18 IS AMENDED TO READ:

19 SECTION 201. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
 20 PHRASES WHEN USED IN THIS ARTICLE II SHALL HAVE THE MEANING
 21 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
 22 CLEARLY INDICATES A DIFFERENT MEANING:

23 * * *

24 (C) "MANUFACTURE." THE PERFORMANCE OF MANUFACTURING,
 25 FABRICATING, COMPOUNDING, PROCESSING OR OTHER OPERATIONS,
 26 ENGAGED IN AS A BUSINESS, WHICH PLACE ANY TANGIBLE PERSONAL
 27 PROPERTY IN A FORM, COMPOSITION OR CHARACTER DIFFERENT FROM THAT
 28 IN WHICH IT IS ACQUIRED WHETHER FOR SALE OR USE BY THE
 29 MANUFACTURER, AND SHALL INCLUDE, BUT NOT BE LIMITED TO--

30 (1) EVERY OPERATION COMMENCING WITH THE FIRST PRODUCTION
 20070S0097B1327 - 41 -

1 STAGE AND ENDING WITH THE COMPLETION OF TANGIBLE PERSONAL
 2 PROPERTY HAVING THE PHYSICAL QUALITIES (INCLUDING PACKAGING, IF
 3 ANY, PASSING TO THE ULTIMATE CONSUMER) WHICH IT HAS WHEN
 4 TRANSFERRED BY THE MANUFACTURER TO ANOTHER. FOR PURPOSES OF THIS
 5 CLAUSE, "OPERATION" SHALL INCLUDE CLEAN ROOMS AND THEIR
 6 COMPONENT SYSTEMS, INCLUDING: ENVIRONMENTAL CONTROL SYSTEMS,
 7 ANTISTATIC VERTICAL WALLS AND MANUFACTURING PLATFORMS AND
 8 FLOORS, WHICH ARE INDEPENDENT OF THE REAL ESTATE; PROCESS PIPING
 9 SYSTEMS; SPECIALIZED LIGHTING SYSTEMS; DEIONIZED WATER SYSTEMS;
 10 PROCESS VACUUM AND COMPRESSED AIR SYSTEMS; PROCESS AND SPECIALTY
 11 GASES; AND ALARM OR WARNING DEVICES SPECIFICALLY DESIGNED TO
 12 WARN OF THREATS TO THE INTEGRITY OF THE PRODUCT OR PEOPLE. FOR
 13 PURPOSES OF THIS CLAUSE, A "CLEAN ROOM" IS A LOCATION WITH A

14 SELF-CONTAINED, SEALED ENVIRONMENT WITH A CONTROLLED, CLOSED AIR
15 SYSTEM INDEPENDENT FROM THE FACILITY'S GENERAL ENVIRONMENTAL
16 CONTROL SYSTEM.

17 (2) THE PUBLISHING OF BOOKS, NEWSPAPERS, MAGAZINES AND OTHER
18 PERIODICALS AND PRINTING.

19 (3) REFINING, BLASTING, EXPLORING, MINING AND QUARRYING FOR,
20 OR OTHERWISE EXTRACTING FROM THE EARTH OR FROM WASTE OR STOCK
21 PILES OR FROM PITS OR BANKS ANY NATURAL RESOURCES, MINERALS AND
22 MINERAL AGGREGATES INCLUDING BLAST FURNACE SLAG.

23 (4) BUILDING, REBUILDING, REPAIRING AND MAKING ADDITIONS TO,
24 OR REPLACEMENTS IN OR UPON VESSELS DESIGNED FOR COMMERCIAL USE
25 OF REGISTERED TONNAGE OF FIFTY TONS OR MORE WHEN PRODUCED UPON
26 SPECIAL ORDER OF THE PURCHASER, OR WHEN REBUILT, REPAIRED OR
27 ENLARGED, OR WHEN REPLACEMENTS ARE MADE UPON ORDER OF, OR FOR
28 THE ACCOUNT OF THE OWNER.

29 (5) RESEARCH HAVING AS ITS OBJECTIVE THE PRODUCTION OF A NEW
30 OR AN IMPROVED (I) PRODUCT OR UTILITY SERVICE, OR (II) METHOD OF
20070S0097B1327 - 42 -

1 PRODUCING A PRODUCT OR UTILITY SERVICE, BUT IN EITHER CASE NOT
2 INCLUDING MARKET RESEARCH OR RESEARCH HAVING AS ITS OBJECTIVE
3 THE IMPROVEMENT OF ADMINISTRATIVE EFFICIENCY.

4 (6) REMANUFACTURE FOR WHOLESALE DISTRIBUTION BY A
5 REMANUFACTURER OF MOTOR VEHICLE PARTS FROM USED PARTS ACQUIRED
6 IN BULK BY THE REMANUFACTURER USING AN ASSEMBLY LINE PROCESS
7 WHICH INVOLVES THE COMPLETE DISASSEMBLY OF SUCH PARTS AND
8 INTEGRATION OF THE COMPONENTS OF SUCH PARTS WITH OTHER USED OR
9 NEW COMPONENTS OF PARTS, INCLUDING THE SALVAGING, RECYCLING OR
10 RECLAIMING OF USED PARTS BY THE REMANUFACTURER.

11 (7) REMANUFACTURE OR RETROFIT BY A MANUFACTURER OR
12 REMANUFACTURER OF AIRCRAFT, ARMORED VEHICLES, OTHER DEFENSE-
13 RELATED VEHICLES HAVING A FINISHED VALUE OF AT LEAST FIFTY
14 THOUSAND DOLLARS (\$50,000). REMANUFACTURE OR RETROFIT INVOLVES
15 THE DISASSEMBLY OF SUCH AIRCRAFT, VEHICLES, PARTS OR COMPONENTS,
16 INCLUDING ELECTRIC OR ELECTRONIC COMPONENTS, THE INTEGRATION OF
17 THOSE PARTS AND COMPONENTS WITH OTHER USED OR NEW PARTS OR
18 COMPONENTS, INCLUDING THE SALVAGING, RECYCLING OR RECLAIMING OF
19 THE USED PARTS OR COMPONENTS AND THE ASSEMBLY OF THE NEW OR USED
20 AIRCRAFT, VEHICLES, PARTS OR COMPONENTS. FOR PURPOSES OF THIS
21 CLAUSE, THE FOLLOWING TERMS OR PHRASES HAVE THE FOLLOWING
22 MEANINGS:

23 (I) "AIRCRAFT" MEANS FIXED-WING AIRCRAFT, HELICOPTERS,
24 POWERED AIRCRAFT, TILT-ROTOR OR TILT-WING AIRCRAFT, UNMANNED
25 AIRCRAFT AND GLIDERS;

26 (II) "ARMORED VEHICLES" MEANS TANKS, ARMED PERSONNEL
27 CARRIERS AND ALL OTHER ARMED TRACK OR SEMITRACK VEHICLES; OR

28 (III) "OTHER DEFENSE-RELATED VEHICLES" MEANS TRUCKS, TRUCK-
29 TRACTORS, TRAILERS, JEEPS AND OTHER UTILITY VEHICLES, INCLUDING
30 ANY UNMANNED VEHICLES.

20070S0097B1327

- 43 -

1 (8) REMANUFACTURE BY A REMANUFACTURER OF LOCOMOTIVE PARTS
2 FROM USED PARTS ACQUIRED IN BULK BY THE REMANUFACTURER USING AN
3 ASSEMBLY LINE PROCESS WHICH INVOLVES THE COMPLETE DISASSEMBLY OF
4 SUCH PARTS AND INTEGRATION OF THE COMPONENTS OF SUCH PARTS WITH
5 OTHER USED OR NEW COMPONENTS OF PARTS, INCLUDING THE SALVAGING,
6 RECYCLING OR RECLAIMING OF USED PARTS BY THE REMANUFACTURER.

7 THE TERM "MANUFACTURE" SHALL NOT INCLUDE CONSTRUCTING,
8 ALTERING, SERVICING, REPAIRING OR IMPROVING REAL ESTATE OR
9 REPAIRING, SERVICING OR INSTALLING TANGIBLE PERSONAL PROPERTY,
10 NOR THE PRODUCING OF A COMMERCIAL MOTION PICTURE, NOR THE
11 COOKING, FREEZING OR BAKING OF FRUITS, VEGETABLES, MUSHROOMS,
12 FISH, SEAFOOD, MEATS, POULTRY OR BAKERY PRODUCTS.

13 * * *

14 SECTION 1.1. SECTION 204(54) OF THE ACT, ADDED MAY 7, 1997
15 (P.L.85, NO.7), IS AMENDED TO READ:

16 SECTION 204. EXCLUSIONS FROM TAX.--THE TAX IMPOSED BY
17 SECTION 202 SHALL NOT BE IMPOSED UPON ANY OF THE FOLLOWING:

18 * * *
 19 [(54) THE SALE AT RETAIL TO OR USE BY A PRODUCER OF
 20 COMMERCIAL MOTION PICTURES OF ANY TANGIBLE PERSONAL PROPERTY
 21 DIRECTLY USED IN THE PRODUCTION OF A FEATURE-LENGTH COMMERCIAL
 22 MOTION PICTURE DISTRIBUTED TO A NATIONAL AUDIENCE: PROVIDED,
 23 HOWEVER, THAT THE PRODUCTION OF ANY MOTION PICTURE FOR WHICH THE
 24 PROPERTY WILL BE USED DOES NOT VIOLATE ANY FEDERAL OR STATE LAW;
 25 AND PROVIDED FURTHER THAT THE PURCHASER SHALL FURNISH TO THE
 26 VENDOR A CERTIFICATE SUBSTANTIALLY IN THE FORM AS THE DEPARTMENT
 27 OF COMMUNITY AND ECONOMIC DEVELOPMENT MAY, BY REGULATION,
 28 PRESCRIBE, STATING THAT THE SALE IS EXEMPT FROM TAX PURSUANT TO
 29 THIS CLAUSE.]

30 * * *

20070S0097B1327

- 44 -

1 SECTION 1.2. SECTION 230 OF THE ACT, AMENDED OCTOBER 18,
 2 2006 (P.L.1149, NO.119), IS AMENDED TO READ:
 3 SECTION 230. ASSESSMENT.--(A) THE DEPARTMENT IS AUTHORIZED
 4 AND REQUIRED TO MAKE THE INQUIRIES, DETERMINATIONS AND
 5 ASSESSMENTS OF THE TAX (INCLUDING INTEREST, ADDITIONS AND
 6 PENALTIES) IMPOSED BY THIS ARTICLE. A NOTICE OF ASSESSMENT AND
 7 DEMAND FOR PAYMENT SHALL BE MAILED [BY CERTIFIED MAIL] TO THE
 8 TAXPAYER. THE NOTICE SHALL SET FORTH THE BASIS OF THE
 9 ASSESSMENT.

10 (B) THE NOTICE REQUIRED BY SUBSECTION (A) SHALL BE MAILED BY
 11 CERTIFIED MAIL IF THE ASSESSMENT IS FOR \$300 OR MORE.

12 SECTION 2. SECTION 247.1 OF THE ACT, AMENDED JUNE 22, 2001
 13 (P.L.353, NO.23), AND OCTOBER 18, 2006 (P.L.1149, NO.119), IS
 14 AMENDED TO READ:

15 SECTION 247.1. REFUND OF SALES TAX ATTRIBUTED TO BAD DEBT.--
 16 (A) A VENDOR MAY FILE A PETITION FOR REFUND OF SALES TAX PAID
 17 TO THE DEPARTMENT THAT IS ATTRIBUTED TO A BAD DEBT IF ALL OF THE
 18 FOLLOWING APPLY:

19 (1) THE PURCHASER FAILS TO PAY [THE VENDOR] THE TOTAL
 20 PURCHASE PRICE.

21 (2) THE PURCHASE PRICE IS WRITTEN OFF, EITHER IN WHOLE OR IN
 22 PART, AS A BAD DEBT ON THE [VENDOR'S] BOOKS AND RECORDS OF THE
 23 VENDOR OR AN AFFILIATE OF THE VENDOR.

24 (3) THE [BAD] DEBT HAS BEEN DEDUCTED FOR FEDERAL INCOME TAX
 25 PURPOSES UNDER SECTION 166 OF THE INTERNAL REVENUE CODE OF 1986
 26 (PUBLIC LAW 99-514, 26 U.S.C. § 166).
 27 [THE PETITION SHALL BE FILED WITH THE DEPARTMENT UNDER ARTICLE
 28 XXVII WITHIN THE TIME LIMITATIONS PRESCRIBED BY SECTION 3003.1
 29 OF THIS ACT.]

30 (A.1) A PETITION FOR REFUND WHICH IS AUTHORIZED BY THIS

20070S0097B1327

- 45 -

1 SECTION MUST BE FILED WITH THE DEPARTMENT WITHIN THE TIME
 2 LIMITATIONS PRESCRIBED BY SECTION 3003.1(A).

3 (A.2) IN THE CASE OF PRIVATE LABEL CREDIT CARD ACCOUNTS NOT
 4 QUALIFYING UNDER SUBSECTION (A), A VENDOR OR LENDER THAT MAKES
 5 AN ELECTION PURSUANT TO SUBSECTION (A.3) SHALL BE ENTITLED TO
 6 FILE A PETITION FOR REFUND OF SALES TAX THAT THE VENDOR HAS
 7 PREVIOUSLY REPORTED AND PAID TO THE DEPARTMENT IF ALL OF THE
 8 FOLLOWING CONDITIONS ARE MET:

9 (1) NO REFUND WAS PREVIOUSLY ALLOWED WITH RESPECT TO THE
 10 PORTION OF THE ACCOUNT WRITTEN OFF AS A BAD DEBT.

11 (2) THE ACCOUNT HAS BEEN FOUND WORTHLESS AND WRITTEN OFF,
 12 EITHER IN WHOLE OR IN PART, AS BAD DEBT ON THE BOOKS AND RECORDS
 13 OF THE LENDER OR AN AFFILIATE OF THE LENDER.

14 (3) THE ACCOUNT HAS BEEN DEDUCTED FOR FEDERAL INCOME TAX
 15 PURPOSES UNDER SECTION 166 OF THE INTERNAL REVENUE CODE OF 1986
 16 (PUBLIC LAW 99-514, 26 U.S.C. § 166) BY THE LENDER OR AN
 17 AFFILIATE OF THE LENDER.

18 (A.3) IN ORDER TO BE ELIGIBLE FOR A REFUND UNDER SUBSECTION
 19 (A.2), THE LENDER AND THE VENDOR MUST EXECUTE AND FILE WITH THE
 20 DEPARTMENT A JOINT ELECTION, SIGNED BY BOTH PARTIES, DESIGNATING
 21 WHICH PARTY IS ENTITLED TO CLAIM THE REFUND. THIS ELECTION MAY

22 NOT BE REVOKED UNLESS A WRITTEN NOTICE IS SIGNED BY THE PARTY
 23 THAT SIGNED THE ELECTION BEING REVOKED AND IS FILED WITH THE
 24 DEPARTMENT.

25 (B) THE REFUND AUTHORIZED BY THIS SECTION SHALL BE LIMITED
 26 TO THE SALES TAX PAID TO THE DEPARTMENT THAT IS ATTRIBUTED TO
 27 THE BAD DEBT, LESS ANY DISCOUNT UNDER SECTION 227 OF THIS ACT.
 28 PARTIAL PAYMENTS BY THE PURCHASER [TO THE VENDOR] SHALL BE
 29 PRORATED BETWEEN THE ORIGINAL PURCHASE PRICE AND THE SALES TAX
 30 DUE ON THE SALE. PAYMENTS MADE [TO A VENDOR] ON ANY TRANSACTION
 20070S0097B1327 - 46 -

1 WHICH INCLUDES BOTH TAXABLE AND NONTAXABLE COMPONENTS SHALL BE
 2 ALLOCATED PROPORTIONALLY BETWEEN THE TAXABLE AND NONTAXABLE
 3 COMPONENTS.

4 (C) A VENDOR OR A LENDER MAY ASSIGN ITS RIGHT TO PETITION
 5 AND RECEIVE A REFUND OF SALES TAX ATTRIBUTED TO A BAD DEBT TO AN
 6 [AFFILIATED ENTITY. A VENDOR MAY NOT ASSIGN ITS RIGHT TO
 7 PETITION AND RECEIVE A REFUND OF SALES TAX ATTRIBUTED TO A BAD
 8 DEBT TO ANY OTHER PERSON.] AFFILIATE.

9 (D) NO REFUND SHALL BE GRANTED UNDER THIS SECTION FOR ANY OF
 10 THE FOLLOWING:

11 (I) INTEREST.

12 (II) FINANCE CHARGES.

13 (III) EXPENSES INCURRED IN ATTEMPTING TO COLLECT ANY AMOUNT
 14 RECEIVABLE.

15 (E) [THE DOCUMENTATION, PROCEDURES AND METHODS FOR CLAIMING
 16 AND CALCULATING THE REFUND ALLOWED UNDER THIS SECTION SHALL BE
 17 IN SUCH FORM AS THE DEPARTMENT MAY PRESCRIBE.] DOCUMENTATION
 18 REQUIREMENTS ARE AS FOLLOWS:

19 (1) ANY PERSON CLAIMING A REFUND UNDER THIS SECTION SHALL,
 20 ON REQUEST, MAKE AVAILABLE ADEQUATE BOOKS, RECORDS OR OTHER
 21 DOCUMENTATION SUPPORTING THE CLAIMED REFUND, INCLUDING:

22 (I) DATE OF ORIGINAL SALE AND NAME AND PENNSYLVANIA SALES
 23 TAX LICENSE NUMBER OF THE RETAILER.

24 (II) NAME AND ADDRESS OF PURCHASER.

25 (III) AMOUNT THAT THE PURCHASER PAID OR AGREED TO PAY.

26 (IV) TAXABLE AND NONTAXABLE CHARGES.

27 (V) AMOUNT ON WHICH THE RETAILER REPORTED AND PAID SALES
 28 TAX.

29 (VI) ALL PAYMENTS OR OTHER CREDITS APPLIED TO THE ACCOUNT OF
 30 THE PURCHASER.

20070S0097B1327 - 47 -

1 (VII) EVIDENCE THAT THE UNCOLLECTED AMOUNT HAS BEEN
 2 DESIGNATED AS A BAD DEBT IN THE BOOKS AND RECORDS OF THE VENDOR
 3 OR LENDER, AS APPROPRIATE, AND THAT THE AMOUNT HAS BEEN CLAIMED
 4 AS A BAD DEBT DEDUCTION FOR FEDERAL INCOME TAX PURPOSES.

5 (VIII) THE COUNTY IN WHICH ANY LOCAL SALES TAX WAS INCURRED.

6 (IX) THE UNPAID PORTION OF THE SALES PRICE.

7 (X) A CERTIFICATION, UNDER PENALTY OF PERJURY, THAT NO
 8 PERSON HAS COLLECTED MONEY ON THE BAD DEBT FOR WHICH THE REFUND
 9 IS CLAIMED.

10 (XI) ANY OTHER INFORMATION REQUIRED BY THE DEPARTMENT.

11 (2) A PERSON CLAIMING A REFUND UNDER THIS SECTION MAY
 12 PROVIDE ALTERNATIVE FORMS OF DOCUMENTATION ACCEPTABLE TO THE
 13 DEPARTMENT IF APPROPRIATE IN LIGHT OF THE VOLUME AND CHARACTER
 14 OF UNCOLLECTIBLE ACCOUNTS. THIS INCLUDES THE FOLLOWING:

15 (I) IF A VENDOR REMITS SALES OR USE TAX TO THE COMMONWEALTH
 16 AND TO ANOTHER STATE, THE ENTITY CLAIMING A REFUND UNDER THIS
 17 SECTION MAY USE AN APPORTIONMENT METHOD TO SUBSTANTIATE THE
 18 AMOUNT OF PENNSYLVANIA TAX INCLUDED IN THE BAD DEBTS TO WHICH
 19 THE REFUND APPLIES.

20 (II) THE APPORTIONMENT METHOD MUST USE THE VENDOR'S
 21 PENNSYLVANIA AND NON-PENNSYLVANIA SALES, THE VENDOR'S TAXABLE
 22 AND NONTAXABLE SALES AND THE AMOUNT OF TAX THE VENDOR REMITTED
 23 TO PENNSYLVANIA.

24 (F) THE FOLLOWING APPLY:

25 (1) IF THE PURCHASE PRICE THAT IS ATTRIBUTED TO A PRIOR BAD

26 DEBT REFUND IS THEREAFTER COLLECTED, IN WHOLE OR IN PART[,] BY
 27 THE VENDOR OR [AFFILIATED] LENDER, OR AN AFFILIATE OF THE VENDOR
 28 OR LENDER, THE ENTITY CLAIMING THE REFUND SHALL REMIT THE
 29 PROPORTIONAL TAX TO THE DEPARTMENT WITH THE FIRST RETURN FILED
 30 AFTER THE COLLECTION. IF THE ENTITY IS NOT REQUIRED TO FILE
 20070S0097B1327 - 48 -

1 PERIODIC RETURNS, THE ENTITY SHALL REMIT THE PROPORTIONAL TAX TO
 2 THE DEPARTMENT WITH ANOTHER RETURN PURSUANT TO SECTION 217(C).

3 (2) ANY CONSIDERATION RECEIVED FOR THE ASSIGNMENT, SALE OR
 4 OTHER TRANSFER OF A BAD DEBT WITH RESPECT TO WHICH A REFUND HAS
 5 BEEN GRANTED SHALL BE DEEMED TO BE A COLLECTION OF A PRIOR BAD
 6 DEBT. THIS PARAGRAPH SHALL NOT APPLY TO A TRANSFER TO AN ENTITY
 7 THAT IS PART OF THE SAME AFFILIATED GROUP, AS DEFINED BY SECTION
 8 1504 OF THE INTERNAL REVENUE CODE OF 1986 (PUBLIC LAW 99-514, 26
 9 U.S.C. § 1504).

10 (3) A PERSON THAT COLLECTS, IN WHOLE OR IN PART, THE
 11 PURCHASE PRICE ATTRIBUTED TO A PRIOR BAD DEBT REFUND IS REQUIRED
 12 TO MAINTAIN ADEQUATE BOOKS, RECORDS OR OTHER DOCUMENTATION TO
 13 ALLOW THE DEPARTMENT TO DETERMINE WHETHER THE PURCHASE PRICE
 14 ATTRIBUTED TO A PRIOR BAD DEBT REFUND HAS BEEN COLLECTED.
 15 INFORMATION UNDER THIS PARAGRAPH INCLUDES THE PERTINENT FACTS
 16 REQUIRED BY SUBSECTION (E).

17 (4) IF IT IS DETERMINED BY THE DEPARTMENT THAT A PRIOR BAD
 18 DEBT HAS BEEN COLLECTED, IN WHOLE OR IN PART, AND THE
 19 PROPORTIONAL TAX HAS NOT BEEN PROPERLY REPORTED AND PAID TO THE
 20 DEPARTMENT, THE PERSON THAT CLAIMED THE REFUND ON THE
 21 TRANSACTION SHALL REPORT AND PAY THE PROPORTIONAL TAX TO THE
 22 DEPARTMENT PLUS APPLICABLE INTEREST AND PENALTY UNDER THIS
 23 ARTICLE.

24 (G) NOTWITHSTANDING THE PROVISIONS OF SECTION 806.1 OF THE
 25 ACT OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS "THE FISCAL
 26 CODE," NO INTEREST SHALL BE PAID BY THE COMMONWEALTH ON REFUNDS
 27 OF SALES TAX ATTRIBUTED TO BAD DEBT UNDER THIS SECTION.

28 (H) NO REFUND OR CREDIT OF SALES TAX SHALL BE MADE FOR ANY
 29 UNCOLLECTED PURCHASE PRICE OR BAD DEBT EXCEPT AS AUTHORIZED BY
 30 THIS SECTION. NO DEDUCTION OR CREDIT FOR BAD DEBT MAY BE TAKEN
 20070S0097B1327 - 49 -

1 ON ANY RETURN FILED WITH THE DEPARTMENT. THIS SECTION SHALL
 2 PROVIDE THE EXCLUSIVE PROCEDURE FOR CLAIMING A REFUND OR CREDIT
 3 OF SALES TAX ATTRIBUTED TO UNCOLLECTED PURCHASE PRICE OR BAD
 4 DEBT.

5 (I) [FOR PURPOSES OF THIS SECTION, THE TERM "AFFILIATED
 6 ENTITY" SHALL MEAN ANY CORPORATION THAT IS PART OF THE SAME
 7 AFFILIATED GROUP AS THE VENDOR AS DEFINED BY] AS USED IN THIS
 8 SECTION, THE FOLLOWING WORDS AND PHRASES SHALL HAVE THE MEANINGS
 9 GIVEN TO THEM IN THIS SUBSECTION:

10 (1) "AFFILIATE." A PERSON THAT IS:

11 (I) AN AFFILIATED ENTITY, UNDER SECTION 1504[(A)(1)] OF THE
 12 INTERNAL REVENUE CODE OF 1986[.], OF A VENDOR; OR

13 (II) A PERSON DESCRIBED IN PARAGRAPH (2)(I) OR (II) THAT
 14 WOULD BE AN AFFILIATED ENTITY, UNDER SECTION SECTION 1504 OF THE
 15 INTERNAL REVENUE CODE OF 1986, OF A VENDOR BUT FOR THE FACT THE
 16 PERSON IS NOT A CORPORATION, AN ASSIGNEE OR ANOTHER TRANSFEREE
 17 OF A PERSON DESCRIBED IN PARAGRAPH (2)(I) OR (II).

18 (2) "LENDER." ANY OF THE FOLLOWING:

19 (I) A PERSON THAT OWNS OR HAS OWNED A PRIVATE LABEL CREDIT
 20 CARD ACCOUNT PURCHASED DIRECTLY FROM A VENDOR THAT REPORTED THE
 21 TAX UNDER THIS ARTICLE.

22 (II) A PERSON THAT OWNS OR HAS OWNED A PRIVATE LABEL CREDIT
 23 CARD ACCOUNT PURSUANT TO A CONTRACT DIRECTLY WITH THE VENDOR
 24 THAT REPORTED THE TAX UNDER THIS ARTICLE.

25 (III) A PERSON THAT IS:

26 (A) AN AFFILIATE OF A PERSON DESCRIBED IN SUBPARAGRAPH (I)
 27 OR (II); OR

28 (B) AN ASSIGNEE OR OTHER TRANSFEREE OF A PERSON DESCRIBED IN
 29 SUBPARAGRAPH (I) OR (II).

30 (3) "PRIVATE LABEL CREDIT CARD." ANY CHARGE CARD, CREDIT
20070S0097B1327 - 50 -

1 CARD OR OTHER INSTRUMENT SERVING SIMILAR PURPOSE WHICH CARRIES,
2 REFERS TO OR IS BRANDED WITH THE NAME OR LOGO OF A VENDOR AND
3 WHICH CAN BE USED FOR PURCHASES FROM THE VENDOR. THE TERM DOES
4 NOT INCLUDE A CARD OR INSTRUMENT WHICH MAY ALSO BE USED TO MAKE
5 PURCHASES FROM PERSONS OTHER THAN THE VENDOR WHOSE NAME OR LOGO
6 APPEARS ON THE CARD OR INSTRUMENT OR THAT VENDOR'S AFFILIATES.
7 NOTHING IN THIS PARAGRAPH AUTHORIZES A REFUND WITH RESPECT TO
8 BAD DEBTS ATTRIBUTABLE TO SALES BY UNRELATED PERSONS REFERRED TO
9 IN THIS PARAGRAPH.

10 SECTION 3. SECTION 315.9 OF THE ACT, ADDED JULY 7, 2005
11 (P.L.149, NO.40), IS AMENDED TO READ:

12 SECTION 315.9. OPERATIONAL PROVISIONS.--(A) EXCEPT FOR THE
13 CHECKOFF ESTABLISHED UNDER SECTIONS 315.2, 315.6 AND 315.7 AND
14 EXCEPT AS OTHERWISE PROVIDED UNDER SUBSECTION (B), THE CHECKOFFS
15 ESTABLISHED UNDER THIS PART SHALL APPLY THROUGH TAXABLE YEARS
16 ENDING DECEMBER 31, 2007.

17 (B) ANY CHECKOFF ESTABLISHED UNDER THIS PART AND APPLICABLE
18 FOR THE FIRST TIME IN A TAXABLE YEAR BEGINNING AFTER DECEMBER
19 31, 2003, SHALL EXPIRE FOUR YEARS AFTER THE BEGINNING OF SUCH
20 FIRST TAXABLE YEAR.

21 (C) SECTIONS [315.2,] 315.3 AND 315.4 SHALL EXPIRE JANUARY
22 1, [2008] 2010.

23 SECTION 4. SECTIONS 338 AND 407.1 OF THE ACT, AMENDED OR
24 ADDED OCTOBER 18, 2006 (P.L.1149, NO.119), ARE AMENDED TO READ:

25 SECTION 338. ASSESSMENT.--(A) THE DEPARTMENT IS AUTHORIZED
26 AND REQUIRED TO MAKE THE INQUIRIES, DETERMINATIONS AND
27 ASSESSMENTS OF ALL TAXES IMPOSED BY THIS ARTICLE.

28 (B) IF THE MODE OR TIME FOR THE ASSESSMENT OF ANY TAX IS NOT
29 OTHERWISE PROVIDED FOR, THE DEPARTMENT MAY ESTABLISH THE SAME BY
30 REGULATIONS.

20070S0097B1327 - 51 -

1 (C) IN THE EVENT THAT ANY TAXPAYER FAILS TO FILE A RETURN
2 REQUIRED BY THIS ARTICLE, THE DEPARTMENT MAY MAKE AN ESTIMATED
3 ASSESSMENT (BASED ON INFORMATION AVAILABLE) OF THE PROPER AMOUNT
4 OF TAX OWING BY THE TAXPAYER. A NOTICE OF ASSESSMENT IN THE
5 ESTIMATED AMOUNT SHALL BE SENT TO THE TAXPAYER. THE TAX SHALL BE
6 PAID WITHIN NINETY DAYS AFTER A NOTICE OF SUCH ESTIMATED
7 ASSESSMENT HAS BEEN MAILED TO THE TAXPAYER, UNLESS WITHIN SUCH
8 PERIOD THE TAXPAYER HAS FILED A PETITION FOR REASSESSMENT IN THE
9 MANNER PRESCRIBED BY ARTICLE XXVII.

10 (D) A NOTICE OF ASSESSMENT ISSUED BY THE DEPARTMENT PURSUANT
11 TO THIS ARTICLE SHALL BE MAILED [BY CERTIFIED MAIL] TO THE
12 TAXPAYER. THE NOTICE SHALL SET FORTH THE BASIS OF THE
13 ASSESSMENT.

14 (E) THE NOTICE REQUIRED BY SUBSECTION (D) SHALL BE MAILED BY
15 CERTIFIED MAIL IF THE ASSESSMENT IS FOR \$300 OR MORE.

16 SECTION 407.1. ASSESSMENTS.--(A) IF THE DEPARTMENT
17 DETERMINES THAT UNPAID OR UNREPORTED TAX IS DUE THE
18 COMMONWEALTH, THE DEPARTMENT SHALL ISSUE AN ASSESSMENT UNDER
19 THIS SECTION AND SECTIONS 407.2, 407.3, 407.4 AND 407.5. SUCH AN
20 ASSESSMENT IS NOT SUBJECT TO THE SETTLEMENT PROCEDURE IN THE ACT
21 OF APRIL 9, 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

22 (B) A NOTICE OF ASSESSMENT AND DEMAND FOR PAYMENT SHALL BE
23 MAILED [BY CERTIFIED MAIL] TO THE TAXPAYER. THE NOTICE SHALL SET
24 FORTH THE BASIS OF THE ASSESSMENT. THE ASSESSMENT SHALL BE PAID
25 TO THE DEPARTMENT UPON RECEIPT OF THE NOTICE OF ASSESSMENT.
26 PAYMENT OF THE ASSESSMENT SHALL BE WITHOUT PREJUDICE TO THE
27 RIGHT OF THE TAXPAYER TO FILE A PETITION FOR REASSESSMENT IN THE
28 MANNER PRESCRIBED BY ARTICLE XXVII.

29 (C) IN THE EVENT THAT A TAXPAYER FAILS TO FILE A REPORT FOR
30 A TAX GOVERNED BY THIS ARTICLE, THE DEPARTMENT MAY ISSUE AN

20070S0097B1327 - 52 -

1 ESTIMATED ASSESSMENT BASED UPON THE RECORDS AND INFORMATION
2 AVAILABLE OR THAT MAY COME INTO THE DEPARTMENT'S POSSESSION. IF

3 PRIOR TO THE FILING OF A REPORT THE DEPARTMENT ESTIMATES THAT
4 ADDITIONAL UNPAID OR UNREPORTED TAX IS DUE THE COMMONWEALTH, THE
5 DEPARTMENT MAY ISSUE ADDITIONAL ESTIMATED ASSESSMENTS.

6 (D) A NOTICE OF ESTIMATED ASSESSMENT AND DEMAND FOR PAYMENT
7 SHALL BE MAILED [BY CERTIFIED MAIL] TO THE TAXPAYER. THE
8 ASSESSMENT SHALL BE PAID TO THE DEPARTMENT UPON RECEIPT OF THE
9 NOTICE OF ASSESSMENT. PAYMENT OF THE ESTIMATED ASSESSMENT DOES
10 NOT ELIMINATE THE TAXPAYER'S OBLIGATION TO FILE A REPORT.

11 (E) A TAXPAYER SHALL HAVE NO RIGHT TO PETITION FOR
12 REASSESSMENT, PETITION FOR REFUND OR OTHERWISE APPEAL A NOTICE
13 OF ESTIMATED ASSESSMENT EXCEPT AS PROVIDED IN SUBSECTION (F).

14 (F) THE DEPARTMENT SHALL REMOVE AN ESTIMATED ASSESSMENT
15 WITHIN NINETY DAYS OF THE FILING OF A REPORT AND OTHER
16 INFORMATION REQUIRED TO DETERMINE THE TAX DUE THE COMMONWEALTH,
17 WHEREUPON THE DEPARTMENT MAY ISSUE AN ASSESSMENT AS PROVIDED IN
18 SUBSECTION (A). ANY TAX DUE THE COMMONWEALTH THAT IS INCLUDED IN
19 AN ESTIMATED ASSESSMENT SHALL RETAIN ITS LIEN PRIORITY AS OF THE
20 DATE OF THE ESTIMATED ASSESSMENT TO THE EXTENT SUCH AMOUNT IS
21 INCLUDED WITH AN ASSESSMENT ISSUED UPON THE REVIEW OF THE FILED
22 REPORT.

23 (G) THE NOTICE REQUIRED BY SUBSECTIONS (B) AND (D) SHALL BE
24 MAILED BY CERTIFIED MAIL IF THE ASSESSMENT IS FOR \$300 OR MORE.

25 SECTION 5. SECTION 701.1 OF THE ACT, AMENDED JUNE 16, 1994
26 (P.L.279, NO.48), IS AMENDED TO READ:

27 SECTION 701.1. ASCERTAINMENT OF TAXABLE AMOUNT; EXCLUSION OF
28 UNITED STATES OBLIGATIONS.--(A) THE TAXABLE AMOUNT OF SHARES
29 SHALL BE ASCERTAINED AND FIXED BY ADDING TOGETHER THE VALUE
30 DETERMINED UNDER SUBSECTION (B) FOR THE CURRENT AND PRECEDING

20070S0097B1327

- 53 -

1 FIVE YEARS AND DIVIDING THE RESULTING SUM BY SIX. IF AN
2 INSTITUTION HAS NOT BEEN IN EXISTENCE FOR A PERIOD OF SIX YEARS,
3 THE TAXABLE AMOUNT OF SHARES SHALL BE ASCERTAINED AND FIXED BY
4 ADDING TOGETHER THE VALUES DETERMINED UNDER SUBSECTION (B) FOR
5 THE NUMBER OF YEARS THE INSTITUTION HAS BEEN IN EXISTENCE AND
6 DIVIDING THE RESULTING SUM BY SUCH NUMBER OF YEARS.

7 (B) THE VALUE FOR EACH YEAR REQUIRED BY SUBSECTION (A) SHALL
8 BE DETERMINED BY [ADDING TOGETHER] DEDUCTING FROM THE BOOK VALUE
9 OF [CAPITAL STOCK PAID IN, THE BOOK VALUE OF THE SURPLUS AND THE
10 BOOK VALUE OF UNDIVIDED PROFITS WITH A DEDUCTION FROM THE TOTAL
11 THEREOF OF] TOTAL EQUITY CAPITAL AN AMOUNT EQUAL TO THE SAME
12 PERCENTAGE OF [SUCH TOTAL] TOTAL EQUITY CAPITAL AS THE BOOK
13 VALUE OF OBLIGATIONS OF THE UNITED STATES BEARS TO THE BOOK
14 VALUE OF THE TOTAL ASSETS[.], EXCEPT THAT FOR THE VALUE OF
15 SHARES REPORTED ON TAX RETURNS DUE ON MARCH 15, 2008, AND
16 THEREAFTER, ANY GOODWILL RECORDED AS A RESULT OF THE USE OF
17 PURCHASE ACCOUNTING FOR AN ACQUISITION OR COMBINATION AS
18 DESCRIBED IN THIS SECTION AND OCCURRING AFTER JUNE 30, 2001, MAY
19 BE SUBTRACTED FROM THE BOOK VALUE OF TOTAL EQUITY CAPITAL AND
20 DISREGARDED IN DETERMINING THE DEDUCTION PROVIDED FOR
21 OBLIGATIONS OF THE UNITED STATES FOR THE SIX-YEAR PERIOD
22 DESCRIBED IN SUBSECTION (A). FOR PURPOSES OF THIS SUBSECTION,
23 BOOK VALUES AND DEDUCTIONS FOR UNITED STATES OBLIGATIONS FOR
24 EACH YEAR SHALL BE DETERMINED BY THE REPORTS OF CONDITION FOR
25 EACH CALENDAR QUARTER OF THE PRECEDING CALENDAR YEAR IN
26 ACCORDANCE WITH THE REQUIREMENTS OF THE BOARD OF GOVERNORS OF
27 THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE
28 FEDERAL DEPOSIT INSURANCE CORPORATION OR OTHER APPLICABLE
29 REGULATORY AUTHORITY; AND BOOK VALUES SHALL BE AVERAGED AS
30 CALCULATED BY AVERAGING BOOK VALUES AS DETERMINED BY SUCH

20070S0097B1327

- 54 -

1 REPORTS OF CONDITION. FOR PURPOSES OF THIS ARTICLE, UNITED
2 STATES OBLIGATIONS SHALL BE OBLIGATIONS COMING WITHIN THE SCOPE
3 OF 31 U.S.C. § 3124. FOR ANY YEAR IN WHICH AN INSTITUTION DOES
4 NOT FILE FOUR QUARTERLY REPORTS OF CONDITION, BOOK VALUES AND
5 DEDUCTIONS FOR UNITED STATES OBLIGATIONS SHALL BE DETERMINED BY
6 ADDING TOGETHER THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES

7 OBLIGATIONS FROM EACH QUARTERLY REPORTS OF CONDITION FILED FOR
 8 SUCH YEAR AND DIVIDING THE RESULTING SUMS BY THE NUMBER OF SUCH
 9 REPORTS OF CONDITION. IN THE CASE OF INSTITUTIONS WHICH DO NOT
 10 FILE SUCH REPORTS OF CONDITION, BOOK VALUES SHALL BE DETERMINED
 11 BY GENERALLY ACCEPTED ACCOUNTING PRINCIPLES AS OF THE END OF
 12 EACH CALENDAR QUARTER. FOR ANY YEAR IN WHICH AN INSTITUTION
 13 WHICH DOES NOT FILE REPORTS OF CONDITION IS NOT IN EXISTENCE FOR
 14 FOUR QUARTERS, THE BOOK VALUE FOR THAT YEAR SHALL BE DETERMINED
 15 BY ADDING TOGETHER THE BOOK VALUES FOR EACH QUARTER IN WHICH THE
 16 INSTITUTION WAS IN EXISTENCE AND DIVIDING BY THAT NUMBER OF
 17 QUARTERS. FOR PURPOSES OF THIS SECTION, A PARTIAL YEAR SHALL BE
 18 TREATED AS A FULL YEAR.

19 (C) FOR PURPOSES OF THIS SECTION:

20 (1) A MERE CHANGE IN IDENTITY, FORM OR PLACE OF ORGANIZATION
 21 OF ONE INSTITUTION, HOWEVER EFFECTED, SHALL BE TREATED AS IF A
 22 SINGLE INSTITUTION HAD BEEN IN EXISTENCE PRIOR TO AS WELL AS
 23 AFTER SUCH CHANGE; AND

24 (2) THE COMBINATION OF TWO OR MORE INSTITUTIONS INTO ONE
 25 SHALL BE TREATED AS IF THE CONSTITUENT INSTITUTIONS HAD BEEN A
 26 SINGLE INSTITUTION IN EXISTENCE PRIOR TO AS WELL AS AFTER THE
 27 COMBINATION AND THE BOOK VALUES AND DEDUCTIONS FOR UNITED STATES
 28 OBLIGATIONS FROM THE REPORTS OF CONDITION OF THE CONSTITUENT
 29 INSTITUTIONS SHALL BE COMBINED. FOR PURPOSES OF [THE PRECEDING
 30 SENTENCE] THIS SECTION, A COMBINATION SHALL INCLUDE ANY

20070S0097B1327

- 55 -

1 ACQUISITION REQUIRED TO BE ACCOUNTED FOR [BY THE SURVIVING
 2 INSTITUTION UNDER THE POOLING OF INTEREST METHOD] BY USING THE
 3 PURCHASE METHOD IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING
 4 PRINCIPLES OR A STATUTORY MERGER OR CONSOLIDATION.

5 SECTION 6. SECTION 1111-C OF THE ACT, AMENDED OCTOBER 18,
 6 2006 (P.L.1149, NO.119), IS AMENDED TO READ:

7 SECTION 1111-C. ASSESSMENT AND NOTICE OF TAX; REVIEW.--(A)
 8 IF ANY PERSON SHALL FAIL TO PAY ANY TAX IMPOSED BY THIS ARTICLE
 9 FOR WHICH HE IS LIABLE, THE DEPARTMENT IS HEREBY AUTHORIZED AND
 10 EMPOWERED TO MAKE AN ASSESSMENT OF ADDITIONAL TAX AND INTEREST
 11 DUE BY SUCH PERSON BASED UPON ANY INFORMATION WITHIN ITS
 12 POSSESSION OR THAT SHALL COME INTO ITS POSSESSION. ALL OF SUCH
 13 ASSESSMENTS SHALL BE MADE WITHIN THREE YEARS AFTER THE DATE OF
 14 THE RECORDING OF THE DOCUMENT, SUBJECT TO THE FOLLOWING:

15 (1) IF THE TAXPAYER UNDERPAYS THE CORRECT AMOUNT OF THE TAX
 16 BY TWENTY-FIVE PER CENT OR MORE, THE TAX MAY BE ASSESSED AT ANY
 17 TIME WITHIN SIX YEARS AFTER THE DATE OF THE RECORDING OF THE
 18 DOCUMENT.

19 (2) IF ANY PART OF AN UNDERPAYMENT OF TAX IS DUE TO FRAUD OR
 20 AN UNDISCLOSED, INTENTIONAL DISREGARD OF RULES AND REGULATIONS,
 21 THE FULL AMOUNT OF THE TAX MAY BE ASSESSED AT ANY TIME.

22 (B) PROMPTLY AFTER THE DATE OF SUCH ASSESSMENT, THE
 23 DEPARTMENT SHALL SEND [BY CERTIFIED MAIL] A COPY THEREOF,
 24 INCLUDING THE BASIS OF THE ASSESSMENT, TO THE PERSON AGAINST
 25 WHOM IT WAS MADE. ANY TAXPAYER AGAINST WHOM AN ASSESSMENT IS
 26 MADE MAY PETITION THE DEPARTMENT FOR A REASSESSMENT PURSUANT TO
 27 ARTICLE XXVII.

28 (D) THE NOTICE REQUIRED BY SUBSECTION (B) SHALL BE SENT BY
 29 CERTIFIED MAIL IF THE ASSESSMENT IS FOR \$300 OR MORE.

30 SECTION 7. THE ACT IS AMENDED BY ADDING ARTICLES TO READ:
 20070S0097B1327

- 56 -

1 ARTICLE XVII-D

2 FILM PRODUCTION TAX CREDIT

3 SECTION 1701-D. SCOPE OF ARTICLE.

4 THIS ARTICLE RELATES TO FILM PRODUCTION TAX CREDITS.

5 SECTION 1702-D. DEFINITIONS.

6 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
 7 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
 8 CONTEXT CLEARLY INDICATES OTHERWISE:

9 "DEPARTMENT." THE DEPARTMENT OF COMMUNITY AND ECONOMIC
 10 DEVELOPMENT OF THE COMMONWEALTH.

11 "FILM." A FEATURE FILM, A TELEVISION FILM, A TELEVISION TALK
 12 OR GAME SHOW SERIES, A TELEVISION COMMERCIAL OR A TELEVISION
 13 PILOT OR EACH EPISODE OF A TELEVISION SERIES WHICH IS INTENDED
 14 AS PROGRAMMING FOR A NATIONAL AUDIENCE. THE TERM DOES NOT
 15 INCLUDE A PRODUCTION FEATURING NEWS, CURRENT EVENTS, WEATHER AND
 16 MARKET REPORTS, OR PUBLIC PROGRAMMING, SPORTS EVENT, AWARDS SHOW
 17 OR OTHER GALA EVENT, A PRODUCTION THAT SOLICITS FUNDS, A
 18 PRODUCTION CONTAINING OBSCENE MATERIAL OR PERFORMANCES AS
 19 DEFINED IN 18 PA.C.S. § 5903(B) (RELATING TO OBSCENE AND OTHER
 20 SEXUAL MATERIALS AND PERFORMANCES) OR A PRODUCTION PRIMARILY FOR
 21 PRIVATE, POLITICAL, INDUSTRIAL, CORPORATE OR INSTITUTIONAL
 22 PURPOSES.

23 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
 24 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
 25 301(N.1).

26 "PENNSYLVANIA PRODUCTION EXPENSE." PRODUCTION EXPENSE
 27 INCURRED IN THIS COMMONWEALTH. THE TERM INCLUDES:

28 (1) COMPENSATION PAID TO AN INDIVIDUAL ON WHICH THE TAX
 29 IMPOSED BY ARTICLE III WILL BE PAID OR ACCRUED.

30 (2) PAYMENT TO A PERSONAL SERVICE CORPORATION

20070S0097BI327

- 57 -

1 REPRESENTING INDIVIDUAL TALENT IF THE TAX IMPOSED BY ARTICLE
 2 IV WILL BE PAID OR ACCRUED ON THE NET INCOME OF THE
 3 CORPORATION FOR THE TAXABLE YEAR.

4 (3) PAYMENT TO A PASS-THROUGH ENTITY REPRESENTING
 5 INDIVIDUAL TALENT IF THE TAX IMPOSED BY ARTICLE III WILL BE
 6 PAID OR ACCRUED BY ALL OF THE PARTNERS, MEMBERS OR
 7 SHAREHOLDERS OF THE PASS-THROUGH ENTITY FOR THE TAXABLE YEAR.

8 (4) THE COST OF TRANSPORTATION INCURRED WHILE
 9 TRANSPORTING TO OR FROM A TRAIN STATION, BUS DEPOT OR
 10 AIRPORT, LOCATED IN THIS COMMONWEALTH.

11 (5) THE COST OF INSURANCE COVERAGE PURCHASED THROUGH AN
 12 INSURANCE AGENT BASED IN THIS COMMONWEALTH.

13 (6) THE PURCHASE OF MUSIC OR STORY RIGHTS IF ANY OF THE
 14 FOLLOWING SUBPARAGRAPHS APPLY:

15 (I) THE PURCHASE IS FROM A RESIDENT OF THIS
 16 COMMONWEALTH.

17 (II) THE PURCHASE IS FROM AN ENTITY SUBJECT TO
 18 TAXATION IN THIS COMMONWEALTH; AND THE TRANSACTION IS
 19 SUBJECT TO TAXATION UNDER ARTICLE III, IV OR VI.

20 (7) THE COST OF RENTAL OF FACILITIES AND EQUIPMENT
 21 RENTED FROM OR THROUGH A RESIDENT OF THIS COMMONWEALTH OR AN
 22 ENTITY SUBJECT TO TAXATION IN THIS COMMONWEALTH.

23 "PRODUCTION EXPENSE." AS FOLLOWS:

24 (1) THE TERM INCLUDES ALL OF THE FOLLOWING:

25 (I) COMPENSATION PAID TO AN INDIVIDUAL EMPLOYED IN
 26 THE PRODUCTION OF THE FILM.

27 (II) PAYMENT TO A PERSONAL SERVICE CORPORATION
 28 REPRESENTING INDIVIDUAL TALENT.

29 (III) PAYMENT TO A PASS-THROUGH ENTITY REPRESENTING
 30 INDIVIDUAL TALENT.

20070S0097BI327

- 58 -

1 (IV) THE COSTS OF CONSTRUCTION, OPERATIONS, EDITING,
 2 PHOTOGRAPHY, SOUND SYNCHRONIZATION, LIGHTING, WARDROBE
 3 AND ACCESSORIES.

4 (V) THE COST OF LEASING VEHICLES.

5 (VI) THE COST OF TRANSPORTATION TO OR FROM A TRAIN
 6 STATION, BUS DEPOT OR AIRPORT.

7 (VII) THE COST OF INSURANCE COVERAGE.

8 (VIII) THE COSTS OF FOOD AND LODGING.

9 (IX) THE PURCHASE OF MUSIC OR STORY RIGHTS.

10 (X) THE COST OF RENTAL OF FACILITIES AND EQUIPMENT.

11 (2) THE TERM DOES NOT INCLUDE ANY OF THE FOLLOWING:

12 (I) DEFERRED, LEVERAGED OR PROFIT PARTICIPATION PAID
 13 OR TO BE PAID TO INDIVIDUALS EMPLOYED IN THE PRODUCTION
 14 OF THE FILM OR PAID TO ENTITIES REPRESENTING AN

15 INDIVIDUAL FOR SERVICES PROVIDED IN THE PRODUCTION OF THE
16 FILM.

17 (II) DEVELOPMENT COST.

18 (III) EXPENSE INCURRED IN MARKETING OR ADVERTISING A
19 FILM.

20 (IV) COST RELATED TO THE SALE OR ASSIGNMENT OF A
21 FILM PRODUCTION TAX CREDIT UNDER SECTION 1705-D(E).

22 "QUALIFIED FILM PRODUCTION EXPENSE." ALL PENNSYLVANIA
23 PRODUCTION EXPENSES IF PENNSYLVANIA PRODUCTION EXPENSES COMPRISE
24 AT LEAST 60% OF THE FILM'S TOTAL PRODUCTION EXPENSES. THE TERM
25 SHALL NOT INCLUDE MORE THAN \$15,000,000 IN THE AGGREGATE OF
26 COMPENSATION PAID TO INDIVIDUALS OR PAYMENT MADE TO ENTITIES
27 REPRESENTING AN INDIVIDUAL FOR SERVICES PROVIDED IN THE
28 PRODUCTION OF THE FILM.

29 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
30 UNDER ARTICLE III, IV OR VI. THE TERM SHALL NOT INCLUDE ANY TAX

20070S0097BI327 - 59 -

1 WITHHELD BY AN EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.

2 "START DATE." THE FIRST DAY OF PRINCIPAL PHOTOGRAPHY IN THIS
3 COMMONWEALTH.

4 "TAX CREDIT." THE FILM PRODUCTION TAX CREDIT PROVIDED UNDER
5 THIS ARTICLE.

6 "TAXPAYER." A FILM PRODUCTION COMPANY SUBJECT TO TAX UNDER
7 ARTICLE III, IV OR VI. THE TERM DOES NOT INCLUDE CONTRACTORS OR
8 SUBCONTRACTORS OF A FILM PRODUCTION COMPANY.

9 SECTION 1703-D. CREDIT FOR QUALIFIED FILM PRODUCTION EXPENSES.

10 (A) APPLICATION.--A TAXPAYER MAY APPLY TO THE DEPARTMENT FOR
11 A TAX CREDIT UNDER THIS SECTION. THE APPLICATION SHALL BE ON THE
12 FORM REQUIRED BY THE DEPARTMENT.

13 (B) REVIEW AND APPROVAL.--THE DEPARTMENT SHALL REVIEW AND
14 APPROVE OR DISAPPROVE THE APPLICATIONS IN THE ORDER IN WHICH
15 THEY ARE RECEIVED. UPON DETERMINING THE TAXPAYER HAS INCURRED OR
16 WILL INCUR QUALIFIED FILM PRODUCTION EXPENSES, THE DEPARTMENT
17 MAY APPROVE THE TAXPAYER FOR A TAX CREDIT.

18 (C) CONTRACT.--IF THE DEPARTMENT APPROVES THE TAXPAYER'S
19 APPLICATION UNDER SUBSECTION (B), THE DEPARTMENT AND THE
20 TAXPAYER SHALL ENTER INTO A CONTRACT CONTAINING THE FOLLOWING:

21 (1) AN ITEMIZED LIST OF PRODUCTION EXPENSES INCURRED OR
22 TO BE INCURRED FOR THE FILM.

23 (2) AN ITEMIZED LIST OF PENNSYLVANIA PRODUCTION EXPENSES
24 INCURRED OR TO BE INCURRED FOR THE FILM.

25 (3) WITH RESPECT TO A CONTRACT ENTERED INTO PRIOR TO
26 COMPLETION OF PRODUCTION, A COMMITMENT BY THE TAXPAYER TO
27 INCUR THE QUALIFIED FILM PRODUCTION EXPENSES AS ITEMIZED.

28 (4) THE START DATE.

29 (5) ANY OTHER INFORMATION THE DEPARTMENT DEEMS
30 APPROPRIATE.

20070S0097BI327 - 60 -

1 (D) CERTIFICATE.--UPON EXECUTION OF THE CONTRACT REQUIRED BY
2 SUBSECTION (C), THE DEPARTMENT SHALL AWARD THE TAXPAYER A FILM
3 PRODUCTION TAX CREDIT AND ISSUE THE TAXPAYER A FILM PRODUCTION
4 TAX CREDIT CERTIFICATE.

5 SECTION 1704-D. FILM PRODUCTION TAX CREDITS.

6 A TAXPAYER MAY CLAIM A TAX CREDIT AGAINST THE QUALIFIED TAX
7 LIABILITY OF THE TAXPAYER.

8 SECTION 1705-D. CARRYOVER, CARRYBACK AND ASSIGNMENT OF CREDIT.

9 (A) GENERAL RULE.--IF THE TAXPAYER CANNOT USE THE ENTIRE
10 AMOUNT OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE TAX
11 CREDIT IS FIRST APPROVED, THEN THE EXCESS MAY BE CARRIED OVER TO
12 SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST THE
13 QUALIFIED TAX LIABILITY OF THE TAXPAYER FOR THOSE TAXABLE YEARS.
14 EACH TIME THE TAX CREDIT IS CARRIED OVER TO A SUCCEEDING TAXABLE
15 YEAR, IT SHALL BE REDUCED BY THE AMOUNT THAT WAS USED AS A
16 CREDIT DURING THE IMMEDIATELY PRECEDING TAXABLE YEAR. THE TAX
17 CREDIT PROVIDED BY THIS ARTICLE MAY BE CARRIED OVER AND APPLIED
18 TO SUCCEEDING TAXABLE YEARS FOR NO MORE THAN THREE TAXABLE YEARS

19 FOLLOWING THE FIRST TAXABLE YEAR FOR WHICH THE TAXPAYER WAS
20 ENTITLED TO CLAIM THE CREDIT.

21 (B) APPLICATION.--A TAX CREDIT APPROVED BY THE DEPARTMENT IN
22 A TAXABLE YEAR FIRST SHALL BE APPLIED AGAINST THE TAXPAYER'S
23 QUALIFIED TAX LIABILITY FOR THE CURRENT TAXABLE YEAR AS OF THE
24 DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE TAX CREDIT CAN
25 BE APPLIED AGAINST ANY TAX LIABILITY UNDER SUBSECTION (A).

26 (C) NO CARRYBACK OR REFUND.--A TAXPAYER IS NOT ENTITLED TO
27 CARRY BACK OR OBTAIN A REFUND OF ALL OR ANY PORTION OF AN UNUSED
28 TAX CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

29 (D) (RESERVED).

30 (E) SALE OR ASSIGNMENT.--THE FOLLOWING SHALL APPLY:

20070S0097B1327

- 61 -

1 (1) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
2 DEPARTMENT, MAY SELL OR ASSIGN, IN WHOLE OR IN PART, A TAX
3 CREDIT GRANTED TO THE TAXPAYER UNDER THIS ARTICLE.

4 (2) THE DEPARTMENT AND THE DEPARTMENT OF REVENUE SHALL
5 JOINTLY PROMULGATE REGULATIONS FOR THE APPROVAL OF
6 APPLICATIONS UNDER THIS SUBSECTION.

7 (3) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT OF
8 REVENUE MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL
9 REQUIRED STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE
10 TAXABLE YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS
11 DETERMINED AT SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE
12 DEPARTMENT OF REVENUE.

13 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
14 DEPARTMENT OF REVENUE SHALL SETTLE, ASSESS OR DETERMINE THE
15 TAX OF AN APPLICANT UNDER THIS SUBSECTION WITHIN 90 DAYS OF
16 THE FILING OF ALL REQUIRED FINAL RETURNS OR REPORTS IN
17 ACCORDANCE WITH SECTION 806.1(A)(5) OF THE ACT OF APRIL 9,
18 1929 (P.L.343, NO.176), KNOWN AS THE FISCAL CODE.

19 (F) PURCHASERS AND ASSIGNEES.--THE PURCHASER OR ASSIGNEE OF
20 ALL OR A PORTION OF A TAX CREDIT UNDER SUBSECTION (E) SHALL
21 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
22 PURCHASE OR ASSIGNMENT IS MADE. THE AMOUNT OF THE TAX CREDIT
23 THAT A PURCHASER OR ASSIGNEE MAY USE AGAINST ANY ONE QUALIFIED
24 TAX LIABILITY MAY NOT EXCEED 50% OF SUCH QUALIFIED TAX LIABILITY
25 FOR THE TAXABLE YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY
26 FORWARD, CARRY BACK OR OBTAIN A REFUND OF OR SELL OR ASSIGN THE
27 TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY THE
28 DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE TAX
29 CREDIT IN COMPLIANCE WITH PROCEDURES SPECIFIED BY THE DEPARTMENT
30 OF REVENUE.

20070S0097B1327

- 62 -

1 SECTION 1706-D. DETERMINATION OF PENNSYLVANIA PRODUCTION
2 EXPENSES.

3 IN PRESCRIBING STANDARDS FOR DETERMINING WHICH PRODUCTION
4 EXPENSES ARE CONSIDERED PENNSYLVANIA PRODUCTION EXPENSES FOR
5 PURPOSES OF COMPUTING THE CREDIT PROVIDED BY THIS ARTICLE, THE
6 DEPARTMENT SHALL CONSIDER:

7 (1) THE LOCATION WHERE SERVICES ARE PERFORMED.

8 (2) THE LOCATION WHERE SUPPLIES ARE CONSUMED.

9 (3) OTHER FACTORS THE DEPARTMENT DETERMINES ARE
10 RELEVANT.

11 SECTION 1707-D. LIMITATIONS.

12 (A) CAP.--IN NO CASE SHALL THE AGGREGATE AMOUNT OF TAX
13 CREDITS AWARDED IN ANY FISCAL YEAR UNDER THIS ARTICLE EXCEED
14 \$75,000,000.

15 (B) INDIVIDUAL LIMITATIONS.--THE FOLLOWING SHALL APPLY:

16 (1) THE AGGREGATE AMOUNT OF FILM PRODUCTION TAX CREDITS
17 AWARDED BY THE DEPARTMENT UNDER SECTION 1703-D(D) TO A
18 TAXPAYER FOR A FILM MAY NOT EXCEED 25% OF THE QUALIFIED FILM
19 PRODUCTION EXPENSES TO BE INCURRED.

20 (2) A TAXPAYER THAT HAS RECEIVED A GRANT UNDER 12
21 PA.C.S. § 4106 (RELATING TO APPROVAL) SHALL NOT BE ELIGIBLE
22 FOR A FILM PRODUCTION TAX CREDIT UNDER THIS ACT FOR THE SAME

23 FILM.

24 SECTION 1708-D. PENALTY.

25 A TAXPAYER WHICH CLAIMS A TAX CREDIT AND FAILS TO INCUR THE
 26 AMOUNT OF QUALIFIED FILM PRODUCTION EXPENSES AGREED TO IN
 27 SECTION 1703-D(C)(3) FOR A FILM IN THAT TAXABLE YEAR SHALL REPAY
 28 TO THE COMMONWEALTH THE AMOUNT OF THE FILM PRODUCTION TAX CREDIT
 29 CLAIMED UNDER THIS ARTICLE FOR THE FILM.

30 SECTION 1709-D. PASS-THROUGH ENTITY.

20070S0097B1327 - 63 -

1 (A) GENERAL RULE.--IF A PASS-THROUGH ENTITY HAS ANY UNUSED
 2 TAX CREDIT UNDER SECTION 1705-D, IT MAY ELECT IN WRITING,
 3 ACCORDING TO PROCEDURES ESTABLISHED BY THE DEPARTMENT OF
 4 REVENUE, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
 5 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
 6 THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
 7 MEMBER OR PARTNER IS ENTITLED.

8 (B) LIMITATION.--A PASS-THROUGH ENTITY AND A SHAREHOLDER,
 9 MEMBER OR PARTNER OF A PASS-THROUGH ENTITY SHALL NOT CLAIM THE
 10 CREDIT UNDER SUBSECTION (A) FOR THE SAME QUALIFIED FILM
 11 PRODUCTION EXPENSE.

12 (C) APPLICATION.--A SHAREHOLDER, MEMBER OR PARTNER OF A
 13 PASS-THROUGH ENTITY TO WHOM A CREDIT IS TRANSFERRED UNDER
 14 SUBSECTION (A) SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE
 15 YEAR IN WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
 16 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR
 17 SELL OR ASSIGN THE CREDIT.

18 SECTION 1710-D. DEPARTMENT GUIDELINES AND REGULATIONS.

19 THE DEPARTMENT SHALL DEVELOP WRITTEN GUIDELINES FOR THE
 20 IMPLEMENTATION OF THE PROVISIONS OF THIS ARTICLE. THE GUIDELINES
 21 SHALL BE IN EFFECT UNTIL SUCH TIME AS THE DEPARTMENT PROMULGATES
 22 REGULATIONS FOR THE IMPLEMENTATION OF THE PROVISIONS OF THIS
 23 ARTICLE. THE DEPARTMENT SHALL PROMULGATE REGULATIONS FOR THE
 24 IMPLEMENTATION OF THIS ARTICLE WITHIN TWO YEARS OF THE EFFECTIVE
 25 DATE OF THIS SECTION.

26 SECTION 1711-D. REPORT TO GENERAL ASSEMBLY.

27 (A) GENERAL RULE.--NO LATER THAN JUNE 1, 2008, AND SEPTEMBER
 28 1 OF EACH YEAR THEREAFTER, THE SECRETARY OF COMMUNITY AND
 29 ECONOMIC DEVELOPMENT SHALL SUBMIT A REPORT TO THE GENERAL
 30 ASSEMBLY SUMMARIZING THE EFFECTIVENESS OF THE TAX CREDIT

20070S0097B1327 - 64 -

1 PROVIDED BY THIS ARTICLE. THE REPORT SHALL INCLUDE THE NAME OF
 2 THE FILM PRODUCED, THE NAMES OF ALL TAXPAYERS UTILIZING THE
 3 CREDIT AS OF THE DATE OF THE REPORT, AND THE AMOUNT OF CREDITS
 4 APPROVED FOR, UTILIZED BY OR SOLD OR ASSIGNED BY EACH TAXPAYER.
 5 THE REPORT MAY ALSO INCLUDE ANY RECOMMENDATIONS FOR CHANGES IN
 6 THE CALCULATION OR ADMINISTRATION OF THE TAX CREDIT. THE REPORT
 7 SHALL BE SUBMITTED TO THE CHAIRMAN AND MINORITY CHAIRMAN OF THE
 8 APPROPRIATIONS AND FINANCE COMMITTEES OF THE SENATE AND THE
 9 CHAIRMAN AND MINORITY CHAIRMAN OF THE APPROPRIATIONS AND FINANCE
 10 COMMITTEES OF THE HOUSE OF REPRESENTATIVES. IN ADDITION TO THE
 11 INFORMATION SET FORTH ABOVE, THE REPORT SHALL INCLUDE THE
 12 FOLLOWING INFORMATION, WHICH SHALL BE SEPARATED BY GEOGRAPHIC
 13 LOCATION WITHIN THIS COMMONWEALTH:

14 (1) THE AMOUNT OF CREDITS CLAIMED DURING THE FISCAL YEAR
 15 BY FILM.

16 (2) THE TOTAL AMOUNT SPENT IN THIS COMMONWEALTH DURING
 17 THE FISCAL YEAR BY FILM.

18 (3) THE TOTAL AMOUNT OF TAX REVENUES GENERATED BY THIS
 19 COMMONWEALTH DURING THE FISCAL YEAR BY FILM.

20 (4) THE TOTAL NUMBER OF JOBS CREATED DURING THE FISCAL
 21 YEAR BY THE FILM, INCLUDING THE DURATION OF THE JOBS.

22 (B) PUBLIC INFORMATION.--NOTWITHSTANDING ANY LAW PROVIDING
 23 FOR THE CONFIDENTIALITY OF TAX RECORDS, THE INFORMATION IN THE
 24 REPORT SHALL BE PUBLIC INFORMATION AND ALL REPORT INFORMATION
 25 SHALL BE POSTED ON THE DEPARTMENT'S INTERNET WEB SITE.

26 SECTION 1712-D. FILM ADVISORY BOARD.

27 (A) COMPOSITION.--A FILM ADVISORY BOARD IS ESTABLISHED. THE
 28 BOARD SHALL WORK WITH THE PENNSYLVANIA FILM OFFICE AND THE
 29 REGIONAL FILM OFFICES TO PROMOTE THE FILM INDUSTRY THROUGHOUT
 30 THIS COMMONWEALTH AND TO EXAMINE AND FILE A WRITTEN REPORT ON
 20070S0097B1327 - 65 -

1 THE EFFECTIVENESS OF THE TAX CREDIT AND GRANT PROGRAMS. THE
 2 REPORT SHALL BE INCLUDED IN THE DEPARTMENT'S REPORT REQUIRED
 3 UNDER SECTION 1711-D. THE BOARD SHALL CONSIST OF THE FOLLOWING
 4 MEMBERS:

5 (1) THE SECRETARY OF COMMUNITY AND ECONOMIC DEVELOPMENT,
 6 OR A DESIGNEE.

7 (2) A MEMBER APPOINTED BY THE GOVERNOR.

8 (3) A MEMBER APPOINTED BY THE PRESIDENT PRO TEMPORE OF
 9 THE SENATE.

10 (4) A MEMBER APPOINTED BY THE MINORITY LEADER OF THE
 11 SENATE.

12 (5) A MEMBER APPOINTED BY THE MAJORITY LEADER OF THE
 13 HOUSE OF REPRESENTATIVES.

14 (6) A MEMBER APPOINTED BY THE MINORITY LEADER OF THE
 15 HOUSE OF REPRESENTATIVES.

16 (B) COMPENSATION.--MEMBERS OF THE BOARD SHALL NOT BE
 17 COMPENSATED FOR THEIR SERVICE AS BOARD MEMBERS, BUT SHALL BE
 18 COMPENSATED FOR THEIR REASONABLE EXPENSES. THE DEPARTMENT SHALL
 19 PROVIDE ADMINISTRATIVE SUPPORT FOR THE BOARD.

20 (C) MEETINGS.--THE BOARD SHALL MEET NO LESS THAN TWICE EACH
 21 YEAR.

22 (D) CHAIRMAN.--THE MEMBERS OF THE BOARD SHALL ELECT THE
 23 CHAIRMAN.

24 ARTICLE XVII-E

25 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT

26 SECTION 1701-E. SCOPE.

27 THIS ARTICLE RELATES TO RESOURCE ENHANCEMENT AND PROTECTION
 28 TAX CREDITS.

29 SECTION 1702-E. DEFINITIONS.

30 THE FOLLOWING WORDS AND PHRASES WHEN USED IN THIS ARTICLE
 20070S0097B1327 - 66 -

1 SHALL HAVE THE MEANINGS GIVEN TO THEM IN THIS SECTION UNLESS THE
 2 CONTEXT CLEARLY INDICATES OTHERWISE:

3 "AGRICULTURAL EROSION AND SEDIMENTATION CONTROL PLAN." A
 4 SITE-SPECIFIC PLAN THAT:

5 (1) MEETS THE REQUIREMENTS OF THE ACT OF JUNE 22, 1937
 6 (P.L.1987, NO.394), KNOWN AS THE CLEAN STREAMS LAW AND 25 PA.
 7 CODE CH. 102 (RELATING TO EROSION AND SEDIMENT CONTROL); AND

8 (2) IDENTIFIES BEST MANAGEMENT PRACTICES TO MINIMIZE
 9 ACCELERATED EROSION AND SEDIMENT FROM AN AGRICULTURAL
 10 OPERATION.

11 "AGRICULTURAL OPERATION." THE PROPERTY ON WHICH OCCUR THE
 12 MANAGEMENT AND USE OF FARMING RESOURCES FOR THE PRODUCTION OF
 13 CROPS, LIVESTOCK OR POULTRY OR FOR EQUINE ACTIVITY.

14 "ANIMAL CONCENTRATION AREAS." AN EXTERIOR AREA OF AN
 15 AGRICULTURAL OPERATION SUBJECT TO RAINFALL WHERE LIVESTOCK
 16 CONGREGATE, INCLUDING A BARNYARD, A FEEDLOT, A LOAFING AREA, AN
 17 EXERCISE LOT OR OTHER SIMILAR ANIMAL CONFINEMENT AREA THAT WILL
 18 NOT MAINTAIN A GROWING CROP, OR WHERE DEPOSITED MANURE NUTRIENTS
 19 ARE IN EXCESS OF CROP NEEDS. THE TERM DOES NOT INCLUDE AREAS
 20 MANAGED AS A PASTURE OR OTHER CROPLAND AND PASTURE ACCESSWAYS IF
 21 THEY DO NOT CAUSE DIRECT FLOW OF NUTRIENTS TO SURFACE WATER OR
 22 GROUNDWATER.

23 "BEST MANAGEMENT PRACTICE." A PRACTICE OR COMBINATION OF
 24 PRACTICES DETERMINED BY THE STATE CONSERVATION COMMISSION OR
 25 UNITED STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES AND
 26 CONSERVATION SERVICE TO BE EFFECTIVE AND PRACTICAL, CONSIDERING
 27 TECHNOLOGICAL, ECONOMIC AND INSTITUTIONAL FACTORS, TO MANAGE
 28 NUTRIENTS AND SEDIMENT TO PROTECT SURFACE WATER AND GROUNDWATER.

29 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS
 30 COMMONWEALTH AND SUBJECT TO THE TAXES IMPOSED BY ARTICLE III,

20070S0097B1327

- 67 -

- 1 IV, VI, VII, VIII, IX OR XV.
 2 "COMMISSION." THE STATE CONSERVATION COMMISSION.
 3 "CONSERVATION DISTRICT." A COUNTY CONSERVATION DISTRICT
 4 ESTABLISHED UNDER THE ACT OF MAY 15, 1945 (P.L.547, NO.217),
 5 KNOWN AS THE CONSERVATION DISTRICT LAW.
 6 "CONSERVATION PLAN." A PLAN, INCLUDING A SCHEDULE FOR
 7 IMPLEMENTATION, THAT IDENTIFIES SITE SPECIFIC CONSERVATION BEST
 8 MANAGEMENT PRACTICES ON AN AGRICULTURAL OPERATION.
 9 "DEPARTMENT." THE DEPARTMENT OF REVENUE OF THE COMMONWEALTH.
 10 "ELIGIBLE APPLICANTS." A BUSINESS FIRM OR AN INDIVIDUAL WHO
 11 IS SUBJECT TO THE TAXES IMPOSED BY ARTICLE III, IV, VI, VII,
 12 VIII, IX OR XV.
 13 "EQUINE ACTIVITY." THE TERM INCLUDES THE FOLLOWING
 14 ACTIVITIES:
 15 (1) THE BOARDING OF EQUINES.
 16 (2) THE TRAINING OF EQUINES.
 17 (3) THE INSTRUCTION OF PEOPLE IN HANDLING, DRIVING OR
 18 RIDING EQUINES.
 19 (4) THE USE OF EQUINES FOR RIDING OR DRIVING PURPOSES.
 20 (5) THE PASTURING OF EQUINES.

21 THE TERM DOES NOT INCLUDE ACTIVITY LICENSED UNDER THE ACT OF
 22 DECEMBER 17, 1981 (P.L.435, NO.135), KNOWN AS THE RACE HORSE
 23 INDUSTRY REFORM ACT.

- 24 "INDIVIDUAL." A NATURAL PERSON.
 25 "LEGACY SEDIMENT." SEDIMENT THAT MEETS ALL OF THE FOLLOWING
 26 CONDITIONS:
 27 (1) WAS ERODED FROM UPLAND AREAS AFTER THE ARRIVAL OF
 28 EARLY PENNSYLVANIA SETTLERS AND DURING CENTURIES OF INTENSIVE
 29 LAND USE.

30 (2) WAS DEPOSITED IN VALLEY BOTTOMS ALONG STREAM

20070S0097B1327

- 68 -

- 1 CORRIDORS, BURYING PRESETTLEMENT STREAMS, FLOODPLAINS,
 2 WETLANDS AND VALLEY BOTTOMS.
 3 (3) ALTERED AND CONTINUES TO IMPAIR THE HYDROLOGIC,
 4 BIOLOGIC, AQUATIC, RIPARIAN AND WATER QUALITY FUNCTIONS OF
 5 PRESETTLEMENT AND MODERN ENVIRONMENTS.
 6 "NUTRIENT MANAGEMENT PLAN." AS DEFINED UNDER 3 PA.C.S. CH. 5
 7 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT).
 8 "NUTRIENT MANAGEMENT SPECIALIST." AS DEFINED UNDER 3 PA.C.S.
 9 CH. 5 (RELATING TO NUTRIENT MANAGEMENT AND ODOR MANAGEMENT).
 10 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED IN SECTION
 11 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED IN SECTION
 12 301(N.1).
 13 "QUALIFIED TAX LIABILITY." THE LIABILITY FOR TAXES IMPOSED
 14 UPON AN ELIGIBLE APPLICANT UNDER ARTICLE III, IV, VI, VII, VIII,
 15 IX OR XV. THE TERM SHALL NOT INCLUDE ANY TAX WITHHELD BY AN
 16 EMPLOYER FROM AN EMPLOYEE UNDER ARTICLE III.
 17 "RIPARIAN FOREST BUFFER." AN AREA OF MOSTLY TREES OR SHRUBS
 18 WHICH IS ADJACENT TO AND UP-GRADIENT FROM WATERCOURSES OR WATER
 19 BODIES AND WHICH MEETS STANDARDS ESTABLISHED BY THE UNITED
 20 STATES DEPARTMENT OF AGRICULTURE NATURAL RESOURCES AND
 21 CONSERVATION SERVICE.
 22 "TECHNICAL SERVICE PROVIDER." AN INDIVIDUAL, ENTITY OR
 23 PUBLIC AGENCY CERTIFIED BY THE UNITED STATES DEPARTMENT OF
 24 AGRICULTURE NATURAL RESOURCES CONSERVATION SERVICE AND PLACED ON
 25 THE APPROVED LIST TO PROVIDE TECHNICAL SERVICES TO PROGRAM
 26 PARTICIPANTS OR TO THE UNITED STATES DEPARTMENT OF AGRICULTURE
 27 PROGRAM PARTICIPANTS.
 28 "USDA-NRCS." THE UNITED STATES DEPARTMENT OF AGRICULTURE
 29 NATURAL RESOURCES AND CONSERVATION SERVICE.
 30 SECTION 1703-E. RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT

20070S0097B1327

- 69 -

- 1 PROGRAM.
 2 (A) ESTABLISHMENT.--THE RESOURCE ENHANCEMENT AND PROTECTION
 3 TAX CREDIT PROGRAM IS ESTABLISHED TO ENCOURAGE PRIVATE

4 INVESTMENT IN THE IMPLEMENTATION OF BEST MANAGEMENT PRACTICES ON
 5 AGRICULTURAL OPERATIONS, THE PLANTING OF RIPARIAN FOREST BUFFERS
 6 AND THE REMEDIATION OF LEGACY SEDIMENT.

7 (B) LIMITS.--THE FOLLOWING LIMITS SHALL APPLY:

8 (1) EXCEPT AS SET FORTH IN PARAGRAPH (5), AN ELIGIBLE
 9 APPLICANT MAY BE GRANTED A MAXIMUM OF \$150,000 IN TAX CREDITS
 10 UNDER THIS PROGRAM.

11 (2) NO MORE THAN \$150,000 IN TAX CREDITS SHALL BE
 12 GRANTED TOWARD PROJECTS FOR AN AGRICULTURAL OPERATION.

13 (3) AN ELIGIBLE APPLICANT MAY SUBMIT AN APPLICATION FOR
 14 A SINGLE PROJECT OR MULTIPLE APPLICATIONS FOR MULTIPLE
 15 PROJECTS WITHIN THE LIMITS OF THIS SECTION.

16 (4) THERE SHALL BE NO LIMIT ON THE AMOUNT OF TAX CREDITS
 17 THAT MAY BE PURCHASED FROM OR BE ASSIGNED FROM AN ELIGIBLE
 18 APPLICANT.

19 (5) NOTWITHSTANDING PARAGRAPH (1), THERE SHALL BE NO
 20 LIMIT ON THE AMOUNT OF TAX CREDITS GRANTED TO A SPONSOR UNDER
 21 SUBSECTION (E).

22 (6) THE CREDITS FOR LEGACY SEDIMENT SHALL NOT BE ISSUED
 23 PRIOR TO JULY 1, 2008. APPLICATIONS FOR LEGACY SEDIMENT
 24 REMEDICATION WILL NOT BE ACCEPTED PRIOR TO JULY 1, 2008.

25 (C) CARRYOVER.--

26 (1) IF THE ELIGIBLE APPLICANT CANNOT USE THE ENTIRE
 27 AMOUNT OF THE TAX CREDIT FOR THE TAXABLE YEAR IN WHICH THE
 28 TAX CREDIT IS FIRST GRANTED, THEN THE EXCESS MAY BE CARRIED
 29 OVER TO SUCCEEDING TAXABLE YEARS AND USED AS A CREDIT AGAINST
 30 THE QUALIFIED TAX LIABILITY OF THE ELIGIBLE APPLICANT FOR

20070S0097B1327

- 70 -

1 THOSE TAXABLE YEARS. EACH TIME THAT THE TAX CREDIT IS CARRIED
 2 OVER TO A SUCCEEDING TAXABLE YEAR, IT IS TO BE REDUCED BY THE
 3 AMOUNT THAT WAS USED AS A CREDIT DURING THE IMMEDIATELY
 4 PRECEDING TAXABLE YEAR. THE TAX CREDIT PROVIDED BY THIS
 5 ARTICLE MAY BE CARRIED OVER AND APPLIED TO SUCCEEDING TAXABLE
 6 YEARS FOR NO MORE THAN 15 TAXABLE YEARS FOLLOWING THE FIRST
 7 TAXABLE YEAR FOR WHICH THE ELIGIBLE APPLICANT WAS ENTITLED TO
 8 CLAIM THE CREDIT.

9 (2) A TAX CREDIT GRANTED BY THE DEPARTMENT SHALL BE
 10 APPLIED AGAINST THE TAXPAYER'S QUALIFIED TAX LIABILITY FOR
 11 THE CURRENT TAXABLE YEAR AS OF THE DATE ON WHICH THE CREDIT
 12 WAS GRANTED BEFORE THE TAX CREDIT IS APPLIED AGAINST ANY TAX
 13 LIABILITY UNDER PARAGRAPH (1).

14 (3) A TAX CREDIT GRANTED UNDER THIS ARTICLE SHALL NOT BE
 15 CARRIED BACK OR REFUNDED.

16 (D) SALE OR ASSIGNMENT OF CREDIT.--

17 (1) AN ELIGIBLE APPLICANT, UPON APPLICATION TO AND
 18 APPROVAL BY THE COMMISSION, MAY SELL OR ASSIGN, IN WHOLE OR
 19 IN PART, A TAX CREDIT GRANTED TO THE ELIGIBLE APPLICANT UNDER
 20 THIS ARTICLE IF NO CLAIM FOR ALLOWANCE OF THE CREDIT IS FILED
 21 WITHIN ONE YEAR FROM THE DATE THE CREDIT IS GRANTED BY THE
 22 DEPARTMENT UNDER SECTION 1708-E. THE COMMISSION, IN
 23 CONSULTATION WITH THE DEPARTMENT, SHALL ESTABLISH GUIDELINES
 24 FOR THE APPROVAL OF APPLICATIONS UNDER THIS SUBSECTION.

25 (2) THE PURCHASER OR ASSIGNEE OF A PORTION OF A TAX
 26 CREDIT UNDER THIS SUBSECTION SHALL IMMEDIATELY CLAIM THE
 27 CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR
 28 ASSIGNMENT IS MADE. THE AMOUNT OF THE CREDIT THAT A PURCHASER
 29 OR ASSIGNEE MAY USE AGAINST A QUALIFIED TAX LIABILITY MAY NOT
 30 EXCEED 75% OF THE QUALIFIED TAX LIABILITY FOR THE TAXABLE

20070S0097B1327

- 71 -

1 YEAR. THE PURCHASER OR ASSIGNEE MAY NOT CARRY OVER, CARRY
 2 BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE TAX CREDIT.
 3 THE PURCHASER OR ASSIGNEE SHALL NOTIFY THE DEPARTMENT OF THE
 4 SELLER OR ASSIGNEE OF THE TAX CREDIT IN COMPLIANCE WITH
 5 PROCEDURES SPECIFIED BY THE DEPARTMENT.

6 (3) BEFORE AN APPLICATION IS APPROVED, THE DEPARTMENT
 7 MUST MAKE A FINDING THAT THE APPLICANT HAS FILED ALL REQUIRED

8 STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE TAXABLE
9 YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED AT
10 SETTLEMENT, ASSESSMENT OR DETERMINATION BY THE DEPARTMENT.

11 (4) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, THE
12 DEPARTMENT SHALL SETTLE, ASSESS OR DETERMINE THE TAX OF AN
13 APPLICANT UNDER THIS SUBSECTION WITHIN 90 DAYS OF THE FILING
14 OF ALL REQUIRED FINAL RETURNS OR REPORTS IN ACCORDANCE WITH
15 SECTION 806.1(A)(5) OF THE ACT OF APRIL 9, 1929 (P.L.343,
16 NO.176), KNOWN AS THE FISCAL CODE.

17 (E) SPONSORSHIP.--AN ELIGIBLE APPLICANT MAY BE A SPONSOR BY
18 APPLYING FOR A TAX CREDIT FOR A PROJECT AUTHORIZED UNDER SECTION
19 1707-E IF A WRITTEN AGREEMENT BETWEEN THE ELIGIBLE APPLICANT AND
20 THE OWNER OF PROPERTY ON WHICH THE PROJECT WILL BE COMPLETED IS
21 SUBMITTED TO THE COMMISSION, CERTIFYING THAT THE PROPERTY OWNER
22 WILL COMPLY WITH ALL THE PROVISIONS OF THIS ARTICLE.

23 (F) TAX CREDITS FOR PASS-THROUGH ENTITIES.--

24 (1) IF A PASS-THROUGH ENTITY HAS ANY UNUSED TAX CREDIT
25 UNDER SECTION 1704-E, IT MAY ELECT IN WRITING, ACCORDING TO
26 PROCEDURES ESTABLISHED BY THE DEPARTMENT, TO TRANSFER ALL OR
27 A PORTION OF THE CREDIT TO SHAREHOLDERS, MEMBERS OR PARTNERS
28 IN PROPORTION TO THE SHARE OF THE ENTITY'S DISTRIBUTIVE
29 INCOME TO WHICH THE SHAREHOLDER, MEMBER OR PARTNER IS
30 ENTITLED.

20070S0097B1327

- 72 -

1 (2) THE CREDIT PROVIDED UNDER PARAGRAPH (1) IS IN
2 ADDITION TO ANY TAX CREDIT TO WHICH THE SHAREHOLDER, MEMBER
3 OR PARTNER IS OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER,
4 A PASS-THROUGH ENTITY AND ITS SHAREHOLDERS, MEMBERS OR
5 PARTNERS SHALL NOT CLAIM A TAX CREDIT UNDER THIS ARTICLE FOR
6 THE SAME PROJECT AUTHORIZED UNDER SECTION 1707-E.

7 (3) A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
8 ENTITY TO WHOM CREDIT IS TRANSFERRED UNDER PARAGRAPH (1)
9 SHALL IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN
10 WHICH THE TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR
11 PARTNER MAY NOT CARRY FORWARD, CARRY BACK, OBTAIN A REFUND
12 OF, OR SELL OR ASSIGN THE CREDIT.

13 SECTION 1704-E. TAX CREDITS.

14 (A) GENERAL ELIGIBILITY.--PROJECTS SHALL BE ELIGIBLE FOR A
15 TAX CREDIT AS FOLLOWS:

16 (1) ONLY BEST MANAGEMENT PRACTICES COMPLETED AFTER THE
17 EFFECTIVE DATE OF THIS ARTICLE SHALL BE ELIGIBLE FOR A TAX
18 CREDIT.

19 (2) AN AGRICULTURAL OPERATION SHALL HAVE IN PLACE A
20 CURRENT CONSERVATION PLAN, A CURRENT AGRICULTURAL EROSION AND
21 SEDIMENT CONTROL PLAN IF ENGAGED IN PLOWING AND TILLING, AND
22 A CURRENT NUTRIENT MANAGEMENT PLAN IF REQUIRED, OR THE
23 DEVELOPMENT OF SUCH PLANS SHALL BE INCLUDED IN AN APPLICATION
24 FOR A TAX CREDIT.

25 (3) AN AGRICULTURAL OPERATION WITH AN ANIMAL
26 CONCENTRATION AREA SHALL HAVE IMPLEMENTED BEST MANAGEMENT
27 PRACTICES NECESSARY TO ABATE STORM WATER RUNOFF, LOSS OF
28 SEDIMENT, LOSS OF NUTRIENTS AND RUNOFF OF OTHER POLLUTANTS
29 FROM THE ANIMAL CONCENTRATION AREA, OR THE IMPLEMENTATION OF
30 SUCH BEST MANAGEMENT PRACTICES SHALL BE INCLUDED IN AN

20070S0097B1327

- 73 -

1 APPLICATION FOR A TAX CREDIT.

2 (4) AN AGRICULTURAL OPERATION WITH AN UNCOMPLETED BEST
3 MANAGEMENT PRACTICE OF EITHER AN AGRICULTURAL EROSION AND
4 SEDIMENT CONTROL PLAN IF ENGAGED IN PLOWING AND TILLING OR A
5 NUTRIENT MANAGEMENT PLAN IF REQUIRED, SHALL FIRST INCLUDE THE
6 REMAINING BEST MANAGEMENT PRACTICES INCLUDED IN SUCH PLANS IN
7 AN APPLICATION FOR A TAX CREDIT.

8 (5) A PROJECT SHALL MEET THE DESIGN AND CONSTRUCTION
9 STANDARDS ESTABLISHED BY THE COMMISSION. IF STANDARDS DO NOT
10 EXIST FOR A BEST MANAGEMENT PRACTICE APPROVED BY THE
11 COMMISSION, THE COMMISSION MAY ESTABLISH OR APPROVE DESIGN,

12 CONSTRUCTION AND CERTIFICATION STANDARDS FOR SUCH A BEST
 13 MANAGEMENT PRACTICE.

14 (B) AMOUNT OF TAX CREDIT.--

15 (1) A TAX CREDIT EQUAL TO 75% OF THE ELIGIBLE COSTS
 16 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
 17 1707-E SHALL BE GRANTED FOR ANY OF THE FOLLOWING:

18 (I) DEVELOPMENT OF A VOLUNTARY OR MANDATORY NUTRIENT
 19 MANAGEMENT PLAN.

20 (II) DEVELOPMENT OF AN AGRICULTURAL EROSION AND
 21 SEDIMENT CONTROL PLAN OR A CONSERVATION PLAN.

22 (III) FOR AN ANIMAL CONCENTRATION AREA, DESIGN AND
 23 IMPLEMENTATION OF BEST MANAGEMENT PRACTICES NECESSARY TO
 24 ABATE STORM WATER RUNOFF, LOSS OF SEDIMENT, LOSS OF
 25 NUTRIENTS AND RUNOFF OF OTHER POLLUTANTS.

26 (IV) DESIGN AND IMPLEMENTATION OF BEST MANAGEMENT
 27 PRACTICES NECESSARY TO RESTRICT LIVESTOCK ACCESS TO
 28 STREAMS IF THERE IS ESTABLISHED AND MAINTAINED A RIPARIAN
 29 FOREST BUFFER WITH A MINIMUM WIDTH OF 50 FEET.

30 (V) ESTABLISHMENT OF A RIPARIAN FOREST BUFFER WITH A

20070S0097B1327

- 74 -

1 MINIMUM WIDTH OF 50 FEET.

2 (2) A TAX CREDIT EQUAL TO 50% OF THE ELIGIBLE COSTS
 3 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
 4 1707-E SHALL BE GRANTED FOR ANY OF THE FOLLOWING:

5 (I) FOR AN AGRICULTURAL OPERATION, DESIGN AND
 6 IMPLEMENTATION OF AGRICULTURAL BEST MANAGEMENT PRACTICES
 7 OR THE INSTALLATION AND USE OF EQUIPMENT, PROVIDED THAT
 8 THE BEST MANAGEMENT PRACTICE OR EQUIPMENT IS NECESSARY TO
 9 REDUCE EXISTING SEDIMENT AND NUTRIENT POLLUTION TO
 10 SURFACE WATERS. SUCH BEST MANAGEMENT PRACTICES AND
 11 EQUIPMENT SHALL BE IDENTIFIED BY THE COMMISSION AND MAY
 12 INCLUDE MANURE STORAGE SYSTEMS, ALTERNATIVE USES FOR
 13 MANURE, FILTER STRIPS, GRASSED WATERWAYS, MANAGEMENT
 14 INTENSIVE GRAZING SYSTEMS AND NO-TILL PLANTING EQUIPMENT.

15 (II) DESIGN AND IMPLEMENTATION OF BEST MANAGEMENT
 16 PRACTICES NECESSARY TO EXCLUDE LIVESTOCK ACCESS TO
 17 STREAMS THROUGH FENCING, STABILIZED CROSSINGS AND
 18 IMPROVED WATERING SYSTEMS, IF THERE IS ESTABLISHED AND
 19 MAINTAINED A VEGETATED RIPARIAN OR RIPARIAN FOREST BUFFER
 20 WITH A MINIMUM WIDTH OF 35 FEET.

21 (3) A TAX CREDIT EQUAL TO 25% OF THE ELIGIBLE COSTS
 22 UNDER SUBSECTION (C) OF A PROJECT AUTHORIZED UNDER SECTION
 23 1707-E SHALL BE GRANTED FOR THE REMEDIATION OF LEGACY
 24 SEDIMENT IF THE LEGACY SEDIMENT IS EXPOSED AND IS DISCHARGING
 25 OR THREATENS TO DISCHARGE INTO SURFACE WATERS AS A RESULT OF
 26 ACUTE STREAM BANK EROSION. THE PROJECT SHALL MEET STANDARDS
 27 ESTABLISHED BY THE COMMISSION AS BEING EFFECTIVE IN
 28 MITIGATING OR ELIMINATING THE HARMFUL EFFECTS OF LEGACY
 29 SEDIMENT.

30 (C) COSTS OF PROJECT.--

20070S0097B1327

- 75 -

1 (1) THE FOLLOWING SHALL BE CONSIDERED ELIGIBLE COSTS OF
 2 A PROJECT TO WHICH A TAX CREDIT MAY BE APPLIED:

3 (I) PROJECT DESIGN, ENGINEERING AND ASSOCIATED
 4 PLANNING.

5 (II) PROJECT MANAGEMENT COSTS, INCLUDING
 6 CONTRACTING, DOCUMENT PREPARATION AND APPLICATIONS.

7 (III) PROJECT CONSTRUCTION OR INSTALLATION.

8 (IV) EQUIPMENT, MATERIALS AND ALL OTHER COMPONENTS
 9 OF PROJECTS ELIGIBLE UNDER SUBSECTION (A).

10 (V) POSTCONSTRUCTION INSPECTIONS.

11 (VI) INTEREST PAYMENTS ON LOANS FOR PROJECT
 12 IMPLEMENTATION FOR UP TO ONE YEAR PRIOR TO THE AWARD OF
 13 THE TAX CREDIT.

14 (2) A TAX CREDIT SHALL NOT BE APPLIED TO THAT PORTION OF
 15 A PROJECT COST FOR WHICH PUBLIC FUNDING WAS RECEIVED.

20 (2) A MAINTENANCE PLAN AS REQUIRED BY SECTION 1707-E(A)
 21 FOR EACH BEST MANAGEMENT PRACTICE, IF APPLICABLE TO THE
 22 PROJECT.

23 (3) ANY OTHER DOCUMENTS AS MAY BE REQUIRED BY THE
 24 COMMISSION.

25 (E) NOTIFICATION TO DEPARTMENT.--UPON DETERMINATION THAT A
 26 PROJECT AUTHORIZED UNDER THIS SECTION IS COMPLETE, THE
 27 COMMISSION SHALL PROVIDE NOTIFICATION TO THE DEPARTMENT:

28 (1) THAT THE ELIGIBLE APPLICANT HAS COMPLETED A PROJECT
 29 WHICH MEETS THE CRITERIA FOR A TAX CREDIT UNDER THIS ARTICLE;
 30 AND

20070S0097B1327

- 78 -

1 (2) THE AMOUNT OF TAX CREDIT FOR THE ELIGIBLE APPLICANT.

2 (F) INSPECTION.--PROJECTS AUTHORIZED UNDER THIS SECTION MAY
 3 BE SUBJECT TO INSPECTION BY THE COMMISSION OR ITS DESIGNATED
 4 AGENT.

5 SECTION 1708-E. GRANT OF TAX CREDIT.

6 THE FOLLOWING SHALL APPLY:

7 (1) THE DEPARTMENT SHALL GRANT A TAX CREDIT AUTHORIZED
 8 UNDER SECTION 1707-E. THE DEPARTMENT SHALL WITHIN 60 DAYS OF
 9 RECEIPT OF NOTICE UNDER SECTION 1707-E(E), ISSUE A NOTICE OF
 10 GRANT OF A TAX CREDIT TO THE ELIGIBLE APPLICANT.

11 (2) BEFORE A TAX CREDIT IS GRANTED, THE DEPARTMENT MUST
 12 MAKE A FINDING THAT THE APPLICANT HAS FILED ALL REQUIRED
 13 STATE TAX REPORTS AND RETURNS FOR ALL APPLICABLE TAXABLE
 14 YEARS AND PAID ANY BALANCE OF STATE TAX DUE AS DETERMINED AT
 15 SETTLEMENT OR ASSESSMENT BY THE DEPARTMENT.

16 SECTION 1709-E. ANNUAL TAX CREDITS.

17 THE TOTAL AMOUNT OF TAX CREDITS AUTHORIZED BY THE COMMISSION
 18 SHALL NOT EXCEED \$10,000,000 IN ANY FISCAL YEAR.

19 SECTION 1710-E. REPORT AND PUBLIC INFORMATION.

20 (A) GENERAL RULE.--THE COMMISSION, IN CONSULTATION WITH THE
 21 DEPARTMENT, SHALL ANNUALLY REPORT TO THE GENERAL ASSEMBLY ON THE
 22 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT PROGRAM AS
 23 FOLLOWS:

24 (1) THE NUMBER OF PROJECTS AND THE DOLLAR AMOUNT OF TAX
 25 CREDITS GRANTED UNDER THE PROGRAM IN THE AGGREGATE, BY BEST
 26 MANAGEMENT PRACTICE AND PER PROJECT.

27 (2) THE TYPES, LOCATIONS AND COSTS OF PROJECTS.

28 (3) THE ESTIMATED BENEFITS OF THE PROJECTS INCLUDING
 29 POLLUTION REDUCTION.

30 (B) IDENTITY.--THE IDENTITY OF EACH TAXPAYER UTILIZING A

20070S0097B1327

- 79 -

1 RESOURCE ENHANCEMENT AND PROTECTION TAX CREDIT UNDER THIS
 2 ARTICLE, AND THE AMOUNT OF CREDITS APPROVED AND UTILIZED BY EACH
 3 TAXPAYER SHALL BE MADE AVAILABLE ANNUALLY WITHIN A YEAR OF WHEN
 4 THE CREDITS WERE GRANTED, AND SHALL CONSTITUTE A PUBLIC RECORD,
 5 NOTWITHSTANDING ANY LAW PROVIDING FOR THE CONFIDENTIALITY OF TAX
 6 RECORDS. THIS INFORMATION REGARDING TAXPAYER USE OF RESOURCE
 7 ENHANCEMENT AND PROTECTION TAX CREDITS SHALL BE MADE AVAILABLE
 8 IN ACCORDANCE WITH THE LAWS APPLICABLE TO PUBLIC INFORMATION AND
 9 PUBLIC RECORDS GENERALLY, AND NEED NOT BE INCLUDED IN THE ANNUAL
 10 REPORT TO THE GENERAL ASSEMBLY.

11 SECTION 8. THE DEFINITION OF "BUSINESS FIRM" IN SECTION
 12 1902-A OF THE ACT, AMENDED MAY 7, 1997 (P.L.85, NO.7), IS
 13 AMENDED AND THE SECTION IS AMENDED BY ADDING A DEFINITION TO
 14 READ:

15 SECTION 1902-A. DEFINITIONS.--THE FOLLOWING WORDS, TERMS AND
 16 PHRASES, WHEN USED IN THIS ARTICLE, SHALL HAVE THE MEANINGS
 17 ASCRIBED TO THEM IN THIS SECTION, EXCEPT WHERE THE CONTEXT
 18 CLEARLY INDICATES A DIFFERENT MEANING:

19 "BUSINESS FIRM." ANY BUSINESS ENTITY AUTHORIZED TO DO
 20 BUSINESS IN THIS COMMONWEALTH AND SUBJECT TO TAXES IMPOSED BY
 21 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX[, X]
 22 OR XV OF THIS ACT. THE TERM SHALL INCLUDE A PASS-THROUGH ENTITY.

23 * * *

24 "PASS-THROUGH ENTITY." A PARTNERSHIP AS DEFINED UNDER
 25 SECTION 301(N.0) OR A PENNSYLVANIA S CORPORATION AS DEFINED
 26 UNDER SECTION 301(N.1).

27 * * *

28 SECTION 9. SECTION 1904-A OF THE ACT, AMENDED APRIL 23, 1998
 29 (P.L.239, NO.45), IS AMENDED TO READ:

30 SECTION 1904-A. TAX CREDIT.--(A) ANY BUSINESS FIRM WHICH
 20070S0097B1327 - 80 -

1 ENGAGES OR CONTRIBUTES TO A NEIGHBORHOOD ORGANIZATION WHICH
 2 ENGAGES IN THE ACTIVITIES OF PROVIDING NEIGHBORHOOD ASSISTANCE,
 3 COMPREHENSIVE SERVICE PROJECTS, JOB TRAINING OR EDUCATION FOR
 4 INDIVIDUALS, COMMUNITY SERVICES OR CRIME PREVENTION IN AN
 5 IMPOVERISHED AREA OR PRIVATE COMPANY WHICH MAKES QUALIFIED
 6 INVESTMENT TO REHABILITATE, EXPAND OR IMPROVE BUILDINGS OR LAND
 7 LOCATED WITHIN PORTIONS OF IMPOVERISHED AREAS WHICH HAVE BEEN
 8 DESIGNATED AS ENTERPRISE ZONES SHALL RECEIVE A TAX CREDIT AS
 9 PROVIDED IN SECTION 1905-A IF THE SECRETARY ANNUALLY APPROVES
 10 THE PROPOSAL OF SUCH BUSINESS FIRM OR PRIVATE COMPANY. THE
 11 PROPOSAL SHALL SET FORTH THE PROGRAM TO BE CONDUCTED, THE
 12 IMPOVERISHED AREA SELECTED, THE ESTIMATED AMOUNT TO BE INVESTED
 13 IN THE PROGRAM AND THE PLANS FOR IMPLEMENTING THE PROGRAM.

14 (B) THE SECRETARY IS HEREBY AUTHORIZED TO PROMULGATE RULES
 15 AND REGULATIONS FOR THE APPROVAL OR DISAPPROVAL OF SUCH
 16 PROPOSALS BY BUSINESS FIRMS OR PRIVATE COMPANIES [AND PROVIDE
 17 A]. THE SECRETARY SHALL PROVIDE A REPORT LISTING OF ALL
 18 APPLICATIONS RECEIVED AND THEIR DISPOSITION IN EACH FISCAL YEAR
 19 TO THE GENERAL ASSEMBLY BY OCTOBER 1 OF THE FOLLOWING FISCAL
 20 YEAR. THE SECRETARY'S REPORT SHALL INCLUDE ALL TAXPAYERS
 21 UTILIZING THE CREDIT AND THE AMOUNT OF CREDITS APPROVED, SOLD OR
 22 ASSIGNED. NOTWITHSTANDING ANY LAW PROVIDING FOR THE
 23 CONFIDENTIALITY OF TAX RECORDS, THE INFORMATION IN THE REPORT
 24 SHALL BE PUBLIC INFORMATION AND ALL REPORT INFORMATION SHALL BE
 25 POSTED ON THE SECRETARY'S INTERNET WEBSITE.

26 (B.1) THE SECRETARY SHALL TAKE INTO SPECIAL CONSIDERATION,
 27 WHEN APPROVING APPLICATIONS FOR NEIGHBORHOOD ASSISTANCE TAX
 28 CREDITS, APPLICATIONS WHICH INVOLVE MULTIPLE PROJECTS IN VARIOUS
 29 MARKETS THROUGHOUT THIS COMMONWEALTH.

30 (C) THE TOTAL AMOUNT OF TAX CREDIT GRANTED FOR PROGRAMS
 20070S0097B1327 - 81 -

1 APPROVED UNDER THIS ACT SHALL NOT EXCEED EIGHTEEN MILLION
 2 DOLLARS (\$18,000,000) OF TAX CREDIT IN ANY FISCAL YEAR.

3 (D) A TAXPAYER, UPON APPLICATION TO AND APPROVAL BY THE
 4 DEPARTMENT OF COMMUNITY AND ECONOMIC DEVELOPMENT, MAY SELL OR
 5 ASSIGN, IN WHOLE OR IN PART, A NEIGHBORHOOD ASSISTANCE TAX
 6 CREDIT GRANTED TO THE BUSINESS FIRM UNDER THIS ARTICLE IF NO
 7 CLAIM FOR ALLOWANCE OF THE CREDIT IS FILED WITHIN ONE YEAR FROM
 8 THE DATE THE CREDIT IS GRANTED BY THE DEPARTMENT OF REVENUE
 9 UNDER SECTION 1905-A. THE DEPARTMENT OF COMMUNITY AND ECONOMIC
 10 DEVELOPMENT AND THE DEPARTMENT OF REVENUE SHALL JOINTLY
 11 PROMULGATE GUIDELINES FOR THE APPROVAL OF APPLICATIONS UNDER
 12 THIS SUBSECTION.

13 (E) THE PURCHASER OR ASSIGNEE OF A NEIGHBORHOOD ASSISTANCE
 14 TAX CREDIT UNDER SUBSECTION (D) SHALL IMMEDIATELY CLAIM THE
 15 CREDIT IN THE TAXABLE YEAR IN WHICH THE PURCHASE OR ASSIGNMENT
 16 IS MADE. THE PURCHASER OR ASSIGNEE MAY NOT CARRY OVER, CARRY
 17 BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN THE NEIGHBORHOOD
 18 ASSISTANCE TAX CREDIT. THE PURCHASER OR ASSIGNEE SHALL NOTIFY
 19 THE DEPARTMENT OF REVENUE OF THE SELLER OR ASSIGNOR OF THE
 20 NEIGHBORHOOD ASSISTANCE TAX CREDIT IN COMPLIANCE WITH PROCEDURES
 21 SPECIFIED BY THE DEPARTMENT OF REVENUE.

22 (F) THE NEIGHBORHOOD ASSISTANCE TAX CREDIT APPROVED BY THE
 23 DEPARTMENT OF COMMUNITY OF COMMUNITY AND ECONOMIC DEVELOPMENT
 24 SHALL BE APPLIED AGAINST THE BUSINESS FIRM'S TAX LIABILITY FOR
 25 THE TAXES UNDER SECTION 1905-A FOR THE CURRENT TAXABLE YEAR AS
 26 OF THE DATE ON WHICH THE CREDIT WAS APPROVED BEFORE THE
 27 NEIGHBORHOOD ASSISTANCE TAX CREDIT MAY BE CARRIED OVER, SOLD OR

28 ASSIGNED.

29 SECTION 10. SECTION 1905-A OF THE ACT, AMENDED JULY 7, 2005
 30 (P.L.149, NO.40), IS AMENDED TO READ:

20070S0097B1327

- 82 -

1 SECTION 1905-A. GRANT OF TAX CREDIT.--THE DEPARTMENT OF
 2 REVENUE SHALL GRANT A TAX CREDIT AGAINST ANY TAX DUE UNDER
 3 ARTICLE III, IV, VI, VII, [VII-A, VIII, VIII-A,] VIII, IX[, X]
 4 OR XV OF THIS ACT, OR ANY TAX SUBSTITUTED IN LIEU THEREOF IN AN
 5 AMOUNT WHICH SHALL NOT EXCEED [FIFTY] FIFTY-FIVE PER CENT OF THE
 6 TOTAL AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY
 7 [THE BUSINESS FIRM OR TWENTY] A BUSINESS FIRM OR TWENTY-FIVE PER
 8 CENT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY IN PROGRAMS
 9 APPROVED PURSUANT TO SECTION 1904-A OF THIS ACT: PROVIDED, THAT
 10 A TAX CREDIT OF UP TO [SEVENTY] SEVENTY-FIVE PER CENT OF THE
 11 TOTAL AMOUNT [INVESTED] CONTRIBUTED DURING THE TAXABLE YEAR BY A
 12 BUSINESS FIRM OR UP TO [THIRTY] THIRTY-FIVE PER CENT OF THE
 13 AMOUNT OF QUALIFIED INVESTMENTS BY A PRIVATE COMPANY MAY BE
 14 ALLOWED FOR INVESTMENT IN PROGRAMS WHERE ACTIVITIES FALL WITHIN
 15 THE SCOPE OF SPECIAL PROGRAM PRIORITIES AS DEFINED WITH THE
 16 APPROVAL OF THE GOVERNOR IN REGULATIONS PROMULGATED BY THE
 17 SECRETARY[.], AND PROVIDED FURTHER, THAT A TAX CREDIT OF UP TO
 18 SEVENTY-FIVE PER CENT OF THE TOTAL AMOUNT CONTRIBUTED DURING THE
 19 TAXABLE YEAR BY A BUSINESS FIRM IN COMPREHENSIVE SERVICE
 20 PROJECTS WITH FIVE-YEAR COMMITMENTS AND UP TO EIGHTY PER CENT OF
 21 THE TOTAL AMOUNT CONTRIBUTED DURING THE TAXABLE YEAR BY A
 22 BUSINESS FIRM IN COMPREHENSIVE SERVICE PROJECTS WITH SIX-YEAR OR
 23 LONGER COMMITMENTS SHALL BE GRANTED. SUCH CREDIT SHALL NOT
 24 EXCEED [TWO HUNDRED FIFTY THOUSAND DOLLARS (\$250,000) ANNUALLY,
 25 EXCEPT IN THE CASE OF COMPREHENSIVE SERVICE PROJECTS WHICH SHALL
 26 BE ALLOWED AN ADDITIONAL CREDIT EQUAL TO SEVENTY PER CENT OF THE
 27 QUALIFYING INVESTMENTS MADE IN COMPREHENSIVE SERVICE PROJECTS;
 28 HOWEVER, SUCH ADDITIONAL CREDIT SHALL NOT EXCEED THREE HUNDRED
 29 FIFTY THOUSAND DOLLARS (\$350,000) ANNUALLY.] FIVE HUNDRED
 30 THOUSAND DOLLARS (\$500,000) ANNUALLY FOR CONTRIBUTIONS OR

20070S0097B1327

- 83 -

1 INVESTMENTS TO FEWER THAN FOUR PROJECTS OR ONE MILLION TWO
 2 HUNDRED FIFTY THOUSAND DOLLARS (\$1,250,000) ANNUALLY FOR
 3 CONTRIBUTIONS OR INVESTMENTS TO FOUR OR MORE PROJECTS. NO TAX
 4 CREDIT SHALL BE GRANTED TO ANY BANK, BANK AND TRUST COMPANY,
 5 INSURANCE COMPANY, TRUST COMPANY, NATIONAL BANK, SAVINGS
 6 ASSOCIATION, MUTUAL SAVINGS BANK OR BUILDING AND LOAN
 7 ASSOCIATION FOR ACTIVITIES THAT ARE A PART OF ITS NORMAL COURSE
 8 OF BUSINESS. ANY TAX CREDIT NOT USED IN THE PERIOD THE
 9 CONTRIBUTION OR INVESTMENT WAS MADE MAY BE CARRIED OVER FOR THE
 10 NEXT FIVE SUCCEEDING CALENDAR OR FISCAL YEARS UNTIL THE FULL
 11 CREDIT HAS BEEN ALLOWED. A BUSINESS FIRM SHALL NOT BE ENTITLED
 12 TO CARRY BACK OR OBTAIN A REFUND OF AN UNUSED TAX CREDIT. THE
 13 TOTAL AMOUNT OF ALL TAX CREDITS ALLOWED PURSUANT TO THIS ACT
 14 SHALL NOT EXCEED EIGHTEEN MILLION DOLLARS (\$18,000,000) IN ANY
 15 ONE FISCAL YEAR. OF THAT AMOUNT, TWO MILLION DOLLARS
 16 (\$2,000,000) SHALL BE ALLOCATED EXCLUSIVELY FOR PASS-THROUGH
 17 ENTITIES. HOWEVER, IF THE TOTAL AMOUNTS ALLOCATED TO EITHER THE
 18 GROUP OF APPLICANTS, EXCLUSIVE OF PASS-THROUGH ENTITIES, OR THE
 19 GROUP OF PASS-THROUGH ENTITY APPLICANTS IS NOT APPROVED IN ANY
 20 FISCAL YEAR, THE UNUSED PORTION SHALL BECOME AVAILABLE FOR USE
 21 BY THE OTHER GROUP OF QUALIFYING TAXPAYERS.

22 SECTION 11. THE ACT IS AMENDED BY ADDING A SECTION TO READ:

23 SECTION 1907-A. PASS-THROUGH ENTITY.--(A) IF A PASS-THROUGH
 24 ENTITY HAS ANY UNUSED TAX CREDIT UNDER SECTION 1905-A, THE
 25 ENTITY MAY ELECT, IN WRITING, ACCORDING TO THE DEPARTMENT'S
 26 PROCEDURES, TO TRANSFER ALL OR A PORTION OF THE CREDIT TO
 27 SHAREHOLDERS, MEMBERS OR PARTNERS IN PROPORTION TO THE SHARE OF
 28 THE ENTITY'S DISTRIBUTIVE INCOME TO WHICH THE SHAREHOLDER,
 29 MEMBER OR PARTNER IS ENTITLED.

30 (B) THE CREDIT PROVIDED UNDER SUBSECTION (A) IS IN ADDITION

20070S0097B1327

- 84 -

1 TO ANY NEIGHBORHOOD ASSISTANCE TAX CREDIT TO WHICH A
 2 SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH ENTITY IS
 3 OTHERWISE ENTITLED UNDER THIS ARTICLE. HOWEVER, A PASS-THROUGH
 4 ENTITY AND A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
 5 ENTITY MAY NOT CLAIM A CREDIT UNDER THIS ARTICLE FOR THE SAME
 6 QUALIFIED NEIGHBORHOOD ASSISTANCE INVESTMENT OR CONTRIBUTION.

7 (C) A SHAREHOLDER, MEMBER OR PARTNER OF A PASS-THROUGH
 8 ENTITY TO WHOM CREDIT IS TRANSFERRED UNDER SUBSECTION (A) MUST
 9 IMMEDIATELY CLAIM THE CREDIT IN THE TAXABLE YEAR IN WHICH THE
 10 TRANSFER IS MADE. THE SHAREHOLDER, MEMBER OR PARTNER MAY NOT
 11 CARRY FORWARD, CARRY BACK, OBTAIN A REFUND OF OR SELL OR ASSIGN
 12 THE CREDIT.

13 SECTION 12. SECTION 2005 OF THE ACT, AMENDED OCTOBER 18,
 14 2006 (P.L.1149, NO.119), IS AMENDED TO READ:

15 SECTION 2005. ASSESSMENT BY DEPARTMENT.--(A) IF ANY PERSON
 16 SHALL FAIL TO PAY ANY TAX IMPOSED BY THIS ARTICLE FOR WHICH HE
 17 IS LIABLE, THE DEPARTMENT IS HEREBY AUTHORIZED AND EMPOWERED TO
 18 MAKE AN ASSESSMENT OF ADDITIONAL TAX DUE BY SUCH PERSON, BASED
 19 UPON ANY INFORMATION WITHIN ITS POSSESSION, OR THAT SHALL COME
 20 INTO ITS POSSESSION.

21 (B) PROMPTLY AFTER THE DATE OF SUCH ASSESSMENT, THE
 22 DEPARTMENT SHALL SEND [BY CERTIFIED MAIL] A COPY OF THE
 23 ASSESSMENT, INCLUDING THE BASIS OF THE ASSESSMENT, TO THE PERSON
 24 AGAINST WHOM IT WAS MADE. WITHIN NINETY DAYS AFTER THE DATE UPON
 25 WHICH THE COPY OF ANY SUCH ASSESSMENT WAS MAILED, SUCH PERSON
 26 MAY FILE WITH THE DEPARTMENT A PETITION FOR REASSESSMENT OF SUCH
 27 TAXES. EVERY PETITION FOR REASSESSMENT SHALL STATE SPECIFICALLY
 28 THE REASONS WHICH THE PETITIONER BELIEVES ENTITLE HIM TO SUCH
 29 REASSESSMENT, AND IT SHALL BE SUPPORTED BY AFFIDAVIT THAT IT IS
 30 NOT MADE FOR THE PURPOSE OF DELAY, AND THAT THE FACTS SET FORTH

20070S0097B1327

- 85 -

1 THEREIN ARE TRUE. IT SHALL BE THE DUTY OF THE DEPARTMENT, WITHIN
 2 SIX MONTHS AFTER THE DATE OF ANY ASSESSMENT, TO DISPOSE OF ANY
 3 PETITION FOR REASSESSMENT. NOTICE OF THE ACTION TAKEN UPON ANY
 4 PETITION FOR REASSESSMENT SHALL BE GIVEN TO THE PETITIONER
 5 PROMPTLY AFTER THE DATE OF REASSESSMENT BY THE DEPARTMENT.

6 (B.1) THE NOTICE REQUIRED BY SUBSECTION (B) SHALL BE SENT BY
 7 CERTIFIED MAIL IF THE ASSESSMENT IS FOR \$300 OR MORE.

8 (C) WITHIN NINETY DAYS AFTER THE DATE OF MAILING OF NOTICE
 9 BY THE DEPARTMENT OF THE ACTION TAKEN ON ANY PETITION FOR
 10 REASSESSMENT FILED WITH IT, THE PERSON AGAINST WHOM SUCH
 11 ASSESSMENT WAS MADE, MAY, BY PETITION, REQUEST THE BOARD OF
 12 FINANCE AND REVENUE TO REVIEW SUCH ACTION. EVERY PETITION FOR
 13 REVIEW FILED HEREUNDER SHALL STATE SPECIFICALLY THE REASON UPON
 14 WHICH THE PETITIONER RELIES, OR SHALL INCORPORATE BY REFERENCE
 15 THE PETITION FOR REASSESSMENT IN WHICH SUCH REASONS SHALL HAVE
 16 BEEN STATED. THE PETITION SHALL BE SUPPORTED BY AFFIDAVIT THAT
 17 IT IS NOT MADE FOR THE PURPOSE OF DELAY, AND THAT THE FACTS
 18 THEREIN SET FORTH ARE TRUE. IF THE PETITIONER BE A CORPORATION,
 19 JOINT-STOCK ASSOCIATION OR LIMITED PARTNERSHIP, THE AFFIDAVIT
 20 MUST BE MADE BY ONE OF THE PRINCIPAL OFFICERS THEREOF. A
 21 PETITION FOR REVIEW MAY BE AMENDED BY THE PETITIONER AT ANY TIME
 22 PRIOR TO THE HEARING, AS HEREINAFTER PROVIDED. THE BOARD OF
 23 FINANCE AND REVENUE SHALL ACT FINALLY IN DISPOSITION OF SUCH
 24 PETITIONS FILED WITH IT WITHIN SIX MONTHS AFTER THEY HAVE BEEN
 25 RECEIVED, AND, IN THE EVENT OF THE FAILURE OF SAID BOARD TO
 26 DISPOSE OF ANY SUCH PETITION WITHIN SIX MONTHS, THE ACTION TAKEN
 27 BY THE DEPARTMENT UPON THE PETITION FOR REASSESSMENT SHALL BE
 28 DEEMED SUSTAINED. THE BOARD OF FINANCE AND REVENUE MAY SUSTAIN
 29 THE ACTION TAKEN ON THE PETITION FOR REASSESSMENT, OR IT MAY
 30 REASSESS THE TAX DUE UPON SUCH BASIS AS IT SHALL DEEM ACCORDING

20070S0097B1327

- 86 -

1 TO LAW AND EQUITY. NOTICE OF THE ACTION OF THE BOARD OF FINANCE
 2 AND REVENUE SHALL BE GIVEN BY MAIL, OR OTHERWISE, TO THE
 3 DEPARTMENT AND TO THE PETITIONER.

4 (D) IN ALL CASES OF PETITIONS FOR REASSESSMENT, REVIEW OR

5 APPEAL, THE BURDEN OF PROOF SHALL BE UPON THE PETITIONER OR
6 APPELLANT, AS THE CASE MAY BE.

7 (E) WHENEVER ANY ASSESSMENT OF ADDITIONAL TAX IS NOT PAID
8 WITHIN NINETY DAYS AFTER THE DATE OF THE ASSESSMENT, IF NO
9 PETITION FOR REASSESSMENT HAS BEEN FILED, OR WITHIN NINETY DAYS
10 FROM THE DATE OF REASSESSMENT, IF NO PETITION FOR REVIEW HAS
11 BEEN FILED, OR WITHIN THIRTY DAYS FROM THE DATE OF THE DECISION
12 OF THE BOARD OF FINANCE AND REVENUE UPON A PETITION FOR REVIEW,
13 OR THE EXPIRATION OF THE BOARD'S TIME FOR ACTING UPON SUCH
14 PETITION, IF NO APPEAL HAS BEEN MADE, AND IN ALL CASES OF
15 JUDICIAL SALES, RECEIVERSHIPS, ASSIGNMENTS OR BANKRUPTCIES, THE
16 DEPARTMENT MAY CALL UPON THE OFFICE OF ATTORNEY GENERAL TO
17 COLLECT SUCH ASSESSMENT. IN SUCH EVENT, IN A PROCEEDING FOR THE
18 COLLECTION OF SUCH TAXES, THE PERSON AGAINST WHOM THEY WERE
19 ASSESSED SHALL NOT BE PERMITTED TO SET UP ANY GROUND OF DEFENSE
20 THAT MIGHT HAVE BEEN DETERMINED BY THE DEPARTMENT, THE BOARD OF
21 FINANCE AND REVENUE OR THE COURTS. THE DEPARTMENT MAY ALSO
22 CERTIFY TO THE LIQUOR CONTROL BOARD, FOR SUCH ACTION AS THE
23 BOARD MAY DEEM PROPER, THE FACT THAT ANY PERSON HAS FAILED TO
24 PAY OR DULY APPEAL FROM SUCH ASSESSMENT OF ADDITIONAL TAX. THE
25 DEPARTMENT MAY ALSO PROVIDE, ADOPT, PROMULGATE AND ENFORCE SUCH
26 RULES AND REGULATIONS, AS MAY BE APPROPRIATE, TO PREVENT FURTHER
27 SHIPMENT OR TRANSPORTATION OF MALT OR BREWED BEVERAGES INTO THIS
28 COMMONWEALTH BY ANY PERSON AGAINST WHOM SUCH UNPAID ASSESSMENT
29 SHALL HAVE BEEN MADE.

30 SECTION 13. THE ACT IS AMENDED BY ADDING A SECTION TO READ:
20070S0097B1327 - 87 -

1 SECTION 3003.19. POWDER METALLURGY PARTS.--FOR PURPOSES OF
2 DEFINING THE PHRASES "DOING BUSINESS IN THIS COMMONWEALTH,"
3 "CARRYING ON ACTIVITIES IN THIS COMMONWEALTH," "HAVING CAPITAL
4 OR PROPERTY EMPLOYED OR USED IN THIS COMMONWEALTH" OR "OWNING
5 PROPERTY IN THIS COMMONWEALTH" IN SECTIONS 401 AND 402 OF
6 ARTICLE IV AND SUBSTANTIALLY SIMILAR PHRASES IN SECTION 601 OF
7 ARTICLE VI, THE FOLLOWING ACTIVITIES SHALL BE EXCLUDED:

8 (I) OWNING OR LEASING OF INTANGIBLE AND TANGIBLE PROPERTY,
9 INCLUDING DIES, MOLDS, TOOLING AND RELATED EQUIPMENT, BY A
10 PERSON WHO HAS CONTRACTED WITH AN UNAFFILIATED MANUFACTURER OF
11 POWDER METALLURGY PRODUCTS FOR MANUFACTURING, PROVIDED THAT:

12 (I) THE PROPERTY IS FOR USE BY THE POWDER METALLURGY PRODUCT
13 MANUFACTURER;

14 (II) THE PROPERTY IS LOCATED AT THE PENNSYLVANIA PREMISES OF
15 THE POWDER METALLURGY PRODUCT MANUFACTURER; AND

16 (III) THE PRODUCTS MANUFACTURED USING SUCH PROPERTY ARE
17 INCORPORATED INTO PRODUCTS PRODUCED OUTSIDE THIS COMMONWEALTH BY
18 THE OWNER OR LESSOR OF THE PROPERTY.

19 (2) VISITS BY A PERSON'S EMPLOYEES OR AGENTS TO THE PREMISES
20 IN THIS COMMONWEALTH OF AN UNAFFILIATED POWDER METALLURGY
21 PRODUCT MANUFACTURER WITH WHOM THE PERSON HAS CONTRACTED FOR
22 MANUFACTURING IN CONNECTION WITH THE CONTRACT.

23 (3) OWNING OF MANUFACTURED POWDER METALLURGY PRODUCTS AND
24 OTHER ITEMS PACKAGED THEREWITH, BY A PERSON WHO HAS CONTRACTED
25 WITH AN UNAFFILIATED POWDER METALLURGY PRODUCTS MANUFACTURER FOR
26 MANUFACTURING OF PRODUCTS, ON THE PREMISES OF THE UNAFFILIATED
27 POWDER METALLURGY PRODUCTS MANUFACTURER PRIOR TO DELIVERY OF THE
28 PROPERTY.

29 SECTION 14. THE AMENDMENT OF SECTION 701.1 OF THE ACT IS NOT
30 INTENDED TO REVERSE OR MODIFY THE RULING OF FIRST UNION NATIONAL
20070S0097B1327 - 88 -

1 BANK V. COMMONWEALTH, 867 A.2D 711 (PA. COMMONWEALTH 2005).

2 SECTION 15. THIS ACT SHALL APPLY AS FOLLOWS:

3 (1) THE ADDITION OF SECTION 3003.19 OF THE ACT SHALL
4 APPLY TO:

5 (I) TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2004;

6 AND

7 (II) TAXABLE YEARS AS TO WHICH THERE IS AN APPEAL
8 PRIOR TO THE EFFECTIVE DATE OF THE ADDITION OF SECTION

9 3003.19 OF THE ACT.
10 (2) THE FOLLOWING PROVISIONS SHALL APPLY TO ASSESSMENTS
11 ISSUED AFTER DECEMBER 31, 2007:
12 (I) THE AMENDMENT OF SECTION 230 OF THE ACT.
13 (II) THE AMENDMENT OF SECTION 338 OF THE ACT.
14 (III) THE AMENDMENT OF SECTION 407.1 OF THE ACT.
15 (IV) THE AMENDMENT OF SECTION 1111-C OF THE ACT.
16 (V) THE AMENDMENT OF SECTION 2005 OF THE ACT.
17 (3) THE AMENDMENT OF SECTION 247.1 OF THE ACT SHALL
18 APPLY TO AMOUNTS DEDUCTED AS BAD DEBTS ON FEDERAL INCOME TAX
19 RETURNS REQUIRED TO BE FILED AFTER JANUARY 1, 2008.
20 SECTION 16. THIS ACT SHALL TAKE EFFECT AS FOLLOWS:
21 (1) THE FOLLOWING PROVISIONS SHALL TAKE EFFECT OCTOBER
22 1, 2007:
23 (I) THE AMENDMENT OF THE UNDESIGNATED PARAGRAPH
24 (RELATING TO ITEMS NOT INCLUDED IN DEFINITION OF TERM) OF
25 SECTION 201(C) OF THE ACT.
26 (II) THE AMENDMENT OF SECTION 204(54) OF THE ACT.
27 (2) THE ADDITION OF ARTICLE XVII-E OF THE ACT SHALL TAKE
28 EFFECT IN 90 DAYS.
29 (3) THE REMAINDER OF THIS ACT SHALL TAKE EFFECT
30 IMMEDIATELY.

B5L72SFL/20070S0097B1327

- 89 -