
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2825 Session of
2022

INTRODUCED BY MERCURI, SCHLEGEL CULVER, JAMES, KEEFER, MIHALEK,
OWLETT, PICKETT AND ZIMMERMAN, SEPTEMBER 16, 2022

REFERRED TO COMMITTEE ON FINANCE, SEPTEMBER 16, 2022

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 corporate net income tax, further providing
11 for definition of "taxable income."

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

14 Section 1. Section 401(3)1(q), (r) and (s) of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, is amended to read:

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

21 * * *

22 (3) "Taxable income." 1. * * *

1 (q) [Notwithstanding] The following apply:

2 (1) For qualified property placed in service prior to
3 January 1, 2021, notwithstanding paragraph (a), taxable income
4 shall include the amount of the deduction for depreciation of
5 qualified property claimed and allowable under section 168(k) of
6 the Internal Revenue Code of 1986 (26 U.S.C. § 168(k)).

7 (2) For qualified property placed in service after December
8 31, 2020, for which depreciation was claimed and allowable under
9 section 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. §
10 168(k)), taxable income shall include the deduction for
11 depreciation claimed and allowable for Federal income tax
12 purpose for the taxable year.

13 (r) The following apply:

14 (1) For property placed in service before September 28,
15 2017, notwithstanding paragraph (a), if a deduction for
16 depreciation of qualified property was included in taxable
17 income in accordance with paragraph (q), an additional deduction
18 for depreciation of the qualified property shall be allowed from
19 taxable income until the total amount included as taxable income
20 under paragraph (q) has been claimed. The additional deduction
21 shall be equal to the product of taking three sevenths of the
22 amount of the deduction for depreciation of the qualified
23 property allowable under section 167 of the Internal Revenue
24 Code of 1986 (26 U.S.C. § 167), not including the amount of the
25 deduction for depreciation of the qualified property claimed and
26 allowable under section 168(k) of the Internal Revenue Code of
27 1986 (26 U.S.C. § 168(k)), for the tax year.

28 (2) For property placed in service after September 27, 2017,
29 notwithstanding paragraph (a), if a deduction for depreciation
30 of qualified property was included in taxable income in

1 accordance with paragraph (q), an additional deduction for
2 depreciation of the qualified property shall be allowed from
3 taxable income until the total amount included as taxable income
4 under paragraph (q) has been claimed. The additional deduction
5 shall be equal to the depreciation on the qualified property for
6 the taxable year as determined in accordance with sections 167
7 and 168 of the Internal Revenue Code of 1986 (26 U.S.C. §§ 167
8 and 168), except that section 168(k) of the Internal Revenue
9 Code of 1986 (26 U.S.C. § 168(k)) shall not apply.

10 (3) The following apply:

11 (i) For property placed in service in taxable years
12 beginning after December 31, 2020, for which depreciation was
13 claimed and allowable under section 168(k) of the Internal
14 Revenue Code of 1986 (26 U.S.C. § 168(k)), a taxpayer shall be
15 entitled to a deduction from taxable income for depreciation on
16 the property for the taxable year as determined in accordance
17 with sections 167 and 168 of the Internal Revenue Code of 1986
18 (26 U.S.C. §§ 167 and 168), except that section 168(k) of the
19 Internal Revenue Code of 1986 (26 U.S.C. § 168(k)) shall not
20 apply.

21 (ii) Except as provided under paragraph (4), the adjusted
22 basis of qualified property for purposes of determining the
23 depreciation deduction under this paragraph shall reflect any
24 adjustments required to be made in determining the adjusted
25 basis of the property for Federal income tax purposes.

26 (4) For property placed in service in taxable years
27 beginning after December 31, 2020, if a taxpayer is required to
28 reduce the basis of property for depreciation purposes upon
29 claim of a tax credit under the Internal Revenue Code of 1986,
30 the taxpayer shall not be required to reduce the basis of the

1 property for purposes of determining taxable income under this
2 article unless the taxpayer is entitled to claim a deduction for
3 depreciation.

4 (s) The following apply:

5 (1) For property placed in service before September 28,
6 2017, an additional deduction shall be allowed from taxable
7 income in the earlier of the taxable year in which qualified
8 property is fully depreciated for Federal income tax purposes,
9 or is sold or otherwise disposed of by a taxpayer to the extent
10 the amount of depreciation claimed under section 168(k) of the
11 Internal Revenue Code of 1986 (26 U.S.C. § 168(k)), on the
12 qualified property and included in taxable income under
13 paragraph (q) has not been recovered through the additional
14 deductions provided under paragraph (r) (1).

15 (2) For property placed in service after September 27, 2017,
16 with respect to qualified property which is sold or otherwise
17 disposed of during a taxable year by a taxpayer and for which
18 depreciation was included as taxable income under paragraph (q),
19 an additional deduction shall be allowed from taxable income to
20 the extent the amount of depreciation claimed under section
21 168(k) of the Internal Revenue Code of 1986 (26 U.S.C. § 168(k))
22 on the qualified property has not been recovered through the
23 additional deductions provided by paragraph (r) (2).

24 (3) The following apply:

25 (i) For property placed in service in a taxable year
26 beginning after December 31, 2020, with respect to qualified
27 property which is sold or otherwise disposed of during a taxable
28 year by a taxpayer and for which a gain or loss is recognized
29 for Federal income tax purposes on a single company basis, a
30 taxpayer is entitled to an additional deduction from taxable

1 income for depreciation for an amount equal to the aggregate
2 depreciation claimed on the property for Federal income tax
3 purposes less the aggregate amount of depreciation claimed as a
4 deduction under paragraph (r) (3).

5 (ii) The additional deduction under subparagraph (i) shall
6 not:

7 (a) Include any depreciation attributable to a period in
8 which the taxpayer was not subject to the tax imposed under this
9 article.

10 (b) Reduce the adjusted basis of the qualified property for
11 purposes of the tax imposed by this article below the adjusted
12 basis of the property for Federal income tax purposes.

13 (4) The following apply:

14 (i) For property placed in service in a taxable year
15 beginning after December 31, 2020, with respect to qualified
16 property which is sold or otherwise disposed of during a taxable
17 year by a taxpayer and for which a gain or loss is recognized
18 for Federal income tax purposes on a single company basis, a
19 taxpayer is entitled to an additional deduction from taxable
20 income for depreciation that has not been claimed for purposes
21 of the tax imposed under this article on the adjustment for
22 depreciation provided under paragraph (r) (4).

23 (ii) The additional deduction under subparagraph (i) shall
24 not:

25 (a) Include any depreciation attributable to a period in
26 which the taxpayer was not subject to the tax imposed under this
27 article.

28 (b) Reduce the adjusted basis of the qualified property for
29 purposes of the tax imposed by this article below the adjusted
30 basis of the property for Federal income tax purposes prior to a

1 reduction for purposes of claiming a Federal tax credit.

2 * * *

3 Section 2. The amendment of section 401(3)1(q), (r) and (s)
4 of the act shall apply to taxable years beginning after December
5 31, 2020.

6 Section 3. This act shall take effect immediately.