HOUSE COMMITTEE ON APPROPRIATIONS

FISCAL NOTE

REPORT OF THE COMMITTEE OF CONFERENCE

HOUSE BILL NO. 1198 **PRINTERS NO.** 3731

REVENUE INCREASE / (DECREASE)

FUND	FY 2015/16	FY 2016/17
General Fund	**$0**	**$752,300,000**
Agricultural Conservation Easement Purchase Fund	**$0**	**$5,000,000**
Local Cigarette Tax Fund	**$0**	**$0**

SUMMARY: House Bill 1198, Printer's Number 3731, as reported from the Committee of the Conference, amends the Tax Reform Code of 1971 (TRC) further providing for definitions, clarifying certain provisions and making technical changes. The legislation further provides for exclusions, discount and crimes in sales tax; for intangible drilling and development costs, withholding of taxes, estimated tax, citation authority, classes of income and contributions to tuition account programs in personal income tax; for reports and payment of tax and amended reports in corporate net income tax; for imposition and rate of tax, ascertainment of taxable amount and apportionment in bank shares tax; for repeal of tax on managed care organizations in gross receipts tax; for exempt parties and excluded transactions in realty transfer tax; for incidence and rate of tax, floor tax, stamp to evidence tax, commissions and disposition of funds in cigarette tax; for time limitations in research and development tax credit; for limitations and reissuance of tax credits in the film production tax credit; for definitions in the tax credit for new jobs; for definitions, establishment of contracting authority including functions and duties, qualified businesses, calculation of baseline, reports, transfers and restrictions in the city revitalization and improvement zones; for tax credit and grant of tax credit in the neighborhood assistance tax credit; for funds, taxes, property assessment and exceptions in neighborhood improvement zones; for tax credit in the keystone special development zone program; for limited tax credits in malt beverage tax; and for transfers not subject to tax and deductions not allowed in inheritance tax. Language is added to the TRC imposing a tobacco products tax; establishing the concert and rehearsal tour tax credit; establishing the video game production tax credit; establishing the coal refuse energy and reclamation tax credit; establishing the waterfront development tax credit; establishing the manufacturing and investment tax credit; providing for keystone opportunity zones, keystone opportunity expansion zones and keystone opportunity improvement zones; establishing the mixed-use development tax credit; providing for keystone innovation zones; imposing a table games tax; establishing a computer data center equipment incentive program; establishing a tax amnesty program; directing the Attorney General to obtain consent of participating manufacturers under the Master Settlement Agreement for amendments; preempting local government tax and making related repeals.

ANALYSIS: This legislation makes various changes and additions to the Tax Reform Code of 1971. More specific details on the changes are as follows:

Sales and Use Tax (SUT)

- Adds timbering operations to the current exemption for the purchase or use of machinery, equipment, parts and supplies or the use of services or utilities used directly in farming, dairying, agriculture, horticulture, or floriculture. Timbering shall include the business of producing or harvesting trees from forests, woodlots or tree farms for the purpose of the commercial production of wood, paper or energy products derived from wood.

  Fiscal Impact: The exclusion for timbering takes effect July 1, 2017, and will have no adverse fiscal impact on Commonwealth Funds for FY 2016-17.

- Provides for the taxation of digitally or electronically delivered downloads including (1) video; (2) photographs; (3) books; (4) any other otherwise taxable printed material; (5) applications commonly known as "apps"; (6) games; (7) music; (8) any other audio, including satellite radio service; (9) canned software, notwithstanding the function performed; and (10) any other otherwise taxable tangible personal property digitally or electronically delivered, streamed or accessed.

  Fiscal Impact: The taxation of digital downloads takes effect August 1, 2016, and the estimated revenue gain to the General Fund in FY2016-17 is $46.9 million.

- Clarifies the current exemption for cartons and other wrapping supplies when such use is incidental to the delivery of personal property to include corrugated boxes used by the manufacturer to deliver snack food products whether or not the boxes are returnable for potential reuse.

  Fiscal Impact: The amended language to the current exclusion takes effect immediately and the estimated revenue loss to General Fund in FY2016-17 is $800,000.

- Provides that the sale at retail or use of services related to the set-up, tear down or maintenance of property rented by a convention center authority to exhibitors at a convention center or public auditorium is exempt from tax.

  Fiscal Impact: The maintenance exclusion for convention centers and public auditoriums applies to purchases occurring after June 30, 2016, and the estimated revenue loss to the General Fund in FY2016-17 is $100,000.

- Provides for a cap on the vendor discount to be the lessor of 1% of the amount of tax collected or:
  - $25 per return for monthly filers;
  - $75 per return for quarterly filers; or
  - $150 per return for semiannual filers.

  Fiscal Impact: The amended language placing a cap on the current vendor discount takes effect for returns due on or after August 1, 2016, and the estimated revenue gain to the General Fund in FY2016-17 is $55.5 million.

- Adds language making the use of automated sales suppression devices illegal (zappers, phantomware or other devices used to defeat or evade the determination of the amount of tax due) and establishes penalties and fines for any person who installs or uses an automated sales suppression device.

  Fiscal Impact: The amended language takes effect immediately and will result in an unknown revenue gain to the General Fund in FY2016-17.

Personal Income Tax (PIT)

- Amends the current exclusion for lottery winnings of the Pennsylvania Lottery to apply only to noncash prizes thereby subjecting cash prizes of the Pennsylvania Lottery to the personal income tax. Noncash prizes of the Pennsylvania Lottery remain exempt.
- Repeals Section 312 of the State Lottery Law insofar as it is inconsistent with this act.

  Fiscal Impact: Subjecting cash prizes of the Pennsylvania Lottery to the PIT is retroactive to January 1, 2016, and the estimated revenue gain to the General Fund in FY2016-17 is $15.8 million.

- Makes technical changes to the provisions added as part of Act 52 of 2013 clarifying the capitalization of intangible drilling costs as ordinary and necessary business expenses.

  Fiscal Impact: The amended language is retroactive to January 1, 2014, and will have no adverse fiscal impact on Commonwealth Funds.

- Conforms Pennsylvania statute to Federal rules by adopting the provisions of IRC § 1033 (Involuntary Conversions). A taxpayer experiences an involuntary conversion when there is a loss of property through casualty, theft or eminent domain. Recognition of any gain due to the involuntary loss of property may be deferred to the extent that the gain is reinvested in other similar property.

  Fiscal Impact: This section takes effect in 60 days and will result in an unknown revenue loss to the General Fund in FY2016-17.

- Requires the Department of Revenue to provide a space on the individual income tax return for an account owner of a PA Tuition Account Program (TAP) to voluntarily designate a contribution to a beneficiary's Tuition Account Plan from any tax refund to which the taxpayer is entitled. Once designated, the department will report the amount to the State Treasurer, who will transfer the amount into the appropriate PA TAP account.

  Fiscal Impact: This section takes effect immediately and applies to returns filed for tax year 2016 and thereafter. No fiscal impact on Commonwealth Funds.

- Makes technical changes to the requirements for the filing of returns and payment of taxes for employer withholding tax and individual estimated tax.

  Fiscal Impact: The technical changes take effect immediately and will have no adverse fiscal impact on Commonwealth Funds.

<u>Corporate Net Income Tax (CNIT)</u>

- Extends the filing deadline for calendar year corporate filers from April 15 to on or before 30 days after the return is due to the Federal government (will now be due May15) in order to accommodate changes to the Federal filing deadline.

  Fiscal Impact: This section takes effect immediately and applies to returns filed for tax year 2016 and thereafter. No fiscal impact on Commonwealth Funds.

- Adds a new section providing a process for filing amended returns. A corporate taxpayer will be allowed to file an amended report within 3-years after the filing of the original report notifying the department of a correction to the original report and providing additional information for the department to consider. The department shall review the amended report within 1-year of its filing and provide written notification to the taxpayer including an explanation of the actions of the department. The taxpayer has 90 days to appeal the department's decision.

  Fiscal Impact: This section applies to amended reports filed after December 31, 2016, and will have no adverse fiscal impact on Commonwealth Funds.

<u>Bank and Trust Company Shares Tax (BST)</u>

- Increases the tax rate from 0.89% to 0.95% beginning January 1, 2017. This rate increase follows a rate decrease from 1.25% to 0.89% pursuant to Act 52 of 2013.

  Fiscal Impact: The provisions of this section will take effect January 1, 2017, and the estimated revenue gain to the General Fund in FY2016-17 is $23.5 million.

- Makes technical corrections to the provisions added as part of Act 52 of 2013 clarifying the definitions of "doing business in this Commonwealth" and "receipts"; clarifying deductions for United States obligations and deductions for goodwill; clarifying the apportionment of receipts; and allowing the use of method 1 and method 2 apportionment for banks with receipts from both trading assets/activities and investment assets/activities.

  Fiscal Impact: The provisions of this section are retroactive to January 1, 2014, and will have no adverse fiscal impact on Commonwealth funds.

- Provides a 5-year phase-out (20% per year) to exclude the book value of "Edge Act" corporations from the bank shares tax base. Edge Act corporations are bank subsidiaries that are permitted under Federal law to engage in banking activities outside the United States.

  Fiscal Impact: The provisions of this section apply beginning January 1, 2018, and will have no adverse fiscal impact on Commonwealth funds in FY2016-17.

<u>Gross Receipts Tax (GRT)</u>

- Repeals the gross receipts tax on managed care organizations effective January 1, 2017. Act 92 of 2015 imposed a Managed Care Organization Assessment (Article VIII-I of the Human Services Code) which replaces the gross receipts tax.

  Fiscal Impact: This section applies to gross receipts received after December 31, 2016, and will have no impact on Commonwealth Funds.

Realty Transfer Tax (RTT)

- Adds the definition of "veterans' organization" and provides that veterans' organizations are exempt parties for purposes of the realty transfer tax.
- Amends Section 1102-C.3(18) providing an exclusion from tax for the transfer to or between the United States, the Commonwealth or any political subdivisions of a perpetual agricultural conservation easement, historic preservation easement, public trail easement, public recreational use easement, scenic preservation easement or open-space easement. Furthermore, the section is amended providing that a transfer of such easements to or from a conservancy is exempt from tax.
- Adds Section 1102-C.3(24) providing an exclusion from tax for the transfer of real estate to or by a land bank.

  Fiscal Impact: The provisions take effect in 60 days and will result in an unknown revenue loss to the General Fund in FY2016-17.

Cigarette Tax (CIG)

- Increases the tax on a pack of cigarettes by $1.00, from $1.60 to $2.60 effective August 1, 2016. Imposes a "floor tax" on the existing inventory as of August 1, 2016, which shall be reported and paid within 90 days of the effective date of the cigarette tax increase.
- Clarifies that stamps shall not be required to be fixed to containers of roll-your-own tobacco.
- Reduces the stamping agent commission rate from 0.870% to 0.586% of the total value of the stamp to achieve revenue neutrality for the stamping agent.
- Increases the transfer amount to the Agricultural Conservation Easement Purchase Fund (ACEP) by $5 million to a total of $25,485,000 beginning in fiscal year 2016-17

  Fiscal Impact: The provisions take effect August 1, 2016, and the estimated revenue gain to the General Fund in FY2016-17 is $418.2 million from cigarette taxes, with an additional $12.9 million in SUT revenue. The increase in the transfer to ACEP will result in a reduction in revenues to the General Fund of $5 million annually beginning with fiscal year 2016-2017 and a corresponding increase in revenues to ACEP.

- Adds Section 1296(c) providing for a transfer of monies from the General Fund to the Local Cigarette Tax Fund in the event that the amount of monies deposited in the Local Cigarette Tax Fund in fiscal year 2016-17 and thereafter falls below the amount deposited in fiscal year 2015-16. Specifically, the amount to be transferred shall be equal to the difference between the amount deposited in the Local Cigarette Tax Fund in the fiscal year and $58 million. The transfer shall be made annually by July 15.
- Repeals 53 Pa.C.S. § 8722(k) eliminating the June 30, 2019, expiration date of the Local Cigarette Tax.

  Fiscal Impact: The provisions of this section take effect immediately and will have no adverse fiscal impact on Commonwealth funds in FY2016-17.

<u>Tobacco Products Tax (OTP and E-cigarettes)</u>

- A new article is added establishing a Tobacco Products Tax (Article XII-A) which imposes a tax on smokeless tobacco, roll-your-own (RYO) tobacco and electronic cigarettes (e-cigarettes). The tax will be collected by the wholesaler (dealer or manufacturer) at the time it is sold to a retailer in PA. If the tax is not collected by the seller from the retailer, the tax is imposed on the retailer at the time of purchase and the retailer shall remit the tax to the department
- The tax rate on smokeless tobacco and RYO tobacco is 55 cents per ounce and includes a minimum weight provision for product weighing less than 1.2 ounces. The tax on smokeless tobacco takes effect October 1, 2016. The tax on RYO takes effect 60 days after the publication in the PA Bulletin that the Attorney General has obtained consent of the participating manufacturers under the Master Settlement Agreement to the amendment of the definition of "units sold" contained in the Tobacco Settlement Agreement Act (it is assumed that the RYO would become effective December 1, 2016).
- The tax rate on e-cigarettes is 40% of the wholesale price and will take effect October 1, 2016.
- A "floor tax" is imposed on the existing inventory as of the effective date of each tax and shall be reported and paid within 90 days of the effective date of the tax.

  Fiscal Impact: The estimated revenue gain to the General Fund in FY2016-17 is $46.2 million from smokeless tobacco, $3.1 million from RYO tobacco and $13.3 million from e-cigarettes. An additional revenue gain of $1.9 million is estimated to the General Fund in FY2016-17 from SUT as a result of the provisions of the Tobacco Products Tax.

<u>Research and Development Tax Credit (R&D)</u>

- Act 85 of 2012 repealed Section 1712-B (Termination) by removing the expiration date of the research and development tax credit. This legislation amends Section 1707-B with a technical change, removing inconsistent language relating to limitations in awarding tax credits.

  Fiscal Impact: This provision is retroactive to January 1, 2016, and will result in no adverse impact on Commonwealth funds.

<u>Entertainment Production Tax Credit</u>

- Article XVII-D (Film Production Tax Credit) is renamed the Entertainment Production Tax Credit and the article is divided into the following subarticles: Subarticle B (Film Production); Subarticle C (Concert Rehearsal and Tour); and Subarticle D (Video Game Production).
- <u>Film Production Tax Credit</u>
  - Increases the annual cap amount for tax credits issued from $60 million to $65 million and allows for the reissuance of approved but unused tax credits from a previous fiscal year. These provisions take effect for fiscal years beginning after June 30, 2017.
  - Expands the definition of Pennsylvania production expense to include post-production expenses and activities. Increases the amount of the credit available by 5%, from 25% to 30%, for qualified post-production expenses incurred at a qualified facility located in the Commonwealth.

- Expands the definition of "qualified tax liability" to include title insurance companies shares tax (Article VIII) and mutual thrift institution tax (Article XV) for tax years beginning after December 31, 2016.

Fiscal Impact: Changes to the Film Production Tax Credit will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

- <u>Concert Rehearsal and Tour Tax Credit</u>
    - Establishes the Concert Rehearsal and Tour Tax Credit program providing tax credits to concert tour promotion companies, concert tour management companies or other concert management companies for qualified rehearsal and tour expenses incurred in the Commonwealth. A tax credit may not be awarded for fiscal years prior to 2017-18. The annual cap on the amount of tax credits awarded is $4 million.
    - The minimum rehearsal and tour requirements are: (1) purchases or rentals of concert tour equipment in an amount of at least $3 million delivered to a location in this Commonwealth; (2) rehearsal at a qualified rehearsal facility for a minimum of 10 days; (3) at least one concert performed at a class 1 venue; and (4) at least one concert performed at a venue which is located in a municipality other than the class 1 venue.
    - The tax credit shall be equal to 25% of the qualified rehearsal and tour expenses. A taxpayer is eligible for an additional 5% (30% of qualified rehearsal and tour expenses) if concerts are held at a total of 2 or more class 2 venues or class 3 venues. A taxpayer may not be awarded more than $800,000 of tax credits for a tour.

Fiscal Impact: The establishment of the Concert Rehearsal and Tour Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

- <u>Video Game Production Tax Credit</u>
    - Establishes the Video Game Production Tax Credit program providing tax credits to video game production companies for qualified video game production expenses incurred in the Commonwealth. A tax credit may not be awarded for fiscal years prior to 2017-18. The annual cap on the amount of tax credits awarded is $1 million.
    - The tax credit shall not exceed 25% of the qualified video game production expenses to a taxpayer in each of the first four years that the video game production expenses are incurred and 10% for each year thereafter for the video game production expenses incurred.

Fiscal Impact: The establishment of the Video Game Production Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

<u>Coal Refuse Energy and Reclamation Tax Credit</u>

- Adds a new article establishing the Coal Refuse Energy and Reclamation Tax Credit (Article XVII-J) providing a tax credit to eligible facilities in reclaiming coal refuse piles and previously mined lands. An eligible facility is an electric generating facility placed in service before the effective date and subject to further qualifications as specified in the legislation.

- Eligible facilities shall submit application to the Department of Community and Economic Development (DCED) by February 1 of each year for qualified coal refuse used during the prior calendar year.
- The qualified taxpayer shall receive a tax credit equal to $4 per ton of qualified coal refuse used to generate electricity in the prior calendar year at the eligible facility in this Commonwealth.
- The total amount of tax credits issued in fiscal year 2016-17 may not exceed $7.5 million and may not exceed $10 million in each fiscal year thereafter. No single eligible facility shall be awarded more than 22.2% of the total amount of tax credits available in a fiscal year. If the total amount of tax credits otherwise approvable and applied for exceeds the cap, each qualified taxpayer shall receive a prorated amount of the total of all tax credits otherwise approvable.
- By March 20 of each year DCED, in consultation with the Department of Environmental Protection (DEP), shall review and approve applications and issue a tax credit certificate stating the amount of the tax credit granted. DCED may not approve applications for a tax credit after December 31, 2026.
- The tax credit may be used to offset eligible tax liabilities of the company, of related companies or passed through to members, partners or shareholders.

  Fiscal Impact: The establishment of the Coal Refuse Energy and Reclamation Tax Credit program will result in the estimated loss of revenue to the General Fund of $7.5 million in FY2016-17.

<u>Waterfront Development Tax Credit</u>

- Adds a new article establishing the Waterfront Development Tax Credit (Article XVII-K) providing a tax credit to business firms making a contribution to a waterfront development organization that funds waterfront development projects creating public access to the water, increasing property values, restoring ecology and catalyzing further financial investment and job creation.
- An authority established under the Third Class City Port Authority Act or a nonprofit entity meeting certain criteria may apply to DCED to qualify as a waterfront development organization. DCED shall provide notification to the applicant as to whether the organization meets the requirements within 60 days of submission of the application.
- In order to qualify for the tax credits, contributions made by business firms must be used for a waterfront development project approved by DCED.
- DCED shall annually publish in the Pennsylvania Bulletin a list of each waterfront development organization approved including the approved waterfront development projects and the total aggregate cost of the projects.
- A business firm providing contributions to a waterfront development organization may apply for a tax credit of no more than 75% of its contribution. No more than $1,500,000 in tax credits may be issued in a fiscal year. No tax credit will be granted for years prior to fiscal year 2017-2018. Tax credits shall be made available on a first-come first-served basis.

  Fiscal Impact: The establishment of the Waterfront Development Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Tax Credit for New Jobs (Job Creation Tax Credit or JCTC)

- Adds the definition of a "veteran" and provides that a company my claim a tax credit of $2,500 per each new job created if the newly created job is filled by a veteran..

  Fiscal Impact: Changes made to provision of the Tax Credit for New Jobs will have no adverse fiscal impact on Commonwealth Funds in FY2016-17

City Revitalization and Improvement Zones (CRIZ)

- Increases the number of CRIZ by allowing the application and approval of two additional CRIZ each calendar year beginning in 2016.
- Expands the definition of "city" to include a city of the second class A or a home rule municipality and lowers the population threshold from 30,000 to 20,000. Removes the prohibition that a city having a receiver appointed under the Municipalities Financial Recovery Act is not eligible. Provides that the CRIZ may include an area in one or more contiguous municipalities and requires an agreement among each participant evidenced by a resolution of each participant. Amends the definition of "pilot zone" by reducing the area of the zone from not more than 130 acres to not more than 100 acres and provides that the pilot zone applies to one or more municipalities.
- Amends the definition of "eligible tax" to include (1) PIT paid by pass-through entities, (2) SUT on material used for construction in the zone and business personal property used by qualified businesses in the zone and (3) the hotel occupancy tax paid under Part V of Article II. Adds language clarifying taxes paid related to the purchase or sale of liquor, wine or malt or brewed beverages by a licensee located in the zone.
- Reduces the maximum amount of deficiency loan that can be made from the General Fund to the authority from $10 million to $7.5 million if the eligible taxes are insufficient to make payment on the bonds for the calendar year in which the transfers are made. Provides repayment of the borrowed funds for up to 12 years instead of the life of the zone.
- Makes the following administrative changes to the CRIZ program:
  - Amends the definition of "contracting authority" permitting existing municipal authorities to be utilized as contracting authorities.
  - Provides that no more than one CRIZ may be established in a municipality.
  - Adds sections providing for prohibitions, disclosures and disciplinary actions for members, officers and employees of the contracting authority or the city, municipality or home rule county that created the authority and establishes conflict of interest and ethical standards.
  - Allows CRIZ funds to be utilized to pay for infrastructure improvements and professional services. Additionally up to 5% of the available funds may be used for administrative costs.
  - Requires both DCED (by December 31, 2021) and the Independent Fiscal Office (IFO) (by June 30, 2021) to publish a review and analysis of all zones and their economic impacts.

  Fiscal Impact: Changes made to the provisions of the City Revitalization and Improvement Zones are estimated to result in a revenue loss to the General Fund of $3.0 million in FY2016-17.

<u>Manufacturing and Investment Tax Credits</u>

- Adds a new article establishing the Manufacturing and Investment Tax Credits (Article XVIII-G) and the article is divided into the following parts: (1) Manufacturing Tax Credit (Part I) and (2) Rural Jobs and Investment Tax Credit (Part II).

- <u>Manufacturing Tax Credit</u>
  - Establishes the Manufacturing Tax Credit program authorizing DCED to issue tax credits to an entity engaged in the mechanical, physical or chemical transformation of materials, substances or components into new products that are creations of new items of tangible personal property for sale.
  - A taxpayer applying for a tax credit must agree to create new jobs that increase the annual taxable payroll in year one by at least $1,000,000 above the base year taxable payroll. The taxpayer must maintain the increase for a period of five years from the start date.
  - DCED may award a manufacturing tax credit of up to 5% of the taxpayer's increase in annual taxable payroll. Up to $4,000,000 in credits will be awarded for each fiscal year beginning July 1, 2017. Tax credits shall be awarded on a first-come first-served basis.

  Fiscal Impact: The establishment of the Manufacturing Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

- <u>Rural Jobs and Investment Tax Credit</u>
  - Establishes the Rural Jobs and Investment Tax Credit program authorizing DCED to issue a tax credit to a business firm making an eligible contribution to the Rural Growth Fund to be utilized for rural growth investments in a rural business. DCED may not approve more than $100 million in investment authority.
  - A "rural growth investment" is defined as capital or equity investment in a rural business or any loan to a rural business with a stated maturity at least one year after the date of issuance.
  - A "rural business" is a business that meets the following conditions at the time of the initial investment: (1) has fewer than 250 employees and not more than $15 million in net income, (2) has principal business operation in one or more rural areas in this Commonwealth and (3) is engaged in industries related to manufacturing, plant sciences, services or technology or is determined by DCED to be highly beneficial to the economic growth of this Commonwealth.
  - A "rural area" is an area of the Commonwealth that is not in: (1) a city with a population of more than 50,000 or an urbanized area contiguous and adjacent to a city that has a population of more than 50,000 or (2) an area determined to be rural in character by the under-secretary of agriculture for rural development within the United States Department of Agriculture.
  - The tax credit awarded shall not exceed 90% of the credit-eligible capital contributions made by the business firm. Beginning with fiscal year 2017-2018, DCED may not award tax credit certificates that would result in utilization of more than $1 million in tax credits in any fiscal year and may not award more than $4 million in tax credit certificates, in the aggregate, under this part.

  Fiscal Impact: The establishment of the Rural Jobs and Investment Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Neighborhood Assistance Tax Credit (NATC)

- The definitions of "affordable housing" and "domestic violence or veteran's housing assistance" are added to the Neighborhood Assistance Tax Credit program and incorporated into the definition of "neighborhood organization" to expand the activities for which an organization may qualify for a tax credit under the program.

  Fiscal Impact: The changes made to the Neighborhood Assistance Tax Credit program take effect in 30 days and will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Neighborhood Improvement Zones (NIZ)

- The following technical changes are made to the NIZ program:
  - Updates the certification process by imposing penalties for failure to timely file NIZ reports.
  - Clarifies the process for inclusion and certification of the NIZ master list of businesses.
  - Requires the contracting authority to hire an independent firm to perform an annual audit verifying the correct amount of eligible local tax was submitted and transferred to the State Treasurer, the money that was transferred to the fund was properly used and the correct amount of excess money was refunded to the General Fund and local taxing authorities.
  - Clarifies the use of taxes, determinations on property assessment and exceptions relating to individuals or entities employed by, contracting with or providing services for a contracting authority.

  Fiscal Impact: Changes made to the provisions of the Neighborhood Improvement Zones program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Keystone Special Development Zone Program (KSDZ)

- The KSDZ program is an incentive program designed to foster development in industrial properties that have been deteriorated or abandoned (brownfields) by providing a tax credit for jobs created in the zone. KSDZ employers may earn a tax credit for up to 10 tax years. This legislation extends the existing KSDZ program from ending on June 20, 2026, to ending on June 30, 2035

  Fiscal Impact: The extension of the Keystone Special Development Zone Program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Keystone Opportunity Zones (KOZ), Keystone Opportunity Expansion Zones (KOEZ) and Keystone Opportunity Improvement Zones (KOIZ)

- Act 92 of 1998, known as the Keystone Opportunity Zone, Keystone Opportunity Expansion Zone and Keystone Opportunity Improvement Zone Act (KOZ Act), currently provides opportunity zones in the Commonwealth. This legislation adds a new article in the Tax Reform Code further providing for KOZ's, KOEZ's and KOIZ's (Article XIX-D).

- Allows DCED to designate up to 12 additional KOZ's. Applications must be submitted by the political subdivision no later than October 1, 2016. The department shall act on the applications by December 31, 2016, and may make designations on a rolling basis during the application period. All exemptions, deductions, abatements and credits authorized under the KOZ Act shall apply to the parcels for a period of 10 years.

- Authorizes DCED to approve an application to grant a 10-year extension for a parcel or parcels located within an existing KOZ, KOEZ or KOIZ or subzone. The extension provided applies to existing zones or subzones that expire in 2018 or at any time following 2018 and prior to January 1, 2026.

- An applicant for a 10-year extension must: (1) have a cumulative minimum of 2,500 employees located within Pennsylvania at the time of the application; (2) demonstrate total prior minimum capital investment within Pennsylvania of at least $300 million; (3) conduct active business operation from one or more facilities located on the parcel or parcels which are the subject of the application; (4) be in compliance with the provisions of the KOZ act; and (5) commit to creating at least 350 new jobs and making a capital investment of at least $35 million within 3 years of receiving an extension.

  Fiscal Impact: The changes made to the KOZ, KOEZ and KOIZ program will have no adverse fiscal impact on Commonwealth funds in FY2016-17.

Mixed-Use Development Tax Credit

- Adds a new article establishing the Mixed-Use Development Tax Credit (Article XIX-E) program providing a tax credit to qualified taxpayers for capital investments committed for deposit into the Mixed-Use Development Program Fund (fund). Monies in the fund shall be used for increasing affordable housing and commercial corridor development opportunities in areas of the Commonwealth where significant need and impact can be identified.

- The program shall be administered by the Pennsylvania Housing Finance Agency (PHFA). PHFA may sell or allocate tax credits to qualified taxpayers for capital investments and may allocate no more than $2 million in tax credits in each fiscal year with the proceeds from the sale to be deposited into the fund. Beginning July 1, 2017, PHFA shall issue tax credit certificates upon receipt of payment of capital.

- Eligible project owners may apply to PHFA for program funding and funds shall be disbursed to the eligible project owners as determined by PHFA.

  The establishment of the Mixed-Use Development Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Keystone Innovation Zone (KIZ)

- The Keystone Innovation Zone program is added as Article XIX-F to the Tax Reform Code and the current language for the program existing in Title 12, Chapter 37, is repealed.

- The annual limitation on the amount of tax credits awarded in any fiscal year is reduced from $25 million to $15 million beginning with fiscal year 2016-17.

  Fiscal Impact: Changes to the Keystone Innovation Zone program will result in an estimated gain in revenues to the General Fund of $10 million in FY2016-17 as a result of the reduction in the annual cap.

Malt Beverage Tax – Limited Tax Credits

- Reinstates the limited tax credits provision under the Malt Beverage Tax for manufacturers of malt or brewed beverages which had expired after December 31, 2008.

- Provides for a tax credit equal to the qualifying capital expenditures of up to $200,000 per year per taxpayer with no limitation on the annual production (prior tax credit which expired had a limitation on the production of malt or brewed beverages of not more than 1,500,000 barrels).

- No more than $5 million in tax credits may be issued in any fiscal year and the provisions shall be effective for the period after June 30, 2017. No tax credit will be granted for years prior to fiscal year 2017-18. If the total amount of tax credits exceeds the cap in any fiscal year, the amount awarded to each taxpayer shall be prorated.

  Fiscal Impact: Reestablishing the Malt Beverage Limited Tax Credit program will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

Inheritance Tax

- Amends the definition of "members of the same family" clarifying that a transfer made by a surviving spouse shall include any individual considered to be a member of the same family of the decedent spouse. Amends Section 2111(s) making technical clarifications to the current exemption for transfers of real estate devoted to the business of agriculture to or for the benefit of members of the same family. Both provisions are retroactive to dates of death after December 31, 2012.

- Amends Section 2111(t) making technical clarifications to the current exemption for transfers of real estate of a qualified family-owned business interest retroactive to dates of death after June 30, 2013.

  Fiscal Impact: The changes made to the provisions of the Inheritance Tax are estimated to result in the loss of revenue to the General Fund in FY2016-17 of $400,000.

Table Game Taxes

- Adds a new article imposing Table Game Taxes (Article XXV) equal to an additional 2% of the daily gross table game revenue commencing August 1, 2016. The new table games tax rate will be 14%.

- The additional tax shall be subject to all provisions of Title 4 relating to table games.

- The article expires June 30, 2019, and the provisions of 4 Pa.C.S. §13A62(a)(3), which levies an additional 2% table games tax in the first 2 years of operation only, shall not apply for the effective period of this article.

  Fiscal Impact: The provisions of this article are estimated to generate additional table games tax revenue for the General Fund in FY2016-17 of $16.8 million.

Computer Data Center Equipment Incentive Program

- Adds a new article establishing the Computer Data Center Equipment Incentive Program (Article XXIX-D) providing a refund of sales and use taxes paid by a certified computer data center for purchases of computer data center equipment for installation in the computer data center.

- Beginning July 1, 2017, an owner or operator or qualified tenant of a certified computer data center may apply to the department for a refund of taxes paid under Article II during the qualification period for computer data center equipment installed in the certified computer data center.

- An owner or operator of a computer data center which meets the eligibility requirements shall submit an application for certification to the Department of Revenue on a form prescribed by the department. The department shall begin accepting applications no later than 90 days after the effective date. Within 60 days of receiving the application the department shall review the application and issue a written certification or denial.

- A computer data center must meet one of the following eligibility requirements to be certified: (1) on or before the fourth anniversary of certification, the computer data center creates a minimum investment of at least $25 million if located in a county with a population of 250,000 or fewer or at least $50 million if located in a county with a population of more than 250,000; or (2) in the aggregate, pay annual compensation of at least $1 million to employees at the certified computer data center.

- After certification and on or before the fourth anniversary of certification, the owner or operator shall notify the department in writing whether the computer data center has satisfied the requirements. If the department determines that the requirements have not been satisfied, the department may revoke the certification and recapture all or part of the tax refund provided.

- A certified computer data center may apply for a tax refund on or before July 30, 2017, and each July 30 thereafter. No later than September 30 of each year the department shall notify each applicant of the amount of tax refund approved. The total amount of State tax refunds approved shall not exceed $5 million in any fiscal year. If the total amount of tax credits exceeds the cap in any fiscal year, the amount awarded to each taxpayer shall be prorated.

  Fiscal Impact: The establishment of the Computer Data Center Equipment Incentive Program takes effect immediately and will have no adverse fiscal impact on Commonwealth Funds in FY2016-17.

<u>Tax Amnesty Program for Fiscal Year 2016-2017</u>

- Adds Article XXIX-G (Tax Amnesty Program for Fiscal Year 2016-17) requiring the Governor to establish a tax amnesty program for a 60- consecutive-day period ending no later than June 30, 2017.

- The tax amnesty program applies to any tax administered by the Department of Revenue and delinquent as of December 31, 2015.

- Delinquent taxpayers must file a tax amnesty return and pay 100% of the tax due and 50% of the interest due and must file complete tax returns for all required years which were not previously filed and complete amended returns for all required years for which the taxpayer underreported tax liability. Taxpayers shall not be required to pay any penalties or fees.

- Unknown taxpayers at the time of filing under the tax amnesty program shall not be liable for any taxes of the same type due prior to January 1, 2011.

- The department is prohibited from pursuing administrative or judicial proceedings against a taxpayer with respect to an eligible tax disclosed on a tax amnesty return.

- The tax amnesty is contingent on continued compliance of the taxpayer. If within two years the taxpayer becomes non-compliant, the department may assess and collect all interest and penalties waived under the tax amnesty program.
- A taxpayer who participates in the tax amnesty program is not eligible to participate in future tax amnesty programs.
- All revenue collected under the tax amnesty program shall be deposited into a restricted revenue account in the General Fund. All monies in the restricted revenue account shall be distributed to the appropriate Commonwealth fund by June 30, 2017, less costs of the department to administer the program.
- At the conclusion of the tax amnesty program, within 30 days the department shall issue a report detailing the administrative costs and the total dollar amount collected and within 180 days the department shall issue a report detailing the number of reports filed, a breakdown of the dollars received by tax type and tax year, total dollars of interest and penalties abated as well as demographic characteristics of the participants including geographic location, type of taxpayer (individual, partnership, corporation or other entity) and NAICS of the participant business taxpayer.

  Fiscal Impact: The establishment of a Tax Amnesty Program in Fiscal Year 2016-17 is estimated to generate additional revenues for the General Fund in FY2016-17 of $100 million.

Promoting Employment Across Pennsylvania Act

- Repeals Act 206 of 2012 (Promoting Employment Across Pennsylvania Act).

  Fiscal Impact: The repeal of this act takes effect immediately and will result in additional revenues to the General Fund in FY2016-17 of $5 million.

The act takes effect immediately unless otherwise noted in the above analysis.

FISCAL IMPACT: The following provides a summary of the net impact of the provisions contained in the legislation fund and by tax type:

REVENUE INCREASE / (DECREASE)

Tax Type	FY 2015/16	FY 2016/17
GENERAL FUND		
Sales and Use Tax	$0	$116,300,000
Personal Income Tax	$0	$15,800,000
Corporate Net Income Tax	$0	$0
Bank Shares Tax	$0	$23,500,000
Gross Receipts Tax	$0	$0
Realty Transfer Tax	$0	$0
Cigarette Tax	$0	$413,200,000
Tobacco Products Tax	$0	$62,600,000
Tax Credits / Zones / Refunds	$0	$4,500,000
Inheritance Tax	$0	($400,000)
Table Game Taxes	$0	$16,800,000
Tax Amnesty	$0	$100,000,000
AGRICULTRAL CONSERVATION EASEMENT PURCHASE FUND		
Cigarette Tax	$0	$5,000,000

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Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.