

**Rider Attached to
Petition for Refund of Corporate Net Income Tax
For the Period January 1, 2018–December 31, 2018**

Petitioner is entitled to a refund of Pennsylvania corporate net income tax (“Net Income Tax”) for the following, among other, reasons:

1. Petitioner is entitled to a deduction for foreign-derived intangible income (“FDII”). The FDII deduction under IRC § 250 is a component of federal taxable income under 72 P.S. § 7401(3)1.(a) and IRC § 63, and there is no statutory addition that would add back the FDII deduction to Petitioner’s federal taxable income. *See* 72 P.S. § 7401(3)1.(b)–(t).
2. Petitioner is entitled to deduct interest expense without regard to the limitation under IRC § 163(j). *See* Pa. Const. art. II, § 1; Pa. Const. art. VIII, § 1; *Protz v. Workers’ Comp. Appeal Bd.*, 161 A.3d 827 (Pa. 2017).
3. Petitioner is entitled to special apportionment or separate accounting under 72 P.S. § 7401(3)2.(a)(18) because the method used to compute Petitioner’s Net Income Tax does not fairly represent the extent of Petitioner’s Pennsylvania business activity. *See Unisys Corp. v. Commonwealth*, 812 A.2d 448 (Pa. 2002).
4. Petitioner is entitled to compute its Net Income Tax in accordance with the Tax Reform Code of 1971, 72 P.S. § 7401 *et seq.*, or the Fiscal Code, 72 P.S. § 1, *et seq.*
5. Petitioner is entitled to properly compute its taxable income. *See* 72 P.S. § 7401(3)1. For example, Petitioner is entitled to compute its taxable income without adding back payments for intangibles to affiliates; Petitioner is entitled to properly compute its net loss deduction; Petitioner is entitled to properly compute the amount of its adjustment for bonus depreciation; and Petitioner is entitled to compute its tax as if it had filed separate returns with the federal government, while properly taking into account the consolidated return rules.
6. Petitioner is entitled to properly compute its apportionment and thus its Pennsylvania taxable income. *See* 72 P.S. § 7401(3)2.(a)(9) through (18). For example, Petitioner is required to include all receipts in the denominator of its sales factor and Petitioner is entitled to exclude from its numerator receipts that are not Pennsylvania receipts.
7. The Net Income Tax imposed on Petitioner violates the Commerce Clause of the United States Constitution. *See Complete Auto Transit, Inc. v. Brady*, 430 U.S. 274 (1977).
8. The Net Income Tax imposed on Petitioner violates the Equal Protection and Due Process Clauses of the United States Constitution, and the Due Process and the Uniformity Clauses and the equal protection provisions of the Pennsylvania Constitution.

Petitioner reserves the right to supplement this petition with additional information regarding these issues within the time prescribed by the Board’s rules.