

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 705 Session of
1991

INTRODUCED BY MARKOSEK, MARCH 13, 1991

REFERRED TO COMMITTEE ON FINANCE, MARCH 13, 1991

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," further defining "tangible personal property"
11 with respect to prebuilt housing; and further providing for
12 the imposition of the tax on prebuilt housing.

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

15 Section 1. Section 201(m) of the act of March 4, 1971
16 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
17 August 31, 1971 (P.L.362, No.93), is amended to read:

18 Section 201. Definitions.--The following words, terms and
19 phrases when used in this Article II shall have the meaning
20 ascribed to them in this section, except where the context
21 clearly indicates a different meaning:

22 * * *

1 (m) "Tangible personal property." Corporeal personal
2 property including, but not limited to, goods, wares,
3 merchandise, steam and natural and manufactured and bottled gas
4 for non-residential use, electricity for non-residential use,
5 intrastate telephone and telegraph service for non-residential
6 use, spirituous or vinous liquor and malt or brewed beverages
7 and soft drinks; but the term shall not include household
8 supplies purchased at retail establishments for residential
9 consumption, including but not limited to, soaps, detergents,
10 cleaning and polishing preparations, paper goods, household
11 wrapping supplies and items of similar nature, or sanitary
12 napkins, tampons or similar items used for feminine hygiene. Nor
13 shall said term include steam, natural and manufactured and
14 bottled gas, fuel oil, electricity or intrastate telephone or
15 telegraph service when purchased directly by the user thereof
16 solely for his own residential use. Prebuilt, sectional or
17 modular housing, including manufactured housing which bears a
18 label, as required by and referred to in the act of November 17,
19 1982 (P.L.676, No.192), known as the "Manufactured Housing
20 Construction and Safety Standards Authorization Act," which
21 certifies that it conforms to Federal construction and safety
22 standards adopted pursuant to the National Manufactured Housing
23 Construction and Safety Standards Act of 1974 (Public Law 93-
24 383, 42 U.S.C. § 5401 et seq.) and including industrialized
25 housing, as defined in the act of May 11, 1972 (P.L.286, No.70),
26 known as the "Industrialized Housing Act," shall be deemed to be
27 tangible personal property only at the time of its manufacture,
28 for any use, including use as living quarters or for commercial
29 or rental purposes.

30 * * *

1 Section 2. Section 202 of the act is amended by adding a
2 subsection to read:

3 Section 202. Imposition of Tax.--* * *

4 (e) Notwithstanding any other provisions of this article,
5 the tax, with respect to the sale or use of prebuilt housing, as
6 defined in clause (m) of section 201 of this article, shall be
7 imposed at the time the prebuilt housing is manufactured and
8 shall be computed at the rate of six per cent of sixty per cent
9 of the manufacturer's sale price. The tax shall be reported and
10 paid to the Commonwealth by the person who manufactures the
11 prebuilt housing at the time of the sale of the prebuilt housing
12 by the manufacturer.

13 Section 3. Section 237(b)(1) of the act, amended December
14 28, 1972 (P.L.1633, No.340), is amended to read:

15 Section 237. Collection of Tax.--* * *

16 (b) Collection by Persons Maintaining a Place of Business in
17 the Commonwealth. (1) Every person maintaining a place of
18 business in this Commonwealth and selling or leasing tangible
19 personal property or services, [including the selling or leasing
20 as tangible personal property mobilehomes as defined in "The
21 Vehicle Code" whether or not a certificate of title is issued by
22 the department,] the sale or use of which is subject to tax
23 shall collect the tax from the purchaser or lessee at the time
24 of making the sale or lease, and shall remit the tax to the
25 department, unless such collection and remittance is otherwise
26 provided in this act.

27 * * *

28 Section 4. The definition of "real estate" in section 1101-C
29 of the act, amended July 2, 1986 (P.L.318, No.77), is amended
30 and the section is amended by adding a definition to read:

Section 1101-C. Definitions.--The following words when used in this article shall have the meanings ascribed to them in this section:

* * *

"Prebuilt housing." Preconstructed, sectional or modular housing. "Prebuilt housing" shall include:

(1) Manufactured housing which bears a label, as required by and referred to in the act of November 17, 1982 (P.L.676, No.192), known as the "Manufactured Housing Construction and Safety Standards Authorization Act," which certifies that it conforms to Federal construction and safety standards adopted pursuant to the National Manufactured Housing Construction and Safety Standards Act of 1974 (Public Law 93-383, 42 U.S.C. § 5401 et seq.); and

(2) Industrialized housing, as defined in the act of May 11, 1972 (P.L.286, No.70), known as the "Industrialized Housing Act."

"Real estate."

(1) Any lands, tenements or hereditaments within this Commonwealth, including, without limitation, buildings, structures, fixtures, mines, minerals, oil, gas, quarries, spaces with or without upper or lower boundaries, trees and other improvements, immovables or interests which by custom, usage or law pass with a conveyance of land, but excluding permanently attached machinery and equipment in an industrial plant.

(2) A condominium unit.

(3) A tenant-stockholder's interest in a cooperative housing corporation, trust or association under a proprietary lease or occupancy agreement.

1 (4) Prebuilt housing attached to real estate owned by the
2 owner of the prebuilt housing.

3 * * *

4 Section 5. Section 1102-C of the act, amended July 2, 1986
5 (P.L.318, No.77), is amended to read:

6 Section 1102-C. Imposition of Tax.--Every person who makes,
7 executes, delivers, accepts or presents for recording any
8 document or in whose behalf any document is made, executed,
9 delivered, accepted or presented for recording, shall be subject
10 to pay for and in respect to the transaction or any part
11 thereof, or for or in respect of the vellum parchment or paper
12 upon which such document is written or printed, a State tax at
13 the rate of one per cent of the value of the real estate, or
14 prebuilt housing which is not real estate, represented by such
15 document, which State tax shall be payable at the earlier of the
16 time the document is presented for recording or within thirty
17 days of acceptance of such document or within thirty days of
18 becoming an acquired company.

19 Section 6. Section 1102-C.3 of the act is amended by adding
20 a clause to read:

21 Section 1102-C.3. Excluded Transactions.--The tax imposed by
22 section 1102-C shall not be imposed upon:

23 * * *

24 (23) The first sale of prebuilt housing which is not real
25 estate.

26 Section 7. This act shall apply January 1, 1992.

27 Section 8. This act shall take effect immediately.