

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 629 Session of
1993

INTRODUCED BY GLADECK, PETRARCA, DALEY, NICKOL, KENNEY,
L. I. COHEN, BROWN, PHILLIPS, PLATTS, MILLER, BUNT, BARLEY,
MAITLAND, CORNELL, HARLEY AND BELFANTI, MARCH 22, 1993

REFERRED TO COMMITTEE ON FINANCE, MARCH 22, 1993

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 providing for the definition of "sale at
11 retail"; exempting the sale of horses and certain services
12 relating to horses in certain circumstances from the sales
13 and use tax; and exempting feed and certain other equipment
14 from the sales and use tax.

15 The General Assembly of the Commonwealth of Pennsylvania
16 hereby enacts as follows:

17 Section 1. Section 201(k)(8) of the act of March 4, 1971
18 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended
19 December 13, 1991 (P.L.373, No.40), is amended to read:

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

1 * * *

2 (k) "Sale at retail."

3 * * *

4 (8) Any retention [of] or possession, custody or a license
5 to use or consume tangible personal property or any further
6 obtaining of services described in subclauses (2), (3) and (4)
7 of this clause pursuant to a rental or service contract or other
8 arrangement (other than as security).

9 The term "sale at retail" shall not include (i) any such
10 transfer of tangible personal property or rendition of services
11 for the purpose of resale, or (ii) such rendition of services or
12 the transfer of tangible personal property including, but not
13 limited to, machinery and equipment and parts therefor and
14 supplies to be used or consumed by the purchaser directly in the
15 operations of--

16 (A) The manufacture of tangible personal property;

17 (B) Farming, dairying, agriculture, horticulture or
18 floriculture when engaged in as a business enterprise. The term
19 "farming" shall include [the propagation and raising of ranch
20 raised fur-bearing animals and the propagation of game birds for
21 commercial purposes by holders of propagation permits issued
22 under 34 Pa.C.S. (relating to game)] the breeding or raising of
23 horses for commercial purposes, including, but not limited to,
24 pleasure riding, drafting and racing; the boarding and training
25 of horses within this Commonwealth, and the temporary use of
26 horses within this Commonwealth for purposes of racing,
27 exhibiting or performing; the propagation and raising of ranch
28 raised fur-bearing animals; and the propagation of game birds
29 for commercial purposes by holders of propagation permits issued
30 under 34 Pa.C.S (relating to game);

1 (C) The producing, delivering or rendering of a public
2 utility service, or in constructing, reconstructing, remodeling,
3 repairing or maintaining the facilities which are directly used
4 in producing, delivering or rendering such service;

5 (D) Processing as defined in clause (d) of this section.

6 The exclusions provided in paragraphs (A), (B), (C) and (D)
7 shall not apply to any vehicle required to be registered under
8 The Vehicle Code, except those vehicles used directly by a
9 public utility engaged in business as a common carrier; to
10 maintenance facilities; or to materials, supplies or equipment
11 to be used or consumed in the construction, reconstruction,
12 remodeling, repair or maintenance of real estate other than
13 machinery, equipment, parts or foundations therefor that may be
14 affixed to such real estate.

15 The exclusions provided in paragraphs (A), (B), (C) and (D)
16 shall not apply to tangible personal property or services to be
17 used or consumed in managerial sales or other nonoperational
18 activities, nor to the purchase or use of tangible personal
19 property or services by any person other than the person
20 directly using the same in the operations described in
21 paragraphs (A), (B), (C) and (D) herein.

22 The exclusion provided in paragraph (C) shall not apply to
23 (i) construction materials, supplies or equipment used to
24 construct, reconstruct, remodel, repair or maintain facilities
25 not used directly by the purchaser in the production, delivering
26 or rendition of public utility service, (ii) construction
27 materials, supplies or equipment used to construct, reconstruct,
28 remodel, repair or maintain a building, road or similar
29 structure, or (iii) tools and equipment used but not installed
30 in the maintenance of facilities used directly in the

1 production, delivering or rendition of a public utility service.

2 The exclusions provided in paragraphs (A), (B), (C) and (D)
3 shall not apply to the services enumerated in clauses (k)(11)
4 through (18) and (w) through (kk), except that the exclusion
5 provided in this subclause for farming, dairying and agriculture
6 shall apply to the service enumerated in clause (z).

7 * * *

8 Section 2. Section 204 of the act is amended by adding
9 clauses to read:

10 Section 204. Exclusions from Tax.--The tax imposed by
11 section 202 shall not be imposed upon

12 * * *

13 (38.1) The sale at retail or use of horses, or interests or
14 shares in horses, provided the purchase or use is made for
15 breeding purposes only.

16 (38.2) The sale at retail or use of stallion services,
17 including the trading, but not the sale thereof, provided the
18 use or trading is made by the owner of the stallion or the owner
19 of an interest or share in a stallion.

20 * * *

21 (49) The sale at retail or use of feed, tack, harnesses and
22 other equipment for all horses and mules.

23 Section 3. This act shall take effect in 60 days.