

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 3179 Session of
1994

INTRODUCED BY TULLI AND MARSICO, NOVEMBER 15, 1994

REFERRED TO COMMITTEE ON FINANCE, NOVEMBER 15, 1994

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 "manufacture" and "processing"
11 for sales tax purposes; and further defining "processing" for
12 capital stock-franchise tax purposes.

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

15 Section 1. Section 201(c) and (d) of the act of March 4,
16 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
17 amended August 4, 1991 (P.L.97, No.22) and June 16, 1994
18 (P.L.279, No.48), are amended to read:

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

1 * * *

2 (c) "Manufacture." (1) The performance of manufacturing,
3 fabricating, compounding, processing or other operations,
4 engaged in as a business, which place any tangible personal
5 property in a form, composition or character different from that
6 in which it is acquired whether for sale or use by the
7 manufacturer, and shall include, but not be limited to--

8 [(1)] (i) Every operation commencing with the first
9 production stage and ending with the completion of tangible
10 personal property having the physical qualities (including
11 packaging, if any, passing to the ultimate consumer) which it
12 has when transferred by the manufacturer to another;

13 [(2)] (ii) The publishing of books, newspapers, magazines
14 and other periodicals and printing;

15 [(3)] (iii) Refining, blasting, exploring, mining and
16 quarrying for, or otherwise extracting from the earth or from
17 waste or stock piles or from pits or banks any natural
18 resources, minerals and mineral aggregates including blast
19 furnace slag;

20 [(4)] (iv) Building, rebuilding, repairing and making
21 additions to, or replacements in or upon vessels designed for
22 commercial use of registered tonnage of fifty tons or more when
23 produced upon special order of the purchaser, or when rebuilt,
24 repaired or enlarged, or when replacements are made upon order
25 of, or for the account of the owner;

26 [(5)] (v) Research having as its objective the production of
27 a new or an improved [(i)] (A) product or utility service, or
28 [(ii)] (B) method of producing a product or utility service, but
29 in either case not including market research or research having
30 as its objective the improvement of administrative efficiency.

1 [(6)] (vi) Remanufacture for wholesale distribution by a
2 remanufacturer of motor vehicle parts from used parts acquired
3 in bulk by the remanufacturer using an assembly line process
4 which involves the complete disassembly of such parts and
5 integration of the components of such parts with other used or
6 new components of parts, including the salvaging, recycling or
7 reclaiming of used parts by the remanufacturer.

8 [(7)] (vii) Remanufacture or retrofit by a manufacturer or
9 remanufacturer of aircraft, armored vehicles, other defense-
10 related vehicles having a finished value of at least fifty
11 thousand dollars (\$50,000). Remanufacture or retrofit involves
12 the disassembly of such aircraft, vehicles, parts or components,
13 including electric or electronic components, the integration of
14 those parts and components with other used or new parts or
15 components, including the salvaging, recycling or reclaiming of
16 the used parts or components and the assembly of the new or used
17 aircraft, vehicles, parts or components. For purposes of this
18 clause, the following terms or phrases have the following
19 meanings:

20 (i) "aircraft" means fixed-wing aircraft, helicopters,
21 powered aircraft, tilt-rotor or tilt-wing aircraft, unmanned
22 aircraft and gliders;

23 (ii) "armored vehicles" means tanks, armed personnel
24 carriers and all other armed track or semitrack vehicles; or

25 (iii) "other defense-related vehicles" means trucks, truck-
26 tractors, trailers, jeeps and other utility vehicles, including
27 any unmanned vehicles.

28 (2) The term "manufacture[,]" shall not include
29 [constructing,] any of the following--

30 (i) Construction, altering, servicing, repairing or

1 improving real estate [or repairing,].

2 (ii) Repairing, servicing or installing tangible personal
3 property[, nor the].

4 (iii) The cooking, freezing or baking of fruits,
5 [vegetables,] mushrooms, fish, seafood, meats, poultry or bakery
6 products.

7 (iv) The cooking, freezing or other processing of vegetables
8 which preserves, sterilizes or purifies them and substantially
9 extends their useful shelf life.

10 * * *

11 (d) "Processing." The performance of the following
12 activities when engaged in as a business enterprise:

13 (1) The cooking, baking or freezing of fruits, [vegetables,]
14 mushrooms, fish, seafood, meats, poultry or bakery products,
15 when the person engaged in such business packages such property
16 in sealed containers for wholesale distribution.

17 (2) The cooking, freezing or other processing which
18 preserves, sterilizes or purifies and substantially extends the
19 useful shelf life of vegetables, when the person engaged in such
20 business packages such property in sealed containers for
21 wholesale distribution.

22 [(2)] (3) The scouring, carbonizing, cording, combing,
23 throwing, twisting or winding of natural or synthetic fibers, or
24 the spinning, bleaching, dyeing, printing or finishing of yarns
25 or fabrics, when such activities are performed prior to sale to
26 the ultimate consumer.

27 [(3)] (4) The electroplating, galvanizing, enameling,
28 anodizing, coloring, finishing, impregnating or heat treating of
29 metals or plastics for sale or in the process of manufacturing.

30 [(4)] (5) The rolling, drawing or extruding of ferrous and

1 non-ferrous metals.

2 [(5)] (6) The fabrication for sale of ornamental or
3 structural metal or of metal stairs, staircases, gratings, fire
4 escapes or railings (not including fabrication work done at the
5 construction site).

6 [(6)] (7) The preparation of animal feed or poultry feed for
7 sale.

8 [(7)] (8) The production, processing and bottling of non-
9 alcoholic beverages for wholesale distribution.

10 [(8)] (9) The operation of a saw mill or planing mill for
11 the production of lumber or lumber products for sale.

12 [(9)] (10) The milling for sale of flour or meal from
13 grains.

14 [(10)] (11) The slaughtering and dressing of animals for
15 meat to be sold or to be used in preparing meat products for
16 sale, and the preparation of meat products including lard,
17 tallow, grease, cooking and inedible oils for wholesale
18 distribution.

19 [(11)] (12) The processing of used lubricating oils.

20 [(12)] (13) The broadcasting of radio and television
21 programs of licensed commercial or educational stations.

22 * * *

23 Section 2. The definition of "processing" in section 601(a)
24 of the act, amended or added December 23, 1983 (P.L.360, No.89)
25 and July 1, 1985 (P.L.78, No.29), is amended to read:

26 Section 601. Definitions and Reports.--(a) The following
27 words, terms and phrases when used in this Article VI shall have
28 the meaning ascribed to them in this section, except where the
29 context clearly indicates a different meaning:

30 * * *

1 "Processing." The following activities when engaged in as a
2 business enterprise:

3 (1) The cooking or freezing of fruits, [vegetables,]
4 mushrooms, fish, seafood, meats or poultry, when the person
5 engaged in such business packages such property in sealed
6 containers for wholesale distribution.

7 (2) The cooking, freezing or other processing which
8 preserves, sterilizes or purifies and substantially extends the
9 useful shelf life of vegetables, when the person engaged in such
10 business packages them in sealed containers for wholesale
11 distribution.

12 [(2)] (3) The scouring, carbonizing, cording, combing,
13 throwing, twisting or winding of natural or synthetic fibers, or
14 the spinning, bleaching, dyeing, printing or finishing of yarns
15 or fabrics, when such activities are performed prior to sale to
16 the ultimate consumer.

17 [(3)] (4) The electroplating, galvanizing, enameling,
18 anodizing, coloring, finishing, impregnating or heat treating of
19 metals or plastics for sale or in the process of manufacturing.

20 [(4)] (5) The rolling, drawing or extruding of ferrous and
21 nonferrous metals.

22 [(5)] (6) The fabrication for sale of ornamental or
23 structural metal or metal stairs, staircases, gratings, fire
24 escapes or railings (not including fabrication work done at the
25 construction site).

26 [(6)] (7) The preparation of animal feed or poultry feed for
27 sale.

28 [(7)] (8) The production, processing and bottling of
29 nonalcoholic beverages for wholesale distribution.

30 [(8)] (9) The slaughtering and dressing of animals for meat

1 to be sold or to be used in preparing meat products for sale,
2 and the preparation of meat products, including lard, tallow,
3 grease, cooking and inedible oils for wholesale distribution.

4 [(9)] (10) The operation of a sawmill or planing mill for
5 the production of lumber or lumber products for sale.

6 [(10)] (11) The milling for sale of flour or meal from
7 grains.

8 [(11)] (12) The publishing of books, newspapers, magazines
9 or other periodicals, printing and broadcasting radio and
10 television programs by licensed commercial or educational
11 stations.

12 [(12)] (13) The processing of used lubricating oils.

13 [(13)] (14) The blending, rectification or production by
14 distillation or otherwise of alcohol or alcoholic liquors,
15 except the distillation of alcohol from byproducts of winemaking
16 for the sole purpose of fortifying wine.

17 [(14)] (15) The salvaging, recycling or reclaiming of used
18 materials to be recycled into a manufacturing process.

19 [(15)] (16) The development or substantial modification of
20 computer programs or software for sale to unrelated persons for
21 their direct and independent use.

22 * * *

23 Section 3. This act shall apply as follows:

24 (1) The amendment of section 201(c) and (d) of the act
25 shall apply to all sales at retail and purchases at retail
26 occurring on or after January 1, 1992, and to any action,
27 proceeding or matter not yet finally determined as of the
28 effective date of this act, by any court, administrative
29 board or other State agency, involving sales or purchases
30 occurring prior to January 1, 1992.

1 (2) The amendment of the definition of "processing" in
2 section 601(a) of the act shall apply to all tax years
3 beginning on or after January 1, 1992, and to any action,
4 proceeding or matter not yet finally determined as of the
5 effective date of this act, by any court, administrative
6 board or other State agency, involving tax years beginning
7 prior to January 1, 1992.

8 Section 4. This act shall be retroactive to January 1, 1992.

9 Section 5. This act shall take effect immediately.