

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 568 Session of  
2007

INTRODUCED BY GREENLEAF, BROWNE, WOZNIAK, EARLL, KITCHEN,  
GORDNER, BOSCOLA, RAFFERTY, O'PAKE, FOLMER, TOMLINSON, COSTA  
AND LOGAN, MARCH 20, 2007

REFERRED TO FINANCE, MARCH 20, 2007

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, in sales and use tax, for the  
11 definition of "sale at retail."

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

14 Section 1. Section 201(k)(8) of the act of March 4, 1971  
15 (P.L.6, No.2), known as the Tax Reform Code of 1971, amended  
16 April 23, 1998 (P.L.239, No.45), is amended and the section is  
17 amended by adding clauses 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 (k) "Sale at retail."

2 \* \* \*

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

8 The term "sale at retail" shall not include (i) any such  
9 transfer of tangible personal property or rendition of services  
10 for the purpose of resale, including resale of items purchased  
11 for resale by schools, school-related organizations and  
12 nonprofit associations supporting or sponsoring sports programs,  
13 or (ii) such rendition of services or the transfer of tangible  
14 personal property including, but not limited to, machinery and  
15 equipment and parts therefor and supplies to be used or consumed  
16 by the purchaser directly in the operations of--

17 (A) The manufacture of tangible personal property.

18 (B) Farming, dairying, agriculture, horticulture or  
19 floriculture when engaged in as a business enterprise. The term  
20 "farming" shall include the propagation and raising of ranch  
21 raised fur-bearing animals and the propagation of game birds for  
22 commercial purposes by holders of propagation permits issued  
23 under 34 Pa.C.S. (relating to game) and the propagation and  
24 raising of horses to be used exclusively for commercial racing  
25 activities.

26 (C) The producing, delivering or rendering of a public  
27 utility service, or in constructing, reconstructing, remodeling,  
28 repairing or maintaining the facilities which are directly used  
29 in producing, delivering or rendering such service.

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

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

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

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

27       The exclusions provided in paragraphs (A), (B), (C) and (D)  
28 shall not apply to the services enumerated in clauses (k)(11)  
29 through (18) and (w) through (kk), except that the exclusion  
30 provided in this subclause for farming, dairying and agriculture

1 shall apply to the service enumerated in clause (z).

2 \* \* \*

3 (eee) "Nonprofit association." An entity which is organized  
4 as a nonprofit corporation or nonprofit unincorporated  
5 association under the laws of this Commonwealth or the United  
6 States or any entity which is authorized to do business in this  
7 Commonwealth as a nonprofit corporation or unincorporated  
8 association under the laws of this Commonwealth, including, but  
9 not limited to, youth or athletic associations, volunteer fire,  
10 ambulance, religious, charitable, fraternal, veterans, civic,  
11 county fair or agricultural associations, or any separately  
12 chartered auxiliary of the foregoing, if organized and operated  
13 on a nonprofit basis.

14 (fff) "Sports program." Baseball (including softball),  
15 football, basketball, soccer and any other competitive sport  
16 formally recognized as a sport by the United States Olympic  
17 Committee as specified by and under the jurisdiction of the  
18 Amateur Sports Act of 1978 (Public Law 95-606, 36 U.S.C. §  
19 220501 et seq.), the Amateur Athletic Union or the National  
20 Collegiate Athletic Association. The term shall be limited to a  
21 program or that portion of a program that is organized for  
22 recreational purposes and whose activities are substantially for  
23 such purposes and which is primarily for participants who are 18  
24 years of age or younger or whose 19th birthday occurs during the  
25 year of participation or the competitive season, whichever is  
26 longer. There shall, however, be no age limitation for programs  
27 operated for persons with disabilities.

28 Section 2. This act shall take effect in 60 days.