

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 476 Session of  
1993

INTRODUCED BY FISHER, HART, SALVATORE AND HOLL, FEBRUARY 9, 1993

REFERRED TO FINANCE, FEBRUARY 9, 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 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 December 13, 1991 (P.L.373, No.40), 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 \* \* \*

23 (m) "Tangible personal property." Corporeal personal

1 property including, but not limited to, goods, wares,  
2 merchandise, steam and natural and manufactured and bottled gas  
3 for non-residential use, electricity for non-residential use,  
4 premium cable service, spirituous or vinous liquor and malt or  
5 brewed beverages and soft drinks, interstate telephone,  
6 telegraph and telecommunications service originating or  
7 terminating in the Commonwealth, and charged to a service  
8 address in this Commonwealth, intrastate telephone, telegraph  
9 and telecommunications service with the exception of subscriber  
10 line charges and basic local telephone service for residential  
11 use, provided further, the service address of any intrastate  
12 telephone, telegraph or telecommunications service is deemed to  
13 be within this Commonwealth or within a political subdivision,  
14 regardless of how or where billed or paid. In the case of any  
15 such interstate or intrastate telephone, telegraph and  
16 telecommunications service, any charge paid through a credit or  
17 payment mechanism which does not relate to a service address,  
18 such as a bank, travel, credit or debit card, is deemed  
19 attributable to the address of origination of the telephone,  
20 telegraph or telecommunications service. Prebuilt, sectional or  
21 modular housing, including manufactured housing which bears a  
22 label, as required by and referred to in the act of November 17,  
23 1982 (P.L.676, No.192), known as the "Manufactured Housing  
24 Construction and Safety Standards Authorization Act," which  
25 certifies that it conforms to Federal construction and safety  
26 standards adopted pursuant to the National Manufactured Housing  
27 Construction and Safety Standards Act of 1974 (Public Law 93-  
28 383, 42 U.S.C. § 5401 et seq.) and including industrialized  
29 housing, as defined in the act of May 11, 1972 (P.L.286, No.70),  
30 known as the "Industrialized Housing Act," shall be deemed to be

1 tangible personal property only at the time of its manufacture,  
2 for any use, including use as living quarters or for commercial  
3 or rental purposes.

4 \* \* \*

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

7 Section 202. Imposition of Tax.--\* \* \*

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

16 Section 3. Section 237(b)(1) of the act, amended December  
17 28, 1972 (P.L.1633, No.340), is amended to read:

18 Section 237. Collection of Tax.--\* \* \*

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

30 \* \* \*

Section 4. The definition of "real estate" in section 1101-C of the act, amended July 2, 1986 (P.L.318, No.77), is amended 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.

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

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

6 \* \* \*

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

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

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

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

26 \* \* \*

27 (23) The first sale of prebuilt housing which is not real  
28 estate.

29 Section 7. This act shall take effect immediately.