

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2262 Session of
1991

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GANNON, BROWN, ULIANA, ANGSTADT, BLACK, KING, SAURMAN,
JOHNSON, G. SNYDER, VROON, HARLEY, E. Z. TAYLOR, JADLOWIEC
AND D. W. SNYDER, DECEMBER 10, 1991

REFERRED TO COMMITTEE ON FINANCE, DECEMBER 10, 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 manufacturing and processing;
11 repealing provisions imposing sales tax on various services;
12 imposing taxes to support the Public Transportation
13 Assistance Fund; further providing for exclusions from the
14 sales and use tax; further providing for household income and
15 dependent allowances for poverty tax provisions; providing
16 for setoffs of State lottery prizes for taxes and other
17 debts; further providing for certain surtaxes; and providing
18 for a limited tax amnesty program.

19 The General Assembly of the Commonwealth of Pennsylvania

20 hereby enacts as follows:

21 Section 1. Section 201(b), (c), (d), (f), (k), (l), (m),

1 (o), (t), (x), (y), (z), (aa), (bb), (cc), (dd), (ee), (ff),
2 (gg), (hh), (ii), (jj), (kk) and (mm) of the act of March 4,
3 1971 (P.L.6, No.2), known as the Tax Reform Code of 1971,
4 amended or added August 4, 1991 (P.L.97, No.22), are amended
5 and a clause is added to read:

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

10 * * *

11 (b) "Maintaining a place of business in this Commonwealth."

12 (1) Having or maintaining within this Commonwealth, directly
13 or by a subsidiary, an office, distribution house, sales house,
14 warehouse, service enterprise or other place of business, or any
15 agent of general or restricted authority irrespective of whether
16 the place of business or agent is located here permanently or
17 temporarily or whether the person or subsidiary maintaining such
18 place of business or agent is authorized to do business within
19 this Commonwealth; [or]

20 (2) The engaging in any activity as a business within this
21 Commonwealth by any person, directly or by a subsidiary, in
22 connection with the lease, sale or delivery of tangible personal
23 property or the performance of services thereon for use, storage
24 or consumption or in connection with the sale or delivery for
25 use of the services described in [subclauses (11) through (18)]
26 subclause (11) of clause (k) of this section including, but not
27 limited to, having, maintaining or using any office,
28 distribution house, sales house, warehouse or other place of
29 business, any stock of goods or any solicitor, salesman, agent
30 or representative under its authority, at its direction or with

1 its permission, regardless of whether the person or subsidiary
2 is authorized to do business in this Commonwealth[.]; or

3 (3) Regularly or substantially soliciting orders within this
4 Commonwealth in connection with the lease, sale or delivery of
5 tangible personal property to or the performance thereon of
6 services or in connection with the sale or delivery of the
7 services described in [subclauses (11) through (18)] subclause
8 (11) of clause (k) of this section for residents of this
9 Commonwealth by means of catalogues or other advertising,
10 whether such orders are accepted within or without this
11 Commonwealth.

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

18 (1) Every operation commencing with the first production
19 stage and ending with the completion of tangible personal
20 property having the physical qualities (including packaging, if
21 any, passing to the ultimate consumer) which it has when
22 transferred by the manufacturer to another;

23 (2) The publishing of books, newspapers, magazines and other
24 periodicals and printing;

25 (3) Refining, blasting, exploring, mining and quarrying for,
26 or otherwise extracting from the earth or from waste or stock
27 piles or from pits or banks any natural resources, minerals and
28 mineral aggregates including blast furnace slag;

29 (4) Building, rebuilding, repairing and making additions to,
30 or replacements in or upon vessels designed for commercial use

1 of registered tonnage of fifty tons or more when produced upon
2 special order of the purchaser, or when rebuilt, repaired or
3 enlarged, or when replacements are made upon order of, or for
4 the account of the owner;

5 (5) Research having as its objective the production of a new
6 or an improved (i) product or utility service, or (ii) method of
7 producing a product or utility service, but in either case not
8 including market research or research having as its objective
9 the improvement of administrative efficiency.

10 (6) Remanufacture for wholesale distribution by a
11 remanufacturer of motor vehicle parts from used parts acquired
12 in bulk by the remanufacturer using an assembly line process
13 which involves the complete disassembly of such parts and
14 integration of the components of such parts with other used or
15 new components of parts, including the salvaging, recycling or
16 reclaiming of used parts by the remanufacturer.

17 (7) The process of making bakery products.

18 The term "manufacture," shall not include constructing,
19 altering, servicing, repairing or improving real estate or
20 repairing, servicing or installing tangible personal property,
21 nor the cooking, freezing or baking of fruits, vegetables,
22 mushrooms, fish, seafood, meats[,] or poultry [or bakery
23 products].

24 * * *

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

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

1 (2) The scouring, carbonizing, cording, combing, throwing,
2 twisting or winding of natural or synthetic fibers, or the
3 spinning, bleaching, dyeing, printing or finishing of yarns or
4 fabrics, when such activities are performed prior to sale to the
5 ultimate consumer.

6 (3) The electroplating, galvanizing, enameling, anodizing,
7 coloring, finishing, impregnating or heat treating of metals or
8 plastics for sale or in the process of manufacturing.

9 (4) The rolling, drawing or extruding of ferrous and non-
10 ferrous metals.

11 (5) The fabrication for sale of ornamental or structural
12 metal or of metal stairs, staircases, gratings, fire escapes or
13 railings (not including fabrication work done at the
14 construction site).

15 (6) The preparation of animal feed or poultry feed for sale.

16 (7) The production, processing and bottling of non-alcoholic
17 beverages for wholesale distribution.

18 (8) The operation of a saw mill or planing mill for the
19 production of lumber or lumber products for sale.

20 (9) The milling for sale of flour or meal from grains.

21 (10) The slaughtering and dressing of animals for meat to be
22 sold or to be used in preparing meat products for sale, and the
23 preparation of meat products including lard, tallow, grease,
24 cooking and inedible oils for wholesale distribution.

25 (11) The processing of used lubricating oils.

26 (12) The broadcasting of radio and television programs of
27 licensed commercial or educational stations.

28 * * *

29 (f) "Purchase at retail."

30 (1) The acquisition for a consideration of the ownership,

1 custody or possession of tangible personal property other than
2 for resale by the person acquiring the same when such
3 acquisition is made for the purpose of consumption or use,
4 whether such acquisition shall be absolute or conditional, and
5 by whatsoever means the same shall have been effected.

6 (2) The acquisition of a license to use or consume, and the
7 rental or lease of tangible personal property, other than for
8 resale regardless of the period of time the lessee has
9 possession or custody of the property.

10 (3) The obtaining for a consideration of those services
11 described in subclauses (2), (3) and (4) of clause (k) of this
12 section other than for resale.

13 (4) A retention after March 7, 1956, of possession, custody
14 or a license to use or consume pursuant to a rental contract or
15 other lease arrangement (other than as security), other than for
16 resale.

17 (5) The obtaining for a consideration of those services
18 described in [subclauses (11) through (18)] subclause (11) of
19 clause (k) of this section.

20 The term "purchase at retail" with respect to "liquor" and
21 "malt or brewed beverages" shall include the purchase of
22 "liquor" from any "Pennsylvania Liquor Store" by any person for
23 any purpose, and the purchase of "malt or brewed beverages" from
24 a "manufacturer of malt or brewed beverages," "distributor" or
25 "importing distributor" by any person for any purpose, except
26 purchases from a "manufacturer of malt or brewed beverages" by a
27 "distributor" or "importing distributor" or purchases from an
28 "importing distributor" by a "distributor" within the meaning of
29 the "Liquor Code." The term "purchase at retail" shall not
30 include any purchase of "malt or brewed beverages" from a

1 "retail dispenser" or any purchase of "liquor" or "malt or
2 brewed beverages" from a person holding a "retail liquor
3 license" within the meaning of and pursuant to the provisions of
4 the "Liquor Code," but shall include any purchase or acquisition
5 of "liquor" or "malt or brewed beverages" other than pursuant to
6 the provisions of the "Liquor Code."

7 * * *

8 (k) "Sale at retail."

9 (1) Any transfer, for a consideration, of the ownership,
10 custody or possession of tangible personal property, including
11 the grant of a license to use or consume whether such transfer
12 be absolute or conditional and by whatsoever means the same
13 shall have been effected.

14 (2) The rendition of the service of printing or imprinting
15 of tangible personal property for a consideration for persons
16 who furnish, either directly or indirectly the materials used in
17 the printing or imprinting.

18 (3) The rendition for a consideration of the service of--

19 (i) Washing, cleaning, waxing, polishing or lubricating of
20 motor vehicles of another, whether or not any tangible personal
21 property is transferred in conjunction therewith; and

22 (ii) Inspecting motor vehicles pursuant to the mandatory
23 requirements of "The Vehicle Code."

24 (4) The rendition for a consideration of the service of
25 repairing, altering, mending, pressing, fitting, dyeing,
26 laundering, drycleaning or cleaning tangible personal property
27 other than wearing apparel or shoes, or applying or installing
28 tangible personal property as a repair or replacement part of
29 other tangible personal property except wearing apparel or shoes
30 for a consideration, whether or not the services are performed

1 directly or by any means other than by coin-operated self-
2 service laundry equipment for wearing apparel or household goods
3 and whether or not any tangible personal property is transferred
4 in conjunction therewith, except such services as are rendered
5 in the construction, reconstruction, remodeling, repair or
6 maintenance of real estate: Provided, however, That this
7 subclause shall not be deemed to impose tax upon such services
8 in the preparation for sale of new items which are excluded from
9 the tax under clause (26) of section 204, or upon diaper
10 service.

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

16 The term "sale at retail" shall not include (i) any such
17 transfer of tangible personal property or rendition of services
18 for the purpose of resale, or (ii) such rendition of services or
19 the transfer of tangible personal property including, but not
20 limited to, machinery and equipment and parts therefor and
21 supplies to be used or consumed by the purchaser directly in the
22 operations of--

23 (A) The manufacture of tangible personal property;

24 (B) Farming, dairying, agriculture, horticulture or
25 floriculture when engaged in as a business enterprise. The term
26 "farming" shall include the propagation and raising of ranch
27 raised fur-bearing animals and the propagation of game birds for
28 commercial purposes by holders of propagation permits issued
29 under 34 Pa.C.S. (relating to game);

30 (C) The producing, delivering or rendering of a public

1 utility service, or in constructing, reconstructing, remodeling,
2 repairing or maintaining the facilities which are directly used
3 in producing, delivering or rendering such service;

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

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

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

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

1 The exclusions provided in paragraphs (A), (B), (C) and (D)
2 shall not apply to the services enumerated in [clauses (k)(11)
3 through (18), (w) through (kk)] clauses (k)(11) and (w).

4 (9) Where tangible personal property or services are
5 utilized for purposes constituting a "sale at retail" and for
6 purposes excluded from the definition of "sale at retail," it
7 shall be presumed that such tangible personal property or
8 services are utilized for purposes constituting a "sale at
9 retail" and subject to tax unless the user thereof proves to the
10 department that the predominant purposes for which such tangible
11 personal property or services are utilized do not constitute a
12 "sale at retail."

13 (10) The term "sale at retail" with respect to "liquor" and
14 "malt or brewed beverages" shall include the sale of "liquor" by
15 any "Pennsylvania liquor store" to any person for any purpose,
16 and the sale of "malt or brewed beverages" by a "manufacturer of
17 malt or brewed beverages," "distributor" or "importing
18 distributor" to any person for any purpose, except sales by a
19 "manufacturer of malt or brewed beverages" to a "distributor" or
20 "importing distributor" or sales by an "importing distributor"
21 to a "distributor" within the meaning of the "Liquor Code." The
22 term "sale at retail" shall not include any sale of "malt or
23 brewed beverages" by a "retail dispenser" or any sale of
24 "liquor" or "malt or brewed beverages" by a person holding a
25 "retail liquor license" within the meaning of and pursuant to
26 the provisions of the "Liquor Code," but shall include any sale
27 of "liquor" or "malt or brewed beverages" other than pursuant to
28 the provisions of the "Liquor Code."

29 (11) The rendition for a consideration of lobbying services.

30 [(12) The rendition for a consideration of adjustment

1 services, collection services or credit reporting services.

2 (13) The rendition for a consideration of secretarial or
3 editing services.

4 (14) The rendition for a consideration of disinfecting or
5 pest control services, building maintenance or cleaning
6 services.

7 (15) The rendition for a consideration of employment agency
8 services, help supply services or other personnel supply
9 services.

10 (16) The rendition for a consideration of computer
11 programming services or other computer-related services,
12 including, but not limited to, providing computer integrated
13 systems design, computer processing, data preparation or
14 processing services, information retrieval services or computer
15 facilities management services.

16 (17) The rendition for a consideration of lawn care service.

17 (18) The rendition for a consideration of storage service.]

18 (1) "Storage." Any keeping or retention of tangible
19 personal property within this Commonwealth for any purpose
20 including the interim keeping, retaining or exercising any right
21 or power over such tangible personal property. [This term is in
22 no way limited to the provision of storage service.]

23 (m) "Tangible personal property." Corporeal personal
24 property including, but not limited to, goods, wares,
25 merchandise, steam and natural and manufactured and bottled gas
26 for non-residential use, electricity for non-residential use,
27 [pay television] premium pay television, except for minimum pay
28 television, spirituous or vinous liquor and malt or brewed
29 beverages and soft drinks, interstate telephone, telegraph and
30 telecommunications service originating or terminating in the

1 Commonwealth and charged to a service address in this
2 Commonwealth, intrastate telephone, telegraph and
3 telecommunications service with the exception of subscriber line
4 charges and basic local telephone service for residential use,
5 provided further, the service address of any intrastate
6 telephone, telegraph or telecommunications service is deemed to
7 be within this Commonwealth or within a political subdivision,
8 regardless of how or where billed or paid. In the case of any
9 such interstate or intrastate telephone, telegraph and
10 telecommunications service, any charge paid through a credit or
11 payment mechanism which does not relate to a service address,
12 such as a bank, travel, credit or debit card, is deemed
13 attributable to the address of origination of the telephone,
14 telegraph or telecommunications service.

15 * * *

16 (o) "Use."

17 (1) The exercise of any right or power incidental to the
18 ownership, custody or possession of tangible personal property
19 and shall include, but not be limited to transportation, storage
20 or consumption.

21 (2) The obtaining by a purchaser of the service of printing
22 or imprinting of tangible personal property when such purchaser
23 furnishes, either directly or indirectly, the articles used in
24 the printing or imprinting.

25 (3) The obtaining by a purchaser of the services of (i)
26 washing, cleaning, waxing, polishing or lubricating of motor
27 vehicles whether or not any tangible personal property is
28 transferred to the purchaser in conjunction with such services,
29 and (ii) inspecting motor vehicles pursuant to the mandatory
30 requirements of "The Vehicle Code."

1 (4) The obtaining by a purchaser of the service of
2 repairing, altering, mending, pressing, fitting, dyeing,
3 laundering, drycleaning or cleaning tangible personal property
4 other than wearing apparel or shoes or applying or installing
5 tangible personal property as a repair or replacement part of
6 other tangible personal property other than wearing apparel or
7 shoes, whether or not the services are performed directly or by
8 any means other than by means of coin-operated self-service
9 laundry equipment for wearing apparel or household goods, and
10 whether or not any tangible personal property is transferred to
11 the purchaser in conjunction therewith, except such services as
12 are obtained in the construction, reconstruction, remodeling,
13 repair or maintenance of real estate: Provided, however, That
14 this subclause shall not be deemed to impose tax upon such
15 services in the preparation for sale of new items which are
16 excluded from the tax under clause (26) of section 204, or upon
17 diaper service: And provided further, That the term "use" shall
18 not include--

19 (A) Any tangible personal property acquired and kept,
20 retained or over which power is exercised within this
21 Commonwealth on which the taxing of the storage, use or other
22 consumption thereof is expressly prohibited by the Constitution
23 of the United States or which is excluded from tax under other
24 provisions of this article.

25 (B) The use or consumption of tangible personal property,
26 including but not limited to machinery and equipment and parts
27 therefor, and supplies or the obtaining of the services
28 described in subclauses (2), (3) and (4) of this clause directly
29 in the operations of--

30 (i) The manufacture of tangible personal property;

1 (ii) Farming, dairying, agriculture, horticulture or
2 floriculture when engaged in as a business enterprise. The term
3 "farming" shall include the propagation and raising of ranch
4 raised furbearing animals and the propagation of game birds for
5 commercial purposes by holders of propagation permits issued
6 under 34 Pa.C.S. (relating to game);

7 (iii) The producing, delivering or rendering of a public
8 utility service, or in constructing, reconstructing, remodeling,
9 repairing or maintaining the facilities which are directly used
10 in producing, delivering or rendering such service;

11 (iv) Processing as defined in subclause (d) of this section.

12 The exclusions provided in subparagraphs (i), (ii), (iii) and
13 (iv) shall not apply to any vehicle required to be registered
14 under The Vehicle Code except those vehicles directly used by a
15 public utility engaged in the business as a common carrier; to
16 maintenance facilities; or to materials, supplies or equipment
17 to be used or consumed in the construction, reconstruction,
18 remodeling, repair or maintenance of real estate other than
19 directly used machinery, equipment, parts or foundations
20 therefor that may be affixed to such real estate. The exclusions
21 provided in subparagraphs (i), (ii), (iii) and (iv) shall not
22 apply to tangible personal property or services to be used or
23 consumed in managerial sales or other nonoperational activities,
24 nor to the purchase or use of tangible personal property or
25 services by any person other than the person directly using the
26 same in the operations described in subparagraphs (i), (ii),
27 (iii) and (iv).

28 The exclusion provided in subparagraph (iii) shall not apply
29 to (A) construction materials, supplies or equipment used to
30 construct, reconstruct, remodel, repair or maintain facilities

1 not used directly by the purchaser in the production, delivering
2 or rendition of public utility service or (B) tools and
3 equipment used but not installed in the maintenance of
4 facilities used directly in the production, delivering or
5 rendition of a public utility service.

6 The exclusion provided in subparagraphs (i), (ii), (iii) and
7 (iv) shall not apply to the services enumerated in clauses
8 (o)(9) [through (15), (w) through (kk)] and (w).

9 (5) Where tangible personal property or services are
10 utilized for purposes constituting a "use," as herein defined,
11 and for purposes excluded from the definition of "use," it shall
12 be presumed that such property or services are utilized for
13 purposes constituting a "sale at retail" and subject to tax
14 unless the user thereof proves to the department that the
15 predominant purposes for which such property or services are
16 utilized do not constitute a "sale at retail."

17 (6) The term "use" with respect to "liquor" and "malt or
18 brewed beverages" shall include the purchase of "liquor" from
19 any "Pennsylvania liquor store" by any person for any purpose
20 and the purchase of "malt or brewed beverages" from a
21 "manufacturer of malt or brewed beverages," "distributor" or
22 "importing distributor" by any person for any purpose, except
23 purchases from a "manufacturer of malt or brewed beverages" by a
24 "distributor" or "importing distributor," or purchases from an
25 "importing distributor" by a "distributor" within the meaning of
26 the "Liquor Code." The term "use" shall not include any purchase
27 of "malt or brewed beverages" from a "retail dispenser" or any
28 purchase of "liquor" or "malt or brewed beverages" from a person
29 holding a "retail liquor license" within the meaning of and
30 pursuant to the provisions of the "Liquor Code," but shall

1 include the exercise of any right or power incidental to the
2 ownership, custody or possession of "liquor" or "malt or brewed
3 beverages" obtained by the person exercising such right or power
4 in any manner other than pursuant to the provisions of the
5 "Liquor Code."

6 (7) The use of tangible personal property purchased at
7 retail upon which the services described in subclauses (2), (3)
8 and (4) of this clause have been performed shall be deemed to be
9 a use of said services by the person using said property.

10 (8) The term "use" shall not include the providing of a
11 motor vehicle to a nonprofit private or public school to be used
12 by such a school for the sole purpose of driver education.

13 (9) The obtaining by the purchaser of lobbying services.

14 [(10) The obtaining by the purchaser of adjustment services,
15 collection services or credit reporting services.

16 (11) The obtaining by the purchaser of secretarial or
17 editing services.

18 (12) The obtaining by the purchaser of disinfecting or pest
19 control services, building maintenance or cleaning services.

20 (13) The obtaining by the purchaser of employment agency
21 services, help supply services or other personnel supply
22 services.

23 (14) The obtaining by the purchaser of computer programming
24 services or other computer-related services, including, but not
25 limited to, providing computer integrated systems design,
26 computer processing, data preparation or processing services,
27 information retrieval services or computer facilities management
28 services.

29 (15) The obtaining by the purchaser of lawn care service.]

30 * * *

1 (t) "Transient vendor."

2 (1) Any person who--

3 (i) Brings into the Commonwealth, by automobile, truck or
4 other means of transportation, or purchases in the Commonwealth
5 tangible personal property the sale or use of which is subject
6 to the tax imposed by this article [or comes into the
7 Commonwealth to perform services the sale or use of which is
8 subject to the tax imposed by this article];

9 (ii) Offers or intends to offer such tangible personal
10 property [or services] for sale at retail within the
11 Commonwealth; and

12 (iii) Does not maintain an established office, distribution
13 house, saleshouse, warehouse, service enterprise, residence from
14 which business is conducted or other place of business within
15 the Commonwealth.

16 (2) The term shall not include a person who delivers
17 tangible personal property within the Commonwealth pursuant to
18 orders for such property which were solicited or placed by mail
19 or other means.

20 (3) The term shall not include a person who handcrafts items
21 for sale at special events, including, but not limited to,
22 fairs, carnivals, art and craft shows and other festivals and
23 celebrations within this Commonwealth.

24 * * *

25 [(x) "Adjustment services, collection services or credit
26 reporting services." Providing collection or adjustments of
27 accounts receivable or mercantile or consumer credit reporting
28 including, but not limited to, services of the type provided by
29 adjustment bureaus or collection agencies, consumer or
30 mercantile credit reporting bureaus, credit bureaus or agencies,

1 credit clearinghouses or credit investigation services. Such
2 services do not include providing credit card service with
3 collection by a central agency, providing debt counseling or
4 adjustment services to individuals or billing or collection
5 services provided by local exchange telephone companies.

6 (y) "Secretarial or editing services." Providing services
7 which include, but are not limited to, editing, letter writing,
8 proofreading, resume writing, typing or word processing. Such
9 services shall not include court reporting and stenographic
10 services.

11 (z) "Disinfecting or pest control services." Providing
12 disinfecting, termite control, insect control, rodent control or
13 other pest control services. Such services include, but are not
14 limited to, deodorant servicing of rest rooms, washroom
15 sanitation service, rest room cleaning service, extermination
16 service or fumigating service.

17 (aa) "Building maintenance or cleaning services." Providing
18 services which include, but are not limited to, janitorial, maid
19 or housekeeping service, office or interior building cleaning or
20 maintenance service, window cleaning service, floor waxing
21 service, lighting maintenance service such as bulb replacement,
22 cleaning, chimney cleaning service, acoustical tile cleaning
23 service, venetian blind cleaning, cleaning and maintenance of
24 telephone booths, or cleaning and degreasing of service
25 stations. This term shall not include repairs on buildings and
26 other structures.

27 (bb) "Employment agency services." Providing employment
28 services to a prospective employer or employe other than
29 employment services provided by theatrical employment agencies
30 and motion picture casting bureaus. Such services shall include,

1 but are not limited to, services of the type provided by
2 employment agencies, executive placing services, labor
3 contractor employment agencies other than farm labor.

4 (cc) "Help supply services." Providing temporary or
5 continuing help where the help supplied is on the payroll of the
6 supplying person or entity, but is under the supervision of the
7 individual or business to which help is furnished. Such services
8 include, but are not limited to, service of a type provided by
9 labor and manpower pools, employe leasing services, office help
10 supply services, temporary help services, usher services,
11 modeling services or fashion show model supply services. Such
12 services shall not include providing farm labor services.

13 (dd) "Computer programming services." Providing computer
14 programming or computer software design and analysis. Such
15 services include, but are not limited to, services of the type
16 provided by or through computer programming services, customer
17 computer programming services, computer code authors and free-
18 lance computer software writers, software modification, custom
19 software programming, custom computer programs or system
20 software development, custom computer software systems analysis
21 and design, custom applications software programming, computer
22 code authors or free-lance computer software writers.

23 (ee) "Computer integrated systems design." Developing or
24 modifying computer software and packaging or bundling the
25 software with computer hardware (computers and computer
26 peripheral equipment) to create and market an integrated system
27 for specific application. A business is providing such services
28 under this subparagraph only if it provides each of the
29 following services:

30 (1) the development or modification of the computer

1 software;

2 (2) the marketing of computer hardware; and

3 (3) involvement in all phases of systems development from
4 design through installation.

5 Such services under this clause include, but are not limited to,
6 computer systems integration, computer network systems
7 integration, local area network (LAN) systems integration,
8 office automation, computer systems value-added resellers,
9 computer systems turnkey vendors, computer-aided design (CAD)
10 systems services, computer-aided engineering (CAE) systems
11 services or computer-aided manufacturing (CAM) systems services.

12 (ff) "Computer processing, data preparation or processing
13 services." Such services include, but are not limited to,
14 providing processing and preparation of reports from data
15 supplied by the customer or a specialized service, such as data
16 entry; making data processing equipment available on an hourly,
17 time-sharing or other basis; computer time-sharing and leasing
18 or rental of computer time; computer tabulating and calculating
19 services; data entry, processing or verification services; key-
20 punch services; or optical scanning data services.

21 (gg) "Information retrieval services." Providing computer
22 on-line information retrieval services. Such services include,
23 but are not limited to, data base information retrieval
24 services, on-line information retrieval services, on-line data
25 base information retrieval services or remote data base
26 information retrieval services.

27 (hh) "Computer facilities management services." Providing
28 on-site management or controlling the operation of data
29 processing facilities or similar services.

30 (ii) "Other computer-related services." Supplying computer-

1 related services not described elsewhere in clauses (dd) through
2 (hh). Such services include, but are not limited to, computer
3 consulting services; data base development and data processing
4 consulting services; disk, diskette or tape conversion services;
5 disk, diskette or tape recertification services; computer
6 hardware and software requirement analysis services; software
7 documentation services; software installation services; software
8 training services; or reformatting or editing services.

9 (jj) "Lawn care service." Providing services for lawn
10 upkeep including, but not limited to, fertilizing, lawn mowing,
11 shrubbery trimming or other lawn treatment services.

12 (kk) "Storage service." A building or portion of a building
13 or similar structure for purposes of storing corporeal personal
14 property, including, but not limited to, goods, wares or
15 merchandise, spiritous or vinous liquor and malt or brewed
16 beverages, furniture and household goods, automobiles, furs,
17 textiles, perishable goods under refrigeration, farm products,
18 cotton compresses or tobacco. The term excludes storage of such
19 property which is unloaded from maritime vessels and then later
20 stored or which is stored and then later loaded on maritime
21 vessels when such storage or loading takes place within twenty-
22 five miles of a "port district," as defined by the act of July
23 10, 1989 (P.L.291, No.50), known as the "Philadelphia Regional
24 Port Authority Act."]

25 * * *

26 (mm) "Minimum pay television." [That portion of pay
27 television for which a periodic minimum fee is paid to receive
28 pay television on an ongoing basis.] All pay television services
29 and devices except for premium pay television.

30 (nn) "Premium pay television." That portion of cable

1 television services, community antenna television services, or
2 any other television services distributed with or without the
3 use of wires to subscribers or paying customers or users, which
4 consists of one or more primarily subscriber-supported channels,
5 such as channels composed primarily of uninterrupted, full-
6 length motion pictures or sporting events, which are customarily
7 made available to a subscriber or other paying customer or user
8 for a fee or charge in addition to any other fees or charges for
9 other cable, community antenna or other television services. The
10 term shall not include separately stated charges for
11 installation and repairs related to premium pay television, or
12 upgrade, downgrade, additional outlet, or any other charge
13 except that specifically identified as a charge or fee for
14 premium pay television.

15 Section 2. The act is amended by adding a section to read:

16 Section 202.1. Taxes to Support Public Transportation
17 Assistance Fund.--(a) There is hereby imposed a fee on each
18 sale in this Commonwealth of new tires for highway use at the
19 rate of one dollar (\$1) per tire. The fee shall be collected by
20 the seller from the purchaser and remitted to the Department of
21 Revenue. The provisions of this subsection shall not apply to
22 the purchase of a new or used motor vehicle.

23 (b) (1) There is hereby imposed a tax of six per cent of
24 the purchase price upon each separate sale at retail of a
25 periodical and upon each separate mail order subscription for a
26 periodical. The exclusion set forth in section 204(30) shall not
27 be applied to the tax imposed under this subsection.

28 (2) As used in this subsection, the term "periodical" means
29 a periodical regularly published at intervals not exceeding
30 three months, which is circulated to the general public and

1 which contains either matters of general interest or reports of
2 current events or is devoted to literature, sports, the
3 sciences, art or some other special industry or area of
4 interest.

5 (c) There is hereby imposed on each lease of a motor vehicle
6 subject to tax under section 202 an additional tax of three per
7 cent of the total lease price charged.

8 (d) There is hereby imposed on each rental of a motor
9 vehicle subject to tax under section 202 a fee of two dollars
10 (\$2) for each day or part of a day for which the vehicle is
11 rented.

12 (e) Every entity required to pay the tax imposed under
13 Article XI-A of this act shall, in addition to that tax, pay an
14 additional tax of twelve (12) mills upon each dollar of the
15 State taxable value of its utility realty at the end of the
16 preceding calendar year. The tax imposed by this subsection
17 shall be reported by the affected entity and collected by the
18 department in the same manner as the tax imposed under Article
19 XI-A of this act.

20 Section 3. Section 204(29) of the act, amended August 4,
21 1991 (P.L.97, No.22), is amended and the section is amended by
22 adding a clause to read:

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

25 * * *

26 (29) The sale at retail or use of food and beverages for
27 human consumption including candy and gum, except that this
28 exclusion shall not apply with respect to--

29 (i) Soft drinks;

30 (ii) Malt and brewed beverages and spirituous and vinous

1 liquors;

2 (iii) Food or beverages ready to eat, whether sold for
3 consumption on or off the premises or on a "take-out" or "to go"
4 basis or delivered to the purchaser or consumer, when purchased
5 (i) from persons engaged in the business of catering, or (ii)
6 from persons engaged in the business of operating
7 establishments, including, but not limited to, restaurants,
8 cafes, lunch counters, private and social clubs, taverns, dining
9 cars, hotels, night clubs, fast food operations, pizzerias,
10 fairs, carnivals, lunch carts, ice cream stands, vending
11 machines, snack bars, cafeterias, employe cafeterias, theaters,
12 stadiums, arenas, amusement parks[,] and carryout shops[, coffee
13 shops, bakery, pastry and donut shops and other establishments
14 whether mobile or immobile from which food or beverages ready to
15 eat are sold. For purposes of this clause, a delicatessen,
16 grocery store, supermarket, farmer's market or a convenience
17 store shall not be considered an establishment from which food
18 or beverages ready to eat are sold except for the sale of meals,
19 cooked chicken, sandwiches, prepared salads, salad bars,
20 prepared desserts, hot soup, hot pizza and other hot food items,
21 brewed coffee and hot beverages]. The sale at retail of food and
22 beverages at or from a school or church in the ordinary course
23 of the activities of such organization is not subject to tax.

24 * * *

25 (49) The sale at retail or use of toothpaste, toothbrushes,
26 dental floss or baby wipes.

27 Section 4. Section 304(d) of the act, amended August 4, 1991
28 (P.L.97, No.22), is amended to read:

29 Section 304. Special Tax Provisions for Poverty.--

30 * * *

1 (d) Any claim for special tax provisions hereunder shall be
2 determined in accordance with the following:

3 (1) If total household income is [seven thousand dollars
4 (\$7,000)] eleven thousand dollars (\$11,000) or less, the
5 claimant shall be entitled to a refund or forgiveness of any
6 moneys which have been paid over to (or would except for the
7 provisions of this act be payable to) the Commonwealth under the
8 provisions of this article, with an additional income allowance
9 of [two thousand dollars (\$2,000)] one thousand five hundred
10 dollars (\$1,500) for each dependent and household member.

11 (2) If total household income does not exceed the
12 limitations prescribed by clause (1) by more than the dollar
13 category contained in subclauses (i), (ii), (iii), (iv), (v),
14 (vi), (vii), (viii) or (ix) of this clause, the claimant shall
15 be entitled to a refund or forgiveness based on the per centage
16 prescribed in such subclauses of any moneys which have been paid
17 over to (or would except for the provisions herein be payable
18 to) the Commonwealth under this article:

19 (i) Ninety per cent if not in excess of one hundred dollars
20 (\$100).

21 (ii) Eighty per cent if not in excess of two hundred dollars
22 (\$200).

23 (iii) Seventy per cent if not in excess of three hundred
24 dollars (\$300).

25 (iv) Sixty per cent if not in excess of four hundred dollars
26 (\$400).

27 (v) Fifty per cent if not in excess of five hundred dollars
28 (\$500).

29 (vi) Forty per cent if not in excess of six hundred dollars
30 (\$600).

1 (vii) Thirty per cent if not in excess of seven hundred
2 dollars (\$700).

3 (viii) Twenty per cent if not in excess of eight hundred
4 dollars (\$800).

5 (ix) Ten per cent if not in excess of nine hundred dollars
6 (\$900).

7 Section 5. The act is amended by adding a section to read:

8 Section 352.2. Offset of Lottery Prizes for Taxes and Other
9 Debts.--(a) The Secretary of Revenue may delay payment of any
10 State lottery prize that exceeds twenty-five hundred dollars
11 (\$2,500) where debts are owed by the claimant to a State agency.

12 (b) For a State agency to participate in this program of
13 withholding and for the Secretary of Revenue to be responsible
14 to order such withholding, the State agency must furnish to the
15 Secretary of Revenue the following minimum information: The
16 State agency or program identifier, the first name, last name,
17 middle initial and Social Security number of the debtor, and the
18 amount of the debt. This information shall be in such form and
19 manner as the Secretary of Revenue may prescribe. Each State
20 agency shall certify the information and update the information
21 monthly.

22 (c) The Secretary of Revenue shall match the information
23 submitted by the State agency with persons who are entitled to a
24 State lottery prize payment in an amount in excess of twenty-
25 five hundred dollars (\$2,500). If there is a match, the
26 Secretary of Revenue shall set off the amount of the debt from
27 the prize due and notify the person of the person's right to
28 appeal to the appropriate court, or to request a review by the
29 State agency. The person shall make such a request or appeal
30 within thirty (30) days after the setoff. If the setoff accounts

1 for only a portion of the State lottery prize due, the remainder
2 of the State lottery prize shall be paid to the prize winner.
3 The Secretary of Revenue shall promptly transfer the setoff,
4 less the amount of the fee of the Secretary of Revenue, to the
5 State agency.

6 (d) If a person requests a review by the State agency or
7 provides the State agency with proof that an appeal has been
8 taken to the appropriate court within thirty (30) days after the
9 setoff and it is determined that the setoff was made in error
10 under this section, the agency shall reimburse the person, with
11 interest as determined.

12 (e) The basis for a request for review shall not include the
13 validity of the claim if its validity has been established at a
14 State agency hearing, by judicial review in a court of competent
15 jurisdiction in this or any other state, or by final
16 administrative decision and shall state with specificity why the
17 person claims the obligation does not exist or why the amount of
18 the obligation is incorrect.

19 (f) The Secretary of Revenue may determine and set a
20 reasonable fee to be collected from each State lottery prize
21 winner of twenty-five hundred dollars (\$2,500) or more to cover
22 the expenses of the State agency and the Department of Revenue
23 when the procedures required by this section are used. The
24 amount of the fee shall reasonably reflect the actual cost of
25 the procedure, and the Secretary of Revenue shall reimburse the
26 department and the State agency on a monthly basis for expenses.

27 (g) If a State agency or State agencies have two or more
28 delinquent accounts for the same person, the Secretary of
29 Revenue shall apportion the State lottery prize, meeting the
30 requirements of section 8(b) of the act of August 26, 1971

1 (P.L.351, No.91), known as the "State Lottery Law."

2 (h) If the State lottery prize is insufficient to satisfy
3 the entire debt, the remainder of the debt may be collected by
4 the State agency as provided by law or may be resubmitted for
5 setoff against any other prize awarded.

6 (i) A State agency shall not enter into an agreement with a
7 debtor for the assignment of any prospective State lottery prize
8 to the State agency in satisfaction of the debt.

9 (j) For purposes of this section, the word "debt" means an
10 amount owed to any State agency by a person and may include
11 interest, penalties, charges, costs, assessments or fees.

12 Section 6. Sections 402 and 602 of the act, amended August
13 4, 1991 (P.L.97, No.22), are amended to read:

14 Section 402. Imposition of Tax.--Every corporation shall be
15 subject to, and shall pay for the privilege of (i) doing
16 business in this Commonwealth; or (ii) carrying on activities in
17 this Commonwealth; (iii) having capital or property employed or
18 used in this Commonwealth; or (iv) owning property in this
19 Commonwealth, by or in the name of itself, or any person,
20 partnership, association, limited partnership, joint-stock
21 association, or corporation, a State excise tax at the rate of
22 twelve per cent per annum upon each dollar of taxable income of
23 such corporation received by, and accruing to, such corporation
24 during the calendar year 1971 and the first six months of 1972
25 and at the rate of eleven per cent per annum upon each dollar of
26 taxable income of such corporation received by, and accruing to,
27 such corporation during the second six months of calendar year
28 1972 through the calendar year 1973 and at the rate of nine and
29 one-half per cent per annum upon each dollar of taxable income
30 of such corporation received by, and accruing to, such

1 corporation during the calendar years 1974, 1975 and 1976 and at
2 the rate of ten and one-half per cent per annum upon each dollar
3 of taxable income of such corporation received by, and accruing
4 to, such corporation during the calendar year 1977 through the
5 calendar year 1984 and at the rate of nine and one-half per cent
6 per annum upon each dollar of taxable income of such corporation
7 received by and accruing to such corporation during the calendar
8 year 1985 through calendar year 1986 and at the rate of eight
9 and one-half per cent per annum upon each dollar of taxable
10 income of such corporation received by and accruing to such
11 corporation during the calendar year 1987 through the calendar
12 year 1990 and at the rate of ten and one-half per cent per annum
13 upon each dollar of taxable income of such corporation received
14 by and accruing to such corporation during calendar year 1991
15 and during each calendar year thereafter with an additional
16 surtax equal to one and seventy-five hundredths per cent per
17 annum upon each dollar of taxable income of such corporation
18 received by and accruing to such corporation during calendar
19 year 1991 and [during each calendar year thereafter] an
20 additional surtax equal to eighty-seven hundredths per cent per
21 annum upon each dollar of taxable income of such corporation
22 received by and accruing to such corporation during calendar
23 year 1992, except where a corporation reports to the Federal
24 Government on the basis of a fiscal year, and has certified such
25 fact to the department as required by section 403 of this
26 article, in which case, such tax, at the rate of twelve per
27 cent, shall be levied, collected, and paid upon all taxable
28 income received by, and accruing to, such corporation during the
29 first six months of the fiscal year commencing in the calendar
30 year 1972 and at the rate of eleven per cent, shall be levied,

1 collected, and paid upon all taxable income received by, and
2 accruing to, such corporation during the second six months of
3 the fiscal year commencing in the calendar year 1972 and during
4 the fiscal year commencing in the calendar year 1973 and at the
5 rate of nine and one-half per cent, shall be levied, collected,
6 and paid upon all taxable income received by, and accruing to,
7 such corporation during the fiscal year commencing in the
8 calendar years 1974, 1975 and 1976 and at the rate of ten and
9 one-half per cent, shall be levied, collected, and paid upon all
10 taxable income received by, and accruing to, such corporation
11 during the fiscal year commencing in the calendar year 1977
12 through the fiscal year commencing in 1984 and at the rate of
13 nine and one-half per cent, shall be levied, collected, and paid
14 upon all taxable income received by and accruing to such
15 corporation during the fiscal year commencing in 1985 through
16 the fiscal year commencing in 1986 and at the rate of eight and
17 one-half per cent per annum upon each dollar of taxable income
18 of such corporation received by and accruing to such corporation
19 during the fiscal year commencing in 1987 through the fiscal
20 year commencing in 1990 and at the rate of ten and one-half per
21 cent per annum upon each dollar of taxable income of such
22 corporation received by and accruing to such corporation during
23 the fiscal year commencing in 1991 and during each fiscal year
24 thereafter, with an additional surtax equal to one and seventy-
25 five hundredths per cent per annum upon each dollar of taxable
26 income of such corporation received by and accruing to such
27 corporation during the fiscal year commencing in 1991 and
28 [during each fiscal year thereafter] an additional surtax equal
29 to eighty-seven hundredths per cent per annum upon each dollar
30 of taxable income of such corporation received by and accruing

1 to such corporation during the fiscal year commencing in 1992.

2 No penalty prescribed by subsection (e) of section 3003 shall be
3 assessed against a corporation for the additional tax which may
4 be due as a result of the increase in tax rate from nine and
5 one-half per cent to ten and one-half per cent imposed
6 retroactively by this section for the calendar year 1977 or for
7 the fiscal year commencing in 1977.

8 Section 602. Imposition of Tax.--(a) That every domestic
9 entity from which a report is required under section 601 hereof,
10 shall be subject to, and pay to the department annually, a tax
11 which is the greater of (i) three hundred dollars (\$300) or (ii)
12 the amount computed at the rate of ten mills upon each dollar of
13 the capital stock value as defined in section 601(a) for the
14 calendar year 1971 and the fiscal year beginning in 1971 through
15 calendar year 1986 and fiscal years beginning in 1986, at the
16 rate of nine mills upon each dollar of the capital stock value
17 as defined in section 601(a) for the calendar year 1987 and
18 fiscal years beginning in 1987 , at the rate of nine and one-
19 half mills upon each dollar of the capital stock value as
20 defined in section 601(a) for the calendar year 1988 and fiscal
21 years beginning in 1988 through calendar year 1990 and fiscal
22 years beginning in 1990 and at the rate of eleven mills upon
23 each dollar of the capital stock value as defined in section
24 601(a) for the calendar year 1991 and fiscal years beginning in
25 1991 and each year thereafter, with an additional surtax equal
26 to two mills upon each dollar of the capital stock value as
27 defined in section 601(a) for the calendar year 1991 and fiscal
28 years beginning in 1991 and with an additional surtax equal to
29 one [and three-quarters mills] mill upon each dollar of the
30 capital stock value as defined in section 601(a) for the

1 calendar year 1992 and fiscal years beginning in 1992 [and each
2 year thereafter], except that any domestic entity or company
3 subject to the tax prescribed herein may elect to compute and
4 pay its tax under and in accordance with the provisions of
5 subsection (b) of this section 602: Provided, That, except for
6 the imposition of the three hundred dollar (\$300) minimum tax,
7 the provisions of this section shall not apply to the taxation
8 of the capital stock of entities organized for manufacturing,
9 processing, research or development purposes, which is invested
10 in and actually and exclusively employed in carrying on
11 manufacturing, processing, research or development within the
12 State, except such entities as enjoy and exercise the right of
13 eminent domain, but every entity organized for the purpose of
14 manufacturing, processing, research or development except such
15 entities as enjoy and exercise the right of eminent domain shall
16 pay the State tax of the greater of (i) three hundred dollars
17 (\$300) or (ii) the amount computed at the rate of ten mills upon
18 each dollar of the capital stock value as defined in section
19 601(a) for the calendar year 1971 and the fiscal year beginning
20 in 1971 through calendar year 1986 and fiscal years beginning in
21 1986, at the rate of nine mills upon each dollar of the capital
22 stock value as defined in section 601(a) for the calendar year
23 1987 and fiscal years beginning in 1987 and at the rate of nine
24 and one-half mills upon each dollar of the capital stock value
25 as defined in section 601(a) for the calendar year 1988 and
26 fiscal years beginning in 1988 through calendar year 1990 and
27 fiscal years beginning in 1990 and at the rate of eleven mills
28 upon each dollar of the capital stock value as defined in
29 section 601(a) for the calendar year 1991 and each year
30 thereafter, with an additional surtax equal to two mills upon

1 each dollar of the capital stock value as defined in section
2 601(a) for the calendar year 1991 and fiscal years beginning in
3 1991 and with an additional surtax equal to one [and three-
4 quarters mills] mill upon each dollar of the capital stock value
5 as defined in section 601(a) for the calendar year 1992 and
6 fiscal years beginning in 1992 [and each year thereafter], upon
7 such proportion of its capital stock, if any, as may be invested
8 in any property or business not strictly incident or appurtenant
9 to the manufacturing, processing, research or development
10 business, in addition to the local taxes assessed upon its
11 property in the district where located, it being the object of
12 this provision to relieve from State taxation, except for
13 imposition of the three hundred dollar (\$300) minimum tax under
14 this section, only so much of the capital stock as is invested
15 purely in the manufacturing, processing, research or development
16 plant and business.

17 (b) (1) Every foreign entity from which a report is
18 required under section 601 hereof, shall be subject to and pay
19 to the department annually, a franchise tax which is the greater
20 of (i) three hundred dollars (\$300) or (ii) the amount computed
21 at the rate of ten mills for the calendar year 1971 and the
22 fiscal years beginning in 1971 through calendar year 1986 and
23 fiscal years beginning in 1986, at the rate of nine mills for
24 the calendar year 1987 and for fiscal years beginning in 1987,
25 at the rate of nine and one-half mills for calendar year 1988
26 and fiscal years beginning in 1988 through calendar year 1990
27 and fiscal years beginning in 1990 and at the rate of eleven
28 mills upon each dollar of the capital stock value as defined in
29 section 601(a) for the calendar year 1991 and fiscal years
30 beginning in 1991 and each year thereafter, with an additional

1 surtax equal to two mills upon each dollar of the capital stock
2 value as defined in section 601(a) for the calendar year 1991
3 and fiscal years beginning in 1991 and with an additional surtax
4 equal to one [and three-quarters mills] mill upon each dollar of
5 the capital stock value as defined in section 601(a) for the
6 calendar year 1992 and fiscal years beginning in 1992 [and each
7 year thereafter], upon a taxable value to be determined in the
8 following manner. The capital stock value shall be ascertained
9 in the manner prescribed in section 601(a) of this article. The
10 taxable value shall then be determined by employing the relevant
11 apportionment factors set forth in Article IV: Provided, That
12 the manufacturing, processing, research and development
13 exemptions contained under section 602(a) shall also apply to
14 foreign corporations and in determining the relevant
15 apportionment factors the numerator of the property, payroll, or
16 sales factors shall not include any property, payroll or sales
17 attributable to manufacturing, processing, research or
18 development activities in the Commonwealth. Any foreign
19 corporation, joint-stock association, limited partnership or
20 company subject to the tax prescribed herein may elect to
21 compute and pay its tax under section 602(a): Provided, That any
22 foreign corporation, joint-stock association, limited
23 partnership or company electing to compute and pay its tax under
24 section 602(a) shall be treated as if it were a domestic
25 corporation for the purpose of determining which of its assets
26 are exempt from taxation and for the purpose of determining the
27 proportion of the value of its capital stock which is subject to
28 taxation.

29 (2) The provisions of this article shall apply to the
30 taxation of entities organized for manufacturing, processing,

1 research or development purposes, but shall not apply to such
2 entities as enjoy and exercise the right of eminent domain.

3 (d) It shall be the duty of the treasurer or other officers
4 having charge of any domestic or foreign entity, upon which a
5 tax is imposed by this section, to transmit the amount of tax to
6 the department within the time prescribed by law: Provided, That
7 for the purposes of this act interest in limited partnerships or
8 joint-stock associations shall be deemed to be capital stock,
9 and taxable accordingly: Provided, further, That entities liable
10 to a tax under this section, shall not be required to pay any
11 further tax on the mortgages, bonds, and other securities owned
12 by them and in which the whole body of stockholders or members,
13 as such, have the entire equitable interest in remainder; but
14 entities owning or holding such securities as trustees,
15 executors, administrators, guardians, or in any other manner
16 than for the whole body of stockholders or members thereof as
17 sole equitable owners in remainder, shall return and pay the tax
18 imposed by this act upon all securities so owned or held by
19 them, as in the case of individuals.

20 (e) Any holding company subject to the capital stock tax or
21 the franchise tax imposed by this section may elect to compute
22 the capital stock or franchise tax by applying the rate of tax
23 of ten mills for the calendar year 1971 and the fiscal year
24 beginning in 1971 through the calendar year 1986 and fiscal
25 years beginning in 1986, at the rate of nine mills for the
26 calendar year 1987 and fiscal years beginning in 1987, at the
27 rate of nine and one-half mills for calendar year 1988 and
28 fiscal years beginning in 1988 through calendar year 1990 and
29 fiscal years beginning in 1990 and at the rate of eleven mills
30 for calendar year 1991 and fiscal years beginning in 1991 and

1 each year thereafter, with an additional surtax equal to two
2 mills for calendar year 1991 and fiscal years beginning in 1991
3 and with an additional surtax equal to one [and three-quarters
4 mills] mill upon each dollar of the capital stock value as
5 defined in section 601(a) for the calendar year 1992 and fiscal
6 years beginning in 1992 [and each year thereafter], upon each
7 dollar to ten per cent of the capital stock value, but in no
8 case shall the tax so computed be less than three hundred
9 dollars (\$300). If exercised, this election shall be in lieu of
10 any other apportionment or allocation to which such company
11 would otherwise be entitled.

12 (f) Every domestic corporation and every foreign corporation
13 (i) registered to do business in Pennsylvania; (ii) which
14 maintains an office in Pennsylvania; (iii) which has filed a
15 timely election to be taxed as a regulated investment company
16 with the Federal Government; and (iv) which duly qualifies to be
17 taxed as a regulated investment company under the provisions of
18 the Internal Revenue Code of 1954 as amended, shall be taxed as
19 a regulated investment company and shall be subject to the
20 capital stock or franchise tax imposed by section 602, in either
21 case for the privilege of having an office in Pennsylvania,
22 which tax shall be computed pursuant to the provisions of this
23 subsection in lieu of all other provisions of this section 602.
24 The tax shall be in an amount which is the greater of three
25 hundred dollars (\$300) or the sum of the amounts determined
26 pursuant to clauses (1) and (2):

27 (1) The amount determined pursuant to this clause shall be
28 seventy-five dollars (\$75) times that number which is the result
29 of dividing the net asset value of the regulated investment
30 company by one million, rounded to the nearest multiple of

1 seventy-five dollars (\$75). Net asset value shall be determined
2 by adding the monthly net asset values as of the last day of
3 each month during the taxable period and dividing the total sum
4 by the number of months involved. Each such monthly net asset
5 value shall be the actual market value of all assets owned
6 without any exemptions or exclusions, less all liabilities,
7 debts and other obligations.

8 (2) The amount determined pursuant to this clause shall be
9 the amount which is the result of multiplying the rate of
10 taxation applicable for purposes of the personal income tax
11 during the same taxable year times the apportioned undistributed
12 personal income tax income of the regulated investment company.
13 For the purposes of this clause:

14 (A) Personal income tax income shall mean income to the
15 extent enumerated and classified in section 303.

16 (B) Undistributed personal income tax income shall mean all
17 personal income tax income other than personal income tax income
18 undistributed on account of the capital stock or foreign
19 franchise tax, less all personal income tax income distributed
20 to shareholders. At the election of the company, income
21 distributed after the close of a taxable year, but deemed
22 distributed during the taxable year for Federal income tax
23 purposes, shall be deemed distributed during that year for
24 purposes of this clause. If a company in a taxable year has both
25 current income and income accumulated from a prior year,
26 distributions during the year shall be deemed to have been made
27 first from current income.

28 (C) Undistributed personal income tax income shall be
29 apportioned to Pennsylvania by a fraction, the numerator of
30 which is all income distributed during the taxable period to

1 shareholders who are resident individuals, estates or trusts and
2 the denominator of which is all income distributed during the
3 taxable period. Resident trusts shall not include charitable,
4 pension or profit-sharing, or retirement trusts.

5 (D) Personal income tax income and other income of a company
6 shall each be deemed to be either distributed to shareholders or
7 undistributed in the proportion each category bears to all
8 income received by the company during the taxable year.

9 (g) In the event that a domestic or foreign entity is
10 required to file a report pursuant to section 601(b) on other
11 than an annual basis, the tax imposed by this section, including
12 the three hundred dollars (\$300) minimum tax, shall be prorated
13 to reflect the portion of a taxable year for which the report is
14 filed by multiplying the tax liability by a fraction equal to
15 the number of days in the taxable year divided by three hundred
16 sixty-five days.

17 Section 7. The act is amended by adding an article to read:

18 ARTICLE XXIX

19 TAX AMNESTY PROGRAM

20 Section 2901. Definitions.--The following words, terms and
21 phrases, when used in this article, shall have the meanings
22 ascribed to them in this section, except where the context
23 clearly indicates a different meaning:

24 "Amnesty period." March 1, 1992, through 12 midnight May 31,
25 1992.

26 "Department." The Department of Revenue of the Commonwealth.

27 "Eligible tax." Any tax imposed by the act of March 4, 1971
28 (P.L.6, No.2), known as the "Tax Reform Code of 1971."

29 "Program." The tax amnesty program as provided for in this
30 article.

1 "Taxpayer." Any person, association, fiduciary, partnership,
2 corporation or other entity required to pay or collect any of
3 the taxes imposed by this act. The term shall not include a
4 taxpayer who, as of February 29, 1992, has received notice that
5 he is the subject of a criminal investigation for an alleged
6 violation of this act, has been named as a defendant in a
7 criminal complaint alleging a violation of this act or is a
8 defendant in a pending criminal action for an alleged violation
9 of this act.

10 Section 2902. Establishment of Amnesty Program.--(a) There
11 is hereby established a tax amnesty program which shall be
12 administered by the department.

13 (b) The amnesty program shall apply to a taxpayer who is
14 delinquent on payment of an eligible tax as of February 29,
15 1992, including tax on returns not filed, tax liabilities
16 according to records of the department as of February 29, 1992,
17 tax liabilities not reported, underreported or not established,
18 but delinquent as of February 29, 1992.

19 Section 2903. Required Payments.--(a) All taxpayers who
20 participate in the program shall make payment of all taxes due
21 the Commonwealth as of February 29, 1992, plus fifty per cent of
22 the total amount of interest due within the amnesty period. The
23 department shall not seek to collect the remaining fifty per
24 cent of the total amount of interest due and any penalties owed
25 by the taxpayer.

26 (b) In addition to filing an amnesty tax return, a taxpayer
27 must file complete tax returns for all years for which the
28 taxpayer previously has not filed a tax return and file complete
29 amended returns for all years for which the taxpayer
30 underreported income.

1 (c) The department shall not pursue an administrative or
2 judicial proceeding against a taxpayer with respect to any tax
3 that is disclosed on an amnesty tax return.

4 Section 2904. Installment Payment Agreement.--The department
5 may enter into an installment payment agreement in the cases of
6 severe financial hardship, as determined by the department, in
7 lieu of complete payment of all taxes due and fifty per cent of
8 the total amount of interest. Failure by the taxpayer to fully
9 comply with the terms of the installment payment agreement shall
10 terminate the taxpayer's participation in the amnesty program
11 and all taxes due the Commonwealth and the total amount of
12 interest and penalties due the Commonwealth shall be considered
13 to be delinquent and shall be immediately due and payable.

14 Section 2905. Limitation of Deficiency Assessment.--If
15 subsequent to May 31, 1992, the department issues a deficiency
16 assessment upon a return filed pursuant to this article, the
17 department shall have the authority to impose penalties and to
18 pursue a criminal action only with respect to the difference
19 between the amount shown on that return and the current amount
20 of tax.

21 Section 2906. Overpayment of Tax.--Notwithstanding any other
22 provisions of this or any other act, if an overpayment of tax is
23 refunded or credited within one hundred eighty days after the
24 return is filed under this article, no interest shall be allowed
25 on the overpayment.

26 Section 2907. Previously Paid Interest and Penalties.--No
27 refund or credit shall be allowed for any interest and penalty
28 paid to the department prior to February 29, 1992.

29 Section 2908. Proceedings Relating to Amnesty Return
30 Barred.--Participation in the amnesty program is conditioned

1 upon the taxpayer's agreement that the right to protest or
2 pursue an administrative or judicial proceeding with regard to
3 returns filed under the amnesty program or to claim any refund
4 of money paid under the amnesty program is barred.

5 Section 2909. Undisclosed Liabilities.--Nothing in this
6 article shall be construed to prohibit the department from
7 instituting civil or criminal proceedings against any taxpayer
8 with respect to any amount of tax that is not disclosed on the
9 amnesty return.

10 Section 2910. Duties of Department.--(a) The department
11 shall develop regulations to implement the provisions of this
12 article. The regulations must be published in the Pennsylvania
13 Bulletin within sixty days of the effective date of this article
14 and shall contain, but not be limited to, the following
15 information:

16 (1) An explanation of the tax amnesty program and the
17 requirements for eligibility for the program.

18 (2) The dates during which a tax amnesty return may be
19 filed.

20 (3) An explanation of the procedure for obtaining an
21 installment payment agreement.

22 (4) A specimen copy of the tax amnesty return.

23 (b) The department shall publicize the tax amnesty program
24 to maximize public awareness of and participation in the
25 program. The department shall coordinate to the highest degree
26 possible its publicity efforts and other actions taken to
27 implement this article.

28 (c) The department shall issue a report to the General
29 Assembly by August 1, 1992, detailing the implementation of the
30 program. The reports shall contain, but not be limited to, the

1 following information:

2 (1) A detailed breakdown of the department's administrative
3 costs in implementing the program.

4 (2) The number of tax amnesty returns filed and a breakdown
5 of the number and dollar amount of revenue raised for each tax.

6 (3) The total dollar amount of revenue raised by the
7 program.

8 (4) The number of amnesty returns for which an installment
9 payment agreement was authorized and the guidelines under which
10 the department authorized the installment payment agreements.

11 (d) The department shall notify in writing all taxpayers who
12 owe taxes in excess of four thousand dollars (\$4,000) to the
13 Commonwealth of the amnesty program established under this
14 article. The sole purpose of the letter sent by the department
15 to taxpayers must be notification of the amnesty program.

16 Section 2911. Method of Payment.--All tax payments under the
17 amnesty program shall be made by certified check or money order.

18 Section 2912. Feasibility Study.--The department shall study
19 and report to the General Assembly concerning the feasibility of
20 acquiring the services of private collection agencies in a
21 competitive bid process for collecting delinquent tax payments
22 that remain outstanding at the close of the amnesty period.

23 Items to be considered in the study include:

24 (1) Maintenance of taxpayer confidentiality.

25 (2) The effect of private collection process on future
26 criminal and/or judicial proceedings.

27 (3) The savings in personnel and other resources from
28 privatizing the collection process.

29 (4) Identification of delinquent tax accounts that are
30 appropriate for collection by private collection agencies.

1 Section 2913. Exemption from Review Process.--
2 Notwithstanding any law to the contrary the regulations issued
3 by the department for the amnesty program shall be exempt from
4 the regulatory review process provided in the act of June 25,
5 1982 (P.L.633, No.181), known as the "Regulatory Review Act."

6 Section 2914. Use of Revenue.--All revenue generated by this
7 article shall be distributed in the following order:

8 (1) Repayment of any cost for administration of the amnesty
9 program to the department.

10 (2) The remaining funds shall be deposited into the General
11 Fund.

12 Section 8. This act shall take effect immediately.