

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 546 Session of
1993

INTRODUCED BY CORRIGAN, TRELLO, GODSHALL, JAROLIN, PESCI AND
DALEY, MARCH 15, 1993

REFERRED TO COMMITTEE ON FINANCE, MARCH 15, 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 new manufactured housing; and further
12 providing for the imposition of certain taxes thereon.

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 * * *

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

1 11, 1972 (P.L.286, No.70), known as the "Industrialized Housing
2 Act," shall be deemed to be tangible personal property only when
3 there is a transfer of the ownership, custody or possession of
4 such housing for a consideration, from a manufacturer to a
5 dealer, for further transfer by that dealer to an ultimate
6 consumer or, when there is no dealer, from a manufacturer to an
7 ultimate consumer, for any use, including use as living quarters
8 or for commercial or rental purposes. Used prebuilt, sectional,
9 modular or manufactured housing or used mobilehomes shall not be
10 deemed to be tangible personal property.

11 * * *

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

14 Section 202. Imposition of Tax.--* * *

15 (e) Notwithstanding any other provisions of this article,
16 the tax with respect to the sale or use of new prebuilt,
17 sectional, modular or manufactured housing or mobilehomes as
18 defined in section 201(m) of this article, shall be imposed at
19 the time such housing is transferred from the manufacturer to a
20 dealer or, if there is no dealer, from a manufacturer to the
21 ultimate consumer, and shall be computed on the total amount
22 billed by the manufacturer to the dealer or, if there is no
23 dealer, to the ultimate consumer. The tax shall be reported and
24 paid to the Commonwealth by the manufacturer who transfers the
25 ownership, custody or possession of the housing to the dealer or
26 to the ultimate consumer and shall be collected from the dealer
27 or, if there is no dealer, from the ultimate consumer: Provided,
28 however, That if the tax is not reported and paid by the
29 manufacturer who transfers the housing, and such tax cannot be
30 assessed against and collected from the manufacturer because

1 that manufacturer is not doing business within this
2 Commonwealth, then the dealer or, if there is no dealer, the
3 ultimate consumer shall be responsible for payment of the tax.

4 Section 3. Section 237(b)(1) of the act, amended December
5 28, 1972 (P.L.1633, No.340), is amended to read:

6 Section 237. Collection of Tax.--* * *

7 (b) Collection by Persons Maintaining a Place of Business in
8 the Commonwealth. (1) Every person maintaining a place of
9 business in this Commonwealth and selling or leasing tangible
10 personal property or services, [including the selling or leasing
11 as tangible personal property mobilehomes as defined in "The
12 Vehicle Code" whether or not a certificate of title is issued by
13 the department,] the sale or use of which is subject to tax
14 shall collect the tax from the purchaser or lessee at the time
15 of making the sale or lease, and shall remit the tax to the
16 department, unless such collection and remittance is otherwise
17 provided in this act.

18 * * *

19 Section 4. Section 1101-C of the act is amended by adding a
20 definition to read:

21 Section 1101-C. Definitions.--The following words when used
22 in this article shall have the meanings ascribed to them in this
23 section:

24 * * *

25 "Prebuilt housing." Preconstructed, sectional or modular
26 housing. "Prebuilt housing" shall include:

27 (1) A manufactured housing unit or mobilehome which bears a
28 label, as required by and referred to in the act of November 17,
29 1982 (P.L.676, No.192), known as the "Manufactured Housing
30 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."

* * *

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

Section 1102-C.1. Imposition of Tax on Prebuilt Housing.--

(a) Every person, including a dealer not otherwise subject to tax pursuant to section 1102-C of this article, who transfers the ownership, custody or possession of prebuilt housing for a consideration, shall collect from the purchaser thereof a State tax at the rate of two per cent of the value of the prebuilt housing, which value shall be determined by the total amount billed by the person transferring the ownership, custody or possession. This State tax shall be collected at the time the transfer of the ownership, custody or possession of the prebuilt housing and shall be payable to the department. Payment of the tax imposed by this section may, but need not, be evidenced by the affixing of a documentary stamp or stamps.

(b) Within thirty days of the receipt of the amount of the tax imposed by this section, the department shall transmit one-half of such amount to the recorder of deeds in the county in which is located the political subdivision where the prebuilt housing will be permanently attached to land or connected with water, gas, electric or sewage facilities. As required by section 6(c) of the act of November 1, 1971 (P.L.495, No.113), entitled, as amended, "An act providing for the compensation of

1 county officers in counties of the second through eighth
2 classes, for compensation of district attorneys in cities and
3 counties of the first class, for the disposition of fees, for
4 filing of bonds in certain cases and for duties of certain
5 officers," the recorder of deeds shall be the collection agent
6 for the political subdivision levying a local realty transfer
7 tax. If the political subdivision does not levy a local realty
8 transfer tax, the recorder of deeds shall deposit the amount of
9 the tax in the general fund of the county.

10 (c) Prebuilt housing to which this section applies, and
11 pursuant to which the tax provided for by this section has been
12 collected and paid, shall not be subject to local real estate
13 transfer taxes or deed transfer taxes pursuant to Article XI-D
14 of this act or to section 2(1) of the act of December 31, 1965
15 (P.L.1257, No.511), known as "The Local Tax Enabling Act."

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

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

20 * * *

21 (23) The first sale of prebuilt housing which is not real
22 estate.

23 Section 7. This act shall apply on July 1, 1993, with
24 respect to new housing transferred from a manufacturer to a
25 dealer or, if there is no dealer, to an ultimate consumer on or
26 after that date. This act shall apply on July 1, 1993, with
27 respect to used housing transferred to an ultimate consumer on
28 or after that date. Housing transferred prior to that date shall
29 be subject to tax as provided for under existing law.

30 Section 8. This act shall take effect immediately.