

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 242 Session of
2007

INTRODUCED BY PYLE, ARGALL, BASTIAN, BEYER, BOYD, BUXTON,
CALTAGIRONE, COX, CURRY, DALLY, DeLUCA, FAIRCHILD, FREEMAN,
GALLOWAY, GEIST, GIBBONS, GOODMAN, HALUSKA, HARHART, HARRIS,
HENNESSEY, HERSHEY, KENNEY, KILLION, MACKERETH, MAHONEY,
MANN, McILHATTAN, MELIO, R. MILLER, MUNDY, RAMALEY, RAYMOND,
READSHAW, REED, REICHLEY, ROSS, SANTONI, SAYLOR, SCAVELLO,
SIPTROTH, SOLOBAY, SONNEY, STABACK, STURLA, TANGRETTI, TRUE,
TURZAI, WALKO, YUDICHAK, PEIFER AND CUTLER, MAY 21, 2007

REFERRED TO COMMITTEE ON FINANCE, MAY 21, 2007

AN ACT

1 Amending Titles 53 (Municipalities Generally) and 72 (Taxation
2 and Fiscal Affairs) of the Pennsylvania Consolidated
3 Statutes, further providing, in municipal taxation, for
4 applicability and for definitions; consolidating the sales
5 and use tax provisions of the Tax Reform Code of 1971;
6 further providing for imposition, for computation, for
7 exclusions, for alternate imposition, for filing times and
8 for transfers to the Property Tax Relief Fund; consolidating
9 the special situs for local sales tax provisions of the Tax
10 Reform Code of 1971; providing for State allocations; and
11 making related repeals.

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

14 Section 1. Section 8405 of Title 53 is amended to read:

15 § 8405. Applicability.

16 [It] Except as provided in Ch. 85 Subch. F (relating to
17 homestead property exclusion), it is the intent of the General
18 Assembly that no provision of this subpart shall apply to any
19 city of the first class, a county of the first class coterminous

1 with a city of the first class and any school district of the
2 first class located within a city of the first class.

3 Section 1.1. The definitions of "assessor" and "board" in
4 section 8582 of Title 53 are amended and the section is amended
5 by adding definitions to read:

6 § 8582. Definitions.

7 The following words and phrases when used in this subchapter
8 shall have the meanings given to them in this section unless the
9 context clearly indicates otherwise:

10 "Assessor." The chief assessor of the county, the equivalent
11 position in a home rule county or the equivalent position in a
12 city of the first or third class that performs its own
13 assessments of real property.

14 "Board." Any of the following:

15 (1) "Board." As defined in the act of June 26, 1931,
16 (P.L.1379, No.348), referred to as the Third Class County
17 Assessment Board Law.

18 (2) "Board." As defined in the act of May 21, 1943
19 (P.L.571, No.254), known as The Fourth to Eighth Class County
20 Assessment Law.

21 (3) "Board of Property Assessment, Appeals and Review."
22 The Board of Property Assessment, Appeals and Review in a
23 county of the second class under the act of June 21, 1939
24 (P.L.626, No.294), referred to as the Second Class County
25 Assessment Law.

26 (4) "Board of Revision of Tax and Appeals." The board
27 of revision of taxes and appeals in cities of the third
28 class.

29 (5) "Board of Revision of Taxes." The board of revision
30 of taxes in cities of the first class.

1 * * *

2 "Homestead." A dwelling, including the parcel of land on
3 which the dwelling is located and the other improvements located
4 on the parcel for which any of the following apply:

5 (1) The dwelling is primarily used as the domicile of an
6 owner who is a natural person. The homestead for real
7 property qualifying under this paragraph shall not include
8 the land on which the dwelling is located if the land is not
9 owned by a person who owns the dwelling.

10 (2) The dwelling is a unit in a condominium as the term
11 is defined in 68 Pa.C.S. § 3103 (relating to definitions) and
12 the unit is primarily used as the domicile of a natural
13 person who is an owner of the unit; or the dwelling is a unit
14 in a cooperative as the term is defined in 68 Pa.C.S. § 4103
15 (relating to definitions) and the unit is primarily used as
16 the domicile of a natural person who is an owner of the unit.
17 The homestead for a unit in a condominium or a cooperative
18 shall be limited to the assessed value of the unit, which
19 shall be determined in a manner consistent with the
20 assessment of real property taxes on those units under 68
21 Pa.C.S. (relating to real and personal property) or as
22 otherwise provided law. If the unit is not separately
23 assessed for real property taxes, the homestead shall be a
24 pro rata share of the real property.

25 (3) The dwelling does not qualify under paragraphs (1)
26 and (2) and a portion of the dwelling is used as the domicile
27 of an owner who is a natural person. The homestead for real
28 property qualifying under this paragraph shall be the portion
29 of the real property that is equal to the portion of the
30 dwelling that is used as the domicile of an owner.

1 "Homestead property." A homestead for which an application
2 has been submitted and approved under section 8584 (relating to
3 administration and procedure).

4 * * *

5 "School district." A school district of the first class,
6 first class A, second class, third class or fourth class,
7 including any independent school district.

8 Section 2. Title 72 is amended by adding parts to read:

9 PART I

10 PRELIMINARY PROVISIONS

11 (RESERVED)

12 PART II

13 TAXES

14 Chapter

15 12. Sales and Use Tax.

16 13. Special Situs for Local Sales Tax.

17 CHAPTER 12

18 SALES AND USE TAX

19 Subchapter

20 A. General Provisions

21 B. Imposition of Tax

22 C. Exclusions from Tax

23 D. Licenses

24 E. Hotel Occupancy Tax

25 F. Returns

26 G. Payment

27 H. Assessment and Reassessment

28 I. Collection

29 J. Nonpayment

30 K. Miscellaneous Provisions

1 L. Refunds and Credits

2 M. Limitations

3 N. Interest, Additions, Penalties and Crimes

4 O. Enforcement and Examinations

5 P. Appropriation; Effective Date

6 SUBCHAPTER A

7 GENERAL PROVISIONS

8 Sec.

9 1201. Definitions.

10 § 1201. Definitions.

11 The following words and phrases when used in this chapter
12 shall have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Adjustment services, collection services or credit reporting
15 services." Providing collection or adjustments of accounts
16 receivable or mercantile or consumer credit reporting,
17 including, but not limited to, services of the type provided by
18 adjustment bureaus or collection agencies, consumer or
19 mercantile credit reporting bureaus, credit bureaus or agencies,
20 credit clearinghouses or credit investigation services. Such
21 services do not include providing credit card service with
22 collection by a central agency, providing debt counseling or
23 adjustment services to individuals or billing or collection
24 services provided by local exchange telephone companies.

25 "Blasting." The use of any combustible or explosive
26 composition in the removal of material resources, minerals and
27 mineral aggregates from the earth and the separation of the
28 dirt, waste and refuse in which the resources, minerals and
29 mineral aggregates are found.

30 "Building machinery and equipment." Includes, without

1 limitation, boilers, chillers, air cleaners, humidifiers, fans,
2 switchgear, pumps, telephones, speakers, horns, motion
3 detectors, dampers, actuators, grills, registers, traffic
4 signals, sensors, card access devices, guardrails, medial
5 devices, floor troughs and grates and laundry equipment,
6 together with integral coverings and enclosures, whether or not
7 the item constitutes a fixture or is otherwise affixed to the
8 real estate, whether or not damage would be done to the item or
9 its surroundings upon removal or whether or not the item is
10 physically located within a real estate structure. The term also
11 includes generation equipment, storage equipment, conditioning
12 equipment, distribution equipment and termination equipment,
13 which shall be limited to the following:

- 14 (1) air conditioning, limited to heating, cooling,
15 purification, humidification, dehumidification and
16 ventilation;
- 17 (2) electrical;
- 18 (3) plumbing;
- 19 (4) communications, limited to voice, video, data,
20 sound, master clock and noise abatement;
- 21 (5) alarms, limited to fire, security and detection;
- 22 (6) control system, limited to energy management,
23 traffic and parking lot and building access;
- 24 (7) medical system, limited to diagnosis and treatment
25 equipment, medical gas, nurse call and doctor paging;
- 26 (8) laboratory system;
- 27 (9) cathodic protection system; or
- 28 (10) furniture, cabinetry and kitchen equipment.

29 The term shall not include guardrail posts, pipes, fittings,
30 pipe supports and hangers, valves, underground tanks, wire,

1 conduit, receptacle and junction boxes, insulation, ductwork and
2 coverings thereof.

3 "Building maintenance or cleaning services." Providing
4 services which include, but are not limited to, janitorial, maid
5 or housekeeping service, office or interior building cleaning or
6 maintenance service, window cleaning service, floor waxing
7 service, lighting maintenance service such as bulb replacement,
8 cleaning, chimney cleaning service, acoustical tile cleaning
9 service, venetian blind cleaning, cleaning and maintenance of
10 telephone booths or cleaning and degreasing of service stations.
11 The term shall not include repairs on buildings and other
12 structures; nor shall this term include the maintenance or
13 repair of boilers, furnaces and residential air conditioning
14 equipment or parts thereof; the painting, wallpapering or
15 applying other like coverings to interior walls, ceilings or
16 floors; or the exterior painting of buildings.

17 "Call center." The physical location in this Commonwealth:

18 (1) where at least 150 employees are employed to
19 initiate or answer telephone calls;
20 (2) where there are at least 200 telephone lines; and
21 (3) which utilizes an automated call distribution system
22 for customer telephone calls in one or more of the following
23 activities:

- 24 (i) customer service and support;
- 25 (ii) technical assistance;
- 26 (iii) help desk service;
- 27 (iv) providing information;
- 28 (v) conducting surveys;
- 29 (vi) revenue collections; or
- 30 (vii) receiving orders or reservations.

For purposes of this definition, a physical location may include multiple buildings utilized by a taxpayer located within this Commonwealth.

"Commercial aircraft operator." A person, excluding scheduled airlines, that engages in any or all of the following: charter of aircraft, leasing of aircraft, aircraft sales, aircraft rental, flight instruction, air freight or any other flight activities for compensation.

"Commercial racing activities." Any of the following:

(1) Thoroughbred and harness racing at which pari-mutuel wagering is conducted under the act of December 17, 1981 (P.L.435, No.135), known as the Race Horse Industry Reform Act.

(2) Fair racing sanctioned by the State Harness Racing Commission.

"Construction contract." A written or oral contract or agreement for the construction, reconstruction, remodeling, renovation or repair of real estate or a real estate structure. The term shall not apply to services which are taxable under paragraphs (14) and (17) of the definition of "sale at retail" and paragraphs (12) and (15) of the definition of "use."

"Construction contractor." A person who performs an activity pursuant to a construction contract, including a subcontractor.

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

"Disinfecting or pest control services." Providing disinfecting, termite control, insect control, rodent control or other pest control services, including, but not limited to, deodorant servicing of restrooms, washroom sanitation service, restroom cleaning service, extermination service or fumigating service. The term "fumigating service" shall not include the

fumigation of agricultural commodities or containers used for agricultural commodities, and the term "insect control" shall not include the spraying of trees which are harvested for commercial purposes for gypsy moth control.

"Employment agency services." Providing employment services to a prospective employer or employee other than employment services provided by theatrical employment agencies and motion picture casting bureaus. These services shall include, but not be limited to, services of the type provided by employment agencies, executive placing services and labor contractor employment agencies other than farm labor.

"Fiscal Code." The act of April 9, 1929 (P.L.343, No.176), known as The Fiscal Code.

"Gratuity." Any amount paid or remitted for services performed in conjunction with any sale of food or beverages, or hotel or motel accommodations, which amount is in excess of the charges and the tax thereon for such food, beverages or accommodations regardless of the method of billing or payment.

"Help supply services." Providing temporary or continuing help where the help supplied is on the payroll of the supplying person or entity but is under the supervision of the individual or business to which help is furnished. These services shall include, but not be limited to, service of a type provided by labor and manpower pools, employee leasing services, office help supply services, temporary help services, usher services, modeling services or fashion show model supply services. Such services shall not include providing farm labor services. The term shall not include nursing, home health care and personal care services and other human health-related services. As used in this definition, "personal care" shall include providing at

least one of the following types of assistance to persons with limited ability for self-care:

- (1) dressing, bathing or feeding;
- (2) supervising self-administered medication;
- (3) transferring a person to or from a bed or wheelchair; or
- (4) routine housekeeping chores when provided in conjunction with and supplied by the same provider of the assistance listed in paragraph (1), (2) or (3).

"Internet." The international nonproprietary computer network of both Federal and non-Federal interoperable packet switched data networks.

"Lawn care service." Providing services for lawn upkeep, including, but not limited to, fertilizing, lawn mowing, shrubbery trimming or other lawn treatment services.

"Lobbying services." Providing the services of a lobbyist, as defined in the definition of "lobbyist" in 65 Pa.C.S. § 13A03 (relating to definitions).

"Maintaining a place of business in this Commonwealth." As follows:

- (1) Having, maintaining or using within this Commonwealth, either directly or through a subsidiary, representative or an agent, an office, distribution house, sales house, warehouse, service enterprise or other place of business; or any agent of general or restricted authority, or representative, irrespective of whether the place of business, representative or agent is located in this Commonwealth, permanently or temporarily, or whether the person or subsidiary maintaining the place of business, representative or agent is authorized to do business within

1 this Commonwealth.

2 (2) Engagement in any activity as a business within this
3 Commonwealth by any person, either directly or through a
4 subsidiary, representative or an agent, in connection with
5 the lease, sale or delivery of tangible personal property or
6 the performance of services thereon for use, storage or
7 consumption or in connection with the sale or delivery for
8 use of the services described in paragraphs (11) through (18)
9 of the definition of "sale at retail," including, but not
10 limited to, having, maintaining or using any office,
11 distribution house, sales house, warehouse or other place of
12 business, any stock of goods or any solicitor, canvasser,
13 salesman, representative or agent under its authority, at its
14 direction or with its permission, regardless of whether the
15 person or subsidiary is authorized to do business in this
16 Commonwealth.

17 (3) Regularly or substantially soliciting orders within
18 this Commonwealth in connection with the lease, sale or
19 delivery of tangible personal property to or the performance
20 thereon of services or in connection with the sale or
21 delivery of the services described in paragraphs (11) through
22 (18) of the definition of "sale at retail" for residents of
23 this Commonwealth by means of catalogs or other advertising,
24 whether the orders are accepted within or without this
25 Commonwealth.

26 (3.1) The entering of this Commonwealth by any person to
27 provide assembly, service or repair of tangible personal
28 property, either directly or through a subsidiary,
29 representative or an agent.

30 (3.2) Delivering tangible personal property to locations

1 within this Commonwealth if the delivery includes the
2 unpacking, positioning, placing or assembling of the tangible
3 personal property.

4 (3.3) Having any contact within this Commonwealth which
5 would allow the Commonwealth to require a person to collect
6 and remit tax under the Constitution of the United States.

7 (3.4) Providing a customer's mobile telecommunications
8 service deemed to be provided by the customer's home service
9 provider under the Mobile Telecommunications Sourcing Act
10 (Public Law 106-252, 114 Stat. 626). For purposes of this
11 paragraph, words and phrases used in this paragraph shall
12 have the meanings given to them in the Mobile
13 Telecommunications Sourcing Act.

14 (4) The term shall not include:

15 (i) Owning or leasing of tangible or intangible
16 property by a person who has contracted with an
17 unaffiliated commercial printer for printing, provided
18 that:

19 (A) the property is for use by the commercial
20 printer; and

21 (B) the property is located at the Pennsylvania
22 premises of the commercial printer.

23 (ii) Visits by a person's employees or agents to the
24 premises in this Commonwealth of an unaffiliated
25 commercial printer with whom the person has contracted
26 for printing in connection with the contract.

27 "Manufacture." The performance of manufacturing,
28 fabricating, compounding, processing or other operations,
29 engaged in as a business, which place any tangible personal
30 property in a form, composition or character different from that

in which it is acquired whether for sale or use by the manufacturer, and shall include, but not be limited to:

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

(2) The publishing of books, newspapers, magazines and other periodicals and printing.

(3) Refining, blasting, exploring, mining and quarrying for, or otherwise extracting from the earth or from waste or stockpiles or from pits or banks, any natural resources, minerals and mineral aggregates including blast furnace slag.

(4) Building, rebuilding, repairing and making additions to or replacements in or upon vessels designed for commercial use of registered tonnage of 50 tons or more when produced upon special order of the purchaser, or when rebuilt, repaired or enlarged, or when replacements are made upon order of, or for the account of the owner.

(5) Research having as its objective the production of a new or an improved:

(i) product or utility service; or

(ii) method of producing a product or utility service.

The term does not include market research or research having as its objective the improvement of administrative efficiency.

(6) Remanufacture for wholesale distribution by a remanufacturer of motor vehicle parts from used parts acquired in bulk by the remanufacturer using an assembly line

1 process which involves the complete disassembly of such parts
2 and integration of the components of such parts with other
3 used or new components of parts, including the salvaging,
4 recycling or reclaiming of used parts by the remanufacturer.

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

17 (i) "aircraft" means fixed-wing aircraft,
18 helicopters, powered aircraft, tilt-rotor or tilt-wing
19 aircraft, unmanned aircraft and gliders;

20 (ii) "armored vehicles" means tanks, armed personnel
21 carriers and all other armed track or semitrack vehicles;
22 or

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

26 (8) The term does not include constructing, altering,
27 servicing, repairing or improving real estate or repairing,
28 servicing or installing tangible personal property, nor the
29 cooking, freezing or baking of fruits, vegetables, mushrooms,
30 fish, seafood, meats, poultry or bakery products.

1 "Mobile telecommunications service." Mobile
2 telecommunications service as that term is defined in the Mobile
3 Telecommunications Sourcing Act (Public Law 106-252, 114 Stat.
4 626).

5 "Person." A natural person, association, fiduciary,
6 partnership, corporation or other entity, including the
7 Commonwealth of Pennsylvania, its political subdivisions and
8 instrumentalities and public authorities. Whenever used in any
9 provision prescribing and imposing a penalty or imposing a fine
10 or imprisonment, or both, the term, as applied to an
11 association, shall include the members of these listed classes
12 and, as applied to a corporation, the officers of the
13 corporation.

14 "Prebuilt housing." Either of the following:

15 (1) Manufactured housing, including mobile homes, which
16 bears a label as required by and referred to in the act of
17 November 17, 1982 (P.L.676, No.192), known as the
18 Manufactured Housing Construction and Safety Standards
19 Authorization Act.

20 (2) Industrialized housing as defined in the act of May
21 11, 1972 (P.L.286, No.70), known as the Industrialized
22 Housing Act.

23 "Prebuilt housing builder." A person who makes a prebuilt
24 housing sale to a prebuilt housing purchaser.

25 "Prebuilt housing purchaser." A person who purchases
26 prebuilt housing in a transaction and who intends to occupy the
27 unit for residential purposes in this Commonwealth.

28 "Prebuilt housing sale." A sale of prebuilt housing to a
29 prebuilt housing purchaser, including a sale to a landlord,
30 without regard to whether the person making the sale is

1 responsible for installing the prebuilt housing or whether the
2 prebuilt housing becomes a real estate structure upon
3 installation. Temporary installation by a prebuilt housing
4 builder for display purposes of a unit held for resale shall not
5 be considered occupancy for residential purposes.

6 "Premium cable or premium video programming service."

7 (1) That portion of cable television services, video
8 programming services, community antenna television services
9 or any other distribution of television, video, audio or
10 radio services which meets all of the following criteria:

11 (i) Is transmitted with or without the use of wires
12 to purchasers.

13 (ii) Consists substantially of programming
14 uninterrupted by paid commercial advertising which
15 includes programming primarily composed of uninterrupted
16 full-length motion pictures or sporting events, pay-per-
17 view, paid programming or like audio or radio
18 broadcasting.

19 (iii) Does not constitute a component of a basic
20 service tier provided by a cable television system or a
21 cable programming service tier provided by a cable
22 television system.

23 (A) A basic service tier shall include:

24 (I) all signals of domestic television
25 broadcast stations;

26 (II) any public, educational, governmental
27 or religious programming; and

28 (III) any additional video programming
29 signals or service added to the basic service
30 tier by the cable operator.

1 (B) The basic service tier shall include a
2 single additional lower-priced package of broadcast
3 channels and access information channels which is a
4 subset of the basic service tier as set forth in this
5 paragraph.

6 (C) A cable programming service tier includes
7 any video programming other than:

8 (I) the basic service tier;

9 (II) video programming offered on a pay-per-
10 channel or pay-per-view basis; or

11 (III) a combination of multiple channels of
12 pay-per-channel or pay-per-view programming
13 offered as a package.

14 (2) If a purchaser receives or agrees to receive premium
15 cable or premium video programming service, then the
16 following charges are included in the purchase price:

17 (i) Charges for installation or repair of any
18 premium cable or premium video programming service.

19 (ii) Upgrade to include additional premium cable or
20 premium video programming service.

21 (iii) Downgrade to exclude all or some premium cable
22 or premium video programming service.

23 (iv) Additional premium cable outlets in excess of
24 ten.

25 (v) Any other charge or fee related to premium cable
26 or premium video programming services.

27 (3) The term shall not apply to any of the following:

28 (i) Transmissions by public television.

29 (ii) Public radio services.

30 (iii) Official Federal, State or local government

1 cable services.

2 (iv) Local origination programming which provides a
3 variety of public service programs unique to the
4 community.

5 (v) Programming which provides coverage of public
6 affairs issues which are presented without commentary or
7 analysis. This subparagraph includes United States
8 Congressional proceedings.

9 (vi) Programming which is substantially related to
10 religious subjects.

11 (vii) Subscriber charges for access to a video dial
12 tone system or charges by a common carrier to a video
13 programmer for the transport of video programming.

14 "Prepaid mobile telecommunications service." Mobile
15 telecommunications service which is paid for in advance and
16 which enables the origination of calls using an access number,
17 authorization code or both, whether manually or electronically
18 dialed, if the remaining amount of units of the prepaid mobile
19 telecommunications service is known by the service provider of
20 the prepaid mobile telecommunications service on a continuous
21 basis. The term does not include the advance purchase of mobile
22 telecommunications service if the purchase is pursuant to a
23 service contract between the service provider and customer and
24 if the service contract requires the customer to make periodic
25 payments to maintain the mobile telecommunications service.

26 "Prepaid telecommunications." A tangible item containing a
27 prepaid authorization number that can be used solely to obtain
28 telecommunications service, including any renewal or increases
29 in the prepaid amount.

30 "Processing." The performance of the following activities

1 when engaged in as a business enterprise:

2 (1) The filtering or heating of honey, the cooking,
3 baking or freezing of fruits, vegetables, mushrooms, fish,
4 seafood, meats, poultry or bakery products, when the person
5 engaged in such business packages such property in sealed
6 containers for wholesale distribution.

7 (1.1) The processing of fruits or vegetables by
8 cleaning, cutting, coring, peeling or chopping and treating
9 to preserve, sterilize or purify and substantially extend the
10 useful shelf life of the fruits or vegetables, when the
11 person engaged in such activity packages such property in
12 sealed containers for wholesale distribution.

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

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

22 (3.1) The blanking, shearing, leveling, slitting or
23 burning of metals for sale to or use by a manufacturer or
24 processor.

25 (4) The rolling, drawing or extruding of ferrous and
26 nonferrous metals.

27 (5) The fabrication for sale of ornamental or structural
28 metal or of metal stairs, staircases, gratings, fire escapes
29 or railings, not including fabrication work done at the
30 construction site.

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

3 (7) The production, processing and bottling of
4 nonalcoholic beverages for wholesale distribution.

5 (8) The operation of a saw mill or planing mill for the
6 production of lumber or lumber products for sale. The
7 operation of a saw mill or planing mill begins with the
8 unloading by the operator of the saw mill or planing mill of
9 logs, timber, pulpwood or other forms of wood material to be
10 used in the saw mill or planing mill.

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

12 (9.1) The aging, stripping, conditioning, crushing and
13 blending of tobacco leaves for use as cigar filler or as
14 components of smokeless tobacco products for sale to
15 manufacturers of tobacco products.

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

20 (11) The processing of used lubricating oils.

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

23 (13) The cooking or baking of bread, pastries, cakes,
24 cookies, muffins and donuts when the person engaged in such
25 activity sells such items at retail at locations that do not
26 constitute an establishment from which ready-to-eat food and
27 beverages are sold. For purposes of this paragraph, a bakery,
28 a pastry shop and a donut shop shall not be considered an
29 establishment from which ready-to-eat food and beverages are
30 sold.

1 (14) The cleaning and roasting and the blending,
2 grinding or packaging for sale of coffee from green coffee
3 beans or the production of coffee extract.

4 (15) The preparation of dry or liquid fertilizer for
5 sale.

6 (16) The production, processing and packaging of ice for
7 wholesale distribution.

8 (17) The producing of mobile telecommunications
9 services.

10 "Promoter." A person who either, directly or indirectly,
11 rents, leases or otherwise operates or grants permission to any
12 person to use space at a show for the display for sale or for
13 the sale of tangible personal property or services subject to
14 tax under section 1202 (relating to imposition of tax).

15 "Purchase at retail." Any of the following:

16 (1) The acquisition for a consideration of the
17 ownership, custody or possession of tangible personal
18 property other than for resale by the person acquiring the
19 same when such acquisition is made for the purpose of
20 consumption or use, whether such acquisition shall be
21 absolute or conditional, and by whatsoever means the same
22 shall have been effected.

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

27 (3) The obtaining for a consideration any of those
28 services set forth under paragraphs (2), (3) and (4) of the
29 definition of sale at retail other than for resale.

30 (4) A retention after March 7, 1956, of possession,

1 custody or a license to use or consume pursuant to a rental
2 contract or other lease arrangement, other than as security,
3 other than for resale.

4 (5) The obtaining for a consideration any of those
5 services set forth under paragraphs (11) through (18) of the
6 definition of "sale at retail."

7 (6) With respect to liquor and malt or brewed beverages,
8 the term includes purchase of liquor from a Pennsylvania
9 Liquor Store by a person for any purpose, and purchase of
10 malt or brewed beverages from a manufacturer of malt or
11 brewed beverages, distributor or importing distributor by a
12 person for any purpose, except purchases from a manufacturer
13 of malt or brewed beverages by a distributor or importing
14 distributor or purchases from an importing distributor by a
15 distributor within the meaning of the act of April 12, 1951
16 (P.L.90, No.21), known as the Liquor Code. The term does not
17 include purchase of malt or brewed beverages from a retail
18 dispenser or purchase of liquor or malt or brewed beverages
19 from a person holding a retail liquor license within the
20 meaning of and pursuant to the provisions of the Liquor Code,
21 but shall include purchase or acquisition of liquor or malt
22 or brewed beverages other than pursuant to the provisions of
23 the Liquor Code.

24 "Purchase price." As follows:

25 (1) The total value of anything paid or delivered, or
26 promised to be paid or delivered, whether it be money or
27 otherwise, in complete performance of a sale at retail or
28 purchase at retail, without any deduction on account of the
29 cost or value of the property sold, cost or value of
30 transportation, cost or value of labor or service, interest

1 or discount paid or allowed after the sale is consummated,
2 any other taxes imposed by the Commonwealth or any other
3 expense except that there shall be excluded any gratuity or
4 separately stated deposit charge for returnable containers.

5 (2) There shall be deducted from the purchase price the
6 value of any tangible personal property actually taken in
7 trade or exchange in lieu of the whole or any part of the
8 purchase price. For the purpose of this paragraph, the amount
9 allowed by reason of tangible personal property actually
10 taken in trade or exchange shall be considered the value of
11 the property.

12 (3) In determining the purchase price on the sale or use
13 of taxable tangible personal property or a service where,
14 because of affiliation of interests between the vendor and
15 purchaser, or irrespective of any such affiliation, if for
16 any other reason the purchase price declared by the vendor or
17 taxpayer on the taxable sale or use of such tangible personal
18 property or service is, in the opinion of the Department of
19 Revenue, not indicative of the true value of the article or
20 service or the fair price thereof, the department shall,
21 pursuant to uniform and equitable rules, determine the amount
22 of constructive purchase price upon the basis of which the
23 tax shall be computed and levied. Such rules shall provide
24 for a constructive amount of purchase price for each sale or
25 use which would naturally and fairly be charged in an arms-
26 length transaction in which the element of common interest
27 between the vendor or purchaser is absent or if no common
28 interest exists, any other element causing a distortion of
29 the price or value is likewise absent. For the purpose of
30 this paragraph where a taxable sale or purchase at retail

1 transaction occurs between a parent and a subsidiary,
2 affiliate or controlled corporation of such parent
3 corporation, there shall be a rebuttable presumption that,
4 because of such common interest, such transaction was not at
5 arm's-length.

6 (4) Where there is a transfer or retention of possession
7 or custody, whether it be termed a rental, lease, service or
8 otherwise, of tangible personal property, including, but not
9 limited to, linens, aprons, motor vehicles, trailers, tires,
10 industrial office and construction equipment, and business
11 machines, the full consideration paid or delivered to the
12 vendor or lessor shall be considered the purchase price, even
13 though such consideration be separately stated and be
14 designated as payment for processing, laundering, service,
15 maintenance, insurance, repairs, depreciation or otherwise.
16 Where the vendor or lessor supplies or provides an employee
17 to operate the tangible personal property, the value of the
18 labor thus supplied may be excluded and shall not be
19 considered as part of the purchase price if separately
20 stated. There shall also be included as part of the purchase
21 price the value of anything paid or delivered, or promised to
22 be paid or delivered by a lessee, whether it be money or
23 otherwise, to any person other than the vendor or lessor by
24 reason of the maintenance, insurance or repair of the
25 tangible personal property which a lessee has the possession
26 or custody of under a rental contract or lease arrangement.

27 (5) With respect to the tax imposed by section 1202(b)
28 (relating to imposition of tax) upon any tangible personal
29 property originally purchased by the user of the property six
30 months or longer prior to the first taxable use of the

1 property within this Commonwealth. The user may elect to pay
2 tax on a substituted base determined by considering the
3 purchase price of the property for tax purposes to be equal
4 to the prevailing market price of similar tangible personal
5 property at the time and place of the first use within this
6 Commonwealth. The election must be made at the time of filing
7 a tax return with the department and reporting the tax
8 liability and paying the tax due plus accrued penalties and
9 interest within six months of the due date of the report and
10 payment under section 1217(a) and (c) (relating to time for
11 filing returns).

12 (6) The purchase price of employment agency services and
13 help supply services shall be the service fee paid by the
14 purchaser to the vendor or supplying entity. The term
15 "service fee," as used in this paragraph, shall be the total
16 charge or fee of the vendor or supplying entity minus the
17 costs of the supplied employee which costs are wages,
18 salaries, bonuses and commissions, employment benefits,
19 expense reimbursements and payroll and withholding taxes, to
20 the extent that these costs are specifically itemized or that
21 these costs in aggregate are stated in billings from the
22 vendor or supplying entity. To the extent that these costs
23 are not itemized or stated on the billings, then the service
24 fee shall be the total charge or fee of the vendor or
25 supplying entity.

26 (7) Unless the vendor separately states which portion of
27 the billing applies to premium cable services, the total bill
28 for the provision of all cable services shall be the purchase
29 price.

30 (8) The purchase price of prebuilt housing shall be 60%

1 of the manufacturer's selling price, but a manufacturer of
2 prebuilt housing who precollects tax from a prebuilt housing
3 builder at the time of the sale to the prebuilt housing
4 builder shall have the option to collect tax on 60% of the
5 selling price or on 100% of the actual cost of the supplies
6 and materials used in the manufacture of the prebuilt
7 housing.

8 "Purchaser." A person who acquires, for a consideration, the
9 ownership, custody or possession by sale, lease or otherwise, of
10 tangible personal property, or who obtains services in exchange
11 for a purchase price, but not including an employer who obtains
12 services from employees of the employer in exchange for wages or
13 salaries when the services are rendered in the ordinary scope of
14 their employment.

15 "Real estate structure." A structure or item purchased by a
16 construction contractor pursuant to a construction contract
17 with:

18 (1) a charitable organization, a volunteer firemen's
19 organization, a nonprofit educational institution or a
20 religious organization for religious purposes and which
21 qualifies as an institution of purely public charity under
22 the act of November 26, 1997 (P.L.508, No.55), known as the
23 Institutions of Purely Public Charity Act;

24 (2) the United States; or

25 (3) the Commonwealth, its instrumentalities or political
26 subdivisions.

27 The term includes building machinery and equipment; developed or
28 undeveloped land; streets; roads; highways; parking lots;
29 stadiums and stadium seating; recreational courts; sidewalks;
30 foundations; structural supports; walls; floors; ceilings;

1 roofs; doors; canopies; millwork; elevators; windows and
2 external window coverings; outdoor advertising boards or signs;
3 airport runways; bridges; dams; dikes; traffic control devices,
4 including traffic signs; satellite dishes; antennas; guardrail
5 posts; pipes; fittings; pipe supports and hangers; valves;
6 underground tanks; wire; conduit; receptacle and junction boxes;
7 insulation; ductwork and coverings thereof; and any structure or
8 item similar to any of the foregoing, whether or not the
9 structure or item constitutes a fixture or is affixed to the
10 real estate, or whether or not damage would be done to the
11 structure or item or its surroundings upon removal.

12 "Resale." As follows:

13 (1) Any transfer of ownership, custody or possession of
14 tangible personal property for a consideration, including the
15 grant of a license to use or consume and transactions where
16 the possession of the property is transferred but where the
17 transferor retains title only as security for payment of the
18 selling price whether the transaction be designated as
19 bailment lease, conditional sale or otherwise.

20 (2) The physical incorporation of tangible personal
21 property as an ingredient or constituent into other tangible
22 personal property, which is to be sold in the regular course
23 of business or the performance of those services described in
24 paragraphs (2), (3) and (4) of the definition of "sale at
25 retail" upon tangible personal property which is to be sold
26 in the regular course of business or where the person
27 incorporating such property has undertaken at the time of
28 purchase to cause it to be transported in interstate commerce
29 to a destination outside this Commonwealth. The term shall
30 include telecommunications services purchased by a cable

1 operator or video programmer that are used to transport or
2 deliver cable or video programming services which are sold in
3 the regular course of business.

4 (3) The term shall also include tangible personal
5 property purchased or having a situs within this Commonwealth
6 solely for the purpose of being processed, fabricated or
7 manufactured into, attached to or incorporated into tangible
8 personal property and thereafter transported outside this
9 Commonwealth for use exclusively outside this Commonwealth.

10 (4) The term "resale" does not include a sale of malt or
11 brewed beverages by a retail dispenser, or a sale of liquor
12 or malt or brewed beverages by a person holding a retail
13 liquor license within the meaning of the act of April 12,
14 1951 (P.L.90, No.21), known as the Liquor Code.

15 (5) The physical incorporation of tangible personal
16 property as an ingredient or constituent in the construction
17 of foundations for machinery or equipment the sale or use of
18 which is excluded from tax under the provisions of paragraph
19 (8)(ii)(A), (B), (C) and (D) of the definition of "sale at
20 retail" and paragraph (4)(ii)(B)(I), (II), (III) and (IV) of
21 the definition of "use," whether the foundations at the time
22 of construction or transfer constitute tangible personal
23 property or real estate.

24 "Resident." As follows:

25 (1) Any natural person:

26 (i) who is domiciled in this Commonwealth; or

27 (ii) who maintains a permanent place of abode within
28 this Commonwealth and spends in the aggregate more than
29 60 days of the year within this Commonwealth.

30 (2) Any corporation:

1 (i) incorporated under the laws of this
2 Commonwealth;

3 (ii) authorized to do business or doing business
4 within this Commonwealth; or

5 (iii) maintaining a place of business within this
6 Commonwealth.

7 (3) Any association, fiduciary, partnership or other
8 entity:

9 (i) domiciled in this Commonwealth;

10 (ii) authorized to do business or doing business
11 within this Commonwealth; or

12 (iii) maintaining a place of business within this
13 Commonwealth.

14 "Sale at retail." As follows:

15 (1) Any transfer, for a consideration, of the ownership,
16 custody or possession of tangible personal property,
17 including the grant of a license to use or consume whether
18 the transfer be absolute or conditional and by whatsoever
19 means the same shall have been effected.

20 (2) The rendition of the service of printing or
21 imprinting of tangible personal property for a consideration
22 for persons who furnish, either directly or indirectly, the
23 materials used in the printing or imprinting.

24 (3) The rendition for a consideration of the service of:

25 (i) Washing, cleaning, waxing, polishing or
26 lubricating of motor vehicles of another, whether or not
27 any tangible personal property is transferred in
28 conjunction therewith.

29 (ii) Inspecting motor vehicles pursuant to the
30 mandatory requirements of 75 Pa.C.S. (relating to

1 vehicles).

2 (4) The rendition for a consideration of the service of
3 repairing, altering, mending, pressing, fitting, dyeing,
4 laundering, drycleaning or cleaning tangible personal
5 property except wearing apparel or shoes, or applying or
6 installing tangible personal property as a repair or
7 replacement part of other tangible personal property except
8 wearing apparel or shoes for a consideration, whether or not
9 the services are performed directly or by any means except by
10 coin-operated self-service laundry equipment for wearing
11 apparel or household goods and whether or not any tangible
12 personal property is transferred in conjunction therewith,
13 except such services as are rendered in the construction,
14 reconstruction, remodeling, repair or maintenance of real
15 estate, except that this paragraph shall not be deemed to
16 impose tax upon such services in the preparation for sale of
17 new items which are excluded from the tax under section
18 1204(26) (relating to exclusions from tax) or on diaper
19 service.

20 (5) (Reserved).

21 (6) (Reserved).

22 (7) (Reserved).

23 (8) (i) Any retention of possession, custody or a
24 license to use or consume tangible personal property or
25 any further obtaining of services described in paragraphs
26 (2), (3) and (4) pursuant to a rental or service contract
27 or other arrangement, other than as security.

28 (ii) The term does not include any such transfer of
29 tangible personal property or rendition of services for
30 the purpose of resale or such rendition of services or

1 the transfer of tangible personal property, including,
2 but not limited to, machinery and equipment and parts
3 therefor and supplies to be used or consumed by the
4 purchaser directly in the operations of:

5 (A) The manufacture of tangible personal
6 property.

7 (B) Farming, dairying, agriculture, horticulture
8 or floriculture when engaged in as a business
9 enterprise. The term "farming" shall include the
10 propagation and raising of ranch-raised furbearing
11 animals and the propagation of game birds for
12 commercial purposes by holders of propagation permits
13 issued under 34 Pa.C.S. (relating to game) and the
14 propagation and raising of horses to be used
15 exclusively for commercial racing activities.

16 (C) The producing, delivering or rendering of a
17 public utility service, or in constructing,
18 reconstructing, remodeling, repairing or maintaining
19 the facilities which are directly used in producing,
20 delivering or rendering such service.

21 (D) Processing as defined in this section.

22 (iii) The exclusions provided in subparagraph
23 (ii)(A), (B), (C) and (D) shall not apply to any vehicle
24 required to be registered under 75 Pa.C.S., except those
25 vehicles used directly by a public utility engaged in
26 business as a common carrier; to maintenance facilities;
27 or to materials, supplies or equipment to be used or
28 consumed in the construction, reconstruction, remodeling,
29 repair or maintenance of real estate other than directly
30 used machinery, equipment, parts or foundations therefor

1 that may be fixed to the real estate.

2 (iv) The exclusions provided in subparagraph
3 (ii)(A), (B), (C) and (D) shall not apply to tangible
4 personal property or services to be used or consumed in
5 managerial sales or other nonoperational activities, nor
6 to the purchase or use of tangible personal property or
7 services by any person other than the person directly
8 using the same in the operations described in
9 subparagraph (ii)(A), (B), (C) and (D).

10 (v) The exclusion provided in subparagraph (ii)(C)
11 shall not apply to:

12 (A) construction materials, supplies or
13 equipment used to construct, reconstruct, remodel,
14 repair or maintain facilities not used directly by
15 the purchaser in the production, delivering or
16 rendition of public utility service;

17 (B) construction materials, supplies or
18 equipment used to construct, reconstruct, remodel,
19 repair or maintain a building, road or similar
20 structure; or

21 (C) tools and equipment used but not installed
22 in the maintenance of facilities used directly in the
23 production, delivering or rendition of a public
24 utility service.

25 (vi) The exclusions provided in subparagraph
26 (ii)(A), (B), (C) and (D) shall not apply to the services
27 enumerated in paragraphs (11) through (18) nor to
28 lobbying services, adjustment services, collection
29 services or credit reporting services, secretarial or
30 editing services, disinfecting or pest control services,

1 building maintenance or cleaning services, employment
2 agency services, help supply services, lawn care service
3 or self-storage service, except that the exclusion
4 provided in subparagraph (ii)(B) for farming, dairying
5 and agriculture shall apply to the service enumerated in
6 the definition of disinfecting or pest control services.

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

16 (10) With respect to liquor and malt or brewed
17 beverages, the term includes sale of liquor by a Pennsylvania
18 liquor store to a person for any purpose, and sale of malt or
19 brewed beverages by a manufacturer of malt or brewed
20 beverages, distributor or importing distributor to a person
21 for any purpose, except sales by a manufacturer of malt or
22 brewed beverages to a distributor or importing distributor or
23 sales by an importing distributor to a distributor within the
24 meaning of the act of April 12, 1951 (P.L.90, No.21), known
25 as the Liquor Code. The term does not include sale of malt or
26 brewed beverages by a retail dispenser or sale of liquor or
27 malt or brewed beverages by a person holding a retail liquor
28 license within the meaning of and pursuant to the provisions
29 of the Liquor Code, but shall include sale of liquor or malt
30 or brewed beverages other than pursuant to the provisions of

1 the Liquor Code.

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

4 (12) The rendition for a consideration of adjustment
5 services, collection services or credit reporting services.

6 (13) The rendition for a consideration of secretarial or
7 editing services.

8 (14) The rendition for a consideration of disinfecting
9 or pest control services, building maintenance or cleaning
10 services.

11 (15) The rendition for a consideration of employment
12 agency services or help supply services.

13 (16) (Reserved).

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

16 (18) The rendition for a consideration of self-storage
17 service.

18 (19) The rendition for a consideration of a mobile
19 telecommunications service.

20 "Secretarial or editing services." Providing services which
21 include, but are not limited to, editing, letter writing,
22 proofreading, resume writing, typing or word processing. Such
23 services shall not include court reporting and stenographic
24 services.

25 "Self-storage service." Providing a building, a room in a
26 building or a secured area within a building with separate
27 access provided for each purchaser of self-storage service,
28 primarily for the purpose of storing personal property. The term
29 excludes providing any of the following:

30 (1) Safe deposit boxes by financial institutions.

1 (2) Storage in refrigerator or freezer units.

2 (3) Storage in commercial warehouses.

3 (4) Facilities for goods distribution.

4 (5) Lockers in airports, bus stations, museums and other
5 public places.

6 "Show." An event, the primary purpose of which involves the
7 display or exhibition of any tangible personal property or
8 services for sale, including, but not limited to, a flea market,
9 antique show, coin show, stamp show, comic book show, hobby
10 show, automobile show, fair or any similar show, whether held
11 regularly or of a temporary nature, at which more than one
12 vendor displays for sale or sells tangible personal property or
13 services subject to tax under section 1202 (relating to
14 imposition of tax).

15 "Soft drinks." All nonalcoholic beverages, whether
16 carbonated or not, such as soda water, ginger ale, Coca Cola,
17 lime cola, Pepsi Cola, Dr Pepper, fruit juice when plain or
18 carbonated water, flavoring or syrup is added, carbonated water,
19 orangeade, lemonade, root beer or any and all preparations,
20 commonly referred to as soft drinks, of whatsoever kind, and are
21 further described as including any and all beverages, commonly
22 referred to as soft drinks, which are made with or without the
23 use of any syrup. The term shall not include natural fruit or
24 vegetable juices or their concentrates, or noncarbonated fruit
25 juice drinks containing not less than 25% by volume of natural
26 fruit juices or of fruit juice which has been reconstituted to
27 its original state, or natural concentrated fruit or vegetable
28 juices reconstituted to their original state, whether any of the
29 foregoing natural juices are frozen or unfrozen, sweetened or
30 unsweetened, seasoned with salt or spice or unseasoned, nor

1 shall the term include coffee, coffee substitutes, tea, cocoa,
2 natural fluid milk or noncarbonated drinks made from milk
3 derivatives.

4 "Storage." Any keeping or retention of tangible personal
5 property within this Commonwealth for any purpose including the
6 interim keeping, retaining or exercising any right or power over
7 such tangible personal property. This term is in no way limited
8 to the provision of self-storage service.

9 "Tangible personal property." Corporeal personal property
10 including, but not limited to, goods, wares, merchandise, steam
11 and natural and manufactured and bottled gas for nonresidential
12 use, electricity for nonresidential use, prepaid
13 telecommunications, premium cable or premium video programming
14 service, spirituous or vinous liquor and malt or brewed
15 beverages and soft drinks, interstate telecommunications service
16 originating or terminating in this Commonwealth and charged to a
17 service address in this Commonwealth, intrastate
18 telecommunications service, except for subscriber line charges
19 and basic local telephone service for residential use and
20 charges for telephone calls paid for by inserting money into a
21 telephone accepting direct deposits of money to operate. The
22 service address of any intrastate telecommunications service is
23 deemed to be within this Commonwealth or within a political
24 subdivision, regardless of how or where billed or paid. In the
25 case of any such interstate or intrastate telecommunications
26 service, any charge paid through a credit or payment mechanism
27 which does not relate to a service address, such as a bank,
28 travel, credit or debit card, but not including prepaid
29 telecommunications, is deemed attributable to the address of
30 origination of the telecommunications service.

1 "Tax Reform Code." The act of March 4, 1971 (P.L.6, No.2),
2 known as the Tax Reform Code of 1971.

3 "Taxpayer." Any person required to pay or collect the tax
4 imposed by this chapter.

5 "Telecommunications service." Any one-way transmission or
6 any two-way, interactive transmission of sounds, signals or
7 other intelligence converted to like form which effects or is
8 intended to effect meaningful communications by electronic or
9 electromagnetic means via wire, cable, satellite, light waves,
10 microwaves, radio waves or other transmission media. The term
11 includes all types of telecommunication transmissions, such as
12 local, toll, wide-area or any other type of telephone service;
13 private line service; telegraph service; radio repeater service;
14 wireless communication service; personal communications system
15 service; cellular telecommunication service; specialized mobile
16 radio service; stationary two-way radio service; and paging
17 service. The term does not include any of the following:

18 (1) Subscriber charges for access to a video dial tone
19 system.

20 (2) Charges to video programmers for the transport of
21 video programming.

22 (3) Charges for access to the Internet. Access to the
23 Internet does not include any of the following:

24 (i) The transport over the Internet or any
25 proprietary network using the Internet protocol of
26 telephone calls, facsimile transmissions or other
27 telecommunications traffic to or from end users on the
28 public switched telephone network if the signal sent from
29 or received by an end user is not in an Internet
30 protocol.

1 (ii) Telecommunications services purchased by an
2 Internet service provider to deliver access to the
3 Internet to its customers.

4 (4) Mobile telecommunications services.

5 "Transient vendor." As follows:

6 (1) Any person who:

7 (i) brings into this Commonwealth, by automobile,
8 truck or other means of transportation, or purchases in
9 this Commonwealth tangible personal property the sale or
10 use of which is subject to the tax imposed by this
11 chapter or comes into this Commonwealth to perform
12 services the sale or use of which is subject to the tax
13 imposed by this chapter;

14 (ii) offers or intends to offer such tangible
15 personal property or services for sale at retail within
16 this Commonwealth; and

17 (iii) does not maintain an established office,
18 distribution house, sales house, warehouse, service
19 enterprise, residence from which business is conducted or
20 other place of business within this Commonwealth.

21 (2) The term shall not include a person who delivers
22 tangible personal property within this Commonwealth pursuant
23 to orders for the property which were solicited or placed by
24 mail or other means.

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

29 "Use." As follows:

30 (1) The exercise of any right or power incidental to the

ownership, custody or possession of tangible personal property and shall include, but not be limited to, transportation, storage or consumption.

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

(3) The obtaining by a purchaser of the services of:

(i) Washing, cleaning, waxing, polishing or lubricating of motor vehicles whether or not any tangible personal property is transferred to the purchaser in conjunction with such services.

(ii) Inspecting motor vehicles pursuant to the mandatory requirements of 75 Pa.C.S. (relating to vehicles).

(4) (i) The obtaining by a purchaser of the service of repairing, altering, mending, pressing, fitting, dyeing, laundering, drycleaning or cleaning tangible personal property except wearing apparel or shoes or applying or installing tangible personal property as a repair or replacement part of other tangible personal property except wearing apparel or shoes, whether or not the services are performed directly or by any means except by coin-operated self-service laundry equipment for wearing apparel or household goods, and whether or not any tangible personal property is transferred to the purchaser in conjunction therewith, except such services as are obtained in the construction, reconstruction, remodeling, repair or maintenance of real estate, except that this paragraph shall not be deemed to impose tax

1 upon such services in the preparation for sale of new
2 items which are excluded from the tax under section
3 1204(26) (relating to exclusions from tax) or on diaper
4 service.

5 (ii) The term shall not include:

6 (A) Any tangible personal property acquired and
7 kept, retained or over which power is exercised
8 within this Commonwealth on which the taxing of the
9 storage, use or other consumption thereof is
10 expressly prohibited by the Constitution of the
11 United States or which is excluded from tax under
12 other provisions of this chapter.

13 (B) The use or consumption of tangible personal
14 property, including, but not limited to, machinery
15 and equipment and parts therefor, and supplies or the
16 obtaining of the services described in this paragraph
17 and paragraphs (2) and (3) directly in the operations
18 of:

19 (I) The manufacture of tangible personal
20 property.

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

1 (III) The producing, delivering or rendering
2 of a public utility service, or the constructing,
3 reconstructing, remodeling, repairing or
4 maintaining the facilities which are directly
5 used in producing, delivering or rendering a
6 public utility service.

7 (IV) Processing as defined in this section.

8 (iii) The exclusions provided in subparagraph
9 (ii)(B)(I), (II), (III) and (IV) shall not apply to any
10 vehicle required to be registered under 75 Pa.C.S. except
11 those vehicles directly used by a public utility engaged
12 in the business as a common carrier; to maintenance
13 facilities; or to materials, supplies or equipment to be
14 used or consumed in the construction, reconstruction,
15 remodeling, repair or maintenance of real estate other
16 than directly used machinery, equipment, parts or
17 foundations therefor that may be affixed to such real
18 estate.

19 (iv) The exclusions provided in subparagraph
20 (ii)(B)(I), (II), (III) and (IV) shall not apply to
21 tangible personal property or services to be used or
22 consumed in managerial sales or other nonoperational
23 activities, nor to the purchase or use of tangible
24 personal property or services by any person other than
25 the person directly using the same in the operations
26 described in subparagraph (ii)(B)(I), (II), (III) and
27 (IV).

28 (v) The exclusion provided in subparagraph (iii)
29 shall not apply to:

30 (A) construction materials, supplies or equipment

1 used to construct, reconstruct, remodel, repair or
2 maintain facilities not used directly by the
3 purchaser in the production, delivering or rendition
4 of public utility service; or

5 (B) tools and equipment used but not installed
6 in the maintenance of facilities used directly in the
7 production, delivering or rendition of a public
8 utility service.

9 (vi) The exclusion provided in subparagraph
10 (ii)(B)(I), (II), (III) and (IV) shall not apply to the
11 services enumerated in paragraphs (9) through (16) nor to
12 lobbying services, adjustment services, collection
13 services or credit reporting services, secretarial or
14 editing services, disinfecting or pest control services,
15 building maintenance or cleaning services, employment
16 agency services, help supply services, lawn care service
17 or self-storage service, except that the exclusion
18 provided in subparagraph (ii)(B)(II) for farming,
19 dairying and agriculture shall apply to the service
20 enumerated in the definition of "disinfecting or pest
21 control services."

22 (5) Where tangible personal property or services are
23 utilized for purposes constituting a use, and for purposes
24 excluded from this definition, it shall be presumed that the
25 property or services are utilized for purposes constituting a
26 sale at retail and subject to tax unless the user thereof
27 proves to the Department of Revenue that the predominant
28 purposes for which the property or services are utilized do
29 not constitute a sale at retail.

30 (6) The term "use" with respect to "liquor" and "malt or

1 brewed beverages" shall include the purchase of "liquor" from
2 any "Pennsylvania liquor store" by any person for any purpose
3 and the purchase of "malt or brewed beverages" from a
4 "manufacturer of malt or brewed beverages," "distributor" or
5 "importing distributor" by any person for any purpose, except
6 purchases from a "manufacturer of malt or brewed beverages"
7 by a "distributor" or "importing distributor," or purchases
8 from an "importing distributor" by a "distributor" within the
9 meaning of the act of April 12, 1951 (P.L.90, No.21), known
10 as the Liquor Code. The term "use" shall not include any
11 purchase of "malt or brewed beverages" from a "retail
12 dispenser" or any purchase of "liquor" or "malt or brewed
13 beverages" from a person holding a "retail liquor license"
14 within the meaning of and pursuant to the provisions of the
15 Liquor Code, but shall include the exercise of any right or
16 power incidental to the ownership, custody or possession of
17 "liquor" or "malt or brewed beverages" obtained by the person
18 exercising such right or power in any manner other than
19 pursuant to the provisions of the Liquor Code.

20 (7) The use of tangible personal property purchased at
21 retail upon which the services described in paragraphs (2),
22 (3) and (4) have been performed shall be deemed to be a use
23 of the services by the person using the property.

24 (8) The term shall not include the providing of a motor
25 vehicle to a nonprofit private or public school to be used by
26 the school for the sole purpose of driver education.

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

28 (10) The obtaining by the purchaser of adjustment
29 services, collection services or credit reporting services.

30 (11) The obtaining by the purchaser of secretarial or

1 editing services.

2 (12) The obtaining by the purchaser of disinfecting or
3 pest control services, building maintenance or cleaning
4 services.

5 (13) The obtaining by the purchaser of employment agency
6 services or help supply services.

7 (14) (Reserved).

8 (15) The obtaining by the purchaser of lawn care
9 service.

10 (16) The obtaining by the purchaser of self-storage
11 service.

12 (17) The obtaining by a construction contractor of
13 tangible personal property or services provided to tangible
14 personal property which will be used pursuant to a
15 construction contract whether or not the tangible personal
16 property or services are transferred.

17 (18) The obtaining of mobile telecommunications service
18 by a customer.

19 "Used prebuilt housing." Prebuilt housing that was
20 previously subject to a sale to a prebuilt housing purchaser.

21 "Vendor." Any person maintaining a place of business in this
22 Commonwealth, selling or leasing tangible personal property, or
23 rendering services, the sale or use of which is subject to the
24 tax imposed by this chapter, but not including any employee who
25 in the ordinary scope of employment renders services to the
26 employer of the employee in exchange for wages and salaries.

27 SUBCHAPTER B

28 IMPOSITION OF TAX

29 Sec.

30 1202. Imposition of tax.

1 1203. Computation of tax.

2 § 1202. Imposition of tax.

3 (a) Sales tax.--There is hereby imposed upon each separate
4 sale at retail of tangible personal property or services within
5 this Commonwealth a tax of 7.0% of the purchase price. The tax
6 shall be collected by the vendor from the purchaser and shall be
7 paid over to this Commonwealth as provided in this chapter.

8 (b) Use tax.--There is hereby imposed upon the use within
9 this Commonwealth of tangible personal property purchased at
10 retail and on those services purchased at retail a tax of 7.0%
11 of the purchase price. The tax shall be paid to the Commonwealth
12 by the person who makes such use, except that such tax shall not
13 be paid to the Commonwealth by that person where that person has
14 paid the tax imposed by subsection (a) or has paid the tax
15 imposed by this subsection to the vendor with respect to such
16 use.

17 (c) Telecommunications services.--

18 (1) Notwithstanding any other provision of this chapter,
19 the tax with respect to telecommunications service shall be
20 computed at the rate of 7.0% upon the total amount charged to
21 customers for such services, irrespective of whether that
22 charge is based upon a flat rate or upon a message unit
23 charge. Charges for telephone calls paid for by inserting
24 money into a telephone accepting direct deposits of money to
25 operate shall not be subject to this tax.

26 (2) A telecommunications service provider shall have no
27 responsibility or liability to the Commonwealth for billing,
28 collecting or remitting taxes that apply to services,
29 products or other commerce sold over telecommunications lines
30 by third-party vendors.

1 (3) To prevent actual multistate taxation of interstate
2 telecommunications service, a taxpayer, upon proof that the
3 taxpayer has paid a similar tax to another state on the same
4 interstate telecommunications service, shall be allowed a
5 credit against the tax imposed by this section on the same
6 interstate telecommunications service to the extent of the
7 amount of the tax properly due and paid to the other state.

8 (d) Vending machine sales of food and beverages.--

9 Notwithstanding any other provisions of this chapter, the sale
10 or use of food and beverages dispensed by means of coin operated
11 vending machines shall be taxed at the rate of 7.0% of the
12 receipts collected from the machine which dispenses food and
13 beverages heretofore taxable.

14 (e) Prepaid telecommunications.--

15 (1) Notwithstanding any provisions of this chapter, the
16 sale or use of prepaid telecommunications evidenced by the
17 transfer of tangible personal property shall be subject to
18 the tax imposed by subsections (a) and (b).

19 (2) The sale or use of prepaid telecommunications not
20 evidenced by the transfer of tangible personal property shall
21 be subject to the tax imposed by subsections (a) and (b) and
22 shall be deemed to occur at the purchaser's billing address.

23 (3) (i) Notwithstanding paragraph (2), the sale or use
24 of prepaid telecommunications service not evidenced by
25 the transfer of tangible personal property shall be taxed
26 at the rate of 7.0% of the receipts collected on each
27 sale if the service provider elects to collect the tax
28 imposed by this chapter on receipts of each sale.

29 (ii) The service provider shall notify the
30 department of its election and shall collect the tax on

1 receipts of each sale until the service provider notifies
2 the department otherwise.

3 (e.1) Prepaid mobile telecommunications services.--

4 (1) Notwithstanding any other provision of this chapter,
5 the sale or use of prepaid mobile telecommunications service
6 evidenced by the transfer of tangible personal property shall
7 be subject to the tax imposed by subsections (a) and (b).

8 (2) The sale or use of prepaid mobile telecommunications
9 service not evidenced by the transfer of tangible personal
10 property shall be subject to the tax imposed by subsections
11 (a) and (b) and shall be deemed to occur at the purchaser's
12 billing address or the location associated with the mobile
13 telephone number or the point of sale, whichever is
14 applicable.

15 (3) (i) Notwithstanding paragraph (2), the sale or use
16 of prepaid mobile telecommunications service not
17 evidenced by the transfer of tangible personal property
18 shall be taxed at the rate of 7.0% of the receipts
19 collected on each sale if the service provider elects to
20 collect the tax imposed by this chapter on receipts of
21 each sale.

22 (ii) The service provider shall notify the
23 department of its election and shall collect the tax on
24 receipts of each sale until the service provider notifies
25 the department otherwise.

26 (f) Prebuilt housing.--

27 (1) Notwithstanding any other provision of this chapter,
28 tax with respect to sales of prebuilt housing shall be
29 imposed, subject to the provisions of paragraph (2), on the
30 prebuilt housing builder at the time of the prebuilt housing

1 sale within this Commonwealth and shall be paid and reported
2 by the prebuilt housing builder to the department in the time
3 and manner provided in this chapter.

4 (2) A manufacturer of prebuilt housing may, at its
5 option, precollect the tax from the prebuilt housing builder
6 at the time of sale to the prebuilt housing builder.

7 (3) In any case where prebuilt housing is purchased and
8 the tax is not paid by the prebuilt housing builder or
9 precollected by the manufacturer, the prebuilt housing
10 purchaser shall remit tax directly to the department if the
11 prebuilt housing is used in this Commonwealth without regard
12 to whether the prebuilt housing becomes a real estate
13 structure.

14 (g) Mobile telecommunications services provided by home
15 service provider.--Notwithstanding any other provisions of this
16 chapter and in accordance with the Mobile Telecommunications
17 Sourcing Act (Public Law 106-252, 4 U.S.C. § 116), the sale or
18 use of mobile telecommunications services which are deemed to be
19 provided to a customer by a home service provider under section
20 4 U.S.C. § 117(a) and (b) shall be subject to the tax of 7.0% of
21 the purchase price. The tax shall be collected by the home
22 service provider from the customer and shall be paid over to the
23 Commonwealth as provided in this chapter if the customer's place
24 of primary use is located within this Commonwealth, regardless
25 of where the mobile telecommunications services originate,
26 terminate or pass through. The words and phrases used in this
27 subsection shall have the same meanings given to them in the
28 Mobile Telecommunications Sourcing Act.

29 § 1203. Computation of tax.

30 The department shall promulgate regulations to assist in

1 computing the amount of tax imposed by section 1202 (relating to
2 imposition of tax) if the purchase price is less than or equal
3 to a dollar. If the purchase price is more than \$1.00, 7.0% of
4 each dollar of purchase price plus the charges set forth in this
5 section upon any fractional part of a dollar in excess of even
6 dollars shall be collected.

7 SUBCHAPTER C

8 EXCLUSIONS FROM TAX

9 Sec.

10 1204. Exclusions from tax.

11 1205. Alternate imposition of tax.

12 1206. Credit against tax.

13 § 1204. Exclusions from tax.

14 The tax imposed by section 1202 (relating to imposition of
15 tax) shall not be imposed upon any of the following:

16 (1) The sale at retail or use of tangible personal
17 property, other than motor vehicles, trailers, semitrailers,
18 motorboats, aircraft or other similar tangible personal
19 property required under either Federal law or laws of this
20 Commonwealth to be registered or licensed, or services sold
21 by or purchased from a person that is not a vendor in an
22 isolated transaction or sold by or purchased from a person
23 that is a vendor but is not a vendor with respect to the
24 tangible personal property or services sold or purchased in
25 the transaction. Inventory and stock in trade sold at retail
26 or used shall not be excluded from the tax by this paragraph.

27 (2) The use of tangible personal property purchased by a
28 nonresident person outside of, and brought into, this
29 Commonwealth for use in this Commonwealth for a period not to
30 exceed seven days or for a period of time when the

1 nonresident is a tourist or vacationer, as long as the
2 tangible personal property is not consumed within this
3 Commonwealth.

4 (3) The use of tangible personal property in accordance
5 with the following:

6 (i) The property is purchased outside this
7 Commonwealth for use outside this Commonwealth by an
8 individual or business entity that, at the time of
9 purchase, is not:

10 (A) a resident of this Commonwealth; nor

11 (B) actually doing business within this
12 Commonwealth.

13 (ii) The purchaser later brings the tangible
14 personal property into this Commonwealth in connection
15 with the establishment of a permanent business or
16 residence in this Commonwealth.

17 (iii) The property has been purchased more than six
18 months prior to the earlier of:

19 (A) the date it was first brought into this
20 Commonwealth; or

21 (B) the establishment of a business or residence
22 under subparagraph (ii).

23 (iv) This paragraph does not apply to tangible
24 personal property temporarily brought into this
25 Commonwealth for the performance of contracts for the
26 construction, reconstruction, remodeling, repairing and
27 maintenance of real estate.

28 (4) The sale at retail or use of disposable diapers,
29 premoistened wipes, incontinence products, colostomy
30 deodorants, toilet paper, sanitary napkins, tampons or

1 similar items used for feminine hygiene or toothpaste,
2 toothbrushes or dental floss.

3 (5) The sale at retail or use of steam, natural and
4 manufactured and bottled gas, fuel oil, electricity or
5 intrastate subscriber line charges, basic local telephone
6 service or telegraph service when purchased directly by the
7 user thereof solely for his own residential use and charges
8 for telephone calls paid for by inserting money into a
9 telephone accepting direct deposits of money to operate.

10 (6) (Reserved).

11 (7) (Reserved).

12 (8) (Reserved).

13 (9) (Reserved).

14 (10) (i) The sale at retail to or use by:

15 (A) any charitable organization, volunteer
16 firemen's organization or nonprofit educational
17 institution; or

18 (B) a religious organization for religious
19 purposes of tangible personal property or services
20 other than pursuant to a construction contract.

21 (ii) The exclusion under this paragraph shall not
22 apply with respect to any tangible personal property or
23 services used in any unrelated trade or business carried
24 on by such organization or institution or with respect to
25 any materials, supplies and equipment used and
26 transferred to the organization or institution in the
27 construction, reconstruction, remodeling, renovation,
28 repairs and maintenance of any real estate structure,
29 other than building machinery and equipment, except
30 materials and supplies when purchased by such

1 organizations or institutions for routine maintenance and
2 repairs.

3 (11) The sale at retail or use of gasoline and other
4 motor fuels, the sales of which are otherwise subject to
5 excise taxes under 75 Pa.C.S. Ch. 90 (relating to liquid
6 fuels and fuels tax).

7 (12) The sale at retail to, or use by the United States,
8 this Commonwealth or its instrumentalities or political
9 subdivisions of tangible personal property or services.

10 (13) The sale at retail or use of wrapping paper,
11 wrapping twine, bags, cartons, tape, rope, labels,
12 nonreturnable containers and all other wrapping supplies, if
13 the use is incidental to the delivery of personal property.
14 This paragraph does not apply to a charge for wrapping or
15 packaging.

16 (14) Sale at retail or use of vessels designed for
17 commercial use of registered tonnage of 50 tons or more when
18 produced by the builders thereof upon special order of the
19 purchaser.

20 (15) Sale at retail of tangible personal property or
21 services used or consumed in building, rebuilding, repairing
22 and making additions to or replacements in and upon vessels
23 designed for commercial use of registered tonnage of 50 tons
24 or more upon special order of the purchaser, or when rebuilt,
25 repaired or enlarged, or when replacements are made upon
26 order of or for the account of the owner.

27 (16) The sale at retail or use of tangible personal
28 property or services to be used or consumed for ship cleaning
29 or maintenance or as fuel, supplies, ships' equipment, ships'
30 stores or sea stores on vessels designed for commercial use

1 of registered tonnage of 50 tons or more to be operated
2 principally outside the limits of this Commonwealth.

3 (17) The sale at retail or use of any of the following:

4 (i) Prescription or nonprescription medicines, drugs
5 or medical supplies.

6 (ii) Crutches and wheelchairs for the use of persons
7 who are walking impaired.

8 (iii) Artificial limbs, artificial eyes and
9 artificial hearing devices when designed to be worn on
10 the person of the purchaser or user.

11 (iv) False teeth and materials used by a dentist in
12 dental treatment.

13 (v) Eyeglasses when especially designed or
14 prescribed by an ophthalmologist, oculist or optometrist
15 for the personal use of the owner or purchaser.

16 (vi) Artificial braces and supports designed solely
17 for the use of persons who are walking impaired or any
18 other therapeutic, prosthetic or artificial device
19 designed for the use of a particular individual to
20 correct or alleviate a physical incapacity, including,
21 but not limited to, hospital beds, iron lungs and kidney
22 machines.

23 (18) The sale at retail or use of coal.

24 (19) (Reserved).

25 (20) (Reserved).

26 (21) (Reserved).

27 (22) (Reserved).

28 (23) (Reserved).

29 (24) The sale at retail or use of motor vehicles,
30 trailers and semi-trailers, or bodies attached to the chassis

of motor vehicles, trailers or semi-trailers which are:

(i) sold to a nonresident;

(ii) to be used outside of this Commonwealth; and

(iii) registered in another state within 20 days
after delivery to the vendee.

(25) The sale at retail or use of water.

(26) (i) The sale at retail or use of all vesture,
wearing apparel, raiments, garments, footwear and other
articles of clothing, including clothing patterns and
items that are to be a component part of clothing, worn
or carried on or about the human body.

(ii) This paragraph does not include accessories,
ornamental wear, formal day or evening apparel, and
articles made of fur on the hide or pelt or any material
imitative of fur and articles of which such fur, real,
imitation or synthetic, is the component material of
chief value, but only if such value is more than three
times the value of the next most valuable component
material, and sporting goods and clothing not normally
used or worn when not engaged in sports.

(27) (Reserved).

(28) (Reserved).

(29) (i) The sale at retail or use of food and
beverages for human consumption.

(ii) This paragraph shall not apply to any of the
following:

(A) Soft drinks.

(B) Malt and brewed beverages and spirituous and
vinous liquors.

(iii) Food or beverages, whether sold for

1 consumption on or off the premises or on a "take-out" or
2 "to go" basis or delivered to the purchaser or consumer,
3 when purchased from persons engaged in the business of
4 catering; or from persons engaged in the business of
5 operating establishments from which ready-to-eat food and
6 beverages are sold.

7 (iv) (A) For purposes of this paragraph the term
8 "establishments" includes, but is not limited to,
9 restaurants, cafes, lunch counters, private and
10 social clubs, taverns, dining cars, hotels, night
11 clubs, fast food operations, pizzerias, fairs,
12 carnivals, lunch carts, ice cream stands, snack bars,
13 cafeterias, employee cafeterias, theaters, stadiums,
14 arenas, amusement parks, carryout shops, coffee shops
15 and other establishments whether mobile or immobile.

16 (B) The term does not include bakeries, pastry
17 shops, donut shops, delicatessens, grocery stores,
18 supermarkets, farmer's markets, convenience stores or
19 vending machines from which food or beverages ready
20 to eat are sold except for the sale of meals,
21 sandwiches, food from salad bars, hand-dipped or
22 hand-served ice-based products, including ice cream
23 and yogurt, hot soup, hot pizza and other hot food
24 items, brewed coffee and hot beverages.

25 (C) The term "beverages" does not include malt
26 and brewed beverages and spirituous and vinous
27 liquors, but shall include soft drinks.

28 (v) This paragraph does not apply to the sale at
29 retail of food and beverages at or from a school or
30 church in the ordinary course of the activities of such

1 organization.

2 (30) (i) The sale at retail or use of newspapers.

3 (ii) For purposes of this paragraph, the term
4 "newspaper" shall mean a legal newspaper or publication
5 containing matters of general interest and reports of
6 current events which qualifies as a newspaper of general
7 circulation qualified to carry a legal advertisement as
8 those terms are defined in 45 Pa.C.S. § 101 (relating to
9 definitions), not including magazines.

10 (iii) This paragraph includes any printed
11 advertising materials circulated with such newspaper
12 regardless of where or by whom the advertising material
13 was produced.

14 (31) The sale at retail or use of caskets and burial
15 vaults for human remains and markers and tombstones for human
16 graves.

17 (32) The sale at retail or use of flags of the United
18 States of America and the Commonwealth.

19 (33) The sale at retail or use of textbooks for use in
20 schools, colleges and universities, either public or private,
21 that are recognized by the Department of Education, when the
22 textbooks are purchased on behalf of or through such schools,
23 colleges or universities.

24 (34) The sale at retail or use of motion picture film
25 rented or licensed from a distributor for the purpose of
26 commercial exhibition.

27 (35) The sale at retail or use of mail order catalogs
28 and direct mail advertising literature or materials,
29 including electoral literature or materials, such as
30 envelopes, address labels and a one-time license to use a

1 list of names and mailing addresses for each delivery of
2 direct mail advertising literature or materials, including
3 electoral literature or materials, through the United States
4 Postal Service.

5 (36) The sale at retail or use of rail transportation
6 equipment used in the movement of personalty.

7 (37) (Reserved).

8 (38) The sale at retail of horses if, at the time of
9 purchase, the seller is directed to ship or deliver the horse
10 to an out-of-State location, whether or not the charges for
11 shipment are paid for by the seller or the purchaser. The
12 seller must obtain a bill of lading, either from the carrier
13 or from the purchaser, who, in turn has obtained the bill of
14 lading from the carrier, reflecting delivery to the out-of-
15 State address to which the horse has been shipped. The seller
16 must execute a "Certificate of Delivery to Destination
17 Outside of the Commonwealth" for each bill of lading
18 reflecting out-of-State delivery. The seller shall retain the
19 certificate of delivery form to justify the noncollection of
20 sales tax with respect to the transaction to which the form
21 relates. In transactions where a horse is sold by the seller
22 and delivered to a domiciled person, agent or corporation
23 prior to its being delivered to an out-of-State location, the
24 "Certificate of Delivery to Destination Outside of the
25 Commonwealth" form must have attached to it bills of lading
26 both for the transfer to the domiciled person, agent or
27 corporation and from the aforementioned to the out-of-State
28 location.

29 (39) The sale at retail or use of fish feed purchased by
30 or on behalf of sportsmen's clubs, fish cooperatives or

1 nurseries approved by the Pennsylvania Fish Commission.

2 (40) (Reserved).

3 (41) The sale at retail of supplies and materials to
4 tourist promotion agencies which receive grants from the
5 Commonwealth for distribution to the public as promotional
6 material and the use of supplies and materials by the
7 agencies for the purposes set forth in this paragraph.

8 (42) The sale or use of brook trout (*salvelinus*
9 *fontinalis*), brown trout (*Salmo trutta*) or rainbow trout
10 (*Salmo gairdneri*).

11 (43) The sale at retail or use of buses to be used
12 exclusively for the transportation of children for school
13 purposes.

14 (44) The sale at retail or use of firewood. For the
15 purpose of this paragraph, "firewood" means the product of
16 trees when severed from the land and cut into proper lengths
17 for burning and pellets made from pure wood sawdust if used
18 for fuel for cooking or hot water production or to heat
19 residential dwellings.

20 (45) The sale at retail or use of materials used in the
21 construction and erection of objects purchased by not-for-
22 profit organizations for purposes of commemoration and
23 memorialization of historical events, provided that the
24 object is erected upon publicly owned property or property to
25 be conveyed to a public entity upon the commemoration or
26 memorialization of the historical event.

27 (46) The sale at retail or use of tangible personal
28 property purchased in accordance with the Food Stamp Act of
29 1977 (Public Law 95-113, 7 U.S.C. § 2011 et seq.).

30 (47) (Reserved).

1 (48) (Reserved).

2 (49) The sale at retail or use of food and beverages by
3 nonprofit associations which support sports programs. For
4 purposes of this paragraph, the words and phrases shall have
5 the following meanings:

6 "Nonprofit association." An entity which is organized as
7 a nonprofit corporation or nonprofit unincorporated
8 association under the laws of this Commonwealth or the United
9 States or any entity which is authorized to do business in
10 this Commonwealth as a nonprofit corporation or
11 unincorporated association under the laws of this
12 Commonwealth, including youth or athletic, volunteer fire,
13 ambulance, religious, charitable, fraternal, veterans or
14 civic, or any separately chartered auxiliary of the
15 association, if organized and operated on a nonprofit basis.

16 "Sports program." Baseball (including softball),
17 football, basketball, soccer and any other competitive sport
18 formally recognized as a sport by the United States Olympic
19 Committee as specified by and under the jurisdiction of the
20 Ted Stevens Olympic and Amateur Sports Act (Public Law 105-
21 225, 36 U.S.C. § 220501 et seq.), the Amateur Athletic Union
22 or the National Collegiate Athletic Association. The term
23 shall be limited to a program or that portion of a program
24 which is organized for recreational purposes and the
25 activities of which are substantially for such purposes and
26 which is primarily for participants who are 18 years of age
27 or younger or whose 19th birthdays occur during the year of
28 participation or the competitive season, whichever is longer.
29 There shall, however, be no age limitation for programs
30 operated for persons with physical disabilities or persons

1 with mental retardation.

2 "Support." The funds raised from sales are used to pay
3 the expenses of a sports program or the nonprofit association
4 sells the food and beverages at a location where a sports
5 program is being conducted under this act.

6 (50) The sale at retail or use of subscriptions for
7 magazines. The term "magazine" refers to a periodical
8 published at regular intervals not exceeding three months and
9 which are circulated among the general public, containing
10 matters of general interest and reports of current events
11 published for the purpose of disseminating information of a
12 public character or devoted to literature, the sciences, art
13 or some special industry. This paragraph includes any printed
14 advertising material circulated with the periodical or
15 publication, regardless of where or by whom the printed
16 advertising material was produced.

17 (51) The sale at retail or use of interior office
18 building cleaning services but only as relates to the costs
19 of the supplied employee, which costs are wages, salaries,
20 bonuses and commissions, employment benefits, expense
21 reimbursements and payroll and withholding taxes, to the
22 extent that these costs are specifically itemized or that
23 these costs in aggregate are stated in billings from the
24 vendor or supplying entity.

25 (52) (Reserved).

26 (53) The sale at retail or use of candy or gum
27 regardless of the location from which the candy or gum is
28 sold.

29 (54) The sale at retail to or use by a producer of
30 commercial motion pictures of any tangible personal property

1 directly used in the production of a feature-length
2 commercial motion picture distributed to a national audience
3 as long as:

4 (i) the production of any motion picture for which
5 the property will be used does not violate any Federal or
6 State law; and

7 (ii) the purchaser furnishes to the vendor a
8 certificate substantially in the form as the Department
9 of Community and Economic Development may, by regulation,
10 prescribe, stating that the sale is exempt from tax under
11 this paragraph.

12 (55) The sale at retail or use of horses to be used
13 exclusively for commercial racing activities and the sale at
14 retail and use of feed, bedding, grooming supplies, riding
15 tack, farrier services, portable stalls and sulkies for
16 horses used exclusively for commercial racing activities.

17 (56) The sale at retail or use of tangible personal
18 property or services used, transferred or consumed in
19 installing or repairing equipment or devices designed to
20 assist persons in ascending or descending a stairway when:

21 (i) The equipment or devices are used by a person
22 who, by virtue of a physical disability, is unable to
23 ascend or descend stairs without the aid of such
24 equipment or device.

25 (ii) The equipment or device is installed or used in
26 the person's place of residence.

27 (iii) A physician has certified the physical
28 disability of the person in whose residence the equipment
29 or device is installed or used.

30 (57) The sale at retail to or use by a construction

1 contractor of building machinery and equipment and services
2 thereto that are:

3 (i) Transferred pursuant to a construction contract
4 for any charitable organization, volunteer firemen's
5 organization, nonprofit educational institution or
6 religious organization for religious purposes, if:

7 (A) The building machinery and equipment and
8 services thereto are not used in any unrelated trade
9 or business.

10 (B) Transferred to the United States or the
11 Commonwealth or its instrumentalities or political
12 subdivisions.

13 (58) (Reserved).

14 (59) The sale at retail or use of molds and related mold
15 equipment used directly and predominantly in the manufacture
16 of products, regardless of whether the person that holds
17 title to the equipment manufactures a product.

18 (60) The sale or use of used prebuilt housing.

19 (61) The sale at retail to or use of food and
20 nonalcoholic beverages by an airline which will transfer the
21 food or nonalcoholic beverages to passengers in connection
22 with the rendering of the airline service.

23 (62) The sale at retail or use of tangible personal
24 property or services which are directly used in farming,
25 dairying or agriculture when engaged in as a business
26 enterprise whether or not the sale is made to the person
27 directly engaged in the business enterprise or to a person
28 contracting with the person directly engaged in the business
29 enterprise for the production of food.

30 (63) The sale at retail or use of separately stated fees

1 paid pursuant to 13 Pa.C.S. § 9525 (relating to fees).

2 (64) The sale at retail to or use by a construction
3 contractor, employed by a public school district pursuant to
4 a construction contract, of any materials and building
5 supplies which, during construction or reconstruction, are
6 made part of any public school building utilized for
7 instructional classroom education within this Commonwealth,
8 if the construction or reconstruction:

9 (i) is necessitated by a disaster emergency, as
10 defined in 35 Pa.C.S. § 7102 (relating to definitions);
11 and

12 (ii) takes place during the period when there is a
13 declaration of disaster emergency under 35 Pa.C.S. §
14 7301(c) (relating to general authority of Governor).

15 § 1205. Alternate imposition of tax.

16 (a) Dealers of motor vehicles.--A person actively and
17 principally engaged in the business of selling new or used motor
18 vehicles, trailers or semitrailers, and registered with the
19 department in the dealer's class who:

20 (1) acquires a motor vehicle, trailer or semitrailer for
21 the purpose of resale; and

22 (2) prior to the resale, uses the motor vehicle, trailer
23 or semitrailer for a taxable use under this chapter
24 may pay a tax equal to 7.0% of the fair rental value of the
25 motor vehicle, trailer or semitrailer during that use.

26 (b) Commercial aircraft operators.--A commercial aircraft
27 operator who:

28 (1) acquires an aircraft for the purpose of resale, or
29 lease, or is entitled to claim another valid exemption at the
30 time of purchase; and

1 (2) subsequent to the purchase, periodically uses the
2 same aircraft for a taxable use under this chapter
3 may elect to pay a tax equal to 7.0% of the fair rental value of
4 the aircraft during that use.

5 (c) Nonapplicability.--This section shall not apply to the
6 use of a vehicle as a wrecker, parts truck, delivery truck or
7 courtesy car.

8 § 1206. Credit against tax.

9 (a) Prerequisites.--

10 (1) Subject to the provisions of paragraph (2), a credit
11 against the tax imposed by section 1202 (relating to
12 imposition of tax) shall be granted with respect to tangible
13 personal property or services purchased for use outside this
14 Commonwealth equal to the tax paid to another state by reason
15 of the imposition by the other state of a tax similar to the
16 tax imposed by this chapter.

17 (2) No credit shall be granted under this section unless
18 the other state grants substantially similar tax relief by
19 reason of the payment of tax under this chapter.

20 (b) Call center credit.--A credit against the tax imposed by
21 section 1202 (relating to imposition of tax) on
22 telecommunications services shall be granted to a call center
23 for gross receipts tax paid by a telephone company on the
24 receipts derived from the sale of incoming and outgoing
25 interstate telecommunications services to the call center under
26 section 1101(a)(2) of the Tax Reform Code. The following apply:

27 (1) A telephone company, upon request, shall notify a
28 call center of the amount of gross receipts tax paid by the
29 telephone company on the receipts derived from the sale of
30 incoming and outgoing interstate telecommunications services

1 to the call center.

2 (2) A call center that is eligible for the credit in
3 this subsection may apply for a tax credit as set forth in
4 this subsection.

5 (3) By February 15, a taxpayer must submit an
6 application to the department for gross receipts tax paid on
7 the receipts derived from the sale of incoming and outgoing
8 interstate telecommunications services incurred in the prior
9 calendar year.

10 (4) By April 15 of the calendar year following the close
11 of the calendar year during which the gross receipts tax was
12 incurred, the department shall notify the applicant of the
13 amount of the applicant's tax credit approved by the
14 department.

15 (5) The total amount of tax credits provided for in this
16 subsection and approved by the department shall not exceed
17 \$30,000,000 in any fiscal year. If the total amount of tax
18 credits applied for by all applicants exceeds the amount
19 allocated for those credits, then the credit to be received
20 by each applicant shall be determined as follows:

21 (i) Divide:

22 (A) the tax credit applied for by the applicant;

23 by

24 (B) the total of all tax credits applied for by

25 all applicants.

26 (ii) Multiply:

27 (A) the quotient under subparagraph (i); by

28 (B) the amount allocated for all tax credits.

29 SUBCHAPTER D

30 LICENSES

1 Sec.

2 1208. Licenses.

3 § 1208. Licenses.

4 (a) General rule.--Every person maintaining a place of
5 business in this Commonwealth, selling or leasing services or
6 tangible personal property, the sale or use of which is subject
7 to tax and who has not obtained a license from the department,
8 shall, prior to the beginning of business, make application to
9 the department, on a form prescribed by the department, for a
10 license. If the person maintains more than one place of business
11 in this Commonwealth, the license shall be issued for the
12 principal place of business in this Commonwealth.

13 (b) Conditions of licensure.--The department shall, after
14 the receipt of an application, issue the license applied for
15 under subsection (a), if the applicant has filed all required
16 State tax reports and paid any State taxes not subject to a
17 timely perfected administrative or judicial appeal or subject to
18 a duly authorized deferred payment plan. The license shall be
19 nonassignable and valid for a period of five years.

20 (b.1) Grounds for refusal to issue license.--

21 (1) If an applicant for a license or any person holding
22 a license has not filed all required State tax reports and
23 paid any State taxes not subject to a timely perfected
24 administrative or judicial appeal or subject to a duly
25 authorized deferred payment plan, the department may refuse
26 to issue, may suspend or may revoke said license.

27 (2) The department shall notify the applicant or
28 licensee of any refusal, suspension or revocation. The notice
29 shall contain a statement that the refusal, suspension or
30 revocation may be made public and shall be sent by first

1 class mail.

2 (3) An applicant or licensee aggrieved by the
3 determination of the department may file an appeal pursuant
4 to the provisions for administrative appeals in this chapter.

5 (4) In the case of a suspension or revocation which is
6 appealed, the license shall remain valid pending a final
7 outcome of the appeals process. Notwithstanding section 1274,
8 and sections, 353(f), 408(b), 603, 702, 802, 904 and 1102 of
9 the Tax Reform Code or any other provision of law to the
10 contrary, if no appeal is taken or if an appeal is taken and
11 denied at the conclusion of the appeal process, the
12 department may disclose, by publication or otherwise, the
13 identity of a person and the fact that the person's license
14 has been refused, suspended or revoked under this subsection.
15 The department may include the basis for refusal, suspension
16 or revocation in the disclosure.

17 (c) Penalties.--

18 (1) A person who maintains a place of business in this
19 Commonwealth for the purpose of selling or leasing services
20 or tangible personal property, the sale or use of which is
21 subject to tax, without having first been licensed by the
22 department shall be guilty of a summary offense and, upon
23 conviction thereof, be sentenced to pay a fine of not less
24 than \$300 nor more than \$1,500 and, in default thereof, to
25 undergo imprisonment of not less than five days nor more than
26 30 days.

27 (2) The penalties imposed under this subsection shall be
28 in addition to any other penalties imposed by this chapter.

29 (3) For purposes of this subsection, the offering for
30 sale or lease of any service or tangible personal property,

1 the sale or use of which is subject to tax, during any
2 calendar day shall constitute a separate violation.

3 (4) The Secretary of Revenue may designate employees of
4 the department to enforce the provisions of this subsection.
5 Those employees shall exhibit proof of and be within the
6 scope of the designation when instituting proceedings as
7 provided by the Pennsylvania Rules of Criminal Procedure.

8 (d) Liability to pay tax remains.--The failure of any person
9 to obtain a license shall not relieve that person of liability
10 to pay the tax imposed by this chapter.

11 SUBCHAPTER E

12 HOTEL OCCUPANCY TAX

13 Sec.

14 1209. Definitions.

15 1210. Imposition of tax.

16 1211. Seasonal tax returns.

17 § 1209. Definitions.

18 (a) General rule.--For the purposes of this subchapter, the
19 following words, terms and phrases shall have the meaning given
20 to them in this subsection, unless the context clearly indicates
21 otherwise:

22 "Hotel." A building or buildings in which the public may,
23 for a consideration, obtain sleeping accommodations. The term
24 shall not include any charitable, educational or religious
25 institution summer camp for children, hospital or nursing home.

26 "Occupancy." The use or possession or the right to the use
27 or possession by any person except a permanent resident of any
28 room or rooms in a hotel for any purpose or the right to the use
29 or possession of the furnishings or to the services and
30 accommodations accompanying the use and possession of the room

1 or rooms.

2 "Occupant." A person except a permanent resident who for a
3 consideration, uses, possesses or has a right to use or possess
4 any room or rooms in a hotel under a lease, concession, permit,
5 right of access, license or agreement.

6 "Operator." A person who operates a hotel.

7 "Permanent resident." Any occupant who has occupied or has
8 the right to occupancy of any room or rooms in a hotel for at
9 least 30 consecutive days.

10 "Rent." The consideration received for occupancy valued in
11 money, whether received in money or otherwise, including all
12 receipts, cash, credits and property or services of any kind or
13 nature, and also any amount for which the occupant is liable for
14 the occupancy without any deduction therefrom whatsoever. The
15 term shall not include a gratuity.

16 (b) Special definitions.--The following words and phrases,
17 when used in Subchapters D (relating to licenses) and F
18 (relating to returns), for the purposes of those subchapters
19 only, shall, in addition to the meaning ascribed to them in
20 section 1201 (relating to definitions), have the meaning
21 ascribed to them in this subsection, except where the context
22 clearly indicates a different meaning:

23 "Maintaining a place of business in this Commonwealth."
24 Being the operator of a hotel in this Commonwealth.

25 "Purchase at retail." Occupancy.

26 "Purchase price." Rent.

27 "Purchaser." An occupant.

28 "Sale at retail." The providing of occupancy to an occupant
29 by an operator.

30 "Services." Occupancy.

1 "Tangible personal property." Occupancy.

2 "Use." Occupancy.

3 "Vendor." Operator.

4 § 1210. Imposition of tax.

5 There is hereby imposed an excise tax of 7.0% of the rent
6 upon every occupancy of a room or rooms in a hotel in this
7 Commonwealth, which tax shall be collected by the operator from
8 the occupant and paid to the Commonwealth as provided by this
9 chapter and the Tax Reform Code.

10 § 1211. Seasonal tax returns.

11 Notwithstanding any other provision of this chapter or the
12 Tax Reform Code, the department may, by regulation, waive the
13 requirement for the filing of quarterly returns in the case of
14 an operator whose hotel is operated only during certain seasons
15 of the year, and may provide for the filing of returns by such
16 persons at times other than those provided by section 1221
17 (relating to payment).

18 SUBCHAPTER F

19 RETURNS

20 Sec.

21 1215. Persons required to make returns.

22 1216. Form of returns.

23 1217. Time for filing returns.

24 1218. Extension of time for filing returns.

25 1219. Place for filing returns.

26 1220. Timely mailing treated as timely filing and payment.

27 § 1215. Persons required to make returns.

28 A person required to pay tax to the department or collect and
29 remit tax to the department shall file returns with respect to
30 such tax.

1 § 1216. Form of returns.

2 The returns required by section 1215 (relating to persons
3 required to make returns) shall be on forms prescribed by the
4 department and shall show such information with respect to the
5 taxes imposed by this chapter as the department may reasonably
6 require.

7 § 1217. Time for filing returns.

8 (a) Quarterly and monthly returns.--

9 (1) A return shall be filed quarterly by every licensee
10 on or before the 20th day of April, July, October and January
11 for the three months ending the last day of March, June,
12 September and December.

13 (2) A return shall be filed monthly with respect to each
14 month by every licensee whose total tax reported, or in the
15 event no report is filed, the total tax which should have
16 been reported, for the third calendar quarter of the
17 preceding year equals or exceeds \$700. The returns shall be
18 filed on or before the 20th day of the next succeeding month
19 with respect to which the return is made. Any licensee
20 required to file monthly returns under this section shall be
21 relieved from filing quarterly returns.

22 (b) Annual returns.--For the calendar year 1971 and for each
23 year thereafter no annual return shall be filed except as may be
24 required by rules and regulations of the department promulgated
25 and published at least 60 days prior to the end of the year with
26 respect to which the returns are made. Where annual returns are
27 required, licensees shall not be required to file the returns
28 prior to the 20th day of the year succeeding the year with
29 respect to which the returns are made.

30 (c) Other returns.--A person, other than a licensee, who is

1 liable to pay to the department any tax under this chapter,
2 shall file a return on or before the 20th day of the month
3 succeeding the month in which the person becomes liable for the
4 tax.

5 (d) Small taxpayers.--The department, by regulation, may
6 waive the requirement for the filing of a quarterly return in
7 the case of any licensee whose individual tax collections do not
8 exceed \$85 per calendar quarter and may provide for reporting on
9 a less frequent basis in such cases.

10 § 1218. Extension of time for filing returns.

11 The department may on written application and for good cause
12 shown grant a reasonable extension of time for filing any return
13 required under this chapter. The time for making a return shall
14 not be extended for more than three months.

15 § 1219. Place for filing returns.

16 Returns shall be filed with the department at its main office
17 or at any branch office which it may designate for filing
18 returns.

19 § 1220. Timely mailing treated as timely filing and payment.

20 (a) General rule.--Notwithstanding the provisions of any
21 State tax law to the contrary, when a report or payment of all
22 or any portion of a State tax is required by law to be received
23 by the department or other agency of this Commonwealth on or
24 before a day certain, the taxpayer shall be deemed to have
25 complied with that law if the letter transmitting the report or
26 payment of the tax which has been received by the department is
27 postmarked by the United States Postal Service on or prior to
28 the final day on which the payment is to be received.

29 (b) Presentation of receipt.--For the purposes of this
30 chapter, presentation of a receipt indicating that the report or

1 payment was mailed by registered or certified mail on or before
2 the due date shall be evidence of timely filing and payment.

3 SUBCHAPTER G

4 PAYMENT

5 Sec.

6 1221. Payment.

7 1222. Time of payment.

8 1223. Other times for payment.

9 1224. Place for payment.

10 1225. Tax held in trust for Commonwealth.

11 1226. Local receivers of use tax.

12 1227. Discount.

13 § 1221. Payment.

14 When a return of tax is required under this subchapter, the
15 person required to make the return shall pay the tax to the
16 department.

17 § 1222. Time of payment.

18 (a) Monthly, bimonthly and quarterly payments.--The tax
19 imposed by this chapter and incurred or collected by a licensee
20 shall be due and payable by the licensee on the day the return
21 is required to be filed under the provisions of section 1217
22 (relating to time for filing returns) and the payment must
23 accompany the return for the preceding period.

24 (b) Annual payments.--If the amount of tax due for the
25 preceding year as shown by the annual return of any taxpayer is
26 greater than the amount already paid by the taxpayer in
27 connection with the taxpayer's monthly or quarterly returns, the
28 taxpayer shall send with such annual return a remittance for the
29 unpaid amount of tax for the year.

30 (c) Other payments.--A person other than a licensee liable

1 to pay any tax under this chapter shall remit the tax at the
2 time of filing the return required by this chapter.

3 § 1223. Other times for payment.

4 In the event that the department authorizes a taxpayer to
5 file a return at other times than those specified in section
6 1217 (relating to time for filing returns), the tax due shall be
7 paid at the time the return is filed.

8 § 1224. Place for payment.

9 The tax imposed by this chapter shall be paid to the
10 department at the place fixed for filing the return.

11 § 1225. Tax held in trust for Commonwealth.

12 (a) General rule.--All taxes collected by any person from
13 purchasers in accordance with this chapter and all taxes
14 collected by any person from purchasers under color of this
15 chapter which have not been properly refunded by the person to
16 the purchaser shall constitute a trust fund for the
17 Commonwealth. The trust shall be enforceable against that
18 person, his representatives and any person, other than a
19 purchaser to whom a refund has been made properly, receiving any
20 part of the fund without consideration, or knowing that the
21 taxpayer is committing a breach of trust.

22 (b) Presumption.--A person who receives payment of a lawful
23 obligation of the taxpayer from the fund shall be presumed to
24 have received the same in good faith and without any knowledge
25 of the breach of trust.

26 (c) Appeal.--A person, other than a taxpayer, against whom
27 the department makes any claim under this section shall have the
28 same right to petition and appeal as is given taxpayers by any
29 provisions of this subchapter.

30 § 1226. Local receivers of use tax.

1 (a) County treasurers.--

2 (1) A county treasurer may receive use tax due and
3 payable under the provisions of this chapter from any person
4 other than a licensee. The receiving of the taxes shall be
5 pursuant to rules and regulations promulgated by the
6 department and upon forms furnished by the department.

7 (2) Each county treasurer shall remit to the department
8 all use taxes received under the authority of this section
9 minus the costs of administering this provision not to exceed
10 1% of the amount of use taxes received, which amount shall be
11 retained in lieu of any commission otherwise allowable by law
12 for the collection of the tax.

13 (b) Nonapplicability.--This section shall not apply to
14 counties of the first class.

15 § 1227. Discount.

16 If a return is filed by a licensee and the tax shown to be
17 due thereon less any discount is paid all within the time
18 prescribed, the licensee shall be entitled to credit and apply
19 against the tax payable by the licensee a discount of 1% of the
20 amount of the tax collected by the licensee as compensation for
21 the expense of collecting and remitting the same and as a
22 consideration of the prompt payment thereof.

23 SUBCHAPTER H

24 ASSESSMENT AND REASSESSMENT

25 Sec.

26 1230. Assessment.

27 1231. Mode and time of assessment.

28 1232. Reassessment.

29 1233. Assessment to recover erroneous refunds.

30 1234. Review by Board of Finance and Revenue.

1 1235. Appeal to Commonwealth Court.

2 1236. Burden of proof.

3 § 1230. Assessment.

4 The department is authorized and required to make the
5 inquiries, determinations and assessments of the tax, including
6 interest, additions and penalties, imposed by this chapter.

7 § 1231. Mode and time of assessment.

8 (a) Underpayment of tax.--Within a reasonable time after any
9 return is filed, the department shall examine it and, if the
10 return shows a greater tax due or collected than the amount of
11 tax remitted with the return, the department shall issue an
12 assessment for the difference, together with an addition of 3%
13 of such difference, which shall be paid to the department within
14 ten days after a notice of the assessment has been mailed to the
15 taxpayer. If such assessment is not paid within ten days, there
16 shall be added to the assessment and paid to the department an
17 additional 3% of the difference for each month during which the
18 assessment remains unpaid, but the total of all additions shall
19 not exceed 18% of the difference shown on the assessment.

20 (b) Understatement of tax.--If the department determines
21 that any return or returns of any taxpayer understates the
22 amount of tax due, it shall determine the proper amount and
23 shall ascertain the difference between the amount of tax shown
24 in the return and the amount determined, the difference being
25 hereafter sometimes referred to as the "deficiency." A notice of
26 assessment for the deficiency and the reasons for the deficiency
27 shall then be sent to the taxpayer. The deficiency shall be paid
28 to the department within 30 days after a notice of the
29 assessment has been mailed to the taxpayer.

30 (c) Failure to file return.--In the event that any taxpayer

1 fails to file a return required by this chapter, the department
2 may make an estimated assessment, based on information
3 available, of the proper amount of tax owing by the taxpayer. A
4 notice of assessment in the estimated amount shall be sent to
5 the taxpayer. The tax shall be paid within 30 days after a
6 notice of the estimated assessment has been mailed to the
7 taxpayer.

8 (d) Authority to establish effective rates by business
9 classification.--The department is authorized to make the
10 studies necessary to compute effective rates by business
11 classification, based upon the ratio between the tax required to
12 be collected and taxable sales and to use the rates in arriving
13 at the apparent tax liability of a taxpayer. Any assessment
14 based upon such rates shall be prima facie correct, except that
15 the rate shall not be considered where a taxpayer establishes
16 that the rate is based on a sample inapplicable to the taxpayer.
17 § 1232. Reassessment.

18 (a) Notice of intention to file petition.--Any taxpayer
19 against whom an assessment is made may petition the department
20 for a reassessment. Notice of an intention to file such a
21 petition shall be given to the department within 30 days of the
22 date the notice of assessment was mailed to the taxpayer, except
23 that the department for due cause may accept the notice within
24 90 days of the date the notice of assessment was mailed. The
25 department by registered mail shall supply the taxpayer with a
26 statement setting forth in reasonable detail the basis of the
27 assessment within 30 days after receipt of the taxpayer's notice
28 of intention to file a petition for reassessment.

29 (b) Petition for reassessment.--A petition for reassessment
30 shall be filed within 30 days after the basis of assessment has

1 been mailed to the taxpayer. Such petition shall set forth in
2 reasonable detail the grounds upon which the taxpayer claims
3 that the assessment is erroneous or unlawful, in whole or in
4 part, and shall be accompanied by an affidavit or affirmation
5 that the facts contained in the petition are true and correct
6 and that the petition is not interposed for delay. An extension
7 of time for filing the petition may be allowed for cause but in
8 no case shall the extension exceed 120 days.

9 (c) Hearing.--The department shall hold such hearings as may
10 be necessary for the purpose, at such times and places as it may
11 determine. Each taxpayer who has duly filed a petition for
12 reassessment shall be notified by the department of the time
13 when, and the place where, the hearing in the taxpayer's case
14 will be held.

15 (d) Decision by department.--It shall be the duty of the
16 department, within six months after receiving a filed petition
17 for reassessment, to dispose of the issue raised by the petition
18 and mail notice of the department's decision to the petitioner.
19 The taxpayer and the department may, however, by stipulation,
20 extend such disposal time by not more than six additional
21 months.

22 § 1233. Assessment to recover erroneous refunds.

23 The department may, within two years of the granting of any
24 refund or credit, or within the period in which an assessment
25 could have been filed by the department with respect to the
26 transaction pertaining to which the refund was granted,
27 whichever period occurs last, file an assessment to recover any
28 refund or part thereof or credit or part thereof which was
29 erroneously made or allowed.

30 § 1234. Review by Board of Finance and Revenue.

1 (a) Time limit.--Within 60 days after the date of mailing of
2 notice by the department of the decision on any petition for
3 reassessment filed with it, the person against whom such
4 assessment was made may, by petition, request the Board of
5 Finance and Revenue to review such decision. The failure of the
6 department to notify the petitioner of a decision within the
7 time provided for by section 1232 (relating to reassessment)
8 shall act as a denial of such petition, and a petition for
9 review may be filed with the Board of Finance and Revenue within
10 120 days of the date prior to which the department should have
11 mailed to the petitioner its notice of decision.

12 (b) Petition for review.--Every petition for review filed
13 hereunder shall state specifically the reasons on which the
14 petitioner relies or shall incorporate by reference the petition
15 for reassessment in which the reasons are stated. The petition
16 shall be supported by affidavit that it is not made for the
17 purpose of delay and that the facts set forth therein are true.

18 (c) Decision by Board of Finance and Revenue.--The Board of
19 Finance and Revenue shall act finally in disposing of petitions
20 filed with it within six months after they have been received.
21 In the event of the failure of the board to dispose of any
22 petition within six months, the action taken by the department,
23 upon the petition for reassessment, shall be sustained. The
24 Board of Finance and Revenue may sustain the action taken by the
25 department on the petition for reassessment, or it may reassess
26 the tax due on such basis as it deems according to law. The
27 board shall give notice of its action to the department and to
28 the petitioner.

29 § 1235. Appeal to Commonwealth Court.

30 Any person aggrieved by the decision of the Board of Finance

1 and Revenue or by the board's failure to act upon a petition for
2 review within six months may appeal in the manner now or
3 hereafter provided by law for appeals in the case of tax
4 settlements.

5 § 1236. Burden of proof.

6 In all cases of petitions for reassessment, review or appeal,
7 the burden of proof shall be upon the petitioner or appellant,
8 as the case may be.

9 SUBCHAPTER I

10 COLLECTION

11 Sec.

12 1237. Collection of tax.

13 1238. Collection of tax on motor vehicles, trailers and
14 semitrailers.

15 1239. Precollection of tax.

16 1240. Bulk and auction sales.

17 1241. Collection upon failure to request reassessment, review
18 or appeal.

19 § 1237. Collection of tax.

20 (a) Collection by department.--The department shall collect
21 the tax in the manner provided by law for the collection of
22 taxes imposed by the laws of this Commonwealth.

23 (b) Collection by persons maintaining a place of business in
24 this Commonwealth.--Every person maintaining a place of business
25 in this Commonwealth and selling or leasing tangible personal
26 property or services, the sale or use of which is subject to tax
27 shall collect the tax from the purchaser or lessee at the time
28 of making the sale or lease, and shall remit the tax to the
29 department, unless such collection and remittance is otherwise
30 provided for in this chapter.

1 (c) Collection by persons delivering property in this
2 Commonwealth.--Every person not otherwise required to collect
3 tax that delivers tangible personal property to a location
4 within this Commonwealth and that unpacks, positions, places or
5 assembles the tangible personal property shall collect the tax
6 from the purchaser at the time of delivery and shall remit the
7 tax to the department if the person delivering the tangible
8 personal property is responsible for collecting any portion of
9 the purchase price of the tangible personal property delivered
10 and the purchaser has not provided the person with proof that
11 the tax imposed by this chapter has been or will be collected by
12 the seller or that the purchaser provided the seller with a
13 valid exemption certificate. Every person required to collect
14 tax under this paragraph shall be deemed to be selling or
15 leasing tangible personal property or services, the sale or use
16 of which is subject to the tax imposed under section 1202
17 (relating to imposition of tax).

18 (d) Failure to collect tax.--Any person required under this
19 chapter to collect tax from another person, who shall fail to
20 collect the proper amount of such tax, shall be liable for the
21 full amount of the tax which the person should have collected.

22 (e) Exemption certificates.--If the tax does not apply to
23 the sale or lease of tangible personal property or services, the
24 purchaser or lessee shall furnish to the vendor a certificate
25 indicating that the sale is not legally subject to the tax. The
26 certificate shall be in substantially the form as the department
27 may, by regulation, prescribe. Where the tangible personal
28 property or service is of a type that is never subject to the
29 tax imposed or where the sale or lease is in interstate
30 commerce, a certificate need not be furnished. Where a series of

1 transactions are not subject to tax, a purchaser or user may
2 furnish the vendor with a single exemption certificate in
3 substantially such form and valid for such period of time as the
4 department may, by regulation, prescribe. The department shall
5 provide all school districts and intermediate units with a
6 permanent tax exemption number.

7 (f) Good faith reliance on exemption certificate.--An
8 exemption certificate, which is complete and regular and on its
9 face discloses a valid basis of exemption if taken in good
10 faith, shall relieve the vendor from the liability imposed by
11 this section. An exemption certificate accepted by a vendor from
12 a natural person domiciled within this Commonwealth or any
13 association, fiduciary, partnership, corporation or other
14 entity, either authorized to do business within this
15 Commonwealth or having an established place of business within
16 this Commonwealth, in the ordinary course of the vendor's
17 business, which on its face discloses a valid basis of exemption
18 consistent with the activity of the purchaser and character of
19 the property or service being purchased or which is provided to
20 the vendor by a charitable, religious, educational or volunteer
21 firemen's organization and contains the organization's
22 charitable exemption number and which, in the case of any
23 purchase costing \$200 or more, is accompanied by a sworn
24 declaration on a form to be provided by the department of an
25 intended usage of the property or service which would render it
26 nontaxable, shall be presumed to be taken in good faith and the
27 burden of proving otherwise shall be on the department.

28 (g) Direct payment permits.--The department may authorize a
29 purchaser or lessee who acquires tangible personal property or
30 services under circumstances that make it impossible at the time

1 of acquisition to determine the manner in which the tangible
2 personal property or service will be used, to pay the tax
3 directly to the department, and waive the collection of the tax
4 by the vendor. No such authority shall be granted or exercised,
5 except upon application to the department and the issuance by
6 the department, in its discretion, of a direct payment permit.
7 If a direct payment permit is granted, its use shall be subject
8 to conditions specified by the department, and the payment of
9 tax on all acquisitions pursuant to the permit shall be made
10 directly to the department by the permit holder.

11 § 1238. Collection of tax on motor vehicles, trailers and
12 semitrailers.

13 (a) Direct payment of tax.--Notwithstanding the provisions
14 of section 1237(b) (relating to collection of tax), tax due on
15 the sale at retail or use of a motor vehicle, trailer or
16 semitrailer, except mobile homes as defined in 75 Pa.C.S. § 102
17 (relating to definitions) required by law to be registered with
18 the department, shall be paid by the purchaser or user directly
19 to the department upon application to the department for an
20 issuance of a certificate of title upon such motor vehicle,
21 trailer or semitrailer. The department shall not issue a
22 certificate of title until the tax has been paid or evidence
23 satisfactory to the department has been given to establish that
24 tax is not due.

25 (b) Failure to pay tax.--The department may cancel or
26 suspend any record of certificate of title or registration of a
27 motor vehicle, trailer or semitrailer when the check received in
28 payment of the tax on such vehicle is not paid upon demand. Such
29 tax shall be considered as a first encumbrance against such
30 vehicle and the vehicle may not be transferred without first

1 payment in full of such tax and any interest additions or
2 penalties which shall accrue thereon in accordance with this
3 chapter.

4 § 1239. Precollection of tax.

5 (a) General rule.--The department may, by regulation,
6 authorize or require particular categories of vendors selling
7 tangible personal property for resale to precollect from the
8 purchaser the tax which the purchaser will collect upon making a
9 sale at retail of such tangible personal property. The
10 department, however, may not pursuant to this section require a
11 vendor to precollect tax from a purchaser who purchases for
12 resale more than \$1,000 worth of tangible personal property from
13 such vendor per year.

14 (b) License exception.--In any case in which a vendor has
15 been authorized to prepay the tax to the person from whom the
16 vendor purchased the tangible personal property for resale, the
17 vendor so authorized to prepay the tax may, under the
18 regulations of the department, be relieved from his duty to
19 secure a license if the duty shall arise only by reason of the
20 vendor's sale of the tangible personal property with respect to
21 which the vendor is, under authorization of the department, to
22 prepay the tax.

23 (c) Sale at retail.--The vendor, on making a sale at retail
24 of tangible personal property with respect to which the vendor
25 has prepaid the tax, must separately state at the time of resale
26 the proper amount of tax on the transaction and reimburse
27 himself on account of the taxes which he has previously prepaid.
28 Should such vendor collect a greater amount of tax in any
29 reporting period than the vendor had previously prepaid upon
30 purchase of the goods with respect to which he prepaid the tax,

1 the vendor must file a return and remit the balance to the
2 Commonwealth at the time at which a return would otherwise be
3 due with respect to such sales.

4 § 1240. Bulk and auction sales.

5 A person that sells or causes to be sold at auction, or that
6 sells or transfers in bulk, 51% or more of any stock of goods,
7 wares or merchandise of any kind, fixtures, machinery,
8 equipment, buildings or real estate, involved in a business for
9 which the person is licensed or required to be licensed under
10 the provisions of this chapter, or is liable for filing use tax
11 returns in accordance with the provisions of this chapter, shall
12 be subject to the provisions of section 1403 of the Fiscal Code.

13 § 1241. Collection upon failure to request reassessment, review
14 or appeal.

15 (a) General rule.--The department may collect any tax:

16 (1) If an assessment of tax is not paid within ten days
17 or 30 days as the case may be after notice thereof to the
18 taxpayer, and no petition for reassessment has been filed.

19 (2) Within 60 days from the date of reassessment, if no
20 petition for review has been filed.

21 (3) Within 30 days from the date of the decision of the
22 Board of Finance and Revenue upon a petition for review, or
23 of the expiration of the board's time for acting upon such
24 petition, if no appeal has been made.

25 (4) In all cases of judicial sales, receiverships,
26 assignments or bankruptcies.

27 (b) Defenses.--In any such case in a proceeding for the
28 collection of such taxes, the person against whom they were
29 assessed shall not be permitted to set up any ground of defense
30 that might have been determined by the department, the Board of

Finance and Revenue or the courts. The defense of failure of the department to mail notice of assessment or reassessment to the taxpayer and the defense of payment of assessment or reassessment, however, may be raised in proceedings for collection by a motion to stay the proceedings.

SUBCHAPTER J

NONPAYMENT

Sec.

1242. Lien for taxes.

1243. Suit for taxes.

1244. Tax suit comity.

1245. Service.

§ 1242. Lien for taxes.

(a) Lien imposed.--If any person liable to pay any tax neglects or refuses to pay the tax after demand, the amount, including any interest, addition or penalty, together with any costs that may accrue in addition thereto, shall be a lien in favor of the Commonwealth upon the property, both real and personal, of the person but only after the lien has been entered and docketed of record by the prothonotary of the county where the property is situated. The department may, at any time, transmit, to the prothonotaries of the respective counties, certified copies of all liens for taxes imposed by this chapter and penalties and interest. It shall be the duty of each prothonotary receiving the lien to enter and docket the lien of record in the prothonotary's office, which lien shall be indexed as judgments are indexed. No prothonotary shall require, as a condition precedent to the entry of the liens, the payment of the costs incident to the liens.

(b) Priority of lien and effect on judicial date; no

1 discharge by sale on junior lien.--The lien imposed under this
2 section shall have priority from the date of its recording under
3 subsection (a), and shall be fully paid and satisfied out of the
4 proceeds of any judicial sale of property subject to the lien
5 before any other obligation, judgment, claim, lien or estate to
6 which the property may subsequently become subject, except costs
7 of the sale and of the writ upon which the sale was made, and
8 real estate taxes and municipal claims against the property, but
9 shall be subordinate to mortgages and other liens existing and
10 duly recorded or entered of record prior to the recording of the
11 tax lien. In the case of a judicial sale of property, subject to
12 a lien imposed under this section, upon a lien or claim over
13 which the lien imposed under this section has priority, the sale
14 shall discharge the lien imposed under this section to the
15 extent only that the proceeds are applied to its payment, and
16 the lien shall continue in full force and effect as to the
17 balance remaining unpaid. There shall be no inquisition or
18 condemnation upon any judicial sale of real estate made by the
19 Commonwealth pursuant to the provisions hereof. The lien of the
20 taxes, interest and penalties shall continue for five years from
21 the date of entry, and may be revived and continued in the
22 manner now or hereafter provided for renewal of judgments, or as
23 may be provided in the Fiscal Code, and a writ of execution may
24 directly issue upon the lien without the issuance and
25 prosecution to judgment of a writ of scire facias. Not less than
26 ten days before issuance of any execution on the lien, however,
27 notice of the filing and the effect of the lien shall be sent by
28 registered mail to the taxpayer at his last known post office
29 address. The lien shall have no effect upon any stock of goods,
30 wares or merchandise regularly sold or leased in the ordinary

1 course of business by the person against whom the lien has been
2 entered, unless a writ of execution has been issued and a levy
3 made upon the stock of goods, wares and merchandise.

4 (c) Duty of prothonotary.--Any willful failure of any
5 prothonotary to carry out any duty imposed upon the prothonotary
6 by this section shall be a misdemeanor and, upon conviction, the
7 prothonotary shall be sentenced to pay a fine not exceeding
8 \$1,000 and costs of prosecution, or to imprisonment for not more
9 than one year, or both.

10 (d) Priority of tax.--Except as otherwise provided in this
11 section, in the distribution, voluntary or compulsory, in
12 receivership, bankruptcy or otherwise, of the property or estate
13 of any person, all taxes imposed by this chapter which are due
14 and unpaid and are not collectible under the provisions of
15 section 1225 (relating to tax held in trust for Commonwealth)
16 shall be paid from the first money available for distribution in
17 priority to all other claims and liens, except insofar as the
18 laws of the United States may give a prior claim to the Federal
19 Government. Any person charged with the administration or
20 distribution of any such property or estate, who shall violate
21 the provisions of this section, shall be personally liable for
22 any taxes imposed by this chapter, which are accrued and unpaid
23 and are chargeable against the person whose property or estate
24 is being administered or distributed.

25 (e) Other remedies.--Subject to the limitations contained in
26 this chapter as to the assessment of taxes, nothing contained in
27 this section shall be construed to restrict, prohibit or limit
28 the use by the department in collecting taxes finally due and
29 payable of any other remedy or procedure available at law or
30 equity for the collection of debts.

1 § 1243. Suit for taxes.

2 (a) Commencement.--At any time within three years after any
3 tax or any amount of tax shall be finally due and payable, the
4 department may commence an action in the courts of this
5 Commonwealth, of any state or of the United States, in the name
6 of the Commonwealth of Pennsylvania, to collect the amount of
7 tax due together with additions, interest, penalties and costs
8 in the manner provided at law or in equity for the collection of
9 ordinary debts.

10 (b) Procedure.--The Attorney General shall prosecute the
11 action and, except as provided in this chapter, the provisions
12 of the Rules of Civil Procedure and the provisions of the laws
13 of this Commonwealth relating to civil procedures and remedies
14 shall, to the extent that they are applicable, be available in
15 such proceedings.

16 (c) Other remedies.--The provisions of this section are in
17 addition to any process, remedy or procedure for the collection
18 of taxes provided by this chapter or by the laws of this
19 Commonwealth, and this section is neither limited by nor
20 intended to limit any such process, remedy or procedure.

21 § 1244. Tax suit comity.

22 The courts of this Commonwealth shall recognize and enforce
23 liabilities for sales and use taxes, lawfully imposed by any
24 other state, provided that the other state extends a like comity
25 to this Commonwealth.

26 § 1245. Service.

27 Any person maintaining a place of business within this
28 Commonwealth is deemed to have appointed the Secretary of the
29 Commonwealth his agent for the acceptance of service of process
30 or notice in any proceedings for the enforcement of the civil

provisions of this chapter, and any service made upon the
Secretary of the Commonwealth as such agent shall be of the same
legal force and validity as if such service had been personally
made upon such person. Where service cannot be made upon such
person in the manner provided by other laws of this Commonwealth
relating to service of process, service may be made upon the
Secretary of the Commonwealth and, in such case, a copy of the
process or notice shall also be personally served upon any agent
or representative of such person who may be found within this
Commonwealth, or where no such agent or representative may be
found a copy of the process or notice shall be sent by
registered mail to such person at the last known address of his
principal place of business, home office or residence.

SUBCHAPTER K

MISCELLANEOUS PROVISIONS

Sec.

1246. Collection and payment of tax on credit sales.

1247. Prepayment of tax.

1247.1. Refund of sales tax attributed to bad debt.

1248. Registration of transient vendors.

1248.1. Bond.

1248.2. Notification to department; inspection of records.

1248.3. Seizure of property.

1248.4. Fines.

1248.5. Transient vendors subject to chapter.

1248.6. Promoters.

§ 1246. Collection and payment of tax on credit sales.

If any sale subject to tax under this chapter is wholly or
partly on credit, the vendor shall require the purchaser to pay
in cash at the time the sale is made, or within 30 days

1 thereafter, the total amount of tax due upon the entire purchase
2 price. The vendor shall remit the tax to the department,
3 regardless of whether payment was made by the purchaser to the
4 vendor, with the next return required to be filed under section
5 1217 (relating to time for filing returns).

6 § 1247. Prepayment of tax.

7 (a) General rule.--Whenever a vendor is forbidden by law or
8 governmental regulation to charge and collect the purchase price
9 in advance of or at the time of delivery, the vendor shall
10 prepay the tax as required by section 1222 (relating to time of
11 payment), but in such case if the purchaser fails to pay to the
12 vendor the total amount of the purchase price and the tax, and
13 such amount is written off as uncollectible by the vendor, the
14 vendor shall not be liable for the tax and shall be entitled to
15 a credit or refund of the tax paid. If the purchase price is
16 thereafter collected, in whole or in part, the amount collected
17 shall be applied first to the payment of the entire tax portion
18 of the bill and shall be remitted to the department by the
19 vendor with the first return filed after the collection.

20 (b) Petition for refund.--Tax prepaid shall be subject to
21 refund upon petition to the department under the provisions of
22 section 1252 (relating to refunds) filed within 105 days of the
23 close of the fiscal year in which the accounts are written off.

24 § 1247.1. Refund of sales tax attributed to bad debt.

25 (a) Petition for refund.--A vendor may file a petition for
26 refund of sales tax paid to the department that is attributed to
27 a bad debt if all of the following apply:

28 (1) The purchaser fails to pay the vendor the total
29 purchase price.

30 (2) The purchase price is written off, either in whole

1 or in part, as a bad debt on the vendor's books and records.

2 (3) The bad debt has been deducted for Federal income
3 tax purposes under section 166 of the Internal Revenue Code
4 of 1986 (Public Law 99-514, 26 U.S.C. § 166). The petition
5 shall be filed with the department within the time
6 limitations prescribed by section 3003.1 of the Tax Reform
7 Code.

8 (b) Amount of refund.--The refund authorized by this section
9 shall be limited to the sales tax paid to the department that is
10 attributed to the bad debt, less any discount under section 1227
11 (relating to discount). Partial payments by the purchaser to the
12 vendor shall be prorated between the original purchase price and
13 the sales tax due on the sale. Payments made to a vendor on any
14 transaction that includes both taxable and nontaxable components
15 shall be allocated proportionally between the taxable and
16 nontaxable components.

17 (c) Assignment of right to petition.--A vendor may assign
18 its right to petition and receive a refund of sales tax
19 attributed to a bad debt to an affiliated entity. A vendor may
20 not assign its right to petition and receive a refund of sales
21 tax attributed to a bad debt to any other person.

22 (d) Exclusions.--No refund shall be granted under this
23 section for any of the following:

24 (1) Interest.

25 (2) Finance charges.

26 (3) Expenses incurred in attempting to collect any
27 amount receivable.

28 (e) Refund procedure.--The documentation, procedures and
29 methods for claiming and calculating the refund allowed under
30 this section shall be in such form as the department may

1 prescribe.

2 (f) Return of refund.--If the purchase price that is
3 attributed to a prior bad debt refund is thereafter collected,
4 in whole or in part, the vendor or affiliated entity shall remit
5 the proportional tax to the department with the first return
6 filed after the collection.

7 (g) Interest.--Notwithstanding the provisions of section
8 806.1 of the Fiscal Code, no interest shall be paid by the
9 Commonwealth on refunds of sales tax attributed to bad debt
10 under this section.

11 (h) Exclusive remedy.--No refund or credit of sales tax
12 shall be made for any uncollected purchase price or bad debt
13 except as authorized by this section. No deduction or credit for
14 bad debt may be taken on any return filed with the department.
15 This section shall provide the exclusive procedure for claiming
16 a refund or credit of sales tax attributed to uncollected
17 purchase price or bad debt.

18 (i) Definitions.--As used in this section, the following
19 words and phrases shall have the meanings given to them in this
20 subsection:

21 "Affiliated entity." Any corporation that is part of the
22 same affiliated group as the vendor as defined by section
23 1504(a)(1) of the Internal Revenue Code of 1986.

24 § 1248. Registration of transient vendors.

25 (a) General rule.--Prior to conducting business or otherwise
26 commencing operations within this Commonwealth, a transient
27 vendor shall register with the department. The application for
28 registration shall be in such form and contain such information
29 as the department, by regulation, shall prescribe and shall set
30 forth truthfully and accurately the information desired by the

department. This registration shall be renewed and updated
annually.

(b) Issuance of certificate.--Upon registration and the
posting of the bond required by section 1248.1 (relating to
bond), the department shall issue to the transient vendor a
certificate, valid for one year. Upon renewal of registration,
the department shall issue a new certificate, valid for one
year, providing the department is satisfied that the transient
vendor has complied with the provisions of this chapter.

(c) Possession of certificate.--The transient vendor shall
possess the certificate at all times when conducting business
within this Commonwealth and shall exhibit the certificate upon
demand by authorized employees of the department or any law
enforcement officer.

(d) Notice on certificate.--The certificate issued by the
department shall state that the transient vendor named therein
has registered with the department and shall provide notice to
the transient vendor that:

(1) The transient vendor must notify the department in
writing before it enters this Commonwealth to conduct
business, of the location or locations where it intends to
conduct business and the date or dates on which it intends to
conduct business.

(2) Failure to notify or giving false information to the
department may result in suspension or revocation of the
transient vendor's certificate.

(3) Conducting business within this Commonwealth after a
certificate has been suspended or revoked may result in
criminal conviction and the imposition of fines or other
penalties.

1 § 1248.1. Bond.

2 (a) Bond required.--Upon registration with the department, a
3 transient vendor shall also post a bond with the department in
4 the amount of \$500 as surety for compliance with the provisions
5 of this chapter. After a period of demonstrated compliance with
6 these provisions, or, if the transient vendor provides the
7 license number of a promoter who has notified the department of
8 a show, in accordance with the provisions of section 1248.6(a)
9 (relating to promoters), the department may reduce the amount of
10 bond required of a transient vendor or may eliminate the bond
11 entirely.

12 (b) Request for voluntary suspension of certificate.--A
13 transient vendor may file a request for voluntary suspension of
14 certificate with the department. If the department is satisfied
15 that the provisions of this chapter have been complied with and
16 has possession of the transient vendor's certificate, it shall
17 return the bond posted to the transient vendor.

18 § 1248.2. Notification to department; inspection of records.

19 (a) Notification to department.--Prior to entering this
20 Commonwealth to conduct business, a transient vendor shall
21 notify the department in writing of the location or locations
22 where it intends to conduct business and the date or dates on
23 which it intends to conduct business.

24 (b) Inspection of records.--While conducting business within
25 this Commonwealth, the transient vendor shall permit authorized
26 employees of the department to inspect its sales records,
27 including, but not limited to, sales receipts and inventory or
28 price lists and to permit inspection of the tangible personal
29 property offered for sale at retail.

30 (c) Suspension or revocation of certificate.--The department

may suspend or revoke a certificate issued to a transient vendor
if the transient vendor:

(1) fails to notify the department as required by
subsection (a);

(2) provides the department with false information
regarding the conduct of business within this Commonwealth;

(3) fails to collect sales tax on all tangible personal
property or services sold subject to the sales tax; or

(4) fails to file with the department a tax return as
required by section 1217 (relating to time for filing
returns).

(d) Rules and regulations.--The department shall promulgate
the rules and regulations necessary to implement this section.

§ 1248.3. Seizure of property.

(a) General rule.--If a transient vendor conducting business
within this Commonwealth fails to exhibit a valid certificate
upon demand by authorized employees of the department, those
authorized employees shall have the authority to seize, without
warrant, the tangible personal property and the automobile,
truck or other means of transportation used to transport or
carry that property. All property seized shall be deemed
contraband and shall be subject to immediate forfeiture
proceedings instituted by the department pursuant to procedures
adopted by regulation, except as otherwise provided by this
section.

(b) Release of seized property.--Property seized pursuant to
subsection (a) shall be released upon:

(1) presentation of a valid certificate to authorized
employees of the department; or

(2) registration by the transient vendor with the

department and the posting of a bond in the amount of \$500,
either immediately or within 15 days after the property is
seized.

§ 1248.4. Fines.

Any transient vendor conducting business within this
Commonwealth while its certificate is suspended or revoked, as
provided by sections 1248.1(b) (relating to bond) and 1248.2(c)
(relating to notification to department; inspection of records),
commits a misdemeanor of the third degree and shall, upon
conviction, be sentenced to pay a fine of not more than \$2,500
for each offense.

§ 1248.5. Transient vendors subject to chapter.

Except as otherwise provided, a transient vendor shall be
subject to the provisions of this chapter in the same manner as
a vendor who maintains a place of business within this
Commonwealth.

§ 1248.6. Promoters.

(a) License application.--A promoter of a show or shows
within this Commonwealth may annually file with the department
an application for a promoter's license stating the location and
dates of such show or shows. The application shall be filed at
least 30 days prior to the opening of the first show and shall
be in such form as the department may prescribe.

(b) Issuance of license.--Except as provided in this
section, the department shall, within 15 days after receipt of
an application for a license, issue to the promoter without
charge a license to operate such shows. If application for a
license under this section has been timely filed and if the
license has not been received by the promoter prior to the
opening of the show, the authorization contained in this section

1 with respect to the obtaining of a promoter's license shall be
2 deemed to have been complied with, unless or until the promoter
3 receives notice from the department denying the application for
4 a promoter's license.

5 (c) Compliance with vendor provisions.--Any promoter who is
6 a vendor under the provisions of section 1201 (relating to
7 definitions) shall comply with all the provisions of this
8 chapter applicable to vendors and with the provisions of this
9 section applicable to promoters.

10 (d) Duty of promoters at show.--No licensed promoter shall
11 permit any person to display for sale or to sell tangible
12 personal property or services subject to tax under section 1202
13 (relating to imposition of tax) at a show unless such person is
14 licensed under section 1208 (relating to licenses) and provides
15 to the promoter the information required under section 1271.1
16 (relating to reports and records of promoters).

17 (e) Denial or revocation of license.--Any licensed promoter
18 who permits any person to display for sale or to sell tangible
19 personal property or service without first having been licensed
20 under section 1208 fails to maintain records of a show under
21 section 1271.1, knowingly maintains false records or fails to
22 comply with any provision contained in this section or any
23 regulation promulgated by the department pertaining to shows
24 shall be subject to denial of a license or the revocation of any
25 existing license issued pursuant to this section. In addition,
26 the department may deny such promoter a license certificate to
27 operate a show for a period of not more than six months from the
28 date of such denial. Such penalty shall be in addition to any
29 other penalty imposed by this chapter. Within 20 days of notice
30 of denial or revocation of a license by the department, the

1 promoter may petition the department for a hearing, pursuant to
2 2 Pa.C.S. (relating to administrative law and procedure).

3 SUBCHAPTER L

4 REFUNDS AND CREDITS

5 Sec.

6 1250. Refund or credit for overpayment.

7 1251. Restriction on refunds.

8 1252. Refunds.

9 1253. Refund petition.

10 1254. Review by Board of Finance and Revenue.

11 1255. Appeal to Commonwealth Court.

12 1256. Extended time for filing special petition for refund.

13 § 1250. Refund or credit for overpayment.

14 With respect to all taxes paid to a vendor or to the
15 Commonwealth prior to April 5, 1957, in the case of any
16 overpayment, the department, within the applicable period of
17 limitations, may credit the amount of such overpayment against
18 any liability in respect of the tax imposed by this chapter on
19 the part of the person who made the overpayment and shall refund
20 any balance to such person.

21 § 1251. Restriction on refunds.

22 No refund shall be made under section 1250 (relating to
23 refund or credit for overpayment) without the approval of the
24 Board of Finance and Revenue.

25 § 1252. Refunds.

26 The department shall, pursuant to the provisions of sections
27 1253 (relating to refund petition) and 1254 (relating to review
28 by Board of Finance and Revenue), refund all taxes, interest and
29 penalties paid to the Commonwealth under the provisions of this
30 chapter and to which the Commonwealth is not rightfully

1 entitled. Refunds shall be made to the person, his heirs,
2 successors, assigns or other personal representatives, who
3 actually paid the tax. No refund shall be made under this
4 section with respect to any payment made by reason of an
5 assessment with respect to which a taxpayer has filed a petition
6 for reassessment pursuant to section 1232 (relating to
7 reassessment) to the extent that the petition has been
8 determined adversely to the taxpayer by a decision which is no
9 longer subject to further review or appeal. Nothing contained in
10 this section shall be deemed to prohibit a taxpayer who has
11 filed a timely petition for reassessment from amending it to a
12 petition for refund where the petitioner has paid the tax
13 assessed.

14 § 1253. Refund petition.

15 (a) Petition requirements and hearing.--Except as provided
16 for in section 1256 (relating to extended time for filing
17 special petition for refund) and in subsections (b) and (d), the
18 refund or credit of tax, interest or penalty provided for by
19 section 1252 (relating to refunds) shall be made only where the
20 person who has actually paid the tax files a petition for refund
21 with the department under section 3003.1 of the Tax Reform Code.
22 The petition for refund must set forth in reasonable detail the
23 grounds upon which the taxpayer claims that the Commonwealth is
24 not rightfully entitled to such tax, interest or penalty, in
25 whole or in part, and shall be accompanied by an affidavit
26 affirming that the facts contained in the petition are true and
27 correct. The department may hold hearings as necessary for the
28 purpose at the times and places as it may determine, and each
29 person who has filed a refund petition shall be notified by the
30 department of the time when, and the place where, the hearing

1 will be held.

2 (b) Refund upon assessment.--A refund or credit of tax,
3 interest or penalty, paid as a result of an assessment made by
4 the department under section 1231 (relating to mode and time of
5 assessment), shall be made only where the person who has
6 actually paid the tax files with the department a petition for a
7 refund with the department under section 3003.1(d) of the Tax
8 Reform Code. The filing of a petition for refund, under the
9 provisions of this subsection, shall not affect the abatement of
10 interest, additions or penalties to which the person may be
11 entitled by reason of his payment of the assessment.

12 (c) Decision by department.--It shall be the duty of the
13 department, within six months after receiving a petition for
14 refund, to dispose of the issue raised by the petition, and mail
15 notice of the department's decision to the petitioner. The
16 taxpayer and the department may, however, by stipulation, extend
17 such disposal time by not more than six additional months.

18 (d) Unconstitutional tax provision or erroneous
19 interpretation of provision.--Notwithstanding any other
20 provision of this section, where any tax, interest or penalty
21 has been paid under a provision of this chapter subsequently
22 held by final judgment of a court of competent jurisdiction to
23 be unconstitutional, or under an interpretation of such
24 provision subsequently held by such court to be erroneous, a
25 petition for refund may be filed either before or subsequent to
26 final judgment, but such petition must be filed under section
27 3003.1 of the Tax Reform Code. The department shall have
28 jurisdiction to hear and determine any such petition filed prior
29 to such final judgment only if, at the time of filing of the
30 petition, proceedings are pending in a court of competent

jurisdiction wherein the claim of unconstitutionality or of erroneous interpretation, made in the petition for refund may be established, and in such case, the department shall not take final action upon the petition for refund until the judgment determining the question involved in such petition has become final.

§ 1254. Review by Board of Finance and Revenue.

Within 90 days after the date of mailing of notice by the department of the decision upon a petition for refund filed with it, pursuant to section 1253 (relating to refund petition), the petitioner may further petition the Board of Finance and Revenue to review the decision of the department. The failure of the department to notify the petitioner of its decision within the time provided for by section 1253 shall act as a denial of the petition, and a petition for review may be filed with the Board of Finance and Revenue within 120 days of the date prior to which the department should have mailed to the petitioner its notice of decision. Every petition for review filed with the Board of Finance and Revenue under the provisions of this section shall incorporate by reference the petition for refund. The petitioner may, in his petition for review, elect to withdraw one or more grounds as set out in the original refund petition. The Board of Finance and Revenue shall act finally in disposing of such petitions filed with it within six months after they have been received. In the event of the failure of the board to dispose of any petition within six months, the action taken by the department upon the petition for refund shall be sustained. The Board of Finance and Revenue may sustain the action taken by the department on a petition for refund, or it may redetermine whether a lesser or greater amount of refund

1 is proper. Under no circumstances may the Board of Finance and
2 Revenue authorize a refund greater than that originally applied
3 for by the petitioner. The Board of Finance and Revenue shall
4 give notice of its action to the department and to the
5 petitioner.

6 § 1255. Appeal to Commonwealth Court.

7 Any person aggrieved by the decision of the Board of Finance
8 and Revenue under section 1254 (relating to review by Board of
9 Finance and Revenue) or by the board's failure to act upon a
10 petition for review within six months may appeal in the manner
11 now or hereafter provided for by law for appeals in the case of
12 tax settlements.

13 § 1256. Extended time for filing special petition for refund.

14 Any party to a transaction who has paid tax by reason of a
15 transaction with respect to which the department is assessing
16 tax against another person may, within six months after the
17 filing by the department of the assessment against such other
18 person, file a special petition for refund, notwithstanding his
19 failure to file a regular petition within three years of the
20 payment. The provisions of sections 1253 (relating to refund
21 petition), 1254 (relating to review by Board of Finance and
22 Revenue) and 1255 (relating to appeal to Commonwealth Court)
23 shall be applicable to such special petition for refund, except
24 that the department need not act on such petition until there is
25 a final determination as to the propriety of the assessment
26 filed against the other party to the transaction. Where a
27 petition is filed under this provision in order to take
28 advantage of the extended period of limitations, overpayments by
29 the petitioner shall be refunded but only to the extent of the
30 actual tax, without consideration of interest and penalties,

paid by the other party to the transaction. The purpose of this section is to avoid duplicate payment of tax where a determination is made by the department that one party to a transaction is subject to tax, and another party to the transaction has previously paid tax with respect to such transaction; and this section shall be construed as extending right beyond that provided for by section 1253, and not to limit such other section.

SUBCHAPTER M

LIMITATIONS

Sec.

1258. Limitation on assessment and collection.

1259. Failure to file return.

1260. False or fraudulent return.

1261. Extension of limitation period.

§ 1258. Limitation on assessment and collection.

The amount of the tax imposed by this chapter shall be assessed within three years after the date when the return provided for by section 1217(a) or (c) (relating to time for filing returns) is filed or the end of the year in which the tax liability arises, whichever occurs last. The assessment may be made at any time during such period notwithstanding that the department may have made one or more previous assessments against the taxpayer for the year in question, or for any part of such year. In any such case, no credit shall be given for any penalty previously assessed or paid.

§ 1259. Failure to file return.

Where no return is filed, the amount of the tax due may be assessed and collected at any time as to taxable transactions not reported.

1 § 1260. False or fraudulent return.

2 Where the taxpayer willfully files a false or fraudulent
3 return with intent to evade the tax imposed by this chapter, the
4 amount of tax due may be assessed and collected at any time.

5 § 1261. Extension of limitation period.

6 Notwithstanding any of the foregoing provisions of this
7 chapter, where, before the expiration of the period prescribed
8 therein for the assessment of a tax, a taxpayer has consented in
9 writing that the period be extended, the amount of tax due may
10 be assessed at any time within the extended period. The period
11 so extended may be extended further by subsequent consents in
12 writing made before the expiration of the extended period.

13 SUBCHAPTER N

14 INTEREST, ADDITIONS, PENALTIES AND CRIMES

15 Sec.

16 1265. Interest.

17 1266. Additions to tax.

18 1267. Penalties.

19 1268. Crimes.

20 1269. Abatement of additions or penalties.

21 § 1265. Interest.

22 If any amount of tax imposed by this chapter is not paid to
23 the department on or before the last date prescribed for
24 payment, interest on the amount at the rate of .75% per month
25 for each month, or fraction thereof, from such date, shall be
26 paid for the period from the last date to the date paid. The
27 last date prescribed for payment shall be determined under
28 section 1222(a) or (c) (relating to time of payment) without
29 regard to any extension of time for payment. In the case of any
30 amount assessed as a deficiency or as an estimated assessment,

1 the date prescribed for payment shall be 30 days after notice of
2 the assessment.

3 § 1266. Additions to tax.

4 (a) Failure to file return.--In the case of failure to file
5 any return required by section 1215 (relating to persons
6 required to make returns) on the date prescribed for filing,
7 determined with regard to any extension of time for filing, and
8 in the case in which a return filed understates the true amount
9 due by more than 50%, there shall be added to the amount of tax
10 actually due 5% of the amount of such tax if the failure to file
11 a proper return is for not more than one month, with an
12 additional 5% for each additional month, or fraction thereof,
13 during which the failure continues, not exceeding 25% in the
14 aggregate. In every such case at least \$2 shall be added.

15 (b) Addition for understatement.--There shall be added to
16 every assessment under section 1231(b) (relating to mode and
17 time of assessment) an addition equal to 5% of the amount of the
18 understatement and no addition to the tax shall be paid under
19 section 1231(a).

20 (c) Interest.--If the department assesses a tax according to
21 section 1231(a), (b) or (c), there shall be added to the amount
22 of the deficiency interest at the rate of .75% per month for
23 each month, or fraction thereof, from the date prescribed by
24 section 1222(a) or (c) (relating to time of payment) for the
25 payment of the tax to the date of notice of the assessment.

26 § 1267. Penalties.

27 (a) Penalty assessed as tax.--The penalties, additions,
28 interest and liabilities provided by this chapter shall be paid
29 upon notice and demand by the department and shall be assessed
30 and collected in the same manner as taxes. Except as otherwise

1 provided, any reference in this chapter to "tax" imposed by this
2 chapter shall be deemed also to refer to the penalties,
3 additions, interest and liabilities provided by this chapter.

4 (b) Attempt to evade or defeat tax.--Any person who
5 willfully attempts, in any manner, to evade or defeat the tax
6 imposed by this chapter, or the payment thereof, or to assist
7 any other person to evade or defeat the tax imposed by this
8 chapter, or the payment thereof, or to receive a refund
9 improperly, shall, in addition to other penalties provided by
10 law, be liable for a penalty equal to one-half of the total
11 amount of the tax evaded.

12 (c) Burden of proof.--In any direct proceeding arising out
13 of a petition for reassessment or refund as provided in this
14 chapter, in which an issue of fact is raised with respect to
15 whether a return is fraudulent or with respect to the propriety
16 of the imposition by the department of the penalty prescribed in
17 subsection (b), the burden of proof with respect to such issue
18 shall be upon the department.

19 § 1268. Crimes.

20 (a) Fraudulent return.--Any person who with intent to
21 defraud the Commonwealth shall willfully make, or cause to be
22 made, any return required by this chapter, which is false,
23 commits a misdemeanor and shall, upon conviction, be sentenced
24 to pay a fine not exceeding \$2,000 or to imprisonment for not
25 more than three years, or both.

26 (b) Other crimes.--Except as otherwise provided by
27 subsection (a), the following persons commit a misdemeanor and
28 shall, upon conviction, be sentenced to pay a fine not exceeding
29 \$1,000 and costs of prosecution, or to imprisonment for not more
30 than one year, or both:

1 (1) Any person who advertises or holds out or states to
2 the public or to any purchaser or user, directly or
3 indirectly, that the tax or any part thereof imposed by this
4 chapter will be absorbed by such person, or that it will not
5 be added to the purchase price of the tangible personal
6 property or services described in paragraphs (2), (3), (4)
7 and (11) through (18) under the definition of "sale at
8 retail" in section 1201 (relating to definitions) sold or, if
9 added, that the tax or any part thereof will be refunded,
10 other than when the person refunds the purchase price because
11 of the property being returned to the vendor.

12 (2) Any person selling or leasing tangible personal
13 property or services the sale or use of which by the
14 purchaser is subject to tax under this chapter, who shall
15 willfully fail to collect the tax from the purchaser and
16 timely remit the same to the department.

17 (3) Any person who shall willfully fail or neglect to
18 timely file any return or report required by this chapter or
19 any taxpayer who shall refuse to timely pay any tax, penalty
20 or interest imposed or provided for by this chapter, or who
21 shall willfully fail to preserve his books, papers and
22 records as directed by the department.

23 (4) Any person who shall refuse to permit the department
24 or any of its authorized agents to examine his books, records
25 or papers, or who shall knowingly make any incomplete, false
26 or fraudulent return or report, or who shall do, or attempt
27 to do, anything whatever to prevent the full disclosure of
28 the amount or character of taxable sales purchases or use
29 made by himself or any other person, or shall provide any
30 person with a false statement as to the payment of tax with

1 respect to particular tangible personal property or services,
2 or shall make, utter or issue a false or fraudulent exemption
3 certificate.

4 (c) Place of business outside Commonwealth.--Any person
5 maintaining a place of business outside this Commonwealth may
6 absorb the tax with respect to taxable sales made in the normal
7 course of business to customers present at the place of business
8 without being subject to the penalty and fines under subsection
9 (b).

10 (d) Prepaid mobile telecommunications services.--Advertising
11 tax-included prices shall be permissible, if the prepaid
12 services are sold by the service provider, for prepaid
13 telecommunications services not evidenced by the transfer of
14 tangible personal property or for prepaid mobile
15 telecommunications services.

16 (e) Other penalties.--The penalties imposed by this section
17 shall be in addition to any other penalties imposed by any
18 provision of this chapter.

19 § 1269. Abatement of additions or penalties.

20 Upon the filing of a petition for reassessment or a petition
21 for refund as provided under this chapter by a taxpayer,
22 additions or penalties imposed upon such taxpayer by this
23 chapter may be waived or abated, in whole or in part, where the
24 petitioner has established that he has acted in good faith,
25 without negligence and with no intent to defraud.

26 SUBCHAPTER O

27 ENFORCEMENT AND EXAMINATIONS

28 Sec.

29 1270. Rules and regulations.

30 1271. Keeping of records.

1 1271.1. Reports and records of promoters.

2 1272. Examinations.

3 1273. Records and examinations of delivery agents.

4 1274. Unauthorized disclosure.

5 1275. Cooperation with other governments.

6 1276. Interstate compacts.

7 1277. Bonds.

8 § 1270. Rules and regulations.

9 (a) General rule.--The department is charged with the
10 enforcement of this chapter, and is authorized and empowered to
11 prescribe, adopt, promulgate and enforce rules and regulations
12 not inconsistent with the provisions of this chapter, relating
13 to any matter or thing pertaining to the administration and
14 enforcement of this chapter, and the collection of taxes,
15 penalties and interest imposed by this chapter. The department
16 may prescribe the extent, if any, to which its rules and
17 regulations shall be applied without retroactive effect.

18 (b) Sales between affiliated interests.--In determining the
19 purchase price of taxable sales where, because of affiliation of
20 interests between the vendor and the purchaser or irrespective
21 of any affiliation, if for any other reason, the purchase price
22 of the sale is in the opinion of the department not indicative
23 of the true value of the article or the fair price thereof, the
24 department shall, pursuant to uniform and equitable rules,
25 determine the amount of constructive purchase price upon the
26 basis of which the tax shall be computed and levied. The rules
27 shall provide for a constructive amount of a purchase price for
28 each sale, which price shall equal a price for the article which
29 would naturally and fairly be charged in an arm's-length
30 transaction in which the element of common interests between

vendor and purchaser, or, if no common interest exists, any other element causing a distortion of the price or value is absent. For the purpose of this chapter where a taxable sale occurs between a parent corporation and a subsidiary affiliate or controlled corporation of the parent, there shall be a rebuttable presumption that because of the common interest the transaction was not at arm's-length.

§ 1271. Keeping of records.

(a) General rule.--Each person liable for any tax imposed by this chapter, or for the collection of any tax imposed by this chapter, shall keep the records, render the statements, make the returns and comply with the rules and regulations that the department may, from time to time, prescribe regarding matters pertinent to the persons business. Whenever in the judgment of the department it is necessary, it may require any person, by notice served upon the person, or by regulations, to make returns, render statements or keep records as the department deems sufficient to show whether or not the person is liable to pay or collect tax under this chapter.

(b) Persons collecting tax from others.--Any person liable to collect tax from another person under this chapter shall file reports, keep records, make payments and be subject to interest and penalties as provided for under this chapter, in the same manner as if the person were directly subject to the tax.

(c) Records of nonresidents.--A nonresident who does business in this Commonwealth as a retail dealer shall keep adequate records of the business or businesses and of the tax due with respect to the business or businesses, which records shall at all times be retained within this Commonwealth unless retention outside this Commonwealth is authorized by the

department. No taxes collected from purchasers shall be sent outside this Commonwealth without the written consent of and in accordance with conditions prescribed by the department. The department may require a taxpayer who desires to retain records or tax collections outside this Commonwealth to assume reasonable out-of-State audit expenses.

(d) Keeping of separate records.--Any person doing business as a retail dealer who at the same time is engaged in another business or businesses which do not involve the making of sales taxable under this chapter shall keep separate books and records of the person's businesses so as to show the sales taxable under this chapter separately from the person's sales not taxable under this chapter. If the person fails to keep separate books and records, the person shall be liable for tax at the rate designated in section 1202 (relating to imposition of tax) upon the entire purchase price of sales from both or all of the person's businesses.

(e) Other methods.--

(1) In those instances where a vendor gives no sales memoranda or uses registers showing only total sales, the vendor must adopt some method of segregating tax from sales receipts and keep records showing the segregation, all in accordance with proper accounting and business practices.

(2) A vendor may apply to the department for permission to use a collection and recording procedure which will show the information as the law requires with reasonable accuracy and simplicity. A vendor's application must contain a detailed description of the procedure to be adopted. Permission to use the proposed procedure is not to be construed as relieving the vendor from remitting the full

1 amount of tax collected. The department may revoke permission
2 upon 30 days' notice to the vendor. Refusal of the department
3 to grant permission in advance to use the procedure shall not
4 be construed to invalidate a procedure which upon examination
5 shows the information as the law requires.

6 § 1271.1. Reports and records of promoters.

7 Each licensed promoter shall keep a record of the date and
8 place of each show and the name, address, sales, use and hotel
9 occupancy license number of each person whom the licensed
10 promoter permits to display for sale or to sell tangible
11 personal property or services subject to tax under section 1202
12 (relating to imposition of tax) at the show. The records shall
13 be open for inspection and examination at any reasonable time by
14 the department or its authorized representative, and the records
15 shall, unless the department consents in writing to an earlier
16 destruction, be preserved for three years after the date the
17 report was filed or the date it was due, whichever occurs later,
18 except that the department may by regulation require that they
19 be kept for a longer period of time.

20 § 1272. Examinations.

21 The department or any of its authorized agents are authorized
22 to examine the books, papers and records of any taxpayer in
23 order to verify the accuracy and completeness of any return made
24 or, if no return was made, to ascertain and assess the tax
25 imposed by this chapter. The department may require the
26 preservation of any books, papers and records for any period
27 deemed proper by it but not to exceed three years from the end
28 of the calendar year to which the records relate. Each taxpayer
29 is required to give to the department, or its agent, the means,
30 facilities and opportunity for examinations and investigation.

The department is further authorized to examine any person, under oath, concerning taxable sales or use by any taxpayer or concerning any other matter relating to the enforcement or administration of this chapter, and to this end may compel the production of books, papers and records and the attendance of all persons whether as parties or witnesses whom it believes to have knowledge of such matters. The procedure for hearings or examinations shall be the same as that provided by the Fiscal Code, relating to inquisitorial powers of fiscal officers.

§ 1273. Records and examinations of delivery agents.

Each agent for the purpose of delivery of goods shipped into this Commonwealth by a nonresident including, but not limited to, common carriers, shall maintain adequate records of the deliveries pursuant to rules and regulations adopted by the department and shall make the records available to the department upon request after due notice.

§ 1274. Unauthorized disclosure.

Any information gained by the department as a result of any return, examination, investigation, hearing or verification, required or authorized by this chapter, shall be confidential, except for official purposes and except in accordance with proper judicial order or as otherwise provided by law, and any person unlawfully divulging the information commits a misdemeanor and shall, upon conviction, be sentenced to pay a fine of not more than \$1,000 and costs of prosecution, or to imprisonment for not more than one year, or both.

§ 1275. Cooperation with other governments.

Notwithstanding the provisions of section 1274 (relating to unauthorized disclosure), the department may permit the Commissioner of Internal Revenue of the United States, or the

1 proper officer of any state, or the authorized representative of
2 either, to inspect the tax returns of any taxpayer, or may
3 furnish to such officer or to an authorized representative an
4 abstract of the return of any taxpayer, or supply the officer
5 with information concerning any item contained in any return or
6 disclosed by the report of any examination or investigation of
7 the return of any taxpayer. This permission shall be granted
8 only if the statutes of the United States or of the other state,
9 as the case may be, grant substantially similar privileges to
10 the proper officer of the Commonwealth charged with the
11 administration of this chapter.

12 § 1276. Interstate compacts.

13 The Governor, or an authorized representative, has the
14 authority to confer with the governors and the authorized
15 representatives of other states with respect to reciprocal use
16 tax collection between Pennsylvania and the other states. The
17 Governor, or a representative, is authorized to join with the
18 authorities of other states to conduct joint investigations, to
19 exchange information, to hold joint hearings and to enter into
20 compacts or interstate agreements with the other states to
21 accomplish uniform reciprocal use tax collections between those
22 states who are parties to any compact or interstate agreement
23 and the Commonwealth of Pennsylvania.

24 § 1277. Bonds.

25 (a) Taxpayer to file bond.--

26 (1) Whenever the department, in its discretion, deems it
27 necessary to protect the revenues to be obtained under this
28 chapter, it may require any nonresident natural person or any
29 foreign corporation, association, fiduciary, partnership or
30 other entity not authorized to do business within this

1 Commonwealth or not having an established place of business
2 in this Commonwealth and subject to the tax imposed by
3 section 1202 (relating to imposition of tax) to file a bond
4 issued by a surety company authorized to do business in this
5 Commonwealth and approved by the Insurance Commissioner as to
6 solvency and responsibility, in an amount as the department
7 may fix, to secure the payment of any tax or penalties due,
8 or which may become due, from the natural person or
9 corporation.

10 (2) In order to protect the revenues to be obtained
11 under this chapter, the department shall require any
12 nonresident natural person or any foreign corporation,
13 association, fiduciary, partnership or entity, who or which
14 is a building contractor, or who or which is a supplier
15 delivering building materials for work in this Commonwealth
16 and is not authorized to do business within this Commonwealth
17 or does not have an established place of business in this
18 Commonwealth and is subject to the tax imposed by section
19 1202 to file a bond issued by a surety company authorized to
20 do business in this Commonwealth and approved by the
21 Insurance Commissioner as to solvency and responsibility, in
22 an amount as the department may fix, to secure the payments
23 of any tax or penalties due, or which may become due, from
24 the natural person, corporation or other entity.

25 (3) The department may also require a bond of any person
26 petitioning the department for reassessment, in the case of
27 any assessment over \$500 or where it is of the opinion that
28 the ultimate collection is in jeopardy. The department may,
29 for a period of three years, require a bond of any person who
30 has on three or more occasions within a 12-month period

1 either filed a return or made payment to the department more
2 than 30 days late.

3 (4) In the event that the department determines that a
4 taxpayer is to file a bond, it shall give notice to the
5 taxpayer to that effect, specifying the amount of the bond
6 required. The taxpayer shall file the bond within five days
7 after the giving of notice by the department unless, within
8 the five days, the taxpayer shall request, in writing, a
9 hearing before the Secretary of Revenue or a representative
10 at which hearing the necessity, propriety and amount of the
11 bond shall be determined by the secretary or representative.
12 The determination shall be final and shall be complied with
13 within 15 days after notice of the determination is mailed to
14 the taxpayer.

15 (b) Securities in lieu of bond.--In lieu of the bond
16 required by this section, securities approved by the department,
17 or cash in an amount as prescribed by the department, may be
18 deposited. The securities or cash shall be kept in the custody
19 of the department, which may, at any time, without notice to the
20 depositor, apply them to any tax, interest or penalties due, and
21 for that purpose the securities may be sold by the department,
22 at public or private sale, upon five days' written notice to the
23 depositor.

24 (c) Failure to file bond.--The department may file a lien
25 pursuant to section 1242 (relating to lien for taxes) against
26 any taxpayer who fails to file a bond when required to do so
27 under this section. All funds received upon execution of the
28 judgment on a lien shall be refunded to the taxpayer with 3%
29 interest should a final determination be made that the taxpayer
30 does not owe any payment to the department.

1 SUBCHAPTER P

2 APPROPRIATION; EFFECTIVE DATE

3 Sec.

4 1281. Appropriation for refunds.

5 1281.1. Construction of chapter.

6 1281.2. Transfers to Public Transportation Assistance Fund.

7 1281.3. Transfer to Property Tax Stabilization Fund.

8 § 1281. Appropriation for refunds.

9 So much of the proceeds of the tax imposed by this chapter as
10 shall be necessary for the payment of refunds, enforcement or
11 administration under this chapter is hereby appropriated for
12 such purposes.

13 § 1281.1. Construction of chapter.

14 To the extent that the language of this chapter is identical
15 to that of equivalent provisions in the former act of March 6,
16 1956 (1955 P.L.1228, No.381), known as the Tax Act of 1963 for
17 Education, the language shall be deemed a reenactment of the
18 identical provisions.

19 § 1281.2. Transfers to Public Transportation Assistance Fund.

20 (a) Transfer from imposition of tax on periodicals.--All
21 revenues received on or after July 1, 1992, from the imposition
22 of the tax on periodicals shall be transferred to the Public
23 Transportation Assistance Fund according to the formula set
24 forth in subsection (b).

25 (b) Transfer to Public Transportation Assistance Fund.--
26 Within 30 days of the close of any calendar month, 0.44% of the
27 taxes received in the previous month under this chapter, less
28 any amounts collected in that previous calendar month under
29 former 74 Pa.C.S. § 1314(d) (relating to Public Transportation
30 Assistance Fund), shall be transferred to the Public

Transportation Assistance Fund established under Article XXIII of the Tax Reform Code.

(c) Other transfer.--Within 30 days of the close of any calendar month, 0.09% of the taxes received in the previous month under this chapter shall be transferred to the Public Transportation Assistance Fund established under Article XXIII of the Tax Reform Code.

(d) Transfer after June 30, 2003.--Within 30 days of the close of a calendar month, 0.417% of the taxes received in the previous month under this chapter shall be transferred to the Public Transportation Assistance Fund established under Article XXIII of the Tax Reform Code. This subsection applies to deposits into the Public Transportation Assistance Fund made after June 30, 2003.

§ 1281.3. Transfer to Property Tax Stabilization Fund.

Within 30 days of the close of any calendar month, 14.285% of the taxes received in the previous month under this chapter shall be transferred to the Property Tax Stabilization Fund.

CHAPTER 13

SPECIAL SITUS FOR LOCAL SALES TAX

Sec.

1301. Definitions.

1302. Leased or rental vehicles or crafts.

1303. Construction materials.

1304. Mobile telecommunications services.

§ 1301. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

"Lease." A contract for the use of a motor vehicle or other

1 tangible personal property referred to in section 1302(a)
2 (relating to leased or rental vehicles or crafts) for a period
3 of 30 days or more.

4 "Rental." A contract for the use of a motor vehicle or other
5 tangible personal property referred to in section 1302(b)
6 (relating to leased or rental vehicles or crafts) for a period
7 of less than 30 days.

8 § 1302. Leased or rental vehicles or crafts.

9 (a) Lease.--For purposes of this chapter, the lease of a
10 motor vehicle, trailer, semitrailer or mobile home, as defined
11 in 75 Pa.C.S. (relating to vehicles), or of a motorboat,
12 aircraft or other similar tangible personal property required
13 under either Federal or State laws to be registered or licensed
14 shall be deemed to have been completed or used at the address of
15 the lessee. In the case of a lease, the tax shall be paid by the
16 lessee to the lessor.

17 (b) Rental.--For purposes of this chapter, the rental of a
18 motor vehicle, trailer, semitrailer or mobile home, as defined
19 in 75 Pa.C.S., or of a motorboat, aircraft or other similar
20 tangible personal property required under either Federal or
21 State laws to be registered or licensed shall be deemed to be
22 consummated at the place of business of the retailer. In the
23 case of a rental, the tax due shall be paid by the renter to the
24 retailer.

25 (c) Applicability.--This chapter shall only apply to any
26 sales tax imposed under Article XXXI-B of the act of July 28,
27 1953 (P.L.723, No.230), known as the Second Class County Code,
28 and under the act of June 5, 1991 (P.L.9, No.6), known as the
29 Pennsylvania Intergovernmental Cooperation Authority Act for
30 Cities of the First Class.

1 § 1303. Construction materials.

2 (a) Final destination.--Notwithstanding the provisions of
3 section 504 of the act of June 5, 1991 (P.L.9, No.6), known as
4 the Pennsylvania Intergovernmental Cooperation Authority Act for
5 Cities of the First Class, the sale or use of road construction
6 material, including recycled asphalt, recycled concrete,
7 asphalt, concrete and road aggregates, shall be deemed to have
8 been consummated at the location of its final destination. Final
9 destination will be determined by reference to delivery or
10 shipping documents relating to such sales.

11 (b) Applicability.--This section shall apply to taxes levied
12 under Chapter 5 of the Pennsylvania Intergovernmental
13 Cooperation Authority Act for Cities of the First Class. This
14 section shall not apply to taxes levied under Article XXXI-B of
15 the act of July 28, 1953 (P.L.723, No.230), known as the Second
16 Class County Code.

17 § 1304. Mobile telecommunications services.

18 (a) Primary use.--For purposes of this chapter, the situs of
19 the sales or use of mobile telecommunications services which are
20 deemed to be provided to a customer by a home service provider
21 under section 117 of the Mobile Telecommunications Sourcing Act
22 (4 U.S.C. § 117(a) and (b)) shall be the customer's place of
23 primary use regardless of where the mobile telecommunications
24 services originate, terminate or pass through.

25 (b) Definitions.--For purposes of this section, words and
26 phrases used in this section shall have the meanings given to
27 them in the Mobile Telecommunications Sourcing Act.

28 PART III

29 TAX RELIEF

30 Chapter

1 21. Homeowner Property Tax Relief

2 CHAPTER 21

3 HOMEOWNER PROPERTY TAX RELIEF

4 Subchapter

5 A. General Provisions

6 B. Formula

7 C. Tax Relief in Cities of the First Class

8 D. Funds

9 SUBCHAPTER A

10 GENERAL PROVISIONS

11 Sec.

12 2101. Scope.

13 2102. Definitions.

14 § 2101. Scope.

15 This chapter relates to the allocation of State funds for
16 homestead and farmstead property tax reductions.

17 § 2102. Definitions.

18 The following words and phrases when used in this chapter
19 shall have the meanings given to them in this section unless the
20 context clearly indicates otherwise:

21 "Allocation maximum." The Statewide average reduction plus a
22 numerical value of 0.10. The allocation maximum shall not be
23 greater than a numerical value of 0.50.

24 "Allocation minimum." The Statewide average reduction minus
25 a numerical value of 0.10. The allocation minimum shall not be
26 less than a numerical value of 0.05.

27 "Assessor." The term as it is defined in 53 Pa.C.S. § 8582
28 (relating to definitions).

29 "Average daily membership." All resident pupils of the
30 school district for whom the school district is financially

responsible. It shall be calculated by dividing the aggregate days membership for all children on active rolls by the number of days the school is in session.

"Department." The Department of Education of the Commonwealth.

"Equalized millage." The term shall have the same usage as defined in section 2501(9.2) of the act of March 10, 1949 (P.L.30, No.14), known as the Public School Code of 1949.

"Farmstead." As defined in 53 Pa.C.S. § 8582 (relating to definitions).

"Farmstead property." As defined in 53 Pa.C.S. § 8582 (relating to definitions).

"Fund." The Property Tax Stabilization Fund.

"Homestead." As defined in 53 Pa.C.S. § 8582 (relating to definitions).

"Homestead property." As defined in 53 Pa.C.S. § 8582 (relating to definitions).

"Real property tax." The total dollar value of real property taxes paid by property owners in a school district determined by adding the real property taxes collected by, or on behalf of, the school district plus all State allocations received pursuant to this chapter.

"Real property tax liability." The assessed value of the real property of the taxpayer multiplied by the millage rate of the school district.

"Residential property tax." The dollar value of real property taxes paid by residential property owners in a school district, determined by multiplying:

(1) the real property taxes collected by the school district; by

1 (2) the percentage of the total property value in the
2 school district classified as residential by the State Tax
3 Equalization Board.

4 "School district." A school district of the first class,
5 first class A, second class, third class or fourth class.

6 "School district of the first class." Includes the governing
7 body of a city of the first class.

8 "Secretary." The Secretary of the Budget of the
9 Commonwealth.

10 "Statewide Average Reduction." The amount certified under
11 section 2111 divided by the sum of all residential property
12 taxes for all school districts collected during the third year
13 immediately preceding the fiscal year for which the
14 certification is being made, rounded to the nearest one-tenth of
15 one percent.

16 "Taxpayer." A person required to pay a real property tax.

17 SUBCHAPTER B

18 FORMULA

19 Sec.

20 2111. Certification.

21 2112. Notification.

22 2113. State allocation.

23 § 2111. Certification.

24 (a) Initial.--By April 15, 2007, the secretary shall certify
25 the greater of the following:

26 (1) The total amount of revenue that is reasonably
27 projected to be deposited into the fund for the period
28 through June 30, 2007.

29 (2) \$300,000,000.

30 (b) Annual.--Beginning April 15, 2008, and each April 15

1 thereafter, the secretary shall certify the greater of the
2 following:

3 (1) The total amount of revenue that is reasonably
4 expected to be deposited into the fund for the current fiscal
5 year.

6 (2) The amount certified by the secretary under this
7 section for the prior fiscal year.

8 (c) Excess.--If the actual revenue deposited into the fund
9 in any one fiscal year exceeds the amount certified in this
10 section, any revenue in excess of projections shall remain in
11 the fund and shall be included in the certification for the
12 subsequent fiscal year.

13 (d) Shortage.--If the actual revenue deposited into the fund
14 in any one fiscal year is less than the amount certified in this
15 section, the secretary shall transfer from the Property Tax
16 Stabilization Reserve Fund to the fund either of the following:

17 (1) For calendar year 2007, the amount equal to the
18 difference between the amount certified under subsection (a)
19 and \$300,000,000.

20 (2) For calendar year 2008 and each calendar year
21 thereafter, the amount equal to the difference between the
22 amount certified under subsection (b) and the amount
23 certified under this section for the prior year.

24 § 2112. Notification.

25 By April 20, 2007, and each April 20 thereafter, the
26 secretary shall notify the department of the amount certified
27 pursuant to section 2111 (relating to certification) for
28 calculation of the allocation for each school district under
29 section 2113 (relating to State allocation).

30 § 2113. State allocation.

1 (a) Calculation.--The department shall calculate the State
2 allocation for each school district as follows:

3 (1) For the 2007-2008 fiscal year:

4 (i) Multiply the school district's 2004-2005 average
5 daily membership by the school district's 2004-2005
6 equalized millage.

7 (ii) Multiply the product under subparagraph (i) by
8 the dollar amount necessary to allocate all of the money
9 in the fund as certified under section 2111 (relating to
10 certification).

11 (iii) If the allocation under this paragraph is less
12 than the product of the residential property taxes
13 collected during the 2004-2005 fiscal year and the
14 allocation minimum for a school district, the school
15 district shall receive an additional amount so that the
16 total allocation under this paragraph is equal to the
17 product of the residential property taxes collected
18 during the 2004-2005 fiscal year and the allocation
19 minimum.

20 (iv) If the allocation under this paragraph is
21 greater than the product of the residential property
22 taxes collected during the 2004-2005 fiscal year and the
23 allocation maximum for a school district, the school
24 district shall receive a total allocation equal to the
25 product of the residential property taxes collected
26 during the 2004-2005 fiscal year and the allocation
27 maximum.

28 (2) For subsequent fiscal years:

29 (i) Multiply the school district's average daily
30 membership for the third fiscal year immediately

1 preceding the fiscal year for which the allocation is
2 being made by the school district's equalized millage for
3 the third fiscal year immediately preceding the fiscal
4 year for which the allocation is being made.

5 (ii) Multiply the product under subparagraph (i) by
6 the dollar amount necessary to allocate all of the money
7 in the fund as certified under section 2111.

8 (iii) If the allocation under this paragraph is less
9 than the product of the residential property taxes
10 collected during the third fiscal year immediately
11 preceding the fiscal year for which the allocation is
12 being made and the allocation minimum for a school
13 district, the school district shall receive an additional
14 amount so that the total allocation under this paragraph
15 is equal to the product of the residential property taxes
16 collected during the third fiscal year immediately
17 preceding the fiscal year for which the allocation is
18 being made and the allocation minimum.

19 (iv) If the allocation under this paragraph is
20 greater than the product of the residential property
21 taxes collected during the third fiscal year immediately
22 preceding the fiscal year for which the allocation is
23 being made and the allocation maximum for a school
24 district, the school district shall receive a total
25 allocation equal to the product of the residential
26 property taxes collected during the third fiscal year
27 immediately preceding the fiscal year for which the
28 allocation is being made and the allocation maximum.

29 (b) Notice.--By May 15, 2007, and each May 15 thereafter,
30 the department shall notify each school district of the amount

1 of the State allocation it is eligible to receive.

2 (c) Payment.--Beginning 2007 and each year thereafter, the
3 department shall pay from the fund to each school district a
4 State allocation which shall be made concurrently with the first
5 payment under section 2517 of the act of March 10, 1949 (P.L.30,
6 No.14), known as the Public School Code of 1949.

7 (d) Use of payments.--Except as provided in Subchapter C,
8 the State allocation for a school district shall be used for
9 homestead and farmstead exclusions in accordance with law.

10 SUBCHAPTER C

11 TAX RELIEF IN CITIES OF THE FIRST CLASS

12 Sec.

13 2131. Tax relief in cities of the first class.

14 § 2131. Tax relief in cities of the first class.

15 (a) Tax rate reduction.--A city of the first class shall
16 reduce the rate of wage and net profits tax on residents and
17 nonresidents levied under the act of August 5, 1932 (Sp.Sess.,
18 P.L.45, No.45), referred to as the Sterling Act, in order to be
19 eligible to receive a State allocation under this chapter. If
20 the city elects to reduce taxes pursuant to this section, all
21 money received from the fund under section 2113 (relating to
22 State allocation) shall be used to offset a reduction by the
23 city in the fiscal year in which a payment under section 2113 is
24 received and each fiscal year thereafter in the rate of tax on
25 wages and net profits for both residents and nonresidents as
26 provided for in subsection (b). The reductions shall remain in
27 effect for so long as a State allocation under section 2113 is
28 paid to the city in an amount equal to the cost of such
29 reductions.

30 (b) Calculation of reduction.--

1 (1) The city shall calculate the amount of the tax rate
2 reductions so that they equal, based on estimates certified
3 by the city's director of finance and approved by the
4 Pennsylvania Intergovernmental Cooperation Authority prior to
5 the implementation of the reductions, in combination with any
6 reduction in the rate of unearned income tax imposed by a
7 school district in the city of the first class required by
8 the act of August 9, 1963 (P.L.640, No.338), entitled "An act
9 empowering cities of the first class, coterminous with school
10 districts of the first class, to authorize the boards of
11 public education of such school districts to impose certain
12 additional taxes for school district purposes, and providing
13 for the levy, assessment and collection of such taxes," as a
14 result of the reduction in the rate of wage and net profits
15 tax, the amount paid to the city from the fund for tax
16 reductions. The city shall each year transfer to the school
17 district an amount equal to the cost of any reduction in the
18 rate of unearned income tax, and the transfer shall not be
19 subject to the provisions of section 696(h) of the act of
20 March 10, 1949 (P.L.30, No.14), known as the Public School
21 Code of 1949.

22 (2) The tax rate reductions implemented by a city of the
23 first class pursuant to this section shall be in addition to
24 the following schedule of percentages of wage and net profits
25 tax rate reductions:

26 (i) On January 1, 2007, 0.9533% for residents and
27 0.4216% for nonresidents.

28 (ii) On January 1, 2008, 0.9624% for residents and
29 0.8387% for nonresidents.

30 (iii) On January 1, 2009, 1.1851% for residents and

1 1.0526% for nonresidents.

2 (c) Exceptions.--The wage and net profits tax rates may only
3 be raised above the rates specified in subsection (b)(2) if all
4 of the following apply:

5 (1) The increase is approved by an affirmative vote of
6 at least ten members of a city council of a city of the first
7 class.

8 (2) The Pennsylvania Intergovernmental Cooperation
9 Authority certifies that a condition under paragraph (3)
10 exists.

11 (3) The increase is necessary to respond to any of the
12 following:

13 (i) A fiscal threat or condition, as certified by
14 the city's director of finance, that occurs to the city
15 as set forth in the applicable statutory provision
16 relating to public referendum requirements for increasing
17 certain taxes or an equivalent fiscal threat that affects
18 the citizens of the city. It shall be the responsibility
19 of the city's director of finance with the approval of
20 the Pennsylvania Intergovernmental Cooperation Authority
21 to ensure that any additional tax revenue raised is equal
22 to the amount expended to respond to the fiscal threat or
23 condition. If the amount of revenue raised through rate
24 adjustment exceeds the amount necessary to respond, over
25 the course of the city's approved financial plan, to the
26 fiscal threat, the excess amount shall be used for wage
27 tax and net profits tax reduction in the immediately
28 succeeding approved financial plan, but only if the tax
29 rate reduction, expressed as the difference between the
30 two tax rates, would exceed .0002.

1 (ii) A decrease of more than 2% in the amount of
2 total tax collections plus any funds provided under this
3 chapter from the preceding year's collections. Such a
4 determination of a decrease must be attested to by the
5 city's director of finance.

6 (iii) A declaration by the Pennsylvania
7 Intergovernmental Cooperation Authority that the city's
8 five-year plan is disapproved pursuant to section 209 of
9 the act of June 5, 1991 (P.L.9, No.6), known as the
10 Pennsylvania Intergovernmental Cooperation Authority Act
11 for Cities of the First Class.

12 (iv) Federal or State law imposes a new unfunded
13 mandate on the city that costs the city more than 1.5% of
14 the city's total general fund expenditures in any fiscal
15 year.

16 (v) The cost to the city of an existing mandate
17 imposed by Federal or State law increases by more than
18 1.5% of the city's total general fund expenditures in any
19 fiscal year and funds to pay for the increase are not
20 appropriated to the city by the Federal or State
21 government.

22 (vi) Existing Federal or State funding is decreased
23 by 1.5% of the city's total general fund expenditures in
24 any fiscal year.

25 (d) Excess funds.--If in any fiscal year the sums received
26 by a city of the first class from the fund are in excess of the
27 value of the tax rate reductions actually made by the city and
28 the school district of the first class pursuant to subsection
29 (a), the city shall, within 60 days following the certification
30 by the director of finance, in consultation with the Secretary

of the Budget and with the approval of the Pennsylvania Intergovernmental Cooperation Authority of the amount of the excess, do either of the following:

(1) repay to the fund the excess sums; or

(2) further reduce wage and net profits tax rates and unearned income tax rates, if required, in the fiscal year next following the determination of the excess, by an amount that will result in total tax rate reductions required for the amount received from the fund. To the extent the tax rate reduction provided for in this paragraph, expressed as the difference between the two tax rates, would not exceed .0002, this subsection shall not apply.

(e) Insufficient funds.--If in any fiscal year the director of finance certifies, in consultation with the Secretary of the Budget and with the approval of the Pennsylvania Intergovernmental Cooperation Authority, that the amount of sums received by the city from the fund are less than the value of the tax rate reductions actually made by the city and school district of the first class pursuant to subsection (a), the city may, in the fiscal year next following the determination of the amount, increase the city's wage and net profits tax rate above the rates specified in subsection (b)(2) by an amount that will result in an overall tax rate reduction equal to that required for the amount received by the city from the fund. To the extent the tax rate increase provided for in this subsection, expressed as the difference between the two tax rates, would not exceed .0002, this subsection shall not apply.

SUBCHAPTER D

FUNDS

Sec.

1 2141. Property Tax Stabilization Reserve Fund.

2 2142. Property Tax Stabilization Fund.

3 § 2141. Property Tax Stabilization Reserve Fund.

4 (a) Fund established.--There is established within the fund
5 a restricted receipts account to be known as the Property Tax
6 Stabilization Reserve Fund. Interest which accrues on the
7 Property Tax Stabilization Reserve Fund shall be credited to the
8 fund.

9 (b) Receipts.--The secretary is authorized to transfer funds
10 from the fund into the Property Tax Stabilization Reserve Fund
11 necessary to comply with the requirements of subsection (c).

12 (c) Balance.--

13 (1) The secretary shall ensure that \$200,000,000 exists
14 in the Property Tax Stabilization Reserve Fund prior to
15 making a certification under section 2111 (relating to
16 certification).

17 (2) If a transfer was made under section 2111(d), the
18 secretary shall deposit funds necessary to ensure that
19 \$200,000,000, is available in the Property Tax Stabilization
20 Reserve Fund prior to making a certification under section
21 2111.

22 (d) Nonlapse.--The money in the Property Tax Stabilization
23 Reserve Fund is continuously appropriated to the Property Tax
24 Stabilization Fund and shall not lapse at the end of any fiscal
25 year.

26 § 2142. Property Tax Stabilization Fund.

27 There is established a special fund to be known as the
28 Property Tax Stabilization Fund. Interest which accrues on money
29 in the fund shall be credited to the fund.

30 Section 3. Repeals are as follows:

1 (1) The General Assembly declares that the repeal under
2 paragraph (2) is necessary to effectuate this act.

3 (2) Articles II and II-A of the act of March 4, 1971
4 (P.L.6, No.2), known as the Tax Reform Code of 1971.

5 Section 4. The addition of 72 Pa.C.S. Ch. 12 is a
6 continuation of Article II of the act of March 4, 1971 (P.L.6,
7 No.2), known as the Tax Reform Code of 1971. The following
8 apply:

9 (1) Except as otherwise provided in 72 Pa.C.S. Ch. 12,
10 all activities initiated under Article II of the Tax Reform
11 Code of 1971 shall continue and remain in full force and
12 effect and may be completed under 72 Pa.C.S. Ch. 12. Orders,
13 regulations, rules and decisions which were made under
14 Article II of the Tax Reform Code of 1971 and which are in
15 effect on the effective date of section 3 of this act shall
16 remain in full force and effect until revoked, vacated or
17 modified under 72 Pa.C.S. Ch. 12.

18 (2) Except as set forth in paragraph (3), any difference
19 in language between 72 Pa.C.S. Ch. 12 and Article II of the
20 Tax Reform Code of 1971 is intended only to conform to the
21 style of the Pennsylvania Consolidated Statutes and is not
22 intended to change or affect the legislative intent, judicial
23 construction or administration and implementation of Article
24 II of the Tax Reform Code of 1971.

25 (3) Paragraph (2) does not apply to the addition of any
26 of the following provisions of Title 72:

27 (i) Section 1202(a), (b), (c)(1), (d), (e)(3)(i),
28 (e.1)(3)(i) and (g).

29 (ii) Section 1203.

30 (iii) Section 1204(28), (37), (47), (48) and (58).

1 (iv) Section 1205(a)(2) and (b)(2).

2 (v) Section 1210.

3 (vi) Section 1217(a)(2) and (d).

4 (vii) Section 1281.3.

5 Section 5. The addition of 72 Pa.C.S. Ch. 13 is a
6 continuation of Article II-A of the act of March 4, 1971 (P.L.6,
7 No.2), known as the Tax Reform Code of 1971. Except as otherwise
8 provided in 72 Pa.C.S. Ch. 13, all activities initiated under
9 Article II-A of the Tax Reform Code of 1971 shall continue and
10 remain in full force and effect and may be completed under 72
11 Pa.C.S. Ch. 13. Orders, regulations, rules and decisions which
12 were made under Article II-A of the Tax Reform Code of 1971 and
13 which are in effect on the effective date of section 3 of this
14 act shall remain in full force and effect until revoked, vacated
15 or modified under 72 Pa.C.S. Ch. 13.

16 Section 6. This act shall take effect as follows:

17 (1) Except as provided in paragraph (2), the following
18 provisions shall take effect January 1, 2007:

19 (i) The addition of 72 Pa.C.S. Ch. 12.

20 (ii) The addition of 72 Pa.C.S. Ch. 13.

21 (iii) Section 3 of this act.

22 (2) The addition of 72 Pa.C.S. § 1281.3 shall take
23 effect February 1, 2007.

24 (3) The remainder of this act shall take effect
25 immediately.