

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1875 Session of
2009

INTRODUCED BY CALTAGIRONE, EACHUS, McCALL AND D. EVANS,
JULY 17, 2009

REFERRED TO COMMITTEE ON APPROPRIATIONS, JULY 17, 2009

AN ACT

1 Amending the act of March 4, 1971 (P.L.6, No.2), entitled "An
2 act relating to tax reform and State taxation by codifying
3 and enumerating certain subjects of taxation and imposing
4 taxes thereon; providing procedures for the payment,
5 collection, administration and enforcement thereof; providing
6 for tax credits in certain cases; conferring powers and
7 imposing duties upon the Department of Revenue, certain
8 employers, fiduciaries, individuals, persons, corporations
9 and other entities; prescribing crimes, offenses and
10 penalties," providing for an optional sales and use tax for
11 third class counties.

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

14 Section 1. Section 201 introductory paragraph of the act of
15 March 4, 1971 (P.L.6, No.2), known as the Tax Reform Code of
16 1971, is amended to read:

17 Section 201. Definitions.--The following words, terms and
18 phrases when used in this Article II or in Article II-B shall
19 have the meaning ascribed to them in this section, except where
20 the context clearly indicates a different meaning:

21 * * *

22 Section 2. The act is amended by adding an article to read:

1 ARTICLE II-B

2 OPTIONAL SALES AND USE TAX FOR COUNTIES OF THE THIRD CLASS

3 Section 201-B. Definitions.

4 (a) Article II.--The definitions in section 201 apply to
5 this article.

6 (b) Specific.--The following words and phrases when used in
7 this article shall have the meanings given to them in this
8 subsection unless the context clearly indicates otherwise:

9 "County." A county of the third class.

10 "Fund." The Local Sales and Use Tax Fund.

11 Section 202-B. Construction.

12 (a) Additional tax.--The tax imposed by a county under this
13 article shall be in addition to any tax imposed by the
14 Commonwealth under Article II.

15 (b) Article II.--Except for the differing situs provisions
16 under section 204-B, Article II applies to this article.

17 Section 203-B. Imposition.

18 (a) Sales.--

19 (1) The governing body of a county may levy, assess and
20 collect, upon each separate sale at retail of tangible
21 personal property or services within the county, a tax on the
22 purchase price.

23 (2) The tax shall be collected by the vendor from the
24 purchaser and shall be paid over to the Commonwealth as
25 provided in this article.

26 (b) Use.--

27 (1) If a county imposes the tax under subsection (a),
28 the governing body of the county shall levy, assess and
29 collect, upon the use within the county of tangible personal
30 property purchased at retail and of services purchased at

1 retail, a tax on the purchase price.

2 (2) Except as set forth in paragraph (3), the tax shall
3 be paid over to the Commonwealth by the person that makes the
4 use.

5 (3) The tax shall not be paid over to the Commonwealth
6 by a person that, with respect to the same taxable subject:

7 (i) has paid the tax under subsection (a); or

8 (ii) has paid the tax imposed by this subsection to
9 the vendor.

10 (c) Rate and uniformity.--The rate of the tax authorized by
11 this section shall be 1%.

12 (d) Computation.--The tax under this section shall be
13 computed as follows:

14 (1) If the purchase price is 50¢ or less, no tax shall
15 be collected.

16 (2) If the purchase price is 51¢ or more but less than
17 \$1.51, 1¢ shall be collected.

18 (3) If the purchase price is \$1.51 or more but less than
19 \$2.51, 2¢ shall be collected.

20 (4) If the purchase price is \$2.51 or more but less than
21 \$3.51, 3¢ shall be collected.

22 (5) If the purchase price is \$3.51 or more but less than
23 \$4.51, 4¢ shall be collected.

24 (6) If the purchase price is \$4.51 or more but less than
25 \$5.51, 5¢ shall be collected.

26 (7) If the purchase price is \$5.51 or more but less than
27 \$6.51, 6¢ shall be collected.

28 (8) If the purchase price is \$6.51 or more but less than
29 \$7.51, 7¢ shall be collected.

30 (9) If the purchase price is \$7.51 or more but less than

\$8.51, 8¢ shall be collected.

(10) If the purchase price is \$8.51 or more but less than \$9.51, 9¢ shall be collected.

(11) If the purchase price is \$9.51 or more but less than \$10.01, 10¢ shall be collected.

(12) If the purchase price is more than \$10, 1% of each \$10 purchase price plus the above bracket charges upon any fractional part of a \$10 increment shall be collected.

Section 204-B. Situs for imposition of tax.

(a) Situs for retail sales.--Except as otherwise set forth in this section, a sale at retail shall be deemed to be consummated at the place of business of the retailer. If a retailer has more than one place of business in this Commonwealth which participates in the sale, the sale shall be deemed to be consummated at the place of business of the retailer where the initial order for the tangible personal property is taken, even though the order must be forwarded elsewhere for acceptance, approval of credit, shipment or billing. A sale by a retailer's employee shall be deemed to be consummated at the place of business from which that employee works.

(b) Out-of-State delivery.--Subsection (a) does not apply if the tangible personal property sold is delivered by the retailer to:

(1) an out-of-State destination;

(2) a common carrier for delivery to an out-of-State destination; or

(3) the United States Post Office for delivery to an out-of-State destination.

(c) Situs for vehicle, aircraft and motorcraft sales.--

1 (1) This subsection applies to all of the following:

2 (i) A mobile home, motor vehicle, semitrailer or
3 trailer, as defined in 75 Pa.C.S. § 102 (relating to
4 definitions).

5 (ii) Any aircraft, motorboat or similar item of
6 tangible personal property required under either Federal
7 or State law to be registered or licensed.

8 (2) The sale at retail or use of an item listed in
9 paragraph (1) shall be deemed to have been completed or used
10 at the address of the purchaser or user.

11 (3) The tax due on an item listed in paragraph (1) shall
12 be paid by the purchaser or user:

13 (i) to the Department of Transportation at the time
14 of making application for the issuance of a certificate
15 of title; or

16 (ii) if licensing by the Department of
17 Transportation is not required or obtained, to the
18 department.

19 (d) Situs for utility services.--

20 (1) The sale or use of steam, natural and manufactured
21 gas and electricity shall be deemed to occur at the service
22 address in the county where the meter which registers the
23 service is located, without regard to where the services are
24 rendered.

25 (2) The sale or use of telephone service shall be deemed
26 to occur at the address where the telephone equipment is
27 located and to which the telephone number is assigned.

28 (3) The sale or use of telegraph services shall be
29 deemed to occur where the telegraph originated.

30 Section 205-B. Licenses.

1 (a) Issuance and renewal.--

2 (1) The license issued under Article II or a separate
3 license may be issued by the department for the collection
4 and reporting of the taxes imposed by section 203-B.

5 (2) The license is subject to renewal periodically as
6 required by the department in regulations but in no event
7 more frequently than once within a five-year period.

8 (3) No fee shall be charged for either a license or any
9 renewal.

10 (b) Assignment.--The license shall be nonassignable.

11 (c) Liability.--Failure of a person to obtain a license
12 shall not relieve the person of liability to pay the taxes
13 imposed by this article.

14 Section 206-B. Department.

15 (a) Administration.--The department has the following powers
16 and duties to administer this article:

17 (1) Promulgate regulations.

18 (2) Enforce this article and regulations under this
19 article and subsection (b).

20 (b) Existing regulations.--The regulations promulgated under
21 section 270 shall be applicable to the taxes imposed by section
22 203-B insofar as the regulations are consistent with section
23 203-B.

24 (c) Administrative costs.--The department shall use the
25 money to cover the cost of administration of the tax authorized
26 by this article, and the department shall not retain any
27 additional amounts for the costs of collection of the tax
28 authorized by this article.

29 Section 207-B. Dedication and disbursement.

30 (a) Fund.--

1 (1) At least every two weeks, the department shall pay
2 to the State Treasurer the money from the tax, interest and
3 penalties, minus refunds and credits, under this article.

4 (2) The State Treasurer shall credit the money under
5 paragraph (1) to the fund. During any period prior to the
6 credit of money, interest earned on money shall be deposited
7 into the fund.

8 (3) Money in the fund under paragraph (2) shall be the
9 property of the county from which the money was collected and
10 shall be distributed as provided in this section.

11 (4) Pending disbursement to the county, money in the
12 fund under paragraph (2) shall be invested as is other money
13 in the custody of the State Treasurer in the manner provided
14 by law. All earnings received from the investment or deposit
15 of the money shall be credited to the fund.

16 (5) Money in the fund under paragraph (2):
17 (i) shall not lapse at the end of any fiscal year;
18 (ii) shall not be transferred to any other fund; and
19 (iii) shall be used exclusively as provided in this
20 section.

21 (b) Disbursement.--By the tenth day of the month, the State
22 Treasurer shall disburse to the county the total amount of money
23 which is, as of the last day of the previous month, contained in
24 the fund under subsection (a) (2) and was collected for that
25 county.

26 Section 208-B. County action.

27 (a) Adoption of ordinance.--If a county desires to impose
28 the tax under section 203-B, the governing body of the county
29 must adopt an ordinance stating the tax rate. The effective date
30 of the ordinance must be:

1 (1) at least 30 days after adoption; and

2 (2) on the first day of a month.

3 (b) Notification to department.--A certified copy of a
4 county ordinance imposing the tax authorized by section 203-B
5 shall be delivered to the department within ten days after the
6 adoption of the ordinance.

7 (c) Copy of repeal ordinance.--A certified copy of a repeal
8 ordinance shall be delivered to the department at least 30 days
9 prior to the effective date of the repeal.

10 Section 209-B. Expiration.

11 This article shall expire July 1, 2014. Notwithstanding the
12 expiration of this article, tax imposed under section 203-B on
13 sales or uses occurring before July 1, 2014, shall be subject to
14 section 207-B.

15 Section 3. This act shall take effect immediately.